



# CASCADE CHARTER TOWNSHIP

2865 Thornhills SE Grand Rapids, Michigan  
49546-7140

## NOTICE OF PUBLIC MEETING VIA VIDEO CONFERENCE

The Cascade Charter Township Brownfield Redevelopment Authority will conduct a regular meeting on Thursday, April 15, 2021 at 5:30 p.m. utilizing the Zoom video conferencing platform, for the purpose of conducting official business to help prevent the spread of COVID-19. For up-to-date information regarding the ongoing public health crisis, please visit:

<http://www.Michigan.gov/coronavirus> or <http://www.CDC.gov/coronavirus>

## INSTRUCTIONS FOR ACCESS AND PARTICIPATION

You are invited to a Zoom webinar.

When: Apr 15, 2021 05:30 PM Eastern Time (US and Canada)

Topic: Brownfield Redevelopment Authority Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85853489701>

Or One tap mobile :

US: +19292056099,,85853489701# or +13017158592,,85853489701#

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*\*\*Members of the public with disabilities may utilize the Michigan Relay System (7-1-1) to participate in the meeting. If other aids or services are needed for individuals with disabilities please contact the Assistant Township Manager, Stephanie Fast at [sfast@cascadetwp.com](mailto:sfast@cascadetwp.com) or 616-949-1500 at least 24 hours prior to the meeting\*\**

## **PUBLIC PARTICIPATION**

Members of the public will be able to listen to and view all discussion by the Brownfield Redevelopment Authority and all official materials for this meeting prepared for the Brownfield Redevelopment Authority will be included in the meeting packet and available to the public on the Township website at [www.cascadetwp.com](http://www.cascadetwp.com).

Individuals will be permitted to speak during public comment periods in accordance with the Township Remote Public Meeting Procedure Policy.

If you would like to contact the Township about any matter, on the agenda or otherwise, please do so via email at the addresses below a minimum of 8 hours prior to the meeting. If you wish comments to be read into the public record during the public comment period, you must indicate so and draft communication that can be read in the allotted 3-minute timeframe.

Clerk Sue Slater: [sslater@cascadetwp.com](mailto:sslater@cascadetwp.com)

Manager Ben Swayze: [bswayze@cascadetwp.com](mailto:bswayze@cascadetwp.com)

DDA Director Sandra Korhorn: [sandra@cascadetwp.com](mailto:sandra@cascadetwp.com)

**AGENDA**  
Cascade Charter Township  
Brownfield Redevelopment Authority Board  
April 15, 2021  
5:30 p.m.  
Virtual Meeting

- ARTICLE 1.** Call the Meeting to Order  
Record the Attendance
- ARTICLE 2.** Approval of the Agenda
- ARTICLE 3.** Approval of the Minutes of March 31, 2021
- ARTICLE 4.** Acknowledge visitors and those wishing to speak to agenda & Non-agenda Items (Comments are limited to five minutes per Speaker)
- ARTICLE 5.** Review and Consider the Amended By-Laws
- ARTICLE 6.** Review Robinson Dental Grant/Loan Timeline
- ARTICLE 7.** Review and Consider the Robinson Dental Development Agreement
- ARTICLE 8.** Review and Consider the Robinson Dental Grant/Loan Application
- ARTICLE 9.** Review and Consider the Proposal for Consulting
- ARTICLE 10.** Any Other Business
  - a. Set Next Meeting Date – Thursday, May 6, 2021
  - b. Brief Review of Next Meeting Agenda Items
  - c. Virtual or In-Person Meetings?
- ARTICLE 11.** Adjournment

Minutes  
Cascade Charter Township  
Brownfield Redevelopment Authority Board  
March 31, 2021  
5:30 P.M.  
Virtual Meeting

**ARTICLE 1.** Chairwoman Kleyla called the meeting to order at 5:35 P.M.  
Members Present: Kathy DeVries, Michele Kleyla, Chris Noordyke, Aaron Mead, and Grace Lesperance  
Members Absent: None  
Others Present: Director Sandra Korhorn, Manager Ben Swayze, Deputy Treasurer Oxana Sourine, and Susan Wenzlick, consultant with Fishbeck

**ARTICLE 2. Approval of the Agenda**

**Motion was made by Member Mead to approve the current Agenda. Supported by Member Noordyke. Motion carried 5 to 0.**

**ARTICLE 3. Approval of the Minutes of March 17, 2021**

**Motion was made by Member Lesperance to approve the Minutes of the March 17, 2021 meeting. Supported by Member Mead. Motion carried 5 to 0.**

**ARTICLE 4. Acknowledge visitors and those wishing to speak to agenda & non-agenda items.  
(Comments are limited to five minutes per speaker)**

There were no visitors.

**ARTICLE 5. Education Session**

Susan Wenzlick presented an informational Power Point slide show to all in attendance.

This reviewed what the definition of a Brownfield is: A property where expansion, redevelopment or reuse may be complicated by the presence of environmental contamination or blight. These properties can be contaminated, functionally obsolete, blighted, historic, at a transit hub, owned by a land bank (Kent County does not have a land bank), or adjacent or contiguous to any of the above if it is part of the development. A site needs to meet one of these criteria to qualify for brownfield incentives.

A Brownfield Redevelopment Authority will help provide incentives to redevelop sites, level the development playing field, create jobs, bring investment, increase the tax base,

qualify to apply for brownfield grants and loans, create a local brownfield revolving fund.

BRA incentives include state tax increment financing (TIF), local TIF, EGLE brownfield grants and loans, Michigan Economic Development Corporation grants, and a local brownfield revolving fund. The TIFs need to be approved by the BRA, EGLE, and the Michigan Strategic Fund. No taxing jurisdiction will get less money under a brownfield plan than it does now, and an increase will be seen after all eligible expenses are repaid.

Ms. Wenzlick reviewed a standard brownfield table of contents, TIF table, and the TIF process with all in attendance.

Member Noordyke asked if a revolving fund can be established before eligible expenses are paid off, Ms. Wenzlick stated that expenses need to be paid off first. Member Noordyke asked if the millage rate can be started off lower for the project and then raised for the revolving fund, or if the rate is variable or static across the entire term. Ms. Wenzlick stated that she will have to check into that question.

Ms. Wenzlick stated that the BRA needs to:

- Approve the revised bylaws, consider the application fee structure, consider the application guidance document, and consider a local brownfield revolving fund.
- The brownfield plan, development agreement, and EGLE brownfield grant/loan application for Robinson Dental will all need to be reviewed and approved.
- The Township Board will need to hold a public hearing on the plan, as well as approve the plan and grant application.
- Review and approve the Act 381 work plan for state TIF approval.
- Annually report state and local tax increment revenues to MDEC.

Ms. Wenzlick provided links to Members for more resources, guidance, and information on brownfield redevelopments to review if they would like to.

Ms. Wenzlick stated that she will provide this presentation to Director Korhorn for Members to review at their convenience.

Member DeVries asked how often properties eligible for brownfield redevelopment become available in Cascade Township. Ms. Wenzlick stated that EGLE has a list of known contaminated sites, and there are 35 contaminated sites within Cascade Township. Not all contaminated sites are eligible for redevelopment.

Member DeVries asked if it is worth developing a revolving fund if there will not be much use of it. Director Korhorn stated that this may be something the Board will need to review and decide.

**ARTICLE 6. Any Other Business**

Director Korhorn stated there will be a meeting on April 15<sup>th</sup> at 5:30 P.M.

**ARTICLE 7. Adjournment**

**Motion made by Member Mead to adjourn the meeting. Supported by Member DeVries. Motion carried 5 to 0. The meeting was adjourned at 6:25 P.M.**

Respectfully Submitted,  
Grace Lesperance, Secretary

DRAFT

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## BROWNFIELD REDEVELOPMENT AUTHORITY (BRA) MEMORANDUM

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**To:** Cascade Township BRA Board

**From:** Sandra Korhorn, DDA/Economic Development Director *SKK*

**Subject:** Discuss and Consider Adoption of BRA Amended By-Laws

**Meeting Date:** April 15, 2021

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After the Brownfield Redevelopment Authority adopts the BRA by-laws, the Township Board must adopt a resolution approving them. At the March 24 township board meeting, the board tabled the resolution to get clarification on some items.

A couple of the items they requested clarification on were, in the by-laws when it says "board", whether that is BRA or Township. Also, on the finances and whether, statutorily, the BRA handles all the finances, check writing, financial decisions, etc. or does the township board have the authority to approve financial decisions.

Included is also an email from Supervisor Lesperance with questions/concerns and the responses from Matt Zimmerman, our legal counsel. Matt also reviewed the entire document and provided clarification and/or changes.

The amended by-laws are in the packet for your review and consideration. Staff recommends adoption of the by-laws. Once adopted they will be placed on the township board agenda for approval by resolution.

**From:** [Zimmerman, Matthew D.](#)  
**To:** [Sandra](#)  
**Cc:** [Huff, John M.](#)  
**Subject:** RE: BRA By-Laws Review  
**Date:** Thursday, April 8, 2021 6:52:34 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Sandra: I have made revisions to the By-laws for the BRA. I have also responded to the Supervisor's questions below in red. I will provide you tomorrow the revised version with the original revisions accepted, and the new revisions in red-line. Thanks.



**Matthew D. Zimmerman**

Partner

**Direct** [616-336-6536](tel:616-336-6536)

**Mobile** [616-443-9169](tel:616-443-9169)

**Email** [mdzimmerman@varnumlaw.com](mailto:mdzimmerman@varnumlaw.com)



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Varnum LLP **M** [616-336-6000](tel:616-336-6000)  
333 Bridge Street NW, Suite 1700 **F** [616-336-7000](tel:616-336-7000)  
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**From:** Sandra <[Sandra@cascadetwp.com](mailto:Sandra@cascadetwp.com)>  
**Sent:** Thursday, April 1, 2021 11:45 AM  
**To:** Zimmerman, Matthew D. <[mdzimmerman@varnumlaw.com](mailto:mdzimmerman@varnumlaw.com)>  
**Cc:** Huff, John M. <[jmhuff@varnumlaw.com](mailto:jmhuff@varnumlaw.com)>  
**Subject:** FW: BRA By-Laws Review

Hi Matt,

Please see email below regarding additional comments about the BRA by-laws. These comments came from the township supervisor, who also sits on the BRA board. We have a BRA meeting April 15. My goal is to place the amended by-laws on that agenda.

Please let me know if you have questions. I appreciate your help.

Thank you,

Sandra Korhorn  
Cascade Charter Township  
DDA/Economic Development Director  
Phone: (616) 949-1500  
[sandra@cascadetwp.com](mailto:sandra@cascadetwp.com)

\*WE MOVED. OUR NEW ADDRESS IS:  
5920 TAHOE DR. SE, GRAND RAPIDS, MI 49546

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**From:** Grace Lesperance <[glesperance@cascadetwp.com](mailto:glesperance@cascadetwp.com)>  
**Sent:** Wednesday, March 31, 2021 2:46 PM  
**To:** Ben Swayze <[bswayze@cascadetwp.com](mailto:bswayze@cascadetwp.com)>  
**Cc:** Sandra <[Sandra@cascadetwp.com](mailto:Sandra@cascadetwp.com)>  
**Subject:** BRA By-Laws Review

I appreciate the residents who are volunteering their time and energy to serve as members of the BRA and I believe the BRA will be an important resource for the Cascade community. I think greater clarity and precision in the by-laws will be a benefit to them. Here are my initial questions and comments regarding the BRA by-laws:

1.) Article III allows the BRA to amend or repeal by-laws on its own. Is there a statutory mandate that prohibits Township Board final approval for proposed amendment or repeal? **Section 7 of the Act authorizes the Brownfield Authority to “[a]dopt, amend, and repeal bylaws.” There is no express authorization for the governing body to adopt bylaws. But then again there is no prohibition for the Township Board to make requests for items to be incorporated into the bylaws.** .If not, it is difficult to identify any organizational advantage or institutional safeguard accruing to the Township (and potentially the BRA itself) in this provision. **Section 4 of the Act authorizes the governing body (the Township Board here) to “create and provide for the operation of an authority.” Thus if the resolution creating the Brownfield Authority contains operational components (for example, to establish a local brownfield revolving fund), then the Brownfield Authority would incorporate or implement those operational components into the bylaws.**

2.) Article III, Section 3 states that the BRA can incur costs and expend funds from the local site remediation fund for authorized purposes and as approved by Cascade Charter Township. Cascade Charter Township staff? A Cascade Charter Township committee? Presumably Cascade Charter Township Board of Trustees was intended but clarity is imperative. **A municipality only legally or officially acts through its governing board (the Township Board here).** Thus the reference to the Township here means the Township Board. **But we have clarified this in our revisions.**

