



## **Agenda: Battle Creek City Commission**

Meeting Date: December 6, 2022- 8:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

Title: Battle Creek City Hall - City Commission Chambers, 3rd Floor

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### **INVOCATION**

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

### **PROCLAMATIONS AWARDS**

Proclamation for Holiday Season National Enforcement Mobilization Month

### **CHAIR NOTES ADDED OR DELETED RESOLUTIONS**

### **PETITIONS COMMUNICATIONS REPORTS**

### **INTRODUCTION OF ORDINANCES**

- 16-2022 A Proposed Ordinance, #16-2022, seeks to amend Section 12 of Chapter 1022, Snow Removal, of City Ordinances, to expand the length of time to remove snow and ice from public sidewalks after a snowfall and authorize the City to clear snow or ice at the property owner's expense and to repeal Section 13.
- 17-2022 A Proposed Ordinance, 17-2022, to rezone 183 West Street (Parcel # 7960-00-007-0) from MFR High Density Multiple Family District to T-4 Downtown Commercial District.

### **ADOPTION OF ORDINANCES**

- 1 A Resolution seeking to adopt Ordinance 14-2022 to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.
- 2 A Resolution adopting Ordinance 15-2022 to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

### **PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS NOT ON CONSENT AGENDA**

(Limited to three minutes per individual)

## **COMMISSION COMMENT REGARDING MEETING BUSINESS**

### **CONSENT AGENDA**

#### **Minutes:**

Minutes for the November 15, 2022 City Commission Regular Meeting

#### **Petitions, Communications, Reports:**

Ambulance Report for October 2022

City Manager's Report for December 6, 2022

#### **Resolutions:**

- 3 A Resolution regarding the City of Battle Creek - FY2022 Emergency Management Performance Grant Agreement (EMPG).
- 4 A Resolution for renewal of 4 members to the Post/Franklin Neighborhood Planning Council (NPC # 1).
- 5 A Resolution appointing / renewal of 1 members to the Northeast Neighborhood Planning Council (NPC # 4).
- 6 A Resolution appointing / renewal of 1 member to the Central Neighborhood Planning Council (NPC # 3).
- 7 A Resolution reappointing and appointing members to the Battle Creek International Relations Committee.
- 8 A Resolution accepting the proposal of best value for turnout gear extractors, washers, and dryers at various fire stations from Universal Laundry Machinery in a not-to-exceed amount of \$53,435.00.
- 9 A Resolution seeking approval for a License Agreement with Duncan Aviation for use of a pole barn on airport property during construction.

### **RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA**

- 10 A Resolution seeking acceptance of dedication of a parcel of vacant land, number 52-0127-00-016-3 for use as a Public Road commonly known as Barney Boulevard.
- 11 A Resolution seeking to establish a revised Battle Creek Transit Title VI policy to ensure equal opportunity in the transportation for all persons regardless of race, color, or national origin.
- 12 A Resolution seeking approval to set goals for potential contracting opportunities for FY2022-2025 for an established Disadvantaged Business Enterprise (DBE) Program for Battle Creek Transit (BCT) in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.
- 13 A Resolution seeking authorization for the City Manager to grant Consumers Energy Company, a Michigan corporation, a temporary easement in, on, over, under, across and through a portion of City-owned property on Armstrong Road identified as parcel # 52-3020-01-093-1.
- 14 A Resolution seeking authorization the City Manager to employ retiree Jerry Porter on a part-time, temporary basis under 296.09(c).
- 15 A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Battle Creek Community Foundation Supportive Services Grant Agreement for the amount of \$42,000.
- 16 A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Gracious Homes Supportive Services Grant Agreement for the amount of \$52,000.  
A Resolution seeking authorization for the City Manager to execute the 2022



- 17 HOME-ARP Drop-in Self-help Center Supportive Services Grant Agreement for the amount of \$111,090.
- 18 A Resolution seeking approval to conduct a Closed Session on a legal matter.

**GENERAL PUBLIC COMMENT**

(Limited to three minutes per individual)

**COMMISSION COMMENTS**

**RECESS**

**CLOSED SESSION**

**RETURN FROM RECESS**

**ADJOURNMENT**

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speakers remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during the Commission Comment period. It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public meetings, that the following rules concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the consideration of specific ordinances when scheduled, speakers may present facts and opinions on the specific ordinance being considered by the City Commission. Speakers addressing the City Commission during this time shall limit their comments to the specific issue being considered. A three-minute time limit, which may be lengthened or shortened by the Mayor or presiding officer when appropriate, is imposed per speaker, per matter considered.

(d) During the public comment period on the consent agenda and resolutions not

on the consent agenda, each speaker may address the Commission once, regarding anything on the consent agenda and resolutions not on the consent agenda, for a total not to exceed three minutes regardless of how many consent agenda items or regular resolutions the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(e) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who has not filled out a card requesting to address the City Commission shall raise his or her hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner and the Commission will continue with its business, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

- (a) Becomes repetitive or speaks longer than the allotted time;
- (b) Attempts to yield any unused portion of time to other speakers;
- (c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out their public duties or office;
- (d) Uses obscene or profane language;
- (e) Engages in slanderous or defamatory speech;
- (f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or
- (g) Engages in conduct that interrupts or disrupts the meeting.



General Detail

NO.

Proclamation for Holiday Season National Enforcement Mobilization Month

**BATTLE CREEK, MICHIGAN - 12/6/2022**

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Rebecca Forbes, Executive Assistant

**Department:** City Manager

**SUMMARY**

Proclamation for Holiday Season National Enforcement Mobilization Month

**BUDGETARY CONSIDERATIONS**

**HISTORY, BACKGROUND and DISCUSSION**

**DISCUSSION OF THE ISSUE**

**POSITIONS**

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**ATTACHMENTS:**

File Name

Description

2022\_Holiday\_Season\_National\_Enforcement\_Mobilization\_Month.pdf 2022 Holiday Season National Enforcement Mobilization Month

# Proclamation

- WHEREAS,** motor vehicle crashes involving alcohol (with at least one driver with a blood alcohol concentration of .08 grams per deciliter or above) still accounted for approximately 1/3 of all motor vehicle traffic fatalities in 2020 and injure hundreds of thousands more every year in the United States; and
- WHEREAS,** based on December 2020 crash figures, male drivers were three times more likely to be involved in a fatal crash involving alcohol than female drivers, and drivers ages 21-34 accounted for the highest percent (26%) of alcohol impaired fatalities that month; and
- WHEREAS,** the Christmas and New Year's holiday periods from mid-December through January 1<sup>st</sup> are traditionally one of the most deadly times of the year for alcohol-impaired driving, more than any other holiday period in 2020 for example; and
- WHEREAS,** in 2020 one person was killed every 45 minutes in a drunk-driving crash in the United States and there were 11,654 persons killed in drunk-driving crashes in the United States that year; and
- WHEREAS,** drivers must remember that driving impaired by any substance, drugs (legal or illegal) or alcohol, is illegal and potentially deadly for themselves, passengers and other road users; and
- WHEREAS,** organizations across the nation are joining together to promote Holiday Season National Enforcement Mobilization to remove impaired drivers from the roadways under the "*Drive Sober or Get Pulled Over*" national public awareness campaign during the December 16, 2022 – January 1, 2023 time period;

**NOW, THEREFORE,** I, Mark Behnke, Mayor of the City of Battle Creek, Michigan, do hereby proclaim *December 2022*, as

## **"Holiday Season National Enforcement Mobilization Month"**

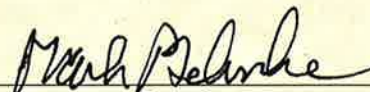
and further recognize *December 16, 2022 to January 1, 2023* as the

## **"Drive Sober or Get Pulled Over"**

Enforcement and Awareness Campaign in Battle Creek, Michigan. I call upon everyone to promote awareness of the impaired driving problem, to promote safer and healthier behaviors regarding the use of alcohol and all drugs, and to promote the awareness campaign this holiday season and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Logo of the City of Battle Creek to be affixed this 6<sup>th</sup> day of December 2022.



  
Mark A. Behnke, Mayor



## Ordinance

NO. 16-2022

A Proposed Ordinance, #16-2022, seeks to amend Section 12 of Chapter 1022, Snow Removal, of City Ordinances, to expand the length of time to remove snow and ice from public sidewalks after a snowfall and authorize the City to clear snow or ice at the property owner's expense and to repeal Section 13.

### **BATTLE CREEK, MICHIGAN - 12/6/2022**

Section 1. A proposed Ordinance, #16-2022, to amend Section 12 of Chapter 1022, Snow Removal, of City Ordinances to expand the length of time to remove snow and ice from public sidewalks after a snowfall and to authorize the City to clear snow or ice at the property owner's expense, and to repeal Section 13 since ice removal has been added to Section 12, as is attached and made a part hereof.

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinances, in conflict with any of the provisions of this Ordinance, are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. This Ordinance shall take effect ten (10) days from the date of its adoption, in accordance with the provisions of Section 4.3(B) of Chapter 4 of the City Charter.

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Battle Creek City Commission  
12/6/2022

### **Action Summary**

**Staff Member:** Marcel Stoetzel, Deputy City Attorney

**Department:** City Attorney

### **SUMMARY**

A Proposed Ordinance, #16-2022, seeks to amend Section 12 of Chapter 1022, Snow Removal, of City Ordinances, to expand the length of time to remove snow and ice from public sidewalks after a snowfall and authorize the City to clear snow or ice at the property owner's expense and to repeal Section 13.

## **BUDGETARY CONSIDERATIONS**

There are none.

## **HISTORY, BACKGROUND and DISCUSSION**

City staff have been requested to amend Section 1022.12 to establish a longer period of time for property owners to remove snow and ice from public sidewalks after a weather event and to incorporate ice removal into the same section.

The proposed amendments expand the length of time for property owners to remove snow or ice from the public sidewalks adjacent to or abutting a property making it more practical considering various circumstances. The amendments add a provision authorizing the City, when a property owner has failed to timely remove snow or ice, to clear the snow or ice at the expense of the owner. If a property owner does not pay the expense within 30 days after being billed, the expense will become a lien in favor of the City and levied as a special assessment against the property.

Section 13 has been repealed since it made sense to address snow and ice within the same section, which is now Section 12.

## **DISCUSSION OF THE ISSUE**

## **POSITIONS**

The Community Services Director and the Code Compliance Manager support the ordinance amendments.

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## **ATTACHMENTS:**

| File Name                                   | Description                           |
|---------------------------------------------|---------------------------------------|
| ❏ 1022.12_Snow_and_Ice_Removal_red-line.pdf | 1022.12 Snow and Ice Removal red-line |
| ❏ 1022.12_Snow_and_Ice_Removal_clean.pdf    | 1022.12 Snow and Ice Removal clean    |

**CHAPTER 1022**

**Sidewalks**

- [1022.01](#) Definitions.
- [1022.02](#) Specifications for construction.
- [1022.03](#) Line and grade stakes.
- [1022.04](#) Sidewalk specifications.
- [1022.05](#) Permit suspension.
- [1022.06](#) Ordering construction.
- [1022.07](#) Construction by City.
- [1022.08](#) Prohibited sidewalk surfaces.
- [1022.09](#) Deposit of materials and merchandise; permit required.
- [1022.10](#) Pedestrian passage.
- [1022.11](#) Clear sidewalks required.
- [1022.12](#) Snow ~~and ice~~ removal.
- ~~[1022.13](#) Ice removal. REPEALED.~~
- [1022.14](#) Dirt, refuse, etc.
- [1022.15](#) Clearing by City.
- [1022.16](#) Owner's liability.
- [1022.17](#) Application to residences.
- [1022.99](#) Penalty.

***CROSS REFERENCES***

- Failure of property owner to keep free of obstructions - see M.C.L.A. Sec. 103.4
- Sidewalks generally - see M.C.L.A. Secs. 691.1401 et seq.
- Abrogation of special assessments for sidewalk improvements - see ADM. [216.22](#)
- Riding on sidewalks - see TRAF. [410.04](#)(U.T.C. 6.12, 6.19)
- Sweeping and depositing debris in public ways - see GEN. OFF. ~~[672.16](#), [672.17](#)~~[642.02](#)

**Field Code Changed**

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#### 1022.12 SNOW AND ICE REMOVAL.

(a) Whenever any snow falls or drifts on or across any public sidewalk of the City, the owner, occupant, tenant or lessee of the premises adjacent to or abutting upon such sidewalk shall remove such snow or cause the same to be removed within the periods of time herein prescribed. ~~Snow that has accumulated during the night shall be removed before 12:00 noon. Snow that has fallen or drifted during the day shall be removed before 12:00 noon of the following day. Snow that accumulates before noon on a sidewalk must be cleared by midnight the same day. Snow that accumulates after noon on a sidewalk must be cleared by midnight of the following day. For snow showers that occur on more than one consecutive day, snow must be cleared by the above stated times or within 48 hours after the first snowfall began, whichever is sooner.~~

~~(b) Snow shall not be piled or pushed into the street or the public Right-of-Way.~~

~~(c) Removal of ice.~~ Whenever any ice forms on a public sidewalk, the owner, occupant, tenant or lessee of the premises adjacent to or abutting upon such sidewalk shall, ~~if practical, immediately~~ remove such ice ~~within 24 hours of formation. or cause the same to be removed. However, w~~hen immediate removal is impractical, ~~such the~~ owner, occupant, ~~tenant or lessee or tenant~~ shall ~~immediately cause~~ apply suitable abrasives (salt, sand, etc.) or chemicals ~~to be strewn~~ upon the ice in such a manner and in such quantities as to prevent such sidewalk from being slippery and dangerous to pedestrians, ~~using the same. The ice shall be removed at the earliest possible moment thereafter.~~

~~(d) If the owner, occupant, tenant, or lessee shall neglect or fail to remove snow or ice from the public sidewalk adjacent to or abutting their property within the time allotted, the City may clear the snow or ice at the expense of the owner. The expense of removal and its associated administrative fee shall become a debt owed to the City, and if not paid within 30 days after billing, shall become a lien in favor of the City and levied as a special assessment against the said benefitted property.~~

~~(e) A person who violates this section is responsible for a Class B Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.~~

#### ~~1022.13 ICE REMOVAL REPEALED.~~

~~(a) Whenever any ice forms on a public sidewalk, the owner, occupant, lessee or tenant of the premises adjacent to or abutting upon such sidewalk shall, if practical, immediately remove such ice or cause the same to be removed. However, when immediate removal is impractical, such owner, occupant, lessee or tenant shall immediately cause suitable abrasives or chemical to be strewn upon the ice in such a manner and in such quantities as to prevent such sidewalk from being slippery and dangerous to pedestrians using the same. The ice shall be removed at the earliest possible moment thereafter.~~

~~(b) This section shall not be applicable to the Central Business District, as defined in the Zoning Code, in which District the use of calcium chloride or similar types of materials or chemicals, except sodium chloride, on any sidewalk, street or public walkway, is hereby prohibited, except when the use thereof is authorized in emergency situations by the City Manager or a person duly authorized by~~



~~the Manager to make such determination. It is hereby determined that the use of such chemicals or other substances would be highly injurious and damaging to the area where the Central Business District improvements have been constructed.~~

~~(c) A person who violates any of the provisions of this section is responsible for a Class B Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.~~

## **CHAPTER 1022**

### **Sidewalks**

[1022.01](#) Definitions.

[1022.02](#) Specifications for construction.

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[1022.09](#) Deposit of materials and merchandise; permit required.

[1022.10](#) Pedestrian passage.

[1022.11](#) Clear sidewalks required.

[1022.12](#) Snow and ice removal.

[1022.13](#) REPEALED.

[1022.14](#) Dirt, refuse, etc.

[1022.15](#) Clearing by City.

[1022.16](#) Owner's liability.

[1022.17](#) Application to residences.

[1022.99](#) Penalty.

### ***CROSS REFERENCES***

Failure of property owner to keep free of obstructions - see M.C.L.A. Sec. 103.4

Sidewalks generally - see M.C.L.A. Secs. 691.1401 et seq.

Abrogation of special assessments for sidewalk improvements - see ADM. [216.22](#)

Riding on sidewalks - see TRAF. [410.04](#)(U.T.C. 6.12, 6.19)

Sweeping and depositing debris in public ways - see GEN. OFF. 642.02

#### 1022.12 SNOW AND ICE REMOVAL.

(a) Whenever any snow falls or drifts on or across any public sidewalk of the City, the owner, occupant, tenant or lessee of the premises adjacent to or abutting upon such sidewalk shall remove such snow or cause the same to be removed within the periods of time herein prescribed. Snow that accumulates before noon on a sidewalk must be cleared by midnight the same day. Snow that accumulates after noon on a sidewalk must be cleared by midnight of the following day. For snow showers that occur on more than one consecutive day, snow must be cleared by the above stated times or within 48 hours after the first snowfall began, whichever is sooner.

(b) Snow shall not be piled or pushed into the street or the public right-of-way.

(c) Removal of ice. Whenever any ice forms on a public sidewalk, the owner, occupant, tenant or lessee of the premises adjacent to or abutting upon such sidewalk shall remove such ice within 24 hours of formation. When immediate removal is impractical, the owner, occupant, tenant or lessee shall apply suitable abrasives (salt, sand, etc.) or chemicals upon the ice in such a manner and in such quantities as to prevent such sidewalk from being slippery and dangerous to pedestrians.

(d) If the owner, occupant, tenant, or lessee shall neglect or fail to remove snow or ice from the sidewalk adjacent to or abutting their property within the time allotted, the City may clear the snow or ice at the expense of the owner. The expense of removal and its associated administrative fee shall become a debt owed to the City, and if not paid within 30 days after billing, shall become a lien in favor of the City and levied as a special assessment against the property.

(e) A person who violates this section is responsible for a Class B Municipal civil infraction and shall be subject to the civil fines provided in Section 202.98.

#### 1022.13 REPEALED.



## Ordinance

NO. 17-2022

A Proposed Ordinance, 17-2022, to rezone 183 West Street (Parcel # 7960-00-007-0) from MFR High Density Multiple Family District to T-4 Downtown Commercial District.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

### **The City of Battle Creek Ordains:**

Section 1. An ordinance to rezone the parcel listed below from MFR High Density Multiple Family District to T-4 Downtown Commercial District.

Address: 183 West Street

Parcel #: 7960-00-007-0

Legal Description: SKINNER & STONES ADD THAT PART OF LOTS 13 THRU 22 & 24 THRU 33 & E ½ OF VAC THOMPkins ST LYING ADJ TO SD LOTS DESCRIBED AS FOLLOWS: COMM SE COR OF LOT 1 OF SD PLAT - N 00 DEG 28 MIN 29 SEC W ALG W LI OF WEST ST DIST OF 688.1 FT TO TRUE POB - S 79 DEG 27 MIN 25 SEC W 61.97 FT - S 30 DEG 55 MIN 50 SEC W 58 FT - S 27 DEG 48 MIN 44 SEC W 38.89 FT - S 29 DEG 28 MIN 19 SEC E 29.23 FT - S 60 DEG 31 MIN 41 SEC W 24.84 FT - N 29 DEG 28 MIN 19 SEC W 16.54 FT - S 59 DEG 49 MIN 35 SEC W 12.6 FT - S 13 DEG 58 MIN 29 SEC W 11.89 FT - N 75 DEG 41 MIN 48 SEC W 12 FT - S 59 DEG 57 MIN 16 SEC W 18.60 FT - S 30 DEG 33 MIN 53 SEC E 26.25 FT - S 59 DEG 26 MIN 35 SEC W 124.09 FT - S 89 DEG 53 MIN 09 SEC W 44 FT - N 00 DEG 28 MIN 50 SEC W ALG C/L OF VAC THOMPkins 313.33 FT - S 89 DEG 11 MIN 02 SEC E 25.21 FT - N 35 DEG 32 MIN 23 SEC E 300.17 FT - S 88 DEG 56 MIN 39 SEC E ALG N LI OF LOT 22 DIST OF 103.51 FT - S 00 DEG 28 MIN 29 SEC E ALG W LI OF WEST ST 326.75 FT TO POB((SLY MOST PORTION ASSESSED WITH #7960-00-007-0 IN 1983 THRU 2005 & WITH #7960-00-006-0 IN 2006 & 2007))

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinance in conflict with any of the provisions of this Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. Except as otherwise provided by law, this Ordinance shall take effect seven (7) days from the date of its publication, in accordance with the provisions of Section 401 of the Michigan Zoning Enabling Act.

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Battle Creek City Commission  
12/6/2022

## **Action Summary**

**Staff Member:** Marcie Gillette, Community Services Director

**Department:** Planning

### **SUMMARY**

A Proposed Ordinance, 17-2022, to rezone 183 West Street (Parcel # 7960-00-007-0) from MFR High Density Multiple Family District to T-4 Downtown Commercial District.

### **BUDGETARY CONSIDERATIONS**

There would be no financial impact on the City budget.

### **HISTORY, BACKGROUND and DISCUSSION**

The subject property of the proposed rezone – 183 West St. - is located on the east side of West Street, and is south of the West St./Emmet intersection. The property is currently zoned MFR High Density Multiple Family District, with the Applicant seeking a rezoning of the property to T-4 Downtown Commercial District.

The property is owned by Westbrook Preservation LDHA LLC. The property features 323 feet of frontage along West St. and also has 100 feet of frontage bordering West Emmett St. The property is a very irregularly shaped parcel, with a width from just over forty (40) feet on the south side, to a width over 300 feet wide from the access to a City of Battle Creek park to the east. Total subject parcel square footage equals 111,949.2 or 2.570 acres. Located on the property is a 78,744 square foot building built in 1940, refurbished in 2006, and known as the “old hospital building”. The building is 5-6 stories tall with an average height of 12 feet per story, creating a minimum of a 60 foot tall building.

As a result of the 2018 Master Plan and 2020 Zoning Ordinance and Map, the subject parcel became zoned MFR High Density Residential. However, while most of the uses fit the place type identified in the 2018 Master Plan, the new MFR district’s dimensions do not allow buildings over 45 feet in height, or four stories. As such, at the time of the Zoning Map update this property became a legal-nonconformity, as the height of the building on the subject parcel is 60 plus feet tall and five to six stories which exceeds the 45 feet and four (4) story limit required under the new MFR zoning district. In addition, the old hospital building is barely, if at all, setback from the southern and eastern property lines which also increases the building’s nonconformity and creates a situation where no additions can be built, nor could the building be restored if it suffered fairly extensive destruction. A rezoning would allow for any future alterations to be permitted, as well as extensive rebuilding/renovations, if necessary.

### **DISCUSSION OF THE ISSUE**

#### **POSITIONS**

The Planning Commission held a public hearing on November 16, 2022. The Planning Commission recommends to the City Commission approval of the rezoning request with the following findings:

- 183 West Street Westbrook Place functions as a senior housing facility. This use existed at the time of the adoption of the Land Use Plan included with the 2018 Master Plan, which identifies the intended future use of this property as Multi-Unit Residential. While this use designation aligns with the property's current zoning of MFR High Density Multiple Family, the dimensional requirements of the MFR District leave the building existing on the site with multiple dimensional nonconformities. Rezoning this property from MFR High Density Multiple Family to T-4 Downtown Commercial would relieve the property of all dimensional nonconformities related to height and positioning on the parcel and allow for the property's permitted use as a multi-family residential facility.
  - The Zoning Ordinance, as currently written, would not allow for a structure of the size and dimensions as the one located at 183 West St. within the MFR zoning district. Given the close proximity to scores of properties zoned T-4, as well as the overall compatibility of uses permitted within the T-4 district with the surrounding area, a sensible solution to the legal-nonconforming status of 183 West St. would be to rezone the property to T-4 Downtown Commercial, allowing for the continued, unencumbered use of the property for multiple-family residential purposes, while also allowing for alterations, expansions, or reconstruction of the property in the future as necessary.
  - The existing street system is capable of accommodating the uses permitted within the T-4 Downtown Commercial District.
  - The City's utilities and services are sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.
  - The new zoning designation as MFR did not take into account the dimensions of the existing building relative to the height and setback restrictions of the district. As such, the building was rendered nonconforming. A rezoning to T-4 Downtown Commercial would remedy the issue, while still allowing all types of residential since the T-4 is essentially a mixed use zoning district.
  - The proposed amendment will not result in exclusionary zoning. The proposed amendment will also not result in spot zoning given close proximity to other T-4 zoned properties, as well as the current use's (and all uses permitted within the T-4 district) overall compatibility with the surrounding area.
  - This property's physical, geological, and hydrological and other environmental features are compatible with the uses permitted in the proposed zoning district. There are no identified wetlands or floodplains on this parcel.
  - Uses permitted in the T-4 Downtown Commercial District are compatible with the surrounding uses and zoning. Surrounding uses consist primarily of multiple-family housing, recreational athletic fields, healthcare facilities, and various commercial uses and associated parking areas, as well as public green space across Emmett St. W in Irving Park. Surrounding zoning consists of T-4, T-3, Green, and MFR.
  - The boundaries of the proposed area of rezoning are limited to the subject parcel and are reasonable in relationship to surrounding zoning districts. The ability of the construction on the site is precisely the impetus for this proposed rezoning, which would allow the building on the site to enjoy full conformance with the dimensional regulations of the T-4 Downtown Commercial District. The parcel also more than meets the minimum for the 60 foot width and square footage of 2,900 for a T-4 parcel.
  - The requested zoning district is the most appropriate from the City's perspective as the proposed rezoning would allow for the current use and building to continue in a fully-conforming fashion, while also providing compatibility with surrounding uses and zoning districts in the area. The proposed rezoning is also compatible with surrounding uses as this area has become a "medical corridor" featuring various healthcare and healthcare-adjacent uses.
  - The list of T-4 uses are compatible with the surrounding area.
  - The proposed property to be rezoned is adjacent to the T-4 Downtown Commercial District to the west, north and potentially a portion to the east, and will be compatible with the existing mixed use, recreational, medical and multiple family uses in the neighborhood.
-

## ATTACHMENTS:

| File Name                                                                                                                          | Description                                |
|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
|  183_West_St._Westbrook_Rezoning_Staff_Report.pdf | 183 West St. Z-06-22 Rezoning Staff Report |
|  183_West_St_Westbrook_Rezoning_application.pdf   | 183 West St. Rezoning Application          |
|  PC_11.16.22_Meeting_Minutes_DRAFT.pdf            | 11.16.22 PC Meeting Minutes DRAFT          |



## **Battle Creek City Planning Commission**

### **Staff report for the November 16, 2022, Regular Meeting**

**To:** Planning Commissioners

**From:** Susan C. Cronander, Planning and Zoning Administrator

**Subject:** Petition Z-06-22, request for rezoning of 183 West Street, Battle Creek (Parcel # 7960-00-007-0)

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#### **Summary**

Petition from Westbrook Preservations LDHA LLC requesting the rezoning of property located at 183 West Street in Battle Creek (Parcel #7960-00-007-0) from MFR High Density Multiple Family District to T-4 Downtown Commercial District ) pursuant to Sections 1240.14 and 1281.01 of the zoning code.

#### **Background/Property Information**

The subject property of the proposed rezone – 183 West St. - is located on the east side of West Street, and is south of the West St./Emmett intersection. The property is currently zoned MFR High Density Multiple Family District, with the Applicant seeking a rezoning of the property to T-4 Downtown Commercial District.

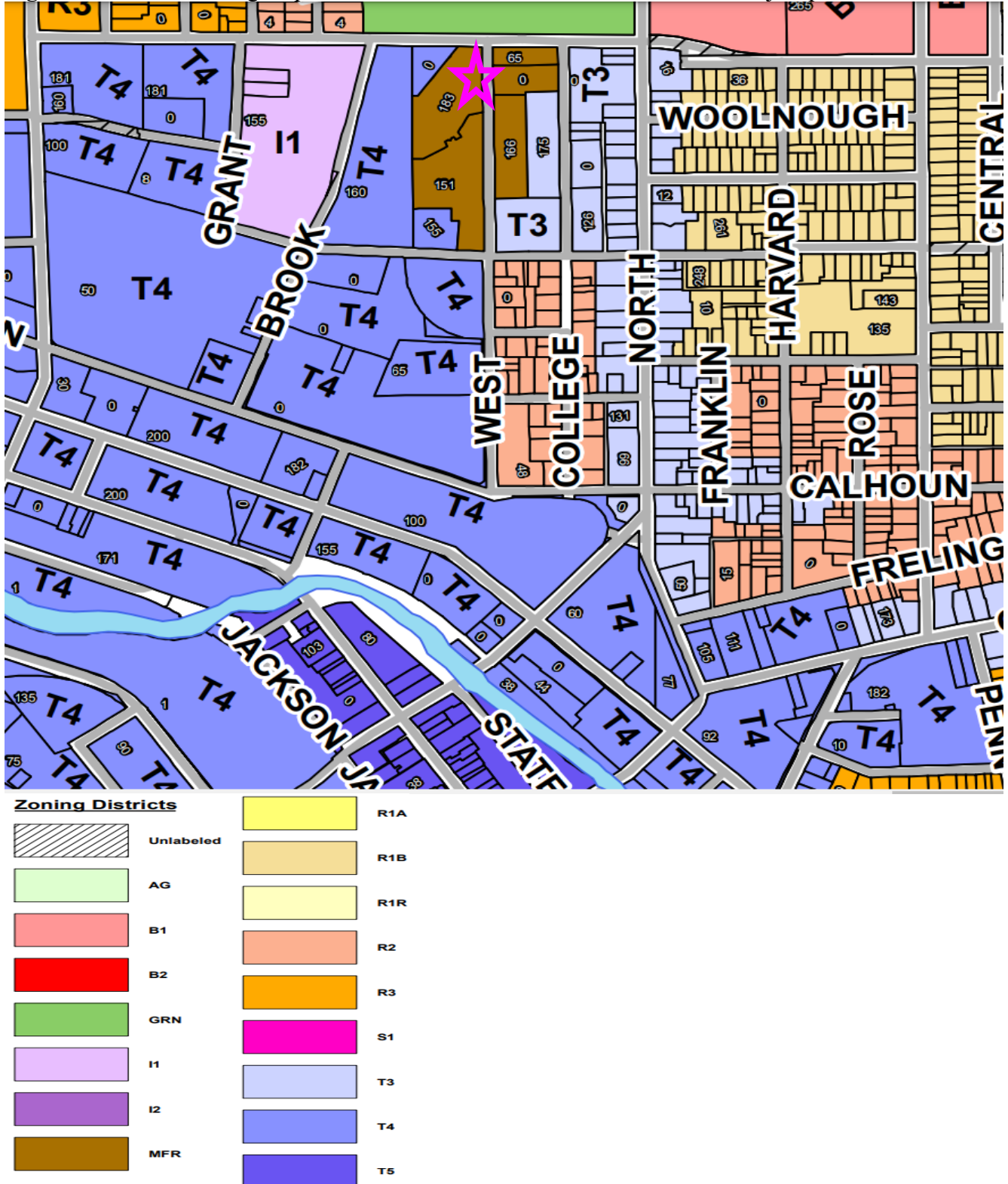
The property is owned by Westbrook Preservation LDHA LLC. The property features 323 feet of frontage along West St. and also has 100 feet of frontage bordering West Emmett St. The property is a very irregularly shaped parcel, with a width from just over forty (40) feet on the south side, to a width over 300 feet wide from the access to a City of Battle Creek park to the east. Total subject parcel square footage equals 111,949.2 or 2.570 acres. Located on the property is a 78,744 square foot building built in 1940, refurbished in 2006, and known as the “old hospital building.” Assessing records list the number of apartments in the building as 580. The building is 5-6 stories tall with an average height of 12 feet per story, creating a minimum of a 60 foot tall building.

As a result of the 2018 Master Plan and 2020 Zoning Ordinance and Map, the subject parcel became zoned MFR High Density Residential. However, while most of the uses fit the place type identified in the 2018 Master Plan, the new MFR district’s dimensions do not allow buildings over 45 feet in height, or four stories. As such, at the time of the Zoning Map update this property became a legal-nonconformity, as the height of the building on the subject parcel is 60 plus feet tall and five to six stories which exceeds the 45 feet and four (4) story limit required under the new MFR zoning district. In addition, the old hospital building is barely, if at all, setback from the southern and eastern property lines which also increases the building’s nonconformity and creates a situation where no additions can be built, nor could the building be restored if it suffered fairly extensive destruction.

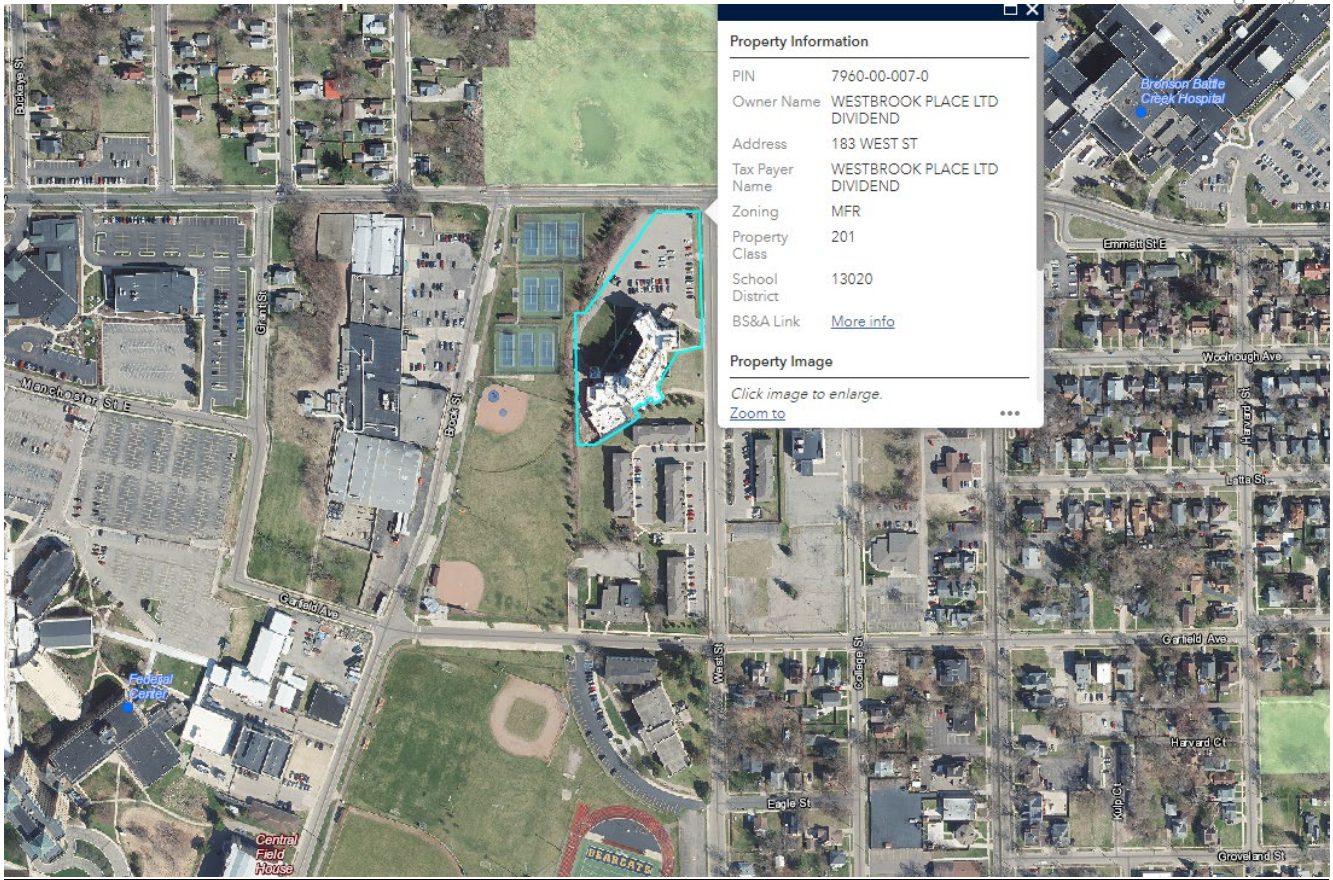


The applicant is asking for a rezoning of the property to a T-4 Downtown Commercial District, as a rezoning would allow for any future alterations to be permitted, as well as extensive rebuilding/renovations, if necessary.

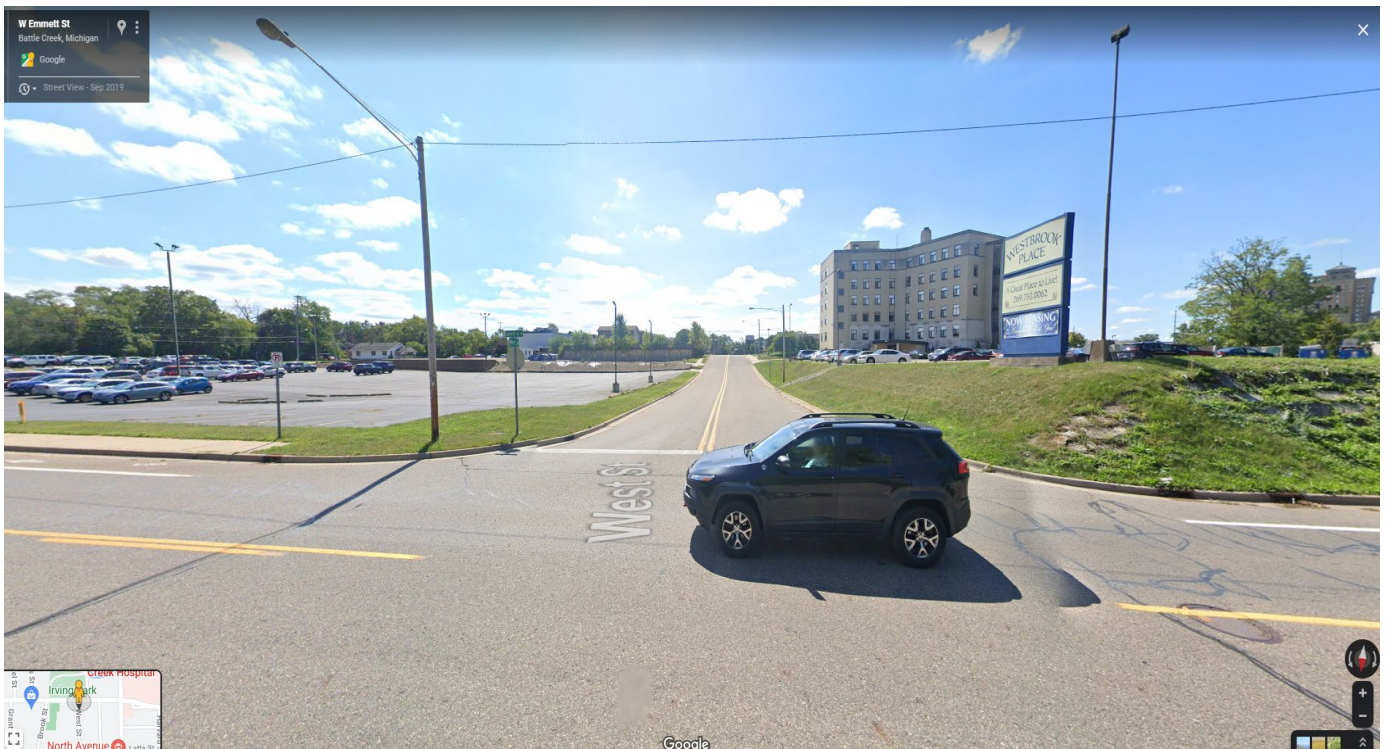
**Figure 1:** Current Zoning map 1/5/2022. Star indicates the location of the subject parcel







**Photo 1:** Aerial View of the Subject Parcel



**Photo 2:** Street View from the Intersection of West St and Emmett





**Photo 3:** Street View from West Street of the Front of the Subject Parcel



**Photo 4:** Street View, Proceeding south on West Street





**Photo 5:** Street View – Looking toward the Subject Parcel from West Street and Garfield Intersection



**Photo 6:** Street View of Subject Parcel from City Park Sports Fields on Garfield





**Photo 7:** Street View of Subject Property from northern end of Sports Fields on Brook Street  
The Industrial Property can be seen to the East / Right in the Picture



**Photo 8:** View from College Street and Emmett Intersection to the East  
The County Mental Health Center can be seen in the Left Side of the Picture



## Applicable Zoning Ordinance Provisions

Sections 1240.10, 1240.14, and 1281.01 of the 2020 Zoning Ordinance of the City of Battle Creek.

### SECTION 1240.10 MFR HIGH DENSITY MULTIPLE FAMILY DISTRICT.

#### A. PURPOSE

The MFR High Density Multiple Family District is intended to accommodate new types of diversified residential developments of high densities, usually requiring a large tract of unplatted land. The types of residential structures include garden apartments, terrace apartments and row housing units and those special types of housing structures similar in character and density to multiple family housing.

#### B. PERMITTED USES

- Assisted Senior Living ([Section 1251.02](#))
- Bed and Breakfast ([Section 1251.08](#))
- Community Garden ([Section 1251.11](#))
- Convalescent Home, Nursing Home, or Home for the Aged ([Section 1251.12](#))
- Essential Services
- Independent Senior Living with Services ([Section 1251.20](#))
- Medical or Dental Clinic < 20,000 s.f.
- Multi-Family Dwelling Units ([Section 1251.32](#))
- Outdoor Recreation/ Public ([Section 1251.35](#))
- Public K-12 Schools
- Single Family Dwelling Unit Attached
- Single Family Dwelling Unit Detached
- Two-Family Dwelling Units

#### C. SPECIAL LAND USES

- Adaptive Reuse ([Section 1250.04 D](#))
- Banquet and Meeting Hall < 100 capacity ([Section 1251.07](#))
- Banquet and Meeting Hall > 100 capacity ([Section 1251.07](#))
- Cemetery ([Section 1251.10](#))
- Hospital > 20,000 s.f. ([Section 1251.18](#))
- Institutions of Higher Education
- Private K-12 Schools
- Religious Institutions ([Section 1251.38](#))

Refer to [Section 1230.06](#) for definitions of uses and refer to [Chapter 1251](#) for development standards for specific uses.

#### D. ACCESSORY USES

- Accessory Buildings ([Section 1260.01](#))
- Accessory Dwelling Unit
- Personal-Scale Solar Energy Facility ([Section 1251.36](#))
- Private Gardens
- State Licensed Child Care Family Home, 1-6 Children ([Section 1251.43](#))
- State Licensed Child Care Group Home, 7-12 Children ([Section 1251.44](#)), with SLU approval
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons ([Section 1251.45](#))
- State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons ([Section 1251.46](#)), with SLU approval
- State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons ([Section 1251.46](#)), with SLU approval
- Transitional and Supportive Home, 1-6 persons
- Transitional and Supportive Home, + 6 persons, with SLU approval

#### E. DIMENSION REGULATIONS

| Lot Standards                        | MFR                |
|--------------------------------------|--------------------|
| Minimum Lot Area (sq. ft.)           | 2,170 (D) E        |
| Minimum Lot Width (ft.)              | 120                |
| Maximum Percent of Building Coverage | 30                 |
| Front Yard Setback (ft.)             | 35                 |
| Rear Yard Setback (ft.)              | 20                 |
| Side Yard Setback (ft.)              | 20                 |
| Maximum Building Height              | 45 feet, 4 stories |

Footnotes: Refer to [Chapter 1241](#) wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to [Chapter 1251](#) for dimensional regulations for specific uses.

**SECTION 1240.14 T-4 DOWNTOWN COMMERCIAL DISTRICT.**

**A. PURPOSE**

The T-4 Downtown Commercial is established to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

**B. PERMITTED USES**

- Artisan/Maker Space
- Banquet and Meeting Hall < 100 capacity ([Section 1251.07](#))
- Banquet and Meeting Hall > 100 capacity ([Section 1251.07](#))
- Bar, Tavern, or Saloon
- Bookstore
- Brewpub
- Carry-Out Restaurant
- Catering Businesses
- Convalescent Home, Nursing Home, or Home for the Aged ([Section 1251.12](#))
- Distillery, Winery - w/ or w/o food
- Essential Services
- Financial Institutions
- Full-Service Restaurant
- Government/Public Uses ([Section 1251.15](#))
- Hotel ([Section 1251.19](#))
- Indoor Recreation
- Limited Service Restaurant
- Marihuana: Adult-Use Marihuana Retailers ([Section 1251.23](#)) ([Section 1251.24](#))
- Marihuana: Medical Marihuana Provisioning Center ([Section 1251.23](#)) ([Section 1251.29](#))
- Medical or Dental Clinic < 20,000 s.f.
- Microbrewery ([Section 1251.34](#))
- Motel ([Section 1251.19](#))
- Multi-Family Dwelling Units ([Section 1251.32](#))
- Nightclub
- Office < 5,000 s.f.
- Office 5,000 to 17,000 s.f.
- Office > 17,000 s.f.
- Outdoor Recreation/ Public ([Section 1251.35](#))
- Personal Service Establishments ([Section 1251.38](#))
- Public K-12 Schools
- Religious Institutions ([Section 1251.38](#))
- Retail Sales < 5,000 s.f.
- Retail Sales 5,000 to 17,000 s.f.
- Single Family Dwelling Unit Attached
- Two-Family Dwelling Units

**C. SPECIAL LAND USES**

- Adaptive Reuse ([Section 1250.04 D](#))
- Drive-In Restaurant
- Drive-Thru Restaurant ([Section 1251.13](#))
- Farmers' Market ([Section 1251.14](#))
- Funeral Homes, Mortuaries, and Crematoriums
- Hospital > 20,000 s.f. ([Section 1251.18](#))
- Independent Senior Living with Services ([Section 1251.20](#))
- Institutions of Higher Education
- Private K-12 Schools
- Parking as a Principal Use
- Research and Development
- Retail Sales > 17,000 s.f.
- Self-Storage Facilities ([Section 1251.42](#))
- State Licensed Child Care Group Home, 7-12 Children ([Section 1251.44](#))

Refer to [Section 1230.06](#) for definitions of uses and refer to [Chapter 1251](#) for development standards for specific uses. Refer to [Section 1250.04](#), Form Based Development Standards for the T-3, T-5, and T-5 Districts for additional development requirements.

**D. EXISTING USES**

- Single Family Dwelling Unit Detached

**E. ACCESSORY USES**

- Accessory Buildings ([Section 1260.01](#))
- Accessory Dwelling Unit
- Farmers Market ([Section 1251.14](#))
- State Licensed Child Care Family Home, 1-6 Children ([Section 1251.43](#))

**F. DIMENSION REGULATIONS**

| <i>Lot Standards</i>                        | <i>T-4</i>                  |
|---------------------------------------------|-----------------------------|
| <i>Minimum Lot Area (sq. ft.)</i>           | 2,900 ( <a href="#">D</a> ) |
| <i>Minimum Lot Width (ft.)</i>              | 60                          |
| <i>Maximum Percent of Building Coverage</i> | NL                          |
| <i>Front Yard Setback (ft.)</i>             | NL                          |
| <i>Rear Yard Setback (ft.)</i>              | NL                          |
| <i>Side Yard Setback (ft.)</i>              | NL                          |
| <i>Maximum Building Height</i>              | NL                          |

Footnotes: Refer to [Chapter 1241](#) wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to [Chapter 1251](#) for dimensional regulations for specific uses.

### **Master Plan**

The Planning Enabling Act of 2008 requires a master plan be prepared and adopted that will “guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical; that considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.”

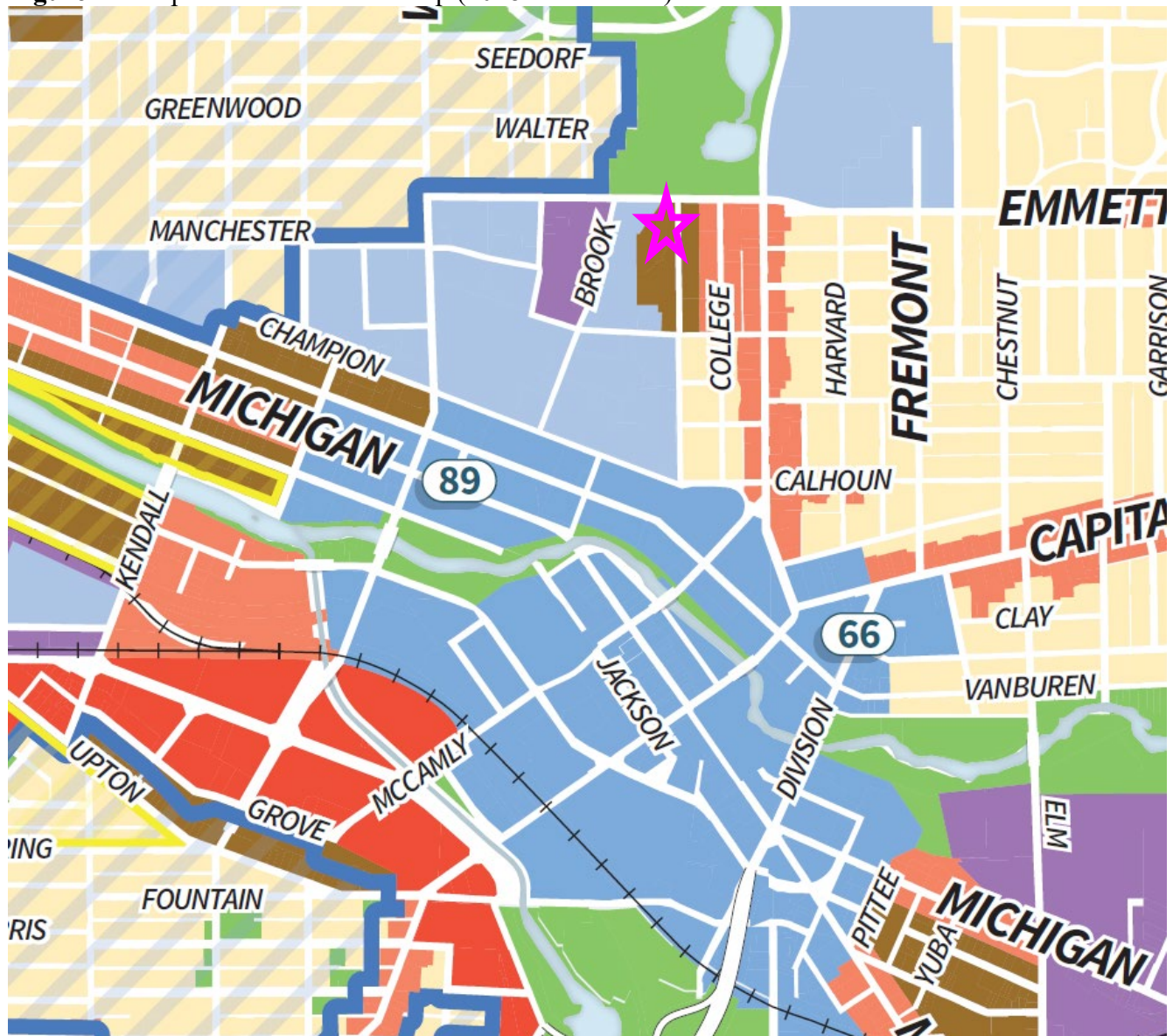
The master plan focuses on desired land use patterns for typically a twenty year time frame, and the enabling legislation and case law require that zoning be based upon this master plan. The City of Battle Creek Master Plan was adopted in 2018, and includes a Land Use Plan map, which is intended to guide in decision making with regard to planning and future land use patterns in accordance with the goals and vision articulated in the Master Plan.

The subject parcel proposed for rezoning was included in the “Multi-Unit Residential” category of the adopted 2018 Land Use Plan. When the property was rezoned to MFR High Density Residential during the 2020 rewrite of the Zoning Ordinance, because of the dimensional requirements in the new high density multiple family zoning district, the building on the subject property became nonconforming as to the height and the situation of the building on the subject parcel.

Master Plan Goals 1 and 5 both focus on promoting reinvestment and density in the City’s downtown core area. The illustrated core area in the 2018 Master Plan includes the sports fields next to the subject property. Though the Plan labels 183 West Street as a Multi Residential place type on the Land Use Map, the Plan goals and objectives appear to not have intended to create a situation where existing dense residential properties would become nonconforming. In this instance, similar to the proposed rezoning for the Calhoun County Mental Health building on College St., it seems likely that the Land Use Plan map simply did not contemplate the size and nature of the existing building constructed upon the subject parcel, and certainly did not contemplate the fact that the future MFR High Density Multiple Family District would include size restrictions and setbacks that would not fit the old hospital building.



**Figure 2:** Adopted Land Use Plan Map (2018 Master Plan)



- Neighborhood Commercial
- Multi-Unit Residential
- Traditional Neighborhood
- Community Services
- Downtown Commercial
- Community Open Space & Recreation
- Production & Employment Center

### **Public Hearing and Notice Requirements**

This request has been scheduled for the November 16, 2022 Planning Commission meeting, with notice of the hearing published in the October 27, 2022 edition of the Battle Creek Shopper. Appropriate notices were also mailed to all property owners within a 300-foot radius of the subject parcels no fewer than 15 days prior to the hearing. Both requirements pursuant to the Zoning Enabling Act of 2006, as amended, have been met.

### **Neighborhood Outreach**

Neighborhood Planning Councils (NPCs) are currently in the process of reorganizing and establishing membership and regular meeting dates. As the NPCs are not currently fully functional, staff has not received any comments from the neighborhood.

### **Analysis and Recommendation**

The subject parcel is currently zoned MFR High Density Multiple Family District. Though there are clearly more allowed commercial uses (along with all types of residential uses) in the proposed T-4 District than in the MFR District, the above aerials and street view photos show that the parcel is already bordered by primarily non-residential uses as well as T-4 Downtown Commercial District zoning on a portion of the north, on the west, and potentially a portion on the east side. The rest of the zoning to the north of the subject property across Emmett is zoned Green District and is currently a park. Zoning to the south on the rest of the senior residential development is MFR High Density Multiple Family District. A rezoning to T-4 Downtown Commercial, which is a mixed use district that includes commercial as well as residential; and no industrial uses would not negatively impact the surrounding T-4, Green and MFR zoned properties.

As stated previously in this report, the subject parcel's current zoning as MFR High Density Multiple Family District renders the parcel's building completely nonconforming, as the MFR district contains a number of setback dimensions and a height restriction of forty five (45) feet or four (4) stories which do not match the sixty (60) plus height and limited setbacks of the existing high density residential building on the subject property. The City's Zoning Ordinance does not permit nonconforming buildings to be rebuilt if severely damaged, or allow an increase the height, area or bulk of a nonconforming building. In reviewing the differences in the dimensional requirements of the MFR District compared to the T-4 District, it is clear that the lack of setback requirements and height limitations would work well to preserve the high density residential use and building on the subject parcel.

When taking on a complete rewrite of the Zoning Ordinance and Zoning Map, it is difficult (if not impossible) to assess with 100% accuracy each property's size, building size and current use when attempting to assign zoning districts aligned with the adopted Land Use Plan. In this case, though the property's use fits the High Density Residential Place type on the Land Use Plan map, the MFR zoning district renders the old hospital on the subject property completely nonconforming and potentially obsolete if damaged. In addition, though the place type is Multi-Unit Residential, the 2018 Master Plan Goals appear to not have intended to create nonconforming high density buildings when the actual goals are to encourage density and reinvestment in the City's core.

Given the above factors, as well as the subject parcel's close proximity to the downtown area and other T-4 zoned properties, it is staff's opinion that a rezone of the property from MFR High Density Residential to Neighborhood Commercial to T-4 Downtown Commercial may be appropriate to

provide relief to the applicant from the size and setback restrictions so that the higher density residential use may be preserved.

Section 1281.01(D) provides the standards for review regarding Zoning Ordinance and Zoning Map amendments. These standards and staff response are as follows:

1. Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.

183 West Street Westbrook Place functions as a senior housing facility. This use existed at the time of the adoption of the Land Use Plan included with the 2018 Master Plan, which identifies the intended future use of this property as Multi-Unit Residential. While this use designation aligns with the property's current zoning of MFR High Density Multiple Family, the dimensional requirements of the MFR District leave the building existing on the site with multiple dimensional nonconformities.

Within the MFR zoning district, buildings are restricted to 45 feet in height and 4 stories, with the current building on the property exceeding both. Additionally, the MFR zoning district includes required front, side and rear yard setbacks, many of which are not met by the existing building which is situated, at many points, on or close to the lot line.

For these two reasons, the structure on the property is considered a legal-nonconformity. Due to this status, the building is currently not permitted to make alterations which would expand and/or alter the footprint or height. Additionally, it is unlikely that in the event of catastrophic loss the building would be allowed to be reconstructed.

While the Land Use Plan identifies this parcel as Multi-Unit Residential, it is important to take into consideration trends in housing and preserving existing stock such as the existing building on the site, when considering the use and zoning of this parcel. The need for housing only continues to increase. From a dimensional standpoint, the high density residential building has been zoned essentially into future obsolescence due to existing dimensional non-conformities. Rezoning this property from MFR High Density Multiple Family to T-4 Downtown Commercial would relieve the property of all dimensional nonconformities related to height and positioning on the parcel and allow for the property's permitted use as a multi-family residential facility.

In addition, the 2018 Master Plan goals promote the importance of residential density and investment in the downtown core area.

The Planning Commission may also want to consider the fact that the City Commission, with concurring recommendation from the Planning Commission, is in the process of rezoning the property immediately to the west at 175 College Street from T-3 Neighborhood Commercial to T-4 Downtown Commercial for similar reasons (nonconforming use due to building size), providing further justification and reasoning for the rezoning of 183 West St. to T-4 Downtown Commercial.

2. Consistency with the basic intent and purpose of this Zoning Ordinance.

The intent and purpose of the Zoning Ordinance is to provide the orderly, organized development and redevelopment of the City of Battle Creek. Central to this purpose is ensuring that, to the extent possible, accommodation of existing uses and structures are balanced with the visions and goals for future development and land use.

The Zoning Ordinance, as currently written, would not allow for a structure of the size and dimensions as the one located at 183 West St. within the MFR zoning district. Given the close proximity to scores of properties zoned T-4, as well as the overall compatibility of uses permitted within the T-4 district with the surrounding area, a sensible solution to the legal-nonconforming status of 183 West St. would be to rezone the property to T-4 Downtown Commercial, allowing for the continued, unencumbered use of the property for multiple-family residential purposes, while also allowing for alterations, expansions, or reconstruction of the property in the future as necessary.

3. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

The existing street system is capable of accommodating the uses permitted within the T-4 Downtown Commercial District.

4. The capacity of the City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

The City's utilities and services are sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

5. That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.

Lack of housing continues to be more and more of an issue, especially with escalating cost; and preservation/allowance for restoration of existing housing stock has become extremely important. In addition, the property was rezoned in 2020 from its previous multiple family zoning to the new MFR High Density Multiple Family. While this was not a mistake per se (the new zoning district use aligned with the Land Use Plan), the new zoning designation as MFR did not take into account the dimensions of the existing building relative to the height and setback restrictions of the district. As such, the building was rendered nonconforming. A rezoning to T-4 Downtown Commercial would remedy the issue, while still allowing all types of residential since the T-4 is essentially a mixed use zoning district.

6. That the amendment will not be expected to result in exclusionary zoning or spot zoning.

The proposed amendment will not result in exclusionary zoning. The proposed amendment will also not result in spot zoning given close proximity to other T-4 zoned properties, as well as the current use's (and all uses permitted within the T-4 district) overall compatibility with the surrounding area.

7. If a rezoning is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

This property's physical, geological, and hydrological and other environmental features are compatible with the uses permitted in the proposed zoning district. There are no identified wetlands or floodplains on this parcel.

8. If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

Uses permitted in the T-4 Downtown Commercial District are compatible with the surrounding uses and zoning. Surrounding uses consist primarily of multiple-family housing, recreational athletic fields, healthcare facilities, and various commercial uses and associated parking areas, as well as public green space across Emmett St. W in Irving Park. Surrounding zoning consists of T-4, T-3, Green, and MFR.

9. If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

The boundaries of the proposed area of rezoning are limited to the subject parcel and are reasonable in relationship to surrounding zoning districts. The ability of the construction on the site is precisely the impetus for this proposed rezoning, which would allow the building on the site to enjoy full conformance with the dimensional regulations of the T-4 Downtown Commercial District. The parcel also more than meets the minimum for the 60 foot width and square footage of 2,900 for a T-4 parcel.

10. If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

The requested zoning district is the most appropriate from the City's perspective as the proposed rezoning would allow for the current use and building to continue in a fully-conforming fashion, while also providing compatibility with surrounding uses and zoning districts in the area. The proposed rezoning is also compatible with surrounding uses as this area has become a "medical corridor" featuring various healthcare and healthcare-adjacent uses.

11. If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

The only alternative to the proposed rezoning which would allow the property to achieve full compliance would be to alter the dimensional regulations of the MFR High Density Multiple Family District. Criteria #11 clearly indicates that the option to pursue a rezoning is preferable to amending the list of permitted uses in the current zoning district. This same intent can be logically applied to dimensional regulations as well, PROVIDED the list of the uses in the proposed district are compatible with the surrounding area. In the case of this proposal, it is the position of staff that the list of T-4 uses are compatible with the surrounding area.

12. If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

The proposed property to be rezoned is adjacent to the T-4 Downtown Commercial District to the west, north and potentially a portion to the east, and will be compatible with the existing mixed use, recreational, medical and multiple family uses in the neighborhood.

**Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-06-22, a request for the rezoning of 183 West Street (Parcel # 7960-00-007-0) from MFR High Density Residential District to T-4 Downtown Commercial District pursuant to Sections 1240.14 and 1281.01 of the zoning code.**

**Support Material**

Application for Rezoning



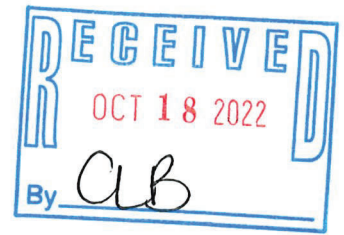


# City of Battle Creek

Community Services - Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • [www.battlecreekmi.gov](http://www.battlecreekmi.gov)



## REZONING Application



**Straight Rezoning**  
(to new zoning district)

\_\_\_\_ **Conditional Rezoning**  
(to allow specific use/development)

Petition No. Z-06-22

Date Received: 10.18.2022

### APPLICANT

NAME: Westbrook Preservation LDHA LLC

ADDRESS: 310 South Peoria, Ste #500, Chicago, Illinois 60607

PHONE: 312-530-9600 FAX: \_\_\_\_\_

EMAIL: Jwilmoth@fccommunities.org

### OWNER (if different from applicant)

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY/STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**\*\*If the applicant is not the property owner, a letter signed by the owner agreeing to the Rezoning must be included with the application.**

### EXISTING CONDITIONS

Address(es) of property for which the request is being sought: 183 West Street, Battle Creek, Michigan 49037

Pin# 7960-00-007-0

Current use of the property: Elderly Residential Apartment Units

List existing structures on the property, size, and the approximate age of each. One building, 5-6 stories,

111,949 square feet, original structure built in 1940 (82 years) and rehabbed in 2006.

Has property involved ever been the subject of a previous application? If yes, please list each one and the date the request came before the Planning Commission. No.

**FOR STRAIGHT REZONING REQUESTS ONLY:**

Current Zoning of Property: R3B

Requested Zoning District: T-4 MFR

Describe land uses surrounding the subject property and those in the vicinity: \_\_\_\_\_  
(zoning districts T3 and T4, and GRN, and containing multifamily residential, public parks, and commercial/medical)

Would the rezoning place excess demands on public resources including roads, utilities, public safety, etc.?

Explain: No.

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**FOR CONDITIONAL REZONING REQUESTS ONLY (please attach extra pages if necessary):**

What is the proposed use of the property that warrants the request? Provide specific details as to the use including square footage of each uses proposed for the property: The property is zoned as legal non conforming.

The Battle Creek zoning ordinance governs the ability to restore after a casualty. However, the standard here is tied to assessed value, \$0. Full Circle wouldn't be able to rebuild to the current height due to the legal non conforming status.

Please list all activities that will take place on the property if the request were approved?

Preserve affordable housing for seniors in the city of Battle Creek, Michigan.

---

How many employees currently work on the property? How many will be added if the request is approved, and what days/times will they be onsite? 2 full time employees and 1 part time employee. 3 full time employees are planned.

Employees are on staff Monday-Friday and for emergencies during nights/weekends.

---

Will the approval of the proposed use necessitate changes to the property, i.e. building construction, additional parking, landscaping, driveways, fencing? If yes, please provide a list of property improvements that will be associated with the development and attach a site plan/building elevations showing existing and proposed improvements. What is the cost of investment proposed if the development were approved?  
No.

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What are the proposed hours of operation? Please indicate if the proposed use will be temporary, seasonal, or long term in nature, providing dates and timeframes if applicable: 9am-5pm Monday-Friday.

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Explain the basis for which you feel this application should be approved. As a Non-Profit Full Circle Communities Inc.,

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vows to preserve affordable housing with 75% of income allocated towards resident services.  
Full Circle, believes investing in strong communities will build a better future and sustainable environment.

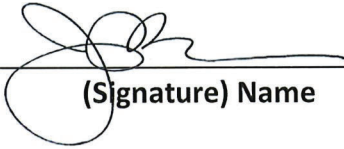
### **SUBMITTAL REQUIREMENTS**

Each request requires the following items to be submitted along with the completed application; incomplete applications will not be forwarded to the Planning Commission.

1. **Payment of a non-refundable \$600.00 filing fee, made payable to the City of Battle Creek.**
2. **An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.**
3. **Legal description of subject property and a list of all deed restrictions.**
4. **Property Site Plan, if site changes are proposed.**
5. **Building Elevations, if building elevation improvements are proposed.**

### **APPLICANT SIGNATURE**

By signing this application, the applicant hereby declares that all answers given herein are true to the best of their knowledge, and confirms that all information required for submission of a rezoning application have been submitted. Furthermore, the applicant understands that all any approval is based upon the contents of the submitted application and any future proposed change must be reviewed with the Planning Department and may be subject to approval of a revision of the rezoning by the Planning Commission and City Commission.



