

**Brownfield Redevelopment Authority
Board of Directors Meeting
June 13, 2019
7:30 AM
2nd Floor Community Conference Room – City Hall**

Agenda

- A. Call to Order**
- B. Roll Call and Motion to Excuse Absent Members** (Action: Motion to excuse absent members)
- C. Adoption of Formal Agenda** (Action: Motion to approve formal agenda)
- D. Approval of Minutes for Meeting of May 16, 2019** (Action: Motion to approve the meeting minutes of May 16, 2019)
- E. New Business**
 - 1. Consideration of a recommendation that the BRA adopt the Resolution to approve the attached Brownfield Plan Redevelopment and Purchase Agreement, regarding the approximate southerly 6-acre portion of Davis Creek Business Park to Davis Creek Land Development Co., LLC, and authorize the chair to sign the Agreement and any further documents to complete the sale. (ACTION: Motion to approve the BRA adopts the Resolution to approve the attached Brownfield Plan Redevelopment and Purchase Agreement, regarding the approximate southerly 6-acre portion of Davis Creek Business Park to Davis Creek Land Development Co., LLC, and authorize the chair to sign the Agreement and any further documents to complete the sale.)
 - 2. Consideration of BRA Board nominates and/or volunteers 3-4 members of the BRA to form a nominating committee to review the applicants for the two open BRA seats. (ACTION: Motion to nominate and/or volunteer 3-4 members of the BRA to form a nominating committee to review BRA Board applicants).
 - 3. Staff presentation of the draft Purchasing Policy and Data
- G. Old Business**
 - 1. Incentive and Operational Policy – asking for feedback to make changes prior to the July 2019 meeting.
- H. Communications and Announcements**
 - 1. The July 3rd Projects & Finance meeting
- I. Staff Updates**
- J. Citizen Comments**
- K. Directors' Comments**
- L. Adjournment**

CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY SPECIAL MEETING
Thursday, May 16, 2019 • Community Room Conference Room, City Hall

MEMBERS PRESENT: Fritz Brown; James Escamilla; Kevan Hess; Mayor Bobby J. Hopewell; Bob Miller; Patti Owens; Doug Phillips; Tom Schlueter; Nancy Troff

MEMBERS ABSENT: Nathan Bolton; Kyle Gulau

CITY COMMISSIONERS/CITY STAFF PRESENT: Rebekah Kik (Director of City Planning & Economic Development); Joy Hills (Program Assistant); Jamie McCarthy (Development Coordinator); Antonio Mitchell (Development Coordinator); Joe Agostinelli (Economic Development Consultant)

Meeting was called to order at 7:30AM by Chair Patti Owens

MOTION TO EXCUSE ABSENT MEMBERS: Ms. Troff moved to excuse the absent members; supported by Mr. Hess. Motion approved by voice vote unanimously.

APPROVAL OF AGENDA: Ms. Troff moved the approval of the agenda; supported by Mr. Escamilla. Motion approved by voice vote unanimously.

APPROVAL OF THE MINUTES OF MARCH 21, 2019: Mr. Phillips moved the approval of the minutes; supported by Mr. Brown. Motion approved by voice vote unanimously.

APPROVAL OF THE MINUTES OF APRIL 18, 2019 SPECIAL MEETING: Ms. Troff moved to approve the minutes of the April 18, 2019 special meeting; supported by Mr. Brown. Motion approved by voice vote unanimously.

NEW BUSINESS

1. Presentation from PlazaCorp – 3400 & 3406 Stadium Drive

Mr. Andy Wenzel from PlazaCorp came to give a presentation for a potential commercial project for the old Wayside Bar property located at 3406 Stadium Drive. Mr. Wenzel informed the board of the challenges presented with the property including significant site utility work, and other eligible expenses.

All questions were answered to the board's satisfaction.

2. Consideration of a recommendation to approve a letter of support on behalf of the BRA to the City Assessor in regards to the project proposed for 3400 & 3406 Stadium Drive, and supporting that the properties qualify as functionally obsolete. (ACTION: Motion to approve a letter of support on behalf of the BRA to the City Assessor in regards to the project proposed for 3400 & 3406 Stadium Drive, and supporting that the properties qualify as functionally obsolete.)

Ms. McCarthy debriefed the board that the City Assessor's office has asked the board to provide a letter of support of the project before qualifying the properties as functionally obsolete as defined by Act 381. All questions were answered to the board's satisfaction.

Mr. Phillips motioned to approve a letter of support on behalf of the BRA to the City Assessor in regards to the project proposed for 3400 & 3406 Stadium Drive, and supporting that the properties qualify as functionally obsolete; supported by Mr. Escamilla. The motion passed 9 in favor, 0 against.

3. Consideration of BRA Board applicants, and volunteer 3-4 members of the BRA as a nominating committee to review the applicants. (ACTION: Motion to volunteer 3-4 members of the BRA to form a nominating committee to review BRA Board applicants.)

Ms. McCarthy opened the discussion to the board to create a nominating committee that would review the applications we have received to replace two of our seats. Ms. McCarthy informed the board that some applicants have been disqualified at this time as the majority of our board members must be City of Kalamazoo residents.

The board expressed that they would like to table this item to allow for more applications to be received, and be reviewed at the next board meeting in June.

4. Reschedule the June 20th BRA meeting due to an event conflict. (ACTION: Motion to cancel and reschedule the June 20th scheduled EDC/BRA meeting.)

Chair Owens opened the discussion asking if the June 20th meeting would have quorum? With the board answering that it would better to reschedule.

A citizen had asked that the meeting be held on June 13th, and the board agreed that time worked for the majority.

Mr. Brown motioned to cancel and reschedule the June 20th EDC/BRA meeting to June 13th; supported by Mr. Schlueter. The motion passed 9 in favor, 0 against.

5. Review of 2 scopes of work from Envirollogic to perform environmental assessments for the properties listed.

Ms. McCarthy went over the scopes of work for the board's knowledge. There would be Phase I environmental work done for all of the properties listed, as well as a potential BEA and Phase II for the 3 properties the BRA purchased from Republic Services on North Street. All questions were answered to the board's satisfaction.

OLD BUSINESS

Ms. Kik asked for additional feedback on the draft Operational and Incentive policies.

Ms. Hills gave an update on the draft Purchasing Policy and BRA Data capture, and that the drafts would be postponed until the June meeting.

Mr. Kneas gave an update that the closing of the 3 Republic Services properties were to happen this week.

