

OFFICE LEASE AGREEMENT

THIS LEASE, entered into on this ____ day of October, 2016, by and between Deborah R. Driskell, Delaware Township Trustee, Hamilton County, Indiana, (hereinafter referred to as "Lessor" or "Township") and the City of Fishers, Hamilton County, Indiana (hereinafter referred to as "Lessee" or "City") through its Board of Public Works & Safety ("Board") as follows:

WHEREAS, the Township owns and maintains a building approximately 10,000 square feet which is more commonly referred to as 9090 East 131st Street, Fishers, Indiana 46038 ("Township Building");

WHEREAS, the City desires to lease approximately 2,000 square feet of the Township Building for the purpose of temporarily housing the Information Technology Department during construction of the new facility;

WHEREAS, the City and Township now desire to enter into this Lease to further define the roles and responsibilities of each party.

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

Definitions

"Leased Premises" - space occupied by Lessee.

"Premises" - entire building and grounds.

"Lease Term" - contracted time of occupancy by Lessee.

"Proportionate Share" - percentage of total building occupied by tenant in Leased Premises.

Location

Delaware Township Trustee's Office, located at 9090 East 131st Street, Fishers, Indiana 46038.

ARTICLE 1

THE LEASED PREMISES AND THE LEASE TERM

Section 1.01. The Property Lease. Lessor leases to Lessee the Leased Premises which consists of the large second floor suite and the small second floor office containing approximately Two Thousand (2000) square feet, exclusive of office furniture, together with all nonexclusive rights, privileges, easements and appurtenances belonging or in any way pertaining to the improvements now existing or hereafter erected thereon, together with any additions, alterations or improvements of such leased space of the building and improvements, together with a nonexclusive right to use Leased Premises' share of parking lot located on the premises in common with other tenants of Lessor. The Lessee's Proportionate Share means the percentage of total building square feet carried out to two (2) decimal places (as an example .09) derived by dividing the total square feet of the

Leased Premises (2000 square feet) by the total square feet in the building (10,000 square feet) of which Leased Premises are a part (Lessee's "Proportionate Share"). It is hereby agreed that Lessee's Proportionate Share constitutes approximately 2000 sq. ft. representing twenty percent (20%) of the building.

Section 1.02. Lease Term. The term of this Lease, subject to the provisions of Section 19.08, is for a period of eighteen (18) months, commencing on November 1, 2016 and terminating on April 30, 2018 (hereafter referred to as the "Lease Term"). If Lessee shall comply with each of the terms, provisions, and conditions of this Lease, then Lessee shall have an option to extend this Lease for additional terms of one (1) month each, commencing at the expiration of the Lease Term and each subsequent renewal term and subject to the same terms, covenants, and conditions contained in this Lease, all of which shall be applicable to such extension, except rental price which shall be determined by a mutual agreement between Lessor and Lessee. If within the thirty (30) day notice of intention to exercise an option for Lease renewal Lessor and Lessee are unable to mutually agree on a rental, then this Lease shall expire at the end of the Lease Term. Notice of intention to exercise the option to renew shall be given by Lessee to Lessor, in writing, at least thirty (30) days before the expiration of the Lease Term or any extension thereof.

ARTICLE II RENT

Section 2.01. Rent During Lease Term. Rental payments shall be sent to Lessor at 9090 East 131 Street, Fishers, Indiana, 46038, or such other place as Lessor may from time to time specify in writing. Lessee shall pay Lessor monthly installments in the amount of Two Thousand and no/100 Dollars (\$2,000.00) ("Base Rent"). In the event this Lease commences after the first day of any month, Lessee shall then pay the prorated base rental due for such month and the next due full month's rental. Lessee shall pay Lessor within thirty (30) days of receipt of invoice.

ARTICLE III

Section 3.01. Effect of Holding Over. In the event Lessee remains in possession of the Leased Premises after the expiration of this Lease and without the execution of a new lease, it shall be deemed to be occupying the Leased Premises as a tenant from month to month, subject to all conditions, provisions, and obligations of this Lease (insofar as the same are applicable to a tenant at sufferance).

