

## **STATEMENT OF CONDITIONS AGREEMENT**

This Conditional Re-zoning Statement of Conditions Agreement (the “Agreement”) made effective this \_\_\_\_ day of October, 2023 by and between the Village of Pinckney (the “Village”), a Michigan Municipal Corporation with its offices at 220 South Howell Street, Pinckney, MI 48169, and BTC 475 Pinckney LLC, P.O. Box 589, Pinckney, MI 48169 (the “Property Owner”), agree as follows:

### **R E C I T A L S**

A. The Property Owner is currently the owner of certain real property located in the Village of Pinckney located at 183 E. Hamburg St., having the property identification number 4714-23-301-004 more specifically described on Exhibit A, attached hereto (the “Property”).

B. The Property was conditionally rezoned from Multiple-Family Residential (R-4) to Secondary Business District (SBD), but the conditions were not timely met, and the property was subject to reversion to the prior R-4 Zoning.

C. The Property Owner filed an Application for Zoning Amendment, dated September 12, 2023, seeking a new conditional rezoning to the Secondary Business District (SBD) under the Village’s zoning ordinance,

D. The Property Owner has voluntarily offered to enter into this Agreement consistent with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

E. This Agreement is made by the Village pursuant to authority granted to the Village under MCL 125.3405, as amended; and § 152.262(N) of the Village of Pinckney Code of Ordinances.

F. The Planning Commission of the Village, at its October 2, 2023 meeting considered the reversion to the prior Multiple-Family Residential (R-4) and the new rezoning request with conditions for retaining a Secondary Business District (SBD) classification, and after a public hearing determined that, with appropriate conditions regarding the use and development of the Property contained herein, the requested Secondary Business District (SBD) zone is an appropriate land use.

G. The Village, by action of its Village Council at a regular meeting held on the \_\_\_\_ day of October, 2023 has accepted the offer of the Property Owner to enter into this Agreement.

**NOW THEREFORE**, in consideration of these premises, the parties hereto agree as follows:

**Section 1. RE-ZONING & CONDITIONS.**

**1.1 Re-zoning.** At the request of the Property Owner, the Village shall continue the Property Secondary Business District (SBD) zoning classification conditioned on the Property Owner timely complying with its offered conditional terms. The following conditions shall apply to such Re-zoning.

**1.2 Voluntary Conditions.** The Property Owner voluntarily offers and consents to the following offered Re-zoning Conditions:

1. The Property Owner will execute a shared driveway and parking agreement between parcels.
2. The Property Owner will use only the southeast access as the main entrance and exit for the sports complex.
3. The Property Owner will limit internal building hours of operation to Monday through Saturday from 9:00 am to 10:00 pm and Sunday 10:00 am to 8:00 pm. The external recreational hours of operation will be limited to 10:00 am to 9:00 pm Monday through Saturday, and Sunday 10:00 am to 8:00 pm (seasonally adjusted to operate during daytime hours only).
4. The Property Owner agrees that the purpose of this conditional rezoning is for indoor/outdoor recreational use only. If this use ends, the parcel will revert back to the R4, multiple family residential district within 12 months.
5. The Property Owner agrees to:
  - (a) Enhance the existing property and structure by revitalizing the exterior with a facade improvement and internal upgrades for functionality;
  - (b) Provide indoor/outdoor recreation providing an outlet for the youth of our community and surrounding areas;
  - (c) Provide exterior security lighting;
  - (d) Install a pedestrian gate along the E. side of the 195 E Hamburg main gate & use pedestal mailbox/signage to separate vehicle & pedestrian traffic;
  - (e) Install shrubbery for screening of the fence along Hamburg St. & Howell St.; and
  - (f) Extend Sidewalk from current location at E. Hamburg east corner of property at the street to include service walk into the pedestrian gate and continue to the corner of N. Howell.

**1.3 Use Limitations.** The use of the Property shall be limited to the Commercial indoor recreation and Commercial outdoor recreation special uses contained in the Secondary Business District (SBD) [Pinckney Code Section 152.182(J) and (K)], as proposed by the Property Owner. It is understood that the proposed use shall also be contingent on complying with the size, design, special use permit, site plan approval, and other requirements governing such uses in the Village's SBD zoning district under the adopted zoning and land use code of the Village. It is

further agreed that after the Conditional Re-zoning, the Property Owner shall comply with all of the requirements regulating the use and development within the Secondary Business District (SBD), as modified by any more restrictive requirements in the provisions contained in this Statement of Conditions Agreement.

**1.4 Zoning District Reversion.** In the event that this agreement terminates, or the property is used in a manner inconsistent with the uses under subsection 1.3 and/or the special use and site plan approvals are not obtained and complied with as required under the Pinckney Zoning Ordinance, or in the event the approved use has been abandoned, as defined in the Pinckney Zoning Ordinance, the Re-zoning of the property shall revert to the Multiple Family Residential (R-4), or its successor zoning district classification.

**1.5 Validity of Uses.** In the event that the Village of Pinckney Zoning Ordinance is amended such that the uses provided for in this Agreement for the Facility and/or Property are no longer permitted uses in the Multiple Family Residential (R-4) District, the uses provided for in this Agreement shall be considered legally non-conforming and continuation of such use shall be governed by § 152.418 of the Village of Pinckney Zoning Ordinance.

## **Section 2. MISCELLANEOUS.**

**2.1 Effective Date.** In accordance with MCL 125.3401 and the Village's Charter, the effective date of this Agreement and the Re-zoning Ordinance shall be twenty (20) days from and after its publication.

