

KALAMAZOO PUBLIC SCHOOLS  
Office of the Superintendent  
1220 Howard Street  
Kalamazoo, MI 49008  
Telephone: (269) 337-0123 TDD (269) 337-0152  
Fax: (269) 337-0149

July 17, 2019

**MEETING ANNOUNCEMENT FOR THE  
KALAMAZOO PUBLIC SCHOOLS BOARD OF EDUCATION**

A regular meeting of the Board of Education of the Kalamazoo Public Schools will be held on **Thursday, July 25, 2019 at 7:00 p.m.** in the Board Room of the Administration Building, 1220 Howard Street, Kalamazoo, MI 49008.

KALAMAZOO PUBLIC SCHOOLS

Jennie Hill, Secretary  
Board of Education

- ❖ Please contact the Superintendent's Office in advance of the meeting if auxiliary aids or services for individuals with disabilities are needed.
- ❖ Official minutes of Kalamazoo Public Schools Board of Education open meetings are available for inspection within eight working days of the meeting at the Superintendent's Office, 1220 Howard Street, Kalamazoo, MI 49008.

KALAMAZOO PUBLIC SCHOOLS  
Board of Education Meeting  
1220 Howard Street  
**July 25, 2019 – 7:00 P.M.**

**A G E N D A**  
**Amended 7-25-19**

- I. Call to Order**
- II. Pledge of Allegiance**
- III. Attendance**
- IV. Announcements and Recognitions**
- V. Committee Reports/School Reports**
- VI. Correspondence**
- VII. Consent Calendar Items**
  - A. Minutes**
    - July 9, 2019 Advance Meeting Minutes
    - July 11, 2019 Regular Meeting Minutes
    - July 11, 2019 Closed Meeting Minutes
  - B. Business and Financial Reports**
  - C. Personnel Items**
    - Personnel Changes
  - D. Other**
- VIII. Persons Requesting to Address the Board (3 minutes individual limit)**
- IX. Reports and Recommendations**
  - A.** Turn 2 Foundation Presentation
  - B.** Easement Agreement
  - C.** Partnership Agreement with Michigan Department of Education (MDE)
  - D.** Update on Proposed Resolution
  - E.** Superintendent Search Committee Recommendation
- X. Other Business**
- XI. Comments by Trustees/Superintendent**
- XII. Closed Session (if needed)**
- XIII. Next Regular Board of Education Meeting: Thursday, August 15, 2019**

KALAMAZOO PUBLIC SCHOOLS  
Board of Education  
1220 Howard Street  
July 9, 2019 – Board-Superintendent Advance

President Patti Sholler-Barber called the special meeting to order at 6:15 p.m. in the media center of the West Main School Professional Development Center, 1627 West Main Street. The purpose of the meeting was for the board to hold a communications workshop, as well as discuss any other matters that may come before the board.

Board members present: Ken Greschak, TiAnna Harrison, Jennie Hill, Jermaine Jackson, Tandy Moore, Jason Morris, and Patti Sholler-Barber. Interim Superintendent Gary Start was also present.

1. Advance meeting agenda items discussed:
  - Introduction of Interim Superintendent Gary Start;
  - Intra-board expectations;
  - Consensus building among Board of Education members; and
  - Managing superintendent search firm proposals.

No action was taken on the aforementioned items.

President Patti Sholler-Barber adjourned the meeting at 8:15 p.m.

Respectfully submitted by,

Jennie Hill, Secretary  
Board of Education

KALAMAZOO PUBLIC SCHOOLS  
Board of Education  
1220 Howard Street  
July 11, 2019 – Regular Meeting

**I. Call to Order**

President Sholler-Barber called the July 11, 2019 regular Board of Education meeting to order at 7:03 p.m. in the Board Room of the Administration Building, 1220 Howard Street.

**II. Pledge of Allegiance**

The Pledge of Allegiance was recited.

**III. Attendance**

Board members present: Ken Greschak, TiAnna Harrison, Jennie Hill, Jermaine Jackson, Tandy Moore, and Jason Morris. Interim Superintendent Gary Start was also present.

**IV. Announcements and Recognitions**

Communications Specialist Linda Mah presented Milwood Elementary School turnaround students Jayvious Hegler and Charles Simpson, fourth grade.

Also in attendance and introduced by Ms. Mah was Principal of Milwood Elementary School Craig LeSuer. The students' parents and family members in the audience were also recognized.

**V. School Reports/Committee Reports**

**Committee Reports**

Superintendent Search Committee – *Trustee Harrison, representative*, stated that the Request for Proposals (RFP) for a superintendent search consultant were due to KPS by Friday, July 12. She noted that the board had discussed at the July 9 board advance meeting how they would manage the proposals they received. Trustee Harrison explained that the committee would review all of the proposals and present three proposals to the board at the advance board meeting on July 23 for their consideration. Trustee Harrison stated that dates would be set for public sessions to interview these firms.

Trustee Moore asked Trustee Harrison if the board would be able to review all of the submitted search firm proposals.

Trustee Harrison stated that the board would have full access to all of the proposals.

**VI. Correspondence**

Secretary Hill reviewed the correspondence received for the period of June 28 through July 11 2019. (File #1.)

**VII. Consent Calendar**

President Sholler-Barber presented the Consent Calendar items: VII.A. June 27, 2019 Regular Meeting Minutes; VII.B. Purchase Recommendations 2020-01 and 2020-02; and VII.C. Personnel Changes.

Interim Superintendent Gary Start reviewed the purchase recommendations:

- 2020-01 in the amount of \$37,378.00 from the 2018 bond for the purchase of 22 iMac computers @ \$1,699.00 each for the Milwood Magnet School: A Center for Math, Science and Technology digital video classroom.

- 2020-02 in the amount of \$24,730.00 from the 2018 bond for the purchase of an ExacqVision Z-Series security camera failover server to allow cameras to continue recording in case of a hardware failure on any of the other security camera servers.

**MOTION:** Implied to approve the Consent Calendar as presented.

**Disposition:** Voice vote: motion carried, 7-yes, 0-no, 0-abstentions.

**VIII. Persons Requesting to Address the Board**

None.

**IX. Reports and Recommendations**

None.

**X. Other Business**

None.

**XI. Comments by Trustees**

Trustee Harrison stated that she was excited for the Meet Up and Eat Up program, which would provide free meals for children 18 years of age and under or persons up to 26 years old who are enrolled in an educational program for the mentally or physically disabled that is recognized by a state or local public educational agency. She encouraged children to continue to read this summer.

Trustee Hill stated that at the June 27 board meeting KPS had settled five employee contracts. She thanked everyone who was involved in this process.

Trustee Jackson stated that he had attended the funeral service of former KPS employee Kai Jackson on July 10. He noted that she had been a fierce advocate for youth in KPS. Trustee Jackson shared that she would be missed.

Trustee Moore thanked the board for working collectively on the search firm. She stated that she would like the board to consider drafting two separate resolutions in regards to increased Immigration and Customs Enforcement (ICE) here locally in Kalamazoo and also regarding immigrant detention centers.

President Sholler-Barber stated that they would discuss the possibility of the resolutions with Interim Superintendent Start and KPS legal counsel.

Trustee Morris stated that he thought this resolution would be an important consideration for our community.

Trustee Hill stated that she thought this resolution was a good idea. She noted that KPS had done a resolution for Deferred Action for Childhood Arrivals (DACA) students.

Trustee Harrison stated that she looked forward to getting more information on this resolution.

Trustee Moore stated that she was unable to find any policy on ICE in the KPS policy book.

Mr. Start stated that there were administrative procedures that were not listed in the KPS policy book; however, they supported board policy.

Trustee Moore stated that she felt the community would feel safer if a procedure with ICE was part of the KPS board policy book or for KPS to adopt a resolution that would be on record.

Trustee Morris thanked Interim Superintendent Start for carrying KPS forward.

President Sholler-Barber stated that she was sorry to have missed the last meeting. She thanked Trustee Harrison for stepping in and doing such a great job. President Sholler-Barber thanked Dr. Rice for leaving KPS in such a stable position.

President Sholler-Barber noted that the Loy Norrix High School Peace Jam students were in Vietnam doing important work. She stated that this would be an incredible experience for all of those students.

President Sholler-Barber reminded everyone to look closely at upcoming candidates to see that they support education, mental health funding, well-being of children and families, and public education.

Assistant Superintendent of Teaching and Learning Services Ms. Green shared the open libraries schedule for the summer.

