

**CITY OF BERKLEY PUBLIC NOTICE
REGULAR CITY COUNCIL MEETING
Monday, May 6, 2024
7:00 P.M. – City Hall
248-658-3300**

**CALL 40th COUNCIL TO ORDER
APPROVAL OF AGENDA
MAYOR-LED MOMENT OF REFLECTION
PLEDGE OF ALLEGIANCE
PUBLIC COMMENT
ORDER OF BUSINESS**

Consent Agenda

1. **APPROVAL OF THE MINUTES**: Matter of [approving the minutes](#) of the 40th Regular City Council meeting on Monday, April 15, 2024 and the Special City Council budget work session on Tuesday, April 16, 2024.
2. **ORDINANCE NO. O-05-24**: Matter of [considering the Second Reading](#) and Adoption of an Ordinance to amend Section 106-310.A of Article VIII, Parklets, of Chapter 106, Streets, Sidewalks and Other Public Places, of the Berkley City Code to allow parklets to occupy spaces in front of adjacent businesses when they cannot be located in front of the primary business.
3. **PROCLAMATION NO. P-05-24**: Matter of [proclaiming May 14, 2024](#) as Apraxia Awareness Day.

Regular Agenda

1. **RECOGNITIONS/PRESENTATIONS**: Matter of receiving any recognitions or presentations from the Consent Agenda.
2. **RESOLUTION NO. R-10-24**: Matter of [approving a resolution](#) of the Council of the City of Berkley, Michigan recognizing Eagle Scout Candidate Jack Elliott for a gift to Berkley Parks & Recreation.
3. **MOTION NO. M-38-24**: Matter of [authorizing special land use](#) approval from applicant Christina DelPizzo for the occupation of 1818 Mortenson to be used as a family day care home for seven-12 children in the R-1D Single-Family Residential District, on the east side of Mortenson, east of Princeton.
4. **MOTION NO. M-39-24**: Matter of [approving a one-year contract extension](#) of the 2021-2024 bargaining agreement between the City of Berkley and the Michigan Association of Public Employees (MAPE).
5. **MOTION NO. M-40-24**: Matter of [approving the Collective Bargaining Agreement](#) between the City of Berkley and the Michigan Association of Police (MAP), Berkley Police Service Aide Association.
6. **MOTION NO. M-41-24**: Matter of [approving the Berkley Dads' Club](#) Opening Day Parade on Saturday, June 1, 2024 at 10 a.m. beginning at Berkley High School and concluding at Community Field #1. Approval is conditional upon the submission of required items and documents before the event date.
7. **RESOLUTION NO. R-11-24**: Matter of [approving a resolution](#) of the Council of the City of Berkley, Michigan accepting the Interlocal Agreement for Local Fiscal Recovery Fund Distribution between Oakland County and the City of Berkley.
8. **MOTION NO. M-42-24**: Matter of [awarding the contract](#) for the Coolidge Highway Crosswalk Pavement Marking Improvements to the lowest qualified bidder, P.K. Contracting LLC, of Troy, MI, in an amount of \$53,580.50. In addition, allocating an additional 10 percent construction contingency (\$5,358) and a not-to-exceed Construction Engineering amount of \$7,200 for a total not-to-exceed project cost of \$66,138.50. Projected costs of this project will be split with the Berkley Downtown Development Authority (account number 248-902-972-200) covering up to \$44,312.80 of the cost and the City of Berkley (account number 202-475-818-200) covering the remaining \$21,825.70.

9. **MOTION NO. M-43-24:** Matter of [considering a license agreement](#) for a municipal parking lot at parcel #04-25-07-478-042, Garden Central.
10. **MOTION NO. M-44-24:** Matter of [reaffirming the City of Berkley's participation](#) in the WaterTowns grant initiative and providing related staff direction.
11. **DISCUSSION:** Matter of [discussing, with possible staff direction](#), the FY 2024-25 and future City of Berkley budgets.

COMMUNICATIONS

ADJOURN

Note: The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, 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).

Note: Official minutes of City Council Meetings and supporting documents for Council packets are available for public review in the City Clerk's Office during normal working hours. Anyone wishing to submit correspondence for the meeting may send an email to clerk@berkleymich.net or call 248-658-3310 by 5 p.m. on the day of the meeting.

THE REGULAR MEETING OF THE FORTIETH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, APRIL 15, 2024 BY MAYOR DEAN

PRESENT: Councilmember Steve Baker Councilmember Gregory Patterson
 Councilmember Clarence Black Councilmember Jessica Vilani
 Mayor Pro Tem Ross Gavin Mayor Bridget Dean
 Councilmember Dennis Hennen

ABSENT:

OTHER STAFF PRESENT:

City Manager Matt Baumgarten
City Attorney Dan Christ
City Clerk Victoria Mitchell
Chief Innovation Officer Stan Lisica
Interim Parks & Recreation Director Dan McMinn
Community Development Director Kristen Kapelanski
DDA Executive Director Michael McGuiness
Emergency Management Director Jack Blanchard

APPROVAL OF AGENDA

Mayor Pro Tem Gavin moved to approve the Agenda.
Seconded by Councilmember Hennen
Ayes: Black, Gavin, Hennen, Patterson, Vilani, Baker, Black, and Dean
Nays: None
Motion Approved.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Rachel Shuler, Royal Oak, via email: commented regarding O-15-23, Retail Pet Store
Courtney Wooten, Berkley, via email: commented regarding O-15-23, Retail Pet Store
Carla Osbourne, Berkley, spoke regarding O-15-23, Retail Pet Store
Lilly Osborne, Berkley, spoke regarding O-15-23, Retail Pet Store

Consent Agenda

Councilmember Patterson moved to approve the following Consent Agenda, seconded by Councilmember Vilani:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 40th Regular City Council meeting on Monday, April 1, 2024.

WARRANT: Matter of approving Warrant No.1397.

ORDINANCE NO. O-04-24: Matter of considering the Second Reading and Adoption of an ordinance of the City Council of the City of Berkley, Michigan to Amend Article II of Chapter 130, Vegetation, of the City of Berkley Code of Ordinances to Modify Section 130-34, Administration of Article.

PROCLAMATION NO. P-05-24: Matter of proclaiming May 2024 as Berkley History Month.

PROCLAMATION NO. P-06-24: Matter of proclaiming May 2024 as Motorcycle Awareness Month.

PROCLAMATION NO. P-07-24: Matter of proclaiming May 2024 as Mental Health Awareness Month.

PROCLAMATION NO. P-08-24: Matter of proclaiming May 2024 as Building Safety Month.

Ayes: Gavin, Hennen, Patterson, Vilani, Baker, Black, and Dean

Nays: None

Motion Approved.

Regular Agenda

RECOGNITIONS/PRESENTATIONS: Matter of any recognitions or presentations from the Consent Agenda.

Councilmember Baker read P-05-24 in its entirety.

Councilmember Patterson read P-07-24 in its entirety.

RESOLUTION NO. R-07-24: Matter of recognizing Matthew Baumgarten for his years of service as City Manager for the City of Berkley.

Mayor Dean read R-07-24 in its entirety.

Mike McGuiness, DDA Director, thanked Matt on behalf of the Berkley DDA.

Jack Blanchard, Berkley, said we have come a long way in emergency management due to Matt's leadership. Jack thanked him, Rebecca and the boys.

MOTION NO. M-35-24: Matter of authorizing the Mayor to execute a contract between SMART and the City of Berkley for Fiscal Year 2024 for Municipal Credit and Community Credit funds to provide public transportation services for the period of July 1, 2023 to June 30, 2024.

Councilmember Patterson moved to approve Motion No. M-35-24

Seconded by Mayor Pro Tem Gavin

Ayes: Patterson, Vilani, Baker, Black, Gavin, Hennen, and Dean

Nays: None

Motion No. M-35-24 Approved.

MOTION NO. M-36-24: Matter of approving the purchase of 10 chairs for the City Council chambers from Discount Office Equipment Inc., 1991 Coolidge, Berkley MI, at the cost of \$5,770. Funds for this purchase are coming from account 101-265-981-000.

Mayor Pro Tem Gavin moved to approve Motion No. M-36-24

Seconded by Councilmember Black

Ayes: Vilani, Baker, Black, Gavin, Hennen, Patterson, and Dean

Nays: None

Motion No. M-36-24 Approved.

RESOLUTION NO. R-08-24: Matter of approving a charitable gaming license resolution recognizing the Michigan Speech-Language Foundation as a charitable organization.

Councilmember Patterson moved to approve Resolution No. R-08-24

Seconded by Councilmember Hennen
Ayes: Baker, Black, Gavin, Hennen, Patterson, Vilani and Dean
Nays: None
Resolution No. R-08-24 Approved.

MOTION NO. M-37-24: Matter of approving a consulting agreement between the City of Berkley and Gallagher Benefit and Services, Inc., located at 2600 S. Telegraph Road, Suite 100, Bloomfield Hills, MI 48302, to provide benefit administration support services.
Councilmember Hennen moved to approve Motion No. M-37-24
Seconded by Councilmember Vilani
Ayes: Black, Gavin, Hennen, Patterson, Vilani, Baker, Black and Dean
Nays: None
Motion No. M-37-24 Approved.

ORDINANCE NO. O-05-24: Matter of considering the First Reading of an Ordinance to amend Section 106-310.A of Article VIII, Parklets, of Chapter 106, Streets, Sidewalks and Other Public Places, of the Berkley City Code to allow parklets to occupy spaces in front of adjacent businesses when they cannot be located in front of the primary business.
Councilmember Baker moved to approve Ordinance No. O-05-24
Seconded by Mayor Pro Tem Gavin
Ayes: Gavin, Hennen, Patterson, Vilani, Baker, Black, and Dean
Nays: None
Ordinance No. O-05-24 Approved.

RESOLUTION NO. R-09-24: Matter of authorizing publication of a notice of public hearing to be held May 20, 2024 regarding the proposed operating budget for the City of Berkley, Michigan for fiscal year 2024-2025.
Councilmember Black moved to approve Resolution No. R-09-24
Seconded by Councilmember Hennen
Ayes: Hennen, Patterson, Vilani, Baker, Black, Gavin, and Dean
Nays: None
Resolution No. R-09-24 Approved.

COMMUNICATIONS

COUNCILMEMBER PATTERSON

- Planning Commission had a special meeting April 10th at 7 pm; they held a hearing on a project on Mortenson and received a steering committee update. Next meeting will be on April 23rd at 7pm here in Chambers.
- The Beautification Advisory Committee started back up and will meet on April 24th at 6:30pm on the second floor of the Public Safety building.

COUNCILMEMBER VILANI

- Berkley Has Heart photo contest and public voting will be at an Art Bash booth on June 8th; this contest is open to all ages and abilities.
- A commemorative book will be available for sale at the Art Bash highlighting everything art-related in our community, so get your coffee tables ready for that one.
- Berkley will get a little sweeter this Friday during a ribbon cutting for the opening of Bombshell Treat Bar on Coolidge, so if you have not had a chance to taste them yet, please give one of our newest businesses a warm welcome.
- The Berkley Environmental Advisory Committee will meet on May 23rd at 6:30pm in Council chambers.
- Gardeners, get your shovels ready because the spring Native Plant Sale is on Sunday, May 19th from 10am – 2pm in the Community Center parking lot.

MAYOR PRO TEM GAVIN:

- Library Board meeting will be on Wednesday, April 17th at 7pm.
- Thanked Matt Church and the library staff for their work preparing for the eclipse; they fielded 572 calls that day requesting glasses. They handed out over 2,500 sets of glasses so our community could witness such an inspiring moment.
- Parks & Recreation Advisory Board will next meet on June 13th at 7pm at the Community Center.
- He thanked Interim P&R Director Dan McMinn and staff for taking on a lot of extra work during a time of transition.

COUNCILMEMBER BAKER

- Thanked Council for the Berkley History Month proclamation on behalf of the Historical Committee. The March edition of their newsletter is out now. The Museum has free admission and is open on Sundays from 2-4 pm and on Wednesdays from 10am –1pm.
- The Downtown Development Authority met on April 10th and highlights include the mural grant program: there are six more applications at various stages in the process. The murals bring such life to our community and they'll be in the booklet Councilmember Vilani mentioned.
- In addition to Bombshell Treat Bar, the next day is Record Store Day and so for those of you who like to spin the discs, head to Flipside Records on Saturday, April 20th for its big celebration.
- Who's the BOSS – the Berkley Outdoor Social Scene is ramping up; it is a part of our downtown on 12 Mile where you are able to walk from place to place and carry an adult beverage within safe parameters. Designated businesses participating include Amici's, El Patio and Monger's and there are several others exploring the program to see if they can make it happen as well. For more information or to see any of the other cool things that are coming up visit downtownberkley.com
- Tony Sorenson once said, "Spring is far more than just a changing of seasons, it is a rebirth of the spirit." As you get out and enjoy our parks, library and walkable downtown, please stay hydrated and use proper sun protection.
- Please hug someone you love as they need it more than you think they do.

COUNCILMEMBER HENNER

- Tree Board will have an Arbor Day celebration at 9am on Saturday, April 27th at Bacon Park; its next meeting is April 22nd.
- The Zoning Board of Appeals heard a case on a side-yard generator which was tabled until the June meeting. It had no cases in May.

COUNCILMEMBER BLACK

- Nothing from the Committee on Technology Engagement.
- He asked people to watch what they post on social media, like using the word "war." He asked that people take some time and think before they hit send, out of respect for all the men and women in our community that serve this great nation.

CITY MANAGER MATT BAUMGARTEN

- Budget Work Sessions begin tomorrow, April 16th at 6pm in the second-floor conference room of the Public Safety Building. It will be a robust conversation on what the administration has proposed and what we feel is worth investing in; Finance Director Carl Johnson will be there to present those items as well as directors.
- He said it's his last meeting and he would be remiss if he didn't say thank you. He said it was a surreal experience this week. He said we have been incredibly fortunate during his tenure and before that, the community at large has elected good people to this role. He said for eight years all members of Council have attended the Capital Conference. He said although faces have changed, the through line hasn't. He said it is weird to talk about accomplishments as a

leader of an organization, everything has been a team effort. He said the team Council has now is an amazing group of people who live, eat, breathe and sleep this community; the people in place have public service in their veins. He thanked everyone who was able to put victories on his list; he said the next city manager would be very lucky.

CITY ATTORNEY DAN CHRIST

- Stated City staff reached out regarding the retail pet store ordinance requirements and obligations and that a meeting regarding those issues would happen this week to make staff aware of the particulars of the ordinance.

MAYOR DEAN

- Said she will miss Mr. Baumgarten's ability to recite ordinances and statutes like chapter and verse. When she came to Council he answered endless questions with patient explanations (even about Headlee and Prop A). She said she is thankful for his knowledge base and his service to the community. She said she doesn't know what the future holds for him and his family but she wishes them the best; she is grateful that he'll still be in our community. She said it has been a great ride and she's learned a lot; she appreciates his leadership and guidance.

ADJOURNMENT:

Councilmember Patterson moved to adjourn the Regular Meeting at 8:08 p.m.

Seconded by Councilmember Hennen

Ayes: Vilani, Baker, Black, Gavin, Hennen, Patterson and Dean

Nays: None.

Motion Approved.

Bridget Dean, Mayor

ATTEST:

Victoria Mitchell, City Clerk

**A BUDGET WORK SESSION OF THE FOURTIETH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN
WAS CALLED TO ORDER AT 6:00 PM ON TUESDAY, APRIL 16, 2024
BY MAYOR BRIDGET DEAN**

PRESENT: Councilmember Steve Baker
Councilmember Clarence Black
Mayor Pro Tem Ross Gavin
Councilmember Dennis Hennen
Councilmember Greg Patterson
Councilmember Jessica Vilani
Mayor Bridget Dean

ALSO PRESENT: Nate Geinzer, Interim City Manager
Matt Baumgarten, City Manager
Carl Johnson, Finance Director
Victoria Mitchell, City Clerk
Stan Lisica, Chief Innovation Officer
Matthew Koehn, Public Safety Director
Matt Church, Library Director
Kristen Kapelanski, Community Development Director
Caitlin Flora, Director of Communications
Alex Brown, Facilities Manager
Shawn Young, Department of Public Works Director
Bryan Bemis, Treasurer
Ric Chalmers, Department of Public Works Deputy Director

APPROVAL OF AGENDA

Councilmember Baker moved to approve the Agenda.
Seconded by Councilmember Vilani.
Ayes: Black, Gavin, Hennen, Patterson, Vilani, Baker and Dean
Nays: None
Motion Approved.

PUBLIC COMMENT:

No comment.

PRESENTATION: Matter of receiving a presentation summarizing the proposed FY 2024/25 budget.

Finance Director Carl Johnson outlined the Budget Process:

- Follows State of Michigan Budget Act requirements while taking a new, simplified approach.
- The Budget is balanced, provides an estimate and utilizes available funds
- The new budget document highlights the important areas; line items are the support for the actual proposed budget and will only be referenced as needed.

He said the budget is an estimate as of today. As facts and estimates arise, the budget may be amended. He stated he will highlight the actual budget document and referenced a 38-page document he created to focus on important departmental totals; he said it is important to keep the focus at this level.

General Fund:

- He stated there are a lot of round numbers. This is because a budget is an estimate; he referenced last year's estimates.
- Revenues are less each year because of loss of one-time grants, net increase of 3 percent and 1.6 percent.
- New facilities department created, lessening amounts from other departments.

Major, Local & Infrastructure Fund:

- Utilizes all available resources for annual road repaving and unfunded mandates for lead line replacement.
- All three funds are used in conjunction with each other.

Solid Waste Fund:

- Full season for curbside leaf pickup will resume – new budget department created to fund the program.
- New fees implemented.

Sidewalk Fund

- Sidewalk replacements across the city have been completed. The current budget pauses that program.
- No additional programs are scheduled for the next two fiscal years. We will collect all of the funds and resume when/if needed.

Water & Sewer Fund

- New budget basis looks at cash flow, not funding depreciation.
- Adjustments made to 2024 budget eliminate negative cash and repay dollars borrowed from the General Fund.
- Continued 10 percent rate increase similar to the current fiscal year.
- Primary priority continues to be the unfunded mandate for lead line replacements.
- The reality is we must set the rates to bring in enough money to cover those costs.
- The biggest draw is the lead line replacements. We have tried for grants, but have not had success.

City Manager Matt Baumgarten explained that the budget has been readily available and he discussed the budget questions that have been submitted thus far by members of Council. He stated there were about 19 pages of questions and answers; he said the questions were answered by Mr. Johnson, Mr. Baumgarten, and Mr. Geinzer.

Mr. Baumgarten said the City definitely faces challenges. He said several larger projects were put off; hard decisions have been made to defer or cancel projects. He said infrastructure has been a challenge for all Michigan communities.

BUDGET WORK SESSION: Matter of discussing the proposed fiscal year 2024/25 City of Berkley Budget:

In total, the following corrections were made to the budget:

- 101-172-704-00: Increased City Manager salary range by \$50,000.

PUBLIC COMMENT:

Joel Ulferts, Berkley, asked that the referenced document containing questions and answers could be made available to the public. He asked questions regarding fund balances and expenditures.

Mr. Baumgarten answered that the document would be cleaned up and made available to residents.

Bruce Pohl, Berkley, asked questions regarding the Solid Waste budget, which he said has a high impact on residents.

Joel Ulferts, asked whether any city vehicles are used for personal use and about the associated costs.

ADJOURN

Councilmember Patterson moved to adjourn the work session at 10:13 p.m.

Seconded by Councilmember Vilani

Ayes: Hennen, Patterson, Vilani, Baker, Black, and Gavin

Nays: None

Motion Approved.

Attest:

Bridget Dean, Mayor

Victoria Mitchell, City Clerk

AN ORDINANCE
of the City Council of the City of Berkley, Michigan, to amend Section 106-310.A of Article VIII, Parklets, of Chapter 106, Streets, Sidewalks and Other Public Places, of the Berkley City Code to allow parklets to occupy spaces in front of adjacent businesses when they cannot be located in front of the primary business.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: New Article VIII, Parklets, is added to Chapter 106 of the Berkley Code of Ordinances, as follows:

ARTICLE VIII. PARKLETS

Sec. 106-305. – Intent.

The intent of this Article is to provide a greater variety of outdoor service options to Berkley food service establishments, encourage the conversion of underutilized on-street parking spaces, and facilitate the activation of the pedestrian spaces along City corridors.

Sec. 106-306. – Definitions.

Parklet: An outdoor service area converted from a public on-street parking space or equivalent size thereof that is adjacent to a food service establishment and used for the purpose of hosting food service patrons as an extension of the adjacent food service establishment's regular food service. A parklet may or may not utilize part of an adjacent sidewalk in addition to on-street areas.

Adjoining business: The food service establishment that hosts and sits adjacent to the proposed parklet.

Furnishings: All furniture, lighting, landscape material, fixtures, tables, chairs, trash receptacles, benches, sun shading, and other materials placed within the parklet.

Sec. 106-307. – Permit required.

- A. An adjoining business must obtain an annual permit from the City's Community Development Department in order to construct and use a parklet. The permit must be prominently displayed at the adjoining business. The construction and use of a parklet must meet the standards of this article.
- B. The adjoining business is responsible for parklet permitting, construction, operations, and maintenance.
- C. The parklet permit applicant must apply for and obtain any necessary encroachment permits, licenses, authorizations, or other approvals, pay such fees, and deposit such security as is required by applicable law or ordinance.

Sec. 106-308. – Application.

An adjoining business that desires to develop a parklet must complete and submit a written application to the Community Development Department, on a form to be developed by the Community Development Department, for the construction and use of the parklet. The applicant must fully and truthfully state and provide all information, including proof of insurance, requested by the Community Development Department and pay the application/permit fee established by resolution of the City Council. A parklet permit or permit renewal application must include the following:

- A. Applicant's name, address, email address, and telephone number.
- B. Existing zoning and current land use of the property under consideration and zoning and current land use of all immediately adjacent properties.
- C. A sketch plan (top-view drawing of the parklet), drawn to a reasonable scale, containing the following information:
 - 1. Distance to the nearest residential zoning district or single-family residence, as measured from the edge of the proposed parklet to the nearest residential zoning district or single-family residence lot line.
 - 2. General location and dimensions of all existing sidewalks, streets, and parking spaces.
 - 3. Location of the proposed parklet, including width, length, frontage, distance to nearest intersection or crosswalk, distance to nearest auto or bicycle lane, and distance to any adjacent parking space(s).
 - 4. The frontage details of the adjoining business, including the location of the primary entrance and any existing street furnishings and lighting.
 - 5. The location of the proposed access ramps, platforms, and enclosures.
 - 6. Details of any hardware such as fasteners to be used in the construction of ramps and platforms.
 - 7. The location of all furnishings.
 - 8. The location of outdoor lighting fixtures, if proposed, as well as the location of wiring and a description of how the wiring will be secured to prevent tripping or electrical hazards.
 - 9. Location of on-site driveways and adjacent alleys.
- D. Photographs, drawings, or manufacturer's brochures fully describing the appearance of all proposed tables, chairs, umbrellas, awnings, canopies, lighting, or other furnishings/fixtures related to the parklet, including but not limited to portable heaters, and other fixtures used during colder weather.

- E. A signed Hold Harmless Agreement on a form provided by the City.
- F. A Certificate of Liability Insurance, in an amount acceptable to the City, and naming the City as an additional insured party.
- G. For a parklet in which alcohol will be served, a liquor liability policy or certificate of insurance naming the City as an additional insured.
- H. If outdoor lighting is proposed, the Community Development Department may require a photometric plan.
- I. If temporary shelters are proposed, a separate sketch plan must be submitted with the following:
 - 1. The location and dimensions of all temporary shelters within the permitted parklet.
 - 2. A dimensioned seating layout.
 - 3. The materials of which the shelters are fabricated.
 - 4. The type, size, and location of portable heating elements, fuel tanks, and decorative lighting.
 - 5. The type and location of lighting to be used.
 - 6. The power source for portable heating elements and lighting, with a description of how the wiring will be secured to prevent tripping or electrical hazards.

Sec. 106-309. – Fees.

An application for a permit under this article must be accompanied by a fee in the amount established by resolution of the City Council. Proration of fees is not permitted. Fees are non-refundable after a permit has been issued by the City.

Sec. 106-310. – Requirements.

Any adjoining business constructing or using a parklet must comply with the following requirements:

- A. Location
 - 1. A parklet must not occupy or interfere with any fire lane, operational driveway, or bus zone.
 - 2. A parklet must be at least twenty (20) feet away from a crosswalk or intersection.
 - 3. A parklet, including all furnishings and enclosures, must leave a minimum five (5) foot wide pedestrian walkway.

4. A parklet may be located only on streets with speed limits of not more than 30 miles per hour.
5. If located on streets with speed limits at or below 25 miles per hour, a minimum two (2) foot setback from adjacent vehicle or bicycle lanes is required.
6. If located on streets with speed limits between 26- 30 mph, a minimum three (3) foot setback from adjacent vehicle or bicycle lanes is required.
7. A parklet must be located at least fifty (50) feet from a residential zoning district or single-family residential use, as measured from the edge of the parklet to the nearest residential property line.
8. An adjoining business may construct only one (1) parklet.
9. An adjoining business may not use more than two (2) on-street parking spaces or the equivalent length thereof for a parklet.
10. No more than five (5) parking spaces per city block may be converted into a parklet.
11. A parklet may be constructed only on streets where a minimum twenty (20) foot width for two-way traffic is maintained.
12. A parklet must be located at least four (4) feet from any adjacent parking space.
13. If the parklet is located adjacent to a parking space, a wheel stop must be installed by the adjoining business.
14. Parklets that protrude into the sidewalk must maintain a minimum five (5) feet pedestrian clearance.
15. If an adjoining business cannot locate its parklet in front of its business due to any of the location restrictions indicated in Section 106-310(A), then an adjoining business may located its parklet in a parking space in front of a business directly adjacent to the adjoining business, with written permission from that business/property owner. Such permission would need to be provided with the initial application and with each renewal.

B. Design

1. A parklet, including furnishings and enclosures, must not block the view of vehicle, bicycle, or pedestrian traffic, or block the view of traffic control devices such as traffic signs, traffic signals, and other traffic warning devices.
2. A parklet, including furnishings and enclosures, must not obstruct motorists' visibility of traffic signals from two hundred (200) feet away.

C. Enclosure

1. A parklet must include an enclosure that separates the parklet from vehicular traffic and any adjacent on-street parking spaces. The parklet location requirements in this article also apply to parklet enclosures.
2. Enclosures must have a minimum height of thirty-six (36) inches and a maximum height of forty-two (42) inches.

D. Operation

1. A parklet may not be located or used within the public right-of-way between November 1 and March 31.
2. Temporary shelters, such as canopies or bubble tents, may be used. Temporary shelters must comply with all requirements in this article.

E. Ramps and Platforms

1. Ramps must be provided for parklets to provide barrier free access from curbed sidewalks.
2. Ramps or platforms must be designed and constructed to maintain unobstructed drainage flow along the gutter.
3. Ramps or platforms must not be bolted into the road or penetrate the surface of the road or parking space that the parklet occupies. Any ramps or platforms may be bolted into the existing curb. All curbs must be restored to the satisfaction of the City of Berkeley Department of Public Works.
4. Connections between platforms, ramps, sidewalks, or parking spaces used for the parklet or to obtain access to the parklet must be flush and must not leave a horizontal gap greater than one-half (1/2) inch, or a vertical separation greater than one-quarter (1/4) inch. If a vertical separation is to exceed one-quarter (1/4) inch, 1:4 bevels are required.
5. For parklets proposed on parking spaces with grades that exceed five percent (5%), level platforms must be provided.

F. Furnishings

1. Any parklet furnishings are the responsibility of and must be maintained and operated by the adjoining business.
2. Parklet furnishings must be anchored or of sufficient weight so that at no time are the parklet furnishings at risk of becoming windblown or an obstruction or danger to public safety.
3. Furniture, including benches, planters, chairs, and tables, must not exceed four (4) feet in height.

4. Hanging or overhead furnishings, including umbrellas, must have a clearance of at least seven (7) feet and cannot exceed ten (10) feet from the ground.
 5. Any umbrellas must be closed or removed at the end of operations each day.
 6. Parklet furnishings must be maintained in a state of good repair. Any parklet furnishings having broken, peeling, or rusting features or showing other signs of disrepair must be promptly removed or replaced.
 7. Any sun-shading materials must be constructed of fire-retardant materials.
 8. Decorative lighting may be used only during the hours of the parklet's operation. Decorative lighting must not create glare that adversely affects public safety or adjacent properties and must be secured in a manner to prevent electrical hazards or trip hazards to parklet patrons or sidewalk pedestrians.
- G. After the removal of the parklet, the applicant must restore the streets and rights-of-way to the same condition they were in before the parklet was developed.
- H. All aspects of parklet construction and operation must comply with the Michigan Barrier Free Code.

Sec. 106-311. – Other permits.

A permit obtained under this article does not relieve any person of the responsibility for obtaining any other permit, or authorization required by any other ordinance, statute, or administrative rule.

Sec. 106-312. – Revocation.

The Community Development Department may revoke the parklet permit of any adjoining business that violates or ceases to meet any requirement of this article or violates any other federal, state, or local regulation, makes a false statement on their application, or conducts activity in a manner that is detrimental to the public health, safety, and welfare.

Immediately upon such revocation, the Community Development Department shall provide written notice to the permit holder by certified mail to their place of business or residence as indicated on the application. Immediately upon such revocation, the permit shall become null and void.

Sec. 106-313. – Alcohol served.

Any applicant holding a valid liquor license from the State of Michigan for their adjoining business is required to include a copy of their liquor license with the parklet application. The provisions of the liquor license and compliance with State standards for serving alcohol will apply to the parklet operations.

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 will 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 4: Effective Date

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

SECTION 5: 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, April 15, 2024.
Adopted on the Second Reading at the Regular City Council Meeting on Monday, May 6, 2024.

Bridget Dean, Mayor

Attest:

Victoria Mitchell, City Clerk

MEMORANDUM

To: Mayor Dean and City Council
From: Kristen Kapelanski, Community Development Director
Date: *May 6, 2024*
Subject: Parklet Ordinance Amendment – Second Reading

Background

- The proposed ordinance amendment allows businesses that are prohibited from having a parklet because of locational requirements to have a parklet in front of an adjacent business, with that business's permission.
- Council approved the first reading of the amendment at their April 15th meeting.

Recommendation

Approval of the second reading of an ordinance to amend Section 106-310.A of Article VIII, Parklets, of Chapter 106, Streets, Sidewalks and Other Public Places, of the Berkley City Code to allow parklets to occupy spaces in front of adjacent businesses when they cannot be located in front of the primary business.

A PROCLAMATION
of the Council of the City of Berkley, Michigan
Proclaiming May 14, 2024, as Apraxia Awareness Day

- WHEREAS,** May 14th marks Childhood Apraxia of Speech Day during which awareness will be raised throughout Michigan about childhood apraxia of speech, an extremely challenging speech disorder that affects 1-in-1,000 children; and
- WHEREAS,** Childhood apraxia of speech (CAS) causes children to have significant difficulty learning to speak and is among the most severe speech deficits in children; and
- WHEREAS,** The act of learning to speak comes effortlessly to most children, however those with apraxia require early, appropriate, and intensive speech therapy, often for many years to learn to speak; and
- WHEREAS,** Without appropriate speech therapy intervention, children with apraxia will have diminished communication skills, but are also placed at high risk for secondary impacts in reading, writing, spelling, and other school-related skills; and
- WHEREAS,** Such primary and secondary impacts diminish future independence and employment opportunities and challenge the ability to become productive, contributing citizens if not resolved or improved; and
- WHEREAS,** Public awareness about childhood apraxia of speech in Michigan is essential for families of children with this neurological disorder and the professionals who support them to achieve the needed services for those learning to use their own voice; and
- WHEREAS,** Our highest respect goes to these children, as well as their families, for their effort, determination, and resilience in the face of such obstacles.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF BERKLEY HEREBY PROCLAIMS

- SECTION 1:** That May 14, 2024, shall be recognized as *Apraxia Awareness Day* in the City of Berkley.
- SECTION 2:** The City Council calls upon the citizens, government agencies, public and private institutions, businesses, and schools in the City of Berkley to recommit our community to increasing awareness and understanding of apraxia disorders and the need for appropriate and accessible services for all people with apraxia disorders.

Proclaimed this 6th day of May, 2024 at a Regular Meeting of the Berkley City Council.

Bridget Dean, Mayor

Attest:

Victoria Mitchell, City Clerk

A RESOLUTION

of the Council of the City of Berkley, Michigan

Recognizing

Eagle Scout Candidate Jack Elliott for a gift to Berkley Parks & Recreation

WHEREAS, Jack Elliott an Eagle Scout candidate in Berkley Troop 1085 worked with Parks & Recreation to create a project and offer additional sitting areas to Community Park and to the City of Berkley ; and

WHEREAS, Jack worked over the course of several months to identify a recreation need in the community and fundraised money to be able to offer the additional seating area; and

WHEREAS, Jack raised the necessary funds to construct two park benches to be placed along the sidewalk near the Berkley Community Center and Community Park; and

WHEREAS, Jack and his troop, Troop 1085 worked together to safely and professionally construct these benches on April 6, 2024; and

WHEREAS, The benches at Community Park will add additional sitting areas for community to utilize while enjoying one of Berkley's parks; and

NOW, THEREFORE, THE CITY OF BERKLEY RESOLVES:

SECTION 1: That the Council of the City of Berkley appreciates the effort, hard work and professionalism that Jack Elliott displayed in constructing and placing two new park benches at Community Park;

Introduced and passed at a Regular City Council Meeting on Monday, May 6, 2024.

Bridget Dean
Mayor

Attest:

Victoria Mitchell
City Clerk

May 6, 2024 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to authorize special land use approval from applicant Christina DelPizzo for the occupation of 1818 Mortenson to be used as a family day care home for seven-12 children in the R-1D Single-Family Residential District, on the east side of Mortenson, east of Princeton.

Ayes:

Nays:

Motion:



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

MEMORANDUM

To: Mayor Dean and City Council
From: Kristen Kapelanski, Community Development Director
Date: May 6, 2024
Subject: PSU-02-24: 1818 Mortenson Special Land Use Request

Background

- The applicant applied for a special land use request at 1818 Mortenson Blvd. for an in-home child care center for 7-12 children in the R1-D Single-Family District.
- Per the City Attorney, in-home child care centers are a special land use in the R1-D District.
- Standards for consideration for special land use approval are listed in Section 138-653 of the Zoning Ordinance and detailed in the staff review memo.
- Staff reviewed the request and recommended approval for the reasons stated in the review memo.
- The Planning Commission held the required public hearing at their February 27, 2024 meeting and ultimately recommended denial. Meeting minutes are attached.

Recommendation

If the City Council chooses to approve the special land use request, staff recommends the motion include a finding that the City Council determines that the standards of Section 138-653 have been met. Should the Council choose to deny, a specific denial motion citing which standards are not met should be made.



CITY OF BERKLEY

COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

APPLICATION FOR SPECIAL LAND USE REVIEW

NOTICE TO APPLICANT: Applications for Special Land Use review by the Planning Commission must be submitted to the City of Berkley Building Department in **substantially complete form** at least 30 days prior to the Planning Commission's meeting at which the application will be considered. The application must be accompanied by the data specified in the Zoning Ordinance, including fully dimensioned site plans, plus the required review fee.

The Planning Commission will hold the required *public hearing* and will make a recommendation to the City Council. Special Land Use approval shall be obtained from the City Council.

The Planning Commission meets the fourth Tuesday of the month at 7:00pm in the Council Chambers at the City of Berkley City Hall, 3338 Coolidge Hwy, Berkley, MI 48072. The City Council meets the first and third Mondays of the month at 7:00pm in the Council Chambers at the City of Berkley City Hall, 3338 Coolidge Hwy, Berkley, MI 48072.

TO BE COMPLETED BY APPLICANT:

I (We), the undersigned, do hereby respectfully request Special Land Use Review and provide the following information to assist in the review:

Project Name: _____

Applicant: _____

Mailing Address: _____

Telephone: _____

Email: _____

Property Owner(s), if different from Applicant: _____

Mailing Address: _____

Telephone: _____

Email: _____

Applicant's Legal Interest in Property: _____

LOCATION OF PROPERTY:

Street Address: 1818 Mortenson
Nearest Cross Streets: Mortenson + Princeton
Sidwell Number(s): 04-25-17-381-005

PROPERTY DESCRIPTION:

Provide lot numbers and subdivision: Lot 11 Benjamin F Mortenson's Garden Sub.
Property Size (Square Feet): 47 x 120 (Acres): _____

EXISTING ZONING DISTRICT (please check):

- | | | |
|--|--|-------------------------------------|
| <input type="checkbox"/> R-1A | <input type="checkbox"/> Local Business | <input type="checkbox"/> Coolidge |
| <input type="checkbox"/> R-1B | <input type="checkbox"/> Office | <input type="checkbox"/> Downtown |
| <input type="checkbox"/> R-1C | <input type="checkbox"/> Community Centerpiece | <input type="checkbox"/> Industrial |
| <input checked="" type="checkbox"/> R-1D | <input type="checkbox"/> Woodward | <input type="checkbox"/> Cemetery |
| <input type="checkbox"/> RM | <input type="checkbox"/> Eleven Mile | <input type="checkbox"/> Parking |
| <input type="checkbox"/> RMH | <input type="checkbox"/> Twelve Mile | |

Present Use of Property: Residential
Proposed Use of Property: Home Childcare
Is the property located within the Downtown Development Authority? ☐ Yes ☒ No

PROJECT DESCRIPTION:

Home Daycare less than 12

Does the proposed project / use of property require Site Plan Approval? ☐ Yes ☒ No
Does the proposed project require Variance(s) from the Zoning Board of Appeals? ☐ Yes ☒ No

If yes, describe the variances that will be required: _____

PLEASE COMPLETE THE FOLLOWING CHART:

| Type of Development | Number of Units | Gross Floor Area | Number of Parking Spaces On Site | Number of Employees on Largest Shift |
|----------------------|-----------------|------------------|----------------------------------|--------------------------------------|
| Attached Residential | | | 2 in garage | |
| Office | | | 2 outside of garage | |
| Commercial | | | | |
| Industrial | | | | |
| Other | | | | |

STANDARDS FOR SPECIAL LAND USE APPROVAL:

To be considered for Special Land Use approval, the Planning Commission and City Council shall consider the following standards. Please address **how** the proposed use satisfies each standard, as specified in Section 138-653.

1. The proposed use will promote the use of land in a socially and economically desirable manner.

A group home childcare is a residential use of property.

2. The proposed use is necessary for the public convenience at that location.

We are in desperate need of licensed + regulated quality childcare in the area.

3. The proposed use is compatible with adjacent land uses.

Corner lot w/ 6 foot privacy fence

4. The proposed use is designed so that the public health, safety and welfare shall be protected.

yes

5. The proposed use will not cause injury to other property in the neighborhood.

I would hope it would be
a welcomed safe place for the
childrer in the community

PROFESSIONALS WHO PREPARED PLANS:

A. Name: _____

Mailing Address: _____

Telephone: _____

Email: _____

Design Responsibility (engineer, surveyor, architect, etc.): _____

B. Name: _____

Mailing Address: _____

Telephone: _____

Email: _____

Design Responsibility: _____

SUBMIT THE FOLLOWING:


1. Ten (10) individually folded copies of the site plans, measuring 24" x 36", sealed by a registered architect, engineer, or surveyor. If copies are submitted simultaneously for Site Plan Review, then submittal of ten (10) additional copies is not necessary.
2. A pdf file of the plan and any supporting documents, emailed to the Community Development Director.
3. Proof of property ownership (title insurance policy or registered deed with County stamp).

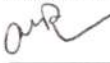
PLEASE NOTE: The applicant, or a designated representative, **MUST BE PRESENT** at all scheduled meetings, or the Special Land Use request may be tabled due to lack of representation.

Failure to provide true and accurate information on this application shall provide sufficient grounds to deny approval of a Special Land Use application or to revoke any permits granted subsequent to the Site Plan Approval.


We encourage applicants to make a presentation of the proposed project to the Planning Commission and City Council, as appropriate. To assist in this effort, we have available for your use at meetings a projector, laptop computer and screen. This will allow the Planning Commission and audience to be fully engaged so they can give your project the attention it deserves. Planning Commission and City Council meetings are recorded and televised.

PROPERTY OWNER'S APPROVAL: (Initial each line)

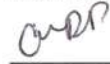
 I hereby authorize and give permission for the City of Berkley to install one or more temporary signs on my property, in order to notify the public of the required public hearing related to the Special Land Use request.

 I hereby authorize the employees and representatives of the City of Berkley to enter upon and conduct an inspection and investigation of the above referenced property in relation to the above request.

APPLICANT'S ENDORSEMENT: (Initial each line)

 All information contained therein is true and accurate to the best of my knowledge.

 I acknowledge that the Planning Commission will not review my application unless all information in this application and the Zoning Ordinance has been submitted.

 I acknowledge that the City and its employees shall not be held liable for any claims that may arise as a result of acceptance, processing or approval of this Special Land Use application.

If an application is withdrawn more than three (3) weeks prior to the meeting date, 90% of the fee will be refunded. If the application is withdrawn less than three (3) weeks prior to the meeting, no refund will be given.

