

**District and Project Plan Approval Ordinance**

**ORDINANCE**

**AN ORDINANCE APPROVING AND CREATING A NEW TAX INCREMENT FINANCING DISTRICT IN THE CITY OF ELKINS, RANDOLPH COUNTY, WEST VIRGINIA TO BE KNOWN AS “THE CITY OF ELKINS REDEVELOPMENT DISTRICT NO. 1”; APPROVING PROJECT PLAN NO. 1 AS APPROVED BY THE WEST VIRGINIA DEPARTMENT OF ECONOMIC DEVELOPMENT; ESTABLISHING A TAX INCREMENT FINANCING FUND AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.**

**WHEREAS**, The City of Elkins, West Virginia (the “City”) is authorized by the West Virginia Tax Increment Financing Act, Chapter 7, Article 11B of the Code of West Virginia 1931, as amended (the “Act”) to create tax increment financing districts, approve project plans, issue tax increment financing obligations and take such other actions as necessary or desirable to facilitate the orderly development and economic stability of the City, all as more fully set forth in the Act;

**WHEREAS**, the City desires to create and establish a redevelopment district to be known and designated as “The City of Elkins Redevelopment District No. 1”, as more fully described in **Exhibit A** hereto (the “TIF District”), and to approve a redevelopment project plan to be known and designated as “Project Plan No. 1”, as more fully described in **Exhibit B** hereto (the “Project Plan”), all in order to facilitate the issuance of tax increment financing obligations to finance the costs of planning, acquiring, constructing and equipping the Project Plan, being necessary public infrastructure improvements within the TIF District;

**WHEREAS**, the City did, on January 5, 2023, following proper notice thereof, hold a public hearing with respect to the Application wherein interested parties were afforded a reasonable opportunity to express their views on the proposed creation of the TIF District, its proposed boundaries and the proposed Project Plan;

**WHEREAS**, the City submitted the Application to the Secretary of the West Virginia Department of Economic Development (the “Secretary”) for his review and approval, all in accordance with the applicable provisions of the Act;

**WHEREAS**, the Secretary has, by letter dated April 6, 2023, notified the City that the West Virginia Department of Economic Development has reviewed the Application and has found the Application regarding both the TIF District and the Project Plan to be complete, and has further provided that the City may now enter an ordinance creating the TIF District, approving the Project Plan and creating a Tax Increment Financing Fund for the TIF District;

**WHEREAS**, it is hereby found and determined that the Application meets the criteria set forth in the Act for creation of a redevelopment district, formulation of a project plan and creation of a tax increment financing fund (the “TIF Fund”); and

**WHEREAS**, the Common Council of The City of Elkins (the “Council”) has determined to enact this Ordinance that approves, certifies and creates the TIF District, approves and certifies the Project Plan and creates the TIF Fund.

**NOW, THEREFORE, BE IT ORDERED BY THE COMMON COUNCIL OF THE CITY OF ELKINS, AS FOLLOWS:**

1. Justification for Approval of TIF District. It is hereby found and determined that the real property within the TIF District will be benefitted by eliminating or preventing the development or spread of slums or blighted, deteriorated or deteriorating areas, discouraging the loss of commerce, industry or employment, increasing employment therein or any combination thereof; that development or redevelopment thereof will not be solely used for development of commercial businesses that will unfairly compete in the local economy; and that development or redevelopment is in the public interest because it will discourage commerce, industry or manufacturing from moving their operations to another state, result in increased employment in the City or result in preservation or enhancement of the tax base of the City.

2. Justification for Approval of Project Plan. It is hereby found and determined that the real property within the TIF District will be benefitted by implementing the Project Plan by eliminating or preventing the development or spread of slums or blighted, deteriorated or deteriorating areas, discouraging the loss of commerce, industry or employment, increasing employment therein or any combination thereof.

3. Approval and Creation of TIF District. The TIF District, to be known as “The City of Elkins Redevelopment District No. 1” is hereby approved, certified and created as of the date of adoption and entry of this Ordinance. The TIF District shall have the boundaries set forth in Exhibit A.

