



TOWN OF
LOWELL
CULTIVATING COMMUNITY

Town of Lowell
Redevelopment Commission
Building Renovation Grant/Forgivable Loan Program Agreement
May, 2022

THIS AGREEMENT, entered into this ____ day of _____, 20__, between the Lowell Redevelopment Commission, Indiana (hereinafter referred to as "COMMISSION") and the following designated OWNER, to wit:

Owner/'s Name: _____

Name of Business: _____

Tax ID#/Social Security# _____

Address of Property to be Improved:

WITNESSETH:

WHEREAS, the Commission has established a Building Renovation Grant/Forgivable Loan Program ("PROGRAM") for application within the Lowell TIF Area ("AREA"); and

WHEREAS, said PROGRAM is administered by the COMMISSION and is funded from the general fund for the purposes of encouraging and attracting retail growth, stimulating additional businesses and encouraging private investing through improved aesthetics within the AREA; and

WHEREAS, pursuant to the PROGRAM guidelines the COMMISSION has agreed to participate, subject to its sole discretion, in reimbursing OWNER for the cost of eligible improvements to commercial establishments within the AREA up to a maximum of seventy-five percent (75%) participation and a maximum reimbursement amount of twenty thousand dollars (\$20,000) per application; and

WHEREAS, OWNER has prepared plans, design drawings, specifications and estimates and has secured applicable Town of Lowell and State of Indiana permits and approvals (herein referred to as "Project Documentation") attached hereto as **Exhibit A**; and

WHEREAS, the OWNER's property is located within the AREA, and the OWNER/LESSEE desires to participate in the PROGRAM pursuant to the terms and provisions of this agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements obtained herein, the COMMISSION and the OWNER/LESSEE do hereby agree as follows:

SECTION 1: COMMISSION shall reimburse OWNER for the cost of improvements to the OWNER/LESSEE'S property at the rate of seventy-five percent (75%) of such cost, provided that the total reimbursement for improvements shall not exceed twenty thousand dollars (\$20,000) per application as defined herein.

The improvement costs that are eligible for COMMISSION reimbursement include all labor, materials, equipment and other contract items necessary for the proper execution and completion of the work as shown within the Project Documentation.

SECTION 2: No improvement work shall be undertaken until all Project Documentation has been approved by the COMMISSION. Following approval, the OWNER shall contract for the work and shall commence and complete all such work and submit all requests for reimbursement to the Town Manager within one year from the date of such approval by the COMMISSION. The OWNER may seek an extension of the deadline, not to exceed 12 months, for completing the work and submitting its request for reimbursement from the Town Manager, however, such request must be made in writing and submitted to the Town Manager prior to the expiration of the initial deadline to complete the work and submit the requests for reimbursement. In the event that the OWNER/LESSEE fails to comply with these requirements the COMMISSION may terminate this Agreement and its obligation to reimburse the applicant.

SECTION 3: The Town Manger shall periodically review the progress of the contractor's work pursuant to this Agreement. Such inspections shall not replace any required permit inspection by the Director of Planning and Development and Building Inspectors. All work which is not in conformance with the approved Project Documentation shall be immediately remedied by the OWNER/LESSEE and deficient or improper work shall be replaced and made to comply with the approved Project Documentation and the terms of this Agreement.

SECTION 4: Upon completion of the improvements and upon their final inspection and approval by the Town Manager, the OWNER shall submit to the COMMISSION a properly executed and notarized contractor statement showing the full cost of the work as well as each separate component amount due to the contractor and each and every subcontractor involved in furnishing labor, materials or equipment in the work. In addition, the OWNER shall submit to the COMMISSION proof of payment of the contract cost pursuant to the contractor's statement and final lien waivers from all contractors and subcontractors. The COMMISSION shall, within sixty (60) days of receipt of the contractor's statement, proof of payment and lien waivers, issue a check to the OWNER as reimbursement for seventy-five percent of the approved construction cost estimate or seventy-five percent of the actual construction cost, whichever is less, subject to the limitations set forth in Section 1 hereof.

SECTION 5: If the OWNER or his contractor fails to complete the improvement work provided for herein in conformity with the terms of this Agreement, then upon written notice being

given by the Town Manager to the OWNER, by certified mail to the address listed above, this Agreement shall terminate and the financial obligation on the part of the COMMISSION shall cease and become null and void.

SECTION 6: Upon completion of the improvement work pursuant to this Agreement and for a period of ten (10) years thereafter, the OWNER shall be responsible for properly maintaining such improvements in finished form and without change or alteration thereto, as provided in this Agreement, and for the said period of ten (10) years following completion of the construction thereof, the OWNER shall not enter into any Agreement or contract or take any other steps to alter, change or remove such improvements, or the approved design thereof, nor shall OWNER undertake any other changes, by contract or otherwise, to the improvements provided for in this Agreement unless such changes are first submitted to the Town Manager, and any additional review body designated by the Town Manager, for approval. Such approval shall not be unreasonably withheld if the proposed changes do not substantially alter the original design concept of the improvements as specified in the plans, design drawings and specifications approved pursuant to this Agreement. OWNER shall execute and record a restrictive covenant, in a form substantially the same as Exhibit "II" hereto, at the COMMISSION's request.

