

REGULAR SESSION, BOARD OF PUBLIC WORKS AND SAFETY, APRIL 23, 2018

The Board of Public Works and Safety of Plymouth, Indiana, met in Regular Session on April 23, 2018, at 6:00 p.m. in the meeting room of the Plymouth Fire Department, 111 N. Center St., Plymouth, IN.

Mayor Senter presided for Board Members Culp, Houin and Walters. Board member Milner arrived after roll-call. City Attorney Surrisi and Clerk-Treasurer Xaver were also present.

Board Members Culp and Houin moved and seconded to approve the minutes of the last regular session of the Board of Public Works and Safety on April 9, 2018. The motion carried.

The following legal notice was advertised in the Plymouth Pilot Newspaper on April 2 & 9, 2018:

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**INVITATION FOR BIDS
WATER DISTRIBUTION SYSTEM IMPROVEMENTS
WEST LAKE AVENUE WATER MAIN EXTENSION**

CITY OF PLYMOUTH MARSHALL COUNTY, INDIANA

Notice is hereby given, that the City of Plymouth, Marshall County, Indiana by and through its Board of Public Works, hereinafter referred to as the Owner, will receive sealed bid packets for the construction of the **WEST LAKE AVENUE WATER MAIN EXTENSION**.

Sealed bids must be received by the City of Plymouth no later than 6:00 P.M. (Local Time) on April 23, 2018. Bids received after such hour will be returned unopened. Bids received prior to this time shall be opened and read aloud at a public meeting scheduled to take place on April 23, 2018 at 8:00 P.M. (Local Time) at the Plymouth Fire Department, located at 111 North Center Street. Bidders are advised that the Plymouth City Hall, 124 N. Michigan St., is currently under renovation. Bid Proposals are to be delivered to the Clerk-Treasurer's temporary office, located at 118 N. Michigan Street, Plymouth, Indiana 46563. Bids may be delivered to the meeting before the 6:00 PM deadline. (Please use southern most entrance on Center St.)

A pre-bid meeting will be held at 11:00 A.M. (Local Time) on Thursday, April 12, 2018 at

the Plymouth Wastewater Treatment Plant, 900 Oakhill Avenue, Plymouth, Indiana 46563. All prime contractors, subcontractors and other interested parties are invited to attend.

The Project will be constructed in one (1) single prime contract, which is outlined in the construction documents and specifications. This contract will consist of the construction of a water main extension along West Lake Avenue, beginning in the 6000 block of W. Lake Ave. (State Road 17) near the St. Joseph Medical Center and proceeding south, then west a distance of approximately 1,380' to the 6400 block of State Road 17.

Plans and Specifications for the Project are on file and may be examined at the following locations:

- Midwestern Engineers, Inc., 6809 Corporate Drive, Indianapolis, Indiana 46278
- Plymouth City Hall (temporary office), 118 N. Michigan Street, Plymouth, Indiana 46563

Plans and Specifications are available at the office of Midwestern Engineers, Inc. The service charge for Contractors to view the plans for preparing their bid is as follows: 1) Purchase on CD - \$40.00, 2) Purchase by download at midwestemeng.com/plansroom - \$25.00, and 3) Purchase paper-bound plans and specifications - \$200.00 per set. All service charges for purchasing are non-refundable.

The work to be performed and the bid to be submitted shall include sufficient and

proper sums for all general construction, mechanical installation, labor, materials, permits, licenses, insurance, and so forth incidental to and required for the construction of the facilities.

Each bid must be enclosed in a sealed envelope bearing the title of the Project and the name and address of Bidder. All bids must be submitted on the bid forms as identified in the Contract Documents and Specifications.

Each bid shall be accompanied by a certified check or acceptable bidder's bond made payable to the Owner, in a sum of not less than five percent (5%) of the total amount of the highest aggregate bid, which check or bond will be held by the Owner as evidence that the bidder will, if awarded the contract, enter into the same with the Owner upon notification from him to do so within ten (10) days of said notification.

Approved performance and payment bonds guaranteeing faithful and proper performance of the work and materials, to be executed by an acceptable surety company, will be required of the Contractor at the time of contract execution. The bonds will be in the amount of 100% of the Contract Price and must be in full force and effect throughout the term of the Construction Contract plus a period of twelve (12) months from the date of substantial completion.