3.) Article 5, Section 1 states officers shall first be elected and subsequently appointed. Appointed by whom? And why? The rationale and desirability for appointment versus election is unclear and certainly debatable. I believe election is preferable. **Section 5(3) of the Act requires the members of the Authority Board to “elect 1 of their membership as chairperson and another as vice-chairperson. The members may designate or elect other officers of the Board as they consider necessary.” I think election is the typical approach, and have revised the bylaws accordingly.**

4.) Article 5, Section 5 states that the agenda will be created by the Director. Although the intent may simply be to assign responsibility for the assembling and processing of the physical agenda document **(that was the intent)**, the BRA is not a creature of staff. This section should be changed to expressly note the Chairperson and BRA board member's ability to collaboratively develop meeting agendas including,

but not limited to, designating identifying and placing on the agenda items for action, discussion and informational purposes. Incidentally, the proposed language is demeaning to residents volunteering their time and energy to serve on the BRA. **If there is going to be a Director, establishing the agenda would be a normal part of that job. There would typically be an opportunity for any member to request that the agenda be modified or amended, and the entire Authority Board would vote on that. I have revised the bylaws to provide for that.**

5.) Article 4, Section 2 regarding the appointment of members should note that the Township Supervisor recommends to the Township Board individuals for appointment. This reflects past practice, precedent and statute. The Township Supervisor appointed Mr. Mead, Mr. Noordyke and Ms. Kleyla to the BRA with Township Board approval at its February 24, 2021 meeting. Clarity upfront prevents a confused, flawed or unnecessarily contested process in the future. This should also be corrected in like manner in Article 4, Section 8 regarding appointments to fill vacancies. **I made these revisions.**

6.) Article 4, Section 10 references removal of officers but the substantive sentence seems to suggest removal from the Board. Officers should generally be able to be removed by a Board with, or without, cause. Board members often cannot be removed without cause. And what is cause? If it is in the statute simply cite it. **The language from Article IV, Section 10 is directly from the Act (MCL 125.2655(6)). The Act does not define "cause". I think the Township would want to have flexibility here and not try to define "cause."**

7.) Article IV, Section 9 notes the (BRA) Board may employ a BRA Director subject to approval by the Cascade Charter Township Board. It also references the Director serving at the pleasure of the Board. Which Board? **I provided for this to be the Authority Board as required in Section 6(1) of the Act.**

8.) Article V, Section 3 references the statutory minimum for notification of a special meeting. Is there a compelling reason for only minimum notice? **That is what the Open Meetings Act requires. The Act allows the Authority Board to change this in its procedural rules.** For purposes of institutional safeguards it may be prudent to include a by-law requirement that the Township Manager and Supervisor be required to receive the minimum notice in writing. **Although that would probably be better located in the procedural rules, I included this in the revisions.** It also may be prudent for transparency purposes to cite broad potential subjects likely to evince significant public interest and extend the minimum public notice of a special meeting for those subjects. Basic venues to be utilized for special meeting notices should be identified. **The notice of special meeting needs to identify the location. The bylaws do not identify the location for the Authority Board meetings. That should be established by the Authority Board at its first meeting.**

9.) Article V, Section 6 notes that Roberts Rules of Order 12th edition will govern the conduct of all meetings. Total application of Roberts Rules of Order may create issues and unintended consequences. This requirement should be carefully researched and probably modified. **The Authority Board can revise this if and when it runs into problems. I think it would be a monumental task (and expensive) to attempt to identify practical problems with Roberts in advance. I understood that the Township Board followed Roberts Rules of Order.**

10.) Article V, Section 9 regarding direct and indirect financial interest appears to require additional amplification including a definition of financial (anything of value versus cash value, etc.) and indirect whether it includes family and how far indirect family conflicts could extend. In addition, initial completion of a conflict of interest questionnaire should be addressed if it is not already. **One State Conflict of Interest statute uses the word "pecuniary" instead of "financial," but I think that is generally perceived to be narrower than financial. One of the several state statutes on conflict of interest addresses only contracts between the state and a board or commission member. The others do not define the nature of the interest. I think that is done purposefully. By requiring an Authority Board member to report an apparent conflict, then the rest of the Board can determine whether it is real or not.**

11. Article III, Section 4 and Article 6 address financial powers of the BRA. The discussion at the 3/24/2021 Township Board meeting highlighted interest in the level of financial autonomy that can be exercised by the BRA independently from the Township Board. Statutory language is extensive regarding

the financial authority of the BRA and should perhaps be reflected in more detail in the by-laws. Further, the issue of BRA financing autonomy should be addressed explicitly with accompanying supplemental documentation for background and informational purposes facilitating Township Board review. These specific articles and sections should be addressed succinctly with explicit clarity both in the by-laws and supplemental information. **The language in these sections and articles are taken from the Act. I revised them to specifically referenc the Act, which becomes the best limitation on the Board Authority.**

In addition to having legal counsel familiar with BRAs review the by-laws a review by legal counsel familiar with corporate by-laws may also be helpful. Frankly, the initial draft appears rather generic. I think the BRA members will be better served by greater clarity in, and amplification of, the by-laws. My comments are not intended by any means to be comprehensive. A timely revision of the by-laws and any supplemental information should provide for ample review time by Township Board members well in advance of simple inclusion in the Board's meeting packet. **I have not had any other attorney look at these bylaws. I will leave to you and John to decide whether to add that cost.**

Please contact me if you have any questions or comments.

Thank you.

Grace

# **BYLAWS OF THE BROWNFIELD REDEVELOPMENT AUTHORITY OF CASCADE CHARTER TOWNSHIP**

## **ARTICLE I: NAME AND ADDRESS**

The Cascade Charter Township Board (hereinafter referred to as the "Township Board", by Resolution number \_\_\_\_\_, established by the Cascade Charter Township Brownfield Redevelopment Authority (hereinafter referred to as the "Authority"). The address of the Authority is 5920 Tahoe Dr. SE, Grand Rapids, MI 49546.

## **ARTICLE II: PURPOSE**

The purpose of the Cascade Township Redevelopment Authority is to carry out those purposes and exercise those powers as conferred upon it by the Brownfield Redevelopment Financing Act (the "Act"), 1996 PA 381, as amended. In accordance with the Act, the Authority's mission is to facilitate the implementation of, and enter into, brownfield plans; to create and oversee brownfield redevelopment zones, to promote the revitalization redevelopment and reuse of certain property; including but not limited to tax reverted, blighted or functionally obsolete property; permit the issuances of bonds and other evidences of indebtedness; to authorize the acquisition and disposal of certain property; and to use certain tax increment financing, as permitted under the Act.

## **ARTICLE III. POWERS AND DUTIES OF THE AUTHORITY**

The Authority, acting through the Brownfield Redevelopment Authority Board (hereinafter referred to as the "Authority Board") and acting in accordance with the Act, other statutes and its own By-Laws, may do any of the following:

1. Adopt, amend or repeal bylaws for the regulation of its affairs and the conduct of its official business.
2. Incur and expend funds, as allowed by the Act, to pay or reimburse a public or private person for eligible costs of eligible activities attributable to an eligible property.
3. In accordance with Section 8 of the Act, incur costs and expend funds from the local site remediation revolving fund for authorized purposes, and as approved by the Township Board.
4. Enter into contracts related to the exercise and performance of the Authority's powers and duties as provided by the Act, including by way of example, lease purchase agreements, land contracts, installment sales agreements, loan agreements and service contracts.

## **ARTICLE IV. AUTHORITY BOARD**

1. **Officers:** The officers of the Authority Board shall be a chairperson, a vice chairperson, a treasurer and a recording secretary. All officers shall be members of the Authority Board, with the exception of the recording secretary and treasurer who need not be members of the Authority Board.
2. **Members:** The Authority Board shall consist of no fewer than five (5) and no more than nine (9) members, appointed by the Cascade Charter Township Supervisor and shall have powers as provided by the Act or as provided in these bylaws. Members may include public officials, whether appointed or elected. Before assuming the duties of office, a member shall qualify by taking and subscribing to the oath of office provided in Section 1 of Article XI of the State Constitution of 1963.
3. **Terms:** Of the initial members appointed, an equal number, as near as practicable, shall be appointed for 1 year, 2 years, and 3 years. Thereafter, each member shall serve for a term of 3 years. An Authority Board member may be reappointed for one or more successive three (3) year terms. A member whose term has expired may continue to hold office until reappointed or until a successor has been appointed.
4. **Chairperson:** The members of the Authority Board shall elect 1 of their membership as Chairperson. The Chairperson shall preside at all meetings of the Authority Board and shall discharge the duties as a presiding officer.
5. **Vice Chairperson:** The members of the Authority Board shall elect 1 of their membership as Vice-Chairperson. In the absence of the Chairperson or in the event of inability to serve as chairperson, the Vice Chairperson shall perform the duties of the Chairperson and when so acting, shall have all the powers and be subject to all the restrictions of the Chairperson.
6. **Treasurer:** The Authority Board shall appoint as Authority Board Treasurer the Township Treasurer, who shall keep the financial records of the Authority and together with the director, if there is a director, shall approve all vouchers for the expenditure of funds. The Treasurer shall prepare, with the assistance of appropriate Township officials, an annual financial report covering the fiscal year of the Authority. The fiscal year of the Authority shall be the same as that of the Township – January 1 to December 31. An annual audit will be made each year as part of the regular Township audit.
7. **Recording Secretary:** The Authority Board shall appoint a Secretary who shall maintain custody of records, books, documents and other papers not required to be kept by the Treasurer. The Secretary may be a member of the Authority Board. The Recording Secretary shall keep records of the Authority's proceedings and shall perform other duties as may be delegated by the Authority Board.
8. **Vacancy:** In the event of a vacancy on the Authority Board, due to resignation, incapacity, death or removal, the Authority Board shall notify the Cascade Charter Township Supervisor of such vacancy and request that an individual be appointed to fill the remainder of the term.

9. **Delegation of Operational Duties:** The Authority Board may employ, subject to approval by the Cascade Charter Township Board, a director of the Authority (hereinafter referred to as the "Director"). The Director shall manage day to day operation of the affairs of the Authority, shall act in accordance with the Act at the direction of the Authority Board, and shall regularly report to and serve at the pleasure of the Authority Board.
10. **Removal of Officers:** After notice and an opportunity to be heard, a member of the Authority Board may be removed by the Authority Board for cause before the expiration of his or her term.

## ARTICLE V. MEETINGS

1. **Organizational Meeting and Election of Officers:** Officers shall be elected at the first organizational meeting of the Authority Board after the adoption of the Bylaws and then shall be appointed thereafter at the first regular meeting of the calendar year.
2. **Regular Meeting:** Regular meetings of the Authority Board shall be held at a time and place to be set by the Authority Board. Notice of the schedule of regular meetings shall be published. The Authority Board records and minutes shall be open to the public.
3. **Special Meetings:** Special meetings of the Authority Board may be called by or at the request of the Chairperson, the Vice-Chairperson in the absence of the Chairperson or by any three Authority Board members by giving twenty four hours written notice of the meeting, stating the purpose of the meeting, by posting a notice thereof eighteen hour prior to the meeting, and by twenty four hours' written notice to the Township Manager and the Township Supervisor.
4. **Notice of Meetings:** All notices of any meetings other than regularly scheduled meetings shall be given in accordance with the Open Meetings Act (Act No 267 of the Public Acts of 1976) as amended.
5. **Agenda:** The agenda for regular and special meetings shall be created by the Director. Following the calling of the meeting to order and the roll call, the agenda shall be approved as presented, or amended, upon motion and approval by a majority of members present.
6. **Rules of Order:** Robert's Rules of Order, 12<sup>th</sup> edition, will govern the conduct of all meetings.
7. **Open and Closed Meetings:** All regular and special meetings of the Authority Board shall be open to the public. Closed meetings of the Authority Board may be called for purposes listed in 1976 PA 267, as amended.
8. **Quorum:** A majority of the Authority Board members in office shall constitute a quorum for the transaction of business at any legally noticed meeting of the Authority Board. A majority of a quorum of the Authority Board may adjourn the meeting without further notice. A majority vote of a quorum shall constitute official Authority Board action, unless a larger majority is required by statute or in these bylaws.

9. **Conflict:** A member who has a direct or indirect interest in any matter before the Authority shall disclose his/her interest as soon as he/she becomes aware of the real or apparent conflict and not participate in discussions on, nor vote on any questions concerning, such matter. Such disclosure shall become part of the record of the Authority's official proceedings. If a member is uncertain whether a conflict exists, he or she should err on the side of disclosure and request that the rest of the Authority Board vote on whether the member has a conflict of interest.