SECTION 7: The OWNER releases the COMMISSION from, and covenants and agrees that the COMMISSION shall not be liable for, and covenants and agrees to indemnify and hold harmless the COMMISSION and its officials, officers, employees and agents from and against, any and all losses, claims, damages, liabilities or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting from or in any way connected, directly or indirectly, with the façade improvement(s), including but not limited to actions arising from the Indiana Common Construction Wage Act (Ind. Code § 5-16-7 et seq.) The OWNER further covenants and agrees to pay for or reimburse the COMMISSION and its officials, officers, employees and agents for any and all costs, reasonable attorneys' fees, liabilities or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, or causes of action. The COMMISSION shall have the right to select legal counsel and to approve any settlement in connection with such losses, claims, damages, liabilities, or causes of action. The provisions of this section shall survive the completion of said façade improvement(s).

SECTION 8: Nothing herein is intended to limit, restrict or prohibit the OWNER from undertaking any other work in or about the subject premises which is unrelated to the improvement provided for in this Agreement.

SECTION 9: This Agreement shall be binding upon the COMMISSION and upon the OWNER and its successors, to said property for a period of five (5) years from and after the date of completion and approval of the façade improvement provided for herein. It shall be the responsibility of the OWNER to inform subsequent OWNER(s) of the provisions of this Agreement.

SECTION 10: During the term of this Agreement and during the term of any subsequent contract with a subcontractor performing work under this Agreement, OWNER shall maintain full compliance with the requirements of Indiana's Employment Eligibility Verification as set forth in **Exhibit B** to this Agreement

SECTION 11: OWNER shall be responsible for obtaining all necessary building permits and other approvals from the Town of Lowell and State of Indiana prior to commencing work on the improvements. OWNER shall be further responsible for complying with the applicable requirements of the Americans with Disabilities Act ("ADA") in constructing the improvements pursuant to this Agreement.

SECTION 12: As a condition precedent to participating in the PROGRAM, OWNER may be responsible for conveying certain easement(s) and/or right-of-way to the Town of Lowell. In these circumstances, no OWNER shall be eligible for reimbursement by the COMMISSION until such time as all easement(s) and/or rights-of-way have been conveyed to the Town of Lowell. In the event that this Section applies and the OWNER is requested to convey easement(s) and/or right-of-way to the Town of Lowell, documentation confirming such conveyance shall be set forth in **EXHIBIT C** to this Agreement.

SECTION 13: As a condition precedent to participating in the PROGRAM, OWNER agrees to own the property benefited by the funds for at least three years after completion of the approved work. Failure to own the property benefited by the funds will result in the OWNER reimbursing the COMMISSION all of the proceeds. In order to secure that reimbursement, OWNER will be required to execute a Forgivable Promissory Note and Mortgage which will provide security to the COMMISSION. The Forgivable Promissory note will be forgiven and deemed paid/satisfied three years after the work is completed. Documentation confirming such note shall be set forth in **EXHIBIT D** to this Agreement.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date first appearing above.

OWNER

LOWELL REDEVELOPMENT COMMISSION

Signature

Commission President

Printed

ATTEST:

Clerk-Treasurer

EXHIBIT A
PROJECT DOCUMENTATION

EXHIBIT B
EMPLOYMENT ELIGIBILITY VERIFICATION

OWNER affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

OWNER shall enroll in and verify the work eligibility status of all its newly hired employees through the Federal E-Verify program as defined in IC 22-5-1.7-3. OWNER is not required to participate should the Federal E-Verify program cease to exist. OWNER shall not knowingly employ or contract with an unauthorized alien. OWNER shall not retain an employee or contract with a person that OWNER subsequently learns is an unauthorized alien.

OWNER shall require its subcontractors, who perform work under this contract, to certify to TOWN that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the Federal E-Verify program. OWNER agrees to maintain this certification throughout the duration of the term of this agreement with the COMMISSION and during the term of any subsequent contract with a subcontractor performing work under this agreement.

The COMMISSION may terminate for default if OWNER fails to cure a breach of this provision no later than thirty (30) days after being notified by the COMMISSION.

Signed: _____	Signed: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT C
CONVEYANCE DOCUMENTATION

EXHIBIT D

PROMISSORY NOTE/MORTGAGE DOCUMENTATION

**FORGIVABLE PROMISSORY NOTE
SECURED BY REAL ESTATE MORTGAGE**

_____, 2022
Lowell, Indiana

FOR VALUE RECEIVED, the undersigned, _____
_____ (hereinafter referred to as "Debtor"), promises to pay to the **TOWN OF LOWELL, INDIANA** (hereinafter referred to as the "Town") the principal sum of \$ _____ Dollars, with interest from the date hereof on the unpaid principal balance at a rate of zero (0%) percent per annum as more fully set forth in this Promissory Note.

