

**CITY OF BERKLEY PUBLIC NOTICE
ELECTRONIC CITY COUNCIL MEETING
7:00 P.M. MONDAY, OCTOBER 19, 2020
248-658-3300**

**CALL 38th COUNCIL TO ORDER
APPROVAL OF AGENDA
INVOCATION — DEACON DANIEL DARGA
PLEDGE OF ALLEGIANCE
PUBLIC COMMENT — ITEMS ON THE AGENDA
ORDER OF BUSINESS**

Consent Agenda

1. **APPROVAL OF THE MINUTES:** Matter of [approving the minutes](#) of the 38th Regular City Council Meeting on Monday, September 21, 2020.
2. **WARRANT:** Matter of [approving Warrant No. 1355](#).
3. **MOTION NO. M-57-20:** Matter of [approving the 2020-2021 Winter Maintenance Agreement](#) between the Road Commission for Oakland County and the City of Berkley. The City will be reimbursed a total of \$11,170.05 which will be paid in two installments, \$5,585.03 due in December 2020 and \$5,585.02 due in March 2021.
4. **PROCLAMATION NO. P-15-20:** Matter of [proclaiming October 2020 as Berkley Area Chamber of Commerce Month](#).
5. **PROCLAMATION NO. P-16-20:** Matter of [proclaiming October 2020 as Cybersecurity Awareness Month](#).

Regular Agenda

1. **PRESENTATION:** Matter of receiving the Genisys Credit Union Spirit of Main Street Grant presentation to Susan Rogal, representative of The Fresh Collective Kitchen & Market.
2. **RESOLUTION NO. R-37-20:** Matter of [designating Saturday, December 5, 2020](#) for the Annual Holiday Parade and Tree Lighting Ceremony in Berkley.
3. **MOTION NO. M-58-20:** Matter of [appointing a hearing officer](#) for marihuana business license application appeals.
4. **MOTION NO. M-59-20:** Matter of approving the [purchase of a 2021 John Deere Backhoe](#) with attachments and a 2021 John Deere Gator with attachments at a total cost of \$158,964.69 utilizing the MiDEAL Cooperative Bid Purchasing Program.
5. **MOTION NO. M-60-20:** Matter of [authorizing the Mayor to execute a contract between SMART](#) and the City of Berkley for Fiscal Year 2021 for CARES ACT FUNDING for the period of January 20, 2020 - June 30, 2021.
6. **MOTION NO. M-61-20:** Matter of [authorizing the Mayor to execute a contract between SMART](#) and the City of Berkley for Fiscal Year 2021 for Municipal Credit and Community Credit funds in order to provide public transportation services for the period of July 1, 2020 to June 30, 2021.
7. **RESOLUTION NO. R-38-20:** Matter of [approving a resolution to rename Oxford Towers Park](#) to Friends Park.
8. **RESOLUTION NO. R-39-20:** Matter of [approving a resolution requesting reallocation of assets](#).
9. **MOTION NO. M-62-20:** Matter of [approving casting Berkley's official vote](#) for the following to serve as a Director on the Board of Directors for the MML Liability and Property Pool and directing the City Clerk to send in the marked ballot.

10. **ORDINANCE NO. O-15-20:** Matter of [considering the First Reading of an Ordinance](#) of the City Council of the City of Berkley, Michigan to Add New section 138-226 to Chapter 138, Zoning, of the City of Berkley Zoning Ordinance to Allow Parking Requirement Modifications During Site Plan Review.
11. **ORDINANCE NO. O-16-20:** Matter of [considering the First Reading of an Ordinance](#) of the City Council of the City of Berkley, Michigan to Amend Division 7 of Article VI of Chapter 138, Zoning, of the City of Berkley Code of Ordinances to Modify Site Plan Review Procedure.
12. **RESOLUTION NO. R-40-20:** Matter of [considering a resolution to extend approvals](#) of site plan, special land use, variances, etc. that were reviewed and approved by Planning Commission and Zoning Board of Appeals due to delays incurred from COVID-19.

PUBLIC COMMENT — ITEMS NOT ON THE AGENDA

COMMUNICATIONS

ADJOURN

NOTE: TO JOIN THE ELECTRONIC MEETING, VISIT [HTTPS://berkleymich.ZOOM.US/J/94929846645](https://berkleymich.zoom.us/j/94929846645) OR CALL 1-312-626-6799. THE MEETING ID IS 949 2984 6645.

The City of Berkley is hosting electronic meetings in cooperation with the Michigan Open Meetings Act, as amended. The City of Berkley will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the meeting upon four working days' notice to the City. Individuals with disabilities requiring auxiliary aids or services should contact the City by writing or calling: Victoria Mitchell, ADA Contact, Berkley City Hall, 3338 Coolidge Highway, Berkley, MI 48072 (1-248-658-3310).

THE ELECTRONIC REGULAR MEETING OF THE THIRTY-EIGHTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, SEPTEMBER 21, 2020 BY MAYOR TERBRACK

PRESENT: Steve Baker Jack Blanchard
Dennis Hennen Bridget Dean
Natalie Price Ross Gavin
Daniel Terbrack

APPROVAL OF AGENDA

Councilmember Price moved to approve the Agenda
Seconded by Councilmember Baker
Ayes: Blanchard, Dean, Gavin, Hennen, Price, Baker, and Terbrack
Nays: None
Motion Approved.

INVOCATION: Pastor Adam Groh

PUBLIC COMMENT – ITEMS ON THE AGENDA

Erich Lines, speaking on behalf of Vinsetta Garage, said he supports extending the expansion of outdoor food and drink. He stated that is what needs to be done during a pandemic – helping businesses as much as you can – and he commends the City for doing so.

Katie Kutscher, speaking on behalf of Berkley Common, said she supports extending the expansion of outdoor seating. She stated she wants to make sure this can exist for restaurants to continue to operate during the pandemic and beyond. She stated the need for outdoor space is essential as is the ability to plan.

Chris Gross, speaking on behalf of Berkley Common, said even if restrictions on dining are lifted at the State level, that won't take away the desire of customers to be outdoors as much as possible. She said supporting expansion of outdoor seating is an investment and will help them with planning into the spring.

Consent Agenda

Councilmember Gavin moved to approve the following Consent Agenda, seconded by Mayor Pro Tem Dean:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 38th Regular City Council Meeting on Monday, August 10, 2020.

WARRANT: Matter of approving Warrant No. 1354.

RESOLUTION NO. R-28-20: Matter of recognizing and celebrating Mr. and Mrs. Flynn for their 69th wedding anniversary.

RESOLUTION NO. R-29-20: Matter of recognizing the Outgoing Zoning Board of Appeals Member Greg Butts.

RESOLUTION NO. R-30-20: Matter of recognizing the Outgoing Planning Commissioner Michele Buckler.

RESOLUTION NO. R-31-20: Matter of recognizing the Outgoing Planning Commissioner Tim Murad.

RESOLUTION NO. R-32-20: Matter of approving a resolution to accept donations from the Friends of the Berkley Public Library and Vibe Credit Union in support of the Summer Reading program to the Berkley Public Library.

ORDINANCE NO. O-13-20: Matter of considering the Second Reading and Adoption of an Ordinance of the City Council of the City of Berkley, Michigan to Amend Section 138-298 of Article V, Division 2 of Chapter 138, Zoning, to Update the Citation to the City's Adopted Building Codes, and to Prescribe a Penalty for Violations.

ORDINANCE NO. O-14-20: Matter of considering the Second Reading and Adoption of an Ordinance of the City Council of the City of Berkley, Michigan to Amend Section 138-526 of Article V, Division 17 of Chapter 138, Zoning, to Add Local Business to the Schedule of Regulations.

Ayes: Dean, Gavin, Hennen, Price, Baker, Blanchard, and Terbrack

Nays: None

Motion Approved.

Regular Agenda

MOTION NO. M-48-20: Matter of approving the sale of the 1995 Darley Ladder Truck to the Essexville Department of Public Safety for \$30,000 and to purchase a 2006 Rosenbauer Fire Engine from the Essexville Department of Public Safety, 1107 Woodside Ave, Essexville, MI 48732 for \$60,000. The sale of the 1995 Darley ladder truck would be applied to the purchase of the 2006 Rosenbauer fire engine leaving a remaining balance to be paid by insurance funds received for previous damage to the 1995 Darley ladder truck at a total cost of \$30,000 from the Vehicles Account number 101-310-985-000.

Councilmember Blanchard moved to approve Motion No. M-48-20

Seconded by Councilmember Baker

Ayes: Gavin, Hennen, Price, Baker, Blanchard, Dean, and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-49-20: Matter of authorizing Schena Roofing & Sheet Metal, the lowest qualified bidder, for professional services to repair the roof of the Berkley Department of Public Safety Building at a cost not to exceed \$24,399 from the Building Maintenance Account number 101-310-931-000.

Mayor Pro Tem Dean moved to approve Motion No. M-49-20

Seconded by Councilmember Blanchard

Ayes: Hennen, Price, Baker, Blanchard, Dean, Gavin, and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-50-20: Matter of authorizing the Mayor and City Manager to enter into an Intergovernmental Agreement for Lockup Services, Animal Control Services, use of the Berkley DPS Range, and Dispatch Services between the City of Berkley and the City of Huntington Woods.

Councilmember Baker moved to approve Motion No. M-50-20

Seconded by Councilmember Blanchard

Ayes: Price, Baker, Blanchard, Dean, Gavin, Hennen, and Terbrack

Nays: None

Motion Approved.

MOTION NO. M-51-20: Matter of approving the appointments to various boards and commissions.

Councilmember Price moved to approve Motion No. M-51-20
Seconded by Councilmember Hennen
Ayes: Baker, Blanchard, Dean, Gavin, Hennen, Price, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-52-20: Matter of authorizing the Mayor and City Manager to enter into an Intergovernmental Agreement for Cares Act distribution between Oakland County and City of Berkley.

Councilmember Gavin moved to approve Motion No. M-52-20
Seconded by Councilmember Blanchard
Ayes: Blanchard, Dean, Gavin, Hennen, Price, Baker, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-53-20: Matter of approving the purchase of a 2020 Ford F550 Hook Truck with Bodies at a total cost of \$150,827 from Signature Ford and Truck & Trailer Specialties utilizing the Macomb County and MITN Cooperative Bids. The expenditure will come from account number 592-536-985-000.

Councilmember Blanchard moved to approve Motion No. M-53-20
Seconded by Councilmember Price
Ayes: Dean, Gavin, Hennen, Price, Baker, Blanchard, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-54-20: Matter of authorizing Hubbell, Roth & Clark (HRC) for architectural and engineering services related to the DPW Office Renovation at a cost not to exceed \$46,947.46 from the Water Fund-Building Improvements, account number 592-536-976-000.

Councilmember Gavin moved to approve Motion No. M-54-20
Seconded by Mayor Pro Tem Dean
Ayes: Gavin, Hennen, Price, Baker, Blanchard, Dean, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-55-20: Motion to approve the reprogramming of 2019 Program Year CDBG Funds to Remove Architectural Barriers in the amount of \$25,790 due to a change in project description from ADA Sidewalks to ADA Public Safety Lobby doors and counter top.

Councilmember Price moved to approve Motion No. M-55-20
Seconded by Councilmember Hennen
Ayes: Hennen, Price, Baker, Blanchard, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-56-20: Matter of Authorizing the amendment of the 2020-2021 Budget as presented.

Councilmember Hennen moved to approve Motion No. M-56-20
Seconded by Councilmember Blanchard
Ayes: Price, Baker, Blanchard, Dean, Gavin, Hennen, and Terbrack
Nays: None
Motion Approved.

RESOLUTION NO. R-33-20: Matter of extending Resolution R-20-20 for temporary outdoor dining/seating and outdoor sales and service areas and to allow temporary enclosures in the outdoor areas in response to COVID-19 closures and restrictions.

Councilmember Baker moved to approve Resolution No. R-33-20
Seconded by Mayor Pro Tem Dean

Ayes: Baker, Blanchard, Dean, Gavin, Hennen, Price, and Terbrack
Nays: None
Motion Approved.

RESOLUTION NO. R-34-20: Matter of extending Resolution R-21-20 for temporary signage in response to COVID-19 closures and restrictions.

Councilmember Gavin moved to approve Resolution No. R-34-20

Seconded by Councilmember Blanchard

Ayes: Blanchard, Dean, Gavin, Hennen, Price, Baker, and Terbrack

Nays: None

Motion Approved.

RESOLUTION NO. R-35-20: Matter of recognizing that the City's designated official newspaper, the "Woodward Talk," has not yet resumed full publication and that, therefore, until further notice, the City hereby designates the "Royal Oak Tribune"/"The Oakland Press" as the City's official newspaper, effective immediately, for the publication of the City's notices, ordinances, and other pertinent items.

Councilmember Price moved to approve Resolution No. R-35-20

Seconded by Mayor Pro Tem Dean

Ayes: Dean, Gavin, Hennen, Price, Baker, Blanchard, and Terbrack

Nays: None

Motion Approved.

DISCUSSION: Matter of discussing public art policies and procedures.

Community Development Director Erin Schlutow provided a summary of what administration is looking for guidance with regarding recent public art requests. Items in need of clarification included the correct person/body to review requests, what guidelines should be in place regarding the installations, and should public art be governed by policies, procedures, ordinances, etc. She stated there has been a lot of interest in murals. She discussed the history of public art interest and recent requests. She also provided history regarding the Zoning Board of Appeals approach in the past regarding if artwork qualifies as a sign. She suggested that requests could be addressed in the form of an adopted resolution or ordinance. She stated the three options regarding the appropriate body for approval could be an existing public body, staff performing an administrative review, or forming a new public body. She discussed the pros and cons of each choice. Mayor Terbrack outlined the goals of the discussion. He stated the intent is not to make a final decision, but to provide feedback to help determine what path makes the most sense. Council members discussed their individual views on developing guidelines to evaluate requests for public art installations throughout the City. They talked about public art policies and procedures. They weighed in on if they preferred an ordinance or resolution and which body would be the most appropriate for the task. Downtown Development Authority Executive Director Jennifer Finney stated her thoughts regarding the topic and also how the DDA could assist in the process as the DDA has a procedure in place for installations in the district. Mayor Terbrack summarized some of the initial feedback stating that it seems as if the majority is leaning toward some form of resolution for flexibility. He stated there were some differing opinions on who should be reviewing and approving requests. He also touched on the what is art discussion. He stated that he does agree with the previous comments that whatever is decided, there should be one consistent approach throughout the community. Mayor Terbrack did state he feels there should be some type of body involved in the process. He said he wants the process to be as efficient as possible. Mayor Terbrack said this is not the end of this conversation.

PUBLIC COMMENT – ITEMS NOT ON THE AGENDA

Christopher Copacia, Berkley, stated his support for Oxford/Merchants Park and that he looks forward to the project. He also stated that he is not in support of decals, other than those that define the city department, on municipal vehicles. He stated he has no ill will or lack of respect with the police department, but does not feel the imagery of the American flag blacked out with any kind of additional coloring is offensive. He stated this imagery could be offensive to others and cause anxiety and stress. He stated he

does support the idea of officers being memorialized, but does not think decals on city vehicles is appropriate.

COMMUNICATIONS

COUNCILMEMBER GAVIN: stated at the last Planning Commission (PC) meeting an update was provided on the master plan progress along with further discussion on planning commission flexibility regarding parking requirements during site plan approval as well as extension of site plans. He said public hearings on both of those topics will take place at the next PC meeting 7 p.m. tomorrow. Councilmember Gavin stated during the last Environmental Advisory Committee (EAC) meeting they discussed Energy Plan implementation, green infrastructure opportunities, and the possibility of a new community garden. He said the next EAC meeting is 6:30 p.m. November 19th. Councilmember Gavin said the last couple of Master Plan Steering Committee meetings have been walking tours of the corridors in town. The next Master Plan Steering Committee meeting is 7 p.m. October 20th. He said to look at the City calendar online for links to all of those meetings.

COUNCILMEMBER HENNEN: stated Vibe Credit Union withdrew its application with the Zoning Board of Appeals (ZBA) and the mural for Salon Simply Beautiful was approved. He again offered his thanks to Mr. Butts who was recognized by resolution that evening for his many years of service on the ZBA. Councilmember Hennen offered an update on the Tree Board by stating this was the first year the City offered street trees at no cost to residents. He stated he does not have the final count, but there will be about 100 new trees planted and the waiting list for next year's program has already started. He stated trees offer a lot of benefits, including reducing stormwater runoff, and he suggests increasing the dollar amount for this program in the next fiscal budget. He said the Tree Board is renewing its look at several grant opportunities and those grants would require matching funds. He provided an example of a grant. Councilmember Hennen touched on the Coolidge Road Diet saying about a year ago there was supposed to be a six-month assessment. He stated some of the data is out, but the reporting is still not complete and he would like to close the loop on that data and start making plans to assess the diet moving forward. He stated he knows COVID turned things upside down making it difficult to assess what to do with the road diet, but the data he is referring to was collected pre-COVID.

MAYOR PRO TEM DEAN: stated that a meeting of the Domestic Violence High Risk Response Team took place on September 10th and she listed the attendees including herself and the mayor; area judges and attorneys; and area law enforcement officials. She said she is delighted to report that based on the response of those in attendance the Berkley-Royal Oak Court is ready to move forward and bring this team model to our court. She stated a kick-off meeting is planned for sometime in early October and she will keep everyone posted. Mayor Pro Tem Dean stated that Parks & Recreation put together a Clue taking participants to different outside areas in the City. She said it ended on Sept. 20th and 18 families registered. She said outdoor Parks & Recreation classes continue, weather depending. She said Parks & Recreation is currently working with the City on a safe reopen plan for mid- to late-October. She said there will be limited programming. She said more information will be coming in the coming weeks. She stated the department is partnering with Oakland County Parks & Recreation to offer a Monster Mania Scavenger Hunt beginning this Friday the 25th. Mayor Pro Tem Dean said the groundbreaking did take place on the Oxford/Merchants Park project and the work has begun. Mayor Pro Tem Dean wished a happy 69th anniversary to Ted and Ellen Flynn. She said she is delighted for them and they are an inspiration. Mayor Terbrack stated he and his children participated in the Clue game and it was a great time.

COUNCILMEMBER BAKER: stated the Technology Advisory Committee (TAC) would have met on September 16th but did not have a quorum. The next TAC meeting is scheduled for 6:30 p.m. Wednesday, November 18th. Councilmember Baker said the Historical Committee has news to share which is that the museum will be open again on Wednesdays from 10 a.m. to 1 p.m. starting September 30th by appointment.

only. He said facemasks are required. He said the museum is rehabbed and features new exhibits. To make an appointment, call 248-658-3335 or send an email to museum@berkleymich.net. He said they will broadly open up the museum as conditions permit and he offered thanks to City Manager Matt Baumgarten and staff for making the reopen happen. He stated there will be a new holiday mug for sale this season. He said the same artist that created the first mug, has created a great picture of the Berkley Theatre with a holiday feel. The mugs are \$10 and will be for sale soon at all the usual spots, including the museum and City Hall. He stated the Committee will also have Berkley street signs for sale. As the signs were being replaced with larger, easier to read signs, the museum collected the old signs with the help of Department of Public Works for a fundraising initiative. He said details to come on the museum Facebook page and the city's website. Councilmember Baker said the Downtown Development Authority (DDA) met September 9th. He offered thanks to Ashley Poirer for joining the board. He said they are looking forward to her being a part of the team. He stated the new DDA director has been putting together a document that highlights a lot of what is going on in the downtown including a set of façade grants and updates on the wayfinding sign initiative. He said phase one of the wayfinding project will begin on December 20th. He stated the Berkley Plaza project on Coolidge has been approved by all of the appropriate parties and the timeline will be finalized and posted. He also pointed out some new downtown businesses. Councilmember Baker said September 25th is the next concert in the pop-up concert series. The concert will take place from 7 to 8:30 p.m. at the greenspace between Clark's Ice Cream and Odd Fellows Antiques on the north side of 12 Mile Road, close to Greenfield Road. Lastly, Councilmember Baker thanked all of the businesses, drivers and residents impacted by the construction on 12 Mile Road for their patience. He said it will be completed soon. He said please be safe, kind and respectful to one another.

COUNCILMEMBER PRICE: offered thanks to City Manager Matt Baumgarten, department heads and all of the city staff who continue to pivot and adapt as we navigate this new normal. Councilmember Price said Berkley Public Library continues service with curbside pickup, delivery and digital collections. She said the library is newly offering a seed library. She said the library is taking donations of both commercially packaged and garden harvested seeds. She said to put them in envelopes, label, and place in the appropriate bin outside of the library. She stated the lending of the seeds will begin in spring 2021. Councilmember Price said the Beautification Advisory Committee (BAC) will meet this Wednesday via Zoom. She offered congratulations to all of the new committee members. Councilmember Price said the Citizens Engagement Advisory Committee (CEAC) will meet on the first Wednesday in October. She thanked everyone who expressed interest in serving on this committee. She said with the appointment that evening, the committee is now full and ready to take on new challenges. Councilmember Price said tonight marks the official changing of the seasons, shifting focus to autumn traditions that need to look a bit different this year. She stated she applauds the efforts of city and school staff along with volunteers who are reimagining events with fun and safety in mind. She said spreading joy while keeping people safe will help sustain through the marathon of this pandemic. She also reminded everyone to get their flu shot.

COUNCILMEMBER BLANCHARD: reminded everyone that September is National Preparedness Month. He said the motto is, "Disasters don't wait, make your plan today." He said everyone should make a plan; talk to your friends and family about how you would communicate before, during and after a disaster; make sure to update your plan based on the CDC recommendations due to the Coronavirus; and build a kit with supplies that will last several days after a disaster for everyone living in your home including pets. He said people should know the risks of disasters in their area and check their insurance coverage. He said everyone should learn how to make your home stronger in the face of storms and other common hazards. He stated to teach youth about preparedness by talking to children about preparing for emergencies and what to do if you are separated from an adult. He said we may not have wildfires or hurricanes, but we have other things we need to be prepared for. He said we will be trying to put out information each month to make sure people are informed. Councilmember Blanchard said he took a look at the Census response and Berkley is at 89 percent. He said that is good and makes us the 6th highest in the state. He said Huntington Woods is first, which he quipped means 11 percent aren't doing their job! He said to get busy!

CITY MANAGER BAUMGARTEN: said information was disseminate that day about the city-wide road improvement program. He said no matter what the season, if the weather is good it is construction season so the City is progressing with its road improvement program. He said there has been some situations where the game of telephone has resulted in some concerns about roads being closed. He said to protect against that, the information is out. He said the release includes some great contact information, including the on-site inspector with HRC. He said the inspector is very responsive and even reached out to a resident late one evening to address her concerns. He said impacted homes received notices and parking passes if their driveways will be blocked. He encourages everyone to reach out to the provided contacts for information right from the source. Mr. Baumgarten said we continue to invest in our community over the next two years. He said this project will make 173 improvements to our road network. He said hopefully residents have seen the signs around town thanking them for voting in favor of the infrastructure millage in the November 2018 election. He said we are literally putting taxpayer money to work and appreciate the support. Mr. Baumgarten said in a changing world where so much is new and different, he wants to thank the Detroit Lions for being consistently terrible and for anchoring us Sunday in and Sunday out.

