Washtenaw County Brownfield Redevelopment Authority

IN-PERSON MEETING AGENDA

Monday, July 10th 2023 10:00 a.m.

200 N. Main, Ann Arbor, Lower Level Large Conference Room

Zoom Link to Webinar for Public to Join the Meeting:

https://washtenawcounty.zoom.us/j/81099386316?pwd=aEhqMWtsVldYOXVuSEdnZ3BqNFZ6UT09
Passcode: 788623

Dial In Number: US: +1 470 381 2552 or +1 267 831 0333 or +1 301 715 8592 or +1 312 626 6799 or +1 470 250 9358 or +1 206 337 9723 or +1 213 338 8477 or +1 253 215 8782

1. **Call to Order**
2. **Public Comment***
3. **Approval of Agenda**
4. **Approval of Minutes**
   a. June 5th, 2023 Meeting
5. **Board Member Conflict of Interest Disclosure**
6. **Business**
   1. 303 N. Fifth/312/314 Detroit St. Brownfield Plan Amendment – Discussion
   2. 300 N. Zeeb Reimbursement Agreement – Action
   3. 14 W. Forest, City of Ypsilanti DPW Yard, Environmental Assessment Grant Application – Action
   4. Final review of Draft 2021-2022 Brownfield Program Annual Report – Action
   5. June 2023 Financial Report – Information
7. **Other Business**
8. **Public Comment***
9. **Adjournment**

*All public comment will be limited to three (3) minutes per person

For more information on this agenda please contact Nathan Voght, Washtenaw County Office of Community and Economic Development at (734) 660-1061 or voghtn@washtenaw.org.

Washtenaw County
Brownfield Redevelopment Authority (WCBRA)
Meeting held in-person at 200 N. Main, downtown Ann Arbor
Lower Level Large Conference Room

DRAFT MEETING MINUTES
Monday, June 5, 2023, 10:00 a.m.

Board Present: Trevor Woollatt, Joe Meyers, James Harless, Christy Maier, Allison Krueger – Chair, Justin Hodge

Board Absent: Sam Baushke – Secretary, Colleen O'Toole – Vice Chair

Staff: Nathan Voght – OCED

Joining the Meeting: Anne Jamieson – Jamieson Consulting, Heather Seyfarth and Wendy Carty-Saxon – Ann Arbor Housing Commission, Tim Stout – O'Neil Construction, Adrianna Jordan – City of Chelsea, Joe Ziolkowski – Main Street Park Alliance, Troy Helmick – SME, Derric Scott – J24:7 for 124 Pearl Street, Katie Jones – City of Ypsilanti

Handouts: Draft 2021-2022 Annual Brownfield Authority Report, for comment

1. Call to Order

Chair Krueger called the meeting to order at 10:01 a.m.

2. Public Comment

There was no public comment.

3. Approval of Agenda

J. Hodge moved to approve the revised Agenda, with Business Item #4, 124 Pearl Street, added (2nd J. Meyers), and the motion passed unanimously.

4. Approval of May 11th, 2023 Meeting Minutes

J. Meyers moved to approve the May 11th minutes (2nd J. Harless), and the motion passed unanimously.

5. Board Member Conflict of Interest Disclosure

None declared.

6. Business

1. Main Street Park Alliance, Federal Screw Works Site, Chelsea, Project Update – Info

Staff introduced Joe Ziolkowski, from the Main Street Park Alliance. He provided a project updated, and ongoing discussions with the City. A Letter of Interest was approved by the City last week. He reported that they've raised $2.5 from residents, and are looking to EGLE for a $1M grant and $650K low interest loan. So, total raised is $3.5M, but the project budget is about $6.5M. And only about 5 individuals make up the raised donations so far.

They've spent about $135K in testing so far, $65K of which came from the BRA LBRF Grant. A

Res App will be submitted to EGLE in July, to propose an overall clean up criteria that will be protective of public health and the intended use.

They found 3 underground storage tanks, and Magellan is responsible for them. Magellan will be digging test pits and address the tanks. They've confirmed NAPL going down to 24 ft. They plan to go down 10 ft. for clean up and use 24,000 gallons of water to remove contaminants, which should make the City happy.

The area needing to be remediated of the NAPL is about 100 ft. by 200 ft. Main Street Park Alliance plans to apply for an LBRF grant of about $700K to do the cleanup, which the Board previously indicated a willingness to consider. They plan to apply at the August Brownfield Authority meeting.

The Board asked Adrianna Jordan, from the City of Chelsea, who was in attendance, for comment on the City's position at this time. She indicated talks are active, and a letter of intent was received last week, and things are going in the right direction. The City has hired the environmental attorney from Miller/Canfield, Matthew Greenberg, who the Board knows well.

The Board thanked Mr. Ziolkowski for the presentation, and they look forward to more discussion and the LBRF application in August.

2. <u>121 Catherine Street LBRF Application, Ann Arbor Housing Commission – Action</u>

Staff introduced Anne Jamieson and Wendy Carty-Saxon, who were in attendance at the meeting. Staff referred to the LBRF application and accompanying spreadsheet showing breakdowns of various eligible activities, and what is proposed to be funded by the requested LBRF Grant, and a potential EGLE grant. Ms. Jamieson walked the Board through the costs to be covered.

The EGLE grant would be applied for by the Housing Commission, and Ms. Jamieson would assist with administration. J. Meyers asked for the status of City approval, to which Ms. Carty-Saxon replied that the Planning Commission has approved the Plan with staff conditions.

J. Harless asked what Avalon's N. Washington LBRF grant request would be, in the City of Ypsilanti. Ms. Carty-Saxon stated that it will be between $300,000 and $700,000, but they are still making a more exact determination.

The Board then discussed all the pending LBRF applications, and current LBRF unobligated balance of about $1.5M, and expected deposits. Staff included projected deposits through 2027:

2023	*No LBRF Capture rest of 2023 calendar year*
2024	*$710,000 (Kingsley Condos, 618 S. Main and Arbor Hills, and 4 other projects)*
2025	*$1,000,000 (618 and Arbor Hills)*
2026	*$200,000 (Various projects)*
2027	*$1,000,000 (1140 Broadway)*

J. Meyers moved to approve the LBRF Grant application in the amount of $959,406. C. Maier asked if there was a way to do the project without the excavation, to which Ms. Jamieson responded no. C. Maier further asked if there was a chance at any surprises, to which Ms. Jamieson again responded that it is unlikely as they have done a lot of subsurface investigation, and they know what's underground. J. Hodge then supported the motion made. J. Harless then reminded the applicant that DCC RFL Funding may be possible for the project, and Ms. Jamieson agreed and would consider it. The motion was called and passed unanimously.

3. <u>124 Pearl Street Phase II Environmental Assessment Grant Application – Action</u>

   This agenda item was added by the Board as part of the revised agenda for today's meeting. Mr. Scott, the prospective purchaser, and Mr. Helmick, with SME, are in attendance. Staff referred to the Phase II application, which the Board asked for at the May meeting, when it approved the Phase I, to have more more detail on scope prior to approval.

   Mr. Helmick had more information about historic uses, including adjacent dry cleaners and a gas station constructed on the site in the 1950s.

   J. Harless moved to approve the Phase II Investigation application, up to a total amount of $15,000, including the previously approved Phase I, for 124 Pearl Street, (2nd C. Maier), and the motion passed unanimously.

4. <u>May 2023 Financial Report – Information</u>

   Staff referred to the Financial Report, which is updated this month, and only for information.

7. Other Business

N. Voght stated that MAVD development will be submitting a Brownfield Plan Amendment to add unexpected environmental costs of the project.

J. Harless asked that the BF Plans and Reimbursement Agreement documents be uploaded for all projects on the County webpage. N. Voght stated he would have this done.

The Board discussed the draft 2021-2022 Annual Program Report, and will provide feedback to staff. The Board asked for two additional project highlight pages that are more representative of the typical project. They discussed adding 1140 Broadway and the Leslie Science Center projects.

J. Harless asked about registering for the National Brownfields Conference, and having brownfield funds reimburse him. Staff was supportive, provided the Board agreed.

J. Hodge thanked the Board for moving the meetings to Mondays at 10 a.m. He also provided an update on the ongoing County Land Bank discussions. He asked about wetlands banks that EGLE does as an example, and A. Krueger, who works for County Parks, indicated that's a County parks area of operation.

8. Public Comment:

None.

9. Adjournment:

J. Meyers moved to adjourn the meeting at 11:18 a.m. (2nd J. Harless), and the motion passed unanimously.

These minutes were approved by the Washtenaw County Brownfield Redevelopment Authority at the _______________, 2023 meeting, held at 200 N. Main, lower level large conference room, downtown Ann Arbor.

Washtenaw County Brownfield Redevelopment Authority

Agenda Summary Memo

REGULAR IN-PERSON MEETING

10:00 a.m. Thursday, July 10th, 2023

200 N. Main, Lower Level Conference Room, Ann Arbor

TO: Washtenaw County Brownfield Authority
FROM: Nathan Voght, Washtenaw County Brownfield Coordinator
DATE: July 5th, 2023

This regular board meeting will be held in-person, at 200 N. Main, lower level Conference Room, downtown Ann Arbor. Any public wishing to participate can attend the meeting in-person, or use the provided Zoom Webinar link on the meeting agenda.

Business Items:

1. **303 N. Fifth/312/314 Detroit St. Brownfield Plan Amendment – Discussion**

   The Brownfield Plan for this project was approved in August 2022. It consists of a small, mixed-use building in Kerrytown, Ann Arbor, with 14 condominiums and ground floor office/retail. The Plan included $2.6 M in Environmental Activities only, and was projected to take 9 years to pay off, with a cap of 12 years.

   The project began construction and eligible activity costs are far higher than original estimates, due to site conditions, materials, and geothermal well costs. Here are site pictures from last week. The developer is requesting a Brownfield Plan Amendment, increasing total requested developer reimbursement from $2,674,011 to $3,298,995. Authority Administrative fees would increase from $206,465 to $247,292, and LBRF capture from $750,776 to $893,842. The Plan now projects a 10 year payoff, but the cap of 12 years is unchanged in the Plan text.

   Here is a link to the BF Plan Amendment:
   https://drive.google.com/file/d/1EuE4UzWB7AEXBnlElzUAweXczB8_tuzB/view?usp=sharing

   An updated Development ProForma was provided to the City of Ann Arbor Finance Department. They will be conducting an updated financial analysis.

   This is on the Authority agenda for an early, courtesy review of the Plan Amendment.

2. **300 N. Zeeb Reimbursement Agreement – Action**

   Please see the proposed Reimbursement Agreement in the packet. The Developer has asked for several minor changes to our standard language, related to Authority review of Eligible Activities, and who pays attorney fees in the event of disputes over Eligible Costs.

   The County Corporation Counsel did not object to the changes, other than to raise the question if the changes might be precedent-setting. Staff is not concerned about the requested changes.

3. **14 W. Forest, City of Ypsilanti DPW Yard, Environmental Assessment Grant Application – Action**

   The City of Ypsilanti is seeking a Phase I and Hazardous Materials Survey Environmental Assessment Grant in the amount of $4,950. The City needs to demolish at least 1 of their storage buildings due to poor condition and reconfigure the operations of their DPW yard. The site has long been owned and operated by the City. Staff is supportive of the request, in order to help one of our municipal members.

4. **June 2023 Financial Report – Information**

   For information only.