COMMUNICATIONS & ANNOUNCEMENTS

None

STAFF UPDATES

None

CITIZEN COMMENTS

None

DIRECTOR'S COMMENTS

None

ADJOURNMENT: 8:45AM

Joy Hills, Program Assistant – Community Planning & Economic Development

Patricia Owens, Chair

INTER-OFFICE MEMO

To: Brownfield Redevelopment Authority Board Members

From: Rebekah Kik: Director of Community Planning & Economic Development
Prepared By: John W. Kneas, Assistant City Attorney

Date: June 11, 2019

Subject: Brownfield Plan Redevelopment and Purchase Agreement

RECOMMENDATION

It is recommended that the BRA adopt the Resolution to approve the attached Brownfield Plan Redevelopment and Purchase Agreement (Agreement), regarding the approximate southerly 6-acre portion of Davis Creek Business Park (DCBP) to Davis Creek Land Development Co., LLC (Developer) and authorize the chair to sign the Agreement and any further documents to complete the sale.

BACKGROUND

The approximate 34 acre site that formerly housed Lakeside Refinery was initially acquired over several years by the city under the delinquent tax reversion program. The property was then transferred to the BRA to redevelop DCBP as a certified business park. To allow for flexibility in redevelopment options (and to avoid the platting requirements of the Land Division Act) BRA and the City became joint owners of DCBP. The goal for DCBP was a mixed-use project (consisting of approximately 9 separate parcels) that integrated business development with sustainable, environmentally-sensitive site design. Since the official opening of DCBP on October 24, 2007, there was little interest by developers in any portion of DCBP. As a result – and to improve marketability – the development standards established in 2008 were rescinded 2017. (At the time staff was discussing a potential project with an aluminum refinishing company that eventually relocated to Battle Creek.)

With the State's new Medical Marihuana Facilities Act and the corresponding city ordinance, interest in DCBP increased. The commitments from the Developer – which includes Seven Point Supply, LLC (Seven Point) as operator of the medical marihuana facility - and the relevant provisions of the attached Agreement are summarized as follows:

- Redevelop and improve the 6.0-acre parcel in phases by initially constructing a building of approximately 19,500 square feet on the northerly portion of the property for purposes of operating a medical marihuana facility to cultivate and process medical marihuana (Project). (The site plan which the City has approved shows the location of the future building expansions all of which are part of the medical marihuana operations.)
- The capital investment for the Project is approximately \$1,000,000 and will upon completion result in the creation of approximately 15 FTE jobs.

- Purchase Price for the 6 acres is \$120,000, subject to adjustment based on final survey acreage on basis of \$20,000/acre. (This is same price Harbor Farms Real Estate, LLC paid for the northerly 4-acre parcel.)
- BRA is not committing to providing any incentives to Developer; any consideration to reimburse Developer for eligible activities is dependent upon Developer providing, at its cost, a pro-forma in sufficient detail for a financial analysis whether the Project's viability will require a commitment by BRA to capture tax increment revenues to reimburse Developer for its Eligible Costs. (The cost of the methane liner required under the building is a key factor in the analysis.)
- BRA can terminate the Agreement if the requisite license and permit is not obtained by the closing date.
- Since City is joint owner the City Commission will also need to approve the Agreement.

ATTACHMENTS

Resolution

Brownfield Plan Redevelopment and Purchase Agreement

Map

**BROWNFIELD PLAN
REDEVELOPMENT AND PURCHASE AGREEMENT**

This Brownfield Plan Redevelopment and Purchase Agreement (“Agreement”) is entered into effective as of the date of the last signature below (the “Effective Date”) among Davis Creek Land Development Co., LLC (“Owner”), a Michigan limited liability company, whose address is 107 West Michigan Avenue, Suite 500, Kalamazoo, Michigan 49007, Seven Point Supply, LLC (“Seven Point”), a Michigan limited liability company, whose address is 1210 Crown Street, Kalamazoo, Michigan 49006 the City of Kalamazoo (“City”), a Michigan municipal corporation, and the City of Kalamazoo Brownfield Redevelopment Authority (“BRA”), a Michigan public body corporate, whose addresses are 241 West South Street, Kalamazoo, Michigan 49007. For purposes of this Agreement all references to “Developer” shall collectively include Owner and Seven Point; and all references to “Seller” shall collectively include the City and BRA.

RECITALS:

A. BRA and the City have determined that brownfield redevelopment constitutes the performance of an essential public purpose.

B. In 2001 and 2002 BRA obtained title, under the delinquent tax foreclosure process and under quit claim deeds from City and the State of Michigan recorded, respectively, at Document No. 2001-014902 and 2002-033935, parcels of real property in the City located at 2805 East Cork Street and 3119 East Cork Street. The parcels were subsequently combined into one 32+ acre parcel with an address of 2805 East Cork Street and Parcel No. 06-25-396-002 (the “Total Property Parcel”). BRA added the City as a joint tenant for the Total Property Parcel by a quit claim deed recorded at Document No. 2008-028198. Further, Seller established the Total Property Parcel as a certified business park known as Davis Creek Business Park (“DCBP”).

C. Access to DCBP is through Full Circle Drive, accepted and dedicated as a public street by the City under a resolution and quit claim deed, respectively, recorded at Document No. 2009-038722 and Document No. 2009-038723.

D. The City established the BRA and has adopted a Revised Brownfield Plan; the current version is the Fourth Amendment to Revised Brownfield Plan (“Revised Plan”), pursuant to the provisions of PA, 1996, Act 381, being MCL 125.2651, et seq., (“Act 381”). The BRA and the City have designated certain properties, with conditions of environmental contamination, blight or functional obsolescence, as appropriate sites for redevelopment and inclusion into the Revised Plan. Accordingly, BRA has determined that the Total Property Parcel qualifies as “eligible property” under the terms of Act 381 and will recommend to the City Commission to add the Total Property Parcel to the Revised Plan.

E. Owner intends to redevelop and improve the southerly approximately six-acre portion of DCBP by initially constructing one building approximately 19550 square feet (“Phase 1”), and by making certain site improvements for purposes of operating a

medical marihuana facility to cultivate and process medical marihuana (the "Project"). The capital investment for Phase 1 of the Project is approximately One Million and 00/100 Dollars (\$1,000.000.00).

F. Owner intends to lease the Property to Seven Point and Seven Point will own and operate the medical marihuana facility on the Property. Seven Point will create approximately 15 full time equivalent ("FTE") jobs for Phase 1 of the Project. The principal owners of Owner and Seven Point are the same individual(s) or entities.

G. To complete Phase 1 of the Project, Owner will incur, under Act 381, Eligible Costs for Eligible Activities. Those Eligible Activities may include demolition, site preparation, infrastructure improvements or environmental activities to satisfy due care obligations, all of which may require the services of various contractors, engineers, environmental consultants, attorneys and other professionals. However, as of the Effective Date, Owner has represented to Seller that it does not intend to request reimbursement for its Eligible Costs from BRA under the Revised Plan pursuant to Act 381. Therefore, nothing in this Agreement commits or requires BRA to capture tax increment revenues ("TIR") to reimburse Owner for its Eligible Costs pursuant to the Revised Plan. If within the Environmental Due Diligence Period (as defined in Paragraph 12) Developer requests that BRA capture TIR in support of this Project, BRA's approval of that request is subject to Paragraph 13 below.

