

**FINAL AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
March 13, 2012**

7:30 p.m. Call to Order.

Invocation: Associate Pastor Bill Vande Giessen of the Cherry Creek Community Church of Portage.

Pledge of Allegiance.

Roll Call.

Proclamation: 100 Years of Girl Scouting, 2012.

- A. Approval of the February 28, 2012 Regular Meeting Minutes.
- * B. Approval of Consent Agenda Motions.
- * C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of March 13, 2012, as presented.
- D. Public Hearings:
 - 1. Communication from the City Manager recommending that City Council:
 - a. approve the Tentative Plan Amendment for the Homestead Planned Development, 3821 West Milham Avenue, subject to the conditions outlined in the January 13, 2012 Department of Community Development report; and
 - b. following action on the Tentative Plan Amendment, approve the Final Plan for the three McGillicuddy Lane land divisions.
- E. Petitions and Statements of Citizens:
- F. Reports from the Administration:
 - * 1. Communication from the City Manager recommending that City Council adopt resolutions to:
 - a. accept all new streets constructed within new residential plats approved by City Council during the calendar year January 1, 2011, through December 31, 2011, as public streets and;
 - b. designating a new City of Portage Act 51 Street Administrator.
 - * 2. Communication from the City Manager recommending that City Council adopt the Resolution Authorizing Refunding of the City of Portage Capital Improvement Bonds, Series 2003, 2004 and 2005, as well as Approve of the Undertaking to Provide Continuing Disclosure.
 - * 3. Communication from the City Manager recommending that City Council approve a contract amendment with Emergency Vehicle Products, Inc., for Fire Apparatus Maintenance and Repair through July 31, 2012, with the option of four additional one-year renewals.
 - * 4. Communication from the City Manager recommending that City Council approve the *Agreement to Locate Sign in Right-of-Way* for Davis Oil Company (4421 West Centre Avenue) and authorize the City Manager to execute the agreement on behalf of the city.
- G. Communications:
- H. Unfinished Business:
- * I. Minutes of Boards and Commissions Meetings:
 - 1. Portage Historic District Commission of January 11 and February 1, 2012.
 - 2. Portage Board of Education Regular Meeting of January 30 and Special Meeting and Committee of the Whole Work Session of February 13, 2012.

3. Portage Human Services Board of February 2, 2012.
4. Kalamazoo County Board of Commissioners Committee of the Whole and Regular Meeting of February 7 and February 21, 2012.
5. Portage Planning Commission of February 16, 2012.

J. Ad-Hoc Committee Reports:

K. New Business:

L. Bid Tabulations:

- * 1. Communication from the City Manager recommending that City Council:
 - a. award a contract to Fedewa, Incorporated, in the not to exceed amount of \$87,900 for the Pineview Water Tower Exterior Renovations;
 - b. accept the proposal from Dixon Engineering for testing and inspection in the amount of \$8,200; and authorize the City Manager to execute all documents related to the contracts on behalf of the city.
- * 2. Communication from the City Manager recommending that City Council award a one-year contract to Michigan Pavement Markings, LLC, to provide pavement marking services in the amount to not exceed \$86,926 and authorize the City Manager to execute all documents related to this contract and subsequent renewals on behalf of the city.
- * 3. Communication from the City Manager recommending that City Council award a contract for the Emergency Sanitary Sewer Lead Repair to Peters Construction Company in the not to exceed amount of \$26,212.87 with the option to renew the contract for two additional one-year periods and authorize the City Manager to execute all documents related to the contract on behalf of the city.

M. Other City Matters:

1. Statements of Citizens.
2. From City Council and City Manager.
- * 3. Reminder of Meetings:
 - a. Wednesday, March 14 through Friday, March 23, 8:00 a.m., Board of Review, City Hall Rooms #1 and #2.
 - b. Wednesday, March 14, 7:00 p.m., Environmental Board, City Hall Room #1.
 - c. Thursday, March 15, 7:00 p.m., District Library Board, Portage District Library.
 - d. Thursday, March 15, 7:00 p.m., Planning Commission, Council Chambers.
 - e. Monday, March 19, 8:00 a.m., Legislative Roll Call, The Chamber Building, 346 W. Michigan Avenue, Kalamazoo.
 - f. Wednesday, March 21, 2:30 p.m., Senior Citizen Advisory Board, Portage Senior Center.
 - g. Thursday, March 22, 4:30 p.m., Public Media Network Board of Directors, 359 S. Kalamazoo Mall, 3rd floor.
 - h. Monday, March 26, 6:30 p.m., Youth Advisory Committee, City Hall Room #1.
 - i. Tuesday, March 27, 8:00 a.m., Board of Review, City Hall Room #1.

N. Materials Transmitted of February 10, 2012.

Adjournment.

CITY COUNCIL MEETING SUMMARY

February 28, 2012

ACCOUNTS PAYABLE REGISTER

- ◆ Approved the Check Register of February 28, 2012, as presented.

REPORTS FROM THE ADMINISTRATION

- ◆ Approved Contract 12-5028 between the Michigan Department of Transportation and the City of Portage concerning funding for street improvements on West Centre Avenue, Oakland Drive to Shaver Road; approved an engineering services contract with Wightman Jones, Incorporated, for construction inspection and administration of street improvements on West Centre Avenue, Oakland Drive to Shaver Road, in the not to exceed amount of \$92,500; adopted a Resolution authorizing the City Manager to sign Contract 12-5028; and authorized the City Manager to sign all other documents related to the Michigan Department of Transportation and consultant contracts for this project on behalf of the city.
- ◆ Approved a resolution setting a public hearing on the vacation of a portion of 7130 South Westnedge Avenue, placed the resolution on file with the City Clerk for 28 days and take final action on March 27, 2012, at 7:30 p.m. or as soon thereafter as may be heard and authorized the City Manager to execute all documents related to this action on behalf of the city.
- ◆ Approved a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority at a total not to exceed cost of \$433,977 for the period of March 1, 2012, to March 1, 2013, and authorized the City Manager to execute all documents related to the action on behalf of the city.
- ◆ Adopted the Resolution to Approve Dispatch Collaboration and Acceptance of Michigan Department of Treasury Funding.
- ◆ Authorized the City Administration to solicit proposals from interested parties regarding liquor license availability with a response due date of May 11, 2012; to correspond with applicants concerning the time schedule, application and ordinance requirements for liquor licenses; and to review all liquor license applications in accordance with the requirements of Chapter 6 of the Codified Ordinances and provide information for consideration by Council in June 2012.
- ◆ Authorized the City Administration to execute the *Digital Parcel Data Sharing Agreement* for Public Safety Dispatching with the City of Kalamazoo.
- ◆ Received the communication from the City Manager regarding the Downtown Development Authority Annual Report as information only.
- ◆ Received the communication from the City Manager regarding the January 2012 Summary Environmental Activity Report as information only.
- ◆ Received the Department Monthly Reports from the various city departments.

COMMUNICATIONS

- ◆ Received the communication from the United States Postal Service regarding the consolidation of mail processing operations.

UNFINISHED BUSINESS

- ◆ Accepted the amendment to Section 38-35 of Chapter 38, Historic Preservation, of the Code of Ordinances for second reading and final adoption.

AD-HOC COMMITTEE REPORT

- ◆ Councilmember Randall provided a review of the goal-setting session for the Small Business Committee, including discussion of a plan for focus groups and the idea of creating a design of an on-line survey for small businesses. She expressed an interest in the Urban Land Institute Seminar information to enable the City of Portage to transition from a city that is business ready to a city that is business friendly. She also mentioned the plan to sponsor a tax forum for small businesses hosted by Kalamazoo County Commission Chair Dave Maturen, Thursday, March 8, 2012, 6:30 p.m. until 8 p.m. that would cover how assessments are arrived at and the steps to take to appeal assessments by the City of Portage. Councilmember Pearson discussed the idea of focus groups for small businesses. Councilmember Campbell indicated that the tax forum is a great opportunity for local businesses and expressed her appreciation to Councilmember Randall for her leadership. After discussion, City Council supported a March 8 forum in City Council Chambers - a KGAR like forum from different disciplines to meet and talk to business in Portage and anyone else who would like to attend the forum.

BID TABULATIONS

- ◆ Approved the purchase of one HP StorageWorks P4300 G2 MDL SAS Starter SAN Solution hard drive array with three-year extended service at a cost of \$22,146 and authorized the City Manager to execute all documents related to this purchase on behalf of the city.
- ◆ Approved a sole-source provider bid from Aggressive Industries in the amount of \$11,250 for supply and delivery of SuperDeck materials for improvements to the Bishop's Bog Preserve trail and authorized the City Manager to execute all documents related to this action on behalf of the city.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER

- ◆ Mayor Strazdas thanked Boy Scout Troop 244 for their assistance with the Pledge of Allegiance and for attending the meeting.
- ◆ Councilmember Randall reviewed the dates and times of the March Board of Review as found in the *Portager*, offered that the March Board of Review can be extended if needed and that days can be added.

- ◆ Councilmember Pearson said that the Consumer Confidence Index is up from 61.5 points to 70.8 points, higher than it has been in a year on the national level, and in Portage, there is the Rock Church Grand Opening, and the Post Community Credit Union and the Horizon Bank openings. He also mentioned the three construction projects from the February 14, 2012 Agenda and a lot of things going through the Planning Commission.
- ◆ Councilmember Campbell invited the public to visit the new Horizon Bank when it opens on Monday.
- ◆ Councilmember Sackley indicated that he and Mayor Strazdas met at a Southwest Michigan First sponsored meeting to discuss the continuation and progress of the transition agenda, the development of the plan and encouraged participation. He also discussed the progress of the Austin Lake Governmental Lake Board Aeration Bioaugmentation project and indicated that the Assessment Roll was certified last Wednesday and publication in the *Kalamazoo Gazette* will take place this Wednesday and Thursday. He said the application has been filed with Department of Environmental Quality for installation and start of the project and on February 14, 2012, City Council approved license that will allow the location of one of the compressor stations to be installed on city property. He indicated that periodic reports will follow and special assessment bills will be mailed August 1, 2012.
- ◆ City Manager Evans extended congratulations to Chief Information Officer/Information Technology Services Director Devin Mackinder for receiving a transparency award for the city website by scoring an A+ rating and placing us in the top 4% of the country by the Sunshine Review Organization. He also congratulated Mr. Mackinder for the Apex Award for Publication Excellence and the AVA Gold Award for Design.
- ◆ Mayor Pro Tem Reid indicated that at a Transportation Forum organized by House of Representatives Margaret O'Brien, there was discussion of the pro's and con's of the funding options for deteriorating roads owing to a reduction of revenue since less gas tax is being collected because of the gas efficiency of cars being sold today. She also mentioned that the Head Start Program has been required to be bid and the Kalamazoo County Commission will decide whether the Community Action Agency will place a bid on the Program. She also complimented the new Waylee facility where she attended a recent Public Media Network Committee meeting.
- ◆ Mayor Strazdas thanked each Councilmember for their time, level of engagement and their work on each of their respective committees. He indicated that the city is 12 to 18 months behind full recovery, and stressed it is important to think regionally and act locally for Portage citizens.

COMPLETE MINUTES OF EACH CITY COUNCIL MEETING ARE AVAILABLE ON THE CITY WEBSITE AT PORTAGEM.I.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

100 YEARS OF GIRL SCOUTING, 2012

WHEREAS, March 12, 2012, marks the 100th Anniversary of Girl Scouts of the United States of America, which began in 1912 when Juliette Gordon Low gathered 18 girls in Savannah, Georgia, to provide an opportunity to develop physically, mentally and spiritually; and

WHEREAS, for 100 years, Girl Scouting has helped millions of girls become women of courage, confidence and character who act to make the world a better place; and

WHEREAS, Girl Scouts learn to respect, understand and appreciate the cultural diversity of their sister Girl Scouts and of people in their community and the world; and

WHEREAS, the Girl Scout Gold Award, the highest honor in Girl Scouting, requires a girl to make a measurable difference in their community and honors leadership in the Girl Scout tradition; and

WHEREAS, core programs around Science, Technology, Engineering and Mathematics (STEM), environmental stewardship, healthy living, financial literacy and global citizenship help girls develop a solid foundation in leadership; and

WHEREAS, through the dedication, time and talent of thousands of volunteers of different backgrounds, abilities and areas of expertise, the Girl Scout Program has benefited thousands of girls in Michigan.

NOW, THEREFORE BE IT RESOLVED, that I, Peter J. Strazdas, Mayor of the City of Portage, Michigan, do hereby proclaim March 11 through March 17, 2012, as **GIRL SCOUT WEEK** in the City of Portage and call on our citizens to give continued support, cooperation and appreciation to the Girl Scouts through 2012 and always.



Signed this 13th day of March, 2012

Peter J. Strazdas, Mayor

DRAFT

CITY COUNCIL MEETING MINUTES FROM FEBRUARY 28, 2012

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

At the request of Mayor Strazdas, Pastor Ken Hale of Victory Baptist Church in Portage gave the invocation and Boy Scout 244 led City Council and the audience recited the Pledge of Allegiance.

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

APPROVAL OF MINUTES: Mayor Pro Tem Reid asked that the minutes reflect that under Item J.1, Ad-hoc Committee Report, she provided the presentation on Fees and Councilmember Urban provided the presentation on the Community Survey Committee. Motion by Reid, seconded by Sackley, to approve the February 14, 2012 Regular Meeting Minutes as amended. Upon a voice vote, motion carried 7 to 0. Motion by Sackley, seconded by Reid, to approve the February 14, 2012 Special Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0 with Councilmembers Campbell and Randall abstaining.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Councilmember Randall asked that Item F.3, Comprehensive Liability, Property and Auto Fleet Insurance Coverage, and Councilmember Urban asked that Item F.4, Dispatch Collaboration and Acceptance of State Funding Resolution, be removed from the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF FEBRUARY 28, 2012:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of February 28, 2012. Upon a roll call vote, motion carried 7 to 0.

REPORTS FROM THE ADMINISTRATION:

* **MICHIGAN DEPARTMENT OF TRANSPORTATION CONTRACT - WEST CENTRE AVENUE (OAKLAND DRIVE TO SHAVER ROAD):** Motion by Urban, seconded by Reid, to approve Contract 12-5028 between the Michigan Department of Transportation and the City of Portage concerning funding for street improvements on West Centre Avenue, Oakland Drive to Shaver Road; approve an engineering services contract with Wightman Jones, Incorporated, for construction inspection and administration of street improvements on West Centre Avenue, Oakland Drive to Shaver Road, in the not to exceed amount of \$92,500; adopt a Resolution authorizing the City Manager to sign Contract 12-5028; and authorize the City Manager to sign all other documents related to the Michigan Department of Transportation and consultant contracts for this project on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **SOUTH WESTNEDGE AVENUE RIGHT-OF-WAY VACATION (PCOC PROPERTY):** Motion by Urban, seconded by Reid, to approve a resolution setting a public hearing on the vacation of a portion of 7130 South Westnedge Avenue, place the resolution on file with the City Clerk for 28 days and take final action on March 27, 2012, at 7:30 p.m. or as soon thereafter as may be heard, and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

COMPREHENSIVE LIABILITY, PROPERTY AND AUTO FLEET INSURANCE

COVERAGE: As a result of the discussion at the City Council pre-meeting, Councilmember Randall expressed an interest in determining the actual cost of operating the aging fleet of city vehicles, including gas and maintenance, in order to make a comparison with the \$0.55 per mile reimbursement amount allowed by the Internal Revenue Service. She wanted to know whether the city can afford to have seven vehicles for use during the work day by city employees. Discussion followed. Councilmember Randall agreed with City Manager Maurice Evans that the time to receive the comparisons was at the Spring Budget Session. Mayor Strazdas concurred.

In answer to Mayor Pro Tem Reid, Mr. Evans indicated that there is no requirement that employees have their own vehicle and that vehicles are viewed as tools since it is important to the service delivery provided by city employees, such as inspections, that they be timely, especially with code enforcement. He indicated vehicles are viewed much like computers – essential tools to allow the employee to provide proper service delivery. He distinguished reimbursement for trips out of town from the short trip requirements within the city to perform work such as city inspections, and he indicated that personal vehicle use in the public sector for this type purpose is “just not done out there.” In answer to her second question, Mr. Evans agreed that it would become a condition of employment if an employee did not have a vehicle and City Council requires an employee to use his or her personal car to fulfill the public service duties required. Discussion followed.

Motion by Reid, seconded by Pearson, to approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority at a total not to exceed cost of \$433,977 for the period of March 1, 2012, to March 1, 2013, and authorize the City Manager to execute all documents related to the action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

DISPATCH COLLABORATION AND ACCEPTANCE OF STATE FUNDING

RESOLUTION: Councilmember Urban pointed out that “adopt the Resolution to Approve Dispatch Collaboration” in the Consent Agenda could easily be misconstrued and asked for an explanation from Mr. Evans, and offered to explain it himself. Mr. Evans indicated that City Council is being asked to adopt a Resolution approving dispatch collaboration thereby accepting Michigan Department of Treasury funding because Kalamazoo County has applied for a grant from the state and obtained a \$20,000 grant that can be applied toward the costs of conducting a feasibility study and/or hiring consultants to help out with the overall study of this issue. He indicated that the City Council is being asked as one of the collaborative partners to adopt the Resolution, as are the other Public Safety Answering Points (PSAPS). Councilmember Urban reiterated that the collaboration is to spend some grant money to hire a consultant to help the City of Portage write a request for proposal and to develop a business plan in the event the city should choose to enter into a consolidated dispatch. He emphasized that this can be distinguished from the verbiage, “adopt the Resolution to Approve Dispatch Collaboration” in the Consent Agenda.

Motion by Urban, seconded by Sackley, to adopt the Resolution to Approve Dispatch Collaboration and Acceptance of Michigan Department of Treasury Funding. Upon a roll call vote, motion carried 7 to 0.

* **CITY OF PORTAGE 2010 CENSUS LIQUOR LICENSE AVAILABILITY:** Motion by Urban, seconded by Reid, to authorize the City Administration to solicit proposals from interested parties regarding liquor license availability with a response due date of May 11, 2012; correspond with applicants concerning the time schedule, application and ordinance requirements for liquor licenses; and review all liquor license applications in accordance with the requirements of Chapter 6 of the Codified Ordinances and provide information for consideration by Council in June 2012. Upon a roll call vote, motion carried 7 to 0.

* **CITY OF KALAMAZOO GIS PARCEL DATA SHARING AGREEMENT FOR 911 DISPATCH SYSTEMS:** Motion by Urban, seconded by Reid, to authorize the City Administration to execute the *Digital Parcel Data Sharing Agreement* for Public Safety Dispatching with the City of Kalamazoo. Upon a roll call vote, motion carried 7 to 0.

* **DOWNTOWN DEVELOPMENT AUTHORITY ANNUAL REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the Downtown Development Authority Annual Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **JANUARY 2012 SUMMARY ENVIRONMENTAL ACTIVITY REPORT - INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the January 2012 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Department Monthly Reports. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATIONS:

* **UNITED STATES POSTAL SERVICES PLANT MANAGER GREGORY J. CHANSKY:** Motion by Urban, seconded by Reid, to receive the communication from the United States Postal Service regarding the consolidation of mail processing operations. Upon a roll call vote, motion carried 7 to 0.

UNFINISHED BUSINESS:

* **AMENDMENT TO THE CODE OF ORDINANCES – HISTORIC MODIFICATION: 3821 WEST MILHAM AVENUE:** Motion by Urban, seconded by Reid, to accept the amendment to Section 38-35 of Chapter 38, Historic Preservation, of the Code of Ordinances for second reading and final adoption. 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:

Kalamazoo County Board of Commissioners Regular and Committee of the Whole of January 17, 2012.

Portage Youth Advisory Committee of January 30, 2012.

Portage Planning Commission of February 2, 2012.

AD HOC COMMITTEE REPORT:

SMALL BUSINESS COMMITTEE: Councilmember Randall provided a review of the goal-setting session for the Small Business Committee, including discussion of a plan for focus groups and the idea of creating a design of an on-line survey for small businesses. She expressed an interest in the Urban Land Institute Seminar information to enable the City of Portage to transition from a city that is business ready to a city that is business friendly. She also mentioned the plan to sponsor a tax forum for small businesses hosted by Kalamazoo County Commission Chair Dave Maturen, Thursday, March 8, 2012, 6:30 p.m. until 8 p.m. that would cover how assessments are arrived at and the steps to

take to appeal assessments by the City of Portage. Councilmember Pearson discussed the idea of focus groups for small businesses. Councilmember Campbell indicated that the tax forum is a great opportunity for local businesses and expressed her appreciation to Councilmember Randall for her leadership. After discussion, motion by Pearson, seconded by Campbell, to support a March 8 forum at City Council Chambers - a KGAR like forum from different disciplines - to meet and talk to business in Portage and anyone else who would like to attend the forum. Upon a roll call vote, motion carried 7 to 0.

BID TABULATIONS:

- * **HP STORAGEWORKS P4300 G2 MDL SAS STARTER SAN SOLUTION HARD DRIVE ARRAY:** Motion by Urban, seconded by Reid, to approve the purchase of one HP StorageWorks P4300 G2 MDL SAS Starter SAN Solution hard drive array with three-year extended service at a cost of \$22,146 and authorize the City Manager to execute all documents related to this purchase on behalf of the city. Upon a roll call vote, motion carried 7 to 0.
- * **SUPERDECK BOARDWALK – BID RECOMMENDATION:** Motion by Urban, seconded by Reid, to approve a sole-source provider bid from Aggressive Industries in the amount of \$11,250 for supply and delivery of SuperDeck materials for improvements to the Bishop's Bog Preserve trail and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Mayor Strazdas thanked Boy Scout Troop 244 for their assistance with the Pledge of Allegiance and for attending the meeting.

Councilmember Randall reviewed the dates and times of the March Board of Review, as found in the *Portager*, offered that the March Board of Review can be extended if needed and that days can be added.

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City Manager Evans extended congratulations to Chief Information Officer/Information Technology Services Director Devin Mackinder for receiving a transparency award for the city website by scoring an A+ rating and placing us in the top 4% of the country by the Sunshine Review Organization. He also congratulated Mr. Mackinder for the Apex Award for Publication Excellence and the AVA Gold Award for Design.

Mayor Pro Tem Reid indicated that at a Transportation Forum organized by House of Representatives Margaret O'Brien, there was discussion of the pro's and con's of the funding options for deteriorating roads owing to a reduction of revenue since less gas tax is being collected because of the gas efficiency of cars being sold today. She also mentioned that the Head Start Program has been required to be bid and the Kalamazoo County Commission will decide whether the Community Action Agency will place a bid on the Program. She also complimented the new Waylee facility where she attended a recent Public Media Network Committee meeting.

Mayor Strazdas thanked each Councilmember for their time, level of engagement and their work on each of their respective committees. He indicated that the city is 12 to 18 months behind full recovery, and stressed it is important to think regionally and act locally for Portage citizens.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 8:23 p.m.

James R. Hudson, City Clerk

***Indicates items included on the Consent Agenda.**

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 5, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Accounts Payable Register

ACTION RECOMMENDED: That City Council approve the Accounts Payable Register of March 13, 2012 as presented.

Attached please find the Accounts Payable Register for the period February 19, 2012 through March 4, 2012, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
02/21/2012	279850	BAC TAX SERVICES INC	999999	1,246.63
02/21/2012	279851	KALAMAZOO COUNTY TREASURER	514	95.85
02/21/2012	279852	MANHATTAN TOUR & TRAVEL, INC.	3720	1,280.00
02/21/2012	279853	WELLS FARGO R/E TAX SERVICES	999999	865.69
02/22/2012	279854	HOME DEPOT	691	67.15
02/29/2012	279855	STATE OF MICHIGAN	999999	38.68
03/02/2012	279856	AT&T	849	1,716.75
03/02/2012	279857	A T & T LONG DISTANCE	4060	11.56
03/02/2012	279858	A-1 SIGNS	2873	195.00
03/02/2012	279859	AEG DEVELOPMENT LLC	999999	13.62
03/02/2012	279860	ALL-TRONICS, INC.	109	81.00
03/02/2012	279861	AMERICAN PLANNING ASSOCIATION	804	485.00
03/02/2012	279862	AMERICAN VAN EQUIPMENT	4762	140.83
03/02/2012	279863	TODD ARENAS ENTERPRISES INC.	1704	430.00
03/02/2012	279864	ARROW UNIFORM RENTAL	4058	135.45
03/02/2012	279865	ADP, INC.	3305	4,317.53
03/02/2012	279866	BALKEMA EXCAVATING, INC.	130	601.78
03/02/2012	279867	LEWIS BENDER G	3777	2,244.40
03/02/2012	279868	BILL'S LOCK SHOP, INC.	146	141.00
03/02/2012	279869	BORGESS AMBULATORY CARE CORP.	1545	72.00
03/02/2012	279870	BORGESS HEALTH ALLIANCE	151	1,747.00
03/02/2012	279871	BRIDGEPORT EQUIPMENT CO.	4499	1,999.20
03/02/2012	279872	BRONSON METHODIST HOSPITAL	156	1,062.10
03/02/2012	279873	BRONSON VICKSBURG HOSPITAL	157	2,400.00
03/02/2012	279874	FENNEMA ENTERPRISES, LLC	4645	1,805.00
03/02/2012	279875	BRUDA, CAROL	999999	57.00
03/02/2012	279876	BYHOLT INC.	68	1,040.04
03/02/2012	279877	CENTER MASS, INC.	4144	126.88
03/02/2012	279878	CHARTER COMMUNICATIONS	3080	60.00
03/02/2012	279879	CINTAS CORP.	2206	20.04
03/02/2012	279880	CITY OF KALAMAZOO (TRANS MILLA	999999	1,034.22
03/02/2012	279881	CITY OF KALAMAZOO - PARKS	4649	20.69
03/02/2012	279882	CITY OF KALAMAZOO TREASURER	540	235,797.90
03/02/2012	279883	CLEAN EARTH ENVIRONMENTAL SERV	1821	1,240.00
03/02/2012	279884	COCHRAN GLASS AND DOOR, LLC	4547	75.00
03/02/2012	279885	COMFORT SUITES	999999	380.00
03/02/2012	279886	COMSTOCK PUBLIC SCHOOLS	1671	429.47
03/02/2012	279887	CONSUMERS ENERGY-BILL PMT CNT	189	26,321.92
03/02/2012	279888	CORNWELL'S DINNER THEATRE	2243	100.00
03/02/2012	279889	CROSSROADS CAR WASH	195	38.00
03/02/2012	279890	CROSSROADS EXPERT AUTO SERVICE	4109	569.97
03/02/2012	279891	DEVRIES, DONALD	999999	44.00
03/02/2012	279892	DIVISION 16 ELECTRICAL SERVICE	4760	1,438.00
03/02/2012	279893	JACK DOHENY SUPPLIES INC.	69	8,403.75
03/02/2012	279894	ELECTION SYSTEMS & SOFTWARE, I	3367	2,323.00
03/02/2012	279895	EMERGENCY VEHICLE PRODUCTS	2948	6,086.69
03/02/2012	279896	FARM N GARDEN	833	591.60
03/02/2012	279897	FERRELIGAS, LP	384	531.11
03/02/2012	279898	FORCE AMERICA, INC.	3927	1,241.47
03/02/2012	279899	GORDON FOOD SERVICE	502	87.85
03/02/2012	279900	GORDON WATER SYSTEMS	517	144.75

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
03/02/2012	279901	GRAHAM FORESTRY SERVICE, INC.	464	720.00
03/02/2012	279902	GREATER KALAMAZOO FOP LODGE 98	623	2,691.08
03/02/2012	279903	GREATER KALAMAZOO FOP LODGE 98	623	439.36
03/02/2012	279904	GREATER KALAMAZOO UNITED WAY	628	1,022.50
03/02/2012	279905	HALBERT, LARRY	999999	44.00
03/02/2012	279906	HARNED, GREGORY OR EMILY	999999	150.00
03/02/2012	279907	B L HARROUN & SON INC.	124	272.82
03/02/2012	279908	HERRINGA, ADAM	532	175.00
03/02/2012	279909	HOLLAND SUPPLY INC.	3594	832.32
03/02/2012	279910	HOM DEPOT	691	495.59
03/02/2012	279911	HYDRO-CHEM SYSTEMS, INC.	4039	397.70
03/02/2012	279912	IERVOLINA, SUSAN	2074	196.00
03/02/2012	279913	INT'L ASSOC CHIEFS OF POLICE	650	120.00
03/02/2012	279914	JOHNSON'S WELDING, ETC.	76	1,125.00
03/02/2012	279915	JONS TO GO PORTABLE RESTROOM	3201	122.50
03/02/2012	279916	KAL RUSSIAN CULTURAL ASSOC.	999999	100.00
03/02/2012	279917	KALAMAZOO COUNTY CLERK	83	4,286.16
03/02/2012	279918	KALAMAZOO COUNTY HEALTH & COMM	84	9,078.00
03/02/2012	279919	KALAMAZOO COUNTY ROAD COMMISSI	87	1,011.80
03/02/2012	279920	KALAMAZOO COUNTY TREAS ASSN	514	10.00
03/02/2012	279921	KALAMAZOO COUNTY TREASURER	3499	532.50
03/02/2012	279922	KALAMAZOO REGIONAL CHAMBER	999999	499.00
03/02/2012	279923	KALAMAZOO ROD & GUN CLUB	2663	120.00
03/02/2012	279924	KENT COUNTY DPW	2663	67.50
03/02/2012	279925	KOOPSEN, BILL	999999	100.00
03/02/2012	279926	KUIPER BROTHERS MOVING INC.	1066	178.00
03/02/2012	279927	KZOO TIRE COMPANY	564	1,295.22
03/02/2012	279928	LAKE MICHIGAN MAILERS, INC.	682	322.72
03/02/2012	279929	LAWSON PRODUCTS, INC	240	1,313.60
03/02/2012	279930	LEXISNEXIS/MATTHEW BENDER	2701	345.00
03/02/2012	279931	LOWE'S HOME CENTER	2630	15.72
03/02/2012	279932	M & M MOTOR MALL	2132	51.78
03/02/2012	279933	MANN, RANDY OR DIANNE	999999	30.81
03/02/2012	279934	MASON, ROBERT OR TINA	999999	84.02
03/02/2012	279935	MAURER'S TEXTILE RENTAL SERVIC	4746	297.66
03/02/2012	279936	MCDONALD'S TOWING & RESCUE, IN	728	81.00
03/02/2012	279937	MCDONNELL, JOSEPH	532	500.00
03/02/2012	279938	MCGRAW HILL CONSTRUCTION	999999	82.00
03/02/2012	279939	MCNALLY ELEVATOR CO.	256	95.82
03/02/2012	279940	MI ASSOC. OF CHIEFS OF POLICE	2157	100.00
03/02/2012	279941	MIDWEST ENERGY COOPERATIVE	2030	234.20
03/02/2012	279942	MILLS, DAN	532	317.52
03/02/2012	279943	MIRACLE RECREATION EQUIPMENT	488	966.00
03/02/2012	279944	MIRAGE TANNING CENTERS	999999	9.12
03/02/2012	279945	MOORE, LARRY	532	63.37
03/02/2012	279946	MULDERS LANDSCAPE SUPPLIES INC	286	16,832.00
03/02/2012	279947	MUNICIPAL FINANCIAL CONSULTANT	681	750.00
03/02/2012	279948	NEW FRESH CLEANING SERVICE	4351	4,999.00
03/02/2012	279949	NEW WORLD SYSTEMS	1154	29,601.00
03/02/2012	279950	NEXTEL	1709	1,855.92
03/02/2012	279951	OFFICE DEPOT, INC.	1721	1,345.63

