



City of Elkhart  
Redevelopment Commission

**AMENDED**

**AGENDA FOR ELKHART REDEVELOPMENT COMMISSION MEETING  
MUNICIPAL BUILDING (2<sup>ND</sup> FLOOR), COUNCIL CHAMBERS  
TUESDAY, NOVEMBER 14, 2023 at 4:00 P.M.**

**THIS MEETING WILL BE HELD IN-PERSON & ELECTRONICALLY VIA WEBEX**

To join, go

<https://coei.webex.com/coei/j.php?MTID=m53a22b3ad5da612bb292e0084f05e10a>

enter **2309 607 2429** as the event number and **RDC11** as the event password.

To join by phone, call 1-415-655-0001, enter **2306 607 2429##**

*Press \*6 to unmute telephone*

Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to [adam.fann@coei.org](mailto:adam.fann@coei.org) prior to the meeting.

1. Call to Order
2. Approval of Minutes
  - October 14, 2023 Regular Meeting Minutes
3. New Business
  - a) Open Bids
  - b) ~~Public Meeting held on 11/14 at 2:30 in Council Chambers-~~ Remove from this agenda as this meeting is held earlier in the day.
    - ~~Public Meeting to consider amending declaratory resolution establishing the Downtown Elkhart SF Housing Allocation Area No. 6 located in the Housing TIF Area and preliminarily approving a housing program for the Housing TIF Area.~~
  - c) Nelson Law Group invoice
    - Approve the Nelson Law Group Invoice #23143 for Star Tire/Executive Cleaners legal defense in the sum of \$727.70 and appropriate funds from the Downtown Allocation Area No. 1 Special Fund.

- d) Local Public Improvement (LPI) at Elkhart Municipal Airport
  - Appropriate \$40,000 from the Aeroplex TIF to fund water and electric improvement of the facilities at the Elkhart Municipal Airport.
- e) Concord Mall Loan Documents
  - Approve the Concord Mall Loan Documents as to form and content.
- f) Parkway 17 – Holladay Properties Economic Development Agreement
  - Approve Economic Development Agreement with Holladay Properties, LLC for property at Parkway 17 for constructing multi-family apartment complex.
- g) Transfer of real estate from Board of Public Works to Redevelopment Commission for the Art and Pat Decio Central Green
  - Accept deed and title for the transfer of real estate for the Art and Pat Decio Central Green from the Board of Public Works for Economic Development purposes.
- h) Approve Homebuyer Assistance Grant for 1639 Huron Street and 919 Hubbard
  - Approve the 1639 Huron Street Grant Request of Lacasa Inc. in the amount of \$15,000.
  - Approve the 919 Hubbard Grant Request of Lacasa Inc. in the amount of \$15,000.
  - Appropriate \$30,000 from the CDBG Grant Year 2022 Funds, Grant B22MC180015 to fund the grants.
- i) Community Development Block Grant (CDBG) Program Year 23 Subrecipient Agreement
  - St. James AME Church
- j) Award Demo Bid for 1000 Block of South Main
  - Approve contractor bid to demo the 1000 block of South Main Street and appropriate funds equally between Consolidated South Elkhart Economic Development/Redevelopment Tax Allocation Area Special Fund and Downtown Allocation Area No. 1 Special Fund to cover the cost of demo services
- k) Approving employment of Enviroforensics, LLC regarding LaBour Pump VRP
  - Approve employment of Enviroforensics, LLC to provide services described in the Agreement and appropriate \$15,098 from Consolidated South Elkhart Economic Development/Redevelopment Allocation Area Special Fund.

4. Staff Updates

5. Other Business

- a) Warrick and Boyn Invoice
- b) September 2023 TIF Report

9. Public Comment

10. Adjournment



**City of Elkhart**  
*Redevelopment Commission*

REGULAR MEETING MINUTES  
ELKHART REDEVELOPMENT COMMISSION  
LOCATION: CITY HALL, 2<sup>ND</sup>. FLOOR, COUNCIL CHAMBERS  
Tuesday, October 10, 2023  
4:00 p.m.

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**PRESENT:** Alex Holtz, Dina Harris, Gerry Roberts, Sandi Schreiber, Wes Steffen, Dorisanne Nielsen, Mike Huber, Adam Fann, Jacob Wolgamood, Mary Kaczka, Kristen Smole, Sherry Weber (Recording Secretary)

**PRESENT BY WEBEX:** Chris Pottratz and Lewis Anne Deputy

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**Call to Order**

This meeting was held in-person, telephonically and virtually through WEBEX. Mrs. Schreiber called the meeting to order at 4:00 pm.

**Approval of September 12, 2023 Regular Meeting Minutes & September 25, 2023 Special Meeting Minutes**

Mrs. Schreiber asked for a motion to approve the September 12, 2023 Regular Meeting Minutes and the September 25, 2023 Special Meeting Minutes. Moved by Ms. Harris. Seconded by Mr. Steffen. Voice vote, all in favor, minutes approved.

**New Business**

**A. Open Offers**

Adam Fann addressed the commission stating there are no bids to open.

**B. Public Hearing on West 78 Business Park Economic Development Area and TIF Allocation Area**

Mrs. Schreiber opened the Public Hearing. Mr. Mike Huber discussed the West 78 Business Park Economic Development Area and TIF Allocation Area and answered questions. Mr. Gary Boyn noted the public notice that is required to be filed and printed in the local paper has run. There was no public comment. Ms. Schreiber closed the public hearing.

### **C. West 78 Confirmatory Resolution**

Mrs. Schreiber asked for a motion to approve the confirmatory resolution approving an Economic Development Area, an Economic Plan and establish an Allocation Area for purpose of tax increment financing. Moved by Mr. Roberts. Seconded by Ms. Harris. Voice vote, all in favor, minutes approved.

### **Public Hearing on Parkway at 17 Confirmatory Resolution**

Mrs. Schreiber opened the Public Hearing. Mr. Mike Huber presented on the Parkway at 17 confirmatory resolution and answered questions. Mr. Gary Boyn noted the public notice required to be filed and printed in the local paper has run and the Plan Commission and City Council have both adopted the resolutions they had to adopt. There was no public comment. Ms. Schreiber closed the public hearing.

### **D. Parkway at 17 Confirmatory Resolution**

Mrs. Schreiber asked for a motion to approve the confirmatory resolution to designate and declare the Parkway at 17 Economic Development Area Plan and establish an Allocation Area for purposes of tax increment financing. Moved by Ms. Harris. Seconded by Mr. Steffen. Voice vote, all in favor, motion approved.

### **E. River District Zone 1 Allocation Areas 4, 5 & 6 Declaratory Resolution**

Mr. Mike Huber addressed the commission and answered questions. Mrs. Schreiber asked for a motion to approve the resolution to amend the declaratory resolution and the redevelopment plan for the Downtown Urban Renewal Area. Moved by Mr. Roberts. Seconded by Mr. Steffen. Voice vote, all in favor, motion approved.

### **F. RFP for Disposition and Development of new Amphitheater project – Central Green**

Mr. Mike Huber addressed the commission and answered questions. Mrs. Schreiber asked for a motion to authorize issuance of a request for proposal for lease of the Art Pat Decio Central Green space. Moved by Ms. Harris. Seconded by Mr. Steffen. Voice vote, all in favor, motion approved.

### **G. Demolition Contract for 1108 Benham**

Ms. Mary Kaczka addressed the commission and answered questions. Mrs. Schreiber asked for a motion to approve the demolition contract for 1108 Benham and appropriate up to \$35,000 from CDBG Special Fund to cover the cost of demolition services. Moved by Mr. Holtz. Seconded by Ms. Harris. Voice vote, all in favor, motion approved.

### **H. Redevelopment Commission 2024 Meeting Calendar**

Mrs. Schreiber asked for a motion to approve the Redevelopment Commission 2024 Meeting Calendar. Moved by Mr. Holtz. Seconded by Mr. Steffen. Voice vote, all in favor, motion approved.

### **Staff Updates**

Mr. Adam Fann addressed the commission with updates on projects around the city

- 200 Jefferson Street – Adam spoke with Building Commissioner and the house is a total loss after the latest fire.
- State Road 19 – The City has received notice to proceed with the project.

- Roundhouse – Madam and Jacob met with the state. They are going to do some asbestos surveying, some ground penetrating radar and additional testing from monitoring wells we have installed.
- 1101 Beardsley – The building is about half way torn down.

**Other Business**

Mr. Gary Boyn stated the current work amount on the Warrick and Boyn invoice is for \$31,130.52. Ms. Schreiber asked for a motion to approve the Warrick and Boyn invoice in the sum of \$31,130.52. Moved by Mr. Roberts. Seconded by Mr. Steffen. Voice vote, all in favor, motion approved.

**Public Comment**

No public was present to address the Commission for public comment.

**Adjournment**

There being no further discussion, Mrs. Schreiber asked for a motion to adjourn the meeting. Moved by Ms. Harris. Seconded by Mr. Roberts. Voice vote, all in favor, motion approved. The meeting adjourned at 4:24 p.m. Next meeting is on Tuesday, November 14, 2023 at 4:00 p.m. in Council Chambers.

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Sandra Schreiber, President



**2024  
REDEVELOPMENT COMMISSION  
MEETING DATES**

The Redevelopment Commission meets the second Tuesday of each month at 4:00 PM and will broadcast from the 2nd floor, Council Chambers, Municipal Building, 229 S. Second Street, Elkhart, Indiana

January	9
February	13
March	12
April	9
May	14
June	11
July	9
August	13
September	10
October	8
November	12
December	10



**2024  
REDEVELOPMENT COMMISSION  
PRE-AGENDA MEETING DATES**

The Redevelopment Commission Pre-Agenda meetings will broadcast from the Annex Large Conference Room, Annex Building, 201 S. Second Street, Elkhart, Indiana

January	5
February	9
March	8
April	5
May	10
June	7
July	5
August	9
September	6
October	4
November	8
December	6



City of Elkhart  
*Redevelopment Commission*

Elkhart Redevelopment Commission  
Pre-Agenda Meeting Summary  
For October 6, 2023

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**PRESENT:** Dina Harris, Sandi Schreiber, Alex Holtz, Gary Boyn, Mike Huber, Adam Fann, Jacob Wolgamood, Sherry Weber, Mary Kaczka, and Kristen Smole.

**PRESENT BY WEBEX:** Chris Pottratz, Ambrose Kanya, MMaday-WNDU

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The Commission reviewed each agenda item and staff explained the status of each matter to date and the need for and purpose of the proposed Resolution to be acted upon at the upcoming Elkhart Redevelopment Commission meeting on October 10, 2023.

**Rod Roberson**  
Mayor

**Michael Huber**  
Director of Development Services



**Development Services**  
Community Development  
Economic Development  
Planning Services  
Redevelopment  
229 S. Second St.  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.295.7501

**NOTICE TO ALL TAXPAYERS AND OTHER PERSONS INTERESTED IN OR  
AFFECTED BY A POTENTIAL RESIDENTIAL HOUSING PROGRAM OF  
THE CITY OF ELKHART REDEVELOPMENT COMMISSION**

Taxpayers of the City of Elkhart Redevelopment District ("District"), and all other persons interested in or affected by the establishment of a residential housing program ("Housing Program") in the Downtown Urban Renewal Area ("Area"), are hereby notified that representatives of the City of Elkhart Redevelopment Commission ("Commission") will hold a public meeting on November 14, 2023 at the hour of 2:30 p.m., local time, at the Municipal Building (2<sup>nd</sup> Floor), Council Chambers, Elkhart, Indiana, to consult with persons interested in or affected by the proposed preliminary Housing Program and provide an opportunity to review, evaluate and provide recommendations on the proposed Housing Program.

On November 14, 2023, the Commission will consider an amending declaratory resolution establishing the Downtown Elkhart SF Housing Allocation Area No. 6 located in the Area ("Housing TIF Area") and preliminarily approving a housing program for the Housing TIF Area.

At the time fixed for the meeting or at any time prior thereto any person interested in the proceedings may review the Housing Program and file written comments with the Secretary of the Commission in the office of the Controller, 229 South Second Street, Elkhart, Indiana. At such meeting, which may be adjourned from time to time, representatives of the Commission will hear all persons interested in the preliminary Housing Program.

Dated October 13, 2023.

**ELKHART REDEVELOPMENT COMMISSION**

**[NOTE: Post in City government buildings where notices are routinely posted, Municipal Building (2<sup>nd</sup> Floor), Council Chambers and any other public buildings in or near the affected neighborhood(s); and send to any organizations/media requesting notice of meetings, the fiscal officers of all overlapping taxing units and to the superintendents and school board presidents of all local schools located within the proposed housing allocation area; and provide Township Assessor with a copy of Housing Program.]**



RESOLUTION NO. 23-R- 082

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART, INDIANA, APPROVING NELSON LAW BILLING

Whereas, The Commission has acquired the realty at 200 and 216 N. Main previously referred to as the Elkhart Armory and Star Tire properties, which sites have environmental contamination and require remediation, and has employed Nelson Law Group ("NLG") to pursue collection of the estimated clean-up costs and related expenses from prior owners and insurers of the premises (the "Services"); and

Whereas, the Commission has reviewed the September 30, 2023 NLG Invoice 23143 for Services performed in accordance with the Fee Agreement (the "Invoice") and believes it is in the best interest of the City and its inhabitants that the Invoice be approved for payment and the funds appropriated to pay the same.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves NLG Invoice 23143 for payment in the amount of \$727.70.
2. The Commission appropriates the sum of \$727.70 from the Downtown Allocation Area No. 1 Special Fund to pay the Invoice
3. The Commission authorizes its officers to do all acts which they deem necessary and appropriate in furtherance of the Resolution.

ADOPTED BY MAJORITY VOTE THIS 14th DAY OF NOVEMBER 2023.

CITY OF ELKHART, REDEVELOPMENT COMMISSION

By \_\_\_\_\_  
Sandra Schreiber, President

ATTEST:

By \_\_\_\_\_  
Alex Holtz, Secretary



**Michael O. Nelson**  
Attorney  
Phone: 317-755-0661  
MNelson@nelsonlawgroupllc.com

October 23, 2023

**Via E-mail**

Elkhart Redevelopment Commission  
Adam Fann, Assistant Director for Community and Redevelopment  
Gary Boyn, Counsel  
City of Elkhart  
229 South 2<sup>nd</sup> Street,  
Elkhart, IN 46516  
gboyn@warrickandboyn.com  
adam.fann@coei.org

**Re: 3rd Quarter, 2023 Invoice  
Star Tire/Executive Cleaners  
216 N. Main Street, Elkhart IN  
Elkhart Redevelopment Commission**

All:

Pursuant to the agreement between NLG and the Elkhart Redevelopment commission, enclosed, please find a copy of our invoice #23143, regarding legal defense charges through September 2023, in the amount of \$727.70.

Our goal is to provide our clients with efficient, cost-effective services that are aimed at resolving the issues promptly. If you have questions or comments regarding entries on the invoice or our activities, please do not hesitate to call. Our office will address any questions or concerns promptly.

Payment should be made to the following address within 30 days.

8777 Purdue Rd, Suite 310  
Indianapolis, IN 46268  
Phone: 317-755-0661  
Tax ID : 45-5379244.

Again, please contact me if you have any questions.

Very truly yours,  
Nelson Law Group LLC

A handwritten signature in black ink that reads 'Michael O. Nelson'.

Michael O. Nelson

MON:mb  
Cc: Sherry.Weber@coei.org



8777 Purdue Rd, Suite 310, Indianapolis, IN 46268 Tel: 317-755-0661  
www.nelsonlawgroupllc.com



8777 Purdue Road, Suite 310  
Indianapolis, IN 46268

Federal Tax ID # 45-5379244

Date: 10-23-23

Attention:  
Account # 089-1

Invoice Number: 23143  
Billing through: September 30, 2023

RE: Elkhart Redevelopment

**FEES:**

**DATE**

05-30-23

05-30-23

05-30-23

09-27-23

09-27-23

09-28-23

09-28-23

**AMT**

\$112.50

\$100.00

\$45.00

\$162.50

\$100.00

\$162.50

\$45.00

**TOTAL FEES:**

**\$727.50**

**TIMEKEEPER SUMMARY:**

MON	Michael O. Nelson	Senior Partner	5.10	Hrs	\$125.00	/hr	\$637.50
EF	Elizabeth Fatout	Paralegal	1.00	Hrs	\$90.00	/hr	\$90.00

**EXPENSES:**

09-30-23 Copying 2 @ 0.10 0.20

**TOTAL EXPENSES:**

**\$0.20**

***TOTAL AMOUNT FOR THIS BILL: \$727.70***



Copy/Print totals September 2023

Copier: XKP095099,10.2.2023,9:37:48

ID	Name	Color Copy Usage	BW Copy Usage	Color Print Usage	BW Print Usage	Total
	Elkhart	0	0	2	0	2

RESOLUTION NO. 23-R- 083

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE  
CITY OF ELKHART, INDIANA

Whereas, the Elkhart Board of Aviation Commissioners ("BOAC") desires to contract for the installation of permanent water taps and pipes to supply at least 8 separate locations on the Airport property and upgrade electric services to allow it to better serve the community and vendors at events conducted on the Airport (the "Project") which will enhance the economic development activities of the Aeroplex Economic Development Allocation Area; and

Whereas, The Commission has determined that the Elkhart Municipal Airport plays a critical role in the economic development of the North Corridor and the City as a whole, and is the key to further economic expansion in the Aeroplex Areas; and

Whereas, BOAC has requested the Commission reimburse the cost of the Project as a Local Public Improvement as allowed under IC 36-7-14-39 (b)(3)(G); and

Whereas, acquiring real estate and improving the Elkhart Municipal Airport to expand its economic development impact is a Project and Purpose of the Commission for which Aeroplex TIF funds may be spent; and

Whereas, the Commission finds the Project to be in the best interest of the City and its inhabitants and that the funds should be appropriated to reimburse the City for the expenditures made by it for the Local Public Improvements.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission declares and reaffirms that the improvement of facilities at the Elkhart Municipal Airport and economic development of the Elkhart Municipal Airport is a Purpose and Project of the Commission for which Aeroplex TIF funds may be spent.
2. The Commission appropriates the sum of \$40,000.00 from the Aeroplex TIF Fund to reimburse the City for expenditures made by it for the Project.
3. The Officers of the Commission are authorized and directed to perform all acts they deem necessary and appropriate to carry out the terms of this Resolution.

ADOPTED BY UNANIMOUS VOTE THIS 14th DAY OF NOVEMBER 2023.

CITY OF ELKHART, REDEVELOPMENT  
COMMISSION

By \_\_\_\_\_  
Sandra Schreiber, President

By \_\_\_\_\_  
Alex Holtz, Secretary



Memorandum

To: Mayor Rod Roberson

From: Andy Jones

Date: 7/20/2023

Subject: Aeroplex TIF Funds Requests for City Utilities Connection Costs and Electrical Service Upgrade.

The Elkhart Municipal Airport hosts aviation themed community events from time to time that require food vender services. All food venders require clean and safe drinking water and electrical service. Currently the only way to provide water service to venders is to take a nearby city fire hydrant out of service, affix a tap, backflow valve, and meter. Then hundreds of feet of hose must be use to connect each vender. BOAC would like to have permanent water tap(s) installed. From that point, underground lines can be plumbed and routed to eight separate locations within the vender area. From each of those points two or three venders can connect. Electrical service is available for food venders but is in need of upgrading. The service also needs to be run from its current location to where it can be accessed by each vender. The BOAC is requesting approval for the funds to have these services performed in an amount not to exceed \$40,000.

Thank you,

Andy Jones

Elkhart Municipal Elkhart Director

Cc: BOAC, Karen Shaw

RESOLUTION NO. 23-R-084

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE  
CITY OF ELKHART, INDIANA, APPROVING ELKHART CONCORD LOAN AGREEMENTS

Whereas, the Common Council adopted Ordinance 5953 on October 2, 2023, appropriating funding and approving a Revolving Loan Fund loan by the City in the amount of \$2 Million to Elkhart Concord LLC (the "Borrower/Developer") to provide financial incentives for the acquisition, construction, expansion, equipping, and improvement of the Concord Mall property to create a modernized business park with parking and related improvements (the "Project"), as part of an incentive package negotiated through the Redevelopment Commission for the Project; and

Whereas, the Commission staff and Borrower, at the request of the City, have negotiated the terms of the loan and have submitted the Development and Loan Agreement and related loan documents attached hereto (the "Loan Documents") to the Commission for approval; and

Whereas, the Commission has reviewed the Loan Documents and finds the terms consistent with the intent of the Council as expressed in the Ordinance and with the incentive package negotiated with the Borrower/Developer.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the Loan Documents as to form and content, subject to Developer submission and City review and approval of such financial statements and reports as City deems necessary and appropriate and to any final revisions that the City and its legal counsel deem appropriate.
2. The Officers of the Commission are hereby authorized to present the Loan Documents to the Mayor and City Corporation Counsel for review, execution and delivery by the City as they deem appropriate, and to do all acts which they deem necessary and desirable in furtherance of this Resolution.

ADOPTED BY MAJORITY VOTE AT A MEETING OF THE COMMISSION THIS 14th DAY OF  
NOVEMBER 2023.

CITY OF ELKHART, REDEVELOPMENT  
COMMISSION

By \_\_\_\_\_  
Sandra Schreiber, President

ATTEST:

By \_\_\_\_\_  
Alex Holtz, Secretary

**DEVELOPMENT AND LOAN AGREEMENT**

**between**

**CITY OF ELKHART, INDIANA**

**and**

**ELKHART CONCORD LLC**

**\$2,000,000**

**CITY OF ELKHART, INDIANA,  
TAXABLE ECONOMIC DEVELOPMENT LOAN  
(CONCORD MALL PROJECT)**

**Dated**

**as of**

\_\_\_\_\_, 2023



## DEVELOPMENT AND LOAN AGREEMENT

THIS FINANCING AND LOAN AGREEMENT made and entered into as of \_\_\_\_\_, 2023, by and between the City of Elkhart, Indiana, a municipal corporation and political subdivision existing under the laws of the State of Indiana (the "City") and Elkhart Concord LLC, an Ohio limited liability company (the "Borrower"), under the following circumstances summarized in the following recitals (the capitalized terms not defined in the recitals are as defined in Article I hereof):

A. Indiana Code, Title 5, Article 1, Chapter 14, Section 14 as supplemented and amended (the "Act"), authorizes and empowers the City to make loans to provide funding for economic development purposes and vests the City with powers that may be necessary to enable it to accomplish such purposes.

B. The Borrower has requested a certain economic development incentive from the City in the form of loans to the Borrower totaling, in the aggregate, the amount of Two Million Dollars (\$2,000,000) (the "Loan") to be evidenced by (i) a Promissory Note in the amount of \$1,000,000, in substantially the form attached as Exhibit A-1 hereto ("Loan 1") and (ii) a promissory note in the amount of \$1,000,000 in substantially the form attached as Exhibit A-2 hereto ("Loan 2"), collectively referred to herein as the "Borrower's Note" to finance economic development purposes within the meaning of Indiana Code § 5-1-14-14, consisting of the acquisition, construction, renovation, and equipping of the Concord Mall into a modernized business park with parking and related improvements within the real estate described on Exhibit B hereto (the "Project Area").

C. The Project Area is located within the South Elkhart Economic Development Area (the "Economic Development Area") and The Consolidated South Elkhart Economic Development / Redevelopment Allocation Area (the "Allocation Area"), and the City desires to foster economic development and redevelopment within or serving the Project Area, the Economic Development Area and the Allocation Area.