C. DelPizzo 2/6/24
Signature of Applicant Date

Christina DelPizzo 2/6/24
Applicant Name (Print)

Signature of Applicant Date

Applicant Name (Print)

C. DelPizzo 2/6/24
Signature of Property Owner Authorizing this Application Date

Christina DelPizzo 2/6/24
Property Owner Name (Print)

OFFICE USE ONLY

Received 2/6/24 Receipt # _____ Meeting Date 2/27/24 Case # PSU-02-24

Fee: \$1,000.00

25-17-381-005

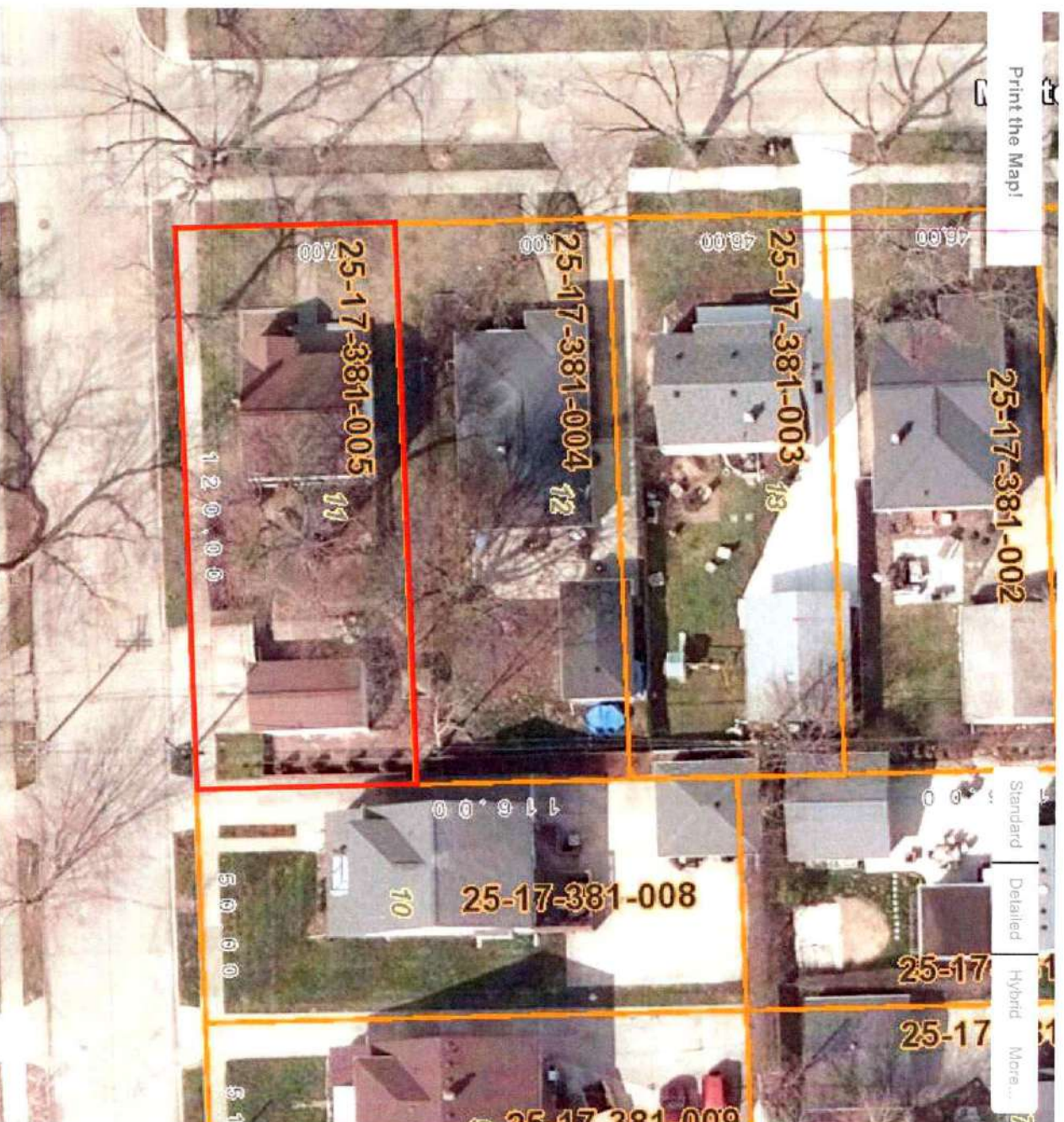
or navigate to and click on the property of interest

1818 MORTENSON BLVD
PIN: 25-17-381-005
CITY OF BERKLEY

Available Reports:

| | |
|--|---------|
| Current Tax Report | \$2.50 |
| Current property tax information | |
| Delinquent Tax Report | \$1.50 |
| Delinquent tax obligations | |
| Map Atlas | \$4.00 |
| Plat map & property dimensions | |
| MAAP Property Report | \$20.00 |
| Mortgage App. Acceleration Program | |
| Residential Property Profile | \$0 |
| Property profile of a specific parcel | |
| Residential Property Profile | \$7.50 |
| Property profile of a specific parcel | |
| Also Available at this Location: | |
| Display Property Photo | |
| Display Property Sketch | |
| Display FEMA - DFIRM Map | |
| ▪ DFIRM Disclaimer | |
| ▪ DFIRM Overview | |

[Print the Map!](#)





CITY OF BERKLEY COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Christina DelPizzo, Applicant

From: Kristen Kapelanski, Community Development Director

Subject: **PSU-02-24: 1818 Mortenson Blvd.**

Date: February 14, 2024

The applicant has requested to operate a home day care for 7-12 children at 1818 Mortenson Blvd. The current zoning of the parcel is R1-D Single Family District and child care centers are a special land use. No exterior site changes are proposed.

Special land uses require the approval of the City Council after a recommendation from the Planning Commission. Standards listed in the ordinance for consideration of a special land use request are identified below. Staff comments are italicized.

- The proposed use will promote the use of the land in a socially and economically desirable manner. *The use will provide a child care option for families in the neighborhood while maintaining its single-family characteristics.*
- The proposed use is necessary for the public convenience at that location. *As referenced directly above, the use will provide an additional child care option in the area.*
- The proposed use is compatible with adjacent land uses. *The use will retain its single-family characteristics and no exterior changes are proposed.*
- The proposed use is designed so that the public health, safety and welfare shall be protected. *The proposed use will not cause any detrimental health and safety effects. In home daycares are scattered throughout the City and the Community Development Department has not received any complaints related to traffic at any existing locations. Additionally, driveway parking is available as is street parking along Princeton.*
- The proposed use will not cause injury to other property in the neighborhood. *See text directly above.*

Staff recommends approval of the request.

Please contact me if you have any questions.

Cc: Kim Anderson, Zoning Administrator

THE CITY OF BERKLEY
Community Development Department
3338 Coolidge, Berkley, Michigan 48072
(248) 658-3320

NOTICE OF PUBLIC MEETING
BERKLEY PLANNING COMMISSION

NOTICE IS HEREBY GIVEN, in accordance with Section 138-656 of the Berkley City Code, that there will be a meeting of the Berkley Planning Commission to be held at the City of Berkley in the Council Chambers, 3338 Coolidge Hwy, Berkley Michigan, on **Tuesday, February 27, 2024** at 7:00pm, or as near thereto as the matter may be reached.

APPLICATION PSU-02-24

Marco Del Pizzo and Christina M. Del Pizzo, 1818 Mortenson, Parcel 25-17-381-005 are requesting Special Land Use approval to operate a home day care for 7-12 children in the R1-D Single Family Residential District.

Complete application information is available for review at www.berkleymich.org/urbanplanning.

Comments regarding the request may be made in person on the night of the meeting or may be made in writing. All written comments must be submitted to the Community Development Department or email to planning@berkleymich.net before 5:00p.m on the date of the Planning Commission meeting.

You can watch the meeting: <https://www.berkleymich.org/livestream/index.php>

KRISTEN KAPELANSKI
COMMUNITY DEVELOPMENT DIRECTOR

THE CITY OF BERKLEY
Community Development Department
3338 Coolidge, Berkley, Michigan 48072
(248) 658-3320

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KRISTEN KAPELANSKI
COMMUNITY DEVELOPMENT DIRECTOR

Publish Once:
Royal Oak Tribune
Friday, February 9, 2024

OC Parcels Plus 1818 Mortenson

Search

Value Shape Buffer Report Spatial Result

Zoom All

Clear:

selected: 57

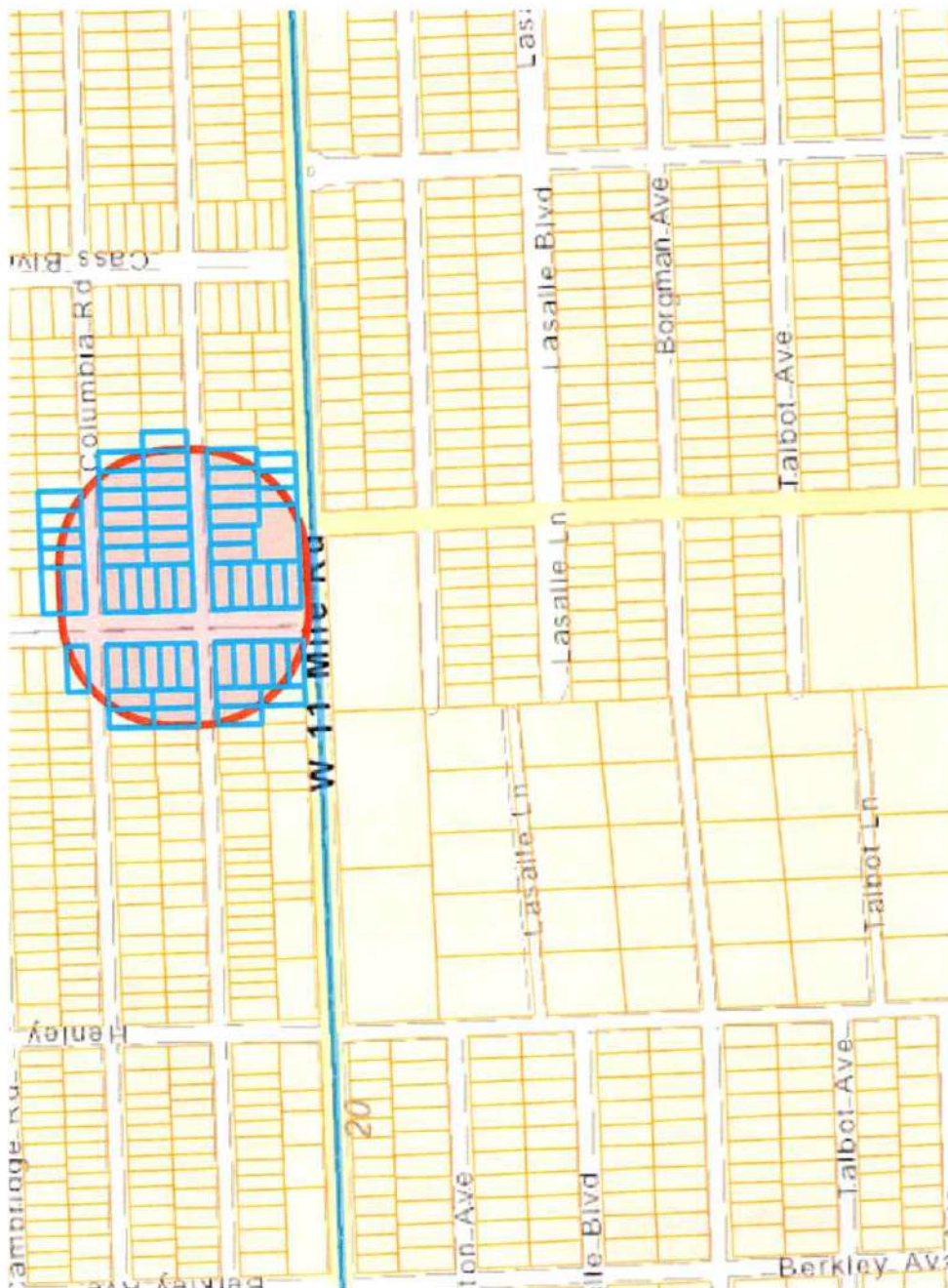
- 2517383002 SITEADDRESS: 1768 MORTENSON BLVD
- 2517459001 SITEADDRESS: 1705 PRINCETON RD
- 2517459014 SITEADDRESS: 1664 11 MILE RD
- 2517382044 SITEADDRESS: 1739 MORTENSON BLVD
- 2517382022 SITEADDRESS: 1849 PRINCETON RD
- 2517383006 SITEADDRESS: 1721 PRINCETON RD
- 2517459013 SITEADDRESS: 1680 11 MILE RD
- 2517457011 SITEADDRESS: 1706 PRINCETON RD
- 2517381004 SITEADDRESS: 1834 MORTENSON BLVD

SESSOR'S PLAT NO 1 HUNTINGT



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25-17-459-005



THE REGULAR MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, FEBRUARY 27, 2024 AT BERKLEY PUBLIC SAFETY BY CHAIR LISA KEMPNER.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city's government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen, on-demand, on the city's YouTube channel: <https://www.youtube.com/user/cityofberkley>

PRESENT: Shiloh Dahlin Lisa Hamameh
Joe Bartus Mike Woods
Lisa Kempner
Eric Arnsman

ABSENT: Josh Stapp

ALSO, PRESENT: Kristen Kapelanski, Community Development Director
Greg Patterson, City Council Liaison
Megan Masson-Minock, Planning Consultant

Motion by Commissioner Woods to excuse the absence of Commissioner Stapp. Motion supported by Commissioner Dahlin.

Voice Vote to approve the absence of Commissioner Stapp.

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

* * * * *

APPROVAL OF AGENDA

Motion by Commissioner Bartus to approve the agenda and supported by Commissioner Woods.

Voice vote to approve the agenda

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

* * * * *

APPROVAL OF THE MINUTES

Motion by Commissioner Hamameh to approve the minutes of the regular Planning Commission meeting on January 24, 2024 and supported by Commissioner Dahlin.

Voice vote to approve the meeting minutes of January 24, 2024.

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

* * * * *

COMMUNICATIONS

The most recent copy of Michigan Planner was shared with the Commission members.

* * * * *

CITIZEN COMMENTS

NONE

* * * * *

OLD BUSINESS

NONE

* * * * *

NEW BUSINESS

1. **PUBLIC HEARING PSU-01-24: 2758 Coolidge Hwy.:** The applicant, Upper Michigan Land Company Headquarters, is requesting special land use approval to occupy a building at 2758 Coolidge Hwy. with a first-floor office use in the Downtown District, on the east side of Coolidge Hwy., between Franklin Rd. and Dorothea Rd.

Community Development Director Kapelanski went over the specifics of the request for first floor office use in the Downtown District, a special land use. There are no exterior site changes proposed. The Planning Commission should consider the standards outlined in the staff review. This matter would be for a recommendation to City Council.

Dan Haberman, the applicant, approached the Commission. He noted he is excited to move his business to Berkley and is available to answer any questions.

Commissioner Hamameh confirmed with staff that commercial uses are allowed by right at this location. She asked why office would be a special land use.

Community Development Director Kapelanski said she wasn't sure why office was listed as a special land use. She noted in making her recommendation, she was looking at negative impacts, like noise and traffic, to surrounding properties and past decisions of the Commission on similar requests.

Chair Kempner opened the public hearing at 7:05PM.

Nick Appleyard, owner of Perch, opposed the request. Retail in this area of Coolidge had a good community going. Office in this location will not be good for retail business. It doesn't help add to the community that exists.

Uli Laczkovich, owner of Ullman's Health and Beauty, agreed with the previous speaker. These businesses are trying to establish a lively retail and restaurant zone on Coolidge. She heard from Berkley residents that they were sad Vitrine was closing. Berkley residents like to support their local retail and restaurants. She is questioning how the new business can add to and support the downtown.

Julie La Framboise, employee at Perch and resident of Berkley, opposes the special land use request because a thriving downtown area will raise community property values. She would like to see retail or restaurant in this space.

Molly Patterson, owner of Perch, opposed the request. This area of Coolidge has a great sense of community and this use will not add to that. Perch has people come in from all over the metro area and other areas of the country and they ask where to go in the community for retail and restaurant. An office use takes away from that.

Luke James, owner of Toadvine Books, agrees with the previous speakers. This area is starting to reach a critical mass of foot traffic with their mix of businesses and this will set that effort back.

Desiree Dutcher, Berkley resident and business owner, is opposed to the request. There are plenty of other office spaces available along Coolidge. She would recommend businesses look for spaces that already fit their needs. The four stores (if Vitrine was included) act as four corners anchoring this area of Coolidge. Changing one to office will disrupt that mix.

No one else wished to speak and Chair Kempner read the emailed comments into the record.

Katie and Nick Forte, owners of June and December, oppose the request. They do not feel an office use fits with the master plan and will not bring foot traffic to this area of downtown. Turning Vitrine into office will undermine the efforts of the community in this area.

No additional comments were received and no one else wished to speak. Chair Kempner closed the public hearing at 7:16PM.

Commissioner Hamameh asked the applicant to respond to the public comments.

Mr. Haberman said he understood the importance of retail. But this is going to be a company moving into a vacant building not replacing a beloved local business. He complimented the surrounding businesses and said they wanted to be a good neighbor and help to continue the growth of the City.

Chair Kempner clarified this is not a change of zoning but a special land use request.

Commissioner Bartus confirmed with staff that unless the exact same business was proposed, this would come back before the Commission for a special land use request.

Commissioner Hamameh said she also preferred retail and restaurant but there is a tenant ready to move in now. She is struggling to say no based on the standards.

Chair Kempner agreed. She also feels conflicted.

Commissioner Bartus suggested the Commission go through the special land use standards.

Chair Kempner read the first standard: The proposed use will promote the land in a socially and economically desirable manner.

Commissioner Bartus felt this was satisfied as the building would otherwise be vacant.

Commissioner Woods agreed however he understood the perspective from the public comments. He was less sure if it was socially desirable.

Chair Kempner said she was also struggling with that. Retail uses are more economically desirable than office in terms of foot traffic.

Commissioner Arnsman noted office uses can also bring with them employees who may frequent area businesses.

Commissioner Dahlin was curious if there would be employees at the proposed office space and if they have customers visit.

Mr. Haberman said office hours will vary. Clients will be coming to the office. Generally, someone will be there, primarily him, Monday through Friday.

Commissioner Dahlin was also struggling with this. It would be nice to have a retail or restaurant but she would also not like to see a vacant building.

Community Development Director Kapelanski confirmed adequate parking is provided.

Chair Kempner read the next standard: The proposed is necessary for the public convenience at that location. The Commission though this standard was a little awkward in this case but that it was generally met.

Chair Kempner read the next standard: The proposed use is compatible with adjacent land uses. The Commission agreed this standard was met.

Chair Kempner read the next standard: The proposed use is designed so that the public health, safety and welfare shall be protected. The Commission agreed this standard was met.

Chair Kempner read the next standard: The proposed use will not cause injury to any other property in the neighborhood.

Commissioner Hamameh understood the want for a walkable community with purely restaurant and retail space but this is an allowed use with a special land use.

Commissioner Bartus said there was no injury because the use is allowed.

Motion by Commissioner Hamameh to recommend approval of the special land use request for PSU-01-24 because:

- a) It is consistent with special land use approval for other first floor offices in the Downtown District that have been granted by City Council after a positive recommendation by the Planning Commission;
- b) It will promote the use of the land in a socially and economically desirable manner;
- c) The office will provide a storefront location for clients of the business to access making it a public convenience at that location;
- d) The proposed use is located in an area with other office and retail uses and is compatible with adjacent land uses;
- e) The use will not cause any detrimental health and safety effects to other businesses; and
- f) The proposed use will not cause any detrimental effects to other properties in the neighborhood.

Motion supported by Commissioner Bartus.

Roll call vote for motion to recommend approval of the special land use request for PSU-01-24 2758 Coolidge Hwy.

AYES: 5

NAYS: 1 (Kempner)

ABSENT: Stapp

MOTION CARRIED

2. **PUBLIC HEARING PSU-02-24:1818 Mortenson Blvd.:** The applicant, Christina DelPizzo, is requesting special land use approval for a child care center for 7-12 children at 1818 Mortenson Blvd. in the Single-Family Residential R-1D District, on the east side of Mortenson Blvd., north of Princeton Rd.

Community Development Director Kapelanski went over the specifics of the request for a child care center for 7-12 children in a single-family residential district, which requires a special land use permit per the City Attorney. The City Attorney noted that family day care homes for 1-6 children are a principal permitted use in all single-family residential districts per state law. Even though Berkley's ordinance does not specially call out group day care homes for 7-12 children as a special land use or principal permitted use, it does call out child care centers in the single-family residential districts as a special land use. Therefore, this item would need to go through the special land use process. There are no exterior site changes. The standards in Section 138-653 should be considered for approval. Staff recommends approval as outlined in the provided memo.

The applicant, Christina DelPizzo, provided some background on her business. She is a former teacher who had trouble finding good daycare. One of original employees had a housing issue so they began expanding by opening satellite locations with other qualified teachers, who live in the home and are the licensed childcare provider through the State of Michigan. They have no complaints from any of the municipalities with other locations. She said there was not clear direction from City staff and she was originally told home day cares don't need any approvals. Staff then let her know that things may have not been done incorrectly in the past and she needed this special land use approval.

Commissioner Bartus confirmed there are other teachers in the home as well, mostly on a part time basis. Child care would operate from 7AM-5PM Monday-Friday.

Ms. DelPizzo said they have staggered pickup times in the past per the request of other municipalities. There are usually about eight families with each location.

Commissioner Hamameh asked if the applicant has observed the traffic in the area. She is concerned that this is so close to Eleven Mile and Princeton can also be a busier side street.

Ms. DelPizzo said there are usually one to two cars there at one time. They've never received any complaints about the traffic. She also noted that this is a boulevarded street which provides for easier drop off and pick up in terms of the direction of traffic.

Commissioner Bartus confirmed there is no site plan review associated with this request.

Community Development Director Kapelanski said she did consider the boulevard as providing easier drop off and pick up because of the singular direction of traffic. A corner lot also allows for more access. Berkley has schools integrated throughout the neighborhoods that impact the surrounding homes for brief periods of the day during pick-up and drop-off times. This would not function much differently than that.

Chair Kempner opened the public hearing at 7:59PM.

Colleen Estapp, 1721 Princeton, opposed the request because of traffic concerns. There is already heavy traffic in the area and parking on the property is non-existent. Mortenson is not a safe place for pick ups and drop offs. Pick-ups cannot be easily scattered. Kids outside snacking and eating will add to the City's rat problem.

Robert Faust, 1885 Mortenson, opposed the request. He submitted a signed petition opposing the request. He does not understand how staff could recommend approval. The property owner has been doing work without permits. It was reported to the City. Parking will be an issue at this location. Other locations are on or near major roads.

Emily Smith, 1852 Mortenson, opposed the request. She understands the need for day care but one location for 7-12 kids does not significantly impact that. She has safety concerns with kids getting in and out of the car on Mortenson, which is a very busy street at times with a congestion issue at times. She is concerned that the maintenance of the property may equal that of other properties in the neighborhood. She is concerned about noise and congestion. Surrounding families have the same vested interest in the community and a business just doesn't have the same priorities.

Brad Davison, 1835 Mortenson, opposed the request. He agreed with the previous speaker. Mortenson is not an ideal place to be dropping off kids. The lot size and noise are concerning based on the number of children that will be there. He talked with the applicant's husband who misrepresented the fact that this would be a rental for a family. In talking to the fence contractor, he found out this would be a daycare instead.

Emma Valasko, 2076 Cambridge, was wondering if this matter is the reason that signs for a variance hearing were posted at the former Drought building and the gas station on Eleven Mile.

Chair Kempner responded those items were at the Zoning Board of Appeal's last meeting and those items do not come before the Planning Commission.

Erin Colby, 1785 Mortenson, opposed the request. She noted she moved to Berkley to be part of the community not to live near a business.

Jennifer Baranski, 1833 Mortenson, opposed the request. This daycare will add to existing parking and traffic problems in the neighborhood.

Chair Kempner read the emailed public comments into the record.

Liz Roesti had concerns with the proposal. She mentioned traffic and the character of the area and doesn't like the idea of a business operating in a residential area.

Emily Smith's email included the comments she made publicly at the meeting.

Erin Colby's email included the comments she made publicly at the meeting.

Jennifer Baranski's email included the comments she made publicly at the meeting.

Luke Orlins opposed the request and submitted a petition with fifteen signatures opposing the project citing concerns similar to concerns cited by others who spoke at the meeting.

Maria Lacombe opposed the request stating this is a calm and quiet neighborhood.

Chair Kempner closed the public hearing at 8:23PM.

Community Development Director Kapelanski confirmed group day care homes had to be either a principal permitted use or a special land use but they must be allowed in single-family residential districts. They need to have a screen fence and otherwise, the state standards, dictate the requirements.

Commissioner Woods stated LARA (State of Michigan's Bureau of Licensing and Regulatory Affairs) is only concerned with their standards and doesn't look at the impacts to a neighborhood.

Commissioner Hamameh asked about the ages of the children that would be at the daycare.

Ms. DelPizzo responded the children are three months to four years of age.

Chair Kempner asked where the employees would park.

Ms. DelPizzo said there would be one in the garage and one in the driveway. There is a large need for childcare in the area and communities need to make space for the youngest and oldest members of the community.

Commissioner Bartus said maintenance of the property would be addressed like any other home in the community that is not maintained and should not be connected to the special land use request. Parking is allowed on Mortenson and the safety concern of that street should not be linked to the request since the primary use of the property is a single-family house and those concerns would go with any home.

Chair Kempner said she didn't know if she agreed with that. There is much more drop-off and pick-up with a child care than there would be with a single-family home.

Commissioner Bartus didn't think it was all that different than living near an elementary school. Noise would also be handled through nuisance complaints through code enforcement. The size of the house would be regulated by LARA. Traffic should not be a concern because of the number of trips that would be generated is fairly low. A lot of the public concerns are valid but it seems like they don't necessarily fall under the special land use provisions.

Commissioner Woods suggested the Commission discuss the request point by point with regard to the special land use standards.

Chair Kempner read the first standard: The proposed use will promote the use of land in a socially and economically desirable manner.

Commissioner Woods said he struggled with that first standard.

Chair Kempner agreed. The impacts of twelve children in a neighborhood could be significant.

Commissioner Hamameh agreed with staff's review that the use provides a child care option while maintaining the single-family characteristics of the property.

Commissioner Bartus agreed.

Commissioner Dahlin agreed with Chair Kempner and had concerns about the noise and the traffic. The neighbors didn't expect to live next to a daycare.

Commissioner Woods wondered if this really still acted like a single-family home.

Commissioner Hamameh said it is a single-family home with a lot of kids expect for the pick-ups and drop-offs. She confirmed with staff that all of the factors should be met for approval but not all of them have to be included for a denial.

Commissioner Bartus asked if this location was unique in the single-family district. To what extent is the context of the surroundings impacting the special land use request?. If this would be approved somewhere else, it would need to be approved here.

Community Development Director Kapelanski confirmed they should be looking at this request based on the context of this property, not group daycare homes in a single-family neighborhood.

Chair Kempner stated corner properties pose a problem because they generally do not have a large driveway. This is also near Berkley High School and Rogers, which adds traffic to the area.

Commissioner Hamameh thought a boulevard is a good place for something like this, as articulated by staff.

Chair Kempner read the second standard: The proposed use is necessary for the public convenience at that location.

The Commission agreed this was met.

Commissioner Arnsman said looking at the state standards, this use is not treated like any other business but is given special treatment in single-family residential districts.

Chair Kempner read the third standard: The proposed use is compatible with adjacent land uses.

Commissioner Woods was unsure if this was true in this case.

Commissioner Hamameh thought it was compatible even though it may have traffic issues.

Chair Kempner read the fourth standard: The proposed use is designed so that public health, safety and welfare shall be protected.

Commissioner Bartus thought this would be met.

Commissioner Woods mentioned that kids eating in the backyard might contribute to a rodent problem.

Commissioner Arnsman asked how that was any different than him or his children eating in the backyard.

Commissioner Dahlin wondered if traffic along the road could block public safety vehicles.

Chair Kempner read the fifth standard: The proposed use will not cause injury to other properties in the neighborhood.

Commissioner Bartus thought this would be met.

Community Development Director Kapelanski noted the Commission could attach conditions to any motions of approval if there were specific things the Commission wanted to address.

The Commission thought that imposing conditions based on arbitrary ideas didn't make sense right now.

Motion by Commissioner Bartus to recommend approval of the special land use request for PSU-02-24 because it meets the standards in Section 138-653.

Motion supported by Commissioner Hamameh.

Roll call vote for motion to recommend approval of the special land use request for PSU-02-24 1818 Mortenson

AYES: 3

NAYS: 3 (Dahlin, Kempner, Woods)

ABSENT: Stapp

MOTION FAILED

Motion by Commissioner Woods to recommend denial of the special land use request for PSU-02-24 because it does not meet the standards of Section 138-653.

Motion supported by Commissioner Dahlin.

Roll call vote for motion to recommend denial of the special land use request for PSU-02-24 1818 Mortenson

AYES: 3

NAYS: 3 (Bartus, Hamameh, Arnsman)

ABSENT: Stapp

MOTION FAILED

Motion by Commissioner Bartus and supported by Commissioner Arnsman to postpone consideration of the special land use request for PSU-02-24.

Roll call vote for motion to postpone consideration of the special land use request for PSU-02-24 1818 Mortenson

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

- 3. PSP-09-23: 27333 – 27387 Woodward Ave.:** The applicant, The Jewish Community Center of Metropolitan Detroit, is requesting site plan approval for a community center at 27333-27387 Woodward Ave. in the Woodward District, on the west side of Woodward Ave., between Columbia and Cambridge Rds.

Community Development Director Kapelanski gave a high-level overview of the project. The applicant is proposing a community center in the former Wedding Shoppe space on Woodward next to Einstein Bagels. All staff and consultant reviews are recommending approval.

Planning Consultant Megan Masson-Minock detailed the project. The uses are allowed in the Woodward District. The parking area (existing) is zoned Parking. The proposal includes several flex spaces, a carryout restaurant and a rooftop space. The applicant is requesting a 10% parking wavier. Ms. Masson-Minock detailed the use and breakdown of the space as provided in the applicant's materials and parking study. Uses would not be conducted simultaneously. Those policies should be formalized in a shared parking agreement. Parking requirements were calculated based on the requirements for a community center, the closest compatible use in the Zoning Ordinance. Ms. Masson-Minock went over the applicant's shared parking study and the request for a 10% waiver of the required parking. There were also several outstanding minor landscape and lighting items that would need to be included on a revised plan for staff review.

Commissioner Woods asked how many spaces are part of the 10% reduction.

Planning Consultant Masson-Minock stated the applicant is asking for a waiver of 4 spaces. She detailed how she arrived at the parking requirement breakdown.

Commissioner Hamameh said the unique use of the property is hard to pin down in terms of fitting into the required parking categories of the Zoning Ordinance.

Planning Consultant Masson-Minock said there is no room to add more parking and the Commission needs to determine if they give a 10% waiver, is the parking going to be adequate.

The applicant, Brian Siegal, went over their proposal. He detailed the uses. There are commercial elements but they are all part of the whole. He went over the shared parking study showing the actual parking needs of Einstein and the anticipated needs of the Jewish Community Center.

Commissioner Hamameh asked about the relationship between the Jewish Community Center and Einstein's. How would the shared parking work if Einstein's leaves?

Mr. Siegal stated all of the activity at the Jewish Community Center is programmed and they are in control of the operation. They do not want to have a parking issue either.

Chair Kempner asked if the landlord of both spaces is willing to sign off on the shared parking agreement.

Mr. Siegal said he didn't want to speak for the landlord but felt confident something could be worked out. He confirmed they do not have any shared parking arrangements with the Blarney Stone (the adjacent parking lot) but expected to approach them in the future.

Chair Kempner asked about the everyday event schedule. It seems like there wouldn't be enough parking to accommodate that.

Mr. Siegal said they would engineer the schedule so that classes would not overlap and overburden the parking. For larger events, they would coordinate off-site parking.

Chair Kempner noted the standards by which the Commission could grant a 10% parking waiver.

Commissioner Hamameh said parking is her concern. Based on the representations made by the applicant, she would be comfortable with the waiver provided conditions were attached. She is concerned that it would be hard to enforce a representative schedule.

Community Development Director Kapelanski said that staff could investigate to make sure the applicant is generally adhering to their representative schedule if parking became an issue and the Commission attached that requirement as a condition.

Planning Consultant Masson-Minock said a condition could be attached that if parking is occurring outside the parking lot due to uses at the site, the management of the building would need to meet with the Community Development Department in order to adjust programming. The landlord would probably also need to be involved. The waiver could also be based on the finding that there are nine spaces available along Woodward and they are waiving four.

Commissioner Bartus asked about the other outstanding planning issues.

John DeBruyne, architect for the project, confirmed he would take care of the outstanding landscaping clarifications on a future submittal for staff review. The rooftop lighting in question will be removed. The projections are shown on the architectural floor plan.

Commissioner Bartus wondered if noise could be an issue for the adjacent neighbors with the use of the rooftop and if screening is provided.

Mr. DeBruyne confirmed the fence would screen the rooftop heating and cooling units.

Commissioner Hamameh said she didn't think noise would be an issue because the rooftop activities were facing Woodward and not the alley and the neighborhood.

Motion by Commissioner Hamameh and supported by Commissioner Woods to approve the site plan for PSP-09-23 subject to:

- a) The 10% parking reduction is granted based on current and anticipated levels of patrons and parking based on applicant's management of its uses within the development consistent with its representations made at the Planning Commission such that its customers are not spilling beyond the property's parking spaces into the neighborhood;
- b) A legal, recordable agreement addressing shared parking among the uses of the building in a form approved by staff and the city attorney; and
- c) Compliance with the conditions in the staff and consultant review letters.

And finding that:

- d) The architecture and materials as presented meet the standards for site plan approval.

Roll call vote for motion to approve PSP-09-23 27333-27387 Woodward Ave.

AYES: 6

NAYS: 0

ABSENT: Stapp

MOTION CARRIED

LIAISON REPORT

Commissioner Bartus gave a summary of the February Chamber of Commerce meeting.

Chair Kempner said the DDA Meeting mostly discussed the budget.

Commissioner Arnsman gave a summary of the February Environmental Committee meeting.

Councilmember Patterson said a first reading was passed at City Council to allow for an additional 45 day extension of marihuana business licenses.

COMMISSIONER COMMENTS

None

STAFF COMMENTS

Community Development Director Kapelanski directed the Planning Commission to the memo detailing the activities of the Zoning Ordinance Steering Committee and asked them to send any comments to her.

ADJOURNMENT

Motion to adjourn by Commissioner Hamameh, supported by Commissioner Woods.

Voice vote for adjournment

AYES: 6

NAYS: 0

ABSENT: Stapp

With no further business, the meeting was adjourned at 10:46PM.

THE SPECIAL MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, APRIL 10, 2024 AT BERKLEY PUBLIC SAFETY BY CHAIR LISA KEMPNER.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city's government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen, on-demand, on the city's YouTube channel: <https://www.youtube.com/user/cityofberkley>

PRESENT: Shiloh Dahlin Lisa Hamameh
Joe Bartus Mike Woods
Lisa Kempner Josh Stapp
Eric Arnsman

ABSENT: None

ALSO, PRESENT: Kristen Kapelanski, Community Development Director
Greg Patterson, City Council Liaison
Megan Masson-Minock, Planning Consultant

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APPROVAL OF AGENDA

Motion by Commissioner Hamameh to approve the agenda and supported by Commissioner Stapp.

Voice vote to approve the agenda

AYES: 7
NAYS: 0
ABSENT: None

MOTION CARRIED

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APPROVAL OF THE MINUTES

Motion by Commissioner Hamameh to approve the minutes of the regular Planning Commission meeting on February 27, 2024 and supported by Commissioner Woods.

Voice vote to approve the meeting minutes of February 27, 2024.

AYES: 7
NAYS: 0
ABSENT: None

MOTION CARRIED

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COMMUNICATIONS

NONE

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CITIZEN COMMENTS

NONE

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OLD BUSINESS

1. **PSU-02-24:1818 Mortenson Blvd.:** The applicant, Christina DelPizzo, is requesting special land use approval for a child care center for 7-12 children at 1818 Mortenson Blvd. in the Single-Family Residential R-1D District, on the east side of Mortenson Blvd., north of Princeton Rd.

Community Development Director Kapelanski went over the specifics of the request for a child care center for 7-12 children in a single-family residential district, which requires a special land use permit per the City Attorney. The standards in Section 138-653 should be considered for approval. The Planning Commission should focus on the special land use standards as they relate to the specifics of this property. Staff recommends approval as outlined in the provided memo and nothing has changed from the previous request.

The applicant's representative, Attorney Richard Russell, representing the applicant, Christina DelPizzo, provided some background on her business and emphasized the need for this use in the community. He highlighted the fact that the staff memo recommended approval and went through the special land use standards indicating why each was met. He noted pick-ups and drop-offs are staggered and there are really only one or two cars at a time.

Christina DelPizzo described the mission of their schools and how they came to be. She stated she brought some of their licensees and their neighbors to speak about their homes and what it's like to live next to a family day care home.

Commissioner Arnsman confirmed with staff that this is a special land use request for a family day care home but for all intents and purposes, this is going to be and is required to remain a single-family residential use.

Commissioner Hamameh confirmed that for special land use approval, all of the standards need to be met.

Chair Kempner asked if anyone from the public wished to comment.

Iman Bazine, the licensee at the Little Seedlings Birmingham location, expressed her gratitude for the opportunity to work as a licensee for this business. She said she has great relationships with her neighbors, several of whom are clients of Little Seedlings.

Olivia Hack, a licensee at Little Seedlings, said Ms. DelPizzo has assisted in her in being a successful child care provider and expressed her appreciation.

Evie Sonenberg, a Berkley resident, is a current user of Little Seedlings and shared she had a lot of trouble finding a day care for her children. She indicated they have had a very positive experience and the home and property are very well maintained.

Danial Ackerman, a Bloomfield Hills resident who lives next door to a current Little Seedlings location, said Little Seedlings has been an ideal neighbor. Ms. DelPizzo's husband helped to clean up his yard after a storm when he was out of town. His sister also coincidentally lives near a Little Seedlings and has also had a great experience with them as neighbors as well. Mr. Ackerman read a note from Rebecca King, of Beverly Hills who also lives next to a Little Seedlings. She was initially reluctant to have this use next door but has had a very positive experience and had nothing negative to share. She has referred their services to several parents in need of child care.

Amanda Polk, a Berkley resident, is a current user of Little Seedlings and also had a lot of trouble finding child care. She has had a wonderful experience with Little Seedlings at their Birmingham location. She feels the community would be lucky to have this use. Drop-offs and pick-ups are quick and she rarely sees another parent.

Maureen Stys, a Berkley resident and current user of Little Seedlings could not find child care nearby. She was 90th on the list at Berkley Building Blocks. There is a need for more child care. She has also had a great experience at Little Seedlings and had nothing but positive things to say. She doesn't see a lot of other parents at pick-up or drop-off.

Emily Smith, 1852 Mortenson, opposed the request. She understands the need for additional daycare options and is not questioning the integrity of this business. Rather, per the special land use criteria, she felt that traffic and parking are already an issue at this location and she is worried about the safety of users of the day care and existing residents.

Zach Bivens, a Bloomfield Township resident who lives next door to a Little Seedlings location, said traffic and parking from Little Seedlings is very minimal. He has a great experience living next door to that location.

Jennifer Baranski, 1833 Mortenson, opposed the request. She doesn't doubt the need for daycare. She is concerned that they cannot be held to the statements they made at the previous meeting regarding the ages and number of children. She drove past other locations and felt the lots had a lot more frontage.

Robert Faust, 1885 Mortenson, opposed the request. Parking will be an issue at this location. He wondered how many of their users would be from Berkley. He is concerned about traffic and showed the Planning Commission some pictures he had of daily traffic.

Brad Davison, 1835 Mortenson, opposed the request. Mortenson is not an ideal place to be dropping off kids. Drivers speed down the street and the street is narrow. Traffic and parking are current issues. He is concerned about noise. He did not choose to live next to a business or a school and would like to live next to neighbors and families. He feels this is not a single-family use.

Justin Polk, a Berkley resident is a current user of Little Seedlings. He feels that traffic is a concern on all Berkley streets. Pick-up at their current Little Seedlings location is a two minute process. He has not witnessed any issues with parking or traffic during pick-up or drop-off. This is a need in the community.

No other members of the public wished to speak and Chair Kempner opened up discussion to the Planning Commission.

Chair Kempner suggested they start with the first special land use standard, that the use will promote the use of land in a socially and economically desirable manner.

Commissioner Arnsman felt that standard was met.

Commissioner Dahlin disagreed. This feels like a business. She does think it is compatible with single-family housing. She does not feel it meets standards one and three of a special land use determination.

Commissioner Hamameh said that state law says this use has to be allowed but it can be a special land use if the day care is for 7-12 children. The fact that the law says this has to be permitted in a single-family residential zone is telling you that the use is compatible with single-family residences. A corner lot on a boulevard is an ideal location and she feels that the request meets special land use standards one and three. She would again support this request.