## **ARTICLE VI. CONTRACTS, LOANS, CHECKS AND DEPOSITS, INVESTMENTS**

1. **Contracts:** The Authority Board may employ and retain consultants as considered necessary by the Authority, including legal counsel to advise the Authority in the proper performance of its duties and to represent the Authority in action brought by or against the Authority. All contracts must be approved by the Authority Board.
2. **Loans/Grants:** No grant or loan shall be contracted on behalf of the Authority and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Authority Board. Such authority may be general or confined to specific instances. Cascade Charter Township shall not be liable on bonds or notes issued by the Authority and the bonds and notes shall not be a debt of the Township unless specifically provided otherwise by a majority vote of the Township Board.
3. **Checks, Drafts, Etc:** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Authority, shall be signed by such officer or officers, agent or agents of the Authority and in such a manner as shall from time to time be determined by resolution of the Authority Board.
4. **Investments:** The Authority may invest or deposit money of the Authority, at the Authority's discretion in obligations or depositories determined proper by the Authority, as allowed by law.
5. **Miscellaneous:** The Authority may do all other things necessary or convenient to achieve the objectives and purposes of the Authority, the Act, or other laws that relate to the purposes and responsibilities of the Authority.

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## BROWNFIELD REDEVELOPMENT AUTHORITY (BRA) MEMORANDUM

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**To:** Cascade Township BRA Board

**From:** Sandra Korhorn, DDA/Economic Development Director

**Subject:** Review Robinson Dental Grant/Loan Timeline

**Meeting Date:** April 15, 2021

SKK

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As we move through the process of creating a Brownfield Redevelopment Authority as well as the application from Robinson Dental for a Brownfield grant/loan, there are many moving parts and deadlines to keep track of.

Included in the packet is an updated grant/loan timeline for the Robinson Dental application process. While some dates may change, staff felt this would provide some guidance for the BRA board.



BROWNFIELD REDEVELOPMENT AUTHORITY / ROBINSON DENTAL BROWNFIELD GRANT – LOAN TIMELINE  
 Cascade Charter Township  
 Draft 4/12/21

Steps	Who	What	When
1	EGLE	Brownfield Grant / Loan proposal vetted by EGLE staff. If approved, the township will be invited to apply.	Done
2	BRA	Meets to review and approve: <ol style="list-style-type: none"> <li>1. Revised bylaws</li> <li>2. EGLE brownfield redevelopment grant/loan application</li> <li>3. Development agreement between developers and township</li> </ol>	Proposed 4/15/21
3	Township board	Approves BRA bylaws, brownfield grant/loan application (including resolution to commit full faith and credit), and development agreement.	Proposed 4/28/21
4	BRA	Submits grant / loan application to EGLE.	Proposed by 5/1/21
5	BRA	Reviews and approves Brownfield Redevelopment Plan for Robinson Dental. The Brownfield Plan will allow the township to repay the EGLE loan with tax increment financing. <ul style="list-style-type: none"> <li>• The BRA may request revisions from the developer’s consultant before it votes on the plan.</li> </ul> BRA decides whether to create Local Brownfield Revolving Plan. If so, the LBRF can be funded through the Robinson Dental brownfield plan.	Target BRA approval at meeting in the first week of May.
6	BRA/Township	Notifies the public and local taxing jurisdictions of the proposed plan and public hearing date, and makes the plan available for public viewing. Public hearing notice is posted by the Township board at least 10 days prior to the public hearing; the plan has to be made available to the public for review at least 10 days and no more than 30 days in advance of public hearing date. Taxing jurisdictions must also be notified at least 10 days before the public hearing.	Early May 2021 following BRA approval of the plan

7	Township board	Public hearing on brownfield plan at Township board meeting; Township board approval of plan by resolution Township Board passes a resolution approving application to EGLE, and agreeing to accept a loan.	Proposed 5/26/21
8	BRA staff / consultants, developer consultants	EGLE kickoff meeting with consultants and township.	Expected July 2021
9	Developer consultant (Envirologic)	Envirologic develops <i>grant</i> work plan for review and approval by BRA and EGLE. Envirologic develops Act 381 / <i>loan</i> work plan pursuant to the brownfield plan and brownfield loan agreement, for review and approval by BRA and EGLE.	Expected July/August 2021
10	Developer consultant	Soil pile sampling, excavation, transport, and disposal pursuant to the approved grant work plan. Surficial sampling follows pile removal.	Likely summer / fall 2021
11	BRA / Developer consultants	Ongoing through project: budget tracking, quarterly reporting to EGLE, grant / loan administration.	Quarterly reports due to EGLE 30 days after the end of each quarter
12	BRA / Developer consultants	Final project report at close of project.	Likely early 2022
13	Township treasurer	Collects tax increment for loan repayment and reimbursement of developers for their expenses; files an annual report through MEDC portal.	Annual
14	Township	Makes annual loan payment to EGLE. Note that loan payments begin five years after the first work plan is approved, but can be made early if TIF is coming in.	Obligated to begin in 2026, can pay earlier and save interest
15	Township board	May be asked to adjust and re-approve developer's letter of credit commitment annually based on the EGLE loan balance.	Likely 2022-2028
16	Township treasurer	Reimburses Robinson Dental for its eligible costs approved under the brownfield plan.	After EGLE loan repayment, expected 2029
17	Township	May collect TIF for five years after loan and Robinsons are paid for Local Brownfield Revolving Fund.	If approved, 2029-2034

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## BROWNFIELD REDEVELOPMENT AUTHORITY (BRA) MEMORANDUM

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**To:** Cascade Township BRA Board

**From:** Sandra Korhorn, DDA/Economic Development Director *SKK*

**Subject:** Review and Consider the Robinson Dental Development Agreement

**Meeting Date:** April 15, 2021

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Included in the packet is a development agreement for the Robinson Dental project. The Brownfield Redevelopment Authority will be the applicant for a Michigan Department of Environment, Great Lakes and Energy (EGLE) Brownfield Redevelopment Grant (\$453,577) and Loan (\$313,078) to assist in the cleanup and redevelopment of the Robinson Dental site. In order to secure the financial assistance from EGLE, the Township Board must resolve to accept the grant and loan and pledge its revenue sharing as security for the loan.

The development agreement protects the Township should the developer not follow through on the project or the TIF capture is not adequate to cover the loan amount. The agreement essentially secures the EGLE Loan.

The agreement has been reviewed by Susan as well as our legal counsel and staff is recommending approval. The agreement, once approved by the BRA, will be presented to the Township Board at their upcoming meeting for approval.

## DEVELOPMENT AND REIMBURSEMENT AGREEMENT

THIS BROWNFIELD PLAN DEVELOPMENT AND REIMBURSEMENT AGREEMENT (the "Agreement"), is entered into on \_\_\_\_\_, 2021 between the Cascade Charter Township Brownfield Redevelopment Authority, a Michigan public body corporate established pursuant to Act 381 of the Public Acts of 1996, as amended ("Act 381"), whose address is 2865 Thornhills Avenue SE, Grand Rapids, MI 49546-7192 (the "Authority") and Coco Properties, LLC ("Developer"), whose address is 8117 Ashwood Drive SE, Ada, MI 49301.

### RECITALS

**WHEREAS**, the Authority and Cascade Charter Township (the "Township") have determined that brownfield redevelopment constitutes the performance of an essential public purpose which protects and promotes the public health, safety and welfare; and

**WHEREAS**, the Township has established the Authority and proposes to adopt a Brownfield Plan (the "Plan"), pursuant to the provisions of PA, 1996, Act 381, being MCL 125.2651, et seq., (the "Act"); and

**WHEREAS**, Act 381 permits the use of the real and personal property tax revenues generated from the increase in value (the "Increment") to brownfield sites resulting from their redevelopment to pay or reimburse the payment of costs of conducting Eligible Activities (these costs are referred to as "Eligible Costs") and, unless Developer is a liable party for the site contamination, permits the reimbursement to Developer of Eligible Costs it has incurred; and

**WHEREAS**, Developer owns property in Cascade Charter Township located at 5749 28<sup>th</sup> Street SE, Cascade Charter Township, MI (the "Property") and legally described on the attached Exhibit A; and

**WHEREAS**, the Property has been included in the Plan and qualified as an "eligible property" under the terms of the Act; and

**WHEREAS**, Developer intends to redevelop the Property by investing approximately \$3.8 million to clean up the site and construct a new dental office; and

**WHEREAS**, the investments are expected to create full-time employment jobs at this location and will increase the property tax base within the Township (the "Project"); and

**WHEREAS**, the Project will require the Developer and Authority to incur Eligible Costs associated with certain Eligible Activities regarding the excavation, transportation and disposal of contaminated soil, environmental assessments, and project management of brownfield redevelopment activities which may require the services of various contractors, engineers, environmental consultants, attorneys and other professionals; and the Eligible Costs shall not exceed \$835,260; and

**WHEREAS**, the Cascade Township Brownfield Redevelopment Authority has applied for a Michigan Department of Environment, Great Lakes and Energy (EGLE) Brownfield Redevelopment Grant (\$453,577) and Loan (\$313,078) to assist in the cleanup and redevelopment of the site; and

**WHEREAS**, in order to secure the financial assistance from EGLE, the Township Board has resolved to accept the grant and loan and has pledged its revenue sharing as security for the loan; and

**WHEREAS**, the parties are entering into this Agreement to establish the procedure for the reimbursement from Tax Increment Revenues ("TIR") under Act 381 and the disbursement of funds from the EGLE Grant and Loan.

**NOW THEREFORE**, in consideration of the mutual covenants, conditions, and agreements set forth herein, the parties agree as follows:

1. **Recitals**. The above recitals are acknowledged as true and correct, and are incorporated by reference into this paragraph.

2. **The Plan**. The Brownfield Redevelopment Plan ("the Plan"), as it relates only to this Property, approved by the Authority and adopted by the Township Board is attached as Exhibit B and incorporated as part of this Agreement. To the extent provisions of the Plan or this Agreement conflict with Act 381, Act 381 controls.

3. **The Grant and Loan**. The Cascade Township Brownfield Redevelopment Authority has accepted an EGLE Brownfield Redevelopment Grant in the amount of \$453,577 and Loan in the amount of \$313,078 dedicated to the benefit of this project and subject to a Contract between the Cascade Township BRA and EGLE and implemented in accordance with an EGLE-approved Grant/Loan and Act 381 Work Plan.

4. **Term of Agreement**. Pursuant to the Plan, the Authority shall capture that amount of TIR generated from real and personal property taxes allowed by law on the Eligible Property, beginning in 2022 until the earlier of:

4.1 Full reimbursement of the Developer's Eligible Costs for those Eligible Activities set forth in Paragraph 7, which shall not exceed \$68,605 and when the Local Brownfield Revolving Fund (LBRF) capture is complete; or

4.2 30 years.

5. **Evidence of Ownership**. Prior to the execution of this Agreement, Developer shall provide to the Authority each of the following: (a) evidence satisfactory to the Authority that the Developer has acquired fee simple title to the Property, which evidence shall include (without limitation) a copy of a recorded deed to the Property in favor of the Developer; and (b) a copy of a commitment for owner's title insurance with respect to the Property (the "Commitment"), which Commitment shall show the Developer as record owner of the Property, shall reflect that all material conditions to the issuance of a policy thereunder have been satisfied, and shall otherwise be in form and substance satisfactory to the Authority.

6. **Letter of Credit**. To secure the EGLE Loan, the Township BRA and Cascade Township will require a Letter of Credit to the benefit of both Cascade Township and the Cascade Township BRA. The Initial Letter of Credit amount will be \$313,078 – the maximum loan amount. Upon completion of Eligible Loan Activities, the Letter of Credit amount may be adjusted to the actual costs incurred against the Loan. This and any subsequent adjustments to the Letter of Credit

amount shall require approval by the Township Board, whose approval will not be unreasonably withheld. The Township BRA shall diligently make loan repayments. After annual loan payments are made, the developer may request an adjustment in the amount of the Letter of Credit to equal that of the remaining loan principal and interest. Upon either full payment of the loan or accumulation of sufficient TIR by the Township BRA to fully repay the loan, the developer may request termination of the Letter of Credit.

The provisions of Paragraph 6 shall remain in effect until the Township BRA has fully repaid the EGLE Loan which shall be no more than 15 years following implementation of the Loan.

**7. Eligible Activities.** The Developer shall diligently pursue completion of the Eligible Activities summarized in the Plan and/or Grant and Loan Work Plans and/or Act 381 Work Plan(s). The Authority shall reimburse the Developer for Eligible Costs incurred after the date of the inclusion of this project in the Plan, and those Eligible Costs incurred prior to the date of the inclusion of this project in the Plan as allowed by Act 381.

**8. Reimbursement Source.** During the term of this Agreement, the Authority shall reimburse the Developer for its Eligible Costs, as limited under this Agreement, from all applicable non-school and school (if approved) TIR collected from the real and personal property taxes on the Property, from EGLE Grant funds, and/or from EGLE Loan Funds as appropriate to the specific activity conducted.

**9. Reimbursement Process.**

**9.1 Grant and Loan Eligible Activities Reimbursement Request:** On at least a quarterly basis for the duration of the grant / loan contract, the developer shall submit a summary of costs incurred consistent with Grant or Loan Work Plans and/or Act 381 Work Plans. The request shall include the dates, complete description of the work, proof of payment and detailed invoices for the costs involved for each Eligible Activity. The Developer shall cooperate with the Township BRA and its consultants to prepare appropriate documentation for EGLE. Not less than on a quarterly basis, and after Authority Staff Review and approval by EGLE, and only after receipt of funds from EGLE, the Township shall disburse funds for approved costs from the grant and loan.

