



# **Agenda**

## **Regular Meeting of the City Commission**

City of Kalamazoo

**Monday, June 1, 2015**

**7:00 p.m.**

**City Commission Chambers – 241 West South Street**

**A. CALL TO ORDER/ROLL CALL**

**B. OPENING CEREMONY**

1. Invocation: **Pastor Nathan Dannison, First Congregational Church**
2. Pledge of Allegiance
3. Introduction of Guests
  - a. Presentation by the Westwood Garden Club on Renovations at the Riverside Cemetery Veterans Memorial
4. Proclamations
  - a. Historic Preservation Month, May 2015

**C. ADOPTION OF FORMAL AGENDA**

**D. COMMUNICATIONS**

1. [Calendar of Upcoming Meetings](#)

**E. PUBLIC HEARINGS**

**F. CONSENT AGENDA**

**(Action: Motion to approve items “1-9”, hold items “10 and 11” until June 15, 2015, and authorize the City Manager to sign all documents on behalf of the City)**

1. [Approval of a two-year contract extension with KAR Laboratories, Incorporated for analytical testing services for a total amount not to exceed \\$135,000.00.](#)
2. [Approval of two-year contract with Omni Materials, Incorporated to purchase powdered activated carbon in the amount of \\$1,760,000.](#)
3. [Adoption of a RESOLUTION confirming the 2015 Assessment Roll.](#)
4. [Adoption of a RESOLUTION approving the request of the Downtown Development Authority to levy a tax rate of 1.9638 mills.](#)

5. Adoption of a RESOLUTION supporting the development of a non-motorized trail to connect the cities of Kalamazoo and Grand Rapids and the communities in between.
6. Adoption of a RESOLUTION designating the polling facility location for Precinct 12 to be used during the election on August 4, 2015 and for each election thereafter.
7. Adoption of the 2015 Region 5 Bomb Response Plan.
8. Acceptance of a grant in the amount of \$80,000 from the Irving S. Gilmore Foundation to rehabilitate former Public Safety Station 5 into a community resource center.
9. Approval of the minutes from the City Commission meetings on May 18, 2015.
10. Approval of the purchase of 1310 Bank Street from Abundant Faith Church COGIC at a cost not to exceed \$130,000 for the expansion of the Kalamazoo Farmers' Market. *(Hold until June 15, 2015)*
11. Approval of the sale of Eastern Hills Golf Course. *(Hold until June 15, 2015)*

#### **G. REGULAR AGENDA**

1. Adoption of a RESOLUTION enacting the following changes to City Commission policies so as to be compliant with legislative changes in the Freedom of Information Act (FOIA) which become effective July 1, 2015: 1) approving revised City Commission Policy # 45.1 (FOIA Procedures & Guidelines); 2) repealing existing City Commission Polices ## 45.1 (FOIA Charges), 45.2 (Procedures for Processing Release of Public Records) and 45.4 (FOIA Appeals) along with Resolutions 97-54, 97-54a, and 08-89; and 3) approving the proposed *Written Public Summary of FOIA Procedures & Guidelines*. **(Action: Motion to adopt the resolution)**

#### **H. REPORTS AND LEGISLATION**

1. City Manager's Report

#### **I. UNFINISHED BUSINESS**

#### **J. POLICY ITEMS**

#### **K. NEW BUSINESS**

**L. CITIZEN COMMENTS**

The "Citizen Comments" portion of the meeting is a time for citizens to make comments; it is not intended to be a forum for debate or a time for question-answer dialogues with the City Commission or staff. In general, Commissioners do not directly respond to speakers during citizen comment periods. At the conclusion of a speaker's remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during "Commissioner Comments."

**M. COMMISSIONER COMMENTS****N. CLOSED SESSION****O. ADJOURNMENT**

### **ADDITIONAL INFORMATION**

Get news, information, and alerts from the City of Kalamazoo. Sign up at [www.kalamazoocity.org/connect](http://www.kalamazoocity.org/connect), follow @KalamazooCity on Twitter, and search for The City of Kalamazoo on Facebook.

Questions regarding agenda items may be answered prior to the meeting by contacting the City Manager's Office at 269.337.8047.

Persons with disabilities who need accommodations to effectively participate in City Commission meetings should contact the City Clerk's Office at 337-8792 a week in advance to request mobility, visual, hearing or other assistance.

Agendas for the regular meetings of the Kalamazoo City Commission are available on the Internet at: [www.kalamazoocity.org](http://www.kalamazoocity.org)

The Kalamazoo City Commission meetings are held on the first and third Mondays at 7:00 p.m. and are shown live on the Public Media Network (channel 190 for Charter customers, channel 99 for U-Verse customers). The meetings are rebroadcast on Tuesdays at 8:00 a.m., Wednesdays, at 1:00 a.m., and Thursdays at 3:00 p.m.

### **GUIDELINES FOR PUBLIC PARTICIPATION AT CITY COMMISSION MEETINGS**

Welcome to the Kalamazoo City Commission meeting, and thank you for your participation in Kalamazoo local government. The City Commission recognizes that citizens who make the effort to attend a Commission meeting often feel passionately about an issue. The following guidelines are not meant to discourage individual expression; rather, they exist to facilitate the orderly conduct of business and to ensure that all citizens who wish to address the City Commission are able to do so in an atmosphere of civility and respect, without fear or intimidation.

1. Out of respect for business being conducted during the meeting, please turn off all cell phones and pagers prior to the start of the meeting.
2. In an effort to maintain order and to allow a respectful discussion, please do not make comments from the audience area. Audience members should also refrain from applause or other audible noise at times not formally recognized as appropriate by the meeting chair.
3. Citizens have opportunities to address the Commission at the following times during a meeting:
  - a. Consideration of Regular Agenda items. Citizens are permitted to speak to the Commission on Regular Agenda and Unfinished Business prior to the City Commission voting, except those votes setting a public hearing. (Note: The Consent Agenda is a list of items proposed for City Commission approval to be voted upon all at one time. This is a time-saving procedure as most Consent Agenda items are housekeeping measures. A citizen may request an item be removed from the Consent Agenda for individual consideration or discussion.) Comments must be germane to the specific item under consideration.
  - b. The Citizen Comment period near the end of the meeting is for comment on Agenda or Non-Agenda items.

4. To address the City Commission, please sign in at the podium near the Clerk's station and then proceed to the podium directly in front of the dais when invited by the meeting chair. Before beginning your comments, please clearly state your name for the record and whether you reside within the city limits. Comments are limited to four minutes.
5. Signs, placards and banners are permitted in Chambers during open meetings but only along the perimeter of the room (side and back walls) and only if they do not obstruct the vision of others.

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If you have any questions, please feel free to contact the City Clerk's Office at 269.337.8792



# **Calendar of Upcoming Meetings**

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City of Kalamazoo

## **City Commission (next 30 days)**

### ***Regular Business Meetings – 7:00 p.m. in the City Commission Chambers***

June 15<sup>th</sup> and July 6<sup>th</sup>

### ***Regular Neighborhood Meetings – 6:00 p.m. in the Community Room at City Hall***

June 15<sup>th</sup>

## **Advisory Boards, Commissions and Committees (next two weeks)**

The **Parks and Recreation Advisory Board** will meet on Tuesday, June 2, 2015 at 5:20 p.m., in the Parks and Recreation Community Room at Mayors' Riverfront Park, located at 251 Mills Street.

The **Planning Commission** will meet on Thursday, June 4, 2015 at 7:00 p.m., in the City Commission Chambers at City Hall.

The **Kalamazoo Historic Preservation Commission** will meet on Tuesday, June 9, 2015 at 7:00 p.m., in the Community Room at City Hall.

The **Friends of Recreation Board** will meet on Thursday, June 11, 2015 at 11:30 a.m., in the Parks and Recreation Community Room at Mayors' Riverfront Park, located at 251 Mills Street.

The **Traffic Board** will meet on Thursday, June 11, 2015 at 4:00 p.m., in the Public Services Conference Room, located at 415 Stockbridge Avenue.

The **Community Development Act Advisory Committee** will meet on Thursday, June 11, 2015 at 6:30 p.m., in the Community Room at City Hall.

The **Zoning Board of Appeals** will meet on Thursday, June 11, 2015 at 7:00 p.m., in the City Commission Chambers at City Hall.

The **Downtown Development Authority** will meet on Monday, June 15, 2015 at 3:00 p.m., in the Community Room at City Hall.



# Commission Agenda Report

City of Kalamazoo

Date: **06/01/15**

Item **F1**

**TO:** Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager

Reviewed By: Sue Founé, Public Services Managing Director *SF*

Prepared By: Shannan Deater, Environmental Services Lab Supervisor *SD*

**DATE:** May 21, 2015

**SUBJECT:** KAR Laboratory Contract for the Purchase of Analytical Testing Services

## RECOMMENDATION

It is recommended that the City Commission approve a two-year contract extension for analytical testing services from KAR Laboratories, Incorporated of Kalamazoo, Michigan for a total amount not to exceed \$135,000.00. The term of this contract will be from July 1, 2015 and expire on or about June 30, 2017. The original contract has the option to renew for two additional two-year extensions. The July 1, 2015 to December 31, 2015 portion of the contract will be in the amount of \$33,750.00. The 2016 portion of the contract would be \$67,000.00 and the 2017 portion of this contract would be \$33,750.00.

## BACKGROUND

The Public Services Environmental Services Laboratory is often required to provide analyses that are beyond its present capacity in terms of available instrumentation or skilled labor. In this situation, it is necessary for the Public Services Laboratory to contract with a commercial laboratory to perform the needed regulatory and process control analytical testing. The services to be provided would include the analysis of drinking water, municipal and industrial wastewater, and residual solids for a variety of organic and inorganic parameters.

Competitive bids were solicited from several area private laboratories in 2012. Following a rigorous selection process that has been successfully used historically, KAR Laboratories, Incorporated was determined to be the lowest responsive bidder to provide these analytical support services.

## COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

## **FISCAL IMPACT**

Funds are budgeted in the 2015 Public Services Department, Environmental Services Division Budget for this contract and will be budgeted in the 2016 and 2017 Public Services, Environmental Services Budgets.

## **ALTERNATIVES**

The most cost effective method to analyze samples for unique parameters is the use of contract laboratory services. This has been determined based on several years of utilizing such services and comparing them to internal costs. Contract laboratory services are needed for the continuation of analytical testing to ensure compliance with all local, state and federal requirements.

## **ATTACHMENTS**

None



# Commission Agenda Report

Date: **06/01/15**

Item **F2**

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, City Manager, ICMA-CM  
Reviewed by: Sue Founé, Public Services Managing Director  
Prepared by: James Cornell, Wastewater Superintendent

Handwritten signature of Sue Founé, Public Services Managing Director.

Handwritten signature of James Cornell, Wastewater Superintendent.

**DATE:** May 18, 2015

**SUBJECT:** Powder Activated Carbon 2-Year Contract

## RECOMMENDATION

It is recommended that the City Commission approve a two-year contract to purchase Powdered Activated Carbon from Omni Materials, Incorporated of Maysville, Kentucky. The two year contract will run from June 1, 2015 through May 31, 2017 for a total amount of \$1,760,000.

## BACKGROUND

The Water Reclamation Plant uses powdered activated carbon as a weighting agent to improve settling and as an adsorption aid to remove trace organics and toxic materials from the waste stream. These and other materials are adsorbed onto the surface of the carbon and removed when a portion of the aeration tank solids are wasted each day.

Carbon is qualified through a three-step process with literature review of technical specifications, two bench scale adsorptivity tests, and the successful feeding and performance in the Water Reclamation Plant. Omni Materials Incorporated bid decreases the current price by \$0.15/pound from \$0.59/pound to \$0.44/pound this represents a 25.5% decrease.

## COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

## FISCAL IMPACT

The Contract will run from June 1, 2015 through May 31, 2017. The 2015 portion of this contract is \$513,333.33 and is available in the adopted 2015 budget. The 2016 portion is \$880,000 and will be included in the 2016 budget.

## **ALTERNATIVES**

The alternative to not approving the recommended contract is not recommended as the KWRP would be without a source of carbon which would result in treatment issues and ultimately, National Pollution Discharge Elimination System (NPDES) permit violations and associated fines.

## **ATTACHMENTS**

None



# Commission Agenda Report

City of Kalamazoo

Date: **06/01/15**

Item **F3**

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, City Manager  
Reviewed By: Thomas Skrobola, Director of Management Services/CFO  
Prepared By: Aaron Powers, City Assessor, Kelli Steinman, City Treasurer  
and Andrew Falkenberg, Deputy Assessor/Treasurer

**DATE:** May 24, 2015

**SUBJECT:** Resolution Confirming the 2015 Assessment Roll

## RECOMMENDATION

It is recommended that the City Commission adopt a resolution confirming the 2015 Assessment Roll.

## BACKGROUND

Section 85 of the City Charter requires the City Commission to confirm the annual Assessment Roll.

Since the enactment of Proposal A, the City Commission is required to confirm both the state equalized value (SEV) and taxable value of the rolls. The SEV represents the assessor's value plus/minus any changes required by the County/State, bringing the total value to 50% of "true cash value" (estimated market value), which represents the State's Constitutional requirements. Furthermore, the taxable value of property, which is used to calculate property tax bills, has been further limited based on property tax caps set by the State Constitution and various State statutes.

The resolution will confirm the annual assessment rolls as reviewed and corrected by the Board of Review, the County of Kalamazoo, and the State of Michigan in the amount of \$1,662,553,952 (SEV) and the total taxable value amount of \$1,564,694,296.

The City Commission is also requested to confirm the amount of taxes to be raised for general operating purposes, solid waste and metro transit. The taxable amount of tax abated properties and the qualified properties (in the Renaissance Zones, Neighborhood Enterprise Zones & Land Bank Properties) are adjusted to reflect an "effective taxable value". The total effective taxable value will be \$1,531,051,943, which compares favorably to the October 2014 estimate of \$1,501,722,595 (which was used to establish the amount of property tax revenue in the Adopted FY 2015 Budget). This change nets a nearly \$700 thousand increase in General Operating tax revenue vs. the Adopted FY 2015 Budget.

The causes of the improvement include the following:

- An increase in Industrial Personal Property values (\$21 million) as reported to the City by property owners in February 2015 (per the typical state-mandated process). Most of this increase is due to new investments in Industrial Personal Property, which will become permanently exempt beginning in 2016 due to the State's reform of Personal Property taxes enacted last year.
- An increase in Utility (Consumers Energy) Personal Property values (\$5 million) reported to the City in February 2015. These will not be impacted by the 2014 reform of Personal Property taxes, and thus should likely benefit the City in subsequent years.
- An increase in Industrial and Commercial real property values (\$5 million), which should likely benefit the City in subsequent years.
- Residential property values are unchanged.

There will be no Headlee rollback (MCL 211.34d) to the 2015 millage rates. The rates as adopted by resolution #15-03 are as follows:

General Operating	19.2705
Solid Waste	1.5500
Metro Transit	.6000

## COMMUNITY RESOURCES CONSULTED

The proposed 2015 Assessment Roll certificates have been provided to the Kalamazoo County Equalization Department, the Kalamazoo City Clerk's Office and the Kalamazoo City Treasurer's Office.

## FISCAL IMPACT

The revenues expected to be collected, after reductions for Tax Increment Financing, are \$28,201,557 for the General Fund, \$2,293,133 for the Solid Waste Fund, and \$893,212 for the Metro Transit Fund for a total of \$31,387,902. The initial general fund revenue in the 2015 budget was calculated on an estimate of the 2015 effective taxable value at \$1,501,722,595. The actual effective taxable value is \$1,531,051,943 (1.95% higher), resulting in an increase in revenue. The changes in tax revenue vs. the Adopted FY 2015 Budget are as follows:

GENERAL FUND	Increase of	\$696,793
SOLID WASTE	Increase of	\$55,595
METRO TRANSIT	Increase of	\$17,865

## **ALTERNATIVES**

There is no recommended alternative. Failure to adopt the attached resolution would be a violation of the City Charter and state law and would prohibit the City Treasurer from issuing tax bills on July 1<sup>st</sup>.

## **ATTACHMENTS**

Resolution

**CITY OF KALAMAZOO, MICHIGAN**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION CONFIRMING THE 2015 ASSESSMENT ROLL**

Minutes of a regular meeting of the City Commission of the City held on June 1, 2015, at 7:00 o'clock p.m. local time, at City Hall.

**PRESENT**, Commissioners:

**ABSENT**, Commissioners:

**WHEREAS**, Section 85 of the City Charter of the City of Kalamazoo requires the City Commission to fully and finally confirm the annual assessment rolls upon completion of the review and correction of said rolls by the Board of Review, the County of Kalamazoo, and the State of Michigan; and

**WHEREAS**, said assessment rolls has been reviewed and corrected by the Board of Review, the County of Kalamazoo, and the State of Michigan:

**NOW, THEREFORE, BE IT RESOLVED**, that the 2015 assessment rolls as reviewed and corrected by the Board of Review, the County of Kalamazoo, and the State of Michigan in the total State Equalized Value amount of \$1,662,553,952 and the total Taxable Value amount of \$1,564,694,269 is hereby fully and finally confirmed.

**BE IT FURTHER RESOLVED**, that the amount to be raised by property taxes for general operating purposes and debt service in the 2015 Budget Resolution is \$28,201,557.

