

Local Development Finance Authority

Regular Meeting Agenda

Monday, April 14, 2014
4:00 p.m., Council Chambers
South Haven City Hall



City of South Haven

1. Call to Order

2. Roll Call

Chairman Art Bolt, Thomas Erdmann, Eugen Gawreliuk, Mike Henry, Robert Herrera, Lynn Kerber, Andy Klavins, Mike Rainey, Christine Valentine, Janice Varney.

3. Approval of Agenda

4. Approval of Minutes – March 10, 2014 Regular Meeting

5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

6. Financial Report

7. 220 Aylworth Avenue Offer

8. Economic Development Report

10. General Comments

11. Executive Session

The Local Development Finance Authority will move to a closed session under Section 8(d) of the Open Meetings Act to discuss a potential real estate acquisition.

12. Adjourn

RESPECTFULLY SUBMITTED,
Paul VandenBosch
Secretary, Local Development Finance Authority

SOUTH HAVEN CITY HALL IS BARRIER FREE AND THE CITY OF SOUTH HAVEN WILL PROVIDE THE NECESSARY REASONABLE AUXILIARY AIDS AND SERVICES FOR PERSONS WITH DISABILITIES, SUCH AS SIGNERS FOR THE HEARING IMPAIRED AND AUDIO TAPES OF PRINTED MATERIALS BEING CONSIDERED AT THE MEETING TO INDIVIDUALS WITH DISABILITIES AT THE MEETING UPON SEVEN (7) DAYS NOTICE TO THE SOUTH HAVEN CITY HALL.

Local Development Finance Authority

Regular Meeting Minutes

Monday, March 10, 2014
4:00 p.m., Council Chambers
South Haven City Hall



City of South Haven

1. Call to Order by Valentine at 4:00 p.m.

2. Roll Call

Present: Erdmann, Gawreliuk, Henry, Kerber, Klavins, Valentine, Varney,

Absent: Bolt, Herrera, Rainey

3. Approval of Agenda

Motion by Klavins, second by Henry to approve the agenda with the additional item Dual Agency Agreement.

All in favor. Motion carried.

4. Approval of Minutes – November 13, 2013 Regular Meeting

Motion by Henry, second by Erdmann to approve the November 13, 2013 Regular Meeting minutes.

All in favor. Motion carried.

5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

6. Financial Report

VandenBosch reviewed the Financial Report.

Motion by Erdmann, second by Klavins to accept the Financial Report.

All in favor. Motion carried.

7. 2014-2015 Budget

VandenBosch presented the draft budget and noted two capital projects for the upcoming budget year, Kalamazoo Street reconstruction and Veterans Boulevard Water Tower Painting. The General Fund Administration Transfer has been increased to \$25,000 from the current budget year. It had been \$40,000 in previous years but due to lower revenues, the General Fund Transfer had been reduced to \$0 in fiscal year 2013-2014. The projection for the General Fund Transfer is to increase it to \$40,000 again if revenues allow.

Kerber asked why no Other Revenue was included for LDFA 3, when it was included in the other districts. VandenBosch was not able to explain this.

There was a discussion on remaining land owned by the LDFA which could be sold for industrial development. VandenBosch stated that the land we have available are the 220 Aylworth site, the Du-Wel site and the Four Star site. The LDFA does not own developable land in the I-196 Industrial Park. The LDFA had considered developing an additional industrial park, however budget issues have put a hold on that.

Valentine asked if the LDFA sells 220 Aylworth, would that show an increase in the fund balance. VandenBosch said yes, it would increase the fund balance in LDFA 1.

Kerber recommended that we discuss strategy in a future LDFA meeting.

Motion by Erdman, second by Klavins to approve the 2014-2015 LDFA budget.

All in favor. Motion carried.

8. Dual Agency Agreement

VandenBosch explained that the realtor representing the LDFA on 220 Aylworth Ave. is working with a buyer who is also being represented by Bradley Company. The Dual Agency Agreement is a disclosure that the realtors are working with both the buyer and the seller on the transaction. VandenBosch stated that he had discussed the agreement with the City Attorney and had no concerns with the agreement.

Motion by Henry, second by Gawreliuk to authorize Vice-Chairman Valentine to sign the Dual Agency Agreement.

All in favor. Motion carried.

9. Economic Development Report

McCloughan gave a report on economic development activities.

10. General Comments

There were none.