**9.2 Tax Increment Finance Cost Reimbursement Request:** Within one year after Developer has completed the Project (the point that an occupancy permit is issued), Developer will submit all reimbursement requests for Eligible Activities to the Authority to be paid for with TIR. The Developer will also provide sufficient documentation of the Eligible Costs incurred including the dates, complete description of the work, proof of payment and detailed invoices for the costs involved for each Eligible Activity and a written statement certifying to the Authority that all such costs are "Eligible Costs". Failure to provide the above noted information when due, or within the time permitted by the Authority, may result in foregone reimbursement, to the developer by the Authority, for eligible costs that have not been requested within the timeframe described above.

**9.3 Authority Staff Review:** The Authority Staff shall review the request made in Paragraph 9.2 within sixty (60) days after receiving it. If Authority Staff determines that the documentation submitted by the Developer is not complete, then Developer shall cooperate in the Authority's review by providing, within thirty (30) days of the Authority's

request, any additional documentation of the Eligible Costs as deemed reasonable and necessary by the Authority in order to complete its review. Within forty-five (45) days following the receipt of such supplemental information, the Authority shall determine whether the costs are eligible for reimbursement. If the Developer wishes to challenge that determination, it shall provide written notice to the Authority within fifteen (15) days of the determination, and the issue shall be brought to the Authority within forty-five (45) days thereafter for a final determination. The Developer shall not have any further appeal rights to challenge the final determination of the Authority and shall not be entitled to any claim or cause of action against the Township or the Authority as a result of any determinations made in good faith regarding whether or not any cost submitted by the Developer constitutes an "Eligible Cost," and hereby grants the Township and the Authority and their respective officers, agents and employees, a complete release and waiver of any claims or causes of action as a result of the foregoing.

**9.4 Reimbursement:** For costs submitted pursuant to Paragraph 9.2 and approved pursuant to Paragraph 9.3 the following process of reimbursement will be followed. After summer and winter taxes are captured and collected on the Property, the Authority shall biannually reimburse approved Eligible and Administrative Costs to the Developer from TIR that are generated from the Property in accordance with the Plan to the extent that taxes have been captured and are available in that fiscal year. The Authority shall receive one hundred percent (100%) of TIR until fully reimbursed for its cost of Eligible Activities, unless otherwise designated by the Authority. After the Authority is fully reimbursed for its costs, the Developer shall receive one hundred percent (100%) of TIR up to its cost of Eligible Activities. In the event that there is insufficient TIR available in any given year to reimburse all of the Developer's Eligible Costs, as described in Paragraph 7, then the Authority shall reimburse the Developer only from available TIR. Once the Authority is fully reimbursed for its Eligible Costs, the Developer shall receive the available TIR, less Administrative Costs, during the term of this Agreement, until all of the amounts for which submissions have been made have been fully paid to the Developer, or the repayment obligation expires, whichever occurs first. The Developer shall not be entitled to receive any interest on amounts for which reimbursement is requested under this Agreement. The Developer shall not be entitled to reimbursement under this Agreement unless the Developer has timely and completely paid its real and personal property taxes including all penalties, interest and other amounts due in relation thereto when due. For purposes of this Agreement, to be timely paid, taxes must be paid before the date on which they can no longer be paid without penalties or interest. The repayment obligation under this Agreement shall expire upon the earlier of the full payment by the Authority to the Developer of all amounts due the Developer from the TIR or thirty (30) years from the date of initiation of the Plan.

**9.5 Method of Reimbursement:** The Authority will reimburse the Developer for Eligible Costs as follows:

Checks shall be payable to:                      Coco Properties, LLC

Delivered to the following address:    8117 Ashwood Drive  
Ada, MI 49301  
By certified mail.

**9.6 Early Loan Payoff:** Following biannual reimbursement of administrative (Brownfield Plan Implementation) and/or developer expenses, the Township shall utilize

the remaining biannual TIR to make payments against the principal and interest of the EGLE Loan, even if a loan payment is not scheduled for that year. This shall continue until the EGLE Loan is fully repaid.

**10. Adjustments.** The parties acknowledge that adjustments regarding the amount of TIR paid to the Developer may occur under any of the following circumstances:

**10.1 Audit or Court Ruling:** In the event that a state agency of competent jurisdiction conducting an audit of payments made to the Developer under this Agreement or a court of competent jurisdiction determines that any portion of the payments made to the Developer under this Agreement is unlawful, the Developer shall pay back to the Authority that portion of the payments made to the Developer within thirty (30) days of the determination made by a state agency or the court as the case may be. However, the Developer shall have the right, before any such repayment is made, to appeal on its or the Authority's behalf, any such determination made by a state agency or court as the case may be. If the Developer is unsuccessful in such an appeal, the Developer shall repay the portion of payments found to be unlawful to the Authority within thirty (30) days of the date when the final determination is made on the appeal. The Developer shall be responsible for payment of all of the Township's and Authority's legal fees associated with any determination of whether a cost for which reimbursement is requested constitutes an "Eligible Cost" and all of the Township's and Authority's legal fees associated with the review or determination of such issues by any state agency or court.

**10.2 Property Tax Appeal:** In the event the developer, or any other owner of real estate on the Property, files an appeal with the Michigan Tax Tribunal, related to the taxable value of parcels of property included in the Brownfield Plan, the Authority shall do the following:

- a. The Authority will remit Tax Increment Financing Reimbursement payments based upon the lowest taxable value being sought pursuant to the appeal;
- b. Any Tax Increment Revenue that is collected but not remitted as a result of a tax appeal shall be held in a separate account of the Authority until the pending appeal is adjudicated;
- c. Once any tax appeals are adjudicated, the Authority will either return the escrowed funds to the local unit in compliance with any tax appeal rulings, or will make payments pursuant to Section 7 of this agreement.

**10.3 Reduction of Property Assessments:** If the Authority:

- a. incurs Costs on behalf of the Developer with respect to the Project, Site or Application, and
- b. the Developer initiates, participates in or supports any proceeding or process which results in a reduction of the tax increment capture for the Project from that projected and along the same term as contained within the Plan, the Developer indemnifies and will fully reimburse the Authority within thirty (30) days of notification from the Authority as to the amount and the due date for all Costs as defined within the Plan, expenses or reduction in revenue from what was projected as the tax increment capture.

**11. Responsibilities of Developer.** In consideration of the inclusion of the Property into the Plan and the resulting financial benefits, which it expects to receive, Developer agrees to the following:

**11.1 Project:** The project involves new construction on the property to create an 8,519 square foot dental office, parking lot, landscaping, access drive and other related improvements to the property. The proposed redevelopment is anticipated to create additional full-time jobs. Private funds invested into the project are anticipated to be \$3.8 million.

Under no circumstances shall the Authority have any responsibility or liability for remediation or redevelopment of the Property, or for conducting any "eligible activities" at the Property, except for its obligations under this Agreement to administer the EGLE brownfield grant and loan and to provide funds to the extent available as permitted in Paragraph 9 hereof with respect to payments from TIR. All environmental activities and site improvements will comply with applicable federal, state and local laws, rules and regulations, including building and zoning codes. Subject to matters beyond the reasonable control of Developer (e.g., matters of force majeure, acts of God, labor and material interruption or delay, and receipt of necessary governmental approvals) construction shall be substantially completed to the point that a temporary occupancy permit may be issued within twelve (12) months of this Agreement.

**11.2 Employment Opportunities.** Make every reasonable effort to work with the Township and community employment agencies to hire County residents for new employment opportunities created by the Project, and to encourage the local contracting of construction and site related work.

**11.3 Ordinances.** Develop the Property, including landscaping and all other improvements required for the Project, in compliance with all local ordinances, site plan reviews and this Agreement. The redevelopment of the Property shall be subject to all zoning approvals. This Agreement does not obligate any governing municipality to grant any such approvals.

**11.4 Project Sign.** Place on the site during redevelopment a development sign approved by the Authority and as required by other supporting agencies to promote the Project and the Authority's and other agencies' participation in it.

**11.5 Promotion and Marketing.** Permit the Authority to cite or to use any renderings or photographs or other materials of the Project as an example of private/public partnership and brownfield site redevelopment.

**11.6 Cooperation.** Assist and cooperate with the Authority in providing information that the Authority may require in providing necessary reports to governmental or other agencies, including, but not limited to, information regarding the amount of Developer expenditures and capital investments, jobs created, and square footage developed or rehabilitated with respect to the Project.

**11.7 Payment of Authority Legal and Professional Fees.** To the extent the following costs and fees are not paid to the Authority from TIR, the Developer shall reimburse the Authority for its legal and professional fees and disbursements incurred in connection with the review, approval and administration of the brownfield plan for this Project, including any further amendments thereto; the preparation and negotiation of this Agreement, as it may be amended from time to time; and all documents and matters related thereto, including future expense. Developer shall reimburse the Authority for such expenses within thirty (30) days from the date that the Authority sends an invoice and request for

payment to Developer, provided Developer shall be eligible for reimbursement for such expenses to the extent permitted by law from TIR.

**12. Responsibilities of the Authority.** In consideration of the preceding commitments of Developer the Authority further agrees to the following:

**12.1 Agency Contacts.** Provide Developer with appropriate service/employment agency contacts for the identification of County residents to interview for potential employment;

**12.2 Cooperation.** Cooperate and use its best efforts to obtain any governmental approvals required to close the transaction contemplated by this Agreement.

**13. Developer's Representations, Warranties, and Covenants.** The Developer hereby makes the following representations, warranties and covenants:

**13.1 Eligible Property.** The Property is "eligible property" as defined in Act 381 and is eligible for the capture of TIR pursuant to Act 381.

**13.2 Eligible Costs.** The Developer will only submit for reimbursement such costs that it has reasonably determined are "Eligible Costs" within the meaning of Act 381.

**13.3 Due Authorization.** The representatives signing this Agreement are duly authorized by the Developer to enter into this Agreement.

**14. Events of Default.** Each of the following shall constitute an event of default:

**14.1** Any representation or warranty made by the Developer in this Agreement proves to have been incorrect or incomplete in any material respect when made or deemed to be made.

**14.2** The Developer fails to observe or perform any covenant or agreement contained in this Agreement for thirty (30) days after written notice thereof shall have been given to the Developer by the Authority.

**14.3** The Developer abandons or withdraws from the redevelopment of the Property or indicates its intention to do so.

**14.4** The Developer fails to pay any funds within thirty (30) days of the date due which are required to be paid to the Authority pursuant to this Agreement, including but not limited to its real and personal property taxes as set forth in Paragraph 9? hereof.

**14.5** The Developer terminates its existence.

**14.6** Any material provision of this Agreement shall cease to be valid and binding on the Developer or shall be declared null and void; the validity or enforceability of such provision shall be contested or denied by the Developer; or the Developer denies that it is bound by this Agreement.

**15. Remedies upon Default.** If any event of default as defined above shall occur and be continuing for thirty (30) days after written notice of default from the Authority, the Authority shall

have the right, but not the obligation, to terminate this Agreement effective immediately and the Developer shall be responsible for all costs which the Authority has incurred in connection with the Property and this Development Agreement, and shall be responsible for all Eligible Costs, without contribution from TIR collected by the Authority from taxes levied on the Property.

**16. Legislative Authorization.** This Agreement is governed by and subject to the restrictions set forth in the Act. In the event that there is legislation enacted in the future which alters or affects the amount of TIR subject to capture, Eligible Properties, or Eligible Activities, then the Developer's rights and the Authority's obligations under this Agreement may be modified accordingly by agreement of the parties.

**17. Freedom of Information Act.** Developer stipulates that all Petitions and documentation submitted by Developer shall be open to the public under the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, being Sections 15.23 to 15.24 of the Michigan Compiled Laws and no claim of trade secrets or other privilege or exception to the Freedom of Information Act will be claimed by Developer as it relates to this Agreement or Petitions and supporting documentation.

**18. Plan Modification.** The Plan and this Agreement may be modified to the extent allowed under the Act by mutual agreement of the parties.

**19. Notices.** All notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed given when delivered personally, or one day after being sent by overnight courier, or three days after being mailed by registered mail, return receipt requested, to the following addresses (or any other address that is specified in writing by either party):

If to Developer:                      Coco Properties, LLC  
Attn: Dr. Elizabeth Robinson  
8117 Ashwood Drive SE  
Ada, MI 49301

If to the Authority:                      Director  
Cascade Charter Township Brownfield Redevelopment  
Authority  
2865 Thornhills Avenue SE  
Grand Rapids, MI 49546-7192

With copy to:

**20. Indemnification.** Developer shall defend, indemnify, and hold harmless the Authority, to also include the Township, and any of its past, present and future members, officials, employees, agents or representatives from all losses, demands, claims, judgments, suits, costs and expenses (including without limitation the costs and fees of attorneys or other consultants) arising from or related to the capture and use of TIR paid to Developer as a reimbursable payment under this Agreement, or made in excess of the amount of TIR the Authority is determined by the State or court to be allowed by law to use for that reimbursement.