CITY CLERK MITCHELL: stated the number one question right now is when will the ballots be mailed and the answer is at the end of this week. She offered extra thanks to Deputy Clerk Gina Harold and all of staff that will be pitching in to get about 6,000 ballots out. She offered a reminder that all residents are eligible to receive an absentee ballot in the State of Michigan if they so choose. She said residents may visit Berkleymich.org/vote or call 248-658-3310 for more information. Ms. Mitchell announced the Clerk's Office offered its first extended hours opportunity last week and many more extended hours opportunities are to come in October including a drive-up service 5-7 p.m. Tuesday, October 6th. She also stated some exciting news is coming regarding a second ballot drop box location.

CITY ATTORNEY STARAN: provided an update on the format of virtual meetings. He stated that as a consequence of the governor's last extension of the State of Emergency through at least October 1st, our authority is extended to hold remote meetings through the end of October. He said if October 1st comes along, and the Governor further extends the State of Emergency, our authorization will run through 28 days past the expiration of the then-current State of Emergency. He said we may be hosting meetings in this format for a while. Mr. Staran said his other update relates to the election. He said specifically he is talking about the expectation that we are going to have an unprecedented and possibly overwhelming number of absentee ballots. He stated this brings up a couple of serious concerns relating to the reliability and timeliness of mail service and the ability and wherewithal of local governments to process all of the absentee ballots in a timely manner. He said in response to the first concern, the Michigan Court of Claims ruled that all absentee ballots that are postmarked before election day have to be counted even if they arrive after the election date. He said that will raise some questions when we can actually consider the vote final. He stated the other part relates to the processing of ballots. He said there is still some proposed legislation that will give local clerk offices some relief to begin processing absentee ballots on the Monday before the election. He said the legislation seems to be bogged down right now, but that type of legislation would help local clerks immensely.

MAYOR TERBRACK: stated Clerk Mitchell will be following pending legislation and hopefully as we near closer to election day, we will have some idea of what we will be looking at and how to process ballots. Mayor Terbrack said in our current operating system, we don't have the ability to publicly recognize the items on our consent agenda as we normally would, but he would like to again congratulate Mr. & Mrs. Flynn on their 69th wedding anniversary and also thank Greg Butts, Michele Buckler and Tim Murad for all of their time and contributions to the City. He said Greg and Tim served on boards for more than 21 years and Michele was a past chair of the Planning Commission during her years of service to the city. He said without residents volunteering to serve on boards and commissions, the city would not be the same place that it is right now. He said he is incredibly appreciative to Greg, Tim and Michele and also to everyone appointed the last few meetings who freely give their time to the city without reservation or expectation. Mayor Terbrack took a moment to thank all of the parents and teachers who are dealing with this new

normal. He said in a normal year, kids would be physically back in school and for many of us that is not a reality. He said this certainly presents some challenges for the parents, teachers and students. He said that we know when we are faced with challenges, we learn a lot about who we are and what we can actually achieve and persevere through. He said this is no different. Mayor Terbrack provided an update on the Community Center group that began meeting last year. He said the update is there is no update. He said the group is on hold as in this current environment, discussing the possibility of a potential new community center is not at the top of the priority list. He said that does not mean the group is ceasing to exist. He said he is appreciative of all of their discussions and the care the group gave to the topics discussed. He said he certainly does not want the work to have been done in vain, but as of now, those conversations will remain on hold until some date in the future. Finally, Mayor Terbrack said regarding the elections, no matter what party or ideology you subscribe to, the most important thing is that you make your voice heard and we do that in our society by voting. He said the only way to create change is by having an opinion and making choices at the ballot box that reflect those opinions. He said so once ballots are received or if you vote at the polls, make your opinion heard. He said he anticipates that we will have record turnout in the City of Berkley and throughout the nation.

ADJOURNMENT

Councilmember Baker moved to adjourn the Regular Meeting at 9:34 p.m.

Seconded by Councilmember Gavin

Ayes: Hennen, Price, Baker, Blanchard, Dean, Gavin, and Terbrack

Nays: None

Motion Approved.



CITY OF BERKLEY
CHECK WARRANT
#1355
SEPTEMBER 2020

<u>Check Date</u>	<u>Check</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Amount</u>	<u>Voided?</u>
09/03/2020	58448	ALERUS FINANCIAL	HEALTH CARE SAVINGS PLAN #6304 - PR #18	4,265.00	
09/03/2020	58449	AT-LESS DRAIN CLEANING	2617 PHILLIPS AVE.	1,000.00	
09/03/2020	58450	BILLINGS LAWN EQUIPMENT	DPW / P&R PARTS	206.21	
			P&R #80	83.28	
				289.49	
09/03/2020	58451	DEALER AUTO PARTS SALES	DPW / PS / P&R	23.88	
09/03/2020	58452	DURST LUMBER CO	MISC. ITEMS	165.94	
			MISC. ITEMS	791.48	
				957.42	
09/03/2020	58453	EQUATURE	911 RECORDER UPGRADE	3,200.00	
09/03/2020	58454	HENRY FORD HEALTH SYSTEM	JULY SERVICES	878.00	
09/03/2020	58455	MISDU	CHILD SUPPORT CASE NO. 913340822 - PR #1	82.99	
			CHILD SUPPORT CASE NO. 913286400 - PR #1	128.05	
			CHILD SUPPORT CASE NO. 913488854 - PR #1	64.14	
				275.18	
09/03/2020	58456	NATIONWIDE RETIREMENT SOLUTIONS	EMPL. DEDUCT. (NATIONWIDE 457) - PR #18	5,209.57	
			EMPL. DEDUCT. (ROTH) - PR #18	1,034.13	
				6,243.70	
09/03/2020	58457	STATE WIRE & TERMINAL INC.	DPW/ PS / P&R PARTS	134.26	
09/03/2020	58458	THE HARTFORD	SEPTEMBER 2020 PREMIUM FOR RETIREES	286.00	
			SEPTEMBER 2020 PREMIUM FOR ACTIVES	1,956.38	
				2,242.38	
09/03/2020	58459	VANTAGEPOINT TRNSFR AGENTS-107930	EE/ER CONTRIB. (401) - PR #18	570.77	
09/03/2020	58460	VANTAGEPOINT TRNSFR AGENTS-303792	EMPLOYEE DEDUCT. (ICMA 457) - PR #18	2,228.35	
			EMPLOYEE DEDUCT. - LOAN - PR #18	123.40	
				2,351.75	
09/03/2020	58461	VANTAGEPOINT TRNSFR AGENTS-706259	EMPLOYEE DEDUCT. (ICMA ROTH) - PR #18	105.00	
09/15/2020	58462	ABLE PLUMBING & CONTRACTING CO.	CROSS CONNECTION TESTING	125.00	
09/15/2020	58463	ALLIANCE MOBILE HEALTH	BLOOD DRAW FOR PATIENT NO. 2013084	148.00	
			BLOOD DRAW FOR PATIENT NO. 2012561	148.00	
			BLOOD DRAW FOR PATIENT NO. 2012100	148.00	
			BLOOD DRAW FOR PATIENT NO. 2012381	148.00	
				592.00	
09/15/2020	58464	APPLIED IMAGING	DPW COPIES 8/11/20 - 9/10/20	0.57	
09/15/2020	58465	BIG D LOCK CITY	KEYS/ GARAGE	12.00	
			3 ELEVATOR KEYS FOR KOBERNICK	12.00	
				24.00	
09/15/2020	58466	BILLINGS LAWN EQUIPMENT	P & R MOWER - BELTS	104.94	
09/15/2020	58467	BLUE CROSS BLUE SHIELD OF MICH	AUGUST 2020 CLAIMS	131,188.86	
09/15/2020	58468	BRANDON MATHIAS	SIDWELL #04-25-17-426-016	826.17	
09/15/2020	58469	CADILLAC ASPHALT, LLC	COLD PATCH	144.13	
09/15/2020	58470	CAMELOT CLEANERS	PRISONER BLANKETS - AUGUST	136.22	
09/15/2020	58471	CARLETON EQUIPMENT	#27 DPW - SOLENOIDS & GASKETS	683.96	
			#27 DPW - HYDRAULIC PUMP	792.87	
				1,476.83	

09/15/2020	58472	CARLISLE / WORTMAN	FIVE YEAR PLAN WORK	3,655.00
09/15/2020	58473	CARQUEST AUTO PARTS STORES	P.S. PARTS	25.12
09/15/2020	58474	CBTS	PHONE PROGRAMMING	480.94
			PHONE PROGRAMMING	64.13
			PHONE PROGRAMMING	32.06
				577.13
09/15/2020	58475	CINTAS CORPORATION	MED BOX REFILL	57.42
09/15/2020	58476	CMNTV	CABLE PRODUCTION AUGUST 2020	1,465.00
09/15/2020	58477	CMV LANDSCAPE & EQUIPMENT COMPANY	3506 PRAIRIE WATER/CONCRETE REPAIR	993.75
			ROAD REPAIR LOCAL	193.75
			3338 COOLIDGE WATER/CONCRETE REPAIR	6,750.00
			3829 PRAIRIE WATER/CONCRETE REPAIR	2,036.25
			4000 BUCKINGHAM WATER/CONCRETE REPAIR	4,740.00
				14,713.75
09/15/2020	58478	CONTRACTORS CLOTHING CO.	UNIFORMS	701.64
			UNIFORMS - OUTDOOR MAINTENANCE	59.08
				760.72
09/15/2020	58479	CORBINDESIGN	WAYFINDING AND SIGNAGE SYSTEM	1,857.50
09/15/2020	58480	CORELOGIC	SIDWELL #04-25-17-326-047	2,893.67
09/15/2020	58481	CORELOGIC	MULTIPLE SIDWELLS	85,272.20
09/15/2020	58482	CREGGER PLUMBING	2020 SUNNYKNOLL LEAD SERVICE REPLACEMENT	2,100.00
09/15/2020	58483	DALE A. CARLSON	PARDUCCI LECTURE	150.00
09/15/2020	58484	DISCOUNT OFFICE EQUIPMENT	CHAIR FOR ROBERTS	240.00
09/15/2020	58485	DTE ENERGY	2450 BEVERLY BLVD. - 07/28/20 - 08/26/20	125.61
			3226 BACON AVE. - 07/27/20 - 08/26/20	1,217.21
				1,342.82
09/15/2020	58486	DU-ALL CLEANING INC.	DPW AUGUST 2020 CUSTODIAL	700.00
			AUGUST CUSTODIAL	1,500.00
			JANITORIAL SERVICES - AUGUST	2,000.00
			AUGUST JANITORIAL SERVICES	1,300.00
				5,500.00
09/15/2020	58487	EGANIX	AUGUST 28, 2020 GREASE CONTROL / SEWERS	60.00
09/15/2020	58488	EJ USA, INC.	COUPLINGS	853.04
			WATER / SELF LEVELING CONCRETE	1,544.10
				2,397.14
09/15/2020	58489	ERIC OSTROWSKI	OUTDOOR YOGA INSTRUCTOR PAYMENT	770.70
09/15/2020	58490	EZELL SUPPLY CORPORATION	SANITIZERS FOR ALL	328.40
09/15/2020	58491	FEDERAL PIPE & SUPPLY CO	DPW FENCE REPAIRS	995.50
09/15/2020	58492	FERGUSON WATERWORKS #3386	PVC STRAP SADDLE	33.89
			RING FLANGE	79.82
			WATER - PVC PIPE & ELBOWS	2,402.91
				2,516.62
09/15/2020	58493	FIRE MARK ADVANTAGE LLC	JON ROBERTS DRIVERS TRAINING T-T-T	120.00
09/15/2020	58494	FRONT LINE SERVICES, INC.	TOWER 4 ADD-ONS	2,213.00
09/15/2020	58495	GEORGE & JASON WAMBAUGH	SIDWELL #04-25-17-204-007	2,787.91 V
			SIDWELL #04-25-18-354-014	1,919.08 V
				4,706.99
09/15/2020	58496	GREAT LAKES PEST CONTROL CO	DPW AUGUST 2020 PEST CONTROL	40.00
			BUILDING MAINTENANCE	150.00
			PEST CONTROL	60.00
				250.00
09/15/2020	58497	GUNNERS METERS & PARTS INC.	SADDLES	435.00

			CORPS AND ADAPTERS	522.00
			NUTS, CLAMP, & UNIONS	654.00
				1,611.00
09/15/2020	58498	H.D. EDWARDS & CO.	HOSE REPAIR	1,320.60
09/15/2020	58499	HAFELI, STARAN, & CHRIST, P.C.	ATTORNEY RETAINING FEES	5,877.50
09/15/2020	58500	HASTINGS AIR-ENERGY CONTROL, INC.	TAILPIPE ADAPT T4	419.87
09/15/2020	58501	HERSCH'S INC.	MAINTENANCE SUPPLIES	36.00
09/15/2020	58502	HOME DEPOT CREDIT SERVICES	SIGNS	29.64
			DPW TOOLS	29.26
			SOUTHWIRE - CATS CABLE	59.00
				117.90
09/15/2020	58503	HOWARD L. SHIFMAN P.C.	FOR SERVICES THRU AUGUST 31, 2020	92.00
09/15/2020	58504	HUBBELL, ROTH & CLARK	2019 - 2020 WATER RELIABILITY STUDY	870.72
			WM AMP - TASK 8 CIP	1,508.00
			GIS SUPPORT - EDITS & HYDRANTS	764.28
			2020 SIDEWALK REPLACE. PROGRAM	2,721.74
			2020 - 2021 ROAD IMPROV. - DESIGN	6,184.86
			P.S. ENTRY RENO	7,832.12
				19,881.72
09/15/2020	58505	HYDROCOPR	AUGUST 2020 CROSS CONNECTION	1,658.00
09/15/2020	58506	J.H. HART URBAN FORESTRY	TREES 8/31/20 - 9/4/20	5,153.00
			TREES 8/24/20 - 8/28/20	3,099.25
				8,252.25
09/15/2020	58507	JACK DEMMER FORD, INC.	P.S. PARTS	53.28
09/15/2020	58508	JAY'S SEPTIC TANK SERVICE	PORTABLE TOILET SERVICES	105.00
			PORTABLE TOILET SERVICES	113.00
			PORTABLE TOILET SERVICES	113.00
				331.00
09/15/2020	58509	JEFF TONG	REIMBURSEMENT FOR COMPUTER	795.00
09/15/2020	58510	JLG HOSPITALITY GROUP LLC	BERKLEY BUCKS REDEEMED AT BERKLEY COMMON	80.00
09/15/2020	58511	KANOPY, INC.	KANOPY DIGITAL CONTENT	110.00
09/15/2020	58512	KONICA MINOLTA BUSINESS SOLUTIONS	COPIER COSTS	83.08
			COPIER CHARGES	101.26
				184.34
09/15/2020	58513	LARRY'S WELDING SUPPLY	AUGUST 2020 CYLINDER RENTAL	62.65
09/15/2020	58514	MALONEY TRUCKING	FILL SAND / WATER	1,070.00
09/15/2020	58515	MATZKA INCORPORATED	#27 PARTS - COUPLING	53.94
09/15/2020	58516	METRO PUMP SERVICE	AUGUST 2020 FUEL ISLAND MAINT.	552.50
09/15/2020	58517	MICHIGAN GRAPHICS & AWARDS	NAMEPLATES - VARIOUS	60.00
09/15/2020	58518	MIDWEST TAPE	HOOPLA DIGITAL CONTENT	954.59
09/15/2020	58519	MITCHELL HARRIS	REFUND FOR ACCT #031435500	857.81
09/15/2020	58520	NORFIELD DEVELOPMENT PARTNERS, LLC	DPW SEPT. 2020 MISS DIG SOFTWARE	199.00
09/15/2020	58521	NYE UNIFORM	FLEECE JACKET - RITTER	57.50
			FLEECE JACKET - TYLER	57.50
				115.00
09/15/2020	58522	PARTSMASTER	PARTS - DPW/P.S./P&R	226.63
			PARTS - DPW/P&R/P.S.	86.30
			PARTS - DPW/P.S./P&R	43.87
				356.80
09/15/2020	58523	PITNEY BOWES	DPW FOLDER 6/30/20 - 9/29/20	924.72
09/15/2020	58524	PITNEY BOWES GLOBAL FINANCIAL SERV.	MAILING MACHINE	680.01
09/15/2020	58525	PITNEY BOWES INC.	JULY 2020 WATER POSTAGE	96.72
			SEALER FOR MAILING MACHINE	72.67

				169.39
09/15/2020	58526	PRECISION DATA PRODUCTS	HP TONER	143.14
09/15/2020	58527	PREMIERE PLUS DANCE	DANCE INSTRUCTOR PAYMENT	690.90
09/15/2020	58528	RACHELLE RODRIGUEZ	PRECINCT WORKER	230.00
09/15/2020	58529	RED WING SHOE STORE	BOOTS	728.00
09/15/2020	58530	RKA PETROLEUM COS, INC	89 MIDGRADE GAS	10,007.51
			#2 ULTRA LOW SULFUR DIESEL	891.39
				10,898.90
09/15/2020	58531	ROCKET ENTERPRISE INC.	12 MILE BANNER POLE REMOVALS	975.00
09/15/2020	58532	ROMIL K. ALIAS	SIDWELL #04-25-17-155-014	50.00
09/15/2020	58533	S/E OAK. CTY WATER AUTHORITY	AUGUST 2020 BULK WATER	81,197.73
09/15/2020	58534	S/E OAK.CTY RESOURCE REC. AUTH	TRASH, RECYCLE, PICKUPS 8/16/20 - 8/31/2	49,953.00
09/15/2020	58535	SABISTON BUILDERS SUPPLY	CEMENT	370.80
09/15/2020	58536	SEHI COMPUTER PRODUCTS	VMWARE SUPPORT	1,126.00
09/15/2020	58537	SJR PAVEMENT REPAIR	SPRAY PATCH	14,522.95
09/15/2020	58538	STAPLES	ELECTION NAME BADGES	81.57
			AUGUST OFFICE SUPPLIES	168.51
				250.08
09/15/2020	58539	STATE INDUSTRIAL PRODUCTS	FORM FLEX GARAGE	264.00
09/15/2020	58540	STATE OF MICH-DEPT OF TREASURY	AUGUST 2020 MI TAX WITHHOLDING FOR ACTIV	16,475.57
09/15/2020	58541	STATE OF MICH-DEPT OF TREASURY	AUGUST 2020 MI TAX WITHHOLDING FOR RETIR	2,859.82
09/15/2020	58542	STATE WIRE & TERMINAL INC.	PARTS - DPW/P.S./P&R	303.11
09/15/2020	58543	STEWART & SONS CONCRETE	LOCAL/WATER ROAD REPAIRS / CEMENT	34,459.40
09/15/2020	58544	THE LIBRARY NETWORK	OVERDRIVE	5,202.08
			BOOKS & AV MATERIALS	3,568.12
				8,770.20
09/15/2020	58545	THOMAS C. & TERESA M. CORNEA	RE-ISSUE LOST CHECK - 4056 GRIFFITH AVE.	75.00
09/15/2020	58546	TRANSUNION RISK AND ALTERNATIVE	TLOXP - INVEST. SERVICES - AUGUST	110.00
09/15/2020	58547	TRUCK & TRAILER SPECIALTIES, INC.	#43 OUTSIDE REPAIR	2,492.85
			#43 OUTSIDE REPAIR	95.42
			NEW #44 - CONTAINER BODY	7,472.50
			NEW #44 - FLATBED BODY	18,575.90
				28,636.67
09/15/2020	58548	VERIZON WIRELESS	IPAD SERVICE FOR 08/02/20 - 09/01/20	194.11
09/15/2020	58549	VESCO OIL CORPORATION	GARAGE - MISC. CLEANING SUPPLIES	240.40
			PARTS CLEANER	93.25
				333.65
09/15/2020	58550	WELLS FARGO R/E TAX SERVICE	SIDWELL #04-25-17-407-007 / 04-25-07-407	7,813.29
09/15/2020	58551	WINDER POLICE EQUIPMENT	#413 - INSTALL LIGHTBAR	2,490.00
			#413 - ROOF LIGHTBAR MOUNTING, SIDE EXT.	1,915.20
				4,405.20
09/15/2020	58552	WINDSTREAM	PHONE SERVICE	649.26
09/15/2020	58553	WOLVERINE TRUCK SALES	#7 DPW - PARTS	186.19
09/15/2020	58554	WOW! BUSINESS	WOW INTERNET SERVICE	236.99
			CABLE	26.74
				263.73
09/15/2020	58555	XEROX CORPORATION	AUGUST 2020 PAYMENT FOR S/N B0W-869461	538.19
			XEROX USER FEES 7/21 - 8/21/20	69.70
				607.89
09/17/2020	58556	ALERUS FINANCIAL	HEALTH CARE SAVINGS PLAN #6304 - PR #19	4,265.00
09/17/2020	58557	AMAZON CAPITAL SERVICES	10 TOURNIQUETS	209.90
			FIREHALL & CLEANING SUPPLIES	80.43

