

## **SUPPLEMENT TO AGREEMENTS**

### **BCU, BCTIFA, BC/CAL/KAL AND CITY OF BATTLE CREEK**

This Supplement is made 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"), BATTLE CREEK UNLIMITED, INC., a Michigan non-profit corporation, (hereinafter BCU), BC/CAL/KAL INLAND PORT DEVELOPMENT CORPORATION, a Michigan non-profit corporation ("BC/CAL/KAL") all of 4950 West Dickman Road, Battle Creek, Michigan; and the CITY OF BATTLE CREEK, a Michigan municipal corporation ("City") of 10 North Division, Battle Creek, Michigan 49014.

#### **Background**

The parties have a long relationship and all, or several of, the parties, are subject to various agreements, including without limitation, that certain Management Agreement among all the parties dated \_\_, 1991 and approved by City resolution dated April 23, 1991; that certain Agreement among all the parties (except BCTIFA) dated April 14, 1983; that certain Agreement among all the parties (except the City) dated May 25, 1982; and certain agreements that predate or are referenced therein (collectively the "Agreements"). BCU and BCTIFA also executed that certain Reaffirmation of Previous Contractual Agreements and Long Term Contract for Future Services between BCTIFA and BCU dated June 14, 2012 (the "2012 Agreement") and BCTIFA and City also executed that certain Recognition of BCTIFA Obligations to the City of Battle Creek as of June 1, 2012 (the "2012 Recognition"). The current representatives of the parties understand they have inherited the Agreements but have a mutual desire to continue their rights and obligations as contemplated by the Agreements, the 2012 Agreement and the 2012 Recognition. The parties also desire to supplement the Agreements to provide greater transparency, information and involvement by the City in accordance with the terms and conditions contained herein.

#### **Agreement**

NOW THEREFORE, for the consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

1. **Affirmation.** Subject to the supplemental terms and conditions set forth herein, each of the parties hereto, to the extent they are actually a party to the Agreements, hereby affirm, ratify and continue the Agreements. In addition, subject to the terms and conditions set forth herein, BCU and BCTIFA hereby affirm and continue the 2012 Agreement and City and BCTIFA hereby affirm and continue the 2012 Recognition.

2. **BCU Financial Reporting.** BCU acknowledges that the City desires greater transparency and information regarding BCU's financial status. As such, BCU agrees to provide the City an annual financial overview of its revenue, expenses, assets and liabilities that arise from and relate to the arrangements among the City and BCTIFA. In addition, BCU and BCTIFA agree to appoint either the Battle Creek City Manager or the City Finance Director to

their respective audit and finance committees.

3. BCU Activities Reporting. BCU acknowledges that the City desires more information about BCU's efforts and activities. As such, BCU agrees to provide to the BCTIFA and the City, regular but no less than once every six months, summaries of the following activities within the BCTIFA District:

- a. The number of contacts with potential prospects;
- b. The number of contacts with current Battle Creek businesses;
- c. The number of land sales and the total net receipts related to the sale of properties;
- d. The number of new jobs created by new and current companies as reported to BCU;
- e. The number of retained jobs and retained companies; and
- f. The number of lost jobs and lost companies.

4. Fund Balance Policies. City desires greater knowledge and understanding of the fund balance policies of BCU and BCTIFA. BCU and BCTIFA represent that they utilize their funds in connection with the provision of their respective services and strive to accumulate funds for the purpose of financing their respective operations, services and current and future projects. BCU and BCTIFA each agree to develop policies that address accumulation, investment and use of their respective fund balances on or before December 1, 2015 and to provide such policies to the City. These policies will confirm the use of the balances for purposes of funding operations, services and economic development and will address present and future economic development opportunities. Annual fund balance reporting will be made through respective audit/finance committees and through the annual budget process.

5. Amendments to BCU Bylaws. City desires participation on the BCU Board of Directors. To this end, BCU has amended its Bylaws to reduce the size of its Board of Directors and provide that the Battle Creek City Manager shall be a member of the BCU Board of Directors and that the Mayor of Battle Creek shall be a non-voting, ex-officio, member of the BCU Board of Directors.

6. Scope of Supplement. The purpose of this Supplement is to affirm the continuation of the rights and obligations under the Agreements, the 2012 Agreement and the 2012 Recognition and to further enhance the cooperation among BCU, BCTIFA and the City by supplementing the agreements and the commitments set forth in Sections 2, 3, 4 and 5 above. The parties agree that, except as expressly supplemented herein, this Supplement does not modify, change, amend or effect any of the Agreements, the 2012 Agreement, the 2012 Recognition and/or any rights or obligations among the parties. Notwithstanding the foregoing, to the extent any terms and provisions contained herein, directly conflict with the Agreements, the 2012 Agreement and/or the 2012 Recognition (including those agreements referenced therein), then the terms and conditions contained in this Supplement shall govern.

7. Background. The Background set forth above is accurate and is hereby incorporated by reference into this Supplement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year set forth below.

Dated: August 13, 2015

Battle Creek Tax Increment Finance Authority

By: 

Its: CHAIRMAN

Dated: August 27, 2015

Battle Creek Unlimited, Inc.

By: 

Its: CHAIR OF BOARD

Dated: \_\_\_\_\_, 2015

City of Battle Creek

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

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

Dated: August 26, 2015

BC/CAL/KAL Inland Port Development Corporation

By: 

Its: PRESIDENT