5. **Final Review of Draft 2021-2022 Brownfield Program Annual Report – Action**

   Here is a final draft of the 2021-2022 Brownfield Authority two-year report, which incorporates several more minor text edits from James Harless and Christy Maier. Once approved, we will distribute via press release, and put on the County Brownfield webpage.

Staff updates:

1. 220 N. Park is looking to close on financing by the end of July. Staff is coordinating final approval and execution of all contracts and grant/loan agreements, as required.
2. 2 W. Michigan, downtown Ypsilanti: Staff continues to coordinate with the owner, City of Ypsilanti, and SME, to finalize the scope of the activities covered by the $750,000 EGLE grant, and sign a Grant Agreement.
3. Main Street Park Alliance will likely be submitting an LBRF grant application for the August meeting.
4. The City of Ann Arbor will be submitting a draft Brownfield Plan for 415 W. Washington for courtesy review for the August meeting.
5. I've included an "LBRF Cash Flow" spreadsheet, with all known projects already approved, or where an application if forthcoming. The purpose is to determine impacts to the fund, and if the Authority can support all the anticipated funding requests. Based on this estimate, there is one year in which the fund goes negative by $57,450, in 2025. The timing of payouts will have to be refined over the next couple of months, as we learn more about the construction schedules of involved projects.

WASHTENAW COUNTY BROWNFIELD REDEVELOPMENT AUTHORITY REIMBURSEMENT AGREEMENT

This Agreement (the "Agreement") dated May 11, 2023 is entered between the WASHTENAW COUNTY BROWNFIELD REDEVELOPMENT AUTHORITY (the "Authority"), an authority established pursuant to Act 381 of 1996, as amended ("Act 381"), whose address is 220 N. Main Street, P.O. Box 8645, Ann Arbor, Michigan 48107-8645 and A2 Zeeb, LLC (the "Developer"), a Michigan Limited Liability Company, whose address is 600 S. Wagner Road, Ann Arbor, MI 48103.

RECITALS

A. Pursuant to Act 381, as amended, the Authority has prepared a Brownfield Plan for the Eligible Property below that was duly approved by the Washtenaw County Board of Commissioners with concurrence from Scio Township:

    a. Located at 300 North Zeeb Road.

    b. Located in Scio Township, Washtenaw County, Michigan

    c. Tax Identification Number H-08-22-200-005 (the "Property"),

    d. Legal Description provided in Exhibit B

B. The Developer plans to redevelop the Property as follows:

    a. Redevelop several buildings, totaling 173,580 s.f., on approximately 30 acres, and is planning significant renovation and rehabilitation of the structures to accommodate multiple tenants for warehousing, offices, wet labs, clean rooms, and other hi-tech and bio-tech related uses and associated parking, landscaping, and site enhancements (the "Improvements").

    b. This will occur through the Developer incurring costs.

    c. The Improvements are expected to increase the tax base within the County, and otherwise enhance the economic vitality and quality of life within Washtenaw County.

C. The Developer will conduct Eligible Activities and incur eligible costs pursuant to the approved Brownfield Plan, Act 381 Work Plan, and according to the terms of this Agreement.

D. Act 381 permits the capture and use of the real and personal property tax revenues generated from the increase in value of the Eligible Property to pay or reimburse the costs of Eligible Activities.

E. Act 381 permits the use of Tax Increment Revenue (TIR) to support the payment of interest on unreimbursed Eligible Costs, and Interest is included as an Eligible Activity in the approved Plan.

F. The Authority has incurred and will incur Administrative Costs for its operations and the preparation, approval, and administration of the Brownfield Plan, for which it seeks reimbursement from TIR.

G. The Authority intends to fund the Local Brownfield Revolving Fund (LBRF) during and/or after the Developer Reimbursement period.

H. In accordance with Act 381, the Brownfield Plan, and this Agreement, the parties desire to use TIR generated from an increase in the taxable value of the Property resulting from its Improvements to reimburse the Developer for actual expenses for approved Eligible Activities, the Authority for its Administrative Costs (at the discretion of the Authority), and to fund the LBRF.

I. The parties are entering into this Agreement to establish the terms, conditions and procedures for the reimbursement from TIR.

TERMS AND CONDITIONS

Pursuant to the Recitals of this Agreement, the parties agree with each other as follows:

1. Definitions All terms included in this agreement are defined through Exhibit A "Definitions"

2. The Brownfield Plan – The Brownfield Plan, which may be amended from time to time, shall be the Plan in effect at the time that Eligible Activities are conducted and Eligible Costs are incurred. To the extent provisions of the Brownfield Plan conflict with this Agreement, the terms and conditions of this Agreement control. To the extent provisions of the Brownfield Plan or this Agreement conflict with Act 381, Act 381 shall control.

3. Term of Agreement – In accordance with the Brownfield Plan, the Authority shall capture the Tax Increment Revenues (TIR) generated by the Improvements on the Property to reimburse for Eligible Costs until the earlier of (i) the date that all the Eligible Costs are fully reimbursed under this Agreement; or (ii) at the end of the 20th tax capture year where capture is anticipated to begin in 2023, or as may subsequently be extended by a Brownfield Plan amendment and amendment to this agreement, after the date the Authority begins to capture Tax Increment Revenues under the Brownfield Plan; or (iii) the maximum number of years as established pursuant to a tax appeal, pursuant to Section 4, below. If this Agreement ends before the reimbursement of all Eligible Costs, the last payment by the Authority shall be whatever TIR remains from the summer and winter taxes distributed during the final year of the Agreement, after full reimbursement for the State Brownfield Fund, Authority Administrative Expenses, and the LBRF.

4. Eligible Activities – The Eligible Activities shall be as described in the "Eligible Activities and Costs" Table in the Brownfield Plan, and further defined in the approved Act 381 Work Plan.

5. <u>Developer Reimbursable Eligible Costs</u> – The total of costs eligible for reimbursement, the Total Eligible Costs, and the estimated costs for each type of eligible activity, shall be as described in the "Eligible Activities and Costs" Table of the Brownfield Plan, and further defined by the approved Act 381 Work Plan. The Total Developer Reimbursable Eligible Costs shall be the maximum amount of reimbursement authorized under this Agreement. The actual cost for one or more types of activity may differ from that described in the Brownfield Plan, as long as the Total Developer Reimbursable Eligible Costs are not exceeded.

6. <u>Reimbursement Source</u> – During the term of this Agreement, the Authority shall capture, as provided in the Brownfield Plan and allowed by Act 381, those TIR, which are levied from both Local Taxes and Taxes for School Operating Purposes on the Property, and any new personal property. The Authority will use those TIR to reimburse Developer Reimbursable Eligible Costs (including interest where applicable) in accordance with the Brownfield Plan, approved Act 381Work Plan(s) (See Exhibit D) and this Agreement. Local TIR alone shall not be used to reimburse any Eligible Costs unless expressly allowed by the Brownfield Plan.

7. <u>Allocation of Captured Taxes</u> – Captured taxes will be allocated in the following order of priority during each year of the Brownfield Plan:

    a. Fifty percent (50%) of the taxes levied under the State Education Tax Act in each of the first 25 years of the Brownfield Plan, or as otherwise required by statute, will be paid to the State of Michigan for allocation to the state brownfield redevelopment fund.

    b. Local and School Operating captured taxes in an amount of 10% of total annual captured TIR during and after reimbursement of Developer Reimbursable Eligible Costs, as identified in the Brownfield Plan, and will be allocated for deposit in the LBRF and/or allocated for reimbursement of Authority Administrative fees, at the sole discretion of the Authority;

    c. The balance of Local and School Operating captured taxes will be allocated for the reimbursement of actual costs of Eligible Activities incurred by the Developer.

    d. The Authority will then capture, after Developer has been fully reimbursed all eligible costs or after the capture limit described in Section 3 has been reached, whichever comes first, an amount necessary to result in $765,193 total capture in LBRF.

8. <u>Eligible Costs Reimbursement</u> – For those Eligible Costs for which Developer seeks reimbursement from the Authority, the Developer shall incur Eligible Costs and submit documentation to the Authority according to the instructions and guidelines provided in Exhibit E. The parties agree that Developer shall only seek reimbursement for its actual costs to perform the Eligible Activities, in accordance with the Brownfield Plan and Act 381 Work Plan. Eligible Activities being submitted for reimbursement shall not have occurred more than 24 months prior to the submittal date, with the exception of environmental assessments, BEA, and Due Care Planning Activities, if conducted prior to approval of the Brownfield Plan.

9. Interest – Interest is included as an Eligible Cost in the Brownfield Plan, and will be calculated at a simple rate of 5% on any unreimbursed approved Eligible Activities at the end of every year, up to the maximum Interest stated in the approved Brownfield Plan.

10. Payments – Payments to Developer shall be made as follows:

    a. Within 90 days of its receipt of the documentation described in paragraph 8 above, the Authority, in its sole discretion, shall either approve Eligible Costs for payment or request additional information. If the Authority determines all or a portion of the requested payment is for Approved Eligible Costs, it shall process that ~~the~~ portion of the payment request as provided in subparagraph (b) below. If the Authority determines that insufficient information has been provided, disputes any portion of any payment request or disputes the eligibility of any costs of any payment request, it shall notify Developer in writing of its determination and the reasons for its determination. Developer shall have 28 days to provide a written response and address the reasons given by the Authority and shall have an opportunity to meet with the Authority's representatives or, if the Authority Board consents, to formally meet with the Authority and be placed on a meeting agenda to discuss and resolve any remaining dispute. In doing so, Developer shall provide the Authority a written response to the Authority's decision and the reasons given by the Authority. Provided that Developer has submitted a written response within 28 days, a meeting with the Authority's representatives or a formal meeting with the Authority Board may occur after the 28-day period has expired. If the parties do not resolve the dispute in such a manner, it shall be resolved as provided in Paragraph 11 below.

    b. Once the Authority determines that Eligible Costs are Approved Eligible Costs, it shall pay to Developer the amounts for which submissions have been made pursuant to paragraph 7 of this Agreement within 30 days after the Authority receives TIR from which the Approved Eligible Costs may be wholly or partially paid. The Authority shall only be obligated to reimburse Developer to the extent TIR is available to reimburse such costs.

    c. The repayment obligation under this Agreement shall expire at the earliest of the following: i) payment by the Authority to Developer of all amounts due Developer under this Agreement; ii) expiration of the reimbursement period as defined in Section 3 of this Agreement; or iii) expiration of the reimbursement period as defined in Act 381.

    d. The amount to be reimbursed under this Agreement shall not exceed the following, whichever is less:

        i. The maximum amount of Developer Reimbursable eligible costs in the approved Brownfield Plan and as further determined by the approved Act 381 Work Plan; and

        ii. The maximum amount of Approved Eligible Costs as determined by this Agreement.

e. The Authority may not make TIR reimbursements while Real Property Taxes are delinquent on the Property.

f. If the property owner has filed an appeal of property assessment and/or the outcome of such an appeal is still pending, the Authority, at its sole discretion, may withhold reimbursement of Developer Reimbursable eligible costs, until such appeal is resolved. The purpose of any delay is to prevent overpayment and the need to "claw-back" funds reimbursed due to lowered Taxable Values.