**(Signature) Name**

Joshua Wilmoth

**(Print Name)**

10/17/2022

**Date**

**CITY OF BATTLE CREEK  
PLANNING COMMISSION  
10 North Division, Battle Creek, MI 49014  
Minutes for Wednesday, November 16, 2022**

**MEETING CALLED TO ORDER:**

By Chairperson Godfrey at 4:02 p.m. This meeting was held in person.

**ATTENDANCE:** Chairperson Godfrey asked for a roll call attendance.

**Commission Members Present:**

**Comm. Newman**, present, in Battle Creek  
**Comm. Spranger**, present, in Battle Creek  
**Comm. Godfrey III** present, in Battle Creek

**Mayor Behnke**, present, in Battle Creek  
**Comm. Morris**, present, in Battle Creek  
**Comm. Hughes**, present, in Battle Creek

**Commissioners Absent:** **Comm. Gray, Vice Mayor Reynolds,**

**Staff Present:** Susan Cronander, Planning Administrator, Crystal Bax, Customer Service Representative, and Marcel Stoetzel, Deputy City Attorney.

**APPROVAL OF MINUTES:** Previous meeting minutes submitted for approval for October 26, 2022.

**MOTION MADE BY COMM. SPRANGER TO APPROVE THE AMMENDED MINUTES FOR OCTOBER 26, 2022 MEETING MINUTES AS PRESENTED BY STAFF. SECONDED BY COMM. NEWMAN.**

**ROLL VOTE:** Chairperson Godfrey asked everyone in favor to signify by saying “aye”:

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CORRESPONDENCE:** None.

**ADDITIONS/DELETIONS:** None.

**PUBLIC HEARINGS/DELIBERATIONS:**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6A (#Z-06-22) on the agenda.

- A. REZONING REQUEST #Z-06-22:** Petition from Westbrook Preservations LDHA LLC requesting the rezoning of property located at 183 West Street. Battle Creek, MI 49037. The property located at 183 West Street is currently zoned “MFR Multi-Family Residential District” and they are requesting to be rezoned as “T-4 Downtown Commercial District” pursuant to Section 1281.01 of the zoning code. PARCEL #: 7960-00-007-0

**Staff Presentation:** Susan Cronander, Planning Administrator, gave the staff report presentation. The applicant is requesting the rezoning of property located at 183 West Street in Battle Creek (Parcel #7960-00-007-0) from MFR High Density Multiple Family District to T-4 Downtown Commercial District ) pursuant to Sections 1240.14 and 1281.01 of the zoning code.

As a result of the 2018 Master Plan and 2020 Zoning Ordinance and Map, the subject parcel became zoned MFR High Density Residential. However, while most of the uses fit the place type identified in the 2018 Master Plan, the new MFR district’s dimensions do not allow buildings over 45 feet in height, or four stories. As such, at the

time of the Zoning Map update this property became a legal non-conformity, as the height of the building on the subject parcel is 60 plus feet tall and five to six stories which exceeds the 45 feet and four (4) story limit required under the new MFR zoning district. In addition, the old hospital building is barely, if at all, setback from the southern and eastern property lines which also increases the building's nonconformity and creates a situation where no additions can be built, nor could the building be restored if it suffered fairly extensive destruction.

The applicant is asking for a rezoning of the property to a T-4 Downtown Commercial District, as a rezoning would allow for any future alterations to be permitted, as well as extensive rebuilding/renovations, if necessary.

Given the above factors, as well as the subject parcel's close proximity to the downtown area and other T-4 zoned properties, it is staff's opinion that a rezone of the property from MFR High Density Residential to Neighborhood Commercial to T-4 Downtown Commercial may be appropriate to provide relief to the applicant from the size and setback restrictions so that the higher density residential use may be preserved.

**Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-06-22, a request for the rezoning of 183 West Street (Parcel # 7960-00-007-0) from MFR High Density Residential District to T-4 Downtown Commercial District pursuant to Sections 1240.14 and 1281.01 of the zoning code.**

#### **COMMISSIONER DISCUSSION:**

**Mayor Behnke** asked Susan Cronander, Planning Administrator to abbreviate the meeting.

**Applicant:** (via zoom) Josh Wilmoth President and CEO of Full Circle Communities, the non-profit owner and managing member for the subject property. We obtained the property as of last year, and in the process of our acquisition we learned that one of the challenges facing this property is the non-conformity that would preclude us from restoring the property as it was should it sustain damages from weather and things of that nature. This request is to insure that they are able to make repairs and remain an affordable housing community for seniors.

**Public Comments:** None.

**MOTION MADE BY COMM. MORRIS AND SECONDED BY COMM. NEWMAN TO APPROVE #Z-06-22 REZONING REQUEST FOR PROPERTY LOCATED AT 183 WEST STREET IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

.....  
**OLD BUSINESS:** None

#### **NEW BUSINESS: CAPITAL IMPROVEMENTS PROGRAM 2024-2029**

**Staff:** We wanted to get it to you ahead of time, for the joint planning commission meeting and city commission meeting, were looking at that to happen a little sooner than when it was held last year.

**COMMENTS FROM THE PUBLIC:** None

#### **COMMENTS FROM COMMISSION MEMBERS AND STAFF:**

**Mayor Behnke,** asked that the board consider a presentation time limit to be implemented in a future meeting.

**Marcel Stoetzlel**, asked the mayor if he has a time limit as far as minutes allowed for presentation in mind, and that he will work with staff to establish a time limit.

**Mayor Behnke**, did not have a suggestion on a time limit.

**ADJOURNMENT:**

**Chairman Godfrey** adjourned the meeting at 4:18 p.m.

Submitted by: Crystal Bax, CSR II, Planning and Zoning

L:\Planning Files\Planning Dept\1. Planning Commission\2.Minutes\Year 2022\PC 11.16.22 Meeting Minutes\_DRAFT.docx

DRAFT



Resolution

NO. 1

A Resolution seeking to adopt Ordinance 14-2022 to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the following sections of Ordinance 14-2022 are adopted:

Section 1. An ordinance to rezone parcels listed below from I-2 Heavy Industrial District to R-1A Single Family Residential District.

| Street Address        | Parcel ID#    |
|-----------------------|---------------|
| 4421 W Columbia Ave.  | 0069-00-220-0 |
| 140 Newtown Ave.      | 0069-00-230-0 |
| 4421 W Columbia Ave.  | 0069-00-235-0 |
| 160 Newtown Ave.      | 0069-00-210-0 |
| 4503 W Columbia Ave.  | 5720-10-230-0 |
| 178 Newtown Ave.      | 5720-10-231-0 |
| 184 Newtown Ave.      | 5720-10-232-0 |
| 4521 W Columbia Ave.  | 5720-10-227-0 |
| 174 Independence Ave. | 0619-40-967-0 |
| W Columbia Ave.       | 5720-10-226-0 |
| 4563 W Columbia Ave.  | 5720-10-224-0 |
| W Columbia Ave.       | 5720-10-223-0 |
| 242 Newtown Ave.      | 5720-10-238-0 |
| 250 Newtown Ave.      | 5720-10-239-0 |
| 256 Newtown Ave.      | 0619-41-353-0 |
| 266 Newtown Ave.      | 5720-10-241-0 |
| 280 Newtown Ave.      | 5720-10-242-0 |
| 326 Newtown Ave.      | 5720-10-248-0 |
| 332 Newtown Ave.      | 5720-10-249-0 |
| 338 Newtown Ave.      | 5720-10-250-0 |
| W Columbia Ave.       | 5720-10-201-0 |
| 446 Newtown Ave.      | 5720-10-201-1 |
| 458 Newtown Ave.      | 5740-10-451-0 |
| W Columbia Ave.       | 5740-10-460-0 |
| 464 Newtown Ave.      | 5740-10-452-0 |
| 472 Newtown Ave.      | 5740-10-453-0 |
| 480 Newtown Ave.      | 5740-10-454-0 |
| Newtown Ave.          | 5740-10-455-0 |
| 112 Robertson Ave.    | 5740-10-434-0 |
| 110 Robertson Ave.    | 5740-10-433-0 |
| 4701 W Columbia Ave.  | 5740-10-432-0 |

4733 W Columbia Ave. 5740-10-431-0  
4739 W Columbia Ave. 5749-10-430-0  
W Columbia Ave. 5740-10-425-0  
415 Robertson Ave. 5740-10-424-0  
409 Robertson Ave. 5740-10-423-0  
361 Robertson Ave. 5740-10-421-0  
355 Robertson Ave. 5740-10-420-0  
349 Robertson Ave. 5740-10-419-0  
343 Robertson Ave. 5740-10-417-0  
325 Robertson Ave. 5740-10-415-0  
311 Robertson Ave. 5740-10-413-0  
245 Robertson Ave. 5740-10-411-0  
Robertson Ave. 5740-10-410-0  
227 Robertson Ave. 5740-10-409-0  
223 Robertson Ave. 5740-10-407-0  
215 Robertson Ave. 5740-10-406-0  
206 Robertson Ave. 5740-10-435-0  
226 Robertson Ave. 5740-10-437-0  
316 Robertson Ave. 5740-10-439-0  
324 Robertson Ave. 5740-10-440-0  
330 Robertson Ave. 5740-10-441-0  
338 Robertson Ave. 5740-10-442-0  
346 Robertson Ave. 5740-10-443-0  
549 Robertson Ave. 5740-10-444-0  
414 Robertson Ave. 5740-10-445-0  
471 Newtown Ave. 5740-10-403-0  
457 Newtown Ave. 5740-10-401-0  
361 Newtown Ave. 0619-45-193-0  
355 Newtown Ave. 5720-10-256-0  
347 Newtown Ave. 0619-45-339-0  
319 Newtown Ave. 5720-10-260-0  
313 Newtown Ave. 5720-10-262-0  
285 Newtown Ave. 5720-10-263-0  
279 Newtown Ave. 0619-41-971-0  
265 Newtown Ave. 5720-10-267-0  
259 Newtown Ave. 5720-10-268-0  
251 Newtown Ave. 5720-10-269-0  
241 Newtown Ave. 5720-10-271-0  
221 Newtown Ave. 5720-10-273-0  
205 Newtown Ave. 5720-10-275-0  
185 Newtown Ave. 5720-10-277-0  
177 Newtown Ave. 5720-10-278-0  
169 Newtown Ave. 5720-10-279-0  
161 Newtown Ave. 5720-10-280-0  
159 Newtown Ave. 5720-10-281-0  
4353 Songbird Ln. 0069-00-250-0  
4347 Songbird Ln. 0069-00-260-0  
4341 Songbird Ln. 0069-00-270-0  
4335 Songbird Ln. 0069-00-280-0

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinance in conflict with any of the provisions of this Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. Except as otherwise provided by law, this Ordinance shall take effect seven (7) days from the date of its publication, in accordance with the provisions of Section 401 of the Michigan Zoning Enabling Act.

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Battle Creek City Commission

12/6/2022

### **Action Summary**

**Staff Member:** Marcie Gillette, Community Services Director

**Department:** Planning

#### **SUMMARY**

A Resolution seeking to adopt Ordinance 14-2022 to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.

#### **BUDGETARY CONSIDERATIONS**

There would be no financial impact on the City of Battle Creek.

#### **HISTORY, BACKGROUND and DISCUSSION**

The subject parcels are currently zoned I-2 Heavy Industrial. The parcels are surrounded to the east and south by the I-2 Heavy Industrial District, with the G Green District immediately across Columbia Ave. W to the north.

When the City re-codified the Zoning Ordinance and Zoning Map in 2020, the subject parcels were zoned I-2 Heavy Industrial, in accordance with the adopted Land Use Plan. The purpose of the I-2 Heavy Industrial District is as follows:

##### **Section 1240.17 PURPOSE**

The I-2 Heavy Industrial District is intended to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road an/or railroad and public and utility services.

With the exception of a handful of commercial and larger properties (not included in this proposed rezone), this area is a firmly established single-family neighborhood with dwelling units primarily along Newtown Ave. and Robertson Ave., but also along Songbird Ln., Independence Ave. and W Columbia Ave. as well.

While there is some variation in the size of the parcels in this area occupied by single-family uses, the properties generally meet the area requirements of the R-1A Single-Family Residential District, which is intended to support single-family residential properties of a semi-suburban to suburban, low-density character, usually serviced by City water and sewer. Critical to this proposed rezoning is the historical zoning of the properties included within this request.

Properties to the southeast of Newtown Ave. along Newtown Ave. and Robertson Ave. were zoned R-1B under the previous Zoning Ordinance (effective until November 2020). Properties to the northwest of Newtown Ave. along Newtown Ave., W Columbia Ave., Robertson Ave. and Songbird Ln. were zoned either C-2 General Business District or C-3 Intensive Business District.

While neither the C-2 nor the C-3 districts allowed for single-family uses, numerous single-family uses (part of the subject of this request) existed as they do today. The properties included within this request are either currently being used for single-family residential purposes, or are vacant but of such a size and condition which would make them conducive to single-family uses in the future, but likely not industrial uses (as they are currently zoned). A rezoning of these properties currently used for single-family residential purposes would be relieved of their legal-nonconforming status, allowing for assurances of the ability to rebuild in the event of catastrophic loss and thus likely reopening these properties to financing from lending institutions. Properties which are currently vacant but of such a size and condition as to be conducive to single-family uses (but likely not industrial uses) would be allowed to establish single-family uses, thus returning value and the potential for practical use to properties that, at this point, would not be permitted to establish a new single-family use.

This request was prompted by the discovery of property owners in the area and the local real estate community that homeowners were having difficulty completing sales of their properties as lending institutions by and large are not providing financing to purchase properties committed to legally-nonconforming uses.

It is important to note that within the I-2 Heavy Industrial District, single-family detached dwelling units are not a permitted use. They do, however, fall under a separate category (Section 1240.17.D) as “Existing Uses.” In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

The Planning Commission held a Public Hearing on October 26, 2022. The Planning Commission reviewed the list of conditions for consideration when requesting an amendment to the Zoning Map. Section 1281.01D. Zoning Ordinance and Map Amendments- Standards of Review for Amendments, lists twelve (12) criteria that shall be considered in making findings, recommendations and a decision. The Planning Commission finds that the proposed rezoning meets all twelve (12) criteria and recommends to the City Commission approval of the rezoning request with the following findings:

- The Land Use Plan map in the adopted 2018 Master Plan identifies the subject properties as “Production and Employment Center,” which corresponds with the current I-2 Heavy Industrial District zoning classification. However, in accordance with the provisions of Section 1281.01(D.1), staff finds that conditions within the subject area warrant a change in zoning classification to more accurately reflect current (and likely future) uses within the subject area. While conditions in the area have not changed since the adoption of the 2108 Master Plan per se, the proposed rezoning would help to remedy what may have been an oversight in the drafting of the 2018 Land Use Plan, and



subsequently the 2020 rewrite of the Zoning Ordinance and Zoning Map. Staff intends at a later date to pursue a Master Plan amendment which would align the adopted Land Use Plan with the proposed rezoning that is the subject of this report.

- The subject area along Newtown Ave., Robertson Ave., Columbia Ave. W, Independence Ave. and Songbird Ln. is primarily an established single-family neighborhood, with the majority of homes having been constructed during the 1940's. No changes in use are anticipated as a result of the proposed rezoning. Staff anticipates that the existing infrastructure in the area is sufficient to support the proposed rezoning and the continuation of the current land uses within the subject area.
- The proposed rezoning would not negatively impact those properties within the subject area which would maintain their current I-2 Heavy Industrial classification. While a handful of properties within the subject area would remain zoned I-2 Heavy Industrial, this is not viewed as significant isolation within the single-family neighborhood as multiple I-2 properties would still exist. Additionally, the surrounding area to the south and east of the subject area remains zoned I-2. The proposed rezoning simply seeks to align the zoning map with current (and likely future) uses of the properties within the subject area in order to relieve homeowners of their legal-nonconforming status.

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#### ATTACHMENTS:

| File Name                                      | Description                       |
|------------------------------------------------|-----------------------------------|
| 1._Robertson-Newtown_Rezoning_Staff_Report.pdf | Rezoning 202-2022 Staff Report    |
| PC_10.26.22_Meeting_Minutes_DRAFT.pdf          | PC 10.26.22 Meeting Minutes DRAFT |



## Battle Creek City Planning Commission

### Staff report for the October 26, 2022 regular meeting

**To:** Planning Commissioners

**From:** Travis Sullivan, Planner

**Subject:** Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as "I-2 Heavy Industrial District." Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting the area to be rezoned as "R-1A Single-Family Residential District" pursuant to Sections 1240.06 and 1281.01 of the zoning code.

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#### **Summary**

Petition from the City of Battle Creek requesting a rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. The existing uses of the parcels included within this request are inconsistent with the current "I-2 Heavy Industrial District" zoning, as the parcels are generally sized and used for single-family residential purposes. As such, the City of Battle Creek seeks to rezone these parcels from I-2 Heavy Industrial to R-1A Single-Family Residential, consistent with the current and likely future uses of these parcels.

#### **Background/Property Information**

The subject area of the proposed rezone includes a total of 80 properties. Properties included in the proposed rezone consist of the following:

| Street Address        | Parcel ID#    |
|-----------------------|---------------|
| 4421 W Columbia Ave.  | 0069-00-220-0 |
| 140 Newtown Ave.      | 0069-00-230-0 |
| 4421 W Columbia Ave.  | 0069-00-235-0 |
| 160 Newtown Ave.      | 0069-00-210-0 |
| 4503 W Columbia Ave.  | 5720-10-230-0 |
| 178 Newtown Ave.      | 5720-10-231-0 |
| 184 Newtown Ave.      | 5720-10-232-0 |
| 4521 W Columbia Ave.  | 5720-10-227-0 |
| 174 Independence Ave. | 0619-40-967-0 |
| W Columbia Ave.       | 5720-10-226-0 |
| 4563 W Columbia Ave.  | 5720-10-224-0 |
| W Columbia Ave.       | 5720-10-223-0 |
| 242 Newtown Ave.      | 5720-10-238-0 |
| 250 Newtown Ave.      | 5720-10-239-0 |
| 256 Newtown Ave.      | 0619-41-353-0 |

|                      |               |
|----------------------|---------------|
| 266 Newtown Ave.     | 5720-10-241-0 |
| 280 Newtown Ave.     | 5720-10-242-0 |
| 326 Newtown Ave.     | 5720-10-248-0 |
| 332 Newtown Ave.     | 5720-10-249-0 |
| 338 Newtown Ave.     | 5720-10-250-0 |
| W Columbia Ave.      | 5720-10-201-0 |
| 446 Newtown Ave.     | 5720-10-201-1 |
| 458 Newtown Ave.     | 5740-10-451-0 |
| W Columbia Ave.      | 5740-10-460-0 |
| 464 Newtown Ave.     | 5740-10-452-0 |
| 472 Newtown Ave.     | 5740-10-453-0 |
| 480 Newtown Ave.     | 5740-10-454-0 |
| Newtown Ave.         | 5740-10-455-0 |
| 112 Robertson Ave.   | 5740-10-434-0 |
| 110 Robertson Ave.   | 5740-10-433-0 |
| 4701 W Columbia Ave. | 5740-10-432-0 |
| 4733 W Columbia Ave. | 5740-10-431-0 |
| 4739 W Columbia Ave. | 5749-10-430-0 |
| W Columbia Ave.      | 5740-10-425-0 |
| 415 Robertson Ave.   | 5740-10-424-0 |
| 409 Robertson Ave.   | 5740-10-423-0 |
| 361 Robertson Ave.   | 5740-10-421-0 |
| 355 Robertson Ave.   | 5740-10-420-0 |
| 349 Robertson Ave.   | 5740-10-419-0 |
| 343 Robertson Ave.   | 5740-10-417-0 |
| 325 Robertson Ave.   | 5740-10-415-0 |
| 311 Robertson Ave.   | 5740-10-413-0 |
| 245 Robertson Ave.   | 5740-10-411-0 |
| Robertson Ave.       | 5740-10-410-0 |
| 227 Robertson Ave.   | 5740-10-409-0 |
| 223 Robertson Ave.   | 5740-10-407-0 |
| 215 Robertson Ave.   | 5740-10-406-0 |
| 206 Robertson Ave.   | 5740-10-435-0 |
| 226 Robertson Ave.   | 5740-10-437-0 |
| 316 Robertson Ave.   | 5740-10-439-0 |
| 324 Robertson Ave.   | 5740-10-440-0 |
| 330 Robertson Ave.   | 5740-10-441-0 |
| 338 Robertson Ave.   | 5740-10-442-0 |
| 346 Robertson Ave.   | 5740-10-443-0 |
| 549 Robertson Ave.   | 5740-10-444-0 |
| 414 Robertson Ave.   | 5740-10-445-0 |
| 471 Newtown Ave.     | 5740-10-403-0 |
| 457 Newtown Ave.     | 5740-10-401-0 |

|                   |               |
|-------------------|---------------|
| 361 Newtown Ave.  | 0619-45-193-0 |
| 355 Newtown Ave.  | 5720-10-256-0 |
| 347 Newtown Ave.  | 0619-45-339-0 |
| 319 Newtown Ave.  | 5720-10-260-0 |
| 313 Newtown Ave.  | 5720-10-262-0 |
| 285 Newtown Ave.  | 5720-10-263-0 |
| 279 Newtown Ave.  | 0619-41-971-0 |
| 265 Newtown Ave.  | 5720-10-267-0 |
| 259 Newtown Ave.  | 5720-10-268-0 |
| 251 Newtown Ave.  | 5720-10-269-0 |
| 241 Newtown Ave.  | 5720-10-271-0 |
| 221 Newtown Ave.  | 5720-10-273-0 |
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| 4341 Songbird Ln. | 0069-00-270-0 |
| 4335 Songbird Ln. | 0069-00-280-0 |

With the exception of a handful of commercial and larger properties (not included in this list), this area is a firmly established single-family neighborhood with dwelling units primarily along Newtown Ave. and Robertson Ave., but also along Songbird Ln., Independence Ave. and W Columbia Ave. as well.

While there is some variation in the size of the parcels in this area occupied by single-family uses, the properties generally meet the area requirements of the R-1A Single-Family Residential District, which is intended to support single-family residential properties of a semi-suburban to suburban, low-density character, usually serviced by City water and sewer.

Critical to this proposed rezoning is the historical zoning of the properties included within this request. Properties to the southeast of Newtown Ave. along Newtown Ave. and Robertson Ave. were zoned R-1B under the previous Zoning Ordinance (effective until November 2020). Properties to the northwest of Newtown Ave. along Newtown Ave., W Columbia Ave., Robertson Ave. and Songbird Ln. were zoned either C-2 General Business District or C-3 Intensive Business District. While neither the C-2 nor the C-3 districts allowed for single-family uses, numerous single-family uses (part of the subject of this request) existed as they do today. As such, those properties have also been included for Commission consideration with regard to this rezoning request.

The properties included within this request are either currently being used for single-family residential purposes, or are vacant but of such a size and condition which would make them conducive to single-family uses in the future, but likely not industrial uses (as they are currently zoned). Should the Planning Commission recommend the rezoning of these properties from I-2 Heavy Industrial to R-1A Single-Family, and should the City Commission approve such a rezoning, properties currently used for single-family residential purposes would be relieved of their legal-nonconforming status, allowing for assurances of the ability to rebuild in the event of catastrophic loss and thus likely reopening these

properties to financing from lending institutions. Properties which are currently vacant but of such a size and condition as to be conducive to single-family uses (but likely not industrial uses) would be allowed to establish single-family uses, thus returning value and the potential for practical use to properties that, at this point, would not be permitted to establish a new single-family use.

Commissioners will want to note that this request was prompted by the discovery of property owners in the area and the local real estate community that homeowners were having difficulty completing sales of their properties as lending institutions by and large are not providing financing to purchase properties committed to legally-nonconforming uses. It is important to note that within the I-2 Heavy Industrial District, single-family detached dwelling units are not a permitted use. They do, however, fall under a separate category (Section 1240.17.D) as “Existing Uses.”

The challenge associated with this categorization is that the Zoning Ordinance does not provide a description of the term “Existing Use,” nor does it set forth the standards by which an “Existing Use” may be reconstructed in the case of total or catastrophic loss. This ambiguity, along with the fact that single-family detached dwellings are absent from the list of permitted uses within the district renders these uses legally-nonconforming. In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

City staff has discussed the proposal before the Planning Commission with staff from Battle Creek Unlimited (BCU) and has confirmed that BCU does not intend to pursue the subject properties due to their limited size and practicality of use for industrial purposes. It is further the opinion of City staff that due to the size and volume of the subject parcels, it appears unlikely that enough parcels could be collected and combined in the future in such a way that would allow for heavy industrial use. Further, such collection of parcels and conversion of use could result in conflicts with the otherwise established single-family character of the area.

At present, both the Land Use Plan as adopted with the 2018 Master Plan as well as the current zoning of the area appears to be misaligned with the current character and use of the area. Further, in City staff’s view and in speaking with staff from BCU, there appears little to no feasible path toward the eventual conversion of this area from its historically residential use toward heavy industrial uses.

In accordance with the Land Use Plan, the Zoning Ordinance was updated in 2020 to more closely reflect the Plan’s vision. As a consequence of the misalignment between the Land Use Plan (and now the zoning map itself) and the current uses, parcels which have historically enjoyed and been used for residential purposes were rezoned as I-2 Heavy Industrial, where single-family uses are not permitted. This rezoning has essentially painted single-family property owners in the area into a corner, whereby real estate sales are proving problematic due to the reluctance of lending institutions to make loans for these legally-nonconforming residential properties. A shift back to a single-family residential zoning district would provide relief to property owners in this area by returning them to legally-conforming status. Additionally, while the properties to the north and west of Newtown Ave. were zoned commercial under the previous ordinance, a shift to single-family residential zoning would likewise eliminate the hardship created by their legal-nonconforming status, allowing once again for the uninhibited alteration and addition to single-family residential uses, as well as allowing for the establishment of new single-family residential uses upon parcels which are currently vacant (but sized and positioned in such a way as to support a residential zoning classification over an industrial classification).

Figure 1 below displays the previous zoning of the subject area, effective until the adoption of the 2020 Zoning Ordinance and map rewrite. Figure 2 displays the current zoning of the area. Figure 3 highlights the set of parcels proposed to be rezoned from I-2 Heavy Industrial to R-1A Single-Family Residential.

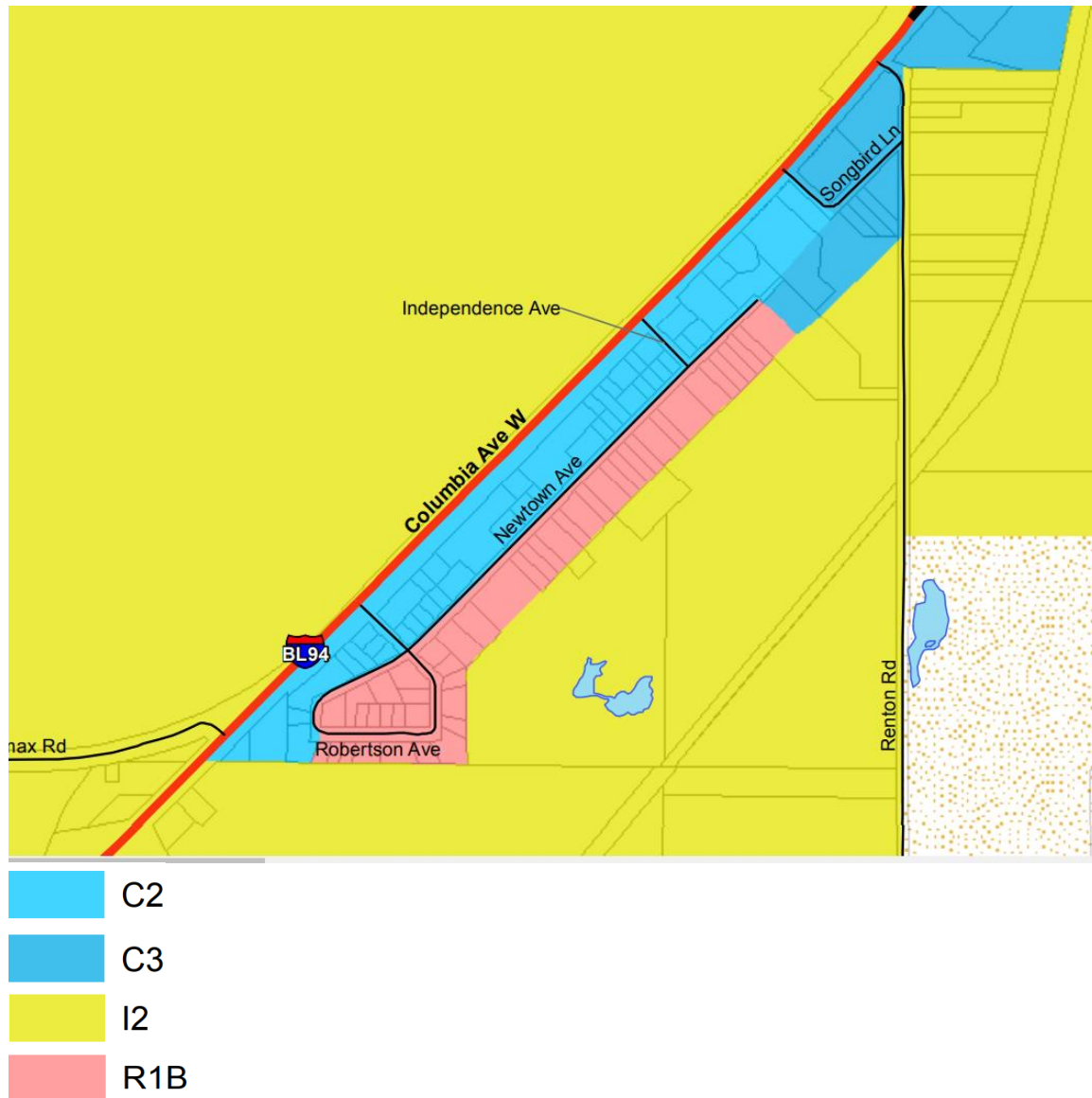


Figure 1: Previous zoning map effective until November 2020.

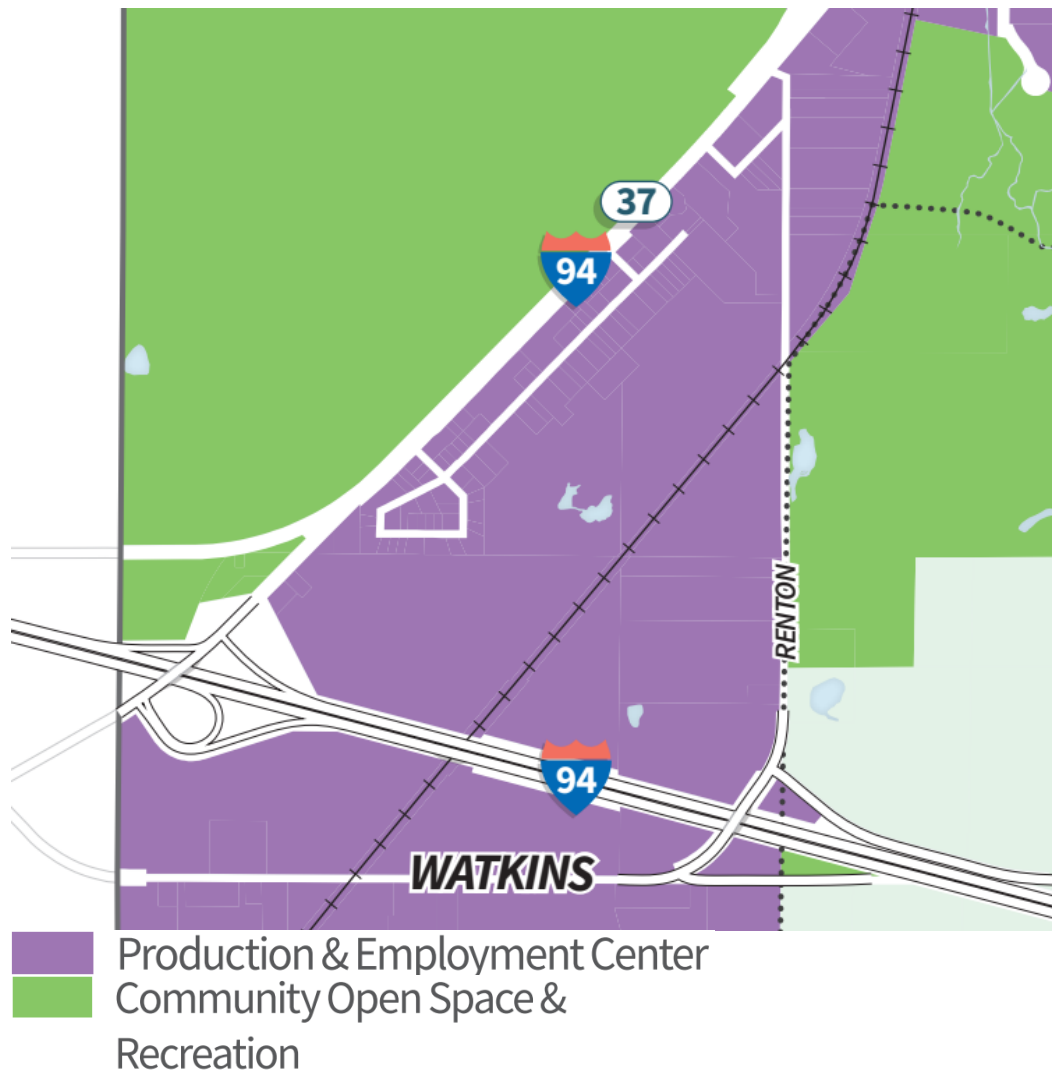


Figure 2: Adopted Land Use Plan Map (2018 Master Plan)

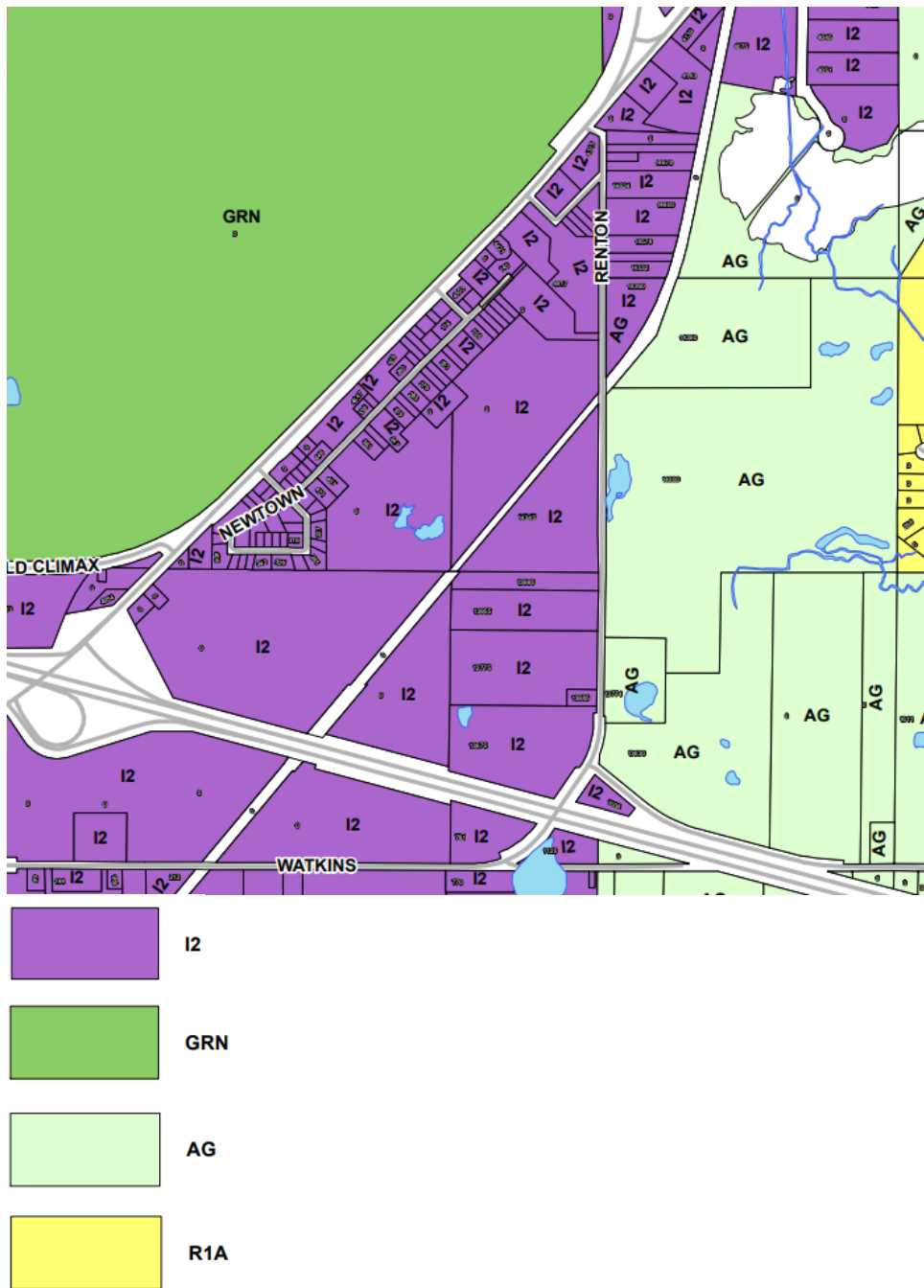


Figure 3: Current zoning map



Blue Outline – Area proposed for rezoning from I-2 Heavy Industrial to R-1A Single-Family Residential  
Red Fill – Parcels NOT included in the proposed rezoning (to remain I-2 Heavy Industrial)

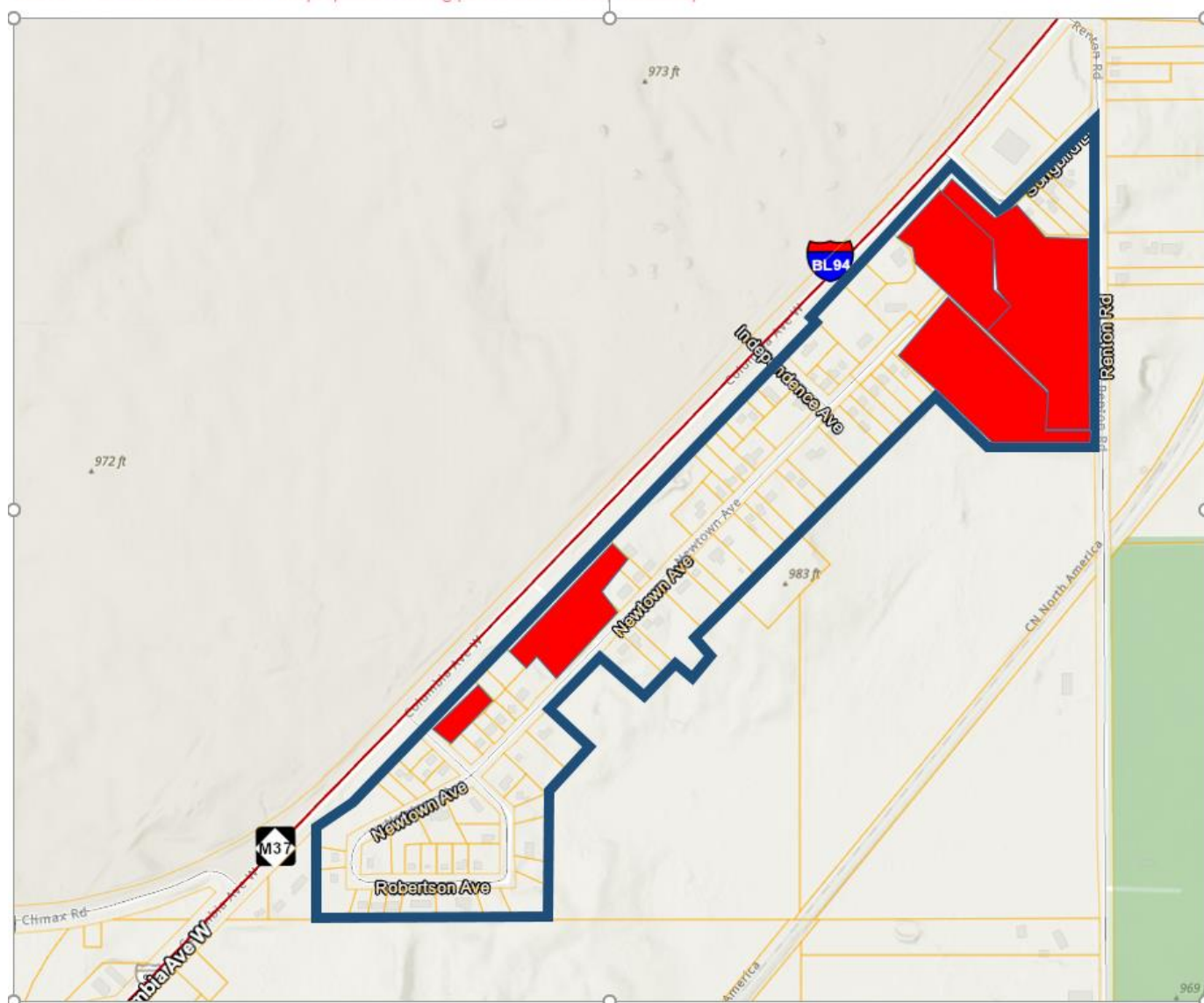


Figure 4: Parcels proposed to be rezoned from I-2 Heavy Industrial to R-1A Single-Family Residential

### **Applicable Zoning Ordinance Provisions**

The subject parcels are currently zoned I-2 Heavy Industrial. The parcels are surrounded to the east and south by the I-2 Heavy Industrial District, with the G Green District immediately across Columbia Ave. W to the north.

When the City re-codified the Zoning Ordinance and Zoning Map in 2020, the subject parcels were zoned I-2 Heavy Industrial, in accordance with the adopted Land Use Plan. The purpose of the I-2 Heavy Industrial District is as follows:

#### **Section 1240.17 PURPOSE**

*The I-2 Heavy Industrial District is intended to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road an/or railroad and public and utility services.*

The following is the list of Permitted Uses, Special Land Uses, and Existing Uses in the I-2 Heavy Industrial District:

**SECTION 1240.17 I-2 HEAVY INDUSTRIAL DISTRICT.**

| <b>A. PURPOSE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The I-2 Heavy Industrial District is intended to provide suitable locations for manufacturing, assembling and fabricating uses, including large-scale or specialized industrial operations requiring good access by road and/or railroad and public and utility services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>B. PERMITTED USES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>C. SPECIAL LAND USES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>• Artisan/Maker Space</li> <li>• Automobile Repair (<a href="#">Section 1251.04</a>)</li> <li>• Automobile Service Station (<a href="#">Section 1251.05</a>)</li> <li>• Brewpub</li> <li>• Carry-Out Restaurant</li> <li>• Distillery, Winery - w/ or w/o food</li> <li>• Drive-In Restaurant</li> <li>• Drive-Thru Restaurant (<a href="#">Section 1251.13</a>)</li> <li>• Essential Services</li> <li>• Farm Implements and Heavy Machinery Sales</li> <li>• Financial Institutions</li> <li>• Full-Service Restaurant</li> <li>• Kennels (<a href="#">Section 1251.22</a>)</li> <li>• Limited Service Restaurant</li> <li>• Manufacturing</li> <li>• Marihuana: Adult-Use Marihuana Microbusiness (<a href="#">Section 1251.23</a>) (<a href="#">Section 1251.25</a>)</li> <li>• Marihuana: Adult-Use Marihuana Retailers (<a href="#">Section 1251.23</a>) (<a href="#">Section 1251.24</a>)</li> <li>• Marihuana: Medical and Adult Use Marihuana Grow Operation (<a href="#">Section 1251.23</a>) (<a href="#">Section 1251.27</a>)</li> <li>• Marihuana: Medical and Adult Use Marihuana Processing Facility (<a href="#">Section 1251.23</a>) (<a href="#">Section 1251.28</a>)</li> <li>• Marihuana: Medical Marihuana Provisioning Center (<a href="#">Section 1251.23</a>) (<a href="#">Section 1251.29</a>)</li> <li>• Marihuana: Medical and Adult Use Marihuana Safety Compliance Facility (<a href="#">Section 1251.23</a>) (<a href="#">Section 1251.30</a>)</li> <li>• Marihuana: Medical and Adult Use Marihuana Secure Transporter (<a href="#">Section 1251.23</a>) (<a href="#">Section 1251.31</a>)</li> <li>• Microbrewery (<a href="#">Section 1251.34</a>)</li> <li>• Outdoor Recreation/ Public (<a href="#">Section 1251.35</a>)</li> <li>• Religious Institutions (<a href="#">Section 1251.38</a>)</li> <li>• Research and Development</li> <li>• Transportation and Logistics</li> <li>• Utility-Scale Solar Energy Facility (<a href="#">Section 1251.48</a>)</li> <li>• Vehicle Repair, Major (<a href="#">Section 1251.50</a>)</li> <li>• Warehouse</li> <li>• Wholesale</li> </ul> | <ul style="list-style-type: none"> <li>• Adaptive Reuse (<a href="#">Section 1250.04 D</a>)</li> <li>• Adult Business (<a href="#">Section 1251.01</a>)</li> <li>• Automobile Car Wash Establishment (<a href="#">Section 1251.03</a>)</li> <li>• Bar, Tavern, or Saloon</li> <li>• Cemetery (<a href="#">Section 1251.10</a>)</li> <li>• Convalescent Home, Nursing Home, or Home for the Aged (<a href="#">Section 1251.12</a>)</li> <li>• Hospital &gt; 20,000 s.f. (<a href="#">Section 1251.18</a>)</li> <li>• Institutions of Higher Education</li> <li>• Junk or Salvage Yard (<a href="#">Section 1251.21</a>)</li> <li>• Nightclub</li> <li>• Parking as a Principal Use</li> <li>• Retail Sales &lt; 5,000 s.f.</li> <li>• Retail Sales 5,000 to 17,000 s.f.</li> <li>• Retail Sales &gt; 17,000 s.f.</li> <li>• Self-Storage Facilities (<a href="#">Section 1251.42</a>)</li> <li>• Utility-Scale Wind Energy Facility (<a href="#">Section 1251.49</a>)</li> </ul> |
| Refer to <a href="#">Section 1230.06</a> for definitions of uses and refer to <a href="#">Chapter 1251</a> for development standards for specific uses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| D. EXISTING USES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| <ul style="list-style-type: none"> <li>Single Family Dwelling Unit Detached</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                             |                 |
| E. ACCESSORY USES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                 |
| <ul style="list-style-type: none"> <li>Accessory Buildings (<a href="#">Section 1260.01</a>)</li> <li>Bar, Tavern, or Saloon</li> <li>Carry-Out Restaurant</li> <li>Nightclub</li> <li>Office &lt; 5,000 s.f.</li> <li>Office 5,000 to 17,000 s.f.</li> <li>Office &gt; 17,000 s.f.</li> <li>State Licensed Child Care Family Home, 1-6 Children (<a href="#">Section 1251.43</a>), with SLU approval</li> <li>State Licensed Child Care Group Home, 7-12 Children (<a href="#">Section 1251.44</a>), with SLU approval</li> </ul> |                 |
| F. DIMENSION REGULATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                 |
| <i>Lot Standards</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <i>I-2</i>      |
| <i>Minimum Lot Area (sq. ft.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 2,900           |
| <i>Minimum Lot Width (ft.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 60              |
| <i>Maximum Percent of Building Coverage</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | NL              |
| <i>Front Yard Setback (ft.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 25              |
| <i>Rear Yard Setback (ft.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 25 ( <i>H</i> ) |
| <i>Side Yard Setback (ft.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | ( <i>G</i> )    |
| <i>Maximum Building Height</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | NL              |
| Footnotes: Refer to <a href="#">Chapter 1241</a> wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to <a href="#">Chapter 1251</a> for dimensional regulations for specific uses.                                                                                                                                                                                                        |                 |

As was discussed, while single-family detached dwellings are permitted as an “Existing Use” within the district, the ordinance provides no definition for this category, nor includes any baselines or parameters for rebuilds in the case of a natural or man-made disaster or catastrophic loss. Determining when a use “ceases to exist” becomes of principal importance. However, again, the Zoning Ordinance is silent as to any sort of definition or standard relating to a use’s “cessation.” Therefore, uses included under the “Existing Uses” category by default must be treated as legal-nonconformities, and therefore are subject to the standards of Section 1270.02 (Damaged Buildings), which reads as follows:

**SECTION 1270.02 DAMAGED BUILDINGS.**

Except for as provided herein, no building that has been damaged by fire, explosion, act of God or the public enemy, shall be restored, except in conformity with this Zoning Code.

- A. Restoration can occur if the replacement or repair costs do not exceed the current year’s assessed value contained in the City of Battle Creek assessing records.
- B. In situations where a legal nonconforming residential building has not intentionally been damaged or destroyed to an extent exceeding the current year’s assessed value and the damaged residential building is within a 300 foot radius comprised of at least 50% of other nonconforming residential properties, the residential unit may be repaired, rebuilt or replaced within 12 months of such damage or destruction, provided that such repairs or rebuilding or replacement does not expand more than 25% of the original ground floor area of the residential use or building so long as the expansion meets all other zoning requirements and the following standards:
  - 1) The change will maintain the building in safe repair
  - 2) The change will protect public health, safety, and welfare
  - 3) The change will lead to increased compliance with the specified zoning district
  - 4) The change will produce an accessory dwelling unit or building that is incidental to the existing building.

Section 1270.02(B) allows for reconstruction of legal-nonconforming buildings which are damaged to an extent exceeding the current year's assessed value IF additional criteria are met. Therefore, while at a certain point in time a legal-nonconformity may be defined as "having the ability to rebuild," the conditions which provide for the ability to rebuild can change may not hold true into the future. In limiting the ability to rebuild to damages not exceeding the current year's assessed value without meeting additional criteria means that, potentially, a house completely destroyed by fire, weather event, etc. would likely not have the opportunity to be reconstructed.

Rezoning these residentially used parcels to the R-1A Single-Family Residential District would subject the properties to the following regulations:

**SECTION 1240.06 R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT.**

**A. PURPOSE**

The R-1A district is intended for areas of primarily single-family detached residential properties of a semi-suburban to suburban, low-density character, usually served by City water and sewer.

**B. PERMITTED USES**

- Community Garden ([Section 1251.11](#))
- Essential Services
- Outdoor Recreation/ Public ([Section 1251.35](#))
- Public K-12 Schools
- Single Family Dwelling Unit Detached

**C. SPECIAL LAND USES**

- Adaptive Reuse ([Section 1250.04 D](#))
- Bed and Breakfast ([Section 1251.08](#))
- Campground ([Section 1251.09](#))
- Cemetery ([Section 1251.10](#))
- Institutions of Higher Education
- Private K-12 Schools
- Personal-Scale Wind Energy Facility ([Section 1251.37](#))
- Religious Institutions ([Section 1251.38](#))

Refer to [Section 1230.06](#) for definitions of uses and refer to [Chapter 1251](#) for development standards for specific uses.

**D. ACCESSORY USES**

- Accessory Buildings ([Section 1260.01](#))
- Accessory Dwelling Unit, with SLU approval
- Home Occupation ([Section 1251.17](#))
- Personal-Scale Solar Energy Facility ([Section 1251.36](#))
- State Licensed Child Care Family Home, 1-6 Children ([Section 1251.43](#))
- State Licensed Child Care Group Home, 7-12 Children ([Section 1251.44](#)), with SLU approval
- State Licensed Residential Facility, Adult Foster Care Family Home, 1-6 persons ([Section 1251.45](#))
- State licensed Residential Facility, Adult Foster Care Small Group Home, 7-12 persons ([Section 1251.46](#)), with SLU approval
- State licensed Residential Facility, Adult Foster Care Large Group Home, 13-20 persons ([Section 1251.46](#)), with SLU approval

**E. DIMENSION REGULATIONS**

| <i>Lot Standards</i>                        | <i>R-1A</i>          |
|---------------------------------------------|----------------------|
| <i>Minimum Lot Area (sq. ft.)</i>           | 7,500                |
| <i>Minimum Lot Width (ft.)</i>              | 60                   |
| <i>Maximum Percent of Building Coverage</i> | 30                   |
| <i>Front Yard Setback (ft.)</i>             | 30                   |
| <i>Rear Yard Setback (ft.)</i>              | 35                   |
| <i>Side Yard Setback (ft.)</i>              | 8                    |
| <i>Maximum Building Height</i>              | 35 feet, 2.5 stories |

Footnotes: Refer to [Chapter 1241](#) wherever a footnote is referenced in parentheses after one of the dimension regulations. Additionally, some uses have specific standards that overrule these Dimensional Regulations. Refer to [Chapter 1251](#) for dimensional regulations for specific uses.



As detached single-family dwelling units are a permitted use by right, the homeowners in this area would no longer be considered “legal-nonconforming,” and thus would be able to freely rebuild (or build and establish a new single-family use upon a vacant lot). Under these conditions, lenders would likely be satisfied with conditions permitting the future reconstruction of all or a portion of a single-family detached use, thereby relieving homeowners of the burden that comes with potential buyers not being able to secure financing for the homes.

Section 1281.01 addresses Zoning Ordinance / Map Amendments. Specifically, Section 1281.01(D) provides the following standards for review of amendments to the Ordinance or to the Zoning Map:

**D. Standards of Review for Amendments.** In considering any petition for an amendment to the text of this Ordinance or to the Zoning Map, the Planning Commission and City Commission shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below.

- 1) Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.
- 2) Consistency with the basic intent and purpose of this Zoning Ordinance.
- 3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- 4) The capacity of the City’s utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.
- 5) That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.
- 6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.
- 7) If a rezoning is requested, compatibility of the site’s physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.
- 8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- 9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
- 10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City’s perspective than another zoning district.
- 11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.
- 12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

### **Master Plan**

The Planning Enabling Act of 2008 requires a master plan be prepared and adopted that will “guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical; that considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.”

The master plan focuses on desired land use patterns for typically a twenty year time frame, and the enabling legislation and case law require that zoning be based upon this master plan. The City of Battle Creek Master Plan was adopted in 2018, and includes a Land Use Plan map, which is intended to guide in decision making with regard to planning and future land use patterns in accordance with the goals and vision articulated in the Master Plan.

As was discussed (and is viewable in the previously addressed Figure 2), the properties proposed for rezoning were included in the “Production and Employment Center” category of the adopted 2018 Land Use Plan. While this may have made sense given the subject parcels’ location with relation to I-94, the airport, and along a major rail route, as well as the parcels’ relatively rural location outside of the Urban Growth Boundary.

While categorization as a “Production and Employment Center” may have made sense at the time strictly from a planning perspective, the reality on the ground starkly differs given the historically established single-family neighborhood which continues to thrive in this area. The reality is that the parcels in this area are relatively small when considered from an industrial perspective, and the prospects for a single owner acquiring enough properties for use as a legitimate industrial purpose seem remote. In the instance a single owner were able to acquire sufficient land area, the impact of an additional industrial use upon an established neighborhood of approximately 72 single-family detached dwelling units must also be taken into consideration. Finally, the impact of the current categorization as a “Production and Employment Center” has led to a zoning classification of I-2 Heavy Industrial, which has placed homeowners in the area in jeopardy with regard to legal-nonconforming status and its consequences on the ability to rebuild in the event of a disaster, as well as upon prospective buyers’ ability to secure financing.

### **Request for Rezoning**

The City of Battle Creek undertook a re-codification of the zoning ordinance and zoning map in 2020 in an effort to better align both with the stated goals and vision of the adopted 2018 Master Plan, as well as to correct a multitude of zoning issues throughout the City. Approximately half of the subject properties previously enjoyed a single-family residential zoning classification (generally those properties along and to the southeast of Newtown Ave. and along Robertson Ave.). While the subject properties to the northwest of Newtown Ave. along Newtown Ave., Columbia Ave. W, and portions of Songbird Ave. and Robertson Ave. were previously zoned either C-2 General Business District or C-3 Intensive Business District, staff finds it reasonable to consider the smaller properties and those with established single-family residential uses for rezoning to single-family residential as well.

Importantly, the following parcels (larger properties and those used for industrial or commercial purposes, as well as those under the control of the Battle Creek TIFA) are NOT included within this request, and are recommended to maintain their current I-2 Heavy Industrial District classification:

| <b>Street Address</b> | <b>Parcel ID#</b> |
|-----------------------|-------------------|
| 4417 W Columbia Ave.  | 0069-00-196-0     |
| 4407 W Columbia Ave.  | 0069-00-200-0     |

|                      |               |
|----------------------|---------------|
| Newtown Ave.         | 0069-00-240-0 |
| 4647 W Columbia Ave. | 0619-41-738-0 |
| W Columbia Ave.      | 5740-10-456-0 |

### **Public Hearing and Notice Requirements**

This request has been scheduled for the October 26, 2022 Planning Commission meeting, with notice of the hearing published in the October 6, 2022 edition of the Battle Creek Shopper. Appropriate notices we also mailed to all property owners within a 300-foot radius of the subject parcels no fewer than 15 days prior to the hearing. Both requirements pursuant to the Zoning Enabling Act of 2006, as amended, have been met.

### **Neighborhood Outreach**

Neighborhood Planning Councils (NPCs) are currently in the process of reorganizing and establishing membership and regular meeting dates. As the NPCs are not currently fully functional, and due to the urgency to assist homeowners in this area, staff has not received any comments from the neighborhood.

Commissioners will want to note that following the publication and mailing of notices, staff has answered a handful of questions from property owners within the area of the proposed rezone. At the time of the writing of this report, staff believes all outstanding concerns and questions have been addressed.

### **Analysis and Recommendation**

As this is a rezoning request, consideration should be given to the existing zoning district and the potential effect on the neighborhood, the proposed uses allowed by the new zoning as it relates to the surrounding zoning and land uses, existing infrastructure, and consistency with the Master Plan. Staff findings include the following:

- The Land Use Plan map in the adopted 2018 Master Plan identifies the subject properties as “Production and Employment Center,” which corresponds with the current I-2 Heavy Industrial District zoning classification. However, in accordance with the provisions of Section 1281.01(D.1), staff finds that conditions within the subject area warrant a change in zoning classification to more accurately reflect current (and likely future) uses within the subject area. While conditions in the area have not changed since the adoption of the 2108 Master Plan per se, the proposed rezoning would help to remedy what may have been an oversight in the drafting of the 2018 Land Use Plan, and subsequently the 2020 rewrite of the Zoning Ordinance and Zoning Map. Staff intends at a later date to pursue a Master Plan amendment which would align the adopted Land Use Plan with the proposed rezoning that is the subject of this report.
- The subject area along Newtown Ave., Robertson Ave., Columbia Ave. W, Independence Ave. and Songbird Ln. is primarily an established single-family neighborhood, with the majority of homes having been constructed during the 1940’s. No changes in use are anticipated as a result of the proposed rezoning. Staff anticipates that the existing infrastructure in the area is sufficient to support the proposed rezoning and the continuation of the current land uses within the subject area.
- Staff does not find that the proposed rezoning would negatively impact those properties within the subject area which would maintain their current I-2 Heavy Industrial classification. While a handful of properties within the subject area would remain zoned I-2 Heavy Industrial, staff does not view this as significant isolation within the single-family neighborhood as multiple I-2 properties would still exist. Additionally, the surrounding area to the south and east of the subject area remains zoned I-2. The proposed rezoning simply seeks to align the zoning map

with current (and likely future) uses of the properties within the subject area in order to relieve homeowners of their legal-nonconforming status.

**Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting those parcels specified in this report to be rezoned as “R-1A Single-Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.**

**Support Material**

Correspondence Regarding Proposed Rezoning  
Section 1281.01 (Zoning Ordinance / Map Amendments)  
Map of Proposed Rezoning Location



**CITY OF BATTLE CREEK  
PLANNING COMMISSION  
10 North Division, Battle Creek, MI 49014  
Minutes for Wednesday, October 26, 2022**

**MEETING CALLED TO ORDER:**

By Chairperson Godfrey at 4:01 p.m. This meeting was held in person.

**ATTENDANCE:** Chairperson Godfrey asked for a roll call attendance.

**Commission Members Present:**

**Comm. Newman**, present, in Battle Creek  
**Comm. Spranger**, present, in Battle Creek  
**Comm. Godfrey III** present, in Battle Creek  
**Comm. Gray**, present, in Battle Creek

**Mayor Behnke**, present, in Battle Creek  
**Comm. Morris**, present, in Battle Creek  
**Vice Mayor Reynolds**, present, in Battle Creek

**Commissioners Absent:** Comm. Laws

**Commissioners Excused:** Mayor Behnke (@ 5:28PM)

**Staff Present:** Travis Sullivan, Planner, Susan Cronander, Planning Administrator, Marcie Gillette, Community Services Director, Crystal Bax, Customer Service Representative, Marcel and Stoetzel, Deputy City Attorney.

**APPROVAL OF MINUTES:** Previous meeting minutes submitted for approval for September 28, 2022.

**MOTION MADE BY COMM. NEWMAN TO APPROVE THE SEPTEMBER 28, 2022 MEETING MINUTES AS PRESENTED. SECONDED BY VICE MAYOR REYNOLDS.**

**ROLL VOTE:** Chairperson Godfrey asked everyone in favor to signify by saying “aye”:

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CORRESPONDENCE:** 2 e-mail correspondence were provided to the board by staff.

**ADDITIONS/DELETIONS:** None.

**PUBLIC HEARINGS/DELIBERATIONS:**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6A (#S-14-22) on the agenda.

- A. SPECIAL USE PERMIT #S-14-22:** Petition from Kelly Gast, requesting a Special Use Permit for property located at 24 Golden Avenue. Battle Creek, MI 49015. The request is for an In-Home Group Child Care Home for up to 7-14 children. Property is zoned “R-1A Single Family Residential District” pursuant to Section 1240.06 of the zoning code. PARCEL # 4690-08-506-0

**Staff Presentation:** Susan Cronander, Planning Administrator, gave the staff report presentation. The applicant is seeking a special use permit to operate a group child care home based business out of the home at 24 Golden Avenue. The proposed capacity of the daycare related to this request is for up to 14 unrelated children, consistent with State law for these types of facilities. The plan is to provide childcare between 6:00am and 6:00pm each day,

Monday through Friday throughout the year with possible evening or weekend care, if allowed. There may be one or two employees in order to comply with State of Michigan requirements. Petition No.S-14-22 24 Golden Avenue, Parcel #4690-08-506-0

The State of Michigan Licensing and Regulatory Affairs (LARA) administers the licensing program that is required for all day care facilities. A Group Day Care Home is defined by the State as a private home in which care is provided to more than 7 but not more than 14 minor children for periods of less than 24 hours a day unattended by a parent or legal guardian. The State regulates the actual operation and other facets of the day care including staffing, meals, daily activities, paperwork, etc. The complete set of State regulations can be found on the LARA website: Child Care Licensing.

Staff finds the request consistent with the general special use standards listed in 1281.05.

**Therefore, as the request meets the general standards listed in Chapter 1281.05 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-14-22 that would allow a Group Day Care Home at 24 Golden Avenue, on Parcel #4690-08-506-0 with the following conditions:**

- 1. All necessary approvals and any required permits shall be obtained, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to Certificate of Occupancy.**
- 2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being a Group Day Care facility with a maximum capacity of fourteen (14) children. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.**
- 3. Pursuant to Chapter 1281.02, certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.**

**And one additional request by Planning Commission is that a fence needs to be put in place for safety measures.**

#### **COMMISSIONER DISCUSSION:**

**Chairperson Godfrey III** asked the planning administrator if they would have to come before the board for additional approval

**Susan C. Cronander**, Planning and Zoning Administrator stated that according to the city attorney they would not need to come before the board for additional approval.

**Deputy City Attorney Marcel Stoetzel** confirmed this to be the case. But the zoning code would need to amend by the board to allow for the same regulations in regards to the number of children as the state.

**Chairperson Godfrey III** asked if the petitioner or anyone on behalf of the petition #S-14-22 was present to speak.

**Applicant:** Kelly Gast, petitioner for Special Use Permit #S-14-22 (24 Golden Avenue) gave some of her background information about her current daycare and group home business at her current residence in the Upper Peninsula. She stated she is looking forward to being a part of the community and providing a great need to that particular area and gave statistical knowledge of the need for daycare in that area and surrounding areas in the City of Battle Creek. Kelly Gast offered her support of any questions the board may have.

**Public Comments:**

Janine Reichardt of 261 S Leland Dr, asked the board to consider putting together a Children at Play in the area.

Talia Champlin of 116 S Lincoln Blvd, realtor representing the seller, stated that the seller collected signatures of the surrounding properties stating that the neighbors were okay with the proposed use of the property, and gave information in regards to waiting lists for young children in the area.

John Shwark of 250 Martha Drive, stated that he felt the area was being slowly squeezed inward by businesses and commercial properties due to the uses allowed in their zoning district, and would rather see the area remain single family residential.

Kelly Gast, applicant addressed the safety concerns and explained how she can circumvent that issue with fencing and stroller systems for walks to the park.

**MOTION MADE BY COMM. NEWMAN AND SECONDED BY COMM. MORRIS TO APPROVE #S-14-22 SPECIAL USE PERMIT FOR AN IN-HOME GROUP CHILD CARE HOME FOR UP TO 7-14 CHILDREN PURSUANT TO SECTION 1240.06 OF THE ZONING CODE. PARCEL # 4690-08-506-0 WHERE IN-HOME GROUP CHILD CARE HOME CAN BE ALLOWED AS A SPECIAL USE IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF AND THE PLANNING COMMISSION.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6B (#Z-02-22) on the agenda.