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
03/02/2012	279954	OFFICEMAX INCORPORATED	301	2,145.47
03/02/2012	279955	ONE WAY PRODUCTS	440	1,251.66
03/02/2012	279956	P C MALL GOV. INC.	3945	6,999.99
03/02/2012	279957	PETTY CASH-CITY MANAGER	805	185.69
03/02/2012	279958	PETTY CASH-PARKS	536	386.65
03/02/2012	279959	PETTY CASH-POLICE DEPT.	890	341.40
03/02/2012	279960	PETTY CASH-SENIOR CENTER	537	263.97
03/02/2012	279961	PORTAGE FIREFIGHTERS	625	1,440.32
03/02/2012	279962	PORTAGE GLASS & MIRROR	4396	872.64
03/02/2012	279963	PORTAGE ON-CALL FIREFIGHTERS	504	320.00
03/02/2012	279964	PORTAGE POLICE OFFICERS ASSOC	624	1,606.22
03/02/2012	279965	PRIMO WATER CORP	999999	106.79
03/02/2012	279966	PUBLIC MEDIA NETWORK	4582	84,606.42
03/02/2012	279967	RATHCO SAFETY SUPPLY, INC.	327	2,142.09
03/02/2012	279968	RIDGE AUTO NAPA	438	1,965.56
03/02/2012	279969	RIETH-RILEY CONSTRUCTION CO.,	4386	615.35
03/02/2012	279970	RUSH, GEORGIANA	999999	44.00
03/02/2012	279971	SAFE KIDS WORLDWIDE	4700	75.00
03/02/2012	279972	SEVERANCE ELECTRIC COMPANY, INC	353	9,679.22
03/02/2012	279973	SIMMONS FORD	2064	202.99
03/02/2012	279974	SMELLING PERSONNEL SERVICES	2107	1,250.87
03/02/2012	279975	SPRINT	3721	1,486.33
03/02/2012	279976	STATE SYSTEMS RADIO, INC	369	30.60
03/02/2012	279977	STATEBRIDGE CO. LLC	999999	100.00
03/02/2012	279978	STENSMA LAWN & POWER EQUIPMEN	3222	493.25
03/02/2012	279979	STRIKE TACTICAL SOLUTIONS	999999	350.00
03/02/2012	279980	SUITS U TAILOR SHOP INC	4237	391.50
03/02/2012	279981	SUMMIT ENERGY SERVICES, INC.	4759	1,190.20
03/02/2012	279982	TERMINAL SUPPLY CO.	380	1,713.28
03/02/2012	279983	JOHANNA THOMPSON	4682	487.00
03/02/2012	279984	TIMBER RIDGE SKI AREA	3241	55.00
03/02/2012	279985	TRACTOR SUPPLY CORP.	2817	250.49
03/02/2012	279986	U A W, LOCAL 2290	1862	482.24
03/02/2012	279987	UNITED PARCEL SERVICE	545	12.00
03/02/2012	279988	VERIZON WIRELESS SERVICES, LLC	4653	1,216.04
03/02/2012	279989	W W WILLIAMS	2034	1,800.00
03/02/2012	279990	WASHCO, LLC	1104	520.00
03/02/2012	279991	WELLER TRUCK	1594	1,451.71
03/02/2012	279992	WIGHTMAN ENVIRONMENTAL INC	4524	2,000.00
03/02/2012	279993	WIGHTMAN JONES, INC.	3785	196.25
03/02/2012	279994	WINDEMULLER ELECTRIC, INC.	3061	2,600.00
03/02/2012	279995	WINGFOOT COMMERCIAL TIRE	2613	1,125.26
03/02/2012	279996	WOLVERINE LAWN SERVICE, INC.	1089	1,858.92
03/02/2012	279997	XEROX CORPORATION	2684	1,016.79

DATE RANGE TOTAL * 535,101.67 *

PAYMENT NO	VENDOR NO	VENDOR NAME	TRANSFER DATE	AMOUNT	TRACE NUMBER	EFT BATCH	BANK CODE
892		AMERICAN SAFETY & FIRST AID	03/02/2012	127.31	072000320000001	0000001	00
893		ANIMAL REMOVAL SERVICE, LLC	03/02/2012	375.00	072000320000002	0000001	00
894		B & B YARDSCAPE	03/02/2012	1,035.00	072000320000003	0000001	00
891		BLUE CARE NETWORK-GREAT LAKES	02/28/2012	60,876.02	072000320000001	0000001	00
895		BRENNER OIL CO.	03/02/2012	19,874.83	072000320000004	0000001	00
896		C D W GOVERNMENT, INC.	03/02/2012	2,245.00	072000320000005	0000001	00
897		CONTINENTAL LINEN SUPPLY CO.	03/02/2012	95.59	072000320000006	0000001	00
898		DELTA DENTAL PLAN OF MI	03/02/2012	17,312.84	072000320000007	0000001	00
899		DIAMOND DRILLING & SUPPLY CO.	03/02/2012	200.00	072000320000008	0000001	00
900		EMPLOYMENT GROUP, INC.	03/02/2012	1,297.20	072000320000009	0000001	00
901		GREAT LAKES CHLORIDE, INC.	03/02/2012	3,100.19	072000320000010	0000001	00
902		INDUSCO SUPPLY CO., INC.	03/02/2012	134.34	072000320000011	0000001	00
903		LANDS END	03/02/2012	646.25	072000320000012	0000001	00
904		MEJEUR ELECTRIC LLC	03/02/2012	1,257.00	072000320000013	0000001	00
905		PLEUNE SERVICE COMPANY	03/02/2012	825.53	072000320000014	0000001	00
906		PRECISION PRINTER SERVICES INC	03/02/2012	1,827.27	072000320000015	0000001	00
907		QUALITY AIR HEATING & COOLING, INC.	03/02/2012	832.33	072000320000016	0000001	00
908		SNELL, DEBRA	03/02/2012	178.00	072000320000017	0000001	00
909		SUBURBAN MECHANICAL	03/02/2012	275.50	072000320000018	0000001	00
910		UNITED PETROLEUM	03/02/2012	275.28	072000320000019	0000001	00
911		UNITED WATER ENVIRONMENTAL SERVICES	03/02/2012	250.00	072000320000020	0000001	00
912		WOOD PLUMBING LLC, D	03/02/2012	156.50	072000320000021	0000001	00
913		360 SERVICES, INC.	03/02/2012	2,344.38	072000320000022	0000001	00

GRAND TOTAL:

115,541.36 NO. OF CHECKS:

23

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: February 3, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Tentative Plan Amendment and Final Plan for The Homestead Planned Development, 3821 West Milham Avenue

ACTION RECOMMENDED: That City Council:

- a. accept the Tentative Plan Amendment for The Homestead Planned Development and set a public hearing for March 13, 2012;
- b. following the public hearing, consider approving the Tentative Plan Amendment for The Homestead Planned Development, 3821 West Milham Avenue, subject to the conditions outlined in the January 13, 2012 Department of Community Development report; and
- c. following action on the Tentative Plan Amendment, approve the Final Plan for the three McGillicuddy Lane land divisions.

An application has been received from Mr. Patrick Lynch and Mr. Jack Gesmundo (American Village Development) requesting a Tentative Plan Amendment of The Homestead Planned Development located at 3821 West Milham Avenue. The proposed Tentative Plan Amendment involves the following:

- Elimination of the attached residential condominium buildings (Villas of Secret Gardens) from the northwest portion of the property approved with the 2006 tentative plan amendment.
- Reestablishment of the cottage offices land use within the northwest portion of the property as approved with the original 2001 rezoning/tentative plan.
- Creation of three single-family residential parcels along the north side of McGillicuddy Lane, south of the historic property/homestead site.
- Retention of the themed restaurant/office land use for the historic site as approved with the original 2001 rezoning/tentative plan.

In conjunction with the proposed Tentative Plan Amendment, the applicants are also requesting to modify the boundaries of the Van Riper historic district (as recommended by the Historic District Commission) and Final Plan approval involving three single family residential land divisions located on the north side of McGillicuddy Lane immediately south from the historic property site.

In a report dated January 13, 2012, the Department of Community Development and the Planning Commission, after convening a public hearing on December 1, 2011 and January 19, 2012, are recommending approval of the Tentative Plan Amendment (subject to conditions) and the Final Plan.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: February 3, 2012

FROM: Vicki Georgeau, ^{VJ} Director of Community Development

SUBJECT: Tentative Plan Amendment and Final Plan for the Homestead Planned Development,
3821 West Milham Avenue

Mr. Patrick Lynch and Mr. Jack Gesmundo (American Village Development) have submitted an application requesting approval of a Tentative Plan Amendment and Final Plan for The Homestead Planned Development (PD). The amendment proposes to: 1) eliminate the previously approved (2006) Villas of Secret Gardens attached residential condominiums from the northwest portion of the development area; 2) reestablish the cottage offices consistent with the original 2001 approved rezoning/tentative plan; 3) create three single-family residential parcels along the north side of McGillicuddy Lane and; 4) retain the themed restaurant/office land use for the Van Riper historic homestead site.

The Homestead PD involves an 88 acre tract of land located south of West Milham Avenue and east of US-131. The original PD rezoning and tentative plan received City Council approval in 2001 and construction of the single family residential component of the project is nearing completion. The proposed tentative plan amendment involves the remaining undeveloped land located in the northwest portion of the project area.

In a report dated January 13, 2012, the Department of Community Development has recommended the Tentative Plan Amendment be approved subject to the following conditions:

1. City Council approval of the request to modify the boundaries of the Van Riper historic district.
2. Consistent with the 2006 approved tentative and final plans, the access drive for the cottage offices must be moved east, shared with the theme restaurant/office, and align with future development activities planned on the north side of West Milham Avenue.
3. When a final plan for development is submitted involving the existing historic home site, the adequacy of the screening/buffering along the east property line be evaluated and supplemental screening/buffering be required as may be necessary.
4. Removal or replacement of the sign located near the south end of pedestrian path that connects the Homestead neighborhood to the Arbutus Trail neighborhood that prohibits non-Homestead residents from using this path.

Subject to City Council approval of the Tentative Plan Amendment, staff is also recommending approval of the Final Plan involving the three McGillicuddy Lane land divisions. Consistent with the original 2001 rezoning/tentative plan approval, reestablishment of the cottage offices is an appropriate land use situated between US-131 and the future site of the themed restaurant/office use(s) to the east and residential land uses located to the south/southeast. The three additional home sites will visually and physically connect the residential areas along this section of McGillicuddy Lane and buffer the neighborhood from future uses in the planned development

The Planning Commission convened a public hearing during the December 1, 2011 and January 19, 2012 meetings. After careful consideration, the Commission voted 7-0-1 to recommend to City Council that the Tentative Plan Amendment for The Homestead Planned Development, 3821 West Milham Avenue, be approved subject to the four conditions listed in the Department of Community Development staff report, and approval of the Final Plan for the three McGillicuddy Lane land divisions subject to City Council approval of the tentative plan amendment.

Attached find the Planning Commission transmittal, Department of Community Development report and related materials for review.

Attachments: Planning Commission transmittal dated February 3, 2012
Planning Commission Minutes dated December 1, 2011 and January 19, 2012
Department of Community Development report dated January 13, 2012
Correspondence from The Families of McGillicuddy Lane dated January 19, 2012

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: February 3, 2012

SUBJECT: Tentative Plan Amendment and Final Plan for The Homestead Planned Development, 3821 West Milham Avenue

A Tentative Plan Amendment and Final Plan have been submitted by Mr. Patrick Lynch and Mr. Jack Gesmundo (American Village Development) for The Homestead Planned Development located at 3821 West Milham Avenue. The application proposes elimination of the attached residential condominiums from the northwest portion of the property and reestablishment of the cottage office land use, creation of three single-family residential parcels along the north side of McGillicuddy Lane and retention of the themed restaurant/office land use for the historic homestead site.

The Planning Commission convened a public hearing during the December 1, 2011 and January 19, 2012 meetings. Mr. Lynch and Mr. Gesmundo were present at both meetings to support the tentative plan amendment and final plan. At the December 1st meeting, one citizen (Lee Berow, 3608 Arbutus Trail) spoke in regards to the proposed application expressing concern about the recently installed "No Trespassing" sign at the trail from Arbutus Trail. At the January 19th meeting, two additional citizens (Lou Cherico, 6130 McGillicuddy Lane and Brian Gallagher, 6090 McGillicuddy Lane) spoke regarding future screening improvements along the east property line of the historic homestead site.

After careful consideration, a motion was made by Commissioner Welch, seconded by Commissioner Reiff, to recommend to City Council that the Tentative Plan Amendment for The Homestead Planned Development, 3821 West Milham Avenue, be approved subject to the four conditions listed in the Department of Community Development staff report, and approval of the Final Plan for the three McGillicuddy Lane land divisions subject to City Council approval of the tentative plan amendment. The motion was approved 7-0-1.

Sincerely



James Cheesebro, Chairman
City of Portage Planning Commission

A motion was then made by Commissioner Welch, seconded by Commissioner Bosch, to recommend to City Council that the Height Modification for Dick's Sporting Goods, 6355 South Westnedge Avenue, be approved to construct an architectural entry feature along the west side of the existing building to a height of 43.5 feet since the impacts are minimal due to the small area subject to the height modification in relation to the overall building and substantial setback distances from adjacent properties and public streets. The motion was unanimously approved.

2. Preliminary Report: Tentative Plan Amendment – The Homestead Planned Development, 3821 West Milham Avenue. Commissioner Dargitz stated she would be abstaining from discussion and voting on this agenda item due to a personal acquaintance with the applicant, Mr. Patrick Lynch. Commissioner Stoffer also indicated he would be abstaining from discussion and voting on this agenda item since he lives within the 300-foot public notice distance from the subject property. Commissioner Reiff indicated he had a previous business relationship with Mr. Lynch over 20 years ago, however, would not be abstaining since he has no recent or present relationship that would impact his ability to render an impartial decision.

Mr. West summarized the staff report dated November 23, 2011 regarding the request by Mr. Patrick Lynch and American Village Development to amend the previously approved tentative plan for The Homestead Planned Development. Mr. West reviewed the original 2001 approved PD, planned development rezoning/tentative plan and the 2006 tentative plan amendment/final plan involving The Villas at Secret Gardens that was approved, however, never constructed. Mr. West summarized the proposed amendment that involves elimination of the attached residential condominiums, the addition of three single-family residential parcels along the north side of McGillicuddy Lane and reestablishment of the cottage offices along the northwest portion of the property, as previously shown and approved in 2001. Mr. West stated the tentative plan/narrative contained in the agenda packet was received late on Tuesday, November 22nd and staff was unable to provide a detailed review prior to finalization of the staff report. Mr. West indicated minor changes to the narrative and plan would be made prior to the final hearing. Finally, Mr. West discussed the need for the Historic District Commission to review and authorize the land divisions prior to Planning Commission final action on the tentative plan amendment; public street access from West Milham Avenue; and the recent installation of a sign at the south end of the pedestrian path from Arbutus Trail that prohibits non-Homestead residents from using the path.

Mr. Jack Gesmundo of American Village Development and Mr. Patrick Lynch were present to support the proposed tentative plan amendment. Mr. Gesmundo discussed the differences between the approved 2006 tentative plan amendment and the proposed 2011 tentative plan amendment. Mr. Gesmundo stated the amendment proposes to restore the cottage offices originally approved in 2001 and construct three additional single family residential home sites along the north side of McGillicuddy Lane that would visually and physically connect the residential portions of The Homestead. Mr. Gesmundo stated the review by the Historic District Commission was scheduled for December 7, 2011. Mr. Gesmundo briefly discussed the proposed public street access from West Milham Avenue and the pedestrian path sign and stated the few errors contained in the written narrative and tentative plan would be corrected and revised prior to the next Planning Commission meeting.

Chairman Cheesebro opened the public hearing. One citizen, Ms. Lee Berow (3608 Arbutus Trail), spoke in regards to the proposed tentative plan amendment. Ms. Berow expressed concerns about the recently installed "No Trespassing" sign at the trail from Arbutus Trail. Ms. Berow stated the path and neighborhood connection was required with the 2001 approval and her and many of her neighbors don't understand why the sign has now been installed. No additional citizens spoke regarding the proposed tentative plan amendment. A motion was made by Commissioner Bosch, seconded by Commissioner Reiff, to adjourn the public hearing for the Tentative Plan Amendment for The Homestead, 3821 West Milham Avenue, to the January 19, 2012 meeting. The motion was unanimously approved.

PLANNING COMMISSION

January 19, 2012

The City of Portage Planning Commission meeting of January 19, 2012 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Four citizens were in attendance.

MEMBERS PRESENT:

Bill Patterson, Wayne Stoffer, Rick Bosch, Paul Welch, Mark Siegfried, Allan Reiff and Chairman James Cheesebro.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Miko Dargitz.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning, Development and Neighborhood Services and Randall Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

Chairman Cheesebro led the Commission in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the January 5, 2012 meeting minutes. A motion was offered by Commissioner Welch, seconded by Commissioner Patterson, to approve the minutes as submitted. The motion was approved 8-0.

Chairman Cheesebro introduced David Felician as the new Planning Commissioner.

SITE/FINAL PLANS:

None.

PUBLIC HEARINGS:

1. Final Report: Tentative Plan Amendment and Final Plan for The Homestead Planned Development, 3821 West Milham Avenue. Prior to discussion of this agenda item, Commissioner Stoffer indicated he would be abstaining from discussion due to residing within 300-feet of the subject property.

Mr. Forth summarized the staff report dated January 13, 2012 regarding a request by Mr. Patrick Lynch and American Village Development to amend the previously approved tentative plan. The plan amendment involves elimination of the attached residential condominium buildings, addition of three single-family parcels located south of the historic homestead site, reestablishment the cottage offices and retention of the themed restaurant/office. Mr. Forth also indicated the applicants are requesting approval of a final plan that involves only the three proposed single-family parcels. Staff is recommending approval of the tentative plan

amendment subject to four conditions and approval of the final plan subject to City Council approval of the tentative plan amendment. Commissioner Welch asked if the screening along the east property line between the historic homestead site and McGillicuddy Lane residences would be addressed with this tentative plan amendment or upon submittal of a final plan. Mr. Forth indicated the type of screening, amount and location would be addressed upon submittal of a final plan for development. At this time, it is unknown where specific site improvements will occur.

Mr. Jack Gesmundo of American Village Development and Mr. Patrick Lynch were present to support the proposed tentative plan amendment. Mr. Gesmundo explained that the three single family residential home sites along the north side of McGillicuddy Lane would visually and physically connect the residential portions of The Homestead. This area is heavily wooded and Mr. Gesmundo indicated the existing vegetation will be retained as much as possible. Mr. Gesmundo also stated a change back to the cottage offices represents the highest and best use of the property. With regard to the staff recommendation involving a combined West Milham Avenue driveway, Mr. Gesmundo indicated that Mr. Lynch may decide to live there and if so, he wouldn't want the residential drive to be combined with the cottage offices, if and when developed. Finally, Mr. Gesmundo indicated the two signs (one near Arbutus Trail and the other near Hollow Wood) advising the general public that the pedestrian path that connects to the Arbutus Trail neighborhood is for Homestead residents only will be removed and replaced once the sign company's router has been repaired.

Chairman Cheesebro reconvened the public hearing. Mr. Lou Cherico, 6130 McGillicuddy Lane and Brian Gallagher, 6090 McGillicuddy Lane, spoke in regards to the proposed tentative plan amendment. Mr. Cherico and Mr. Gallagher didn't have any objections to the plan but were concerned about future screening improvements along the east property line of the historic homestead site. Mr. Cherico and Mr. Gallagher asked that when development plans are submitted, additional screening be provided and they be given an opportunity to participate in the discussion. Mr. Gallagher also suggested that the West Milham Avenue driveway not be moved closer to McGillicuddy Lane. No additional citizens spoke regarding the proposed tentative plan amendment.

Mr. Forth indicated that when plans are submitted for redevelopment of the historic homestead site and subsequent review by the Planning Commission and approval by City Council, a public hearing and notification are not required. However, staff will advise the developer/property owner to engage the adjacent McGillicuddy Lane residents. Mr. Forth also stated that if the historic homestead site remains a residential use, the driveway would not have to be combined with the cottage office development. There being no further public comment, a motion was made by Commissioner Bosch, seconded by Commissioner Felician, to close the public hearing. The motion was approved 7-0-1.

There being no further discussion, a motion was made by Commissioner Welch, seconded by Commissioner Reiff, to recommend to City Council that the Tentative Plan Amendment for The Homestead Planned Development, 3821 West Milham Avenue, be approved subject to 1) City Council approval of the request to modify the boundaries of the Van Riper historic district; 2) Consistent with the 2006 approved tentative and final plans, the access drive for the cottage offices must be moved east, shared with the theme restaurant/office, and align with future development activities planned on the north side of West Milham Avenue; 3) When a final plan for development is submitted involving the existing historic home site, the adequacy of the screening/buffering along the east property line be evaluated and supplemental screening/buffering be required as may be necessary; 4) Removal or replacement of the sign located near the south end of pedestrian path that connects the Homestead neighborhood to the Arbutus Trail neighborhood that prohibits non-Homestead residents from using this path; and 5) Approval of the Final Plan for the three McGillicuddy Lane land divisions subject to City Council approval of the tentative plan amendment. The motion was approved 7-0-1.

OLD BUSINESS:

None

TO: Planning Commission

DATE: January 13, 2012

FROM: Vicki Georgeau, Director of Community Development

SUBJECT: Final Report: Tentative Plan Amendment and Final Plan for the Homestead of Portage Planned Development, 3821 West Milham Avenue

I. APPLICATION INFORMATION:

A tentative plan application to amend The Homestead Planned Development (PD) has been received. The 2012 Tentative Plan amendment proposes to eliminate the attached residential condominium buildings, add three single-family parcels (1.5 acres) located south of the historic homestead site, reestablish the cottage offices (14.6 acres) and retain the themed restaurant/office as shown on the previously approved 2001 plan. Please refer to the attached application, narrative and tentative plan submitted by the applicant. Approval of a final plan, which involves the division of three residential lots, is also requested.

The following background information is provided regarding the Homestead Planned Development.

Applicants	Property Address	Description	Zoning
Mr. Patrick Lynch Mr. Jack Gesmundo, American Village Development	3821 West Milham Avenue	22 acre tract (Planned development area: 88 acres)	PD, planned development (2001)

The Homestead PD involves an 88 acre tract of land located south of West Milham Avenue and east of US-131. The original Homestead PD rezoning/tentative plan application received City Council approval in 2001. The 2001 plan included the construction of 94 single family residential lots in three stages on 45.1 acres, an approximate 5,000 square foot theme restaurant/conference center on 3 acres, between 95,000 to 160,000 square feet of cottage offices on 14.6 acres and 25.2 acres of green/open space. Attached is a copy of the 2001 approved tentative plan for The Homestead PD. Since the initial 2001 approval, the following projects/amendments have occurred:

- **2001:** Approved the final plan/preliminary plat for The Homestead of Portage No. 1, which included 24 single-family residential lots on 13 acres. Construction activities within this phase have been completed.
- **2003:** Approved the final plan for Cully's Gage Restaurant and Homestead Banquet Facility, which included conversion of the historic homestead site for a 9,725 square foot theme restaurant and banquet facility on seven acres. Construction of this development did not occur and the final plan expired.
- **2004:** Approved the final plan/preliminary plat for The Homestead of Portage No. 2 and The Homestead of Portage North, which included a total of 36 single-family residential lots on 19 acres. Individual home construction within this phase is nearing completion.
- **2006:** Approved a tentative plan amendment and final plan that eliminated the cottage offices and replaced this portion of the development with 22, four-unit attached residential condominium buildings (88 units total) and a clubhouse building on 19.5 acres. Attached is a copy of this approved tentative plan. The historic homestead site was again proposed to be preserved and restored to either a theme restaurant or offices. Construction of this development did not occur and the final plan expired.

- **2006:** Approved the final plan/preliminary plat for The Homestead No. 3, which included a total of 23 single-family residential lots on 19 acres. Construction of this phase of development did not occur and the plan expired.
- **2010:** Re-approved the final plan/preliminary plat for The Homestead No. 3, which included a total of 23 single-family residential lots on 19 acres. Construction of the public infrastructure is complete, Final Plat approval has been granted, and home construction is underway.

Construction of the public improvements associated with the single-family residential portion of the development project is complete and has resulted in 83 new single-family lots (11 less than previously planned). Development of the remaining 22.5 acres is pending and is included with the tentative plan amendment.

II. TENTATIVE PLAN AMENDMENT PROCEDURES/REQUIREMENTS:

The PD, planned development chapter establishes a two-part review and approval process: Tentative plan review of the overall development concept and final plan review for each phase of the development. Under the terms of the ordinance, any change to the tentative plan, such as modifying an approved land use class or adding a land use class, requires formal review and approval, with public hearings, in a manner similar to a rezoning procedure.

Section 42-374 of the Land Development Regulations stipulates the development standards in the PD zoning district. This section provides flexibility in the types of land uses of which up to 20% of the total land area available can be utilized for nonresidential uses. Public water and public sanitary sewer is required. Overall density of the project may not exceed seven units per acre and density in any one phase may not exceed 12 units per acre. Building setbacks, building height, open space and screening are also regulated under the ordinance.

III. PUBLIC REVIEW/COMMENT:

The Planning Commission convened a public hearing during the December 1, 2011 meeting. The applicants, Mr. Jack Gesmundo and Mr. Patrick Lynch, were present to support the proposed tentative plan amendment. Mr. Gesmundo stated the amendment proposes to restore the cottage offices originally approved in 2001 and construct three additional single family residential home sites along the north side of McGillicuddy Lane that would visually and physically connect the residential portions of The Homestead. One citizen, Ms. Lee Berow, 3608 Arbutus Trail, expressed concerns about the recently installed "No Trespassing" sign adjacent to the pedestrian path near Arbutus Trail that connects to the two neighborhoods.

Since the December 1, 2011 Planning Commission meeting, the applicants have provided a revised written narrative and tentative plan map to include additional information regarding designated open space, size of the cottage office buildings and clarified the acreage of different land uses. Additionally, the applicants have agreed to replace the sign located near the south end of pedestrian path that connects the Homestead neighborhood to the Arbutus Trail neighborhood that prohibited non-Homestead residents from using this path. The new sign will allow non-Homestead residents to use the pedestrian path at their own risk. As the Commission will recall, several documents related to the 2001 planned development rezoning application and preliminary plat clearly indicates the path is to be owned and maintained by the developer/association and used by residents located in both neighborhoods. The new sign has been ordered but has not yet been installed.

IV. HISTORIC DISTRICT COMMISSION REVIEW

The property is located within the City of Portage Van Riper Historic District. The applicants are proposing to modify the district by dividing 1.51 acres of land located adjacent to McGillicuddy Lane to create three lots for single family residential development. The proposed modification does not affect any existing historic structure or building. Before the land divisions necessary to create these three new parcels can be approved and removed from the historic district, the City Council must approve the proposed modification after receipt of the Historic District Commission recommendation.

The Historic District Study Committee met on December 21, 2011 to review and discuss the proposed district modification. The Historic District Study Committee recommended approval of the district modification and a preliminary report was forwarded to the Planning Commission for review and comment. During the January 5, 2012 meeting, the Planning Commission also recommended approval of the historic district modification.

On January 11, 2012 the Historic District Commission held a public hearing and recommended City Council approve the requested modification to the Van Riper Historic District. City Council will review the proposed historic district modification, Homestead of Portage tentative plan amendment and final plan concurrently. First reading will be on February 14, 2012 and final action will be on March 13, 2012

V. FINAL ANALYSIS - PROPOSED TENTATIVE PLAN AMENDMENT:

The 2012 tentative plan amendment proposes to eliminate the attached residential condominium buildings, add three single-family parcels (1.5 acres) located south of the historic homestead site and reestablish the cottage offices (14.6 acres) as shown on the previously approved 2001 plan. The cottage office area will also include at least 3.4 acres of additional open space. The designation of the historic homestead site as a theme restaurant or office on the remaining approximate 3.0 acres is consistent with the previously approved tentative plans. As identified in the tentative plan amendment narrative, the 14.6 acre cottage office area and historic homestead site will be retained by Patrick (Mick) and Lisa Lynch and the three new single-family parcels will be owned by American Village Builders.