ARTICLE IV USE OF PREMISES

Section 4.01. Use and Hours of Business. The Leased Premises shall be used and occupied by Lessee as the offices of the City of Fishers for use by its Information Technology Department, and for no other purpose without the written consent of the Lessor. Lessee agrees that it will conduct its business in the Leased Premises during the regular and customary hours for the type of business being conducted and on all customary days and will conduct such business in a lawful manner. However, Lessee shall have access to the premises for after hours operations at any time..

Section 4.02. Common Areas.

(a) Facilities. The Common Areas of the Premises shall include parking areas, entrance drive, sanitary sewers, utility lines, drainage system, walkways and sidewalks, driveways, landscaped and planted areas, and related facilities.

(b) Common Area Maintenance. Lessor shall operate, manage, equip, light, repair, clean, maintain and replace the Common Areas for the intended purposes, and the Common Area shall at all times be subject to the exclusive control and management of Lessor.

Section 4.03. Community Room. The premises contain a Community Room and Board Room, which shall at all times be subject to the exclusive control and management of Lessor. Lessor will make the Community Room and Board Room available for use by Lessee under the same terms, conditions, and rules as are established by Lessor for residents of Delaware Township, Hamilton County, Indiana, except that Lessor will not charge Lessee a security deposit for use of the Community Room or Board Room.

ARTICLE V REPAIRS AND UTILITIES

Section 5.01. Limitation. Except as herein specifically provided to the contrary, Lessee shall not be responsible for and may not make any repairs of any kind in or upon the Premises.

Section 5.02. Maintenance by Lessor. Lessor shall keep the foundation, structural parts, outer walls and roof of the building constituting the Premises in good order, condition, and repair. Lessor shall keep and maintain the Leased Premises and every part thereof (including, but not limited to, the exterior and interior portions of all doors and other entrances; signage; door checks and closer; security gates; windows; glass; interior electrical; plumbing; sewage; mechanical and utility equipment and systems; fixtures; interior walls; floors and floor coverings and ceilings) in good order, condition and repair. Lessor shall not, however, be responsible for making any repairs occasioned by any act or negligence of Lessee, its employees, contractors, agents, servants, customers, visitors, lessees, licensees, assignees or concessionaires; and Lessee shall promptly make any such repairs, as approved by the Lessor, at its sole cost and expense.

Section 5.03. Maintenance by Lessee. Lessee shall not suffer or permit any injury to the Leased Premises and, except as provided in the foregoing Section 5.02. Notwithstanding any provision herein to the contrary, Lessee shall not be responsible for making any repairs occasioned by an act which constitutes the sole negligence of Lessor or its agents, which repairs shall be promptly made by Lessor at its sole cost and expense.

Section 5.04. Notice. Lessee shall give Lessor prompt written notice of the need for any maintenance, replacement or repairs which Lessor or Lessee is obligated to make under the foregoing Section 5.02 and of any material damage to the Premises.

Section 5.05. Utility Lines. Lessee acknowledges that Lessor has provided all necessary mains, conduits and other utility lines required for Lessee's use of the Leased Premises.

Section 5.06. Lessee's Obligations Respecting Utilities. Commencing on the first day of the Lease Term, Lessor shall pay for all utility services, except telephone, rendered or furnished to the Leased Premises, including, but not limited to, heat, water, air conditioning, gas, electricity and sewers. Lessee shall provide its own telephone and internet service at its own expense. If any equipment installed by Lessee requires additional utility facilities, the costs of installing such additional facilities shall be borne by Lessee. Such facilities may not be removed by Lessee at the expiration or other termination of the Lease Term without the prior written consent of Lessor. In no event shall Lessor be responsible for the quality, quantity, failure or interruption of any utility service to the Leased Premises. Lessor shall, however, use its best efforts to correct, or cause to be corrected, any deficiency in quality or quantity, or failure or interruption, of any utility service to the Leased Premises.