				290.33
09/17/2020	58558	DURST LUMBER CO	MISC. ITEMS	481.94
09/17/2020	58559	MISDU	CHILD SUPPORT CASE NO. 913340822 - PR #1	82.99
			CHILD SUPPORT CASE NO. 913286400 - PR #1	128.05
			CHILD SUPPORT CASE NO. 913488854 - PR #1	64.14
				275.18
09/17/2020	58560	NATIONWIDE RETIREMENT SOLUTIONS	EMPL. DEDUCT. (NATIONWIDE 457) - PR #19	5,384.11
			EMPL. DEDUCT. (ROTH) - PR #19	1,025.74
				6,409.85
09/17/2020	58561	REVIZE LLC	ANNUAL WEBSITE	4,400.00
09/17/2020	58562	VANTAGEPOINT TRNSFR AGENTS-107930	EE/ER CONTRIB. (401) - PR #19	570.77
09/17/2020	58563	VANTAGEPOINT TRNSFR AGENTS-303792	EMPLOYEE DEDUCT. (ICMA 457) - PR #19	2,206.79
			EMPLOYEE DEDUCT. - LOAN - PR #19	123.40
				2,330.19
09/17/2020	58564	VANTAGEPOINT TRNSFR AGENTS-706259	EMPLOYEE DEDUCT. (ICMA ROTH) - PR #19	105.00
09/22/2020	58565	GEORGE & JASON WAMBAUGH	SIDWELL #04-25-18-354-014	1,919.08
09/22/2020	58566	NICOLE LUDKE	SIDWELL #04-25-17-204-007	2,787.91
09/22/2020	58567	UNITED STATES POSTAL SERVICE	POSTAGE	500.00
09/30/2020	58568	21ST CENTURY MEDIA - MICHIGAN	LEGAL AD	106.74
			LEGAL AD	198.99
			LEGAL AD	273.86
			PH NOTICE	191.24
			PH NOTICE	191.24
			PH NOTICE	191.24
			PH NOTICE ZBA	196.24
			ZBA VARIANCE PH NOTICE	210.01
			PH NOTICE ZBA	223.78
				1,783.34
09/30/2020	58569	800 NEW LOOK INC.	1489 LARKMOOR BLVD.	75.00
09/30/2020	58570	ADN ADMINISTRATORS, INC.	ADMINISTRATIVE FEE FOR OCTOBER 2020	983.25
09/30/2020	58571	ADT COMMERCIAL LLC	9/27/20 - 10/26/20 DPW ALARM MONITORING	74.90
09/30/2020	58572	AIRGAS USA, LLC	AUGUST 2020 CYLINDER RENTAL	30.27
09/30/2020	58573	ALIMOFF BUILDING & DEVELOPMENT	2406 ROYAL AVE.	800.00
09/30/2020	58574	ALLIANCE MOBILE HEALTH	BLOOD DRAW FOR PATIENT NO. 2013247	148.00
			BLOOD DRAW FOR PATIENT NO. 2013744	148.00
			BLOOD DRAW FOR PATIENT NO. 2013243	148.00
				444.00
09/30/2020	58575	AMAZON CAPITAL SERVICES	POP-UP CANOPY - OUTDOOR ELECTION SUPPLY	109.99
			ANIMAL HANDLING GLOVES	29.99
			RANGE SUPPLIES	40.35
			SOUNDBARS	68.50
			SOUNDBAR	34.25
			2 WIRE BASKETS	34.00
			ACO VEH - MOUNTING EQUIP.	19.99
				337.07
09/30/2020	58576	APOLLO FIRE EQUIPMENT	QUICK DISCONN. SOCKET	4.50
09/30/2020	58577	APPLIED IMAGING	COPIER USAGE	10.83
09/30/2020	58578	ASHLIN WHITEHEAD	PRECINCT WORKER	67.50
09/30/2020	58579	ATEX BUILDERS LLC	3688 GARDNER AVE.	50.00
09/30/2020	58580	BASIC	ADMINISTRATION FEE FOR SEPTEMBER 2020	50.00
09/30/2020	58581	BCM HOME IMPROVEMENT	3512 CUMBERLAND RD.	75.00
09/30/2020	58582	BIG D LOCK CITY	5 ELEVATOR KEYS	20.00
09/30/2020	58583	BLUE CROSS BLUE SHIELD OF MICHIGAN	OCTOBER 2020 PAYMENT FOR SUFFIX 601	25,982.31
			OCTOBER 2020 PREMIUM FOR SUFFIX 600	5,925.79
				31,908.10
09/30/2020	58584	BRILLANT SYSTEMS, LLC	NETWORK RACKS AND PDU'S	3,734.98

			WIRING FOR WATCHGUARD SYSTEM	2,803.60
				6,538.58
09/30/2020	58585	BRODART CO.	BOOK JACKETS	101.01
09/30/2020	58586	BUNKER PLUMBING & HEATING LLC	JAIL PLUMBING REPAIRS (CELL 1)	982.37
09/30/2020	58587	C & G NEWSPAPERS	PH NOTICE PC TEXT AMENDMENTS	457.92
			PUBLIC NOTICE PC TEXT AMENDMENTS	100.00
				557.92
09/30/2020	58588	CARLETON EQUIPMENT	#27 PARTS	916.52
09/30/2020	58589	CARLISLE / WORTMAN	MASTER PLAN	2,672.50
09/30/2020	58590	CARQUEST AUTO PARTS STORES	#73 DPW PARTS	23.26
			#7 PARTS / #70	244.65
			#7 DPW - APPLY CM 551477	29.56
			P & R #87	30.76
				328.23
09/30/2020	58591	CATHERINE DUGALIN	PRECINCT WORKER	55.00
09/30/2020	58592	CHOICE WINDOWS AND SIDING INC.	1891 OXFORD RD.	1,000.00
09/30/2020	58593	CHRISTINE DASCHKE	SOFTBALL FORFEIT FEE	90.00
09/30/2020	58594	CINTAS CORPORATION	DPW / MED SUPPLIES	70.70
09/30/2020	58595	CMV LANDSCAPE & EQUIPMENT COMPANY	LOCAL ROAD REPAIR	2,618.00
			LOCAL ROAD REPAIR	2,040.00
			WATER/CONCRETE REPAIR - 2799 CUMMINGS	1,071.00
			3238 CUMMINGS WATER/CONCRETE REPAIR	1,632.00
			LOCAL ROAD REPAIR	4,350.00
			WATER/CONCRETE REPAIR 3865 BACON	1,072.50
			WATER/CONCRETE REPAIR 2960 BROOKLINE	1,462.50
				14,246.00
09/30/2020	58596	COLLABORATIVE SUMMER LIBRARY PROG.	SUMMER READING SUPPLIES	295.05
09/30/2020	58597	COMMERCIAL CLIMATE CONTROLS CORP.	EQUIPMENT MAINTENANCE	95.18
			HVAC REPAIR	160.00
				255.18
09/30/2020	58598	CONSUMERS ENERGY	3155 COOLIDGE HWY. - 08/06/20 - 09/09/20	86.59
			3322 COOLIDGE HWY. - 08/06/20 - 09/09/20	90.29
			2395 12 MILE RD. - 08/06/20 - 09/09/20	110.84
			3300 BACON - 08/08/20 - 09/09/20	97.15
			3238 BACON - 08/08/20 - 09/09/20	19.47
				404.34
09/30/2020	58599	CONTRACTORS CLOTHING CO.	BULK UNIFORMS - APPLY CM 7-56575	5,446.00
09/30/2020	58600	CONTRACTORS CONNECTION	RAKES	54.00
			SHOVELS / RAKES	874.80
			ADA PANELS	1,089.00
			SAW, BLADES & TANK	2,967.05
				4,984.85
09/30/2020	58601	COVIUS MORTGAGE SOLUTIONS	SIDWELL #04-25-07-453-025	1,100.38
09/30/2020	58602	CTT EQUIPMENT LLC	GARAGE TOOL (TRI-POD FOR LIGHTS)	66.00
09/30/2020	58603	CUMMINS BRIDGEWAY, LLC	DPW PARTS #53	183.84
			#69 & #70 - PARTS	52.88
			ANNUAL GENERATOR MAINT.	261.27
				497.99
09/30/2020	58604	DALE ROBERT PHILLIPS	1864 FRANKLIN	30.00
09/30/2020	58605	DAVID DUDZIC	KARATE REFUND	40.00
09/30/2020	58606	DEREK SUGAMOSTO	SIDWELL #04-25-07-478-023	2,197.42
09/30/2020	58607	DJ DEMOLITION	1660 LARKMOOR BLVD.	1,000.00
09/30/2020	58608	DR. NICOLE GUINOT VARTY	COLLEGE ESSAY WORKSHOP	280.00
09/30/2020	58609	DTE ENERGY	2099 OXFORD - 08/11/20 - 09/10/20	216.81

			2400 ROBINA - 08/13/20 - 09/11/20	529.70
			2100 BACON - 08/13/20 - 09/11/20	39.63
			2261 ROBINA - 08/13/20 - 09/11/20	734.20
			2395 12 MILE RD. - 08/13/20 - 09/11/20	6,205.20
			3155 COOLIDGE HWY. - 08/13/20 - 09/11/20	1,351.93
			2471 DOROTHEA RD. - 08/13/20 - 09/11/20	14.27
			3238 BACON - 08/13/20 - 09/11/20	271.59
			2398 12 MILE RD. - 08/13/20 - 09/11/20	48.25
			3341 ROBINA - 08/13/20 - 09/11/20	37.84
			2990 12 MILE RD. - 08/13/20 - 09/11/20	23.70
				9,473.12
09/30/2020	58610	DTE ENERGY	MONTHLY STREET LIGHT CHARGES - AUG.	17,148.74
			2400 ROBINA - 08/10/20 - 09/08/20	82.32
				17,231.06
09/30/2020	58611	DU-ALL CLEANING INC.	JANITORIAL SERVICES	1,500.00
			JANITORIAL SERVICES - SEPT.	2,000.00
				3,500.00
09/30/2020	58612	EJ USA, INC.	GATE COVER	306.09
			GATE / MH COVERS	679.04
			GATE VALVES	2,295.12
			COUPLING	778.36
				4,058.61
09/30/2020	58613	ELECTIONSOURCE	SHIPPING FOR AVCB BALLOT BAGS	42.63
09/30/2020	58614	EQUATURE	RADIO/PHONE RECORDING MAINT.	4,870.00
09/30/2020	58615	EVA MITCHELL	PRECINCT WORKER	67.50
09/30/2020	58616	FAI FOEN	RE-ISSUE CHECK #58238 - PRECINCT WORKER	66.25
09/30/2020	58617	FOUNDATION SYSTEMS OF MICHIGAN	2855 ELLWOOD AVE.	100.00
			2481 CUMMINGS AVE.	100.00
			2982 CATALPA DR.	75.00
				275.00
09/30/2020	58618	FRANKS LANDSCAPING & SUPPLIES LLC.	FLOWER POT WATERING	7,752.51
09/30/2020	58619	FRONT LINE SERVICES, INC.	CHIEF FIRE BOOTS	199.00
09/30/2020	58620	GARRETT DOOR CO.	REPAIR DOOR	187.50
09/30/2020	58621	GENC SMAKAJ	3803 ROBINA AVE.	1,000.00
			CANCELLED DEMOLITION	139.50
				1,139.50
09/30/2020	58622	GOODYEAR AUTO SERVICE CENTER	DPW/P&R/PS	21.00
09/30/2020	58623	GREAT LAKES PEST CONTROL CO	DPW PEST CONTROL - SEPTEMBER 2020	40.00
			CITY HALL PEST CONTROL	60.00
			DDA PEST CONTROL	40.00
				140.00
09/30/2020	58624	HART INTERCIVIC	ADD'L SUPPLIES FOR TABULATORS	344.94
			ADD'L PARTS FOR TABULATORS	40.50
				385.44
09/30/2020	58625	HERSCH'S INC.	RESTORATION	1,397.60
09/30/2020	58626	HUBBELL, ROTH & CLARK	LOBBY PROJECT	16,189.71
			CITYWIDE SIGN INVENTORY	839.34
			AQUA TOTS MULTI TENANT ENG. REVIEW	1,001.47
			AQUA TOTS MULTI TENANT ENG. REVIEW	247.92
			AQUA TOTS MULTI TENANT ENG. REVIEW	745.36
				19,023.80
09/30/2020	58627	ICCA	FEE FOR QUARTER ENDING 06/30/20	5,960.91
09/30/2020	58628	IMAGE PRINTING	#10 REG. ENVELOPES	175.80
			SIGNS FOR DRIVE THRU ELECTION SERVICE	148.00

				323.80
09/30/2020	58629	INTERSTATE BILLING SERVICE	#18 - PARTS	648.63
			DPW #18 - PARTS	430.11
				1,078.74
09/30/2020	58630	ISABELLA JANSEN	PRECINCT WORKER	67.50
09/30/2020	58631	J & J ROOFING	3461 ELLWOOD AVE.	75.00
09/30/2020	58632	J F SINELLI CEMENT LLC	3849 KIPLING AVE.	200.00
09/30/2020	58633	J.H. HART URBAN FORESTRY	TREE TRIMMING	228.00
09/30/2020	58634	J.H. HART URBAN FORESTRY	TREES 9/7/20 - 9/11/20	2,736.00
			TREES 9/14/20 - 9/18/20	6,648.00
				9,384.00
09/30/2020	58635	JACK DEMMER FORD, INC.	PS/DPW PARTS	54.73
09/30/2020	58636	JACK DOHENY COMPANIES, INC.	#38 PARTS	5,630.17
09/30/2020	58637	JACK KIESLER	2350 CAMBRIDGE RD.	75.00
09/30/2020	58638	JAY'S SEPTIC TANK SERVICE	PORT-A-JOHN RENTAL	113.00
			PORT-A-JOHN RENTAL	113.00
				226.00
09/30/2020	58639	JESSE FOLEY	SIDWELL #04-25-18-133-032	1,777.82
09/30/2020	58640	JOHN & JUDITH MCNALLY	1408 WILTSHIRE RD.	200.00
09/30/2020	58641	KARYN CARRICO	NEWSPAPER	260.00
09/30/2020	58642	KONICA MINOLTA BUSINESS SOLUTIONS	DPW COPIER - SEPT. 2020	90.00
09/30/2020	58643	KYLE LAPORTE	SOFTBALL WINNERS	400.00
09/30/2020	58644	LAKE POINTE CONSTRUCTION INC.	1863 EDGEWOOD BLVD.	100.00
09/30/2020	58645	LINDSEY PLATZ	SIDWELL #04-25-17-401-010	1,826.37
09/30/2020	58646	MAJIK GRAPHICS, INC.	DPW LABEL WORK OUTSIDE WORK #70	160.00
			NEW VEH FLAG STICKERS	32.00
			UNIT 425 - GRAPHICS	675.00
				867.00
09/30/2020	58647	MALONEY TRUCKING	DIRT OUT & C CONCRETE	1,320.00
			DIRT OUT	520.00
				1,840.00
09/30/2020	58648	MASCHING ENTERPRISES, INC.	1220 COLUMBIA RD.	75.00
09/30/2020	58649	MATTHEW & REBECCA THERIAULT	3814 BACON	55.00
09/30/2020	58650	MAZZELLA LIFTING TECHNOLOGIES	SWIVEL HOISTS	361.84
			STRAPS & SHACKLES	196.16
				558.00
09/30/2020	58651	MCKENNA	INSPECTIONS FOR AUGUST 2020	25,385.81
09/30/2020	58652	MD SOLUTIONS, INC.	SIGN POSTS	6,138.00
09/30/2020	58653	METRO PUMP SERVICE	FUEL ISLAND / MAINT. - LARA TESTING	584.95
09/30/2020	58654	MICHIGAN LIBRARY ASSOC.	YOUTH LIBRARIAN WORKSHOP	45.00
09/30/2020	58655	MODERN XTERIOR IMPROVEMENT	3060 TYLER AVE.	100.00
09/30/2020	58656	MR. ROOF HOLDING COMPANY LLC	1048 PRINCETON RD.	75.00
09/30/2020	58657	NATALIE PRICE	RE-ISSUE CHECK #57211 - PILLO POLO REFUN	70.00
09/30/2020	58658	NELSON BROTHERS SEWER & PLUMBING	3625 CUMMINGS - WM BREAK FOLLOW-UP	586.00
09/30/2020	58659	NYE UNIFORM	LOGO SET UP FEE / FIRE	45.00
09/30/2020	58660	O'REILLY AUTOMOTIVE, INC.	GAL. CAR WASH	4.99
09/30/2020	58661	OAKLAND COUNTY	AUGUST 2020 / SEWAGE TREATMENT	238,366.09
09/30/2020	58662	OAKLAND COUNTY TREASURER	CVT	755.70
09/30/2020	58663	P. A. MORRIS COMPANY	MEETING ATTENDANCE/MINUTES FOR 09/09/20	150.00
09/30/2020	58664	PASANEN CONSTRUCTION	3992 THOMAS AVE.	1,000.00
09/30/2020	58665	PITNEY BOWES INC.	PSX AUGUST 2020 PROGRAM FEE	5.00
09/30/2020	58666	PLANNING & ZONING NEWS	PLANNING & ZONING SUBSCRIPTION	225.00
09/30/2020	58667	PLANTE & MORAN, PLLC	PROGRESS BILLING FOR AUDIT JUNE 30, 2020	5,800.00
09/30/2020	58668	PRINTING SYSTEMS	UTILITY BILLS - WATER BILLING	458.50
			#9 ENVELOPES - WATER BILLING	497.20
			#10 WINDOW ENVELOPES	862.93
				1,818.63

09/30/2020	58669	RKA PETROLEUM COS, INC	#2 ULTRA LOW SULFUR DIESEL	1,018.01
09/30/2020	58670	ROAD COMMISSION OF OAKLAND CO	SIGNAL MAINT. / JULY 2020	1,370.26
09/30/2020	58671	ROCHESTER MIDLAND	SANOR SERVICE FOR CITY HALL	66.69
09/30/2020	58672	ROCKET ENTERPRISE INC.	DPW / CH / LIB	216.00
09/30/2020	58673	S/E OAK.CTY RESOURCE REC. AUTH	TRASH, RECYCLE & PICK-UPS 9/1/20- 9/15/20	43,649.00
			AUGUST 2020 CITY SPECIALS - PICK-UPS	1,150.17
				44,799.17
09/30/2020	58674	SARAH FISHER	SOFTBALL FORFEIT FEE	90.00
09/30/2020	58675	SARAH HATTER	GENEALOGY PROGRAM	150.00
09/30/2020	58676	SCOTT SMITH	REIMBURSEMENT FOR SUMMER TUITION 2020	3,704.04
09/30/2020	58677	SJR PAVEMENT REPAIR	OVERBAND - COOLIDGE N. 12 MILE	6,700.00
			SPRAY PATCH - WILTSHIRE (EAST)	3,206.95
				9,906.95
09/30/2020	58678	SOPHIE JANSEN	PRECINCT WORKER	57.50
09/30/2020	58679	STAPLES	PAPER, TAPE, RUBBERBANDS, CONSTRUCTION P	97.84
09/30/2020	58680	STATE OF MICHIGAN	PLATES FOR CHIEF'S CAR	13.00
09/30/2020	58681	TERREN SADBERRY	PRECINCT WORKER	67.50
09/30/2020	58682	THOMAS JOSEPH BERTA	1812 WILTSHIRE RD.	100.00
09/30/2020	58683	TIMBER PRODUCTS INSPECTION	POLE INSPECTION	1,446.37
09/30/2020	58684	TIRE WHOLESALERS COMPANY INC	#73 PARTS	556.00
			P & R MOWERS	178.00
				734.00
09/30/2020	58685	TRESNAK CONSTRUCTION	3514 ROBINA AVE.	75.00
09/30/2020	58686	TRUCK & TRAILER SPECIALTIES, INC.	#6 DPW - PARTS	402.00
			#43 - PARTS	184.30
				586.30
09/30/2020	58687	VERIZON WIRELESS	FOR SERVICE 08/21/20 - 09/20/20	1,217.00
09/30/2020	58688	VIGILANTE SECURITY, INC.	ALARM SERVICE	312.00
09/30/2020	58689	VILLANOVA CONSTRUCTION	2194 BEVERLY BLVD.	200.00
			WORK WAS NOT PERFORMED	180.00
				380.00
09/30/2020	58690	WENDELL'S ROOFING & REMODELING	4238 GRIFFITH AVE.	100.00
09/30/2020	58691	WINDER POLICE EQUIPMENT	NEW BUILD - VEH #47	2,273.60
			WATCHGUARD CAMERA INSTALL FOR ACO TRUCK	430.28
			RADIO REMOVAL FROM L4	615.00
				220.99
09/30/2020	58692	WOW! BUSINESS	WOW INTERNET SERVICE	220.99
09/30/2020	58693	XPRT LAWN AND SNOW	NUISANCE CUTS	48.00
			NUISANCE CUTS	293.00
				341.00
Total of 246 Checks:				1,164,476.97
Less 1 Void Checks:				4,706.99
Total of 245 Disbursements:				1,159,769.98

CITY OF BERKLEY
ACH TRANSFERS

VENDOR

9/3/2020 INTERNAL REVENUE SERVICE	\$	15,442.39
9/4/2020 DPW UNION DUES	\$	308.00
9/4/2020 PSO UNION DUES	\$	760.00
9/4/2020 PS COMMAND UNION DUES	\$	400.00
9/8/2020 INTERNAL REVENUE SERVICE	\$	40,259.26
9/9/2020 MERS	\$	3,053.40
9/11/2020 MERS	\$	82,415.52
9/18/2020 INTERNAL REVENUE SERVICE	\$	40,120.74
9/18/2020 PSO UNION DUES	\$	760.00
9/18/2020 PS COMMAND UNION DUES	\$	400.00
	\$	183,919.31

City Clerk

We hereby certify that the foregoing is a true and correct list of bills and that they have been approved by the City Council and this is the authority to issue checks in the amounts stated and charge them in the various accounts.

Daniel Terbrack, Mayor

Victoria Mitchell, City Clerk

October 19, 2020 City Council Meeting


Moved by Councilmember _____ and seconded by Councilmember _____ to approve the 2020-2021 Winter Maintenance Agreement between the Road Commission for Oakland County and the City of Berkley. The City will be reimbursed a total of \$11,170.05 which will be paid in two installments, \$5,585.03 due in December 2020 and \$5,585.02 due in March 2021.

Ayes:

Nays:

Motion:

Transmittal Memo

To: Matthew Baumgarten, City Manager
From: Derrick Schueller, DPW Director 
Date: October 12, 2020
Subject: 2020-2021 Winter Maintenance Agreement with RCOC
12 Mile Road (Greenfield to Woodward)

For over 20 years, the City of Berkley has partnered with the Road Commission for Oakland County (RCOC) to provide winter maintenance services on 12 Mile Road between Greenfield Road and Woodward Avenue. Specific activities include snow removal and ice control (rock salt).

RCOC currently reimburses the City based upon the following formula:

$$\$6,981.28 \text{ per mile (four to five lane roadway)} \times 1.6 \text{ miles} = \$11,170.05$$

The \$11,170.05 amount represents a 2.5% increase over the 2019-2020 reimbursement. RCOC will pay the City in two installments, 50% in December 2020 (\$5,585.03) and 50% in March 2021 (\$5,585.02).

Even though the reimbursement does not cover 100% of our costs, the City of Berkley is able to provide a higher level of service to our residents and business owners.

Please find attached a copy of the RCOC cover memo and agreement for your consideration. As part of the agreement, proof of liability insurance for City personnel/equipment working on County roads and membership in the Michigan Municipal Workers Compensation Fund will be provided to the Road Commission.

Attachments

DLS

J:\RCOC\Winter Maintenance\2020-2021\Council\2020-2021 RCOC Winter Maintenance Agreement Cover Memo 10-12-20.doc



QUALITY LIFE THROUGH GOOD ROADS:
ROAD COMMISSION FOR OAKLAND COUNTY
"WE CARE."

Board of Road Commissioners

Ronald J. Fowkes
Commissioner

Gregory C. Jamian
Commissioner

Andrea LaLonde
Commissioner

Dennis G. Kolar, P.E.
Managing Director

Gary Plotrowicz, P.E., P.T.O.E.
Deputy Managing Director
County Highway Engineer

**Highway Maintenance
Department**

**2420 Pontiac Lake Road
Waterford, MI 48328**

248-858-4881

**FAX
248-858-7607**

www.rcocweb.org

August 24, 2020

Mr. Derrick Schueller
Director of Public Works
City of Berkley
3338 Coolidge Hwy
Berkley, Michigan 48072

RE: 2020-2021 Winter Maintenance Agreement

Dear Mr. Schueller:

Attached are two copies of a Winter Maintenance Agreement between the Road Commission for Oakland County and the City of Berkley.

This 2020-2021 agreement has an increase of 2.5%, which increases the amount from \$10,897.60 to \$11,170.05.

If this agreement is satisfactory, please return the two-signed copies and the resolution of approval by your City Council. One fully signed copy will be returned to you upon approval by the Board of Road Commissioners.