School	Weeks	Days	Time
Arcadia	June 17-August 12	Monday and Wednesday	11:00 a.m. to 1:00 p.m.
Edison	June 17-August 12	Monday and Wednesday	1:00 p.m. to 3:00 p.m.
King-Westwood	June 17-August 12	Monday and Wednesday	11:00 a.m. to 1:00 p.m.
Parkwood Upjohn	June 17-August 12	Tuesday and Thursday	11:00 a.m. to 1:00 p.m.
Washington	June 17-July 15	Tuesday and Thursday	11:00 a.m. to 1:00 p.m.

President Sholler-Barber stated that Washington Writers' Academy and The Woodward School for Technology and Research would start their school year on July 22, 2019. She noted that teachers were already prepping their classrooms for the beginning of school.

## **XII. Closed Session**

President Sholler-Barber called for a closed session meeting. As board president, I move that the board convene in closed session to review a written legal opinion of counsel Clark Hill PLC, which written legal opinion is exempt from disclosure as privileged and confidential documents pursuant to attorney-client privilege.

**MOTION:** Moved by President Sholler-Barber, supported by Trustee Harrison, to move into a closed session meeting at 7:30 p.m.

President Sholler-Barber stated that they may or may not return to the floor.

**Disposition:** Roll call vote: motion carried, 7-yes, 0-no.

Respectfully submitted,

Betse Klepper, Recording Secretary  
on behalf of Jennie Hill, Secretary  
Board of Education

KALAMAZOO PUBLIC SCHOOL  
Office of the Superintendent

TO: Board of Trustees

FROM: Gary L. Start, Interim Superintendent

DATE: July 25, 2019

SUBJECT: Personnel Changes

RECOMMENDATION: It is recommended that the board approve the following employment changes:

- I. Employment
  - A. Professional/Management
    - Cody M. Getsinger, Physical Education Teacher, Spring Valley Center for Exploration, August 2019
    - Kelsey A. Cryderman, Math Teacher, Loy Norrix High School, August 2019
    - Kaylee A. DeAnda, First Grade Teacher, Parkwood Upjohn Elementary, August 2019
    - Jennifer M. Garrison, Counselor, Kalamazoo Central High School, August 2019
    - Michelle L. Gregg-Marger, First Grade Teacher, Lincoln International Studies School, August 2019
    - Megan L. Knudsen, Math Teacher, Linden Grove Middle School, August 2019
    - Taylor M. Roberts, Kindergarten Teacher, Parkwood Upjohn Elementary School, August 2019
    - Prudence J. TerBeek, Special Education Teacher, Spring Valley Center for Exploration, August 2019
    - Sarah E. Townsend, Second Grade Teacher, Parkwood Upjohn Elementary School, August 2019
    - Natalie K. Washington, Counselor, Loy Norrix High School, August 2019
    - Lisa M. Waterson, Second Grade Teacher, Parkwood Upjohn Elementary School, August 2019
    - Allison E. Wilson, Fourth Grade Teacher, Parkwood Upjohn Elementary School, August 2019
  - B. Classified
- II. Promotions/Key Transfers
  - A. Professional/Management
  - B. Classified
- III. Leaves of Absence
  - A. Professional/Management
  - B. Classified

- IV. Terminations
  - A. Professional/Management
  - B. Dana S. Heyl, Assistant Principal, Hillside Middle School, 7/25/19, Resigned  
Elise C. LaMore, Art Teacher, Northeastern Elementary School 0.4, Lincoln  
International Studies School 0.3, 7/9/2019, Resigned  
Jessica L. Roy, Counselor, Kalamazoo Central High School, 7/17/2019, Resigned
  - C. Classified  
Angela Davis, Achievement and Academic Behavior Specialist, Washington  
Writers' Academy, 7/12/2019, Resigned
- V. Termination from Leave of Absence
  - A. Professional/Management
  - B. Classified
- VI. Return from Leave of Absence
  - A. Professional/Management
  - B. Classified



KALAMAZOO PUBLIC SCHOOLS  
Office of the Superintendent

TO: Board of Trustees

FROM: Gary L. Start

DATE: July 25, 2019

SUBJECT: Donation to renovate baseball and softball fields

**RECOMMENDATION:** It is recommended that the board vote to accept a donation of approximately \$3.2 million from the Turn 2 Foundation to renovate the baseball and softball fields at Kalamazoo Central High School. It is further recommended that the board authorize Interim Superintendent Gary Start to execute the applicable documents.

**RATIONALE:** The Turn 2 Foundation has offered to donate approximately \$3.2 million to renovate the baseball and softball fields at Kalamazoo Central High School. If approved by the board, this donation would provide for completely renovated and reoriented fields at the Derek Jeter Field Complex. It will include new seating, new dugouts, and synthetic turf. The fields would be reoriented so batters face the pitching mound in the northeast. This orientation would minimize the impact of low afternoon and evening sun angles on the players' vision.

Tentative plans call for bid openings in the fall 2019, with field construction to begin at the conclusion of the 2020 baseball and softball seasons. The project would be scheduled to be completed by late spring 2021.

Kalamazoo Central's administration and coaches have been consulted about this proposed renovation. They are supportive and appreciative.

These improvements would be fully funded from the donation and would not be possible without the generous donation from the Turn 2 Foundation.







KALAMAZOO PUBLIC SCHOOLS  
Office of the Superintendent

TO: Board of Trustees

FROM: Gary L. Start, Interim Superintendent, and  
Marshall W. Grate, Legal Counsel

DATE: July 25, 2019

SUBJECT: Approval of Settlement Agreement in *Consumers Energy Company v School District of the City of Kalamazoo*, 9<sup>th</sup> Judicial Circuit Court for the County of Kalamazoo, Case No. 19-0166-CC

RECOMMENDATION: It is recommended that the board approve the attached motion that adopts the proposed Settlement Agreement, which is attached to the motion as exhibit 1.

RATIONALE: This litigation involves a complaint for condemnation that was filed by Consumers Energy Company (“Consumers”) against Kalamazoo Public Schools and Bell Telephone Company for expanding an existing easement at the district’s property site for Winchell Elementary School. Consumers claims that it is necessary to widen its existing easement to protect and maintain its Lindberg to Philips 46kv electrical transmission line that is located adjacent to Winchell Elementary School along the eastern side of Broadway Avenue. Consumers’ proposed easement consists primarily of three components: (1) a 20-foot width from existing Broadway Avenue that would constitute a ‘no-build area,’ meaning that the district could not build any structures in this 20-foot width area adjacent to Broadway; (2) an additional approximately 20-foot clear-cut width in which Consumers would obtain the right to cut down any and all vegetation in this area; and (3) an additional 40-foot wide “danger tree” area under which Consumers would have the right to cut down any vegetation that exceeds 35 feet in height.

There were some problems with Consumers’ initial proposed easement take. First, the 40-foot danger tree area actually encroaches on portions of Winchell Elementary School’s computer lab and at least one classroom. Consumers’ proposed easement provided it with “unimpaired access” to the entire easement area, including the 40-foot danger tree zone, which meant in theory that Consumers could come unannounced into any part of their easement area including Winchell’s computer lab and affected classroom. Second, Consumers claimed the right to cut down every tree within the easement area.

After considerable effort and some legal maneuvering, the district was able to convince Consumers that it needed to modify its proposed easement. Consumers agreed that in the easement area designated as the 40-foot danger tree zone, Consumers, prior to entering that area, would

meet with the superintendent or the superintendent's designee to coordinate Consumers' entry into that area. In addition, Consumers agreed to clarify that the 35-foot height restriction in the 40-foot danger tree area did not apply to any building structure. Also, Consumers agreed to spare a 35-foot shade tree in the 40-foot danger tree zone that provided shade to a patio area on the west side of the Winchell Elementary School building, and Consumers agreed to spare several trees within the 40-foot danger tree zone area. Consumers has agreed to pay the district \$27,180 for the expansion of its easement and the right to remove various trees that are within the 'no-build' and 'clear-cut' zones.

We recommend this resolution as a reasonable settlement. It is extremely difficult for a property owner to oppose a utility's claim to necessity in a condemnation action to acquire property interests for the purpose of maintaining its power transmission lines. The applicable legal standard is that a property owner must show that the utility company operated with fraud or abused its discretion in claiming necessity for the requested property. This settlement preserves the district's right to build building structures 35 feet or higher within the 40-foot danger tree zone and it helps avoid any interference by Consumers during school operations. The settlement also will end the litigation on reasonable terms, avoiding future legal costs.

