

**CONSULTANT  
AGREEMENT**

This Agreement, dated \_\_\_\_\_, 2022, by and between The Wheatley Group LLC (“TWG”), an independent contractor, having a principal place of business at 5150 Charlestown Road, Suite 1A, New Albany, IN 47150 and the City of Charlestown Redevelopment Commission (“Commission”), having a principal place of business at 304 Main Cross St. Charlestown, IN 47111.

**WITNESSETH**

WHEREAS, TWG wishes to provide certain professional services and deliverables as set forth in the Scope of Work in *Schedule A*, which is attached hereto and made a part hereof (the “Services”); and

WHEREAS, Commission wishes to procure the Services and project deliverables (“Deliverables”) from TWG, for good and valuable consideration, as more fully described in the Terms and Conditions in *Schedule B* attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties hereto agree as follows:

**SECTION 1: SCOPE OF WORK**

TWG agrees to provide the Services and supply the Deliverables described in the Scope of Work included in *Schedule A* that is attached hereto. TWG warrants that all Services shall be performed in professional manner commensurate with the standards in TWG’s industry, and that TWG has all rights necessary to provide the Deliverables to Commission on the terms of this Agreement.

In the event that additional assignments are agreed upon between TWG and Commission, the parties shall execute addendums to this Agreement describing the additional assignments, including the fees, schedule and deliverables for that specific assignment.

**SECTION 2: TERM/TERMINATION**

This Agreement shall commence as of the date written above, and, unless earlier terminated as set forth herein, shall remain in effect for a period of one (1) year. This Agreement may thereafter be renewed by written agreement signed by both parties. Any terms hereof which, by their nature, contemplate continuing effectiveness, including, without limitation, terms regarding confidentiality, limitations of liability, ownership, and general terms, shall survive any termination/expiration of this Agreement.

Each party may terminate this Agreement for cause, upon written notice to the other party, if the other party commits a material breach of this Agreement and does not cure such breach within 15 days following its receipt of notice thereof from the non-breaching party. This Agreement may be terminated by both parties upon mutual agreement, which shall be in writing and executed by both parties.

### **SECTION 3: PAYMENT FOR SERVICES**

Commission agrees to pay TWG in accordance with the Fees set forth in the Terms and Conditions in *Schedule B* that is attached hereto.

### **SECTION 4: LIABILITY – INDEMNIFICATION**

Except to the extent resulting from the gross negligence or willful misconduct of the Commission, neither Commission nor its officers, directors, shareholders, parents, subsidiaries, affiliates, employees, successors or assigns shall be liable or otherwise responsible to TWG for any personal injury, sickness, disease or death of a person, or for injury, loss, theft, damage, destruction or loss of use of property, caused directly or indirectly by TWG.

Subject to the foregoing, TWG shall indemnify, hold harmless and defend Commission from and against any and all claims, whether for injury to a person, or damage to or loss of property, made against or suffered or incurred by Commission as the direct result of TWG's performance of, or the failure to perform, work pursuant to this Agreement.

### **SECTION 5: NO THIRD-PARTY BENEFICIARIES**

Due to TWG's reliance on the information and/or actions of Commission and various third-party providers to be true, correct and proper, as the case may be, Commission and TWG agree that there shall be no third party beneficiaries of this Agreement, that Commission will defend and hold harmless TWG against any claims by any third-party that it is a beneficiary of this Agreement, and that TWG shall be liable solely to Commission for all duties to be performed under, or obligations arising out of, this Agreement.

### **SECTION 6: CONFIDENTIALITY**

TWG and Commission acknowledge the importance of confidentiality to the fulfillment of this Agreement, and both parties may exchange or otherwise be exposed to confidential information. By executing this Agreement, each party agrees to keep all information provided by either party confidential and not to disclose data to any third party without the other party's consent, except as required by law.

### **SECTION 7: CONFLICT OF INTEREST**

Commission agrees TWG is an independent contractor who will be engaged to provide consulting services to third parties other than Commission. If, at any time during the performance of the Consulting Services for Commission, TWG determines that it cannot assist Commission fully and impartially as a result of services TWG is asked to provide to third parties, TWG shall either (i) decline to provide the requested third-party services or (ii) inform Commission, in writing, that it cannot provide the Consulting Services.

Commission agrees this Agreement shall not preclude TWG from representing other public or private

entities, or economic development prospects for incentive negotiations. If, at any time during the performance of the Consulting Services for the Commission, TWG becomes aware of any real or potential conflicts of interest between its performance of the Consulting Services on behalf of Commission and services performed, or to be performed, on behalf of third parties other than the Commission, TWG shall promptly notify Commission, in writing, through its designated representative. Commission, through its designated representative, shall determine, in its sole and absolute discretion, whether to waive any such conflicts of interest or, notwithstanding Section 2, unilaterally terminate this Agreement in whole or in part.

#### **SECTION 8: DISCLAIMER**

Services provided by TWG are advisory in nature and based on professional judgement and experience. TWG warrants the services provided will be performed in a good and workmanlike manner. As such, by executing this Agreement, Commission agrees that TWG shall not be responsible or liable, whether as a result of breach of warranty, negligence or otherwise, for any special, exemplary, incidental, consequential or punitive damages of any kind, however arising, including, but not limited to, damages for loss of time, inconvenience, lost profits or economic loss, and, except as set forth in Section 4, in no event shall TWG's liability hereunder exceed an amount equal to the maximum amount of fees payable by Commission to TWG under the Fee Schedule for the Consulting Services.