D. The City believes that developing the Project Area and accomplishing the Project as described herein are in the best interests of the health, safety and welfare of the City and its residents and comply with the public purposes and provisions of the Act and based upon the information presented to the City by the Borrower, the City has determined that the Project constitutes an economic development purpose as defined by the Act.

E. The City desires to facilitate the development of the Project Area by (i) making the Loans to the Borrower, and (ii) entering into and receiving benefits under that certain Guaranty of Payment Agreement (the "Guaranty Agreement") from Borrower and/or its affiliates in substantially the form attached as Exhibit C hereto, to finance the Project subject to the conditions contained herein.

F. The parties hereto agree that it is of mutual benefit for the parties hereto to enter into this Agreement relating to the Project and the Loan that will include the commitments of each of the parties.

NOW, THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the City and the Borrower agree as follows:

## ARTICLE I. DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, the words and terms set forth in Section 1.2 hereof shall have the meanings set forth therein unless the context or use clearly indicates another meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms defined therein.

Section 1.2. Definitions. As used herein:

“Act” means Indiana Code § 5-1-14-14, as enacted and amended.

“Agreement” means this Development and Loan Agreement as amended or supplemented from time to time.

“Borrower” means Elkhart Concord LLC, an Ohio limited liability company, and its lawful successors and assigns to the extent permitted by the Agreement.

“Borrower’s Note” means the promissory notes of the Borrower in favor of the City in the form of Exhibit A-1 and A-2 hereon.

“Common Council” means the Common Council of the City.

“Completion Date” means the date of completion of the Project evidenced in accordance with the requirements of Section 3.2 hereof, and shall be not later than December 31, 2030.

“Designated Representative” means the person at the time designated to act on behalf of the Borrower by written certificate furnished to the City, containing the specimen signature of that person and signed on behalf of the Borrower by a duly authorized officer. That certificate may designate an alternate or alternates. In the event that all persons so designated become unavailable or unable to act and the Borrower fails to designate a replacement within 10 days after such unavailability or inability to act, the City may appoint an interim Designated Representative until such time as the Borrower designates that person.

“Event of Default” means any of the events described as an Event of Default in Section 6.1 hereof.

“Force Majeure” means the occurrence of fire, explosion, flood, earthquake, drought, embargo, war, riot, act of God or of public enemy, an act of governmental authority, agency or entity, shortages of fuel, power, materials or supplies, transportation delays, or any other contingency, delay, failure or cause beyond the reasonable control of the Borrower, irrespective of whether such contingency is specified herein or is presently occurring or anticipated by the Company, notwithstanding reasonable efforts to overcome or avoid such matter, provided that a lack of financial resources shall not be considered an event of Force Majeure.

“City” or “Issuer” means the City of Elkhart, Indiana, a municipal corporation and political subdivision existing under the laws of the State of Indiana.

“Guarantor” is the Guarantor as defined in the Guaranty Agreement.

“Guaranty Agreement” means the Guaranty of Payment Agreement from the Guarantor to the Issuer in substantially the form attached as Exhibit C hereto.

“Legislative Authority” means the Common Council of the City.

“Loan” means the loans by the City to the Borrower pursuant to the terms of this Agreement.

“Notice Address” means:

As to the City: City of Elkhart, Indiana  
Municipal Building  
229 S. Second St.  
Elkhart, IN 46516  
Attn: Mayor and Michael Huber or his successor

With a copy to: Warrick & Boyn  
861 Parkway Avenue  
Elkhart, IN 46516  
Attn: Gary D. Boyn

As to the Borrower: Elkhart Concord LLC  
6110 Parkland Boulevard  
Mayfield Heights, OH 44124  
Attn: General Counsel

With a copy to: Walter Haverfield LLP  
6110 Parkland Boulevard, Suite 100  
Mayfield Heights, OH 44124  
Attn: Edward A. Hurtuk, Esq.

As to the Guarantor: Industrial Commercial Properties LLC  
6110 Parkland Boulevard  
Mayfield Heights, OH 44124  
Attn: Christopher S. Semarjian

With a copy to: Walter Haverfield LLP  
6110 Parkland Boulevard, Suite 100  
Mayfield Heights, OH 44124  
Attn: Edward A. Hurtuk, Esq.

or such additional or different address, notice of which is given under Section 7.2 hereof.

“Ordinance” means Ordinance No. 5953 of the Common Council of the City adopted on October 2, 2023, authorizing the Loan.

"Person" or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), limited liability companies, joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities and natural persons.

"Project" means acquisition, construction, renovation, and redevelopment of the Concord Mall into a modernized business park with parking and related improvements within the Project Area, with a total investment of not less than Twenty Million and 00/100 Dollars (\$20,000,000.00), including, but not limited to, all hard and soft costs, engineering, architectural, environmental, and buildouts and construction performed by tenants of the Project (the "Promised Investment"), in accordance with Exhibit E, the Phased Development Plan.

"Site" means the real estate located on the Project Area.

"State" means the State of Indiana.

Section 1.3. Interpretation. Any reference herein to the City, to the Legislative Authority or to any member or officer of the City includes entities or officials succeeding to their respective functions, duties, or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Indiana Code or to any statute of the United States of America, includes that section, provision or chapter or statute as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter or statute shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the City or the Borrower under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder," and similar terms refer to this Agreement; and the term "hereafter" means after, and the term "heretofore" means before, the date of the Loan. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.4. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs, or clauses hereof.

## **ARTICLE II. REPRESENTATIONS OF THE ISSUER**

Section 2.1. Representations of the City. The City represents and warrants that:

(a) The City is a municipal corporation organized and existing under the laws of the State. Under the provisions of the Act, the City is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The City has been duly authorized to execute and deliver this Agreement. The City agrees that it will do or cause to be done all things within its control and necessary to preserve and keep in full force and effect its existence.

(b) The City agrees to loan the Borrower the amount of \$2,000,000 for the costs associated with the acquisition, construction, expansion, equipping and improving of the Project, subject to the consideration of the Borrower's Note, the Guaranty Agreement, and the execution and delivery of this Agreement, to create additional employment opportunities in City of Elkhart, Indiana and to benefit the health, safety, morals and general welfare of the citizens of City of Elkhart, Indiana and the State of Indiana.

Section 2.2. Representations and Covenants of the Borrower. The Borrower represents and warrants that:

(a) Elkhart Concord LLC is a limited liability company, validly existing under the laws of and authorized to do business in the State of Ohio, is not in violation of any laws in any manner material to its ability to perform its obligations under this Agreement and the Borrower's Note, and it has full power to enter into and by proper action has duly authorized the execution and delivery of this Agreement and the issuance of the Borrower's Note.

(b) The Project constitutes an economic development purpose under the Act.

(c) The provision of financial assistance to be made available to it under this Agreement from the proceeds of the Loan and the commitments therefor made by the City have induced the Borrower to undertake the Project and Borrower anticipates that such project will maintain existing employment and create additional jobs and employment opportunities within the boundaries of the City.

(d) Neither the execution and delivery of this Agreement or the Borrower's Note, the consummation of the transactions contemplated hereby including issuance of the Borrower's Note, nor the fulfillment of or compliance with the terms and conditions of this Agreement and the Borrower's Note, conflicts with or results in a breach of the terms, conditions or provisions of the Borrower's Articles of Organization and Bylaws or Operating Agreement or any restriction or any agreement or instrument to which the Borrower is now a party or by which it is bound or to which any of its property or assets is subject or (except in such manner as will not materially impair the ability of the Borrower to perform its obligations hereunder) of any statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or its property, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Borrower under the terms of any instrument or agreement, except as set forth in this Agreement.

(e) It is understood and agreed that the Borrower shall be obligated to continue to pay the amounts specified herein and in the Borrower's Note whether or not all or any portion of the Project is damaged, destroyed or taken in condemnation and that there shall be no abatement of any such payments and other charges by reason thereof, provided, however, that if the City takes a material portion of the Property by condemnation that materially impacts the economic viability of the Project, then an appropriate abatement shall be made to the Borrower's Note.

(f) The aggregate authorized face amount of the loan authorized hereunder does not and shall not exceed \$2,000,000.

(g) The Borrower commenced demolition, site and other work for the Project on October 2, 2023, and, subject to Force Majeure, will complete construction of the Project on or before the Completion Date, substantially in accordance with Exhibit E. The Borrower shall apply all of the proceeds of the Loan toward the costs of the Project and shall finance all remaining costs of the Project from other available funds of the Borrower, third-party loans, and/or other sources of funds. The obligations of the Borrower to complete the Project by the Completion Date shall be deferred during any period of the existence of any event of Force Majeure, provided that the Borrower shall notify the City within fifteen (15) days of Borrower's receipt of knowledge of the onset and fifteen (15) days of the end of the event of Force Majeure.

(h) Anything herein to the contrary notwithstanding, if the Borrower fails to complete the Project by the Completion Date as adjusted for Force Majeure as set forth in Section 2.2(g) above, the Borrower shall take appropriate curative actions as set forth in Section 6.1 hereof.

(i) No litigation at law or in equity nor any proceeding before any governmental agency or other tribunal involving the Borrower is pending or, to the knowledge of the Borrower threatened, in which any liability of the Borrower is not adequately covered by insurance and in which any judgment or order would have a material and adverse effect upon the business or assets of the Borrower or would materially and adversely affect the Project, the validity of this Agreement or the performance of the Borrower's obligations thereunder or the transactions contemplated hereby.

### ARTICLE III. COMPLETION OF THE PROJECT

Section 3.1. Acquisition, Construction, Expansion, Equipping and Improving of Project. It is understood that improvements made for the Project are that of the Borrower, will be performed on the time line and phases generally described on Exhibit E attached hereto, and any contracts made by the Borrower with respect thereto shall acquire, construct, expand, equip and improve the Project on the Site with all reasonable dispatch and shall pay when due all fees, costs and expenses incurred in connection with that acquisition, construction, expansion, equipment, and improvement from funds made available therefor. It is further understood that any contracts made by the Borrower with respect to the Project, whether construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower on its own behalf and not as agent or contractor for the City.

Section 3.2. Completion Date. The Borrower shall notify the City of the Completion Date by a certificate signed by the Designated Representative stating:

- (a) the date on which the Project is substantially completed,
- (b) that all other facilities necessary in connection with the Project have been acquired, constructed, expanded, equipped and improved, and
- (c) that the acquisition, construction, expansion, equipment and improvement of the Project and those other facilities have been accomplished in such a manner as to conform with all applicable zoning, planning, building, environmental and other similar governmental regulations.

The certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in subsections (a) through (c) of this Section.

**ARTICLE IV.**  
**LOAN BY CITY; REPAYMENT OF THE LOAN**

Section 4.1. Loan Advances. Upon execution of this Agreement, the Borrower's Note, and the Guaranty Agreement, the Borrower may request periodic advances under the Borrower's Note up to the face amount of the Borrower's Note, by presenting to the City, to the attention of Kristen Smole, its request for funds stating the Note from which the withdrawal will be made, the amount requested for acquisition, construction and equipping and/or to pay for work performed on the Project to a date certain, with copies of settlement statements, invoices, receipts, and other documentation in support of each request. The City must review and approve each request and will promptly disburse funds after approval. Interest will run on the amount of each withdrawal as of the date of each Note disbursement.

Borrower and City acknowledge that, subject to the foregoing, Borrower anticipates submitting a single advance request for the full amount of the Loan for costs incurred in connection with the acquisition of the Project.

Section 4.2. Loan 1 Repayment. Upon the terms and conditions of this Agreement, the City will make the Loan to the Borrower which shall be evidenced by the Borrower's Note. Pursuant to Loan 1, the Borrower shall make debt service payments on the Loan in accordance with the repayment schedule incorporated therein. The Loans evidenced by the Borrower's Note may be prepaid at any time without prepayment premium or penalty.

Section 4.3. Additional Payments. The Borrower also agrees to pay City (i) all expenses incurred in connection with the enforcement of any rights under this Agreement by the City; and (ii) all other payments of whatever nature which the Borrower has agreed to pay or assume under the provisions of this Agreement.

Section 4.4. Loan 2 Repayment. Provided Borrower has completed the Project by the Completion Date (the "**Forgiveness Requirement**"), Loan 2 will be fully forgiven on delivery of evidence reasonably satisfactory to the City of satisfaction of the Forgiveness Requirement. If the Forgiveness Requirement is not met by the Completion Date, the entire principal amount shall be immediately due and payable to the City as of the Completion Date, and if not so paid, shall bear interest at the default rate specified in the Note. Provided, however, if Borrower completes the Project by the Completion Date at a cost less than the Promised Investment, but not less than Seventy-five Percent (75%) of the Promised Investment, the City will forgive a proportion of Loan 2 equal to the proportion of the actual project cost to the Promised Investment.

Section 4.5. Guaranty Agreement. The obligations of the Borrower hereunder shall be guaranteed by the Guaranty Agreement.

**ARTICLE V.**  
**ADDITIONAL AGREEMENTS AND COVENANTS**

Section 5.1. Indemnification. The Borrower releases the City (including, but not limited to, its elected and appointed officials, employees, boards, commissions, officers and members thereof, and their respective attorneys, agents and employees) (collectively, for the purposes of this Section 5.1, the "City") from, and agrees that the City shall not be liable for, and indemnifies the City against, all liabilities, claims, costs and expenses, including attorneys' fees and expenses, imposed upon, incurred

or asserted against the City, on account of: (a) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the Borrower's construction, maintenance, operation and use of the Project; (b) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under this Agreement or any related document, or arising from any act or failure to act by the Borrower, or any of its agents, contractors, servants, employees or licensees; and (c) any claim, action or proceeding brought with respect to the matters set forth in (a) and (b) above.

In case any action or proceeding is brought against the City in respect of which indemnity may be sought hereunder, the City promptly shall give notice of that action or proceeding to the Borrower, and the Borrower upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of the City to give that notice shall not relieve the Borrower from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Borrower. At its own expense, the City may employ separate counsel and participate in the defense. The Borrower shall not be liable for any settlement made without its consent. That indemnification is intended to and shall be enforceable by the City to the full extent permitted by law. Notwithstanding anything herein, no indemnity shall be required hereunder for damages that result from the gross negligence or willful misconduct on the part of the party seeking indemnity.

Section 5.2. Sale, Lease or Grant of Use by Borrower. Subject to the provisions of any agreement to which the Borrower is a party or by which it is bound, the Borrower may sell, lease or grant the right to occupy and use the Project, in whole or in part, to others, provided that the Borrower (or its affiliated Guarantors) shall not be released from its obligations under this Agreement unless the purchaser, assignee, lessee or transferee is acceptable to City and assumes in writing all (or part) of obligations of the Borrower under this Agreement. In the event that part of (but not all) of the Project is sold, leased or granted and such purchaser, lessee or grantee is acceptable to the City assumes a portion of the obligations, then Borrower (or Guarantors affiliated with Borrower as the case may be) shall be released from that portion of the obligations assumed.

Section 5.3. Maintenance of Existence. The Borrower agrees that it will maintain its existence as an LLC, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another legal entity or company, or permit one or more other legal entities or companies to consolidate or merge with it; provided, that the Borrower may, without violating the agreement contained in this Section, consolidate or merge with another entity, permit one or more other entities to consolidate or merge into it, or transfer to another entity organized under the laws of one of the states of the United States all or substantially all of its assets as an entirety and thereafter dissolve provided (a) the surviving, resulting or transferee entity, as the case may be, is organized under the laws of one of the states of the United States, and (b) such entity assumes in writing all of the obligations of the Borrower herein, including the obligations of the Borrower under this Agreement; and provided, further that nothing in this Section or in any other section of this Agreement shall prohibit the Borrower from granting any mortgages, including a first mortgage, on the real estate and fixtures located on the Site, or selling all or any portion of the parcels of real estate and improvements that are located or to be located on the Site.

## ARTICLE VI. EVENTS OF DEFAULT AND REMEDIES

Section 6.1. Events of Default. Each of the following shall be an Event of Default:



(a) The Borrower shall fail to observe and perform any agreement, term or condition contained in, or executed in furtherance of, this Agreement, and the continuation of such failure for a period of thirty (30) days after notice thereof shall have been given to the Borrower by the City, or for such longer period as the City may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion; or

(b) Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term, or condition hereof which would give rise to an Event of Default under this Section 6.1, the Borrower shall not be deemed in default during the continuance of such inability. However, the Borrower shall promptly give notice to the City of the existence of an event of Force Majeure and shall use its best efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within the Borrower's discretion.

(c) The declaration of an Event of Default, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation, or reorganization proceedings.

Section 6.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(a) The City may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project; or

(b) The City may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Agreement, plus all expenses including attorney fees as provided in Section 6.4 or to enforce the performance and observance of any other obligation or agreement of the Borrower under those instruments; or

Notwithstanding the foregoing, the City shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the City at no cost or expense to the City.

Section 6.3. No Remedy Exclusive. No remedy conferred upon or reserved to the City by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

Section 6.4. Agreement to Pay Attorneys' Fees and Expenses. In the event that the City should incur expenses, including attorneys' fees, in connection with the enforcement of this Agreement against Borrower, the Borrower shall reimburse the City as applicable, for the reasonable expenses so incurred upon demand.

Section 6.5. No Waiver. No failure by the City to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof.

The City may waive any Event of Default hereunder.

## ARTICLE VII. MISCELLANEOUS

Section 7.1. Term of Agreement. This Agreement shall be and remain in full force and effect from the date of Loans until such time as the Loans shall have been fully paid (or provision made for such payment), except for obligations of the Borrower under Sections 5.1 hereof, which shall survive any termination of this Agreement.

Section 7.2. Notices. All notices, certificates, requests, or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Borrower and the City, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests, or other communications shall be sent.

Section 7.3. Extent of Covenants of the City; No Personal Liability. All covenants, obligations and agreements of the City contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City or the Legislative Authority in other than his or her official capacity, and neither the members of the Legislative Authority nor any official of the City shall be subject to any personal liability or accountability by reason of the covenants, obligations or agreements of the City contained in this Agreement.

Section 7.4. Binding Effect. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the City, the Borrower and their respective permitted successors and assigns. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

Section 7.5. Amendments and Supplements. This Agreement may not be effectively amended, changed, modified, altered, or terminated except as may be evidenced in a writing executed by the appropriate representatives of the City and the Borrower.

Section 7.6. Execution Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 7.7. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation, or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation, or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 7.8. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State of Indiana and for all purposes shall be governed by and construed in accordance with the laws of the State of Indiana.

**SIGNATURE PAGE TO FINANCING AND LOAN AGREEMENT**

IN WITNESS WHEREOF, the City and the Borrower have caused this Agreement to be duly executed in their respective names, all as of the date hereinbefore written.

City:

**CITY OF ELKHART, INDIANA**

By:

\_\_\_\_\_  
Rod Roberson, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Debra D. Barrett, City Clerk

Borrower:

**ELKHART CONCORD LLC**

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

Title: Managing Member

**EXHIBIT A-1**

FORM OF NOTE

**SECURED PROMISSORY NOTE**

Principal Amount: \$1,000,000

Date of this Note: \_\_\_\_\_, 20\_\_\_\_

Maturity Date: August 1, 2030

FOR VALUE RECEIVED, the undersigned, Elkhart Concord LLC an Ohio limited liability company (the "Borrower"), hereby promises to pay to the order of City of Elkhart, Indiana (the "City"), in immediately available funds, at the Office of the City Controller or at such other place as the holder hereof may direct in writing, the principal sum of One Million Dollars (\$1,000,000), or such lesser amount as may be advanced to Borrowers hereunder, with interest to accrue on the outstanding principal balance from the date of default hereunder as set forth herein.

Borrower may request advances under this note, in writing submitted to the disbursement agent designated by the City and shall submit copies of all outstanding invoices and receipts in support of the amount requested in accordance with the terms of the that certain Development and Loan Agreement (the "Loan Agreement") dated as of \_\_\_\_\_, 2023 between the City and the Borrower. The records of the disbursing agent showing the date and amount of each advance and date and amount of each payment shall be conclusive evidence of such facts. In no event shall the advances under the Note exceed the face amount of this Note.

This is not a revolving line of credit. Borrower shall not have the right to repay and reborrow principal.

Borrower's right to receive advances of funds hereunder shall terminate in the event Borrower defaults on any payment due hereunder, Borrower or any guarantor hereon becomes insolvent, files or has filed against it any proceeding in bankruptcy, receivership, insolvency, reorganization, liquidation, conservatorship, or similar proceeding, makes an assignment for the benefit of creditors, any levy, execution, attachment, garnishment of similar proceeding is instituted against any property of Borrower, Borrower ceases doing business as a going concern, or the City, in good faith, deems itself insecure.

Borrower shall make no payments hereunder in 2024 and 2025. Borrower shall pay principal payments on this Note semi-annually, on each February 1 and August 1, commencing on February 1, 2026.

If not assumed by a purchaser in accordance with the terms of the Loan Agreement, the entire principal shall be immediately due and payable upon the sale, conditional sale, or other transfer for a valuable consideration of the fee simple interest of the undersigned obligor in the property described in Exhibit A hereto.

In the event Borrower fails to make any payment as and when due hereunder, Borrower shall pay interest at the rate of Wall Street Journal Prime on the date of default plus three percent (3%) per annum, computed on a 30-day month/360-day year basis, payable semi-annually, on each August 1

and February 1, commencing on the date of default. Borrower's final payment will be for all principal and all accrued interest not yet paid, all in accordance with the following schedule:

(Loan 1 Payment Schedule)

Payment Due	Principal	Interest
February 1, 2024	-0-	-0-
August 1, 2024	-0-	-0-
February 1, 2025	-0-	-0-
August 1, 2025	-0-	-0-
February 1, 2026	100,000	-0-
August 1, 2026	100,000	-0-
February 1, 2027	100,000	-0-
August 1, 2027	100,000	-0-
February 1, 2028	100,000	-0-
August 1, 2028	100,000	-0-
February 1, 2029	100,000	-0-
August 1, 2029	100,000	-0-
February 1, 2030	100,000	-0-
August 1, 2030	100,000	-0-

Unless otherwise agreed or required by applicable law, payments will be applied first to any unpaid collection costs, then to any accrued unpaid interest and then to principal. Borrower will pay the City at the City's address set forth in the Loan Agreement or at such other place as the City may designate in writing.

This Note is issued pursuant to and secured by the Loan Agreement, and is entitled to the benefits, and is subject to the conditions thereof. The obligations of the Borrower to make the payments required hereunder shall be absolute and unconditional without any defense or right of set-off, counterclaim or recoupment by reason of any default by the City under the Loan Agreement or under any other agreement between the Borrower and the City or out of any indebtedness or liability at any time owing to the Borrower by the City or for any other reason. Reference is hereby made to the Loan Agreement for a description of the nature and extent of the security for this Note and the rights of the holder thereof, the Borrower and the City in respect thereof, and the provisions for amending the Loan Agreement, to all of which the holder hereof, by its acceptance hereof; assents.

The principal of this Note is subject to prepayment prior to maturity without penalty in the manner stated in the Loan Agreement.

No recourse shall be had for the payment of the principal or prepayment price of, or interest on this Note, or for any claim based hereon or on the Loan Agreement, against any officer, director, manager, shareholder or member, past, present or future, of the Borrower as such, either directly or through the Borrower, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, unless such person shall have signed a personal guaranty of the indebtedness.