The Owner reserves the right to reject any bid, or all bids, or to accept any bid or bids,

or to make such combination of bids as may seem desirable, and to waive any and all informalities in bidding. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bid may be withdrawn after the scheduled closing time for receipt of bids for at least ninety (90) days.

A conditional or qualified Bid will not be accepted. Award will be made to the low, responsive, responsible bidder.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the project throughout.

Bids shall be properly and completely executed on bid forms included in the Specifications. Bids shall include all information requested by Indiana Form 96 (Revised 2010) included with the Specifications. Under Section III of Form 96, the Bidder shall submit a financial statement. A copy of the proposed Financial Statement to be submitted with the bid is included in the bid documents section to these specifications. The Owner may make such investigations as deemed necessary to determine the ability of the Bidder to perform the work and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence sub-

mitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

Each Bidder is responsible for inspecting the Project site(s) and for reading and being thoroughly familiar with the Contract Documents and Specifications. The failure or omission of any Bidder to do any of the foregoing shall in no way relieve any Bidder from any obligation with respect to its Bid. Any Contracts awarded under this Advertisement for Bids are expected to be funded in full by the Owner using funds on hand. Notice of contract award will be made promptly upon Owner's review and acceptance of the lowest responsive and responsible bid.

Jeanine Xaver,
Clerk-Treasurer
City of Plymouth, Indiana

April 2, 9, 2018 FNG261229
hpxpdp

Surrisi made a last call for bids. The following sealed bids were opened and read aloud:

- Haskins Underground, Inc., 8111 9B Road, Plymouth IN 46563 at \$126,195.00
- HRP Construction, Inc., 5777 Cleveland Rd., South Bend IN 46628 at \$162,230.00
- Selge Construction Co., Inc., 2833 S. 11th St., Niles MI 49120 at \$159,242.50
- The Bancroft Companies, 25020 S.R. 2, South Bend IN 46619 at \$124,502.40
- Thomas Excavating & Welding, Inc., 17643 16th Rd., Culver IN 46511 at \$146,448.00

Utility Superintendent Donnie Davidson explained that the extension project goes from the

Montgomery Apartments (across from the hospital) around the corner and will serve the Autumn Trace

Assisted Living Facility. It will dead end at their west driveway. The intent is to extend the water line, complete the loop up into Hillcrest as properties develop. Davidson informed the board that the engineers estimate was \$187,450.

Board Members Houin and Culp moved and seconded the motion to take the bids under advisement. The motion carried.

Superintendent Davidson sent the following request for quotes to local Ford, Chevy, GMC and Dodge dealerships as well as NJPA:

April 6, 2018

The City of Plymouth Water Department will be accepting quotes for a 2018 or newer ½ ton truck. Specifications are attached, if interested, sealed quotes will be accepted at the Clerk/Treasurers Office, (located temporarily) at 118 North Michigan St. Plymouth, IN 46563 until 4:30 PM on Monday April 23, 2018. Quotes will be opened at the Board of Works & Safety meeting, (located temporarily) at the Plymouth Fire House 111 N. Center St. Plymouth, IN 46563, which begins at 6:00 PM Monday April 23, 2017.

There will be a trade in of the following:

1 – 1999 Ford F-250 Pick-up Truck VIN 1FTNF20LOXEC35571.

Quotes shall be in sealed envelopes, marked with the name and location of the business submitting the quote. All quotes shall be clearly marked “1/2 Ton Pick-up Truck”.

All quotes are required to be submitted with the completed; city provided “Quote Sheet”, which must be located at the front of the quote packet supplied by the vendor.

Questions can be directed to Donnie Davidson at 574-936-3017.

Surrisi made a last call for quotes. He then opened the following sealed quotes:

- Oliver Ford, 1001 E. Jefferson St., Plymouth IN 46563

2018 Ford ½-Ton P/U Truck

Base Quote Amount	\$30,510.00
Trade-in Value	\$ 650.00
Net Total	\$29,860.00

- Country Auto Chevrolet, 2705 N. Michigan St., Plymouth IN 46563

2019 Chevy ½-Ton P/U Truck

Base Quote Amount	\$29,375.55
Trade-in Value	\$ 800.00
Net Total	\$28,575.55

Board Members Houin and Culp moved and seconded the motion to take the quotes under advisement. The motion carried.

