

**REAFFIRMATION OF PREVIOUS CONTRACTUAL AGREEMENTS  
AND LONG TERM CONTRACT FOR FUTURE SERVICES**

This contractual reaffirmation and long term contract is by and between the Battle Creek Tax Increment Finance Authority, an entity created by the City of Battle Creek, Michigan, pursuant to the provisions of the Tax Increment Finance Authority Act of 1980 (Act 45) (hereinafter BCTIFA) and Battle Creek Unlimited, a Michigan non-profit corporation, (hereinafter BCU) both of 4950 West Dickman Road, Battle Creek, Michigan.

WHEREAS, the BCTIFA was created by the City of Battle Creek, Michigan by Resolution, dated April 28, 1981 (No. 27 of 1981).

WHEREAS, the Resolution specifically provides in the final paragraph thereof, as follows:

“Be It Further Resolved that no funds of the Authority shall be disbursed except as provided for in the budget of the Authority. No budget shall be adopted by the Board of the Authority until it has been approved by the City Commission of the City of Battle Creek, pursuant to Section 25 of Act 450 of 1980”;

WHEREAS, the BCTIFA thereafter adopted a Development Plan pursuant to statute (last revised in a comprehensive fashion in May, 1993) and immediately entered into management agreements for the implementation of the Plan with BCU (first contract date being May 25, 1982, also included an entity known as BC/CAL/KAL); and

WHEREAS, the BCTIFA has never hired any staff but has, instead, relied exclusively upon BCU to provide any and all services necessary to manage its affairs and to implement its Development Plan from its very inception to date; and

WHEREAS, the City of Battle Creek has annually, from creation of the BCTIFA to date, approved each and every budget which included the payment by the BCTIFA for the BCU services; and

WHEREAS, the last iteration of the BCTIFA management agreement is attached hereto (Exhibit A), along with a copy of the City of Battle Creek Resolution (#697, dated April 23, 1991) approving it; and

WHEREAS, certain complex legislation was passed by the Michigan legislature in 2005 by virtue of which the BCTIFA-BCU Management Agreement was determined to be an “Eligible Obligation (MCL §125.1801 (m)) worthy of protection from a decline in BCTIFA revenues as a result of a modification in school tax capture; and

WHEREAS, the BCTIFA has relied thereafter on its “Eligible Obligation” status to fund the BCTIFA-BCU Management Agreement; and

WHEREAS, the BCTIFA has also relied thereafter upon its right to capture "Tax Incremental Revenues" as defined in MCL §125.1801(aa)(i) which provides: "Tax Increment Revenues includes ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions . . . and local or intermediate school districts upon the captured assessed value of real and personal property in the development area . . ."; and (emphasis added).

WHEREAS, there is uncertainty about the continuation of the existence of a tax upon personal property; and

WHEREAS, the BCTIFA wishes to make clear its absolute reliance upon its "Eligible Obligation" status and its long standing management agreements with BCU to manage its affairs, to implement its current and future Development Plan(s) and market its land; and

WHEREAS, BCU as part of its implementation of the Development Plan and its marketing of the Ft. Custer Industrial Park has undertaken the purchase of a facility known as the Brydges Custom Cargo Center under a long term contract with the City of Battle Creek for which payment would be impossible without a long term contract with the BCTIFA; and

WHEREAS, neither BCU nor the BCTIFA want to terminate the existing 1991 contract, but do want to clarify its term and its essential nature;

NOW, THEREFORE

The parties agree:

- (1) That the BCTIFA hereby hires BCU to provide all management and marketing services at the annual sum of Two Million Seven Hundred Thousand (\$2,700,000.00) in accordance with the existing Management Agreement and past practice:
  - (a) until 2030 or until all outstanding bond obligations are defeased or retired;  
or
  - (b) until such later time as may be hereafter established by Plan Amendment approved by the City Commission of the City of Battle Creek.
- (2) The parties further agree that a long term budget for the payment of the management fee in agreed upon amounts sufficient to cover BCU's operating costs along with payment for the Brydges Custom Cargo Center shall be incorporated into any new or revised Development Plan which, said budget, shall specifically address the on-going need for management and marketing services for the BCTIFA, recognize those services to be essential to BCTIFA's mission and allow payment of BCU's obligations and operational costs.
- (3) The amount of consideration to be paid to BCU pursuant to this reaffirmation and extension agreement is, however, limited to the revenues received by BCTIFA as a

result of the continued recognition of the BCTIFA-BCU Management Agreement, and BCU's incorporated Brydges Custom Cargo Center contract, as an Eligible Obligation by the State of Michigan hereafter.

Dated: May 15, 2012

Battle Creek Tax Increment Finance Authority

By: Albert Bebhay

Its: CHAIRMAN

Dated: June 14, 2012

Battle Creek Unlimited

By: [Signature]

Its: President & CEO

BCTIFA Board Approved & Resolution attached.

Date: May 15 (Meeting held)

City of Battle Creek Approved and Resolution Attached

Date: \_\_\_\_\_ (Meeting held)

BCU Board Approved & Resolution attached.

Date: June 14 (Meeting held)

Prepared by:

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