11. Dispute As to Eligible Costs – If there is a dispute over whether a cost submitted by Developer is an Eligible Cost the dispute shall be resolved by an independent knowledgeable professional chosen by mutual agreement of the parties. If the parties are unable to agree upon a knowledgeable professional, then the County and Authority shall together choose an independent knowledgeable professional and Developer shall choose an independent knowledgeable professional to review the Authority's decision. If the two knowledgeable professionals so selected agree that costs submitted are eligible, the Developer shall be reimbursed those costs in accordance with this Agreement. If the two professionals so selected cannot agree that costs submitted are eligible, the two selected professionals shall appoint a third knowledgeable professional who shall make a final determination and Developer shall then be reimbursed those costs in accordance with this Agreement to the extent determined by the third knowledgeable professional. ~~All~~ Each party shall pay its own fees and costs incurred ~~by any party~~ with respect to this paragraph, and the cost of the independent knowledgeable professionals shall be divided equally among the parties. ~~shall be the sole responsibility of the Developer~~. Failure of ~~the Developer~~ any party to pay any obligation incurred with respect to this paragraph shall constitute a default of this Agreement pursuant to paragraph 12.

12. Default –Upon the occurrence of an Event of Default, the non-defaulting party may terminate this Agreement by giving written notice to the defaulting party, and the defaulting party shall have 30 days to cure the default. If the default is not cured within this time period, then the non-defaulting party shall have the right to terminate this Agreement, or, at the election of such non-defaulting party, may obtain any form of relief permitted under this Agreement, and any applicable laws and court rules of the State of Michigan, including the right to seek and obtain a decree of specific performance of a court of competent jurisdiction. If the Authority, in its sole discretion, determines that any cure proposed by the Developer may take more than 30 days to complete, the Authority may permit the Developer to complete the cure in a time and manner agreeable to the Authority. Any right or remedy provided by a specific provision of this Agreement shall be deemed cumulative to, and not conditioned on, any other remedies upon default.

13. Local Brownfield Revolving Fund – In accordance with Act 381 and the Brownfield Plan, the Authority will fund the LBRF using a portion of the TIR captured by the Authority during, and/or after, the period of reimbursement of Developer's Eligible Costs and accrued Interest. The Authority, at its sole discretion, will annually capture TIR to fund Administrative operations and/or deposit into the LBRF as described in the approved Brownfield Plan.

14. Authority Monitoring -- The Authority may monitor the Project for the purpose of verifying that the activities, invoices and accounting of the Developer are accurate, reasonable and constitute Eligible Activities under this Agreement. The Developer shall provide any authorized representative of the Authority access to or copies of permits, data, reports, testing, or sampling results, invoices or other such documents reasonably necessary for monitoring. The Authority, EGLE or MSF shall also be given access to the property upon reasonable request in order to review any Eligible Activities or perform any other obligations under this Agreement. Except in the case of an emergency or exigent circumstance, the Authority shall give the Developer at least 24 hours notice of requests under this paragraph. Except for the right to monitor the Developer's compliance with this Agreement, nothing in this Agreement shall be interpreted to give the Authority any right to exercise control over the performance of Eligible Activities or other actions by the Developer.

15. Adjustments – If, due to an appeal of any tax assessment, reassessment of any portion of the Property, abatement of any taxes, or for any other reason, the Authority is required to reimburse any TIR to any tax levying unit, then: i) the Developer shall pay the Authority the full amount required to reimburse such TIR, including interest and penalties, within 30 days of receiving any invoice from the Authority; or ii) the Authority may deduct the amount of any such reimbursement, including interest and penalties, from all subsequent payments due to the Developer until such TIR, including interest and penalties, is fully recovered. If all amounts due the Developer under this Agreement have been fully paid or the Authority is no longer obligated to make any further payments to the Developer, the Authority shall invoice the Developer for the amount of such reimbursement and the Developer shall pay the Authority such invoiced amount within thirty (30) days of the Developer's receipt of the invoice. Amounts invoiced and paid to the Authority by the Developer pursuant to this paragraph shall not reduce Eligible Costs for which the Developer shall have the opportunity to be reimbursed in accordance with the terms, conditions and limitations of this Agreement.

16. Insurance – The Developer shall purchase and maintain insurance coverages as indicated at limits not less than those set forth below. The Developer shall also require each and every contractor(s) and/or subcontractor(s) engaged by the Developer to perform services pursuant to this agreement to purchase and maintain insurance coverages at the limits set forth below. Developer and its contractor(s) and/or subcontractor(s) shall name Washtenaw County and Washtenaw County Brownfield Redevelopment Authority as an additional insureds under all coverages listed below except Worker's Compensation. The Developer shall maintain other insurance as it deems appropriate for its own protection.

    a. Worker's Disability Compensation and Occupational Disease Insurance including Employers Liability Coverage in accordance with all applicable statutes of the State of Michigan.

    b. Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence and $2,000,000 aggregate combined single limit. Coverage shall include the following:

i. Contractual Liability
ii. Products and Completed Operations
iii. Independent Contractors Coverage
iv. Broad Form General Liability Endorsement or Equivalent

c. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability of not less than $1,000,000 per occurrence for Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.

d. Environmental Impairment Liability Insurance shall be provided by Developer, Contractors, sub-contractors and site work contractors engaging in environmental and/or demolition activities, covering any sudden and non-sudden pollution or environmental impairment, including clean up costs and defense, with limits of liability of not less than $1,000,000 per occurrence.

e. All insurance coverages described above shall remain in effect at all times until completion of all eligible activities. The Developer shall deliver copies of certificates of insurance for each of the policies mentioned above to the Authority. If so requested, certified copies of all policies will be provided. It is understood and agreed that thirty (30) days advanced written notice of cancellation, non-renewal, reduction and/or material change in any coverage shall be sent to the Authority.

17. <u>Indemnification</u> – The Developer shall indemnify, defend, and hold harmless, the Authority, Washtenaw County, and their officers, board members, commissioners, employees and agents from all claims, damages, lawsuits, costs and expenses, including reasonable attorney fees, incurred as a result of any acts, omissions, negligence, or gross negligence of the Developer or its employees, agents, consultants, contractors or subcontractors related to the Project or its performance under this Agreement. This indemnification includes any damages, costs, and expenses in excess of those covered by any insurance of the Developer. The Developer shall indemnify the Authority, Washtenaw County, and any of the listed entities officers, board members, commissioners, employees and agents from all reasonable costs and expenses, including reasonable attorney fees, incurred in the enforcement of any obligation or claim against the Developer under this Agreement. These indemnification provisions will survive the termination of this Agreement. By entering this Agreement, neither party waives any immunities provided under state or federal law.

18. <u>Freedom of Information Act</u> – Developer understands that all communications, information, and/or documentation submitted by Developer may be open to the public under the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, being Sections 15.23 to 15.24 of the Michigan Compiled Laws and no claim of trade secrets or any other privilege or exception to the Freedom of Information Act will be claimed by Petitioners as it relates to this Agreement, Petitions for Reimbursement and supporting documentation.

19. <u>Notices</u> – All notices shall be given by registered or certified mail addressed to the parties at their respective addresses as shown above. Either party may change the address by written notice sent by registered or certified mail to the other party.

20. <u>Assignment</u> – The interest of any party under this Agreement shall not be assignable without the other parties' written consent, which shall not be unreasonable withheld, except for an assignment by the Developer for the purposes of securing financing for the Project, which shall require notice but not the prior consent of the other parties.

21. <u>Entire Agreement</u> – This Agreement supersedes all agreements previously made between the parties relating to the subject matter. There are no other understandings or agreements between them.

22. <u>Non-Waiver</u> – No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

23. <u>Headings</u> – Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

24. <u>Governing Law</u> – This Agreement shall be construed in accordance with and governed by the laws of the State of Michigan.

25. <u>Compliance with Applicable Law</u> – Developer agrees to comply all applicable federal, state, and local laws, statutes, rules, regulations, ordinances, and other legal obligations of a similar effect.

26. <u>Counterparts</u> – This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

27. <u>No Third Party Beneficiaries</u> – This Agreement shall not be deemed or construed to create any rights to reimbursement or otherwise in the Consultant, Contractors, Subcontractors, or any third parties. This Agreement shall not be construed to create any third party beneficiary contract or claim, and the parties intend there to be no third party beneficiaries.

28. <u>Binding Effect</u> – The provisions of this Agreement shall be binding upon and inure to the benefit of each of the parties and their respective heirs, legal representatives, successors, and assigns.

29. The Authority's reimbursement obligations under this Agreement are contingent on the requirement that there shall be no action, suit, proceeding or investigation pending before any court, public board or body to which the Developer, the County, ~~the City of Ann Arbor~~ Scio Township, or the Authority is a party, or threatened against the Developer, the County, ~~City of Ann Arbor~~ Scio Township, or the Authority contesting the validity or binding effect of this Agreement or the validity of the Plan or which could result in an adverse decision which would have one or more of the following effects:

a. A material adverse effect upon the ability of the Authority to collect and use Tax Increments to pay the obligations;

b. A material adverse effect upon the ability of the Developer to conduct Eligible Activities;

c. Any other material adverse effect on the Developer's or the Authority's ability to comply with the obligations and terms of this Agreement, or the Brownfield or Work Plan.

30. Annual Reporting – The Developer shall report annually, by April 1, the following information to the Authority for the previous calendar year, as applicable:

   a. Number of residential units constructed or rehabilitated;

   b. Square feet of new or rehabilitated residential, retail, commercial, or industrial space

   c. Number of new jobs created;

   d. For projects actively capturing TIR, amount of actual capital investment;

   e. Any additional information deemed necessary by the Authority.

The parties have executed this Agreement on the dates set forth below.

WASHTENAW COUNTY BROWNFIELD REDEVELOPMENT AUTHORITY

BY:______________________________________
Trevor Woollatt, Chairman

Date:____________________________________

Attested to:

By:______________________________________
Lawrence Kestenbaum, County Clerk/Register

Date:____________________________________

Approved As to Form:

By:______________________________________
Michelle Billard, Corporation Counsel

DEVELOPER
A2 Zeeb, LLC

BY:______________________________________

PRINT NAME:______________________________

ITS:______________________________________

Date:____________________________________

Exhibits

Exhibit A – Definitions
Exhibit B – Legal Description
Exhibit C – Brownfield Plan
Exhibit D – Approved Act 381 Work Plan(s)
Exhibit E – Eligible Costs Reimbursement Procedures

EXHIBIT A - Definitions

a. "Administrative Costs," as defined in Section 13b, Sub-Section 7 (a) (*I, ii, and iii*).

b. "Baseline Environmental Assessment " is defined by Section 2(b) of Act 381;

c. "Brownfield Plan" is defined by Section 2(e) of Act 381 and is incorporated by reference in Exhibit C;

d. "Approved Eligible Costs" – Those Eligible Costs which have been submitted, reviewed, and approved by the Authority.

e. "Department specific activities" are defined by Section 2 (l) of Act 381

f. "Due Care Activities" are defined by Section 2 (m) of Act 381;

g. "Eligible Activities" are defined by Section 2(o) of Act 381;

h. "Eligible Costs" are those being submitted to the Authority for Certification.

i. "Eligible Property" is defined by Section 2(p) of Act 381;

j. "Event of Default" means the failure of performance or breach by a party to carry out any of its obligations or comply with any of its warranties, representations, or conditions under this Agreement or, with respect to a party, if any representation, omission, or warranty of such party was false when made.

k. "Local Brownfield Revolving Fund", "LBRF" pursuant to Section 8 of Act 381.

l. "Local Taxes" are defined by Section 2(ff) of Act 381;

m. "Tax Increment Revenues" (TIR) are defined by Section 2(ss) of Act 381;

n. "Taxes Levied for School Operating Purposes" is defined by Section 2(uu) of Act 381;

o. "Work Plan" is defined by Section 2(zz) of Act 381.