**2.2 Severability.** Should any section, clause or provision of this Agreement be declared unconstitutional, illegal, or of no force and effect by a court of competent jurisdiction, then and in that event such portion thereof shall not be deemed to affect the validity of any other part or portion of this ordinance and/or Agreement.

**2.3 Agreement Running with the Land.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as long as it is in effect. The transfer of the Property shall not constitute a default under the Conditional Re-zoning Statement of Conditions Agreement. The provisions of this Agreement shall be deemed benefits and burdens which shall run with the Property.

**2.4 Recording.** This Agreement shall be recorded with the Livingston County Register of Deeds within thirty (30) days of the effective date.

**2.5 Voluntary Offer.** The Property Owner represents and warrants that it has voluntarily offered to enter into this Agreement and the Property Owner shall not commence any action after the date hereof against the Village asserting that it did not voluntarily offer to enter this Agreement.

**2.6 Complete Statement of Conditions Agreement.** This Statement of Conditions Agreement and the attached exhibit referenced herein constitutes the entire Agreement between the parties.

**2.7 Signatures Authorized.** The people signing this Statement of Conditions Agreement on behalf of the above-stated parties certify by their signatures that they are duly authorized to sign this Agreement on behalf of said parties and that this Agreement has been authorized by said parties.

**2.8 Governing Law.** This Statement of Conditions Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Michigan. Nothing contained herein shall be construed to limit or prohibit the Property Owner from petitioning or submitting zoning applications and requests to the Village after the effective date of this Agreement.

THE UNDERSIGNED HAVE EXECUTED THIS CONDITIONAL RE-ZONING STATEMENT OF CONDITIONS AGREEMENT ON THE DATE SET FORTH ABOVE

**WITNESS:**

\_\_\_\_\_

**PROPERTY OWNER  
BTC 475 PINCKNEY, LLC**

By \_\_\_\_\_  
Stefan N Kril II  
Its: Managing Member

\_\_\_\_\_

**VILLAGE OF PINCKNEY, A  
MICHIGAN MUNICIPAL  
CORPORATION**

By \_\_\_\_\_  
Linda E. Lavey, President

\_\_\_\_\_

By \_\_\_\_\_  
Jill Chapman, Clerk

**ACKNOWLEDGEMENT**

STATE OF MICHIGAN        )  
  ) ss.  
COUNTY OF LIVINGSTON)

On this \_\_\_\_ day of October, 2023, before me personally appeared Stefan N. Kril II, to me known, who, being by me duly sworn, did say that he is the authorized member of the BTC 475 Pinckney, LLC, and that the foregoing document was executed on behalf of said company, by authority of its governing body, and he acknowledges said instrument to be a free act and deed of said corporation.,

\_\_\_\_\_  
, Notary Public  
Livingston County, Michigan  
Acting in the County of Livingston  
My Commission Expires:

STATE OF MICHIGAN        )  
  ) ss.  
COUNTY OF LIVINGSTON)

On this \_\_\_\_ day of October, 2023, before me personally appeared Linda E. Lavey, President, and Jill Chapman, Clerk, of the Village of Pinckney, to me known, who, being by me duly sworn, did say that the foregoing document was executed on behalf of said Village, by authority of its governing body Village Council, and they acknowledged said instrument to be a free act and deed of said Village.,

\_\_\_\_\_  
, Notary Public  
Livingston County, Michigan  
Acting in the County of Livingston  
My Commission Expires:

**PREPARED BY:**

David G. Stoker  
COHL, STOKER & TOSKEY, P.C.  
601 North Capitol Avenue  
Lansing, Michigan 48933

When recorded return to:  
The Village of Pinckney  
220 South Howell Street  
Pinckney, Michigan 48169

**EXHIBIT A**  
**PROPERTY LEGAL DESCRIPTION**

**PARCEL 4:**

Lots 1 through 8 inclusive, in Block 8, Range 5, of the ORIGINAL PLAT OF THE VILLAGE OF PINCKNEY as recorded in Liber 2 of Deeds, page 64, Livingston County Records.

**PARCEL 5:**

Beginning at the NW corner of Lot 4, Block 8, Range 5, of the ORIGINAL PLAT OF THE VILLAGE OF PINCKNEY as recorded in Liber 2 of Deeds, page 64, Livingston County Records; thence north to the right-of-way of the Michigan Airline Railroad; thence easterly along the right-of-way of said railroad 264 feet; thence south to the NE corner of Lot 1, Block 8, Range 5, of the said Plat; thence west 264 feet to the place of beginning.

**PARCEL 6:**

All that portion of Mill Street which lies between Lot 1, Block 8, Range 5, and Lot 4, Block 8, Range 6, of the ORIGINAL PLAT OF THE VILLAGE OF PINCKNEY, as recorded in Liber 2 of Deeds, page 64, Livingston County Records.

**PARCEL 7:**

Beginning at the NE corner of Lot 1, Block 8, Range 5, of the ORIGINAL PLAT OF THE VILLAGE OF PINCKNEY as recorded in Liber 2 of Deeds, page 64, Livingston County Records; thence easterly to the NW corner of Lot 4, Block 8, Range 6 of the said Plat; thence northerly to the right-of-way line of the Grand Trunk Railroad; thence westerly 66 feet along said right-of-way to a point directly north of the point of beginning; thence southerly to the point of beginning.

**PARCEL 8:**

The southwesterly 1/2 of that part of vacated Mill Street lying between Lot 8, Block 8, Range 5, and Lot 5, Block 8, Range 6, of the ORIGINAL PLAT OF THE VILLAGE OF PINCKNEY as recorded in Liber 2 of Deeds, page 64, Livingston County Records.