Please furnish proof that your liability insurance covers this agreement, and particularly covers your personnel and equipment working on county roads under the jurisdiction of the Board of Road Commissioners. If there are any changes in this coverage during the term of this agreement, we must be notified of these changes. We will also need a current certificate of membership in the Michigan Municipal Workers Compensation Fund.

The Board of Road Commissioners and I extend our appreciation to you, the City Council, and your personnel for the fine work that has been done. We will continue to cooperate in any way to provide our citizens with the best road system possible.

We request that your signed agreement be returned to us no later than the end of November, so that we may present the agreement to our Board prior to the end of the year, which will allow RCOC to make payments per the agreement.

Sincerely,

Darryl M. Heid, P.E.
Director of Highway Maintenance

/gg

Attachment

2020-2021 WINTER MAINTENANCE AGREEMENT
CITY OF BERKLEY

Under 1951 PA 51, As Amended

This Winter Maintenance Agreement ("Agreement") is made this ____ day of _____, 2020, between the Board of County Road Commissioners of the County of Oakland, State of Michigan, a public body corporate, hereinafter referred to as the "Board," and the City of Berkley, Oakland County Michigan, a Michigan municipal corporation hereinafter referred to as the "City."

WHEREAS, certain county primary and local roads more specifically set forth in Exhibit A, attached hereto, are under the jurisdiction and control of the Board and are located within or adjacent to the City; and

WHEREAS, The City desires to be responsible for certain winter maintenance of said roads under the terms of this Agreement, and the Board is willing to participate in the cost thereof as provided in Section III of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein as provided, it is hereby agreed as follows:

I

The City will perform Winter Maintenance of certain roads under the terms of this Agreement, and the Board will participate in the cost thereof as provided in Section III of this Agreement. "Winter Maintenance," herein required to be performed by the City, shall mean snow removal and ice control, on all roads listed in Exhibit A, as follows: Snow removal by blading, plowing and other methods necessary to make the roads reasonably safe for public travel, and ice control by salting, sanding, scraping and other methods necessary to make the roads reasonably safe for public travel, together with such other work and services, such as recordkeeping and insurance, required by this Agreement. All Winter Maintenance work and services performed by the City shall be in accordance with the Board's maintenance guidelines, including the Board adopted Winter Maintenance Guidelines, the Board's standard practices and this Agreement.

II

The City shall keep accurate and uniform records of all Winter Maintenance work performed pursuant to this Agreement. The Board shall have the right to audit City accounts and records insofar as such documents concern this Agreement and the work and services performed and to be performed hereunder.

III

In consideration of the assumption of Winter Maintenance by the City, the Board hereby agrees to pay to the City the sum of \$11,170.05, as set forth in Exhibit A, attached hereto and made a part hereof. Such amounts are to be used by the City for Winter Maintenance. Payments are to be made by the Board to the City as follows:

50% in December 2020
50% in March 2021

The making of said payments shall constitute the Board's entire obligation in reference to Winter Maintenance.

IV

The City hereby agrees to hold harmless, represent, defend and indemnify the Board, the Road Commission for Oakland County, its officers, and employees the County of Oakland; the Office of the Oakland County Water Resources Commissioner and applicable drainage districts(s); the Michigan State Department of Transportation and the Transportation Commission; and any and all local units(s) of government within which the roads subject to this Agreement are located, against any and all claims, charges, complaints, damages, or causes of action for (a) public or private property damage, (b) injuries to persons (including death), or (c) other claims, charges, complaints, damages or causes of action arising out of the performance or non-performance of the activities which are the subject matter of this Agreement, specifically those activities set out in Section I, both known and unknown, whether during the progress or after the completion thereof. However, this hold harmless provision does not apply in so far as any claim or suit is alleged to be, or demonstrated to be, the result of a defect in highway design or condition and not related to the Winter Maintenance activities set out in Section I. Further, since the Board has the statutory responsibility for maintenance of the roads under this Agreement, it is the intent of the parties that the delegation by this Agreement of those maintenance responsibilities to the City provide immunity to the City as an agent of the County. Therefore, the City falls within the governmental immunity protection of the County.

During that part of the year that the City is providing Winter Maintenance under Section I, the City agrees to promptly notify the Board as soon as possible, but not longer than 5 days, should it become aware of defects or maintenance requirements in the roads set forth in Exhibit A, if said defects or maintenance requirements are not Winter Maintenance subject to this Agreement.

V

The City shall acquire and maintain, during the term of the Agreement, statutory worker's compensation insurance, employer's liability insurance, automobile and comprehensive general liability insurance coverages, as more fully described in Exhibit B attached hereto, covering the Board's liability for any and all claims arising out of the City's performance or non-performance of the activities which are the subject matter of this Agreement.

VI

The City further agrees to comply with all applicable laws and regulations, including without limitation, laws and regulations of the State of Michigan for safeguarding the air and waters of the State. In particular, City facilities and operations must meet the provisions of Part 5 (Spillage of Oil and Polluting Materials) rules promulgated pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. (Rules R324.2001 through R324.2009 address release prevention planning, secondary containment, surveillance, and release reporting requirements).

VII

In accordance with Michigan 1976 Public Acts No. 220 and 453, being MCLA §§37.1209 and 37.2209, as the same may be amended, the City and its subcontractors shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status; or because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.. A breach of this covenant may be regarded as a material breach of this Agreement.

VIII

It is the intention of the parties hereto that this Agreement is not made for the benefit of any third party.

It is anticipated that subsequent agreements regarding Winter Maintenance activities will be executed annually by the Parties hereto.

The terms and conditions of this Agreement shall become effective on October 1, 2020 and shall continue in full force and effect until a subsequent Winter Maintenance agreement has been executed by the parties hereto or until this Agreement is terminated, as set forth below.

In the event that a subsequent Winter Maintenance agreement has not been executed by the parties hereto on or before September 1, 2021, either party may terminate this Agreement by providing the other party hereto with written notice of intent to terminate, at least thirty (30) days prior to the date of termination.

This Agreement is executed by the Board at its meeting of _____,
and by the City by authority of a resolution of its governing body, adopted _____,
(copy attached as Exhibit C).

Witnesses:

CITY OF BERKLEY
A Municipal Corporation

By: _____

Its: _____

By: _____

Its: _____

Witnesses:

BOARD OF COUNTY ROAD COMMISSIONERS
OF THE COUNTY OF OAKLAND,
A Public Body Corporate

By: _____

Its: _____

By: _____

Its: _____

WINTER MAINTENANCE
2020-2021

CITY OF BERKLEY

EXHIBIT A

Twelve Mile Road

Between Greenfield Road to Woodward Avenue

<u>Miles</u>	<u>Cost Per Mile</u>		
1.60	\$6,981.28	TOTAL	\$ 11,170.05

FOUR OR FIVE LANES (\$6,981.28 per mile)

<u>Miles</u>	<u>Cost Per Mile</u>		
1.60	\$6,981.28	TOTAL	\$ 11,170.05

50% in December 2020	\$ 5,585.03
50% in March, 2021	<u>\$ 5,585.02</u>
	\$ 11,170.05

EXHIBIT B

2020-2021 WINTER MAINTENANCE AGREEMENT

ROAD COMMISSION FOR OAKLAND COUNTY

INSURANCE PROVISION (CITY)

Insurance Coverage:

The City, prior to execution of the maintenance agreement, shall file with the Road Commission for Oakland County, copies of completed certificates of insurance as evidence that he carries adequate insurance satisfactory to the Board. Insurance coverage shall be provided in accordance with the following:

- a. **Worker's Compensation and Employer's Liability Insurance:** The insurance shall provide worker's compensation protection for the City's employees, to the statutory limits of the State of Michigan, and provide Part B Employers Liability as follows:

Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

The indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the City under worker's disability compensation coverage established by law.

- b. **Bodily Injury and Property Damage:** The insurance shall provide protection against all claims for damages to public or private property, and injuries to persons arising out of and during the progress and to the completion of the work, and with respect to product and completed operation for one year, after completion of the work.

1. **Bodily Injury and Property Damage Other Than Automobile:** The minimum limits of property damage and bodily injury liability covering each contract shall be:

Bodily Injury and Property Damage Liability:	or: Combined Single Limit:
Each Person \$1,000,000	Aggregate \$2,000,000
Each Occurrence \$1,000,000	
Aggregate \$2,000,000	

Such insurance shall include: 1) explosion, collapse, and underground damage hazards (x,c,u), which shall include, but not be limited to coverage for (a) underground damage to facilities due to drilling and excavating with mechanical equipment; and (b) collapse or structural injury to structures due to blasting or explosion, excavation, tunneling, pile driving, cofferdam work, or building moving or demolition; (2) products and completed operations; (3) contractual liability; and (4) independent contractors coverages.

2. **Bodily Injury Liability and Property Damage Automobiles:** The minimum limits of bodily injury liability and property damage liability shall be:

Bodily Injury and Property Damage Liability:		or: Combined Single Limit:	
Each Person	\$1,000,000	Each Occurrence:	\$1,000,000
Each Occurrence	\$1,000,000		

Such insurance shall include coverage for all owned, hired, and non-owned vehicles.

- c. **Excess and Umbrellas Insurance** – The City may substitute corresponding excess and/or umbrella liability insurance for a portion of the above listed requirements in order to meet the specified minimum limits of liability.
- d. **The City shall provide for and in behalf of the Road Commission for Oakland County and all agencies specified by the Road Commission, as their interest may appear, Owner's Protective Public Liability Insurance.** Such insurance shall provide coverage and limits the same as the City's General Liability Insurance.
- e. **Notice** – The City shall not cancel, renew, or non-renew the coverage of any insurance required by this Section without providing 30-day prior written notice to the Road Commission for Oakland County. All such insurance shall include an endorsement whereby the insurer shall agree to notify the Road Commission for Oakland County immediately of any reduction by the City. The City shall cease operations on the occurrence of any such cancellation or reduction and shall not resume operations until new insurance is in force. If the City cannot secure the required insurance within 30 days, the Board reserves the right to terminate the Contract.
- f. **Reports:** The City or its insurance carrier shall promptly report to the Road Commission all of the following events each time as they occur: Claims received, claims investigations made, and disposition of claims.

See provisions of the maintenance agreement to which this Exhibit B is attached.

A PROCLAMATION
of the Council of the City of Berkley, Michigan
Proclaiming October 2020 as Berkley Area
Chamber of Commerce Month

P-15-20

- WHEREAS,** The Berkley Area Chamber of Commerce works with the Berkley Area business community to advance the civic, economic, personal, social, and cultural systems of our area; and
- WHEREAS,** The Berkley Area Chamber of Commerce has contributed to the protection of commerce and the Berkley business climate for 35 years since its incorporation; and
- WHEREAS,** The Berkley Area Chamber of Commerce, under the guidance of their Board of Directors, works to promote the region's business community through education, information and the many networking and training opportunities that are developed by the Chamber; and
- WHEREAS,** The Berkley Area Chamber of Commerce and its members provide citizens with a strong business environment that increases employment, the retail trade and commerce, and business growth in order to make the City of Berkley a better place to live; and
- WHEREAS,** The Berkley Area Chamber of Commerce supports the municipalities by hosting the State of the Cities event which provides updates from the City of Berkley, the City of Huntington woods, the Berkley School District, the Downtown Development Authority and the Chamber itself to the citizens; and
- WHEREAS,** The Berkley Area Chamber of Commerce encourages the growth of existing services and commercial firms, and encourages new firms and individuals to locate in the City of Berkley; and
- WHEREAS,** The Berkley Area Chamber of Commerce is supported by the financial and volunteer resources of over 150 small and medium-sized businesses located and operating in the Berkley and Huntington Woods area.

NOW, THEREFORE, THE CITY OF BERKLEY HEREBY PROCLAIMS

SECTION 1: That the month of October 2020 is hereby proclaimed as *Berkley Area Chamber of Commerce Month* in the City of Berkley.

Proclaimed this 19th day of October, 2020 at a Regular Meeting of the Berkley City Council.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell, City Clerk

A PROCLAMATION

Of the Council of the City of Berkley, Michigan
Recognizing October 2020 as Cybersecurity Awareness Month

- WHEREAS,** the City of Berkley must be diligent in taking actions and measures to ensure and enhance security and to identify, protect against, prevent, and respond to cyber threats to both individual and collective security and privacy; and
- WHEREAS,** the prevalence of malware, cyberattacks and other virtual threats targeted at internet users and Berkley's information technology infrastructure are increasing by the day and ransomware attacks on government infrastructure and services nationwide have spiked; and
- WHEREAS,** critical infrastructure sectors are increasingly reliant on information systems and technology to support financial services, energy, telecommunications, transportation, utilities, health care, and emergency response systems; and
- WHEREAS,** the internet, computers and automated systems are vital to the daily operations of businesses, banks, schools, libraries, government agencies, and citizens use these systems to communicate with family and friends, manage finances, conduct business and consult legal services; and
- WHEREAS,** the STOP. THINK. CONNECT.™ Campaign serves as the national cybersecurity public awareness campaign, implemented through a coalition of private companies, nonprofit and government organizations, as well as academic institutions working together to increase the understanding of cyber threats and empowering the American public to be safer and more secure online; and
- WHEREAS,** cybersecurity is a responsibility and duty for every individual in the City, and awareness of computer security essentials will improve the security of Berkley's information infrastructure and economy; and

NOW, THEREFORE,

The City of Berkley does hereby recognize October 2020 as CYBERSECURITY AWARENESS MONTH in the City of Berkley, and call this observance to the attention of all our citizens.

Proclaimed this 19th day of October, 2020 at a Regular meeting of the Berkley City Council.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell, City Clerk

A RESOLUTION
of the Council of the City of Berkley, Michigan
designating Saturday, December 5, 2020 for the
Annual Holiday Parade and Tree Lighting Ceremony in Berkley

WHEREAS, the Annual Berkley Christmas Parade was established by City Council and continues as a result of the hard work of the Berkley Holiday Parade Committee, which is dedicated to continuing this much anticipated Holiday event in Berkley; and

WHEREAS, in good spirit, the Berkley Holiday Committee seeks Council approval for use of certain City streets as it presents its Annual "Holiday Lights Parade" for the enjoyment of Berkley residents; and

WHEREAS, the Annual "Tree Lighting Ceremony" was also established by City Council in order to bring local residents together in the spirit of the Holiday Season. The Berkley Junior Women's Club intends to continue its tradition of sponsoring the Annual "Tree Lighting Ceremony" and a visit from Santa immediately following the parade on the front lawn of City Hall; and

NOW, THEREFORE, THE CITY OF BERKLEY RESOLVES:

SECTION 1: That the Council of the City of Berkley be and hereby designates Saturday, December 5, 2020 for the annual Holiday parade which will begin at 5:30 p.m. and all local residents are urged to assemble at 5:00 p.m., along the following parade route, to begin this festive evening welcoming the Holidays to Berkley: East on Twelve Mile Road from Cummings to the intersection of Twelve Mile Road and Coolidge; concluding at City Hall, where the parade will disband and the Tree Lighting Ceremony with commence.

SECTION 2: That the City of Berkley, in the County of Oakland, Michigan, will faithfully fulfill all permit requirements, and shall save harmless indemnify, defend and represent the Board against any and all claims for bodily injury or property damage, or any other claim arising out of or related to operations authorized by such permit(s) as issued.

SECTION 3: That the City Clerk is directed to forward a copy of this resolution to the Road Commission for Oakland County, on behalf of the City of Berkley, in the County of Oakland, Michigan for the necessary approval of the Berkley Holiday Committee to conduct said parade.

Introduced and passed at a Regular City Council Meeting on Monday, October 19, 2020.

Daniel J. Terbrack, Mayor

Attest:

Victoria E. Mitchell, City Clerk



Print Form

City Clerk's Office
3335 Coolidge Hwy.
Berkley, MI 48072
248-650-3300
Fax: 248-650-3301
www.berkleymi.org

CITY OF BERKLEY, MICHIGAN COMMUNITY SPECIAL EVENT APPLICATION

RECEIVED
CITY OF BERKLEY, MI
2020 OCT -9 A 11:42

Name of Event: Holiday Lights Parade

Organization / Contact:

Name of Organization: Holiday H Contact's Name: Cinda Coon
Address: [REDACTED] City: Berkley State/zip: MI 48072
24 Hour Emergency Contact: Same

If event will be on private property owned by someone else, then a letter of permission from the property owner must be submitted with the application.

Event Location:

If the event involves city streets or sidewalks, include a map showing the location.
A petition from affected businesses may be required.

12 mile + Cummings — 12 mile + Coolidge - City Hall Gonzales
Dates and Hours of Event: 4:30 - 9pm Mar 14 - 15
How many employees or volunteers? Volunteers Griffith + 12 mile

How will site be secured during off-hours? Doesn't need to be

What type of merchandise will be sold? 0

If you are selling food, include a copy of your receipt from Oakland County Health Department. 0

Will there be any electricity outside the building (e.g., extension cords, heaters, lights)?
If yes, an electrical inspection by the City will be required after set up and before opening. 0

Include a Site Plan showing where merchandise will be sold, how pedestrian and vehicular traffic will circulate on the site. 0

What are your plans for set up and removal? 0

Tax Exempt Status (as defined by the US Internal Revenue Service):

Non-Profit ☐ 501.C3 ☐ Other (specify) ☐

Include the following documents:

- ☐ Internal Revenue Service tax exempt documentation for the organization.
- ☐ Organization's financial report for the preceding fiscal year.
- ☐ Proof of Commercial Liability Coverage on an "occurrence basis", naming the City of Berkley as additional insured, with no less than \$1,000,000 per occurrence and/or combined single limit, Personal Injury, Bodily Injury, and Property Damage.
- ☐ Liquor Liability, \$500,000 per occurrence and \$500,000 aggregate. (if applicable)
- ☐ Special Event Hold Harmless Agreement signed by an authorized representative

By Ordinance, each Community Special Event is limited to a maximum of 7 days.

Applications must be received at least 45 days prior to the event. Events involving the public right of way will require City Council approval. I understand that a representative of the organization will need to attend the City Council meeting. The City will notify me of the meeting date and time.

An application will be denied or an event shut down if complete and accurate information is not provided.

Cinda Coon
Signature of Applicant

10/6/2020
Date


APPROVALS

DEPARTMENT	Approve (YES/NO)	Signature	Date
Planning/Building			
Comments:			
Public Safety			
Comments:			
Notify SMART, ambulance, and waste collection of any road closures.			
Public Works			
Comments:			
Parks/Recreation			
Comments:			
City Clerk			
Comments:			
City Manager			
Comments:			

For City Use Only:

Date Application Received 10-12-20

Receipt Number PTU20-0005

Received	Receipt Number	Date Received
Application Fee (\$200.00) <input type="checkbox"/>		
Clean Up Bond (\$1,000.00) <input type="checkbox"/>		
Fee Waived <input checked="" type="checkbox"/>	City Manager's approval required	

City Manager's Signature: _____ Date: _____

IF APPLICABLE:

Motion Number:

Conditions (If any):

Is fee to be reimbursed?



CITY OF BERKLEY COMMUNITY SPECIAL EVENT HOLD HARMLESS AGREEMENT

This Hold Harmless Agreement is between Holiday Lights Committee (The Organization) and the City of Berkley, Michigan, (City) for the date(s) specified below.

Organization Name Holiday Lights Parade Committee

Address [REDACTED]

City Berkley State MI Zip 48009 Phone [REDACTED]

Event Name Holiday Lights Parade

Event Location(s) 12 mile, Cummings - Coolidge Event Date(s) 10/6/2020 - City Hall Gazebo

To the fullest extent permitted by law, the Organization expressly agrees to indemnify and hold harmless the City of Berkley, its elected and appointed officials, its employees and volunteers and others working on behalf of the City, from and against all loss, cost, expense, damage, liability or claims (whether groundless or not) arising out of bodily injury, sickness or disease (including death resulting at any time there from) which may be sustained or claimed by any person or persons participating in the above named event.

This includes damage or destruction of any property (including loss of use) based on any act or omission (negligent or otherwise) of the Organization or anyone acting on its behalf in connection with or incidental to this agreement. The Organization shall, at its own cost and expense, defend any such claim and any suit, action, or proceeding which may be commenced hereunder. In the event of any suit, action or proceeding, the Organization shall pay:

- Any and all judgments which may be recovered.
- Any and all expenses, including, but not limited to, costs, attorneys' fees and settlement expenses which may be incurred.

The Organization shall not be responsible to the City on indemnity for damages caused by or resulting from the City's sole negligence.

Authorized Representative Cinda Coon Title Chairman
(Please print)

Signature Cinda Coon Date 10/6/2020



**CITY OF BERKLEY
COMMUNITY SPECIAL EVENT
PERMIT APPLICATION DISPOSITION CHECKLIST**

Event Name: Holiday Lights Parade

Event Date(s) 12/5/2020 Location(s) 12 mile, Cummings - Coolidge City Hall Gazebo Event Hours 4:30 - 8pm

ORGANIZATION:

Organization Name:

Holiday Lights Committee

Headquarters Street Address:

City:

Berkeley

Zip Code:

Phone:

Website:

Tax Exempt Status (as defined by the US Internal Revenue Service):

Non-Profit ☐ 501(c)(3) ☐ N/A ☐ Other (specify) _____

The following documents have been submitted:

Completed application	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Valid IRS tax exempt verification	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Financial report for the preceding fiscal year	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Proof of Commercial Liability Coverage	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Estimated cost to execute the solicitation / event	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Charitable Solicitation / Special Event Hold Harmless Agreement	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

Application reviewed by: Public Safety _____ Public Works _____
Building Official _____

Comments:

Presented to City Council:

Date:

Approved:

☐ YES ☐ NO

Organization Notified

☐ YES ☐ NO

Date

W N E
S

Tree
Lighting
Gazebo



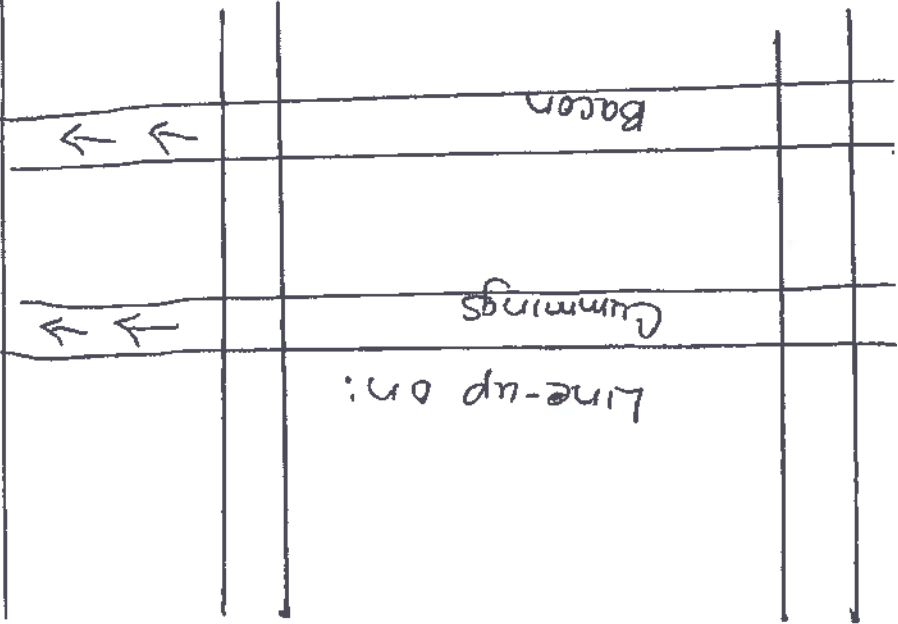
Rosemont
Horse Drawn
Carriage
Rides
After parade
Luminerie Lit

Smores Station
at Griffith + 12 Mile

← Coolidge



12 mile



Bacon

Cummings

Line-up on:



City Clerk's Office
3333 Coolidge Hwy.
Berkley, MI 48072
248-659-3300
Fax: 248-659-3301
www.berkleymich.org

Print Form

CITY OF BERKLEY, MICHIGAN COMMUNITY SPECIAL EVENT APPLICATION

RECEIVED
CITY OF BERKLEY, MI
2020 OCT -9 A 11:41

Name of Event: Holiday Tree lighting Ceremony

Organization / Contact:

Name of Organization: Berkley Jr Womens Club Contact's Name: Cinda Coon
Address: [REDACTED] City: Berkley State/zip: 48072
Telephone: [REDACTED] 24 Hour Emergency Contact: Same

If event will be on private property owned by someone else, then a letter of permission from the property owner must be submitted with the application.