11. Adjourn

Motion by Erdmann, second by Henry to adjourn at 4:45 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Paul VandenBosch
Secretary

City of South Haven
Local Development Finance Authority
For the period ended March 31, 2014

	LDFA #1	LDFA #2	LDFA #3
Revenues			
Property Tax Captures	224,479	32,024	67,288
Interest Income	4,453	1,275	4,300
Land Sales			-
Other Revenue	150	-	-
Other Transfers In	-	-	-
Total Revenue	229,082	33,299	71,588
Expenditures			
Economic Liaison	210	-	426
Administrative Costs	-	-	-
Professional Fees	3,852	63	-
Contractual Services	54,367	-	153
Capital Projects	8,503	-	-
General Fund Administration	-	-	-
Transfer to Building Authority Debt Service	-	9,866	-
MEDC Loan Payments			20,406
Transfer to St. Joe Project Debt Service	90,000	-	-
Other Transfers Out	-	-	-
Total Expenditures	156,932	9,928	20,985
Year-to-Date Fund Gain/(Loss)	72,151	23,370	50,602

Cash and Investments

Cash	163,855	141,177	291,803
Certificates of Deposit	263,078	-	2,250
Other Financial Investments	316,739	63,680	308,688
Total	743,672	204,857	602,741

Land Assets - 345 Kalamazoo St	5.19 acres	\$ 46,710	Mkt Value per assessor
Land Assets - 1391 Kalamazoo St	1.54 acres	\$ 36,729	Mkt Value per assessor
220 Aylworth Ave	13.22 acres	\$ 118,980	Mkt Value per assessor
1280 Kalamazoo St.	3.48 acres	\$ 31,320	Mkt Value per assessor

LDFA Debt Obligations

St. Joe Projects Bonds - Final Maturity - May 2027	\$120,000/Year		
DPW Relocation Bonds - Final Maturity - Nov. 2021		\$13,990 Average/Year	
MEDC Loan -0% Interest - Final Payment - April 2016			\$27,208/Year

March 25, 2014

TO: LDFA

FR: Paul VandenBosch

RE: Nick Loafman Offer

The LDFA has received an offer for a portion of the 220 Aylworth property from Nick Loafman.

The offer is for a 1.95 acre parcel that includes a utility building. The building currently has no water, sewer or electric utility connections. The parcel includes frontage on Kalamazoo Street, and easement access to Lovejoy Avenue. An easement would be created to allow for future property owners of the remaining 220 Aylworth parcel to use the Lovejoy driveway.

A lot split would be required. The attached sketch indicates the proposed split. A survey of the proposed lot would be required, and zoning approval of the split is required. The proposed lot appears to meet zoning requirements.

The offer price is \$25,000.

March 25, 2014

TO: LDFA

FR: Paul VandenBosch

RE: Buy and Sell Agreements, 220 Aylworth

In the past, when negotiating sales of property in industrial parks, staff and the City Attorney have had quite a bit of flexibility to prenegotiate property sales with developers. We tried to put together purchase agreements that we could recommend to the board.

One reason for this type of negotiation was that prospective buyers had some privacy through the negotiation process. The Open Meetings Act does not allow for an executive session to discuss the sale of property.

Because we have entered into an agency agreement with a real estate broker, the decisions on property sales now have a different dynamic to them. When the LDFA responds to a buy and sell agreement with a counter-offer, it is entering into an agreement that may result in a sale. Because of this, it is not appropriate for staff to respond with counter offers.

Another consideration is that if the LDFA were to decide not to sell to a buyer for reasons such as lack of job creation, or lack of investment in the property, the LDFA might become liable for payment of the brokerage fee. This would mainly apply to an offer on the entire property. It is important to respond to all offers with a counter offer with a dollar value. That value could be the listing price (\$750,000). It is important not to decline an offer, unless there is an obvious negative impact on the adjacent neighborhood.

I intend to bring all offers on the property to the LDFA for a decision on whether to accept, or to counter offer. This may lead to requests for special meetings, although I hope to be able to keep responses to regularly scheduled meeting dates.