EXHIBIT B – Legal Description

LAND SITUATED IN SCIO TOWNSHIP, WASHTENAW COUNTY, MICHIGAN DESCRIBED AS:

COM AT W 1/4 COR OF SEC 22; TH N 00-54-10 W 1072.69 FT ON W/L OF SEC AND CNTRLINE OF ZEEB RD FOR A POB; TH N 85-16-20 E 1299.20 FT; TH S 00-51-00 E 1081.60 FT ALG THE E/L OF THE W 1/2 OF THE NW 1/4 OF SAID SECTION; TH E'LY ALG E/W 1/4 LINE OF SEC 322.60 FT; TH S'LY DEFLECTING 92-54-30 TO RIGHT 450.58 FT; TH N 72-03-57 W 127.80 FT; TH S 00-29-38 W 132.82 FT TO THE N ROW LINE OF I-94; TH W'LY ALG SAID ROW LINE 200 FT TO E LINE OF W 1/2 OF SW 1/4 OF SAID SEC; TH N 00-56-00 W 64 FT; TH W'LY ALG ARC OF RAD 8409.42 FT CURVING N'LY, CHD 262.50 FT N 70-28-00 W; TH N 39-35-18 W 1115.90 FT CONT ALG N ROW LINE OF WESTBOUND OFF RAMP TO ZEEB RD; TH N 62-52-43 W 343.56 FT; TH N 00-59-43 W 153.48 FT; TH S 86-34-20 W 50.39 FT; TH N 00-54-10 W 140.01 FT TO POB. T2S R5E 29.14 AC

EXHIBIT C – Brownfield Plan

EXHIBIT D – Approved Act 381 Work Plan(s)

EXHIBIT E – Eligible Costs Reimbursement Procedures

Reimbursement of Eligible Costs Certification

a. For those Eligible Costs for which Developer seeks reimbursement from the Authority, Developer shall submit to the Authority any of the following as may be required by Authority representatives:

   i. A written statement detailing the costs.

   ii. A written explanation as to why reimbursement is appropriate under the Brownfield Plan and this Agreement.

   iii. Copies of invoices from the consultants, contractors, subcontractors, engineers, attorneys or others who provided such services. To verify quantities for unit price billings such invoices shall include sufficient backup information, including but not limited to, labor hours per person per billing period for professional services, detailed invoices from subcontractors and subconsultants, manifests and/or weigh tickets for disposed materials, and days used and rates for equipment and materials charges. All Eligible Costs for which certification is being sought must have occurred within 24 months prior to the date submitted.

   iv. Copies of waivers of liens by the contractors, subcontractors, and materials suppliers, or cancelled checks demonstrating payment.

   v. If not already submitted, copies of the contract with the contractor or supplier providing the services or supplies, for which reimbursement is sought.

   vi. A statement from the engineer and project manager overseeing the work recommending payment.

   vii. Any other information which may be required by state authorities or reasonably required by the Authority.

WASHTENAW COUNTY BROWNFIELD REDEVELOPMENT AUTHORITY

Environmental Assessment Grant Program
APPLICATION FORM

The WCBRA Environmental Assessment Grant Program provides grants for conducting Department Specific Activities, as defined by Act 381, by, or on behalf of, the Brownfield Authority on prospective eligible properties to be included in a Brownfield Plan. These include, but are not limited to, Phase I and II studies, as part of Baseline Environmental Assessments, Due Care Activities and Hazardous Materials Surveys.

The program is funded using available Brownfield Administrative Funds from active brownfield projects. Municipal and Non-Profit sites are eligible for 100% of the cost of eligible assessment activities, up to $15,000, and privately-owned sites are eligible for 50% of the cost, up to $15,000. Higher awards may be given on a case-by-case basis.

Type of Application

☒ Publicly-Owned or Non-Profit-Owned Property

☐ Privately-Owned Property

☐ Site is located within a Low or Very Low Opportunity Area, within the Washtenaw County Opportunity Index

Owner Information

Property Owner: City of Ypsilanti DPW Contact: Bonnie Wessler

Property Address: 14 W. Forest Avenue Phone No.: 734-483-1421

Property Tax ID #: 11-11-04-360-002

Applicant Information

Applicant Name: City of Ypsilanti Phone No.: 734-891-1301

Address: 1 S. Huron Street

Developer (Entity) Name (if different than applicant): ____________________

Project Information

Project Name: City of Ypsilanti DPW

Project Description: Phase I ESA, Pre-Demolition Asbestos & Hazardous Materials Survey

Please provide a Site Map, Aerial, and/or Site Plan for the redevelopment.

Property Information

Previous Owners: Ypsilanti Gas Co.; Ypsilanti City Gas Department; City of Ypsilanti Gas Plant; Consolidated Gas Co.

Historic Property Uses: Manufactured gas plant; City of Ypsilanti DPW

Property Acreage: 3.22 acres

Zoning: General Corridor (GC)

Surrounding Land Use: Residential, commercial, light industry

Proposed Environmental Activities:

	Estimated Cost
☒ Phase I	$3,000
☐ Phase II	
☐ BEA Report	
☐ Due Care Plan	
☒ Hazardous Material Survey	$1,950
TOTAL	$4,950

Please attach a price quote from a qualified environmental firm.

Please describe Previous Environmental Assessments Completed: Part 213 leaking underground storage tank (LUST) investigations.

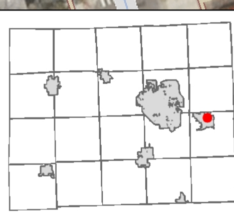
Please describe environmental conditions: Known conditions include co-mingled petroleum contamination from historical site operations as a manufactured gas plant and releases from underground storage tanks.

Please provide cloud links to any relevant environmental reports.

Please return the completed form and attachments to:

Nathan Voght
Economic Development Specialist
Washtenaw County Office of Community and Economic Development
415 W. Michigan Ave.
Ypsilanti, MI 48197
734-660-1061
voghtn@washtenaw.org

Ypsilanti DPW Yard



0 50.00 100.0 200.0 Feet

1: 1,200

7/5/2023

Washtenaw County Michigan 1826 Geographic Information System

NOTE: Parcels may not be to scale.

The information contained in this cadastral map is used to locate, identify and inventory parcels of land in Washtenaw County for appraisal and taxing purposes only and is not to be construed as a "survey description". The information is provided with the understanding that the conclusions drawn from such information are solely the responsibility of the user. Any assumption of legal status of this data is hereby disclaimed.

THIS MAP REPRESENTS PARCELS ATTHE TIME OF PRINTING. THE OFFICIAL PARCEL TAX MAPS ARE MAINTAINED SOLELY BY THE WASHTENAW COUNTY EQUALIZATION DEPARTMENT AND CAN BE OBTAINED BY CONTACTING THAT OFFICE AT 734-222-6662.

AKT PEERLESS
ENVIRONMENTAL SERVICES

22725 Orchard Lake Road
Farmington, Michigan 48336
T **248-615-1333**
www.aktpeerless.com

July 5, 2023

Ms. Katie Jones
City of Ypsilanti
1 S. Huron Street
Ypsilanti, Michigan 48197

Subject: Proposal to provide Environmental Consulting Services
Proposal No. PF-32952

Ms. Jones:

AKT Peerless is pleased to present the attached proposal to provide Environmental Consulting Services for the property located at 14 W. Forest Avenue in Ypsilanti, Washtenaw County, Michigan (the subject property).

AKT Peerless will implement work immediately and will provide its deliverables as described in the Schedule outlined in the attached proposal. AKT Peerless' estimated cost to complete the proposed scope of work is **$4,950**.

Any other unexpected or extraordinary concerns that become apparent during the assessment may require a revision in the scope of work and cost and could delay the project. AKT Peerless will notify you of any concerns or necessary changes in the proposed scope of work.

For your convenience, this proposal is presented in a form that can be accepted as an agreement. To accept this proposal, please sign the signature page and return a copy to me.

We look forward to working with you on this project. If you have any questions or require additional information, please contact Louis F. Stultz at 248-615-1333 or me at 248-910-0047 or by email at stultzl@aktpeerless.com or wasielewskis@aktpeerless.com.

Sincerely,

AKT PEERLESS

Scott Wasielewski

Scott Wasielewski
Senior Project Manager

Enclosure

PROPOSAL FOR ENVIRONMENTAL CONSULTING SERVICES

AKT Peerless Proposal No. PF-32952

Introduction

AKT Peerless is pleased to submit this proposal to provide environmental consulting services for the property located at 14 W. Forest Avenue in Ypsilanti, Washtenaw County, Michigan (the subject property).

Scope of Work

AKT Peerless' scope of work as outlined in this proposal includes completion of the following tasks:

- Task 1 – Phase I Environmental Site Assessment (ESA)
- Task 2 – Pre-Demolition Asbestos & Hazardous Materials Survey

Task 1 – Phase I Environmental Site Assessment (ESA)

AKT Peerless' Phase I ESA will be based on (1) the scope and limitations of ASTM International *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process / Designation E 1527-21* (ASTM Practice E 1527) which outlines good commercial and customary practice for conducting a Phase I ESA and (2) United States Environmental Protection Agency (USEPA) Standards and Practices for All Appropriate Inquiries (AAI; 40 CFR Part 312). AKT Peerless' proposed Phase I ESA is also intended to satisfy the good commercial and customary practices outlined in ASTM Standard Practice E 1527-13.

Certain users of the proposed Phase I ESA may be able to satisfy one of the environmental due diligence requirements to qualify for the bona fide prospective purchaser, contiguous landowner, or innocent landowner liability protections available under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, the Superfund Amendments and Reauthorization Act (SARA) of 1986, and the Small Business Liability and Brownfields Revitalization Act (Brownfields Amendments) of 2002.

For the purpose of the proposed Phase I ESA, the Client will be the party that retains AKT Peerless to complete the Phase I ESA. AKT Peerless will not make an independent determination whether the Client is a *User* that satisfies the requirements to establish a Landowner Liability Protection (LLP) defense under CERCLA.

As described in ASTM Standard Practice E 1527, a *User* is the party seeking to use ASTM Standard Practice E 1527 to complete an environmental site assessment of the subject property. A *User* may include a potential purchaser of property, a potential tenant of property, an owner of property, a lender, or a property manager. The 2018 BUILD Act amended the CERCLA definition of bona fide prospective purchaser at §101(40) to include certain commercial tenants or lessees who acquire a leasehold interest in a property. Therefore, in certain cases, a person acquiring a leasehold interest in a commercial property may need to conduct a Phase I ESA for the purposes of all appropriate inquiries into the previous ownership and uses of the leased commercial property to qualify for an LLP. Furthermore, a *User* seeking to qualify for an LLP under CERCLA has specific obligations for the successful application of this practice, including the Client and User Requirements described below. AKT Peerless' scope of work does not include an evaluation or completion of those specific user obligations under the ASTM Standard Practice E 1527, unless otherwise noted in this proposal.

The purpose of AKT Peerless' proposed Phase I ESA will be to provide an independent, professional opinion of the *recognized environmental conditions* (RECs)[1], *controlled recognized environmental conditions (CRECs)[2], and historical recognized environmental conditions* (HRECs)[3] in connection with the subject property, if any. AKT Peerless' Phase I ESA is designed to identify these conditions and the possible need for a more definitive study addressing specific areas of concern, if any. The proposed Phase I ESA will be intended to reduce, but not eliminate, uncertainty regarding the potential for RECs, CRECs, and HRECs in connection with the subject property.