Event Location:	
If the event involves city streets or sidewalks, include a map showing the location. A petition from affected businesses may be required.	
<u>City Hall Gazebo</u>	
Dates and Hours of Event:	<u>12/5/2020 6pm-9pm</u>
How many employees or volunteers?	<u>10-15</u>
How will site be secured during off-hours?	<u>X</u>
What type of merchandise will be sold?	<u>X</u>
If you are selling food, include a copy of your receipt from Oakland County Health Department. <u>X</u>	
Will there be any electricity outside the building (e.g., extension cords, heaters, lights)? If yes, an electrical inspection by the City will be required after set up and before opening. <u>X</u>	
Include a Site Plan showing where merchandise will be sold, how pedestrian and vehicular traffic will circulate on the site.	
What are your plans for set up and removal?	
Tax Exempt Status (as defined by the US Internal Revenue Service): Non-Profit <input checked="" type="checkbox"/> 501.C3 <input type="checkbox"/> Other (specify) <input type="checkbox"/>	
Include the following documents:	
<input type="checkbox"/> Internal Revenue Service tax exempt documentation for the organization. <input type="checkbox"/> Organization's financial report for the preceding fiscal year. <input type="checkbox"/> Proof of Commercial Liability Coverage on an "occurrence basis", naming the City of Berkley as additional insured, with no less than \$1,000,000 per occurrence and/or combined single limit, Personal Injury, Bodily Injury, and Property Damage. <input type="checkbox"/> Liquor Liability, \$600,000 per occurrence and \$800,000 aggregate. (if applicable) <input type="checkbox"/> Special Event Hold Harmless Agreement signed by an authorized representative	

By Ordinance, each Community Special Event is limited to a maximum of 7 days.

Applications must be received at least 45 days prior to the event. Events involving the public right of way will require City Council approval. I understand that a representative of the organization will need to attend the City Council meeting. The City will notify me of the meeting date and time.

An application will be denied or an event shut down if complete and accurate information is not provided.

Cinda Coon
Signature of Applicant

12/16/2020
Date

APPROVALS

DEPARTMENT	Approve (YES/NO)	Signature	Date
Planning/Building			
Comments:			
Public Safety			
Comments:			
Notify SMART, ambulance, and waste collection of any road closures.			
Public Works			
Comments:			
Parish/Recreation	yes	<i>[Signature]</i>	10/14/2020
Comments:			
City Clerk			
Comments:			
City Manager			
Comments:			

For City Use Only:

Date Application Received 10-12-20

Receipt Number PTU20-0006

Received	Receipt Number	Date Received
Application Fee (\$200.00) <input type="checkbox"/>		
Clean up Bond (\$100.00) <input type="checkbox"/>		
Fee Waived <input checked="" type="checkbox"/>	City Manager's approval required	<i>[Signature]</i>

City Manager's Signature: _____

Date: _____

IF APPLICABLE:

Motion Number: _____

Conditions (if any): _____

Is fee to be reimbursed? _____



**CITY OF BERKLEY
COMMUNITY SPECIAL EVENT
HOLD HARMLESS AGREEMENT**

This Hold Harmless Agreement is between Berkley Jr Womens Club (the Organization) and the City of Berkley, Michigan, (City) for the date(s) specified below.

Organization Name Berkley Junior Women's Club
Address [REDACTED]
City Berkley State MI Zip 48072 Phone [REDACTED]
Event Name Holiday Tree Lighting Ceremony
Event Location(s) City Hall gazebo Event Date(s) Sat 12/5/2020

To the fullest extent permitted by law, the Organization expressly agrees to indemnify and hold harmless the City of Berkley, its elected and appointed officials, its employees and volunteers and others working on behalf of the City, from and against all loss, cost, expense, damage, liability or claims (whether groundless or not) arising out of bodily injury, sickness or disease (including death resulting at any time there from) which may be sustained or claimed by any person or persons participating in the above named event.

This includes damage or destruction of any property (including loss of use) based on any act or omission (negligent or otherwise) of the Organization or anyone acting on its behalf in connection with or incidental to this agreement. The Organization shall, at its own cost and expense, defend any such claim and any suit, action, or proceeding which may be commenced hereunder. In the event of any suit, action or proceeding, the Organization shall pay:

- Any and all judgments which may be recovered.
- Any and all expenses, including, but not limited to, costs, attorneys' fees and settlement expenses which may be incurred.

The Organization shall not be responsible to the City on indemnity for damages caused by or resulting from the City's sole negligence.

Authorized Representative Cinda Coon Title VP
(Please print)
Signature Cinda Coon Date 10/6/2020



**CITY OF BERKLEY
COMMUNITY SPECIAL EVENT
PERMIT APPLICATION DISPOSITION CHECKLIST**

Event Name: Holiday Tree Lighting Ceremony

Event Date(s) 12/5/2020 Location(s) City Hall Gezebo Event Hours 6pm-9pm

ORGANIZATION:

Organization Name:

Berkley Junior Women's Club

Headquarters Street Address:

City:

Berkley

State:

mi

Zip Code:

48072

Phone:

Website:

Tax Exempt Status (as defined by the US Internal Revenue Service):

Non-Profit ☒

501(c)(3) ☐

N/A ☐

Other (specify) ☐

The following documents have been submitted:

Completed application

☒ YES ☐ NO

Valid IRS tax exempt verification

☐ YES ☐ NO

Financial report for the preceding fiscal year

☐ YES ☐ NO

Proof of Commercial Liability Coverage

☐ YES ☐ NO

Estimated cost to execute the solicitation / event

☐ YES ☐ NO

Charitable Solicitation / Special Event Hold Harmless Agreement

☒ YES ☐ NO

Application reviewed by:

Public Safety ☐

Public Works ☐

Building Official ☐

Comments:

Presented to City Council:

Date:

Approved:

☐ YES ☐ NO

Organization Notified

☐ YES ☐ NO

Date

October 19, 2020 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to appoint a hearing officer for marihuana business license application appeals.

Gregory K. Need
Adkinson, Need, Allen, & Rentrop, PLLC
39572 Woodward Ave., Suite 222
Bloomfield Hills, Michigan 48304

Ayes:

Nays:

Motion:



CITY OF BERKLEY
OFFICE OF THE CITY MANAGER
3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

To: Mayor Terbrack and City Councilmembers
From: Matt Baumgarten, City Manager
Date: October 16, 2020
Subject: Appointment of a Hearing Officer for Marihuana Appeals

Mr. Mayor and Members of the City Council,

In 2019, the City Council directed City Administration to develop comprehensive ordinances which regulated marihuana businesses coming to the City of Berkley, including the zoning requirements, application and evaluation process, operational standards, license renewal, and of course an appeals process for applicants which are aggrieved by a license denial, revocation, or suspension.

Chapter 30, Article XV, Sec. 30-813. states:

(c) Appeal of denial of an application, or revocation or suspension of a license: the community development department shall notify an applicant of the reason(s) for denial of an application for a license or license renewal or for revocation or suspension of a license or any adverse decision under this article and provide the applicant with the opportunity to be heard. Any applicant aggrieved by the denial or revocation or suspension of a license or adverse decision under this article may appeal to the city council, who shall appoint a hearing officer to hear and evaluate the appeal and make a report and recommendation to the city council. Such appeal shall be taken by filing with the community development department, within 14 days after notice of the action complained of has been mailed to the applicant's last known address on the records of the community development department, a written statement setting forth fully the grounds for the appeal. The city council shall review the report and recommendation of the hearing officer and make a decision on the matter.

Marihuana Business License Application Process

On June 15, 2020, the application process kicked off with accepting submissions until June 29th. Following that phase, Erin Schlutow, Dan Hill, and myself processed the applications with Completeness Checks and subsequently allowed the applicants the ordinance prescribed 14-day resubmission period. After receiving the resubmissions, the applications underwent the Pass/Fail evaluation process which included major criteria such as parking calculations and background checks. Finally, the Marihuana Policy Team consisting of myself, Erin Schlutow, and Matt Koehn, with facilitation from Dan Hill, met to subject every application to the merit scoring criteria approved by City Council earlier this year (R-01-20). This entire process came to a head when City Administration officially released the merit scoring results on the City website

and notified every applicant on September 29, 2020, with official letters deposited to the US Postal Service. With the official notification being sent on September 29th, by ordinance, the deadline for appeals to be received was October 13, 2020.

Following the release of scores, there were a number of applicants interested in learning how to submit an appeal to the City Council, so City Administration released a public memo outlining the process (attached). City Administration has administered the process as it is outlined in the memo, and now we must move to the next phase of the appeals being determined by City Council with the assistance of an appointed Hearing Officer to administer the appeals process. As of this memo, the City has received 23 appeals, with the potential for up to four more in consideration of allowing postmarked submissions.

Appeals Hearing Officer

Administering an appeals process with at least 23 submissions is not going to be a small feat. It is incredibly imperative that a Hearing Officer appointed by City Council is impartial and has no ties to the applicants or properties involved in the entire process, has an understanding and ability to provide due process, and has the skill set to administer the process efficiently and accurately.

To provide the prescribed skills listed above, we knew that we needed to solicit assistance from an outside source which is what led to the attached proposal from Mr. Gregory K. Need. We believe that he is more than capable to provide the services we need in order to allow every applicant a fair and judicious appeal process.

Thank you,

A handwritten signature in black ink, appearing to read 'Matthew Baumgarten', with a stylized, flowing script.

Matthew Baumgarten
City Manager

MEMO

To: Marihuana Business License Applicants
From: Matthew Baumgarten, City Manager
Date: October 1, 2020
Subject: Guidance on the MBL Appeals Process

To Whom It May Concern:

On September 29, 2020 the City of Berkley released the scoring results from the Marihuana Business Licensing Application process, resulting in three advancements and 27 license denials.

If you are seeking to appeal the denial of your license application please refer to the following guidance prescribed by [Chapter 30, Article XV, Sec. 30-813. of the Berkley Code of Ordinances](#).

Appeals Deadline:

- Official Letter notification was postmarked and deposited with the United States Postal Service on September 29, 2020. As a result, ***the deadline for appeals to be received by the Community Development Department is October 13, 2020.***

Appeals Submission Instructions:

- Appeals shall be a written statement setting forth fully the grounds for appeal.
- Appeals may be submitted using the City Hall secure dropbox or by mail.
 - Items received after 5:00 PM each day in the dropbox are processed on the next business day.
 - Mailed appeals must be postmarked by the prescribed deadline.
- Appeals must be submitted to the Community Development Department and must include the assigned Application Number on the envelope and the written statement.
- Upon receiving any appeals, the City will confirm receipt from the applicant and provide the appeal information to the City Council appointed Hearing Officer for review and recommendation to the City Council.

Once the appeals process has begun for your application, City staff will not engage in answering additional questions regarding your application in order to preserve the review and recommendation to be made by the City Council appointed Hearing Officer.

Thank you,



Matthew Baumgarten
City Manager



LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

PHILLIP G. ADKISON
KELLY A. ALLEN
ROBERT M. GOLDMAN
JESSICA A. HALLMARK
GREGORY K. NEED
G. HANS RENTROP

39572 Woodward, Suite 222
Bloomfield Hills, Michigan 48304
Telephone (248) 540-7400
Facsimile (248) 540-7401
www.ANAfirm.com

OF COUNSEL:

KEVIN M. CHUDLER
KATHERINE A. TOMASIK

October 15, 2020

I. Background

Adkison, Need, Allen & Rentrop, PLLC is a firm of four principal attorneys, two associate attorneys, one legal assistant, two of-counsel attorneys, and six staff personnel. Our offices are located at 39572 Woodward Avenue, Suite 222, Bloomfield Hills, Michigan 48304.

II. Scope of Services and Experience

Our firm provides legal services to Michigan municipalities in virtually every area of municipal law, with the exception of bond and financial work, and labor law. These areas include all types of planning, zoning, and land use matters, condemnation and eminent domain proceedings, taxation, special assessments, resolution and ordinance drafting, ordinance enforcement, criminal prosecutions, wetland and environmental regulation, franchising, cable television and telecommunications matters, Tax Tribunal appeals, other administrative appeals, and statutory interpretation. We handle litigation in all courts, state and federal, and appeals before administrative agencies. We attend meetings for the various boards and commissions in the communities we represent. We have drafted opinions and ordinances in virtually every area of municipal law. Additionally, we provide the same services to municipalities as we do with our general business clients in areas such as employment law, real estate, contracts, and environmental law.

Gregory K. Need is lead counsel for the Charter Township of Springfield, City Attorney for Pleasant Ridge, general counsel for the West Bloomfield Parks and Recreation Commission and the Springfield Township Parks and Recreation Commission. He serves as special counsel for real estate matters for the City of Northville and, in the past, has been retained by the City of Ferndale, City of Rochester Hills, the Charter Township of Oxford, and Macomb Township to act as special counsel on various matters. Mr. Need has participated in numerous appeals and administrative proceedings at the local and state level, as well as appeals of municipal decisions to State courts. He served for many years as a case evaluator for the Oakland County Circuit Court.

Mr. Need has been a member of the Oakland County Bar Association, Municipal Law Committee since 1983, and served as its Chair on three separate occasions. He is a fellow of the

Oakland County Bar Foundation. He is also a member of the Michigan Association of Municipal Attorneys; and the State Bar of Michigan, Public Corporation Law Section. He is one of five co-authors of Michigan Zoning, Planning and Land Use, published in 2008 by the Institute of Continuing Legal Education, and has been an adjunct professor at Thomas M. Cooley Law School, teaching classes in zoning and land use planning.

In addition to his municipal involvement, Mr. Need has extensive political and community involvement. He currently serves as Vice President for the Clarkston Community Schools Board of Education and has served on that Board since 2015. He previously served as President of the Michigan Junior Chamber of Commerce (“Jaycees”) and as legal counsel for the United States Jaycees.

III. Fees

Our hourly rate for special counsel services is \$150.00 per hour.

IV. References

We invite you to contact any of the following individuals for recommendations and references.

City of Pleasant Ridge

James Breuckman, City Manager
23925 Woodward Avenue
Pleasant Ridge, MI 48069

City of Northville

Patrick Sullivan, City Manager
215 W. Main Street
Northville, MI 48167

City of Pleasant Ridge

Amy Allison, Clerk
23925 Woodward Avenue
Pleasant Ridge, MI 48069

City of Northville

Lori Ward, DDA Director
215 W. Main Street
Northville, MI 48167

Charter Township of Springfield

Collin W. Walls, Supervisor
12000 Davisburg Road
Davisburg MI 48350

West Bloomfield Parks and Recreation Commission

Jennifer Tucker, Executive Director
4640 Walnut Lake Road
West Bloomfield Township, MI 48323

Charter Township of Springfield

Laura Moreau, Clerk
12000 Davisburg Road
Davisburg, MI 48350

51st District Court

Hon. Richard D. Kuhn, Jr.
5100 Civic Center Dr
Waterford, MI 48329-3713



LAW OFFICES

ADKISON, NEED, ALLEN, & RENTROP

PROFESSIONAL LIMITED LIABILITY COMPANY

PHILLIP G. ADKISON
KELLY A. ALLEN
ROBERT M. GOLDMAN
JESSICA A. HALLMARK
GREGORY K. NEED
G. HANS RENTROP

39572 Woodward, Suite 222
Bloomfield Hills, Michigan 48304
Telephone (248) 540-7400
Facsimile (248) 540-7401
www.ANAfirm.com

OF COUNSEL:
KEVIN M. CHUDLER
KATHERINE A. TOMASIK

October 15, 2020

VIA ELECTRONIC MAIL

City of Berkley
Matthew C. Baumgarten, City Manager
3338 Coolidge Hwy.
Berkley, MI 48072

Re: Proposal for Services as Appeal Hearing Officer

Dear Mr. Baumgarten:

As requested by City Attorney Staran, attached is some information about me and my firm for the Council's consideration to serve as an appeal hearing officer pursuant to Section 30-813 of the City's Code of Ordinances.

I understand from Mr. Staran that Council wishes to have the appeals processed and decided by Council in November. I would expect to give the appeal process prompt and diligent attention and, if selected on Monday, would anticipate having the appeal process concluded and a hearing officer's report and recommendation issued to Council within three to four weeks.

I would be very pleased to serve the City as a hearing officer. Please feel free to contact me by telephone or email if you have any questions about this or need any additional information.

Very truly yours,

ADKISON, NEED, ALLEN, & RENTROP, PLLC

Gregory K. Need

/mms

Enc.

cc: John D. Staran, Esq.

October 19, 2020 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to approve the purchase of a 2021 John Deere Backhoe with attachments and a 2021 John Deere Gator with attachments at a total cost of \$158,964.69 utilizing the MiDEAL Cooperative Bid Purchasing Program.

Ayes:

Nays:

Motion:

Transmittal Memo

To: Matthew Baumgarten, City Manager

Cc: Mark Pollock, Finance Director

From: Derrick Schueller, DPW Director

Date: October 12, 2020

Subject: Recommendation for Award-2021 John Deere Backhoe & 2021 John Deere Gator
MiDEAL Cooperative Purchasing Program



As part of the FY 2020-2021 budget process, funds were allocated for the purchase of a new backhoe tractor and a small utility vehicle (Gator). The tractor will replace a 2009 Volvo unit and the new Gator will replace a 1998 John Deere Gator.

We propose to utilize the MiDEAL extended purchasing program for this purchase. MiDEAL is the State of Michigan's bid program that allows local governments to buy goods from state contracts at a reduced price. This cooperative program has been in place since 1984 and offers over 400 different contracts.

DPW staff has reviewed the equipment options available via MiDEAL and selected the John Deere 310SLHL Backhoe and John Deere XUV865M Gator with various accessories. We currently have a John Deere Front End Loader and a John Deere Backhoe that have proven to be reliable and productive.

The new equipment carries a minimum one-year warranty and can be serviced at a local AIS Construction Equipment/John Deere repair facility in southeast Michigan.

We recommend moving forward with the 2021 John Deere Backhoe and 2021 John Deere Gator purchase at a total cost of \$158,964.69 utilizing the MiDEAL Purchasing Program. Please see attached detailed pricing which does include a \$27,000 credit for the trade-in of our existing 2009 Volvo Backhoe. Funds were previously allocated in the Capital Equipment Replacement Plan and 2020-2021 Fiscal Budget under account numbers 592-536-985-000 (Backhoe \$160,000) and 101-441-985-000 (Gator \$50,000).

Feel free to contact our office with any questions or concerns.

Attachments DLS

J:\Vehicles and Equipment\Backhoes\2021 Backhoe and Gator\Council\Recommendation for Award 2021 Deere Backhoe 2021 Gator 10-12-20.doc



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
 Department of Technology, Management, and Budget
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
 P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **4**

to

Contract Number **071B7700090**

CONTRACTOR	AIS CONSTRUCTION EQUIPMENT CORP	STATE	Program Manager	Scott Poyer	SW
	56555 Pontiac Trail			517-284-6448	
	New Hudson, MI 48165		Contract Administrator	poyers@Michigan.gov	
	Jeff Ely			Yvon Dufour	DTMB
	517-204-2127			(517) 249-0455	
	jely@aisequip.com			dufouy@michigan.gov	
	CV0020668				

CONTRACT SUMMARY

CONSTRUCTION EQUIPMENT PURCHASE AND RENTAL

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
January 13, 2017	January 12, 2021	2 - 1 Year	January 12, 2021

PAYMENT TERMS

DELIVERY TIMEFRAME

ALTERNATE PAYMENT OPTIONS

EXTENDED PURCHASING

☐ P-Card ☐ PRC ☐ Other ☒ Yes ☐ No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		January 12, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$7,000,000.00	\$7,000,000.00	\$14,000,000.00		

DESCRIPTION

Effective 10/22/2019, this contract is hereby increased by \$7,000,000. All other terms, conditions, specifications, and pricing remain the same. Per agency request, DTMB Procurement approval, and State Administrative Board approval on 10/22/2019.



GRAND RAPIDS
600 AIS Drive Southwest
Grand Rapids, MI 49548
Telephone: (616) 538-2400

LANSING
3600 North Grand River Avenue
Lansing, MI 48906
Telephone: (517) 321-8000

SAGINAW
4600 AIS Drive
Bridgeport, MI 48722
Telephone: (989) 777-0090

RICHMOND
65809 Gratiot Avenue
Lenox, MI 48050
Telephone: (586) 727-7502

TRAVERSE CITY
8300 M-72 East
Williamsburg, MI 49690
Telephone: (231) 267-9513

WEST DETROIT
56555 Pontiac Trail
New Hudson, MI 48165
Telephone: (248) 437-8121

September 8, 2020

Mr. Shawn Young
City of Berkley Dept. of Public Works
3238 Bacon Ave.
Berkley, MI 48072

RE: State of Michigan MiDeal pricing for new Deere model 310SLHL backhoe loader.
MiDeal contract # 071B7700090

Dear Mr. Young;

AIS Construction Equipment Corp & John Deere are pleased to provide you the following pricing for a new Deere model 310SLHL backhoe-loader.
Pricing is current MiDeal State Contract Pricing and as such will be firm until there is a manufacturer list price increase.