H. Seller believes that the sale of the Property (as defined below) and the completion of this Project will enhance the redevelopment of the remaining portion of DCBP.

I. Developer and Seller desire to enter into this Agreement for the mutual benefit of both parties, subject to the following terms and conditions.

NOW, THEREFORE, the parties agree as follows:

1. RECITALS: The above recitals are acknowledged as true and correct, and are incorporated by reference into this paragraph.

2. DESCRIPTION OF THE PROPERTY: The southerly approximate six-acre portion of DCBP that is the subject of this Agreement is located in the City and County of Kalamazoo, State of Michigan, and is more fully described and depicted on Exhibit A attached and incorporated as part of this Agreement ("Property"). For the purposes of this Agreement, the Property shall include, if applicable, all improvements, fixtures, easements, hereditaments, and appurtenances associated with the real estate described on Exhibit A. If between the Effective Date and Closing an updated survey is completed to reflect any needed adjustments to the western boundary line of the Property, the legal description and depiction of the Property from the updated survey will replace Exhibit A.

3. THE REVISED PLAN: The Revised Plan, as it relates only to this Property will be attached as Exhibit B and incorporated as part of this Agreement upon receipt or

notification from the State of Michigan that Developer has been approved for a license to operate a medical marihuana facility on the Property. To the extent provisions of the Revised Plan or this Agreement conflict with Act 381, Act 381 controls.

4. CONSIDERATION AND OPTION: Owner will purchase the Property from Seller for One Hundred Twenty Thousand and 00/100 Dollars (\$120,000) ("Purchase Price"), and other good and valuable consideration as set forth in this Agreement. However, the Purchase Price shall be increased or decreased on a pro-rata basis after the actual size of the Property is determined by the updated survey based on the agreed formula of \$20,000/acre. Upon fulfillment of the terms and conditions of this Agreement, Seller will convey the Property by covenant deed to Owner simultaneously upon receipt of the Purchase Price.

5. *TITLE INSURANCE*: Within fourteen (14) days following the Effective Date, at Seller's expense, Owner will obtain a title commitment for the Property issued by a title insurance company ("Title Company") (with knowledge that the Property will be used for a medical marihuana facility) ("Title Commitment") for an owner's title insurance policy insuring Owner in the amount of the Purchase Price, without the standard printed exceptions and in the latest form approved by the American Land Title Association. Seller shall provide any surveys, affidavits and certificates required by Title Company for Title Company to issue the title policy without exceptions or with additional endorsements (the "Title Policy"). Owner is responsible for paying the added premium charged for a policy without exceptions and with any additional endorsements.

6. *SURVEY*: Owner has had the Property surveyed by a registered land surveyor; and prior to Closing Owner will have the survey updated to confirm the western boundary line of the Property so that Seller retains ownership of the stormwater management system (including the area for an access road) that serves DCBP and is adjacent to the Property. Seller will provide Owner with any topographical and boundary surveys of the Property or DCBP that it has in its possession. (All surveys, including any subsequently updated survey, regarding the Property are individually and collectively referred to as a "Survey"). The legal description of the Property set forth in the Title Commitment shall conform exactly to the legal descriptions in the Survey and the Survey shall contain such detail from the ALTA/ACSM Schedule A Table as Owner deems required and shall show all matters set forth on Schedule B-2 of the Title Commitment.

7. *DEFECTS*: Owner shall notify Seller within twenty (20) days after Owner's receipt of the last dated version of the Title Commitment, legible copies of all documents listed in the Title Commitment as exceptions, and any Survey (the "Review Period"), if there are any unacceptable issues, as determined in Owner's sole and absolute discretion ("Defects") regarding the Property for which City is responsible. The items contained in the Title Commitment or the Survey to which Owner does not object during the Review Period are considered permitted exceptions (the "Permitted Exceptions"). If Owner notifies Seller of Defects prior to the expiration of the Review Period, Seller has ten (10) days after receiving that notice (the "Cure Period"), within which Seller may (but is not required to) cure or remove such objection or obtain title insurance against the

objectionable condition in a manner acceptable to Owner, in Owner's sole and exclusive judgment. Any lien, encumbrance or defect arising from any mortgage, tax lien or assessment if not sooner eliminated by Seller, shall be paid from the closing proceeds.

If Seller fails either to cure or remove a Defect or obtain such title insurance to the reasonable satisfaction of the Title Company and Owner prior to the expiration of the Cure Period, Owner may either terminate this Agreement without liability or waive that objection and accept the condition of title as it then is. If, after the expiration of the Cure Period, Owner fails to notify Seller that it has elected to terminate this Agreement, then Owner shall have waived its objections regarding the Defects and shall have accepted the condition of the title as set forth in the Title Commitment and the Survey as Permitted Exceptions (subject to the payment from the closing proceeds necessary to discharge any mortgage, tax lien, or the lien of any assessment) and proceed to Closing.

On the Closing Date, Seller will cause the Title Company to issue to Owner, at Seller's expense, the Title Policy. The Title Policy shall insure title to the Property in the amount described above, without standard exceptions, but subject to the Permitted Exceptions. Seller shall cooperate with the Title Company and deliver any owner's affidavits, documents or instruments to it to facilitate the removal of the standard exceptions from the Title Policy.

Seller agrees not to take any action between the time of execution of this Agreement and the closing that will cause any lien or encumbrance to the Property.

8. *INSPECTION*: Owner and its agents, consultants, and designees ("Owner's Agents") may from time to time inspect the Property prior to the Closing Date, and may enter the Property to perform the inspections referenced in this Agreement. Upon execution of this Agreement by both parties, Seller shall provide to Owner, or make available for review by Owner or Owner's Agents, copies of the following documents to the extent that they are in Seller's possession or control ("Seller Documents"): (i) all wetlands, and fill permits, zoning variances and approvals, and environmental documents with respect to the Property; (ii) any prior title commitments or surveys of the Property; (iii) any environmental reports or assessments in the possession of the Seller; (iv) any notices with respect to the Property received from a governmental agency within the five-year period preceding the date of this Agreement; and (v) all leases, licenses, maintenance and other contracts or documents affecting the Property, specifically including those documents regarding the development of DCBP following Seller's ownership of the Total Property Parcel.

