

Luann G. Welmer, Clerk-Treasurer

CITY COUNCIL MEETING CITY HALL & VIA WEBEX TUESDAY, DECEMBER 5, 2023 6:00 O'CLOCK P.M.

I. Meeting Called to Order

- A. Opening Prayer
- B. Pledge of Allegiance
- C. Roll Call
- D. Acceptance of Minutes

II. Old Business Requiring Council Action

- A. Reading of a Resolution entitled, "RESOLUTION NO._____, 2023, A RESOLUTION ADOPTING A FISCAL PLAN FOR PROPERTY TO BE ANNEXED TO THE CITY OF COLUMBUS, INDIANA." (Columbus Regional Health (CRH)/City View District Annexation) Jeff Bergman.
- B. Second Reading of an Ordinance entitled, "Ordinance No._____, 2023, AN ORDINANCE ANNEXING AND DECLARING CERTAIN TERRITORY TO BE PART OF THE CITY OF COLUMBUS, INDIANA." (City View Annexation) Jeff Bergman
- C. Second Reading of an Ordinance entitled, "ORDINANCE NO._____, 2023, AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF COLUMBUS, INDIANA, REZONING THE SUBJECT PROPERTY FROM AP (AGRICULTURE: PREFERRED) TO CCc (COMMERCIAL: COMMUNITY WITH COMMITMENTS)." (McIntyre Rezoning) Jeff Bergman
- D. Second Reading of an Ordinance entitled, "ORDINANCE NO._____, 2023, AN ORDINANCE AMENDING THE CITY OF COLUMBUS, INDIANA MUNICIPAL CODE WITH REGARD TO AGRICULTURAL PROPERTIES." Jeff Bergman

E.	Second Reading of an Ordinance entitled, "ORDINANCE NO, 2023, AN ORDINANCE TO EFFECTUATE CHANGES FROM A CLASS 3 CITY TO A CLASS 2 CITY." Regina McIntyre
F.	Second Reading of an Ordinance entitled, "ORDINANCE NO,

F. Second Reading of an Ordinance entitled, "ORDINANCE NO._____, 2023, AN ORDINANCE PROVIDING FOR THE ADDITIONAL APPROPRIATION FOR THE GENERAL FUND AND THE INSURANCE NON-REVERTING FUND AND AVIATION NON-REVERTING FUND AND THE PUBLIC SAFETY LOCAL INCOME TAX FUND FOR THE BUDGET YEAR FOR THE BUDGET YEAR 2023." Regina McIntyre

III. New Business Requiring Council Action

- A. Reading of a Resolution entitled, "RESOLUTION NO._____, 2023, A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA APPROVING CERTAIN MATTERS IN CONNECTION WITH THE CENTRAL ECONOMIC DEVELOPMENT AREA." (6th and Washington Allocation Area)." Heather Pope
- B. Reading of a Resolution entitled, "RESOLUTION NO._____, 2023, A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA APPROVING A PROJECT AGREEMENT FOR A DOWNTOWN MIXED-USE DEVELOPMENT PROJECT AND AUTHORIZING THE USE OF CERTAIN TAX INCREMENT REVENUES RELATED THERETO." Heather Pope
- C. First Reading of an Ordinance entitled, "ORDINANCE NO._____, 2023, AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AUTHORIZING A DIRECT LOAN TO THE DEVELOPER OF AN ECONOMIC DEVELOPMENT FACILITY (6TH & WASHINGTON PROJECT) AND APPROVING OTHER MATTERS IN CONNECTION THEREWITH." Heather Pope
- D. Reading of a Resolution entitled, "RESOLUTION NO._____, 2023, A RESOLUTION TO AUTHORIZE THE CITY OF COLUMBUS REDEVELOPMENT COMMISSION TO EXPEND FUNDS OVER \$500,000 FOR THE OUR RIVER...OUR RIVERFRONT PROJECT LOCATED IN THE CENTRAL ALLOCATION AREA." Heather Pope

E. Reading of a Resolution entitled, "RESOLUTION NO._____, 2023, A RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS BETWEEN CATEGORIES IN TRANSIT NON-REVERTING FUND FOR THE BUDGET YEAR 2023." Regina McIntyre

IV. Other Business

- A. Standing Committee and Liaison Reports
- B. The next meeting is scheduled for Tuesday, December 19, 2023, 6:00 p.m.
- C. Adjournment

City of Columbus – Bartholomew County Planning Department

123 Washington Street Columbus, Indiana 47201 Phone: (812) 376-2550 Fax: (812) 376-2643





MEMORANDUM

TO:

Columbus City Council Members

FROM:

Jeff Bergman

DATE:

November 27, 2023

RE:

Columbus Regional Health (CRH) / City View District Annexation

(Plan Commission Case #ANX-2023-001)

Attached is the fiscal plan resolution for the Columbus Regional Health (CRH) / City View District Annexation. Please recall that Indiana law requires that the City Council adopt a fiscal plan by resolution in association with, and prior to, any annexation. This resolution will appear on the agenda for the December 5, 2023 Council meeting for adoption prior to the corresponding annexation ordinance.

Please feel free to contact me with any questions you may have.

RESOLUTION NO.:	, 2023
-----------------	--------

A RESOLUTION ADOPTING A FISCAL PLAN FOR PROPERTY TO BE ANNEXED TO THE CITY OF COLUMBUS, INDIANA

To be known as the Columbus Regional Health (CRH) / City View District Annexation Plan Commission Case No. ANX-2023-01

WHEREAS, a petition has been filed by Columbus Regional Health System Services, LLC for the annexation of certain property to the City of Columbus; and

WHEREAS, the petitioners represent 100% of the owners of the property subject to the request, which lies outside of, but adequately contiguous to the City of Columbus; and

WHEREAS, the Common Council of the City of Columbus, Indiana has paid reasonable regard to the requirements of the Indiana Code and the adopted annexation policies of the City of Columbus; and

WHEREAS, the City of Columbus has carefully and thoroughly considered the capital and noncapital costs of extending City services to the area proposed for annexation; and

WHEREAS, the City is able to provide the area proposed for annexation with municipal services in the same manner as other similar portions of the City as required by the Indiana Code.

NOW THEREFORE BE IT RESOLVED by the Common Council of the City of Columbus, Indiana that the fiscal plan for the Columbus Regional Health (CRH) / City View District Annexation attached to and made a part of this resolution is approved and adopted.

ADOPTED, by the Common Council of the Cit		
, 2023, at o'clockm.	, by a vote of ay	es andnay
	Presiding Officer	
ATTEST:		
Luann Welmer Clerk-Treasurer of the City of Columbus, Indiana		
Presented to me, the Mayor of Columbus, Indiana, the o'clockm.	day of	, 2023, at
	James D. Lienhoop	
	Mayor of the City of Colur	mbus, Indiana

CITY OF COLUMBUS, INDIANA ANNEXATION FISCAL PLAN

For Plan Commission Case No.: ANX-2023-001
To be known as the Columbus Regional Health (CRH) / City View District Annexation

Introduction:

This annexation fiscal plan, which is required by Indiana annexation law (Indiana Code Section 36-4-3-3.1), summarizes how the annexation complies with the applicable requirements. The annexation fiscal plan also provides basic data regarding the area and describes the manner in which City of Columbus services will be extended to the area upon annexation.

This annexation fiscal plan recognizes that the City of Columbus is a complex combination of land uses and developments, which together provide a complete community. Each land use (residential, commercial, industrial, etc.) directly results in specific receipts and costs for the City. These receipts and costs are typically calculated based on number of residents, land area, etc. However, each land use also indirectly supports the development of complimentarily land uses, which also affect receipts and costs. For example, residential development promotes commercial development; and job growth promotes home construction. Therefore, the assignment of specific costs and receipts to specific annexations are conceptual and intended for estimating purposes only.

This fiscal plan also recognizes that the property is currently in agricultural use with no immediate expectations for development. However, significant long-term development is envisioned. For that reason, this fiscal plan provides both the typical, required initial analysis, as well as a long-term description of expected costs, for the purposes of long-term resources planning and budgeting.

Annexation Area Information:

Following is a summary of annexation area physical characteristics:

Location: Approximately 2,200 feet south of State Road 46 / Jonathan Moore Pike, between I-

65 to the west and State Road 11 / Jonesville Road to the east (Columbus

Township).

Size:

+/-688.41 Acres (1.08 square miles)

Zoning:

AP (Agriculture: Preferred District) - +/-684 acres

CC (Commercial: Community District) - +/-4 acres

Land Use: Current - Agriculture

Population: Current - 0

City Council District: The property will be assigned initially to City Council District #2.

The following select comparative data is based on the 2020 United States Census:

2020 Columbus Size: 17,984 Acres (28.1 square miles)

2020 Columbus Population: 50,474 2020 Columbus Dwelling Units: 22,110

Legal Requirements & Columbus Annexation Policy:

Indiana law (Indiana Code Section 36-4-3-1.5) requires that, to be eligible for annexation, the external boundary of the area must be at least 1/8 (12.5%) contiguous with the boundary of the City (the area involved in this annexation is 24% contiguous with the boundary of the City).

Indiana law further defines three types of annexations: involuntary, voluntary, and super-voluntary. This annexation qualifies as a super-voluntary annexation (Indiana Code Section 36-4-3-5.1), in which 100% of the owners of land in the territory sought to be annexed have signed the annexation petition.

In 1990 the Columbus City Council adopted the following policies for annexation:

- 1. Subdivisions which are contiguous to the City should be a part of the City.
- 2. Land contiguous to the City zoned for commercial or industrial purposes should be annexed to the City before it is developed.
- 3. Land contiguous to the City used for commercial or industrial purposes should be a part of the City.
- Undeveloped land required to complement the annexation of developed land and which helps provide the ability to manage growth should be a part of the City.
- 5. Neighborhoods which are socially, culturally, and economically tied to the City should be a part of the City.
- 6. The pattern of City boundaries should promote efficient provision of services by the City, the County, and other agencies.
- 7. Contiguous lands needed for orderly growth and implementation of the City's Comprehensive Plan should be a part of the City.
- 8. Contiguous lands which are likely to be developed in the relatively near future should be a part of the City.
- 9. Contiguous lands having the potential for health or safety problems or environmental degradation should be a part of the City and provided with City services.
- 10. Contiguous properties which, if annexed, would serve to equalize the tax burden for City residents should be a part of the City.

Capital Costs upon Annexation:

The capital services within the annexation area were evaluated to determine what, if any, infrastructure improvements, equipment, etc. are needed to provide services to the area, immediately upon annexation, in the same manner as those services are provided to other similar areas within the City's corporate boundaries. No capital expenditures were identified as necessary for this annexation. The annexation area is currently provided with the same infrastructure as other agricultural / undeveloped areas within the City of Columbus. The installation of any streets, utilities, and other infrastructure will be completed by the developer at the time the area is converted from agricultural / undeveloped land to other uses, consistent with the policies and procedures of the City.

Non-capital services, which are delivered to the annexation area without requiring installation of capital infrastructure or the purchase of specific equipment, were assessed through consultation with the City Department Head responsible for each service. In each case, the appropriate services will be provided to the annexation area immediately upon annexation in a manner equivalent in standard and scope to the services being provided to other similar areas within the City's corporate boundaries.

Provision of Services upon Annexation:

The descriptions of the City services to be provided immediately upon annexation and an estimate of cost (if provided by each Department Head) are as follows.

1. <u>Police:</u> The services provided by the City of Columbus Police Department include the prevention of crime, the detection and apprehension of criminal offenders, assistance for those who are in

danger of physical harm, resolution of conflicts, and the creation and maintenance of a feeling of security in the community. The Police Department is also involved in legal work and the protection of constitutional rights. Lastly, the Police Department performs traffic control, promotes civil order, and provides technical assistance to the public in the area of crime prevention.

Police Chief Mike Richardson: In the short and medium term, I don't see any issues for CPD (the Columbus Police Department).

<u>Fire:</u> The Fire Department services include fire protection and medical emergency assistance.
The services also include fire suppression, emergency response, fire prevention, fire inspection, and public education in the area of fire safety.

Fire Chief Andy Lay: In the short-term with agricultural use: no changes required. Normal response from CFD (the Columbus Fire Department) and mutual aid requests that are in place with Bartholomew County volunteer fire departments should be sufficient.

3. Public Works & Public Transit: The Public Works Department provides refuse collection, compost, and brush clipping services. The Department also provides for the maintenance of streets at a level that ensures transportation safety and efficiency. The services provided include snow removal, street cleaning, and general maintenance. This Department provides for public transportation through the ColumBUS system. Finally, the Department provides for the maintenance of storm water drainage facilities.

No comment has been provided with regard to the extension of services immediately upon annexation. See below regarding the long-term extension of services to future development on the property.

4. <u>Sanitary Sewer & Public Water:</u> Columbus City Utilities provides sanitary sewer and public water services, including the installation and maintenance of treatment facilities and service mains for the majority of the area of the City of Columbus. In some areas sewer and/or water service may be provided by other utilities. Sewer and water service is included in this fiscal plan due to the role of Columbus City Utilities as the primary provider of these services. However, it is recognized that sewer and water service is not a "municipal service" in the same way as are the others listed in this fiscal plan.

Columbus City Utilities applies a "four-year revenue" rule when deciding how much ratepayer investment to make in any water or sewer extension. City Utilities estimates the gross revenue that would result from any proposed extension and will invest up to that amount in the extension of services. The party requesting the extension may make up the difference between the investment and the actual cost of the facilities. However, if the Utility Service Board determines that it is in the overall good for the City of Columbus to extend services, then the "four-year rule" is set aside. These projects typically include significant job creation or other large-scale economic development benefits to the community.

Utilities Engineer Ashley Getz: We have no issues serving the proposed annexation area in the short- to medium-term as continued agriculture use.

5. <u>Parks & Recreation:</u> The Parks Department provides for the establishment, programming, and maintenance of park facilities throughout the City. The Department also provides for the scheduling and facilitation of recreational activities and other related events.

No comment has been provided with regard to the extension of services immediately upon annexation. See below regarding the long-term extension of services to future development on the property.

- 6. <u>Animal Care Services:</u> Columbus Animal Care provides care, shelter, and the humane euthanization of domestic animals. The Department also provides regular patrol, complaint investigation, and animal emergency services.
 - No comment has been provided on this annexation indicating no cost for the extension of noncapital services to the subject property.
- 7. <u>Administrative Services:</u> The administrative functions of the City include those provided by the Planning Department, Airport Board, Department of Community Development, City Engineer, Human Rights Commission, Mayor's Office, Personnel Department, and City Attorney. These departments provide for the general operation and organization of City government.

No comment has been provided with regard to the extension of services immediately upon annexation. See below regarding the long-term extension of Human Rights services to future development on the property.

Future Capital Costs and Provision of Services:

The property is expected to be developed over the long-term for a variety of land uses including varying densities and types of residential, commercial, civic, research and development, and health care. This development is to be consistent with the adopted City View District Element of the City of Columbus Comprehensive Plan.

Descriptions of potential capital and non-capital needs related to City services to be provided to the property at build-out (as/if provided by each Department Head) are below. In some instances, the Departments have reported needs directly proportional to development in this annexation area, as is the case with the trash toter and parks maintenance estimates. In other cases, the Departments have reported how their services will be affected by development of this area when considering current city-wide need and resources resulting from cumulative development over time, as is the case for the projected need for an additional fire station and sanitation route.

Direct Costs attributable to this Annexation:

<u>Public Works</u> - Public Works Director Bryan Burton: Potentially 3 toters (trash, recycle & yard waste) are needed per household. Toters are budgeted within the Sanitation budget and, once sold, money returns back into the General Fund. Increased road salt, asphalt, aggregates, traffic signage, traffic markings, fuel, and vehicle maintenance are likely needed. There will also be increased tonnage cost for trash and recycle collections.

<u>Parks & Recreation</u> - Parks & Recreation Director Mark Jones: Parks & Recreation would have the following concerns (if the approximately 30 acres of community and neighborhood parks envisioned for the property are public parks):

Staffing - At the minimum, Parks would be looking for four additional headcount to maintain these parks/spaces. After this entire project is fully developed, we would potentially be requesting additional staff. The additional headcount would be needed to handle extra items (restrooms, shelters, trails....)

Equipment - Parks would need to increase our inventory of mowers, trucks, trailers and miscellaneous utility equipment to accommodate taking on additional 30 acres of park space.

Supplies/Other Services - Parks would need to increase both our supplies and other services lines in the budget to purchase the necessary items to maintain these new park areas.

Infrastructure - Parks would need a new maintenance facility to accommodate the new equipment/supplies to handle this extra workload.

Anticipated Undefined Costs Possible with this Annexation:

Police - Police Chief Mike Richardson: When we look at long term, I could potentially see some concerns for us. It will depend on the number of residents and if those residents are new to our community or just transplanted from one area of the community to this area. I'm sure our call volume will increase in the long term for this area with the number of businesses and residences that will potentially be built. Traffic in this area will be affected as well, which will increase our presence in this area. When we look at long term impact for CPD it will depend on the population of our community more than where that population resides or works.

Sanitary Sewer & Public Water - Utilities Engineer Ashley Getz: We have a plan to serve the proposed annexation area in the long-term consistent with the City View District Future Land Use Plan. There will need to be main extensions, which will be determined during the final development plans, but we have capacity to serve the area.

Cumulative Costs Resulting from Continued Annexation and Development:

<u>Fire</u> - Fire Chief Andy Lay: In the long-term, as the property is developed consistent with the (approved) land use framework, serving the area would require the following:

Capital Purchases - One engine, one truck, one rescue squad, and one battalion vehicle completely outfitted with all the required equipment. There would also be possible consideration for an additional firehouse and an additional ambulance.

Investments for Personnel - 36 additional sworn firefighters required to staff the above fire apparatus in addition to 9 Medics/EMT's to staff full time or 18 Medics/EMT's to staff part time and 1 administrative person to manage the ambulance.

Public Works - Public Works Director Bryan Burton:

Staffing - As development occurs we would potentially be looking to request additional headcount. It takes a minimum of 5 employees (1 for trash, 1 for recycling, 1 for yard waste, and 2 for brush collection) and 4 trucks to complete a daily sanitation route. Additional manpower would be used for street sweeping, street and sidewalk maintenance, mowing additional tree lawns/medians, traffic marking applications, traffic signage maintenance, storm water maintenance, etc.

Equipment - Additional sanitation trucks with potential new routes once new development is known and considered.

Receipts Methodology & Estimate:

The annexation of the area will result in receipts to the City of Columbus through a combination of property taxes, state fund distributions, user fees, and other similar sources. This fiscal plan recognizes the presence of all income sources, as well as the complexity of calculating specific receipts. However, it is the estimation of property tax receipts that provides the best indication of City revenues resulting from the annexation. It is recognized that the estimated tax receipts represent a broadening of the City's tax base and not a direct increase in revenue due to the maximum tax levy imposed by the State of Indiana and other related factors. Further, Indiana property tax maximums ("caps") for individual properties and possible deductions are acknowledged but not included in the calculations below. The estimated tax receipts are intended to provide basic information by which the general fiscal impact of the proposed annexation may be evaluated. The current and potential future property tax information for the annexation area is summarized below:

Current Net Assessed Property Value (NAV): \$1,157,200

Current (2023) City Tax Rate: \$1.0776 per \$100 of NAV

City of Columbus Tax Receipts in Year 1: \$12,470*

Future Build-out Net Assessed Property Value (NAV): \$370,000,000

Applied Future Build-out City Tax Rate: \$1.0776 per \$100 of NAV

Future Build-out Annual Tax Receipts: \$4,000,000*

*excludes consideration of exemptions, property tax maximums, and levy increase maximums

Future build-out conditions are based on the City View District Plan's Land Use and Development Framework in combination with current Columbus assessed values for similar development. For example, property value estimates for low-density residential areas were based on a random sampling of homes in the Wildflower, Pine Hill Estates, Orchard, Indian Hills, and Riverview Acres neighborhoods. Property value and tax receipts for planned civic and hospital areas were not included as both areas are assumed to be property tax exempt.

Methods of Financing & Timing of Services upon Annexation:

It is anticipated that the appropriate capital and non-capital City services will be provided within existing and future city budgets, and that there will be little or no additional cost to the city immediately upon annexation. All capital and non-capital services are available to the annexation area immediately in the same manner in which they are provided to other, similar agricultural / undeveloped areas within the City of Columbus.



MEMORANDUM

TO: Columbus City Council

FROM: Heather Pope, Director of Redevelopment

DATE: November 27, 2023

RE: Amendment to the Central Economic Development Area (creation of 6th & Washington TIF)

6th & Washington Street Project Agreement

Forgivable Loan Documents for the 6th & Washington Street Project

Cummins and Flaherty & Collins have approached the Redevelopment Commission requesting assistance to develop a parcel of land located between 6th and 7th Streets along Washington Street. Cummins owns the property and have engaged Flaherty & Collins to develop the site into a mixed use development. The proposal includes a five story structure with approximately 52 apartments (a mix of one and two bedrooms) and approximately 10,000 square feet of ground floor retail/commercial.

Amendment to the Central Economic Development Area:

As part of the mixed-use development a separate Economic Development Area/TIF District must be created between 6th Street and 7th Street along Washington Street. Therefore, the Central Economic Development Area needs to be amended. The process to amend an allocation area starts with approval by the Redevelopment Commission. The Redevelopment Commission unanimously approved amendment to the Central Economic Development Area and Plan on July 17, 2023. The next step is the consideration and approval by the Plan Commission. The Plan Commission found the proposed allocation area/project is consistent with the adopted City's Comprehensive Plan on August 9, 2023. The next step is to request approval by City Council to create a new allocation area. If approved by the City Council, the Redevelopment Commission will need to approve a declaratory resolution amending the Central Economic Development Area and amendment to the Economic Development Area Plan. The creation of a separate allocation area will allow the Redevelopment Commission to recoup the investment over the life of the newly created district. This will allow the Commission to reinvest those funds into the surrounding area to promote economic development and activation of our downtown.

On December 5th I will be requesting the City Council to approve a resolution to amend the Central Economic Development Area and the Economic Development Plan.

Attached you will find the following:

- Redevelopment Commission Resolution executed
- Plan Commission Resolution executed
- City Council Resolution

6th & Washington Street Project Agreement:

The Project Agreement outlines the binding document between the Redevelopment Commission and the Developer (Flaherty & Collins). The agreement states that Flaherty & Collins will own and manage a mixed-



use development between 6th and 7th Street along Washington Street for a minimum period of 10 years. The agreement further includes such things as, but not limited to, the approximate number of apartment units, approximate amount of commercial/retail square footage along the Washington Street frontage, construction schedule, forgivable loan proceeds and tax payer agreement/schedule. At the Commissions regular monthly meeting on November 20th, the Redevelopment Commission approved and authorized its president to execute the project agreement on behalf of the Commission.

On December 5th I will be requesting the City Council to approve and authorize the Mayor to sign the project agreement on behalf of the City of Columbus.