COMMERCIAL-INDUSTRIAL REAL ESTATE BUY & SELL AGREEMENT



1. 1. Parties To: South Haven Community Redevel.
 2. hereinafter called the Seller, the undersigned, hereinafter called the Buyer, hereby offers to buy the Property at:
 3. 220 Aylworth, South Haven, MI 49090
 4. (Property Address)
 5. located in City of South Have, Van Buren County Michigan and
 6. legally described as: (attached as Exhibit "A") (described as follows): see attached split
 7. _____
 8. and Tax Code(s): TBD
 9. 2. Including all buildings and permanent improvements and fixtures attached; all privileges, easements and appurtenances
 10. pertaining thereto including any right, title and interest of Seller in and to adjacent streets, alleys, rights-of-way, leases, rents,
 11. security deposits, licenses and permits with respect to the Property, warranties or guarantees relating to the Property being sold,
 12. any personal Property specified herein and the trade name of _____, all of the above referred to as
 13. the "Property"; subject to exact determination by survey pursuant to Paragraph 11(b). The following items of personal Property
 14. are INCLUDED in the sale:
 15. _____
 16. _____
 17. All other personal Property and the following additional items are EXCLUDED from the sale: _____
 18. _____
 19. 3. Price. The purchase price shall be Twenty-Five Thousand Dollars
 20. (\$ 25,000.00).
 21. 4. The Terms of Purchase shall be indicated by an "X" below.
 22. CASH The full purchase price upon execution and delivery of a warranty deed, not contingent upon Buyer's ability to
 23. obtain financing.
 24. NEW The full purchase price upon execution and delivery of a warranty deed contingent upon Buyer's ability to
 25. MORTGAGE obtain a _____ %: _____ mortgage with note interest not exceeding _____ % per
 26. annum, which Buyer agrees to apply for within _____ business days after acceptance by Seller and accept
 27. promptly if tendered. In the event that the Buyer does not provide evidence of an application for financing within
 28. the time provided above, the Seller may terminate this agreement by written notice of termination, which is
 29. delivered to the Buyer prior to the time the Buyer provides evidence of an application for financing. Buyer to
 30. provide Seller with a written conditional loan commitment by _____. In the event Buyer does not
 31. provide the Seller with a written conditional loan commitment within the time provided above, the Seller may
 32. terminate this agreement by a written notice of termination, which is delivered to the Buyer prior to the time the
 33. Buyer provides the Seller with a written conditional loan commitment. Buyer hereby authorizes their lender to
 34. disclose loan status information to REALTOR®/Brokers.
 35. LAND \$ _____ upon execution and delivery of Land Contract/Purchase Money Mortgage wherein the
 36. CONTRACT balance of the purchase price shall be payable in equal monthly installments of \$ _____ or more per
 37. or month. The first installment shall be due and payable _____ days after date of closing. The monthly
 38. installment will include interest at _____ % per annum. Interest shall commence on date of closing. The
 39. PURCHASE entire balance shall be payable within _____ months. In addition, Buyer agrees to pay all taxes and
 40. MONEY insurance separately when due or monthly in addition to the above monthly payment.
 41. OTHER FINANCING as set forth on the attached Financing Addendum.
 42. 5. Earnest Money. The Buyer hereby deposits \$ 2,000.00 in form of personal check with
 43. Chicago Title escrowee, receipt of which is hereby acknowledged as earnest money evidencing the
 44. Buyer's good faith to be held by said escrowee in trust and to apply on the purchase price. The Buyer agrees to deposit an
 45. additional amount of \$ _____ as earnest money on or before _____. If this offer is not accepted, or
 46. the title is not marketable, or if the terms of this Agreement are contingent upon the ability to obtain a new mortgage or other
 47. contingencies specified herein which cannot be met, said deposit or deposits shall, upon furnishing written proof said
 48. contingency cannot be met, be refunded to the Buyer. In the event the Buyer and Seller both claim the earnest money deposit,

NPL Buyer's Initials _____ Seller's Initials

COMMERCIAL-INDUSTRIAL REAL ESTATE BUY & SELL AGREEMENT

49. the earnest money deposit shall remain in escrowee's trust account until a civil action has determined to whom the deposit must
50. be paid, or until the Buyer and Seller have agreed, in writing, to the disposition of the deposit or the escrowee commences a civil
51. action to interplead the earnest money deposit with the proper court pursuant to Rule 339.22313 (6). In the event the Buyer
52. refuses to complete the sale on the terms herein set forth, after the satisfaction and the waive of all contingencies, the earnest
53. money deposit may be retained by Seller for its benefit and for liquidated damages for nonperformance of this Agreement. In
54. the event the Seller wrongfully refuses to complete the sale on the terms herein set forth, the earnest money deposit shall be
55. immediately refunded to Buyer, and the Buyer may bring an action for specific performance or pursue such other remedy as the
56. Buyer may elect.

57. 6. Additional Provisions, Purchase in contingent upon approval of proposed split as indicated on
58. attached document. Buyer would like to purchase approximately 1.95 acres along with
59. storage building.

62. Included in this Agreement are the following exhibits and/or addenda: 220 Aylworth Ave Splits

- 64. and the following marked with an "X".
65. [] Zoning/Governmental Approval Addendum [] Seller's Representations Form
66. [] Arbitration Agreement Addendum [] Lead-Based Paint Disclosure
67. [] Land Division Addendum [] Business Opportunity Purchase Agreement

68. 7. Closing. The closing of sale shall take place at Chicago Title on
69. April 30, 2014 or before, if mutually agreed by the parties (the "Closing Date") or this Agreement shall terminate,
70. unless the Closing Date is changed in writing by Seller and Buyer, or otherwise extended pursuant to this Agreement.

71. 8. Possession. The possession of the Property shall be delivered to Buyer in its present condition, ordinary wear and tear excepted,
72. subject to the rights of any tenants in possession, at
73. At the time of possession Seller agrees that the real estate and the improvements thereon, if any, shall be in the same condition
74. as they are now, with the exception of ordinary wear and tear.