4. Approval of Project Plan. The Project Plan, as set forth in Exhibit B, is hereby expressly found to be economically feasible and is hereby approved and certified. The projects set forth in the Project Plan, or any portion of it subsequently deemed by the City to be included (the “Projects”), are hereby approved and declared to be eligible for funding in whole or in part, from tax increment financing obligations and from moneys remaining in the TIF Fund after there has first been paid all debt service, reserve fund deficiency and other payments payable in connection with any bonds, notes or other obligations payable from the TIF Fund, which the City, in its discretion, may determine to issue from time to time in accordance with the provisions of the Act.

5. Establishment of TIF Fund. The TIF Fund is hereby established as a separate fund into which all tax increment revenues and other revenues designated by the City, for the benefit of the TIF District shall be deposited, and from which all costs of the Projects shall be

paid, which may be assigned to and held by a trustee for the benefit of bondholders if tax increment financing obligations are issued by the City.

6. Allocation of Property Taxes. All ad valorem property taxes on real and tangible personal property having a tax situs in the TIF District shall be assessed, collected and allocated in the following manner for so long as any tax increment financing obligations payable from the TIF Fund are outstanding and unpaid:

(a) For each tax year, the Randolph County Assessor shall record in the land and personal property books both the Base Assessed Value and the Current Assessed Value of the real and tangible personal property having a tax situs in the TIF District, as such terms are defined in the Act. The Base Assessed Value shall be the value of all real and tangible personal property located within the TIF District as of July 1, 2022.

(b) Ad valorem taxes collected from regular levies upon real and tangible personal property having a tax situs in the TIF District that are attributable to the lower of the Base Assessed Value or the Current Assessed Value of real and tangible personal property located in the TIF District shall be allocated to the levying bodies situate in the County (the County Commission of Randolph County, the City and the Randolph County Board of Education) in the same manner as applicable to the tax year commencing July 1, 2022

(c) The positive tax increment, if any, with respect to real and tangible personal property in the TIF District shall be allocated and paid into the TIF Fund and shall be used (i) to pay the principal of and interest on tax increment financing bonds, notes or other obligations outstanding and payable from the TIF Fund, including the principal of and interest on the tax increment financing obligations anticipated to be issued to finance a portion of the costs of the Projects, funding any reserve fund deficiency and any other payments payable in connection with such bonds, notes or obligations and (ii) to pay or reimburse costs of projects in the TIF District. Any levying body having the TIF District within its jurisdiction shall not receive any portion of the annual tax increment except as otherwise provided in the Act.

(d) In no event shall the tax increment include any taxes collected from excess levies, levies for general obligation bonded indebtedness or any levies other than the regular levies provided for in the Act.

7. Use of Proceeds of Tax Increment Financing Obligations. Proceeds from tax increment financing obligations anticipated to be issued under the Act and revenues available in the TIF Fund may only be used to pay for costs of development or redevelopment projects to foster economic development in the TIF District, when such development or redevelopment project or projects would not reasonably be expected to occur without tax increment financing.

8. Need for TIF Financing. The Council hereby expressly finds and states that the Projects included in the Project Plan are not reasonably expected to occur without the use of tax increment financing.

9. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

10. Headings, Etc. The headings and catch lines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

11. Conflicting Provision Repealed. All ordinances, resolutions, indentures or orders, or parts thereof, that conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed with respect to the subject matter of this Ordinance.

12. Covenant of Due Procedure, Etc. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and entry of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, City Clerk and members of the Council were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

13. Effective Date. This Ordinance shall take effect immediately upon enactment.

14. Statutory Notice and Public Hearing. Following the first reading by title hereof, an abstract of this Ordinance, determined by the City to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in *The Inter-mountain*, a newspaper published and of general circulation in the City, together with a notice stating that this Ordinance has been introduced and that the Council of the City contemplates the final enactment thereof and that any person interested may appear before Council upon a date certain, not less than ten days subsequent to the date of the first publication of said abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the City Clerk for review by interested parties during the office hours of the City Clerk.

