ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

MEETING AGENDA

June 9, 2020, at 9:00 a.m.
Virtual Meeting

Join Zoom Meeting
Click to join Redevelopment Commission Meeting
Meeting ID: 999 1976 2839
Password: 423850
Dial by your location
+1 312 626 6799 US (Chicago)

1. Meeting Called to Order
   a. Administration of Oath – Jessica J. Clark, P.E.

2. Approval of Minutes
   a. March 10, 2020 – Regular Meeting of the Redevelopment Commission

3. Opening of Bids
   a. Bendix Woods/Navistar Drainage Project (NCEDA)
   b. East Jefferson Sidewalk Project (CAEDA)

4. Economic Development Area Updates
   a. General Redevelopment Commission
      i. Budget Information (March, April, and May reports)
         1. Wyatt EDA – Fund 4300
         2. New Carlisle EDA – Fund 4301 (AA #2)
         3. New Carlisle EDA – Fund 4302 (AA #1)
         4. New Carlisle EDA – Fund 4303 (Special Taxing District)
         5. Capital Avenue EDA – Fund 4401
         6. Northwest Cleveland Road EDA – Fund 4402
         7. General Redevelopment Commission – Fund 4403
         8. Double Track Bond – Fund 4404

      ii. Resolution 2020 - 03 – Resolution of the St. Joseph County Redevelopment Commission Concerning The 2021 Budget Year Determination for Tax Increment for the St. Joseph County Redevelopment Commission Allocation Areas

      iii. Authorization for the President of the Redevelopment Commission to sign documents related to the filing of the annual report.

b. New Carlisle Economic Development Area
   i. **Resolution 2020 – 04** – Transfer of Inland Parcel from Board of Commissioners

   ii. Farm Leases / Release and Indemnification Agreement
       1. Farm Lease - Inland Parcel
       2. Farm Lease - 31917 State Road 2
       3. Release and Indemnification Agreement - 31991 Edison Road

iii. Demolition of RDC/BOC Properties
    - 31917 State Road 2 (House)
    - 56458 Willow Road (House)
    - 56340 Willow Road (House)
    - 30233 Edison Road (House)
    - 494 E Michigan Street (Trailer Park)
    - 496 E Michigan Street (House)
    1. PSP – Preparation of Demolition Specifications (CBBEL)

iv. Request permission to rezone three RDC Owned properties (Willow Rd/SR 2 Parcels)
    - 31917 State Road 2
    - 56458 Willow Road
    - 56340 Willow Road
    1. Authorization for the President of the Redevelopment Commission to sign documents related to rezoning process

v. Property Options
   1. **Resolution 2020-05** - Option A
   2. **Resolution 2020-06** - Option B
   3. **Resolution 2020-07** - Option C

vi. Indiana Enterprise Center update
    1. Area Management Plan – update
    2. Property Rezonings
    3. OCRA Site Certification Project

c. St. Joseph County Economic Development Area No. 3 (Capital Avenue EDA)
   i. Update on Penn Township Fire Station Project
      1. PSP – Candace Lane Design Project (Danch, Harner & Associates)
      2. PSP – Candace Lane Design Project (Kent Schumacher, P.E.)

   ii. Agreement with Elkhart & Western Railroad

   iii. East Jefferson Sidewalk Project
        1. PSP – Additional Design Services (CBBEL)
iv. Northwest Gateway Corridor Study
   1. Partnership Agreement with Elkhart County RDC

v. Environmental Legal Services
   1. PSP – Environmental Legal Services (Plews, Shadley, Racher & Braun LLP)

d. Wyatt Economic Development Area No. 1 (Wyatt EDA)

e. Northwest Cleveland Road Economic Development Area (NWCR EDA)

5. Additional Business
   a. Dixie Highway EDA (proposed)
      i. Corridor Study update
         1. PSP – Corridor Study – Supplemental #1 (Abonmarche)

b. COVID-19 Update - To discuss what impacts are expected along with future risks and mitigation strategies as it relates to economic development

c. Quality of Life Projects - To discuss what have been some of the previous plans for quality of life projects (trails, green spaces, etc) and what are some possibilities for the future

6. Public Comment (3 minute limit)

7. Adjournment

Next Meeting Date: July 14, 2020 at 9 am (4th Floor – Council Chambers)

The Title VI Coordinator has made available at this meeting/hearing a voluntary Public Involvement Survey to collect demographic data to monitor and demonstrate St. Joseph County’s compliance with its non-discrimination obligations under Title VI and Federal Regulation 23CFR 200.9(b)(4), and more importantly, ensure that affected communities and interested persons are provided equal access to public involvement. Compliance is voluntary. However, in order to demonstrate compliance with the federal regulation, the information requested must be documented when provided. It will not be used for any other purpose, except to show that those who are affected or have an interest in proceedings or the proposed project have been given an opportunity to provide input throughout the process.
ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

MINUTES

March 10, 2020, at 9:00 a.m.
Council Chambers
4th Floor, County-City Building

Members Present: Brian Pawlowski, Dennis Jordan, Larry Beehler, Jason Critchlow, Thomas Gryp

Staff Present: Bill Schalliol, Christian Brown, Jamie Woods, Samantha Keultjes

1. Meeting Called to Order at 9:00 by Brian Pawlowski
   a. Administration of Oath & Election of Officer (Secretary)

   Jamie Woods began the meeting by administering the Oath to the two new members, Jason Critchlow and Thomas Gryp.

   After careful consideration, the following action was taken: Upon a motion by Dennis Jordan, being seconded by Jason Critchlow and unanimously carried, the Redevelopment Commission elected Jessica Clark as the Secretary.

2. Approval of Minutes
   a. February 11, 2020 – Regular Meeting of the Redevelopment Commission

   After careful consideration, the following action was taken: Upon a motion by Dennis Jordan, being seconded by Thomas Gryp and unanimously carried, the February 11, 2020 Redevelopment Commission minutes were approved.

3. Economic Development Area Updates
   a. General Redevelopment Commission
      i. Budget Information
         1. Wyatt EDA – Fund 4300
         2. New Carlisle EDA – Fund 4301 (AA #2)
         3. New Carlisle EDA – Fund 4302 (AA #1)
         4. New Carlisle EDA – Fund 4303 (Special Taxing District)
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         7. General Redevelopment Commission – Fund 4403
         8. Double Track Bond – Fund 4404

   Bill Schalliol stated that the general budget report for February is included in the packet to show the money that went out over the course of the last month. Every month the
budget will show any expenditures on projects pledged and new projects. The budget reports will now be available on the Economic Development website.

ii. Division of Economic Development 2019 Annual Report

Bill Schalliol explained that the Commission is required to provide the Board of Commissioners with an annual report. The report is included in the meeting packet for the member’s own knowledge of the Redevelopment Commission activities as well as Economic Development overall.

b. New Carlisle Economic Development Area (Audio Position: 3:50)
   i. Indiana Enterprise Center update
      1. Area Management Plan – update

Bill Schalliol explained that the IEC Area Management Plan was released two weeks ago. There will be a 45-day period for public comment. So far, only 15 public comment responses have been received. After that period, those comments will be reviewed, and changes will be made to the plan. The plan will then be put back out for additional public comment if necessary. All documents related to the IEC are available on the website.

Jason Critchlow asked if the member of the Redevelopment Commission were involved with the IEC Management Plan. Bill responded saying that there were various meetings and other opportunities for members to have input.

Jason Critchlow asked Bill to explain his vision for the “work sessions” that are being planned. Bill Schalliol explained that he is still working on space and time for the work sessions, but he hopes that it will be a great opportunity for the public to come in and talk about sections of the plan and provide input on a more specific level.

Jason Critchlow asked about the plan to align the St. Joseph County Comprehensive Plan from 2002 with the IEC Management Plan in response to the request from the Town of New Carlisle Town Council and the Olive Township Trustee. Bill Schalliol responded by explaining that once a new Executive Director of the Area Plan Commission is hired, the process for developing an updated Comprehensive Plan will begin to show the changes that have taken place and to represent the current conditions in the County. There will be an opportunity for a study process to consider the Town’s request and align the two plans.

Brian Pawlowski asked about the private control of acreage and the usage of that land in the two plans. Bill Schalliol explained that the Master Plan is generally used when you own and control all the site and is easier to put buildings in a space and to have some accountability. The IEC Area Management Plan serves as a tool to look at all the conditions for uses that would be complimentary to the area.

Jason Critchlow then asked about the final plan for the IEC Management Plan. Bill Schalliol explained that it’s a working document to the Redevelopment Commission. It will go through the Redevelopment Commission, the Board of
Commissioners and the County Council before being approved.

c. St. Joseph County Economic Development Area No. 3 (Capital Avenue EDA)
   No updates at this time. (Audio Position: 13:30)

d. Wyatt Economic Development Area No. 1 (Wyatt EDA)
   No updates at this time. (Audio Position: 13:30)

e. Northwest Cleveland Road Economic Development Area (NWCR EDA)
   No updates at this time. (Audio Position: 13:30)

4. Additional Business
   No updates at this time. (Audio Position: 13:30)

5. Public Comment (3 minute limit) (Audio Position: 14:00)

Jordon Budreau, residing at 413 W Front St., New Carlisle, IN, read the Town of New Carlisle Town Council and Olive Township Trustee request for a moratorium. He also stated that in his opinion, the questionnaire for the IEC Management Plan has hand-picked, guiding questions and needs more open-ended questions. In response, Christian Brown stated that at the end of each section in the questionnaire, there is a space for additional, general comments. (Audio Position: 14:10)

Christopher Cobb, residing at 215 E. Pokagon St. South Bend, IN, stated that he agreed that the questions in the public comment form are directing. The opportunity for open comment needs to be emphasized and the members of the Redevelopment Commission need to filter the information they are getting in order to clearly find out what the public position on the plan is. He also stated that the members of the Open Space and Agricultural Alliance are excited and pleased with the opportunity for public comment and the responses from the Economic Development division. (Audio Position: 17:00)

Debra DuRall, residing at 21677 Auten Rd. South Bend, IN, stated that the IEC Master Plan is difficult to read online because of the small print. She said that it’s very complex but is lacking “meat.” There are no site prep documents or engineering documents; the appendixes and attachments are not there. Debra said that there are a lot of vague and general terms that don’t provide any definition for the public. (Audio Position: 19:55)

Jennifer Betz, residing at 23150 Roosevelt Rd. South Bend, IN, stated that the number one policy priority in the Master Plan is farmland preservation. She said the plan also points out that the western part of the county is not suited for heavy industry because of the high water table with the aquifer. Jennifer voiced her concern for the health of the community and the impact of the IEC on their livelihoods. She continued by saying that the office hours and work sessions for public comment need to keep people together rather than divided. She stated that the 9 a.m. meetings are difficult to attend and requested that the Redevelopment Commission consider moving the meeting to a different time. Lastly, she stated that community thriving should be the goal and not economic development. (Audio Position: 22:40)
Kathy VanLue, residing at 4135 S. Filbert St. New Carlisle, IN, said that the radio commercials, online survey, and new website are unprecedented for promoting an industrial area. Kathy expressed her concerns with the answers to public questions on the IEC website including the number of acres, selling and purchasing the land, the survey, and the future of the IEC and its impact on the community. (Audio Position: 26:05)

Jack Daly, residing at 217 W Michigan St. New Carlisle, IN, stated that there is already an agricultural industry in New Carlisle that is not being treated as an industry. He stated that TIF money should be used for the agricultural industry that already exists such as new machinery and improving the soil in the area. He also expressed his concerns with the Redevelopment Commission ignoring the public and not listening to what the public wants. (Audio Position: 29:45)

Dan Caruso, residing at 305 Compton St. New Carlisle, IN, stated that the IEC Management Plan was not available at the locations announced. He said that the public has not been included and many people in New Carlisle don’t have access to the internet. Dan explained that they need public hearings and not private meetings where words can be denied. (Audio Position: 33:00)

Bob Humbarger, residing at 29987 Hurd Rd. New Carlisle, IN stated that he lives in the planning area of the IEC. He expressed his concerns with the price increasing in the area so that private landowners are unable to purchase the land and the people buying the property have no intention of continuing to farm. He said that the IEC Management Plan is a promotional document, not a development plan. Bob also said that it’s un-democratic to favor one business over the other and he believes that’s exactly what is happening with the farming industry. (Audio Position: 35:15)

Mary Countryman, residing at 52959 Timothy Rd. New Carlisle, IN, stated that the IEC does not belong in this community. She said that there are already jobs available in New Carlisle that will be a sure thing, unlike the uncertainty of the IEC. Mary said that the people in New Carlisle chose to live near farms and away from industry. She also expressed her concern with the report stating that the aquifer is susceptible to contamination. (Audio Position: 39:25)

Arthur Wheeler, residing at 50707 Carrington Place Ct. South Bend, IN, stated that his open air, clean air, and clean water is being threatened. He expressed his concerns with the effectiveness of his voice. He said that people are always commenting against the IEC, and never in support of it. He explained that the people of New Carlisle are scared, and no action is being taken in response to the public’s concerns. (Audio Position: 42:05)

6. Adjournment

Upon a motion by Dennis Jordan, being seconded by Jason Critchlow and unanimously carried, the Redevelopment Commission meeting adjourned at 9:50 a.m.

Next Meeting Date: April 14, 2020 at 9 am (4th Floor – Council Chambers)
## ST. JOSEPH COUNTY, INDIANA

### ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

#### Redevelopment Commission Monthly Financial Report

**March**

<table>
<thead>
<tr>
<th>FUND</th>
<th>1/31/2020 Cash Balance</th>
<th>Reporting Month Year to Date</th>
<th>Ex. Add'l/Receipts Reporting Month Year to Date</th>
<th>Appropriation/CF Budget Balance</th>
<th>Encumbered Balance</th>
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### 2020 Expenditure Breakdown by Fund

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<tr>
<th>PROJECTS/SERVICES</th>
<th>Financial</th>
<th>Legal</th>
<th>Chamber</th>
<th>Real Estate</th>
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<th>Multi-Service Facility</th>
<th>BIA Target</th>
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**Note**: The image contains financial data and breakdowns for different funds and projects, indicating budget allocations and expenditures. The data is organized into tables, detailing the financial transactions and balances for various months and projects.
## ST. JOSEPH COUNTY, INDIANA
### ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

**Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 3 Years**

As of 3/31/2020

### Wyatt Allocation Area

**Fund 4000: Wyatt Economic Dev Area**

<table>
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<tr>
<th>Fiscal Year Budget:</th>
<th>Actual 2019</th>
<th>Approved 2020</th>
<th>Actual 2020 to Date</th>
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<th>5-Year Projection</th>
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<td>$370,080.21</td>
<td>$345,490.21</td>
<td>$321,894.81</td>
</tr>
</tbody>
</table>

### Summary of Revenue and Expenditures

#### REVENUES:
- Property Tax Levy:
- Tax Increment Revenue:
  - Wyatt Allocation Area (FT-Est): $34,804.60
  - June Settlement: $19,979.07
  - Total of Tax Increment: $54,783.67
- Other Sources of Revenue:
- Total REVENUES: $54,783.67

#### EXPENDITURES:
- Operating Costs:
- Administrative Costs:
- Salaries:
- Transfers Out:
- Debt Service:
- Total of Obligations:
- Professional Services:
  - Legal: $7,500.00
  - Chamber of Commerce: $5,000.00
  - Total Professional Services: $12,500.00
- Projects:
  - Smart Services: $50,000.00
  - Total Projects: $50,000.00
- Other Expenditures:
  - Wyatt Drainage Reconstruction: $50,000.00
  - Total Other Expenditures: $50,000.00
- Total EXPENDITURES: $70,000.00

#### Cash Balance:
- 3/31/2020 Cash Balance: $342,584.52
- Projected Cash Balance (December 31):
  - Actual: $321,894.81
  - Proposed: $345,490.21
  - Total: $72,409.60

Note: Allocation Area final year - 2020
## New Carlisle Economic Development Area Allocation Area #2
### Fund 4301

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Actual Expenditure 2020</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3-Year Projection 2022</th>
<th>2023</th>
<th>2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Cash Balance (January 1)</td>
<td>$</td>
<td>$1,020,800.17</td>
<td>$1,020,800.17</td>
<td>$731,205.49</td>
<td>$526,181.21</td>
<td>$513,353.74</td>
<td>$164,496.24</td>
</tr>
</tbody>
</table>

#### Summary of Revenues and Expenditures

**REVENUES:**
- **Property Tax Levy:**
  - Tax Increment Revenue: (PT Fees)
  - Economic Impact Settlement
  - Total of Tax Increment:
- **Other Sources of Revenue:**
  - Land Sales and Rentals
  - Contributions & Loan Repayments
  - Reimbursments
  - Interest Income
  - ERA AV Deduction Imposed Fees
  - Project Carry Forward Balance
  - Other Sources of Revenue:
  - Total of Other Sources of Revenue:

Total REVENUES: $1,020,800.17

**EXPENDITURES:**
- **Operating Costs:**
  - Land Acquisition (Real & Personal)
  - Transfers Out
- **Debt Service:**
  - Special Taxing District (2020)
  - Long-Term Debt (2019)
  - Total of Obligations:
  - Total of Other Collections:
  - Other:
  - Total of Other Expenses:
- **Economic Development:**
  - Agreements/Real Estate Fees
  - Other (Dr Budgeted & Unallocated)
  - Total of Economic Development:
- **Projects:**
  - Water Treatment Plant
  - Multi-Service Facility
  - Total EXPENDITURES:

Total 3/31/2020 Cash Balance: $217,621.07

Projected Cash Balance (December 31):
- $1,020,800.17 | $731,205.49 | $526,181.21 | $513,353.74 | $164,496.24 | $0,664.78 |

**Note:** Allocation Area Final Year 2017

- Encumbrances
  - DLC (Multi-Service Facility): $112,240.00
## New Carlisle Economic Development Area Allocation Area #1

### Fund 4302

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Actual</td>
<td>Approved</td>
<td>to Date</td>
</tr>
<tr>
<td>Beginning Cash Balance (January 1)</td>
<td>$7,005,186.86</td>
<td>$5,270,276.27</td>
<td>$2,720,276.27</td>
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</table>

### Summary of Revenue and Expenditures

#### REVENUES:

- **Property Tax Levy:**
- **Tax Increment Revenue:**
  - NOIDA A1 Allocation Area (FY Est.)
  - NOIDA A2 Allocation Area (FY Est.)
  - June 30th Actual
  - December 2nd Projected
  - Total of Tax Increment:
- **Other Sources of Revenue:**
  - Land Sales and Rentals
  - Contributions & Loan Repayments
  - Refunds
  - Interest Income
  - DMI Special District Assessment
  - Other Sources of Revenue
  - Total of Other Sources of Revenue:

**Total REVENUES:**

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
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</tbody>
</table>

#### EXPENDITURES:

- **Operating Costs:**
  - Chamber of Commerce
  - Other
  - Administrative Costs
  - Debt Service:
    - Special Assessment District Bond 2016
    - Continuing Disclosure & Trustee Fees

**Total of Obligations:**

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
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</tbody>
</table>

#### Professional Services:

- Legal
- Financial
- Economic Development
- Appraisal Services
- Other (Grant Fees)

**Total of Professional Services:**

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
<th>2021</th>
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#### Freight:

- Budgeted & Unexpended
- Other

**Total Freight:**

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</table>

#### Future Projects:

- Debt Service on Bonds
- Other

**Total Future Projects:**

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<th>2021</th>
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**Total EXPENDITURES:**

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**LUA/2020 Cash Balance:**

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</table>

**Projected Cash Balance (December 31):**

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
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</tbody>
</table>

---

**Note:** Allocation Area #1 Year 2003

1 Big Ten G3
2 Remaining Contract Budget = $13,808
3 East (SBA Freight) $1,186,182.64
4 Thorne Griswold $5,000

---

**St. Joseph County Economic Development Corporation**

**Established 1983**

[St. Joseph County Economic Development Corporation Logo]
## New Carlisle Economic Development Area Allocation Area

**Fund 4303: Special Taxing District Bond Proceeds**

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2020</th>
<th>Approved Budget 2020</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Cash Balance (January 1)</td>
<td>$4,773,729.34</td>
<td>$4,152,327.20</td>
<td>$4,152,327.20</td>
<td>$1,302,327.09</td>
<td>-</td>
</tr>
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</table>

**Summary of Revenue and Expenditures**

### REVENUES:

- **Property Tax Levy:**
  - RD

### EXPENDITURES:

#### Operating Costs

- Administrative Costs
- Salaries
- Fringe Benefits

#### Quilt Services

- Bed #1
- Bed #2

#### Professional Services

- Legal
- Financial Advisor
- Consultants
- Economic Development
- IT Services
- Construction

#### Budgeted & Unbudgeted

- 3,709,654.61

#### Total Professional Services:

- 3,709,654.61

#### Current Projects

- Broadband: 1,425,000.00
- Special Projects¹: 15,545.12
- Sewer/Water Extensions: 1,100,000.00
- Transportation & Utility Improvements: 100,000.00
- MWSC Master Plan (MWP): 405,837.55
- NCEDA Water & Sewer Project: 714,710.07
- NSD Redevelopment Project: 1,000,000.00
- Land Acquisition (Inland Steel): 200,000.00

#### Total Projects:

- 4,021,419.47

#### Total Expenditures:

- 4,021,419.47

#### 9/30/2020 Cash Balance:

- $3,337,026.22

#### Projected Cash Balance (December 31):

- $4,152,327.20

---

¹ NEC Comps/Land use Ord Amendment Contract

---

**St. Joseph County, Indiana**

**Established 1830**
### ST. JOSEPH COUNTY, INDIANA
### ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 1 Year

As of 8/30/2020

**Capital Avenue EDA**

**Fund 4401**

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2019</th>
<th>Approved Budget 2020</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$1,193,812.37</td>
<td>$1,948,085.55</td>
<td>$1,948,085.55</td>
<td>$1,953,847.70</td>
<td>$664,089.81</td>
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</tbody>
</table>

### Summary of Revenue and Expenditures

#### REVENUES:

- **Property Tax Levy:**
  - **Tax Increment Revenues:**
    - AM General Allocation Area (67 Tax)
    - Actual June 30th: 435,126.09
    - December 31st: 443,839.09
    - Total of Tax Increment: 889,965.18
    - **Other Sources of Revenue:**
      - Land Sales and Leases
      - Contributions & Loan Repayments
      - Reimbursements
      - Interest Income
      - OMA AV Deduction Improvements
      - Project Carry Forward Balance
      - Total of Other Sources of Revenues: 176,219.34
  - **Total REVENUES:** 886,184.52

#### EXPENDITURES:

- **Operating Costs:**
  - Chamber of Commerce: 15,000.00
  - Salaries: 15,000.00
  - Total of Obligations: 30,000.00

- **Professional Services:**
  - Legal: 2,000.00
  - Financial Advisor: 1,900.00
  - Other: 9,830.00
  - **Total of Professional Services:** 14,730.00

- **Projects:**
  - Douglas Overpass Match
  - Military Highway
  - Military Corridor Match
  - Main Street/Industrial Park
  - Pens Industrial Park
  - Capital Ave-Pathways (S & Jefferson)
  - Re-Served Development
  - Multi-Service Facility & Debt Service
  - Total Projects: 10,913.95

- **Total EXPENDITURES:** 128,617.46

3/31/2020 Cash Balance: 1,948,085.55

Projected Cash Balance (December 31):

- ** Beginning Cash Balance (January 1):** $1,193,812.37
- **Total EXPENDITURES:** $128,617.46
- **Projected Cash Balance (December 31):** $2,836,098.38

**Note:** Allocation Area Final Year: 2021
1. Remaining Contract Budget: $44,483
2. Remaining Contract Budget: $10,750.00

**Encumbrances:**

- DLH (Service Facility) $1,053,490.00
- GBEI (Cap Ave & Jefferson) $1,053,490.00
### Summary of Revenue and Expenditures

#### REVENUES:

- **Property Tax Levy:**

#### EXPENDITURES:

- **Operating Costs**
- **Administrative Costs**
- **Salaries**
- **Transfers Out**

#### Debt Service:

- **Bond of Issuer ( indenture bond):**

- **Total of Obligations:**

#### Professional Services:

- **Legal**
- **Financial Advisor**
- **Economic Development**
- **IT Services**

- **Total of Professional Services:**

#### Projects:

- **Project #1**
- **Total Projects**

#### Other Expenditures:

- **Budgeted & Unexpended**

- **Total EXPENDITURES:**

#### Cash Balances:

- **1/1/2020 Cash Balance:**
- **3/31/2020 Cash Balance:**
- **Projected Cash Balance (December 31):**

---

**Note:** Allocation Area (Final Year 2020)

**[2]** Redevelopment Commission only committed to paying increment collected, any surpluses will be made up in later years.
### ST. JOSEPH COUNTY, INDIANA
#### ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

#### Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 5 Years

As of 1/31/2020

<table>
<thead>
<tr>
<th>Fiscal Year Budgets</th>
<th>Annual Expenditure 2019</th>
<th>Approved 2020 Budget</th>
<th>Annual Expenditure 2020</th>
<th>Proposed 2021</th>
<th>2 Year Projection</th>
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<tr>
<td></td>
<td>$73,206.90</td>
<td>$8,800.00</td>
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<td>$72,700.00</td>
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<tr>
<td></td>
<td>$73,206.90</td>
<td>$8,800.00</td>
<td>$87,286.90</td>
<td>$81,400.00</td>
<td>$72,700.00</td>
</tr>
</tbody>
</table>

#### Summary of Revenue and Expenditures

**REVENUES:**

- **Property Tax Levy:**
- **Tax Development Revenue:**
- **Total of Tax Revenue:**
**OTHER SOURCES OF REVENUE:**
- Local and State
- Contributions & Loan Repayments
- Miscellaneous
- Interest Income
- Other Sources of Revenue
- Total of Other Sources of Revenue
- **TOTAL REVENUE:**

**EXPENDITURES:**

- **Operating Costs:**
- **Administration Costs**
- **Salaries**
- **Transfers Out**
**Total Salaries:**
**Total of All Expenses:**
**Total of General Fund:**
**Total of Bonding Account:**
**Total of Other Accounts:**
**TOTAL EXPENDITURES:**

**REV 2020 Cash Balance**

| $94,500.00 | $80,284.00 | $87,286.90 | $81,400.00 | $72,700.00 | $18,725.95 | $16,075.95 |

**December 31:**

- **Unchanged Lease Receivables:** $12,311.18
- **Financial:** $0.00

St. Joseph County
Established 1836


**ST. JOSEPH COUNTY, INDIANA**

**ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION**

Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 3 Years

As of 3/31/2020

New Carlisle Economic Development Area Allocation Area

Fund 4404: Special Taxing District Bond Proceeds (Double Track)

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2020</th>
<th>Approved Budget 2020</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
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<tbody>
<tr>
<td>Engineering Cash Balance (January 1)</td>
<td>$ -</td>
<td>$ 46,976.35</td>
<td>$ 46,976.35</td>
<td>$ 183,448.35</td>
<td>$ 298,988.35</td>
</tr>
</tbody>
</table>

Summary of Revenue and Expenditures

**REVENUES:**

- Property Tax Levy:
  - 5A

Other Sources of Revenue:

- Land Sales and Rezoning
- Contributions & Loan Repayments
- Reimbursements
- Interest Income
- ERA AV Deductible Improved Fees
- Transfer In
  - 485,528.00

Project Carry Forward Balance
- 485,528.00

Total of Other Sources of Revenue:
- 485,528.00

Total REVENUES:
- 485,528.00

**EXPENDITURES:**

Operating Costs:

- Administrative Costs
  - 1,250.00

Salaries
- 1,250.00

Transfers Out
- 1,250.00

Other Costs:

- Double Track Bond Principal
  - 349,209.00

- Double Track Bond Interest
  - 290,207.00

Total of Obligations:
- 349,209.00

Professional Services:

- Legal
- Financial Advisor
- Consultants
- Economic Development
- IT Services
- Construction
- Budget & Accounting
- 350,459.00

Total of Professional Services:
- 350,459.00

Current Projects

Total Projects

Future Projects

Other

Total EXPENDITURES:
- 350,459.00

3/31/2020 Cash Balance
- 502,904.25

Projected Cash Balance (December 31):
- $ 46,976.35
- $ 183,448.35
- $ 298,988.35
- $ 399,531.35
- $ 508,074.35
- $ 614,617.35
## ST. JOSEPH COUNTY, INDIANA

### ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

#### Redevelopment Commission Monthly Financial Report

**As of April 30, 2020**

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<th>FUND</th>
<th>Presentation Financial</th>
<th>Legal</th>
<th>Chamber</th>
<th>Real Estate</th>
<th>IDC</th>
<th>Multi-Service Facility</th>
<th>SBA Freight</th>
<th>Grants</th>
<th>Administrative/DS</th>
<th>Logistics Dev</th>
<th>Debt Service</th>
<th>Rent/Dec/ority</th>
<th>CA Pathways</th>
<th>Penn &amp; Olive Tax Reimbursements</th>
<th>Sub-Total</th>
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<tr>
<td>Waat - 4301</td>
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<td>$ -</td>
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#### 2020 Expenditure Breakdown by Fund

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<th>FUND</th>
<th>Financial</th>
<th>Legal</th>
<th>Chamber</th>
<th>Real Estate</th>
<th>IDC</th>
<th>Multi-Service Facility</th>
<th>SBA Freight</th>
<th>Grants</th>
<th>Administrative/DS</th>
<th>Logistics Dev</th>
<th>Debt Service</th>
<th>Rent/Dec/ority</th>
<th>CA Pathways</th>
<th>Penn &amp; Olive Tax Reimbursements</th>
<th>Sub-Total</th>
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<tbody>
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<tr>
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<td>$ 15,000.00</td>
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<tr>
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<tr>
<td>Double Track 4404</td>
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<td>$ 294,275.16</td>
<td>$ 49,940.00</td>
<td>$ 620,092.50</td>
<td>$ 21,375.00</td>
<td>$ 44,500.00</td>
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<td>$ 63,880.07</td>
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<td>$ 135,120.73</td>
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#### April Monthly Expenditure Breakdown by Fund

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<th>FUND</th>
<th>Financial</th>
<th>Legal</th>
<th>Chamber</th>
<th>Real Estate</th>
<th>IDC</th>
<th>Multi-Service Facility</th>
<th>SBA Freight</th>
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<th>CA Pathways</th>
<th>Penn &amp; Olive Tax Reimbursements</th>
<th>Sub-Total</th>
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<tbody>
<tr>
<td>Waat - 4301</td>
<td>$ 1,000.00</td>
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<td>NORDIA Bond 4402</td>
<td>$ 10,000.00</td>
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<td>$ 231,422.44</td>
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<tr>
<td>Cap Ave 4401</td>
<td>$ 2,542.70</td>
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<td>$ 2,039.00</td>
<td>$ 15,000.00</td>
<td>$ 18,830.00</td>
<td>$ 27,920.00</td>
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<td>NW Over 4402</td>
<td>$ -</td>
<td>$ -</td>
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<td>$ 4,558.71</td>
<td>$ 5,168.03</td>
<td>$ 19,667.11</td>
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<tr>
<td>Sub Total</td>
<td>$ 7,531.00</td>
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<td>$ 324,033.24</td>
<td>$ 67,620.00</td>
<td>$ 548,939.20</td>
<td>$ 294,275.16</td>
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<td>$ 2,863,996.35</td>
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<td>Approved 2020 Budget</td>
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</tbody>
</table>

**Summary of Revenue and Expenditures**

**REVENUES:**

Property Tax Levy:

- **Tax Increment Revenue:**
  - Wyatt Allocation Area (FY End)
    - June Settlement: 38,283.82
  - December Settlement: 19,979.40
  - Total of Tax Increment: 40,257.58
  - Total REVENUES: 40,257.58

**EXPENDITURES:**

Operating Costs:
- Administrative Costs
- Salaries
- Transfers Out
- Debt Service:
- Total of Obligations:

Professional Services:
- Legal
- Financial Analysis
- Chamber of Commerce
- IT Services:
- Total of Professional Services:

Projects:
- Street Improvement
- Plant Expansion
- Infrastructure and Safety
- Total Projects:

Other Expenditures:
- Wyatt Drainage ReConstruction
- Other
- Total EXPENDITURES:

**Wyatt Cash Balance:** $161,145.52

**Projected Cash Balance (December 31):**

- $ 370,083.52
- $ 345,880.21
- $ 321,694.91
- $ 72,499.60
- $ 551,695.71

Note: Allocation Area Fiscal Year - 2023
### New Carlisle Economic Development Area Allocation Area #2

#### Fund 4301

##### Fiscal Year Budget:

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<tr>
<th></th>
<th>Actual Expenditure 2019</th>
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<th>Proposed 2021</th>
<th>3-Year Projection</th>
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<tr>
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<td>$0</td>
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<td>$1,083,840.13</td>
<td>$737,028.09</td>
<td>$315,335.78</td>
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**Summary of Revenue and Expenditures**

**REVENUES:**

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<th>2021</th>
<th>2022</th>
<th>2023</th>
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**EXPENDITURES:**

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<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
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<td>Economic Development</td>
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**Projected Cash Balance (December 31):**

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<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
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<td>$737,028.09</td>
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## New Carlisle Economic Development Area Allocation Area 81

**Fund 4302**

### As of 4/30/2020

#### Summary of Revenue and Expenditures

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<th>Fiscal Year Budget:</th>
<th>Actual Expenditure 2019</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>2 Year Projection</th>
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<td>Property Tax Levy</td>
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<td>Contributions &amp; Loan Repayments</td>
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<td>Project Carry Forward Balance</td>
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<td>Other Sources of Revenue</td>
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<tr>
<td>Total of Other Sources of Revenue:</td>
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<td><strong>TOTAL REVENUES:</strong></td>
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</tbody>
</table>

#### EXPENDITURES:

| Operating Costs | | | | | |
| Chamber of Commerce | 17,094.00 | 50,000.00 | 45,000.00 | 50,000.00 | 50,000.00 |
| Other | 21,600.00 | | | | |
| Administrative Costs | 18,451.61 | 75,000.00 | 75,000.00 | 75,000.00 | 75,000.00 |
| **Total of Obligations:** | 85,355.61 | 95,000.00 | 97,164.24 | 97,000.00 | 97,000.00 |
| Professional Services: | | | | | |
| Legal | 90,000.00 | 70,000.00 | 97,164.24 | 97,000.00 | 97,000.00 |
| Financial | 4,958.91 | 10,000.00 | 5,973.99 | 10,000.00 | 10,000.00 |
| Economic Development | 10,000.00 | 10,000.00 | 10,000.00 | 10,000.00 | 10,000.00 |
| | | | | | |
| **Total of Professional Services:** | 104,068.42 | 105,000.00 | 113,138.20 | 113,000.00 | 113,000.00 |
| Projects: | | | | | |
| Budgeted & Unexpended | 1,698,836.00 | 75,000.00 | 75,000.00 | 75,000.00 | 75,000.00 |
| Other | 1,698,836.00 | 75,000.00 | 75,000.00 | 75,000.00 | 75,000.00 |
| Special Projects (EC Land Use/CP/Ord Amendments) | 17,160.61 | 17,160.61 | 17,160.61 | 17,160.61 | 17,160.61 |
| Benwil Wastewater | | | | | |
| Parks/Recreation/Thomson Road | 312,047.44 | 800,000.00 | 61,950.00 | 100,000.00 | 100,000.00 |
| NCOT - NC Station | 200,000.00 | 200,000.00 | | 200,000.00 | 200,000.00 |
| NC Water Treatment Plant | | | | | |
| LeChateau Development | | | | | |
| Regional Irrigation Project - North | | | | | |
| NKC Corridor | | | | | |
| NKC Rail Lead Eagle Project | 8,325.67 | | | | |
| Transportation & Utility Improvements | | | | | |
| Total Projects | 2,025,613.55 | 75,000.00 | 92,212.56 | 100,000.00 | 100,000.00 |
| Future Projects | | | | | |
| Debt Service on Garage | $500,000.00 | $500,000.00 | | $500,000.00 | $500,000.00 |
| Other | | | | | |
| | | | | | |
| **Total EXPENDITURES:** | $3,051,153.55 | $1,728,020.00 | $1,381,000.00 | $2,276,000.00 | $1,806,000.00 |

### 4/30/2020 Cash Balance: $1,679,227.96

### Projected Cash Balance (December 31):

- **Beginning Expenditure:** $5,270,576.27
- **Projected Expenditure:** $839,786.02
- **Projected Cash Balance:** $203,376.04
# New Carlisle Economic Development Area Allocation Area
## Fund 4303: Special Taxing District Bond Proceeds

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2019</th>
<th>Approved Budget 2020</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Balance</td>
<td>$4,773,729.86</td>
<td>$4,192,327.20</td>
<td>$4,192,327.20</td>
<td>$1,303,327.20</td>
<td>$</td>
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</table>

### Summary of Revenue and Expenditures

#### REVENUES:
- Property Tax Levy:
- NA
- Total of Other Sources:
- Land Sales and Rent:
- Contributions & Loan Repayments:
- Reimbursements:
- Interest Income:
- ERA AV Deduction:
- Improvements
- Bond Proceeds (2020 $10M Special District)
- Project Carry Forward Balance:
- Total of Other Sources of Revenue:
- $1,155,729.64

### EXPENDITURES:

#### Operating Costs:
- Administrative Costs:
- Salaries:
- Transfers Out:

#### Debt Service:
- Bond #1:
- Bond #2:
- Total of Obligations:

#### Professional Services:
- Legal:
- Financial Advisor:
- Economic Development:
- IT Services:
- Construction:
- Budgeted & Unbudgeted:
- Total of Professional Services:
- $1,172,190.00

#### Current Projects:
- Broadband:
- Special Projects:
- Future WSS Extensions:
- Transportation & Utility improvements:
- NWAC Master Plan (EC)
- NCDD Water & Sewer Project:
- NPS Rail Land Task Project:
- Land Acquisition (Indian Steel):
- Regional Drainage Project - North:
- Total Projects:
- $2,423,420.67

#### Future Projects:
- Other:

#### Total EXPENDITURES:
- $2,423,420.67

#### 4/30/2020 Cash Balance:
- $4,192,327.20

#### Projected Cash Balance (December 31):
- $1,303,327.20

---

1. IEC ConsoliLand use Ord Amendment Contract

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<tr>
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<th>Projected</th>
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<td>Lehman</td>
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<td>Lockwood</td>
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<td>Amaro</td>
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<td>Total</td>
<td>$23,227.04</td>
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## Capital Avenue EDA

**Fund 4401**

### Fiscal Year Budget:

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<th>Actual Expenditure 2020</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>$1,267,852.37</td>
<td>$1,940,000.00</td>
<td>$1,940,000.00</td>
<td>$1,953,687.70</td>
<td>$664,480.04</td>
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</tbody>
</table>

### Summary of Revenue and Expenditures

#### REVENUES:

**Property Tax Levy:**

- **Tax Incremental Revenue:**
  - AM General Allocation Area (FY Est.)
    - Actual June 30th: 850,802.15
    - December 31st: 455,137.41
    - Total of Tax Incremental: 1,306,940.56

**Other Sources of Revenue:**

- Land Sales and Rents
- Contributions & Loan Repayments
- Reimbursements
- Interest Income
- ETW AV Deduction Imposed Fees
- Project Carry Forward Balance
- Other Sources of Revenue

**Total Revenue:**

- 1,306,940.56
  - 950,802.15
  - 1,027,120.69
  - 850,802.15
  - 1,000,802.15
  - 850,802.15

#### EXPENDITURES:

**Operating Costs:**

- Chamber of Commerce
- Salaries: 15,000.00
- Transfers Out (To RDC General)

**Debt Service:**

- AM General Bond (2010)
- Interest Fee

**Total of Obligations:**

- 15,000.00
- 18,810.00

**Professional Services:**

- Legal: 2,000.00
- Financial Advisor: 1,400.00
- Economic Development: 2,542.70
- Budgeted & Unexpended: 1,483,305.30
- Other: 0.00

**Total of Professional Services:**

- 3,452.00
  - 20,000.00
  - 20,000.00
  - 20,000.00
  - 20,000.00
  - 20,000.00

**Projects:**

- Douglas/Duquesne Match
- McKevitt Highway
- McKinley Corridor Match
- Park Branch Industrial Park
- Penn-Fire Improvement
- Penn Industrial Park: 2,793.00
- Capital Area Pathways (S. Jefferson)
- Rail Service Development
- Multi-Smart Facility & Data Service: 54,030.00

**Total Projects:**

- 300,240.44
  - 1,000,000.00
  - 86,169.03
  - 1,495,000.00
  - 1,220,000.00
  - 1,000,000.00
  - 1,000,000.00
  - 1,000,000.00

**Other Expenditures:**

- Total Expenditures:
- 118,673.48
  - 1,445,000.00
  - 1,821,328.51
  - 1,540,000.00
  - 1,275,000.00
  - 1,045,000.00
  - 1,045,000.00

### 20/21 Cash Balance

- $1,267,852.37
- $1,306,940.56
- $219,294.17

### Projected Cash Balance (December 31):

- $1,940,000.00
- 2,098.32

---

**Note:**
- Allocation Area Final Year 2021
- Remaining Contract Budget: $564,681
- Remaining Contract Budget: $21,756.60

**Encumbrances:**

- OLC (Multi-Service Facility)
- CIBCE (Cap Ave & Jefferson)

- 103,490.00

---

**St. Joseph County, Indiana**

**Established 1830**
## Northwest Cleveland Road Allocation Area
**Fund 4462: 005 SJC NW Cleveland Rd EDA**

### Fiscal Year Budget: 2020

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Actual Expenditure 2019</th>
<th>Approved Budget 2020</th>
<th>Actual as of Date 2020</th>
<th>Proposed 2020</th>
<th>3 Year Projection</th>
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<tbody>
<tr>
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<td>2021</td>
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<tr>
<td></td>
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<td>359,706.11</td>
<td>339,706.11</td>
<td>320,841.25</td>
<td>243,095.39</td>
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</table>

### Summary of Revenue and Expenditures

#### REVENUES:
- **Property Tax Levy:**
  - VW Cleveland Road Allocation Area (FY)
    - Actual June 30th: 373,333.09
    - December 31st: 233,131.09
    - Total Tax Increment: 346,862.17
  - 326,706.14
  - 359,706.11
  - 339,706.11
  - 320,841.25
  - 243,095.39
  - 277,024.53
  - 296,528.67

### EXPENDITURES:
- **Operating Costs**
- **Administrative Costs**
- **Salaries**
- **Transfers Out**
- **Debt Service:**
  - General Obligation Bond
  - Total of Obligations: 256,710.64
- **Professional Services:**
  - Legal
  - Financial Advisor
  - Economic Development
  - PIT Services
  - Paying Agent: 1,750.00
    - Total of Professional Services: 1,750.00
- **Projects:**
  - Project 1
- **Other Expenditures**
  - Budgeted & Unexpended:
    - 256,111.49
    - 156,111.49

### Total EXPENDITURES: (1)
- 256,710.64
- 316,425.00
- 309,625.00
- 309,625.00
- 296,528.67

### Net Cash Balance (December 31):
- 346,620.46
- 230,041.25
- 230,041.25
- 249,895.39
- 277,924.53
- 296,528.67

### Note: Allocation Area Final Year 2020

(1) Redevelopment Commission has committed to paying increment collected, any shortfalls will be made up in later years.
<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2020</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
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</thead>
<tbody>
<tr>
<td>Beginning Cash Balance (January 1)</td>
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<td>$99,387.35</td>
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<tr>
<td>Total Obligations</td>
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<td>73,797.00</td>
<td>50,797.00</td>
<td>71,797.00</td>
<td>71,797.00</td>
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<td>Lot 43 Subdivision</td>
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<td>$99,387.95</td>
<td>$87,184.95</td>
<td>$81,481.95</td>
<td>$73,278.95</td>
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</tbody>
</table>

Commissions:  
Symmet (Aerial Scanning) $10,596.19  
CBA $2,784.00  
Appraisals $1000  

St. Joseph County  
Established 1830
## New Carlisle Economic Development Area Allocation Area

### Fund 4404: Special Taxing District Bond Proceeds (Double Track)

#### Fiscal Year Budget:

<table>
<thead>
<tr>
<th></th>
<th>Actual Expenditure 2019</th>
<th>Approved 2020</th>
<th>Actual 1st Data 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
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<tbody>
<tr>
<td><strong>Beginning Cash Balance (January 1)</strong></td>
<td>$</td>
<td>$46,976.35</td>
<td>$46,976.35</td>
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<td><strong>Summary of Revenue and Expenditures</strong></td>
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<td><strong>REVENUES:</strong></td>
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<td>Contributions &amp; Loan Repayments</td>
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<td><strong>Total REVENUES:</strong></td>
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#### EXPENDITURES:

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<th></th>
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<th>Actual 1st Data 2020</th>
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</thead>
<tbody>
<tr>
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<td>Transfers Out</td>
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<td><strong>Debt Service:</strong></td>
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<tr>
<td>Double Track Bond Principal</td>
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<td>Total of Obligations</td>
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<td><strong>Total EXPENDITURES:</strong></td>
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<td>Wythe</td>
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<td>4301 $341,804.65</td>
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<td>4302 $1,069,154.57</td>
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<tr>
<td>NCDDE</td>
<td>4303 $5,239,523.37</td>
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<tr>
<td>NCDMN</td>
<td>4304 $4,133,327.39</td>
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<tr>
<td>Cap Ave</td>
<td>4403 $1,498,365.35</td>
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<td>4403 $1,436,500.05</td>
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<td>NW Conv</td>
<td>4404 $197,702.11</td>
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<td>4404 $226,794.14</td>
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<td>General Conv</td>
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<tr>
<td>Double Track</td>
<td>4403 $46,934.26</td>
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### 2020 Expenditure Break Down by Fund

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<tr>
<th>Fund</th>
<th>Financial</th>
<th>Legal</th>
<th>Chamber</th>
<th>Real Estate</th>
<th>IEC</th>
<th>Multi-Service Facility</th>
<th>SWA Freight</th>
<th>Grants</th>
<th>Administrative/DSS</th>
<th>Leasing Dev</th>
<th>Debt Service</th>
<th>Reserves/Transfer</th>
<th>GA Pathways</th>
<th>Peace &amp; Olive Youth Fed, Projects</th>
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### May Monthly Expenditure Break Down by Fund

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<th>Multi-Service Facility</th>
<th>SWA Freight</th>
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<th>Administrative/DSS</th>
<th>Leasing Dev</th>
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## ST. JOSEPH COUNTY, INDIANA
### ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 3 Years
As of 5/31/2020

**Wyatt Allocation Area**

**Fund 4390: Wyatt Economic Dev Area**

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2020</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3-Year Projection</th>
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</thead>
<tbody>
<tr>
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<td>$ 337,137.00</td>
<td>$ 370,085.21</td>
<td>$ 370,085.21</td>
<td>$ 345,890.21</td>
<td>$ 321,894.81</td>
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</table>

**Summary of Revenue and Expenditures**

**REVENUES:**

- **Property Tax Levy:**
  - Wyatt Allocation Area (FY Cost)
    - June Settlement: $20,267.02
    - December Settlement: $19,379.92
  - Total of Tax Increment: $49,647.94

- **Other Sources of Revenue:**
  - Land Sales and Rentals
  - Contributions & Loan Repayments
  - Reimbursements
  - Interest Income
  - ERA AV Deduction/Imputed Fees
  - Transfers
  - Total of Other Sources of Revenue: $49,647.94

**Total REVENUES:**

$49,647.94

**EXPENDITURES:**

- **Operating Costs**
- **Administrative Costs**
- **Salaries**
- **Transfers Out**

**Total of Obligations:**

$49,647.94

- **Professional Services**
  - Legal
  - Financial Advisor
  - Chamber of Commerce
  - IT Services
  - Total of Professional Services: $49,647.94

- **Projects**
  - Sewer Extension
  - Plant Expansion
  - Infrastructure and Sefity
  - Total Projects: $49,647.94

- **Other Expenditures**
  - Wyatt Drainage Reconstruction
  - Other
  - Total EXPENDITURES: $99,295.88

**Total EXPENDITURES:**

$99,295.88

**3/1/2021 Cash balance:**

- $481,585.12

**Projected Cash Balance (December 31):**

- Actual: $345,890.21
- Proposed: $321,894.81
- 3-Year Projection: $72,499.60
- ($53,695.71)

**Note:** Allocation Area final year - 2029
## New Carlisle Economic Development Area Allocation Area #2

### Fund 4301

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<tr>
<th>Fiscal Year</th>
<th>Actual Expenditure 2019</th>
<th>Approved Budget 2020</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3-Year Projection</th>
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<tbody>
<tr>
<td></td>
<td>$</td>
<td>$ 1,093,008.17</td>
<td>$ 1,093,008.17</td>
<td>$ 797,026.69</td>
<td>$ 525,181.21</td>
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</tbody>
</table>

### Summary of Revenue and Expenditures

**REVENUES:**

- **Property Tax Levy:**
  - Tax Increment Revenue (FY Est.)
    - June Settlement: 574,428.51
    - December Settlement: 529,712.11
  - Total of Tax Increment: 1,104,140.62
  - Total Other Sources of Revenue: 117,240.00
  - Total REVENUES: 1,221,380.62

### EXPENDITURES:

- **Operating Costs**
- **Land Acquisition (Industrial Street)**
- **Transfers Out**

**Debt Service:**

- General Fund:
  - Special Taxing District (2005)
    - Total Obligations: 485,528.00
  - Total Obligations: 485,528.00

**Professional Services:**

- Legal: 54,872.11
- Chamber of Commerce: 28,144.00
- Economic Development: 30,000.00
- Other: 30,000.00
- Total of Other Expense: 83,015.11

**Economic Development:**

- Appraisal/Real Estate Fees: 15,000.00
- Total of Economic Development: 15,000.00

**Projects:**

- WIC Water Treatment Plant:
  - Total EXPENDITURES: 113,355.11

**5/31/2020 Cash Balance:**

- $ 1,093,008.17

**Projected Cash Balance (December 31):**

- Total Current: $ 1,038,000.17
- Total 2021: $ 737,026.69
- Total 2022: $ 529,181.21
- Total 2023: $ 315,358.78
- Total 2024: $ 104,400.18

**Note:** Allocation Area Fiscal Year 2017

- Encumbrances
  - D1Z (Multi-Service Facilities): 112,240.00
### New Carlisle Economic Development Area Allocation Area #1

**Fund 4302**

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<th>Actual Expenditure</th>
<th>Approved 2020 Budget</th>
<th>Actual 10/31/2020</th>
<th>Proposed 2021</th>
<th>$ Year Projection</th>
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<td>2020</td>
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<td>2021</td>
<td>2022</td>
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<td><strong>Summary of Revenue and Expenditures</strong></td>
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<td><strong>REVENUES:</strong></td>
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<td>Tax Increment Revenues:</td>
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<td>NEDA #1 Allocation Area (FY Est.)</td>
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<tr>
<td>Multi-Model SBIC Freight Analysis</td>
<td>308,306.74</td>
<td>88,570.00</td>
<td>72,143.75</td>
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<td>South Shore Freight Alignment</td>
<td>103,500.00</td>
<td>9,500.00</td>
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<tr>
<td><strong>Total Current Projects</strong></td>
<td>2,703,883.00</td>
<td>3,048,570.00</td>
<td>5,127,024.00</td>
<td>2,703,000.00</td>
<td>2,703,000.00</td>
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<td>Future Projects:</td>
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<tr>
<td>Debt Service on Garage</td>
<td></td>
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<tr>
<td>Other</td>
<td>1,000,000.00</td>
<td>850,000.00</td>
<td>850,000.00</td>
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<tr>
<td><strong>Total EXPENDITURES:</strong></td>
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<td>6,298,570.00</td>
<td>6,218,200.00</td>
<td>3,261,000.00</td>
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<td>5,320,539.34</td>
<td>830,768.00</td>
<td>830,768.00</td>
<td>243,579.67</td>
<td>70,991.32</td>
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**Note:** Allocation Area Final Year 2019

1. Big Max & Co.
2. Remaining Contract Budget - 533,998
3. Emancipations
4. DLZ (Multi Service Facility) $178,140.00
5. Anteas (SBIC Freight) $13,324.79
## New Carlisle Economic Development Area Allocation Area
### Fund 4303: Special Taxing District Bond Proceeds

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2019</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection 2022</th>
<th>2023</th>
<th>2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Cash Balance (January 1)</td>
<td>$4,773,739.00</td>
<td>$4,153,327.00</td>
<td>$4,153,327.00</td>
<td>$1,303,327.00</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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</tbody>
</table>

### Summary of Revenue and Expenditures

#### REVENUES:
- **Property Tax Levy:**
- **ERAP:**
- **Total of Tax Increment:**
- **Other Sources of Revenue:**
  - Land Sales and Rent
  - Contributions & Loan Repayments
  - Reimbursements
  - Interest Income
  - ERA AV Deduction Imposed Fees
- **Bond Proceeds (2020-2024 Special District):**
  - Project Carry Forward Balance
  - Total of Other Sources of Revenue:
  - Total REVENUES:
  - $1,155,732.68

#### EXPENDITURES:
- **Operating Costs**
- **Administrative Costs**
- **Salaries**
- **Transfers Out**
- ** Debt Service:**
  - Bond #1
  - Bond #2
- **Total of Obligations:**
- **Professional Services:**
  - Legal
  - Financial Advisor
  - Consultants
  - Economic Development
  - IT Services
  - Construction
  - Budgeted & Unexpended
  - Total of Professional Services:
  - $3,741,071.00
- **Current Projects**
  - Broadband
    - Special Projects: $15,565.17
  - Future WFSS Extensions
  - Transportation & Utility Improvements
  - NWDC Master Plan (EC) $605,837.55
  - RCEDA Water & Sewer Project
  - POC Feasibility Study
  - Other:
  - Total EXPENDITURES:
  - $3,402,402.67
- **Projected Cash Balance (December 31):**

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2019</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection 2022</th>
<th>2023</th>
<th>2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Cash Balance (January 1)</td>
<td>$4,773,739.00</td>
<td>$4,153,327.00</td>
<td>$4,153,327.00</td>
<td>$1,303,327.00</td>
<td>$ -</td>
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</table>

### Notes:
1. RC ComLand use Ord Amendment Contract

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Encumbrances</td>
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<tr>
<td>IPA</td>
<td></td>
</tr>
<tr>
<td>Lehman</td>
<td></td>
</tr>
<tr>
<td>Lockmiller</td>
<td></td>
</tr>
<tr>
<td>Astera</td>
<td></td>
</tr>
</tbody>
</table>

---

**ST. JOSEPH COUNTY, INDIANA**  
ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION  
Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 3 Years  
As of 1/31/2020

**St. Joseph County, IN**  
**Established 1930**
# Capital Avenue EDA

**Fund 4401**

<table>
<thead>
<tr>
<th>Fiscal Year:</th>
<th>Actual Expenditure 2019</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
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</thead>
<tbody>
<tr>
<td>Ending Cash Balance (January 1)</td>
<td>$1,567,812.59</td>
<td>$1,948,085.16</td>
<td>$1,948,085.16</td>
<td>$1,351,682.70</td>
<td>$644,688.66</td>
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</tbody>
</table>

## Summary of Revenue and Expenditures:

### REVENUES:

- **Property Tax Levy:**
  - **Tax Increment Revenue:**
    - AM General Allocation Area (IF Est.)
      - Actual June 30th: $455,112.48
      - December Visit: $443,879.01
    - Total of Tax Increment: $898,991.49
  - Other Sources of Revenue:
    - Land Sales and Reents
    - Contributions & Loan Repayments
    - Reimbursements
    - Interest Income
    - Other Sources of Revenue: $176,345.54
- Total of Other Sources of Revenue: $1,075,337.03

### EXPENDITURES:

- Operating Costs
  - Chamber of Commerce: $15,000.00
  - Salaries: $15,000.00
  - Transfers Out (To RDC General)
- ODC Services
  - AM General Board (2020)
- Total of Obligations:

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Legal</td>
<td>2,000.00</td>
<td>10,000.00</td>
<td>2,000.00</td>
<td>20,000.00</td>
<td>20,000.00</td>
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<tr>
<td>Financial Advisor</td>
<td>1,000.00</td>
<td>10,000.00</td>
<td>2,042.10</td>
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<tr>
<td>Budgeted &amp; Unexpended</td>
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<tr>
<td>Total of Professional Services:</td>
<td>$3,430.00</td>
<td>$20,000.00</td>
<td>$4,952,575.55</td>
<td>$30,000.00</td>
<td>$30,000.00</td>
<td>$30,000.00</td>
</tr>
</tbody>
</table>

- Projects:
  - Doughlas Overpass Match
  - McKinley Highway
  - McKinley Corridor Match
  - West Branch Industrial Park
  - Penn Fire Improvement ¹
    - Penn Industrial Park
    - Capital Ave Pathways (1 & Jefferson)
    - Rail Served Development
  - Multi Service Facility & Debt Service
  - Total Projects: $1,050,000.00

- Other Expenditures:

### Total EXPENDITURES:

- $1,184,873.68
  - $1,445,000.00
  - $1,622,250.54
  - $3,540,000.00
  - $3,275,000.00
  - $1,045,000.00
  - $2,045,000.00

### 5/1/2020 Cash Balance:

- $1,948,085.55
  - $1,752,090.56

### Projected Cash Balance (December 31):

- $1,948,085.55
  - $1,153,887.70
  - $1,353,887.70
  - $654,688.86
  - $240,492.01
  - 196,394.17
  - 2,098.32

---

**Notes:**
1. Remaining Contract Budget = $44,481
2. Remaining Contract Budget = $220,792.00

**Expenditures:**
- Krakowski Appraisals: $18,830.00
- CEI (Cap Ave & Jefferson): $78,950.00

---

*St. Joseph County, Indiana*

*St. Joseph County Redevelopment Commission*

*Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 3 Years*

*As of 5/31/2020*
### St. Joseph County, Indiana

#### St. Joseph County Redevelopment Commission

Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 3 Years

As of 5/31/2020

Northwest Cleveland Road Allocation Area

Fund 4402: 005 SJC NW Cleveland Rd EDA

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Actual Expenditure 2019</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Cash Balance (January 1)</td>
<td>$166,820.46</td>
<td>$189,782.13</td>
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<td>$270,681.72</td>
<td>$243,095.39</td>
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</table>

**Summary of Revenue and Expenditures**

**REVENUES:**

- **Property Tax Levy:**
  - Tax Increment Revenue:
    - NW Cleveland Road Allocation Area (FY Est.)
      - Actual June 30th: 173,311.00
      - December 31st: 173,311.00
      - Total Tax Increment: 346,622.14
  - Other Sources of Revenue:
    - Total Other Sources of Revenue: 346,622.14

**EXPENDITURES:**

- Operating Costs:
  - Administrative Costs
  - Salaries
  - Transfers Out

- Debt Service:
  - General Obligation Bond
    - Total Obligations: 299,270.00

- Professional Services:
  - Legal
  - Financial Advisor
  - Economic Development
  - IF Services
  - Parking Agent
  - Total Professional Services: 299,270.00

- Projects:
  - Project A
  - Total Projects

- Other Expenditures:
  - Other
  - Budgeted & Unexpended:
    - 356,111.44

**Total Expenditures:**

$556,298.00

**Revised Cash Balance:**

$194,762.51

**Projected Cash Balance (December 31):**

$194,762.51

\[(\text{Projected Cash Balance}) = \text{Beginning Cash Balance} - \text{Total Expenditures} + \text{Total Revenues}\]

**Note:** Allocation Area Final Year 2020

(1) Redevelopment Commission only committed to passing increment collected, any shortfalls will be made up in later years
### ST. JOSEPH COUNTY, INDIANA

#### ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

Redevelopment Commission 2020 Budget, 2021 Proposed, and Projected 3 Years

As of 5/31/2020

Fund 4403: Redevelopment Commission General Fund

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Actual Expenditure (2020)</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projections</th>
</tr>
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<tbody>
<tr>
<td></td>
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<tr>
<td><strong>Beginning Cash Balance (January 1)</strong></td>
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<td>$99,987.95</td>
<td>$99,387.95</td>
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<tr>
<td><strong>Summary of Revenue and Expenditures</strong></td>
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<tr>
<td><strong>REVENUES:</strong></td>
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<td>Property Tax Levy</td>
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<td>Tax Increment Revenue:</td>
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<td>Other Sources of Revenue:</td>
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<tr>
<td>Land Sales and Reimbursement</td>
<td>71,797.00</td>
<td>71,797.00</td>
<td>71,797.00</td>
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<td>71,797.00</td>
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<td>Interest Income</td>
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</tr>
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<td>ERAD VDA Deduction &amp; Imposed Fees</td>
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<td>Project Carry Forward Balance</td>
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<tr>
<td>Other Sources of Revenue</td>
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<td>Total Other Sources of Revenue:</td>
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<tr>
<td><strong>Total REVENUES:</strong></td>
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<td>71,797.00</td>
<td>90,797.00</td>
<td>71,797.00</td>
<td>71,797.00</td>
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<td><strong>EXPENDITURES:</strong></td>
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<td>Operating Costs</td>
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<td>4,651.81</td>
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<td>Salaries</td>
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<td>Transfers Out</td>
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<tr>
<td><strong>Total of Obligations:</strong></td>
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<tr>
<td>Professional Services:</td>
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<td>Legal</td>
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<td>Financial/Advisor</td>
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<td>25,000.00</td>
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<td>Projects</td>
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<tr>
<td>Lurenpin Subdivision</td>
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<td>7,230.00</td>
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<td><strong>Total Projects</strong></td>
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<tr>
<td>Other Expenditures</td>
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<tr>
<td>MACOG</td>
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<td>INDIC (Training &amp; Travel)</td>
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<td>9,606.46</td>
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<td>5,000.00</td>
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<td>10,000.00</td>
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<td><strong>Total EXPENDITURES:</strong></td>
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<td>77,500.00</td>
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<td><strong>1/31/2020 Cash Balance</strong></td>
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<tr>
<td><strong>Projected Cash Balance (December 31)</strong></td>
<td>$59,387.95</td>
<td>$86,184.95</td>
<td>$87,184.95</td>
<td>$81,481.95</td>
<td>$79,278.95</td>
</tr>
</tbody>
</table>

**Encumbrances:**
- Symmetra (Aerial Scanning) $10,196.19
- OIA $10,196.19

St. Joseph County
ESTABLISHED 1830
## New Carlisle Economic Development Area Allocation Area

### Fund 4404: Special Taxing District Bond Proceeds (Double Track)

<table>
<thead>
<tr>
<th>Fiscal Year Budget</th>
<th>Actual Expenditure 2019</th>
<th>Approved 2020 Budget</th>
<th>Actual to Date 2020</th>
<th>Proposed 2021</th>
<th>3 Year Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Cash Balance (January 1)</td>
<td>$</td>
<td>$46,976.35</td>
<td>$46,976.35</td>
<td>$182,445.35</td>
<td>$290,988.35</td>
</tr>
</tbody>
</table>

### Summary of Revenue and Expenditures

#### REVENUES:

- **Property Tax Levy:**
  - **Tax:**
  - **Total of Tax Increases:**

- **Other Sources of Revenue:**
  - Land Sales and Leases
  - Contributions & Loan Repayments
  - Interest Income
  - ERA/IDB Participation Imposed Fees

- **Project Carry Forward Balance:**
  - Total of Other Sources of Revenue:

- **Total REVENUES:**
  - $46,976.35
  - $46,976.35
  - $46,976.35
  - $46,976.35

### EXPENDITURES:

#### Operating Costs:

- Administrative Costs
- Salaries
- Transfers Out

#### Debt Service:

- Double Track Bond Principal
- Double Track Bond Interest
- Total of Obligations

#### Professional Services:

- Legal
- Financial Advisor
- Consultants
- Economic Development
- IT Services
- Construction
- Budgeting & Unexpended
- Total of Professional Services:

#### Current Projects:

- Total Projects

#### Future Projects:

- Other

#### Total EXPENDITURES:

- $150,429.00
  - $150,429.00
  - $281,457.00
  - $281,457.00

#### 9/30/2020 Cash Balance:

- $132,504.35

#### Projected Cash Balance (December 31):

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<tr>
<th></th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
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</thead>
<tbody>
<tr>
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<td>46,976.35</td>
<td>182,445.35</td>
<td>290,988.35</td>
<td>399,510.35</td>
<td>508,074.35</td>
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</tr>
<tr>
<td>Proposed to Date</td>
<td>46,976.35</td>
<td>182,445.35</td>
<td>290,988.35</td>
<td>399,510.35</td>
<td>508,074.35</td>
<td></td>
</tr>
<tr>
<td>3 Year Projection</td>
<td>$46,976.35</td>
<td>$182,445.35</td>
<td>$290,988.35</td>
<td>$399,510.35</td>
<td>$508,074.35</td>
<td>$616,617.15</td>
</tr>
</tbody>
</table>
RESOLUTION NO. 2020-03

RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
CONCERNING THE 2021 BUDGET YEAR DETERMINATION FOR TAX INCREMENT FOR THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION ALLOCATION AREAS

WHEREAS, the St. Joseph County Redevelopment Commission (the "Commission"), has previously established the Wyatt EDA #1 Allocation Area, The New Carlisle Economic Development Area #1, The New Carlisle Economic Development Area #2, the AM General Allocation Area, and the Northwest Cleveland Road Allocation Area (the "Allocation Areas") for purposes of capturing tax increment pursuant to Indiana Code 36-7-14-39 (the "Tax Increment");

WHEREAS, pursuant to Indiana Code 36-7-14-39 and 50 IAC 8-2-4, the Commission is required to make a determination on Tax Increment and notify overlapping taxing units as well as the St. Joseph County Auditor and also the County Council (the "County Council") of St. Joseph County, Indiana, as the fiscal body of the County, which created the Commission; and

WHEREAS, with respect to the Allocation Areas, for budget year 2021, the Commission has determined the amount of the Tax Increment projected to be collected in 2021 as well as the amount of Tax Increment needed in 2021 to meet the Commission's outstanding debt service or lease payment obligations, to pay for projects that are located in or directly serve or benefit the Allocation Areas, and to meet other purposes permitted by Indiana Code 36-7-14-39(b)(3);

NOW, THEREFORE, BE IT RESOLVED BY THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION AS FOLLOWS:

SECTION ONE: The Commission has determined that all potential captured assessment (as defined in 50 IAC 8-1-16) with respect to the Allocation Areas for the January 1, 2020 assessment date (for budget year 2021) shall be captured assessment (as defined in 50 IAC 8-1-10), and overlapping taxing units as well as the St. Joseph County Auditor and the County Council will be provided written notice of such determination pursuant to Indiana Code 36-7-14-39(b)(4)(B).

SECTION TWO: This Resolution shall take effect, and be in full force and effect, from and after its passage and approval by the Commission.
ALL OF WHICH IS PASSED AND RESOLVED by the St. Joseph County, Indiana Redevelopment Commission on ____________________________.

ST. JOSEPH COUNTY, INDIANA
REDEVELOPMENT COMMISSION

______________________________
President

______________________________
Vice-President

______________________________
Secretary

______________________________
Member

______________________________
Member

ATTESTATION:

______________________________
Commission Secretary
June 9, 2020

Michael J. Hamann, County Auditor
Office of the St. Joseph County Auditor
227 W. Jefferson Blvd.
2nd Floor County Bldg.
South Bend, IN 46601

RE: January 1, 2020 Pay 2021 Capture Notice to the St. Joseph County Auditor:
Allocation Areas within the St. Joseph County Redevelopment District

Dear Mr. Hamann:

In accordance with Indiana Code ("I.C.") 36-7-14-39-(b)(4)(A) and 50 IAC 8-2-4, the St. Joseph County Redevelopment Commission (the "Commission") must make an annual determination prior to June 15 of each year of the amount, if any, of assessed value of taxable property in each allocation area for the most recent assessment date minus the based assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to generate tax increment for distribution to the Commission that is necessary to (i) make, when due, principal and interest payments on outstanding debt service obligations, (ii) pay for projects and programs for an allocation area, and (iii) support and satisfy other purposes of the Commission in compliance with I.C. 36-7-14-39(b)(3).

In addition, effective July 1, 2014, pursuant to I.C. 36-7-14-39(b)(4)(C) as a new subsection, "If (i) the amount of excess value determined by the Commission is expected to generate more than two hundred percent (200%) of the amount of allocated tax proceeds necessary to make, when due, principal and interest payments on bonds described in subdivision (3); plus (ii) the amount necessary for other purposes described in subdivision (3); the commission shall submit to the legislative body of the unit its determination of the excess assessed value that the commission proposes to allocate to the respective units in the manner prescribed in subdivision (1). The legislative body of the unit may approve the commission’s determination or modify the amount of the excess assessed value the will be allocated to the respective taxing units in the manner prescribed in subdivision (1)."

The following is the Commission’s Determination as to each allocation area designated within the St. Joseph County Redevelopment District.

The Commission has determined that, for the January 1, 2020 assessment date for taxes payable in 2021, it will need to capture all (100 percent) of the Potential Captured Assessment in the following allocation areas as of January 1, 2020 to generate tax increment for distribution to the Commission that is necessary to: (i) make, when due, principal and interest payments on outstanding debt service
obligations, (ii) pay for projects and programs for an allocation area, and (iii) support and satisfy other purposes of the Commission in compliance with I.C. 36-7-14-39(b)(3).

- Wyatt EDA #1 Allocation Area – T71401
- SJC EDA #1 Allocation Area – T7102
- SJC EDA #2 Allocation Area – T71404
- AM General Allocation Area – T71403
- Northwest Cleveland Road Allocation Area – T71405

Therefore, as it applies to the January 1, 2020 assessment date, there is no Potential Captured Assessment or excess assessed value that may be allocated to the overlapping taxing units located in the allocation area in the manner prescribed in I.C. 36-7-14-39(b)(4).

The Commission in accordance with Section 39(b)(4)(B) of the Act will provide a copy of this letter as notice to: (i) the St. Joseph County Council as the fiscal body and (ii) the officers who are authorized to fix budgets, tax rates and tax levies under I.C. 6-1.1-17-5 for each of the other taxing units that are wholly or partly located within the allocation areas (see attached “Overlapping Taxing Units”).

Very truly yours,

Brian Pawlowski, President
St. Joseph County Redevelopment Commission

Attachment: Attachment A: Overlapping Taxing Units
ST. JOSEPH COUNTY, INDIANA
ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

Allocation Areas in the St. Joseph County Redevelopment District:
January 1, 2020 Assessment Date Capture of Assessment Notice

Overlapping Taxing Units
[Pursuant to I.C. 36-7-14-39(b)(4)(B)]

June 9, 2020

Rafael Morton, President
St. Joseph County Council
County-City Building
277 West Jefferson Blvd. – Room 411
South Bend, IN  46601

Dr. Todd Cummings
Superintendent of Schools
South Bend Community School Corporation
215 South St. Joseph Street
South Bend, IN  46601

Scott Laidig
Madison Township Trustee
15267 Madison Road
Mishawaka, IN  46544

Dr. Paul White
Superintendent of Schools
New Prairie United School Corporation
5327 North Cougar Road
New Carlisle, IN  46552

Steven D. Downey
Warren Township Trustee
55788 Red Tail Court
South Bend, IN  46619

Donna Meeks, Director
Mishawaka Public Library
209 Lincolnway East
Mishawaka, IN  46544

Will Miller
Olive Township Trustee
102 South Arch Street, PO Box 214
New Carlisle, IN  46552

Debra Futa, Director
St. Joseph County Public Library
304 South Main Street
South Bend, IN  46601

Doris J. Portolese
Penn Township Trustee
210 East Russ Avenue
Mishawaka, IN  463545

Stephanie Murphy MLS
New Carlisle Public Library
408 South Bray Street
New Carlisle, IN  46552

Marcy Kauffman, President
New Carlisle Town Council
P.O. Box 6
New Carlisle, IN  46552

Mike Daigle, A.A.E., Executive Director
St. Joseph County Airport Authority
4477 Progress Drive
South Bend, IN  46628

Dr. Jerry Thacker
Superintendent of Schools
Penn-Harris-Madison School Corporation
55900 Bittersweet Road
Mishawaka, IN  46545

Randy Przybysz, Executive Director
St. Joseph County Solid Waste Management District
929 Lincolnway East, Suite #100
South Bend, IN  46601
Annual Report of the St. Joseph County Redevelopment Commission
For Fiscal Year Ending December 31, 2019

Dated:
April 15, 2020

Prepared by:
Ginder & Company, LLC
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<th>Section</th>
<th>Page</th>
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</thead>
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<td>2019 Qualified and Acting Commissioners and Officers</td>
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<td>Commission Employees</td>
<td>2</td>
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<td>Distributions of Tax Increment in 2019</td>
<td>2</td>
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<td>Commission Outstanding Debt Service</td>
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<td>Commission Fund Balances for 2019</td>
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<td>Accounting of Tax Increment Revenue Granted or Loaned to an Entity</td>
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<td>Summary of Commission Resolutions Approved in 2019</td>
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<td>Schedules of Allocation Areas Individual Components and Assessment Data</td>
<td>5</td>
</tr>
<tr>
<td>Redevelopment Commission Contact Information</td>
<td>5</td>
</tr>
</tbody>
</table>
TRANSMITTAL LETTER

April 15, 2020

Mr. Andrew Kostielney, President
St. Joseph County Board of Commissioners
227 W. Jefferson Boulevard
South Bend, Indiana 46601

Mr. Rafael Morton, President
St. Joseph County Council
227 W. Jefferson Boulevard
South Bend, Indiana 46601

Dear Presidents Kostielney and Morton:

Per Indiana Code ("IC") 36-7-14-13(a), no later than April 15 of each calendar year, the St. Joseph County, Indiana ("County") Redevelopment Commission (the "Commission") shall file with the unit’s executive and fiscal body a report setting out the Commission’s activities during the preceding calendar year. The contents of this report will also be submitted on Gateway per statute, on or before April 15, 2020.

Therefore, enclosed is the Annual Report of the St. Joseph County Redevelopment Commission for Fiscal Year Ending December 31, 2019 as prepared for the Commission. I have reviewed the enclosed Annual Report and find it to be complete and prepared in compliance with IC 36-7-14-13.

You are invited to attend every meeting of the St. Joseph County Redevelopment Commission, but in addition the Commission will be inviting all overlapping taxing units to one specific public meeting later this year to present its plans and budgets for the future.

If you should have any questions or need additional information as it relates to Commission activities during the preceding calendar year, do not hesitate to contact any Commission member.

Very truly yours,

[Signature]

Steve Dalton, Partner
Cender & Company LLC

Enclosure

cc: Members of the St. Joseph County, Indiana Redevelopment Commission
PURPOSE OF THE REPORT

Indiana Code ("IC") 36-7-14-13 (version B effective January 1, 2016) specifies the reporting requirements for redevelopment commissions and requires redevelopment commissions to submit copies of required reports to St. Joseph County, Indiana (the "County") executive and fiscal body as well as file said documents and information with the Indiana Department of Local Government Finance (the "DLGF") in a form required by the DLGF.

Pursuant to IC 36-7-14-13(a), St. Joseph County, Indiana (the "County") Redevelopment Commission (the "Commission") not later than April 15 of each year shall file with the County’s fiscal body (the "County Council") and executive (the County Commissioners) a report setting out its activities during the preceding calendar year (the "Annual Report").

The Annual Report shall include, in accordance with IC 36-7-14-13(b) the following information:

- The names of the then qualified and acting commissioners;
- The names of the officers of the Commission;
- The number of regular employees and their fixed salaries or compensation;
- The amount of the expenditures made during the preceding year and their general purpose;
- An accounting of tax increment revenues expended by any entity receiving the tax increment revenues as a grant or loan from the Commission;
- The amount of funds on hand at the close of the calendar year; and
- Other information necessary to disclose the activities of the Commissioners and the results obtained.

In accordance with IC 36-7-14-13(d), a copy of the annual report will be submitted to the DLGF in an electronic format under IC 5-14-6 titled Electronic Transmission of Reports to the General Assembly, prior to the April 15 deadline.

In accordance with IC 36-7-14-13(e), required data in subsection (a) must also include the following information set forth for each tax increment financing district regarding the previous year:

- Revenues received;
- Expenses paid;
- Fund balances;
- The amount and maturity date for all outstanding obligations;
- The amount paid on outstanding obligations; and
- A list of all the parcels included in each tax increment financing district allocation area and the base assessed value and incremental assessed value for each parcel in the list.

The purpose of this Annual Report of the St. Joseph County Redevelopment Commission for Fiscal Year Ending December 31, 2019 (the "2019 Annual Report") is to meet the statutory disclosure and filing requirements to the fiscal body and executive of the unit, being the County Council and the County Commissioners, all in accordance with IC 36-7-14-13(e).
2019 QUALIFIED AND ACTING COMMISSIONERS AND OFFICERS

Qualifications to be a member of the Commission include, in accordance with IC 36-7-14-7(d):

- Members must be at least 18 years of age; and
- Members must be a resident of the County.

The Commission is comprised of five members who are appointed by the appropriate appointing authorities in accordance with IC 36-7-14-6.1.

The following individuals were qualified, appointed and took an oath of office as Commission members ("Commissioners") for calendar year 2019 and their title, if nominated.

- Jessica Clark – President
- Dennis Jordan – Vice-President
- Velvet Canada – Secretary
- Peter Mullen
- Steve Infalt
- Brian Pawlowski

Furthermore, in accordance with IC 36-7-14-6.1(a) the municipal executive shall also appoint an individual to serve as a nonvoting advisor to the Commission beginning July 1, 2008. Pursuant to Section 6.1(d), the nonvoting member must also be a member of a school board of a school corporation that includes all or part the Redevelopment District, serving for a term of two (2) years or until a successor is appointed and at the pleasure of the appointing authority.

Representing the Penn-Harris Madison School Corporation

Larry Beehler

COMMISSION EMPLOYEES

The Commission had no employees for fiscal year 2019.

DISTRIBUTIONS OF TAX INCREMENT IN 2019

The Office of the St. Joseph County Auditor distributed tax increment to the Commission in Fiscal Year 2019.

<table>
<thead>
<tr>
<th>Allocation Area</th>
<th>(1st Installment)</th>
<th>(2nd Installment)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wyatt EDA #1</td>
<td>20,287.62</td>
<td>19,979.97</td>
<td>40,267.59</td>
</tr>
<tr>
<td>NC EDA #1</td>
<td>1,234,105.78</td>
<td>802,835.58</td>
<td>2,036,941.36</td>
</tr>
<tr>
<td>NC EDA #2</td>
<td>574,423.15</td>
<td>570,712.13</td>
<td>1,145,135.28</td>
</tr>
<tr>
<td>Capital Avenue EDA</td>
<td>455,117.43</td>
<td>443,829.01</td>
<td>898,946.44</td>
</tr>
<tr>
<td>NW Cleveland Rd EDA</td>
<td>173,331.05</td>
<td>173,331.06</td>
<td>346,662.11</td>
</tr>
</tbody>
</table>

**TOTALS**                  | **$2,457,265.03**  | **$2,010,687.75**  | **$4,467,952.78**|

COMMISSION OUTSTANDING DEBT SERVICE

The Commission has pledged distributions of tax increment to the following outstanding debt service for principal and interest on bonds:

### St. Joseph County Redevelopment District Taxable Economic Development Revenue Bonds, Series 2015 (Northwest Cleveland Road Allocation Area)

<table>
<thead>
<tr>
<th>2019 Payments</th>
<th>Principal Amount</th>
<th>Interest Amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 1, 2019</td>
<td>$105,000.00</td>
<td>$46,640.00</td>
<td>$151,640.00</td>
</tr>
<tr>
<td>February 1, 2020</td>
<td>105,000.00</td>
<td>45,075.00</td>
<td>150,075.00</td>
</tr>
<tr>
<td>FY Totals:</td>
<td>$210,000.00</td>
<td>$91,725.00</td>
<td>$301,725.00</td>
</tr>
</tbody>
</table>

**As of February 1, 2020**
- Outstanding Principal Balance Due: $2,900,000.00
- Final Maturity Date: August 1, 2030
- Remaining Bond Life (Years): 10.5
- Remaining Semi-Annual Payments: 21

### St. Joseph County Redevelopment District Special Taxing District Bonds of 2016

<table>
<thead>
<tr>
<th>2019 Payments</th>
<th>Principal Amount</th>
<th>Interest Amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 1, 2019</td>
<td>$0.00</td>
<td>$138,450.00</td>
<td>$138,450.00</td>
</tr>
<tr>
<td>February 1, 2020</td>
<td>490,000.00</td>
<td>138,450.00</td>
<td>628,450.00</td>
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<tr>
<td>FY Totals:</td>
<td>$490,000.00</td>
<td>$276,900.00</td>
<td>$766,900.00</td>
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</table>

**As of February 1, 2020**
- Outstanding Principal Balance Due: $7,675,000.00
- Final Maturity Date: February 1, 2038
- Remaining Bond Life (Years): 18
- Remaining Semi-Annual Payments: 36

### St. Joseph County Redevelopment District Special Taxing District Bonds of 2019

<table>
<thead>
<tr>
<th>2019 Payments</th>
<th>Principal Amount</th>
<th>Interest Amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 1, 2019</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>February 1, 2020</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>FY Totals:</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

**As of February 1, 2020**
- Outstanding Principal Balance Due: $9,375,000.00
- Final Maturity Date: February 1, 2038
- Remaining Bond Life (Years): 18
- Remaining Semi-Annual Payments: 36
COMMISSION FUND BALANCES FOR 2019

The Commission currently utilizes the following funds for the receipt and disbursement of Commission revenues, including tax increment for qualified expenses as approved by the Commission, more specifically:

<table>
<thead>
<tr>
<th>Fund 4300 – Wyatt EDA</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Beginning Balance</strong></td>
<td><strong>Revenue</strong></td>
<td><strong>Disbursements</strong></td>
<td><strong>Ending Balance</strong></td>
</tr>
<tr>
<td><strong>(January 1, 2019)</strong></td>
<td><strong>$ 337,317.93</strong></td>
<td><strong>$ 40,267.59</strong></td>
<td><strong>$ 370,085.52</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund 4301 – NC EDA #2</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Beginning Balance</strong></td>
<td><strong>Revenue</strong></td>
<td><strong>Disbursements</strong></td>
<td><strong>Ending Balance</strong></td>
</tr>
<tr>
<td><strong>(January 1, 2019)</strong></td>
<td><strong>$ 0.00</strong></td>
<td><strong>$ 1,145,135.28</strong></td>
<td><strong>$ 1,033,000.17</strong></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Fund 4302 – NC EDA #1</th>
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</thead>
<tbody>
<tr>
<td><strong>Beginning Balance</strong></td>
<td><strong>Revenue</strong></td>
<td><strong>Disbursements</strong></td>
<td><strong>Ending Balance</strong></td>
</tr>
<tr>
<td><strong>(January 1, 2019)</strong></td>
<td><strong>$ 7,025,196.56</strong></td>
<td><strong>$ 2,058,541.36</strong></td>
<td><strong>$ 5,270,576.37</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund 4303 – Special Taxing District Bond Proceeds</th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Beginning Balance</strong></td>
<td><strong>Revenue</strong></td>
<td><strong>Disbursements</strong></td>
<td><strong>Ending Balance</strong></td>
</tr>
<tr>
<td><strong>(January 1, 2019)</strong></td>
<td><strong>$ 4,773,729.96</strong></td>
<td><strong>$ 0.00</strong></td>
<td><strong>$ 4,152,327.29</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund 4401 – Capital Avenue EDA</th>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Beginning Balance</strong></td>
<td><strong>Revenue</strong></td>
<td><strong>Disbursements</strong></td>
<td><strong>Ending Balance</strong></td>
</tr>
<tr>
<td><strong>(January 1, 2019)</strong></td>
<td><strong>$ 1,167,812.57</strong></td>
<td><strong>$ 898,946.44</strong></td>
<td><strong>$ 1,948,858.55</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund 4402 – NW Cleveland EDA</th>
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<tbody>
<tr>
<td><strong>Beginning Balance</strong></td>
<td><strong>Revenue</strong></td>
<td><strong>Disbursements</strong></td>
<td><strong>Ending Balance</strong></td>
</tr>
<tr>
<td><strong>(January 1, 2019)</strong></td>
<td><strong>$ 146,620.48</strong></td>
<td><strong>$ 346,662.11</strong></td>
<td><strong>$ 193,762.11</strong></td>
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<table>
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<tr>
<th>Fund 4403 – Commission General</th>
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<tbody>
<tr>
<td><strong>Beginning Balance</strong></td>
<td><strong>Revenue</strong></td>
<td><strong>Disbursements</strong></td>
<td><strong>Ending Balance</strong></td>
</tr>
<tr>
<td><strong>(January 1, 2019)</strong></td>
<td><strong>$ 72,526.95</strong></td>
<td><strong>$ 75,459.50</strong></td>
<td><strong>$ 99,387.95</strong></td>
</tr>
</tbody>
</table>

ACCOUNTING OF TAX INCREMENT REVENUE GRANTED OR LOANED TO AN ENTITY
The Commission did not grant or loan tax increment revenue to any entity during Fiscal Year 2019.

SUMMARY OF COMMISSION RESOLUTIONS APPROVED IN 2019
Resolution 2019-02: RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
CONCERNING THE 2019 BUDGET DETERMINATION FOR TAX INCREMENT FOR THE ST. JOSEPH COUNTY
REDEVELOPMENT COMMISSION ALLOCATION AREAS.

Resolution 2019-03: RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
AUTHORIZING THE ISSUANCE OF BONDS FOR THE PURPOSE OF FINANCING A PORTION OF ST. JOSEPH
COUNTY'S SHARE OF THE DOUBLE TRACKING PROJECT AND PAYING COSTS RELATED THERETO

Resolution 2019-04: RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
APPROPRIATING THE PROCEEDS OF BONDS OF THE ST. JOSEPH COUNTY REDEVELOPMENT DISTRICT
FOR THE PURPOSE OF FINANCING A PORTION OF ST. JOSEPH COUNTY'S SHARE OF THE DOUBLE
TRACKING PROJECT

Resolution 2019-05: RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
ACKNOWLEDGING AND RATIFYING ACTION OF THE ST. JOSEPH COUNTY COUNCIL REGARDING THE
APPROVAL OF THE ISSUANCE OF BONDS BY THE ST. JOSEPH COUNTY REDEVELOPMENT DISTRICT AND
TAKING ALL OTHER ACTIONS RELATED THERETO

Resolution 2019-06: A RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
AUTHORIZING THE PURCHASE OF REAL ESTATE [Haynes Parcel (56340 Willow Road)]

Resolution 2019-07: A RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
AUTHORIZING THE PURCHASE OF REAL ESTATE [Neyhart Parcel (56458 Willow Road)]

Resolution 2019-08: A RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
AUTHORIZING THE PURCHASE OF REAL ESTATE [Zarembcka Parcel (31917 State Road 2)]

Resolution 2019-09: RESOLUTION OF THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
(Appropriation Revisions for 2019)

SCHEDULES OF ALLOCATION AREAS INDIVIDUAL COMPONENTS AND ASSESSMENT DATA

The Commission made no changes, additions, or amendments of allocation area parcels in 2019. Parcel data from
the 2018 Annual Report remains the same.

REDEVELOPMENT COMMISSION CONTACT INFORMATION

Upon approval and submission to the County Council of this 2019 Annual Report by the Commission pursuant to
HEA 1116 effective July 1, 2014 and I.C.36-7-14-13(e), the Commission will have copies available online at
https://www.sjcindiana.com/370/Redevelopment-Commission for review or upon request in the Office of the St.
Joseph County, Indiana Economic Development Department located at 227 W. Jefferson Blvd, 11th Floor, South
Bend, Indiana, 46601.

For further information related to this 2019 Annual Report, the public may contact the following County representative
during the regular business hours (8:30 a.m. and 4:30 p.m. - Monday through Friday, except for County designated
holidays):

Name of Representative
Bill Schalliol, Director of Economic Development
St. Joseph County Redevelopment Commission
BSchalliol@sjcindiana.com

Annual Report of the St. Joseph County Redevelopment Commission for Fiscal Year Ending December 31, 2019
St. Joseph County, Indiana Redevelopment Commission
### Wyatt EDA #1 Allocation Area

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**Totals:** $9,851,190 $8,260,066 $5,917,565 $2,342,501

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### New Carlisle EDA Allocation Area #1

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*Prepared by: Company LLC*

Page A-2
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- Total: $62,218,530 $45,711,679 $ - $4,676,158

Prepared by:

Cender & Company
### List of All Individual Components in Each Allocation Area

(Data for January 1, 2018 Pay 2019)

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Prepared by: Cender & Company
## ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
### Annual Report for Fiscal Year Ending December 31, 2019

Per Indiana Code 36-7-14-13

### List of All Individual Components in Each Allocation Area

(Data for January 1, 2019 Pay 2019)

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Prepared by: Candler & Company
### List of All Individual Components in Each Allocation Area
(Effective date January 1, 2018 Pay 2019)

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Prepared by: Cender & Company
### ST. JOSEPH COUNTY
### ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION
### Annual Report of the St. Joseph County Redevelopment Commission
### For Fiscal Year Ending December 31, 2019
### Per Indiana Code 36-1-14-13

#### List of All Individual Components in Each Allocation Area
(Data for January 1, 2018 Pay 2019)

<table>
<thead>
<tr>
<th>Code</th>
<th>Name of Component</th>
<th>Description</th>
<th>Initial Allocation</th>
<th>Remaining Allocation</th>
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### List of All Individual Components in Each Allocation Area
(Data for January 1, 2018 Pay 2019)

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<th>County</th>
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<th>Type Code</th>
<th>Taxpayer Name</th>
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<th>Net Assessed Value</th>
<th>Base Assessed Value</th>
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**NW Cleveland Road EDA #4 Allocation Area**
MEMORANDUM

TO: Redevelopment Commission
FROM: Bill Schalliol, Executive Director of Economic Development
DATE: June 4, 2020
RE: Resolution 2020-04
Transfer of Property from Board of Commissioners to the
St. Joseph County Redevelopment Commission
Inland Parcel (012-1007-006008)

On June 2nd, the Board of Commissioners approved resolution R-C-3-2020 which began the process to transfer the Inland Parcel (012-1007-006008) from the Board of Commissioners to the Redevelopment Commission. The property, which is located at the southwest corner of the intersection of Walnut Road and Edison Road, is located within the New Carlisle Economic Development Area and is on the EDA’s acquisition list. The property was purchased with funds from the Redevelopment Commission in 2019. At the time the parcel was purchased, the Commission was not titling land in its name, but it has been determined that it is proper to title it in the name of the Commission for purchase of land maintenance, land management and other related purposes.

Staff requests approval of this resolution.
RESOLUTION NO. 2020-04

A RESOLUTION BY THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION OFFICIALLY ACCEPTING THE TRANSFER OF REAL PROPERTY

WHEREAS, the Board of Commissioners of St. Joseph County, Indiana (the “Board of Commissioners”) are the owners of real estate located in St. Joseph County, Indiana more specifically described in Exhibits “A” and “B” attached hereto and hereinafter referred to as the “Real Estate”; and

WHEREAS, the Real Estate was acquired upon recommendation of the St. Joseph County Redevelopment Commission (the “Commission”) to further the economic development of St. Joseph County; and

WHEREAS, the Board of Commissioners desire to transfer the Real Estate to the Commission in furtherance of the Commission’s economic development efforts; and

WHEREAS, the Commission desires to accept the Real Estate from the Board of Commissioners in furtherance of the Commission’s economic development efforts; and

WHEREAS, Ind. Code § 36-1-11-8 authorizes the transfer of property between governmental entities upon terms and conditions agreed upon by the entities as evidenced by the adoption of a substantially identical resolution by the governing body of each entity; and

WHEREAS, on June 3, 2020, the Board of Commissioners approved a resolution substantially identical to this Resolution whereby the Board of Commissioners agreed to transfer the Real Estate to the Commission; and

NOW THEREFORE BE IT RESOLVED, by the St. Joseph County Redevelopment Commission as follows:

SECTION 1. The foregoing Recitals are incorporated herein by reference.

SECTION 2. The St. Joseph County Redevelopment Commission hereby accepts the transfer of the Real Estate, as defined herein above, from the Board of Commissioners of St. Joseph County, Indiana.

SECTION 3. The transfer shall be made by the Board of Commissioners of St. Joseph County, Indiana in “as is – where is” condition, without any representations or warranties, express or implied, whatsoever, as to the condition of the Real Estate.

SECTION 4. The St. Joseph County Redevelopment Commission shall take all steps reasonably necessary to affect the transfer of the Real Estate as provided herein.
SECTION 5. The President of the St. Joseph County Redevelopment Commission is hereby authorized to execute any and all documents and to take any and all actions which such person deems necessary or appropriate to complete the transaction contemplated by this Resolution. Any and all documents executed by the same in connection with the actions contemplated herein and any and all actions taken by the same in connection with the transaction contemplated herein are hereby approved.

APPROVED THIS 9TH DAY OF JUNE 2020

THE ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

Brian Pawlowski, President

Dennis Jordan, Vice-President

Jessica Clark, Member

Thomas Gryp, Member

Jason Critchlow, Member
EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 71-01-34-405-029.000-018

LFA PARCEL 1A:
The South 10.00 feet of Lot 4 in the recorded plat of IIN Subdivision Section 1, a subdivision in the Town of New Carlisle, Olive Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #9930882 in the Office of the Recorder of St. Joseph County, Indiana.

For APN/Parcel ID(s): 71-01-34-405-037.000-018

LFA PARCEL 1:
A part of the East Half of Section 36, Township 38 North, Range 1 West, Town of New Carlisle, Olive Township, St. Joseph County Indiana, and more particularly described as follows:

Commencing at the southeast corner of the East Half of said section; thence North 88 degrees 11 minutes 25 seconds West 1572.46 feet (1572.46 feet by Instrument #8930882) along the south line of said East Half to the southwest corner of IIN Subdivision Section 1, the plat of which is recorded in Instrument #8930882; thence North 00 degrees 08 minutes 33 seconds West 40.02 feet along the west line of said subdivision to the north boundary of Edison Road as described in Deed of Dedication, Instrument #9925707, said point being the southwest corner of Lot 4 in said IIN Subdivision and the Point of Beginning of this description; thence North 88 degrees 11 minutes 25 seconds West 1007.33 feet along the north boundary of said Edison Road; thence North 43 degrees 46 minutes 08 seconds West 30.79 feet (distance quoted from Instrument #9925707) along said boundary to the east boundary of Walnut Road as described in said Deed of Dedication; thence North 00 degrees 37 minutes 27 seconds East 28.46 feet along the east boundary of said Walnut Road to a point that is perpendicular to and 90.00 feet from the south line of said East Half Section; thence South 43 degrees 46 minutes 59 seconds East 57.18 feet to a point that is perpendicular to and 50.00 feet from the south line of said East Half Section; thence along a line that is parallel with and 50.00 feet from said south line South 88 degrees 11 minutes 25 seconds East 988.73 feet to the west line of said Lot 4; thence South 00 degrees 08 minutes 33 seconds East 10.01 feet along said west line to the Point of Beginning.

LFA Parcel 4:
The following description is taken verbatim from Instrument #8723122, a Quitclaim to Inland Steel Company from ISC TEK, Inc., as recorded in the office of the St. Joseph County Recorder.
EXHIBIT "A"
Legal Description

"The North One-half of the Northwest Quarter of Section One, Township 37 North, Range One West, Olive Township, St. Joseph County, Indiana, described as follows: Beginning at the northeast corner of the North One-half of the Northwest Quarter of said section, which corner is marked with an iron pipe and is also the centerline intersection of Walnut and Edison Roads; thence South 01°07'51" East 1337.80 feet along the east line and to the southeast corner of said north one-half quarter section, which corner is marked by an iron pipe; thence South 89°52'59" West 2639.72 feet along the south line and to the southwest corner of the said north one-half quarter section, which corner is marked by a corner fence post (railroad tie); thence North 1°21'18" West 1338.01 feet along the west line and to the northwest corner of said north one-half quarter section, which corner is marked with an iron pipe; thence North 89°53'08" East 2644.96 feet along the north line of said north one-half quarter section to the point of beginning.

Said tract of land is subject to the legal County right-of-way for Walnut and Edison Roads.

Said tract of land is subject to the legal drain named Niespodziany Ditch.

The West 28.936 acres of said tract of land is encumbered by a Certified Forest under the rules and regulations of the Department of Conservation, State of Indiana.

Bearings in the above description are based on a bearing assumed East-West for the south line of the East One-half of Section 36, Township 38 North, Range One West."
EXHIBIT "B"

Legal Description

For APN/Parcel ID(s): 71-01-34405-035.000-018

LFA PARCEL 3A:

A part of the Southwest Quarter of Section 31, Township 38 North, Range 1 East, Town of New Carlisle, Olive Township, St. Joseph County Indiana, and more particularly described as follows: Commencing at the southwest corner of said quarter section; thence South 89 degrees 18 minutes 34 seconds East 119.59 feet (distance quoted from Instrument #6930882) along the south line of said quarter section and the south line of IU Subdivision Section 1, a subdivision in the Town of New Carlisle, Olive Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #6930882 in the Office of the Recorder of St. Joseph County, Indiana, to an east line of said subdivision; thence North 00 degrees 39 minutes 44 seconds East 40.00 feet along said east line to the north boundary of Edison Road as described in Deed of Dedication, Instrument #8925705, said point being a southeast corner of Lot 1 in said IU Subdivision and the Point of Beginning of this description; thence North 00 degrees 39 minutes 44 seconds East 10.00 feet along the east line of said Lot 1; thence parallel with and 50.00 feet from the south line of said quarter section South 89 degrees 18 minutes 34 seconds East 1648.81 feet to a northwestern boundary of said Edison Road; thence South 46 degrees 47 minutes 39 seconds West 14.42 feet along said northwestern boundary to the north boundary of said Edison Road; thence North 89 degrees 18 minutes 34 seconds West 1638.41 feet along said north boundary to the Point of Beginning.

For APN/Parcel ID(s): 71-01-34405-031.000-018

LFA PARCEL 3B:

The South 10.00 feet of Lot 1 in the recorded plat of IU Subdivision Section 1, a subdivision in the Town of New Carlisle, Olive Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #6930882 in the Office of the Recorder of St. Joseph County, Indiana;

LFA PARCEL 1B: Vacated R/W adjacent to 71-01-34405-031.000-018

The South 50.00 feet of vacated Larrison Court that falls within the Deed of Dedication for Edison Road and Larrison Court as described in Instrument #8925705, Larrison Court being located in the recorded plat of IU Subdivision Section 1, a subdivision in the Town of New Carlisle, Olive Township, St. Joseph County, Indiana, the plat of which is recorded in
EXHIBIT "B"

Legal Description

Instrument #8930882 in the Office of the Recorder of St. Joseph County, Indiana and being that part of the Southwest Quarter of Section 31, Township 38 North, Range 1 East, Town of New Carlisle, Olive Township, St. Joseph County Indiana, and being more particularly described as follows:

Commencing at the southeast corner of said quarter section; thence North 89 degrees 18 minutes 34 seconds West 712.98 feet (distance quoted from Instrument #1424250) along the south line of said quarter section and the south line of said dedication tract to the southeast corner of said vacated right-of-way for Larrison Court, as vacated by Substitute Ordinance #1297 recorded in Instrument #1424250 in the Office of the Recorder of St. Joseph County, Indiana and the Point of Beginning of this description; thence continuing along said south lines, North 89 degrees 18 minutes 34 seconds West 90.83 feet to the southwest corner of said dedication tract; thence North 01 degrees 47 minutes 39 seconds East 50.01 feet along the west line of said dedication tract; thence parallel with and 50.00 feet from the south line of said quarter section, South 89 degrees 18 minutes 34 seconds East 90.83 feet to the east line of said vacated tract; thence South 01 degrees 47 minutes 39 seconds West 50.01 feet along said east line to the Point of Beginning

LFA PARCEL 38: Vacated R/W adjacent to 71-01-34-405-031.000-018

The South 50.00 feet of vacated Larrison Court that falls within the Deed of Dedication for Edison Road and Larrison Court as described in Instrument #8925705; Larrison Court being located in the recorded plat of IN Subdivision Section 1, a subdivision in the Town of New Carlisle, Olive Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #8930882 in the Office of the Recorder of St. Joseph County, Indiana and being that part of the Southwest Quarter of Section 31, Township 38 North, Range 1 East, Town of New Carlisle, Olive Township, St. Joseph County Indiana, and being more particularly described as follows:

Commencing at the southwest corner of said section; thence South 89 degrees 18 minutes 34 seconds East 1837.72 feet (1837.83 feet by Instrument #8925705) along the south line of said section to the southeast corner of said dedication tract and the Point of Beginning of this description; thence North 89 degrees 18 minutes 34 seconds West 62.20 feet along said south line and the south line of said dedication tract to the west line of said vacated tract, as vacated by Substitute Ordinance #1297 recorded in Instrument #1424250 in the Office of the Recorder of St. Joseph County, Indiana; thence North 01 degrees 47 minutes 39 seconds East 50.01 feet along the west line of said vacated tract; thence parallel with and 50.00 feet from the south line of said section, South 89 degrees 18 minutes 34 seconds East 62.20 feet to the east
EXHIBIT "B"
Legal Description

line of said dedication tract; thence South 01 degrees 47 minutes 39 seconds West 50.01 feet along said east line to the Point of Beginning.
MEMORANDUM

TO: Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 4, 2020

RE: Farm Lease – Inland Parcel
    Kenneth E. Sebasty, Jr.

Attached to this memorandum is a Farm Land Lease for farm rights on the Inland Parcel located at the southwest corner of Walnut Road and Edison Road. Kenneth E. Sebasty, Jr (Tenant) and his family have farmed this parcel for many years while under ownership of Inland Steel and staff requests Commission consideration of a farm lease for the approximately 46.7 acres of farmable ground. The lease term is April 1, 2020 to December 31, 2020 and the rental price would be $50 per acre. The lease may be terminated at any time by mutual agreement of the parties.

Staff requests approval of this resolution.
FARM LAND LEASE

This Farm Land Lease (the “Lease”) is entered into by and between the St. Joseph County Redevelopment Commission, (hereinafter referred to as “Landlord”) and Kenneth E. Sebasty, Sr. and Kenneth E. Sebasty, Jr. (collectively hereinafter referred to as “Tenant”).

WITNESSETH, that in consideration of the rents, mutual agreements and covenants herein contained, Landlord leases to Tenant the following described acreage:

1. Description.

Approximately 46.7 acres, more or less, of farm land located in New Carlisle, Indiana, more particularly described on Exhibits “A” and “B” attached hereto (the “Premises”).

2. Term.

The term of this Lease shall be for one (1) year beginning on 3-1-20 and ending 12-31-20, and upon such date Tenant shall peaceably return possession of such land to Landlord.

3. Rent.

Tenant shall pay to Landlord the total rent payment of $50 per acre to be paid upon execution of this Lease.

4. Terms and Conditions.

It is mutually agreed by the parties as follows:

1. Tenant shall use the Premises, including the improvements and farm buildings therein, only for the purpose of farming in the sowing, cultivating, harvesting of crops or related agricultural activities. The Premises shall not be used for any other purpose.

2. Tenant hereby accepts the Premises in its current, present “as is” condition. Tenant has had the opportunity to inspect the Premises and is aware of the conditions of the same.

3. Tenant shall permit the Landlord to have free access to the Premises for all reasonable purposes, including surveying, soil testing, wildlife management, and for the purpose of reviewing Tenant’s compliance with this Agreement.

4. Tenant shall not assign, sublease, transfer or encumber this Lease or any part thereof, in any manner whatsoever, without the written consent of Landlord. Any
assignment, sublease, transfer, or encumbrance performed without Landlord’s consent shall be void and, at the option of Landlord, shall be grounds for termination of the Lease.

5. At the expiration of this Lease, Tenant shall deliver to Landlord possession of the Premises.

6. Any abandonment by Tenant of the Premises prior to the expiration of the Lease shall be a breach of this Lease. Should tenant abandon the Premises, Landlord may (a) continue the Lease whereby Landlord shall be entitled to enforce all its rights and remedies under the Lease or (b) terminate the Lease and seek any and all damages against Tenant allowed under the Lease and by law, including but not limited to any amounts necessary to compensate Landlord for Tenants’ failure to perform under the Lease.

7. Tenant agrees not to commit waste or damage to the land, buildings, or other improvements thereon and to use due care to prevent others from doing so.

8. Tenant agrees to maintain the Premises, fences, ditches, waterways improvements and buildings in as good condition as they were when delivered. Any improvements made to the land or building must have prior approval of Landlord and will be at the expense of Tenant, including, but not limited to, additions or repairs to existing drain tiles. Any such improvements so made by Tenant shall revert to Landlord without charge thereto at the expiration of the Lease.

9. Any farm buildings available for use of Tenant, under the terms and conditions of this Lease, shall be non-residential buildings only, unless exceptions are indicated.

10. In the event Tenant fails to perform any obligations required under this Lease, Landlord, at its option, may terminate the Lease and take possession of the Premises as allowed by law. Any insolvency of Tenant, including but not limited to the appointment of a receiver, the making of a general assignment for the benefit of creditors, or the adjudication of Tenant as bankrupt shall be an event of default under this Lease. Tenant shall be held responsible for any costs and damages incurred by Landlord with respect to the pursuit of any remedy herein including without limitation, attorneys’ fees and court costs.

11. Tenant shall hold Landlord harmless and defend Landlord from any and all claims, liability, loss, damage, judgments, or expenses as to injury or damages to persons or property arising out of Tenant’s use and occupation of the Premises including Tenant’s farming or related operations of the Premises or in any way arising out of or related to Tenant’s failure to perform any obligation under this Lease.

12. Tenant shall operate and cultivate the Premises in good and husband-like manner; all crops will be harvested as soon possible after maturity; standard fertilization and cultivation of crops will be applied.
13. Landlord retains solely all rights to minerals and natural resources located on the Premises. Tenant shall not cut trees, nor market any timber, sand, or gravel. The sale of any trees, timber, sand, or gravel shall be the sole right of Landlord.

14. Tenant shall and will pay all costs and expenses, including attorney’s fees, incurred by Landlord in connection with any action or litigation necessary for the enforcement of any of the provisions or conditions of this Lease.

15. Tenant agrees that it does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the Premises, by virtue of this Lease or its occupancy or use hereunder, and hereby expressly waives any right thereto. Tenant may not mortgage or otherwise encumber the Premises. Tenant shall keep the Premises free can clear from any and liens and claims for work performed, materials furnished, or operations conducted on the Premises and agrees to defend and indemnify Landlord from any and all claims related thereto.

16. Tenant will compensate Landlord for any and all damage directly or indirectly caused by Tenant’s negligence or that of Tenant’s employees, agents, or invitees.

17. Tenant shall pay for and furnish the seed, fertilizer, soil analysis, labor, materials, and equipment and any other materials required for the farming of the land, and bear and any and all expenses incident to the seeding, planting, cultivation and harvesting of all crops and be responsible for any and all other assessments or taxes levied on the Premises during the course of the Lease. Tenant shall further be responsible to pay for all charges related to the furnishing of water and any other utilities associated with the Premises.

18. The making, execution, and delivery of this agreement by Tenant has not been induced by any representations, statements, warranties, or agreements other than those herein expressed. This agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This instrument may be amended or modified only by written agreement signed by the respective parties.

19. The failure of Tenant to comply with any provision of this Lease shall entitle Landlord to place a lien on the crops raised under this Lease, in accordance with I.C. 32-31-1-19, in addition to all other legal remedies.

20. This Lease may be terminated at any time by mutual agreement of the parties. This Lease may be terminated at any time if Tenant defaults under this Lease by failure to grow crops pursuant to this Lease, by failure to make timely payments pursuant to this Lease, by violation of the uses described in this Lease, by committing damage to the Premises or for any other violation of the terms and conditions of the Lease.
21. The expression of any rights upon default, termination, or breach of this Lease shall not operate as an election of remedies but shall be in addition to all other remedies available at law or in equity.

5. **Insurance.**

Throughout the term of this Lease, Tenant shall, at its sole cost and expense, obtain and keep in full force and effect, worker’s compensation insurance and general liability insurance to protect against any liability for personal injury or property damages resulting from Tenant’s use of or resulting from any accident occurring on or about the Premises. The liability under such insurance policies shall be not less than One Million Dollars ($1,000,000.00) for any one injury and One Million Dollars ($1,000,000.00) for property damage. Tenant shall provide Landlord with Certificates of Insurance evidencing such coverage. Tenant shall name Landlord as an additional insured under the policies.

6. **Indemnification.**

Tenant agrees to indemnify, defend, and hold Landlord harmless from all claims and suits caused by any act or omission of Tenant and/or subcontractors, their respective agents, officers, servants and employees. Such claims and suits include, but are not limited to, the loss of or damage to property, including the loss of use thereof, and injuries to or death of persons, officers, or agents, and/or employees of Tenant or his subcontractors, and from all judgments recovered therefrom, and from expenses in defending said claims or suits, including court costs, attorney’s fees, and other expenses.

7. **Jurisdiction and Governing Law.**

Any litigation or dispute arising from this Lease shall be subject to the exclusive jurisdiction and venue of the state courts of St. Joseph county, Indiana, and shall be interpreted and construed under the laws of the State of Indiana.

8. **Disputes.**

A. Should any disputes arise with respect to this Lease, Landlord and Tenant agree to act immediately to resolve any such disputes. Time is of the essence in the resolution of disputes.

B. Tenant agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Lease that are not affected by the dispute. Should Tenant fail to continue to perform its responsibilities with regard to all non-disputed work without delay, any additional costs incurred by Tenant or Landlord as a result of such failure to proceed shall be borne by Tenant and Tenant shall make no claim against Landlord for such costs. If Tenant and Landlord cannot resolve a dispute within ten (10) working days
following notification in writing by either party of the existence of said dispute then each party shall be entitled to pursue any and all legal remedies available by law.

9. **Notice.**

All notices required to be given under this Lease will be made in writing and will be sent by registered or certified mail to the parties as follows:

**Landlord:**  
St. Joseph County Board of Commissioners  
227 W. Jefferson boulevard  
County-City Building  
South Bend, Indiana 46601

**Tenant:**  
Kenneth E. Sebasty, Sr.  
Kenneth E. Sebasty, Jr.  
27920 US 20  
New Carlisle, IN 46552

10. **Successors and Assigns.**

All agreements, conditions, and undertakings herein contained shall extend to and be binding on the representatives, heirs, executors, administrators, successors and assigns of Tenant as if they were in all cases named.

“**LANDLORD**”

St. Joseph County Redevelopment Commission

By: ________________________________

Its: ________________________________

“**TENANT**”

Kenneth E. Sebasty, Sr.

Kenneth E. Sebasty, Jr.
A tillable portion, calculated to be 46.7 acres, more or less, of the following described parcel that is taken verbatim from Instrument #2019-26246, a Special Warranty Deed to St. Joseph County from Arcelormittal USA LLC as recorded in the Office of the St. Joseph County Recorder and being that part of the land lying within the area depicted on the attached Land Lease Parcel Plat marked Exhibit "B":

“The North One-half of the Northwest Quarter of Section One, Township 37 North, Range One West, Olive Township, St. Joseph County, Indiana, described as follows: Beginning at the northeast corner of the North One-half of the Northwest Quarter of said section, which corner is marked with an iron pipe and is also the centerline intersection of Walnut and Edison Roads; thence South 01°07'51" East 1337.80 feet along the east line and to the southeast corner of said north one-half quarter section, which corner is marked by an iron pipe; thence South 89°52'59" West 2636.72 feet along the south line and to the southwest corner of the said north one-half quarter section, which corner is marked by a corner fence post (railroad tie); thence North 1°21'18" West 1338.01 feet along the west line and to the northwest corner of said north one-half quarter section, which corner is marked with an iron pipe; thence North 89°53'08" East 2644.96 feet along the north line of said north one-half quarter section to the point of beginning and containing 81.141 acres, more or less.

Said tract of land is subject to the legal County right-of-way for Walnut and Edison Roads.

Said tract of land is subject to the legal drain named Niespodziaty Ditch.

The West 28.935 acres of said tract of land is encumbered by a Certified Forest under the rules and regulations of the Department of Conservation, State of Indiana.

Bearings in the above description are based on a bearing assumed East-West for the south line of the East One-half of Section 36, Township 38 North, Range One West."

This description is prepared based on a recorded document for St. Joseph County by Lawson-Fisher Associates P.C. and certified as such by Aaron W. Blank, Indiana Professional Surveyor, License No. 20200020, on this 21st day of April 2020.

Aaron W. Blank
MEMORANDUM

TO: Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 4, 2020

RE: Farm Lease – 31917 State Road 2
Kenneth E. Sebasy, Jr.

Attached to this memorandum is a Farm Land Lease for farm rights on the Commission owned property located at 31917 State Road 2 which is just east of the intersection of Willow Road and State Road 2. Kenneth E. Sebasy, Jr (Tenant) have farmed the adjacent parcel for many years and seeks to keep this farm acreage viable this season and staff requests Commission consideration of a farm lease for the approximately 20.1 acres of farmable ground. The lease term is April 1, 2020 to December 31, 2020 and the rental price would be $50 per acre. The lease may be terminated at any time by mutual agreement of the parties.

Staff requests approval of this resolution.
FARM LAND LEASE

This Farm Land Lease (the “Lease”) is entered into by and between the St. Joseph County Redevelopment Commission, (hereinafter referred to as “Landlord”) and Kenneth E. Sebasty, Sr. and Kenneth E. Sebasty, Jr. (collectively hereinafter referred to as “Tenant”).

WITNESSETH, that in consideration of the rents, mutual agreements and covenants herein contained, Landlord leases to Tenant the following described acreage:

1. **Description.**

   Approximately 20.1 acres, more or less, of farm land located in New Carlisle, Indiana, more particularly described on Exhibit “A” attached hereto (the “Premises”).

2. **Term.**

   The term of this Lease shall be for one (1) year beginning on **4-1-2020** and ending **Dec 31 2020**, and upon such date Tenant shall peaceably return possession of such land to Landlord.

3. **Rent.**

   Tenant shall pay to Landlord the total rent payment of $50 per acre to be paid upon execution of this Lease.

4. **Terms and Conditions.**

   It is mutually agreed by the parties as follows:

   1. Tenant shall use the Premises, including the improvements and farm buildings therein, only for the purpose of farming in the sowing, cultivating, harvesting of crops or related agricultural activities. The Premises shall not be used for any other purpose.

   2. Tenant hereby accepts the Premises in its current, present “as is” condition. Tenant has had the opportunity to inspect the Premises and is aware of the conditions of the same.

   3. Tenant shall permit the Landlord to have free access to the Premises for all reasonable purposes, including surveying, soil testing, wildlife management, and for the purpose of reviewing Tenant’s compliance with this Agreement.

   4. Tenant shall not assign, sublease, transfer or encumber this Lease or any part thereof, in any manner whatsoever, without the written consent of Landlord. Any
assignment, sublease, transfer, or encumbrance performed without Landlord’s consent shall be void and, at the option of Landlord, shall be grounds for termination of the Lease.

5. At the expiration of this Lease, Tenant shall deliver to Landlord possession of the Premises.

6. Any abandonment by Tenant of the Premises prior to the expiration of the Lease shall be a breach of this Lease. Should tenant abandon the Premises, Landlord may (a) continue the Lease whereby Landlord shall be entitled to enforce all its rights and remedies under the Lease or (b) terminate the Lease and seek any and all damages against Tenant allowed under the Lease and by law, including but not limited to any amounts necessary to compensate Landlord for Tenants’ failure to perform under the Lease.

7. Tenant agrees not to commit waste or damage to the land, buildings, or other improvements thereon and to use due care to prevent others from doing so.

8. Tenant agrees to maintain the Premises, fences, ditches, waterways improvements and buildings in as good condition as they were when delivered. Any improvements made to the land or building must have prior approval of Landlord and will be at the expense of Tenant, including, but not limited to, additions or repairs to existing drain tiles. Any such improvements so made by Tenant shall revert to Landlord without charge thereto at the expiration of the Lease.

9. Any farm buildings available for use of Tenant, under the terms and conditions of this Lease, shall be non-residential buildings only, unless exceptions are indicated.

10. In the event Tenant fails to perform any obligations required under this Lease, Landlord, at its option, may terminate the Lease and take possession of the Premises as allowed by law. Any insolvency of Tenant, including but not limited to the appointment of a receiver, the making of a general assignment for the benefit of creditors, or the adjudication of Tenant as bankrupt shall be an event of default under this Lease. Tenant shall be held responsible for any costs and damages incurred by Landlord with respect to the pursuit of any remedy herein including without limitation, attorneys’ fees and court costs.

11. Tenant shall hold Landlord harmless and defend Landlord from any and all claims, liability, loss, damage, judgments, or expenses as to injury or damages to persons or property arising out of Tenant’s use and occupation of the Premises including Tenant’s farming or related operations of the Premises or in any way arising out of or related to Tenant’s failure to perform any obligation under this Lease.

12. Tenant shall operate and cultivate the Premises in good and husband-like manner; all crops will be harvested as soon possible after maturity; standard fertilization and cultivation of crops will be applied.
13. Landlord retains solely all rights to minerals and natural resources located on the Premises. Tenant shall not cut trees, nor market any timber, sand, or gravel. The sale of any trees, timber, sand, or gravel shall be the sole right of Landlord.

14. Tenant shall and will pay all costs and expenses, including attorney’s fees, incurred by Landlord in connection with any action or litigation necessary for the enforcement of any of the provisions or conditions of this Lease.

15. Tenant agrees that it does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the Premises, by virtue of this Lease or its occupancy or use hereunder, and hereby expressly waives any right thereto. Tenant may not mortgage or otherwise encumber the Premises. Tenant shall keep the Premises free can clear from any and liens and claims for work performed, materials furnished, or operations conducted on the Premises and agrees to defend and indemnify Landlord from any and all claims related thereto.

16. Tenant will compensate Landlord for any and all damage directly or indirectly caused by Tenant’s negligence or that of Tenant’s employees, agents, or invitees.

17. Tenant shall pay for and furnish the seed, fertilizer, soil analysis, labor, materials, and equipment and any other materials required for the farming of the land, and bear and any and all expenses incident to the seeding, planting, cultivation and harvesting of all crops and be responsible for any and all other assessments or taxes levied on the Premises during the course of the Lease. Tenant shall further be responsible to pay for all charges related to the furnishing of water and any other utilities associated with the Premises.

18. The making, execution, and delivery of this agreement by Tenant has not been induced by any representations, statements, warranties, or agreements other than those herein expressed. This agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This instrument may be amended or modified only by written agreement signed by the respective parties.

19. The failure of Tenant to comply with any provision of this Lease shall entitle Landlord to place a lien on the crops raised under this Lease, in accordance with I.C. 32-31-1-19, in addition to all other legal remedies.

20. This Lease may be terminated at any time by mutual agreement of the parties. This Lease may be terminated at any time if Tenant defaults under this Lease by failure to grow crops pursuant to this Lease, by failure to make timely payments pursuant to this Lease, by violation of the uses described in this Lease, by committing damage to the Premises or for any other violation of the terms and conditions of the Lease.
21. The expression of any rights upon default, termination, or breach of this Lease shall not operate as an election of remedies but shall be in addition to all other remedies available at law or in equity.

5. **Insurance.**

Throughout the term of this Lease, Tenant shall, at its sole cost and expense, obtain and keep in full force and effect, worker’s compensation insurance and general liability insurance to protect against any liability for personal injury or property damages resulting from Tenant’s use of or resulting from any accident occurring on or about the Premises. The liability under such insurance policies shall be not less than One Million Dollars ($1,000,000.00) for any one injury and One Million Dollars ($1,000,000.00) for property damage. Tenant shall provide Landlord with Certificates of Insurance evidencing such coverage. Tenant shall name Landlord as an additional insured under the policies.

6. **Indemnification.**

Tenant agrees to indemnify, defend, and hold Landlord harmless from all claims and suits caused by any act or omission of Tenant and/or subcontractors, their respective agents, officers, servants and employees. Such claims and suits include, but are not limited to, the loss of or damage to property, including the loss of use thereof, and injuries to or death of persons, officers, or agents, and/or employees of Tenant or his subcontractors, and from all judgments recovered therefrom, and from expenses in defending said claims or suits, including court costs, attorney’s fees, and other expenses.

7. **Jurisdiction and Governing Law.**

Any litigation or dispute arising from this Lease shall be subject to the exclusive jurisdiction and venue of the state courts of St. Joseph county, Indiana, and shall be interpreted and construed under the laws of the State of Indiana.

8. **Disputes.**

A. Should any disputes arise with respect to this Lease, Landlord and Tenant agree to act immediately to resolve any such disputes. Time is of the essence in the resolution of disputes.

B. Tenant agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Lease that are not affected by the dispute. Should Tenant fail to continue to perform its responsibilities with regards to all non-disputed work without delay, any additional costs incurred by Tenant or Landlord as a result of such failure to proceed shall be borne by Tenant and Tenant shall make no claim against Landlord for such costs. If Tenant and Landlord cannot resolve a dispute within ten (10) working days
following notification in writing by either party of the existence of said dispute then each party shall be entitled to pursue any and all legal remedies available by law.

9. **Notice.**

All notices required to be given under this Lease will be made in writing and will be sent by registered or certified mail to the parties as follows:

**Landlord:**  
St. Joseph County Redevelopment Commission  
c/o Bill Schalliol, Executive Director  
227 W. Jefferson boulevard  
County-City Building  
South Bend, Indiana 46601

**Tenant:**  
Kenneth E. Sebasty, Sr.  
Kenneth E. Sebasty, Jr.  
27920 US 20  
New Carlisle, IN 46552

10. **Successors and Assigns.**

All agreements, conditions, and undertakings herein contained shall extend to and be binding on the representatives, heirs, executors, administrators, successors and assigns of Tenant as if they were in all cases named.

"LANDLORD"

St. Joseph County Redevelopment Commission

By:  

Its:  

"TENANT"

[Signature]

Kenneth E. Sebasty, Sr.

[Signature]

Kenneth E. Sebasty, Jr.
EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 71-06-12-100-004,000-017

THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF SECTION TWELVE (12), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE ONE (1) WEST EXCEPTING THEREFROM A LOT OR PARCEL OF LAND CONTAINING SIXTY, (60) ACRES, TAKEN OFF OF AND FROM THE ENTIRE WIDTH OF THE NORTH END THEREOF, AND EXCEPTING FURTHER A LOT OR PARCEL OF LAND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (1/4) OF SAID SECTION 12, THENCE RUNNING NORTH ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF FORTY (40) RODS; THENCE EAST TEN (10) RODS; THENCE SOUTH FORTY (40) RODS TO THE SOUTH LINE OF SAID NORTHWEST QUARTER (1/4) OF SECTION 12; THENCE WEST ON SAID SOUTH LINE TEN (10) RODS TO THE PLACE OF BEGINNING, THE BALANCE REMAINING CONTAINING SEVENTEEN AND ONE HALF (17 1/2) ACRES, MORE OR LESS IN ST. JOSEPH COUNTY, INDIANA.

FURTHER EXCEPTING THEREFROM THE FOLLOWING:

THE PERMANENT EXTINGUISHMENT OF ALL RIGHTS AND EASEMENTS OF INGRESS AND EGRESS TO, FROM AND ACROSS STATE ROAD 2 ALONG THE LINES DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 1 WEST, ST. JOSEPH COUNTY, INDIANA; THENCE NORTH 89 DEGREES 03 MINUTES 30 SECONDS EAST, 165.00 FEET ALONG THE SOUTH LINE OF SAID QUARTER SECTION; THENCE NORTH 0 DEGREES 33 MINUTES 28 SECONDS EAST, 33.37 FEET TO THE NORTH BOUNDARY OF S.R. 2 AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE ALONG THE BOUNDARY OF SAID S.R. 2 EASTERLY, 194.35 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 57,225.78 FEET AND SUBTIENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 89 DEGREES 49 MINUTES 19 SECONDS EAST AND A LENGTH OF 194.35 FEET TO THE TERMINUS.

ALSO, BEGINNING ON SAID BOUNDARY 50.00 FEET EASTERLY ALONG SAID BOUNDARY (ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 57,225.78 FEET AND SUBTIENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 89 DEGREES 56 MINUTES 40 SECONDS EAST AND A LENGTH OF 50.00 FEET) FROM THE EAST END OF THE 194.34 FOOT COURSE DESCRIBED ABOVE; THENCE ALONG SAID BOUNDARY EASTERLY 5.00 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 57,225.78 FEET AND SUBTIENDED BY A LONG CHORD HAVING A BEARING SOUTH 89 DEGREES 58 MINUTES 19 SECONDS EAST AND A LENGTH OF 5.00 FEET TO THE TERMINUS.

ALSO, BEGINNING ON SAID BOUNDARY 40.00 FEET EASTERLY ALONG SAID BOUNDARY (ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 57,225.78 FEET AND SUBTIENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 89 DEGREES 59 MINUTES 40 SECONDS EAST AND A LENGTH OF 40.00 FEET) FROM THE EAST END OF THE 5.00 FOOT COURSE DESCRIBED ABOVE; THENCE ALONG SAID BOUNDARY EASTERLY 823.20 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 57,225.78 FEET AND SUBTIENDED BY A LONG CHORD HAVING A BEARING OF NORTH 89 DEGREES 34 MINUTES 24 SECONDS EAST AND A LENGTH OF 823.20 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 04 SECONDS EAST, 51.54 FEET AND TERMINATING ON THE EAST LINE OF SAID HALF QUARTER SECTION.
MEMORANDUM

TO:        Redevelopment Commission

FROM:      Bill Schalliol, Executive Director of Economic Development

DATE:      June 4, 2020

RE:        Release and Indemnification Agreement – 31991 Edison Road
           John and Jill Stevens

Attached to this memorandum is a Release and Indemnification Agreement for farm rights on the
Commission owned property located at 31991 Edison Road which is west of the intersection of
Walnut Road and Edison Road. John and Jill Stevens have cut and collected the hay that grows in the
field on this property for many years and staff requests Commission consideration of a Release and
Indemnification Agreement for the approximately 6 acres of farmable ground. This agreement may
be terminated at any time by mutual agreement of the parties.

Staff requests approval of this resolution.
Release and Indemnification Agreement

This Release and Indemnification Agreement is entered into by and between the St. Joseph County Redevelopment Commission (the "Commission") and John Stevens and Jill Stevens (the "Stevens") as of the date entered herein below.

Recitals

A. WHEREAS, the Commission is the owner of certain property located at 31991 Edison Road, New Carlisle, Indiana (the "Property");

B. WHEREAS, the Property consists of approximately six acres of farm land in which hay naturally grows;

C. WHEREAS, over the past few years, the Stevens have volunteered to cut and collect the hay growing on the Property and donate a portion of the hay to individuals who need the same at no cost; and

D. WHEREAS, the Stevens wish to continue to cut and collect the hay and the Commission agrees to allow the Stevens to continue to cut and collect the hay so long as the Commission is protected from any liability related to the Stevens entering and using the Property;

NOW, THEREFORE, UPON SUCH RECITALS, which are hereby adopted as representations by the parties and in consideration of the mutual promises and covenants contained herein, it is hereby agreed as follows:

Agreement

1. Access. The Stevens are granted access to the Property for the sole and limited purpose of maintaining and harvesting the hay that grows on the Property. The Stevens have no ownership interest in the hay or any crop growing on the Property. The Stevens agree to access the Property in its "as is" condition and are aware of the conditions of the same. The Commission retains its right to access the Property at any time, without notice. The Stevens shall, at all times, act in a reasonable manner while accessing the Property and shall take care not to cause any damage to the Property. The Commission reserves the right to revoke the Stevens’ access to the Property and may revoke the same at any time and for any reason.

2. Restoration of the Property. In the event that the Property is damaged as a result of the Stevens’ access and/or activities on the Property, the Stevens agree to restore and repair the Property at their sole cost and expense. The Stevens will not make any modifications or improvements to the Property without the prior, written consent of the Commission.

3. Interest in Property. The Stevens agree that they do not and shall not claim, at any time, any interest or estate of any kind or extent whatsoever in the Property or in any hay or crop growing on the Property by virtue of this Agreement or their occupancy or use hereunder.
and hereby expressly waive any right thereto. The Stevens may not mortgage or otherwise encumber the Property. The Stevens shall keep the Property free and clear from any and liens and claims for work performed, materials furnished, or operations conducted on the Property and agree to defend and indemnify the Commission from any and all claims related thereto.

4. **Indemnification.** The Stevens shall protect, indemnify, defend, and hold the Commission and its officers, commissioners, agents, employees, representatives, and affiliates harmless from and against any and all damages, demands, claims, losses, liabilities, injuries, penalties, fines, liens, judgments, suits, actions, investigations, proceedings, costs or expenses whatsoever (including, without limitation, reasonable attorneys’ fees, expert fees, and costs) arising out of or relating, directly or indirectly, to any physical harm, damage, personal injury, death, liability or any and all other injuries caused by or arising out of the Stevens’, or any agents, employees, or invitees of the Stevens, entry on the Property or any of the activities conducted by the Stevens, or any agents, employees, or invitees of the Stevens, while on the Property or in any way associated with their use of the Property whether direct or indirect. The indemnification set forth herein shall survive any termination of this Release and Indemnification Agreement.

5. **Obligation to Defend Claims.** The Stevens, upon request of the Commission, agree to defend, pay, and provide for the reasonable cost of defense, including attorneys fees, for the Commission, its officers, commissioners, officials, agents, and employees, against any and all claims brought or actions filed against the Commission, either as an original or additional defendant, with respect to the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed. The Stevens agree that the Commission may employ or provide attorneys of its own selection to appear and defend any claims or actions on behalf of the Commission at the Stevens’ sole cost and expense.

6. **Insurance.** The Stevens shall, at their own sole cost and expense, obtain and keep in full force and effect, worker’s compensation insurance and general liability insurance to protect against any liability for personal injury or property damages resulting from their use of or resulting from any accident occurring on or about the Property. The liability under such insurance policies shall be not less than ______________ for any one injury and ______________ for property damage. The Stevens shall provide the Commission with Certificates of Insurance evidencing such coverage. The Stevens shall name the Commission as an additional insured under the policies.

7. **Release.** The Stevens hereby release the Commission and its commissioners, officers, directors, employees, managers, and agents from any and all claims, damages, demands, losses, injuries, and liabilities, including but not limited to damage or death to any person, resulting from the Stevens’ use of the Property including whether said damage or injuries are the result of accessing the Property or related to the activities conducted on the Property whether direct or indirect, and whether occurring through negligence, gross negligence, or otherwise.

8. **Disputes.** Any dispute arising from or related to this Release and Indemnification Agreement shall be litigated exclusively in the state courts located in St. Joseph County, Indiana, and both parties to this Agreement hereby consent to the jurisdiction and venue of such courts. If
legal proceedings are commenced to resolve a dispute arising out of or relating to this Agreement, the Commission shall be entitled to recover all costs, legal fees, and expert witness fees as well as any costs of legal fees in connection with any appeals. This agreement shall be governed by Indiana Law.

9. **Assignment.** The Stevens shall not assign or transfer this Agreement without the prior, written consent of the Commission.

10. **Entire Agreement.** The making, execution, and delivery of this Agreement by the Stevens has not been induced by any representations, statements, warranties, or agreements other than those herein expressed. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This instrument may be amended or modified only by written agreement signed by the respective parties.

11. **Successors and Assigns.** All agreements, conditions, and undertakings herein contained shall extend to and be binding on the representatives, heirs, executors, administrators, successors, and assigns of the Stevens as if they were named herein.

The St. Joseph County Redevelopment Commission

Dated: ____________

By: _______________________

Its: _______________________

Dated: **6/14/20**

John Stevens and Jill Stevens

John Stevens

Jill Stevens
CERTIFICATE OF LIABILITY INSURANCE

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

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

PRODUCER
Raymond & Spence Insurance Group, LLC
1212 Lincoln Way
La Porte, IN 46350

CONTACT
Melissa Bennett
PHONE (AIC, No Ext): (219) 344-5160
FAX (AIC, No Ext): (219) 575-7061
E-MAIL ADDRESS: bspence@rsingsg.com

INSURER(S) AFFORDING COVERAGE

INSURED
John & Jill Stevens
29399 US Hwy. 20
New Carlisle, IN 46552

REVISION NUMBER:

COVERAGE EXCLUSIONS / CONDITIONS / LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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<th>ADD'L. SUB.</th>
<th>POLICY NUMBER</th>
<th>LIMIT</th>
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WORKERS COMPENSATION AND EMPLOYERS' LIABILITY

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional insured under Farm policy 400200089 in regards to County Property at 31991 Edison Road, New Carlisle, Indiana: The St. Joseph County Redevelopment Commission
227 W. Jefferson Blvd.
County-City Building 11th Floor
South Bend, IN 46601

CERTIFICATE HOLDER
The St. Joseph County Redevelopment Commission
227 W. Jefferson Blvd.
County-City Building 11th Floor
South Bend, IN 46601

CANCELLATION

AUTHORIZED REPRESENTATIVE
Bill Spence

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MEMORANDUM

TO:       St. Joseph County Redevelopment Commission

FROM:     Bill Schalliol, Executive Director of Economic Development

DATE:     June 4, 2020

RE:       Demolition Services – New Carlisle EDA
           Christopher B. Burke Engineering, LLC

Over the last year, the County (Board of Commissioners and St. Joseph County Redevelopment
Commission) have acquired several properties in the New Carlisle Economic Development Area. A list
of those properties is as follows:

1. 31917 State Road 2 (House)        Group 1
2. 56458 Willow Road (House)         Group 1
3. 56340 Willow Road (House)         Group 1
4. 30233 Edison Road (House)         Group 1
5. 494 E Michigan Street (Trailer Park) Group 2
6. 496 E Michigan Street (House)     Group 2

Attached to this memo is a proposal from Christopher B. Burke Engineering, LLC to prepare
demolition quotes for the properties to clear and remove all structures. The proposal details two
quote packages that will be developed to account for the structures on the six properties. Group 1
properties will be handled as one quote package and Group 2 properties will be handled as a separate
quote package. The proposal also includes environmental review services and construction
observation services for the demolition projects.

It is anticipated that the projects will be quoted in June/July and all work should be completed by
Summer 2020.

The total fee for this scope of work is a not-to-exceed amount of Thirty-Three Thousand Dollars
($33,000.00).

Staff requests approval of this proposal.
ADOPTED and APPROVED at a meeting of the St. Joseph County Redevelopment Commission on ________________, __________ 2020.

ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

__________________________________________
Brian Pawlowski, Member

__________________________________________
Dennis Jordan, Member

__________________________________________
Jessica J. Clark, P.E., Member

__________________________________________
Jason Critchlow, Member

__________________________________________
Thomas Gryp, Member

ADOPTED and APPROVED at a meeting of the St. Joseph County Board of Commissioners on ________________, __________ 2020.

ST. JOSEPH COUNTY BOARD OF COMMISSIONERS

__________________________________________
Andrew T. Kostielney, President

__________________________________________
Deborah A. Fleming, D.M.D., Vice President

__________________________________________
Dave Thomas, Member

ATTEST:

__________________________________________
Michael J. Hamann, County Auditor
April 28, 2020

Bill Schalliol
Department of Infrastructure, Planning & Growth
227 W. Jefferson Blvd., 11th Floor
South Bend, IN 46601

Subject: Demolition of Structures in St. Joseph County Professional Services Proposal

Dear Mr. Schalliol:

Christopher B. Burke Engineering, LLC (Burke) is pleased to provide this proposal for professional engineering services related to the demolition of structures in St. Joseph County, Indiana. The following is our understanding of the assignment, scope of services, schedule and fee in support of the project.

UNDERSTANDING OF THE ASSIGNMENT

The project will include the preparation of quote documents for the demolition of four residential structures identified as 56458 Willow Road, 56340 Willow Road, 31917 State Road 2, and 30233 Edison Road. It will also include the preparation of quote documents for the above-ground demolition of a trailer park and adjacent residential property identified as 494 and 496 East Michigan Street, New Carlisle, Indiana, as well as part-time construction observation services for the demolitions.

SCOPE OF SERVICES

Task 1 – Residential Properties Demolition Quote Documents and Quote Assistance: Burke will prepare final quote documents for the demolition of four residential structures identified as 56458 Willow Road, 56340 Willow Road, 31917 State Road 2, and 30233 Edison Road. The quote documents will be prepared in accordance with County standards and specifications.

The quote documents will include recommendations provided in the Phase I Environmental Report and Asbestos Survey, prepared by Heartland Environmental Associates, Inc. under a separate contract with the County, to address the requirements of the regulatory agencies involved with the demolitions.

We will develop specifications using standard specifications and general conditions provided by the County in addition to Burke’s standard specifications. Applicable conflicts will be brought to your attention for your input.

Burke will provide an opinion of probable cost based on the final quote documents. We will send up to four quote requests with the full quote documents to contractors chosen by the County. We will assist the County in conducting a pre-quote conference, address contractor questions, and prepare and issue addenda. Following the quote opening, we will compile and certify quote tabulation sheets and provide a contract award recommendation to the County. It is assumed that County staff or representatives will coordinate the quote collection and opening, and the preparation of the construction agreement.
Task 2 – Trailer Park and Residential Property Demolition Quote Documents and Quote Assistance: Burke staff will prepare a second set of quote documents for the surface demolition of a trailer park and adjacent residential structure located at 494 and 496 East Michigan Street, New Carlisle, Indiana. The quote documents will be prepared in accordance with County standards and specifications.

The quote documents will include recommendations provided in the Phase I Environmental Report and Asbestos Survey, prepared by Heartland Environmental Associates, Inc. under a separate contract with the County, to address the requirements of the regulatory agencies involved with the demolitions.

We will develop the specifications using standard specifications and general conditions provided by the County in addition to Burke’s standard specifications. Applicable conflicts will be brought to your attention for your input.

Burke will provide an opinion of probable cost based on the final quote documents. We will send up to four quote requests with the full quote documents to contractors chosen by the County. We will assist the County in conducting a pre-quote conference, address contractor questions, and prepare and issue addenda. Following the quote opening, we will compile and certify quote tabulation sheets and provide a contract award recommendation to the County. It is assumed that County staff or representatives will coordinate the quote collection and opening, and the preparation of the construction agreement.

Task 3 – Environmental Services Coordination: Burke staff will coordinate with the environmental subconsultant in order to incorporate the results of the environmental reports into the demolition quote documents.

Task 4 – Construction Observation Services: Burke will provide one part-time construction inspector for an anticipated four-week demolition schedule. The fee for the part-time construction observation services is based on an average of 24 hours per week for on-site inspection and office work. Burke will only invoice for hours spent on the project. Construction observation services include:

Pre-demolition Meeting
- Organize and set agenda for meeting
- Notify representatives of the County, Contractor(s), utilities, and designated affected parties
- Review demolition schedule for compliance with the contract documents
- Develop and distribute meeting minutes and sign-in sheet
- Phone non-attendees and verify pertinent information

Project Filing System
- Develop and maintain an electronic project filing system using Burke forms

Field Reports, Records and Project Management
- Inform Contractor(s) of observed deficiency in Contractor’s work with reasonable promptness
- Complete a daily report for each project
- Submit weekly progress reports to the County

Contractor Application for Payment
- Review pay quantities with Contractor prior to submitting Applications for Payment
- Check Contractor’s Applications for Payment, sign, and transmit payment applications to County
Change Orders

- Implement change order procedures in accordance with the project contract documents. Change orders will be submitted to the County for approval prior to completion of work.

Project Close-Out

- Prepare a pre-final punch list
- Conduct a final project walk-through with the Contractor(s)
- Prepare and transmit a final project punch list for each project
- Verify completion of punch list items
- Determine final quantities and complete daily progressive record
- Assemble final project files and documents
- Obtain final record drawings from Contractor(s)
- Review and approve final applications for payment and prepare final change orders

EXCLUDED SERVICES

Based on information available at this time, and for reasons noted below, Burke does not believe that the services listed below will be required to complete the project. If conditions change and any of the services listed below (or other services not described above) are required, Burke will prepare a contract amendment for the required services. Services not incorporated in this contract include:

1. Utility relocation plans or design services
2. Environmental Investigation – currently covered by a third party under a separate contract with the County
3. Site remediation design related to hazardous materials, soil or groundwater contamination, underground storage tanks, or other environmental hazards
4. Land acquisition services, right-of-way engineering, right-of-way management and supervision, title work, appraisal problem analysis, appraising, review appraising, buying/negotiations, or relocation services.
5. Construction staking for the selected contractor or field staking of easements, right-of-way, or property boundaries
6. Archaeological investigations for the project areas or adjacent areas

SCHEDULE

Services by Burke for this project will be provided according to the following schedule:

- Complete both sets of quote documents within 21 calendar days from notice to proceed and receipt of environmental report
- Construction observation services provided based on demolition contractor(s) schedule. It is anticipated that the two demolition projects will be active and completed within a concurrent four-week time period.

ESTIMATED FEE

We have estimated the total fee for completing this project shall not exceed $33,000. We will bill you monthly, on a time and material basis, for assigned tasks in accordance with our attached standard charges for professional services.
In addition, our contract will be established in accordance with the attached general terms and conditions, which are expressly incorporated into and are an integral part of this contract for professional services. It should be emphasized that any requested additional meetings or additional services that are not included in the preceding fee will be billed at the attached hourly rates.

If this proposal meets with your approval, please sign where indicated and return an executed original to us as our notice to proceed. The executed proposal, along with the estimated fee, and the attached standard charges for professional services and general terms and conditions constitute the whole of our agreement. Any modification to any part of this agreement without prior acknowledgement and consent by Burke will make null and void this agreement. Any time commitment made by Burke as part of the agreement does not begin until Burke has received an executed original.

Burke affirms under penalties for perjury that the Consultant does not knowingly employ an unauthorized alien.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. Please contact me at 317.266.8000 or Michael Carey at the number listed above if you have any questions.

Sincerely,

[Signature]
Jon D. Stolz, PE
Managing Vice President

THIS PROPOSAL, ESTIMATED FEE, STANDARD CHARGES FOR PROFESSIONAL SERVICES AND GENERAL TERMS AND CONDITIONS ARE ACCEPTED BY ST. JOSEPH COUNTY:

Signature: 

Name (Printed): 

Title: 

Date: 

Enclosures: Standard Charges for Professional Services
General Terms and Conditions
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**Direct Costs**
Outside Copies, Blueprints, Messenger, Delivery Services, Mileage .................................. Cost + 12%

*Charges include overhead and profit*

*Christopher B. Burke Engineering, LLC reserves the right to increase these rates and costs by 5% if the contract is executed after December 31, 2020.*
1. **Relationship Between Engineer and Client:** Christopher B. Burke Engineering, LLC (Engineer) shall serve as Client’s professional engineer consultant in those phases of the Project to which this Agreement applies. This relationship is that of a buyer and seller of professional services and as such the Engineer is an independent contractor in the performance of this Agreement and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client. Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Client or Engineer.

Furthermore, causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of substantial completion.

2. **Responsibility of the Engineer:** Engineer will strive to perform services under this Agreement in accordance with generally accepted and currently recognized engineering practices and principles, and 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, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any Agreement between the Client and any other party concerning the Project, the Engineer shall not have control or be in charge of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any architect, engineer, consultant, contractor or subcontractor to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project. Any provision which purports to amend this provision shall be without effect unless it contains a reference that the content of this condition is expressly amended for the purposes described in such amendment and is signed by the Engineer.

3. **Changes:** Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments, and Engineer and Client shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes, if commercially possible.

4. **Suspension of Services:** Client may, at any time, by written order to Engineer (Suspension of Services Order), require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order. Client, however, shall pay all costs incurred by the suspension, including all costs necessary to maintain continuity and for the resumptions of the services upon expiration of the Suspension of Services Order. Engineer will not be obligated to provide the same personnel employed prior to suspension, when the services are resumed, in the event that the period of suspension is greater than thirty (30) days.
5. **Termination:** This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.

6. **Documents Delivered to Client:** Drawings, specifications, reports, and any other Project Documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be delivered to the Client for the use of the Client. Engineer shall have the right to retain originals of all Project Documents and drawings for its files. Furthermore, it is understood and agreed that the Project Documents such as, but not limited to reports, calculations, drawings, and specifications prepared for the Project, whether in hard copy or machine readable form, are instruments of professional service intended for one-time use in the construction of this Project. These Project Documents are and shall remain the property of the Engineer. The Client may retain copies, including copies stored on magnetic tape or disk, for information and reference in connection with the occupancy and use of the Project.

When and if record drawings are to be provided by the Engineer, Client understands that information used in the preparation of record drawings is provided by others and Engineer is not responsible for accuracy, completeness, nor sufficiency of such information. Client also understands that the level of detail illustrated by record drawings will generally be the same as the level of detail illustrated by the design drawing used for project construction. If additional detail is requested by the Client to be included on the record drawings, then the Client understands and agrees that the Engineer will be due additional compensation for additional services.

It is also understood and agreed that because of the possibility that information and data delivered in machine readable form may be altered, whether inadvertently or otherwise, the Engineer reserves the right to retain the original tapes/disks and to remove from copies provided to the Client all identification reflecting the involvement of the Engineer in their preparation. The Engineer also reserves the right to retain hard copy originals of all Project Documentation delivered to the Client in machine readable form, which originals shall be referred to and shall govern in the event of any inconsistency between the two.

The Client understands that the automated conversion of information and data from the system and format used by the Engineer to an alternate system or format cannot be accomplished without the introduction of inexactitudes, anomalies, and errors. In the event Project Documentation provided to the Client in machine readable form is so converted, the Client agrees to assume all risks associated therewith and, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney’s fees, arising therefrom or in connection therewith.

The Client recognizes that changes or modifications to the Engineer’s instruments of professional service introduced by anyone other than the Engineer may result in adverse consequences which the Engineer can neither predict nor control. Therefore, and in consideration of the Engineer’s agreement to deliver its instruments of professional service in machine readable form, the Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney’s fees, arising out of or in any way connected with the modification, misinterpretation, misuse, or reuse by others of the machine readable information and data provided by the Engineer under this Agreement. The foregoing indemnification applies, without limitation, to any use of the Project Documentation on other projects, for additions to this Project, or for completion of this Project by others, excepting only such use as may be authorized, in writing, by the Engineer.
7. **Reuse of Documents:** All Project Documents including but not limited to reports, opinions of probable costs, drawings and specifications furnished by Engineer pursuant to this Agreement are intended for use on the Project only. They cannot be used by Client or others on extensions of the Project or any other project. Any reuse, without specific written verification or adaptation by Engineer, shall be at Client’s sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses including attorney’s fees arising out of or resulting therefrom.

The Engineer shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Engineer’s promotional and professional materials. The Engineer’s materials shall not include the Client’s confidential and proprietary information if the Client has previously advised the Engineer in writing of the specific information considered by the Client to be confidential and proprietary.

8. **Standard of Practice:** The Engineer will strive to conduct services under this agreement 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 as of the date of this Agreement.

9. **Compliance with Laws:** The Engineer will strive to exercise usual and customary professional care in his/her efforts to comply with those laws, codes, ordinance and regulations which are in effect as of the date of this Agreement.

With specific respect to prescribed requirements of the Americans with Disabilities Act of 1990 or certified state or local accessibility regulations (ADA), Client understands ADA is a civil rights legislation and that interpretation of ADA is a legal issue and not a design issue and, accordingly, retention of legal counsel (by Client) for purposes of interpretation is advisable. As such and with respect to ADA, Client agrees to waive any action against Engineer, and to indemnify and defend Engineer against any claim arising from Engineer’s alleged failure to meet ADA requirements prescribed.

Further to the law and code compliance, the Client understands that the Engineer will strive to provide designs in accordance with the prevailing Standards of Practice as previously set forth, but that the Engineer does not warrant that any reviewing agency having jurisdiction will not for its own purposes comment, request changes and/or additions to such designs. In the event such design requests are made by a reviewing agency, but which do not exist in the form of a written regulation, ordinance or other similar document as published by the reviewing agency, then such design changes (at substantial variance from the intended design developed by the Engineer), if effected and incorporated into the project documents by the Engineer, shall be considered as Supplementary Task(s) to the Engineer’s Scope of Service and compensated for accordingly.

10. **Indemnification:** Engineer shall indemnify and hold harmless Client up to the amount of this contract fee (for services) from loss or expense, including reasonable attorney’s fees for claims for personal injury (including death) or property damage to the extent caused by the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer under this Agreement, from loss or expense, including reasonable attorney’s fees, for claims for personal injuries (including death) or property damage arising out of the sole negligent act, error or omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties), which caused the personal injury or property damage.
Engineer shall not be liable for special, incidental or consequential damages, including, but not limited to loss of profits, revenue, use of capital, claims of customers, cost of purchased or replacement power, or for any other loss of any nature, whether based on contract, tort, negligence, strict liability or otherwise, by reasons of the services rendered under this Agreement.

11. **Opinions of Probable Cost**: Since Engineer has no control over the cost of labor, materials or equipment, or over the Contractor(s) method of determining process, or over competitive bidding or market conditions, his/her opinions of probable Project Construction Cost provided for herein are to be made on the basis of his/her experience and qualifications and represent his/her judgment as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposal, bids or the Construction Cost will not vary from opinions of probable construction cost prepared by him/her. If prior to the Bidding or Negotiating Phase, Client wishes greater accuracy as to the Construction Cost, the Client shall employ an independent cost estimator Consultant for the purpose of obtaining a second construction cost opinion independent from Engineer.

12. **Governing Law and Dispute Resolutions**: This Agreement shall be governed by and construed in accordance with Articles previously set forth by (Item 9) of this Agreement, together with the laws of the State of Indiana.

Any claim, dispute or other matter in question arising out of or related to this Agreement, which cannot be mutually resolved by the parties of this Agreement, shall be subject to mediation as a condition precedent to arbitration (if arbitration is agreed upon by the parties of this Agreement) or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Engineer's services, the Engineer may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

The Client and Engineer shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Requests for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The parties shall share the mediator’s fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

13. **Successors and Assigns**: The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, provided, however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.

14. **Waiver of Contract Breach**: The waiver of one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for the particular instance.
15. **Entire Understanding of Agreement:** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and the Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.

16. **Amendment:** This Agreement shall not be subject to amendment unless another instrument is duly executed by duly authorized representatives of each of the parties and entitled "Amendment of Agreement."

17. **Severability of Invalid Provisions:** If any provision of the Agreement shall be held to contravene or to be invalid under the laws of any particular state, county or jurisdiction where used, such contravention shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provisions held to be invalid in the particular state, country or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.

18. **Force Majeure:** Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.

19. **Subcontracts:** Engineer may subcontract portions of the work, but each subcontractor must be approved by Client in writing.

20. **Access and Permits:** Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project. Client shall pay costs (including Engineer's employee salaries, overhead and fee) incident to any effort by Engineer toward assisting Client in such access, permits or approvals, if Engineer performs such services.

21. **Designation of Authorized Representative:** Each party (to this Agreement) shall designate one or more persons to act with authority in its behalf in respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the other party.

22. **Notices:** Any notice or designation required to be given to either party hereto shall be in writing, and unless receipt of such notice is expressly required by the terms hereof shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereafter furnish to the other party by written notice as herein provided.

23. **Limit of Liability:** The Client and the Engineer have discussed the risks, rewards, and benefits of the project and the Engineer's total fee for services. In recognition of the relative risks and benefits of the Project to both the Client and the Engineer, the risks have been allocated such that the Client agrees that to the fullest extent permitted by law, the Engineer's total aggregate liability to the Client for any and all injuries, claims, costs, losses, expenses, damages of any nature whatsoever or claim expenses arising out of this Agreement from any cause or causes, including attorney's fees and costs, and expert witness fees and costs, shall not exceed the total Engineer's fee for professional engineering services rendered on this project as made part of this Agreement. Such causes included but are not limited to the Engineer's negligence, errors, omissions, strict liability or breach of contract. It is intended that this
limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

24. **Client's Responsibilities:** The Client agrees to provide full information regarding requirements for and about the Project, including a program which shall set forth the Client's objectives, schedule, constraints, criteria, special equipment, systems and site requirements.

The Client agrees to furnish and pay for all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services which the Client may require to verify the Contractor's Application for Payment or to ascertain how or for what purpose the Contractor has used the money paid by or on behalf of the Client.

The Client agrees to require the Contractor, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Engineer, its consultants, and the employees and agents of any of them from and against any and all claims, suits, demands, liabilities, losses, damages, and costs ("Losses"), including but not limited to costs of defense, arising in whole or in part out of the negligence of the Contractor, its subcontractors, the officers, employees, agents, and subcontractors of any of them, or anyone for whose acts any of them may be liable, regardless of whether or not such Losses are caused in part by a party indemnified hereunder. Specifically excluded from the foregoing are Losses arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, and the giving of or failure to give directions by the Engineer, its consultants, and the agents and employees of any of them, provided such giving or failure to give is the primary cause of Loss. The Client also agrees to require the Contractor to provide to the Engineer the required certificate of insurance.

The Client further agrees to require the Contractor to name the Engineer, its agents and consultants as additional insureds on the Contractor's policy or policies of comprehensive or commercial general liability insurance. Such insurance shall include products and completed operations and contractual liability coverages, shall be primary and noncontributing with any insurance maintained by the Engineer or its agents and consultants, and shall provide that the Engineer be given thirty days, unqualified written notice prior to any cancellation thereof.

In the event the foregoing requirements, or any of them, are not established by the Client and met by the Contractor, the Client agrees to indemnify and hold harmless the Engineer, its employees, agents, and consultants from and against any and all Losses which would have been indemnified and insured against by the Contractor, but were not.

When Contract Documents prepared under the Scope of Services of this contract require insurance(s) to be provided, obtained and/or otherwise maintained by the Contractor, the Client agrees to be wholly responsible for setting forth and all such insurance requirements. Furthermore, any document provided for Client review by the Engineer under this Contract related to such insurance(s) shall be considered as sample insurance requirements and not the recommendation of the Engineer. Client agrees to have their own risk management department review any and all insurance requirements for adequacy and to determine specific types of insurance(s) required for the project. Client further agrees that decisions concerning types and amounts of insurance are specific to the project and shall be the product of the Client. As such, any and all insurance requirements made part of Contract Documents prepared by the Engineer are not to be considered the Engineer's recommendation, and the Client shall make the final decision regarding insurance requirements.

25. **Information Provided by Others:** The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer
shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for the Engineer to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer’s subconsultants harmless from any claim, liability or cost (including reasonable attorneys’ fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.

26. **Payment:** Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. The Client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law, whichever is the lesser) until paid. Client further agrees to pay Engineer’s cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney’s fees, as well as costs attributed to suspension of services accordingly and as follows:

**Collection Costs.** In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys’ fees, court costs and expenses incurred by the Engineer in connection therewith and, in addition, the reasonable value of the Engineer’s time and expenses spent in connection with such collection action, computed at the Engineer’s prevailing fee schedule and expense policies.

**Suspension of Services.** If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days’ notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Client will reimburse Engineer for all associated costs as previously set forth in (Item 4 of) this Agreement.

27. **Indemnity Clause:** When construction observation tasks are part of the service to be performed by the Engineer under this Agreement, the Client will include the following clause in the construction contract documents and the Client agrees not to modify or delete it:

Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees and acknowledges that Engineer shall be considered a third party beneficiary of those contracts into which this clause has been incorporated; and agrees to assume the entire liability for all personal injury claims suffered by its employees, including without limitation, claims asserted by persons allegedly injured on the Project; waives any limitation of liability defense based on the Workers’ Compensation Act, court interpretations of said Act or otherwise; and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend Owner and Engineer and their agents, employees, and consultants (the “Indemnities”) from and against any such loss, expense, damage or injury, including attorneys’ fees and costs that the Indemnitees may sustain as a result of such claims.

28. **Job Site Safety/Supervision and Construction Observation:** The Engineer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences of procedures, or for safety precautions and programs in connection with the Work since they are solely the Contractor’s rights and responsibilities. The Client agrees that the Contractor shall supervise and direct the work efficiently with his/her best skill and attention; and that the Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of
construction and safety at the job site. The Client agrees and warrants that this intent shall be carried out in the Client's contract with the Contractor. The Client further agrees that the Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work; and that the Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the subject site and all other persons who may be affected thereby. The Engineer shall have no authority to stop the work of the Contractor or the work of any subcontractor on the project.

When construction observation services are included in the Scope of Services, the Engineer shall visit the site at intervals appropriate to the stage of the Contractor's operation, or as otherwise agreed to by the Client and the Engineer to: 1) become generally familiar with and to keep the Client informed about the progress and quality of the Work; 2) to strive to bring to the Client's attention defects and deficiencies in the Work and; 3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. If the Client desires more extensive project observation, the Client shall request that such services be provided by the Engineer as Additional and Supplemental Construction Observation Services in accordance with the terms of this Agreement.

The Engineer shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Engineer does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

When municipal review services are included in the Scope of Services, the Engineer (acting on behalf of the municipality), when acting in good faith in the discharge of its duties, shall not thereby render itself liable personally and is, to the maximum extent permitted by law, relieved from all liability for any damage that may accrue to persons or property by reason of any act or omission in the discharge of its duties. Any suit brought against the Engineer which involves the acts or omissions performed by it in the enforcement of any provisions of the Client's rules, regulation and/or ordinance shall be defended by the Client until final termination of the proceedings. The Engineer shall be entitled to all defenses and municipal immunities that are, or would be, available to the Client.

29. **Insurance and Indemnification**: The Engineer and the Client understand and agree that the Client will contractually require the Contractor to defend and indemnify the Engineer and/or any subconsultants from any claims arising from the Work. The Engineer and the Client further understand and agree that the Client will contractually require the Contractor to procure commercial general liability insurance naming the Engineer as an additional named insured with respect to the work. The Contractor shall provide to the Client certificates of insurance evidencing that the contractually required insurance coverage has been procured. However, the Contractor's failure to provide the Client with the requisite certificates of insurance shall not constitute a waiver of this provision by the Engineer.

The Client and Engineer waive all rights against each other and against the Contractor and consultants, agents and employees of each of them for damages to the extent covered by property insurance during construction. The Client and Engineer each shall require similar waivers from the Contractor, consultants, agents and persons or entities awarded separate contracts administered under the Client's own forces.

30. **Hazardous Materials/Pollutants**: Unless otherwise provided by this Agreement, the Engineer and Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal or
disposal of or exposure of persons to hazardous materials/pollutants in any form at the Project site, including but not limited to mold/mildew, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic/hazardous/pollutant type substances.

Furthermore, Client understands that the presence of mold/mildew and the like are results of prolonged or repeated exposure to moisture and the lack of corrective action. Client also understands that corrective action is an operation, maintenance and repair activity for which the Engineer is not responsible.

February 23, 2010-INDIANA
MEMORANDUM

TO: St. Joseph County Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 4, 2020

RE: Request Permission to Rezone Commission Owned Properties
    31917 State Road 2, 56340 Willow Road, and 56458 Willow Road

The Redevelopment Commission purchased three properties generally located on the northeast corner of Willow Road and State Road 2. The properties are located at 31917 State Road 2, 56340 Willow Road, and 56458 Willow Road. At the January RDC meeting, staff obtained Commission approval to study the potential to rezone the properties to an I-Industrial zoning classification in furtherance of the planning objectives for the Indiana Enterprise Center. The properties are presently zoned A – Agriculture and the purpose of zoning the property would be for site certification purposes.

Based upon the fact that several adjacent parcels are presently in process of being considered for rezoning by the Area Plan Commission and the County Council, staff would request that the Commission move forward with filing a rezoning petition for the three subject parcels and grant the Commission President the authority to sign any documentation required for filing rezoning documentation.

Staff respectfully requests approval of this request.
Properties for Rezoning
31917 State Road 2, 56458 Willow Road, 56340 Willow Road
PETITION FOR ZONE MAP AMENDMENT
Unincorporated St. Joseph County

I (we) the undersigned make application to the St. Joseph County Council to amend the zoning ordinance as herein requested.

1) The property sought to be rezoned is located at:

   56458 Willow Road, New Carlisle, IN 46552
   31917 State Road 2, New Carlisle, IN 46552
   56340 Willow Road, New Carlisle, IN 46552

2) The property Tax Key Number(s) is/are: Enter property tax key number(s)

   71-06-12-100-003.000-017
   71-06-12-100-004.000-017
   71-06-12-100-002.000-017

3) Legal Description: A part of the West half of the Northwest Quarter of Section 12, Township 37 North, Range 1 West

4) Total Site Area: 21.64± Acres

5) Name and address of property owner(s) of the petition site:

   St. Joseph County Redevelopment Commission
c/o Department of Infrastructure, Planning and Growth
227 West Jefferson Boulevard, 11th Floor
South Bend, IN 46601
574-235-9812
bschalliol@sjcindiana.com

   Name and address of additional property owners, if applicable: None

6) Name and address of contingent purchaser(s), if applicable:

   Name and address of additional property owners, if applicable:

7) It is desired and requested that this property be rezoned:

   From: A AGRICULTURAL DISTRICT
   To: I INDUSTRIAL DISTRICT

8) This rezoning is requested to allow the following use(s): Any permitted primary, special, accessory, or temporary use permitted within I – Industrial Zoning.

9) Provide a brief and descriptive narrative of the proposed project:

   St. Joseph County Redevelopment Commission currently owns all of the property listed within this petition to rezone with the express intent to establish a site that achieves a "Gold" or "Prime" level of readiness for economic development pursuant to the Indiana Site Certified Program through the Indiana Office of Community & Rural Affairs (OCRA). Indiana Site Certified sites are featured on Indiana’s Site Selector Database and will be included in the Indiana Economic Development Corporation’s (IEDC) marketing materials.
IF VARIANCE(S) ARE BEING REQUESTED (if not, please skip to next section):

1) List each variance being requested. Contact Commission Staff if you need assistance.

2) A statement on how each of the following standards for the granting of variances is met:

   (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: Please explain how your variance petition addresses this criteria

   (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: Please explain how your variance petition addresses this criteria

   (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: Please explain how your variance petition addresses this criteria

IF A SPECIAL USE IS BEING REQUESTED, (if not, please skip to next section):

1) The Special Use(s) being requested: Insert text

2) A statement on how each of the following standards for the granting of a Special Use is met:

   (a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: Please explain how your Special Use petition addresses this criteria

   (b) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein: Please explain how your Special Use petition addresses this criteria

   (c) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and: Please explain how your Special Use petition addresses this criteria

   (d) The proposed use is compatible with the recommendations of the Comprehensive Plan. Please explain how your Special Use petition addresses this criteria

* In the case of a Special Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

CONTACT PERSON:

Aaron W. Blank, PS, PE
525 West Washington Street
South Bend, IN 46601
574-234-3167
ablank@lawson-fisher.com

BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA PLAN COMMISSION AND COUNTY COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS THEREON.

Signature(s) of all property owner(s):
All legal descriptions derived from current documents of record as referenced on the Rezoning Site Plan and recorded in the Office of Recorder of St. Joseph County, Indiana.

PARCEL 1

As Described in Commitment Number 791900255 Revision 2, Commitment Date December 10, 2019 – adapted from the public record as parenthetically noted.

(Instrument #2019-32435 in the Office of Recorder of St. Joseph County, Indiana)

A LOT OR PARCEL OF LAND IN THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 1 WEST, BOUNDED BY A LINE RUNNING AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 12; THENCE RUNNING NORTH ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 40 RODS; THENCE EAST 10 RODS; THENCE SOUTH 40 RODS; THENCE WEST 10 RODS TO THE PLACE OF BEGINNING.

LESS AND EXCEPTING RIGHT OF WAY FOR STATE ROUTE 2 AS DESCRIBED IN DEED RECORD BOOK 332, PAGE 523 OF THE ST. JOSEPH COUNTY RECORDS.

SUBJECT TO LIMITED ACCESS RIGHTS FOR STATE ROUTE 2 AS DESCRIBED IN INSTRUMENT NUMBER 7802396 OF THE ST. JOSEPH COUNTY RECORDS.

PARCEL 2

As Described in Commitment Number 791900256 Revision 2, Commitment Date December 13, 2019 – adapted from the public record as parenthetically noted.

(Instrument #2019-32437 in the Office of Recorder of St. Joseph County, Indiana)

THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF SECTION TWELVE (12), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE ONE (1) WEST EXCEPTING THEREFROM A LOT OR PARCEL OF LAND CONTAINING SIXTY, (60) ACRES, TAKEN OFF OF AND FROM THE ENTIRE WIDTH OF THE NORTH END THEREOF, AND EXCEPTING FURTHER A LOT OR PARCEL OF LAND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (1/4) OF SAID SECTION 12; THENCE RUNNING NORTH ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF FORTY (40) RODS; THENCE EAST TEN (10) RODS; THENCE SOUTH FORTY (40) RODS TO THE SOUTH LINE OF SAID
NORTHWEST QUARTER (1/4) OF SECTION 12; THENCE WEST ON SAID SOUTH LINE TEN (10) RODS TO THE PLACE OF BEGINNING.

LESS AND EXCEPTING RIGHT OF WAY FOR STATE ROUTE 2 AS DESCRIBED IN DEED RECORD BOOK 332, PAGE 523 OF THE ST. JOSEPH COUNTY RECORDS.

SUBJECT TO LIMITED ACCESS RIGHTS FOR STATE ROUTE 2 AS DESCRIBED IN INSTRUMENT NUMBER 7806445 OF THE ST. JOSEPH COUNTY RECORDS.

PARCEL 3

As Described in Commitment Number 791900239 Revision 1, Commitment Date December 10, 2019 – adapted from the public record as parenthetically noted.

(Instrument #2019-32420 in the Office of Recorder of St. Joseph County, Indiana)

LOT NUMBERED ONE (1) AS SOWN ON THE RECORDED PLAT OF FRONTCZAK MINOR SUBDIVISION, RECORDED MAY 17, 1991 AS DOCUMENT NUMBER 9112523 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.
REAL ESTATE OPTION AGREEMENT

THIS REAL ESTATE OPTION AGREEMENT (this "Agreement") is entered into and effective as of the last date of execution hereof as evidenced by the last date below the parties' signatures hereto ("Effective Date") by and between Kenneth Sebasty, Sr., Elaine A. Sebasty, and Kenneth E. Sebasty Jr. in such capacities and as to their respective property interests as generally depicted on Exhibit "A-1" (joint tenants with rights of survivorship/tenants in common/etc.) (jointly and severally, "Seller" or "Sellers") and the St. Joseph County Redevelopment Commission and its successors and assigns ("Buyer"). Seller and Buyer are sometimes individually referred to in this Agreement as a "party" or collectively as the "parties."

RECITALS:

A. Seller owns approximately 509 acres of land located in St. Joseph County, Indiana as more particularly described in Exhibit "A-2" attached hereto, together with all easements, rights, and interests appurtenant thereto together with all improvements located thereon (the "Property"); and

B. Seller desires to sell and Buyer desires to have the right and option to purchase the Property from Seller in accordance with the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

1. GRANT OF OPTION. Seller hereby grants to the Buyer the exclusive right and option to purchase fee simple title to the Property, including all rights and interests related thereto subject to the terms and conditions set forth in this Agreement.

2. OPTION CONSIDERATION. As consideration for the grant of this option, Buyer shall pay directly to Seller the sum of Five Thousand and 00/100 Dollars ($5,000.00) (the "Initial Option Payment") within ten (10) business days after the Effective Date. If Buyer fails to either exercise the option (as provided in Section 4) or terminate the option (as provided in Section 10.4), within ninety (90) days after the Effective Date, Buyer shall promptly deposit with the escrow agent ("Escrow Agent") identified in the escrow agreement attached as Exhibit "B" hereto (the "Escrow Agreement") the additional sum of Twenty-Five Thousand and 00/100 Dollars ($25,000.00) (the "Additional Option Payment"). The Initial Option Payment and the Additional Option Payment, if and when paid, shall together be deemed the "Option Payment". In the event Buyer exercises its option, the Option Payment shall be credited against the Purchase Price (defined below) at Closing (hereinafter defined). Each Seller agrees and acknowledges by his/her execution of this Agreement that he/she is agreeing to sell all of his/her respective right, title, and interest in and to the Property and that any payment, disbursement, proceeds, or other monetary sums to be paid or distributed to Seller shall be distributed equally between each Seller unless Buyer and Escrow Agent receive alternate written instructions from Sellers prior to such
disbursement, which instructions must be signed by all Sellers. Each Seller further agrees that notice to Sellers shall be sufficient and deemed delivered to all Sellers if it is delivered to the individual Seller listed in Section 17.

3. OPTION TERM. The option herein granted shall continue in full force and effect for a period commencing on the Effective Date and ending the date that is one (1) year following the Effective Date (the “Option Term”). Buyer shall have the right to extend the Option Term for up to (2) consecutive period(s) of six (6) months each by (a) giving Seller written notice of such extension not less than ten (10) days prior to the end of the Option Term or the first extension term (as applicable), and (b) depositing with Escrow Agent the sum of Fifteen Thousand and $00/100 Dollars ($15,000.00) for each such extension (collectively, the “Extension Fees”), within ten (10) business days after delivering such extension notice. In the event Buyer exercises its option, the Extension Fees shall be credited against the Purchase Price (defined below) at Closing (hereinafter defined); otherwise, the Extension Fees shall be forfeited to Seller or returned to Buyer in the manner provided herein.

4. EXERCISE OF OPTION. Buyer’s option to purchase the Property may be exercised at any time subsequent to the Effective Date until the expiration of the Option Term. Buyer shall exercise the option by delivering written notice thereof to Seller (an “Exercise Notice”). The Exercise Notice shall specify a closing date (“Closing Date”) of no more than thirty (30) days following the date it is given.

5. PURCHASE PRICE. In the event Buyer exercises its option, the purchase price for the Property (the “Purchase Price”) shall be Fifty Five Thousand and $00/100 Dollars ($55,000.00) per acre as determined by Buyer’s Survey (hereinafter defined), provided that the acreage shall exclude all state and local rights-of-way and legal or regulated drains.

6. PURCHASE PRICE HOLD-BACK. At Closing Escrow Agent shall withhold from the proceeds due to the Seller the sum of Two Hundred Seventy Thousand and $00/100 Dollars ($270,000.00) (the “Retention”) as security for Seller’s performance of its obligations in Section 13.1. The Retention shall be held in escrow by the Escrow Agent and shall be paid to Seller provided that Seller fully and timely performs its obligations in Section 13.1. In the event that Seller breaches its obligations under Section 13.1 or otherwise fails to vacate the Property within one hundred twenty (120) days of Closing as required herein, Seller will forfeit all rights to any remaining structures (including the Residences (as hereinafter defined)), equipment, and personal property remaining on the Property; the Retention shall be forfeited and returned, in full, to Buyer; Buyer shall be entitled to its costs to remove and dispose of any remaining structures, equipment, and personal property; and Buyer shall be entitled to all remedies at law or in equity.

7. INFORMATION. Seller shall, within five (5) business days following the Effective Date of this Agreement, provide Buyer with copies of all information in the possession or control of Seller regarding the Property including, but not limited to the following (collectively, the “Property Information”):

(a) surveys, title insurance policies, environmental studies, and zoning reports;
(b) specifications for on-site or off-site improvements;
(c) reports as to utility availability and quality;
(d) geotechnical reports (including, but not limited to, those pertaining to soils, groundwater, surface waters, wells, percolation and drainage);
(e) water permits, certificates, and usage records;
(f) geology and archeology studies;
(g) tax assessment records;
(h) governmental permits and approvals;
(i) applications and stipulations relating to the ownership or use of the Property;
(j) agreements pertaining to the Property that could survive Closing (including, but not limited to, leases and management agreements);
(k) government program contracts;
(l) wetland delineations or reports;
(m) true, correct, and complete copies of any Farm Leases (as defined in Section 11.1(f) and any residential leases referred to in Section 13.4(d) (and to the extent such leases are oral, a written summary of the oral terms); and
(n) any material correspondence, sent or received, pertaining to any matter which would adversely affect the value or utility of the Property to Buyer.

If any such information comes into the possession or control of the Seller prior to Closing, Seller shall promptly provide copies of the information to Buyer.

8. SURVEY. Buyer may, at Buyer’s expense, select a licensed land surveyor to prepare an ALTA/NSPS survey ("Survey") in such detail as Buyer desires. The Survey will determine the legal description and acreage of the Property (including the acreage of any state or local right of way or legal or regulated drains), and such legal description will be used in the deed, and any other applicable documents to be delivered at Closing.

9. TITLE COMMITMENT. Within fifteen (15) days after the Effective Date, Seller shall, at Seller’s expense, cause the Escrow Agent to issue to Buyer a title insurance commitment for an ALTA form of owner’s policy of title insurance, or equivalent, in the amount of the Purchase Price showing fee title to the Property vested in Seller (the “Title Commitment”). The Title Commitment shall be accompanied by legible copies of all special exceptions listed therein.

10. OPTION PERIOD; DUE DILIGENCE.

10.1 Due Diligence and Approvals. From the Effective Date through the earlier of (a) the date the option is exercised as provided in Section 4; (b) the date the option is terminated as provided in (Section 10.4); and (c) the end of the Option Term (including any extensions thereof) (the “Option Period”), Buyer shall have the right to satisfy itself concerning all aspects of the Property, including, without limitation, the physical condition thereof, the availability of any governmental permits and approvals, and the feasibility of using the Property for Buyer’s intended use. During the Option Period, Buyer shall have the right to perform such tests, inspections and feasibility studies on the Property as Buyer may desire, including, without limitation, a Phase I Environmental Site Assessment (“Phase I Assessment”); a Phase II Environmental Site Assessment (“Phase II Assessment”); a geotechnical review and survey through temporary borings and excavated test pits; groundwater testing and sampling; floodplain
and wetlands evaluation; archaeological assessments; and any other inspection activities and investigations on the Property (the "Due Diligence"). Seller hereby grants permission to Buyer, and its employees, agents, contractors, and consultants (collectively, "Inspectors") to enter upon the Property for the purpose of conducting the Due Diligence. To the extent reasonably requested by Buyer, Seller shall assist Buyer and its Inspectors in providing access to Seller’s engineers, contractors, subcontractors, managers, analysts and appraisers in connection with Buyer’s Due Diligence.

10.2 Resolution of Disapproved Matters. If Buyer objects to any matter set forth in the Title Commitment, the Survey, or any other matter identified in the course of its Due Diligence, Buyer may offer Seller the opportunity to correct the same by providing Seller with written notice prior to the end of the Option Period, which notice shall identify the objectionable matter (the "Disapproved Matters") and may further specify the dates and manner by which the objectionable matter must be corrected (an "Objection Notice"). Within fifteen (15) days after receipt of an Objection Notice, ("Seller’s Response Period"), Seller shall notify Buyer in writing of whether, and to the extent, Seller will effect and pay for such corrections (an "Objection Response"). If Seller fails to give its Objection Response within the Seller’s Response Period, Seller will be deemed to have agreed to make such corrections and cure any objections at its cost. Buyer shall have until the latter of, (i) the expiration of the Option Period, and (ii) fifteen (15) days after Seller gives its Objection Response (or after the last day of the Seller’s Response Period if Seller fails to deliver an Objection Response) ("Buyer’s Decision Period"), to evaluate and consider any Objection Response (or lack thereof), and either terminate this Agreement or waive the Disapproved Matters in Buyer’s sole discretion. Prior to the Closing Date, Seller shall correct all items which Seller agreed to undertake (or is deemed to undertake) in its Objection Response, if any. Notwithstanding the foregoing, provided Buyer exercises its option, Seller shall in all cases be obligated to cure at or prior to Closing, any encumbrance against the Property which may be cured by payment of money, such as mortgages, deeds of trust, UCC security agreements, judgment liens, mechanic’s liens and tax liens (excluding liens for taxes not yet due or payable). As used in this Agreement, the term “Permitted Encumbrances” shall collectively mean: (i) the exceptions to title reflected in the Title Commitment to which Buyer has not objected (or having objected thereafter waive or is deemed to waive its objections thereto) pursuant to this Section 10.2; and (ii) any unpaid real estate taxes which Buyer is required to pay under Section 13.3(a) below.

10.3 Ownership/Disclosure of Reports. Seller acknowledges and agrees that the information obtained by Buyer pursuant to Due Diligence may be used and disclosed by Buyer to governmental authorities or other third parties as Buyer proceeds with applications and requests for economic development programs, permits, clearances, or other governmental approvals relating to the Property and Buyer’s intended use of the Property. All reports generated by Buyer or its Inspectors shall remain the sole property of Buyer.

10.4 Termination Right. If in Buyer’s sole and absolute discretion it is determined by Buyer that the Property is not suitable for Buyer’s intended use, for whatever reason, Buyer shall have the absolute right to terminate this Agreement without explanation or justification and without penalty by giving Seller written notice prior to the expiration of the Option Period. This Agreement thereafter shall be null and void, the Option Payment shall be remitted to Seller; and,
except for any provisions which expressly survive termination (collectively, the "Surviving Provisions"); neither party shall have any further obligations hereunder. Nothing in this Section 10.4 shall preclude or waive any right of Buyer to terminate this Agreement to the extent provided elsewhere herein (including without limitation, pursuant to Section 14.1) or its right to the return of the Option Payment or any Extension Fees to the extent provided elsewhere herein.

10.5 Release. Except as otherwise provided herein, Seller releases Buyer from damages to the Property related to Due Diligence activities as described in this Agreement; provided, however, that Buyer shall indemnify, defend and hold harmless Seller from and against any loss or liability resulting from any personal injury or property damage which is the sole result of negligent acts or omissions by Buyer or its Inspectors in connection with Due Diligence. Notwithstanding the foregoing, and for the avoidance of doubt, such indemnification and hold harmless obligation shall not extend to liability or loss associated with, or arising out of, (a) any crop damages on the Property or other sums, damages or obligations under any Farm Lease (except as provided in Section 10.7); (b) Seller’s breach hereof or its negligence or intentional misconduct; or (c) the discovery or disturbance of pre-existing hazardous substances on, or other adverse physical conditions of, the Property.

10.6 Permitting Authorization. By signing this Agreement and the Authorization form attached hereto as Exhibit "C," Buyer is authorized to apply to any governmental authority or negotiate with any governmental authority regarding Buyer’s intended use and development of the Property and any permitting processes needed in Buyer’s sole discretion in connection with Buyer’s intended use and development of the Property. Seller shall cooperate with Buyer in connection with Buyer’s applications for any permits, approvals, applications, or consents which may be a prerequisite or incidental to Buyer’s acquisition of title to the Property, the construction of Buyer’s improvements thereon, and Buyer’s intended use and development of the Property. Seller (as the landowner) agrees to execute any applications, consents, filings, and other documentation and/or join with Buyer in executing such applications, consents, filings and other documentation as is reasonably necessary for such approvals and permits. All costs incurred by Buyer in its efforts to obtain such approvals and permits will be paid by Buyer, except Seller shall pay its own costs incurred in cooperating with Buyer as required by this paragraph. Seller expressly agrees and acknowledges that Buyer is authorized to plat the Property, to file for and obtain a rezoning of the Property, to seek and obtain variances of use or development standards, and to seek and obtain other land use approvals.

10.7 Farm Tenants. Seller shall obtain the written consent of any tenants (including Farm Lease tenants and residential tenants) and farm operators on the Property to the access and investigative rights granted herein to Buyer, and promptly deliver a copy of such consent to Buyer upon receipt. Buyer shall be responsible to pay for all damages to growing crops, if any, caused by it during Due Diligence as follows: (i) at the time of any damage to growing crops due to the activities of Buyer, the area of damage shall be measured and documented by Buyer in consultation with Seller; (ii) at the time the crop is harvested on the Property, the average per acre yield shall be verified by the farm tenant and the yield shall be applied to the total area where crop damage occurred due to the activities of Buyer; and (iii) the commodity per bushel or per unit price at the time of harvest in the county where the Property is located shall control and the farm tenant shall be paid as if the growing crops had not been damaged by the activities of the Buyer. In the
alternative, Buyer and the farm tenant or farm operator, in consultation with Seller, may negotiate the amount of compensation owing at the time the damage to growing crops occurs and the farm tenant or farm operator may be paid at that time instead of at the time of harvest. At the time of payment for damage to growing crops, Seller and the farm tenant or farm operator shall sign a release of Buyer for the damages to growing crops. Seller shall provide the Buyer with advance notice prior to it or any Farm Lease tenant planting crops on the Property during the Option Term and Buyer shall have the right to cause the Property not to be farmed in such case by providing written notice to Seller within thirty (30) days of its receipt of Seller’s notice. If Buyer notifies Seller not to plant pursuant to the terms of this paragraph and Closing does not take place on or before December 31st of such year, due to an event of default by the Buyer then the Buyer shall pay Seller $500 per acre of farm property that was not planted plus the average per acre yield for each acre not planted multiplied by the commodity per bushel or per unit price at the time of harvest in the county where the Property is located. Seller covenants to terminate the Farm Lease(s) prior to Closing, and, subject to Section 13.1, to cause possession thereunder to be delivered to Buyer at Closing free and clear of all claims to possession by the tenants thereunder. Seller further agrees to be responsible for (and reimburse, indemnify, defend, and hold Buyer harmless from) all crop loss, claims, causes of action, costs, damages, costs, and obligations related to the Farm Lease(s).

10.8 Right of First Offer. If in the first three (3) crop years after Closing, Buyer elects to lease any portion of the Property for farming purposes, Buyer agrees to provide Seller written notice of such intent and to provide Seller the first opportunity to lease such portion of the Property for farming purposes. If Buyer and Seller are unable to reach agreement on a form of farming lease within fifteen (15) days of Seller’s receipt of Buyer’s written notice, Buyer shall thereafter be free to negotiate with other parties with regard to such farm lease, and shall have no further liability or obligation under this Section 10.8 and this Section 10.8 shall terminate and be of no further force or effect.

11. REPRESENTATIONS AND WARRANTIES.

11.1 Seller’s Representations and Warranties. Seller represents, warrants, and covenants to Buyer as follows:

(a) Seller’s Ownership. Seller owns fee simple marketable title to the Property and will take and perform those acts which are necessary hereunder in order to fulfill the terms and conditions hereof.

(b) Seller’s Authority. Upon execution of this Agreement by Seller and by Buyer, this Agreement shall be binding and enforceable against Seller in accordance with its terms. The execution, delivery and performance by Seller of the Agreement and the documents to be executed and delivered by Seller at Closing (i) are within Seller’s power and authority; (ii) have been duly authorized by all necessary actions; (iii) require no action by or in respect of or filing with any governmental authorities and no additional consent or authorization by any other person; and (iv) do not conflict with, contravene or constitute a default (with or without notice or the passage of time, or both) under any provision of law applicable to Seller, or any agreement, judgment, injunction, order, decree, indenture, mortgage loan agreement or any other instrument
binding upon Seller or the Property. Sellers have not conveyed any interest in the Property to any spouse, trust, or otherwise.

(c) **Accuracy of Property Information.** To the best of Seller’s knowledge, all of the Property Information Seller has provided, and hereafter provides, to Buyer is complete, true and accurate in all material respects.

(d) **No Litigation.** The Property and Seller are not subject to any claim, demand, suit, filed or unfiled lien, proceeding, arbitration, mediation, government investigation, audit, litigation, or to the best of Seller’s knowledge, threatened litigation, of any kind which could in any way be binding on Buyer upon Closing or limit its full use and enjoyment of the Property or limit the ability of Seller to perform its obligations under this Agreement or create a cloud on title or a lien on the Property before or after Closing.

(e) **Eminent Domain.** To the best of Seller’s knowledge, there is no pending or contemplated eminent domain, condemnation or other governmental taking of the Property, or any portion thereof, nor is there any planned or proposed project or public improvement or street construction which could affect the Property.

(f) **Leases; Governmental Programs.** Except for the farm leases identified on Exhibit “D” (the “Farm Lease(s)”)) and any residential leases identified on Exhibit “D”, the Property is not subject to any written or unwritten leases. There are no governmental programs which could affect Buyer’s use of the Property or trigger any governmental repayment obligations or claw-back activity.

(g) **No Third-Party Rights.** There are no mineral rights, oil or gas leases, licenses, contracts, hunting rights, or easements, other than as set forth in the Title Commitment, which would enable persons or entities other than Buyer to have access to the Property now or in the future, nor are there any contracts, rights of first refusal, options or other obligations for the sale, transfer or exchange to any third party or parties, or for the improvement, alteration, repair or encumbrance of the Property or any portion thereof.

(h) **No Violation of Laws.** To the best of Seller’s knowledge, the Property does not violate any federal, state, or local statute, code, ordinance, or regulation. If during the Option Term, or prior to the Closing Date, Seller obtains knowledge as to any violation, or alleged violation, of any statute, code, ordinance, or regulation with respect to the Property, Seller shall promptly notify Buyer thereof and in no event later than five (5) business days after its receipt of such notice.

(i) **Special Assessments.** To the best of Seller’s knowledge, there are no proposed or pending special assessments, drainage or utility fees, charges, dues or assessments, impact fees, nuisance abatement fees, or other fees or charges, which could be assessed, charged or imposed against the Property or be binding on Buyer after Closing.

(j) **Environmental Matters.** Seller has not caused nor, to the best of Seller’s knowledge, has any other party or prior owner caused, any hazardous substance, waste or material
to be used, generated, stored or disposed of on or transported to or from the Property in violation of any applicable law, nor, to the best of Seller’s knowledge, have any underground storage tanks, petroleum or natural gas pipelines, or transformers existed on the Property. For the purposes of this paragraph, “hazardous substance, waste or material” shall mean all petroleum-based products, radon, asbestos, PCBs and all substances, wastes and materials that are so defined in the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act and the Hazardous Materials Transportation Act or in any similar federal, state or local statute, rule regulation or ordinance. Except for Seller’s breach of the foregoing representation or Seller’s statutory or common law liability, Seller shall not be responsible for the remediation of any environmental conditions found on the Property.

(k) **Wetlands and Endangered Species.** Seller discloses that it believes that regulated wetlands exist on the Property. However, to the best of Seller’s knowledge, no portion of the property lies within the one hundred (100) year floodplain, or includes other environmentally sensitive areas, and that they have fully divulged all information associated with the property that would identify and make known any threatened or endangered species habitat which could prohibit or restrict development.

(l) **Archaeologic Matters.** To the best of Seller’s knowledge, there are no prehistoric sites, or human or animal burial grounds upon or about the Property, nor does any portion of the Property have, or allegedly have, any Native American, archaeological or historic significance.

(m) **Nonforeign Status.** Each Seller warrants that it is not a “foreign person” as defined in Section 1445 of the Internal Revenue Code of 1954, as amended. Each Seller shall deliver to Buyer at closing a Certificate of Nonforeign Status setting forth Seller’s address and United States taxpayer identification number and certifying that it is not a foreign person as so defined.

11.2 **Seller’s Representations and Warranties at Closing.** All of Seller’s representations and warranties in this Agreement shall be deemed given on the date of this Agreement and as of the Closing Date. Such representations and warranties shall be updated in a certificate provided to Buyer at Closing and all representations and warranties shall survive the Closing. Notwithstanding the foregoing, no update shall relieve Seller of any liability for any prior misrepresentation or the breach of any warranty under this Agreement.

12. **CLOSING CONDITIONS.**

12.1 **Buyer’s Conditions Precedent.** Upon exercise of its option, Buyer’s obligation to close the purchase of the Property shall be subject to the satisfaction of all of the following conditions:

(a) **Seller’s Compliance.** Seller’s fulfillment of each of its obligations under this Agreement in all material respects.
(b) **Seller's Representations.** The continuing accuracy of all of Seller's representations and warranties in this Agreement in all material respects.

(c) **Status of Title.** The absence of any monetary lien or other material defect in title to the Property which was not permitted by this Agreement or approved by Buyer.

(d) **Permitted Uses.** The absence of any violation of any applicable statute, law or regulation regarding the physical condition of the Property or Seller's use thereof or of any change in any statute, law, ordinance, or regulation which materially affects the suitability of the Property for Buyer's purposes.

(e) **Hazardous Waste.** The absence of Buyer's discovery of any hazardous material, waste or substance on or about the Property (i) which was not readily discoverable during the course of Buyer's Due Diligence, (ii) which violates any applicable statute, law, ordinance, or regulation.

(f) **Material Condemnation.** The absence of any condemnation or the institution of condemnation proceedings which result in, or are expected to result in, the taking of any of the Property or that materially and adversely affects the suitability of the Property for Buyer's purposes. If at any time during the Option Term, or before the Closing Date, all or any portion of the Property is taken by condemnation or eminent domain, or any such proceeding for condemnation or eminent domain is instituted, Seller shall immediately give written notice thereof to Buyer. If Buyer elects to continue this Agreement, Buyer shall give written notice thereof to Seller within fifteen (15) days after receiving Seller's notice and Buyer and Seller shall proceed with the transaction contemplated herein without abatement or reduction of the Purchase Price on account of such taking or proposed taking, provided Seller shall upon Closing deliver to or credit Buyer with all amounts received by or otherwise payable to or for the benefit of Seller in connection with such condemnation or eminent domain proceeding at or before the Closing Date (without reduction on account of any claims of Seller's lender or any third party) and shall assign to Buyer all of Seller's right, title and interest in any condemnation award payable for the taking of the Property or portion thereof not yet then paid or payable. If Buyer fails to deliver written notice to Buyer within the time period set forth above, or if Buyer delivers notice of its election to terminate this Agreement, the Option Payment and any Extension Fees shall be promptly refunded to Buyer, and this Agreement shall be null and void and, except with respect to the Surviving Provisions, neither party shall have any further obligations hereunder.

(g) **Simultaneous Closing with Other Optioned Properties.** Buyer shall be able to close on its purchase of the contiguous and/or adjacent parcels it has under option described on Exhibit "E" (the "Adjacent Parcels") at a simultaneous closing with the Closing under this Agreement. Seller agrees to cooperate in the coordination of any such simultaneous closing.

(h) **Applicable Laws.** That Buyer has obtained any and all approvals and has otherwise complied with all obligations, procedures and requirements required under applicable law to acquire the Property for the Purchase Price, including without limitation, satisfaction of any preconditions with regard to appraisals, purchase price, and public meetings.
12.2 Failure of Closing Conditions. In the event any one or more of the above conditions is not satisfied as of the Closing Date, or if the Buyer reasonably determines that the same are not capable of being so satisfied by the Closing Date, Buyer may:

(a) waive such condition by so advising Seller in writing, whereupon the parties shall proceed to Closing in accordance with the terms hereof and the Purchase Price shall be adjusted if and to the extent the condition relates to a misrepresentation by Seller to this Agreement and the Buyer incurs or reasonably expects to incur any expense to remedy or satisfy any of such conditions;

(b) extend the Closing Date for up to Thirty (30) days; and, to the extent constituting a misrepresentation or default of the other party, require the other party to satisfy the condition to the extent feasible or otherwise capable of being satisfied by monetary payment; or

(c) elect to cancel this Agreement, whereupon the Option Payment and any Extension Fees shall be immediately paid to Buyer, and except to the extent the parties' remedies are otherwise limited by this Agreement, Seller shall continue to be liable to Buyer hereto for its damages and expenses caused by such failure or inability to close this transaction with all conditions satisfied.

13. Closing.

13.1 Closing Date; Post-Closing Possession. Provided that Buyer has exercised its option, and provided that the conditions precedent to Closing have been met in Buyer's sole and absolute discretion, the consummation of the sale and transfer of the Property ("Closing") shall take place on the Closing Date specified in the Exercise Notice. Buyer may extend the Closing Date one (1) time by up to Thirty (30) days if such extension is necessitated by illness, transportation delays, the unavailability of the Escrow Agent, a delay in scheduling the simultaneous closing on an Adjacent Parcel, or other causes beyond Buyer's reasonable control. Seller shall deliver possession of the Property to Buyer at Closing free and clear of any rights or claims of any other persons for possession, provided that, Seller shall be entitled to non-exclusive license to use the portion of the Property described on Exhibit "F" (the "Operations Area") rent-free for one hundred twenty (120) days after Closing (the "Operations Wind-Down Period"). Seller shall fully vacate the Property prior to Closing (with the exception of the Operations Area and as necessary to access the Pivot Well locations for removal of irrigation equipment which shall in each case be vacated prior to the expiration of the Operations Wind-Down Period). No notice to quit the occupancy of the Operations Area shall be required upon expiration of the Operations Wind-Down Period. The license granted by this Section 13.1 shall be solely limited to (a) winding down its farming operations and removing farming equipment and improvements ("Farm Equipment") on the Operations Area; and (b) removal of the pivot well irrigation Farm Equipment from the "pivot/well" points noted on Exhibit "F". Seller shall pay all expenses arising in connection with Seller's use and occupancy of the Property following Closing for all periods of Seller's occupancy; including, without limitation, all utility fees and charges applicable to the Operations Area. Seller further understands and agrees that Buyer shall have no obligation to maintain, repair, secure, protect, or insure the Operations Area or any Farm Equipment. Seller assumes all risk of loss thereto. Seller, at its sole expense, shall (a) maintain liability insurance on
the Property; and (b) maintain casualty insurance on all of Seller’s personal property and Farm Equipment located thereon; in each case in amounts, with deductibles, and with insurers as are reasonably acceptable to Buyer and which liability policies shall name Buyer as an additional insured and which shall not be cancelable without thirty (30) days advance notice to Buyer. Certificates of insurance shall be provided to Buyer at Closing evidencing that the appropriate coverages are in place. Notwithstanding Seller’s license to use the Operations Area and remove the pivot well irrigation Farm Equipment as contemplated in this Section 13.1, Seller acknowledges and agrees that Buyer may commence construction and development of improvements on any portion of the Property during the Operations Wind-Down Period and any such activity shall not be deemed a nuisance, trespass, a violation of any right or obligation owed by Buyer to Seller, or a breach by Buyer of this Agreement. The terms of this Section 13.1 shall survive Closing, but the rights conveyed herein to Seller are personal to Seller and may not be assigned, sublet or conveyed in any manner whatsoever, without Buyer’s advance written consent which consent may be withheld in Buyer’s sole and absolute discretion. Seller agrees to reimburse, indemnify, defend and hold Buyer, and its officers, employees, agents, successors and assigns harmless from and against any penalty, cause of action, damage, claim, lien (including, without limitation, any mechanic’s lien), liability, obligation, and expense including reasonable attorney’s fees and other costs, interest and expenses incident to any suit, action, investigation or other proceeding that Buyer shall incur, suffer or become involved in (“collectively, “Claims”) which results from, relates to or arises out of Seller’s (or its employees and agents) use, occupancy or occupation of any portion of the Property after Closing and the removal of any Farming Equipment, including without limitation Claims (a) asserted by any third party, (b) imposed upon Buyer by federal, state, or local laws, ordinances, orders or regulations, (c) arising from Seller’s violation of applicable federal, state, or local laws, ordinances, orders or regulations; or (d) arising from or related to any “hazardous substance, waste or material” (as defined herein) or any contamination or release on the Property of any hazardous substance, waste or material.

13.2 Manner and Place of Closing. This transaction will be closed by the Escrow Agent in escrow at its offices at Stewart Title Guaranty Company, 10 S. Riverside Plaza, Suite 1450, Chicago, IL 60606 or at such other place as the parties may mutually agree to in writing. Upon Buyer’s exercise of its option, the Closing shall take place in the manner and in accordance with the provisions set forth in this Agreement.

13.3 Closing Costs.

(a) Real Estate Taxes. Buyer shall assume and pay all special assessments for municipal improvements with respect to the Property which are confirmed of record and become a lien after the Closing and so much of the property taxes assessed for and becoming a lien during the calendar year in which the Closing occurs and which shall be allocable to it on and after the date of Closing. Seller shall pay the balance of such taxes at Closing, including all delinquent or past due taxes. Any taxes not assumed by Buyer and which are not yet due and payable at the Closing shall be allowed to Buyer as a credit against the Purchase Price at Closing, and Seller shall not be liable thereafter for such taxes. If any portion of the Property is not separately assessed, Seller and Buyer shall execute a tax proration agreement as to such parcel(s) at the Closing which shall (i) provide for the timely payment of real estate taxes on the tax parcel(s) which include the Property until such time as the taxes for the Property are separately assessed in the name of and billed separately to Buyer, (ii) provide for reimbursement of Seller by Buyer of Buyer’s equitable
share of taxes for which it is responsible as provided above, and (iii) include such terms and conditions as are reasonably acceptable to the parties. If all or any portion of the Property is specially assessed or taxed due to its use or classification, Seller shall pay and be solely responsible for any deferred tax, roll-back tax, special assessment and related charge, fine, penalty or other amount regardless of the period on or before the Closing Date to which the same relates as if the Property were no longer qualified for such tax treatment ("Tax Recapture Amount") except to the extent Buyer elects in writing to receive a credit against the Purchase Price for the amount of such Tax Recapture Amount.

(b) **Governmental and Utility Charges.** Seller shall pay all governmental and utility charges and fees regarding the Property attributable to the period of time prior to Closing (and as provided in Section 13.1), including but not limited to solid waste pickup and disposal charges or fees, drainage district fees, dues, assessments, water and electricity charges and other similar charges or fees.

(c) **Transfer Tax.** Seller shall pay all transfer and excise taxes, and any other similar tax, charge or fee imposed on a person who transfers real estate in the locality where the Property is located.

(d) **Recording Costs.** Buyer shall be responsible to pay the recording fee for the deed to the Property, and Seller shall be responsible for the cost of recording any affidavits, lien releases, and other documents required to be recorded in order to clear title to the Property.

(e) **Escrow Fees.** Seller and Buyer shall each pay one-half of the escrow and closing fees charged by the Escrow Agent.

(f) **Title Insurance Premium.** Seller shall pay all premiums for Buyer's extended coverage title insurance policy. Except to the extent agreed to be paid by Seller to cure any Disapproved Matter, any portion of the title insurance premium attributed to endorsements shall be paid by Buyer.

(g) **Other Costs.** Except as otherwise provided herein, each party shall be responsible to pay its own legal fees, costs and expenses.

13.4 **Events of Closing.** Upon Buyer’s exercise of its option and subject to the satisfaction of all conditions precedent, the transaction contemplated herein will be closed on the Closing Date as follows:

(a) **Warranty Certificate.** Seller shall provide Buyer with a certificate to the effect that, except as therein identified, there have been no changes in Seller’s representations or warranties.

(b) **Nonforeign Affidavit.** Seller shall provide Buyer with the Certificate of Nonforeign Status as provided in I.R.C. §1445.
(c) **Termination of Farm Leases.** Seller shall provide written evidence of termination of the existing Farm Lease(s) for the Property to Buyer, together with evidence of full and complete delivery of possession by such tenants free and clear of all claims, liens, rights, and obligations arising thereunder, including, without limitation, a release of rights to growing crops on the Property, and/or conveyance of growing crops on the Property.

(d) **Termination of Rental Properties.** Seller shall provide written evidence of termination of any existing residential leases for the Property to Buyer, together with evidence of full and complete delivery of possession by such tenants free and clear of all claims, liens, rights, and obligations arising thereunder. Seller shall be responsible for the termination of all utilities related to any of said rental properties.

(e) **Original Documents.** Seller shall deliver originals of the Property Information to the extent within Seller’s possession or control.

(f) **Calculation of Costs.** Escrow Agent shall calculate the closing costs, and the parties shall be charged and credited accordingly.

(g) **Payment of Purchase Price.** Buyer shall pay the Purchase Price to Seller, as adjusted for the charges and credits set forth in this Agreement.

(h) **Release of Liens.** Any liens to be paid by Seller at Closing and all title exceptions and defects to be removed and cured by Seller shall be paid and satisfied of record at Seller’s expense.

(i) **Deed.** Seller shall deliver to Escrow Agent a duly executed and acknowledged general warranty deed, subject only to the Permitted Encumbrances. The deed shall be in a form customarily used for similar real estate transactions in the state where the Property is located and shall be prepared by Buyer but subject to the review and approval of Seller. In no event shall any of the standard printed exceptions of the title insurer (and any corresponding restatements of such standard exceptions in the itemized list of special exceptions) appear as exceptions in the deed. To the extent the record legal description differs from the surveyed legal description, Seller agrees to provide a quitclaim deed for any record legal description upon Buyer’s request.

(j) **Seller Affidavits.** Seller shall execute and deliver to Escrow Agent a vendor’s affidavit, in a form sufficient to permit Escrow Agent to issue the title insurance policy with extended coverage together with Buyer’s requested endorsements.

(k) **Sales Disclosure Form.** Buyer and Seller shall execute an Indiana Sales Information Disclosure Form (State Form 46021).

(l) **Title Insurance Policy.** The Escrow Agent shall be irrevocably committed to issuing to Buyer an ALTA extended coverage owner’s title insurance policy, or equivalent, in the amount of the Purchase Price, subject only to the Permitted Encumbrances, together with such endorsements as requested by Buyer (the “Title Policy”), and promptly following the Closing, Seller shall cause the Escrow Agent to issue said Title Policy.
(m) **Vacation of Existing Residences.** Seller shall be responsible for all costs associated with the vacation of existing residences and farmsteads (the “Residences”).

(n) **Recording.** The Escrow Agent shall record the deed and any other documents required to be recorded at Closing.

(o) **Assignment.** Option Sellers (as defined in Section 20.1) shall execute and deliver an assignment of the Utility Option referenced in Section 20.1, if applicable.

14. **DEFAULT AND REMEDIES.**

14.1 **Seller Default.** If Seller defaults or fails to perform any of the conditions or obligations of Seller under this Agreement or if any of the representations and warranties of Seller are untrue, then following notice and right to cure as described below, Buyer shall have the right to exercise any and all rights and remedies available at law, in equity and/or by statute, including without limitation the right to bring an action for damages and/or specific performance of this Agreement. Further, if the default is discovered prior to Closing, Buyer may terminate this Agreement in which event the Option Payment and Extension Fees shall be returned to Buyer. The foregoing remedies are in addition to, and not in lieu of, any Seller indemnity provided here or any express remedies provided elsewhere herein, including, without limitation, the remedies provided in Sections 6 and 18.

14.2 **Buyer Default.** If Buyer defaults or fails to perform any of the conditions or obligations of Buyer under this Agreement or if any of the representations and warranties of Buyer are untrue, then following notice and right to cure as described below, Seller shall have the right to declare the Agreement terminated, subject to the Surviving Provisions, and the Option Payment held by the Escrow Agent shall be forfeited and paid to Seller as liquidated damages which shall be Seller’s sole and exclusive remedy at law or in equity against Buyer, and Seller shall have no other claim or recourse against Buyer. The foregoing remedies are in addition to, and not in lieu of, any Buyer indemnity provided here.

14.3 **Notice and Right to Cure.** In the event of any default under this Agreement, the non-defaulting party shall serve written notice on the defaulting party describing the default. The defaulting party shall then have ten (10) calendar days after receipt of the notice to cure the default and failing a timely cure, the non-defaulting party may proceed with the remedies described above.

14.4 **Attorney Fees.** In the event any suit, action, arbitration or mediation is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sums as the court, arbitrator or mediator may adjudge reasonable as costs and expert witness and attorneys’ fees at trial, on any appeal, and on any petition for review or other proceeding (including arbitration or bankruptcy case or proceedings and issues peculiar to bankruptcy), in addition to all other sums provided by law. The term “prevailing party” as used in this Agreement shall mean a party who obtains legal counsel or brings an action against the other by reason of the other’s breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise.
15. **CONDUCT OF BUSINESS.** Prior to Closing or expiration of the option, Seller shall take no steps or actions which it knows would be detrimental to the value or future potential of the Property. Unless expressly agreed in writing by Buyer to survive the Closing Date, provided Buyer has exercised its option to purchase the Property, Seller shall cause all contracts and all rights of third parties thereunder relating to the Property to be lawfully terminated and extinguished in their entirety by not later than the Closing Date. Except as contemplated by this Agreement, Seller agrees not to (a) place any additional consensual liens, consensual encumbrances or easements against the Property; (b) enter into any new lease, agreement of sale, option or any other agreement or contract affecting the Property; or (c) amend or modify any existing easement or encumbrance on the Property following the Effective Date; without in each case Buyer’s advance written consent.

16. **RISK OF LOSS.** Seller shall bear the risk of loss or damage to the Property during the Option Term, and upon Buyer’s exercise of its option, prior to Closing. Seller agrees to maintain any existing liability, property or casualty insurance on the Property in full force and effect during the Option Term, and upon Buyer’s exercise of its option, until Closing (and after Closing as provided in Section 13.1). If any portion of the Property is damaged or destroyed during the Option Term or prior to Closing, and if in Buyer’s sole and absolute discretion the Property is no longer suitable for its intended purpose, Buyer shall have the right and option to either (i) terminate this Agreement without penalty, in which case the Option Payment and Extension Fees shall be returned to Buyer, and Buyer shall have no further obligations under this Agreement, except for the Surviving Provisions, or (ii) receive the insurance proceeds for the damage or loss and proceed to Closing as provided in this Agreement, in which case Seller shall execute such further documents as may be required for Buyer to be entitled to and receive such insurance proceeds.

17. **NOTICES.** All notices permitted or required under this Agreement shall be in writing and shall be (i) personally delivered, (ii) deposited in the United States mail, postage prepaid and sent by certified or registered mail, or (iii) deposited with a recognized overnight courier such as Federal Express, UPS, or Airborne, addressed as follows:

**To Seller:**
Kenneth E. Sebasty, Jr.
27920 US 20
New Carlisle, IN 46552
547-993-4500
kensebastyfarms@gmail.com

**To Buyer:**
St. Joseph County Redevelopment Commission
c/o Bill Schalliol, Executive Director
227 W. Jefferson Boulevard
11th Floor, City-County Building
South Bend, IN 46601
574-235-9812
BSchalliol@sjcindiana.com
With a copy to: Jamie C. Woods
Attorney for St. Joseph County Redevelopment Commission
420 Lincolnway W
Mishawaka, IN 46544
jwoods@tglm.us

Notices that are personally delivered shall be effective and deemed delivered and received when received. Notices that are given by overnight courier shall be effective and deemed delivered and received on the first business day after delivery to the courier in time for delivery the next business day, and otherwise on the next business day thereafter. Notices that are mailed shall be effective and deemed delivered and received on the second business day after being deposited with the U.S. Post Office, as evidenced by the official postmark. Either party may change its address for notices by at least ten (10) days' advance written notice to the other party by one of the methods described above.

18. CONFIDENTIALITY. The parties agree to the maximum extent permitted by applicable law, Seller agrees and covenants that the terms of this Agreement are confidential and shall not be released to or shared with any other person or entity, whether verbally or in writing, without the prior approval of all parties (other than the parties' attorneys, consultants, lenders and advisors who shall also be automatically subject to this confidentiality requirement and shall be so advised prior to furnishing information to them). Seller shall not make any public announcement or carry out any publicity whatsoever in connection with this Agreement unless mutually agreed to in writing by the parties. Furthermore, Seller and anyone receiving information from Seller shall be strictly prohibited from using, appropriating, or releasing any trade secrets or confidential information of Buyer. Notwithstanding any other provision of this Agreement to the contrary, the confidentiality provisions of this paragraph shall survive (a) termination of this Agreement, and (b) the Closing of the transaction described in this Agreement except as to those matters which will appear of public record after the recording of the deed. In the event of a breach of this confidentiality agreement by Seller, Buyer shall have the right to exercise any and all rights and remedies available at law, in equity and/or by statute. In the event of any action or proceeding brought by Buyer against Seller pertaining to or arising out of this confidentiality agreement, Buyer shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred on account of such action or proceeding. Seller acknowledges that Buyer is a governmental body and is not subject to any of the confidentiality limitations provided herein.

19. MISCELLANEOUS.

19.1 Relationship of Parties; No Third-Party Beneficiaries. This Agreement creates only the relationship of optionor and optionee, or if Buyer exercises its option, seller and buyer, and no joint venture, partnership or other joint undertaking is intended hereby, and neither party hereto shall have any rights to make any representations or incur any obligations on behalf of the other. The parties agree that this Agreement involves only the right to acquire real property, that in the event Buyer exercises its option, Buyer shall not acquire any business or ongoing liability of Seller, and except to the extent expressly assumed by Buyer in writing, Buyer shall have no successor liability to any employee, agent, Farm Lease tenant, or other person with whom Seller has contracted or to whom Seller is liable (“Post-Closing Liabilities”). Seller agrees to reimburse,
indemnify, and hold Buyer harmless from any causes of action, expenses, damages, liens, liabilities, claims, fines, and costs (including reasonable attorney's fees) arising from or related to such Post-Closing Liabilities. The provisions of this Agreement shall not be construed as conferring any rights to any third-party. This Section 19.1 shall survive Closing.

19.2 **No Prohibited Persons.** Buyer and Seller each hereby certifies that it is not acting directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated Nation and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and is not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to indemnify, defend, and hold harmless the other party from and against any and all claims, damages, losses, risks, liability and expenses (including attorney’s fees and costs) arising from or related to any breach of the foregoing certification.

19.3 **Successors and Assigns.** Buyer shall have the right to assign this Agreement at its discretion. The assignment shall be effective on the execution of a written instrument signed by Buyer assigning the Agreement and acknowledged by the assignee assuming the obligations under this Agreement ("Assignment Agreement"). The Seller’s prior consent is not required prior to the assignment nor are their signatures required on the Assignment Agreement. Seller may not assign this Agreement without Buyer's written consent. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

19.4 **Further Assurances.** Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

19.5 **Broker Fees.** Buyer represents and warrants that it is not represented by a real estate broker. Seller has retained the services of Tri County Appraisal, LLC, 725 S. Bray Street, New Carlisle, IN 46552, 574-647-3707, shora@tricountyera.com, which is acting under a service contract and not as a broker. Any broker's fees or service contract fees attributable to the sale shall be paid from the Seller's sale proceeds at Closing and Seller shall provide all invoices, lien releases and other documentation at Closing necessary to cause the Escrow Agent to insure over any lien related to said fees. Seller shall indemnify and defend Buyer from and against any claims and liens for a real estate commission, finder's fee or other similar charge or fee made by any person claiming to represent Seller as a real estate broker or agent.

19.6 **Memorandum of Agreement.** Neither party shall record this Agreement; provided, however, Buyer at its cost and at its discretion may prepare and record a Memorandum of Agreement that does not contain any financial or business terms; provided, further in the event Buyer terminates this Agreement, upon Seller's satisfaction of its obligations in connection with such termination, Buyer will promptly record a document evidencing such termination.
19.7 **Time of Essence.** Time is of the essence of each and every provision of this Agreement.

19.8 **Number; Gender; Captions.** Words and phrases contained herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context. The captions and headings of this Agreement are for convenience of reference only and are not to be used to interpret or define the provisions thereof. The obligations of Seller are joint and several.

19.9 **Date for Performance.** The term "day" or "calendar day" used in this Agreement means each day of the calendar year including weekends and legal or bank holidays. The term "business day" used in this Agreement means Monday through Friday of each week excluding legal and bank holidays. If the time period by which any election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, falls on or expires on a Saturday, Sunday, legal or bank holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.

19.10 **Applicable Law.** This Agreement shall be construed, applied and enforced in accordance with the laws of the state in which the Property is located. All sums referred to in this Agreement shall be calculated by and payable in the lawful currency of the United States. Any action on this Agreement shall be brought in the circuit or superior court of St. Joseph County, Indiana or in the United States District Court for the Northern District of Indiana.

19.11 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all negotiations, letters of interest or intent, or discussions relating thereto. This Agreement may not be modified or amended except by a written document signed by the parties.

19.12 **Severability.** If any provision of this Agreement is declared invalid or is unenforceable for any reason, such provision shall be deleted from such document and shall not invalidate any other provision contained in the document.

19.13 **No Waiver.** The failure of either party at any time to require performance of any provision of this Agreement shall not limit the party’s right to enforce such provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

19.14 **Modification.** This Agreement and any of its terms may only be changed, waived, discharged or terminated by a written instrument signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

19.15 **Exchange Cooperation.** Provided Buyer has exercised its option, Seller and Buyer acknowledge that it is possible either party may decide to sell or purchase the Property under the provisions of the Internal Revenue Service Section 1031 ("Tax Deferred Exchange"). If so, Seller and Buyer shall reasonably cooperate in executing any documents required by such a Tax
Deferred Exchange; provided, however, a party shall not be required to incur additional costs or liability, release or forego any right or remedy hereunder, or delay Closing due to the other party's election to conduct a Tax Deferred Exchange.

19.16 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic means by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

20. **ADDITIONAL PROVISIONS.**

20.1 **St. Joseph Phase II, LLC.** Seller discloses that certain of the Sellers have entered into an Option to Purchase Easement for Electric Lines with St. Joseph Phase II, LLC (the "**Option Sellers**"), a true, correct and complete copy of which is attached hereto as **Exhibit "G"** (the "**Utility Option**"). The Option Sellers covenant and warrant that they shall not amend or modify the Utility Option without Buyer's advance written consent which consent may be granted or withheld in Buyer's sole and absolute discretion. The Option Sellers covenant and warrant that they shall provide Buyer written notice in the event St. Joseph Phase II, LLC exercises the Utility Option prior to the Closing Date, and Buyer shall be entitled to participate in any and all negotiations as to the content of the underlying easement and shall be entitled to approve the final easement and any related documentation in Buyer’s sole and absolute discretion. Any Option Fee or Extension Fee (as defined in the Utility Option) received by the Option Sellers prior to Closing shall be the property of the Option Sellers; and should the Utility Option be exercised prior to Closing, any consideration received by the Option Sellers for the actual easement, including the Easement Fee and Surface Damages (as defined in the Utility Option), may be retained by the Option Sellers but shall be a credit to the Purchase Price payable at Closing. The Utility Option, if unfulfilled at Closing, shall be assigned to Buyer at Closing.

*[signatures follow]*
IN WITNESS WHEREOF, Buyer and Seller have caused this Agreement to be entered into effective as of the date of the last signature below.

SELLER:

Kenneth E. Sebasty Sr.

Kenneth Sebasty, Sr.

Date of Execution: 3-11-20

Elaine A. Sebasty

Elaine A. Sebasty,

Date of Execution: 3-11-20

Kenneth E. Sebasty, Jr.

Date of Execution: 3-11-20
BUYER:

St. Joseph County Redevelopment Commission

By: ____________________________
   Brian Pawlowski, President

Date of Execution: _______________
EXHIBIT “A-2”

PROPERTY DESCRIPTION

Option A Sebasty

TITLE PARCEL VII / ALTA PARCEL 4

(Instrument #9832043 in the Office of Recorder of St. Joseph County, Indiana)

SIXTY (60) ACRES OF LAND OFF OF THE NORTH END OF THE WEST HALF (W 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 1 WEST, ST. JOSEPH COUNTY, INDIANA.

LESS AND EXCEPTING, A PARCEL OF LAND LOCATED IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 1 WEST, OLIVE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 12; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST (ASSUMED BEARING) ALONG THE WEST LINE OF SECTION 12 A DISTANCE OF 710.70 FEET (CITED IN PRIOR DEED AS 40 RODS AND CITED IN PRIOR SURVEY AS 709.8 FEET) TO THE POINT OF BEGINNING, THENCE CONTINUING NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 223.00 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 57 SECONDS EAST, 290.00 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, 223.00 FEET; THENCE SOUTH 89 DEGREES 24 MINUTES 57 SECONDS WEST, 290.00 FEET TO THE POINT OF BEGINNING, NOW KNOWN AS LOT NUMBERED ONE (1) AS SHOWN ON THE RECORDED PLAT OF FRONTZAK MINOR SUBDIVISION.

TITLE PARCEL II / ALTA PARCEL 5

(Instrument #8904614 in the Office of Recorder of St. Joseph County, Indiana.) THAT PART OF THE WEST 1/2 OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 1 WEST, OLIVE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS BEGINNING AT A POINT 296.00 FEET SOUTHEASTERLY FROM THE SOUTHWEST CORNER OF SAID SECTION 1; THENCE SOUTH 89 DEGREES 45' EAST, 1015.40 FEET; THENCE NORTH 0 DEGREES 48' WEST, 2103.5 FEET TO AN IRON 44 FEET SOUTH OF THE CENTERLINE OF A DITCH; THENCE SOUTH 78 DEGREES 55' WEST, 670.6 FEET TO A MONUMENT; THENCE SOUTH 69 DEGREES 15' WEST, 382.09 FEET TO A POINT 44 FEET SOUTH OF THE CENTERLINE OF SAID DITCH; THENCE SOUTH 0 DEGREES 48' EAST, 1829.22 FEET TO THE POINT OF BEGINNING.
TITLE PARCEL I TRACT 2 / ALTA PARCEL 6:

(Instrument #1412600 in the Office of Recorder of St. Joseph County, Indiana, described as Parcel III, Tract V.)

FORTY (40) ACRES, BEING THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 1 WEST.

TITLE PARCEL III / ALTA PARCEL 7

(Instrument #8203430 in the Office of Recorder of St. Joseph County, Indiana.)

THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 1 WEST.

ALSO, THE EAST HALF OF THE NORTHEAST QUARTER AND THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 1 WEST.

LESS AND EXCEPTING RIGHT OF WAY FOR STATE ROUTE 2 AS DESCRIED IN DEED RECORD BOOK 339, PAGE 275 OF THE ST. JOSEPH COUNTY RECORDS.

SUBJECT TO LIMITED ACCESS RIGHTS FOR STATE ROUTE 2 DESCRIBED IN AGREED FINDING AND JUDGEMENT, INSTRUMENT NUMBER 8311283 OF THE ST. JOSEPH COUNTY RECORDS.

TITLE PARCEL VI / ALTA PARCEL 8

(Instrument #1412600 in the Office of Recorder of St. Joseph County, Indiana, described as Parcel I.)

THE WEST HALF (1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 1, EXCEPTING THEREFROM A STRIP OF LAND 27 1/2 RODS IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE ENTIRE LENGTH OF THE EAST SIDE THEREOF, IN TOWNSHIP NUMBER 37 NORTH, RANGE NUMBER 1 WEST.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

THE RECORDED PLAT OF WROBLESKI FILLMORE ROAD MINOR SUBDIVISION, RECORDED SEPTEMBER 19, 2013 AS INSTRUMENT NUMBER 1329106 OF THE ST. JOSEPH COUNTY RECORDS.

TITLE PARCEL V / ALTA PARCEL 9
LOT 1 IN THE RECORDED PLAT OF WROBLESKI FILLMORE ROAD MINOR SUBDIVISION, RECORDED SEPTEMBER 19, 2013 AS INSTRUMENT NUMBER 1329106 OF THE ST. JOSEPH COUNTY RECORDS.

SUBJECT TO A LEASE FOR THE LIFE OF THE TENANT AS DESCRIBED IN INSTRUMENT NUMBER 1412601 OF THE ST. JOSEPH COUNTY RECORDS.

TITLE PARCEL IV / ALTA PARCEL 10

TRACT 1:

A STRIP OF LAND 27 1/2 RODS WIDE EAST AND WEST TAKEN OFF OF AND FROM THE ENTIRE LENGTH OF THE EAST SIDE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 1 WEST.

TRACT 2:

THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 1 WEST.
EXHIBIT “B”

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this “Agreement”) is entered into and effective as of the last date of execution hereof (“Effective Date”) by and between by and among Stewart Title Guaranty Company (“Escrow Agent”); Kenneth Sebasty, Sr., Elaine A. Sebasty, and Kenneth E. Sebasty, Jr. (“Seller”); and the St. Joseph County Redevelopment Commission and its successors and assigns (“Buyer”).

RECITALS:

A. Seller and Buyer have entered into a Real Estate Option Agreement dated as of March____, 2020 regarding certain real estate in St. Joseph County, Indiana (the “Option Agreement”), which is hereby incorporated by reference, and made a part hereof.

B. The Option Agreement requires the Buyer to deposit with the Escrow Agent for the benefit of the Seller the Additional Option Payment (as defined in the Option Agreement). Buyer is further allowed to extend the term of the Option Agreement upon the payment to Escrow Agent of Extension Fees (as defined in the Option Agreement) (the Additional Option Payment together with any Extension Fees (as applicable), if and when paid, being deemed the “Option Payment”).

C. Buyer is prepared to deliver the Additional Option Payment to the Escrow Agent subject to the terms and conditions more specifically set forth herein.

NOW, THEREFORE, in consideration of the promises and mutual covenants in this Escrow Agreement and the Option Agreement, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller, Buyer, and the Escrow Agent agree as follows:

1. DEFINITIONS. Capitalized terms used herein, but otherwise undefined, shall have the meaning ascribed to such terms in the Option Agreement.

2. APPOINTMENT AND ACCEPTANCE. Buyer and Seller hereby constitute and appoint the Escrow Agent as, and the Escrow Agent hereby agrees to assume and perform the duties of, the Escrow Agent under and pursuant to the terms of the Option Agreement and this Agreement.

3. RECEIPT OF OPTION PAYMENTS. The Option Payments under the Option Agreement shall be held in escrow by the Escrow Agent pursuant to the terms of the Option Agreement and this Agreement. Buyer will deposit the Option Payments in accordance with the Option Agreement and the wiring instructions set forth in the attached Schedule 1.

4. CONDITIONS REGARDING OPTION PAYMENTS. Except as otherwise provided in the Option Agreement, the Option Payments shall be non-refundable to Buyer, and shall be credited against the Purchase Price at Closing. If Buyer does not exercise its option to
purchase the Property during the Option Term, the Escrow Agent shall deliver the Option Payments to the party entitled to the same in accordance with the terms of the Option Agreement. The Option Payments shall be returned to Buyer, forfeited to Seller, or otherwise paid in strict conformance with the Option Agreement.

5. **DISPUTES.** It is understood and agreed that should any dispute arise with respect to the delivery, ownership, right of possession, and/or disposition of the Option Payments, the Escrow Agent, upon receipt of written notice of such dispute or claim by the Buyer or Seller, is authorized and directed to retain in its possession without liability to anyone, all or any of said Option Payments until such dispute shall have been settled either by the mutual written agreement of the parties involved or by a final judgment of a court of competent jurisdiction. The Escrow Agent may, but shall be under no duty whatsoever to, institute or defend any legal proceedings which relate to the Option Payments or to interplead the Option Payments.

6. **PERFORMANCE BY THE ESCROW AGENT.** Escrow Agent may seek advice from counsel of its choice (including any in-house counsel employed by the Escrow Agent) and may rely upon such advice as it thereupon receives in writing, or it may act or refrain from acting in accordance with its best judgment and shall not, as a result thereof, be liable to any party to this Escrow Agreement except for willful misconduct, gross negligence, willful violation of this Escrow Agreement or willful violation of applicable law.

7. **RESPONSIBILITY OF ESCROW AGENT.** Escrow Agent shall not be responsible or liable to any person, whether or not a party to this Agreement, for any act or omission of any kind so long as it has acted in good faith upon the instructions herein contained or upon the joint written instructions hereafter delivered to it as contemplated by this Agreement, the Option Agreement, or upon advice of counsel. To the extent that the Escrow Agent incurs any loss or liability (including reasonable attorneys' fees and expenses resulting from any such act or omission or arising out of or in connection with this Agreement or administration of its duties hereunder), Buyer and Seller shall reimburse Escrow Agent therefor, unless the loss or liability resulted from the Escrow Agent's willful misconduct, gross negligence, willful violation of this Escrow Agreement or willful violation of applicable law. Notwithstanding the foregoing, Buyer and Seller expressly reserve all of their rights as against each other to seek contribution, reimbursement or any other appropriate relief.

8. **RELIANCE.** The Escrow Agent may rely and act upon any certificate or other document conforming to the applicable provisions hereof and reasonably believed by it to be genuine and to have been signed by the proper party. All persons shall be conclusively bound as against the Escrow Agent by any payment or release of the Option Payments pursuant to, and in conformity with, the terms of this Agreement.

9. **RESIGNATION OF ESCROW AGENT.** The Escrow Agent may at any time resign by giving thirty (30) days written notice of resignation to each of the parties hereto. In such event the parties hereto shall appoint a successor escrow agent to be effective on the effective date of the aforesaid resignation. If no successor escrow agent is named by Buyer and Seller, the Escrow Agent may apply to a court of competent jurisdiction for appointment of a successor escrow agent.
10. ASSIGNMENT. The Escrow Agent shall not be permitted to assign this Agreement or any duties hereunder.

11. DISCHARGE OF ESCROW AGENT. Buyer and Seller may, by mutual written agreement at any time upon thirty (30) days written notice, remove the Escrow Agent as escrow agent hereunder, in which event, upon receipt of written notice thereof and payment of any accrued but unpaid fees or expenses due the Escrow Agent, the Escrow Agent shall account for and deliver to such substituted escrow agent the Option Payments and any amounts held hereunder, and the Escrow Agent shall thereafter be discharged from all liability under this Agreement.

12. NOTICES. All notices or other communications required or permitted hereunder shall be delivered in accordance with Section 17 of the Option Agreement. Notices to Escrow Agent shall be addressed as follows:

   Martha Chaparro  
   Stewart Title Guaranty Company  
   10 S. Riverside Plaza, Suite 1450  
   Chicago, IL 60606  
   (312) 849-4247  
   Martha.Chaparro@stewart.com

13. EXPENSES. Escrow Agent shall be entitled to its reasonable and customary fees for its services hereunder and reimbursement of its reasonable expenses. All charges and expenses of the Escrow Agent under this Agreement shall be equally borne by Buyer and Seller.

14. CONFIDENTIALITY. The Escrow Agent agrees to be fully bound by the confidentiality requirements of Section 18 of the Option Agreement and for the purposes of this Escrow Agreement the term “parties” as used in said Section 18 shall be deemed to include the Escrow Agent. Notwithstanding any other provision of the Escrow Agreement, the confidentiality requirements shall survive expiration or termination of this Escrow Agreement.

15. APPLICABLE LAW. This Agreement shall be governed by and construed as to validity, enforcement, interpretation, construction, effect and in all other respects in accordance with the internal laws (as opposed to the conflicts of law provisions) of the state in which the Property is located.

16. COUNTERPARTS. This Escrow Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Escrow Agreement. The counterparts of this Escrow Agreement may be executed and delivered by facsimile or other electronic means by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

[signatures follow]
IN WITNESS WHEREOF, the Escrow Agent, Seller, and Buyer have caused this Escrow Agreement to be entered into effective as of the date of the last signature below.

ESCROW AGENT:

Stewart Title Guaranty Company

By: ________________________________
Name: ________________________________
Its: ________________________________

Date of Execution: ________________________________
SELLER:

Kenneth Sebasty, Sr.
Date of Execution: 3-11-20

Elaine A. Sebasty
Date of Execution: 3-11-20

Kenneth E. Sebasty, Jr.
Date of Execution: 3-11-20
BUYER:

St. Joseph County Redevelopment Commission

By: ______________________________________
   Brian Pawlowski, President

Date of Execution: _________________________
SCHEDULE 1 to ESCROW AGREEMENT

Wiring Instructions

Account Name and Address: 

Bank Name: 

ABA Routing Number: 

Account Number: 

EXHIBIT "C"

AUTHORIZATION

The following Authorization is hereby given by the undersigned owner of the property described in the attached Exhibit "A" (hereinafter described as the "Property"):

In recognition of the fact that state and local governmental authorities will not consider any applications for governmental approvals, processes, or permits regarding the Property (hereinafter described as "Governmental Approvals") without the authorization of the owner of the Property, the undersigned owner of the Property hereby gives authority to the Buyer, as well as its designees, assigns, delegated entities, and successors in interest, the right and authority to request Governmental Approvals. The undersigned property owner recognizes that such Governmental Approvals may include, but not be limited to, a request to rezone the property from its current classification to an industrial, commercial, or mixed use classification and to amend the governmental comprehensive plan accordingly; a request to enter into a development agreement with governmental authorities; and a request to enter into agreements regarding sewer, water, and utilities.

A facsimile, photocopy, PDF, or other electronic copy of this Authorization shall serve as and be deemed to be the same as an original hard copy of the Authorization.

SELLER:

Kenneth Sebasty, Sr.

Date of Execution: 3-11-20

Elaine A. Sebasty,

Date of Execution: 3-11-20

Kenneth E. Sebasty, Jr.

Date of Execution: 3-11-20

Exhibit C – Page 1 of 3
STATE OF INDIANA )

SS:

COUNTY OF St. Joseph )

Before me, a Notary Public in and for said County and State, personally appeared Kenneth Sebasty, Sr., and having been duly sworn, acknowledged the execution of the foregoing Authorization as his own voluntary act and deed.

Witness my hand and Notarial Seal this 11 day of March, 2020.

Jamie C. Woods
Notary Public - Signature

Jamie C. Woods
Notary Public - Printed

My County of Residence:
St. Joseph

My Commission Expires:
10/21/2026

STATE OF INDIANA )

SS:

COUNTY OF St. Joseph )

Before me, a Notary Public in and for said County and State, personally appeared Elaine A. Sebasty, and having been duly sworn, acknowledged the execution of the foregoing Authorization as her own voluntary act and deed.

Witness my hand and Notarial Seal this 11 day of March, 2020.

Jamie C. Woods
Notary Public - Signature

Jamie C. Woods
Notary Public - Printed

My County of Residence:
St. Joseph

My Commission Expires:
10/21/2026

Exhibit C – Page 2 of 3
STATE OF INDIANA  

COUNTY OF St. Joseph  

Before me, a Notary Public in and for said County and State, personally appeared Kenneth Sebasty, Jr., and having been duly sworn, acknowledged the execution of the foregoing Authorization as his own voluntary act and deed.

Witness my hand and Notarial Seal this 11th day of March, 2020.

[Signature]

Notary Public - Signature

Jamie C. Woods

Notary Public - Printed

My County of Residence:
St. Joseph

My Commission Expires:
10/21/2026

Exhibit C – Page 3 of 3
EXHIBIT “D”

FARM LEASE(S) AND RESIDENTIAL LEASE(S)

Kenneth Kleine  200 Acres South Filmore Road (Farm) (Verbal)
Randall Szcziorski  100 Acres North Filmore Road (Farm) (Verbal)
Daniel Rotzien  31443 Filmore Road (Residence) (Verbal)
Mike and Jackie Blaze 31550 Filmore Road (Residence) (Verbal)
Theodore Miller Old Farmhouse on Filmore Road (Residence) (Verbal)
EXHIBIT "F"
OPERATION AREA

Exhibit F – Page 1 of 1
EXHIBIT “G”

COPY OF THE OPTION

Parcel 01.03

OPTION TO PURCHASE
EASEMENT FOR ELECTRICAL LINES

This Option Agreement is entered into by and between Kenneth E. Sebasty & Elaine A. Sebasty, whose address is PO Box 178, New Carlisle, IN 46552 ("Grantor") and St. Joseph Phase II, LLC ("Grantee") on this ___ day of ________, 2019 (the “Effective Date”). Grantor and Grantee are sometimes referred to in this Option Agreement individually as a “Party” or jointly as the “Parties”.

RECITALS

WHEREAS, Grantor is the fee owner of certain real property situated in St. Joseph County, Indiana (the “Property”), more particularly described as:

(See attached Exhibit A – Legal Description of Property & Easement Sketch)

WHEREAS, Grantee desires to acquire the option to purchase an easement for electrical lines including the right and authority of constructing, installing, maintaining, operating, replacing, removing, upgrading or increasing of electric lines (as stated and in accordance with Exhibit B) over and across all the right, title and interest of Grantor in and to that portion the Property as shown on Exhibit A (the “Easement Sketch”) and

WHEREAS, Grantor desires to grant the Option to Grantee pursuant to the terms and conditions of this Option Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agrees as follows:
1. **Incorporation of Recitals:** The Recitals set forth above are hereby incorporated into this Option Agreement as if fully set out herein.

2. **Grant of Option:** Grantor hereby grants to Grantee the Option to acquire a right of way and easement not more than two hundred feet (200') in width, to construct, install, maintain, operate, replace, remove, enlarge, protect, repair, and alter an electric transmission line and appurtenances above and below ground, for the transportation of electricity. Easement rights shall be as depicted in the attached Easement for Electrical Lines and incorporated herein as Exhibit B.

3. **Term of Option:** This Option commences upon execution of this agreement and payment of the Option Fee to Grantor and shall terminate after twelve (12) months (final date of Option ) if not previously exercised by Grantee or extended by Grantor as provided for herein. The initial term of the Option, together with any extension of the Option, is referred to herein as the “Option Period”.

4. **Consideration for Option:** This Option is granted in consideration of the payment by Grantee to Grantor for the execution of this Option Agreement the sum of Five Thousand Dollars ($5,000.00) (the “Option Fee”), the receipt and sufficiency of which is hereby acknowledged.

5. **Extension of Option:** Grantee shall have the right to extend this Option for a period of twenty four (24) months by providing Grantor written notice of its intention to extend the period (the “Extension Notice”) and paying to Grantor the sum of Ten Thousand Dollars ($10,000.00) prior to the expiration of the initial term (the “Extension Fee”).

6. **Termination of Option:** If Grantee fails to exercise the Option during the Option Period, then this Option Agreement and the rights of Grantor shall automatically and immediately terminate without notice. Upon termination of the Option, Grantee shall record in the official records a release of the Memorandum of Option, as defined below.

7. **Exercising of Option:** In the event Grantee elects to exercise this Option during the Option Period, Grantee shall provide written notice of the exercise of this Option in accordance with the Notices section below (the “Option Notice”).

8. **Deliverables Upon Exercising of Option:** In the event Grantee shall elect to exercise this Option, it shall, within the Option Period, provide written notice of the exercise of this Option to Grantor at Grantor’s address shown below (or such other address as Grantor may subsequently, by written notice to Grantee, designate) (“Exercise Notice”). Such notice of exercise of this Option may, at Grantee’s option, be delivered to Grantor by registered or certified United States Mail, return receipt requested, or served in same manner as provided for in applicable state statutes for service of initial or original notice of an action at law.

9. **Consideration for Easement for Electrical Lines:** Upon Grantee’s decision to exercise the Option herein, Grantee shall pay Grantor a one-time payment in the amount of $150,000.00 for the execution of Easement For Electric Lines (Exhibit B) (the “Easement Fee”). Grantee shall deduct from the Easement Fee both the Option Fee and Extension Fee, if applicable, to determine the total amount due to Grantor.
10. **Restrictions on Grantee Use:** During the Option Period, Grantor agrees not to build, create or construct nor permit to be built, created or constructed, any obstruction, building, improvement or any other structure within the proposed right of way and easement. Further, Grantor agrees not to grant, sell, convey or otherwise transfer any interest to the Property or create or permit the creation of any lien encumbering the Property during the Option Period that may interfere with Grantee’s proposed electric transmission facility or Grantee’s rights hereunder without Grantee’s prior written consent.

11. **Right to Survey and Conduct Studies and Tests:** During the Option Period, Grantee, its employees, agents and contractors, shall have the right to enter upon the Property for the making of all studies and surveys reasonably associated with the proposed transmission facilities, and may perform whatever reasonable tests and studies Grantee desires, including, without limitation, environmental, archaeological, engineering, soil, and ground, together with the right of egress and ingress over and across the Property. Grantee shall pay Grantor for any (i) damages to growing crops, (ii) damages to improved or native grasses, (iii) damages to vegetation or any plant life on the land, (iv) alteration of fences, (v) disruption of topsoil, and (vi) other surface damages (collectively the “Surface Damages”), which are caused by Grantee’s surveys, studies or tests hereunder. At its option, Grantee may repair or cause any such damage to be repaired at its sole cost and expense in lieu of paying reasonable compensation to Grantor for the damage.

Following an instance of crop damage caused by the GRANTEE, the first year shall be compensated at 100% of crop value, the following year 75% of the initial compensation, and the third year 50% of the initial compensation. After three years from the time the crop damage occurs, no further compensation will be paid.

12. **Liens:** Grantor represents and warrants to Grantee that the Property is free and clear of any liens, mortgages, deeds of trust, or other security interests encumbering the property, other than what has been properly recorded for public record. Grantor authorizes Grantee, its agents and representatives, to contact such entity to obtain a release, consent and subordination agreement, or other instrument or agreement reasonably satisfactory to Grantee from any such lienholder to the extent required by Grantee to eliminate any interference with the Easement for Electric Lines or Grantee’s rights hereunder. Grantor shall cooperate and furnish or execute such additional documentation as may be required by Grantee and the lienholder. Further it is understood that the Easement Fee or some portion thereof may be required by such lienholder to provide the release. However, Grantee shall pay reasonable processing fees up to $300.00 to the lienholder as required.

13. **Notices:** All notices hereunder, including the Option Notice and Extension Notice, shall be considered given when (i) delivered in person; (ii) sent by facsimile; (iii) deposited with a reputable overnight delivery service, or (iv) deposited with the United States mail, registered or certified, return receipt requested. Notices shall be addressed to the Party at the addresses below:
14. **Confidentiality:** Each Party agrees (on behalf of itself and each of its affiliates, directors, officers, employees, and representatives) to use all reasonable efforts to keep confidential any non-public information in connection with this Option Agreement, specifically including, without limitation, the consideration paid for this Option Agreement, the consideration agreed to be paid for the Easement For Electric Lines, any other payments made under either this Option Agreement or the Easement, and any other non-public information supplied to it by the other Party hereto (or any of its affiliates, directors, officers, employees, and representatives); provided that nothing herein shall limit the disclosure of any such information (a) to the extent required by statute, rule, regulation, judicial process, or in connection with any litigation or regulatory proceeding to which such party hereto is a party if the disclosing Party gives the other Party prior notice of such disclosure and uses a good faith effort to maintain its confidentiality after disclosure, or (b) to any assignee so long as such assignee agrees to be bound by the terms and provisions of this Paragraph.

15. **Recording:** At the discretion of the Grantee this Option or a Memorandum thereof may be recorded. The Easement for Electric Lines shall not be recorded until such time as a full payment to Grantor has been made.

16. **Governing Law:** This Agreement shall be governed and construed in accordance with the laws of the State of Indiana.

17. **Specific Performance:** Grantor hereby acknowledges and agrees that the Option granted herein provides Grantee with the ability to acquire an interest in the Property and that money damages would not be a sufficient remedy for any breach of this Agreement and that specific performance and injunctive or other equitable remedies for any such breach shall be available to Grantee as a remedy for any such breach or threatened breach.

18. **Recovery of Expenses:** If either Party initiates a proceeding to enforce any of the terms, covenants or conditions contained in this Option Agreement, the prevailing Party shall be entitled to recover from the other Party all reasonable expenses, costs and attorneys' fees incurred in connection with the proceeding.

19. **Successors and Assigns:** The rights herein granted to Grantee may be assigned, in whole or in part. All of the provisions hereof shall run with the land and inure to the benefit of and shall be binding upon the Parties hereto, their successors and assigns.

20. **Amendments:** This Option Agreement shall not be amended or modified in any way except by an instrument signed by Grantor and Grantee.
21. **Severability:** If any provision of this Option Agreement is held to be invalid or unenforceable, such provisions will not affect in any respect the validity or enforceability of the remainder of this Option Agreement. If practicable, the Parties agree to substitute for any invalid provision, a valid provision that most closely approximates the economic effect and intent of the invalid provision.

22. **Counterparts:** This Option Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereof were upon the same instrument.

23. **Further Assurances:** Grantor and Grantee each covenant and agree to sign, execute and deliver, and to do or make, or cause to be done or made, upon the written request of the other Party, any and all agreements, instruments, papers, acts or things, supplemental, confirmatory or otherwise, as may be reasonably required by either Party hereof for the purpose of or in connection with consummating the transactions described herein.

[SIGNATURES AND NOTARIAL ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]
IN WITNESS WHEREOF, the Parties have executed this Option Agreement as of the Effective Date.

GRANTOR:

Kenneth E. Sebesty

Name: KENNEDY Sebesty

Elaine A. Sebesty

Name: Elaine A. Sebesty

STATE OF Indiana
COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, personally appeared Kenneth E. Sebesty, who acknowledged execution of foregoing Option to Purchase Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 11 day of January, 2019.

TERI E. D. HAJEK
Notary Public

Print Name: TERI E. D. HAJEK
My County of Residence: LaPorte
My Commission Expires: 07/11/2020

STATE OF Indiana
COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, personally appeared Elaine A. Sebesty, who acknowledged execution of foregoing Option to Purchase Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 11 day of January, 2019.

TERI E. D. HAJEK
Notary Public

Print Name: TERI E. D. HAJEK
My County of Residence: LaPorte
My Commission Expires: 07/11/2020

Parcel 01.03
GRANTEE:

By: __________________________________________
Name: _________________________________________
Title: __________________________________________

STATE OF __________________
COUNTY OF _____________

Before me, a Notary Public in and for said County and State, personally appeared ________________, an authorized signatory, who acknowledged execution of foregoing Option to Purchase Easement for Electrical Lines, for an on behalf of said company, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of ___________, 2019.

[AFFIX NOTARY SEAL]

Notary Public

Print Name: ____________________________
My County of Residence: __________________
My Commission Expires: __________________

Parcel 01.03

Page 7 of 7

Exhibit G – Page 7 of 19
EXHIBIT A - 1 of 2

Legal Description of Property

Tr Of Land W 1/2 Sw 1/4 Sec 1-37-1w Ex Parcels N End 46.61 Ac
EXHIBIT B

EASEMENT FOR ELECTRICAL LINES

KNOW ALL MEN, That Kenneth E. Sebasty & Elaine A. Sebasty, herein called the "Grantor", in consideration of the sum of one dollar ($1.00) and other valuable considerations, in hand paid to the Grantor, hereby grant to St. Joseph Phase II, LLC, a Delaware limited liability company, and to its successors and assigns, herein called the "Grantee," an easement, right and authority, from time to time, to construct, erect, maintain, operate, repair, replace, renew and remove towers and poles, and to string, install, construct, erect, maintain, operate, repair, replace, renew and remove wires, cables, conductors, guy wires, and other necessary equipment upon and between such towers and poles, together with all the rights and privileges necessary or convenient for the full enjoyment or use thereof, for the purposes herein described, including the right of ingress and egress to and from the strip of easement land, over adjoining lands of Grantor and the right to trim, or control by herbicides, or at Grantee's option, to cut down and remove from the premises hereinafter described and from the adjoining lands of Grantor any overhanging branches or undergrowth, or any trees of such height which may, in the sole judgment of Grantee, endanger the safety of, or interfere with the use or enjoyment of, any of Grantee's facilities and to operate by means thereof one or more line or lines for the transmission, distribution and delivery of electrical energy to the public in general, to be used for light, heat, power, telephone and other purposes, in, upon, along and over a strip of land or right-of-way situated in Section 1, Township 37 N, Range 1 West of the Second Principal Meridian in the County of St. Joseph, State of Indiana, described as,

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

FOR LEGAL DESCRIPTION

DEED REFERENCE:

Access to the above described land over the adjoining lands of Grantor's is hereby granted. Any damages to the crops, trees, fences, or buildings of the Grantor on said right-of-way, or on lands of the Grantor adjoining the said right-of-way, done by the Grantee in the construction, erection, installation, repair, replacement or renewal of said towers, poles, wires, cables, conductors, guy wires, or equipment, shall be promptly paid by the Grantee, or Grantee, at its option, may repair or cause any such damages to be repaired at Grantee's sole cost and expense. Petrolling said line or lines shall not constitute grounds for a claim for crop damage.

The Grantor reserves the use of the above described land not inconsistent with this grant, but no buildings or permanent structures shall be placed on the right-of-way by Grantor, and any use by the Grantor shall not interfere with the use or enjoyment of any of Grantee's facilities.

The Grantee shall and will indemnify and save the Grantor harmless from and against any and all damage, injuries, losses, claims, demands or costs proximately caused by the fault, culpability, or negligence of the Grantee in the construction, erection, maintenance, operation, repair or renewal of said line or lines and the structures and appurtenances connected therewith.

The rights herein granted may be assigned in whole or in part.
The undersigned Grantor hereby covenants to be the owner in fee simple of said real estate, lawfully seized thereof, with good right to grant and convey said easement herein, and guarantees the quiet possession thereof, that the said real estate is free from all encumbrances except for those encumbrances that have been properly recorded for public record, and that the Grantor will warrant and defend the title to the said easement against all lawful claims.

These presents to be binding on the heirs, executors, administrators, grantees, successors and assigns of the Grantor, and upon the Grantee, its successors and assigns.

IN WITNESS WHEREOF, the Grantor has duly executed this instrument this ______ day of ____________, A.D. 2019.

GRANTOR:

Name______________________________

Name______________________________

STATE OF ____________________________

COUNTY OF _________________________

Before me, a Notary Public in and for said County and State, personally appeared __________________________, who acknowledged execution of the foregoing Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ______ day of ____________, 2019.

[AFFIX NOTARY SEAL]

Notary Public

Print Name: _____________________________
My County of Residence: ___________________
My Commission Expires: ___________________
STATE OF __________________
COUNTY OF __________________

Before me, a Notary Public in and for said County and State, personally appeared ____________________________, who acknowledged execution of the foregoing Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of ____________, 2019.

[AFFIX NOTARY SEAL]

Notary Public

Print Name: ____________________________
My County of Residence: ____________________________
My Commission Expires: ____________________________

This instrument prepared by: Jim Aiello, SR/WA Commonwealth Associates, Inc.
2700 W. Argyle Street
Jackson, MI 49202-1967

Upon recording return to: Jim Aiello, SR/WA Commonwealth Associates, Inc.
P.O. Box 1124
Jackson, MI 49204-1124

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

____________________________________
Signature of Preparer

Grantee's Address:
St. Joseph Phase II, LLC
11 Martine Avenue, 9th Floor
White Plains, New York 10606

Parcel 01.03
EXHIBIT A - 1 of 2

Legal Description of Property

Tr Of Land W 1/2 Sw 1/4 Sec 1-37-1w Ex Parcels N End 46.61 Ac
MEMORANDUM OF OPTION
TO PURCHASE EASEMENT FOR ELECTRICAL LINES

Parcel 01.03

THIS MEMORANDUM OF OPTION TO PURCHASE EASEMENT FOR ELECTRICAL LINES (this "Memorandum"), is made and entered into by and between Kenneth E. & Elaine A. Seaberry, whose address is PO Box 178, New Carlisle, IN 46552 ("Grantor") and St. Joseph Phase II, LLC, a Delaware limited liability company, whose address is 11 Maritime Avenue, 9th Floor, White Plains, New York 10606 ("Grantee").

WITNESSETH: That,

Pursuant to the terms of that certain Option to Purchase Easement for Electrical Lines dated __________, 2019 (the "Option"), Grantor granted to Grantee certain rights to acquire an easement on that certain real property located in the County of St. Joseph, State of Indiana, more particularly described as:

(See attached Exhibit A – Legal Description of Property & Easement Sketch)

Grantor and Grantee have executed and delivered this Memorandum to give record notice of the Option and of the rights created thereby, all of which are hereby confirmed and incorporated herein by reference.

[SIGNATURES AND NOTARIAL ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGE]
GRANTOR:

Kenneth E. Sebastian
Name: KENNETH E. SEBASTIAN

Elaine A. Sebastian
Name: ELAINE A. SEBASTIAN

STATE OF Indiana
COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, personally appeared Kenneth E. Sebastian, who acknowledged execution of foregoing Memorandum of Opinion to Purchase Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 11th day of January, 2019.

TERI E.D. HAJEK
Notary Public - Seal
La porte County - State of Indiana
Commission Number 698725
My Commission Expires July 11, 2020

STATE OF Indiana
COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, personally appeared Elaine A. Sebastian, who acknowledged execution of foregoing Memorandum of Opinion to Purchase Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 11th day of January, 2019.

TERI E.D. HAJEK
Notary Public - Seal
La porte County - State of Indiana
Commission Number 698725
My Commission Expires July 11, 2020

Parcel 01.03

Page 2 of 3

Exhibit G – Page 16 of 19
GRANTEE:

St. Joseph Phase II, LLC

By: __________________________________________
Name: _________________________________________
Title: __________________________________________

STATE OF ____________________________
COUNTY OF ____________________________

Before me, a Notary Public in and for said County and State, personally appeared ____________________________, an authorized signatory of St. Joseph Phase II, LLC, who acknowledged execution of foregoing Memorandum of Option to Purchase Easement for Electrical Lines, for as on behalf of said company, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of __________, 2019.

[AFFIX NOTARY SEAL]

Notary Public

Print Name: _______________________________________
My County of Residence: ____________________________
My Commission Expires: ____________________________

This instrument prepared by: Jim Aiello, SR/WA
Commonwealth Associates, Inc.
2700 W. Argyle Street
Jackson, MI 49202-1967

Upon recording return to: Jim Aiello, SR/WA
Commonwealth Associates, Inc.
P.O. Box 1124
Jackson, MI 49204-1124

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

______________________________________________
Signature of Preparer

Parcel 01.03

Page 3 of 3
EXHIBIT A - 1 of 2

Legal Description of Property

Tr Of Land W 1/2 Sw 1/4 Sec 1-37-1w Ex Parcels N End 46.61 Ac
REAL ESTATE OPTION AGREEMENT

This Real Estate Option Agreement (this “Agreement”) is entered into and effective as of the last date of execution hereof as evidenced by the last date below the parties’ signatures hereto (“Effective Date”) by and between Kenneth E. Sebasty Jr. (“Seller”) and the St. Joseph County Redevelopment Commission and its successors and assigns (“Buyer”). Seller and Buyer are sometimes individually referred to in this Agreement as a “party” or collectively as the “parties.”

RECITALS:

A. Seller owns approximately 70 acres of land located in St Joseph County, Indiana as more particularly described in Exhibit “A-1” attached hereto and depicted on Exhibit “A-2” attached hereto, together with all easements, rights, and interests appurtenant thereto together with all improvements located thereon (the “Property”); and

B. Seller desires to sell and Buyer desires to have the right and option to purchase the Property from Seller in accordance with the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

1. GRANT OF OPTION. Seller hereby grants to the Buyer the exclusive right and option to purchase fee simple title to the Property, including all rights and interests related thereto subject to the terms and conditions set forth in this Agreement.

2. OPTION CONSIDERATION. As consideration for the grant of this option, Buyer shall pay directly to Seller the sum of Five Thousand and 00/100 Dollars ($5,000.00) (the “Initial Option Payment”) within ten (10) business days after the Effective Date. If Buyer fails to either exercise the option (as provided in Section 4) or terminate the option (as provided in Section 10.4), within ninety (90) days after the Effective Date, Buyer shall promptly deposit with the escrow agent (“Escrow Agent”) identified in the escrow agreement attached as Exhibit “B” hereto (the “Escrow Agreement”) the additional sum of Twenty-Five Thousand and 00/100 Dollars ($25,000.00) (the “Additional Option Payment”). The Initial Option Payment and the Additional Option Payment, if and when paid, shall together be deemed the “Option Payment”. In the event Buyer exercises its option, the Option Payment shall be credited against the Purchase Price (defined below) at Closing (hereinafter defined).

3. OPTION TERM. The option herein granted shall continue in full force and effect for a period commencing on the Effective Date and ending the date that is one (1) year following the Effective Date (the “Option Term”). Buyer shall have the right to extend the Option Term for up to (2) consecutive period(s) of six (6) months each by (a) giving Seller written notice of such extension not less than ten (10) days prior to the end of the Option Term or the first extension term (as applicable), and (b) depositing with Escrow Agent the sum of Fifteen Thousand and 00/100 Dollars ($15,000.00) for each such extension (collectively, the “Extension Fees”), within ten (10)
business days after delivering such extension notice. In the event Buyer exercises its option, the Extension Fees shall be credited against the Purchase Price (defined below) at Closing (hereinafter defined); otherwise, the Extension Fees shall be forfeited to Seller or returned to Buyer in the manner provided herein.

4. **EXERCISE OF OPTION.** Buyer’s option to purchase the Property may be exercised at any time subsequent to the Effective Date until the expiration of the Option Term. Buyer shall exercise the option by delivering written notice thereof to Seller (an “Exercise Notice”). The Exercise Notice shall specify a closing date (“Closing Date”) of no more than thirty (30) days following the date it is given.

5. **PURCHASE PRICE.** In the event Buyer exercises its option, the purchase price for the Property (the “Purchase Price”) shall be Fifty Five Thousand and $55,000.00 per acre as determined by Buyer’s Survey (hereinafter defined), provided that the acreage shall exclude all state and local rights-of-way and legal or regulated drains.

6. **RESERVED.**

7. **INFORMATION.** Seller shall, within five (5) business days following the Effective Date of this Agreement, provide Buyer with copies of all information in the possession or control of Seller regarding the Property including, but not limited to the following (collectively, the “Property Information”):

   (a) surveys, title insurance policies, environmental studies, and zoning reports;
   (b) specifications for on-site or off-site improvements;
   (c) reports as to utility availability and quality;
   (d) geotechnical reports (including, but not limited to, those pertaining to soils, groundwater, surface waters, wells, percolation and drainage);
   (e) water permits, certificates, and usage records;
   (f) geology and archeology studies;
   (g) tax assessment records;
   (h) governmental permits and approvals;
   (i) applications and stipulations relating to the ownership or use of the Property;
   (j) agreements pertaining to the Property that could survive Closing (including, but not limited to, leases and management agreements);
   (k) governmental program contracts;
   (l) wetland delineations or reports;
   (m) true, correct, and complete copies of any Farm Leases (as defined in Section 11.1(f) and any residential leases referred to in Section 13.4(d) (and to the extent such leases are oral, a written summary of the oral terms); and
   (n) any material correspondence, sent or received, pertaining to any matter which would adversely affect the value or utility of the Property to Buyer.

If any such information comes into the possession or control of the Seller prior to Closing, Seller shall promptly provide copies of the information to Buyer.
8. **SURVEY.** Buyer may, at Buyer’s expense, select a licensed land surveyor to prepare an ALTA/NSPS survey ("Survey") in such detail as Buyer desires. The Survey will determine the legal description and acreage of the Property (including the acreage of any state or local right of way or legal or regulated drains), and such legal description will be used in the deed, and any other applicable documents to be delivered at Closing.

9. **TITLE COMMITMENT.** Within fifteen (15) days after the Effective Date, Seller shall, at Seller’s expense, cause the Escrow Agent to issue to Buyer a title insurance commitment for an ALTA form of owner’s policy of title insurance, or equivalent, in the amount of the Purchase Price showing fee title to the Property vested in Seller (the "Title Commitment"). The Title Commitment shall be accompanied by legible copies of all special exceptions listed therein.

10. **OPTION PERIOD; DUE DILIGENCE.**

   10.1 **Due Diligence and Approvals.** From the Effective Date through the earlier of (a) the date the option is exercised as provided in Section 4; (b) the date the option is terminated as provided in (Section 10.4); and (c) the end of the Option Term (including any extensions thereof) (the "Option Period"), Buyer shall have the right to satisfy itself concerning all aspects of the Property, including, without limitation, the physical condition thereof, the availability of any governmental permits and approvals, and the feasibility of using the Property for Buyer’s intended use. During the Option Period, Buyer shall have the right to perform such tests, inspections and feasibility studies on the Property as Buyer may desire, including, without limitation, a Phase I Environmental Site Assessment ("Phase I Assessment"); a Phase II Environmental Site Assessment ("Phase II Assessment"); a geotechnical review and survey through temporary borings and excavated test pits; groundwater testing and sampling; floodplain and wetlands evaluation; archaeological assessments; and any other inspection activities and investigations on the Property (the "Due Diligence"). Seller hereby grants permission to Buyer, and its employees, agents, contractors, and consultants (collectively, "Inspectors") to enter upon the Property for the purpose of conducting the Due Diligence. To the extent reasonably requested by Buyer, Seller shall assist Buyer and its Inspectors in providing access to Seller’s engineers, contractors, subcontractors, managers, analysts and appraisers in connection with Buyer’s Due Diligence.

   10.2 **Resolution of Disapproved Matters.** If Buyer objects to any matter set forth in the Title Commitment, the Survey, or any other matter identified in the course of its Due Diligence, Buyer may offer Seller the opportunity to correct the same by providing Seller with written notice prior to the end of the Option Period, which notice shall identify the objectionable matter (the "Disapproved Matters") and may further specify the dates and manner by which the objectionable matter must be corrected (an "Objection Notice"). Within fifteen (15) days after receipt of an Objection Notice, ("Seller’s Response Period"), Seller shall notify Buyer in writing of whether, and to the extent, Seller will effect and pay for such corrections (an "Objection Response"). If Seller fails to give its Objection Response within the Seller’s Response Period, Seller will be deemed to have agreed to make such corrections and cure any objections at its cost. Buyer shall have until the latter of, (i) the expiration of the Option Period, and (ii) fifteen (15) days after Seller gives its Objection Response (or after the last day of the Seller’s Response Period if Seller fails to deliver an Objection Response) ("Buyer’s Decision Period"), to evaluate and
consider any Objection Response (or lack thereof), and either terminate this Agreement or waive the Disapproved Matters in Buyer’s sole discretion. Prior to the Closing Date, Seller shall correct all items which Seller agreed to undertake (or is deemed to undertake) in its Objection Response, if any. Notwithstanding the foregoing, provided Buyer exercises its option, Seller shall in all cases be obligated to cure at or prior to Closing, any encumbrance against the Property which may be cured by payment of money, such as mortgages, deeds of trust, UCC security agreements, judgment liens, mechanic’s liens and tax liens (excluding liens for taxes not yet due or payable). As used in this Agreement, the term “Permitted Encumbrances” shall collectively mean: (i) the exceptions to title reflected in the Title Commitment to which Buyer has not objected (or having objected thereafter waives or is deemed to waive its objections thereto) pursuant to this Section 10.2; and (ii) any unpaid real estate taxes which Buyer is required to pay under Section 13.3(a) below.

10.3 Ownership/Disclosure of Reports. Seller acknowledges and agrees that the information obtained by Buyer pursuant to Due Diligence may be used and disclosed by Buyer to governmental authorities or other third parties as Buyer proceeds with applications and requests for economic development programs, permits, clearances, or other governmental approvals relating to the Property and Buyer’s intended use of the Property. All reports generated by Buyer or its Inspectors shall remain the sole property of Buyer.

10.4 Termination Right. If in Buyer’s sole and absolute discretion it is determined by Buyer that the Property is not suitable for Buyer’s intended use, for whatever reason, Buyer shall have the absolute right to terminate this Agreement without explanation or justification and without penalty by giving Seller written notice prior to the expiration of the Option Period. This Agreement thereafter shall be null and void; the Option Payment shall be remitted to Seller; and, except for any provisions which expressly survive termination (collectively, the “Surviving Provisions”); neither party shall have any further obligations hereunder. Nothing in this Section 10.4 shall preclude or waive any right of Buyer to terminate this Agreement to the extent provided elsewhere herein (including without limitation, pursuant to Section 14.1) or its right to the return of the Option Payment or any Extension Fees to the extent provided elsewhere herein.

10.5 Release. Except as otherwise provided herein, Seller releases Buyer from damages to the Property related to Due Diligence activities as described in this Agreement; provided, however, that Buyer shall indemnify, defend and hold harmless Seller from and against any loss or liability resulting from any personal injury or property damage which is the sole result of negligent acts or omissions by Buyer or its Inspectors in connection with Due Diligence. Notwithstanding the foregoing, and for the avoidance of doubt, such indemnification and hold harmless obligation shall not extend to liability or loss associated with, or arising out of, (a) any crop damages on the Property or other sums, damages or obligations under any Farm Lease (except as provided in Section 10.7); (b) Seller’s breach hereof or its negligence or intentional misconduct; or (c) the discovery or disturbance of pre-existing hazardous substances on, or other adverse physical conditions of, the Property.

10.6 Permitting Authorization. By signing this Agreement and the Authorization form attached hereto as Exhibit “C,” Buyer is authorized to apply to any governmental authority or negotiate with any governmental authority regarding Buyer’s intended use and development of the
Property and any permitting processes needed in Buyer’s sole discretion in connection with Buyer’s intended use and development of the Property. Seller shall cooperate with Buyer in connection with Buyer’s applications for any permits, approvals, applications, or consents which may be a prerequisite or incidental to Buyer’s acquisition of title to the Property, the construction of Buyer’s improvements thereon, and Buyer’s intended use and development of the Property. Seller (as the landowner) agrees to execute any applications, consents, filings, and other documentation and/or join with Buyer in executing such applications, consents, filings and other documentation as is reasonably necessary for such approvals and permits. All costs incurred by Buyer in its efforts to obtain such approvals and permits will be paid by Buyer, except Seller shall pay its own costs incurred in cooperating with Buyer as required by this paragraph. Seller expressly agrees and acknowledges that Buyer is authorized to plat the Property, to file for and obtain a rezoning of the Property, to seek and obtain variances of use or development standards, and to seek and obtain other land use approvals.

10.7 Farm Tenants. Seller shall obtain the written consent of any tenants (including Farm Lease tenants and residential tenants) and farm operators on the Property to the access and investigative rights granted herein to Buyer, and promptly deliver a copy of such consent to Buyer upon receipt. Buyer shall be responsible to pay for all damages to growing crops, if any, caused by it during Due Diligence as follows: (i) at the time of any damage to growing crops due to the activities of Buyer, the area of damage shall be measured and documented by Buyer in consultation with Seller; (ii) at the time the crop is harvested on the Property, the average per acre yield shall be verified by the farm tenant and the yield shall be applied to the total area where crop damage occurred due to the activities of Buyer; and (iii) the commodity per bushel or per unit price at the time of harvest in the county where the Property is located shall control and the farm tenant shall be paid as if the growing crops had not been damaged by the activities of the Buyer. In the alternative, Buyer and the farm tenant or farm operator, in consultation with Seller, may negotiate the amount of compensation owing at the time the damage to growing crops occurs and the farm tenant or farm operator may be paid at that time instead of at the time of harvest. At the time of payment for damage to growing crops, Seller and the farm tenant or farm operator shall sign a release of Buyer for the damages to growing crops. Seller shall provide the Buyer with advance notice prior to it or any Farm Lease tenant planting crops on the Property during the Option Term and Buyer shall have the right to cause the Property not to be farmed in such case by providing written notice to Seller within thirty (30) days of its receipt of Seller’s notice. If Buyer notifies Seller not to plant pursuant to the terms of this paragraph and Closing does not take place on or before December 31st of such year, due to an event of default by the Buyer then the Buyer shall pay Seller $500 per acre of farm property that was not planted plus the average per acre yield for each acre not planted multiplied by the commodity per bushel or per unit price at the time of the harvest in the county where the Property is located. Seller covenants to terminate the Farm Lease(s) prior to Closing and to cause possession thereunder to be delivered to Buyer at Closing free and clear of all claims to possession by the tenants thereunder. Seller further agrees to be responsible for (and reimburse, indemnify, defend, and hold Buyer harmless from) all crop loss, claims, causes of action, costs, damages, costs, and obligations related to the Farm Lease(s).

10.8 Right of First Offer. If in the first three (3) crop years after Closing, Buyer elects to lease any portion of the Property for farming purposes, Buyer agrees to provide Seller written notice of such intent and to provide Seller the first opportunity to lease such portion of the Property.
for farming purposes. If Buyer and Seller are unable to reach agreement on a form of farming lease within fifteen (15) days of Seller's receipt of Buyer's written notice, Buyer shall thereafter be free to negotiate with other parties with regard to such farm lease, and shall have no further liability or obligation under this Section 10.8 and this Section 10.8 shall terminate and be of no further force or effect.

11. REPRESENTATIONS AND WARRANTIES.

11.1 Seller's Representations and Warranties. Seller represents, warrants, and covenants to Buyer as follows:

(a) Seller's Ownership. Seller owns fee simple marketable title to the Property and will take and perform those acts which are necessary hereunder in order to fulfill the terms and conditions hereof.

(b) Seller's Authority. Upon execution of this Agreement by Seller and by Buyer, this Agreement shall be binding and enforceable against Seller in accordance with its terms. The execution, delivery and performance by Seller of the Agreement and the documents to be executed and delivered by Seller at Closing (i) are within Seller's power and authority; (ii) have been duly authorized by all necessary actions; (iii) require no action by or in respect of or filing with any governmental authorities and no additional consent or authorization by any other person; and (iv) do not conflict with, contravene or constitute a default (with or without notice or the passage of time, or both) under any provision of law applicable to Seller, or any agreement, judgment, injunction, order, decree, indenture, mortgage loan agreement or any other instrument binding upon Seller or the Property. Sellers have not conveyed any interest in the Property to any spouse, trust, or otherwise.

(c) Accuracy of Property Information. To the best of Seller's knowledge, all of the Property Information Seller has provided, and hereafter provides, to Buyer is complete, true and accurate in all material respects.

(d) No Litigation. The Property and Seller are not subject to any claim, demand, suit, filed or unfilled lien, proceeding, arbitration, mediation, government investigation, audit, litigation, or to the best of Seller's knowledge, threatened litigation, of any kind which could in any way be binding on Buyer upon Closing or limit its full use and enjoyment of the Property or limit the ability of Seller to perform its obligations under this Agreement or create a cloud on title or a lien on the Property before or after Closing.

(e) Eminent Domain. To the best of Seller's knowledge, there is no pending or contemplated eminent domain, condemnation or other governmental taking of the Property, or any portion thereof, nor is there any planned or proposed project or public improvement or street construction which could affect the Property.

(f) Leases; Governmental Programs. Except for the farm leases identified on Exhibit "D" (the "Farm Lease(s)") and any residential leases identified on Exhibit "D", the Property is not subject to any written or unwritten leases. There are no governmental programs
which could affect Buyer’s use of the Property or trigger any governmental repayment obligations or claw-back activity.

(g) **No Third-Party Rights.** There are no mineral rights, oil or gas leases, licenses, contracts, hunting rights, or easements, other than as set forth in the Title Commitment, which would enable persons or entities other than Buyer to have access to the Property now or in the future, nor are there any contracts, rights of first refusal, options or other obligations for the sale, transfer or exchange to any third party or parties, or for the improvement, alteration, repair or encumbrance of the Property or any portion thereof.

(h) **No Violation of Laws.** To the best of Seller’s knowledge, the Property does not violate any federal, state, or local statute, code, ordinance, or regulation. If during the Option Term, or prior to the Closing Date, Seller obtains knowledge as to any violation, or alleged violation, of any statute, code, ordinance, or regulation with respect to the Property, Seller shall promptly notify Buyer thereof and in no event later than five (5) business days after its receipt of such notice.

(i) **Special Assessments.** To the best of Seller’s knowledge, there are no proposed or pending special assessments, drainage or utility fees, charges, dues or assessments, impact fees, nuisance abatement fees, or other fees or charges, which could be assessed, charged or imposed against the Property or be binding on Buyer after Closing.

(j) **Environmental Matters.** Seller has not caused nor, to the best of Seller’s knowledge, has any other party or prior owner caused, any hazardous substance, waste or material to be used, generated, stored or disposed of on or transported to or from the Property in violation of any applicable law, nor, to the best of Seller’s knowledge, have any underground storage tanks, petroleum or natural gas pipelines, or transformers existed on the Property. For the purposes of this paragraph, “hazardous substance, waste or material” shall mean all petroleum-based products, radon, asbestos, PCBs and all substances, wastes and materials that are so defined in the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act and the Hazardous Materials Transportation Act or in any similar federal, state or local statute, rule, regulation or ordinance. Except for Seller’s breach of the foregoing representation or Seller’s statutory or common law liability, Seller shall not be responsible for the remediation of any environmental conditions found on the Property.

(k) **Wetlands and Endangered Species.** Seller discloses that it believes that regulated wetlands exist on the Property. However, to the best of Seller’s knowledge, no portion of the property lies within the one hundred (100) year floodplain, or includes other environmentally sensitive areas, and that they have fully divulged all information associated with the property that would identify and make known any threatened or endangered species habitat which could prohibit or restrict development.

(l) **Archaeologic Matters.** To the best of Seller’s knowledge, there are no prehistoric sites, or human or animal burial grounds upon or about the Property, nor does any portion of the Property have, or allegedly have, any Native American, archaeological or historic significance.
(m) **Nonforeign Status.** Each Seller warrants that it is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1954, as amended. Each Seller shall deliver to Buyer at closing a Certificate of Nonforeign Status setting forth Seller's address and United States taxpayer identification number and certifying that it is not a foreign person as so defined.

11.2 **Seller's Representations and Warranties at Closing.** All of Seller's representations and warranties in this Agreement shall be deemed given on the date of this Agreement and as of the Closing Date. Such representations and warranties shall be updated in a certificate provided to Buyer at Closing and all representations and warranties shall survive the Closing. Notwithstanding the foregoing, no update shall relieve Seller of any liability for any prior misrepresentation or the breach of any warranty under this Agreement.

12. **CLOSING CONDITIONS.**

12.1 **Buyer's Conditions Precedent.** Upon exercise of its option, Buyer's obligation to close the purchase of the Property shall be subject to the satisfaction of all of the following conditions:

(a) **Seller's Compliance.** Seller's fulfillment of each of its obligations under this Agreement in all material respects.

(b) **Seller's Representations.** The continuing accuracy of all of Seller's representations and warranties in this Agreement in all material respects.

(c) **Status of Title.** The absence of any monetary lien or other material defect in title to the Property which was not permitted by this Agreement or approved by Buyer.

(d) **Permitted Uses.** The absence of any violation of any applicable statute, law or regulation regarding the physical condition of the Property or Seller's use thereof or of any change in any statute, law, ordinance, or regulation which materially affects the suitability of the Property for Buyer's purposes.

(e) **Hazardous Waste.** The absence of Buyer's discovery of any hazardous material, waste or substance on or about the Property (i) which was not readily discoverable during the course of Buyer's Due Diligence, (ii) which violates any applicable statute, law, ordinance, or regulation.

(f) **Material Condemnation.** The absence of any condemnation or the institution of condemnation proceedings which result in, or are expected to result in, the taking of any of the Property or that materially and adversely affects the suitability of the Property for Buyer's purposes. If at any time during the Option Term, or before the Closing Date, all or any portion of the Property is taken by condemnation or eminent domain, or any such proceeding for condemnation or eminent domain is instituted, Seller shall immediately give written notice thereof to Buyer. If Buyer elects to continue this Agreement, Buyer shall give written notice thereof to Seller within fifteen (15) days after receiving Seller's notice and Buyer and Seller shall proceed
with the transaction contemplated herein without abatement or reduction of the Purchase Price on account of such taking or proposed taking, provided Seller shall upon Closing deliver to or credit Buyer with all amounts received by or otherwise payable to or for the benefit of Seller in connection with such condemnation or eminent domain proceeding at or before the Closing Date (without reduction on account of any claims of Seller's lender or any third party) and shall assign to Buyer all of Seller's right, title and interest in any condemnation award payable for the taking of the Property or portion thereof not yet then paid or payable. If Buyer fails to deliver written notice to Buyer within the time period set forth above, or if Buyer delivers notice of its election to terminate this Agreement, the Option Payment and any Extension Fees shall be promptly refunded to Buyer, and this Agreement shall be null and void and, except with respect to the Surviving Provisions, neither party shall have any further obligations hereunder.

(g) **Simultaneous Closing with Other Optioned Properties.** Buyer shall be able to close on its purchase of the contiguous and/or adjacent parcels it has under option described on Exhibit “E” (the “Adjacent Parcels”) at a simultaneous closing with the Closing under this Agreement. Seller agrees to cooperate in the coordination of any such simultaneous closing.

(h) **Applicable Laws.** That Buyer has obtained any and all approvals and has otherwise complied with all obligations, procedures and requirements required under applicable law to acquire the Property for the Purchase Price, including without limitation, satisfaction of any preconditions with regard to appraisals, purchase price, and public meetings.

12.2 **Failure of Closing Conditions.** In the event any one or more of the above conditions is not satisfied as of the Closing Date, or if the Buyer reasonably determines that the same are not capable of being so satisfied by the Closing Date, Buyer may:

(a) waive such condition by so advising Seller in writing, whereupon the parties shall proceed to Closing in accordance with the terms hereof and the Purchase Price shall be adjusted if and to the extent the condition relates to a misrepresentation by Seller to this Agreement and the Buyer incurs or reasonably expects to incur any expense to remedy or satisfy any of such conditions;

(b) extend the Closing Date for up to Thirty (30) days; and, to the extent constituting a misrepresentation or default of the other party, require the other party to satisfy the condition to the extent feasible or otherwise capable of being satisfied by monetary payment; or

(c) elect to cancel this Agreement, whereupon the Option Payment and any Extension Fees shall be immediately paid to Buyer, and except to the extent the parties’ remedies are otherwise limited by this Agreement, Seller shall continue to be liable to Buyer hereto for its damages and expenses caused by such failure or inability to close this transaction with all conditions satisfied.

13. **CLOSING.**

13.1 **Closing Date.** Provided that Buyer has exercised its option, and provided that the conditions precedent to Closing have been met in Buyer's sole and absolute discretion, the
consummation of the sale and transfer of the Property ("Closing") shall take place on the Closing Date specified in the Exercise Notice. Buyer may extend the Closing Date one (1) time by up to Thirty (30) days if such extension is necessitated by illness, transportation delays, the unavailability of the Escrow Agent, a delay in scheduling the simultaneous closing on an Adjacent Parcel, or other causes beyond Buyer's reasonable control. Seller shall deliver possession of the Property to Buyer at Closing free and clear of any rights or claims of any other persons for possession. Prior to Closing, Seller (a) covenants to fully vacate the Property; and (b) may, in its discretion, remove any and all equipment and personal property on the Property, including without limitation all equipment and personal property related to farming operations (collectively, the "Farm Improvements"). For the avoidance of doubt, the discretionary removal of all Farm Improvements shall, in each case, be performed in compliance with all applicable federal, state, and local laws, rules, and regulations. Seller agrees to reimburse, indemnify, defend and hold Buyer, and its officers, employees, agents, successors and assigns harmless from and against any penalty, cause of action, damage, claim, lien (including, without limitation, any mechanic's lien), liability, obligation, and expense including reasonable attorney's fees and other costs, interest and expenses incident to any suit, action, investigation or other proceeding that Buyer shall incur, suffer or become involved in (collectively, "Claims") which results from, relates to or arises out of Seller's (or its employees and agents) discretionary removal of the Farm Improvements, including without limitation Claims (a) asserted by any third party, (b) imposed upon Buyer by federal, state, or local laws, ordinances, orders or regulations, (c) arising from Seller's violation of applicable federal, state, or local laws, ordinances, orders or regulations; or (d) arising from or related to any "hazardous substance, waste or material" (as defined herein) or any contamination or release on the Property of any hazardous substance, waste or material.

13.2 Manner and Place of Closing. This transaction will be closed by the Escrow Agent in escrow at its offices at Stewart Title Guaranty Company, 10 S. Riverside Plaza, Suite 1450, Chicago, IL 60606 or at such other place as the parties may mutually agree to in writing. Upon Buyer's exercise of its option, the Closing shall take place in the manner and in accordance with the provisions set forth in this Agreement.

13.3 Closing Costs.

(a) Real Estate Taxes. Buyer shall assume and pay all special assessments for municipal improvements with respect to the Property which are confirmed of record and become a lien after the Closing and so much of the property taxes assessed for and becoming a lien during the calendar year in which the Closing occurs and which shall be allocable to it on and after the date of Closing. Seller shall pay the balance of such taxes at Closing, including all delinquent or past due taxes. Any taxes not assumed by Buyer and which are not yet due and payable at the Closing shall be allowed to Buyer as a credit against the Purchase Price at Closing, and Seller shall not be liable thereafter for such taxes. If any portion of the Property is not separately assessed, Seller and Buyer shall execute a tax proration agreement as to such parcel(s) at the Closing which shall (i) provide for the timely payment of real estate taxes on the tax parcel(s) which include the Property until such time as the taxes for the Property are separately assessed in the name of and billed separately to Buyer, (ii) provide for reimbursement of Seller by Buyer of Buyer's equitable share of taxes for which it is responsible as provided above, and (iii) include such terms and conditions as are reasonably acceptable to the parties. If all or any portion of the Property is specially assessed or taxed due to its use or classification, Seller shall pay and be solely responsible
for any deferred tax, roll-back tax, special assessment and related charge, fine, penalty or other amount regardless of the period on or before the Closing Date to which the same relates as if the Property were no longer qualified for such tax treatment ("Tax Recapture Amount") except to the extent Buyer elects in writing to receive a credit against the Purchase Price for the amount of such Tax Recapture Amount.

(b) Governmental and Utility Charges. Seller shall pay all governmental and utility charges and fees regarding the Property attributable to the period of time prior to Closing, including but not limited to solid waste pickup and disposal charges or fees, drainage district fees, dues, assessments, water and electricity charges and other similar charges or fees.

(c) Transfer Tax. Seller shall pay all transfer and excise taxes, and any other similar tax, charge or fee imposed on a person who transfers real estate in the locality where the Property is located.

(d) Recording Costs. Buyer shall be responsible to pay the recording fee for the deed to the Property, and Seller shall be responsible for the cost of recording any affidavits, lien releases, and other documents required to be recorded in order to clear title to the Property.

(e) Escrow Fees. Seller and Buyer shall each pay one-half of the escrow and closing fees charged by the Escrow Agent.

(f) Title Insurance Premium. Seller shall pay all premiums for Buyer’s extended coverage title insurance policy. Except to the extent agreed to be paid by Seller to cure any Disapproved Matter, any portion of the title insurance premium attributed to endorsements shall be paid by Buyer.

(g) Other Costs. Except as otherwise provided herein, each party shall be responsible to pay its own legal fees, costs and expenses.

13.4 Events of Closing. Upon Buyer’s exercise of its option and subject to the satisfaction of all conditions precedent, the transaction contemplated herein will be closed on the Closing Date as follows:

(a) Warranty Certificate. Seller shall provide Buyer with a certificate to the effect that, except as therein identified, there have been no changes in Seller’s representations or warranties.

(b) Nonforeign Affidavit. Seller shall provide Buyer with the Certificate of Nonforeign Status as provided in I.R.C. §1445.

(c) Termination of Farm Leases. Seller shall provide written evidence of termination of the existing Farm Lease(s) for the Property to Buyer, together with evidence of full and complete delivery of possession by such tenants free and clear of all claims, liens, rights, and obligations arising thereunder, including, without limitation, a release of rights to growing crops on the Property, and/or conveyance of growing crops on the Property.
(d) **Termination of Rental Properties.** Seller shall provide written evidence of termination of any existing residential leases for the Property to Buyer, together with evidence of full and complete delivery of possession by such tenants free and clear of all claims, liens, rights, and obligations arising thereunder. Seller shall be responsible for the termination of all utilities related to any of said rental properties.

(e) **Original Documents.** Seller shall deliver originals of the Property Information to the extent within Seller’s possession or control.

(f) **Calculation of Costs.** Escrow Agent shall calculate the closing costs, and the parties shall be charged and credited accordingly.

(g) **Payment of Purchase Price.** Buyer shall pay the Purchase Price to Seller, as adjusted for the charges and credits set forth in this Agreement.

(h) **Release of Liens.** Any liens to be paid by Seller at Closing and all title exceptions and defects to be removed and cured by Seller shall be paid and satisfied of record at Seller’s expense.

(i) **Deed.** Seller shall deliver to Escrow Agent a duly executed and acknowledged general warranty deed, subject only to the Permitted Encumbrances. The deed shall be in a form customarily used for similar real estate transactions in the state where the Property is located and shall be prepared by Buyer but subject to the review and approval of Seller. In no event shall any of the standard printed exceptions of the title insurer (and any corresponding restatements of such standard exceptions in the itemized list of special exceptions) appear as exceptions in the deed. To the extent the record legal description differs from the surveyed legal description, Seller agrees to provide a quitclaim deed for any record legal description upon Buyer’s request.

(j) **Seller Affidavits.** Seller shall execute and deliver to Escrow Agent a vendor’s affidavit, in a form sufficient to permit Escrow Agent to issue the title insurance policy with extended coverage together with Buyer’s requested endorsements.

(k) **Sales Disclosure Form.** Buyer and Seller shall execute an Indiana Sales Information Disclosure Form (State Form 46021).

(l) **Title Insurance Policy.** The Escrow Agent shall be irrevocably committed to issuing to Buyer an ALTA extended coverage owner’s title insurance policy, or equivalent, in the amount of the Purchase Price, subject only to the Permitted Encumbrances, together with such endorsements as requested by Buyer (the “Title Policy”), and promptly following the Closing, Seller shall cause Escrow Agent to issue said Title Policy.

(m) **Vacation of Existing Residences.** Seller shall be responsible for all costs associated with the vacation of existing residences and farmsteads.
(n) **Recording.** The Escrow Agent shall record the deed and any other documents required to be recorded at Closing.

(o) **Assignment.** Seller shall execute and deliver an assignment of the Utility Option referenced in Section 20.1, if applicable.

14. **DEFAULT AND REMEDIES.**

14.1 **Seller Default.** If Seller defaults or fails to perform any of the conditions or obligations of Seller under this Agreement or if any of the representations and warranties of Seller are untrue, then following notice and right to cure as described below, Buyer shall have the right to exercise any and all rights and remedies available at law, in equity and/or by statute, including without limitation the right to bring an action for damages and/or specific performance of this Agreement. Further, if the default is discovered prior to Closing, Buyer may terminate this Agreement in which event the Option Payment and Extension Fees shall be returned to Buyer. The foregoing remedies are in addition to, and not in lieu of, any Seller indemnity provided here or any express remedies provided elsewhere herein, including, without limitation, the remedies provided in Sections 6 and 18.

14.2 **Buyer Default.** If Buyer defaults or fails to perform any of the conditions or obligations of Buyer under this Agreement or if any of the representations and warranties of Buyer are untrue, then following notice and right to cure as described below, Seller shall have the right to declare the Agreement terminated, subject to the Surviving Provisions, and the Option Payment held by the Escrow Agent shall be forfeited and paid to Seller as liquidated damages which shall be Seller’s sole and exclusive remedy at law or in equity against Buyer, and Seller shall have no other claim or recourse against Buyer. The foregoing remedies are in addition to, and not in lieu of, any Buyer indemnity provided here.

14.3 **Notice and Right to Cure.** In the event of any default under this Agreement, the non-defaulting party shall serve written notice on the defaulting party describing the default. The defaulting party shall then have ten (10) calendar days after receipt of the notice to cure the default and failing a timely cure, the non-defaulting party may proceed with the remedies described above.

14.4 **Attorney Fees.** In the event any suit, action, arbitration or mediation is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court, arbitrator or mediator may adjudge reasonable as costs and expert witness and attorneys’ fees at trial, on any appeal, and on any petition for review or other proceeding (including arbitration or bankruptcy case or proceedings and issues peculiar to bankruptcy), in addition to all other sums provided by law. The term “prevailing party” as used in this Agreement shall mean a party who obtains legal counsel or brings an action against the other by reason of the other’s breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise.

15. **CONDUCT OF BUSINESS.** Prior to Closing or expiration of the option, Seller shall take no steps or actions which it knows would be detrimental to the value or future potential of the Property. Unless expressly agreed in writing by Buyer to survive the Closing Date, provided Buyer
has exercised its option to purchase the Property, Seller shall cause all contracts and all rights of third parties thereunder relating to the Property to be lawfully terminated and extinguished in their entirety by not later than the Closing Date. Except as contemplated by this Agreement, Seller agrees not to (a) place any additional consensual liens, consensual encumbrances or easements against the Property; (b) enter into any new lease, agreement of sale, option or any other agreement or contract affecting the Property; or (c) amend or modify any existing easement or encumbrance on the Property following the Effective Date; without in each case Buyer's advance written consent.

16. **RISK OF LOSS.** Seller shall bear the risk of loss or damage to the Property during the Option Term, and upon Buyer’s exercise of its option, prior to Closing. Seller agrees to maintain any existing liability, property or casualty insurance on the Property in full force and effect during the Option Term, and upon Buyer’s exercise of its option, until Closing. If any portion of the Property is damaged or destroyed during the Option Term or prior to Closing, and if in Buyer’s sole and absolute discretion the Property is no longer suitable for its intended purpose, Buyer shall have the right and option to either (i) terminate this Agreement without penalty, in which case the Option Payment and Extension Fees shall be returned to Buyer, and Buyer shall have no further obligations under this Agreement, except for the Surviving Provisions, or (ii) receive the insurance proceeds for the damage or loss and proceed to Closing as provided in this Agreement, in which case Seller shall execute such further documents as may be required for Buyer to be entitled to and receive such insurance proceeds.

17. **NOTICES.** All notices permitted or required under this Agreement shall be in writing and shall be (i) personally delivered, (ii) deposited in the United States mail, postage prepaid and sent by certified or registered mail, or (iii) deposited with a recognized overnight courier such as Federal Express, UPS, or Airborne, addressed as follows:

**To Seller:**
Kenneth E. Sebasty, Jr.
27920 US 20
New Carlisle, IN 46552
547-993-4500
kensebastyfarms@gmail.com

**To Buyer:**
St. Joseph County Redevelopment Commission
c/o Bill Schalliol, Executive Director
227 W. Jefferson Boulevard
11th Floor, City-County Building
South Bend, IN 46601
574-235-9812
BSchalliol@sjcindiana.com

**With a copy to:**
Jamie C. Woods
Attorney for St. Joseph County Redevelopment Commission
420 Lincolnway W
Mishawaka, IN 46544
jwoods@tglaw.us
Notices that are personally delivered shall be effective and deemed delivered and received when received. Notices that are given by overnight courier shall be effective and deemed delivered and received on the first business day after delivery to the courier in time for delivery the next business day, and otherwise on the next business day thereafter. Notices that are mailed shall be effective and deemed delivered and received on the second business day after being deposited with the U.S. Post Office, as evidenced by the official postmark. Either party may change its address for notices by at least ten (10) days' advance written notice to the other party by one of the methods described above.

18. CONFIDENTIALITY. The parties agree to the maximum extent permitted by applicable law, Seller agrees and covenants that the terms of this Agreement are confidential and shall not be released to or shared with any other person or entity, whether verbally or in writing, without the prior approval of all parties (other than the parties' attorneys, consultants, lenders and advisors who shall also be automatically subject to this confidentiality requirement and shall be so advised prior to furnishing information to them). Seller shall not make any public announcement or carry out any publicity whatsoever in connection with this Agreement unless mutually agreed to in writing by the parties. Furthermore, Seller and anyone receiving information from Seller shall be strictly prohibited from using, appropriating, or releasing any trade secrets or confidential information of Buyer. Notwithstanding any other provision of this Agreement to the contrary, the confidentiality provisions of this paragraph shall survive (a) termination of this Agreement, and (b) the Closing of the transaction described in this Agreement except as to those matters which will appear of public record after the recording of the deed. In the event of a breach of this confidentiality agreement by Seller, Buyer shall have the right to exercise any and all rights and remedies available at law, in equity and/or by statute. In the event of any action or proceeding brought by Buyer against Seller pertaining to or arising out of this confidentiality agreement, Buyer shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred on account of such action or proceeding. Seller acknowledges that Buyer is a governmental body and is not subject to any of the confidentiality limitations provided herein.

19. MISCELLANEOUS.

19.1 Relationship of Parties; No Third-Party Beneficiaries. This Agreement creates only the relationship of optionor and optionee, or if Buyer exercises its option, seller and buyer, and no joint venture, partnership or other joint undertaking is intended hereby, and neither party hereto shall have any rights to make any representations or incur any obligations on behalf of the other. The parties agree that this Agreement involves only the right to acquire real property, that in the event Buyer exercises its option, Buyer shall not acquire any business or ongoing liability of Seller, and except to the extent expressly assumed by Buyer in writing, Buyer shall have no successor liability to any employee, agent, Farm Lease tenant, or other person with whom Seller has contracted or to whom Seller is liable ("Post-Closing Liabilities"). Seller agrees to reimburse, indemnify, and hold Buyer harmless from any causes of action, expenses, damages, liens, liabilities, claims, fines, and costs (including reasonable attorney's fees) arising from or related to such Post-Closing Liabilities. The provisions of this Agreement shall not be construed as conferring any rights to any third-party. This Section 19.1 shall survive Closing.
19.2 **No Prohibited Persons.** Buyer and Seller each hereby certifies that it is not acting directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, “Specially Designated Nation and Blocked Person” or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and is not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to indemnify, defend, and hold harmless the other party from and against any and all claims, damages, losses, risks, liability and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

19.3 **Successors and Assigns.** Buyer shall have the right to assign this Agreement at its discretion. The assignment shall be effective on the execution of a written instrument signed by Buyer assigning the Agreement and acknowledged by the assignee assuming the obligations under this Agreement (“Assignation Agreement”). The Seller’s prior consent is not required prior to the assignment nor are their signatures required on the Assignment Agreement. Seller may not assign this Agreement without Buyer’s written consent. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

19.4 **Further Assurances.** Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

19.5 **Broker Fees.** Buyer represents and warrants that it is not represented by a real estate broker. Seller has retained the services of Tri County Appraisal, LLC, 725 S. Bray Street, New Carlisle, IN 46552, 574-647-3707, shora@tricountyera.com, which is acting under a service contract and not as a broker. Any broker’s fees or service contract fees attributable to the sale shall be paid from the Seller’s sale proceeds at Closing and Seller shall provide all invoices, lien releases and other documentation at Closing necessary to cause the Escrow Agent to insure over any lien related to said fees. Seller shall indemnify and defend Buyer from and against any claims and liens for a real estate commission, finder’s fee or other similar charge or fee made by any person claiming to represent Seller as a real estate broker or agent.

19.6 **Memorandum of Agreement.** Neither party shall record this Agreement; provided, however, Buyer at its cost and at its discretion may prepare and record a Memorandum of Agreement that does not contain any financial or business terms; provided, further in the event Buyer terminates this Agreement, upon Seller’s satisfaction of its obligations in connection with such termination, Buyer will promptly record a document evidencing such termination.

19.7 **Time of Essence.** Time is of the essence of each and every provision of this Agreement.

19.8 **Number; Gender; Captions.** Words and phrases contained herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender
according to the context. The captions and headings of this Agreement are for convenience of reference only and are not to be used to interpret or define the provisions thereof. The obligations of Seller are joint and several.

19.9 **Date for Performance.** The term “day” or “calendar day” used in this Agreement means each day of the calendar year including weekends and legal or bank holidays. The term “business day” used in this Agreement means Monday through Friday of each week excluding legal and bank holidays. If the time period by which any election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, falls on or expires on a Saturday, Sunday, legal or bank holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.

19.10 **Applicable Law.** This Agreement shall be construed, applied and enforced in accordance with the laws of the state in which the Property is located. All sums referred to in this Agreement shall be calculated by and payable in the lawful currency of the United States. Any action on this Agreement shall be brought in the circuit or superior court of St. Joseph County, Indiana or in the United States District Court for the Northern District of Indiana.

19.11 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all negotiations, letters of interest or intent, or discussions relating thereto. This Agreement may not be modified or amended except by a written document signed by the parties.

19.12 **Severability.** If any provision of this Agreement is declared invalid or is unenforceable for any reason, such provision shall be deleted from such document and shall not invalidate any other provision contained in the document.

19.13 **No Waiver.** The failure of either party at any time to require performance of any provision of this Agreement shall not limit the party’s right to enforce such provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

19.14 **Modification.** This Agreement and any of its terms may only be changed, waived, discharged or terminated by a written instrument signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

19.15 **Exchange Cooperation.** Provided Buyer has exercised its option, Seller and Buyer acknowledge that it is possible either party may decide to sell or purchase the Property under the provisions of the Internal Revenue Service Section 1031 ("Tax Deferred Exchange"). If so, Seller and Buyer shall reasonably cooperate in executing any documents required by such a Tax Deferred Exchange; provided, however, a party shall not be required to incur additional costs or liability, release or forego any right or remedy hereunder, or delay Closing due to the other party’s election to conduct a Tax Deferred Exchange.
19.16 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic means by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

20. **ADDITIONAL PROVISIONS.**

20.1 **St. Joseph Phase II, LLC.** Seller discloses that he has entered into an Option to Purchase Easement for Electric Lines with St. Joseph Phase II, LLC, a true, correct and complete copy of which is attached hereto as Exhibit “F” (the “Utility Option”). Seller covenants and warrants that he shall not amend or modify the Utility Option without Buyer’s advance written consent which consent may be granted or withheld in Buyer’s sole and absolute discretion. Seller covenants and warrants that he shall provide Buyer written notice in the event St. Joseph Phase II, LLC exercises the Utility Option prior to the Closing Date, and Buyer shall be entitled to participate in any and all negotiations as to the content of the underlying easement and shall be entitled to approve the final easement and any related documentation in Buyer’s sole and absolute discretion. Any Option Fee or Extension Fee (as defined in the Utility Option) received by Seller prior to Closing shall be the property of the Seller; and should the Utility Option be exercised prior to Closing, any consideration received by Seller for the actual easement, including the Easement Fee and Surface Damages (as defined in the Utility Option), may be retained by the Seller but shall be a credit to the Purchase Price payable at Closing. The Utility Option, if unfulfilled at Closing, shall be assigned to Buyer at Closing.

[signatures follow]
IN WITNESS WHEREOF, Buyer and Seller have caused this Agreement to be entered into effective as of the date of the last signature below.

SELLER:  

Kenneth E. Sebasty, Jr.  

Date of Execution: 3-11-20
BUYER:

St. Joseph County Redevelopment Commission

By: ____________________________
   Brian Pawlowski, President

Date of Execution: ________________
EXHIBIT “A-1”

PROPERTY DESCRIPTION

TITLE PARCEL I, TRACT 1 / No ALTA PARCEL

(Taken from Instrument #1412600 in the Office of Recorder of St. Joseph County, Indiana, described as Parcel III, Tract IV.)

SEVENTY (70) ACRES, MORE OR LESS OFF FROM THE EAST END OF THE SOUTH 80 ACRES OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 1 WEST.
EXHIBIT "A-2"

PROPERTY DEPICTION
EXHIBIT “B”

ESCROW AGREEMENT

This Escrow Agreement (this “Agreement”) is entered into and effective as of the last date of execution hereof (“Effective Date”) by and between by and among Stewart Title Guaranty Company (“Escrow Agent”); Kenneth E. Sebasty Jr. (“Seller”); and the Board of Commissioners of St. Joseph County, Indiana and its successors and assigns (“Buyer”).

RECITALS:

A. Seller and Buyer have entered into a Real Estate Option Agreement dated as of March ____, 2020 regarding certain real estate in St. Joseph County, Indiana (the “Option Agreement”), which is hereby incorporated by reference, and made a part hereof.

B. The Option Agreement requires the Buyer to deposit with the Escrow Agent for the benefit of the Seller the Additional Option Payment (as defined in the Option Agreement). Buyer is further allowed to extend the term of the Option Agreement upon the payment to Escrow Agent of Extension Fees (as defined in the Option Agreement) (the Additional Option Payment together with any Extension Fees (as applicable), if and when paid, being deemed the “Option Payment”).

C. Buyer is prepared to deliver the Additional Option Payment to the Escrow Agent subject to the terms and conditions more specifically set forth herein.

NOW, THEREFORE, in consideration of the promises and mutual covenants in this Escrow Agreement and the Option Agreement, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller, Buyer, and the Escrow Agent agree as follows:

1. DEFINITIONS. Capitalized terms used herein, but otherwise undefined, shall have the meaning ascribed to such terms in the Option Agreement.

2. APPOINTMENT AND ACCEPTANCE. Buyer and Seller hereby constitute and appoint the Escrow Agent as, and the Escrow Agent hereby agrees to assume and perform the duties of, the Escrow Agent under and pursuant to the terms of the Option Agreement and this Agreement.

3. RECEIPT OF OPTION PAYMENTS. The Option Payments under the Option Agreement shall be held in escrow by the Escrow Agent pursuant to the terms of the Option Agreement and this Agreement. Buyer will deposit the Option Payments in accordance with the Option Agreement and the wiring instructions set forth in the attached Schedule 1.

4. CONDITIONS REGARDING OPTION PAYMENTS. Except as otherwise provided in the Option Agreement, the Option Payments shall be non-refundable to Buyer, and shall be credited against the Purchase Price at Closing. If Buyer does not exercise its option to purchase the Property during the Option Term, the Escrow Agent shall deliver the Option

Exhibit B – Page 1 of 7
Payments to the party entitled to the same in accordance with the terms of the Option Agreement. The Option Payments shall be returned to Buyer, forfeited to Seller, or otherwise paid in strict conformance with the Option Agreement.

5. **DISPUTES.** It is understood and agreed that should any dispute arise with respect to the delivery, ownership, right of possession, and/or disposition of the Option Payments, the Escrow Agent, upon receipt of written notice of such dispute or claim by the Buyer or Seller, is authorized and directed to retain in its possession without liability to anyone, all or any of said Option Payments until such dispute shall have been settled either by the mutual written agreement of the parties involved or by a final judgment of a court of competent jurisdiction. The Escrow Agent may, but shall be under no duty whatsoever to, institute or defend any legal proceedings which relate to the Option Payments or to interplead the Option Payments.

6. **PERFORMANCE BY THE ESCROW AGENT.** Escrow Agent may seek advice from counsel of its choice (including any in-house counsel employed by the Escrow Agent) and may rely upon such advice as it thereupon receives in writing, or it may act or refrain from acting in accordance with its best judgment and shall not, as a result thereof, be liable to any party to this Escrow Agreement except for willful misconduct, gross negligence, willful violation of this Escrow Agreement or willful violation of applicable law.

7. **RESPONSIBILITY OF ESCROW AGENT.** Escrow Agent shall not be responsible or liable to any person, whether or not a party to this Agreement, for any act or omission of any kind so long as it has acted in good faith upon the instructions herein contained or upon the joint written instructions hereafter delivered to it as contemplated by this Agreement, the Option Agreement, or upon advice of counsel. To the extent that the Escrow Agent incurs any loss or liability (including reasonable attorneys’ fees and expenses resulting from any such act or omission or arising out of or in connection with this Agreement or administration of its duties hereunder), Buyer and Seller shall reimburse Escrow Agent therefor, unless the loss or liability resulted from the Escrow Agent’s willful misconduct, gross negligence, willful violation of this Escrow Agreement or willful violation of applicable law. Notwithstanding the foregoing, Buyer and Seller expressly reserve all of their rights as against each other to seek contribution, reimbursement or any other appropriate relief.

8. **RELIANCE.** The Escrow Agent may rely and act upon any certificate or other document conforming to the applicable provisions hereof and reasonably believed by it to be genuine and to have been signed by the proper party. All persons shall be conclusively bound as against the Escrow Agent by any payment or release of the Option Payments pursuant to, and in conformity with, the terms of this Agreement.

9. **RESIGNATION OF ESCROW AGENT.** The Escrow Agent may at any time resign by giving thirty (30) days written notice of resignation to each of the parties hereto. In such event the parties hereto shall appoint a successor escrow agent to be effective on the effective date of the aforesaid resignation. If no successor escrow agent is named by Buyer and Seller, the Escrow Agent may apply to a court of competent jurisdiction for appointment of a successor escrow agent.
10. ASSIGNMENT. The Escrow Agent shall not be permitted to assign this Agreement or any duties hereunder.

11. DISCHARGE OF ESCROW AGENT. Buyer and Seller may, by mutual written agreement at any time upon thirty (30) days written notice, remove the Escrow Agent as escrow agent hereunder, in which event, upon receipt of written notice thereof and payment of any accrued but unpaid fees or expenses due the Escrow Agent, the Escrow Agent shall account for and deliver to such substituted escrow agent the Option Payments and any amounts held hereunder, and the Escrow Agent shall thereafter be discharged from all liability under this Agreement.

12. NOTICES. All notices or other communications required or permitted hereunder shall be delivered in accordance with Section 17 of the Option Agreement. Notices to Escrow Agent shall be addressed as follows:

Martha Chaparro  
Stewart Title Guaranty Company  
10 S. Riverside Plaza, Suite 1450  
Chicago, IL 60606  
(312) 849-4247  
Martha.Chaparro@stewart.com

13. EXPENSES. Escrow Agent shall be entitled to its reasonable and customary fees for its services hereunder and reimbursement of its reasonable expenses. All charges and expenses of the Escrow Agent under this Agreement shall be equally borne by Buyer and Seller.

14. CONFIDENTIALITY. The Escrow Agent agrees to be fully bound by the confidentiality requirements of Section 18 of the Option Agreement and for the purposes of this Escrow Agreement the term "parties" as used in said Section 18 shall be deemed to include the Escrow Agent. Notwithstanding any other provision of the Escrow Agreement, the confidentiality requirements shall survive expiration or termination of this Escrow Agreement.

15. APPLICABLE LAW. This Agreement shall be governed by and construed as to validity, enforcement, interpretation, construction, effect and in all other respects in accordance with the internal laws (as opposed to the conflicts of law provisions) of the state in which the Property is located.

16. COUNTERPARTS. This Escrow Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Escrow Agreement. The counterparts of this Escrow Agreement may be executed and delivered by facsimile or other electronic means by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

[signatures follow]
ESCROW AGENT:

Stewart Title Guaranty Company

By: ____________________________
Name: __________________________
Its: ____________________________

Date of Execution: ______________
SELLER:

[Signature]
Kenneth E. Sebasty, Jr.

Date of Execution: 3-11-20
BUYER:

St. Joseph Redevelopment Commission

By: ________________________________
   Brian Pawlowski, President

Date of Execution: _________________
SCHEDULE 1 to ESCROW AGREEMENT

Wiring Instructions

Account Name and Address: 

Bank Name: 

ABA Routing Number: 

Account Number: 

Exhibit B – Page 7 of 7
EXHIBIT “C”

AUTHORIZATION

The following Authorization is hereby given by the undersigned owner of the property described in the attached Exhibit “A” (hereinafter described as the “Property”):

In recognition of the fact that state and local governmental authorities will not consider any applications for governmental approvals, processes, or permits regarding the Property (hereinafter described as “Governmental Approvals”) without the authorization of the owner of the Property, the undersigned owner of the Property hereby gives authority to the Buyer, as well as its designees, assigns, delegated entities, and successors in interest, the right and authority to request Governmental Approvals. The undersigned property owner recognizes that such Governmental Approvals may include, but not be limited to, a request to rezone the property from its current classification to an industrial, commercial, or mixed use classification and to amend the governmental comprehensive plan accordingly; a request to enter into a development agreement with governmental authorities; and a request to enter into agreements regarding sewer, water, and utilities.

A facsimile, photocopy, PDF, or other electronic copy of this Authorization shall serve as and be deemed to be the same as an original hard copy of the Authorization.

SELLER:

[Signature]

Kenneth E. Sebasty, Jr.

Date of Execution: 3-11-20
STATE OF INDIANA

)SS:

COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, personally appeared Kenneth Sebasty, Jr., and having been duly sworn, acknowledged the execution of the foregoing Authorization as his own voluntary act and deed.

Witness my hand and Notarial Seal this W day of March, 2020.

Jamie Woods
Notary Public - Signature

Notary Public - Printed

My County of Residence: St. Joseph

My Commission Expires: 10/21/2026

Exhibit C – Page 2 of 2
EXHIBIT “D”

FARM LEASE(S) AND RESIDENTIAL LEASE(S)

None.
EXHIBIT “F”

COPY OF THE OPTION

Parcel 01.02

OPTION TO PURCHASE
EASEMENT FOR ELECTRICAL LINES

This Option Agreement is entered into by and between Kenneth E Sebasty, Jr., whose address is 27920 US 20, New Carlisle, IN 46552 (“Grantor”) and St. Joseph Phase II, LLC (“Grantee”) on this 1st day of January, 2019 (the “Effective Date”). Grantor and Grantee are sometimes referred to in this Option Agreement individually as a “Party” or jointly as the “Parties”.

RECITALS

WHEREAS, Grantor is the fee owner of certain real property situated in St. Joseph County, Indiana (the “Property”), more particularly described as:

(See attached Exhibit A – Legal Description of Property & Easement Sketch)

WHEREAS, Grantee desires to acquire the option to purchase an easement for electrical lines including the right and authority of constructing, installing, maintaining, operating, replacing, removing, upgrading or increasing of electric lines (as stated and in accordance with Exhibit B) over and across all the right, title and interest of Grantor in and to that portion the Property as shown on Exhibit A (the “Easement Sketch”) and

WHEREAS, Grantor desires to grant the Option to Grantee pursuant to the terms and conditions of this Option Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Parcel 01.02

Page 1 of 7

Exhibit F – Page 1 of 19
1. Incorporation of Recitals: The Recitals set forth above are hereby incorporated into this Option Agreement as if fully set out herein.

2. Grant of Option: Grantor hereby grants to Grantee the Option to acquire a right of way and easement not more than five hundred feet (200') in width, to construct, install, maintain, operate, replace, remove, enlarge, protect, repair, and alter an electric transmission line and appurtenances above and below ground, for the transportation of electricity. Easement rights shall be as depicted in the attached Easement for Electrical Lines and incorporated herein as Exhibit B.

3. Term of Option: This Option commences upon execution of this agreement and payment of the Option Fee to Grantor and shall terminate after twelve (12) months (final date of Option 1/15/2020) if not previously exercised by Grantee or extended by Grantor as provided herein. The initial term of the Option, together with any extension of the Option, is referred to herein as the "Option Period".

4. Consideration for Option: This Option is granted in consideration of the payment by Grantee to Grantor for the execution of this Option Agreement the sum of Twenty Thousand Dollars ($20,000.00) (the "Option Fee"), the receipt and sufficiency of which is hereby acknowledged.

5. Extension of Option: Grantee shall have the right to extend this Option for a period of twenty-four (24) months by providing Grantor written notice of its intention to extend the period (the "Extension Notice") and paying to Grantor the sum of Ten Thousand Dollars ($10,000.00) prior to the expiration of the initial term (the "Extension Fee").

6. Termination of Option: If Grantee fails to exercise the Option during the Option Period, then this Option Agreement and the rights of Grantee shall automatically and immediately terminate without notice. Upon termination of the Option, Grantor shall record in the official records a release of the Memorandum of Option, as defined below.

7. Exercising of Option: In the event Grantee elects to exercise this Option during the Option Period, Grantor shall provide written notice of the exercise of this Option in accordance with the Notice section below (the "Option Notice").

8. Deliverables Upon Exercising of Option: In the event Grantee shall elect to exercise this Option, it shall, within the Option Period, provide written notice of the exercise of this Option to Grantor at Grantor's address shown below (or such other address as Grantor may subsequently, by written notice to Grantee, designate) ("Exercise Notice"). Such notice of exercise of this Option may, at Grantee's option, be delivered to Grantor, sent to Grantor by registered or certified United States Mail, return receipt requested, or served in same manner as provided for in applicable state statutes for service of initial or original notice of an action at law.

9. Consideration for Easement for Electrical Lines: Upon Grantor's decision to exercise the Option hereinafter, Grantee shall pay Grantor a one-time payment in the amount of Three Hundred Thousand Dollars ($300,000.00) for the execution of Easement for Electric Lines (Exhibit B) (the "Easement Fee"). Grantee shall deduct from the Easement Fee both the Option Fee and Extension Fee, if applicable, to determine the total amount due to Grantor.
10. **Restrictions on Grantor Use**: During the Option Period, Grantor agrees not to build, create or construct nor permit to be built, created or constructed, any obstruction, building, improvement or any other structure within the proposed right of way and easement. Further, Grantor agrees not to grant, sell, convey or otherwise transfer any interest to the Property or create or permit the creation of any lien encumbering the Property during the Option Period that may interfere with Grantee’s proposed electric transmission facility or Grantee’s rights hereunder without Grantor’s prior written consent.

11. **Right to Survey and Conduct Studies and Tests**: During the Option Period, Grantee, its employees, agents and contractors, shall have the right to enter upon the Property for the making of all studies and surveys reasonably associated with the proposed transmission facilities, and may perform whatever reasonable tests and studies Grantee desires, including, without limitation, environmental, archaeological, engineering, soil, and ground, together with the right of egress and ingress over and across the Property. Grantee shall pay Grantor for any (i) damages to growing crops, (ii) damages to improved or native grasses, (iii) damages to vegetation or any plant life on the land, (iv) alteration of fences, (v) disruption of topsoil, and (vi) other surface damages (collectively the “Surface Damages”), which are caused by Grantee’s surveys, studies or tests hereunder. At its option, Grantee may repair or cause any such damage to be repaired at its sole cost and expense in lieu of paying reasonable compensation to Grantor for the damage.

Following an instance of crop damage caused by the GRANTEE, the first year shall be compensated at 100% of crop value, the following year 75% of the initial compensation, and the third year 50% of the initial compensation. After three years from the time the crop damage occurs, no further compensation will be paid.

12. **Liens**: Grantor represents and warrants to Grantee that the Property is free and clear of any liens, mortgages, deeds of trust, or other security interests encumbering the property, other than what has been properly recorded for public record. Grantor authorizes Grantee, its agents and representatives, to contact such entity to obtain a release, consent and subordination agreement, or other instrument or agreement reasonably satisfactory to Grantee from any such lienholder to the extent required by Grantee to eliminate any interference with the Easement for Electric Lines or Grantee’s rights hereunder. Grantee shall cooperate and furnish or execute such additional documentation as may be required by Grantee and the lienholder. Further it is understood that the Easement Fee or some portion thereof may be required by such lienholder to provide the release. However, Grantee shall pay reasonable processing fees up to $300.00 to the lienholder as required.

13. **Notices**: All notices hereunder, including the Option Notice and Extension Notice, shall be considered given when (i) delivered in person, (ii) sent by facsimile; (iii) deposited with a reputable overnight delivery service, or (iv) deposited with the United States mail, registered or certified, return receipt requested. Notices shall be addressed to the Party at the addresses below:
Either Party may change its address for notices hereunder by providing the other Party with prior written notice of the change.

14. Confidentiality: Each Party agrees (on behalf of itself and each of its affiliates, directors, officers, employees, and representatives) to use all reasonable efforts to keep confidential any non-public information in connection with this Option Agreement, specifically including, without limitation, the consideration paid for this Option Agreement, the consideration agreed to be paid for the Easement For Electric Lines, any other payments made under either this Option Agreement or the Easement, and any other non-public information supplied to it by the other Party hereto (or any of its affiliates, directors, officers, employees, and representatives); provided that nothing herein shall limit the disclosure of any such information (a) to the extent required by statute, rule, regulation, judicial process, or in connection with any litigation or regulatory proceeding to which such party hereto is a party if the disclosing Party gives the other Party prior notice of such disclosure and uses a good faith effort to maintain its confidentiality after disclosure, or (b) to any assignee so long as such assignee agrees to be bound by the terms and provisions of this Paragraph.

15. Recording: At the discretion of the Grantee this Option or a Memorandum thereof may be recorded. The Easement for Electric Lines shall not be recorded until such time as a full payment to Grantor has been made.

16. Governing Law: This Agreement shall be governed and construed in accordance with the laws of the State of Indiana.

17. Specific Performance: Grantor hereby acknowledges and agrees that the Option granted herein provides Grantee with the ability to acquire an interest in the Property and that money damages would not be a sufficient remedy for any breach of this Agreement and that specific performance and injunctive or other equitable remedies for any such breach shall be available to Grantee as a remedy for any such breach or threatened breach.

18. Recovery of Expenses: If either Party initiates a proceeding to enforce any of the terms, covenants or conditions contained in this Option Agreement, the prevailing Party shall be entitled to recover from the other Party all reasonable expenses, costs and attorneys’ fees incurred in connection with the proceeding.

19. Successors and Assigns: The rights herein granted to Grantee may be assigned, in whole or in part. All of the provisions hereof shall run with the land and inure to the benefit of and shall be binding upon the Parties hereto, their successors and assigns.

20. Amendments: This Option Agreement shall not be amended or modified in any way except by an instrument signed by Grantor and Grantee.
21. **Severability:** If any provision of this Option Agreement is held to be invalid or unenforceable, such provisions will not affect in any respect the validity or enforceability of the remainder of this Option Agreement. If practicable, the Parties agree to substitute for any invalid provision, a valid provision that most closely approximates the economic effect and intent of the invalid provision.

22. **Counterparts:** This Option Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

23. **Further Assurances:** Grantor and Grantee each covenant and agree to sign, execute and deliver, and to do or make, or cause to be done or made, upon the written request of the other Party, any and all agreements, instruments, papers, acts or things, supplemental, confirmatory or otherwise, as may be reasonably required by either Party hereto for the purpose of or in connection with consummating the transactions described herein.

[SIGNATURES AND NOTARIAL ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]
IN WITNESS WHEREOF, the Parties have executed this Option Agreement as of the Effective Date.

GRANTOR:

________________________
Name: Kenneth E.

STATE OF Indiana
COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, personally appeared Kenneth E.
Scoby, Jr., who acknowledged execution of foregoing Option to Purchase Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ___ day of ___ , 2019.

________________________
Notary Public
Print Name: Tere E.D. Haek
My County of Residence: __________
My Commission Expires: __________

STATE OF __________________
COUNTY OF _______________

Before me, a Notary Public in and for said County and State, personally appeared ____________________________ , who acknowledged execution of foregoing Option to Purchase Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ___ day of ___ , 2019.

________________________
Notary Public
Print Name: __________________
My County of Residence: __________
My Commission Expires: __________

Parcel 01.02

Exhibit F – Page 6 of 19
GRANTEE:

St. Joseph Phase II, LLC

By: __________________________

Scott M. Keller
Attorney-in-Fact

STATE: OF INDIANA )
COUNTY OF ST. JOSEPH ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Scott M. Keller, an authorized attorney-in-fact of St. Joseph Phase II, LLC, who acknowledged execution of the foregoing Option to Purchase Easement for Electrical Lines, for and on behalf of said company, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 14th day of January, 2019.

[Signature]

Notary Public:

Parcel 01.02

Page 7 of 7
EXHIBIT A - 1 of 2

Legal Description of Property

S 1/2 Nw (ex W 10 Ac) S 1/2 Ne W Of Rd (ex W 40 Ac) S 6.25 Ac E 1/2 E 1/2 Ne & Ne Sw All In Sec 1-37-1w & S 365' W 1160' Sw Nw Sec 6-37-1e & N 1/2 Ne Nw Sec 18-37-1e 165.69 Ac
EXHIBIT B

EASEMENT FOR ELECTRICAL LINES

KNOW ALL MEN, That Kenneth E. Sebasty Jr., herein called the "Grantor", in consideration of the sum of one dollar ($1.00) and other valuable considerations, in hand paid to the Grantor, hereby grant to St. Joseph Phase II, LLC, a Delaware limited liability company, and to its successors and assigns, herein called the "Grantee," an easement, right and authority, from time to time, to construct, erect, maintain, operate, repair, replace, renew and remove towers and poles, and to string, install, construct, erect, maintain, operate, repair, replace, renew and remove wires, cables, conductors, guy wires, and other necessary equipment upon and between such towers and poles, together with all the rights and privileges necessary or convenient for the full enjoyment or use thereof, for the purposes herein described, including the right of ingress and egress to and from the strip of easement land, over adjoining lands of Grantor and the right to trim, or control by herbicides, or at Grantee's option, to cut down and remove from the premises hereinafter described and from the adjoining lands of Grantor any overhanging branches or undergrowth, or any trees of such height which may, in the sole judgment of Grantee, endanger the safety of, or interfere with the use or enjoyment of, any of Grantee's facilities and to operate by means thereof one or more lines or lines for the transmission, distribution and delivery of electrical energy to the public in general, to be used for light, heat, power, telephone and other purposes, in, upon, along and over a strip of land or right-of-way situated in Section 1, Township 37 North, Range 1W and Section 6, Township 37, Range 1 E of the Second Principal Meridian in the County of St Joseph, State of Indiana, described as,

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR LEGAL DESCRIPTION

DEED REFERENCE:

Access to the above described land over the adjoining lands of Grantor's is hereby granted. Any damages to the crops, trees, fences, or buildings of the Grantor on said right-of-way, or on lands of the Grantor adjoining the said right-of-way, done by the Grantee in the construction, erection, installation, repair, replacement or renewal of said towers, poles, wires, cables, conductors, guy wires, or equipment, shall be promptly paid by the Grantee, or Grantor, at its option, may repair or cause any such damages to be repaired at Grantee's sole cost and expense. Patrolling said line or lines shall not constitute grounds for a claim for crop damage.

The Grantor reserves the use of the above described land not inconsistent with this grant, but no buildings or permanent structures shall be placed on the right-of-way by Grantor, and any use by the Grantor shall not interfere with the use or enjoyment of any of Grantee's facilities.

The Grantee shall and will indemnify and save the Grantor harmless from and against any and all damage, injuries, losses, claims, demands or costs proximately caused by the fault, culpability, or negligence of the Grantee in the construction, erection, maintenance, operation, repair or renewal of said line or lines and the structures and appurtenances connected therewith.

The rights herein granted may be assigned in whole or in part.

Parcel 01.02
The undersigned Grantor hereby covenants to be the owner in fee simple of said real estate, lawfully seized thereof, with good right to grant and convey said easement herein, and guarantees the quiet possession thereof, that the said real estate is free from all encumbrances except for those encumbrances that have been properly recorded for public record, and that the Grantor will warrant and defend the title to the said easement against all lawful claims.

These presents to be binding on the heirs, executors, administrators, grantee, successors and assigns of the Grantor, and upon the Grantee, its successors and assigns.

IN WITNESS WHEREOF, the Grantor has duly executed this instrument this __________ day of ______________, A.D. 2019.

GRANTOR:

________________________________________
Name

________________________________________
Name

STATE OF ____________________________
COUNTY OF __________________________

Before me, a Notary Public in and for said County and State, personally appeared __________________________, who acknowledged execution of the foregoing Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarized Seal this _____ day of __________, 2019.

[AFFIX NOTARY SEAL]

Notary Public

Print Name: ____________________________
My County of Residence: ____________________________
My Commission Expires: ____________________________

Parcel 01.02

Page 2 of 3

Exhibit F – Page 11 of 19
STATE OF
COUNTY OF

Before me, a Notary Public in and for said County and State, personally appeared ________________________, who acknowledged execution of the foregoing Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of __________, 2010.

[AFFIX NOTARY SEAL]

Notary Public

Print Name: ____________________________________________
My County of Residence: ________________________________
My Commission Expires: ________________________________

This instrument prepared by: Jim Aloilo, SRWA
Commonwealth Associates, Inc.
2700 W. Argyle Street
Jackson, MI 49202-1907

Upon recording return to: Jim Aloilo, SRWA
Commonwealth Associates, Inc.
P.O. Box 1124
Jackson, MI 49204-1124

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Signature of Preparer

Grantee's Address:
St. Joseph Phase II, LLC
11 Martine Avenue, 9th Floor
White Plains, New York 10606

Parcel 01.02

Exhibit F – Page 12 of 19
EXHIBIT A - 1 of 2

Legal Description of Property

S 1/2 Nw (ex W 10 Ac) S 1/2 Ne W Of Rd (ex W 40 Ac) S 6.25 Ac E 1/2 E 1/2 Ne & Ne Sw All In Sec 1-37-1w & S 365' W 1160' Sw Nw Sec 6-37-1e & N 1/2 Ne Nw Sec 18-37-1e 165.89 Ac

Parcel 01.02

Page 1

Exhibit F – Page 13 of 19
MEMORANDUM OF OPTION
TO PURCHASE EASEMENT FOR ELECTRICAL LINES

Parcel 01.02

THIS MEMORANDUM OF OPTION TO PURCHASE EASEMENT FOR ELECTRICAL LINES (this "Memorandum"), is made and entered into by Kenneth B. Schasby Jr., whose address is 27920 US 20, New Carlisle, IN 46552 ("Grantor") and St. Joseph Phase II, L.L.C., a Delaware limited liability company, whose address is 11 Maritime Avenue, 9th Floor, White Plains, New York 10606 ("Grantee").

WITNESSeth: That,

Pursuant to the terms of that certain Option to Purchase Easement for Electrical Lines dated Jan. 16, 2019 (the "Option"), Grantor granted to Grantee certain rights to acquire an easement on that certain real property located in the County of St. Joseph, State of Indiana, more particularly described as:

(See attached Exhibit A – Legal Description of Property & Easement Sketch)

Grantor and Grantee have executed and delivered this Memorandum to give record notice of the Option and of the rights created thereby, all of which are hereby confirmed and incorporated herein by reference.

[SIGNATURES AND NOTARIAL ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGE]
GRANTOR:

STATE OF Indiana
COUNTY OF 

Before me, a Notary Public in and for said County and State, personally appeared Kenneth E. Schoen, who acknowledged execution of foregoing Memorandum of Option to Purchase Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 11 day of January, 2019.

[AFFIX NOTARY SEAL]
Notary Public
Print Name:
My County of Residence:
My Commission Expires:

STATE OF 
COUNTY OF 

Before me, a Notary Public in and for said County and State, personally appeared , who acknowledged execution of foregoing Memorandum of Option to Purchase Easement for Electrical Lines, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this day of , 2019.

[AFFIX NOTARY SEAL]
Notary Public
Print Name:
My County of Residence:
My Commission Expires:

TER E D. HAILE
Notary Public - Seal
Laporte County, State of Indiana
Commission Number 566786
My Commission Expires July 11, 2020
GRANTEES:

St. Joseph Phase II, LLC

By: [Signature]

Scott M. Keller
Attorney-in-Fact (#1616010)

STATE OF INDIANA

COUNTY OF ST. JOSEPH

Before me, a Notary Public in and for said County and State, personally appeared Scott M. Keller, an authorized attorney-in-fact of St. Joseph Phase II, LLC, who acknowledged execution of the foregoing Memorandum of Option to Purchase Easement for Electrical Lines, for and on behalf of said company, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 14th day of January, 2019.

[Signature]

Notary Public:

The undersigned preparer of this document in accordance with IC 36-2-11-15(f) states: 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.

James J. Aiello, SR/WA

Upon recording return to: James J. Aiello, SR/WA
COMMONEALTH ASSOCIATES, INC.
P. O. Box 1124
Jackson, MI 49204-1124

Parcel 01.02

Page 3 of 3

2019-01196

Exhibit F – Page 17 of 19
EXHIBIT A - 1 of 2

Legal Description of Property

S 1/2 Nw (ex W 10 Ac) S 1/2 Ne W Of Rd (ex W 40 Ac) S 6.25 Ac E 1/2 E 1/2 Ne & Ne Sw All In Sec 1-37-1w & 5 365' W 1160' Sw Nw Sec 6-37-1e & N 1/2 Ne Nw Sec 18-37-1e 165.89 Ac
REAL ESTATE OPTION AGREEMENT

THIS REAL ESTATE OPTION AGREEMENT (this “Agreement”) is entered into and effective as of the last date of execution hereof as evidenced by the last date below the parties’ signatures hereto (“Effective Date”) by and between Todd L. Kaminski, Jill F. Oudhuis, and Tim V. Kaminski as equal tenants in common (jointly and severally, “Seller” or “Sellers”) and the St. Joseph Redevelopment Commission and its successors and assigns (“Buyer”). Seller and Buyer are sometimes individually referred to in this Agreement as a “party” or collectively as the “parties.”

RECITALS:

A. Seller owns approximately 152.8 acres of land located in St Joseph County, Indiana as more particularly described in Exhibit “A” attached hereto and depicted on Exhibit “A-2” attached hereto, together with all easements, rights, and interests appurtenant thereto together with all improvements located thereon (the “Property”); and

B. Seller desires to sell and Buyer desires to have the right and option to purchase the Property from Seller in accordance with the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

1. GRANT OF OPTION. Seller hereby grants to the Buyer the exclusive right and option to purchase fee simple title to the Property, including all rights and interests related thereto subject to the terms and conditions set forth in this Agreement.

2. OPTION CONSIDERATION. As consideration for the grant of this option, Buyer shall pay directly to Seller the sum of Fifteen Thousand and 00/100 Dollars ($15,000.00) (the “Initial Option Payment”) within ten (10) business days after the Effective Date. If Buyer fails to either exercise the option (as provided in Section 4) or terminate the option (as provided in Section 10.4), within ninety (90) days after the Effective Date, Buyer shall promptly deposit with the escrow agent (“Escrow Agent”) identified in the escrow agreement attached as Exhibit “B” hereto (the “Escrow Agreement”) the additional sum of Seventy-Five Thousand and 00/100 Dollars ($75,000.00) the “Additional Option Payment”). The Initial Option Payment and the Additional Option Payment, if and when paid, shall together be deemed the “Option Payment”. In the event Buyer exercises its option, the Option Payment shall be credited against the Purchase Price (defined below) at Closing (hereinafter defined). Each Seller agrees and acknowledges by his/her execution of this Agreement that he/she is agreeing to sell all of his/her respective right, title, and interest in and to the Property and that any payment, disbursement, proceeds, or other monetary sums to be paid or distributed to Seller shall be distributed equally between each Seller unless Buyer and Escrow Agent receive alternate written instructions from Sellers prior to such disbursement, which instructions must be signed by all Sellers. Each Seller further agrees that
notice to Sellers shall be sufficient and deemed delivered to all Sellers if it is delivered to the individual Seller listed in **Section 17**.

3. **OPTION TERM.** The option herein granted shall continue in full force and effect for a period commencing on the Effective Date and ending the date that is one (1) year following the Effective Date (the "**Option Term**"). Buyer shall have the right to extend the Option Term for up to (2) consecutive periods of six (6) months each by (a) giving Seller written notice of such extension not less than ten (10) days prior to the end of the Option Term or the first extension term (as applicable), and (b) depositing with Escrow Agent the sum of Fifteen Thousand and 00/100 Dollars ($15,000.00) for each such extension (collectively, the "**Extension Fees**"), within ten (10) business days after delivering such extension notice. In the event Buyer exercises its option, the Extension Fees shall be credited against the Purchase Price (defined below) at Closing (hereinafter defined); otherwise, the Extension Fees shall be forfeited to Seller or returned to Buyer in the manner provided herein.

4. **EXERCISE OF OPTION.** Buyer's option to purchase the Property may be exercised at any time subsequent to the Effective Date until the expiration of the Option Term. Buyer shall exercise the option by delivering written notice thereof to Seller (an "**Exercise Notice**"). The Exercise Notice shall specify a closing date ("**Closing Date**") of no more than thirty (30) days following the date it is given.

5. **PURCHASE PRICE.** In the event Buyer exercises its option, the purchase price for the Property (the "**Purchase Price**") shall be Fifty Five Thousand and 00/100 Dollars ($55,000.00) per acre as determined by Buyer’s Survey (hereinafter defined), provided that the acreage shall exclude all state and local rights-of-way and legal or regulated drains.

6. **PURCHASE PRICE HOLD-BACK.** At Closing Escrow Agent shall withhold from the proceeds due to the Seller the sum of Two Hundred Seventy Thousand and 00/100 Dollars ($270,000.00) (the **"Retention"**) as security for Seller’s performance of its obligations in **Section 13.1**. The Retention shall be held in escrow by the Escrow Agent and shall be paid to Seller provided that Seller fully and timely performs its obligations in **Section 13.1**. In the event that Seller breaches its obligations under **Section 13.1** or otherwise fails to vacate the Property within one hundred twenty (120) days of Closing as required herein, Seller will forfeit all rights to any remaining structures (including the Residences (as hereafter defined)), equipment, and personal property remaining on the Property; the Retention shall be forfeited and returned, in full, to Buyer; Buyer shall be entitled to its costs to remove and dispose of any remaining structures, equipment, and personal property; and Buyer shall be entitled to all remedies at law or in equity.

7. **INFORMATION.** Seller shall, within five (5) business days following the Effective Date of this Agreement, provide Buyer with copies of all information in the possession or control of Seller regarding the Property including, but not limited to the following (collectively, the "**Property Information**"): 

(a) surveys, title insurance policies, environmental studies, and zoning reports;
(b) specifications for on-site or off-site improvements;
(c) reports as to utility availability and quality;
(d) geotechnical reports (including, but not limited to, those pertaining to soils, groundwater, surface waters, wells, percolation and drainage);
(e) water permits, certificates, and usage records;
(f) geology and archeology studies;
(g) tax assessment records;
(h) governmental permits and approvals;
(i) applications and stipulations relating to the ownership or use of the Property;
(j) agreements pertaining to the Property that could survive Closing (including, but not limited to, leases and management agreements);
(k) government program contracts;
(l) wetland delineations or reports;
(m) true, correct, and complete copies of any Farm Leases (as defined in Section 11.1(f) and any residential leases referred to in Section 13.4(d) (and to the extent such leases are oral, a written summary of the oral terms); and
(n) any material correspondence, sent or received, pertaining to any matter which would adversely affect the value or utility of the Property to Buyer.

If any such information comes into the possession or control of the Seller prior to Closing, Seller shall promptly provide copies of the information to Buyer.

8. **SURVEY.** Buyer may, at Buyer’s expense, select a licensed land surveyor to prepare an ALTA/NSPS survey ("Survey") in such detail as Buyer desires. The Survey will determine the legal description and acreage of the Property (including the acreage of any state or local right of way or legal or regulated drains), and such legal description will be used in the deed, and any other applicable documents to be delivered at Closing.

9. **TITLE COMMITMENT.** Within fifteen (15) days after the Effective Date, Seller shall, at Seller’s expense, cause the Escrow Agent to issue to Buyer a title insurance commitment for an ALTA form of owner’s policy of title insurance, or equivalent, in the amount of the Purchase Price showing fee title to the Property vested in Seller (the “Title Commitment”). The Title Commitment shall be accompanied by legible copies of all special exceptions listed therein.

10. **OPTION PERIOD; DUE DILIGENCE.**

10.1 **Due Diligence and Approvals.** From the Effective Date through the earlier of (a) the date the option is exercised as provided in Section 4; (b) the date the option is terminated as provided in (Section 10.4); and (c) the end of the Option Term (including any extensions thereof) (the “Option Period”), Buyer shall have the right to satisfy itself concerning all aspects of the Property, including, without limitation, the physical condition thereof, the availability of any governmental permits and approvals, and the feasibility of using the Property for Buyer’s intended use. During the Option Period, Buyer shall have the right to perform such tests, inspections and feasibility studies on the Property as Buyer may desire, including, without limitation, a Phase I Environmental Site Assessment (“Phase I Assessment”); a Phase II Environmental Site Assessment (“Phase II Assessment”); a geotechnical review and survey through temporary borings and excavated test pits; groundwater testing and sampling; floodplain and wetlands evaluation; archaeological assessments; and any other inspection activities and
investigations on the Property (the “Due Diligence”). Seller hereby grants permission to Buyer, and its employees, agents, contractors, and consultants (collectively, “Inspectors”) to enter upon the Property for the purpose of conducting the Due Diligence. To the extent reasonably requested by Buyer, Seller shall assist Buyer and its Inspectors in providing access to Seller’s engineers, contractors, subcontractors, managers, analysts and appraisers in connection with Buyer’s Due Diligence.

10.2 Resolution of Disapproved Matters. If Buyer objects to any matter set forth in the Title Commitment, the Survey, or any other matter identified in the course of its Due Diligence, Buyer may offer Seller the opportunity to correct the same by providing Seller with written notice prior to the end of the Option Period, which notice shall identify the objectionable matter (the “Disapproved Matters”) and may further specify the dates and manner by which the objectionable matter must be corrected (an “Objection Notice”). Within fifteen (15) days after receipt of an Objection Notice, (“Seller’s Response Period”), Seller shall notify Buyer in writing of whether, and to the extent, Seller will effect and pay for such corrections (an “Objection Response”). If Seller fails to give its Objection Response within the Seller’s Response Period, Seller will be deemed to have agreed to make such corrections and cure any objections at its cost. Buyer shall have until the latter of, (i) the expiration of the Option Period, and (ii) fifteen (15) days after Seller gives its Objection Response (or after the last day of the Seller’s Response Period if Seller fails to deliver an Objection Response) (“Buyer’s Decision Period”), to evaluate and consider any Objection Response (or lack thereof), and either terminate this Agreement or waive the Disapproved Matters in Buyer’s sole discretion. Prior to the Closing Date, Seller shall correct all items which Seller agreed to undertake (or is deemed to undertake) in its Objection Response, if any. Notwithstanding the foregoing, provided Buyer exercises its option, Seller shall in all cases be obligated to cure at or prior to Closing, any encumbrance against the Property which may be cured by payment of money, such as mortgages, deeds of trust, UCC security agreements, judgment liens, mechanic’s liens and tax liens (excluding liens for taxes not yet due or payable). As used in this Agreement, the term “Permitted Encumbrances” shall collectively mean: (i) the exceptions to title reflected in the Title Commitment to which Buyer has not objected (or having objected thereafter waives or is deemed to waive its objections thereto) pursuant to this Section 10.2; and (ii) any unpaid real estate taxes which Buyer is required to pay under Section 13.3(a) below.

10.3 Ownership/Disclosure of Reports. Seller acknowledges and agrees that the information obtained by Buyer pursuant to Due Diligence may be used and disclosed by Buyer to governmental authorities or other third parties as Buyer proceeds with applications and requests for economic development programs, permits, clearances, or other governmental approvals relating to the Property and Buyer’s intended use of the Property. All reports generated by Buyer or its Inspectors shall remain the sole property of Buyer.

10.4 Termination Right. If in Buyer’s sole and absolute discretion it is determined by Buyer that the Property is not suitable for Buyer’s intended use, for whatever reason, Buyer shall have the absolute right to terminate this Agreement without explanation or justification and without penalty by giving Seller written notice prior to the expiration of the Option Period. This Agreement thereafter shall be null and void; the Option Payment shall be remitted to Seller; and, except for any provisions which expressly survive termination (collectively, the “Surviving
neither party shall have any further obligations hereunder. Nothing in this Section 10.4 shall preclude or waive any right of Buyer to terminate this Agreement to the extent provided elsewhere herein (including without limitation, pursuant to Section 14.1) or its right to the return of the Option Payment or any Extension Fees to the extent provided elsewhere herein.

10.5 **Release.** Except as otherwise provided herein, Seller releases Buyer from damages to the Property related to Due Diligence activities as described in this Agreement; provided, however, that Buyer shall indemnify, defend and hold harmless Seller from and against any loss or liability resulting from any personal injury or property damage which is the sole result of negligent acts or omissions by Buyer or its Inspectors in connection with Due Diligence. Notwithstanding the foregoing, and for the avoidance of doubt, such indemnification and hold harmless obligation shall not extend to liability or loss associated with, or arising out of, (a) any crop damages on the Property or other sums, damages or obligations under any Farm Lease (except as provided in Section 10.7); (b) Seller’s breach hereof or its negligence or intentional misconduct; or (c) the discovery or disturbance of pre-existing hazardous substances on, or other adverse physical conditions of, the Property.

10.6 **Permitting Authorization.** By signing this Agreement and the Authorization form attached hereto as Exhibit “C,” Buyer is authorized to apply to any governmental authority or negotiate with any governmental authority regarding Buyer’s intended use and development of the Property and any permitting processes needed in Buyer’s sole discretion in connection with Buyer’s intended use and development of the Property. Seller shall cooperate with Buyer in connection with Buyer’s applications for any permits, approvals, applications, or consents which may be a prerequisite or incidental to Buyer’s acquisition of title to the Property, the construction of Buyer’s improvements thereon, and Buyer’s intended use and development of the Property. Seller (as the landowner) agrees to execute any applications, consents, filings, and other documentation and/or join with Buyer in executing such applications, consents, filings and other documentation as is reasonably necessary for such approvals and permits. All costs incurred by Buyer in its efforts to obtain such approvals and permits will be paid by Buyer, except Seller shall pay its own costs incurred in cooperating with Buyer as required by this paragraph. Seller expressly agrees and acknowledges that Buyer is authorized to plat the Property, to file for and obtain a rezoning of the Property, to seek and obtain variances of use or development standards, and to seek and obtain other land use approvals.

10.7 **Farm Tenants.** Seller shall obtain the written consent of any tenants (including Farm Lease tenants and residential tenants) and farm operators on the Property to the access and investigative rights granted herein to Buyer, and promptly deliver a copy of such consent to Buyer upon receipt. Buyer shall be responsible to pay for all damages to growing crops, if any, caused by it during Due Diligence as follows: (i) at the time of any damage to growing crops due to the activities of Buyer, the area of damage shall be measured and documented by Buyer in consultation with Seller; (ii) at the time the crop is harvested on the Property, the average per acre yield shall be verified by the farm tenant and the yield shall be applied to the total area where crop damage occurred due to the activities of Buyer; and (iii) the commodity per bushel or per unit price at the time of harvest in the county where the Property is located shall control and the farm tenant shall be paid as if the growing crops had not been damaged by the activities of the Buyer. In the alternative, Buyer and the farm tenant or farm operator, in consultation with Seller, may negotiate
the amount of compensation owing at the time the damage to growing crops occurs and the farm tenant or farm operator may be paid at that time instead of at the time of harvest. At the time of payment for damage to growing crops, Seller and the farm tenant or farm operator shall sign a release of Buyer for the damages to growing crops. Seller shall provide the Buyer with advance notice prior to it or any Farm Lease tenant planting crops on the Property during the Option Term and Buyer shall have the right to cause the Property not to be farmed in such case by providing written notice to Seller within thirty (30) days of its receipt of Seller’s notice. If Buyer notifies Seller not to plant pursuant to the terms of this paragraph and Closing does not take place on or before December 31st of such year, due to an event of default by the Buyer then the Buyer shall pay Seller $500 per acre of farm property that was not planted plus the average per acre yield for each acre not planted multiplied by the commodity per bushel or per unit price at the time of the harvest in the county where the Property is located. Seller covenants to terminate the Farm Lease(s) prior to Closing and, subject to Section 13.1, to cause possession thereunder to be delivered to Buyer at Closing free and clear of all claims to possession by the tenants thereunder. Seller further agrees to be responsible for (and reimburse, indemnify, defend, and hold Buyer harmless from) all crop loss, claims, causes of action, costs, damages, costs, and obligations related to the Farm Lease(s).

10.8 Right of First Offer. If in the first three (3) crop years after Closing, Buyer elects to lease any portion of the Property for farming purposes, Buyer agrees to provide Seller written notice of such intent and to provide Seller the first opportunity to lease such portion of the Property for farming purposes. If Buyer and Seller are unable to reach agreement on a form of farming lease within fifteen (15) days of Seller’s receipt of Buyer’s written notice, Buyer shall thereafter be free to negotiate with other parties with regard to such farm lease, and shall have no further liability or obligation under this Section 10.8 and this Section 10.8 shall terminate and be of no further force or effect.

11. REPRESENTATIONS AND WARRANTIES.

11.1 Seller’s Representations and Warranties. Seller represents, warrants, and covenants to Buyer as follows:

(a) Seller’s Ownership. Seller owns fee simple marketable title to the Property and will take and perform those acts which are necessary hereunder in order to fulfill the terms and conditions hereof.

(b) Seller’s Authority. Upon execution of this Agreement by Seller and by Buyer, this Agreement shall be binding and enforceable against Seller in accordance with its terms. The execution, delivery and performance by Seller of the Agreement and the documents to be executed and delivered by Seller at Closing (i) are within Seller’s power and authority; (ii) have been duly authorized by all necessary actions; (iii) require no action by or in respect of or filing with any governmental authorities and no additional consent or authorization by any other person; and (iv) do not conflict with, contravene or constitute a default (with or without notice or the passage of time, or both) under any provision of law applicable to Seller, or any agreement, judgment, injunction, order, decree, indenture, mortgage loan agreement or any other instrument
binding upon Seller or the Property. Sellers have not conveyed any interest in the Property to any spouse, trust, or otherwise.

(c) **Accuracy of Property Information.** To the best of Seller’s knowledge, all of the Property Information Seller has provided, and hereafter provides, to Buyer is complete, true and accurate in all material respects.

(d) **No Litigation.** The Property and Seller are not subject to any claim, demand, suit, filed or unfiled lien, proceeding, arbitration, mediation, government investigation, audit, litigation, or to the best of Seller’s knowledge, threatened litigation, of any kind which could in any way be binding on Buyer upon Closing or limit its full use and enjoyment of the Property or limit the ability of Seller to perform its obligations under this Agreement or create a cloud on title or a lien on the Property before or after Closing.

(e) **Eminent Domain.** To the best of Seller’s knowledge, there is no pending or contemplated eminent domain, condemnation or other governmental taking of the Property, or any portion thereof, nor is there any planned or proposed project or public improvement or street construction which could affect the Property.

(f) **Leases; Governmental Programs.** Except for the farm leases identified on Exhibit “D” (the “Farm Lease(s)”) and any residential leases identified on Exhibit “D”, the Property is not subject to any written or unwritten leases. There are no governmental programs which could affect Buyer’s use of the Property or trigger any governmental repayment obligations or claw-back activity.

(g) **No Third-Party Rights.** There are no mineral rights, oil or gas leases, licenses, contracts, hunting rights, or easements, other than as set forth in the Title Commitment, which would enable persons or entities other than Buyer to have access to the Property now or in the future, nor are there any contracts, rights of first refusal, options or other obligations for the sale, transfer or exchange to any third party or parties, or for the improvement, alteration, repair or encumbrance of the Property or any portion thereof.

(h) **No Violation of Laws.** To the best of Seller’s knowledge, the Property does not violate any federal, state, or local statute, code, ordinance, or regulation. If during the Option Term, or prior to the Closing Date, Seller obtains knowledge as to any violation, or alleged violation, of any statute, code, ordinance, or regulation with respect to the Property, Seller shall promptly notify Buyer thereof and in no event later than five (5) business days after its receipt of such notice.

(i) **Special Assessments.** To the best of Seller’s knowledge, there are no proposed or pending special assessments, drainage or utility fees, charges, dues or assessments, impact fees, nuisance abatement fees, or other fees or charges, which could be assessed, charged or imposed against the Property or be binding on Buyer after Closing.

(j) **Environmental Matters.** Seller has not caused nor, to the best of Seller’s knowledge, has any other party or prior owner caused, any hazardous substance, waste or material
to be used, generated, stored or disposed of on or transported to or from the Property in violation of any applicable law, nor, to the best of Seller's knowledge, have any underground storage tanks, petroleum or natural gas pipelines, or transformers existed on the Property. For the purposes of this paragraph, "hazardous substance, waste or material" shall mean all petroleum-based products, radon, asbestos, PCBs and all substances, wastes and materials that are so defined in the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act and the Hazardous Materials Transportation Act or in any similar federal, state or local statute, rule, regulation, or ordinance. Except for Seller's breach of the foregoing representation or Seller's statutory or common law liability, Seller shall not be responsible for the remediation any environmental conditions found on the Property.

(k) Wetlands and Endangered Species. Seller discloses that it believes that regulated wetlands exist on the Property. However, to the best of Seller’s knowledge, no portion of the property lies within the one hundred (100) year floodplain, or includes other environmentally sensitive areas, and that they have fully divulged all information associated with the property that would identify and make known any threatened or endangered species habitat which could prohibit or restrict development.

(l) Archaeologic Matters. To the best of Seller’s knowledge, there are no prehistoric sites, or human or animal burial grounds upon or about the Property, nor does any portion of the Property have, or allegedly have, any Native American, archaeological or historic significance.

(m) Nonforeign Status. Each Seller warrants that it is not a “foreign person” as defined in Section 1445 of the Internal Revenue Code of 1954, as amended. Each Seller shall deliver to Buyer at closing a Certificate of Nonforeign Status setting forth Seller’s address and United States taxpayer identification number and certifying that it is not a foreign person as so defined.

11.2 Seller’s Representations and Warranties at Closing. All of Seller’s representations and warranties in this Agreement shall be deemed given on the date of this Agreement and as of the Closing Date. Such representations and warranties shall be updated in a certificate provided to Buyer at Closing and all representations and warranties shall survive the Closing. Notwithstanding the foregoing, no update shall relieve Seller of any liability for any prior misrepresentation or the breach of any warranty under this Agreement.

12. CLOSING CONDITIONS.

12.1 Buyer’s Conditions Precedent. Upon exercise of its option, Buyer’s obligation to close the purchase of the Property shall be subject to the satisfaction of all of the following conditions:

(a) Seller’s Compliance. Seller’s fulfillment of each of its obligations under this Agreement in all material respects.

(b) Seller’s Representations. The continuing accuracy of all of Seller’s representations and warranties in this Agreement in all material respects.
(c) **Status of Title.** The absence of any monetary lien or other material defect in title to the Property which was not permitted by this Agreement or approved by Buyer.

(d) **Permitted Uses.** The absence of any violation of any applicable statute, law or regulation regarding the physical condition of the Property or Seller’s use thereof or of any change in any statute, law, ordinance, or regulation which materially affects the suitability of the Property for Buyer’s purposes.

(e) **Hazardous Waste.** The absence of Buyer’s discovery of any hazardous material, waste or substance on or about the Property (i) which was not readily discoverable during the course of Buyer’s Due Diligence, (ii) which violates any applicable statute, law, ordinance, or regulation.

(f) **Material Condemnation.** The absence of any condemnation or the institution of condemnation proceedings which result in, or are expected to result in, the taking of any of the Property or that materially and adversely affects the suitability of the Property for Buyer’s purposes. If at any time during the Option Term, or before the Closing Date, all or any portion of the Property is taken by condemnation or eminent domain, or any such proceeding for condemnation or eminent domain is instituted, Seller shall immediately give written notice thereof to Buyer. If Buyer elects to continue this Agreement, Buyer shall give written notice thereof to Seller within fifteen (15) days after receiving Seller’s notice and Buyer and Seller shall proceed with the transaction contemplated herein without abatement or reduction of the Purchase Price on account of such taking or proposed taking, provided Seller shall upon Closing deliver to or credit Buyer with all amounts received by or otherwise payable to or for the benefit of Seller in connection with such condemnation or eminent domain proceeding at or before the Closing Date (without reduction on account of any claims of Seller’s lender or any third party) and shall assign to Buyer all of Seller’s right, title and interest in any condemnation award payable for the taking of the Property or portion thereof not yet then paid or payable. If Buyer fails to deliver written notice to Buyer within the time period set forth above, or if Buyer delivers notice of its election to terminate this Agreement, the Option Payment and any Extension Fees shall be promptly refunded to Buyer, and this Agreement shall be null and void and, except with respect to the Surviving Provisions, neither party shall have any further obligations hereunder.

(g) **Simultaneous Closing with Other Optioned Properties.** Buyer shall be able to close on its purchase of the contiguous and/or adjacent parcels it has under option described on Exhibit “E” (the “Adjacent Parcels”) at a simultaneous closing with the Closing under this Agreement. Seller agrees to cooperate in the coordination of any such simultaneous closing.

(h) **Applicable Laws.** That Buyer has obtained any and all approvals and has otherwise complied with all obligations, procedures and requirements required under applicable law to acquire the Property for the Purchase Price, including without limitation, satisfaction of any preconditions with regard to appraisals, purchase price, and public meetings.
12.2 **Failure of Closing Conditions.** In the event any one or more of the above conditions is not satisfied as of the Closing Date, or if the Buyer reasonably determines that the same are not capable of being so satisfied by the Closing Date, Buyer may:

(a) waive such condition by so advising Seller in writing, whereupon the parties shall proceed to Closing in accordance with the terms hereof and the Purchase Price shall be adjusted if and to the extent the condition relates to a misrepresentation by Seller to this Agreement and the Buyer incurs or reasonably expects to incur any expense to remedy or satisfy any of such conditions;

(b) extend the Closing Date for up to Thirty (30) days; and, to the extent constituting a misrepresentation or default of the other party, require the other party to satisfy the condition to the extent feasible or otherwise capable of being satisfied by monetary payment; or

(c) elect to cancel this Agreement, whereupon the Option Payment and any Extension Fees shall be immediately paid to Buyer, and except to the extent the parties’ remedies are otherwise limited by this Agreement, Seller shall continue to be liable to Buyer hereto for its damages and expenses caused by such failure or inability to close this transaction with all conditions satisfied.

13. **CLOSING.**

13.1 **Closing Date; Post-Closing Possession.** Provided that Buyer has exercised its option, and provided that the conditions precedent to Closing have been met in Buyer’s sole and absolute discretion, the consummation of the sale and transfer of the Property ("Closing") shall take place on the Closing Date specified in the Exercise Notice. Buyer may extend the Closing Date one (1) time by up to Thirty (30) days if such extension is necessitated by illness, transportation delays, the unavailability of the Escrow Agent, a delay in scheduling the simultaneous closing on an Adjacent Parcel, or other causes beyond Buyer’s reasonable control. Seller shall deliver possession of the Property to Buyer at Closing free and clear of any rights or claims of any other persons for possession, provided that, Seller shall be entitled to non-exclusive license to use the portion of the Property described on Exhibit "F" (the "Operations Area") rent-free for one hundred twenty (120) days after Closing (the “Operations Wind-Down Period”). Seller shall fully vacate the Property prior to Closing (with the exception of the Operations Area and as necessary to access the Pivot Well locations for removal of irrigation equipment which shall in each case be vacated prior to the expiration of the Operations Wind-Down Period). No notice to quit the occupancy of the Operations Area shall be required upon expiration of the Operations Wind-Down Period. The license granted by this Section 13.1 shall be solely limited to (a) winding down its farming operations and removing farming equipment and improvements ("Farm Equipment") on the Operations Area; and (b) removal of the pivot well irrigation Farm Equipment from the “pivot/well” point noted on Exhibit “F”. Seller shall pay all expenses arising in connection with Seller’s use and occupancy of the Property following Closing for all periods of Seller’s occupancy; including, without limitation, all utility fees and charges applicable to the Operations Area. Seller further understands and agrees that Buyer shall have no obligation to maintain, repair, secure, protect, or insure the Operations Area or any Farm Equipment. Seller assumes all risk of loss thereto. Seller, at its sole expense, shall (a) maintain liability insurance on
the Property; and (b) maintain casualty insurance on all of Seller’s personal property and Farm Equipment located thereon; in each case in amounts, with deductibles, and with insurers as are reasonably acceptable to Buyer and which liability policies shall name Buyer as an additional insured and which shall not be cancelable without thirty (30) days advance notice to Buyer. Certificates of insurance shall be provided to Buyer at Closing evidencing that the appropriate coverages are in place. Notwithstanding Seller’s license to use the Operations Area and remove the pivot well irrigation Farm Equipment as contemplated in this Section 13.1, Seller acknowledges and agrees that Buyer may commence construction and development of improvements on any portion of the Property during the Operations Wind-Down Period and any such activity shall not be deemed a nuisance, trespass, a violation of any right or obligation owed by Buyer to Seller, or a breach by Buyer of this Agreement. The terms of this Section 13.1 shall survive Closing, but the rights conveyed herein to Seller are personal to Seller and may not be assigned, sublet or conveyed in any manner whatsoever, without Buyer’s advance written consent which consent may be withheld in Buyer’s sole and absolute discretion. Seller agrees to reimburse, indemnify, defend and hold Buyer, and its officers, employees, agents, successors and assigns harmless from and against any penalty, cause of action, damage, claim, lien (including, without limitation, any mechanic’s lien), liability, obligation, and expense including reasonable attorney’s fees and other costs, interest and expenses incident to any suit, action, investigation or other proceeding that Buyer shall incur, suffer or become involved in ("collectively, "Claims") which results from, relates to or arises out of Seller’s (or its employees and agents) use, occupancy or occupation of any portion of the Property after Closing and the removal of any Farming Equipment, including without limitation Claims (a) asserted by any third party, (b) imposed upon Buyer by federal, state, or local laws, ordinances, orders or regulations, (c) arising from Seller’s violation of applicable federal, state, or local laws, ordinances, orders or regulations; or (d) arising from or related to any “hazardous substance, waste or material” (as defined herein) or any contamination or release on the Property of any hazardous substance, waste or material.

13.2 Manner and Place of Closing. This transaction will be closed by the Escrow Agent in escrow at its offices at Stewart Title Guaranty Company, 10 S. Riverside Plaza, Suite 1450, Chicago, IL 60606, or at such other place as the parties may mutually agree to in writing. Upon Buyer’s exercise of its option, the Closing shall take place in the manner and in accordance with the provisions set forth in this Agreement.

13.3 Closing Costs.

(a) Real Estate Taxes. Buyer shall assume and pay all special assessments for municipal improvements with respect to the Property which are confirmed of record and become a lien after the Closing and so much of the property taxes assessed for and becoming a lien during the calendar year in which the Closing occurs and which shall be allocable to it on and after the date of Closing. Seller shall pay the balance of such taxes at Closing, including all delinquent or past due taxes. Any taxes not assumed by Buyer and which are not yet due and payable at the Closing shall be allowed to Buyer as a credit against the Purchase Price at Closing, and Seller shall not be liable thereafter for such taxes. If any portion of the Property is not separately assessed, Seller and Buyer shall execute a tax proration agreement as to such parcel(s) at the Closing which shall (i) provide for the timely payment of real estate taxes on the tax parcel(s) which include the Property until such time as the taxes for the Property are separately assessed in the name of and billed separately to Buyer, (ii) provide for reimbursement of Seller by Buyer of Buyer’s equitable
share of taxes for which it is responsible as provided above, and (iii) include such terms and conditions as are reasonably acceptable to the parties. If all or any portion of the Property is specially assessed or taxed due to its use or classification, Seller shall pay and be solely responsible for any deferred tax, roll-back tax, special assessment and related charge, fine, penalty or other amount regardless of the period on or before the Closing Date to which the same relates as if the Property were no longer qualified for such tax treatment ("Tax Recapture Amount") except to the extent Buyer elects in writing to receive a credit against the Purchase Price for the amount of such Tax Recapture Amount.

(b) **Governmental and Utility Charges.** Seller shall pay all governmental and utility charges and fees regarding the Property attributable to the period of time prior to Closing (and as provided in Section 13.1), including but not limited to solid waste pickup and disposal charges or fees, drainage district fees, dues, assessments, water and electricity charges and other similar charges or fees.

(c) **Transfer Tax.** Seller shall pay all transfer and excise taxes, and any other similar tax, charge or fee imposed on a person who transfers real estate in the locality where the Property is located.

(d) **Recording Costs.** Buyer shall be responsible to pay the recording fee for the deed to the Property, and Seller shall be responsible for the cost of recording any affidavits, lien releases, and other documents required to be recorded in order to clear title to the Property.

(e) **Escrow Fees.** Seller and Buyer shall each pay one-half of the escrow and closing fees charged by the Escrow Agent.

(f) **Title Insurance Premium.** Seller shall pay all premiums for Buyer's extended coverage title insurance policy. Except to the extent agreed to be paid by Seller to cure any Disapproved Matter, any portion of the title insurance premium attributed to endorsements shall be paid by Buyer.

(g) **Other Costs.** Except as otherwise provided herein, each party shall be responsible to pay its own legal fees, costs and expenses.

13.4 **Events of Closing.** Upon Buyer's exercise of its option and subject to the satisfaction of all conditions precedent, the transaction contemplated herein will be closed on the Closing Date as follows:

(a) **Warranty Certificate.** Seller shall provide Buyer with a certificate to the effect that, except as therein identified, there have been no changes in Seller's representations or warranties.

(b) **Nonforeign Affidavit.** Seller shall provide Buyer with the Certificate of Nonforeign Status as provided in I.R.C. §1445.
(c) **Termination of Farm Leases.** Seller shall provide written evidence of termination of the existing Farm Lease(s) for the Property to Buyer, together with evidence of full and complete delivery of possession by such tenants free and clear of all claims, liens, rights, and obligations arising thereunder, including, without limitation, a release of rights to growing crops on the Property, and/or conveyance of growing crops on the Property.

(d) **Termination of Rental Properties.** Seller shall provide written evidence of termination of any existing residential leases for the Property to Buyer, together with evidence of full and complete delivery of possession by such tenants free and clear of all claims, liens, rights, and obligations arising thereunder. Seller shall be responsible for the termination of all utilities related to any of said rental properties.

(e) **Original Documents.** Seller shall deliver originals of the Property Information to the extent within Seller’s possession or control.

(f) **Calculation of Costs.** Escrow Agent shall calculate the closing costs, and the parties shall be charged and credited accordingly.

(g) **Payment of Purchase Price.** Buyer shall pay the Purchase Price to Seller, as adjusted for the charges and credits set forth in this Agreement.

(h) **Release of Liens.** Any liens to be paid by Seller at Closing and all title exceptions and defects to be removed and cured by Seller shall be paid and satisfied of record at Seller’s expense.

(i) **Deed.** Seller shall deliver to Escrow Agent a duly executed and acknowledged general warranty deed, subject only to the Permitted Encumbrances. The deed shall be in a form customarily used for similar real estate transactions in the state where the Property is located and shall be prepared by Buyer but subject to the review and approval of Seller. In no event shall any of the standard printed exceptions of the title insurer (and any corresponding restatements of such standard exceptions in the itemized list of special exceptions) appear as exceptions in the deed. To the extent the record legal description differs from the surveyed legal description, Seller agrees to provide a quitclaim deed for any record legal description upon Buyer’s request.

(j) **Seller Affidavits.** Seller shall execute and deliver to Escrow Agent a vendor’s affidavit, in a form sufficient to permit Escrow Agent to issue the title insurance policy with extended coverage together with Buyer’s requested endorsements.

(k) **Sales Disclosure Form.** Buyer and Seller shall execute an Indiana Sales Information Disclosure Form (State Form 46021).

(l) **Title Insurance Policy.** The Escrow Agent shall be irrevocably committed to issuing to Buyer an ALTA extended coverage owner’s title insurance policy, or equivalent, in the amount of the Purchase Price, subject only to the Permitted Encumbrances, together with such endorsements as requested by Buyer (the “Title Policy”), and promptly following the Closing, Seller shall cause the Escrow Agent to issue said Title Policy.
(m) **Vacation of Property.** Seller shall be responsible for all costs associated with the vacation of existing residences and farmsteads.

(n) **Recording.** The Escrow Agent shall record the deed and any other documents required to be recorded at Closing.

14. **DEFAULT AND REMEDIES.**

14.1 **Seller Default.** If Seller defaults or fails to perform any of the conditions or obligations of Seller under this Agreement or if any of the representations and warranties of Seller are untrue, then following notice and right to cure as described below, Buyer shall have the right to exercise any and all rights and remedies available at law, in equity and/or by statute, including without limitation the right to bring an action for damages and/or specific performance of this Agreement. Further, if the default is discovered prior to Closing, Buyer may terminate this Agreement in which event the Option Payment and Extension Fees shall be returned to Buyer. The foregoing remedies are in addition to, and not in lieu of, any Seller indemnity provided here or any express remedies provided elsewhere herein, including, without limitation, the remedies provided in **Sections 6 and 18.**

14.2 **Buyer Default.** If Buyer defaults or fails to perform any of the conditions or obligations of Buyer under this Agreement or if any of the representations and warranties of Buyer are untrue, then following notice and right to cure as described below, Seller shall have the right to declare the Agreement terminated, subject to the Surviving Provisions, and the Option Payment held by the Escrow Agent shall be forfeited and paid to Seller as liquidated damages which shall be Seller’s sole and exclusive remedy at law or in equity against Buyer, and Seller shall have no other claim or recourse against Buyer. The foregoing remedies are in addition to, and not in lieu of, any Buyer indemnity provided here.

14.3 **Notice and Right to Cure.** In the event of any default under this Agreement, the non-defaulting party shall serve written notice on the defaulting party describing the default. The defaulting party shall then have ten (10) calendar days after receipt of the notice to cure the default and failing a timely cure, the non-defaulting party may proceed with the remedies described above.

14.4 **Attorney Fees.** In the event any suit, action, arbitration or mediation is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court, arbitrator or mediator may adjudge reasonable as costs and expert witness and attorneys' fees at trial, on any appeal, and on any petition for review or other proceeding (including arbitration or bankruptcy case or proceedings and issues peculiar to bankruptcy), in addition to all other sums provided by law. The term "prevailing party" as used in this Agreement shall mean a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise.

15. **CONDUCT OF BUSINESS.** Prior to Closing or expiration of the option, Seller shall take no steps or actions which it knows would be detrimental to the value or future potential of the
Property. Unless expressly agreed in writing by Buyer to survive the Closing Date, provided Buyer has exercised its option to purchase the Property, Seller shall cause all contracts and all rights of third parties thereunder relating to the Property to be lawfully terminated and extinguished in their entirety by not later than the Closing Date. Except as contemplated by this Agreement, Seller agrees not to (a) place any additional consensual liens, consensual encumbrances or easements against the Property; (b) enter into any new lease, agreement of sale, option or any other agreement or contract affecting the Property; or (c) amend or modify any existing easement or encumbrance on the Property following the Effective Date; without in each case Buyer’s advance written consent.

16. **RISK OF LOSS.** Seller shall bear the risk of loss or damage to the Property during the Option Term, and upon Buyer’s exercise of its option, prior to Closing. Seller agrees to maintain any existing liability, property or casualty insurance on the Property in full force and effect during the Option Term, and upon Buyer’s exercise of its option, until Closing (and after Closing as provided in Section 13.1). If any portion of the Property is damaged or destroyed during the Option Term or prior to Closing, and if in Buyer’s sole and absolute discretion the Property is no longer suitable for its intended purpose, Buyer shall have the right and option to either (i) terminate this Agreement without penalty, in which case the Option Payment and Extension Fees shall be returned to Buyer, and Buyer shall have no further obligations under this Agreement, except for the Surviving Provisions, or (ii) receive the insurance proceeds for the damage or loss and proceed to Closing as provided in this Agreement, in which case Seller shall execute such further documents as may be required for Buyer to be entitled to and receive such insurance proceeds.

17. **NOTICES.** All notices permitted or required under this Agreement shall be in writing and shall be (i) personally delivered, (ii) deposited in the United States mail, postage prepaid and sent by certified or registered mail, or (iii) deposited with a recognized overnight courier such as Federal Express, UPS, or Airborne, addressed as follows:

**To Seller:**

Tim V. Kaminski  
408 Lakeside Drive  
Walkerton, IN 46574  
574-520-9216

Todd L. Kaminski  
29255 Filmore Road  
New Carlisle, IN 46552  
574-654-3823

Jill F. Oudhuis  
32837 Early Road  
New Carlisle, IN 46552  
574-988-0278

**To Buyer:**

St. Joseph County Redevelopment Commission  
c/o Bill Schalliol, Executive Director  
227 W. Jefferson Boulevard
11th Floor, City-County Building
South Bend, IN 46601
574-235-9812
BSchalliol@sjcindiana.com

With a copy to: Jamie C. Woods
Attorney for St. Joseph County Redevelopment Commission
420 Lincolnway W
Mishawaka, IN 46544
jwoods@tglaw.us

Notices that are personally delivered shall be effective and deemed delivered and received when received. Notices that are given by overnight courier shall be effective and deemed delivered and received on the first business day after delivery to the courier in time for delivery the next business day, and otherwise on the next business day thereafter. Notices that are mailed shall be effective and deemed delivered and received on the second business day after being deposited with the U.S. Post Office, as evidenced by the official postmark. Either party may change its address for notices by at least ten (10) days' advance written notice to the other party by one of the methods described above.

18. CONFIDENTIALITY. The parties agree to the maximum extent permitted by applicable law, Seller agrees and covenants that the terms of this Agreement are confidential and shall not be released to or shared with any other person or entity, whether verbally or in writing, without the prior approval of all parties (other than the parties' attorneys, consultants, lenders and advisors who shall also be automatically subject to this confidentiality requirement and shall be so advised prior to furnishing information to them). Seller shall not make any public announcement or carry out any publicity whatsoever in connection with this Agreement unless mutually agreed to in writing by the parties. Furthermore, Seller and anyone receiving information from Seller shall be strictly prohibited from using, appropriating, or releasing any trade secrets or confidential information of Buyer. Notwithstanding any other provision of this Agreement to the contrary, the confidentiality provisions of this paragraph shall survive (a) termination of this Agreement, and (b) the Closing of the transaction described in this Agreement except as to those matters which will appear of public record after the recording of the deed. In the event of a breach of this confidentiality agreement by Seller, Buyer shall have the right to exercise any and all rights and remedies available at law, in equity and/or by statute. In the event of any action or proceeding brought by Buyer against Seller pertaining to or arising out of this confidentiality agreement, Buyer shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred on account of such action or proceeding. Seller acknowledges that Buyer is a governmental body and is not subject to any of the confidentiality limitations provided herein.

19. MISCELLANEOUS.

19.1 Relationship of Parties; No Third-Party Beneficiaries. This Agreement creates only the relationship of optionor and optionee, or if Buyer exercises its option, seller and buyer, and no joint venture, partnership or other joint undertaking is intended hereby, and neither party hereto shall have any rights to make any representations or incur any obligations on behalf of the
other. The parties agree that this Agreement involves only the right to acquire real property, that in the event Buyer exercises its option, Buyer shall not acquire any business or ongoing liability of Seller, and except to the extent expressly assumed by Buyer in writing, Buyer shall have no successor liability to any employee, agent, Farm Lease tenant, or other person with whom Seller has contracted or to whom Seller is liable ("Post-Closing Liabilities"). Seller agrees to reimburse, indemnify, and hold Buyer harmless from any causes of action, expenses, damages, liens, liabilities, claims, fines, and costs (including reasonable attorney’s fees) arising from or related to such Post-Closing Liabilities. The provisions of this Agreement shall not be construed as conferring any rights to any third-party. This Section 19.1 shall survive Closing.

19.2 **No Prohibited Persons.** Buyer and Seller each hereby certifies that it is not acting directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, “Specially Designated Nation and Blocked Person” or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and is not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to indemnify, defend, and hold harmless the other party from and against any and all claims, damages, losses, risks, liability and expenses (including attorney’s fees and costs) arising from or related to any breach of the foregoing certification.

19.3 **Successors and Assigns.** Buyer shall have the right to assign this Agreement at its discretion. The assignment shall be effective on the execution of a written instrument signed by Buyer assigning the Agreement and acknowledged by the assignee assuming the obligations under this Agreement ("Assignment Agreement"). The Seller’s prior consent is not required prior to the assignment nor are their signatures required on the Assignment Agreement. Seller may not assign this Agreement without Buyer’s written consent. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

19.4 **Further Assurances.** Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

19.5 **Broker Fees.** Buyer represents and warrants that it is not represented by a real estate broker. Seller has retained the services of Tri County Appraisal, LLC, 725 S. Bray Street, New Carlisle, IN 46552, 574-647-3707, shora@tricountyera.com, as broker. Seller represents and warrants to Buyer that no commission, fee, or expense is payable by Buyer or Seller related to the services of Tri County Appraisal, LLC. Seller shall provide all invoices, lien releases and other documentation at Closing necessary to cause the Escrow Agent to insure over any broker’s lien. Seller shall indemnify and defend Buyer from and against any claims and liens for a, finder’s fee or other similar charge or fee made by any person claiming to represent Seller as a real estate broker or agent.
19.6 **Memorandum of Agreement.** Neither party shall record this Agreement; provided, however, Buyer at its cost and at its discretion may prepare and record a Memorandum of Agreement that does not contain any financial or business terms; provided, further in the event Buyer terminates this Agreement, upon Seller's satisfaction of its obligations in connection with such termination, Buyer will promptly record a document evidencing such termination.

19.7 **Time of Essence.** Time is of the essence of each and every provision of this Agreement.

19.8 **Number; Gender; Captions.** Words and phrases contained herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context. The captions and headings of this Agreement are for convenience of reference only and are not to be used to interpret or define the provisions thereof. The obligations of Seller are joint and several.

19.9 **Date for Performance.** The term “day” or “calendar day” used in this Agreement means each day of the calendar year including weekends and legal or bank holidays. The term “business day” used in this Agreement means Monday through Friday of each week excluding legal and bank holidays. If the time period by which any election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, falls on or expires on a Saturday, Sunday, legal or bank holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.

19.10 **Applicable Law.** This Agreement shall be construed, applied and enforced in accordance with the laws of the state in which the Property is located. All sums referred to in this Agreement shall be calculated by and payable in the lawful currency of the United States. Any action on this Agreement shall be brought in the circuit or superior court of St. Joseph County, Indiana or in the United States District Court for the Northern District of Indiana.

19.11 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all negotiations, letters of interest or intent, or discussions relating thereto. This Agreement may not be modified or amended except by a written document signed by the parties.

19.12 **Severability.** If any provision of this Agreement is declared invalid or is unenforceable for any reason, such provision shall be deleted from such document and shall not invalidate any other provision contained in the document.

19.13 **No Waiver.** The failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce such provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.
19.14 **Modification.** This Agreement and any of its terms may only be changed, waived, discharged or terminated by a written instrument signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

19.15 **Exchange Cooperation.** Provided Buyer has exercised its option, Seller and Buyer acknowledge that it is possible either party may decide to sell or purchase the Property under the provisions of the Internal Revenue Service Section 1031 ("**Tax Deferred Exchange**"). If so, Seller and Buyer shall reasonably cooperate in executing any documents required by such a Tax Deferred Exchange; provided, however, a party shall not be required to incur additional costs or liability, release or forego any right or remedy hereunder, or delay Closing due to the other party’s election to conduct a Tax Deferred Exchange.

19.16 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic means by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

20. **ADDITIONAL PROVISIONS.** N/A

[signatures follow]
IN WITNESS WHEREOF, Buyer and Seller have caused this Agreement to be entered into effective as of the date of the last signature below.

SELLER:

Todd L. Kaminski
Date of Execution: 3-11-20

Jill F. Oudhuis
Date of Execution: 3-11-2020

Tim V. Kaminski
Date of Execution: 3-11-2020
BUYER:

St. Joseph Redevelopment Commission

By: ________________________________
    Brian Pawlowski, President

Date of Execution: ___________________
EXHIBIT “A-1”

PROPERTY DESCRIPTION

ALTA PARCEL 11

(Instrument #0715034 in the Office of Recorder of St. Joseph County, Indiana)

THE EAST HALF (1/2) OF THE NORTHEAST QUARTER (1/4) OF SECTION TWELVE (12), IN TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE ONE (1) WEST.

ALSO, THE WEST HALF (W1/2) OF THE NORTHWEST QUARTER (1/4) OF SECTION SEVEN (7) IN TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE ONE (1) EAST.

LESS AND EXCEPTING RIGHT OF WAY FOR STATE ROUTE 2 AS DESCRIBED IN DEED RECORD BOOK 337, PAGE 342 OF THE ST. JOSEPH COUNTY RECORDS.

LESS AND EXCEPTING RIGHT OF WAY FOR STATE ROUTE 2 AS DESCRIBED IN DEED RECORD BOOK 339, PAGE 275 OF THE ST. JOSEPH COUNTY RECORDS.

SUBJECT TO LIMITED ACCESS RIGHTS FOR STATE ROUTE 2 AS DESCRIBED IN INSTRUMENT NUMBER 7806446 OF THE ST. JOSEPH COUNTY RECORDS.

LESS AND EXCEPTING RIGHT OF WAY FOR STATE ROUTE 2 AND LARRISON BOULEVARD AS DESCRIBED IN INSTRUMENT NUMBER 8905311 OF THE ST. JOSEPH COUNTY RECORDS.
EXHIBIT “B”

ESCROW AGREEMENT

This Escrow Agreement (this “Agreement”) is entered into and effective as of the last date of execution hereof ("Effective Date") by and between by and among Stewart Title Guaranty Company ("Escrow Agent"); Todd L. Kaminski, Jill F. Oudhuis, and Tim V. Kaminski as equal tenants in common (jointly and severally, "Seller"); and the Board of Commissioners of St. Joseph County, Indiana and its successors and assigns ("Buyer").

RECATIALS:

A. Seller and Buyer have entered into a Real Estate Option Agreement dated as of March ____, 2020 regarding certain real estate in St. Joseph County, Indiana (the “Option Agreement”), which is hereby incorporated by reference, and made a part hereof.

B. The Option Agreement requires the Buyer to deposit with the Escrow Agent for the benefit of the Seller the Additional Option Payment (as defined in the Option Agreement). Buyer is further allowed to extend the term of the Option Agreement upon the payment to Escrow Agent of Extension Fees (as defined in the Option Agreement) (the Additional Option Payment together with any Extension Fees (as applicable), if and when paid, being deemed the “Option Payment”).

C. Buyer is prepared to deliver the Additional Option Payment to the Escrow Agent subject to the terms and conditions more specifically set forth herein.

NOW, THEREFORE, in consideration of the promises and mutual covenants in this Escrow Agreement and the Option Agreement, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller, Buyer, and the Escrow Agent agree as follows:

1. DEFINITIONS. Capitalized terms used herein, but otherwise undefined, shall have the meaning ascribed to such terms in the Option Agreement.

2. APPOINTMENT AND ACCEPTANCE. Buyer and Seller hereby constitute and appoint the Escrow Agent as, and the Escrow Agent hereby agrees to assume and perform the duties of, the Escrow Agent under and pursuant to the terms of the Option Agreement and this Agreement.

3. RECEIPT OF OPTION PAYMENTS. The Option Payments under the Option Agreement shall be held in escrow by the Escrow Agent pursuant to the terms of the Option Agreement and this Agreement. Buyer will deposit the Option Payments in accordance with the Option Agreement and the wiring instructions set forth in the attached Schedule 1.

4. CONDITIONS REGARDING OPTION PAYMENTS. Except as otherwise provided in the Option Agreement, the Option Payments shall be non-refundable to Buyer, and shall be credited against the Purchase Price at Closing. If Buyer does not exercise its option to
purchase the Property during the Option Term, the Escrow Agent shall deliver the Option Payments to the party entitled to the same in accordance with the terms of the Option Agreement. The Option Payments shall be returned to Buyer, forfeited to Seller, or otherwise paid in strict conformance with the Option Agreement.

5. **DISPUTES.** It is understood and agreed that should any dispute arise with respect to the delivery, ownership, right of possession, and/or disposition of the Option Payments, the Escrow Agent, upon receipt of written notice of such dispute or claim by the Buyer or Seller, is authorized and directed to retain in its possession without liability to anyone, all or any of said Option Payments until such dispute shall have been settled either by the mutual written agreement of the parties involved or by a final judgment of a court of competent jurisdiction. The Escrow Agent may, but shall be under no duty whatsoever to, institute or defend any legal proceedings which relate to the Option Payments or to interplead the Option Payments.

6. **PERFORMANCE BY THE ESCROW AGENT.** Escrow Agent may seek advice from counsel of its choice (including any in-house counsel employed by the Escrow Agent) and may rely upon such advice as it thereupon receives in writing, or it may act or refrain from acting in accordance with its best judgment and shall not, as a result thereof, be liable to any party to this Escrow Agreement except for willful misconduct, gross negligence, willful violation of this Escrow Agreement or willful violation of applicable law.

7. **RESPONSIBILITY OF ESCROW AGENT.** Escrow Agent shall not be responsible or liable to any person, whether or not a party to this Agreement, for any act or omission of any kind so long as it has acted in good faith upon the instructions herein contained or upon the joint written instructions hereafter delivered to it as contemplated by this Agreement, the Option Agreement, or upon advice of counsel. To the extent that the Escrow Agent incurs any loss or liability (including reasonable attorneys’ fees and expenses resulting from any such act or omission or arising out of or in connection with this Agreement or administration of its duties hereunder), Buyer and Seller shall reimburse Escrow Agent therefor, unless the loss or liability resulted from the Escrow Agent’s willful misconduct, gross negligence, willful violation of this Escrow Agreement or willful violation of applicable law. Notwithstanding the foregoing, Buyer and Seller expressly reserve all of their rights as against each other to seek contribution, reimbursement or any other appropriate relief.

8. **RELIANCE.** The Escrow Agent may rely and act upon any certificate or other document conforming to the applicable provisions hereof and reasonably believed by it to be genuine and to have been signed by the proper party. All persons shall be conclusively bound as against the Escrow Agent by any payment or release of the Option Payments pursuant to, and in conformity with, the terms of this Agreement.

9. **RESIGNATION OF ESCROW AGENT.** The Escrow Agent may at any time resign by giving thirty (30) days written notice of resignation to each of the parties hereto. In such event the parties hereto shall appoint a successor escrow agent to be effective on the effective date of the aforesaid resignation. If no successor escrow agent is named by Buyer and Seller, the Escrow Agent may apply to a court of competent jurisdiction for appointment of a successor escrow agent.

Exhibit B – Page 2 of 7
10. **ASSIGNMENT.** The Escrow Agent shall not be permitted to assign this Agreement or any duties hereunder.

11. **DISCHARGE OF ESCROW AGENT.** Buyer and Seller may, by mutual written agreement at any time upon thirty (30) days written notice, remove the Escrow Agent as escrow agent hereunder, in which event, upon receipt of written notice thereof and payment of any accrued but unpaid fees or expenses due the Escrow Agent, the Escrow Agent shall account for and deliver to such substituted escrow agent the Option Payments and any amounts held hereunder, and the Escrow Agent shall thereafter be discharged from all liability under this Agreement.

12. **NOTICES.** All notices or other communications required or permitted hereunder shall be delivered in accordance with Section 17 of the Option Agreement. Notices to Escrow Agent shall be addressed as follows:

Martha Chaparro  
Stewart Title Guaranty Company  
10 S. Riverside Plaza, Suite 1450  
Chicago, IL 60606  
(312) 849-4247  
Martha.Chaparro@stewart.com

13. **EXPENSES.** Escrow Agent shall be entitled to its reasonable and customary fees for its services hereunder and reimbursement of its reasonable expenses. All charges and expenses of the Escrow Agent under this Agreement shall be equally borne by Buyer and Seller.

14. **CONFIDENTIALITY.** The Escrow Agent agrees to be fully bound by the confidentiality requirements of Section 18 of the Option Agreement and for the purposes of this Escrow Agreement the term “parties” as used in said Section 18 shall be deemed to include the Escrow Agent. Notwithstanding any other provision of the Escrow Agreement, the confidentiality requirements shall survive expiration or termination of this Escrow Agreement.

15. **APPLICABLE LAW.** This Agreement shall be governed by and construed as to validity, enforcement, interpretation, construction, effect and in all other respects in accordance with the internal laws (as opposed to the conflicts of law provisions) of the state in which the Property is located.

16. **COUNTERPARTS.** This Escrow Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Escrow Agreement. The counterparts of this Escrow Agreement may be executed and delivered by facsimile or other electronic means by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

[signatures follow]
IN WITNESS WHEREOF, the Escrow Agent, Seller, and Buyer have caused this Escrow Agreement to be entered into effective as of the date of the last signature below.

ESCROW AGENT:

Stewart Title Guaranty Company

By:_____________________________
Name:__________________________
Its:____________________________

Date of Execution:________________
SELLER:

Todd L. Kaminski

Date of Execution: 3-11-2020

Jill H. Oudhuis

Date of Execution: 3-11-2020

Tim V. Kaminski

Date of Execution: 3-11-2020
BUYER:

St. Joseph County Redevelopment Commission

By: ________________________________
    Brian Pawlowski, President

Date of Execution: _________________
SCHEDULE 1 to ESCROW AGREEMENT

Wiring Instructions

Account Name and Address: 

Bank Name: 

ABA Routing Number: 

Account Number: 

Exhibit B – Page 7 of 7
EXHIBIT “C”

AUTHORIZATION

The following Authorization is hereby given by the undersigned owner of the property described in the attached Exhibit “A” (hereinafter described as the “Property”):

In recognition of the fact that state and local governmental authorities will not consider any applications for governmental approvals, processes, or permits regarding the Property (hereinafter described as “Governmental Approvals”) without the authorization of the owner of the Property, the undersigned owner of the Property hereby gives authority to the Buyer, as well as its designees, assigns, delegated entities, and successors in interest, the right and authority to request Governmental Approvals. The undersigned property owner recognizes that such Governmental Approvals may include, but not be limited to, a request to rezone the property from its current classification to an industrial, commercial, or mixed use classification and to amend the governmental comprehensive plan accordingly; a request to enter into a development agreement with governmental authorities; and a request to enter into agreements regarding sewer, water, and utilities.

A facsimile, photocopy, PDF, or other electronic copy of this Authorization shall serve as and be deemed to be the same as an original hard copy of the Authorization.

SELLER:

Todd L. Kaminski

Date of Execution: 3-11-2020

Jill F. Oudhuis

Date of Execution: 3-11-2020

Tim V. Kaminski

Date of Execution: 3-11-2020
STATE OF INDIANA

COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, personally appeared Todd L. Kaminski, and having been duly sworn, acknowledged the execution of the foregoing Authorization as his own voluntary act and deed.

Witness my hand and Notarial Seal this 11th day of March, 2020.

Notary Public - Signature

Notary Public - Printed

My County of Residence:
St. Joseph

My Commission Expires:
10/21/2026

STATE OF INDIANA

COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, personally appeared Jill F. Oudhuis, and having been duly sworn, acknowledged the execution of the foregoing Authorization as her own voluntary act and deed.

Witness my hand and Notarial Seal this 11th day of March, 2020.

Notary Public - Signature

Notary Public - Printed

My County of Residence:
St. Joseph

My Commission Expires:
10/21/2026
STATE OF INDIANA  )
COUNTY OF St. Joseph )SS:

Before me, a Notary Public in and for said County and State, personally appeared Tim V. Kaminski, and having been duly sworn, acknowledged the execution of the foregoing Authorization as his own voluntary act and deed.

Witness my hand and Notarial Seal this 11th day of March, 2020.

[Signature]
Notary Public - Signature

Jamie C. Woods
Notary Public - Printed

My County of Residence: St. Joseph

My Commission Expires: 10/21/2026
EXHIBIT “D”

FARM LEASE(S)

Farm Leases(s)
Randy Szpierski (Verbal)

Residential Leases
None
EXHIBIT “E”

ADJACENT PARCELS
EXHIBIT “F”

OPERATIONS AREA
The Area Management Plan is a strategic planning study of utilities, infrastructure, demographics, financial resources, environmental issues, open space and other issues but does not rely on property ownership. The purpose of the AMP is to help manage resources when a project presents itself.

Chapter 1: Introduction

Chapter 2: The Indiana Enterprise Center in Context

Chapter 3: Existing Conditions

Chapter 4: The Area Management Plan

Chapter 5: Conclusions
- Lack of Appendices
- Concern / Clarity
- Direct Feedback about the AMP
- Environmental Comments
- Location Comments
- Policy Comments
- Representation / Participation Comments
OCRA SITE CERTIFICATION

Indiana Site Certified Silver
- No size limit
- No proximity to state highway
- Support from Local Unit of Government and Chief Elected Official
- Clear Title-50 YR Title Search
- Zoning not required
- ALTA Survey
- Topo map using LiDAR
- Aerial Map
- Phase 1
- Wetland Delineation
- Letter from INDOT addressing appropriate use of site
- Utility Service capacity and distance defined

Indiana Site Certified Gold
- 20 contiguous acres
- No more than 5 miles from state highway
- Zoning required
- Geo tech study
- Seismic hazard map
- Be free of recognized environmental concerns
- Records Review
- Utility to property line or future build located in public right of way

Indiana Site Certified Prime
- 30 contiguous acres
- No more than 2.5 miles from state highway
- Zoning required
- Geo tech study
- No recs or site clear
- Phase 1a Archeological Reconnaissance
- Utility to property line or future build located in public right of way
- Local Unit of Government, Local Economic Development Organization, or Regional Economic Development Organization must own property or have agreement with property owner
MEMORANDUM

TO: St. Joseph County Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 5, 2020

RE: Status Update on Penn Township Fire Station Project
    East McKinley Avenue

Over the past two years, the Redevelopment Commission, Penn Township, Penn Township Fire Territory, and Penn-Harris-Madison School Corporation have been working together to determine the viability of development on school corporation owned land that sits between Evergreen Drive and Bittersweet Drive north of McKinley Avenue and south of the Elkhart & Western Railroad tracks. Earlier this year, it was determined that the school corporation sought to retain their land for school related uses but has been an active participant in working with the Township and Fire Territory for the development of a new fire station at this location. The project is on track to have a rezoning hearing with the Area Plan Commission on June 9th and hearings with the County Council in June and July for final approval. A copy of the project site plan is attached.

While the Redevelopment Commission originally got involved with the project to open up sites for new industrial development or for purposes of establishing a new highway garage, the Commission will continue involvement in the project aiding in the extension of municipal water to the site and in the development of a new entry drive that will service both the fire station project and the future school corporation use of the site. This new drive will line up across from Candace Lane and will have the potential to be signalized in the event that a signal is warranted.

Staff will begin the process in June to acquire an easement across seven (7) parcels so that a new water line can be extended from Evergreen Drive to Bittersweet Road. This new line will connect two existing points of service and will allow existing and new businesses in this corridor to receive municipal water service. We anticipate that this new water line will generate two new projects plus service the fire station project and the school corporation land.

There are also two proposals for engineering services for design of Candace Lane that are on the agenda for Commission consideration.

It is anticipated that the new station will be opened in 2021.
MEMORANDUM

TO:      St. Joseph County Redevelopment Commission

FROM:    Bill Schalliol, Executive Director of Economic Development

DATE:    June 5, 2020

RE:      Professional Service Proposal; - Danch, Harner & Associates
         Candace Drive Intersection Design Work

Attached to this proposal is a design service proposal from Danch, Harner & Associates to provide additional services for the planning and design of the Candace Drive intersection and driveways to service the fire station and school corporation sites. The proposal is in the amount of $32,450.00. The proposal suggests the addition of a 15% contingency which would bring the total to approximately $37,317.50.

Staff would request a not-to-exceed budget amount of $40,000 for this design work.
ADOPTED and APPROVED at a meeting of the St. Joseph County Redevelopment Commission on _____________, ____ 2020.

ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

_________________________________________________
Brian Pawlowski, Member

_________________________________________________
Dennis Jordan, Member

_________________________________________________
Jessica J. Clark, P.E., Member

_________________________________________________
Jason Critchlow, Member

_________________________________________________
Thomas Gryp, Member

ADOPTED and APPROVED at a meeting of the St. Joseph County Board of Commissioners on _____________, ____ 2020.

ST. JOSEPH COUNTY BOARD OF COMMISSIONERS

_________________________________________________
Andrew T. Kostielney, President

_________________________________________________
Deborah A. Fleming, D.M.D., Vice President

_________________________________________________
Dave Thomas, Member

ATTEST:

_________________________________________________
Michael J. Hamann, County Auditor
St. Joseph County Department of Economic Development
Attn: Mr. Bill Schalliol – Director
Room 1140 County-City Building
227 West Jefferson Blvd.
South Bend, Indiana 46601

May 28, 2020

RE: Additional Planning, Surveying and Engineering Services proposal for
    Mc Kinley Highway – Candace Drive intersection design work,
    Penn Township, St. Joseph County, IN:

Dear Mr. Schalliol:

Please accept this letter as our written cost quote to provide your Department with
additional Planning, Surveying and Engineering services for the proposed Fire Station
site on Mc Kinley Highway as it relates to designing the proposed Mc Kinley Highway
and Candace Drive, PHM property intersection.

More specifically the additional work would include:

SCOPE OF SERVICES:

A). Surveying Services:

1). Preparation of a limited topographic survey of the area on the south side of Mc Kinley
Highway at the intersection with Candace Drive. We would prepare a topographic survey
to allow for proposed intersection improvements for the new driveway having
approximate length of 150 feet on the north side of Mc Kinley Highway on PHM
property and proposed improvement to Candace Drive as needed for the future
signalization of the intersection.

Cost for above survey work .................................................. $ 4,500;

We would suggest for budgeting purposes agencies to plan for 15% additional costs for
requested revisions from the various review. If additional work is requested, we have
attached our hourly rates for such work.

B). Planning Services:

1). Prepare a preliminary sketch plan for a new street intersection showing the new
driveway opening having an approximate length of 150 feet on the north side of Mc
Kinley Highway on PHM property, including the proposed new driveway opening to the
Fire Station north parking bay as shown on provided plans by EPOCH Architects. The
preliminary plan would also show the required improvements to the intersection of
Candace Drive with Mc Kinley Highway. The plan would take into account the future signalization of this new intersection.

Cost for above planning work ................................................. $2,950;

C. Engineering Services:
1). Prepare a set of civil engineering plans for the proposed Mc Kinley, Candace Drive, PHM property intersection and a new driveway to the proposed Fire Station. Plan set would meet the design standards for a County road intersection or as required by County Engineering, showing new driveway opening having an approximate length of 150 feet on north side of Mc Kinley Highway on the PHM property, including the proposed new driveway opening to the Fire Station north parking bay as shown on provided plans by EPOCH Architects. The plans would include the new driveway located on PHM property and the required street improvements to Candace Drive where it intersects with Mc Kinley Highway, storm structures and piping, redesign of the existing storm sewer as needed on both sides of Mc Kinley to accommodate the new intersection improvements, elevations for the new intersection, profiles as required for street/driveway centerlines at the intersection. Drainage for the new driveway and the driveway to the Fire Station would be handled on site by roadside swale to handle surface runoff as approved by County Engineering. The prepared plans for the Driveway on the PHM property would incorporate the signalization plan for the intersection (PHM Driveway and Candace Drive with Mc Kinley Highway) being done by others. We would coordinate with the traffic engineer to show all required signalization improvements on our civil set of drawings. The plans would be of the required detail for construction purposes. Plans would be reviewed and approved by the County Engineering department prior to any construction.

Budget cost for our engineering work .................................. $22,000 to $24,900;

We would suggest for budgeting purposes agencies to plan for 15% additional costs for requested revisions from the various review. If additional work is requested, we have attached our hourly rates for such work.

If you have any questions concerning this matter, please feel free to give me a call at 574-234-4003, ext. 109.

Sincerely,

Michael J. Danch
President
Danch, Harner & Associates, Inc.

Approved by: ____________________________
Date: ________________

File No. County Economic Development B. Schalliol additional work
Mc Kinley Highway-Candace-PHM property intersection proposal
**CLASSIFICATION** | **HOURLY BILLING RATE**
--- | ---
Senior Professional Engineer | $138.00
Engineering Designer | $80.00
Project Engineer | $70.00
Senior Professional Land Surveyor | $138.00
Senior Survey/Engineering Tech | $80.00
Survey/Engineering Tech | $55.00
Senior Professional Landscape Architect | $138.00
Survey Manager | $70.00
Two Person Field Crew | $120.00
Principal | $138.00
Clerical | $45.00

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*Note: Copies include 8\(\frac{1}{2}\) x 11, 8\(\frac{1}{2}\) x 14, or 11 x 17 size sheets.

Other direct expenses may include cost to obtain copies of documents such as deeds or plats, maps, or other items purchased as a direct result of employment on the project. **NOTE THAT MILEAGE IS NOT CHARGED FOR PROJECTS WITHIN ST. JOSEPH COUNTY, INDIANA OR BERRIEN COUNTY, MICHIGAN.**
MEMORANDUM

TO: St. Joseph County Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 5, 2020

RE: Professional Service Proposal; - Kent Schumacher, P.E.
    Candace Drive Intersection Design Work

Attached to this proposal is a design service proposal from Career Transitions on behalf of Kent Schumacher, P.E. who will be working with Danch, Harner & Associates to provide traffic engineering and signalization planning and related design assistance to the project team. The proposal is in the amount of $7,000.00 plus reimbursables.

Staff would request a not-to-exceed budget amount of $10,000 for this design work.
ADOPTED and APPROVED at a meeting of the St. Joseph County Redevelopment Commission on _____________, __________ 2020.

ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

______________________________
Brian Pawlowski, Member

______________________________
Dennis Jordan, Member

______________________________
Jessica J. Clark, P.E., Member

______________________________
Jason Critchlow, Member

______________________________
Thomas Gryp, Member

ADOPTED and APPROVED at a meeting of the St. Joseph County Board of Commissioners on _____________, __________ 2020.

ST. JOSEPH COUNTY BOARD OF COMMISSIONERS

______________________________
Andrew T. Kostielney, President

______________________________
Deborah A. Fleming, D.M.D., Vice President

______________________________
Dave Thomas, Member

ATTEST:

______________________________
Michael J. Hamann, County Auditor
May 21, 2020

Mr. Bill Schalliol, Esq
Executive Director of Economic Development
Department of Infrastructure, Planning & Growth
St. Joseph County
227 W. Jefferson Blvd, 1 11th Floor
South Bend, IN 46601

Re: McKinley and Candace Traffic Signal Design

Dear Mr. Schalliol:

Thank you for considering me to design the traffic signalization for the above subject intersection per my phone conversation of May 12, 2020 with Danch Harner Associates. Below is my proposal to design the traffic signalization.

Provide Construction Documents for the construction of a Traffic Signal at the intersection of McKinley Avenue and Candace Lane. This work includes the plans and specifications for the construction of a Traffic Signal at the intersection of McKinley Avenue and Candace Lane, including emergency preemption for a new fire station. I understand that Danch Harner and Associates will design the road and water system improvements. Utilizing Danch Harner road design drawings I will provide redline drawings of the traffic signalization to Danch Harner and then check those signalization drawings. The specifications will utilize a Danch Harner Specifications Template. The fee for the traffic signal design will be an amount of $7,000.00 plus reimbursables. This amount does NOT include any hours or hourly rates for Danch Harner employees. Please review the attached budget and adjust as necessary.

Access to the latest version of Synchro and a cost estimating program will be required. The road design on a topographic and boundary survey will also be required to be provided by Danch Harner.

Thank you for this opportunity to be of service to you. I am prepared to provide these services in a timely manner. If you are in agreement with the services described above, please sign in the space provided and return to me. I look forward to receiving your acceptance of this letter of proposal and will proceed with the Traffic Signalization Design upon receipt of a Notice to proceed.

Respectfully submitted,

______________________________
Kent P. Schumacher, P.E.

Accepted by: St Joseph County, Indiana

______________________________
Signature

______________________________
Date

______________________________
Printed Name

______________________________
Title
This Attachment is made as part of our agreement dated 7.9.09. All terms and conditions of that agreement remain in effect. Effective 1/1/17, for employees who are required to be enrolled in the Affordable Care Act, a weekly surcharge will be applied in the amount of $5.00 per covered employee.

This Attachment A sets forth the following agreement between the parties with respect to the following names individual and project.

RESOURCES: Kent Schumacher

HOURLY BILL RATE: $68.00

HOURLY OVERTIME BILL RATE: $102.00

POSITION: St. Joseph County

PERIOD OF COMMITMENT: Until Completion

Project is to commence 5.14.20 and continue through completion as determined by the client.

This Attachment is entered into as of this 14th day of May, 2020.

Accepted By: St. Joseph County

Signature: ________________________________

Name: William “Bill” Schalliol, Esq.

Title: Exec. Dir. Of Economic Dev.

Date: ________________________________

Accepted By: Career Transitions

Signature: ________________________________

Name: Jeff Lacy

Title: President/CEO

Date: 5-12-20
MEMORANDUM

TO: St. Joseph County Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 4, 2020

RE: Professional Service Proposal – Christopher B. Burke Engineering, LLC
Jefferson Boulevard Sidewalk Extension
Additional Design Services and On-Call Construction Engineering Services

Over the past several months, the County and the project design representatives at Christopher B. Burke Engineering have been working to finalize design plans for the Jefferson Boulevard Sidewalk Extension project. This project is the first piece of several projects that will create connection points to and along the Capital Avenue Recreational Trail.

Due to changes in the scope and design of the project, the project design representatives incurred additional costs for their work. This contract will provide compensation for the additional work that was required to complete the design. The cost for this part of the contract is $14,200.00.

This contract also has a component for On-Call Construction Engineering Services. While the County will serve as the project construction manager, this contract line would provide on-call services in the event that there are any changes required or any additional work needed to modify project elements. The cost for this part of the contract is $3,000.00. This amount will only be drawn against in the event there is additional work required.

Staff respectfully requests approval of this proposal.
ADOPTED and APPROVED at a meeting of the St. Joseph County Redevelopment Commission on ____________, ____________ 2020.

ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

________________________________________
Brian Pawlowski, Member

________________________________________
Dennis Jordan, Member

________________________________________
Jessica J. Clark, P.E., Member

________________________________________
Jason Critchlow, Member

________________________________________
Thomas Gryp, Member

ADOPTED and APPROVED at a meeting of the St. Joseph County Board of Commissioners on ____________, ____________ 2020.

ST. JOSEPH COUNTY BOARD OF COMMISSIONERS

________________________________________
Andrew T. Kostielney, President

________________________________________
Deborah A. Fleming, D.M.D., Vice President

________________________________________
Dave Thomas, Member

ATTEST:

________________________________________
Michael J. Hamann, County Auditor
June 5, 2020

Bill Schalliol  
Executive Director  
Economic Development  
227 W. Jefferson Blvd.  
South Bend, IN 46601

Subject: Jefferson Boulevard Sidewalk Extension  
Additional Design Services and On-call Construction Engineering Services  
Professional Services Proposal

Dear Mr. Schalliol,

In accordance with our contract, we are notifying you of a change in the scope of work for this project that will result in additional work that was not included in our original contract. The specific scope changes and resulting additional fees are outlined below.

ADDITIONAL SCOPE OF SERVICES

Task 1 – Additional Design Services: Burke provided out-of-scope design services to revise and redesign the sidewalk layout and the ADA compliant curb ramps due to the removal of the roadway approaches from the project scope, per the County’s request. Burke provided these services during the previous phase of the project to finalize construction documents to go out for bid. As part of this task, Burke will continue to provide bid assistance which includes addressing contractor questions and issuing necessary addendum. Following the bid opening, Burke will compile a certified bid tabulation sheet and assist County staff in analyzing the bids provided.

Task 2: On-call Construction Engineering Services: St. Joseph County plans to award a construction contract to complete the sidewalk extension on Jefferson Boulevard from SR 331 (Capital Avenue) to Treys Trail. At the County’s request, Burke will provide on-call construction engineering services that include:

- Technical support during construction associated with requests for information.
- Review of submittals for conformance with contract documents
- Site visits to review construction progress and to confirm final completion of project

ESTIMATED FEE

We have estimated the total cost for the tasks outlined above to be $17,200. This amendment would increase the total estimated fee for this project to $32,500 and is subject to the general terms and conditions included in the original contract dated November 19, 2019.
We appreciate your consideration to this matter and look forward to working with you towards successful completion of this project. Please contact me at 317.266.8000 or Andy Gebhard at the number listed above if you have any questions.

Sincerely,

[Signature]

Jon D. Stolz, PE
Managing Vice President

THIS AMENDMENT AND ESTIMATED FEE ARE ACCEPTED BY ST. JOSEPH COUNTY, IN:

Signature: 

Name (Printed): 

Title: 

Date: 

Jefferson Boulevard Sidewalk Extension Amendment 1

June 5, 2020

Page 2
MEMORANDUM

TO: St. Joseph County Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 5, 2020

RE: Partnership Agreement with Elkhart County RDC
    Northwest Gateway Corridor Study

Attached to this proposal is a Request for Proposals (RFP) for the Northwest Gateway Corridor Study that was prepared by the staff of the Elkhart County Redevelopment Commission. The purpose of the RFP is to study traffic circulation and development patterns in the area roughly bounded by the Indiana-Michigan State Line on the north, Capital Avenue on the west, State Road 19 on the east and McKinley Avenue on the south. The two counties have partnered together over the last several years on projects along the Ash Road corridor and this project expands the study corridor to the west and east to better understand the project needs and helps to create priorities for projects in the area. St. Joseph County presently has plans for intersection improvements at Beech/Cleveland, Bittersweet/Douglas, and Douglas from Capital Avenue to the Mishawaka City Limits.

Staff is requesting that the St. Joseph County Redevelopment Commission offer to assist and partner in the study the lesser amount of $50,000 or 50% of the total project cost. This arrangement would be similar to the partnership agreement that was done with NICTD to examine the viability of a rail station in New Carlisle.

Staff requests approval of the funding partnership proposal of the lesser amount of $50,000 or 50% of the total project cost. Once the RFPs have been received and a vendor selected, Staff will bring the information to the Redevelopment Commission for a formal vote of approval.
ADOPTED and APPROVED at a meeting of the St. Joseph County Redevelopment Commission on ______________, _____ 2020.

ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

__________________________
Brian Pawlowski, Member

__________________________
Dennis Jordan, Member

__________________________
Jessica J. Clark, P.E., Member

__________________________
Jason Critchlow, Member

__________________________
Thomas Gryp, Member

ADOPTED and APPROVED at a meeting of the St. Joseph County Board of Commissioners on ______________, _____ 2020.

ST. JOSEPH COUNTY BOARD OF COMMISSIONERS

__________________________
Andrew T. Kostielney, President

__________________________
Deborah A. Fleming, D.M.D., Vice President

__________________________
Dave Thomas, Member

ATTEST:

__________________________
Michael J. Hamann, County Auditor
REQUEST FOR PROPOSALS

The Elkhart County Redevelopment Commission (RDC) is requesting proposals for the following project:

Northwest Gateway Corridor Study

SCOPE OF PROPOSAL

1. Collaborate with MACOG, St. Joseph County, Elkhart County, the City of Elkhart, the City of Mishawaka, City of South Bend, INDOT, and any other jurisdiction linked to the Northwest Gateway Area and traffic patterns between Mishawaka and the City of Elkhart, to collect and compile planning documents, studies, reports, or information regarding future plans for the area. Some of this information may include (but is not limited to), the 2008 NWG plan, the 2045 MACOG plan, city of Elkhart 2040 Economic Development Plan, and City and County Capitol Improvement Plans.

2. Review and summarize the similarities, differences, accuracies and deficiencies within the studies, provided present day traffic routes and conditions.

3. Provide an aerial plan view of existing roadway configurations, access drive locations, and pavement markings within the study area.

4. Review the existing corridor geometry for inadequacies and improvements.

5. Provide a land use plan using the conceptual plan developed for the area, which shows the projected future land use(s) impacting traffic within the study area.

6. Work with Elkhart County RDC to establish a steering committee representing all jurisdictions involved.

7. Meet bi-monthly or a minimum of 4 times with the steering committee to collaborate, revise, and develop the overall corridor report.

8. Present the summary of the existing reports to the committee.

9. Present possible routes of travel for large trucks, commuters, local vehicles, cyclists, and pedestrians based on existing conditions and future development.

10. Publicly advertise and hold a minimum of 2 public meetings to present the recommendations and gather input from the area residents and business owners.

11. Establish and prioritize a timeline and plan for future transportation improvement projects based on the routes and demands for the corridor.

12. Prepare a to-scale conceptual sketch of the proposed land uses, routes of travel, and recommended improvement projects.

13. Provide a Corridor Study outlining conclusions reached, recommendations for routes of travel, geometric improvements projects, green space projects, and proposed improvements to the intersections within the study area.

14. Include a proposed funding plan for priority projects by looking at available grants and local funds, and note any new maintenance costs incurred by priority projects once completed.
**PROPOSAL REQUIREMENTS:**
Consulting Engineering firms to be considered in the selection process must submit three (3) copies of their technical proposal and a separate sealed compensation package no later than: , 2:00pm E.D.T.

The complete proposal package shall be plainly marked **COMPLETE PACKAGE** as shown in the box below. A complete proposal package shall consist of the following:

1. An envelope containing the proposal transmittal letter and the firm’s technical and qualification proposal labeled **TECHNICAL PACKAGE**, without the proposed compensation.
2. A separate envelope labeled **COMPENSATION PACKAGE**, which includes the proposal transmittal letter and the proposed compensation.

The single complete proposal package and each of the two individual packages shall be marked as shown in the box below.

```
Ms. Natasha Kauffmann  
Redevelopment Program Coordinator  
Elkhart County Planning & Development  
4230 Elkhart Road  
Goshen, Indiana  46526  
____________ PACKAGE (Label as appropriate)
```

*Project Name:______________________________*

*Project No.:________________________________*

*Submittal Date:______________________________*

*Firm Name:__________________________________*

The proposal transmittal letter shall be on company letterhead signed by a person authorized to submit and sign a proposal. It shall contain the firm name, address, telephone number, and e-mail address.

Proposals received after the designated time will not be considered in the selection process and will be retained unopened until after award. The RDC reserves the right to accept or reject any or all proposals and to waive informalities or irregularities in the selection process.

If it becomes necessary to revise any part of the Request for Proposal (RFP) or otherwise provide additional information, an addendum will be issued by the RDC and furnished to all firms that have received copies of the original Request for Proposal.

The RDC will not be liable for any costs incurred by the respondents in replying to this RFP. The RDC shall not be liable for any cost for work or services performed by the selected consultant prior to a written Notice to Proceed.

Requests for further information or questions regarding this Request for Proposal should be addressed only to the designated project coordinator, Ms. Natasha Kauffmann.
Unauthorized contact regarding this Request for Proposal with any Planning Dept. or Highway Employee may result in disqualification. Any oral communication will be considered unofficial and non-binding. Proposal submissions shall rely only on written addenda issued by the designated project coordinator.

Selection Process and Schedule:
The proposals considered in the selection process will be evaluated by a Consultant Selection Advisory Committee (CSAC) according to the criteria and point system presented below. The RDC will not release the names of committee members and requires that consultants direct any questions to the designated project coordinator listed above.

The CSAC will evaluate the proposals utilizing the proposal evaluation criteria (except compensation).

Following evaluation of the proposal packages, the CSAC will open and evaluate the compensation packages as outlined below. The CSAC will then recommend a Consultant, based on the rankings. The RDC will send a letter to all firms, informing them of the RDC's selection and the date of the anticipated award of the contract.

Following selection of the highest rated Consultant, the RDC will negotiate contractual terms, level of effort and scope of services. Contract award will be made to the Consultant whose proposal best complies with the Request for Proposal and will be the most advantageous to the RDC.

Proposal Evaluation Criteria

The following information must be included in each Proposal and will form the basis of the evaluation. The point number is the weight of each criterion.

Project Manager, Key Personnel – 20 Points
1. Provide the name and qualifications of the Project Manager (PM) to be assigned to this project. Include the PM's prior similar experiences on projects which best illustrate his/her expertise to perform the requested services.

For any projects listed include the name and phone number of the owner's representative in charge of the project.

2. Provide the identity and qualifications of Key Personnel (both prime and sub consultants) to work on this project, including the adequacy and appropriateness of their credentials and capabilities, expected project assignments, the extent of their project participation, and the relevance of their prior experience to this project.

3. Provide an organizational chart illustrating the relationship between the PM, and Key Personnel. Identify sub consultants in the organizational chart by name and firm.
PROJECT APPROACH – 30 points
The proposed project approach should include the following:

- A statement of project understanding.
- A management/technical approach to completing a preliminary engineering report that should describe the utilization of specific methodologies and techniques to perform the tasks. Clearly explain reasons for modifications or expansions of tasks.
- A proposed level of effort document which includes:
  1. A listing of all major tasks.
  2. A detailed inventory of all proposed project personnel by task.
  3. Proposed hours for all project personnel (including sub-consultant personnel) by task.
  4. Modifications or expansions of tasks should be clearly delineated.

- The proposer must list and describe all assumptions used in developing the level of effort document.
- An estimated schedule for all tasks and a date for final presentation of the study.

OVERALL QUALIFICATIONS OF FIRM/TEAM – 10 Points
Provide a brief description of the overall qualifications of your firm and engineering team.

Provide examples (not more than three) of similar projects performed by your team within the last five years. The examples should include the nature of the project your involvement in the project, any special environmental, political or technical problems involved in the project, how the problems were resolved, the name and phone number of the owner’s representative in charge of the project, the fee for the project, the total project cost, and when the project was performed.

PREVIOUS EXPERIENCE WITH THE RDC – 15 Points
These firms will be evaluated according to (1) Quality of Work, (2) Performance Against Schedule, and (3) Performance Against Budget. A maximum of five points will be awarded to firms based on these evaluations. If a firm has no previous experience with The RDC, the maximum points will be awarded. Firms with previous experience should provide a list of the RDC projects they have completed.

COMPENSATION REQUIREMENTS – 25 Points
Present a separate sealed package, that is plainly marked, “Compensation Package. The compensation shall be presented as a “Not to Exceed” cost.

GENERAL FORMAT
All proposals shall contain concise written material and illustrations. All submittals must use 8-1/2” by 11” portrait format, but may be supplemented using 8- ½” by 11” landscape or 11” by 17” illustrations. Twelve-point font shall be used. All submittals must have the following tabbed headings and be limited to the length indicated.
- Proposal transmittal letter
- Project Manager/Key Personnel, (6 page maximum)
- Project Approach (unlimited pages, recognizing that brevity and focus on the Approach to this project will be highly valued by the reviewers)
- Overall Qualifications of Firm/Team (5 page maximum)
- Previous Experience with the RDC (1 page maximum)

The RFP, and the successful Consultant’s Proposal will become part of the contract. In the event of any conflict between the RFP and the Proposal, the RFP will govern. The successful Consultant is expected to enter into a contract with the RDC.

Thank you for your time and effort on this proposal. If you have any questions, please feel free to call us at ____________.

Sincerely,

Chris Godlewski, Planning Department Director

Natasha Kauffmann, Redevelopment Coordinator
MEMORANDUM

TO: St. Joseph County Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 4, 2020

RE: Professional Service Proposal – Plews, Shadley, Racher & Braun LLP
Environmental Legal Services

Attached to this memorandum is a professional services proposal from Daniel Cory, a Partner with Plews, Shadley, Racher & Braun LLP to perform environmental-related legal services for the Redevelopment Commission and St. Joseph County. The purpose of the engagement is to assist with review of environmental documentation, environmental reports and other environmental information related to Commission owned property located on the campus of Seres Motors located on East McKinley Avenue. The engagement with Plews, Shadley, Racher & Braun LLP might also include work related to review of environmental documentation related to areas adjacent to the Seres Motors and AM General property.

The proposal is based on an hourly rate and a fee schedule for the legal team is included with the proposal.

Staff requests approval of this proposal.
ADOPTED and APPROVED at a meeting of the St. Joseph County Redevelopment Commission on ____________, ___________ 2020.

ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

Brian Pawlowski, Member

Dennis Jordan, Member

Jessica J. Clark, P.E., Member

Jason Critchlow, Member

Thomas Gryp, Member

ADOPTED and APPROVED at a meeting of the St. Joseph County Board of Commissioners on ____________, ___________ 2020.

ST. JOSEPH COUNTY BOARD OF COMMISSIONERS

Andrew T. Kostielney, President

Deborah A. Fleming, D.M.D., Vice President

Dave Thomas, Member

ATTEST:

Michael J. Hamann, County Auditor
Via email jwoods@tglaw.us

St. Joseph County Redevelopment Commission
c/o Jamie C. Woods
Thorne Grodnik, LLP
420 Lincolnway West
P.O. Box 1210
Mishawaka, Indiana 46546-1210

Re: Engagement Agreement

Dear Jamie:

We are pleased to represent the St. Joseph County Redevelopment Commission (the “Commission”) with regard to environmental issues. Unless otherwise agreed to in writing between us, the following will control the terms of our representation.

**PERFORMANCE OF SERVICES**

I will be responsible for managing and supervising the subject matter of the engagement. This will include, but not be limited to, providing legal consultation and advice, reviewing and drafting documents, conducting negotiations and the hiring of others as deemed appropriate. I will be assisted by my associate Kyle Smith and my paralegal Krista Cox. In order to minimize professional fees, we may from time to time assign certain tasks to others, including paralegals, employed or engaged by the firm.
RETAINER

We will waive our engagement fee, or retainer, and only include the following engagement fee information for your reference, should we require such in the future. We may require such a fee, and hereby reserve the right to require same, should the Commission not comply with the terms of payment below. By executing this engagement letter, the Commission agrees to pay an engagement fee upon written request, if it does not comply with the terms of payment contained herein.

The retainer, if one is paid, shall be deposited in trust to pay fees and costs actually incurred now or hereafter, which amount, less actual fees and costs paid to us therefrom, will be refunded upon conclusion of the representation to the extent costs have not been incurred in excess of the amount paid.

PROFESSIONAL FEES AND EXPENSES

We will accept this representation on an hourly fee basis. This means that the Commission will be paying for time incurred on an hourly basis in connection with the work described above, and you will be billed monthly. My rate is $360, Kyle Smith’s is $250, and Krista Cox’s is $235. Hourly rates are typically adjusted in January of each year. Regular rates for our entire firm are reflected on the enclosed rate sheet.

In addition to professional fees, the Commission agrees to reimburse us for all expenses attributable to its matter. Such expenses may include, but are not limited to, photocopying, facsimile charges, telephone charges, express mail charges, etc. The categories of reimbursable costs are detailed on the enclosed rate sheet. Should this matter develop into litigation, these expenses could also include, among other things, expert witness fees, deposition costs and consultant expenses. Any such expenses will be detailed in the Commission’s statements. In connection with such expenses, our policy is to recover only our costs; we do not add a service charge or premium on such expenses.

TERMINATION AND WITHDRAWAL

The Commission may terminate our representation of its matter at any time. Termination will not, however, relieve the Commission of responsibility for payment of professional fees and expenses incurred before notice is given us, or for those fees incurred in connection with the orderly transition of this matter to successor counsel or to the Commission.

We may withdraw from representation under several circumstances. For instance, the Rules of Professional Conduct require that we withdraw from representing a client where we discover that a client is seeking our assistance to engage in criminal or fraudulent conduct, where continued representation of the client will result in violation of the Rules, where the client insists on pursuing an objective that we consider repugnant or imprudent, where the client fails substantially to fulfill an obligation to us regarding our services (including prompt payment of
professional fees and expenses), or where the continued representation of the client will result in an unreasonable financial burden on us or the representation has been rendered unreasonably difficult by the client.

**CONFLICTS**

At the time this letter agreement is signed, neither of us is aware of a conflict of interest regarding this matter with clients of the firm. We will advise the Commission promptly if we become aware of any potential conflicts. In the event that a conflict was to develop, the firm may need to seek a waiver of the conflict, or withdraw from its representation of the Commission. However, we do not anticipate any such conflicts arising at this time.

If you find the terms of this arrangement agreeable, please sign and return this letter to us. Thank you for the opportunity to represent you in this matter.

Very truly yours,

/s/ Daniel P. Cory

DPC/kmc
Encl.

ACKNOWLEDGED AND AGREED:

__________________________________________
Signature

__________________________________________
Printed Name

__________________________________________
Title

Date:______________________________________
## PLEWS SHADLEY RACHER & BRAUN LLP
### 2020 Rates

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### Costs

- **Computer research**: actual cost
- **Filing fees**: actual cost
- **Hotels**: actual cost
- **Meals**: actual cost
- **Mileage**: IRS standard rate
- **Overnight mail**: actual cost
- **Parking**: actual cost
- **Copies - black/white**: $.20 per page
- **Copies - color**: $.80 per page
- **Postage**: actual cost
MEMORANDUM

TO: St. Joseph County Redevelopment Commission

FROM: Bill Schalliol, Executive Director of Economic Development

DATE: June 5, 2020

RE: Professional Service Proposal – Abonmarche
    Additional Services – State Road 933 Corridor Study

In February 2018, the Redevelopment Commission and Board of Commissioners entered into a contractual relationship with Abonmarche to provide four specific work items related to the study and designation of the Dixie Highway/SR 933 Economic Development Area.

The proposal included the following work scope elements:

1. Corridor Assessment and Enhancement Study
   a. Base Map Preparation
   b. Current and Future Land Use Planning
   c. Utility Study
   d. Access Management Study
   e. Aesthetic Enhancements along the Corridor
   f. Aesthetic Enhancements to Intersections
   g. Identity and Wayfinding Signage Improvements

2. Corridor (Asset) Management Plan
3. Facilitation of Stakeholder Meetings
4. EDA Boundary Identification

The contract amount for this proposal is a not-to-exceed amount of $98,000.00.

The original scope of work focused mainly on the Angela to Douglas corridor section with minimal study done in the sections from Douglas to the State Line. In the course of working with corridor partners and the planning team, a great emphasis was placed on looking at the entire 5 mile corridor as a development corridor and how it relates to the surrounding areas to the east and west and north of the Dixie Highway/State Road 933 Corridor.

The attached proposal from Abonmarche details two sections for additional work to complete the study work. The first section is an amendment to the above four sections and adds additional work scope in the amount of $35,000. The second section would allow funding to prepare a legal description and related documentation for designation of the corridor as an economic development area. This
additional scope of work is $15,000.

Funding for this proposal comes from a 2018 appropriation from the Healthwin account. Staff requests funding in the amount of $50,000 to complete this project. In the amount that the area is not designated an EDA or the funds are not needed for the additional work scope, then the unbilled funds will not be billed to the project.

Staff requests approval of this proposal.
ADOPTED and APPROVED at a meeting of the St. Joseph County Redevelopment Commission on _______________, ___________ 2020.

ST. JOSEPH COUNTY REDEVELOPMENT COMMISSION

__________________________
Brian Pawlowski, Member

__________________________
Dennis Jordan, Member

__________________________
Jessica J. Clark, P.E., Member

__________________________
Jason Critchlow, Member

__________________________
Thomas Gryp, Member

ADOPTED and APPROVED at a meeting of the St. Joseph County Board of Commissioners on _______________, ___________ 2020.

ST. JOSEPH COUNTY BOARD OF COMMISSIONERS

__________________________
Andrew T. Kostielney, President

__________________________
Deborah A. Fleming, D.M.D., Vice President

__________________________
Dave Thomas, Member

ATTEST:

__________________________
Michael J. Hamann, County Auditor
March 27, 2020

Mr. Bill Schalliol, Executive Director  
St. Joseph County Economic Development  
County-City Building, Suite 1140  
227 West Jefferson Boulevard  
South Bend, IN 46601

Re: State Road 933 Corridor Study

Dear Mr. Schalliol:

Enclosed for your review and approval is a contract amendment for the State Road 933/Dixie Highway Corridor Study. The Abonmarche team has developed a study for the Corridor that provides important information and recommendations designed to not only inform decision makers but also inspire and engage current and future stakeholders to participate in a collaborative revitalization effort for the Corridor.

This amendment covers several key items beyond the original scope.

1. To assist in developing and supporting the recommendations for the study, an analysis of demographic and retail data was important. This analysis provides empirical data for the Corridor that was not available in other plans or studies.
2. As the evaluation of the Corridor was underway, five distinct subareas of development and land uses became evident. This amendment includes the identification and evaluation of these Districts. In addition to the Corridor as a whole, these subarea plans provide a more robust study with recommendations customized to the physical area where they might be implemented. These studies will be presented as part of the overall Corridor Study but will also be available as standalone documents.
3. The creation of a Corridor amenities map that highlights local assets such as parks and institutions along with existing and proposed trails and Transpo routes and stops. This map clearly illustrates the positive aspects of the Corridor and can be used to promote the area.
4. Preliminary discussions with American Electric Power regarding their property located between the LaSalle Trail and properties that front SR 933 in the study area.

The cost for this additional work is $35,000.
One of the Study recommendations is the establishment of a SR 933/Dixie Highway Economic Development Area and the related Tax Increment Finance District. If this recommendation is followed a map and legal description for the area will be required for the approval process. Abonmarche can prepare this legal description and a supporting drawing for $15,000.

Please return an executed agreement as authorization to proceed. If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,
ABONMARCHE CONSULTANTS, INC.

[Signature]

Daryl S. Knip, PE
CEO