- B. REZONING REQUEST #Z-02-22:** Petition from the City of Battle Creek to rezone properties located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to the inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting the area to be rezoned as “R-1A Single Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

**Staff Presentation:** Travis Sullivan, Planner, gave the staff report presentation. Petition from the City of Battle Creek requesting a rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. The existing uses of the parcels included within this request are inconsistent with the current “I-2 Heavy Industrial District” zoning, as the parcels are generally sized and used for single-family residential purposes. As such, the City of Battle Creek seeks to rezone these parcels from I-2 Heavy Industrial to R-1A Single-Family Residential, consistent with the current and likely future uses of these parcels.

The challenge associated with this categorization is that the Zoning Ordinance does not provide a description of the term “Existing Use,” nor does it set forth the standards by which an “Existing Use” may be reconstructed in the case of total or catastrophic loss. This ambiguity, along with the fact that single-family detached dwellings

are absent from the list of permitted uses within the district renders these uses legally-nonconforming. In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

City staff has discussed the proposal before the Planning Commission with staff from Battle Creek Unlimited (BCU) and has confirmed that BCU does not intend to pursue the subject properties due to their limited size and practicality of use for industrial purposes. It is further the opinion of City staff that due to the size and volume of the subject parcels, it appears unlikely that enough parcels could be collected and combined in the future in such a way that would allow for heavy industrial use. Further, such collection of parcels and conversion of use could result in conflicts with the otherwise established single-family character of the area.

**Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting those parcels specified in this report to be rezoned as “R-1A Single-Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.**

**Chairperson Godfrey III** asked if the petitioner or anyone on behalf of the petition #Z-02-22 was present to speak.

**Applicant:** The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

**Public Comments:**

Wayne Edmunds of 4521 W Columbia, asked of what properties were not included on the list of those to be rezoned, and whether property values will change for those that are being rezoned.

**Commissioner Comments:**

**JOHN HUGHES** asked to be recused from the passing of the motion due to potential conflict of interest.

**MOTION MADE BY MAYOR BEHNKE AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE REZONING REQUEST #Z-02-22 TO REZONE PROPERTIES LOCATED ALONG ROBERTSON AVE., NEWTOWN AVE., W COLUMBIA AVE., INDEPENDENCE AVE. AND SONGBIRD LN. TO “R-1A SINGLE FAMILY RESIDENTIAL DISTRICT” PURSUANT TO SECTIONS 1240.06 AND 1281.01 OF THE ZONING CODE.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6C (#Z-03-22) on the agenda.

- C. REZONING REQUEST #Z-03-22: Petition from Summit Pointe requesting the rezoning of property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting to be rezoned as “T-4 Downtown Commercial District” pursuant to Section 1281.01 of the zoning code. PARCEL #: 9730-00-052-0

**Staff Presentation:** Travis Sullivan, Planner, gave the staff report presentation. Petition from Summit Pointe requesting a rezoning of 175 College St. (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. The property is owned by the Calhoun County Mental Health Authority and is operated by Summit Pointe. The property features 528 feet of frontage along College St., and is 140.25 feet deep, for a total lot area of 74,052 sq. ft. The property consists of a single two-story building with a basement, totaling 38,057 sq. ft. The building on the site was constructed in 1994.

While the T-3 district does allow for medical and dental clinics, such clinics are restricted to less than 5,000 sq. ft. as a permitted use by right, and less than 20,000 sq. ft. as a special use. As such, at the time of the Zoning Map update this property became a legal non-conformity, as the square footage of the building within which the use is conducted (38,057 sq. ft.) exceeds the maximum square footage by right (5,000 sq. ft.) and by special use permit (20,000 sq. ft.). The owner of the property applied for a building permit during the month of September 2022 to add a 1,663 sq. ft. addition onto the north end of the building to accommodate a pharmacy for use by patients of the clinic. As the use on the property is nonconforming due to the square footage of the space it occupies, no expansion of or alteration to the building may be permitted.

The applicant has elected to seek a rezoning of the property to a more appropriate classification (T-4 Downtown Commercial District), as a rezoning would both allow for the current proposed project to receive permits as well as allow for any future alterations to be permitted without the potential need for further variances or other approvals in the future.

**Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-03-22, a request for the rezoning of 175 College St. (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District pursuant to Sections 1240.14 and 1281.01 of the zoning code.**

**Chairperson Godfrey III** asked if the petitioner or anyone on behalf of the petition #Z-03-22 was present to speak.

**Applicant:** Richard Lindsey, outside council for summit pointe, explained that the rezoning is effort to allow for a pharmacy expansion

**Public Comments:** None. Public Hearing closed.

**MOTION MADE BY MAYOR BEHNKE AND SECONDED BY COMM. NEWMAN TO APPROVE REZONING REQUEST #Z-03-22 TO REZONE 175 COLLEGE ST. TO “T-4 DOWNTOWN COMMERCIAL DISTRICT” PURSUANT TO SECTIONS 1240.14 AND SECTION 1281.05 OF THE ZONING CODE.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6D (#S-15-22) on the agenda.

**D. SPECIAL USE PERMIT #S-15-22:** Petition from Summit Pointe requesting a Special Use permit for property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting a Special Use Permit for an addition of a 1663sqft P a g e | 2 Agenda, cont. 10.26.22 PC M:\Planning Files\Planning Dept\1. Planning Commission\1.Agendas\Year 2022\PC Mtg. Agenda 10.26.22.docx 10 N. DIVISION ST. P.O. BOX 1717 BATTLE CREEK MICHIGAN 49016-1717 PHONE (269) 966-3320 FAX (269) 966-3555 WWW.BATTLECREEKMI.GOV pharmacy for the existing community mental health use that will



operate as an accessory to the main outpatient mental health practice (summit Pointe). Pursuant to Section 1260.01. PARCEL#: 9730-00-052-0

**Staff Presentation:** Travis Sullivan, Planner, gave the staff report presentation. A petition from Jeannie Goodrich of Summit Pointe, 175 College St. requesting a Special Use Permit to allow for the alteration of the building located at 175 College St., which houses a medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

The applicant has filed a special use permit application to construct an addition to the northernmost portion of the building of 1,663 sq. ft. in order to house a pharmacy intended to serve the facility's patients. A detailed site plan for the proposed project has been included in the meeting packet as an attachment to this staff report. Figure 1. Subject site shown in red outline is located at 175 College St. Site is located 220 feet (approx.) south of the intersection of College St. and Emmett St. W. Aerial photograph provided by City staff, taken spring 2020 (approx.). Petition No. S15-2022 Parcels: 9730-00-052-0 175 College Street Page 4 of 9

Summit Pointe currently employs approximately 100 individuals. Should the proposed special use permit application be approved, Summit Pointe would add an additional 6-8 employees to staff the new pharmacy. The pharmacy is proposing hours of operation between 8:30 a.m. and 6:00 p.m. in support of the 24-hour urgent care and outpatient mental health practice.

**Applicant:** Richard Lindsey, wanted to point out that to location of the site would be very beneficial to the patients to allow to be seen and pick their prescriptions up in the same place as well as for the use of the public and it will allow for all employees to be housed in the same building rather than a separate building.

**Public Comments:** None. Public Hearing Closed.

**MOTION MADE BY COMM. NEWMAN AND SECONDED BY MAYOR BEHNKE TO APPROVE #S-15-22 SPECIAL USE PERMIT FOR THE CONTINUANCE AND ALTERATION TO THE EXISTING MEDICAL PRACTICE IN EXCESS OF 20,000 SQ. FT. PURSUANT TO SECTION 1240.14 AND SECTION 1281.05 OF THE ZONING CODE. PARCEL #9730-00-052-0 IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6E (#Z-04-22) on the agenda.

- E. REZONING REQUEST #Z-04-22:** Petition from the City of Battle Creek requesting the rezoning of properties located along S Kendall St. and Lafayette St. The properties are currently zoned "R-3 Multiple Family Residential District" with the petitioner requesting to be rezoned as "S Spark District" pursuant to Sections 1281.01 and 1240.18 of the zoning code. Parcels proposed to be rezoned are as follows: 2400-00-002-0, 2400-00-001-0 and 0601-32-144-0.

**Staff Presentation:** Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the owners of the above three parcels requesting a rezoning from R-3 Multiple Family Residential to S Spark District. The three subject parcels currently have functioning nonresidential businesses located on the parcels, and wish to revert back to a zoning district that include uses similar to their existing retail and storage uses. In 2019 (see Figure 6) these parcels were zoned I1 Light Industrial. Battle Creek's adopted 2018 Master Plan identifies this area including the subject parcels as one of the City's "Development Opportunity Centers" overlain on the Multi-Unit Residential category (see Figure 7.)

Because the parcels are within a “Development Opportunity Center” and the underlying category is a residential category, staff believes that the S Spark District is the best fit, since two other Multi-Unit Residential sections in the City that are also “Development Opportunity Centers” have been zoned to S Spark District without amending the 2018 Master Plan.

**Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-04-22, request for rezoning of the three (3) parcels that are the subject of this petition and are identified in Table 1: “List Of The Three (3) Subject Parcels, Addresses And Uses”.**

**Applicant:** The City of Battle Creek City staff had no additional comments.

**Public Comments:** Brian Smith owner of US Lumber at 100 S Kendall Rd, is a subject of the rezoning stated that his facility also is a state licensed firearms dealer and has plans for light assembly of weapons. Along with that they also manufacture trusses, door frames, and wall panels and in the future would like to manufacture steel roofing and was concerned that the rezoning of this area would affect his ability to allow for light assembly and manufacturing with the proposed district rezoning.

John Hart, small business development, stated that there are others included in this rezoning request and he was there to speak on their behalf, and they their wishes are similar to US Lumber.

**MOTION MADE BY COMM. MORRIS AND SECONDED BY COMM. SPRANGER TO POSTPONE #Z-04-22 REQUEST FOR REZONING OF THE THREE (3) PARCELS 0601-32-144-0, 2400-00-002-0, 2400-00-001-0 for 90 days.**

**Commissioner Comments:** Comm. Newman asked that if they were able to come forward sooner, if that would be allowed.

**Comm. Morris and Chairperson Godfrey III** agreed with Comm. Newman.

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6F (#Z-05-22) on the agenda.

- F. REZONING REQUEST #Z-05-22:** Petition from the City of Battle Creek to rezone properties located along Dickman Road currently zoned as “T-3 Neighborhood Commercial District.” Due to inconsistency with the Land Use Plan, the City is requesting a rezoning of the area to “T-4 Downtown Commercial District” pursuant to Sections 1240.13, 1240.14 and 1281.01 of the zoning code.

**Staff Presentation:** Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the City of Battle Creek requesting a rezoning of sixteen (16) commercial parcels located along Dickman Road from McCamly to Riverside Dr. at Goguac and Dickman Road.

The City of Battle Creek undertook a re-codification of the zoning ordinance and zoning map in 2020 in an effort to better align both with the stated goals and vision of the adopted 2018 Master Plan, as well as to correct a multitude of zoning issues throughout the City.

Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial. When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the

2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels

The purpose of the T-3 Neighborhood Commercial District is to “establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve. The purpose of the T-4 Downtown Commercial is to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

When the City re-codified the zoning ordinance and zoning map in 2020, the sixteen (16) parcels that are the subject of this rezoning petition were zoned to T-3 Neighborhood Commercial. The 2018 Master Plan Land Use map however, shows the sixteen (16) parcels as Corridor Commercial. The Corridor Commercial to the north of the subject parcels is zoned a more intense B-1 Corridor Commercial. Staff does not know if the rezoning to T-3 of the sixteen (16) parcels was an oversight; but, after investigating the vacant sites, their location along the Dickman Road major arterial corridor, and researching the 2018 Master Plan and 2018 Downtown Plan, staff believes that these sixteen (16) parcels should have been assigned a more intense zoning district.

**Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-05-22, request for rezoning of the sixteen (16) parcels identified in Table 1: “List Of The Sixteen (16) Subject Parcels, Addresses And Uses”.**

**Chairperson Godfrey III** asked if the petitioner or anyone on behalf of the petition #Z-05-22 was present to speak.

**Applicant:** The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

**Public Comments:**

Marvin Day 16 Enwood St. stated he frequently bikes through downtown as that is his main form of transportation, and he mentioned how some of the areas through the proposed rezoning location have narrow bike lanes and narrow shoulders that have made it very difficult to navigate through, and that he appreciates the city’s effort to address this area as it is dangerous and he looks forward to potential redevelopments that have been proposed through this particular strip of Dickman Road.

**MOTION MADE BY COMM. GRAY AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE #Z-05-22 REQUEST FOR REZONING FROM T-3 NEIGHBORHOOD COMMERCIAL TO T-4 DOWNTOWN COMMERCIAL OF SIXTEEN (16) PARCELS LOCATED ALONG DICKMAN ROAD FROM MCCAMLY ST. S. TO 80 RIVERSIDE DR. / DICKMAN ROAD AT GOGUAC ST. E. AS PRESENTED BY STAFF.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

.....  
**OLD BUSINESS:** None

**NEW BUSINESS:**

## **2021 Planning and Zoning Annual Report**

**Marcie Gillette**, Community Services Director, gave the report to summarize 2021.

In 2021 for planning commission there were a total of 11 items that came before the board. In previous years the numbers were lower and it seems that in 2021 there was a swinging back to a pre-covid era in numbers. In spring of 2021 there were a group of map amendments and texts amendments made to the zoning ordinance due to an oversight.

With regard to Zoning Board of Appeals there were a total of 12 items that came before the body 5 of which were approved and 6 denials and there was a noticeable trend upward to the pre-covid era again with that as well.

For Historic District Commission there were a couple of items that came before the body and there were also 5 items that were reviewed by staff and were administratively approved for minor classes of work.

In 2021 we still continued our work with the redevelopment ready and being a certified community in 2021 there were 23 project site plan reviews.

There were a total of 221 zoning enforcements in 2021 which is down a little bit from the pre-covid period of time 200 of those were rental registrations, 1 non-conforming investigation, and 20 illegal use investigations, and 100 miscellaneous enforcements such as parking, recreational vehicles, fencing etc.

There were 1,501 permits that were reviewed by the planning division as part of the application and approval process, 908 of those were residential, 244 commercial, 237 fences, 72 sign, and 40 property demolition.

**COMM. NEWMAN MADE A MOTION TO RECEIVE THIS REPORT AS PRESENTED, COMM. GRAY SECONDED.**

**ALL IN FAVOR, NONE APPOSED.**

**COMMENTS FROM THE PUBLIC:** None

**COMMENTS FROM COMMISSION MEMBERS AND STAFF:** None

### **ADJOURNMENT:**

**Chairman Godfrey** adjourned the meeting at 5:55 p.m.

Submitted by: Crystal Bax, CSR II, Planning and Zoning



## Resolution

NO. 2

A Resolution adopting Ordinance 15-2022 to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

### **Resolved by the Commission of the City of Battle Creek:**

That the following sections of Ordinance 15-2022 are adopted:

Section 1. An ordinance to rezone sixteen (16) parcels listed below from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

Parcel: 8630-11-005-0 Address: 200 SW Capital Ave  
Parcel: 8630-11-001-0 Address: 170 SW Capital Ave  
Parcel: 8630-10-001-0 Address: N/A  
Parcel: 8630-10-002-0 Address: 185 SW Capital Ave  
Parcel: 8630-10-003-0 Address: 199 SW Capital Ave  
Parcel: 8630-10-004-0 Address: N/A  
Parcel: 9250-00-003-0 Address: N/A  
Parcel: 9250-00-001-0 Address: 235 SW Capital Ave  
Parcel: 9250-00-002-0 Address: N/A  
Parcel: 9250-00-020-0 Address: 45 Cleveland St  
Parcel: 9250-00-018-0 Address: N/A  
Parcel: 9250-00-019-0 Address: N/A  
Parcel: 9250-00-017-0 Address: N/A  
Parcel: 1530-00-150-0 Address: 80 Riverside Dr.  
Parcel: 1530-00-156-0 Address: N/A  
Parcel: 1530-00-155-0 Address: N/A

Section 2. Should any section, clause or phrase of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. All ordinances or parts of ordinance in conflict with any of the provisions of this Ordinance are hereby repealed, saving any prosecution, criminal or administrative appeal pending on, or violation cited on or before the effective date of this ordinance, which shall remain subject to the ordinance provision existing at the time of the alleged violation.

Section 4. Except as otherwise provided by law, this Ordinance shall take effect seven (7) days from the date of its publication, in accordance with the provisions of Section 401 of the Michigan Zoning Enabling Act.



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Battle Creek City Commission

12/6/2022

## **Action Summary**

**Staff Member:** Marcie Gillette, Community Services Director

**Department:** Planning

### **SUMMARY**

A Resolution adopting Ordinance 15-2022 to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

### **BUDGETARY CONSIDERATIONS**

There would be no financial impact on the City budget.

### **HISTORY, BACKGROUND and DISCUSSION**

The subject sites include sixteen (16) parcels located along Dickman Road from McCamly southeast to Riverside Dr. at Goguac and Dickman Road. Most of these parcels are vacant or have vacant buildings. Aside from the small parcels that line the larger parcels or border the roads, the main vacant parcels identified by this petition range in size from one to ten acres, with Reliable Refrigeration and the parcel east of it being exceptions. These parcels have previously hosted or are currently hosting commercial uses, and in the case of the parcel along Goguac, an apartment complex.

The City of Battle Creek undertook a re-codification of the zoning ordinance and zoning map in 2020 in an effort to better align both with the stated goals and vision of the adopted 2018 Master Plan, as well as to correct a multitude of zoning issues throughout the City. Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial.

When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the 2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels.

The parcels directly north of McCamly along Dickman Road are currently zoned B-1 Corridor Commercial. It is apparent that the adopted Master Plan envisioned a more intense use for the properties along Dickman Road; it is also apparent from the 2018 Downtown Plan that the Plan noted that this area containing the subject parcels needed revitalization.

The Downtown Plan considered the subject properties as potential connections to a future riverfront, a bridge between the adjacent neighborhood to the west and the downtown. Staff determined that a rezoning of the sixteen (16) properties to a T-4 Downtown Commercial District would be more appropriate than the wholly auto-oriented B-1 district or the properties’ current T-3 Neighborhood zoning due to the fact that it would fit the 2018 Master Plan Corridor Commercial category and be more likely to encourage development for these

mostly vacant parcels along/near Dickman Road.

The parcels proposed for rezoning also lie along or near non-motorized routes and due to being located along the Dickman Road corridor, have direct access into Fort Custer Industrial Park, a major employment center for the City of Battle Creek.

The purpose of the T-3 Neighborhood Commercial District is to “establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve.

The purpose of the T-4 Downtown Commercial is to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

The Planning Commission held a Public Hearing on October 26, 2022. The Planning Commission reviewed the list of conditions for consideration when requesting an amendment to the Zoning Map. Section 1281.01D. Zoning Ordinance and Map Amendments- Standards of Review for Amendments, lists twelve (12) criteria that shall be considered in making findings, recommendations and a decision. The Planning Commission recommends to the City Commission approval of the rezoning request with the following findings:

**1) Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.**

The Master Plan already identifies a more intense use – Corridor Commercial - for the subject parcels than Neighborhood Commercial, which makes the T-4 more appropriate to begin with than the T-3. Second, rezoning the sixteen (16) parcels that are the subject of this petition from T-3 Neighborhood Commercial to T-4 Downtown Commercial is consistent with the 2018 City of Battle Creek Master Plan, especially Goals 1, 4 and 5 which focus on investment in the city core, revitalizing commercial corridors and elevating the downtown by allowing more density, mixed use and flexibility without sacrificing the walkable form based guidelines compatible with downtown and the adjacent neighborhood. This rezoning request also furthers Master Plan Goals 8 & 9 which encourage transit and incentivizing workers to live in the core areas of the City – both of which rely on density, walkability and mixed uses. In addition, the 2018 Downtown Battle Creek Plan directly identifies the subject parcels as part of the core area of the City and a focus of reinvestment. Finally, since the Master Plan was adopted, construction costs have risen dramatically, and the T-4 offers the most flexibility without sacrificing the urban form that attracts residents and acts as a link between the core downtown and adjacent neighborhoods.

**2) Consistency with the basic intent and purpose of this Zoning Ordinance.**

Rezoning would be consistent with the intent and purpose of this Zoning Ordinance, as the purpose of the Zoning Ordinance is to be in accord with the Master Plan as well as generally promote the safety, health, morale, convenience and general welfare of the public and community, and the proposed rezoning would further the intent of the 2018 Master Plan as shown on the Master Plan's Land Use Map.

**3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.**

Dickman Road is classified as an “Other Principal Arterial” on the National Functional Classification Map. Capital Avenue is classified as a “Minor Arterial”. Upton, McCamly and Goguac are “Major Collectors”. There is plenty of street system capacity to support future development.

**4) The capacity of the City’s utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.**

The City’s Utilities Viewer shows plenty of water and sanitary sewer lines in the proposed rezoning area. The parcels proposed for rezoning are also not in a designated flood zone.

**5) That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.**

It is not known if these parcels were zoned T-3 in error; however, the T-4 designation definitely more closely matches the Corridor Commercial designation of the Land Use Plan map in the 2018 adopted City of Battle Creek Master Plan.

**6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.**

The amendment does not result in exclusionary or spot zoning. If anything, T-4 is a bit more inclusionary than the T-3 as it potentially allows more density, and sixteen parcels rezoned to T-4 across the road from more T-4 zoned parcels does not constitute spot zoning.

**7) If a rezoning is requested, compatibility of the site’s physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.**

The sixteen subject properties are vacant urban parcels that were former developed sites. The parcels are not located in a flood zone, wetland, well head protection area or any other type of protected area.

**8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.**

As can be seen in a zoning district comparison, forty-two (42) of the fifty one (51) uses are the same. Exceptions are: senior living, drive-through restaurants, hospitals, banquet halls, research and development, and office and retail over 17,000 sq. ft. Except for banquet halls, all of the other uses just previously mentioned are special uses that would have to meet special use criteria to be approved – and conditions could also be required. If any of these uses conflicted with the stated form-based goals in the T-4, the 2018 Master Plan goals, and the 2018 Downtown Plan goals for this area and adjacent neighborhood, they could face heavy conditions or perhaps even denial, depending on each individual situation.

In addition, hospitals generally need more acreage than is being offered on these sixteen parcels, with a minimum requirement of five (5) acres and an additional requirement for a 100 foot setback from all property lines. A drive-through restaurant also requires a fair amount of land due to the fact that a by-pass lane is required that is separate from the drive through lane(s). Also, just like the current zoning of T-3 on the sixteen (16) parcels, any new development on T-4 zoned property is subject to the City Zoning Ordinance’s form-based guidelines.

Finally, the proposed rezoning area lies adjacent to T-3, Green, B-1, and multiple family zoning districts

thereby providing a compatible transition district into the core downtown. The mostly sixteen (16) vacant properties with the added flexibility and density of the T-4 district could become more attractive to developers, thereby transforming several acres of sometimes persistently vacant, empty land into a walkable, form-based lively environment which could then encourage investment in the neighborhood to the west.

**9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.**

The boundaries follow the designated “Corridor Commercial” land use category already outlined on the 2018 Master Plan map.

**10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City’s perspective than another zoning district.**

Because of the “Corridor Commercial” designation on the 2018 Master Plan Land Use Map, and the fact that the area that surrounds these sixteen (16) properties is identified as one of the gateways to the core downtown and a link between the neighborhood to the west the core downtown, the T-4 Downtown Commercial District is definitely the most appropriate, as the T-4 allows more density and is more flexible, yet is still required to follow the same form-based guidelines that the current T-3 zoning district requires.

**11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.**

The majority of the use are already similar. The dimensional flexibility, and perhaps the density of the T-4 as opposed to the T-3 zoning is hopefully, what holds more attraction for investment on these parcels. Changing the dimensions or the density in the T-3 district would only serve to make the T-3 the same district as the T-4.

**12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.**

The sixteen (16) subject parcels are all adjacent, and also lie across Dickman Road and the Kalamazoo River from a T-4 zoning district, therefore the result of this rezoning petition would not be an isolated zoning district.

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#### ATTACHMENTS:

| File Name                                        | Description                                       |
|--------------------------------------------------|---------------------------------------------------|
| ❏ Dickman_Road_Rezonings_102022_staff_report.pdf | Z05-2022 Rezone (Along Dickman Road) Staff Report |
| ❏ PC_10.26.22_Meeting_Minutes_DRAFT.pdf          | PC 10.26/22 Draft Meeting Minutes                 |



## Battle Creek City Planning Commission Staff Report for the October 26, 2022 Regular Meeting

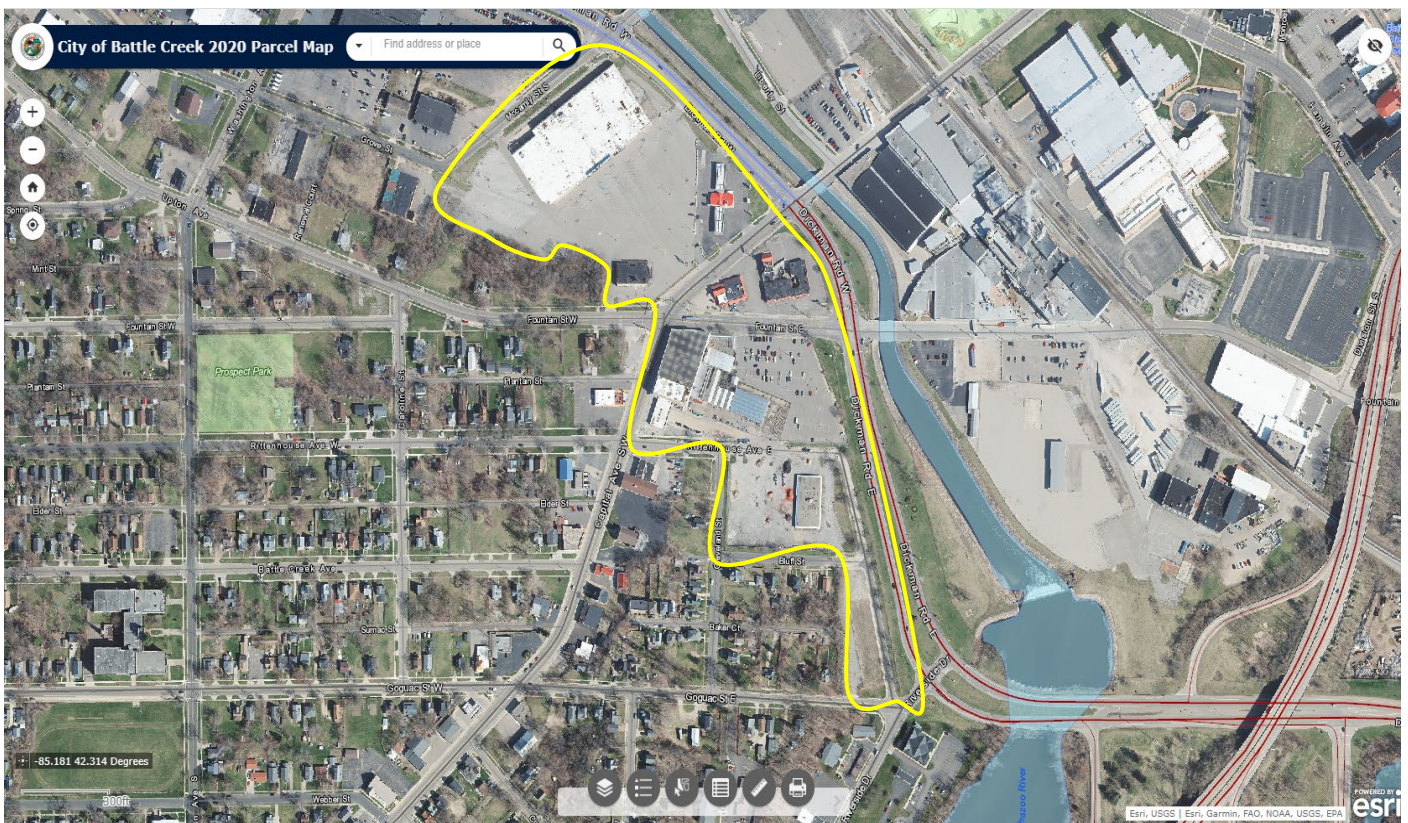
**To:** Planning Commissioners

**From:** Susan C. Cronander, Planning and Zoning Administrator

**Subject:** Petition Z-05-22, request for rezoning from T-3 Neighborhood Commercial to T-4 Downtown Commercial of sixteen (16) parcels located along Dickman Road from McCamly St. S. to 80 Riverside Dr. / Dickman Road at Goguac St. E. (For a full list of parcels, please see **Table 1.**)

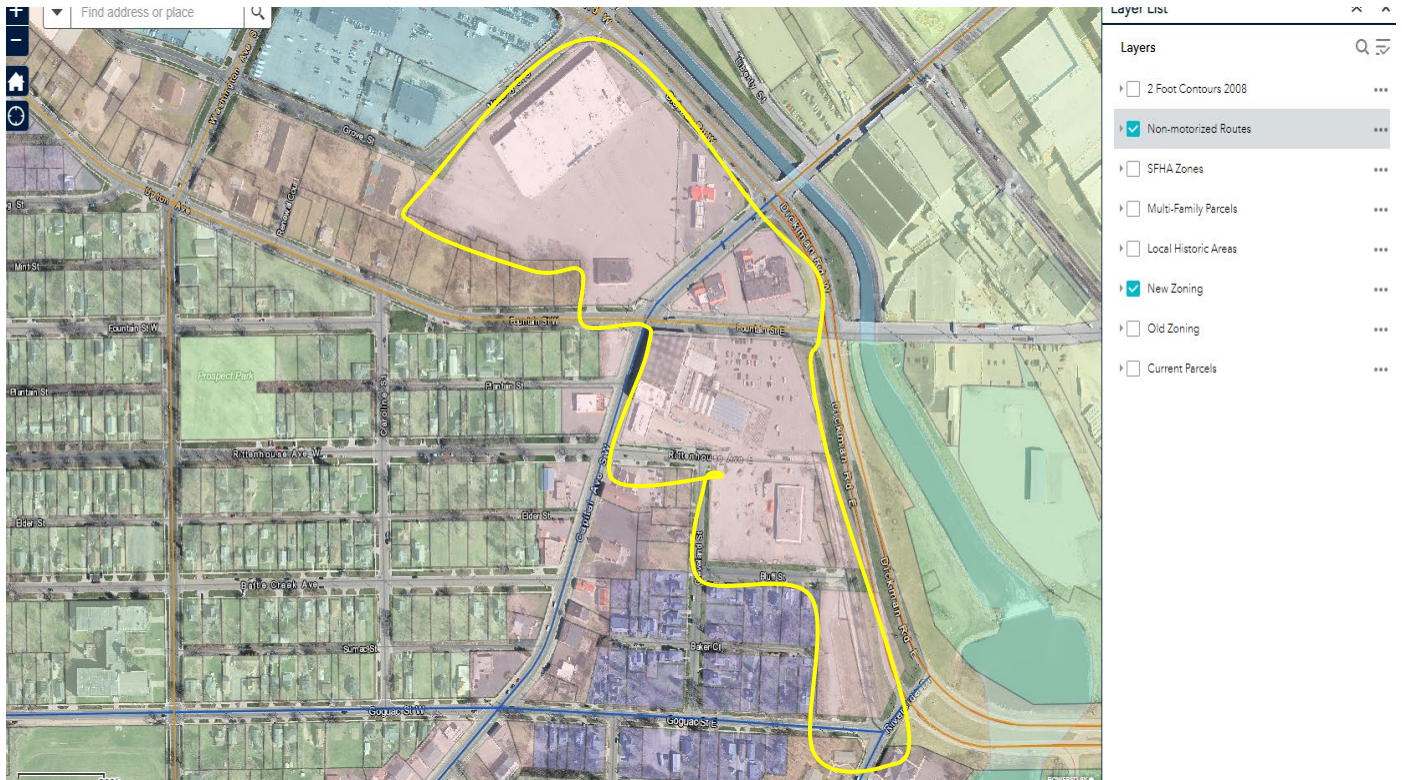
### Summary

This is a petition from the City of Battle Creek requesting a rezoning of sixteen (16) commercial parcels located along Dickman Road from McCamly to Riverside Dr. at Goguac and Dickman Road. The rezoning petition emanated from the 2018 adopted City of Battle Creek 2018 Master Plan's Future Land Use Plan map which shows the subject parcels as "Corridor Commercial" (see **Figure 4.**) Battle Creek's adopted 2018 Downtown Plan also identifies this area along Dickman and roads leading into the core downtown area as a potential catalyst for redevelopment and connecting the adjoining neighborhood to a naturalized Kalamazoo River and the core downtown of Battle Creek.

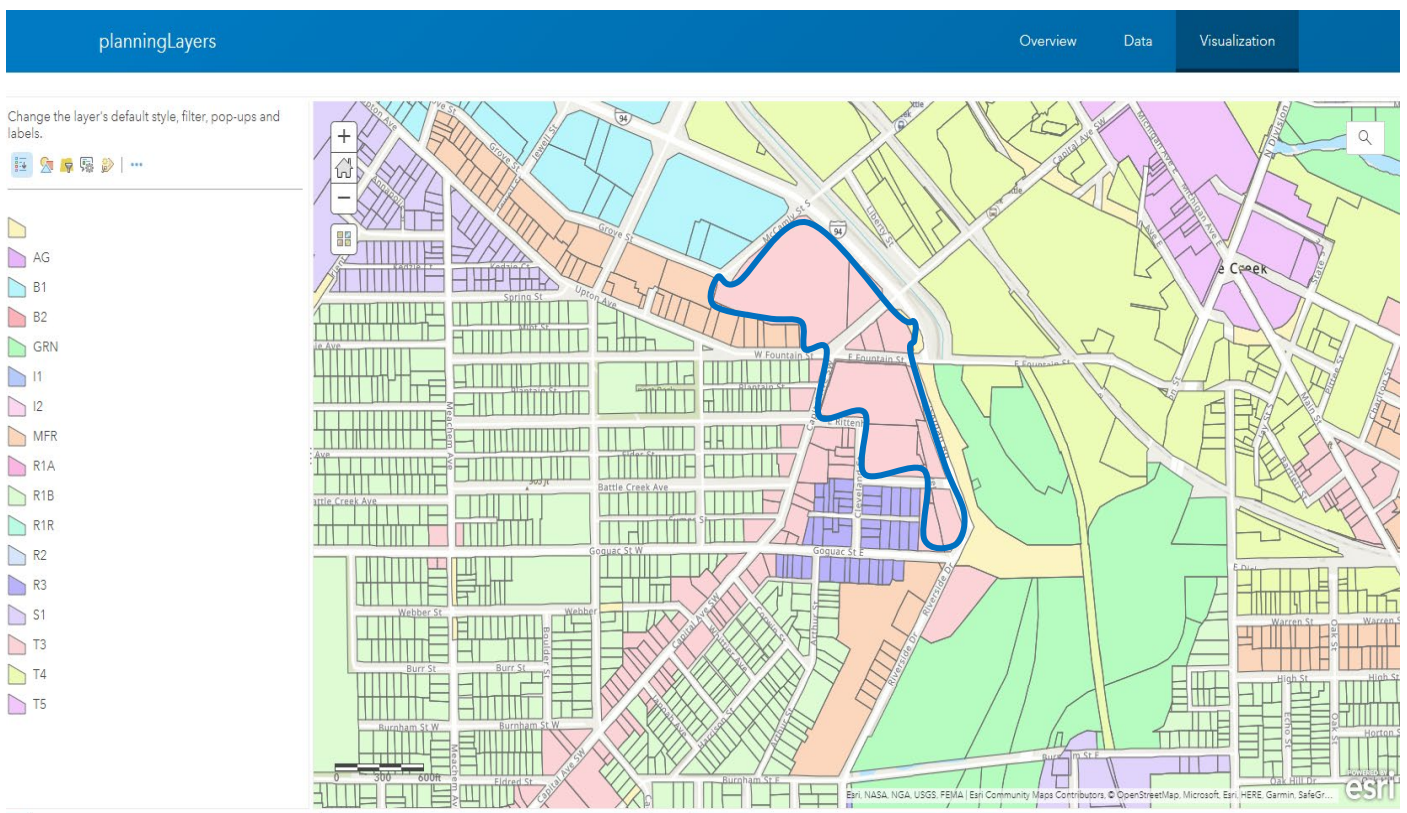


**Figure 1: Aerial of the Sixteen (16) Subject Properties Along Dickman And Riverside Roads.**





**Figure 2: Zoning Overlay on Aerial of the Sixteen (16) Subject Properties.**



**Figure 3: The Sixteen (16) Subject Properties' Current Zoning. Note all of the Current T-3 Zoned Properties Along Capital Avenue West of the Subject Properties, and the Green and T-4 to the East, B-1 and MFR to the Northwest and R-3 Along with T-3 to the South.**





**Photo 1: Former Kmart site, now vacant, looking south from McCamly to Horrocks on Capital Avenue SW.**



**Photo 2: Former Kmart site at the Corner of McCamly and Dickman Road.**





**Photo 3: Dickman Road approaching Capital Ave.**



**Photo 4: Dickman Road looking at the BP gas station, corner of Capital Ave and Dickman Ave.**





**Photo 5: View from Dickman of vacant property and refrigeration business on the south side of Capital Ave.**



**Photo 6: Looking west toward Horrocks parking lot and landscaping center from Dickman Rd.**





**Photo 7: Proceeding further south along Horrocks toward Rittenhouse Ave S.**



**Photo 8: Looking southwest from Dickman toward the vacant building on Bluff St.**





**Photo 9: The vacant building and site on Bluff St. and Riverside Dr. – which runs parallel with Dickman Road.**



**Photo 10: The vacant building on Bluff St. and the multiple family zone to the south.**





**Photo 11: Approaching the vacant parcel at Riverside Dr. and Goguac St E.**



**Photo 12: Vacant parcel at Riverside Dr. and Goguac St. E.**



## **Background/Property Information**

The subject sites include sixteen (16) parcels located along Dickman Road from McCamly southeast to Riverside Dr. at Goguac and Dickman Road. As can be seen in the twelve (12) photos above, most of these parcels are vacant or have vacant buildings. Aside from the small parcels that line the larger parcels or border the roads, the main vacant parcels identified by this petition range in size from one to ten acres, with Reliable Refrigeration and the parcel east of it being exceptions. These parcels have previously hosted or are currently hosting commercial uses, and in the case of the parcel along Goguac, an apartment complex.

Details regarding the current use of each parcel are listed from the northwest to southeast in the following Table.

**Table 1: List of the Sixteen (16) Subject Parcels, Addresses and Uses**

| Parcel ID     | Address                                     | Parcel Size (sq. ft.) | Historical Use                | Current Use                    |
|---------------|---------------------------------------------|-----------------------|-------------------------------|--------------------------------|
| 8630-11-005-0 | 200 SW Capital Ave                          | 434,031.84            | Kmart                         | Vacant                         |
| 8630-11-001-0 | 170 SW Capital Ave                          | 55,800.36             | Gas Station (acc to BSA)      | Gas Station/ Convenience Store |
| 8630-10-001-0 | No address                                  | 46,522.08             | Comm/Office                   | Vacant                         |
| 8630-10-002-0 | 185 SW Capital Ave                          | 18,948.6              | Commercial                    | Vacant building                |
| 8630-10-003-0 | 199 SW Capital Ave (Reliable Refrigeration) | 6,098.4               | Commercial                    | Commercial                     |
| 8630-10-004-0 | No address                                  | 15,071.76             | Mich State Highway Commission | Parkway / Dickman Road         |
| 9250-00-003-0 | No address                                  | 7,753.68              | City of Battle Creek          | City of Battle Creek           |
| 9250-00-001-0 | 235 SW Capital Ave (Horrocks)               | 204,732               | Commercial                    | Commercial                     |
| 9250-00-002-0 | No address (Horrocks)                       | 11,456.28             | Parking area / grass          | Parking area / grass           |
| 9250-00-020-0 | 45 Cleveland St (45 Cleveland LLC)          | 114,519.24            | Commercial                    | Vacant building                |
| 9250-00-018-0 | No address (45 Cleveland LLC)               | 4,791.6               | Parking area / grass          | Parking area / grass           |
| 9250-00-019-0 | No address (45 Cleveland LLC)               | 1,785.96              | Parking area / grass          | Parking area / grass           |
| 9250-00-017-0 | No address (MDOT)                           | 29,185.2              | Riverside Dr. / Parkway       | Riverside Dr. / Parkway        |
| 1530-00-150-0 | 80 Riverside Dr. (CC Land Bank)             | 48,177.36             | Commercial                    | Vacant storage building        |
| 1530-00-156-0 | No address (City of Batte Creek)            | 1,524.6               | Parking area                  | Parking area                   |
| 1530-00-155-0 | No address (MDOT)                           | 50,224.68             | Riverside Dr. / Parkway       | Riverside Dr. / Parkway        |

### **Applicable Zoning Ordinance Sections**

Applicable Zoning Ordinance Sections are as follows:

1. Section 1240.13 T-3 Neighborhood Commercial District,
2. Section 1240.14 T-4 Downtown Commercial District, and
3. Section 1281.01 Zoning Ordinance / Map Amendments.

### **2018 City of Battle Creek Master Plan and the 2018 Battle Creek Downtown Plan**

The Planning Enabling Act of 2008 requires a master plan be prepared and adopted that will “guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical; that considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.”

The master plan focuses on desired land use patterns for typically a twenty year time frame, and the enabling legislation and case law require that zoning be based upon this master plan. The City of Battle Creek Master Plan was adopted in 2018, and includes a Land Use Plan map, which is intended to guide in decision making with regard to planning and future land use patterns in accordance with the goals and vision articulated in the Master Plan.

On the following page (**Figure 4**) is a portion of the Land Use Plan map depicting the subject properties, the Southern Gateway Recommendations Map from the 2018 Downtown Battle Creek Plan, and the relevant page of the Downtown Battle Creek Plan that lists recommended objectives for the area depicted on the map.

### Land Use Classifications

|                                                                                                                    |                                                                                                                     |
|--------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
|  Agricultural & Rural Residential |  Production & Employment Center    |
|  Traditional Neighborhood         |  Community Open Space & Recreation |
|  Suburban Residential             |  Transitioning Neighborhood        |
|  Multi-Unit Residential           |  Challenged Neighborhood           |
|  Neighborhood Commercial          |  Development Opportunity Centers   |
|  Corridor Commercial              |  Community Services                |
|  Regional Commercial              |  Urban Growth Boundary             |
|  Downtown Commercial              |                                                                                                                     |

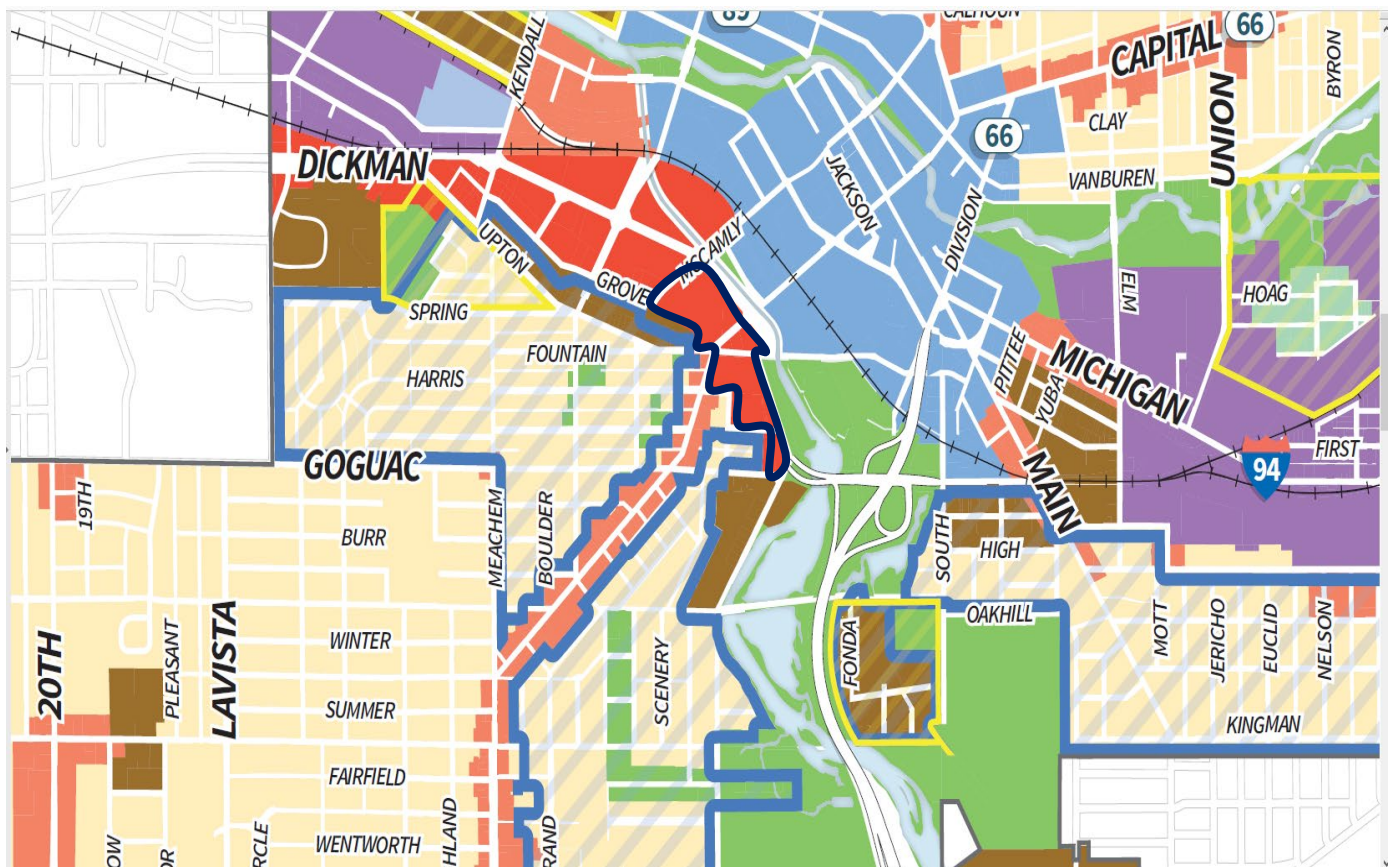


Figure 4: Future Land Use map, 2018 Battle Creek Master Plan. Subject Area Outlined in Black.



## SOUTHERN GATEWAY RIVERFRONT RECOMMENDATIONS



**Figure 5: 2018 Downtown Battle Creek Plan Map Illustrating Importance of the Subject Properties as a Gateway into Downtown and a link between the Neighborhood, River and Downtown.**

## CATALYTIC SITE - SOUTHERN GATEWAY RIVERFRONT

*Restoring the Kalamazoo River's banks to their natural state was identified as an opportunity to encourage additional development and an improved anchor for the southern end of downtown. Mixed-use infill, enhanced signage and active and passive recreation uses were all identified during stakeholder meetings as components of site redevelopment.*

### CHALLENGES:

- Low activity + high visibility between active industrial uses— an “eyesore” at key gateway to downtown
- Truck thru route creates conflict with pedestrian uses
- Underutilized riverfront property
- Connections to adjacent neighborhoods
- Aging street and flood control infrastructure

### OPPORTUNITIES:

- Support current whitewater planning efforts
- Enhanced aesthetics, signage for visitors into downtown
- Better balance between existing industry and passive recreation uses
- Feasibility for mixed-use infill
- Preserve flood control while enhancing environmental quality and access to water for recreation purposes

The Southern Gateway Riverfront was selected as an opportunity site for Downtown Battle Creek because of its proximity to the Downtown core, the declining of industrial uses, the possibility of an amenity-rich riverfront, and the ambitious re-naturalization plans brought forward by the community for the Kalamazoo River. The redevelopment of this section of the city allows for an opportunity to create a southern gateway from M-66 onto Dickman Road, and to better connect the neighborhoods to the north and southwest. The property is large and can be reimagined as new mixed use development, open area and greenspace, and as recreational gem on the river.

- Riverfront properties should be seen as assets and their revitalization should be made a priority for the City of Battle Creek
- The creation of a gateway treatment and roadway improvements for pedestrians and cyclists on Dickman coming into the downtown area from M-66 would help to make this area feel like an extension of the downtown
- Need to connect the neighborhoods across Dickman to downtown through streetscaping and better pedestrian and bicycle access in order

to make the Kalamazoo Riverfront feel like a part of the greater downtown area

- The Riverfront property should be predominately used for park space and waterfront mixed use development that extends movement and activity to this part of downtown
- Parks should offer a mix of passive and active uses to give neighborhood residents a reason to walk there
- Environmental cleanup efforts should be directed at making the land useable for development and park space
- The planning efforts towards the re-naturalization of the riverfront should be consulted and used when master planning the area
- Attendees of the design workshop expressed a desired to have this riverfront park dedicated to “The Bottoms”; an historically African American community that was removed for the predominantly industrial uses existing today
- The vacation of Liberty Street should be considered to add additional area for a catalytic development
- A pedestrian bridge and pathway connecting Lower Mill Pond to the Kalamazoo Riverfront should be considered to add additional access to the areas natural features



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**Figure 6: Recommendations from the 2018 Battle Creek Downtown Plan Emphasizing Revitalization of the Area Including the Properties that are the Subject of this Petition.**

### Request for Rezoning

The City of Battle Creek undertook a re-codification of the zoning ordinance and zoning map in 2020 in an effort to better align both with the stated goals and vision of the adopted 2018 Master Plan, as well as to correct a multitude of zoning issues throughout the City.

Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial. When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the 2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels. The parcels directly north of McCamly along Dickman Road are currently zoned B-1 Corridor Commercial. It is apparent that the adopted Master Plan envisioned a more intense use for the properties along Dickman Road; it is also apparent from the 2018 Downtown Plan that the Plan noted that this area containing the subject parcels needed revitalization. The



Downtown Plan considered the subject properties as potential connections to a future riverfront, a bridge between the adjacent neighborhood to the west and the downtown. Therefore, staff determined that a rezoning of the sixteen (16) properties to a T-4 Downtown Commercial District would be more appropriate than the wholly auto-oriented B-1 district or the properties' current T-3 Neighborhood zoning due to the fact that it would fit the 2018 Master Plan Corridor Commercial category and be more likely to encourage development for these mostly vacant parcels along/near Dickman Road.

The parcels proposed for rezoning also lie along or near non-motorized routes and due to being located along the Dickman Road corridor, have direct access into Fort Custer Industrial Park, a major employment center for the City of Battle Creek.

The purpose of the T-3 Neighborhood Commercial District is to “establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve. The purpose of the T-4 Downtown Commercial is to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

**Tables 2 and 3** below and on the following page compare the uses and dimensional requirements between the T-3 Neighborhood Commercial and T-4 Downtown Commercial Districts. **Both the T-3 and T-4 have to follow Section 1250.04 Form-Based Development Standards for the T-3, T-4, and T-5 Districts.**

| <b>TABLE 2: ZONING DISTRICT USE COMPARISON PERMITTED USES IN T-3 AND T-4</b> |                                         |
|------------------------------------------------------------------------------|-----------------------------------------|
| <b>T-3 Neighborhood Commercial</b>                                           | <b>T-4 Downtown Commercial</b>          |
| Banquet and Meeting Hall < 100 capacity                                      | Banquet and Meeting Hall < 100 capacity |
| Bookstore                                                                    | Bookstore                               |
| Carry-Out Restaurant                                                         | Carry-Out Restaurant                    |
| Catering Businesses                                                          | Catering Businesses                     |
| Essential Services                                                           | Essential Services                      |
| Financial Institutions                                                       | Financial Institutions                  |
| Full-Service Restaurant                                                      | Full-Service Restaurant                 |
| Government/Public Uses                                                       | Government/Public Uses                  |
| Indoor Recreation                                                            | Indoor Recreation                       |
| Limited Service Restaurant                                                   | Limited Service Restaurant              |
| Medical or Dental Clinic < 5,000sf                                           | Medical or Dental Clinic < 5,000sf      |
| Multi-Family Dwelling Units                                                  | Multi-Family Dwelling Units             |
| Office < 5,000 sf                                                            | Office < 5,000 sf                       |
| Outdoor Recreation / Public                                                  | Outdoor Recreation / Public             |
| Personal Service Establishments                                              | Personal Service Establishments         |
| Public K-12 Schools                                                          | Public K-12 Schools                     |
| Religious Institutions                                                       | Religious Institutions                  |
| Retail Sales < 5,000 sf                                                      | Retail Sales < 5,000 sf                 |
| Single Family Dwelling Unit Attached                                         | Single Family Dwelling Unit Attached    |
| Single Family Dwelling Unit Detached                                         | Single Family Dwelling Unit Detached    |
| Two-Family Dwelling Units                                                    | Two-Family Dwelling Units               |

| <b>TABLE 2 (continued)</b>                                                                   |                                                       |
|----------------------------------------------------------------------------------------------|-------------------------------------------------------|
| <b>ZONING DISTRICT USE COMPARISON: SPECIAL USES T-3 / PERMITTED USES T-4</b>                 |                                                       |
| <b>T-3 Neighborhood Commercial</b>                                                           | <b>T-4 Downtown Commercial</b>                        |
| Artisan / Maker Space                                                                        | Artisan / Maker Space                                 |
| Bar, Tavern, or Saloon                                                                       | Bar, Tavern, or Saloon                                |
| Brewpub                                                                                      | Brewpub                                               |
| Convalescent Home, Nursing Home, or Home for the Aged                                        | Convalescent Home, Nursing Home, or Home for the Aged |
| Distillery, Winery – w/ or w/o food                                                          | Distillery, Winery – w/ or w/o food                   |
| Hotel                                                                                        | Hotel                                                 |
| Marihuana Medical Provisioning                                                               | Marihuana Medical Provisioning                        |
| Marihuana Adult Use                                                                          | Marihuana Adult Use                                   |
| Medical or Dental < 20,000 sf                                                                | Medical or Dental 5,000-20,000 sf                     |
| Microbrewery                                                                                 | Microbrewery                                          |
| Motel                                                                                        | Motel                                                 |
| Nightclub                                                                                    | Nightclub                                             |
| Office 5,000 to 17,000 sf                                                                    | Office 5,000 to 17,000 sf                             |
| Retail Sales 5,000-17,000 sf                                                                 | Retail Sales 5,000-17,000 sf                          |
| <b>ZONING DISTRICT USE COMPARISON: SPECIAL USES BOTH T-3 AND T-4</b>                         |                                                       |
| Adaptive Reuse                                                                               | Adaptive Reuse                                        |
| Farmer's Market                                                                              | Farmer's Market                                       |
| Funeral Homes, Mortuaries, Crematoriums                                                      | Funeral Homes, Mortuaries, Crematoriums               |
| Institutions of Higher Education                                                             | Institutions of Higher Education                      |
| Private K-12 Schools                                                                         | Private K-12 Schools                                  |
| Self-Storage Facilities                                                                      | Self-Storage Facilities                               |
| State Licensed Child Care Group Home 7-12                                                    | State Licensed Child Care Group Home 7-12             |
| <b>ZONING DISTRICT USE COMPARISON: USES NOT SHARED BY T-3 &amp; T-4 (SPECIAL or PERMIT.)</b> |                                                       |
| Bed and Breakfast                                                                            | Banquet and Meeting Hall > 100                        |
| Community Garden                                                                             | Office > 17,000 sf                                    |
| Personal-Scale Solar Energy Facility                                                         | Drive-In Restaurant                                   |
| Personal-Scale Wind Energy Facility                                                          | Drive-Thru Restaurant                                 |
| Cemetery                                                                                     | Hospital > 20,000 sq. ft.                             |
| Pawn Broker                                                                                  | Independent Senior Living w/ Services                 |
| Marihuana: Adult Use Microbusiness                                                           | Parking as a Principal Use                            |
| Marinas                                                                                      | Research and Development                              |
|                                                                                              | Retail Sales > 17,000 sf                              |

Both the T-3 and T-4 Districts allow the same **accessory uses**, except for the fact that the **T-3 allows Transitional and Supportive Homes** as accessory uses.

The following **Table 3** presents a comparison of the dimensions in both districts. As can be seen, the largest difference is that the T-4 does not require setbacks or have a maximum building height. There is also no minimum amount of parking spaces required for the T-4 and T-5 zoning districts, though they can provide parking onsite, and if so, the parking still has to meet all requirements including landscaping and lighting. The T-4 does not have a density limit; while the density limit is 20 units to the acre in the T-3.

| <b>TABLE 3: ZONING DISTRICT <u>DIMENSIONS</u> COMPARISON</b> |                                    |                                |
|--------------------------------------------------------------|------------------------------------|--------------------------------|
| <b><i>Lot Standards</i></b>                                  | <b>T-3 Neighborhood Commercial</b> | <b>T-4 Downtown Commercial</b> |
| Min Lot Area                                                 | 2,900                              | 2,900                          |
| Min Lot Width                                                | 60                                 | 60                             |
| Max Bldg Coverage                                            | 40                                 | NL                             |
| Front Yard Setback                                           | 30                                 | NL                             |
| Rear Yard Setback                                            | 20                                 | NL                             |
| Side Yard Setback                                            | 10                                 | NL                             |
| Max Bldg Height                                              | 36 feet, 3 stories                 | NL                             |

### **Public Hearing and Notice Requirements**

Notice of the hearing was published in the Thursday, October 6th edition of the Battle Creek Shopper, and notices of the hearing were also mailed to all property owners with a 300-foot radius of the subject parcels no fewer than 15 days prior to the hearing. Both requirements pursuant to the Zoning Enabling Act of 2006, as amended, have been met.

### **Neighborhood Outreach**

This parcel is located in Neighborhood Planning Council 3. Planning Councils are in the process of resuming and will start accepting new business in the near future.

### **Analysis and Recommendation**

When the City re-codified the zoning ordinance and zoning map in 2020, the sixteen (16) parcels that are the subject of this rezoning petition were zoned to T-3 Neighborhood Commercial. The 2018 Master Plan Land Use map however, shows the sixteen (16) parcels as Corridor Commercial. The Corridor Commercial to the north of the subject parcels is zoned a more intense B-1 Corridor Commercial. Staff does not know if the rezoning to T-3 of the sixteen (16) parcels was an oversight; but, after investigating the vacant sites, their location along the Dickman Road major arterial corridor, and researching the 2018 Master Plan and 2018 Downtown Plan, staff believes that these sixteen (16) parcels should have been assigned a more intense zoning district.

The City of Battle Creek's Zoning Ordinance lists conditions for consideration when requesting an amendment to the Zoning Map. Section 1281.01 D. Zoning Ordinance and Map Amendments - Standards of Review for Amendments, lists twelve (12) criteria that Planning Commission and City Commission shall consider in making findings, recommendations and a decision. The Planning Commission and City Commission may also take into account other factors or considerations that are applicable to the application but are not listed below. Unlike a conditional rezoning, however, conditions cannot be attached to a regular rezoning.

- 1) Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.

First of all, the Master Plan already identifies a more intense use – Corridor Commercial - for the subject parcels than Neighborhood Commercial, which makes the T-4 more appropriate to begin with than the T-3. Second, rezoning the sixteen (16) parcels that are the subject of this

petition from T-3 Neighborhood Commercial to T-4 Downtown Commercial is consistent with the 2018 City of Battle Creek Master Plan, especially Goals 1, 4 and 5 which focus on investment in the city core, revitalizing commercial corridors and elevating the downtown by allowing more density, mixed use and flexibility without sacrificing the walkable form based guidelines compatible with downtown and the adjacent neighborhood. This rezoning request also furthers Master Plan Goals 8 & 9 which encourage transit and incentivizing workers to live in the core areas of the City – both of which rely on density, walkability and mixed uses. In addition, the 2018 Downtown Battle Creek Plan directly identifies the subject parcels as part of the core area of the City and a focus of reinvestment. Finally, since the Master Plan was adopted, construction costs have risen dramatically, and the T-4 offers the most flexibility without sacrificing the urban form that attracts residents and acts as a link between the core downtown and adjacent neighborhoods.

2) Consistency with the basic intent and purpose of this Zoning Ordinance.

Rezoning would be consistent with the intent and purpose of this Zoning Ordinance, as the purpose of the Zoning Ordinance is to be in accord with the Master Plan as well as generally promote the safety, health, morale, convenience and general welfare of the public and community, and the proposed rezoning would further the intent of the 2018 Master Plan as shown on the Master Plan's Land Use Map.

3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

Dickman Road is classified as an "Other Principal Arterial" on the National Functional Classification Map. Capital Avenue is classified as a "Minor Arterial". Upton, McCamly and Goguac are "Major Collectors". There is plenty of street system capacity to support future development.

4) The capacity of the City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.

The City's Utilities Viewer shows plenty of water and sanitary sewer lines in the proposed rezoning area. The parcels proposed for rezoning are also not in a designated flood zone.

5) That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.

It is not known if these parcels were zoned T-3 in error; however, the T-4 designation definitely more closely matches the Corridor Commercial designation of the Land Use Plan map in the 2018 adopted City of Battle Creek Master Plan.

6) That the amendment will not be expected to result in exclusionary zoning or spot zoning.

The amendment does not result in exclusionary or spot zoning. If anything, T-4 is a bit more inclusionary than the T-3 as it potentially allows more density, and sixteen parcels rezoned to T-4 across the road from more T-4 zoned parcels does not constitute spot zoning.

7) If a rezoning is requested, compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

The sixteen subject properties are vacant urban parcels that were former developed sites. The parcels are not located in a flood zone, wetland, well head protection area or any other type of protected area.

- 8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

As can be seen in **Tables 2 and 3**, forty-two (42) of the fifty one (51) uses are the same. Exceptions are: senior living, drive through restaurants, hospitals, banquet halls, research and development, and office and retail over 17,000 sq. ft. Except for banquet halls, all of the other uses just previously mentioned are special uses that would have to meet special use criteria to be approved – and conditions could also be required. If any of these uses conflicted with the stated form-based goals in the T-4, the 2018 Master Plan goals, and the 2018 Downtown Plan goals for this area and adjacent neighborhood, they could face heavy conditions or perhaps even denial, depending on each individual situation.

In addition, hospitals generally need more acreage than is being offered on these sixteen parcels, with a minimum requirement of five (5) acres and an additional requirement for a 100 foot setback from all property lines. A drive thru restaurant also requires a fair amount of land due to the fact that a by-pass lane is required that is separate from the drive thru lane(s).

Also, just like the current zoning of T-3 on the sixteen (16) parcels, any new development on T-4 zoned property is subject to the City Zoning Ordinance's form-based guidelines.

Finally, the proposed rezoning area lies adjacent to T-3, Green, B-1, and multiple family zoning districts thereby providing a compatible transition district into the core downtown. The mostly sixteen (16) vacant properties with the added flexibility and density of the T-4 district could become more attractive to developers, thereby transforming several acres of sometimes persistently vacant, empty land into a walkable, form-based lively environment which could then encourage investment in the neighborhood to the west.

- 9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

The boundaries follow the designated "Corridor Commercial" land use category already outlined on the 2018 Master Plan map.

- 10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the City's perspective than another zoning district.

Because of the "Corridor Commercial" designation on the 2018 Master Plan Land Use Map, and the fact that the area that surrounds these sixteen (16) properties is identified as one of the gateways to the core downtown and a link between the neighborhood to the west the core downtown, the T-4 Downtown Commercial District is definitely the most appropriate, as the T-4 allows more density and is more flexible, yet is still required to follow the same form-based guidelines that the current T-3 zoning district requires.

- 11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

The majority of the use are already similar. The dimensional flexibility, and perhaps the density of the T-4 as opposed to the T-3 zoning is hopefully, what holds more attraction for investment on these parcels. Changing the dimensions or the density in the T-3 district would only serve to make the T-3 the same district as the T-4.

- 12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.

The sixteen (16) subject parcels are all adjacent, and also lie across Dickman Road and the Kalamazoo River from a T-4 zoning district, therefore the result of this rezoning petition would not be an isolated zoning district.

**Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-05-22, request for rezoning of the sixteen (16) parcels identified in Table 1: “List Of The Sixteen (16) Subject Parcels, Addresses And Uses”.**



**CITY OF BATTLE CREEK  
PLANNING COMMISSION  
10 North Division, Battle Creek, MI 49014  
Minutes for Wednesday, October 26, 2022**

**MEETING CALLED TO ORDER:**

By Chairperson Godfrey at 4:01 p.m. This meeting was held in person.

**ATTENDANCE:** Chairperson Godfrey asked for a roll call attendance.

**Commission Members Present:**

**Comm. Newman**, present, in Battle Creek  
**Comm. Spranger**, present, in Battle Creek  
**Comm. Godfrey III** present, in Battle Creek  
**Comm. Gray**, present, in Battle Creek

**Mayor Behnke**, present, in Battle Creek  
**Comm. Morris**, present, in Battle Creek  
**Vice Mayor Reynolds**, present, in Battle Creek

**Commissioners Absent:** Comm. Laws

**Commissioners Excused:** Mayor Behnke (@ 5:28PM)

**Staff Present:** Travis Sullivan, Planner, Susan Cronander, Planning Administrator, Marcie Gillette, Community Services Director, Crystal Bax, Customer Service Representative, Marcel and Stoetzel, Deputy City Attorney.

**APPROVAL OF MINUTES:** Previous meeting minutes submitted for approval for September 28, 2022.

**MOTION MADE BY COMM. NEWMAN TO APPROVE THE SEPTEMBER 28, 2022 MEETING MINUTES AS PRESENTED. SECONDED BY VICE MAYOR REYNOLDS.**

**ROLL VOTE:** Chairperson Godfrey asked everyone in favor to signify by saying “aye”:

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CORRESPONDENCE:** 2 e-mail correspondence were provided to the board by staff.