75. 9. Real Estate Taxes. Taxes shall be prorated as of the date of closing this sale, it is assumed that all taxes are based on the calendar
76. year in which they are billed, with the Buyer being responsible for the day of closing. For proration purposes, all tax bills shall
77. be added together, using the last tax bill(s) issued and prorated accordingly, unless there has been a change in the taxable value
78. on the Property, in which case the proration shall be on that basis. If the Seller has paid taxes in advance, the Seller shall be
79. credited by the Buyer at the time of closing for the taxes paid in advance and prorated from the date of closing to end of the
80. calendar year.

81. 10. Insurance and Risk of Loss. Seller shall maintain replacement cost (if available) or actual cash value "all risk" insurance on
82. the Property through the Closing Date. Seller's insurance shall be canceled as of the Closing Date and Buyer shall provide its
83. own insurance thereafter. Risk of loss by damage or destruction to the Property prior to the closing shall be borne by Seller. In
84. the event there is any damage or destruction to the Property after the date hereof, which is not fully repaired prior to closing,
85. Buyer, at their option, may either terminate this Agreement or elect to close the transaction, in which event Seller's right to all
86. insurance proceeds not yet applied to repair of the damage or destruction shall be assigned in writing by Seller to Buyer at
87. closing.

88. 11. Conditions to Closing. Buyer's obligations under this Agreement are conditioned upon satisfaction of each of the following
89. items which are for the Buyer's benefit and may be waived by Buyer at Buyer's sole discretion.

90. a. Title Commitment: A commitment for title insurance (the "Commitment") issued by a reputable title insurance company
91. selected or approved by Buyer (the "Title Company") showing marketable title in Seller's name shall be ordered by [] (Seller)
92. [X] (Buyer) promptly upon acceptance of this Agreement and shall be delivered to Buyer within 10 days after
93. split has been approved. At Buyer's request, legible copies of all recorded instruments affecting the

94. Property or recited as exceptions in the Commitment shall also be delivered.

95. b. Survey. [] No boundary (stake) survey requested; or [] Contingent upon a boundary (stake) survey paid for by the [] Buyer
96. or [] Seller; or [X] Contingent upon a boundary (stake) survey showing all improvements on the Property paid for by the [X] Buyer
97. or [] Seller. A mortgage report, which shows the location of the major structures on the Property, is not a boundary (stake) survey
98. and if required by the lender, will be paid for by the Buyer. Both Buyer and Seller acknowledge the REALTORS/Brokers

Buyer's Initials

Seller's Initials

COMMERCIAL-INDUSTRIAL REAL ESTATE
BUY & SELL AGREEMENT

99. recommend a stake survey to determine the true and accurate boundaries of the Property. Buyer understands and agrees that the
100. REALTORS/Brokers have made no representations as to the location of the improvements and easements on the Property or the
101. boundaries of the Property nor assumed any responsibility for the representations made by the Seller of the location of the
102. improvements and easements on the Property and the boundaries of the Property. When closing occurs, Seller and Buyer shall
103. be deemed to have accepted the location of the improvements and easements on the Property and the boundaries of the Property.
104. c. Title and Survey Approval: If Buyer has an objection to items disclosed in the Commitment or the survey, Buyer shall
105. make written objections to Seller within 7 days after receipt of both the Commitment and survey. Upon the expiration
106. of such period, any item not objected to by Buyer or subsequently approved by Buyer in writing shall be deemed a permitted
107. exception ("Permitted Exception"). If Buyer makes objections, Seller shall have thirty (30) days from the date the objections
108. are made to cure the same, and the Closing Date shall be extended, if necessary. Seller agrees to utilize its best efforts and
109. reasonable diligence to cure any objections, but only to the extent necessary to convey marketable title. If the objections are not
110. satisfied within the time period, Buyer may either terminate this Agreement and receive a refund of the Earnest Money or waive
111. the unsatisfied objections and close the transaction.

112. d. Inspections: (Check paragraph (1) and/or (2) or paragraph (3) below) Unless Buyer waives inspections under
113. paragraph (3), Buyer shall have determined that the Property has no unacceptable, adverse environmental or physical condition
114. as provided below.

115. [X] (1) Environmental Assessment: A Phase I environmental site assessment ("Phase I") on the Property shall be ordered
116. promptly upon acceptance of this Agreement at [] Seller's, or [X] Buyer's expense from a reputable, qualified engineer,
117. acceptable to the Buyer. The Phase I shall be conducted in accordance with ASTM standards unless otherwise agreed and
118. may also include at Buyer's option the following:

- 119. (a) an investigation for the presence of asbestos, radon, lead or polychlorinated biphenyls (PCBs) on the Property; and/or
120. (b) an investigation to determine if the Property is located in any regulated or protected area under the jurisdiction of the
121. U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the Michigan Department of Environmental
122. Quality, the Michigan Department of Natural Resources, the U.S. Fish and Wildlife Service or any other federal, state or
123. local agency.