Commissioner Bartus thought this was compatible with single-family homes because this appears as a single-family home. He is supportive of the request.

Commissioner Woods felt this primary use was a business.

Commissioner Bartus said if you break down uses by the hours, the majority of the time this operates as any other single-family home.

Commissioner Arnsman said the state law says this should be treated as residential use of property.

Commissioner Woods thought this location was problematic because of its nearness to Eleven Mile and the fact that it's a boulevarded street. He thought this location did not promote the public health, safety and welfare.

Commissioner Arnsman wondered how the traffic that would be associated with twelve children is any different than a family with several children and their regular comings and goings with visitors, deliveries, etc. Parking is allowed on both sides of the streets and he doesn't understand why this location is problematic. He thought having two streets available for parking since this is a corner lot was advantageous.

Commissioner Woods felt this was a higher density area of the City and maybe day care homes for 7-12 children shouldn't be allowed in these areas. Mortenson is a major cut-through and he feels there are safety issues.

Commissioner Stapp said he was torn. He stated that if this was a day care home for six children, no approvals would be required and all these same concerns would still be present. He thought standard three of the special land use standards was met but was unsure about the others. He asked the applicant if they would proceed with six children if the special land use were not approved.

Ms. DelPizzo said they would but that leaves six other children who will not have care. She said the licensee at this location has a newborn daughter. Little Seedlings has a strong philanthropic thread and is very reasonably priced compared to other options in the area. They already have a waitlist of Berkley residents for this day care home.

Commissioner Hamameh confirmed that the licensee's child would count towards the capacity of the center so the maximum number of children at the home would be eleven.

Ms. DelPizzo said there are almost never twelve families. There are sibling pairs so there are never twelve cars.

Commissioner Arnsman wanted to revisit standard one. He noted the applicant is already starting to make improvements to the home. He said Michigan State has listed Berkley's zip code as the highest rank in their 'child care desert map' rankings so more than three children per available spot are competing.

Chair Kempner polled each commissioner on whether they felt all the special land use standards were met.

Commissioner Arnsman thought all the standards were met.

Commissioner Dahlin did not think standards three and four were met.

Commissioner Hamameh thought all the standards were met.

Commissioner Stapp thought he was unsure of standards two, four and five.

Commissioner Woods thought standards two through five were not met.

Commissioner Bartus thought all standards were met.

Chair Kempner was still struggling with the location. She thought corners were the worst place because of the length of the driveways. She was also concerned with the busyness of the street and the fact that it was a boulevard.

Commissioner Arnsman asked when the street was particularly busy.

Chair Kempner said it was mainly during school start and stop times.

Commissioner Arnsman said he has drive down that street during regular work commute times and did not find it busy.

Ms. DelPizzo said drop-offs are staggered between seven to nine in the morning and pick-ups are between three fifteen or three thirty and five.

Commissioner Stapp said there would probably be days with more traffic and days with less.

Commissioner Woods said those that live in the area have said that traffic is an issue. He is relying on that.

Community Development Director Kapelanski clarified that the standard referencing injury to other property refers to things that may become a nuisance because of the use, such as noise or odor.

Commissioner Hamameh said a few commissioners mentioned concerns with standard three, that the proposed use is compatible with adjacent land uses. She noted staff comments said the use will retain its single-family character and therefore this standard is met. She agreed. She asked if the concern was that the pick-ups and drop-offs would detract from the single-family characteristics.

Commissioner Dahlin says this just feels different because it will be operated as a business from the start as opposed to a family that lived there and decided to open a family day care because they couldn't find child care.

Chair Kempner agreed this feels like a business amongst single-family houses.

Community Development Director said the commission should be focusing on the impacts of the use which would be the same whether this applicant was moving forward or a family that already lived there decided to pursue the same use. The business model should not come into play.

Motion by Commissioner Hamameh to recommend approval of the special land use request for PSU-02-24 because:

- It meets the standards in Section 138-653;
- The use will provide a child care option for families in the area while retaining its single-family characteristics;
- No exterior changes are proposed;
- The use will not cause any detrimental health and safety effects;
- The use will not cause any injury to property in the neighborhood; and
- A corner lot with access to two streets alleviates some of the parking and traffic concerns.

Motion supported by Commissioner Arnsman.

Roll call vote for motion to recommend approval of the special land use request for PSU-02-24 1818 Mortenson

AYES: 3

NAYS: 4 (Dahlin, Kempner, Woods, Stapp)

ABSENT: None

MOTION FAILED

Motion by Commissioner Woods to recommend denial of the special land use request for PSU-02-24 because it does not meet standard number four of Section 138-653 due to the unavailability of parking and the fact that Mortenson is a boulevarded street with a significant amount of traffic.

Motion supported by Commissioner Dahlin.

Roll call vote for motion to recommend denial of the special land use request for PSU-02-24 1818 Mortenson

AYES: 4

NAYS: 3 (Bartus, Hamameh, Arnsman)

ABSENT: None

MOTION CARRIED

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NEW BUSINESS

1. Outstanding Items in the Draft Zoning Ordinance

Planning Consultant Masson-Minock went over the results of a worksheet the Planning Commission completed and led the discussion.

Regarding the questions of whether the intent section of the signs article should be shortened. Six were neutral and one agreed. Ms. Masson-Minock suggested staff check with the city attorney to see if it could be shortened. The commissioners agreed.

The commissioners agreed that multiple family should be permitted in the residential corridor districts.

The commissioners agreed that additional bicycle parking and the inclusion of EV parking spaces should be considered as standards for granting a parking waiver/reduction.

The commissioners generally agreed that the parking standard for restaurants should be based on the usable floor area.

The commissioners discussed if the parking standard for multiple family should be 1 spot per studio or one bedroom and 0.5 spaces for each bedroom thereafter. There were several commissioners who felt like it should be either higher or lower. Planning Consultant Masson-Minock suggested moving forward with the Steering Committee's majority recommendation of 1.5 spaces per unit plus 0.5 spaces for two bedrooms plus. This can be a continued point of discussion.

The commissioners thought the landscape buffer requirements between residential and non-residential should be based on the where the lot width and depth is touching residential.

The commissioners agreed that nonconformities should not be expanded and should go to the Zoning Board of Appeals for consideration.

The commissioners agreed to language to move PUD's forward to City Council meetings in a timely fashion. The applicant could request unlimited extensions if they were not ready to move forward.

The commissioners agreed to not include duplexes in single-family residential districts. This issue should be revisited as part of future master plan updates and considered for future zoning updates.

The commissioners agreed they do not want to add extra temporary signs during election season.

* * * * *

LIAISON REPORT

NONE

* * * * *

COMMISSIONER COMMENTS

NONE

* * * * *

STAFF COMMENTS

NONE

* * * * *

ADJOURNMENT

Motion to adjourn by Commissioner Hamameh, supported by Commissioner Stapp.

Voice vote for adjournment

AYES: 7

NAYS: 0

ABSENT: None

With no further business, the meeting was adjourned at 9:51PM.

Resource Guide to Child Care Licensure in Michigan

Your step-by-step guide!



This guide provides general information and requirements that must be completed in order to become licensed. There are three different types of licensed child care facilities in Michigan; family, group, and center.

Family Child Care Home

A family child care home license allows an individual to provide care or supervision for 1 to 6 unrelated children in a private home (where the licensee permanently resides as a member of the household) for less than 24 hours a day unattended by a parent or legal guardian.

Group Child Care Home

A group child care home license allows an individual to provide care or supervision for 7 to 12 unrelated children in a private home (where the licensee permanently resides as a member of the household) for less than 24 hours a day unattended by a parent or legal guardian.

Child Care Center

A child care center license allows an individual, agency, or corporation to provide care in a commercial space or building for 1 or more children under the age of 13. The children are in care less than 24 hours a day unattended by a parent or legal guardian and the center operates for more than two consecutive weeks.

Choosing the Right License Type

Reading the laws and licensing rules will help you determine which license type fits your professional goals. Public Act 116, the Licensing Rules for Family and Group Child Care Homes, and the Licensing Rules for Child Care Centers can be found at www.michigan.gov/michildcare.



CHILD CARE
LICENSING BUREAU

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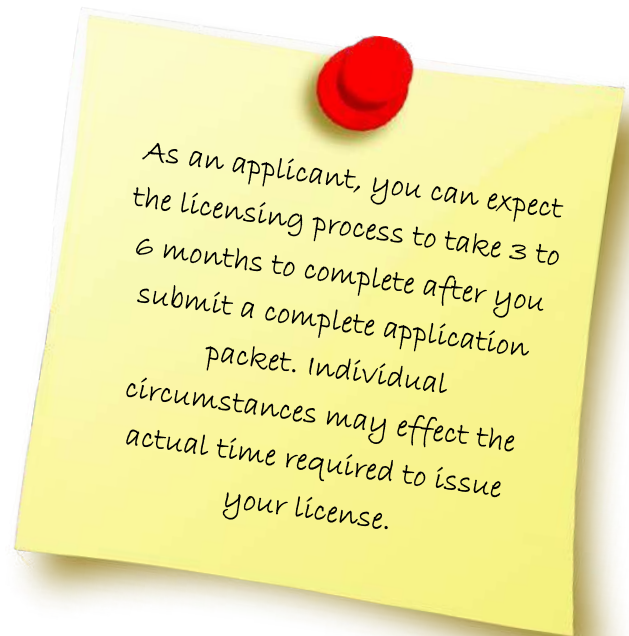
Steps for a Family or Group Child Care License

Step 1: Apply Online

The [application](#) must be completed online, including submission of a \$50.00 application fee for a family home or \$100.00 application fee for a group home. The fee is non-refundable. As part of the on-line application process, you will be instructed to print, complete, and mail in some additional paperwork listed in steps 2-11.

Additional paperwork should be mailed to:

**Michigan Department of Licensing and Regulatory Affairs
Child Care Licensing Bureau
P.O. Box 30664
Lansing, MI 48909-8164**



Step 2: Zoning Approval

A [Zoning Approval](#) form is required for group child care homes only (CCL-3748). Zoning approval is required under the Zoning Enabling Act (2006 PA 110, MCL 110.325-110.32016).

Note: The Zoning Enabling Act requires counties and townships to grant zoning approval if the requirements of subsection (4) of the act are met. Except for the requirements in subsection (4) of the act, subsection (7) of the act indicates that a local county or township ordinance cannot be more restrictive than the Child Care Organization Act (1973 PA 116, MCL 722.111 to 722.128).

Step 4: TB Testing

Documentation of freedom from communicable tuberculosis (TB) is required for all persons living in the home who are 14 years of age and older prior to license issuance. Child care staff members and child care assistants must also have documentation of TB test results.

Step 3: Medical Clearance

A [Medical Clearance Request](#) (CCL-3704) needs to be completed by you and your physician or your physician's designee attesting to your mental and physical health. The Patient Information section must be completed before submitting the form to your physician or physician designee for completion. Child care staff members and child care assistants will also need to have a [Medical Clearance Request](#) completed.

Step 5: Infant Safe Sleep

Documentation of training in Safe Sleep Practices to prevent Sudden Infant Death Syndrome is required for a licensee before a license will be issued. Child care staff members and child care assistants must also complete the training prior to caring for children. Safe sleep training is available on MiRegistry.org.

Steps for a Family or Group Child Care License Continued

Step 6: Health and Safety

To meet the federal regulations, the licensee, child care staff members, and child care assistants will need to complete health and safety trainings. It is recommended that you take these courses through [MiRegistry](https://www.miregistry.org). To find these courses:

1. Go to www.miregistry.org
2. Create an Individual MiRegistry account.
3. Go to the “Course Catalog.”
4. Type in “Health and Safety Training for Licensed Child Care Providers” in the “Course Title, Competency, or Qualifications” box and click on “Filter Courses.”

Step 8: Furnace/Hot Water

Proof of inspection and approval of your heating system (includes wood-burning stoves and any other permanently installed heating devices) and fuel-fired water heater within the past 12 months are required before a license is issued. Furnaces and other flame- or heat-producing equipment used to heat the home when children are in care and fuel-fired water heaters must be inspected by the following entities:

- A licensed heating contractor for a fuel-fired furnace.
- A licensed heating contractor or licensed plumbing contractor for a fuel-fired water heater.
- A mechanical inspector for the local jurisdiction or licensed mechanical inspector for a wood stove or other solid fuel appliance.

Note: Electric heat and electric hot water heaters do not require an



Step 7: CPR and First Aid

Documentation of valid infant/child/adult CPR (cardiopulmonary resuscitation) and first aid certification is required for the licensee before a license will be issued. Child care staff members must have valid CPR and first aid certification prior to caring for children. Child care assistants and child care staff members must have valid CPR and first aid certification within 90 days of hire.

[First aid/CPR training](#) must be received from an organization approved by the department. A list of approved training organizations is available on the department's website.



Step 9: Fingerprinting

The following individuals associated with a licensed home need to be fingerprinted and must have a comprehensive background check:

- Applicants/Licensees
- Child care staff members
- Child care assistants
- Unsupervised volunteers
- Adult household members in child care homes

You will receive more information on how to complete comprehensive background checks and fingerprints after your application and fee are submitted. More information can be found at www.michigan.gov/ccbc.

Steps for a Family or Group Child Care License Continued

Step 10: Environmental Health

An environmental health inspection and approval are required if your application indicates that your home has a private well and/or septic system.

The environmental health inspection, requested and paid for by licensing, is done by your local health authority prior to becoming licensed.

Step 12: Orientation

After review and approval of all required documentation, you will be invited to attend a 6- hour licensing orientation.

You can expect:

- To learn about the licensing rules and laws.
- To receive resources and tools to be successful.
- To learn how to prepare for your inspection.
- To be able to ask any questions you may have.

Step 14: On-Site Inspection

After you have prepared, your licensing consultant will schedule an on-site inspection.

During the inspection, your consultant will:

- Inspect your home and the premises for compliance with the rules and laws.
- Review your paperwork including your discipline policy and emergency procedures.
- Discuss the terms of your license such as ages served and hours of operation.
- Answer any questions you may have.

If there are things in the environment or paperwork that need to be corrected, your licensing consultant will create a corrective action plan with you. To verify the corrections were made, another inspection or electronic documentation may be required before the license is issued.

Step 11: Radon

Documentation that the level of radon gases does not exceed 4 picocuries per liter of air in the lowest level of your home is required before a license is issued.

More information can be found at www.michigan.gov/radon



Step 13: Prepare for Inspection

Once you have attended orientation, you should spend some time preparing for your initial on-site inspection. To prepare, you should:

- Review all of the rules and laws.
- Use the [Family and Group Child Care Home Compliance Record](#) checklist to check for compliance with the rules.
- Contact your licensing consultant with any follow-up questions or concerns.
- Schedule your on-site inspection.

Step 15: Original License

Once it has been determined that you are in compliance with the rules and the law, you will be issued a 6-month original license.

Prior to the expiration of the 6 month original license, you will receive a renewal application packet. After you submit a complete renewal application packet and renewal fee, an on-site inspection will occur. If you are found to be in compliance with the rules and law, you will then be issued a regular license that is valid for 2 years.

Steps for Child Care Center License

Step 1: Find a Location

The first step in the process of opening a child care center is finding a location. When looking at locations, it is important to keep the following in mind:

- Does the location have enough square footage for the desired capacity?
- Are there enough toilets and handwashing sinks available?
- Does the location have a safe outdoor play area?
- Is the building and premises in good condition?
- Is the location ideal for a child care center?
- Does the building meet the licensing requirements?

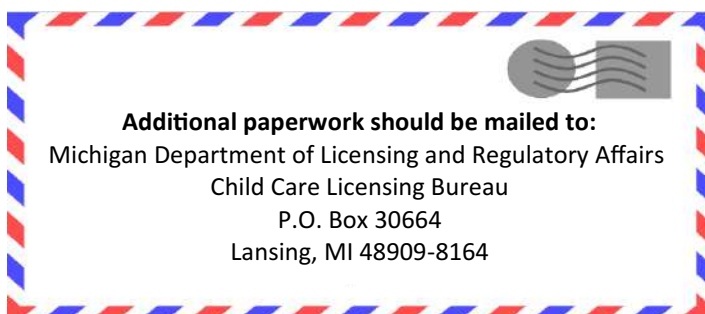


Step 2: Local Requirements

Applicants should check with their local zoning boards, townships, and fire marshal. Some communities have their own requirements for a child care center beyond what the department requires. This may include steps such as local permits, certificates of occupancy, or special zoning approvals before a child care center can open for operation.

Step 4: Corporation & Tax ID

Federal tax identification paperwork will need to be submitted to the department. In addition, corporations will need to submit proof of their corporation status.



Step 3: Apply Online

The [application](#) must be completed online, including submission of the application fee. The fee for child care center licenses is based on the capacity of the center. The fee is non-refundable.

| Capacity | Fee |
|----------|-------|
| 1-20 | \$150 |
| 21-50 | \$200 |
| 51-100 | \$250 |

Step 5: Licensee Designee

A licensee designee is the individual who will be responsible for overseeing child care licensing within the organization applying for a child care center license. A [Child Care License Designee form \(CCL-5003\)](#) and a [Child Care Licensing Information Request form \(BCHS-CCL-001\)](#) must be submitted.



Documents may be faxed to:
517-763-0217

Steps for a Child Care Center License Continued

Step 6: Fire Inspection

Fire safety inspections are a necessary part of the licensing process. It is a means of assuring that the building used for a child care center is in compliance with essential fire safety requirements for licensure. A list of [qualified fire safety inspectors for child care centers](#) is available on the department's website.

For centers operating in a school building, a copy of a previous approval from the Bureau of Fire Services, the State Fire Marshal or a statement from the school district superintendent using the [Certification of School Building Compliance with Fire Safety Provisions \(CCL-5043\)](#) form is acceptable in lieu of a fire safety inspection.

Note: A plan review is required for:

- New construction, remodeling, or additions to a building.
- Renovation, including fire alarms, hood suppression systems, or sprinkler systems.
- Any structural, mechanical, plumbing, or electrical changes.

The applicant or licensee must submit a set of construction plans, along with the [Application for Child Care Plan Review \(BCHS-FS-13\)](#) as outlined on the form.

Step 9: Furnace/Hot Water

Proof of inspection and approval of your heating system and fuel-fired water heater within the past 12 months are required before a license is issued.

Furnaces and other flame- or heat-producing equipment used to heat the center when children are in care and fuel-fired water heaters must be inspected by the following entities:

- A licensed heating contractor for a fuel-fired furnace.
- A licensed heating contractor or licensed plumbing contractor for a fuel-fired water heater.
- A boiler must be inspected and a certificate provided by the boiler division, department of licensing and regulatory affairs.

Note: Electric heat and electric hot water heaters do not require an inspection.

Step 7: Environmental Health

Environmental health inspections are required for original licenses. To schedule an inspection, contact your local health department. You will need to submit the [Environmental Health Inspection Request](#) form along with payment to your local health department.

Step 8: Lead Risk Assessment

A center located in a building constructed prior to 1978 must submit a lead hazard risk assessment report indicating the proposed child use space, including outdoor play areas, is safe. The [Lead Hazard Risk Assessment Summary \(CCL-4344\)](#) form must be included with the lead hazard risk assessment to document compliance with this rule.

A list of [certified lead risk assessors](#) is available on the department's website.



Step 10: Playground Inspection

Centers with elevated playground equipment must comply with the 2010 Edition of the [Consumer Product Safety Commissions Handbook on Public Playground Safety](#). A playground inspection by a Certified Playground Inspector is required. The inspector will document compliance using the [Playground Inspection Certification Summary \(CCL-5047\)](#). A list of [Certified Playground Inspectors](#) can be located on the department's website.

Steps for a Child Care Center License Continued

Step 11: Fingerprinting

The following individuals need to be fingerprinted and must have a comprehensive background check:

- Applicants/Licensees
- Child care staff members and assistants
- Unsupervised volunteers

You will receive more information on how to complete comprehensive background checks after your application and fee are submitted. More information can be found at www.michigan.gov/ccbc.

Step 13: Policies and Procedures

The following policies, procedures, and paperwork will need to be submitted and reviewed by your licensing consultant:

- Information packet for parents/guardians.
- Emergency procedures and crisis management plan.
- Staffing and professional development plans.
- Policy for ill staff, volunteers, and children.
- Child abuse and neglect reporting policy.
- Screening and supervision policy for staff and volunteers.

Note: Additional paperwork may be required. Your consultant will notify you of the required paperwork.

Step 15: On-site Inspection

Once all required paperwork is submitted, your consultant will schedule an on-site inspection.

During the inspection, your consultant will:

- Inspect your center and the premises for compliance with the rules and laws.
- Measure the child use spaces.
- Answer any questions you may have.

Note: If there are items that need to be corrected, your consultant will create a corrective action plan with you. To verify that the corrections were made, another inspection or documentation may be required before the license is issued.

Step 12: Program Director

Each child care center is required to have at least one program director approved by the department. Program director requirements are outlined in the [Licensing Rules for Child Care Centers](#). The following information will need to be submitted to your consultant in order to approve a program director:

- A copy of official transcripts.
- Montessori credentials, if applicable.
- Documentation of hours of experience.
- Valid child development associate (CDA) credential, if applicable.
- [Child Care License Designee form \(CCL-5003\)](#).
- [Child Care Licensing Information Request form \(BCHS-CCL-001\)](#).

Step 14: Staff Requirements

Child care staff members and unsupervised volunteers are required to complete specific trainings including an orientation, CPR, first aid, and health and safety trainings. In addition, each classroom/well-defined space needs a lead caregiver with lead caregiver qualifications. The requirements are outlined in the [Licensing Rules for Child Care Centers](#).

Step 16: Original License

Once it has been determined that you are in compliance with the rules and the law, you will be issued a 6-month original license.

Prior to the expiration of the 6 month original license, you will receive a renewal application packet. After you submit a complete renewal application packet and renewal fee, an on-site inspection will occur. If you are found to be in compliance with the rules and law, you will then be issued a regular license that is valid for 2 years.

Helpful Resources for Child Care Providers

Child Care Licensing Bureau

www.michigan.gov/michildcare

Phone

517-284-9730

Fax

517-763-0217

Email

lara-cclb-help@michigan.gov

Mailing Address

P.O. Box 30664

Lansing, MI 48909-8164

MiRegistry

www.miregistry.org

Phone

833-386-9238

Email

support@miregistry.org

Great Start to Quality

www.greatstarttoquality.org

Phone

877-614-7328

Child Care Background Checks

www.michigan.gov/ccbc

Phone

844-765-2247 ext. 4

Child Development and Care

www.michigan.gov/childcare



CHILD CARE
LICENSING BUREAU

May 6, 2024 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to approve a one-year contract extension of the 2021-2024 bargaining agreement between the City of Berkley and the Michigan Association of Public Employees (MAPE).

Ayes:

Nays:

Motion:



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

MEMORANDUM

To: Mayor Dean and City Council
From: Nate Geinzer, Interim City Manager
Carl Johnson, Finance Director

Date: May 06, 2024
Subject: Collective Bargaining Agreement extension through June 30, 2025 between the City of Berkley and the Michigan Association of Public Employees (MAPE)

Madam Mayor and Members of City Council,

Background

- The Michigan Association of Public Employees (MAPE) represents the City's Department of Public Works employees.
- The collective bargaining unit represents 11 current positions.
- The effective collective bargaining agreement with MAPE was set to expire June 30, 2024.

Summary

- The collective bargaining agreement extension retains all existing terms.
- The collective bargaining agreement accommodates a 5% wage increase for the fiscal year beginning June 30, 2024. This increase equates to approximately \$1.00 - \$1.50 per hour per employee.

Recommendation

Motion to approve the Michigan Association of Public Employees collective bargaining agreement extension through June 30, 2025.

May 6, 2024 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember
_____ to approve the Collective Bargaining Agreement between the City of
Berkley and the Michigan Association of Police (MAP), Berkley Police Service Aide Association.

Ayes:

Nays:

Motion:

MEMORANDUM

To: Mayor Dean and City Council
From: Nate Geinzer, Interim City Manager
Date: May 06, 2024
Subject: Collective Bargaining Agreement between the City of Berkley and the Michigan Association of Police (MAP), Berkley Police Service Aide Association

Madam Mayor and Members of City Council,

Background

- The City's Public Service Aides determined to organize in the Fall of 2023.
- The new bargaining unit covers nine (9) Full-Time Services Aides (including the Animal Control Officer) and can include up three (3) Part-Time Public Services Aides, with two currently budgeted.
- Previously, the Public Service Aides were covered under the City's Merit System (Non-Union Policy).

Summary

- This first collective bargaining agreement provides:
 - Memorialization of existing terms and conditions of employment as found in the Merit System including healthcare, retirement and other benefits.
 - Memorialization of a wage structure competitive with other dispatch centers in Oakland County, which becomes effective upon ratification by the collective bargaining unit, which was April 9, 2024.
 - Permits the City to provide lateral pay for experienced dispatchers.
 - Introduces health care premium sharing.
 - Moves to a Defined Contribution Plan for new hires hired after 2021 and provides an opportunity for Defined Benefit employees to roll into the City's Defined Contribution Plan.
- Collective Bargaining Agreement covers July 1, 2024 through June 30, 2027.

Recommendation

Motion to approve the Michigan Association of Police (MAP) – Berkley Police Service Aide Association Collective Bargaining Agreement with a term of July 1, 2024 through June 30, 2027.

May 6, 2024 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to approve the Berkley Dads' Club Opening Day Parade on Saturday, June 1, 2024 at 10 a.m. beginning at Berkley High School and concluding at Community Field #1. Approval is conditional upon the submission of required items and documents before the event date.

Ayes:

Nays:

Motion:



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

Event Name: Berkley Dads Club opening day Parade 2024

Event Date(s)

Location(s)

Event Hours

6-1-2024 BHS to 2400 Robina 10AM to 10:00AM

ORGANIZATION:

Organization Name:

Berkley Dads Club

Headquarters Street Address:

P.O. Box 721036 2886 12th rd

City:

Berkley

State:

MI

Zip Code:

48072

Phone:

248

9

Website:

www.Berkleydadsclub.net

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

Non-Profit

501(c)(3)

☒

N/A

Other (specify)

38-6087751

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

[Signature]

Public Works

[Signature]

Building Official

[Signature]

Comments:

Presented to City Council:

Date:

Approved:

YES

NO

Organization Notified

YES

NO

Date



City Clerk's Office
3338 Coolidge Hwy.
Berkley, MI 48072
248-658-3300
Fax: 248-658-3301
www.berkleymich.org

Print Form

CITY OF BERKLEY, MICHIGAN COMMUNITY SPECIAL EVENT APPLICATION

Name of Event: Berkley Oads Club Opening Day Parade 2024

Organization / Contact:

Name of Organization: Berkley Oads Club Contact's Name: Dave Schmidt

Address: P.O. Box 721036 City: Berkley State/zip: MI 48072

24 Hour Emergency Contact: _____

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.

Dates and Hours of Event: 6-1-2024 10AM to 10:20 AM

How many employees or volunteers? 20+

How will site be secured during off-hours?

What type of merchandise will be sold?

N/A

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

N/A

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.

N/A

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

N/A

What are your plans for set up and removal?

N/A

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

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

38-6087751

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.

D. Schmidt
Signature of Applicant

4-3-24
Date

APPROVALS

| DEPARTMENT | Approve (YES/NO) | Signature | Date |
|---|---------------------|--------------------|-----------|
| Planning/Building | yes | <i>[Signature]</i> | 4/26/24 |
| Comments: | | | |
| Public Safety | yes | <i>[Signature]</i> | 5-1-24 |
| Comments: | | | |
| Notify SMART, ambulance, and waste collection of any road closures. | | | |
| Public Works: | Yes | Adam Wojcik | 4/30/24 |
| Comments: | | | |
| Parks/Recreation | YES | <i>[Signature]</i> | 4/25/24 |
| Comments: | | | |
| City Clerk | YES | Victoria Mitchell | 4/29/2024 |
| Comments: | | | |
| City Manager | | | |
| Comments: | | | |

For City Use Only:

Date Application Received

Receipt Number

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

City Manager's Signature: _____ Date: _____

IF APPLICABLE:

Motion Number:

Conditions (if any):

Is fee to be reimbursed?

PS-2-1

[Handwritten signature]



CITY OF BERKLEY COMMUNITY SPECIAL EVENT HOLD HARMLESS AGREEMENT

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

Organization Name Berkley Oads Club
Address P.O. Box 721036 2886 12 mile rd
City Berkley State MI Zip 48072 Phone
Event Name Berkley Oads Club opening day Parade
Event Location(s) BHS to 2400 Robina Event Date(s) 6-1-2024

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 DAVID SCHMIDT Title PRESIDENT
(Please print)
Signature [Signature] Date 4-3-24

CITY OF BERKLEY MICHIGAN
TEMPORARY TRAFFIC CONTROL ORDER

(TCO NUMBER)



In accordance with the duly adopted Uniform Traffic Code for Cities, Townships, and Villages, the Traffic Engineer hereby issues the following Temporary Traffic Control Order.

Film Permit Applicant: Please provide the information requested in the shaded area. Submit this page with your application.

| | |
|---------------------------|--|
| PROJECT NAME: | Berkley Oads Club Parade 2024 |
| Location | BHS walking to 2400 Robina coml baseball |
| DATE/S/TIMES: | 6-1-2024 10AM START BHS 10:20AM end 2400 Robina |
| RESPONSIBLE PARTY: | |
| Name: | |
| Street Address: | |
| City/State/ZIP: | |
| Contact Phone: | |
| Email address: | |

For Official Use Only:

| | |
|-------------------------------------|--|
| Action required by City : | |
| (Attach additional pages if needed) | |
| | |

| Approved by: (Print name and title below) | Signature: | Date: |
|---|--|---------|
| Public Safety |  | 5-1-24 |
| Public Works | Adam Wagon | 4/30/24 |
| Building Official |  | 4/26/24 |

****Original – Traffic Control File**

Return copy of completed form to City Clerk's Office



City of Berkley
Department of Public Safety
Matt Koehn, Director



CITY OF BERKLEY MICHIGAN

TEMPORARY TRAFFIC CONTROL ORDER

T-05-24

In accordance with the duly adopted Uniform Traffic Code for Cities, Townships, and Villages, the Traffic Engineer hereby issues the following Traffic Control Order.

PURPOSE: Temporary traffic control for "Berkley Dads Club Opening Day Parade" to ensure safety of attendees and pedestrians attending the event.

LOCATION: From Berkley High School Courtyard (Catalpa, east of Coolidge) to Community #1 Baseball Field (Catalpa/Robina)

DATES: Saturday June 1, 2024 from 10:00 AM until 10:45 AM (or completion of Parade)

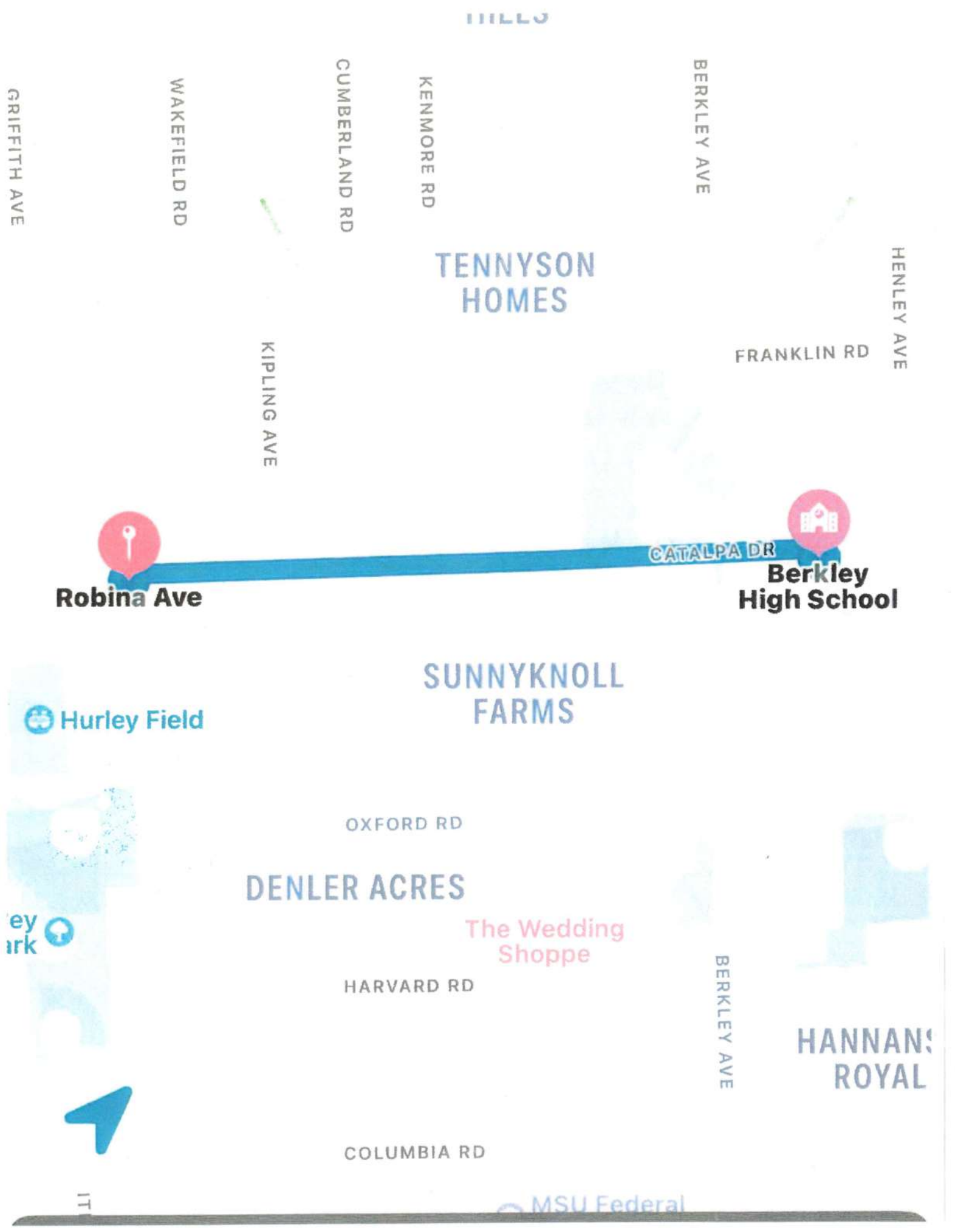
ACTION: DPW to drop off cones & barricades at Catalpa & Henley and at Catalpa & Griffith. Road to be shut down at 10:00 AM by Public Safety Officers at both locations diverting east/west traffic. Additional cones to be placed on Catalpa at Wakefield, Kipling, Cumberland and Kenmore, as well as the alley to Berkley High School and Alley west of Coolidge

Berkley Officers to stop traffic on Coolidge as parade enters area of Coolidge and Catalpa for brief moment while parade passes the intersection. Once completed, Public Safety Officers will reopen the road. Approximate time is 20-30 minutes for completion. Public safety to provide a front & rear patrol car for protection of parade route.

Matt Koehn
City of Berkley
Public Safety Director
April 25, 2024

Distribution Copies

1. Public Safety Director
2. Public Works Director
3. Original – Traffic Control File



HILLS

GRIFFITH AVE

WAKEFIELD RD

CUMBERLAND RD

KENMORE RD

BERKLEY AVE

HENLEY AVE

TENNYSON
HOMES

FRANKLIN RD

KIPLING AVE



Robina Ave



Berkley High School

CATALPA DR

SUNNYKNOLL
FARMS

Hurley Field

OXFORD RD

DENLER ACRES

The Wedding
Shophe

HARVARD RD

BERKLEY AVE

HANNAN'S
ROYAL

COLUMBIA RD

ey
irk



IT

MSU Federal

Internal Revenue Service District Director
Department of the Treasury
P. O. Box 2508 Cincinnati, OR
45201

Date: Dec. 14, 1995

Person to Contact:

Lois Parrott

Telephone Number:

513-684-3957

Refer Reply to:

EP/EO

Federal Identification

38-6087751

Accounting Period Ends

December 31

Number:

Berkley Dad's Club

Berkley, MI 48072-1860

Dear Sir. Or Madam:

This is in response to your request for affirmation of your tax exempt status.

Our records show that we issued a determination letter dated February 8, 1950, which recognized your organization as exempt from Federal income tax under section 101(6) of the Internal Revenue Code of 1939 which now corresponds to section 501(c)(3) of the Internal Revenue Code of 1986. That determination letter is still in effect.

We classified your organization as a publicly supported organization, and not a private foundation, because it is described in section 509(a)(2) of the Code. This classification was based on the assumption that your organization's operations would continue as stated in the application. If your sources of support, purposes, character, or method of operations have changed, please let us know so we can consider the effect of the change on the organization's exempt status and foundation status.

You are required to file Form 990, Return of Organization Exempt from Income Tax, only if your gross receipts each year are normally more than \$25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, when a return is filed late, unless there is reasonable cause for the delay.

As of January 1, 1984, your organization is liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more the organization pays to each of its employees during a calendar year. There is no liability for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal Excise taxes. If you have any questions about excise, employment, or other Federal taxes, please let us know.

Page 2

Berkley Dad's Club 38-6087751

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter, we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it with your permanent records.

If you have questions, you may direct them to us at the address or telephone number shown in the heading of this letter.

Sincerely,

C. Ashely Bullard
District Director



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/09/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| PRODUCER K&K Insurance Group, Inc. 1712 Magnavox Way Fort Wayne Indiana 46804 | | CONTACT NAME: Maes Merch Underwriting PHONE (A/C No. Exd): 800-722-5676 FAX (A/C No.): 280-459-5105 E-MAIL: NRPA_Insurance_Programs@aon.com PRODUCER CUSTOMER ID: | | | | | | | | | | | | | | | | | | | | | | |
|---|-------------------------------------|--|--|-------------------------------|--|--------|------------|-------------------------------------|-------|------------|-----------------------------------|-------|------------|--|--|------------|--|--|------------|--|--|------------|--|--|
| INSURED Berkley Dads' Club P.O. Box 721036 Berkley, MI 48072 A Member of the Sports, Leisure & Entertainment RPG | | <table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>Nationwide Mutual Insurance Company</td><td>23787</td></tr><tr><td>INSURER B:</td><td>Nationwide Life Insurance Company</td><td>66869</td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table> | | INSURER(S) AFFORDING COVERAGE | | NAIC # | INSURER A: | Nationwide Mutual Insurance Company | 23787 | INSURER B: | Nationwide Life Insurance Company | 66869 | INSURER C: | | | INSURER D: | | | INSURER E: | | | INSURER F: | | |
| INSURER(S) AFFORDING COVERAGE | | NAIC # | | | | | | | | | | | | | | | | | | | | | | |
| INSURER A: | Nationwide Mutual Insurance Company | 23787 | | | | | | | | | | | | | | | | | | | | | | |
| INSURER B: | Nationwide Life Insurance Company | 66869 | | | | | | | | | | | | | | | | | | | | | | |
| INSURER C: | | | | | | | | | | | | | | | | | | | | | | | | |
| INSURER D: | | | | | | | | | | | | | | | | | | | | | | | | |
| INSURER E: | | | | | | | | | | | | | | | | | | | | | | | | |
| INSURER F: | | | | | | | | | | | | | | | | | | | | | | | | |

COVERAGES **CERTIFICATE NUMBER:** W02384235 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSB | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|----------|---|-----------|----------|-------------------|----------------------------|-------------------------|---|-------------|
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: | | | 6BRPG000007845500 | 02/15/2023 12:01 AM EDT | 02/15/2024 12:01 AM | EACH OCCURRENCE | \$2,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea Occurrence) | \$1,000,000 |
| | | | | | | | MED EXP (Any one person) | \$5,000 |
| | | | | | | | PERSONAL & ADV INJURY | \$2,000,000 |
| | | | | | | | GENERAL AGGREGATE | \$5,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG | \$2,000,000 |
| | | | | | | | LEGAL LIAB TO PARTICIPANTS | \$2,000,000 |
| A | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> NOT PROVIDED WHILE IN HAWAII | | | 6BRPG000007845500 | 02/15/2023 12:01 AM EDT | 02/15/2024 12:01 AM | COMBINED SINGLE LIMIT (Ea accident) | \$2,000,000 |
| | | | | | | | BODILY INJURY (Per person) | |
| | | | | | | | BODILY INJURY (Per accident) | |
| | | | | | | | PROPERTY DAMAGE (Per accident) | |
| | UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION | | | | | | EACH OCCURRENCE | |
| | | | | | | | AGGREGATE | |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below | N/A | | | | | PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> | |
| | | | | | | | EL EACH ACCIDENT | |
| | | | | | | | EL DISEASE - EA EMPLOYEE | |
| | | | | | | | EL DISEASE - POLICY LIMIT | |
| B | Participant Accident | | | 6ABAX000007845600 | 02/15/2023 12:01 AM EDT | 02/15/2024 12:01 AM | AD&D | \$25,000 |
| | | | | | | | Excess Medical - Youth | \$250,000 |
| | | | | | | | Excess Medical - Adult | \$100,000 |
| | | | | | | | LEGAL LIAB TO PARTICIPANTS | NONE |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Legal Liability to Participants (LLP) limit is a per occurrence limit.
Sport(s): Baseball Age(s): 12 and under, 16 yrs, Day Camps/Clinics Ages 18 yrs and under (LLP - \$1,000,000), 19 & under; Camp Location: 29235 Stephenson Hwy, Madison Heights, Michigan, 48071; Date(s) of Camp: 02/18/2023, 02/25/2023,

| | |
|---|--|
| CERTIFICATE HOLDER Evidence of Coverage | CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE |
|---|--|

Berkley Dads Club

EIN: 38-6087751 | Berkley, Michigan, United States

Other Names

BERKLEYS DADS CLUB

Publication 78 Data

Organizations eligible to receive tax-deductible charitable contributions. Users may rely on this list in determining deductibility of their contributions.