ARTICLE VI IMPROVEMENTS

Section 6.01. Advertising. All exterior signs installed by Lessee shall be in conformity with applicable zoning regulations and other ordinances and none shall be installed unless approved in advance by Lessor in writing. The free standing sign is the property of Lessor. Lessee's sign(s) must be in conformity with the Lessor's general signage design, lighting and manufacture.

Section 6.02. Alterations. After taking possession of the Leased Premises, all alterations, renovation, improvements, or decorations to the Leased Premises shall be made by Lessee at Lessee's own expense and only upon obtaining the prior written approval of Lessor. Except as provided in Section 6.03 hereof, all alterations, renovations, improvements, or decorations to the Leased Premises shall become a part of the realty and belong to the Lessor free from any claims, costs, damages, or liability, including reasonable attorneys' fees, to contractors or suppliers or on account of any injury, to third parties or property by reason of any such changes or alterations. Lessee shall not permit the filing of any liens against the Leased Premises by mechanics, material suppliers or contractors and shall save Lessor harmless from the payment of any claim whatsoever on account of labor or materials furnished in connection with any such improvements or alterations. In the event a mechanic's lien is filed, the same shall be removed of record by either payment or bonding by Lessee within thirty (30) days of filing.

Section 6.03. Ownership of Improvements. Lessee may remove any commercial equipment or trade fixtures installed by it, provided all damage caused by such removal is immediately repaired by Lessee. All other improvements and fixtures which are attached to the floors, walls, or ceilings shall remain the property of Lessor and upon the termination of this Lease shall remain upon and be surrendered with the Leased Premises without disturbance or injury.

ARTICLE VII INDEMNIFICATION AND HARMLESS

On or after the date on which Lessor provides Lessee access to the Leased Premises for purposes of Lessee's commencement of the improvements specified in Section 6.02 hereof, Lessor shall be held harmless and indemnified by Lessee from any liability, including costs, expenses, and attorneys' fees for any claims, damages, judgments, actions, causes of action, suits, or penalties regarding injury to any person or persons or damage to any property in or upon the Leased

Premises not caused by Lessor, including the person and property of Lessee and its employees and all persons in the Leased Premises at its or their invitation, express or implied up to the amount of the limitation imposed by the Indiana Tort Claims Act at IC 34-13-3. All property kept, stored, or maintained in the Leased Premises shall be kept, stored, or maintained at the risk of Lessee only.

ARTICLE VIII INSURANCE

Section 8.01. Public Liability Insurance: Lessee. Lessee shall maintain in full force and effect throughout the Lease Term a policy of general public liability insurance, issued by a company or companies satisfactory to Lessor, naming both Lessor and Lessee as insured, and covering any and all claims for injuries to or death of persons and damage to property occurring in or upon the Leased Premises in any amount not less than Five Hundred Thousand Dollars (\$500,000.00) for injury to or death of any one person; One Million Dollars (\$1,000,000.00) for injury to or death of more than one person in the same accident or occurrence; and Five Hundred Thousand Dollars (\$500,000.00) for damaged property arising out of any one accident or occurrence. However, nothing in this section shall be deemed to increase the liability of the Lessee or Lessor above the amount of their exposure under the Indiana Tort Claim Act found at IC 34-13-3 et seq.

Section 8.02. Certificates of Insurance. For each type of insurance which Lessee is required to maintain under this Lease, Lessee shall furnish Lessor a certificate or certificates of insurance showing that each such type of insurance is in full force and in effect and noncancellable or subject to material alteration without thirty (30) days prior written notice to Lessor.

Section 8.03. Insurance on Leased Premises. Lessor shall maintain in full force and effect throughout the Lease Term broad form fire and extended coverage insurance on the building (Premises) in which the Leased Premises are located for its full insurable value on a replacement cost basis, if obtainable, and if not obtainable, for the full amount of its actual cash value. Lessor is not obligated hereby to provide insurance coverage for any of Lessee's personal property and Lessee agrees to assume all responsibility for acquiring such insurance on its personal property as Lessee in its sole discretion deems appropriate.