**BE IT FURTHER RESOLVED**, that the amount to be raised by extra millage for solid waste and recycling programs shall be \$2,293,133 pursuant to Public Act 298 of 1917, as amended.

**BE IT FURTHER RESOLVED**, that the amount to be raised by extra millage for the purpose of providing public transportation shall be \$893,212 as authorized by Public Act 55 of 1963, as amended.

The above resolution as offered by \_\_\_\_\_ and supported by \_\_\_\_\_

**AYES**, Commissioners:

**NAYS**, Commissioners:

**ABSTAIN**, Commissioners:

**RESOLUTION DECLARED ADOPTED.**

**CERTIFICATE**

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on June 1, 2015. 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 said Act.

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Scott A. Borling, City Clerk



# Commission Agenda Report

City of Kalamazoo

Date: **06/01/15**

Item **F4**

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, City Manager  
Reviewed By: Thomas C. Skrobola, Management Services Director and  
Chief Financial Officer  
Prepared By: Kelli Steinman, City Treasurer

**DATE:** May 24, 2015

**SUBJECT:** Approval of DDA Tax Levy

## RECOMMENDATION

It is recommended that the City Commission adopt a resolution approving the request of the Downtown Development Authority to levy a tax rate of 1.9638 mills.

## BACKGROUND

The Downtown Development Authority adopted a resolution requesting that the City of Kalamazoo levy the DDA two-mill levy on its behalf. On January 20, 2015, the City Commission approved the 2015 DDA two-mill Budget.

The DDA levy was subject to a Headlee rollback in 2004. The millage rollback occurred as a result of the district's taxable value increasing at a greater rate than the rate of inflation for that year. The rollback permanently reduces the DDA tax levy from 2 mills to 1.9638 mills.

## COMMUNITY RESOURCES CONSULTED

The City Commission conducted public budget deliberations, and both the Downtown Development Authority Board of Directors and the City Commission held public hearings.

## FISCAL IMPACT

The revenue to be generated by the 1.9638 mill levy, after the reduction for Tax Increment Financing, is approximately \$264,263.

## **ALTERNATIVES**

The Commission could choose not to approve the millage. However, the Downtown Development Authority would not be able to collect the revenue appropriated for expenses in the 2014 Downtown Development Authority Budget.

## **ATTACHMENTS**

Resolution to approve the 2014 DDA Tax Levy of 1.9638 mills.

**CITY OF KALAMAZOO**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING THE REQUEST OF THE DOWNTOWN DEVELOPMENT AUTHORITY TO LEVY A 1.9638 MILL TAX ON ALL REAL AND TANGIBLE PERSONAL PROPERTY NOT EXEMPT BY LAW AND AS FINALLY EQUALIZED IN THE DOWNTOWN DEVELOPMENT DISTRICT PURSUANT TO ACT NO. 197 OF THE PUBLIC ACTS OF 1975 FOR FISCAL YEAR 2014.**

Minutes of a regular meeting of the City Commission of the City held on June 1, 2015, at 7:00 p.m., local time, at the City Hall.

**PRESENT**, Commissioners:

**ABSENT**, Commissioners:

**WHEREAS**, the Downtown Development Authority Act, being Act No.197 of the Public Acts of 1975 as amended, authorizes the Downtown Development Authority to levy not more than two mills of tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district, and

**WHEREAS**, the Authority hereby finds and determines that the levying of such tax is necessary to carry out the purposes for which it was created; and

**WHEREAS**, the City of Kalamazoo has approved the levy of said tax for the years immediately preceding to halt property value deterioration and increase property valuation where possible in the business district and to eliminate the causes of that deterioration and to promote economic growth.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Kalamazoo approves the levy of a 1.9638 mill ad valorem tax on all real and tangible personal property not exempt by law and as finally equalized in the downtown district.

**BE IT FURTHER RESOLVED**, that all officials and employees of the Downtown Development Authority of Kalamazoo and the City of Kalamazoo are hereby directed and authorized to take whatever action is necessary and proper to levy the 1.9638 mills for 2015.

The above resolution was offered by \_\_\_\_\_  
and supported by \_\_\_\_\_ .

**AYES**, Commissioners:

**NAYS**, Commissioners:

**ABSTAIN**, Commissioners

**RESOLUTION DECLARED ADOPTED.**

**CERTIFICATE**

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on June 1, 2015. 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 said Act.

\_\_\_\_\_  
Scott A. Borling  
City Clerk



# Commission Agenda Report

City of Kalamazoo

Date: **06/01/15**

Item **F5**

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, City Manager, ICMA - CM  
Prepared by: Sean Fletcher, Parks and Recreation Director *SF*

**DATE:** May 27, 2015

**SUBJECT:** Resolution in Support of West Michigan Non-Motorized Trail

## RECOMMENDATION

It is recommended that the City Commission adopt a resolution in support of the development of a non-motorized trail to connect the major population centers of West Michigan – Kalamazoo and Grand Rapids, and the communities in between.

## BACKGROUND

The City of Kalamazoo has worked cooperatively for many years with the Kalamazoo Parks Foundation/Kalamazoo River Valley Trail to develop many miles of trails in Kalamazoo. A west Michigan non-motorized trail will continue the progress that's already been made by providing more connectivity between Kalamazoo and Grand Rapids. Community Planning and Development staff is currently updating the non-motorized master plan, which will incorporate all forms of non-motorized transportation and provide the framework for a vastly improved, more connected and accessible system for pedestrians and cyclists.

## COMMUNITY RESOURCES CONSULTED

Non-motorized Master Plan

## FISCAL IMPACT

Adopting the resolution has no fiscal impact to the City.

## ALTERNATIVES

There is the alternative to not adopt the resolution, but that is not recommended.

**ATTACHMENTS**

Resolution

**CITY OF KALAMAZOO, MICHIGAN**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION IN SUPPORT OF A WEST MICHIGAN  
NON-MOTORIZED TRAIL**

Minutes of a regular meeting of the City Commission of the City held on \_\_\_\_\_, 2015, at 7:00 o'clock p.m. local time, at City Hall.

**PRESENT**, Commissioners:

**ABSENT**, Commissioners:

**WHEREAS**, in 2014 a citizens group representing residents, trail advocates, non-profits and local units of government from Kalamazoo, Allegan and Kent Counties came together to pursue the development of a non-motorized trail to connect the major population centers of West Michigan, Kalamazoo and Grand Rapids, and communities between.

**WHEREAS**, A connected regional system of non-motorized facilities will help to increase mobility choices, relieve traffic congestion, reduce air pollution and fuel consumption, promote physical activity and healthy lifestyles and improve quality of life.

**WHEREAS**, Kalamazoo County has over 140 miles of on-road and over 50 miles of off-road improved facilities, Allegan and Barry Counties have over 170 miles of paved shoulders of bike lanes, and Kent County a network of over 150 miles off-road improved facilities, as a gap exists between these networks.

**WHEREAS**, non-motorized trails have been proven to have positive impacts on tourism and economic development.

**WHEREAS**, creation of a non-motorized regional trail requires cooperation, coordination, and partnership across municipal and county boundaries.

**WHEREAS**, a Sturgis to Wayland non-motorized route was identified as a regional priority corridor in the *2011 Southwest Michigan Non-Motorized Plan*

**NOW THEREFORE BE IT RESOLVED**, that the Kalamazoo City Commission hereby endorses the efforts of the aforementioned group to seek charitable gifts to complete the visioning and planning of a non-motorized trail to connect Kalamazoo, Allegan, and Kent Counties to benefit the economy, health and fitness of citizens, recreation opportunities, tourism opportunities, the quality of life, education, and the environment.

**BE IT FURTHER RESOVED**, that the Kalamazoo City Commission appreciates and recognizes the efforts of the stakeholders and the generosity and donations provided by citizens, businesses, and foundations that have made the development of the concept of a West Michigan Regional Trail possible for the enjoyment of all regional citizens and visitors.

The above resolution as offered by \_\_\_\_\_ and supported by \_\_\_\_\_.

**AYES**, Commissioners:

**NAYS**, Commissioners:

**ABSTAIN**, Commissioners:

**RESOLUTION DECLARED ADOPTED.**

**CERTIFICATE**

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on \_\_\_\_\_, 2015. 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 said Act.

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Scott Borling, City Clerk



# Commission Agenda Report

City Of Kalamazoo

Date: **06/01/15**

Item **F6**

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** Scott A. Borling, City Clerk

**DATE:** May 29, 2015

**SUBJECT:** Resolution Designating Polling Facility Location

## RECOMMENDATION

It is recommended that the City Commission adopt a RESOLUTION designating the polling facility location for Precinct 12 to be used during the election on August 4, 2015 and for each election thereafter.

## BACKGROUND

Michigan Election Law (MCL 168.662) requires the legislative body of each city to designate and prescribe the places for holding an election in the city and to provide suitable polling places for each precinct located in the city for use at each election.

For many years the City has used Oakwood School as a polling facility. In the fall of 2013 this location became the home of Kalamazoo Public Schools' (KPS) Alternative Learning Program, a short-term alternative for middle school youth that provides students the pro-social skills needed to improve their behavior. Because of the operational needs of this program and recent building renovations, KPS has asked that we find an alternate polling facility for Precinct 12, a request which City Clerk's Office finds both appropriate and necessary. After searching for other locations in, and near, Precinct 12 that would meet the legal and functional requirements to be a polling facility, staff in the Clerk's Office identified Oakwood Bible Church as the best option. This facility, located at 4100 Oakland Drive, has ample parking, a large space for voting, and is ADA accessible.

As Election Division staff considered various facilities and locations, the following factors were taken into consideration: the size and layout of the voting areas; the availability of parking spaces; the proximity of polling facilities to the voters being served; and accessibility of the voting areas within the facilities, especially for individuals with disabilities.

This change will be communicated to affected voters (approximately 1,792) in the following ways. First, the Election Division will send each affected voter a new Voter Identification Card that highlights the polling location change. Second, for the elections

in 2015 and 2016 signs will be posted at Oakwood School directing voters to their new polling facility. Finally, the City's website will be updated so that precinct maps, driving directions, and street guides contain current information.

### **COMMUNITY RESOURCES CONSULTED**

Election Division staff took into consideration their experiences from previous elections and comments from voters and poll workers.

### **FISCAL IMPACT**

#### Noticing Costs

If the changes to polling facilities are approved, approximately 1,792 voters will be sent new Voter ID Cards, at a cost of approximately \$450. The funds for this expense are included in the Election Division's FY2015 Budget.

#### Future Costs

None

### **ALTERNATIVES**

If the attached resolution is not adopted, Oakwood Elementary School at 3410 Laird Avenue will remain the polling facility for Precinct 12. No other alternatives have been identified at this time.

### **ATTACHMENTS**

Resolution

**CITY OF KALAMAZOO, MICHIGAN**

**RESOLUTION NO. 15-**

**A RESOLUTION DESIGNATING THE POLLING FACILITY LOCATION FOR PRECINCT 12  
TO BE USED DURING THE AUGUST 4, 2015 ELECTION AND FOR ALL ELECTIONS  
HELD IN THE CITY OF KALAMAZOO THEREAFTER**

Minutes of a regular meeting of the City Commission of the City of Kalamazoo held on June 1, 2015, at 7:00 o'clock p.m., local time, at the Kalamazoo City Commission Chambers, located at 241 West South Street.

**PRESENT**, Commissioners:

**ABSENT**, Commissioners:

**RESOLVED:** the Kalamazoo City Commission hereby designates Oakwood Bible Church, located at 4100 Oakland Drive, as the polling facility for voting precinct 12 for the election to be held August 4, 2015 and at each election held in the City thereafter.

The above resolution was offered by \_\_\_\_\_ and supported by \_\_\_\_\_.

**AYES**, Commissioners:

**NAYS**, Commissioners:

**ABSTAIN**, Commissioners:

**RESOLUTION DECLARED ADOPTED.**

**CERTIFICATE**

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on June 1, 2015. 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.

\_\_\_\_\_  
Scott A. Borling, City Clerk



# Commission Agenda Report

Date: **06/01/15**

Item **F7**

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, City Manager  
Reviewed by: Jeffrey Hadley, Public Safety Chief  
Prepared by: Ryan Tibbets, Assistant Chief – Fire Administration/Finance

**DATE:** 05/27/2015

**SUBJECT:** 2015 Region 5 Bomb Response Plan

## RECOMMENDATION

It is recommended that the City Commission adopt the 2015 Region 5 Bomb Response Plan and authorize the City Manager to sign all documents pertaining to the proposed plan.

## BACKGROUND

Michigan's Region 5 has three FBI Accredited Bomb Squads with a total of fifteen Certified Bomb Technicians within its borders. Battle Creek City, Berrien County, and Kalamazoo City maintain these squads utilizing local funds for training, equipment, and regulatory mandates on an annual basis.

Events that have taken place around the world since September 11, 2001, and emerging threats expressed by various International Terror groups, has placed many new and challenging responsibilities on Bomb Squads. The threat of Improvised Explosive Devices (IED), Vehicle Born IEDs (VBIED), Person Borne IEDs (PBIEDs), Chemical Hazards, Biological Hazards, Radiological/Nuclear Hazards are raising the level of training and equipment needed to prepare for and respond to IED related incidents.

The three Bomb Squads in Michigan's Region 5 formed a working group, beginning in 2010, to enhance the capabilities of the three squads and fifteen technicians. The group focused on individual technician training needs, squad interoperable equipment shortfalls, and awareness/procedural training for other first responder disciplines. The goal of the working group is to become interoperable within region five, with the Michigan State Police Bomb Squads, and FBI's SABTs. The continued goal is to maintain this interoperability and strengthen this ability to work cooperatively.

Additional goals of this project are to:

- Sustain comprehensive awareness training programs that are being delivered across all first responder disciplines.
- Sustain the capabilities of the squads and technicians through training provided by the FBI and other federal agencies.
- Maintain three interoperable squads that can share technicians and equipment as outlined in the Department of Homeland Security Target Capability List page 337 of 588, the Target Capability List Region 5 Self-Assessment (TCL Explosive Device Response Operations), Michigan Region 5 Regional Homeland Security Strategic Plan Section 2 Goal 1.4 Scenario 1, as well as the National Guidelines for Bomb Technicians.

It was mandated that the three squads develop and sign a Memo of Understanding that reflects the projects goals under guidance from the Regional Board to participate in this project.

It is the focus of the working group to become interoperable within the region. With the support of the grant funds to maintain the regions capabilities to respond to these types of incidents, and give the three governing municipal bodies the ability to continue budgetary responsibility of the teams without experiencing an increase in cost of the enhancements of equipment and training where possible.

## **SUMMARY**

If the City Commission approves the plan, personnel from the City of Kalamazoo Department of Public Safety can continue to work collaboratively with the regional team.

## **COMMUNITY RESOURCES CONSULTED**

Not applicable

## **FISCAL IMPACT**

None

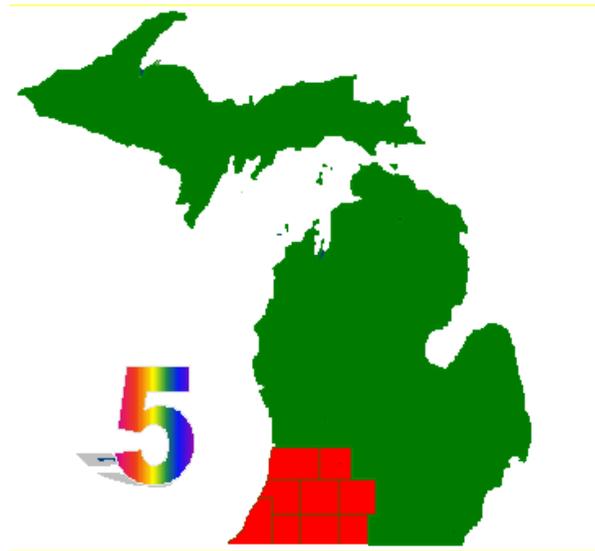
## **ALTERNATIVES**

None

## **ATTACHMENTS**

Memorandum of Understanding  
2015 Region 5 Response Plan

# 5<sup>th</sup> District Regional Homeland Security Planning Board



## Regional Bomb Teams Memorandum of Understanding

June 2015

"This document was prepared under a grant from FEMA's National Preparedness Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's National Preparedness Directorate or the U.S. Department of Homeland Security."

**Memorandum of Understanding for the 5<sup>th</sup> District's Bomb Squads.**  
**City of Battle Creek Police Department, Berrien County Sheriff's Department and**  
**Kalamazoo Department of Public Safety**

**Purpose of Memorandum:** The purpose of this Memorandum is to establish a formal understanding between the City of Battle Creek Police Department, Berrien County Sheriff's Department and the Kalamazoo Department of Public Safety Bomb Squads, herein known as the "Parties" for the deployment and participation within the 5<sup>th</sup> District Homeland Security Region. Pursuant to the Michigan Emergency Management Act, specifically MCL 30.401 et seq. ("the Act"), the Department of Michigan State Police ("MSP"), is charged with coordinating the emergency management activities of county, municipal, state and federal governments for all natural and human-made disasters and emergencies.