Attached you will find the following:

- Redevelopment Commission Resolution executed
- City Council Resolution
- Project Agreement for a Mixed-Use Development Project located between 6th & 7th Streets along Washington Street

Forgivable Loan Documents for the 6th & Washington Street Project:

The estimated construction cost of the project is \$16M. Under the terms of the proposed Project Agreement, the Commission would agree to contribute an amount of Central TIF Revenue no greater than \$5.8M through a forgivable loan process, toward the cost of construction for the mixed-use development. The forgivable loan process is similar to a bond issuance (requiring the same boards/commission to approve the process), however, no additional debt will be issued. The Commission has determined, with the financial advice of its financial advisor, that it has a sufficient balance available in the Central Allocation Fund to contribute Central TIF revenue towards construction costs, which will directly serve and benefit, or be physically located in or connected to, the Central Allocation Area. The Economic Development Commission will be meeting prior to the City Council meeting to consider the loan documents. They will consider and take action on the following documents and are attached here for your review and consideration:

- Form of Financing and Loan Agreement
- Form of funding and Reimbursement Agreement

Attached you will also find, related to this action item:

City Council Ordinance approving the loan with Flaherty & Collins

RESOLUTION NO. <u>23-202</u>3

RESOLUTION OF THE CITY OF COLUMBUS REDEVELOPMENT COMMISSION AMENDING THE DECLARATORY RESOLUTION AND THE DEVELOPMENT PLAN FOR THE CENTRAL ECONOMIC DEVELOPMENT AREA

(6th and Washington Allocation Area)

WHEREAS, the City of Columbus Redevelopment Commission (the "Commission"), pursuant to IC 36-7-14 (the "Act") serves as the governing body of the City of Columbus Redevelopment District (the "District"); and

WHEREAS, the Commission has previously adopted and confirmed resolutions (collectively, the "Declaratory Resolution") establishing and amending an economic development area known as the "Central Economic Development Area" (the "Development Area"), approving an economic development plan (the "Plan") for the Development Area, pursuant to Indiana Code 36-7-14, as amended (the "Act"), and designating a portion of the Development Area as an "allocation area" pursuant to Section 39 of the Act to be known as the "Central Economic Development Allocation Area" (the "Central Allocation Area"); and

WHEREAS, the Commission now desires to amend the Declaratory Resolution and the Plan to (1) remove the area described on Exhibit A attached hereto from the Central Allocation Area, (2) designate the area described on Exhibit A attached hereto as a separate allocation area pursuant to Section 39 of the Act to be known as the 6th and Washington Allocation Area (the "6th and Washington Allocation Area"), and (3) adopt a supplement to the Plan attached hereto as Exhibit B (the "2023 Plan Supplement") (such amendments, collectively, the "2023 Amendments"); and

WHEREAS, the 2023 Amendments and supporting data were reviewed and considered at this meeting; and

WHEREAS, Section 39 of the Act has been created and amended to permit the creation and expansion of "allocation areas" to provide for the allocation and distribution of property taxes for the purposes and in the manner provided in said Section; and

WHEREAS, this Redevelopment Commission deems it advisable to apply the provisions of said Section 39 of the Act to the 2023 Amendments; and

WHEREAS, the Commission now desires to approve the 2023 Amendments.

NOW, THEREFORE, BE IT RESOLVED by the City of Columbus Redevelopment Commission, governing body of the City of Columbus Redevelopment District, as follows:

1. The 2023 Amendments promote significant opportunities for the gainful employment of the citizens of the City of Columbus, Indiana (the "City"), attraction of major new business enterprises to the City, retention and expansion of significant business enterprises existing in the

boundaries of the City, and meets other purposes of Sections 2.5, 41 and 43 of the Act, including without limitation benefiting public health, safety and welfare, increasing the economic well being of the City and the State of Indiana (the "State"), and serving to protect and increase property values in the City and the State.

- 2. The 2023 Plan Supplement for the Development Area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under Sections 2.5, 41 and 43 of the Act because of lack of local public improvement, existence of conditions that lower the value of the land below that of nearby land, multiple ownership of land, and other similar conditions.
- 3. The public health and welfare will be benefited by accomplishment of the 2023 Amendments.
- 4. It will be of public utility and benefit to amend the Declaratory Resolution and the Plan for the Development Area as provided in the 2023 Amendments and to continue to develop the Development Area, including the 6th and Washington Allocation Area, as under the Act.
- 5. The accomplishment of the 2023 Plan Supplement for the 6th and Washington Allocation Area will be a public utility and benefit as measured by the attraction or retention of permanent jobs, an increase in the property tax base, improved diversity of the economic base and other similar public benefits.
- 6. The Declaratory Resolution and the Plan, as amended by this Resolution and the 2023 Plan Supplement, conform to the comprehensive plan of development for the City.
- 7. The 2023 Amendments are reasonable and appropriate when considered in relation to the Declaratory Resolution and Plan and the purposes of the Act.
- 8. The findings and determinations set forth in the Declaratory Resolution and the Plan are hereby reaffirmed.
- 9. In support of the findings and determinations set forth in Sections 1 through 8 above, the Commission hereby adopts the specific findings set forth in the 2023 Plan Supplement.
- 10. The Commission does not at this time propose to acquire any specific parcel of land or interests in land within the boundaries of the 6th and Washington Allocation Area. If at any time the Commission proposes to acquire specific parcels of land, the required procedures for amending the Plan, as amended by the 2023 Plan Supplement, under the Act will be followed, including notice by publication to affected property owners and a public hearing.
- 11. The Commission finds that no residents of the Development Area will be displaced by any project resulting from the 2023 Plan Supplement, and therefore finds that it does not need to give consideration to transitional and permanent provision for adequate housing for the residents.

- 12. The 2023 Amendments are hereby in all respects approved.
- 13. The area described in Exhibit A is hereby removed from the Central Allocation Area, and is hereby designated as a separate "allocation area" pursuant to Section 39 of the Act, to be known as the "6th and Washington Allocation Area," for purposes of the allocation and distribution of property taxes for the purposes and in the manner provided by said Section. Any taxes imposed under I.C. 6-1.1 on real property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in said allocation area shall be allocated and distributed as follows:

Except as otherwise provided in said Section 39, the proceeds of taxes attributable to the lesser of the assessed value of the property for the assessment date with respect to which the allocation and distribution is made, or the base assessed value, shall be allocated to and when collected paid into the funds of the respective taxing units. Except as otherwise provided in said Section 39, property tax proceeds in excess of those described in the previous sentence shall be allocated to the redevelopment district and when collected paid into an allocation fund for the 6th and Washington Allocation Area hereby designated as the "the 6th and Washington Allocation Fund" and may be used by the redevelopment district to do one or more of the things specified in Section 39(b)(3) of the Act, as the same may be amended from time to time. Said allocation fund may not be used for operating expenses of the Commission. Except as otherwise provided in the Act, before June 15 of each year, the Commission shall take the actions set forth in Section 39(b)(4) of the Act.

- 14. The foregoing allocation provision shall apply to the 6^{th} and Washington Allocation Area. The Commission hereby finds that the adoption of this allocation provision will result in new property taxes in the 6^{th} and Washington Allocation Area that would not have been generated but for the adoption of the allocation provision, as specifically evidenced by the findings set forth in Exhibit \underline{B} . The base assessment date for the 6^{th} and Washington Allocation Area is January 1, 2023.
- 15. The provisions of this Resolution shall be subject in all respects to the Act and any amendments thereto, and the allocation provisions herein relating to the 6th and Washington Allocation Area shall expire on the date that is twenty-five (25) years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues derived from the 6th and Washington Allocation Area.
- 16. This Resolution, together with any supporting data, shall be submitted to the City of Columbus Plan Commission (the "Plan Commission") and the Common Council of the City (the "Council") as provided in the Act, and if approved by the Plan Commission and the Council, shall be submitted to a public hearing and remonstrance as provided by the Act, after public notice as required by the Act.
- 17. The officers of the Commission are hereby authorized to make all filings necessary or desirable to carry out the purposes and intent of this Resolution.

18. The provisions of this Resolution shall be subject in all respects to the Act and any amendments thereto.

Adopted the 17th day of July, 2023.

CITY OF COLUMBUS REDEVELOPMENT COMMISSION

President

Vice President

The a Carter Secretary

Member

Cynthia A . Bow Member

EXHIBIT A

Parcel to be removed from the Central Economic Development Allocation Area and designated as the $6^{\rm th}$ and Washington Allocation Area

The following parcel is removed from the Central Economic Development Allocation Area and designated as the 6^{th} and Washington Allocation Area, and is depicted on the map attached hereto with the dotted yellow boundary:

PARCEL ID NUMBER:

03-95-24-310-002.001-005

EXHIBIT B

2023 Plan Supplement

The Plan is hereby supplemented by adding the following projects to the Plan:

All or any portion of the development, design and construction of a four-to-five story mixed-use, multi-family development, including apartments and commercial retail space, with an estimated cost to the Commission of \$5,800,000. The Commission anticipates capturing tax increment revenues from the 6th and Washington Allocation Area and applying such tax increment revenues either directly or through bonding to pay or reimburse costs of the projects.

Based on representations of the developer of the mixed use project, the Commission has determined that the full development of the 6th and Washington Allocation Area will not proceed as planned without the contribution of tax increment revenues to be derived from the 6th and Washington Allocation Area to the projects described above.

GENERAL RESOLUTION NO: 2023-06

of the City of Columbus, Indiana Plan Commission

regarding amendments to the Central Economic Development Plan (specifically for the 6th & Washington Allocation Area)

WHEREAS, the Columbus Plan Commission (the "Plan Commission") is the body charged with the duty of developing a general plan of development, the Comprehensive Plan, for the City of Columbus, Indiana (the "City"); and

WHEREAS, the City of Columbus Redevelopment Commission (the "Redevelopment Commission") on July 17, 2023, approved and adopted Resolution No. 23, 2023 (the "Resolution") approving certain amendments to the declaratory resolution and the economic development plan for the Central Economic Development Area, related to a proposed new mixed-use development project (the "Plan Supplement"); and

WHEREAS, the Redevelopment Commission has submitted the Resolution and the Plan Supplement to this Plan Commission.

NOW THEREFORE BE IT RESOLVED, by the Plan Commission of the City of Columbus, Indiana, as follows:

- 1. The Resolution and the Plan Supplement conform to the plan of development for the City.
- 2. This Plan Commission hereby approves the Resolution and the Plan Supplement. This resolution hereby constitutes the written order of the Plan Commission approving the Resolution and the Plan Supplement pursuant to Indiana Code Section 36-7-14-16.
- 3. A copy of the Resolution and the Plan Supplement shall be filed with the minutes of this meeting.

ADOPTED BY THE COLUMBUS, INDIANA PLAN COMMISSION THIS 9th DAY OF AUGUST, 2023 BY A VOTE OF 6 IN FAVOR AND 2 OPPOSED.

Michael Kinder, President

ATTEST:

Laura Garrett, Acting Secretary

RESOLUTION	NO.

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA APPROVING CERTAIN MATTERS IN CONNECTION WITH THE CENTRAL ECONOMIC DEVELOPMENT AREA

(6th and Washington Allocation Area)

WHEREAS, the City of Columbus Redevelopment Commission (the "Redevelopment Commission"), as the governing body for the City of Columbus Redevelopment Department, pursuant to Indiana Code 36-7-14, as amended (the "Act"), adopted its Resolution No. 23-2023 on July 17, 2023 (the "CRC Resolution"), which (1) removed certain parcels from the existing Central Allocation Area within the previously declared Central Economic Development Area, (2) designated such removed area as a separate allocation area pursuant to Section 39 of the Act to be known as the 6th and Washington Allocation Area, and (3) adopted a supplement to the existing Economic Development Plan for the Central Economic Development Area (the "Plan Supplement"); and

WHEREAS, the City of Columbus Plan Commission, on August 9, 2023, approved and adopted a resolution (the "Plan Commission Order") determining that the CRC Resolution and Plan Supplement conform to the plan of development for the City of Columbus, Indiana (the "City") and approving the CRC Resolution and the Plan Supplement; and

WHEREAS, pursuant to Section 16(b) of the Act, the Redevelopment Commission has submitted the CRC Resolution and the Plan Commission Order to the Common Council of the City.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Columbus, Indiana, as follows:

- 1. Pursuant to Section 16(b) of the Act, the Common Council of the City determines that the CRC Resolution and the Plan Supplement, in all respects, conform to the plan of development for the City, and approves, in all respects, the CRC Resolution, the Plan Supplement and the Plan Commission Order.
- 2. This Resolution shall be in full force and effect from and after its passage by the Council and approval by the Mayor as required by law.

DULY PASSED on this day of _	, 2023, by the Common Council of ayes and nays.
ne City of Columbus, Indiana, by a vote of	
	COMMON COUNCIL CITY OF COLUMBUS, INDIANA
	Presiding Officer
ATTEST:	
Luann Welmer, Clerk-Treasurer	
Presented by me to the Mayor of the Cit Indiana Code § 36-4-6-15 and -16, thisa.m./p.m.	ty of Columbus for his approval or veto pursuant to
	Luann Welmer, Clerk-Treasurer
This Resolution having been passed approved by me and duly adopted, pursuant to, 2023 at o'clock a	by the legislative body and presented to me is a Indiana Code § 36-4-6-16(a)(1), thisday of a.m./p.m.
	James Lienhoop, Mayor of the City of Columbus, Indiana
Attest:	
Large Walman Clouk Transpurar	
Luann Welmer, Clerk-Treasurer	

RESOLUTION NO. 20

A RESOLUTION OF THE CITY OF COLUMBUS REDEVELOPMENT COMMISSION AUTHORIZING A PROJECT AGREEMENT FOR A DOWNTOWN MIXED-USE DEVELOPMENT PROJECT AND AUTHORIZING THE USE OF CERTAIN TAX INCREMENT REVENUES RELATED THERETO

WHEREAS, Indiana Code §36-7-14-1 *et seq.* provides that a city may establish a Department of Redevelopment to be controlled by a redevelopment commission; and

WHEREAS, the City of Columbus (the "City"), through its Common Council, did on August 19, 2003 create the City of Columbus Department of Redevelopment and the City of Columbus Redevelopment Commission (the "Commission") by way of Ordinance Number 25, 2003; and

WHEREAS, the Commission is committed to improving the City by administering and funding projects that support economic development, public infrastructure, and neighborhood revitalization; and

WHEREAS, in 2019, the City adopted and made part of its Comprehensive Plan an updated downtown strategic development plan entitled Envision Columbus which was funded and conducted by The Heritage Fund of Bartholomew County and identified a number of needs for the community, i.e., housing, shopping, dining and other amenities that would enhance the quality of life in the City; and

WHEREAS, the Envision Columbus plan identified, among other things, the need for a downtown hotel/conference center, multi-family housing, additional retail and a downtown grocer; and

WHEREAS, on February 16, 2021, the Commission and the City entered into a Project Agreement with F&C Development, Inc. (the "Developer"), an affiliate of Flaherty & Collins, for the design, development and construction of a multi-family residential project that included retail elements, which is known as "The Taylor" and is currently under construction; and

WHEREAS, in furtherance of the plan to create additional multi-family housing facilities, the Developer has proposed to design, develop and construct an additional multi-family residential project that will include retail and/or commercial elements in the downtown core of the City (the "Additional Mixed-Use Project"); and

WHEREAS, the Commission has previously adopted a declaratory resolution, as subsequently confirmed and amended, which (i) created the Central Economic Development Area (the "Central Economic Development Area") as an economic development area pursuant to Section 41 of the Act, (ii) designated a portion of the Central Economic Development Area as an allocation area pursuant to Section 39 of the Act (the "Central Allocation Area"), for the purpose of capturing property tax proceeds derived from incremental assessed valuation of real property in such allocation area which is in excess of the "base assessed value" (such property tax proceeds,

hereinafter referred to as "Central TIF Revenue"), (iii) created the Central Allocation Area Fund (the "Central Allocation Fund") into which all Central TIF Revenue is deposited, all pursuant to and as described Section 39 of the Act, and (iv) approved an economic development plan for the Central Economic Development Area (the "Plan"); and

WHEREAS, the Commission has determined, with the financial advice of its financial advisor, that it has a sufficient balance on deposit in the Central Allocation Fund to contribute Central TIF Revenue toward costs of Additional Mixed-Use Project, which will directly serve and benefit, or be physically located in or connected to, the Central Allocation Area; and

WHEREAS, there has been presented to the Commission at this meeting a proposed Project Agreement among the City, the Commission and the Developer (the "Project Agreement"), which defines the respective duties and obligations of the parties in the development of the Additional Mixed-Use Project, and the Commission now desires to authorize the Commission to enter into the Project Agreement and authorize and approve other actions related thereto, subject to the terms and conditions set forth below; and

WHEREAS, under the terms of the proposed Project Agreement, the Commission would agree to contribute \$5,800,000 toward the cost of the Additional Mixed-Use Project, subject to the completion of all procedures required by law.

NOW, THEREFORE, BE IT RESOLVED by the City of Columbus Redevelopment Commission, as follows:

- 1. The Commission hereby finds and determines that the Additional Mixed-Use Project, and the use of Central TIF Revenue to contribute, directly serves and benefits the Central Allocation Area, furthers the purposes for which the Central Economic Development Area was created, and helps accomplish the Plan.
- 2. The Commission hereby authorizes the President, Vice President or any other officer of the Commission to enter into the Project Agreement in the form submitted to the Commission at this meeting, together with such changes in the form and substance thereof as may be approved by the President of the Commission upon the advice and recommendation of the Commission's legal counsel and municipal advisor, provided, however, no changes to the Project Agreement shall commit the Commission to contribute more than \$5,800,000 toward the Additional Mixed-Use Project.
- 3. The Commission hereby authorizes the President, Vice President or any other officer of the Commission to enter into a Guaranteed Payment Agreement with the Developer (guaranteeing a certain minimum amount of annual payments to be received by the Commission with respect to the Additional Mixed-Use Project for a period to be determined by the President with the advice of the Commission's financial advisor), and any such other ancillary or related contracts or agreements with the Developer, the City and/or others as may be necessary or appropriate to facilitate the financing and construction of the Additional Mixed-Use Project as contemplated by the Project Agreement, in a form and substance approved by such officer with the advice of the Commission's legal counsel and financial advisor.

This resolution shall take effect immediately upon adoption by the Commission.
 Adopted the 20th day of November, 2023.

Member

CITY OF COLUMBUS REDEVELOPMEN	
COMMISSION	
President	
200	
Vice President	
Trena Carle	
Secretary	
Cynthia A. Boll	
Member	
S. New D. C.	

RESOLUTION NO.	
----------------	--

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA APPROVING A PROJECT AGREEMENT FOR A DOWNTOWN MIXED-USE DEVELOPMENT PROJECT AND AUTHORIZING THE USE OF CERTAIN TAX INCREMENT REVENUES RELATED THERETO

WHEREAS, Indiana Code §36-7-14-1 *et seq*. provides that a city may establish a Department of Redevelopment to be controlled by a redevelopment commission; and

WHEREAS, the City of Columbus (the "City"), through its Common Council, did on August 19, 2003 create the City of Columbus Department of Redevelopment and the City of Columbus Redevelopment Commission (the "Commission") by way of Ordinance Number 25, 2003; and

WHEREAS, the Commission is committed to improving Columbus by administering and funding projects that support economic development, public infrastructure, and neighborhood revitalization; and

WHEREAS, in 2019 the City adopted and made part of its Comprehensive Plan an updated downtown strategic development plan entitled Envision Columbus which was funded and conducted by The Heritage Fund of Bartholomew County and identified a number of needs for the community, i.e., housing, shopping, dining and other amenities that would enhance the quality of life in the City; and

WHEREAS, the Envision Columbus plan identified, among other things, the need for a downtown hotel/conference center, multi-family housing, additional retail and a downtown grocer; and

WHEREAS, on February 16, 2021, the Commission and the City entered into a Project Agreement with F&C Development, Inc. (the "Developer"), an affiliate of Flaherty & Collins, for the design, development and construction of a multi-family residential project that included retail elements, which is known as "The Taylor" and is currently under construction; and

WHEREAS, in furtherance of the plan to create additional multi-family housing facilities, the Developer has proposed to design, develop and construct an additional multi-family residential project that will include retail and/or commercial elements in the downtown core of the City on a parcel located at the northwest corner of the intersection of 6th Street and Washington Avenue adjacent to the Cummins parking garage (the "Additional Mixed-Use Project"); and

WHEREAS, the Commission has previously adopted a declaratory resolution, as subsequently confirmed and amended, which (i) created the Central Economic Development Area (the "Central Economic Development Area") as an economic development area pursuant to Section 41 of the Act, (ii) designated a portion of the Central Economic Development Area as an allocation area pursuant to Section 39 of the Act (the "Central Allocation Area"), for the purpose of capturing property tax proceeds derived from incremental assessed valuation of real property in

such allocation area which is in excess of the "base assessed value" (such property tax proceeds, hereinafter referred to as "Central TIF Revenue"), (iii) created the Central Allocation Area Fund (the "Central Allocation Fund") into which all Central TIF Revenue is deposited, all pursuant to and as described Section 39 of the Act, and (iv) approved an economic development plan for the Central Economic Development Area (the "Plan"); and

WHEREAS, the Commission has determined, with the financial advice of its financial advisor, that it has a sufficient balance on deposit in the Central Allocation Fund to contribute Central TIF Revenue toward costs of Additional Mixed-Use Project, which will directly serve and benefit, or be physically located in or connected to, the Central Allocation Area; and

WHEREAS, there has been presented to the Common Council of the City (the "Common Council") at this meeting a proposed Project Agreement among the City, the Commission and the Developer (the "Project Agreement"), which defines the respective duties and obligations of the parties in the development of the Additional Mixed-Use Project, and the Common Council now desires to authorize the City to enter into such agreement and authorize and approve other actions related thereto, subject to the terms and conditions set forth below; and

WHEREAS, under the terms of the proposed Project Agreement, the Commission would agree to contribute an amount of Central TIF Revenue not greater than \$5,800,000 toward the cost of the Additional Mixed-Use Project, subject to the completion of all procedures required by law; and

WHEREAS, pursuant to the ordinance adopted by the Common Council which created the Commission and the Department, any expenditure by the Commission of amounts in excess of \$500,000 are subject to the prior approval of the Common Council.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Columbus, Indiana, as follows:

- 1. The Common Council hereby approves of the above-described Project Agreement substantially in the form presented to this meeting, and authorizes the Mayor to finalize and execute the Project Agreement in the name of and on behalf of the City.
- 2. The Common Council hereby approves the expenditure by the Commission of Central TIF Revenue on deposit in the Central Allocation Fund in an amount not greater than \$5,800,000 to be applied toward the cost of the Additional Mixed-Use Project, subject to the completion of all procedures required by law.

DULY PASSED on this day of	, 2023, by the Common Council of the City
of Columbus, Indiana, by a vote of ay	es and nays.
	COMMON COUNCIL
	CITY OF COLUMBUS, INDIANA
	Presiding Officer
	Constitution of the Consti
ATTEST:	
Luann Welmer, Clerk-Treasurer	
Presented by me to the Mayor of the Ci	ty of Columbus for his approval or veto pursuant to
Indiana Code § 36-4-6-15 and -16, this	day of, 2023 ato'clock
a.m./p.m.	
	Luann Welmer, Clerk-Treasurer
	,
This Resolution having been passed	by the legislative body and presented to me is
approved by me and duly adopted, pursuant to	o Indiana Code § 36-4-6-16(a)(1), thisday of
, 2023 at o'clock a	a.m./p.m.
	James Lienhoop, Mayor of the City of
	Columbus, Indiana
Attest:	
Luann Welmer, Clerk-Treasurer	

PROJECT AGREEMENT

This Project Agreement (the "Agreement") executed this __ day of _____, 2023, by and among F&C Development, Inc. ("Developer"), the City of Columbus, Indiana (the "City"), and the City of Columbus Redevelopment Commission ("Commission"), WITNESSES THAT:

WHEREAS, Indiana Code §36-7-14-1 *et seq.* provides that a community may establish a Department of Redevelopment to be controlled by a redevelopment commission; and

WHEREAS, the City of Columbus, through its Common Council, did on August 19, 2003 create the Commission by way of Ordinance Number 25, 2003;

WHEREAS, Commission is committed to improving Columbus by administering and funding projects that support economic development, public infrastructure, and neighborhood revitalization;

WHEREAS, in 2021, Commission entered into a Project Agreement with Developer for the development of a downtown multi-family residential project that included retail elements;

WHEREAS, the Developer proposes to construct an additional downtown multi-family project that will provide additional residential units in the City of Columbus' downtown core; and

WHEREAS, the parties desire to enter into this Project Agreement.

NOW THEREFORE, in consideration of the recitals and the mutual agreements contained herein, the parties agree as follows:

1. Defined Terms.

Allocation Area shall mean a new allocation area consisting of the Project site to be created by the Commission pursuant to IC 36-7-14.

Ancillary Documents shall mean the: (a) the Completion Guaranty; (b) the Guaranteed Payment Agreement; (c) the Tri-Party Agreement; and (d) the Forgivable Loan Documents.

Assessments shall mean all general and special governmental and utility assessments levied on, against, or with respect to the Project Site.

Bonds shall mean the City of Columbus, Indiana Economic Development Revenue Bonds, Series 2023 (Federally Taxable) intended to be issued by the City.