Superintendent Davidson sent the following request for quotes to local Ford, Chevy, GMC and Dodge dealerships as well as NJPA:

April 6, 2018

The City of Plymouth Wastewater Department will be accepting quotes for a 2018 or newer, F-550 / 5500 Series or equal truck chassis equipped with 11' dump bed. Specifications are attached, if interested, sealed quotes will be accepted at the Clerk/Treasurers Office, (located temporarily) at 118 N. Michigan St. Plymouth, IN 46563 until 4:30 PM on Monday April 23, 2018. Quotes will be opened at the Board of Works & Safety meeting, (located temporarily) at the Plymouth Fire House 111 N. Center St. Plymouth, IN 46563, which begins at 6:00 PM Monday April 23, 2017.

There will be a trade in of the following:

1 - 1997 Ford F-350 with dump bed, VIN: 3FELF47F5VMA54418.

Quotes shall be in sealed envelopes, marked with the name and location of the business submitting the quote. All quotes shall be clearly marked "F-550 / 5500 Series or equal Truck Chassis equipped with 11' Dump Bed".

All quotes are required to be submitted with the completed; city provided "Quote Sheet", which must be located at the front of the quote packet supplied by the vendor.

Questions can be directed to Donnie Davidson at 574-936-3017.

Surrisi made a last call for quotes. He then opened the following sealed quote:

- Oliver Ford, 1001 E. Jefferson St., Plymouth IN 46563

2019 Ford F-550/5500 Series or equal Truck Chassis equipped with 11' Dump Bed

Base Quote Amount	\$67,541.00
Trade-in Value	\$ 3,500.00
Net Total	\$64,041.00

Board Members Houin and Culp moved and seconded the motion to take the quote under advisement. The motion carried.

Board Member Walters shared that on April 6, 2018 there was a report on social media rating Plymouth to be the 14th safest city in Indiana, an improvement from last year's rating of the 19th safest city. He thanked the citizens of Plymouth and the Plymouth Police Department for keeping our city safe.

Police Chief Bacon informed the board that new Officer Jerrid Arnold started the morning of April 23, 2018. Arnold is already Academy certified, and will be doing some field training with the Field Training Officer by the end of the week.

Street Superintendent Marquardt stated that the paving contractor started concrete work on North Street, milling in the cemetery and has marked the No Parking locations.

Marquardt also said that at the Marshall County Flood Committee meeting, there was discussion that there are still houses that need to be fixed up, debris removed and demucked. There are still some properties in the city that haven't been touched due to the weather and lack of assistance. He reminded the board that they had authorized the Street Department to spend a month going around and picking up debris. There are still appropriations in that line item for debris removal. There is a group set to come and do work next month, all the way into July and August. The street department will be provided with exact addresses of houses qualifying for debris removal. Marquardt requested approval to continue through August with the debris removal for flood victims.

Board Members Culp and Houin moved and seconded the motion to continue debris clean-up through August.

Board Member Houin informed the board that there is a much more organized and coordinated effort of case workers who are working with specific property owners to determine the extent of damage and what is needed. There's also a construction committee to evaluate what needs to be done to repair the damages and what the committee will assist with. As they're coordinating and scheduling, they will call the Street Department for specific locations for debris removal so it doesn't become a "free-for-all".

The motion to continue flood clean-up through August carried.

Park Superintendent Hite updated the board regarding the Conservation Clubhouse, which sustained 50" of water in the lower level, due to flooding. He said that it was necessary to totally gut the entire level. Last weekend they had their first rentals since the flood. The staff took care of all of the repairs to the lower level. They did have to purchase certain materials which were covered by their flood insurance. Hite thanked Mayor Senter, Laura Mann and Allie Shook for their time spreading mulch during Earth Day at River Park Square. He said the Mayor's Youth Council was there with

approximately 75 kids helping. The mulch was the biggest loss during the flood as far as they know. The pump at the rock fountain was removed before the flood, so there wasn't any damage to it. They have not turned on the fountain at the splash pad yet, but will know better in the next two weeks if it sustained any damage.

City Engineer Gaul presented the list of dates and locations from Walsh and Kelly for no parking zones during paving. He clarified that vehicles that are towed would be at the owner's expense.

Houin and Culp moved and seconded to approve the request. The motion carried.