To help achieve this requirement, The 5<sup>th</sup> District Regional Homeland Security Planning Board has agreed to help fund squads shortfalls to develop and/or maintain equipment and training interoperability between the squads within the 5<sup>th</sup> District. Explosive Device Response Operations and CBRNE Detection are two of the 37 target capabilities identified on the United States Department of Homeland Security Target Capabilities List for the National Preparedness Goal. The interoperability improvements achieved between the 3 squads with the assistance of this Memorandum will provide an enhanced response capability towards achieving the goals set forth in the Target Capabilities List. This will improve the preparation, prevention and response functions for the health, safety and welfare of the citizens within the 5<sup>th</sup> District.

The Parties agree to the following:

1. **Obligations:**
  - 1.1 To respond outside your Jurisdictions but within the 5<sup>th</sup> District to requests related to duties preformed by the Parties.
  - 1.2 To train together on a quarterly basis to obtain and maintain bomb squad interoperability.
  - 1.3 Maintain equipment purchased and assigned to their squad by the 5<sup>th</sup> District Regional Homeland Security Planning Board.
  - 1.4 If for any reason a Party decides to opt out of this agreement prior to reaching the maturity date established for that Party to assume ownership of any equipment purchased through a Regional grant program, all equipment purchased through the affected grants and assigned to that Party will be returned to and re-assigned by the 5<sup>th</sup> District Regional Homeland Security Planning Board to the remaining Parties using a threat and risk based formula and capabilities assessment.
  
2. **Reservation of Rights.** This Memorandum does not and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties.

3. **Duration of Memorandum.** This Memorandum shall be effective when executed by all Parties and shall remain effective until cancelled or terminated by either Party as provided for in this Memorandum.
4. **Termination or Cancellation of Memorandum.** Either Party may terminate or cancel this Agreement for any reason upon 30-calendar day's written notice to the other Parties and the 5<sup>th</sup> District Regional Homeland Security Planning Board.
5. **Notice.** All notices or other communications given by all Parties to the other under this Memorandum shall be in writing and shall be personally delivered, sent by registered or certified mail, return receipt requested, or by overnight delivery services with full tracking and verification capability, to the other Party at its address set forth above or such other address as a Party may subsequently designate in writing. The date of personal delivery or upon verification and receipt of such certified or registered mailing, or overnight delivery as the case may be, shall be deemed to be the date on which such notice is given.
6. **Compliance with Laws.** All Parties shall comply with all federal, state, and local statutes, ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this Memorandum.
7. **Severability.** If a court of competent jurisdiction finds a term or condition of this Memorandum to be illegal or invalid, then the term or condition shall be deemed severed from this Memorandum. All other terms, conditions, and provisions of this Memorandum shall remain in full force.
8. **Governing Laws.** This Memorandum shall be governed, interpreted, and enforced by the laws of the State of Michigan.
9. **Memorandum Modification.** Any modifications, amendments, recessions, waivers, or releases to this Memorandum must be in writing and agreed to by all Parties.
10. **Entire Agreement.** This Memorandum represents the entire agreement and understanding between the Parties. This Memorandum supersedes all other oral or written agreements between the Parties.

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City of Battle Creek Police Department (Title) Date

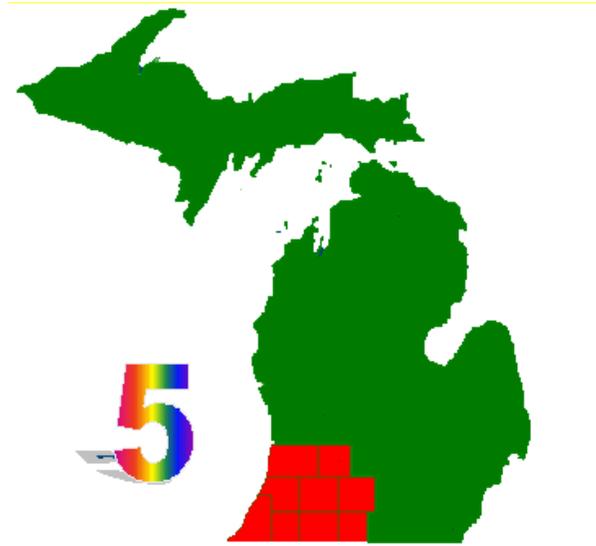
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Berrien County Sheriff's Department (Title) Date

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Kalamazoo Department of Public Safety (Title) Date

# 5<sup>th</sup> District Regional Homeland Security Planning Board



## 5<sup>th</sup> Region Bomb Teams Regional Response Plan

June 2015

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The purpose of this plan is formalizing the process of contacting and requesting assistance of tactical assets from the Michigan Homeland Security Region Five Bomb Program. The region has developed a program to provide assistance to the organized Bomb teams within the region when and if needed. The concept of operations is for the local bomb team to recognize when additional tactically trained and equipped personnel and systems are needed to assist during an incident. The region has recognized three tactically trained and equipped teams within the region who have signed a Memorandum of Understanding to respond to and assist with tactical situations within the region when acts of terrorism are recognized or suspected or to assist with a response to improvised explosive devices.

To help achieve this requirement, the 5<sup>th</sup> District Regional Homeland Security Planning Board has agreed to help fund team's shortfalls to develop and/or maintain equipment and training interoperability between the teams within the 5<sup>th</sup> District. Tactical Response Operations and Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Detection are two of the 37 target capabilities identified on the United States Department of Homeland Security Target Capabilities List for the National Preparedness Goal. The interoperability improvements achieved between the 3 teams with the assistance of this Plan will provide an enhanced response capability towards achieving the goals set forth in the Target Capabilities List. This will improve the preparation, prevention and response functions for the health, safety and welfare of the citizens within the 5<sup>th</sup> District. The Memorandum of Understanding has been signed by the following departments authorizing their teams to enter into this agreement. The departments are the City of Battle Creek Bomb Team, Berrien County Bomb Team, and the City of Kalamazoo Bomb Team

With their signature to the Memo of Understanding the teams agree to the following:

**1. Obligations:**

- 1.1 To respond outside of their Jurisdictions but within the 5<sup>th</sup> District to requests related to duties performed by the Parties.
- 1.2 To hold meetings of team commanders on a quarterly basis to obtain and maintain bomb team interoperability.
- 1.3 To develop and maintain an annual training matrix as outlined in the Homeland Security Exercise and Evaluation Program (HSEEP). The matrix will contain at the minimum of one Full Scale exercise within three years of the signing of this MOU.
- 1.4 Maintain equipment purchased and assigned to their team by the 5<sup>th</sup> District Regional Homeland Security Planning Board.
- 1.5 This Memorandum of Understanding shall terminate five years from the date of acceptance from the final signatory of this agreement. Any party can terminate its involvement prior to maturity of this agreement as specified below.
- 1.6 If for any reason a Party to this agreement decides to opt out prior to reaching the maturity date established for the Party to assume ownership of any equipment purchased through a Regional grant program, all equipment purchased through the affected grants and assigned to that Party will be returned to the 5th District Regional Homeland Security Planning Board. This equipment will then be re-assigned by the 5th District Regional Homeland Security Planning Board to the remaining Parties to this agreement using a threat and risk based formula and capabilities assessment.
- 1.7 The 5th District Regional Homeland Security Planning Board maintains sole authority to determine if the actions outlined in the above bullet point of this Memorandum of Understanding are required to be undertaken.

In addition by signing the Memorandum of Understanding the following stipulations have been agreed upon by the teams:

2. **Reservation of Rights**. This Memorandum does not and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Neither participation in nor requests for assistance under this Memorandum shall preclude, supersede or negate the activation or the fulfillment of the terms of any other local or regional or statewide mutual aid or reciprocal aid compacts or agreements.
3. **Duty to Assess Availability of Resources and Render Assistance**. When contacted by another party to this Memorandum with a request for assistance, the authorized representative(s) of any participating party shall assess their own situation to determine available personnel, equipment and other appropriate resources. It shall be the duty of each participating party to render all reasonably available assistance when requested under this Agreement to the fullest extent possible and as expeditiously as possible. However, a participating party may withhold, decline or refuse to provide any or all requested assistance even if available if such compliance would unreasonably jeopardize public health and safety, security or emergency response capabilities in its own jurisdiction. In such a case, an authorized representative of the participating government which has withheld or refused to provide requested assistance under this Memorandum shall immediately notify the requesting party with an explanation, which shall be confirmed in writing to the requesting party within ten days. A party's decision not provide assistance, shall not under any circumstances, give rise to a cause of action of any sort against the declining party.
4. **Supervision and Control**. The personnel, equipment, and resources of any assisting party shall come and remain under the operational control of the incident commander from the time of arrival at the designated location for staging or response. Designated supervisory personnel of an assisting party shall retain direct supervision and control of their own personnel, equipment, and other resources. The incident commander shall assign work tasks to the supervisory personnel of an assisting party, who shall in turn assign work tasks and establish work schedules for their own personnel. Supervisory personnel of an assisting party shall: maintain daily personnel time records, material records and a log of equipment hours; be responsible for the operation and maintenance of the equipment and other resources they have furnished; and report work progress to the incident commander through appropriate channels.
5. **Duration of Memorandum**. This Memorandum shall be effective when executed by all Parties and shall terminate five years commencing from the date of acceptance from the final signatory, unless cancelled prior to maturity by either Party, as provided for in this Memorandum.
6. **Termination or Cancellation of Memorandum**. Either Party may terminate or cancel this Memorandum for any reason upon 30-calendar day's written notice to the other Parties and the 5<sup>th</sup> District Regional Homeland Security Planning Board.
7. **Notice**. All notices or other communications given by all Parties to the other under this Memorandum shall be in writing and shall be personally delivered, sent by registered or certified mail, return receipt requested, or by overnight delivery services with full tracking and verification capability, to the other Party at its address set forth above or such other address as a Party may subsequently designate in writing. The date of personal delivery or upon verification and receipt of such certified or registered mailing, or overnight delivery as the case may be, shall be deemed to be the date on which such notice is given.
8. **Compliance with Laws**. All Parties shall comply with all federal, state, and local statutes, ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this Memorandum.

9. **Severability.** If a court of competent jurisdiction finds a term or condition of this Memorandum to be illegal or invalid, then the term or condition shall be deemed severed from this Memorandum. All other terms, conditions, and provisions of this Memorandum shall remain in full force.
10. **Governing Laws.** This Memorandum shall be governed, interpreted, and enforced by the laws of the State of Michigan.
11. **Memorandum Modification.** Any modifications, amendments, recessions, waivers, or releases to this Memorandum must be in writing and agreed to by all Parties.
12. **Entire Agreement.** This Memorandum represents the entire agreement and understanding between the Parties. This Memorandum supersedes all other oral or written agreements between the Parties.

### **Bomb Team Makeup**

#### **Commander:**

1. In accordance with the National Bomb Squad Commanders Advisory Board and the National Guidelines for Bomb Technicians, the bomb squad commander is a certified bomb technician who is the point of contact. The commander is responsible for directing all bomb squad related functions when event circumstances include hazardous devices or explosive breach concern considerations or actions to mitigate a threat.
2. Follow all Bomb Squad related policies and procedures as indicated by the National Bomb Squad Commanders Advisory Board and the National Guidelines for Bomb Technicians.
3. Know, understand, and comply with all individual departmental policies and procedures.
4. In conjunction with special team commanders, provide unified command of Bomb Squad assets and coordinate a tactical response with the Incident Commander.

#### **Certified Bomb Technician:**

1. In accordance with the National Bomb Squad Commanders Advisory Board and the National Guidelines for Bomb Technicians, a certified Bomb Technician is a graduate of the Hazardous Device School (HDS) Bomb Technicians Basic Course, or has successfully completed either the HDS Bomb Technicians Basic Course or the HDS recertification course within the past three years.
2. Follow all Bomb Squad related policies and procedures as indicated by the National Bomb Squad Commanders Advisory Board and the National Guidelines for Bomb Technicians.
3. Know, understand and comply with all individual departmental policies and procedures.

### **Bomb Technician Training**

The members of the three bomb teams have successfully completed the bomb technician course provided by the Federal Bureau of Investigations Hazardous Device School (HDS) at Redstone Arsenal in Huntsville, Alabama. An accredited and certified type II Bomb Squad must train a minimum of (16) hours per month, with an additional (40) hours of individual technician training annually, which include the safe use of live explosives. Members will maintain proficiency in the use of all required safety equipment and tools. All training shall be documented and submitted in a timely manner to their team commander.

All agencies that comprise the three Bomb Teams will conduct training per established FBI Bomb Squad training, certification, recertification and accreditation requirements. Training records and standards will be reflective in written policy, and documented per agency protocols.

### **National Incident management System (NIMS) Incident Command system (ICS)**

The National Incident Management System, or NIMS, provides a comprehensive and consistent national approach to all-hazard incident management at all jurisdictional levels and across all functional emergency management disciplines. This enables all government, private-sector and nongovernmental organizations to effectively, efficiently and collaboratively manage incidents at all levels. NIMS integrate best practices into a comprehensive, standardized framework that is flexible enough to be applicable across the full spectrum of potential incidents, regardless of cause, size, location, or complexity.

Incident Command System, or ICS, is a component of NIMS and is a standardized, on-scene, all-hazard incident management concept. It allows users to adopt an integrated organizational structure to match the complexities and demands of single or multiple incidents without being hindered by jurisdictional boundaries. This system is used whether the response is provided by a single discipline, agency or jurisdiction or multiple agencies or jurisdictions. The Bomb Squads, when they have been activated, will be incorporated into this system to ensure that everyone can work together when our communities need them the most.

### **Compliance**

The Regional Bomb Teams shall be in compliance with Homeland Security Presidential Directive 5 (HSPD-5) which mandates the adoption of the National Incident Management System (NIMS) as the primary method to prepare for, respond to, recover from, mitigate and manage the effects of critical incidents.

The Incident Command System (ICS) shall be used as the standard command management methodology for all administrative and tactical operations. Members of the teams shall be trained in the use of NIMS/ICS by their respective departments to the level required by current NIMS standards.

### **Region 5 Bomb Team Criterion**

Requesting assistance for activation of bomb assets outlined through this plan as outlined below must be activated by a signatory of the agreement. Upon recognition of the necessity of assistance the requesting team leader or his/her designee will contact the appropriate coverage team. Team coverage areas are outline by team type and location. Team typing is as follows:

- Battle Creek City – Type II
- Berrien County – Type II
- Kalamazoo City – Type II

The typing of a team is consistent with FEMA 508-6 Typed Resource Definition Law Enforcement and Security Resources. Respectfully, a Type II Team meets a higher standard of equipment and capability than a Type III team. The Type II Teams have agreed to cover the counties in their close geographical area. The coverage is as follows:

- Battle Creek
  - Calhoun County
  - Barry County
  - Branch County
  - Palisades Nuclear Plant Van Buren County
- Kalamazoo
  - Allegan County
  - Kalamazoo County
  - Saint Joseph County
  - Eastern Van Buren County\*
  - Palisades Nuclear Plant
- Berrien County
  - Western Van Buren County\*
  - Berrien County
  - Cass County\*
  - Donald C COOK Nuclear Plant\*

\* Pre-existing agreements

Once the need for assistance has been determined the requesting team will contact the appropriate team following the calling tree below. Once the contact has been made then the responding team will solicit pertinent information and respond to the request if capable. It is recognized that an Act of Terrorism can be far reaching and affect many venues. If the primary Type II Team is unavailable then the requesting agency will contact the next Type II Team closest to their geographical area. Information needed for the activation of a Regional Bomb Team and the expectations of the requesting agency is as follows:

1. Information gathering for the primary team activation should consist of but is not limited to the following:
  - The first arriving units on the scene shall gather all available information about the incident, and ensure that an adequate and secure perimeter is maintained.
  - If it is determined that further assistance is required to determine if a hazard and/or threat is present, then the team commander, or the on duty bomb technician from the response area in which the hazard is found, shall be notified.
  - Because these types of incidents are situation driven, the level of response will be determined by the Bomb Team Commander or the on duty Bomb technician.
2. Bomb Squad Response:
  - Once on the scene, the Bomb Team Commander, or his/her designee will coordinate with the Incident Commander (IC) to establish perimeter control.
  - Coordinate with appropriate personnel and develop a plan of action.
  - Determine needed personnel and equipment based on information provided.
  - Assemble properly equipped bomb squad team at designated location.

3. Request for Regional Bomb Team assistance:

- In the event of a significant incident or event, involving multiple explosive devices and/or locations that go beyond local response capabilities, the Bomb Commander, or on duty Bomb technician determines that additional personnel and equipment may be requested through the established Region 5 Memorandum of Understanding (MOU) to effectively and safely mitigate the threat.
- The initial responding Regional Bomb Team Commander or the On Duty Bomb Technician will notify one or both of the other two Bomb Commanders via telephone and/or pager and make the request for additional personnel and/or equipment.
- The below listed contact information and call out procedures will be used to request another team's assistance.
- The on-scene Bomb Team Commander will provide all pertinent information on the incident to the requested team's Bomb Commander.
- A response plan will be formulated between the team commanders and the Incident Commander that best resolves the incident.

4. Request for Michigan State Police Team:

- If the need would arise and the Michigan State Police Bomb Team was needed, the Incident Commander (IC) would notify the dispatch center and have them contact Michigan State Police Operations and request the Bomb Team respond to the incident or as directed.