124. If Buyer does not make a written objection to any problem(s) revealed in the report within 7 days of
125. acceptance of report, the Property shall be deemed to be acceptable. If Buyer determines that the
126. environmental condition is unsatisfactory, Seller shall have a reasonable period of time, not to exceed 30 days, to
127. remediate the condition to Buyer's satisfaction and the Closing Date shall be extended, if necessary. If Seller fails or refuses
128. to remediate, Buyer may either terminate this Agreement and receive a refund of the Earnest Money or waive its objections
129. and close the transaction.

130. [] (2) Physical Inspections: Promptly upon acceptance of this Agreement, all physical inspections shall be ordered at
131. [] Seller's or [] Buyer's expense. Inspections shall be made by qualified inspectors or contractors, selected or approved by
132. Buyer, with written reports delivered to Seller and Buyer. Inspections may include but are not limited to the following:
133. heating, cooling, electrical, plumbing, roof, walls, ceilings, floors, foundation, basement, crawl space, water, storm and
134. waste sewer, well/septic, geotechnical, other: . If Buyer, in its
135. reasonable discretion, believes that an inspection report reveals a major defect in or with the Property, Buyer shall report
136. such defect in writing to Seller within days of . If Buyer
137. does not make a written objection to any problem(s) revealed in the report(s) within such time period, the Property shall be
138. deemed acceptable to Buyer. Seller shall have a reasonable period of time, not to exceed days, to repair any such
139. major defect to Buyer's reasonable satisfaction and the Closing Date shall be extended, if necessary. If Seller fails or
140. refuses to repair, Buyer may either terminate this Agreement and receive a refund of the Earnest Money or waive its
141. objection and close the transaction.

142. [] (3) Waiver of Inspections: Buyer has been made aware that independent inspections disclosing the condition of the
143. Property are available, and Buyer has been afforded the opportunity to require such inspections as a condition of
144. this Agreement, however, Buyer waives the right to obtain inspections and relies upon the condition of the Property
145. based upon Buyer's own examination and releases Seller and listing and selling broker(s) from any and all liability
146. relating to any problem, defect or deficiency affecting the Property, which release shall survive the closing.

147. Buyer and its agents shall have the right to enter upon the Property upon reasonable advance notice and make all inspections
148. provided for herein. Buyer shall restore any damage to the Property resulting from the entry of Buyer or its agents and shall
149. indemnify, defend and hold harmless Seller as to any injury to persons or damage to their Property resulting from the negligence
150. of Buyer or its agents in conducting their activities on the Property.

151. e. Document Review. Within --- days from the date hereof, Seller shall provide Buyer with copies of all lease documents,
152. management contracts, service contracts, and all other contracts relating to the operation of the Property. In addition, Seller shall
153. provide -- years' income and expense information for the Property. Buyer shall have --- days to review the documentation
154. set forth in this paragraph and, upon such review, may elect not to purchase the Property by providing written notice to Seller
155. on or before the expiration of that review period, in which event the earnest money deposit shall be returned to Buyer and neither
156. party shall have any further rights or obligations hereunder.

NAL Buyer's Initials

Seller's Initials

COMMERCIAL-INDUSTRIAL REAL ESTATE BUY & SELL AGREEMENT

157. 12. Property Condition. Buyer has examined this Property and Buyer is satisfied with its present condition, except as may be
158. specified herein. Buyer understands and agrees that Buyer is purchasing the Property in an "AS IS" condition. Buyer
159. understands and agrees that the REALTORS@/Brokers do not warrant the condition of the Property nor assume any
160. responsibility for the representations made by the Seller pertaining to the condition of the Property or its use for any particular
161. purpose. It is further understood that no representations or promises have been made to Buyer by the Seller other than those
162. contained in this Agreement or as otherwise made or given by Seller to Buyer in a written representation statement. Buyer and
163. Seller both understand that the REALTORS@/Brokers are not environmental experts. Unless expressly contained in a written
164. instrument signed by the REALTOR@/Broker, the REALTOR@/Broker and REALTOR@/Broker's Salespersons have no
165. knowledge of and make no representations regarding the environmental conditions of the Property, the existence of underground
166. storage tanks at the Property now, or in the past, whether the Property is, has been or may be listed as a site of environmental
167. contamination, or whether any such sites are located in the proximity of the Property. Seller represents and warrants that to the
168. best of their knowledge, there has been no environmentally hazardous material placed, stored, or disposed of on the Property.
169. This representation and warranty shall survive the closing.

170. 13. Prorations and Special Assessments. Interest on any debt assumed or taken subject to, any rents, all other income and ordinary
171. operating expenses of the Property, including but not limited to, public utility changes, shall be prorated as of the day prior to
172. the Closing Date. Any special assessments applicable to the Property for municipal improvements made to the benefit of the
173. Property prior to the date of acceptance of this Agreement shall be [] paid by Seller at or before closing, or [X] assumed by the
174. Buyer. At closing [X] Buyer will assume and agree to pay, or [] Seller will agree to pay, all special assessments for municipal
175. improvements which are levied after acceptance of this Agreement.