**ADDITIONS/DELETIONS:** None.

**PUBLIC HEARINGS/DELIBERATIONS:**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6A (#S-14-22) on the agenda.

- A. SPECIAL USE PERMIT #S-14-22:** Petition from Kelly Gast, requesting a Special Use Permit for property located at 24 Golden Avenue. Battle Creek, MI 49015. The request is for an In-Home Group Child Care Home for up to 7-14 children. Property is zoned “R-1A Single Family Residential District” pursuant to Section 1240.06 of the zoning code. PARCEL # 4690-08-506-0

**Staff Presentation:** Susan Cronander, Planning Administrator, gave the staff report presentation. The applicant is seeking a special use permit to operate a group child care home based business out of the home at 24 Golden Avenue. The proposed capacity of the daycare related to this request is for up to 14 unrelated children, consistent with State law for these types of facilities. The plan is to provide childcare between 6:00am and 6:00pm each day,

Monday through Friday throughout the year with possible evening or weekend care, if allowed. There may be one or two employees in order to comply with State of Michigan requirements. Petition No.S-14-22 24 Golden Avenue, Parcel #4690-08-506-0

The State of Michigan Licensing and Regulatory Affairs (LARA) administers the licensing program that is required for all day care facilities. A Group Day Care Home is defined by the State as a private home in which care is provided to more than 7 but not more than 14 minor children for periods of less than 24 hours a day unattended by a parent or legal guardian. The State regulates the actual operation and other facets of the day care including staffing, meals, daily activities, paperwork, etc. The complete set of State regulations can be found on the LARA website: Child Care Licensing.

Staff finds the request consistent with the general special use standards listed in 1281.05.

**Therefore, as the request meets the general standards listed in Chapter 1281.05 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-14-22 that would allow a Group Day Care Home at 24 Golden Avenue, on Parcel #4690-08-506-0 with the following conditions:**

- 1. All necessary approvals and any required permits shall be obtained, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to Certificate of Occupancy.**
- 2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the nature of the facility being a Group Day Care facility with a maximum capacity of fourteen (14) children. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.**
- 3. Pursuant to Chapter 1281.02, certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.**

**And one additional request by Planning Commission is that a fence needs to be put in place for safety measures.**

#### **COMMISSIONER DISCUSSION:**

**Chairperson Godfrey III** asked the planning administrator if they would have to come before the board for additional approval

**Susan C. Cronander**, Planning and Zoning Administrator stated that according to the city attorney they would not need to come before the board for additional approval.

**Deputy City Attorney Marcel Stoetzel** confirmed this to be the case. But the zoning code would need to amend by the board to allow for the same regulations in regards to the number of children as the state.

**Chairperson Godfrey III** asked if the petitioner or anyone on behalf of the petition #S-14-22 was present to speak.

**Applicant:** Kelly Gast, petitioner for Special Use Permit #S-14-22 (24 Golden Avenue) gave some of her background information about her current daycare and group home business at her current residence in the Upper Peninsula. She stated she is looking forward to being a part of the community and providing a great need to that particular area and gave statistical knowledge of the need for daycare in that area and surrounding areas in the City of Battle Creek. Kelly Gast offered her support of any questions the board may have.

**Public Comments:**

Janine Reichardt of 261 S Leland Dr, asked the board to consider putting together a Children at Play in the area.

Talia Champlin of 116 S Lincoln Blvd, realtor representing the seller, stated that the seller collected signatures of the surrounding properties stating that the neighbors were okay with the proposed use of the property, and gave information in regards to waiting lists for young children in the area.

John Shwark of 250 Martha Drive, stated that he felt the area was being slowly squeezed inward by businesses and commercial properties due to the uses allowed in their zoning district, and would rather see the area remain single family residential.

Kelly Gast, applicant addressed the safety concerns and explained how she can circumvent that issue with fencing and stroller systems for walks to the park.

**MOTION MADE BY COMM. NEWMAN AND SECONDED BY COMM. MORRIS TO APPROVE #S-14-22 SPECIAL USE PERMIT FOR AN IN-HOME GROUP CHILD CARE HOME FOR UP TO 7-14 CHILDREN PURSUANT TO SECTION 1240.06 OF THE ZONING CODE. PARCEL # 4690-08-506-0 WHERE IN-HOME GROUP CHILD CARE HOME CAN BE ALLOWED AS A SPECIAL USE IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF AND THE PLANNING COMMISSION.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6B (#Z-02-22) on the agenda.

- B. REZONING REQUEST #Z-02-22:** Petition from the City of Battle Creek to rezone properties located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to the inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting the area to be rezoned as “R-1A Single Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.

**Staff Presentation:** Travis Sullivan, Planner, gave the staff report presentation. Petition from the City of Battle Creek requesting a rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. The existing uses of the parcels included within this request are inconsistent with the current “I-2 Heavy Industrial District” zoning, as the parcels are generally sized and used for single-family residential purposes. As such, the City of Battle Creek seeks to rezone these parcels from I-2 Heavy Industrial to R-1A Single-Family Residential, consistent with the current and likely future uses of these parcels.

The challenge associated with this categorization is that the Zoning Ordinance does not provide a description of the term “Existing Use,” nor does it set forth the standards by which an “Existing Use” may be reconstructed in the case of total or catastrophic loss. This ambiguity, along with the fact that single-family detached dwellings

are absent from the list of permitted uses within the district renders these uses legally-nonconforming. In the case of these nonconformities, no assurance may be given that a property destroyed by fire, natural disaster, etc. may be rebuilt as a single-family use.

City staff has discussed the proposal before the Planning Commission with staff from Battle Creek Unlimited (BCU) and has confirmed that BCU does not intend to pursue the subject properties due to their limited size and practicality of use for industrial purposes. It is further the opinion of City staff that due to the size and volume of the subject parcels, it appears unlikely that enough parcels could be collected and combined in the future in such a way that would allow for heavy industrial use. Further, such collection of parcels and conversion of use could result in conflicts with the otherwise established single-family character of the area.

**Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-02-22, request for rezoning of parcels located along Robertson Ave., Newtown Ave., W Columbia Ave., Independence Ave. and Songbird Ln. currently zoned as “I-2 Heavy Industrial District.” Due to inconsistency with their current use, the City is requesting a rezoning of the area to a more appropriate classification. The City of Battle Creek is requesting those parcels specified in this report to be rezoned as “R-1A Single-Family Residential District” pursuant to Sections 1240.06 and 1281.01 of the zoning code.**

**Chairperson Godfrey III** asked if the petitioner or anyone on behalf of the petition #Z-02-22 was present to speak.

**Applicant:** The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

**Public Comments:**

Wayne Edmunds of 4521 W Columbia, asked of what properties were not included on the list of those to be rezoned, and whether property values will change for those that are being rezoned.

**Commissioner Comments:**

**JOHN HUGHES** asked to be recused from the passing of the motion due to potential conflict of interest.

**MOTION MADE BY MAYOR BEHNKE AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE REZONING REQUEST #Z-02-22 TO REZONE PROPERTIES LOCATED ALONG ROBERTSON AVE., NEWTOWN AVE., W COLUMBIA AVE., INDEPENDENCE AVE. AND SONGBIRD LN. TO “R-1A SINGLE FAMILY RESIDENTIAL DISTRICT” PURSUANT TO SECTIONS 1240.06 AND 1281.01 OF THE ZONING CODE.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6C (#Z-03-22) on the agenda.

- C. REZONING REQUEST #Z-03-22: Petition from Summit Pointe requesting the rezoning of property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting to be rezoned as “T-4 Downtown Commercial District” pursuant to Section 1281.01 of the zoning code. PARCEL #: 9730-00-052-0

**Staff Presentation:** Travis Sullivan, Planner, gave the staff report presentation. Petition from Summit Pointe requesting a rezoning of 175 College St. (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. The property is owned by the Calhoun County Mental Health Authority and is operated by Summit Pointe. The property features 528 feet of frontage along College St., and is 140.25 feet deep, for a total lot area of 74,052 sq. ft. The property consists of a single two-story building with a basement, totaling 38,057 sq. ft. The building on the site was constructed in 1994.

While the T-3 district does allow for medical and dental clinics, such clinics are restricted to less than 5,000 sq. ft. as a permitted use by right, and less than 20,000 sq. ft. as a special use. As such, at the time of the Zoning Map update this property became a legal non-conformity, as the square footage of the building within which the use is conducted (38,057 sq. ft.) exceeds the maximum square footage by right (5,000 sq. ft.) and by special use permit (20,000 sq. ft.). The owner of the property applied for a building permit during the month of September 2022 to add a 1,663 sq. ft. addition onto the north end of the building to accommodate a pharmacy for use by patients of the clinic. As the use on the property is nonconforming due to the square footage of the space it occupies, no expansion of or alteration to the building may be permitted.

The applicant has elected to seek a rezoning of the property to a more appropriate classification (T-4 Downtown Commercial District), as a rezoning would both allow for the current proposed project to receive permits as well as allow for any future alterations to be permitted without the potential need for further variances or other approvals in the future.

**Based on the above findings planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-03-22, a request for the rezoning of 175 College St. (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District pursuant to Sections 1240.14 and 1281.01 of the zoning code.**

**Chairperson Godfrey III** asked if the petitioner or anyone on behalf of the petition #Z-03-22 was present to speak.

**Applicant:** Richard Lindsey, outside council for summit pointe, explained that the rezoning is effort to allow for a pharmacy expansion

**Public Comments:** None. Public Hearing closed.

**MOTION MADE BY MAYOR BEHNKE AND SECONDED BY COMM. NEWMAN TO APPROVE REZONING REQUEST #Z-03-22 TO REZONE 175 COLLEGE ST. TO “T-4 DOWNTOWN COMMERCIAL DISTRICT” PURSUANT TO SECTIONS 1240.14 AND SECTION 1281.05 OF THE ZONING CODE.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6D (#S-15-22) on the agenda.

**D. SPECIAL USE PERMIT #S-15-22:** Petition from Summit Pointe requesting a Special Use permit for property located at 175 College Street. Battle Creek, MI 49037. The property located at 175 College Street is currently zoned “T-3 Neighborhood Commercial district” and they are requesting a Special Use Permit for an addition of a 1663sqft P a g e | 2 Agenda, cont. 10.26.22 PC M:\Planning Files\Planning Dept\1. Planning Commission\1.Agendas\Year 2022\PC Mtg. Agenda 10.26.22.docx 10 N. DIVISION ST. P.O. BOX 1717 BATTLE CREEK MICHIGAN 49016-1717 PHONE (269) 966-3320 FAX (269) 966-3555 WWW.BATTLECREEKMI.GOV pharmacy for the existing community mental health use that will

operate as an accessory to the main outpatient mental health practice (summit Pointe). Pursuant to Section 1260.01. PARCEL#: 9730-00-052-0

**Staff Presentation:** Travis Sullivan, Planner, gave the staff report presentation. A petition from Jeannie Goodrich of Summit Pointe, 175 College St. requesting a Special Use Permit to allow for the alteration of the building located at 175 College St., which houses a medical practice (Calhoun County Community Mental Health Authority) in excess of 20,000 sq. ft., contingent upon the property being successfully rezoned from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

The applicant has filed a special use permit application to construct an addition to the northernmost portion of the building of 1,663 sq. ft. in order to house a pharmacy intended to serve the facility's patients. A detailed site plan for the proposed project has been included in the meeting packet as an attachment to this staff report. Figure 1. Subject site shown in red outline is located at 175 College St. Site is located 220 feet (approx.) south of the intersection of College St. and Emmett St. W. Aerial photograph provided by City staff, taken spring 2020 (approx.). Petition No. S15-2022 Parcels: 9730-00-052-0 175 College Street Page 4 of 9

Summit Pointe currently employs approximately 100 individuals. Should the proposed special use permit application be approved, Summit Pointe would add an additional 6-8 employees to staff the new pharmacy. The pharmacy is proposing hours of operation between 8:30 a.m. and 6:00 p.m. in support of the 24-hour urgent care and outpatient mental health practice.

**Applicant:** Richard Lindsey, wanted to point out that to location of the site would be very beneficial to the patients to allow to be seen and pick their prescriptions up in the same place as well as for the use of the public and it will allow for all employees to be housed in the same building rather than a separate building.

**Public Comments:** None. Public Hearing Closed.

**MOTION MADE BY COMM. NEWMAN AND SECONDED BY MAYOR BEHNKE TO APPROVE #S-15-22 SPECIAL USE PERMIT FOR THE CONTINUANCE AND ALTERATION TO THE EXISTING MEDICAL PRACTICE IN EXCESS OF 20,000 SQ. FT. PURSUANT TO SECTION 1240.14 AND SECTION 1281.05 OF THE ZONING CODE. PARCEL #9730-00-052-0 IN ADDITION TO THE CONDITIONS RECOMMENDED BY STAFF.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6E (#Z-04-22) on the agenda.

- E. REZONING REQUEST #Z-04-22:** Petition from the City of Battle Creek requesting the rezoning of properties located along S Kendall St. and Lafayette St. The properties are currently zoned "R-3 Multiple Family Residential District" with the petitioner requesting to be rezoned as "S Spark District" pursuant to Sections 1281.01 and 1240.18 of the zoning code. Parcels proposed to be rezoned are as follows: 2400-00-002-0, 2400-00-001-0 and 0601-32-144-0.

**Staff Presentation:** Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the owners of the above three parcels requesting a rezoning from R-3 Multiple Family Residential to S Spark District. The three subject parcels currently have functioning nonresidential businesses located on the parcels, and wish to revert back to a zoning district that include uses similar to their existing retail and storage uses. In 2019 (see Figure 6) these parcels were zoned I1 Light Industrial. Battle Creek's adopted 2018 Master Plan identifies this area including the subject parcels as one of the City's "Development Opportunity Centers" overlain on the Multi-Unit Residential category (see Figure 7.)



Because the parcels are within a “Development Opportunity Center” and the underlying category is a residential category, staff believes that the S Spark District is the best fit, since two other Multi-Unit Residential sections in the City that are also “Development Opportunity Centers” have been zoned to S Spark District without amending the 2018 Master Plan.

**Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-04-22, request for rezoning of the three (3) parcels that are the subject of this petition and are identified in Table 1: “List Of The Three (3) Subject Parcels, Addresses And Uses”.**

**Applicant:** The City of Battle Creek City staff had no additional comments.

**Public Comments:** Brian Smith owner of US Lumber at 100 S Kendall Rd, is a subject of the rezoning stated that his facility also is a state licensed firearms dealer and has plans for light assembly of weapons. Along with that they also manufacture trusses, door frames, and wall panels and in the future would like to manufacture steel roofing and was concerned that the rezoning of this area would affect his ability to allow for light assembly and manufacturing with the proposed district rezoning.

John Hart, small business development, stated that there are others included in this rezoning request and he was there to speak on their behalf, and they their wishes are similar to US Lumber.

**MOTION MADE BY COMM. MORRIS AND SECONDED BY COMM. SPRANGER TO POSTPONE #Z-04-22 REQUEST FOR REZONING OF THE THREE (3) PARCELS 0601-32-144-0, 2400-00-002-0, 2400-00-001-0 for 90 days.**

**Commissioner Comments:** Comm. Newman asked that if they were able to come forward sooner, if that would be allowed.

**Comm. Morris and Chairperson Godfrey III** agreed with Comm. Newman.

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

**CHAIRPERSON GODFREY** asked to open the public hearing for item 6F (#Z-05-22) on the agenda.

- F. REZONING REQUEST #Z-05-22:** Petition from the City of Battle Creek to rezone properties located along Dickman Road currently zoned as “T-3 Neighborhood Commercial District.” Due to inconsistency with the Land Use Plan, the City is requesting a rezoning of the area to “T-4 Downtown Commercial District” pursuant to Sections 1240.13, 1240.14 and 1281.01 of the zoning code.

**Staff Presentation:** Susan C. Cronander, Planning and Zoning Administrator, presented the staff report. This is a petition from the City of Battle Creek requesting a rezoning of sixteen (16) commercial parcels located along Dickman Road from McCamly to Riverside Dr. at Goguac and Dickman Road.

The City of Battle Creek undertook a re-codification of the zoning ordinance and zoning map in 2020 in an effort to better align both with the stated goals and vision of the adopted 2018 Master Plan, as well as to correct a multitude of zoning issues throughout the City.

Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial. When the City and citizens of Battle Creek created the 2018 Master Plan, the Land Use Map that was adopted as part of the

2018 Master Plan actually envisioned more intense commercial districts “Corridor Commercial” along Dickman Road and the Kalamazoo River leading into the downtown, including the sixteen (16) parcels

The purpose of the T-3 Neighborhood Commercial District is to “establish and preserve areas for those commercial uses and facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they serve. The purpose of the T-4 Downtown Commercial is to encourage the development, redevelopment and use of properties in a manner compatible with the character of the downtown area and consistent with the protection and enhancement of property values.

When the City re-codified the zoning ordinance and zoning map in 2020, the sixteen (16) parcels that are the subject of this rezoning petition were zoned to T-3 Neighborhood Commercial. The 2018 Master Plan Land Use map however, shows the sixteen (16) parcels as Corridor Commercial. The Corridor Commercial to the north of the subject parcels is zoned a more intense B-1 Corridor Commercial. Staff does not know if the rezoning to T-3 of the sixteen (16) parcels was an oversight; but, after investigating the vacant sites, their location along the Dickman Road major arterial corridor, and researching the 2018 Master Plan and 2018 Downtown Plan, staff believes that these sixteen (16) parcels should have been assigned a more intense zoning district.

**Based on the above findings, planning staff recommends that the Planning Commission recommend to the City Commission approval of Petition Z-05-22, request for rezoning of the sixteen (16) parcels identified in Table 1: “List Of The Sixteen (16) Subject Parcels, Addresses And Uses”.**

**Chairperson Godfrey III** asked if the petitioner or anyone on behalf of the petition #Z-05-22 was present to speak.

**Applicant:** The City of Battle Creek City staff is presenting this to the board alone, and had no additional comments.

**Public Comments:**

Marvin Day 16 Enwood St. stated he frequently bikes through downtown as that is his main form of transportation, and he mentioned how some of the areas through the proposed rezoning location have narrow bike lanes and narrow shoulders that have made it very difficult to navigate through, and that he appreciates the city’s effort to address this area as it is dangerous and he looks forward to potential redevelopments that have been proposed through this particular strip of Dickman Road.

**MOTION MADE BY COMM. GRAY AND SECONDED BY VICE MAYOR REYNOLDS TO APPROVE #Z-05-22 REQUEST FOR REZONING FROM T-3 NEIGHBORHOOD COMMERCIAL TO T-4 DOWNTOWN COMMERCIAL OF SIXTEEN (16) PARCELS LOCATED ALONG DICKMAN ROAD FROM MCCAMLY ST. S. TO 80 RIVERSIDE DR. / DICKMAN ROAD AT GOGUAC ST. E. AS PRESENTED BY STAFF.**

**ALL IN FAVOR, NONE OPPOSED, MOTION APPROVED.**

.....  
**OLD BUSINESS:** None

**NEW BUSINESS:**

## **2021 Planning and Zoning Annual Report**

**Marcie Gillette**, Community Services Director, gave the report to summarize 2021.

In 2021 for planning commission there were a total of 11 items that came before the board. In previous years the numbers were lower and it seems that in 2021 there was a swinging back to a pre-covid era in numbers. In spring of 2021 there were a group of map amendments and texts amendments made to the zoning ordinance due to an oversight.

With regard to Zoning Board of Appeals there were a total of 12 items that came before the body 5 of which were approved and 6 denials and there was a noticeable trend upward to the pre-covid era again with that as well.

For Historic District Commission there were a couple of items that came before the body and there were also 5 items that were reviewed by staff and were administratively approved for minor classes of work.

In 2021 we still continued our work with the redevelopment ready and being a certified community in 2021 there were 23 project site plan reviews.

There were a total of 221 zoning enforcements in 2021 which is down a little bit from the pre-covid period of time 200 of those were rental registrations, 1 non-conforming investigation, and 20 illegal use investigations, and 100 miscellaneous enforcements such as parking, recreational vehicles, fencing etc.

There were 1,501 permits that were reviewed by the planning division as part of the application and approval process, 908 of those were residential, 244 commercial, 237 fences, 72 sign, and 40 property demolition.

**COMM. NEWMAN MADE A MOTION TO RECEIVE THIS REPORT AS PRESENTED, COMM. GRAY SECONDED.**

**ALL IN FAVOR, NONE APPOSED.**

**COMMENTS FROM THE PUBLIC:** None

**COMMENTS FROM COMMISSION MEMBERS AND STAFF:** None

### **ADJOURNMENT:**

**Chairman Godfrey** adjourned the meeting at 5:55 p.m.

Submitted by: Crystal Bax, CSR II, Planning and Zoning



General Detail

NO.

Minutes for the November 15, 2022 City Commission Regular Meeting

**BATTLE CREEK, MICHIGAN - 12/6/2022**

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Rebecca Forbes, Executive Assistant

**Department:** City Manager

**SUMMARY**

Minutes for the November 15, 2022 City Commission Regular Meeting

**BUDGETARY CONSIDERATIONS**

**HISTORY, BACKGROUND and DISCUSSION**

**DISCUSSION OF THE ISSUE**

**POSITIONS**

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**ATTACHMENTS:**

| File Name                             | Description                                                       |
|---------------------------------------|-------------------------------------------------------------------|
| ❏ Minutes_2022_11_15_Meeting(837).pdf | Minutes for the November 15, 2022 City Commission Regular Meeting |



## **Agenda: Battle Creek City Commission**

Meeting Date: November 15, 2022- 7:00 PM

Location: City Commission Chambers

Chair: Mayor Mark A. Behnke

Title: Battle Creek City Hall - City Commission Chambers, 3rd Floor

VIDEO

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### **ATTENDANCE**

#### **Commissioners**

Mayor Mark Behnke

Commissioner Lynn Ward Gray

Vice Mayor Carla Reynolds

Commissioner Kathy Szenda Wilson

Commissioner Kristin Blood

Commissioner Jenasia Morris

Commissioner Sherry Sofia

#### **ABSENT:**

Commissioner Boonikka Herring

Commissioner Jim Lance

#### **City Staff**

Ted Dearing, Assistant City Manager

Jim Blocker, Police Chief

Susan Cronander, Planning

Stacy Fate, Service Desk Technician

Chris Lussier, Community Development  
Specialist

Jill Steele, City Attorney

Victoria Houser, City Clerk

Travis Sullivan, Planner

Mallory Avis, Transportation

### **INVOCATION**

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Comm. Morris.

### **ROLL CALL**

### **PRESENTATIONS**

Comm. Sofia presented a proclamation to Comm. Blood for her service and dedication to the Battle Creek community.

Vice Mayor Reynolds presented a proclamation to Comm. Szenda Wilson for her commitment and representation of her constituents.

Mayor Behnke presented a proclamation to Comm. Gray for more than 10 years of service to the community, for her passion and devotion to the community.

Comm. Sofia read a poem commemorating the service of Commissioners Blood, Gray, Herring and Szenda Wilson.

Vice Mayor Reynolds agreed all of the commissioners will be missed, stating it was a true joy to serve with them.

Comm. Gray thanked everyone for the opportunity to serve on the commission again.

Comm. Szenda Wilson stated it has been an honor to serve the community, stating she is grateful for the experience and knowledge on how city government works.

Comm. Blood expressed appreciation for the opportunity to serve the residents, thanking the commission for their patience and guidance.

#### Presentation by Mike Yarger - Republic Services

Mike Yarger, Republic Services, presented information to the City Commission.

Mayor Behnke noted Republic has made a positive change to the waste service, recognizing their efficiencies.

Comm. Szenda Wilson, noting the transition to a new service provider is not always easy, especially during a pandemic, stating that whenever she has had a missed pick up, Republic has always been very responsive and polite.

Mr. Yarger stated the company has been sharing resources between the Kalamazoo and Marshall locations, utilizing resources to the best of their ability. Mr. Yarger also stated Republic conducts continual market analysis to ensure wages are competitive, constantly recruiting, stating they have worked with the Calhoun County Tech Center for mechanics. Responding to Comm. Blood, Mr. noted there is a local phone number, 269-216-8008, that connects to their service representatives who will help to resolve any issues.

#### Staff Presentation - Public Transit - Mallory Avis, Public Transit Director

Mallory Avis, Transportation Director, presented the monthly staff report.

#### **CHAIR NOTES ADDED OR DELETED RESOLUTIONS**

There were no added or deleted resolutions.

#### **PETITIONS COMMUNICATIONS REPORTS**

There were no petitions or communications.

#### Planning / Zoning Division 2019-2020 and 2021 Annual Reports

#### **PUBLIC HEARING**

A Public Hearing to consider removal of Planning Commission Member Ariel Laws for Nonfeasance due to chronic absenteeism.

Mayor Behnke declared the public hearing open, inviting attendees to provide public comment.

Hearing no comments, Mayor Behnke declared the public hearing closed.

#### **INTRODUCTION OF ORDINANCES**



14-2022      A proposed Ordinance to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: CARLA REYNOLDS

Wayne Edmonds questioned why these properties are being rezoned when current businesses are operating on these parcels, noting local properties have had difficulties selling due to the Industrial zoning designation.

Mayor Behnke noted a couple residents had difficulty selling their properties as they were mistakenly zoned industrial.

Ted Dearing, Assistant City Manager, agreed new buyers have had difficulty securing financing due to the industrial designation, stating the best strategy for residents in this area was to rezone the parcels back to residential.

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE

MOTION PASSED

15-2022      A proposed Ordinance to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE

MOTION PASSED

#### **ADOPTION OF ORDINANCES**

530            A Resolution adopting Ordinance 13-2022 to rezone 175 College Street (Parcel # 9730-00-052-0) from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE

MOTION PASSED

**PUBLIC COMMENTS REGARDING CONSENT AGENDA AND RESOLUTIONS NOT ON CONSENT AGENDA**

John Kenefick commented on resolution 543 regarding the HOME-ARP funding agreement with the Haven of Rest Ministries.

(Limited to three minutes per individual)

**COMMISSION COMMENT REGARDING MEETING BUSINESS**

**CONSENT AGENDA**

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE

MOTION PASSED

Minutes for the November 1, 2022 City Commission Regular Meeting

City Manager's Report for November 15, 2022

531        A Resolution authorizing the sale of a vacant, tax-reverted property, Parcel Number 7270-00-008-0.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE

MOTION PASSED

532        A Resolution seeking authorization to issue payment for emergency lift station generator replacement from Shouldice Industrial Manufacturers and Contractors, Inc. in a not-to-exceed amount of \$76,066.00.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

533           A Resolution reappointing a member to the Board of Review.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

534           A Resolution appointing a member to the Battle Creek Transit Local Advisory Council.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

535           A Resolution reappointing a member to the Civil Service Commission

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

536           A Resolution reappointing members to the Lakeview Downtown Development Authority Board

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

537            A Resolution reappointing and appointing a new member to the Zoning Board of Appeals

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

538            A Resolution appointing a member to the Historic District Commission.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

**RESOLUTIONS NOT INCLUDED IN THE CONSENT AGENDA**

539            A Resolution seeking removal of Commissioner Ariel Laws from the Planning Commission due to nonfeasance based upon chronic absenteeism.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Comm. Szenda Wilson noted positions on the City's boards, committees and commissions are critical to the service of our community, requesting residents to consider serving on one of the city's boards or committees.

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

540            A Resolution seeking authorization the City Manager to employ retiree Leona Parrish on a temporary basis under 296.09(c).

Motion to Approve

Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

- 541        A Resolution seeking to approve S13-2022, a Special Use Permit to allow for a new Major Vehicle Repair Shop at 164 S. 24th Street (Parcel #0065-00-650-0) in a B-1 Corridor Commercial District pursuant to Section 1281.05 of the zoning code.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

- 542        A Resolution seeking to approve S14-2022, a Special Use Permit to allow for an In-Home Group Child Care Home for up to twelve (12) children at 24 Golden Avenue (parcel #4690-08-506-0) in a R-1A Single Family Residential District pursuant to Section 1281.06 of the zoning code.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Comm. Szenda Wilson discussed the need for more childcare facilities in the state, stating she appreciates the business owners investment in the community.

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE  
MOTION PASSED

- 543        A Resolution seeking authorizing for the City Manager to execute the 2022 HOME-ARP Haven of Rest Ministries Supportive Services Grant Agreement for the amount of \$252,000.

Motion to Approve  
Moved By: JENASIA MORRIS  
Supported By: CARLA REYNOLDS

Comm. Blood questioned whether plan participants were required to follow a particular religion to obtain support.

Chris Lussier noted the eligilble populations are listed in the grant agreement, including homeless and at risk of homelessness individuals, and those fleeing domestic violence. Mr. Lussier noted the

Federal government prohibits the requirement of following any religious component, noting participants of any religion must be accommodated. Mr. Lussier stated the funds would pay a portion of a number of staff members for 2 years, stating this grant funding would fill a funding gap.

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE

MOTION PASSED

544            A Resolution seeking to set a closed session on a labor matter for November 15, 2022.

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE

MOTION PASSED

#### **GENERAL PUBLIC COMMENT**

Kathy Antaya expressed appreciation to the four departing commissioners, stating she is looking forward to the work of the new commissioners.

Daniel Jones thanked the commission for the approval of the HOME-ARP funding resolution for the Haven of Rest Ministries, stating the funds would be used for the Life Recovery program.

Cindi Dian thanked the commissioners for their service and dedication to the community, encouraging everyone to work to ensure the community's needs are considered and met.

Reece Atkins congratulated the commissioners recently elected, thanking those who will be departing, asking that persons being appointed to committees be named in the resolution.

John Kenefick expressed displeasure with resolutions passed by the current commission over the last 2 years.

(Limited to three minutes per individual)

#### **COMMISSION COMMENTS**

Comm. Szenda Wilson congratulated Victoria Houser, City Clerk, and her staff for facilitating a successful election. Comm. Szenda Wilson also encouraged everyone to support those in the community struggling with addiction issues.

Vice Mayor Reynolds wished everyone a safe and happy Thanksgiving.

Comm. Blood expressed appreciation to the Clerk and her team for their dedication and work to ensure voters were able to vote on Election Day, also thanking city staff who help to support the Clerk's office. Comm. Blood thanked the commission and staff for working with her the last two years.

#### **RECESS**

The City Commission recessed to Closed Session at 8:26 pm.



## **CLOSED SESSION**

## **RETURN FROM RECESS**

The City Commission returned from Closed Session at 8:45 pm.

**MOTION: To approve the tentative agreement between the City and ATU on November 1st, 2022.**

Motion to Approve

Moved By: JENASIA MORRIS

Supported By: CARLA REYNOLDS

Ayes: BLOOD, GRAY, BEHNKE, MORRIS, REYNOLDS, SOFIA, SZENDA WILSON

Absent: HERRING, LANCE

MOTION PASSED

## **ADJOURNMENT**

Mayor Behnke adjourned the meeting at 8:46 pm.

It is the desire of the City Commission to encourage public expression in the course of its meetings. Such expression can be integral to the decision-making process of the City Commission. It is the intention of the City Commission to respect the rights of persons addressing the Commission. Public comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during public comment periods. At the conclusion of the speakers remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during the Commission Comment period. It is with these aims in mind, so as to promote decorum and civility and an orderly process for conducting its public meetings, that the following rules concerning public comments, consistent with applicable law, are adopted by the City Commission.

(1) Persons attending a regular or special Commission Meeting shall be permitted to address the City Commission in conformity with this rule. The opportunity to address the Commission shall be limited to the following:

(a) Persons desiring to address the City Commission are encouraged, but shall not be required, to fill out and turn in to either the City Clerk, Mayor, or presiding Commissioner, prior to the meeting, a comment card disclosing the following information: The person's name, address, and telephone number; the specific issue, topic or resolution the individual wishes to address.

(b) During public hearings when scheduled, speakers may present facts and opinions on the specific matter being heard by the Commission. A three-minute time limit is imposed per speaker. In the discretion of the Mayor or presiding officer, the time limit for individual speakers may be lengthened or shortened when appropriate.

(c) During the consideration of specific ordinances when scheduled, speakers may present facts and opinions on the specific ordinance being considered by the City Commission. Speakers addressing the City Commission during this time shall limit

their comments to the specific issue being considered. A three-minute time limit, which may be lengthened or shortened by the Mayor or presiding officer when appropriate, is imposed per speaker, per matter considered.

(d) During the public comment period on the consent agenda and resolutions not on the consent agenda, each speaker may address the Commission once, regarding anything on the consent agenda and resolutions not on the consent agenda, for a total not to exceed three minutes regardless of how many consent agenda items or regular resolutions the speaker is addressing, which time period may be lengthened or shortened by the Mayor or presiding officer when appropriate.

(e) During the General Public Comment portion of the meeting, speakers may address the City Commission on any matter within the control and jurisdiction of the City of Battle Creek. A speaker shall be permitted to address the City Commission once, for up to three minutes, during this portion of the meeting.

(2) An individual wishing to address the City Commission shall wait to be recognized by the Mayor or presiding Commissioner before speaking. An individual who has not filled out a card requesting to address the City Commission shall raise his or her hand and wait to be recognized by the Mayor or presiding Commissioner before speaking and shall identify themselves by name and address and, if appropriate, group affiliation for the record.

(3) Speakers shall address all remarks to the Mayor, or the presiding Commissioner or official, and not to individual Commissioners or staff members. Speakers shall not address their remarks to members of the public in attendance at the meeting.

(4) A speaker will be ruled out-of-order by the Mayor or presiding Commissioner and the Commission will continue with its business, and the speaker may be required to leave the meeting after having been ruled out-of-order for a breach of the peace committed at the meeting as permitted by the OMA, when the speaker violates above sub-section 3 or the following:

- (a) Becomes repetitive or speaks longer than the allotted time;
- (b) Attempts to yield any unused portion of time to other speakers;
- (c) Engages in a personal attack upon a city employee, administrator or Commissioner only if the personal attack is totally unrelated to the manner in which the employee, administrator or Commissioner carries out their public duties or office;
- (d) Uses obscene or profane language;
- (e) Engages in slanderous or defamatory speech;
- (f) Uses derogatory racial, sexual or ethnic slurs or epithets relating to any individual or category of persons; or
- (g) Engages in conduct that interrupts or disrupts the meeting.



General Detail

NO.

Ambulance Report for October 2022

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**AMBULANCE SERVICES  
MONTHLY PERFORMANCE REPORT**

*Report for the month of October 2022*

**Life Care Ambulance Service**

Life Care Ambulance Service is under Contract with the City of Battle Creek effective June 2, 1998. Under the Contract, they are requested to meet the following criteria at a minimum of 90% of all calls per month:

Life-threatening emergency runs throughout the City -- 8 Minutes, 30 Seconds

Life-threatening emergency runs per Ward -- 9 Minutes, 30 Seconds

Priority 3 Responses -- 15 Minutes

**Life-threatening Emergencies City-wide**

Number of runs for the month 574. Percentage of runs accomplished within guidelines 76.7%

**Life-threatening Emergencies per Ward**

|                     | <b>Ward 1</b> | <b>Ward 2</b> | <b>Ward 3</b> | <b>Ward 4</b> | <b>Ward 5</b> |
|---------------------|---------------|---------------|---------------|---------------|---------------|
| Number of Runs      | 117           | 200           | 95            | 82            | 80            |
| Percentage Achieved | 78.6%         | 84.5%         | 85.3%         | 87.8%         | 82.5%         |

**Priority 3 Responses**

Number of runs for the month 443. Percentage of runs accomplished within guidelines 80.4%

## Action Summary

**Staff Member:** Shawna Beach, Records/Election Clerk

**Department:** City Clerk

### **SUMMARY**

Ambulance Report for October 2022

### **BUDGETARY CONSIDERATIONS**

### **HISTORY, BACKGROUND and DISCUSSION**

### **DISCUSSION OF THE ISSUE**

### **POSITIONS**

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#### ATTACHMENTS:

File Name

Description

No Attachments Available



General Detail NO.

City Manager's Report for December 6, 2022

**BATTLE CREEK, MICHIGAN - 12/6/2022**

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Rebecca Forbes, Executive Assistant

**Department:** City Manager

**SUMMARY**

City Manager's Report for December 6, 2022

**BUDGETARY CONSIDERATIONS**

**HISTORY, BACKGROUND and DISCUSSION**

**DISCUSSION OF THE ISSUE**

**POSITIONS**

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**ATTACHMENTS:**

| File Name                        | Description                                |
|----------------------------------|--------------------------------------------|
| City_Manager_Report_12062022.pdf | City Manager's Report for December 6, 2022 |



**Date:** 12/06/2022

**To:** Mayor and City Commission

**From:** Rebecca L. Fleury, City Manager

**RE:** City Manager's December 06, 2022, Agenda Report

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**16-2022**      **A Proposed Ordinance, #16-2022, seeks to amend Section 12 of Chapter 1022, Snow Removal, of City Ordinances, to expand the length of time to remove snow and ice from public sidewalks after a snowfall and authorize the City to clear snow or ice at the property owner's expense and to repeal Section 13.**

This Proposed Ordinance seeks to amend Section 12 of Chapter 1022, Snow Removal, of City Ordinances, to expand the length of time to remove snow and ice from public sidewalks after a snowfall and authorize the City to clear snow or ice at the property owner's expense and to repeal Section 13. **Introduction is Recommended**

**17-2022**      **A Proposed Ordinance, 17-2022, to rezone 183 West Street (Parcel # 7960-00-007-0) from MFR High Density Multiple Family District to T-4 Downtown Commercial District.**

The subject property of the proposed rezone – 183 West St. - is located on the east side of West Street, and is south of the West St./Emmet intersection.

This Proposed Ordinance, seeks to rezone 183 West Street from MFR High Density Multiple Family District to T-4 Downtown Commercial District. **Introduction is Recommended**

**1**      **A Resolution seeking to adopt Ordinance 14-2022 to rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District.**

The subject parcels are currently zoned I-2 Heavy Industrial. The parcels are surrounded to the east and south by the I-2 Heavy Industrial District, with the G Green District immediately across Columbia Ave. W to the north.

When the City re-codified the Zoning Ordinance and Zoning Map in 2020, the subject parcels were zoned I-2 Heavy Industrial, in accordance with the adopted Land Use Plan.

This proposed Ordinance would rezone parcels located along Robertson Avenue, Newtown Avenue, W. Columbia Avenue, Independence Avenue, and Songbird Lane from I-2 Heavy Industrial District to R-1A Single Family Residential District. **Adoption is Recommended**

**2**      **A Resolution adopting Ordinance 15-2022 to rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District.**

The subject sites include sixteen (16) parcels located along Dickman Road from McCamly southeast to Riverside Dr. at Guguac and Dickman Road. Most of these parcels are vacant or have vacant buildings. Aside from the small parcels that line the larger parcels or border the roads, the main vacant parcels identified by this petition range in size from one to ten acres, with Reliable

Refrigeration and the parcel east of it being exceptions. These parcels have previously hosted or are currently hosting commercial uses, and in the case of the parcel along Goguac, an apartment complex.

The City of Battle Creek undertook a re-codification of the zoning ordinance and zoning map in 2020 in an effort to better align both with the stated goals and vision of the adopted 2018 Master Plan, as well as to correct a multitude of zoning issues throughout the City. Currently, the parcels that are the subject of this petition are zoned for T-3 Neighborhood Commercial.

This proposed Ordinance would rezone sixteen (16) parcels located along Dickman Road from McCamly Street S. to 80 Riverside Drive / Dickman Road at Guguac Street E. from T-3 Neighborhood Commercial District to T-4 Downtown Commercial District. **Adoption is Recommended**

**10**

**A Resolution seeking acceptance of dedication of a parcel of vacant land, number 52-0127-00-016-3 for use as a Public Road commonly known as Barney Boulevard.**

Parcel number 52-0127-00-016-3, commonly known as Barney Boulevard is vacant, and is used as an access road for six parcels north of Oakley Street. The Department of Public Works has received several complaints over the last few years regarding the condition of the access road which is privately maintained.

This Resolution seeks acceptance of dedication of a parcel of vacant land, number 52-0127-00-016-3 for use as a Public Road commonly known as Barney Boulevard. **Approval is Recommended**

**11**

**A Resolution seeking to establish a revised Battle Creek Transit Title VI policy to ensure equal opportunity in the transportation for all persons regardless of race, color, or national origin.**

In compliance with Title VI of the Civil Rights Act of 1964, Battle Creek Transit (BCT) operates all of its programs and provides public transportation services without regard to race, color, or national origin.

As a direct recipient of Federal and State grant funds, BCT is required to develop and maintain a Title VI policy that will ensure that the level and quality of public transportation service is provided in a non-discriminatory manner; promote full and fair participation in public transportation decision-making without regard to race, color, or national origin; and ensure meaningful access to transit-related programs and activities by persons with limited English proficiency.

The Federal Transportation Administration requires that each recipient provides an updated Title VI policy for review every three years. This Resolution updates the current BCT Title VI policy.

This Resolution seeks to establish a revised Battle Creek Transit Title VI policy to ensure equal opportunity in the transportation for all persons regardless of race, color, or national origin. **Approval is Recommended**

**12**

**A Resolution seeking approval to set goals for potential contracting opportunities for FY2022-2025 for an established Disadvantaged Business Enterprise (DBE) Program for Battle Creek Transit (BCT) in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.**

In 1999, the U.S. Department of Transportation implemented revised regulations regarding the Disadvantaged Business Enterprise (DBE) program and 49 CFR Part 26 of the Department of Transportation federal regulations specify recipients of federal funding are required to establish overall goals for potential contracting opportunities for certified DBE suppliers.

This Resolution seeks approval to set goals for potential contracting opportunities for FY2022-2025 for an established Disadvantaged Business Enterprise (DBE) Program for Battle Creek Transit (BCT) in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. **Approval is Recommended**

13

**A Resolution seeking authorization for the City Manager to grant Consumers Energy Company, a Michigan corporation, a temporary easement in, on, over, under, across and through a portion of City-owned property on Armstrong Road identified as parcel # 52-3020-01-093-1.**

Consumers Energy has requested an easement for use of a City owned parcel on Armstrong Road to locate a battery substation.

This Resolution seeks authorization for the City Manager to grant Consumers Energy Company, a Michigan corporation, a temporary easement in, on, over, under, across and through a portion of City-owned property on Armstrong Road. **Approval is Recommended**

14

**A Resolution seeking authorization the City Manager to employ retiree Jerry Porter on a part-time, temporary basis under 296.09(c).**

Pursuant to Employment Provision 296.09 " (c) No person shall be employed by the City, or paid with City funds, who has retired under the provisions of . . . the Michigan Municipal Employees' Retirement System . . . The City Manager may make exceptions to this provision, with the approval of the City Commission, when . . . "she" feels the interests of the City would be served thereby."

Jerry Porter retired from the airport as an Ops/Maintenance Specialist. The department is requesting the ability to allow Jerry to temporarily return in order to assist with seasonal activities like snow plowing the runways, etc. Because of Jerry's knowledge of airport operations and the specific nature of the work, the City Manager believes that the interests of the City would be best served by making an exception to the general prohibition of re-employing City Retirees.

This Resolution seeks to authorize the City Manager to employ retiree Jerry Porter on a part-time, temporary basis under 296.09(c). **Approval is Recommended**

15

**A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Battle Creek Community Foundation Supportive Services Grant Agreement for the amount of \$42,000.**

On September 21, 2021 the U.S Department of Housing and Urban Development awarded the City of Battle Creek \$1,094,358 of HOME-American Rescue Plan Program funds.

The proposed agreement with the Battle Creek Community Foundation will provide partial funding for a second Case Manager at the Battle Creek Homeless Shelter for four years.

This Resolution seeks authorization for the City Manager to execute the 2022 HOME-ARP Battle Creek Community Foundation Supportive Services Grant Agreement for the amount of \$42,000. **Approval is Recommended**

16

**A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Gracious Homes Supportive Services Grant Agreement for the amount of \$52,000.**

On September 21, 2021 the U.S Department of Housing and Urban Development awarded the City of Battle Creek \$1,094,358 of HOME-American Rescue Plan Program funds.

The proposed agreement with Gracious Homes will provide partial funding for a Case Manager for two years.

This Resolution seeks authorization for the City Manager to execute the 2022 HOME-ARP Gracious Homes Supportive Services Grant Agreement for the amount of \$52,000. **Approval is Recommended**

17

**A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Drop-in Self-help Center Supportive Services Grant Agreement for the amount of \$111,090.**

On September 21, 2021 the U.S Department of Housing and Urban Development awarded the City of Battle Creek \$1,094,358 of HOME-American Rescue Plan Program funds.

The proposed agreement with the Drop-In Self-Help Center will provide partial funding for a Peer Support person and a Recovery Coach for two years.

This Resolution seeks authorization for the City Manager to execute the 2022 HOME-ARP Drop-in Self-help Center Supportive Services Grant Agreement for the amount of \$111,090. **Approval is Recommended**

**18**

**A Resolution seeking approval to conduct a Closed Session on a legal matter.**

As permitted under the Michigan Open Meetings Act, a public body, upon a 2/3 majority vote, may meet in closed session in order to consult with its Attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body. The City believes an open meeting would have a detrimental financial effect on the litigation or settlement position of the public body in this instance.

This Resolution seeks approval to conduct a Closed Session on a legal matter. **Approval is Recommended**



Resolution

NO. 3

A Resolution regarding the City of Battle Creek - FY 2022 Emergency Management Performance Grant Agreement (EMPG).

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the City Manager and Emergency Services Administrator are authorized to enter into a Emergency Management Performance Grant Agreement (EMPG) with the Michigan State Police Emergency Management Homeland Security Division.

---

Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Jared D. Hall, Emergency Management Administrator

**Department:** Police

**SUMMARY**

A Resolution regarding the City of Battle Creek - FY 2022 Emergency Management Performance Grant Agreement (EMPG).

**BUDGETARY CONSIDERATIONS**

The City of Battle Creek is awarded \$47,169.00 under the FY 2022 EMPG. The Subgrantor determined the Subgrantee's allocation as 40.29% of the Subgrantee's Emergency Program Manager's salary and fringe benefits. The Subgrantee may receive less than the allocated amount if the Subgrantee's cost share of wages and fringe benefits paid to the Program Manager are less than the total allocation.

**HISTORY, BACKGROUND and DISCUSSION**

This grant agreement designates EMPG funds for the administration and oversight of an approved emergency management program. The Subgrantee may utilize grant funds for the reimbursement of salary, overtime, compensatory time off, and associated fringe benefits for the program manager, and up to 5% of the total allocation may be utilized for M&A costs, no other expenditures are allowed. If M&A costs are




claimed, a narrative must be submitted detailing the expenses that are included in these costs.

## **DISCUSSION OF THE ISSUE**

## **POSITIONS**

---

### ATTACHMENTS:

| File Name                                                                                                               | Description                        |
|-------------------------------------------------------------------------------------------------------------------------|------------------------------------|
|  FY_22_EMPG_Battle_Creek_GA_Packet.pdf | EMPG Grant Agreement Packet FY2022 |



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF STATE POLICE  
LANSING

COL. JOSEPH M. GASPER  
DIRECTOR

September 19, 2022

Dear Local Emergency Management Coordinator:

Enclosed is the Fiscal Year 2022 Emergency Management Performance Grants (EMPG) Grant Agreement package. Please return the required grant documentation listed on the enclosed ***Subrecipient Checklist*** to our office via email:

Attention: Mr. Paul Lounsberry  
Emergency Management and Homeland Security Division  
Michigan Department of State Police  
LounsberryP@michigan.gov

Reimbursement for the EMPG program is contingent upon completion of the activities in the signed *Emergency Management Annual Work Agreement*. To remain eligible for EMPG funding, current and adequate plans must be maintained, and exercise requirements must be met. If a work activity is not completed in the designated quarter, reimbursement may not be made until the work is completed. The Emergency Management and Homeland Security Division District Coordinators may make recommendations on reimbursement, but final approval remains with the Deputy State Director of Emergency Management, who may or may not approve a delay in the completion of the activity. If work activities (for which funds have been withheld) have not been completed by the end of the fiscal year, forfeiture of those funds may be required. For specific responsibilities and requirements, please refer to Section II (Statutory Authority) and Section IV (Responsibilities of the Subrecipient) in the Fiscal Year 2022 EMPG Grant Agreement.

This grant agreement and all required attachments must be completed, signed, and returned **no later than November 18, 2022**. If this requirement is not met, this grant agreement will be invalid unless a prior written exception is provided by the Michigan State Police, Emergency Management and Homeland Security Division.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin Sweeney".

Capt. Kevin Sweeney, Commander  
Emergency Management and  
Homeland Security Division

# SUBRECIPIENT CHECKLIST

## FY 2022 EMERGENCY MANAGEMENT PERFORMANCE GRANTS (EMPG) GRANT AGREEMENT

CFDA No: 97.042

Email the following items to: LounsberryP@michigan.gov

SUBRECIPIENT WILL NOT BE REIMBURSED FOR FUNDS UNTIL ALL REQUIRED SIGNED DOCUMENTS ARE RECEIVED

- ☐ 1. Grant Agreement
  - ☐ 2. Subrecipient Risk Assessment Certification
  - ☐ 3. Standard Assurances
  - ☐ 4. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements
  - ☐ 5. Audit Certification (EMD-053)
  - ☐ 6. Request for Taxpayer Identification Number and Certification (W-9)
- 

### POST REIMBURSEMENT REQUIREMENTS

Participate with Recipient in an on-site monitoring of financial documents. Also retain financial records, supporting documents, and all other records pertinent to the grant for at least three years after the grant is closed by the awarding federal agency. Be sure to comply with Single Audit requirements of Subpart F of 2 CFR 200. **If required, the Subrecipient submits audit copy to: Michigan Department of State Police, Grants and Community Services Division, PO Box 30634, Lansing, Michigan 48909.**

**For GRANT AGREEMENT QUESTIONS, PLEASE CONTACT PAUL LOUNSBERRY  
AT 517-256-3920 OR LOUNSBERRYP@MICHIGAN.GOV**

Michigan State Police  
Emergency Management  
and  
Homeland Security  
Division



Grant Agreement

**FEDERAL AWARD IDENTIFICATION**

|                                |                                               |                    |
|--------------------------------|-----------------------------------------------|--------------------|
| SUBRECIPIENT NAME              | GRANT NAME                                    | ASSISTANCE LISTING |
| City of Battle Creek           | Emergency Management Performance Grants       | 97.042             |
| SUBRECIPIENT IRS/VENDOR NUMBER | FEDERAL AWARD IDENTIFICATION NUMBER (FAIN)    | FEDERAL AWARD DATE |
| 38-6004523                     | EMC-2022-EP-00001                             | 8/23/2022          |
| SUBRECIPIENT UEI               | SUBAWARD PERFORMANCE PERIOD                   | FROM TO            |
| DAZVMCPXKJT7                   | 10/1/2021                                     | 9/30/2022          |
| RESEARCH & DEVELOPMENT         | Funding                                       | Total              |
| N/A                            | Federal Funds Obligated by this Action        | \$47,169.00        |
| INDIRECT COST RATE             | Total Federal Funds Obligated to Subrecipient | \$47,169.00        |
| None on file                   | Total Amount of Federal Award                 | \$47,169.00        |

FEDERAL AWARD PROJECT DESCRIPTION

2022 Emergency Management Performance Grants (EMPG)

DETAILS

The 2022 EMPG allocation is 40.29% of the Subrecipient's emergency program manager's salary and fringe benefits. A cost-match is required under this program. The Federal share used towards the EMPG budget shall not exceed 50% of the total budget.

|                                                                                                                   |                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| FEDERAL AWARING AGENCY                                                                                            | PASS-THROUGH ENTITY (RECIPIENT) NAME                                                                                 |
| Federal Emergency Management Agency - GPD<br>400 C Street, SW, 3 <sup>rd</sup> floor<br>Washington, DC 20472-3645 | Michigan State Police<br>Emergency Management and<br>Homeland Security Division<br>PO Box 30634<br>Lansing, MI 48909 |

# State of Michigan FY 2022 Emergency Management Performance Grant Grant Agreement

October 1, 2021 to September 30, 2022

|                                                                             |
|-----------------------------------------------------------------------------|
| <b>Assistance Listing: 97.042</b><br><b>Grant Number: EMC-2022-EP-00001</b> |
|-----------------------------------------------------------------------------|

This Fiscal Year (FY) 2022 Emergency Management Performance Grant (EMPG) grant agreement is hereby entered into between the Michigan Department of State Police, Emergency Management and Homeland Security Division (hereinafter called the Recipient), and the

**CITY OF BATTLE CREEK**  
(hereinafter called the Subrecipient)

## I. Purpose

The purpose of this grant agreement is to provide federal pass-through funds to the Subrecipient for the development and maintenance of an emergency management program capable of protecting life, property, and vital infrastructure in times of disaster or emergency.

The FY 2022 EMPG program plays an important role in the implementation of the National Preparedness System (NPS) by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. The objective of the NPS is to facilitate an integrated, all-of-nation/whole community, risk driven, capabilities-based approach to preparedness.

In support of the National Preparedness Goal, the FY 2022 EMPG supports a comprehensive, all-hazard emergency preparedness system to build and sustain core capabilities across the Prevention, Protection, Mitigation, Response, and Recovery mission areas.

For more information on the NPS, federally designated priorities, and the FY 2022 EMPG objectives, as well as guidance on allowable costs and program activities, please refer to the FY 2022 EMPG Notice of Funding Opportunity (NOFO) and the FEMA Preparedness Grants Manual located at <https://www.fema.gov/grants>.

## II. Statutory Authority

Funding for the FY 2022 EMPG is authorized by Section 662 of the *Post-Katrina Emergency Management Reform Act of 2006* (PKEMRA), as amended, (Pub. L. No. 109-295) (6 U.S.C. § 762); the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended (Pub. L. No. 93-288) (42 U.S.C. §§ 5121 et seq.); the *Earthquake Hazards Reduction Act of 1977, as amended* (Pub. L. No. 95-124) (42 U.S.C. §§ 7701 et seq.); and the *National Flood Insurance Act of 1968*, as amended (Pub. L. No. 90-448) (42 U.S.C. §§ 4001 et seq.).

Appropriation authority is provided by the *Department of Homeland Security Appropriations Act, 2022*, (Pub. L. No. 117-103); *Disaster Relief Supplemental Appropriations Act, 2022*, Pub. L. No. 117-43 (2021).



The Subrecipient agrees to comply with all FY 2022 EMPG program requirements in accordance with the FY 2022 EMPG NOFO, and the FEMA Preparedness Grants Manual; both are located at <https://www.fema.gov/grants/preparedness/emergency-management-performance>; the *Michigan Emergency Management Act* of 1976, as amended (Public Act 390) at <http://www.legislature.mi.gov/doc.aspx?mcl-Act-390-of-1976>; and the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended (Pub. L. No. 93-288) (42 U.S.C. §§ 5121 et seq.) located at <https://www.fema.gov/disaster/stafford-act>; and the *FY 2022 EMPG Agreement Articles Applicable to Subrecipients*. The *FY 2022 EMPG Agreement Articles Applicable to Subrecipients* document is included for reference in the grant agreement packet.

The Subrecipient shall also comply with the most recent version of:

- A. 2 CFR, Part 200 of the Code of Federal Regulations (CFR), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* located at <http://www.ecfr.gov>.
- B. FEMA Policy #108-023-1 *Grant Programs Directorate Environmental Planning and Historic Preservation Policy Guidance*.

### III. Award Amount and Restrictions

- A. The **City of Battle Creek** is awarded **\$47,169.00** or 40.29% of the Subrecipients local emergency manager's salary and fringe benefits under the **FY 2022 EMPG**. The Subrecipient may receive less than the allocated amount if the Subrecipient's cost share (match) of wages and fringe benefits paid to the local emergency manager are less than the total allocation. The Subrecipient's EMPG program budget must be documented on the Local Budget for Emergency Management Performance Grant form (EMD-17).
- B. The FY 2022 EMPG covers eligible costs from October 1, 2021, to September 30, 2022. The funds awarded in the grant agreement shall only be used to cover allowable costs that are incurred during the agreement period. Grant funds shall not be used for other purposes. For guidance on allowable costs, please refer to the EMPG Appendix in the FEMA Preparedness Grants Manual.
- C. This grant agreement designates EMPG funds for the administration and oversight of an approved emergency management program. **The Subrecipient may utilize grant funds for the reimbursement of salary, overtime, compensatory time off, and associated fringe benefits for the local emergency manager, and up to 5% of the total allocation may be utilized for other allowable organization costs.** No other expenditures are allowed. If other organization costs are requested, a narrative must be submitted detailing the expenses that are included in these costs.
- D. The FY 2022 EMPG program has a 50% cost share (cash or in-kind) requirement, as authorized by the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended, (Pub. L. No. 93-288) (42 U.S.C. §§ 5121 et seq.), specifically, Title VI, sections 611(j) and 613. Federal funds cannot exceed 50% of eligible costs. Unless otherwise authorized by law, federal funds cannot be matched with other federal funds.

The Federal Emergency Management Agency (FEMA) administers cost sharing requirements in accordance with 2 CFR § 200.306. To meet matching requirements, the Subrecipient contributions must be reasonable, allowable, allocable, and necessary under the grant program and must comply with all federal requirements and regulations.

See the FY 2022 EMPG NOFO and FEMA Preparedness Grants Manual for additional cost share guidance, definitions, basic guidelines, and governing provisions.

- E. All EMPG funded personnel must complete either the Independent Study courses identified in the Professional Development Series, or the National Emergency Management Basic Academy delivered either by the Emergency Management Institute or a sponsored state, local, tribal, territorial, regional, or other designated location and record proof of completion. All EMPG funded personnel must also participate in exercises consistent with the requirements outlined in the EMPG Guidebook and work agreement.

The EMPG programs are required to complete a quarterly training and exercise report identifying training and exercises completed during the quarter. Guidance for accomplishing these requirements is provided by the Recipient.

- F. Upon request, the Subrecipient must provide to the Recipient information necessary to meet any state or federal subaward reporting requirements.
- G. In the event that the U.S. Department of Homeland Security (DHS) determines that changes are necessary to the award document after an award has been made, including but not limited to, changes to period of performance or terms and conditions, Subrecipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate Subrecipient acceptance of the changes to the award.

#### IV. Responsibilities of the Subrecipient

- A. **Grant funds must supplement, not supplant, state or local funds.** Federal funds must be used to supplement existing funds, not replace (supplant) funds that have been appropriated for the same purpose. Potential supplanting will be carefully reviewed in subsequent monitoring reviews and audits. Subrecipients may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.
- B. The Subrecipient agrees to comply with all applicable federal and state regulations; the FY 2022 EMPG NOFO; the FEMA Preparedness Grants Manual Version 2; the *Agreement Articles Applicable to Subrecipients: Fiscal Year 2022 Emergency Management Performance Grants*, included with the grant agreement package for reference; and the EMPG Guidebook (EMD-PUB 208),
- C. The subrecipient shall not use FY 2022 EMPG funds to generate program income.
- D. In addition to this grant agreement, the Subrecipient shall complete, sign, and submit to the Recipient the following documents, which are incorporated by reference into this grant agreement:
  - 1. Subrecipient Risk Assessment Certification.
  - 2. Standard Assurances.
  - 3. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements.
  - 4. Audit Certification (EMD-053).
  - 5. Request for Taxpayer Identification Number and Certification (W-9).
  - 6. Other documents that may be required by federal or state officials.
- E. Complete and submit quarterly work reports, the Quarterly Training and Exercise Worksheet, and the Annual Training and Exercise Plan Worksheet in accordance with the schedule outlined in the FY 2022 EMPG Work Agreement/Quarterly Report (EMHSD-31).

- F. Enact enabling legislation establishing the local emergency management program and ensure a copy of the local resolution or ordinance is on file with the Recipient.
- G. Appoint an emergency management program manager who can assume responsibility for the functions outlined in section 4 of the EMPG Guidebook.
- H. Provide the Recipient with a complete job description for the federally funded EMPG local emergency manager, including non-EMPG duties if applicable.
- I. Notify the Recipient immediately of any changes in the EMPG funded local emergency manager's position.
- J. The Subrecipient will contribute to the development and maintenance of the state's multi-year Training and Exercise Plan (TEP). This will include conducting exercises that comply with local, state, and federal requirements, including the Homeland Security Exercise and Evaluation Program (HSEEP) and the EMPG Guidebook, to accomplish this goal.
- K. Ensure the EMPG funded local emergency manager completes training as required by the annual EMPG Work Agreement.
- L. Have an approved and current emergency operations plan on file with the MSP/EMHSD District Coordinator.
- M. The Subrecipient agrees to prepare the form EMHSD-007 - EMPG Quarterly Billing Cover Sheet. The Subrecipient agrees to submit this form with supporting documentation, including all required authorized signatures and required reimbursement documentation to the appropriate MSP/EMHSD District Coordinator by the due date following the end of **each** quarter, as identified in FY 2022 Emergency Management Report Schedule. The most current EMHSD-007 form must be used and can be obtained from the MSP/EMHSD District Coordinator, or by visiting [https://www.michigan.gov/msp/0,4643,7-123-72297\\_60152\\_95164\\_95317---,00.html](https://www.michigan.gov/msp/0,4643,7-123-72297_60152_95164_95317---,00.html) under Finance Forms.
- N. Comply with applicable financial and administrative requirements set forth in the current edition of 2 CFR, Part 200, including, but not limited to, the following provisions:
  - 1. Account for receipts and expenditures, maintain adequate financial records, and refund expenditures disallowed by federal or state audit.
  - 2. Retain all financial records, statistical records, supporting documents, and other pertinent materials for at least three years after the grant is closed by the awarding federal agency for purposes of federal and/or state examination and audit.
  - 3. Non-federal organizations which expend \$750,000 or more in all federal funds during their current fiscal year are required to have an audit performed in accordance with the Single Audit Act of 1984, as amended, and 2 CFR, Part 200.
- O. Comply with all reporting requirements, including special reporting, data collection, and evaluation requirements, as prescribed by law or program guidance.
- P. Maintain a valid Unique Entity Identifier (UEI) through SAM.gov at all times during the performance period of this grant.
- Q. The Subrecipient must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. The Subrecipient also agrees to require any subrecipients, contractors, successors, transferees, and assignees to acknowledge and agree to comply with these same provisions. Detailed information on record access provisions can be found in the *DHS Standard Administrative Terms and Conditions*

located at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>, specifically in the DHS Specific Acknowledgements and Assurances on page 1.

- R. Subrecipients must carry out their programs and activities in a manner that respects and ensures the protection of civil rights for protected populations. These populations include but are not limited to individuals with disabilities and others with access and functional needs, individuals with limited English proficiency, and other diverse racial and ethnic populations, in accordance with Section 504 of the *Rehabilitation Act of 1973*, Title VI of the *Civil Rights Act of 1964*, and Executive Order 13347.

## **V. Responsibilities of the Recipient**

The Recipient, in accordance with the general purposes and objectives of this grant agreement, will:

- A. Administer the grant in accordance with all applicable federal and state regulations and guidelines and submit required reports to the awarding federal agency.
- B. Provide direction and technical assistance to the Subrecipient.
- C. Provide to the Subrecipient any special report forms and reporting formats (templates) required for administration of the program.
- D. Reimburse the Subrecipient, in accordance with this grant agreement, based on appropriate documentation submitted by the Subrecipient.
- E. At its discretion, independently, or in conjunction with the federal awarding agency, conduct random on-site reviews of the Subrecipient(s).

## **VI. Reporting Procedures**

- A. The Subrecipient agrees to prepare quarterly work reports using the FY 2022 EMPG Work Agreement/Quarterly Report (EMHSD-31) and submit them through EMHSD's online reporting tool by the due date following the end of **each** quarter. Reimbursement of expenditures by the Recipient is contingent upon the Subrecipient's completion of scheduled work activities. Reporting periods and due dates are listed in the FY 2020 EMPG Work Agreement/Quarterly Report (EMHSD-31). The FY 2022 EMPG Work Agreement can be located at [www.michigan.gov/emhsd](http://www.michigan.gov/emhsd) under Grants Programs, EMPG.
- B. If the Subrecipient fails to complete the scheduled work activities during a quarter, the Recipient will withhold reimbursement until either the work is completed, or the Deputy State Director of Emergency Management approves a delay in the completion of the activity. Forfeiture of funds may result if scheduled work activities are not completed according to established deadlines.
- C. A Subrecipient that fails to complete the annual exercise requirements, as scheduled within the FY 2022 EMPG Work Agreement/Quarterly Report, may be ineligible for EMPG funding for that quarter and all subsequent quarters.
- D. The Subrecipient's failure to fulfill the quarterly reporting requirements, as required by the grant, may result in the suspension or loss of grant funding.

## **VII. Payment Procedures**

- A. The Subrecipient agrees to prepare the form EMHSD-007 - EMPG Quarterly Billing Cover Sheet. The Subrecipient agrees to submit this form with supporting documentation, including all required

authorized signatures and required reimbursement documentation, to the MSP/EMHSD District Coordinator by the due date following the end of **each** quarter, as identified in FY 2022 Emergency Management Report Schedule. The most current EMHSD-007 form must be used and can be obtained from the MSP/EMHSD District Coordinator, or by visiting [www.michigan.gov/emhsd](http://www.michigan.gov/emhsd) under Grant Programs, EMPG, Grant Forms, Finance Forms.

- B. If the Subrecipient submits required quarterly reports that are late or incomplete, the reimbursement may not be processed until the following quarter. Forfeiture of funds may result if quarterly reports are not completed according to established deadlines.
- C. The Subrecipient agrees to return to the Recipient any unobligated balance of funds held by the Subrecipient at the end of the agreement period or handle them in accordance with the instructions provided by the Recipient.