Contact Information and call out procedure for the Regional Bomb Teams are as follows:

**Battle Creek Bomb Squad**

1. Team Leader

Private Information

2. Assistant team Leader

Private Information

3. Governing Departmental Contact  
Private Information

Call Our Procedure:

- a) Utilize the calling list above. The person contacted will activate the Battle Creek City Bomb Team procedures.

**Berrien County Bomb Squad**

4. Team Leader  
Private Information

5. Assistant team Leader  
Private Information

6. Governing Departmental Contact  
Private Information

Call Our Procedure:

- a) Utilize the calling list above. The person contacted will activate the Berrien County Bomb Team procedures.

## **Kalamazoo City Bomb Squad**

1. Team Leader  
Private Information
  
2. Assistant Team Leader  
Private Information
  
3. Governing Departmental Contact  
Private Information

### Call out procedure:

- a) Utilize the calling list above. The person contacted will activate the Kalamazoo City Bomb Team procedures.

### **Documentation of activation & After Action Report**

Upon completion of an activation, the bomb team commander having jurisdiction will complete the Activation/After Action Report that details all pertinent information concerning the critical incident. Upon the first available opportunity to do so, the bomb team commanders, along with commanders of other agencies involved in the incident, will conduct an after action review of the critical incident activation. The purpose of this review is to provide a forum for sharing information and intelligence specific to a particular incident, identify tactics, systems and other facets that were effective or need improvement, in an on-going commitment to improvement.

### **Periodic Policy Review**

This Regional Response Plan will be annually reviewed and, when necessary, updated. Changes, amendments or the implementation of new and/or existing policy during the year may occur with the approval of all parties represented by this policy. A copy of this document will be maintained with the Region 5 Homeland security Board Chair or his/her designee.

Signature Page

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City of Battle Creek	Title	Date
County of Berrien	Title	Date
City of Kalamazoo	Title	Date

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# Commission Agenda Report

City of Kalamazoo

Date: **06/01/15**

Item **F8**

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, City Manager, ICMA-CM  
Reviewed By: Laura Lam, CP&D Director  
Prepared By: Sharon Ferraro, Historic Preservation Coordinator

**DATE:** May 27, 2015

**SUBJECT:** Acceptance of a Grant from Irving S. Gilmore Foundation for Phase 1 Rehabilitation of the former Public Safety Station 5

## RECOMMENDATION

It is recommended that the City Commission accept a grant for \$80,000 from the Irving S. Gilmore Foundation to rehabilitate the former Public Safety Station 5 into a community resource center and authorize the City Manager to sign all documents on behalf of the City of Kalamazoo.

## BACKGROUND

Public Safety Station 5, located at the southwest corner of Douglas and West North, has been vacant for three years. Located at the intersection of Stuart, Northside, and Douglas neighborhoods, the station is perfectly positioned to become a community resource center to serve all three of these Community Development Block Grant (CDBG) core neighborhoods. The subsequent rehabilitation phases will include a kitchen, bathroom, and large open meeting space on the ground floor and smaller meeting rooms and offices upstairs. The Parks and Recreation Department is planning to use the renovated first floor for their after-school activity programs and the department may hold summer camp activities at this location as well. Public Safety is also exploring using a portion of the building for the Community Outreach and Problem Solving (COPS) Team.

Phase 1 of the station's rehabilitation includes replacing the roof; repointing mortar; installing a new HVAC system, plumbing, and wiring; replacing a deteriorated door; and making the first floor bathroom barrier free. Building repairs were kicked off this spring, when on March 26-29, a group of 10 students from all over southern Michigan took part in a window rehabilitation workshop. The event, sponsored by the Michigan Historic Preservation Network with a grant from the State Historic Preservation Office, resulted in seven of the second floor windows being fully restored while the remaining four were made operable.

The Irving S. Gilmore Foundation has awarded the City an \$80,000 grant for Phase 1 of the rehabilitation. The grant will be matched by a \$56,200 Targeted Neighborhood project grant funded by the City's 2015 Community Development Block Grant allocation.

### **COMMUNITY RESOURCES CONSULTED**

The rehabilitation has enthusiastic support from the Stuart Area Restoration Association (SARA), which initiated this project by applying to the Community Development Act Advisory Committee (CDAAC) for Targeted Neighborhood funds. The Historic Preservation Commission and the Historic District Commission were also consulted and voiced support for the project.

### **FISCAL IMPACT**

Phase 1 of the rehabilitation project will not impact the General Fund. Acceptance of \$80,000 from the Irving S. Gilmore Foundation, along with \$56,200 from the Targeted Neighborhood, will pay for rehabilitation of the fire station, including a new roof, repointing mortar, new HVAC, plumbing and wiring, replacing a deteriorated door and making the first floor bathroom barrier free. The much needed repairs will protect the building from further deterioration and reduce the city's operating and maintenance costs through energy efficiency improvements.

### **ALTERNATIVES**

The City Commission may opt to not accept the Rehabilitation Grant from the Irving S. Gilmore Foundation. This alternative is not recommended because it will increase the city's cost to rehabilitate Station 5 and would delay the project.

### **ATTACHMENTS**

None

Roll Call	<p>A neighborhood meeting of the Kalamazoo City Commission was held on Monday, May 18, 2015 at 6:00 p.m. in the Community Room at City Hall, 241 W. South Street.</p>
	<p>COMMISSIONERS PRESENT: Vice Mayor David Anderson Bob Cinabro Don Cooney Eric Cunningham Barbara Miller</p>
	<p>COMMISSIONERS ABSENT: Mayor Bobby J. Hopewell** Jack Urban*</p>
	<p>Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.</p>
Commissioner Excused	<p>Commissioner Cinabro, seconded by Commissioner Miller, moved to excuse the absences of Mayor Hopewell and Commissioner Urban. With a voice vote the motion passed.</p>
Miscellaneous Communications	<p>An opportunity was given for miscellaneous communications, but no communications were offered.</p>
Neighborhood Communications	<p>Representatives from the following neighborhood associations and community groups were present and addressed the City Commission:</p>
	<p><u>Oakwood Neighborhood Association</u> Lizzie Stuart, Board Secretary Cheryl Lord, Executive Director</p>
	<p><u>Parkwyn Village Association</u> Leslie Tung, President</p>
Oakwood Neighborhood Association	<p>The Oakwood Neighborhood Association representatives:</p> <ul style="list-style-type: none"> <li>- distributed the May 2015 edition of the <i>Oakwood Times</i> newsletter and the 2014 Annual Report.</li> </ul> <p>*Commissioner Urban arrived at 6:03 p.m.</p> <ul style="list-style-type: none"> <li>- reported on the “ONA Café” event, which resulted in residents sharing concerns about the following items: the drainage pond at Kent and Benton; dead tree limbs on City property; and the lack of bus stops in the neighborhood.</li> <li>- reported the Neighborhood would have two Building Blocks sites in 2015.</li> <li>- described the bowl-a-thon fundraiser and the community garden.</li> <li>- announced the Association’s Annual Meeting would be held on May 19<sup>th</sup>.</li> <li>- invited Commissioners to the reunion weekend reception at Kazoo Books and the Neighborhood Reunion Picnic on June 27-28.</li> </ul>

Commissioner Cinabro requested a report on the issue of bus stops in the Neighborhood.

Oakwood Neighborhood Association (cont'd)

Commissioner Urban asked if it had been helpful to educate residents on the services offered by Metro County Connect.

Ms. Lord indicated there were a lot of residents who did not qualify for Metro County Connect or could not afford it, so that service was not an option.

In response to a request from Commissioner Cooney, City Manager Ritsema stated Public Services Director Sue Founé would follow up with the Oakwood representatives about the issue of dead branches on City property.

In response to a question from Vice Mayor Anderson, Ms. Lord explained the financial report was not an official report but a method for highlighting specific activities and fundraising.

The Parkwyn Village Association representative:

Parkwyn Village Association

- stated the Association was in the middle of an archival project to scan historic neighborhood documents and transfer the originals to the Western Michigan University Archive and Regional History Collections.

\*\*Mayor Hopewell arrived at 6:25 p.m.

- expressed concern about drivers who occasionally drove their vehicles through the triangle at the intersection of Lorraine Avenue and Parkwyn Drive.
- expressed concern about people using the private community open space as a public park.

Vice Mayor Anderson spoke about the issue of deer in the City and noted the Kalamazoo Nature Center had culled the deer herd there multiple times.

Next, when an opportunity was given for citizen comments, the following people addressed the City Commission:

Citizen Comments

Jody Dozeman, City resident, spoke about a dog attacking another dog in Otsego and suggested that mean dogs wear red collars.

Jamar James and Terry Burroughs, City residents, invited people to the Hearing Voices Support Group at the Recovery Institute of Southwest Michigan and announced Public Media Network was airing videos by Ron Coleman regarding hearing voices.

Asha Kazhad, City resident, spoke about gun control.

Citizen Comments  
(cont'd)

James Kraatz, City resident, thanked City Commissioners and other elected officials for responding to his requests for information about local government. Mr. Kraatz requested the City Commission honor Vietnam veterans and their families. A letter submitted by Mr. Kraatz was filed with the papers for this meeting.

Alice Kraatz, City resident, expressed support for Mr. Kraatz's request and submitted a letter of support from the Ki-Ka-Ma-Sung Society of the National Society Children of the American Revolution. The letter was filed with the papers for this meeting.

Nancy Colburn, non-resident, presented a letter of support for Mr. Kraatz from the Lucinda Hinsdale Stone Chapter of the Daughters of the American Revolution. The letter was filed with the papers for this meeting.

Commissioner  
Comments

Finally, an opportunity was given for miscellaneous comments by City Commissioners, but no comments were offered.

Adjournment

The meeting adjourned at 6:48 p.m.

Respectfully submitted,

Scott A. Borling  
City Clerk

For City Commission approval on June 1, 2015

Approved by: \_\_\_\_\_  
Bobby J. Hopewell, Mayor  
Dated: June 1, 2015



# Commission Agenda Report

Date: **06/01/15**

Item **F10**

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager  
Prepared by: Jeff Chamberlain, AICP, Deputy City Manager

**DATE:** May 27, 2015

**SUBJECT:** Purchase of 1310 Bank Street

## RECOMMENDATION

It is recommended that the City Commission approve the purchase of 1310 Bank Street from Abundant Faith Church COGIC at a cost not to exceed \$130,000 for the expansion of the Kalamazoo Farmers' Market.

## BACKGROUND

As part of the Farmers' Market long term plan it has been anticipated that major improvements will occur to the facility within the next couple of years. Earlier this year the owner of the adjacent property at 1310 Bank Street indicated their willingness to sell their property. The property at 1310 Bank Street is a large brick and concrete building with a newer pole barn-style garage attached to the rear. The building was originally constructed as a bowling alley and was then used by MRC industries for many years. It suffered some damage in 2008 due to a flood and the Abundant Faith Church purchased the property in 2011 and has occupied it since.

In January of this year the Church entered into an Option to Purchase with the Kalamazoo County Land Bank Authority for the purchase price of \$130,000. This was done to expedite the process and to secure the potential purchase rights to the property. The Land Bank Authority has agreed to assign the Option to Purchase to the City of Kalamazoo. The purchase price of \$130,000 is below the former Fair Market Value assigned by the City Assessor and below a recent Broker's Opinion obtained on the property.

The City sees the property at 1310 Bank Street as a key opportunity to expand the Farmers Market. After the purchase is completed, a more detailed review of the building's potential use will be undertaken to determine if the building and garage will be used by the Farmers' Market (possibly for indoor market space), or if the building will be demolished to make room for additional Farmers' Market facilities.

## **COMMUNITY RESOURCES CONSULTED**

A Farmers Market Master Plan was completed in 2012 which calls for extensive improvements to the Market. With ever-increasing activity at the market, this property acquisition allows for additional improvements and expansion.

## **FISCAL IMPACT**

Funds for planning, design and initial improvements to the Farmers' Market were budgeted in the 2015 Capital Improvements Program and these funds will be used for the purchase.

## **ALTERNATIVES**

The City Commission could elect to not purchase this property. In that event the property would likely be sold to another party thereby limiting expansion possibilities for the Farmers' Market. It is recommended that the purchase be approved as presented.

## **ATTACHMENTS**

Map  
Purchase Agreement



Reg Ienvolina, non-resident, thanked Mayor Hopewell for sending a letter of recognition to Rudy Hanson and stated the letter had meant a lot to Mr. Hanson.

Citizen Comments  
(cont'd)

Finally, an opportunity was given for miscellaneous comments and concerns of City Commissioners.

Commissioner  
Comments

Commissioner Cunningham offered remarks on Kalamazoo Rocket Football.

Commissioner Urban offered remarks on the May 15<sup>th</sup> Shared Prosperity event and spoke about the similarities and differences between "authentic engagement" and "intentional engagement."

Commissioner Miller spoke about "authentic engagement," thanked Ms. Bonfiglio for her comments, and congratulated Carolyn Alford on receiving the YWCA Lifetime Achievement Award.

Commissioner Cooney commented on the Shared Prosperity event on May 15<sup>th</sup>, which focused on employment.

Mayor Hopewell expressed condolences to the family of Rudy Hanson, invited people to the "Run This Town" and "Downtown Music Jam" events on May 19<sup>th</sup>, encouraged people to participate in Commissioner Cunningham's Networking Out events on Tuesdays, noted it was EMS Week, and offered remarks on the May 15<sup>th</sup> Shared Prosperity event.

The meeting adjourned at 8:10 p.m.

Adjournment

Respectfully submitted,

Scott A. Borling  
City Clerk

For City Commission approval on June 1, 2015

Approved by: \_\_\_\_\_  
Bobby J. Hopewell, Mayor  
Dated: June 1, 2015



# Commission Agenda Report

Date: **06/01/15**

Item **F10**

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager  
Prepared by: Jeff Chamberlain, AICP, Deputy City Manager

**DATE:** May 27, 2015

**SUBJECT:** Purchase of 1310 Bank Street

## RECOMMENDATION

It is recommended that the City Commission approve the purchase of 1310 Bank Street from Abundant Faith Church COGIC at a cost not to exceed \$130,000 for the expansion of the Kalamazoo Farmers' Market.

## BACKGROUND

As part of the Farmers' Market long term plan it has been anticipated that major improvements will occur to the facility within the next couple of years. Earlier this year the owner of the adjacent property at 1310 Bank Street indicated their willingness to sell their property. The property at 1310 Bank Street is a large brick and concrete building with a newer pole barn-style garage attached to the rear. The building was originally constructed as a bowling alley and was then used by MRC industries for many years. It suffered some damage in 2008 due to a flood and the Abundant Faith Church purchased the property in 2011 and has occupied it since.

In January of this year the Church entered into an Option to Purchase with the Kalamazoo County Land Bank Authority for the purchase price of \$130,000. This was done to expedite the process and to secure the potential purchase rights to the property. The Land Bank Authority has agreed to assign the Option to Purchase to the City of Kalamazoo. The purchase price of \$130,000 is below the former Fair Market Value assigned by the City Assessor and below a recent Broker's Opinion obtained on the property.

The City sees the property at 1310 Bank Street as a key opportunity to expand the Farmers Market. After the purchase is completed, a more detailed review of the building's potential use will be undertaken to determine if the building and garage will be used by the Farmers' Market (possibly for indoor market space), or if the building will be demolished to make room for additional Farmers' Market facilities.

## **COMMUNITY RESOURCES CONSULTED**

A Farmers Market Master Plan was completed in 2012 which calls for extensive improvements to the Market. With ever-increasing activity at the market, this property acquisition allows for additional improvements and expansion.

## **FISCAL IMPACT**

Funds for planning, design and initial improvements to the Farmers' Market were budgeted in the 2015 Capital Improvements Program and these funds will be used for the purchase.

## **ALTERNATIVES**

The City Commission could elect to not purchase this property. In that event the property would likely be sold to another party thereby limiting expansion possibilities for the Farmers' Market. It is recommended that the purchase be approved as presented.

## **ATTACHMENTS**

Map  
Purchase Agreement



## PURCHASE AGREEMENT

This Agreement is between Abundant Faith Word Church, a currently dissolved Michigan ecclesiastical non-profit corporation, whose registered address is 310 Cable Street, South Haven, Michigan, 49090 ("Seller"), and the City of Kalamazoo, a Michigan municipal corporation, whose address is 241 West South Street, Kalamazoo, Michigan 49007 ("City").

### *Recitals:*

A. The Seller owns a parcel of real property in the City of Kalamazoo at 1310 Bank Street, identified as Parcel No. 06-22-424-002. The parcel includes an approximate 28,000 square foot building (originally used as a bowling alley) and an approximate 3500 square foot accessory structure on approximately 2.15 acres ("Property").

B. The Property is located next to the Bank Street Farmer's Market; the parking lot on the Property frequently used to accommodate overflow parking for the Farmer's Market. The City has expressed a desire to purchase the Property from Purchaser as part of the future redevelopment options for the Farmer's Market.

C. The purchase of the Property is considered to serve the best interests of the City. Seller and the City desire to enter into this Purchase Agreement ("Agreement") for their mutual benefit under the following terms and conditions.