**21. Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Michigan.

22. **Binding Effect/Third Parties.** This Agreement is binding on and shall inure to the benefit of the parties to this Agreement and their respective successors, but it may not be assigned by any party without the prior written consent of the other party. The parties do not intend to confer any benefits on any person, firm, corporation, or other entity that is not a party to this Agreement.

23. **Waiver.** No failure of either party to complain of any act or omission on the part of the other party, no matter how long this same may continue, is considered as a waiver by that party to any of its rights hereunder. No waiver by either party, expressed or implied, of any breach of any provision of this Agreement is considered a waiver or a consent to any subsequent breach of this same or other provision.

24. **Authorization.** Each of the parties represents and warrants to the other that this Agreement and its execution by the individual on its behalf are authorized by the board of directors or other governing body of that party.

25. **Entire Agreement.** This Agreement supersedes all agreements previously made between the parties relating to the subject matter. There are no other understandings or agreements between them.

26. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

27. **Definitions.**

“Brownfield Plan or Plans” is defined by Section 2(e) of Act 381;

“Eligible Activities” is defined by Section 2(o) of Act 381;

“Eligible Property or Properties” is defined by Section 2(p) Act 381;

“Tax Increment Revenues” is defined by Section 2(ss) of Act 381.

**Witnesses:**

**Cascade Charter Township Brownfield  
Redevelopment Authority**

\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**Coco Properties, LLC**

\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

DRAFT

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DRAFT

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## BROWNFIELD REDEVELOPMENT AUTHORITY (BRA) MEMORANDUM

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**To:** Cascade Township BRA Board

**From:** Sandra Korhorn, DDA/Economic Development Director *SKK*

**Subject:** Review and Consider the Robinson Dental Grant/Loan Application

**Meeting Date:** April 15, 2021

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Part of the process for the Robinson Dental project is the BRA must review and consider approval of the Grant/Loan application.

The project proposal for the Robinson Dental project was submitted to EGLE in mid-February and vetted at the beginning of March. Late March we received news that the request for a \$478,300 grant and a \$313,100 loan has been fully supported, minus the cost of excavation.

At our last meeting, Susan Wenzlick discussed this project during the education session and mentioned a soil pile on the property. It was determined that the cost of the soil pile excavation was not eligible for grant funding, but that the transportation/disposal costs were. The applicant has updated the proposal removing the excavation costs from the request.

The BRA will be the applicant for the grant/loan. The next step is the application must be submitted to the State (EGLE) by May 1. The application has been reviewed by Susan and staff is recommending approval. After the BRA reviews and approves the grant/loan application, it will be placed on the next township board agenda for their review and approval.

**I. PROJECT NAME AND LOCATION**

Project Name:	<b>Robinson Dental Cascade Township</b>		
Project Address:	<b>5749 28th Street SE</b>		
Project City:	<b>Cascade Township</b>		
Project County:	<b>Kent</b>	Project Zip Code:	<b>49546</b>
State Senate District:	<b>29</b>	State House District:	<b>86</b>

**II. FUNDING REQUEST**

Applicant:	<b>Cascade Charter Township</b>		
Amount Requested:	<b>\$766,655 total. \$453,577 Grant and \$313,078 Loan</b>		
Funding Source:	<input type="checkbox"/> RPF	<input checked="" type="checkbox"/> 201	<input type="checkbox"/> Site Assessment
Funding Type:	<input checked="" type="checkbox"/> Grant	<input checked="" type="checkbox"/> Loan	<input type="checkbox"/> Either

**III. GENERAL PROJECT INFORMATION**

Previous use(s):	<b>Undeveloped Land associated with a former asphalt plant</b>
Current use(s):	<b>Undeveloped Land with a storm water retention pond and large stockpile of soil mixed with waste concrete and asphalt</b>
Proposed new use(s):	<b>New construction of a two-story, 8,519 square-foot dental office</b>
Known or suspected contaminants:	<b>Benzo(a)pyrene, fluoranthene, naphthalene, phenanthrene, selenium, and arsenic in soil. Arsenic, barium, copper and lead in groundwater.</b>

#### IV. GENERAL PROJECT SUMMARY

*Provide one paragraph below that summarizes the redevelopment, the environmental challenge that needs to be addressed, and how the brownfield funding will be used to address that challenge.*

The redevelopment includes the new construction of a two-story, 8,519 square-foot building. A large soil stockpile (~6,700 cubic yards) occupies almost the entire developable portion of the property. The soil is contaminated and is not competent material to utilize in construction due to the intermixed waste concrete and asphalt. There is also insufficient room on the property to spread or berm any significant amount of the soil pile. The cost of removing the material has prevented any development on this parcel for decades despite being in one of the most highly developed areas of Kent County. The project site is surrounded by commercial development and apartment complexes and located off a main commercial thoroughfare (28th Street SE). The brownfield funding will be used to "level the playing field" for this property by funding the removal of the soil pile, additional assessment of soils, the cost of transportation and disposal of excess contaminated soil from construction, and the costs associated with management of the project and grant/loan.

#### V. PROPERTY AND OWNERSHIP INFORMATION

Latitude (to 8 digits):	<b>42.914748</b>	Longitude (to 8 digits):	<b>-85.527384</b>
Current Zoning:	<b>PUD-82</b>	Proposed Zoning:	<b>PUD-82</b>
Property Tax IDs:	Acreage	Address(es):	
<b>41-19-08-351-033</b>	<b>3.361</b>	<b>5749 28th Street SE, Cascade Township, MI</b>	

##### Current Owner Information

Name: **Coco Properties LLC**  
 Address: **8117 Ashwood Drive SE**  
 City, State, Zip Code: **Ada, MI 49301**  
 Phone: **616.550.9721**  
 Email: **dr\_bethrob@yahoo.com**

How was the property acquired by the current owner? (purchase, tax reversion, inheritance, etc.)  
**Purchased by warranty deed on 1/24/2020. Coco Properties LLC is Robinson Dental's single purpose LLC used to hold title to the property.**

Date property was acquired:  
1/24/2020

Did the current owner complete a Baseline Environmental Assessment (BEA)?  
 Yes    No

**V. PROPERTY AND OWNERSHIP INFORMATION**

Is the property currently in use or occupied?       Yes       No

Provide a summary of the current property use and operations below.

Name and Address of Occupant	Operations at the Property	Date Operations Began
None	None	N/A

**Future Owner Information**       N/A - Ownership will not change

Name:  
Address:  
City, State, Zip Code:  
Phone:  
Email:

How will the property be acquired? (purchase, tax reversion, inheritance, etc.)

Estimated date of property acquisition: <i>Click or tap to enter a date.</i>	Will a BEA be completed within 45 days of acquisition? <input type="checkbox"/> Yes <input type="checkbox"/> No
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Is the current owner willing to provide access to EGLE and the Grantee to conduct the proposed work?       Yes       No

Does the property have any of the following?

A liable party known to have caused or contributed to a release at the site?       Yes       No

Known environmental actions or enforcements by a regulatory agency?       Yes       No

A liable party undertaking corrective actions at the site?       Yes       No

Known environmental liens?       Yes       No

Known legal, access, or title issues?       Yes       No

Deed restriction, land or resource use restriction?       Yes       No

Provide a detailed explanation for any Yes answers:

Provide any other relevant information regarding property ownership and operations, if applicable.

**VI. PROPERTY USE AND ENVIRONMENTAL CONDITIONS**

**Property History**

List the current and former uses of the property below, including dates, owners (if known), and potential contaminants associated with each property use.

Date Range (Year)		Property Use	Potential Contaminants and/or Recognized Environmental Conditions (RECs)	Property Owner
From	To			
1965	2000	Undeveloped land used by former asphalt plant for deposition of soil and waste concrete and asphalt	Deposition of waste concrete and asphalt	Kent Asphalt
2000	2020	Undeveloped land	Contamination identified on site during 2000 BEA. Contaminants included PNAs and metals.	Sheriff, Citizens Bank (through foreclosure) and 5749 28th St SE LLC
Owner/Operator at the time when contamination is believed to have occurred, if known:			Kent Asphalt	

**Environmental Risks**

Known Contaminants:	<b>Arsenic, copper, lead, selenium, zinc, benzo(a)pyrene, fluoranthene, naphthalene, phenanthrene.</b>
Pathways of Concern:	<input checked="" type="checkbox"/> Drinking Water <input checked="" type="checkbox"/> Groundwater/Surface Water Interface (GSI) <input type="checkbox"/> Volatilization to Indoor Air <input type="checkbox"/> Ambient Air <input checked="" type="checkbox"/> Direct Contact <input type="checkbox"/> Unknown

**Petroleum Information**

Were underground storage tanks (USTs) ever located on the property?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Suspected
Are USTs <u>currently</u> present on the property?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Suspected
Has a UST release been reported for the property?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Release ID#(s), if known:

## VI. PROPERTY USE AND ENVIRONMENTAL CONDITIONS

Summarize known UST information below:

Tank ID#	Size	Contents	Installation Date	Removal Date	Status (active, removed, etc.)	Release ID#

### Hazardous Substance Information

Was there ever a non-UST related release of a hazardous substance on the property?       Yes       No       Unknown  
Date and Release ID#(s), if known:

Summarize known hazardous substance release information below:

Date of Release	Description of Release	Status	Release ID#

<p style="text-align: center;"><u>Did the applicant</u> cause or contribute to contamination that is known or may be discovered at the project site?</p>	<p>To the best of my knowledge, the applicant:</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No, did NOT cause or contribute to contamination</p> <p><input type="checkbox"/> May have caused or contributed to contamination</p>
<p style="text-align: center;"><u>Did the developer</u> cause or contribute to contamination that is known or may be discovered at the project site?</p>	<p>To the best of my knowledge, the developer:</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No, did NOT cause or contribute to contamination</p> <p><input type="checkbox"/> May have caused or contributed to contamination</p> <p><input type="checkbox"/> Not Applicable/No developer</p>

### Environmental Condition of the Property

*Provide below a brief description of what is known about the environmental condition of the property. Describe known and/or suspected contamination and the risk that needs to be mitigated/addressed to safely reuse the property. Provide maps and figures showing contaminant exceedances (see checklist in Section XII).*

## VI. PROPERTY USE AND ENVIRONMENTAL CONDITIONS

The property is an undeveloped property with significant environmental and physical challenges that pose hurdles to the proposed development. Two features dominate the space of the site. A large soil pile approximately 25 feet in height and about 6,700 cubic yards in total volume occupies almost the entire eastern half of the property. A storm water retention pond that serves the surrounding commercial developments occupies the western portion of the property. The soil pile has been present on the property since as early as 1965. The size and scale of the material has prohibited development of the property in a commercial area that is almost 100% developed.

The analytical results of a 2000 Superior Environmental Phase II ESA identified copper, zinc, benzo(a)pyrene, fluoranthene, naphthalene, and phenanthrene in soil concentrations exceeding the current Groundwater Surface Water Interface Protection (GSIP) Criteria. The concentrations of benzo(a)pyrene in soil also exceed the current Generic Residential Direct Contact (DC) Criteria but not the Generic Non-Residential DC Criteria, which is the applicable criteria for the current use of the subject property, as well as its future use. No additional contaminants were identified in the 2000 Phase II.

The analytical results of a 2008 PM Environmental Phase II ESA identified selenium, benzo(a)pyrene, fluoranthene, and phenanthrene in soil concentrations exceeding GSIP Criteria and benzo(a)pyrene in excess of Generic Residential DC Criteria, but not Generic Non-Residential DC Criteria. No additional contaminants were identified in the 2008 PM Environmental Phase II ESA.