As submitted, specific aspects of the proposed plan amendment include the following.

- Additional Single Family Parcels – The three single-family parcels are proposed to be located in a 1.5 acre wooded area on the north side of McGillicuddy Lane south of the historic homestead site. The applicant indicates a substantial portion of the wooded areas outside the building zone will be retained as a buffer from the themed restaurant/office use. The additional home sites will visually and physically connect the residential areas along this section of McGillicuddy Lane and buffer the neighborhood from future uses in the planned development. Construction of these three additional home sites is expected to begin after all approvals have been granted.
- Cottage Offices – According to information provided by the applicant, the cottage offices will exhibit a residential architectural style that will compliment the existing residential phases. This design approach is similar to what was accomplished in Woodbridge Hills. The buildings will be one-two stories and range in size from 3,000-10,000 square feet. The total building area is estimated to range between 80,000 and 145,000 total square feet representing 10% to 19% lot coverage (does not include the 3.4 acres designated for open space).

Reestablishment of the cottage offices at this location is an appropriate land use situated between US-131 and the future site of the themed restaurant/office use(s) to the east and residential land uses located to the south/southeast. Office uses are low impact commercial uses, typically have a building style and mass similar to residential uses, have limited hours of operation and generate less traffic than

retail uses. Also, the land area proposed for the cottage offices is approximately 8-10 feet lower in elevation than the adjacent property to the east and south.

- Existing Historic Home Site – Future plans for the existing historic home site continues to be conversion to a themed restaurant or office. According to the applicant, the home will be restored but it may be necessary to enlarge the footprint of the building in order to accommodate the intended use. Design of any building addition would be consistent with the current architecture. The building area including any addition is estimated at 5,000 square feet.

With regard to screening/buffering of the existing McGillicuddy Lane residential dwellings to the east, the written narrative submitted by the applicant indicates a landscaped berm was constructed in 2006 and trees installed as the dwellings were constructed. The applicants further state that if the existing trees are maintained, no additional landscaping/screening will be installed when the historic home site is converted to a themed restaurant/office. A review of this area indicates there are significant gaps in the landscape screening between the McGillicuddy Lane residential dwellings and the historic home site. When a final plan for development is submitted, the adequacy of the screening/buffering will be evaluated and supplemental screening/buffering may be necessary.

- Cottage Offices and Themed Restaurant/Office Phasing – The applicant has indicated construction of the cottage offices and themed restaurant/office will commence when the market conditions and the commercial lending environment improves. Based on current and projected economic conditions, construction within the next five years is anticipated.
- Public Street Access – As shown on the tentative plan map and written narrative, access to West Milham Avenue for the cottage offices and themed restaurant/office is proposed from two separate driveways. However, consistent with the 2006 approved tentative plan, the access location for the cottage offices should be moved further east so it can be shared with the theme restaurant/office and align with future development activities planned on the north side of West Milham Avenue. The property to the north is vacant, encompasses approximately 77 acres and is owned by a local residential development company. As information for the Commission, when this section of West Milham Avenue was reconstructed in 2011, a commercial grade driveway approach was installed by the city. The centerline of this driveway is located approximately 435 feet east McGillicuddy Lane and does align with the vacant property to the north.
- Percentage of Nonresidential Uses – The PD, planned development ordinance states that a maximum of 20% of the total land area may be used for nonresidential land purposes. Given the size of the overall development area, 88 acres, the area identified for nonresidential purposes cannot exceed 17.6 acres. The written narrative provided by the applicant indicates a combined area of 21 acres for the cottage office and themed restaurant/office with 3.4 acres designated as green/open space. The applicant has designated the green/open space as “...a strip of land approximately 40’+/- deep surrounding the perimeter of the cottage office area except that area that adjoins McGillicuddy Lane equaling 3.4 acres.” Upon submittal of a final plan for development, the location of the green/open space may be modified but in no case can it be less than 3.4 acres.
- Traffic Impacts – It is estimated that a 5,000 square foot themed restaurant would generate approximately 650 vehicle trip ends. The traffic generated by several administrative office buildings totaling 80,000 to 140,000 square feet is approximately 1,800 to 2,785 vehicle trip ends. This compares to 1,056 vehicle trips generated by the 88 attached residential units (12 vehicle trips per unit) included in the 2006 plan.

The traffic generated by the proposed themed restaurant and cottage offices can be accommodated by West Milham Avenue. West Milham Avenue is classified as minor arterial roadway and was

reconstructed in 2011 from a two-lane roadway to a three-lane roadway with curb/gutter, sidewalks and bike lanes. The 2006 traffic average daily traffic count for this section of West Milham Avenue was 13,340. The capacity of this roadway segment is 21,500 vehicles per day. Updated traffic volume counts are scheduled for 2012.

VII. FINAL PLAN

Following tentative plan approval, Section 42-375, plan review and approval, requires submittal of a final (site) plan for each area within the planned development project. At this time, the applicants are proposing to develop three, single-family residential lots through a land division process. Attached is a final plan (survey) that shows the location of the proposed land divisions. This 1.5 acre area is located immediately south of the Van Ripper historic homestead and each lot is approximately .5 acres.

Building setbacks and lot width/area will be consistent with the other single-family residential lots in the Homestead of Portage planned development. The front yard setback will be at least 30 feet, side yard 10 feet and rear yard 40 feet. Lot width will not be less than 80 feet (95 feet proposed) and lot area not less than 9,600 square feet (19,100+ square feet proposed). Utilities, including municipal water and sanitary sewer, are available to each lot. Finally, and according to the applicants, the Homestead of Portage Preservation Standards that are applicable to the other residential lots in this planned development will also apply to these three residential lots.

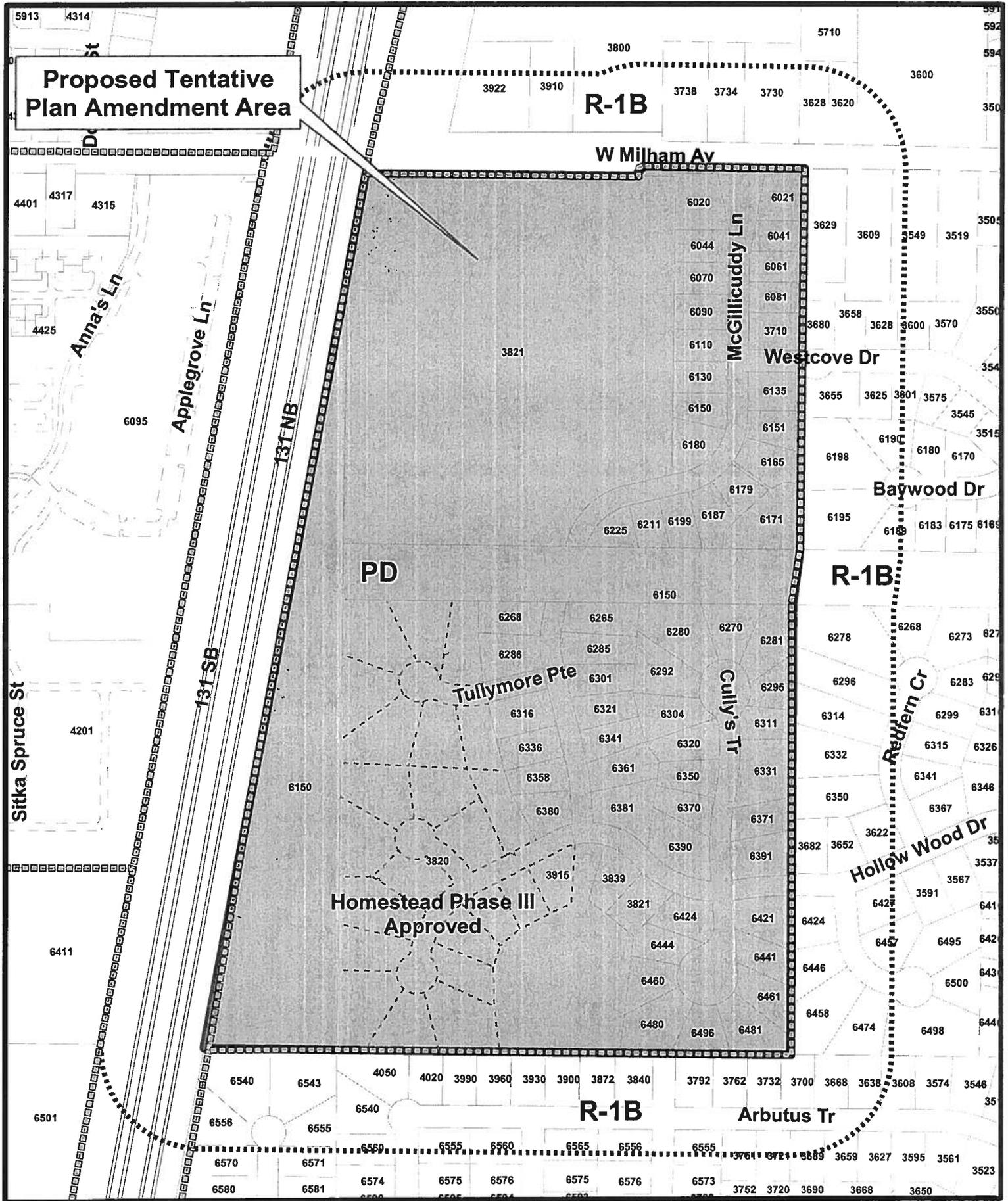
VIII. RECOMMENDATION:

Based upon the above analysis, staff advises the Planning Commission to recommend to City Council that the Tentative Plan Amendment for the Homestead Planned Development, 3821 West Milham Avenue, be approved subject to the following:

1. City Council approval of the applicants request to modify the boundaries of the Van Ripper historic district.
2. Consistent with the 2006 approved tentative and final plans, the access drive for the cottage offices must be moved east, shared with the theme restaurant/office, and align with future development activities planned on the north side of West Milham Avenue.
3. When a final plan for development is submitted involving the existing historic home site, the adequacy of the screening/buffering along the east property line be evaluated and supplemental screening/buffering be required as may be necessary.
4. Removal of the sign located near the south end of pedestrian path that connects the Homestead neighborhood to the Arbutus Trail neighborhood that prohibits non-Homestead residents from using this path.

Finally, and subject to City Council approval of the tentative plan amendment, staff advises the Planning Commission to recommend to City Council approval of the final plan for the three McGillicuddy Lane land divisions. The proposed land divisions have been reviewed by the City Administration in accordance with Article 5, Subdivision and Land Division Regulations, and meet the requirements for approval.

Attachments: Zoning/Vicinity Map
Aerial photograph
Proposed Tentative Plan Amendment (narrative and tentative plan layout)
Previously Approved 2001 Tentative Plan for The Homestead PD (narrative and plan)
Previously Approved 2006 Tentative Plan for The Homestead PD (narrative and plan)
Final plan
Communication received



**Proposed Tentative
Plan Amendment Area**

R-1B

W Milham Av

PD

R-1B

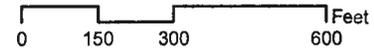
**Homestead Phase III
Approved**

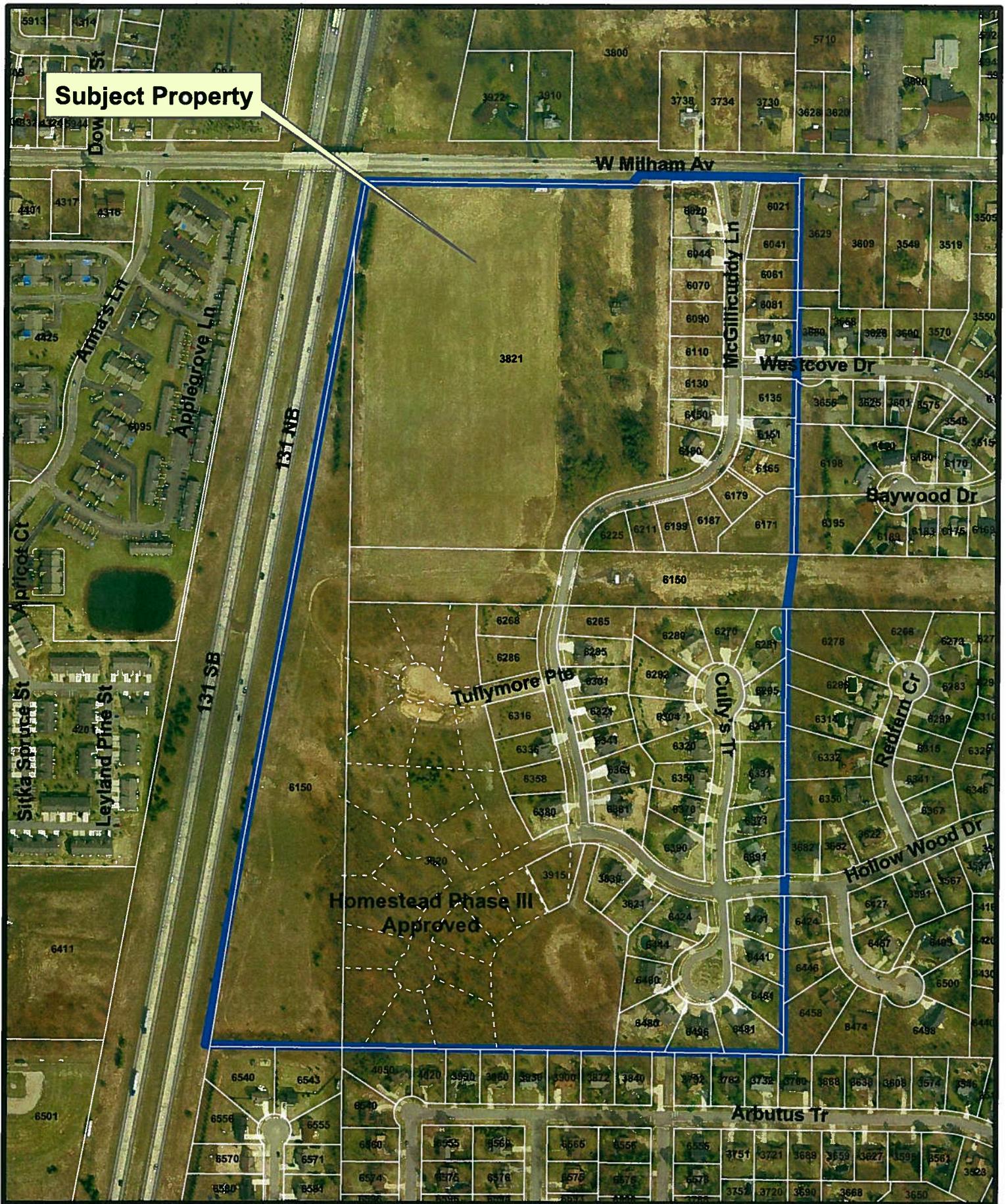
R-1B

Arbutus Tr

-  Proposed Tentative Plan Amendment Area
-  Planned Development Area
-  300' Notification Area

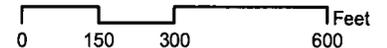
**Tentative Plan (amendment)
3821 West Milham Avenue**





Subject Property

**Tentative Plan (amendment)
3821 West Milham Avenue**



RECEIVED

DEC 30 2011

COMMUNITY DEVELOPMENT

AMERICAN VILLAGE DEVELOPMENT, II

December 30, 2011

City of Portage Planning Commission
C/O Mr. Christopher Forth, AICP
7900 South Westnedge Avenue
Portage, MI 49002

RE: Submission of Tentative Plan Amendment for planned development of The Homestead.

Dear Members of the Planning Commission:

Enclosed please find our submission for amending the planned development of The Homestead. We have worked in concert with city staff to revise the previously submitted plans.

The following is a brief overview of The Homestead Planned Development: In June, 2001 the planning commission approved the rezoning of approximately 88 acres from R-1B one-family residential Planned Development (PD). American Village Development II, L.L.C. purchased approximately 55 acres for single family development and Patrick and Lisa Lynch retained the remaining 22.5 acres for cottage offices and a restaurant.

In 2006, the Planned Development was amended to include the Villas of Secret Gardens condominium development which included 22 attached residential buildings totaling 86 units on 19.56 acres. The Villas of Secret Gardens project did not proceed at the last minute due to changes in the real estate and financing markets. Additionally, the project replaced cottage offices; however, the original 2001 approval included cottage offices of approximately 95,000- 160,000 square feet.

This revised plan will enhance The Homestead neighborhood by visually and physically connecting the single family portions of the developments along McGillicuddy Lane. This will also help buffer the single family neighborhood from the other future uses in the planned development.

1a. Our general purpose is two-fold, first is to split three single family parcels, a total of 1.51 acres from the remaining Lynch property. If the splits are approved, American Village Development II, L.L.C. will purchase the three parcels from Mr. & Mrs. Lynch and they will have a remaining parcel of approximately 21.02 acres. These three new home sites will provide mid-priced housing. The architecture will complement the existing new homes on McGillicuddy Lane.

1b. The second purpose is regarding the land previously approved for the Villas of Secret Gardens Condominium Development which was approximately 19.56 acres and includes the portion of land we are requesting to be split into three single family home sites as noted above. In addition, we would like the remaining 18.0 acres return to the originally approved “Cottage Office” use.

It is still the intention that the historic farm home will be lovingly restored with the cooperation and craftsmanship of current owner and historic home restoration specialist Patrick Lynch, and into a beautiful office or theme restaurant.

2. The Homestead Planned Development began with phase 1 housing area on the southeast quadrant of the property. The first phase was followed by three additional phases of single family housing. The final phase of the single family housing is the three home sites we are requesting for land division; please refer to the attached plan.

The historical home phase of the development is anticipated to be the development of an office or theme restaurant. This portion of the development comprises of approximately 3.4. The final phase of the development is anticipated to be the cottage office area. The cottage office area comprises 17.6 acres. The combination of the historical home parcel and the cottage office parcel equals 21.0 acres, of that acreage; 3.4 acres will be designated as green space. The green space is defined as a strip of land approximately 40'+/- deep surrounding the perimeter of the cottage office area except that area that adjoins McGillicuddy Lane equaling 3.4 acres.

The proposed three single family home sites are located in a densely wooded area of the project. It is the intention of American Village Development to maintain a substantial portion of the wooded areas outside of the building zone to create a natural buffer from the themed office and restaurant sites.

A landscape berm was constructed in 2006 to establish a buffer between the single family homes and the themed restaurant/office site. This berm has had some trees installed along with the single family homes as they were completed. So long as the existing trees are maintained between the single family homes and the proposed themed restaurant/office site, the property owner is not intending to add any additional landscaping. Should the site plan for the themed office / restaurant require the removal of the natural buffer, the land owner will plant trees along the existing berm to provide appropriate screening.

3. The two remaining stages (*), the first will be the renovation of the historic home and concluding with the cottage office. The work on renovation of the historic home and building of the cottage offices will begin when the market demand increases which will be directly influenced by improvements in the commercial lending environment. Our hope would be that these projects could move forward in the next five years. The single family homes will be built as the new homes are absorbed. The three parcels will be added into the rotation of the existing lots. It is our intention to keep two new homes available in the community. The phasing of the entire planned development is as follows.

- Single Family Phase 1, 2002, 24 upscale home sites, complete.
- Single Family Phase 2-a, 2005, 15 upscale home sites, one site available
- Single Family Phase 2-b, 2005, 21 medium home sites, six sites available
- Single Family Phase 3, 2011, 23 upscale home sites, twenty two sites available
- *Historic Home – office / restaurant, timing to be determined
- *Cottage offices, timing to be determined

4. The construction of homes will begin after we receive of all the necessary approvals for the land division. All the infrastructure improvements are completed except for the utility extensions. The utilities extensions will be installed with the construction of each individual home. As mentioned in item #3 above, when we sell a speculative new home we will start a replacement home for sale. Over the last two years, we have averaged six new home sales a year. Including the three proposed parcels, we will have 32 available home sites, which should be absorbed over the next 5.5 years.

The historical home renovation and cottage office/restaurant will start when market conditions improve. It is anticipated that both projects would commence in the next five years.

5. Each stage of this planned development will be constructed independently of the other stage. Each stage will be integrated with the adjoining community by using sidewalks.

The Homestead meshes well with the existing development pattern in this area of Portage. To the east and south are single family homes which have been complemented by our single family homes.

In the northwest quadrant of the property, the portion of The Homestead that is closest to US 131, we are requesting being reserved for cottage office to buffer the historical home and single family housing to the east and the housing to the south. The historic home office/ restaurant provides a smooth transition from cottage office to single family housing on the northern half of The Homestead.

6. The amended area is located on the southeast corner of US-131 and West Milham Road. The total area involved is 22.5 acres and owned by Patrick and Lisa Lynch, with 1.5 acres proposed for three single family home sites, 17.6 acres for cottage office or themed restaurant and 3.4 acres of green space. The three proposed home sites are currently under contract by American Village Development II, L.L.C., should the land division be approved. The remaining acres will be retained by Patrick and Lisa Lynch.

7. Land Use Density:

Single Family Residential	46.6+/- Acres	53%	1.8 homes per acre
Common Open Space and Green Space	23.8+/- Acres	27%	
Cottage Office & Themed Restaurant	17.6+/- Acres	20%	

The Homestead is a low density high-end development. The three single family phases include 83 home sites plus the 3 proposed sites for a total of 86 home sites. Non-residential land uses are planned for 17.6 acres or 20% of the 88 acre planned development.

Prior to the planned development, this property was original zoned as RI-B which will allow for 3.4-units per acre or 195 homes on the 57.5 acres dedicated in the planned development tentative plan to residential and open space.

In The Homestead Planned Development, building set-backs planned for front yards at 30 feet, side yards at 10 feet and rear yards at 40 feet; comply with the previous R-1B zoning criteria.

8. There is no new common space in the planned development with this request. All the common areas have been fully developed in the single family area of the development including the entry statement, five landscaped cul-de-sacs and the two storm water retention areas. These areas are owned and currently maintained by The Homestead Homeowners Association. These areas will be maintained as required by fees paid to The Homestead Homeowners Association at the direction of the board of directors. The 9.3 acre parcel and the 5.0 acre parcel owned in fee by Consumers Energy will be maintained by Consumer Energy. The remaining 21.02 acres owned and maintained by Patrick and Lisa Lynch.

9. The only known buildings in the planned development will be single family homes, a historic home, and future office buildings. The single family homes will be a combination of ranch and two-story and will not exceed the required height limitations. The historic home will be restored and its height will not change from its current height. It may be necessary to enlarge the footprint of the historic home in order for it to accommodate its anticipated use. However, any addition would be consistent with the current architecture and would not exceed the current height of the home. The final structure may be in the 5,000+/- square foot range depending on the owner's needs.

The cottage office area will contain building architecture that will be residential in nature and compliment the residential phases of the development similar to Woodbridge Hills. Most office buildings are anticipated to be one or two-stories in height. We are anticipating that they will range from 3,000 to 10,000+/- square feet in size. We are anticipating a total of 80,000 to 145,000 square feet of total office space. The site will be served by a separate curb cut from the themed restaurant/office site that was constructed with the recent widening of Milham Avenue. The entry to both sites will be landscaped and signed to give a sense of arrival. It is intended that the office building will meet the current requirements under the OS-1 zoning district.

10. The sanitary sewer will be discharged to the public sanitary sewer system constructed in 2004, which has capacity allocated in sufficient amount to serve this development. The municipal water and all private utilities have been installed underground. The storm sewer will be retained on site and disposed of via infiltration into the ground.

11. Covenants have been recorded on all phases of the single family home sites, a copy of which is attached hereto for reference. Similar covenants will be recorded on the three additional sites should the land division be approved. These covenants control land use, architecture, exterior colors, home-site planning, landscaping and other issues essential to a successful planned development. Certain architectural issues will have to be approved by The Homestead Architectural Review Committee. This committee will ensure that the architectural development of The Homestead is consistent with the wishes of the developers. All easements required by the City of Portage for utilities and roadways are in place.

12. All the streets for the single family area have been built to the required specification of and accepted by the City of Portage. Each home unit will have a minimum of a two-car garage and space in front of the garage for two additional cars to park, a minimum of four spaces per home total. A majority of the homes constructed have three car garages.

13. We have directed all construction traffic through the Milham Road entrance to minimize construction traffic through Hollow Wood.

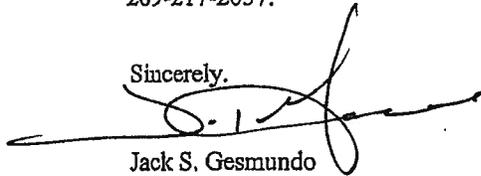
14. This is the last phase of the single family portion of the development. The office and restaurant phases will move forward when the market demand and financing for such improves. Based upon current forecasts, we believe this to be several years out.

15. American Village Development II. L.L.C. has an excellent credit rating and a number of different credit facilities. Performance bonds or bank letters of credit can be supplied as required by the City of Portage.

The Northwest Portage Bikeway was recently constructed along the Consumers Energy Company property and interconnects with the internal sidewalks of The Homestead along McGillicuddy Lane. All streets include sidewalks on both sides of the roadway.

We appreciate your review and consideration for this request. We look forward to continuing this successful project in the City of Portage. Please contact Jack Gesmundo if you have any questions or concerns relative to our tentative plan, I can be reached at jack@avbinc.com or 269-217-2057.

Sincerely,



Jack S. Gesmundo



Patrick M. Lynch

enclosure: Tentative Plan for The Homestead Planned Development

MILHAM ROAD



THE ARTUS TRAIL
NEIGHBORHOOD



The Homestead of Portage
2001 Approved Tentative Plan

American Village
Development Company, Inc.

May 8, 2001

City of Portage Planning Commission
c/o Mr. Jeffrey M. Erickson, AICP
7900 South Westnedge Avenue
Portage, Michigan 49002

RE: Submission of The Homestead Planned Development Tentative Plan

Dear Members of the Planning Commission:

Enclosed please find our submission for re-zoning and approval of a tentative plan for a planned development. The property referenced is 88 acres plus or minus, and is situated at the southeast corner of US 131 and Milham Avenue in Portage.

As you may know, we were involved in the development and construction of Woodbridge Hills, another Portage planned development. We feel this positive experience with another planned development will ensure the City of Portage and its residents that this will be another project of which we will all be proud.

What follows are answers to the fifteen (15) required questions that must be submitted with a tentative plan for a planned development.

1. Our general purpose is to create a new community which provides medium to upscale new housing opportunities, a theme restaurant and conference center and a cottage office area. We are requesting a re-zoning from residential (R-1B) to planned development in order to accommodate the several different uses contemplated in this development; single family residential, restaurant and cottage office. We want to preserve the overall feeling of the historic farm home in the architecture and site planning of The Homestead. The historic farm home will be lovingly restored with the cooperation and craftsmanship of current owner and historic home restoration specialist Mick Lynch, and American Village Builders, into a beautiful upscale theme restaurant. The new housing alternatives in The Homestead will provide mid-priced and upscale housing in a comfortable planned development setting. The architecture will focus around a farm home theme and will compliment the existing historic farm home. As with Woodbridge Hills, this community will feature a linear trail system for the enjoyment of the homeowners of this community and the residents of Portage. We have had discussions with the City of Portage in regards to tying this trail system into the Northwest Portage Bikeway System which is anticipated to be located in the green space property owned by Consumers Energy. In addition, generous common open space has been provided for the enjoyment of the community residents.

2 & 3. The Homestead Planned Development will begin with the Stage 1 housing area on the southeast quadrant of the property. The first stage will be followed by an additional three stages of single family housing. The density of these four single family stages is 1.68 units per acre (94 units on 56.0 acres (including common open space)), comprises 45.1 acres and is 51.3 percent of the total planned development.

A second phase of the development is anticipated to be the development of the theme restaurant. The restaurant comprises 3.0 acres and 3.4 percent of the total planned development.

A third phase of the development is anticipated to be the cottage office area. The cottage office area comprises 14.6 acres and 16.6 percent of the total planned development.

The remaining land will be dedicated to common open space and green space. Common open space and green space, which includes 14.3 acres owned by Consumers Energy, comprises 25.2 acres and 28.7 percent of the total planned development. The land owned by our development group in fee, dedicated to common open space, is 10.9 acres and is 12.4% of the 88 acres or 14.8% of the total land owned in fee by our development group.

4.	Time Schedule:	
	Single Family Stage 1	October 2001 to November 2002
	Single Family Stage 2	March 2002 to May 2003
	Single Family Stage 3	October 2002 to November 2003
	Single Family Stage 4	May 2003 to June 2004
	Historic Home/Restaurant	June 2002 to December 2002
	Cottage Office	June 2002 to June 2005

5. Each stage of this planned development may be constructed independently of the other stages. In fact, this is the purpose of this phased development process.

The Homestead meshes well with the existing development pattern in this area of Portage. To the east are finely constructed single family homes which will be complemented by our single family homes that cover the entire east portion of the development. The portion of The Homestead that is closest to US 131 has been reserved for cottage office to buffer the restaurant and single family housing to the east and the housing to the south. And, the historic theme restaurant provides a smooth transition from cottage office to single family housing on the northern half of The Homestead.

6. The Homestead will be located at the southeast corner of US 131 and Milham Avenue. The area to be re-zoned planned development is 88 acres. Of the 88 acres, 73.7 acres are currently owned by Mr. Mick Lynch, and the residential portion of this land as shown in our tentative plan is under contract to be purchased by American Village Development Company should our re-zoning request be approved. The remaining land, including the restaurant and cottage office areas, which are owned by Lynch, is expected to be developed in partnership between Lynch and American Village Development Company. The 14.3 acres owned in fee by Consumers Energy shall remain unchanged in ownership. The Consumers Energy property is

comprised of the two green space parcels which are 9.3 acres and 5.0 acres respectively. The 9.3 acre parcel runs along the west edge of the property and the 5.0 acre parcel bisects the property from east to west.