9. *SELLER'S REPRESENTATIONS AND WARRANTIES*: Seller, to the best of its knowledge, represents and warrants to Owner, as of the date of this Agreement and until the closing date, as follows:

A. There are no pending or threatened condemnation proceedings against any part of the Property;

B. There are no claims, litigation, proceedings, inquiries, investigations, or disputes pending or threatened regarding the Property;

C. Subject to Paragraph 24, the Agreement for Conservation Easement and the Grant of Easement between BRA and Michigan Department of Environmental Quality recorded, respectively, at Document No. 2006-041675 - as subsequently corrected in Document No. 2006-045115- and at Document 2008-002550, the Property is free and clear of any known violations of applicable federal, state and local laws, ordinances, orders, codes, rules, regulations, building and use restrictions, and other legal requirements (collectively, "Applicable Laws");

D. The persons signing this Agreement on behalf of Seller have full power and authority to enter into this Agreement, and to perform, or through performance by City employees who assist BRA, all of Seller's obligations under this Agreement;

E. Except as noted in the above Subparagraph C, there are no contracts, written or oral, which affect the Property or the Total Property Parcel in any manner other than this Agreement; and

F. There is no pending or proposed special assessment affecting or which may affect any part of the Property.

Without waiving any rights under governmental immunity, Seller shall hold Owner harmless from and against any loss, including, without limitation, reasonable attorney fees, incurred by reason of Seller's breach of any of the above representations and warranties.

10. *CONTINGENCIES*: The obligation of Owner to close on the purchase of the Property is contingent upon Owner's reasonable satisfaction, in Owner's sole opinion, of the following:

A. The results of its investigation that the Property complies with Applicable Laws.

B. The results of all inspections of the Property that Owner has performed (e.g., soil tests, etc.), including environmental due diligence investigations.

C. All representations and warranties of Seller set forth in this Agreement remain true as of the closing date.

D. Seller has timely performed and complied with all its covenants, obligations, and responsibilities under this Agreement.

E. Its review of Seller Documents and the condition, permitted use and development prospects for the Property. Owner shall perform such review, at its

expense, within thirty (30) days after the date that Seller delivers the last of the Seller Documents to Owner.

F. The City has approved the addition of the Property into the Revised Plan, if BRA has approved the capture of TIR to reimburse Owner for its Eligible Costs as detailed in Paragraph 13.

G. Developer has obtained the appropriate license from the State of Michigan and permit from the City to operate a medical marihuana facility. If Developer fails to obtain prequalification for the State license, including any extension granted by the State or City for the license and permit, by the date of closing, Seller, in its sole discretion, may also terminate this Agreement.

If Owner reasonably determines, in Owner's sole opinion, that one or more of the contingencies has not been met, and Owner is not willing to waive such contingency, then Owner's sole remedy is to terminate this Agreement by prompt written notice to Seller. Upon such termination neither Seller nor Developer shall have any further liability to the other under this Agreement.

11. *DEVELOPER COMMITMENTS*: In addition to the payment of the Purchase Price for the Property, Developer agrees that it will complete the following (collectively and individually "Undertakings"):

A. Redevelop Phase 1 on the Property by constructing one building approximately 19,550 square feet and by making certain site improvements to the Property for purposes of operating a medical marihuana facility to cultivate and process medical marihuana. More specifically, Owner shall complete the Project substantially complying with the proposal it presented to the Seller. Subject to matters beyond the reasonable control of Owner (e.g., matters of force majeure, acts of God, failure to obtain governmental approvals, etc.), Owner shall commence construction of the Project within 6 months from the date on which Developer receives the appropriate licenses from the State of Michigan and permits from the City to operate a medical marihuana facility (the "Project Start Date"), and shall Substantially Complete the Project ("Substantially Complete" shall be defined as the date when Developer receives a temporary or final occupancy permit from the City), within 24 months of the Project Start Date ("Completion Date"). The total capital investment for Phase 1 shall be approximately One Million and 00/100 Dollars (\$1,000,000.00) with the creation of an estimated 15 FTE jobs at the Property.

Developer has included in its preliminary site plans submitted to the City proposed and conceptual plans for additional phases for future expansion of Seven Point's operations. If business conditions support such efforts, Developer will begin each phase within 18 months of the Completion Date of Phase 1 and any subsequent phase. However, if Developer has not begun any phase within 3 years of Phase 1 or any subsequent Phase, then Developer is considered in default under Paragraph 19 and BRA may enforce that default under Paragraph

20. Before construction can begin, Developer understands that site plans would be required to be submitted and approved by the City, consistent with the manner of proceeding with the initial phase of construction. All subsequent site plans for any additional phases for the Property will be limited to maintain a maximum impervious coverage of 60%, as the stormwater management system for DCBP is based on this impervious surface maximum (the "Impervious Coverage Limit"). The Impervious Coverage Limit shall survive closing and shall be included in the covenant deed as a restrictive covenant.

B. Make a reasonable effort to work with the City and community employment agencies to hire city residents for new employment opportunities created by the Project, and to encourage the local contracting of construction and site related work; particularly, to review with organizations for employment opportunities through entry employment programs. Regardless of Developer's ability to hire city residents, Developer, and any contractors hired to perform work on the Project, shall follow the City's "Ex-Offender Purchasing" policy regarding hiring new employees who will work on the Project. A copy of this policy is attached as Exhibit D, and Developer will provide a copy of it to any of the contractors prior to performing any work on the Project.

C. Provide any updated conceptual renderings, architectural or engineering drawings or plans for the Project (collectively "Project Plans") to the Seller within a reasonable time after any Project Plan is completed. Any substantial deviation in the Project or Project Plans requires the consent of the Seller, which consent shall not be unreasonably withheld, conditioned or delayed. Final Project Plans or 'As Built' plans shall be submitted to the Seller within 10 days of their completion. Redevelop and improve the Property and complete the Project in compliance with all applicable federal, state and local laws, rules and regulations, specifically to include, without limitation: (i) all applicable requirements under both the Medical Marihuana Facilities Act (Act 281, P.A. 2016, being MCL 333.27101 et. seq., as amended) ("Act 281") and Ordinance No. 1957 of the City's Code of Ordinances ("Ord. 1957"); (ii) building and zoning codes; (iii) site plan review; and (iv) this Agreement and any other agreement that relates to the Property or the Project.

D. Reasonably assist and cooperate with the BRA in providing information that the BRA may require in submitting necessary reports to other governmental agencies, specifically to include all information BRA needs to file annual reports to the State as required under Act 381 and the required information the State needs to approve the 381 Work Plan if Owner has requested BRA to capture school taxes.

E. Assume responsibility for the costs of all utility connections from the property line to the proposed building.

F. Place on the site during construction a development sign provided by City and the BRA to promote the Project and the City and BRA's participation in it. Upon completion of the Project return the sign to City and/or the BRA.

H. Permit BRA to cite to or to use any renderings or photographs of the Project as an example of private/public partnership and brownfield site redevelopment, with Developer's reasonable advance approval as to such photographs and the language used for such citations.