**Envirologic completed a Phase II ESA in 2020 to confirm and supplement prior results. The 2020 investigation identified the presence of arsenic, barium, copper, and lead in groundwater above drinking water and GSI criteria. Sampling activities over the various investigations have demonstrated that no volatile organic compounds are present on site. Also mercury levels are below state default background levels.**

**It is important to note that contaminants are not exclusive to the soil pile and have been identified in various locations of the property. Sharp Construction (the General Contractor for this project) reported placing 2-3 test pits at the property and identifying buried concrete and wood at the site. Nonetheless, it is not clear how extensive or deep debris or contamination exists on the property and additional assessment will be completed prior to construction activities to better characterize soil conditions at the site.**

**No non-residential direct contact exceedances have been identified so no long term engineered barriers are necessary.**

### Proposed Environmental Actions with Grant/Loan Funding

**Check all that apply:**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Hazardous Material Survey           | <input checked="" type="checkbox"/> Assessment/Investigation                  | <input type="checkbox"/> UST Removal      |
| <input type="checkbox"/> BEA                                 | <input type="checkbox"/> Due Care Planning                                    | <input type="checkbox"/> Demolition       |
| <input checked="" type="checkbox"/> Excavation               | <input checked="" type="checkbox"/> Soil Transport/Disposal                   | <input type="checkbox"/> Vapor Mitigation |
| <input checked="" type="checkbox"/> Other (please describe): | <b>Project Management, Oversight, Grant Management, Third Party Oversight</b> |   |
| <input type="checkbox"/> Other (please describe):            |   |   |

## VI. PROPERTY USE AND ENVIRONMENTAL CONDITIONS

*Describe the proposed actions that will be undertaken with grant and loan funds to address the environmental conditions and make the property safe for the proposed reuse. Please explain reasons why the proposed eligible activities should be funded.*

*Provide maps showing contamination relative to the building footprint and/or the development plan (see checklist in Section XII).*

It is proposed that the soil pile is excavated, transported, and disposed at a Type II Landfill. The soil pile represents a Brownfield condition that inhibits development on the property as it occupies a majority of the developable space on the property. Thus, the removal, transport and disposal of the pile is necessary for any development of the property to occur. These soils are intermixed with debris, concrete, asphalt, and possibly slag or foundry sand. Soil testing has demonstrated the presence of contamination above residential cleanup criteria. Removal of this contaminated material is a response activity and may be funded using a Brownfield Redevelopment Grant. There is an estimated 6700 cubic yards of material in this pile. Any concrete or asphalt that can be separated and recycled will be segregated for recycling. The remaining material will be excavated (@ Developer's cost), transported (@\$12/CY), and disposed (@\$27/CY). It is proposed that the removal of the soil pile will be considered "complete" when a ground elevation of 767 feet above mean sea level is reached which is the current elevation of the property at the street entrance (See attached ALTA survey). Activities and costs related to this phase of work also include removal of the trees and brush to access the soil, oversight, contractor markup, sedimentation/erosion controls including silt fencing, stone drive and daily street sweeping, lab analyses for disposal approval, and project management.

As the soil pile is removed, it will allow access to underlying soil in order to ascertain the nature of "in-situ" soil that will be excavated during construction activities. To better evaluate this soil, it is proposed that grant funds are used for Assessment/Investigation activities. It is proposed that a series of test pits are advanced throughout the proposed building footprint. Up to 12 test pits will be advanced to depths of eight feet and will allow for visual identification of any buried debris, concrete, etc. Because metals have been identified as one of the primary chemicals of concern, it is proposed that a hand-held x-ray fluorescence spectrometry analyzer (XRF) is used for rapid assessment of arsenic, copper, selenium and zinc. This allows project work to continue without delays related to laboratory work. Up to four readings per test pit at vertical increments of every two feet will be made. If the data from visual and rapid assessment techniques sufficiently demonstrates the presence of contamination or is able to distinguish a depth at which contamination no longer is present, assessment activities will cease. If further characterization is needed, laboratory analysis of soil will be conducted. Up to two soil samples per test pit (24 total) will be collected for laboratory analysis of arsenic, copper, selenium, zinc and polynuclear aromatic hydrocarbons. Project staff will work with EGLE and the Oversight Consultant as the assessment activities are conducted. Data will be evaluated and presented to demonstrate what portion of soil should be landfilled.

Once the assessment of in-situ soil is completed, any portion of contaminated soil that must be removed for construction will need to be landfilled. It is proposed that loan funds are used for the transportation and disposal of the excess contaminated soil generated from construction activities. At most, it is estimated that 5408 cubic yards of soil will be removed. The loan budget includes cost for transportation (@\$12/CY) and disposal (@\$27/CY) of the excess contaminated soil. Loan funds also include cost for oversight, project documentation, and contractor markup.

This project, if funded, would allow for a complete remedy to be implemented at the property. If the Department wished to place a Notice of Remediation or a Land Use-Resource Use Restriction on the property as documentation and a final remedy, the property owner would not be adverse to such actions as long as they do not inhibit the use of the property.

## VI. PROPERTY USE AND ENVIRONMENTAL CONDITIONS

The proposed eligible activities would restore productive use to a property with significant environmental and physical hurdles for this development, remedy an uncontrolled contaminated site, leverage investment and development of the property, leverage additional tax revenues, create new jobs, and improve the aesthetic condition of the area and neighboring properties.

### Schedule

*Provide a schedule for the completion of the proposed eligible activities:*

The owner would like to start construction as soon as feasible. Site plans have been reviewed by the Township and are approved for construction. Recognizing the timelines for grant/loan approvals, contracts and work plans we would desire to start work in May 2021. The implementation of the project would be a short term project with completion in less than 60 days and final financial, technical, and project management documentation completed during the subsequent 6 months. Thus, we believe this project could be closed out by the end of calendar year 2021.

### Demolition

*If a grant or loan will be used for demolition (buildings, site features, etc.), answer the following:*

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| Does the structure impede the proposed environmental response activities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does the structure present a health or safety threat?                     | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does the structure impede the reuse of the property?                      | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Do the environmental activities exceed the cost of demolition?            | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Further explanation, if necessary:

## VII. ECONOMIC AND REDEVELOPMENT INFORMATION

Capital Investment:	<b>\$4.6 million</b>	Permanent jobs created:	Full Time = <b>35</b> Part Time =
Current SEV:	<b>\$135,000</b>	Anticipated post redevelopment SEV:	<b>\$1,300,000</b>

### Redevelopment Project Description

*Provide a brief summary of how the redevelopment project will provide an economic benefit to the community.*

The project is a \$4.6 million capital investment and will significantly increase the taxable value of the property, generating new tax revenues for the local community. The project will create 35 new professional level positions (Dentists, Dental Hygienists, Technicians, office staff). These are well-paid positions. This area was selected for this new office location to attract patients that would want to combine their dental visit with the many shopping, dining or entertainment options available in this commercial corridor. Thus, this development is expected to add additional customer base for the local commercial establishments. Further, Robinson Dental has experienced that when they improve or expand an office location, that their competition also makes similar investments to retain and attract clientele.

Is there a developer committed to the project?  Yes  No

Developer's Name: **Coco Properties LLC and Scott and Beth Robinson DDS PC**

**Developers Experience**  
Provide a brief summary of the developer's business experience, including any other businesses, terms and conditions of their participation in the project, bankruptcies, and civil or criminal enforcement actions related to environmental violations.

**Dr. Beth Robinson established her own practice in 2003 and her husband Dr. Scott Robinson established his practice in 2005. Robinson Dental has been in business since 2013. Drs. Beth and Scott Robinson have developed three office locations - two in Wayland and one in Coopersville. The 899 Reno Drive, Wayland location was their first development (2013) and was a newly constructed building. The Coopersville location was newly constructed in 2016. Their second Wayland location (404 W. Superior) was a renovation project. Thus, the Robinson's are experienced developers and have relationships with builders and contractors, financial institutions, etc. that make this project's success highly likely. There are no conditions on their involvement in the project. There are no bankruptcies, civil or criminal enforcement actions related to environmental violations associated with their business.**

N/A - Project does not have developer

**Developer's Project Financing**  
Summarize the sources of your total capital investment and the status of the financing.

N/A - Project does not have developer

Source	Amount	Status
	\$	
<b>EGLE Grant</b>	<b>\$453,577</b>	<b>Requested</b>
<b>EGLE Loan</b>	<b>\$313,078</b>	<b>Requested</b>
<b>Lake Michigan Credit Union</b>	<b>\$3,040,000</b>	<b>Preliminary Proposal - for land, construction and equipment</b>
<b>Private Equity</b>	<b>\$793,345</b>	<b>In place</b>
<b>TOTAL =</b>	<b>\$4,600,000</b>	<b>---</b>

**Tax increment Financing (TIF)**

Will the project use Brownfield TIF?  Yes  No

If Yes, identify all sources that apply:  EGLE  MEDC  Local

**Purchase and Development Agreements**

Is there a purchase agreement in place?  Yes  No  N/A

Status of purchase agreement:

As a requirement of EGLE funding, is the developer willing to enter into a development agreement with the applicant?  Yes  No  N/A

Status of development agreement: <b>In draft form under review by owner</b>		
Has the project received site plan approval?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If no, explain		
Identify the dates redevelopment is expected to begin and be completed:		
Estimated Start Date: <b>May 3, 2021</b>		
Estimated Completion Date: <b>March 2022 (Construction complete)</b>		

VIII. COMMUNITY OUTCOMES		
Will existing infrastructure be reused?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Please describe: <b>Project is located on an improved road with all necessary utilities (sewer, water, electric, natural gas, fiber optic, all readily available to the site.</b>		
Is the community in which the project is located economically disadvantaged, depressed or facing other significant challenges?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, explain:		
Does the project fit into the community's development plans?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Please explain: <b>The site is in a heavily commercialized area and this property is one of the last vacant commercial properties available for commercial development. The proposed use is also beneficial to the adjacent residential neighborhood to the north and the thousands of consumers that frequent this commercial corridor daily.</b>		
<b>Community Benefits</b>		
<i>Provide a brief summary of how the redevelopment project will result in social or other community benefits, including job creation, increased tax base, blight removal, addressing dangerous conditions, placemaking, impact on surrounding properties, etc.</i>		
<p><b>The project is expected to create 35 new professional-level jobs. These are well-compensated positions including Dentists, Dental Hygienists, Dental Assistants, Technicians, etc. These folks will spend some money in the commercial district thereby supporting local businesses. This location was selected to service a clientele that would want to combine their dental visit with the various shopping, dining and entertainment options available in this highly commercialized district. Thus, this development adds additional customers for the local commercial businesses.</b></p> <p><b>The project creates a sizable increase in the taxable value of the property, generating new tax revenues for the local taxing jurisdictions. The project improves a property that is an unsightly piece of land in an otherwise fully developed area. It is the only parcel in this heavily commercialized corridor available for development and this project is the only serious attempt to develop the property in the last 55 years. The development improves the visibility of the adjoining commercial properties.</b></p> <p><b>This project has also served as a catalyst for the local township to establish a Brownfield Redevelopment Authority to manage this project's grant/loan and Brownfield Plan. This provides another economic development tool for Cascade Township to support other projects in its jurisdiction.</b></p>		

## IX. LOCAL COMMITMENT

### **Local Contributions to the Project**

*Describe the local contributions to the project, including other funding sources provided or supported, use of TIF, tax abatements, other grants and incentives, land contribution, reduced purchase price, utility or right-of way work, staff time committed to the project, etc.*

**Cascade Township has initiated the development of a Brownfield Redevelopment Authority as a result of this project. The initiative to develop a BRA includes staff time and consultant costs. A Brownfield Plan is proposed for the project which would represent a local contribution of about \$350,000 in local tax increment revenues. There are no tax abatements, municipal utility or right-of-way work, or other incentives being granted to this project.**

## X. APPLICANT INFORMATION

Applicant Name:	Cascade Charter Township		
Applicant Address:	2865 Thornhills Avenue SE		
Applicant City:	Grand Rapids, MI	Zip Code:	49546-7192
Applicant's Representative:	Sandra Korhorn, DDA/Economic Development Director		
Representative's Phone:	(616) 949-1500	E-mail:	sandra@cascadetwp.com

The undersigned, as the representative of the applicant, certifies that the information provided in this proposal and its attachments is true and complete to the best knowledge and belief of the applicant and the undersigned.

_____	_____
Typed name of Applicant's Representative	Signature
_____	_____
Title	Date

Please submit the proposal electronically to

[egle-brownfields@michigan.gov](mailto:egle-brownfields@michigan.gov)

Please call 517-242-9276 with questions.

#mibrownfields

[www.michigan.gov/eglebrownfields](http://www.michigan.gov/eglebrownfields)



## XI. BUDGET TABLE

Provide the project budget in the table below. Change, add, or delete activities as appropriate for the project. Column specific notes provided below table.

TASK (Activity)	TOTAL Expected Cost	Proposed Funding Mechanism							
		EGLE RPF Grant	EGLE 201 Grant	EGLE Loan	TIF tied to EGLE Loan	Other TIF ( <i>not tied to EGLE Loan</i> )	Local Funds ( <i>public</i> )	Developer Funds ( <i>private</i> )	Other ( <i>list sources</i> )
<i>Other due care activity (excavation of contaminated soil)</i>	\$20,100					\$20,100		\$20,100	
<b>Response Activity</b>									
<i>transportation/ disposal of contaminated soils</i>	\$345,813		\$345,813						
<i>Other response activity</i>									
<b>Contingency</b> ( <i>up to 15% of grant/loan</i> )	\$92,823		\$54,948	\$37,875	\$37,875				
<b>3<sup>rd</sup> Party Environmental Oversight</b> ( <i>up to 5% of grant/loan</i> )	\$30,941		\$18,316	\$12,625	\$12,625				
<b>Administration</b> ( <i>up to 3% of grant/loan</i> )	\$18,565		\$10,990	\$7,575	\$7,575				
<b>EGLE Project Sign</b> ( <i>grant/loan requirement</i> )	\$500		\$500						
<b>Grant Closeout Report</b> ( <i>grant/loan requirement</i> )	\$5,000		\$2,500	\$2,500	\$2,500				
<b>Remaining project costs</b>	\$3,804,840					\$10,000	\$10,000	\$3,804,840	

## XI. BUDGET TABLE

Provide the project budget in the table below. Change, add, or delete activities as appropriate for the project. Column specific notes provided below table.