The Borrower hereby unconditionally waives diligence, presentment, protest and notice of dishonor in connection with this Note. All amounts payable hereunder are payable with reasonable attorneys' fees and costs of collection and without relief from valuation and appraisal laws.

In any case where the date of payment hereunder shall be a Saturday, Sunday or a legal holiday or a day on which banking institutions in Elkhart, Indiana are authorized by law to close, then such payment shall be made on the next preceding business day with the same force and effect as if made on the date of payment hereunder.

All terms used in this Note which are defined in the Loan Agreement shall have the meanings assigned to them in the Loan Agreement.



**SIGNATURE PAGE OF BORROWER'S PROMISSORY NOTE**

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and attested by its duly authorized officer all as of the date first written above.

**ELKHART CONCORD LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Managing Member

EXHIBIT A

Legal Description

The Land, situated in the County of Elkhart, State of Indiana, is described, as follows:

That part of the South Half of Section 22, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana, described as:

Commencing at a railroad spike marking the Northwest corner of the East Half of the Southwest Quarter of said Section 22; thence South 89 degrees 55 minutes East, 325.00 feet along the North line of the East Half of the Southwest Quarter of said Section 22 to a 1 inch pinched pipe and the point of beginning; thence continuing South 89 degrees 55 minutes East along the same described line 999.78 feet to the center of said Section 22 (a 3/4 inch pipe); thence South 89 degrees 25 minutes 35 seconds East 906.03 feet along the North line of the West Half of the Southeast Quarter of said Section 22 to a concrete right-of-way monument on the Southwesterly right-of-way line of U.S. Highway Number 33; thence South 52 degrees 45 minutes 09 seconds West on said right-of-way line 30.92 feet to a 3/4 inch pipe; thence continuing on said right-of-way line South 51 degrees 14 minutes 52 seconds East 45.10 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 30.0 feet to a 3/4 inch pipe; thence South 38 degrees 45 minutes 08 seconds East 180.0 feet to a 3/4 inch pipe; thence South 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 50.0 feet to a 3/4 inch pipe; thence South 38 degrees 45 minutes 08 seconds East 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 85.0 feet to a 3/4 inch pipe; thence South 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 30.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a concrete right-of-way monument; thence South 0 degrees 18 minutes 08 seconds East 180.97 feet to a 3/4 inch pipe; thence South 0 degrees 18 minutes 08 seconds West 38.31 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 21.48 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a concrete right-of-way monument; thence South 51 degrees 14 minutes 52 seconds East 170.45 feet to a concrete right-of-way monument; thence South 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 40.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 198.11 feet to a concrete right-of-way monument; thence Southeasterly on a 3076.90 foot radius curve to the right 29.47 feet said curve subtended by a chord bearing South 50 degrees 58 minutes 24 seconds East 29.47 feet to a 1/2 inch pipe; thence South 20 degrees 58 minutes 13 seconds East 201.66 feet to a 3/4 inch pipe; thence South 2 degrees 27 minutes 52 seconds West 39.70 feet to a 3/4 inch pipe; thence South 46 degrees 5 minutes 48 seconds East 71.64 feet to a 3/4 inch pipe; thence South 62 degrees 12 minutes 30 seconds West 88.85 feet to a 3/4 inch pipe; thence South 29 degrees 13 minutes 51 seconds East 208.80 feet to a 3/4 inch pipe on the Northerly line of Concord Mall Drive (Mall Drive); thence along the Northerly line of said Concord Mall Drive along a curve concave to the Northwest having a radius of 675.00 feet, and a central angle of 2 degrees 17 minutes 03 seconds a distance of 26.91 feet; thence South 71 degrees 15 minutes 18 seconds West along the Northerly line of said Concord Mall Drive a

distance of 531.00 feet to the point of curvature of a curve concave to the Southeast having a radius of 580.00 feet, and a central angle of 43 degrees 56 minutes 14 seconds; thence southwesterly along said curve and the westerly line of said Concord Mall Drive a distance of 444.77 feet; thence South 27 degrees 19 minutes 04 seconds West along the westerly line of said Concord Mall Drive a distance of 218.22 feet; thence North 62 degrees 41 minutes 10 seconds West 299.91 feet to a 5/8 inch iron bar; thence South 27 degrees 19 minutes 25 seconds West 239.96 feet to the centerline of Mishawaka Road; thence North 62 degrees 40 minutes 40 seconds West on said centerline 494.03 feet to a railroad spike; thence North 27 degrees 22 minutes 52 seconds East 275.0 feet to a 1/2 inch pipe; thence North 62 degrees 39 minutes 56 seconds West 400.42 feet to a 3/4 inch pipe on the Easterly right-of-way line of Concordia Court; thence North 27 degrees 15 minutes 00 seconds East on said right of way line 71.23 feet to a 1/2 inch pipe; thence continuing on said right-of-way line North 18 degrees 50 minutes 20 seconds West 304.74 feet to a 1/2 inch pipe; thence North 0 degrees 00 minutes 13 seconds West 641.45 feet to a 1/2 inch pipe; thence North 89 degrees 53 minutes 43 seconds West 297.61 feet to a 1/2 inch pipe; thence South 72 degrees 39 minutes 39 seconds West 167.53 feet to a 1/2 inch pipe; thence North 89 degrees 52 minutes 27 seconds West 342.77 feet to a 5/8 inch iron bar; thence North 0 degrees 05 minutes 45 seconds East 300.14 feet to the place of beginning.

Containing 66.676 acres of land.

EXHIBIT A-2

SECURED PROMISSORY NOTE  
FORGIVABLE LOAN

Amount: \$1,000,000

Place: Elkhart, Indiana  
Due Date: December 31, 2030

FOR VALUE RECEIVED, the undersigned, (jointly and severally) promises to pay to the order of the City of Elkhart, Indiana (hereinafter referred to as the "City"), the sum of One Million Dollars (\$1,000,000) in accordance with the terms set forth in that certain Development and Loan Agreement dated \_\_\_\_\_, 2023, at the Office of the City Controller, at the Municipal Building, 229 South Second Street, Elkhart, Indiana 46516, or at such other place as the holder hereof may direct in writing, with interest thereon as provided below and attorney's fees and costs of collection, all without relief from valuation and appraisal laws, provided however, that the Borrower's payments under this Note shall be subject to the forgiveness provisions in Section 4.4 of that certain Development and Loan Agreement (the "Loan Agreement") dated as of \_\_\_\_\_, 2023 between the City and the Borrower.

Unless due and payable as hereafter provided, the principal amount of this Note shall be (i) fully forgiven upon the satisfaction of the Forgiveness Requirement (as defined in the Loan Agreement), or (ii) partially forgiven in accordance with the terms of Section 4.4 of the Loan Agreement.

If not forgiven or assumed by a purchaser in accordance with the terms of the Loan Agreement, the entire principal shall be immediately due and payable upon the sale, conditional sale, or other transfer for a valuable consideration of the fee simple interest of the undersigned obligor in the property described in Exhibit A hereto. In any event, the entire remaining unforgiven balance of principal, if any, shall be immediately due and payable on December 31, 2030.

No interest shall accrue on the principal indebtedness for so long as the indebtedness is not due and payable. Interest at the Wall Street Journal prime rate as of the date of default plus three percent (3%) per annum shall accrue on the principal indebtedness from the date upon which it is due and payable.

The undersigned obligor(s) may prepay at any time all or part of the principal amount of this Note without the payment of penalties or premiums. All payments on this Note shall be applied first to cost of collection, then to the interest, and then to the principal due on the Note.

The undersigned obligor(s) and any endorser(s) severally waive demand, presentment, protest, notice of protest and notice of non-payment of this Note.

No delay or omission on the part of the holder hereof in the exercise of any right or remedy shall operate as a waiver thereof and no single or partial exercise by the holder hereof of any right or remedy shall preclude other or further exercise thereof or of any other right or remedy.

Signed and delivered at Elkhart, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**ELKHART CONCORD LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Managing Member

## EXHIBIT A

### Legal Description

The Land, situated in the County of Elkhart, State of Indiana, is described, as follows:

That part of the South Half of Section 22, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana, described as:

Commencing at a railroad spike marking the Northwest corner of the East Half of the Southwest Quarter of said Section 22; thence South 89 degrees 55 minutes East, 325.00 feet along the North line of the East Half of the Southwest Quarter of said Section 22 to a 1 inch pinched pipe and the point of beginning; thence continuing South 89 degrees 55 minutes East along the same described line 999.78 feet to the center of said Section 22 (a 3/4 inch pipe); thence South 89 degrees 25 minutes 35 seconds East 906.03 feet along the North line of the West Half of the Southeast Quarter of said Section 22 to a concrete right-of-way monument on the Southwesterly right-of-way line of U.S. Highway Number 33; thence South 52 degrees 45 minutes 09 seconds West on said right-of-way line 30.92 feet to a 3/4 inch pipe; thence continuing on said right-of-way line South 51 degrees 14 minutes 52 seconds East 45.10 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 180.0 feet to a 3/4 inch pipe; thence South 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 50.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 85.0 feet to a 3/4 inch pipe; thence South 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 30.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a concrete right-of-way monument; thence South 51 degrees 14 minutes 52 seconds East 180.97 feet to a 3/4 inch pipe; thence South 0 degrees 18 minutes 08 seconds West 38.31 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 21.48 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a concrete right-of-way monument; thence South 51 degrees 14 minutes 52 seconds East 170.45 feet to a concrete right-of-way monument; thence South 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 40.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 198.11 feet to a concrete right-of-way monument; thence Southeasterly on a 3076.90 foot radius curve to the right 29.47 feet said curve subtended by a chord bearing South 50 degrees 58 minutes 24 seconds East 29.47 feet to a 1/2 inch pipe; thence South 20 degrees 58 minutes 13 seconds East 201.66 feet to a 3/4 inch pipe; thence South 2 degrees 27 minutes 52 seconds West 39.70 feet to a 3/4 inch pipe; thence South 46 degrees 5 minutes 48 seconds East 71.64 feet to a 3/4 inch pipe; thence South 62 degrees 12 minutes 30 seconds West 88.85 feet to a 3/4 inch pipe; thence South 29 degrees 13 minutes 51 seconds East 208.80 feet to a 3/4 inch pipe on the Northerly line of Concord Mall Drive (Mall Drive); thence along the Northerly line of said Concord Mall Drive along a curve concave to the Northwest having a radius of 675.00 feet, and a central angle of 2 degrees 17 minutes 03 seconds a distance of 26.91 feet; thence South 71 degrees 15 minutes 18 seconds West along the Northerly line of said Concord Mall Drive a

distance of 531.00 feet to the point of curvature of a curve concave to the Southeast having a radius of 580.00 feet, and a central angle of 43 degrees 56 minutes 14 seconds; thence southwesterly along said curve and the westerly line of said Concord Mall Drive a distance of 444.77 feet; thence South 27 degrees 19 minutes 04 seconds West along the westerly line of said Concord Mall Drive a distance of 218.22 feet; thence North 62 degrees 41 minutes 10 seconds West 299.91 feet to a 5/8 inch iron bar; thence South 27 degrees 19 minutes 25 seconds West 239.96 feet to the centerline of Mishawaka Road; thence North 62 degrees 40 minutes 40 seconds West on said centerline 494.03 feet to a railroad spike; thence North 27 degrees 22 minutes 52 seconds East 275.0 feet to a 1/2 inch pipe; thence North 62 degrees 39 minutes 56 seconds West 400.42 feet to a 3/4 inch pipe on the Easterly right-of-way line of Concordia Court; thence North 27 degrees 15 minutes 00 seconds East on said right of way line 71.23 feet to a 1/2 inch pipe; thence continuing on said right-of-way line North 18 degrees 50 minutes 20 seconds West 304.74 feet to a 1/2 inch pipe; thence North 0 degrees 00 minutes 13 seconds West 641.45 feet to a 1/2 inch pipe; thence North 89 degrees 53 minutes 43 seconds West 297.61 feet to a 1/2 inch pipe; thence South 72 degrees 39 minutes 39 seconds West 167.53 feet to a 1/2 inch pipe; thence North 89 degrees 52 minutes 27 seconds West 342.77 feet to a 5/8 inch iron bar; thence North 0 degrees 05 minutes 45 seconds East 300.14 feet to the place of beginning.

Containing 66.676 acres of land.

**EXHIBIT B**

**PROJECT AREA**

THE PROJECT AREA CONSISTS OF the following real estate located in Elkhart County, Indiana,  
more particularly described as:



The Land, situated in the County of Elkhart, State of Indiana, is described, as follows:

That part of the South Half of Section 22, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana, described as:

Commencing at a railroad spike marking the Northwest corner of the East Half of the Southwest Quarter of said Section 22; thence South 89 degrees 55 minutes East, 325.00 feet along the North line of the East Half of the Southwest Quarter of said Section 22 to a 1 inch pinched pipe and the point of beginning; thence continuing South 89 degrees 55 minutes East along the same described line 999.78 feet to the center of said Section 22 (a 3/4 inch pipe); thence South 89 degrees 25 minutes 35 seconds East 906.03 feet along the North line of the West Half of the Southeast Quarter of said Section 22 to a concrete right-of-way monument on the Southwesterly right-of-way line of U.S. Highway Number 33; thence South 52 degrees 45 minutes 09 seconds West on said right-of-way line 30.92 feet to a 3/4 inch pipe; thence continuing on said right-of-way line South 51 degrees 14 minutes 52 seconds East 45.10 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 180.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 30.0 feet to a 3/4 inch pipe; thence South 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence South 38 degrees 45 minutes 08 seconds East 50.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 30.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a concrete right-of-way monument; thence South 51 degrees 14 minutes 52 seconds East 180.97 feet to a 3/4 inch pipe; thence South 0 degrees 18 minutes 08 seconds West 38.31 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 21.48 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a concrete right-of-way monument; thence South 51 degrees 14 minutes 52 seconds East 170.45 feet to a concrete right-of-way monument; thence South 38 degrees 45 minutes 08 seconds West 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 40.0 feet to a 3/4 inch pipe; thence North 38 degrees 45 minutes 08 seconds East 30.0 feet to a 3/4 inch pipe; thence South 51 degrees 14 minutes 52 seconds East 198.11 feet to a concrete right-of-way monument; thence Southeasterly on a 3076.90 foot radius curve to the right 29.47 feet said curve subtended by a chord bearing South 50 degrees 58 minutes 24 seconds East 29.47 feet to a 1/2 inch pipe; thence South 20 degrees 58 minutes 13 seconds East 201.66 feet to a 3/4 inch pipe; thence South 2 degrees 27 minutes 52 seconds West 39.70 feet to a 3/4 inch pipe; thence South 46 degrees 5 minutes 48 seconds East 71.64 feet to a 3/4 inch pipe; thence South 62 degrees 12 minutes 30 seconds West 88.85 feet to a 3/4 inch pipe; thence South 29 degrees 13 minutes 51 seconds East 208.80 feet to a 3/4 inch pipe on the Northerly line of Concord Mall Drive (Mall Drive); thence along the Northerly line of said Concord Mall Drive along a curve concave to the Northwest having a radius of 675.00 feet, and a central angle of 2 degrees 17 minutes 03 seconds a distance of 26.91 feet; thence South 71 degrees 15 minutes 18 seconds West along the Northerly line of said Concord Mall Drive a

distance of 531.00 feet to the point of curvature of a curve concave to the Southeast having a radius of 580.00 feet, and a central angle of 43 degrees 56 minutes 14 seconds; thence southwesterly along said curve and the westerly line of said Concord Mall Drive a distance of 444.77 feet; thence South 27 degrees 19 minutes 04 seconds West along the westerly line of said Concord Mall Drive a distance of 218.22 feet; thence North 62 degrees 41 minutes 10 seconds West 299.91 feet to a 5/8 inch iron bar; thence South 27 degrees 19 minutes 25 seconds West 239.96 feet to the centerline of Mishawaka Road; thence North 62 degrees 40 minutes 40 seconds West on said centerline 494.03 feet to a railroad spike; thence North 27 degrees 22 minutes 52 seconds East 275.0 feet to a 1/2 inch pipe; thence North 62 degrees 39 minutes 56 seconds West 400.42 feet to a 3/4 inch pipe on the Easterly right-of-way line of Concordia Court; thence North 27 degrees 15 minutes 00 seconds East on said right of way line 71.23 feet to a 1/2 inch pipe; thence continuing on said right-of-way line North 18 degrees 50 minutes 20 seconds West 304.74 feet to a 1/2 inch pipe; thence North 0 degrees 00 minutes 13 seconds West 641.45 feet to a 1/2 inch pipe; thence North 89 degrees 53 minutes 43 seconds West 297.61 feet to a 1/2 inch pipe; thence South 72 degrees 39 minutes 39 seconds West 167.53 feet to a 1/2 inch pipe; thence North 89 degrees 52 minutes 27 seconds West 342.77 feet to a 5/8 inch iron bar; thence North 0 degrees 05 minutes 45 seconds East 300.14 feet to the place of beginning.

Containing 66.676 acres of land.

**EXHIBIT C**

**GUARANTY OF PAYMENT AGREEMENT**

THIS GUARANTY OF PAYMENT AGREEMENT (this "Guaranty"), dated as of \_\_\_\_\_, 2023, is by Industrial Commercial Properties LLC, an Ohio limited liability company (collectively, the "Guarantor"), and the City of Elkhart, Indiana (the "Issuer").

**RECITALS:**

**WHEREAS**, the City is a political subdivision of the State of Indiana and by virtue of Ind. Code §§ 5-1-14-14, as amended (the "Act") (collectively, the "Act") is authorized and empowered to make loans for economic development purposes to finance or refinance the acquisition, construction, renovation, installation and equipping of projects; and

**WHEREAS**, the Issuer and Elkhart Concord LLC (collectively, the "User"), have, as of the date hereof, entered into that certain Development and Loan Agreement dated \_\_\_\_\_, 2023 (the "Development Agreement"); and

**WHEREAS**, the User intends to undertake and complete the construction of the Project (as defined in the Development Agreement), to be constructed within the Allocation Area; and

**WHEREAS**, as an inducement for the User to undertake the Project, the Issuer, as requested by the User, has determined to issue and make an economic development loan in the total principal amount of \$2,000,000 (the Loan); and

**WHEREAS**, the Issuer has agreed that upon the execution of this Guaranty, it will execute or cause to be executed each of the following documents pertaining to the issuance of the Loan (the "Financing Documents"):

- (a) the Development and Loan Agreement; and
- (b) Secured Promissory Notes in the amount of \$1,000,000.00 ("Loan 1") and \$1,000,000 ("Loan 2") (the "Notes").

**WHEREAS**, Guarantor or certain of its members or shareholders has a financial interest in the User and the Project; and

**WHEREAS**, Guarantor has agreed to execute and deliver this Guaranty to Issuer;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Guarantor hereby agrees as follows:

1. **Definitions.** Words and phrases not otherwise defined herein shall have the meaning set forth in the Financing Documents.
2. **Guarantee:**
  - a. **Payment Guaranty.** Guarantor hereby absolutely, unconditionally, and irrevocably agrees and guaranties that Guarantor will pay in full, as and when due, all

installments and other amounts owed to Issuer under the Borrower's Promissory Notes and Development and Loan Agreement.

3. **Representations and Warranties.** The following shall constitute representations and warranties of Guarantor and Guarantor hereby acknowledges that Issuer is entering into the Financing Documents and performing its obligations thereunder, including making of the Loan by the City, in reliance thereon:

a. Guarantor is not in default and no event has occurred that with the passage of time and/or the giving of notice will constitute a default under any agreement to which Guarantor is a party, the effect of which will impair performance by Guarantor of its obligations under this Guaranty. Neither the execution and delivery of this Guaranty nor compliance with the terms and provisions hereof will violate any applicable law, rule, regulation, judgment, decree or order, or will conflict with or result in any breach of any of the terms, covenants, conditions or provisions of any indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind that creates, represents, evidences or provides for any lien, charge or encumbrance upon any of the property or assets of Guarantor, or any other indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind to which Guarantor is a party or to which Guarantor may be subject.

b. To Guarantor's knowledge, there is not any litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending, or threatened that could adversely affect performance by Guarantor of its obligations under this Guaranty.

c. Neither this Guaranty nor any statement or certification as to facts previously furnished or required herein to be furnished to Issuer, its advisors or agents, by Guarantor, contains any material inaccuracy or untruth in any representation, covenant or warranty or omits to state a fact material to this Guaranty.

d. Guarantor is a parent entity, an affiliate, and/or a member or a member of a member of User.

4. **Continuing Guaranty.** Guarantor agrees that the full payment of amounts when due under the Loan evidenced by the Notes by Guarantor shall be a primary obligation, shall not be subject to any counterclaim, set-off, abatement, deferment or defense based upon any claim that Guarantor may have against Issuer (with the exception of any counterclaim, set-off, abatement, deferment or defense based upon any claim that User may have against Issuer), User, any other guarantor of User's obligations or any other person or entity, and shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition (whether or not Guarantor shall have any knowledge thereof), including without limitation:

a. any failure, omission, or delay on the part of the City User, Guarantor, or any other party to conform or comply with any term of any of the Financing Documents or any failure by any party to give any notice required under any of the Financing Documents;

b. any waiver, compromise, release, settlement, or extension of time of payment or performance or observance of any of the obligations or agreements contained in the Financing Documents;

c. any action or inaction by any party under or in respect of any of the Financing Documents, any failure, lack of diligence, omission, or delay on the part of Issuer to perfect, enforce, assert or exercise any lien, security interest, right, power or remedy conferred on it in any of the Financing Documents, or any other action or inaction by any party;

d. any voluntary or involuntary bankruptcy, insolvency, reorganization, arrangement, readjustment, assignment for the benefit of creditors, composition, receivership, liquidation, marshalling of assets and liabilities or similar events or proceedings with respect to User, Guarantor, or any of their respective property or creditors, or any action taken by any trustee or receiver or by any court in any such proceeding;

e. any merger or consolidation of User or Guarantor into or with any entity, or any sale, lease, or transfer of any portion of the Project to any other person or entity;

f. any change in the ownership of User or Guarantor or any change in the relationship between such parties, or any termination of any such relationship;

g. any release or discharge by operation of law of User, Guarantor or any other party from any obligation or agreement contained in any of the Financing Documents; or

h. any other occurrence, circumstance, happening or event, whether similar or dissimilar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of a guarantor or surety or which otherwise might limit Issuer's recourse against User or Guarantor to the fullest extent permitted by law.

5. **Waivers.** Guarantor expressly and unconditionally waives (i) notice of any of the matters referred to in Section 4 above, (ii) all notices which may be required by statute, rule of law or otherwise, now or hereafter in effect, to preserve intact any rights against Guarantor, including, without limitation, any demand, presentment and protest, proof of notice of non-payment under the Financing Documents and notice of any Event of Default or any failure on the part of User, Guarantor or any other party to perform or comply with any covenant, agreement, term or condition of the Financing Documents, (iii) any right to the enforcement, assertion or exercise against User, Guarantor or any other party of any right or remedy conferred under any of the Financing Documents, (iv) any requirement of diligence on the part of any person or entity, (v) to the fullest extent permitted by law and except as otherwise expressly provided in this Guaranty or the other Financing Documents, any claims based on allegations that Issuer has failed to act in a commercially reasonable manner or failed to exercise Issuer's so-called obligation of good faith and fair dealing and (vi) any requirement to exhaust any remedies or to mitigate the damages resulting from any default under any of the Financing Documents.