**NECESSARY BOARD  
ACTION:**

To approve this settlement, it will be necessary for the board to adopt the attached motion which (1) authorizes the board president or secretary or interim superintendent to execute the release agreement with a notarized signature, and (2) authorizes legal counsel to sign the Settlement Agreement and Release, the stipulation to approve order for payment of the \$27,180 to the district and the stipulation for the order to dismiss the case.

**KALAMAZOO PUBLIC SCHOOLS  
BOARD OF EDUCATION**

**MOTION**

**Approval of Settlement Agreement in  
*Consumers Energy Company v School District of the City of Kalamazoo***

A meeting of the Board of Education of the Kalamazoo Public Schools was held at the Administration Offices on the 25<sup>th</sup> day of July at 7:00 PM.

The following preamble and motion was offered by Trustee \_\_\_\_\_ and supported by Trustee \_\_\_\_\_.

WHEREAS, Consumers Energy Company (“Consumers”) has filed a complaint against Kalamazoo Public Schools for condemnation seeking an easement interest of school district land located at Winchell Elementary School. The case was captioned *Consumers Energy Co. v. School District of the City of Kalamazoo, Kalamazoo County Circuit Court*, Case No. 19-0166-CC. Consumers claims its proposed easement is necessary to protect and maintain its Lindberg to Philips 46kv electric transmission line along Broadway Avenue, which is adjacent to Winchell Elementary School;

WHEREAS, the parties have reached a Settlement Agreement and Release, a copy of which is attached as exhibit 1;

NOW THEREFORE, after considering the terms of this Settlement Agreement and being advised of the circumstances, the board moves to approve the Settlement Agreement and Release which is attached as exhibit 1 to this motion, and specifically, the board approves the board president, board secretary or the interim superintendent to execute the amended easement for protection of electric facilities with their notarized signature, and the board approves its legal counsel to execute the Settlement Agreement and Release, the stipulation for the order of payment of the just compensation in the amount of \$27,180.00 and the stipulation for the order of dismissal.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

MOTION DECLARED ADOPTED/REJECTED.

\_\_\_\_\_  
Jennie Hill, Secretary  
Board of Education

The undersigned, duly qualified and acting secretary of the Board of Education for the Kalamazoo Public Schools in the City of Kalamazoo, Kalamazoo County, Michigan hereby certifies that the foregoing constitutes a true and complete copy of a resolution adopted by said Board of Education at a regular meeting

held on July 25, 2019, the original of which is a part of the board's minutes. The undersigned further certifies that notice of the meeting was given to the public pursuant to the provisions of the Open Meetings Act, MCL §15.261, *et. seq.*, as amended.

---

Jennie Hill, Secretary

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_ 2019, by and between Consumers Energy Company of One Energy Plaza, Jackson, Michigan 49201 ("Consumers"), and the School District of the City of Kalamazoo of 1220 Howard Street, Kalamazoo, Michigan 49008 ("Defendant").

### RECITALS

A. On or about April 9, 2019, Consumers filed a complaint for condemnation of interests in land against Defendant as part of obtaining an easement necessary for Consumers to protect and maintain its Lindbergh to Phillips 46 kV Line ("Complaint"). The case was captioned *Consumers Energy Co. v. School District of the City of Kalamazoo*, Kalamazoo County Circuit Court ("Court") Case No. 19-0166-CC ("Litigation").

B. Consumers determined and Defendant agrees that an easement across Defendant's property (in the form attached as **Exhibit "A"** hereto) is necessary for protecting and maintaining the Lindbergh to Phillips 46 kV Line ("Easement").

C. Consumers and Defendant wish to reach a global resolution of all claims or counterclaims that were or could have been asserted by Consumers or Defendant in the Litigation, including any related appeals ("Matter"). Consumers and Defendant wish to resolve the Matter to avoid incurring further costs, expenses and/or attorney's fees related to the Matter, and to achieve certainty and finality regarding the Matter, but without any admission of liability concerning the Matter.

D. The matters stated in these recitals are hereby incorporated in, and made a part of, this Agreement.

### TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the terms and mutual promises set forth below, the parties agree as follows:

1. Effective Date. This Agreement will only become effective once Consumers has received (a) a fully executed copy of this Agreement signed by Defendant and Consumers; (b) a fully completed and executed IRS Form W-9, Request for Taxpayer Identification Number and Certification, from Defendant; and (c) an original, fully executed and notarized Easement satisfactory to Consumers in the form attached hereto as **Exhibit "A."** The first date when all three conditions are met is the "Effective Date" of this Agreement.

2. Settlement Payment. In full and final settlement of the Matter as between Consumers and Defendant, and within ten business days of the Effective Date, Consumers shall: (a) submit to the Court a proposed, stipulated order ("Payment Order") in the form of attached **Exhibit "B"** that orders the Kalamazoo County Treasurer to pay the total estimated just compensation deposited for the Litigation in the amount of Twenty-Seven Thousand One Hundred Eighty and 00/100 Dollars (\$27,180.00) to Defendant ("Payment Order"). The funds identified in the preceding sentence are referred to, collectively, as the "Settlement Payment." Each party will

be responsible for its own attorney's fees, appraisal fees, costs and expenses incurred as part of the Litigation. Defendant will pay or satisfy any claims, liens, state or federal income taxes or withholdings or other charges arising from Defendant's receipt of the Settlement Payment out of the Settlement Payment or other personal funds, and Defendant shall indemnify and hold harmless Consumers from the claims of any lienholders, taxing authorities or other relevant entity on account of the Settlement Payment. In addition to the Settlement Payment, Consumers and Defendant have agreed to certain Special Considerations and Agreements attached hereto as **Exhibit "C."**

3. Dismissal with Prejudice. Within ten days of Consumers' counsel's receipt of a true copy of an entered Payment Order, Consumers will file a stipulated order of dismissal with prejudice regarding all of Consumers' claims in the Litigation (such dismissal order will be in the form of attached **Exhibit "D"**). The parties acknowledge and agree that public necessity for the taking of the Easement in the Litigation is established and may not be challenged in the future.

4. Release. In consideration of the mutual promises of this Agreement, the parties for themselves, and their respective heirs, successors and assigns, as well as any past or present parent, subsidiary, affiliate, shareholder, member, owner, officer, director, employee, independent contractor, family member, agent, representative, attorney or other similar entity or individual related to any of them (collectively, "Released Parties"), hereby release and forever discharge one another from and against any and all claims, demands, damages, judgments, costs, debts or losses, of any nature whatsoever, whether known or unknown, contingent or non contingent, liquidated or unliquidated, that were or could have been asserted in the Litigation through the date of this Agreement, whether sounding in contract, tort or otherwise (collectively, the "Claims"). Such Claims include, but are not limited to, any recovery for just compensation, relocation expenses, appraisal fees, claims not yet filed under section 5 of the UCPA, compensation under article 10, section 2 of the Michigan Constitution of 1963, costs, interest expenses or attorney's fees under the UCPA or other applicable law as a result of Consumers obtaining the property rights sought in the Litigation; loss of wages, income, business, profits, and assets; loss of earning capacity; lost or invaded rights of every kind; trespass; nuisance; damage to, or interference with the enjoyment of, real or personal property; injunctive or other equitable relief; costs, fees and expenses; and noneconomic damages and demands of every kind. In no event does this release release the Released Parties from their ongoing obligations under the Easement Agreement or from under this Settlement and Release Agreement.

5. Covenant Not To Sue. Except for actions to enforce the terms of this Agreement, neither Consumers nor Defendant, whether acting alone or collectively, will bring, maintain, assist in, or otherwise encourage any complaint, civil action at law, in equity, or otherwise, against the other party regarding the Claims. If either party violates this Paragraph, all Released Parties involved will be entitled to recover from the breaching party the full amount of any costs, expenses and attorney's fees incurred defending against such prohibited action.

6. No Admission of Liability. Except for the good faith offer made before the Complaint was filed in the Litigation, Consumers denies responsibility or liability for any additional costs, damages and relief that could be sought against it or any Released Party in connection with the Litigation and the Matter. This Agreement shall not constitute, be interpreted,



construed, or used as evidence of any admission of liability, law or fact, a waiver of any right or defense, or an estoppel against any Released Party.