12. *ENVIRONMENTAL ASSESSMENT*: Within thirty (30) days after the Effective Date ("Environmental Due Diligence Period"), Owner may, at its option and own expense, conduct its own environmental due diligence that may result in a Baseline Environmental Assessment ("BEA") within the meaning of Part 201 of the Natural Resources and Environmental Protection Act, Act 451 of 1994 as amended (Part 201). Owner's satisfaction with the results of the environmental due diligence investigation shall be a contingency for closing. Within a reasonable period after the submission of the BEA, or in conjunction with the preparation of the BEA, Owner shall also, at its own expense, prepare a due care compliance analysis within the meaning of Part 201, if one is required pursuant to Part 201.

Owner shall have ten (10) days after receipt of the BEA and the due care compliance analysis, or to the expiration of the Environmental Due Diligence Period, whichever is later, to give written notice to Seller whether or not it is satisfied with these environmental reports. If Owner fails to provide such timely notice to Seller, then Owner is considered to have waived this contingency for closing.

If the Owner notifies Seller that the environmental due diligence investigation reveals unsatisfactory environmental conditions that will unreasonably impact the financial viability for the Project, and Owner and Seller are unable to agree on how to address those environmental conditions to the satisfaction of Owner, in Owner's sole opinion, within fifteen (15) days after Owner's notification, Owner may terminate this Agreement, unless the parties both sign an agreement to extend the time period.

13. *PROJECT PRO FORMA AND FINANCING*: Within the Environmental Due Diligence period under Paragraph 12 and if Owner seeks financial assistance from BRA, Owner shall provide BRA with a Pro Forma for the Project in sufficient detail to allow a third party selected solely by BRA to analyze whether the Project's viability will require a commitment by BRA to capture TIR to reimburse Owner for its Eligible Costs as set forth in Paragraph 14 ("Financial Analysis"). Owner shall pay the cost for the Financial Analysis. While the estimate for the Financial Analysis is Five Thousand and 00/100 Dollars (\$5,000.00), the final cost will be based on third party's determination of the cost in agreement with BRA.

Regardless of whether Owner has requested financial assistance from BRA, Owner shall, prior to the Closing Date, provide information confirming its ability to fund the Project by providing Seller with evidence of that ability. Such evidence may include a lender's financing commitment or personal financial statement. If Owner does not

provide information confirming its ability to fund the Project which is reasonably satisfactory to BRA, the BRA may, in its reasonable discretion, terminate this Agreement.

14. *BRA COMMITMENTS*: Subject to BRA's satisfaction, in its sole and absolute discretion, of the Financial Analysis, BRA agrees to provide, complete or perform the following inducements or tasks to assist Owner towards completion of the Project, including the application of TIR as outlined in Paragraph 15 (collectively and individually "Incentives"):

A. Extend to Owner the benefits outlined in the Revised Plan, subject to the provisions of Act 381. Those benefits include reimbursement for "Eligible Activities", as defined below, from captured TIR detailed in Paragraph 15. These activities are any eligible activity allowed under Act 381, including, but not necessarily limited to, demolition, site preparation (soil removal, grading, filling, etc.), infrastructure improvements, environmental assessment, due care obligations, or environmental response activities; and the services of various contractors, engineers, environmental consultants, attorneys and other professionals retained regarding such activities ("Eligible Activities"). Before undertaking Eligible Activities, Owner should discuss those activities with appropriate City staff prior to incurring such costs.

B. Seller will cooperate and undertake reasonable efforts to assist Developer in obtaining approvals from appropriate state agencies for additional financial assistance for the Project.

C. Provide the Developer with appropriate service agency/employment agency contacts for the identification of city residents as potential employees to interview for employment.

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

15. *TERM OF AGREEMENT*: Under the Revised Plan, BRA shall capture and reimburse Owner that amount of TIR generated from local real and personal property taxes, including school taxes approved by the State of Michigan, allowed by law on the Property, beginning on December 31 in the year Owner has completed the Project under the following conditions:

A. Based on the review of the Financial Analysis, BRA shall determine the amount of and number of years that it will capture TIR for Owner's Eligible Costs. ("BRA TIR Reimbursement")

B. Within twenty (20) days after it receives the Financial Analysis BRA will provide a written itemization to Owner of the BRA proposed TIR Reimbursement

and what Eligible Activities are covered. Owner shall have ten (10) days after receipt of the BRA proposed TIR Reimbursement to notify BRA whether it accepts or rejects the BRA proposed TIR Reimbursement. If Owner fails to notify BRA within the ten (10) day period it is considered to have accepted the BRA proposed TIR Reimbursement. However, Developer shall have the option to terminate this Agreement if it rejects the BRA proposed TIR Reimbursement. The parties may extend the ten (10) day review period by written agreement signed by both parties.

In addition to the above, Developer understands that the BRA is entitled by Act 381 to capture and retain TIR generated by this Project for the following purposes: (i) reimburse itself for the eligible activities it incurred in acquiring and redeveloping DCBP, including the cost of Full Circle Drive (“BRA Eligible Activities”); (ii) payment for certain administrative operating expenses BRA incurred (“BRA Admin Costs”); and (iii) to fund the Local Site Remediation Revolving Fund relating to this Project for an additional term not to exceed five (5) years following the above reimbursement to Owner – subject to any adjustments under Paragraph 18. BRA Eligible Activities and BRA Admin Costs are referred to as “BRA TIF”.

The maximum amount of BRA TIF captured from all the TIR generated by the Project during the above term will not exceed the percentage of the final acreage of Property - as determined by the Survey - to the total acreage of DCBP, minus the combined acreage of the parcel(s) sold to Harbor Farms Real Estate, LLC and the area of the Wetlands under the Conservation Easement. BRA will provide Owner an itemization of BRA Eligible Activities and an estimation of BRA Admin Costs.

16. *REIMBURSEMENT SOURCE:* During the term of this Agreement, and except as set forth in Paragraph 17A below, the BRA shall reimburse the Owner for its Eligible Costs, as limited under Paragraph 15 of this Agreement and the above percentage, from all applicable TIR collected from the real and personal property taxes on the Property.

17. *REIMBURSEMENT PROCESS:*

A. Before March 31 of the year after Owner has completed the Project (and in no event more than 2 years following the Completion Date (“Late Submittal”)) the Owner will submit to the BRA the Eligible Costs Reimbursement Form, attached as Exhibit E (the “Reimbursement Form”), that identifies the costs of each of the Eligible Activities as described in Paragraph 14A. When submitting the Reimbursement Form, the Owner will also provide sufficient documentation of the Eligible Costs incurred including the dates, complete description of the work, proof of payment (accompanied by signed lien waivers from the applicable contractors or subcontractors) and detailed invoices for the costs involved for each Eligible Activity. The Reimbursement Form and the above additional documentation comprise the “Completed Request”.

Owner understands that the Late Submittal of the Reimbursement Form

shall not extend the term of this Agreement under Paragraph 15. Owner assumes all risks that a Late Submittal will result in TIR capture for the Project by BRA of less than the amount as determined under Paragraph 15.