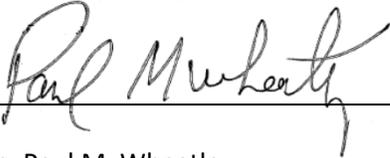
#### **SECTION 9: GENERAL TERMS**

This Agreement represents the complete and final agreement concerning the Services and Deliverables to be provided by TWG to Commission, and supersedes any and all prior or contemporaneous understandings or agreements, written or oral, regarding the subject matter. This Agreement may be amended only by a written amendment executed by both parties. The relationship between the parties hereunder is solely that of independent contractors, and no agency, partnership, joint venture, franchise, or employment relationship is established under this Agreement. TWG is solely responsible for all employment-related duties with regards to TWG's personnel, including those required under applicable law, regarding its employees, and TWG acknowledges and agrees that no personnel of TWG will be entitled to any of Commission's employment benefits or other benefits. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, such provision shall be reformed only to the extent necessary to make it valid, legal and enforceable, and the remainder of this Agreement shall nonetheless remain in full force and effect. This Agreement shall be construed, governed, and enforced solely and exclusively by the law of the State of Indiana, USA, excluding conflict of law principles. The parties hereby agree that the courts located in Floyd County, Indiana, will constitute the sole and exclusive forum for the resolution of any and all disputes arising out of or in connection with this Agreement and each party hereby irrevocably consents to the personal jurisdiction and venue of such courts and irrevocably waives any objections thereto. TWG may not assign this Agreement, or delegate its duties hereunder, in whole or in part, to any third party without first obtaining the express written consent of Commission, and any assignment or delegation by TWG without such consent shall be null and void. Commission may freely assign this Agreement, or delegate its duties hereunder, in whole or in party, to any third party so long as such assignee agrees to be bound by the terms of this Agreement. Each party shall comply with all applicable laws in performing its obligations under this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto, through their duly authorized officers, have executed this Agreement as of the day and year first set forth below.

**The Wheatley Group, LLC:**

By: 

Name: Paul M. Wheatley

Title: Principal

Date: January 11, 2022

**The City of Charlestown Redevelopment Commission:**

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

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

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

Date: \_\_\_\_\_

**SCHEDULE A  
SCOPE OF  
WORK**

The Wheatley Group, LLC (“TWG”) is pleased to continue to offer its economic development and redevelopment advisory services to the City of Charlestown Redevelopment Commission (“Commission”). The City of Charlestown has positioned itself as a high growth community with ample opportunities for additional job growth and capital investments. TWG believes it is well-suited to support the Commission in accomplishing its specific economic development goals. Our team brings a unique perspective to the table – We offer a skillset that is rooted in traditional economic development practices and strategy, we couple it with public sector redevelopment, finance, and programmatic experience. This expertise is then blended with TWG’s existing relationships with area developers and brokers – on an actual project level – that are already actively participating in the growth of the southern Indiana market. Not only does TWG have the ability to fully understand the objectives of the Commission, we also offer a great deal of practical development insight garnered from the very clientele the community is already pursuing.

TWG stands ready to assist the Commission on its path to economic growth and prosperity, and we look forward to continuing a successful partnership over the course of this engagement. Our deliverables are outlined below:

**Deliverables:**

**Execution of Economic Development and Redevelopment Initiatives**

- Interface with local leadership team
- Develop short-term and long-term goals and initiatives
- Act as project advisor in the furtherance of the Comprehensive Plan and Zoning Ordinance, including an update if pursued by the City of Charlestown
- Assist in the solicitation and evaluation of qualified professionals, as well providing oversight and management during the project term

**Prospect Development Assistance**

- Develop project and/or site-specific presentations and marketing collateral for use in community promotion
- Prepare due diligence packages and/or RFPs as required for planning efforts, acquisition and dispositions
- Act as a strategic advisor with regards to project deal structuring, infrastructure evaluation, etc.
- Perform economic impact modeling and generate reports on a project-by-project basis

**Grant Research and Support**

- Monitor and evaluate potential grant, funding and financing opportunities available through USDA, Indiana Office of Community and Rural Affairs, Indiana Economic Development Corporation, etc.
- Assist the Commission in the identification of specific grant opportunities to procure funds to support various special projects and initiatives

**Miscellaneous**

- Support staff in the management and review of TIF district parcels, funds and budgets
- Support and coordinate with staff in project meetings with government agencies, utility providers, engineers and other professional service providers

- Market targeted development areas to prospective investors
- Evaluate current and proposed economic and redevelopment programs to spur local investment and business expansion
- Support the completion of Commission's various annual reporting and presentation requirements
- Assist the Commission with Notification of Excess Valuation, or lack thereof, to overlapping taxing units
- Prepare meeting minutes related to all Commission meetings

**SCHEDULE B  
TERMS AND CONDITIONS**

TWG offers the above scope of services under the following fee schedule:

Not to exceed \$80,000 per annum for all scope items with exception of the Preparation of Commission meeting minutes. Preparation of Commission meeting minutes will be invoiced at \$100 per meeting.

Payments subject to invoices with description of services rendered. Invoices will be sent at the end of each month payable net 30 days.

***However, if mutually agreeable, the terms of the engagement can be amended, extended and expanded to include additional services not outlined in the proposal. Any additional services would be subject to negotiation of a separate project and fee schedule.***