7. Land Use Density:
 Single Family Residential 45.1 Acres +/- 51.3%

<u>STAGE</u>	<u>HOMES</u>	<u>AVERAGE LOT</u>	<u>HOMES/ACRE</u>
Stage 1	24 homes	21,780 sq. ft. lots	1.8 homes/acre*
Stage 2	17 homes	21,780 sq. ft. lots	1.8 homes/acre*
Stage 3	30 homes	19,311 sq. ft. lots	2.2 homes/acre*
Stage 4	23 homes	18,181 sq. ft. lots	2.4 homes/acre*
Total	94 homes		2.1 homes/acre*

*density totals do not include open space, including open space (56.0 acres) reduces average density to 1.68 homes/acre

Common Open Space and Green Space	25.3 Acres +/-	28.7%
Restaurant & Cottage Office	17.6 Acres +/-	20.0%

Current R1-B zoning of 3.4 units/acre would allow 190 homes on the 56.0 acres dedicated in the planned development tentative plan to residential and open space. A plan showing how this land could be developed for single family development under its current zoning has been included for your reference. In The Homestead Planned Development, building set-backs planned for front yard at 30 feet, side yard at 10 feet and rear yard at 40 feet, comply with the current R-1B zoning criteria.

8. The 4.4 acre parcel, the 2.8 acre parcel and the 3.7 acre parcel labeled "common open space" will be owned and maintained by the Homestead Homeowners Association. These common open space areas will contain entry statements, landscaping, signage, linear walking trails, and natural preserve areas. These areas will be maintained as required by fees paid to the Homestead Homeowners Association at the direction of the board of directors. The 9.3 acre parcel and the 5.0 acre parcel labeled green space will continue to be owned in fee and maintained by Consumers Energy.

9. The only known buildings in the planned development will be single family homes, a historic home and restaurant, and future office buildings. The historic home will be restored and its height will not change from its current height. It may be necessary to enlarge the footprint of the historic home in order for it to accommodate its anticipated use. However, any addition would be consistent with the current architecture and would not exceed the current height of the home.

The cottage office area will contain buildings similar in architectural theme to the historic home. Most buildings are anticipated to be two (2) stories in height, and our present thinking is that these buildings will not exceed two (2) stories in height.

10. Disposition of sanitary and storm water has been discussed at length with City of Portage staff. Through these discussions, tentative agreements have been reached which will allow all areas of The Homestead to be served with sanitary service by the City of Portage sanitary collection system. These discussions have included the installation of a lift station on the west boundary of the cottage office area by the City of Portage. The Homestead will be responsible for its pro-rata share of the cost of this lift station when the Homestead connects to this lift station. Storm water for The Homestead will be collected and maintained on site. In addition, we have agreed to cooperate with the City of Portage by allowing for additional land area to be held in anticipation of storm water needs when the City widens Milham Avenue. This storm water collection area, fronting Milham Avenue may serve The Homestead as a decorative water feature at its northwest entrance.

11. Once this property is re-zoned, The Homestead residential property will be purchased by American Village Development Company. At this time, a set of covenants will be placed on the land restricting the use of this land. These covenants will control land use, home-site planning, landscaping and other issues essential to a successful planned development. Certain architectural issues will have to be approved by The Homestead Architectural Control Committee. This committee will ensure that the architectural development of The Homestead is consistent with the wishes of the developers. In addition, we plan to provide various easements as necessary to the City of Portage for sanitary sewer and linear trail system purposes.

12. The streets will be built to City of Portage specifications: 30 feet back of curb to back of curb with a 60 foot right-of-way. The streets will be dedicated to the City of Portage upon completion.

The Homestead Planned Development tentative plan also contemplates a possible future vehicular linkage to Westcove. The vehicular linkage to the historic theme restaurant will be via the Milham Road entry into the cottage office area.

The linear trail system for The Homestead will be maintained by the Homestead Homeowners Association on property owned by the Association. It is expected that this trail system will link to the Northwest Portage Bikeway, which is anticipated to be located in the property owned by Consumers Energy. However, this linkage is dependent on the success of the City of Portage in extending the current Northwest Portage Bikeway System.

13. Stage 1 of the single family housing will be accessed by the public from Hollow Wood. Stage one will also be served by a "construction/emergency ingress/egress drive" that will connect to Stage 1 from Milham. In this manner we will eliminate any construction traffic from Hollow Wood. Additionally, this drive will allow for emergency vehicle ingress and egress in the case of an emergency.

We are requesting that The Homestead be allowed an exemption to allow us to build the first 24 homes from the Hollow Wood access. This request is supported by the fact that development costs associated with extending the road all the way to Milham at the beginning of a development is prohibitively expensive. Additionally, an emergency/construction drive will be

available in case of an emergency. Prior to constructing beyond Stage 1, a second public road connection will be made from the North either via Westcove, or Milham or both.

We are also requesting that 4' sidewalks be required only on one side of each street as was successfully implemented at Woodbridge Hills. The 8' wide multi-purpose pathways throughout The Homestead will complement the sidewalks.

14. We expect to submit the last stage of our planned development for final approval by June, 2004.

15. American Village Development Company has an excellent credit rating and a number of different credit facilities. Performance bonds or bank letters of credit can be supplied as required by the City of Portage.

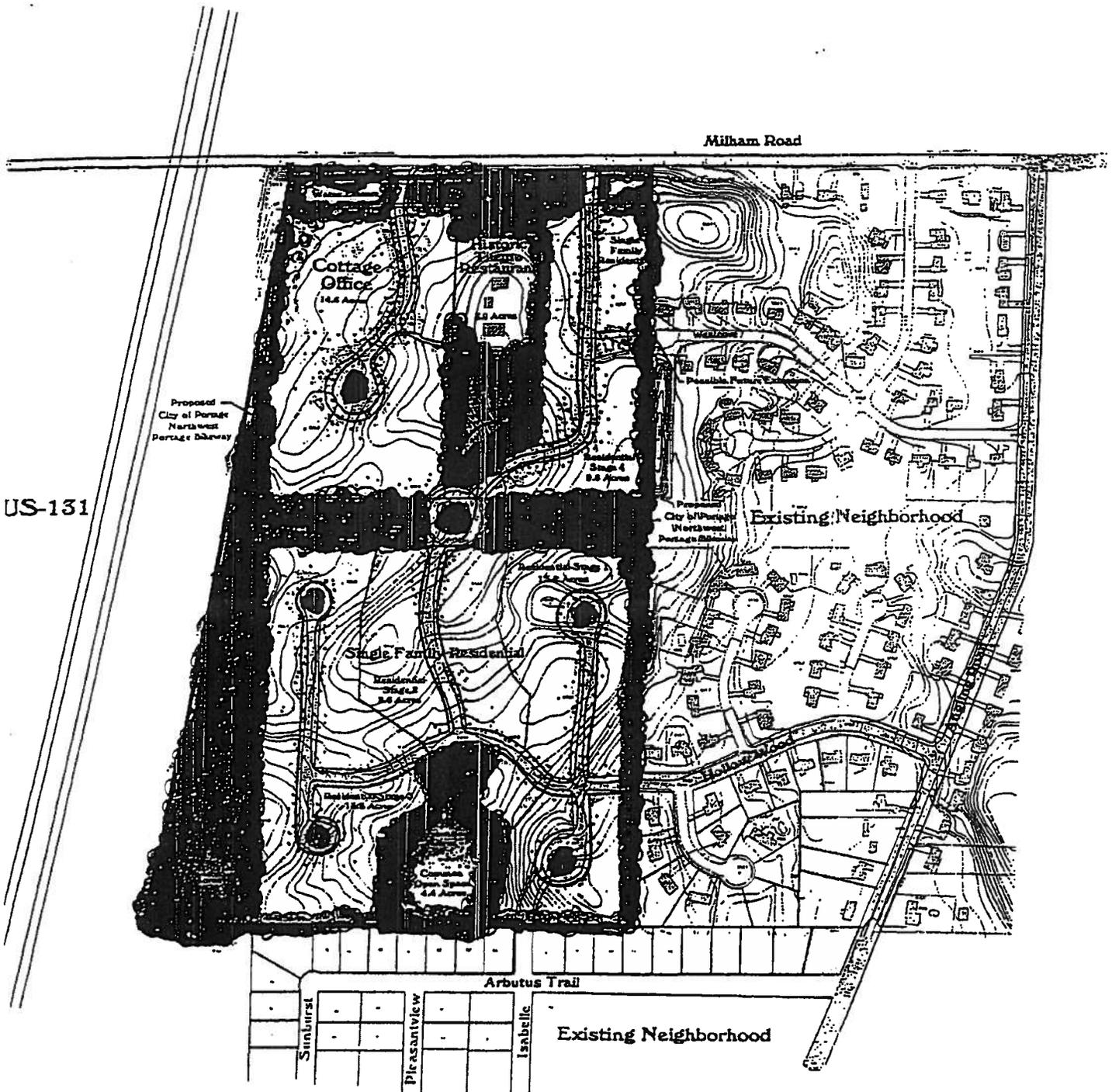
We appreciate your review of our tentative plan for The Homestead Planned Development. We look forward to the opportunity to work on another successful project within the City of Portage. Please contact me directly should you have any questions or concerns relative to our tentative plan at 329-4800.

Sincerely,
American Village Development Company



Greg Dobson

enclosure: Tentative Plan for The Homestead Planned Development

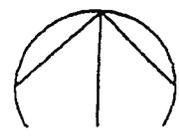


US-131

The Homestead of Portage

Scale: 1" = 500'-0"
 Date: May 8, 2001

North



Presented by: American Village Builders

The Homestead of Portage
2006 Approved Tentative Plan

July 13, 2006

City of Portage Planning Commission
C/O Mr. Jeffery M. Erickson, AICP
7900 South Westnedge Ave.
Portage, MI 49002

RECEIVED
JUL 13 2006
COMMUNITY DEVELOPMENT

RE: Submission of Tentative Plan Amendment for the Villas of Secret Gardens.

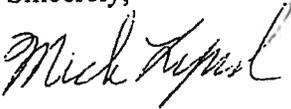
Dear Members of the Planning Commission:

We have worked in cooperation with city staff to revise the previously submitted plan.

We believe this revised plan addresses all the issues and concerns that were raised at the previous meetings' with the details needed for approval.

We look forward to completion of this unique development.

Sincerely,



Mick Lynch



Kenneth Watts

1. To recap what has transpired to date: On June 7, 2001 the planning commission approved the current property from R-1B one-family residential to PD, planned development. The applicant was American Village Builders. AVB purchased approximately 55 acres and Patrick and Lisa Lynch retained the subject 22.54 acres. The total acreage is 88 acres; this portion of the current request is for the 22.54 acre portion retained by the Lynchs. The Stonehenge Group is buying 19.56 acres and Mick and Lisa Lynch are retaining 2.98 acres.

Stage 1 started in 2002 (24 homes)

Stage 2 started in 2005 (17 homes)

Stage 3 is still to be done (30 homes)

Stage 4 started in 2005 (23 homes)

Cottage office is included in this amendment application

Historic Home/Restaurant – To be determined

See attached plan dated May 8, 2001, which was part of the rezoning application by American Village Builders back in 2001.

Our general purpose is to create a new community that provides new upscale condominiums and a theme restaurant or office with the existing historical home under planned development zoning. Our objective is to develop a community that enhances and embraces the historical property as a centerpiece to the whole community as well as carry on the landscaping theme that has been established in the adjoining homestead development. Our intention is to create an exciting, beautiful entrance with a waterfall, bridge, fountain, ponds and the historical home as the focal point. We believe this provides a much better enhanced transition for the existing single-family homestead development, verses the previously proposed conference center and cottage offices, while at the same time filling a need for active adult luxury condo's. At this time there seems to be an abundance of office space available in Portage. Our proposed community would also lessen the traffic impact during peak time verses the previously proposed development.

2. For the condominium community please see attached plans. As for the remaining 2.98 acres, we will be restoring two of the existing buildings and removing the pole barn structure that is not in keeping with our theme. The 2.98 acres will have a shared entrance as shown on print with access to W. Milham Rd. to help minimize the need for an additional entrance and exit. Various potential restaurant and office tenants are being considered. For the proposed conceptual historical theme restaurant, which includes the existing home, connector and carriage house building total approximate square feet is between 4,000 – 5,000 square feet. Given the nature of these buildings the end usable restaurant space will be approximately 3,000 square feet.

- Please note that the Milham access has been changed to align with the future development to the North
- Adding 20' setback to the North line on Milham for a total of 50'

- Adding 15' setback to the Southeast corner for a total of 65'-0"
 - Adding more burming and stone walls along the East property line to protect the future owners (see attached details on pints and pictures)
 - Maintaining a single entry point verses the previously approved two separate drives (see previously approved attached prints)
 - Moving the previously approved parking that was approved on the East line to once again protect the future homeowners (see previously approved attached prints)
3. There will be two stages, one for the condominium community and one for the historical home restaurant/office.
 4. We would begin construction as soon as we receive all the necessary approvals and permits for the condominium community. The historical home renovation would start at the same time and estimated time for conversion to a historic theme restaurant or office to be started before the end of 2007.
 5. Each stage of this planned development will be constructed independently of the other stage. Each stage will be integrated with the adjoining community by using sidewalks and walking easements (see attached prints).
 6. The proposed community is located on the southeast corner of US-131 and W. Milham Rd. The total area involved is 22.54 acres and owned by Mick and Lisa Lynch, with 19.56 acres proposed for the luxury condominium community and currently under contract to be purchased by the Stonehenge Group, LLC. The remaining 2.98 acres will be retained by Mick and Lisa Lynch for a historic theme restaurant or office. As before mentioned we will be continuing the landscaping theme started in the adjoining Homestead development. We will be using stone retaining walls and adding many trees. Our intention is to preserve as many of the mature trees as possible, especially along US-131. We will also be adding berms and additional trees along the west property line (US-131) and along the eastern portion of the property. More specific landscaped design details have been provided to assure property owners along the east edge of our proposed development that their privacy and back yard view will be protected as shown in the attached plan. The entire east property line will be bounded by dense screening including a serpentine 6 foot high berm with dense spruce and pine trees 8' or taller planted on no more than 7' between the center line of trees. In addition a stone wall will be incorporated into the berm along its' east side facing the Homestead lots. The wall height will oscillate rhythmically with a length of 50 feet or greater behind each Homestead lot. The peak height will be 2.5 feet tapering to grade at each end (see additional details on attached drawing and photographs).
 7. In addition to being under the allowable density use we also have maintained a larger distance from US-131. There is a minimum of 50' from the US-131 right of way and a minimum of 50' along W. Milham Rd where we will add additional landscaping for screening. We have also adjusted our design to get as much

distance as possible away from the existing pump station to our buildings. (See attached plans).

8. As part of creating the condominium, a non-profit corporation for the condominium association will be established. Residents of the development will elect officers and trustees to oversee, decide and assess condominium owners for the maintenance of common and limited common areas within the development. Such areas include, driveways, streets, building exteriors, clubhouse, pool, open spaces and green spaces/lawns. The historical home and property will be maintained by its owners (see attached floor plans and photographs).
9. The uses would include the historical home as a theme restaurant or office, a clubhouse, and four unit buildings for residential living. None of the proposed buildings would exceed two stories in height. See attached prints for bulk and location.
10. The sanitary sewer will be discharged to the public sanitary sewer system constructed in 2004, which has capacity allocated in sufficient amount to serve this development. The municipal water and all private utilities will be installed underground. The storm sewer will be retained on site and disposed of via infiltration into the ground. We will have an easement along the Northwest portion of the project area (approximately 500' feet from West Milham South). This easement area is for the purpose of connecting to the Portage trail system (see prints). As mentioned we will have a beautiful entrance to enhance the historical home with three ponds, a waterfall, and fountain as indicated on the prints. We believe this will provide a very aesthetically pleasing view from W. Milham Rd and set the tone for entry into our luxury condominium community.
11. The condominium association will determine and enforce various rules for the development including, clubhouse and pool rules, pet restrictions, building exterior restrictions, and common area usage. Proposed community policies and guidelines are attached. Easements will be granted as necessary to provide utility and city services for the development.
12. Each dwelling unit will have a double garage and space in front of the garage for two additional cars to park, four spaces per dwelling unit total. The clubhouse will be provided with twelve parking spaces. The roadway will be a 28' wide mountable curb & gutter road centered in a 60' private right of way and the road will be private and maintained by the condo association. Public utility easements will mimic the 60' wide private road right of way for construction of public sanitary sewer and water. In reference to traffic, the typical usage will be 2 trips per day x 88 = 176 trips per day during off peak hours. This information supplied by a study done by Epcon of a similar typical community.
13. As per proposed in the attached prints we are installing sidewalks on one side of the street. Sidewalks are not required on both sides of a private street.

14. We expect to submit for the theme restaurant or office by the end of 2007.
15. We will provide performance bonds or irrevocable bank letter of credit as required.

We appreciate your review and consideration for the Villas of Secret Gardens. We look forward to bringing a beautiful new community to the City of Portage. Please contact me or Ken Watts if you have any questions or concerns relative to our tentative plan.

Mick Lynch 269-998-2722

Ken Watts 269-217-1123

Sincerely,



Mick Lynch



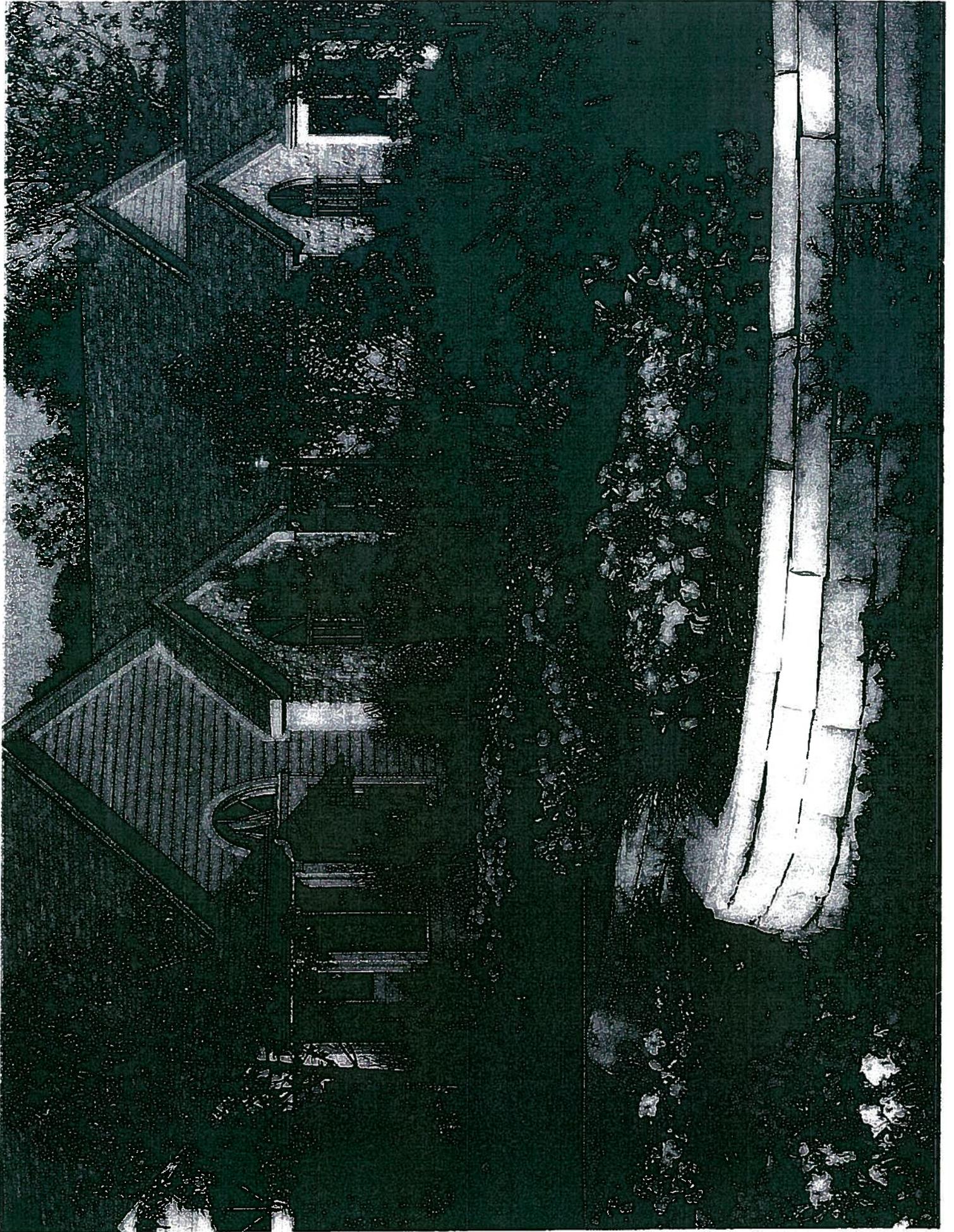
Ken Watts

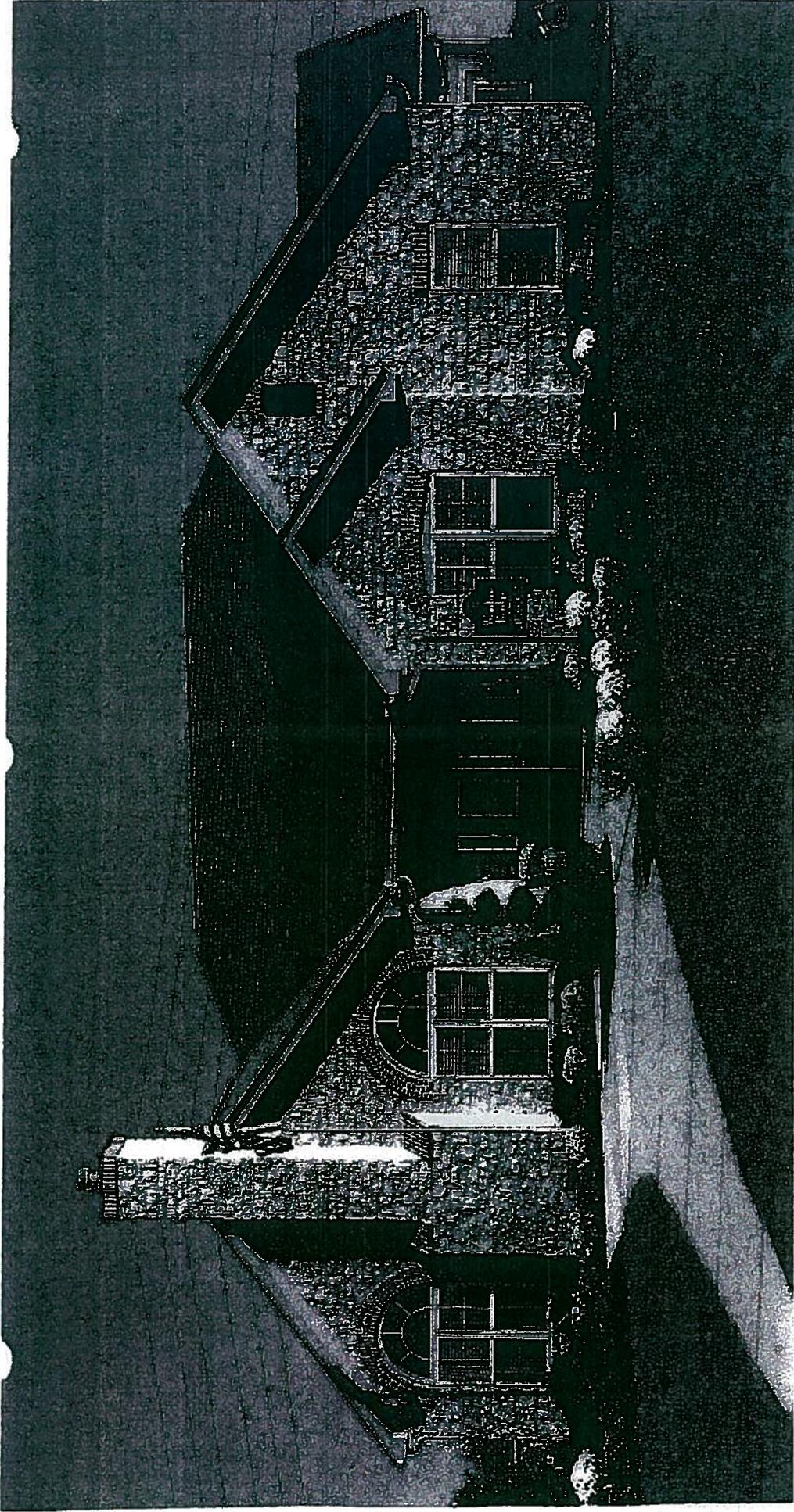
Enclosure: Tentative plan for the Villas of Secret Gardens Planned Development.











©2004 Epmark, Inc. The designs shown here, as well as the entire development system, are the property of Epmark, Inc. and are subject to both copyright and patent protection.



European Country Exterior - Classic Building 09/13/04
©2004 Epmark, Inc. The designs shown here, as well as the entire development system, are the property of Epmark, Inc. and are subject to both copyright and patent protection.

Community Policies and Guidelines

These guidelines have been set forth to expand and detail the information found in the Condominium Declaration and Bylaws under which the Villas [REDACTED] Condominium Association operates. All residents are asked to support these Guidelines in order that the community will be a more attractive and harmonious place to live.

I. Personal Property

All personal property, such as lawn chairs, bicycles, tables, etc., must be kept inside the patio or porch area or the garage. Personal property maintained within the patio area may not be visible above the patio fence, with the exception of patio table umbrellas.

Nothing may be hung or displayed, nor may signs, awnings, canopies, shutters, antennae or satellite dishes or any other device or ornament be affixed to or placed upon the exterior walls, doors, fences or roof without prior written approval of the Condominium Association Board of Trustees.

II. Decorative Items

Until such time as the Condominium Board of Trustees has been elected and minimum guidelines for decorative items are established, display of any of the following is not allowed:

- Wreaths (door or wall)
- Bird feeders or bird baths (tree-hanging or freestanding)
- Flower/plant pots
- Garden hose hangers
- Wall plaques
- Windsocks/wind chimes/decorative flags

A. Holiday Decorations

Christmas lights and decorations are permitted to be placed in the limited common areas and/or on building exteriors provided the decorations do not damage limited common area, building, gutters or siding. They may not be displayed before Thanksgiving Day, and must be removed by no later than January 7th of the following year. Other holiday decorations are permitted under the same guidelines, and may not be displayed more than one week before or one week after the holiday.

B. The American Flag

The American Flag may be flown or displayed at anytime following normal flag protocol.

III. Flowers/Landscape Plants

A. Flowers

Flowers may be planted inside the patio fence or directly outside the patio fence or screened porch in the existing mulched area. Flowers are not permitted around any tree. Only annuals that will not exceed the height of the patio fence shall be used. Maintenance of the flowers is the responsibility of the resident and dead annuals are to be removed at the end of the season. Annuals which are not maintained during the growing season will be removed by the grounds keepers and the cost for removal will be billed to the resident.

B. Landscape Plants

Any planting of new shrubs outside the patio area must receive advance approval. Variance request forms are available from the Sales Office.

1. Additional landscape plants, which may be considered, will be a species already in use in the community and which, at maturity, will not exceed the height of the patio fence.
2. Any new planting beds will be limited in size by the Board.
3. New beds must be mulched with matching hardwood.
4. New Plants will become the property of the Condominium Association, who will provide future mulching, pruning and fertilization. However, should any one of the plants die, the resident is responsible for replacement.

IV. Other Items

A. Prohibited Items

The following items will be strictly prohibited in any common area of the Community: any type of yard sign, statue, statuette, yard or lawn ornament, artificial flowers, ornamental rocks or stones, cypress mulch, swing sets, mounted hose reels, laundry poles or clotheslines, or other such items. Laundry may not be hung over any patio fence (swim suits, towels, rugs, etc., included).

V. Exterior Alterations

No alteration, additions, fences, walls, patios, decks, etc., may be made to the exterior surface of the building, nor may any trees or shrubs be planted, transplanted or removed without prior written approval of the Board.

A. **Patio Gates**

Patio gates may be installed at the resident's expense using only the approved design and specifications. Copies of the design and specifications are available at the Sales Office.

B. **Storm Doors**

Storm Doors may be added at the resident's expense using only the approved design and color. Specific information about approved storm doors may be obtained from the Sales Office.

VI. **Windows and Window Coverings**

All Window coverings, whether draperies, blinds (vertical or horizontal) or valances must be white, off-white, light beige or light gray on the *exterior side*.

VII. **Signs**

Nothing may be hung or displayed from inside the windows except professionally prepared "For Sale" and "For Rent" signs or security system decals, which shall be limited in size and number. Developer may place "sold" signs in unit windows prior to owner occupancy. No real estate signs are permitted in any common area.

VIII. **Animals**

A. No more than one household domestic pet, not bred or maintained for commercial purposes, may be kept in any one home. Pets shall be limited to dogs or cats. However, if an owner has more than one pet when he or she moves into the condominium; and, such pets comply with the requirements of the Declaration of Condominium, up to two (2) pets may be kept by the owner.

B. All animals, when outdoors, shall be maintained on a leash not more than eight (8) feet in length. They shall be supervised by a responsible individual at all times. Such individuals shall be responsible for the immediate clean up of all pet litter.

- C. No pet shall be tethered outside in the lawn or common area; nor shall any pet be tied to any patio fence.
- D. Pet owners may be fined for violation of these policies, at the rate of \$10.00 for the first offense and \$25.00 for each additional offense. If pets become a nuisance, they may be ejected at the discretion of the Board of Trustees.