Therefore, Seller and City agree as follows:

1. RECITALS. The above recitals are acknowledged as correct, and are incorporated by reference into this paragraph.
2. DESCRIPTION OF THE PROPERTY. The Property is more particularly described in Exhibit A, attached as part of this Agreement. The Property includes the real estate, buildings, and appurtenances.
3. CONSIDERATION. The City agrees to purchase the Property from the Seller for the sum of One Hundred Thirty Thousand Dollars (\$130,000.00) ("Purchase Price"), and other good and valuable consideration as set forth in this Agreement. Seller agrees to convey the Property by a warranty deed transferring title free and clear of all liens and encumbrances, but subject to items of record involving existing zoning ordinances, building and use restrictions, easements and reservations, to the City simultaneously upon receipt of the Purchase Price.

Seller entered into an Option to Purchase agreement with the Kalamazoo County Land Bank Authority on January 28, 2015 and Seller received \$10,000 in Option Funding. Seller agrees to assign Purchase Agreement to the City and to credit the \$10,000 Option Funding to the City against the purchase price.

4. TITLE INSURANCE. Seller shall obtain, at its expense, and provide to the within 15 days of the date Seller signs this Agreement, a commitment to issue an owner's title insurance policy insuring the City in the amount of the Purchase Price, with the standard printed exceptions and in the latest form approved by the American Land Title Association. The Title Commitment must show good and marketable title to the Property in Seller - subject only to easements and restrictions of record that are acceptable to the City in the reasonable exercise of its discretion and the satisfaction of the requirements set forth in the Title Commitment - and shall disclose no other easements, restrictions or encumbrances. Seller shall provide any surveys, affidavits and certificates required by the title insurance company if the City elects to have the title policy without exceptions or with additional endorsements. The City, however, is responsible for paying the added premium charged for a policy without exceptions and any such additional endorsements.

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.

5. INSPECTION. From the date Seller has signed this Agreement until thirty (30) days after the City Commission approves it, the City and its agents, consultants, and designees ("Agents") may enter the Property during reasonable business hours - with minimal interruption of activities or business Seller conducts during those hours - to perform the inspections referenced in this Agreement ("Inspection Period"). The Inspection Period may be extended for an additional 30 days if necessary for the City to complete the Due Diligence Activities detailed below. Seller shall provide to the City, or make available for review by the City or its Agents, copies of any prior environment assessments, title commitments or surveys for the Property.

During the Inspection Period, the City may conduct all its investigations, including without limitation, site inspections, environmental investigations, title review, survey review, and other investigations it considers necessary (collectively "Due Diligence Activities"). City is under no obligation to purchase the Property or otherwise perform under this Agreement unless the City determines from its Due Diligence Activities, in its sole discretion, the Property is or will be, in all respects, suitable for its intended purposes. Before the expiration of the Inspection Period, the City will notify Seller that it has elected one of the following options: (i) accept the Property in its 'As Is' condition and proceed to closing; or (ii) extend the closing for 30 days under Paragraph 10; or (iii) terminate the Agreement. If the City elects to terminate the Agreement, the

parties shall have no further rights or obligations under the Agreement. If the City, however, fails to give Seller timely notice it waives the right to terminate this Agreement under this Paragraph.

The City shall have the right to enter and inspect the property and building within 48 hours of closing.

6. HOLD HARMLESS AND INDEMNIFICATION. The City agrees to indemnify, defend and hold harmless Seller including its officers, officials, agents and employees, from any loss relating to the Due Diligence Activities conducted by the City or its Agents on the Property pursuant to this Agreement. It is understood, however, that the City retains all rights it has to assert governmental immunity regarding any loss asserted against Seller or City from the City's Due Diligence Activities.

A loss means any amount for which Seller is legally responsible, including judgments, settlements, fines, injunctive relief, damages and expenses for defending against a claim for loss. Those expenses include actual fees and costs for and incurred by attorneys, expert witnesses and other advisors retained by Seller. A loss may arise from property damage or bodily injury, and includes incidental, direct or consequential damages, regardless of the theory of recovery.

Seller will notify the City within a reasonable time when it knows that a claim for loss is asserted against Seller for which The City may be liable to pay. The parties will cooperate with each other in good faith on any claim for loss.

7. SELLER'S REPRESENTATIONS AND WARRANTIES. Seller represents and warrants to the City, now and through the closing date, as follows:

A. To the best of its knowledge, there are no claims, legal proceedings or investigations by governmental entities relating to the Property.

B. If any agreements, contracts, or leases, written or oral, relating to the Property other than this Agreement exist they must be released on or before time of closing by the Seller.

C. There is no pending or proposed special assessment or improvements affecting any part of the Property. Seller has not contracted for the furnishing of labor or materials to the Property which would give rise to a claim of lien before or after the closing.

D. Seller has full right, power and authority to enter into this Agreement and transfer the Property to the City according to the terms of this Agreement. The person signing the Agreement is authorized to do so.

E. It has good and marketable fee simple title to the Property, free and clear of any and all liens and other encumbrances other than exceptions to title approved or waived by the City. Any liens or encumbrances must be released on or before closing by the Seller.

F. It will cooperate with the City and the title company to the extent necessary to permit the title company to issue a comprehensive endorsement or those endorsements desired by the City.

G. Between the date it signs this Agreement and closing it will continue to operate the Property in the ordinary course of business and maintain the Property in good condition and repair.

8. CONTINGENCIES. The obligation of the City to close the purchase of the Property is contingent upon:

A. City's reasonable satisfaction with the results of any of the Due Diligence Activities it or its Agents conducted.

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

C. Seller timely performed its obligations by the date of closing.

D. The City Commission has approved this Agreement and authorized the City Manager to sign it and any other necessary documents to complete the transfer of the Property

If any contingency is not satisfied by the date of closing, including any extension permitted under Paragraph 10, then the City may terminate this Agreement by notice to Seller and accordingly the parties shall have no further rights or liabilities.

9. ENVIRONMENTAL ASSESSMENT. During the Inspection Period, the City may, at its own expense and for its own benefit, conduct all appropriate inquiry within the meaning of Part 201 of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, ("Act 451"). If such inquiry identifies the Property as a facility, the City may elect to complete and submit a Baseline Environmental Assessment ("BEA") to the Michigan Department of Environmental Quality ("MDEQ") as provided under Act 451, and if the City elects to file a BEA, it shall also maintain on file a Due Care Plan.

10. CLOSING. Parties agree to make a good faith effort to close on or before June 30, 2015. However, the closing shall occur no later than within 30 days of the date the Inspection Period expires at the office of the company issuing the Title Commitment, unless the parties agree upon another more convenient

location. However, either party shall have the right to extend the closing date for an additional 30 days to complete necessary Due Diligence Activities, to cure any defect in the title commitment or from any survey of the Property, or to satisfy any contingency.

The City shall prepare the warranty deed conveying the Property to it. Each party shall pay the routine closing costs normally charged, respectively, against a seller (Seller) and a buyer (City), except each party will equally share the fee charged by the title company for conducting the closing.

11. POSSESSION. The City shall be entitled to sole and exclusive possession upon payment of the Purchase Price and receipt of the warranty deed to the Property.

12. TAXES, SPECIAL ASSESSMENTS, UTILITIES. The real estate taxes levied against the Property for 2015 shall be prorated to the date of closing. Seller is responsible to pay any delinquent taxes against the Property. If there are any special assessments against the property those shall also be prorated to the date of closing, with any delinquent installments satisfied by Seller at closing.

The Seller is responsible for ensuring all utility bills are paid in full prior to closing.

13. ENVIRONMENTAL CONCERNS. The City, having the opportunity to conduct Due Diligence Activities regarding the Property, accepts the Property in "AS IS" condition. Seller makes no representations regarding environmental hazards or liabilities on or relating to the Property.

14. SURVEY. The City may obtain a survey of the Property. That survey and any survey provided by Seller collectively means "Survey". If the City finds any defects shown in the Survey during the Inspection Period, the City shall use the process set forth in Paragraph 5.

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

16. CONDEMNATION, FIRE, OR OTHER CASUALTY. If to closing any portion of the Property is damaged by fire, natural elements, or other casualties or causes beyond the control of Seller that cannot be repaired by closing; or any portion of the Property is taken under eminent domain, then by notice to the other party within 15 days:

A. Either party may terminate this Agreement; or

B. The City may elect to proceed to closing, agreeing to take the Property in its then-current condition, in which case the City is entitled to

receive the condemnation or insurance proceeds payable as a result of the condemnation or the damage as it solely relates to the Property. Seller shall assign its rights to those proceeds to the City at closing.

Each party shall notify the other of any changes in the address for the receipt of notices.

17. Miscellaneous.

A. This Agreement shall bind and benefit the City, Seller and their respective successors or assigns.

B. This Agreement may not be amended, altered or modified unless done in writing and signed by representatives of the parties who are so authorized.

C. This Agreement may be signed in counterparts, which together shall comprise a single agreement.

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

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

G. This Agreement and the exhibits to this Agreement contain all of the representations and statements by the City and Seller to one another and express the entire understanding between them with respect to the Property. All prior and contemporaneous communications, specifically including prior offers, counter-offers, or addendums exchanged by the parties concerning the purchase and sale of the Property, are merged in and replaced by this Agreement.

H. Except for Sundays, Seller will continue to permit patrons of the Farmers Market to park free on parking lot on the Property during 2015 season.

I. This Agreement is governed under applicable Michigan law. Both parties had the assistance of legal counsel in the negotiation and preparation of this Agreement. Therefore, no construction or ambiguity of this Agreement is resolved against either party.

J. Seller agrees leave in place all fixtures, HVAC systems, electrical systems, plumbing systems, floor coverings and window coverings.

K. Seller agrees to remove all rubbish, trash, vehicles, vehicle parts and vehicle fluids from property prior to closing.

18. 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:

Seller: Abundant Faith Word Church  
Attn: Amere May, Sr.  
310 Cable Street  
South Haven, MI 49090

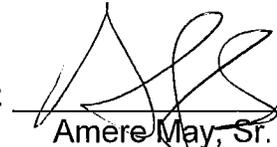
with copies to:

City: City of Kalamazoo  
ATTN: City Manager  
241 West South Street  
Kalamazoo, MI 49007

w/copies to the City Attorney at above address

Dated: 5.24, 2015

Abundant Faith Word Church

By:   
Amere May, Sr.  
Its: Senior Pastor

Dated: \_\_\_\_\_, 2015

City of Kalamazoo

By: \_\_\_\_\_  
James K. Ritsema  
Its: City Manager

Prepared by:  
John W. Kneas  
Assistant City Attorney  
241 W. South Street  
Kalamazoo, MI 49007-4707 K:Attydocs\JOHN\PurchaseAgmt.-AbundantFaith 05/16/15

## EXHIBIT A

### Legal Description

A parcel of land situated in the Southeast quarter of Section 22, Town 2 South, Range 11 West, City of Kalamazoo County of Kalamazoo, Michigan, more particularly described as follows: Commencing at the Northwest corner of "Outlot B" of the "South Side Improvement Company's Addition" as recorded in Liber 5 of Plats on Page 39 as found in the office of the Register of Deeds for Kalamazoo County, Michigan; thence Westerly 8.25 feet along the Northerly line of said "South Side Improvement Company's Addition" to the Westerly line of Bank Street as recorded in Liber 568 of Deeds on Page 427 as found in the Office of the Register of Deeds for Kalamazoo County, Michigan; thence North 260.40 feet as measured along the Westerly line of said Bank Street to the Southerly line of property conveyed to the City of Kalamazoo, by Peter VanderMeer and Esther VanderMeer; thence Southwesterly 356.45 feet along the Southerly line of said property conveyed to the City of Kalamazoo, by Peter VanderMeer and Esther VanderMeer to the Easterly right of way of the New York Central Railroad (formerly the Lake Shore and Michigan Southern Railroad); thence Southwesterly 260.0 feet along the Easterly line of said railroad right of way to the Northerly line of the "Assessors' Plat of South Side Annex" as recorded in Liber 9 of Plats, on Page 3 as found in the Office of the Register of Deeds for Kalamazoo County, Michigan; thence Easterly 429.75 feet along the North line of said "Assessor's Plat of Plat of South Side Annex" and the North line of said "South Side Improvement Company's Addition" to the place of beginning. Excepting and reserving from the above described parcel the Westerly 33.0 feet.

Described on tax roll as: Part of the Southeast 1/4 of Section 22, Town 2 South, Range 11 West, commencing at the north line of the Assessor's Plat of South Side Annex, as recorded in Liber 9 of Plats, Page 3, Kalamazoo County Records, and the east right-of-way line of the former New York Central Railroad; thence Northeasterly 260 feet along the east right-of-way line; thence easterly 356.45 feet to a point 41.25 feet West of the extension North of the center line of Outlot B of the South Side Improvement Company's Addition, as recorded in Liber 5 of Plats, Page 39; thence South 260.40 feet to the north line of the South Side Improvement Company's Addition; thence West 429.75 feet along the north line of the South Side Improvement Company's Addition and the north line of the Assessor's Plat of South Side Annex to the point of beginning, excluding the Westerly 33 feet.

Also known as 1310 Bank Street, Kalamazoo, Michigan



# Commission Agenda Report

Date: **06/01/15**

Item **F11**

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners

**FROM:** James K. Ritsema, City Manager  
Prepared by: Jerome R. Kisscorni, Assistant City Manager/Economic Development Director

**DATE:** June 1, 2015

**SUBJECT:** Sale of Eastern Hills Golf Course

## RECOMMENDATION

It is recommended that the City Commission approve for first reading acceptance of an offer to sell Eastern Hills Golf Course to JTM Management, Inc. for a purchase price of \$2.19 million and authorize the City Manager to sign the purchase agreement and all appropriate documentation. (Hold over to June 15, 2015)

## BACKGROUND

Over the past 7-10 years the golf business has been challenged to remain profitable. The business is suffering from an exodus of players, and course closings. The number of U.S. golfers has dropped 24 percent from its peak in 2002. In 2013 alone the game lost 1.1 million players. The total inventory of U.S. courses has dropped each year since 2006, and the decline has accelerated the past four years, with an average of 137 closings since 2011.

The city golf courses have not been immune from a golf industry that has too many golf courses and too few golfers. Since 2002 the number of rounds played at Milham & Eastern Hills has dropped 43 percent. The golf courses cannot maintain positive cash flow to cover both current operational and debt service cost.

The sale of Eastern Hills Golf Course would allow the Kalamazoo Municipal Golf Association (KMGA) to pay off all debt on the golf courses, approximately \$1.7 million, and establish a Capital Improvements fund with the net proceeds from the sale for use at Milham and Red Arrow golf courses.

## COMMUNITY RESOURCES CONSULTED

At their May 21<sup>st</sup> Board meeting the KMGA recommended accepting the Sales Agreement for the purchase of Eastern Hills Golf Course from JTM Management, Inc., for \$2.19 million --- only with the provision that the net excess, after payment of KMGA

debt and closing costs, be placed into a KMGGA capital expenditures account to be used for KMGGA capital improvements only, and not for operating expense.

### **FISCAL IMPACT**

The Sale of Eastern Hills Golf Course will not affect the city general fund. It will allow the KMGGA to operate the remaining two golf courses within the city with no debt and tax exempt.

### **ALTERNATIVES**

The City Commission could choose to subsidize the golf courses and see if the golf industry rebounds in the next 3 to 5 years.

City staff recommends against this option.

### **ATTACHMENTS**

Purchase Agreement  
Property Appraisal  
Rounds Played Graph  
KMGGA P&L

## PURCHASE AGREEMENT

This Agreement is between JTM Management Inc., a Michigan corporation, whose address is 7105 Hidden Cove Place, Kalamazoo, Michigan, 49009 ("Purchaser"), and the City of Kalamazoo, a Michigan municipal corporation, whose address is 241 West South Street, Kalamazoo, Michigan 49007 ("City").

### *Recitals:*

A. The City owns two parcels of real property at 6075 East G. Avenue in Richland Township, Kalamazoo County, identified as Parcel Nos. 03-31-426-010 and 03-32-300-010, on which the City operates Eastern Hills Golf Course. The two parcels include a 27-hole golf course, club house, and accessory and storage structures on approximately 220 acres ("Property").

B. Purchaser has expressed a desire to purchase the Property from the City for a multi-phased mixed use commercial and residential project.

C. The sale of the Property is considered to serve the best interests of the City. Therefore, Purchaser and the City desire to enter into this Purchase Agreement ("Agreement") for their mutual benefit under the following terms and conditions.

Therefore, Purchaser and City agree as follows:

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

2. DESCRIPTION OF THE PROPERTY. The Property is more particularly described in Exhibit A, attached as part of this Agreement. The Property includes the real estate, buildings, and appurtenances, including the irrigation system. The purchase shall also include, through a Bill of Sale, the golf-related equipment, food and beverage equipment and the liquor license – the latter subject to the approval of the Michigan Liquor Control Commission – at Eastern Hills. The Bill of Sale shall be finalized and attached to this Agreement as Exhibit B prior to the Effective Date as defined in Paragraph 15.

3. CONSIDERATION. Purchaser agrees to purchase the Property from the City for the sum of Two Million One Hundred Ninety Thousand Dollars (\$2,190,000.00) ("Purchase Price"), and other good and valuable consideration as set forth in this Agreement. The City agrees to convey the Property by a warranty deed transferring title free and clear of all liens and encumbrances, but

subject to items of record involving existing zoning ordinances, building and use restrictions, easements and reservations, to Purchaser simultaneously upon receipt of the Purchase Price.