There was also a request from PirTano Construction Company on behalf of Comcast to work in the City's right-of-way along the north side of PIDCO Dr. to install coax cable.

Culp made a motion to approve the request, seconded by Walters. The motion carried.

John Montgomery was present to answer questions for the following request:

04/12/2018 Propose to close approximately 1 block of Beerenbrook Street on both the north and south sides of Jefferson Street for Cars and Coffee event from 6:00 a.m. to 11:00 a.m.. Hosted at the restored mobile gas station owned by Calvin Bailey. S/ John Montgomery, 10548 King Road, Plymouth, 574-780-6885.

He stated that there will be a reserve officer at each event as there was last year.

Board Members Culp moved to approve the request and Houin seconded the approval. The motion carried.

Clerk-Treasurer Xaver presented a request from St. Michael's School:

04/13/2018 We request that Center St. between Madison St. and Monroe St. be blocked off for their annual Olympic Day Race for Education. We will not block the exit to the County parking lot. The time frame is 7:30 a.m. to 3:00 p.m. on Wednesday, May 23rd. Rain date, May 24th. S/ Molly Kuykendall, Secretary, 612 N. Center St., Plymouth, 574-936-4329.

Board Members Houin and Milner moved and seconded to approve the request. The motion carried.

Attorney Surrisi reviewed the following Economic Development Agreement regarding the Aquatic Center and the Early Childhood Learning Center Project. The agreement sets out the terms and obligations of the developer, MCEDC, and entities to build the facilities with the funding that is being provided from all the different sources. It was approved by the Redevelopment Commission at the April 17th meeting. Surrisi said that the Board of Public Works and Safety's sole obligation as the

representative of the City of Plymouth is to issue the Series C bond if it's ever needed in the future.

Payments would be made by the Redevelopment Commission in the event that the bond is issued. All obligations are between the Redevelopment Commission and MCEDC entities as the developer.

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of the 17th day of April, 2018 ("Effective Date"), by and among the Plymouth Redevelopment Commission, for and on behalf of the governing body of the City of Plymouth Department of Redevelopment (collectively, the "Redevelopment Commission"), the Board of Public Works and Safety for and on behalf of the City of Plymouth, Indiana (collectively, the "Board" and with the Redevelopment Commission, the "City Bodies"), the Marshall County Economic Development Corporation, a nonprofit corporation ("MCEDC") and MCEDC Leverage Lender, LLC, an Indiana limited liability company wholly owned by MCEDC ("Company" and with MCEDC, the "Developer"):

WITNESSETH:

WHEREAS, the City of Plymouth, Indiana (the "City") is authorized by Indiana Code 36-7-11.9 and 12, as supplemented and amended (collectively, the "Act"), to issue economic development revenue bonds and make direct loans to users or developers, pursuant to the Act, for the financing of economic development facilities, the proceeds thereof to be used to provide funds to pay or reimburse costs of the acquisition, construction, installation and equipping of said facilities to be directly owned by other entities;

WHEREAS, pursuant to the Act, the financing of economic development facilities constitutes a public purpose;

WHEREAS, the Developer has informed the City that it will be acquiring, constructing and equipping a pool for competitive, educational and recreational use and a community learning and training center (collectively, the "Project") to be located on Miller Drive, east of Pioneer Drive, in Plymouth, Marshall County, Indiana, within the VanVector Farms, Inc. P.U.D., Phases VI & VII, respectively, together with all necessary appurtenances, related improvements and equipment, and all incidental expenses in connection therewith (collectively, the "Property"), all of which will be owned by Marshall County Life Center, Inc., a nonprofit corporation;

WHEREAS, the Project will be located in the US 30/Pine Road Economic Development Area and Allocation Area (collectively, the "Area"), as established by the City Redevelopment Commission ("RDC");

WHEREAS, the Developer has secured a \$2,000,000 grant from the Northern Indiana Regional Development Authority ("RDA") for the Project in connection with the RDA's Regional Development Plan submitted and approved by the RDA to the Indiana Economic Development Corporation ("IEDC") in accordance with the IEDC's Regional Cities Initiative and IC 5-28-37 and IC 5-28-38, as amended;