IX. Parking/Vehicles

No boats, trailers, motor homes, trucks (larger than a ¾ ton pickup), travel trailers, or any vehicle with commercial advertising may be parked on any street or driveway overnight. Other vehicles used for recreation (van conversions/RVs) not garage-able, will be permitted to park in limited common area (in front of garage) for forty-eight (48) hours to allow for loading and unloading. Such vehicles must not exceed twenty (20) feet in length and must not block normal access of other residents. Commercial moving vans, when conducting contract business and commercial trucks when in the area to perform service or repair work are an authorized exception.

All parking by residents or guests *must be*: (a) within the garage, (b) in the limited common area in front of the garage door, (c) in the parking spaces at the Clubhouse area, or (d) on the side drive in such a manner so as not to block any other residents access to the garage or street. **PARKING IS PROHIBITED IN THE "TURN- AROUND" AREAS AT THE END OF THE DRIVEWAY.** No vehicle may be parked in the clubhouse parking areas for more than forty-eight (48) consecutive hours. Vehicles parked there for more than forty-eight (48) hours are subject to being towed.

Inoperable vehicles (with flat tires, expired license tags, etc.), or vehicles which cannot be identified as belonging to a resident, which are parked in any common or limited common area for more than 48 consecutive hours may be towed off the premises at the vehicle owner's expense. No repair work is permitted on vehicles in limited common or common areas except for short-term emergency work (flat tire, battery charge, etc.).

No vehicle shall be parked in any manner which blocks any street or driveway, or the ingress/egress to any garage other than the owners. The speed limit within the community is *14 mph*. Reckless operation, excessive speed, and parking or driving on the lawn areas is prohibited.

X. Swimming Pool

The pool is for the exclusive use of the residents and their guests. Any person who cannot be identified as a resident, or who is not accompanied by a resident, will be asked to leave the pool area. The pool rules are:

- A. All persons using the pool and pool facilities do so at their own risk and sole responsibility. There is no lifeguard.
- B. All children under the age of 18 must be accompanied by an adult resident age 18 or older.
- C. Guests are limited to three (3) per household, and *must be accompanied by a resident at all times*. Guests will be asked to leave if the resident is not present. Pool passes may be required.
- D. The following are *prohibited* in the pool area:
 - Animals or pets
 - Glass or other breakable items
 - Running, diving or disruptive behavior
 - Excessive noise, splashing or radios without headphones
 - Private pool parties
 - All rafts and body floats
 - Electrical Devices
- E. Swimming is permitted only in garments sold as swim wear. Infants must also wear swimsuits – *no diapers are permitted in the water*.
- F. Lounge chairs or tables may not be reserved and must be repositioned in the order intended (orderly fashion), after use.
- G. The pool will be open daily during swimming season until 10:00 p.m.
- H. Wet swimwear is not permitted in the Clubhouse lounge area.
- I. The gas grill is to be operated by adult residents only and cleaned up after use.

XI Community Center (Clubhouse)

The Community Center is for the private use of the residents. It is available for rental to residents only for non-profit parties or meetings. The following policy applies:

- A. A \$175.00 refundable deposit and a \$25.00 rental fee are required. Reservations are granted on a first request basis.
- B. Children and teenage parties are prohibited.
- C. The renting resident will have exclusive use of the party room *only*; the guests *may not* use the pool or exercise equipment, and the pool may not be reserved for any party. No party items will be furnished by the Association.
- D. The renting resident is responsible for *all* clean up and trash removal. Clean up must be done (completely) the day of the party.
- E. Damages to the community center or equipment and any follow-up cleaning done by the Association will be deducted from the deposit. If the deposit is an insufficient amount, the renting resident will be billed for the difference.

XII. Trash Collection

Trash collection regulations require that trash containers not be set out prior to 5:00 p.m. the day preceding collection and the containers must be picked up and put away by 9:00 p.m. the day of collection. Only trash containers with lids, or securely tied plastic bags are permitted for trash disposal.

All trash for collection must be set out at the main street, next to the curb at the end of the driveway. Trash containers, when not set out for collection, must be kept inside the garage. Residents will be responsible for clean up of trash spillage from the containers.

XIII. Solicitation and Garage Sales

Solicitation by commercial enterprises is not authorized within the community. In a like manner and due to restricted parking availability, garage sales and tag sales are specifically prohibited, unless approved by the Condominium Association as a planned activity.

XIV. Utilities

Residents are responsible for maintenance and payment of their own gas, electric, cable television, telephone, and for calling to initiate service on the date of possession. Water and sewage utilities are paid for by the Condominium Association.

XV. Condominium Sales

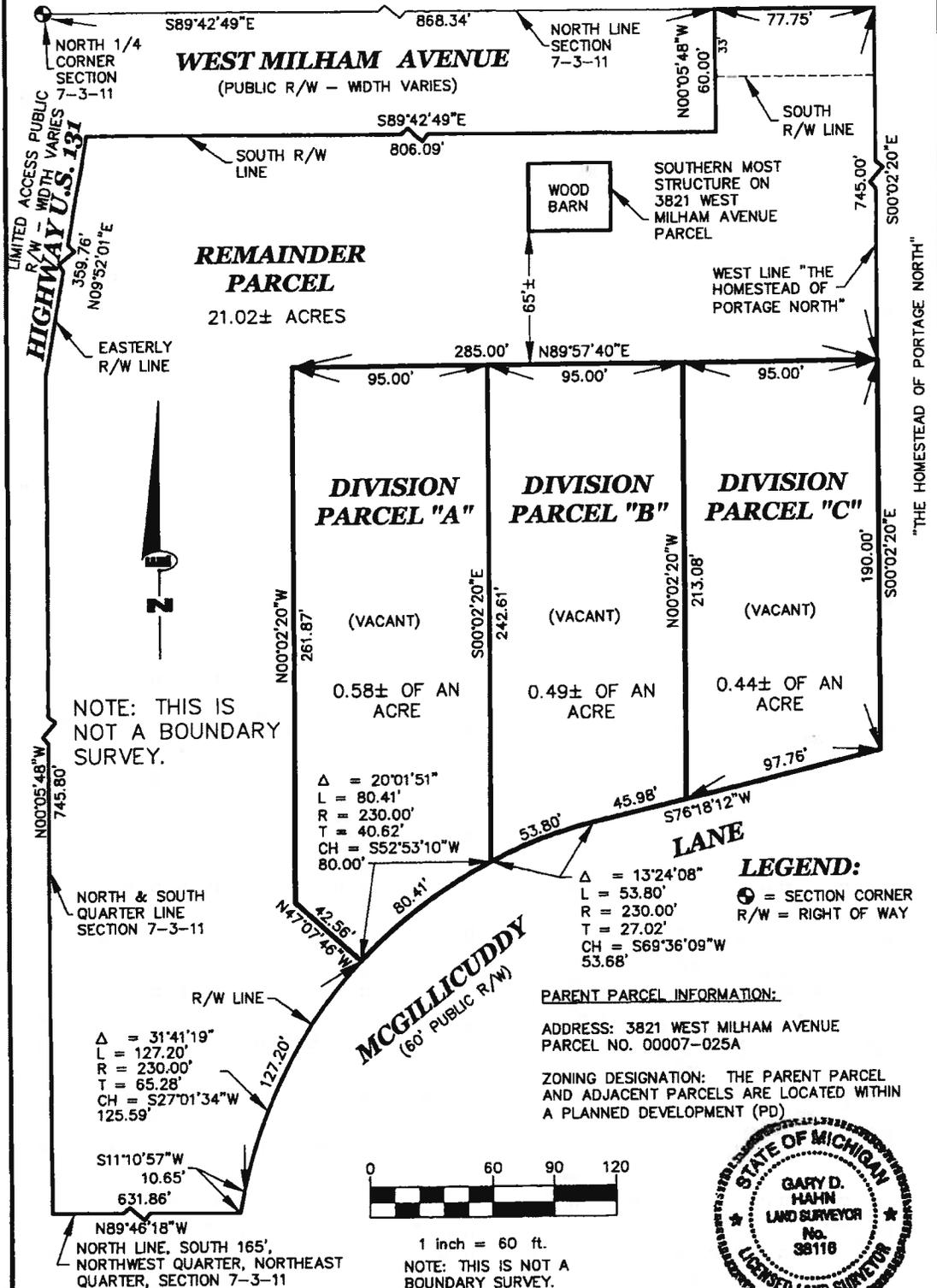
Any owner who sells his or her condominium is responsible for:

- A. Making certain the Association management company is aware of ownership changes at the time a closing date is established.
- B. Making certain all condominium dues are current.
- C. Making certain new owners receive the Condominium Declaration, Bylaws and Community Policies & Guidelines.

XVI. Amendments

These Policies and guidelines may be subject to change from time to time at the discretion, and by a majority vote of the Board of Trustees.

SKETCH OF DESCRIPTIONS IN THE NORTHEAST QUARTER OF FRACTIONAL SECTION 7, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN.



WIGHTMAN & ASSOCIATES, INC.
 ENGINEERING ♦ SURVEYING ♦ ARCHITECTURE
 2303 PIPESTONE ROAD
 BENTON HARBOR, MI 49022
 PHONE: (269) 927-0100
 FAX: (269) 927-1300
 www.wightman-assoc.com

CLIENT: AMERICAN VILLAGE BUILDERS, INC.
 JOB NO: (110352)
 DATE: SEPTEMBER 28, 2011
 SCALE: 1" = 80'
 DRAWN BY: GDH
 CHECKED BY:

[Signature]
 GARY D. HAHN

CITY OF PORTAGE KALAMAZOO COUNTY
 SECTION 7, T 3 S, R 11 W
 A-110952

LEGAL DESCRIPTION OF DIVISION PARCEL "A":

THAT PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 7, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE SOUTH 89° 42' 49" EAST ON THE NORTH LINE OF SAID SECTION 7 A DISTANCE OF 946.09 FEET TO THE WEST LINE OF "THE HOMESTEAD OF PORTAGE NORTH", ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 42 OF PLATS, PAGE 16, KALAMAZOO COUNTY RECORDS; THENCE SOUTH 00° 02' 20" EAST ON SAID WEST LINE 745.00 FEET; THENCE SOUTH 89° 57' 40" WEST PERPENDICULAR TO SAID WEST LINE 190.00 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED: THENCE SOUTH 00° 02' 20" EAST PARALLEL WITH SAID WEST LINE 242.61 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF MCGILLICUDDY LANE; THENCE SOUTHWESTERLY 80.41 FEET ON SAID NORTHERLY RIGHT OF WAY LINE AND ON A 230.00 FOOT RADIUS CURVE TO THE LEFT WHOSE CHORD BEARS SOUTH 52° 53' 10" WEST 80.00 FEET; THENCE NORTH 47° 07' 46" WEST 42.56 FEET; THENCE NORTH 00° 02' 20" WEST PARALLEL WITH SAID WEST LINE 261.87 FEET; THENCE NORTH 89° 57' 40" EAST PERPENDICULAR TO SAID WEST LINE 95.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.58 OF AN ACRE MORE OR LESS.

LEGAL DESCRIPTION OF DIVISION PARCEL "B":

THAT PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 7, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE SOUTH 89° 42' 49" EAST ON THE NORTH LINE OF SAID SECTION 7 A DISTANCE OF 946.09 FEET TO THE WEST LINE OF "THE HOMESTEAD OF PORTAGE NORTH", ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 42 OF PLATS, PAGE 16, KALAMAZOO COUNTY RECORDS; THENCE SOUTH 00° 02' 20" EAST ON SAID WEST LINE 745.00 FEET; THENCE SOUTH 89° 57' 40" WEST PERPENDICULAR TO SAID WEST LINE 95.00 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED: THENCE SOUTH 00° 02' 20" EAST PARALLEL WITH SAID WEST LINE 213.08 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF MCGILLICUDDY LANE; THENCE SOUTH 76° 18' 12" WEST ON SAID NORTHERLY RIGHT OF WAY LINE 45.98 FEET; THENCE SOUTHWESTERLY 53.80 FEET ON SAID NORTHERLY RIGHT OF WAY LINE AND ON A 230.00 FOOT RADIUS CURVE TO THE LEFT WHOSE CHORD BEARS SOUTH 69° 36' 09" WEST 53.68 FEET; THENCE NORTH 00° 02' 20" WEST PARALLEL WITH SAID WEST LINE 242.61 FEET; THENCE NORTH 89° 57' 40" EAST PERPENDICULAR TO SAID WEST LINE 95.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.49 OF AN ACRE MORE OR LESS.

LEGAL DESCRIPTION OF DIVISION PARCEL "C":

THAT PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 7, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE SOUTH 89° 42' 49" EAST ON THE NORTH LINE OF SAID SECTION 7 A DISTANCE OF 946.09 FEET TO THE WEST LINE OF "THE HOMESTEAD OF PORTAGE NORTH", ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 42 OF PLATS, PAGE 16, KALAMAZOO COUNTY RECORDS; THENCE SOUTH 00° 02' 20" EAST ON SAID WEST LINE 745.00 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED: THENCE CONTINUING SOUTH 00° 02' 20" EAST ON SAID WEST LINE 190.00 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF MCGILLICUDDY LANE; THENCE SOUTH 76° 18' 12" WEST ON SAID NORTHERLY RIGHT OF WAY LINE 97.76 FEET; THENCE NORTH 00° 02' 20" WEST PARALLEL WITH SAID WEST LINE 213.08 FEET; THENCE NORTH 89° 57' 40" EAST PERPENDICULAR TO SAID WEST LINE 95.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.44 OF AN ACRE MORE OR LESS.

LEGAL DESCRIPTION OF THE REMAINDER PARCEL - 3821 WEST MILHAM AVENUE:

THAT PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 7, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT ON THE NORTH LINE OF SAID SECTION 7 THAT IS 868.34 FEET SOUTH 89° 42' 49" EAST OF THE NORTH QUARTER CORNER OF SAID SECTION 7; THENCE SOUTH 89° 42' 49" EAST ON SAID NORTH LINE 77.75 FEET TO THE WEST LINE OF "THE HOMESTEAD OF PORTAGE NORTH", ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 42 OF PLATS, PAGE 16, KALAMAZOO COUNTY RECORDS; THENCE SOUTH 00° 02' 20" EAST ON SAID WEST LINE 745.00 FEET; THENCE SOUTH 89° 57' 40" WEST PERPENDICULAR TO SAID WEST LINE 285.00 FEET; THENCE SOUTH 00° 02' 20" EAST PARALLEL WITH SAID WEST LINE 261.87 FEET; THENCE SOUTH 47° 07' 46" EAST 42.56 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF MCGILLICUDDY LANE; THENCE SOUTHWESTERLY 127.20 FEET ON SAID NORTHERLY RIGHT OF WAY LINE AND ON A 230.00 FOOT RADIUS CURVE TO THE LEFT WHOSE CHORD BEARS SOUTH 27° 01' 34" WEST 125.59 FEET; THENCE SOUTH 11° 10' 57" WEST ON SAID RIGHT OF WAY LINE 10.65 FEET TO THE NORTH LINE OF THE SOUTH 165.00 FEET OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7; THENCE NORTH 89° 46' 18" WEST ON SAID NORTH LINE 631.86 FEET TO THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION 7; THENCE NORTH 00° 05' 48" WEST ON SAID QUARTER LINE 745.80 FEET TO THE EASTERLY RIGHT OF WAY LINE OF HIGHWAY U.S. 131; THENCE NORTH 09° 52' 01" EAST ON SAID EASTERLY RIGHT OF WAY LINE 359.76 FEET TO THE SOUTH RIGHT OF WAY LINE OF WEST MILHAM AVENUE; THENCE SOUTH 89° 42' 49" EAST ON SAID SOUTH RIGHT OF WAY LINE 806.09 FEET; THENCE NORTH 00° 05' 48" WEST PARALLEL WITH SAID QUARTER LINE 60.00 FEET TO THE POINT OF BEGINNING. CONTAINING 21.02 ACRES MORE OR LESS.

SUBJECT TO SURVEY.

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

SUBJECT TO THE RIGHTS OF THE PUBLIC AND OF ANY GOVERNMENTAL UNIT IN ANY PART THEREOF TAKEN, USED, OR DEEDED FOR STREET, ROAD, OR HIGHWAY PURPOSES (REMAINDER PARCEL ONLY).

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

ASSUMED THE NORTH LINE OF SAID SECTION 7 TO BEAR SOUTH 89° 42' 49" EAST PER NOTICE OF COMMENCEMENT DOCUMENT NO. 2002-001008.

W WIGHTMAN & ASSOCIATES, INC.
ENGINEERING ♦ SURVEYING ♦ ARCHITECTURE
2303 PIPESTONE ROAD BENTON HARBOR, MI 49022
PHONE: (269) 927-0100 FAX: (269) 927-1300
www.wightman-assoc.com

CLIENT: AMERICAN VILLAGE BUILDERS, INC.
JOB NO: (110352)
DATE: SEPTEMBER 28, 2011
SCALE:
DRAWN BY: GDH
CHECKED BY:

[Signature]
GARY D. HAHN

CITY OF PORTAGE KALAMAZOO COUNTY SECTION 7 T 3 S R 11 W

A-110982

PS-38118

November 22, 2011

City of Portage
Portage Planning Commission
7900 South Westnedge
Portage, MI 49002

RECEIVED

NOV 23 2011

COMMUNITY DEVELOPMENT

Re: American Village Development II, LLC

Dear Commissioners,

It is not uncommon for a developer to request an amendment of a "Planned Development" after the original plan is approved. The developer has done a great job with the development so far and I believe they should be required to stick to the original plan.

I realize you may have some negotiations with the developer, but under no circumstances do we believe it is acceptable to change to office use.

We appreciate your notification and consideration.

Sincerely,



Dave Holzwarth
3638 Arbutus Trail
Portage, MI 49024

RECEIVED
JAN 19 2012
COMMUNITY DEVELOPMENT

January 19, 2012

To: Portage Planning Commission

From: The Families of McGillicuddy Lane

RE: Homestead Planned Development, 3821 West Milham Avenue

We are writing this letter in connection with the proposed plan amendment to the Homestead Planned Development and the historic Van Riper property at 3821 West Milham Avenue.

We are residents of the Homestead neighborhood and live on the north side of McGillicuddy Lane. A number of new families have moved into this portion of the Homestead over the last two years many of whom have multiple young children.

The historic Van Riper property runs along the entirety of this portion of McGillicuddy Lane. The property as currently used provides the community with adequate privacy and a pleasant view, and is fully in keeping with spirit of the Homestead neighborhood.

Our major concern with proposed development is the lack of a proper barrier between the Van Riper property and the houses that line the west side of McGillicuddy Lane. The current barrier plan is wholly inadequate to insuring these families' quiet enjoyment of their property and will negatively impact all the residents of this portion of McGillicuddy Lane. The proposed low berm and minimal plantings do not afford sufficient protection regardless of how the historic house is developed (i.e. even if the property is eventually turned into offices or single family homes). However, the idea of a parking lot directly behind a number of our houses, at eye level to our family rooms and/or children's bedrooms, with cars presumably coming and going until late at night, clearly raises significant additional concerns.

It is our understanding that the Planning Commission will revisit the barrier plan between the Van Riper property and the McGillicuddy Lane houses before any development commences. We are writing today to express our strong desire to be a part of those future conversations to help determine the best way to address our concerns. At a minimum any barrier plan would require a much higher berm and significantly more trees than the current plan. Other potential ideas include relocating the parking lot or designating the area behind the historic house as green space (it is our understanding that the development must have such an area). We look forward to discussing these issues in greater depth with the developer and the Planning Commission at the appropriate time.

Thank you for your time and consideration in addressing our concerns.

Sincerely,

The Families of McGillicuddy Lane

By: Erica Wilkerson

Name: Erica Wilkerson

Address: 6180 McGillivray Lane Portage MI 49024

By: Shabnam Ghazi - Ahmad

Name:

Address: 6110 McGillivuddy Lane Portage MI 49024

By:

Name:

Address:

By: Carol & Louis Cherni

Name:

Address: 6130 McGillivuddy Ln Portage MI 49024

By: Scott + Jessica

Name:

Address: 6165 McGillivuddy Lane Portage MI 49024

By:

Name:

Address:

STEVEN MICALLET
6081 Mc GILLIVUDDY

By:

Name:

Address: 6061 McGillivuddy Lane

By: Angelo & Joyce De Leon

Name:

Address: 6135 McGillivuddy Ln

By:

Name:

Address: 6150 McGillivuddy Ln.

By: *Brian Gallagher* *Lisa Gallagher* 1/19/2012
Name: *Brian Gallagher and Lisa Gallagher*
Address: *6090 McGillicuddy Lane*

By: *Dennis & Susan Groom*
Name:
Address: *6070 McGillicuddy Lane*

By: *MEZVIN HUFF*
Name:
Address: *6020 MCGILICUDDY LN*

By:
Name:
Address:

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 2, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Resolutions Accepting New Public Streets and New Act 51 Administrator

ACTION RECOMMENDED: That City Council adopt resolutions to:

- a. accept all new streets constructed within new residential plats approved by City Council during the calendar year January 1, 2011 through December 31, 2011 as public streets and;
- b. designating a new City of Portage Act 51 Street Administrator.

The Annual Act 51 Mileage Certification Report requires that all streets constructed during the preceding calendar year be accepted for public use through the adoption of a resolution by the jurisdiction's governing body. In the case of new streets constructed within the confines of new residential development, Act 51 requires the governing body to adopt one inclusive resolution accepting these streets incorporated in the new development, which are listed in the resolution. This action certifies that the new streets conform to city specifications and can be dedicated for public use and qualifies these streets for annual roadway maintenance funding in accordance with the provisions of Act 51, Public Act 1951, as amended.

With this certification, a total of 0.29 centerline miles of local streets will be added to the city street network, bringing the total centerline miles of local streets to 147.78 miles. Coupled with the 72.04 centerline miles of major streets, a total of 219.82 miles of streets will now be included in the City of Portage public street system.

In addition to the resolution accepting new public streets, a resolution must be adopted by City Council designating a new Act 51 Street Administrator. This action is required since the current Act 51 Street Administrator, Jack Hartman, Director of Streets & Equipment, will be retiring from the city at the end of March 2012. The Michigan Department of Transportation requires that the local jurisdiction designate the Act 51 Street Administrator with a resolution adopted by the local governing body. In this case, the City Administration is recommending W. Christopher Barnes, Director of Transportation & Utilities, be designated as the Act 51 Street Administrator effective April 1, 2012.

It is recommended that both resolutions accepting all streets constructed within new plats for calendar year 2011 and designating W. Christopher Barnes as the new Act 51 Street Administrator be adopted by City Council.

Attachments

CITY OF PORTAGE

RESOLUTION ACCEPTING NEWLY CONSTRUCTED
PLATTED STREETS AS PUBLIC STREETS

At a regular meeting of the Council for the City of Portage, Michigan, Kalamazoo County, Michigan, held at the City Hall on the ___ day of _____, 2012, at 7:30 p.m., local time.

PRESENT: _____

ABSENT: _____

Resolution offered by: _____

Seconded by _____

WHEREAS, it is necessary to furnish certain information to the State of Michigan to place platted streets within the City Local Street System for the purpose of obtaining funds under Act51, P.A. 1951 as amended:

AND WHEREAS, streets were constructed and final plat and site condominium acceptance was granted to certain plats during the 2011 calendar year.

NOW, THEREFORE, BE IT RESOLVED: that the following streets located within 2011 approved plats be accepted into the City Local Street System:

- Hollow Wood Drive
- Talisker Court
- Tullymore Pointe

BE IT FURTHER RESOLVED that said streets are located within city rights-of-way and are under the control of the City of Portage; that said streets are public streets and are for public street purposes; and that said streets are accepted into the City Local Street System.

That all resolution or parts of resolutions insofar as they conflict with this provision of this resolution are hereby rescinded.

Dated: _____, 2012

James R. Hudson, City Clerk

YEAS: _____

NAYS: _____

ABSENT: _____

RESOLUTION DECLARED ADOPTED.

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 _____, 2012, the original of which resolution is on file on my office.

James R. Hudson, City Clerk

APPROVED AS TO FORM
DATE 2/10/12
Ru
CITY ATTORNEY

CITY OF PORTAGE

RESOLUTION DESIGNATING THE
STREET ADMINISTRATOR FOR THE CITY OF PORTAGE

At a regular meeting of the Council for the City of Portage, Michigan, Kalamazoo County, Michigan, held at the City Hall on the ___ day of _____, 2012, at 7:30 p.m., local time.

PRESENT: _____

ABSENT: _____

Resolution offered by: _____

Seconded by _____

WHEREAS, SECTION 13(9) of Act 51, Public Acts of 1951 provided each incorporated city and village to which funds are returned under the provisions of this section, that, “the responsibility for street improvements, maintenance, and traffic operations work, and development, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the State Transportation Department pursuant to this act.”

NOW, THEREFORE, BE IT RESOLVED: that Christopher Barnes, Director of Transportation & Utilities be designated as single Street Administrator for the City of Portage in all transactions with the State Transportation Department as provided in Section 13 of the Act.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions insofar as they conflict with this provision of this resolution are hereby rescinded.

Dated: _____, 2012

James R. Hudson, City Clerk

YEAS: _____

NAYS: _____

ABSENT: _____

RESOLUTION DECLARED ADOPTED.

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 _____, 2012, the original of which resolution is on file on my office.

James R. Hudson, City Clerk

APPROVED AS TO FORM
DATE 2/10/12

CITY ATTORNEY

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 5, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Adoption of Bond Refunding Resolution

ACTION RECOMMENDED: That City Council adopt the Resolution Authorizing Refunding of the City of Portage Capital Improvement Bonds, Series 2003, 2004 and 2005, as well as Approve of the Undertaking to Provide Continuing Disclosure.

The attached Capital Improvement Bond Refunding Resolution was prepared by Bond Counsel John Axe as part of the legal process required to refinance existing Capital Improvement Bonds. The present value savings from the Capital Improvement Bond Refinancing will be approximately \$402,800. Bids will be taken on April 19, 2012 and bid results will be reported to the City Council soon thereafter.

A listing of the projects associated with these Bond issues is attached for informational purposes.

cc: Daniel S. Foecking, Finance Director
John R Axe, Bond Counsel

Capital Improvement Bonds, Series 2003

Geographic Information System Enhancement	\$ 30,000
City Hall Improvements	80,000
Central Park Improvements	37,000
Patrol and Technical Services Equipment	48,000
Wireless Handheld Computer Initiative	40,000
City Center Property Acquisition	690,000
Building Security System	25,000
Leaf Composting Site	233,000
Park Perimeter Fencing Improvements	50,000
Vehicle Replacement	324,000
Bicentennial Park Development	326,000
Celery Flats Historical Area Improvements	125,000
Fire Station #1 Improvements	34,000
Purchase New Fire Pumper	210,000
Replace Self-Contained Breathing Apparatus	150,000
Harbors West Park Development	130,000
Sidewalk Connections	80,000
W. Centre/Oakland Intersection Widening	130,000
E. Centre Boulevard, Portage to Sprinkle Road	970,000
S. Westnedge Utility Upgrade	300,000
W. Centre Avenue, Shaver Road to Oakland Drive	505,000
Lovers Lane, Kilgore to Milham Ave.	363,000
West Milham, Oakland to S. Westnedge	600,000
	<hr/>
	\$ 5,480,000

Capital Improvement Bonds, Series 2004

Senior Center Improvements	\$ 25,000
Court Resurfacing/Repair	60,000
Geographic Information System Enhancement	40,000
Lakeview Park Improvements	172,900
Tennis Court Relocation	80,000
Park Parking Lot/Walkway Improvements	255,000
Bikeway Improvements	38,000
Sidewalk Connections	65,000
Fire Station #3 Refurbishment	200,000
Fire Station #1 Refurbishment	201,000
Telesquirt Replacement	745,000
Protective Clothing Replacement	110,000
Battalion Chief Vehicle Replacement	44,600
Police Vehicles	193,000
Equipment Fund Vehicles	318,670
Kilgore Rd/Lovers Ln Traffic Upgrade	219,000
Lovers Lane Blvd./Kilgore-E Milham	635,000
Oakland Dr./West Milham-Romence Road	633,900
Major Street Resurfacing Program	385,000
Romence/Constitution Intersection	97,000
Oakland, I-94/Milham Widening	555,000
Zylman Road, Portage to 1,700 feet west of Cox's Drive	78,930
West Milham, Oakland Drive to S. Westnedge	520,000
Local Street Resurfacing Program	108,000
	<hr/>
	\$ 5,780,000

Capital Improvement Bonds, Series 2005

S. Westnedge Park Improvement	\$ 124,502
Bicentennial Park Acquisition/Development	51,223
Harbors West Park Development	30,763
Microfilm Reader/Scanner	12,800
S. Westnedge Park Improvement	88,536
Park Restroom/Shelter Improvements	90,000
Relocate Fire Communications Antenna	40,000
Annex Remodel	1,827,000
Refurbish Fire Station #1	20,209
Fire Station #2 Improvements	81,891
Fire Service Staff Vehicles	30,000
Fire Station #3 Refurbishment	47,750
Replace Two Telesquirts	550,000
Lovers Lane Boulevard, Kilgore Road to East Milham Avenue	265,000
Oakland, I-94 - Milham	42,000
Oakland Drive, West Milham to Romence Road	142,900
Kilgore Road Railroad Crossing Upgrade	125,000
Kilgore/Burdick Traffic Signal Upgrade	145,000
Sidewalk Connections	35,000
Oakland Drive, West Milham Avenue to Romence Road Sidewalk	371,000
Equipment Fund Vehicles	367,000
Stormwater Treatment Enhancement Project	887,100
Police Facility Improvements	60,000
Lovers Lane Boulevard, Kilgore Road to East Milham Avenue	416,026
S. Westnedge Traffic Signal	450,000
S. Westnedge, Romence Road to Centre Avenue	447,000
Pedestrian Signal Access	23,900
Geographic System Enhancement	20,400
Ramona Park Land Purchase	113,000
Bishop's Bog Preserve Trail Dev	25,000
Police Facility Improvements	25,000
Purchase Pumping Rescue	550,000
Railroad Crossing Upgrade	195,000
Oakland Drive, Romence Road to Centre Avenue	560,000
Bikeway Improvements	40,000
	<hr/>
	\$ 8,300,000

CITY OF PORTAGE

At a _____ meeting of the City Council of the City of Portage, Kalamazoo County, Michigan, held in Portage, Michigan on _____, 2012 at __:__ .m., Eastern Standard Time there were:

PRESENT: _____

ABSENT: _____

The following resolution was offered by _____ and seconded by _____:

REFUNDING BOND RESOLUTION
REFUNDING BONDS NOT TO EXCEED \$10,200,000
City of Portage Capital Improvement Refunding Bonds, Series 2012

WHEREAS, on May 29, 2003, the City of Portage (the "City"), pursuant to Act No. 34, Public Acts of Michigan, 2001, as amended ("Act 34"), issued the City of Portage Capital Improvement Bonds, Series 2003, dated May 1, 2003 in the original principal amount of \$5,480,000 of which \$2,930,000 in principal amount of bonds maturing in the years 2012 through 2018 remains outstanding (the "2003 Bonds"); and

WHEREAS, on June 10, 2004, the City, pursuant to Act 34, issued the City of Portage Capital Improvement Bonds, Series 2004, dated June 1, 2004 in the original principal amount of \$5,780,000 of which \$2,905,000 in principal amount of bonds maturing in the years 2012 through 2024 remains outstanding (the "2004 Bonds"); and

WHEREAS, on February 3, 2005, the City, pursuant to Act 34, issued the City of Portage Capital Improvement Bonds, Series 2005, dated February 1, 2005 in the original principal amount of \$8,300,000 of which \$5,155,000 in principal amount of bonds maturing in the years 2012 through 2025 remains outstanding (the "2005 Bonds"); and

WHEREAS, the outstanding 2003 Bonds and the 2004 Bonds may be called for redemption on June 1, 2012; and

WHEREAS, the outstanding 2005 Bonds may be called for redemption on July 1, 2012; and

WHEREAS, the 2003 Bonds, the 2004 Bonds and the 2005 Bonds are hereafter referred to together as (the "Prior Bonds"); and

WHEREAS, the Prior Bonds were issued at a time when interest rates were higher than is currently the case and the City wishes to restructure its debt; and

WHEREAS, the City has determined that it is necessary and appropriate at this time to issue a series of refunding bonds pursuant to Act 34 to refund the part of the 2003 Bonds and 2004 Bonds on June 1, 2012 and to refund part of the 2005 Bonds on July 1, 2012 (the "Refunded Bonds") both to obtain a lower rate of interest and to restructure the existing debt.