On Publication 78 Data List: Yes

Deductibility Code: PC ⓘ

Copies of Returns (990, 990-EZ, 990-PF, 990-T)

Electronic copies (images) of Forms 990, 990-EZ, 990-PF or 990-T returns filed with the IRS by charities and non-profits.

✓ Tax Year 2020 Form 990EZ

✓ Tax Year 2019 Form 990EZ

✓ Tax Year 2019 Form 990EZ

✓ Tax Year 2018 Form 990EZ

✓ Tax Year 2017 Form 990EZ

✓ Tax Year 2016 Form 990EZ

A Resolution of the Council of the City of Berkley, Michigan
Accepting the Interlocal Agreement for Local Fiscal Recovery Fund Distribution Between
Oakland County and the City of Berkley.

WHEREAS, On March 11, 2021, the President of the United States signed the American Rescue Plan act of 2021 ("ARPA") into law. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 603, which establishes the Coronavirus Local Fiscal Recovery Fund. Oakland County has been allocated \$244,270,949 in Local Fiscal Recovery Fund ("LFRF") dollars under ARPA.

WHEREAS, The United States Department of Treasury has issued an interim final rule, and other guidance for qualified uses of LFRF. Those qualified uses include funding for water and sewer infrastructure projects that align with projects that would be eligible to receive financial assistance through the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF). County has determined that the distribution of funds in accordance with this Agreement is a qualified use of LFRF funds pursuant to the interim rule and other applicable Department of Treasury guidance.

WHEREAS, The Oakland County Board of Commissioners has approved Miscellaneous Resolutions #21-303 and #21-382 assigning \$2,400,000 in ARPA LFRF funding for a grant program to provide Oakland County local governments with financial assistance for costs associated with the planning and design of critical ARPA eligible sewer and water infrastructure projects and a grant administration plan.

WHEREAS, The City of Berkley has been awarded a Critical Infrastructure Grant in an amount of \$100,000 to help offset the cost the cost of the required Complete Distribution System Materials Inventory and Combined Sanitary Sewer System Survey

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF BERKLEY CITY COUNCIL HEREBY:

Approves the Interlocal Agreement for Local Fiscal Recovery Fund Distribution Between Oakland County and the City of Berkley.

Proclaimed this 6th day of May 2024 at a Regular Meeting of the Berkley City Council

Bridget Dean
Mayor

Attest:

Victoria Mitchell
City Clerk



CITY OF BERKLEY
DEPARTMENT OF PUBLIC WORKS
3238 BACON AVE, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Mayor Dean and City Council
From: Shawn Young, Director of Public Works
Date: May 6th, 2024
Subject: Critical Infrastructure Grant Amended Interlocal Agreement

Madam Mayor and Members of City Council,

Background

In the fall of 2022 we were approved for an Oakland County Local Government Critical Infrastructure Grant that will help offset some of the costs of the required Complete Distribution System Materials Inventory (CDSMI).

Summary

- The current agreement was previously approved by council and signed in April of 2023.
- An amendment of this agreement has been issued by Oakland County and is required to be approved before the grant funds can be released to the city.
- The CDSMI is a state and federal mandated inventory of water service line materials.
- Field work has been ongoing and with a final report due in October of 2024.
- The City of Berkley is set to receive roughly \$100,000 in funding as part of this grant.

Recommendation

It is my recommendation that City Council adopts the resolution approving the Interlocal Agreement for Local Fiscal Recovery Fund Distribution Between Oakland County and the City of Berkley.

**AGREEMENT FOR LOCAL FISCAL RECOVERY FUND DISTRIBUTION BETWEEN
OAKLAND COUNTY AND
City of Berkley**

This Agreement (the "Agreement") is made between Oakland County, a Municipal and Constitutional Corporation, 1200 North Telegraph Road, Pontiac, Michigan 48341 ("County"), and the City of Berkley ("Public Body") 3338 Coolidge Hwy, Berkley, Michigan 48072. County and Public Body may be referred to individually as a "Party" and jointly as "Parties". Notwithstanding any language to the contrary in this Agreement, Public Body is a grantee of the funds it is receiving under this Agreement. Public Body shall comply with all requirements in this Agreement regardless of its classification as a grantee.

PURPOSE OF AGREEMENT. On March 11, 2021, the President of the United States signed the American Rescue Plan Act of 2021 ("ARPA") into law. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 603, which establishes the Coronavirus Local Fiscal Recovery Fund. Oakland County has been allocated \$244,270,949 in Local Fiscal Recovery Fund ("LFRF") dollars under ARPA.

The United States Department of Treasury has issued an interim final rule, and other guidance for qualified uses of LFRF. Those qualified uses include funding for water and sewer infrastructure projects that align with projects that would be eligible to receive financial assistance through the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF). County has determined that the distribution of funds in accordance with this Agreement is a qualified use of LFRF funds pursuant to the interim rule and other applicable Department of Treasury guidance.

The Oakland County Board of Commissioners has approved Miscellaneous Resolutions #21-303 and #21-382 assigning \$2,400,000 in ARPA LFRF funding for a grant program to provide Oakland County local governments with financial assistance for costs associated with the planning and design of critical ARPA eligible sewer and water infrastructure projects and a grant administration plan.

County and Public Body enter into this Agreement pursuant to the Urban Cooperation Act of 1967, 1967 Public Act 7, MCL 124.501 *et seq.*, for the purpose of County distributing a portion of its LFRF funds to Public Body.

In consideration of the mutual promises, obligations, representations, and assurances in this Agreement, the Parties agree to the following:

1. **DEFINITIONS.** The following words and expressions used throughout this Agreement, whether used in the singular or plural, shall be defined, read, and interpreted as follows:
 - a. **Agreement** means the terms and conditions of this Agreement and any other mutually agreed to written and executed modification, amendment, Exhibit and attachment.
 - b. **Claims** mean any alleged losses, claims, complaints, demands for relief or damages, lawsuits, causes of action, proceedings, judgments, deficiencies, liabilities, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of any kind which are incurred by or asserted against County or Public Body, or for which County or Public Body may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal

or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.

- c. **County** means Oakland County, a Municipal and Constitutional Corporation, including, but not limited to, all of its departments, divisions, the County Board of Commissioners, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, volunteers, and/or any such persons' successors.
 - d. **Day** means any calendar day beginning at 12:00 a.m. and ending at 11:59 p.m.
 - e. **Public Body** means the City of Berkley including, but not limited to, its council, its Board, its departments, its divisions, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, subcontractors, attorneys, volunteers, and/or any such persons' successors.
 - f. **Public Body Employee** means any employees, officers, directors, members, managers, trustees, volunteers, attorneys, representatives of Public Body, licensees, concessionaires, contractors, subcontractors, independent contractors, agents, and/or any such persons' successors or predecessors (whether such persons act or acted in their personal, representative or official capacities), and/or any persons acting by, through, under, or in concert with any of the above who use or have access to the funds provided under this Agreement. "Public Body Employee" shall also include any person who was a Public Body Employee at any time during the term of this Agreement but, for any reason, is no longer employed, appointed, or elected in that capacity.
2. **GRANT.** Subject to the terms and condition of this Agreement, and in reliance upon the Public Body's affirmations set forth below, the County agrees to make, and the Public Body agrees to accept, the grant funds.
- a. County will distribute \$100,000 in grant funds to Public Body for the project scope it included in its application to the County, which is attached and incorporated into this Agreement as **Exhibit A**. Public Body will receive 50% of the grant funds upon execution of this Agreement, and the remaining 50% will be provided after the Public Body has demonstrated that the first 50% was spent in accordance with all of the terms and conditions of this Agreement.
 - b. PUBLIC BODY UNIQUE ENTITY IDENTIFIER: .
 - c. FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): SLFRP2640
 - d. CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 21.027
 - e. FEDERAL AWARD DATE: May 28, 2021
 - f. SUBAWARD PERIOD OF PERFORMANCE START AND END DATE: May 28, 2021 to December 31, 2026.
 - g. AWARD IS NOT FOR RESEARCH & DEVELOPMENT (R&D): Funds cannot be used for research and development related expenditures.
 - h. INDIRECT COST RATE FOR FEDERAL AWARD: Indirect costs are not eligible for this Agreement.
 - i. CONTACT PERSON FOR COUNTY/PASS THROUGH ENTITY: Dan Klein.
 - j. DEFINED USE OF FUNDS: All grant funds must be expended in accordance with this Agreement and the guidelines for ARPA funds.

3. **PUBLIC BODY'S RESPONSIBILITIES.**

- a. Public Body's grant match requirements, if any, are detailed in **Exhibit B** attached hereto and incorporated as part of this Agreement.
- b. Public Body shall submit to Oakland County quarterly reporting on the grant funds including:
 - 1. Project progress report including completion of deliverables included in project scope;
 - 2. Accounting of expenses incurred and grant funds expended; and
 - 3. Any other relevant information or records, to be determined by County.
- c. Public Body shall submit to Oakland County a final report by the end of the Agreement or within 30 days after final Project completion, whichever date is sooner, on the grant funds including:
 - 1. Project completion report;
 - 2. Full accounting of its expenditure of grant funds;
 - 3. Certification of its use of grant funds and fulfillment of the terms of the Agreement; and
 - 4. Any other relevant information or records, to be determined by County.
- d. Public Body shall respond to and be responsible for Freedom of Information Act requests relating to Public Body's records, data, or other information.
- e. Public Body must comply with any other reporting requirements as may be necessary for accepting the grant funding provided for in this Agreement.

4. **COUNTY'S RESPONSIBILITIES.**

- a. County shall designate in writing a department, individual, or other entity to oversee the reporting requirements set forth in Section 3 above to ensure timely reporting, accurate accounting, and verification of final certification.

5. **PUBLIC BODY AFFIRMATIONS.**

- a. Public Body affirms that any and all representations made to County in connection with its application and this grant were accurate, truthful and complete and remain so. Public Body acknowledges that all representations and information provided have been relied on by the County to provide funding under this Agreement. Public Body shall promptly notify County, in writing, of the occurrence of any event or any material change in circumstances which would make any Public Body representation or information untrue or incorrect or otherwise impair Public Body's ability to fulfill its obligations under this Agreement.
- b. Public Body will comply with any federal, state, or local public health orders or mitigation recommendations regarding the COVID-19 pandemic which are in effect as of the date this Agreement is signed by both Parties.
- c. Public Body may not use grant funds for expenses for which the Public Body has received any other federal funds or emergency COVID-19 supplemental funding, whether it be state, federal, or private in nature, for the same expense. No portion of grant funds may be used for the purpose of obtaining additional Federal funds under any other law of the United States, except if authorized by law. Public Body shall promptly notify County if it receives insurance proceeds or other disaster assistance (public or private) that duplicates the funding received under this Agreement. Grant funds may not be used to cover expenses that were reimbursed by insurance.

- d. Public Body shall not carry out any activities under this Agreement that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and in accordance with Section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115–254; 132 Stat. 3442), which amended Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155). If the Public Body receives duplicate benefits from another source for projects related to this disaster, the Public Body must refund the benefits provided by the County to the County. Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.
 - e. Public Body shall use all grant funds it receives under this Agreement by December 31, 2026. Any grant funds not used by that date must be returned to County.
6. **REPAYMENT REMEDIES.** Public Body is subject to repayment to the County of an amount equal to the grant funds received by Public Body in the event Public Body has made material misrepresentations to the County in its application, voluntary bankruptcy or insolvency proceeding are commenced against the Public Body and not set aside within sixty (60) days, or the Public Body fails to otherwise comply with the requirements of this Agreement. In the event County later determines the information Public Body provided in conjunction with this Agreement, or that Public Body was ineligible for the grant funds, or that Public Body’s use of the grant funds following receipt was contrary to this Agreement, Public Body agrees to repay the grant funds to County in full. County further retains all rights and remedies allowed in law or equity, including seeking payment of its reasonable costs and expenses incurred enforcing its rights and remedies.
7. **TAX LIABILITY.** County and Public Body agree that to the extent that any part of the aforementioned funds are deemed to be taxable, that Public Body agrees to be fully responsible for the payment of any taxes, including withholding payments, social security, or other funds which are required to be withheld. Public Body agrees to provide County with all information and cooperation necessary to execute a completed 1099-G form; which County will file with the United States Internal Revenue Service. Public Body acknowledges that Public Body will consult with a tax professional regarding the tax implications, if any, of the grant funds, and/or hereby waives the option to do so. Public Body further agrees to indemnify and hold County harmless for the payment of any tax or withholding payments, including any penalty assessed it may owe under this Agreement.
8. **CONFLICT OF INTEREST.** Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.301, *et seq.* and MCL 15.321, *et seq.*), to avoid any real or perceived conflict of interest, Public Body shall disclose to County the identity of all Public Body Employees and all relatives of Public Body Employees who: a) are employed by the County or are elected or appointed officials of the County, on the date this Agreement is executed; and b) becomes employed or appointed by the County or becomes an elected official of County during the term of the Agreement.
9. **ACCESS TO RECORDS AND AUDIT.** Payments from ARPA funds are subject to 2 C.F.R. 200.303 regarding internal controls, 2 C.F.R. 200.331-333 regarding subrecipient monitoring and management, and 2 C.F.R. Part 200 Subpart F regarding audit requirements. Where applicable, these requirements are considered legally binding and enforceable under this Agreement. Oakland County reserves the right to use any legal remedy at its disposal including, but not limited to, disallowance of costs, withholding of funds or recoupment as may be necessary to satisfy requirements. Subawards or

subcontracts, if any, shall contain a provision making them subject to all of the provisions in this Agreement.

Public Body shall maintain all records pertinent to the Agreement and any amendments, including backup copies, for a period of five (5) years. The records shall be kept in accordance with generally accepted accounting practices, utilize adequate internal controls and shall maintain necessary documentation for all costs incurred, including documentation and an inventory of all equipment purchased with grant funds. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In addition to County, the U.S. Department of Treasury, or their authorized representatives, shall be provided the right to audit all records pertaining to the expenditure and use of grant funds. All records with respect to any matters covered by this Agreement shall be made available to County, the Federal awarding agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Public Body within 30 days after receipt by the Public Body. Failure of Public Body to comply with the audit requirements will constitute a violation of this Agreement.

Fund payments are considered “other federal financial assistance” under Title 2 C.F.R. 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance”) and are subject to the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507 or program specific audit pursuant to 2 C.F.R. 200.501(a) when Public Body spends \$750,000 or more in federal awards during their fiscal year.

Fund payments are subject to 2 C.F.R. 200.303 regarding internal controls. Subrecipient must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the Subrecipient is managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the award.

Fund payments are subject to 2 C.F.R. 200.330 through 200.332 regarding Public Body monitoring and management. Fund payments are subject to Subpart F regarding audit requirements. Failure of Public Body to comply with the audit requirements will constitute a violation of this Agreement. Public Body may be required to submit a copy of that audit to the County in accordance with the Uniform Guidance.

10. **COMPLIANCE WITH LAWS.** Public Body shall comply with all federal, state, and local laws, statutes, ordinances, regulations, and all requirements applicable to its activities under the Agreement and grant. This includes the following:

- a. Public Body must comply with 2 C.F.R. 200.303(e) and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. 200.82, and other information County designates as sensitive or the Public Body considers sensitive consistent with applicable Federal, state, and local laws regarding privacy and obligations of confidentiality.
- b. Public Body must comply with 2 C.F.R. 200.322 if it is passing through grant funds/issuing subawards to other entities.

- c. Public Body must comply with 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements. Public Body will not pass-through grant funds to an entity listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov.
- d. Public Body must register at sam.gov.
- e. Public Body must comply with Title VI of the Civil Rights Act of 1964, and any implementing regulations, which prohibits entities receiving Federal financial assistance from excluding from a program or activity, denying benefits or services, or otherwise discriminating against a person on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity). All applicable U.S. Department of Treasury Title VI regulations are incorporated into this Agreement and made a part of this Agreement.
- f. Public Body must comply with 2 C.F.R. Part D, Post Federal Award Requirements, being 200.300 et seq., where applicable.

11. **DURATION OF INTERLOCAL AGREEMENT.**

- a. This Agreement shall be effective when executed by both Parties with resolutions passed by the governing bodies of each Party. The approval and terms of this Agreement shall be entered in the official minutes of the governing bodies of each Party. An executed copy of this Agreement and any amendments shall be filed by the County Clerk with the Secretary of State.
- b. This Agreement shall remain in effect until December 31, 2026, or until cancelled or terminated by any of the Parties pursuant to the terms of the Agreement. Public Body shall comply with the record keeping, reporting, audit response, and fund return requirements of this Agreement after the termination of this Agreement.

12. **ASSURANCES.**

- a. **Responsibility for Claims.** Each Party shall be responsible for any Claims made against that Party by a third party, and for the acts of its employees arising under or related to this Agreement.
- b. **Responsibility for Attorney Fees and Costs.** Except as provided for in Sections 7 and 14, in any Claim that may arise from the performance of this Agreement, each Party shall seek its own legal representation and bear the costs associated with such representation, including judgments and attorney fees.
- c. **No Indemnification.** Except as otherwise provided for in this Agreement, neither Party shall have any right under this Agreement or under any other legal principle to be indemnified or reimbursed by the other Party or any of its agents in connection with any Claim.
- d. **Costs, Fines, and Fees for Noncompliance.** Public Body shall be solely responsible for all costs, fines and fees associated with any misuse of the the grant funds and/or for noncompliance with this Agreement by Pubic Body Employees.
- e. **Reservation of Rights.** This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity for either Party.

- f. **Authorization and Completion of Agreement.** The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.

13. **TERMINATION OR CANCELLATION OF AGREEMENT.**

- a. County may terminate or cancel this Agreement at any time if it determines that Public Body has expended the grant funds in violation of ARPA requirements or this Agreement. If County terminates or cancels this Agreement, Public Body shall be liable to repay County the amount of money expended in violation of ARPA requirements or this Agreement. County may utilize the provisions in Section 14 to recoup the amount of money owed to County by Public Body.
- b. Public Body may terminate or cancel this Agreement at any time. If Public Body terminates or cancels this Agreement, it shall immediately return to County any and all grant funds it has already received.
- c. If either Party terminates or cancels this Agreement they shall provide written notice to the other Party in the manner described in Section 21.

14. **SETOFF OR RETENTION OF FUNDS**

- a. In any case where Public Body is required to return an amount of money to County under this Agreement, Public Body agrees that unless expressly prohibited by law, County or the Oakland County Treasurer, at their sole option, shall be entitled to set off from any other Public Body funds that are in County's possession for any reason, including but not limited to, the Oakland County Delinquent Tax Revolving Fund ("DTRF"), if applicable. Any setoff or retention of funds by County shall be deemed a voluntary assignment of the amount by Public Body to County. Public Body waives any Claims against County or its Officials for any acts related specifically to County's offsetting or retaining of such amounts. This paragraph shall not limit Public Body's legal right to dispute whether the underlying amount retained by County was actually due and owing under this Agreement.
- b. Nothing in this Section shall operate to limit County's right to pursue or exercise any other legal rights or remedies under this Agreement or at law against Public Body to secure payment of amounts due to County under this Agreement. The remedies in this Section shall be available to County on an ongoing and successive basis if Public Body becomes delinquent in its payment. Notwithstanding any other term and condition in this Agreement, if County pursues any legal action in any court to secure its payment under this Agreement, Public Body agrees to pay all costs and expenses, including attorney fees and court costs, incurred by County in the collection of any amount owed by Public Body.

15. **DELEGATION OR ASSIGNMENT.** Neither Party shall delegate or assign any obligations or rights under this Agreement without the prior written consent of the other Party.

16. **NO THIRD-PARTY BENEFICIARIES.** Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right in favor of any other person or entity.

17. **NO IMPLIED WAIVER.** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be

deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.

18. **SEVERABILITY**. If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.
19. **PRECEDENCE OF DOCUMENTS**. In the event of a conflict between the terms and conditions of any of the documents that comprise this Agreement, the terms in the Agreement shall prevail and take precedence over any allegedly conflicting terms and conditions.
20. **CAPTIONS**. The section and subsection numbers, captions, and any index to such sections and subsections contained in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning. The numbers, captions, and indexes shall not be interpreted or be considered as part of this Agreement. Any use of the singular or plural, any reference to gender, and any use of the nominative, objective or possessive case in this Agreement shall be deemed the appropriate plurality, gender or possession as the context requires.
21. **NOTICES**. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (i) the date of actual receipt; (ii) the next business day when notice is sent express delivery service or personal delivery; or (iii) three days after mailing first class or certified U.S. mail.
 - a. If Notice is sent to County, it shall be addressed and sent to: Oakland County Executive, Attention: Dan Klein, 2100 Pontiac Lake Rd., Waterford, MI, 48328
 - b. If Notice is sent to Public Body, it shall be addressed to: City of Berkley, 3338 Coolidge Hwy, Berkley, Michigan 48072.
22. **GOVERNING LAW/CONSENT TO JURISDICTION AND VENUE**. This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.
23. **SURVIVAL OF TERMS**. The Parties understand and agree that all terms and conditions of this Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.
24. **ENTIRE AGREEMENT**.
 - a. This Agreement represents the entire agreement and understanding between the Parties regarding the grant funds, and supersedes all other oral or written agreements between the Parties.
 - b. The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

IN WITNESS WHEREOF, [insert name and title of public body official] hereby acknowledges that he/she has been authorized by a resolution of the City of Berkley, a certified copy of which is attached, to execute this Agreement on behalf of Public Body and hereby accepts and binds Public Body to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
[insert name of official, title, and name of public body]

WITNESSED: _____ DATE: _____
[insert name, title]

IN WITNESS WHEREOF, David Woodward, Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners to execute this Agreement on behalf of Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
David Woodward, Chairperson
Oakland County Board of Commissioners

WITNESSED: _____ DATE: _____
Oakland County Board of Commissioners
County of Oakland

EXHIBIT A

Memorandum

To: Mr. Matthew Baumgarten, City Manager, City of Berkley
Mr. Derrick Schueller, Director of Public Works, City of Berkley

From: Edward Zmich, Manager

Date: March 31, 2022

Subject: Project Summary for City of Berkley Water Service Line Verification
Oakland County Local Government Critical Infrastructure Grant

HRC Job No. 20220098

WATER SERVICE LINE VERIFICATIONS

The following is a summary of the proposed City of Berkley Water Service Line (WSL) Verifications, specifically related to developing a service line inventory through field verifications. This is provided as supplemental information for an application for funding through the Oakland County Local Government Critical Infrastructure Grant program. The proposed project also includes additional planning work for the City's combined sewer system, which is described in a separate document.

Executive Summary:

The proposed scope of work to be performed with this grant funding includes the following:

1. Actions related to inventory the materials of water service lines.
2. By applying for this funding, it is anticipated that the City will be able to comply with the verification of service line materials regulatory requirement for a complete distribution system materials inventory (CDSMI) by January 1, 2025.

Statement of Need:

This project will include the material verification of water service lines in order to comply with the State requirement under the revised Lead and Copper Rule. Each water system is required to verify materials at specific locations along a certain number of service lines (364 for the City of Berkley) in order to effectively evaluate the accuracy of service line records and predict service line materials throughout the water system to make strategic decisions regarding future lead service line replacements. By performing the water service line material verifications as required by EGLE, the City will be able to develop an inventory of the water system's service lines, strategically plan and budget for replacement of known lead service lines, and remove potential risks to public health. Because this is a mandated expense, the City receipt of grant money would lessen the burden on the rate payers.

Methods and Strategies:

The proposed scope of work and proposed service providers for the WSL verification efforts are as follows:

- 1) The City and their contracted consulting engineers will perform the professional services work associated with this project. Professional services include:
 - a) Planning and coordinating the verification locations
 - b) Scheduling, tracking, and observing the work

Delhi City
2101 Aurelius Rd.
Suite 2A
Holt, MI 48842
517-694-7760

Detroit
535 Griswold St.
Buhl Building, Ste 1650
Detroit, MI 48226
313-965-3330

Grand Rapids
81925 Breton Road SE
Suite 100
Grand Rapids, MI 49506
616-454-4286

Howell
105 W. Grand River
Howell, MI 48843
517-552-9199

Jackson
401 S. Mechanic St.
Suite B
Jackson, MI 49201
517-292-1295

Kalamazoo
834 King Highway
Suite 107
Kalamazoo, MI 49001
269-665-2005

Lansing
215 S. Washington SQ
Suite D
Lansing, MI 48933
517-292-1488

- c) Internal service line verifications
 - d) Organizing the collected information
 - e) Finalizing restoration items
 - f) Administration of grant reporting and reimbursements
- 2) The City has a competitively bid contract already in place through the Southeastern Oakland County Water Authority's (SOCWA) Water Service Line Replacement Program, of which the City is a customer of, to complete any non-professional services associated with this project. Non-professional services include:
- a) Permit acquisition
 - b) Physical verification of service line materials (including via cost-effective technologies of hydroexcavation, air-knifing, machine learning, etc.)
 - c) Site restoration of service line work area.
- 3) A portion of this WSL verifications work is being requested for inclusion in this grant program. The City plans to have approximately 156 (of the 364 total) WSL field verifications performed in 2022 as part of this grant, at a total cost of \$156,000.

Desired Outcomes:

The proposed project addresses the following Oakland County Local Government Critical Infrastructure Planning Grant Program priorities:

1) Protect Public Health.

- Removal of Lead Services protect public health
- Inventory is first step in developing a Lead Service Line Replacement (LSLR) Program
- Inventory of service lines can accelerate and streamline development and implementation of LSLR Program

Exposure to lead is a paramount public health concern and the removal of lead water service lines minimizes the opportunity for lead particulate to leach into drinking water. Historically, water supplies were not required to document service line information on the "private" side of the service line (from the curb stop into the building/premises). In addition, the origin of the City's water distribution system dates back to the early 1920's with nearly all of the system developed by 1960, so record information of the "public" side of the service line (from the water main to the curb stop) can be incomplete and ambiguous. Developing a service line inventory through the field verification of service line materials will assist the City to identify and predict where lead service lines are located within their water system and streamline the development of a lead service line replacement program; ultimately removing lead service lines from the City water system and protecting public health.

2) Preserve Natural Resources and a Healthy Environment.

- Clean, fresh drinking water is essential for quality of life
- Removal of lead service lines improves water quality
- Service line verifications are required by regulatory order

Safe drinking water is of the utmost importance to the City and essential to the quality of life of its customers. Developing a systematic approach to remove all lead service lines from the distribution system, starting with developing an inventory through the verification of service line materials, is paramount to the health and safety of water customers. The verification of service line materials would allow the City to comply with the regulatory requirement for a complete distribution system materials inventory (CDSMI) by January 1, 2025.

3) Maintain Reliable, High-Quality Service.

- Inventory provides transparency and strengthens customer confidence
- Improved customer confidence supports the cost of service and fees for O&M and CIPs
- Accurate inventory supports long-term fiscal sustainability
- Methods of inventorying supports cost-effective technologies of hydroexcavation, air-knifing, machine learning, etc.

Completing and maintaining an inventory of water service line materials provides a platform to deliver information to customers. Water service line information will be disseminated per regulatory guidance and as requested by customers to provide transparent and reliable data on City municipal assets and help strengthen customer confidence in their leadership. Customers that are provided with the data used to make decisions on how their tax dollars and service fees are spent typically understand the circumstances in which municipal operations are faced, and therefore are more likely to support increased fees for the operation and maintenance and capital improvement planning for infrastructure systems. A complete, accurate, and well-maintained service line asset inventory supports long-term fiscal sustainability by providing reliable data to make calculated decisions for removal of lead service lines and future regulatory requirements regarding water systems. Lastly, the methods to physically verify water service lines for inventorying purposes and evaluating and/or predicting the accuracy of existing service line material information will utilize state-of-the-art, emerging technologies such as hydroexcavation, air-knifing, and potentially machine learning.

4) Assure Value for Investment.

- Material investigations provides information for the "current state of assets" which is one of the 5 core principles of asset management planning.
- Inventory provides information to make strategic and optimal decisions about LSLRs to ensure greater value for investments
- Promotes the use of decision support tools to project service line materials throughout water systems

Performing service line verifications for the purposes of developing an asset inventory is critical to the successful management of the City's water service lines. Successfully managing this asset includes coordinating lead service line replacement efforts across different infrastructure projects, understanding how many lead services are in the system and where they are located to help make strategic and optimal decisions to ensure greater value for investments. Performing the physical verification of a statistically sound subset service line materials will promote the use of a decision support tool to extrapolate the data and minimize the number of service line verifications needed to complete the required complete distribution system materials inventory (CDSMI) thus reducing the investment needed in digging up water service lines and gaining the most value from the limited financial resources in the City.

5) Contribute to Economic Prosperity.

- Customers expect to receive high-quality, safe drinking water; a transparent inventory of water service line materials supports this expectation
- Planning for the removal of lead service lines supports meeting the current needs and expectations of customers
- Investment in the planning for lead service line removal enhances property values
- Inventory supports Project Plan development for LSLR projects

Drinking water is expected to be free from potentially harmful contaminants. Both the Environmental Protection Agency and the Centers for Disease Control and Prevention agree that there is no known safe level of lead for consumption. It is known that the water purchased from Great Lakes Water Authority (GLWA) through SOCWA and delivered through the City's distribution system does not contain lead and that the predominant location of exposure to lead during water delivery is at the water service line. Therefore, inventorying water service lines, providing a platform for this information to be shared with customers, and subsequently planning a lead service line replacement program supports the

expectation that water will be delivered to a customers' tap free from harmful contaminants. Support of this inventory, data transparency, and promotion of the planning for lead service line removals encourages investment into the community and enhances property values and economic prosperity. Lastly, the creation of the service inventory will aid in the potential development of Drinking Water State Revolving Fund (DWSRF) Project Plans for Lead Service Line Replacements to take advantage of proposed Infrastructure Investment and Jobs Act which has proposed at this time to set aside over \$55 billion dollars in investments to eliminate lead service lines throughout the United States.

Critical Infrastructure Planning Grant Priorities:

The proposed project addresses the Oakland County Local Government Critical Infrastructure Planning Grant program's priorities:

- 1) **Serious risk to public health**— The project has a substantial impact on public health as described in the previous section.
- 2) **Compliance with Federal and State regulations**— This project will include the verification of water service lines in order to comply with the State requirement under the revised Lead and Copper Rule.
- 3) **Assistance for systems experiencing the greatest affordability needs**—Asset management based planning will assist the City in determining the appropriate projects to ensure customers are getting their desired level of service at the lowest costs.
- 4) **Meeting Customer expectations for Reliable, High-Quality Service** – Water system customers expect clean drinking water from their taps, and the development of this service line inventory will lead directly to a plan to remove these potential sources of lead contamination in City drinking water supplies.

Budget:

The proposed budget for this grant for the water service line material verifications is \$156,000. Each service line verification is estimated at \$1,000 each, which includes notifications, communications, scheduling, internal verifications, mobile application setup and GIS support, field physical verifications at the curb stop and the organization, documentation and reporting of the work.

Project Estimates:

The competitively bid field verifications contract is provided herewith. The City plans to only utilize the field verifications of WSL points 2 & 3 for this grant.

Schedule:

All proposed work shall be completed on or before September 30, 2023. Work is anticipated to begin in the next several months. The following is a basic preliminary schedule for the proposed work:

Resident Notifications – May 2022 – September 2022

Service Line Material Verifications – September 2022 - September 2023

Contacts:

City of Berkeley

Matthew Baumgarten (City Manager)

mbaumgarten@berkleymich.net

Hubbell, Roth & Clark, Inc.

Edward Zmich (Manager)

ezmich@hrcengr.com



HUBBELL, ROTH & CLARK, INC
CONSULTING ENGINEERS SINCE 1915

MAILING: PO Box 824
Bloomfield Hills, MI 48303-0824

SHIPPING: 555 Hulet Drive
Bloomfield Hills, MI 48302-0360

PHONE: 248-454-6300
WEBSITE: hrcengr.com

Memorandum

To: Mr. Matthew Baumgarten, City Manager, City of Berkley
Mr. Derrick Schueller, Director of Public Works, City of Berkley

From: Edward Zmich, Manager

Date: March 31, 2022

Subject: Project Summary for City of Berkley Combined Sewer System Planning
Oakland County Local Government Critical Infrastructure Grant

HRC Job No. 20220098

Statement of Need:

The following is a summary of the proposed City of Berkley Combined Sewer Investigation and Planning, specifically related to planning efforts for components of the combined sewer system. This is provided as supplemental information for an application for funding through the Oakland County Local Government Critical Infrastructure Grant program. The proposed project also includes additional planning work for the City's water distribution system, which is described in a separate document.

In Fall, 2017, the City of Berkley tasked their consulting engineers, Hubbell Roth & Clark, Inc. (HRC) to prepare a City-wide Combined Sewer Capacity Study in response to basement flooding occurrences that several residents experienced during a high intensity rain event earlier that year. The study, which was developed and presented to City Council in July 2018, was also intended to explore the benefits of a catch basin restriction program expansion in reducing peak flows in the sewer system. Historically, Berkley residents have experienced basement flooding during extreme rain events; however, the occurrences were scarce following large-scale improvements made to the City and County drain systems in the 1960's and 1970's. There have been several large, intense rain events over the last few years that have caused renewed concern with the potential for basement flooding occurrences.

Several factors that can cause sewage back-up and basement flooding include the system simply being overwhelmed by the volume and intensity of storm water, a blockage (e.g., debris, roots, pipe collapse, etc.) in the City's sewer or County drain, or a blockage in the private sewer lead (from the home/business to the City's main). Frequently, private (residential, commercial, and school properties) sewer back-ups are a result of the lead being overwhelmed by the amount of storm water entering it from downspouts, footing drains and sump pumps that are directly connected. Downspouts have the most direct impact on the combined sewer; thus, it is highly recommended that all downspouts be disconnected from the sewer and instead discharged at grade.

Executive Summary:

By updating the City's Combined Sewer System Study report and Investigating additional basement flooding mitigation opportunities and programs, this project will provide tangible and phased steps to reduce flow into the City's combined sewer system during heavy rain events and to identify opportunities in flood prevention and mitigation for both the City and their residential and commercial property owners which will allow the City to be better prepared for and likely eligible to apply for funding of future projects through federal and/or state revolving loan programs. An additional goal of this project is to provide the City with the information to support the prioritization of future capital improvement projects (CIP).

Delhi City
2101 Aurelius Rd.
Suite 2A
Holt, MI 48842
517-694-7760

Detroit
535 Griswold St.
Buhl Building, Ste 1650
Detroit, MI 48226
313-965-3330

Grand Rapids
81925 Breton Road SE
Suite 100
Grand Rapids, MI 49506
616-454-4286

Howell
105 W. Grand River
Howell, MI 48843
517-552-9199

Jackson
401 S. Mechanic St.
Suite B
Jackson, MI 49201
517-292-1295

Kalamazoo
834 King Highway
Suite 107
Kalamazoo, MI 49001
269-665-2005

Lansing
215 S. Washington SQ
Suite D
Lansing, MI 48933
517-292-1488

Methods and Strategies:

The proposed scope of work to be performed with this grant funding includes the following professional and non-professional tasks, or services:

1. Phase II- Combined Sewer System Study (Update to Phase I report)
 - A. Restricted Catch Basin Covers
 - Using GIS, re-inventory all covers in ROW and City property
 - Using initial Sewer Study, make recommendations for additional restricted covers in key areas (to take place over several years)
 - B. Commercial Property/Schools Analysis
 - Impervious surface calculations to identify key flow contributors (Review SEMCOG data, etc.)
 - Restricted covers, detention, downspout inventory
 - Investigate potential equivalent residential unit (ERU) impacts, incentives
 - Review and explore revisions to the current Standards for Development for both commercial and residential properties, alongside the Storm Water Ordinance, in particular, for requiring catch basin restriction and onsite detention, lot coverage restrictions, etc. Further, the newly updated Oakland County stormwater design standards will be utilized to update the City ordinance accordingly.
 - C. Green Infrastructure
 - Reference previous Clinton Watershed/WaterTowns presentation and recommendations
 - Identify City locations for new rain gardens, bioswales, etc.
2. Research and Evaluate Community Basement Backup Protection Programs (Backwater Valves) in place in neighboring communities for potential adoption in the City of Berkeley (i.e., education, cost sharing options/arrangements, etc.).

A portion of this work is being requested for inclusion in this grant program. The City plans to allocate a total approximate amount of \$43,400 for the above referenced tasks/services.

Desired Outcomes:

The proposed project addresses the Oakland County Local Government Critical Infrastructure Planning Grant program's priorities:

- 1) **Protect Public Health.** The efforts proposed as part of this project would review the City's existing catch basin cover inventory via their GIS framework and assess all commercial and school properties (as well as all City-owned parking lots and facilities) and the existing drainage structure covers, downspout discharge points, existing detention and/or restriction components, and other pertinent site and facility features. This information would allow the City to provide recommendations to reduce flow into the City's combined sewer system and identify opportunities in flood prevention and mitigation and protect public health by reducing incidents related to sewer infrastructure overload and potential failure and reduction in system blockages and backups.
- 2) **Preserve Natural Resources and a Healthy Environment.** The project will address essential planning work to evaluate the City's restricted cover inventory, commercial and school properties, and City-owned properties resulting in proper, efficient conveyance of both stormwater and wastewater which is essential for quality of life. In addition, the information obtained from this planning work will directly contribute to reducing the potential for an overburdened, surcharging sewer system and basement backups, which is a significant benefit to the environment.
- 3) **Maintain Reliable, High-Quality Service.** The project will perform essential planning work to update and complete evaluation of the City's commercial and school properties as well as City-owned properties and set the City up for long-term fiscal sustainability. The property evaluation work will culminate an updated CIP that prioritizes cost-effective rehabilitation to reduce the probability and consequence of overburdened, surcharging sewers and basement sewage backups. The CIP will assist the City in developing a longer, more stable rate structure that reflects the required

maintenance needs and provides the transparency necessary for its customer base to support the cost of service.

- 4) **Assure Value for Investment.** Development of an updated CIP will support wise investment in the City's infrastructure and reduce the overall cost of the proposed work by allowing coordination of sewer repairs with other flood-mitigating infrastructure projects. By performing this coordination, the City can make strategic and optimal decisions about their infrastructure repair and replacement projects and reduce the overall impact of construction disruption on the residents and community. Creation of a CIP will reduce the overall cost of the proposed work by allowing coordination of sewer repairs with other infrastructure. A CIP plan that is coordinated across water, sewer and road projects has been shown to reduce infrastructure costs.
- 5) **Contribute to Economic Prosperity.** It is important for Berkley to create and implement a coordinated plan to minimize long term costs and maximize value to the rate payers. This will support economic prosperity of the City and maintain, or even enhance, property values. Reducing the amount of inflow and infiltration also reduces the cost to the system associated with transport and treatment of clear water.

Critical Infrastructure Planning Grant Priorities:

The proposed project addresses the Oakland County Local Government Critical Infrastructure Planning Grant program's priorities:

- 1) **Serious risk to public health** - The project has a substantial impact on public health as described in the previous section.
- 2) **Assistance for systems experiencing the greatest affordability needs** - Like all sewer systems, asset management-based planning is important for making sure that customers are getting the appropriate level of service at the lowest costs.

Budget & Project Estimates:

- ≡ The City plans to have allocate a total approximate cost of \$44,000 for the above referenced tasks/services.

Schedule:

All proposed work shall be completed on or before September 30, 2023 with preliminary planning starting within the next few months.

Contacts:

City of Berkley
Matthew Baumgarten (City Manager)
mbaumgarten@berkleymich.net

Hubbell, Roth & Clark, Inc.
Edward Zmich (Manager)
ezmich@hrcengr.com

EXHIBIT B

| | |
|-------------|-------------|
| Grant Award | Local Match |
| \$100,000 | \$100,000 |

The Grant Award will equal the local match amount listed above, any amounts above the sum of the amounts listed above will be paid through local funds.

AGREEMENT FOR LOCAL FISCAL RECOVERY FUND DISTRIBUTION BETWEEN OAKLAND COUNTY AND

City of Berkley

This Agreement (the "Agreement") is made between Oakland County, a Municipal and Constitutional Corporation, 1200 North Telegraph Road, Pontiac, Michigan 48341 ("County"), and the City of Berkley ("Public Body") 3338 Coolidge Hwy, Berkley, Michigan 48072. County and Public Body may be referred to individually as a "Party" and jointly as "Parties".

PURPOSE OF AGREEMENT. On March 11, 2021, the President of the United States signed the American Rescue Plan Act of 2021 ("ARPA") into law. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 603, which establishes the Coronavirus Local Fiscal Recovery Fund. Oakland County has been allocated \$244,270,949 in Local Fiscal Recovery Fund ("LFRF") dollars under ARPA.