B. The BRA shall review the Completed Request within sixty (60) days after receiving it. If the BRA determines that the documentation submitted by the Owner is not a Completed Request, then Owner shall cooperate in the BRA's review by providing additional documentation of the Eligible Costs as deemed reasonable and necessary by the BRA to complete its review.

C. Before July 31 of the year after Owner completed the Project (and as property taxes are received each subsequent year) after both the summer and winter taxes are captured on the Property, the BRA shall pay approved Eligible Costs to the Owner from such available TIR following the Revised Plan and this Paragraph 17. If there are insufficient TIR available in any given year to reimburse all the Owner's Eligible Costs, as described in Paragraph 14A, then the BRA shall reimburse the Owner only from available TIR. The BRA shall make additional payments, on an annual basis as property taxes are received, toward the Owner's remaining unpaid Eligible Costs during the term of this Agreement. Reimbursement of Eligible Costs is subject to Developer paying the Developer's taxes levied against the Property and the personal property used in the business or operations conducted from the Property.

D. The BRA will reimburse the Owner for Eligible Costs as follows:

Checks shall be payable to:	Seven Point Supply, LLC
Delivered to the following address:	c/o Kyle Barker
(By certified mail or personally)	1210 Crown Street
	Kalamazoo, Michigan 49006

18. *ADJUSTMENTS*: The parties acknowledge that adjustments regarding the amount of TIR paid to Owner may occur under any of the following circumstances:

A. If either a state agency of competent jurisdiction conducting an audit of payments made to the Owner under this Agreement or a court of competent jurisdiction determines that any portion of the payments made to the Owner under this Agreement is unlawful under Act 381, the Owner shall pay back to the BRA that portion of the payments made to the Owner within thirty (30) days of such determination. However, the Owner shall have the right, before any such repayment is made, to appeal on its or the BRA's behalf any such determination made by a state agency or court, and the BRA agrees to cooperate with Owner in any such appeal. If the Owner is unsuccessful in that appeal, the Owner shall repay the portion of payments found to be unlawful to the BRA within thirty (30) days of the date when the final determination is made on the appeal.

B. If during the term of this Agreement Developer successfully petitions the Michigan Tax Tribunal (Tribunal) to lower the assessments levied by the City of

Kalamazoo against the Property or the personal property used in the business operations for tax purposes, the provisions under Paragraphs 14 and 15 may require a redetermination regarding the BRA TIR Reimbursement because of such lower assessments. If such adjusted amount is less than the actual amount of TIR that BRA has already paid to the Owner, Owner shall reimburse BRA the difference between the total amount of adjusted TIR captured under BRA TIR Reimbursement and the amount paid to Owner. Otherwise, any refund due Owner because of the lower assessments is limited only to the amount such refund exceeds the amount of TIR paid to Owner for those years covered by the Tribunal's order.

19. *EVENTS OF DEFAULT*: During the term of this Agreement, any of the occurrences listed below is considered a default ("Event of Default") and shall entitle BRA, at its option and with written notice to Developer, to exercise any of its rights under Paragraph 20:

A. Failure to abide by the time periods or due dates under which Owner commits to perform the Undertakings; including any additional time the BRA elects to provide Owner to cure such default in a written notice.

B. Failure to substantially meet the capital investment, square footage or job creation criteria for the Project as more fully detailed under Paragraph 11A; failure to Substantially Complete the Project in accordance with Project Plans, or to satisfy the requirements set forth in the approved site plan; or failure to substantially fulfill the Developer Commitments under Paragraph 11, or otherwise comply with the terms of this Agreement.

C. Failure by Developer to pay when due all taxes levied against the Property or any personal property owned by Developer in connection with the Project or the Property.

D. Actions by Developer, another entity or governmental unit that negatively impact the financial integrity or viability of the Project, including without limitation:

(i) a judicial foreclosure action or initiation of foreclosure by advertisement to enforce mortgage, lien or other encumbrance against Developer; or

(ii) appointment by a court of a receiver or trustee for Developer; or

(iii) a decree by a court adjudicating Developer bankrupt or insolvent, or for the sequestration of any of its property; or

(iv) the filing of a petition in bankruptcy by or against Developer under the U.S. Bankruptcy Code or any similar statute which is in effect; or

(v) an assignment by Developer for the benefit of creditors or a written admission by Developer of the inability to pay debts generally as they become due.

E. Failure to maintain the maximum 60% impervious coverage on the Property. Developer is responsible at its costs to remove any impervious surface(s) above the 60% maximum coverage.

20. **DEFAULT REMEDIES:** If Developer fails to cure any Event of Default within thirty (30) days (or such additional time as BRA permits) of written notice to Developer, the BRA shall have the option to exercise one or any combination of remedies under this Agreement or otherwise available at law or in equity, including without limitation:

A. To withhold, suspend or rescind reimbursement to Owner for Eligible Costs from TIR under Paragraph 15 until Developer has cured that Event of Default to the satisfaction of BRA. Any action by the BRA shall not under any circumstances extend the time period under the BRA TIR Reimbursement unless specifically approved by BRA.

B. To obtain the immediate rebate of all payments made to Owner for reimbursement of Owner's Eligible Costs that BRA paid through date of the Event of Default.

C. To reimburse BRA or the City for all reasonable costs and expenses, including reasonable attorney fees, incurred by either of them to enforce their rights under this Agreement; and to specifically include the removal of any impervious surface(s) above the 60% maximum.

D. If Developer fails to commence construction of a future expansion as noted under Paragraph 11, it shall pay to Seller, as liquidated damages, an amount based on the remaining undeveloped acres of the Property at \$20,000/acre.

E. To secure any amount owed by Developer to BRA or the City under this Paragraph, BRA has the right to place a lien against the Property in the same manner as delinquent taxes, including accruing interest, penalties and administrative expenses until the lien is fully satisfied.

21. **CLOSING:** The closing of this transaction (the "Closing") shall take place within sixty (60) days of the Effective Date (the "Closing Date"). However, either party shall have the right to extend the Closing Date for an additional thirty (30) days to complete necessary due diligence, to cure any Defect, or to satisfy any contingency by written notice to the other party.

A. At the Closing, Seller shall execute and/or deliver to Owner and shall be otherwise responsible for the following, the delivery of all of which shall be a condition precedent to Owner's obligation to close, any of which conditions Owner may waive in its discretion:

(i) A covenant deed conveying title to the Property in the form satisfactory to Owner's counsel (the "Deed");

(ii) An affidavit pursuant to Section 1445 of the Internal Revenue Code that Seller is not a foreign person or other foreign entity, and setting forth Seller's tax identification number, in form satisfactory to Owner's counsel;

(iii) All conveyances and discharges necessary to confirm unencumbered title to the Property in Owner, except for any Permitted Exceptions;

(iv) Seller shall pay all state, county and other transfer taxes payable with respect to the Deed to be delivered pursuant to this Agreement and shall pay the Title Policy premium as noted in Paragraph 5 and one-half (1/2) of the closing costs charged by the Title Company; and

(v) The closing statement and such other documents or activities as shall be reasonably requested by Owner or the Title Company or required by law to consummate the Closing and permit the issuance of a policy of title insurance insuring Owner's interest in the Property as provided above.