This Phase I ESA is not intended to satisfy the requirements a specific lender, the United States Small Business Administration (SBA), Housing and Urban Development (HUD), and/or Michigan State Housing Development Authority (MSHDA) funding programs. If the Client anticipates using any of these funding sources, then please contact AKT Peerless to provide a proposal to conduct a Phase I ESA that complies with the associated program requirements.

Client Requirements

AKT Peerless requests that the Client provide the following information to facilitate developing a history of the previous uses of the subject property and surrounding area, and to aid the identification of conditions of potential environmental concern in connection with the subject property:

- Environmental records or reports regarding potential or known environmental liabilities associated with the subject property.
- The precise geographic location of the subject property, either by address, legal description, land survey, site map, or assessor's parcel number (APN, a.k.a. parcel identification number, ward/item number, etc.), and its relation to neighboring sites and/or cross streets near the subject property.

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[1] ASTM Standard Practice E 1527-21 defines the term REC as (1) the presence of hazardous substances or petroleum products in, on, or at the subject property due to a release to the environment; (2) the likely presence of hazardous substances or petroleum products in, on, or at the subject property due to a release or likely release to the environment; or (3) the presence of hazardous substances or petroleum products in, on, or at the subject property under conditions that pose a material threat of a future release to the environment.

[2] ASTM Standard Practice E 1527-21 defines the term CREC as a REC affecting the subject property resulting from a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority or authorities (for example, as evidenced by the issuance of a no further action letter or equivalent, or meeting risk-based criteria established by regulatory authority), with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls (for example, property use restrictions, activity and use limitations or other property use limitations).

[3] ASTM Standard Practice E 1527-21 defines the term HREC as a previous release of hazardous substances or petroleum products affecting the subject property that has been addressed to the satisfaction of the applicable regulatory authority or authorities and meeting unrestricted use criteria established by the applicable regulatory authority or authorities without subjecting the subject property to any controls (for example, activity and use limitations or other property use limitations). A HREC is not a REC.

- Completed "Client Environmental Questionnaire" and requested documents
- User Obligations for LLP, if any, in accordance with E 1527 and AAI.

AKT Peerless' scope of services will not include conducting a search for land title records. However, AKT Peerless will comment on land title records if provided by the Client.

In addition, if underground storage tanks (USTs) are known to be present at the subject property, AKT Peerless requests that the Client provide (or obtain from the current UST operator) copies of documentation (e.g., permits, registration records, insurance certificates, etc.) regarding the compliance status of on-site USTs relative to currently applicable engineering upgrade requirements for leak detection, corrosion protection, and overspill protection. If a UST system is present, the Client should also be prepared to disclose to AKT Peerless the financial assurance mechanism utilized by the owner/operator.

User Requirements

In order to qualify for one of the LLPs offered by the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (the "Brownfields Amendments"), a *User* must conduct certain inquiries as described in 40 CFR 312. If the Client intends to use ASTM Standard Practice E 1527 to qualify for an LLP to CERCLA liability, then AAI requires that certain tasks be performed by – or on behalf of – that party. As appropriate, these inquiries must also be conducted by USEPA Brownfield Assessment and Characterization grantees. While such information is not required to be provided to the Environmental Professional, AKT Peerless requests that the Client provide such information as prompted in our Questionnaire and Interviews as such information can assist AKT Peerless in identifying environmental conditions.

Phase I ESA Scope of Work

In accordance with ASTM Standard Practice E 1527-21, AKT Peerless' ESA will include the following tasks:

- A reconnaissance of the subject property, as well as observation of the adjoining properties as feasible from the subject property and public rights-of-way, to identify uses or activities that may pose an environmental concern to the subject property, including a review of: (1) general activities occurring at the subject property, (2) existing subject property conditions, and (3) the uses of adjoining properties.
- A review of current environmental database information compiled by a variety of regulatory agencies to evaluate potential environmental risks associated with the subject property, adjoining properties, and select nearby sites that are (1) identified on target lists, and (2) within varying distances of up to one mile from the subject property[4].
- A review of reasonably ascertainable agency file information associated with known or suspected sites of environmental concern maintained by regulatory agencies. Files will be reviewed for the subject property. Files for adjoining properties, and nearby sites that may present a concern to the subject property, will be reviewed, but additional fees may apply. If such records are not reviewed, AKT Peerless will provide written justification as to why a review was not completed.
- A review of reasonably ascertainable standard historical sources to develop a history of the previous

[4] AKT Peerless will use search radii consistent with ASTM recommended approximate minimum search distances.

uses of the subject property and surrounding area back to the obvious first developed uses, or 1940, whichever is earlier. Such sources may include aerial photographs, maps (e.g., topographic, fire insurance, plat, etc.), city directories/address indexes, previous environmental assessments, and municipal records, as appropriate.

- A review of reasonably ascertainable records pertaining to regulated waste generation, registered USTs, leaking underground storage tank (LUST) incidents, or other environmental events occurring on the subject property or nearby sites that AKT Peerless judges to have a potential to pose an environmental concern to the subject property.
- The consideration of adjoining property uses and activity.
- A review of readily available environmental information and reports maintained for the subject property.
- Interviews with persons, including regulatory agency representatives, who are familiar with past and present uses, activities, and/or environmental concerns at the subject property and adjoining properties.
- Review and summary of information provided by the Client related to Activity and Use Limitations (AULs), environmental liens, or institutional controls (if any). AKT Peerless will also summarize such information if obtained during environmental regulatory record reviews.
- An evaluation of information obtained from these resources to determine if RECs, CRECs, or HRECs exist in connection with the subject property.

During the assessment, AKT Peerless will evaluate or consider: (1) the potential for contamination of soil, soil vapor, and groundwater at the subject property, (2) the possible presence of underground or aboveground storage tank systems at the subject property, (3) the possible presence of hazardous substances or petroleum products at the subject property, (4) the proximity of the subject property to known and/or suspected sites of environmental concern, and (5) the historical use of the subject property.

AKT Peerless will prepare a written report documenting the data and information gathered during the Phase I ESA. AKT Peerless' report will summarize the known environmental conditions associated with the subject property, if any. Unless advised otherwise by the Client, AKT Peerless will include recommendations for further investigation of the noted environmental concerns. Unless requested otherwise, AKT Peerless will provide an electronic copy of the final report. Paper copy reports, if requested, will be provided at a rate of $75 per copy.

The conclusions and recommendations will reflect AKT Peerless' best professional judgment and will be based upon the conditions observed and information made available at the time of the assessment.

Task 2 – Pre-Demolition Asbestos & Hazardous Materials Survey

AKT Peerless' scope of work is intended to assist the Client with identifying asbestos-containing material (ACM) and hazardous material (HM) located at the subject property. The survey will identify sources of ACM and HM within the structure per the following methodologies.

ACM Survey

The ACM survey will be conducted to comply with National Emission Standards for Hazardous Air Pollutants (NESHAP) pre-renovation requirements. Destructive testing will be required to complete the survey.

The purpose of AKT Peerless' asbestos survey is to (a) identify and locate suspect ACM, (b) establish a sampling plan based on homogeneous and functional areas, to sample sources of friable and non-friable suspect ACM, (c) quantify the amount of asbestos identified at the property, and (c) prepare a final survey report documenting ACM and presumed ACM quantities, locations, and laboratory testing results.

AKT Peerless' ACM survey will be performed using the following scope of work:

1. AKT Peerless will conduct an inspection of the survey area to identify building materials that are suspect for asbestos content. The AHERA rule requires that the suspect materials be identified, located and documented, and that friable suspect materials be assessed and classified for friability and damage. During the inspection, homogeneous areas will be delineated and sampled, as appropriate. Functional spaces will also be identified for purposes of assessing all suspect materials.
2. AKT Peerless will not conduct a physical assessment of friable and non-friable suspect materials. In accordance with AHERA, non-friable suspect materials do not require a physical assessment.
3. AKT Peerless will utilize destructive measures to access suspect materials.
4. AKT Peerless will sample roofing material and building envelope materials. Structural repairs will not be made.
5. All samples collected will be submitted with chain-of-custody documentation to an analytical laboratory that participates in the National Voluntary Laboratory Accreditation Program (NVLAP). All samples will be analyzed using polarized light microscopy (PLM) with dispersion staining following USEPA Test Method EPA-600/M4-82-020 and the National Institute of Standards and Technology (NIST) Bulk Asbestos Handbook. Although PLM is currently the accepted and approved method for analysis, the method is limited in its ability to provide a quantitative result when asbestos represents a small fraction of the material. Current USEPA guidelines specify that when initial laboratory analysis of friable materials detect the presence of asbestos in a quantity between less than one percent (or trace) and less than ten percent, a verification analysis using the point counting analytical method may be considered. All PLM tests of less than 5% will be point counted. AKT Peerless will utilize first positive stop analysis methodologies. First positive stop involves analyzing samples by homogeneous area groupings. Laboratory analyses would proceed sample by sample, within each homogeneous area grouping, until a sample is determined to be asbestos containing.

Hazardous Materials Survey

Other regulated materials will be identified in the building as part of this scope of work. Other regulated materials that will be part of this survey include, but are not limited to, fluorescent light tubes and ballasts, mercury switches, CFC refrigerants, emergency lighting batteries, chemicals, and other fluids and materials.

The survey for other regulated materials will be completed per the following procedures:

1. An inspection will be conducted of accessible areas of the building for potential hazardous materials such as polychlorinated biphenyl (PCB) containing light ballasts, transformers, mercury

light tubes and switches. The survey will be performed in each identified interior space and will comprise an inspection of accessible fluorescent ceiling light fixtures for possible PCB-containing ballasts systems. In addition, an inspection will be performed of on-site electrical switches and light bulbs to determine if potential mercury-containing materials exist in this equipment. No contact with manufacturers, sample collection, or testing of this equipment is proposed as part of this scope of work.

2. The inspection will also include interior and exterior areas of the building to identify the location of containers, drums, batteries, oil/water separator basins, or other features that may contain potentially hazardous or regulated materials/wastes. Labeling observed on identified containers will be noted for the survey report. In addition, an assessment of the condition (i.e., indications of leakage, corrosion, etc.) of identified containers will be performed. As part of this survey, no sampling of liquid or solid materials within these containers will be performed.
3. Testing for lead and cadmium content will be conducted on representative paint coatings.

ACM/HM Survey Report

AKT Peerless will prepare a final report documenting the data and information gathered during the ACM and HM surveys. AKT Peerless' report will include: (a) a general description of the suspect ACM identified, (b) a determination of the quantity of suspect materials observed, (c) location of suspect material (d) a discussion regarding the quality assurance and quality control as well as methodology, and (e) laboratory testing results for bulk samples. AKT Peerless will provide an electronic (PDF) copy of the completed report. Paper copies of the report, if requested, will be billed based on AKT Peerless' Standard Fee and Rate Schedule.

Conclusions and recommendations will reflect AKT Peerless' best professional judgment and will be based upon the conditions observed and information made available at the time of the surveys.

Schedule

AKT Peerless will implement work immediately and will provide its Phase I ESA and ACM/HM survey within six weeks of your authorization to proceed.

Fees

AKT Peerless proposes to provide the services described in this proposal for the total estimated cost described below:

Total Estimated Cost - Phase I ESA	$3,000
Total Estimated Cost – ACM & HM Survey	$1,950
Total Cost	**$4,950**

In January 2020, Michigan Department of Environment, Great Lakes, and Energy (EGLE) changed its Freedom of Information Act (FOIA) request policy. The revised policy includes an internal review of requested documents to evaluate the need for redactions (among other changes). This policy change has resulted in delays to the access of file information and increased FOIA fees. In some cases, these time and cost increases have made this information not *reasonably ascertainable* as defined in ASTM Standard Practice E 1527. AKT Peerless will provide updates if such delays occur and additional fees are required.