6. **Subordination.** Guarantor agrees that any and all present and future debts and obligations of User to Guarantor (other than obligations to indemnify Guarantor) hereby are subordinated to the claims of Issuer and hereby are assigned by Guarantor to Issuer as security for User's obligations under the Financing Documents and Guarantor's obligations under this Guaranty.

7. **Enforcement Costs.** If: (a) this Guaranty: is placed in the hands of one or more attorneys for collection or is collected through any legal proceeding; (b) one or more attorneys is retained to represent Issuer in any bankruptcy, reorganization, receivership or other proceedings

affecting creditors' rights and involving a claim under this Guaranty; or (c) one or more attorneys is retained to represent Issuer in any other proceedings whatsoever in connection with this Guaranty, then Guarantor shall pay to Issuer upon demand all fees, costs and expenses incurred by Issuer in connection therewith, including, without limitation, reasonable attorney's fees, court costs and filing fees (all of which are referred to herein as "Enforcement Costs"), in addition to all other amounts due hereunder.

8. **Successors and Assigns; Several Liability.** This Guaranty shall be binding on Guarantor and the successors and assigns of Guarantor (subject to the terms below). It is agreed that the undersigned's liability hereunder is several and independent of any other guarantees or other obligations at any time in effect with respect to User's obligations or any part thereof and that Guarantor's liability hereunder may be enforced regardless of the existence, validity, enforcement or non-enforcement of any such other guarantees or other obligations. Notwithstanding anything to the contrary in this Agreement: (i) in connection with a conveyance or transfer of any portion of the property comprising the Project, Guarantor may assign this Agreement and the obligations of Guarantor hereunder (and be released from future obligations), by giving notice to the City if, but only if, each of the following conditions is satisfied: (A) there is no default by Guarantor hereunder, either at the time such assignment is requested or on the effective date of such assignment; (B) such proposed assignee shall have a net worth, at the time of assignment, equal to or more than the outstanding principal and interest of both EDC Loans, as evidenced by financial statements, which assignee warrants have been prepared in the ordinary course of assignee's business in accordance with generally accepted accounting principles consistently applied, provided by the proposed assignee at or prior to the time of the assignment; (C) any such proposed assignee agrees in writing to assume this Agreement and Guarantor's obligations hereunder, which writing shall be in form and substance reasonably satisfactory to the City; and (D) such proposed assignee is otherwise reasonably satisfactory to the City. Upon an assignment in accordance with the terms and conditions of this Section, the assigning Guarantor shall have no further liabilities or obligations hereunder, and the assignee Guarantor thereafter shall be "Guarantor" for all purposes hereunder. In addition, such assignment may be made, in part, following the procedure above if and in the event a portion, but not all of the Property is subject to transfer in which case (a) the Guarantor shall remain responsible for a portion, and transferee responsible for a portion, of obligations hereunder, and (b) parties may, if requested by Guarantor or City bifurcate the Notes and covenants to apply separately to Taxpayer/Guarantors and transferee as may be agreed to between the parties.

9. **No Waiver of Rights.** No delay or failure on the part of Issuer to exercise any right, power or privilege under this Guaranty or any of the other Financing Documents shall operate as a waiver thereof, and no single or partial exercise of any right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other power or right, or be deemed to establish a custom or course of dealing or performance between the parties hereto. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law. No notice to or demand on Guarantor in any case shall entitle Guarantor to any other or further notice or demand in the same, similar, or other circumstance.

10. **Modification.** The terms of this Guaranty may be waived, discharged, or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. No amendment, modification, waiver, or other change of any of the terms of this Guaranty shall be effective without the prior written consent of each of the Issuer.

11. **Termination.** Notwithstanding anything to the contrary in this Guaranty, this Guaranty shall terminate upon the User or Guarantor completing the Project (it being understood that

completion of the Project for this purpose means the completion of all improvements pertaining to the Project, other than tenant build-out improvements, in accordance with the Development Agreement).

12. **Joinder.** Any action to enforce this Guaranty may be brought against Guarantor without any reimbursement or joinder of User or any other party in such action.

13. **Severability.** If any provision of this Guaranty is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Guarantor and Issuer shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Guaranty and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

14. **Notice.** All notices, communications and waivers under this Guaranty shall be in writing and shall be (i) delivered in person or (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To the City: City of Elkhart, Indiana  
Municipal Building  
229 S. Second St.  
Elkhart, Indiana 46516  
Attention: Mayor

With a copy to: Warrick & Boyn, LLP  
861 Parkway Avenue  
Elkhart, Indiana 46516  
Attention: Gary Boyn

To the Guarantor: Industrial Commercial Properties LLC  
6110 Parkland Boulevard  
Mayfield Heights, OH 44124  
Attention: Christopher S. Semarjian

With a copy to: Walter Haverfield LLP  
6110 Parkland Boulevard, Suite 100  
Mayfield Heights, OH 44124  
Attn: Edward A. Hurtuk, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Section 14 shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

15. CONSENT TO JURISDICTION. TO INDUCE ISSUER TO ACCEPT THIS GUARANTY, GUARANTOR IRREVOCABLY AGREES THAT, SUBJECT TO ISSUER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS GUARANTY WILL BE LITIGATED IN COURTS HAVING SITUS IN ELKHART COUNTY, INDIANA. GUARANTOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT HAVING SITUS IN ELKHART COUNTY, INDIANA, WAIVES PERSONAL SERVICE OF PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO GUARANTOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

16. WAIVER OF JURY TRIAL. GUARANTOR AND ISSUER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. GUARANTOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST ISSUER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES EXCEPT FOR CLAIMS ARISING OUT OF ISSUER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]



SIGNATURE PAGE TO GUARANTY OF PAYMENT AGREEMENT

Industrial Commercial Properties LLC,  
an Ohio limited liability company

By: \_\_\_\_\_  
Christopher S. Semarjian, Manager

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Christopher S. Semarjian, known to be the Manager of Industrial Commercial Properties LLC, an Ohio limited liability company, named herein, and acknowledged the execution of the foregoing Guaranty of Payment Agreement.

Witness my hand and Notarial Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

ACCEPTED

The City acknowledges its agreement to and acceptance of the terms and conditions set forth herein.

**CITY OF ELKHART, INDIANA**

By: \_\_\_\_\_  
Rod Roberson, Mayor

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF ELKHART    )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Rod Roberson, known to me to be the Mayor of the City of Elkhart, named herein, and acknowledged the execution of the foregoing instrument for and on behalf of said municipal corporation, being authorized so to do.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

This Instrument was prepared by the law firm of Warrick & Boyn, LLP, 861 Parkway Avenue, Elkhart, Indiana 46516, by Gary D. Boyn. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law,  
**Gary D. Boyn**

**EXHIBIT D**

**SITE PLAN**

EXHIBIT E

PHASED DEVELOPMENT PLAN

Phase 1: Property acquisition, abatement, demolition, site work, construction of interior shell improvements and exterior building and other improvements.

Pre-development and acquisition activities commenced early 2023

Construction activities commenced October 2, 2023

Estimated Completion October 2026

Estimated Cost: \$18M

Phase 2: Tenant Buildout improvements

Construction begins October 2024

Estimated completion October 2030

Estimated Cost: \$2M

RESOLUTION NO. ~~085~~ Tabled until Dec

**A RESOLUTION OF THE CITY OF ELKHART REDEVELOPMENT COMMISSION  
APPROVING A FORM OF ECONOMIC DEVELOPMENT AGREEMENT WITH  
HOLLADAY PROPERTIES, LLC, AND THE CITY OF ELKHART, INDIANA**

WHEREAS, the City of Elkhart Redevelopment Commission (the "Commission"), the governing body of the City of Elkhart Department of Redevelopment and the Redevelopment District of the City of Elkhart, Indiana, exists and operates under the provisions of Indiana Code 36-7-14, as amended from time to time (the "Act"); and

WHEREAS, there has been presented to the Commission for its consideration an Economic Development Agreement in the form set forth at Exhibit A attached hereto and incorporated herein (the "Agreement"); and

WHEREAS, Holladay Properties, LLC (the "Company") is acquiring certain real estate as more fully described in the Agreement (the "Property") for the purpose of constructing a multi-family apartment complex on the Property as more fully described in the Agreement (the "Project"); and

WHEREAS, the Redevelopment Commission has previously declared and designated the Property as an economic development area and an allocation area for purposes of tax increment finance pursuant to the Act; and

WHEREAS, the Commission has determined that the completion of the Project is in the best interests of the citizens of the City, and, therefore, the Commission desires to take certain steps in order to induce the Company to complete the Project; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ELKHART REDEVELOPMENT COMMISSION, AS FOLLOWS:

SECTION 1. The Redevelopment Commission hereby approves the Agreement substantially in the form attached hereto and authorizes the President of the Commission to execute and attest said Agreement in the form attached hereto, with such changes as the President shall approve, such approval to be evidenced by the execution and attestation thereof.

SECTION 2. The President is hereby authorized and directed to take all such actions and to execute all such instruments, including, without limitation, the Agreement as she same shall deem proper and necessary upon the advice of counsel to carry out the transactions contemplated by this Resolution.

SECTION 3. This Resolution shall take effect, and be in full force and effect, upon passage and approval by the Commission, in conformance with applicable law.

ADOPTED at a meeting of the City of Elkhart Redevelopment Commission held on November 14, 2023.

**CITY OF ELKHART REDEVELOPMENT  
COMMISSION**

By: \_\_\_\_\_  
Sandi Schreiber, President

ATTEST:

\_\_\_\_\_  
Alex Holtz, Secretary

Exhibit A

(See attached Form of Economic Development Agreement)

**RESOLUTION 23-R-~~085~~**

**ECONOMIC DEVELOPMENT AGREEMENT  
FROM HOLLADAY, LLC WILL BE ADDED  
TO PACKET WHEN FINALIZED**

This item was tabled until  
next month per request of  
the developer



RESOLUTION NO. 23-R-086<sup>5</sup>

**A RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART, AUTHORIZING THE ACCEPTANCE OF TRANSFER OF CERTAIN REAL ESTATE FROM THE BOARD OF PUBLIC WORKS FOR ECONOMIC DEVELOPMENT PURPOSES**

WHEREAS, the City of Elkhart, Indiana by and through the Board of Public Works holds title to that certain real estate commonly known as Civic Plaza and Art and Pat Decio Central Green, and particularly described in Exhibit A, attached hereto (the "Real Estate"); and

WHEREAS, the City Administration is currently exploring developmental opportunities for the Real Estate; and

WHEREAS, Indiana law affords the Elkhart Redevelopment Commission certain procedures in the process to facilitate the development of Real Estate which are not available to the Elkhart Board of Public Works; and

WHEREAS, the Administration has requested that the Board of Public Works transfer the Real Estate to the Department of Redevelopment acting by and through the Elkhart Redevelopment Commission to explore opportunities to develop the Real Estate as an amphitheater; and

WHEREAS, the Board of Public Works is willing to transfer all rights, title and interest in the Real Estate to the City of Elkhart, Department of Redevelopment for development as an outdoor amphitheater, provided the property is returned to the Board of Public Works if the Redevelopment Commission's efforts to development the Real Estate as an amphitheater do not come to fruition; and

WHEREAS, the Department of Redevelopment is willing to accept all legal right, title and interest in the Real Estate for the purposes stated, and return the Real Estate to the Board of Public Works, if the stated purposes are not realized, unless the Redevelopment Commission and the Board of Public Works agree in writing to pursue other developmental purposes for the Real Estate; and

WHEREAS, Indiana Code 36-1-11-8 authorizes the transfer of real property from one governmental entity to another, subject to the adoption of substantially identical resolutions by each entity.

**NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART, INDIANA, AS FOLLOWS:**

**SECTION 1.** The Redevelopment Commission hereby finds and determines that the acceptance of transfer of the real estate commonly known as Civic Plaza and Art and Pat Decio Central Green, and particularly described in Exhibit A (Real Estate), attached hereto, by the City of Elkhart, Department of Redevelopment for purposes of development as an outdoor amphitheater is in the best interests of the City of Elkhart, Indiana and its residents; and

**SECTION 2.** The Redevelopment Commission intends to return the Real Estate to the Board of Public Works, if the stated purposes are not realized, unless the Redevelopment Commission and the Board of Public Works agree in writing to allow the Commission to pursue other developmental purposes for the Real Estate; and

**SECTION 3.** The President of the Elkhart Redevelopment Commission or any officer of the City of Elkhart, Indiana, acting for and on behalf of the Commission is hereby authorized to execute any instruments or documents, or to take any other actions that may be necessary to effectuate the transfer and acceptance of the Real Estate as authorized herein; and

**SECTION 4.** This Resolution shall be in full force and effect from and after its passage by the Redevelopment Commission of the City of Elkhart, Indiana and the passage of a substantially identical resolution by the Board of Public Works of the City of Elkhart, Indiana.

PASSED AND ADOPTED at a public meeting of the Redevelopment Commission of the City of Elkhart, Indiana on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ELKHART REDEVELOPMENT COMMISSION

By: \_\_\_\_\_  
Sandra Schreiber, President

Attest:

By: \_\_\_\_\_  
Alex Holtz, Secretary

Exhibit A

DESCRIPTION OF REAL ESTATE



EXHIBIT A

2012 01 18 67

ELKHART COUNTY  
DEPT. OF REVENUE  
REC'D MAY 24 2012

2012 MAY 24 P 2:16

WARRANTY DEED

THIS INDENTURE WITNESSETH, that the CITY OF ELKHART DEPARTMENT OF REDEVELOPMENT, acting by and through its Redevelopment Commission, CONVEYS AND WARRANTS to the THE CITY OF ELKHART, of County of Elkhart, State of Indiana, whose mailing address is 229 South Second Street, Elkhart, Indiana 46516, for and in consideration of valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Elkhart County, State of Indiana:

④  
2117

Lots Numbered Seventeen (17) through Twenty (20), inclusive, Lots Numbered Twenty-three (23) and Twenty-four (24), part of Lots Numbered Two (2) through Sixteen (16) inclusive, part of Lots Numbered Twenty-one (21), Twenty-two (22), Twenty-five (25) and the vacated alleys contained within said lots, as the said Lots and alleys are known and designated on the recorded Plat of SIMONTON'S ADDITION to the City of Elkhart, Elkhart County, Indiana; said Plat being recorded in Deed Record 48, page 238 in the Office of the Recorder of Elkhart County, Indiana, and being more particularly described as follows:

Beginning at a point on the Southerly line of said Lot Sixteen (16), said point being North seventy (70) degrees fifteen (15) minutes East a distance of sixty-four (64) feet from the Southwesterly corner of said Lot Sixteen (16); thence North seventy (70) degrees fifteen (15) minutes East along the Northerly line of Franklin Street a distance of five hundred sixty-two and sixty-three hundredths (562.63) feet to the Westerly line of Waterfall Drive; thence North fifty (50) degrees thirty-five (35) minutes West along the Westerly line of said Waterfall Drive a distance of one hundred ninety-two and thirty-six hundredths (192.36) feet to a point on the Northerly line of said Lot Twenty-one (21), said point being North seventy (70) degrees fifteen (15) minutes East a distance of sixteen and sixty-eight hundredths (16.68) feet from the Northwesterly corner of said Lot Twenty-one (21); thence North twenty-nine (29) degrees twenty-six (26) minutes West along the Westerly line of said Waterfall Drive a distance of sixteen and seventy-three hundredths (16.73) feet to a point on the Southerly line of said Lot Twenty-five (25), said point being North seventy (70) degrees fifteen (15) minutes East a distance of one hundred ninety-four and eighty-eight hundredths (194.88) feet from the Southwesterly corner of said Lot Twenty-five (25); thence North thirty-nine (39) degrees ten (10) minutes West along the Westerly

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

5-24 2012  
Pauline F. Druff AUDITOR  
001619 06

TRANSFER FEE 5  
PARCEL NO. 20-06-05-412-059-00012

NO SALES DISCLOSURE REQUIRED

~~NO SALES DISCLOSURE REQUIRED  
DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER~~

~~4/30 2012  
Pauline F. Druff AUDITOR  
001104~~

~~TRANSFER FEE 5  
PARCEL NO. 06-05-412-059-012~~

MCW

## EXHIBIT A

line of said Waterfall Drive a distance of one hundred seventy-eight and twenty-one hundredths (178.21) feet to a point on the Northerly line of said Lot Twenty-five (25), said point being North sixty-nine (69) degrees fifty-three (53) minutes East a distance of one hundred thirty-five and seventy-six hundredths (135.76) feet from the Northwesterly corner of said Lot Twenty-five (25); thence South sixty-nine (69) degrees fifty-three (53) minutes West along the Southerly line of High Street a distance of two hundred eighty-four and seventy-six hundredths (284.76) feet to the Northwesterly corner of said Lot Twenty-three (23); thence South nineteen (19) degrees forty-eight (48) minutes East along the Westerly line of said Lot Twenty-three (23) a distance of twenty-one (21) feet to a point; thence South sixty-nine (69) degrees fifty-three (53) minutes West along the Northerly line of said Lot Two (2) and said line extended, a distance of one hundred seventeen and five tenths (117.5) feet to a point, said point being North sixty-nine (69) degrees fifty-three (53) minutes East a distance of sixty-four (64) feet from the Northwesterly corner of said Lot Two (2); thence South nineteen (19) degrees forty-eight (48) minutes East parallel with the Easterly line of Main Street a distance of three hundred twenty-six and sixteen hundredths (326.16) feet to the place of beginning of this description.

and by reference made a part hereof (the "Real Estate").

It is understood between the parties hereto, and their successors in title, and made a covenant herein which shall run with the land, that all lands hereinbefore described are conveyed in fee simple and not merely for right-of-way purposes, and that no reversionary rights whatsoever are intended to remain in the Grantor. This conveyance is subject to easements, covenants, restrictions and rights of way of record including all items listed in Deed Record 98 038562.

The undersigned persons executing this deed on behalf of Grantor represent and certify that they are duly authorized and fully empowered to execute and deliver this deed; that Grantor has full capacity to convey the real estate described herein; and all necessary action for the making of such conveyance has been taken and done.

Reference Document: Deed Record 98 038562. Parcel Number 20-06-05-412-059.



EXHIBIT A

2008 03372



Progressive Engineering Inc.

LEGAL DESCRIPTION OF PARCEL FROM  
CITY OF ELKHART-BOARD OF PUBLIC WORKS  
TO CITY OF ELKHART DEPT. OF REDEVELOPMENT

LOT 1 AND THE WEST 64 FEET OF LOTS 2 THROUGH 16, INCLUSIVE, AND THAT PART OF THE VACATED ALLEY BETWEEN SAID PART OF LOTS 8 AND 9, AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF SIMONTON'S ADDITION TO THE CITY OF ELKHART, SAID PLAT BEING FOUND IN DEED BOOK 48, PAGES 238-239 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA. EXCEPTING THE EAST 16.50 FEET OF SAID LOTS 1 THROUGH 5 THAT WAS TAKEN FOR THE PURPOSES OF AN ALLEY. MORE ACCURATELY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHWEST CORNER OF LOT 1 IN THE RECORDED PLAT OF SIMONTON'S ADDITION TO THE CITY OF ELKHART, SAID PLAT BEING RECORDED IN DEED BOOK 48, PAGES 238 AND 239 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA; THENCE EAST ON THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 165 FEET TO THE WEST LINE OF A VACATED ALLEY; THENCE SOUTH ON SAID WEST LINE, 21 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE WEST ON SAID SOUTH LINE, 101 FEET; THENCE SOUTH, 64 FEET EAST OF, AND PARALLEL WITH, THE WEST LINE OF LOTS 2 THROUGH 16 IN SAID SIMONTON'S ADDITION, 325.5 FEET, MORE OR LESS, TO THE SOUTH LINE OF LOT 16 IN SAID SIMONTON'S ADDITION; THENCE WEST ON THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 64 FEET TO THE SOUTHWEST CORNER OF SAID LOT 16; THENCE NORTH ON THE WEST LINES OF SAID LOTS 1 THROUGH 16, A DISTANCE OF 346.5 FEET TO THE POINT OF BEGINNING, CONTAINING 0.558 ACRES, MORE OR LESS. SUBJECT TO ANY AND ALL FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.

*Bradley J. Kramer*



58640 State Road 15 - Goshen, IN 46528  
Phone: 574-533-0337 Fax: 574-533-9736  
www.pei.com





EXHIBIT A

TRANSFER NO. 10493  
DEED OF 15-06-05-412-009+008  
KEY NO. 25-06-05-412-007 thru 001  
TOWNSHIP E.C. CO.  
DATE 1-5-79

VOL 377 PAGE 729

# WARRANTY DEED

This indenture witnesseth that **THE ELKHART CONFERENCE, INC.**, an Indiana Corporation, of Elkhart County in the State of Indiana, Conveys and warrants to **CITY OF ELKHART, INDIANA**, a Municipal Corporation

of Elkhart County in the State of Indiana, for and in consideration of **One (\$1.00) Dollar and other valuable consideration, the receipt whereof is hereby acknowledged, the following Real Estate in Elkhart County in the State of Indiana, to wit:**

Lot Number One (1), including the entire width of the vacated alley east of and adjacent to said Lot, and the Westerly Sixty-four (64) feet of Lots Number 2 to 8, both inclusive, as said Lots are known and designated on the Recorded Plat of SIMONSTON'S ADDITION to the City of Elkhart, Indiana, TOGETHER WITH the North One-half (N 1/2) of the Westerly Sixty-four (64) feet of the vacated East-West alley lying between Lots Number Eight (8) and Nine (9) in said Addition.

This conveyance is executed by the undersigned Officers of the Grantor, for and on behalf of the Grantor, pursuant to authorizing Resolution of its Board of Directors.

The Grantor certifies under oath that no Gross Income Tax is due and payable in respect to the transfer made by this Deed.

This conveyance is made subject to the following restrictive covenants:

1. The land conveyed herein, after improvement by Grantor, shall be used as a public parking lot for passenger vehicles, subject to regulation by the Grantee, and for no other purpose.
2. No buildings or other structures, except for curbs, stairs, sidewalks, and green areas, shall be erected, constructed or permitted to remain.

These restrictions shall remain in full force and effect for a period of twenty (20) years from and after the date of the recording hereof and shall then terminate.

FILED FOR RECORD  
JAN 5 2 50 PM '79  
Elkhart County Recorder

661845

EXHIBIT A

5-19-16-3 137-4641  
 20-06-05-412-027.000-012  
 SIMONTONS ADD 16FT E END  
 Lots 21 & 22

25-06-05-412-027  
 FIRST NATIONAL BANK

**TIF**

DATE	TRANSFER NUMBER	
8-29-68	7747	City of Elkhart, Ind. Deed 288-574

POSTING DATE	REFERENCE	A.L.	LAND/LOT	IMPROVEMENTS	GROSS VALUATION	EXEMPTIONS		NET VALUATION	1/2 TAX
						KIND	AMOUNT		
3-1-62		L	12480	1036	13510	NP	13510	00	
3-1-69		L	13090	920	14010			00	Non Add
3-1-79	G.R.	L	3110	-	3110			3110	

EXHIBIT A

VOL. 288 PAGE 574

TRUSTEE'S DEED

07747  
 No. 4646-11011  
 E.C. Conc.  
 8-29-68  
 City of Elkhart

THIS INDENTURE WITNESSETH: That THE FIRST NATIONAL BANK  
 OF ELKHART COUNTY, AS TRUSTEE UNDER TRUST AGREEMENT WITH CLYDE  
 PAXSON DATED DECEMBER 6, 1949, of Elkhart County, in the State  
 of Indiana, pursuant to the powers granted in said Trust Agree-  
 ment, CONVEYS to the CITY OF ELKHART, INDIANA, a municipal  
 corporation, of Elkhart County, in the State of Indiana, for and  
 in consideration of the sum of One (\$1.00) Dollar and other  
 Good and Valuable Consideration, the receipt of which is hereby  
 acknowledged, the following described real estate located in  
 the County of Elkhart, State of Indiana, to-wit:

The East half of Lot Number Nineteen (19) and all of Lot  
 Number Twenty (20), as the said lots are known and desig-  
 nated on the recorded plat of Simonton's Addition to the  
 Town, now City, of Elkhart.