176. 14. Sales Expenses. All sales expenses are to be paid in cash prior to or at the closing.
177. a. Seller's Expenses: Seller shall pay all costs of releasing existing loans and recording the releases, 100.00 % of any closing
178. fee, preparation of Deed and Vendor's Affidavit, and other expenses stipulated to be paid by Seller under other provisions of this
179. Agreement.
180. b. Buyer's Expenses: Buyer shall pay all expenses incident to any new or assumed loan, 100.000 % of any closing fee, and
181. expenses stipulated to be paid by Buyer under other provisions of this Agreement.

182. 15. Duties of Buyer and Seller at Closing.
183. a. At the closing, Seller shall deliver to Buyer, at Seller's sole cost and expense, the following:
184. (1) A duly executed and acknowledged Warranty Deed conveying marketable title in fee simple to all of the Property, free and
185. clear of any and all liens, encumbrances, conditions, easements, assessments, reservations and restrictions, except Permitted
186. Exception(s);
187. (2) An Owner's Policy of Title Insurance (the "Title Policy") issued by the Title Company in the amount of the purchase price,
188. dated as of closing, insuring Buyer's fee simple title to the Property to be marketable subject only to the Permitted Exception(s),
189. and deleting the standard printed exceptions contained in the usual form of the Title Policy;
190. (3) An executed Vendor's Affidavit, if required, in form acceptable to the Title Company;
191. (4) A Bill of Sale, duly executed by Seller, containing warranties of title, conveying title, free and clear of all liens, to any
192. personal Property specified in Paragraph 2;
193. (5) An assignment, duly executed by Seller, of leases, prepaid rents, security deposits, and trade name, and to the extent
194. assignable, licenses and permits, warranties or guarantees, and to the extent agreed to be assumed by Buyer, all services,
195. maintenance, management or other contracts relating to the ownership or operation of the Property. Such assignment shall
196. include an indemnity from Seller in favor of Buyer with respect to all claims and obligations arising under such leases and
197. contracts prior to the Closing Date. If Buyer does not agree to assume any such contract, then Seller shall deliver evidence of
198. terminations of such contract at closing and shall indemnify Buyer as to all claims and obligations thereunder;
199. (6) A current rent roll duly certified by Seller and any security or tenant deposits, if applicable;
200. (7) A commercially acceptable estoppel certificate executed by all tenants setting forth the fact that there are no agreements not
201. reflected in the lease documents, that there are no defaults or rights of setoff under the leases, and that there has been no advance
202. payment of rent.
203. (8) Evidence of its capacity and authority for the closing of this transaction, including photo identification.
204. (9) Certification establishing that no federal income tax is required to be withheld under the Foreign Investment and Real
205. Property Tax Act, or consent to withhold tax from the proceeds of sale as required, unless it is established that the transaction is
206. exempt;
207. (10) All other executed documents necessary to close this transaction.