ARTICLE IX ASSIGNMENTS

Lessee agrees to not sublet, assign, or in any manner to transfer this Lease or any estate or interest herein without the previous written consent of Lessor, not to be unreasonably withheld. Consent by Lessor to one or more assignments of this Lease, or to one or more subletting of the Leased Premises, shall not operate to exhaust Lessor's rights under this Article nor to release Lessee or any subsequent assignor of liability for performance of the terms of this Lease.

ARTICLE XI DAMAGE

In the event of total or partial destruction of the Leased Premises or remainder of the Premises by fire or other casualty, the insurance proceeds, if any, which as a result of such destruction are payable under the fire and extended coverage insurance to be maintained by Lessor in accordance with Section 8.03 shall be payable to, and be the sole property of, Lessor. Lessor shall rebuild,

repair and restore the damage to or destruction of the Leased Premises or remainder of the Premises caused by fire or other casualty; provided, however, that in the event: (a) the Leased Premises or remainder of the Premises cannot be restored within one hundred eighty (180) days after the date of the damage or destruction, (b) the damage or destruction is not covered by the policy of broad form fire and extended coverage insurance to be maintained by Lessor in accordance with Section 8.03 hereof and Lessor does not undertake to restore the leased Premises or remainder of Premises within sixty (60) days after the date of such damage or destruction, or (c) the Lessor's insurance proceeds (reduced by any application thereof by Lessor's mortgagee to its mortgage) are insufficient for restoration of the Leased Premises or remainder of the Premises, and Lessor does not undertake such restoration within sixty (60) days after the date of the damage or destruction, then Lessor shall not be obligated to restore the Leased Premises or remainder of the Premises and Lessee may terminate and cancel this Lease upon thirty (30) days written notice to Lessor, all obligations hereunder except those then due or mature shall thereupon cease and terminate. Rent shall proportionately abate during the time that the Leased Premises or any part thereof is unusable by reason of any such damage.

ARTICLE XII

ACCESS TO LEASED PREMISES

Section 12.01 By Lessor, Lessor shall have the right to enter upon the Leased Premises at all reasonable hours for the purpose of exhibiting or inspecting the same or making repairs, additions, or alterations to the Leased Premises or any property owned or controlled by Lessor. If Lessor deems any repairs required to be made by Lessee necessary, Lessor will do so at the Lessee's expense.

ARTICLE XIII

DEFAULT AND REMEDIES OF LESSOR

Section 13.01 Rights on Default. If Lessee makes any default in respect to its covenants to pay rent and fails to cure such default within fifteen (15) days after receiving notice of its default from Lessor; or if Lessee defaults upon its obligations regarding the execution and recording of a mechanic's lien as set forth in Section 6.02 thereof; or if Lessee makes any default in respect to any other of its obligations under the lease and if it fails to make good such default within fifteen (15) days after written notice of the existence of such default has been given it by Lessor (time being of the essence of the provisions of this Agreement of Lease); or if Lessee shall abandon or vacate the Leased Premises before the end of the Lease Term, Lessor may thereupon take possession of the Leased Premises and relet the same without such action being deemed an acceptance of surrender of this Lease or in any way terminating Lessee's liability hereunder, and Lessee shall remain liable to pay rent, together with other charges set out herein, less the net amount from such reletting, after deduction of any expenses incident to such repossession and reletting, or the Lessor, at its option, may without further notice to Lessee, terminate this Lease. Lessor upon such termination shall be entitled to recover the rent reserved in this Lease for the residue of the Lease Term together with all sums that may be due Lessor from Lessee less the fair rental value of the Leased Premises for the residue of the term. If Lessor decides to relet, and should the sum realized from such reletting by Lessor, after deducting the cost of expenses of repairs or alterations and the expense of reletting, be less than the rentals reserved herein, Lessee agrees to pay such deficiency each month upon demand thereof. Lessor will use its best efforts to re-lease the Premises.