4. TITLE INSURANCE. The City shall obtain, at its expense, and provide to Purchaser within 15 days of the Effective Date or this Agreement, a commitment to issue an owner's title insurance policy insuring Purchaser in the amount of the Purchase Price, with the standard printed exceptions and in the latest form approved by the American Land Title Association. The Title Commitment must show good and marketable title to the Property in the City - subject only to easements and restrictions of record that are acceptable to Purchaser in the reasonable exercise of Purchaser's discretion and the satisfaction of the requirements set forth in the Title Commitment - and shall disclose no other easements, restrictions or encumbrances. The City shall provide any surveys, affidavits and certificates required by the title insurance company if Purchaser elects to have the title policy without exceptions or with additional endorsements. Purchaser is responsible for paying the added premium charged for a policy without exceptions and any such additional endorsements.

City 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.

5. INSPECTION. Beginning on the Effective Date, Purchaser and its agents, consultants, and designees ("Purchaser's Agents") may enter the Property during reasonable business hours, and with minimal interruption of the golf course activities, to perform the inspections referenced in this Agreement. City shall provide to Purchaser, or make available for review by Purchaser or Purchaser's Agents, copies of any prior environment assessments, title commitments or surveys for the Property.

For ninety (90) days following the Effective Date ("Inspection Period"), Purchaser may conduct all its investigations, including without limitation, site inspections, environmental investigations, title review, survey review, and other investigations Purchaser considers necessary (collectively "Due Diligence Activities"). Before the expiration of the Investigation Period, Purchaser will notify the City itemizing the unacceptable conditions or matters ("Defects") relating to the Property ("Defect Notice"). Within 15 days of receipt of the Defect Notice, City will notify Purchaser whether it agrees to cure or is unable (or unwillingly given the circumstances of the Defect) to cure any of the Defects contained in the Defect Notice. Within 15 days of receipt of the City Response, Purchaser will notify the City that it has elected one of the following options: (i) waive the Defects and proceed to closing; or (ii) extend the closing for 60 days under Paragraph 10; or (iii) terminate the Agreement. If Purchaser elects to terminate the Agreement, the parties shall have no further rights or obligations under the

Agreement. If Purchaser, however, fails to give the City timely notice following receipt of the City Response, it waives the right to terminate this Agreement under this Paragraph.

6. INSURANCE AND LIABILITY TO CITY. Before Due Diligence Activities are conducted on the Property, Purchaser or Purchaser's Agents will provide the City evidence of a policy of commercial general liability insurance with limits of not less than \$1,000,000 for bodily injury and \$1,000,000 for property damage (\$1,000,000 CSL is also acceptable) with an insurance carrier acceptable to the City. This policy shall name "the City, its agents, officials and employees," as additional insureds and shall provide for 30 days' notice to the City if the policy is terminated or cancelled. Purchaser may provide insurance binders or insurance riders as evidence of the insurance coverage required by this paragraph.

Purchaser must pay the City for any loss the City incurs that is caused by Purchaser's or Purchaser's Agents' negligence or misconduct resulting from the Due Diligence Activities conducted on City Property. Purchaser is not responsible for any loss that is solely caused by the City, although the City retains all rights it has to assert governmental immunity.

A loss means any amount for which the City is legally responsible, including judgments, settlements, fines, injunctive relief, damages and expenses for defending against a claim for loss. Those expenses include actual fees and costs for and incurred by attorneys, expert witnesses and other advisors retained by the City. A loss may arise from property damage or bodily injury, and includes incidental, direct or consequential damages, regardless of the theory of recovery.

The City will notify Purchaser within a reasonable time when it knows that a claim for loss is asserted against the City for which Purchaser may be liable to pay. The parties will cooperate with each other in good faith on any claim for loss.

7. CITY'S REPRESENTATIONS AND WARRANTIES. The City represents and warrants to Purchaser, now and through the closing date, as follows:

A. To the best of its knowledge, there are no claims, legal proceedings or investigations by governmental entities relating to the Property.

B. There are no agreements, contracts, or leases, written or oral, relating to the Property other than this Agreement, except the contract with DM Golf to manage and operate the City's three golf courses, including the Property ("Management Agreement"). At closing the Management Agreement as it relates to the Property will be of no effect; any continued operation of the Property as a golf course facility is governed by Paragraph 18.

C. There is no pending or proposed special assessment or improvements affecting any part of the Property. City has not contracted for the furnishing of labor or materials to the Property which would give rise to a claim of lien before or after the closing.

D. After the Effective Date, City has full right, power and authority to enter into this Agreement and transfer the Property to Purchaser according to the terms of this Agreement. The person signing the Agreement is authorized to do so.

E. It has good and marketable fee simple title to the Property, free and clear of any and all liens and other encumbrances other than exceptions to title approved or waived by Purchaser.

F. It will cooperate with Purchaser and the title company to the extent necessary to permit the title company to issue a comprehensive endorsement or those endorsements desired by Purchaser.

G. Between the Effective Date and closing it will continue to operate the Property in the ordinary course of business and maintain the Property in good condition and repair.

8. CONTINGENCIES. The obligation of Purchaser to close the purchase of the Property is contingent upon:

A. Purchaser's reasonable satisfaction with the results of any of the Due Diligence Activities it or Purchaser's Agents conducted.

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

C. The City timely performed its obligations by the date of closing.

Subject to Purchaser's timely notice under Paragraph 5 to the City Response, if any contingency is not satisfied by the date of closing, including any extension permitted under Paragraph 11, then Purchaser may terminate this Agreement by notice to City and accordingly the parties shall have no further rights or liabilities.

9. ENVIRONMENTAL ASSESSMENT. During the Investigation Period, Purchaser may, at its own expense and for its own benefit, conduct all appropriate inquiry within the meaning of Part 201 of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, ("Act 451"). If such inquiry identifies the Property as a facility, Purchaser may elect to complete and submit a Baseline Environmental Assessment ("BEA") to the Michigan

Department of Environmental Quality ("MDEQ") as provided under Act 451, and if Purchaser elects to file a BEA, Purchaser shall also maintain on file a Due Care Plan.

10. EARNEST DEPOSIT. As evidence of Purchaser's good faith in closing on this transaction it has deposited with the City \$20,000 as earnest money. If this Agreement is terminated through no fault of either party, the City will promptly process the refund of the earnest money to Purchaser. If Purchaser defaults, the City may retain the earnest money as liquidated damages; or it may retain the earnest deposit as part payment of the Purchase Price and pursue any legal and equitable remedies against Purchaser. Otherwise, at closing the earnest deposit shall be credited against the Purchase Price.

11. CLOSING. The closing shall occur within 30 days of the date the Inspection Period expires at the office of the company issuing the Title Commitment, unless the parties agree upon another more convenient location. However, either party shall have the right to extend the closing date for an additional 60 days to complete necessary Due Diligence Activities, to cure any Defect, or to satisfy any contingency.

The City shall prepare the warranty deed conveying the Property to Purchaser. Subject to Paragraph 21, each party shall pay the routine closing costs normally charged, respectively, against a seller (City) and a buyer (Purchaser), except each party will equally share the fee charged by the title company for conducting the closing.

12. POSSESSION. Subject to Paragraph 18, Purchaser shall be entitled to sole and exclusive possession upon payment of the Purchase Price and receipt of the warranty deed to the Property.

13. TAXES. The Property is currently exempt from the payment of taxes. Beginning with December 31 of the year in which Purchaser acquired the Property, Purchaser shall be responsible for the taxes, if any, levied against the Property.

14. ENVIRONMENTAL CONCERNS. Purchaser, having the opportunity to conduct Due Diligence Activities regarding the Property, accepts the Property in "AS IS" condition. The City makes no representations regarding environmental hazards or liabilities on or relating to the Property.

15. KALAMAZOO MUNICIPAL GOLF ASSOCIATION RECOMMENDATION AND CITY COMMISSION APPROVAL. Following submittal of this Agreement to Kalamazoo Municipal Golf Association for its recommendation, the approval by the Kalamazoo City Commission is required before this Agreement is effective and binding. The date that the City approves the Agreement is defined as the

"Effective Date." If the recommendation and approval process is not completed within 60 days after Purchaser has signed this Agreement, then it is considered to have expired and of no effect.

16. SURVEY. Purchaser may obtain a survey of the Property. That survey and any survey provided by the City collectively means "Survey". If Purchaser finds any Defects shown in the Survey during the Inspection Period, Purchaser shall use the process set forth in Paragraph 5.

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

18. OPERATION OF GOLF COURSE. If the closing occurs before September 30, 2015, the City shall continue to operate the golf course on the Property through November 30, 2015, weather permitting. The terms and conditions of any continued operation post-closing by the City in 2015, and beyond 2015 at Purchaser's option, shall be detailed in a separate agreement between Purchaser and City, signed by the closing.

19. CONDEMNATION, FIRE, OR OTHER CASUALTY. If between the Effective Date and closing any portion of the Property is damaged by fire, natural elements, or other casualties or causes beyond the control of the City that cannot be repaired by closing; or any portion of the Property is taken under eminent domain, then by notice to the other party within 15 days:

A. Either party may terminate this Agreement; or

B. Purchaser may elect to proceed to closing, agreeing to take the Property in its then-current condition, in which case Purchaser is entitled to receive the condemnation or insurance proceeds payable as a result of the condemnation or the damage as it solely relates to the Property. The City shall assign its rights to those proceeds to Purchaser at closing.

20. 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:

Purchaser:

JTM Management, Inc.  
Attn: Richard E. Feaster  
7105 Hidden Cove Place  
Kalamazoo, MI 49009

with copies to:

City:

City of Kalamazoo  
ATTN: City Manager  
241 West South Street  
Kalamazoo, MI 49007

w/copies to the City Attorney at above  
address

Each party shall notify the other of any changes in the address for the receipt of notices.

21. Real Estate Brokers. Signature Associates has represented Purchaser during the negotiations resulting in this Agreement. At closing the City will pay a 4% commission to Signature Associates.

22. Miscellaneous.

A. This Agreement shall bind and benefit the City, Purchaser and their respective successors or assigns.

B. This Agreement may not be amended, altered or modified unless done in writing and signed by representatives of the parties who are so authorized.

C. This Agreement may be signed in counterparts, which together shall comprise a single agreement.

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

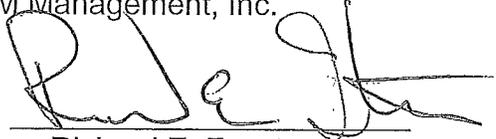
E. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

F. This Agreement and the exhibits to this Agreement contain all of the representations and statements by the City and Purchaser to one another and express the entire understanding between them with respect to the Purchase. All prior and contemporaneous communications, specifically including prior offers, counter-offers, or addendums exchanged by the parties concerning the purchase and sale of the Property, are merged in and replaced by this Agreement.

G. This Agreement is governed under applicable Michigan law. Both parties had the assistance of legal counsel in the negotiation and preparation of this Agreement. Therefore, no construction or ambiguity of this Agreement is resolved against either party.

Dated: May 13, 2015

JTM Management, Inc.

By: 

Richard E. Feaster

Its: President JTM Management Inc

Dated: \_\_\_\_\_, 2015

City of Kalamazoo

By: \_\_\_\_\_  
James K. Ritsema

Its: City Manager

Prepared by:  
John W. Kneas  
Assistant City Attorney  
241 W. South Street  
Kalamazoo, MI 49007-4707

K:Attydocs\JOHN\Eastern Hills – Purchase Agreement  
05/05/15

EXHIBIT A



**Valbridge**  
PROPERTY ADVISORS

## Appraisal Report

**Eastern Hills Golf Course**  
6075 East G Avenue  
Richland Township, Kalamazoo County, Michigan 49004

Report Date: March 3, 2015



FOR:

City of Kalamazoo  
Mr. Jerome Kisscorni  
Assistant City Manager & Economic Development Director  
241 W. South Street  
Kalamazoo MI 49007

**Valbridge Property Advisors |  
The Oetzel-Hartman Group**

2127 University Park Drive  
Okemos, Michigan 48864

517-336-0001 phone  
517-336-0009 fax

*valbridge.com*

Valbridge File Number:  
MI01-15-0005



2127 University Park Drive  
Suite 390  
Okemos, MI 48864  
517-336-0001 phone  
517-336-0009 fax  
valbridge.com

March 3, 2015

Mr. Jerome Kisscorni  
Assistant City Manager & Economic Development Director  
City of Kalamazoo  
241 W. South Street  
Kalamazoo, MI 49007

RE: Appraisal Report  
6075 East G Avenue, Richland Township, Kalamazoo County, Michigan 49004

Dear Mr. Kisscorni:

In accordance with your request, we have prepared an appraisal of the above-referenced property. This appraisal report sets forth the pertinent data gathered, the techniques employed, and the reasoning leading to our value opinions.

The subject property, as referenced above, is located on and further identified as Assessor's Parcel Number (APN) 03-31-426-010 and 03-32-300-010. The site measures approximately 230.76 acres or 10,051,906 square feet.

We developed our analyses, opinions, and conclusions and prepared this report in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation; the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and the requirements of our client as we understand them.

City of Kalamazoo is the client in this assignment. The intended user(s) of this report are the client. The intended use is for possible disposition. The value opinions reported herein are subject to the definitions, assumptions and limiting conditions, and certification contained in this report.

If there are extraordinary assumptions and/or hypothetical conditions used in this report, the use of these extraordinary assumptions and hypothetical conditions may affect the assignment results. The acceptance of this appraisal assignment and the completion of the appraisal report submitted herewith are contingent on the following extraordinary assumptions and/or hypothetical conditions:

**Extraordinary Assumptions:**

- We have assumed that the property would likely be rezoned to allow for mixed uses to include commercial and single and multifamily uses. We have interviewed the Richland Township Planner, Mr. Russ Wickland, who advised us that a zoning change would be a reasonable expectation and further stated that the southeast portion of the site would likely be changed to a commercial zoning while the rest of the site would likely conform to the areas around the subject; this being medium to low density residential. Lack of use of this extraordinary assumption may affect the assignment results.

**Hypothetical Conditions:**

- None

Based on the analysis contained in the following report, our value conclusions involving the subject property are summarized as follows:

<b>Value Conclusions</b>	
	<b>As Is</b>
Value Type	Market Value
Property Rights Appraised	Fee Simple
Effective Date of Value	January 23, 2015
<b>Value Conclusion</b>	<b>\$2,190,000</b>

This letter of transmittal is not considered valid if separated from this report and must be accompanied by all sections of this report, as outlined in the table of contents, in order for the value opinions set forth above to be valid.

Respectfully submitted,

**VALBRIDGE PROPERTY ADVISORS | THE OETZEL – HARTMAN GROUP**



James T. Hartman, MAI, SGA, AI-GRS  
Certified General Real Estate Appraiser  
State of Michigan, License # 1201005950  
[jhartman@valbridge.com](mailto:jhartman@valbridge.com)



Nicholas G. Groves  
Certified General Real Estate Appraiser  
State of Michigan, #1201071358  
[ngroves@valbridge.com](mailto:ngroves@valbridge.com)

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## Summary of Salient Facts

### Property Identification

Property Name	Eastern Hills Golf Course
Property Address	6075 East G Avenue
Latitude & Longitude	Richland Township, Kalamazoo County, Michigan, 49004
Census Tract	42.33273, -85.511431
Assessor's Parcel Numbers	27
Property Owners	03-31-426-010 and 03-32-300-010
Zoning	City of Kalamazoo
FEMA Flood Map No.	R/OS
Flood Zone	26077C0185D
Gross Land Area	X
	230.760 acres

### Extraordinary Assumptions

- We have assumed that the property would likely be rezoned to allow for mixed uses to include commercial and single and multifamily uses. We have interviewed the Richland Township Planner, Mr. Russ Wickland, who advised us that a zoning change would be a reasonable expectation and further stated that the southeast portion of the site would likely be changed to a commercial zoning while the rest of the site would likely conform to the areas around the subject. This being medium to low density residential. Lack of use of this extraordinary assumption may affect the assignment results.