7. Confidentiality. Defendant and Consumers agree that neither of them will disclose a copy of this Agreement or otherwise reveal or discuss all or any portion of this Agreement, the Settlement Payment or any other matter regarding resolution of the Litigation with any person who is not a party to this Agreement, except as may be necessary with Consumers' or Defendant's attorneys, accountants, tax preparers or other similar professionals, or any employees or representatives of Consumers or Defendant who have a business reason to know the information regarding the Agreement; and except as otherwise required by law or except as otherwise required by court rule in the event either party commences an action to enforce this Agreement.

8. Retention of Jurisdiction. The parties agree that the Kalamazoo County Circuit Court shall retain exclusive jurisdiction to enforce or interpret the terms and conditions of this Agreement or hear any civil action alleging any violation of this Agreement.

9. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the parties, their heirs, successors and permitted assigns.

10. Governing Law. This Agreement shall be governed by and interpreted in accordance with Michigan law, without regard to any choice-of-law principles.

11. Authority to Bind. The parties or their designated representatives are authorized to sign and bind their respective parties for all legal purposes to the terms of this Agreement.

12. Alteration, Amendment and Change. No alteration, amendment, change or addition to this Agreement shall be binding upon any party hereto unless and until reduced to writing and signed by all parties.

13. Counterparts. This Agreement may be signed in counterparts. Signature by facsimile will be deemed an original signature for purposes of effectiveness of this Agreement.

14. Entire Agreement. This Agreement and the related documents attached as Exhibits A, B, C and D, which shall be construed *in pari materia*, contain the entire agreement and understanding between the parties and supersede all prior agreements, covenants, arrangements, communications, representations or warranties between them, whether oral or written, by any officer, employee, attorney, agent or representative of the parties.

15. Drafting of Agreement. The parties acknowledge that this Agreement is a product of mutual assent, and that both of them will be deemed to have jointly drafted this Agreement.

16. Understanding of Agreement. In entering into this Agreement, the parties acknowledge that they have relied solely upon their individual judgments, belief and knowledge regarding the resolution of the Matter, the release and the compromise of any Claims. All parties have had the opportunity to consult with legal counsel of their choice, and no person representing any of the parties has unduly influenced any of them in any way in entering into this Agreement, which is made voluntarily and without duress.

The undersigned have caused this Agreement to be signed as of the day and year first above written.

CONSUMERS ENERGY COMPANY

SCHOOL DISTRICT OF THE CITY OF  
KALAMAZOO

\_\_\_\_\_  
By: Aaron L. Vorce  
Its: Assistant General Counsel  
Dated: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Exhibit A to Settlement Agreement and Release**

Easement

## **AMENDED EASEMENT FOR THE PROTECTION OF ELECTRIC FACILITIES**

Lindbergh to Phillips

SAP # 22787258  
Master Tract # TRN000916034065  
Agreement # M100000022274

BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF THE CITY OF KALAMAZOO, 1220 Howard St, Kalamazoo, MI 49008. (hereinafter "Owner")

for \$1.00 and other good and valuable consideration [exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to MCLA 207.526(f)] grants and warrants to

CONSUMERS ENERGY COMPANY, a Michigan corporation, One Energy Plaza, Jackson, Michigan 49201 (hereinafter "Consumers")

a permanent easement to enter the Easement Area described in the attached Exhibit B (hereinafter "Easement Area") located in the City of Kalamazoo, County of Kalamazoo, and State of Michigan as more particularly described in the attached Exhibit B and 1) to trim, cut down, and otherwise remove and control, without compensation to Owner, any trees, brush, roots, and other vegetation standing or growing within the Easement Area, which right is more fully defined below in the "Trees and Other Vegetation" provision, for the purpose of protecting, maintaining, and providing access to Consumers' facilities, which are currently located on land contiguous to the Easement Area and Owner's land described in the attached Exhibit A (hereinafter "Owner's Land"), which land is currently a public road right-of-way (hereinafter "Adjoining Land"); and 2) to utilize the portion of the Easement Area described as the 40' Clear Cut area below to, from within the Easement Area, construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, relocate, change the size of, enlarge, and protect a line or lines of electric facilities together with any wires, cables, conduits, crossarms, braces, guys, transformers, electric control circuits and devices, communication systems, utility lines, protective apparatus and all other equipment, appurtenances, associated fixtures, and facilities that are useful or incidental to or for the operation or protection thereof and located on the Adjoining Land, and to conduct such other activities as may be convenient in connection therewith as determined by Consumers for the purpose of transmitting and distributing electricity, but without the right to locate any of the aforementioned facilities on Owner's Land or within the Easement Area pursuant to this Easement. This Easement supersedes the easement attached as Exhibit 1 to the Declaration of Taking recorded in the Kalamazoo County Register of Deeds office as Document 2019-008078.

Access: Consumers shall have the right of unimpaired access to the Easement Area for any and all purposes necessary, convenient, or incidental to the exercise by Consumers of the rights granted hereunder and Owner shall not interfere with said access by any means. In regard to the Easement Area designated as "40' Danger Trees," as long as the property is operated by the School District, Consumers shall, prior to entering that area to cut or trim trees, meet with the Superintendent of Kalamazoo Public Schools or the Superintendent's designee, and coordinate Consumers' entry into that area for the tree cutting/trimming so as to minimize interference with the Owner's operations.

Trees and Other Vegetation: Owner shall not plant any trees within that portion of the Easement Area identified as "40' Clear Cut" on the Easement Sketches (hereinafter "Easement Sketches") in the attached Exhibit C. Consumers shall have the right from time to time hereafter to enter that portion of the Easement Area

identified as "40' Clear Cut" on the Easement Sketches in the attached Exhibit C to, without compensation to Owner, trim, cut down, and otherwise remove and control any trees, brush, roots, and other vegetation within the "40' Clear Cut" portion of the Easement Area. Consumers shall have the right from time to time hereafter to enter that portion of the Easement Area identified as "40' Danger Trees" on the Easement Sketches in the attached Exhibit C to, without compensation to Owner, trim, cut down, and otherwise remove and control any trees, brush, roots, and other vegetation within the Easement Area that are in excess of 35 feet in height. The 35 feet height restriction in the 40' danger trees Area has no application to any building and other structure that the Owner builds in the 40' danger trees area.

**Buildings/Structures:** Owner agrees not to build, create, construct, or permit to be built, created, or constructed, any obstruction, building, septic system, drain field, fuel tank, pond, swimming pool, lake, pit, well, foundation, engineering works, installation or any other type of structure over, under, on, or within that portion of the Easement Area identified as "20' No Build" on the Easement Sketches in the attached Exhibit C, whether temporary or permanent, without the express authorization of Consumers, which may be withheld in Consumers' sole discretion, and which authorization shall be recorded in the register of deeds for the county in which Owner's Land is situated expressly allowing the aforementioned.

**Ground Elevation:** Owner shall not materially alter the ground elevation (as shown on the Easement Sketches in the attached Exhibit C) within that portion of the Easement Area identified as "40' Clear Cut" on the Easement Sketches in the attached Exhibit C, without the express authorization of Consumers, which may be withheld in Consumers' sole discretion, and which authorization shall be recorded in the register of deeds for the county in which Owner's Land is situated expressly allowing the aforementioned.

**Exercise of Easement:** Consumers' nonuse or limited use of this Easement shall not preclude Consumers' later use of this Easement to its full extent.

**Ownership:** Owners covenant with Consumers that they are the lawful fee simple owner of Owner's Land, subject to existing easements, restrictions and reservations of record, if any, and that they have the right and authority to make this grant, and that they will forever warrant and defend the title thereto against all claims whatsoever.

**Successors:** This easement shall bind and benefit Owner's and Consumers' respective heirs, successors, lessees, licensees, and assigns.

**Counterparts:** This easement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. It is not necessary that all parties execute any single counterpart if each party executes at least one counterpart.

BOARD OF EDUCATION OF THE SCHOOL DISTRICT  
OF THE CITY OF KALAMAZOO

Date: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Acknowledgment

The foregoing instrument was acknowledged before me in \_\_\_\_\_ County, Michigan, on \_\_\_\_\_  
by \_\_\_\_\_ Its \_\_\_\_\_  
of BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF THE CITY OF KALAMAZOO,  
on behalf of the Board of Education of the School District of the City of Kalamazoo.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_, County, Michigan  
Acting in \_\_\_\_\_ County  
My Commission expires: \_\_\_\_\_

Prepared By:  
Ady Simmons, 10-09-2018  
Consumers Energy Company  
One Energy Plaza  
Jackson, MI 49201

After recording, return to:  
Carrie Main, EP7-471  
Consumers Energy Company  
One Energy Plaza  
Jackson, MI 49201

EXHIBIT A

Owner's Land

A parcel of land situated and being in the City of Kalamazoo, County of Kalamazoo, State of Michigan described as:

The Southwest 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 29, Township 2 South, Range 11 West

EXCEPT: A tract of land 33 feet on either side of the North and South 1/4 line of Section 29, T2S, R11W.