### **VIII. Employment Matters**

The Subrecipient shall comply with Title VI of the *Civil Rights Act of 1964*, as amended; Title VIII of the *Civil Rights Act of 1968*; Title IX of the *Education Amendments of 1972 (Equal Opportunity in Education Act)*; the *Age Discrimination Act of 1975*; Titles I, II and III of the *Americans with Disabilities Act of 1990*; the *Elliott-Larsen Civil Rights Act*, 1976 PA 453, as amended, MCL 37.2101 *et seq.*; the *Persons with Disabilities Civil Rights Act*, 1976 PA 220, as amended, MCL 37.1101 *et seq.*, and all other federal, state and local fair employment practices and equal opportunity laws and covenants. The Subrecipient shall not discriminate against any employee or applicant for employment, to be employed in the performance of this grant agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment; or any matter directly or indirectly related to employment because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, limited English proficiency, or handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. The Subrecipient agrees to include in every contract or subcontract entered into for the performance of this grant agreement this covenant not to discriminate in employment. A breach of this covenant is a material breach of the grant agreement.

The Subrecipient shall ensure that no subcontractor, manufacturer, or supplier of the Subrecipient for projects related to this grant agreement appears on the Federal Excluded Parties List System located at <https://www.sam.gov>.

### **IX. Limitation of Liability**

The Recipient and the Subrecipient to this grant agreement agree that each must seek its own legal representative and bear its own costs, including judgments, in any litigation that may arise from performance of this contract. It is specifically understood and agreed that neither party will indemnify the other party in such litigation.

*This is not to be construed as a waiver of governmental immunity for either party.*

### **X. Third Parties**

This grant agreement is not intended to make any person or entity, not a party to this grant agreement, a third party beneficiary hereof or to confer on a third party any rights or obligations enforceable in their favor.

### **XI. Grant Agreement Period**

This grant agreement is in full force and effect from October 1, 2021, to September 30, 2022. No costs eligible under this grant agreement shall be incurred before the starting date of this grant agreement,



except with prior written approval. This grant agreement may be terminated by either party by giving thirty (30) days written notice to the other party stating reasons for termination and the effective date, or upon the failure of either party to carry out the terms of the grant agreement. Upon any such termination, the Subrecipient agrees to return to the Recipient any funds not authorized for use, and the Recipient shall have no further obligation to reimburse the Subrecipient.

## **XII. Entire Grant Agreement**

This grant agreement is governed by the laws of the State of Michigan and supersedes all prior agreements, documents, and representations between the Recipient and the Subrecipient, whether expressed, implied, or oral. This grant agreement constitutes the entire agreement between the parties and may not be amended except by written instrument executed by both parties prior to the grant end date. No party to this grant agreement may assign this grant agreement or any of his/her/its rights, interest, or obligations hereunder without the prior consent of the other party. The Subrecipient agrees to inform the Recipient in writing immediately of any proposed changes of dates, budget, or services indicated in this grant agreement, as well as changes of address or personnel affecting this grant agreement. Changes in dates, budget, or services are subject to prior written approval of the Recipient. If any provision of this grant agreement shall be deemed void or unenforceable, the remainder of the grant agreement shall remain valid.

The Recipient may suspend or terminate grant funding to the Subrecipient, in whole or in part, or other measures may be imposed for any of the following reasons:

- A. Failure to expend funds in a timely manner consistent with the grant milestones, guidance, and assurances.
- B. Failure to comply with the requirements or statutory objectives of federal or state law.
- C. Failure to make satisfactory progress toward the goals or objectives set forth in the annual EMPG Work Agreement.
- D. Failure to follow grant agreement requirements or special conditions.
- E. Failure to submit required reports.
- F. Filing of a false certification in the application or other reports or documents.

Before taking action, the Recipient will provide the Subrecipient reasonable notice of intent to impose corrective measures and will make every effort to resolve the problem informally.

## **XIII. Business Integrity Clause**

The Recipient may immediately cancel the grant without further liability to the Recipient or its employees if the Subrecipient, an officer of the Subrecipient, or an owner of a 25% or greater share of the Subrecipient is convicted of a criminal offense incident to the application for or performance of a state, public, or private grant or subcontract; or convicted of a criminal offense, including, but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under state or federal antitrust statutes; or convicted of any other criminal offense which, in the sole discretion of the Recipient, reflects on the Subrecipient's business integrity.

## **XIV. Freedom of Information Act (FOIA)**

Much of the information submitted in the course of applying for funding under this program, or provided in the course of grant management activities, may be considered law enforcement-sensitive or otherwise critical to national security interests. This may include threat, risk, and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures. Therefore, each Subrecipient agency Freedom of Information Officer will need to determine what information is to be withheld on a case-by-case basis. The Subrecipient should be

familiar with the regulations governing Protected Critical Infrastructure Information (6 CFR, Part 29) and Sensitive Security Information (49 CFR, Part 1520), as these designations may provide additional protection to certain classes of homeland security information.

**XV. Official Certification**

**For the Subrecipient**

The individual or officer signing this grant agreement certifies by his or her signature that he or she is authorized to sign this grant agreement on behalf of the organization he or she represents. The Subrecipient agrees to complete all requirements specified in this grant agreement.

\_\_\_\_\_  
Subrecipient Name

\_\_\_\_\_  
Subrecipient UEI

**For the Chief Elected Official**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**For the Local Emergency Manager**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**For the Recipient (Michigan State Police, Emergency Management and Homeland Security Division)**

Capt. Kevin Sweeney,  
\_\_\_\_\_  
Printed Name

Commander, Emergency Management  
and Homeland Security Division  
\_\_\_\_\_  
Title



September 13, 2022

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## SUBRECIPIENT RISK ASSESSMENT CERTIFICATION

As required by 2 CFR §200.331(b), the purpose of this assessment is to evaluate subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of a subaward, and to determine appropriate subrecipient monitoring during the grant performance period. Limited program experience, results of previous audits and site monitoring visits, new personnel or new or substantially changed systems, may increase a subrecipient's degree of risk.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |         |        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|--------|
| Subrecipient:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | County: | UEI:   |
| <b>Questions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |         |        |
| <ol style="list-style-type: none"> <li>1. How many federal grant awards has your organization managed in the past 5 years regardless of awarding agency?<br/> <input type="checkbox"/> No grants<br/> <input type="checkbox"/> 1-3 grants<br/> <input type="checkbox"/> 4-5 grants<br/> <input type="checkbox"/> 6+ grants</li> <br/> <li>2. What percentage of your grant management staff has fewer than 2 years of grant experience?<br/> <input type="checkbox"/> 0-25% of staff<br/> <input type="checkbox"/> 26-50% of staff<br/> <input type="checkbox"/> 51-75% of staff<br/> <input type="checkbox"/> 76-100% of staff</li> <br/> <li>3. Has your organization had a new or substantially changed financial/accounting system(s) in the past 2 years?<br/> <input type="checkbox"/> Yes<br/> <input type="checkbox"/> No</li> <br/> <li>4. What types of findings (audit, site monitoring, etc.) has your organization received within the past 5 years?<br/> <b>(Attach a separate sheet explaining any findings resulting in questioned costs or a return of funds.)</b><br/> <input type="checkbox"/> Never Audited or No<br/> <input type="checkbox"/> Unsupported costs (lack of documentation)<br/> <input type="checkbox"/> Unreasonable use of funds<br/> <input type="checkbox"/> Questioned costs or required to return funds</li> <br/> <li>5. Does your agency have staff primarily dedicated (&gt;50%) to grants management activities?<br/> <input type="checkbox"/> Yes<br/> <input type="checkbox"/> No</li> </ol> |         |        |
| <b>Certification</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |         |        |
| <b><i>I certify the information provided in this assessment is true and accurate, and that all occurrences of prior grant non-compliance have been disclosed.</i></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |         |        |
| Authorized Representative Signature:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Date:   |        |
| Authorized Representative Printed Name:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Title:  |        |
| Point of Contact Printed Name:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Title:  | Email: |



## STANDARD ASSURANCES

The Applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including 2 C.F.R. Part 2800 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards by the Department of Justice), and Ex. Order 12372 (intergovernmental review of federal programs). The applicant also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. It will give the awarding agency or the Government Accountability Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63, and the award term in 2 C.F.R. § 175.15(b).
5. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
6. It will comply (and will require any subrecipients or contractors to comply) with any applicable nondiscrimination provisions, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Violence Against Women Act (42 U.S.C. § 13925(b)(13)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07). It will also comply with Ex. Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations; Executive Order 13559, Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations; and the DOJ implementing regulations at 28 C.F.R. Part 38.
7. If a governmental entity—
  - a) it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
  - b) it will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

Signature

Date





U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS  
OFFICE OF THE COMPTROLLER

## CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

### 1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

### 2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

### 3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

#### **DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 Seventh Street NW., Washington, DC 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date

## AUDIT CERTIFICATION

### Federal Audit Requirements

Non-federal organizations, which expend \$750,000 or more in federal funds during their current fiscal year, are required to have an audit performed in accordance with 2 CFR Part 200, Subpart F.

Subrecipients **MUST** submit a copy of their audit report for each year they meet the funding threshold to: Michigan State Police, Grants and Community Services Division, P.O. Box 30634, Lansing, Michigan 48909.

| I. Program Information                                                                                                                                                                                                                                                                                                                                                                                        |  |             |                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------|----------------|
| Program Name                                                                                                                                                                                                                                                                                                                                                                                                  |  | CFDA Number |                |
| II. Subrecipient Information                                                                                                                                                                                                                                                                                                                                                                                  |  |             |                |
| Subrecipient Name                                                                                                                                                                                                                                                                                                                                                                                             |  |             |                |
| Street Address                                                                                                                                                                                                                                                                                                                                                                                                |  | City        | State ZIP Code |
| III. Certification for Fiscal Year                                                                                                                                                                                                                                                                                                                                                                            |  |             |                |
| Subrecipient Fiscal Year Period: _____ to _____.                                                                                                                                                                                                                                                                                                                                                              |  |             |                |
| <input type="checkbox"/> I certify that the subrecipient shown above does NOT expect it will be required to have an audit performed under 2 CFR Part 200, Subpart F, for the above listed program.                                                                                                                                                                                                            |  |             |                |
| <input type="checkbox"/> I certify that the subrecipient shown above expects it will be required to have an audit performed under 2 CFR Part 200, Subpart F, during at least one fiscal year funds are received for the above listed program. <b>A copy of the audit report will be submitted to:</b> Michigan State Police, Grants and Community Services Division, P.O. Box 30634, Lansing, Michigan 48909. |  |             |                |
| Signature of Subrecipient's Authorized Representative                                                                                                                                                                                                                                                                                                                                                         |  |             | Date           |

### Submit audit report to:

Michigan State Police  
Grants and Community Services Division  
P.O. Box 30634  
Lansing, Michigan 48909

### Submit this completed audit certification form and return with your grant agreement to:

Michigan State Police  
Emergency Management and Homeland Security Division  
P.O. Box 30634  
Lansing, Michigan 48909

# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

|                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Print or type.<br>See Specific Instructions on page 3. | 1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                     |
|                                                        | 2 Business name/disregarded entity name, if different from above                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                     |
|                                                        | 3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.<br><br><input type="checkbox"/> Individual/sole proprietor or single-member LLC<br><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____<br><b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.<br><input type="checkbox"/> Other (see instructions) ► _____ | 4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):<br><br>Exempt payee code (if any) _____<br><br>Exemption from FATCA reporting code (if any) _____<br><br><i>(Applies to accounts maintained outside the U.S.)</i> |
|                                                        | 5 Address (number, street, and apt. or suite no.) See instructions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Requester's name and address (optional)                                                                                                                                                                                                                             |
|                                                        | 6 City, state, and ZIP code                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                     |
|                                                        | 7 List account number(s) here (optional)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                     |

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

|                                |  |  |  |   |  |  |  |   |  |
|--------------------------------|--|--|--|---|--|--|--|---|--|
| Social security number         |  |  |  |   |  |  |  |   |  |
|                                |  |  |  | - |  |  |  | - |  |
| or                             |  |  |  |   |  |  |  |   |  |
| Employer identification number |  |  |  |   |  |  |  |   |  |
|                                |  |  |  | - |  |  |  |   |  |

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

|           |                            |        |
|-----------|----------------------------|--------|
| Sign Here | Signature of U.S. person ► | Date ► |
|-----------|----------------------------|--------|

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.



**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

| IF the entity/person on line 1 is a(n) . . .                                                                                                                                                                                                                                                   | THEN check the box for . . .                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| • Corporation                                                                                                                                                                                                                                                                                  | Corporation                                                                                                                     |
| • Individual<br>• Sole proprietorship, or<br>• Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.                                                                                                                             | Individual/sole proprietor or single-member LLC                                                                                 |
| • LLC treated as a partnership for U.S. federal tax purposes,<br>• LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or<br>• LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes. | Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation) |
| • Partnership                                                                                                                                                                                                                                                                                  | Partnership                                                                                                                     |
| • Trust/estate                                                                                                                                                                                                                                                                                 | Trust/estate                                                                                                                    |

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

| IF the payment is for . . .                                                            | THEN the payment is exempt for . . .                                                                                                                                                                          |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Interest and dividend payments                                                         | All exempt payees except for 7                                                                                                                                                                                |
| Broker transactions                                                                    | Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012. |
| Barter exchange transactions and patronage dividends                                   | Exempt payees 1 through 4                                                                                                                                                                                     |
| Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup> | Generally, exempt payees 1 through 5 <sup>2</sup>                                                                                                                                                             |
| Payments made in settlement of payment card or third party network transactions        | Exempt payees 1 through 4                                                                                                                                                                                     |

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.**

You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

| For this type of account:                                                                                      | Give name and SSN of:                                                                                   |
|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 1. Individual                                                                                                  | The individual                                                                                          |
| 2. Two or more individuals (joint account) other than an account maintained by an FFI                          | The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup> |
| 3. Two or more U.S. persons (joint account maintained by an FFI)                                               | Each holder of the account                                                                              |
| 4. Custodial account of a minor (Uniform Gift to Minors Act)                                                   | The minor <sup>2</sup>                                                                                  |
| 5. a. The usual revocable savings trust (grantor is also trustee)                                              | The grantor-trustee <sup>1</sup>                                                                        |
| b. So-called trust account that is not a legal or valid trust under state law                                  | The actual owner <sup>1</sup>                                                                           |
| 6. Sole proprietorship or disregarded entity owned by an individual                                            | The owner <sup>3</sup>                                                                                  |
| 7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A)) | The grantor*                                                                                            |
| For this type of account:                                                                                      | Give name and EIN of:                                                                                   |
| 8. Disregarded entity not owned by an individual                                                               | The owner                                                                                               |
| 9. A valid trust, estate, or pension trust                                                                     | Legal entity <sup>4</sup>                                                                               |
| 10. Corporation or LLC electing corporate status on Form 8832 or Form 2553                                     | The corporation                                                                                         |
| 11. Association, club, religious, charitable, educational, or other tax-exempt organization                    | The organization                                                                                        |
| 12. Partnership or multi-member LLC                                                                            | The partnership                                                                                         |
| 13. A broker or registered nominee                                                                             | The broker or nominee                                                                                   |

| For this type of account:                                                                                                                                                                   | Give name and EIN of: |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity     |
| 15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))                                          | The trust             |

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

**\*Note:** The grantor also must provide a Form W-9 to trustee of trust.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## **Agreement Articles Applicable to Subrecipients Fiscal Year 2022 Emergency Management Performance Grants**

### **Article I - DHS Standard Terms and Conditions Generally**

The Fiscal Year (FY) 2022 U.S. Department of Homeland Security (DHS) Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2022. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations. The FY 2022 DHS Standard Terms and Conditions will be housed on dhs.gov at [www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions](https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions).

### **Article II - General Acknowledgment and Assurances**

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

I. Subrecipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS.

II. Subrecipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel.

III. Subrecipients must submit timely, complete, and accurate reports to the recipient and maintain appropriate backup documentation to support the reports.

IV. Subrecipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

### **Article III - John S. McCain National Defense Authorization Act of Fiscal Year 2019**

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. sections 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute - as it applies to DHS recipients, subrecipients, and their contractors and subcontractors - prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

### **Article IV - Limited English Proficiency (Civil Rights Act of 1964 - Title VI)**

Subrecipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

### **Article V - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials**

Recipients and subrecipients must comply with the Build America, Buy America Act (BABAA), which was enacted as part of the Infrastructure Investment and Jobs Act Sections 70901-70927, Pub. L. No. 117-58 (2021); and Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers. See also Office of Management and Budget (OMB), Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.

Recipients and subrecipients of federal financial assistance programs for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

(1) All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all



components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(3) All construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

### *Waivers*

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements.

(a) When the federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- (1) Applying the domestic content procurement preference would be inconsistent with the public interest;
- (2) The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the OMB Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described. For awards by the Federal Emergency Management Agency (FEMA), existing waivers are available and the waiver process is described at ["Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov](#). For awards by other DHS components, please contact the applicable DHS FAO.

To see whether a particular DHS federal financial assistance program is considered an infrastructure program and thus required to include a Buy America preference, please either contact the applicable DHS FAO, or for FEMA awards, please see [Programs and Definitions: Build America, Buy America Act | FEMA.gov](#).

### **Article VI - Environmental Planning and Historic Preservation (EHP) Review**

The DHS/FEMA funded activities that may require an Environmental Planning and Historic Preservation (EHP) review are subject to the FEMA EHP review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires the subrecipient to comply with all federal, state, and local laws.

The DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/ FEMA grant funds, through its EHP review process, as mandated by: the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and executive orders. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive orders, regulations, and policies.

If ground disturbing activities occur during construction, subrecipient will monitor ground disturbance, and if any potential archeological resources are discovered the subrecipient will immediately cease work in that area and notify the recipient, if applicable, and DHS/FEMA.

### **Article VII - Applicability of DHS Standard Terms and Conditions to Tribes**

The DHS Standard Terms and Conditions are a restatement of general requirements imposed upon recipients and flow down to subrecipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its

inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.

#### **Article VIII - Indirect Cost Rate**

2 C.F.R. section 200.211(b)(15) requires the terms of the award to include the indirect cost rate for the federal award. If applicable, the indirect cost rate for this award is stated in the budget documents or other materials approved by FEMA and included in the award file.

#### **Article IX - Activities Conducted Abroad**

Subrecipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

#### **Article X - Reporting of Matters Related to Subrecipient Integrity and Performance**

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the Subrecipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

#### **Article XI - Trafficking Victims Protection Act of 2000 (TVPA)**

Trafficking in Persons:

Subrecipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference.

#### **Article XII - Federal Leadership on Reducing Text Messaging while Driving**

Subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in Executive Order (EO) 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

#### **Article XIII - Debarment and Suspension**

Subrecipients are subject to the non-procurement debarment and suspension regulations implementing EO 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

#### **Article XIV - Fly America Act of 1974**

Subrecipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

#### **Article XV - Americans with Disabilities Act of 1990**

Subrecipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101-12213), which prohibits Subrecipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

#### **Article XVI - Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude Subrecipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

**Article XVII - Copyright**

Subrecipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

**Article XVIII - Civil Rights Act of 1968**

Subrecipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits Subrecipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

**Article XIX - Best Practices for Collection and Use of Personally Identifiable Information**

Subrecipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. The DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Subrecipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources, respectively.

**Article XX - Civil Rights Act of 1964, Title VI**

Subrecipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

**Article XXI - Hotel and Motel Fire Safety Act of 1990**

Subrecipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a.

**Article XXII - Disposition of Equipment Acquired Under the Federal Award**

For purposes of original or replacement equipment acquired under this award by a non-state recipient or non-state subrecipients, when that equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313. State recipients and state subrecipients must follow the disposition requirements in accordance with state laws and procedures.

**Article XXIII - Patents and Intellectual Property Rights**

Subrecipients are subject to the Bayh-Dole Act, 35 U.S.C. section 200 et seq, unless otherwise provided by law. Subrecipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14.

**Article XXIV - Procurement of Recovered Materials**

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. section 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

**Article XXV - Terrorist Financing**

Subrecipients must comply with EO 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Subrecipients are legally responsible to ensure compliance with the Order and laws.

**Article XXVI - Prior Approval for Modification of Approved Budget**

Before making any change to the FEMA approved budget for this award, you must request prior written approval where required by 2 C.F.R. section 200.308.

For purposes of non-construction projects, FEMA is utilizing its discretion to impose an additional restriction under 2 C.F.R. section 200.308(f) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget FEMA last approved.

For purposes of awards that support both construction and non-construction work, FEMA is utilizing its discretion under 2 C.F.R. section 200.308(h)(5) to require the recipient to obtain prior written approval from FEMA before making any fund or budget transfers between the two types of work.

**Article XXVII - Acknowledgement of Federal Funding from DHS**

Subrecipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

**Article XXVIII - Acceptance of Post Award Changes**

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, Subrecipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate Subrecipient acceptance of the changes to the award.

**Article XXIX - Rehabilitation Act of 1973**

Subrecipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973), (codified as amended at 29 U.S.C. section 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**Article XXX - False Claims Act and Program Fraud Civil Remedies**

Subrecipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

**Article XXXI - Nondiscrimination in Matters Pertaining to Faith-Based Organizations**

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Subrecipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

**Article XXXII - Lobbying Prohibitions**

Subrecipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the Subrecipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

**Article XXXIII - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX**

Subrecipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. The DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

**Article XXXIV - Age Discrimination Act of 1975**

Subrecipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

**Article XXXV - National Environmental Policy Act**

Subrecipients must comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require Subrecipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

**Article XXXVI - Assurances, Administrative Requirements, Cost Principles, Representations and Certifications**

The DHS financial assistance Subrecipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances - Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Subrecipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

**Article XXXVII - USA PATRIOT Act of 2001**

Subrecipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. No. 107-56, which amends 18 U.S.C. sections 175-175c.

**Article XXXVIII - Non-Supplanting Requirement**

Subrecipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

**Article XXXIX - Drug-Free Workplace Regulations**

Subrecipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the Subrecipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106).

**Article XL - Universal Identifier and System of Award Management**

Requirements for System for Award Management and Unique Entity Identifier Subrecipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

**Article XLI - Energy Policy and Conservation Act**

Subrecipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. section 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

**Article XLII - Whistleblower Protection Act**

Subrecipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409, 41 U.S.C. section 4712, and 10 U.S.C. section 2324, 41 U.S.C. sections 4304 and 4310.

**Article XLIII - Federal Debt Status**

All Subrecipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

**Article XLIV - Use of DHS Seal, Logo and Flags**

Subrecipients must obtain permission from DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

**Article XLV - Notice of Funding Opportunity Requirements**

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All Subrecipients must comply with any such requirements set forth in the program NOFO.

**Article XLVI - SAFECOM**

Subrecipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.





Resolution

NO. 4

A Resolution for renewal of 4 members to the Post/Franklin Neighborhood Planning Council (NPC # 1).

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the following are newly appointed/ renewed members to the Post/Franklin Neighborhood Planning Council (NPC # 1).

| Name                     | Address             | Term Expires |
|--------------------------|---------------------|--------------|
| Pastor Kjersten Sullivan | 2055 E Columbia Ave | 12/4/2024    |
| Pat Shellenberger        | 39 Horton St        | 12/4/2024    |
| Pam Gelaff               | 802 E Michigan Ave  | 12/4/2024    |
| Faye Washington          | 48 Hannah St        | 12/4/2024    |

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Michelle Salazar, Community Development Specialist

**Department:** Community Development

**SUMMARY**

A Resolution for renewal of 4 members to the Post/Franklin Neighborhood Planning Council (NPC # 1).

**BUDGETARY CONSIDERATIONS**

None.

**HISTORY, BACKGROUND and DISCUSSION**

The City Commission is the appointing authority for Neighborhood Planning Council pursuant to Resolution #423, dated November 20, 1979; it appoints based on the recommendations of the individual Neighborhood Planning Council. Any person having demonstrable or substantial interest within the

defined boundaries of the council area may be appointed upon recommendation by said council.

## **DISCUSSION OF THE ISSUE**

## **POSITIONS**

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### ATTACHMENTS:

| File Name                                                                                                   | Description      |
|-------------------------------------------------------------------------------------------------------------|------------------|
|  NPC_#1_term_list_2022.pdf | NPC #1 Term List |

## NPC 1 - Post Franklin Neighborhood Planning Council

| Name                             | Address             | City         | State | Zip   | Term Expires |
|----------------------------------|---------------------|--------------|-------|-------|--------------|
| John Cash                        | 121 Academy St      | Battle Creek | MI    | 49014 | 12/4/2023    |
| LaMar Mingle                     | 222 Cliff St        | Battle Creek | MI    | 49014 | 12/4/2023    |
| Yvonne Powell- <b>Vice Chair</b> | 341 Main St         | Battle Creek | MI    | 49014 | 12/4/2023    |
|                                  |                     |              |       |       |              |
| Cynthia Fritz- <b>Secretary</b>  | 451 Main St         | Battle Creek | MI    | 49014 | 12/4/2024    |
| James Moreno- <b>Chair</b>       | 451 Main St         | Battle Creek | MI    | 49014 | 12/4/2024    |
|                                  |                     |              |       |       |              |
| Fay Washington                   | 48 Hannah St        | Battle Creek | MI    | 49014 | 12/4/2024    |
| Pam Geleff                       | 802 Michigan Ave E  | Battle Creek | MI    | 49014 | 12/4/2024    |
| Pat Shellenberger                | 39 Horton St        | Battle Creek | MI    | 49014 | 12/4/20224   |
| Pastor Kjersten Sullivan         | 2055 E Columbia Ave | Battle Creek | MI    | 49014 | 12/4/20224   |
| Ryan Hoaglin-Jackson             | 37 Inn Rd           | Battle Creek | MI    | 49014 | 12/4/2024    |
| Andre Hoaglin-Jackson            | 37 Inn Rd           | Battle Creek | MI    | 49014 | 12/4/2024    |

Updated 11/17/2022



Resolution

NO. 5

A Resolution appointing / renewal of 1 members to the Northeast Neighborhood Planning Council (NPC # 4).

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the following are renewed members to the Northeast Neighborhood Planning Council (NPC #4).

| <b>Name</b>    | <b>Address</b>                      | <b>Term Expires</b> |
|----------------|-------------------------------------|---------------------|
| Deondra Ramsey | 20 Latta St. Battle Creek, MI 49017 | 12/04/2022          |

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Michelle Salazar, Community Development Specialist

**Department:** Community Development

**SUMMARY**

A Resolution appointing / renewal of 1 members to the Northeast Neighborhood Planning Council (NPC # 4).

**BUDGETARY CONSIDERATIONS**

**HISTORY, BACKGROUND and DISCUSSION**

The City Commission is the appointing authority for Neighborhood Planning Council pursuant to Resolution #423, dated November 20, 1979; it appoints based on the recommendations of the individual Neighborhood Planning Council. Any person having demonstrable or substantial interest within the defined boundaries of the council area may be appointed upon recommendation by said council.

## **DISCUSSION OF THE ISSUE**

## **POSITIONS**

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### ATTACHMENTS:

| File Name                                                                                                  | Description      |
|------------------------------------------------------------------------------------------------------------|------------------|
|  NPC_#4_term_list_PDF.pdf | NPC #4 Term List |

## NPC 4 - Fremont/Verona/McKinley Neighborhood Planning Council

| Name                   | Address               | City         | State | Zip   | Term Expires |                         |
|------------------------|-----------------------|--------------|-------|-------|--------------|-------------------------|
| Chandra Youngblood     | 217 E Emmett          | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| John Paul Wilson       | 93 Garrison           | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Sherry Sofia           | 249 Garfield Ave      | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Mark Jones             | 46 East Ave N         | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Susan Glidden          | 175 N Union St        | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Mary Conklin           | 109 South Union       | Battle Creek | MI    | 49017 | 12/4/2022    | 1st Presbyterian Church |
| Mary Lusk              | 111 Capital Ave NE    | Battle Creek | MI    | 49017 | 12/4/2022    |                         |
| Sarah Smith            | 52 Thorncroft         | Battle Creek | MI    | 49017 | 12/4/2022    |                         |
| Jennifer Furmato       | 23 Penn St            | Battle Creek | MI    | 49017 | 12/4/2022    |                         |
| Tommy Furmato          | 23 Penn St            | Battle Creek | MI    | 49017 | 12/4/2022    |                         |
| Deondra Ramsey         | 20 Latta St           | Battle Creek | MI    | 49017 | 12/4/2022    |                         |
| Sally Blue             | 204 Bradley St        | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Robert Allan Konkright | 60 Elizabeth St       | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Boonikka Herring       | 82 E Emmett St        | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Jill Margenau          | 92 Garrison Ave       | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Tim Katz               | 80 Garrison Ave       | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Michael McCullough     | Orchard N             | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Dave Morgan            | 57 Maple Terr         | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Tristan Bredehoft      | 114 Wabash Ave N      | Battle Creek | MI    | 49017 | 12/4/2024    |                         |
| Jill Anderson          | 32 1/2 Michigan Ave E | Battle Creek | MI    | 49017 | 12/4/2024    | Downtown                |
| Tom Brothers           | 32 1/2 Michigan Ave E | Battle Creek | MI    | 49017 | 12/4/2024    | Downtown                |
| Pao Shan Woodward      | 33 Anderson Ct        | Battle Creek | MI    | 49017 | 12/4/2024    |                         |





Resolution

NO. 6

A Resolution appointing / renewal of 1 member to the Central Neighborhood Planning Council (NPC # 3).

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the following are newly appointed/ renewed members to the Central Neighborhood Planning Council (NPC # 3).

| <b>Name</b> | <b>Address</b>                               | <b>Term Expires</b> |
|-------------|----------------------------------------------|---------------------|
| Trudy Hall  | 883 Graham Lake Terr. Battle Creek, MI 49014 | 12/04/2024          |

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Michelle Salazar, Community Development Specialist

**Department:** Community Development

**SUMMARY**

A Resolution appointing / renewal of 1 member to the Central Neighborhood Planning Council (NPC # 3).

**BUDGETARY CONSIDERATIONS**

**HISTORY, BACKGROUND and DISCUSSION**

The City Commission is the appointing authority for Neighborhood Planning Council pursuant to Resolution #423, dated November 20, 1979; it appoints based on the recommendations of the individual Neighborhood Planning Council. Any person having demonstrable or substantial interest within the defined boundaries of the council area may be appointed upon recommendation by said council.

**DISCUSSION OF THE ISSUE**

**POSITIONS**

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**ATTACHMENTS:**

| File Name                                                                         |                      | Description      |
|-----------------------------------------------------------------------------------|----------------------|------------------|
|  | NPC_#3_term_list.pdf | NPC #3 Term List |

## NPC 3 - Central Neighborhood Planning Council

| Name                    | Address               | City         | Stat | Zip   | Term Expires |
|-------------------------|-----------------------|--------------|------|-------|--------------|
| Jerry Dill              | 19 W Fountain St      | Battle Creek | MI   | 49015 | 12/4/2024    |
| Penny Dill              | 19 W Fountain St      | Battle Creek | MI   | 49015 | 12/4/2024    |
| Elisha Hodge            | 660 Capital Ave SW    | Battle Creek | MI   | 49015 | 12/5/2024    |
| Cyndy Foster            | 67 South LaVista Blvd | Battle Creek | MI   | 49015 | 12/4/2024    |
| Timothy Conlogue- Chair | 302 SW Capital Ave    | Battle Creek | MI   | 49015 | 12/4/2024    |
| Bryan Mayes             | 660 Capital Ave SW    | Battle Creek | MI   | 49015 | 12/4/2024    |
| Cari Briggs             | 536 Lakeview Ave      | Battle Creek | MI   | 49015 | 12/4/2024    |
| Gloria Mansfield        | 9 Pioneer St          | Battle Creek | MI   | 49015 | 12/4/2022    |
| Robert Kist             | 527 Lakeview Ave      | Battle Creek | MI   | 49015 | 12/4/2024    |
| Trudy Hall              | 883 Graham Lake Terr  | Battle Creek | MI   | 49014 | 12/4/2022    |
| Alan Berner             | 98 W Bidwell St       | Battle Creek | MI   | 49015 | 12/4/2024    |
| Carla Berner            | 98 W Bidwell St       | Battle Creek | MI   | 49015 | 12/4/2024    |
| Jack Montague           | 103 W Bidwell St      | Battle Creek | MI   | 49015 | 12/4/2024    |
| Jake W Smith            | 88 S LaVista Blvd     | Battle Creek | MI   | 49015 | 12/4/2024    |
| Pastor Janet Wilson     | 10 W Bidwell St       | Battle Creek | MI   | 49015 | 12/4/2024    |
| Tim Cole                | 224 Wentworth Ave     | Battle Creek | MI   | 49015 | 12/4/2024    |
| Tim Marske              | 45 Grandview Ct       |              |      |       | 12/4/2024    |
| Dave Henkel             | 134 Upton Ave         |              |      |       | 12/4/2024    |

updated 11/18/2022





## Resolution NO. 7

A Resolution reappointing and appointing members to the Battle Creek International Relations Committee.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

### **Resolved by the Commission of the City of Battle Creek:**

That Ted E Dearing, be reappointed to the Battle Creek Area International Relations Committee with a term to expire on of December 15, 2024.

That Aaron B. Kuhn, be appointed to the Battle Creek Area International Relations Committee with a term to expire on of December 15, 2024.

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Battle Creek City Commission  
12/6/2022

### **Action Summary**

**Staff Member:** Heather Robinson, Executive Assistant

**Department:** City Manager

### **SUMMARY**

A Resolution reappointing and appointing members to the Battle Creek International Relations Committee.

### **BUDGETARY CONSIDERATIONS**

None.

### **HISTORY, BACKGROUND and DISCUSSION**

The Battle Creek International Relations Committee was created by Resolution No. 305, adopted October 28, 1975, for the purpose of fostering cultural promotion of the City and to provide a positive environment toward foreign industrialists and their families.

### **DISCUSSION OF THE ISSUE**

### **POSITIONS**

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**ATTACHMENTS:**

| File Name                                                 | Description                                         |
|-----------------------------------------------------------|-----------------------------------------------------|
| 📎 Battle_Creek_Area_International_Relations_Committee.doc | Battle Creek Area International Relations Committee |
| 📎 Dearing__Ted_-_2022.pdf                                 | Dearing, Ted - 2022                                 |

## **BATTLE CREEK AREA INTERNATIONAL RELATIONS COMMITTEE**

Authorization: Established by Resolution No. 305, adopted October 28, 1975.

Appointing Authority: Mayor with concurrence of City Commission.

Purpose: To foster cultural promotion of the City and provide a positive environment toward foreign industrialists and their families

Liaison: Ted Dearing - [TEDearing@battlecreekmi.gov](mailto:TEDearing@battlecreekmi.gov)

Membership: Three (3)

Terms: Two-year.

Special Requirements: None

Compensation: None

Members:

| <b>Name:</b>                     | <b>Organization/Affiliation:</b> | <b>Term Expires:</b> |
|----------------------------------|----------------------------------|----------------------|
| Ted Dearing, Assistant City Mgr  | City of Battle Creek             | 12-15-2021           |
| Linda Morrison, Finance Director | City of Battle Creek             | 12-15-2021           |
| Robert Corder, Vice President    | Battle Creek Unlimited           | 10-06-2022           |





# BOARD AND COMMISSION APPLICATION

## CITY OF BATTLE CREEK

10 N. Division Street  
Battle Creek, Michigan 49014-4004  
269.966.3378

**PLEASE CHECK THE TOP (3) BOARD(S) OR COMMISSION(S) ON WHICH YOU ARE INTERESTED IN SERVING**

*(This application will remain active for one year from the date of receipt and will be posted on the City website.)*

- |                                                                             |                                                                  |
|-----------------------------------------------------------------------------|------------------------------------------------------------------|
| <input type="checkbox"/> Airport Advisory Board                             | <input type="checkbox"/> Goguac Lake Board                       |
| <input type="checkbox"/> AMSA Construction Board of Appeals                 | <input type="checkbox"/> Historic District Commission            |
| <input type="checkbox"/> Battle Creek Downtown Development Authority        | <input type="checkbox"/> Human Relations Board                   |
| <input type="checkbox"/> Battle Creek Housing Commission                    | <input type="checkbox"/> Income Tax Board of Appeals             |
| <input type="checkbox"/> Battle Creek Transit Local Advisory Council        | <input type="checkbox"/> International Relations Committee       |
| <input type="checkbox"/> Battle Creek Transit Local Coordinating Committee  | <input type="checkbox"/> Lakeview Downtown Development Authority |
| <input type="checkbox"/> Battle Creek TIFA/Brownfield Development Authority | <input type="checkbox"/> License Review Board                    |
| <input type="checkbox"/> Bicycle Advisory Committee                         | <input type="checkbox"/> Local Development Financing Authority   |
| <input type="checkbox"/> Board of Appeals                                   | <input type="checkbox"/> Local Officers' Compensation Commission |
| <input type="checkbox"/> Board of Review (Assessing)                        | <input type="checkbox"/> Planning Commission                     |
| <input type="checkbox"/> Civil Service Commission                           | <input type="checkbox"/> Sustainable BC Committee                |
| <input type="checkbox"/> Columbia Avenue Business Improvement District      | <input type="checkbox"/> Technical Review Committee              |
| <input type="checkbox"/> Dangerous Building Hearings Officer                | <input type="checkbox"/> Tree Advisory Council                   |
| <input type="checkbox"/> Development Area Citizen's Council                 | <input type="checkbox"/> Water System Advisory Council           |
| <input type="checkbox"/> Dickman Road Business Improvement District         | <input type="checkbox"/> Youth Advisory Board                    |
| <input type="checkbox"/> Downtown Parking System Advisory Committee         | <input type="checkbox"/> Zoning Board of Appeals                 |
| <input type="checkbox"/> Economic Development Corporation                   |                                                                  |

Name Dearing, Ted

Last

First

M.I.

Home Address: 10 N Division Street

E-mail TeDearing@battlecreekmi.gov

Telephone: Home \_\_\_\_\_ Work (269) 966-3378

Cell \_\_\_\_\_

Are you at least 18 years of age? Yes \_\_\_\_\_ No \_\_\_\_\_

Current occupation (students, list school activities) \_\_\_\_\_

Employer/work address (students, list school) \_\_\_\_\_

Educational background/degrees (students, list year in school) \_\_\_\_\_

List any appointive positions/boards/commissions or committees on which you have served and year(s) of service \_\_\_\_\_

List any organizations to which you belong (professional, technical, community, nonprofit; students, list school organizations) \_\_\_\_\_

Briefly indicate your interest, experience, and/or qualifications for the board for which you are applying. Please be specific (use back of form if necessary): \_\_\_\_\_

I understand that any or all information on this form may be verified. I consent to the release of this information for publicity purposes.

Signature \_\_\_\_\_

Date

10/21/2022

**RETURN APPLICATION TO:** City Manager's Office, 10 N. Division Street,  
Room 206, Battle Creek, MI 49014



## Resolution NO. 8

A Resolution accepting the proposal of best value for turnout gear extractors, washers, and dryers at various fire stations from Universal Laundry Machinery in a not-to-exceed amount of \$53,435.00.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

### **Resolved by the Commission of the City of Battle Creek:**

That the proposal of best value for turnout gear extractors, washers, and dryers at various fire stations is accepted from Universal Laundry Machinery in a not-to-exceed amount of \$53,435.00. The City Manager is authorized to execute Contract No. 2023-018R, which will be paid from GL Account: 223.13.1335.801.010 – Turnout Gear, ARPA.

---

Battle Creek City Commission  
12/6/2022

### **Action Summary**

**Staff Member:** Christine Huff, Purchasing Agent

**Department:** Purchasing

### **SUMMARY**

A Resolution accepting the proposal of best value for turnout gear extractors, washers, and dryers at various fire stations from Universal Laundry Machinery in a not-to-exceed amount of \$53,435.00.

### **BUDGETARY CONSIDERATIONS**

This project is 100% ARPA funded.

### **HISTORY, BACKGROUND and DISCUSSION**

Firefighter gear requires proper washing in order to remove contaminants and reduce firefighters' exposure to carcinogens. Experts recommend cleaning turnout gear with washer extractors, which are commercial grade laundry machines that are designed to effectively remove soot, chemicals, and even bodily fluids from soiled gear while preserving its protective qualities.

Firefighters' boots, gloves, masks, and self-contained breathing apparatuses need to be laundered

according to precise manufacturers' guidelines in order to prevent damage.

Burning materials produce carcinogens that can significantly increase a firefighter's risk of developing cancers of the brain, skin, colon, prostate, and stomach. Some residential washing machines may be too harsh for protective fabrics, while others may not be powerful enough to effectively remove carcinogens.

A solicitation was issued September 28, 2022, for the purchase, delivery, and installation of NFPA compliant 3 turnout gear extractors, 4 commercial washing machines, and 4 commercial dyers for several of our fire stations.

Copies of the RFP were provided to 24 vendors. In addition, the solicitation was posted to the City's website and advertised in the Battle Creek Shopper. Proposals were due on October 19, 2022.

Responses were as follows:

Lakeside Laundry Equipment  
You Ask I Find  
Universal Laundry  
Eagle Star Equipment  
Municipal Emergency Services

Copies of the proposals were sent Battalion Chief Michele Hughey for review and scoring, out of 100, which is attached. BC Hughey has connections at Fire Departments throughout the state, and she contacted them about the highest scoring company, Universal Laundry. She discovered they had a great reputation for service, as has provided extractors for dozens of fire departments throughout the state.

Universal Laundry's initial proposal had two bigger (45lb) extractors at \$13,901, proposed for stations 1 and station 6. We requested a revised price proposal to provide the same 40lb extractor proposed for station 2. Universal Laundry quickly provided this information, and changes are allowed in the RFP negotiation process. This resulted in a savings of \$8630.

I agree awarding to Universal Laundry is in the best interest of the City.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

---

#### **ATTACHMENTS:**

| File Name                        | Description                |
|----------------------------------|----------------------------|
| ❏ PRICE_COMPARISONS.pdf          | Price comparison           |
| ❏ SCORE_SHEET_EXTRACTORS.pdf     | SCORE SHEET                |
| ❏ UNIVERSAL_LAUNDRY_PROPOSAL.pdf | Universal Laundry proposal |

## 2018-018R Turnout Gear Extractors and Washers/Dryers at Fire Stations

|                                            | Lakeside Laun       | You Ask I Find      | Univ. Laundry       | Eagle Star          | Muni Emer           | Muni Emer           |
|--------------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Station 1 extractor                        | \$ 6,142.86         | \$ 7,728.00         | \$ 9,586.00         | \$ 11,000.00        | \$ 4,625.00         | \$ 7,220.00         |
| Station 1 base                             | \$ 458.32           | \$ 350.00           | \$ 652.00           | \$ -                | \$ -                | \$ -                |
| Station 1 washer                           | \$ 1,847.02         | \$ 2,027.00         | \$ 2,353.00         | \$ 3,900.00         | no bid              | no bid              |
| Station 1 dryer                            | \$ 1,048.19         | \$ 1,137.00         | \$ 936.00           | \$ 2,200.00         | no bid              | no bid              |
| Station 1 Freight                          | \$ 250.00           | \$ 245.00           | \$ 485.00           | \$ -                | \$ -                | \$ -                |
| Station 1 installation                     | \$ 700.00           | \$ 311.60           | \$ 1,350.00         | \$ -                | \$ -                | \$ -                |
| Station 1 utilities                        |                     | \$ -                | \$ 570.00           | \$ -                | \$ -                | \$ -                |
| <b>Subtotal</b>                            | <b>\$ 10,446.39</b> | <b>\$ 11,798.60</b> | <b>\$ 15,932.00</b> | <b>\$ 17,100.00</b> | <b>\$ 4,625.00</b>  | <b>\$ 7,220.00</b>  |
| Station 2 extractor                        | \$ 6,142.86         | \$ 7,728.00         | \$ 9,586.00         | \$ 11,000.00        | \$ 4,625.00         | \$ 7,220.00         |
| Station 2 base                             | \$ 458.32           | \$ 350.00           | \$ 652.00           | \$ -                | \$ -                | \$ -                |
| Station 2 washer                           | \$ 1,847.02         | \$ 2,027.00         | \$ 2,353.00         | \$ 3,900.00         | no bid              | no bid              |
| Station 2 dryer                            | \$ 1,048.19         | \$ 1,137.00         | \$ 936.00           | \$ 2,200.00         | no bid              | no bid              |
| Station 2 freight                          | \$ 250.00           | \$ 245.00           | \$ 449.00           | \$ -                | \$ -                | \$ -                |
| Station 2 install                          | \$ 700.00           | \$ 311.60           | \$ 1,350.00         | \$ -                | \$ -                | \$ -                |
| Station 2 utilities                        |                     | \$ -                | \$ 570.00           | \$ -                | \$ -                | \$ -                |
| <b>Subtotal</b>                            | <b>\$ 10,446.39</b> | <b>\$ 11,798.60</b> | <b>\$ 15,896.00</b> | <b>\$ 17,100.00</b> | <b>\$ 4,625.00</b>  | <b>\$ 7,220.00</b>  |
| Station 4 washer                           | \$ 1,847.02         | \$ 2,027.00         | \$ 2,353.00         | \$ 5,900.00         | no bid              | no bid              |
| Station 4 dryer                            | \$ 1,048.19         | \$ 1,137.00         | \$ 936.00           | stacked at #4       | no bid              | no bid              |
| Station 4 freight                          |                     | \$ -                | \$ 142.00           | \$ -                | \$ -                | \$ -                |
| Station 4 install                          | \$ 225.00           | \$ 311.60           | \$ 525.00           | \$ -                | \$ -                | \$ -                |
| Station 4 utilities                        |                     | \$ -                | \$ 380.00           | \$ -                | \$ -                | \$ -                |
| <b>Subtotal</b>                            | <b>\$ 3,120.21</b>  | <b>\$ 3,475.60</b>  | <b>\$ 4,336.00</b>  | <b>\$ 5,900.00</b>  | <b>\$ -</b>         | <b>\$ -</b>         |
| Station 5 washer                           | \$ 1,847.02         | \$ 2,027.00         | \$ 2,353.00         | \$ 3,900.00         | no bid              | no bid              |
| Station 5 dryer                            | \$ 1,048.19         | \$ 1,137.00         | \$ 936.00           | \$ 2,200.00         | no bid              | \$ -                |
| Station 5 freight                          |                     | \$ -                | \$ 142.00           | \$ -                | \$ -                | \$ -                |
| Station 5 Install                          | \$ 225.00           | \$ 311.60           | \$ 525.00           | \$ -                | \$ -                | \$ -                |
| Station 5 utilities                        |                     | \$ -                | \$ 380.00           | \$ -                | \$ -                | \$ -                |
| <b>Subtotal</b>                            | <b>\$ 3,120.21</b>  | <b>\$ 3,475.60</b>  | <b>\$ 4,336.00</b>  | <b>\$ 6,100.00</b>  | <b>\$ -</b>         | <b>\$ -</b>         |
| Station 6 extractor                        | \$ 6,142.86         | \$ 7,728.00         | \$ 9,586.00         | \$ 11,000.00        | \$ 4,625.00         | \$ 7,220.00         |
| Station 6 base                             | \$ 458.32           | \$ 350.00           | \$ 652.00           | \$ -                | \$ -                | \$ -                |
| Station 6 freight                          | 250                 | \$ 245.00           | \$ 357.00           | \$ -                | \$ -                | \$ -                |
| Station 6 Install                          | 600                 | \$ 311.60           | \$ 2,150.00         | \$ -                | \$ -                | \$ -                |
| Station 6 utilities                        |                     | \$ -                | \$ 190.00           | \$ -                | \$ -                | \$ -                |
| <b>Subtotal</b>                            | <b>\$ 7,451.18</b>  | <b>\$ 8,634.60</b>  | <b>\$ 12,935.00</b> | <b>\$ 11,000.00</b> | <b>\$ 4,625.00</b>  | <b>\$ 7,220.00</b>  |
| Installation, if total and not per-station | \$ -                | \$ -                | \$ -                | \$ 13,400.00        | \$ -                | \$ -                |
| Freight if total, and not per-station      | \$ -                | \$ -                | \$ -                | \$ 1,250.00         | \$ 600.00           | \$ -                |
| Washer bases if total, and not per-station | \$ -                | \$ 1,000.00         | \$ -                | \$ -                | \$ -                | \$ -                |
| Finders fee                                |                     | \$ 500.00           |                     |                     |                     |                     |
| Admin fee                                  | \$ -                | \$ 2,500.00         | \$ -                | \$ -                | \$ -                | \$ -                |
|                                            | <b>\$ 34,584.38</b> | <b>\$ 43,183.00</b> | <b>\$ 53,435.00</b> | <b>\$ 71,850.00</b> | <b>\$ 14,475.00</b> | <b>\$ 21,660.00</b> |

15

12

10

7

36

24

Scores, using a ratio based on lowest price:

lowest price x points / price being evaluated

# RFP SCORE SHEET

RFP#

2023-018R

Title:

Turnout Gear Extractors

Committee Member:

Michele Hughey

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |     | Lakeside Laundry | You Ask I Find   | Univeral Laundry | Eagle Star       | Muni Emer        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|------------------|------------------|------------------|------------------|------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |     | Tentative points | Tentative points | Tentative points | Tentative points | Tentative points |
| <b>A EQUIPMENT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |     |                  |                  |                  |                  |                  |
| 1. Evaluate each piece of proposed equipment, how it will best serve Battle Creek Fire Department, and how the equipment meets the requirements set forth in the Scope of Work. Include lead time from date of purchase order.<br>2. Evaluate any service plans or service options.<br>3. Evaluate warranty for each piece of proposed equipment.<br>4. Evaluate their installation process. We are looking for delivery AND installation, and those costs must be included in the price. | 70  | 48               | 25               | 65               | 62               | 30               |
| <b>B. COMPANY HISTORY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |     |                  |                  |                  |                  |                  |
| 1. evaluate the history of their company, including how many years you've been providing turnout gear extractors.<br>2. Did they submit (pass/fail) their W9.<br>3. Did they submit (pass/fail) the completed and signed Offer section of Offer and Acceptance (page 11)<br>4. Did they submit (pass/fail) DBE form (page 12).                                                                                                                                                            | 15  | 12               | 12               | 15               | 15               | 5                |
| <b>C PRICE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |     |                  |                  |                  |                  |                  |
| Score = ( Lowest price x number of possible points)/price being evaluated                                                                                                                                                                                                                                                                                                                                                                                                                 | 15  | 15               | 12               | 10               | 7                | 15               |
| <b>SUBTOTAL TO SHORT LIST OR AWARD</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 100 | 75               | 49               | 90               | 84               | 50               |
| <b>E Interview (if applicable, consensus only)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                        | 100 |                  |                  |                  |                  |                  |
| <b>GRAND TOTAL FOR AWARD</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 200 |                  |                  |                  |                  |                  |

**DOCUMENTS INCORPORATED INTO CONTRACT #2023-018R**  
**TURNOUT GEAR EXTRACTORS AND WASHERS/DRYERS**  
**UNIVERSAL LAUNDRY MACHINERY**

*City Manager's signing of the Offer and Acceptance page constitutes the City's acceptance to all of the following documents, which form the contract as explained in the RFP listed below. The most recent document takes precedence in cases where conflicts arise.*

Please leave all documents in the order listed below

- Revised pricing for extractors dated 11/4/22
- Proposal submitted October 19, 2022
- Request for Proposal #2023-018R





# Universal Laundry Machinery

"The Best in the Midwest"

38700 Webb Dr.  
Phone: 734-727-0478

Westland, MI 48185  
Fax: 734-727-0481

Toll Free: 1-800-825-7787

## PROPOSAL

**Client:** City of Battle Creek Fire Department  
**Address:** Attn: Purchasing Dept. 10 N. Division, Suite  
216  
Battle Creek, MI 49014

**Proposal #:** 212487

**Date:** 11/4/22

**Attention:**  
**Telephone:**  
**Fax:**

### WE PROPOSE TO PROVIDE

| Qty              | Prod. ID           | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Unit Price | Ext. Price |
|------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------|
| <b>STATION 1</b> |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |            |            |
| 1 ea.            | -UniMac UCT040QN0G | 40 lb. Turnout Gear Washer<br>Includes: Programmable 9 cycle control including custom fire industry cycles, temperature control fills, stainless steel basket - shell - door - front & top, automatic liquid and powder supply flush, heavy duty bearings, energy saving inverter drive system, 100 'G' force extraction, 3 year parts warranty, 5 year warranty on the basket - shaft - frame - seals and bearings, 208-240/60/1 or 3 phase. <b>Meets ALL NFPA 1851 recommendations for washing turnout gear.</b> Cleans up to 6 "pieces" (liners or shells) at a time. | \$9,586.00 | \$9,586.00 |
| 1 ea.            | -BASE              | 8" High Steel Riser Base<br>Includes: Raises washer for ease of use and drain connection                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$652.00   | \$652.00   |
| 1 ea.            | -UniMac UFNE5BJP   | Front Load High Extract Washer<br>Includes: 6 cycle selections, 4 water temperature selections, 2 wash speeds, 1 drain speed, 3 extract speeds up to 440 'G' force, stainless steel tub, supply dispenser, up front controls, 120/60/1 phase 20 amps                                                                                                                                                                                                                                                                                                                     | \$2,353.00 | \$2,353.00 |
| 1 ea.            | -UniMac UDGE5B     | Commercial Gas Heated Dryer<br>Includes: Extra large capacity, Front control, 4 cycle, up front lint filter, electronic gas ignition, front serviceable, commercial grade, 120/60/1                                                                                                                                                                                                                                                                                                                                                                                      | \$936.00   | \$936.00   |
| 1 ea.            | FRT-1              | Freight From Factory                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | \$485.00   | \$485.00   |

Prices quoted are firm as of this date and are, however, subject to change to reflect price increases (if any) to UNIVERSAL put into effect by our equipment manufacturers prior to receiving your signed order.

-Please see next section-



# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212487

|                 |                                                                                                                                                         |                                 |            |                    |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|------------|--------------------|
| 1 ea.           | -INSTALLATION                                                                                                                                           | Deliver, Set In Place and Level | \$1,350.00 | \$1,350.00         |
|                 | Includes: Uncrate equipment, set in place, level, and anchor and grout where required. Will also remove and dispose of current laundry equipment        |                                 |            |                    |
| 3 ea.           | -UTL                                                                                                                                                    | Utility reconnections           | \$190.00   | \$570.00           |
|                 | Utility reconnections can only be done if proper utility supplies are in place. We are not authorized to add utility supplies in city owned properties. |                                 |            |                    |
| <b>Subtotal</b> |                                                                                                                                                         |                                 |            | <b>\$15,932.00</b> |
| <b>Tax</b>      |                                                                                                                                                         |                                 |            |                    |
| <b>Total</b>    |                                                                                                                                                         |                                 |            | <b>\$15,932.00</b> |

- *Pricing includes firefighter discount*
- Universal will deliver, offload, uncrate, set in place, level, and anchor and grout washer to a proper and substantial (minimum 8" thick) concrete foundation provided by City of Battle Creek Fire Department;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (34.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Turnout Gear extractor: 3 year parts; 90 day labor; Front load washer: 1 year parts; 60 day labor; Dryer: 3 year parts; 60 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.



# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212487

## STATION 2

|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 |                 |                    |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------|--------------------|
| 1 ea. | -UniMac UCT040QN0G                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 40 lb. Turnout Gear Washer      | \$9,586.00      | \$9,586.00         |
|       | Includes: Programmable 9 cycle control including custom fire industry cycles, temperature control fills, stainless steel basket - shell - door - front & top, automatic liquid and powder supply flush, heavy duty bearings, energy saving inverter drive system, 100 'G' force extraction, 3 year parts warranty, 5 year warranty on the basket - shaft - frame - seals and bearings, 208-240/60/1 or 3 phase. <b>Meets ALL NFPA 1851 recommendations for washing turnout gear.</b> Cleans up to 6 "pieces" (liners or shells) at a time. |                                 |                 |                    |
| 1 ea. | -BASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 8" High Steel Riser Base        | \$652.00        | \$652.00           |
|       | Includes: Raises washer for ease of use and drain connection                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                 |                 |                    |
| 1 ea. | -UniMac UFNE5BJP                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Front Load High Extract Washer  | \$2,353.00      | \$2,353.00         |
|       | Includes: 6 cycle selections, 4 water temperature selections, 2 wash speeds, 1 drain speed, 3 extract speeds up to 440 'G' force, stainless steel tub, supply dispenser, up front controls, 120/60/1 phase 20 amps                                                                                                                                                                                                                                                                                                                         |                                 |                 |                    |
| 1 ea. | -UniMac UDGE5B                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Commercial Gas Heated Dryer     | \$936.00        | \$936.00           |
|       | Includes: Extra large capacity, Front control, 4 cycle, up front lint filter, electronic gas ignition, front servicable, commercial grade, 120/60/1                                                                                                                                                                                                                                                                                                                                                                                        |                                 |                 |                    |
| 1 ea. | FRT-1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Freight From Factory            | \$449.00        | \$449.00           |
| 1 ea. | -INSTALLATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Deliver, Set In Place and Level | \$1,350.00      | \$1,350.00         |
|       | Includes: Uncrate equipment, set in place, level, and anchor and grout where required.                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                 |                 |                    |
| 3 ea. | -UTL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Utility reconnections           | \$190.00        | \$570.00           |
|       | Utility reconnections can only be done if proper utility supplies are in place. We are not authorized to add utility supplies in city owned properties.                                                                                                                                                                                                                                                                                                                                                                                    |                                 |                 |                    |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 | <b>Subtotal</b> | <b>\$15,896.00</b> |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 | <b>Tax</b>      |                    |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 | <b>Total</b>    | <b>\$15,896.00</b> |

• Pricing includes firefighter discount





## UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212487

- Universal will deliver, offload, uncrate, set in place, level, and anchor and grout washer to a proper and substantial (minimum 6" thick) concrete foundation provided by City of Battle Creek Fire Department;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (34.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Turnout Gear extractor: 3 year parts; 90 day labor; Front load washer: 1 year parts; 60 day labor; Dryer: 3 year parts; 60 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.



# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212487

## STATION 4

|                 |                                                                                                                                                                                                                    |                                 |            |                   |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|------------|-------------------|
| 1 ea.           | -UniMac UFNE5BJP                                                                                                                                                                                                   | Front Load High Extract Washer  | \$2,353.00 | \$2,353.00        |
|                 | Includes: 6 cycle selections, 4 water temperature selections, 2 wash speeds, 1 drain speed, 3 extract speeds up to 440 'G' force, stainless steel tub, supply dispenser, up front controls, 120/60/1 phase 20 amps |                                 |            |                   |
| 1 ea.           | -UniMac UDGE5B                                                                                                                                                                                                     | Commercial Gas Heated Dryer     | \$936.00   | \$936.00          |
|                 | Includes: Extra large capacity, Front control, 4 cycle, up front lint filter, electronic gas ignition, front servicable, commercial grade, 120/60/1                                                                |                                 |            |                   |
| 1 ea.           | FRT-1                                                                                                                                                                                                              | Freight From Factory            | \$142.00   | \$142.00          |
| 1 ea.           | -INSTALLATION                                                                                                                                                                                                      | Deliver, Set In Place and Level | \$525.00   | \$525.00          |
|                 | Includes: Uncrate equipment, set in place, level, and anchor and grout where required.                                                                                                                             |                                 |            |                   |
| 2 ea.           | -UTL                                                                                                                                                                                                               | Utility reconnections           | \$190.00   | \$380.00          |
|                 | Utility reconnections can only be done if proper utility supplies are in place. We are not authorized to add utility supplies in city owned properties.                                                            |                                 |            |                   |
| <b>Subtotal</b> |                                                                                                                                                                                                                    |                                 |            | <b>\$4,336.00</b> |
| <b>Tax</b>      |                                                                                                                                                                                                                    |                                 |            |                   |
| <b>Total</b>    |                                                                                                                                                                                                                    |                                 |            | <b>\$4,336.00</b> |

- *Pricing includes firefighter discount*
- Universal will deliver, offload, uncrate, rig equipment downstairs, set in place and level washer and dryer and remove and dispose of any laundry equipment currently in place;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (32.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Front load washer: 1 year parts; 60 day labor; Dryer: 3 year parts; 60 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.
- *As a side note, Station 4 has the utility supplies to replace the current washer extractor if desired now or in the future.*



# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212487

## STATION 5

|                 |                                                                                                                                                                                                                    |                                 |            |                   |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|------------|-------------------|
| 1 ea.           | -UniMac UFNE5BJP                                                                                                                                                                                                   | Front Load High Extract Washer  | \$2,353.00 | \$2,353.00        |
|                 | Includes: 6 cycle selections, 4 water temperature selections, 2 wash speeds, 1 drain speed, 3 extract speeds up to 440 'G' force, stainless steel tub, supply dispenser, up front controls, 120/60/1 phase 20 amps |                                 |            |                   |
| 1 ea.           | -UniMac UDGE5B                                                                                                                                                                                                     | Commercial Gas Heated Dryer     | \$936.00   | \$936.00          |
|                 | Includes: Extra large capacity, Front control, 4 cycle, up front lint filter, electronic gas ignition, front servicable, commercial grade, 120/60/1                                                                |                                 |            |                   |
| 1 ea.           | FRT-1                                                                                                                                                                                                              | Freight From Factory            | \$142.00   | \$142.00          |
| 1 ea.           | -INSTALLATION                                                                                                                                                                                                      | Deliver, Set In Place and Level | \$525.00   | \$525.00          |
|                 | Includes: Uncrate equipment, set in place, level, and anchor and grout where required.                                                                                                                             |                                 |            |                   |
| 2 ea.           | -UTL                                                                                                                                                                                                               | Utility reconnections           | \$190.00   | \$380.00          |
|                 | Utility reconnections can only be done if proper utility supplies are in place. We are not authorized to add utility supplies in city owned properties.                                                            |                                 |            |                   |
| <b>Subtotal</b> |                                                                                                                                                                                                                    |                                 |            | <b>\$4,336.00</b> |
| <b>Tax</b>      |                                                                                                                                                                                                                    |                                 |            |                   |
| <b>Total</b>    |                                                                                                                                                                                                                    |                                 |            | <b>\$4,336.00</b> |

- **Pricing includes firefighter discount**
- Universal will deliver, offload, uncrate, rig equipment downstairs, set in place and level washer and dryer and remove and dispose of any laundry equipment currently in place;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (32.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Front load washer: 1 year parts; 60 day labor; Dryer: 3 year parts; 60 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.





# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212487

## STATION 6

|                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 |            |                    |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|------------|--------------------|
| 1 ea.           | -UniMac UCT040QN0G                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 40 lb. Turnout Gear Washer      | \$9,586.00 | \$9,586.00         |
|                 | Includes: Programmable 9 cycle control including custom fire industry cycles, temperature control fills, stainless steel basket - shell - door - front & top, automatic liquid and powder supply flush, heavy duty bearings, energy saving inverter drive system, 100 'G' force extraction, 3 year parts warranty, 5 year warranty on the basket - shaft - frame - seals and bearings, 208-240/60/1 or 3 phase. <b>Meets ALL NFPA 1851 recommendations for washing turnout gear.</b> Cleans up to 6 "pieces" (liners or shells) at a time. |                                 |            |                    |
| 1 ea.           | -BASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 8" High Steel Riser Base        | \$652.00   | \$652.00           |
|                 | Includes: Raises washer for ease of use and drain connection                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                 |            |                    |
| 1 ea.           | FRT-1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Freight From Factory            | \$357.00   | \$357.00           |
| 1 ea.           | -INSTALLATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Deliver, Set In Place and Level | \$2,150.00 | \$2,150.00         |
|                 | Includes: Uncrate equipment, <b>rig equipment downstairs</b> , set in place, level, and anchor and grout where required.                                                                                                                                                                                                                                                                                                                                                                                                                   |                                 |            |                    |
| 1 ea.           | -UTL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Utility reconnections           | \$190.00   | \$190.00           |
| <b>Subtotal</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 |            | <b>\$12,935.00</b> |
| <b>Tax</b>      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 |            | <b>\$575.16</b>    |
| <b>Total</b>    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 |            | <b>\$13,510.16</b> |

- **Pricing includes firefighter discount**
- Universal will deliver, offload, uncrate, rig the equipment downstairs, set in place, level, and anchor and grout washer to a proper and substantial (minimum 8" thick) concrete foundation provided by City of Battle Creek Fire Department;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (34.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Turnout Gear extractor: 3 year parts; 90 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.



# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212487

## DEFINITION OF YOUR LIMITED LABOR AND PARTS WARRANTIES

Your **LIMITED LABOR WARRANTY** begins with the date of machinery start up. Your **LIMITED LABOR WARRANTY** covers the labor required to correct a defect in materials or workmanship for the exact time period specified in the "specific terms and conditions" section of your machinery quotation.

When, and if, you contact us to request warranty service, we will attempt to ascertain the exact nature of the problem in order to determine if the situation is covered under your **LIMITED LABOR WARRANTY**. In most cases, the issue of warranty applicability is not difficult to determine. In the event, however, the actual examination and/or repair of the machinery indicates a condition or conditions beyond normal **LIMITED LABOR WARRANTY** coverage, it is expected that you will be responsible for the cost of that particular service call which includes hourly rate and mileage charge. Under these clearly defined circumstances, failure to pay the above stated charges will result in revocation and termination of your **LIMITED LABOR WARRANTY**.