WHEREAS, Developer has attracted commitments for New Market Tax Credit financing under Section 45D of the Internal Revenue Code ("NMTC Financing") to provide federal

resources to construction and develop the Project, which financing is anticipated to provide gross tax credit equity of approximately \$3,300,000;

WHEREAS, to provide for the Project and the NMTC Financing, Developer has requested the City issue, pursuant to the Act, its City of Plymouth, Indiana: (i) Taxable Economic Development Revenue Bonds, Series 2018A (the "Series A Bonds"), in the aggregate principal amount not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000); (ii) Taxable Economic Development Revenue Bonds, Series 2018B (the "Series B Bonds") in the aggregate principal amount not to exceed Three Million One Hundred Fifty Thousand Dollars (\$3,150,000) (the Series A Bonds and Series B Bonds are herein collectively, the "Bonds"); and (iii) issue and fund its Taxable Economic Development Revenue Note, Series 2018C (the "Series C Note") in annual draw amounts not to exceed Three Hundred Fifty Thousand Dollars (\$350,000) ("Note Draws") and an aggregate draw amount not to exceed Three Million One Hundred Fifty Thousand Dollars (\$3,150,000);

WHEREAS, on February 12, 2018, the Plymouth Economic Development Commission ("EDC") studied the Project and the proposed financing of the Project and its effect on the health and general welfare of the City and its citizens, held a public hearing, and adopted its Report finding that the completion of the Project will result in the diversification of industry, the creation and retention of jobs, the creation and retention of business opportunities in the City, and will be of public benefit to the health, safety and general welfare of the City and its citizens ("EDC Report:);

WHEREAS, on February 12, 2018, the EDC adopted a Resolution pursuant to and in accordance with the Act, approving and recommending that the City provide the funds necessary to finance a portion of the Project by issuing the Bonds and the Series C Note;

WHEREAS, the City intends to issue the Bonds pursuant to a trust indenture, to be dated the first day of the month in which the Bonds are sold or delivered (or such other date as the officers of the City may hereafter approve) (the "Bond Indenture"), by and between the City and a corporate trustee to be selected by the City (the "Bond Trustee"), in order to obtain funds necessary to provide for the financing of a portion of the Project and incidental costs and expenses in connection therewith, in accordance with the terms of a Financing Agreement, to be dated the first day of the month in which the Bonds are sold or delivered (or such other date as the officers of the City may hereafter approve) (the "Financing Agreement"), by and between the City and Developer with respect to the Bonds and the Project;

WHEREAS, the City intends to issue and fund the Series C Note pursuant to the Financing Agreement in order to fund Note Draws;

WHEREAS, on February 20, 2018, the RDC adopted Resolution 2018-782 pledging property tax proceeds from assessed valuation of real property in the Area in excess of the assessed valuation described in IC 36-7-14-39(a) allocated and deposited in the statutory allocation fund for the Area ("TIF Revenues") to pay the principal of and interest on the Series A Bonds, to replenish the debt service reserve fund ("Reserve Fund") created pursuant to the Bond Indenture for the Series B Bonds and to authorize TIF Revenues to fund the Note Draws pursuant to the Financing Agreement as well as pay the costs of issuance related to the Bonds;

WHEREAS, the Project will be owned by the Marshall County Life Center, Inc., an Indiana nonprofit corporation ("MCLC"), with the wellness and aquatics center portion leased to Marshall County Health and Wellness Inc., an Indiana nonprofit corporation ("MCHW"), and with the learning center portion leased to the Marshall County Community Foundation, Inc., an Indiana nonprofit corporation ("MCCF");

WHEREAS, MCCF desires to sublease a portion of the learning center to an early childhood learning center operator;

WHEREAS, the Developer has further requested that the RDC and the City approve a complete ten (10) year, 100% tax abatement to ensure that no taxes are assessed against the Project as a result of the proposed leases and subleases ("Tax Abatement");

WHEREAS, on March 26, 2018, the Common Council of the City adopted an Ordinance with respect to the Project, the Bonds and the Series C Note (the "Ordinance") and a Resolution with respect to the Tax Abatement ("Resolution") is expected to be adopted in due course;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

ARTICLE I. RECITALS

1.01 Recitals Part of Agreement. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1.01.

ARTICLE II. MUTUAL ASSISTANCE

2.01 Mutual Assistance. The parties agree, subject to further proceedings required by law, to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the case of the City Bodies, the adoption of such ordinances and resolutions), as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

ARTICLE III. PROJECT DEVELOPMENT

3.01 Property. The Developer has acquired, and shall improve the Property, subject to the performance by the City Bodies of their respective obligations under this Agreement, by constructing the Project on such Property, as more particularly described in Section 3.02 hereof.