### Hypothetical Conditions

- None

### Valuation Opinions

Highest & Best Use - As Vacant	Future mixed use development
Reasonable Exposure Time	12 Months
Reasonable Marketing Time	12 months

### Value Indications

Approach to Value	As Is
Sales Comparison	\$2,190,000
Cost	N/A
Income Capitalization	
Direct Capitalization	N/A
Yield Capitalization (DCF)	N/A
Reconciled Income Capitalization	N/A

### Value Conclusions

	As Is
Value Type	Market Value
Property Rights Appraised	Fee Simple
Effective Date of Value	January 23, 2015
<b>Value Conclusion</b>	<b>\$2,190,000</b>

## Aerial and Front Views

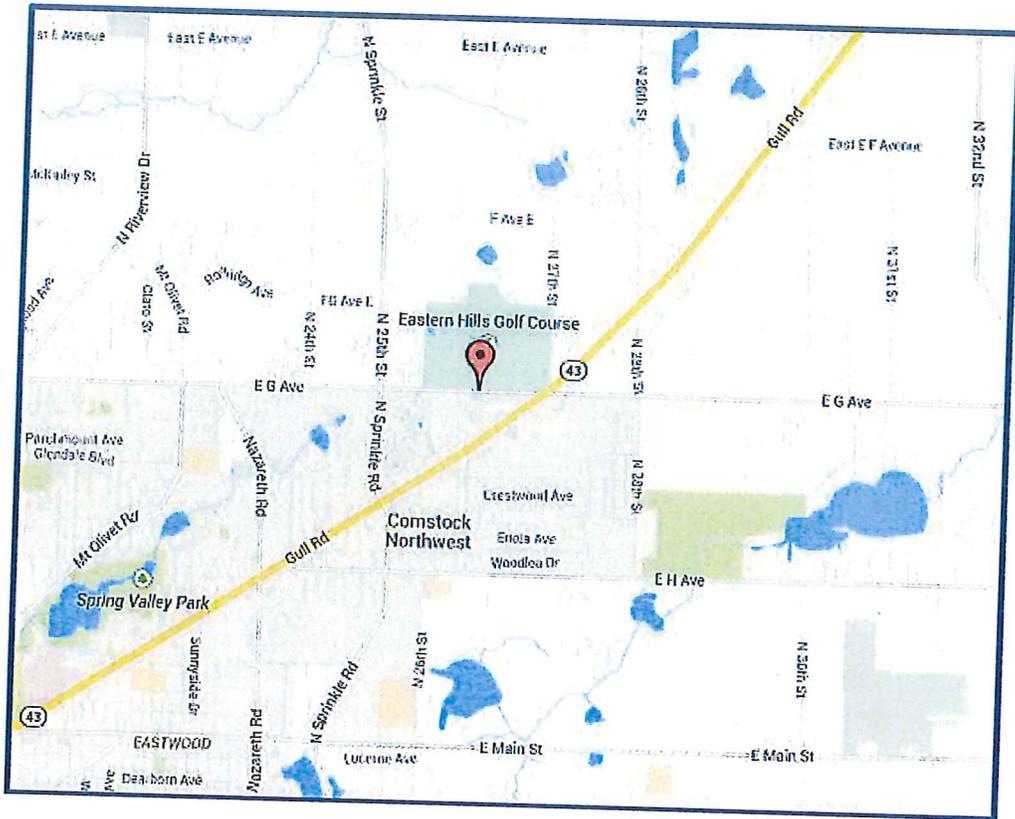
**AERIAL VIEW**



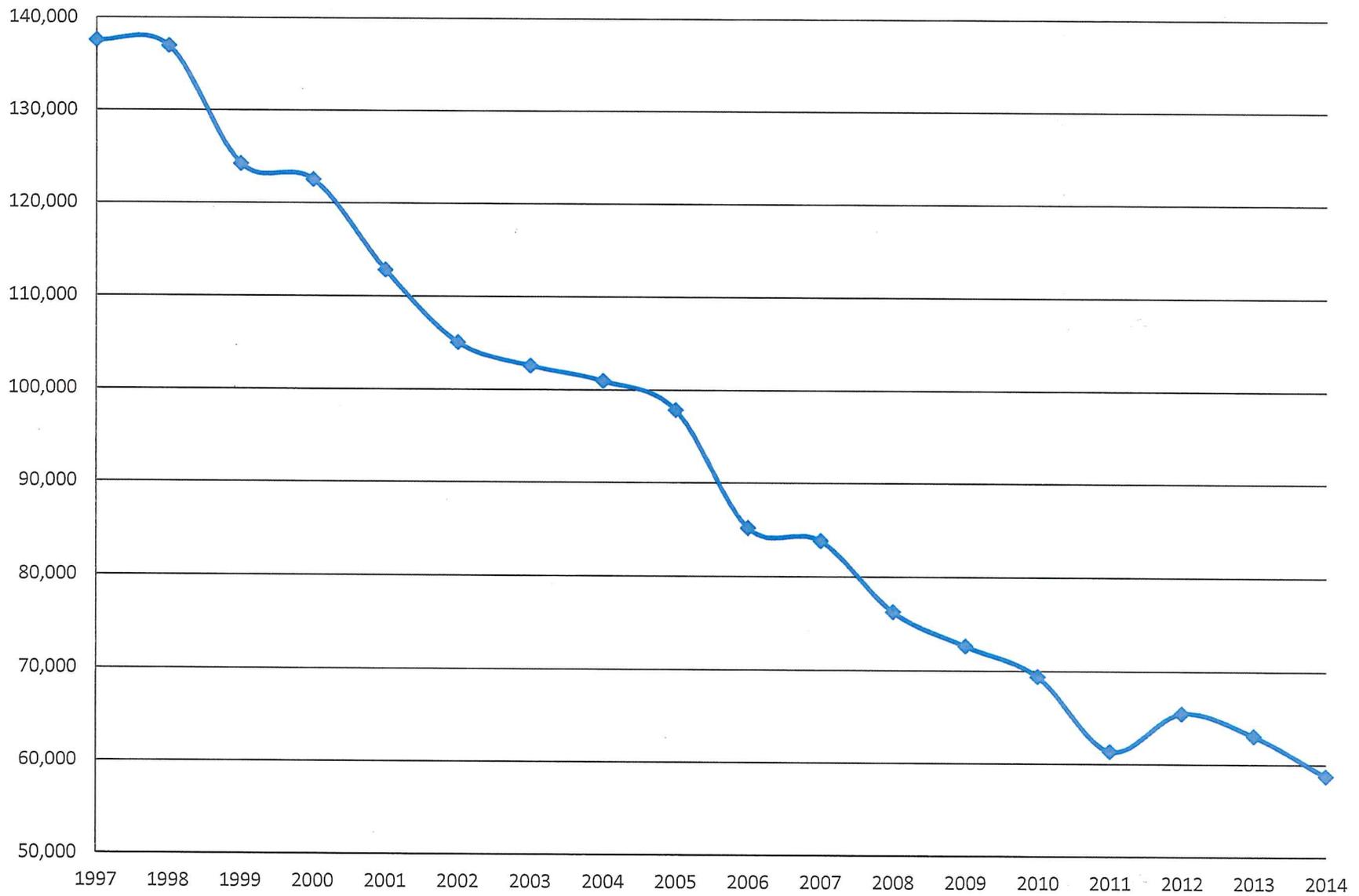
**FRONT VIEW**



# Location Map



### Milham Park/Eastern Hills Rounds Played Per Year



<b>KMGA Modified Cash P&amp;L</b>								
	<b>ACTUAL 1998</b>	<b>ACTUAL 2007</b>	<b>ACTUAL 2012</b>	<b>ACTUAL 2013</b>	<b>ACTUAL 2014</b>	<b>BUDGET 2015</b>	<b>DM GOLF PLAN 2015</b>	
<b>GROSS INCOME</b>								
Greens Fees	864,445	691,284	558,699	539,915	550,240	572,844	575,000	
Memberships	351,514	281,074	216,963	231,999	220,336	219,411	220,000	
Power Cart	231,225	301,792	281,937	286,489	267,370	276,309	290,000	
Driving Range	83,949	63,580	51,632	47,356	47,165	49,298	55,000	
<b>Core Subtotal</b>	<b>1,531,133</b>	<b>1,337,730</b>	<b>1,109,230</b>	<b>1,105,760</b>	<b>1,085,111</b>	<b>1,117,862</b>	<b>1,140,000</b>	
Alcohol	na	na	54,944	119,197	132,560	136,532	140,000	
Non-Alcohol	na	na	68,829	80,323	84,807	87,089	90,000	
Merchandise	na	na	295,756	301,676	246,231	244,423	250,000	
Misc	19,523	14,562	1,098	4,357	21,980	15,000	25,000	
<b>TOTAL</b>	<b>1,550,656</b>	<b>1,352,292</b>	<b>1,529,857</b>	<b>1,611,312</b>	<b>1,570,688</b>	<b>1,600,906</b>	<b>1,645,000</b>	
<b>EXPENSES</b>								
Administrative	64,405	50,062	88,074	91,722	74,931	75,827	70,000	
Course Maintenance	278,709	408,695	314,198	343,025	304,366	309,756	300,000	
Cart Lease	57,563	na	81,642	81,473	86,439	88,000	82,000	
Labor	686,803	702,251	570,987	608,184	626,902	635,415	600,000	
Other (Bank, Legal)	14,451	25,206	42,845	39,768	38,613	39,317	39,000	
COG Alcohol	na	na	22,395	43,002	44,184	43,901	43,353	
COG Non-Alcohol	na	na	38,744	50,111	47,723	48,000	48,647	
COG Merchandise	na	na	219,168	225,506	195,860	195,538	200,000	
<b>TOTAL</b>	<b>1,101,931</b>	<b>1,186,214</b>	<b>1,378,053</b>	<b>1,482,790</b>	<b>1,419,019</b>	<b>1,435,754</b>	<b>1,383,000</b>	
<b>NET REVENUE</b>	<b>448,725</b>	<b>166,078</b>	<b>151,804</b>	<b>128,522</b>	<b>151,669</b>	<b>165,152</b>	<b>262,000</b>	
<b>DEBT SERVICE</b>								
City Contract	224,293							
PNC Loan 2011			22,462	22,462	22,462	22,462	22,462	
PNC Loan 2012			9,569	14,353	14,353	14,353	14,353	
Master Plan 1998	213,696	207,975	126,150	114,436	127,118	133,605	133,605	
EDC Loan			18,803	35,676	35,676	35,676	35,676	
Bond 2012 (\$175,000)			2,500	15,975	15,164	15,152	15,164	
Bond 2013 (\$200,000)			-	2,053	16,365	16,358	16,358	
Bond 2014 (\$150,000)			-	-	1,798	12,203	12,203	
Bond 2015						1,500	2,400	
<b>TOTAL</b>	<b>437,989</b>	<b>207,975</b>	<b>179,484</b>	<b>204,955</b>	<b>232,936</b>	<b>251,309</b>	<b>252,221</b>	
<b>Profit / (loss)</b>	<b>10,736</b>	<b>(41,897)</b>	<b>(27,680)</b>	<b>(76,433)</b>	<b>(81,267)</b>	<b>(86,157)</b>	<b>9,779</b>	

Rounds Played	146,952	83,793	67,283	67,577	64,526	65,000	65,000
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# Commission Agenda Report

Date: **06/01/15**

Item **G1**

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Anderson, and City Commissioners  
**FROM:** Clyde J. Robinson, City Attorney  
**DATE:** May 27, 2015  
**SUBJECT:** Adoption of Revised FOIA Polices

## RECOMMENDATION

It is recommended that the City Commission adopt a resolution 1) approving revised City Commission Policy # 45.1 (FOIA Procedures & Guidelines); 2) repealing existing City Commission Polices ## 45.1 (FOIA Charges), 45.2 (Procedures for Processing Release of Public Records) and 45.4 (FOIA Appeals) along with Resolutions 97-54 and 97-54a (establishing policies for processing requests for public records and cost recovery associated with processing such requests) and 08-89 (regarding the process for processing FOIA appeals) ; and 3) approving the proposed Written Public Summary of FOIA Procedures & Guidelines so as to be compliant with legislative changes in the Freedom of Information Act which become effective July 1, 2015.

## BACKGROUND

Late in last legislative session, saw the enactment of 2014 Public Act 563 which made sweeping changes to the Michigan Freedom of Information Act. In large measure the dealt with the manner by which public bodies could charge a fee for providing access to and copies of public records. In particular, as of July 1, 2015, in order to recover the costs for responding to a request for public record, a public body must establish and make publically available "Procedures & Guidelines" implementing the statutorily mandated process for responding to and charging fees for public records, and create an easily understood "Written Public Summary" of the Procedures & Guidelines.

In summary, the amendment to the FOIA also:

- created six specific categories for fee calculation and recovery and required that a form itemizing how the fee was determined accompany the response to a request;
- permits the public body to use fringe benefit costs of employees when figuring labor costs to produce records;
- generally requires labor costs to be figured in 15 minute increments, except for labor costs for duplication or copying of public records which may be of any increment of the public body's choosing;

- limited to two the number of times per a person may obtain the \$20 fee waiver due to indigency;
- requires fee waiver for certain non-profit organization advocating for persons with mental illness;
- retained the ability of a public body to request a 50% deposit from a requestor when the estimated cost to provide a record exceeds \$50, and clarifies that a public body need not respond to the request until the deposit is received;
- permits public body to require a 100% deposit if the requestor has not paid for an outstanding request in the past 365 days;
- requires that any fee be reduced by 5% for each day a response by the public body is late, up to a maximum reduction of 50%;
- requires a public body to refer a requestor to the public body's website if the records being sought are so available;
- permits a limited ability to make verbal requests (previously all requests had to be in writing);
- permits a requestor to receive the record in a specified format if the public body has the technological ability to do so;
- requires public bodies to monitor spam and junk email folders for FOIA requests;
- permits in addition to the existing appeal of a denial of public record the ability to appeal the amount of the FOIA fee to both the head of the public body and the courts;
- requires that requestor bring suit under the act in the county where the public body is located (previously, requestor could bring suit in the county where he or she lived or had their principal place of business);
- increased the penalties faced by a public body if a court finds that the public body violated the FOIA in denying a record from \$500 to \$1000 to the person bringing the action and \$1000 to the general fund of the State Treasury;
- created penalties of \$500 to the requestor and \$500 to the general fund of the State Treasury if a requestor appeals the FOIA fee amount and receives a reduction of 50% or more from the circuit court; and
- added provision that imposes a penalty of not less than \$2500, or more than \$7500, payable to the State Treasury if the court finds that the public body willfully and intentionally failed to comply with the FOIA, or acted in bad faith, (in assessing the penalty the court must consider the budget of the public body and whether it has been previously assessed penalties for violation of FOIA.)

## **COMMUNITY RESOURCES CONSULTED**

At the request of Educational Director for the Michigan Association of Municipal Attorneys, the City Attorney has taken a leading statewide role in assisting municipal attorney prepare for the July 1, 2015 effective date. To this end, earlier versions of the proposed Procedures & Guidelines and Written Public Summary were presented at a municipal attorney conference in March and have been made available through the Michigan Municipal League website. As such, the approach taken by the City of

Kalamazoo will likely be reflected in the FOIA policies adopted by many other municipalities across the State.

### **FISCAL IMPACT**

It is unclear whether adoption of policies reflecting the statutorily mandated changes will result in a decrease or increase in FOIA fees recovered by City going forward.

### **ALTERNATIVES**

The City Commission could choose not to amend its FOIA Policies. However, this would preclude the City from recovering any FOIA-associated costs after July 1, 2015.

### **ATTACHMENTS**

Resolution  
Proposed City Commission Policy  
Written Public Summary

**CITY OF KALAMAZOO, MICHIGAN**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AMENDING CITY POLICIES ADDRESSING THE MICHIGAN  
FREEDOM OF INFORMATION ACT; REPEALING INCONSISTENT POLICIES AND  
RESOLUTIONS; AND APPROVING A WRITTEN PUBLIC SUMMARY**

Minutes of a regular meeting of the City Commission of the City held on June 1, 2015, at 7:00 p.m., local time, at City Hall.

**PRESENT:** Commissioners

**ABSENT:** Commissioners

**WHEREAS**, the enactment of 2014 Public Act 563 made sweeping changes to the Michigan Freedom of Information Act; in particular the law specifies the manner by which public bodies may charge a fee for providing access to and copies of public records;

**AND** as of July 1, 2015, in order to recover the costs for responding to a request for public record, the City must establish and make publically available "Procedures & Guidelines" which implement the statutorily mandated processes for responding to and charging fees for public records, addressing appeals of denial of records and fees, waivers of fees, requiring fee deposits, and create an easily understood "Written Public Summary" of the Procedures & Guidelines,

**NOW, THEREFORE, IT IS RESOLVED** that the City Commission:

1) Adopts the attached revised City Commission Policy # 45.1 (FOIA Procedures & Guidelines) and directs that the City Administration adopt policies in conformance therewith;

2) Repeals existing City Commission Polices ## 45.1 (FOIA Charges), 45.2 (Procedures for Processing Release of Public Records) and 45.4 (FOIA Appeals) along with Resolutions 97-54 and 97-54a (establishing policies for processing requests for public records and cost recovery associated with processing such requests) and Resolution 08-89 (addressing the process for processing FOIA appeals) effective July 1, 2015; and

3) Approves the attached Written Public Summary of FOIA Procedures & Guidelines so as to be compliant with legislative changes in the Freedom of Information Act which become effective July 1, 2015.

The above resolution was offered by \_\_\_\_\_  
and supported by \_\_\_\_\_.

**AYES**, Commissioners:

**NAYS**, Commissioners:

**ABSTAIN**, Commissioners:

**RESOLUTION DECLARED ADOPTED.**

**CERTIFICATE**

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on June 1, 2015. 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.

\_\_\_\_\_  
Scott A. Borling, City Clerk

---

**Subject:** FREEDOM OF INFORMATION  
PROCEDURES & GUIDELINES

**DATE:** \_\_\_\_\_, 2015    **No.** 45.1  
Page 1 of 12

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**PURPOSE:** To establish procedures and guidelines governing the release of public records, pursuant to Public Act 442 of 1976.

**SCOPE:** This policy establishes a process and procedures for the release of public documents, establishes a policy to recover costs associated with requests, and establishes a procedure for appeals.

**POLICY:**

Preamble: Statement of Principles

It is the policy of the City of Kalamazoo that all persons, except those who are serving a sentence of imprisonment, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they fully participate in the democratic process.