One (1) New John Deere 310SLHL as outlined in the attached equip details pages;

List Price	\$ 201,003.00
Less State Contract discount 46%	(92,461.38)
Sub-Total	\$ 108,541.62
PDI 1%	1,085.42
Attachment set-up two (2) hours at \$ 120.00	240.00
48 mos./2,000 hr. PT & hyd wtty	1,290.00
Parts & Service manuals (CD)	280.00
NPK Model PH3 breaker with pins	11,500.00
AT313592 6" amber warning light w/LED beacon	264.00
AT437343 24" heavy duty bucket w/pins & hardware	1,566.00
AT437345 30" heavy duty " " " "	1,685.00
AT436333 36" " " " "	2,250.00
AT437616 36" ditch bucket with pins & hardware	1,630.00
Werk Brau hydraulic coupler installed on 410L s.n. 291709	4,920.00
Werk Brau 24" single point frost ripper	1,450.00
Tink model 520 claw	11,800.00
Volvo BL70 s.n. 20108 with attachments	(27,000.00)
Delivery	200.00

TOTAL DELIVERED PRICE \$ 121,702.04

As AIS is authorized vendor for MiDeal contract # 071B7700090, if PO is issued it should be made out to:

AIS Construction Equipment Corp.
56555 Pontiac Trail
New Hudson, MI 48165

Please contact me any time with questions or if additional info is needed. AIS & my-self look forward to assisting you with any of your construction equipment needs!

Sincerely;
AIS Construction Equipment Co.

A handwritten signature in black ink, appearing to read "Craig Vick", with a stylized flourish extending from the end.

Craig Vick
Governmental Sales Manager
586-634-2760

ckv



STATE OF MICHIGAN CENTRAL PROCUREMENT SERVICES

Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **5**

to

Contract Number **071B7700085**

CONTRACTOR	DEERE & COMPANY
	2000 John Deere Run
	Cary, NC 27513
	Andrew Roman
	800-358-5010 x 2285
	romanandrewr@johndeere.com
	CV0017046

STATE	Program Manager	Scott Poyer	SW
		517-284-6448	
		poyers@Michigan.gov	
	Contract Administrator	Yvon Dufour	DTMB
		(517) 249-0455	
		dufoury@michigan.gov	

CONTRACT SUMMARY

AGRICULTURAL, GROUNDS & MAINTENANCE EQUIPMENT PURC

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
January 13, 2017	January 12, 2021	2 - 1 Year	January 12, 2021

PAYMENT TERMS

DELIVERY TIMEFRAME

ALTERNATE PAYMENT OPTIONS

EXTENDED PURCHASING

☐ P-Card

☐ PRC

☐ Other

☒ Yes

☐ No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		January 12, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$14,000,000.00	\$0.00	\$14,000,000.00		

DESCRIPTION

Effective 1/24/2020 pricing on this contract hereby updated, per revised Schedule D1 and D2 Pricing (attached). All other terms, conditions, specifications and pricing remain the same. Per contractor request, and DTMB Procurement approval.

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Distributing Corp of America
65809 Gratiot Avenue
Lenox, MI 48050
586-727-7502
lmeyers@aisequip.com

Quote Summary

Prepared For:
City Of Berkley
MI

810-343-1126 call

Delivering Dealer:
Distributing Corp of America
Gwen Pytlowany
65809 Gratiot Avenue
Lenox, MI 48050
Phone: 586-727-7502
gpytlowany@aisequip.com

Quote ID: 22781363
Created On: 17 September 2020
Last Modified On: 17 September 2020
Expiration Date: 19 October 2020

Equipment Summary	Suggested List	Selling Price	Qty	Extended
JOHN DEERE GATOR™XUV865M HVAC (Model Year 2021) Contract: MI Ag, Grounds, and Roadside 071B7700085 (PG 3W CG 22) Price Effective Date: December 18, 2019	\$ 30,351.33	\$ 27,012.65 X	1 =	\$ 27,012.65
SNOW-EX UTV V (6' HYDRAULIC V PLOW) Contract: MI Ag, Grounds, and Roadside 071B7700085 (PG 3W CG 22) Price Effective Date:	\$ 4,750.00	\$ 4,750.00 X	1 =	\$ 4,750.00
SNOW-EX SP200 (SALT BODY) Contract: MI Ag, Grounds, and Roadside 071B7700085 (PG 3W CG 22) Price Effective Date:	\$ 5,500.00	\$ 5,500.00 X	1 =	\$ 5,500.00
Equipment Total				\$ 37,262.65

* Includes Fees and Non-contract items

Quote Summary

Equipment Total	\$ 37,262.65
Trade In	
SubTotal	\$ 37,262.65
Est. Service	\$ 0.00
Agreement Tax	
Total	\$ 37,262.65

Salesperson : X _____

Accepted By : X _____

Confidential



JOHN DEERE

**ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:**

Distributing Corp of America
65809 Gratiot Avenue
Lenox, MI 48050
586-727-7502
lmeyers@aisequip.com

Down Payment	(0.00)
Rental Applied	(0.00)
Balance Due	\$ 37,262.65

Salesperson : X _____

Accepted By : X _____

Confidential

October 19, 2020 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to authorize the Mayor to execute a contract between SMART and the City of Berkley for Fiscal Year 2021 for CARES ACT FUNDING for the period of January 20, 2020 - June 30, 2021.

Ayes:

Nays:

Motion:

**PARKS & RECREATION
DEPARTMENT**

MEMORANDUM

TO: Matthew Baumgarten, City Manager
Mark Pollock, Finance Director
Dan McMinn, Manager of Senior Programs and Special Events

FROM: Theresa McArleton, Director Parks & Recreation

DATE: September 25, 2020

SUBJECT: SMART CARES Contract

Attached is a copy of the SMART CARES Contract for City Council approval. This contract is new this year and is offered to the City to off-set loss of revenue or expenses incurred as a result of Covid-19. Our SMART County Ombudsman let us know that these funds can be used to recoup lost revenue due to our transportation program being shut down or on a limited schedule due to the pandemic.

Additional funds through this contract were available, but based on loss of revenue already incurred and expected, as well as limited expenses related to increased cleaning of our busses, the department feels that \$2,122 provides an accurate number. I have discussed this with our Finance Director as well.

Based upon the fact that funding from SMART has helped provide many years of transportation services within the community and our program was unable to run in the early parts stages of the pandemic, I recommend approval of this contract.

As always, please do not hesitate to call me should you have any questions regarding this memorandum or the attached information.

ATTACHMENTS

CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT FUNDING AGREEMENT

**BETWEEN
SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION
AND
CITY of BERKLEY**

This Coronavirus Aid, Relief, and Economic Security Act Funding Agreement (hereinafter “Agreement”) is made between the Suburban Mobility Authority for Regional Transportation (hereinafter “SMART”), an entity organized under the provisions of Act 204 of the Public Acts of 1967, as amended, of 535 Griswold, Suite 600, Detroit, Michigan 48226 and **City of Berkley** (hereinafter “Sub-recipient”), a municipality, whose address is **3338 Coolidge Highway, Berkley, MI 48072**, for the use of grant funding provided by the Federal Transit Administration (hereinafter “FTA”), pursuant to the Coronavirus Aid, Relief, and Economic Security Act (hereinafter “CARES Act”). SMART and Sub-recipient are collectively referred to as the “Parties” herein.

WHEREAS, SMART, pursuant to the provisions of Act 204, has been vested with the authority to acquire, plan, construct, operate and maintain transportation systems and facilities within its jurisdiction; and

WHEREAS, Sub-recipient is within SMART’s jurisdiction and desires to manage and operate certain public transportation services for purposes consistent with §5307; and

WHEREAS, the CARES Act provides emergency assistance and health care response for individuals, families and businesses affected by the COVID-19 pandemic, including funding for transportation to support capital, operating, and other expenses generally eligible under those programs to prevent, prepare for, and respond to COVID-19; and

WHEREAS, the purpose of this Agreement is to state the responsibilities and obligations of Sub-recipient and SMART, as well as the conditions for the Sub-recipient’s use of the CARES Act funding distributed by SMART; and

NOW THEREFORE, in consideration of the mutual covenants, and representations contained herein, the Parties agree as follows:

1. FUNDING

SMART, as a direct recipient of CARES Act funding, shall pass through designated CARES Act funding to Sub-recipient in the amount of **\$2,122**. This funding shall be spent in accordance to the CARES Act Budget in **Exhibit A**. The funding will be distributed as approved by the SMART Board of Directors and in accordance with federal regulations and SMART’s policies and procedures, and subject to the terms and conditions of this Agreement. The Parties

agree that SMART's disbursement of the CARES Act funding is contingent upon SMART receiving the funding from FTA. SMART will periodically reimburse communities for eligible CARES Act expenses upon receipt of Sub-recipient's required Quarterly Expense Report, and as described in the Community Transit Manual, and/or any and all required supporting documentation.

Eligible CARES Act expenses are those that are normally eligible under the Section 5307 programs that are incurred on or after January 20, 2020 to be in response to economic or other conditions caused by COVID-19. CARES Act funding must be spent on or before June 30, 2023. If the CARES Act funds allocated as above are not spent in their entirety on or before that date, SMART reserves the right to reallocate those funds.

If Sub-recipient has requested reimbursement of Municipal Credit or Community Credit ("MC/CC") funding for expenses that are also eligible for CARES Act funding, Sub-recipient may request that the funds be re-allocated from their MC/CC funding to their SMART share of CARES Act funding. Sub-recipient shall submit the re-allocation request via an email to the following email addresses: (1) FinanceAdmin@smartbus.org; (2) HShepherd@smartbus.org; and (3) MColson@smartbus.org. Sub-recipient shall specify and include in the email the following: (1) a revised Quarterly Expense Report indicating the quarter in which the reimbursement was requested for MC/CC funds that the Sub-recipient would like to be reallocated to CARES Act eligible funds (i.e., April 2020 – June 2020; (2) all relevant CARES Act eligible revenues; (3) all relevant CARES Act eligible expenses; (4) all relevant CARES Act eligible non-financial data; and (5) the amount of the CARES Act Funding eligible expense, specifically stating the entire expense amount is not CARES Act eligible. SMART's Finance Department shall review the originally submitted Quarterly Expense Report(s) against the revised Quarterly Expense Report(s) the Community submitted in re-allocating eligible CARES Act Funding expense. Upon completion of the review, SMART's Finance Department shall determine if the request for reimbursement is CARES Act eligible and if a transfer of the funds is permitted. A template of the Quarterly Expense Report can be obtained by your County ombudsperson. CARES Act funding cannot supplant existing grant local contribution requirements. Eligible expenditures reimbursed under MC/CC cannot also be reimbursed under CARES Act funding.

The Parties agree that should the CARES Act funding amount be reduced by the FTA from that which is anticipated, SMART shall reduce the CARES Act funding amount passed through to Sub-recipient. SMART may make reductions by project, by line item expenditure, or by dollar amount. SMART retains sole discretion to budget and spend all CARES Act funding dollars it receives. If the expenses applied for by Sub-recipient are found to be ineligible for funding, SMART will immediately notify Sub-recipient. Within thirty (30) days, Sub-recipient shall return all CARES Act funding for the ineligible expenses to SMART.

2. TERM OF THE AGREEMENT

This Agreement shall remain in effect as long as Sub-recipient receives CARES Act funding provided by this Agreement. SMART shall have sole discretion to terminate this Agreement upon written notice to Sub-recipient. Within thirty (30) days of receipt of written

notice, Sub-recipient shall return all CARES Act funding for the terminated program to SMART for repayment to the FTA.

3. RECORDS AND AUDITS

Sub-recipient shall keep accurate financial and operating records for the project for at least six (6) years from the date of expenditure or request for reimbursement, whichever is later. Such records including but not limited to: records of all expenses paid for its operations, records of the use of its services (ridership), all accident reports, maintenance records, dispatch records, personnel records, and all other supporting documents. SMART may request, and Sub-recipient shall permit, SMART or its designee to review all records relating to the project either by formal audit or periodic administrative review.

4. SUBRECIPIENT REPORTING AND MONITORING

Pursuant to 2 CFR Part 900 (hereinafter “Super Circular”) §200.331, Sub-recipient agrees to complete all available information required by **Exhibit B** of this Agreement at the time of the Agreement’s execution, and Sub-recipient further agrees to supplement all additional information required by **Exhibit B** immediately as it becomes available following the execution of the Agreement. **Exhibit B** may be completed in one or more counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same document.

5. INDEMNIFICATION

Notwithstanding anything to the contrary contained herein, Sub-recipient shall indemnify, defend and save harmless SMART, its officers, agents, employees, and members of its Board of Directors from any and all claims, losses and damages, including costs and attorney fees occurring or resulting from any act or omission of the Sub-recipient or its officers, agents, employees, subcontractors, successors and/or assigns arising out of or pursuant to this Agreement without regard to the negligence of the Sub-recipient.

This Agreement is not intended to alter or increase SMART or Grantee’s liability for tort claims, to other third-parties. Nor is this indemnity provision intended to be a third-party beneficiary contract, and therefore it confers no rights or third-party status on anyone other than the parties hereto.

6. PROCUREMENT

The Sub-recipient’s procurement of any property, supplies, services, or equipment using CARES Act funds must comply with the FTA procurement requirements at 49 CFR Part 18 if Sub-recipient is, or established by, a State or Local Government and 49 CFR Part 19 if Sub-recipient is a private, non-profit entity, and the guidance contained in the current FTA Circular 4220.1.

7. GENERAL

This Agreement may be executed and delivered (including by facsimile transmission) in two or more counterparts, each of which when executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. This Agreement constitutes the entire agreement between the parties and supersedes all previous understandings and agreements between the parties, whether oral or written. This Agreement may be modified by SMART at its sole discretion and written notice to Sub-recipient.

Should any part of this Agreement be declared to be invalid, unconstitutional or beyond the authority of either party to enter into or carry out, such decision will not affect the validity of the remainder of this Agreement, which will continue in full force and effect.

This Agreement is not intended to be a third-party beneficiary Agreement and confers no rights on anyone other than SMART and the Sub-recipient.

Parties' failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

The Parties agree that the responsibilities and benefits under this Agreement shall not be assigned unless such assignment is approved by SMART in advance in writing. This agreement does not and is not intended to confer any rights or remedies upon any person other than the parties.

The Sub-recipient shall, in the performance of this Agreement, comply with all applicable State, Federal and local statutes, ordinances and regulations. This Agreement shall be governed by the laws of the State of Michigan.

This Agreement shall become effective upon the date the Agreement is signed by SMART.

The Parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. The Parties agree that the electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability and admissibility. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

THE PARTIES HEREBY ACKNOWLEDGE that they have read and understand this Agreement and that the signatories below have affixed their signatures and affirmed that they are authorized to execute this Agreement, for the purpose of binding their respective Parties.

**SUBURBAN MOBILITY AUTHORITY
FOR REGIONAL TRANSPORTATION**

CITY of BERKLEY

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

EXHIBIT A

CARES ACT FUNDING BUDGET

Sub-recipient: **City of Berkley**
 Contract Period: January 20, 2020 - June 30, 2023
 Account Number: _____

CARES ACT SMART ALLOCATION

\$2,122.00

CARES ACT ANTICIPATED EXPENSES

OPERATING EXPENSES:

State Administrative Wages	
Driver Wages	
Fringe Benefits	
Gasoline & Lubricants	
Vehicle Insurance	
Parts, Maintenance Supplies and Contractual Services*	\$300 for cleaning and disinfectant supplies
Mechanic Wages	
Fringe Benefits	
Dispatch Wages	
Other (Specify)	\$1822 loss of fare box revenue
Sub-Total	\$2122

PURCHASED SERVICE:

Taxi Service	
Charter Service	
SMART Bus Tickets	
SMART Shuttle Service	
SMART Dial-A-Ride	
Other (Specify) _____	
Sub-Total	

CAPITAL EQUIPMENT:

(Only list purchases to be made with

CARES Act Funding)

Computer Equipment	
Software	
Vehicle	
Maintenance Equipment	
Other (Specify)	
Sub-Total	

TOTAL EXPENSES:

CARES ACT SMART ALLOCATION MINUS

TOTAL EXPENSES:

*Contractual Services– Please detail what services are being performed with an attachment to this budget.

EXHIBIT B

- 1) **Sub-recipient Name:** City of Berkley
- 2) **DUNS Number:**
- 3) **FAIN:**
- 4) **Fed Award Date:**
- 5a) **Sub-Award Start:**
- 5b) **Sub-Award End:**
- 6) **Fed Funds Obligated by this Action:**
- 7) **Total Fed Funds Obligated to Sub by FAIN:**
- 8) **Total Amount of Fed Award Committed:**
- 9) **Fed Award Project Description:**
- 10) **SMART Vehicle Number:**
- 11) **Name of Fed Awarding Agency:** Federal Transit Administration
- 12) **Name of Pass-Through Entity:** SMART
- 13) **Contact Information for Pass-Through Awarding Official:** Ryan Byrne, SMART
Director of Finance
- 14) **CFDA Number & Name:** 20.507- Urbanized Area Formula Grants (CARES Act)
- 15) **R&D:** No
- 16) **Indirect Cost Rate for Federal Award:** N/A

October 19, 2020 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to authorize the Mayor to execute a contract between SMART and the City of Berkley for Fiscal Year 2021 for Municipal Credit and Community Credit funds in order to provide public transportation services for the period of July 1, 2020 to June 30, 2021.

Ayes:

Nays:

Motion:

**PARKS & RECREATION
DEPARTMENT**

MEMORANDUM

TO: Matthew Baumgarten, City Manager
Mark Pollock, Finance Director
Dan McMinn, Manager of Senior Programs and Special Events

FROM: Theresa McArleton, Director Parks & Recreation

DATE: September 25, 2020

SUBJECT: SMART Municipal and Community Credit Contract

Attached is a copy of the annual renewal contract for Municipal and Community Credit funds from SMART, along with the required exhibits and an EEOC Report A Form. As indicated in the 2021 contract, the City of Berkley is eligible to receive \$14,706.00 in Municipal Credit Funds and \$25,336.00 in Community Credit Funds.

The fiscal year 2021 contract period will commence July 1, 2020, and will expire on June 30, 2021. The City Attorney has reviewed and approved these contract documents.

Based upon the fact that funding from SMART has helped provide many years of transportation services within the community, I recommend approval of this contract.

As always, please do not hesitate to call me should you have any questions regarding this memorandum or the attached information.

ATTACHMENTS

MUNICIPAL CREDIT and COMMUNITY CREDIT CONTRACT FOR FY2021

I, Dan Terbrack, as the Mayor of the **City of Berkley** (hereinafter, the “Community”) hereby apply to SMART and agree to the terms and conditions herein, for the receipt and expenditure of **Municipal Credits** available for the period **July 1, 2020** through **June 30, 2021** (Section 1 below), and **Community Credits** available for the period **July 1, 2020** to **June 30, 2021** (Section 2 below); and further agree that the **Municipal and Community Credits Master Agreement** between the parties is incorporated herein by reference. A description of the service the Community shall provide hereunder is set forth in **Exhibit A**, and the operating budget for that service is set forth in **Exhibit B**, both of which are attached hereto and incorporated herein.

1. The Community agrees to use **\$14,706.00** in **Municipal Credit** funds as follows:
- (a) Transfer to _____ Funding of: \$ _____
TRANSFeree COMMUNITY
- (b) Van/Bus Operations At the cost of: \$ 14,706.00
(Including Charter and Taxi services)
- (c) Services Purchased from SMART At the cost of: \$ _____
(Including Tickets, Shuttle Services/Dial-a-Ride)
- (d) Services Purchased from Subcontractor At the cost of: \$ _____

(NAME OF SUBCONTRACTOR)
(See attached Subcontractor Service Agreement)

Total \$14,706.00

SMART intends to provide Municipal Credit funds under this contract to the extent funds for the program are made available to it by the Michigan Legislature pursuant to Michigan Public Act 51 of 1951. Municipal Credit funds made available to SMART through legislative appropriation are based on the State's approved budget. In the event that revenue actually received is insufficient to support the Legislature's appropriation, it will result in an equivalent reduction in funding provided to the Community pursuant to this Contract. In such event, SMART reserves the right, without notice, to reduce the payment of Municipal Credit funds by the amount of any reduction by the legislature to SMART. All Municipal Credit funding must be spent by **June 30, 2022**; all funds not spent by that date will revert back to SMART pursuant to Michigan Public Act 51 of 1951, for expenditure consistent with Michigan law and SMART policy.

2. The Community agrees to use \$25,336.00 in **Community Credit** funds available as follows:
- (a) Transfer to _____ Funding of: \$ _____
TRANSFeree COMMUNITY
- (b) Van/Bus Operations At the cost of: \$ 25,336.00
(Including Charter and Taxi services)
- (c) Services Purchased from SMART At the cost of: \$ _____
(Including Tickets, Shuttle Services/Dial-a-Ride)
- (d) Capital Purchases At the cost of: \$ _____

(e) Services Purchased from Subcontractor

At the cost of: \$ _____

(NAME OF SUBCONTRACTOR)

(See attached Subcontractor Service Agreement)

Total \$25,336.00

To the extent that this Contract calls for a payment of funds directly from SMART to a subcontractor, Community hereby acknowledges that it is the party entitled to receive such funds and is affirmatively authorizing and directing SMART to pay such funds directly to the subcontractor on its behalf. Capital purchases permitted with Community Credits are subject to applicable state and federal regulations, and SMART policy, including procurement guidelines. When advantageous, SMART may make procurements directly. Reimbursement for purchases made by Community requires submission of proper documentation to support the purchase (i.e. purchase orders, receiving reports, invoices, etc.). Community Credit dollars available in **FY2021**, may be required to serve local employer transportation needs per the coordination requirements set forth in the aforementioned Master Agreement. All Community Credit funds must be spent by **June 30, 2024**; any funds not spent by that date may revert back to SMART for expenditure consistent with SMART policy.

This agreement shall be binding once signed by both parties.

THE CITY OF BERKLEY

By: _____

Date _____

Its: _____

**SUBURBAN MOBILITY AUTHORITY FOR
REGIONAL TRANSPORTATION**

By: _____

Date _____

Its: _____

EXHIBIT A

BERKLEY PROJECT DESCRIPTION

Overall Project Description (Provide a descriptive narrative):

The City of Berkley operates one SMART Ford van and one SMART Eldorado Lite E 350 vehicle for assisted transportation services. The City of Berkley will use its Community Credit funds to help finance this operation. The City of Berkley also operates one SMART Eldorado Aero Elite 320 bus for group outings. The City of Berkley will use Municipal Credit funds to help finance the operation of this bus.

Service Area (Provide geographic boundaries):

The vans are used to provide round trip transportation for individuals from their residence within the City of Berkley to hospitals, medical offices, shopping centers and other destinations located between 8 Mile Road and 16 Mile Road and Lahser and Dequinder Road. The bus will be used to transport groups of residents from Berkley and surrounding communities to recreation, social activities and special events. The service shall be limited to trips within the SMART region.

Service Times (Provide days and hours of service):

Normal operating hours for the van service are 8:30am until 4:00pm Monday through Friday. Evening and weekend transportation is also available for certain city sponsored events, activities and meetings. The days and hours of the bus service will vary depending on when the recreation, social or special event activities are scheduled.

Eligible User Groups (Users eligible to use the service):

The van service is available to residents who are disabled or are 50 years of age and older, retired or semi-retired. Bus transportation is available to resident of any age from the City of Berkley or surrounding area.