B. At the Closing, Owner shall execute and/or deliver to Seller and shall be otherwise responsible for the following:

(i) The Purchase Price shall be paid in full by wire transfer of cashier's check, with appropriate adjustments for any prorations required hereunder;

(ii) Owner shall pay the cost of any special title insurance endorsements requested by Owner, and one-half (1/2) of the customary closing costs; and

(iii) The closing statement and such other documents or activities as shall be reasonably requested by Seller or the Title Company or required by law to consummate the Closing.

(iv) Developer has obtained all necessary licenses and/or permits under Act 281 and Ord. 1957 to operate a medical marihuana facility to cultivate and process medical marihuana

22. **POSSESSION:** Owner is entitled to sole and exclusive possession upon payment of the Purchase Price and receipt of the covenant deed to the Property.

23. **TAXES:** The Property is currently exempt from property tax; this status will change on December 31 following the Closing Date. Developer shall pay all real and personal property taxes that are due after the Closing Date. Seller shall pay any assessments levied against the Property prior to the Closing Date, and Owner will pay when due any assessment, or annual installment, that is levied or due against the

Property after the Closing Date.

24. *ENVIRONMENTAL CONCERNS*: Owner, having the opportunity to inspect and test the Property, accepts the Property in “as is/where is” condition. Seller makes no representations regarding environmental hazards or liabilities on or relating to the Property. Owner acknowledges that Seller may not be under an obligation to perform any cleanup or other remedial action.

25. *TIME IS OF THE ESSENCE*: The parties agree that in all matters relating to this Agreement, time is of the essence.

26. *NOTICES*: Any notice or other communication required under this Agreement shall be in writing, signed by an authorized representative, and delivered either (i) in person or (ii) by certified or registered mail, with return receipt requested, or (iii) by a recognized overnight or daytime courier or (iv) first class mail, with proper postage or charges fully prepaid, and properly addressed to the following:

Developer:
Seven Point Supply, LLC
c/o Kyle Barker
1210 Crown Street
Kalamazoo, MI. 49006

w/ copies to:
Darren Malek, Esq.
Veritas Law Group
Suite 500
107 West Michigan Avenue
Kalamazoo, MI 49007

Seller:
City of Kalamazoo
c/o James K. Ritsema, City Manager
241 West South St.
Kalamazoo, MI 49007

w/copies to:
The Office of the City Attorney
241 West South St.
Kalamazoo, MI 49007

Notice is considered to have been given on the date of delivery, if delivered personally; on the date of mailing, if sent with all postage prepaid by first-class mail, certified or registered mail with return receipt requested, or over-night mail; or on the date of delivery to a recognized overnight or daytime courier. Each party shall notify the other of any changes in the person or the address for the receipt of notices or other communication.

27. *CONDEMNATION, FIRE, OR OTHER CASUALTY*: Seller shall promptly notify Owner of any impending or actual condemnation proceedings against the whole or any part of the Property of which Seller has actual notice or any fire or other casualty to the Property. If any condemnation proceedings are initiated or threatened against the Property, or if the Property is damaged because of fire or other casualty prior to the closing (to the extent Owner is unable to complete the Project as contemplated under this Agreement), Developer shall have the right:

A. To terminate this Agreement by a written notice to Seller within ten (10) days after receipt of notice of such proceedings or damage, in which case neither

Seller nor Developer shall have any further liability to the other under this Agreement; or

B. To proceed to closing as provided in this Agreement, agreeing to take the Property in its then-current condition, in which case Owner is entitled to receive all the condemnation or insurance proceeds payable as a result of such condemnation or such damage. BRA shall assign its rights to such proceeds to Owner at closing.

28. *STORM WATER MANAGEMENT SYSTEM:*

A. Developer understands that the stormwater management system ("System") was designed to handle the stormwater runoff as if the buildable areas of DCBP, including Full Circle Drive, were fully developed. Among the Seller Documents that Developer will or has received are the original conceptual layout of the developable parcels, the System design and maintenance related documents prepared by Fishbeck, Thompson, Carr and Huber and O'Boyle, Cowell, Blalock and Associates, copies of the Conservation Easement and Grant of Easement.

B. Because of the responsibilities Seller has under those easements, it will continue to own and maintain the System. To maintain the System, Seller will construct at its sole cost an access road as depicted in the site plan approved by the City. To assist in the maintenance of the System the City will assess Owner its pro-rata share of the future costs involved maintaining the System. The formula is determined by the acreage of the Property as a percentage of the then total developed acreage of DCBP, including Full Circle Drive and parcels owned by Harbor Farms Real Estate, LLC or others, from which stormwater is discharged into System. Owner will allow Seller access to a portion of the Property as necessary to conduct the maintenance operations. Seller and Developer will sign a separate Maintenance Agreement and Access Easement by the Closing Date.

29. *GOVERNING LAW:* This Agreement is governed by Michigan law.

30. *BINDING EFFECT/THIRD PARTIES:* This Agreement is binding on and shall inure to the benefit of the parties to this Agreement and their respective successors. The parties do not intend to confer any benefits on any person, firm, corporation, or other entity which is not party to this Agreement.

31. *WAIVER:* No failure of either party to complain of any act or omission on the part of the other party, regardless how long such failure continued, is considered as a waiver by that party to assert any of its rights under this Agreement. And no waiver by either party, expressed or implied, of any breach of any provision of this Agreement is considered a waiver or a consent to any subsequent breach of this same or other provision.

32. *AUTHORIZATION*: Each party represents and warrants to the other that this Agreement and its execution by the individual on its behalf are authorized by the board of directors or other governing body of that party.

33. *ENTIRE AGREEMENT*: This Agreement and the exhibits to this Agreement contain all of the representations and statements by Seller and Developer to one another and express the entire understanding between them regarding this transaction. All prior and contemporaneous communications concerning this transaction are merged in and replaced by this Agreement.

34. *MISCELLANEOUS*:

A. The provisions under Paragraphs 16 through 21 related to the BRA TIF Reimbursement will only apply if the BRA TIF Reimbursement is approved by BRA and becomes a part of this Agreement.

B. If within 5 years of the Closing Date, Developer elects to sell any portion of the Property that remains undeveloped (“Undeveloped Area”) or receives a good faith bona fide offer of purchase for the Undeveloped Area, BRA shall have the option to purchase the Undeveloped Area at the appraised value if Developer elects to sell or to match the purchase price of the bona fide offer. Developer and BRA shall in good faith agree upon an appraiser if they are unable to mutually agree on the value of the Undeveloped Area. To match a bona fide offer, Developer shall provide the written offer to BRA within 10 days of receiving it. BRA shall have 30 days after it receives the bona fide offer to notify Developer of its decision on whether or not it will purchase the Undeveloped Area. This right-of-first refusal shall be included in the covenant deed.