The City of Kalamazoo's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

The City of Kalamazoo acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The City of Kalamazoo acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

The City of Kalamazoo will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The City of Kalamazoo's policy is to disclose public records consistent with and in compliance with State law.

**Section 1:     General Policies**

The City Commission acting pursuant to the authority at MCL 15.236 designates the City Attorney as the FOIA Coordinator. He or she is authorized designate other City staff to act on his or her behalf to accept and process written requests for the City's public records and approve denials.

If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail and delivered to a City spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

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The FOIA Coordinator shall review City spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with City Information Technology staff to develop administrative rules for handling spam and junk-mail so as to protect City systems from computer attacks which may be imbedded in an electronic FOIA request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The City is not obligated to create a new public record or make a compilation or summary of information which does not already exist. The FOIA Coordinator or other City staff is not obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

A copy of all written requests for public records received by the City shall be maintained for a period of at least one year. The retention of such requests shall be the responsibility of the FOIA Coordinator or, in the event that the records were released without review by the FOIA Coordinator, by the City Department which accepted and processed the request.

The Mayor is designated by the City Commission as the head of the public body for the purpose of responding to appeals of a denial of all or portion of a public record and appeals of processing fees. In the event of the absence or disability of the Mayor, the Vice Mayor shall act in the place of the Mayor.

Any subpoena from any court, attorney, or any other person which requests the production of any City record shall immediately be forwarded to the Office of City Attorney and falls outside the scope of this Policy.

## **Section 2:     Requesting a Public Record**

A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by City of Kalamazoo must do so in writing. The request must sufficiently describe a public record so as to enable City personnel to identify and find the requested public record.

No specific form to submit a request for a public record is required. However the FOIA Coordinator may make available a FOIA Request Form for use by the public.

Written requests for public records may be submitted in person or by mail to any City office. Requests may also be submitted electronically by facsimile and e-mail. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, electronically mailed or otherwise provided to him or her in lieu of paper copies. The City will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued or disseminated by the City of Kalamazoo on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

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A person who makes a verbal, non-written request for information believed to be available on the City's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

The FOIA Coordinator may implement administrative rules permitting verbal requests for public records in designated instances. Verbal requests for public records not available on the City's website are not considered to fall within the scope of the FOIA statute; shall only be responded to where the record in question will be made available or released in its entirety; and when waiver of the requirement of a written request and release of the record, in the particular instance, serves the best interests of the requesting party, the general public and the City. In the event that the public record sought by a verbal request will not be released its entirety, the requesting party shall be advised to file a written request.

Any request to review and/or receive copies of any portion of a personnel file maintained or possessed by the City must be made in writing. This policy does not affect the right of current or former City employees to review or receive copies of documents from their own personnel files.

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

### **Section 3:     Processing a Request**

Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request the City will issue a response. If a request is received by facsimile, e-mail or other electronic transmission, the request is deemed to have been received on the following business day. The City will respond to the request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the City's website.

The FOIA Coordinator, or such other individuals as he or she may designate, shall have exclusive authority to deny any FOIA request, either entirely or in part.

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request. A copy of these Procedures and Guidelines along with its Written Public Summary shall be provided to the requestor with the response to a written request

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for public records, provided however, that if these Procedures and Guidelines, and its Written Public Summary are maintained on the City's website, then a website link to those documents may be provided in lieu of providing paper copies.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If based on a good faith calculation by the City, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, the City will require a good-faith deposit before processing the request.

In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the City to process the request and also provide a best efforts estimate of a time frame it will take the City to provide the records to the requestor. The best efforts estimate shall be nonbinding on the City, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the City; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the office of the Mayor or seek judicial review in the Kalamazoo County Circuit Court; and
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator or his or her designee.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

The City shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect City records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal City operations.

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The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

#### **Section 4: Fee Deposits**

If the fee estimate to provide the requested public records is expected to exceed \$50.00 based on a good-faith calculation by the City, the requestor will be asked to provide a deposit not exceeding on-half of the total estimated fee.

If a request for public records is from a person who has not fully paid the City for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:

- the final fee for the prior written request is not more than 105% of the estimated fee;
- the public records made available contained the information sought in the prior written request and remain in the City's possession;
- the public records were made available to the individual, subject to payment, within the time frame estimated by the City to provide the records;
- 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- the individual is unable to show proof of prior payment to the City; and
- the FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:

- the person making the request is able to show proof of prior payment in full to the City;
- the City is subsequently paid in full for the applicable prior written request; or
- 365 days have passed since the person made the request for which full payment was not remitted to the City.

#### **Section 5: Calculation of Fees**

Consistent with the authority granted by statute, it is the intent of the City to charge a fee for a public record search, for the necessary copying of a public record for inspection, or for providing a copy of a public record so that its general fund and departmental budgets are not unduly burdened by the costs associated with processing FOIA requests.

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A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the City because of the nature of the request in the particular instance, and the City specifically identifies the nature of the unreasonably high costs.

The following factors shall be used to determine an unreasonably high cost to the City:

- The particular request incurs costs greater than incurred from the typical or usual FOIA request received by the City.
- Volume or size of the public record requested
- Whether the amount of time spent to search for, examine, review or separate exempt from non-exempt information in the record requested exceeds 15 minutes.
- Whether public records from more than one City department or various City offices is necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The City may charge for the following costs associated with processing a FOIA request:

- Labor costs directly associated with searching for, locating and examining a requested public record, if the failure to charge a fee results in unreasonably high costs to the City.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed, if the failure to charge a fee results in unreasonably high costs to the City.
- The actual cost of computer discs, computer tapes or other digital or similar media.
- The cost of duplication of publication, not including labor, of paper copies of public records.
- The cost of labor associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requestor.

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- The actual cost of mailing or sending a public record, including the least expensive form of postal delivery confirmation; as well as the cost of expedited shipping or insurance when such is asked for by the requestor.

Labor costs will be calculated based on the following requirements:

- Labor costs directly associated with searching for, locating and examining a requested public record and labor costs associated with a review of a record to separate and delete information exempt from disclosure from information which is disclosed will be estimated and charged in 15 minute increments with all partial time increments rounded down.
- Labor costs associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requestor, will be charged in 6 minute increments, with all partial time increments rounded down.
- Labor costs will be charged at the hourly wage of the lowest-paid City employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The City may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs until agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disks, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will only be assessed if the City has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- In order to ensure the integrity and security of the City's technological infrastructure, the City will procure any requested non-paper media and will not accept non-paper media from the requestor

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The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The City may provide records using double-sided printing, if cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The City may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless requested.

If the FOIA Coordinator does not respond to a written request in a timely manner, the following shall be required:

- Reduce the labor costs by 5% for each day the City exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
  - The late response was willful and intentional.
  - The written request, within the first 250 words of the body of a letter facsimile, e-mail or e-mail attachment conveyed a request for information
  - The written request included the words, characters, or abbreviations for “freedom of information”, “information”, “FOIA”, “copy” or a recognizable misspelling of such, or legal code reference to MCL 15. 231 et seq or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form

### **Section 6: Waiver of Fees**

Absent a waiver by the FOIA Coordinator in whole or in part, all charges associated with processing a FOIA request shall be paid in full before the release of any public records. The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a

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waiver or reduced fee is in the public interest because such can be considered as primarily benefitting the general public.

In determining whether the general public is primarily benefited, the FOIA Coordinator shall consider the following factors, none of which shall be determinative:

- whether the public record being disclosed serves the public policy purposes set forth at Section 1 of the FOIA;
- whether the release primarily serves a private or commercial purpose;
- whether the release implicates the rights of third persons;
- whether waiver of the fee is in the best interest of the City; and
- the manner in which similar requests have been treated.

The City will waive the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- indigent and receiving specific public assistance; or
- if not receiving public assistance stating facts demonstrating an inability to pay because of indigency.

An individual is not eligible to receive the waiver if:

- the requestor has previously received discounted copies of public records from the City twice during the calendar year; or
- the requestor requests information in connection with other persons who are offering or providing payment to make the request.

The affidavit shall be a sworn statement made under the penalty of perjury. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

The City will waive the first \$20.00 of the processing fee for a request from a nonprofit organization designated to by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 200 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

- is made directly on behalf of the organization or its clients;

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- is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931; and
- is accompanied by documentation of its designation by the State.

### **Section 7: Appeal of a Denial of a Public Record**

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial directed to the Office of the Mayor and filed with either the City Clerk or City Attorney. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial. Upon receipt a copy of the appeal and a written report and recommendation from the City Attorney shall be distributed to all members of the City Commission.

Within 10 business days of receiving the appeal the Mayor will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reversing the disclosure denial in part and upholding the disclosure denial in part.
- Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the Mayor may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal.

Any exemption to the release of requested public records shall be narrowly construed and the burden shall be upon the FOIA Coordinator to demonstrate that the denial of information is justified and should be upheld.

The Mayor shall provide a copy of his or her written response to the appeal to the other members of the City Commission, and file a copy with the City Clerk for public inspection.

Whether or not a requestor submitted an appeal of a denial to the Mayor, he or she may file a civil action in Kalamazoo County Circuit Court within 180 days after the City's final determination to deny the request.

If the court determines that the public record is not exempt from disclosure, the court will award the appellant reasonable attorneys' fees, cost and disbursements. If the court determines that the appellant prevails only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs and disbursements.

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If the court determines that the City arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages in the \$1,000.

### **Section 8: Appeal of an Excessive FOIA Processing Fee**

If a requestor believes that the fee or the good faith deposit charged by the City to process a FOIA request exceeds the amount permitted by state law, he or she must first submit a written appeal for a fee reduction directed to the Office of the Mayor and filed with either the City Clerk or City Attorney. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Mayor will respond in writing by:

- waiving the fee;
- reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee, accompanied by a certification by the Mayor that the statements in the determination are accurate and the reduced fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA;
- upholding the fee and issue a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee, accompanied by a certification by the Mayor that the statements in the determination are accurate and the fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA; or
- issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Mayor will respond to the written appeal.

The Mayor shall provide a copy of his or her written response to the appeal to the other members of the City Commission, and file a copy with the City Clerk for public inspection.

Within 45 days after receiving notice of the Mayor's determination of a fee appeal, a requestor may commence a civil action in Kalamazoo County Circuit Court for a fee reduction. If a civil action is filed appealing the fee, the City is not obligated to process the request for the public record until the Court resolves the fee dispute.

If the court determines that the City required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible amount. If the appellant in the civil action prevails by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements.

If the court determines that City has acted arbitrarily and capriciously by charging an excessive fee, the court shall also award the appellant punitive damages in the amount of \$500.

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### **Section 9: Conflict with Prior FOIA Policies and Procedures; Effective Date**

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by City Commission or the City Administration these Procedures and Guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the City Commission or the City Administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the City Commission or the City Administration, and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the City Commission of any change these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015.

### **Section 10: Appendix of City of Kalamazoo FOIA Forms**

The FOIA Coordinator is authorized to develop those forms necessary or convenient to process FOIA requests, including, but not limited to the following:

- Request Form
- Denial Form
- Waiver of Fee Form
- Detailed Itemization of Fees Form
- Appeal Form
- Certification Form

**EFFECTIVE DATE:** \_\_\_\_\_

\_\_\_\_\_  
Bobby J. Hopewell, Mayor

## **CITY OF KALAMAZOO WRITTEN PUBLIC SUMMARY OF FOIA PROCEDURES & GUIDELINES**

Consistent with Public Act 563 of 2014 amending the Michigan Freedom of Information Act (FOIA), the following is the City of Kalamazoo Written Public Summary of its FOIA Procedures and Guidelines

### **1. How do I submit a FOIA request to the City of Kalamazoo?**

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City of Kalamazoo must be submitted in writing.
- A request must sufficiently describe a public record so as to enable the City to find it.
- No specific form to submit a written request is required. However a FOIA Request form for your use and convenience is available on the City's website at [www.kalamazoocity.org](http://www.kalamazoocity.org)
- Written requests can be made in person by delivery to any City office in person or by mail.
- Requests can also be made by facsimile by calling 269-337-8922 for non-Public Safety records and 269-552-3193 for Public Safety records.
- A request may also be submitted by e-mail. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line and be sent to [cokattorney@kalamzoocity.org](mailto:cokattorney@kalamzoocity.org)

*Note: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for a public record.*

### **2. What kind of response can I expect to my request?**

- Within 5 business days of receipt of a FOIA request the City will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day. The City will respond to your request in one of the following ways:
  - Grant the request.
  - Issue a written notice denying the request.
  - Grant the request in part and issue a written notice denying in part the request.
  - Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond.
  - Issue a written notice indicating that the public record requested is available at no charge on the City's website.
- If the request is granted, or granted in part, the City will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the City will require a deposit before processing the request.

### **3. What are the City's fee deposit requirements?**

- If the City has made a good faith calculation that the total fee for processing the request exceeds \$50.00, the City will require that you provide a deposit in the amount of 50% of the total estimated fee. When the City requests the deposit it will provide you a non-binding best efforts estimate of how long it will take to process the request following receipt by the City of your deposit.
- If the City receives a request from a person who has not paid the City for copies of public records made in fulfillment of a previously granted written request, the City will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when all of the following conditions exist:
  - the final fee for the prior written request is not more than 105% of the estimated fee;
  - the public records made available contained the information sought in the prior written request and remain in the City's possession;
  - the public records were made available to the individual, subject to payment, within the time frame estimated by the City to provide the records;
  - 90 days have passed since the City notified the individual in writing that the public records were available for pickup or mailing;
  - the individual is unable to show proof of prior payment to the City; and
  - the City has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The City will not require the 100% estimated fee deposit if any of the following apply:
  - the person making the request is able to show proof of prior payment in full to the City;
  - the City is subsequently paid in full for all applicable prior written requests; or
  - 365 days have passed since the person made the request for which full payment was not remitted to the City.

### **4. How does the City calculate FOIA processing fees?**

- A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the City because of the nature of the request in the particular instance, and the City specifically identifies the nature of the unreasonably high costs.

- The Michigan FOIA statute permits the City to assess and collect a fee for six designated processing components. The City may charge for the following costs associated with processing a request:
  - Labor costs associated with searching for, locating and examining a requested public record.
  - Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
  - The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media.
  - The cost of duplication or publication, not including labor, of paper copies of public records.
  - Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
  - The cost to mail or send a public record to a requestor.
- Labor Costs
  - Labor costs for searching, locating and examining a requested public record and labor costs for the review of a record to separate and delete information exempt from disclosure from information which is disclosed is estimated and charged in 15 minute increments with all partial time increments rounded down.
  - Labor costs for the duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requestor, will be charged in 6 minute increments, with all partial time increments rounded down.
  - Labor costs will be charged at the hourly wage of the lowest-paid City employee capable of doing the work in the specific fee category, regardless of who actually performs work.
  - Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- Non-paper Physical Media
  - The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.

- This cost will only be assessed if the City has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- Paper Copies
  - Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets will paper will reflect the actual cost of reproduction.
  - The City may provide records using double-sided printing, if cost-saving and available.
- Mailing Costs
  - The cost to mail public records will use a reasonably economical and justified means.
  - The City may charge for the least expensive form of postal delivery confirmation.
  - No cost will be made for expedited shipping or insurance unless requested.

**5. How do I qualify for a reduction of the processing fees?**

- The City may waive or reduce the fee associated with a request when City determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public.
- The City will waive the first \$20.00 of the processing fee for a request if you submit an affidavit stating that you are:
  - indigent and receiving specific public assistance; or
  - if not receiving public assistance, stating facts demonstrating an inability to pay because of indigency.
- You are not eligible to receive the \$20.00 waiver if you:
  - have previously received discounted copies of public records from the City twice during the calendar year; or
  - are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- An affidavit is sworn statement. For your convenience the City has provided an Affidavit of Indigency form for the waiver of FOIA fees on its website.

- The City will waive the first \$20.00 of the processing fee for an nonprofit organization which meets all of the following conditions:
  - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
  - the request is made directly on behalf of the organization or its clients;
  - the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
  - the request is accompanied by documentation of the organization's designation by the State

## **6. How may I challenge the denial of a public record or an excessive fee?**

- Appeal of a Denial of a Public Record

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may file an appeal of the denial with the Office of the Mayor through the City Clerk or City Attorney. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons you are seeking a reversal of the denial.

Within 10 business days of receiving the appeal the Mayor will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reverse the disclosure denial in part and uphold the disclosure denial in part.

Whether or not you submitted an appeal of a denial to the Mayor, you may file a civil action in Kalamazoo County Circuit Court within 180 days after the City's final determination to deny your request. Should you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the City acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1000.00

- Appeal of an Excessive FOIA Processing Fee

If you believe that the fee charged by the City to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a fee reduction to the Office of the Mayor through the City Clerk or City Attorney. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Mayor will respond in writing by:

- waiving the fee;

- reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
- issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Mayor will respond to the written appeal.

Within 45 days after receiving notice of the Mayor's determination of the processing fee appeal, you may commence a civil action in Kalamazoo County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the City acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.00.

### **Need more details or information?**

This is only a summary of the City of Kalamazoo's FOIA Procedures and Guidelines. For more details and information, copies of the City of Kalamazoo's FOIA Procedures and Guidelines are available at no charge at any City office and on the City's website, [www.kalamazoocity.org](http://www.kalamazoocity.org).

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