Additional fees may be charged to adequately and appropriately evaluate potential environmental concerns associated with uses of (or events at) adjoining or nearby properties. AKT Peerless' proposal includes reviewing regulatory agency records for the subject property. However, AKT Peerless may charge an additional fee to review regulatory agency records for any adjoining or nearby sites we judge to be a potential environmental concern to the subject property. Furthermore, the additional costs for municipal fees related to FOIA responses may be passed on to the Client, if necessary. The overall time to complete the project may be delayed due to agency response times. AKT Peerless will promptly apprise the Client of the relative cause for such additional fees and time but will not complete the extra activity unless Client authorizes AKT Peerless to do so.

Bulk sample asbestos analyses will be performed on a standard turnaround schedule. A surcharge will apply to rush analysis. Laboratory costs are estimates. Invoicing will reflect actual samples required to complete the inspection. Additional bulk samples, if required to complete the inspection, will be charged at an all-inclusive labor, materials, and analysis rate of $20 each. Additional layers of multi-layer bulk samples will be charged at $2.50 each. Additional point count analyses will be charged at $13 each.

AKT Peerless' cost estimate for its proposed scope of work includes one (1) hour of consulting time after the project is complete. Follow-up services provided by AKT Peerless, such as additional research, post-publication modifications to the reports, project meetings, etc., shall be billed based on AKT Peerless' standard professional service fee schedule for Phase I ESA modifications and/or project support outside of the scope of work.

Limitations

In January 2020, EGLE changed its FOIA request policy. The revised policy includes an internal review of requested documents to evaluate the need for redactions (among other changes). This policy change has resulted in delays to the access of file information and increased FOIA fees. In some cases, these time and cost increases have made this information not *reasonably ascertainable* as defined in ASTM Standard Practice E 1527. AKT Peerless will provide updates if such delays occur and additional fees are required.

AKT Peerless will make reasonable efforts to determine if USTs or related equipment (collectively referred to as UST systems) are or have been present at the subject property. AKT Peerless defines reasonable efforts as obtaining and evaluating information from visual observations of unobstructed areas and from the historical resources described in this proposal. AKT Peerless recognizes, and urges users of the proposed assessment to acknowledge, that the accuracy of our conclusions relative to the on-site presence or use UST systems directly corresponds to the presence of obstructions (e.g., snow, densely growing vegetation, standing water, pavement, equipment, structures, storage, debris, etc.) at the time of the reconnaissance, or to our receipt and evaluation of incorrect or incomplete information.

AKT Peerless cannot warrant or guarantee that the information gathered from third parties during the proposed Phase I ESA is exhaustive, or that the information obtained from sources is complete or accurate.

Unless specifically noted otherwise, invasive investigation of any kind will not be performed during the Phase I ESA, nor will observation under floors, above ceilings, behind walls, within the surface and subsurface soil, within groundwater, within confined spaces, roof tops, or inaccessible areas be performed.

Unless specifically noted in the proposed scope of work, AKT Peerless will not evaluate any potential environmental conditions (i.e., further areas of possible business/environmental concern and/or liability) that are outside the scope of ASTM Standard Practice E 1527. Examples of such non-ASTM potential environmental conditions that are beyond the scope of this Phase I ESA include: ACM, biological agents, cultural and historic resources, ecological resources, endangered species, health and safety, indoor air quality, industrial hygiene, lead-based paints (LBPs), lead in drinking water, moisture intrusion/suspect mold or microbial growth, noise pollution, naturally-occurring radon, regulatory compliance/non-compliance, substances not defined as CERCLA hazardous substances, and/or wetlands. If the Client requires these services, please contact AKT Peerless for a proposal to conduct those tasks under a separate scope of work.

ACM and HM survey scope is limited to safely accessible areas only. If visual observations or information obtained during the inspection indicates the need for any additional evaluation and sampling, AKT Peerless will contact you to convey our findings and discuss a proposed scope of work and cost estimate to address these concerns. AKT Peerless' costs for additional services not covered under this scope of work will be based on time and materials as outlined in this proposal.

For purposes of this proposal, access is defined as areas above drop/lay-in ceiling tiles and areas accessible through hatches and/or inspection doors. Selective destructive access through drywall, plaster, block, or other similar hard surfaces will be conducted.

The cost estimate provided above does not include: (a) additional sample analyses (if necessary) (b) additional time required to complete on-site survey, sample collection, and report preparation activities; (c) optional costs associated with point counting of specific samples where PLM test results identified a low percentage of asbestos or additional layers above the numbers listed in Table 1 above, or (d) oversight or air sampling during ACM removal activities.

Costs presented in this proposal assume that there will be no significant obstructions and delays (e.g., inaccessible areas, safety hazards and unsafe work conditions). Cost assumes that the building is occupied. If delays occur, AKT Peerless will notify Client immediately, and AKT Peerless will revise the scope of work and fees appropriately.

This proposal and the associated cost estimate are valid for 30 days. After 30 days have elapsed, AKT Peerless reserves the right to alter the scope of work and estimated cost. Any unexpected or extraordinary concerns that become apparent during the assessment may require a revision in the scope of work and cost and could delay the project. AKT Peerless will notify you of any concerns or necessary changes in the proposed scope of work. Changes in the scope of work and the estimated price would be dependent on potential changes in the amount of available site information, regulatory requirements, seasons, economic conditions, etc. If necessary, AKT Peerless will provide an altered scope of work and the associated price estimate for approval prior to initiating project activities.

This proposal, including: descriptive material, pricing, discussion of proposed methods to be used or implemented by AKT Peerless, and related information set forth herein are confidential; these items constitute trade secrets of and are proprietary to AKT Peerless. AKT Peerless is submitting this information for informational purposes only, based on the express understanding that it will be held in strict confidence; will not be disclosed, duplicated, or used, in whole or in part, for any purpose other than the evaluation of this information; and will not, in any event, be disclosed to third parties, without prior written consent of AKT Peerless.

Terms and Conditions

By signing this proposal, the Client agrees to the terms and conditions presented as Appendix A. Unless otherwise noted, AKT Peerless will prepare and render invoices for work performed to date on a monthly basis. For electronic payment, the following table provides AKT Peerless' bank routing information:

ACH Transactions	Domestic Fund Wires	International Fund Wires
AKT Peerless Environmental Services Account No. 01388362854 ABA No. 072403473	Huntington National Bank 7 Easton Oval – EA2W47 Columbus, Ohio 43219 Account No. 01388362854 ABA No. 044000024	Huntington National Bank 7 Easton Oval – EA2W47 Columbus, Ohio 43219 Account No. 01388362854 SWIFT CODE: HUNTUS33

AKT Peerless is prepared to initiate this project immediately upon receipt your written authorization to proceed. For your convenience, this proposal is presented in a form that can be accepted as an agreement. To accept this proposal, please endorse the signature page and return a copy to the undersigned.

PROPOSAL ACCEPTANCE FOR

Environmental Consulting Services
14 W. Forest Avenue, Ypsilanti, Michigan

This proposal submitted by:	Scott Wasielewski Scott Wasielewski Senior Project Manager
Proposal submitted on:	July 5, 2023

Please authorize the proposal by executing below:

Proposal amount:	**$4,950**

Client contact:
Ms. Katie Jones
City of Ypsilanti
1 S. Huron Street
Ypsilanti, Michigan 48197

AKT Peerless Proposal No.	PF-32952
Acceptance:	(Signature) **City of Ypsilanti**
Print Name:	
Title	
Date	

TO EXPEDITE COMPLETION OF THIS PROJECT, PROVIDE THE FOLLOWING:

PROPERTY OWNER NAME:	PROPERTY OWNER CONTACT INFORMATION:
KEY SITE CONTACT NAME:	KEY SITE CONTACT INFORMATION:
LENDER NAME:	LENDER CONTACT INFORMATION:

AKT PEERLESS ENVIRONMENTAL SERVICES

Appendix A

Terms and Conditions

Appendix A

Terms and Conditions

AKTPEERLESS

AKT PEERLESS
TERMS AND CONDITIONS

The following Terms and Conditions govern the services (referred to herein as "work" or "services") to be performed by AKT Peerless ("**we**", "**us**", "**our**", "**AKT Peerless**" or **"Consultant**") for you ("**you**", "**your**" or "**Client**"). By accepting the proposal or authorizing all, or any portion, of the work to be performed by Consultant, Client shall be deemed to accept these terms and conditions, as if set forth in full, in the proposal to which these terms and conditions apply (when accepted, the proposal and these Terms and Conditions constitute the "Agreement" (hereinafter, this "**Agreement**").

1. **Performance**: Consultant will provide advice, consultation and other environmental services to Client in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant's profession currently practicing under similar conditions and in the same locality. Consultant shall use commercially reasonable best efforts to comply with all federal, state, and local statutes, codes, laws and administrative regulations relating specifically to the services to be performed by Consultant, including, but not limited those related to environmental, fire, safety and health matters. Finally, it is Consultant's obligation to have marked by appropriate utility companies the location of all underground utilities or improvements.

AKT Peerless prides itself in rapid responses to client inquiries. Therefore, we make extensive use of e-mail and facsimile machines to communicate with our clients. We will communicate with you via the e-mail address and/or facsimile number on file for you. In the case of facsimiles, please let us know if you would like us to call first before faxing. At present, AKT Peerless does not use any encryption programs for our outgoing e-mail. All written, telephone, facsimile or email communication between the Client and AKT Peerless shall not be considered unwanted commercial speech (e.g. "spam") unless written notification is provided.

2. **Client Cooperation**: Client shall use commercially reasonable best efforts to cooperate fully with Consultant in meeting Consultant's responsibilities herein. Such cooperation shall include but shall not be limited to providing: 1) access to the real estate, buildings or other property, 2) such surveys and other records concerning the subject matter of the project, and 3) all communications with regulatory agencies and other parties that may have an interest related to the project as may be in Client's possession or under its control. Client shall provide Consultant with a written description of all information required to enable Consultant to perform its services, including documents, data and other information concerning the presence of any hazardous, radioactive, toxic, irritant, pollutant or otherwise dangerous substances or conditions that Client knows or has reason to believe may be located at, on or under the property. Consultant shall not be liable for any incorrect advice, judgment, recommendation, finding, decision or conduct based upon any inaccurate or incomplete information supplied, or withheld, by Client, or errors or incorrect statements of governmental agencies or third parties relied on by Consultant. Client agrees to provide an on-site contact to identify utilities and improvements. Client acknowledges that, in the event any subsurface investigation is required, it is inevitable that some damage or destruction to the current property conditions shall occur. Repair of concrete and/or surface structures is not included as part of this proposal and Consultant shall have no liability to repair same, except as may be specifically set forth in the proposal.