3.02 Project Description and Development. The Developer shall commence construction of the Project by no later than sixty (60) days following the successful acquisition of the Property, procurement of all permits and other governmental approvals, the closing of the Bonds, and the closing of the NMTC Financing, and shall complete construction and equipping of the Project by August 1, 2019, subject to permitted delays provided for in Section 3.03 hereof.

3.03 Permitted Delays. Whenever performance is required of any party hereunder, such party shall use all due diligence and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or materials, or damage to work in progress by reason of fire or other casualty or similar causes beyond the reasonable control of a party (other than financial reasons), then the time for performance as herein specified shall be appropriately extended by the time of the delay actually caused by such circumstances. If (i) there should arise any

permitted delay for which the Developer, or any of the City Bodies is entitled to delay its performance under this Agreement and (ii) the Developer or one of such City Bodies anticipates that such permitted delay will cause a delay in its performance under this Agreement, then the Developer or such City Body, as the case may be, agrees to provide written notice to the other parties of this Agreement of the nature and the anticipated length of such delay.

ARTICLE IV. ECONOMIC DEVELOPMENT INCENTIVES

4.01 **Tax Increment Economic Development Revenue Bonds.** The City shall issue its Series A Bonds in the maximum aggregate principal amount not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000), with a maximum term not to exceed ten (10) years from the date of issuance and with a maximum interest rate not to exceed five and one-half percent (5.5%) per annum, for the purpose of procuring funds to pay a portion of the costs of the Project by making the proceeds of the Series A Bonds available to the Company. The initial principal and interest payment shall be payable on the first day of the month immediately following issuance of the Series A Bonds. All subsequent principal and interest on the Series A Bonds shall be payable semiannually on February 1 and August 1, beginning on the first February 1 or August 1 after their date of issuance as determined by negotiation with the purchaser of the Series A Bonds. The Series A Bonds shall be payable solely from TIF Revenues, upon such terms and conditions as otherwise provided in the Financing Documents and this Ordinance. The Series A Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City. The Series A Bonds shall be subject to optional redemption on any date, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, at face value with no premium, plus accrued interest to the date fixed for redemption.

4.02 **Project Revenue Economic Development Revenue Bonds.** The City shall issue its Series B Bonds in the maximum aggregate principal amount not to exceed Three Million One Hundred Fifty Thousand Dollars (\$3,150,000), with a maximum term of the Series B Bonds not to exceed twenty-five (25) years from the date of issuance and a maximum term of the pledge of TIF Revenues to replenish the Reserve Fund not to exceed February 1, 2035. The maximum interest rate or rates is not to exceed eight percent (8%) per annum, for the purpose of procuring funds to pay a portion of the costs of the Project by making the proceeds of the Series B Bonds available to the Company. Principal and interest on the Series B Bonds will be payable semiannually on February 1 and August 1, beginning on the first February 1 or August 1 after their date of issuance as determined by negotiation with the purchaser of the Series B Bonds. The principal of and interest on the Series B Bonds are to be repaid from payments made by the Company as evidenced by a note to be given by the Company to the City and further secured by a debt service reserve fund ("Reserve Fund") initially funded and replenished from TIF Revenues. The Series B Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City. The Series B Bonds shall be subject to optional redemption on any date, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, at face value with no premium, plus accrued interest to the date fixed for redemption.

4.03 **Project Financing Note.** Upon the request of Company to finance Developer's lease rentals of a portion of the Project, the City shall issue the Series C Note with TIF Revenues and make the loan to the Company in the maximum aggregate draw amounts not to exceed Three Million One Hundred Fifty Thousand Dollars (\$3,150,000), with draws commencing no earlier than the end of the seventh (7th) year following the date of issuance of the Series A Bonds and with the maximum annual Note Draws not to exceed Three Hundred Fifty Thousand Dollars (\$350,000), with a maximum term not to exceed twenty-five (25)

years from the date of issuance and maximum term of the pledge of TIF Revenues to fund Note Draws not to exceed February 1, 2035. The maximum interest rate on the Series C Note shall not to exceed one percent (1%) per annum, for the purpose of providing a loan to the Company, which Series C Note is to be repaid from and secured by payments received by Company as a result of the NMTC Financing, which will be secured by Company's rights to certain Project lease rental payments and a mortgage related to the Project's NMTC Financing. The Series C Note shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City. The Series C Note shall be subject to optional redemption on any date, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, at face value with no premium, plus accrued interest to the date fixed for redemption.