The United States Department of Treasury has issued an interim final rule, and other guidance for qualified uses of LFRF. Those qualified uses include funding for water and sewer infrastructure projects that align with projects that would be eligible to receive financial assistance through the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF). County has determined that the distribution of funds in accordance with this Agreement is a qualified use of LFRF funds pursuant to the interim rule and other applicable Department of Treasury guidance.

The Oakland County Board of Commissioners has approved Miscellaneous Resolutions #21-303 and #21-382 assigning \$2,400,000 in ARPA LFRF funding for a grant program to provide Oakland County local governments with financial assistance for costs associated with the planning and design of critical ARPA eligible sewer and water infrastructure projects and a grant administration plan.

County and Public Body enter into this Agreement pursuant to the Urban Cooperation Act of 1967, 1967 Public Act 7, MCL 124.501 *et seq.*, for the purpose of County distributing a portion of its LFRF funds to Public Body.

In consideration of the mutual promises, obligations, representations, and assurances in this Agreement, the Parties agree to the following:

1. **DEFINITIONS.** The following words and expressions used throughout this Agreement, whether used in the singular or plural, shall be defined, read, and interpreted as follows:
 - a. **Agreement** means the terms and conditions of this Agreement and any other mutually agreed to written and executed modification, amendment, Exhibit and attachment.
 - b. **Claims** mean any alleged losses, claims, complaints, demands for relief or damages, lawsuits, causes of action, proceedings, judgments, deficiencies, liabilities, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of any kind which are incurred by or asserted against County or Public Body, or for which County or Public Body may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal

or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.

- c. **County** means Oakland County, a Municipal and Constitutional Corporation, including, but not limited to, all of its departments, divisions, the County Board of Commissioners, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, volunteers, and/or any such persons' successors.
 - d. **Day** means any calendar day beginning at 12:00 a.m. and ending at 11:59 p.m.
 - e. **Public Body** means the City of Berkley including, but not limited to, its council, its Board, its departments, its divisions, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, subcontractors, attorneys, volunteers, and/or any such persons' successors.
 - f. **Public Body Employee** means any employees, officers, directors, members, managers, trustees, volunteers, attorneys, representatives of Public Body, licensees, concessionaires, contractors, subcontractors, independent contractors, agents, and/or any such persons' successors or predecessors (whether such persons act or acted in their personal, representative or official capacities), and/or any persons acting by, through, under, or in concert with any of the above who use or have access to the funds provided under this Agreement. "Public Body Employee" shall also include any person who was a Public Body Employee at any time during the term of this Agreement but, for any reason, is no longer employed, appointed, or elected in that capacity.
2. **GRANT**. Subject to the terms and condition of this Agreement, and in reliance upon the Public Body's affirmations set forth below, the County agrees to make, and the Public Body agrees to accept, the grant funds.
- a. County will distribute \$100,000 in grant funds to Public Body for the project scope it included in its application to the County, which is attached and incorporated into this Agreement as **Exhibit A**.
 - b. Public body unique entity identifier (or DUNS number): ZJCKGPLD4NJ7.
 - c. Federal award identification number (FAIN): SLFRP2640
 - d. Catalog of federal domestic assistance (CFDA) number: 21.027
 - e. Federal award date: May 28, 2021
 - f. Subaward period of performance start and end date: April 2023 to October 2023.
 - g. Award is not for research & development (R&D): Funds cannot be used for research and development related expenditures.
 - h. Indirect cost rate for federal award: Indirect costs are not eligible for this Agreement.
 - i. Contact person for county/pass through entity: Kenneth Dobson.
 - j. Defined use of funds: All grant funds must be expended in accordance with this Agreement and the guidelines for ARPA funds.

3. PUBLIC BODY'S RESPONSIBILITIES.

- a. Public Body's grant match requirements, if any, are detailed in **Exhibit B** attached hereto and incorporated as part of this Agreement.
- b. Public Body shall submit to Oakland County quarterly reporting on the grant funds including:
 - 1. Project progress report including completion of deliverables included in project scope;
 - 2. Accounting of expenses incurred and grant funds expended; and 3. Any other relevant information or records, to be determined by County.
- c. Public Body shall submit to Oakland County a final report by the end of the Agreement or within 30 days after final Project completion, whichever date is sooner, on the grant funds including:
 - 1. Project completion report;
 - 2. Full accounting of its expenditure of grant funds;
 - 3. Certification of its use of grant funds and fulfillment of the terms of the Agreement; and
 - 4. Any other relevant information or records, to be determined by County.
- d. Public Body shall respond to and be responsible for Freedom of Information Act requests relating to Public Body's records, data, or other information.
- e. Public Body must comply with any other reporting requirements as may be necessary for accepting the grant funding provided for in this Agreement.

4. COUNTY'S RESPONSIBILITIES.

- a. County shall designate in writing a department, individual, or other entity to oversee the reporting requirements set forth in Section 3 above to ensure timely reporting, accurate accounting, and verification of final certification.

5. PUBLIC BODY AFFIRMATIONS.

- a. Public Body affirms that any and all representations made to County in connection with its application and this grant were accurate, truthful and complete and remain so. Public Body acknowledges that all representations and information provided have been relied on by the County to provide funding under this Agreement. Public Body shall promptly notify County, in writing, of the occurrence of any event or any material change in circumstances which would make any Public Body representation or information untrue or incorrect or otherwise impair Public Body's ability to fulfill its obligations under this Agreement.
- b. Public Body will comply with any federal, state, or local public health orders or mitigation recommendations regarding the COVID-19 pandemic which are in effect as of the date this Agreement is signed by both Parties.
- c. Public Body may not use grant funds for expenses for which the Public Body has received any other federal funds or emergency COVID-19 supplemental funding, whether it be state, federal, or private in nature, for the same expense. No portion of grant funds may be used for

the purpose of obtaining additional Federal funds under any other law of the United States, except if authorized by law. Public Body shall promptly notify County if it receives insurance proceeds or other disaster assistance (public or private) that duplicates the funding received under this Agreement. Grant funds may not be used to cover expenses that were reimbursed by insurance.

- d. Public Body shall not carry out any activities under this Agreement that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and in accordance with Section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115–254; 132 Stat. 3442), which amended Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155). If the Public Body receives duplicate benefits from another source for projects related to this disaster, the Public Body must refund the benefits provided by the County to the County. Duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.
 - e. Public Body shall use all grant funds it receives under this Agreement by December 31, 2026. Any grant funds not used by that date must be returned to County.
 - f. Public Body understands that the grant funds it receives under this Agreement are a subaward of County's LFRF funds, and that County is required to manage and monitor any subrecipient of LFRF funds. Therefore, Public Body agrees to comply with any subrecipient monitoring requirements established by County or by Federal law.
6. **REPAYMENT REMEDIES.** Public Body is subject to repayment to the County of an amount equal to the grant funds received by Public Body in the event Public Body has made material misrepresentations to the County in its application, voluntary bankruptcy or insolvency proceeding are commenced against the Public Body and not set aside within sixty (60) days, or the Public Body fails to otherwise comply with the requirements of this Agreement. In the event County later determines the information Public Body provided in conjunction with this Agreement, or that Public Body was ineligible for the grant funds, or that Public Body's use of the grant funds following receipt was contrary to this Agreement, Public Body agrees to repay the grant funds to County in full. County further retains all rights and remedies allowed in law or equity, including seeking payment of its reasonable costs and expenses incurred enforcing its rights and remedies.
7. **TAX LIABILITY.** County and Public Body agree that to the extent that any part of the aforementioned funds are deemed to be taxable, that Public Body agrees to be fully responsible for the payment of any taxes, including withholding payments, social security, or other funds which are required to be withheld. Public Body agrees to provide County with all information and cooperation necessary to execute a completed 1099-G form; which County will file with the United States Internal Revenue Service. Public Body acknowledges that Public Body will consult with a tax professional regarding the tax implications, if any, of the grant funds, and/or hereby waives the option to do so. Public Body further agrees to indemnify and hold County harmless for the payment of any tax or withholding payments, including any penalty assessed it may owe under this Agreement.

8. **CONFLICT OF INTEREST.** Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.301, *et seq.* and MCL 15.321, *et seq.*), to avoid any real or perceived conflict of interest, Public Body shall disclose to County the identity of all Public Body Employees and all relatives of Public Body Employees who: a) are employed by the County or are elected or appointed officials of the County, on the date this Agreement is executed; and b) becomes employed or appointed by the County or becomes an elected official of County during the term of the Agreement.
9. **ACCESS TO RECORDS AND AUDIT.** Payments from ARPA funds are subject to 2 C.F.R. 200.303 regarding internal controls, 2 C.F.R. 200.331-333 regarding subrecipient monitoring and management, and 2 C.F.R. Part 200 Subpart F regarding audit requirements. Where applicable, these requirements are considered legally binding and enforceable under this Agreement. Oakland County reserves the right to use any legal remedy at its disposal including, but not limited to, disallowance of costs, withholding of funds or recoupment as may be necessary to satisfy requirements. Subawards or subcontracts, if any, shall contain a provision making them subject to all of the provisions in this Agreement.

Public Body shall maintain all records pertinent to the Agreement and any amendments, including backup copies, for a period of five (5) years. The records shall be kept in accordance with generally accepted accounting practices, utilize adequate internal controls and shall maintain necessary documentation for all costs incurred, including documentation and an inventory of all equipment purchased with grant funds. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In addition to County, the U.S. Department of Treasury, or their authorized representatives, shall be provided the right to audit all records pertaining to the expenditure and use of grant funds. All records with respect to any matters covered by this Agreement shall be made available to County, the Federal awarding agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Public Body within 30 days after receipt by the Public Body. Failure of Public Body to comply with the audit requirements will constitute a violation of this Agreement.

Fund payments are considered "other federal financial assistance" under Title 2 C.F.R. 200 – Uniform

Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards ("Uniform Guidance") and are subject to the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507 or program specific audit pursuant to 2 C.F.R. 200.501(a) when Public Body spends \$750,000 or more in federal awards during their fiscal year.

Fund payments are subject to 2 C.F.R. 200.303 regarding internal controls. Subrecipient must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the Subrecipient is managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the award.

Fund payments are subject to 2 C.F.R. 200.330 through 200.332 regarding Public Body monitoring and management. Fund payments are subject to Subpart F regarding audit requirements. Failure of

Public Body to comply with the audit requirements will constitute a violation of this Agreement. Public Body may be required to submit a copy of that audit to the County in accordance with the Uniform Guidance.

10. **COMPLIANCE WITH LAWS.** Public Body shall comply with all federal, state, and local laws, statutes, ordinances, regulations, and all requirements applicable to its activities under the Agreement and grant. This includes the following:

- a. Public Body must comply with 2 C.F.R. 200.303(e) and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. 200.82, and other information County designates as sensitive or the Public Body considers sensitive consistent with applicable Federal, state, and local laws regarding privacy and obligations of confidentiality.
- b. Public Body must comply with 2 C.F.R. 200.322 if it is passing through grant funds/issuing subawards to other entities.
- c. Public Body must comply with 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements. Public Body will not pass-through grant funds to an entity listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov.
- d. Public Body must register at sam.gov.
- e. Public Body must comply with Title VI of the Civil Rights Act of 1964, and any implementing regulations, which prohibits entities receiving Federal financial assistance from excluding from a program or activity, denying benefits or services, or otherwise discriminating against a person on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity). All applicable U.S. Department of Treasury Title VI regulations are incorporated into this Agreement and made a part of this Agreement.

11. **DURATION OF INTERLOCAL AGREEMENT.**

- a. This Agreement shall be effective when executed by both Parties with resolutions passed by the governing bodies of each Party. The approval and terms of this Agreement shall be entered in the official minutes of the governing bodies of each Party. An executed copy of this Agreement and any amendments shall be filed by the County Clerk with the Secretary of State.
- b. This Agreement shall remain in effect until December 31, 2026, or until cancelled or terminated by any of the Parties pursuant to the terms of the Agreement. Public Body shall comply with the record keeping, reporting, audit response, and fund return requirements of this Agreement after the termination of this Agreement.

12. **ASSURANCES.**

- a. **Responsibility for Claims.** Each Party shall be responsible for any Claims made against that Party by a third party, and for the acts of its employees arising under or related to this Agreement.

- b. **Responsibility for Attorney Fees and Costs.** Except as provided for in Section 14, in any Claim that may arise from the performance of this Agreement, each Party shall seek its own legal representation and bear the costs associated with such representation, including judgments and attorney fees.
- c. **No Indemnification.** Except as otherwise provided for in this Agreement, neither Party shall have any right under this Agreement or under any other legal principle to be indemnified or reimbursed by the other Party or any of its agents in connection with any Claim.
- d. **Costs, Fines, and Fees for Noncompliance.** Public Body shall be solely responsible for all costs, fines and fees associated with any misuse of the the grant funds and/or for noncompliance with this Agreement by Pubic Body Employees.
- e. **Reservation of Rights.** This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity for either Party.
- f. **Authorization and Completion of Agreement.** The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.

13. TERMINATION OR CANCELLATION OF AGREEMENT.

- a. County may terminate or cancel this Agreement at any time if it determines that Public Body has expended the grant funds in violation of ARPA requirements or this Agreement. If County terminates or cancels this Agreement, Public Body shall be liable to repay County the amount of money expended in violation of ARPA requirements or this Agreement. County may utilize the provisions in Section 14 to recoup the amount of money owed to County by Public Body.
- b. Public Body may terminate or cancel this Agreement at any time. If Public Body terminates or cancels this Agreement, it shall immediately return to County any and all grant funds it has already received.
- c. If either Party terminates or cancels this Agreement they shall provide written notice to the other Party in the manner described in Section 21.

14. SETOFF OR RETENTION OF FUNDS

- a. In any case where Public Body is required to return an amount of money to County under this Agreement, Public Body agrees that unless expressly prohibited by law, County or the Oakland County Treasurer, at their sole option, shall be entitled to set off from any other Public Body funds that are in County's possession for any reason, including but not limited to, the Oakland County Delinquent Tax Revolving Fund ("DTRF"), if applicable. Any setoff or retention of funds by County shall be deemed a voluntary assignment of the amount by Public Body to County. Public Body waives any Claims against County or its Officials for any acts related specifically to County's offsetting or retaining of such amounts. This paragraph shall not limit Public Body's legal right to dispute whether the underlying amount retained by County was actually due and owing under this Agreement.

- b. Nothing in this Section shall operate to limit County's right to pursue or exercise any other legal rights or remedies under this Agreement or at law against Public Body to secure payment of amounts due to County under this Agreement. The remedies in this Section shall be available to County on an ongoing and successive basis if Public Body becomes delinquent in its payment. Notwithstanding any other term and condition in this Agreement, if County pursues any legal action in any court to secure its payment under this Agreement, Public Body agrees to pay all costs and expenses, including attorney fees and court costs, incurred by County in the collection of any amount owed by Public Body.
15. **DELEGATION OR ASSIGNMENT.** Neither Party shall delegate or assign any obligations or rights under this Agreement without the prior written consent of the other Party.
16. **NO THIRD-PARTY BENEFICIARIES.** Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right in favor of any other person or entity.
17. **NO IMPLIED WAIVER.** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.
18. **SEVERABILITY.** If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.
19. **PRECEDENCE OF DOCUMENTS.** In the event of a conflict between the terms and conditions of any of the documents that comprise this Agreement, the terms in the Agreement shall prevail and take precedence over any allegedly conflicting terms and conditions.
20. **CAPTIONS.** The section and subsection numbers, captions, and any index to such sections and subsections contained in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning. The numbers, captions, and indexes shall not be interpreted or be considered as part of this Agreement. Any use of the singular or plural, any reference to gender, and any use of the nominative, objective or possessive case in this Agreement shall be deemed the appropriate plurality, gender or possession as the context requires.
21. **NOTICES.** Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (i) the date of actual receipt; (ii) the next business day when notice is sent express delivery service or personal delivery; or (iii) three days after mailing first class or certified U.S. mail.
- a. If Notice is sent to County, it shall be addressed and sent to: Oakland County Executive, Attention: Kenneth Dobon, 2100 Pontiac Lake Rd., Waterford, MI, 48328
- b. If Notice is sent to Public Body, it shall be addressed to: City of Berkley, 3338 Coolidge Hwy, Berkley, Michigan 48072.

22. **GOVERNING LAW/CONSENT TO JURISDICTION AND VENUE.** This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

23. **SURVIVAL OF TERMS.** The Parties understand and agree that all terms and conditions of this Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

24. **ENTIRE AGREEMENT.**

- a. This Agreement represents the entire agreement and understanding between the Parties regarding the grant funds, and supersedes all other oral or written agreements between the Parties.
- b. The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

IN WITNESS WHEREOF, Matthew Baumgarten, City Manager hereby acknowledges that he/she has been authorized by a resolution of the City of Berkley, a certified copy of which is attached, to execute this Agreement on behalf of Public Body and hereby accepts and binds Public Body to the terms and conditions of this Agreement.

EXECUTED: 
Matthew Baumgarten, City Manager, City of Berkley

DATE: 4/21/2023

WITNESSED: Victoria Mitchell
Victoria Mitchell, City Clerk

DATE: 4/21/2023

IN WITNESS WHEREOF, David Woodward, Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners to execute this Agreement on behalf of Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Agreement.

EXECUTED: _____
David Woodward, Chairperson
Oakland County Board of Commissioners

DATE: _____

WITNESSED: _____
Oakland County Board of Commissioners
County of Oakland

DATE: _____

EXHIBIT A

EXHIBIT B

[Type text]

Memorandum

To: Mr. Matthew Baumgarten, City Manager, City of Berkley
Mr. Derrick Schueller, Director of Public Works, City of Berkley

From: Edward Zmich, Manager

Date: March 31, 2022

Subject: Project Summary for City of Berkley Water Service Line Verification
Oakland County Local Government Critical Infrastructure Grant

HRC Job No. 20220098

WATER SERVICE LINE VERIFICATIONS

The following is a summary of the proposed City of Berkley Water Service Line (WSL) Verifications, specifically related to developing a service line inventory through field verifications. This is provided as supplemental information for an application for funding through the Oakland County Local Government Critical Infrastructure Grant program. The proposed project also includes additional planning work for the City's combined sewer system, which is described in a separate document.

Executive Summary:

The proposed scope of work to be performed with this grant funding includes the following:

1. Actions related to inventory the materials of water service lines.
2. By applying for this funding, it is anticipated that the City will be able to comply with the verification of service line materials regulatory requirement for a complete distribution system materials inventory (CDSMI) by January 1, 2025.

Statement of Need:

This project will include the material verification of water service lines in order to comply with the State requirement under the revised Lead and Copper Rule. Each water system is required to verify materials at specific locations along a certain number of service lines (364 for the City of Berkley) in order to effectively evaluate the accuracy of service line records and predict service line materials throughout the water system to make strategic decisions regarding future lead service line replacements. By performing the water service line material verifications as required by EGLE, the City will be able to develop an inventory of the water system's service lines, strategically plan and budget for replacement of known lead service lines, and remove potential risks to public health. Because this is a mandated expense, the City receipt of grant money would lessen the burden on the rate payers.

Methods and Strategies:

The proposed scope of work and proposed service providers for the WSL verification efforts are as follows:

- 1) The City and their contracted consulting engineers will perform the professional services work associated with this project. Professional services include:
 - a) Planning and coordinating the verification locations
 - b) Scheduling, tracking, and observing the work

Delhi City
2101 Aurelius Rd.
Suite 2A
Holt, MI 48842
517-694-7760

Detroit
535 Griswold St.
Buhl Building, Ste 1650
Detroit, MI 48226
313-965-3330

Grand Rapids
81925 Breton Road SE
Suite 100
Grand Rapids, MI 49506
616-454-4286

Howell
105 W. Grand River
Howell, MI 48843
517-552-9199

Jackson
401 S. Mechanic St.
Suite B
Jackson, MI 49201
517-292-1295

Kalamazoo
834 King Highway
Suite 107
Kalamazoo, MI 49001
269-665-2005

Lansing
215 S. Washington SQ
Suite D
Lansing, MI 48933
517-292-1488

- c) Internal service line verifications
 - d) Organizing the collected information
 - e) Finalizing restoration items
 - f) Administration of grant reporting and reimbursements
- 2) The City has a competitively bid contract already in place through the Southeastern Oakland County Water Authority's (SOCWA) Water Service Line Replacement Program, of which the City is a customer of, to complete any non-professional services associated with this project. Non-professional services include:
- a) Permit acquisition
 - b) Physical verification of service line materials (including via cost-effective technologies of hydroexcavation, air-knifing, machine learning, etc.)
 - c) Site restoration of service line work area.
- 3) A portion of this WSL verifications work is being requested for inclusion in this grant program. The City plans to have approximately 156 (of the 364 total) WSL field verifications performed in 2022 as part of this grant, at a total cost of \$156,000.

Desired Outcomes:

The proposed project addresses the following Oakland County Local Government Critical Infrastructure Planning Grant Program priorities:

1) Protect Public Health.

- Removal of Lead Services protect public health
- Inventory is first step in developing a Lead Service Line Replacement (LSLR) Program
- Inventory of service lines can accelerate and streamline development and implementation of LSLR Program

Exposure to lead is a paramount public health concern and the removal of lead water service lines minimizes the opportunity for lead particulate to leach into drinking water. Historically, water supplies were not required to document service line information on the "private" side of the service line (from the curb stop into the building/premises). In addition, the origin of the City's water distribution system dates back to the early 1920's with nearly all of the system developed by 1960, so record information of the "public" side of the service line (from the water main to the curb stop) can be incomplete and ambiguous. Developing a service line inventory through the field verification of service line materials will assist the City to identify and predict where lead service lines are located within their water system and streamline the development of a lead service line replacement program; ultimately removing lead service lines from the City water system and protecting public health.

2) Preserve Natural Resources and a Healthy Environment.

- Clean, fresh drinking water is essential for quality of life
- Removal of lead service lines improves water quality
- Service line verifications are required by regulatory order

Safe drinking water is of the utmost importance to the City and essential to the quality of life of its customers. Developing a systematic approach to remove all lead service lines from the distribution system, starting with developing an inventory through the verification of service line materials, is paramount to the health and safety of water customers. The verification of service line materials would allow the City to comply with the regulatory requirement for a complete distribution system materials inventory (CDSMI) by January 1, 2025.

3) Maintain Reliable, High-Quality Service.

- Inventory provides transparency and strengthens customer confidence
- Improved customer confidence supports the cost of service and fees for O&M and CIPs
- Accurate inventory supports long-term fiscal sustainability
- Methods of inventorying supports cost-effective technologies of hydroexcavation, air-knifing, machine learning, etc.

Completing and maintaining an inventory of water service line materials provides a platform to deliver information to customers. Water service line information will be disseminated per regulatory guidance and as requested by customers to provide transparent and reliable data on City municipal assets and help strengthen customer confidence in their leadership. Customers that are provided with the data used to make decisions on how their tax dollars and service fees are spent typically understand the circumstances in which municipal operations are faced, and therefore are more likely to support increased fees for the operation and maintenance and capital improvement planning for infrastructure systems. A complete, accurate, and well-maintained service line asset inventory supports long-term fiscal sustainability by providing reliable data to make calculated decisions for removal of lead service lines and future regulatory requirements regarding water systems. Lastly, the methods to physically verify water service lines for inventorying purposes and evaluating and/or predicting the accuracy of existing service line material information will utilize state-of-the-art, emerging technologies such as hydroexcavation, air-knifing, and potentially machine learning.

4) Assure Value for Investment.

- Material investigations provides information for the "current state of assets" which is one of the 5 core principles of asset management planning.
- Inventory provides information to make strategic and optimal decisions about LSLRs to ensure greater value for investments
- Promotes the use of decision support tools to project service line materials throughout water systems

Performing service line verifications for the purposes of developing an asset inventory is critical to the successful management of the City's water service lines. Successfully managing this asset includes coordinating lead service line replacement efforts across different infrastructure projects, understanding how many lead services are in the system and where they are located to help make strategic and optimal decisions to ensure greater value for investments. Performing the physical verification of a statistically sound subset service line materials will promote the use of a decision support tool to extrapolate the data and minimize the number of service line verifications needed to complete the required complete distribution system materials inventory (CDSMI) thus reducing the investment needed in digging up water service lines and gaining the most value from the limited financial resources in the City.

5) Contribute to Economic Prosperity.

- Customers expect to receive high-quality, safe drinking water; a transparent inventory of water service line materials supports this expectation
- Planning for the removal of lead service lines supports meeting the current needs and expectations of customers
- Investment in the planning for lead service line removal enhances property values
- Inventory supports Project Plan development for LSLR projects

Drinking water is expected to be free from potentially harmful contaminants. Both the Environmental Protection Agency and the Centers for Disease Control and Prevention agree that there is no known safe level of lead for consumption. It is known that the water purchased from Great Lakes Water Authority (GLWA) through SOCWA and delivered through the City's distribution system does not contain lead and that the predominant location of exposure to lead during water delivery is at the water service line. Therefore, inventorying water service lines, providing a platform for this information to be shared with customers, and subsequently planning a lead service line replacement program supports the

expectation that water will be delivered to a customers' tap free from harmful contaminants. Support of this inventory, data transparency, and promotion of the planning for lead service line removals encourages investment into the community and enhances property values and economic prosperity. Lastly, the creation of the service inventory will aid in the potential development of Drinking Water State Revolving Fund (DWSRF) Project Plans for Lead Service Line Replacements to take advantage of proposed Infrastructure Investment and Jobs Act which has proposed at this time to set aside over \$55 billion dollars in investments to eliminate lead service lines throughout the United States.

Critical Infrastructure Planning Grant Priorities:

The proposed project addresses the Oakland County Local Government Critical Infrastructure Planning Grant program's priorities:

- 1) **Serious risk to public health**— The project has a substantial impact on public health as described in the previous section.
- 2) **Compliance with Federal and State regulations**— This project will include the verification of water service lines in order to comply with the State requirement under the revised Lead and Copper Rule.
- 3) **Assistance for systems experiencing the greatest affordability needs**—Asset management based planning will assist the City in determining the appropriate projects to ensure customers are getting their desired level of service at the lowest costs.
- 4) **Meeting Customer expectations for Reliable, High-Quality Service** – Water system customers expect clean drinking water from their taps, and the development of this service line inventory will lead directly to a plan to remove these potential sources of lead contamination in City drinking water supplies.

Budget:

The proposed budget for this grant for the water service line material verifications is \$156,000. Each service line verification is estimated at \$1,000 each, which includes notifications, communications, scheduling, internal verifications, mobile application setup and GIS support, field physical verifications at the curb stop and the organization, documentation and reporting of the work.

Project Estimates:

The competitively bid field verifications contract is provided herewith. The City plans to only utilize the field verifications of WSL points 2 & 3 for this grant.

Schedule:

All proposed work shall be completed on or before September 30, 2023. Work is anticipated to begin in the next several months. The following is a basic preliminary schedule for the proposed work:

Resident Notifications – May 2022 – September 2022

Service Line Material Verifications – September 2022 - September 2023

Contacts:

City of Berkeley
Matthew Baumgarten (City Manager)
mbaumgarten@berkleymich.net

Hubbell, Roth & Clark, Inc.
Edward Zmich (Manager)
ezmich@hrcengr.com



HUBBELL, ROTH & CLARK, INC
CONSULTING ENGINEERS SINCE 1915

MAILING: PO Box 824
Bloomfield Hills, MI 48303-0824
SHIPPING: 555 Hulet Drive
Bloomfield Hills, MI 48302-0360
PHONE: 248-454-6300
WEBSITE: hrcengr.com

Memorandum

To: Mr. Matthew Baumgarten, City Manager, City of Berkley
Mr. Derrick Schueller, Director of Public Works, City of Berkley

From: Edward Zmich, Manager

Date: March 31, 2022

Subject: Project Summary for City of Berkley Combined Sewer System Planning
Oakland County Local Government Critical Infrastructure Grant

HRC Job No. 20220098

Statement of Need:

The following is a summary of the proposed City of Berkley Combined Sewer Investigation and Planning, specifically related to planning efforts for components of the combined sewer system. This is provided as supplemental information for an application for funding through the Oakland County Local Government Critical Infrastructure Grant program. The proposed project also includes additional planning work for the City's water distribution system, which is described in a separate document.

In Fall, 2017, the City of Berkley tasked their consulting engineers, Hubbell Roth & Clark, Inc. (HRC) to prepare a City-wide Combined Sewer Capacity Study in response to basement flooding occurrences that several residents experienced during a high intensity rain event earlier that year. The study, which was developed and presented to City Council in July 2018, was also intended to explore the benefits of a catch basin restriction program expansion in reducing peak flows in the sewer system. Historically, Berkley residents have experienced basement flooding during extreme rain events; however, the occurrences were scarce following large-scale improvements made to the City and County drain systems in the 1960's and 1970's. There have been several large, intense rain events over the last few years that have caused renewed concern with the potential for basement flooding occurrences.

Several factors that can cause sewage back-up and basement flooding include the system simply being overwhelmed by the volume and intensity of storm water, a blockage (e.g., debris, roots, pipe collapse, etc.) in the City's sewer or County drain, or a blockage in the private sewer lead (from the home/business to the City's main). Frequently, private (residential, commercial, and school properties) sewer back-ups are a result of the lead being overwhelmed by the amount of storm water entering it from downspouts, footing drains and sump pumps that are directly connected. Downspouts have the most direct impact on the combined sewer; thus, it is highly recommended that all downspouts be disconnected from the sewer and instead discharged at grade.

Executive Summary:

By updating the City's Combined Sewer System Study report and Investigating additional basement flooding mitigation opportunities and programs, this project will provide tangible and phased steps to reduce flow into the City's combined sewer system during heavy rain events and to identify opportunities in flood prevention and mitigation for both the City and their residential and commercial property owners which will allow the City to be better prepared for and likely eligible to apply for funding of future projects through federal and/or state revolving loan programs. An additional goal of this project is to provide the City with the information to support the prioritization of future capital improvement projects (CIP).

Delhi City
2101 Aurelius Rd.
Suite 2A
Holt, MI 48842
517-694-7760

Detroit
535 Griswold St.
Buhl Building, Ste 1650
Detroit, MI 48226
313-965-3330

Grand Rapids
81925 Breton Road SE
Suite 100
Grand Rapids, MI 49506
616-454-4286

Howell
105 W. Grand River
Howell, MI 48843
517-552-9199

Jackson
401 S. Mechanic St.
Suite B
Jackson, MI 49201
517-292-1295

Kalamazoo
834 King Highway
Suite 107
Kalamazoo, MI 49001
269-665-2005

Lansing
215 S. Washington SQ
Suite D
Lansing, MI 48933
517-292-1488

Methods and Strategies:

The proposed scope of work to be performed with this grant funding includes the following professional and non-professional tasks, or services:

1. Phase II- Combined Sewer System Study (Update to Phase I report)
 - A. Restricted Catch Basin Covers
 - Using GIS, re-inventory all covers in ROW and City property
 - Using initial Sewer Study, make recommendations for additional restricted covers in key areas (to take place over several years)
 - B. Commercial Property/Schools Analysis
 - Impervious surface calculations to identify key flow contributors (Review SEMCOG data, etc.)
 - Restricted covers, detention, downspout inventory
 - Investigate potential equivalent residential unit (ERU) impacts, incentives
 - Review and explore revisions to the current Standards for Development for both commercial and residential properties, alongside the Storm Water Ordinance, in particular, for requiring catch basin restriction and onsite detention, lot coverage restrictions, etc. Further, the newly updated Oakland County stormwater design standards will be utilized to update the City ordinance accordingly.
 - C. Green Infrastructure
 - Reference previous Clinton Watershed/WaterTowns presentation and recommendations
 - Identify City locations for new rain gardens, bioswales, etc.
2. Research and Evaluate Community Basement Backup Protection Programs (Backwater Valves) in place in neighboring communities for potential adoption in the City of Berkeley (i.e., education, cost sharing options/arrangements, etc.).

A portion of this work is being requested for inclusion in this grant program. The City plans to allocate a total approximate amount of \$43,400 for the above referenced tasks/services.

Desired Outcomes:

The proposed project addresses the Oakland County Local Government Critical Infrastructure Planning Grant program's priorities:

- 1) **Protect Public Health.** The efforts proposed as part of this project would review the City's existing catch basin cover inventory via their GIS framework and assess all commercial and school properties (as well as all City-owned parking lots and facilities) and the existing drainage structure covers, downspout discharge points, existing detention and/or restriction components, and other pertinent site and facility features. This information would allow the City to provide recommendations to reduce flow into the City's combined sewer system and identify opportunities in flood prevention and mitigation and protect public health by reducing incidents related to sewer infrastructure overload and potential failure and reduction in system blockages and backups.
- 2) **Preserve Natural Resources and a Healthy Environment.** The project will address essential planning work to evaluate the City's restricted cover inventory, commercial and school properties, and City-owned properties resulting in proper, efficient conveyance of both stormwater and wastewater which is essential for quality of life. In addition, the information obtained from this planning work will directly contribute to reducing the potential for an overburdened, surcharging sewer system and basement backups, which is a significant benefit to the environment.
- 3) **Maintain Reliable, High-Quality Service.** The project will perform essential planning work to update and complete evaluation of the City's commercial and school properties as well as City-owned properties and set the City up for long-term fiscal sustainability. The property evaluation work will culminate an updated CIP that prioritizes cost-effective rehabilitation to reduce the probability and consequence of overburdened, surcharging sewers and basement sewage backups. The CIP will assist the City in developing a longer, more stable rate structure that reflects the required

maintenance needs and provides the transparency necessary for its customer base to support the cost of service.

- 4) **Assure Value for Investment.** Development of an updated CIP will support wise investment in the City's infrastructure and reduce the overall cost of the proposed work by allowing coordination of sewer repairs with other flood-mitigating infrastructure projects. By performing this coordination, the City can make strategic and optimal decisions about their infrastructure repair and replacement projects and reduce the overall impact of construction disruption on the residents and community. Creation of a CIP will reduce the overall cost of the proposed work by allowing coordination of sewer repairs with other infrastructure. A CIP plan that is coordinated across water, sewer and road projects has been shown to reduce infrastructure costs.
- 5) **Contribute to Economic Prosperity.** It is important for Berkley to create and implement a coordinated plan to minimize long term costs and maximize value to the rate payers. This will support economic prosperity of the City and maintain, or even enhance, property values. Reducing the amount of inflow and infiltration also reduces the cost to the system associated with transport and treatment of clear water.

Critical Infrastructure Planning Grant Priorities:

The proposed project addresses the Oakland County Local Government Critical Infrastructure Planning Grant program's priorities:

- 1) **Serious risk to public health** - The project has a substantial impact on public health as described in the previous section.
- 2) **Assistance for systems experiencing the greatest affordability needs** - Like all sewer systems, asset management-based planning is important for making sure that customers are getting the appropriate level of service at the lowest costs.

Budget & Project Estimates:

- ≡ The City plans to have allocate a total approximate cost of \$44,000 for the above referenced tasks/services.

Schedule:

All proposed work shall be completed on or before September 30, 2023 with preliminary planning starting within the next few months.

Contacts:

City of Berkley
Matthew Baumgarten (City Manager)
mbaumgarten@berkleymich.net

Hubbell, Roth & Clark, Inc.
Edward Zmich (Manager)
ezmich@hrcengr.com

May 6, 2024 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to award the contract for the Coolidge Highway Crosswalk Pavement Marking Improvements to the lowest qualified bidder, P.K. Contracting LLC, of Troy, MI, in an amount of \$53,580.50. In addition, allocating an additional 10 percent construction contingency (\$5,358) and a not-to-exceed Construction Engineering amount of \$7,200 for a total not-to-exceed project cost of \$66,138.50. Projected costs of this project will be split with the Berkley Downtown Development Authority (account number 248-902-972-200) covering up to \$44,312.80 of the cost and the City of Berkley (account number 202-475-818-200) covering the remaining \$21,825.70.

Ayes:

Nays:

Motion:



MEMORANDUM

To: Mayor Dean and City Council
From: Shawn Young, Director Of Public Works
Date: May 6th, 2024
Subject: Coolidge Highway Pavement Marking Improvements

Madam Mayor and Members of City Council,

Background

During the past year there has been a renewed interest in pedestrian and traffic safety along the Coolidge Corridor. A joint effort between City Staff, DDA, and HRC a plan was developed to improve the current configurations of the Pavement Markings. The overall goal of these improvements is to enhance pedestrian and driver safety while still allowing access for Emergency Vehicles and Maintenance Operations.

Summary

- As a result of the above, Hubbell, Roth & dark (HRC) has completed the plans and specifications and the project was publicly bid on two separate occasions before receiving a qualified response.
- Sealed hard-copy bids were received via BidNet Direct on April 4th from a single contractor (see attached bid tab). HRC has reviewed the bid and verified references.
- Projected costs for this project will be split with the Downtown Development Authority (account number 248-902-972-200) covering up to \$44,312.80 of the total cost and City of Berkley (account number 202-475-818-200) covering the remaining \$21,825.70.
- We have targeted a summer of 2024 completion date for this project.

Recommendation

- We concur with the recommendation of HRC and propose awarding the bid to the lowest-qualified bidder, P.K. Contracting, LLC of Troy, MI in an amount of \$ 53,580. 50
- At this time, we also recommend \$7, 200 be approved for construction engineering services in accordance with the attached detailed proposal from HRC along with a 10% construction contingency of \$5,380 be added to the low bid amount for any unforeseen construction modifications.

Motion to approve the contract for the Coolidge Highway Crosswalk Pavement Marking Improvements to the lowest qualified bidder, P.K. Contracting LLC, of Troy MI, in an amount of \$53,580.50 In addition, allocate an additional 10% construction contingency (\$5,358.00) and a not to exceed Construction Engineering amount of \$7,200 for total not to exceed project cost of \$66,138.50. Projected costs of this project will be split with the Berkley Downtown Development Authority (account number 248-902-972-200) covering up \$44,312.80 of the cost and the City of Berkley (account number 202-475-818-200) covering the remaining \$21,825.70



April 5, 2024

City of Berkley
3338 Coolidge Hwy
Berkley, Michigan 48072

Attn: Matt Baumgarten, City Manager
Shawn Young, DPW Director

Re: Recommendation for Award and Bid Tabulation
Coolidge Highway Pavement Marking Improvements

HRC Job No. 20240094

Dear Mr. Baumgarten and Mr. Young:

We have reviewed the bids received on Thursday, April 4, 2024, for the Coolidge Highway Pavement Marking Improvements and have found them to be in order. There was one (1) bid received. P.K. Contracting, LLC of Troy, Michigan with a total bid of **\$53,580.50**. The bid includes \$51,791.50 for pavement markings on Coolidge Highway and an additional \$1,789 on Dorothea Road.

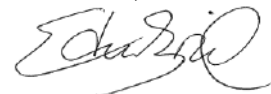
The bidder has provided satisfactory references for similar work in the Cities of Beverly Hills, Grand Rapids, and Saginaw. In addition, P.K. Contracting has satisfactorily performed construction services for the City of Berkley in previous years.

On the basis of the above, this office recommends award of the Coolidge Highway Pavement Marking Improvements to P.K. Contracting, LLC. of Troy, Michigan, with a total estimated cost of **\$53,580.50**, subject to the submission of the necessary bonds and insurance. We recommend that an additional 10% contingency (**\$5,358.00**) be added to the bid amount. Further, the total construction engineering budget would be a not-to-exceed maximum of **\$7,200** and includes costs for construction administration and field observation.

Based on the above, the total budget for the Coolidge Highway Pavement Marking Improvements, including costs for contingencies and construction engineering, is a **not-to-exceed maximum amount of \$66,138.50**. If you have any questions or comments or require any additional information, please do not hesitate to call.

Very truly yours,

HUBBELL, ROTH & CLARK, INC.