3. **Payment**: The Client agrees to pay Consultant for all services and expenses, according to this agreement, through the termination or completion date, plus all interest, and expenses or costs incurred for early termination as set forth below and all costs of collections, including reasonable attorney fees. Any work requested hereunder, either in the proposal or subsequent change orders will be performed at the prices agreed to in the proposal and/or according to the provisions of the Consultant's standard rate schedule. If requested, prior to performing any services AKT Peerless may require a retainer ("Retainer"). AKT Peerless shall hold the Retainer and apply it to the final invoice from AKT Peerless to the Client (with any excess left over, immediately returned to the Client). Consultant reserves the right to amend the rate schedule in advance of any future work. Client understands that outside services contracted and paid for by Consultant which are included in the proposal will be billed to the Client at cost plus fifteen percent (15%). All invoices submitted to Client shall be payable within thirty

(30) days of issuance by Consultant. Any payment not received within that period will bear interest at the rate of one and one half percent (1.5%) per month thereafter. Client agrees that it shall pay Consultant at Consultant's then prevailing rate for all time spent on behalf of Client in preparation for any court, administrative, or other legal proceedings arising out of the services provided under this Agreement, whether or not Consultant is subpoenaed to appear at such proceeding by Client or any third party. In the event that payment is not received by Consultant on any invoice within thirty (30) days of the issuance of the invoice, Consultant may then, by written termination notice to Client, terminate this Agreement (and any other existing contracts between Client and Consultant) and apply any existing Retainer to outstanding invoices without incurring any liability to Client; such termination by Consultant shall be effective immediately upon Consultant's issuance of the termination notice. Any objection to any invoice must be made by the Client, in writing, within ten (10) business days after the invoice is issued by Consultant, or the objection shall be deemed waived.

4. **Termination**: In addition to any other rights of Consultant to terminate this Agreement, Consultant may terminate this agreement if, in its sole discretion, it believes that any request from Client may violate applicable professional standards, law, or regulations and the parties are unable to reach a satisfactory resolution of the issue. Additionally, this agreement may be terminated by either party upon thirty (30) days written notice, unless such termination shall irreparably harm either party. In the event that Client terminates this agreement prior to the completion of Consultant's work, Client agrees to pay Consultant for the work that has been performed through the date of termination and for efforts that are expended by Consultant to wrap up its work in a professional, businesslike manner (including, without limitation, costs and fees for demobilizing from a site, for proper handling and disposal of samples, for organization of files and reports and the like) and in addition, ~~Client shall pay Consultant an additional amount equaling ten percent (10%) of the agreed initial estimated price, as a reimbursement for loss of opportunity.~~ In no event shall any payment pursuant to this section 4 exceed the original agreement amount by ten percent (10%).

5. **Indemnification:** Client shall defend, indemnify, and hold harmless Consultant, its subcontractors, and their respective officers, directors, shareholders, members, attorneys, agents and employees from and against any and all liability, claims, demands, lawsuits, losses, damages, penalties, expenses and costs, including reasonable attorney fees ("**Damages**"), whether direct, indirect or consequential: that arise as a result of Client's negligence, gross negligence, or willful misconduct. All claims brought against Consultant, relating to the services provided by Consultant or otherwise, whether based upon contract, tort, statute or otherwise, must be brought within one (1) year from completion of the contracted services or they shall be forever barred. The Client acknowledges that Consultant has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant or otherwise dangerous substance or condition at the real estate as to which Client has requested Consultant's services.

Consultant agrees to defend, indemnify, and hold harmless Client, its subcontractors, and their respective officers, directors, shareholders, members, attorneys, agents and employees from and against any and all Damages, whether direct, indirect, or consequential arising out of, or in any way connected with Consultant's negligence, gross negligence or willful misconduct in the performance of services under this Agreement.

In addition to the other limitations contained in this section 5 and elsewhere in these Terms and Conditions, a party's obligation to the other hereunder shall be limited to the party's relative fault among all persons or entities that may have contributed to or caused the Damages at issue, as determined by a court of competent jurisdiction or as the allocation of fault may otherwise be agreed by the parties.

The Client understands that its incentive services involve incentive programs, not entitlement programs, and, as such, approval of any incentive benefit is not guaranteed. Strict compliance with the applicable incentive legislation is needed in order to even qualify for consideration by the applicable government agency. This compliance is the responsibility of the Client. Tax increment finance tables involve projected revenue that is highly dependent on post-development taxable values determined through the normal assessment process. The Client agrees to indemnify and hold harmless AKT Peerless from all claims, losses, expenses, fees including reasonable attorney fees, costs, and judgments that may be asserted against the Client arising out of this Agreement, or the

Client's application and/or qualification for incentive programs (provided, however, this indemnity shall not apply to claims arising out of the gross negligence of AKT Peerless or it employees or agents). The Client is strongly encouraged to seek legal advice, at the Client's own expense, on all legal matters or questions that may arise regarding these incentives and to have any documents prepared by AKT Peerless for submission to any federal, state or municipal government or agency reviewed by competent legal counsel before submission. The Client is strongly encouraged to seek accounting services, at the Client's own expense, on all tax matters or questions that may arise regarding these incentives and to consult with the Client's accountant prior to submission of any tax forms. In no event shall the liability of AKT Peerless under this Agreement for any claim whatsoever exceed amounts paid by Client to AKT Peerless for the particular task giving rise to such claim. Further, in the event AKT Peerless is successful in obtaining governmental incentives for Client, they require strict compliance after approval of same to obtain their benefits. Certain failures to comply on an ongoing basis can terminate or limit the availability of the full benefits received, require repayment or have negative tax consequences. AKT Peerless assumes no liability for post award actions of Client.

6. **<u>Insurance and Limitations of Liability</u>**: Consultant and its subcontractors shall procure and maintain at its own expense, during the term of this Agreement, the following insurance, with limits of liability at least as set forth below, and upon such terms and conditions as are customary in the industry:

(a) Comprehensive general liability insurance in the amount of $2,000,000 combined per occurrence and $2,000,000 combined per aggregate;

(b) Professional liability (errors and omissions) insurance in the amount of $2,000,000 combined per occurrence and $2,000,000 combined aggregate limit;

(c) Pollution liability insurance in the amount of $2,000,000 per occurrence and $2,000,000 aggregate;

(d) Automobile liability insurance in the amount of $2,000,000 combined single limit for bodily injury for property damage; and

(e) Workers' Compensation insurance complying with the laws of the state(s) in which Consultant's services are performed hereunder.

Notwithstanding anything contained herein to the contrary, Consultant's liability to Client for any claimed Damages arising out of or in any way related to this Agreement or the services provided by Consultant shall be limited to the amounts available under the above insurance policies. However, in no event shall the liability of AKT Peerless for any redevelopment incentive or tax credit service under this Agreement for any claim whatsoever exceed amounts paid by Client to AKT Peerless for the particular task giving rise to such claim. Consultant will not be responsible for any claims arising out of the negligence, gross negligence, or willful misconduct by Client or by any person or entity not under the direct control of Consultant. In no event shall Consultant have any liability for any claims (whether based upon contract or tort) for any loss of business opportunity, profits or any special, incidental, consequential or punitive damages. In the event Client perceives that it has suffered any Damages as a result of the services provided by Consultant or in any way arising out of or related to this Agreement, Client agrees to provide Consultant with reasonable notice of and an opportunity to cure the claimed Damages, prior to or within ten (10) days of discovery of same. Failure to so provide said notice and opportunity to cure shall act as an absolute bar to any recovery for any Damages. Unless an emergency otherwise dictates, Consultant shall have no more than thirty (30) days after receiving notice as provided herein to cure any defect for which Client provides notice hereunder, unless such cure requires additional time to implement or complete, in which case Consultant shall be provided a commercially reasonable amount of time to complete the cure. Failure by Consultant to cure any defect as provided herein shall in no event bar or preclude any defense to which Consultant may otherwise be entitled. Finally, Consultant shall have no liability or obligation to Client for Damages greater than the minimum requirements as set forth under the applicable state law and the most cost effective and reasonable remedy provided thereunder in consideration of all relevant facts.

~~Consultant shall not be liable to Client for failure to comply with the terms of Section 1 unless such non-compliance is due to the negligence, gross negligence, or intentional misconduct of Consultant.~~ Client acknowledges that Consultant has made no representations, express or implied, and ~~no warranty or~~ guarantee is included or intended in any report, opinion, or document regarding the results to be achieved upon completion of the services except as set forth herein. In the case of incentives work, Client understands that the decision to grant any incentives is wholly that of the applicable governmental agencies.

7. **Confidentiality**: Consultant shall retain as confidential all information, samples and data furnished to it by Client or collected by it during the course of the work performed under the Agreement or any amendment thereto. Such information shall not be disclosed to any third party except as directed by Client or as required by law, regulation or court order. Prior to making any disclosure required by law, regulation or court order, Consultant shall notify client of the obligation to make such disclosure and provide Client with a reasonable opportunity to lawfully challenge the need to make such disclosure. Any such challenge shall be performed at Client's sole cost and expense, including but not limited to any payments to Consultant for its time spent assisting in such challenge. Consultant shall retain all reports generated for a period of three (3) years after completion of any project. Client authorizes Consultant to destroy any file or retain portions thereof, in the discretion of Consultant after said time. Any samples obtained by a Consultant under this Agreement will be discarded within thirty (30) days after laboratory analyses unless another time period is mutually agreed to in writing.

8. **Final Product:** Client acknowledges that any environmental report is merely a "snapshot" of the subject property at the time the investigation was performed and any material change in the use or condition of the property shall directly terminate any further obligation of Consultant for the accuracy of the report. In no event shall this report be relied on for more than one-hundred eighty (180) days after the date of issuance. If at any time after the issuance of the final report, Client becomes aware of any information previously unknown that would materially alter the findings or conclusions contained therein, Client agrees to immediately provide Consultant with same and allow Consultant to revise the report accordingly, except that Consultant shall not be required to make such revisions if such information was withheld by Client in violation of this Agreement. Client further understands that the failure to discover hazardous, radioactive, toxic, irritant, pollutant, petroleum or otherwise dangerous substances, products, or conditions does not guarantee that these materials do not exist at the property, and that hazardous materials may later be found on such a site. Client agrees that Consultant is not responsible for any failure to detect or clean up the presence of hazardous materials unless: (1) the failure to detect same is caused by Consultant's negligence, gross negligence or willful misconduct; and (2) Client suffers Damages as a result. Client agrees that any Damages related to said failure shall be further limited by the provisions of this Agreement.

All tax increment finance projections and other incentive related documents shall be supplied in paper or printable document file (PDF) format. The source documents are considered work product and will only be released at the sole discretion of AKT Peerless. If source documents are released, it is under a one (1) month license only to the Client who shall not modify, alter, copy or distribute the source documents without the expressed written permission of AKT Peerless and shall destroy or return the source documents and all copies to AKT Peerless upon expiration of the license.

AKT Peerless ordinarily retains client files for a reasonable period of time after the conclusion of a matter. If requested, AKT Peerless will provide these files to you (excluding our notes and other work products) at the conclusion of the matter upon your request. If you do not request the files, after a reasonable period of time, unless you advise us in writing to the contrary, we shall be free to dispose of them. If you request that we turn our files over to you or to another firm and you have not fully satisfied all of your obligations to us under this agreement, including the payment of all fees and costs, we shall be entitled to hold the files as security for performance of those obligations.

9. **Lien**: In order to secure repayment of the amounts required hereunder, Consultant hereby notifies client that it intends to utilize any rights it may have under Michigan's Construction Lien Act (MCLA 570.1101 *et seq*) or such similar provision which may be in force in the jurisdiction where the work under the Agreement is performed. Client further agrees to execute and deliver to Consultant any and all documents necessary and/or grants Consultant power of attorney to execute and record on their behalf all documents in order to comply with the requirements of the Act.