4.04 Development Grant and Construction Completion. On November 21, 2017, the RDC agreed to provide, or otherwise reimburse MCEDC with, TIF Revenues for Project expenditures, which as of the Effective Date is outstanding in the amount of \$1,217,597.10 ("Development Grant"). MCEDC is securing guaranteed construction contracts and payment and performance bonds for the Project ("Construction Remedies") and is being required to guarantee the construction completion of the Project to secure the NMTC Financing ("Completion Guarantee"). In the event that MCEDC is required to provide funding pursuant to the Completion Guarantee in addition to the existing Development Grant and is unable to do so from proceeds from its Construction Remedies or the Project or from Project revenues, the RDC shall further reimburse MCEDC for or otherwise construct the improvements necessary to complete the Project effectively increasing the Development Grant to MCEDC up to an additional \$500,000.00 to the extent TIF Revenues are available for such purpose; provided however that (a) the increased cost of the Project was not the result of (i) a change in the Project approved by MCEDC without the prior written approval of the RDC or (ii) MCEDC's gross negligence, reckless, knowingly illegal, fraudulent actions and (b) MCEDC has assigned to the RDC any of MCEDC's rights to its Construction Remedies against any third-parties to recover the additional costs. Upon the completion of the construction of the Project ("Construction Completion"), MCEDC shall immediately repay the Development Grant. In the event that MCEDC is unable to fully repay the Development Grant with proceeds or revenues of the Project related to the recreational center ("Project Revenues"), the RDC shall provide MCEDC an additional eighty-four (84) months ("Additional Grant Term") to repay the Development Grant. At the end of the Additional Grant Term, MCEDC shall repay the remainder of the Development Grant with any excess Project Revenues, and in the event that MCEDC is still unable to fully repay the Development Grant with Project Revenues, MCEDC shall have no further obligation to repay remaining balance after such repayments. The Development Grant shall be a nonrecourse, contingent obligation of MCEDC. In no event shall the RDC have a lien or claim against the real estate or Project proceeds related to the property that is initially being leased to MCCF by MCLC.

4.05 Project Tax Abatement. The City shall provide a complete ten (10) year Tax Abatement for the Project, and in the event that the City fails to provide the Tax Abatement, the RDC shall expend TIF Revenues equal to the amount assessed against the Project for improvements, training or other expenditures eligible for TIF Revenues under the Act for the benefit of MCLC or MCCF during the first ten (10) years of the Project, commencing with the initial property tax assessment against the Property.

4.06 Alternative Financing. If the City Bodies and Developer agree that a form of financing other than the issuance of the Bonds, the Series C Note, the Development Grant or the Tax Abatement would better accomplish the purposes of this Agreement, the terms of this Agreement will be amended to provide for such alternative financing.

ARTICLE V. AUTHORITY

5.01 Actions. Each of the City Bodies represents and warrants that it has taken or will take (subject to further proceedings required by law and the Developer's performance of its agreements and obligations hereunder) such action(s) as may be required and necessary to enable each of the respective City Bodies to execute this Agreement and to carry out fully and perform the terms, covenants, duties and obligations on its part to be kept and performed as provided by the terms and provisions hereof.

5.02 Powers. The City Bodies represent and warrant that each has full constitutional and lawful right, power and authority, under currently applicable law, to execute and deliver and perform their respective obligations under this Agreement.

ARTICLE VI. GENERAL PROVISIONS

6.01 Indemnity; No Joint Venture or Partnership. The Developer covenants and agrees at its expense to pay and to indemnify and save the City Bodies, and their officers and agents (the "Indemnitees") harmless of, from and against, any and all claims, damages, demands, expenses and liabilities relating to bodily injury or property damage resulting directly or indirectly from the Developer's (and/or any affiliate's thereof) development activities with respect to the Project unless such claims, damages, demands, expenses or liabilities arise by reason of the negligent act or omission of the City Bodies or other Indemnitees. However, nothing contained in this Agreement shall be construed as creating either a joint venture or partnership relationship between the City Bodies and the Developer or any affiliate thereof.