AND EXCEPT: The Easterly 31.25 feet of the Southerly 33.00 feet of the Northwest 1/4 of the Southwest 1/4 of the Northeast 1/4 and the Easterly 31.25 feet of the Southwest 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 29, T2S, R11W, excepting the Southerly 33.00 feet thereof.

Parcel ID: 06-29-266-001

## EXHIBIT B

### Easement Area

An area of land in the Northeast 1/4 of Section 29, Township 2 South, Range 11 West, City of Kalamazoo, Kalamazoo County, Michigan described as follows: To fix the point of beginning commence at the Center of said Section; thence N.01°07'16"E., on the North & South 1/4 line of said Section, 33.00 feet; thence S.88°46'05"E., parallel with the East & West 1/4 line of said Section, 33.00 feet to the point of beginning; thence N.01°07'16"E., on the East Right-of-Way line of Broadway Avenue and parallel with said North & South 1/4 line, 666.12 feet to the Southwest corner of Lot 1 of Hurni's University Hills Subdivision, as recorded in Liber 28 of Plats, Page 3 of Kalamazoo County records; thence S.88°33'09"E., on the South line of said plat, 70.81 feet; thence S.01°07'03"W., parallel with the centerline of the existing 46kV overhead electric line, 665.86 feet to the North Right-of-Way line of Winchell Avenue; thence N.88°46'05"W., on said North Right-of-Way line and parallel to the East & West 1/4 line of said Section, 70.85 feet to the point of beginning.

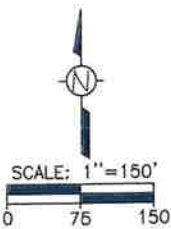


EXHIBIT C

Easement Sketches

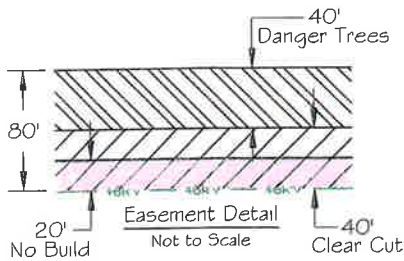
# EASEMENT SKETCH

Lindbergh-Phillips 46 kV Line  
Tax ID #06-29-266-001



Michigan State Plane Coordinate System  
South Zone (NAD83 2011)  
Referenced to Kalamazoo CORS

NORTH 1/4 CORNER  
SECTION 29  
T2S, R11W

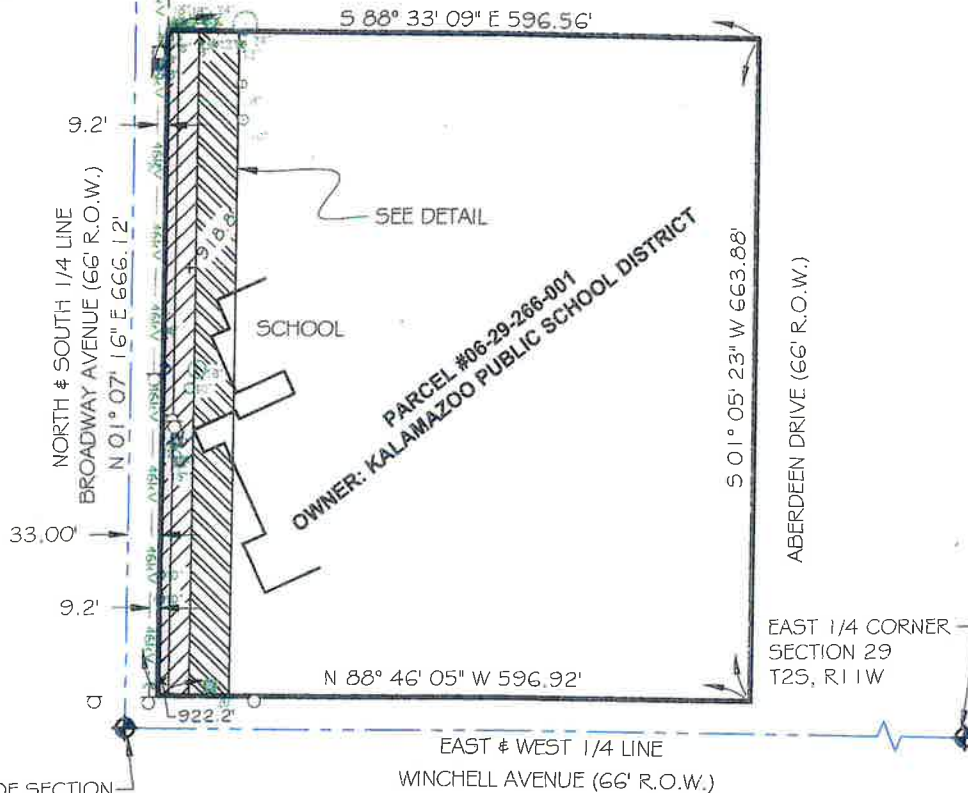


Location Map

Not to Scale

Basis of Elevation

NAVD 88 Datum - International Feet  
(Derived via GPS observation)



CENTER OF SECTION  
SECTION 29  
T2S, R11W

## Surveyor's Notes

- 1) Property boundary shown is approximate.
- 2) The existing 46kV centerline was located in the field and dimensions shown from said existing centerline are depicted accurately.
- 3) Not all improvements and utilities are shown.
- 4) No Build Area - 7212 Sq. Ft., Clear Cut Area - 20533 Sq. Ft. (Including 7212 Sq. Ft. of No-Build), Danger Tree Area - 26637 Sq. Ft.

## Legend

	-- Section Corner		-- Property Line
	-- Coniferous Tree		-- Overhead Electric 46kV Line
	-- Deciduous Tree		-- Road R.O.W.
	-- Power Pole		-- Spot Elevation
	-- Guy Anchor		-- No Build Area
	-- Lot Lines		-- Clear Cut Area
	-- Section Line		-- Danger Tree Area



*Matt Schuelke*

Revision A (4/27/18): Added No Build, Clear Cut, & Danger Tree easement areas. Added ground shots within easement areas. Updated label to "Horn's University Hills Subdivision".

Consumers Energy

SSI  
surveying solutions, inc.  
SURVEYING • ENGINEERING • CONSULTING SERVICES

Kalamazoo Public Schools Parcel  
NE 1/4 Section 29  
T2S, R11W  
City of Kalamazoo  
Kalamazoo Co., Michigan

Drawing No. SB-23519\_06-29-266-001

Filename: 23519base.DWG  
Field Crew: BAT/CSD  
Field Book No. SSI #18273  
Drawn By: MMS  
Date: 4/27/2018  
Scale: 1" = 150'  
Sheet 1 of 3

# EASEMENT SKETCH

Lindbergh-Phillips 46 kV Line  
Tax ID #06-29-266-001

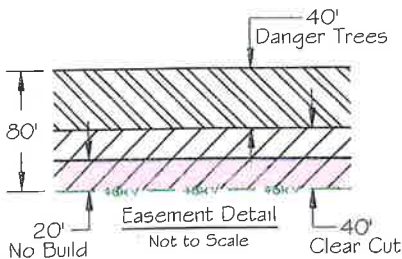


SCALE: 1"=150'  
0 75 150

## Basis of Bearing

Michigan State Plane Coordinate System  
South Zone (NAD83 2011)  
Referenced to Kalamazoo CORS