Bond Proceeds shall mean a portion of the proceeds of the Bonds, which portion: (a) shall be a project fund in an amount equal to \$5,800,000 and (b) is on deposit in the "Construction Account" of that certain "Project Fund" created by, and defined in, the Trust Indenture. The parties acknowledge that: (a) the total amount of the proceeds of the Bonds may exceed the amount defined as the "Bond Proceeds"; and (b) for purposes of this Agreement, "Bond Proceeds" shall mean only so much of the total amount of the proceeds of the Bonds that is specified in this definition.

Change Order shall mean a change order executed by City and Developer finalizing the inclusion into the Final Plans of a change proposed in a Change Order Request that is approved by City; provided that, in the case of a Permitted Change, such change order shall be effective if executed only by Developer.

Change Order Request shall mean a written request for a change to the Final Plans.

City Bodies shall mean the City and Commission.

Claims shall mean claims, damages, losses, costs, and expenses (including, without limitation, attorneys' fees).

Closing shall mean the closing with respect to the: (a) issuance of the Bonds; (b) the closing on the Project Loan; and (c) the conveyance of the Project Site to Developer.

Closing Date shall mean the date of the Closing.

Commission shall mean the Columbus Redevelopment Commission, acting as the redevelopment commission of the City.

Completion Guaranty shall mean a guaranty pursuant to which the Completion Guarantor guarantees the completion of the Project in accordance with the terms and conditions of this Agreement.

Completion Guarantor shall mean the Corporate Completion Guarantor.

Construction Trade shall mean any trade or other discrete aspect of construction of the Project.

Corporate Completion Guarantor shall mean the corporate entity of the Developer required by the Project Lender to guarantee completion of the Project.

Cure Period shall mean a period of 30 days after a party failing to perform or observe any term or condition of this Agreement to be performed or observed by it receives notice specifying the nature of the failure; provided that, if the failure is of such a nature that it cannot be remedied within 30 days, despite reasonably diligent efforts, then the 30 day period shall be extended as reasonably may be necessary for the defaulting party to remedy the failure, so long as the defaulting party: (a) commences to remedy the failure within the 30 day period; and (b) diligently pursues such remedy to completion.

Disbursement Request shall mean a written request by Developer for a distribution of Bond Proceeds, which request shall: (a) specify the total amount of Bond Proceeds being requested; (b) include such supporting documentation as would be required for Developer to obtain a disbursement of proceeds of the Project Loan (excluding any documentation otherwise required pursuant to the Project Loan Documents with respect to obtaining an endorsement to the Project Lender's policy of title insurance updating such policy to the date of the disbursement of the Bond Proceeds).

Event of Default shall have the meaning set forth in Subsection 13(a).

Execution Date shall mean the date set forth in the introductory paragraph of this Agreement.

Financial Requirements shall mean that an entity has: (a) a net worth of at least the greater of (i) \$5,000,000 or (ii) the remaining outstanding principal amount on the Bonds, and (b) liquid assets with a market value of at least two years of the required minimum taxes required under the Guaranteed Payment Agreement; each as established by audited financial statements of such entity that are less than sixty (60) days old and prepared in accordance with generally accepted accounting principles consistently applied and accompanied by an unmodified (or unqualified) opinion of a certified public accounting firm.

Final Documents and Drawings shall mean the architectural and engineering plans for the Project, as modified, amended, and adjusted from time to time.

Final Plans shall mean the aggregated Final Documents and Drawings.

Force Majeure shall mean, with respect to any party: (a) an act or omission of the other party; or (b) any other cause that is not within the reasonable control of such party, respectively (including, without limitation, unusually inclement weather, the unusual unavailability of materials, equipment, services or labor, a pandemic causing a significant shut-down of the economy, and utility or energy shortages or acts or omissions of public utility providers).

Forgivable Loan shall mean, a loan in the minimum amount of the \$5,800,000 by the City to Developer. This loan shall: (a) be subordinate to the Project Loan and any other Project debt, (b) not bear interest, unless interest must accrue for tax purposes, in which case such interest shall be deferred until the Maturity Date (defined below), (c) defer the payment of principal and interest until the Maturity Date, and (d) be forgiven upon: (i) its Maturity Date (to be defined as the earlier of the substantial completion date of the Project, an agreed upon outside required date for completion, or upon the repayment of principal), or (ii) at the discretion of the Developer, annually in the amount of the real property taxes assessed against the Project and paid by the Developer; unless Developer has abandoned the Project or otherwise failed to timely and substantially complete the Project by the Maturity Date, subject to Force Majeure and/or any delays caused by City or Commission. For the purposes of this definition, "substantial completion" or "substantially complete" shall mean: (a) Developer has received the certificate of occupancy for the Project; or (b) if no certificate of occupancy is issued, then the completion of the Project except for "punch list" items typical for commercial projects similar to the Project.

Forgivable Loan Documents shall mean the: (a) promissory note; and (b) loan agreement; evidencing the Forgivable Loan. A mortgage shall not be required, executed, or recorded as part of the Forgivable Loan Documents.

Guaranteed Payment Agreement shall mean an agreement pursuant to which Developer is obligated to make annual payments to Commission in an amount equal to the difference between (i) the annual amounts outlined in the schedule attached hereto as Exhibit C (the "Guaranteed Payment Agreement Schedule"), and (ii) the amount of TIF Revenues received by the Commission in that year, for a period of twenty-five (25) years, beginning with the pay 2027 tax year. If the amount of TIF Revenues received in that year exceed those outlined in the Guaranteed Payment Agreement Schedule, then no Developer payment will be due nor will any TIF Revenues be refunded to the Developer by the Commission. Any excess TIF Revenues in that year will be retained by the Commission and may be used by the Commission for any purpose permitted by Indiana law. If, however, the amount of the TIF Revenues received in any year exceed the minimum annual payment outlined in the Guaranteed Payment Agreement Schedule in such year (the "Excess TIF Payment"), then the Developer shall receive a credit in the amount of the Excess TIF Payment (a "TIF Payment Credit"), and any such TIF Payment Credits shall be applied to reduce the Developer's obligation to make annual shortfall payments under the Guaranteed Payment Agreement until such TIF Payment Credits are fully applied, with any such credits being applied in order of the due date of the annual payments; provided that, such TIF Payment Credits shall only be applied to future shortfall payments that are required to be paid under the Guaranteed If, upon, the termination of the Guaranteed Payment Agreement, there shall be Payment Agreement. any TIF Payment Credits that have not been applied, the balance of any unapplied TIF Payment Credits shall not be refundable by the Commission to the Developer. The obligations under the Guaranteed Payment Agreement shall be guaranteed by the Payment Guarantor. In the event that the Developer sells the Project following the period referenced in Section 2(b) of this Agreement, the Developer and the Payment Guarantor shall be released from their obligations under the Guaranteed Payment Agreement if all of the following conditions are met: (a) the new owner assumes all of the Developer's obligations under the Guaranteed Payment Agreement, (b) the new owner meets the Financial Requirements, and (c) there have been no draws on the Guaranteed Payment Agreement in the immediately preceding three consecutive years. Any amounts owed under the Guaranteed Payment Agreement shall be secured by a lien on the Project Site, equal in prior to the property tax lien granted by the State of Indiana under Indiana Code 6-1.1-22-13, as permitted by Indiana Code 36-7-25-6.

Laws shall mean all applicable laws, statutes, and/or ordinances, and any applicable governmental rules, regulations, guidelines, orders, and/or decrees. This Agreement shall be governed by the Laws of the State of Indiana.

Lender Protections shall mean the lender protection provisions set forth in Exhibit B.

Payment Guarantor shall mean the Corporate Completion Guarantor.

Permitted Change shall mean any change to that portion of the Final Plans, so long as such change: (a) is not inconsistent with the Project Parameters; (b) is in conformity with each of the Site Plan and the Laws; (c) does not result in the Final Plans containing structurally flawed elements; and (d) does not make it unlikely, impracticable, or impossible for Developer to complete the Project, or any component thereof, by the applicable date set forth in the approved Construction Schedule.

Permitted Exceptions shall mean: (a) the lien of current Real Estate Taxes and Assessments not delinquent; and (b) any exceptions to title reflected in the Title Commitment: (i) that are not Title Defects; or (ii) Developer agrees in writing to accept or is deemed to have waived pursuant to the terms and conditions of this Agreement.

Pre-Closing Costs shall mean the actual, out-of-pocket expenses incurred by Developer relating to the Project prior to the Closing Date.

Pre-Closing Costs Certification shall mean; (a) a certified statement setting forth the amount of the Pre-Closing Costs on a line-item basis; together with (b) reasonable evidence supporting the amount of the Pre-Closing Costs set forth in the certified statement.

Project shall mean a four to five-story, mixed-use, multi-family development, including approximately: (a) 50 luxury apartments; and (b) 10,000 square feet of first-floor commercial space; with an approximate total development cost of \$16,000,000.

Project Costs shall mean fees, costs, and expenses incurred (or to be incurred) by Developer in connection with the Project, including costs and expenses to: (a) develop and design the Project; (b) prepare the Project Site for construction (including demolition work, earthwork, environmental remediation work, and the extension of utilities); (c) design, relocate, and/or construct infrastructure to support the Project; (d) design, relocate, and/or install perimeter hardscape and landscape; and (e) acquire the materials to construct, and construct, the Project.

Project Lender shall mean the institutions, corporations, or entities making the Project Loan.

Project Loan shall mean a construction loan, the proceeds of which shall be used by Developer to acquire the materials to construct the Project.

Project Loan Documents shall mean the documents evidencing and/or securing the Project Loan (including, without limitation, the Tri-Party Agreement).

Project Parameters shall mean the components of the Project as approved by the: (a) Required Permits, if issued; and (b) the design review committee established by the City for review of the Project.

Project Site shall mean that certain real estate in the City that is generally located at west side of Washington Street between 6th Street and 7th Street in the City of Columbus. The Project Site is depicted on the Site Plan.

Real Estate Taxes shall mean all real estate taxes levied on, against, or with respect to the Project Site and/or the Project.

Required Permits shall mean all permits, licenses, approvals, and consents required by the Laws for construction and use of the Project.

Site Plan shall mean the site plan attached hereto as Exhibit A.

Survey shall mean an ALTA/NSPS land title survey of the Project Site.

Taylor Project shall mean that certain multi-family project located at 725 2nd Street, Columbus, Indiana that was subject to the Project Agreement executed by and among the City, the Commission, and the Developer as of February 16, 2021.

TIF Revenues shall mean the incremental property tax proceeds received by the Commission and derived from the assessed valuation of real property in the Allocation Area in excess of the assessed valuation described in IC 36-7-14-39(b)(1).

Title Commitment shall mean a title insurance commitment for an owner's policy of title insurance with respect to the Project Site; that: (i) is issued by the Title Insurer; and (ii) commits to insure marketable, indefeasible fee simple title to the Project Site in the name of Developer.

Title Defects shall mean conditions or defects disclosed in the Title Commitment, or by the Survey that, in the reasonable determination of Developer, materially and adversely interfere with the construction and/or use of the Project in accordance with the terms and conditions of this Agreement; provided that, the lien of any mortgage or other security instruments to be released at or before the Closing shall not be a Title Defect.

Title Insurer shall mean Fidelity National Title.

Tri-Party Agreement shall mean an agreement by and among Developer, Commission, and the Project Lender in form and substance reasonably acceptable to the Commission that addresses: (a) required notices of defaults by Developer under the Project Loan Documents; (b) any rights of the Commission to cure defaults by Developer under the Project Loan Documents; (c) any rights of the Commission to purchase or assume the Project Loan.

Trustee shall mean the "Trustee" with respect to the Bonds, which "Trustee" shall enter into the Trust Indenture.

Trust Indenture shall mean that certain Trust Indenture that will be executed by and between the Commission and the Trustee in connection with the issuance of the Bonds.

- 2. General Obligations. Subject to the terms and conditions of this Agreement:
 - (a) City Bodies. Subject to Section 21 of this Agreement, the City Bodies (as applicable) shall: (i) enter into the Ancillary Documents to which each is a party; and (ii) issue the Bonds and cause the Bond Proceeds to be disbursed to pay costs incurred by Developer, in connection with the design and construction of the Project.
 - (b) Developer. Developer shall: (i) enter into, or cause the applicable party to enter into, the Ancillary Documents; (ii) acquire the Project Site; (iii) obtain the Project Loan; (iv) design and construct the Project; and (vi) subject to Section 15 of this Agreement, retain ownership of the Project for a period of at least ten (10) years following the issuance of the certificate of occupancy for the Taylor Project.

3. Closing.

- (a) Closing. Subject to the terms and conditions of this Agreement, the Closing shall occur on or before December 31, 2024, with: (i) the Closing Date; and (ii) the location of the Closing; to be established mutually by Developer and Commission. At the Closing, Commission shall deliver the Bond Proceeds.
- (b) Closing Costs. Commission shall be responsible for all costs and expenses related to: (i) the issuance of the Bonds; and (ii) its legal representation. Developer shall be responsible for its costs and expenses related to: (1) obtaining the Project Loan; (2) acquiring the Project Site; and (3) its legal representation.
- 4. Closing Documents. At the Closing, Developer and City Bodies, as the case may be, shall execute and deliver (or cause to be executed and delivered) the following:
 - (a) a confirmation by Developer and City Bodies of the representations and warranties set forth in Section 8;
 - (b) the Project Loan Documents;
 - (c) the Ancillary Agreements;
 - (d) copies of such resolutions, consents, authorizations, and other evidence as either party or the Title Insurer reasonably may request to establish that: (i) the persons executing and delivering the foregoing documents have been empowered and authorized by all necessary action of Developer or City Bodies, as the case may be; and (ii) the execution and delivery of such documents, and the performance by Developer, or City Bodies of its obligations hereunder and under the foregoing documents have been authorized by Developer, Commission, or City as the case may be; and
 - (e) such other customary documents and instruments as either party or the Title Insurer reasonably may request in connection with the Closing.

At the Closing, Developer shall be responsible, at its expense, to obtain any: (a) owner's policy of title insurance; (b) lender's policy of title insurance; and (c) endorsements to the owner's policy and/or lender's policy; that it deems to be necessary or appropriate.

- 5. Real Estate Taxes. Developer assumes and agrees to pay all Real Estate Taxes and Assessments levied on, against, or with respect to the Project Site. In the event that Real Estate Taxes and Assessments levied on or against the Project Site are less than the amount to be paid by Developer in the Guaranteed Payment Agreement, Developer or Payment Guarantor, as applicable, shall make a payment to Commission in the amount of the difference between the annual amount of the Guaranteed Payment Agreement and the Real Estate Taxes and Assessments actually paid by Developer in that same year.
- 6. **Developer Conditions.** The obligations of Developer with respect to proceeding with the Closing shall be subject to the satisfaction or waiver in writing of the following on or before the Closing Date, or within such other period as is specified in this Section:
 - (a) Property Site Acquisition. Developer has determined, in its sole discretion and at its sole expense, that the Property Site permits the efficient and cost-effective construction of the Project and that there are no due diligence items that preclude Developer, in its sole discretion, from acquiring the Project Site.

- (b) Zoning. Developer, at its expense, shall have determined that: (a) the zoning of the Project Site is proper for the construction and use of the Project in accordance with the terms and conditions of this Agreement; and (b) that the Project Site Rezoning has occurred or Developer has determined that it will occur.
- (c) Final Plans. The Final Plans for the Project shall have been completed pursuant to Section 9.
- (d) Required Permits. Developer shall have obtained (or determined that it will be able to obtain) all Required Permits.
- (e) Project Loan. Developer, Commission, and the Project Lender shall have agreed on the form and substance of the Tri-Party Agreement, and Developer shall be closing on the Project Loan contemporaneously with the Closing.
- (f) Ancillary Documents. Developer and City Bodies shall have agreed on the form and substance of the Ancillary Documents and shall be executing the Ancillary Documents contemporaneously with the Closing.
- (g) No City Breach. There shall be no breach of this Agreement by City or Commission that City or Commission has failed to cure within the Cure Period, and all of the representations and warranties set forth in Subsection 8(a) shall be true and accurate in all respects.
- (h) Floodplain. Developer shall have determined that no floodplain modeling is required for the Project Site.
- (i) Bonds. Developer shall have determined that the Bonds shall have been issued, or shall be issued contemporaneously with, the Closing and that the Bond Proceeds will be available at Closing.

If one or more of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, Developer either may elect to: (i) waive in writing satisfaction of the conditions and to proceed to its Closing; or (ii) terminate this Agreement by a written notice to Commission; provided that, with respect to breaches of this Agreement by Commission, Developer shall have the rights and remedies set forth in Section 13. If: (i) one of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied; and (ii) Developer fails to terminate this Agreement as permitted in this Section; then such unsatisfied condition automatically shall be deemed to be waived by the party failing to terminate this Agreement. Notwithstanding anything to the contrary set forth herein, Developer shall work diligently and in good faith to satisfy the conditions set forth in this Section.

- 7. Conditions to City and Commission Obligations. The obligations of City and Commission with respect to Closing shall be subject to the satisfaction or waiver in writing of the following on or before the Closing Dates:
 - (a) Project Site. Developer shall have acquired (or Commission shall have determined that Developer will be able to acquire) the Project Site.
 - (b) Final Plans. The Final Plans shall have been completed pursuant to Section 9.
 - (c) Required Permits. Developer shall have obtained (or Commission shall have determined that the Developer will be able to obtain) all Required Permits for the Project.

- (d) Project Loan. Developer shall be closing on the Project Loan contemporaneously with the Closing.
- (e) Ancillary Documents. Developer shall have executed each of the Ancillary Agreements.
- (f) No Developer Breach. There shall be no breach of this Agreement by Developer that Developer has failed to cure within the Cure Period, and all of the representations and warranties of Developer set forth in Section 8 shall be true and accurate in a all respects.

If one or more of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, Commission either may elect to: (i) waive in writing satisfaction of the conditions and to proceed to the Closing; or (ii) terminate this Agreement by a written notice to Developer. If: (i) one of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied; and (ii) Commission fails to terminate this Agreement as permitted in this Section; then such unsatisfied condition automatically shall be deemed to be waived by Commission. Notwithstanding anything to the contrary set forth herein, Commission shall work diligently and in good faith to satisfy the conditions set forth in this Section.

8. Representations and Warranties.

- (a) General. Developer, Commission, and City represents and warrants that: (i) it shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement; (ii) it has the power to enter into this Agreement and to perform its obligations hereunder; (iii) it has been authorized by proper action to: (A) execute and deliver this Agreement; and (B) perform its obligations hereunder; and (iv) subject to Section 21, this Agreement is the legal, valid, and binding obligation of each of Developer, Commission, and City, respectively.
- (b) Entity. Developer represents and warrants that it is a corporation organized and existing under the laws of the State of Indiana. Commission and City each represents that it is a public body organized and existing under the State of Indiana.

9. Final Plans.

- (a) Final Plans. Developer shall prepare the Final Plans, which Final Plans shall be consistent with the Project Parameters.
- (b) Permits. Prior to commencing construction of the Project, Developer, at its cost and expense, shall obtain and submit to City for its review the Required Permits.

10. Bond Proceeds.

- (a) Use. The Bond Proceeds shall be used by the Developer only to pay (or reimburse the Developer) for the development, design, and construction of the Project.
- (b) Initial Disbursement. At any time after the Closing, Developer may receive a disbursement of Bond Proceeds in an amount equal to Developer's Pre-Closing Costs. To obtain the disbursement, Developer shall submit to Commission a Pre-Closing Costs Certification approved by the Commission. If approved, which approval shall not be unreasonably withheld, Commission shall direct Trustee to disburse Bond Proceeds in the amount set forth in the Pre-Closing Costs Certification and, pursuant to the Trust

Indenture, Trustee shall be obligated to disburse such amount of Bond Proceeds to Developer.

- (c) Subsequent Disbursement. Developer may obtain disbursements of Bond Proceeds subsequent to the disbursement for Pre-Closing Costs by submitting a Disbursement Request to Commission for approval, which shall not be unreasonably withheld. Upon of its approval of a Disbursement Request, Commission shall direct the Trustee to disburse Bond Proceeds in the amount set forth in the Disbursement Request and, pursuant to the requirements and procedures set forth in the Trust Indenture, Trustee shall be obligated to disburse such amount of Bond Proceeds to Developer.
- (d) Deposit. The Bond Proceeds shall be deposited in an account designated by Project Lender; provided that, prior to any disbursement of Bond Proceeds, Developer shall comply with the requirements of this Section 10.

11. Intentionally omitted.

12. Insurance. During construction of the Project, Developer shall maintain the policies of casualty and liability insurance in customary amounts based on Developer's experience and discretion. Each such policy shall: (a) be in an amount and written by a company reasonably acceptable to Commission; and (b) provide that it shall not be modified or canceled without written notice to Commission at least 30 days in advance. The policy of general liability insurance required by this Section to be maintained by Developer shall name City and Commission as additional insureds. Developer shall deliver to Commission certificates of the insurance policies required by this Section, executed by the insurance company or the general agency writing such policies.

13. Default.

- (a) Events of Default. Subject to Section 21 of this Agreement, it shall be an "Event of Default" if any party fails to perform or observe any term or condition of this Agreement to be performed or observed by it: (i) with respect to the obligation to pay money, if such failure is not cured within ten days after such payment is due; and (ii) with respect to any other obligation, if such failure is not cured within the Cure Period.
- (b) General Remedies. Whenever an Event of Default occurs, the non-defaulting party may take whatever actions at law or in equity are necessary or appropriate to: (i) collect any payments due under this Agreement; (ii) protect the rights granted to the nondefaulting party under this Agreement; (iii) enforce the performance or observance by the defaulting party of any term or condition of this Agreement (including, without limitation, the right to specifically enforce any such term or condition); or (iv) cure, for the account of the defaulting party, any failure of the defaulting party to perform or observe a material term or condition of this Agreement to be performed or observed by it. If the nondefaulting party incurs any costs or expenses in connection with exercising its rights and remedies under, or enforcing, this Agreement, then the defaulting party shall reimburse the non-defaulting party for all such costs and expenses, together with interest at the rate of 15% per annum. Notwithstanding anything to the contrary set forth herein, Commission shall exercise its rights under this Subsection subject to the Lender Protections and/or the Tri-Party Agreement, as applicable.
- (c) No Remedy Exclusive. No right or remedy herein conferred upon, or reserved to, a non-defaulting party is intended to be exclusive of any other available right or remedy, unless otherwise expressly stated; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission by a non-defaulting

party to exercise any right or remedy upon any Event of Default shall impair any such right or remedy, or be construed to be a waiver thereof, and any such right or remedy may be exercised from time to time, and as often as may be deemed to be expedient. To entitle a non-defaulting party to exercise any of its rights or remedies, it shall not be necessary for the non-defaulting party to give notice to the defaulting party, other than such notice as may be required by this Section or by the Laws.

(d) Termination by City Bodies. City Bodies reserve the right to cancel their respective commitments and terminate their obligations under this Agreement to Developer upon the failure by Developer to comply with written notice regarding any of Developer's obligations contained herein, provided that such termination may only occur prior to the Closing Date. In its written notice, City Bodies shall provide: (a) the specific reasons for Developer's non-compliance; and (b) identify the actions that must be taken by Developer to satisfy its obligations under this Agreement. If Developer fails to: (a) satisfy its obligations under this Agreement. If Developer fails to: (b) have begun diligently working to satisfy such obligations; within 45 days of receiving written notice from City Bodies, then City Bodies shall have the option to terminate this Agreement as to the defaulting Developer.

14. Mutual Indemnification.

- (a) Mutual. To the extent permitted by law, each party shall indemnify and hold harmless the other parties from and against any and all Claims arising from or connected with: (i) its negligence or willful misconduct, or the negligence or willful misconduct of any party acting by, under, through, or on behalf of it; or (ii) the breach by it of any term or condition of this Agreement.
- (b) Developer. Developer shall indemnify and hold harmless City Bodies from and against any and all Claims arising from or connected with: (i) the performance of any tests, inspections, examinations, studies, or investigations on the Project Site by that Developer or any party acting by, under, through, or on behalf of that Developer (except as provided in Section 11); (ii) mechanics' liens filed against the Project or the Project Site for work performed by Developer or any party acting by, under, through, or on behalf of Developer; (iii) breaches by Developer under contracts to which Developer is a party, to the extent that such contracts relate to the performance of any work on the Project Site by Developer or any party acting by, under, through, or on behalf of Developer; (iv) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on the Project Site by Developer or any party acting by, under, through, or on behalf of Developer; (v) the negligence or wilful misconduct of Developer or any party acting by, under, through, or on behalf of Developer; or (vi) the breach by Developer of any term or condition of this Agreement.
- (c) Survival. Notwithstanding anything to the contrary set forth herein, the obligations of the parties under this Section shall survive the termination of this Agreement.