Your **LIMITED PARTS WARRANTY** begins when you receive the machinery. Your **LIMITED PARTS WARRANTY** is issued to you by the machinery manufacturer through Universal Laundry Machinery. It is, therefore, the manufacturer who determines whether or not a returned part will be covered by your **LIMITED PARTS WARRANTY**.

If the manufacturer determines that a returned part is not covered by the **LIMITED PARTS WARRANTY** for reasons of misuse, abuse or because the item is excluded from the **LIMITED PARTS WARRANTY** (perishable components, for example) you will be expected to pay for the replacement parts or parts.

Failure to pay Universal for replacement parts that the manufacturer determines are not covered under the **LIMITED PARTS WARRANTY**, will result in revocation and termination of your **LIMITED PARTS WARRANTY**.

I (we) have read the definition of my (our) **LIMITED LABOR AND PARTS WARRANTIES** as outlined above and fully understand and accept it as presented. I (we) agree to abide by these terms and conditions as set forth.

City of Battle Creek Fire Department

Customer Company Name

Customer Signature and Title

Adam Richards

For Universal Laundry Machinery

Date





# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212487

## SPECIFIC TERMS AND CONDITIONS

**Warranty:** See Comments on quotes  
**Equip. Quoted F.O.B.:** Factory  
**Delivery Time Required:** 6 - 8 weeks approx.  
**Terms of Payment:** 20% deposit, balance at delivery via check or cash

**Special Rigging/Installation:** N/A  
**Special Freight Charge:** N/A  
**Applicable Sales Tax:** 6% if applicable  
**Other:**

## IMPORTANT RELEVANT INFORMATION

**DEFINITION OF WARRANTY** - Parts Warranty begins with the actual date of equipment delivery to your facility, and is in effect, whether or not the machinery is hooked-up and running. Service Warranty begins with the specific date of start-up by UNIVERSAL personnel.

**ELECTRICAL SERVICE** - It is very important that you verify that the voltages as outlined with the equipment proposals, correspond directly with your facility electrical service. If a discrepancy exists, please notify UNIVERSAL immediately.

**SCHEDULING OF MACHINERY DELIVERY** - It is our firm policy to order the machinery and schedule deliveries in strict accordance with your specifically stated needs at the time you place your order. In the event that new construction, or any other delays, beyond our control preclude this delivery schedule from occurring, we will store the machinery but will require full payment of all monies owed. Depending upon the time of delay and quantity of equipment involved, there may be a charge for this storage.

**FINAL MACHINERY CONNECTIONS** - It is the Responsibility of the Customer to arrange and provide for all final service hook-ups including electrical, gas, plumbing, and venting. UNIVERSAL does not offer these services.

**DELIVERY SERVICES** - UNIVERSAL can deliver equipment to the job site. We will set it in place, bolt it down, and grout if required. We will, at the appropriate time, and at your request, start-up all machinery and provide full instruction to your designated personnel as to its proper and safe use.

**ACCESS TO DELIVERY SITE** - It is the Responsibility of the Customer to provide clear and un-obstructed access including suitable door openings in order that the equipment may be delivered in a reasonable manner. Proper and suitable foundations must also be provided by the customer on which the machinery is to be mounted.

**PAYMENT OF INVOICES** - All **Past Due** accounts may be subject to a service charge of 1.5% per month.

11/4/2022

212487

Date of Proposal

Proposal Number

**CLIENT ACCEPTANCE OF PROPOSAL** - The foregoing Price Proposal, Specific Terms and Conditions, and the Important Relevant Information have been reviewed and are hereby agreed to and accepted as written.

K.A.H. Inc. dba UNIVERSAL LAUNDRY MACHINERY  
**Adam Richards**

Purchaser (Company Name)

Date of Order Placement

Authorized Signature and Title

Please return one copy from each section



## Universal Laundry Machinery

*"The Best in the Midwest"*

38700 Webb Drive Westland, MI 48185  
(800) 825-7787 [www.univlaundry.com](http://www.univlaundry.com)

To City of Battle Creek Fire Department:

Thank you for the opportunity to bid and your interest in UniMac laundry equipment for washing turnout gear at the Battle Creek Fire Stations. Attached please find our fire department packet, which includes pricing on two different gear washers to consider, information regarding FireLinc, brochures and additional information.

When determining how many sets of gear can be washed in a turnout gear washer, the rule of thumb is one "piece" (liner or shell) per cubic foot of wash basket. Therefore, a machine with a 7 cu. ft. basket can wash up to 7 "pieces" (liners or shells). Shells and liners are usually washed separate, so we program separate cycles for each. There can also be a Heavy Soiled cycle for really dirty gear. Cycles are 47-61 minutes long, depending on which cycle.

It is very likely that fire departments soon will be mandated to keep track of and verify when and how a fire fighter's turnout gear is cleaned, in an effort to reduce future liability of a city or township. UniMac has developed a program called FireLinc that will accomplish this for a department. I have attached information regarding this, and one of the machines I have quoted will completely integrate with the system.

The 45 Lb. FireLinc Gear Washer is a UniMac model UWT045V30L industrial grade forty-five lb. capacity high performance washer extractor that will process up to 7 pieces in the shortest amount of time. There are features that reduce the time needed to wash gear properly, getting the gear back in service as soon as possible. Four water fill valves, instead of the standard two, fill the machine twice as fast, saving time. Rapid through the door spray rinse allows a more complete rinse without having to fill the washer and a soap box allows each firefighter to add the proper chemicals to wash their turnout gear (supplies for automatic soap injections are also included).

The fully programmable UniLinc control on the UWN045V30L provides for complete versatility in programming and is completely compatible with the FireLinc software. With the easiest controller to program, the UniMac allows for customized wash formulas to match the processing requirements of each of your specific turnout gear pieces to meet NFPA recommendations.

The 40 Lb. Commercial Grade Gear Washer is a UniMac model UCN040QN0G forty lb. commercial washer extractor. It, too, is fully programmable and will clean up to 6 pieces. This machine, too, can be used with FireLinc, but without the detail. Commercial grade is not quite as heavy duty as industrial grade, but is fully NFPA 1851 compliant.

Both washers will not only wash turnout gear, but also other items like truck towels, uniforms, etc. if you choose.

Depending on the gear washer, the FireLinc system would take from about \$800.00 to \$1,200.00 to get up and running. Unfortunately, due to component shortages, the FireLinc system is not readily available for the time being, but will be in the near future.





## Universal Laundry Machinery

*"The Best in the Midwest"*

38700 Webb Drive Westland, MI 48185  
(800) 825-7787 [www.univlaundry.com](http://www.univlaundry.com)

As you know, dirty turnout gear is dangerous turnout gear. Deposits of hydrocarbons can take in 90% of the toxins produced by a fire and can conduct electricity. Soot can diminish the reflectivity of turnout gear making it hotter and more difficult to see. For turnout gear to perform properly it must be clean.

All equipment quoted will meet ALL NFPA 1851 recommendations for cleaning turnout gear and will not extract above 100 G-Force which is the NFPA 1851 recommendation. Other equipment (softmount washers) spin above 400 G- Force and while they can be turned down, if programmed incorrectly at installation or inadvertently changed by a user, the higher G-Force spin rate will damage the turnout gear being washed rendering it dangerous to the firefighters safety and will decrease the lifespan of the gear. The washers quoted will all clean gear equally well while maintaining the quality and safety requirements of NFPA 1851.

Universal Laundry Machinery has sold and installed more commercial laundry equipment in more fire stations in Michigan than all of its competitors combined, and is Michigan's exclusive distributor of UniMac laundry equipment. UniMac brand washers wash more turnout gear in Michigan than any other brand. UniMac washers are very heavy duty washers, with programmable controls, have a stainless-steel construction and are **manufactured in the USA in Ripon Wisconsin.**

Universal Laundry Machinery is the largest and oldest (since 1920) distributor of commercial laundry and dry-cleaning equipment in Michigan. We are the Michigan distributor for the UniMac brand of commercial and industrial laundry washer extractors and dryers. UniMac is the largest selling brand of commercial washers manufactured and sold (18 lb. to 250 lb. capacity) in the United States. The alliance of UniMac and Universal is one reason that Universal Laundry Machinery is "The Best In The Midwest".

UniMac washers feature stainless steel construction for years of good looks and corrosion resistance. The automatic supply flush compartment mixes the chemical supplies with water, and then adds them at the proper time below water level. This protects the linen and gear from direct contact with the highly concentrated cleaning supplies, which could stain or cause holes in the fabric and will save you money.

UniMac washers are extremely well built and have a five-10 (5-10) year warranty on the basket- shaft-frame-seals and main bearings. All other parts are covered by a three (3) year warranty. Heavy-duty components and quality construction make UniMac the best value available.

Universal Laundry Machinery has the largest replacement parts department (approximately \$400,000.00 in inventory) in Michigan. Should you need a replacement part, chances are we have it. Our service affiliate is also the largest in Michigan. With 11 service technicians, fully stocked service trucks, and mobile phone contact, **most service calls are completed within 24 hours** of the initial phone call to us.

I look forward to providing you with any additional information that you may require. Please look over the attached data and don't hesitate to call me if you have any questions.

Sincerely,  
Universal Laundry Machinery

*Adam Richards*

Adam Richards  
Fire Department Laundry Consultant

**Sales • Complete Parts Department • Full Service Department • Facility Design & Layout**





***MICHIGAN FIRE DEPARTMENTS***  
(PARTIAL CUSTOMER LIST)

Detroit Canton White Lake Twp. Birmingham Ann Arbor  
Oakland Township Mayville Brighton Otsego County  
Rose City Harrison Township Ogema County Charlevoix  
Traverse City Sand Lake Elba Township Brownstown Township  
Ypsilanti Clawson Commerce Township Farmington Hills  
Grand Traverse County Highland Park Livonia Redford  
Davison New Baltimore City of Troy East Lansing  
Mundy Township Dearborn Heights Salem Township Big Rapids  
Wayne Mt. Morris Northville Midland  
Plymouth Township Royal Oak West Bloomfield Plainfield  
Lapeer Mt. Clemens Bloomfield Hills Adrian Township  
Howell Saginaw Pittsfield Township Inkster  
Forest Township Oxford Auburn Hills Delta Township  
Ann Arbor Township Fowlerville Lyon Township Macomb

***Universal has installed more UniMac washers in more Michigan fire stations than all of our competitors combined!***

***Expert Solutions from the Laundry Experts***

**Universal Laundry Machinery**  
38700 Webb Drive • Westland, MI 48185 • 800.825.7787





*Leading performance*

Alliance Laundry Systems LLC  
PO Box 990, Shepard Street  
Ripon, WI 54971, USA  
T | +1 920 748 3121  
F | +1 920 748 4429

[www.alliancelaudry.com](http://www.alliancelaudry.com)

October 19, 2022  
Michele Hughey, Battalion Chief  
Christine Huff, Battle Creek Purchasing Dept.  
Battle Creek, Fire Department  
RFP # 2023-018R

Dear City of Battle Creek,

The intent of this letter is to confirm that Universal Laundry Machinery, of Westland, Michigan, is the exclusive factory authorized distributor for UniMac commercial laundry equipment, UniMac factory authorized parts, and UniMac authorized service and warranty provider in the state of Michigan. Should additional information be required, please feel free to contact me directly.

Kind Regards,

*Michael Brooks*

Michael Brooks  
Regional Sales Manager  
Alliance Laundry Systems  
[Michael.brooks@alliancels.com](mailto:Michael.brooks@alliancels.com)  
(920)789-8252  
PO Box 990  
Ripon, WI 54971



# Universal Laundry Machinery

"The Best in the Midwest"

38700 Webb Dr.  
Phone: 734-727-0478

Westland, MI 48185  
Fax: 734-727-0481

Toll Free: 1-800-825-7787

## PROPOSAL

**Client:** City of Battle Creek Fire Department  
**Address:** Attn: Purchasing Dept. 10 N. Division, Suite  
216  
Battle Creek, MI 49014

**Proposal #:** 212433

**Date:** 10/19/22

**Attention:**  
**Telephone:**  
**Fax:**

### WE PROPOSE TO PROVIDE

| Qty              | Prod. ID           | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Unit Price  | Ext. Price  |
|------------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|
| <b>STATION 1</b> |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |             |             |
| 1 ea.            | -UniMac UWT045V30L | 45 LB Industrial Turnout Gear<br>Washer W/Soap Box<br>INCLUDES: Fully programmable UniLinc Touch control with management and production reports, 5 cup soap dispenser through the door spray rinse, stainless steel basket- shell- door- front- sides and control box, four water fill valves, heavy duty spherical roller bearings, single motor-single belt inverter drive, programmable water fill temperatures, programmable thermal cooldown, gentle wash, 1/2 speed wash, overnight soak, overflow flush, 3 year parts warranty, 10 year warranty on the basket shaft, frame, seals and bearings, 100 'G' force extraction, NFPA 1851 compliant, <b>Manufactured in the USA</b> , 208-240/60/1-3 Ph | \$13,901.00 | \$13,901.00 |
| 1 ea.            | -UniMac UFNE5BJP   | Front Load High Extract Washer<br>Includes: 6 cycle selections, 4 water temperature selections, 2 wash speeds, 1 drain speed, 3 extract speeds up to 440 'G' force, stainless steel tub, supply dispenser, up front controls, 120/60/1 phase 20 amps                                                                                                                                                                                                                                                                                                                                                                                                                                                      | \$2,353.00  | \$2,353.00  |
| 1 ea.            | -UniMac UDGE5B     | Commercial Gas Heated Dryer<br>Includes: Extra large capacity, Front control, 4 cycle, up front lint filter, electronic gas ignition, front serviceable, commercial grade, 120/60/1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | \$936.00    | \$936.00    |
| 1 ea.            | FRT-1              | Freight From Factory                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | \$485.00    | \$485.00    |

Prices quoted are firm as of this date and are, however, subject to change to reflect price increases (if any) to UNIVERSAL put into effect by our equipment manufacturers prior to receiving your signed order.

-Please see next section-



# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212433

|                 |                                                                                                                                                         |                                 |            |                    |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|------------|--------------------|
| 1 ea.           | -INSTALLATION                                                                                                                                           | Deliver, Set In Place and Level | \$1,350.00 | \$1,350.00         |
|                 | Includes: Uncrate equipment, set in place, level, and anchor and grout where required. Will also remove and dispose of current laundry equipment        |                                 |            |                    |
| 3 ea.           | -UTL                                                                                                                                                    | Utility reconnections           | \$190.00   | \$570.00           |
|                 | Utility reconnections can only be done if proper utility supplies are in place. We are not authorized to add utility supplies in city owned properties. |                                 |            |                    |
| <b>Subtotal</b> |                                                                                                                                                         |                                 |            | <b>\$19,595.00</b> |
| <b>Tax</b>      |                                                                                                                                                         |                                 |            | <b>\$141.18</b>    |
| <b>Total</b>    |                                                                                                                                                         |                                 |            | <b>\$19,736.18</b> |

- *Pricing includes firefighter discount*
- Universal will deliver, offload, uncrate, set in place, level, and anchor and grout washer to a proper and substantial (minimum 8" thick) concrete foundation provided by City of Battle Creek Fire Department;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (34.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Turnout Gear extractor: 3 year parts; 90 day labor; Front load washer: 1 year parts; 60 day labor; Dryer: 3 year parts; 60 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.





# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212433

## STATION 2

|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 |                 |                    |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------|--------------------|
| 1 ea. | -UniMac UCT040QN0G                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 40 lb. Turnout Gear Washer      | \$9,586.00      | \$9,586.00         |
|       | Includes: Programmable 9 cycle control including custom fire industry cycles, temperature control fills, stainless steel basket - shell - door - front & top, automatic liquid and powder supply flush, heavy duty bearings, energy saving inverter drive system, 100 'G' force extraction, 3 year parts warranty, 5 year warranty on the basket - shaft - frame - seals and bearings, 208-240/60/1 or 3 phase. <b>Meets ALL NFPA 1851 recommendations for washing turnout gear.</b> Cleans up to 6 "pieces" (liners or shells) at a time. |                                 |                 |                    |
| 1 ea. | -BASE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 8" High Steel Riser Base        | \$652.00        | \$652.00           |
|       | Includes: Raises washer for ease of use and drain connection                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                 |                 |                    |
| 1 ea. | -UniMac UFNE5BJP                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Front Load High Extract Washer  | \$2,353.00      | \$2,353.00         |
|       | Includes: 6 cycle selections, 4 water temperature selections, 2 wash speeds, 1 drain speed, 3 extract speeds up to 440 'G' force, stainless steel tub, supply dispenser, up front controls, 120/60/1 phase 20 amps                                                                                                                                                                                                                                                                                                                         |                                 |                 |                    |
| 1 ea. | -UniMac UDGE5B                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Commercial Gas Heated Dryer     | \$936.00        | \$936.00           |
|       | Includes: Extra large capacity, Front control, 4 cycle, up front lint filter, electronic gas ignition, front servicable, commercial grade, 120/60/1                                                                                                                                                                                                                                                                                                                                                                                        |                                 |                 |                    |
| 1 ea. | FRT-1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Freight From Factory            | \$449.00        | \$449.00           |
| 1 ea. | -INSTALLATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Deliver, Set In Place and Level | \$1,350.00      | \$1,350.00         |
|       | Includes: Uncrate equipment, set in place, level, and anchor and grout where required.                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                 |                 |                    |
| 3 ea. | -UTL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Utility reconnections           | \$190.00        | \$570.00           |
|       | Utility reconnections can only be done if proper utility supplies are in place. We are not authorized to add utility supplies in city owned properties.                                                                                                                                                                                                                                                                                                                                                                                    |                                 |                 |                    |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 | <b>Subtotal</b> | <b>\$15,896.00</b> |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 | <b>Tax</b>      |                    |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                 | <b>Total</b>    | <b>\$15,896.00</b> |

• Pricing includes firefighter discount



## UNIVERSAL LAUNDRY MACHINERY

---

Proposal No. 212433

- Universal will deliver, offload, uncrate, set in place, level, and anchor and grout washer to a proper and substantial (minimum 6" thick) concrete foundation provided by City of Battle Creek Fire Department;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (34.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Turnout Gear extractor: 3 year parts; 90 day labor; Front load washer: 1 year parts; 60 day labor; Dryer: 3 year parts; 60 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.





# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212433

## STATION 4

|       |                                                                                                                                                                                                                    |                                 |                 |                   |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------|-------------------|
| 1 ea. | -UniMac UFNE5BJP                                                                                                                                                                                                   | Front Load High Extract Washer  | \$2,353.00      | \$2,353.00        |
|       | Includes: 6 cycle selections, 4 water temperature selections, 2 wash speeds, 1 drain speed, 3 extract speeds up to 440 'G' force, stainless steel tub, supply dispenser, up front controls, 120/60/1 phase 20 amps |                                 |                 |                   |
| 1 ea. | -UniMac UDGE5B                                                                                                                                                                                                     | Commercial Gas Heated Dryer     | \$936.00        | \$936.00          |
|       | Includes: Extra large capacity, Front control, 4 cycle, up front lint filter, electronic gas ignition, front servicable, commercial grade, 120/60/1                                                                |                                 |                 |                   |
| 1 ea. | FRT-1                                                                                                                                                                                                              | Freight From Factory            | \$142.00        | \$142.00          |
| 1 ea. | -INSTALLATION                                                                                                                                                                                                      | Deliver, Set In Place and Level | \$525.00        | \$525.00          |
|       | Includes: Uncrate equipment, set in place, level, and anchor and grout where required.                                                                                                                             |                                 |                 |                   |
| 2 ea. | -UTL                                                                                                                                                                                                               | Utility reconnections           | \$190.00        | \$380.00          |
|       | Utility reconnections can only be done if proper utility supplies are in place. We are not authorized to add utility supplies in city owned properties.                                                            |                                 |                 |                   |
|       |                                                                                                                                                                                                                    |                                 | <b>Subtotal</b> | <b>\$4,336.00</b> |
|       |                                                                                                                                                                                                                    |                                 | <b>Tax</b>      |                   |
|       |                                                                                                                                                                                                                    |                                 | <b>Total</b>    | <b>\$4,336.00</b> |

- **Pricing includes firefighter discount**
- Universal will deliver, offload, uncrate, rig equipment downstairs, set in place and level washer and dryer and remove and dispose of any laundry equipment currently in place;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (32.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Front load washer: 1 year parts; 60 day labor; Dryer: 3 year parts; 60 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.
- *As a side note, Station 4 has the utility supplies to replace the current washer extractor if desired now or in the future.*



# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212433

## STATION 5

|                 |                                                                                                                                                                                                                    |                                 |            |                   |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|------------|-------------------|
| 1 ea.           | -UniMac UFNE5BJP                                                                                                                                                                                                   | Front Load High Extract Washer  | \$2,353.00 | \$2,353.00        |
|                 | Includes: 6 cycle selections, 4 water temperature selections, 2 wash speeds, 1 drain speed, 3 extract speeds up to 440 'G' force, stainless steel tub, supply dispenser, up front controls, 120/60/1 phase 20 amps |                                 |            |                   |
| 1 ea.           | -UniMac UDGE5B                                                                                                                                                                                                     | Commercial Gas Heated Dryer     | \$936.00   | \$936.00          |
|                 | Includes: Extra large capacity, Front control, 4 cycle, up front lint filter, electronic gas ignition, front servicable, commercial grade, 120/60/1                                                                |                                 |            |                   |
| 1 ea.           | FRT-1                                                                                                                                                                                                              | Freight From Factory            | \$142.00   | \$142.00          |
| 1 ea.           | -INSTALLATION                                                                                                                                                                                                      | Deliver, Set In Place and Level | \$525.00   | \$525.00          |
|                 | Includes: Uncrate equipment, set in place, level, and anchor and grout where required.                                                                                                                             |                                 |            |                   |
| 2 ea.           | -UTL                                                                                                                                                                                                               | Utility reconnections           | \$190.00   | \$380.00          |
|                 | Utility reconnections can only be done if proper utility supplies are in place. We are not authorized to add utility supplies in city owned properties.                                                            |                                 |            |                   |
| <b>Subtotal</b> |                                                                                                                                                                                                                    |                                 |            | <b>\$4,336.00</b> |
| <b>Tax</b>      |                                                                                                                                                                                                                    |                                 |            |                   |
| <b>Total</b>    |                                                                                                                                                                                                                    |                                 |            | <b>\$4,336.00</b> |

- **Pricing includes firefighter discount**
- Universal will deliver, offload, uncrate, rig equipment downstairs, set in place and level washer and dryer and remove and dispose of any laundry equipment currently in place;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (32.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Front load washer: 1 year parts; 60 day labor; Dryer: 3 year parts; 60 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.





# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212433

## STATION 6

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                    |                                                    |                 |                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|----------------------------------------------------|-----------------|--------------------|
| 1 ea.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | -UniMac UWT045V30L | 45 LB Industrial Turnout Gear<br>Washer W/Soap Box | \$13,901.00     | \$13,901.00        |
| INCLUDES: Fully programmable UniLinc Touch control with management and production reports, 5 cup soap dispenser through the door spray rinse, stainless steel basket- shell- door- front- sides and control box, four water fill valves, heavy duty spherical roller bearings, single motor-single belt inverter drive, programmable water fill temperatures, programmable thermal cooldown, gentle wash, 1/2 speed wash, overnight soak, overflow flush, 3 year parts warranty, 10 year warranty on the basket shaft, frame, seals and bearings, 100 'G' force extraction, NFPA 1851 compliant, <b>Manufactured in the USA</b> , 208-240/60/1-3 Ph |                    |                                                    |                 |                    |
| 1 ea.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | FRT-1              | Freight From Factory                               | \$357.00        | \$357.00           |
| 1 ea.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | -INSTALLATION      | Deliver, Set In Place and Level                    | \$2,150.00      | \$2,150.00         |
| Includes: Uncrate equipment, <b>rig equipment downstairs</b> , set in place, level, and anchor and grout where required.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                    |                                                    |                 |                    |
| 1 ea.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | -UTL               | Utility reconnections                              | \$190.00        | \$190.00           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                    |                                                    | <b>Subtotal</b> | <b>\$16,598.00</b> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                    |                                                    | <b>Tax</b>      |                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                    |                                                    | <b>Total</b>    | <b>\$16,598.00</b> |

- **Pricing includes firefighter discount**
- Universal will deliver, offload, uncrate, rig the equipment downstairs, set in place, level, and anchor and grout washer to a proper and substantial (minimum 8" thick) concrete foundation provided by City of Battle Creek Fire Department;
- Utility reconnections will be performed as long as proper utility supplies are provided, as we are not able to add supplies to city buildings, proper supplies will need to be in place. If proper supplies are not provided, then the reconnections are the responsibility of City of Battle Creek Fire Department;
- Clear access (34.5" door openings, etc.) is the responsibility of City of Battle Creek Fire Department;
- Warranty: Turnout Gear extractor: 3 year parts; 90 day labor;
- Due to potential unknown manufacturer price increases, pricing can only be guaranteed until December 31, 2022;
- Universal will start-up, check-out, and instruct in use and operation.



# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212433

## DEFINITION OF YOUR LIMITED LABOR AND PARTS WARRANTIES

Your **LIMITED LABOR WARRANTY** begins with the date of machinery start up. Your **LIMITED LABOR WARRANTY** covers the labor required to correct a defect in materials or workmanship for the exact time period specified in the "specific terms and conditions" section of your machinery quotation.

When, and if, you contact us to request warranty service, we will attempt to ascertain the exact nature of the problem in order to determine if the situation is covered under your **LIMITED LABOR WARRANTY**. In most cases, the issue of warranty applicability is not difficult to determine. In the event, however, the actual examination and/or repair of the machinery indicates a condition or conditions beyond normal **LIMITED LABOR WARRANTY** coverage, it is expected that you will be responsible for the cost of that particular service call which includes hourly rate and mileage charge. Under these clearly defined circumstances, failure to pay the above stated charges will result in revocation and termination of your **LIMITED LABOR WARRANTY**.

Your **LIMITED PARTS WARRANTY** begins when you receive the machinery. Your **LIMITED PARTS WARRANTY** is issued to you by the machinery manufacturer through Universal Laundry Machinery. It is, therefore, the manufacturer who determines whether or not a returned part will be covered by your **LIMITED PARTS WARRANTY**.

If the manufacturer determines that a returned part is not covered by the **LIMITED PARTS WARRANTY** for reasons of misuse, abuse or because the item is excluded from the **LIMITED PARTS WARRANTY** (perishable components, for example) you will be expected to pay for the replacement parts or parts.

Failure to pay Universal for replacement parts that the manufacturer determines are not covered under the **LIMITED PARTS WARRANTY**, will result in revocation and termination of your **LIMITED PARTS WARRANTY**.

I (we) have read the definition of my (our) **LIMITED LABOR AND PARTS WARRANTIES** as outlined above and fully understand and accept it as presented. I (we) agree to abide by these terms and conditions as set forth.

**City of Battle Creek Fire Department**

Customer Company Name

Customer Signature and Title

**Adam Richards**

For Universal Laundry Machinery

Date





# UNIVERSAL LAUNDRY MACHINERY

Proposal No. 212433

## SPECIFIC TERMS AND CONDITIONS

**Warranty:** See Comments on quotes  
**Equip. Quoted F.O.B.:** Factory  
**Delivery Time Required:** 6 - 8 weeks approx.  
**Terms of Payment:** 20% deposit, balance at delivery via check or cash

**Special Rigging/Installation:** N/A  
**Special Freight Charge:** N/A  
**Applicable Sales Tax:** 6% if applicable  
**Other:** Lease plans available

## IMPORTANT RELEVANT INFORMATION

**DEFINITION OF WARRANTY** - Parts Warranty begins with the actual date of equipment delivery to your facility, and is in effect, whether or not the machinery is hooked-up and running. Service Warranty begins with the specific date of start-up by UNIVERSAL personnel.

**ELECTRICAL SERVICE** - It is very important that you verify that the voltages as outlined with the equipment proposals, correspond directly with your facility electrical service. If a discrepancy exists, please notify UNIVERSAL immediately.

**SCHEDULING OF MACHINERY DELIVERY** - It is our firm policy to order the machinery and schedule deliveries in strict accordance with your specifically stated needs at the time you place your order. In the event that new construction, or any other delays, beyond our control preclude this delivery schedule from occurring, we will store the machinery but will require full payment of all monies owed. Depending upon the time of delay and quantity of equipment involved, there may be a charge for this storage.

**FINAL MACHINERY CONNECTIONS** - It is the Responsibility of the Customer to arrange and provide for all final service hook-ups including electrical, gas, plumbing, and venting. UNIVERSAL does not offer these services.

**DELIVERY SERVICES** - UNIVERSAL can deliver equipment to the job site. We will set it in place, bolt it down, and grout if required. We will, at the appropriate time, and at your request, start-up all machinery and provide full instruction to your designated personnel as to its proper and safe use.

**ACCESS TO DELIVERY SITE** - It is the Responsibility of the Customer to provide clear and un-obstructed access including suitable door openings in order that the equipment may be delivered in a reasonable manner. Proper and suitable foundations must also be provided by the customer on which the machinery is to be mounted.

**PAYMENT OF INVOICES** - All Past Due accounts may be subject to a service charge of 1.5% per month.

10/19/2022

212433

Date of Proposal

Proposal Number

**CLIENT ACCEPTANCE OF PROPOSAL** - The foregoing Price Proposal, Specific Terms and Conditions, and the Important Relevant Information have been reviewed and are hereby agreed to and accepted as written.

K.A.H. Inc. dba UNIVERSAL LAUNDRY MACHINERY  
**Adam Richards**

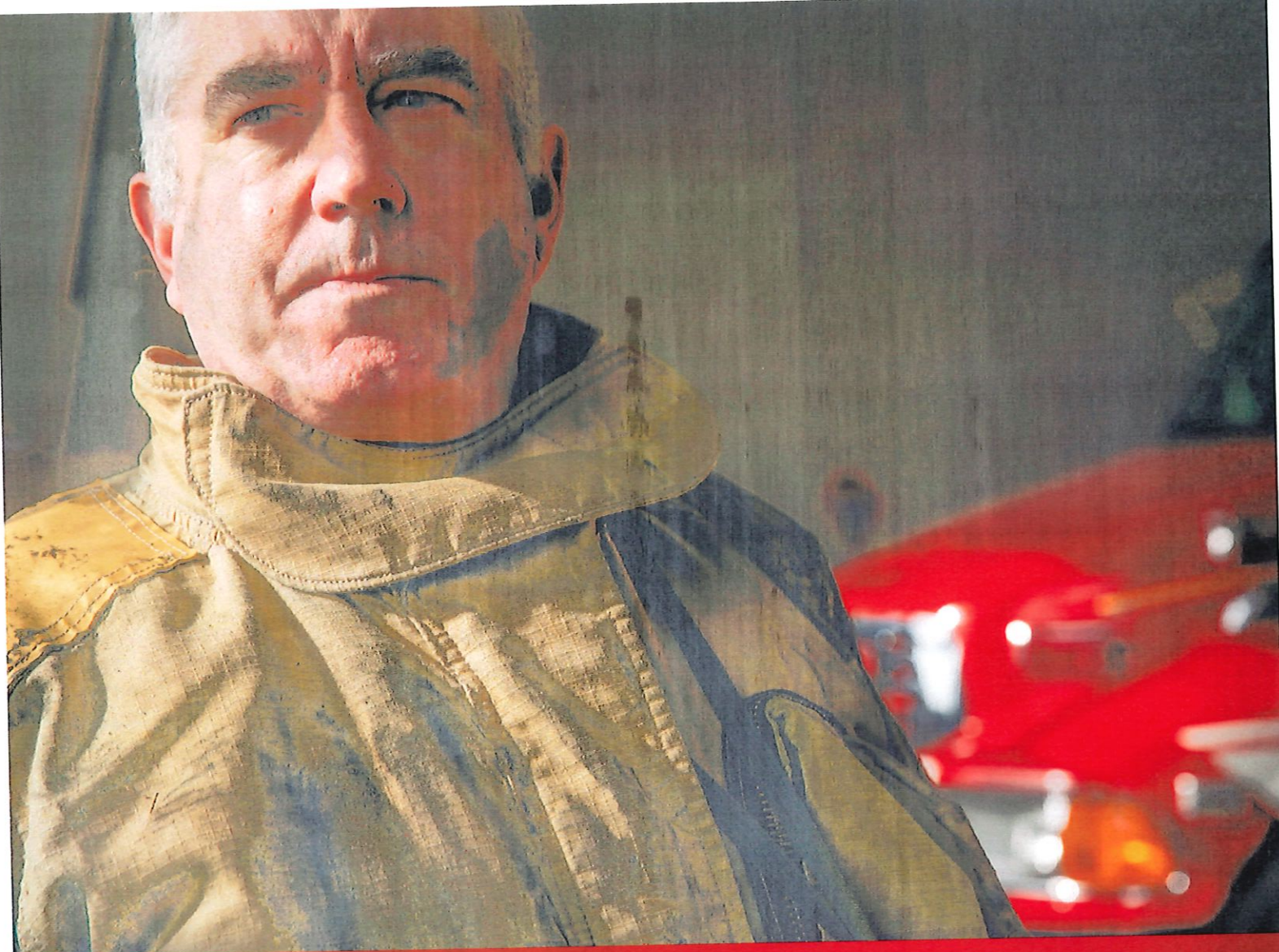
Purchaser (Company Name)

Date of Order Placement

Authorized Signature and Title

Please return one copy from each section





PREPARE, PROTECT & PREVENT:  
**THE GUIDE TO PROPER PPE CLEANING**







THE LAUNDRY EXPERTS.

It's no secret that firefighters put their own safety on the line every day to protect their communities. I've been a firefighter for 28 years and like me, many firefighters have dreamed about this job since a young age. We would do anything to protect the community we serve, as well as our fellow firefighters, but it's important that we also take the necessary steps to protect ourselves.

In the last decade there have been many studies published on the health risks associated with wearing contaminated personal protective equipment (PPE). In fact, according to the Firefighter Cancer Support Network, firefighters are significantly more likely to develop cancer due to their exposure to carcinogens. As a result, the industry is focused on researching these harmful toxins in order to develop a standard protocol that will require frequent and thorough cleaning of PPE to prevent long-term exposure to contamination following a fire or major incident.

In addition to serving as Captain of the Berlin Fire Department in Wisconsin, I have worked for UniMac® laundry manufacturer, the world's leading provider of on-premises laundry (OPL) equipment, and an Alliance Laundry Systems brand for more than 25 years. UniMac has been dedicated to providing equipment that meets the specific needs of the fire industry for more than 60 years. I'm grateful for the opportunity to work with fire departments across the country to provide them with equipment, but both the fire and laundry industries have more work to do to increase awareness of the cleaning techniques needed to properly decontaminate PPE, as well as the importance of regular cleaning.

In this eBook we will examine the current National Fire Protection Association (NFPA) cleaning guidelines, review the current research that will inform the next generation of cleaning guidelines, provide an overview of the specific equipment needed to wash PPE and share best practices for cleaning and maintaining your protective gear. If your fire department wants to continue the conversation to ensure you're taking the right steps to protect your firefighters and prevent long-term exposure to harmful carcinogens, we are here to help. Find a knowledgeable distributor online or give us a call at 1-800-587-5458.

A handwritten signature in black ink that reads "Bill Brooks". The signature is written in a cursive, flowing style.

Bill Brooks

UniMac North American Sales Manager





CHAPTER ONE:  
**CHANGING THE CONVERSATION**



The best way  
to protect  
firefighters  
is by properly  
decontaminating  
gear after  
an incident,  
so that a  
firefighter  
does not put  
soiled PPE  
back on their  
body following  
a fire or  
emergency  
response.

## CHAPTER ONE: Changing The Conversation

Historically, PPE that smelled like smoke or had visible signs of use brought a sense of pride. It represented a badge of honor and the dirtier the gear, the more a firefighter was regarded. However, in recent years, this perception and the conversations around cleaning PPE are changing.

The number of cancer incidences in firefighters has significantly increased over the last 20 years, making it the leading cause of line-of-duty death. As a result, the fire industry, as well as national and local health organizations, have been conducting research to learn more about the carcinogens firefighters are exposed to on the job in an effort to identify what can be done to better protect them. Over the last ten years, there have been multiple studies published detailing of dangers of prolonged exposure to contaminated PPE, which is driving a change in the industry to better understand these risks, educate firefighters on the importance of regularly cleaning PPE and provide training to properly do so.

### THE RISKS

Exposure to persistent harmful contaminants in PPE is a serious problem. Firefighters come into contact with the contaminants on the fire ground due to highly toxic substances and a variety of carcinogens. They also risk exposure to an increasing range of infectious pathogens when responding to an emergency medical operation.

Today's households and businesses have more metals, plastics and synthetics, increasing the likelihood of exposure to toxins. Many of these contaminants are related to the number of electronics found in today's households. These harmful chemicals and smoke easily contaminate turnout gear and promptly attach to the fabric of the PPE. Furthermore, these contaminants absorb into firefighters' skin and as temperatures increase, so does the permeability of the skin, making it more absorbent.

The best way to protect firefighters and minimize the risk of toxins absorbing into their skin is by properly wearing the gear during the incident and then decontaminating gear immediately after the incident so that a firefighter does not need to put soiled PPE back on his or her body following a fire or emergency response.

### NFPA REGULATIONS

Currently the NFPA requires protective gear to go through an advanced cleaning and inspection once a year. However, the organization recommends that fire departments clean gear as soon as possible after exposure to a fire, body fluids or hazardous materials to preserve the protective qualities of the gear.

To address the health risks and concerns associated with contaminated and soiled gear, the Fire Protection Research Foundation is working on a project to evaluate the current PPE cleaning processes and technologies to determine "How Clean is Clean." As part of this project, the organization is conducting research to understand the levels of chemical and biological contamination, and validate the cleaning procedures required to properly clean them. These findings will help evolve the NFPA requirements and develop industry standards to properly clean and decontaminate PPE.

There is no official industry criteria to reliably show that clothing is being adequately cleaned. The Fire Protection Research Foundation's project aims to establish clear and definitive guidelines for cleaning and decontamination procedures to effectively remove both chemical and biological contaminants. The overall goal of this project is to develop standards that can be implemented in all fire departments across the country to improve firefighter safety and health by reducing the long-term danger of continued exposure to harmful contaminants in unclean or inadequately cleaned PPE.

While this research is underway, firefighters can be proactive by learning more about the proper equipment and processing requirements to thoroughly clean PPE, and by implementing a regular cleaning program within their departments.





CHAPTER TWO:  
**THE RIGHT EQUIPMENT**









## CHAPTER TWO: The Right Equipment

Having equipment on site is one of the best and quickest ways to ensure that PPE is properly cleaned and ready for service. When there is a washer and drying cabinet on site, the gear can be decontaminated and dried within five to six hours. However, when firehouses do not have access to equipment on site, there are resources available to clean and return gear in a timely matter. To help with this, many departments will turn to true industry experts to help – Independent Service Providers (ISPs).

### INDEPENDENT SERVICE PROVIDERS

ISPs will provide an advanced and thorough cleaning of PPE and will return gear as quickly as possible. ISPs require certification, and have industry-leading equipment on site to wash protective clothing, as well as processes and technologies for laundering specialty items like boots and helmets.

Once the gear is cleaned, it will also go through a special inspection. ISPs will examine everything from head to toe – from the helmet to the jacket to the pants to the boots – in order to identify any damage or issues with the gear, so that ISPs are returning equipment that meets the requirements of the gear manufacturer.



### EQUIPMENT TRAINING

Fire departments aren't alone when it comes learning how to properly program and use their equipment. Most UniMac distributors have been in the laundry industry for decades and have successfully worked with departments of all sizes to install equipment and help them establish standard cleaning procedures and processes to ensure that gear is properly and promptly cleaned after a major fire or incident. Once the equipment is installed, UniMac distributors and certified technicians are a valuable resource and there to support firehouses with any of their equipment needs following the installation.

UniMac laundry manufacturer's primary focus is the safety of firefighters. UniMac and its distributors are true industry experts when it comes to cleaning PPE. They work closely with firehouses and departments around the country to provide training to ensure that gear is properly cleaned to prevent long-term exposure to contaminated gear, damage during the wash process and compromised safety features due to an inadequate wash.

In addition to UniMac and its distributor network, leading ISPs support fire departments with implementing a NFPA 1851 care and maintenance program. Similar to distributors, they will visit fire stations to provide education on how to inspect gear, use equipment and establish cleaning standards.

By providing firefighters with resources and tools to implement comprehensive cleaning programs, UniMac laundry manufacturer and ISPs are working towards their ultimate goal of keeping firefighters safe.





CHAPTER THREE:  
**THE PROPER PROCESS**









### ISOLATE AND CONTAIN

Before the laundering process officially begins, there are steps firefighters can take to remove excess debris or soot from PPE, as well as prevent continued exposure to carcinogens or chemicals on the turnout gear. This can be done through on-scene cleaning, a light washing of the PPE that takes place at the scene of the fire or incident to remove excess debris, soot or particles. On-scene cleaning includes brushing off dry particles, spot-cleaning with a wet rag or rinsing off debris with a low pressure hose.

Additionally, following the on-scene cleaning, firefighters should isolate and contain their contaminated gear. Current guidelines require firefighters to bag their gear if they have come into contact with blood or body fluids. This tactic is now being suggested for everyday cleaning procedures to reduce contaminating vehicles and other common areas following an incident. This helps contain harmful substances, as well as reduce the risk of contaminants absorbing into the firefighter's skin because he or she will promptly remove and bag the gear on the scene to isolate and contain it.

### PEACE OF MIND

Having the right equipment and processes in place, whether the laundry is handled internally or outsourced, will provide a peace of mind and ensure that you and your department are doing everything possible to protect one another.

In addition to laundering PPE, there are steps all firefighters should take following a fire or incident that will help prevent and reduce health risks:

- Use a low pressure hose or a wet towel to remove as much soot as possible
- Change clothes and wash them immediately
- Thoroughly shower after a fire
- Avoid storing gear in the car, your home or living quarters
- Attend an annual physical examination with a doctor and encourage others to do the same





## CONCLUSION



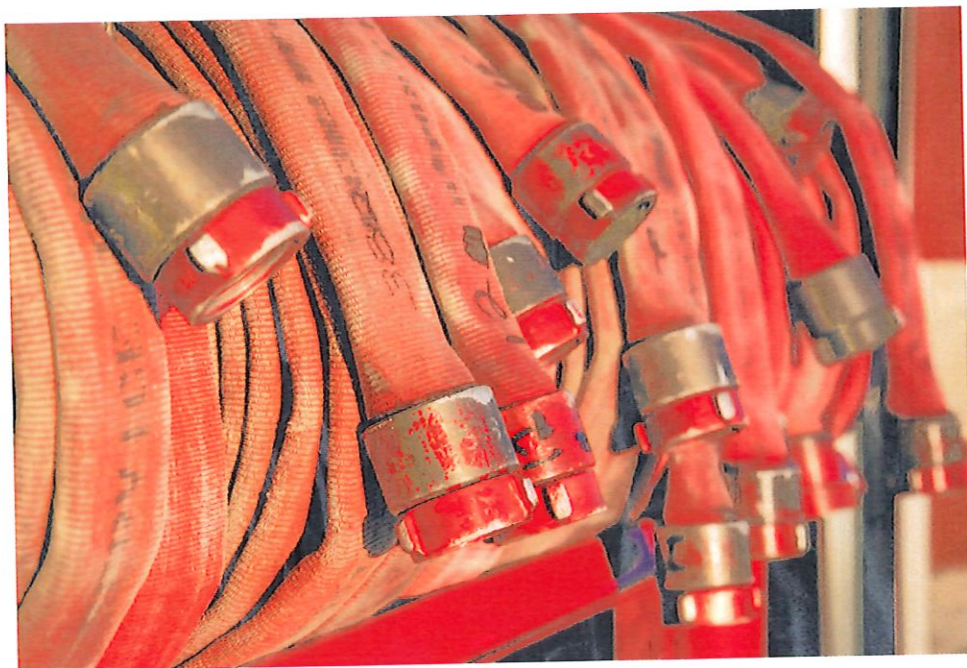
The ultimate goal of regular cleaning policies and procedures is that no firefighter will ever need to put contaminated gear back on their body.

## CONCLUSION

The ultimate goal of developing and adhering to regular cleaning policies and procedures is that no firefighter will ever need to put contaminated gear back on his or her body.

As the Fire Protection Research Foundation continues its research and works with industry leaders, local governments and equipment manufacturers to develop guidelines and cleaning protocols, it's important for fire departments to stay up to date on the latest research and implement cleaning programs at their stations. As a result of the recent research, access to equipment grants and local funding opportunities are increasing, and the cost of the laundry equipment will seem minimal when you compare it to the health benefits it provides. Additionally, many equipment manufacturers, including UniMac®, offer financing programs specifically tailored to meet the unique needs of the fire industry to make paying for your equipment as easy as possible.

To learn more about the NFPA, visit [www.nfpa.org](http://www.nfpa.org). Additionally, a UniMac distributor is a valued expert when it comes to PPE cleaning and maintenance. To find a distributor near you visit [www.UniMac.com](http://www.UniMac.com).



## FIRE AND LAUNDRY EXPERTS

The firefighters pictured in this eBook are real firemen and Alliance Laundry Systems employees. They are true laundry experts and are dedicated to educating the fire industry about the importance of regular and proper cleaning of PPE.



*Bill Brooks*  
UniMac Sales Manager,  
North America



*Kyle Boeck*  
Tool and Die Apprentice



*Tony Berton*  
Field Services Manager



*Aaron Dolevoet*  
Electrical Project Designer  
Engineering - Electrical



**UniMac**  
THE LAUNDRY EXPERTS.





**Unimac**

**MAXIMUM PERFORMANCE  
IN TURNOUT GEAR CLEANING**

**FIRE GEAR CLEANING SOLUTIONS**









## MUTUAL AID APPROACH WORKS FOR PPE CLEANING AS WELL

In the world of firefighting, departments are never alone. When called to a large event that challenges their ranks, they call for mutual aid and neighboring fire departments will respond. The team approach of mutual aid keeps all parties safe and helps a fire department accomplish its goal of protecting citizens and property.

When it comes to cleaning PPE and keeping your firefighters safe, UniMac brings the equipment, systems, training and a variety of other resources in answering your department's call for mutual aid.

We'll design a total solution to help your department meet NFPA 1851 standards for cleaning bunker gear and provide the required documentation of the actions.

Your firefighters are not experts in laundry. Thankfully, UniMac is. When you call for mutual aid, laundry expertise is just what we'll deliver.





## THE TOTAL SOLUTION

Partnering with UniMac to help develop a gear-cleaning solution brings a host of advantages to your department. It also delivers peace of mind that only a laundry expert can provide.



### INDUSTRY LEADER

UniMac not only maintains a prolific presence in the on-premises laundry industry, but we are a part of Alliance Laundry Systems – the global leader in commercial laundry...nobody else even comes close.

UniMac is fully invested in being part of the solution for clearing gear and protecting firefighters; committing time and resources to the NFPA Research Foundation, multiple universities, and their research on "Enhanced cleaning to reduce firefighter exposure to carcinogens", Verified Independent Service Providers Association (VISPA) and others.



### INDUSTRIAL EQUIPMENT

We all know the firehouse is a demanding environment for equipment. UniMac's industrial washers and PPE drying cabinets are designed for high performance under punishing demands.

Laundry equipment should never be just a purchase, but rather a long-term investment. You'll have peace of mind that your department's investment will answer the call for years to come...and that promise is backed by industry-leading warranties.





## **RECORDKEEPING EASE**

While the main mission of NFPA 1851 is keeping turnout gear in top condition to ensure firefighters' safety, the secondary goal is maintaining a record of all activities performed. UniMac has taken the lead here, as well, with its FireLinc system.

We built this recordkeeping system on a foundation of easy – requiring just a scan of PPE barcodes and a couple taps on a tablet. The system effortlessly records all the data points a department needs to log to stay in compliance with current guidelines.



## **TRAINING LEADERSHIP**

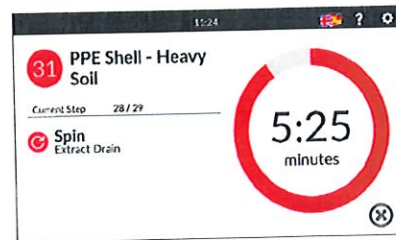
By building industry-leading online training and partnering with an Independent Service Provider for certification, UniMac has the most complete fire industry laundry solution.

No other laundry equipment manufacturer is as committed to the fire industry as UniMac. As NFPA 1851 guidelines evolve, you'll have a partner that keeps your department in full compliance and thoroughly supported beyond installation.



# UW POCKET HARDMOUNT WASHER-EXTRACTORS

For the ultimate in cleaning and ease of use, the UW range of washer-extractors deliver. The UniLinc™ Touch control employs a graphical display and real words to ensure every member of the department selects the proper cycle, while OPTIspray™ offers next-level rinsing to force dangerous contaminants off the load and down the drain.



## UNILINC™ TOUCH CONTROL

Intuitive Full Color Display

## CUSTOM FIRE INDUSTRY CYCLES

Pre-Programmed Cycles

## FIRELINC™ REPORTING

Flawless Record Keeping and NFPA 1851 Compliance

## TEMPERATURE CONTROLLED FILL

for Safe and Effective Washing of PPE

## 100 G-FORCE SPIN SPEED

for Safe and Effective Washing of PPE

## FASTEST CYCLE TIMES

Returning Your Gear to Service Quickly

## INDUSTRIAL CONSTRUCTION

Built to Last with Constant Use

## NFPA 1851 COMPLIANT

Bring Peace of Mind to Your Department

### OPTIspray™

OPTIspray™ is a next-generation technology designed to force dangerous contaminants off the load and down the drain. Just like a firefighter's hose, the spray rinse carries away dirt and chemicals and leaves less residue behind (22% less compared to the nearest competitor) – resulting in cleaner gear, faster cycle times, and fewer carcinogens left on gear.

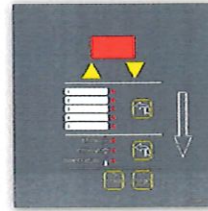
NFPA 1851 COMPLIANT

Bring Peace of Mind to Your Department



# FIREFIGHTER'S PPE DRYING CABINET

The Firefighter's Personal Protective Equipment (PPE) Drying Cabinet provides fire stations the means to effectively, efficiently and safely dry protective gear – returning gear back to service quickly.



## FAST & SAFE DRYING

Returning Your Gear to Service Quickly

## MICROPROCESSOR CONTROL

Manages Drying Time and Temperature

## RECOMMENDED OUTSIDE VENTILATION

for Safe Removal of Residual Toxic Vapors

## PRE-PROGRAMMED CYCLES

Five Default Drying Cycles

## LARGE CAPACITY

6 Full Sets of Turnout Gear and 15 Boots/Gloves

## FAST & SAFE DRYING

Returning Your Gear to Service Quickly

## UNIQUE RACK DESIGN

for Maximum Water Removal



## OPTIONAL UTILITY SHELF

Fast Drying of Other  
Equipment Including  
Fire Hoses

## 180° DOOR OPEN ANGLE

for Easy,  
Unobstructed Access

## NFPA 1851 COMPLIANT

Bring Peace of Mind  
to Your Department

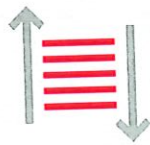


# CLEANER GEAR. SPOTLESS DATA. ZERO HASSLE.

Utilizing recognized processes to properly clean gear is just half of the NFPA 1851 equation. A true solution includes flawless record-keeping.

UniMac's FireLinc™ system gives departments a high-power tool that makes record keeping as simple as a few button pushes and a scan of the PPE's bar code. Best of all, data is safely stored in the cloud and easily accessible from the app, ensuring your department always has a record that verifies staff is washing gear in accordance with established procedures.

## FireLinc™



**SORT BY EQUIPMENT ID,  
LOCATION AND WHO  
COMPLETED WASH**



**SEE WHAT MACHINE – AND  
WHICH CYCLE – WAS USED**

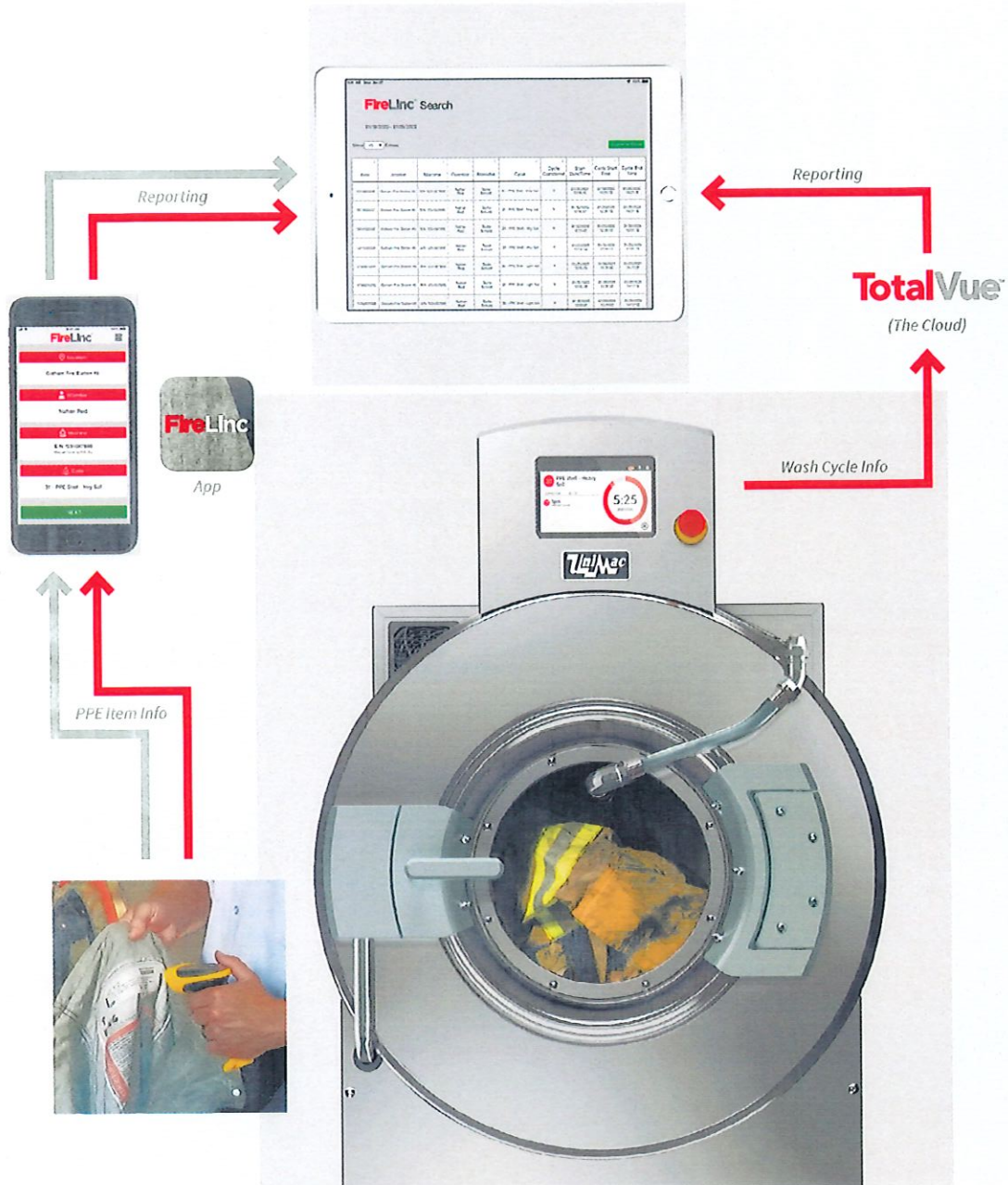


**EXPORT WASH HISTORY  
TO SPREADSHEET FOR  
EASY AUDITING**



**SYNC WITH YOUR  
INVENTORY  
TRACKING SYSTEM**

# THE FIRELINC™ SYSTEM



→ **BASIC:** This provides PPE data tracking only. This does not include washer data.

→ **FULL:** This report includes the washer data needed to provide advanced cleaning record keeping for NFPA 1851.



# A STRONG COURSE OF ACTION: INDUSTRY-LEADING TRAINING

When it comes to proper laundering of bunker gear, we are all probies and need some process guidance and on-the-job training. Nobody understands that more than UniMac. We want to ensure every member of your department becomes proficient in how to properly launder their PPE. That's where our online training and certification through an Independent Service Provider delivers the final component in our industry-leading full solution for departments.



**NFPA 1851  
ONLINE TRAINING**



**INDEPENDENT SERVICE  
PROVIDER (ISP) TRAINING  
CERTIFICATION**



**COMPLIMENTARY TRAINING  
AVAILABLE FOR EVERYONE  
IN THE FIREHOUSE**



**MOST COMPLETE  
LAUNDRY SOLUTION FOR  
THE FIRE INDUSTRY**

NFPA 1851 Certification valued at \$250





## **UNIMAC® WILL ANSWER THE CALL TODAY...TOMORROW... INTO THE FUTURE**

You've assembled a firefighting team that's built on trust. Each member of the department is trusted to serve and protect not only your citizens, but their fellow firefighters. That's the bond all in the fire service share.

UniMac stands equally ready to protect your department with equipment, systems, training and a variety of other resources to deliver PPE that's not just cleaned to NFPA 1851 standards, but also with the required documentation.

Nobody is as fully invested as UniMac with the resources, processes and experience to help your department comply with NFPA 1851 standards.





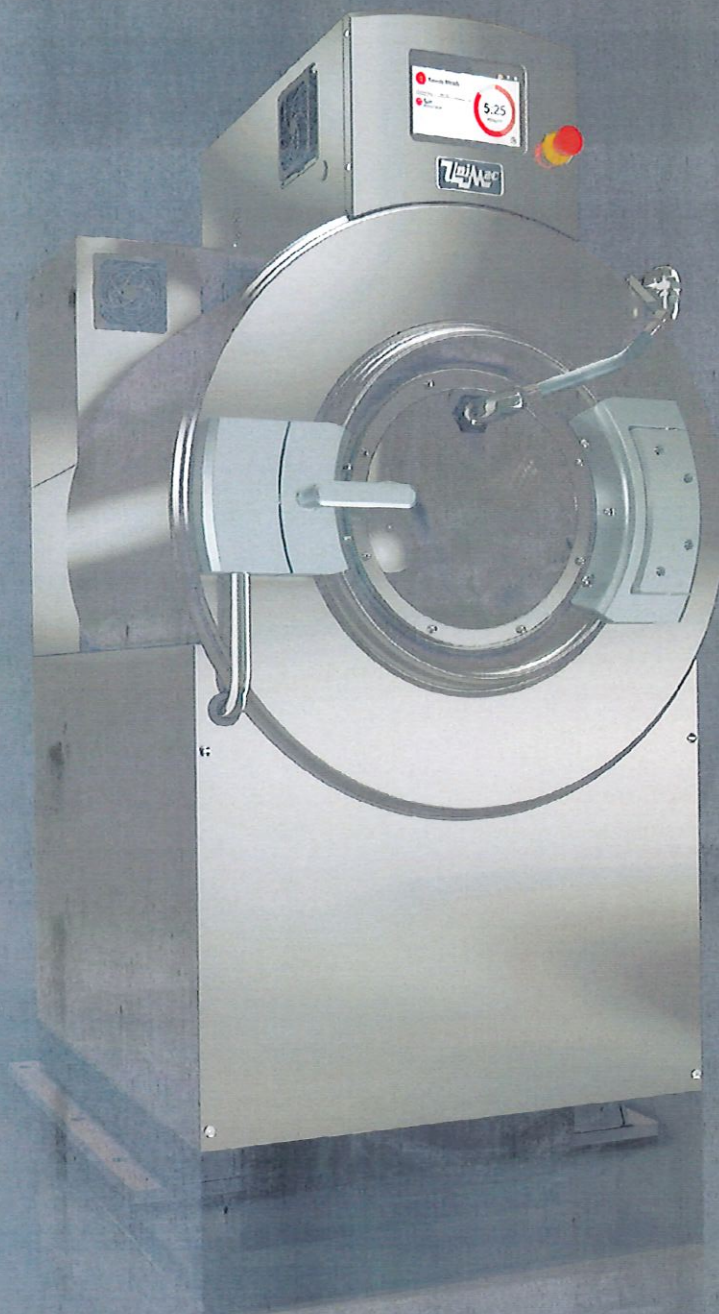
TO FIND A DISTRIBUTOR IN YOUR AREA, VISIT **UNIMAC.COM**  
**ALLIANCE LAUNDRY SYSTEMS - SHEPARD ST., RIPON, WI 54971 - 1.800.587.5458**

For the most accurate information, the installation guide should be  
consulted for the most current information. Due to continuous product improvements, design and specifications  
may vary without notice. The quality management systems at Alliance Laundry Systems are registered to ISO 9001.





Maximum Performance



# LAUNDRY'S MOST VALUABLE PERFORMERS

UNIMAC.COM

UW45 & UW65 POCKET HARDMOUNT WASHER-EXTRACTORS

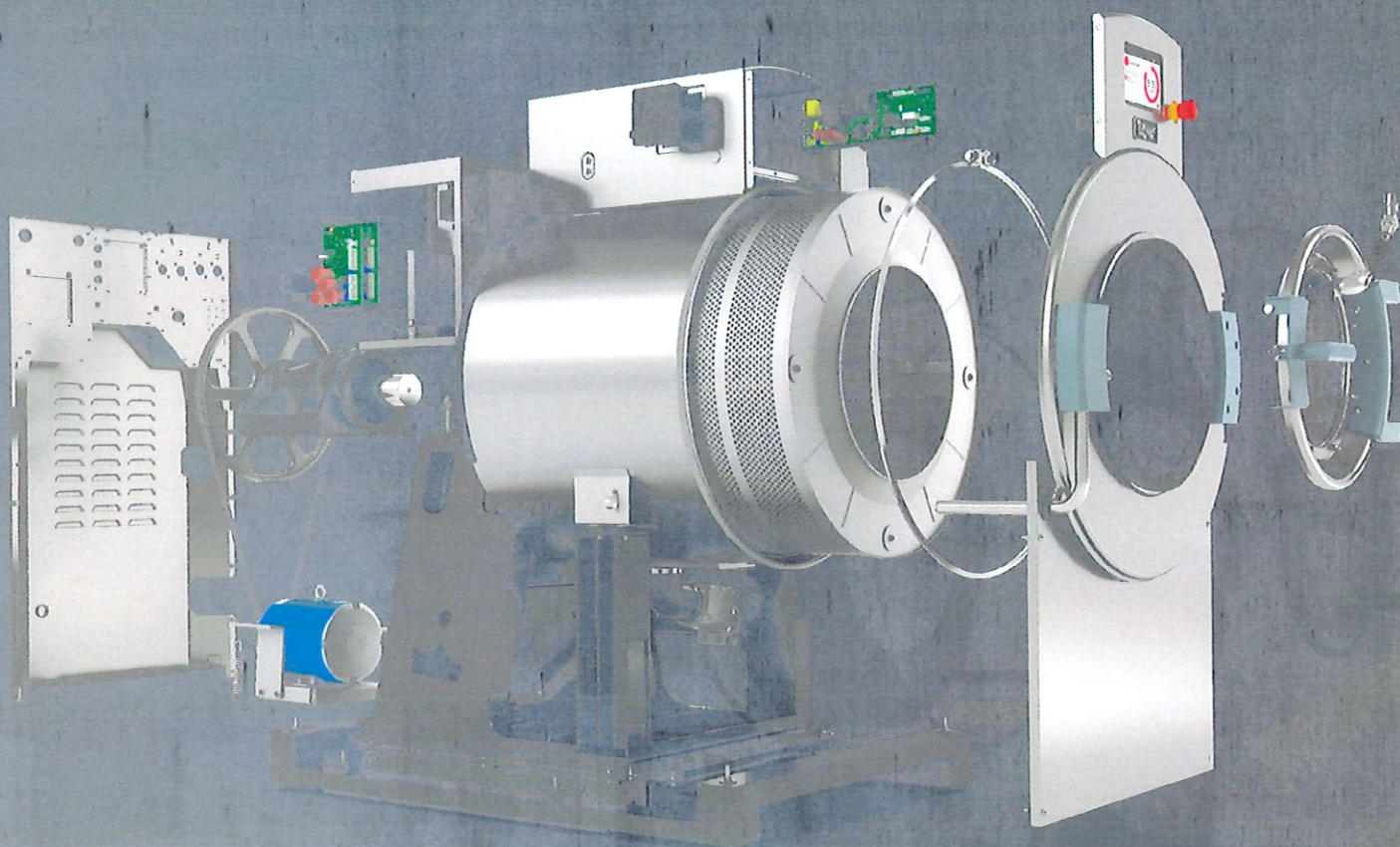


# LONGEST LASTING. HARDEST WORKING.

UniMac® is the world's leading source of heavy-duty industrial laundry solutions. Our robust machines are designed to maximize throughput, minimize costs and deliver the best return on laundry investment.

How?

Your UniMac systems are backed by an extensive distributor and support network, as well as in-house financial solutions. And as a part of Alliance Laundry Systems, UniMac provides exceptional service and attention to detail, backed by the capacity and strength of the world's leading laundry manufacturer.