Also a part of Lots Numbered Twenty-one (21) and Twenty-  
 two (22) as the same are designated on the recorded Plat  
 of Simonton's Addition to the Town of Elkhart, now City,  
 more particularly described as follows:

Beginning at the southwest corner of Lot Number Twenty-  
 one (21) in said Addition, and running thence east, par-  
 allel with East Franklin Street to the intersection of  
 Franklin Street with the right of way of the Elkhart &  
 Western Railroad Company; thence northwesterly, along the  
 line of the right of way of said Elkhart & Western Rail-  
 road Company to the alley between Franklin and High  
 Streets; thence west, along the line of said alley to the  
 northwest corner of Lot Number Twenty-one (21); thence  
 south to the place of beginning.

EXCEPTING therefrom a strip of land sixteen (16) feet  
 wide across the northeast corner of Lot Twenty-one (21)  
 in Simonton's Addition above mentioned, said strip of  
 land being eight (8) feet wide north and south of the  
 center of the side track of said Railroad Company as now  
 located on said northeast corner of said lot.

Subject to all taxes and assessments.

Dated this 28th day of June, 1968.

THE FIRST NATIONAL BANK OF ELKHART COUNTY,  
 AS TRUSTEE UNDER TRUST AGREEMENT WITH  
 CLYDE PAXSON DATED DECEMBER 6, 1949

By Brantly P. Chappell  
 Brantly P. Chappell  
 Senior Vice-President

Herbert E. Cox  
 Herbert E. Cox

505353

FILED FOR RECORD

AUG 29 11 49 AM '68

George W. Bush  
 Elkhart County Recorder



EXHIBIT A

5-19-16-3 137-4647

20-06-05-412-020,000-012  
SIMENTONS ADD 30FT E END PT  
LOT 25

25-06-05-412-020

CITY OF ELKHART

before 1962. **TIF**

DATE	TRANSFER NUMBER
25-06-05	412-020

deed 204 page 353

POSTING DATE	REFERENCE	A-L	LAND/LOT	IMPROVEMENTS	GROSS VALUATION	EXEMPTIONS		NET VALUATION	% TAX
						KIND	AMOUNT		
3-1-62		L	3510		3510	NP	3510	00	
3-1-69		L	3800		3800		non-add	00	Non Add
3-1-79	G.R.	i	3800		3800			3800	

Deed No. 204

QUIT-CLAIM DEED 266382  
 THIS INDENTURE WITNESSETH, THAT NORTHERN INDIANA PUBLIC SERVICE COMPANY, an Indiana corporation, releases and quit claims to the CITY OF ELKHART, INDIANA, a municipal corporation in consideration of Ten Dollars (\$10.00) and other valuable considerations, the receipt of which is hereby acknowledged, all of its right, title and interest in and to the following described real estate in Elkhart County in the State of Indiana, to wit:

A part of Lot No. 25 as said lot is known and designated on the recorded plat of Simonton Addition to the city of Elkhart, Indiana, more particularly described as follows: Beginning at an iron stake on the north line of said lot (also the south line of East High Street) that is 135.76 feet eastwardly of the northwest corner of said lot; thence eastwardly along the north line of said lot, 31.79 feet to an iron stake on the westwardly right of way line of the Elkhart and Western Railroad; thence southeasterly along said right of way line to an iron stake on the south line of said lot that is 226.67 feet eastwardly of the southwest corner of said lot; thence westwardly along the south line of said lot, 31.79 feet to an iron stake; thence northwardly parallel with and 30 feet west of (measured at right angles) said railroad right of way line, 175.25 feet to the place of beginning,

subject to the following:

1. Special taxes or assessments for improvements not yet completed.
2. Installments not due at the date hereof for improvements heretofore completed.
3. General property taxes for the year 1956, due and payable in 1957.
4. Building, building line and use or occupancy restrictions, conditions and covenants of record, if any.
5. Zoning and building laws or ordinances.
6. Those parts thereof, if any, taken and used for public streets or highways.

IN WITNESS WHEREOF, Northern Indiana Public Service Company, an Indiana corporation, has caused this instrument to be executed in its corporate name by its Executive Vice President and the corporate seal to be affixed and to be attested by its Secretary this 21st day of December, 1955.

Revenue \$5.50 ATTEST: F. E. Thacker By E. D. Anderson  
 (U.S.) F. E. Thacker, Secretary E. D. Anderson, Executive Vice President

STATE OF INDIANA COUNTY OF LAKE SS: BE IT REMEMBERED, that on this 21st day of December, 1955, before me; the undersigned, a notary public in and for the County and State aforesaid, personally appeared E. D. Anderson and F. E. Thacker, personally known to me to be the same persons whose names are subscribed to the foregoing instrument and personally known to me to be the Executive Vice President and Secretary, respectively, of Northern Indiana Public Service Company, an Indiana corporation, and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act and deed as such Executive Vice President and Secretary, respectively, and as the free and voluntary act and deed of said Northern Indiana Public Service Company, for the uses and purposes set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

My commission expires November 11, 1957.

Fred A. Kolb Notary Public

Fred A. Kolb

Recorded January 13, 1956 at 9:00 A.M.

Clare F. Garber, Recorder

DEED OF EASEMENT NAME AND ADDRESS 266401, M. Serial No. 15405  
 Mr. Kenneth S. Vescelus et ux DA. Bas. No. 693 Map No. 681  
 Elkhart, Indiana Drg. No. P-8  
 Charge W.O. #551/18

THIS INDENTURE, made this 22nd day of November, 1955 by and between Kenneth S. Vescelus and Alice I. Vescelus his wife, of the County of Elkhart, in the State of Indiana, parties of the first part, and INDIANA & MICHIGAN ELECTRIC COMPANY, a corporation organized and existing under the laws of the State of Indiana, party of the second part.

WITNESSETH: That for one dollar (\$1.00) in hand paid to the parties of the first part by the party of the second part, the receipt of which is hereby acknowledged, and the contemplated plan of furnishing service in the vicinity, said parties of the first part hereby grant, bargain, sell, convey, and warrant, to the party of the second part, its successors and assigns forever, a right of way and easement with the right, privilege and authority to said party of the second part, its successors, assigns, lessees, and tenants to construct, erect, operate and maintain a line of poles and wires for the purpose of transmitting electric or other power, including telegraph or telephone wires in, on, along, over, through or across and also along any highway as now or hereafter laid out abutting the following described lands situated in City of Elkhart, Concord Township, in the County of Elkhart in the State of Indiana, and part of Section No. 17 Township No. 37 North and Range No. 5 East and bounded and described as follows:

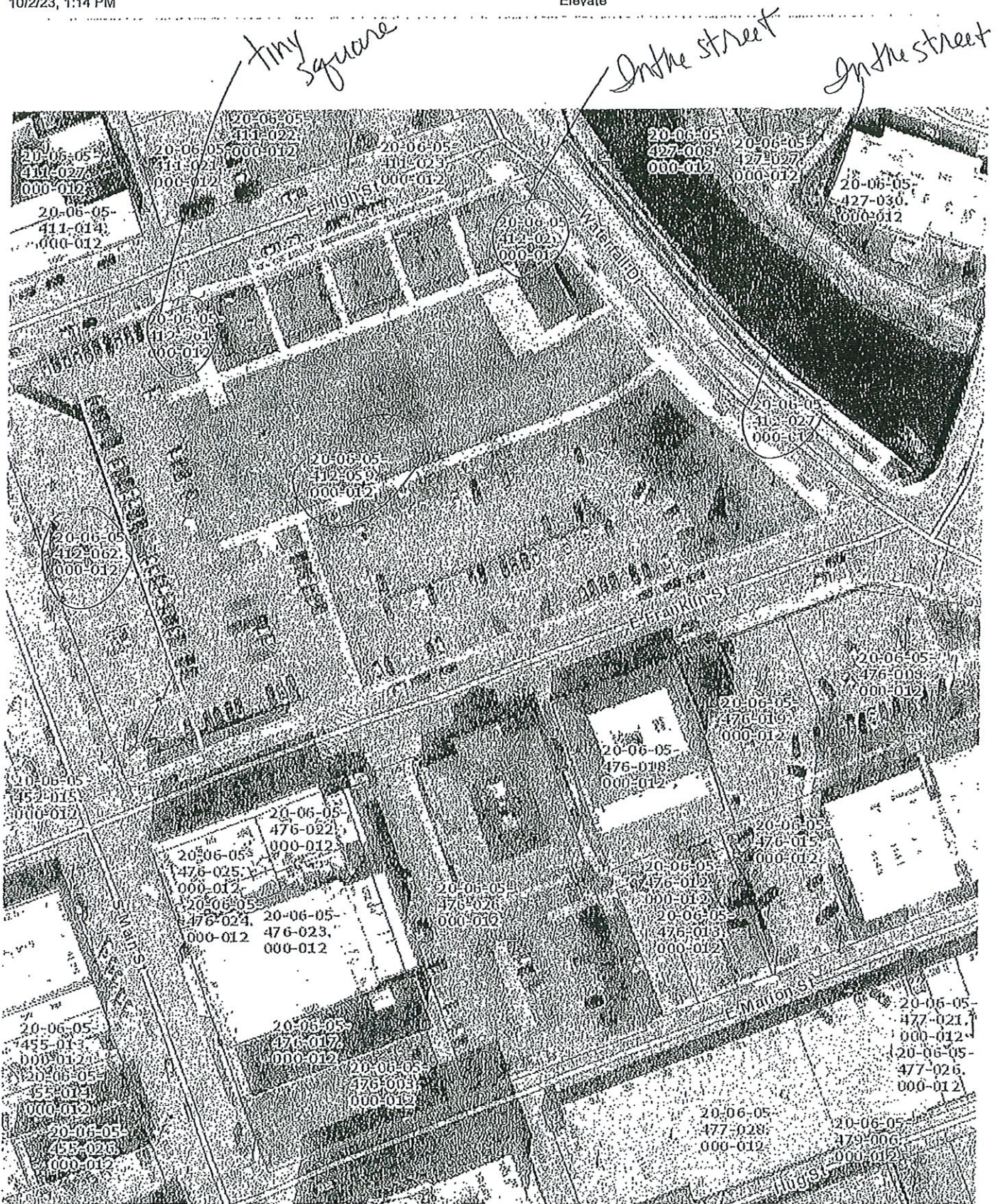
The East 6 feet of Lot Numbered 10, as shown on the recorded plat of Hawthorn Manor.

TOGETHER with the right to said party of the second part, its successors and assigns, to place, erect, maintain, inspect, add to the number of, and relocate at will, poles, crossarms or fixtures, and string wires and cables; adding thereto from time to time, across, through or over the above described premises, to cut and, at its option, remove from said premises or the premises of the parties of the first part adjoining the same on either side, any trees, overhanging branches or other obstructions which may endanger the safety or interfere with the use of said poles or fixtures or wires attached thereto or any structure on said premises, and the right of ingress and egress to and over said above described premises, and any of the adjoining lands of the parties of the first part, at any and all times, for the purpose of patrolling the line, of repairing, renewing or adding to the number of said poles, structures, fixtures and wires, and for doing anything necessary or useful or convenient for the enjoyment of the easement herein granted; also the privilege of removing at any time any or all of said improvements erected, upon, over, or on said land, together with the rights, easements, privileges and appurtenances in or to said lands which may be required for the full enjoyment of the rights herein granted; Grantee will immediately repair or replace all fences, gates, drains and ditches injured or destroyed by it on said premises or pay Grantor all damages done to the fences, drains, ditches, crops and stock on the premises herein described, caused by the construction, operation and maintenance of said lines. All claims for damages caused in the operation and maintenance of said lines, shall be made at the office of the Grantee at 220 W. Colfax, South Bend 2, Indiana, within thirty days after such damages accrue. If Grantor and Grantee cannot agree on the amount of damages, the same shall be arbitrated and this

EXHIBIT A

10/2/23, 1:14 PM

Elevate



5 parcels

Rod Roberson  
Mayor



**Planning & Development**  
*Community Development*  
*Economic Development*  
*Planning Services*  
229 S. Second St.  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.295.7501

To: City of Elkhart Redevelopment Commission  
From: Mike Huber  
Date: November 1, 2023  
Re: Request To Transfer Ownership

As a part of negotiating a development agreement for a proposed Amphitheater Development on the site of the Art and Pat Decio Central Green, the Elkhart Board of Public Works is being asked to execute a transfer of title of the property to the Elkhart Redevelopment Commission. Adopting the attached resolution represents the appropriate action for the RDC to accept the deed and title of the property from the Elkhart Board of Public Works.

Per its statutory requirements related to property disposition, the Elkhart RDC has created and made publicly available an RFP for lease of the property for the specific purpose of developing and constructing a multi-purpose outdoor amphitheater on the site. Proposals are due to be received by the Redevelopment Commission at the November 14 meeting. Transfer of the property to the RDC will permit the RDC to engage in the negotiation and execution of a development agreement with a potential developer to construct the proposed project. In the event that there is no executed development agreement, the RDC would be in agreement with deeding the property title back to the Elkhart Board of Public Works.

We appreciate your consideration of this resolution, and are available to answer any questions.



6  
087

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE  
CITY OF ELKHART, INDIANA, APPROVING HOMEBUYER ASSISTANCE  
GRANT FOR 1639 HURON STREET AND 919 HUBBARD

Whereas, The Commission has received a Homebuyer Assistance Program grant request of \$15,000 from LaCasa, Inc. to help fund the purchase price or otherwise subsidize the purchase of its residential housing project at 1639 Huron Street which is being sold Chloe Lawrence, income eligible homebuyer (the “ 1639 Grant Request”); and

Whereas, The Commission has received a Homebuyer Assistance Program grant request of \$15,000 from LaCasa, Inc. to help fund the purchase price or otherwise subsidize the purchase of its residential housing project at 919 Hubbard Avenue which is being sold to Edgar Perdomo Valdez, Ana Moran Torrento, income eligible homebuyers (the “919 Grant Request”); and

Whereas, the Commission has reviewed the Grant Requests and believes it is in the best interest of the City and its inhabitants to approve both Grant Requests.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the 1639 Grant Request of LaCasa, Inc. in the amount of \$15,000.
2. The Commission approves the 919 Grant Request of LaCasa, Inc. in the amount of \$15,000.
3. The Commission appropriates the sum of \$30,000 from the CDBG Grant year 2022 funds, grant B22MC180015, to fund the Grants.
4. The Grant funds will be distributed to Seller, LaCasa, Inc., to be applied to the amount due from each Buyer as of the date of closing.
5. The Officers of the Commission are hereby authorized to execute and deliver such Agreements and to perform all acts which they deem necessary and desirable in furtherance of this Resolution.

ADOPTED BY MAJORITY VOTE THIS 14th DAY OF NOVEMBER 2023.

CITY OF ELKHART, REDEVELOPMENT  
COMMISSION

By \_\_\_\_\_  
Sandra Schreiber, President

ATTEST:

By \_\_\_\_\_  
Alex Holtz, Secretary

LIEN AND RESTRICTIVE COVENANT AGREEMENT FOR THE CITY OF ELKHART COMMUNITY  
DEVELOPMENT BLOCK GRANT PROGRAM: HOMEOWNERSHIP ASSISTANCE

This Lien and Restrictive Covenant Agreement (the "Agreement") for the City of Elkhart Community Development Block Grant Program ("CDBG") is made by and between **Chloe Lawrence** (the "Owner"), the Owner of certain real estate located at **1639 Huron Street, Elkhart, Indiana 46516** ("address"), Elkhart, Indiana, in Elkhart County, Indiana, more particularly described as:

**See attached Exhibit A.**

(the "Real Estate"), and the undersigned, the City of Elkhart, Indiana (the "City"), as recipient of an award of funds from the United States Department of Housing & Urban Development ("HUD").

City enters into this Agreement as part of a CDBG Homeownership Assistance grant funded through the City's CDBG Program established under Title I of the Housing and Community Development Act of 1974, as amended, and the rules, regulations, policy memoranda and other authority thereunder, and administered by the City of Elkhart. The City has the exclusive right to enforce the terms of and protect the interests created by this instrument.

**I. PURPOSE**

- A. City administers an entitlement CDBG Program with funds from HUD pursuant to Title I of the Housing and Community Development Act of 1974, as amended, and the rules, regulations, policy memoranda and other authority thereunder.
- B. Owner applied for and received a CDBG Homeownership Assistance grant from the City, used to provide direct assistance for purchase of a single family home for the benefit of low and moderate income households, whose household income is at or below eighty percent (80%) of the area median income (the "Beneficiaries").
- C. Direct assistance consists of any financial assistance that reduces the purchase price from fair market value to an affordable price, or otherwise directly subsidizes the purchase (e.g., down payment or closing cost assistance, grants to reduce mortgage insurance, interest rate or mortgage principal). Owner's cost to acquire the Real Estate was subsidized by direct assistance in an amount totaling **FIFTEEN THOUSAND Dollars and 00/100**
- D. (**\$ 15,000.00**) (the "assistance"), which assistance is subject to the requirements of the CDBG Program.
- E. The CDBG Program requires that the benefits of such assistance remain with the intended Beneficiaries under the CDBG Program. The housing must be acquired by a homebuyer whose household qualifies as a low or moderate income household, and the housing must be the principal residence of the household.

**II. AFFORDABILITY PERIOD**

Specifically, the City requires that restrictive covenants be placed on the assisted property in the form of deed restrictions, covenants running with the land, or similar mechanisms that remain in effect for the following periods specified below (the “Affordability Period”):

	<b>Funds per Residential Unit</b>	<b>Term of Restrictive Covenants</b>
X	Up to \$15,000.00	5 years
	\$15,000.01 to \$40,000.00	10 years

The Affordability Period begins on the date of the Agreement.

**III. AGREEMENT**

The Owner and City hereby impose the following restrictive covenants upon the Real Estate, which shall be enforceable by the City. The Owner hereby warrants, grants, and conveys to the City a lien upon the Real Estate for the Affordability Period specified above for the amount of the assistance (the “Lien”). In consideration of these mutual undertakings and covenants, the parties further agree as follows:

- A. Throughout the Affordability Period the Real Estate shall be occupied by the Owner/Beneficiaries.
- B. Upon the occurrence of any of the following events during the Affordability Period, the entire sum secured by the Lien shall be due and payable by the Owner upon demand. Repayment may be demanded upon:
  - 1. Transfer or conveyance of the Real Estate by deed, land contract, lease, or otherwise, within the Affordability Period;
  - 2. The Owner/Beneficiaries no longer occupy the Real Estate as their principal residence; or
  - 3. Commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure), within the Affordability Period.
- C. If any of the events listed in subsection III.B occur during the Affordability Period, the City may recapture the direct assistance amount secured by the Lien, calculated by dividing the total amount by the number of total months in the Affordability Period to obtain a monthly assistance amount, and then multiplying the monthly assistance amount by the number of months remaining in the Affordability Period.
- D. The Owner and City acknowledge that the financial assistance received through the CDBG Program represents good and valuable consideration for this Agreement and these restrictions on the use of the Real Estate are consistent with the statutes, regulations, terms, conditions, and requirements for the CDBG Program as administered by the City.
- E. The Lien may be foreclosed and the restrictive covenants shall terminate on the date the Real Estate is acquired by foreclosure in accordance with the laws of the State of Indiana, or an instrument in lieu of foreclosure.
- F. Notwithstanding anything to the contrary in this Agreement, the City and the Owner agree that the Lien is subject and subordinate to any Senior Debt, as defined below, in priority as to the City’s interest in the Real Estate; reflected in its proportionate share of the amount invested in the Real Estate. As used in this Agreement, “Senior Debt” means any indebtedness of the Owner to any lender that has provided financing to the Owner for the purchase, construction, rehabilitation, or refinancing of the Real Estate prior to the date of this Agreement. This Agreement will not be subordinate to any debt incurred by the Owner in the form of a second mortgage on the Real Estate, unless that second mortgage is in favor of the lender holding the Senior Debt.
- G. This Agreement shall be binding upon the Real Estate and shall constitute a covenant running with the land. City

and the Owner agree that any and all requirements of the laws of the State of Indiana which must be satisfied so that the provisions of this Agreement constitute valid and binding deed restrictions and a covenant running with the Real Estate shall be satisfied in full. Except as otherwise provided herein, the covenants and restrictions contained herein shall survive and be effective throughout the Affordability Period, regardless of whether any contract, deed or other instrument hereafter executed conveying the Real Estate or a portion thereof provides that such conveyance is subject to this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, representatives, successors, and assigns.

H. In the event there is a breach or violation of the restrictions and covenants set forth herein during the Affordability Period, the City may bring an action at law or in equity in a court of competent jurisdiction to enforce the Lien and restrictions and covenants set forth herein against any or all of the following: the Owner or any subsequent owner in possession at the time of the breach or violation. In addition, the City may recover reasonable attorney's fees and court costs incurred enforcing the Lien.

This Lien and Restrictive Covenant Agreement is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

IN WITNESS WHEREOF, the Owner and City have caused this Agreement to be signed by duly authorized representatives, on the day and year first written above.

OWNER:

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

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF ELKHART        )

Before me, a Notary Public, in and for said County and State, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, the Owner, who acknowledged that the foregoing Lien and Restrictive Covenant Agreement for the CDBG Program was executed in such capacity as its voluntary act and deed and that the foregoing representations are true and correct.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
A Resident of \_\_\_\_\_ County, Indiana

My Commission Expires: \_\_\_\_\_

CITY:

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

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF ELKHART        )

Before me, a Notary Public, in and for said County and State, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ for the City of Elkhart, Indiana, who acknowledged that the foregoing Lien and Restrictive Covenant Agreement for the CDBG Program was executed in such capacity as its voluntary act and deed and that the foregoing representations are true and correct.

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
A Resident of \_\_\_\_\_ County, Indiana

My Commission Expires: \_\_\_\_\_

This instrument was prepared by the law firm of Warrick & Boyn, LLP, by Gary D. Boyn, 861 Parkway Avenue, Elkhart, Indiana 46516.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, /s/ Gary D. Boyn.

## EXHIBIT A

1639 Huron St., Elkhart, IN 46516

Lot Numbered 2 in LaCasa Huron Minor Subdivision, being a Replat of Lots 645 through 647, inclusive, of Hudson Sterling Subdivision, as per plat thereof, recorded November 17, 2021 as Instrument No. 2021-31058, and in Plat Book 41, page 45, in the Office of the Recorder of Elkhart County, Indiana.

LIEN AND RESTRICTIVE COVENANT AGREEMENT FOR THE CITY OF ELKHART COMMUNITY  
DEVELOPMENT BLOCK GRANT PROGRAM: HOMEOWNERSHIP ASSISTANCE

This Lien and Restrictive Covenant Agreement (the "Agreement") for the City of Elkhart Community Development Block Grant Program ("CDBG") is made by and between **Edgar Perdomo Valdez, Ana Moran Torrento** (the "Owner"), the Owner of certain real estate located at **919 W. Hubbard Street, Elkhart, Indiana 46516** ("address"), Elkhart, Indiana, in Elkhart County, Indiana, more particularly described as:

**See attached Exhibit A.**

(the "Real Estate"), and the undersigned, the City of Elkhart, Indiana (the "City"), as recipient of an award of funds from the United States Department of Housing & Urban Development ("HUD").