Edward Zmich
Project Manager/Engineer



Roland N. Alix, P.E.
Vice President

EDZ/kab

Attachment: Bid Tabulation

pc: HRC; M. Stark, K. Barauskas, File

P. K. Contracting
1965 Barnett Dr.
Troy, MI 48084

| Item | Quantity | Unit Price | Total Cost |
|------|----------|------------|------------|
|------|----------|------------|------------|

COOLIDGE HIGHWAY

| | | | | | | | |
|--------------|--|-------|-----|----|----------|----|-----------|
| 1 | Mobilization (Max. 5%) | 1 | LS | \$ | 2,600.00 | \$ | 2,600.00 |
| 2 | Fdn, Perforated Steel Square Tube Sign Breakaway System, Rem | 1 | EA | \$ | 500.00 | \$ | 500.00 |
| 3 | Sign, Type III, Rem | 2 | EA | \$ | 50.00 | \$ | 100.00 |
| 4 | Sign, Type IIIB | 17 | Sft | \$ | 25.00 | \$ | 425.00 |
| 5 | Steel Post System | 3 | EA | \$ | 300.00 | \$ | 900.00 |
| 6 | Grd Mtd Sign Support, Ren | 1 | EA | \$ | 50.00 | \$ | 50.00 |
| 7 | Pavt Mrkg, Longit, 6 inch or Less Width, Rem | 1,250 | Lft | \$ | 0.75 | \$ | 937.50 |
| 8 | Pavt Mrkg, Longit, Greater than 6 inch Width, Rem | 3,900 | Lft | \$ | 0.85 | \$ | 3,315.00 |
| 9 | Rem Spec Mrkg | 1,800 | Sft | \$ | 2.95 | \$ | 5,310.00 |
| 10 | Pavt Mrkg, Ovly Cold Plastic, 6 inch, Crosswalk | 750 | Lft | \$ | 3.50 | \$ | 2,625.00 |
| 11 | Pavt Mrkg, Ovly Cold Plastic, 12 inch, Crosswalk | 1,400 | Lft | \$ | 6.50 | \$ | 9,100.00 |
| 12 | Pavt Mrkg, Waterborne, 12 inch, White (Cross Hatching) | 2,300 | Lft | \$ | 1.50 | \$ | 3,450.00 |
| 13 | Pavt Mrkg, Ovly Cold Plastic, 24 inch, Stop Bar | 400 | Lft | \$ | 15.00 | \$ | 6,000.00 |
| 14 | Pavt Mrkg, Ovly Cold Plastic, Bike, Small Sym | 24 | EA | \$ | 140.00 | \$ | 3,360.00 |
| 15 | Pavt Mrkg, Ovly Cold Plastic, Directional Arrow (Bike) | 24 | EA | \$ | 140.00 | \$ | 3,360.00 |
| 16 | Pavt Mrkg, Ovly Cold Plastic, Sharrow Symbol | 7 | EA | \$ | 225.00 | \$ | 1,575.00 |
| 17 | Pavt Mrkg, Ovly Cold Plastic, Lt Turn Arrow Sym | 13 | EA | \$ | 195.00 | \$ | 2,535.00 |
| 18 | Pavt Mrkg, Ovly Cold Plastic, Rt Turn Arrow Sym | 5 | EA | \$ | 195.00 | \$ | 975.00 |
| 19 | Pavt Mrkg, Ovly Cold Plastic, Only | 13 | EA | \$ | 195.00 | \$ | 2,535.00 |
| 20 | Pavt Mrkg, Waterborne, 6 inch, White | 2,400 | Lft | \$ | 0.69 | \$ | 1,656.00 |
| 21 | Pavt Mrkg, Waterborne, 6 inch, Yellow | 700 | Lft | \$ | 0.69 | \$ | 483.00 |
| TOTAL AMOUNT | | | | | | \$ | 51,791.50 |

ALTERNATE BID (Dorothea Rd)

| | | | | | |
|------------------------------|---|----|-----|---------|------------|
| 1 | Pavt Mrkg, Longit, 6 inch or Less Width, Rem | 13 | Lft | \$10.00 | \$130.00 |
| 2 | Pavt Mrkg, Longit, Greater than 6 inch Width, Rem | 69 | Lft | \$10.00 | \$690.00 |
| 3 | Pavt Mrkg, Waterborne, 6 inch, White | 57 | Lft | \$17.00 | \$969.00 |
| TOTAL AMOUNT - ALTERNATE BID | | | | | \$1,789.00 |

BID SUMMARY

| | |
|----------------------------------|-------------|
| TOTAL BID AMOUNT - ALTERNATE BID | \$53,580.50 |
|----------------------------------|-------------|

ENGINEER:
Hubbell, Roth & Clark, Inc.
555 Hulet Drive
P.O. Box 824
Bloomfield Hills, MI 48083-0824

May 6, 2024 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember
_____ to consider a license agreement for a municipal parking lot at parcel
#04-25-07-478-042, Garden Central.

Ayes:

Nays:

Motion:

MEMORANDUM

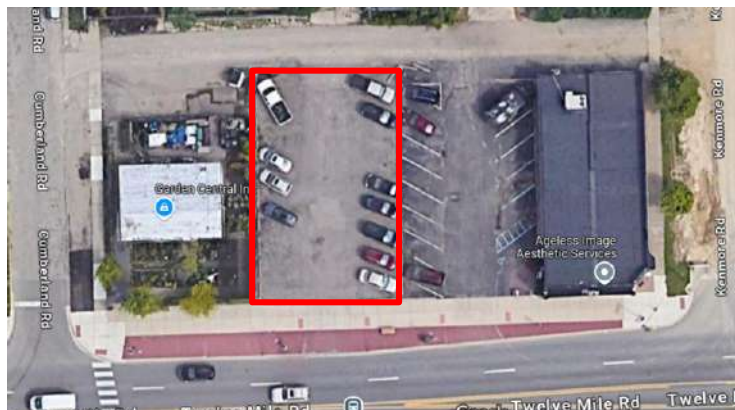
To: Mayor Dean and City Council
From: Kristen Kapelanski, Community Development Director
Date: May 6, 2024
Subject: License Agreement for Municipal Parking at Parcel #04-25-07-478-042

Background

- The City Council approved the Berkley Parking Study completed in conjunction with the DDA in 2023.
- As a way to expand municipal parking without acquiring land and constructing a new lot, the study recommended the use of license agreements to allow for public use of private lots.
- The owner of parcel #04-25-07-478-042 approached the City to inquire about use of the parcel as a public lot.

Summary

- Staff became aware that the owner of Parcel #04-25-07-478-042 (next to the Garden Central store) was interested in entering into a license agreement with the City to allow for public use of the existing lot.
- This area of Twelve Mile is several blocks from any municipal lot.
- Staff worked with the City Attorney and the property owner to draft a license agreement allowing for public use of the lot in exchange for maintenance of the lot, including snow removal and suspension of property taxes and stormwater/sewer charges.
- The initial term of the agreement is five years with automatic one-year renewals.



Recommendation

Approval of the license agreement to allow for a municipal parking lot on Parcel #04-25-07-478-042.

LICENSE AGREEMENT FOR MUNICIPAL PARKING LOT

This Agreement is executed and effective as of March , 2024 (“the Effective Date”), by James S. Millman, Trustee of the James S. Millman Revocable Living Trust dated April 25, 1988, as amended (“Owner”), whose address is 29503 Shenandoah, Farmington Hills, MI 48331 , and the CITY OF BERKLEY (“City”), a Michigan municipal corporation, whose address is 3338 Coolidge Highway, Berkley, MI 48072.

Recitals

WHEREAS, Owner owns a parcel of real property (the "Property"), shown in Exhibit A, and described as:

T1N, R11E, SEC 7 ST. JOHN WOODS SUB LOTS 140, 141 & 142 9-24-07 FR
031, 032 & 037, City of Berkley, Oakland County, Michigan.

Parcel ID No. 04-25-07-478-042

WHEREAS, the City has requested permission from the Owner to use the Property for the purpose of maintaining and operating a public, municipal parking lot.

WHEREAS, Owner is willing to permit the exclusive use of the Property by the City for that purpose, upon the terms and conditions hereinafter set forth.

NOW THEREFORE, for and in consideration of such permission and the mutual promises made herein, Owner and City agree as follows:

1. The City, its agents, contractors, employees, and invitees, including members of the public, may enter upon and use the Property for the purpose of maintaining, operating and utilizing a municipal parking lot.
2. The City, its agents, contractors, employees and invitees, including members of the public, will have the right of ingress and egress over, across and upon the Property as necessary for the use permitted hereby.
3. This License will commence on the Effective Date and will continue for five (5) years (the “Initial Term”) from the Effective Date or such earlier date of termination as provided in this License Agreement. After the Effective Date, City intends and Owner approves the City improving the lot, at City’s expense, including surface improvements and painting. After the expiration of the Initial Term, absent a notice of termination pursuant to Section 5 below, the term will automatically renew for successive periods of one (1) year each. If within the Initial Term, or any renewal term, Scott Pittman, the current shareholder of Garden Central Inc., a Michigan corporation dies, becomes disabled, retires, or otherwise ceases doing business at 2682 W. Twelve Mile Road, Berkley, Michigan. (“Pittman Termination Event”),

Owner may terminate this License with ninety (90) days prior notice. If the termination of this License occurs during the Initial Term, Owner shall reimburse City for the actual costs incurred, up to an amount which shall not exceed seven thousand five hundred (\$7,500) dollars, spent by City on the Property for improvements. The City shall provide written evidence of its improvement costs to Owner. No reimbursement shall be required if the termination occurs after the Initial Term.

4. The City agrees, beginning on the Effective Date of this License and continuing for the duration of this License, to reimburse Owner in the amount of one hundred percent (100%) of the City tax portion of the real property taxes including any special or other assessments the Owner pays for the Property. In addition, the City will waive and forgive, during the Initial Term and any renewal term, all stormwater service\sewage charges that would otherwise be due for the Property under City Code Sec. 126-162.
5. After the expiration of the Initial Term, Owner and City will each have the right to terminate this License at any time, for any reason or for convenience, by written notice to the other party. The effective date of termination will be ninety (90) days if termination is provided due to a Pittman Termination Event or one (1) year from the date of the notice of termination if termination is for any other reason, regardless of any then-effective renewal term. Notwithstanding any other provision of this License, the parties intend that this License will constitute a terminable license, and no interest in real property is created hereby. The Owner is not transferring ownership of or dedicating the Property to the public.
6. The City will not erect or permit any structures or improvements upon the Property, and the City will not make or permit any use of the Property other than those improvements and uses expressly permitted in this License.
7. During the term of this License, the City will maintain the Property in good order and condition in all respects, free from snow, ice, trash and debris, weeds, or other nuisance. The City will use reasonable commercial efforts to avoid use of chemicals or substances that would damage the inventory of the adjacent garden store. Prior to the effective date of the termination of this License, the City will remove its personal property and, if necessary, reasonably restore the Property to the same condition as it was in prior to the City's use, less reasonable wear and tear and depreciation. For the avoidance of doubt, Owner shall have no obligations for maintenance, repair, or replacement.
8. The City represents and warrants, and it is made a condition of this License, that the use of the Property by the City will not result in the release of any hazardous materials (other than non-reportable quantities associated with typical leaks from automobiles in the ordinary course of operation), as those terms are defined by state and federal law.

9. The City, for itself and its officials, agents, contractors, employees, and invitees, releases and will indemnify, defend and hold harmless, the Owner, its officers, agents and employees from and against all demands, claims, actions, damages, costs, expenses, losses or liability whatsoever including reasonable attorney fees consultant fees and defense costs in any manner resulting from or arising out of the actions of any City employee, agent, contractor, or business invitee including individuals parking their cars in the lot, with respect to the Property or the use thereof, or in any manner resulting from or arising out of the use of the Property by any of the aforementioned persons, including, without limitation, any failure of any person to comply with any applicable laws or regulations, except to the extent that liability results from the negligence or willful misconduct of the Owner, its employees, agents, invitees, or contractors. This provision will survive the termination of this License.
10. The City will procure and maintain at its expense, at all times during the term of this License Agreement, public liability insurance, including personal injury and property damage, in the amount of \$2,000,000 combined single limit, against all claims and demands of any injury to person or property which may occur or be claimed to have occurred on the Property as the result of the use of the Property by any person. The City shall provide a current certificate of insurance listing the Owner as additional insured upon written request by Owner. The insurance shall provide the Owner with thirty (30) days' written notice of cancellation.
11. Notices, statements and other communications to be given under the terms of this License must be in writing and delivered by hand, or sent by first class mail or email and addressed as follows:

If to Owner:

James S. Millman, as Trustee
29503 Shenandoah
Farmington Hills, MI 48331

Email: rxman741@sbcglobal.net

If to the City:

City of Berkley
3338 Coolidge Highway Berkley, MI
48072
Attn: City Manager
Email: ngeinzer@berkleymich.net

12. This License is personal to the City, and the City may not assign or transfer its rights and obligations hereunder, in whole or in part to any other person, without

Owner's consent. This provision does not preclude use of the Property for a municipal parking lot as contemplated hereby.

13. This License contains all the agreements of the parties with respect to the subject matter thereof and supersedes all prior agreements and dealings between them with respect to such subject matter.
14. The City acknowledges the Owner will not be providing, and is under no obligation to provide, any security or lighting for the Property.

IN WITNESS WHEREOF, the parties have executed this License Agreement by and through their respective duly authorized representatives, as of the day and year first above written.

OWNER:

By: _____
James S. Millman, as Trustee of the James
S. Millman Revocable Living Trust dated
April 25, 1988

CITY OF BERKLEY:

By: _____
Nate Geinzer, Interim City Manager

May 6, 2024 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember
_____ to reaffirm the City of Berkley's participation in the WaterTowns grant
initiative and providing related staff direction.

Ayes:

Nays:

Motion:



MEMORANDUM

To: Mayor Dean and City Council
From: Nate Geinzer, Interim City Manager

Date: May 06, 2024
Subject: Reaffirming the City of Berkley's Participation in the WaterTowns™ Grant Initiative and Providing Related Staff Direction

Madam Mayor and Members of City Council,

Background

- At the December 2, 2019 City Council meeting, City Council unanimously adopted a resolution to join the CRWC WaterTowns™ initiative. A copy of the staff memo, report, and summary presentation are provided for reference.
- Through the WaterTowns™ initiative, the Clinton River Watershed Council (CRWC) provides community development support to municipal governments with the goal of leveraging the “placemaking” potential of the Clinton River and Lake St. Clair. CRWC has worked for many years with partners such as SEMCOG, Macomb County, Oakland County, and the Lake St. Clair Tourism Initiative to advance watershed management, the blue economy, tourism, and green infrastructure. WaterTowns™ unifies these efforts under one umbrella program.
- Through a partnership with the Lawrence Tech Great Lakes Stormwater Management Institute, CRWC has studied the Green Infrastructure potential in nine WaterTowns™ communities. Each community studied was presented with an a la carte menu of green infrastructure choices with graphic renderings and cost estimates associated with each idea. The purpose for breaking down each design was so that the community could sort out which costs would be achievable over a period of time and to budget appropriately for installation and match dollars for potential grants when they become available.

Summary

- The CRWC in collaboration with the Oakland County Water Resources Commission (WRC) are gearing up to submit for a multi-million dollar grant application to fund projects throughout our community and elsewhere within the watershed.

- The City has been asked to affirm its commitment to support the implementation of those projects submitted with the grant that would be constructed in the community. Although it should be noted, there is no financial commitment required, and the WRC will be handling the administration and implementation of the grant, the City will be responsible to help facilitate the implementation of the projects and we will be responsible for ongoing maintenance.

Berkley



| GSI_Type | Location | Cost 2024 (GSI Only) | Storage Volume (GAL) | \$/Gal | Average Annual Volume Reduction (GAL) | GSI Surface Area (SF) | Impervious Area Treated (SF) |
|---|---------------------------|----------------------|----------------------|---------|---------------------------------------|-----------------------|------------------------------|
| Bioretention | 12 Mile Rd and Robina Ave | \$ 110,160 | 47868 | \$ 2.30 | 479009 | 4266 | 22816 |
| Bioretention | Jaycee Park | \$ 104,520 | 34504 | \$ 3.03 | 158656 | 4100 | 7551 |
| Permeable Pavement/Infiltration Reservoir | 12 Mile and Gardner Ave | \$ 88,440 | 25224 | \$ 3.51 | 276676 | 2686 | 13168 |
| Bioretention | Parks and Rec Parking Lot | \$ 164,520 | 37964 | \$ 4.33 | 487131 | 3112 | 24122 |
| Permeable Pavement | Jaycee Park | \$ 91,560 | 13615 | \$ 6.73 | 133336 | 3500 | 6351 |

DRUMMOND CARPENTER

- After reviewing the projects originally discussed in 2020 and consulting with staff, it would be my recommendation that we consolidate the City's focus to produce more concentrated outcomes and consolidate maintenance requirements, while we learn to manage these highly beneficial, yet maintenance intensive (at times) stormwater management practices.
- Given the current condition of the Parks and Recreation Parking Lot, staff recommends we place our focus on the reconstruction of this important asset, seeking to enhance/expand the originally proposed design concept, with a secondary focus being placed on Jaycee Park.

Recommendation

Consider offering a motion affirming R-40-19 stating the City's commitment to the WaterTowns™ initiative and consider directing the City Manager to focus the City's grant participation interest towards the Parks and Recreation Parking lot and Jaycee Park.



EPA Community Change Grant

DRUMMOND CARPENTER

Introduction

The EPA was awarded \$3 billion in funding through the Inflation Reduction Act (IRA) to advance environmental and climate justice activities that benefit disadvantaged communities.



- ❖ This includes \$2.8 billion for grants, with \$2 billion for the Community Change Grant (CCG) Program
- ❖ The remaining \$200 million are reserved for technical assistance for these grants.
- ❖ Grants must be completed within 3 years, there will be no extensions beyond 3 years.
- ❖ All grants will be awarded by September 30th of 2026

Overall Program Goals

Grants will be awarded with the following goals in mind.



- ❖ Fund community-driven pollution and climate resiliency solutions.
- ❖ Invest in strong cross-sectoral collaborations with partners working with and for communities.
- ❖ Unlock access to more significant resources.
- ❖ Strengthen communities' decision-making power.

Tracks

Grants are categorized as either Track I or Track II.

Track I

Community-Driven Investments for Change

Funding Available: approx. \$1.96 billion

Number of Awards: approx. 150

Per Award Amount: \$10M – \$20M each

Track II

Meaningful Engagement for Equitable Governance

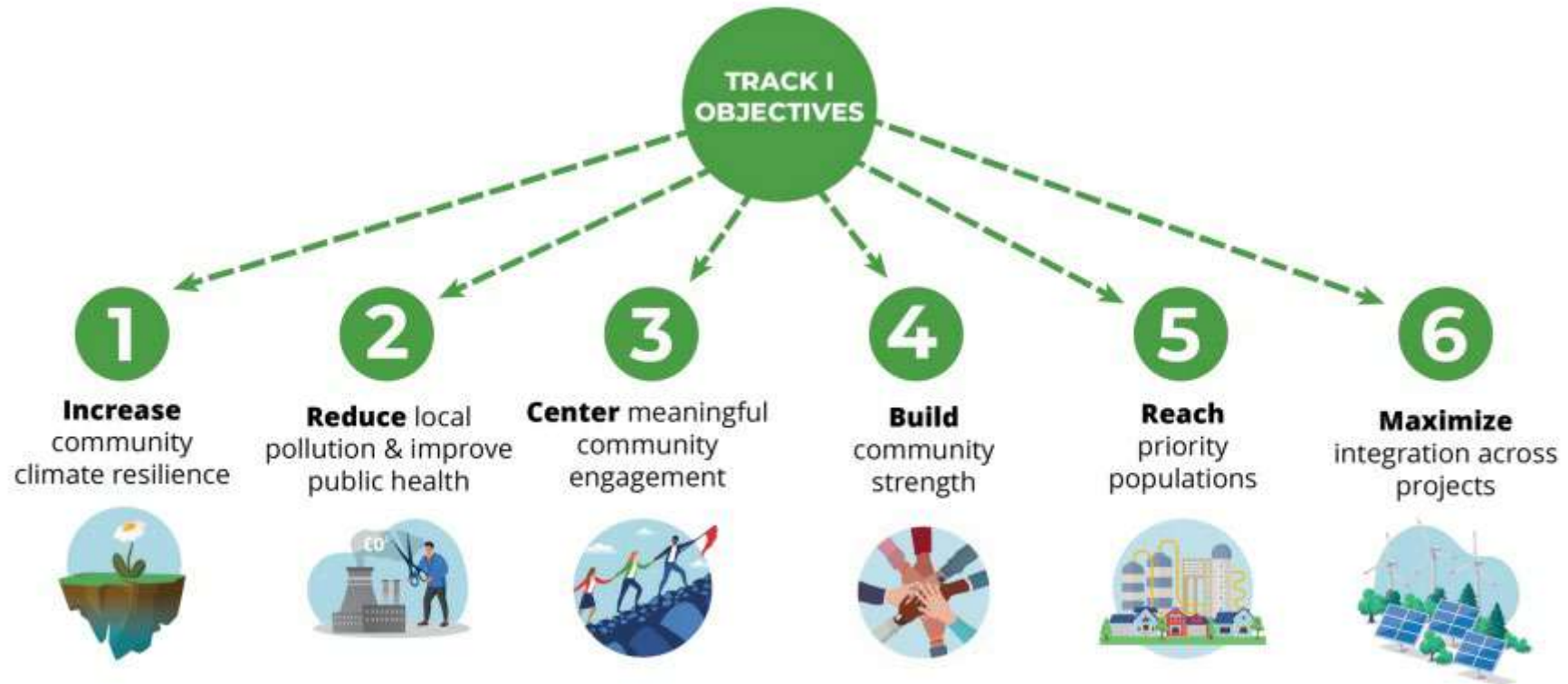
Funding Available: approx. \$40 million

Number of Awards: approx. 20

Per Award Amount: \$1M – \$3M each

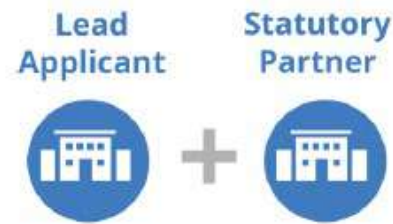
Track I Objectives

Track I applicants have the following objectives:



Track 1 Applications

Track I applicants must include a community based organization (CBO) and one additional entity:



CBO + CBO

CBO + Federally Recognized Tribe

CBO + Local Government

CBO + Institution of Higher Education

Note: While the CBO does not have to be the "Lead Applicant," all statutory partnerships must include a CBO.

George W. Kuhn Resiliency Project

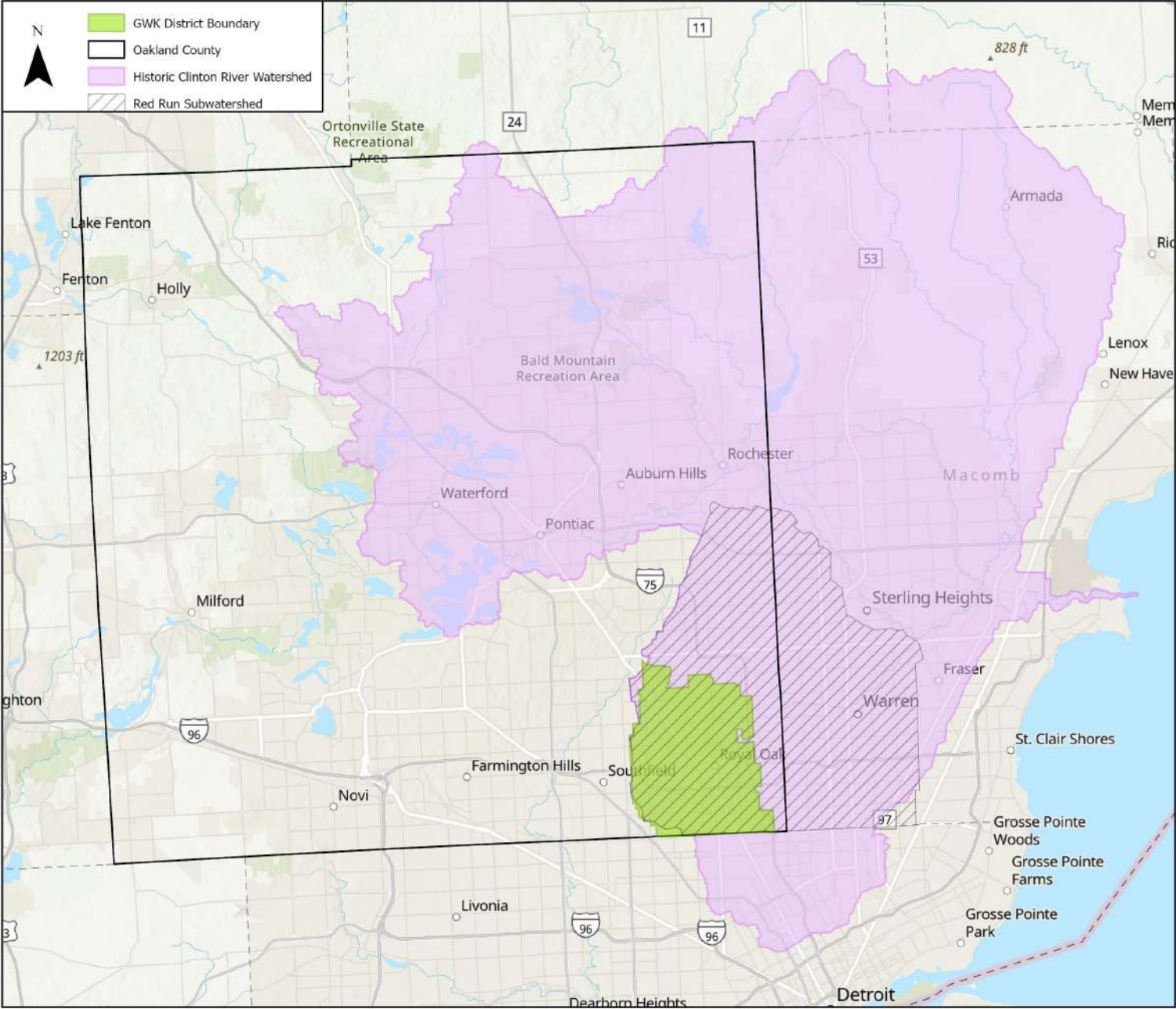
Implement green stormwater infrastructure across the GWK Area through WaterTowns, RainSmart Rebate Program, and other targeted projects.

Partners are OCWRC (GWK Drainage Board), Clinton River Watershed Council, Detroit Zoological Society, and local communities (WaterTowns).



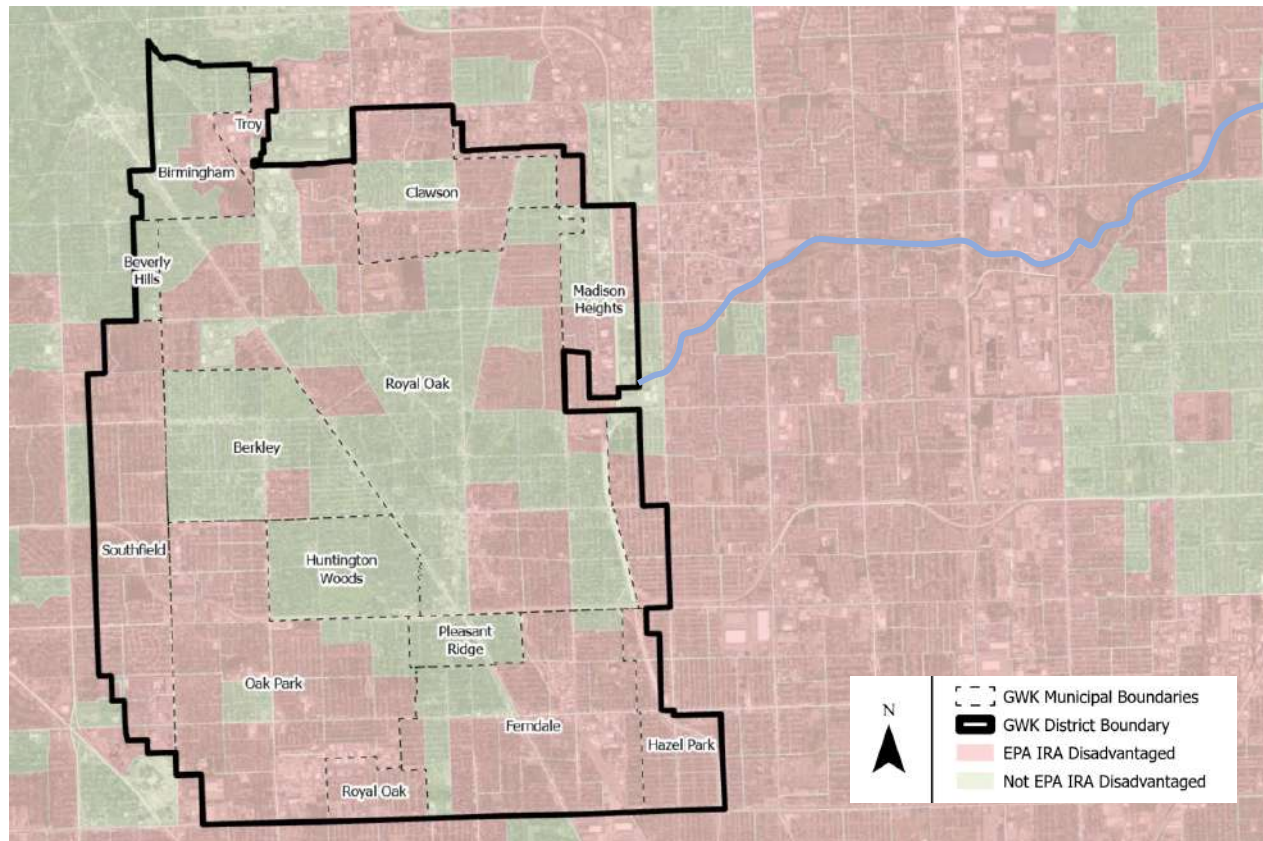
Project Area

Project Area - GWK



Communities in the GWK

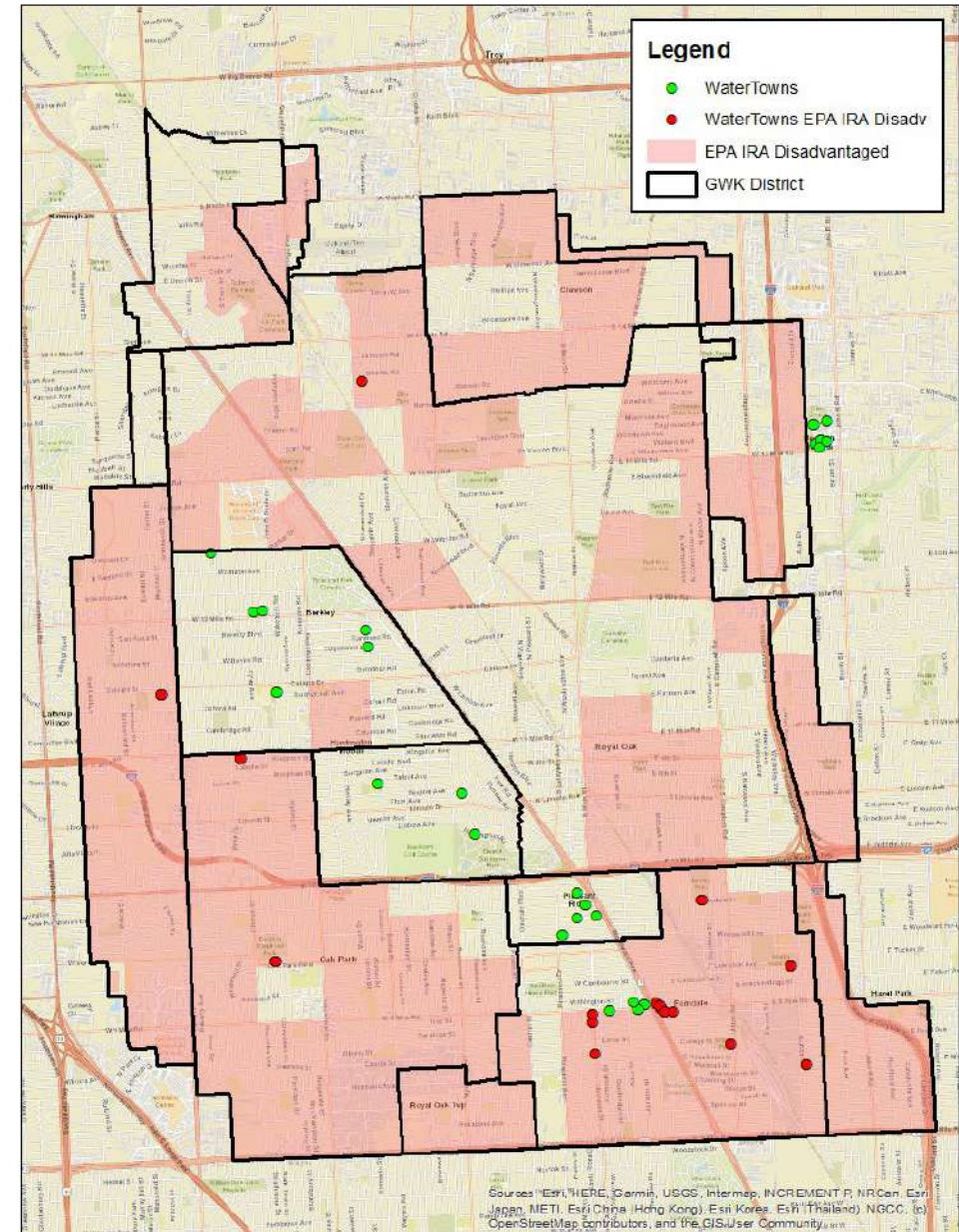
There are 14 communities located at least partially within the GWK district, 11 of which contain disadvantaged block groups within GWK district boundaries.



- ❖ 183 census block groups at least partially within the GWK
- ❖ 101 are categorized as EPA IRA disadvantaged
- ❖ Downstream communities along the Red Run are also EPA IRA disadvantaged

Project Locations – WaterTowns

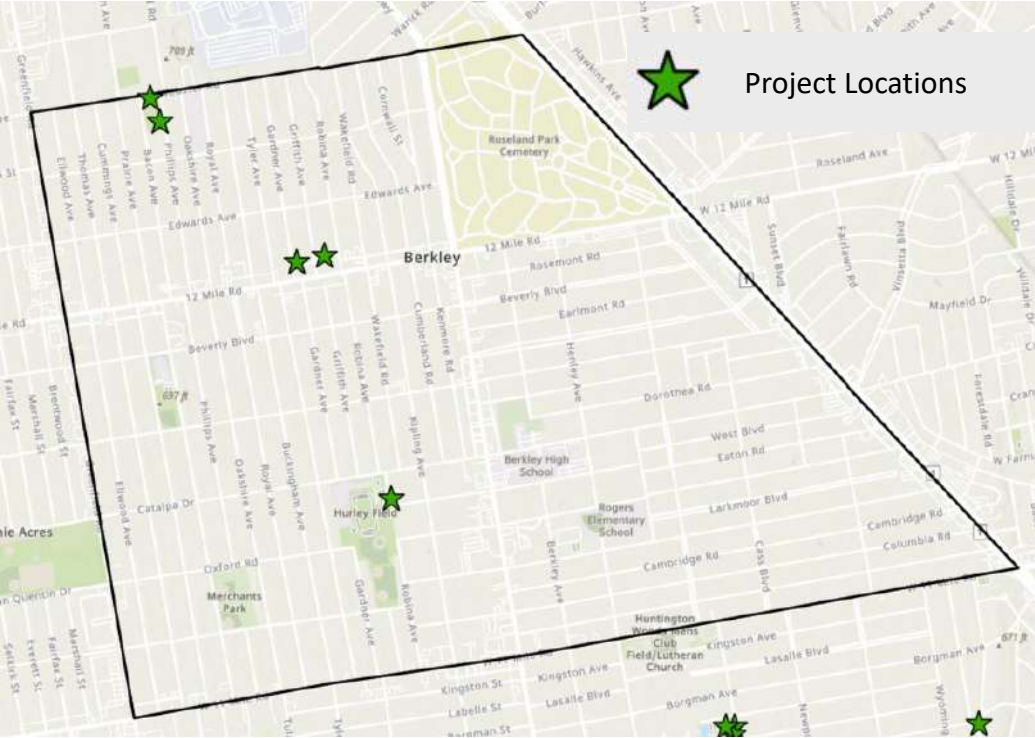
- ❖ Berkley (2020)
- ❖ Ferndale (2020)
- ❖ Huntington Woods (2017)
- ❖ Pleasant Ridge (2021)
- ❖ Oak Park (2024)
- ❖ Oakland County (2024)





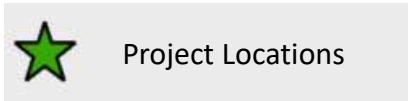
Project Summaries

Berkley



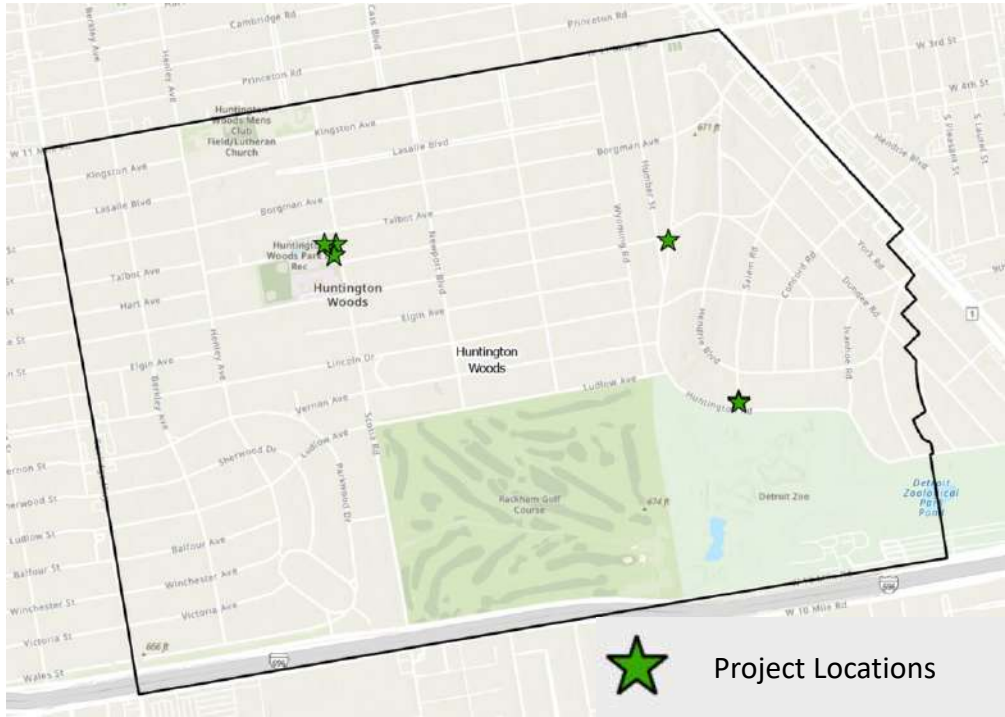
| GSI_Type | Location | Cost 2024 (GSI Only) | Storage Volume (GAL) | \$/Gal | Average Annual Volume Reduction (GAL) | GSI Surface Area (SF) | Impervious Area Treated (SF) |
|--|---------------------------|-------------------------|----------------------------|---------|---|--------------------------|---------------------------------|
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| Permeable Pavement | Jaycee Park | \$ 91,560 | 13615 | \$ 6.73 | 133336 | 3500 | 6351 |

Ferndale



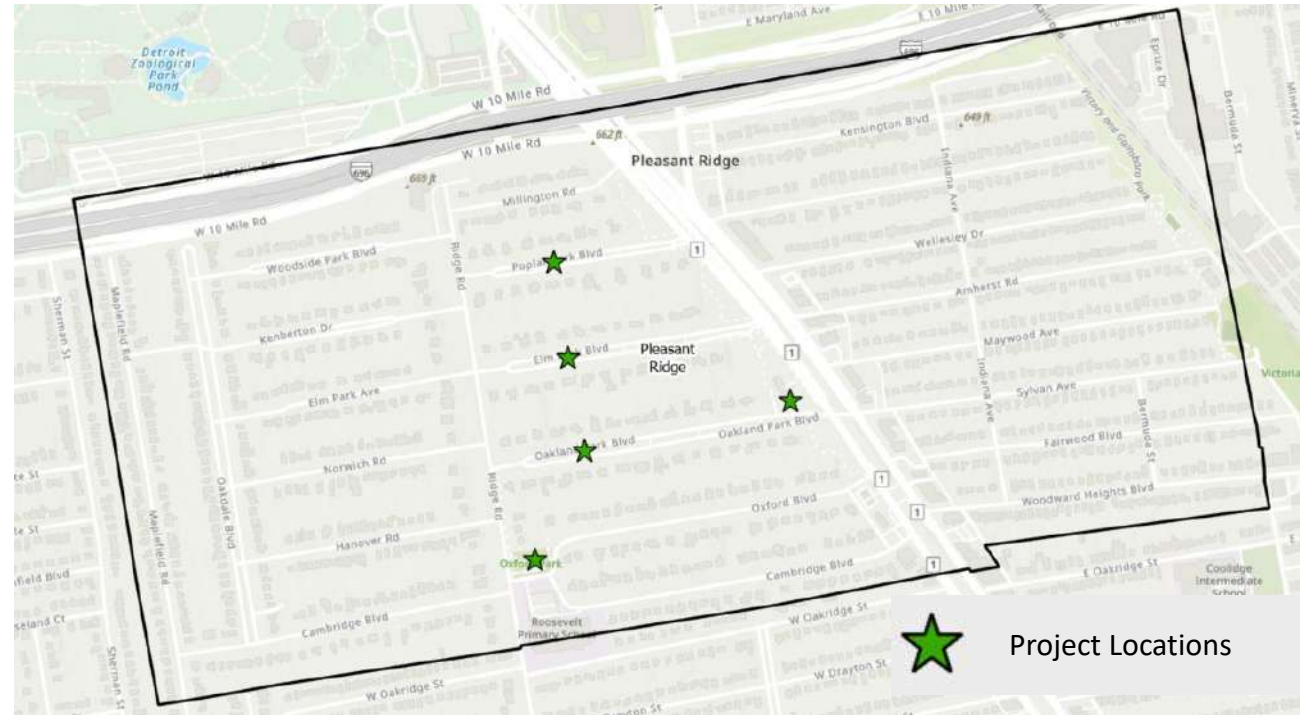
| GSI_Type | Location | Cost 2024 (GSI Only) | Storage Volume (GAL) | \$/Gal | Average Annual Volume Reduction (GAL) | GSI Surface Area (SF) | Impervious Area Treated (SF) |
|--|---------------------------------------|-------------------------|----------------------------|---------|---|--------------------------|---------------------------------|
| Bioretention | E 9 Mile Rd Public Parking (North) | \$ 26,160 | 15163 | \$ 1.73 | 247589 | 489 | 15242 |
| Bioretention | Livernois and W 9 Mile Rd | \$ 11,640 | 3942 | \$ 2.95 | 32394 | 590 | 1543 |
| Bioretention | Livernois St Boulevard | \$ 55,800 | 16996 | \$ 3.28 | 171767 | 2550 | 8215 |
| Permeable Pavement/Infiltration Reservoir | Rustbelt Alley | \$ 156,720 | 46476 | \$ 3.37 | 115562 | 4850 | 5500 |
| Bioretention | W 9 Mile Rd curb extensions | \$ 81,840 | 23668 | \$ 3.46 | 203532 | 580 | 17420 |
| Permeable Pavement/Infiltration Reservoir | SE Alley (south of 9 Mile) | \$ 55,320 | 14991 | \$ 3.69 | 201192 | 1600 | 9666 |
| Permeable Pavement/Infiltration Reservoir | Como's/Imperial Alley | \$ 33,000 | 8790 | \$ 3.75 | 118850 | 900 | 5710 |
| Bioretention | Kulick Community Center | \$ 58,920 | 15141 | \$ 3.89 | 185787 | 2250 | 8953 |
| Bioretention | E 9 Mile Rd | \$ 91,320 | 22501 | \$ 4.06 | 221493 | 1600 | 10968 |
| Permeable Pavement/Infiltration Reservoir | Library East Parking Lot | \$ 281,520 | 59029 | \$ 4.77 | 693507 | 10000 | 33118 |
| Bioretention | Withington Street Parking | \$ 134,520 | 26930 | \$ 5.00 | 1227345 | 4000 | 90272 |
| Bioretention | Library West Parking Lot | \$ 101,760 | 13465 | \$ 7.56 | 446517 | 2000 | 26008 |
| Tree Boxes | 9 Mile (East of Woodward) | \$ 91,320 | 7181 | \$12.72 | 194147 | 800 | 9913 |

Huntington Woods



| GSI_Type | Location | Cost 2024 (GSI Only) | Storage Volume (GAL) | \$/Gal | Average Annual Volume Reduction (GAL) | GSI Surface Area (SF) | Impervious Area Treated (SF) |
|--|------------------|-------------------------|----------------------------|---------|---|--------------------------|---------------------------------|
| Permeable Pavement/Infiltration Reservoir | Salem Road | \$ 60,960 | 51429 | \$ 1.19 | 647657 | 3050 | 32071 |
| Permeable Pavement/Infiltration Reservoir | Library Parking | \$ 26,760 | 11221 | \$ 2.38 | 177461 | 2010 | 8446 |
| Bioretention | Burton Elementry | \$ 48,000 | 8528 | \$ 5.63 | 249193 | 760 | 11860 |
| Tree Boxes | Scotia Road | \$ 54,360 | 6777 | \$ 8.02 | 155819 | 2000 | 7416 |

Pleasant Ridge



| GSI_Type | Location | Cost 2024 (GSI Only) | Storage Volume (GAL) | \$/Gal | Average Annual Volume Reduction (GAL) | GSI Surface Area (SF) | Impervious Area Treated (SF) |
|---|-------------------------------|-------------------------|----------------------------|---------|---|--------------------------|---------------------------------|
| Bioretention - General Blvd Concepts | Poplar, Elm, and Oakland Blvd | \$ 39,120 | 111600 | \$ 2.85 | 1749499 | 19110 | 83265 |
| Permeable Pavement/Infiltration Reservoir | City Hall Parking Lot | \$ 45,960 | 8940 | \$ 0.20 | 220723 | 360 | 10505 |
| Bioretention | Oxford Park | \$ 117,720 | 19397 | \$ 0.17 | 323657 | 1950 | 15404 |



***CRWC Green Infrastructure Support
City of Berkley Final Presentation
July 6, 2020***

**Donald Carpenter, Ph.D., PE, LEED AP
Chris Bobryk, Ph.D.**

Clinton River Watershed Council

Our Mission:

The mission of the Clinton River Watershed Council is to protect, enhance, and celebrate the Clinton River, its watershed, and Lake St. Clair.