Section 13.02. Default in Performance of Covenants. In the event Lessee shall be in default with respect to any of the covenants contained herein, other than the covenant to pay rent, Lessor shall be entitled, after fifteen (15) days written notice of such default to Lessee, to perform any covenant of Lessee as to which Lessee is in default, and any and all sums paid by Lessor in performance of such covenants, plus a ten percent (10%) charge for service and overhead shall be and constitute rent and shall be paid by Lessee, together with interest at the Default Rate with the next rent payment due. All rental payments as to which Lessee is in default shall bear interest at the Default Rate until paid, with attorneys' fees.

Section 13.03. Default with Respect to Insurance. In the event the default of Lessee relates to the maintenance of insurance, Lessor shall have the right to procure such insurance immediately after notice of Lessee's default; and in the event default of Lessee relates to the failure to pay any lien or claim against the Leased Premises or improvements, Lessor shall be entitled to pay any such lien or claim and to redeem the Leased Premises from any sale or forfeiture immediately after mailing notice of its intention to do so. Any amounts so expended by Lessor shall be paid by Lessee as additional rent, with a ten percent (10%) charge for service and overhead, together with interest at the Default Rate with the next payment due.

Section 13.04. Remedies Cumulative. The remedies of Lessor shall be cumulative and not one of the remedies shall be construed as exclusive of any other or of any remedy provided by law.

Section 13.05. Reimbursement of Lessor Costs. In the event Lessor shall, without fault on its part, be made a party to litigation commenced by or against Lessee or arising by reason of the occupancy of the Leased Premises under this Lease, the Lessee shall indemnify, save harmless and protect Lessor against all judgments, costs and attorneys' fees incident to such litigation and Lessee shall also pay all costs and reasonable attorneys' fees incurred by or against Lessor in enforcing the covenants, agreements, terms and provisions of this Lease. Lessee is accorded equal rights in reciprocal circumstances.

ARTICLE XIV EMINENT DOMAIN

Section 14.01. Condemnation. If the whole or any part of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, and in the event that such taking or condemnation shall render the Leased Premises unsuitable for the business of Lessee, then the term of this Lease shall cease and terminate as of the date of title vesting in such proceeding and Lessee shall have no claim against Lessor for the value of any unexpired term of this Lease. In the event of a partial taking or condemnation which is not extensive enough to render the Leased Premises unsuitable for the business of Lessee, then Lessor shall promptly restore the Leased Premises to a condition comparable to its condition at the time of such condemnation, less the portion lost in such taking and this Lease shall continue in full force and effect, except that the fixed rental shall be reduced in proportion to the reduction in gross area of the Leased Premises, after taking into consideration Lessor's initial proportion of investment in land and building.

Section 14.02. Damages. All damages awarded for such taking under the power of eminent domain, whether for the whole or a part of the leased Premises, shall be the property of Lessor provided, however, that Lessor shall not be entitled to any award made to Lessee for loss of business, depreciation to and cost of removal of stock and fixtures.

Section 14.03. Public Authority and Eminent Domain Defined. The term "public authority" as used in this Article shall include any corporation, firm, or association, whether publicly or privately owned, having the power of eminent domain. The term "eminent domain" shall include the exercise of any similar government power and any purchase or other acquisition in lieu of condemnation.

Section 14.04. Right of Termination. In the event of the termination of this Lease under the provisions of this Article contained herein, all rents shall be adjusted to the date of such termination and all future liabilities and obligations under this Lease shall be immediately terminated.

ARTICLE XV NOTICES

All notices to be given hereunder shall be deemed to be properly given if, in the case of notices by Lessor to Lessee, they are addressed to Lessee at One Municipal Drive, Fishers, Indiana 46038 c/o Chris Greisl, or at such other address as Lessee may, from time to time, furnish to Lessor in writing for such purpose; and, in the case of notices by Lessee to Lessor; if they are addressed to 9090 131st Street, Fishers, Indiana 46038, or at such other address as Lessor may, from time to time, furnish to Lessee in writing for such purpose. All notices shall be in writing and shall be mailed by certified or registered mail or in an envelope addressed as above-described, not later than the date upon which notice is required to be given pursuant to the terms of this Lease. All such notices shall be deemed given when so certified or registered and deposited in the United States mail, postage prepaid.