At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

First Reading                      May 4, 2023

Second Reading                      May 18, 2023  
following public hearing

[Signature Page Follows]

Adopted this \_\_\_\_\_, 2023.

THE CITY OF ELKINS

By: \_\_\_\_\_  
Its Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk



**CERTIFICATION**

The undersigned, being the duly qualified, elected and acting Clerk of The City of Elkins, does hereby certify that the foregoing Ordinance was duly adopted by the Common Council of The City of Elkins following a public hearing thereon, at regular meetings duly held, pursuant to proper notice thereof, on May \_\_, 2023 and May \_\_, 2023, a quorum being present and acting throughout, and which Ordinance has not been modified, amended or revoked and is a true, correct and complete copy thereof as of this \_\_ day of \_\_\_\_\_ 2023.

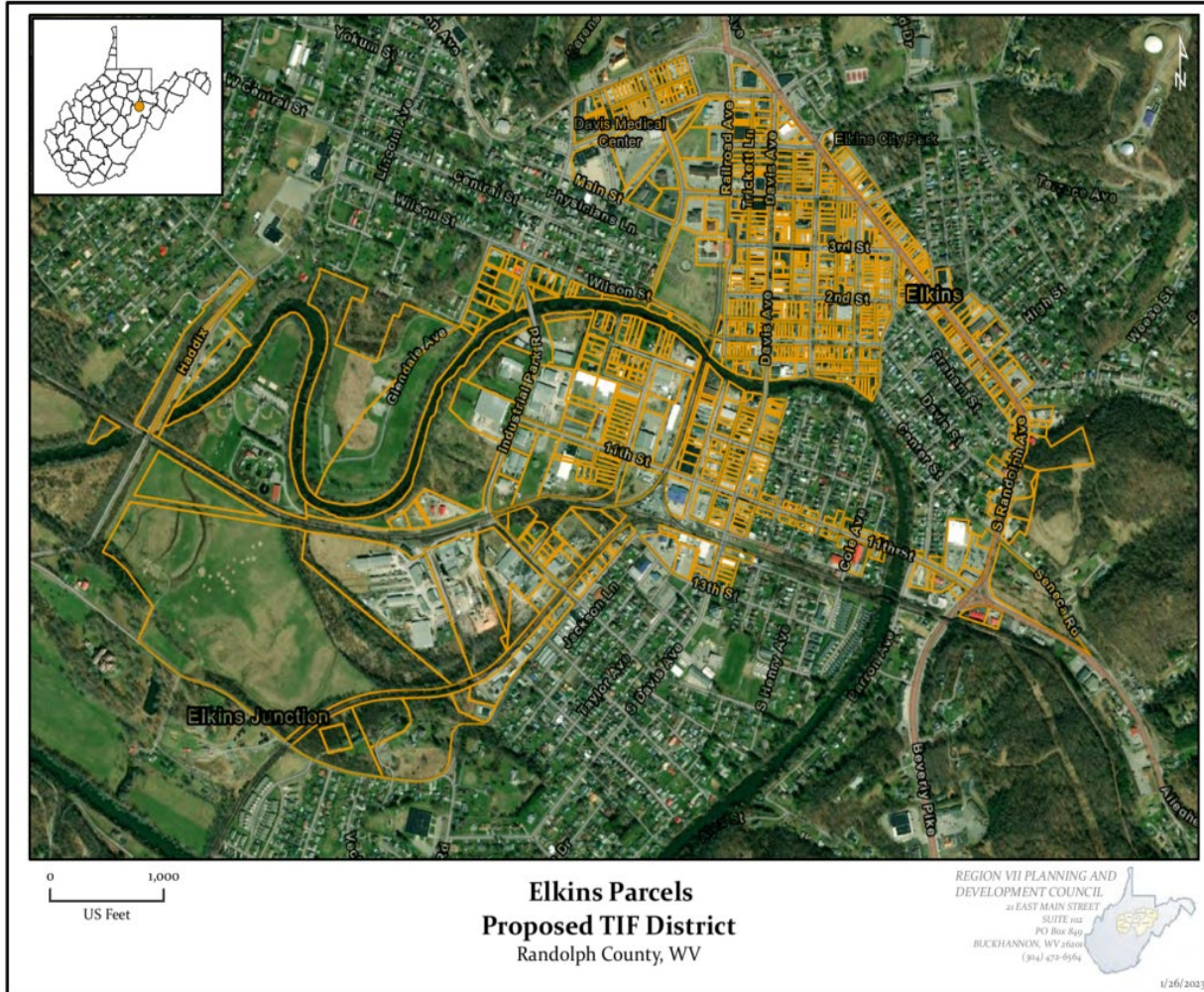
By: \_\_\_\_\_  
City Clerk



# Exhibit A

## TIF District Boundaries

The proposed TIF District is located in the City of Elkins, West Virginia, and includes approximately 437 acres of contiguous real property located in Elkins Corporation property tax district, as set forth on the map below, including the specifically delineated TIF District boundary.



**Exhibit B**

Project Plan

(attached hereto)

## SECTION II.

## PROJECT INFORMATION

### A. DETAILED DESCRIPTION OF PROJECT

*Include a description of how the project fits with the overall development plans for the Redevelopment District or the overall development plans of the city, county, or region.*

#### **The TIF District**

The City of Elkins (the “City”) is proposing the creation of the “City of Elkins Redevelopment District No. 1” (the “TIF District”). The proposed TIF District includes approximately 437 acres of contiguous real property located in Elkins Corporation property tax district. A map of the TIF District boundaries is provided in **Attachment 1**. The proposed TIF District is comprised of parts of the downtown business district, the Industrial Park managed by the Randolph County Development Authority, and the Elkins Railyard. The proposed TIF District is generally bounded to the north by Seneca Trail, to the east by Randolph Avenue and Livingston Avenue, to the south by Georgetown Road and to the west by portions of Haddix Road and is bisected by the Tygart Valley River. The TIF District is being created by the City for the purposes of facilitating the planning, design, acquisition, construction and equipping of capital improvements within the TIF District or on land not in the TIF District that is contiguous to the TIF District and which contains infrastructure or other facilities which serve the TIF District.