15. Assignment.

(a) Developer. Until the date that is ten (10) years following the date that the Project is substantially completed: (i) an entity controlled by David Flaherty shall maintain a controlling interest in Developer; and (ii) Developer shall not assign this Agreement without the prior written approval of the Commission; provided that: (a) without the prior written approval of the Commission, Developer may assign this Agreement to an entity in which David Flaherty maintains a controlling interest; and (b) the Project may be sold, conveyed, or transferred in accordance with Section 2(b) of this Agreement.

(c) City Bodies. Until the Project is completed, City Bodies shall not assign this Agreement without the written approval of Developer; provided that, without the written approval of Developer, City Bodies may assign this Agreement to another agency, board, commission, department, and/or instrumentality of the City Bodies.

Notwithstanding any assignment permitted under this Section, Developer and Commission, as the case may be, shall remain liable to perform all of the terms and conditions to be performed by it under this Agreement, and the approval by the other party of any assignment shall not release Commission or Developer, as the case may be, from such performance.

- **16. Notice.** Any notice required or permitted to be given by either party to this Agreement shall be in writing, and shall be deemed to have been given when: (a) delivered in person to the other party; or (b) sent by national overnight delivery service, with confirmation of receipt, addressed as follows: to Developer at One Indiana Square, Suite 3000, Indianapolis, Indiana, 46204, Attn: Deron S. Kintner, with a copy to Wallack Somers & Haas, P.C., One Indiana Square, Suite 2300, Indianapolis, Indiana 46204, Attn: Adam W. Collins, to City at 123 Washington Street, Columbus, Indiana, 47201, Attn: Mayor, and to Commission at 123 Washington Street, Columbus, Indiana 47201, Attn: Redevelopment Director, with a copy to Bradley Bingham, Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, IN 46204. Either party may change its address for notice by written notice delivered to the other party as provided above.
- 17. Authority. Subject to Section 21 of this Agreement, each undersigned person executing this Agreement on behalf of City Bodies and Developer represents and certifies that: (a) he or she has been empowered and authorized by all necessary action of City Bodies and Developer, respectively, to execute and deliver this Agreement; (b) he or she has full capacity, power, and authority to enter into and carry out this Agreement; and (c) the execution, delivery, and performance of this Agreement have been authorized by City Bodies and Developer, respectively.
- 18. Force Majeure. Notwithstanding anything to the contrary set forth herein, if either party is delayed in, or prevented from, observing or performing any of its obligations under, or satisfying any term or condition of, this Agreement as a result of Force Majeure; then: (a) the party asserting Force Majeure shall deliver written notice to the other party; (b) such observation, performance, or satisfaction shall be excused for the period of days that such observation, performance, or satisfaction is delayed or prevented; and (c) the deadlines for observation, performance, and satisfaction, as applicable, shall be extended for the same period.
- 19. Costs and Attorneys' Fees. In addition to any other relief to which a party to this Agreement shall be entitled, in the event it is determined by a court of competent jurisdiction that either party has not substantially complied with the terms of this Agreement without sufficient cause, the prevailing party shall be entitled to recover from the other party the costs and reasonable attorneys' fees incurred by the prevailing party in seeking: (a) compliance with this Agreement; (b) enforcement of this Agreement; or (c) relief from the other party's failure to substantially comply with any provision of this Agreement.
- **20. Litigation.** There are no actions, suits, or proceedings pending, or to the knowledge of each party threatened, against or affecting the party before any court or governmental instrumentality or agency, the result of which might have a material adverse effect on the party or its operations or financial condition, or on the construction or operation of the projects set forth in this Agreement.
- 21. Future Actions. Notwithstanding any other provisions of this Agreement, the parties acknowledge and understand that: (a) certain bodies, boards, and commissions of the City, including the Commission, and the Common Council and the Economic Development Commission of the City, must take future actions to implement and maintain the City Bodies' respective obligations under this Agreement; and (b) the representation and performance of the covenants and agreements of the City

Bodies are subject to and contingent upon compliance and completion of applicable statutory and administrative procedures, including, without limitation, any applicable public notice and public hearing requirements, official actions by governing bodies, and any remonstrance and appeal rights. The City Bodies covenant that they will use their best efforts to do all things lawfully within their powers to take such future actions and to comply with all applicable statutory and administrative procedures at such times and in such manner to effectuate and implement the provisions and intent of this Agreement to the fullest extent possible in accordance with the time frames set forth herein, but the failure of the City Bodies to fulfill any of their respective obligations or agreements hereunder due to the lack of required approvals from such bodies shall not constitute an Event of Default hereunder.

22. Miscellaneous. Subject to Section 15, this Agreement shall inure to the benefit of, and be binding upon, City Bodies and Developer, and their respective successors and assigns. This Agreement constitutes the entire agreement between City Bodies and Developer with respect to the subject matter hereof, and may be modified only by a written agreement signed by City Bodies and Developer. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Agreement shall be tried and litigated only in the state courts in Bartholomew County, Indiana, or the federal courts with venue that includes Bartholomew County, Indiana. Developer waives, to the extent permitted under applicable law: (a) the right to a trial by jury; and (b) any right Developer may have to: (i) assert the doctrine of "forum non conveniens"; or (ii) object to venue. All Exhibits to this Agreement are attached hereto and incorporated herein by reference.

[Signature page to follow.]

IN WITNESS WHEREOF, Commission, and Developer have executed this Project Agreement as of the day and year first written above.

COMMISSION:
CITY OF COLUMBUS REDEVELOPMENT COMMISSION
Ву:
Printed:
Title:
CITY:
CITY OF COLUMBUS, INDIANA
Ву:
Printed:
Title:
F&C DEVELOPMENT, INC.:
By:
Printed:
Title:

INDEX TO EXHIBITS

Exhibit A

Site Plan (delineation of Project Site)

Exhibit B

Lender Protection Provisions

Exhibit C

Guaranteed Payment Agreement Schedule

EXHIBIT A Site Plan

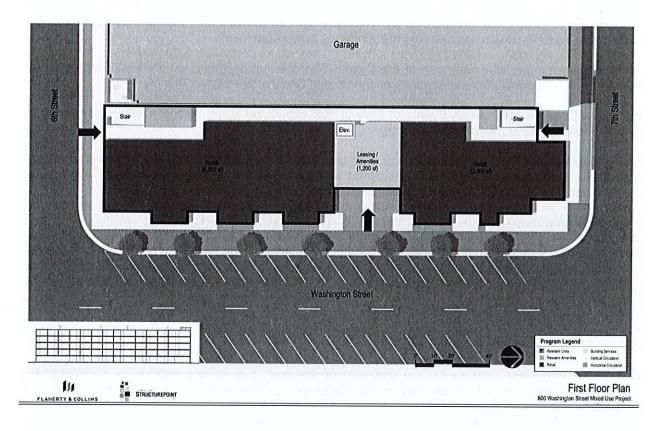


EXHIBIT B Lender Protection Provisions

Agreement shall mean the Project Agreement by and among City, Commission and Developer to which this Exhibit is attached and incorporated by reference. All capitalized terms used but not defined in this Exhibit shall have the meanings ascribed to such terms in the Agreement.

Collateral shall mean all or any part of the Project Site, the improvements on the Project Site, and/or fixtures or other items of personal property on the Project Site that are subject to a Mortgage.

Incurable Defaults shall mean Events of Default that cannot be cured by the payment of money or through the exercise of reasonable diligence.

Mortgage shall mean: (a) a mortgage, pledge, or grant of security interest granted by Developer in all or any part of the Collateral; and/or (b) a collateral assignment of the Agreement and/or the interests of Developer in the Agreement; for the purpose of securing a Loan.

Mortgagee shall mean a holder of a Mortgage, and all successors and assigns of such holder.

Mortgagee Cure Period shall mean the period that commences upon the Event of Default and expires on the date that is 90 days after the later of: (a) the expiration of the Cure Period, or the applicable notice and/or cure period under Section 13 of the Agreement, as applicable, or this Exhibit; or (b) receipt of the Mortgagee Notice.

Mortgagee Notice shall mean a copy of any notice or demand required or permitted to be made or delivered by City or Commission to Developer.

Mortgagee Remedies shall mean: (a) obtaining possession of all or any part of the Collateral; (b) obtaining a receiver for all or any part of the Collateral; (c) foreclosing a Mortgage and effecting a foreclosure sale of the interests of Developer in the Agreement; (d) enforcing a Mortgage and effecting an assignment of the Agreement; or (e) otherwise acquiring all or any part of the Collateral and/or the interests of Developer in the Agreement.

Permitted Termination shall mean a termination of the Agreement in accordance that: (a) is permitted pursuant to the terms and conditions of the Agreement; and (b) occurs before the Closings or after the rights of all Mortgagees under Section 1 of this Exhibit have expired.

Replacement Developer shall mean the party that acquires the Collateral and the interests of Developer in the Agreement after a Mortgagee exercises a Mortgagee Remedy.

- 1. Mortgagee Rights. During all such times as there is a Mortgage outstanding, and until City has received written notices from each Mortgagee that its Mortgage has been satisfied or otherwise released, the following terms and conditions shall apply:
 - (a) Developer or each Mortgagee shall deliver written notice to City when a Mortgage becomes effective, which notice shall: (i) identify the Mortgagee with respect to such Mortgage; and (ii) set forth the notice address for the Mortgagee with respect to such Mortgage.
 - (b) City shall deliver to each Mortgagee, at its notice address and in accordance with the terms and conditions of Section 17 of the Agreement, a Mortgagee Notice. No notice or demand delivered by City to Developer shall be effective, unless and until a Mortgagee

Notice is served upon all Mortgagees in accordance with the terms and conditions of this Section.

- (c) If there is an Event of Default with respect to the failure to pay money, then: (i) each Mortgagee shall have the right to remedy the Event of Default or cause the Event of Default to be remedied, until the date that is 45 days after the later of: (A) the expiration of the Cure Period, or the applicable notice and/or cure period under Section 13 of the Agreement; or (B) receipt of the Mortgagee Notice; and (ii) City shall accept performance by any Mortgagee as performance by Developer.
- If there is an Event of Default with respect to any obligation other than the failure to pay money, then: (i) each Mortgagee shall have the right to remedy the Event of Default or cause the Event of Default to be remedied until the expiration of the Mortgagee Cure Period; and (ii) City shall accept performance by any Mortgagee as performance by Developer. Notwithstanding any other term or condition of the Agreement or this Exhibit, City shall not exercise any of its rights and remedies under Section 13 of the Agreement with respect to such Event of Default, if: (i) within the first 60 days after receipt of the Mortgagee Notice, a Mortgagee notifies City of its intention to cure the Event of Default; and (ii) within the first 75 days after receipt of the Mortgagee Notice, the Mortgagee: (A) commences a cure of the Event of Default and diligently pursues such cure to completion; or (B) commences the exercise or pursuit of one or more of the Mortgagee Remedies, and: (1) after commencement of the exercise or pursuit of the selected Mortgagee Remedies, diligently exercises or pursues such Mortgagee Remedies; provided that, if the Mortgagee has commenced the exercise or pursuit of the selected Mortgagee Remedies within 75 days after receipt of the Mortgagee Notice, and continues such exercise or pursuit, then, for a period of six months after the date on which the Mortgagee commenced the exercise or pursuit of the selected Mortgagee Remedies, which period shall be extended as reasonably required by the Mortgagee, such exercise or pursuit by the Mortgagee shall be deemed to be diligent; and (2) after obtaining or effecting the selected Mortgagee Remedies, commences a cure of the Event of Default and diligently pursues such cure to completion. The Mortgagee Cure Period shall be extended for the duration of any period when City is prohibited under this Subsection from exercising its rights and remedies with respect to an Event of Default.
- 2. Amendments. During all such times as there is a Mortgage outstanding, no amendment, modification, supplement, surrender, cancellation, or termination of the Agreement shall be effective, unless all Mortgagees consent in writing to the amendment, modification, supplement, surrender, cancellation, or termination of the Agreement; provided that a Permitted Termination shall be effective. Any attempted amendment, modification, supplement, surrender, cancellation, or termination of the Agreement without the consent of all Mortgagees, other than a Permitted Termination, shall be void and unenforceable, and shall have no force or effect. If, in connection with any attempts by Developer to obtain mortgage financing from a prospective mortgagee, such prospective mortgagee requires reasonable amendments, modifications, or supplements of or to the Agreement as a condition to closing such financing, then Developer and City Bodies shall execute an agreement amending, modifying, or supplementing the Agreement as required by the mortgagee; provided that such amendments, modifications, or supplements shall not, in the sole judgment of City Bodies: (a) adversely affect City or Commission, or the rights of City or Commission under the Agreement, in any material respect; or (b) reduce any obligations of Developer under the Agreement in any material respect.
- 3. Default Cures. No term or condition of the Agreement or this Exhibit shall be deemed: (a) to require any Mortgagee to: (i) satisfy any obligation of Developer under the Agreement; or (ii) cure any breach by Developer of its obligations under the Agreement; or (b) otherwise to make any Mortgagee liable for any such breach; provided that, if a Mortgagee exercises a Mortgagee Remedy, then the

Replacement Developer promptly shall: (a) pay or cause to be paid to City Bodies all amounts owing from Developer to City Bodies under the Agreement, if any; and (b) commence a cure of any other uncured Events of Default that can be cured: (i) by the payment of money; or (ii) by the Replacement Developer through the exercise of reasonable diligence; and diligently pursue such cure to completion. Notwithstanding the foregoing, the Replacement Developer shall not be: (a) required to cure any Incurable Defaults; (b) liable for, or with respect to, any Incurable Defaults; or (c) liable for any damages, losses, or expenses (including, without limitation, attorneys' fees), incurred by City in connection with any uncured Events of Default that existed before, or at the time of, the date on which the Replacement Developer acquired the Collateral and the interests of Developer in the Agreement.

EXHIBIT C Guaranteed Payment Agreement Schedule

Washington Street Apartments (Flaherty & Collins) Project
Schedule of Minimum TIF Receipts: Taxpayer Agreement
Proposed CRC Contribution: \$5,800,000

		11.27.2023	
Gurantee	Min. Tax (TIF) Annu		Annual
Period		Receipts	Increase
1	\$	150,000	0.0%
2	\$	155,175	3.5%
3	\$	160,529	3.5%
4	\$	166,067	3.5%
5	\$	171,796	3.5%
6	\$	177,723	3.5%
7	\$	183,854	3.5%
8	\$	190,197	3.5%
9	\$	196,759	3.5%
10	\$	203,547	3.5%
11	\$	210,570	3.5%
12	\$	217,835	3.5%
13	\$	225,350	3.5%
14	\$	233,124	3.5%
15	\$	241,167	3.5%
16	\$	249,487	3.5%
17	\$	258,095	3.5%
18	\$	266,999	3.5%
19	\$	276,210	3.5%
20	\$	285,740	3.5%
21	\$	295,598	3.5%
22	\$	305,796	3.5%
23	\$	316,346	3.5%
24	\$	327,260	3.5%
25	\$	334,775	2.3%

FINANCING AND LOAN AGREEMENT

between

CITY OF C	OLUMBUS, INDIANA
	and
	HC

 $$\rm Re$:$ CITY OF COLUMBUS, INDIANA (6 $^{\rm TH}$ & WASHINGTON PROJECT)

Dated as of ______1, 20__

FINANCING AND LOAN AGREEMENT

THIS FINANCING AND LOAN AGREEMENT made and entered into as of 1, 20_, by and between the City of Columbus, Indiana, a municipal corporation and political subdivision existing under the laws of the State of Indiana (the "City"), and [, LLC], an Indiana limited liability company (the "Borrower"), under the following circumstances summarized in the following recitals (the capitalized terms not defined in the recitals are as defined in Article I hereof):
A. Indiana Code, Title 36, Article 7, Chapter 12, as supplemented and amended (collectively, the "Act"), authorizes and empowers the City to make loans to provide funding for economic development projects and facilities and vests the City with powers that may be necessary to enable it to accomplish such purposes.
B. The Borrower has requested a certain economic development incentive from the City in the form of a forgivable loan to the Borrower in the amount of Five Million Eight Hundred Thousand Dollars (\$5,800,000) (the "Loan"), to finance a portion of the construction of economic development projects and facilities within the meaning of the Act, consisting of a four to five-story, mixed-use, multi-family development, including approximately 50 luxury apartments and 10,000 square feet of first-floor commercial space, with an approximate total development cost of \$16,000,000, on certain real property generally located on a parcel on the northwest corner of the intersection of 6 th Street and Washington Street in the City (the "Project").
C. The City believes that developing the Project as described herein is in the best interests of the health, safety and welfare of the City and its residents and complies with the public purposes and provisions of the Act, and based upon the information presented to the City by the Borrower, the City has determined that the Project constitutes an economic development project and an economic development facility as defined by applicable law.
E. The City desires to facilitate the development of the Project by making the Loan to the Borrower from available funds of the City and the Redevelopment Commission (as hereinafter defined) to finance a portion of the Project.
F. This Loan Agreement provides for the repayment by the Borrower of the Loan and further provides for the Borrower's repayment obligation to be evidenced by the promissory note in substantially the form attached as Exhibit A hereto (the "Note"), unless the Loan is forgiven upon satisfaction of the conditions set forth in Section 4.3 hereot.
G. The parties hereto agree that it is of mutual benefit for the parties hereto to enter into this Agreement relating to the Project and the Loan that will include the commitments of each of the parties.
H. The City, the City of Columbus Redevelopment Commission and F&C Development, Inc. ("F&C") have entered into a Project Agreement dated as of, 20 (the "Project Agreement"), which Project Agreement has been subsequently assigned from F&C to the Borrower, pursuant to which the parties agreed to their respective commitments with respect to the development of the Project.

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

ARTICLE I. DEFINITIONS

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

Section 1.2. Definitions. As used herein:

"Act" means, collectively, Indiana Code 36-7-11.9 and 36-7-12, as enacted and amended.

"Agreement" means this Financing and Loan Agreement as amended or supplemented from time to time.

"Borrower" means [_______, LLC], an Indiana limited liability company, and its lawful successors and assigns to the extent permitted by this Agreement.

"City" means the City of Columbus, Indiana, a municipal corporation and political subdivision existing under the laws of the State of Indiana.

"Common Council" means the Common Council of the City.

"Completion Date" means the date of completion of the Project evidenced in accordance with the requirements of Section 3.2 hereof.

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

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

"Guaranteed Payment Agreement" means the Guaranteed Payment Agreement, dated ______, 20__, among the Borrower and the Commission, pursuant to which the Borrower agrees to make certain annual payments to the Commission for a period of twenty-five (25) years.

"Loan" means the loan by the City to the Borrower pursuant to the terms of this Agreement.

"Maturity Date" shall have the meaning set forth in Section 4.3 of this Agreement.

"Note" means the Borrower's promissory note in the form attached as Exhibit A hereto, which shall be unsecured.

//2 T	(1) (1) (1)	1 1 1	3.3	
	TICA	Add	PACC'	means:
110		Δuu	1000	means.

	Marings of Statement Color Mills	
	As to the City:	City of Columbus, Indiana City Hall 123 Washington Street Columbus, IN 47201 Attention: Mayor
	With a copy to:	Barnes & Thornburg LLP 11 S. Meridian Street Indianapolis, IN 46204 Attn: Bradley J. Bingham, Esq.
	As to the Borrower:	[
	With a copy to:	Wallack Somers & Haas, P.C. One Indiana Square, Suite 2300 Indianapolis, IN 46204 Attn: Adam W. Collins, Esq.
o	r such additional or different address	ss, notice of which is given under Section 7.2 hereof.
on	Ordinance" means Ordinance No, 20, authorizing the Loan	, 20 of the Common Council of the City adopted and the execution and delivery of this Agreement.
without 1	limitation, general and limited part , estates, trusts, corporations, pub	ons mean firms, associations, partnerships (including enerships), limited liability companies, joint ventures, lic or governmental bodies, other legal entities and
"Project" means the acquisition, construction, equipping and improving, as the case may be, by the Borrower of a four to five-story, mixed-use, multi-family development, including approximately 50 luxury apartments and 10,000 square feet of first-floor commercial space, with an approximate total development cost of \$16,000,000, on certain real property generally located on a parcel on the northwest corner of the intersection of 6 th Street and Washington Street in the City.		
"among F	Project Agreement" means the Pr E&C Development, Inc., the City an	roject Agreement, dated

"Redevelopment Commission" means the City of Columbus Redevelopment Commission.

"State" means the State of Indiana.

"Target Completion Date" means December 31, 2025, subject to Section 7.10 of this Agreement.

Section 1.3. <u>Interpretation</u>. Any reference herein to the City, to the Common Council or to any member or officer of the City includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

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

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

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

ARTICLE II. REPRESENTATIONS; LOAN TO THE COMPANY

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

- (a) The City is a municipal corporation organized and existing under the laws of the State. Under the provisions of the Act, the City is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The City has been duly authorized to execute and deliver this Agreement. The City agrees that it will do or cause to be done all things within its control and necessary to preserve and keep in full force and effect its existence.
- (b) The City agrees to make the Loan to the Borrower in the amount of \$5,800,000 for the costs associated with the acquisition, construction, equipping and improving of the Project to create additional employment opportunities in City and to benefit the health, safety, morals and general welfare of the citizens of City and the State of Indiana.

Section 2.2. <u>Representations and Covenants of the Borrower</u>. The Borrower represents and warrants that:

- (a) It is a limited liability company duly organized and validly existing under the laws of the State of Indiana and authorized to do business in the State of Indiana, is not in violation of any laws in any manner material to its ability to perform its obligations under this Agreement and the Note, has full power to enter into and perform its obligations under this Agreement and the Note, and by proper action has duly authorized the execution and delivery of this Agreement and the issuance of the Note.
- (b) All of the proceeds from the Loan provided hereunder (including any income earned on the investment of such proceeds) will be used for costs of constructing and equipping the Project.
- (c) The provision of financial assistance to be made available to it under this Agreement from the proceeds of the Loan and the commitments therefor made by the City have induced the Borrower to undertake the Project and such Project will create additional jobs and employment opportunities within the boundaries of the City.
- (d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby including execution and delivery of the Note, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of the terms, conditions or provisions of the Borrower's Articles of Organization or Operating Agreement or any restriction or any agreement or instrument to which the Borrower is now a party or by which it is bound or to which any of its property or assets is subject or of any statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or its property, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Borrower under the terms of any instrument or agreement, except as set forth in this Agreement or in such manner as will not materially impair the ability of the Borrower to perform its obligations hereunder.
- (e) The execution, delivery and performance by the Borrower of this Agreement and the Note do not require the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any federal, state or other governmental authority or agency, not previously obtained or performed.
- (f) The aggregate authorized face amount of the Loan authorized hereunder shall not exceed the amount anticipated by the Project Agreement.
- (g) This Agreement and the Note have been duly executed and delivered by the Borrower and constitute the legal, valid and binding agreements of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general. The enforceability of the Borrower's obligations under said documents is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

- (h) The Borrower shall use commercially reasonable efforts to invest such capital expenditures in the Project by not later than the Target Completion Date, such that the Project shall generate not less than \$______ per year in real estate taxes for a period of twenty-five (25) years and shall work diligently to complete the Project, subject to the Unavoidable Delay provisions of Section 7.10 of this Agreement. Notwithstanding the foregoing, the Borrower agrees to execute and deliver the Guaranteed Payment Agreement on or before the date hereof, pursuant to which F&C Development, Inc. is obligated to make certain annual payments to the Commission for a period of twenty-five (25) years in order to guarantee the minimum amount of tax increment revenues to be received by the Commission during such period. The Borrower shall apply all of the proceeds of the Loan toward the costs of the Project and shall finance all remaining costs of the Project from other available funds of the Borrower, including but not limited to construction financing.
- (i) No portion of the proceeds of the Loan will be used to provide any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility, racetrack, airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling or store, the principal business of which is the sale of alcoholic beverages for off premises consumption.
- (j) No litigation at law or in equity nor any proceeding before any governmental agency or other tribunal involving the Borrower is pending or, to the knowledge of the Borrower threatened, in which any liability of the Borrower is not adequately covered by insurance and in which any judgment or order would have a material and adverse effect upon the business or assets of the Borrower or would materially and adversely affect the Project, the validity of this Agreement or the performance of the Borrower's obligations thereunder or the transactions contemplated hereby.
- (k) No event has occurred and is continuing which with the lapse of time or the giving of notice would constitute an event of default under this Agreement or the Note.
- Section 2.3. <u>Loan</u>. Concurrently with the execution and delivery hereof, the City will fund the Loan by making tax increment revenues currently on deposit in the allocation fund for the Central Allocation Area of the Central Economic Development Area available to the Borrower in accordance with the requirements of the Project Lender (as defined in the Project Agreement). Such Loan is being evidenced by the execution and delivery by the Borrower of the Note substantially in the form attached hereto as <u>Exhibit A</u>.