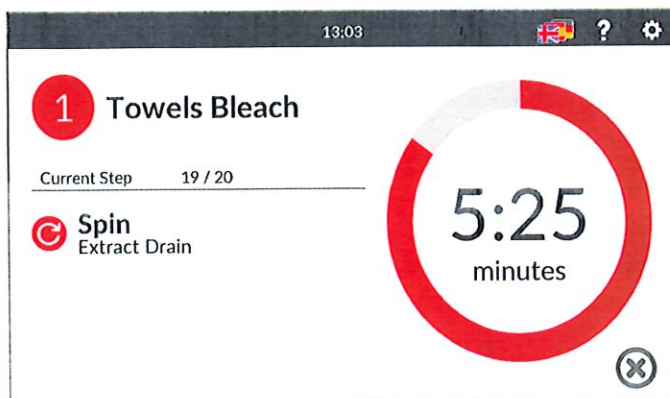
Proudly based in Ripon, Wisconsin, USA, UniMac is dedicated to research, development and testing to provide equipment that delivers industrial strength and long-lasting quality. Our products undergo a 5-stage product development process and are pushed beyond their limits in our state-of-the-art test lab to ensure they exceed the toughest demands of the commercial environment and meet our customers' highest standards.



# UniLinc™ Touch

**EASE OF USE** drives the ultimate user experience in on-premises laundry with the UniLinc™ Touch control. UniMac's premium control brings simplicity, flexibility and intelligence to every laundry room.

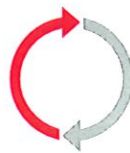
Perfectly matched to UniMac's industrial performance and longevity, the UniLinc Touch control takes industry leading value and lowest total cost of ownership to the next level.



**BRIGHT, CAPACITIVE TOUCH SCREEN**  
with clear cycle navigation



**34 LANGUAGE OPTIONS**  
enabling staff members to operate the machine in their first language



**STREAMLINE THROUGHPUT**  
with an easy-to-read main screen cycle countdown timer, complimented by a count-up timer upon completion of the cycle



**DELAYED START**  
allows maximum efficiency with the option to prep a load and set it to run before staff arrives for the day



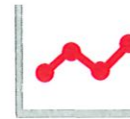
**SEAMLESS USER EXPERIENCE**  
with control continuity from the washer-extractor to the tumble dryer



**STAFF TRAINING**  
is quick and simple with this intuitive control



**SET-UP, PROGRAMMING, AND TROUBLESHOOTING**  
simplified with easy-to-understand notifications



**DIAGNOSTICS AND MACHINE AUDIT DATA**  
identify and resolve errors faster, reducing downtime and service costs

## OPTIspray™

### HIGHER PERFORMANCE. LOWER COST.

OPTIspray™ is an industry-exclusive technology designed to reduce both the water and time necessary to complete a rinse cycle. Unlike bath rinses used by competitor brands, which simply dilute wash chemistry, OPTIspray uses spray-rinsing power to pull wash chemistry through the load and down the drain. The spray rinse carries away dirt and chemicals, leaving less residue behind and providing far superior rinse results.

### THE OPTISPRAY ADVANTAGE<sup>1</sup>



#### 39% **WATER SAVINGS**

Get a quality wash while using as much as 39% less water than competitor brands.



#### 12% **SHORTER CYCLE TIMES**

Decrease cycle rinse times by up to 12%.



#### \$2,110 **LOWER UTILITIES**

Save up to \$2,110 in yearly utilities compared to competitor brands.



#### 22% **BETTER RINSING**

Leaves 22% less residual wash chemistry compared to the nearest competitor.

1. Savings assumptions: 10 loads/day x 365 days/year – Water rate \$5/1000 gal – Sewer \$5/1000 gal and 93% of incoming water goes to drain, 7% retained in load – Gas cost = \$1/therm, 75°F temp rise, 85% gas heater efficiency, and 65% of incoming water is heated using an external water heater (Local utility rates vary widely and groundwater temps vary by region; check your local data and adjust accordingly.)

# POCKET HARDMOUNT WASHER-EXTRACTORS

| SPECIFICATIONS                       |              | UW45           |           | UW65           |           |           |
|--------------------------------------|--------------|----------------|-----------|----------------|-----------|-----------|
| Control Options                      |              | UniLinc™ Touch |           | UniLinc™ Touch |           |           |
| Capacity - lb (kg)                   |              | 45 (20)        |           | 65 (30)        |           |           |
| Cylinder Diameter - in (mm)          |              | 31 (787)       |           | 31 (787)       |           |           |
| Cylinder Depth - in (mm)             |              | 16.6 (422)     |           | 22.1 (561)     |           |           |
| Cylinder Volume - cu ft (liters)     |              | 7.3 (207)      |           | 9.7 (275)      |           |           |
| Height - in (mm)                     |              | 64.4 (1637)    |           | 64.4 (1637)    |           |           |
| Width - in (mm)                      |              | 34.1 (867)     |           | 34.1 (867)     |           |           |
| Depth - in (mm)                      |              | 45.3 (1151)    |           | 51.1 (1298)    |           |           |
| Door Opening Size - in (mm)          |              | 17.8 (452)     |           | 17.8 (452)     |           |           |
| Door Bottom to Floor - in (mm)       |              | 28.8 (732)     |           | 28.8 (732)     |           |           |
| Motor Size - HP (kW)                 |              | 5 (3.7)        |           | 5 (3.7)        |           |           |
| Total # of Speeds                    |              | L Sp<br>5      | V Sp<br>9 | L Sp<br>5      | M Sp<br>6 | V Sp<br>9 |
| *Cylinder Speed<br>RPM ( G-Force)    | Gentle       | 30 (0.4)       | 30 (0.4)  | 30 (0.4)       | 30 (0.4)  | 30 (0.4)  |
|                                      | Wash         | 42 (0.78)      | 42 (0.78) | 42 (0.78)      | 42 (0.78) | 42 (0.78) |
|                                      | Distribution | 75 (2.5)       | 75 (2.5)  | 75 (2.5)       | 75 (2.5)  | 75 (2.5)  |
|                                      | Very Low     | 248 (27)       | 248 (27)  | 248 (27)       | 248 (27)  | 248 (27)  |
|                                      | Low          | 477 (100)      | 477 (100) | 477 (100)      | 477 (100) | 477 (100) |
|                                      | Medium       | —              | 674 (200) | —              | 674 (200) | 674 (200) |
|                                      | High         | —              | 754 (250) | —              | —         | 754 (250) |
|                                      | Very High    | —              | 826 (300) | —              | —         | 826 (300) |
|                                      | Ultra High   | —              | 954 (400) | —              | —         | 954 (400) |
| Drain Diameter - in (mm)             |              | 3 (76)         |           | 3 (76)         |           |           |
| Steam Connection - in (mm)           |              | ½ (13)         |           | ½ (13)         |           |           |
| Water Inlet Connection - in (mm)     |              | 4 @ ¾ (19)     |           | 4 @ ¾ (19)     |           |           |
| Shipping<br>Dimensions -<br>in (mm)  | Width        | 37.2 (945)     |           | 37.2 (945)     |           |           |
|                                      | Depth        | 53.8 (1370)    |           | 53.8 (1370)    |           |           |
|                                      | Height       | 65 (1650)      |           | 65 (1650)      |           |           |
| Net Weight - lb (kg)                 |              | 1080 (490)     |           | 1110 (499)     |           |           |
| Standard Shipping Weight - lb (kg)   |              | 1120 (508)     |           | 1150 (522)     |           |           |
| Slat Crate Shipping Weight - lb (kg) |              | 1250 (567)     |           | 1280 (581)     |           |           |
| Agency Approvals                     |              | cULus          |           | cULus          |           |           |

\*All RPM and G-Force results are reliant upon wash load composition and incoming voltage.

**TO LEARN MORE OR TO FIND A DISTRIBUTOR IN YOUR AREA, VISIT [UNIMAC.COM](http://UNIMAC.COM)**  
**ALLIANCE LAUNDRY SYSTEMS - SHEPARD ST, RIPON, WI 54971 - 1.800.587.5458**

For the most accurate information, the installation guide should be used for all design and construction purposes. Due to continuous product improvements, design and specifications subject to change without notice. The quality management systems at Alliance Laundry Systems is registered to ISO 9001.





Maximum Performance



**SPEED AND POWER.  
SERIOUS RESULTS.**

UNIMAC.COM

**UY SERIES SOFTMOUNT WASHER-EXTRACTORS 20-70 LB**



# UY SERIES SOFTMOUNT 20-70 LB WASHER-EXTRACTORS

As the leading manufacturer of on-premises laundry equipment, UniMac® offers more than 7 decades of incomparable quality and long-lasting performance. Our UY series is built with unyielding construction to ensure industrial strength. Our cutting-edge innovations and technologies reduce costs and maximize throughput. And we're constantly improving. It's all part of our commitment to providing the lowest cost of ownership in the industry.



## LOWER YOUR COSTS WITH UNIMAC

- Faster extraction technology spins up to 350-400 G-Force to remove more water during each load, resulting in shorter drying times and lower energy bills.
- Innovative ECO Technology washing programs and unique product design features greatly reduce water costs.
- Laundry Management System (LMS), powered by the PROform Control, gives you complete control of machine setup and wash program updates. With location management, maintenance data and alarms via email – monitoring your laundry and maximizing productivity have never been easier.



## OUR COMMITMENT TO ON-PREMISES LAUNDRY

Our customers are the direct focus of every product we manufacture and every decision we make. We make sure every piece of UniMac equipment comes with peace of mind and the support you need to help your business succeed. We are with you every step of the way with:

- Support from a worldwide network of distributors and a team of trained technicians.
- Service-parts availability.
- Service-training certification for distributors through Alliance Laundry Systems University.



Proudly based in Ripon, Wisconsin, USA, UniMac is dedicated to research, development and testing to provide equipment that delivers industrial strength and long-lasting quality. Our products undergo a 5-stage product-development process and are pushed beyond their limits in our state-of-the-art test lab to ensure they exceed the toughest demands of the commercial environment and meet our customers' highest standards.

## FLEXIBLE INSTALLATION

UniMac softmount washer-extractors not only save on utility costs, but on installation time and costs as well. The freestanding design installs quickly with same-day operation. These machines are the perfect choice for second-floor laundries or other installations where a concrete floor isn't an option. Heavy-duty coil springs eliminate the need for special foundations, and strategically placed shock absorbers result in a tuned suspension system that absorbs out-of-balance load vibrations.

## TAKE CONTROL OF YOUR LAUNDRY

### PROFORM CONTROL

The cutting-edge PROform Control features 99 programming options, eight liquid chemical soap connections, multi-language capability and a variety of extra functions from soak to advanced start.

Easy and intuitive, the graphical display provides numeric keypads and is organized for simple control and navigation. Update wash programs manually on the machine, use a USB memory stick or update on your PC via LMS. Additionally, an end-of-cycle signal allows you to maximize efficiency.



## UY SERIES AT A GLANCE

- 99 programming options
- Sleek, modern design with a slanted control panel
- High-quality, stainless steel front, top and side panels
- Stainless-steel inner drum and tub
- Unique drum increases mechanical action for better washing results and optimized water extraction
- Large drain valve for increased throughput
- High-capacity water inlets for fast fill
- Easy-to-use, four-compartment dispenser
- Eight liquid chemical connections
- 13 chemical ports of various sizes, including 1/2" manifold flush connections
- Large door opening for easy loading and unloading
- Ozone-compatible design
- Easy control access – no need to remove top panel
- Durable micro-v belt for long life

## INDUSTRY-LEADING DURABILITY

Our softmount washer-extractors are manufactured with unyielding construction and industrial strength. They're designed with high-quality stainless steel front, top and side panels and embossed side panels for increased strength and durability. The formed steel frame is engineered with robust technology for added strength. And a modular bearing housing design ensures the equipment is long lasting and easy to service. This product also offers an inverter drive system that delivers low energy use, higher torque, high extraction speed, lower noise of below 65 dBA (one of the best on the market) and less imbalance.





Resolution

NO. 9

A Resolution seeking approval for a License Agreement with Duncan Aviation for use of a pole barn on airport property during construction.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That Duncan Aviation, Inc. (Duncan) has been a steady and growing business in the City, specifically at the Battle Creek Executive Airport at Kellogg Field. Duncan is undertaking construction work on airport property pursuant to a Lease Agreement and is in need of using of a city-owned pole barn located at 2582 East Airport Road for construction workers parking as well as equipment and supplies storage during the term of construction. The structure is not currently being used by the City, and the City Aviation Director believes it is a good temporary use of the pole barn that will aid Duncan and provide additional income to the airport.

WHEREFORE, the City Manager, on behalf of the City of Battle Creek is authorized to execute a License Agreement with Duncan Aviation, Inc. for a two year period ending March 31, 2024, with Duncan paying the City annual compensation of \$21,955.50, as is set out in the attached agreement, or one with substantially the same material terms in a form acceptable to the City Attorney.

---

Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Jill Humphreys Steele, City Attorney

**Department:** City Attorney

**SUMMARY**

A Resolution seeking approval for a License Agreement with Duncan Aviation for use of a pole barn on airport property during construction.

**BUDGETARY CONSIDERATIONS**

Annual compensation for this license agreement will be \$21,955.50 scheduled to be paid for two years and will be paid to:

G/L: 580.20.1580.625.050

### **HISTORY, BACKGROUND and DISCUSSION**

Duncan Aviation will be undertaking renovation work on neighboring properties, and desires to use the green pole barn located at 2582 East Airport Road during the renovation and construction work for construction worker parking and storage of equipment and supplies.

The City is not currently using the pole barn and is agreeable to accommodating Duncan's request.

### **DISCUSSION OF THE ISSUE**

### **POSITIONS**

The City Aviation Director supports this Resolution.

---

### **ATTACHMENTS:**

| File Name                                                                                                                                             | Description                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
|  Draft-<br>License_Agreement_with_Duncan_Aviation_CLEAN_11.30.22.pdf | License Agreement w Duncan for construction |



## **LICENSE AGREEMENT**

This agreement (the Agreement) is effective as of April 1, 2022, by and between The CITY OF BATTLE CREEK, a Michigan Municipal Corporation, whose address is 10 N Division Street, Battle Creek, Michigan 49014 (Licensor), and Duncan Aviation Inc., a Nebraska corporation, whose address is 3701 Aviation Road Lincoln, Nebraska 68524 (Licensee), on the terms and conditions stated below:

### **1. Background.**

A. Licensor is the owner of real property commonly known as 2582 East Airport Road, Battle Creek, Michigan, a parcel of approximately 65 acres in total identified by tax parcel #0066-00-010-2 ("Airport Parcel"). Within the Airport Parcel is an 82' x 59.5' pole barn consisting of approximately 4,879 square feet, and located on a portion of the Airport Parcel legally described as follows:

"Beginning at the intersection of the North line of South Airport Road and the East line of West Territorial Road, thence Northerly along said East line, 140.00 feet, thence Easterly parallel with said North line 240.00 feet, thence Southerly parallel with said East line, 140.00 feet to said North line, thence Westerly along said North line, 240.00 feet to the point of beginning. Containing 0.77 acres of land, more or less. ("The Premises")

The Premises are depicted on the attachment identified as Exhibit "A."

B. Licensee will be undertaking renovation work on neighboring properties, and desires to use The Premises during the renovation and construction work for parking and storage of equipment and supplies.

C. The following sets out the rights and obligations of the parties with respect to this license agreement:

**2. Grant of the license.** Licensor grants to Licensee the right of the exclusive use of The Premises during the term of this License Agreement for the sum of twenty one thousand nine hundred and fifty five dollars and fifty cents (\$21,955.50) per annum, for the 2-year term of this agreement, payable on a monthly basis at the rate of \$1,829.63 per month, subject to all terms and conditions in this agreement. Upon signing this Agreement, Licensee shall pay the December payment, along with retroactive payment for the months of April through November

since it has already been occupying the Premises, for a total payment of Sixteen Thousand Four Hundred Sixty-Six Dollars and Sixty-Three Cents (\$16,466.63). Licensee shall pay the subsequent monthly payments of \$1,829.63 beginning January 1, 2023 and each month thereafter on the first day of each month.

**3. Utilities.** Licensee agrees to pay for all charges of electricity, gas, water, sewer, garbage, and any other utilities and commodities that may be used on The Premises, and it shall have the services placed in Licensee's name during the term of this License Agreement. Upon signing this Agreement, Licensor shall be invoiced for the aforementioned utility charges incurred since April 1, 2022 through the current billing cycle during Licensee's occupation of the Premises while utilities remained in Licensor's name. Licensee shall pay Licensor the full amount of invoice within fourteen days of date of invoice.

**4. Reimbursement for Damages at Termination of License Agreement.** At the termination of this License Agreement, Licensee shall restore The Premises to its condition prior to first use. Further, Licensee shall reimburse Licensor for any damages to The Premises, Licensor's landscaping, or other improvements, caused by Licensee's entry on and use of The Premises.

**5. Repair, Maintenance and Acknowledgement of Current State of Property.**

A. Licensee acknowledges the state of repair of The Premises and that it is acceptable for Licensee's intended use.

B. Licensor shall keep the exterior of the premises roof, structural components, systems and equipment, in good and working order and repair, and perform all maintenance thereto. In addition, Licensor shall make all repairs required inside the premises, the necessity of which shall be the sole determination of Licensor, excluding: (1) repairs made necessary as a result of misuse or neglect by licensee; and/or (2) damage or failure resulting from ordinary wear and tear. Licensor agrees to keep the premises clear of ice and snow in a manner consistent with the priorities set forth in the airport snow and ice control plan. Licensor will maintain all landscaping. Licensee will remove trash and debris at its own expense.

C. Licensee shall not make any change in or erect any structure or sign upon The Premises unless the written consent of Licensor has first been obtained.

**6. Access to the Premises.**

A. Upon no less than forty-eight (48) hours written notice, Licensor shall have the right to enter in, upon, or under the Premises at reasonable times for reasonable purposes (e.g., to ensure Licensee's compliance with the terms and conditions of this agreement).

B. Licensor shall have the right to enter the Premises at any time in the event of an apparent or actual emergency (e.g., fire, flood, or failure of an Improvement, utility, etc.).

**7. Indemnification, insurance, and waiver.** Licensee agrees to indemnify Licensor and hold Licensor harmless against any claims, actions, damages, or liability which arises as a result of Licensee's use of the Premises, except for damage caused by the intentional or grossly negligent acts of Licensor. Licensee shall also obtain commercial general liability insurance with aggregate limits of \$1,000,000 combined single limit insuring against damage to persons and property occurring on or within the vicinity of the Premises/license area and to name Licensor as an insured party under that insurance policy. Licensee also waives any right of recovery it may now or subsequently have against Licensor for any loss or damage arising out of use of The Premises. The City shall be an additional insured on the policy. Licensor specifically reserves its remedies at law and equity to recover damages from or to prevent injury to the City Property committed or permitted by Licensee. The obligation of Licensee to indemnify Licensor survives the termination of the License as to any claim or cause of action that arose during the term of this license, whether brought during the term of the License or after the termination of the License.

**8. Right of First Refusal to Lease.** Licensor hereby grants to License a right of first refusal to lease The Premises at the termination of this license agreement, which right shall expire at the end of this agreement. Licensee shall have ten business days to reply to any offers to lease.

**9. No assignment.** Licensee shall not assign or transfer its rights under this License.

**10. Authorized Signatory; Binding Effect:** The signatories hereto represent that they are duly authorized to sign this Agreement on behalf of their respective companies. Each Party signing this License Agreement acknowledges that it has had the opportunity to review this Agreement with legal counsel of its choice, and there shall be no presumption that ambiguities shall be construed or interpreted against the drafter. This Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors, assignees and transferees.

**11. Effective date.** This license Agreement is effective as of the date first stated above.

**12. Termination Date.** This license Agreement shall be terminated March 31, 2024. However, Licensee's obligation to restore The Premises to its pre-license state, shall survive this Termination Date.

**CITY OF BATTLE CREEK**

A Michigan Municipal Corporation

By: \_\_\_\_\_  
Name: Rebecca L. Fleury  
Its: City Manager

Drafted by:  
Jill Humphreys Steele (P53335)  
City Attorney Battle Creek  
10 N Division Street  
Battle Creek, Michigan 49014  
(269) 966-3385

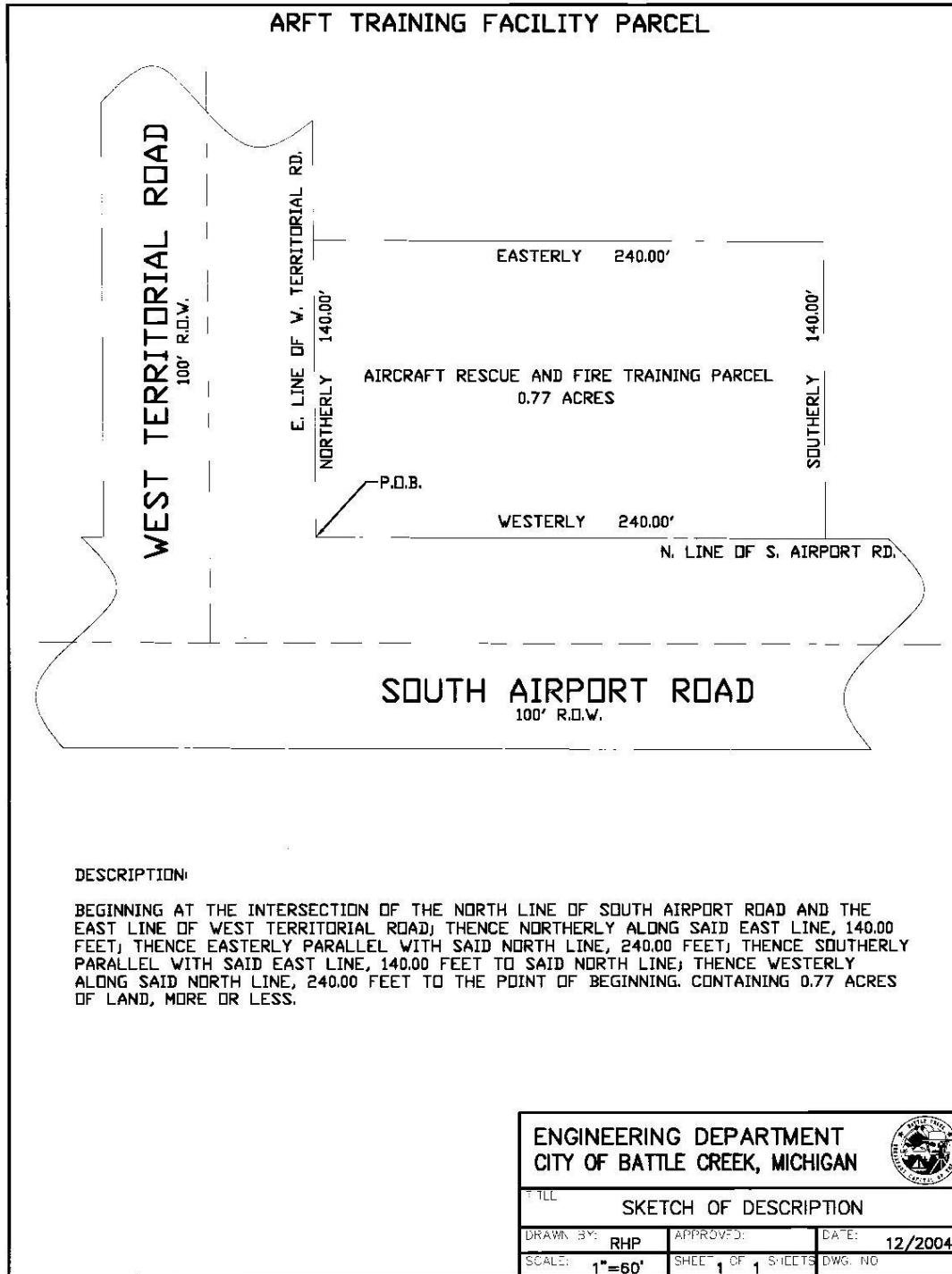
**Duncan Aviation Inc.**

A Nebraska Corporation

By: \_\_\_\_\_  
Name: Andy Richards  
Its: Executive Vice President and COO



**Exhibit A**





Resolution

NO. 10

A Resolution seeking acceptance of dedication of a parcel of vacant land, number 52-0127-00-016-3 for use as a Public Road commonly known as Barney Boulevard.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the City of Battle Creek, as owner of parcel number 52-0127-00-016-3, more particularly described on the attached instrument, "Acceptance of Dedication" has executed a Dedication for Public Road for public use of the property for road right-of-way purposes;

**IT IS FURTHER RESOLVED** that the dedication is Accepted by the City of Battle Creek; that the City will enforce traffic and other regulations as to the public roadway and provide necessary maintenance on the vacant land, parcel number 52-0127-00-016-3, known as Barney Boulevard; that the City Manager is authorized to execute the attached Dedication and Acceptance of Dedication, or one with substantially similar terms approved by the City Attorney, and all other instruments necessary to give effect to this dedication and acceptance; and the City Clerk is directed to record all such necessary instruments of dedication and acceptance with the Calhoun County Register of Deeds.

---

Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Marcel Stoetzel, Deputy City Attorney

**Department:** City Attorney

**SUMMARY**

A Resolution seeking acceptance of dedication of a parcel of vacant land, number 52-0127-00-016-3 for use as a Public Road commonly known as Barney Boulevard.

**BUDGETARY CONSIDERATIONS**

The City does not currently receive Act 51 funds to maintain this portion of Barney Boulevard. Formal acceptance of the dedication will satisfy Act 51 requirements for the City to receive Act 51 funds for this portion of Barney Boulevard.

## **HISTORY, BACKGROUND and DISCUSSION**

Parcel number 52-0127-00-016-3, commonly known as Barney Boulevard is vacant, and is used as an access road for six parcels north of Oakley Street. The Department of Public Works has received several complaints over the last few years regarding the condition of the access road which is privately maintained.

By Resolution 487, the Battle Creek City Commission on September 6, 2022, approved the City's purchase of parcel 52-0127-00-016-3 from the Calhoun County Land Bank Authority. The City acquired ownership of the parcel on November 22, 2022, allowing for routine road maintenance activities such as grading and snow plowing to take place by City crews. A formal right-of-way will also allow the City to collect Act 51 maintenance dollars from the State of Michigan for these activities.

This Resolution authorizes and accepts the dedication of the City-owned portion of Barney Boulevard, as a public right-of-way, clearly establishing that Barney Boulevard is for public use, eligible for Act 51 funds, and eligible for maintenance by the City of Battle Creek.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

City Engineer Jarret Geering, Field Services Supervisor Todd Gerber, and Planning & Zoning Coordinator Susan Cronander recommend approval.

---

### **ATTACHMENTS:**

| <b>File Name</b>                            | <b>Description</b>       |
|---------------------------------------------|--------------------------|
| ☐ Acceptance_of_Dedication_Barney_Blvd.pdf  | Acceptance of Dedication |
| ☐ Dedication_of_Public_Road_Barney_Blvd.pdf | Dedication by City       |
| ☐ Map_of_Barney_Blvd.pdf                    | Map Barney Blvd          |

## **Acceptance of Dedication**

The CITY OF BATTLE CREEK, of 10 North Division Street, Battle Creek, Calhoun County, Michigan 49014, does hereby accept the following dedication to the public:

A parcel of land located in the City of Battle Creek, County of Calhoun, Michigan legally described as follows:

SEC 27 T1S R8W COMM SE COR OF SD SEC - W 330 TO TRUE POB - CONTN  
W 33 FT - N 297 FT - E 33 FT - S 297 FT TO POB.

Parcel Number: 52-0127-00-016-3

The Acceptance of this Dedication was approved by Resolution \_\_\_\_ of the Battle Creek City Commission on December 6, 2022.

### **CITY OF BATTLE CREEK**

Dated: December \_\_\_\_, 2022

\_\_\_\_\_  
Rebecca L. Fleury,  
Battle Creek City Manager

Acknowledged before me in Calhoun County, Michigan on December \_\_\_\_, 2022, by  
Rebecca L. Fleury, City Manager of the City of Battle Creek, Calhoun County, Michigan.

\_\_\_\_\_  
Rebecca Forbes, Notary Public  
Barry County, Michigan, Acting in Calhoun County.  
My commission expires: 11/3/2024

Drafted by:  
C. Marcel Stoetzel, III (P61912)  
Battle Creek Deputy City Attorney  
10 North Division Street  
Battle Creek, MI 49014  
(269) 966-3385



### **DEDICATION OF PUBLIC ROAD**

This Agreement (the Agreement) is entered into on this \_\_\_\_ day of December, 2022 between the CITY OF BATTLE CREEK, a Michigan municipal corporation, Calhoun County, Michigan, whose address is 10 North Division Street, Battle Creek, MI 49014 (“Grantor”) and the CITY OF BATTLE CREEK, a Michigan municipal corporation, Calhoun County, Michigan, whose address is 10 North Division Street, Battle Creek, MI 49014 (“Grantee”) on the following terms and conditions.

1. **Purpose.** Grantor desires to grant to Grantee access to the property for a public right-of-way for public use, eligible for Public Act 51 funds, and maintenance by the City of Battle Creek.
2. **Dedication of Public Road.** Grantor does hereby make the following gift and dedication of a public way the property described in below paragraph 4 for the use of the general public as a public road, which shall also be the Final Roadway Description:
3. **Burdened Property.** Grantor owns land in the City of Battle Creek, County of Calhoun, State of Michigan, more particularly described as follows (the Burdened Property):

A parcel of land located in the City of Battle Creek, County of Calhoun, Michigan legally described as follows:

SEC 27 T1S R8W COMM SE COR OF SD SEC - W 330 TO TRUE POB - CONTN W  
33 FT - N 297 FT - E 33 FT - S 297 FT TO POB. (Parcel Number: 52-0127-00-016-3)

4. **Easement Area.** Grantor grants a nonexclusive easement for public use, ingress and egress on, over, and across the Burdened Property to Grantee and its employees and agents for the construction, operation, maintenance, repair and replacement of a public right-of-way, commonly known as Barney Boulevard. The easement area is described as:

SEC 27 T1S R8W COMM SE COR OF SD SEC - W 330 TO TRUE POB - CONTN W  
33 FT - N 297 FT - E 33 FT - S 297 FT TO POB.

5. **Consideration.** Grantor grants this easement for no dollar benefit but instead for the benefit of public use, which shall serve as good and adequate consideration.
6. **Term of Easement.** The term of this Agreement shall be perpetual.
7. **No Interference.** Grantee shall be entitled to exercise the rights granted to Grantee in accordance with the terms of this Agreement without any suit, trouble or interference of any kind by Grantor

or any other person or entity, and Grantor shall protect and defend the right, title and interest of Grantee hereunder from any other rights, interests, title and claims.

8. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective representatives, successors and assigns.
9. **Miscellaneous.** If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remaining terms and provisions shall not be affected thereby, but each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and all previous negotiations regarding the subject matter hereof are merged herein. This Agreement may be modified only by an agreement in writing signed by Grantee and Grantee. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Michigan.
10. **Exhibit.** The following exhibit is attached to and is a part of this Agreement:

Exhibit A – Sketch of the Easement Area
11. **Exemption.** This instrument is exempt from transfer taxes pursuant to MCL 207.505(a) and (h)(i), and MCL 207.526(a) and (h)(i).

[Remainder of page intentionally left blank. Signatures appear on following pages.]

**IN WITNESS WHEREOF**, the parties to this Agreement subscribe their names as of the day and year set forth below:

**Grantor**

CITY OF BATTLE CREEK

Dated: December \_\_\_\_\_, 2022

By: \_\_\_\_\_  
Rebecca L. Fleury  
Its: City Manager

STATE OF MICHIGAN            )  
                                          ) SS.  
COUNTY OF CALHOUN        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2022, by the City of Battle Creek by Rebecca L. Fleury, City Manager, on behalf of the City.

\_\_\_\_\_  
Rebecca Forbes, Notary Public  
Barry County, Michigan, Acting in Calhoun County  
My commission expires: 11/3/2024

**Grantee**

CITY OF BATTLE CREEK

Dated: December \_\_\_\_\_, 2022

By: \_\_\_\_\_  
Rebecca L. Fleury  
Its: City Manager

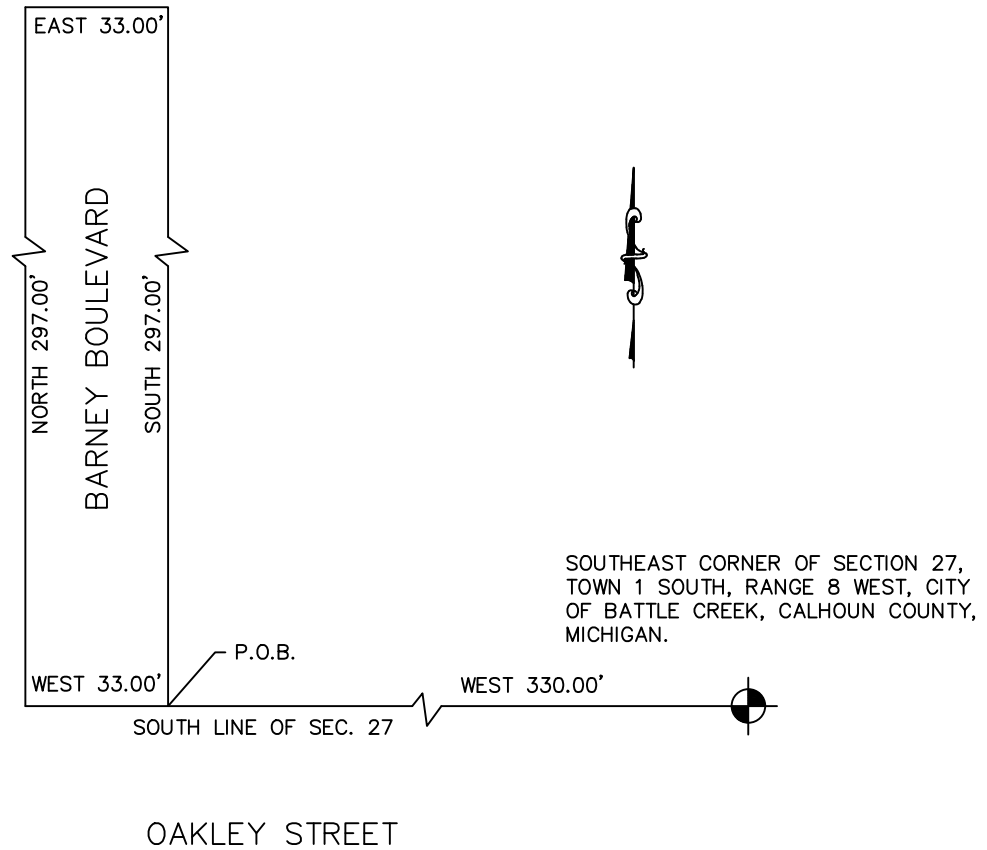
STATE OF MICHIGAN            )  
                                          ) SS.  
COUNTY OF CALHOUN        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2022, by the City of Battle Creek by Rebecca L. Fleury, City Manager, on behalf of the City.

\_\_\_\_\_  
Rebecca Forbes, Notary Public  
Barry County, Michigan, Acting in Calhoun County  
My commission expires: 11/3/2024

Prepared by and when recorded return to:  
C. Marcel Stoetzel, III  
Battle Creek Deputy City Attorney  
10 N. Division St  
Battle Creek, MI 49014  
(269) 966-3385

# Exhibit A



COMMENCING AT THE SOUTHEAST CORNER OF SECTION 27, TOWN 1 SOUTH, RANGE 8 WEST, CITY OF BATTLE CREEK, CALHOUN COUNTY, MICHIGAN; THENCE WEST ALONG THE SOUTH LINE OF SAID SECTION, 330.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING WEST ALONG SAID SOUTH LINE, 33.00 FEET; THENCE NORTH 297.00 FEET; THENCE EAST 33.00 FEET; THENCE SOUTH 297.00 FEET TO THE POINT OF BEGINNING.

ENGINEERING DEPARTMENT  
CITY OF BATTLE CREEK, MICHIGAN



|                       |                     |               |
|-----------------------|---------------------|---------------|
| TITLE                 |                     |               |
| SKETCH OF PUBLIC ROAD |                     |               |
| DRAWN BY: RHP         | APPROVED: RHP       | DATE: 10/2022 |
| SCALE: NTS            | SHEET 1 OF 1 SHEETS | DWG. NO.      |







Resolution

NO. 11

A Resolution seeking to establish a revised Battle Creek Transit Title VI policy to ensure equal opportunity in the transportation for all persons regardless of race, color, or national origin.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

In compliance with Title VI of the Civil Rights Act of 1964, Battle Creek Transit (BCT) operates all of its programs and provides public transportation services without regard to race, color, or national origin.

As a direct recipient of Federal and State grant funds, BCT is required to develop and maintain a Title VI policy that will ensure that the level and quality of public transportation service is provided in a non-discriminatory manner; promote full and fair participation in public transportation decision-making without regard to race, color, or national origin; and ensure meaningful access to transit-related programs and activities by persons with limited English proficiency. The Federal Transportation Administration requires that each recipient provides an updated Title VI policy for review every three years. This resolution updates the current BCT Title VI policy.

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Battle Creek City Commission

12/6/2022

**Action Summary**

**Staff Member:** Donna Hutchison, Grants Program Administrator

**Department:** Transit

**SUMMARY**

A Resolution seeking to establish a revised Battle Creek Transit Title VI policy to ensure equal opportunity in the transportation for all persons regardless of race, color, or national origin.

**BUDGETARY CONSIDERATIONS**

There are no general fund budget considerations.

**HISTORY, BACKGROUND and DISCUSSION**

In compliance with Title VI of the Civil Rights Act of 1964, Battle Creek Transit (BCT) operates all of its

programs and provides public transportation services without regard to race, color, or national origin.

As a direct recipient of Federal and State grant funds, BCT is required to develop and maintain a Title VI policy that will ensure that the level and quality of public transportation service is provided in a non-discriminatory manner; promote full and fair participation in public transportation decision-making without regard to race, color, or national origin; and ensure meaningful access to transit-related programs and activities by persons with limited English proficiency. The Federal Transportation Administration requires that each recipient provides an updated Title VI policy for review every three years. This resolution updates the current BCT Title VI policy.

BCT will assist all persons who feel they have been discriminated against because of race, color, or national origin to seek equity under Federal and State laws by providing information to said persons on how to file a complaint with the BCT Title VI Coordinator and/or the Federal Department of Transportation.

BCT will, at a minimum, post the public notice on the policy or any other posters, flyers or other information which will bring to the attention of all users of BCT's transportation their rights under Title VI. BCT strives to ensure that the level and quality of public transportation service is provided in a non-discriminatory manner.

To that end, a copy of the public notice of BCT's Title VI policy will be posted at the follow locations: our main office located at 339 West Michigan Avenue; each bus shelter located at our transfer center; on each bus and/or van; and on the BCT's website. The complete policy, including the complaint procedure and a complaint form will be available at 339 West Michigan Avenue, Battle Creek, MI 49037 or on our website.

The BCT Public Transit Director, or other individual as designated by the city Manager, will act as Transit's Title VI Coordinator regarding Title VI complaints or other transit related issues.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

Battle Creek Transit supports the submittal of this updated Title VI Policy to the FTA.

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#### **ATTACHMENTS:**

| File Name                                                                                                                 | Description                       |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
|  Full_BCT_Title_VI_Policy_for_2022.pdf | Full BCT Title VI Policy for 2022 |

## **Battle Creek Transit Title VI Plan**

Agency Name: Battle Creek Transit (BCT)

Effective Date: November, 2022

### **Plan Statement**

In compliance with Title VI of the Civil Rights Act of 1964, BCT operates all of its programs and provides public transportation services without regard to race, color, or national origin.

### **Title VI Coordinator Contact Information**

Battle Creek Transit, Attn: Transit Director, 339 W Michigan Avenue, Battle Creek, MI 49037

### **Title VI Information Dissemination**

BCT is committed to ensuring that no person is excluded from participation in, or denied the benefits of its transit services on the basis of race, color, or national origin, as protected by Title VI in the Federal Transit Administration (FTA) Circular 4702.1B. As a department of the City of Battle Creek, BCT must also comply with non-discrimination policies promulgated by the City that deal with employment issues.

BCT has a published notice to the public that it complies with Title VI and instructions on how to file a discrimination complaint (Appendix B & C). This notice is displayed in BCT's revenue vehicles, administrative offices, and our downtown Bus Transfer shelters. The notice is also posted on BCT's website.

All employees are provided a copy of the Title VI Plan upon hire and/or update of the Title VI plan and are required to sign the Acknowledgement of Receipt (Appendix A).

### **Title VI Complaint Procedures**

Complaints for Title VI issues will be directed to the BCT Director (Appendix C).

Any person who believes they have been discriminated against on the basis of race, color, or national origin by the City of Battle Creek, "Battle Creek Transit" (hereinafter referred to as "BCT") may file a Title VI complaint by completing and submitting the agency's Title VI Complaint Form (Appendix D). The City of Battle Creek's Transit Department investigates complaints received no more than 180 days after the alleged incident. BCT will process complaints that are complete.



Once the complaint is received, BCT will review it to determine if our office has jurisdiction. Within 7 days of receipt of the complaint, BCT will mail an acknowledgement letter to the complainant informing them whether the complaint will be investigated by our office (Appendix E).

BCT will commence an investigation into the complaint within 7 days of the receipt of the complaint. If more information is needed to resolve the case, then BCT may contact the complainant. The complainant has 10 business days from the date of the letter to send requested information to the investigator assigned to the case. If the investigator is not contacted by the complainant or does not receive the additional information within the 10 business days, then BCT can administratively close the case. A case can also be administratively closed if the complainant no longer wishes to pursue their case. BCT will make every effort to respond back to the complainant in writing within 40 days of the receipt of the original complaint, if not sooner, as provided below.

After the investigator reviews the complaint, they will issue one of two letters to the complainant: a closure letter (Appendix F) or a letter of finding (LOF) (Appendix G). A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed. An LOF summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member, or other action will occur. If the complainant wishes to appeal the decision, they have 14 calendar days after the date of the letter or the LOF to do so.

### **Title VI Investigations, Complaints, or Lawsuits**

BCT maintains a list of all Title VI investigations, complaints, and/or lawsuits and results of each (Appendix H).

### **Public Participation and Community Outreach**

As an agency, BCT has made, or is making, the following public outreach efforts:

- Meetings of its advisory committees, consisting of persons with disabilities, senior citizens, low-income persons, and minorities, are routinely scheduled and noticed and open to the public with a public comment period provided.
- BCT continues to improve the accessibility of transit service information to minority populations and limited English proficient persons within our community. In furtherance of that effort, BCT provides all schedules and route information in Spanish.

- Opportunities for public hearings are provided to citizens to offer their input on proposed service changes, fare increases, and Federal and State applications.
- BCT participates at the Michigan Department of Transportation's (MDOT) annual DBE Conference and Outreach.
- Opportunities for public participation through attendance and public comments at BCT board meetings are posted via public notice at our bus shelters at the Transportation Center, our Parks & Recreation Department main desk, City of Battle Creek City Hall, in Transit's main office, and on BCT's Facebook page and website.
- Opportunity for public comments are provided with each Federal and State application for capital and/or operating assistance via publicized 30-day public comment period; notices in various publications; and a public hearing period with public comment during City Commission meetings.

### **Limited English Proficiency (LEP) Plan**

BCT has developed this Limited English Proficiency (LEP) plan to help identify reasonable steps to provide language assistance for LEP persons seeking access to public transportation services as required by Executive Order 13166. An LEP person is one who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.

This plan will identify procedures on how to identify a person who may need language assistance, the ways in which assistance may be provided, training staff, notification to LEP persons that assistance is available, and information for future plan updates.

In developing its plan, BCT used the requisite "four-factor" analysis to determine the extent of its obligation to provide LEP services. The LEP four-factor analysis considers the following:

1. The number or proportion of LEP persons eligible in the public transportation system's service area who may be served or are likely to encounter a public transportation program, activity, or service;
2. The frequency with which LEP persons come in contact with BCT's services;
3. The nature and importance of the program, activity, or service provided by BCT to the community; and
4. The resources available to BCT and overall cost to provide LEP assistance.

## **Four-Factor Analysis**

### **1. The number or proportion of LEP persons eligible in the public transportation system's service area who may be served or likely to encounter a public transportation program, activity, or service.**

BCT examined 2020 Census data and determined that approximately 5,113 people within the Battle Creek urbanized area spoke a language other than English. 1,934 indicated that they spoke English less than “very well”. These 1,934 persons, however, represented roughly 4% of the total urbanized area population five years and older.

The Spanish language comprised the largest non-English speaking language group in the Battle Creek urbanized area. There were 2,520 (5.3%) persons identified as speaking Spanish. Of this group, 828 persons indicated that they spoke English less than “very well”.

The second largest group of non-English speaking language was the Asian and Pacific Island languages. There were 1,485 (3.1%) identified in this category. Of this combined group, 808 (54.4%) persons indicated they spoke English less than “very well”.

### **2. The frequency with which LEP persons come in contact with BCT's services.**

BCT has not formally assessed the frequency with which LEP persons have or could possibly come in contact with a public transportation program, activity, or service. Rider surveys have been conducted periodically in the past, but have not included questions relating to a person's ethnicity. Transportation staff (drivers and dispatchers) have reported very little contact with LEP persons in recent years. BCT estimates that less than five (5%) of the residents in the Battle Creek urbanized area use public transportation. It is unknown at this time how many LEP persons may be regular or infrequent users of public transportation in Battle Creek.

### **3. The nature and importance of the program, activity, or service provided by BCT to the community.**

The fixed route and demand-response services provided by BCT are important to persons living in the Battle Creek Urbanized Area, including the limited LEP community. BCT provides vital mobility and independence to persons who cannot drive and/or cannot afford a personal automobile.

#### **4. The resources available to BCT and the overall costs to provide LEP assistance.**

BCT utilizes its available resources that could be used in providing LEP assistance. This includes identifying bilingual City staff that could assist with translation services, identifying which documents would be the most valuable to be translated when warranted by the need, inventorying organizations that BCT could partner with for outreach and translation services, and providing the appropriate level of staff training.

#### **Department of Transportation (DOT) Guidelines**

The four-factor analysis helps to determine the “mix” of LEP services required. There are two main ways to provide language services:

- (a) **Oral** (Interpretation) either in person or via telephone interpretation services; and
- (b) **Written** (Translation), ranging from translation of an entire document to translation of a short description of the document

Some language services should be made available on an expedited basis, while in others the LEP person may be referred to another office for language assistance. Regardless of the methods(s) chosen, quality and accuracy of any language service is critical.

**Oral (Interpretation)** is the act of listening to something in one language and orally translating it into another language. Interpreters should demonstrate proficiency in and the ability to communicate information accurately in both English and in the other language; have knowledge in both languages and of any specialized terms or concepts peculiar to the public transportation program.

**Written (Translation)** is the replacement of a written text from one language into an equivalent written text in another language. The extent of a recipient’s obligation to provide written translations of documents is determined on a case-by-case basis, looking at the totality of the circumstance in light of the four-factor analysis.

*Safe Harbor: To help ensure with greater certainty that recipients comply with their obligations to provide written translations in languages other than English, Paragraphs (a) and (b) below outline the circumstances that can provide a “safe harbor” for recipients. That means, when a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with written-translation obligations under Title VI.*



*The following will be considered strong evidence of compliance with the recipient's written-translation obligations:*

- (a) The DOT recipient provides written translation of vital documents for each LEP language group that constitutes 5% or 1,000, whichever is less of the population of persons eligible to be served or likely to be effected or encountered. Translation of other documents, if needed, can be provided orally.*
- (b) If there are fewer than 50 persons in a language group that reaches the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.*

The Safe Harbor provisions apply to the translation of written documents. Besides accounting for LEP population figures, a decision to provide written translation of materials must also be based on a cost/benefit analysis, taking into account the level of contact that a transit system has with LEP persons, as well as the potential costs associated with providing translated materials.

## **BCT LEP PLAN**

Based upon the four-factor analysis above, and in consideration of the Department of Justice (DOJ) guidance, BCT has developed the following plan to improve the accessibility of public transportation services in the Battle Creek Urbanized Area to the Spanish-speaking community. BCT recognizes the significant growth of the Hispanic population that has taken place in the Battle Creek community in the past 10 years. As such, BCT believes that it is important to provide written transit service information to those LEP persons in the Hispanic community to better enable them to utilize public transportation services.

### **Identification of LEP Persons Needing Assistance**

BCT recognizes that the most likely LEP group to be encountered in the Battle Creek urbanized area is the Spanish-speaking population. As such, BCT will undertake the following activities to help identify LEP persons needing language assistance:

- Work with community organizations that interact with Spanish-speaking LEP persons.
- Keep records of interactions with members of the public at Transit meetings. The language of any LEP person in attendance can be included as part of the record, helping to determine future LEP improvements.

- Have the Census Bureau's "I Speak Cards" at Transit public meetings and BCT's offices. While BCT staff may not be able to provide translation assistance, the cards are a tool to identify language needs at future meetings and staff interaction with customers.
- Encourage drivers, dispatchers, and other front line employees to inform supervisors of any difficulties or suggestions regarding their interaction(s) with LEP persons.

### **Language Assistance Measures**

BCT will assess available resources that could be used for providing LEP assistance. This may include:

- Printing service and schedule information, i.e. bus schedules, rider's guide, in Spanish
- Identify community organizations that could partner with BCT for outreach and translation efforts
- Using "I Speak" cards at Transit public meetings and at BCT offices
- Utilizing bilingual staff when appropriate and available to assist with translation needs
- Providing service information in languages other than English on BCT's website

### **Staff Training**

BCT staff will be provided with the LEP Plan and educated on procedures to follow. This information will also be part of BCT's staff orientation process for new employees. Training topics are listed below:

- Understanding the Title VI policy and LEP responsibilities
- Language assistance services offered by BCT
- Documentation of language assistance requests
- Procedures for handling Title VI and/or LEP complaints

### **Providing Notice to LEP Persons**

At this time, BCT does not have formal outreach strategies to inform LEP persons of available language assistance services. Census data indicates the primary LEP population to be Hispanic in the Battle Creek urbanized area. BCT may utilize the following for notifying Hispanic LEP persons:

- Signs will be posted in customer service areas and on buses
- Staff will contact community organizations that work with Spanish-speaking LEP persons to inform them of public transportation services

- Key printed materials, including bus schedules and maps, will be translated into Spanish and made available at the City's Transportation Center, BCT's offices, and on board buses
- Post a notice of language assistance services on BCT's website
- Language assistance may be provided in other languages if warranted by the LEP population in the area and the costs of providing language assistance

### **Monitoring & Updating LEP Plan**

This plan is designed to be flexible and one that can be easily updated as circumstances and the need by LEP persons for language assistance changes. Periodic monitoring of language assistance measures that could be implemented will help BCT to determine if assistance is being provided in the best manner. At a minimum, each LEP Plan update should examine components such as:

- How many LEP persons utilize public transit services?
- Were their transportation needs met?
- What is the LEP population in BCT's service area?
- Has there been a change in the types of languages where translation services are needed?
- Have BCT's available resources, such as technology, staff, and financial costs changed?

BCT will update the LEP Plan every three years as part of its overall Title VI Plan update requirements. An integral component of updating the LEP Plan will be consulting with community organizations representing Hispanic LEP persons. BCT will also obtain feedback from staff to assess their interactions with LEP persons and determine whether changes to the LEP Plan are warranted. This plan was last reviewed and updated in November, 2022 and will be updated in three years using the current year ACS data. BCT will reassess whether new documents, programs, services, or activities need to be made accessible for LEP persons, and provide notice of any changes.

### **Dissemination of BCT's LEP Plan**

BCT's LEP Plan will be made available to the public in a number of ways.

- Posted on BCT's website
- On file at BCT's administrative offices
- Provided to community organizations that work with the Spanish-speaking community
- Provided to individuals upon request, including a translated version if needed

Any questions or comments regarding this plan should be directed to BCT's Title VI Coordinator:

Transit Director  
Battle Creek Transit  
339 West Michigan Avenue  
Battle Creek, MI 49037

Our LEP and Title VI policy are also available on our website at <http://www.battlecreekmi.gov/transit>

### **Transit-Related, Non-Elected Boards**

Battle Creek has one transit-related, non-elected Local Advisory Council (LAC) and one transit-related, non-elected Local Coordination Committee (LCC). Members are appointed by the Battle Creek City Commission. Memberships on both currently meet the minimum number of members as provided in the by-laws of both boards. If the membership of either committee drops below the established minimum number of members, BCT will encourage committee members to reach out within their community and other organizational affiliations for new membership seeking more racial diversity in new appointments. Additionally, BCT will reach out to the general public through various newspaper advertisements and correspondence with local minority churches and related groups.

| <b>Race</b>      | <b>LAC</b> | <b>LCC</b> |
|------------------|------------|------------|
| Caucasian        | 3          | 7          |
| African American | 1          | 1          |
| Latino           | 0          | 0          |
| Asian American   | 0          | 0          |

### **Sub-recipients**

Battle Creek does not have any sub-recipients as it relates to Federal financial assistance.

### **Facility Improvements**

BCT has not constructed any vehicle storage, maintenance, or operation center-type facilities since our last approved submission, however, should construction or improvements occur a Title VI Equity Analysis will be conducted.

### **System Wide Standards and Policies**

BCT has adopted system-wide service standards for its fixed route and demand-response services. These standards – summarized below – were developed and



implemented to better help BCT in its goal of achieving equity among all transit customers in service design and operations decisions.

## 1. Vehicle Load Standards

BCT does not currently operate additional transportation modes (express, B.R.T., van pool, etc.) aside from its hourly fixed-route and demand-response services. Factors used to determine maximum load factors include the following:

- Current and expected fixed route ridership counts
- Expected standing time during the hourly fixed route headways
- The number of passengers entry/exit doors available per vehicle category
- Internal movement for boarding/alighting passengers, particularly with single-door vehicles

For BCT, the average of all loads during peak or off-peak operation should not exceed the vehicles' achievable capacities, which are: 33 passengers for two 30' Gillig Low Floor buses, 47 passengers for eight 35' Gillig Low Floor buses, 50 passengers for two 40' Gillig Low Floor buses.

This data is additionally expressed in tabular format below:

| <b>Fixed Route Vehicle Type</b> | <b>Seated</b> | <b>Standing</b> | <b>Total</b> | <b>Maximum Load Factor</b> |
|---------------------------------|---------------|-----------------|--------------|----------------------------|
| 30' Gillig, Low Floor, DD       | 23            | 10              | 33           | 1.43                       |
| 35' Gillig, Low Floor, DD       | 32            | 10              | 47           | 1.46                       |
| 40' Gillig, Low Floor, DD       | 40            | 10              | 50           | 1.25                       |

Note: SD = Single Door DD = Double Door

## 2. Vehicle Headway Standards

For BCT, weekday service operates on eight (8) fixed routes. Three (3) of these routes operate every 60 minutes (50-55 minutes on-route, 5-10 minutes transfer time), and five (5) of these routes operate every 30 minutes (approximately 23-25 minutes on the route, 5-10 minutes transfer time). Weekday service begins at 5:15 a.m. and continues until 6:45 p.m. Saturday service operates on eight (8) fixed routes. Four (4) of these routes operate every 60 minutes (50-55 minutes on-route, 5-10 minutes transfer time), and four (4) of these routes operate every 30 minutes (approximately 23-25 minutes on the route, 5-10 minutes transfer time). Saturday service begins at 9:15 a.m. and continues until 5:15 p.m.

Fixed route planning and scheduling involves consideration of a number of factors, including but not limited to: transit/pedestrian friendly streets, density of transit-dependent population and activities, and the relationship to the BCT ridership study.

### **3. On-time Performance**

In keeping with industry standards, BCT considers a fixed route vehicle on time if it arrives at a bus stop no more than one (1) minute early and departs no more than five (5) minutes late. The on-time performance definition for demand-response service is the arrival of the vehicle for pickup within the pre-arranged 30-minute window to time.

The on-time performance rate for BCT fixed routes is tracked by the number of complaints. We estimate during optimal driving conditions, fixed route on-time performance is 90% or better. Scheduling software allows BCT to record, monitor, and tabulate on-time demand-response performance. BCT demand-response service is 90% or better.

### **4. Service Availability**

BCT is the public transportation provider for the Battle Creek Urbanized Area. Its service area includes the cities of Battle Creek and Springfield, and the townships of Bedford, Emmett, and Pennfield. BCT's service area is approximately 75 square miles with a population of nearly 80,000 people. BCT operates eight (8) bus routes and complimentary ADA paratransit service as well as demand response service for senior citizens, persons with disabilities, and others.

Battle Creek is a relatively low-density community with an average of approximately 1,200 people per square mile. Transit service design standards have been established using population density as a criterion. This is not to suggest that these standards are set in stone. Consideration was also given to generators, employment concentrations, and other factors when designing transit services.

A review of Battle Creek demographics, major destinations, travel patterns and budget constraints indicate that a radial hub and spoke system is currently the most effective. This is due to 1) the geography of the community; 2) the relative low densities beyond the urban core; and, 3) the dispersed location of major generators. Future plans include transition to bidirectional routes on major corridors.

## **Service Policies – Vehicle Assignment & Transit Amenities**

### **1. Transit Amenities**

BCT utilizes the following criteria for placement or installation of transit amenities:

- Availability of funding from Federal, State, or local government, or through partnerships with the public
- Number of passengers using a bus stop, or expected to benefit from the enhancement
- Community input or suggestion
- Proximity to commercial, medical, or residential areas, or existing, accessible sidewalks
- Proximity to inbound/outbound portions of a route, or transfer points to other fixed routes
- Space or property availability for amenity construction—whether within the public right-of-way or through private property legal agreements
- The physical suitability of placement
- Overall safety and ease of accessibility

BCT believes the most successful public transit improvements are those that fulfill an important community need. Providing an amenity that is in demand by passengers can lead to successful implementation. It remains important as well to consider potential passengers and the amenities that are important to them.

Additionally, in the planning and placement of transit amenities, careful consideration and review will always be followed to ensure that all citizens receive equal consideration and experience full participation and benefit without regard to minority and/or low income status.

### **2. Vehicle Assignment**

BCT has guidelines in place regarding the assignment of buses to its fixed routes. As a small urban transit system, daily service-vehicle deployments are made from one centrally-located operations and bus storage facility. Therefore, the assignment and distribution of the vehicle fleet among dispersed locations is not warranted. All service vehicles provide similar passenger accommodations and amenities—including wheelchair ramps and air-conditioning. All of our fixed route fleet is low-floor buses, and all are double door buses. Vehicle assignments are based on route ridership. This philosophy is implemented as much as possible however due to our small fleet size and the required low spare ratio, all of our vehicles are rotated through all routes based on availability due to maintenance requirements.

## **Employee Acknowledgement of Receipt of Title VI Plan**

|            |
|------------|
| Appendix A |
|------------|

I have reviewed and received a copy of Battle Creek Transit's:

- Civil Rights Title VI policy
- Limited English Proficiency (LEP) policy
- Title VI Complaint procedures process

I have had an opportunity to discuss and ask questions on the information covered.

---

Printed Name

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Signature

---

Date



**Public Notice of Rights Under Title VI**  
**The City of Battle Creek, Michigan**

Appendix B

- In compliance with Title VI of the Civil Rights Act of 1964, Battle Creek Transit (BCT) operates all of its programs and provides public transportation services without regard to race, color, or national origin. Any person who believes they have been aggrieved by any unlawful discriminatory practice under Title VI may file a written complaint with the City of Battle Creek.
- For more information on the City of Battle Creek's civil rights program, and the procedures to file a complaint, contact BCT Customer Service at 269-966-3474; email to [mravis@battlecreekmi.gov](mailto:mravis@battlecreekmi.gov); or visit our administrative office at 339 W Michigan Avenue, Battle Creek, MI 49037. For more information, visit our website at: <http://www.battlecreekmi.gov/transit>
- A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5<sup>th</sup> Floor – TCR, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- If information is needed in another language, please contact 269-966-3474.
- Si se necesita información en otro idioma, por favor llame 269-966-3474.

NOTE: This Public Notice is posted at the following location: BCT's revenue vehicles; BCT administrative offices; and downtown Bus Transfer shelters. The notice is also posted on BCT's website.

## **City of Battle Creek**

### **Title VI Complaint Procedure**

Appendix C

Any person who believes they have been discriminated against on the basis of race, color, or national origin by the City of Battle Creek's, "Battle Creek Transit" (hereinafter referred to as "BCT") may file a Title VI complaint by completing and submitting the agency's Title VI Complain Form. The City of Battle Creek's Transit Department investigates complaints received no more than 180 days after the alleged incident. BCT will process complaints that are complete.

Once the complaint is received, BCT will review it to determine if our office has jurisdiction. Within 7 days of receipt of the complaint, BCT will mail an acknowledgement letter to the complainant informing them whether the complaint will be investigated by our office.

BCT will commence an investigation into the complaint within 7 days of the receipt of the complaint. If more information is needed to resolve the case, then BCT may contact the complainant. The complainant has 10 business days from the date of the letter to send requested information to the investigator assigned to the case. If the investigator is not contacted by the complainant or does not receive the additional information within the 10 business days, then BCT can administratively close the case. A case can also be administratively closed if the complainant no longer wishes to pursue their case. BCT will make every effort to respond back to the complainant in writing within 40 days of the receipt of the original complaint, if not sooner, as provided below.

After the investigator reviews the complaint, they will issue one of two letters to the complainant: a closure letter or a letter of finding (LOF). A closure letter summarizes the allegation and states that there was not a Title VI violation and that the case will be closed. An LOF summarizes the allegation and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member or other action will occur. If the complainant wishes to appeal the decision, they have 14 calendar days after the date of the letter or the LOF to do so.

In addition to the above complaint procedure, a person may also file a complaint directly with the Federal Transit Administration, at FTA Office of Civil Rights, 1200 New Jersey Avenue SE, Washington, DC 20590. The complaint must be filed within 180 days of the alleged discrimination.

If information is needed in another language, then contact 269-966-3474.  
Si se necesita información en otro idioma, por favor llame 269-966-3474.

**Battle Creek Transit (BCT)**  
**Title VI Complaint Form**

Appendix D

The following information is necessary to assist us in processing and investigating your complaint. If you require assistance in completing this form, then please contact the Title VI Coordinator at (269) 966-3588.

**Section I:**

Name: \_\_\_\_\_ Telephone No.: (\_\_\_\_) \_\_\_\_\_  
Address: \_\_\_\_\_ Alt. Tele. No.: (\_\_\_\_) \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Electronic Mail (email) address: \_\_\_\_\_

**Section II:**

Are you filing this complaint on your own behalf? ☐ Yes\* ☐ No

\*If you answered "yes" to this question, then skip to Section III.

If not, then please supply the name and relationship of the person for whom you are complaining: \_\_\_\_\_

Please explain why you have filed for a third party: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party ☐ Yes ☐ No

**Section III:**

Name of the agency complaint is against: \_\_\_\_\_  
Contact person: \_\_\_\_\_  
Title: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

**Section IV**

Which of the following best describes the reason you believe the alleged discrimination was based on? (Check all that apply)

☐ Race ☐ Color ☐ National Origin

Date of Alleged Discrimination (month/day/year): \_\_\_\_\_

Witnesses to alleged discrimination:

Name: \_\_\_\_\_ Contact Info.: \_\_\_\_\_  
Name: \_\_\_\_\_ Contact Info.: \_\_\_\_\_

Explain as clearly as possible what happened and how you believe you were discriminated against. Describe all persons who were involved, and provide the names and title of all BCT employees involved, if possible. Be sure to include the names and contact information of any witnesses. If more space is needed, then please use the back of the form.

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**Section V:**

Have you filed this complaint with any other Federal, State, or local agency; or with any Federal or State court? ☐ Yes ☐ No

If yes, check all that apply:

☐ Federal agency ☐ Federal court ☐ State agency ☐ State court ☐ Local agency

Please provide information about a contact person at the agency/court where the complaint was filed.

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

You may attach any written materials or other information that you think is relevant to your complaint. I affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Signature and date required below:

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**Please submit this form in person at the address below or mail this form to:**

**Title VI Coordinator  
Battle Creek Transit  
339 West Michigan Avenue  
Battle Creek, MI 49037-2313**

|                      |
|----------------------|
| Date Received: _____ |
| Received By: _____   |



## Sample Letter of Acknowledgement

Appendix E

Today's date

Ms. Jane Doe  
1234 Main Street  
Battle Creek, MI 49015

Dear Ms. Doe:

This letter is to acknowledge receipt of your complaint against Battle Creek Transit alleging

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An investigation will begin shortly. If you have additional information you wish to convey, or questions regarding this matter, please feel free to contact me directly at (269) 966-3588, my mail at Battle Creek Transit, 339 W. Michigan Avenue, Battle Creek, MI 49037, or via email at [mravis@battlecreekmi.gov](mailto:mravis@battlecreekmi.gov).

Sincerely,

Mallory Avis  
Title VI Coordinator &  
Transit Director

## Sample Letter of Closure

Appendix F

Today's date

Ms. Jane Doe  
1234 Main Street  
Battle Creek, MI 49015

Dear Ms. Doe:

This matter referenced in your complaint of \_\_\_\_\_ (date) against Battle Creek Transit alleging \_\_\_\_\_ has been investigated.

The results of the investigation did not indicate that the provisions of Title VI of the Civil Rights Acts of 1964, had in fact been violated. As you know, Title VI prohibits discrimination based on race, color, or national origin in any program receiving federal financial assistance.

Battle Creek Transit has analyzed the materials and facts pertaining to your case for evidence of Battle Creek Transit's failure to comply with any of the civil rights laws. There was no evidence found that any of these laws have been violated.

I, therefore, advise you that your complaint has not been substantiated, and that I am closing this matter in our files.

You have the right to; 1) appeal within 14 calendar days of receipt of this final written decision from Battle Creek Transit, and/or 2) file a complaint externally with the U.S. Department of Transportation and/or the Federal Transit Administration at

Federal Transit Administration Office of Civil Rights  
Attention: Title VI Program Coordinator  
East Building, 5<sup>th</sup> Floor – TCR  
1200 New Jersey Avenue SE  
Washington, DC 20590

Thank you for taking the time to contact us. If I can be of assistance in the future, do not hesitate to contact me at (269) 966-3588, by mail at Battle Creek Transit, 339 W. Michigan Avenue, Battle Creek, MI 49037, or via email at [mravis@battlecreekmi.gov](mailto:mravis@battlecreekmi.gov).