NEL _____ Buyer's Initials _____ Seller's Initials

**COMMERCIAL-INDUSTRIAL REAL ESTATE
BUY & SELL AGREEMENT**

208. **b. At the closing, Buyer shall perform, at Buyer's sole cost and expense, the following:**
209. (1) Pay the cash portion of the purchase price in the form of a cashier's check or other immediately available
210. funds;
211. (2) Execute any note(s) and mortgage(s) and cause the funds to be made available to the closing agent for disbursement;
212. (3) Provide evidence of its capacity and authority for the closing of this transaction, including photo identification.
213. (4) Provide to Buyer's lender any title policy as required by the holder(s) of the mortgage(s);
214. (5) An assumption agreement by Buyer (which may be included in Seller's assignment pursuant to Paragraph 15. a. (5) above)
215. with respect to leases assigned to Buyer and contracts, if any, which Buyer has agreed to assume. Such assumption agreement
216. shall include an indemnity from Buyer in favor of Seller as to claims and obligations arising under such leases and contracts
217. assumed by Buyer from and after the Closing Date;
218. (6) Execute all other documents necessary to close this transaction.
219. **16. Condemnation.** Seller shall promptly notify Buyer in writing of the commencement of any condemnation proceedings against
220. any portion of the Property. If such condemnation proceedings are commenced, Buyer, at its option, may (1) terminate this
221. Agreement by written notice to Seller within 7 days after Buyer is advised of the commencement of
222. condemnation proceedings, or (2) proceed with the closing, provided however, that Seller's interest in any award shall be at
223. Buyer's election, (a) become the Property of Seller and reduce the purchase price by the same amount or (b) shall become the
224. Property of Buyer and the purchase price shall not be reduced.
225. **17. Miscellaneous.**
226. (a) Any notice required or permitted to be delivered shall be deemed received when personally delivered or when confirmed as
227. received by facsimile, express courier or United States mail (postage prepaid, certified and return receipt requested) addressed
228. to Seller or Buyer or their designee/agent at the address set forth below the signature of each party.
229. (b) This Agreement shall be construed in accordance with the laws of the State of Michigan.
230. (c) Time is of the essence. Time periods specified in this Agreement and any addenda are calendar days and shall expire at
231. midnight of the date stated unless the parties agree otherwise in writing.
232. (d) This Agreement is binding upon and for the benefit of the parties' respective heirs, administrators, executors, legal
233. representatives, successors, and assigns. No assignment of this Agreement shall release a party from liability for its obligations
234. hereunder.
235. (e) In the event any provision of this Buy and Sell Agreement is found to be unlawful, the remaining provisions shall remain
236. in full force and effect.
237. (f) This Agreement constitutes the entire agreement of the parties and cannot be changed except by their written consent.
238. (g) Broker(s) may refer Buyer or Seller to other professionals, service providers or product vendors, including lenders, loan
239. brokers, title insurers, escrow companies, inspectors, surveyors, engineers, consultants, environmental inspectors, and
240. contractors. Broker(s) has no responsibility for the performance of any service provider and/or inspector. Buyer and Seller are
241. free to select providers/inspectors other than those referred or recommended to them by Broker(s).
242. (h) Any party who is the prevailing party against any other party in any legal or equitable proceeding relating to this Agreement
243. shall be entitled to recover court costs and reasonable attorney fees from the non-prevailing party.
244. (i) The parties agree that the offer, any counteroffer, acceptance of any offer or counteroffer and any other written notice or
245. communication in connection with this transaction may be delivered or given by sending or transmitting it by electronic mail
246. or by fax. Any such communication shall be deemed delivered at the time it is sent or transmitted. The parties agree that the
247. electronic signatures and initials shall be deemed to be valid and binding upon the parties as if the original signatures or
248. initials were present in the documents in the handwriting of each party. Seller and Buyer agree that all communications can
249. be made or delivered to listing agent on behalf of the Seller at the fax number and/or the email address indicated on lines 288
250. and 289 and to the Selling Agent on behalf of the Buyer at the fax number and/or the email address indicated on lines 268
251. and 269. Buyer represents and warrants that an electronic mail address has been provided to the Selling Agent from which
252. Buyer may receive electronic mail. Either party shall provide the other with notice of any change of electronic mail addresses.
253. (j) This agreement may be signed in any number of counterparts with the same effect as if the signature of each counterpart
254. were upon the same instrument.
255. (k) Each person executing this Agreement on behalf of a party represents and warrants that he or she has been authorized by
256. all necessary action to execute and deliver this Agreement on behalf of such party.
- 257.
258. **18. Consult Your Advisors.** Buyer and Seller acknowledge they have been advised that, prior to signing this document, they should
259. seek the advice of an attorney for the legal or tax consequences of this document and the transaction to which it relates. In any
260. real estate transaction, it is recommended that you consult with a professional, such as a civil engineer, environmental engineer,
261. or other person, with experience in evaluating the condition of the Property, including the possible presence of asbestos,
262. hazardous and/or toxic materials and underground storage tanks.

NRL _____ Buyer's Initials

_____ Seller's Initials

COMMERCIAL-INDUSTRIAL REAL ESTATE BUY & SELL AGREEMENT

263. 19. Buyer's Offer. Unless previously withdrawn by the Buyer, the Seller must accept his offer in writing prior to 264. 04/15/2014 at 5:00 (a.m., x p.m., noon, midnight) or this offer shall terminate.

265. Date: 03/12/2014 Time: 1:00 A.M., x P.M. [Signature] Buyer Signature

266. By: [Signature] REALTOR Signature Kerry M Wright II Nick Loafman Printed Phone No.

267. For: Selling Office Phone No. Buyer Signature

268. Selling Agent Fax No.: Printed

269. Selling Agent Email Address:

270. 20. Seller's Acceptance: As owners and Sellers of the Property described herein, the undersigned accepts the above agreement

271. except

272. _____

273. _____

274. _____

275. _____

276. _____

277. this ____ day of _____, _____, and agrees to sell in accordance therewith and to pay the Listing Office the brokerage fee for services rendered in this transaction, as stated in the Listing Agreement corresponding to the Property described herein. In the event of an exception, unless previously withdrawn by the Seller, the Buyer must accept this counter-offer in writing prior to _____ at _____ (a.m., p.m., noon, midnight) or this

281. counter-offer shall terminate.

282. Seller understands that consummation of the sale or transfer of the Property described in this agreement shall not relieve the Seller of any liability that Seller may have under the mortgage(s) to which Property is subject, unless otherwise agreed to by the lender or required by law or regulation.