6.02 Time of Essence. Time is of the essence of this Agreement. The parties shall make every reasonable effort to expedite the subject matters hereof (subject to any time limitations described herein) and acknowledge that the successful performance of this Agreement requires their continued cooperation.

6.03 Breach. Before any failure of any party of this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform such obligation and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within thirty (30) days of the receipt of such notice. If after said notice, the breaching party fails to cure the breach, the non-breaching party may seek any remedy available at law or equity.

6.04 Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, by the adoption of an ordinance or resolution of each of the City Bodies approving said amendment, as provided by law, and by the execution of said amendment by the parties or their successors in interest.

6.05 Future Actions.

The parties acknowledge and understand that the parties may have to undertake future actions to implement this Agreement; that the parties' agreements are subject to and contingent upon compliance with and completion of applicable statutory proceedings, including, without limitation, any applicable public notice and public hearing requirements and any appeal rights; and that the parties obligations hereunder, and of its respective departments and commissions, are limited, respectively, to working in good faith and using best efforts to effectuate the purposes of this Agreement.

6.06 No Other Agreement. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

6.07 Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

6.08 Indiana Law. This Agreement shall be construed in accordance with the laws of the State of Indiana.

6.09 Notices. All notices and requests required pursuant to this Agreement shall be deemed sufficiently made if delivered, as follows:

To MCEDC:

Marshall County Economic Development Corporation
Attn: Jerry Chavez, President/CEO
2864 Miller Drive
Plymouth, IN 46563

To Company:

MCEDC Leverage Lender LLC
Attn.: Jerry Chavez, President
2864 Miller Drive
Plymouth, IN 46563

To the City Bodies:

Plymouth Redevelopment Commission
Attn: Board President
124 North Michigan Street
Plymouth, Indiana 46563

City of Plymouth Board of Public Works and Safety
Attn: City Attorney
124 North Michigan Street
Plymouth, Indiana 46563

or at such other addresses as the parties may indicate in writing to the others either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

6.10 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

6.11 Assignment. The rights and obligations contained in this Agreement may not be assigned by the Developer or any affiliate thereof without the express prior written consent of each of the City Bodies; provided, however, that the Developer may transfer all or a portion

of its rights and obligations hereunder to an affiliate of the Developer upon notice to but without the consent of the City Bodies, but any such transfer to an affiliate of the Developer shall not have the effect of releasing the Developer from its obligations hereunder.

6.12 No Third-Party Beneficiaries. This Agreement shall be deemed to be for the benefit solely of the parties hereto and shall not be deemed to be for the benefit of any third party.

6.13 Effective Date. Notwithstanding anything herein to the contrary, this Agreement shall not be effective until all parties hereto have executed this Agreement and each of the City Bodies have approved or ratified this Agreement at public meetings.
(remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

Board Members Walters and Culp moved and seconded to approve the agreement. The motion carried with Board Member Houin abstaining from voting due to his representation to the MCEDC.

Surrisi presented Executive Order 2018-04, regarding 214 N. Fourth St., looking for ratification for placement of a dumpster within the public right-of-way during the course of renovation work at the home.

Board Members Walters and Houin moved and seconded to approve the request. The motion carried.

Board Members Houin and Culp moved and seconded to allow the payroll for April 30, 2018, and the claims for April 23, 2018, as entered in Claim Register #2018. The motion carried.

Board Members Houin and Walters moved and seconded to accept the following communications:

- March, 2018 Wastewater Report
- March, 2018 Water Report

The motion carried.

There being no further business to discuss, Members Culp and Milner moved and seconded to adjourn the meeting. The motion carried and the meeting was declared adjourned at 6:32 p.m.

Jeanine M. Xaver, IAMC, CMC
Clerk-Treasurer

APPROVED:

Mark Senter, Mayor

The following request was forwarded to the proper committee to act:

4/12/18 – Tree branch fell on other tree. Just needs removed before it falls on someone. These trees are on city propert. I think they all need removed. Thank you. S/ Jose Mendoza, 816 Broadway, 574-780-3732