ARTICLE XVI CONSTRUCTION

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal or agent, or of partnership, or of joint venture, between the parties hereto, it being agreed that neither the method or computation of rents, nor any other provisions named herein, nor any acts of the parties herein shall be deemed to create any relationship other than that of landlord and tenant. Whenever herein the singular tense is used, the same shall include the plural and the masculine gender shall include the feminine. Further, this Lease shall be interpreted without reference to title of articles and sections, which are inserted for convenience of reference only.

ARTICLE XVII QUIET ENJOYMENT

Lessor warrants that Lessee, upon making the payments and performing and keeping the other covenants and agreements of this Lease shall have peaceful and quiet possession of the Leased Premises during the Lease term and any extension thereof, free from any molestation or hindrance whatsoever.

ARTICLE XVIII SUBORDINATION AND ATTORNMNENT

Section 18.01. Subordination Agreement. Lessor has the right to cause this Lease to be made subject and subordinate to all ground or underlying leases, mortgages and restrictions which may now or hereafter affect the Premises, and to all renewals and extensions thereof. For confirmation of such subordination, Lessee shall execute promptly any subordination agreement requested by Lessor.

Section 18.02. Attornment Agreement. Lessee shall, in the event of a sale or assignment of Lessor's interest in the Premises or if the Leased Premises or the Premises comes into the hands of a mortgagee, ground Lessor or any other person, whether because of a mortgage foreclosure, termination of a ground lease, or otherwise, attorn to the purchaser or such mortgagee or other person and recognize the same as Lessor hereunder. Lessee shall execute, at Lessor's request, any attornment agreement required by any mortgagee, ground Lessor or other such person to be executed, containing such provisions as such person requires.

ARTICLE XIX MISCELLANEOUS

Section 19.01. No Implied Waiver. No waiver of condition or covenant of this Lease by either party hereto shall be deemed to imply or constitute a further waiver by such party of the same of any other condition or covenant.

Section 19.02. Law of Indiana Governs. The laws of the State of Indiana shall govern the validity, performance, and enforcement of this Lease. The invalidity or unenforceability of any provision of this Lease shall not affect or impair any other provisions.

Section 19.03. Complete Agreement. All negotiations, considerations, representations, and understandings between the parties are incorporated herein and may be modified or altered only by memorandum in writing and assigned by the parties hereto.

Section 19.04. Agreement binding on Successors. The covenants, agreements, and obligations herein contained shall extend to, bind, and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 19.05. Memorandum of Lease. Lessor and Lessee agree not to place this Lease on record but upon the request of either party agree to execute for recording purposes a Memorandum of Lease indicating the Leased Premises, the Lease Term, and other provisions with respect to which notice to third parties is deemed advisable, but omitting rental and other terms of the Lease.

Section 19.06. Counterparts. This agreement may be executed by the parties in several counterparts, each of which shall be deemed an original instrument.

Section 19.07. Authority of Persons Signing. Each of the persons signing this Lease on behalf of the Lessor and Lessee represent that they have been duly authorized and empowered to execute this Lease on behalf of said parties and that all necessary action on behalf of said Lessor and Lessee has been taken and done.

Section 19.08. It is further understood and agreed that this Lease may be terminated by the Lessee if, after reasonable attempts to secure annual funding from the Fisher City Council is insufficient or inadequate to pay the rent as set forth herein, the Lessee must notify the Lessor immediately in writing the status of its annual budget as it relates to the rental payments as set forth above.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of the day and year first above written.

DELAWARE TOWNSHIP TRUSTEE

BY: 

CITY OF FISHERS
BOARD OF PUBLIC WORKS & SAFETY

Scott Fadness, President

Jeff Lantz, Member

Jason Meyer, Member