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

1. **Issuance of Refunding Bonds.** Refunding bonds of the City aggregating in the principal estimated sum of not to exceed Ten Million Two Hundred Thousand Dollars (\$10,200,000) (the "Refunding Bonds") shall be issued and sold pursuant to the provisions of Act 34, and other applicable statutory provisions, for the purpose of refunding the Refunded Bonds, subject, however, to adjustment as described under "INCREASE OR DECREASE IN AGGREGATE AMOUNT OF REFUNDING BONDS", Section 7. The maximum amount of Bonds to be issued shall not exceed \$10,200,000.

2. **Refunding Bond Details.** The Refunding Bonds shall be known as "City of Portage Capital Improvement Refunding Bonds, Series 2012" and shall be dated May 1, 2012 or such later date not more than twelve calendar months thereafter as the Finance Director of the City shall provide in the Request for Proposal. The Refunding Bonds shall be fully registered Refunding Bonds, both as to principal and interest, in any one or more denominations of \$5,000 or a multiple of \$5,000 numbered from 1 upwards as determined by the Finance Director of the City, regardless of rate and maturity date. If \$9,940,000 in Refunding Bonds are issued and subject to the provisions of Section 6, the Refunding Bonds shall mature on July 1 in each year as follows:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2012	\$735,000	2017	\$795,000	2022	\$740,000
2013	805,000	2018	655,000	2023	750,000
2014	775,000	2019	655,000	2024	575,000
2015	750,000	2020	710,000	2025	585,000
2016	695,000	2021	715,000		

The Refunding Bonds shall be in substantially the form attached hereto as *EXHIBIT A* with such changes, additions or deletions as are not inconsistent with this resolution.

3. **Discount.** The Refunding Bonds may be offered for sale at a price of not less than 99% of the face amount thereof, and the Finance Director of the City is authorized, in his or her discretion, to provide for a higher minimum purchase price in the Request for Proposal of the Refunding Bonds.

4. **Payment of Interest and Date of Record.** The Refunding Bonds shall bear interest payable July 1, 2012, and semi-annually thereafter on each January 1 and July 1 until maturity, with the

average interest rate on the Refunding Bonds being not in excess of 6%. Interest shall be mailed by first class mail to the registered owner of each Refunding Bond as of the applicable date of record.

The date of record shall be June 15 with respect to payments to be made on July 1 and December 15 with respect to payments to be made on January 1.

5. **Prior Redemption.** The Refunding Bonds maturing prior to July 1, 2021 shall not be subject to redemption prior to maturity. Refunding Bonds on or after July 1, 2021 shall be subject to redemption prior to maturity at the option of the City, in any order, in whole or in part on any date on or after July 1, 2020. Refunding Bonds called for redemption shall be redeemed at par, plus accrued interest to the date fixed for redemption.

With respect to partial redemptions, any portion of a refunding bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion as well as the amount not being redeemed each constitute an authorized denomination. In the event that less than the entire principal amount of a refunding bond is called for redemption, upon surrender of the Refunding Bond to the bond registrar, the bond registrar shall authenticate and deliver to the registered owner of the Refunding Bond a new refunding bond in the principal amount of the principal portion not redeemed.

Notice of redemption shall be sent to the registered holder of each refunding bond being redeemed by first class mail at least thirty (30) days prior to the date fixed for redemption, which notice shall fix the date of record with respect to the redemption if different than otherwise provided in the resolution authorizing the issuance of the refunding bonds. Any defect in such notice shall not affect the validity of the redemption proceedings. Refunding Bonds so called for redemption shall not bear interest after the redemption date, provided funds are on hand with the bond registrar to redeem the same.

6. **Adjustment of Refunding Bond Maturities.** The Finance Director or City Manager of the City is authorized by order in the form attached as *EXHIBIT B* to adjust the amounts of the maturities of the Refunding Bonds, as set forth in Section 6.

7. **Increase or Decrease in Aggregate Amount of Refunding Bonds.** In the event the amount necessary to refund the Refunded Bonds shall be more or less than currently estimated or it shall be necessary to adjust any maturity or maturities, the Finance Director or City Manager of the City shall increase the estimated principal amount of the Refunding Bonds by up to \$260,000, or decrease the estimated principal amount of the Refunding Bonds by any amount to the extent required to avoid the issuance of more Refunding Bonds than will be required in light of the amount of

Refunding Bonds to be issued and proposals received, which increase or decrease may be applied to any one or more of the maturities and the Request for Proposal attached as *Exhibit B* shall so provide or be changed accordingly. In the event the City determines to contribute additional amounts toward the refunding of the bonds, the Refunding Bonds shall further be reduced by the amount of such contribution.

8. **Bond Registrar and Paying Agent/Book Entry Depository Trust.** The Finance Director of the City shall designate, and may enter into an agreement with, a bond registrar and paying agent for the Bonds (sometimes referred to as the "Bond Registrar") which shall be a bank or trust company located in the State of Michigan which is qualified to act in such capacity under the laws of the United States of America or the State of Michigan. The Finance Director of the City from time to time as required may designate a similarly qualified successor bond registrar and paying agent. The Bonds shall be deposited with a depository trustee designated by the Finance Director of the City who shall transfer ownership of interests in the Bonds by book entry and who shall issue depository trust receipts or acknowledgments to owners of interests in the Bonds. Such book entry depository trust arrangement, and the form of depository trust receipts or acknowledgments, shall be as determined by the Finance Director and City Clerk of the City after consultation with the depository trustee. The depository trustee may be the same as the Bond Registrar otherwise named by the Finance Director, and the Bonds may be transferred in part by depository trust and in part by transfer of physical certificates as the Finance Director may determine.

9. **Mutilated, Lost, Stolen or Destroyed Refunding Bonds.** In the event any Refunding Bond is mutilated, lost, stolen, or destroyed, the Mayor and City Clerk of the City may, on behalf of the City, execute and deliver, or order the Bond Registrar to authenticate and deliver, a new Refunding Bond having a number not then outstanding, of like date, maturity and denomination as mutilated, lost, stolen, or destroyed.

In the case of a mutilated Refunding Bond, a replacement Refunding Bond shall not be delivered unless and until such mutilated Refunding Bond is surrendered to the Bond Registrar. In the case of a lost, stolen, or destroyed Refunding Bond, a replacement Refunding Bond shall not be delivered unless and until the City and the Bond Registrar have received such proof of ownership and loss and indemnity as they determine to be sufficient, which shall consist at least of (i) a lost instrument Refunding Bond for principal and interest remaining unpaid on the lost, stolen or destroyed Refunding Bond; (ii) an affidavit of the registered owner (or his or her attorney) setting forth ownership of the Refunding Bond lost, stolen or destroyed and the circumstances under which it was lost, stolen or destroyed; (iii) the agreement of the owner of the Refunding Bond (or his or her attorney) to fully indemnify the City and the Bond Registrar

against loss due to the lost, stolen or destroyed Refunding Bond and the issuance of any replacement Refunding Bond in connection therewith; and (iv) the agreement of the owner of the Refunding Bond (or his or her attorney) to pay all expenses of the City and the Bond Registrar in connection with the replacement, including the transfer and exchange costs which otherwise would be paid by the City.

10. **Execution and Delivery.** The Mayor and Clerk of the City are hereby authorized and directed to execute the Refunding Bonds for and on behalf of the City by manually executing the same or by causing their facsimile signatures to be affixed. If facsimile signatures are used, the Refunding Bonds shall be authenticated by the Bond Registrar before delivery. The Refunding Bonds shall be sealed with the City's seal or a facsimile thereof shall be imprinted thereon. When so executed and (if facsimile signatures are used) authenticated, the Refunding Bonds shall be delivered to the Finance Director of the City, or his agent, who is hereby authorized and directed to deliver the Refunding Bonds to the purchaser upon receipt in full of the purchase price for the Refunding Bonds.

11. **Security.** The full faith and credit of the City are hereby irrevocably pledged to the prompt payment of the principal of and interest on the Refunding Bonds when due. The City agrees to pledge for the repayment of the Refunding Bonds sufficient amounts of City taxes levied each year provided that the amount of taxes necessary to pay the principal and interest on the Refunding Bonds, together with the other taxes levied for the same year, shall not exceed the limit authorized by law and which taxes will be subject to applicable statutory and constitutional limitations on the taxing power of the City.

12. **Bond Payment Fund.** The City shall establish and maintain a bond payment fund (the "Bond Payment Fund") to be used solely for the purpose of (i) paying principal of, premium, if any, and interest on the Refunding Bonds as well as costs, including the fees and expenses of the Bond Registrar, incidental to the Refunding Bonds; (ii) the annual fees and expenses of the escrow agent under an escrow agreement; and (iii) the fees and expenses of the paying agent or paying agents for the Refunding Bonds.

13. **Use of Proceeds.** The proceeds of the sale of the Refunding Bonds shall be used as follows:

- a. Accrued interest shall be transferred to the Bond Payment Fund created pursuant to Section 12 above;
- b. There shall next be transferred to an escrow fund (the "Escrow Fund") an amount which will be sufficient to pay when due the principal of, premium, if any, and interest on the Refunded Bonds when due upon redemption; and

- c. The balance of the proceeds shall be used to pay some or all of the costs of financing including, but not limited to, publication costs, financial costs, consultant fees, counsel fees, printing costs, application fees, bond insurance premiums, rating fees and any other fees or costs incurred in connection with the financing.

14. **Escrow Agreement; Redemption of Refunded Bonds.** In order that the Refunded Bonds may be properly defeased in accordance with Act 34, the City shall enter into an escrow agreement (the "Escrow Agreement"), with a bank or trust company designated by the Finance Director of the City. The Escrow Agreement shall be in substantially the form attached as *EXHIBIT C* to this Resolution (with such changes, modifications and additions as may be approved by the Finance Director of the City). The Escrow Agreement shall be completed with appropriate figures prior to execution on behalf of the City by the Finance Director.

Upon execution of the Escrow Agreement and delivery of the Refunding Bonds, the City and/or the escrow agent shall take all necessary steps to cause the Refunded Bonds to be redeemed at the earliest possible redemption date or dates.

15. **Investments.** Moneys in the Bond Payment Fund may be continuously invested and reinvested in United States government obligations, obligations the principal and interest on which are unconditionally guaranteed by the United States government, or in interest-bearing time deposits selected by the Finance Director of the City which are permissible investments for surplus funds under Act No. 20, Public Acts of Michigan, 1943, as amended. Such investments shall mature, or be subject to redemption at the option of the holder, not later than the dates moneys in such fund will be required to pay the principal of, premium, if any, and interest on the Refunding Bonds. Obligations purchased as an investment of moneys in the Bond Payment Fund shall be deemed at all times to be a part of such fund, and the interest accruing thereon and any profit realized from such investment shall be credited to such fund.

16. **Depositories.** All of the banks located in the State of Michigan are hereby designated as permissible depositories of the moneys in the funds established by this Resolution, except that the moneys in the Bond Payment Fund shall only be deposited in such banks where the principal of, premium, if any, and interest on the Refunding Bonds are payable. The Finance Director of the City shall select the depository or depositories to be used from those banks authorized in this Section.

17. **Arbitrage and Tax Covenants.** Notwithstanding any other provision of this Resolution, the City covenants that it will not at any time or times:

(a) Permit any proceeds of the Refunding Bonds or any other funds of the City or under its control to be used directly or indirectly (i) to acquire any securities or obligations, the acquisition of which would cause any Refunding Bond to be an "arbitrage bond" as defined in Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or (ii) in a manner which would result in the exclusion of any Refunding Bond from the treatment afforded by Section 103(a) of the Code by reason of the classification of any Refunding Bond as a "private activity bond" within the meaning of Section 141(a) of the Code, as a "private loan bond" within the meaning of Section 141(a) of the Code or as an obligation guaranteed by the United States of America within the meaning of Section 149(b) of the Code; or

(b) Take any action, or fail to take any action (including failure to file any required information or other returns with the United States Internal Revenue Service or to rebate amounts to the United States, if required, at or before the time or times required), within its control which action or failure to act would (i) cause the interest on the Refunding Bonds to be includible in gross income for federal income tax purposes, cause the interest on the Refunding Bonds to be includible in computing any alternative minimum tax (other than the alternative minimum tax applicable to interest on all tax-exempt obligations generally) or cause the proceeds of the Refunding Bonds to be used directly or indirectly by an organization described in Section 501(c)(3) of the Code, or (ii) adversely affect the exemption of the Refunding Bonds and the interest thereon from the State of Michigan income taxation.

18. **Not Qualified Tax-Exempt Obligations.** The Refunding Bonds are not designated as "qualified tax-exempt obligations" for purposes of deduction of interest expense by financial institutions under the provisions of Section 265 of the Code, unless at the time the Refunding Bonds are issued, it is determined that the Refunding Bonds are eligible to be so designated, in which case the Request for Proposal shall thereby reflect such change in designation.

19. **Defeasance or Redemption of Refunding Bonds.** If at any time,

- (a) the whole amount of the principal of, premium, if any, and interest on all outstanding Refunding Bonds shall be paid, or
- (b) (i) sufficient moneys, or Government Obligations (as defined in this Section) not callable prior to maturity, the principal of, premium, if any, and interest on which when due and payable will provide sufficient moneys, to pay the whole amount of the principal of, premium, if any, and interest on all outstanding Refunding Bonds as and when due

at maturity or upon redemption prior to maturity shall be deposited with and held by a trustee or an escrow agent for the purpose of paying the principal of, premium, if any, and interest on such Refunding Bonds as and when due, and (ii) in the case of redemption prior to maturity, all outstanding Refunding Bonds shall have been duly called for redemption (or irrevocable instructions to call such Refunding Bonds for redemption shall have been given)

then, at the time of the payment referred to in clause (a) of this Section or of the deposit referred to in clause (b) of this Section, the City shall be released from all further obligations under this Resolution, and any moneys or other assets then held or pledged pursuant to this Resolution for the purpose of paying the principal of, premium, if any, and interest on the Refunding Bonds (other than the moneys deposited with and held by a trustee or an escrow agent as provided in clause (b) of this Section) shall be released from the conditions of this Resolution, paid over to the City and considered excess proceeds of the Refunding Bonds. In the event moneys or Government Obligations shall be so deposited and held, the trustee or escrow agent holding such moneys or Government Obligations shall, within 30 days after such moneys or Government Obligations shall have been so deposited, cause a notice signed by it to be given to the registered holders hereof not more than sixty (60) days nor less than forty-five (45) days prior to the redemption setting forth the date or dates, if any, designated for the redemption of the Refunding Bonds, a description of the moneys or Government Obligations so held by it and that the City has been released from its obligations under this Resolution. All moneys and Government Obligations so deposited and held shall be held in trust and applied only to the payment of the principal of, premium, if any, and interest on the Refunding Bonds at maturity or upon redemption prior to maturity, as the case may be, as provided in this Section.

The trustee or escrow agent referred to in this Section shall (a) be a bank or trust company permitted by law to offer and offering the required services, (b) be appointed by resolution of the City, and (c) at the time of its appointment and so long as it is serving as such, have at least \$25,000,000 of capital and unimpaired surplus. The same bank or trust company may serve as trustee or escrow agent under this Section and as Bond Registrar so long as it is otherwise eligible to serve in each such capacity.

As used in this Section, the term "Government Obligations" means direct obligations of, or obligations the principal, premium, if any, and interest on which are unconditionally guaranteed by, the United States of America.

20. **Filing with Municipal Finance Division:** If necessary the City Manager, or if there is no City Manager, the Mayor is authorized and directed to:

- (a) apply to the Municipal Finance Division of the Michigan Department of Treasury for approval of the sale of the Refunding Bonds;
- (b) file with such application all required supporting material; and
- (c) pay all fees required in connection therewith.

21. **Negotiated Sale - Request for Proposal:** The City hereby determines that in order to save the cost of publication of an official Request for Proposal that it will sell the Refunding Bonds at a negotiated sale after solicitation of proposals from prospective purchasers by its Financial Consultant. The City's Financial Consultant is authorized to solicit proposals from at least twenty-five prospective purchasers and to circulate a Request for Proposal at least seven days prior to the date fixed for receipt of proposals for the purchase of the Refunding Bonds. The Request for Proposal shall be in substantially the form attached to this resolution as Exhibit D with such changes therein as are not inconsistent with this resolution and as are approved by the City Finance Director after conferring with Bond Counsel. Once all proposals are received, the City Finance Director shall determine the lowest true interest cost proposed and thereafter award the Refunding Bonds to the proposer meeting that criteria so long as such award will generate present value savings to the City. The Financial Consultant is hereby designated to act for and on behalf of the City to receive proposals for the purchase of the Refunding Bonds and to take all other steps necessary in connection with the sale and delivery thereof.

22. **Retention of Bond Counsel.** The firm of Axe & Ecklund, P.C., attorneys of Grosse Pointe Farms, Michigan, is hereby retained to act as bond counsel for the City in connection with the issuance, sale and delivery of the Refunding Bonds.

23. **Retention of Financial Consultants.** Municipal Financial Consultants Incorporated, Grosse Pointe Farms, Michigan, is hereby retained to act as financial consultant and advisor to the City in connection with the sale and delivery of the Refunding Bonds.

24. **Conflicting Resolutions.** All resolutions and parts of resolutions in conflict with the foregoing are hereby rescinded.

25. **Effective Date.** This Resolution shall become effective immediately upon its adoption and shall be recorded in the minutes of the City as soon as practicable after adoption.

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

YES: _____

NO: _____
ABSTAIN: _____

THE RESOLUTION WAS THEREUPON DECLARED ADOPTED.

CITY CLERK'S CERTIFICATE

The undersigned, being the duly qualified and acting Clerk 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 City at a _____ meeting held on _____, 2012, 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 City Council 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.

James R. Hudson, City Clerk

[SEAL]

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Escrow Agent will use such proceeds to acquire non-callable direct obligations of the United States which, when paid in accordance with their terms, will provide sufficient funds (i) to pay when due, to and including _____, _____, the interest on the City's outstanding _____, _____, dated _____, maturing in the years _____ through _____ (the "Refunded Bonds") and (ii) on _____, to redeem the Refunded Bonds maturing in the years _____ through _____.

This Refunding Bond and the Refunding Bonds of this series are issued in anticipation of the collection of taxes to be levied by the City. In addition, if the foregoing collection of taxes is insufficient for any reason to make prompt payment of the principal of and interest on this Refunding Bond when due, the City shall make such payments from its general funds. The limited tax full faith and credit of the City is pledged for the payment of the principal of and interest on this Refunding Bond and the series of which this Bond is one. The City, however, does not have the power to levy any tax unlimited as to rate or amount for the payment of principal of and interest on this Refunding Bond or the Refunding Bonds of this series in excess of its constitutional, statutory or charter limitations.

The date of record for the payment of principal of, premium (if any) or interest on this Refunding Bond shall be the fifteenth (15) day of the month preceding the date such payment is due.

This Refunding Bond and the other refunding bonds of this series have _____ been designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

The Refunding Bonds maturing prior to _____ 1, _____ shall not be subject to redemption prior to maturity. Refunding Bonds on or after _____ 1, _____ shall be subject to redemption prior to maturity at the option of the City, in any order, in whole or in part on any date on or after _____ 1, _____. Refunding Bonds called for redemption shall be redeemed at par, plus accrued interest to the date fixed for redemption.

With respect to partial redemptions, any portion of a refunding bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion as well as the amount not being redeemed each constitute an authorized denomination. In the event that less than the entire principal amount of a refunding bond is called for redemption, upon surrender of the Refunding Bond to the bond registrar, the bond registrar shall authenticate and deliver to the registered owner of the Refunding Bond a new refunding bond in the principal amount of the principal portion not redeemed.

Notice of redemption shall be sent to the registered holder of each refunding bond being redeemed by first class mail at least thirty (30) days prior to the date fixed for redemption, which notice shall fix the date of record with respect to the redemption if different than otherwise provided in the resolution authorizing the issuance of the refunding bonds. Any defect in such notice shall not affect the validity of the redemption proceedings. Refunding Bonds so called for redemption shall not bear interest after the redemption date, provided funds are on hand with the bond registrar to redeem the same.

This Refunding Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit until the certificate of authentication hereon has been duly executed by the Bond Registrar, as authenticating agent.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF, AND SUCH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH ON THE FRONT SIDE HEREOF.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of this Refunding Bond and the other bonds of this series, have happened and have been performed in due time, form and manner as required by law, and that the total indebtedness of the County, including the series of bonds of which this is one, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Portage, Kalamazoo County, Michigan, by its City Council has caused this Refunding Bond to be executed in its name with the facsimile signatures of its Finance Director and its Mayor, has caused a facsimile of its seal to be affixed hereto, and has caused this Refunding Bond to be authenticated by the Bond Registrar, as the City's authenticating agent, all as of the Date of Issuance set forth above.

CITY OF PORTAGE

By:
Mayor

[SEAL]

By:
Clerk

DATE OF AUTHENTICATION:

BOND REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This is Refunding Bond is one of a series of bonds designated "City of Portage Capital Improvement Refunding Bonds, Series 2012".

By: _____, Michigan
as Bond Registrar and Authenticating Agent
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ this Refunding Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer this Refunding Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature:

Notice: The signature(s) to this assignment must correspond with the name as it appears upon the face of this Refunding Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

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

The transfer agent will not effect transfer of this Refunding Bond unless the information concerning the transferee requested below is provided:

Name and Address: _____

(Include information for all joint owners if bond is held by joint account)

PLEASE INSERT SOCIAL SECURITY NUMBER OR OTHER IDENTIFYING NUMBER OF TRANSFEREE

(Insert number for first named transferee if held by joint account)

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ESCROW AGREEMENT

**CITY OF PORTAGE
County of Kalamazoo, State of Michigan**

This escrow agreement (the "Agreement"), dated as of _____, _____, is between the CITY OF PORTAGE, State of Michigan (the "City") and _____, as escrow agent (the "Escrow Agent").

WHEREAS, the City has previously issued the following bonds of which the principal amounts listed below remain outstanding:

<u>Prior Bonds</u> City of Portage <hr/> <u> </u> Bonds, Series <u> </u> dated <u> </u> (the "Prior Bonds")	Outstanding <u>Principal</u> \$ <u> </u> maturing in the years <u> </u> thru <u> </u>
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(all of such outstanding bonds hereinafter referred to as the "Prior Bonds") all bearing interest, due as to principal and subject to redemption as more fully described in APPENDIX I to this Agreement.

WHEREAS, for the purpose of paying the principal and interest on the Prior Bonds when due on _____ 1, _____ and on that date of redeeming the Prior Bonds maturing in the years _____ through _____ in the total aggregate principal amount of \$_____ (the "Refunded Bonds"), the City has, pursuant to a refunding bond resolution adopted on _____ (the "Resolution") authorized the issuance of a series of refunding bonds dated _____ 1, _____, as designated and described in the Resolution and hereafter (the "Refunding Bonds"); and

WHEREAS, pursuant to the Refunding Bond Resolution, the Escrow Agent has been appointed by the City for the purpose of assuring the payment of the principal of, premium (if any) and interest on the Refunded Bonds and the Finance Director of the City has been authorized and directed to execute this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth below, the City and the Escrow Agent agree as follows for the respective equal and proportionate benefit and security of the holders of the Refunded Bonds;

Section 1. Appointment of Escrow Agent. The Escrow Agent is hereby appointed and agrees to act in such capacity to comply with all requirements of this Agreement, and to be custodian of the escrow fund (the "Escrow Fund"), to perform its

duties as custodian of the Escrow Fund created under this Agreement, but only upon and subject to the following express terms and conditions:

(a) The Escrow Agent may perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the Standards specified in this Agreement and shall be entitled to advice of counsel concerning all matters of and the duties under this Agreement, and may in all cases pay such reasonable compensation to such counsel and in addition to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the same. The Escrow Agent may act upon the opinion or advice of any counsel. The Escrow Agent shall not be responsible for any loss or damage resulting from any action or non-action taken in good faith in reliance upon such opinion or advice.

(b) The Escrow Agent shall not be responsible for any recital in this Agreement, or in the Refunding Bonds or for the validity of the execution by the City of this Agreement or of any supplements to it or instruments of further assurance. The Escrow Agent shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Authority, except as set forth in this Agreement. The Escrow Agent shall be only obligated to perform such duties and only such duties as are specifically set forth in this Agreement and no implied covenants or obligations shall be read into this Agreement against the Escrow Agent.

(c) The Escrow Agent may become the owner of the Refunding Bonds or the Refunded Bonds with the same rights which it would have if not Escrow Agent.

(d) The Escrow Agent shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telex, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Escrow Agent pursuant to this Agreement upon the request or consent of any person who at the time of making such request or consent is the owner of any prior bond, shall be conclusive and binding upon all future owners of the same prior bond.

(e) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Escrow Agent shall be entitled to rely upon a certificate of the City signed by (i) the City Clerk or Finance Director of the City, or (ii) any other duly authorized person as sufficient evidence of the facts contained in it, but may secure such further evidence deemed

necessary or advisable, but shall in no case be bound to secure the same. The Escrow Agent may accept a certificate of the City Clerk or Finance Director of the City to the effect that a resolution in the form attached to such certificate has been adopted by the City as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(f) The permissive right of the Escrow Agent to do things enumerated in this Agreement shall never be construed as a duty. The Escrow Agent shall only be responsible for the performance of the express duties outlined in this Agreement and it shall not be answerable for other than its gross negligence or willful default in the performance of those express duties.

(g) At any and all reasonable times the Escrow Agent and its duly authorized agents, attorneys, experts, accountants and representatives, shall have the right fully to inspect any and all of the books, papers and records of the City pertaining to the Refunded Bonds, and to take such memoranda from and in regard to the same as may be desired.

(h) The Escrow Agent shall not be required to give any bond or surety in respect of the execution of the powers contained in or otherwise in respect to this Agreement.

(i) Before taking any action under this Agreement (except making investments, collecting investments and making payments to the paying agents with respect to the Refunded Bonds) the Escrow Agent may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability except liability which is adjudicated to have resulted from gross negligence or willful default by reason of any action so taken.

(j) The Escrow Agent shall be, and hereby is indemnified and saved harmless by the City from all losses, liabilities, costs and expenses, including attorney fees and expenses, which may be incurred by it as a result of its acceptance of the Escrow Account or arising from the performance of its duties hereunder, unless such losses, liabilities, costs and expenses shall have been finally adjudicated to have resulted from the bad faith or gross negligence of the Escrow Agent, and such indemnification shall survive its resignation or removal, or the termination of this Agreement.

(k) The Escrow Agent shall, in the event that (i) any dispute shall arise between the parties with respect to the disposition or disbursement of any of the assets held hereunder or (ii) the Escrow Agent shall be uncertain as to how to proceed in a situation not explicitly addressed by

the terms of this Agreement whether because of conflicting demands by the other parties hereto or otherwise, be permitted to interplead all of the assets held hereunder into a court of competent jurisdiction, and thereafter be fully relieved from any and all liability or obligation with respect to such interpleaded assets. The parties hereto other than the Escrow Agent further agree to pursue any redress or recourse in connection with such a dispute, without making the Escrow Agent a party to the same.