#### **The TIF Projects**

The City proposes to develop certain capital improvements within or which serve the TIF District and include the design, permitting, acquisition, construction and equipping of site, infrastructure and other improvements, both public and private, that will facilitate development within, or for the benefit of, the TIF District (collectively, the “TIF Projects”), including, but not limited to, the following:

- Waterlines, waterworks facilities, sanitary sewer lines, sewerage facilities, stormwater facilities, telecommunications, cable, fiber optic, electric, natural gas and related public infrastructure improvements and relocations;
- Construction of roads, sidewalks, street lighting, traffic signals and other roadway and streetscape improvements and related appurtenances including curbing and gutters;
- Acquisition of land within the TIF District or outside of the TIF District which contains or will contain infrastructure or other facilities which serve the TIF District;
- Demolition, site preparation and excavation and other earthwork necessary for and incidental to the construction and installation of infrastructure and other improvements;
- Other related improvements, extensions, renovations and additions; and
- All professional service fees and consultant fees in connection with the foregoing, including but not limited to engineering and other design fees, legal fees, fees of property tax revenue consultants, property tax consultants, trustees, continuing disclosure agents and all fees and costs incurred in connection with the preparation and approval of the Project Plan.

The TIF Projects are expected to include, but not be limited to, (i) riverfront development and beautification along the Tygart Valley River; (ii) recreational trail system improvements throughout the proposed TIF District; (iii) streetscaping, wayfinding, lighting, and sidewalk improvements in the downtown business district; (iv) improvements to the Elkins Railyard, including the Roundhouse Plaza and construction of a new event center; and (v) improvements to the Randolph County Industrial Park.