ARTICLE III. COMPLETION OF THE PROJECT

Section 3.1. <u>Acquisition, Construction, Equipping and Improving of Project</u>. It is understood that improvements made for the Project are that of the Borrower and any contracts made by the Borrower with respect thereto shall acquire, construct, equip and improve the Project. The Borrower shall use commercially reasonable efforts to construct the Project with all reasonable dispatch and to complete the Project by no later than the Target Completion Date, and shall pay when due all fees, costs and expenses incurred in connection with that acquisition, construction,

equipment, and improvement from funds made available therefor. It is further understood that any contracts made by the Borrower with respect to the Project, whether construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower on its own behalf and not as agent or contractor for the City.

- Section 3.2. <u>Completion Date</u>. The Borrower shall notify the City of the Completion Date by a certificate signed by the Designated Representative stating:
- (a) the date on which the Project is substantially completed, which shall be evidenced by the issuance of a certificate of occupancy by the City, if the City provides such certificates of occupancy,
- (b) that all other facilities necessary in connection with the Project have been acquired, constructed, equipped and improved, and
- (c) that the acquisition, construction, equipment and improvement of the Project and those other facilities have been accomplished in such a manner as to conform with all applicable zoning, planning, building, environmental and other similar governmental regulations.

The certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in subsections (a) through (c) of this Section (the date of delivery of such certificate being, the "Completion Date").

ARTICLE IV. LOAN BY CITY; FORGIVENESS OF THE LOAN

- Section 4.1. <u>Loan</u>. The City hereby makes the Loan to the Borrower. The Loan shall bear no interest and shall be secured by the Note. The Loan shall be non-recourse against the Borrower and the Project. The Loan proceeds shall be disbursed to the Project Lender (as defined in the Project Agreement) on the date of this Agreement; provided, however, that the Loan proceeds shall not be disbursed by the Project Lender for Project costs, unless and until the initial and up front equity of the Borrower or an affiliate thereof required by the Project Lender is invested in the Project.
- Section 4.2. <u>Payment of Principal, Premium and Interest</u>. (a) Subject at all times to Section 4.3 hereof, the Borrower will duly and punctually pay the principal of, premium, if any, and interest on the Note at the rates, at the times and the places and in the manner mentioned in the Note and this Agreement according to the true intent and meaning thereof and hereof, until the principal of, premium, if any, and interest on the Note shall have been fully paid.
- (b) Subject at all times to Section 4.3 hereof, the Borrower also agrees to pay (i) all expenses incurred in connection with the enforcement of any rights under this Agreement; and (ii) all other payments of whatever nature which the Borrower has agreed to pay or assume under the provisions of this Agreement; provided, however, that the Borrower may, without creating a default under this Agreement, contest in good faith the necessity for any such extraordinary services and extraordinary expenses and the reasonableness of any such fees, charges or expenses.

- Subject at all times to Section 4.3 hereof, the Borrower covenants and agrees with (c) and for the express benefit of the City that all payments pursuant hereto and to the Note shall be made by the Borrower on or before the date the same become due, and the Borrower shall perform all of its other obligations, covenants and agreements hereunder, without notice or demand (except as provided herein), and without abatement, deduction, reduction, diminution, waiver, abrogation, set-off, counterclaim, recoupment, defense or other modification or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and regardless of any act of God, contingency, event or cause whatsoever, and irrespective (without limitation) of whether the Project or the Borrower's title to the Project or any part thereof is defective or nonexistent, or whether the Borrower's revenues are sufficient to make such payments, and notwithstanding any damage to, or loss, theft or destruction of, the Project or any part thereof, expiration of this Agreement, any failure of consideration or frustration of purpose, the taking by eminent domain or otherwise of title to or of the right of temporary use of, all or any part of the Project, legal curtailment of the Borrower's use thereof, or whether with or without the approval of the Issuer, any change in the tax or other laws of the United States of America, the State of Indiana, or any political subdivision of either thereof, any change in the Issuer's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any portion of this Agreement; and the Borrower hereby waives the provisions of any statute or other law now or hereafter in effect impairing or conflicting with any of its obligations, covenants or agreements under this Agreement or which releases or purports to release the Borrower therefrom. Nothing in this Agreement shall be construed as a waiver by the Borrower of any rights or claims the Borrower may have against the City under this Agreement or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Agreement that the Borrower shall be unconditionally and absolutely obligated without right of set-off or abatement, to perform fully all of its obligations, agreements and covenants under this Agreement for the benefit of the City.
- (d) Subject at all times to Section 4.3 hereof, the obligations of the Borrower to make the required payments and to perform and observe the other agreements on its part shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against the City, and the Borrower shall pay absolutely during the term of this Agreement the payments to be made on account of the Loan and all other payments required thereunder free of any deductions and without abatement, diminution or set-off; and the Borrower: (i) will not suspend or discontinue any payments of the Loan; (ii) will perform and observe all of its other agreements contained in this Agreement; and (iii) will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, failure of the Borrower to complete the Project, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax laws of the United States of America or of the State of Indiana or any political subdivision of either thereof, or any failure of the City to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement.
- (e) It is understood and agreed that Borrower shall be obligated to continue to pay the amounts specified herein and in the Note whether or not the Facilities are damaged, destroyed or

taken in condemnation and that there shall be no abatement of any such payments and other charges by reason thereof.

forgiven upon the earlier of (a) the substantial completion date of the Project, (b) ______, 20___, or (c) upon the repayment of principal and interest, if any, of the Loan]; provided, however, that unless the Borrower abandons the Project or otherwise fails to proceed to substantially complete the Project as required by this Agreement and the Project Agreement, the repayment of the Loan will be forgiven on the Maturity Date and there shall be no obligation of the Borrower to repay the Loan, the consideration for the Loan being the completion of the construction of the Project by the Borrower and the resulting economic benefits to the City.

ARTICLE V. ADDITIONAL AGREEMENTS AND COVENANTS

Section 5.1. <u>Indemnification</u>. The Borrower releases the City (including, but not limited to, members of the Common Council, the Economic Development Commission, and the Redevelopment Commission, and their respective attorneys, agents and employees) from, agrees that the City (including, but not limited to, members of the Common Council, the Economic Development Commission, and the Redevelopment Commission, and their respective attorneys, agents and employees) shall not be liable for, and indemnifies the City against, all liabilities, claims, costs and expenses, including reasonable attorneys' fees and expenses, imposed upon, incurred or asserted against the Common Council, Economic Development Commission or the Redevelopment Commission, on account of: (a) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the construction, maintenance, operation and use of the Project; and (b) any claim, action or proceeding brought with respect to the matters set forth in (a) above.

In case any action or proceeding is brought against the City in respect of which indemnity may be sought hereunder, the City promptly shall give notice of that action or proceeding to the Borrower, and the Borrower upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of the City to give that notice shall not relieve the Borrower from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Borrower. At its own expense, the City may employ separate counsel and participate in the defense. The Borrower shall not be liable for any settlement made without its consent.

The indemnification set forth above is intended to and shall include the indemnification of all affected officials, directors, officers and employees of the City, the Common Council, the Economic Development Commission and the Redevelopment Commission. That indemnification

is intended to and shall be enforceable by the City to the full extent permitted by law. Notwithstanding anything herein, no indemnity shall be required hereunder for damages that result from the negligence or willful misconduct on the part of the party seeking indemnity.

Section 5.2. <u>Sale of Project by Borrower</u>. The Borrower's right to sell the Project shall be governed by the deed conveying title to the Property to the Borrower as contemplated by Section 2(b) of the Project Agreement.

ARTICLE VI. EVENTS OF DEFAULT AND REMEDIES

Section 6.1. Events of Default. Each of the following shall be an Event of Default: The Borrower shall fail to observe and perform any agreement, term or condition contained in this Agreement, and the continuation of such failure for a period of 30 days after notice thereof shall have been given to the Borrower by the City, or for such longer period as the City may agree to in writing; provided, that if the failure is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion.

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

- Section 6.2. <u>Remedies on Default</u>. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:
- (a) The City may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project; and
- (b) The City may pursue all remedies now or hereafter existing at law or in equity, plus recover all expenses including attorney fees as provided in Section 6.4 or to enforce the performance and observance of any other obligation or agreement of the Borrower hereunder.

Notwithstanding the foregoing or any other provision in this Agreement, (i) the City shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the City at no cost or expense to the City, and (ii) in no event shall the Borrower be obligated to repay the Loan or otherwise be responsible for the return of the proceeds of the Loan, it being the intent of the City and the Borrower that the Loan is an economic development incentive that is not to be repaid (except in the limited circumstance anticipated by Section 4.3 of this Agreement).

Section 6.3. <u>No Remedy Exclusive</u>. No remedy conferred upon or reserved to the City by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or hereafter existing at law, in equity or by statute. No delay or

omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

- Section 6.4. Attorneys' Fees and Costs of Collection. If a default by the Borrower or the City shall occur, the Prevailing Party shall, to the extent permitted by applicable law, be entitled to recover from the non-prevailing party all reasonable costs, expenses and attorneys' fees (including court costs and other expenses through all appellate levels) that it incurs in connection therewith. For purposes hereof, the term "Prevailing Party" includes a party who obtains legal counsel or brings any action against another party by reason of an alleged breach or default and obtains substantially the relief sought, whether by compromise, settlement or judgment.
- Section 6.5. <u>No Waiver</u>. No failure by the City to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof. The City may waive any Event of Default hereunder.
- Section 6.6. <u>Notice of Default</u>. The Borrower shall notify the City immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

ARTICLE VII. MISCELLANEOUS

- Section 7.1. <u>Term of Agreement</u>. This Agreement shall be and remain in full force and effect from the date of Loan until such time as Loan shall have been fully paid or forgiven, except for obligations of the Borrower under Sections 5.1 hereof, which shall survive any termination of this Agreement.
- Section 7.2. <u>Notices</u>. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Borrower and the City, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.
- Section 7.3. Extent of Covenants of the City; No Personal Liability. All covenants, obligations and agreements of the City contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City or the Common Council in other than his or her official capacity, and neither the members of the Common Council nor any official of the City shall be subject to any personal liability or accountability by reason of the covenants, obligations or agreements of the City contained in this Agreement.

- Section 7.4. <u>Binding Effect</u>. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the City, the Borrower and their respective permitted successors and assigns. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.
- Section 7.5. <u>Amendments and Supplements</u>. This Agreement may not be effectively amended, changed, modified, altered or terminated except as may be evidenced in a writing executed by the appropriate representatives of the City and the Borrower.
- Section 7.6. <u>Execution Counterparts</u>. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.
- Section 7.7. <u>Severability</u>. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.
- Section 7.8. Successors and Assigns. Whenever in this Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all the covenants, promises and agreements in this Agreement contained by or on behalf of the Borrower, or by or on behalf of the City, shall bind and inure to the benefit of the respective successors and assigns, whether so expressed or not. The Borrower may assign its interest in this Agreement to any affiliate of the Borrower without the prior approval of the City and the Borrower may further mortgage and assign all of the Borrower's interest in this Agreement to secure mortgage loans or other indebtedness incurred by the Borrower with respect to the acquisition, construction, equipping and improvement of the Project. The Borrower may additionally assign this Agreement in conjunction with a sale of the Project in accordance with the terms and conditions of the Project Agreement. The Borrower may not otherwise assign its interest in this Agreement without obtaining the prior approval of the City. Notwithstanding any such assignment, the Borrower shall not be released from any liability or obligations hereunder. The City may not assign is interest in this Agreement to any other person or entity without obtaining the prior approval of the Borrower.
- Section 7.9. <u>Governing Law</u>. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.
- Section 7.10. <u>Unavoidable Delay</u>. In the event that the Borrower shall be delayed, hindered in or prevented from the performance of any act required under this Agreement by reason of any unusually inclement weather, strikes, lock-outs, labor troubles, inability to procure materials which could not have been reasonably anticipated and avoided by the Borrower, failure of power to the Project for reason other than acts of the Borrower or any person or party acting by, through

or under the Borrower, restrictive governmental laws or regulations, act of God, fire, earthquake, flood, explosion, terrorism, action of the elements, war (declared or undeclared), police action, invasion, insurrection, riot, mob violence, sabotage, health pandemic or epidemic, the act, failure to act or default of the City, or other causes beyond the Borrower's reasonable control, then performance of such act shall be extended for a period necessitated by such delay.

Section 7.11. <u>Subordination and No Limitation on Mortgagee or Financing Party</u>. Any and all rights of the City and obligations and liabilities of the Borrower under this Agreement and/or relating to the Loan shall be expressly subject and subordinate to any mortgage loans or other indebtedness incurred by the Borrower with respect to the acquisition, construction, equipping and improvement of the Project. Notwithstanding anything in this Agreement to the contrary, (a) no provision of this Agreement shall restrict or otherwise limit (i) any foreclosure by or other transfer of title to any mortgagee or financing party of the Project, or (ii) any transfer of ownership of any interest in the Borrower to such mortgagee or financing party or any constituent owner of the Borrower, and (b) in the event of any such foreclosure by or other transfer of title to any mortgagee or financing party, as permitted in clause (a)(i) above, any such mortgagee or financing party) shall take title to the Project free and clear of any responsibility, obligation and/or liability under this Agreement and/or the Loan and without liability for the responsibilities, obligations and/or liabilities of the Borrower under this Agreement and/or with respect to the Loan.

[Signature Page Follows]

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

	City:	
	CITY	OF COLUMBUS, INDIANA
	Ву:	Mayor
ATTEST:		
Clerk		
	Borro	ower:
	[, LLC]
	By:	David M. Flaherty, Manager
Signature Page to the Financing and Log	n Aguas	ment dated as of 120 hatman
the City of Columbus, Inc	n Agree diana ar	ment, dated as of1, 20, between and, LLC

EXHIBIT A

FORM OF PROMISSORY NOTE

Original Principal: \$5,800,000

Maturity Date: [December 31, 2023] Interest Rate: 0% FOR VALUE RECEIVED, the undersigned, _____ ("Borrower"), a limited liability company organized and existing under the laws of the State of Indiana, hereby promises to pay to the order of the City of Columbus, Indiana ("City"), in immediately available funds, the amounts due under the Financing and Loan Agreement, dated as of 1, 20, between the City and Borrower (the "Loan Agreement"), upon maturity, unless this Promissory Note is forgiven pursuant to the Loan Agreement, at such place as the City may direct, in immediately available funds the principal sum of \$5,800,000. In certain events and in the manner set forth in the Loan Agreement, payments due under this Promissory Note are entitled to forgiveness. This Promissory Note is issued pursuant to the Loan Agreement, and is entitled to the benefits, and is subject to the conditions thereof. The Borrower's obligations under this Promissory Note are subject in all respects to the further provisions of the Loan Agreement. This Promissory Note is the Note referred to in the Loan Agreement and is subject to, and is executed in accordance with, all of the terms, conditions and provisions thereof, including those respecting prepayments. In any case where the date of payment hereunder shall not be on a Business Day (as defined in the Loan Agreement), then such payment shall be made on the next succeeding Business Day with the same force and effect as if made on the date of payment hereunder. All terms used in this Promissory Note which are defined in the Loan Agreement shall have the meanings assigned to them in the Loan Agreement. IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and attested by its duly authorized officers or representatives. Dated: ______, 20__. [,LLC]

By:

DMS 40891848.1

David M. Flaherty, Manager

FUNDING AND REIMBURSEMENT AGREEMENT

between

CITY OF COLUMBUS, INDIANA

and

CITY OF COLUMBUS, INDIANA, REDEVELOPMENT DISTRICT

Re:

CITY OF COLUMBUS, INDIANA (6TH & WASHINGTON PROJECT)

Dated as of	_ 1,	20
-------------	------	----

FUNDING AND REIMBURSEMENT AGREEMENT

This FUNDING AND REIMBURSEMENT AGREEMENT, is made and entered into as 1, 20_ (the "Agreement") by and between the CITY OF COLUMBUS, of INDIANA (the "City"), a municipal corporation duly organized and validly existing under the laws of the State of Indiana (the "State"), and the CITY OF COLUMBUS REDEVELOPMENT COMMISSION (the "Redevelopment Commission"), as governing body of the CITY OF COLUMBUS REDEVELOPMENT DISTRICT, a special taxing district duly organized and validly existing under the laws of the State of Indiana (the "District"). WHEREAS, the Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (collectively, the "Act"), authorizes and empowers the City to make direct loans to users or developers (each as defined under the Act) for the cost of acquisition, construction, or installation of economic development facilities, with such loans to be secured by the pledge of one or more taxable or tax-exempt debt obligations of the users or developers, for diversification of economic development and promotion of job opportunities in or near such City and vests the

WHEREAS, the City, upon finding that the Project (as hereinafter defined) and the proposed financing of the construction thereof will create additional employment opportunities in the City; will benefit the health, safety, morals, and general welfare of the citizens of the City and the State; and will comply with the purposes and provisions of the Act, adopted an ordinance approving a loan to [_____, LLC] (the "Borrower"); and

City with powers that may be necessary to enable it to accomplish such purposes; and

WHEREAS, the City intends to make one or more direct loans to the Borrower, pursuant to the provisions of the Act, this Agreement, and the Financing and Loan Agreement, dated as of 1, 20 , between the City and the Borrower (the "Loan Agreement"), all for the purpose of financing a portion of the Project; and

WHEREAS, pursuant to Indiana Code 36-7-14-39(b)(3), the Redevelopment Commission may use certain incremental property taxes to reimburse the City for expenditures (including loans) made for local public improvements (which include buildings, parking facilities, and all expenses reasonably incurred in connection with the acquisition and redevelopment of property) that are physically located in or physically connected to the Allocation Area (as defined herein); and

WHEREAS, pursuant to Resolution No. __, 2023, adopted by the Redevelopment Commission on November 20, 2023, as approved by Resolution No. __, 20__, adopted by the Common Council of the City on ______, 20___, copies of which are attached hereto as Exhibit A (collectively, the "Authorizing Resolutions"), the Commission has authorized the use of Tax Increment Revenues (as defined herein), in the amount of Five Million Eight Hundred Thousand Dollars (\$5,800,000) from moneys currently on deposit in the Allocation Fund (as defined herein), in order to reimburse the City for expenditures made, or to be made, to finance a portion of the Project costs.

NOW THEREFORE, in consideration of the premises, the covenants and agreements hereinafter contained, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the District hereby agree and covenant.

(End of Recitals)

ARTICLE I.

DEFINITIONS AND EXHIBITS

Section 1.1. <u>Terms Defined</u>. As used in this Agreement, the following terms shall have the following meanings unless the context clearly otherwise requires:

"Act" means, collectively, Indiana Code 36-7-11.9, Indiana Code 36-7-12, Indiana Code 36-7-14, and Indiana Code 36-7-25, each as amended.

"Allocation Area" means the Central Economic Development Allocation Area previously established by the Redevelopment Commission within the Central Economic Development Area in accordance with Indiana Code 36-7-14-39 for the purposes of capturing incremental *ad valorem* real property taxes levied and collected on all taxable property in such allocation area.

"Allocation Fund" means the Central Economic Development Allocation Area Allocation Fund established under Indiana Code 36-7-14 for the Tax Increment Revenues collected in the Allocation Area.

"Authorizing Resolutions" shall have the meaning set forth in the recitals hereof.

"Borrower" means [_______, LLC], a limited liability company duly organized and validly existing under the laws of the State of Indiana and qualified to do business

"City" means the City of Columbus, Indiana, a municipal corporation duly organized and validly existing under the laws of the State.

"Central Economic Development Area" means the economic development area within the District previously established by the Redevelopment Commission in accordance with Indiana Code 36-7-14.

"Costs of Construction" means the costs of providing for an "economic development facility" as defined and set forth in the Act, including any legal, accounting, management, program or consulting fees and expenses of the Borrower, the City or the District, and any other costs permitted under the Act related thereto.

"District" means the Redevelopment District of the City.

in the State of Indiana, or any successors thereto.

"Loan" means the loan from the City to the Borrower in the original aggregate principal amount of \$5,800,000, which will be made under the terms of the Loan Agreement, the proceeds of which will be used by the Borrower to pay a portion of the Costs of Construction for the Project.

"Loan Agreement" means the Financing and Loan Agreement, dated as of ______1, 20__, between the City and the Borrower.

"Project" means the acquisition, construction, equipping and improving, as the case may be, by the Borrower of a four to five-story, mixed-use, multi-family development, including approximately 50 luxury apartments and 10,000 square feet of first-floor commercial space, with an approximate total development cost of \$16,000,000, on certain real property generally located on a parcel on the northwest corner of the intersection of 6th Street and Washington Street in the City.

"Project Agreement" means the Project Agreement, dated _________, 20___, by and among F&C Development, Inc., the City and the Redevelopment Commission.

"Project Fund" means the Project Fund established and held by the City or by a corporate trustee, financial institution or custodian selected by the City for such purpose, as the case may be, for purposes of paying Costs of Construction of the Project.

"Redevelopment Commission" means the City of Columbus Redevelopment Commission, governing body of the District.

"State" means the State of Indiana.

"Tax Increment Revenues" means the property tax proceeds received by the Redevelopment Commission which are derived from the assessed valuation of real property in the Allocation Area in excess of the assessed valuation described in Indiana Code 36-7-14-39(b)(1) and Indiana Code 36-7-14-39(b)(2), as such statutory provision exists on the date of execution of this Agreement.

Section 1.2. <u>Exhibits</u>. The following Exhibits are attached to and by reference made a part of this Agreement.

Exhibit A. Copies of Authorizing Resolutions.

(End of Article I)

ARTICLE II.

REPRESENTATIONS; LOAN TO BORROWER

Section 2.1. Representations by City. The City represents and warrants that:

- (a) The City is a municipal corporation organized and existing under the laws of the State of Indiana. Under the provisions of the Act, the City is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. City has been duly authorized to execute and deliver this Agreement. City agrees that it will do or cause to be done all things within its control and necessary to preserve and keep in full force and effect its existence.
- (b) Concurrently with the execution and delivery of the Loan Agreement and this Agreement, the City agrees to make the Loan to the Borrower (upon the District making funds available to simultaneously reimburse the City for such purpose in accordance with the terms of this Agreement) for the purpose of financing a portion of the Costs of Construction for the Project, in order to create additional employment opportunities in the City and to benefit the health, safety, morals and general welfare of the citizens of the City and the State.
- Section 2.2. <u>Representations by Redevelopment District</u>. The Redevelopment Commission, governing body for the District, represents and warrants that:
- (a) The Redevelopment Commission is the governing body of the District, which is a special taxing district organized and existing under the laws of the State of Indiana. Under the provisions of the Act, the Redevelopment Commission is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The Redevelopment Commission has been duly authorized to execute and deliver this Agreement. The Redevelopment Commission agrees that it will do or cause to be done all things within its control and necessary to preserve and keep in full force and effect its existence.
- (b) On the date hereof, the Redevelopment Commission will pay to, or upon the order of, the City for deposit into the Project Fund, an aggregate amount equal to Five Million Eight Hundred Thousand Dollars (\$5,800,000) from the Tax Increment Revenues currently on deposit in the Allocation Fund, all for the purpose of simultaneously reimbursing the City for its costs incurred, or to be incurred, in making the Loan to finance a portion of the Costs of Construction for the Project under the terms of the Loan Agreement. The Tax Increment Revenues deposited into the Project Fund shall be disbursed therefrom under the procedures and requirements set forth in the Project Agreement.
- (c) The Redevelopment Commission acknowledges and agrees that the Loan being made by the City to the Borrower is subject to forgiveness upon the Borrower's satisfaction of certain conditions set forth in Section 4.3 of the Loan Agreement.

(End of Article II)

ARTICLE III.

MISCELLANEOUS PROVISIONS

- Section 3.1. <u>Supplements and Amendments to this Agreement</u>. The Borrower, the City and the District may from time to time, upon the written agreement of all parties hereto, enter into such supplements and amendments to this Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof, which consent and agreement to such supplement or amendment hereto may be withheld in the sole discretion of any party.
- Section 3.2. Agreement for Benefit of Parties Hereto. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, and their successors and assigns, any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation hereof; and the covenants, stipulations and agreements in this Agreement contained are and shall be for the sole and exclusive benefit of the parties hereto, and their successors and assigns.
- Section 3.3. <u>Severability</u>. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.
- Section 3.4. <u>Counterparts</u>. This Agreement is being executed in any number of counterparts, each of which is an original and all of which are identical. Each counterpart of this Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.
- Section 3.5. Governing Law. It is the intention of the parties hereto that this Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and enforced in accordance with, the laws of the State of Indiana.

(End of Article III)

IN WITNESS WHEREOF, the City and the Redevelopment Commission, acting for and on behalf of the District, have caused this Agreement to be executed in their respective names, and the City and the Redevelopment Commission, acting for and on behalf of the District, have caused their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

	CITY OF COLUMBUS, INDIANA
(SEAL) Attest:	By:
Controller	CITY OF COLUMBUS REDEVELOPMENT DISTRICT, acting by and through the CITY OF COLUMBUS REDEVELOPMENT COMMISSION
Attest:	President
Secretary	
dated as of _	ing and Reimbursement Agreement, 1, 20, City of Columbus, Indiana, Redevelopment District

EXHIBIT A

Copies of Authorizing Resolutions

ORDINANCE NO. __, 20__

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AUTHORIZING A DIRECT LOAN TO THE DEVELOPER OF AN ECONOMIC DEVELOPMENT FACILITY (6th & WASHINGTON PROJECT) AND APPROVING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Columbus, Indiana (the "City"), is a municipal corporation and political subdivision of the State of Indiana and by virtue of I.C. 36-7-11.9, I.C. 36-7-12 and I.C. 36-7-14 (collectively, the "Act"), is authorized and empowered to adopt this ordinance (this "Ordinance") and to carry out its provisions; and

WHEREAS, the Act declares that the financing and refinancing of economic development facilities (as defined in the Act) constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City is authorized to make loans for the purpose of financing, reimbursing or refinancing all or a portion of the costs of acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment in or near the City; and

WHEREAS, F&C Development, Inc. or an affiliate thereof (the "Developer") has informed the City that it desires to construct certain economic development facilities within the City which will consist of a four to five-story, mixed-use, multi-family development, including approximately 50 luxury apartments and 10,000 square feet of first-floor commercial space, with an approximate total development cost of \$16,000,000, on certain real property generally located on a parcel on the northwest corner of the intersection of 6th Street and Washington Street in the City (the "Project"), and has requested that the City make a loan to the Developer for the purposes of financing or reimbursing the Developer for a portion of the costs of acquisition, construction and/or equipping of the Project; and

WHEREAS, the Project will be physically connected to, and will directly serve and benefit, the Central Economic Development Area and the Central Allocation Area (the "Allocation Area"); and

WHEREAS, the Developer has advised the City and the City of Columbus Economic Development Commission (the "Commission") that the City make a loan to the Developer pursuant to the Act in an amount not to exceed Five Million Eight Hundred Thousand Dollars (\$5,800,000) for the purpose of financing a portion of the costs of the Project (the "Loan") as described in the proposed Financing and Loan Agreement between the City and the Developer (the "Loan Agreement"); and

WHEREAS, the completion of the Project will result in the creation of jobs, the diversification of industry and the creation of business opportunities in the City; and

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing on the proposed financing of a portion of the Project costs (the "Public Hearing"); and

WHEREAS, on the date specified in the notice of the Public Hearing, the Commission conducted the Public Hearing, and adopted its evaluative report and resolution, which have been transmitted to the Common Council, finding that the financing of a portion of the Project complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of the City and its citizens; and

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Ordinance and has approved and forwarded to the Common Council the forms of: (1) the Loan Agreement; (2) the Funding and Reimbursement Agreement (the "Funding Agreement") between the City and City of Columbus Redevelopment Commission (the "Redevelopment Commission"); and (3) this Ordinance (the Loan Agreement, the Funding Agreement, and this Ordinance, collectively, the "Financing Agreements"); and

WHEREAS, pursuant to Indiana Code 36-7-14-39(b)(3), the Redevelopment Commission may use certain incremental property taxes, among other purposes, to reimburse the City for expenditures (including loans) made for local public improvements (which include buildings, parking facilities, and all expenses reasonably incurred in connection with the acquisition and redevelopment of property) that are physically located in or physically connected to the Allocation Area; and

WHEREAS, prior to making of the Loan, the Redevelopment Commission will, subject to the approval of the Common Council, pledge tax increment revenues currently on deposit in the allocation fund for the Allocation Area (the "Central TIF Revenues") to simultaneously reimburse the City for its costs incurred to fund the Loan to the Developer with respect to the Project.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, THAT:

- 1. <u>Findings; Public Benefits</u>. The Common Council hereby finds and determines that the Project involves the acquisition, construction and equipping of an "economic development facility" as that phrase is used in the Act; that the Project will increase employment opportunities and increase diversification of economic development in the City, will improve and promote the economic stability, development and welfare in the City, will encourage and promote the expansion of industry, trade and commerce in the City and the location of other new industries in the City; that the public benefits to be accomplished by the making of the Loan to the Developer to finance and/or reimburse Project costs, in tending to overcome insufficient employment opportunities, insufficient diversification of industry and lack of adequate downtown housing, are greater than the cost of public works or services (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of a portion of the Project by the making the Loan to the Developer under the Act: (i) will be of benefit to the health and general welfare of the City; and (ii) complies with the Act.
- 2. <u>Approval of Financing</u>. The proposed financing of the Project by the funding of the Loan to the Developer under the Act, in the form that such financing was approved by the Commission, is hereby approved.

- Terms of the Loan. (a) A portion of the costs of the Project will be funded by the Loan to the Developer. The City shall fund the Loan, in the aggregate principal amount not to exceed Five Million Eight Hundred Thousand Dollars (\$5,800,000), from Central TIF Revenues currently on deposit in the Allocation Area, and pledged by the Redevelopment Commission to the City for the purposes of making the Loan to the Developer under the Act and the terms of the Loan Agreement. The Loan shall (i) mature on the Maturity Date (as defined herein), (ii) bear no interest, unless interest must accrue for tax purposes of the Developer, in which case the interest rate shall not exceed seven percent (7.0%) per annum and such interest shall be deferred until maturity, and (iii) be secured by the pledge of an unsecured promissory note of the Borrower. The proceeds of the Loan shall not be disbursed to the Developer unless and until the Developer closes on its construction loan for the Project with its Project lender. Unless the Developer has abandoned the Project or otherwise failed to timely and substantially complete the Project by the Maturity Date (as defined herein), the principal of and interest, if any, on the Loan shall be forgiven upon: (i) the earlier of the substantial completion date of the Project, an agreed-upon outside required date for completion, or upon the repayment of principal and interest, if any, of the Loan, or (ii) at the discretion of the Developer, annually in the amount of the real property taxes assessed against the Project and actually paid by the Developer (collectively, the "Maturity Date"). In the event that the Loan is forgiven, it is hereby acknowledged that the consideration received by the City for the Loan being forgiven is the completion of the Project by the Developer and the economic benefits resulting to the City therefrom.
- (b) The Loan and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the City. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Ordinance, and the Clerk of the City is hereby directed, in the name and on behalf of the City, to insert them into the minutes of the Common Council and to keep them on file.
- 4. <u>Execution and Delivery of Financing Agreements</u>. The Mayor, the Clerk and the Controller of the City are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse and deliver the Financing Agreements, submitted to the Common Council, which are hereby approved in all respects.
- 5. <u>Changes in Financing Agreements</u>. The Mayor, the Clerk and the Controller of the City are hereby authorized, in the name and on behalf of the City, without further approval of the Common Council or the Commission, to approve such changes in the Financing Agreements as may be permitted by the Act, such approval to be conclusively evidenced by their execution thereof.
- 6. <u>General</u>. The Mayor, the Clerk and the Controller of the City, and each of them, are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Ordinance (including the preambles hereto and the documents mentioned herein), the Project, the making of the Loan, and the securing of the Loan under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

- 7. <u>Binding Effect</u>. The provisions of this Ordinance and the Financing Agreements shall constitute a binding contract between the City and the Developer, and after making the Loan, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the Developer.
- 8. <u>Repeal.</u> All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- 9. <u>Effective Date</u>. This Ordinance shall be in full force and effect immediately upon adoption and compliance with I.C. § 36-4-6-14.
- 10. <u>Copies of Financing Agreements on File</u>. Two copies of the Financing Agreements incorporated into this Ordinance were duly filed in the office of the Clerk of the City, and are available for public inspection in accordance with I.C. § 36-1-5-4.

[Signature Page Follows]

DULY PASSED on this day of _ City of Columbus, Indiana.	, 20, by the Common Council of the
City of Columbus, Indiana.	COMMON COUNCIL OF THE
	CITY OF COLUMBUS, INDIANA
	Presiding Officer
ATTEST:	
Clerk	
	ry of Columbus for his approval or veto pursuant today of, 20 ato'clock
	Clerk-Treasurer
	he legislative body and presented to me is approved ana Code § 36-4-6-16 (a)(1), thisday of n.m./p.m.
	Mayor of the City of Columbus, Indiana
Attest:	
Clerk	
DMS 40801766 1	



MEMORANDUM

TO:

Columbus City Council

FROM:

Heather Pope, Director of Redevelopment

DATE:

November 27, 2023

RE:

Our River...Our Riverfront Project Funding Request

We have finally received all of our required permits from the regulatory agencies for the Riverfront Project! This is exciting news and I can't thank you enough for your tenacity on this project. It's been seven years since we started this process.

In 2016 we engaged the services of Core Planning Strategies (now JS Held) to help us see if the community would be interested in improving our riverfront and if so what does that look like. The community committee, consisting of a variety of community partners, issued an RFP for a design firm. Hitchcock Design Group was engaged in 2017 to provide us with a riverfront plan. Through a yearlong process of online surveys, stakeholder interviews, public input sessions, and public meetings we landed on a design that solved a lot of the issues related to this section of the river.

The final design includes the removal of the existing failing low head dam, repairing the eroding river banks, stabilizing the scouring that is currently happening next to the former landfill on the west bank, removing invasive vegetation along the banks and replacing with native species, addressing the health of the river by re-establishing the flow of fish and sedimentation of the river, maintaining the water level to preserve the wetlands that are upstream of the project site, providing mitigation for lost vegetation in the watershed, providing a safe 12 ft. wide pedestrian connection from Mill Race Park to Water Street, providing universal access to the river, providing for unimpeded access for safety personnel through the river, a rock riffle for additional fish habitat, providing a recreational opportunity that currently doesn't existing in this region, and providing for safe pedestrian/eco-friendly lighting along the riverfront trail.

On November 14th a joint meeting was held with the City Council and the Redevelopment Commission. At the meeting Hitchcock Design Group & JS Held presented the final design to the Council, Commission and public. Also, James Lima with James Lima Planning + Development presented an economic benefits analysis of the riverfront project.

On November 20th the Redevelopment Commission voted unanimously to fund the outstanding balance needed to construct the riverfront project, with a not to exceed of \$11,583,083 from the Central Allocation Area. Dunlap & Co. provided the total construction cost estimate of \$14M. We have secured \$2,432,000 in grants from the State of Indiana's Next Level Trails Grant Program, READI Funds, Duke Engergy and The Columbus Parks Foundation.



At the City Council's December 5th meeting, I will be requesting approval for funding, from the Central Allocation Area, in an amount not to exceed \$11,583,083. Hitchcock Design Group and JS Held will be presenting the background, final design and breakdown of costs.

Council Ordinance #25-2003 states that any proposed expenditure by the Commission in excess of \$500,000 is subject to Council approval. The Redevelopment Commission appreciates bringing this project before the City Council for approval and comment.

Attached you will find the following:

- · Redevelopment Commission Resolution executed
- · City Council Resolution
- Riverfront Presentation from Hitchcock Design Group & JS Held
- Riverfront Benefits Analysis prepared by James Lima Planning + Development

RESOLUTION NO: 29 - 2023

RESOLUTION OF THE COLUMBUS REDEVELOPMENT COMMISSION TO FUND OUR RIVER...OUR RIVERFRONT PROJECT

Comes now the Columbus Department of Redevelopment, more commonly known as the Columbus Redevelopment Commission, and for this Resolution says as follows:

WHEREAS, Indiana Code §36-7-14-1 et seq. provides that a community may establish a Department of Redevelopment to be controlled by a Redevelopment Commission; and

WHEREAS, the City of Columbus, through its Common Council, did on August 19, 2003 create the City of Columbus Department of Redevelopment and the City of Columbus Redevelopment Commission ("Redevelopment Commission") by way of Ordinance Number 25, 2003; and

WHEREAS, the City of Columbus identified the Riverfront area for significant redevelopment and importance to the future of the City; and

WHEREAS, the Redevelopment Commission has identified goals and objectives for this area through the Our River...Our Riverfront project; and

WHEREAS, Hitchcock Design Group was engaged on December 19, 2016 as the Design Firm for this project; and

WHEREAS, a design team of experts has been built to address the landscape architecture, the civil, structural, and electrical engineering, the in river design and engineering, and the constructability and cost estimating of the project.

WHERAS, extensive work has been completed to get the necessary permits from DNR, IDEM, and USACE for the project over the past seven years.

WHEREAS, James Lima Planning + Development was engaged to assess the economic benefits of the project and the proposed contributions to development and benefits to tourism and those results were shared on November 14, 2023 with the community; and

WHEREAS, the area in the Our River...Our Riverfront project has been identified as a vital area for growth and development for the community; and

WHEREAS, there are significant safety concerns related to the failing dam, pedestrian pathways and lighting in the area, lack of access to the riverfront for safety personnel, and the erosion of the bank where the old landfill site could be exposed.

WHERAS, there have been further concerns identified regarding the ecology of the river and need to restore the habitats and wetlands.

WHEREAS, the proposal before the Commission addresses the safety concerns, the ecological considerations, the connectivity for the People Trail system, and provides a compelling and aesthetically pleasing attraction to the area for local residents and tourists.

WHERAS, an estimate has been received from Hitchcock Design Group for the overall project in an amount not to exceed \$11, 583.083.00 which includes overall project costs and contingencies, the East and West bank improvements, the in-river improvements, and the trail and community spaces; and

WHERAS, the Director of Redevelopment is recommending that the Commission approve this proposal for the Our River...Our Riverfront project to be funded from the Central Allocation Area.

NOW, THEREFORE, IT IS RESOLVED:

- 1. The City of Columbus Redevelopment Commission having heard from Hitchcock Design Group, JS Held, and its director and having reviewed the estimates for the My River...My Riverfront project, concludes that the project is appropriate.
- 2. The City of Columbus Redevelopment Commission having reviewed the estimates provided, believes the proposal for the project in an amount not to exceed of \$11, 583.083.00 from the Central Allocation Area is necessary for the Commission to move forward with the Our River...Our Riverfront project.
- 3. The Commission does hereby authorize the the Our River...Our Riverfront project in an amount NOT TO EXCEED price of services as stated above.
- 4. The President of the Commission, or his designee, is authorized to execute any necessary documents to effectuate this resolution on behalf of the Commission.

Adopted this 20th day of November 2023

Al Roszczyk, President

Kyle Hendricks, Vice-President

Trena Carter, Secretary

RESOLUTION NO. ___, 2023

A RESOLUTION TO AUTHORIZE THE CITY OF COLUMBUS REDEVELOPMENT COMMISSION TO EXPEND FUNDS OVER \$500,000 FOR THE OUR RIVER...OUR RIVERFRONT PROJECTED LOCATED IN THE CENTRAL ALLOCATION AREA

WHEREAS, the City of Columbus Department of Redevelopment and Redevelopment Commission (the "Commission") was established in August 2003 (Columbus Common Council Ordinance # 25-2003) by the Columbus Common Council (the "Council") pursuant to I.C. 36-7-14-39; and

WHEREAS, the 2019 adopted Envision Columbus plan focused on downtown development and identified several catalytic projects and significant challenges regarding connectivity; and

WHEREAS, the Envision Columbus plan identified connectivity through the trail network; and

WHEREAS, the City of Columbus and Columbus Bicycle and Pedestrian Plan have identified the Riverfront area as a large gap in its otherwise cohesive trail network; and

WHEREAS, is of importance to the City of Columbus in its downtown activation efforts; and

WHEREAS, there are significant safety concerns related to the failing dam, pedestrian pathways and lighting in the area, lack of access to the riverfront for safety personnel, and the erosion of the bank where the old landfill site could be posed due to the already failing dam; and

WHEREAS, there have been further concerns identified regarding the ecology of the river and need to restore the habitats and wetlands along the river; and

WHEREAS, Hitchcock Design Group, a design firm, was engaged in December 2016 to help the City identify what the community wanted as goals and objectives for the area along the Riverfront to address the safety issues and ecology concerns; and

WHEREAS, a design team of experts has been built to address the challenges along the riverfront including landscaping architecture, civil, structural, and electrical engineering, the in river design and engineering, and the constructability and cost estimating of the project; and

WHEREAS, James lima Planning + Development was engaged in 2023 to give a current assessment of the economic benefits of the project and the proposed contributions to development and benefits to tourism and those results were shared on November 14, 2023 with the community; and

WHEREAS, extensive work has been completed to get the necessary permits from DNR, IDEM and USACE for the project over the past seven years; and

WHEREAS, the Commission determined the completion of this project will serve to benefit commerce, economic interest and development, social interest and public utility for the City of Columbus and the allocation area known as the Central TIF District; and

WHEREAS, the proposal before the Council addresses the safety concerns, the ecology considerations, the connectivity for the trail network and provides a compelling and aesthetically pleasing attraction to the area for local residents and tourists; and

WHEREAS, the Columbus Redevelopment Commission has identified sufficient funds within the Central Allocation Area / TIF District, and

WHEREAS, the Columbus Redevelopment Commission has identified and secured various grants to assist in the cost for construction of the riverfront project totaling \$2,432,000;

WHEREAS, an construction cost estimate has been received from Hitchcok Design Group for the overall project of \$14,000,000; and

WHEREAS, with the grants already secured the outstanding balance needed from the Central Allocation Area, for a not to exceed amount of \$11,583,083 is needed to complete construction; and

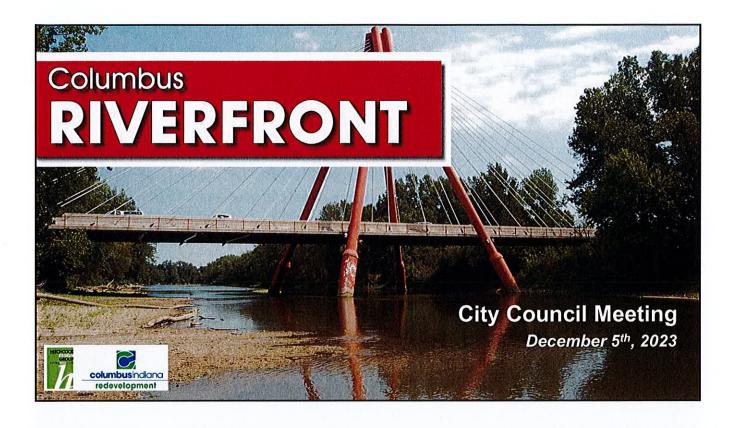
WHEREAS, pursuant to Council Ordinance #25-2003, any proposed Commission expenditure in excess of \$500,000 is subject to Council approval, therefore, the Commission would appreciate bringing this project before the City Council for approval;

NOW THEREFORE BE IT RESOLVED BY THE COLUMBUS COMMON COUNCIL certain funds in the Central Allocation area are necessary to complete the Our River...Our Riverfront Project which is consistent with the adopted City's Comprehensive Plan.

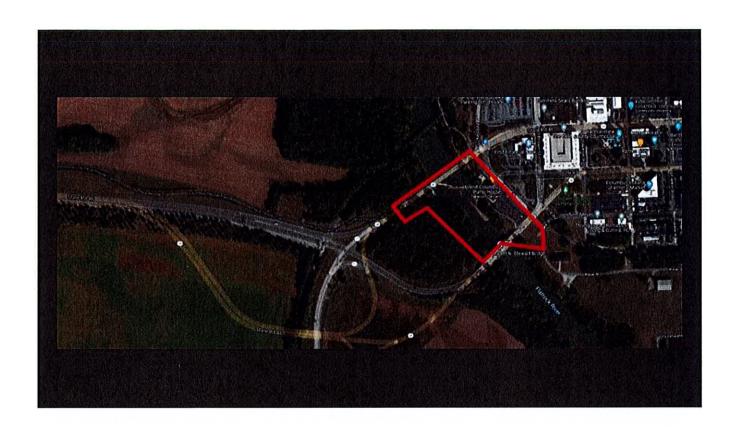
- 1. The Our River...Our Riverfront Project will address the significant safety concerns related to the failing dam, pedestrian pathways and lighting in the area, lack of access to the riverfront for safety personnel, and the erosion of the banks.
- 2. The Redevelopment Commission has identified available funds for the improvement project that will address the safety concerns, provide universal access to the river, create a compelling attraction, promote economic/workforce development and provide for a captivating appearance for Columbus' front door.
- 3. The Redevelopment Commission does note that this expenditure exceeds its spending authority pursuant to Ordinance #25-2003 and as such the Commission is recommending to the Common Council of the City of Columbus that the Common Council authorize the expenditure of a sum not to exceed \$11,583,083.00 from the Central Allocation Area for the construction of Our River...Our Riverfront Project.

BE IT RESOLVED the Common Council of the City of Columbus, have	ing heard from the
representative of the Columbus Redevelopment Commission, Hitchcock D	esign Group and JS Held and
having received the request for an expenditure over the Commissions' spe	ending authority, and the
Council having had an opportunity to inquire and more fully understand th	nis request and now having
considered same has voted on this request this day of	2023, and this
Resolution was approved denied by vote of ayes and	nays.