NORTH 1/4 CORNER  
SECTION 29  
T2S, R11W

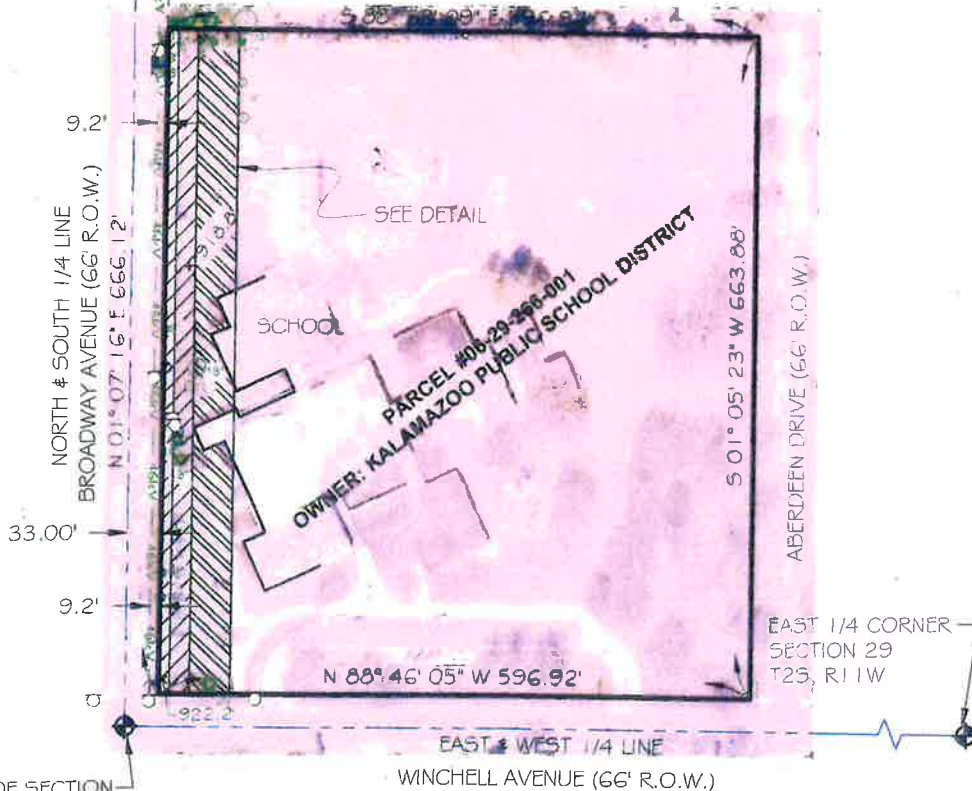


## Location Map

Not to Scale

## Basis of Elevation

NAVD 88 Datum - International Feet  
(Derived via GPS observation)



CENTER OF SECTION  
SECTION 29  
T2S, R11W

## Surveyor's Notes

- 1) Property boundary shown is approximate.
- 2) The existing 46kV centerline was located in the field and dimensions shown from said existing centerline are depicted accurately.
- 3) Not all improvements and utilities are shown.
- 4) No Build Area - 7212 Sq. Ft., Clear Cut Area - 20533 Sq. Ft. (Including 7212 Sq. Ft. of No-Build), Danger Tree Area - 26637 Sq. Ft.

## Legend

⊙	-- Section Corner	---	-- Property Line
⊙	-- Coniferous Tree	---	-- Overhead Electric 46kV Line
⊙	-- Deciduous Tree	---	-- Road R.O.W.
⊙	-- Power Pole	+901.5	-- Spot Elevation
⊙	-- Guy Anchor	---	-- No Build Area
---	-- Lot Lines	---	-- Clear Cut Area
---	-- Section Line	---	-- Danger Tree Area



*Matt Schuelke*

Revision A (4/27/18): Added No Build, Clear Cut, & Danger Tree easement areas. Added ground shots within easement areas. Updated label to "Horn's University Hills Subdivision".

Consumers Energy

SSI  
surveying solutions, inc.  
SURVEYING • ENGINEERING • CONSULTING SERVICES

Kalamazoo Public Schools Parcel  
NE 1/4 Section 29  
T2S, R11W  
City of Kalamazoo  
Kalamazoo Co., Michigan

Drawing No. 5B-23519\_06-29-266-001

Filename: 23519base.DWG  
Field Crew: BAT/CSD  
Field Book No. SSI #18273  
Drawn By: MMS  
Date: 4/27/2018  
Scale: 1" = 150'  
Sheet 2 of 3



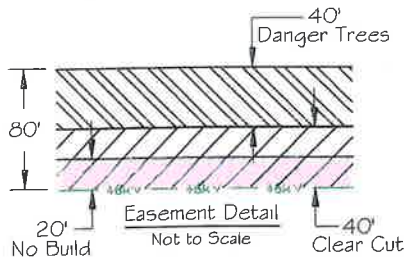
# EASEMENT SKETCH

Lindbergh-Phillips 46 kV Line  
Tax ID #06-29-266-001



Basis of Bearing

Michigan State Plane Coordinate System  
South Zone (NAD83 2011)  
Referenced to Kalamazoo CORS



Location Map  
Not to Scale

NORTH 1/4 CORNER  
SECTION 29  
T25, R11W

BROADWAY AVENUE (66' R.O.W.)  
NORTH & SOUTH 1/4 LINE  
N 01° 07' 16" E 666.12'

S 01° 07' 03" W 665.86'

70.81'  
S 88° 33' 09" E  
SOUTH LINE OF HURN'S  
UNIVERSITY HILLS SUBDIVISION

PARCEL #06-29-266-001  
OWNER: KALAMAZOO PUBLIC SCHOOL DISTRICT

33.00'  
S 88° 46' 05" E  
33.00'  
N 01° 07' 16" E

SEE DETAIL

EAST 1/4 CORNER  
SECTION 29  
T25, R11W

CENTER OF SECTION  
SECTION 29  
T25, R11W

WINCHELL AVENUE (66' R.O.W.)  
70.85' EAST & WEST 1/4 LINE  
N 88° 46' 05" W

P.O.B. EASEMENT  
Easement Areas

No Build Area - 7212 Sq. Ft.  
Clear Cut Area - 20533 Sq. Ft.  
(Including 7212 Sq. Ft. of No-Build)  
Danger Tree Area - 26637 Sq. Ft.  
Total Easement Area - 47170 Sq. Ft.

## Legal Description: Easement Area

An area of land in the Northeast 1/4 of Section 29, Township 2 South, Range 11 West, City of Kalamazoo, Kalamazoo County, Michigan described as follows: To fix the point of beginning commence at the Center of said Section; thence N.01°07'16"E., on the North & South 1/4 line of said Section, 33.00 feet to the point of beginning; thence N.01°07'16"E., on the East Right-of-Way line of Broadway Avenue and parallel with said North & South 1/4 line, 666.12 feet to the Southwest corner of Lot 1 of Hurn's University Hills Subdivision, as recorded in Liber 28 of Plats, Page 3 of Kalamazoo County records; thence S.88°33'09"E., on the South line of said plat, 70.81 feet; thence S.01°07'03"W., parallel with the centerline of the existing 46kV overhead electric line, 665.86 feet to the North Right-of-Way line of Winchell Avenue; thence N.88°46'05"W., on said North Right-of-Way line and parallel to the East & West 1/4 line of said Section, 70.85 feet to the point of beginning. Revision A (4/27/18): Updated label to "SOUTH LINE OF HURN'S UNIVERSITY HILLS SUBDIVISION". Revision A (4/27/18): Added No Build, Clear Cut, & Danger Tree easement areas. Added ground shots within easement areas. Updated label to "Hurn's University Hills Subdivision".



*Matt Schuelke*

Consumers Energy

SSI  
surveying solutions, inc.  
SURVEYING • ENGINEERING • CONSTRUCTION SERVICES

Kalamazoo Public Schools Parcel  
NE 1/4 Section 29  
T25, R11W  
City of Kalamazoo  
Kalamazoo Co., Michigan

Drawing No. 5B-23519\_06-29-266-001

Filename: 23519base.DWG  
Field Crew: BAT/CSD  
Field Book No. SSI #18273  
Drawn By: MMS  
Date: 4/27/2018  
Scale: 1" = 150'  
Sheet 3 of 3

**Exhibit B to Settlement Agreement and Release**

Stipulated Order For Payment of Funds

STATE OF MICHIGAN

IN THE 9<sup>th</sup> JUDICIAL CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO

CONSUMERS ENERGY COMPANY,

Plaintiff,

v

SCHOOL DISTRICT OF THE CITY OF  
KALAMAZOO and MICHIGAN BELL  
TELEPHONE COMPANY,

Defendants.