(l) The Escrow Agent shall have only those duties as are specifically provided herein, which shall be deemed purely ministerial in nature, and shall under no circumstance be deemed a fiduciary for any of the parties to this Agreement. The Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument or document between the other parties hereto, in connection herewith. This Agreement sets forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of the Escrow Agent shall be inferred from the terms of this Agreement or any other Agreement. IN NO EVENT SHALL THE ESCROW AGENT BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY (i) DAMAGES OR EXPENSES ARISING OUT OF THE SERVICES PROVIDED HEREUNDER, OTHER THAN DAMAGES WHICH RESULT FROM THE ESCROW AGENT'S FAILURE TO ACT IN ACCORDANCE WITH THE STANDARDS SET FORTH IN THIS AGREEMENT, OR (ii) SPECIAL OR CONSEQUENTIAL DAMAGES, EVEN IF THE ESCROW AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(m) Any banking association or corporation into which the Escrow Agent may be merged converted or with which the Escrow Agent may be consolidated or any corporation resulting from any merger, conversion or consolidation to which the Escrow Agent shall be a party, or any banking association or corporation to which all or substantially all of the corporate trust business of the Escrow Agent shall be transferred, shall succeed to all the Escrow Agent's rights, obligations and immunities hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

(n) In the event that any escrow property shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting property deposited under this Agreement, the Escrow Agent is hereby expressly authorized, at its sole discretion, to obey and comply with all writs, orders or decrees so entered or issued, which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in the event that the Escrow Agent obeys or complies with any such

writ, order or decree it shall not be liable to any of the parties hereto or to any other person, firm or corporation, by reason of such compliance notwithstanding such writ, order or decree be subsequently reversed, modified, annulled set aside or vacated.

Section 2. Escrow Fund. On _____, _____ the City will irrevocably deposit moneys with the Escrow Agent for the account of the City from the proceeds of the Refunding Bonds (\$ _____) to establish the Escrow Fund for the Refunded Bonds in an amount which together with the income from the escrow assets, shall be held in the Escrow Fund to be maintained by the Escrow Agent and used to pay (i) principal and the interest on the Refunded Bonds that become due on _____ 1, _____ and (ii) to redeem on said date all of the outstanding and callable Refunded Bonds prior to their scheduled maturity; and to pay the applicable call premiums on the Refunded Bonds in accordance with Section 3 hereof.

Section 3. Redemption of Refunded Bonds. The City will redeem, prior to their scheduled maturity, Refunded Bonds as follows:

Prior Bonds
City of Portage

_____ Bonds, Series _____
_____ dated _____

Principal to
be Refunded
\$ _____
maturing in
the years
_____ thru _____

The City by execution of this Escrow Agreement, hereby authorizes the Escrow Agent to give the paying agent for the Refunded Bonds irrevocable instructions to call the Refunded Bonds and at the expense of the City not more than sixty (60) nor less than forty-five (45) days before _____ 1, _____, their redemption date. The Escrow Agent shall give to the paying agent for the Refunded Bonds such notice, in substantially the form attached to this Agreement as *APPENDIX II*. The paying agent for the Refunded Bonds shall mail such notice on or before thirty (30) days prior to the redemption date, as set forth in *APPENDIX II*, to the registered owner or owners at the addresses listed on the registration books of the City maintained by the paying agent for the Refunded Bonds.

Section 4. Investments. As directed by the City, moneys deposited in the Escrow Fund shall be immediately invested in direct obligations of the United States of America and/or obligations the principal of, premium (if any) and interest on which are fully guaranteed by the United States of America described on *APPENDIX III* ("Investment Securities"), except for _____ (\$ _____) which will be held in the Escrow Fund as the beginning balance for the Refunded Bonds. The Escrow Agent agrees to cause to be purchased United States Government Obligations known as "SLGS" (State and Local Government Series) from the United States Department of Treasury on the date shown in *APPENDIX III*.

The investment income from the Investment Securities in the Escrow Fund shall be credited to the Escrow Fund and shall not be reinvested. The Escrow Agent shall not sell any Investment Securities. All moneys not invested as provided in this Agreement shall be held by the Escrow Agent as a trust deposit.

Section 5. Use of Moneys. Except as expressly provided in this Agreement, no paying agents' fees for the payment of principal of, premium (if any) or interest on the Refunding Bonds or the Refunded Bonds or other charges may be paid from the escrowed moneys or Investment Securities prior to retirement of all Refunded Bonds, and the City agrees that it will pay all such fees from its other legally available funds as such payments become due prior to such retirement.

Section 6. Deficiency in Escrow Fund. At such time or times as there shall be insufficient funds on hand in the Escrow Fund for the payment of the principal of, premium (if any) and interest falling due on the Refunded Bonds, the Escrow Agent shall promptly notify the City of such deficiency, as provided for under Section 12 below.

Section 7. Reports to City. The Escrow Agent shall deliver to the Finance Director of the City a semi-annual statement reflecting each transaction relating to the Escrow Fund; and on or before the first day of February of each year shall deliver to the City a list of assets of the Escrow Fund as of December 31 of said year ended and a transaction statement for the Escrow Fund for the year then ended.

Section 8. Fees of Escrow Agent. The Escrow Agent agrees with the City that the charges, fees and expenses of the Escrow Agent throughout the term of this Agreement shall be the total sum of _____ Dollars (\$___) payable on the date of closing, which charges, fees and expenses shall be paid from moneys deposited with the Escrow Agent from bond proceeds.

Section 9. Payments from Escrow Fund. The Escrow Agent shall without further authorization or direction from the City, collect the principal of and interest on the Investment Securities promptly as the same shall become due and, to the extent that Investment Securities and moneys are sufficient for such purpose, shall make timely payments out of the Escrow Fund to the proper paying agent or agents or their successors for the Refunded Bonds, of moneys sufficient for the payment of the principal of, premium (if any) and interest on such Refunded Bonds as the same shall become due and payable, all as set out in *APPENDIX IV and APPENDIX V*. The payments so forwarded or transferred shall be made in sufficient time to permit the payment of such principal of, premium (if any) and interest by such paying agent or agents without default. The City represents and warrants that the Escrow Fund will be sufficient to make the

foregoing and all other payments required under this Agreement. The paying agent for the Prior Bonds is shown in *APPENDIX I*.

When the aggregate total amount required for the payment of principal of, premium (if any) and interest on the Refunded Bonds have been paid to the paying agent as provided above, the Escrow Agent shall transfer any moneys or Investment Securities then held under this Agreement for the Refunded Bonds to the City, and this Agreement shall cease.

Section 10. Interest of Bondholders Not Affected. The Escrow Agent and the City recognize that the holders from time to time of the Refunded Bonds have a beneficial and vested interest in the Investment Securities and moneys to be held by the Escrow Agent as provided in this Agreement. It is therefore recited, understood and agreed that this Agreement shall not be subject to revocation or amendment and no moneys on deposit in an Escrow Fund for the Refunded Bonds can be used in any manner for another series.

Section 11. Escrow Agent Not Obligated. None of the provisions contained in this Agreement shall require the Escrow Agent to use or advance its own moneys or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights or powers under this Agreement. The Escrow Agent shall be under no liability for interest on any funds or other property received by it under this Agreement, except as expressly provided.

Section 12. Payment of Other Amounts. The City agrees that it will promptly and without delay remit to the Escrow Agent such additional sum or sums of money as may be necessary to assure the payment of any Refunded Bonds and to fully pay and discharge any obligation or obligations or charges, fees or expenses incurred by the Escrow Agent in carrying out any of the duties, terms or provisions of this Agreement that are in excess of the sums provided for under Sections 4 and 6 above.

Section 13. Segregation of Funds. The Escrow Agent shall hold the Investment Securities and all moneys received by it from the collection of, principal and interest on the Investment Securities, and all moneys received from the City under this Agreement, in a separate escrow account.

Section 14. Resignation of Escrow Agent. The Escrow Agent may resign as such following the giving of thirty (30) days prior written notice to the City. Similarly, the Escrow Agent may be removed and replaced following the giving of thirty (30) days prior written notice to the Escrow Agent by the City. In either event, the duties of the Escrow Agent shall terminate thirty (30) days after the date of such notice (or as of such earlier date as may be mutually agreeable); and the Escrow Agent shall then deliver the balance of the Escrow Fund then in its possession to a successor Escrow Agent as shall be appointed by the City.

If the City shall have failed to appoint a successor prior to the expiration of thirty (30) days following the date of the notice of resignation or removal, the then acting Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor Escrow Agent or for other appropriate relief and any such resulting appointment shall be binding upon the City.

Upon acknowledgment by any successor Escrow Agent of the receipt of the then remaining balance of the Escrow Fund, the then acting Escrow Agent shall be fully released and relieved of all duties, responsibilities, and obligations under this Agreement.

Section 15. Benefit. This Agreement shall be for the sole and exclusive benefit of the City, the Escrow Agent and the holders of the Refunded Bonds. With the exception of rights expressly conferred in this Agreement, nothing expressed in or to be implied from this Agreement is intended or shall be construed to give to any person other than the parties set forth above, any legal or equitable right, remedy or claim under or in respect to this Agreement.

Section 16. Severability. If any provision of this Agreement shall be held or deemed to be invalid or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions contained in this Agreement or render the same invalid, inoperative or unenforceable to any extent whatsoever.

Section 17. Notices. Any notice, request, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed, by registered or certified mail, postage prepaid or sent by facsimile transmission, except reports as required in Section 7 which may be delivered by regular mail, as follows:

If to the City:

If to the Escrow Agent:

The City and the Escrow Agent may designate any further or different addresses to which subsequent notices, requests, communications or other papers shall be sent and shall be required to provide written notification of said address change.

Section 18. Costs of Issuance. Simultaneously with the transfer of bond proceeds from the Refunding Bonds establishing the Escrow Fund, sufficient moneys from bond proceeds shall be transferred to the Escrow Agent and used to pay all of the costs of issuance for the Refunding Bonds including, but not limited to, financial costs, consultant fees, counsel fees, printing costs, application fees, bond insurance premiums, rating fees and any other fees or costs incurred in connection with the financing. All such costs shall be authorized by the Finance Director of the City, under the "Closing Memorandum", and shall be paid on _____, ____.

Section 19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

IN WITNESS WHEREOF, the parties to this Agreement have duly executed it by their duly authorized officers as of the date first above written.

CITY OF PORTAGE

By: _____

Its: Finance Director of the City

as Escrow Agent

By: _____

Its: _____

APPENDIX I

\$ _____

REMAINING ORIGINAL DEBT SERVICE SCHEDULE

Bond Registrar and Paying Agent:

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APPENDIX II

[FORM OF NOTICE OF REDEMPTION]

NOTICE OF REDEMPTION

\$ _____

Dated as of _____

DUE _____ 1, _____ THROUGH _____ 1, _____

NOTICE IS HEREBY GIVEN that the City of Portage, County of Kalamazoo, Michigan has called for redemption, on _____ 1, _____ (the "Redemption Date"), all of the callable outstanding _____ pursuant to the redemption provisions contained in the Bonds, bearing the original issue date of _____ 1, _____ maturing in the principal amounts, on the dates, bearing interest at the rates, with the "CUSIP" numbers, as follows:

<u>Principal</u>	<u>Rate</u>	<u>CUSIPS*</u>	<u>Due</u>
------------------	-------------	----------------	------------

Said Bonds will be redeemed at _____% of the par value thereof.

Said Bonds should be surrendered for redemption to _____, as paying agent, for payment as of the Redemption Date, after which date all interest on said Bonds shall cease to accrue, whether said Bonds are presented for payment or not.

Bonds may be surrendered for payment as indicated below. The method of delivery is at the option of the holder, but if by mail, registered mail is suggested.

Under the provisions of the Interest and Dividend Tax Compliance Act of 1983 and the Comprehensive National Energy Policy Act of 2002, paying agents making payments of principal on municipal securities may be obligated to withhold a 31% tax from remittances to individuals who have failed to furnish the paying agent with a certified and valid Taxpayer Identification Number on a fully completed Form W-9. Holders of the above described Bonds, who wish to avoid the application of these provisions, should submit certified Taxpayer Identification Numbers on I.R.S. Form W-9 when presenting their securities for redemption.

* No representation is made as to the correctness of the CUSIP numbers either as printed on the Bonds or as contained herein.

CITY OF PORTAGE, COUNTY OF KALAMAZOO, MICHIGAN

APPENDIX III

\$ _____

Dated as of _____

Investment Securities to be Acquired Pursuant
to the Escrow Agreement

<u>Purchase Date</u>	<u>Investment Amount</u>	<u>Rate</u>	<u>Maturity</u>	<u>Investment Type</u>
	_____			Uninvested Cash
	\$ _____			Total Escrow Requirement

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APPENDIX IV

\$ _____

Dated as of _____

Redemption Schedule

Redemption Premium: _____%

Date	Principa	Interest	Redeemed Principal	Redemption Premium	Total Debt Service	Annual Total
1						

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APPENDIX V

\$ _____

Dated as of _____

ESCROW CASH FLOW ANALYSIS

___- Beginning Cash \$ ___
___- Balance:

	Beginnin g							Ending	
	Cash	SLG	SLG	SLG		Debt Service	Net	Cash	%
Date	Balance	Princip al	Rate	Intere st	Total	Defeasance	Cash Flow	Balance	Present Value

Total Cost of Escrow Securities: \$ _____

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[FORM OF REQUEST FOR PROPOSAL]
OFFICIAL REQUEST FOR PROPOSAL

§

KALAMAZOO COUNTY

State of Michigan

CITY OF PORTAGE

CAPITAL IMPROVEMENT REFUNDING BONDS, SERIES 2012

SEALED OR ELECTRONIC PROPOSALS: Sealed written proposals for the purchase of the bonds described herein (the "Refunding Bonds") will be received by the undersigned on behalf of the City of Portage (the "City"), at the office of the City Finance Director, 7900 South Westnedge Ave., Portage, Michigan, 49002 on _____, _____, until ____:____.m., Eastern _____ Time, at which time and place the proposals will be publicly opened and read.

In the alternative, sealed written proposals will also be received on the same date and until the same time by an agent of the undersigned at the Municipal Advisory Council of Michigan, Buhl Building, 535 Griswold, Suite 1850, Detroit, Michigan 48226, where they will be publicly opened simultaneously. Proposals received at Portage, Michigan will be read first followed by proposals received at the alternate location. Proposers may choose either location to present proposals and good faith checks, but not both locations.

Any proposer may submit a proposal in person to either proposing location. However, no proposer is authorized to submit a FAX proposal to Portage, Michigan.

Also in the alternative, electronic proposals will also be received on the same date and until the same time by an agent of the undersigned Bidcomp/Parity. Further information about Bidcomp/Parity, including any fee charged, may be obtained from Bidcomp/Parity, Eric Washington, 1359 Broadway, 2nd floor, New York, New York, 10018, (212) 849-5021.

If any provision of this Request for Proposal shall conflict with information provided by Bidcomp/Parity as the approved provider of electronic proposing services, this Request for Proposal shall control.

The Refunding Bonds will be awarded or all proposals will be rejected by the City Finance Director at a proceeding to be held within twenty-four hours of the sale.

BOND DETAILS: The Refunding Bonds will be dated _____ 1, _____ and will be known as "City of Portage Capital Improvement Refunding Bonds, Series 2012". The Refunding Bonds will be fully registered Refunding Bonds in any one or more denominations of \$5,000 or a multiple of \$5,000, numbered from 1 upwards and will

bear interest from their date payable _____ 1, _____ and semi-annually thereafter until maturity. The Refunding Bonds will mature on the 1st day of _____ in each year as follows:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
-------------	---------------	-------------	---------------

PRIOR REDEMPTION: The Refunding Bonds maturing prior to _____ 1, _____ shall not be subject to redemption prior to maturity. Refunding Bonds on or after _____ 1, _____ shall be subject to redemption prior to maturity at the option of the City, in any order, in whole or in part on any date on or after _____ 1, _____. Refunding Bonds called for redemption shall be redeemed at par, plus accrued interest to the date fixed for redemption.

With respect to partial redemptions, any portion of a refunding bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion as well as the amount not being redeemed each constitute an authorized denomination. In the event that less than the entire principal amount of a refunding bond is called for redemption, upon surrender of the Refunding Bond to the bond registrar, the bond registrar shall authenticate and deliver to the registered owner of the Refunding Bond a new refunding bond in the principal amount of the principal portion not redeemed.

Notice of redemption shall be sent to the registered holder of each refunding bond being redeemed by first class mail at least thirty (30) days prior to the date fixed for redemption, which notice shall fix the date of record with respect to the redemption if different than otherwise provided in the resolution authorizing the issuance of the refunding bonds. Any defect in such notice shall not affect the validity of the redemption proceedings. Refunding Bonds so called for redemption shall not bear interest after the redemption date, provided funds are on hand with the bond registrar to redeem the same.

INTEREST RATE AND PROPOSING DETAILS: The Refunding Bonds shall bear interest at a rate or rates not exceeding ___% per annum, to be fixed by the proposals therefor, expressed in multiples of 1/8 or 1/20 of 1%, or both. The interest on any one bond shall be at one rate only. All bonds maturing in any one year must carry the same interest rate. THE INTEREST RATE BORNE BY BONDS MATURING IN ANY YEAR SHALL NOT BE AT A RATE LOWER THAN THE RATE BORNE BY BONDS MATURING IN ANY PRECEDING YEAR. No proposal for the purchase of less than all of the Refunding Bonds, at a price less than ___% of their par value or at an interest rate or rates that will result in a net interest cost exceeding __%, will be considered.

TERM BOND OPTION: Refunding Bonds maturing in the years _____ - _____, inclusive, are eligible for designation by the original purchaser at the time of sale as serial refunding bonds or term

refunding bonds, or both. There may be more than one term bond maturity. However, principal maturities designated as term refunding bonds shall be subject to mandatory redemption, in part, by lot, at par and accrued interest on _____ 1st of the year in which the Refunding Bonds are presently scheduled to mature. Each maturity of term refunding bonds and serial refunding bonds must carry the same interest rate. Any such designation must be made at the time the proposals are submitted.

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

BOND REGISTRAR, PAYING AGENT AND DATE OF RECORD: _____, Michigan has been selected as paying agent and bond registrar (the "Bond Registrar") for the Refunding Bonds. The Bond Registrar will keep records of the registered holders of the Refunding Bonds, serve as transfer agent for the Refunding Bonds, authenticate the original and any re-issued refunding bonds and pay interest by check or draft mailed to the registered holders of the Refunding Bonds as shown on the registration books of the City kept by the Bond Registrar on the applicable date of record. The date of record for each interest payment shall be the 15th day of the month before such payment is due. The principal of and redemption premium, if any, on the Refunding Bonds will be paid when due upon presentation and surrender thereof to the Bond Registrar. As long as DTC, or its nominee Cede & Co., is the registered owner of the Refunding Bonds, payments will be made directly to such registered owner. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners of the Refunding Bonds is the responsibility of DTC participants and indirect participants as described in the nearly final official statement for the Refunding Bonds. The City may from time to time as required designate a successor bond registrar and paying agent.

PURPOSE AND SECURITY: The Refunding Bonds are to be issued pursuant to the provisions of Act No. 34, Public Acts of Michigan, 2001, as amended ("Act 34"), for the purpose of refunding the City of Portage Capital Improvement Bonds, Series _____, dated _____ maturing in the years _____ through _____ (the "Refunded Bonds"), of which \$_____ remains outstanding and is being refunded. The Refunding Bonds are issued in anticipation of, and payable primarily from, the collection of taxes to be levied by the City. In addition, if the foregoing collection of taxes is insufficient for any reason to make prompt

payment of the principal of and interest on this Refunding Bond when due, the City shall make such payments from its general funds. The limited tax full faith and credit of the City is pledged for the payment of the principal of and interest on the Refunding Bonds. The City, however, does not have the power to levy any tax unlimited as to rate or amount for the payment of principal of and interest on the Refunding Bonds in excess of its constitutional, statutory or charter limitations.

ESCROW AGENT: Proceeds from the Refunding Bonds will be transferred to _____, _____, Michigan as escrow agent (the "Escrow Agent") under an escrow agreement dated _____ 1, _____ (the "Agreement"), who will use such proceeds to acquire investment obligations sufficient to pay principal of, premium, if any, and interest on the Refunded Bonds when due or upon the first permissible redemption date for the Refunded Bonds.

ADJUSTMENT IN PRINCIPAL AMOUNT: The aggregate principal amount of this issue has been determined as the amount necessary to defease the Refunded Bonds and pay a portion or all of the costs of issuance of the Refunding Bonds, assuming certain conditions and events exist on the date of sale. The City reserves the right to increase or decrease the total par amount of the Refunding Bonds by any amount prior to the sale or following the opening of proposals. The increase or decrease may be made in any one or more maturities. The purchase price will be adjusted proportionately to the increase or decrease in issue size, but the interest rates specified by the successful proposer for all maturities will not change. The successful proposer may not withdraw the proposal as a result of any changes made within these limits.

ADJUSTMENT IN DISCOUNT: In the event the principal amount of this issue is increased or decreased, the premium or discount proposed, if any, will be adjusted upwards or downwards so that it is the same percent as the premium or discount originally proposed.

BOND INSURANCE AT PURCHASER'S OPTION: If the Refunding Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the proposer/purchaser, the purchase of any such insurance policy or the issuance of any such commitment shall be at the option and expense of the purchaser of the Refunding Bonds. Any increased costs of issuance of the Refunding Bonds resulting from such purchase of insurance shall be paid by the purchaser. Any additional rating agency fees shall be the responsibility of the purchaser. FAILURE OF THE MUNICIPAL BOND INSURER TO ISSUE THE POLICY AFTER THE REFUNDING BONDS HAVE BEEN AWARDED TO THE PURCHASER SHALL NOT CONSTITUTE CAUSE FOR FAILURE OR REFUSAL BY THE PURCHASER TO ACCEPT DELIVERY OF THE REFUNDING BONDS FROM THE CITY.

GOOD FAITH: A certified or cashier's check drawn upon an incorporated bank or trust company or a wire transfer in an amount equal to 2% (\$_____) of the face amount of the Refunding Bonds, and payable to the order of the City will be required of the successful proposer as a guarantee of good faith on the part of the proposer, to be forfeited as liquidated damages if such proposal be accepted and the proposer fails to take up and pay for the Refunding Bonds. If a check is used, it must accompany each proposal. If a wire transfer is used, the successful proposer is required to wire the good faith deposit not later than Noon, prevailing Eastern Time, on the next business day following the sale using the wire instructions provided by Municipal Financial Consultants Incorporated. The good faith deposit will be applied to the purchase price of the Refunding Bonds. No interest shall be allowed on the good faith checks, and checks of each unsuccessful proposer will be promptly returned to such proposer's representative or by registered mail. The good faith check of the successful proposer will be cashed immediately, in which event, payment of the balance of the purchase price of the Refunding Bonds shall be made at the closing.

AWARD OF THE REFUNDING BONDS - TRUE INTEREST COST: The Refunding Bonds will be awarded to the proposer whose proposal produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on _____ and semi-annually thereafter) necessary to discount the debt service payments from their respective payment dates to _____ in an amount equal to the price proposed, excluding accrued interest. _____ is the anticipated date of delivery of the Refunding Bonds.

LEGAL OPINION: Proposals shall be conditioned upon the approving opinion of Axe & Ecklund, P.C., attorneys of Grosse Pointe Farms, Michigan (the "Bond Counsel") a copy of which opinion will be printed on the reverse side of each bond and the original of which will be furnished without expense to the purchaser of the Refunding Bonds at the delivery thereof. The fees of Bond Counsel for services rendered in connection with such approving opinion are expected to be paid from bond proceeds. Except to the extent necessary to issue such opinion and as described in the official statement, Bond Counsel has not been requested to examine or review and has not examined or reviewed any financial documents, statements or other materials that have been or may be furnished in connection with the authorization, issuance or marketing of the Refunding Bonds, and therefore, has not expressed and will not express an opinion with respect to the accuracy or completeness of the official statement or any such financial documents, statements or materials.

TAX MATTERS: In the opinion of Bond Counsel, subject, however to certain qualifications described herein, under existing law, the interest on the Refunding Bonds is excluded from gross income for federal income tax purposes, such interest is not an item of tax

preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, the Refunding Bonds and interest thereon are exempt from all taxation in the State of Michigan except inheritance and estate taxes and taxes on gains realized from the sale, payment or other disposition thereof.

"QUALIFIED TAX EXEMPT OBLIGATIONS": The Refunding Bonds have been designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986.

CERTIFICATE REGARDING "ISSUE PRICE": The Purchaser will be required, as a condition of delivery of the Refunding Bonds, to certify the "issue price" of the Refunding Bonds within the meaning of Section 1273 of the Code, which will include a representation that at least 10 percent of each maturity of the Refunding Bonds has been sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at a price not exceeding the stated initial offering price. In addition, if the successful proposer will obtain a municipal bond insurance policy or other credit enhancement for the Refunding Bonds in connection with their original issuance, the successful proposer will be required, as a condition of delivery of the Refunding Bonds, to certify that the premium therefor will be less than the present value of the interest expected to be saved as a result of such insurance or other credit enhancement. The form of an acceptable certificate will be provided by bond counsel.

DELIVERY OF REFUNDING BONDS: The City will furnish Refunding Bonds ready for execution at its expense. Refunding Bonds will be delivered without expense to the Purchaser. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the Refunding Bonds, will be delivered at the time of delivery of the Refunding Bonds. If the Refunding Bonds are not tendered for delivery by twelve o'clock noon, Eastern Time, on the 45th day following the date of receipt of proposals or the first business day thereafter if said 45th day is not a business day, the successful proposer may on that day, or any time thereafter until delivery of the Refunding Bonds, withdraw its proposal by serving written notice of cancellation on the undersigned, in which event the City shall promptly return the good faith deposit. Payment for the Refunding Bonds shall be made in Federal Reserve Funds. Accrued interest to the date of delivery of the Refunding Bonds shall be paid by the Purchaser at the time of delivery. **Notwithstanding the foregoing, the successful proposer will be required to pay for and accept delivery of the Refunding Bonds on _____.**

UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE: In order to assist proposers in complying with SEC Rule 15c2-12, as amended, the City will covenant to undertake (pursuant to a resolution adopted or to be adopted by their governing body), to provide annual reports and timely notice of certain events for the benefit of beneficial owners of the Refunding Bonds. The details and terms of the undertaking are set forth in a Continuing Disclosure Certificate to be executed and delivered by the City, a form of which is included in the nearly final official statement and in the final official statement.

OFFICIAL STATEMENT:

Hard Copy

A copy of the nearly final official statement (the "Nearly Final Official Statement") may be obtained by contacting Municipal Financial Consultants Incorporated at the address listed below. The Nearly Final Official Statement is in a form deemed final as of its date by the City for purposes of SEC Rule 15c2-12(b)(1), but is subject to revision, amendment and completion of a final official statement (the "Final Official Statement"). The successful proposer shall supply to the City within twenty-four hours (24) after the award of the Refunding Bonds, all pricing information and any underwriter identification determined by Bond Counsel to be necessary to complete the Final Official Statement.

Internet

In addition, the City has authorized the preparation and distribution of a Nearly Final Official Statement containing information relating to the Refunding Bonds via the Internet. The Nearly Final Official Statement can be viewed and downloaded at www.i-dealprospectus.com/PDF.asp?doc= or at www.tm3.com.

The City will furnish to the successful proposer, at no cost, ___ copies of the Final Official Statement within seven (7) business days after the award of the Refunding Bonds. Additional copies will be supplied upon the proposer's agreement to pay the cost incurred by the City for those additional copies.

The City shall deliver, at closing, an executed certificate to the effect that as of the date of delivery the information contained in the Final Official Statement, including revisions, amendments and completions as necessary, relating to the City and the Refunding Bonds is true and correct in all material respects, and that such Final Official Statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make statements therein, in light of the circumstances under which they were made, not misleading.

CUSIP NUMBERS: It is anticipated that CUSIP numbers will be printed on the Refunding Bonds, but neither the failure to print

such numbers nor any improperly printed number shall constitute cause for the purchaser to refuse to accept delivery of or to pay for the Refunding Bonds. All expenses for printing CUSIP numbers on the Refunding Bonds shall be paid for by the City, except that the CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the purchaser.

FURTHER INFORMATION: Additional information may be obtained from Meredith A. Shanle, Municipal Financial Consultants Incorporated, 21 Kercheval Ave., Suite 360, Grosse Pointe Farms, Michigan 48236, telephone (313) 884-1550.

THE RIGHT IS RESERVED TO REJECT ANY OR ALL PROPOSALS.

ENVELOPES: Envelopes containing the proposals should be plainly marked "Proposal for City of Portage Capital Improvement Refunding Bonds, Series 2012."

Finance Director
City of Portage

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CITY OF PORTAGE

At a _____ meeting of the City Council of the City of Portage held at 7900 South Westnedge Ave., Portage, Michigan, 49002 on _____, 2012 at __:__.m. Eastern Standard Time, there were:

PRESENT: _____

ABSENT: _____

The following preamble and resolution were offered by _____ and seconded by _____.

RESOLUTION APPROVING THE UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE BY THE CITY OF PORTAGE FOR THE CAPITAL IMPROVEMENT REFUNDING BONDS, SERIES 2012

WHEREAS, the City of Portage (the "City") by resolution of its Council has approved the issuance of the City of Portage Capital Improvement Refunding Bonds, Series 2012 in the principal amount of not to exceed \$10,200,000 (the "Refunding Bonds"); and

WHEREAS, Bond Counsel, in order to comply with federal securities regulations, has prepared this resolution.

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

1. This Council, for and on behalf of the City of Portage, hereby covenants and agrees, for the benefit of the beneficial owners of the Refunding Bonds to be issued by the City of Portage for the Project, to enter into a written undertaking (the "Undertaking") required by Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be substantially in the form attached to the official statement for the Refunding Bonds. The Undertaking shall be enforceable by the beneficial owners of the Refunding Bonds or by the Underwriter on behalf of such beneficial owners (provided that the Underwriter's right to enforce the provisions of the Undertaking shall be limited to a right to obtain specific enforcement of the City's obligations hereunder and under the Undertaking), and any failure by the City to comply with the provisions of the Undertaking shall not be deemed a default with respect to the Refunding Bonds.