OBLIGATIONS OF DEBTOR

Debtor shall own and/or lease the property benefited by this Note for at least three (3) years after completion of the approved work, as provided in the Town of Lowell Redevelopment Commission Building Renovation Grant/Forgivable Loan Program Agreement.

In the event Debtor fulfills its obligations set forth above, this Promissory Note shall be forgiven by the Town. In the event Debtor does not fulfill its obligations set forth above, Debtor shall reimburse the Town the entire balance of this Note upon demand by the Town.

PLACE OF PAYMENT

All payments, if necessary as set forth above, shall be made at the office of the Town at 501 East Main Street, Lowell IN 46356, or at such other place as the Town shall designate in writing to the Debtor.

PREPAYMENT

The principal amount of this Note, together with any accrued interest, may be prepaid in part or in full at any time without penalty.

DEFAULT

Should default be made in the payment when due, the whole sum of principal and interest shall become immediately due at the option of the Town, regardless of any prior forbearance. Interest shall accrue following any default hereunder at the rate of eighteen (18%) percent per annum.

COLLATERAL

To secure payment of this Promissory Note, the undersigned has granted a mortgage on the real property located at _____
_____.

WAIVER OF PRESENTMENT, PROTEST, AND NOTICE OF DISHONOR

The Debtor waives presentment for payment, notice of non-payment, protest, and notice of protest and agrees to all extensions and renewals of this Note, without notice.

COSTS OF COLLECTION

The Debtor will pay on demand all costs of collection, legal expenses, and attorneys' fees incurred or paid by the Town in collecting or enforcing this Note on default.

EXTENSION

The Town may renew the Note or extend time of payment of the indebtedness. Any such renewal or extension shall not release the Debtor from any liability on said obligation.

NO WAIVER OF RIGHTS BY THE TOWN

No delay or omission on the part of the Town in exercising any right under this Note shall operate as a waiver of the right or of any other right under this Note. A waiver on any one occasion shall not be construed as a bar to or waiver of any right of remedy on any future occasion.

MAXIMUM INTEREST

In no event whatsoever shall the amount paid, or agreed to be paid, to the Town for the use, forbearance or retention of the money to be loaned hereunder ("Interest") exceed the maximum amount permissible under applicable law. If the performance or fulfillment of any provision hereof shall result in Interest exceeding the limit for interest prescribed by law, then the amount of Interest shall be reduced to the maximum rate that may lawfully be charged or collected by the Town. If, from any circumstance whatsoever, the Town shall receive as Interest an amount that would exceed the highest lawful rate, the amount that would be excessive Interest shall be applied to the reduction of the principal balance owing hereunder or, at the option of the Town, be paid over to the Debtor.

MODIFICATIONS AND AMENDMENTS

This Note may not be changed, modified or amended, or terminated, nor may any of its provisions be waived, except by an agreement in writing signed by the party against whom enforcement thereof is sought.

GOVERNING LAW

This Note is made pursuant to and its terms and provisions shall be governed by the laws of the State of Indiana, both substantive and procedural.

OBLIGATIONS BINDING

This Note, and the obligations herein, shall be binding upon the Debtor, jointly and severally, and upon their respective heirs, personal representatives, successors in interest, and assigns.

RETURN TO:

Town of Lowell, Indiana
501 E. Main Street
Lowell IN 46356

REAL ESTATE MORTGAGE

THIS INDENTURE WITNESSETH that _____
as *Mortgagor*, MORTGAGES AND WARRANTS to the **TOWN OF LOWELL, INDIANA**, as *Mortgagee*, the following
real estate in Lake County, State of Indiana, to-wit:

(SEE ATTACHED LEGAL DESCRIPTION)

and the rents and profits therefrom, to secure the payment, when the same shall become due, of the following
indebtedness: a Forgivable Promissory Note dated the ____ day of _____, 2022, wherein _____
_____ promised to pay to the order of the Town of Lowell, Indiana
the sum of \$ _____ Dollars, pursuant to the payment schedule described in the Note.

Upon failure to pay said indebtedness as it becomes due, or any part thereof at maturity, or the taxes or insurance
hereinafter stipulated, then said indebtedness shall be due and collectible, and this Mortgage may be foreclosed
accordingly. It is further expressly agreed that, until said indebtedness is paid, the Mortgagor will keep all legal
taxes and charges against the real estate paid as they become due, and will keep the buildings thereon insured
against fire and other casualties in an amount at least equal to the indebtedness from time to time owing, with loss
payable clause in favor of the Mortgagee, and will, upon request, furnish evidence of such insurance to the
Mortgagee, and failing to do so, the Mortgagee may pay said taxes or insurance, and the amount so paid, with
3.9% percent interest thereon, shall become a part of the indebtedness secured by this Mortgage.

Additional Covenants: None.

Dated this _____ day of _____, 2022.

Printed Name: _____

NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him/her, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to induce anyone to refrain from bidding, and that this contractor quote/construction bid is made without reference to any other contractor quote/contractor bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/she further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

OATH AND AFFIRMATION

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated at _____ this _____ day of _____, 20____.

(Name of Organization)

By _____

(Title of Person Signing)