10. **Changes**: The parties acknowledge that neither this Agreement nor any proposal may be modified except upon written agreement by both parties. If changes occur in the project, or events are discovered during Consultant's work, these events may require alterations to the scope of work. If such changes are required by changes in the statutes, regulations, governmental authorities or the interpretations thereof, this agreement and proposal shall therefore be amended to incorporate those changes and the compensation to Consultant shall be adjusted accordingly. If the Client alters the scope of work proposed by Consultant, Consultant shall have no liability whatsoever for any Damages based upon the final product, if in the performance of the Consultant's original proposal; the claimed defect could have been discovered. Client further acknowledges that the costs in the proposal are merely estimates. These estimates are made by Consultant on the basis of its experience, qualifications, and professional judgment, but are estimates and not guaranteed.

11. **Delays**: Consultant shall use commercially reasonable best efforts in performing the services under this agreement. However, Consultant shall not be responsible for any delay or failure to perform its services if there is any failure to provide or delay in providing Consultant with necessary access to the properties, documentation, information, materials or contractors retained by Client or its representatives, or due to any act of God, labor trouble, fire, inclement weather, act of governmental authority or the failure to gain cooperation of any necessary third party or any other act beyond the control of Consultant. In the event said events do occur, then the time for Consultant's for completion of this Agreement shall be extended by a commercially reasonable period under the circumstances. If any delay is caused by either the acts or omissions of Client or by any third party (including Governmental agencies) Consultant shall be entitled to additional compensation, based upon standard rates, for the additional efforts required in obtaining said approvals, documentation or access.

12. **Reliance and Reliance Letters**: The services performed and issuance of any report which is to be generated is for the sole benefit of Client and no other individual or entity may therefore rely on same without the express written permission of Consultant. Consultant acknowledges that, from time to time, Client may require that Consultant issue to Client's financial institution or other third party a Reliance Letter. Consultant agrees, at no additional cost, to provide same, so long as it is subject to these Terms and Conditions and that said request is made within one hundred eighty (180) days of the final report. Client agrees that it shall provide a copy of these Terms and Conditions to its financial institution or other third party and that the financial institution shall accept same and shall acknowledge that any such reliance shall be effective only as to the condition of the property on the date the final report was written. Consultant shall not be required to provide reliance on any report older than 180 days. In the event that Consultant does agree to provide a Reliance Letter, the party seeking reliance must agree in writing to be bound by these Terms and Conditions. Any reliance shall only be as of the date the report was published. For reliance requests based upon these reports, Consultant's liability for any and all Damages in any way related to the services provided by Consultant, either directly or indirectly, whether by agreement or otherwise, shall be limited to the cost of the services provided by Consultant hereunder. In accepting this limitation, Client and any other relying party shall acknowledge that ASTM E-1527, Section 4.6, states that any Phase I Environmental Site Assessment older than one hundred eighty (180) days is no longer valid and therefore acknowledges that this reduced limitation of liability is reasonable.

LBRF Account Cash Flow

6/30/2023

Date	Current Balance	Pay Outs	Project	Deposits	Project(s)
7/1/2023	$ 2,659,556				
8/1/2023	$ 2,159,556	$ 500,000	220 N. Park Loan		
9/1/2023	$ 2,144,556	$ 15,000	3045 Broad, Dexter		
10/1/2023	$ 2,124,556	$ 20,000	Gault Village, Ypsi Twp		
11/1/2023	$ 1,424,556	$ 700,000	Main St. Park Chelsea Grant		
11/1/2023	$ 1,391,956	$ 32,600	415 W. Washington Phase II		
6/1/2024	$ 891,956	$ 500,000	220 N. Park Grant		
9/1/2024	$ 191,956	$ 700,000	206/210 N. Washington, Ypsi		
9/1/2024	$ 901,956			$ 710,000	Kingsley, 618 S. Main, Arbor Hills
2/1/2025	$ (57,450)	$ 959,406	121 Catherine St A2HC		
9/1/2025	$ 942,550			$ 1,000,000	618 S. Main, Arbor Hills
9/1/2026	$ 1,142,550			$ 200,000	Various
9/1/2027	$ 2,142,550			$ 1,000,000	1140 Broadway

WCBRA Financial Report - June 2023

Developer Reimbursement Complete

Project	Maple Shoppes	Zingerman's	Arbor Hills	618 S. Main	544 Detroit	Water Street	Kingsley Condos - 221 Felch	Grand View Commons-Dexter	1140 Broadway-A2	Thompson Block
Project Parameters										
***Brownfield Plan - Total Approved Elig Activities**	$ 1,209,027.00	$ 1,233,937.00	$ 5,400,000.00	$ 4,628,636.00	$ 698,773.00	$ 22,874,634.00	$ 5,109,420.00	$ 3,370,613.00	$ 13,159,069.00	$ 1,651,241.00
Brownfield Plan - Maximum Developer Reimbursement	$ 1,010,042.00		$ 5,400,000.00				$ 4,000,000.00		$ 10,894,465.00	$ 1,332,613.00
Actual Approved Eligible Activity Expenses	$ 1,010,042.00	$ 600,218.85	$ 4,384,556.00	$ 2,726,826.00	$ 383,368.00		$ 4,000,000.00	$ 1,552,678.00	$ 8,733,951.26	$ 975,696.00
Approved Eligible Activity Expense Reimbursed to Date	$ 805,706.48	$ 283,166.94	$ 4,384,556.00	$ 1,752,542.13	$ 201,374.61		$ 3,292,000.24	$ 772,702.92	$ 4,816,913.51	$ 35,264.98
Remaining Approved Eligible Activity Expenses	$ 204,335.52	$ 317,051.91	$ -	$ 974,283.87	$ 181,993.39	$ -	$ 707,999.76	$ 779,975.08	$ 3,917,037.75	$ 940,431.02
Approved Interest to be Reimbursed	$ 41,282.00	$ 228,466.37	$ 1,015,444.00	$ 498,515.29	$ 70,648.00			$ 257,190.83		
Interest Reimbursed to Date			$ 432,047.19							
Remaining Interest to be Reimbursed	$ 41,282.00	$ 228,466.37	$ 583,396.81	$ 498,515.29	$ 70,648.00			$ 257,190.83		
Project Financial Activity										
12/31/22 Fund Balance	$ -	$ 9,016.28	$ -	$ -	$ 2,808.00	$ 184,949.02	$ (47,694.50)		$ (75,958.50)	$ (1,873.00)
TOTAL 2023 REVENUES										
Application Fee	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Interest Revenue*										
TIF Revenue/Capture	$ 14,190.12	$ 6,194.07	$ 102,533.90	$ 78,843.08	$ 3,892.32	$ 36,951.76	$ 146,192.17	$ 101,529.59	$ 299,727.12	$ 15,735.36
Total Revenues	$ 14,190.12	$ 6,194.07	$ 102,533.90	$ 78,843.08	$ 3,892.32	$ 36,951.76	$ 146,192.17	$ 101,529.59	$ 299,727.12	$ 15,735.36
2023 EXPENDITURES										
Certified Expense Reimbursement	$ 11,001.12	$ 8,852.35	$ 52,949.90	$ 55,218.08	$ 4,104.32		$ 16,103.67	$ 89,732.59	$ 180,774.62	$ 13,862.36
Administrative Fee Transfer	$ 3,189.00	$ 1,171.00	$ 49,584.00	$ 23,625.00	$ 2,596.00	$ 3,215.00	$ 82,394.00	$ 11,797.00	$ -	$ -
LBRF Revenue or Deposit	$ -	$ 5,187.00	$ -	$ -	$ -	$ -	$ -	$ -	$ 42,994.00	$ -
State of MI Brownfield Fund (Approved after 2014)										
Total Expenditures	$ 14,190.12	$ 15,210.35	$ 102,533.90	$ 78,843.08	$ 6,700.32	$ 3,215.00	$ 98,497.67	$ 101,529.59	$ 223,768.62	$ 13,862.36
Misc Refund										
Current Brownfield Account Balance	$ -	$ -	$ -	$ -	$ -	$ 218,685.78	$ -	$ -	$ -	$ -

Project	309 N. Ashley	Broadway Park-Roxbury	Maple Oaks-Saline	Rockwell Building Chelsea	4025 Packard Road	303 N. Fifth/312-314 Detroit	3874 Research Park Drive/Sartorius	Village of Ann Arbor	300 N. Zeeb
Project Parameters									
***Brownfield Plan - Total Approved Elig Activities**	$ 2,739,022.00		$ 781,957.00						
Brownfield Plan - Maximum Developer Reimbursement	$ 2,039,022.00		$ 550,000.00						
Actual Approved Eligible Activity Expenses	$ 1,876,130.05		$ 176,469.06						
Approved Eligible Activity Expense Reimbursed to Date	$ 182,554.97		$ 70,669.06						
Remaining Approved Eligible Activity Expenses	$ 1,693,575.08	$ -	$ 105,800.00	$ -	$ -	$ -	$ -	$ -	$ -
Approved Interest to be Reimbursed									
Interest Reimbursed to Date									
Remaining Interest to be Reimbursed									
Project Financial Activity									
12/31/22 Fund Balance	$ -	$ 3,504.76	$ 35,387.29						
TOTAL 2023 REVENUES									
Application Fee	$ -	$ -							
Interest Revenue*									
TIF Revenue/Capture	$ 31,602.80	$ 419.18	$ 5,353.88						
Total Revenues	$ 31,602.80	$ 419.18	$ 5,353.88	$ -	$ -	$ -	$ -	$ -	$ -
2023 EXPENDITURES									
Certified Expense Reimbursement	$ 16,673.80	$ -	$ 2,401.56						
Administrative Fee Transfer	$ 14,929.00	$ -	$ -						
LBRF Revenue or Deposit	$ -	$ 159.00	$ 3,208.00						
State of MI Brownfield Fund (Approved after 2014)	$ -								
Total Expenditures	$ 31,602.80	$ 159.00	$ 5,609.56	$ -	$ -	$ -	$ -	$ -	$ -
Misc Refund									
Current Brownfield Account Balance	$ -	$ 3,764.94	$ 35,131.61	$ -	$ -	$ -	$ -	$ -	$ -

Includes Admin and LBRF Funds

Total of all 2022 CY TIF Reimburse Transfers	$ 418,736.65	
Total 2023 CY LBRF CAPTURE	$ 51,548.00	
Total fo all CY 2023 Admin Transfers (From 2022 Tax Year)	**$ 192,500.00**	**16 Active Projects**
Total of all CY 2022 Admin Transfers	$ 192,500.00	16 Active Projects
Total of all CY 2019 Admin Transfers	$ 165,000.00	15 Active Projects
Total of all CY 2018 Admin Transfers	$ 164,999.72	15 Active Projects
Total of all CY 2017 Admin Transfers	$ 164,113.00	15 Active Projects
Total of all CY 2016 Admin Transfers	$ 150,739.88	ACCOUNT BALANCES SUMMARY
Total of all CY 2015 Admin Transfers	$ 114,437.35	Admin Fund Cash Reserves as of 5-30-23 **$ 148,530**
Total of all CY 2014 Admin Transfers	$ 87,198.19	LBRF Interest earned since 2017 as of 3-27-23 (inc. in bal. below) **$ 100,980**
2022 LBRF Capture Running Current Yr Total	$ 51,548.00	LBRF Balance as of 5-30-23 **$ 2,652,000**

TRANSACTION APPROVALS REQUESTED

PROJECT

	Total '22TY Capture	**Current Balance**	**Proposed Admin**	**Proposed LBRF**	**Developer Reimbursement**
Grand Total	$ -	$ -	**$ -**	**$ -**	**$ -**