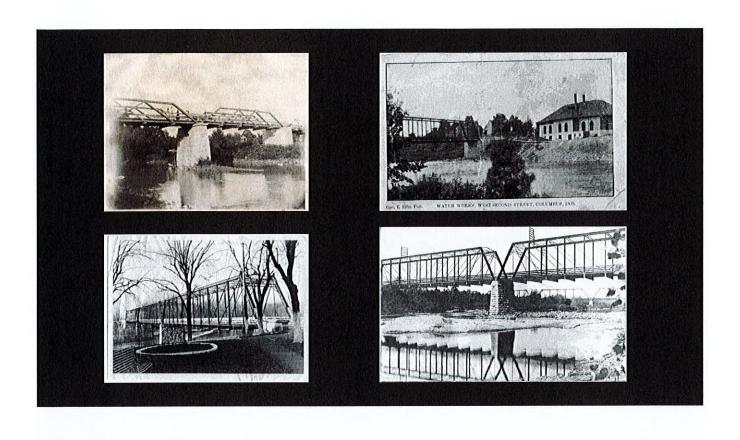
	James D. Lienhoop, Mayor	
	Presiding Officer of the Commons Council	
ATTEST:		
Luann Welmer		
Clerk of the Common Council		
Presented by me to the Mayor of Columbus In	diana thisday of, 2023 at	
o'clockM.	day of, 2023 a	
	Luann Welmer	
	Clerk – Treasurer	
Approved and signed by me thisday of _	. 2023 at o'clock .M	
	,,,,	
	James D. Lienhoop	

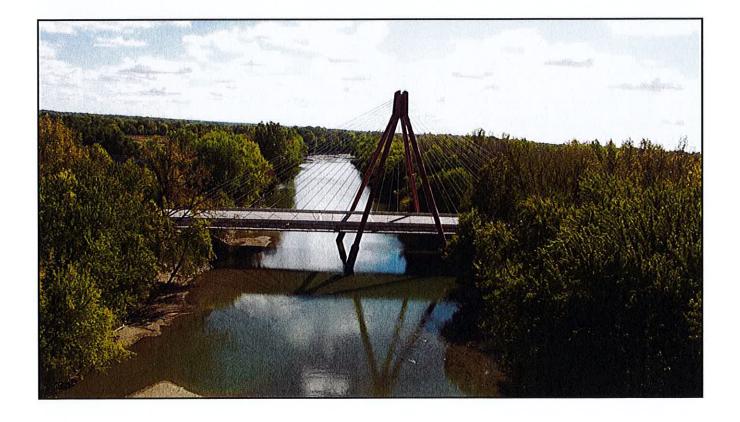


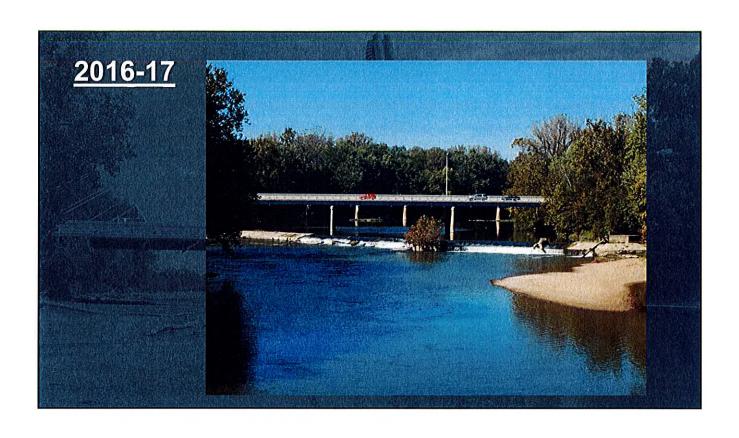


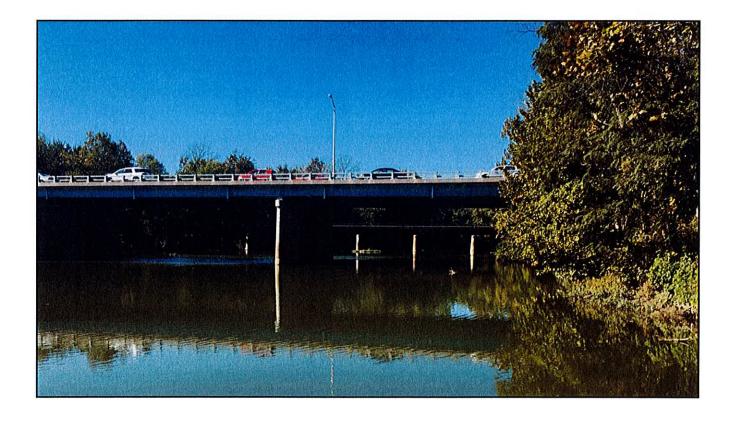


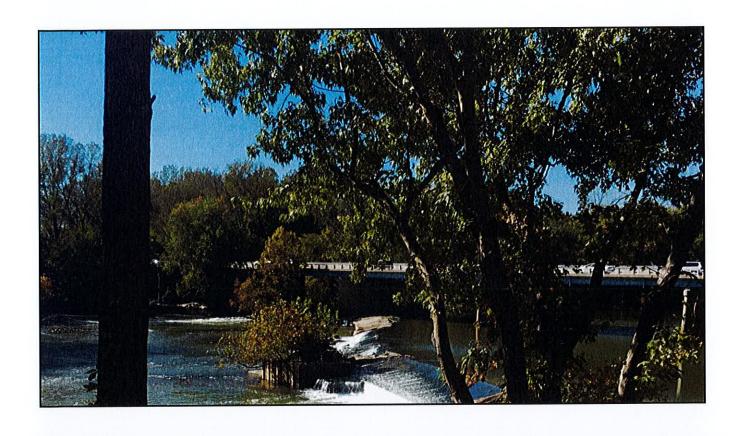




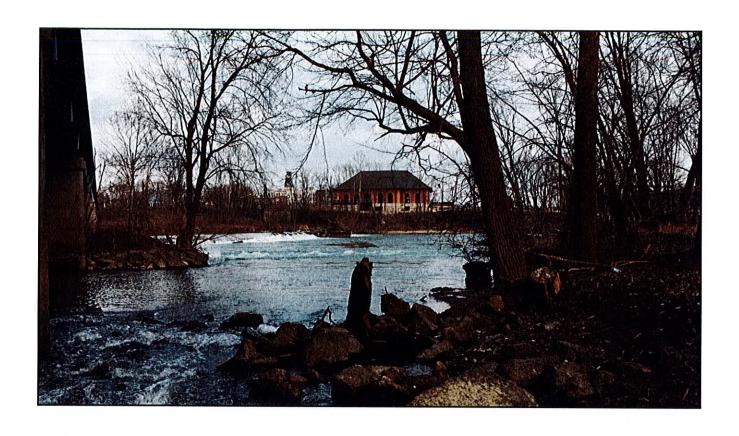


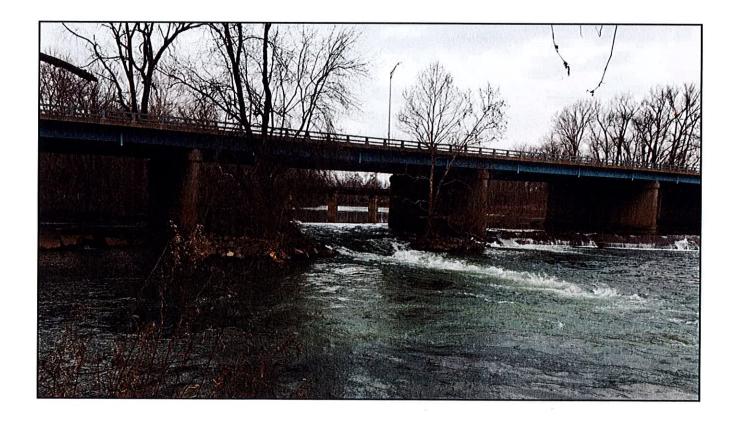


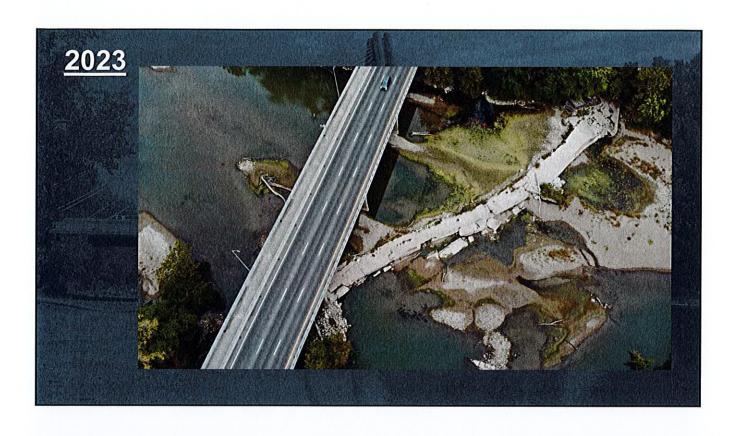


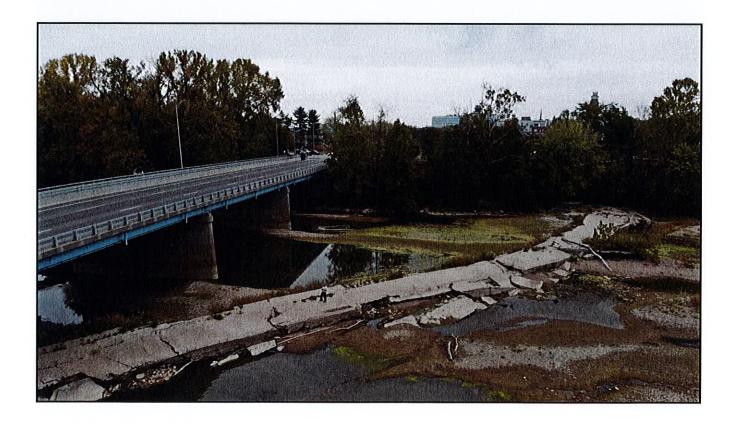


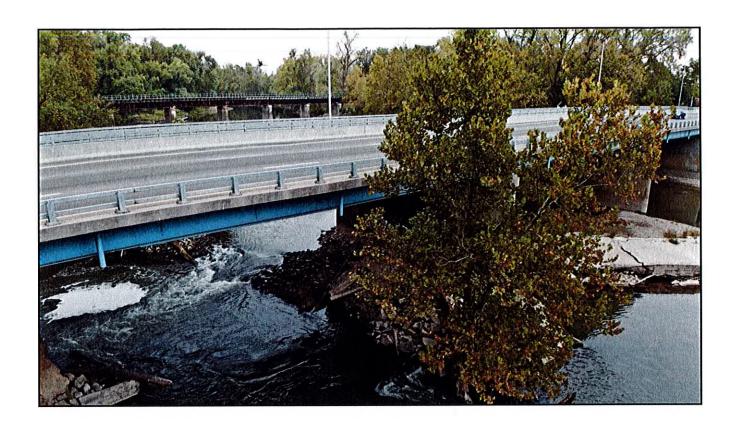


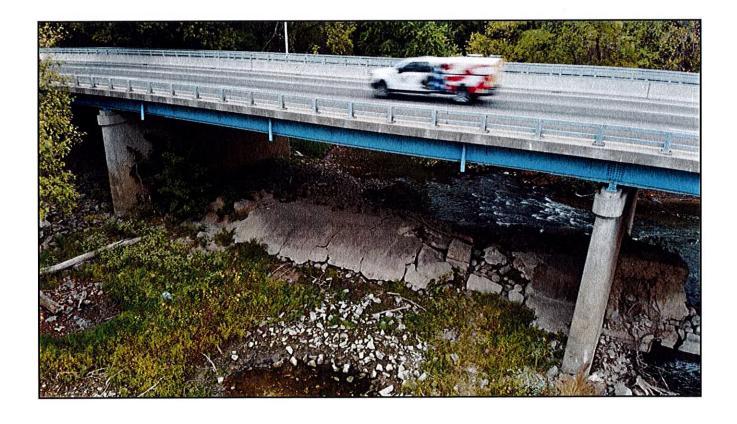








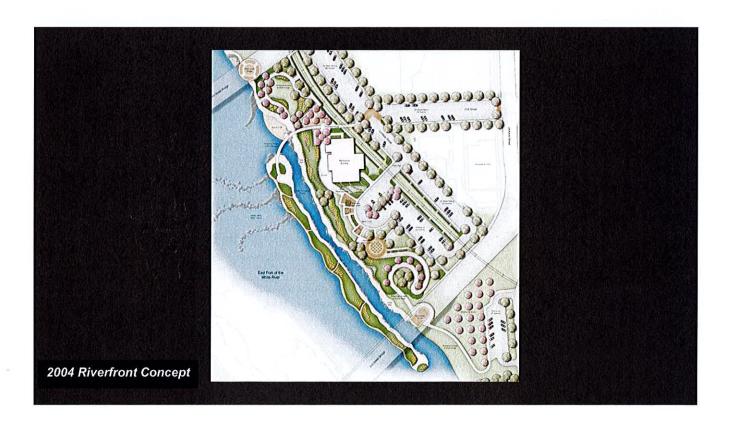


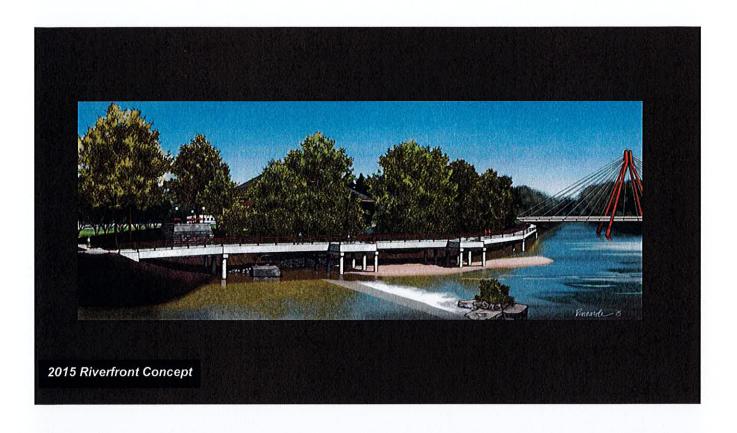












Design Drivers

Safatu

- Remove failing dam
- . Drovida eafa padaetrian
- Improve access to safety personnel
- Liahtina

Maintenance & Repair

- Potential Landfill Exposure
- Armor & revegetate banks
- Repair eroded areas
- · Maintain water elevation up-river

Ecology

- Restore sediment transportation
- · Restore fish passage
- · Provide fish habitat
- · Maintain wetlands upstream
- · Remove invasive plant species
- Strengthen local conservation efforts

Connections

- Connect People Trail
- Provide universal access to the river

Compelling Attractions

- Improve / create in-river recreation
- · Provide gathering spaces along east bank

Economic / Workforce Development

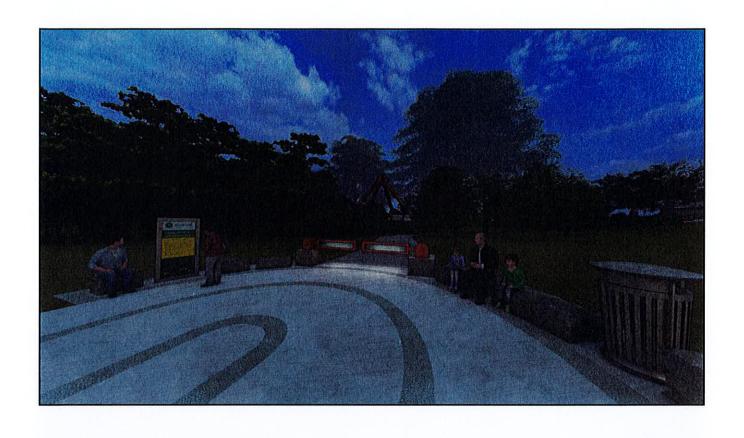
- Improve 'quality of life' & employee retention
- Increase tourism

Captivating Appearance

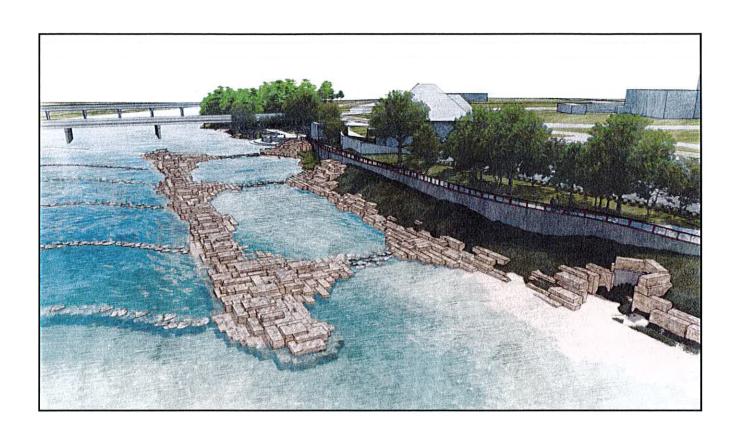
Improve aesthetics of the City's front door

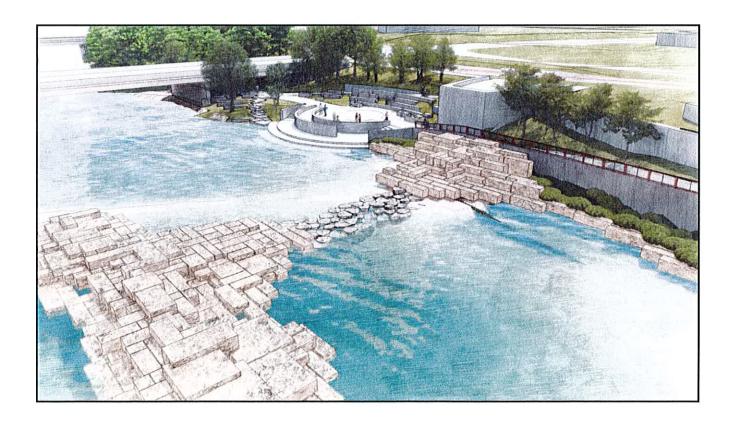


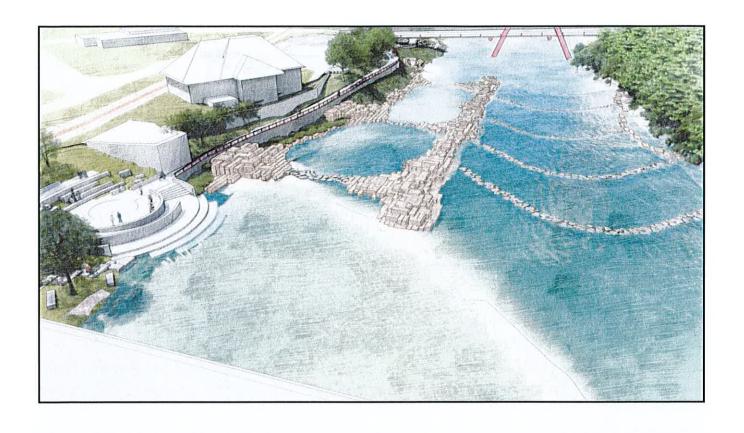


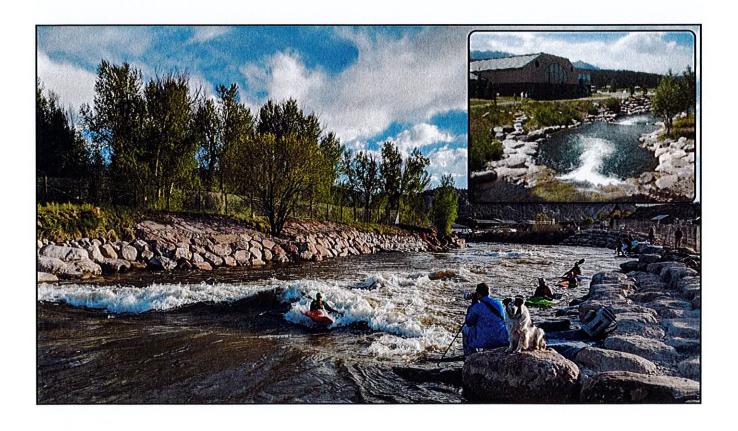




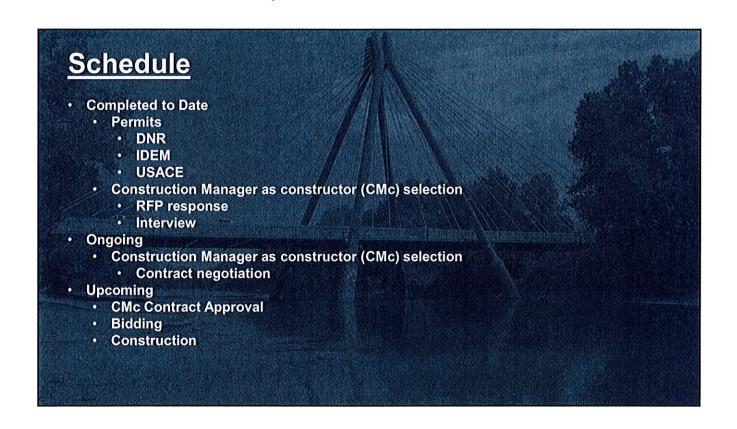


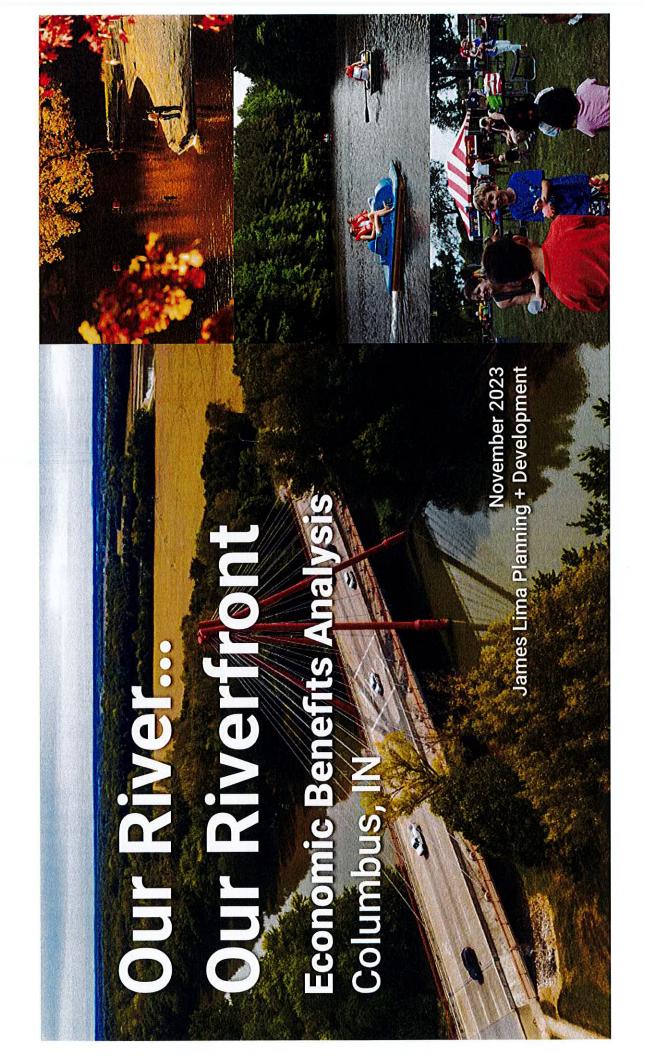


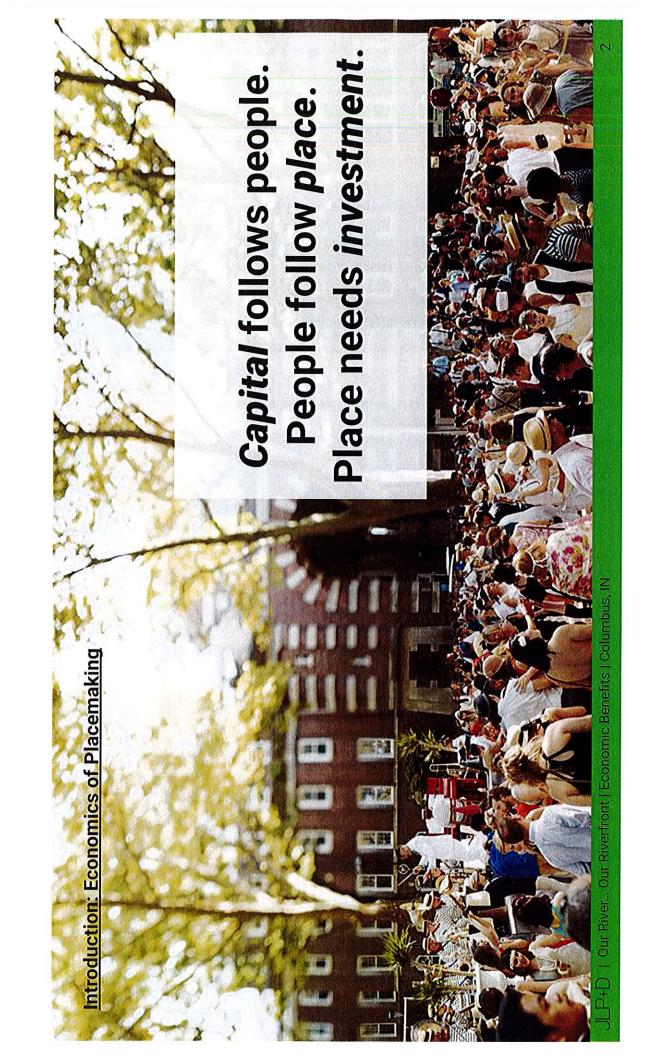


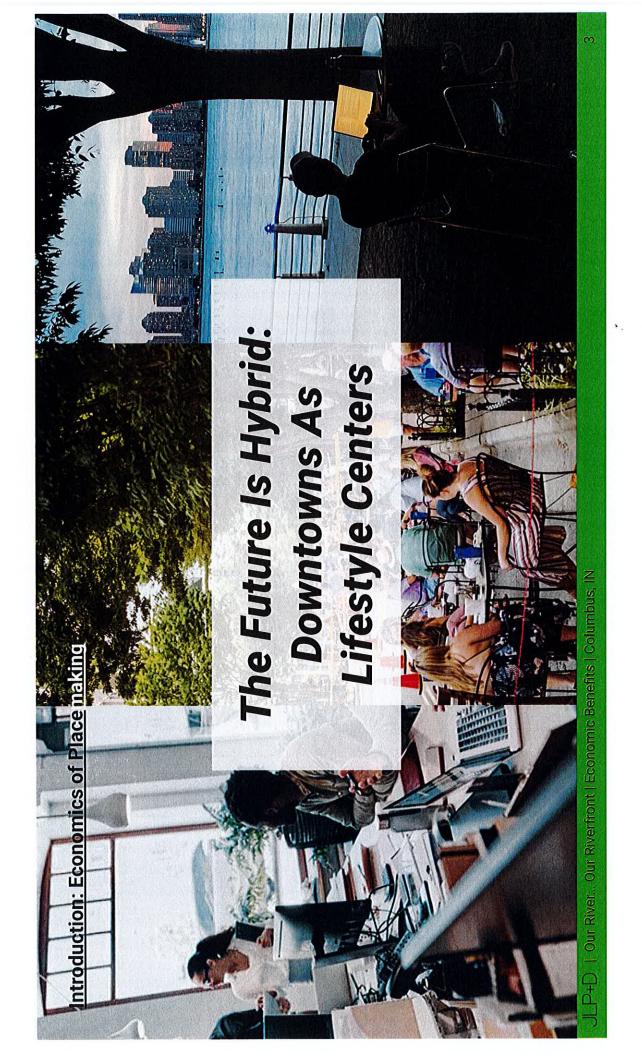


General Requirements / Contingencies	\$3,273,133	
	Hard Market Market State and Control	
East Bank Improvements	\$4,256,350	
West Bank Improvements	\$435,000	
In-River Improvements	\$3,893,000	
Alternates 2 nd St. Bridge Trail Connection South Trail Head Pedestrian Gate 2 nd & 3 rd St. Bridge Concrete Abutment & Concrete Support Painting	\$245,000	
Mitigation / Monitoring	\$1,912,600	
	\$14,015,083	
Confirmed Funding Sources READI Funds Next Level Trails Grant Duke Energy The Columbus Park Foundation	\$2,432,000	
NTE Request	\$11,600,000	