TASK (Activity)	TOTAL Expected Cost	Proposed Funding Mechanism							
		EGLE RPF Grant	EGLE 201 Grant	EGLE Loan	TIF tied to EGLE Loan	Other TIF ( <i>not tied to EGLE Loan</i> )	Local Funds ( <i>public</i> )	Developer Funds ( <i>private</i> )	Other ( <i>list sources</i> )
<b>TOTAL</b>	\$4,600,000		\$453,577	\$313,078	\$313,078	\$58,605	\$10,000	\$3,833,345	

## XI. BUDGET TABLE, Continued

Column specific notes:

- **EGLE RPF Grant:** This funding can only be used for refined petroleum related contamination. Talk to your brownfield coordinator to confirm appropriate funding source.
- **EGLE 201 Grant:** This funding can be used for non-petroleum sites. Talk to your brownfield coordinator to confirm appropriate funding source.
- **EGLE Loan:** This funding can be used for refined petroleum or non-petroleum sites with redevelopment potential.
- **Tax Increment Financing (TIF) tied to EGLE Loan:** If TIF is proposed to reimburse the loan, that portion of the TIF will also be reflected in the loan amount.
- **Other TIF:** Any TIF dollars that will NOT be used to reimburse the EGLE loan, including non-EGLE TIF would be reflected here.
- **Local Funds:** Any funding the community is contributing to the project.
- **Developer Funds:** Funds the developer is investing into the project.
- **Other:** Include other federal, state, private, etc. dollars that are not already reflected.

**NOTE:** If grant/loan funded activities are planned to be performed by the project developer's consulting firm, EGLE expects that the applicant will hire its own environmental oversight professional. Exceptions will be considered in low-risk situations on a case-by-case basis. The environmental oversight professional's fees are eligible for reimbursement with the proposed grant or loan. Please include an environmental oversight professional in the budget if applicable.

<b>XII. REQUIRED ATTACHMENTS</b> Please complete the following checklist and attach the supporting documentation.			
#	ATTACHED?	DESCRIPTION	COMMENTS
1	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A	<b>Site Map(s)</b> Map(s) showing the location of the project area, site boundaries, existing structures, etc.	
2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A	Map(s) showing the location of known contaminants, recognized environmental concerns [including contaminant boundaries (when known)], and contaminant concentrations.	
3	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A	Map(s) showing proposed development in relation to contaminants.	
4	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A	Map(s) showing site development plans.	
5	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A	Analytical data summary tables.	
6	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A	<b>Agreements</b> Purchase Agreement	<b>Developer owns property</b>
7	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	Development Agreement	<b>In progress</b>
8	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A	<b>Site Photos</b> High quality, publishable digital photos of the site. Please also provide these electronically in jpg format.	
9		<b>Describe other attachments provided</b>	
10			

<b>I. PROJECT NAME AND LOCATION</b>	
Project Name:	<b>Robinson Dental Cascade Township</b>
Project Address:	<b>5749 28th Street SE</b>
Project City:	<b>Cascade Township</b>
Project County:	<b>Kent</b>
Project Zip Code:	<b>49546</b>
State Senate District:	<b>29</b>
State House District:	<b>86</b>

<b>II. APPLICANT INFORMATION</b>		
Applicant Name:	<b>Cascade Township Brownfield Redevelopment Authority</b>	
Applicant Address:	<b>2865 Thornhills Avenue SE</b>	
Applicant City:	<b>Grand Rapids</b>	
Applicant Zip Code:	<b>49546-7192</b>	
Applicant Federal ID Number:		
<b>APPLICANT CONTACT INFORMATION</b>		
	<b>Contract Signing Authority Contact</b>	<b>Project Contact</b>
Name:	Sandra Korhorn	Sandra Korhorn
Title:	DDA/Economic Development Director	DDA/Economic Development Director
Phone:	(616) 949-1500	(616) 949-1500
Email:	sandra@cascadetwp.com	sandra@cascadetwp.com
<b>APPLICANT GRANT EXPERIENCE AND ENVIRONMENTAL COMPLIANCE</b>		
How much experience do key staff who will be working on the brownfield grant/loan project have in their current positions?		
<input type="checkbox"/> less than 1 year <input type="checkbox"/> 1 to 3 years <input checked="" type="checkbox"/> 3 or more years		
How many similar type brownfield grant projects has the applicant (LUG) previously completed?		
<input checked="" type="checkbox"/> 0 to 2 projects <input type="checkbox"/> 3 to 4 projects <input type="checkbox"/> 5 or more projects		

<b>II. APPLICANT INFORMATION</b>		
Have you ever had a permit or other violation with EGLE?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, explain:		

<b>III. LOCAL COMMITMENT</b>
<p><b>Project Promotion</b></p> <p><i>Describe how you will announce and promote EGLE's grant/loan contribution to the project through social media (the applicant's and/or the developer's), the local press, signage at the property, and/or other methods.</i></p> <p>Applicant and Development Team will announce and promote EGLE's contribution to the project on their social media platforms. Signage will be placed at the property during the development acknowledging EGLE's assistance to the project.</p>

<b>IV. APPROVED PROJECT PROPOSAL</b>		
Vetted Proposal dated <b>2/15/2021</b> remains true and accurate?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If no, have you included an updated proposal with this submittal?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Have you received an invitation to apply?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

<b>V. REQUIRED ATTACHMENTS</b> Please complete the following checklist and attach the supporting documentation.		
#	DESCRIPTION	ATTACHED?
1.	<b>Updated Proposal</b> If an updated proposal is needed, have you included the proposal with this submittal?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A
2.	<b>Development Agreement</b> A development, reimbursement, or other agreement between the applicant and developer describing the terms and conditions of the project.  NOTE: Not applicable if the project has no committed developer.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A
3.	<b>Access Agreement</b> A final or draft written access agreement between the property owner, EGLE, and the applicant is required. The agreement must include a commitment from the property owner that allows EGLE staff and applicant staff access to the property to complete the proposed eligible activities.  (NOTE: An example is attached for your use.)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A
4.	<b>Letter of Support</b> A letter from the chief executive officer or highest-ranking appointed official is required.  Letter of support must include the following: <ul style="list-style-type: none"> <li>i. Statement that the local unit of government supports the brownfield project, and</li> <li>ii. Statement that the development project or proposed new use complies with all local zoning and planning ordinances.</li> </ul>	<input checked="" type="checkbox"/> Yes  <input checked="" type="checkbox"/> Yes  <input checked="" type="checkbox"/> Yes
5.	<b>Loan Resolution and Financial Assurance</b> <ul style="list-style-type: none"> <li>a. A resolution adopted by the applicant’s governing body that verifies the applicant is willing to accept a loan, indicates an amount up to which the applicant is willing to borrow, and commits the governing body to repayment of the loan.                               NOTE: If the applicant is a Brownfield Redevelopment Authority (BRA) or other sub-unit of local government, the resolution must be from the county or city under which the BRA or sub-unit was formed.</li> <li>b. Please select the first line of financial assurance the applicant will use for securing the loan. The selection provided below will be included in Appendix A of the Agreement.                                     <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Pledge of revenue sharing</li> <li><input type="checkbox"/> Other acceptable mechanism as discussed with EGLE (please specify):</li> </ul>                                     If the financial assurance method selected above is NOT a pledge of revenue sharing, proof of the financial assurance method must be provided to EGLE prior to execution of the agreement.                                 </li> <li>c. The applicant understands that the final line of security on all loans is state revenue sharing.</li> </ul>	<input type="checkbox"/> N/A  <input checked="" type="checkbox"/> Yes  <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A  <input checked="" type="checkbox"/> Yes

**VI. CERTIFICATION**

The undersigned, as the representative of the applicant, certifies that the applicant will comply with all applicable state and federal statutes and regulations, including those associated with the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, its administrative rules, and those statutes related to civil rights, equal opportunity, labor standards, environmental protection, and historic preservation.

The undersigned, as the representative of the applicant, certifies that the property(ies) at which grant or loan funds will be used are within the jurisdiction of the applicant.

The undersigned, as the representative of the applicant, certifies that within the last 24 months, the applicant has not had a grant from the Department of Environment, Great Lakes, and Energy (EGLE) revoked or terminated, and has not been determined by EGLE to be unable to manage a grant.

The undersigned, as the representative of the applicant, certifies that a source of funding for ongoing maintenance and operation of the proposed project, if required, has been identified.

The undersigned, as the representative of the applicant, verifies that the applicant passed its most recent audit and acknowledges that EGLE may review the auditor's conclusions posted on the Michigan Department of Treasury web site.

The undersigned, as the representative of the applicant, certifies that the information provided in this application and its attachments is true and complete to the best knowledge and belief of the applicant and the undersigned.

\_\_\_\_\_  
Typed name of Applicant's Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Please submit the application electronically to

[egle-brownfields@michigan.gov](mailto:egle-brownfields@michigan.gov)

Please call 517-242-9276 with questions.

#mibrownfields

[www.michigan.gov/eglebrownfields](http://www.michigan.gov/eglebrownfields)

CONSENT FOR ACCESS TO PROPERTY

*This is an example consent agreement. Grant/loan applicants are welcome, but not required, to use this form to secure property access for grant and loan projects. Text can be changed as needed for your project.*

PROJECT NAME: Robinson Dental Cascade Township  
PROPERTY ADDRESS: 5749 28<sup>th</sup> Street SE, Cascade Township, MI  
TRACKING CODE:  
LOCATION CODE:  
NAME OF PROPERTY OWNER: Coco Properties, LLC

I hereby grant the right to enter the property named above to employees, officers, guests, and authorized representatives of the Cascade Township Brownfield Redevelopment Authority and Michigan Department of Environment, Great Lakes, and Energy (EGLE) and its contractors, subcontractors and consultants. Access by, through, on, and use of the property is granted only for the duration of the Brownfield Redevelopment Grant/Loan contract and amendments, if any, to:

1. Perform response activities, demolition, and other work described in Appendix A of the Brownfield Redevelopment Grant/Loan contract. I understand that the scope of work described in Appendix A may include digging, excavating, vehicle access, sampling, demolition, and other activities that would materially change the condition of my property and confirm the presence or extent of environmental contamination there.
2. Undertake other actions necessary to administer and perform the scope of work under the Brownfield Redevelopment Grant and/or Loan.
3. Photograph and create images of or on the property with an aerial drone and/or video. Images may be used by EGLE or the Cascade Township Brownfield Redevelopment Authority to describe the project, promote its brownfield program, post on social media or a website,

I am the property owner or an individual with authority or the property owner's authorization to sign this access agreement. I give this written permission voluntarily with the full knowledge of my right to refuse and without threats or promises of any kind.

Please indicate that you are granting access by signing this document.

Name (Printed) Dr. Elizabeth Robinson

Name (Signature)



Date 04/05/2021

Address 8117 Ashwood Dr. SE

City Ada

State MI

Zip 49301

Telephone Number(s): Work 616.550.9721

Alternate

Email dr\_bethrob@yahoo.com

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## BROWNFIELD REDEVELOPMENT AUTHORITY (BRA) MEMORANDUM

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**To:** Cascade Township BRA Board

**From:** Sandra Korhorn, DDA/Economic Development Director *SKK*

**Subject:** Review and Consider the Proposal for Consulting

**Meeting Date:** April 15, 2021

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Last fall we signed a proposal from Fishbeck to assist the Township with setting up a Brownfield Redevelopment Authority. Susan Wenzlick from Fishbeck has been guiding township staff through this process as well as assisting with the Robinson Dental brownfield application.

We are close to the reaching the end of the scope of work from the original proposal. If the township gets the EGLE brownfield grant and loan, we will have to hire a third-party oversight consultant to work with the developer's consultant and represent the township's interest. The grant/loan will cover the cost for the oversight consultant, including going to the BRA meetings when that project is on the agenda.

Included is a new proposal from Fishbeck with a not to exceed fee. Fishbeck will work with members of the BRA to provide technical, administrative, and consulting services on request. Fishbeck's scope of work may include:

- Developing and evaluating brownfield plans, work plans, development and reimbursement agreements, and other related documents
- Preparing materials for and participating in BRA and other meetings on the BRA's behalf
- Helping developers apply for funding assistance and incentives offered through the BRA
- Applying to state and federal agencies for brownfield funding
- Managing grants or loans awarded to the BRA or Township
- Providing third party oversight on brownfield projects led by other consultants (this is required for some state brownfield grants and loans)
- Providing administrative support and other redevelopment consulting services to the BRA as requested

With both Susan (and Roman's) background and experience with Brownfield's and Susan's involvement with the Robinson Dental project, staff recommends approval of the proposal.