Fare Structure (Cost to use service):

Fares for the van service are by donation and a suggested cost of \$3.00 one way and \$5.00 return trip is recommended and appreciated

Service Mode (Describe the amount and type of vehicles available, and whether they are wheelchair lift-equipped):

2020 Ford 6 Passenger Van – Lift Equipped

2015 Champion 13 Passenger Bus – Lift Equipped

2007 Chevy 26 Passenger Bus – Lift Equipped

EXHIBIT B

PROJECT OPERATING BUDGET

Municipality: **City of Berkley**

Contract Period: July 1, 2020 through June 30, 2021

Account Number: 48203

OPERATING EXPENSES:

Administrative Fee: *(All employees
other than drivers and dispatchers)*
(10% max. of MC & CC funds)

\$ 4004.00

Driver Wages

\$ 26,180.00

Fringe Benefits

\$ 2,456.00

Gasoline & Lubricants

\$ 5,500.00

Vehicle Insurance

\$ 3729.00

Parts, Maintenance Supplies

\$ 6,990.00

Mechanic Wages

\$ 5,306.00

Fringe Benefits

\$ 4,935.00

Dispatch Wages

\$ 9,222.00

Other (Specify)

\$ 600.00

Sub-Total (Operating Expenses)

\$68,922

PURCHASED SERVICE:

Taxi Service

Charter Service

SMART Bus Tickets

SMART Shuttle Service

SMART Dial-A-Ride

Other (Specify)

Sub-Total (Purchased Service)

\$ 0

CAPITAL EQUIPMENT:

(Only list purchases to be made with Community Credits)

Computer Equipment

Software

Vehicle

Maintenance Equipment

Other (Specify)

Sub-Total (Capital Equipment)

\$ 0

TOTAL EXPENSES:

**Operating Expenses, Purchased Service,
and Capital Equipment**

\$

BERKLEY EXHIBIT B, continued (Page 2)

REVENUES:

Municipal Credit Funds	\$14,706.00
Community Credit Funds (FY19)	\$25,336.00
Specialized Services Funds	\$22,880.00
General Funds	
Farebox Revenue	\$6000.00
In-Kind Service	
Special Fares (Contracted Service)	
Other (CARES Act Funds)	

TOTAL REVENUE:

\$ 68,922.00

(Note: ***TOTAL EXPENSES*** must equal ***TOTAL REVENUE***)

Suburban Mobility Authority For Regional Transportation

EEO COMPLIANCE REPORT A

FY21 COMMUNITY PARTNERSHIP FORM

Agency/Community Information

Program Type: Community Partnership Program (CPP) ☐ Specialized Service ☒ New Freedom ☐ JARC ☐ 5310 ☐

Name of Agency/Community: City of Berkley Parks & Recreation

Address: 2400 Robina

City: Berkley

State: Michigan

Zip: 48072

Agency/Community Data

1) Has your agency/community completed in excess of \$1,000,000 in

DOT federally-funded contracts from SMART in the past year?

Yes ☐ No ☒

2) Does your agency/community employ over fifty (50) transit related employees?

Yes ☐ No ☒

If the answers to the previous two questions were both "Yes", Please forward

your agency's/community's Affirmative Action plan to the address below:

Buhl Building
535 Griswold Street, Suite 600
Detroit, MI 48226

Attn: EEO Coordinator

Have all subcontractors been informed of their responsibility to file an EEO Compliance Report A form? Yes ☐ No ☐ N/A ☒

Testing Program Requirements

Does your agency/community have a DOT Drug and Alcohol testing program for

Safety-sensitive employees? (Vehicle operators, dispatchers, mechanics and armed security)

Yes ☒ No ☐

Who is your testing program manager? Mark Pollock

Contact Number: 248-658-3340

Please Proceed to Employment Data Section

Suburban Mobility Authority For Regional Transportation

EEO COMPLIANCE REPORT A

FY21 COMMUNITY PARTNERSHIP FORM

Employment Data																			
Report all Transit related permanent, temporary, or part-time employees including apprentices and on-the-job trainees. Enter the appropriate figures in the boxes below relating to an employee's race and gender.																			
Job Classification	Total				Race														
					Non Minority		Minority												
	White		African American		Hispanic		Asian		Pacific Islander		American Indian		Multi Race						
	Employees	Male	Female	Minority	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Officials/Manager	2	1	1		1	1													
Professionals	1		1			1													
Technicians																			
Sales Workers																			
Office and Clerical Staff																			
Craftsmen (Skilled)	1	1			1														
Operators (Semi-Skilled)	2	2		2	2		2												
Laborers (Unskilled)																			
Service Workers																			
Journey Workers																			
Apprentices																			
Total	6																		

Certification	
How was this information obtained?	Visual Survey: Yes <input type="checkbox"/> No <input type="checkbox"/> Employment Records: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Name of Authorizing Official(Print):	Theresa McArleton Title: Director of Parks & Recreation

Suburban Mobility Authority For Regional Transportation

EEO COMPLIANCE REPORT A

FY21 COMMUNITY PARTNERSHIP FORM

Signature:		Date: 9/28/2020
Contact Person for report: Theresa McArleton		Title: Director of Parks & Recreation
Telephone: 248-658-3470	Ext:	Email: tmcarleton@berkleymich.net

A RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF BERKLEY, MICHIGAN
TO RENAME OXFORD TOWERS PARK TO FRIENDS PARK

WHEREAS, the Friends of Berkley Parks and Recreation have coordinated park plantings at Oxford Towers Park; and

WHEREAS, the Friends of Berkley Parks and Recreation provided financial assistance and worked closely with the Eagle Scouts on the project that installed two permanent chess tables and a sandbox at the park; and

WHEREAS, the Friends of Berkley Parks and Recreation have organized and managed several cleanup events at Oxford Towers Park, along with cleanup events in other Berkley parks; and

WHEREAS, the Friends of Berkley Parks and Recreation over the last six years have donated significantly to a variety of Parks and Recreation Department events and Community Center needs including Summerfest sponsorship, Winterfest sponsorship, Senior Center items, Kids Drop-In Group items, volunteer assistance, and much more; and

WHEREAS, the Friends of Berkley Parks and Recreation have been invaluable in their partnership with the Parks and Recreation Department, helping to provide excellent park spaces and recreation opportunities to the entire Berkley community.

NOW THEREFORE BE IT RESOLVED;

SECTION 1: That the Council of the City of Berkley offers tremendous thanks to the Friends of Berkley Parks and Recreation for their dedication to Oxford Towers Park in addition to their continued support for all of the City's park spaces and recreation opportunities.

SECTION 2: That the Council of the City of Berkley hereby effectively changes the name of Oxford Towers Park to Friends Parks, in honor of the Friends of Berkley Parks and Recreation.

Introduced and passed at a Regular City Council Meeting on Monday, October 19, 2020.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell
City Clerk

A RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF BERKLEY, MICHIGAN
REQUESTING REALLOCATION OF ASSETS

WHEREAS, the City of Berkley has been a participating municipality in the Municipal Employees' Retirement System of Michigan ("MERS"); and

WHEREAS, pursuant to Municipal Employees' Retirement Board requirements, since December 31, 1994, asset accounting had been separate for each division, instead of aggregate for the entire municipality; and

WHEREAS, over time, significant disparities have arisen in the City's plan as a result of allocating the fair market value of plan assets on a divisional basis instead of on an aggregate basis, which disparities the City of Berkley wishes to eliminate; and

WHEREAS, in order to address the anticipated increase in unfunded liability for pensions to be provided participants in the defined benefit plan that is likely to occur as a result of diminished contributions to that plan, the City wishes to reallocate certain divisional market assets between the two divisions;

NOW THEREFORE BE IT RESOLVED;

that the governing body of the City of Berkley a participating municipality as defined in the Municipal Employees' Retirement Act as recodified by Act No. 427 of the Public Acts of 1984, as amended, and as the employer, hereby requests MERS to reallocate the total market value of assets of \$457,912 of Employer Assets from Division 11 DPW after 7/1/04 Reserve to Division 10 General DPW Employer Reserve as of October 1, 2020 enabling the actuary to prepare the 2020 actuarial valuation with the transferred assets; and

CERTIFICATION

I hereby certify that the above was adopted by the governing body of the City of Berkley at its meeting held on October 19, 2020.

Introduced and passed at a Regular City Council Meeting on Monday, October 19, 2020.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell
City Clerk

October 19, 2020 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to cast Berkley's official vote for the following to serve as a Director on the Board of Directors for the MML Liability and Property Pool, directing the City Clerk to send in the marked ballot. (Vote for two incumbent Directors, and two appointees seeking election – for a three-year term beginning January 1, 2021)

George Bosanic, City Manager, City of Greenville

Melissa Johnson, Mayor, City of Chelsea

Sue Osborn, Mayor, City of Fenton – Incumbent

David Post, Village Manager, Village of Hillman – Incumbent

Ayes:

Nays:

THE CANDIDATES

Three-year terms beginning January 1, 2021



George Bosanic, City Manager, City of Greenville

George has more than 25 years' experience as a municipal official. He is a past president of the Greenville Rotary, winner of the Community Spirit Collaboration Award and a founding board member of the Montcalm County Big Brothers/Big Sisters Organization. He is a member of the Michigan Local Government Management Association and International City Management Association. He also served as Trustee for the MML Workers' Compensation Fund program from 2006 – 2018. George is seeking election to his first term.



Melissa Johnson, Mayor, City of Chelsea

Melissa is the Mayor of the City of Chelsea and has more than six years' experience as a municipal official. Prior to becoming mayor, she served as a city council member and planning commissioner. Melissa is an attorney who has practiced in the areas of criminal and civil law. She is active in the Southeast Michigan Council of Governments as well as several other local and regional community and civic organizations. Melissa is seeking election to her first term.



Sue Osborn, Mayor, City of Fenton

Sue has more than twenty-nine years' experience as a municipal official, serving as the mayor in the City of Fenton for the last sixteen. She was appointed to Fenton's city council in 1985 and has been a continuous member since that time. Prior to her council service, she was a member of the Planning Commission from 1978-1985. Sue is a member of the Michigan Association of Mayors and is also active in several local and regional civic organizations. Sue is seeking re-election to her third term.



David Post, Village Manager, Village of Hillman

Dave has more than twenty-one years' experience as a municipal official, serving as the manager in the Village of Hillman. Dave is a past member of the Michigan Municipal League Board of Trustees and several MML committees. He is currently a member of the Northeast Michigan Council of Governments board, Hillman Community Radio board and the North Eastern Michigan Rehabilitation and Opportunity Center (NEMROC) board. Dave is also active in several local and regional civic organizations. Dave is seeking re-election to his third term.

To: Members of the MML Liability & Property Pool
From: Michael J. Forster, Fund Administrator
Date: September 14, 2020
Subject: Pool Director Election

Dear Pool Member:

Enclosed is your ballot for this year's Board of Directors election. Two (2) incumbent Directors have agreed to seek re-election and two (2) appointees are seeking election to their first term. You also may write in one or more candidates if you wish.

A brief biographical sketch of the candidate is provided for your review.

I hope you will affirm the work of the Nominating Committee by returning your completed ballot in the enclosed return envelope, no later than November 5. You may also submit your ballot online by going to www.mml.org. Click on *Insurance*, then *Liability & Property Pool*; the link to the ballot form is in the yellow banner.

The MML Liability & Property Pool is owned and controlled by its members. Your comments and suggestions on how we can serve you better are very much appreciated. Thank you again for your membership in the Pool, and for participating in the election of your governing board.

Sincerely,



Michael J. Forster
Pool Administrator
mforster@mml.org



AN ORDINANCE

**Of the Council of the City of Berkley, Michigan
Adding Section 138-226 of Chapter 138, Zoning,
Of the City of Berkley Code of Ordinances
to Allow Parking Requirement Modifications During Site Plan Review**

THE CITY OF BERKLEY ORDAINS:

SECTION 1: New Section 138-226 shall be added to Chapter 138 of the Berkley City Code, as follows:

Sec. 138-226 - Parking Requirement Modification During Site Plan Review.

An applicant for site plan approval may request the Planning Commission to modify the minimum numerical parking requirements of this Chapter for off-street parking applicable to the proposed use, based upon the applicant's demonstration that a different parking standard would be more appropriate.

An approved deviation from the ordinance standard will be tied to the specific use and site plan approved and will not apply after the use on the site terminates or changes to another use. The Planning Commission may grant a parking modification up to 10% of the total parking requirement for a particular use, as noted in Section 138-219.

The Planning Commission shall have the authority and discretion to grant or deny the requested modification based on consideration of the following factors:

- a. Current or anticipated levels of employees and/or patrons;
- b. Peak period usage versus normal usage;
- c. Banked or reserved parking for future use;
- d. Opportunities to provide or accommodate green space, additional landscaping and to minimize impervious areas on the site;
- e. Provision of valet parking or other means of accommodating parking off-site that will not overburden public parking and is a reasonable alternative to on-site parking. Further, the applicant must demonstrate that such valet parking will be available for the days and times needed and will not conflict with other businesses that share the same parking facility or valet service;
- f. Neighborhood or other surrounding characteristics justify the requested deviation;
- g. Strict application of the ordinance would unreasonably hinder development of the site for a permitted use, and an alternate parking requirement would be appropriate;
- h. Modification will not negatively impact public parking in the city;
- i. Proximity of the site to local or regional transit, including but not limited to SMART bus stops, bicycle sharing stations, lite rail, etc.

Any planning commission modification under this section shall be contingent on the continuing use of the property as approved. Any change in the use, scope or intensity of the property use will invoke reinstatement and application of the standard parking requirements of this Chapter.

SECTION 2: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 3: Penalty

All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, and/or such other sanctions and remedies as prescribed in Article IX of Chapter 82 of the Code of Ordinances.

SECTION 3: Effective Date

This Ordinance shall become effective 30 days following the date of adoption.

SECTION 4: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, October 19, 2020.

Daniel J. Terbrack
Mayor

Attest: _____
Victoria Mitchell
City Clerk



CITY OF BERKLEY

COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Berkley City Council

From: Berkley Planning Commission
Erin Schlutow, Community Development Director

Subject: **Text Amendment - Parking Requirement Modification during Site Plan Review**

Date: September 29, 2020

Over several months, the Planning Commission has spent considerable time reviewing and discussing a proposed ordinance amendment that would give the Planning Commission the authority to grant a parking requirement reduction during site plan review, based on evidence, data, supporting information, etc. from an applicant that would support the request.

The proposed amendment, provided herein, is not intended to eliminate parking requirements specified in the ordinance, but has the potential to provide some flexibility to a developer as they consider the design of the overall site and the fit within a community. As proposed, a request for a reduction would be limited to 10% of the required off-street parking requirement noted in our Ordinance.

It is important to note that a proposed parking reduction is not guaranteed in each case it is requested by an applicant. The PC may grant or deny the request based on the supporting information that is provided at the public meeting.

The Planning Commission held the required public hearing at the September 22, 2020 meeting. No public comment was heard. The Planning Commission voted unanimously to recommend approval of the proposed ordinance amendment.

Attached for your reference is draft ordinance, the memo to the Planning Commission discussing the ordinance amendment, as well as ordinance examples from comparable communities that have adopted similar parking modification ordinances.

Thank you.



CITY OF BERKLEY

COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Berkley Planning Commission

From: Erin Schlutow, Community Development Director

Subject: **Parking Requirement Modification during Site Plan Review**

Date: September 10, 2020

At the August 25, 2020 meeting, the Planning Commission directed staff to set the public hearing for proposed text amendment related to parking requirement modifications. The new ordinance would grant the Planning Commission the authority to reduce a numerical parking requirement during site plan review, provided that applicant provide sufficient information or data to support the request.

In the course of our discussions, I have reviewed ordinances of several surrounding and comparable communities in southeast Michigan to analyze how other municipalities have permitted the Planning Commission to grant off-street parking modifications or deviations from the Zoning Ordinance during site plan review. I have also included an analysis on the three most recent site plans that were reviewed and approved by the Planning Commission and the numerical parking reduction that would have been applicable in each case. They include: KinderCare (1695 Twelve Mile), AquaTots (2485 Coolidge), and La Salette (2219 Coolidge).

As we have previously discussed, it is common for a planning commission to have the authority to modify a parking requirement during the site plan review process. It would be the responsibility of the applicant to make such request and demonstrate and provide evidence that the parking requirement in the Zoning Ordinance does not fit the proposed use of the building.

Modifications of parking requirements during site plan review

The long, narrow design of the commercial corridors with shallow parcels has been problematic for potential business owners looking to make a home in Berkley. Oftentimes, the size of the properties does not allow for the required minimum on-site parking to serve each individual business. While there are provisions in the Zoning Ordinance that permits shared parking agreements between properties as well as eliminating parking requirements for properties within 500 ft. of a municipal parking lot, there are still issues that are hindering occupancy of vacant commercial properties.

I recommend discussing an ordinance amendment that would give the Planning Commission the authority to grant modifications or deviations to parking requirements during site plan review. This flexible approach to development can provide business owners opportunities in Berkley that may have been deemed too difficult in the past.



Requests for parking requirement modifications would encourage an applicant to review and analyze the proposed project and think critically about alternatives that would benefit the community. It has proven a useful tool in other communities where land for development is scarce and has garnered positive pedestrian and bicycle transit opportunities. Communities have approached the topic of off-street parking modification request in different ways.

Community Comparison

Below is a table summary of what is permitted by surrounding and comparable communities. The full ordinance text for each community is provided in separate letter.

Municipality	Approval	Determination to Modify Numerical Parking Requirements
Clawson	Planning Commission	CMD-1 District Only Seven (7) standards of review
Ferndale	Planning Commission	Five (5) standards of review
Hazel Park	Planning Commission	Evidence that there will be lower demand for parking due to one of four factors
Lake Orion	Planning Commission	May grant lesser number of parking spaces as part of a shared parking between multiple uses
Lyon Township	Planning Commission	Evidence that another standard would be more reasonable, due to level of current or future employment, level of current or future customer traffic
Madison Heights	Site Plan Review Committee	Surplus parking "land banked" and banked area to be landscaped. To be constructed as parking if needed in the future.
Plymouth	Planning Commission	Evidence that another standard would be more reasonable, due to level of current or future employment, level of current or future customer traffic
Rochester Hills	Planning Commission	Evidence that another standard would be more reasonable because of the level of current or future employment or customer traffic. May attach conditions of approval.
Royal Oak	Zoning Administrator Planning Commission	Minimum parking requirements deemed excessive for use. No more than 10% of the required parking may be waived. Does not run with land.



		Land banking up to 20% of required parking spaces through special land use process
Troy	Planning Commission	Evidence that sufficient number of parking spaces are provided to accommodate characteristics of the intended use, usually a parking study. May be considered separately with no other concurrent request (site plan review)

As noted above, every community has a different approach as to how to allow such requests. Some require the applicant to satisfy specific standards related to the request (Ferndale, Clawson), and others have left it fairly open to allow the applicant to make their case to the PC (Lyon, Plymouth, Hazel Park).

However, not every community allows for a modification of off-street parking requirements within the Zoning Ordinance. Birmingham, Southfield, and Oak Park do not allow for such deviations.

Off-Street Parking Modification Examples

One of the concerns regarding a parking modification is a limit or cap to the number or percentage allowed to be reduced. During our previous discussions, a 10% cap was suggested. The City Attorney has reviewed the language and has also suggested a numerical or percentage cap.

In order to provide context to the requests, below is a summary of the parking requirements and potential parking modification requests based on a 10% maximum modification. Please note, the below table demonstrates the maximum allowable spaces to be reduced and does not indicate that the maximum reduction would be permitted in each case.

Project	Address	Required Parking	Parking Provided	Modification
Kindercare Bldg. also includes office and medical office	1695 Twelve Mile Rd	185 spaces	121 spaces on-site + shared parking agreement	19 spaces
AquaTots Development includes two retail and one restaurant with outdoor dining	2485 Coolidge	74 spaces	77 spaces	7 spaces



La Salette Residential	2219 Coolidge	108 spaces	109 spaces	11 spaces
55 units; 7 studio 41 one-bedroom 7 two-bedroom				

While each of the above cases may not have warranted granting a parking modification request, it would be beneficial to have the opportunity to review such requests and determine whether it would be better suited for a development and a community to have additional green space or buffer area between residential properties than to meet the parking requirement.

Summary

Any request for a parking modification would be thoroughly vetted by city staff prior to review by Planning Commission to determine the feasibility and practicality of such request. It is not the intent to reduce parking requirements across the community, as that would undermine the authority of the parking standards in the Zoning Ordinance. The ability to modify or deviate off-street parking requirements, in limited circumstances, gives some flexibility for development in the community with the intended opportunity to enhance the aesthetic appeal of the property.

I have included proposed language for the Zoning Ordinance text amendment that would grant the Planning Commission the authority to modify parking requirements.

After the public hearing, the Planning Commission shall make a recommendation to the City Council related to the proposed ordinance. We request that that Planning Commission recommend approval of the proposed ordinance to City Council.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Erin Schlutow".

Erin Schlutow
Community Development Director



CITY OF BERKLEY

COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Berkley Planning Commission

From: Erin Schlutow, Community Development Director

Subject: **Community Comparison – Parking Modifications**

Date: July 20, 2020

Lyon Township – Section 14.01(C)(8)

Minimum number of spaces for each use. The amount of required off-street parking space shall be determined in accordance with the schedule. The planning commission may modify the numerical requirements for off-street parking, based on evidence that another standard would be more reasonable, because of the level of current or future employment and/or level of current or future customer traffic.

City of Ferndale – Section 24-223(g)

Reduction of parking requirements. The planning commission may reduce the parking requirements based upon a finding that there will be a lower demand for parking due to one or more of the following factors:

- (1) Shared parking by multiple uses with peak parking demands during differing times of the day or days of the week;
 - (2) Convenient municipal off-street parking or on-street spaces are located within 500 feet that have the capacity to handle additional parking;
 - (3) Expectation of walk-in business due to sidewalk connections to adjacent residential neighborhoods or employment centers. The site design incorporates pedestrian connections to the site and on-site pedestrian circulation providing safe and convenient access to the building entrance;
 - (4) Availability of other forms of travel such as transit. The planning commission may require that the site design incorporates transit stops, pedestrian connections to nearby transit stops or enhanced bicycle parking facilities;
 - (5) The applicant has provided a parking study, conducted by a qualified traffic engineer, that demonstrates that another standard would be more appropriate based on actual number of employees, expected level of customer traffic or actual counts at a similar establishment. The planning commission may require a parking study to document that any one of the criteria (1) through (4) above would be met.
-



City of Clawson – Section 34-1071(6)

Modification of off-street parking requirements. Parking requirements as established in section 34-1074 may be modified by the planning commission within the CMD-1 district only:

- a. Collective parking arrangements are in effect between the applicant and the owner of another property for customer parking during nonoverlapping hours;
- b. Parking may exist during the same business hours, and there is no immediate impact on the surrounding properties;
- c. The particular site plan under consideration involves a first floor use in a multiple-story building in which other uses exist which do not conflict nor impose a burden on the parking demands or requirements under consideration;
- d. The particular use subject to site plan review is in a nonconforming structure to a conforming use the parking for which creates no substantial impact on surrounding properties;
- e. A contract agreement as allowed by section 34-1147 has been entered into by the applicant with the city and is to be a condition to site plan approval;
- f. There exists a development agreement that takes into consideration on a temporary basis, parking for the affected site.
- g. Subsection 34-1146(d) permits the planning commission to modify the parking requirements for first-floor uses within a multiple-story building and a single-story structure where certain conditions have been satisfied.