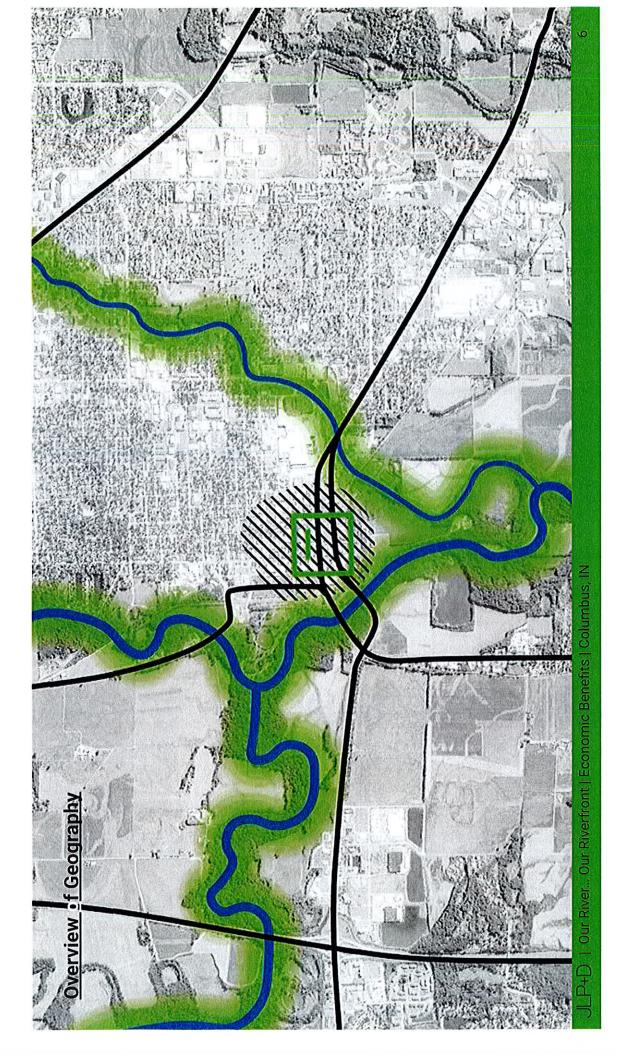






Perches Urban Rewards Introduction: Economics of Placemaking **Loops**

JLP+D | Our River... Our Riverfront | Economic Benefits | Columbus, IN





Overview of Investment

The Columbus Redevelopment Commission is leading an initiative to improve the appearance, recreational function, environmental quality, and economic benefit of the East Fork of the White River between the 2nd and 3rd Street bridges.

The vision:

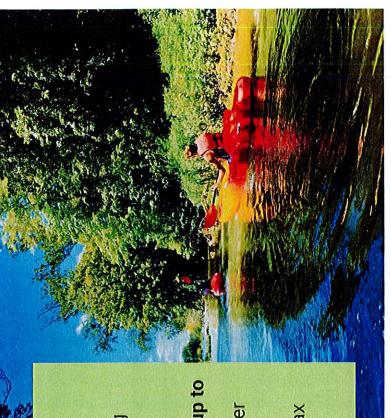
- Enhance connectivity and access to and along the river
- Create dynamic public places consistent with the city's rich cultural history
- Improve safety features
- Provide passive and active recreation along the banks and in-river
- Attract greater tourism
- Improve quality of life for residents of Columbus

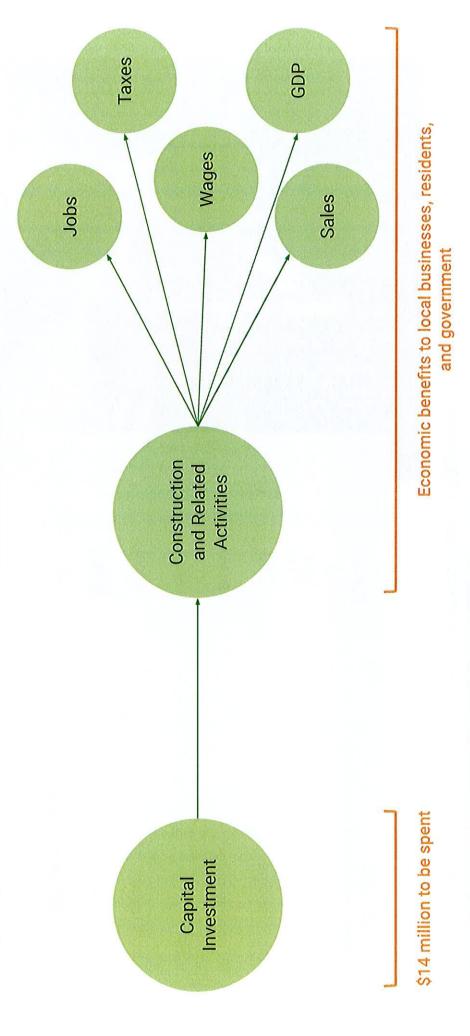
Guided by a bold strategic plan and a comprehensive community engagement process, the Commission has since successfully received permits to pursue its vision.

+D | Our River... Our Riverfront | Economic Benefits | Columbus, IN



- Support job creation in the county (116 jobs during
- construction; up to 32 jobs on a permanent basis)
- Attract new dollars to be spent on local businesses (up to
 - \$2M total annual economic output on average after project implementation)
- Contribute to greater economic output and net new tax revenue





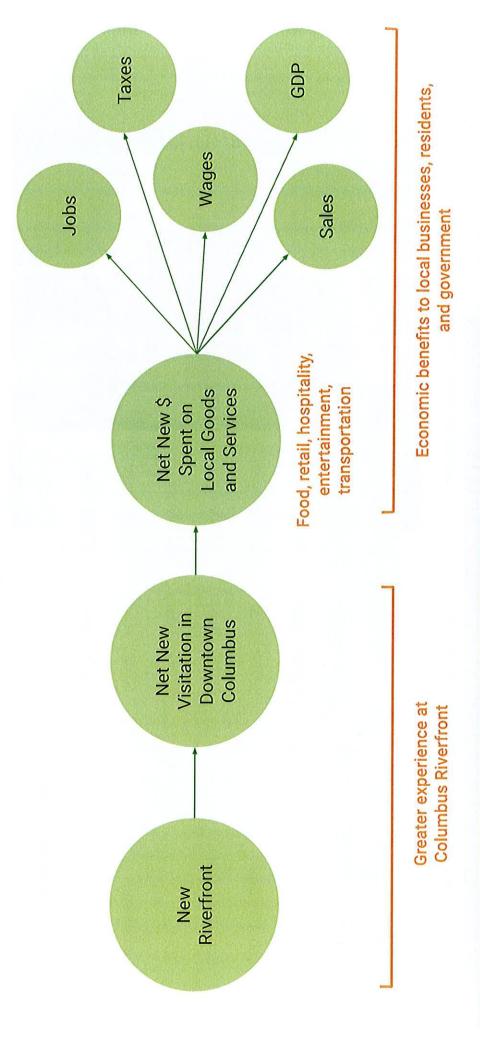
JLP+D | Our River... Our Riverfront | Economic Benefits | Columbus, IN

Quantifying the Economic Benefits [Short Term]

Estimated for the entire duration of the construction, in aggregate

Estimate	116	\$7M	\$19M	W6\$	\$100k	\$280k	
Total Benefits (Direct, Indirect, and Induced)	Jobs	Labor income	Economic output	GDP	Local taxes	State taxes	Source: IMPLAN Inc., JLP+D

Over the long run, a greater riverfront experience will attract visitors and yield annual economic dividends



JLP+D | Our River... Our Riverfront | Economic Benefits | Columbus, IN

Both high and low estimates are based on conservative baseline assumptions Quantifying the Economic Benefits from Visitation [Long Term/Permanent]

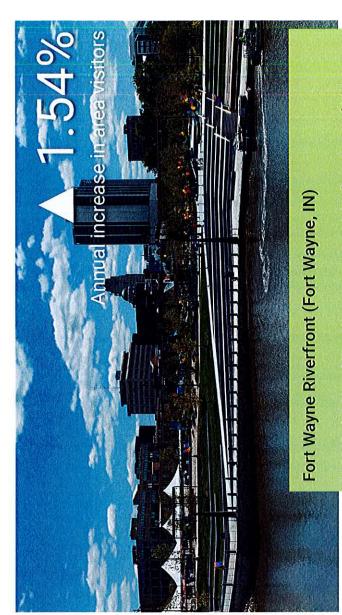
Total Benefits	Conservative Estimate	e Estimate	
(Direct, Indirect, and Induced)	Low Range	High Range	
Jobs	9 jobs / year	32 jobs / year	
Labor income	\$226k / year	\$774k / year	
Economic output	\$589k / year	\$2.0M / year	
GDP	\$304k / year	\$1.0M / year	
Local taxes	\$16k / year	\$56k / year	
State taxes	\$31k / year	\$108k / year	
Source: IMPLAN Inc., JLP+D		Y	

Evidence Nationwide: Demonstration of Economic Benefits in Other Cities

Case studies across the country demonstrate the positive impacts of capital investments at city riverfronts on driving visitation spending.

Based on evidence gathered from other similar projects across the country, JLP+D conservatively estimated the range for the potential impact of capital investment at Columbus' riverfront:

▲ 1.5% - 5.0% increase in visitation annually on average after completion of riverfront enhancements.

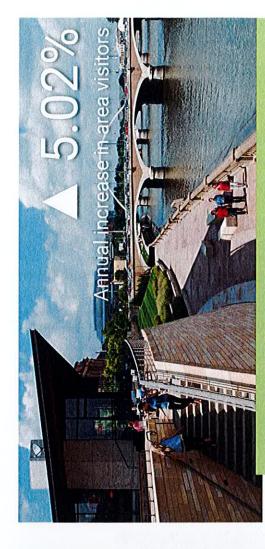


In 2018, the City of Fort Wayne completed the first phase of its riverfront revitalization, creating new walking and seating areas and repairing its riverfront walk infrastructure. Fort Wayne and Allen County have since seen net visitation increase by 1.54% annually over 7 years (compared to pre-project data).



East Race Waterway (South Bend, IN)

Since the addition of new infrastructure for active recreation on South Bend's downtown riverfront, the County's visitation increased 2.08% annually from 2017 to 2021 (compared to other similar cities without riverfront enhancements).



Des Moines Riverwalk (Des Moines, IA)

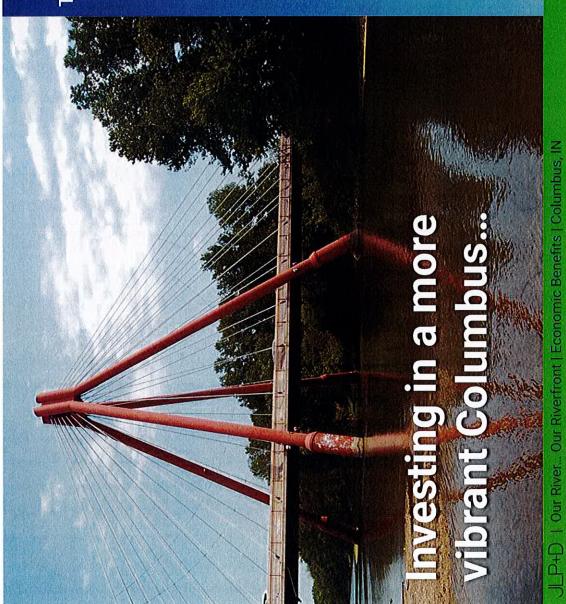
In 2019, the City of Des Moine completed its construction of the Riverwalk, a 2-mile stretch of connected trails, bridges, parks, and promenades. Visitation increased by 5.02% in the four-year period after these capital improvements (compared to other cities without such enhancement).

St. Charles River (St. Charles, IL)

In 2017, the City of St. Charles finished its revitalization of its riverfront, creating new bicycle trails and kayaking opportunities for visitors. Visitation numbers have grown 4.63% annually for 5 years after these capital improvements (based on pre-project data).

The Columbus Riverfront Redevelopment project exhibits similar features to case studies cited in this report:

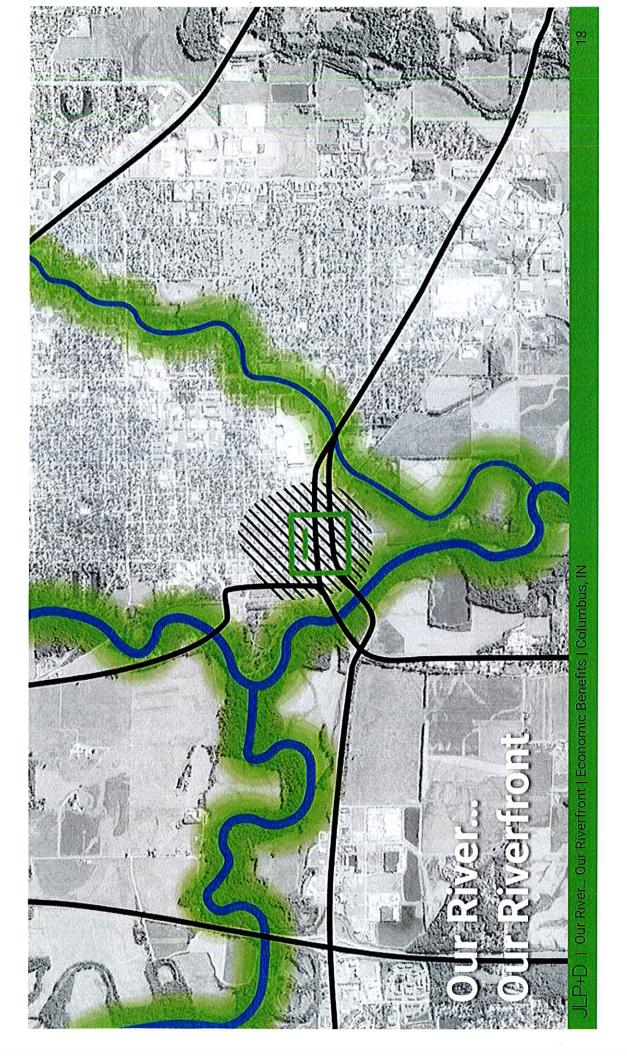
- Greater pedestrian and bicycle circulation along the riverfront
- Ecological improvements, including the restoration of aquatic life habitats
- Improved active recreation both in-river and out-river
- Improved safety features
- Connections to surrounding trails, parks, and other amenities



The Riverfront Redevelopment is projected to:

- Provide greater enjoyment of the city's natural assets
- Draw new local and tourist visitors to downtown, yielding up to \$2M of net new economic output for local businesses annually
- Provides 116 construction jobs
- Achieve **Greater** activation and connectivity between

downtown and riverfront



(

Appendix:

Economic Modeling Assumptions and Detailed Results

Economic Modeling Software

JLP+D utilized IMPLAN to conduct economic modeling of the project's benefits. Data for input-output modeling is gathered at the Bartholomew County level, provided by IMPLAN Inc.

Capital Investment

According to project cost estimates provided by the Columbus Redevelopment Commission, \$14M is the input for modeling the construction impact.

Annual 0&M

According to annual maintenance budget provided by the Columbus Redevelopment Commission, \$30,000 is the annual O&M expense. This includes debris removal after any flood events, trash collection, and general cleaning for this section of the trail.

Visitor Spending Projection

The model breaks down visitor spending related to the riverfront into two categories: 1) Local Residents and 2) Outside Tourists. The geography captured in the analysis is the Downtown Census Tract. For Local Residents spending in the riverfront's catchment of impact, the current baseline is estimated at \$5.5M annually. This is calculated with the following inputs:

- 2019 local residents spending on tourism industry in the County: \$50M, according to the most recent available report provided by the Columbus Indiana Visitors Center
 - Share of the Downtown Census Tract tourism spending in the County: 25%, according to ESRI Business Analyst
- Change of spending from 2019 to 2023: 32% increase, according to Census State Sales Tax Collections data
- For conservative estimates, the model assumes only 1/3 of local residents visiting the downtown are attracted to the new riverfront
 - \$50M * 25% * (1+32%) * 1/3 = \$5.5M

5.0% (informed by the case study evidence) as the rate of annual increase to the baseline. To project the net new increase in spending, the model then applies the range of 1.5% to For conservative estimates, the model assumes an increase for the first 3 years before

Visitor Spending Projection (Continued)

For Outside Tourists spending in the riverfront's catchment of impact, the current baseline is estimated at \$12.1M annually. This is calculated with the following inputs:

- 2019 outside visitors (tourists) spending on tourism industry in the County: \$220M, according to the most recent available report provided by the Columbus Indiana Visitors Center
- Share of the Downtown Census Tract tourism spending in the County: 25%, according to ESRI Business Analyst
- Change of spending from 2019 to 2023: 32% increase, according to Census State Sales Tax Collections data
- For conservative estimates, the model assumes only 1/6 of outside visitors (tourists) visiting the downtown are attracted to the new riverfront
 - \$220M * 25% * (1+32%) * 1/6 = \$12.1M

5.0% (informed by the case study evidence) as the rate of annual increase to the baseline. To project the net new increase in spending, the model then applies the range of 1.5% to For conservative estimates, the model assumes an increase for the first 3 years before plateauing

Visitor Spending Projection (Continued)

The model includes 5-year projection of net new visitor spending (compared to the current baseline) as a result of the riverfront development.

LOW RANGE	Year	Year	Year	Year	V
		2	m		<u> </u>
Net New Local Spending compared to baseline	\$83,000	\$167,000	\$252,000	4252000	000000
Net New Tourist Spending compared to baseline	\$146,000	\$294,000	\$444,000	\$422,000	\$252,000
TOTAL	\$229,000	\$461,000	\$697,000	\$697,000	\$697,000
HIGH RANGE	Year	Year	Year	Year	Yeav
	-	2	ď		- r
Net New Local Spending compared to baseline	\$345,000	\$708,000	\$1 089 000	\$1.080.000	\$ 5
Net New Tourist Spending compared to baseline	\$608,000	\$1,246,000	\$1,917,000	000,000,10	000,000,000
TOTAL	\$954,000	\$1,955,000	\$3,006,000	\$3,006,000	\$3,006,000

Subsequently, net new visitor spending estimates are broken into industry sectors according to patterns observed in other comparable studies.

Direct, Indirect, and Induced Impacts (IMPLAN) Short-Term Impact: Construction

Figures below represent the aggregate estimates for the entire duration of construction.

Construction Total	Employment	Labor Income	GDP	Economic Output	Local Taxes	State Taxes
1 - Direct	98	\$5,308,000	\$5,860,000	\$14,000,000		
2 - Indirect	16	\$1,116,000	\$1,718,000	\$3,150,000		
2 Indired	23	\$672,000	\$1,242,000	\$2,117,000	See below	See below
3 - Illaucea Totale	116	\$7,096,000	\$8,821,000	\$19,268,000	\$98,000	\$283,000

Permanent Impact: Visitor Spending Direct, Indirect, and Induced Impacts (IMPLAN)

Figures below represent annual averages in a five-year projection.

ndustry leader in urban strategy consulting. JLP+D envisions, develops, and implements transformative initiatives to create more vibrant, equitable and resilient places for all. For public, private, and non-profit JLP+D makes the aspirational attainable. Specializing in the economics of placemaking", JLP+D is an untapped market demand, unlock a location's unique potential to better attract talent and investment, clients, JLP+D advises on real estate development, economic development, land use planning,

161 West 16th Street, New York, NY 10011 info@jameslimadevelopment.com 347-675-8637

RESOLUTION # _____

A RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS BETWEEN CATEGORIES IN TRANSIT NON-REVERTING FUND FOR THE BUDGET YEAR 2023

WHEREAS, on October 18, 2022, the Common Council of the City of Columbus approved Ordinance #38, the Columbus City budget for 2023; and

WHEREAS, when approving this budget, Council approved spending in Transit Non-Reverting Fund; and

WHEREAS, Transit Services has developed a plan to renovate the bus depot to begin at the end of 2023 and continue through early 2024 with a project cost of approximately \$35,000; and

WHEREAS, Transit Services will reallocate funds totaling \$27,000 from the various Other Services and Charges line items to help cover capital expenditures for the project; and

WHEREAS, cities have the ability to transfer funds between categories with approval of Common Council;

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA that the City wishes to:

Transfer From:

Transit Non-Reverting Fund

Account Number:

47111600-531700 Training & Instruction

Amount:

\$2,000

Account Number:

47111600-532500 Professional Conference

Amount:

\$2,000

Account Number:

47111600-536000 Electric Utilities

Amount:

\$5,000

Account Number:

47111600-536100 Gas Utilities

Amount:

\$4,000

Account Number:

47111600-536200 Water/Sewer Utilities

Amount:

\$2,000

Account Number:

47111600-537000 Building Repair Svc

Amount:

\$5,000

Account Number:

47111600-537100 Equipment Repair Svc

Amount:

\$5,000

Account Number:

47111600-537800 Uniform Rentals

Amount:

\$2,000

Transfer To:

Transit Non-Reverting Fund

Account Number:

47111600-544300 Capitals - Buildings

Amount:

\$27,000

BE IT FURTHER ORDAINED, that the above transfer shall be effective as of the date of adoption of this Resolution.

BE IT FURTHER ORDAINED, that the Clerk-Treasurer and the Mayor be and are hereby authorized and empowered and directed to take any and all further actions necessary to effect these transfers.

2023 a	ADOPTED, by the Common Council of the City of Columbus, Indiana, this day of, t o'clock P.M. by a vote of ayes and nays.
	Presiding Officer
ATTEST	Γ:
	Welmer reasurer, City of Columbus, Indiana
P.M.	Presented to me, the Mayor of Columbus, Indiana the day of, 2023 at o'clock
	James D. Lienhoop Mayor, City of Columbus, Indiana