The Mayor, City Finance Director, City Clerk and/or other officer of the City charged with the responsibility for issuing the Refunding Bonds shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the terms of the City's Undertaking.

2. The Disclosure Certificate as attached to the official statement for the Refunding Bonds is hereby approved as is the execution thereof by the designated officials.

3. All resolutions, or portions thereof, insofar as they may be in conflict with the foregoing, are hereby rescinded.

A vote on the foregoing resolution was taken and was as follows:

YES: _____

NO: _____

ABSTAIN: _____

CERTIFICATION

The undersigned, being the duly qualified and acting Clerk of the City of Portage, hereby certifies that (1) the foregoing is a true and complete copy of a resolution duly adopted by the Council of the City of Portage at a _____ meeting held on _____, 2012, at which meeting a quorum was present and remained throughout, (2) that an original thereof is on file in the records of the City, (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.

Clerk, City of Portage

SEAL

las.rc-por197

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 7, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Fire Apparatus Maintenance and Repair Contract – Intergovernmental Cooperation

ACTION RECOMMENDED: That City Council approve a contract amendment with Emergency Vehicle Products, Inc. for Fire Apparatus Maintenance and Repair through July 31, 2012 with the option of four additional one-year renewals.

In 2007, bids were solicited for the repair and maintenance of fire apparatus. One bid was received, and the contract was awarded to Emergency Vehicle Products, Inc. The contract will expire on April 1, 2012.

Both the City of Portage and the City of Kalamazoo utilize Emergency Vehicle Products, Inc. for fire apparatus maintenance and repair. The City of Kalamazoo currently has an agreement with the contractor with multiple year renewals, which runs until August of 2016. The City Administration is recommending that the existing agreement be extended to align contracting periods consistent with the City of Kalamazoo's contract, as part of the ongoing purchasing collaboration.

In addition to the contract alignment, the extended agreement would secure lower labor rates and material costs for the city. Namely, hourly labor rates will be reduced from \$58.00 per hour to \$50.00 per hour. Additionally, the current 20 percent parts mark-up will be eliminated. As part of the contract, the city will enter into separate agreements with various parts suppliers utilized for the repair of the fire apparatus. Under these agreements, the contractor will access parts and other supplies, obtaining the best city or contractor discounts available. The administration of parts purchasing will be handled internally by current staff.

Emergency Vehicle Products, Inc. has provided excellent service to the city for the past ten years for the repair and maintenance of fire apparatus, and they are the only qualified source for this service in Kalamazoo County.

It is recommended that the contract for Fire Apparatus and Maintenance and Repair with Emergency Vehicle Products, Inc. be extended to July 31, 2012 with the option of four additional one-year renewals, as described above. Funds are budgeted and available for these contracts.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 5, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Agreement to Locate Sign in Right-of-Way, Davis Oil Company, 4421 West Centre

ACTION RECOMMENDED: That City Council approve the *Agreement to Locate Sign in Right-of-Way* for Davis Oil Company (4421 West Centre Avenue) and authorize the City Manager to execute the agreement on behalf of the city.

Attached is a communication from the Director of Community Development regarding a request from Davis Oil Company for an *Agreement to Locate Sign in Right-of-Way*. The agreement is requested to facilitate the replacement of sign panels on the existing freestanding sign, which has been located in the right-of-way adjacent to 4421 West Centre Avenue since at least 1983.

As background information, West Centre Avenue was previously under the jurisdiction of the Kalamazoo County Road Commission (KCRC) and an agreement existed between the property owner and KCRC to allow the sign in the right-of-way. In 1992, jurisdiction of the roadway was transferred to the City of Portage following reconstruction of the roadway as a limited access boulevard.

The Department of Community Development has explored options to relocate the sign onto private property consistent with Zoning Code requirements. However, these options were determined to be problematic due to line of sight and width of the right-of-way issues, and the location of the right-of-way line in relation to the edge of the gas station maneuvering lane.

Since the City of Portage now has jurisdiction of the West Centre Avenue right-of-way, City Council must authorize the sign to remain in the public right-of-way. If Council approves the sign to remain in the right-of-way, a sign permit can then be subsequently approved.

The City Administration recommends that the request be approved and the agreement executed.

Attachment: March 5, 2012 communication from Director Georgeau

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: March 5, 2012

FROM: Vicki Georgeau, ^{VJ} Director of Community Development

SUBJECT: Agreement to Locate Sign in Right-of-Way, Davis Oil Company, 4421 West Centre

The accompanying correspondence has been received from Mr. Jon Davis, Davis Oil Company, requesting permission to replace the sign panels on the existing freestanding sign with new business identification signage and digital price panels. The existing sign is located in the public road right-of-way (refer to the attached aerial photograph) and city records indicate a sign has been located in the right-of-way since at least 1983. With the exception of the location, the sign is in compliance with the Zoning Code requirements for the PD, planned development zoning district.

As background information, West Centre Avenue was previously under the jurisdiction of the Kalamazoo County Road Commission (KCRC) and an agreement existed between the property owner and KCRC to allow the sign in the right-of-way. In 1992, jurisdiction of the roadway was transferred to the City of Portage following reconstruction of the roadway as a limited access boulevard. Since the City of Portage now has jurisdiction of the West Centre Avenue right-of-way, City Council must authorize the sign to remain in the public right-of-way. If Council approves the sign to remain in the right-of-way, a sign permit can then be subsequently approved.

The City Administration did explore options with the property owner to locate the sign on private property consistent with Zoning Code requirements. These options were determined to be problematic due to line of sight issues, width of the right-of-way and the location of the right-of-way line in relation to the edge of the gasoline station maneuvering lane. The edge of the maneuvering lane is setback approximately 1-2 feet from the right-of-way line so relocation of the sign 10 feet from the property line would place it in the maneuvering lane.

Attached is a copy of the Agreement to Locate Sign in Right-of-Way that has been approved by the City Attorney. The agreement has also been reviewed by Davis Oil representatives and is acceptable.

The City Administration recommends that the request be approved and the agreement executed.

Attachments: Correspondence from Mr. Jon Davis, Davis Oil Company
Aerial photograph
Agreement to Locate Sign in Right-of-Way

Jon Davis
Davis Oil
1265 E Columbia Ave
Battle Creek, Mi 49014
January 17, 2012

RECEIVED

JAN 17 2012

COMMUNITY DEVELOPMENT

Jeff Mais
City of Portage
7900 S Westnedge Ave
Kalamazoo, Mi 49002

Dear Jeff:

I'm writing to acknowledge that our freestanding sign located at 4421 W Centre St in Portage is located within the right away and has been for several years. I am proposing to replace the face of the sign with our new image and also replacing the price sign with a digital price. I believe this will not only improve the image of our facility but also make a safer work environment for our employees. I understand an indemnification agreement is needed to move forward. Davis Oil is willing to agree to these terms.

Sincerely,

Jon Davis
VP Davis Oil





EXISTING SIGN

RECEIVED
 MAR - 1 2012
 COMMUNITY DEVELOPMENT



PROPOSED SIGN

CBPY5693

CBPY5694

REVISION HISTORY:
 1 06/27/11 01/11
 INITIAL DRAWING RELEASE

DO NOT MANUFACTURE
 LAYOUT TO BE VERIFIED

PARTS LIST:
 RESISTOR

ITEM	DESCRIPTION	QUANTITY	UNIT
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THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE NATIONAL ELECTRICAL CODE (NEC) AND ALL APPLICABLE LOCAL CODES. THIS INCLUDES PROPER CONNECTIONS AND WIRING UP TO THE SIGN.

GENERAL NOTES

- TOLERANCE (UNLESS NOTED)
 - CUTS ± 1/16" ± 1/8" ± 1/16" ± 1/16"
 - CHANNEL ± 1/8" ± 1/16" ± 1/16" ± 1/16"
 - ALL CORNER ROUNDS WITH OTHERS
- WIRING DISTANCE TO 5' UNLESS NOTED OTHERWISE
- THIS COLOR CALLOUT INDICATES USE OF SPANULAM SYSTEM
- NO DEPENDENT OR MATERIAL SUBSTITUTION WITHOUT ECR.
- ALL ELECTRICAL SIGNS TO COMPLY WITH UL 60

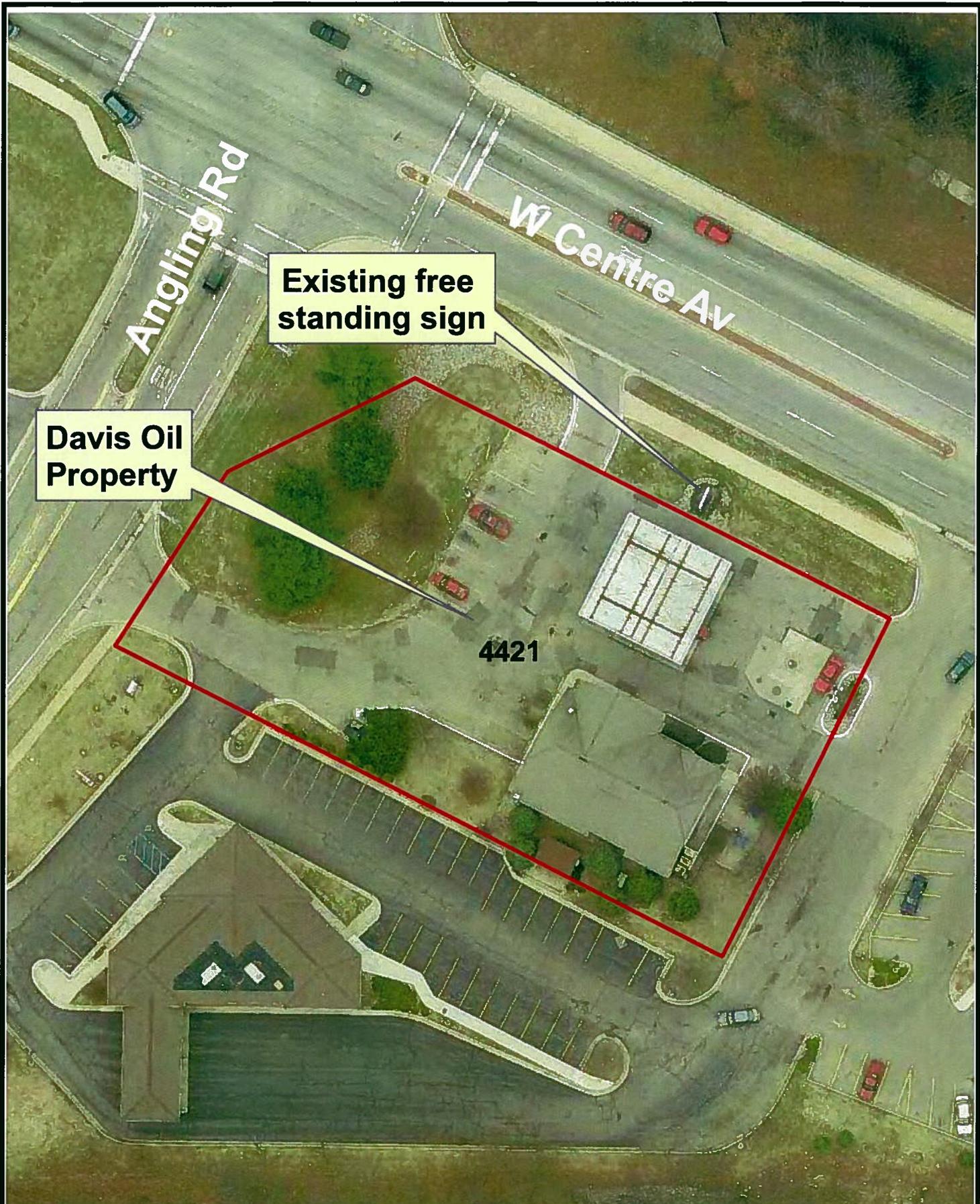
RENDERING

PLOT: 179600 DATE: 06/24/2011
 PROJECT: 179600 DATE: 06/24/2011
 DRAWN BY: JUAN V. FORRAGE, MI
 CHECKED BY: BP
 SCALE: 1:1

APPROVAL SIGNATURE: _____ DATE: _____
 BY: _____ DATE: _____
 SHEET # 1 OF 2
 PROJECT # BPGG1307

By signing, you are validating the dimensions and graphic provided to SignResource and/or you are handling your own installation.

OPTION 1



Davis Oil Property

Existing free standing sign

4421



1 inch = 50 feet

**Davis Oil Sign Agreement Request
4421 West Centre Avenue**

Imagery: March 2009

Path: R:\GISADMIN\karl\projects\DEPTS\COM DEV\vicinity\4421 E CENTRE.mxd

AGREEMENT TO LOCATE SIGN IN CITY RIGHT-OF-WAY

This Agreement made the ____ day of _____, 2012, between the City of Portage, a Michigan Municipal Corporation ("City"), whose address is 7900 South Westnedge Avenue, Portage, Michigan 49002, and Davis Oil Company, Inc., a Michigan corporation ("Owner"), whose address is 1265 Columbia Avenue East, Battle Creek, Michigan 49014.

1. Recitals. Owner owns and maintains a sign located at 4421 West Centre Avenue in City right-of-way. Owner previously obtained consent of the Kalamazoo County Road Commission ("KCRC") to locate such sign in the right-of-way when KCRC had jurisdiction of West Centre Avenue. The City of Portage obtained jurisdiction of West Centre Avenue in 1992. Consent from the Portage City Council is necessary for Owner to continue to maintain the sign in West Centre Avenue right-of-way. It is recognized by the parties that relocating the sign on Owner's private property may cause unnecessary negative effects to its business and the public.
2. Sign Standards. The signs shall be the size and height, appearance, and location shown on Exhibit "A". Any change in the size, height, or location of the sign shall require City Council approval and the approval of the Zoning Board of Appeals, if necessary.
3. Maintenance and Repair. The Owner shall be fully responsible for maintenance and repair of the sign, and the landscaping in the sign area. If the Owner shall not, within thirty (30) days after notice from the City, make repairs to the sign, or maintain the sign area landscaping, the City shall be entitled to do so and tax the cost to the Owner which, if not paid upon demand, shall become a lien on the property of Owner or in the alternative, the City may terminate this Agreement pursuant to Section 9, Termination.
4. Consideration. The parties hereby acknowledge that the mutual promises contained herein constitute adequate consideration.
5. Interference. Owner shall cause all work performed in connection the maintenance and repair of the sign and the sign area to be accomplished with care and in a manner and time that will cause the least interference with the right-of-way area and shall be performed as expeditiously as possible so as to minimize interference with surrounding property and traffic.
6. Term. This Agreement shall remain in effect for ten (10) years at which time it may be renewed for an additional ten (10) years with the City's written consent.
7. Release and Indemnity.
 - A. Owner releases City, its officers, agents and elected officials from any personal injury, property damage or loss of life for property caused by or arising out of, or in connection with, the sign and any rights or obligations acquired in this Agreement. Owner, its successors, transferees and assigns waive any claim it may have now or in the future against City for damage to the sign or any landscaping which may occur during installation or maintenance of

the City's utilities in the public right-of-way, during maintenance or construction of other City improvements or removal of the sign in an emergency.

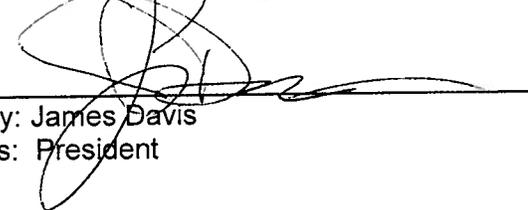
- B. Owner agrees to defend, indemnify and save City harmless from and against all actions claims, demands, judgments, loss damage, expense, including actual attorney fees which the City may suffer, incur or sustain or for which the City may become liable, arising or growing out of any injury or damage to persons or to real or personal property arising by reason of the existence, use, operation, installation, maintenance, repair, removal, replacement or inspection of the sign and other landscaping or caused by the action, inaction and/or negligence of Owner or its contractors, subcontractors, agents or representatives or any of them in the performance of work performed on the sign or sign area or in connection therewith.
8. Insurance. During the term of this Agreement, Owner, its agents and contractors who are performing work on the sign or landscaping, shall maintain or cause to be maintained, in full force and effect, and at its sole cost and expense, insurance policies protecting the City from liability of such nature and limit which, in the sole discretion of the City, will be adequate. Owner shall provide City with certificates of insurance for each insurance policy required to be maintained by Owner in compliance with this paragraph annually during the term of this Agreement. In the event that any such insurance shall not be maintained, the City shall have the right to terminate this Agreement and may take any action to remove the sign as permitted in Section 9 of this Agreement.
9. Termination. City may terminate this Agreement with thirty (30) days written notice to Owner of said termination for the following reasons:
- A. Owner fails or neglects to adequately maintain and repair the sign or the landscaping in the sign area after being sent a notice to do so; or
 - B. For any reason the sign becomes a danger or hazard to the public at large; or
 - C. The sign interferes with existing or proposed public utilities, right-of-ways or other public services; or
 - D. The sign violates any state or local law, regulation, code or does not comply with any applicable Zoning Board of Appeal decisions.
 - E. The building/business to which the sign relates is no longer operating at the location, is unoccupied for more than 90 days or has been abandoned.

Upon termination as permitted above, the City may declare the sign a public nuisance and proceed to abate the nuisance according to City ordinance. If an emergency exists, City may remove the sign without notice to the Owner.

10. Waiver. Nothing herein contained constitutes, nor should the same be construed as, a waiver of any governmental immunity provided to the City, its agents, employees, officers, or representatives as provided for under common law or statute.
11. Assignment. No party may assign or otherwise transfer any part of its interest in this agreement without the prior written consent of all parties. The prohibition against any assignment shall be construed to include a prohibition against any assignment by creation of law. This agreement is personal to the parties.
12. Entire Agreement. This Agreement represents the entire agreement between the parties. It may not be amended, altered or modified unless done so in writing by the persons against whom enforcement of any waiver, change or modification or discharge is sought.
13. Authority. Each party to this Agreement warrants and represents that it is properly authorized by the board of directors, stockholders, partners and/or holders of beneficial interest to enter into this Agreement.

OWNER

Davis Oil Company, Inc.

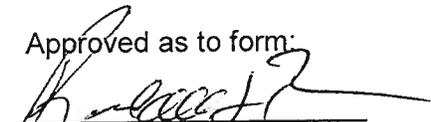


By: James Davis
Its: President

CITY OF PORTAGE

By: Maurice S. Evans
Its: City Manager

Approved as to form:



Randall L. Brown
City Attorney

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 7, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Pineview Water Tower Exterior Renovations

ACTION RECOMMENDED: That City Council:

- a. award a contract to Fedewa, Incorporated, in the not to exceed amount of \$87,900 for the Pineview Water Tower Exterior Renovations;
- b. accept the proposal from Dixon Engineering for testing and inspection in the amount of \$8,200; and authorize the City Manager to execute all documents related to the contracts on behalf of the city.

The 2011-12 Capital Improvement Program (CIP) budget includes funds for renovating and painting the exterior of the Pineview Water Tower. The project includes cleaning of the existing exterior paint, repair of any deteriorated areas and repainting of the exterior with a three part epoxy coating system.

On March 1, 2012, bids were received from four contractors for renovating and painting the exterior of the Pineview Water Tower. The low bid of \$87,900 was submitted by Fedewa, Incorporated. Fedewa, Incorporated, is an experienced tower painting contractor and has successfully completed many similar projects. If approved, work will begin in early April 2012 and be completed in late May 2012. In order to provide necessary engineering services, city staff received a quote from Dixon Engineering to perform paint testing and inspection during the renovation. For many years, Dixon Engineering has satisfactorily performed tower inspection services for the city.

Sufficient funds are available in the Fiscal Year 2011-12 Capital Improvement Program project account to cover the cost of the proposed renovation and painting, as well as the engineering services related to the exterior re-coating of the Pineview Water Tower. It is recommended that City Council award a contract to Fedewa, Incorporated, in the not to exceed amount of \$87,900, accept the proposal from Dixon Engineering in the amount of \$8,200 for testing and inspection services and authorize the City Manager to execute all documents related to the contracts. A bid tabulation is attached for the information of City Council.

Attachment

BID TABULATION
PINEVIEW WATER TOWER EXTERIOR COATING

<u>BIDDER</u>	<u>BID</u>
Fedewa, Inc. 8351 Thornapple Lake Rd. Nashville, MI 49073	\$87,900.00
Industrial Painting Contractors 25163 Darin Rd. Taylor, MI 48180	\$95,200.00
L. C. United Painting Co., Inc. 2525 Barbara Dr. Sterling Heights, MI 48310	\$107,000.00
TMI Coatings, Inc. 3291 Terminal Drive St. Paul, MN 55121	\$136,600.00

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 2, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Pavement Marking Services – Intergovernmental Cooperation

ACTION RECOMMENDED: That City Council award a one-year contract to Michigan Pavement Markings, LLC, to provide pavement marking services in the amount not to exceed \$86,926 and authorize the City Manager to execute all documents related to this contract and subsequent renewals on behalf of the city.

The City of Portage participated in a joint bidding process with the City of Kalamazoo and the Kalamazoo County Road Commission for pavement marking services. This collaborative purchasing effort is in alignment with the foundation document dated October 28, 2011 presented to the elected bodies. This bid document requested a one-year contract with two one-year renewals. Two bids were received through this inter-governmental bid process on February 23, 2012. The low bid was submitted by Michigan Pavement Markings, LLC of Wyoming, Michigan. The City of Portage portion of the bid process included pavement marking services for major street lane and center lines, as well as intersection specialty markings (crosswalks, stop bars and legends).

Michigan Pavement Markings, LLC, has performed pavement marking services for the City of Portage for several years, providing quality services in a timely manner. It is recommended that City Council award a one-year contract to Michigan Pavement Markings, LCC, to provide pavement marking services to major streets in the amount not to exceed \$86,926 and authorize the City Manager to execute all documents related to this contract and subsequent renewal options on behalf of the city. A bid tabulation is attached for City Council review. Funds are budgeted and available for the Fiscal Year 2011-2012 spring application.

Attachment

BID TABULATION
PAVEMENT LINE STRIPING SPECIALTY PAVEMENT MARKING

Michigan Pavement Markings LLC
PO Box 9673
Wyoming, MI 49509

P.K. Contracting, Inc.
1965 Barrett
Troy, MI 49084

<u>Item Description</u>	<u>Unit</u>	<u>Est. Qty.</u>	<u>Unit Price</u>	<u>Extended Total</u>	<u>Unit Price</u>	<u>Extended Total</u>
Water Borne Line Painting/Striping And Removal of Pavement Markings						
White Skip - 4"	Mile	49	\$90.00	\$4,410.00	\$75.15	\$3,682.35
White Solid - 4"	Mile	93	\$212.00	\$19,716.00	\$300.50	\$27,946.50
Yellow Double - 4"	Mile	30	\$412.00	\$12,360.00	\$601.15	\$18,034.50
Yellow Solid & Yellow Skip - 4"	Mile	32	\$272.00	\$8,704.00	\$375.75	\$12,024.00
Yellow Skip - 4"	Mile	16	\$90.00	<u>\$1,440.00</u>	\$75.15	<u>\$1,202.40</u>
TOTAL LINE PAINTING				\$46,630.00		\$62,889.75
DIVISION I -- OPTIONAL ITEMS (not included in division total)						
White Dash - 4"	Foot	650	\$1.00	xxxxxxxxxxxx	\$0.10	xxxxxxxxxxxx
Solid White Lane - 6"	Mile	0	\$300.00	xxxxxxxxxxxx	\$450.75	xxxxxxxxxxxx
Line Removal - 6" Longitude or less	L.F.	0	\$1.00	xxxxxxxxxxxx	\$0.40	xxxxxxxxxxxx
Water Borne Specialty Markings						
24" Stop Bar, White	Foot	6,610	\$0.60	\$3,966.00	\$2.25	\$14,872.50
12" Cross Walk, White	Foot	21,620	\$0.45	\$9,729.00	\$3.65	\$78,913.00
8' "Only" Legend, White	Each	285	\$25.00	\$7,125.00	\$25.00	\$7,125.00
Straight Arrow Symbol, White	Each	56	\$25.00	\$1,400.00	\$15.00	\$840.00
Right Arrow Symbol, White	Each	89	\$25.00	\$2,225.00	\$20.00	\$1,780.00
Left Arrow Symbol, White	Each	208	\$25.00	\$5,200.00	\$20.00	\$4,160.00
Straight Left Arrow Symbol, White	Each	11	\$35.00	\$385.00	\$35.00	\$385.00
Straight Right Arrow Symbol, White	Each	36	\$35.00	\$1,260.00	\$35.00	\$1,260.00
Arrow with Bike Symbol, White	Each	41	\$45.00	\$1,845.00	\$55.00	\$2,255.00
R/R Xing with 24" Bands, White	Each	31	\$69.00	\$4,761.00	\$150.00	\$10,350.00
"SCHOOL" Legend, White	Each	10	\$50.00	\$500.00	\$65.00	\$650.00
Ped-Xing Symbol, White	Each	2	\$50.00	\$100.00	\$95.00	\$190.00
6" Crosshatch, White	Foot	300	\$1.00	\$300.00	\$0.75	\$225.00
6" Crosshatch, Yellow	Foot	500	\$1.00	\$500.00	\$0.75	\$375.00
Curb Painting, Yellow	Foot	2000	\$0.50	\$1,000.00	\$0.95	\$1,900.00
Specialty Marking Removal	S.F.	0	\$1.00	<u>\$0.00</u>	\$0.95	<u>\$0.00</u>
TOTAL SPECIALTY MARKINGS				\$40,296.00		\$125,280.50
GRAND TOTAL				\$86,926.00		\$188,170.25

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 7, 2012

FROM: Maurice S. Evans, City Manager



SUBJECT: Emergency Sanitary Sewer Lead Repair

ACTION RECOMMENDED: That City Council award a contract for the Emergency Sanitary Sewer Lead Repair to Peters Construction Company in the not to exceed amount of \$26,212.87 with the option to renew the contract for two additional one-year periods and authorize the City Manager to execute all documents related to the contract on behalf of the city.

Section 82-306 of the Code of Ordinances for the city requires that the city investigate and determine responsibility for blockages and defective sanitary sewer service leads. By City Ordinance, the property owner is responsible for maintenance and repair of the sanitary sewer service lead from the property building to the sanitary sewer main, typically located in the street. The annual sewer fund budget includes funds to investigate and/or repair problem sewer leads that are determined to be the city's responsibility.

Originally, the problem sewer lead account was used to correct defective sewer leads before residents connected to the sewer system. As the city sewer system has matured, the typical problem today consists of sewer blockages in an active sewer lead. Such a blockage can lead to severe sewer backups and unsanitary conditions.

Typically, when a customer has a problem in the sewer plumbing such as water backing up in the basement, the customer will call United Water to check the sewer main. If the sewer main is clear, the customer is advised to contact a plumber to clean the private sewer lead. If the plumber finds a blockage located in the public right-of-way, city staff is contacted and an investigation is initiated as to the cause of the blockage. Usually, this investigation leads to excavation of the sewer lead in the street and repair of the problem. The cause of the problem is ascertained and responsibility is determined per City Ordinance 82-306. The city is responsible when it is found that the initial installation of the sewer lead was defective or if tree roots from trees in the right-of-way were the cause of the blockage. A contract to perform this type of emergency repair service was originally bid in 2009. Annual expenditures for this work vary from year to year and have ranged from \$5,548 in 2009 to \$25,817 in 2011.

Having an experienced on-call contractor has greatly improved customer service and response times associated with sewer blockage issues. The contract has only been used on an as-needed basis. Typically, the city has experienced three to five emergency incidents per year. Staff

developed a bid proposal utilizing construction items typically associated with repair of sanitary sewer leads within the public right-of-way including excavation, fill material, sewer pipe, asphalt pavement replacement, etc. Quantities for each bid item were based on the previous contract experience in emergency sewer lead repairs. Unit prices and quantities can then be used for the purpose of determining the lowest bidder. Construction bids were received on February 23, 2012 with three contractors participating in the bid process. Peters Construction Company was the low bidder at \$26,212.87. Peters Construction Company has had the contract since 2009 and has done an excellent job of promptly and professionally responding to emergency situations. The contract will only be used for emergency situations during the next twelve months. Actual expenditures under the contract are unknown at this time but will not exceed \$26,212.87 without City Council approval through an appropriate change order. Due to the private owner aspect of the sanitary sewer lead repair, this is not part of the United Water's contract and is best performed by a separate excavation contractor.

It is recommended that City Council award a contract for the Emergency Sanitary Sewer Lead Repair to Peters Construction Company in the not to exceed amount of \$26,212.87 with the option to renew the contract for two additional one-year periods and authorize the City Manager to execute all documents related to the contract on behalf of the city. A bid tabulation is attached for the information of City Council.

Attachment

Bid Tabulation

Sanitary Sewer Service Repair Call-In

Peters Construction Co.
3325 E. Kilgore Rd.
Kalamazoo, MI 4 9001

\$26,212.87

Balkema Excavating, Inc.
1500 River St.
Kalamazoo, MI 49048

\$97,350.00

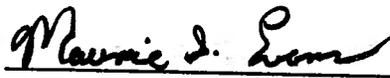
James E. Fulton & Sons
2516 Miller Rd.
Kalamazoo, MI 49001

\$261,500.00

MATERIALS TRANSMITTED

Friday, February 10, 2012

1. Communication from the City Manager regarding the January 2012 Citizen Comment Card Summary– Information Only.
- (n/a)* 2. Comprehensive Annual Financial Report (CAFR) for Fiscal Year ending June 30, 2011 – Information Only.


Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager