

**REGULAR MEETING OF THE  
ZIONSVILLE REDEVELOPMENT COMMISSION**

**Monday, September 28, 2020  
6:30 p.m. (Local Time)  
Electronic Meeting**

**THIS PUBLIC MEETING WILL BE CONDUCTED PURSUANT TO GOVERNOR ERIC J. HOLCOMB'S EXECUTIVE ORDERS 20-02, 20-04, 20-08, AND 20-26, AND GOVERNOR HOLCOMB'S EXERCISE OF HIS POWERS UNDER INDIANA'S EMERGENCY MANAGEMENT AND DISASTER LAW, IND. CODE 10-14-3, *et seq.* ADDITIONAL INFORMATION REGARDING THE MEETING IS PROVIDED IN THE ANNEX PUBLISHED WITH THIS AGENDA.**

Please click the following link to join the webinar:  
<https://us02web.zoom.us/j/87419702408>

**AGENDA**

1. Call to Order
2. Recognition of Attendees who request to be noted.
3. Reports
4. Old Business
  - A. Approval and Adoption of Minutes: August 24, 2020, Regular Meeting (Conducted Electronically)
  - B. Review and Consideration for Approval of RLL Development Agreement for Lots 12, 13, & 14 of Creekside Corporate Park
5. New Business
  - A. Community Development Corporation Recommendation for Grant:
    1. FORZA Jackson IG, 10615 S. Zionsville Road (Revised Phasing of Grant)
    2. Hopwood Cellars Winery, 12 E. Cedar Street
    3. CV Art and Frame, 110 S. Main Street
    4. zWORKS, 85 E. Cedar Street
6. Other Business
  - A. Gateway Area Update (<https://www.zionsville-in.gov/567/Zionsville-Gateway-Area>)
7. Adjourn

**NEXT REGULAR MEETING:**

**RDC – Monday, October 26, 2020 at 6:30 p.m.**

**ANNEX TO THE AGENDA FOR THE SEPTEMBER 28, 2020,  
REGULAR MEETING OF THE ZIONSVILLE REDEVELOPMENT COMMISSION**

In his Executive Orders 20-02, 20-04, 20-08, and 20-26 (collectively, the “**Executive Orders**”), Governor Eric J. Holcomb has ordered all political subdivisions of the State of Indiana to limit public gatherings and to implement the Centers for Disease Control and Prevention’s and the Indiana State Department of Health’s recommended virus mitigation strategies. The Executive Orders suspend certain requirements for Essential Governmental Functions that facilitate Essential Infrastructure with respect to public meetings and open door laws, including suspending physical participation requirements by members of public agency governing bodies and permitting public attendance through electronic means of communications. As a political subdivision of the State of Indiana, the Zionsville Redevelopment Commission (the “RDC”) must comply with the Executive Orders throughout the duration of the COVID-19 Public Health Emergency. According, all public meetings of the RDC shall be conducted in the following manner until the end of the COVID-19 Public Health Emergency:

1. Members of the public shall have the right to attend RDC Public Meetings via the following forms of electronic communication:

When: Monday, September 28, 2020 06:30 PM Eastern Time (US and Canada)

Topic: Zionsville RDC Meeting

Join Zoom Meeting: <https://us02web.zoom.us/j/87419702408>

Webinar ID: 874 1970 2408

Or join by phone: +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656 or +1 253 215 8782

2. Members of the public shall have the option of recording their attendance at the RDC Public Meetings via electronic roll call at the start of the meeting or via e-mail at [rkilmer@zionsville-in.gov](mailto:rkilmer@zionsville-in.gov)
3. If a member of the public would like to attend a RDC Public Meeting, but cannot utilize any of the access methods described above, please contact Roger Kilmer at 317-690-6539 or at [rkilmer@zionsville.gov](mailto:rkilmer@zionsville.gov) for assistance.
4. The RDC will continually revisit and refine the procedures in this Annex to address public accessibility to RDC Public Meetings during the COVID-19 Public Health Emergency.
5. If a member of the public requires assistance connecting to the RDC Public meeting, please contact Roger Kilmer at 317-690-6539 or at [rkilmer@zionsville-in.gov](mailto:rkilmer@zionsville-in.gov)



## MEMORANDUM

**TO:** Zionsville Redevelopment Commission  
**FROM:** Wayne DeLong, AICP, CPM Director of Planning & Economic Development  
**RE:** September 28, 2020 Redevelopment Commission Regular Meeting

Below is an update on Redevelopment / TIF District Properties and Projects:

### Zionsville 106<sup>th</sup> Street TIF

**106<sup>th</sup> & Bennett, LLC, 10650 Bennett Parkway:** A Commercial Remodel Permit was issued on September 15, 2020, for JB Adams Storage Space.

**Reindeer Properties, 5100 Charles Court:** A Commercial Remodel Permit was issued on August 4, 2020.

**AES Restaurants, 10440 Bennett Parkway:** A Development Plan Approval from the Plan Commission for a 12,000± square foot office building was approved on July 20, 2020. Petitioner has indicated construction is to start in early October, 2020.

**Zionsville Medical Office Building (MOB); 10649 Bennett Parkway:** A Commercial Tenant Finish Permit was issued on May 15, 2020. Project is under construction.

**Aria Apartments; 11005 Octave Drive:** A Temporary Certificate of Occupancy for the pool maintenance building was issued on July 31, 2020.

**Black Acre Brewing Company, 98 S. Main St.:** A Commercial Remodel Permit was issued on April 24, 2020.

**Hotel Tango; 10615 Zionsville Road:** A Commercial Remodel Permit was issued on July 9, 2020. Petitioner has been directed to file a Development Plan Amendment for an alternative solution addressing the outdoor patio area.

**TriCo Addition; 7236 Mayflower Park Drive:** A Commercial Remodel permit was issued on April 6, 2020, for an office addition/remodel.

### CR 300 S & US 421 TIF

**Appaloosa Crossing:** An earthwork pre-construction meeting was held on July 20, 2020, and a grading permit was issued on July 28, 2020. A filing of a Development Plan Petition for the first out lot is anticipated at the next Plan Commission deadline.

### Projects

**Creekside Corporate Park (RDC):** The following tasks are underway:

- Marketing of property & Review of Purchase Agreements and Letters of Intent
- Stormwater mitigation project (CBBEL)

**Creekside Corporate Park (CDC):** The following tasks are underway:

- Seasonal maintenance, selective tree removal due to disease and damage

CC: Emily Styron, Mayor  
Julie Johns-Cole, Deputy Mayor



**ZIONSVILLE REDEVELOPMENT COMMISSION  
REGULAR MEETING MEMORANDA  
FOR**

Monday, August 24, 2020 at 6:30 pm  
Via Video Conference

**THIS PUBLIC MEETING WAS CONDUCTED PURSUANT TO GOVERNOR ERIC J. HOLCOMB'S EXECUTIVE ORDERS 20-02, 20-04, 20-08 AND 20-26, AND GOVERNOR HOLCOMB'S EXERCISE OF HIS POWERS UNDER INDIANA'S EMERGENCY MANAGEMENT AND DISASTER LAW, INDIANA CODE 10-14-3, *et seq.***

Members Present via ZOOM Webinar (audio and video): Sanjay Patel, President; Kent Esra; Colleen Hittle; and Cindy Madrick. Also Present: Brian Crist, Legal Counsel, Wayne DeLong, AICP, CPM Director of Planning & Economic Development, and Roger Kilmer, Planner I - Economic Development.

1. Call to Order: Sanjay Patel called the meeting to order at 6:31 pm.
2. General Public recognized as attending: Adam Deangelo, Dr. Maxwell Miller
3. Reports
  - A. TIF Report: Wayne DeLong reviewed current TIF activity and project updates.
4. Old Business
  - A. Approval and Adoption of Minutes: July 27, 2020, Regular Meeting (Conducted Electronically).

Motion: Kent Esra made a motion (seconded by Cindy Madrick) to approve the adoption of the Minutes for July 27, 2020, Regular Meeting.

Roll Call Vote:

Kent Esra - Y

Colleen Hittle - Y

Cindy Madrick - Y

Sanjay Patel - Y

The motion was unanimously approved by a roll call vote of those members present.
  - B. Update on the status of the RLL Development Agreement for Lots 12, 13, & 14 of Creekside Corporate Park

Mr. Crist stated that a response has been provided to RLL and that response has been received favorably and it is felt that we are close to finalizing the Agreement. It is anticipated that the final Development Agreement will be presented to the Redevelopment Commission at next month's meeting for consideration.

## 5. New Business

### A. Community Development Corporation Recommendation for Grant:

#### 1. FORZA Jackson IG, 10615 S. Zionsville Road (Proposed Hotel Tango)

Mr. DeLong introduced this item. The Community Development Corporation (“CDC”) heard a request on July 28, 2020, from FORZA Jackson IG, who is the development company performing the redevelopment of the commercial center known as the South Village Station which formerly housed the Pizza King Restaurant. This redevelopment project has received approvals from the Plan Commission and the Board of Zoning Appeals and seeks a grant of \$125,000.00 to assist with the total facilitation of the project. The CDC is in support of the requested grant, but recommend phasing of the grant request related to identifiable components of work to be completed during the redevelopment. Three possible phases were suggested by the CDC.

- Phase #1: \$50,000.00 provided to the Applicant upon confirmation from building inspectors and/or the Boone County Health Department that:
  - A. The new grease trap has been fully installed; and
  - B. The development has been connected to public water and sewer, and has terminated its connection to the well and on-site septic field.
- Phase #2: \$50,000.00 provided to the Applicant upon substantial completion of the exterior and interior building renovations as documented by the issuance of a Temporary Certificate of Occupancy from the Town of Zionsville.
- Phase #3: \$25,000.00 provided to the Applicant upon issuance of the final Certificate of Occupancy. Should a Temporary Certificate of Occupancy, identified in Phase #2, not be required and the Applicant only receives a final Certificate of Occupancy, the amount of grant from Phases #2 and #3 combined, totaling \$75,000.00, would be issued concurrently.

Mr. DeLong responded to questions about the status of the account from which this grant would be funded. He clarified that if this grant is approved, the account will have granted \$135,000.00, including the recent grant to Lesley Jane, from the available \$250,000.00. It was also confirmed that the grant applicant has not received any other incentives or abatements from the Town for this project. Mr. DeLong added that the investment is tied to the physical aspects of the building, such as the addition of a grease trap, connection to public water and sewer, and the renovation of the building’s exterior. Members of the Redevelopment Commission expressed concern that a single grant request is taking such a large percentage of the available annual amount.

Mr. Deangelo, a member of the FORZA Jackson IG, provided a breakdown of the overall costs of the redevelopment. The grant request represents 20% of the infrastructure costs of the project.

Mr. Esra asked for information regarding other grant requests which are in the pipeline. Mr. DeLong and Mr. Kilmer stated that the CDC will soon be hearing three new requests, totaling around \$50,000, and there are six other businesses which have requested information on the grant program.

Mr. Deangelo was asked about their proposed timeline for completion of the project. He stated they are on track to be completed by the end of December, 2020, but Hotel Tango will take another 30-45 days to get their operations fully on-line. This project is very special to us and we believe important to the Town as it is a gateway into Zionsville. Additionally, the project will be retaining existing jobs by those of the current tenant, Positively Canine.

Mr. Esra noted for the benefit of the other RDC Members that during his time on the Commission, he has not seen this level of interest in the grant program. These are unprecedented times and

we have to do more than what we have done in the past.

Mr. Patel concurred with Mr. Esra. Mr. Patel added that the other “asks” that are coming are from existing Zionsville businesses and will be smaller than this specific request. He is in favor of this grant request, but suggested the timing of the “phasing” could be adjusted to protect the 2020 funds available for the smaller “asks.”

Mr. DeLong suggest that the CDC’s recommendation could be adjusted to allow for disbursement of funds to be within 60 - 90 days within a specific metric or date.

Mr. Esra recommended to approve the Community Development Corporation’s recommendation and approve the request of \$125,000.00 with the conditions that each stage is established with a specific date or a window within “XX” days.

Mr. Patel recommended the CDC’s recommendation memo be rephrased and presented next month to the RDC for final approval.

Mr. Deangelo was asked how this new structure would affect the project. They are grateful for this to be heard and likes the idea of a portion of the grant to be extended into 2021 if necessary.

Mr. Patel stated that the RDC and the CDC would like to maximize the available funds. If money is still available at the end of 2020, it would be good to grant those funds before the end of 2020.

B. Christopher Burke Engineering recommendations for Creekside Corporate Park:

1. Surface Waters and Wetland Assessment

Mr. DeLong introduced the topic and described the study which has been prepared by Burke Engineering. Specifically discussed was the drainage pipe located along an eastern property line which conveys drainage for the south to the north. Burke provided three different scenarios related to the drainage pipe. The projected costs presented by Burke were only for the earth moving and there would be additional costs. The proposed scenarios do not impact offsite or downstream flows in a significantly positive manner.

Mr. Patel recommended the Burke Study be recognized as due diligence from the Town’s standpoint. He noted that the amount of discharge from the existing drainage pipe is not the cause of erosion on the adjoining property, rather it is the topography of the adjoining property which causes and increased flow rate.

Mr. DeLong confirmed that the next step is a discussion with the adjoining property owner, Dr. Miller, regarding the findings of the Burke Study. A meeting between Dr. Miller, Town Staff, and Burke Staff will be scheduled.

2. Lot #14 Wetland Permitting

Mr. Patel stated that Burke Engineering will undertake efforts to include the small wetland area which exists on Lot #14, to be included into the mitigation which is already required of Creekside Corporate Park.

Motion: Kent Esra made a motion (seconded by Cindy Madrick) to move forward with the mitigation of the wetlands for Lot #14:

Roll Call Vote:

Kent Esra - Y

Colleen Hittle - Y

Cindy Madrick - Y

Sanjay Patel - Y

The motion was unanimously approved by a roll call vote of those members present.

6. Other Business

- A. Mr. DeLong informed the RDC Members that a term sheet for Appaloosa Crossing has been submitted for review. A meeting between the developer, Crowe, Legal Counsel, Zionsville Community Schools, and members of the RDC will be scheduled in preparation for this to be discussed at the RDC's September meeting.
- B. Mr. DeLong reminded the RDC that the annual invitation for a presentation to the taxing districts and entities to hear the annual report. This is typically done at the September meeting.

Meeting Adjourned (7:30 pm)

Respectfully Submitted,

Kate Swanson, Secretary

The next regular meeting of the Redevelopment Commission is scheduled for Monday, September 28, 2020, at 6:30 pm.

DRAFT

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "**Agreement**") is made as of the \_\_\_ day of September, 2020, by and between Rahal Letterman Lanigan Racing, LLC, an Ohio limited liability company, or its affiliated entities ("**Developer**"), and Zionsville Economic Redevelopment Commission and its affiliated entities (collectively, the "**Commission**"). This Agreement shall be effective upon its mutual execution and delivery by Developer and the Commission (the "**Effective Date**").

### RECITALS:

A. The Commission is the owner of approximately 13.32 acres of real property located in the Creek Side Corporate Park in the Town of Zionsville, State of Indiana, as legally described on Exhibit "A-1" and as more generally depicted on Exhibit "A-2" as Lots 12, 13 and 14 (the "**Property**" including all improvements thereon and appurtenances thereto);

B. Developer is the owner of auto racing teams and is interested in building a new headquarters facility on the Property for its racing business that will include office, training, technical research and light manufacturing uses related to Developer or its affiliates' racing teams (the "**Project**");

C. The Commission and Developer agree that it is of mutual benefit for the parties to jointly formulate a plan for the Project that will include transfer of the fee title to the Property to the Developer and the mutual satisfaction of the commitments of each party contained herein.

NOW THEREFORE, in consideration of the foregoing and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE 1 PURCHASE PRICE, ACCESS AND DUE DILIGENCE

1.1 Purchase Price. In exchange for Developer's obligations in this Agreement, the purchase price to be paid by Developer to the Commission for the Property shall be Ten Dollars (\$10.00) (the "**Purchase Price**"), payable at Closing, subject to adjustment and other credits and prorations as set forth in this Agreement.

1.2 Site Inspections. Commencing on the Effective Date and continuing through the date which is 90 days after the Effective Date ("**Site Inspection Period**"), unless this Agreement is earlier terminated or is thereafter extended pursuant to this Agreement, Developer and its agents, contractors, consultants, licensees and representatives (collectively, "**Developer's Representatives**") shall have reasonable access to the Property for the purpose of conducting studies, investigations, inspections and tests of the Property as Developer deems reasonably necessary or desirable, in its sole and absolute discretion, including surveys and architectural, engineering, geo-technical and environmental inspections and other physical tests (the "**Site Inspections**"), provided that: (i) Developer shall endeavor to give the Commission reasonable prior telephone or written notice (which may be given via e-mail) of any such inspection or test and, with respect to any intrusive inspection or test (e.g., boring, drilling or core sampling),

Developer must obtain the Commission's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed, and which consent may be given by email), (ii) prior to assessing the Property and performing any inspection or physical test at or on the Property, Developer must deliver a certificate of insurance to the Commission evidencing that Developer or Developer's Representatives which will be accessing the Property, as applicable, has in place commercial general liability insurance, (ISO Form CG 01 01 or similar) in the amount of \$2,000,000 in the aggregate and not less than \$1,000,000 for any injury or death of one or more persons in an occurrence, and not less than \$1,000,000 for damage to tangible property (including loss of use) in an occurrence, and workers compensation insurance for its activities on the Property in terms and amounts reasonably satisfactory to the Commission and covering any accident arising in connection with the presence of Developer or Developer's Representatives on the Property, such policy shall be endorsed to include the Commission as an additional insured (ISO Form CG 20 11 or equivalent); (iii) Developer shall provide the Commission with an ACORD 25 form to evidence that such insurance is in force and reflecting that the Commission is an additional insured on such policy; (iv) Developer's insurance shall be primary and non-contributory to any insurance of the Commission and shall be endorsed to provide such primary and non-contributory liability (ISO Form CG 20 01 or equivalent), and (v) all Site Inspections (as defined herein) of the Property shall be conducted by Developer or Developer's Representatives (as applicable) in compliance with Developer's responsibilities set forth in Section 1.2(a) below. Developer shall bear the cost of all Site Inspections, except as otherwise set forth in this Agreement.

Provided that Developer has been using its diligent efforts to complete the Site Inspections within such 90-day period, but has been unable to do so, Developer shall have the right in its discretion to extend the Site Inspection Period for an additional period of 45 days, by written notice to the Commission prior to expiration of the initial 90-day period.

- (a) Developer's Responsibilities. In conducting any Site Inspections of the Property, Developer shall (and shall cause Developer's Representatives to): (i) conduct all Site Inspections in a manner intended to not damage any part of the Property or any personal property owned or held by any third party; (ii) not injure or otherwise cause bodily harm to the Commission, or its respective agents, guests, invitees, licensees, contractors, employees, or any tenants (if applicable) or their guests or invitees; (iii) comply with all applicable laws; (iv) promptly pay when due the costs of all Site Inspections done with regard to the Property; (v) not permit any liens to attach to the Property or any portion thereof by reason of the exercise of its rights hereunder; (vi) promptly and diligently repair any damage to the Property and restore any areas disturbed resulting directly or indirectly from any Site Inspections substantially to their condition prior to the performance of such Site Inspections (unless Developer purchases the Property pursuant to the terms of this Agreement); and (vii) not reveal or disclose prior to closing any information obtained during the Site Inspection Period concerning the Property or the Property Documents (hereinafter defined) to anyone except as may be otherwise required by law or which is a matter of public record without the prior written consent of the Commission. Notwithstanding anything to the contrary contained herein, Developer may disclose any such information to partners, directors, officers and employees of Developer, Developer's Representatives and/or the Special Purpose Entity, Developer's lenders, investors and financial advisors and to such parties'

outside counsel and accounting firms, who, in Developer's reasonable judgment, need to know such information for the purpose of evaluating the possible purchase of the Property by Developer.

- (b) Documents and Items. To the extent that such items are available in the Commission's possession or under its control, the Commission will make available to Developer, and allow Developer to make copies at Developer's expense, for Developer's or Developer's Representatives' review and inspection, those certain documents relating to the Property listed in Exhibit B attached hereto and made a part hereof including documents that are considered "public records" under Indiana Code 5-14-3 (collectively referred to as the "**Property Documents**"). The Commission shall make available all Property Documents to Developer within three (3) business days of the Effective Date. The Property Documents shall be made available to Developer without representation or warranty by, or recourse against, the Commission, it being agreed that Developer shall only rely on such documents after it has independently verified the truth, accuracy and completeness of the information and/or items contained therein.
- (c) Disclaimers. Developer acknowledges that neither the Commission nor any affiliate, agent, employee, officer or member of the Commission has made nor does it make any warranty or representation regarding the truth, accuracy or completeness of the Property Documents or the source(s) thereof. Developer further acknowledges that some, if not all, of the Property Documents were prepared by third parties other than the Commission. The Commission expressly disclaims any and all liability for representations or warranties, express or implied, statements of fact and other matters contained in such information, or for omissions from the Property Documents or oral communications transmitted or made available to Developer. Developer shall rely solely upon Developer's own investigation with respect to the Property, including, without limitation, the Property's physical, environmental and economic condition, compliance or lack of compliance with any ordinance, order, permit or regulation or any other attribute or matter relating thereto. The Commission has not undertaken any independent investigation as to the truth, accuracy or completeness of the Property Documents and is providing the Property Documents solely as an accommodation to Developer. Notwithstanding the foregoing, the Commission shall inform Developer of any material inaccuracy or omission of any information in the Property Documents of which it has actual knowledge.
- (d) Indemnity Obligations. Developer, for and on behalf of itself, its officers, members, managers, directors, licensees, invitees, agents, and employees and Developer's Representatives, shall and hereby does indemnify, defend, release, discharge and forever hold harmless the Commission and its officers, managers, employees, partners, brokers, and agents (collectively, "**Indemnified Parties**") from and against any and all actions, claims, demands, liabilities, liens, losses, costs (including court costs), damages, awards and expenses (including reasonable attorney's fees) arising from any of the following prior to Closing: (i) Developer's or Developer's Representatives' access or entry onto the Property; (ii) any event,

accident or occurrence causing damage or injury to or death of any person or property resulting from the use of or access to the Property by Developer or Developer's Representatives in connection with this Agreement; (iii) any Site Inspections performed by Developer or Developer's Representatives; or (iv) any material breach by Developer of the terms of this Agreement including, without limitation, the breach by Developer (or by Developer's Representatives) of the confidentiality provisions of Section 1.2(a) hereof; provided, however, that Developer shall have no obligation to remediate and/or indemnify the Commission or the Indemnified Parties for any pre-existing conditions merely discovered or revealed by Developer's investigations with respect to the Property to extent Developer does not exacerbate the same; further provided, however, that Developer shall have no obligation to remediate and/or indemnify the Commission or the Indemnified Parties from the said causes caused by any negligent or willful acts of the Commission or the Indemnified Parties. The Commission's and Indemnified Parties' right to indemnity from Developer shall in no way be limited to the amount recoverable under any insurance maintained by Developer as required in this Agreement. The provisions of this Section 1.2(d) shall survive the termination of this Agreement or the Closing for a period of one (1) year.

1.3 Due Diligence Deadline. For the period from the Effective Date through the expiration of the Site Inspection Period, as the same may be extended pursuant to this Agreement (the "**Due Diligence Deadline**"), Developer and employees, agents and contractors, shall have the right to inspect, test, study and investigate (which includes the Site Inspections) the Property and review the Property Documents in a manner Developer deems necessary to determine whether the Property is suitable for Developer in Developer's sole and absolute discretion. Developer's due diligence shall include the right to examine the feasibility of the Project and determine if financing and all governmental permits or approvals are available upon reasonable terms to develop and construct the Project. Developer shall be solely responsible for any and all costs associated with its Project due diligence or Site Inspections of the Property, unless this Agreement specifically allocates such responsibility to the Commission. Until the Due Diligence Deadline, Developer shall have the right to terminate this Agreement for any reason whatsoever, or no reason, in its sole and absolute discretion, upon written notice to the Commission, in which event the parties shall have no further right or obligation under this Agreement (except for rights or obligations which expressly survive the termination of this Agreement). If Developer fails to give the Commission such written notice of termination on or before the Due Diligence Deadline, then Developer shall be deemed to have accepted the Property and shall have waived any right to terminate this Agreement pursuant to this Section 1.3 (but not as to any Developer Closing Conditions).

## **ARTICLE 2 TITLE AND SURVEY**

2.1 Receipt of Survey and Title Commitment. After the Effective Date, Developer shall obtain, at Developer's sole cost and expense, (i) a title commitment ("**Title Commitment**") for the Property from Fidelity National Title CRE Group/Indiana ("**Title Company**") and (ii) a survey from Fritz Engineering Services or another surveyor mutually acceptable to the parties (the "**Survey**"). Developer shall provide copies of the Survey and the Title Commitment to the Commission as soon as practical after receipt. The Survey shall be certified to the Commission,

the Title Company, Ice Miller LLP, and Developer in addition to any other parties that Developer may require.

2.2 Objections. Developer shall have until the Due Diligence Deadline to examine the Survey and the Title Commitment and to provide written objections to the Commission of defects set forth on the Survey and/or the Title Commitment as determined by Developer (collectively, the "**Objections**"). Notwithstanding any other provision of this Agreement, the Commission shall be obligated to remove all monetary liens attached to the Property evidencing the Commission's obligation to pay money to a third party at Closing, irrespective of whether such are stated as Objections. In the event Developer gives timely written notice of its Objections, the Commission shall have the right, but not the obligation, to attempt to remove, satisfy or otherwise cure (to Developer's satisfaction) the Objections within thirty (30) days of notice. Within ten (10) business days after receipt of Developer's notice of Objections, the Commission shall give written notice to Developer informing Developer of the Commission's election with respect to the Objections. If the Commission fails to give written notice of its election within such ten (10) day business period, the Commission shall be deemed to have elected not to attempt to cure the Objections. In the event an updated Title Commitment, updated Survey or disclosure through any other means discloses a defect in the title or Survey objection with respect to the Property after the Objection deadline, and such defect was not known to the Developer, Developer shall have ten (10) business days to examine the disclosed defect and make an Objection if Developer deems it necessary to do so. Any such Objection made after the Objection deadline, shall be handled as if the Objection were made prior to the Objection deadline.

- (a) If the Commission elects or is deemed to have elected not to attempt to cure any Objections or if, after electing to attempt to cure the Objections, the Commission determines by written notice to Developer that the Commission is unwilling or unable to remove, satisfy or otherwise cure any Objections, Developer's sole remedy under this Agreement shall be to either: (i) elect to terminate this Agreement by written notice to the Commission, in which event the parties shall have no further right or obligation under this Agreement (except for rights or obligations which expressly survive the termination of this Agreement); or (ii) waive the Objections and continue the transaction contemplated by this Agreement. If the Commission does remove, satisfy or otherwise cure the Objections, then this Agreement shall continue in full force and effect.
- (b) To terminate this Agreement pursuant to this Section 2.2, Developer must give written notice to the Commission of Developer's election to terminate not later than ten (10) business days (i) after receipt of written notice from the Commission of the Commission's election not to attempt to cure any Objection; (ii) after receipt of written notice from the Commission of the Commission's determination, having previously elected to attempt to cure, that it is unable or unwilling to do so; or (iii) after the Commission's failure to give written notice of its election to attempt to cure any Objection. If Developer fails to give timely notice of its election to terminate for any reason whatsoever, Developer's right to terminate this Agreement under this Section 2.2 shall expire and any Objections shall be deemed to be a "**Permitted Encumbrance**". Moreover, any matter disclosed on the Survey or the Title Commitment to which Developer does not timely object or which are

approved by Developer, and any Objection that is waived or deemed to have been waived by Developer, and any matter that would have been disclosed by an accurate survey of the Property, shall be deemed to be a "**Permitted Encumbrance**".

### **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

3.1 Representations and Warranties of the Commission. The Commission represents and warrants to Developer that, to the best of its knowledge:

- (a) Title. The Commission or its affiliated entity owns fee simple title to the Property.
- (b) Authority. The Commission has the power and authority to execute and deliver this Agreement and to incur all obligations of the Commission provided herein. The person executing this Agreement for the Commission has been fully authorized and empowered to bind the Commission and any affiliated entity that owns the Property. The performance and compliance by the Commission with the terms, provisions and conditions of this Agreement do not and will not conflict with or result in any violation of any of the terms, conditions, or provisions of any agreement, obligation, lease, license, judgment, decree, order, statute, rule or regulation applicable to the Commission or the Property.
- (c) There is no existing or, to the Commission's knowledge, pending or threatened litigation, suit, arbitration, unsatisfied order or judgment, investigation, action, or proceeding before any court or administrative agency affecting the Commission and/or the Property that would, if adversely determined, adversely affect the Property.
- (d) The Commission has not received written notice of any existing and/or uncorrected violation of any fire, zoning, building, environmental, or health law or regulation, or any other federal, state or local law or regulation affecting the Property, or any written notice of taking or condemnation, or intent to take or condemn all or any portion of the Property.
- (e) The Commission has no knowledge of any unpaid claims of contractors, materialmen or laborers, which have been contracted with by the Commission or its affiliates which could give rise to a lien against the Property.
- (f) To the Commission's knowledge, no underground or above-ground storage tanks are currently located on, or have ever been located on, the Property.
- (g) Except as set forth in that Final Phase I Report dated May 21, 2013, and Phase II Subsurface Investigation dated April 18, 2013, both prepared by August Mack Environmental, Inc., the Commission has not ever caused or permitted, nor is the Commission aware of, any Hazardous Material (hereinafter defined) to be discharged, released or disposed of on, under or at the Property or any part thereof, nor has the Commission ever caused or permitted to exist any violation of any Environmental Laws with respect to the Property. For the purposes of this

Agreement, "**Hazardous Material**" means and includes asbestos and petroleum products and any other hazardous, toxic or dangerous waste, substance or material defined as such in, or for purposes of, any of the following ("**Environmental Laws**") the Comprehensive Environmental Response, Compensations and Liability Act (42 U.S.C. 9601 et seq.), the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Clean Air Act, the Clean Water Act, or any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material.

- (h) The following utility services are available to the Property in the stated minimum and maximum capacities: sanitary sewer with an eight inch line that connects to a lift station on Zionsville Road. The Commission's representations in this Section 3.1(h) shall not be construed as making any statement regarding other public or private utility services that are available to the Property.
- (i) The Property is zoned as a planned unit development and any development must obtain the land use approvals described in the attached Exhibit C.

The continued validity in all respects of the representations and warranties made by the Commission in this Section 3.1, both at the time each is made and as of the Closing, shall be a condition precedent to Developer's obligations hereunder. All representations and warranties contained in this Agreement from the Commission shall be deemed remade as of the Closing Date and shall survive the Closing for twelve (12) months; provided, however, such representations and warranties shall not terminate with respect to any representation and warranty to which the Developer shall have, before the expiration of the twelve month period, previously made a claim by delivering written notice of such claim (stating in reasonable detail the basis of such claim) to the Commission. In addition, no such claim shall be actionable unless the amount in controversy for a claim for any such breach exceeds Twenty-five Thousand Dollars (\$25,000). The Commission's maximum liability under this Section for any and all damages shall not exceed Two Hundred Thousand Dollars (\$200,000). The limitations set forth in this Section 3.1 shall survive the termination of this Agreement or the Closing.

3.2 Representations and Warranties of Developer. Developer represents and warrants to the Commission that, to the best of its knowledge:

- (a) Developer is a limited liability company, duly organized and validly existing under the laws of the State of Ohio, authorized to conduct business in the State of Indiana, and has all necessary power and authority to execute and deliver this Agreement and any other documents or instruments to be executed and delivered by Developer pursuant to this Agreement and perform all of its obligations hereunder and thereunder. This Agreement and any other documents or instruments to be executed and delivered by Developer pursuant to this Agreement have been (or will at Closing be) duly authorized by all requisite action on the part of Developer and, when executed and delivered, will constitute a valid and legally binding obligation

of Developer enforceable in accordance with their respective terms. Neither the execution and delivery of this Agreement by Developer or any other documents or instruments to be executed and delivered by Developer pursuant to this Agreement nor the performance of its obligations hereunder or thereunder will result in the violation of any provisions of its constitutional documents or will conflict with any other agreement to which Developer is a party or is otherwise bound.

- (b) There is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending against Developer which, if adversely determined, could individually or in the aggregate materially interfere with the consummation of the transaction contemplated by this Agreement.
- (c) Developer is in compliance in all material respects with all laws, statutes, rules and regulations of any federal, state or local governmental authority in the United States of America applicable to Developer and all beneficial owners of Developer, including, without limitation, the requirements of Executive Order No. 133224, 66 Fed Reg. 49079 (September 25, 2001) (the "**Order**") and other similar requirements contained in the rules and regulations of the Office of Foreign Asset Control, Department of the Treasury ("**OFAC**") and in any enabling legislation or other Execution Orders in respect thereof (the Order and such other rules, regulations, legislation, or orders are collectively called the "**Orders**"). Neither Developer nor any beneficial owner of Developer is listed on the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to the Order and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders.

#### **ARTICLE 4 PROJECT APPROVAL**

4.1 Project Requirements. The parties acknowledge that the Commission is entering into this Agreement based upon Developer's representations that it will develop the Project in accordance with the following criteria (collectively, the "**Project Requirements**"):

- (a) to construct the Project substantially consistent with the site plan attached as Exhibit D (the "**Site Plan**");
- (b) to construct the Project with an anticipated investment of approximately \$15,000,000 to \$20,000,000 with an updated estimate of total investment included in the Project Plan approval process under Section 4.2;
- (c) to use good faith efforts to employ approximately 80-100 persons on full time basis at the Project over a five year period with an updated estimate of total employees included in the Project Plan approval process under Section 4.2;
- (d) to submit reasonably detailed information regarding the cost to construct the Project pursuant to the Project Plans (as defined in Section 4.2 below) on an open book basis (collectively, the "**Project Costs**"); and

- (e) to submit an updated Project and reasonably detailed financing plan (such cost and financing plan, collectively, "**Financial Information**").

4.2 Project Plans. On or before the expiration of the Due Diligence Deadline, Developer shall submit to the Director of Planning and Economic Development for the Town of Zionsville, two (2) complete sets of its preliminary plans and drawings for the Project, which shall include: (a) an updated Site Plan, (b) landscape plan, (c) utility and infrastructure plans, (d) schematic exterior elevations of improvements, (e) sign plans, (f) construction schedule with milestone completion dates, (g) Developer's financial proforma and construction budget in reasonable detail; (h) the updated estimated Project Costs and total capital investment, (i) the updated employment estimates, and (j) such other plans and drawings reasonably requested by the Commission (collectively, the "**Project Plans**"). The Project Plans shall incorporate the Project Requirements subject to changes in the Project Plans made prior to the Due Diligence Deadline. Upon submission of the Project Plans, the Commission shall schedule a meeting in accordance with all legal requirements to consider approval or denial of the Project Plans. The parties acknowledge the Commission's approval of the Project Plans is not a substitute for any other required governmental or quasi-governmental approvals for the Project, such as those described in Exhibit C, but rather a process to satisfy the Commission's interests in the Project. The Commission shall have the obligation to keep the Financial Information, Project Plans and other information that contains proprietary information of the Developer, Developer's Representatives or Affiliates and the Special Purpose Entity confidential under the applicable safe harbor provisions of Indiana's Access to Public Records Act ("**APRA**"); provided that Developer shall submit site plans and building elevations to the Commission that will not be considered to be confidential information under APRA. The Project Plans, the Financial Information and any other information that Developer considers as containing proprietary information and which is delivered with a cover statement designating the information as proprietary or confidential, shall be treated as being provided in the course of negotiations as provided under Indiana Code 5-14-3-4(b)(5).

## **ARTICLE 5 COVENANTS AND REPURCHASE RIGHT**

5.1 Developer's Covenants. The parties acknowledge the Commission is entering into this Agreement based (among other things) upon the Developer's substantial compliance with the following conditions after Closing (collectively, "**Developer's Covenants**").

- (a) Developer shall construct the Project in substantial accordance with the Project Requirements and the Project Plans approved by the Commission pursuant to Section 4.2.
- (b) With the Project Plans, Developer shall include the Project Lender's deadlines regarding the commencement of Project construction and substantial completion of the Project in accordance the Project Plans (the "**Lender's Construction Conditions**"). For purposes of this Agreement in general and the Repurchase Right (as defined in Section 5.2) specifically, the "**Construction Condition**" shall mean the Lender's Construction Conditions with the addition of ninety (90) days, (the "**Construction Condition**"), both subject to Force Majeure, applicable notice and cure rights under this Agreement, and any other applicable provisions of this

Agreement. The parties shall memorialize in writing the Construction Condition deadlines in the Commission's final approval of the Project Plans.

- (c) Such other covenants as the Commission may reasonably require in connection with the Commission's review and approval of the Project Plans as set forth in Section 4.2 and as Developer may reasonably approve.
- (d) Developer or the Special Purpose Entity (as defined in Section 12.1), as the grantee of the Property from the Commission, shall obtain the Commission's written approval of the conveyance, lease, license or other transfer of any interest in the Project, including without limitation, the conveyance, lease or license of the Property to a party not affiliated with Developer or Developer's owners, or Special Purpose Entity, or its owners. The Commission's approval shall not be unreasonably withheld, conditioned or delayed. This covenant is subject to the rights of Developer and Special Purpose Entity under section 12.1, below, and shall terminate after satisfaction of the Construction Condition.

The Developer's Covenants shall run with the title to the Property and be memorialized in a separate document to be recorded at Closing after the Deed, in form and content acceptable to Developer. The Commission shall have all rights at law and equity to enforce the Developer's Covenants.

## 5.2 Repurchase Right.

- (a) In the event Developer does not substantially comply with the Construction Condition, and such failure to comply continues for 60 days after written notice of such specific failures to comply by the Commission to Developer, the Commission shall have the option to repurchase fee title to the Property upon the Commission's (i) written notice to Developer that the Construction Condition has not been satisfied (after the expiration of the cure period described herein) and that the Commission thereby is executing its repurchase option, and (ii) at the closing of such repurchase, payment to Developer and Developer's lender for the Project ("**Lender**") of all amounts then funded to the Project by the Lender and Developer, less the amount of \$50,000 to Developer (collectively, the "**Repurchase Right**"); provided, the Commission exercises the Repurchase Right within 60 days after the failure of the Construction Condition; further provided, however, that if the nature of the default is such that it cannot be cured within the 60-day cure period, no default shall exist if Developer commences the curing of the default within the 60-day cure period and thereafter diligently pursues the same to completion provided that the cure is completed within 120 days after the aforementioned written notice. The Repurchase Right shall be memorialized in a separate document to be recorded at Closing after the Deed, in form and content acceptable to Developer and the Commission. By way of clarification, in the event the Commission exercises the Repurchase Right, Developer's Lender shall be entitled to be reimbursed for all funds which it has disbursed at the repurchase date and Developer shall be reimbursed for all costs of the Project incurred by Developer in excess of \$50,000. If the Commission duly exercised its Repurchase Right, the closing of the

repurchase shall occur within 60 days after the expiration of the above cure period, and each of Lender and Developer shall have the right up to closing to terminate the Commission's Repurchase Right by payment to the Commission of an amount equal to the fair market value of the Property, as agreed upon by the Parties or determined by appraisal.

- (b) Third Party Debt. The Commission acknowledges that Developer's funding sources for the construction and completion of the Project may include third party debt from Developer's Lender, and the Commission agrees to make commercially reasonable accommodations to such Lender for Developer to obtain such debt, including, without limitation, granting such third party written notice and a reasonable right to cure any failure of Developer to perform its obligations under this Agreement prior to exercising the Commission's Repurchase Right.

The provisions of this Section 5.2 shall survive the termination of this Agreement or the Closing, and at the request of either party shall be memorialized in a recordable document.

### 5.3 Commission Covenants.

- (a) Wetlands Mitigation. The Commission shall purchase wetland mitigation credits to offset the wetland area depicted on the attached Exhibit E (the "**Wetland Offset**"). In the event, the Commission has not obtained the Wetland Offset on or before Closing, it shall continue to diligently pursue the Wetland Offset until it is obtained; provided that if the Commission does not obtain the Wetland Offset on or before sixty (60) days after Closing, the Construction Condition shall be extended by one day for each day the Commission fails to obtain the Wetland Offset.
- (b) Environmental Insurance. The Commission shall cause Developer to be added as an additional insured by endorsement to the Commission's existing environmental liability insurance policy applicable to the Property (the "**Environmental Policy**") issued by Navigators (the "**Environmental Insurer**"), subject to the provisions of the Environmental Policy and Developer's satisfaction of the Environmental Insurer's underwriting and endorsement requirements. The Commission shall maintain the Environmental Policy and Developer's additional insured status, at its cost up to the annual renewal premium amount of Twenty-Five Thousand Dollars (\$25,000), in full force and effect (i) for so long as there is no material, uncured default under this Agreement; (ii) through and including 2030 (or such longer time as the Commission may agree); and (iii) so long as the Environmental Policy continues to be available and renewable from the Environmental Insurer. In the event the annual renewal premium amount exceeds Twenty-Five Hundred Thousand Dollars (\$25,000), then Developer shall have the option, but not the obligation, to pay such additional amount as is necessary to keep the Environmental Policy in effect for Developer. The Commission shall give Developer reasonable advance notice of any additional payment (over and above \$25,000) necessary to maintain the Environmental Policy in effect. This provision shall survive the Closing.

- (c) Access Road. The Commission shall use good faith efforts to facilitate an agreement with neighboring owners with regard to any access roads (in addition to the access rights to and from Creek Way) Developer determines would be useful for the Project, including supporting any reasonable land use approvals to construct an access road to the Property. The Commission's obligations with respect to the access road shall not include any obligation to construct or finance the construction of any access road.
- (d) Use Restriction. At Closing, the Commission shall record a restrictive covenant that shall prevent any lot the Commission owns in the Creek Side Corporate Park as of the Effective Date (the "Commission Lots") from selling, leasing, licensing, transferring or otherwise permitting the use of any Commission Lots for the purpose of operating a car racing business or other business that is in direct competition with Developer's or Special Purpose Entity's use of the Property, except with the written consent of Developer its discretion (the "Use Covenant"). The Use Covenant shall expire the earlier of (i) fifteen years after the Closing date or (ii) the date the Developer, Special Purpose Entity or Racing Affiliate is no longer operating the Project from the Property.

## **ARTICLE 6 CONDITIONS TO CLOSING OBLIGATIONS**

6.1 Conditions to Commission's Closing Obligation. The Commission's obligation to proceed with the Closing is contingent upon satisfaction or the Commission's waiver of the following (collectively, the "**Commission Closing Conditions**"):

- (a) All representations and warranties of Developer made in this Agreement shall be true, correct and complete in all material respects on and as of the Closing Date, as if such representations and warranties were first made on the Closing Date, and Developer shall have delivered to the Commission a certificate providing that all representations and warranties of Developer made in this Agreement are true, correct and complete in all material respects on and as of the Closing Date.
- (b) Developer shall have delivered to the Commission all of the Developer Closing Documents (as hereinafter defined) in accordance with the requirements of this Agreement.
- (c) Developer shall have performed in all material respects all covenants and obligations required to be performed by Developer on or before the Closing Date.
- (d) The Commission shall have approved the Project Plans.
- (e) Developer shall have provided the Commission with a general breakdown reasonably satisfactory to the Commission of Developer's Project funding sources (both from contributed equity and third party debt) for the construction and completion of the Project in an amount equal to or exceeding projected Project Costs.

- (f) Developer shall have obtained, at Developer's expense, all necessary governmental and private approvals and permits required for the development and construction of the Project improvements and provided reasonable evidence thereof to the Commission.
- (g) Any other conditions reasonably required by the Commission and approved by Developer; provided, however, such other conditions shall have been delivered in writing to Developer and approved by Developer on or before the expiration of the Due Diligence Deadline.

6.2 Failure of a Commission Closing Condition. If any of the Commission Closing Conditions have not been satisfied on or before the Closing Date, then the Commission may, in its sole discretion, elect to either (i) extend the Closing Date for up to 30 days in order to permit Developer additional time in order to attempt to satisfy the Commission Closing Conditions, or (ii) terminate this Agreement by written notice to Developer, in which event the parties shall have no further right or obligation under this Agreement (except for rights or obligations which expressly survive the termination of this Agreement). The Commission shall have the right to unilaterally waive any Commission Closing Condition by written notice to Developer or by proceeding to the Closing.

6.3 Conditions to Developer's Closing Obligation. Developer's obligation to proceed with the Closing is contingent upon satisfaction or Developer's waiver of the following (collectively, the "**Developer Closing Conditions**"):

- (a) All representations and warranties of the Commission made in this Agreement shall be true, correct and complete in all material respects on and as of the Closing Date, as if such representations and warranties were first made on the Closing Date, and the Commission shall have delivered to Developer a certificate providing that all representations and warranties of the Commission made in this Agreement are true, correct and complete in all material respects on and as of the Closing Date.
- (b) The Commission shall have delivered to Developer all of the Commission Closing Documents (as hereinafter defined) in accordance with the requirements of this Agreement.
- (c) The Commission shall have approved the Project Plans.
- (d) The Commission shall have performed in all material respects all covenants and obligations required to be performed by the Commission on or before the Closing Date.
- (e) The Commission shall have obtained the Wetland Offset and added Developer as an additional insured under the Environmental Policy.
- (f) Developer shall have obtained and satisfied all conditions of a financing commitment for its acquisition and development of the Project in an amount and on terms acceptable to Developer in its discretion.

(g) Developer shall have obtained all of the approvals described on Exhibit C.

6.4 Failure of a Developer Closing Condition. If any of the Developer Closing Conditions has not been satisfied on or before the Closing Date, then Developer may, in its sole discretion, elect to either (i) extend the Closing Date for up to 30 days in order to permit the Commission additional time in order to attempt to satisfy the Developer Closing Conditions, or (ii) terminate this Agreement by written notice to the Commission, in which event the parties shall have no further right or obligation under this Agreement (except for rights or obligations which expressly survive the termination of this Agreement). Developer shall have the right to unilaterally waive any Developer Closing Condition by written notice to the Commission or by proceeding to the Closing.

## **ARTICLE 7 CLOSING**

7.1 Closing. The closing of the transaction contemplated by this Agreement (the "**Closing**") is to occur at the office of the Title Company on a date agreed to by both Developer and the Commission; provided, that such date shall be on or before 60 days after the Due Diligence Deadline (the "**Closing Date**").

## **ARTICLE 8 PROPERTY TAX**

8.1 Property Tax. Subject to the pro-rations in Section 9.2(b)(i), Developer shall assume and be obligated to pay any and all real estate taxes and assessments which become due and payable from and after Closing.

## **ARTICLE 9 CLOSING COSTS**

9.1 Closing Deliveries.

(a) The Property Documents. At the Closing, the Commission shall, upon Developer's payment of the Purchase Price, deliver the following to Developer:

(i) a special warranty deed (the "**Deed**"), conveying fee simple title to the Property from the Commission to Developer, free and clear of all liens and encumbrances, easements, conditions and restrictions except the Permitted Encumbrances;

(ii) a recordable document, separate from the Deed, to contain references to the Repurchase Right and the automatic expiration of the Repurchase Right upon substantial completion of the Project;

(iii) a non-foreign person affidavit;

- (iv) a vendor's affidavit to the Title Company with commercially responsible terms sufficient to delete the standard exceptions from the final title policy that do not require a survey;
  - (v) an executed Use Condition in recordable form for all lots in the Creekside Office Park the Commission owns as of the Effective Date;
  - (vi) such disclosures and reports as are required by applicable state law in connection with the conveyance of real property; and
  - (vii) such other documents as may be required by the terms of this Agreement, or as may reasonably be necessary in order to consummate the transaction contemplated by this Agreement.
- (b) Developer's Deliveries. At the Closing, Developer shall deliver the following to the Commission:
- (i) the Purchase Price, subject to any credits or pro-rations provided for in this Agreement;
  - (ii) such disclosures and reports as are required by applicable state law in connection with the conveyance of real property; and
  - (iii) such other documents as may be required by the terms of this Agreement, or as may reasonably be necessary in order to consummate the transaction contemplated by this Agreement.
- (c) Closing Statement. At the Closing, the Commission and Developer shall each execute a closing statement drafted by the Title Company or another person, and in form and content, reasonably acceptable to both the Commission and Developer.
- (d) Other Charges. Closing costs shall be paid by the parties as set forth below or as otherwise specifically set forth in this Agreement; provided, however, in the event any charge or fee is not addressed by this Agreement, the charge or fee shall be paid according to local Indiana custom.

9.2 Closing Costs.

- (a) Closing Costs. Developer shall pay its attorneys' fees, all real estate commissions, if any, the title insurance premium for the title policy, the cost of procuring the Survey, all recording costs and all escrow fees and closing costs charged by the Title Company. The Commission shall pay its attorneys' fees, any costs of adding the Developer as an additional insured to the environmental insurance, and its own costs related to the conveyance of Property.
- (b) Pro-Ration and Credits. The following are to be apportioned and credited as set forth below:

(i) Taxes and Assessments. On or before the date of Closing, the Commission shall pay any and all past due taxes, assessments, special assessments or levies with respect to the real property at issue and any and all interest or penalties thereon (collectively, "**Governmental Charges**"). All Governmental Charges assessed with respect to the real property for years prior to the year that Closing occurs but due and payable in the year that Closing occurs shall be the responsibility of the Commission to satisfy on or before Closing. By way of example, if the Closing Date occurs in 2020, the Commission would be responsible, through direct payment or other satisfaction, for all Government Charges that accrued in 2019, but are due and payable in 2020 (the "**2019 Tax Year**").

All Governmental Charges assessed with respect to the year that Closing occurs but due and payable the year after Closing occurs shall be prorated as of the date of Closing with the Developer allocated the date of Closing. By way of example as to Governmental Charges assessed in the year of Closing, if the closing date occurs on December 1, 2020, the Commission shall be responsible for 334/365 of the Governmental Charges that accrued during 2020, but are due and payable in 2021 (the "**2020 Tax Year**"). Developer shall be responsible for 31/365 of the Governmental Charges that accrued in 2020, but are due and payable in 2021. Prorations for subsequent tax years shall be based upon the assessed value of and the applicable tax rate for the portion of the Property at issue, to the extent that the applicable tax rate for the real property at issue has not yet been determined.

(ii) Other. All other items customarily apportioned in Indiana in connection with the sale of similar properties, similarly located which are not otherwise specifically addressed shall be prorated as of the closing date.

(iii) General Principle. All apportionments described above shall be made in a manner consistent with the principle that the expenses of the Property for all periods up to the closing date shall be attributable to the Commission, and all expenses of the Property for all periods commencing on and after the closing date shall be attributable to Developer.

## **ARTICLE 10 DEFAULT.**

10.1 The Commission's Default. In the event that the Commission fails to perform any of its obligations under this Agreement for any reason other than Developer's default or the permitted termination of this Agreement by the Commission or Developer as expressly provided in this Agreement, Developer shall be entitled, as its sole remedies, either to (i) elect to terminate this Agreement by written notice to the Commission, in which case Developer shall be entitled to reimbursement in an amount equal to its reasonable costs (including attorney's fees) incurred for its planning and site preparation and Site Inspections of the Property in an amount not to exceed \$100,000.00, and the parties shall have no further right or obligation under this Agreement (except for rights or obligations which expressly survive the termination of this Agreement), or (ii) enforce specific performance of the Commission's obligations. Developer shall be deemed to have elected to terminate this Agreement if Developer fails to file suit for specific performance against the

Commission in a court having jurisdiction in the county and state in a Boone County, Indiana court, on or before 120 days following the date upon which the Closing was to have occurred.

10.2 Developer's Default. In the event that Developer fails to perform any of its obligations under this Agreement for any reason other than the Commission's default or the permitted termination of this Agreement by either the Commission or Developer as expressly provided in this Agreement, the Commission shall be entitled, as its sole remedy, to terminate this Agreement (except for rights or obligations which expressly survive the termination of this Agreement) and to recover all third party costs incurred with respect to the Agreement and the Project, including, but not limited to reasonably incurred attorney and other professional fees, in an amount not to exceed \$100,000.00.

10.3 Attorneys' Fees. In the event legal action is instituted by any party to enforce the terms of this Agreement or which arises out of the execution of this Agreement, the prevailing party in such legal action will be entitled to receive from the other party the prevailing party's reasonable attorneys' fees and court costs, including the costs of appeal, as may be determined and awarded by the court in which the action is brought. The right to attorneys' fees shall survive the termination of this Agreement or the Closing.

## **ARTICLE 11 DISCLAIMERS**

11.1 SUBJECT TO THE EXPRESS REPRESENTATIONS AND WARRANTIES OF THE COMMISSION SET FORTH IN SECTION 3.1 OR ANY OTHER PROVISION OF THIS AGREEMENT OR ANY CLOSING DOCUMENT, IT IS UNDERSTOOD AND AGREED THAT THE COMMISSION IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE (OTHER THAN THE COMMISSION'S LIMITED WARRANTY OF TITLE TO BE SET FORTH IN THE DEED), ZONING, TAX CONSEQUENCES, LATENT OR PATENT PHYSICAL OR ENVIRONMENTAL CONDITION, UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF THE DOCUMENTS OR ANY OTHER INFORMATION PROVIDED BY OR ON BEHALF OF THE COMMISSION TO DEVELOPER, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. SUBJECT TO THE EXPRESS REPRESENTATIONS AND WARRANTIES OR OTHER OBLIGATIONS OF THE COMMISSION AS SET FORTH IN SECTION 3.1 OR ANY OTHER PROVISION OF THIS AGREEMENT OR ANY CLOSING DOCUMENT, DEVELOPER ACKNOWLEDGES AND AGREES THAT UPON CLOSING, THE COMMISSION SHALL SELL AND CONVEY TO DEVELOPER AND DEVELOPER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS". DEVELOPER REPRESENTS TO THE COMMISSION THAT DEVELOPER HAS CONDUCTED, HAS HAD THE OPPORTUNITY TO CONDUCT, OR WILL CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS DEVELOPER DEEMS

NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PROPERTY. NOTHING IN THIS ARTICLE 11 SHALL BE DEEMED TO LIMIT THE COMMISSION'S LIMITED WARRANTY OF TITLE TO BE SET FORTH IN THE DEED.

11.2 THE COMMISSION AND DEVELOPER ACKNOWLEDGE THAT THE COMPENSATION TO BE PAID TO THE COMMISSION FOR THE PROPERTY REFLECTS THAT THE PROPERTY IS BEING SOLD SUBJECT TO THE PROVISIONS OF THIS ARTICLE 11, AND THE COMMISSION AND DEVELOPER AGREE THAT THE PROVISIONS OF THIS ARTICLE 11 SHALL SURVIVE CLOSING.

## **ARTICLE 12 MISCELLANEOUS**

12.1 Assignment. Developer shall not assign its rights or obligations under this Agreement to another party without the Commission's written consent, which may be withheld, delayed or conditioned in the Commission's sole discretion. Notwithstanding anything to the contrary in this Section or elsewhere in this Agreement, the parties acknowledge Developer intends to assign its rights and obligations in this Agreement to an entity to be owned by one or more equity owners of Developer (or their affiliates) in order to construct, finance, own and/or operate the Project (a "**Special Purpose Entity**"). Notwithstanding anything to the contrary in this Section, or elsewhere in this Agreement, Developer shall have the right to assign its rights and obligations in this Agreement to a Special Purpose Entity on or before the Closing Date; provided Developer or any entity affiliated with the Developer or the Rahal Letterman Lanigan Racing Team (individually or collectively, a "**Racing Affiliate**") shall retain any obligation in this Agreement with respect to the use of and employment levels for the Project. The Special Purpose Entity shall have the right to lease the Project or portions of the Project to Developer or one or more Racing Affiliate without the Commission's consent.

12.2 Brokers. Each of Developer and the Commission represent and warrant that they, respectively, have not dealt with any broker, agent, finder or similar party in connection with the transaction contemplated by this Agreement, and each of Developer and the Commission hereby indemnifies and holds harmless the other from any liability, cost or expense (including, without limitation, reasonable attorneys' fees and costs of enforcement of the foregoing indemnity, whether arising in any underlying action or in the enforcement of this right of indemnification) arising out of the falsity of the foregoing representation by such party. The provisions of this Section 12.2 shall survive the Closing or any earlier termination of this Agreement.

12.3 Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Indiana.

12.4 Entire Agreement. This Agreement contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, oral or written, are superseded hereby.

12.5 Time of Essence. Developer and the Commission hereby agree that time is of the essence with regard to the terms and conditions of this Agreement.

12.6 Binding Effect. All of the terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

12.7 Notices. All notices which are required or permitted under this Agreement shall be in writing and shall be deemed to have been given, delivered or made, as the case may be (notwithstanding lack of actual receipt by the addressee), (a) when delivered by personal delivery against a written receipt, (b) one business day after having been deposited with an expedited, overnight courier service marked for next day delivery, or (c) when delivered by telecopy, facsimile or e-mail, addressed to the party to whom notice is intended to be given at the address set forth below:

If to the Commission:                      Town of Zionsville Redevelopment Commission  
c/o Zionsville Planning & Economic Development Dept.  
Wayne DeLong, Director of Planning & Economic  
Development  
1110 N. Oak Street  
Zionsville, Indiana 46077  
Email: WDelong@zionsville-in.gov

With a copy to:                              Ice Miller LLP  
Attn: Brian Crist  
One American Square, Suite 2900  
Indianapolis, IN 46282-0200  
(317) 236-5997 – telephone  
(317) 592-4854 – fax  
Email: Brian.Crist@icemiller.com

If to the Developer:                        Rahal Letterman Lanigan Racing, LLC  
Attn: Piers Phillips, President  
485 Southpointe Circle, Suite 800  
Brownsburg, IN 46112  
Email: \_\_\_\_\_

With a copy to:                              Baker Hostetler LLP  
Attn: Steven P. Elliott, Esq.  
200 Civic Center Drive, Suite 1200  
Columbus, OH 43215  
(614) 462-2672 – telephone  
(614) 462-2616 – fax  
Email: selliot@bakerlaw.com

or to such other address as any party may from time to time designate by notice in writing to the other. The refusal to accept delivery by any party or the inability to deliver any communication

because of a changed address of which no notice has been given in accordance with this Section 12.7 or an electronic malfunction attributable to the receiving party shall constitute delivery.

12.8 Waiver. The failure of either party to exercise any right given hereunder or to insist upon strict compliance with any term, condition or covenant specified herein, shall not constitute a waiver of such party's right to exercise such right or to demand strict compliance with such term, condition, or covenant.

12.9 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

12.10 Amendment. Neither this Agreement nor any provision hereof may be changed, amended, modified, waived, or discharged either orally or by any course of dealing, but only by an instrument in writing signed by the party against whom enforcement of the change, amendment, modification, waiver or discharge is sought.

12.11 Counterparts, Separate Signature Pages and Facsimile Signatures. This Agreement may be executed in several counterparts, by separate signature pages, and/or by facsimile signatures, each of which may be deemed an original, and all such counterparts, separate signature pages, and facsimile signatures together shall constitute one and the same Agreement.

12.12 Calculation of Days. In the event that any date described in this Agreement for the performance of an action required hereunder by the Commission, Developer and/or the Title Company falls on a Saturday, Sunday or federal legal holiday, such date shall be deemed postponed until the next business day thereafter.

12.13 Interpretation. This Agreement and any related instruments shall not be construed more strictly against one party than against the other by virtue of the fact that initial drafts were made and prepared by counsel for one of the parties, it being recognized that this Agreement and any related instruments are the product of extensive negotiations between the parties hereto and that both parties hereto have contributed substantially and materially to the final preparation of this Agreement and all related instruments.

12.14 Term. The term of this Agreement shall continue until the earlier of (i) the date the Project is substantially completed and Developer has performed substantially all of the services Developer is required to perform under the Agreement or (ii) Developer's failure to obtain substantial completion of the Project improvements on or before the Construction Condition; subject to the parties' notice and cure rights hereunder and specific rights to terminate this Agreement.

12.15 No Recordation. Neither this Agreement nor any memorandum of the terms hereof shall be recorded or otherwise placed of public record.

12.16 Force Majeure. The term "**Force Majeure**" shall mean strikes, lockouts, unusual weather, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile government action, civil commotion, fire or other casualty, any widespread health

emergency or pandemic (including without limitation the ongoing COVID-19 pandemic), or a governmental entity failing to grant or rejecting an approval that is required to construct the Project in substantial compliance with Project Plans. In order to claim relief from a Force Majeure, a party must promptly (within 30 days) provide written notice to the other party that describes the Force Majeure at issue and the date the Force Majeure first occurred. If a party is unable to perform an obligation due to Force Majeure, then that party shall be excused from performance for the period of the Force Majeure event, but not to exceed 120 days from the date the Force Majeure condition first occurred. Any obligation which can be satisfied by the payment of money, and other sums due herein, shall not be subject to or excused by Force Majeure.

12.17 Intentionally Omitted.

12.18 Intentionally Omitted.

12.19 Compliance With Laws. All of the Commission's obligations under this Agreement shall comply with all legal and statutory requirements.

12.20 Not an Offer. This Agreement or any draft thereof shall not be considered an offer to contract and shall not be binding against either party until it is fully executed by both the Commission and Developer.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties have executed this Development Agreement as of the date first written above.

**COMMISSION:**

THE ZIONSVILLE ECONOMIC  
REDEVELOPMENT COMMISSION

By: \_\_\_\_\_  
Sanjay Patel, President

**DEVELOPER:**

RAHAL LETTERMAN LANIGAN RACING, LLC,  
an Ohio limited liability company

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

Name: \_\_\_\_\_

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

**EXHIBIT A-1**

**THE PROPERTY**

LOTS 12, 13 AND 14 OF THE CREEKSIDE CORPORATE PARK SUBDIVISION, PLAT BOOK 26, PAGES 5-8, AS INSTRUMENT NO. 2017012261, IN THE OFFICE OF THE RECORDER OF BOONE COUNTY, INDIANA.

# EXHIBIT A-2

## GENERAL DEPICTION OF PROPERTY



**EXHIBIT B**

**THE PROPERTY DOCUMENTS**

DOW Phase I-dated 4-18-2013

DOW Phase II-dated 4-29-2013

DOW Phase I Update-dated 5-21-2013

Creekside Corporate Park Construction plans –dated 12-23-2015

Creekside Corporate Park Bidding specifications-dated 12-23-2015

Creekside ALTA-dated 10-3-2017

Creekside Secondary Plat-signed 12-21-2017

Creekside Planned Unit Development Ordinance - Ordinance 2020-05 (June 1, 2020)

Town of Zionsville General Code

## EXHIBIT C

### LAND USE APPROVALS

Action Item	Initial Step	Second Step	Third Step	Timeline
Letter of Intent	Submit LOI to Town	Approval by Town		N/A
Development Agreement (DA) Lead applicant: Buyer	Submit request to Town	Approval by RDC		30 days
Purchase Agreement (PA) Lead applicant: Buyer	Submit to RDC per terms Of DA	Approved by RDC (can be concurrent with DA)		10 days
Civil Site Design Approval Lead applicant: Buyer	File site plan and concept Elevations with Community Development Corporation Result: CDC approval of concept	File civil drawings and 4-sided architectural drawings with Plan Commission (PC) Result: PC approval of plans		45 days

-----the below steps can run concurrent with one another-----

Storm Water Permit Lead applicant: Buyer	File permitting information with Town Stormwater Dept.	Approval by the Town		30 days
State Design Release Lead applicant: Buyer	File construction plans with State of Indiana (DHS)	Approval by the State of Indiana Result: issuance of CDR		45 days
Local Building Permit Lead applicant: Buyer	File construction plans with the Town	Approval by the Town		30 days
Local Fire Protection Permit Lead applicant: Buyer	File construction plans with the Town	Approved by the Town		30 days



Exhibit E  
Wetlands Offset

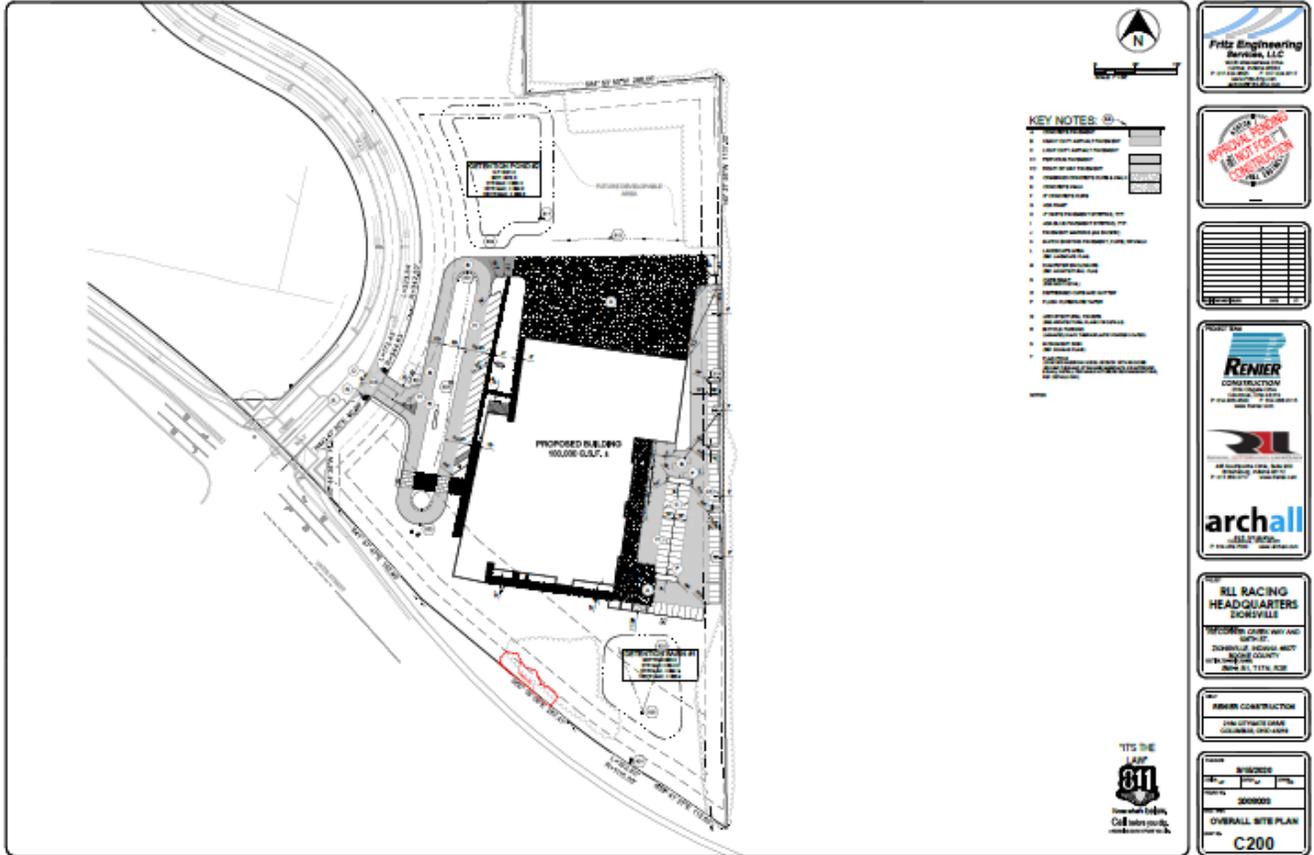


Exhibit E-1



## MEMORANDUM

**TO:** Zionsville Redevelopment Commission  
**FROM:** Wayne DeLong, AICP, CPM Director of Planning & Economic Development  
**RE:** Community Development Corporation - Grant Recommendation  
**DATE:** August 11, 2020 (revised on September 18, 2020)

As the determiner of grants which utilize TIF Funds, the following information is provided to the Redevelopment Commission for consideration in relation to the requested grant.

**Applicant:** FORZA Jackson IG / South Village Station Re-development  
10615 S. Zionsville Road  
Zionsville, IN 46077

**Request:** \$125,000.00

**Review Process:** A quorum of the Community Development Corporation (“CDC”) reviewed the attached materials and met with the Applicant, Matt Jackson, Bart Jackson, and Adam D’Angelo, on July 28, 2020, to discuss the grant request. The Applicant presented their information and their basis for the requested grant. The CDC Members presented questions to the Applicant to gain a thorough understanding of the need for the grant and to identify the anticipated purposes for which the grant would be used. The grant would be used for long-term building improvements including:

- the installation of a new grease trap to serve Hotel Tango;
- connecting the entire development to public water and sewer resulting in the termination of well and on-site septic systems; and
- the replacement and upgrade of damaged, aesthetically inconsistent, or end-of-life building materials on the interior and exterior of the building to comply with current building codes and ordinances. The exterior will receive a major renovation.

Members of the CDC asked questions of the applicant to better understand the proposed improvements and how the grant would be utilized. The applicant stated their total investment into the redevelopment of this center is approximately \$1.7MM and will result in 22 new jobs and approximately \$15,948 in additional annual property taxes.

**Recommendation:** The CDC voted unanimously to recommend the requested amount of \$125,000.00 be granted to the Applicant, but distributed through, up to, three (3) phases which would be documented in the inspection process:

1. Phase #1: \$50,000.00 provided to the Applicant upon confirmation from building inspectors and/or the Boone County Health Department that:
  - A. The new grease trap has been fully installed; and
  - B. The development has been connected to public water and sewer, and has terminated its connection to the well and on-site septic field.

2. Phase #2: \$50,000.00 provided to the Applicant upon substantial completion of the exterior and interior building renovations as documented by the issuance of a Temporary Certificate of Occupancy from the Town of Zionsville.
3. Phase #3: \$25,000.00 provided to the Applicant upon the latter of:
  - a. issuance of the final Certificate of Occupancy; or
  - b. January 15, 2021.

Should a Temporary Certificate of Occupancy, identified in Phase #2, not be required and the Applicant only receives a final Certificate of Occupancy, the amount of grant from Phases #2 and #3 combined, totaling \$75,000.00, would be issued concurrently in accordance with the timing identified above for Phase #3. However, should funds still be available for distribution by the Redevelopment Commission on December 31, 2020, which have not been allocated to any other recipient, those funds shall be distributed to FORZA Jackson IG on December 31, 2020, and counted toward the total grant of \$125,000.00.

CC: Emily Styron, Mayor  
Julie Johns-Cole, Deputy Mayor



## MEMORANDUM

**TO:** Zionsville Redevelopment Commission  
**FROM:** Wayne DeLong, AICP, CPM Director of Planning & Economic Development  
**RE:** Community Development Corporation - Grant Recommendation  
**DATE:** September 18, 2020

As the determiner of grants which utilize TIF Funds, the following information is provided to the Redevelopment Commission for consideration in relation to the requested grant.

**Applicant:** Hopwood Cellars Winery  
Ron Hopwood  
10615 S. Zionsville Road  
Zionsville, IN 46077

**Request:** \$10,000.00

**Review Process:** A quorum of the Community Development Corporation (“CDC”) reviewed the attached materials and met with the Applicant, Ron Hopwood, on August 27, 2020, to discuss the grant request. The Applicant presented their information and their basis for the requested grant. The CDC Members presented questions to the Applicant to gain a thorough understanding of the need for the grant and to identify the anticipated purposes for which the monies would be used.

Due to the pandemic and related restrictions, Hopwood Cellars Winery has experienced a reduction of “in person” sales, but has seen some growth in on-line sales. This has resulted in the shipping of more orders, however their register is not set up to communicate with their shipping software. This results in redundant efforts in managing sales and inventory. Additionally, they have researched and learned how to grow their business by adding a distillery. The grant would be used to increase their marketing of this new aspect of their business and the existing wine sales through their website and on social media outlets. The grant would also provide for software updates allowing them to be more productive and work efficiently.

**Recommendation:** The CDC voted unanimously to recommend the requested amount of \$10,000.00 be granted to the Applicant. It was also recommended that the Applicant provide quotes, invoices, or receipts related to the items for which the grant is to be used.

**CC:** Emily Styron, Mayor  
Julie Johns-Cole, Deputy Mayor



**Community Development Corporation**

Assistance Inquiry Form

Business Name: Hopwood Cellars Winery  
 Address: 12 E Cedar St Zionsville Indiana 46077  
 Primary Contact: Ron Hopwood  
 Contact's Phone Number & email: 317-407-0730 ron@hopwoodcellars.com  
 Requested Assistance Amount: \$ 10,000

in the following table, please list all other County, State, and/or Federal programs to which the business has applied for Covid-related financial assistance:

Program	Date of Application	Amount of Request	Current Status: Granted, Denied, Pending, Other
PPP Loan	4/8/2020	7,600	granted

Please provide a brief description of the reason for the requested assistance and how the monies would be utilized (Provide additional pages as needed.):

*Due to Covid19, Hopwood Cellars Winery has been on limited hours and have cancelled all Friday/Saturday evening "Live Music" as well as other events such as "Hopwoods Big Grape Stomp", which brings in 700+ people to downtown Zionsville. The funds we are requesting would be used for marketing, marketing of our new hours, new products, and incentives to encourage customers to shop Hopwood and downtown Zionsville. The funds will also help with revenue loss and food that had expired due to covid19 restrictions.*

This form and any additional materials you choose to submit should be emailed to [communitydevelopment@zionsville-in.gov](mailto:communitydevelopment@zionsville-in.gov) or mailed to:

Community Development Corporation  
 Attn: Wayne DeLong  
 10855 Creek Way  
 Zionsville, IN 46077



## MEMORANDUM

**TO:** Zionsville Redevelopment Commission  
**FROM:** Wayne DeLong, AICP, CPM Director of Planning & Economic Development  
**RE:** Community Development Corporation - Grant Recommendation  
**DATE:** September 18, 2020

As the determiner of grants which utilize TIF Funds, the following information is provided to the Redevelopment Commission for consideration in relation to the requested grant.