The TIF Projects which are currently contemplated for the TIF District are more particularly indicated on the maps provided in **Attachment 2**. The proposed TIF Projects and the capital improvements and expenditures currently contemplated pursuant to such phases are presented by way of example only and the actual capital improvements and expenditures for each phase or project may differ substantially from those described herein so long as such improvements and expenditures are included within the description of the TIF Projects described herein.

### **Tax Increment Financing Obligations**

To finance all or portions of the TIF Projects, the City proposes to issue tax increment revenue bonds or other obligations (the “TIF Obligations”) in an estimated amount not to exceed \$25,000,000, with maturities not to exceed 30 years from the date of the creation of the TIF District. Such TIF Obligations may be issued from time to time in one or more series. Proceeds of the TIF Obligations are generally planned to be used to (i) finance costs of the TIF Projects, including architectural, engineering, legal and other professional fees and expenses; (ii) finance costs of creating the TIF District and obtaining approval of the TIF Projects; (iii) fund reserves for the TIF Obligations, as necessary; (iv) fund capitalized interest on the TIF Obligations, as necessary; and (v) pay costs of issuance of the TIF Obligations and related costs. To the extent that surplus tax increment funds are available, portions of the TIF Projects may be financed directly with such surplus on a pay-as-you-go basis. See **Section II.E** for more detailed Financing information and **Section II.G** for additional information on the proposed TIF Obligations.

**B(1):**

**ESTIMATES**

*Projected increases in Assessed Values of the TIF District:*

Please see the attachments to **Section II.G Tax Increment Financing Obligations** herein for the Preliminary Development Schedule prepared by the City, and the Projection of Net Property Tax Increment, which includes projected increases in assessed values of the TIF district.

**B(2):**

**ESTIMATES**

*Number of jobs to be created by this project in the TIF District. Estimated jobs are as follows:*

**Estimated Job Creation within the TIF District**

Job Category: Professional

Wages:	\$75,000 - \$150,000
Benefits:	Industry Standard
Number of Construction Jobs:	3
Number of Permanent Jobs:	15

Job Category: Clerical and Admin

Wages:	\$25,000 - \$75,000
Benefits:	Industry Standard
Number of Construction Jobs:	2
Number of Permanent Jobs:	20

Job Category: Skilled

Wages:	\$40,000 - \$75,000
Benefits:	Industry Standard
Number of Construction Jobs:	60
Number of Permanent Jobs:	26

Job Category: Semi-Skilled

Wages:	\$20,000 - \$40,000
Benefits:	Industry Standard
Number of Construction Jobs:	40
Number of Permanent Jobs:	27

Job Category: Unskilled

Wages:	\$20,000 - \$40,000
Benefits:	Industry Standard
Number of Construction Jobs:	38
Number of Permanent Jobs:	49

Total Estimated Number of Construction Jobs: 153

Total Estimated Number of Permanent Jobs: 137

**C.****CAPITAL IMPROVEMENTS**

The City proposes to develop certain capital improvements within or which serve the TIF District and include the design, permitting, acquisition, construction and equipping of site, infrastructure and other improvements, both public and private, that will facilitate development within, or for the benefit of, the TIF District (collectively, the “TIF Projects”), including, but not limited to, the following:

- Waterlines, waterworks facilities, sanitary sewer lines, sewerage facilities, stormwater facilities, telecommunications, cable, fiber optic, electric, natural gas and related public infrastructure improvements and relocations;
- Construction of roads, sidewalks, street lighting, traffic signals and other roadway and streetscape improvements and related appurtenances including curbing and gutters;
- Acquisition of land within the TIF District or outside of the TIF District which contains or will contain infrastructure or other facilities which serve the TIF District;
- Demolition, site preparation and excavation and other earthwork necessary for and incidental to the construction and installation of infrastructure and other improvements;
- Other related improvements, extensions, renovations and additions; and
- All professional service fees and consultant fees in connection with the foregoing, including but not limited to engineering and other design fees, legal fees, fees of property tax revenue consultants, property tax consultants, trustees, continuing disclosure agents and all fees and costs incurred in connection with the preparation and approval of the Project Plan.