Case No. 19-0166-CC

Honorable Alexander C. Lipsey

**STIPULATED ORDER FOR  
PAYMENT OF FUNDS**

William A. Horn (P33855)  
Richard M. Wilson, Jr. (P29717)  
Mika Meyers PLC  
Attorneys for Plaintiff  
900 Monroe Avenue, NW  
Grand Rapids, MI 49503  
(616) 632-8000  
whorn@mikameyers.com  
rwilson@mikameyers.com

Marshall W. Grate (P37728)  
Clark Hill PLC  
Attorneys for Defendant School District of  
the City of Kalamazoo  
200 Ottawa Avenue, NW, Suite 500  
Grand Rapids, MI 49503  
(616) 608-1100  
mgrate@clarkhill.com

Lisa M. Bruno-Herline (P52954)  
AT&T Legal Department  
Attorney for Michigan Bell Telephone  
444 Michigan Avenue, Suite 1750  
Detroit, MI 48226  
(313) 223-8188  
Lb2872@att.com

At a session of said Court held in the Courthouse in the City of  
Kalamazoo, Michigan, this \_\_\_\_ day of \_\_\_\_\_, 2019.

PRESENT: Honorable Alexander C. Lipsey  
Circuit Court Judge

This is a case involving condemnation of land by Plaintiff Consumers Energy Company  
("Consumers Energy"), pursuant to the Uniform Condemnation Procedures Act, MCL 213.51, *et*  
*seq.* ("UCPA"). Specifically, Consumers Energy filed a Complaint under the UCPA regarding the

acquisition of certain easement rights to real property in which Defendant School District of the City of Kalamazoo ("School District") is an "owner" as defined in the UCPA. That real property, as well as the easement rights sought by Consumers Energy, are more fully described in the Complaint.

This matter is before the Court upon a pending settlement agreement; that as part of the settlement agreement, the parties have agreed upon the terms of this order regarding the funds heretofore deposited by Plaintiff with the Kalamazoo County Treasurer, and with the Court being otherwise fully informed in the premises;

IT IS ORDERED AND ADJUDGED as follows:

1. Consumers Energy and School District have reached an agreement in settlement.
2. Consumers Energy and School District have memorialized the terms of the settlement agreement in a written agreement.
3. The settlement reached between Consumers Energy and School District is a complete compromise and settlement of all asserted or unasserted claims pertaining to necessity and for just compensation, attorney fees, appraisal fees, interest, lay and expert witness fees, taxable costs, damages and all claims which were or could have been made in this case.
4. Pursuant to the terms of the written settlement agreement, School District has acknowledged that an easement is necessary for the protection of Consumers Energy's electrical facilities, and granted Consumers Energy an amended easement in consideration of compensation deemed just by School District and Consumers Energy.
5. School District further acknowledges and agrees that it hereby withdraws its challenge to the necessity of the acquisition of the easement pursuant to MCL 213.56(1) and withdraws its motion for summary disposition, and therefore necessity is conclusively determined to exist and any further right to have necessity reviewed or further considered is barred.

Consumers Energy's rights under the easement shall vest as of April 9, 2019, the date of the filing of the complaint in this cause.

6. Within 21 days after entry of this Stipulated Order, the Kalamazoo County Treasurer shall pay to the order of School District the sum of Twenty-Seven Thousand One Hundred Eighty and 00/100 Dollars (\$27,180.00), the sum of that being the amount of Consumers Energy's estimate of just compensation deposited with the Treasurer by Consumers Energy pursuant to MCL 213.55 for and on account of the just compensation that may be awarded to School District. Payment shall be accomplished by mailing the check to Marshall W. Grate at 200 Ottawa Avenue, NW, Suite 500, Grand Rapids, Michigan 49503.

7. Upon satisfaction of the other terms and conditions in the Settlement Agreement, Consumers Energy and School District shall submit to the Court a Stipulated Order of Dismissal, with prejudice.

8. The real property to which this Order relates and as described in the complaint is as follows:

A parcel of land situated and being in the City of Kalamazoo, County of Kalamazoo, State of Michigan described as:

The Southwest 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 29, Township 2 South, Range 11 West

EXCEPT: A tract of land 33 feet on either side of the North and South 1/4 line of Section 29, T2S, R11W.

AND EXCEPT: The Easterly 31.25 feet of the Southerly 33.00 feet of the Northwest 1/4 of the Southwest 1/4 of the Northeast 1/4 and the Easterly 31.25 feet of the Southwest 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 29, T2S, R11W, excepting the Southerly 33.00 feet thereof.

Parcel ID: 06-29-266-001

Commonly known as: 2316 Winchell Avenue, Kalamazoo, MI 49008



9. A certified copy of this Order shall be recorded with the Kalamazoo County Register of Deeds at Plaintiff's expense.

10. This Order does not resolve the last pending claim in this action and does not close the file.

IT IS SO ORDERED.

---

Honorable Alexander C. Lipsey  
Circuit Court Judge

Approved as to form and content;  
notice of hearing on entry waived:

---

William A. Horn (P33855)  
Attorney for Plaintiff Consumers Energy

---

Marshall W. Grate  
Attorney for Defendant School District

## **Exhibit C to Settlement Agreement and Release**

### Special Considerations and Agreements

LPM AGR #: \_\_\_\_\_  
Work Order #: \_\_\_\_\_  
Parcel Tax ID #: 06-29-266-001

## **SPECIAL CONSIDERATIONS AND AGREEMENTS**

### **Grantor Information**

Name: School District for the City of Kalamazoo  
Address: 1220 Howard Street, Kalamazoo, MI 49008  
Phone #:

### **1. AGREEMENTS PERTAINING TO EASEMENT**

**A. Trees Not to be Cut or Trimmed. As part of the settlement, Consumers agrees that in exercising the rights granted in the Easement:**

1. Consumers will not cut the 35' tall shade tree identified in Exhibit 1.
2. The 19' tall ornamental tree identified in Exhibit 1, located next to the 35' tall shade tree, will not be subject to being cut or trimmed until it reaches a height in excess of 35'.
3. The 22' tall ornamental trees identified in Exhibit 1, located north of the building and next to the parking lot shown in Exhibit 1, will not be subject to being cut or trimmed until they reach a height in excess of 35'.

EXHIBIT I



**Exhibit D to Settlement Agreement and Release**

Order Dismissing Consumers' Complaint

**STATE OF MICHIGAN**  
**IN THE 9<sup>th</sup> JUDICIAL CIRCUIT COURT FOR THE COUNTY OF KALAMAZOO**

---

CONSUMERS ENERGY COMPANY,

Plaintiff,

v

SCHOOL DISTRICT OF THE CITY OF  
KALAMAZOO and MICHIGAN BELL  
TELEPHONE COMPANY,

Defendants.

---

William A. Horn (P33855)  
Richard M. Wilson, Jr. (P29717)  
Mika Meyers PLC  
Attorneys for Plaintiff  
900 Monroe Avenue, NW  
Grand Rapids, MI 49503  
(616) 632-8000  
whorn@mikameyers.com  
rwilson@mikameyers.com

---

Case No. 19-0166-CC

Honorable Alexander C. Lipsey

**STIPULATED ORDER OF  
DISMISSAL**

Marshall W. Grate (P37728)  
Clark Hill PLC  
Attorneys for Defendant School District of  
the City of Kalamazoo  
200 Ottawa Avenue, NW, Suite 500  
Grand Rapids, MI 49503  
(616) 608-1100  
mgrate@clarkhill.com

Lisa M. Bruno-Herline (P52954)  
AT&T Legal Department  
Attorney for Michigan Bell Telephone  
444 Michigan Avenue, Suite 1750  
Detroit, MI 48226  
(313) 223-8188  
Lb2872@att.com

**STIPULATION**

Plaintiff Consumers Energy Company, by and through its attorneys, Mika Meyers PLC, and the Defendant School District of the City of Kalamazoo, by and through its attorneys, Clark Hill PLC, hereby stipulate and agree that pursuant to the terms and conditions of a settlement agreement

entered into among the parties, an Order of Dismissal with prejudice and without costs and attorneys' fees may enter as it relates to all claims made by the Plaintiff.

It is further stipulated and agreed that the Order accompanying this Stipulation may be entered without further notice or hearing.

Respectfully submitted,

MIKA MEYERS PLC  
Attorneys for Plaintiff

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
William A. Horn (P33855)  
Richard M. Wilson, Jr. (P29717)  
900 Monroe Avenue, NW  
Grand Rapids, MI 49503  
(616) 632-8000

CLARK HILL PLC  
Attorneys for Defendant School District of the City  
of Kalamazoo

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Marshall W. Grate (P37728)  
200 Ottawa Avenue, NW, Suite 500  
Grand Rapids, MI 49503  
(616) 608-1100

### ORDER

At a session of said Court held in the Courthouse in the City of Kalamazoo, Michigan, this \_\_\_\_ day of \_\_\_\_\_, 2019.