Our Vision:

Individual and community actions protect and improve the health of the Clinton River, assuring that its natural, economic, and recreational value enhances the quality of life of those who live, work, and play in the Clinton River watershed and Lake St. Clair.



WaterTowns®

CONNECTING PEOPLE & THEIR WATERWAYS



Project Introduction

- Goals:
 - Create conceptual site plans and artistic renderings of suggested green infrastructure improvements
 - Determine volume of stormwater captured and treated
 - Estimate the cost
- 2020 Conceptual Green Infrastructure Plans:
 - City of Berkley
 - City of Ferndale
 - City of Center Line

What is Green Infrastructure?



Green infrastructure uses vegetation, soils, and natural processes to manage water and create healthier urban environments. Green infrastructure refers to the patchwork of natural areas that provides habitat, flood protection, cleaner air, and cleaner water. At the scale of a neighborhood or site, green infrastructure refers to stormwater management systems that mimic nature by soaking up and storing water. - United States Environmental Protection Agency

Why Green Infrastructure?



Project Timeline and Deliverables

- December 2019 – July 2020



- Deliverables:
 - Report – Plans and Computations
 - Printed Graphic Boards
 - PowerPoint Presentation
 - Digital Copies
- Cost Estimation
 - WERF – BMP and LID Whole Life Cost Models Tool
 - RS Means, MI LID Manual, Published Literature, and Local
 - Primary Contract Labor (not insourced or volunteer)

Runoff Reductions

Existing Runoff
from 2.33" of Rain



15%
Reduction



Proposed Runoff Reduction

Stormwater runoff reductions were calculated for a
2-year 24-hour storm event (2.33" of Rain).



Swale Conveyance



Naturalized Shore

City of Berkley



City of Berkley – Focus Area Sites



Jaycee Park Site – Existing



Jaycee Park Site – Vision



Jaycee Park – Parking Existing



Jaycee Park – Permeable Pavement Vision



Permeable Pavement
\$88,700

Jaycee Park – Existing



Jaycee Park – Vision



Jaycee Park – Existing



Jaycee Park – Vision



Jaycee Park – Additional Possibilities



Griffith Ave Parking Lots – Existing



Griffith Ave Parking Lots – Vision



Griffith Ave West Parking – Vision



Griffith Ave West Parking – Existing



Griffith Ave West Parking – Vision



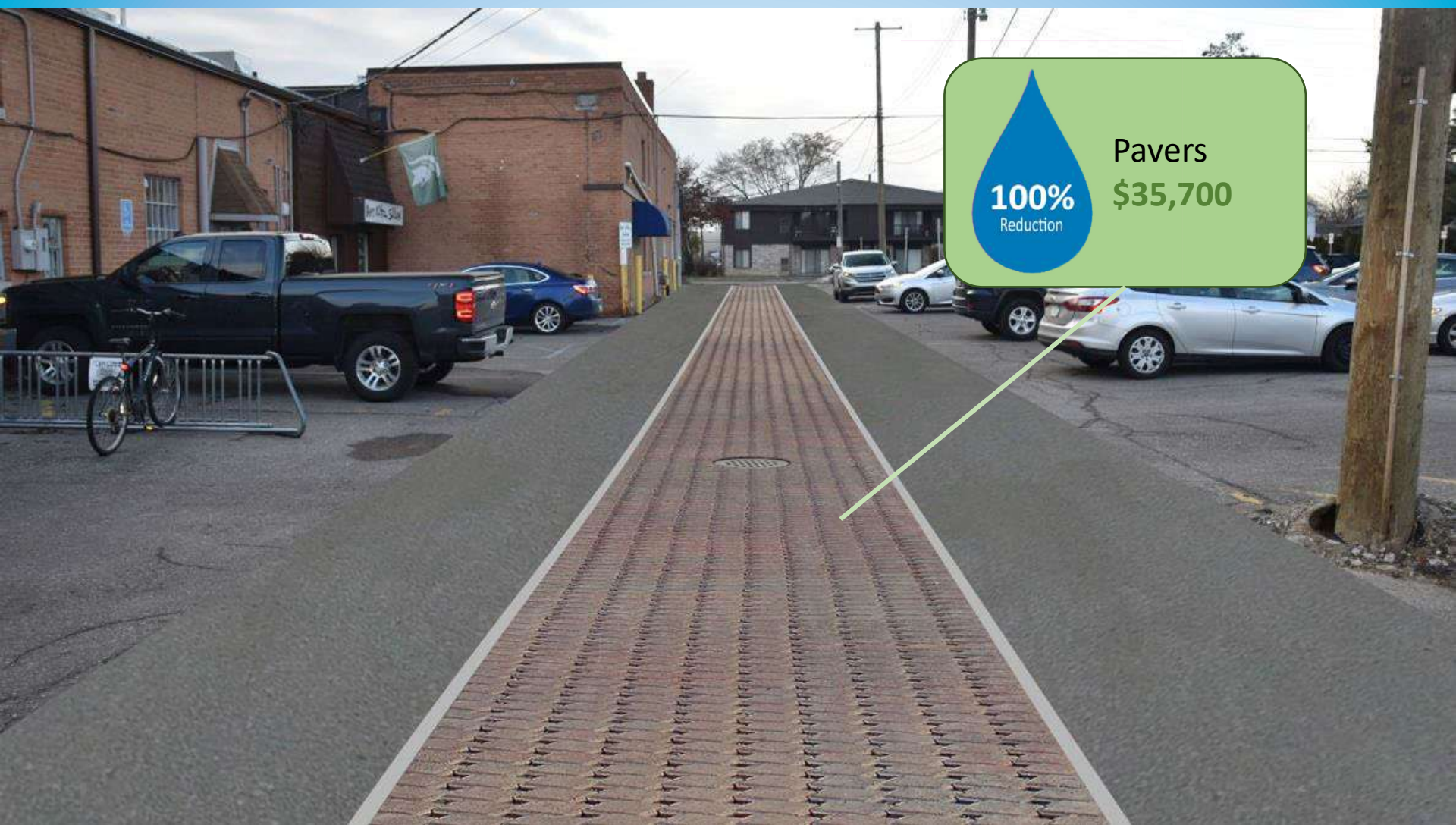
100%
Reduction

Permeable Pavement
\$43,700

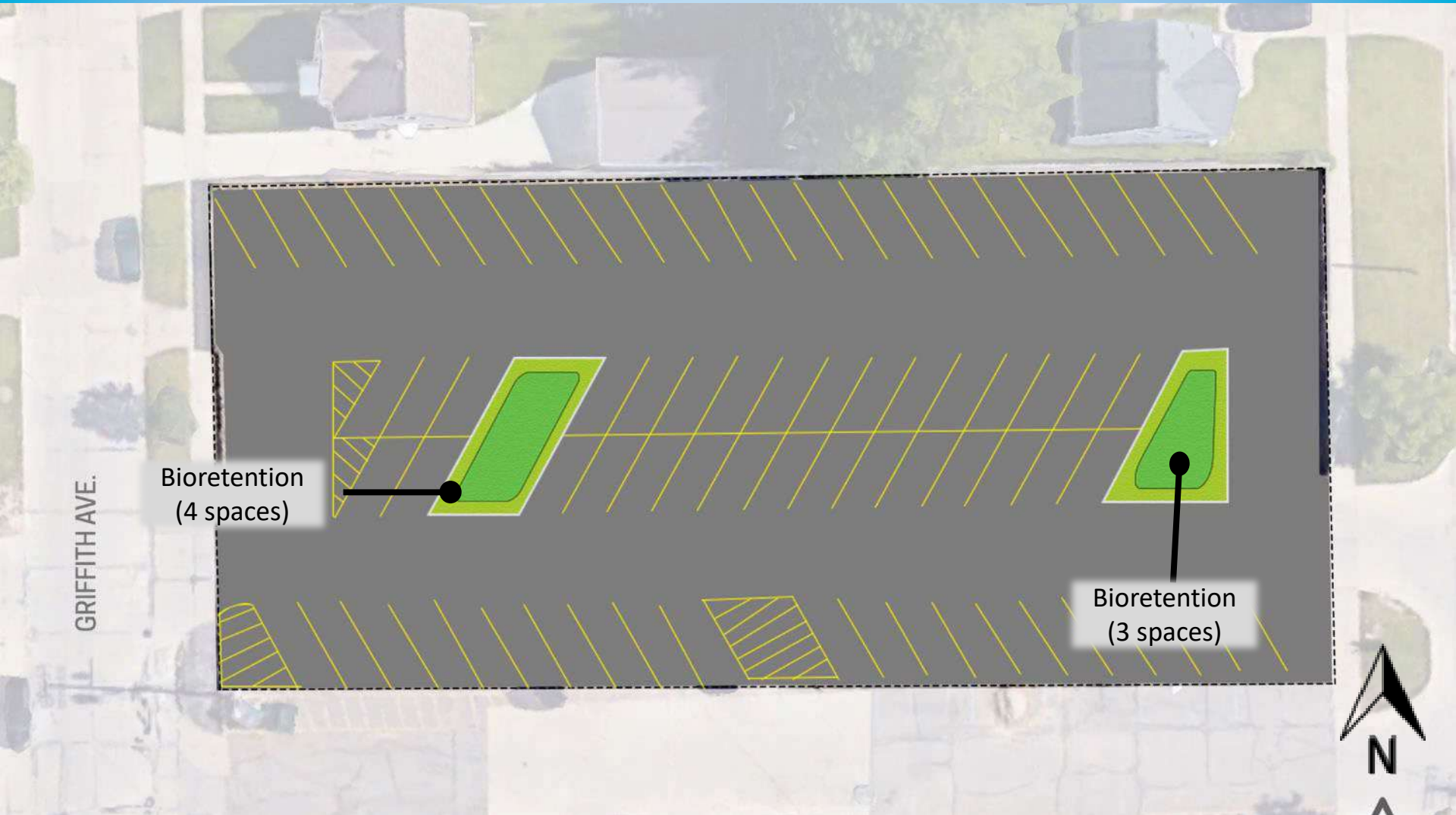
Griffith Ave West Parking – Alley Existing



Griffith Ave West Parking – Alley Vision



Griffith Ave East Parking – Vision



Griffith Ave East Parking – Existing



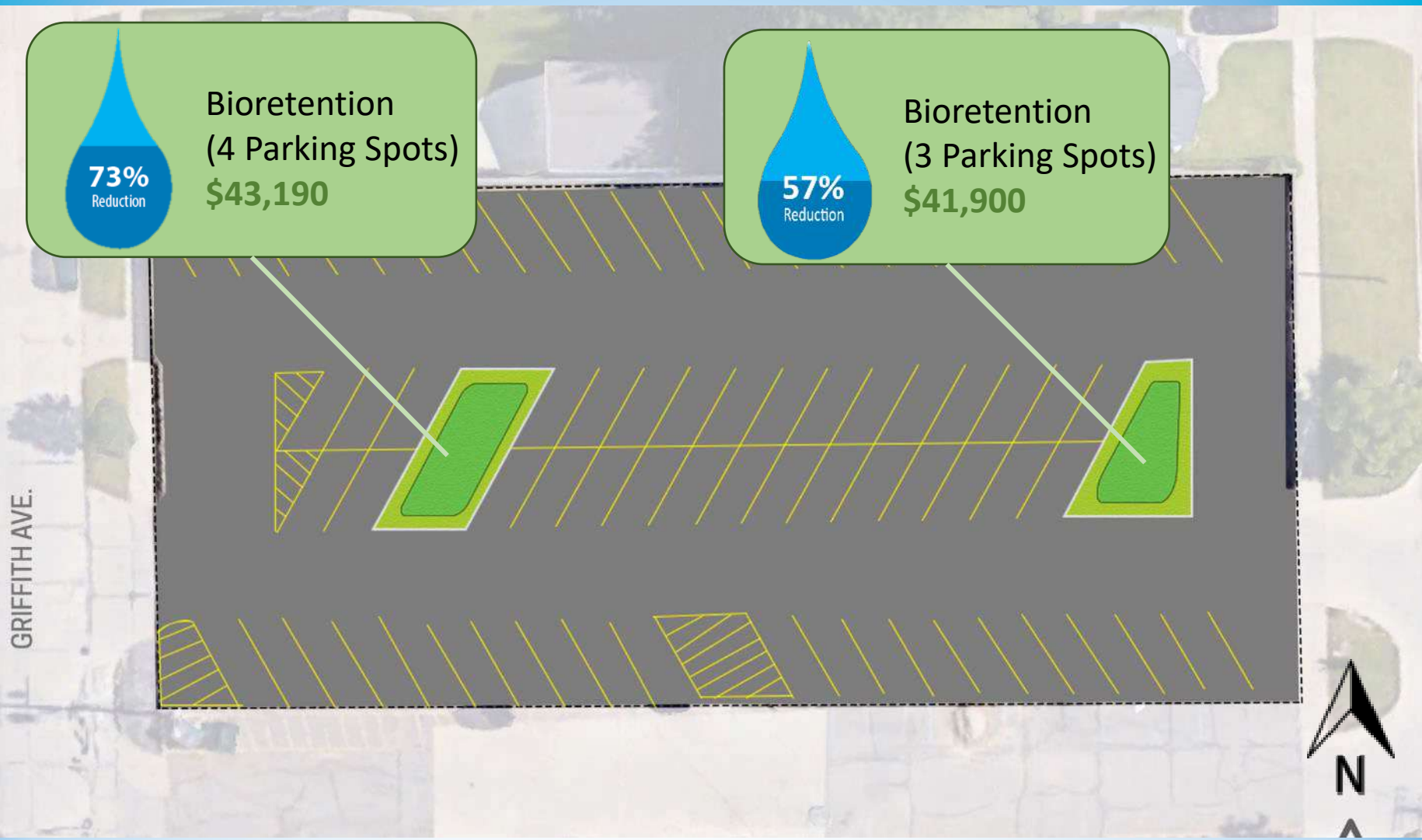
Griffith Ave East Parking – Vision



Bioretention
(3 Parking Spots)
\$41,900



Griffith Ave East Parking – Vision



Griffith Ave East Parking – Vision 2



Beverly & Edgewood Blvd. – Existing



Beverly & Edgewood Blvd. – Vision



Edgewood Blvd – Existing



Edgewood Blvd. – Vision



Beverly Blvd – Existing



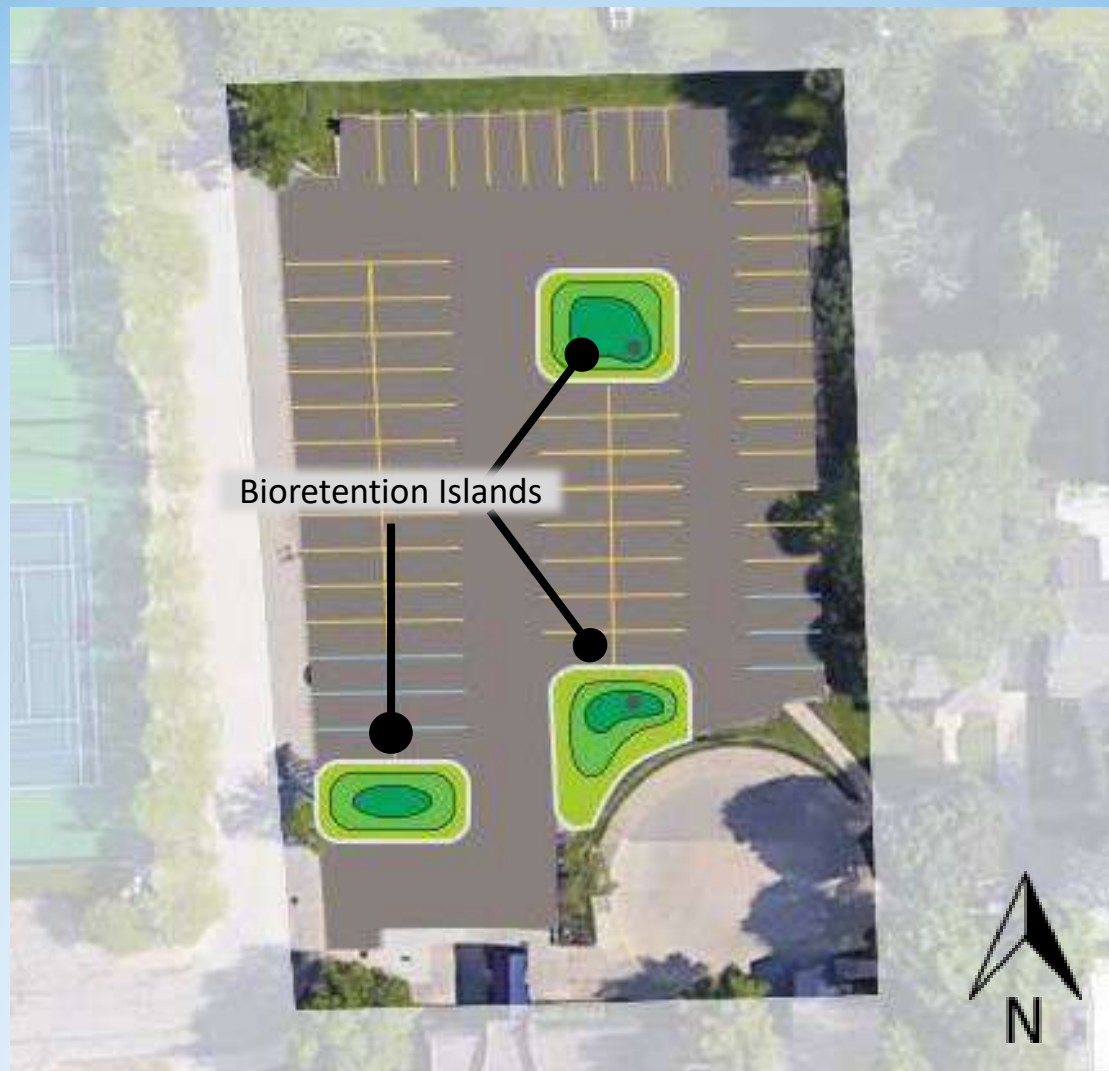
Edgewood Blvd. – Native Planting Vision



Parks & Recreation Parking Lot – Existing



P&R Parking Lot – Vision



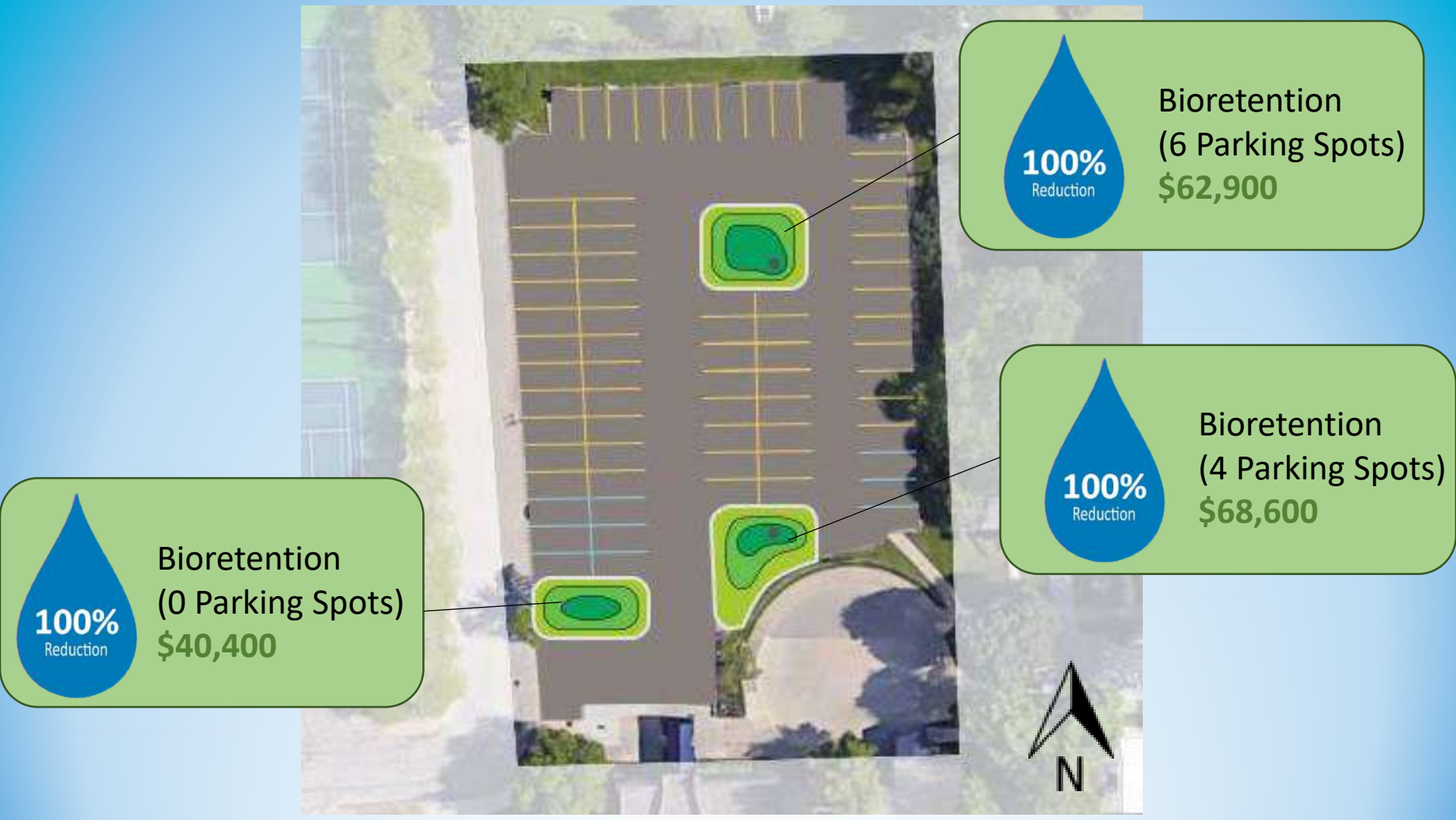
P&R Parking Lot – Existing



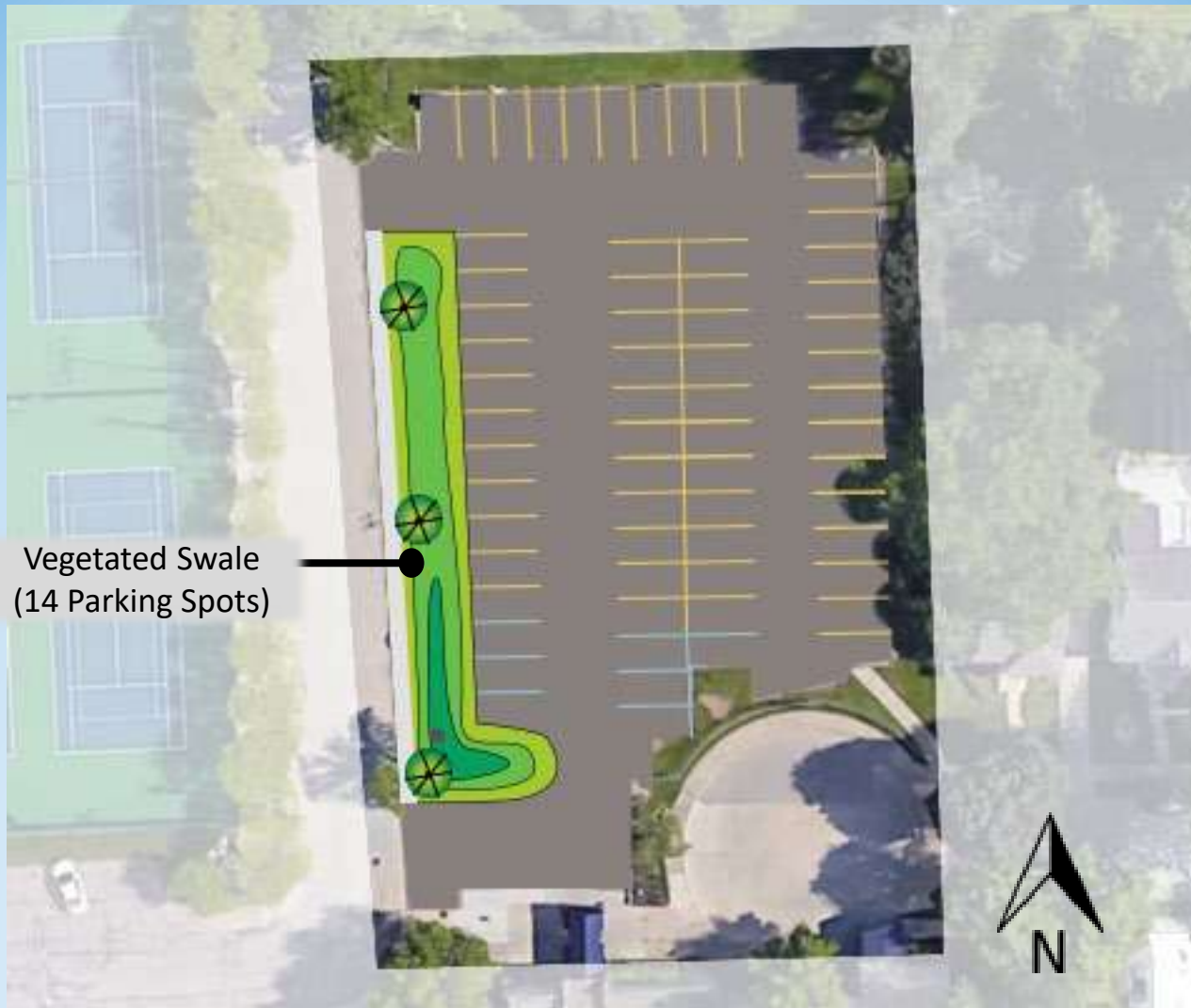
P&R Parking Lot – Vision



P&R Parking Lot – Vision Option 1



P&R Parking Lot – Vision Option 2



P&R Parking Lot – Parking Existing



P&R Parking Lot – Vegetated Swale Vision



P&R Parking Lot – Vision Option 3



City of Berkley Runoff Reductions



Total Improvements:

\$521,200

\$4.30/Gallon

Runoff from Site – Existing Conditions

Runoff from Site – Proposed Conditions

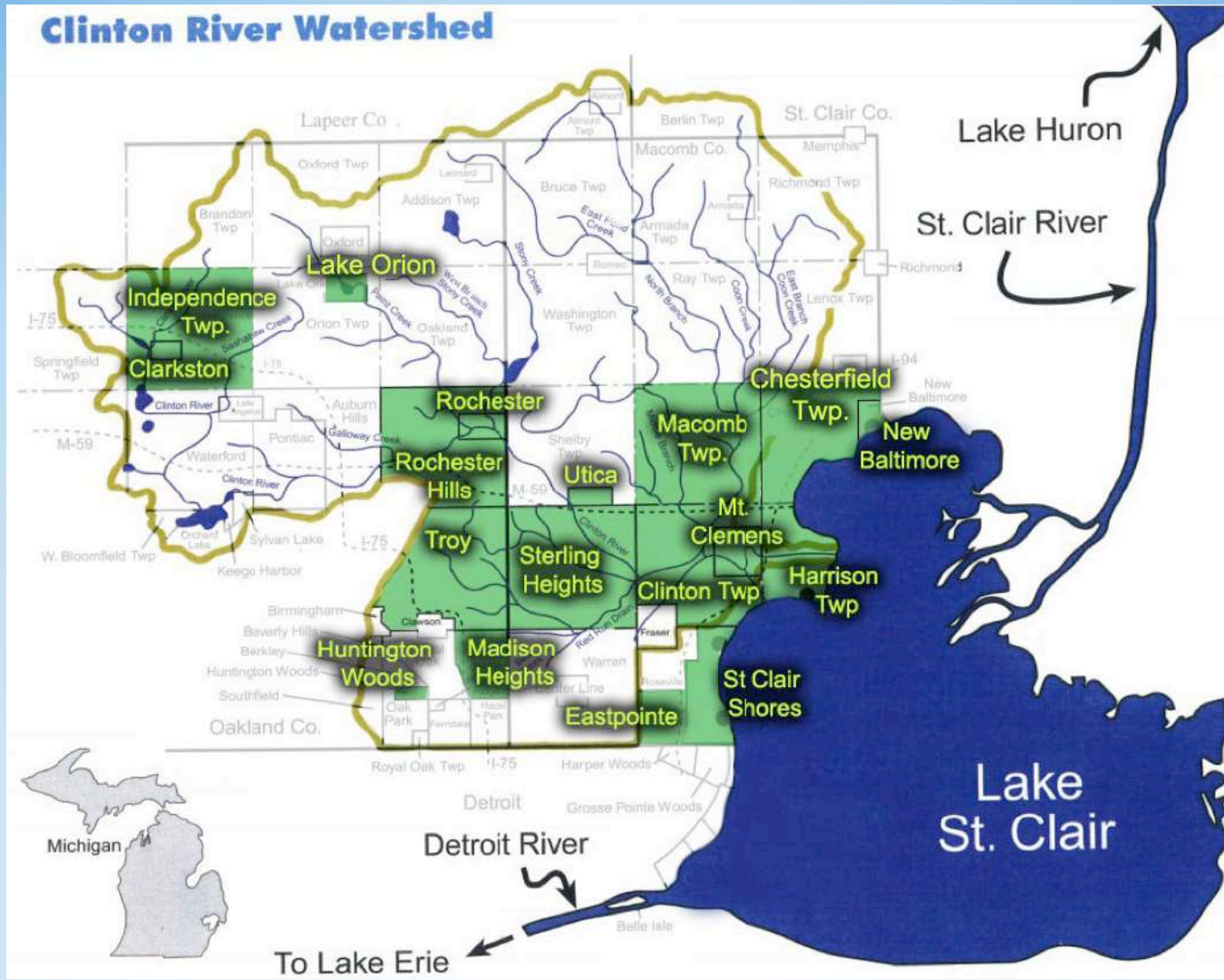
| Site | Existing Runoff (gallons) | Proposed Runoff (gallons) | Reductions | |
|-----------------------|---------------------------------|---------------------------------|------------|------|
| | | | (gallons) | % |
| Jaycee Park | 43,270 | 0 | 43,270 | 100% |
| Griffith Parking Lots | 52,700 | 11,400 | 41,300 | 78% |
| Parks & Rec Parking | 36,590 | 0 | 36,590 | 100% |
| Site Total | 132,560 | 11,400 | 121,160 | 91% |

Implementation

Implementation Assistance

- Eligible for \$5000 mini-grant from CRWC to implement a suggested project
- Requires at least a 1 to1 match
- Match can be cash or in-kind services
- CRWC will help with the implementation of the project
- CRWC will also help develop a long term maintenance plan once the project is installed

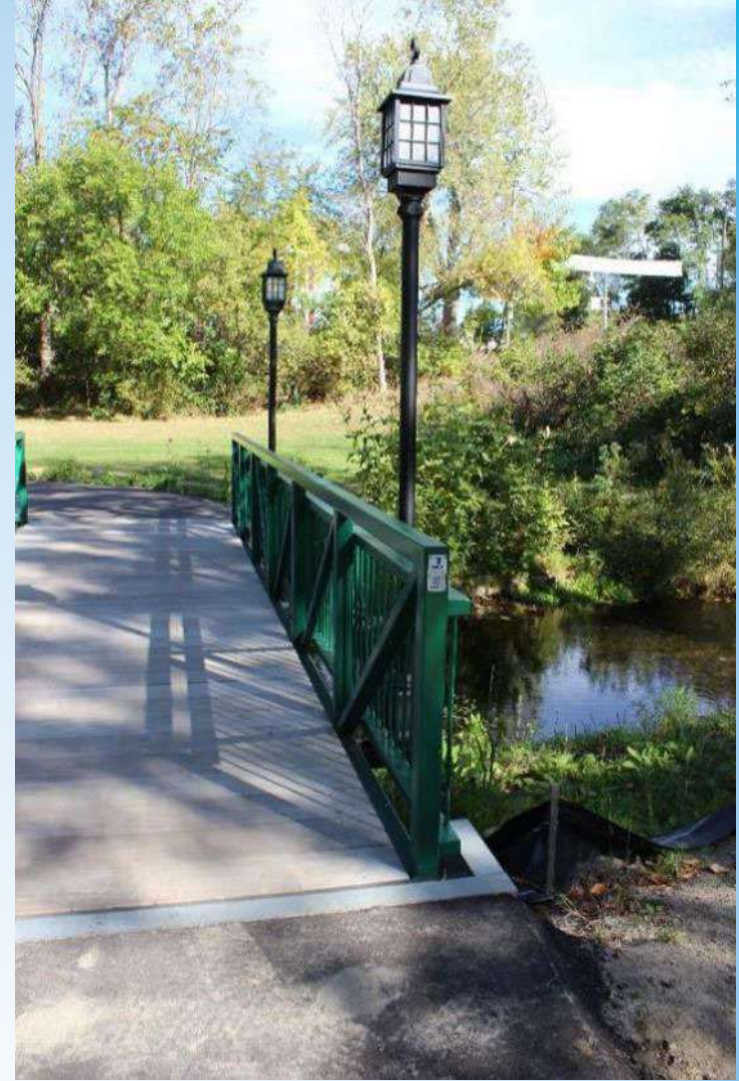
WaterTowns™ Green Infrastructure Planning 2014-2019



Clarkston Proposed - 2014



Bridge Before (2014) and After (2015)



Clarkston Implementation - 2015



Clinton Township Proposed - 2014



Naturalized Shore

\$6,800



Clinton Township Implementation



Clinton Township Proposed - 2014



Rain Gardens
\$20,400

Clinton Township Implementation - 2016



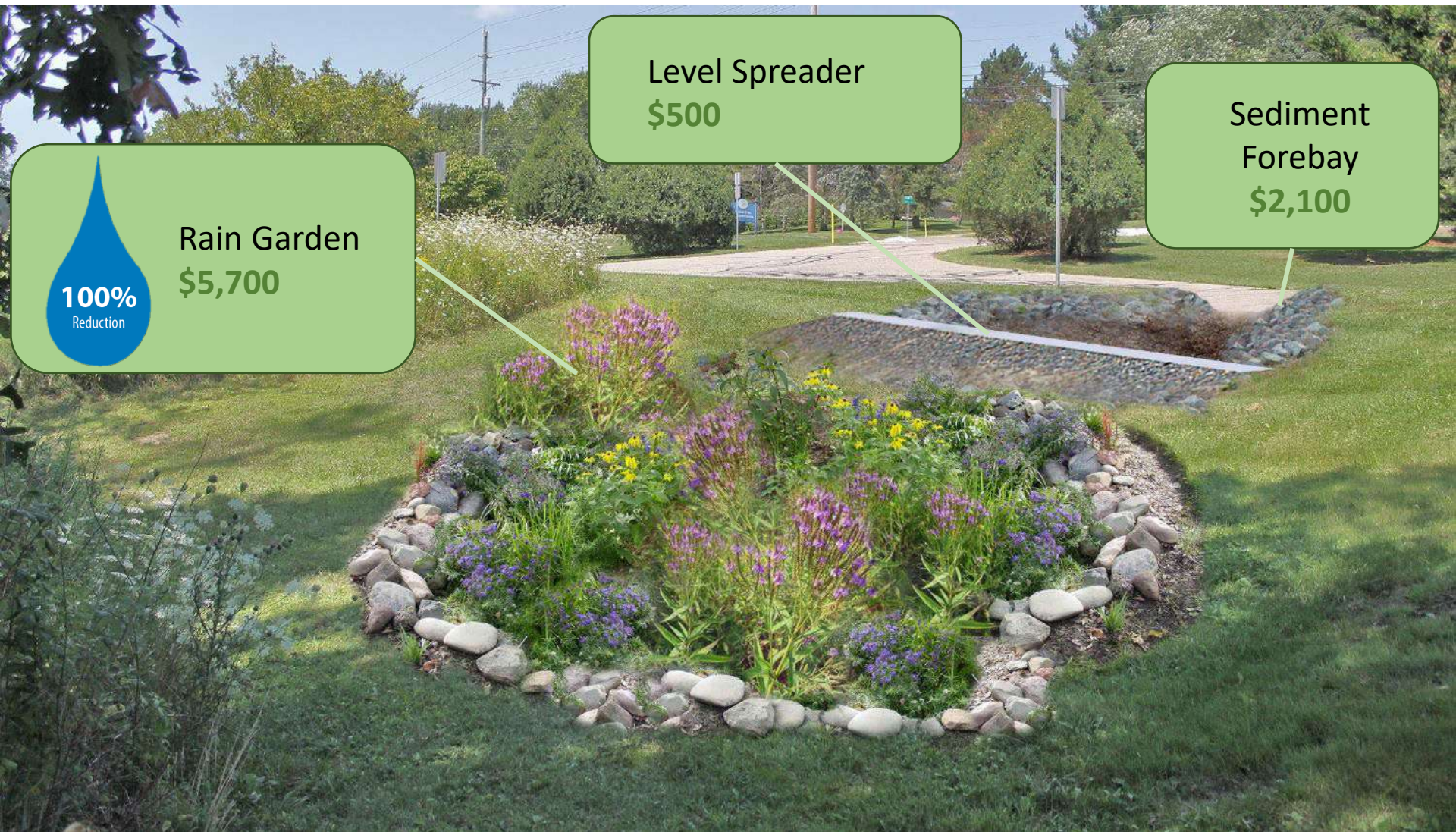
Clinton Township Implementation - 2016



Rochester Hills Existing - 2015



Rochester Hills Proposed - 2015



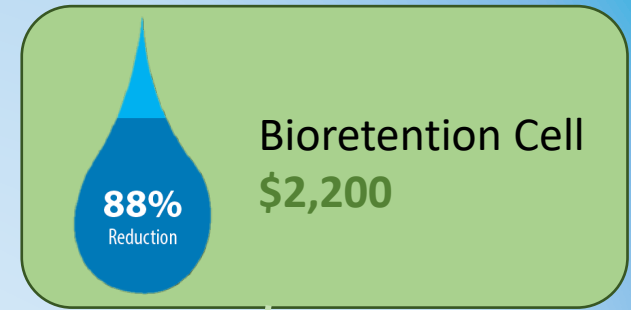
Rochester Hills Implementation - 2016



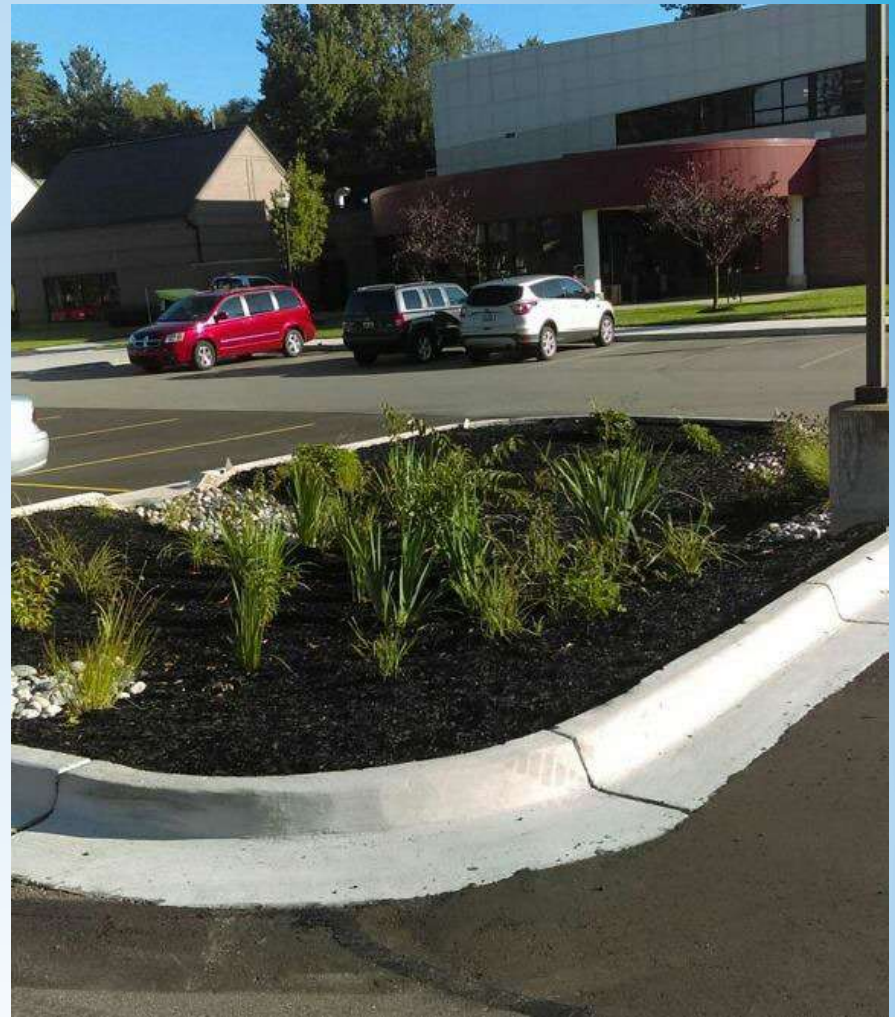
Sterling Heights



Sterling Heights Proposed - 2015



Sterling Heights Implemented - 2016





chris@crwc.org OR dcarpenter@drummondcarpenter.com



CRWC Green Infrastructure Community Report

City of Berkley Report

A Report Submitted To:

The City of Berkley
3338 Coolidge Hwy
Berkley, MI 48072

&

Clinton River Watershed Council
1115 W. Avon Road
Rochester Hills, MI 48309

July 6, 2020

This project is a collaboration between the Clinton River Watershed Council (CRWC), Drummond Carpenter, PLLC, and several municipalities within the Clinton River watershed. The Clinton River Watershed Council is a non-profit organization whose mission is to protect, enhance, and celebrate the Clinton River, its watershed, and Lake St. Clair. In 2013, the CRWC announced the launch of their WaterTowns program which is a community-based initiative designed to help towns and cities in the watershed leverage the assets of Clinton River and Lake St. Clair for water-oriented community development. WaterTowns is meant to facilitate community-based efforts to develop a vision map for the entire watershed highlighting opportunities to maximize the potential of the water resources thereby offering a better quality of life and sense of place. To extend the impact of the program, in 2014 the CRWC partnered with the Great Lakes Stormwater Management Institute of Lawrence Tech University to provide conceptual green infrastructure plans for downtown and municipal areas of community partners in close proximity to the Clinton River or its tributaries. In the first six years of the project Chesterfield, Clarkston, Clinton Township, Eastpointe, Harrison Township, Huntington Woods, Independence Township, Lake Orion, Macomb Township, Madison Heights, Mount Clemens, New Baltimore, Rochester, Rochester Hills, St Clair Shores, Sterling Heights, Troy, and Utica were provided GI plans. In 2020 Berkley, Center Line, and Ferndale were selected. Drummond Carpenter and CRWC representatives participated in three meetings per community partner to refine the conceptual plans and make sure the vision met municipal goals. **Figure 1** outlines the collaboration process between CRWC, Drummond Carpenter, and the City of Berkley.