C. The representations, warranties, and provisions that require performance subsequent to closing set forth in this Agreement shall survive the closing.

D. This Agreement may be signed in counterparts, which together shall comprise a single agreement. However, the Agreement is not effective until both parties have signed it in compliance with Paragraph 32.

E. Developer understands that any, including electronically transmitted, document or communication submitted by Developer to Seller may meet the definition of a public record and therefore subject to release to the public under the Freedom of Information Act, Act (“FOIA”) (MCL 15.231 et. seq.). Consequently, unless specifically allowed under FOIA, Developer will not raise a claim of trade secrets or other privilege or exception under FOIA as it relates to this Agreement or such documents or communications.

F. If Developer, or any affiliate or subsidiary, shall cease to use the Property for the purposes contemplated by the Project, without acceptable alternative uses reasonably approved by the Seller, Developer agrees to continue to maintain the Property in an attractive manner. Furthermore, Developer agrees to

comply with applicable law with respect to environmental releases for which it is responsible.

G. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions. Words used throughout this Agreement shall have their common meaning, except any word or term that is specifically defined in Act 381 shall follow that definition or meaning.

Dated: _____, 2019

CITY OF KALAMAZOO BROWNFIELD
REDEVELOPMENT AUTHORITY

By: _____

Patricia M. Owens

Its: Chair

Dated: _____, 2019

CITY OF KALAMAZOO

By: _____

James K. Ritsema

Its: City Manager

Dated: _____, 2019

DAVIS CREEK LAND
DEVELOPMENT CO., LLC

By: _____

Kyle Barker

Its: Managing Member

Dated: _____, 2019

SEVEN POINT SUPPLY, LLC

By: _____

Kyle Barker

Its: Managing Member

**EXHIBIT A
Property**

See attached Exhibit “A”

Exhibit B
Brownfield Revised Plan

**Exhibit C
Additional Property**

See attached Exhibit “C”

Exhibit D
Ex- Offender Purchasing Policy

See attached Exhibit “D”

Exhibit E
Eligible Costs Reimbursement Form

To be provided by BRA for review by Developer.

**CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY**

**A RESOLUTION APPROVING BROWNFIELD PLAN
REDEVELOPMENT AND PURCHASE AGREEMENT**

Minutes of a regular meeting of the City of Kalamazoo Brownfield Redevelopment Authority held on June 13, 2019, at 7:30 o'clock a.m., local time, at the City Hall, 241 West South Street, Kalamazoo, Michigan.

PRESENT, Members:

ABSENT, Members:

Recitals:

- A. Davis Creek Business Park (DCBP) has gone undeveloped since it was established in 2007 with little interest shown by developers or other businesses seeking to purchase a parcel of land within DCBP.
- B. City staff recently received an interest from Davis Creek Land Development Co., LLC, (Owner) in purchasing an approximate 6-acre parcel south and west of Full Circle Drive (Property). Owner will lease the Property to Seven Point Supply, LLC (Seven Point). Owner and Seven Point have the same principal owners and are collectively referred to under the Brownfield Plan Redevelopment and Purchase Agreement (Agreement) as 'Developer'.
- C. City staff negotiated the Agreement, which the Board of Directors has reviewed.
- D. The City of Kalamazoo (City) is a joint tenant with the City of Kalamazoo Brownfield Redevelopment Authority (BRA). The City will also need to approve the Agreement.

THEREFORE, IT IS RESOLVED as follows:

- 1. The Brownfield Plan Redevelopment and Purchase Agreement (Agreement) with Davis Creek Land Development Co., LLC and Seven Point Supply, LLC regarding redevelopment and the purchase of that approximate 6-acre portion of DCBP, depicted in Exhibit A, for \$120,000 - increased or decreased on a pro-rata basis after the actual size of the Property is determined by the survey based on \$20,000/acre - is approved.

2. The chair is authorized to sign the Agreement and any other document necessary to effectuate the completion of the transaction contemplated by it, with the authority of those city staff members granted under the Limited Power of Attorney dated February 15, 2018 to sign the documents as detailed in that document.
3. The closing on the sale and the transfer of the Property is contingent on the City of Kalamazoo approving the Agreement.

The above resolution was offered by _____ and supported by _____.

AYES, Members:

NAYS, Members:

ABSTAIN, Members:

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City of Kalamazoo Brownfield Redevelopment at a regular meeting held on June 13, 2019. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976). Minutes of the meeting will be available as required by the Act.

Joy Hills, Recording Secretary

Purchasing Policy DRAFT

OBJECTIVE:

To establish procedures that the Brownfield Redevelopment Authority and staff will use to purchase supplies, goods, equipment, services, construction, capital improvements, and professional services in order to promote effective and efficient public purchasing.

RELATION TO CITY OF KALAMAZOO PURCHASING MANUAL

Unless otherwise stated, the Brownfield Redevelopment Authority will follow the procedures established in the City of Kalamazoo Purchasing Manual. Any changes made to the purchasing manual in regard to purchasing thresholds for required competition and approval authority will carry through to corresponding changes in the BRA purchasing policy.

REQUIRED COMPETITION for Most purchases

COST OF PURCHASE	TYPE OF COMPETITION
\$1 - \$3,000	Staff discretion
\$3,001 - \$25,000	Staff obtains at least three quotes, providing written documentation, at a minimum, for the low recommended quote
\$25,001 - \$50,000	Staff may work with Purchasing Division to obtain quotes, with staff providing specifications
\$50,001 and over	Purchasing Division obtains formal sealed bids, in the form of Invitation for Bids, Request for Proposals, Request for Qualifications or Request for Information, with staff providing specifications

COMPETITION FOR PROFESSIONAL SERVICES

As established in the Purchasing Manual, Professional Services costing less than \$25,000 can be purchased on an informal basis. Three quotes are not required, but a professional services memo will be prepared, providing

1. The type of services required
2. An explanation of the qualifications of the chosen firm for this specific purchase
3. Other firms considered for this service, if any

Professional Services over \$25,000 will be obtained through a Request for Proposals or Request for Qualifications process.

PURCHASE APPROVAL AUTHORITY

Purchases costing up to \$50,000 may be approved by the Community Planning and Economic Development Director or the Director's designee. Purchases over \$50,000 will be presented to the BRA Board for approval. The \$50,001 threshold corresponds to the cost that requires City Manager approval in the Purchasing Manual and will be increased or decreased as applicable to maintain BRA Board approval at the same level as City Manager approval.

EXCLUSION OF REAL ESTATE PURCHASES

This Purchasing Policy does not apply to Real Estate purchases. Those purchases will be guided by applicable laws and land acquisition policies.

DRAFT