City enters into this Agreement as part of a CDBG Homeownership Assistance grant funded through the City's CDBG Program established under Title I of the Housing and Community Development Act of 1974, as amended, and the rules, regulations, policy memoranda and other authority thereunder, and administered by the City of Elkhart. The City has the exclusive right to enforce the terms of and protect the interests created by this instrument.

**I. PURPOSE**

- A. City administers an entitlement CDBG Program with funds from HUD pursuant to Title I of the Housing and Community Development Act of 1974, as amended, and the rules, regulations, policy memoranda and other authority thereunder.
- B. Owner applied for and received a CDBG Homeownership Assistance grant from the City, used to provide direct assistance for purchase of a single family home for the benefit of low and moderate income households, whose household income is at or below eighty percent (80%) of the area median income (the "Beneficiaries").
- C. Direct assistance consists of any financial assistance that reduces the purchase price from fair market value to an affordable price, or otherwise directly subsidizes the purchase (e.g., down payment or closing cost assistance, grants to reduce mortgage insurance, interest rate or mortgage principal). Owner's cost to acquire the Real Estate was subsidized by direct assistance in an amount totaling **FIFTEEN THOUSAND Dollars and 00/100**
- D. **(\$ 15,000.00)** (the "assistance"), which assistance is subject to the requirements of the CDBG Program.
- E. The CDBG Program requires that the benefits of such assistance remain with the intended Beneficiaries under the CDBG Program. The housing must be acquired by a homebuyer whose household qualifies as a low or moderate income household, and the housing must be the principal residence of the household.

**II. AFFORDABILITY PERIOD**

Specifically, the City requires that restrictive covenants be placed on the assisted property in the form of deed restrictions, covenants running with the land, or similar mechanisms that remain in effect for the following periods specified below (the "Affordability Period"):

	<b>Funds per Residential Unit</b>	<b>Term of Restrictive Covenants</b>
X	Up to \$15,000.00	5 years
	\$15,000.01 to \$40,000.00	10 years

The Affordability Period begins on the date of the Agreement.

**III. AGREEMENT**

The Owner and City hereby impose the following restrictive covenants upon the Real Estate, which shall be enforceable by the City. The Owner hereby warrants, grants, and conveys to the City a lien upon the Real Estate for the Affordability Period specified above for the amount of the assistance (the "Lien"). In consideration of these mutual undertakings and covenants, the parties further agree as follows:

- A. Throughout the Affordability Period the Real Estate shall be occupied by the Owner/Beneficiaries.
- B. Upon the occurrence of any of the following events during the Affordability Period, the entire sum secured by the Lien shall be due and payable by the Owner upon demand. Repayment may be demanded upon:
  - 1. Transfer or conveyance of the Real Estate by deed, land contract, lease, or otherwise, within the Affordability Period;
  - 2. The Owner/Beneficiaries no longer occupy the Real Estate as their principal residence; or
  - 3. Commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure), within the Affordability Period.
- C. If any of the events listed in subsection III.B occur during the Affordability Period, the City may recapture the direct assistance amount secured by the Lien, calculated by dividing the total amount by the number of total months in the Affordability Period to obtain a monthly assistance amount, and then multiplying the monthly assistance amount by the number of months remaining in the Affordability Period.
- D. The Owner and City acknowledge that the financial assistance received through the CDBG Program represents good and valuable consideration for this Agreement and these restrictions on the use of the Real Estate are consistent with the statutes, regulations, terms, conditions, and requirements for the CDBG Program as administered by the City.
- E. The Lien may be foreclosed and the restrictive covenants shall terminate on the date the Real Estate is acquired by foreclosure in accordance with the laws of the State of Indiana, or an instrument in lieu of foreclosure.
- F. Notwithstanding anything to the contrary in this Agreement, the City and the Owner agree that the Lien is subject and subordinate to any Senior Debt, as defined below, in priority as to the City's interest in the Real Estate; reflected in its proportionate share of the amount invested in the Real Estate. As used in this Agreement, "Senior Debt" means any indebtedness of the Owner to any lender that has provided financing to the Owner for the purchase, construction, rehabilitation, or refinancing of the Real Estate prior to the date of this Agreement. This Agreement will not be subordinate to any debt incurred by the Owner in the form of a second mortgage on the Real Estate, unless that second mortgage is in favor of the lender holding the Senior Debt.
- G. This Agreement shall be binding upon the Real Estate and shall constitute a covenant running with the land. City



and the Owner agree that any and all requirements of the laws of the State of Indiana which must be satisfied so that the provisions of this Agreement constitute valid and binding deed restrictions and a covenant running with the Real Estate shall be satisfied in full. Except as otherwise provided herein, the covenants and restrictions contained herein shall survive and be effective throughout the Affordability Period, regardless of whether any contract, deed or other instrument hereafter executed conveying the Real Estate or a portion thereof provides that such conveyance is subject to this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, representatives, successors, and assigns.

H. In the event there is a breach or violation of the restrictions and covenants set forth herein during the Affordability Period, the City may bring an action at law or in equity in a court of competent jurisdiction to enforce the Lien and restrictions and covenants set forth herein against any or all of the following: the Owner or any subsequent owner in possession at the time of the breach or violation. In addition, the City may recover reasonable attorney's fees and court costs incurred enforcing the Lien.

This Lien and Restrictive Covenant Agreement is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

IN WITNESS WHEREOF, the Owner and City have caused this Agreement to be signed by duly authorized representatives, on the day and year first written above.

OWNER:

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

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF ELKHART        )

Before me, a Notary Public, in and for said County and State, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, the Owner, who acknowledged that the foregoing Lien and Restrictive Covenant Agreement for the CDBG Program was executed in such capacity as its voluntary act and deed and that the foregoing representations are true and correct.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
A Resident of \_\_\_\_\_ County, Indiana

My Commission Expires: \_\_\_\_\_

CITY:

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

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF ELKHART        )

Before me, a Notary Public, in and for said County and State, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ for the City of Elkhart, Indiana, who acknowledged that the foregoing Lien and Restrictive Covenant Agreement for the CDBG Program was executed in such capacity as its voluntary act and deed and that the foregoing representations are true and correct.

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
A Resident of \_\_\_\_\_ County, Indiana

My Commission Expires: \_\_\_\_\_

This instrument was prepared by the law firm of Warrick & Boyn, LLP, by Gary D. Boyn, 861 Parkway Avenue, Elkhart, Indiana 46516.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, /s/ Gary D. Boyn.

EXHIBIT A

919 Hubbard Ave., Elkhart, IN 46516

LOT NUMBERED 95 IN PRIMLEY'S WILLOWDALE ADDITION AS PER PLAT THEREOF RECORDED IN DEED RECORD 72, PAGE 304, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.



Community Development Block Grant Program  
2023 CDBG Annual Action Plan

Subrecipient Agreement

Between the

*City Of Elkhart Community Development  
Elkhart, Indiana  
and  
St James AME Church*

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
Program Managed by the Community Development Department  
City of Elkhart, Indiana

Project Name: The Lord' s Cupboard- Food Pantry  
Project Type: Public Services  
Subrecipient ID: 35-6075403  
FAIN: B23MC1-80015  
Federal Award Date: June 28, 2023  
Federal Award Amount: \$713,272.00  
Research & Development Award: No  
Environmental Status: Exempt per 24 CFR 58.34(a) and 58.35 (b)  
Other Fed Requirements: None  
CDFA Number: 14.218  
Account Number: 2226-5-631-4314270  
IDIS Number: 990  
Project Amount: \$65,000 Total  
    \$ 10,000 - CDBG  
    \$ 55,000 - In Kind

## **CDBG SUBRECIPIENT AGREEMENT**

### **Between the City of Elkhart Community Development AND St James AME Church FOR 2023 CDBG PROGRAM YEAR**

THIS AGREEMENT, entered this November 14, 2023 by and between the CITY OF ELKHART COMMUNITY DEVELOPMENT (herein called the "Grantee") and ST JAMES AME CHURCH (herein called the "Subrecipient").

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds; NOW, THEREFORE, it is agreed between the parties hereto that;

#### **I. SCOPE OF SERVICE**

##### **A. Activities**

The Subrecipient will be providing food pantry services this CDBG Program Year 2023 for persons living in the Qualified Census Tract (QCT) (Census Tracts 26.00, 27.00, 23.00, and parts of 21.02). Services will be conducted in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

##### **Program Delivery**

Activity: Recipient will use the CDBG funding to purchase food for their pantry to assist south side residents. Community residents are invited to ST JAMES AME CHURCH on the 2<sup>nd</sup> and 3<sup>rd</sup> Tuesdays of each month to receive a bag of food (canned and boxed), a bag of hygiene products (soap, dish detergent, laundry detergent, tooth brush, tooth paste and deodorant), two - three articles of clothing and safety items (masks, disinfecting wipes). Each individual is required to sign in and provide one proper piece of identification (driver's license, government ID, etc.). This community resource has been in operation for 10 years and serves anywhere from 25-35 persons each prospective week.

##### **General Administration**

##### **B. National Objectives**

All activities funded with CDGB funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

The Subrecipient certifies that the activity (ies) carried out under this Agreement will meet the benefitting low-and moderate-income area National Objective.

**C. Levels of Accomplishment – Goals and Performance Measures**

The Subrecipient agrees to provide the following levels of program for the persons served during the program year:

Plan to serve 100 Persons

Document eligible expenses for reimbursement from the City of Elkhart

NOTE: The term Beneficiary means person served one time

**D. Staffing**

<b>Staff Member</b>	<b>Responsibilities</b>
Pastor Dalrey Trotter	Executive Director/Pastor
Eulah Mitchell	Program Coordinator
Tamika Mitchell	Program Record Keeper

“Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee.”

**E. Performance Monitoring**

The Grantee will monitor the performance of the Subrecipient against goals and performance standards as stated above. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time of 14 days after being notified by the Grantee, contract suspension or termination procedures will be initiated.

**II. TIME OF PERFORMANCE**

Services of the Subrecipient shall start on the 1st day of July, 2023 and end on the 31st day of May, 2024.

Funds will not be available to the Subrecipient from the Community Development Block Grant Program (B-23-MC-1800015) after the completion date, unless otherwise approved by Grantee

**III. BUDGET**

<u>Line Item</u>	<u>Amount:</u>
Food items, One ServSafe Certification reimbursement, and personal care and laundry aid products	<u>\$10,000</u>

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C)(2) of this Agreement. In addition, the Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to the budget must be approved in writing by both the Grantee and the Subrecipient.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed:

Ten Thousand Dollars and no cents     \$10,000.00

Draw Requests for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 CFR 200.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

GRANTEE

Elkhart Community Development  
201 S. Second Street  
Elkhart, Indiana 46516  
574-322-4431

SUBRECIPIENT

ST JAMES AME CHURCH  
122 Dr. Martin Luther King Drive  
Elkhart, Indiana 46516  
574-294-4950

VI. **SPECIAL CONDITIONS**

N/A

VII. **GENERAL CONDITIONS**

A. **General Compliance**

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the Subrecipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Subrecipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR 52. The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. **"Independent Contractor"**

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Subrecipient is an independent contractor.

C. **Hold Harmless**

The Subrecipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. **Workers' Compensation**

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. **Insurance & Bonding**

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.



The Subrecipient shall comply with the bonding and insurance requirements of 2 CFR 200, Bonding and Insurance.

**F. Grantee Recognition**

The Subrecipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

**G. Amendments**

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

**H. Suspension or Termination**

In accordance with 2 CFR 200, the Grantee may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Subrecipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 2 CFR 200, this Agreement may also be terminated for convenience by either the Grantee or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

## VIII. ADMINISTRATIVE REQUIREMENTS

### A. Financial Management

#### 1. Accounting Standards

The Subrecipient agrees to comply with 2 CFR 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

#### 2. Cost Principles

The Subrecipient shall administer its program in conformance with 2 CFR 200 as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

### B. Documentation and Record Keeping

#### 1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

Records providing a full description of each activity undertaken;

Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

Records required to determine the eligibility of activities;

Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

Financial records as required by 24 CFR 570.502, and 2 CFR 200; and

Other records necessary to document compliance with Subpart K of 24 CFR 570.

#### 2. Retention

The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report (CAPER) to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

### **3. Client Data**

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

### **4. Disclosure**

The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the [insert applicable State or Federal law] unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

### **5. Close-outs**

The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG funds, including program income.

### **6. Audits & Inspections**

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor 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 the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning sub-recipient audits and 2 CFR 200.

## **c. Reporting and Payment Procedures**

### **1. Program Income**

The activity does not generate program income as defined at 24 CFR 570.500(a).

### **2. Indirect Costs**

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

### **3. Payment Procedures**

The Grantee will pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

### **4. Progress Reports**

The Subrecipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee. The Grantee reserves the right to require the Subrecipient to submit additional reports in the form, content, and frequency specified by the Grantee.

The Subrecipient is required to submit an annual report and supporting beneficiary form within 14 days of the final draw request or within 14 days after the grant agreement ends whichever is first. This report must provide all required data regarding beneficiaries and the services provided to them in accordance with the Scope of Service.

## **D. Procurement**

### **1. Compliance**

The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

### **2. OMB Standards**

Unless specified otherwise within this agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 2 CFR 200.

### **3. Travel**

The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

**E. Use and Reversion of Assets**

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR 200 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Subrecipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period [or such longer period of time as the Grantee deems appropriate].
3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

**IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. [The Grantee may preempt the optional policies.] The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions, and policies concerning the displacement of persons from their residences.

**X. PERSONNEL & PARTICIPANT CONDITIONS**

**A. Civil Rights**

**1. Compliance**

The Subrecipient agrees to comply with [fill in local and state civil rights ordinances here] and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

**2. Nondiscrimination**

The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

**3. Land Covenants**

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

**4. Section 504**

The Subrecipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against individuals with disabilities or handicaps in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

**B. Affirmative Action**

**1. Approved Plan**

The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

**2. Women- and Minority-Owned Businesses (W/MBE)**

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

**3. Access to Records**

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.

**4. Notifications**

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement**

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

## **6. Subcontract Provisions**

The Subrecipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

## **C. Employment Restrictions**

### **1. Prohibited Activity**

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

### **2. Labor Standards**

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and all other applicable Federal, state, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 CFR 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation, or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

### **3. "Section 3" Clause**

#### **a. Compliance**

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these



requirements shall subject the Grantee, the Subrecipient, and any of the Subrecipient's sub-recipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

**b. Notifications**

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

**c. Subcontracts**

The Subrecipient will include this Section 3 clause in every subcontract and will take

appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

**D. Conduct**

**1. Assignability**

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

**2. Subcontracts**

**a. Approvals**

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

**b. Monitoring**

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

**c. Content**

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

**d. Selection Process**

The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

**3. Hatch Act**

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

**4. Conflict of Interest**

The Subrecipient agrees to abide by the provisions of 2 CFR 200 and 570.611, which include (but are not limited to) the following:

- a. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees, or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

**5. Lobbying**

The Subrecipient hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to

Report Lobbying," in accordance with its instructions; and

- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly:
- d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## 6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, the work or materials for governmental purposes.

## 7. Religious Activities

The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

# XI. ENVIRONMENTAL CONDITIONS

## A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C., 7401, et seq.;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR 50, as amended.

## B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management

Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

**C. Lead-Based Paint**

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment, and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment, and/or abatement may be conducted.

**D. Historic Preservation**

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

**XII. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected there- by and all other parts of this Agreement shall nevertheless be in full force and effect.

**XIII. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

**XIV. WAIVER**

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

**XV. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement between the Grantee and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Subrecipient with respect to this Agreement.

Date \_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

On behalf of  
Redevelopment Commission  
City of Elkhart, Indiana

ST JAMES AME CHURCH

By \_\_\_\_\_

Sandra Schreiber, President

By \_\_\_\_\_  
Pastor Dalrey Trotter, Executive Director

**CERTIFICATION REGARDING INVESTMENT WITH IRAN, EMPLOYMENT ELIGIBILITY VERIFICATION AND NON-DISCRIMINATION COMMITMENT**

*When the prospective Contractor is unable to certify to any of the statements below, it shall attach an explanation to this Affidavit.*

STATE OF Indiana )  
 ) §  
COUNTY OF \_\_\_\_\_ )

The undersigned Contractor, being duly sworn upon his/her/its oath, affirms under the penalties of perjury that:

1. Contractor has not, nor has any successor to, nor an affiliate of, Contractor, engaged in investment activities in Iran.
  - a. For purposes of this Certification, "Iran" means the government of Iran and any agency or instrumentality of Iran, or as otherwise defined at Ind. Code § 5-22-16.5-5, as amended from time-to-time.
  - b. As provided by Ind. Code § 5-22-16.5-8, as amended from time-to-time, a Contractor is engaged in investment activities in Iran if either:
    - i. Contractor, its successor or its affiliate, provides goods or services of twenty million dollars (\$20,000,000) or more in value in the energy sector of Iran; or
    - ii. Contractor, its successor or its affiliate, is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another person for forty-five (45) days or more, if that person will (i) use the credit to provides goods and services in the energy sector in Iran; and (ii) at the time the financial institution extends credit, is a person identified on list published by the Indiana Department of Administration.
2. Contractor does not knowingly employ or contract with an unauthorized alien, nor retain any employee or contract with a person that the Contractor subsequently learns is an unauthorized alien. Contractor agrees that he/she/it shall enroll in and verify the work eligibility status of all of Contractor's newly hired employees through the E-Verify Program as defined by I.C. 22-5-1.7-3. Contractor's documentation of enrollment and participation in the E-Verify Program shall be included or provided upon request; and
3. Contractor shall require his/her/its subcontractors performing work under this public contract to certify that the subcontractors do not knowingly employ or contract with an unauthorized alien, nor retain any employee or contract with a person that the subcontractor subsequently learns is an unauthorized alien, and that the subcontractor has enrolled in and is participating in the E-Verify Program. The Contractor agrees to maintain this certification throughout the term of the contract with the City of Elkhart, and understands that the City may terminate the contract for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the City.

4. Persons, partnerships, corporations, associations, or joint venturers awarded a contract by the City of Elkhart through its agencies, boards, or commissions shall not discriminate against any employee or applicant for employment in the performance of a City contract with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of race, sex, religion, color, national origin, ancestry, age, gender expression, gender identity, sexual orientation or disability that does not affect that person's ability to perform the work. Breach of this provision may be regarded as material breach of contract.

I hereby affirm under the penalties of perjury that the facts and information contained in the foregoing affidavit are true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Signature of Person Authorized to sign on behalf of Contractor

\_\_\_\_\_  
Printed Name and Title



## PY 2023 CDBG SUBRECIPIENT DRAW REQUEST SUBMISSION SCHEDULE

<b>Project:</b>	Elkhart CDBG Public Service	<b>Contact Phone</b>	574-322-4431
<b>Program Grant Year:</b>	July 1, 2023 – May 31, 2024	<b>Contact Email</b>	dana.donald@coei.org

In an effort to expend HUD CDBG funds in a timely manner this program year; we are asking each Subrecipient to submit their requests for reimbursement according to the schedule below:

	Months of CDBG Work	Request for Reimbursement between:
Draw Request Number 1	July & August, 2023	August 31, 2023 - September 14, 2023
Draw Request Number 2	September & October, 2023	October 31, 2023 – November 14, 2023
Draw Request Number 3	November & December, 2023	December 31, 2023 – January 14, 2024
Draw Request Number 4	January & February, 2024	February 29, 2024 – March 14, 2024
Draw Request Number 5	March & April, 2024	April 30, 2024 – May 14, 2024
Draw Request Number 6	May 2024	May 31, 2024 – June 14, 2024

RESOLUTION NO. 23-R-0887

RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE CITY OF ELKHART, INDIANA, AWARDED BID AND APPROVING CONTRACT FOR DEMOLITION SERVICES

Whereas, The Commission owns the real estate in the 1000 Block of South Main Street in the City of Elkhart described in the attached Notice to Bidders (the "Real Estate") and has received bids for the demolition of the improvements located thereon; and

Whereas, Staff has recommended the Contract for Demolition (the "Contract") be awarded to \_\_\_\_\_, as the most responsive bidder; and

Whereas, the Commission believes it is in the best interest of the City and its inhabitants that the Contract be awarded as proposed, and the funds appropriated to pay the cost of the services.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission awards the Contract to \_\_\_\_\_ to perform the demolition services on the Real Estate in accordance with the terms of the Contract attached hereto.
2. The Commission approves the form of Contract, and authorizes the President to approve any non-material changes thereto she deems necessary and appropriate prior to execution by the parties.
3. The Commission appropriates the sum of \$\_\_\_\_\_ to be charged to and paid in equal shares from the Consolidated South Elkhart Economic Development/Redevelopment Tax Allocation Area Special Fund and the Downtown Allocation Area No. 1 Special Fund to cover the cost of the demolition services, as both areas are directly benefitted by the removal of the blighting influence of these buildings.
4. The Officers of the Commission are authorized and directed to execute and deliver the Contract for Demolition Services and such other Agreements as they deem necessary and appropriate in furtherance of this Resolution.

ADOPTED BY MAJORITY VOTE THIS 14th DAY OF NOVEMBER 2023.

CITY OF ELKHART, REDEVELOPMENT  
COMMISSION

By \_\_\_\_\_  
Sandra Schreiber, President

ATTEST:

By \_\_\_\_\_  
Alex Holtz, Secretary



RESOLUTION OF THE REDEVELOPMENT COMMISSION OF THE  
CITY OF ELKHART, INDIANA, APPROVING EMPLOYMENT OF  
ENVIROFORENSICS LLC REGARDING LABOUR PUMP VRP

Whereas, The Commission has acquired the realty at Sterling Avenue and Ren Street previously referred to as the LaBour Pump property, which site has environmental contamination, and the Commission has filed suit to recover its damages and costs of remediation, and desires to employ Enviroforensics, LLC to provide certain services including compiling investigation data, preparing and submitting the application forms for the IDEM VRP program, and preparation of a detailed work plan (the "Services"), as outlined in the attached Proposal (the "Agreement"); and

Whereas, the Commission has reviewed the Services to be performed in accordance with the proposed Agreement and believes it is in the best interest of the City and its inhabitants that Enviroforensics, LLC be employed to provide the Services described therein.

NOW THEREFORE, BE IT RESOLVED:

1. The Commission approves the employment of Enviroforensics, LLC to provide the Services described in the Agreement.
2. The Commission approves the form and content of the Agreement and all attachments and exhibits thereto.
3. The Commission approves the Fee specified in the Agreement and appropriates the sum of \$15,098.00 from the Consolidated South Elkhart Economic Development/Redevelopment Allocation Area Special Fund to pay the Fee.
4. The Commission authorizes its officers to execute and deliver the Agreement and to do all acts which they deem necessary and desirable to carry out the terms and obligations contemplated therein.

ADOPTED BY MAJORITY VOTE THIS 14th DAY OF NOVEMBER 2023.