285. Date: _____ Time: _____ A.M., P.M. Seller Signature

286. By: _____ REALTOR Signature South Haven Community Redevel. Printed Phone No.

287. For: Listing Office Phone No. Seller Signature

288. Listing Agent Fax No.: Printed

289. Listing Agent Email Address:

290. 21. Buyer's Receipt of Acceptance. Receipt is hereby acknowledged by Buyer of the Seller's acceptance of Buyer's agreement.

291. In the event acceptance was subject to certain changes from Buyer's agreement the Buyer agrees to accept said changes, all other terms and conditions remain unchanged.

293. Date: _____ Time: _____ A.M., P.M. Buyer

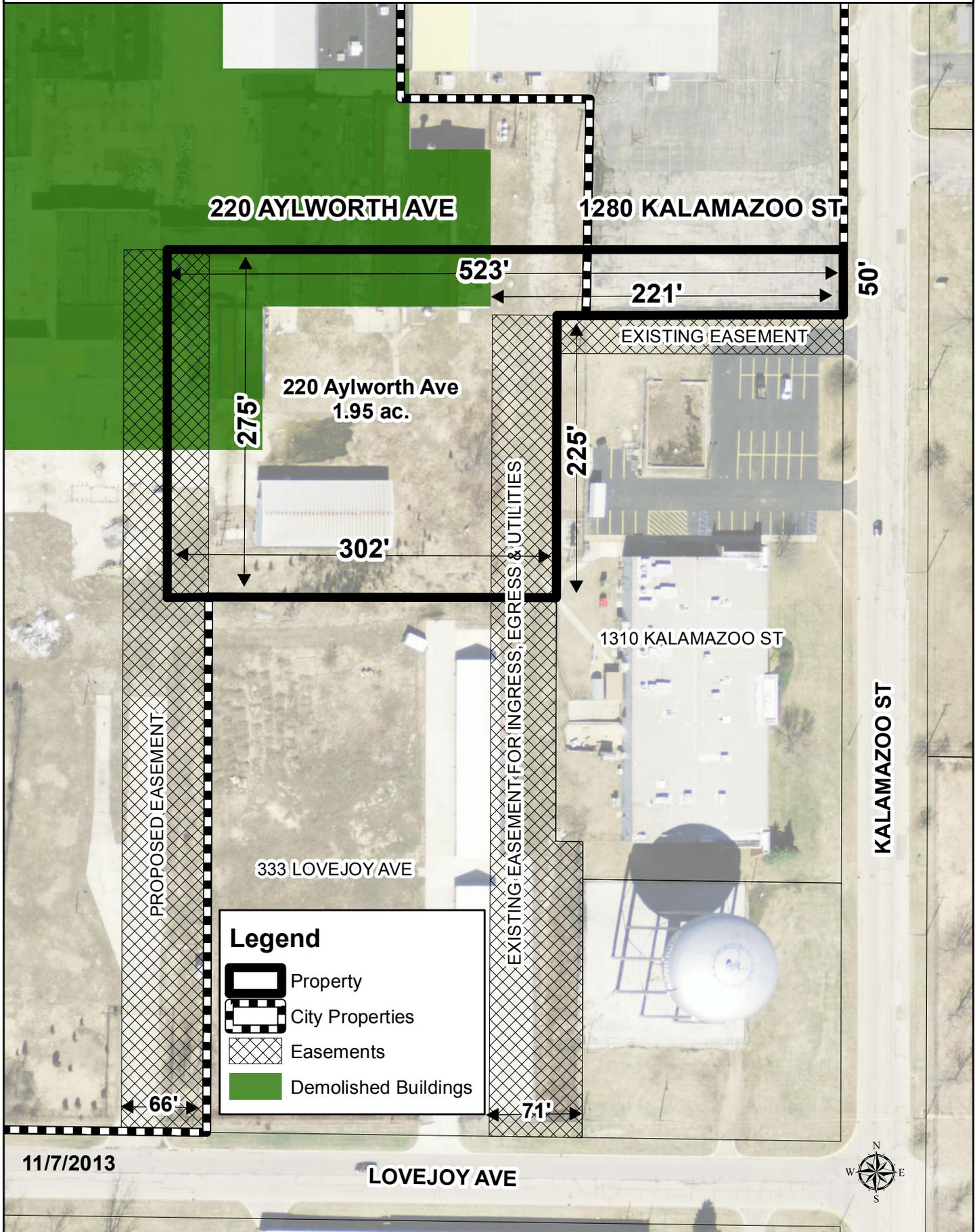
294. By: _____ REALTOR Signature Kerry M Wright II Buyer

295. 22. Seller's Receipt of Acceptance. Receipt is hereby acknowledged by Seller of the Buyer's acceptance of Seller's counter-offer.

296. Date: _____ Time: _____ A.M., P.M. Seller

297. By: _____ REALTOR Signature Seller

220 Aylworth Ave - Storage Building Parcel



220 Aylworth Ave - Splits