Village of Lake Orion – Section 14.01(A)(7)

Shared Parking. Nothing in this Section shall be construed to prevent collective provision of off-street parking facilities for two (2) or more buildings or uses, provided such off-street parking facilities collectively shall not be less than the sum of the requirements for the individual uses computed separately. The uses that share parking facilities may be located within a single building or in separate buildings located on the same or different sites.

Notwithstanding the foregoing, the Planning Commission may, in its discretion, approve a lesser number of parking spaces based upon the following:

- a. *Computation.* The number of shared parking spaces required for two or more land uses sharing a parking lot or located on the same parcel of land shall be determined by the following procedure:
 - i. Multiply the minimum parking required for each individual use, as set forth in Table 14.02, by the appropriate percentage indicated in Table 14.01 for each of the six (6) designated time periods.
 - ii. Add the resulting sums for each of the six (6) columns.



- iii. The minimum parking requirement shall be the highest sum along the six (6) columns resulting from the above calculations.
- b. *Other Uses.* If one or all of the land uses proposing to make use of shared parking facilities do not conform to the general land use classifications in Table 14.02, as determined by the Planning Commission, the applicant shall submit sufficient data to include the principal operating hours of the uses. Based upon this information, the Planning Commission shall determine the appropriate shared parking requirement, if any, for such uses.

Table 14.01 – Shared Parking Calculations						
Land Use	Weekdays			Weekends		
	1 am – 7am	7am – 6pm	6pm – 1am	1 am – 7am	7am – 6pm	6pm – 1am
Office/Service	5%	100%	5%	0%	15%	0%
Commercial	0%	100%	80%	0%	100%	60%
Restaurant	20%	70%	100%	30%	75%	100%
Residential/Motel	100%	60%	100%	100%	75%	95%

- c. Any uses proposing to share parking shall be subject to the provisions of 14.01.A.5 and 6, above.
- d. A written agreement between joint users in a recordable form approved by the Village shall be filed with the Oakland County Register of Deeds and a copy shall be provided to the Village. The agreement shall assure the continued availability of the parking facility for the uses it is intended to serve.
- e. A site that has been approved for a reduced shared parking standard shall not change to another use or combination of uses without review and approval of the Planning Commission.

Royal Oak – Section 770-106(D)

Flexibility in application. The City recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards set forth in Section 770-107, Table of Off-Street Parking Requirements, may result in development with inadequate parking or parking in far excess of that which is needed. The former situation may lead to traffic congestion or



unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and stormwater runoff, depreciation of aesthetic standards, and a waste of space, which could be left as open space.

- (1) *Waiver based on use.* The Zoning Administrator may grant a waiver in cases where the applicant has sufficiently demonstrated that the minimum parking requirements of Section 770-107, Table of Off-Street Parking Requirements, are excessive for their use. Such waivers may be approved if no more than 10% of the required parking per Section 770-107, Table of Off-Street Parking Requirements, is being waived. The approved waivers shall apply only to the current site use, and shall not be carried over to another use or occupant of the site.
- (2) *Land banking.* The Plan Commission may permit land banking up to 20% of the required parking spaces through the special land use review process. Sufficient land shall be available in the case that the Plan Commission determines the banked spaces need to be constructed based on observed usage. After such determination, banked parking spaces shall be constructed within six months of written notification by the Zoning Administrator. Such land banking requests shall require special land use approval, subject to the requirements of Section 770-11, Special land uses; permit procedures, and the posing of an appropriate bond in an amount to be established by the Zoning Administrator or his designee.

City of Plymouth – Section 78-270(10)

Parking requirements within the B-2 central business district.

(c) The planning commission or city commission may, at their discretion, modify the numerical requirements for off-street parking, based on evidence provided by the applicant that indicates that another standard would be more reasonable because of the level of current or future employment and/or the level of current or future customer traffic. The planning commission or city commission may consider parking standards such as the Institute of Transportation Engineers (ITE) or other documented parking standards or studies, including shared parking/collective parking arrangements and/or peak/non-peak parking demand. The planning commission or city commission may also consider prior arrangements or written agreements established before December 31, 2011, which satisfies required parking for the downtown or B-2 zoning district.

City of Rochester Hills – Section 138-202

Modification of Parking Requirements. The Planning Commission may modify the numerical requirements for off-street parking based on evidence submitted by the applicant that another standard would be more reasonable because of the level of current or future employment or customer traffic.



The Planning Commission may attach conditions to the approval of a modification of the requirements of Section 138-11.204 that bind such approval to the specific use in question.

City of Hazel Park – Section 17.28.040(B)

Reduction of Parking Requirements. The Planning Commission may reduce parking requirements based upon a finding that there will be a lower demand for parking due to one (1) of the following factors:

1. Shared parking by multiple uses with peak parking demands during different times of the day, days of the week, or parts of the year.
2. Expectation of walk-in business due to sidewalk connections to adjacent residential neighborhoods or employment centers. Site design shall incorporate pedestrian connections to the site that provide safe and convenient access to the building entrance.
3. Availability of other forms of transit. The Planning Commission may require that the site design incorporate transit stops, pedestrian connections to transit stops, or enhanced bicycle parking facilities.
4. Special provision is made for applying the standards of this chapter to developed sites which existed prior to the adoption of this chapter. In determining whether or not a site can comply, the Planning Commission shall consider reducing parking requirements based upon the following:
 - a. The proposed use of the site;
 - b. The existing parking and building(s) at the site; and
 - c. Whether the requirements for parking, as determined by the Planning Commission, are unduly burdensome.

City of Madison Heights – Section 10.505(10)

All occupancies shall provide for the minimum number of off-street parking spaces as determined by type of use in accordance with the following schedule. If it is determined during the site plan review process that the proposed use may require less parking than that required by ordinance, the surplus parking area may be shown as “banked” on the plan, subject to approval of the site plan review committee. The parking area saved by reducing the number of space (“banked spaces”) shall be landscaped. If at any time the city determines that part or all of the banked spaces are required to provide adequate parking, the community development department shall notify the property owner, who shall construct said spaces within 90 days of notification of the determination, or as established by the site plan review committee due to seasonal conditions.



City of Troy – Section 13.06(F)

Flexibility in Application.

1. The City recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards may result in development with inadequate parking or parking far in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and stormwater runoff and a waste of space which could be left as open space. Projects with Prequalified Sustainable Development Project (SDP) status are automatically eligible for a parking deviation, provided the measures proposed for SDP status are so qualified for that purpose.
2. The City may grant deviations from off-street parking requirements. These deviations may require more or less parking based upon a finding that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question. In the event that a deviation is granted, the following shall apply:
 - a. An applicant may request a parking deviation as part of a development application or as a separate and district action with no other concurrent request.
 - b. The applicant shall provide a parking study with adequate detail and information to assist the City in determining the appropriateness of the request.
 - c. A parking deviation may be included in an action on a concurrent request or be made separately by resolution.
 - d. The City may attach conditions to the approval of a deviation from the off-street parking requirements that bind such approval to the specific use in question.
 - e. The City may require the applicant to set aside area for reserve parking (landbanking) that can be constructed as needed, although this is not a prerequisite for the approval or a deviation. Where an area is set aside for reserve parking, it shall be easily developed, not devoted to a use other than open space, and shall be designed to accommodate attendant facilities such as maneuvering lanes and drainage.
3. It is the intent of this Ordinance to minimize excessive areas of pavement which reduces aesthetic standards and contributes to high rates of storm water runoff. Exceeding the minimum parking space requirements by more than twenty percent (20%) shall only be allowed with approval by the City. In granting such additional space, the City shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.

AN ORDINANCE

of the Council of the City of Berkley, Michigan
Amending Division 7 of Article VI of Chapter 138, Zoning,
of the City of Berkley Code of Ordinances to Modify Site Plan Review Procedure.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Division 7 of Article VI of Chapter 138 of the Berkley Code of Ordinances shall be amended, as follows:

DIVISION 7. – SITE PLAN REVIEW

Sec. 138-676. – Purpose.

- (a) The intent of this division is to provide for consultation and cooperation between the applicant and the planning commission, so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding area.
- (b) It is hereby recognized that peculiarities of lot contour, existing and potential development of adjacent properties and existing and potential traffic and pedestrian circulation patterns require a flexibility in the location of buildings, open spaces, parking lots and driveways that cannot be achieved by detailed specifications. It is therefore required that all development within the districts listed in section 138-677 be submitted to the planning commission for its review and approval prior to the issuance of building permits. Nothing contained in this section is intended to allow a greater density of population nor less required open space than that which is specified.

Sec. 138-677. – Applicability.

- (a) Any development ~~in the following zoning districts shall require site plan review:~~ not located in single family residential districts shall require site plan review.

R-M	Multiple-family residential district
R-M-H	High-rise multiple-family residential district
	Greenfield district
	Office district
	Downtown district
	Community centerpiece district
LB	Local business district

	Gateway district
	Coolidge district
	Twelve mile district
	Woodward district
	Industrial district
P-1	Parking district
C-1	Cemetery district

- (b) Site plan review is also required for development of all institutional uses permitted in single-family districts such as, but not limited to: churches, schools and public facilities.
- (c) Development requiring site plan review shall include:
- (1) Construction of a building;
 - (2) Structural alteration of a building that includes adding floor area or height to the building;
 - (3) Additional parking;
 - (4) Facade alterations that include ~~any~~ 50% or more change in the exterior surface material ~~or changes in the size or number of windows~~ of any one façade of a building.
 - (5) Facade alterations that reduce the size and/or number of windows.

Sec. 138-678. – Administrative review.

Administrative review for site plan review shall be conducted by the building department in cases where:

- (1) The façade alterations do not change the surface material more than 50% ~~or of any one façade~~
- (2) The number or size of the windows are increasing in size.
- (3) The structure requiring site plan review is an accessory structure. An accessory structure must conform to site standards according to ch. 138, article III, division 1 of the Berkley Code of Ordinances. Accessory structures located within single residential districts do not require Planning Commission review and approval.

~~During administrative review, the building official and city planner shall act as the planning commission in determining compliance with the standards for approval. If the building official and city planner do not agree, then the application is denied. If the property owner is not satisfied with the administrative review, the property owner may take the application to the planning commission for site plan review. The Zoning Administrator shall have the discretion to request site plan review and approval by the Planning Commission, based on the size, scope and/or intensity of a proposed project. The applicant shall be responsible for providing all required information for site plan approval.~~

Sec. 138-679. – Standards.

The site plan shall be reviewed and approved by the planning commission upon finding that:

- (1) The site meets the requirements of this Code.
- (2) The proposed development does not create adverse effects on public utilities, roads, or sidewalks.
- (3) Pedestrian and vehicular areas are designed for safety, convenience, and compliment adjacent site design.
- (4) Site design, architecture, signs, orientation, and materials are consistent with the city's master plan objectives and the design of the neighboring sites and buildings.
- (5) Landscaping, lighting, dumpster enclosures, and other site amenities are provided where appropriate and in a complementary fashion.
- (6) Site engineering has been provided to ensure that existing utilities will not be adversely affected.

Sec. 138-680. – Required information.

The following information shall be included on the site plan for final review, unless waived by the planning commission. The site plan shall be to a reasonable scale and indicate:

- (1) Seal of architect and/or engineer who prepared plans.
- (2) An appropriate descriptive legend, including north arrow, scale, legal description and the names and addresses of the architect or engineer responsible for the preparation of the site plan.
- (3) The existing (and proposed) zoning.
- (4) Location and size of all structures (including location of entrances and loading points).

- (5) All outside dimensions of each structure, its distance from the property lines, its area and its height.
- (6) With multiple-family residential proposals, the number and location of one-bedroom units, two-bedroom units, etc., and include typical floor plans with square feet of floor areas.
- (7) Recorded and measured dimensions of all lot lines and location and design of all lots.
- (8) Adjacent property's structures, uses, zoning and other significant features of the community, where appropriate (using a location sketch).
- (9) Location of all existing and proposed drives and parking areas including types of surfacing, parking layout and dimensions.
- (10) Dimensions of road widths and rights-of way.
- (11) All existing easements and vacated easements and rights-of way.
- (12) All required minimum setbacks (from the existing or proposed right-of-way from adjacent properties).
- (13) Locations of lawns and landscaped areas, types and number of species, and how the landscaping is to be accomplished.
- (14) Locations, sizes, and types of existing trees over four inches in diameter (before and after proposed development).
- (15) Location and type of outside lighting, include site and fixture photometrics.
- (16) All proposed screen and freestanding architectural walls, including typical cross-sections and the heights above ground on both sides of walls.
- (17) Elevation drawings of all existing and proposed buildings on the site drawn to a scale of one inch equals four feet, or to another scale adequate to determine compliance with this chapter and to provide any other information needed to evaluate the overall site design on the basis of the criteria set forth in this section.
- (18) Color and type of façade materials. Samples representing color and materials shall be presented to the planning commission.
- (19) Stormwater engineering including: existing and proposed grading of the site, location of existing and proposed utilities, stormwater calculations for a 100-year storm, the drainage area on site that will detain the 10-year storm, and a profile of the sanitary sewer.

Sec. 138-681. – Approval process.

- (a) *Sketch plan (optional).* An item may be submitted to the planning commission for informal discussion. No approval shall be granted. However, the applicant may wish to present and discuss a proposed project and any anticipated problems before applying for site plan approval.
- (b) Site plan approval.
 - (1) An application for site plan approval shall be submitted to the city planning commission on such forms and containing such information that the planning commission shall prescribe.
 - (2) The planning commission is hereby authorized to approve, approve with conditions, or deny all site plans submitted under this chapter.
 - (3) Approval may be issued by the planning commission, subject to the applicant receiving board of appeals variances, as required by the zoning chapter.
 - (4) Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the planning commission and shall state the grounds for the action taken upon each site plan submitted for its approval.

Sec. 138-682. – Revisions.

An applicant for site plan approval may wish to revise a previously approved site plan. A site plan outlining the differences in the original approved site plan and the requested changes shall be submitted to the city. The approval process shall be similar to that outlined above. If the revised site plan is denied, the applicant may develop the site plan as originally approved or appeal the matter as outlined below.

If a change is deemed to be minor in scope or intensity, the revised site plan may be approved administratively. Such minor revisions may include:

- (1) Additions or alterations to the landscape plan or landscape materials.
- (2) Relocation or additional screening of trash enclosure.
- (3) Alterations to the internal parking layout of the off-street parking lot, restriping, etc.

Any major revisions to the site plan, as determined by the Zoning Administrator, shall be subject to review and approval by the Planning Commission.

Sec. 138-683. – Appeals.

An applicant for site plan approval shall have the right of appeal to the zoning board of appeals, and in such cases, the board may reverse, affirm or modify the action of the planning commission by the concurring vote of two-thirds of the members of the board.

Sec. 138-684. – Conformity; extension of approval period.

When an applicant receives final site plan approval, the site shall be developed in complete conformity with the approved site plan, except as provided for under Revisions and Appeals. ~~The site plan approval shall be valid for a period of 12 months. If a building permit is not procured and construction begun within that time, the site plan approval becomes null and void. No time extension to the site plan approval shall be granted.~~ A site plan shall be valid for a period of one year from date of final site plan approval. An applicant may request up to two one-year extensions, to be reviewed ~~and granted~~ by the Planning Commission for reasonable cause. The request for site plan extension must be submitted in writing to the Community Development Department prior to the expiration of the site plan. Upon request, the applicant shall provide a proposed timeline for the proposed project or development.

Sec. 138-685. – Site maintenance.

The city planning commission shall not approve any site plan under this chapter unless and until the applicant signs a site maintenance agreement in a form approved by city council.

SECTION 2: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 3: Effective Date

This Ordinance shall become effective 30 days following the date of adoption.

SECTION 4: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, October 19, 2020.

Daniel J. Terbrack
Mayor

Attest:

Victoria Mitchell
City Clerk



CITY OF BERKLEY
COMMUNITY DEVELOPMENT
3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Berkley City Council

From: Berkley Planning Commission
Erin Schlutow, Community Development Director

Subject: Text Amendment – Site Plan Review Standards

Date: September 29, 2020

The Planning Commission has prepared several amendments to Division 7, Site Plan Review, Sections 138-676 – 138-685, intended to correct omissions, provide clarity for development within the community, granting authority of city administration determine if the scope of a development project should be reviewed by Planning Commission, the process for submitting revisions to approved plans, and the process for permitting extensions of approved site plans.

The Planning Commission held the required public hearing at the September 22, 2020 meeting. No public comment was heard. The Planning Commission voted unanimously to recommend approval of the proposed ordinance amendment for City Council to consider.

Attached for your reference is the draft ordinance and the memo to the Planning Commission discussing the proposed ordinance amendment.

Thank you.



CITY OF BERKLEY

COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Berkley Planning Commission

From: Erin Schlutow, Community Development Director

Subject: **Projects Requiring Site Plan Approval Text Amendment Discussion**

Date: September 10, 2020

At the August 25, 2020 meeting, the Planning Commission directed staff to set the public hearing for proposed text amendments related to projects requiring site plan approval. The amended ordinance is intended to fix minor errors and to clarify the text.

In some of our earlier discussions this year, it was noted that it would be beneficial to discuss the standards and projects that require site plan approval; Division 7 *Site Plan Review* of Article VI *Administration and Enforcement* in the Berkley Zoning Ordinance.

Below is a summary of the proposed changes. The full text is included in separate letter.

Section 138-677

1. *Eleven Mile District was not included in the development list requiring site plan review.*

This was discussed at the previous meeting and was agreed that it would be included in proposed language. The attached proposed language has been revised so as to require site plan approval for all projects that are not located in single family residential zoning districts.

2. *The ordinance does not distinguish the between adding one parking space to ten parking spaces. It was suggested to review the language to determine if it would be beneficial to have a threshold for how many additional parking spaces should require site plan approval by Planning Commission.*

This was discussed and it was determined that any additional parking spaces should be reviewed by the Planning Commission.

3. *Façade alterations including change in material and size or number of windows is in contrast with Section 138-678 (2). This should be revised to prevent confusion with applicants or property owners.*
-



Façade change – if any one façade is 50% change or more – PC review
Increase in number or size of windows – can be approved by staff
Decrease in size or number of windows – PC review

Section 138-678

1. *Façade alterations changing surface material does not specify if that is one façade or the entire structure.*

If any one façade is changed 50% or more, PC review would be required

2. *Increase in number and size of windows is in contract with Section 138-677, as noted above.*

Increase in number or size of windows – can be approved by city staff

3. *Accessory structures are typically reviewed administratively*

Accessory structures located within residential districts do not require PC review and approval.

Sec. 138-682 – Revisions

The Zoning Ordinance allows for a previously approved site plan to be revised, however, it is recommended to determine if some revisions can be approved administratively. If so, it is necessary to include parameters for revisions that can be approved administratively (minor) and those that should be approved by the Planning Commission (major).

Some minor revisions to an approved site plan may include:

1. additions or alterations to the landscape plan or landscape materials
2. relocation or additional screening of trash enclosure
3. alterations to the internal parking layout of the off-street lot, etc.

The construction of a new building or structure, adding or deleting parking or the addition of curb cuts onto a public road would not be considered minor and would require return to Planning Commission.

Sec. 138-684 – Conformity



The Zoning Ordinance does not allow extensions to a site plan approved by the Planning Commission. As a way to show flexibility to work with property owners, I would recommend an applicant may submit a request for site plan extension, subject to approval by the Planning Commission.

This would allow for an extension of a project, but would require the applicant to appear in person, wherein the PC can inquire about the reason for delays and anticipated construction timeline. The request for site plan extension should be submitted to Planning Commission prior to the expiration date of the site plan.

After discussions, the Planning Commission determined to permit site plan approval extensions, up to two one-year extensions to be approved by the PC.

Administrative Review by Zoning Administrator

During the course of our discussion at the February meeting, it was noted that the Zoning Ordinance does not contain a reference to the Zoning Administrator's ability to determine that the size, scope, intensity of a project should be sent to Planning Commission for review and approval. In the course of the revisions to Division 7, it would be beneficial to include specific language that gives the Zoning Administrator the discretion to determine if a project should be sent to the Planning Commission, even if an administrative review is applicable by ZO standards.

That being said, the Zoning Administrator would not have the discretion to administratively review and approve a project that is specifically noted as requiring site plan approve by the Planning Commission.

After the public hearing, the Planning Commission shall make a recommendation to the City Council related to the proposed ordinance. We request that the Planning Commission recommend approval of the proposed ordinance to City Council.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Erin Schlutow".

Erin Schlutow

Community Development Director

A RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF BERKLEY, MICHIGAN
TO EXTEND DEVELOPMENT APPROVALS FROM CITY COUNCIL, PLANNING COMMISSION AND
ZONING BOARD OF APPEALS
APPROVALS FOR PROJECTS DELAYED BY COVID-19

WHEREAS, the City of Berkley City Council approved special land use and rezoning requests; and

WHEREAS, the City of Berkley Planning Commission approved site plans; and

WHEREAS, the City of Berkley Zoning Board of Appeals granted variance requests and made interpretations of commercial messages related to proposed murals; and

WHEREAS, some of the aforesaid approvals and decisions have reached or are approaching expiration under the applicable City ordinances; and

WHEREAS, the City Council recognizes that preparations and implementation of development projects and construction plans have been impacted and in some cases prevented or delayed by COVID-19 and associated COVID restrictions, limitations and protocols

NOW THEREFORE BE IT RESOLVED:

That for special land use, rezoning, site plan, variance, and mural approvals and decisions made by the City Council, Planning Commission, and Zoning Board of Appeals that expired or are due to expire after March 1, 2020, the City Council of the City of Berkley hereby extends the duration of those approvals and decisions until December 31, 2021.

Introduced and passed at a Regular City Council Meeting on Monday, October 19, 2020.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell, City Clerk



CITY OF BERKLEY

COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Matt Baumgarten, City Manager

From: Erin Schlutow, Community Development Director

Subject: **Resolution to Extend City Council, Planning Commission, Zoning Board of Appeals Approvals Due to Project Delays Incurred from COVID-19**

Date: October 13, 2020

In order to be proactive and assist Berkley residents and developers, we recognize that there have been large- and small-scale projects that have received City Council, Planning Commission approvals or variances from the Zoning Board of Appeals, but have not been able to begin the next phase due to delays incurred from COVID-19.

The City Council has had the first reading of an ordinance that will allow only for the extension of site plan, with Planning Commission approval.

The submitted resolution would allow for extension of specific approvals given by City Council (special land use, rezoning) and Zoning Board of Appeals (variances, interpretations of commercial message for murals). Most often, these approvals do not need extensions so they were not part of the draft ordinance language that was recommended by the Planning Commission.

The extension would only be applicable for projects or approvals that would be set expire after March 1, 2020 and would not be retroactive to projects that had expired prior to that date.

Thank you.