CITY OF ELKHART, REDEVELOPMENT  
COMMISSION

By \_\_\_\_\_  
Sandra Schreiber, President

ATTEST:

By \_\_\_\_\_  
Alex Holtz, Secretary



November 10, 2023

Brent Huber, Esq.  
Ice Miller LLP  
One American Square  
Suite 2900  
Indianapolis, IN 46282-0200

**Subject: Proposal for Consulting/Investigation  
Former LaBour Pump  
Elkhart, IN 46517**

Dear Mr. Huber:

EnviroForensics LLC (EnviroForensics) is pleased to provide to the City of Elkhart this proposal and cost estimate for Reporting activities, VRP Application, and Work Plan preparation for the former LaBour Pump, property located at Sterling Avenue and Ren Street in Elkhart, Indiana (Site). The Site which has had a long history of industrial operations is currently a city park. Investigations performed at the site from the 1980s to today have identified impacts of metals, arsenic and polychlorinated biphenyls (PCBs). Recent investigations have also revealed concentrations of hexavalent chromium (Cr<sup>+6</sup>) in groundwater above Indiana Department of Environmental Management (IDEM) screening levels.

The objective of this proposal is to provide the City of Elkhart Redevelopment Commission with consulting services to move the project forward within the Voluntary Remediation Program (VRP). To accomplish this, we propose the following work items:

- 1) Prepare comprehensive tables and figures that summarize all the investigation data collected to date. Submit the August Mack October 2022 report along with these comprehensive table and figures to the IDEM.
- 2) Complete and submit a VRP application on behalf of the City.
- 3) Prepare a detailed Work Plan to investigate soil and groundwater impacts.

### **Phase 01A-Report Submission**

Investigations have been performed at the site by multiple consultants. These investigations include but may not be limited to:

*Former LaBour Pump*

825 N Capitol Ave, Indianapolis, IN 46204 | P: 262-290-4001 | [enviroforensics.com](http://enviroforensics.com)



- Subsurface Investigation, Clayton, August 11, 1995
- Phase II Investigation, May 11, 1995
- Remediation Work Plan, Clayton, August 23, 1995
- Remediation Completion report, Oct 3, 1995
- Remediation Completion report, Clayton, Sept. 16<sup>th</sup>, 1998
- Phase I ESA, Symbiont, August 20, 2007.
- Phase II ESA, Symbiont, June 18, 2008
- Remediation Work Plan, Bruce Carter Associates, LLC, May 10, 2010.
- Closure Report, Bruce Carter Associates, LLC, May 16, 2011.
- Limited Subsurface Investigation, August Mack, October 11, 2022.

To date most of the data has been reported separately from proceeding investigation data. Comprehensive tables and figures showing all sampling locations along with results need to be created. These table and figures will be combined with a copy of the Limited Subsurface Investigation by August Mack (Oct 11, 2022) and provided to the IDEM. These tables and figures will be useful to future VRP submittals for this site.

#### **Phase 01B-VRA Application**

This phase includes preparation of an application to enroll the Site as a new project within the IDEM VRP. The application will include Site specific details regarding the investigation history and impacts associated with the parcel, including a detailed description of the known impacts, and updated Site plans.

EnviroForensics will prepare a draft application and cover letter and will submit these to counsel and stakeholders in draft prior to finalization and submittal to the IDEM VRP. The final IDEM VRP application will include the \$1,000 IDEM VRP application fee. Following acceptance into the IDEM VRP, EnviroForensics will communicate and coordinate with counsel, stakeholders, and IDEM to facilitate the completion of the Voluntary Remediation Agreement (VRA).

#### **Phase 01C-Work Plan Preparation and Submittal**

A Work Plan outlining the proposed next steps for investigating this property will be developed and submitted to the IDEM VRP. This Work Plan will include a summary of current conditions, identify current data gaps and propose the work necessary to address the data gaps. This work plan will include figures showing proposed sampling locations. This work plan will be submitted to the IDEM for review and feedback. The work plan can be modified based on IDEM feedback.



## **COST ESTIMATE AND ASSUMPTIONS**

The above Scope of Services will be performed on a Time and Materials basis for an estimated cost of **\$15,098**. Costs are summarized in the attached **Table 1**. This estimated cost includes all fees to perform the above scope of work.

If you are in agreement with the terms and conditions of this proposal, EnviroForensics can immediately initiate work activities. We appreciate the opportunity to submit this scope of work and cost estimate and look forward to continuing to provide services on this project. Please contact us if you have any questions.

Sincerely,  
EnviroForensics, LLC

A handwritten signature in black ink that reads "Brad K. Lewis".

Brad K. Lewis, CHMM  
*Principal Scientist*



**AUTHORIZATION**

I have read the attached Proposal for Environmental Services dated November 2023, including the Scope of Services, Terms and Conditions and Assumptions as presented by EnviroForensics. By signing below, I authorize EnviroForensics to proceed under the Scope of Services as described herein for a budget of **\$15,098**, not to be exceeding without prior approval. I understand that EnviroForensics will conduct this work without warranty and that no such warranty is in consideration under this agreement except as described herein.

Any changes to this agreement must be mutually acceptable to both parties and agreed to in writing.

**EnviroForensics, LLC**

By:

Date: 11/10/2023

Printed: Brad Lewis

Title: Principal Scientist

Accepted by:

Date: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_



**TABLE 1**  
**COST ESTIMATE**  
**former LaBour Pump**  
**Elkhart, Indiana**

TASK	LABOR COSTS	SUB-CONTRACTOR COSTS	DIRECT COSTS	PHASE COST
<b>Phase 01a: Report Submission</b>				
Create data tables and figures that incorporate past and present investigation results. Package August Mack and comprehensive data tables and figures into a IDEM submittal package with cover letter.	\$5,550.00	\$0.00	\$0.00	\$5,550
<b>Phase 01B - VRP Application</b>				
Complete the VRP application form, including, deeds, legal descriptions, tables, figures to support. Includes VRP application fee of \$1,000.	\$4,100.00	\$1,207.50	\$0.00	\$5,308
<b>Phase 01C -Work Plan Preparation and Submittal</b>				
Prepare a Work Plan for further Site investigation to be submitted to the IDEM for review and approval.	\$4,240.00	\$0.00	\$0.00	\$4,240
<b>TOTAL</b>	<b>\$13,890</b>	<b>\$1,208</b>	<b>\$0</b>	<b>\$15,098</b>



## ENVIROFORENSICS' GENERAL TERMS and CONDITIONS

**TERMS** - Invoices for services will be submitted by EnviroForensics, LLC (EnviroForensics) monthly or when the work is completed. Invoices will be due within 30 days. Should charges be in dispute, those disputed charges should be identified in writing and sent to EnviroForensics within 30 days. Unless identified in writing as being disputed charges, any undisputed charges are to be paid under terms of Net 30 and will accrue interest at the rate of 12% per annum. Any invoice not paid within 90 days will be considered in Default and subject to collection. CLIENT will be held responsible for any and all collection fees and reasonable attorney's fees in connection with attempts to collect any balance due or owed.

**SAMPLES** - All soil samples will be disposed of 30 days after issuance of our report unless CLIENT advises EnviroForensics otherwise. Upon request, EnviroForensics will deliver samples to CLIENT at CLIENT's expense, or EnviroForensics will store them for an agreed storage charge. If the samples contain hazardous materials, the samples shall be deemed CLIENT's property at all times and CLIENT shall be responsible for the disposal of such samples.

**RIGHT OF ENTRY** - CLIENT shall provide for EnviroForensics' right to enter from time to time property owned by CLIENT and/or other(s) in order for EnviroForensics to fulfill the scope of service indicated hereunder. EnviroForensics will use reasonable care to minimize damage to property. However, CLIENT understands that use of exploration equipment may unavoidably cause some damage, the correction of which is not part of this AGREEMENT. If EnviroForensics is asked to restore the property, EnviroForensics will charge an additional amount to so restore the property.

**BURIED UTILITIES** - CLIENT will furnish to EnviroForensics information identifying the type and location of utility lines and other man-made objects beneath the site's surface to the extent CLIENT has such information. EnviroForensics will take reasonable precautions to avoid damaging these man-made objects. CLIENT agrees to waive any claim against EnviroForensics and to defend, indemnify and hold EnviroForensics harmless from any claim or liability for injury or loss allegedly arising from EnviroForensics' damaging underground utilities or other man-made objects that were required to be called to EnviroForensics' attention or which were not properly located on plans furnished to EnviroForensics. EnviroForensics shall contact IUPPS or other appropriate utility locating firms or entities to determine the location of underground utilities prior to commencement of work.

**LIMITATIONS OF LIABILITY** - CLIENT hereby agrees, that to the fullest extent permitted by law, EnviroForensics' total liability to CLIENT, all consultants, contractors or subcontractors for any and all injuries, claims, losses, expenses or damages whatsoever, including without limitation, attorneys fees and costs, arising out of or in any way relating to the services covered by this AGREEMENT from any cause or causes including but not limited to EnviroForensics' negligence, errors, omissions, strict liability, breach of contract, or breach of warranty shall not exceed the greater of the total amount paid by the CLIENT for the services of EnviroForensics under this contract or \$500,000, whichever is greater. CLIENT is protected for errors and omissions by an insurance policy with limits of \$1,000,000 per occurrence, \$2,000,000 aggregate.

**INDEMNIFICATION** - To the fullest extent permitted by law, CLIENT agrees to defend, indemnify and hold EnviroForensics, its agents, subcontractors and employees harmless from and against any and all claims, defense costs, including attorneys' fees, damages and other liabilities arising out of or in any way related to EnviroForensics' reports or recommendations concerning this AGREEMENT, EnviroForensics' presence on the project property, or the presence, release or threatened release of asbestos, hazardous substances or pollutants on or from the project property, provided the CLIENT shall not indemnify EnviroForensics against liability for damages to the extent directly caused by the sole negligence or intentional misconduct of EnviroForensics, its agents, subcontractors or employees.

**NO SPECIAL OR CONSEQUENTIAL DAMAGES** - CLIENT and EnviroForensics agree that, to the fullest extent permitted by law, EnviroForensics shall not be liable to the CLIENT for any special indirect or consequential damages whatsoever, whether caused by EnviroForensics' negligence, errors, omissions, strict liability, breach of contract, breach of warranty or other cause or causes whatsoever.

**GENERAL LIABILITY INSURANCE AND LIMITATION** - EnviroForensics is protected by Workmen's Compensation and Employer's Liability Insurance, and by Public Liability Insurance for bodily injury and property damage with a combined limit of \$1,000,000, and will furnish certificates thereof upon request. EnviroForensics assumes the risk of damage to its own supplies and equipment proximately resulting from EnviroForensics' sole negligence or willful misconduct. If CLIENT's contract or purchase order places greater responsibilities upon EnviroForensics or requires further insurance coverage, EnviroForensics, if specifically directed by CLIENT, will take out additional insurance (if procurable) at CLIENT's expense; but EnviroForensics shall not be responsible for property damage from any cause, including fire, and explosion, beyond the amounts and coverage of EnviroForensics' insurance.

**STANDARD OF CARE** - Services performed by EnviroForensics under this AGREEMENT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, expressed or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any report, opinion, document or otherwise.

**DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS** - If pollutants are discovered that pose unanticipated risks while EnviroForensics is performing these services, it is hereby agreed that the scope of services, schedule, and the estimated project cost will be reconsidered and that this contract shall immediately become subject to renegotiation or termination. In the event that the AGREEMENT is terminated because of the discovery of pollutants posing unanticipated risks, it is agreed that EnviroForensics shall be paid for its total charges for labor performed and reimbursable charges incurred to the date of terminations of this AGREEMENT, including, if necessary any additional labor or reimbursable charges incurred in demobilizing. CLIENT also agrees that the discovery of unanticipated hazardous substances may make it necessary for EnviroForensics to take immediate measures to protect human health and safety. EnviroForensics agrees to notify CLIENT as soon as possible should unanticipated hazardous substances or suspected hazardous substances be encountered. CLIENT authorizes EnviroForensics to take measures that in EnviroForensics' sole judgment are justified to preserve and protect the health and safety of EnviroForensics' personnel and the public. CLIENT agrees to compensate EnviroForensics for the additional cost of working to protect employees and the public health and safety.

**AQUIFER CONTAMINATION** - Subsurface sampling may result in unavoidable contamination of certain subsurface areas, as when a probe or boring device moves through a contaminated area, linking it to an aquifer, underground stream, or other aqueous body not previously contaminated and capable of spreading hazardous materials off-site. Because nothing can be done to eliminate the risk of such an occurrence, and because subsurface sampling is a necessary aspect of the work which EnviroForensics may perform on CLIENT's behalf, CLIENT waives any claim against EnviroForensics, and agrees to defend, indemnify and hold EnviroForensics harmless from any claim or liability for injury or loss which may arise as a result of alleged cross-contamination caused by sampling. CLIENT further agrees to compensate EnviroForensics for any time spent or expenses incurred by EnviroForensics in defense of any such claim, in accordance with EnviroForensics' prevailing fee schedule and expense reimbursement policy.

**DISPUTES** - If a dispute arises out of or relating to this AGREEMENT or the breach thereof that cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation under the Construction Industry Mediation Rules of the American Arbitration Association, or other similar organization. If a lawsuit is filed and legal or other costs are incurred, it is agreed that the prevailing party shall be entitled to recover all reasonable costs incurred in the defense of the claim, including staff time at current billing rates, court costs, attorney's fees and other claim-related expenses.



Warrick & Boyn, LLP  
 861 Parkway Avenue  
 Elkhart, Indiana 46516  
 Telephone 574-294-7491  
 Fax 574-294-7284

the**firm**@warrickandboyn.com

www.warrickandboyn.com

Taxpayer I.D. 35-1036189

Elkhart Redevelopment Commission  
 ATTN: Sherry Weber  
 229 S. Second Street  
 Elkhart IN 46516

Page: 1  
 October 31, 2023  
 Account No: 26399-000M  
 Statement No: 179565

Attn: Sherry Weber

Re: General Services

*Payments received after 10/31/2023 are not included on this statement.*

Previous Balance \$54,753.06

Fees

		Hours	
10/02/2023	CTP Review previous RFPs. Continue drafting Master Developer Request for Proposals re: WOODLAND CROSSING	3.20	952.00
	CTP Review correspondence from Developer re: PARKWAY AT 17	0.30	89.25
	CTP Review latest draft of Declaratory Resolution. Telephone call with L. Lee re: ZONE 1	0.60	178.50
	CTP Review new draft of Amendments to Covenants. Email M. Huber re: same RE: WOODLAND CROSSING	0.50	148.75
	GDB Draft Resolution authorizing Master Development RFP. E-mail same for packet re: WOODLAND CROSSING	0.70	223.13
	GDB Review revision to Carve-Out Resolution. Search files for information needed and respond to Lisa re: EOZ ZONE 1	1.00	318.75
	GDB Review Agenda terms and respond to Mike re: information needed on Amphitheater RFP	0.30	95.63
	GDB Review files re: ownership and Administration's e-mail with deeds. E-mail Meridian to confirm entire tract titled to Department of Redevelopment re: CENTRAL PARK/PLAZA	0.80	255.00
	GDB Receive recorded deed. Forward to client and print for file re: YORK/INDIANA AVENUE	0.20	63.75
10/03/2023	CTP Conference re: RFP and Amendment to Covenants. Review suggested revisions to Amendment to Covenants re: ZONE 1/EOZ	1.80	535.50
	CTP Review new draft of Declaratory Resolution RE: ZONE 1/EOZ	0.30	89.25
	GDB Review e-mails re: indemnity provision and wastewater options re: EOZ/ZONE 1	0.30	95.63
	GDB Review e-mails re: TIF Bonds re: PARKWAY @ 17	0.30	95.63

Re: General Services

		Hours		
	GDB	Review Mary's e-mail re: service contracts needed to manage the lots and maintenance needs and respond re: public bidding/RFP issues re: WOODLAND CROSSING	0.50	159.38
	GDB	Review e-mails re: information needed for Declaratory, and problem with boundaries for three new areas. Review updated drawings and legals re: describing boundaries re: EOZ/ZONE 1	0.60	191.25
	GDB	Initial review of information and pro forma re: LPIs re: CONCORD MALL	0.40	127.50
	GDB	Review draft of RFP and e-mail Mike re: timing concern. Conference re: same. Review Amendment to Covenants and respond to Mike re: WOODLAND CROSSING	3.10	988.13
	GDB	Review Mike's response re: purpose of RFP. Respond re: whether Barnes & Thornburg is preparing Resolution as well re: CITY CENTRE	0.30	95.63
	GDB	Review Mary's e-mail re: funds to demolish. Respond, draft and send Resolution for October packet. Revise Resolution and re-send re: 1108 BENHAM	1.00	318.75
	GDB	Review \$5-22-6-1 and respond to Mary re: contracts with service providers re: WOODLAND CROSSING	0.40	127.50
10/04/2023	GDB	Review revisions to draft of Amendment of Covenants sent to S. Herkamp re: WOODLAND CROSSING	0.30	95.63
	GDB	Review Mike's e-mail to Commissioners re: Agenda items	0.30	95.63
	GDB	Review proposed RFP for lease of space. E-mail comments to Randy and Mike re: AMPHITHEATER	0.60	191.25
	GDB	Review latest draft of Amending Resolution for Carve-Out. Revise two exhibits and e-mail comments to Lisa and Deb Passmore re: EOZ/ZONE 1	0.80	255.00
	GDB	Review latest August Mack bills and prior Resolution appropriating funds for expert with services and respond to Sherry re: same re: ICE MILLER/G & W	0.60	191.25
	GDB	E-mails with Sherry re: funds left in expert witness appropriation and request bills be submitted for payment without further Commission action re: ICE MILLER/G & W	0.30	95.63
	GDB	Provide Resolutions to Sherry for packet re: PARKWAY @ 17	0.10	31.88
	GDB	Provide Resolutions to Sherry for packet re: WEST 78	0.10	31.88
	GDB	Review title commitment and respond to title company, et al. Review copies of recorded exceptions re: WOODLAND CROSSING	1.50	478.13
10/05/2023	CTP	Multiple email correspondence with M. Huber		

Re: General Services

			Hours	
		and M. Kaczka. Review title commitment. Review tax statements. Review and revise latest Amendment to Declarations. RE: WOODLAND CROSSING	4.30	1,279.25
	GDB	Review draft of Resolution authorizing offering of Plaza/Park for lease re: AMPHITHEATER	0.30	95.63
	GDB	Review S. Herkamp's responses re: building area, plans, specifications and First Amendment. Review with original Declaration and e-mails to Mike, et al. re: additional issues. Review responses re: WOODLAND CROSSING	2.00	637.50
	GDB	Teleconf with Adam and M. Nelson re: information needed to develop City's financial losses due to contamination re: STAR TIRE	0.50	159.38
	GDB	Review and revise RFP and e-mail to Randy and Mike re: AMPHITHEATER	0.80	255.00
	GDB	Review e-mails re: additional changes and language. Check 1.2 of Covenants and suggest way to clarify who is "Developer" once EGAP sells re: WOODLAND CROSSING	0.60	191.25
	GDB	Review S. Herkamp's latest draft of Paragraph 6.7. Discuss possible changes and e-mail Mike. Review update to Sandy re: pending issues - closing dates re: WOODLAND CROSSING	0.80	255.00
	GDB	Review and respond re: letter of insurer refusing to sign Mediation Term Sheet re: ICE MILLER/G & W	0.30	95.63
10/06/2023	CTP	Attend pre-agenda meeting	0.40	119.00
	GDB	Attend Pre-Agenda meeting	1.30	414.38
	GDB	Conference with Mike re: financing and agreement re: CONCORD MALL	0.40	127.50
	GDB	Conference with Mike re: RFP and project re: AMPHITHEATER	0.40	127.50
	GDB	Conference with Mike and Mary re: negotiations on amendments re: WOODLAND CROSSING	0.30	95.63
10/09/2023	CTP	Revise Exhibit A to Declaratory Resolution re: ZONE 1	0.50	148.75
	CTP	Review correspondence re: Amendments to Declaration. Telephone call with W. Steffen re: same. Conference re: same re: WOODLAND CROSSING	2.10	624.75
	GDB	Review Lake City's inserts to Subordination Agreement. E-mail to Sandy to arrange signature. Re-format draft for recording re: 209 N. 2ND	0.50	159.38
	GDB	Review Lisa Lee's revised draft and issues with Exhibit 1. E-mail Mike re: same re: EOZ-ZONE 1	0.40	127.50
	GDB	Review Mike's response to EGAP re: additional language change re: WOODLAND CROSSING	0.30	95.63
	GDB	E-mail Dave Weaver requesting members' names		

Re: General Services

		Hours	
	of RDDC for conflict search re: EOZ/ZONE 1	0.30	95.63
GDB	Review latest draft and comments re: Amendment to Declaration. Teleconf with Wes re: same re: WOODLAND CROSSING	1.10	350.63
GDB	Conference re: exhibits needed for Declaratory Resolution. Print drawings. E-mail Lisa, et al. re: proposed Exhibit A and request latest TIF projection re: EOZ ZONE 1	1.00	318.75
GDB	E-mail Sherry re: status of final/printed Resolution and RFP for meeting. Print Resolution and RFP for meeting. Attach RFP Resolution re: AMPHITHEATER	0.80	255.00
GDB	Teleconf with Sandy re: latest draft and requested revisions - concern with required Consent provision re: WOODLAND CROSSING	0.70	223.13
GDB	Review procedures and terms for loan from bond proceeds and TIF pledge re: PARKWAY @ 17	0.80	255.00
10/10/2023	CTP Attend Redevelopment Commission meeting	0.40	119.00
	GDB E-mail Mike, Sandy, Wes and Gerry re: limiting objection right to Eastern portion of Center and respond to Sandy's comment re: WOODLAND CROSSING	0.40	127.50
	GDB Insert new Exhibit A. Request copy of TIF Report and insert re: EOZ/ZONE 1	0.40	127.50
	GDB Review bond process in preparation for meeting re: Development Agreement re: PARKWAY @ 17	0.60	191.25
	GDB Meet with Mike and Kristen re: Development Agreement and LPIs re: CONCORD MALL	1.30	414.38
	GDB Attend Board meeting re: AURORA	0.40	127.50
	GDB Attend Commission meeting	1.30	414.38
	GDB Meet re: Option proposal re: WOODLAND CROSSING	0.50	159.38
10/11/2023	CTP Review Zone 1 timetable. Email L. Lee re: questions RE: ZONE 1	0.50	148.75
	CTP Research Residential TIF requirements. Email M. Huber re: same RE: ZONE 1	0.60	178.50
	GDB E-mails with Mike re: terms proposed. Conference re: preparation of Option Agreement re: WOODLAND CROSSING	0.60	191.25
	GDB Revise letter to Council and have two cover letters printed. Review timetable. Print all enclosures. Mail and e-mail the Council and Planning Commission letters. Check Notice required for EDC meeting. Forward Word copies of Resolutions re: EOZ/ZONE 1	2.50	796.88
	GDB Prepare letters for recording and State and County Notices for creation of Economic Development Area and TIF Areas re: PARKWAY @ 17	0.60	191.25
	GDB Prepare letters for recording and State and County Notices for creation of Economic Development Area and TIF Areas re: WEST 78 and mail same	0.80	255.00
	GDB Review file. Respond to Mary. Request		