Figure 1 – Flow Chart of Project Meetings



The final meeting was a presentation at an open forum municipal council meeting which included a PowerPoint presentation (Appendix A) and two 24" by 36" community vision boards documenting key design components (Appendix B). This represents the final report for the City of Berkley and includes a review of existing conditions, a brief description of how runoff volumes and percent reduction were computed, cost estimate methodology, and copies of graphics including final posters and PowerPoint presentations.

Existing Conditions & Site Visits

The City of Berkley project focused on four locations (Figure 2). Jaycee Park, Griffith Avenue public parking lots and alley, Parks and Recreation parking lot, and the Beverley and Edgewood boulevards. Beverley and Edgewood boulevards were analyzed for potential improvements, but due to difficulty in retrofitting these areas Initial site visits were conducted during the intro meeting to identify potential improvements and to observe existing conditions. Throughout the project, additional visits were made to the site as needed to obtain more information and clarify project questions.



Runoff Volume Calculations (Existing and Proposed)

Runoff volumes were calculated using the SCS Curve Number Method (SCS 1986) for existing and proposed conditions. A 2-year 24-hour storm (2.33 inches of rainfall) was used for the calculations (NOAA 2013). The 2-year 24-hour storm was selected because it is common design storm used for green infrastructure design. Calculations were performed in an excel spreadsheet, *2020BL_Runoff Calculations_CN.xlsx*. The *2020BL_Runoff Calculations_CN.xlsx* spreadsheet could be manipulated for larger storm events by changing the precipitation value, but this should be done with caution since many design choices (such as bioretention size and curve number values) were based specifically on a 2-year 24-hour storm. Further detail and SCS curve number calculation details are included within the *2020BL_Runoff Calculations_CN.xlsx* spreadsheet.

Calculation Process:

- **Drainage Areas**
Each site is broken into sub-drainage areas determined by common outlet points. The areas were determined through drawings provided by the municipalities, site visits, and google earth elevations (Google Earth 2018). AutoCAD drawings were reproduced from provided drawings and aerial imagery in Figure 2 in the City of Berkley Report (Google Earth 2020). A site plan of existing conditions was created in AutoCAD and used to determine the areas for calculations.

- **Cover Type**
Cover type was determined from site visits and Google Earth aerial images (Google Earth 2020).
- **Soil Type**
Soil type was determined from USDA Web Soil Survey for each sub-area (NRCS 2020). Each area's soil type is listed at the top of the *2020BL_Runoff Calculations_CN.xlsx* spreadsheet.
- **CN Values**
The CN values were selected after determining the cover type and soil type. All CN values, excluding green infrastructure, are taken from SCS Method (SCS 1986). CN values used in runoff calculations are listed in *Table 1 – CN Values*. Green infrastructure is assigned a CN Value of 100 because all water that lands on that area is accounted for in retention and subtracted at the end.

Table 1 – CN Values

| Cover Type | CN Value |
|----------------------|-----------------|
| Impervious Surfaces | 98 |
| Compacted Gravel | 91 |
| Soil – HSG C - Lawn | 74 |
| Soil – HSG D – Lawn | 80 |
| Green Infrastructure | 100 |

Since each sub-area has multiple cover types, a composite CN value was determined for the sub-area:

$$CN = \Sigma(A_i * CN_i) / A$$

A_i =Surface Area of cover type (acres)

A =Surface Area Total (acres)

CN_i =Curve Number for Cover Type

CN =Composite Curve Number

- **Volume of Runoff**
Total areas and composite CN values for each sub-area were used to calculate the runoff with the SCS Method (SCS 1986). The equation details are in *2020BL_Runoff Calculations_CN.xlsx* spreadsheet. The SCS Method (SCS 1986) generates runoff values which were multiplied by the sub-area's total area to obtain runoff volumes.
- **Runoff Reductions**
Separate tabs are setup within the *2020BL_Runoff Calculations_CN.xlsx* spreadsheet for existing and proposed (*New*) conditions. The differences between the New tab and Existing tab are that cover types are changed for the green infrastructure and storage volumes added. Storage volumes for green infrastructure are quantified in *2020BL_Runoff Calculations_CN.xlsx* and listed in the Storage column. Areas that are retained for a 2-year 24-hour storm, like rain barrels or bioretention areas, are accounted for as reductions after the runoff from that drainage area

is calculated (see *2020BL_Runoff Calculations_CN.xlsx* spreadsheet). The *New* tab also has a summary of before and after runoff amounts and the reductions in each sub-area.

Reduction Percentages for Individual BMPs

Reductions and sizing for each green infrastructure element are calculated in the *2020BL_Reduction Percentages.xlsx* spreadsheet. The spreadsheet has a bioretention tab and a permeable paver tab which include all of the green infrastructure elements by type.

Bioretention areas (i.e. Rain Gardens and Swales) were sized using a form of Darcy's Law (SEMCOG 2008), which is detailed in the spreadsheet. Bioretention areas are sized for a 2-year 24-hour storm of 2.33 inches (NOAA 2013). Calculations were made for a drain time of two days. Ponding and soil media depth vary by location.

Rain gardens that are less than 100% effective are because site condition restraints caused them to be under sized. Locations with available space were designed to capture at least 100% of the 2-year 24-hour storm. In some cases, a larger storm volume could be contained (i.e. more than 100% capture of a 2-year 24-hour storm) but capture percentage was set at 100% with a note that more runoff could be contained.

Cost Calculations

The basis of each cost estimate is noted in *2020BL_Cost Estimates.xlsx*. These general cost estimates were from the Water Environment Research Foundation (WERF) unless the WERF model did not accurately represent the design of the green infrastructure practice. In those cases, a local estimate for Southeast Michigan was used instead.

Water Environment Research Foundation (WERF) BMP and LID Whole Life Cost Models

WERF developed spreadsheet tools for cost estimating cisterns, curb contained bioretention, green roofs, in-curb planter vaults, permeable pavement, rain gardens, retention ponds, and swales. These tools were used for creating all cost estimates of green infrastructure, if an applicable spreadsheet was available for that specific BMP or LID element.

These spreadsheets are designed to accept user input values to override the average costs determined by WERF. Municipalities and other users can override the assumptions currently in the spreadsheet to create a more accurate estimate. All the values currently entered into the spreadsheet reflect expected design sizes and drainage areas.

Capital costs are also highly variable depending on whether installation labor is included or if volunteers install the rain gardens. For example, the cost differences for a 400 square foot rain garden is \$7254 for professional installation versus \$2163 for volunteer installation. For this project, professional services were used in the cost estimation. Swales were calculated with Rain Garden spreadsheets because the soil amendments and plants are closer to WERF Rain Garden design than Swales.

Contractor Costs for Southeast Michigan

Some types of green infrastructure do not have estimations provided by WERF or local costs are known to significantly exceed WERF cost estimates. An estimate for these practices was created by Drummond Carpenter, PLLC based on Southeast Michigan contractor costs in 2019.

Capital costs were compared to estimates from *The Costs of LID article* (Grey 2013) and the EPA National Stormwater Calculator methodology (Rossman 2017). Bioretention values were typically within the range of both literature sources, however for other types of green infrastructure estimates were consistently higher than the EPA Stormwater Calculator (Rossman 2017).

References

- Grey, M., Sorem, D., Alexander, C., and Boon, R. (2013). "The Costs of LID - Low-impact-development BMP installation and operation and maintenance costs in Orange County, CA." *Stormwater Journal*, www.stormh2o.com (28 SEPT. 2014).
- NOAA (National Oceanic and Atmospheric Administration). (2013). "Precipitation-Frequency Atlas of the United States." Volume 8 Version 2.0. Silver Spring, MD.
- NRCS (Natural Resources Conservation Service). (2017). "Hydrologic Soils Map." *Web Soil Survey*, <<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>> (23 JUN. 2017).
- Rossman, L. A. and Berner, J. (2017). "National Stormwater Calculator User's Guide." US EPA, United States Environmental Protection Agency. EPA/600/R-13/085d. Cincinnati, OH. January 2017.
- USDA SCS (Soil Conservation Service). (1986). "Urban Hydrology for Small Watersheds." SCS Technical Release No. 55. Washington, DC.

Appendix A – PowerPoint Presentation

Appendix B – Graphic Boards

Green Infrastructure Visioning: City of Berkley

Permeable Pavement

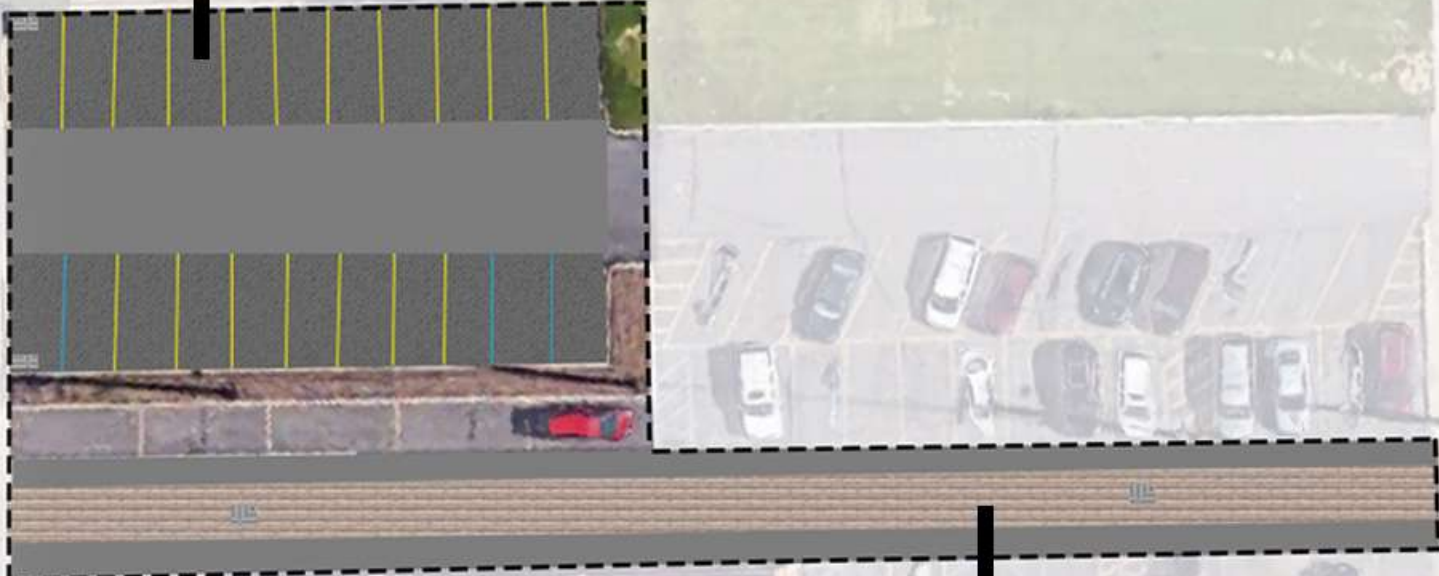
Permeable pavement is used in the parking stalls to create a durable surface for parking while helping to filter stormwater runoff from the parking lot.

\$43,700

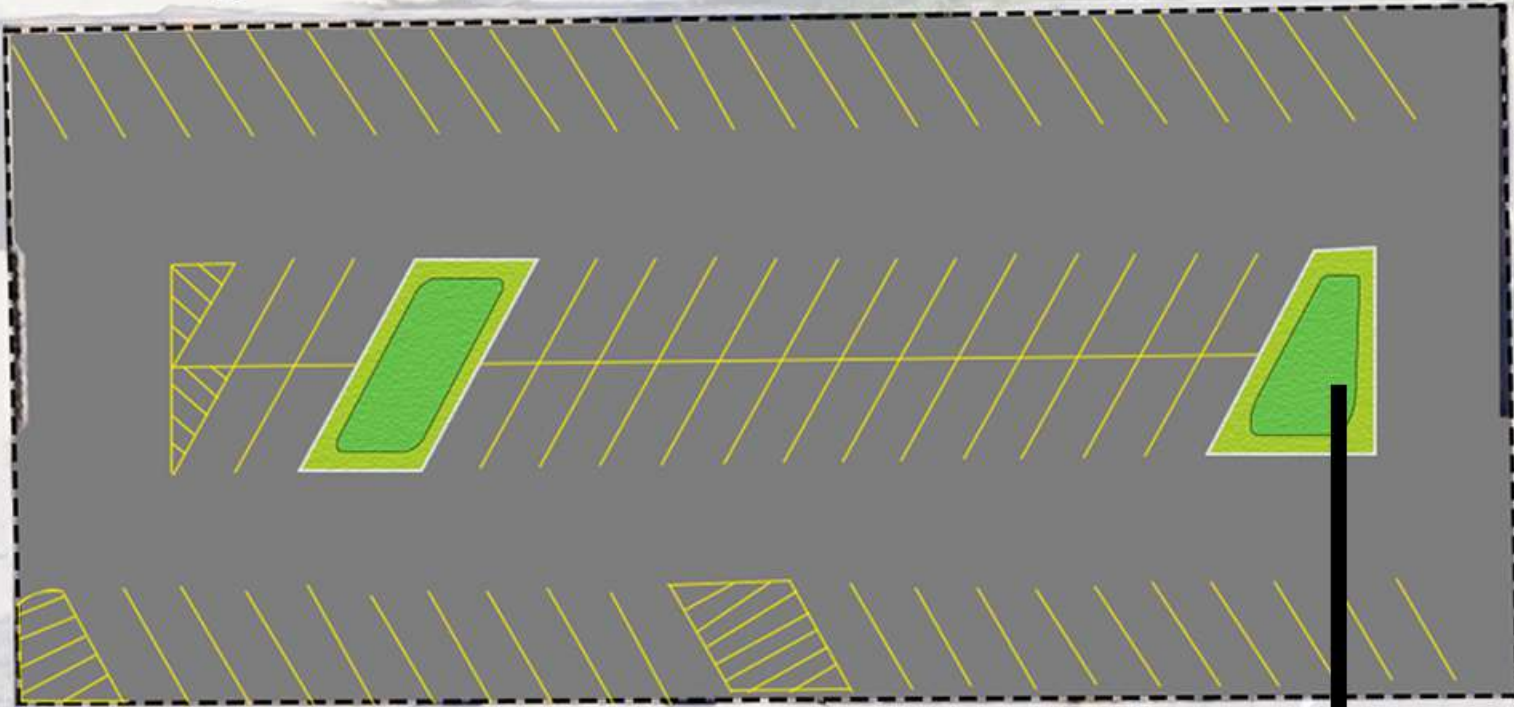


Griffith Ave. Public Parking & Alley

100%
Reduction



GRIFFITH AVE.



64%
Reduction

Bioretention Cells

Bioretention cells are engineered, shallow basins used to slow and treat on-site stormwater runoff with native plants and filtering soil types.

\$85,000



100%
Reduction

12 MILE ROAD

Permeable Pavers

Permeable pavers are installed along the middle following the slope of the alley, filtering stormwater runoff from the parking lot and alley before entering the stormdrain.

\$35,700



Griffith Ave. Public Parking (Option 2)



Permeable Pavement

\$88,700

W. WEBSTER RD.

100%
Reduction



Rain Garden

A rain garden is a shallow depression in the landscape that captures and treats stormwater runoff. Rain gardens can also be landscaped to be aesthetically pleasing and provide habitat for pollinators.

\$42,300

100%
Reduction



PHILLIPS AVE.

Rain Garden

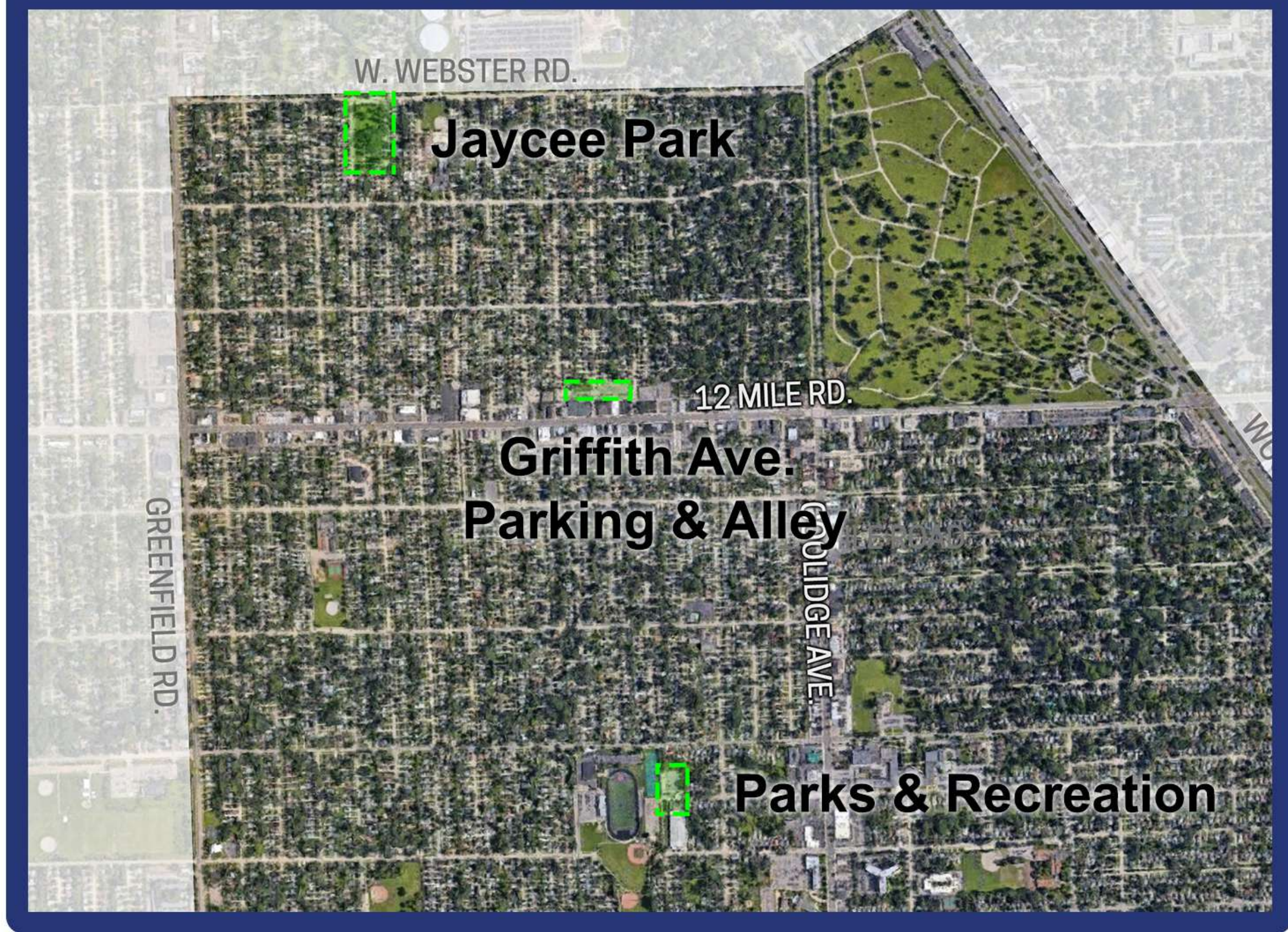
\$53,900

100%
Reduction



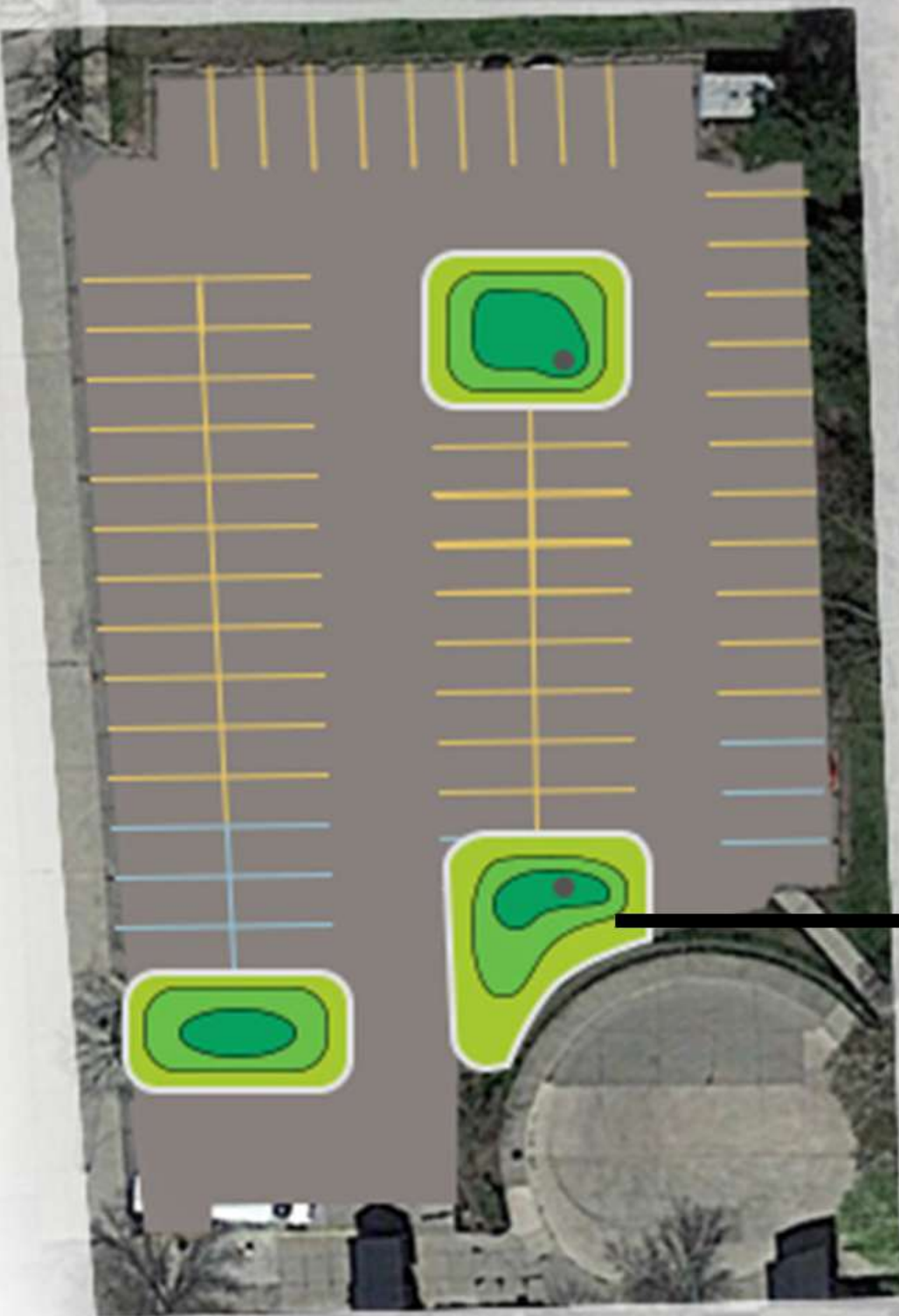
Green Infrastructure Visioning: City of Berkley

Site Locations



Parks & Recreation Parking Lot

(Option 1)



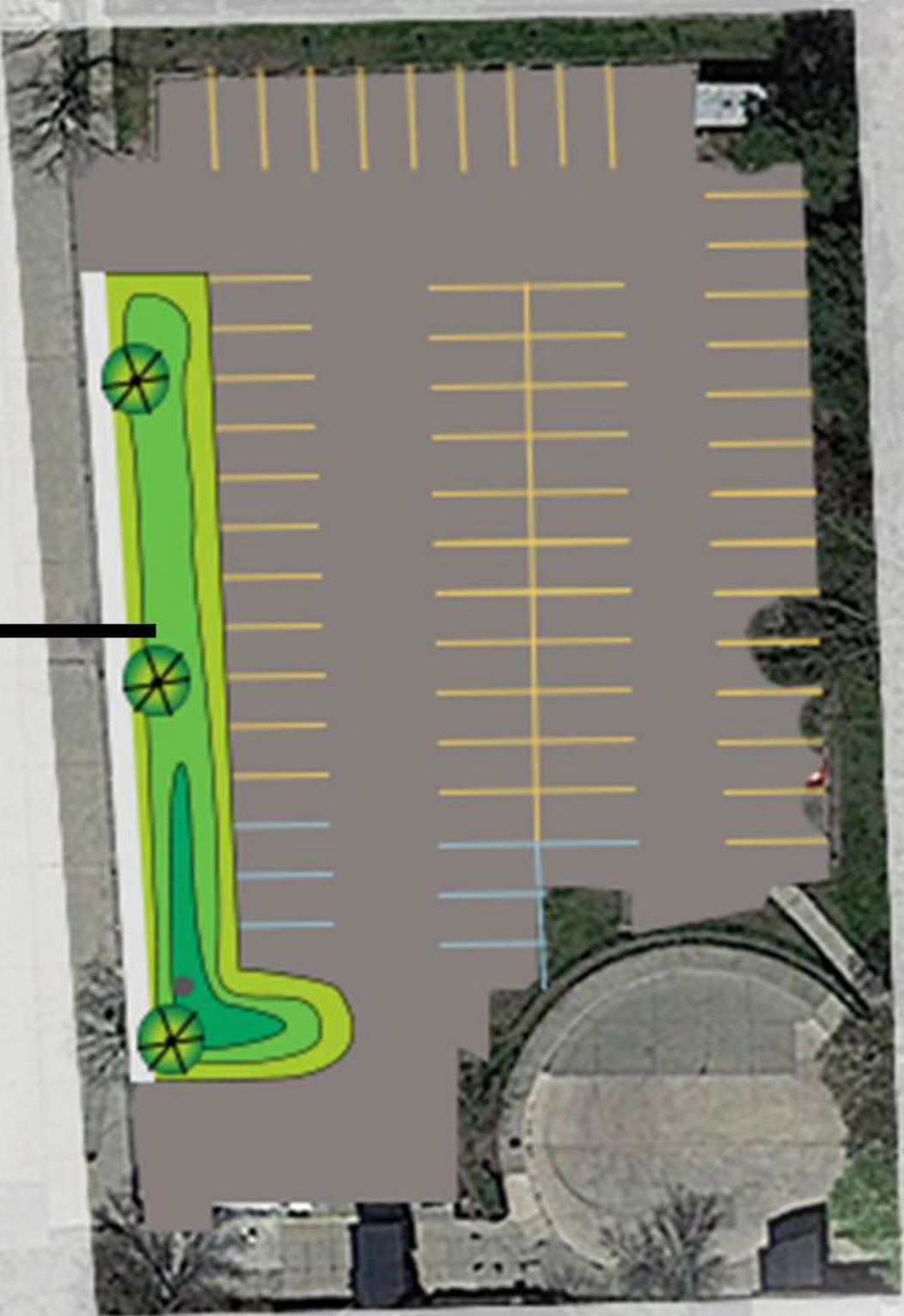
Bioretention Cells

Bioretention cells are engineered, shallow basins used to treat on-site stormwater runoff with native vegetation and filtering soil types.

\$171,900

100%
Reduction

(Option 2)



Bioswale

A bioswale is an elongated, vegetated basin designed to slow and treat on-site stormwater runoff with native plants and filtering soil types.



Runoff Reductions

The table includes the existing and proposed runoff generated from 2.33 inches of rain for each site included in the visioning process. 99.5% of all rainfall events are less than 2.33 inches so that represents an aspirational target for green infrastructure design.

91%
Reduction

Existing Site Runoff
Proposed Site Runoff Reduction

| Site | Existing Runoff (gallons) | Proposed Runoff (gallons) | Reductions | |
|-----------------------|---------------------------|---------------------------|------------|------|
| | | | (gallons) | % |
| Jaycee Park | 43,270 | 0 | 43,270 | 100% |
| Griffith Parking Lots | 52,700 | 11,400 | 41,300 | 78% |
| Parks & Rec Parking | 36,590 | 0 | 36,590 | 100% |
| Site Total | 132,560 | 11,400 | 121,160 | 91% |

When feasible, the green infrastructure was sized to capture 100% of the runoff generated from the target storm. In that scenario, the runoff from the proposed runoff condition would be zero gallons.

Total Improvements:
\$521,200
\$4.30/Gallon

A RESOLUTION
of the Council of the City of Berkley, Michigan
declaring the City of Berkley's participation in
the WaterTowns® initiative

WHEREAS, WaterTowns® is a water-oriented community development initiative designed to assist towns and cities within the Clinton River Watershed to leverage the assets of the Clinton River and Lake St. Clair and to protect and improve water quality; and

WHEREAS, The WaterTowns® initiative is managed by the Clinton River Watershed Council, an organization dedicated to protecting, enhancing, and celebrating the Clinton River, its watershed, and Lake St. Clair; and

WHEREAS, The City of Berkley recognizes the recreational and economic potential of its water resources; and

WHEREAS, The City of Berkley desires to incorporate environmental best management practices as an integral part in community planning and development; and

WHEREAS, The City of Berkley is located within the Clinton River Watershed, and is a member of the Clinton River Watershed Council; and

WHEREAS, There is no financial commitment required to participate in the WaterTowns® initiative; and

WHEREAS, The City of Berkley desires to collaborate with the Clinton River Watershed Council to develop and implement a local WaterTowns® strategy; and

NOW, THEREFORE, THE CITY OF BERKLEY RESOLVES:

That the City of Berkley Mayor and Council declare the City of Berkley a participant in the WaterTowns® initiative.

Introduced and passed at a regular City Council meeting on Monday, December 2, 2019.

Daniel J. Terbrack, Mayor

Attest:

Victoria E. Mitchell, City Clerk



Office of the
City Manager

Memo

To: Mayor Terbrack and City Council

From: Matthew Baumgarten, City Manager

Date: December 2, 2019

Subject: Resolution Joining WaterTowns™ Initiative from the Clinton River Watershed Council

Mr. Mayor and Members of City Council,

The resolution for your consideration this evening would be to formally join the Watertown initiative Clinton River Watershed Council. This is the only requirement to join this initiative. Representatives from Clinton River Watershed Council have been meeting with City staff as well as Mark Richardson (Environmental Advisory Committee Chair), and Council Member Ross Gavin (EAC Liaison) to discuss the potential benefits of the joining their WaterTowns™ initiative which focuses on the incorporation of green infrastructure into our storm water management strategy for public property.

In short, Berkley falls within the Clinton River watershed and the goals of the CRWC align with Berkley's own effort to remain a regional leader in addressing storm water issues. The resolution reflects the City of Berkley's support for the Clinton River and its tributaries as valuable community assets and the City of Berkley's commitment to collaborate with residents, businesses, neighboring cities, non-profit organizations, and other stakeholders to advance watershed management, the blue economy, tourism, and green infrastructure.

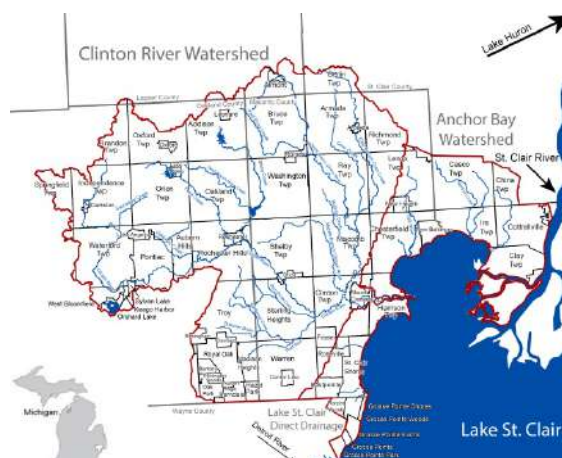
Background Provided by CRWC:

Through the WaterTowns™ initiative, the Clinton River Watershed Council (CRWC) provides community development support to municipal governments with the goal of leveraging the "placemaking" potential of the Clinton River and Lake St. Clair. CRWC has worked for many years with partners such as SEMCOG, Macomb County, Oakland County, and the Lake St. Clair Tourism Initiative to advance watershed management, the blue economy, tourism, and green infrastructure. WaterTowns™ unifies these efforts under one umbrella program.

Through a partnership with the Lawrence Tech Great Lakes Stormwater Management Institute, CRWC has studied the Green Infrastructure potential in nine WaterTowns™ communities. Each community studied was presented with an a la carte menu of GI choices with graphic renderings and cost estimates associated with each idea. The purpose for breaking down each design was so that the community could sort out which costs would be achievable over a period of time and to budget appropriately for installation and match dollars for potential grants when they become available.

Thank you for your Consideration on this,

-Matt Baumgarten





MEMORANDUM

To: Mayor Dean and City Council
From: Nate Geinzer, Interim City Manager
Carl Johnson, Finance Director

Date: May 06, 2024
Subject: Discussion and Possible Staff Direction Regarding the 2024/2025 and Future Budgets

Madam Mayor and Members of City Council,

Background

- The City of Berkley has been through multiple transitions in the Finance Department over the last couple of years. Recently, the City has hired a new Finance Director, Carl Johnson and now has in place an Interim City Manager.
- City Council and City Staff received a robust set of questions from the City Council that we worked to address leading up to the budget workshop. The April 16th Budget Work Session provided an excellent overview of the budget and a healthy question and answer exchange yet, there seems to be remaining uncertainty around the City's budget.
- Although I am new to the City of Berkley, questions seem to stem from the City's efforts to manage through financial uncertainty, the resulting changes in service delivery, and new guidance from the Finance Department in an attempt to improve budgeting procedures and effectively attribute service costs to the appropriate funds.
- Clarity is possible, with investment of the appropriate time and resources. With the level of transition currently ongoing at the city and a significant staff work load, I would like clear direction from the City Council regarding its interest in investing such resources towards further budget improvements in future budget years.

Summary

- As City Council is aware, the City's annual budget must be approved by the last day in May by City Charter. Currently, we are scheduled to hold the budget public hearing and adopt the budget at the May 20th City Council meeting. Given outstanding questions and staff's commitment to be responsive and its interest in bringing forth recommendations for further advancement, I am seeking City Council direction on the following matters:

1. Provide staff with a clear and consensus driven direction on the City's Solid Waste Fund as well as the overall goal. At a minimum, knowing City Council's goal will help staff develop a strategy to deliver the clarity and results that are sought by Council. Our current understanding of outstanding questions centers around three key items:
 - The "existing" clerical position being moved to the Solid Waste Fund
 - The "new" Curbside Leaf Pick Up "Department"
 - The Administrative Fee

Staff would recommend that we proceed with the budget as presented with any outcomes following Council's direction incorporated into a budget amendment or into the FY 2025/2026 budget.

2. Consider directing staff to bring back recommendations that would result in a multi-year (5 to 10 year) financial forecast across all funds that can be used to help guide short and long-term financial decision making. Given the operational and capital pressures that appear to be weighing on the City, such a tool is a critical missing piece to studying and developing a strategy for fiscal stability.
 3. Determine City Council interest in staff bringing back recommendations for a budget tool that provides more accessible information to the Council and public, and can be better convey the connection between the budget and City's strategic priorities, service delivery efforts, and service outcomes.
- Although there are likely additional recommendations forthcoming, I see the above as necessary if the City Council would like to see additional improvements to the budget and budget process for the 2025/2026 Fiscal Year.

Recommendation

Consider offering a motion, or providing clear City Council consensus, regarding the above recommended discussion matters.