Applicant: CV Art and Frame  
Barbara Jennings  
110 S. Main Street  
Zionsville, IN 46077

Request: \$31,000.00

Review Process: A quorum of the Community Development Corporation (“CDC”) reviewed the attached materials and met with the Applicant, Barbara Jennings, on August 27, 2020, to discuss the grant request. The Applicant presented their information and their basis for the requested grant. The CDC Members presented questions to the Applicant to gain a thorough understanding of the need for the grant and to identify the anticipated purposes for which the monies would be used.

CV Art and Frame has existing for more than 30 years and has survived through adaptation to changing needs over the years. They have experienced a significant decline in their foot traffic and sales due to the pandemic and related restrictions. An employee has drafted a proposal of how to increase sales through the use of their website, promotions through social media, and special events. Currently, their website does not allow for on-line sales. The grant would allow CV Art and Frame revise their website to incorporate on-line sales and to increase marketing efforts through social media advertising and special events.

Recommendation: The CDC voted unanimously to recommend the amount of \$10,000.00 be granted to the Applicant. It was also recommended that the Applicant provide quotes, invoices, or receipts related to the items for which the grant is to be used.

CC: Emily Styron, Mayor  
Julie Johns-Cole, Deputy Mayor



**Community Development Corporation**

Assistance Inquiry Form

Business Name: CV ART AND FRAME  
 Address: 110 S MAIN ST  
 Primary Contact: BARBARA JENNINGS  
 Contact's Phone Number & email: Barbara@cvartandframe.com 317-873-2976  
 Requested Assistance Amount: \$ 31,000

In the following table, please list all other County, State, and/or Federal programs to which the business has applied for Covid-related financial assistance:

Program	Date of Application	Amount of Request	Current Status: Granted, Denied, Pending, Other
PPP	4/3/2020	30,215	29,100 Granted

Please provide a brief description of the reason for the requested assistance and how the monies would be utilized (Provide additional pages as needed.):

*SEE ATTACHED*

This form and any additional materials you choose to submit should be emailed to [communitydevelopment@zionsville-in.gov](mailto:communitydevelopment@zionsville-in.gov) or mailed to:

Community Development Corporation  
 Attn: Wayne DeLong  
 10855 Creek Way  
 Zionsville, IN 46077

Since reopening, our art sales have been dismal, although our custom framing orders have been steadily increasing. Always resilient, I determined that this was the right time to seek out a third staff member who would be able to focus on truly enabling the business to be competitive in this digital environment with a dynamic website that is always being updated and active social media participation.

As luck would have it, without officially posting on traditional help sites, we discovered a talented person who fits perfectly into our plans, but she requires more than the current business model can sustain during the building-back-up stage. A CDC grant would be a most welcome gift towards rebuilding this new business model that will hopefully appeal to the millennial families who are so digitally driven.

As I am unsure as to the amounts to request from the CDC for recovery assistance from Covid-19 challenges, as well as rebuilding a new business model, I respectfully am requesting both, but am breaking it down for your consideration.

**Covid-19 effect on sales relative to the average sales over 2018-2019 of March through June:**

Average in gallery sales March through June 2018-2019 = \$150,638

Plus collaborative shows generating upwards of \$350,000 earning us profit commission of \$67,171

Average in gallery sales March through June 2020 = \$43,403

PPP assistance = \$29,100

**Request \$15,000 to move forward with renovation**

**Social Media Marketing**

Average social media marketing spends is \$4000-7000 per month according to webfx.com

**Request \$16,000 for the year for social media marketing**

I greatly appreciate your consideration for both, or either, of these requests for CDC assistance. It has been my pleasure to have been a part of the Zionsville community as a gallery owner/operator for the past 34 years and would like to thank those of you who put your heart and soul into making this a fantastic town to be a part of.

Sincerely,



Barbara Jennings

President and Owner

barbara@cvartandframe.com



110 S. Main Street, Zionsville, Indiana 46077  
317-873-2976  
CVartandframe.com  
[info@CVartandframe.com](mailto:info@CVartandframe.com)

August 22, 2020

To the Community Development Committee,

I would like to thank all of you for the opportunity to apply for a grant that would assist me in, not only continuing my highly reputable business during these challenging times, but also positioning me to be an even stronger, more relevant business.

For those of you who may not be familiar with me and CV Art and Frame, I took over the small frame shop, Corner Vise, then located at 295 S. Main Street, in 1986. In 1988 the frame shop was moved into the current, more prominent, location and I prioritized the business as a fine art gallery. In 1997 a part of the gallery was transformed into Thomas Kinkadee Zionsville Gallery and in 1913, focused on becoming more web friendly, I changed the name of Corner Vise to CV Art and Frame. The galleries became a destination for many visitors from all over Indiana as well as surrounding states. These visitors would often spend the day, patronizing the wonderful restaurants and other shops. I believe I may be the longest standing merchant-business owner currently in the Village.

Over the past several years, more than half of frame shops and art galleries have gone out of business as the boomers aged and the internet changed spending habits. We tightened our belts, worked harder and focused on bringing original art to the community by hosting frequent shows. Our shows generated most of our profits over the previous two years.

2020 was supposed to be the year we re-did our tired, old, constantly crashing website as well as refresh our 22 year old décor and optimize our digital marketing with social media.

As expected, Covid-19 has resulted in, not only the cancellation of all of our shows for the first part of the year, but also the lack of the normal walk-in visits that paid our overhead. My small staff of two others and I were able to do some work during the shutdown (March 16<sup>th</sup> through April 30<sup>th</sup>) by working on the desperately needed new website. I resolved that I would do what was necessary to continue to support my two staff members with their full salaries so they did not need to worry about feeding their families. Fortunately, I was able to get some PPP assistance with the second round of funds to help cover those wages.



## MEMORANDUM

**TO:** Zionsville Redevelopment Commission  
**FROM:** Wayne DeLong, AICP, CPM Director of Planning & Economic Development  
**RE:** Community Development Corporation - Grant Recommendation  
**DATE:** September 18, 2020

As the determiner of grants which utilize TIF Funds, the following information is provided to the Redevelopment Commission for consideration in relation to the requested grant.

Applicant: zWORKS  
Vickie Hall  
85 E. Cedar Street  
Zionsville, IN 46077

Request: \$25,500.00

Review Process: A quorum of the Community Development Corporation (“CDC”) reviewed the attached materials and met with the Applicant, Vickie Hall, on August 27, 2020, to discuss the grant request. The Applicant presented their information and their basis for the requested grant. The CDC Members presented questions to the Applicant to gain a thorough understanding of the need for the grant and to identify the anticipated purposes for which the monies would be used.

zWORKS is a member-based and partner-based organization who derives a majority of their revenue from these memberships. They have experienced a significant decline in their memberships due to the pandemic and related restrictions. They currently operate two locations in Zionsville by providing office space and services to business startups and entrepreneurs. The need for the grant is increase marketing efforts to attract startups and entrepreneurs, maintain operational and space expenses of both locations, and address adaptation to social distancing spacing and cleaning protocols (plexiglass dividers between work areas, PPE supplies, and air purifiers for the office areas).

Recommendation: The CDC voted unanimously to recommend the amount of \$10,000.00 be granted to the Applicant. It was also recommended that the Applicant provide quotes, invoices, or receipts related to the items for which the grant is to be used.

CC: Emily Styron, Mayor  
Julie Johns-Cole, Deputy Mayor



**Community Development Corporation**

Assistance Inquiry Form

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

Primary Contact: \_\_\_\_\_

Contact's Phone Number & email: \_\_\_\_\_

Requested Assistance Amount: \$ \_\_\_\_\_

In the following table, please list all other County, State, and/or Federal programs to which the business has applied for Covid-related financial assistance:

Program	Date of Application	Amount of Request	Current Status: Granted, Denied, Pending, Other

Please provide a brief description of the reason for the requested assistance and how the monies would be utilized (Provide additional pages as needed.):

This form and any additional materials you choose to submit should be emailed to [communitydevelopment@zionsville-in.gov](mailto:communitydevelopment@zionsville-in.gov) or mailed to:

Community Development Corporation  
 Attn: Wayne DeLong  
 10855 Creek Way  
 Zionsville, IN 46077

**Please provide a brief description of the reason for the requested assistance and how the monies would be utilized:**

zWORKS, an entrepreneurial and coworking center operating as a 501(c)(3) nonprofit organization, was founded in April 2015 by community business leaders. Our mission is to provide a professional space with a networking and resource community for entrepreneurs, solopreneurs, and remote workers. Within our 2 locations, ~5,200 total square feet in Zionsville's Village, we offer open and reserved desks, collaborative areas, 3 privacy booths, 6 private meeting rooms, and 6 private incubation offices with month-to-month lease offerings.. Our membership options are monthly or annual and include 24/7 access, high speed internet, printing/scanning services and 20 hours of reservable meeting room time per month.

In 5 years, zWORKS has been the hub for over 30 startups (14 have graduated, a couple notable ones include 120Water and Clear Software), over 25 solopreneurs, and well over a hundred remote workers or teams of remote workers. zWORKS startups have created over 125 jobs and \$28 million in venture capital investment. All members bring additional revenue to the shops and restaurants in Zionsville as they conduct business and network.

Everyone has been affected by the COVID-19 pandemic in some form or other. Some ways that we've been affected are:

- Membership revenue is down \$16,500 (25%) through July. Our largest annual renewal months are April, May and June. Several chose to not renew due to pandemic or unsure of expense during a volatile time. We also lost several monthly members for the same reasons.
- Largest incubation office is currently vacant. This is a loss of \$1,500 per month in rent revenue. The vacant office is being used as a reservable meeting room and helps with distancing among members and guests. However the loss of monthly revenue is significant, 30% of our rent to the building owner. The office remains available for rent as the opportunity arises.
- Financial donations and partnerships are behind due to their businesses and budgets being affected, as well.

If we are awarded the grant from the Community Development Corporation, the monies will be used for the following purposes:

- Operating expenses to keep both locations safely open and available to members and some guests (no large events). This includes, but not limited to, zWORKS rent, additional cleaning protocols, office equipment needs and dividers. Having both locations remain open will help with social distancing space management and utilizing all meeting rooms and incubation offices.
- Continue our marketing partnership and efforts with &Marketing to effectively communicate membership availability, opportunities for entrepreneurs, partnerships, office space availability and programs.