Re: General Services

		Hours	
	information and draft Resolution (1639 HURON and 919 HUBBARD). Draft Resolution re: CDBG HOMEBUYER PROGRAM	0.80	255.00
GDB	Check statutes and e-mail exact language re: appraisals not to be publicly disclosed	0.30	95.63
10/12/2023	CTP Telephone call with M. Kaczka re: option agreement for WOODLAND CROSSING	0.60	178.50
	CTP Video call with ICP and K. Smole re: Development Agreement. Research prevailing wage and public bidding questions. Draft summary of public bidding requirements RE: CONCORD MALL	2.60	773.50
GDB	Copy and mail State and County Notices re: creation of TIF Area and recording of documents re: PARKWAY @ 17	0.60	191.25
GDB	Teleconf with Kristen. Prepare for teleconf with purchase/developer re: CONCORD MALL	0.50	159.38
GDB	Check file. Confirm need for '21/'22 Forms 990. Prepare e-mail to Kristen, Sherry and Kruggel Lawton re: need to get caught up and set up better recordkeeping system re: AURORA	0.70	223.13
GDB	Review Notice of Public Meeting to school and overlapping tax districts, etc. and respond to Sherry. Review Lisa's comments and reason for special November meeting. Respond. E-mail Sherry to confirm we can get a quorum and to Notice Special Meeting and revise Public Hearing Notice for December Confirming Resolution re: EOZ/ZONE 1	1.50	478.13
GDB	Teleconf with Mall representatives re: Incentive Plan re: CONCORD MALL	0.80	255.00
GDB	Print Resolution with attachments for 1635 HURON and 919 HUBBARD re: HOUSING REHABILITATION LOANS	0.30	95.63
GDB	Review TIF analysis re: PARKWAY @ 17	0.30	95.63
GDB	Initial drafting Option Agreement. Conference re: same re: WOODLAND CROSSING	0.70	223.13
10/13/2023	CTP Video call with M. Huber and M. Kaczka. Revise Purchase Agreement. Revise Option Agreement. Video call with EGAP. Conference re: next steps. RE: WOODLAND CROSSING	5.50	1,636.25
GDB	Review proposed items and e-mails. Draft Option Agreement. Review proposed changes to purchase agreement. Teleconf with Mary, Mike and EGAP re: Option Agreement and Development Plan to submit for full approval. Revisions to Declaration. E-mail Mike and Mary. Conference re: same re: WOODLAND CROSSING	5.00	1,593.75
GDB	Consider terms of EDIT loans and possible collateral re: CONCORD MALL	0.30	95.63
10/16/2023	CTP Review revisions to Amendment to Declaration of Covenants re: WOODLAND CROSSING	0.30	89.25

Re: General Services

		Hours		
	GDB	Attend Teams meeting with Randy Rompola and Developer. Review information on project. Begin drafting Development Agreement. E-mail Mike and Adam for more details re: PARKWAY @ 17	3.00	956.25
	GDB	E-mail Notice of 12/4 Public Hearing to Truth to publish. Review time of meeting. Review and approve Proof re: EOZ/ZONE 1	0.70	223.13
	GDB	Review EGAP draft of revised Declaration and Plot Plan. E-mail comments to Mike and Mary re: WOODLAND CROSSING	1.00	318.75
	GDB	Review Mary's e-mail re: Pelley demolition bid and A & G asbestos contract. Review contract and respond re: 1108 BENHAM	0.40	127.50
	GDB	Review Crossroads 41 presentation and identify exhibits to Development Agreement re: PARKWAY @ 17	0.50	159.38
10/17/2023	CTP	Review dental office lease. Email M. Kaczka re: same. Review suggested revisions to Amendment to Declaration. Conference re: same. RE: WOODLAND CROSSING	1.40	416.50
	GDB	Review and revise draft of Development Agreement. Review timetable re: PARKWAY @ 17	1.10	350.63
	GDB	Review Mary's comments to EGAP revision, along with sections of the Declaration. Confer and respond. Review Mary's concern with dental services and lease provision. Respond re: same re: WOODLAND CROSSING	1.30	414.38
	GDB	Review contract draft for Pelley demolition. Revise and respond to Mary and Adam re: supervision and who contracts the work re: 1108 BENHAM	0.70	223.13
	GDB	Teleconf with D. Weaver re: conflicts search and update Sandy and Wes re: EOZ ZONE 1	0.40	127.50
	GDB	E-mail initial draft of Economic Development Agreement to staff and Randy Rompola with possible revisions to consider re: PARKWAY @ 17	0.60	191.25
	GDB	Review information on development plans in file and initial consideration of structuring loans and lease and what agreements may be needed re: CONCORD MALL	0.80	255.00
10/18/2023	CTP	Conference re: Concord Mall questions. Review emails from K. Smole re: CONCORD MALL	0.60	178.50
	GDB	E-mails with Kristen and Mike for details of project. Review initial responses and begin work on Financing and Loan Agreements re: CONCORD MALL	3.70	1,179.38
10/19/2023	CTP	Research powers to make loans. Review loan documents from Tolson Center loan. RE: CONCORD MALL	1.80	535.50
	CTP	Review latest Amendment to Declaration. Conference re: same. Video call with EGAP.		



Re: General Services

		Hours	
	Begin revising Purchase Agreement. RE: WOODLAND CROSSING	2.70	803.25
CTP	Video call with M. Huber, A. Fann, and K. Smole re: timelines for ZONE 1 and PARKWAY AT 17	1.00	297.50
GDB	Review e-mails and revised draft of Amendment to Declarations re: WOODLAND CROSSING	0.50	159.38
GDB	Conference and research on issue of what entity is empowered to make Economic Development loans to developers. Draft e-mail to Mike, Kristen, Jamie and John Espar to establish a plan to proceed. Draft Loan Agreement. Teleconf with Mike and Kristin re: Economic Development Commission's role and loan terms. Research re: approval of loan documents re: CONCORD MALL	3.20	1,020.00
GDB	Teleconf with Mike, Kristin and Adam re: PARKWAY @ 17	0.40	127.50
GDB	Teleconf with Mike, Kristin and Adam re: timetable and number of Council meetings required and coordinating Notices and Special Meetings re: EOZ ZONE 1	0.60	191.25
GDB	Teleconf with EGAP re: further revisions to Declaration to get to closing on HeartCity and to purchase agreement conditions re: WOODLAND CROSSING	0.40	127.50
GDB	Review Court Order allowing disclosure of contaminant to IDEM. E-mail re: settling with Sterling/Peerless Pump re: ICE MILLER/LA BOUR PUMP	0.70	223.13
10/20/2023	CTP Review Amendments to Declaration. Conference re: same. Revise Purchase Agreement re: WOODLAND CROSSING	3.00	892.50
	CTP Review Ordinance appropriating funds. Research additional steps for Redevelopment Commission. RE: CONCORD MALL	0.90	267.75
	GDB Review revised Declaration Amendment and respond. Review and revise purchase agreement. Conferences re: same re: WOODLAND CROSSING	4.00	1,275.00
	GDB Review \$5-1-14-14(b) and Ordinance 5953. Research RDC's power to loan re: CONCORD MALL	2.50	796.88
	GDB Respond to Mary re: unperformed work needed on site re: WOODLAND CROSSING	0.30	95.63
10/23/2023	CTP Review Purchase Agreement. Email M. Kaczka re: repairs RE: WOODLAND CROSSING	1.20	357.00
	GDB Review Mike's e-mail re: Amendment No. 1, and respond re: WOODLAND CROSSING	0.70	223.13
	GDB E-mail Kristin and Mike re: authority to loan. Draft Development/Loan Agreement and documents re: CONCORD MALL	1.50	478.13
10/24/2023	CTP Video call with M. Huber and M. Kaczka re:		

Re: General Services

		Hours	
	Purchase Agreement and Amendment to Declaration. Revise Purchase Agreement. RE: WOODLAND CROSSING	1.10	327.25
CTP	Video call with City staff re: Concord Mall. Review Development and Loan Agreement RE: CONCORD MALL	1.30	386.75
GDB	Teleconf with Mike and Mary re: purchase agreement and comments on Amendment 1 re: WOODLAND CROSSING	0.80	255.00
GDB	Review proposal to settle with Sterling Peerless and Adam's response. E-mail Brent to proceed subject to approval of Court and Commission re: ICE MILLER/LA BOUR PUMP	0.40	127.50
GDB	Respond to Adam re: request for funding of sewer costs for Medflight Building. Review \$36-7-14-29 re: uses of TIF funds re: AEROPLEX TIF	0.50	159.38
GDB	Review September bill. Draft and e-mail Resolution for packet re: NLG/STAR TIRE	0.60	191.25
GDB	Draft Resolution appropriating \$40,000 for water and electric upgrades re: AEROPLEX TIF	0.60	191.25
GDB	Review and revise draft of loan agreements. Teleconf with John E., Jamie, Kristin and Mike re: loan terms and legal description re: CONCORD MALL	2.50	796.88
GDB	Review response to EGAP re: changes to Amendment 1 re: WOODLAND CROSSING	0.20	63.75
10/25/2023	CTP Telephone call with S. Weber re: Aurora accounts. Conference re: same RE: AURORA	0.40	119.00
	CTP Review revisions to Purchase Agreement and Second Amendment to Declaration. Conference with G. Boyn re: same. Email M. Huber re: estoppels. RE: WOODLAND CROSSING	1.90	565.25
	GDB Conference re: revisions to loan agreements and various exhibits re: CONCORD MALL	1.90	605.63
	GDB Review latest EGAP draft to Amendment 2 of Declaration. Conference re: proposed changes and revisions and e-mail to Mike and Mary to consider re: WOODLAND CROSSING	1.00	318.75
	GDB E-mails with Adam re: request to reimburse City for sewer upgrades. Draft Resolution to Reimburse City re: AEROPLEX	1.00	318.75
	GDB Review Mary's e-mail re: information Controller needs to fund closing. Draft payment and respond and on repair items needed. Review EGAP revisions to purchase agreement. Review proposed estoppel language in contract and respond to Mike and Mary. Review \$5.01 changes re: WOODLAND CROSSING	1.60	510.00
	GDB Conference re: tax returns due and financial accounting procedures for Aurora and Lake City Bank loan collections deposits. Teleconf with Sherry re: information needed for tax returns re: AURORA	0.20	63.75

Re: General Services

		Hours	
	GDB	E-mail Loan Agreement and documents to client for review with comments and questions re: CONCORD MALL	0.50 159.38
10/26/2023	CTP	Revise Purchase Agreement. Multiple emails with M. Kaczka RE: WOODLAND CROSSING	0.80 238.00
	GDB	Review M. Huber's e-mail to all re: final draft of purchase agreement and respond to all. Review Section 5 changes. Teleconf with Mary re: exhibits. Teleconf with Sandy re: latest draft. E-mails with Wes. Conference re: final revision to purchase agreement. E-mail to all re: WOODLAND CROSSING	2.00 637.50
	GDB	Draft Resolution and circulate that approves loan documents re: CONCORD MALL	0.70 223.13
	GDB	Review EGAP Consent to 5.02 revision and EGAP response re: exhibits. Confirm source of funds for D/P re: WOODLAND CROSSING	0.30 95.63
	GDB	Review legal description main parcel with survey and outlots re: CONCORD MALL	0.70 223.13
10/27/2023	BAS	E-file Change of Registered Agent with IN Secretary of State re: THE AURORA CAPITAL DEVELOPMENT CORP.	0.30 45.00
	CTP	Draft Notice to Tenants. Revise Purchase Agreement. Multiple correspondence with EGAP and City staff re: finalizing agreement. RE: WOODLAND CROSSING	2.90 862.75
	GDB	Review Exhibit C, List of Leases, and respond re: Exhibits B and C re: WOODLAND CROSSING	0.30 95.63
	GDB	Teleconf with M. Huber re: Development Agreement loan re: PARKWAY @ 17	0.30 95.63
10/30/2023	GDB	Respond to Mary re: confirming Heart City purchase. Review e-mails re: closing dates and procedures. Print signed agreement re: WOODLAND CROSSING	0.90 286.88
	GDB	Draft Resolution and review prior resolutions pertaining to funds deposited to that account, and forward to Adam and Jamie to review. Review responses and revise re: BROWNFIELD ACCOUNT	1.80 573.75
	GDB	Review Brent H.'s e-mail and revised Settlement Agreement. Respond re: status of IN Insurance Company information and Sandy's availability to sign re: G & W	1.00 318.75
	GDB	Review CBDG lien and restrictive covenants. Respond to Mary	0.20 63.75
	CTP	Review exhibits to purchase agreement. Email M. Kaczka re: same. Review Comcast License Agreement re: WOODLAND CROSSING	2.00 595.00
10/31/2023	CTP	Review and revise Loan Agreement RE: CONCORD MALL	3.20 952.00
	CTP	Revise resolution approving issuance of RFP	

Re: General Services

	Hours	
RE: WOODLAND CROSSING	0.30	89.25
For Current Services Rendered	149.60	46,550.91

Advances

10/12/2023	Recording fee paid to Elkhart County Recorder re: Declaratory and Confirming Resolutions re: WEST 78 Economic Development Area and TIF	50.00
10/12/2023	Recording fee re: Declaratory and Confirming Resolutions re: PARKWAY @ 17	50.00
10/12/2023	Online legal research - September services re: WOODLAND CROSSING	292.03
10/12/2023	Online legal research - September services re: ZONE 1	69.95
10/27/2023	On-line filing fee re: Change of Registered Office/Agent re: THE AURORA CAPITAL DEVELOPMENT CORPORATION	2.00
	Total Advances	463.98

**Total Current Work 47,014.89**

Payments

10/19/2023	Fee Payment - ACH payment	-23,123.09
10/19/2023	Expense Payment - ACH Payment	-34.92
10/19/2023	Advance Payment - ACH payment	-464.53
	Total Payments	-23,622.54
	Balance Due	<u>\$78,145.41</u>

Aged Due Amounts					
<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-180</u>	<u>181+</u>
47,014.89	31,130.52	0.00	0.00	0.00	0.00

Please Remit \$78,145.41

A finance charge of 18% per annum, or the highest rate permitted by law, whichever is less, will be assessed on all accounts past due 30 days.

City of Elkhart  
TIF Budget Summary  
As of September 30th, 2023  
(Unaudited)

	4445 - Downtown		4446 - Pierre Moran		4447 - Southwest	
	Current Month	Year to Date	Current Month	Year to Date	Current Month	Year to Date
<b>Beginning Cash</b>		<b>4,652,673.38</b>		-		-
<b>Revenues</b>						
Spring Property Taxes	-	1,683,912.51	-	178,813.69	-	704,388.95
Fall Property Taxes	-	-	-	-	-	-
State Grants	-	-	-	-	-	-
Miscellaneous	-	72,963.50	-	-	-	-
Rent Income	-	-	-	-	-	-
Sale of Property	-	-	-	-	-	-
Transfers (In)	-	-	-	-	-	-
<b>Total Revenue</b>	-	<b>1,756,876.01</b>	-	<b>178,813.69</b>	-	<b>704,388.95</b>
<b>Expenses</b>						
Personnel Services	6,431.98	44,452.34	-	-	-	-
Supplies	-	-	-	-	-	-
Professional Services	41,313.69	112,949.58	-	-	-	-
Debt Service (Principle)	-	700,000.00	-	-	-	-
Major Moves Loan Payment	-	151,897.55	-	-	-	-
Interest Expense	-	599,343.26	-	-	-	-
Admin & Trustee Fee	-	1,500.00	-	-	-	-
Brownfield Services	-	3,072.75	-	-	-	-
State Grant Expense	-	-	-	-	-	-
Other Services & Charges	-	259,317.81	-	-	-	-
Contract Services	4,390.00	293,447.17	-	-	-	-
Infrastructure	-	200,574.25	-	-	-	-
Transfers (Out)	-	-	-	178,813.69	-	704,388.95
<b>Total Expenses</b>	<b>52,135.67</b>	<b>2,366,554.71</b>	-	<b>178,813.69</b>	-	<b>704,388.95</b>
<b>Ending Cash</b>		<b>4,042,994.68</b>		-		-
Less: Encumbrances		281,651.83		-		-
Estimated Ending Cash		3,761,342.85		-		-

City of Elkhart  
TIF Budget Summary  
As of September 30th, 2023  
(Unaudited)

	4448 - Aeroplex		4449 - Sterling		4450 - Casopolis	
	Current Month	Year to Date	Current Month	Year to Date	Current Month	Year to Date
<b>Beginning Cash</b>		<b>1,407,076.75</b>		-		<b>12,412,196.31</b>
<b>Revenues</b>						
Spring Property Taxes	-	242,634.60	-	187,693.81	-	1,870,718.32
Fall Property Taxes	-	-	-	-	-	-
State Grants	-	-	-	-	-	-
Miscellaneous	-	-	-	-	918,500.00	918,500.00
Rent Income	-	-	-	-	-	-
Sale of Property	-	-	-	-	-	-
Transfers (In)	-	-	-	-	-	-
<b>Total Revenue</b>	-	<b>242,634.60</b>	-	<b>187,693.81</b>	<b>918,500.00</b>	<b>2,789,218.32</b>
<b>Expenses</b>						
Personnel Services	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Professional Services	4,959.98	4,985.66	-	-	6,058.64	39,502.36
Debt Service (Principle)	-	-	-	-	-	-
Major Moves Loan Payment	-	-	-	-	-	-
Interest Expense	-	-	-	-	-	-
Admin & Trustee Fee	-	-	-	-	-	-
Brownfield Services	-	-	-	-	-	-
State Grant Expense	-	-	-	-	-	-
Other Services & Charges	-	1,655.03	-	-	3,000.00	294,535.73
Contract Services	-	1,539.19	-	-	-	1,539.19
Infrastructure	-	-	-	-	-	968,173.29
Transfers (Out)	-	-	-	187,693.81	-	-
<b>Total Expenses</b>	<b>4,959.98</b>	<b>8,179.88</b>	-	<b>187,693.81</b>	<b>9,058.64</b>	<b>1,303,750.57</b>
<b>Ending Cash</b>		<b>1,641,531.47</b>		-		<b>13,897,664.06</b>
Less: Encumbrances		1,660.81		-		10,329,674.21
Estimated Ending Cash		<b>1,639,870.66</b>		-		<b>3,567,989.85</b>

City of Elkhart  
TIF Budget Summary  
As of September 30th, 2023  
(Unaudited)

	4451 - Tech Park		4452 - Main Gateway		4453 - Consolidated	
	Current Month	Year to Date	Current Month	Year to Date	Current Month	Year to Date
<b>Beginning Cash</b>		<b>996,801.90</b>		-		<b>6,791,100.64</b>
<b>Revenues</b>						
Spring Property Taxes	-	143,190.15	-	190,702.06	-	16,545.70
Fall Property Taxes	-	-	-	-	-	-
State Grants	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	500.00
Rent Income	-	-	-	-	-	-
Sale of Property	-	-	-	-	-	-
Transfers (In)	-	-	-	-	-	1,261,598.51
<b>Total Revenue</b>	-	<b>143,190.15</b>	-	<b>190,702.06</b>	-	<b>1,278,644.21</b>
<b>Expenses</b>						
Personnel Services	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Professional Services	5,007.79	5,531.71	-	-	8,770.60	35,957.91
Debt Service (Principle)	-	-	-	-	-	-
Major Moves Loan Payment	-	-	-	-	-	-
Interest Expense	-	-	-	-	-	-
Admin & Trustee Fee	-	-	-	-	-	-
Brownfield Services	-	-	-	-	-	-
State Grant Expense	-	-	-	-	155,222.13	349,189.09
Other Services & Charges	-	3,615.05	-	-	25,900.00	353,505.24
Contract Services	400.00	2,739.19	-	-	234,831.44	556,998.69
Infrastructure	-	-	-	-	-	-
Transfers (Out)	-	-	-	190,702.06	-	-
<b>Total Expenses</b>	<b>5,407.79</b>	<b>11,885.95</b>	-	<b>190,702.06</b>	<b>424,724.17</b>	<b>1,295,650.93</b>
<b>Ending Cash</b>		<b>1,128,106.10</b>		-		<b>6,774,093.92</b>
Less: Encumbrances		135,548.41		-		1,031,793.42
Estimated Ending Cash		992,557.69		-		5,742,300.50

City of Elkhart  
TIF Budget Summary  
As of September 30th, 2023  
(Unaudited)

	4692 - Downtown Capital		2552 - Redevelopment	
	Current Month	Year to Date	Current Month	Year to Date
<b>Beginning Cash</b>		<b>68,478.32</b>		-
<b>Revenues</b>				
Spring Property Taxes	-	-	-	-
Fall Property Taxes	-	-	-	-
State Grants	-	-	-	-
Miscellaneous	-	-	-	-
Rent Income	-	-	-	-
Sale of Property	-	-	-	44,068.50
Transfers (In)	-	-	-	-
<b>Total Revenue</b>	-	-	-	<b>44,068.50</b>
<b>Expenses</b>				
Personnel Services	-	-	-	-
Supplies	-	-	-	-
Professional Services	-	-	-	-
Debt Service (Principle)	-	-	-	-
Major Moves Loan Payment	-	-	-	-
Interest Expense	-	-	-	-
Admin & Trustee Fee	-	-	-	-
Brownfield Services	-	-	-	-
State Grant Expense	-	-	-	-
Other Services & Charges	-	-	-	440.88
Contract Services	-	-	-	-
Infrastructure	-	-	-	-
Transfers (Out)	-	-	-	-
<b>Total Expenses</b>	-	-	-	<b>440.88</b>
<b>Ending Cash</b>		<b>68,478.32</b>		<b>43,627.62</b>
Less: Encumbrances		39,451.72		-
Estimated Ending Cash		29,026.60		43,627.62





**Rod Roberson**  
Mayor

**Michael Huber**  
Director of Development Services



**Development Services**  
Community Development  
Economic Development  
Planning Services  
Redevelopment  
229 S. Second St.  
Elkhart, IN 46516  
574.294.5471  
Fax: 574.295.7501

**NOTICE TO ALL TAXPAYERS AND OTHER PERSONS INTERESTED IN OR  
AFFECTED BY A POTENTIAL RESIDENTIAL HOUSING PROGRAM OF  
THE CITY OF ELKHART REDEVELOPMENT COMMISSION**

Taxpayers of the City of Elkhart Redevelopment District ("District"), and all other persons interested in or affected by the establishment of a residential housing program ("Housing Program") in the Downtown Urban Renewal Area ("Area"), are hereby notified that representatives of the City of Elkhart Redevelopment Commission ("Commission") will hold a public meeting on November 14, 2023 at the hour of 2:30 p.m., local time, at the Municipal Building (2<sup>nd</sup> Floor), Council Chambers, Elkhart, Indiana, to consult with persons interested in or affected by the proposed preliminary Housing Program and provide an opportunity to review, evaluate and provide recommendations on the proposed Housing Program.

On November 14, 2023, the Commission will consider an amending declaratory resolution establishing the Downtown Elkhart SF Housing Allocation Area No. 6 located in the Area ("Housing TIF Area") and preliminarily approving a housing program for the Housing TIF Area.

At the time fixed for the meeting or at any time prior thereto any person interested in the proceedings may review the Housing Program and file written comments with the Secretary of the Commission in the office of the Controller, 229 South Second Street, Elkhart, Indiana. At such meeting, which may be adjourned from time to time, representatives of the Commission will hear all persons interested in the preliminary Housing Program.

Dated October 13, 2023.

**ELKHART REDEVELOPMENT COMMISSION**

**[NOTE: Post in City government buildings where notices are routinely posted, Municipal Building (2<sup>nd</sup> Floor), Council Chambers and any other public buildings in or near the affected neighborhood(s); and send to any organizations/media requesting notice of meetings, the fiscal officers of all overlapping taxing units and to the superintendents and school board presidents of all local schools located within the proposed housing allocation area; and provide Township Assessor with a copy of Housing Program.]**