PRESENT: Honorable Alexander C. Lipsey  
Circuit Court Judge

This is a case involving condemnation of land by Plaintiff Consumers Energy Company ("Consumers Energy"), pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 *et*

*seq.* (“UCPA”). Specifically, Consumers Energy filed a Complaint under the UCPA regarding the acquisition of certain easement rights to real property in which Defendant School District of the City of Kalamazoo (“School District”) is an “owner” as defined in the UCPA. That real property, as well as the easement rights acquired by Consumers Energy, are more fully described in the Complaint.

This matter having come before the Court on a stipulation to dismiss of Consumers Energy and School District pursuant to the terms of a settlement agreement; Consumers Energy and School District having previously stipulated to the necessity of the easement sought by Consumers; the Kalamazoo County Treasurer having paid School District the estimate of just compensation deposited with the Kalamazoo County Treasurer by Consumers Energy pursuant to MCL 213.55; and the Court being otherwise fully advised in the premises;

IT IS ORDERED AND ADJUDGED as follows:

1. Consumers Energy and School District have reached an agreement in settlement.
2. Consumers Energy and School District have memorialized the terms of the settlement agreement in a written agreement.
3. The settlement reached between Consumers Energy and School District is a complete compromise and settlement of all asserted or unasserted claims pertaining to necessity and for just compensation, attorney fees, interest, lay and expert witness fees, taxable costs, damages and all claims which were or could have been made in this case.
4. Pursuant to the terms of the written settlement agreement, School District has granted Consumers Energy an amended easement in consideration of compensation deemed just by School District and Consumers Energy.



5. All claims made by Consumers Energy in this action are hereby dismissed with prejudice and without costs and attorneys' fees to any of the parties.

6. This Order resolves all remaining claims and closes the case.

IT IS SO ORDERED.

---

Honorable Alexander C. Lipsey  
Circuit Court Judge

KALAMAZOO PUBLIC SCHOOLS  
Office of the Superintendent

TO: Board of Trustees

FROM: Gary Start, Interim Superintendent

DATE: July 25, 2019

SUBJECT: Partnership Agreement Amendment

RECOMMENDATION: It is recommended that the board approve the attached negotiated agreement amendment to the Kalamazoo Public Schools Partnership Agreement entered into by and among the Kalamazoo Public Schools Board of Education and Kalamazoo Public Schools, a general powers school district established by the Michigan Revised School Code (**KPS**), Kalamazoo Regional Educational Service Agency (**KRESA**), a Michigan intermediate school district, and the Michigan Department of Education (**MDE**).

RATIONALE: The attached agreement amendment represents a commitment on behalf of the signatories to partner in the improvement of Washington Writers' Academy and the Woodward School for Technology and Research. In the spring of 2019, the Michigan Department of Education provided business rules for the evaluation of the agreement and the opportunity to make amendments accordingly. The amendment will assist the schools in the final evaluation process of the Partnership Agreement.

**AMENDMENT  
to the  
Kalamazoo Public Schools Partnership Agreement**

**In accordance with section (XX) of the Kalamazoo Public Schools Partnership Agreement:**

*“This Agreement shall not be modified, altered, or amended except by written agreement duly executed by all parties to this Agreement in accordance with the terms hereof, including the option to add additional at risk schools to this Agreement. If either party requests modification of this agreement, the parties shall confer in good faith, upon reasonable notice of the proposed modification by the party desiring the change, to determine the feasibility of such modification. Modifications shall not be effective until signed by duly authorized representatives of both KPS and MDE.”*

**All parties agree to the following:**

Amend sections (IV) (A-B) by striking through the language to be changed and adding new language in **bold**.

**IV. 36-MONTH GOALS TO BE MET BY KALAMAZOO PUBLIC SCHOOLS:**

**A. 36-Month Process Goals:**

1. ~~Fully i~~ Implement Tier I instruction in reading aligned with the state grade-level content standards **as defined by curriculum guides and lesson plans.** ~~and monitor through walk-through observation data and results from the survey of enacted curriculum.~~
2. ~~Fully i~~ Implement Tier I **in mathematics** aligned with the state grade-level content standards **as defined by curriculum guides and lesson plans.** ~~and monitor the impact of these interventions using the NWEA/MAP and local assessments.~~
3. Implement evidence-based **reading** interventions and monitor the impact of the interventions using the NWEA/MAP and local assessments.
4. Implement evidence-based **mathematics** interventions and monitor the impact of the interventions using the NWEA/MAP and local assessments.
5. **Increase the number of family educational activities offered during and after the school day so parents/guardians learn how to assist their children at home by at least 2 additional activities from 2016 -2017 to the 2019-2020 school year.**
6. **Implement and track the Individual Reading Improvement Plans (IRIPs) for kindergarten through third grade students for supports as needed and defined by reports kept in the data warehouse for IRIPs.**
7. **Implement diverse classroom libraries in every kindergarten through fifth grade classroom as defined by classroom reading logs.**
8. **Implement a new K-5 science program as defined by curriculum guides and lesson plans.**

**9. Implement Instructional Learning Cycles as defined by meeting notes and team worksheets.**

**B. 36-Month Outcome/Product Goals:**

1. Reduce the achievement gap between the state's percentage of students proficient in reading on the state assessment compared to the aggregate percentage of students proficient at each of the identified schools by at least ~~63 percentage~~ points from spring 2016 to spring ~~2019~~ **2020**.
2. Reduce the achievement gap between the state's percentage of students proficient in mathematics on the state assessment compared to the aggregate percentage of students proficient at each of the identified buildings by at least ~~63 percentage~~ points from spring 2016 to spring ~~2019~~ **2020**.
3. **Increase the average student growth percentile (SGP) on aggregated ELA and math state assessments by at least 3 points from June 2017 to June 2020.**
- ~~3. Increase the percentages of students scoring at or above grade level (achievement percentile of 50 or higher) on the NWEA/MAP reading and math assessments by at least 6 percentage points from fall 2016 to spring 2020.~~
4. **Increase the percentage of students scoring at or above grade level (achievement percentile of 50 or higher) on the NWEA/MAP reading assessment by at least 6 points from fall 2016 to spring 2020.**
- ~~4. Increase the percentages of students making one or more years of growth on the NWEA/MAP reading and math assessments by at least 6 percentage points from spring 2017 to spring 2020.~~
5. **Increase the percentage of students scoring at or above grade level (achievement percentile of 50 or higher) on the NWEA/MAP mathematics assessments by at least 6 points from fall 2016 to spring 2020.**
- ~~5. Reduce the percentage of students scoring far below grade level (fall achievement percentile of 20 or lower) by making significant catch-up growth (fall to spring conditional growth percentile of 70 or higher) on the NWEA/MAP reading and math assessments by 6 percentage points from spring 2017 to spring 2020.~~
6. **Increase the percentage of students making one or more years of growth on the NWEA/MAP reading assessment by at least 6 points from spring 2017 to spring 2020.**
7. **Increase the percentage of students making one or more years of growth on the NWEA/MAP mathematics assessment by at least 6 points from spring 2017 to spring 2020.**

8. Reduce the percentage of students scoring far below grade level (fall achievement percentile of 20 or lower) by making significant catch-up growth (fall to spring conditional growth percentile of 70 or higher) on NWEA/MAP reading assessments by 4 points from spring 2017 to spring 2020.
9. Reduce the percentage of students scoring far below grade level (fall achievement percentile of 20 or lower) by making significant catch-up growth (fall to spring conditional growth percentile of 70 or higher) on NWEA/MAP mathematics assessments by 4 points from spring 2016 to spring 2020.
10. Improve the school climate and culture through the Tiered Fidelity Inventory from spring 2017 to spring 2020.
11. Decrease the percentage of students suspended from spring 2017 to spring 2020.
12. Increase the number of diverse books read to children from the diverse classroom library sets from spring 2016 to spring 2020.

**IN WITNESS WHEREOF**, the Parties have caused this Amendment to the Agreement to be executed on this date:

**Kalamazoo Public Schools**  
Board of Education President

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Kalamazoo Public Schools**  
Interim Superintendent

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Kalamazoo Regional Educational Service Agency**  
Superintendent

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Michigan Department of Education,  
Office of Partnership Districts**  
Director

Name: \_\_\_\_\_

Date: \_\_\_\_\_