Sincerely,

Mallory Avis  
Title VI Coordinator &  
Transit Director

## Sample Letter of Finding (Substantiated)

|            |
|------------|
| Appendix G |
|------------|

Today's date

Ms. Jane Doe  
1234 Main Street  
Battle Creek, MI 49015

Dear Ms. Doe:

The matter referenced in your letter of \_\_\_\_\_ (date) against Battle Creek Transit alleging Title VI violation has been investigated.

(An/Several) apparent violation(s) of Title VI of the Civil Rights Act of 1964, including those mentioned in your letter (was/were) identified. Efforts are underway to correct these deficiencies.

Thank you for calling this important matter to our attention. You were extremely helpful during our review of the program. *(If a hearing is requested, the following sentence may be appropriate.)* You may be hearing from this office, or from federal authorities, if your service should be needed during the administrative hearing process.

Sincerely,

Mallory Avis  
Title VI Coordinator &  
Transit Director

## List of Complaints, Investigations and Lawsuits

Appendix H

BCT has not received any complaints since the last Title VI update therefore there have been no investigations completed and no lawsuits.

|                        | <u><b>Date</b></u><br>M/D/YY | <u><b>Summary</b></u><br>i.e. Race, Color, or<br>National Origin | <u><b>Status</b></u> | <u><b>Action Taken</b></u> |
|------------------------|------------------------------|------------------------------------------------------------------|----------------------|----------------------------|
| <b>Complaints:</b>     |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |
| <b>Investigations:</b> |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |
| <b>Lawsuits:</b>       |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |
|                        |                              |                                                                  |                      |                            |





Resolution

NO. 12

A Resolution seeking approval to set goals for potential contracting opportunities for FY2022-2025 for an established Disadvantaged Business Enterprise (DBE) Program for Battle Creek Transit (BCT) in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That Battle Creek Transit (BCT) has an established Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. BCT receives federal financial assistance from the DOT and as a condition of receiving this assistance, BCT has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of BCT to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts and that it will routinely establish overall goals for potential contracting opportunities for certified DBE suppliers.

---

Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Donna Hutchison, Grants Program Administrator

**Department:** Transit

**SUMMARY**

A Resolution seeking approval to set goals for potential contracting opportunities for FY2022-2025 for an established Disadvantaged Business Enterprise (DBE) Program for Battle Creek Transit (BCT) in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

**BUDGETARY CONSIDERATIONS**

There are no general fund budget considerations.

**HISTORY, BACKGROUND and DISCUSSION**

In 1999, the U.S. Department of Transportation implemented revised regulations regarding the

Disadvantaged Business Enterprise (DBE) program and 49 CFR Part 26 of the Department of Transportation federal regulations specify recipients of federal funding are required to establish overall goals for potential contracting opportunities for certified DBE suppliers.

Based on the number of current DBE firms located in Calhoun County versus the number of firms in Calhoun County, BCT has established a race-neutral goal of .04% for FY2022-2025. There is currently 1 DBE certified firm physically located within Calhoun County per the Michigan Unified Certification Program directory and 2,409 firms located in Calhoun County per the 2020 US Census.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

Battle Creek Transit supports the goal identified for the DBE program.

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#### ATTACHMENTS:

| File Name                                                                                                   | Description           |
|-------------------------------------------------------------------------------------------------------------|-----------------------|
|  DBE_Program_2022-2023.pdf | DBE Program 2022-2023 |

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# **BATTLE CREEK TRANSIT**

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## **DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

Prepared by:  
Mallory R. Avis, Transit Director  
Donna M. Hutchison, Grants Program Administrator

Effective Date: December 6, 2022

Adopted by: Battle Creek City Commission

Date Adopted: 12/6/2022

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# I Policy Statement

Battle Creek Transit (BCT) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation, 49 CFR Part 26. BCT has received federal financial assistance from the Department of Transportation and as a condition of receiving this assistance, BCT has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of BCT to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Grants Program Administrator has been delegated as the DBE Liaison Officer. In that capacity, the Grants Program Administrator is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by BCT in its financial assistance agreements with the Department of Transportation.

BCT has disseminated this policy statement available to the City of Battle Creek Commission. We have published the plan on BCT's website ([www.battlecreekmi.gov/transit](http://www.battlecreekmi.gov/transit)); include reference to this plan in all solicitations; and have made the plan available through our office.

---

Signature of City of Battle Creek City Manager

---

Date

## 2 General Requirements

### **Section 26.1 Objectives**

The objectives are found in the policy statement on page three of this program.

### **Section 26.3 Applicability**

BCT is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

### **Section 26.5 Definitions**

BCT will adopt the definitions contained in Section 26.5 for this program.

### **Section 26.7 Nondiscrimination Requirements**

BCT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, BCT will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

### **Section 26.11 Record Keeping Requirements**

#### Reporting to DOT: 26.11(b)

BCT will report DBE participation to FTA by preparing the Uniform Report on DBE Awards, Commitments, and Payments, and submitting this report in TrAMS ([www.transit.dot.gov/ntd](http://www.transit.dot.gov/ntd)) twice per fiscal year, for the respective periods of October 1 - March 31 (due June 1), and April 1 - September 30 (due December 1). These reports will reflect payments actually made to DBE's on DOT – assisted contracts – both completed and ongoing. Additionally, all dollar amounts will reflect only the Federal share of such contracts, and will be rounded to the nearest dollar.

#### Bidders List: 26.11(c)

BCT will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidders list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the follow way: Contract clause requiring prime bidders to report the names/addresses, and possibly other information, of all firms who quote to them on subcontracts.

## **Section 26.13 Federal Financial Assistance Agreement**

BCT has signed the following assurances, applicable to all DOT-assisted contracts and their administration.

### Assurance: 26.13(a)

BCT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. BCT will take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. BCT's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to BCT of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq*).

This language will appear in financial agreements with sub-recipients.

### Contract Assurance: 26.13(b)

BCT will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as BCT deems appropriate.

## **3 Administrative Requirements**

### **Section 26.21 DBE Program Updates**

Any FTA recipient receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$250,000 in FTA funds in a Federal fiscal year must have a DBE program. BCT will provide to DOT updates representing significant changes in the program.

### **Section 26.23 Policy Statement**

The Policy Statement is elaborated on page three of this program.

## **Section 26.25 DBE Liaison Officer (DBELO)**

BCT has designated the following individual as our DBE Liaison Officer (DBELO):

Donna Hutchison, Grants Administrator  
339 West Michigan Avenue  
Battle Creek, MI 49037  
Telephone 269.966.3477 dmhutchison@battlecreekmi.gov

In that capacity, the DEBLO is responsible for implementing all aspects of the DBE program and ensuring that BCT complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program. The DBELO does not report directly to the City Manager but does have the ability to directly contact them should the need arise without going through the chain of command.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. BCT is a small urban and only has one person to administer the program. Duties and responsibilities include the following:

1. Gather and report statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions as they pertain to BCT for compliances with this program.
3. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
4. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress).
5. Analyzes BCT's progress toward attainment and identifies ways to improve progress.
6. Participates in all BCT pre-bid meetings.
7. Advises Transit Director on DBE matters and achievement.
8. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars as needed.
10. BCT utilizes the MUCP website.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.

## **Section 26.27 DBE Financial Institutions**

It is the policy of BCT to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. To date we have not identified such institutions.



## **Section 26.29 Prompt Payment Mechanisms**

BCT will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from BCT. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of BCT. This clause applies to both DBE and non-DBE subcontracts.

Additionally, the prime contractor is required to maintain records and documents of payment to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record requirements for BCT's financial assistance agreement, whichever is longer.

These records will be made available for inspection upon request by BCT or DOT. This clause applies to both DBE and non-DBE subcontracts. Failure of the contractor to comply with this requirement is cause for breach of contract, resulting in the subcontractor being paid directly and the amount deducted from the retainage owed to the prime contractor.

## **Section 26.31 Directory**

BCT does not maintain a directory identifying all firms eligible to participate as DBEs, but instead utilizes the MUCP DBE Directory at [MDOT MUCP Public Application \(state.mi.us\)](https://www.mdot.state.mi.us/mucp/).

The MUCP directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE.

## **Section 26.33 Overconcentration**

BCT has not identified that overconcentration exists in the type of work that DBEs perform.

## **Section 26.35 Business Development Programs**

BCT currently has no business development program for DBEs.

## **Section 26.37 Monitoring and Enforcement Mechanisms**

BCT will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. BCT will bring to the attention of DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. BCT will also consider similar action under its own legal authorities, including but not limited to responsible determinations in future contracts and breach of contract actions.

3. BCT will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by visits to the project site to verify DBE work, a review/filing of associated contract records, and a final, written contract summary certifying DBE work.
4. BCT will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

## 4 Goals, Good Faith Efforts, and Counting

### **Section 26.43 Set-asides or Quotas**

BCT does not use quotas in any way in the administration of this DBE Program

### **Section 26.45 Overall Goals**

BCT has not established a business development program.

A description of the methodology to calculate the over goal and the goal calculations can be found in Attachment 2 to this program. This section of the program will be updated annually. In accordance with Section 26.45(f) BCT will submit its overall goal to DOT on the date determined by the operating administration.

BCT will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice and informing the public that we and DOT will accept comments on the goals for 45 days from the date of the notice. This notice will appear in the Battle Creek Shopper and on our website at [www.battlecreekmi.gov/transit](http://www.battlecreekmi.gov/transit). This notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

BCT's overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT - assisted contract for the project.

### **Section 26.49 Transit Vehicle Manufacturers (TVM) Goals**

BCT will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, BCT may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with the element of the program.

**Section 26.51(d-g) Contract Goals**

BCT will use contract goals to meet any portion of the over goal BCT does not project being able to meet using race-neutral means. Contract goals are established so that over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

BCT will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. BCT need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

**Section 26.53 Good Faith Efforts Procedures****Demonstration of good faith efforts (26.53(a) & (c))**

The obligation of the bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

BCT will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

***Information to be submitted (26.53(b))***

BCT treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

**Administrative reconsideration (26.53(d))**

Within 7 days of being informed by BCT that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration.

Bidder/offerors should make this request in writing to the following reconsideration official:

Mallory Avis, Public Transit Director, Battle Creek Transit, 339 W. Michigan Avenue, Battle Creek, MI 49037 [mravis@battlecreekmi.gov](mailto:mravis@battlecreekmi.gov). The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with BCT's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. BCT will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

### **Good Faith Efforts when a DBE is replaced on a contract (26.53(f))**

BCT will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

### **Sample Bid Specification:**

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Battle Creek Transit to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of .04 percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the



commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

### **Section 26.55 Counting DBE Participation**

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

## **5 Certification Standards**

### **Section 26.61 – 26.73 Certification Process**

BCT defers to the MUCP certifying agencies to follow the DBE certification determinations and to maintain the DBE Directory. MUCP is a federally required program designed to ensure that firms owned and controlled by minorities, women, and other socially and economically disadvantaged persons have the opportunity to grow and become self-sufficient through participation in federally funded BCT contracts. MUCP certification will be recognized by all public transit systems in the State of Michigan.

Becoming certified is free and facilitated by the State of Michigan and firms are encouraged to contact MUCP to learn more and apply.

## **6 Compliance and Enforcement**

### **Section 26.109 Information, Confidentiality, Cooperation**

BCT will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, BCT will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

### **Monitoring Payments to DBEs**

BCT will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the BCT or DOT. This reporting requirement also extends to any certified DBE subcontractor. BCT will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

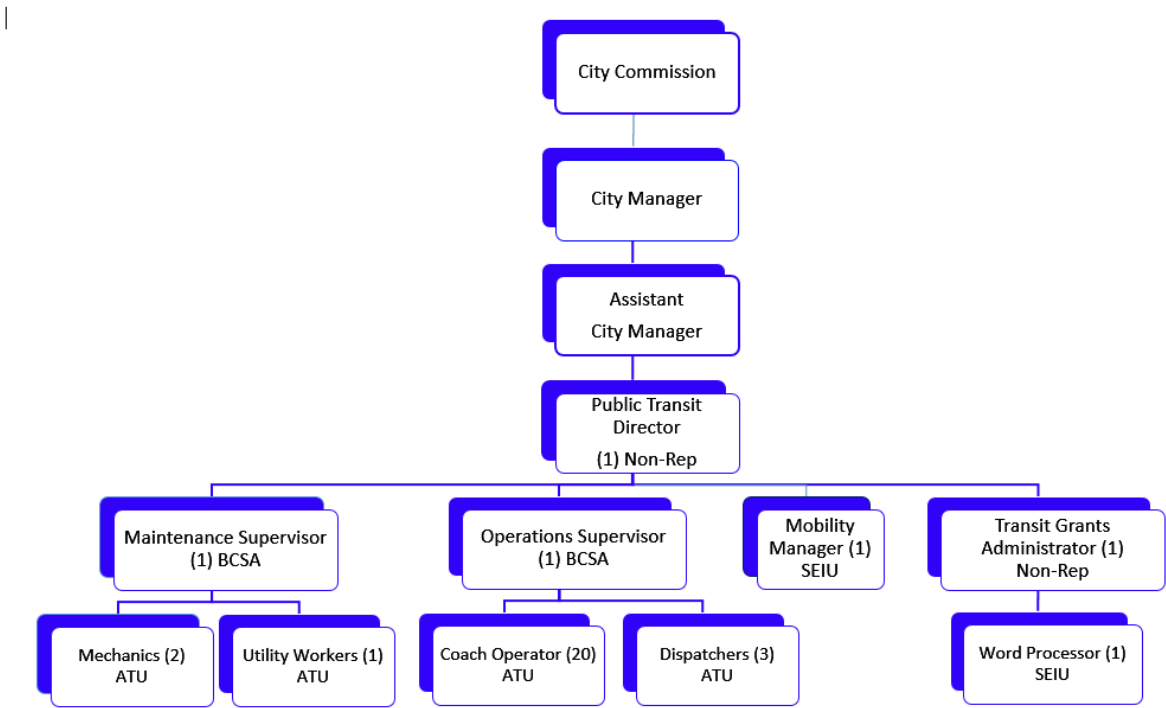
# Attachments

Attachment 1 Organizational Chart

Attachment 2 Overall Goal Calculation

# Attachment 1: Organizational Chart

**Battle Creek Transit**  
**Organizational Flow Chart and Staffing Level**  
*Current as of 11/1/22*



# Attachment 2: Section 26.45: Overall Goal Calculation

## Amount of Goal

BCT's has set its overall goal for FY 2022-2023 as .04% of the Federal financial assistance BCT will expend in DOT-assisted contracts. [Exclusive of FTA funds to be used for the purchase of transit vehicles.]

## Methodology used to Calculate Overall Goal

### Step 1: 26.45(c)

BCT determined the number of ready, willing, and able DBE's in its marketplace (Calhoun County) from examination of the Michigan Unified Certification Process (MUCP) directory and found only one (1) firm physically located in Calhoun County. The total firms in the market area was provided by the 2020 US Census Report.

$$\text{Base Figure} = \frac{\text{DBE's in market area}}{\text{Total firms in market area}} = \frac{1}{2,409} = .04\%$$

BCT will attempt to meet its DBE goal by using race-neutral means of facilitating DBE participation (i.e. outreach and technical assistance to DBE's when requested or required). The attainment of BCT's goals for DBE purchases is dependent upon increasing the number of certified DBE vendors within BCT's market area that can provide the products and services that BCT requires. There are a number of factors that affect BCT's ability to meet its DBE goal including reluctance among smaller businesses to complete the certification process as they feel it is too onerous or intrusive.

BCT continues to use the vast majority of its DOT funding to help cover its operating budget which do not allow for offering contracting opportunities to DBEs. The majority of BCT's operating budget goes toward non-contractible expenses such as wages, fringe benefits, utilities, health care, etc. These are areas where the opportunity for DBE purchasing is nonexistent or (in the case of vehicles) is passed through to bus manufacturers.

Within BCT's market area, BCT was only able to identify one (1) certified DBE physically located in Calhoun County on the MUCP directory.

## Public Participation

BCT published a notice of its proposed overall DBE goal in our local free newspaper as well as our local Hispanic printed publication and it is also available on our website.

BCT has also sent this public notice to minority and community organizations, churches and others who are expected to have information on the availability of disadvantaged businesses. This contact



included an explanation of the US DOT Disadvantaged Business Enterprise program. All potential DBEs are encouraged to contact the agencies throughout Michigan that have been designated to certify businesses under the Michigan Unified Certification Program for DBEs.

This notice informs the public that the proposed goal and its rationale are available for inspection during normal business hours at our office for 30 days following the date of the notice as well as on our website and that should anyone request a public hearing be held, one will be schedule. BCT will forward a summary of information and comments received during the public participation period should there be any, along with our responses, to FTA within 30 days following the closing date for the submission of comments.



## Resolution

NO. 13

A Resolution seeking authorization for the City Manager to grant Consumers Energy Company, a Michigan corporation, a temporary easement in, on, over, under, across and through a portion of City-owned property on Armstrong Road identified as parcel # 52-3020-01-093-1.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

### **Resolved by the Commission of the City of Battle Creek:**

That the City owns property identified as parcel # 52-3020-01-093-1, which is located west of Armstrong Road and east of the Fort Custer Training Center. Consumers Energy Company seeks to construct Battery Storage Facilities, with associated lines and equipment, in the southeast corner of the property.

The City Manager is authorized to enter into an agreement, provided that it is in a form approved by the City Attorney, granting Consumers Energy Company a temporary easement in, on, over, under, across and through a portion of City owned property identified as parcel # 52-3020-01-093-1 to construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, and protect Battery Storage Facilities with associated lines and equipment.

The Battery Storage Facilities Easement Area is described as:

An area of land in the Northwest 1/4 of the Northwest 1/4 of Section 6, Town 2 South, Range 8 West, being part of Outlot "D" and Lot 94 lying Westerly of Denso Road of Battle Creek – Fort Custer Urban Renewal Plat, according to the recorded plat thereof, as recorded in Liber 19 of Plats, on Page 1, Calhoun County Records, described as:

Commencing at the Southwest corner of said Outlot "D", as monumented, thence South 89° 55' 40" East 620.77 feet to the Point of Beginning; thence North 00° 04' 20" East 200.00 feet; thence South 89° 55' 40" East 150.00 feet to the Westerly line of Denso Road; thence Southeasterly along said Westerly line of Denso Road, 114.25 feet along an arc to the right having a radius of 268.56 feet, and a chord bearing and distance of South 21° 10' 09" East 113.39 feet; thence continuing along said Westerly line of Denso Road, South 02° 33' 18" East 94.41 feet; thence north 89° 55' 40" West, along the South line of said Lot 94 and Outlot "D", as monumented, 195.41 feet to the Point of Beginning. Said area contains 0.84 acres.

And a Protection Easement Area described as:

A 40-foot-wide strip of land, being 40 feet abutting the northern and western perimeter of the Battery Storage Facilities Easement Area.

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Battle Creek City Commission  
12/6/2022

## **Action Summary**

**Staff Member:** Marcel Stoetzel, Deputy City Attorney

**Department:** City Attorney

### **SUMMARY**

A Resolution seeking authorization for the City Manager to grant Consumers Energy Company, a Michigan corporation, a temporary easement in, on, over, under, across and through a portion of City-owned property on Armstrong Road identified as parcel # 52-3020-01-093-1.

### **BUDGETARY CONSIDERATIONS**

The City will receive Twenty-Eight Thousand Dollars (\$28,000.00) for the 30-year temporary easement which will be directed to business unit 401.50.4200.674.010.

### **HISTORY, BACKGROUND and DISCUSSION**

Consumers Energy has requested an easement for use of a City owned parcel on Armstrong Road to locate a battery substation.

City-owned Parcel No. 3020-01-093-1, located west of Armstrong Road and east of the Fort Custer Training Center, commonly known as Armstrong Road, is a proposed site for Consumers Energy Company's battery storage facilities and appurtenances (the "Project"). Consumers Energy Company is still determining the scope of the Project, and a site plan has not been prepared; however, before investing additional time and money into the Project, Consumers Energy Company seeks to enter into an easement for a term of years with the City for the purpose of constructing battery storage facilities to be located in the southeast corner of the property, within an approximately 150' x 200' area, ("the Easement").

The battery substation will also include the installation of lines, equipment, a driveway, and during installation a separate construction area. Consumers Energy will pay \$28,000 for a 30 year lease of the 150' by 200' area, with an optional 10-year extension (the proposed amount for the extension is \$10,000). A site plan has not yet been created showing the location of the battery substation, driveway, or lines, and approvals are still needed from the Planning Department and the BCU Planning Board.

Additionally, no development is to occur in a Protection Easement Area, a 40-foot-wide strip of land, being the 40 feet abutting the northern and western perimeter of the Battery Storage Facilities Easement Area. Consumers Energy may cut down, and otherwise remove and control and trees, brush, roots, or other vegetation within the Protection Easement Area, which Consumers Energy, in its sole discretion, determines both are of a species capable of obtaining a height of 35 feet or taller and which may endanger Consumers' facilities.

### **DISCUSSION OF THE ISSUE**

#### **POSITIONS**

The Director of Public Works and the City Engineer support approval of the temporary easement.

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ATTACHMENTS:

|                                                                                   | File Name                                                 | Description                     |
|-----------------------------------------------------------------------------------|-----------------------------------------------------------|---------------------------------|
|  | MI61417_02222022_3020-01-093-1_CityofBattleCreek_ESMT.pdf | Armstrong Rd Consumers easement |



## **ELECTRIC BATTERY FACILITIES EASEMENT**

Armstrong Battery

SAP# 36214689

Master Tract# TRN000916040045

Agreement# MI00000061417

CITY OF BATTLE CREEK, a Michigan municipal corporation, 10 North Division Street, Battle Creek, Michigan 49014 (hereinafter "Owner")

for Twenty-Eight Thousand Dollars, (\$28,000) and other good and valuable consideration [*exempt from real estate transfer tax pursuant to MCLA 207.505(h)(i) and from State real estate transfer tax pursuant to MCLA 207.526(h)(i)*] grants and warrants to

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

a temporary easement to enter Owner's land (hereinafter "Owner's Land") located in the City of Battle Creek, County of Calhoun, and State of Michigan as more particularly described in the attached Exhibit A to construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, and protect an Battery Storage Facilities with associated lines and equipment (hereinafter "Battery Storage Facilities") in, on, over, under, across, and through a portion of Owner's Land (hereinafter "Battery Storage Facilities Easement Area") described in the attached Exhibit B, together with any pole structures, poles, or any combination of same, wires, cables, conduits, crossarms, braces, guys, anchors, transformers, electric control circuits and devices, location markers and signs, communication systems, utility lines, protective apparatus, including fencing, and all other equipment, appurtenances, associated fixtures, and facilities, whether above or below grade, necessary, useful, convenient, or incidental to or for the operation or protection thereof as determined by Consumers for the purpose of transmitting, transforming, and distributing electricity; to, from time to time hereafter, trim, cut down, and otherwise remove and control any trees, brush, roots, and other vegetation within the Battery Storage Facilities Easement Area; and to, from time to time hereafter, enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, roots, or other vegetation within a portion of Owner's Land (hereinafter "Protection Easement Area") described in attached Exhibit C, which Consumers, in its sole discretion, determines both are of a species capable of obtaining a height of 35 feet or taller and which may endanger Consumers' facilities. Notwithstanding anything to the contrary contained herein, the Battery Storage Facilities Easement Area shall be an exclusive easement and Consumers shall have the permanent and exclusive right to restrict, control, and deny access to and use of the Battery Storage Facilities Easement Area against all others including Owner, for the term of this agreement.

**Additional Work Space:** In addition to the easement rights granted herein, Owner further grants to Consumers, during initial construction and installation, and for the removal of the Battery Storage Facilities only, the right to temporarily use such additional work space reasonably required to construct or remove said Battery Storage Facilities. Said temporary work space shall abut the Battery Storage Facilities Easement Area as required by construction.

**Site Plan:** Before Consumers shall commence construction of any permanent Battery Storage Facilities on Owner's Land, Consumers shall submit to Owner, for Owner's approval, a site plan detailing the location of the proposed permanent Battery Storage Facilities. Within fourteen (14) days of receipt of Consumers' site plan submission, Owner shall provide Consumers with all, if any, suggestions or concerns Owner has regarding the proposed site plan. The fourteen-day review period does not constitute site plan review by the City of Battle Creek for the purpose of obtaining site plan approval or necessary permits. Consumers shall consider in good faith any such suggestions or concerns and attempt to implement same into the final siting of the permanent Battery Storage Facilities, to the extent physically and commercially feasible. Owner and Consumers shall enter into an amendment to the Agreement that incorporates the approved final site plan map and modifies Exhibit B hereto. Any non-material changes to the final site plan that take place after Owner has approved said site plan shall not require Owner's

approval. However, material changes resulting in a material relocation of any permanent Battery Storage Facilities must be presented to the Owner for further site plan approval, following the above-procedure.

Notwithstanding the foregoing, before commencing any construction Consumers shall apply for and obtain all site plan approval and permits required by federal law, state law, or City of Battle Creek ordinances.

Environmental: Consumer's construction of and use of its Battery Storage Facilities shall include safeguards to protect groundwater or surface water from contamination. Consumers' batteries in the Battery Storage Facilities shall be acid free.

Access: During the term of this easement, Consumers shall have the temporary, nonexclusive, and unimpaired right of ingress, egress, and regress on, over, and across that certain portion of Owner's Land (hereinafter "Temporary Driveway Easement"), for the purposes of ingress, egress, and regress to and from the Battery Storage Facilities Easement Area. Consumers may, at its sole cost, construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, relocate, change the size of, enlarge, and protect a driveway (hereinafter "Driveway") within the Temporary Driveway Easement for use by Consumers. Owner shall not, and shall not permit any third party to, in any manner, block or interfere with the Temporary Driveway Easement or Consumers' ingress, egress, and regress to and from the Battery Storage Facilities Easement Area by and through the Temporary Driveway Easement.

Trees and Other Vegetation: Owner shall not plant any trees within the Battery Storage Facilities Easement 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, whether temporary or permanent, natural or man-made, over, under, or on the Battery Storage Facilities Easement Area.

Term: This temporary easement will remain in effect from \_\_\_\_\_ 1, 2022 to May 1, 2052 or until the date Consumers removes the Battery Storage Facilities from Owner's land, whichever is sooner, and, at the option of Consumers, may be extended for a period of 10 years from the expiration of the original term upon a payment by Consumers to Owner the amount of \$10,000 at any time prior to the expiration of the original term. Consumers may make such payment to Owner in person, or by sending same by registered or certified mail, return receipt requested, to Owner's address set forth herein and the payment shall be deemed made upon such mailing.

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

Restoration of land: Owner's land so disturbed by reason of the exercise of any of the foregoing powers, rights and privileges, shall be reasonably restored to its prior condition by Consumers.

Ownership: Owner covenants with Consumers that they are the lawful fee simple owner of the aforesaid lands, 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 temporary easement shall bind and benefit Owner's and Consumers' respective heirs, successors, lessees, licensees, and assigns.

Counterparts: This temporary 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.

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

Owner: CITY OF BATTLE CREEK, a Michigan municipal corporation

\_\_\_\_\_  
Signature

By: Rebecca L. Fleury

Print name

Its: City Manager

Print title

Acknowledgment

The foregoing instrument was acknowledged before me in Calhoun County, Michigan,

on \_\_\_\_\_ by Rebecca L. Fleury, City Manager of the City of Battle Creek, a Michigan municipal corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

Calhoun County, Michigan

Acting in Calhoun County

My Commission expires: \_\_\_\_\_

Prepared By:

Scott Hoeft, P24-720, 02/22/2022

Consumers Energy Company

1945 W Parnall Rd

Jackson, MI 49201

Project Manager: Tim Voss

After recording, return to:

Carrie Main, P24-720

Consumers Energy Company

1945 W Parnall Rd

Jackson, MI 49201

EXHIBIT A

Owner's Land

Land situated in the City of Battle Creek, County of Calhoun, State of Michigan:

A parcel of land in the Northwest 1/4 of the Northwest 1/4 of Section 31, Town 1 South, Range 8 West, described as: That part of Outlot "D" and Lot 94 lying Westerly of Denso Road of Battle Creek – Fort Custer Urban Renewal Plat, according to the recorded plat thereof, as recorded in Liber 19 of Plats, on Page 1, Calhoun County Records, more particularly described as beginning at the Northwest corner of Outlot "D"; thence South 89 degrees 53 minutes 08 seconds East 188.21 feet; thence South 07 degrees 33 minutes 20 seconds East along the Westerly line of Armstrong Road 91.48 feet; thence Southeasterly along an arc to the left and along a cul-de-sac 188.08 feet (radius 70.00 feet); thence along the Westerly line of Denso Road the following courses: Southeasterly along an arc to the left 95.20 feet (radius 334.56; chord bearing South 65 degrees 38 minutes 48 seconds East 94.88 feet); thence South 80 degrees 03 minutes 03 seconds East 105.34 feet, thence South 83 degrees 17 minutes 56 seconds East 1.38 feet; thence South 80 degrees 13 minutes 14 seconds East 94.41 feet; thence Southeasterly along an arc to the right 303.82 feet (radius 268.56 feet; chord South 41 degrees 23 minutes 24 seconds East 287.87 feet); thence South 02 degrees 33 minutes 18 seconds East 94.41 feet; thence North 89 degrees 55 minutes 40 seconds West along the South line of Lot 94 and Outlot "D" 816.22 feet; thence North 00 degrees 07 minutes 16 seconds East along the West line of Outlot "D" 487.07 feet to the point of beginning.

Parcel ID: 3020-01-093-1



# EXHIBIT B

## Battery Storage Facilities Easement Area

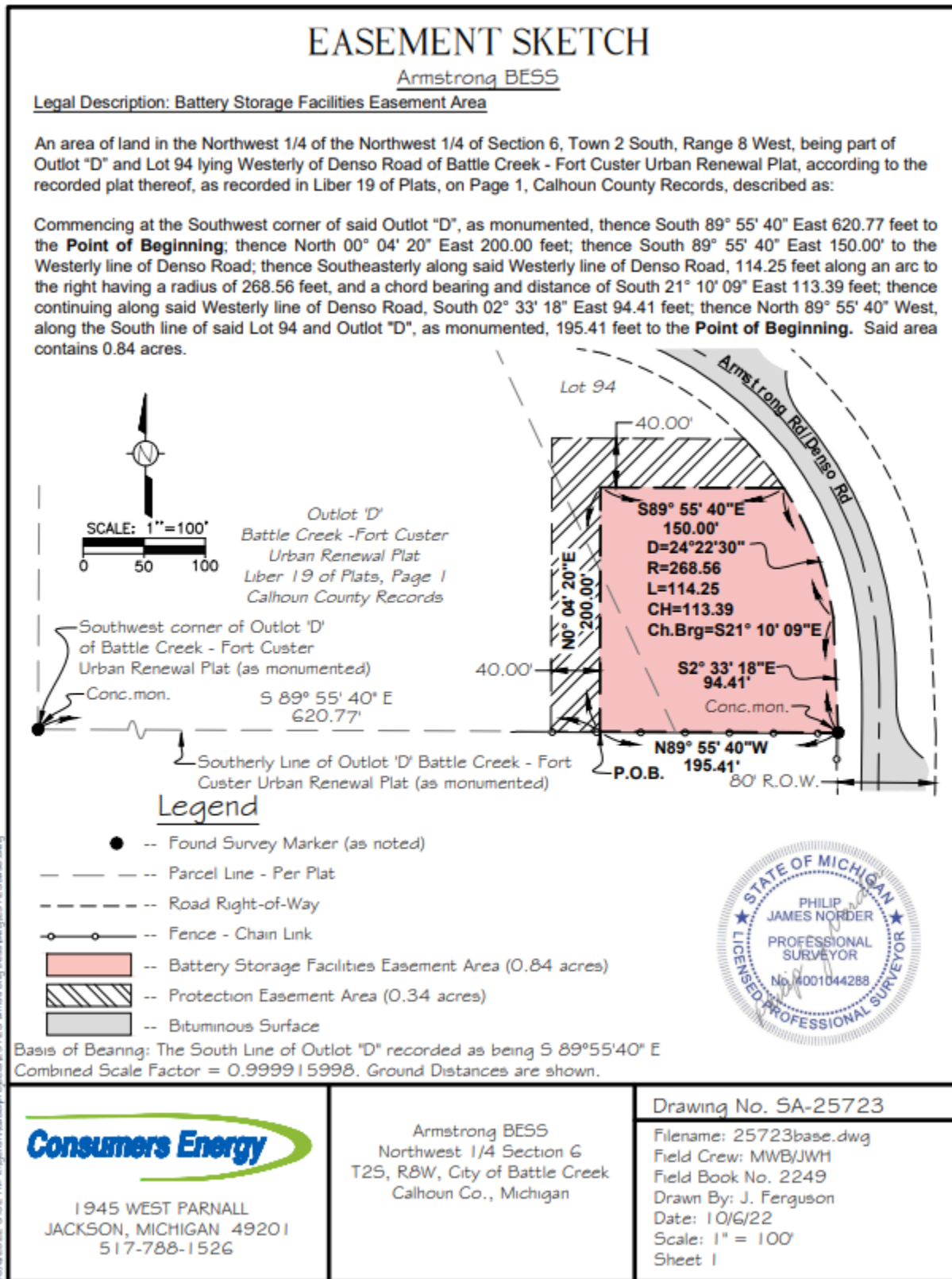


EXHIBIT C

Protection Easement Area

A 40-foot-wide strip of land, being 40 feet abutting the northern and western perimeter of the Battery Storage Facilities Easement Area.



Resolution

NO. 14

A Resolution seeking authorization the City Manager to employ retiree Jerry Porter on a part-time, temporary basis under 296.09(c).

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the City Manager is authorized to employ retiree Jerry Porter on a part-time, temporary basis to support the Battle Creek Executive Airport on an as needed basis; not to exceed 1,000 hours per calendar year.

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Michelle Hull, HR Director

**Department:** Human Resources

**SUMMARY**

A Resolution seeking authorization the City Manager to employ retiree Jerry Porter on a part-time, temporary basis under 296.09(c).

**BUDGETARY CONSIDERATIONS**

Employment is for \$18.00/hr for all hours worked. Hours are not to exceed 1,000 per year. Due to the temporary nature of the role, the position is ineligible for all fringe benefits.

**HISTORY, BACKGROUND and DISCUSSION**

Pursuant to Employment Provision 296.09 " (c) No person shall be employed by the City, or paid with City funds, who has retired under the provisions of . . . the Michigan Municipal Employees' Retirement System . . . The City Manager may make exceptions to this provision, with the approval of the City Commission, when . . . "she" feels the interests of the City would be served thereby."

Jerry retired from the airport as an Ops/Maintenance Specialist. The department is requesting the ability to allow Jerry to temporarily return in order to assist with seasonal activities like snow plowing the runways,

etc. Because of Jerry's knowledge of airport operations and the specific nature of the work, the City Manager believes that the interests of the City would be best served by making an exception to the general prohibition of re-employing City Retirees.

## **DISCUSSION OF THE ISSUE**

## **POSITIONS**

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### ATTACHMENTS:

File Name

Description

No Attachments Available





Resolution

NO. 15

A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Battle Creek Community Foundation Supportive Services Grant Agreement for the amount of \$42,000.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the City Manager is authorized to execute the 2022 HOME-ARP Battle Creek Community Foundation Supportive Services Grant Agreement, or one in a form as approved by the City Attorney, for the amount of \$42,000 to provide supportive services at the Battle Creek Homeless Shelter to HOME-ARP qualifying populations in the form of case management services.

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Chris Lussier, Community Development Supervisor

**Department:** Community Development

**SUMMARY**

A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Battle Creek Community Foundation Supportive Services Grant Agreement for the amount of \$42,000.

**BUDGETARY CONSIDERATIONS**

No general fund budgetary considerations.

**HISTORY, BACKGROUND and DISCUSSION**

The American Rescue Plan Act of 2021, also called the COVID-19 Stimulus Package or American Rescue Plan, was passed by the 117th United States Congress and signed into law by President Joe Biden on March 11, 2021, to speed up the country's recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession. The Act appropriated \$5 billion to provide housing, services, and shelter to individuals experiencing homeless and other vulnerable populations, to be allocated

by formula to jurisdictions that qualified for HOME Investment Partnerships Program allocations in Fiscal Year 2021. On September 21, 2021 the U.S Department of Housing and Urban Development (HUD) awarded the City of Battle Creek \$1,094,358 of HOME-American Rescue Plan (HOME-ARP) Program funds.

The City of Battle Creek prepared a HOME-ARP Allocation Plan in accordance with HUD guideline published on September 13, 2021 titled: Requirements for the Use of Funds in the HOME-American Rescue Plan Program. As part of the preparation of the allocation plan City staff issued a request for proposals from the community. Nine proposals were received totaling roughly four million dollars. Six proposals were recommended for \$959,090 of HOME-ARP funding. The allocation plan was adopted by the City Commission during its August 8, 2022 meeting, setting aside funding for programs that provide supportive services and the development of permanent supportive housing units.

The proposed agreement with the Battle Creek Community Foundation will provide partial funding for a second Case Manager at the Battle Creek Homeless Shelter for four years. The Case Manager shall meet with shelter clients weekly or bi-weekly to conduct assessments to determine needs and barriers, provide counseling on various personal issues, provide nutritional and financial education, and refer clients to other local resources.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

Community Services Director and City Manager's Office support this grant.

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#### ATTACHMENTS:

| File Name                         | Description             |
|-----------------------------------|-------------------------|
| HOME-ARP-BCCF_-final-11.29.22.pdf | BCCF HOME-ARP Agreement |

**AGREEMENT BETWEEN  
THE CITY OF BATTLE CREEK  
AND  
THE BATTLE CREEK COMMUNITY FOUNDATION  
FOR  
SUPPORTIVE SERVICES**

THIS AGREEMENT, entered into, and effective, this \_\_\_\_\_ day of \_\_\_\_\_ 2022, by and between the City of Battle Creek, a Michigan municipal corporation, of 10 N. Division Street, Battle Creek, MI 49014, (herein the “Grantee”) and the Battle Creek Community Foundation, a Michigan non-profit corporation, whose address is 32 West Michigan Avenue Suite 1, Battle Creek, MI 49017 (herein the “Subrecipient”).

Whereas, Grantee has applied for and received funds from the United States Government under section 3205 of the American Rescue Plan Act of 2021 (“ARP”) for the HOME Investment Partnerships Program (HOME) from the US Department of Housing and Urban Development (HUD); and

Now, therefore, Grantee and Subrecipient do mutually agree as follows:

**I. SCOPE OF SERVICE**

**A. Activities/Services**

Subrecipient shall utilize HOME-ARP funds to add a second Case Manager to serve qualifying individuals as defined in Section I (B) in Subrecipient’s low-barrier homeless shelter in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. This programming shall include the following activities eligible under the HOME-ARP Program:

**1. Activity #1**

Subrecipient shall hire a second Case Manager to offer services to its low-barrier shelter clients on a one-on-one basis. The Case Manager shall meet with shelter clients weekly or bi-weekly to conduct assessments to determine needs and barriers, provide counseling on various personal issues, provide nutritional and financial education, and refer clients to other local resources.

**2. Activity #2**

Subrecipient shall maintain records of each client to evaluate performance outcomes. Staff shall collect and enter data from clients into the Homeless Management Information System HMIS to both document resources and services individuals are connected to and analyze whether needs were met.

### 3. Activity #3

Subrecipient shall create an affirmative marketing plan for services provided under this agreement. The plan shall identify demographic groups least likely to access service; identify barriers, recommend strategies to eliminate or reduce barriers and increase access; and evaluate implementation. The Grantee will provide up to \$2000 for administrative costs in meeting this requirement.

### B. Qualifying Populations

ARP requires that HOME-ARP funds be used to primarily benefit individuals and families in the following specified “qualifying populations.” Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria). All income calculations to meet income criteria of a qualifying population are required for income determinations in HOME-ARP eligible activities must use the annual income definition in 24 CFR 5.609 in accordance with the requirements of 24 CFR 92.203(a)(1).

#### 1. Homeless, as defined in 24 CFR 91.5 Homeless (1), (2), or (3):

a) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(1) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(2) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

(3) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

b) An individual or family who will imminently lose their primary nighttime residence, provided that:

(1) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

(2) No subsequent residence has been identified; and



- (3) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- c) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
  - (1) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - (2) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - (3) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - (4) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

2. At risk of Homelessness, as defined in 24 CFR 91.5 At risk of homelessness:

- a) An individual or family who:
  - (1) Has an annual income below 30 percent of median family income for the area, as determined by HUD;
  - (2) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks,

immediately available to prevent them from moving to an emergency shelter or another place described in paragraph 1 of the “Homeless” definition in this section; and

(3) Meets one of the following conditions:

(a) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(b) Is living in the home of another because of economic hardship;

(c) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(d) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low income individuals;

(e) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

(f) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(g) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;

b) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

c) A child or youth who does not qualify as “homeless” under this

section but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

3. Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.

a) For HOME-ARP, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual’s or family’s primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

b) Domestic violence, which is defined in 24 CFR 5.2003 includes felony or misdemeanor crimes of violence committed by:

- (1) A current or former spouse or intimate partner of the victim (the term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
- (2) A person with whom the victim shares a child in common;
- (3) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- (4) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME-ARP funds; or
- (5) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

c) Dating violence which is defined in 24 CFR 5.2003 means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(a) The length of the relationship;

(b) The type of relationship; and

(c) The frequency of interaction between the persons involved in the relationship.

d) Sexual assault which is defined in 24 CFR 5.2003 means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.

e) Stalking which is defined in 24 CFR 5.2003 means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others; or

(2) Suffer substantial emotional distress.

f) Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:

(1) Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

4. Other Populations where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

a) Other Families Requiring Services or Housing Assistance to Prevent Homelessness is defined as households (i.e., individuals and families) who have previously been qualified as “homeless” as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.

b) At Greatest Risk of Housing Instability is defined as household who meets either paragraph (i) or (ii) below:

(1) Has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs); or

(2) Has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from paragraph (iii) of the “At risk of homelessness” definition established at 24 CFR 91.5:

(a) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(b) Is living in the home of another because of economic hardship;

(c) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(d) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, state, or local government programs for low-income individuals;

(e) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;

(f) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program



or institution); or

(g) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

5. Veterans and Families that include a Veteran Family Member that meet the criteria for one of the qualifying populations described above are eligible to receive HOME-ARP assistance.

### C. Eligible Activities

1. There are three categories specifically included as supportive services under HOME-ARP:

a) McKinney-Vento Supportive Services: McKinney-Vento Supportive Services under HOME-ARP are adapted from the services listed in section 401(29) of McKinney-Vento.

b) Homelessness Prevention Services: HOME-ARP Homelessness Prevention Services are adapted from eligible homelessness prevention services under the regulations at 24 CFR 576.102, 24 CFR 576.103, 24 CFR 576.105, and 24 CFR 576.106.

c) Housing Counseling Services: Housing counseling services under HOME-ARP are those consistent with the definition of housing counseling and housing counseling services defined at 24 CFR 5.100 and 5.111, respectively, except where otherwise noted. The requirements at 24 CFR 5.111 state that any housing counseling, as defined in 24 CFR 5.100, required under or provided in connection with any program administered by HUD shall be provided only by organizations and counselors certified by the Secretary under 24 CFR part 214 to provide housing counseling, consistent with 12 U.S.C. 1701x. Please Note: When subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of Housing counseling, as defined in 24 CFR 5.100, and therefore are not required to be carried out in accordance with the certification requirements of 24 CFR 5.111

2. Eligible Costs for McKinney Vento Supportive Services and Homelessness

Prevention Services include costs associated with the services as set forth U.S. Department of Housing and Urban Development Community Planning and Development, Notice CPD-21-10, Section VI.D.4.c.i.

#### D. Preferences and Limitations

Supportive services under this agreement shall be provided to all eligible individuals or families on a first-come, first-served basis. Subrecipient shall not use any other method of determining preference or limitation.

#### E. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Subrecipient agrees to provide the following levels of program services:

| Activity                    | Units per Quarter | Total Units per Year |
|-----------------------------|-------------------|----------------------|
| Program Participants Served | 25                | 100                  |

#### F. Staffing

| Title               | Salary/Benefits | Grant Amount | % ARP |
|---------------------|-----------------|--------------|-------|
| Case Manager-Annual | \$10,000        | \$10,000     | 100%  |

Any changes in the key personnel assigned as noted above or their general responsibilities under this project are subject to the prior approval of the Grantee. Notification of said changes shall be communicated in writing by the Subrecipient to the Grantee within a reasonable amount of time.

#### G. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

## II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the \_\_\_\_ day of \_\_\_\_\_, 2022 and end on the \_\_\_\_ day of \_\_\_\_\_. The term of the Agreement and the provisions herein shall be extended to cover any additional time period during which the Subrecipient remains in control of HOME-ARP funds or other assets, including program income.

## III. BUDGET

| Line Item / Account Description | Amount          |
|---------------------------------|-----------------|
| Case Manager wages x 4 years    | \$40,000        |
| Affirmative Marketing Plan      | \$2,000         |
| <b>Total</b>                    | <b>\$42,000</b> |

Any indirect costs charged must be consistent with the conditions of Section VIII.C.2 of this Agreement. In addition, Grantee may require a more detailed budget breakdown than the one contained herein, and Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by Grantee. Any amendments to this budget must be approved in writing by Grantee and Subrecipient.

## IV. PAYMENT

It is expressly agreed and understood that the total to be paid by Grantee under this Agreement shall not exceed \$42,000. Drawdown for the payment of eligible expenses shall be made against the line item budgets specified in Section III of this Agreement and in accordance with performance. Payments made by Grantee to Subrecipient for eligible expenses incurred under this Agreement shall be paid on a reimbursable basis, given that Subrecipient has provided proper and complete source documentation to Grantee.

Payments may be contingent upon certification of Subrecipient's financial management system in accordance with the standards specified in OMB Circular A-110.

## V. NOTICES

Communication and details concerning this Agreement shall be directed to the following contract representatives:

### **Grantee**

Crystal Watson, Community Development Specialist  
City of Battle Creek  
10 N. Division Street  
Battle Creek, MI 49014  
(269) 966-3315

**Subrecipient**

Annette Chapman, Senior Vice President  
Battle Creek Community Foundation  
32 West Michigan Avenue, Suite 1  
Battle Creek, MI 49017  
(269) 962-2181

## VI. SPECIAL CONDITIONS

None.

## VII. GENERAL CONDITIONS

### A. General Compliance

1. Subrecipient agrees to comply with the requirements for funds appropriated under section 3205 of the American Rescue Plan Act of 2021 for the HOME Investment Partnerships Program (HOME) to provide homelessness assistance and supportive services. The requirements in 24 CFR 92.350 apply to the HOME-ARP program, as well as the federal requirements set forth in 24 CFR part 5, subpart A, including: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; drug-free work; and housing counseling and the nondiscrimination requirements at section 282 of NAHA.
2. Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under this Agreement. Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.
3. Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Department of Housing and Urban Development regulations concerning HOME-ARP). Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under this Agreement. Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than replace funds otherwise available.

### B. Duplication of Benefits

Subrecipient shall establish requirements that allow a program participant to receive only the HOME-ARP services needed so there is no duplication of services or assistance in the use of HOME-ARP funds for supportive services.

### C. Hold Harmless

Subrecipient shall indemnify, defend and hold harmless Grantee, its employees, agents and elected officials, from any and all claims, demands, actions, suits, proceedings, loss, costs, charges, judgments, reasonable attorney's fees and/or litigation expenses whatsoever arising out of Subrecipient's negligent act, omission, professional error, fault, mistake, or negligence of Subrecipient, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance or nonperformance of the services or subject matter called for in this Agreement.

### D. Workers' Compensation

Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

### E. Insurance and Bonding

1. Subrecipient shall maintain and comply with the bonding and insurance requirements of 2 CFR Part 215, as they may apply.
2. Subrecipient shall at the time of execution of this contract, file with Grantee the Certificate of Insurance, which shall cover all of its insurance as required herein, including evidence of payment of premiums thereon, and the policy or policies of insurance covering Subrecipient and its officers, agents and employees. Each such policy and certificate shall be satisfactory to the City. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Subrecipient's responsibility for payment of damages resulting from its operations under this Contract.
3. Subrecipient shall maintain insurances in force at all times during the term of this agreement at the minimum amounts and types as indicated.

| Coverage Afforded                                               |                          | Limits of Liability |                    |
|-----------------------------------------------------------------|--------------------------|---------------------|--------------------|
| Workers' Compensation                                           |                          | \$100,000           | or statutory limit |
| Commercial General Liability:<br>(including XCU if appropriate) | Bodily Injury            | \$1,000,000         | each occurrence    |
|                                                                 | Property Damages         | \$1,000,000         | each occurrence    |
|                                                                 | Or Combined Single Limit | \$1,000,000         |                    |
| Automobile Liability:                                           | Bodily Injury            | \$300,000           | each person        |
|                                                                 | Liability                | \$300,000           | each occurrence    |



Property Damage                      \$500,000  
Or combined Single Limit   \$500,000

Grantee shall be listed as an additional insured on general liability coverage, and shall be provided with a Certificate of Insurance that reflects this additional insured status. A 30-day notice of cancellation or material change shall be provided to the City and so noted on the Certificate of Insurance. All certificates and notices shall be sent to City of Battle Creek, 10 N. Division Street, Community Development, Battle Creek, Michigan, 49014.

#### F. Amendments

1. Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both Grantee and Subrecipient, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

2. Grantee may, unilaterally and at its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment results in changes to the funding amount or the scope of services in Section I. A. as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

#### G. Suspension or Termination

1. Either party may terminate this Agreement at any time by giving 30 days written notice to the other party specifying the effective date of such termination. Partial terminations of the Scope of Service in Section I.A. requires prior approval of Grantee. In the event of any termination, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by Subrecipient under this Agreement shall, at the option of Grantee, become the property of Grantee, and Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

2. Grantee may also suspend or terminate this Agreement, in whole or in part, if Subrecipient fails to comply with any written term of this Agreement, or with any of the laws, rules, regulations or provisions referred to herein; and Grantee may declare Subrecipient ineligible for any further participation in

Grantee's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Subrecipient is in noncompliance with any applicable rules or regulations, Grantee may withhold up to fifteen (15) percent of said contract funds until such time as Subrecipient is found to be in compliance by Grantee, or is otherwise adjudicated to be in compliance.

## VIII. ADMINISTRATIVE REQUIREMENTS

Subrecipient agrees to comply with applicable uniform administrative requirements contained at 24 CFR 570.502 including, but not limited to the following:

### A. Financial Management

#### 1. Accounting Standards

Subrecipient agrees to comply with 2 CFR Part 215, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

#### 2. Cost Principles

Subrecipient shall administer its program in conformance with 2 CFR Parts 230 or 220, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

### B. Documentation and Record Keeping

#### 1. Records to be Maintained

Subrecipient shall maintain all records required by the federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include, but not be limited to:

- a) Records providing a full description of each activity undertaken;
- b) Records demonstrating that each activity undertaken meets one of the National Objectives of the HOME-ARP Program;
- c) Records required to determine the eligibility of activities;
- d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME-ARP assistance;
- e) Records documenting compliance with the fair housing and equal opportunity components of the HOME-ARP Program;
- f) Financial records as required by 24 CFR 570.502, and OMB Circular A-110; and
- g) Other records necessary to document compliance with Subpart K of 24 CFR 570.

## 2. Retention

Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for nonexpendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he or she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five year period, whichever occurs later.

## 3. Client Data

Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of services provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

## 4. Disclosure

Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of Grantee's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service, and in the case of a minor, that of a responsible parent/guardian or as subject to a Freedom of Information Act request or other legal means such as a subpoena.

## 5. Property Records

Subrecipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold with funds provided under this Agreement. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503(b)(8), as applicable.

## 6. Close-outs

Subrecipient's obligation to Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to Grantee) and determining the custodianship of records.

7. Audits and Inspections

a) All Subrecipient records with respect to any matters covered by this Agreement shall be made available to Grantee, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as Grantee or Grantor agency deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Subrecipient.

b) Failure of Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy and as applicable OMB Circular A-133.

8. Reversion of Assets

Upon the expiration of this Agreement, Subrecipient shall transfer to Grantee any HOME-ARP funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME-ARP funds. Any real property under Subrecipient's control shall be disposed of as required at 24 CFR 570.503 (b)(8).

9. Administrative Requirements

Subrecipient shall comply with applicable program rules contained in 24 CFR 570 Subpart K.

C. Reporting and Payment Procedures

1. Program Income

Subrecipient shall report on a quarterly basis all program income as defined at 24 CFR 570.500 (a) generated by activities carried out with HOME-ARP funds made available under this Agreement. The use of program income by Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, Subrecipient may use such program income during the Agreement period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to Grantee at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to Grantee.

2. Indirect Costs

If indirect costs are charged, Subrecipient shall develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs to be charged under this Agreement and Subrecipient shall submit such a plan to Grantee for approval prior to reimbursement of expenses and in a form specified by Grantee.

3. Payment Procedures

Grantee will pay to Subrecipient funds available under this Agreement based upon information submitted by Subrecipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, Grantee reserves the right to liquidate funds available under this Agreement for cost incurred by Grantee on behalf of Subrecipient.

4. Progress Reports

Subrecipient shall submit regular progress reports to Grantee in the form, content and frequency as required by Grantee.

D. Procurement

1. Compliance

Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all nonexpendable personal property as defined by such policy as may be procured with funds provided herein. Subrecipient shall procure all materials, property and/or services in accordance with the requirements of 24 CFR Part 84 and any other applicable rules or regulations.

2. Travel

Subrecipient must obtain prior written approval from Grantee for any travel outside the metropolitan area paid for with funds provided under this Agreement.

## IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

A. Subrecipient agrees to comply with:

1. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606 (b);



2. The requirements of 24 CFR 570.606 (c) governing the Residential Anti-Displacement and Relocation Assistance Plan under Section 104(d) of the HCD Act of 1974, as amended; and

3. The requirements in 24 CFR 570.606 (d) governing optional relocation policies.

#### B. Relocation Assistance

Subrecipient shall provide relocation assistance to the persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a HOME-ARP-funded project. Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

### X. PERSONNEL AND PARTICIPANT CONDITIONS

#### A. Civil Rights

##### 1. Compliance

Subrecipient agrees to comply with the following: Elliott-Larson Civil Rights Act, Michigan Civil Rights Act; Title VI of the Civil Rights Act of 1964, as amended; Title VIII of the Civil Rights Act of 1968, as amended; Section 104 (b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended; Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Age Discrimination Act of 1975; Executive Order 11063, 11246, 11375, and 12086, as amended.

##### 2. Nondiscrimination

a) Subrecipient agrees that in carrying out the terms of this Agreement that it shall not deny any person the equal protection of the laws; nor shall the Subrecipient deny any person the enjoyment of their civil rights or discriminate against any person because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. Subrecipient will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting

agency setting forth the provisions of this nondiscrimination clause.

b) Subrecipient's signature on this Agreement is a certification that it is in compliance with the provisions of Chapter 214 of Battle Creek City ordinances. Subrecipient further acknowledges and agrees that its breach of the agreement not to discriminate shall be a material breach of this contract.

### 3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that Grantee and the United States are beneficiaries of and entitled to enforce such covenants. Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

### 4. Section 504

Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any federally assisted program. Grantee shall provide Subrecipient with any applicable federal guidelines necessary for compliance with that portion of the regulations enforced during the term of this Agreement.

## B. Equal Opportunity

### 1. Equal Employment Opportunity

Subrecipient agrees that it is committed to carrying out the activities under this Agreement in keeping with the principles as provided in Executive Order 11246 of September 24, 1965, as amended.

### 2. Women- and Minority-Owned Business Enterprises

Subrecipient will use its best efforts to afford women- and minority- owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "women- and minority-owned business enterprises" means a business at least fifty-one

percent owned and controlled by women or minority group members. Subrecipient may rely on written representations by businesses regarding their status as women- and minority-owned business enterprises in lieu of an independent investigation.

3. Access to Records

Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by Grantee, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with rules, regulations and provisions stated herein.

4. Notifications

Subrecipient will send to each labor union and/or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO Statement

Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that it is an Equal Opportunity Employer.

6. Subcontract Provisions

Subrecipient will include the provisions of Sections X (A) Civil Rights, and (B) Equal Opportunity, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. [Employment Restrictions](#)

1. Prohibited Activity

Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

a) Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti- Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 327 and

40 U.S.C. 276c) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

b) Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and regulations are imposed by state or local law, nothing hereunder is intended to relieve Subrecipient of its obligation, if any, to require payment of the higher wage. Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this section.

3. "Section 3" Clause Compliance

a) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the Grantee, Subrecipient and any of Subrecipient's subrecipients and/or subcontractors. Failure to fulfill these requirements shall subject Grantee, Subrecipient and any of Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

b) Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all sub- contracts executed under this Agreement:

(1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development of 1968, as amended (12 U.S.C. 1701u). The purpose of Section 3 is to ensure that employment and other

economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(2) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulation.

(3) The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(5) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.



(6) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that, to the greatest extent feasible, (1) preference and opportunities for training and employment shall be given to Indians, and (2) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3, to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

#### D. Conduct

##### 1. Assignability

Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this Agreement may be assigned to a bank, trust company, or other financial institutions without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

##### 2. Subcontracts

###### a) Approvals

Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of Grantee prior to the execution of such agreement.

###### b) Monitoring

Subrecipient will monitor all subcontracted services on a regular basis to ensure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

###### c) Content

Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d) Selection Process

Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to Grantee along with documentation concerning the selection process.

3. Hatch Act

Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that no persons described in paragraph (c) of 24 CFR 570.611 who exercise or have exercised any functions or responsibilities with respect to HOME-ARP activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, currently have, or may obtain, a financial interest or benefit from a HOME-ARP-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a HOME-ARP-assisted activity, or with respect to the proceeds of the HOME-ARP-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or of subrecipients which are receiving funds under the HOME-ARP Entitlement program.

5. Lobbying

Subrecipient hereby certifies that:

a) No federal appropriated funds have been paid or will paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c) It will require that the language of section (d) of this certification be included in the award documents for all Sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly; and
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### 6. Copyright

If this Agreement results in any copyrightable material or inventions, Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize other to use, the work or materials for governmental purposes.

#### 7. Religious Organizations

Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

## XI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.**

**Grantee**

**Subrecipient**

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

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

Rebecca L. Fleury  
City Manager

Annette Chapman  
Senior Vice President

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

Fed. ID#: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

\_\_\_\_\_

Marcel Stoetzel, Deputy City Attorney



Resolution

NO. 16

A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Gracious Homes Supportive Services Grant Agreement for the amount of \$52,000.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the City Manager is authorized to execute the 2022 HOME-ARP Gracious Homes Supportive Services Grant Agreement, or one in a form as approved by the City Attorney, for the amount of \$52,000 to provide supportive services to HOME-ARP qualifying populations in the form of case management services.

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Chris Lussier, Community Development Supervisor

**Department:** Community Development

**SUMMARY**

A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Gracious Homes Supportive Services Grant Agreement for the amount of \$52,000.

**BUDGETARY CONSIDERATIONS**

No general fund budgetary considerations.

**HISTORY, BACKGROUND and DISCUSSION**

The American Rescue Plan Act of 2021, also called the COVID-19 Stimulus Package or American Rescue Plan, was passed by the 117th United States Congress and signed into law by President Joe Biden on March 11, 2021, to speed up the country's recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession. The Act appropriated \$5 billion to provide housing, services, and shelter to individuals experiencing homeless and other vulnerable populations, to be allocated by formula to jurisdictions that qualified for HOME Investment Partnerships Program allocations in Fiscal Year 2021. On September 21, 2021 the U.S Department of Housing and Urban Development (HUD)



awarded the City of Battle Creek \$1,094,358 of HOME-American Rescue Plan (HOME-ARP) Program funds.

The City of Battle Creek prepared a HOME-ARP Allocation Plan in accordance with HUD guideline published on September 13, 2021 titled: Requirements for the Use of Funds in the HOME-American Rescue Plan Program. As part of the preparation of the allocation plan, City staff issued a request for proposals from the community. Nine proposals were received totaling roughly four million dollars. Six proposals were recommended for \$959,090 of HOME-ARP funding. The allocation plan was adopted by the City Commission during is August 8, 2022 meeting, setting aside funding for programs that provide supportive services and the development of permanent supportive housing units.

The proposed agreement with Gracious Homes will provide partial funding for a Case Manager for two years. The Case Manager shall work with Gracious Homes clients to create individualized transition plans that include health and barrier assessments, advocacy, linkage and coordination with other local supportive services, monitoring, health and dental referrals, and education. The Case Manager shall work to create access to wraparound services for clients, monitor progress, and evaluate effectiveness of services through surveys and follow-ups.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

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#### **ATTACHMENTS:**

File Name

Description

No Attachments Available



Resolution

NO. 17

A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Drop-in Self-help Center Supportive Services Grant Agreement for the amount of \$111,090.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That the City Manager is authorized to execute the 2022 HOME-ARP Drop-In Self-Help Center Supportive Services Grant Agreement, or one in a form as approved by the City Attorney, for the amount of \$111,090 to provide supportive services to HOME-ARP qualifying populations in the form of offering services of a Peer Support person and a Recovery Coach.

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Chris Lussier, Community Development Supervisor

**Department:** Community Development

**SUMMARY**

A Resolution seeking authorization for the City Manager to execute the 2022 HOME-ARP Drop-in Self-help Center Supportive Services Grant Agreement for the amount of \$111,090.

**BUDGETARY CONSIDERATIONS**

No general fund budgetary considerations.

**HISTORY, BACKGROUND and DISCUSSION**

The American Rescue Plan Act of 2021, also called the COVID-19 Stimulus Package or American Rescue Plan, was passed by the 117th United States Congress and signed into law by President Joe Biden on March 11, 2021, to speed up the country's recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession. The Act appropriated \$5 billion to provide housing, services, and shelter to individuals experiencing homeless and other vulnerable populations, to be allocated by formula to jurisdictions that qualified for HOME Investment Partnerships Program allocations in Fiscal

Year 2021. On September 21, 2021 the U.S Department of Housing and Urban Development (HUD) awarded the City of Battle Creek \$1,094,358 of HOME-American Rescue Plan (HOME-ARP) Program funds.

The City of Battle Creek prepared a HOME-ARP Allocation Plan in accordance with HUD guideline published on September 13, 2021 titled: Requirements for the Use of Funds in the HOME-American Rescue Plan Program. As part of the preparation of the allocation plan, City staff issued a request for proposals from the community. Nine proposals were received totaling roughly four million dollars. Six proposals were recommended for \$959,090 of HOME-ARP funding. The allocation plan was adopted by the City Commission during is August 8, 2022 meeting, setting aside funding for programs that provide supportive services and the development of permanent supportive housing units.

The proposed agreement with the Drop-In Self-Help Center will provide partial funding for a Peer Support person and a Recovery Coach for two years. Clients shall have access to counseling and mentoring services by the Peer Support person and the Recovery Coach. The new staff shall lead support groups used to facilitate improved mental and physical health, community inclusion, learning, enrichment, life skills, job skills, coping mechanisms, and personal growth. The Peer Support person and Recovery Coach shall also utilize the Subrecipient's partnership with Michigan Works! to find employment options that are a good fit for each client. The new staff shall assist clients in utilizing short-term, interim, or one-time-only financial assistance in order to transition from restrictive settings into independent integrated living arrangements, making applications for Section 8 Housing vouchers, and managing expenses or room and board utilizing an individual budget.

## **DISCUSSION OF THE ISSUE**

### **POSITIONS**

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#### ATTACHMENTS:

File Name

Description

No Attachments Available



Resolution

NO. 18

A Resolution seeking approval to conduct a Closed Session on a legal matter.

**BATTLE CREEK, MICHIGAN - 12/6/2022**

**Resolved by the Commission of the City of Battle Creek:**

That a Closed Session of the City Commission shall be held immediately following the Commission Comments section of the regular meeting on Tuesday, December 6, 2022, as authorized by MCL 15.268(e).

The Michigan Open Meetings Act (OMA) permits a public body, upon a 2/3 majority vote, to meet in closed session under Section 8(1)(e) "To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only when an open meeting would have a detrimental financial effect on the litigation or settlement position of the public body." MCL 15.268(e). In this pending litigation, *Lakeview Square LLC v City of Battle Creek*, a property tax case pending in the Michigan Tax Tribunal, the City believes an open meeting would have a detrimental financial effect on the litigating or settlement position of the City.

Rebecca L. Fleury, City Manager, is hereby appointed as the designated secretary to record and prepare appropriate Minutes of this Closed Session.

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Battle Creek City Commission  
12/6/2022

**Action Summary**

**Staff Member:** Marcel Stoetzel, Deputy City Attorney

**Department:** City Attorney

**SUMMARY**

A Resolution seeking approval to conduct a Closed Session on a legal matter.

**BUDGETARY CONSIDERATIONS**

None by virtue of authorizing a closed session.

**HISTORY, BACKGROUND and DISCUSSION**

As permitted under the Michigan Open Meetings Act, a public body, upon a 2/3 majority vote, may meet in closed session in order to consult with its Attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body. The City believes an open meeting would have a detrimental financial effect on the litigation or settlement position of the public body in this instance.

### **DISCUSSION OF THE ISSUE**

### **POSITIONS**

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#### ATTACHMENTS:

File Name

Description

No Attachments Available