April 2, 2021

Sandra Korhorn  
DDA/Economic Development Director  
Cascade Charter Township  
2865 Thornhills Avenue, SE  
Grand Rapids, MI 49546-7192

**Proposal for Professional Services  
Brownfield Consulting Services – Brownfield Redevelopment Authority (BRA)  
Cascade Charter Township, Kent County, Michigan**

Dear Sandra:

For the past several months, Cascade Charter Township (Township) and Fishbeck have worked together to create the Township's new BRA. With the BRA now in place, the Township needs ongoing administrative and technical support as it facilitates brownfield redevelopment projects.

## Scope of Service

Fishbeck will work with members of the BRA to provide technical, administrative, and consulting services on request. Fishbeck's scope of work may include:

- Developing and evaluating brownfield plans, work plans, development and reimbursement agreements, and other related documents
- Preparing materials for and participating in BRA and other meetings on the BRA's behalf
- Helping developers apply for funding assistance and incentives offered through the BRA
- Applying to state and federal agencies for brownfield funding
- Managing grants or loans awarded to the BRA or Township
- Providing third party oversight on brownfield projects led by other consultants (this is required for some state brownfield grants and loans)
- Providing administrative support and other redevelopment consulting services to the BRA as requested

## Cost and Authorization

The Township BRA will be charged for time and materials according to the schedule below, with a not-to-exceed amount of \$7,500 without authorization from Cascade Township.

**CASCADE TOWNSHIP BRA  
BROWNFIELD CONSULTING SERVICES**

Hourly Professional Billing Rates					
Staff	2021	2022	2023	2024	Role
Roman Wilson	\$160	\$164	\$168	\$172	Brownfield and Due Diligence Program Manager
Susan Wenzlick	\$135	\$139	\$143	\$147	Lead Consultant / Senior Brownfield Specialist
Ariane Savoy	\$68	\$70	\$72	\$74	Administrative Assistant
Andy Schwallier	\$95	\$97	\$99	\$101	GIS/CAD

Task	2021	2022	2023	2024	Description
Prepare Brownfield Plan	\$2,250	\$2,350	\$2,450	\$2,550	Lump Sum
Prepare Act 381 Work Plan	\$2,500	\$2,600	\$2,700	\$2,800	Lump Sum
Draft Development and Reimbursement Agreement	\$1,000	\$1,050	\$1,100	\$1,150	Lump sum

Other fees/charges:

Mileage: 70 cents per mile

Markup on expenses and subcontractors: 10%

We appreciate the opportunity to work with the Township on this project. If you have any questions regarding this proposal or any Fishbeck services, please contact me at 616.464.3876 or [rwilson@fishbeck.com](mailto:rwilson@fishbeck.com).

Sincerely,



**Roman A. Wilson**

Brownfield Program Manager

Attachments

By email

## Professional Services Agreement

**PROJECT NAME** Cascade Charter Township Brownfield Consulting Services – Brownfield Redevelopment Authority (BRA)  
**FISHBECK CONTACT** Roman Wilson  
**CLIENT** Cascade Charter Township  
**CLIENT CONTACT** Sandra Korhorn  
**ADDRESS** 2865 Thornhills Avenue, SE, Grand Rapids, MI, 49546-7192

Client hereby requests and authorizes Fishbeck to perform the following:

**SCOPE OF SERVICES:**

Brownfield consulting services, as outlined in the attached Fishbeck proposal letter dated April 1, 2021.

**AGREEMENT.** The Agreement consists of this page and the documents that are checked:

- Terms and Conditions for Professional Services, attached.
- Proposal dated April 1, 2021
- Other:

**METHOD OF COMPENSATION:**

- Lump Sum for Defined Scope of Services
- Hourly Billing Rates plus Reimbursable Expenses
- Other:

**Budget for Above Scope of Services:**

Not-to-exceed budget of \$7,500 unless authorized by Cascade Township.

**ADDITIONAL PROVISIONS (IF ANY):** None.

**APPROVED FOR:**

Cascade Charter Township

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ACCEPTED FOR:**

Fishbeck

BY: Michael S. Colvin

TITLE: Senior Vice President

DATE: April 1, 2021

1. **METHOD OF AUTHORIZATION.** Client may authorize Fishbeck to proceed with work either by signing a Professional Services Agreement or by issuance of an acknowledgment, confirmation, purchase order, or other communication. Regardless of the method used, these Terms and Conditions shall prevail as the basis of Client's authorization to Fishbeck. Any Client document or communication in addition to or in conflict with these Terms and Conditions is rejected.
2. **CLIENT RESPONSIBILITIES.** Client shall provide all criteria and full information as to requirements for the Project and designate in writing a person with authority to act on Client's behalf on all matters concerning the Project. If Fishbeck's services under this Agreement do not include full-time construction observation or review of Contractor's performance, Client shall assume responsibility for interpretation of contract documents and for construction observation, and shall waive all claims against Fishbeck that may be in any way connected thereto.
3. **HOURLY BILLING RATES.** Unless stipulated otherwise, Client shall compensate Fishbeck at hourly billing rates in effect when services are provided by Fishbeck employees of various classifications.
4. **REIMBURSABLE EXPENSES.** Those costs incurred on or directly for Client's Project. Reimbursement shall be at Fishbeck's current rate for mileage for service vehicles and automobiles, special equipment, and copying, printing, and binding. Reimbursement for commercial transportation, meals, lodging, special fees, licenses, permits, insurances, etc., and outside technical or professional services shall be on the basis of actual charges plus 10 percent.
5. **OPINIONS OF COST.** Any opinions of probable construction cost and/or total project cost provided by Fishbeck will be on a basis of experience and judgment, but since it has no control over market conditions or bidding procedures, Fishbeck cannot warrant that bids or ultimate construction or total project costs will not vary from such estimates.
6. **PROFESSIONAL STANDARDS; WARRANTY.** The standard of care for services performed or furnished by Fishbeck will be the care and skill ordinarily used by members of Fishbeck's profession practicing under similar circumstances at the same time and in the same locality. Fishbeck makes no warranties, express or implied, under this Agreement or otherwise, in connection with Fishbeck's services.
7. **TERMINATION.** Either Client or Fishbeck may terminate this Agreement by giving ten days' written notice to the other party. In such event, Client shall pay Fishbeck in full for all work previously authorized and performed prior to the effective date of termination, plus (at the discretion of Fishbeck) a termination charge to cover finalization work necessary to bring ongoing work to a logical conclusion. Such charge shall not exceed 30 percent of all charges previously incurred. Upon receipt of such payment, Fishbeck will return to Client all documents and information which are the property of Client.
8. **SUBCONTRACTORS.** Fishbeck may engage subcontractors on behalf of Client to perform any portion of the services to be provided by Fishbeck hereunder.
9. **PAYMENT TO FISHBECK.** Invoices will be issued every four weeks, payable upon receipt, unless otherwise agreed. Interest of 1 percent per four-week period will be payable on all amounts not paid within 28 days from date of invoice, payment thereafter to be applied first to accrued interest and then to the principal unpaid amount. Any attorney's fees or other costs incurred in collecting any delinquent amount shall be paid by Client.

Client agrees to pay on a current basis, in addition to any proposal or contract fee understandings, all taxes including, but not limited to, sales taxes on services or related expenses which may be imposed on Fishbeck by any governmental entity.

If Client directs Fishbeck to invoice another, Fishbeck will do so, but Client agrees to be ultimately responsible for Fishbeck's compensation until Client provides Fishbeck with that third party's written acceptance of all terms of this Agreement and until Fishbeck agrees to the substitution.

In addition to any other remedies Fishbeck may have, Fishbeck shall have the absolute right to cease performing any basic or additional services in the event payment has not been made on a current basis.

10. **HAZARDOUS WASTE.** Fishbeck has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at any site, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposure to such substances or conditions. Fishbeck shall not be responsible for any alleged contamination, whether such contamination occurred in the past, is occurring presently, or will occur in the future, and the performance of services hereunder does not imply risk-sharing on the part of Fishbeck.
11. **LIMITATION OF LIABILITY.** To the fullest extent permitted by law, Fishbeck's total liability to Client for any cause or combination of causes, which arise out of claims based upon professional liability errors or omissions, whether based upon contract, warranty, negligence, strict liability, or otherwise is, in the aggregate, limited to the greater of \$250,000 or the amount of the fee earned under this Agreement.

To the fullest extent permitted by law, Fishbeck's total liability to Client for any cause or combination of causes, which arise out of claims for which Fishbeck is covered by insurance other than professional liability errors and omissions, whether based upon contract, warranty, negligence, strict liability, or otherwise is, in the aggregate, limited to the total insurance proceeds paid on behalf of or to Fishbeck by Fishbeck's insurers in settlement or satisfaction of Client's claims under the terms and conditions of Fishbeck's insurance policies applicable thereto.

Higher limits of liability may be considered upon Client's written request, prior to commencement of services, and agreement to pay an additional fee.

12. **DELEGATED DESIGN.** Client recognizes and holds Fishbeck harmless for the performance of certain components of the Project which are traditionally specified to be designed by the Contractor.
13. **INSURANCE.** Client shall cause Fishbeck and Fishbeck's consultants, employees, and agents to be listed as additional insureds on all commercial general liability and property insurance policies carried by Client which are applicable to the Project. Client shall also provide workers' compensation insurance for Client's employees. Client agrees to have their insurers endorse these insurance policies to reflect that, in the event of payment of any loss or damages, subrogation rights under this Agreement are hereby waived by the insurer with respect to claims against Fishbeck.

Upon request, Client and Fishbeck shall each deliver to the other certificates of insurance evidencing their coverages.

Client shall require Contractor to purchase and maintain commercial general liability and other insurance as specified in the contract documents and to cause Fishbeck and Fishbeck's consultants, employees, and agents to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project. Contractor must agree to have their insurers endorse these insurance policies to reflect that, in the event of payment of any loss or damages, subrogation rights under this Agreement are hereby waived by the insurer with respect to claims against Fishbeck.
14. **INDEMNIFICATION.** Fishbeck will defend, indemnify, and hold Client harmless from any claim, liability, or defense cost for injury or loss sustained by any party from exposures to the extent caused by Fishbeck's negligence or willful misconduct. Client agrees to defend, indemnify, and hold Fishbeck harmless from any claim, liability, or defense cost for injury or loss sustained by any party from exposures allegedly caused by Fishbeck's performance of services hereunder, except for injury or loss to the extent caused by the negligence or willful misconduct of Fishbeck. These indemnities are subject to specific limitations provided for in this Agreement.
15. **CONSEQUENTIAL DAMAGES.** Client and Fishbeck waive consequential damages for claims, disputes, or other matters in question relating to this Agreement including, but not limited to, loss of business.
16. **LEGAL EXPENSES.** If either Client or Fishbeck makes a claim against the other as to issues arising out of the performance of this Agreement, the prevailing party will be entitled to recover its reasonable expenses of litigation, including reasonable attorney's fees. If Fishbeck brings a lawsuit against Client to collect invoiced fees and expenses, Client agrees to pay Fishbeck's reasonable collection expenses including attorney fees.
17. **OWNERSHIP OF WORK PRODUCT.** Fishbeck shall remain the owner of all drawings, reports, and other material provided to Client, whether in hard copy or electronic media form. Client shall be authorized to use the copies provided by Fishbeck only in connection with the Project. Any other use or reuse by Client or others for any purpose whatsoever shall be at Client's risk and full legal responsibility, without liability to Fishbeck. Client shall defend, indemnify, and hold harmless Fishbeck from all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting therefrom.
18. **ELECTRONIC MEDIA.** Data, reports, drawings, specifications, and other material and deliverables may be transmitted to Client in either hard copy, digital, or both formats. If transmitted electronically, and a discrepancy or conflict with the electronically transmitted version occurs, the hard copy in Fishbeck's files used to create the digital version shall govern. If a hard copy does not exist, the version of the material or document residing on Fishbeck's computer network shall govern. Fishbeck cannot guarantee the longevity of any material transmitted electronically nor can Fishbeck guarantee the ability of the Client to open and use the digital versions of the documents in the future.
19. **GENERAL CONSIDERATIONS.** Client and Fishbeck each are hereby bound and the partners, successors, executors, administrators, and legal representatives of Client and Fishbeck are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

Neither Client nor Fishbeck shall assign this Agreement without the written consent of the other.

Neither Client nor Fishbeck will have any liability for nonperformance caused in whole or in part by causes beyond Fishbeck's reasonable control. Such causes include, but are not limited to, Acts of God, civil unrest and war, labor unrest and strikes, acts of authorities, and events that could not be reasonably anticipated.

This Agreement shall be governed by the law of the principal place of business of Fishbeck.

This Agreement constitutes the entire agreement between Client and Fishbeck and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

## End of Terms and Conditions for Professional Services