The TIF Projects are expected to include, but not be limited to, (i) riverfront development and beautification along the Tygart Valley River; (ii) recreational trail system improvements throughout the proposed TIF District; (iii) streetscaping, wayfinding, lighting, and sidewalk improvements in the downtown business district; (iv) improvements to the Elkins Railyard, including the Roundhouse Plaza and construction of a new event center; and (v) improvements to the Randolph County Industrial Park. The TIF Projects which are currently contemplated for the TIF District are more particularly indicated on the maps provided in **Attachment 2**. The TIF Projects and the capital improvements and expenditures currently contemplated pursuant to such phases are presented by way of example only.

The City has prepared preliminary cost estimates for the TIF Projects, as summarized in the following table and described on the following page:

Type of Improvements	Estimated Cost*
Riverfront Development	\$3,300,000
Recreational Trails	\$3,000,000
Streetscaping	\$1,800,000
Railyard	\$3,600,000
Industrial Park	<u>\$3,000,000</u>
<b>Total:</b>	<b>\$14,700,000*</b>

\* Assumes the maximum estimated cost.

## **1. Riverfront Development and Related Improvements**

There has been a dismissive or negative attitude surrounding the section of the Tygart Valley River that flows through the heart of Elkins for many years. Past efforts to change this perception and revitalize the river were recently stimulated by the rehabilitation of the Tygart Hotel and the community's participation in HubCAP. As a result, the Elkins Riverfront Development plan was created by GAI Consultants. The cost of this design work was paid for by the City and HubCAP. The plan provides a vision to restore ecological function, provide safe alternative transportation routes, and incorporate recreational opportunities. Projected costs as part of the design work are estimated to cost between \$2,400,000 to \$3,300,000 to implement.

## **2. EAST Trail Design and Related Improvements**

The City is a uniquely situated to access unparalleled recreational opportunities in the eastern United States, including whitewater runs, climbing routes, and down-hill/cross country ski resorts, all within an hour and half. However, the City itself lacks high-quality, purpose-built, accessible trails. To address this limitation, the City has partnered with Elkins Area Shared Trails (EAST), a collaborative organization that brings together land managers, trail development and design experts, community development organizations, and civic leaders to improve trail systems within the City. To facilitate trail master planning in the area, EAST has been awarded \$80,000 in grant funding from two sources, to be matched by over \$23,000 of in-kind partner-based support and \$30,000 cash. Current cost estimates for construction are between \$1,300,000 to \$3,000,000.

## **3. Streetscaping and Related Improvements**

In 2016, the Design Committee of Elkins Main Street, Inc. prepared the Elkins Streetscape Vision to provide a framework to advance streetscape improvements in downtown. In 2017, the Common Council adopted its 2018-2023 Strategic Plan which emphasizes improvements to downtown streetscapes, signage, signage, lighting, and sidewalks. The City has engaged an architectural and engineering firm to produce design plans and standard drawings suitable for plan implementation. The cost of design is \$30,000 and implementation costs are estimated at \$200,000 to \$300,000 per block, with a total estimated cost of \$1,200,000 to \$1,800,000 (based on 6 blocks).

## **4. Elkins Railyard and Related Improvements**

The City intends to facilitate the development of the Elkins Railyard, including roadways, the construction of a new public events center, development of the Roundhouse Plaza, and public infrastructure improvements. The City estimates the total cost of these projects at \$3,600,000.

## **5. Industrial Park Property Development and Related Improvements**

The City intends to make necessary investments in the Randolph County Industrial Park to include site preparation, sidewalks, lighting and other infrastructure improvements at an estimated cost of \$2,000,000 to \$3,000,000.

**D. ESTIMATED BREAKDOWN OF PROJECT COSTS\***

The below preliminary breakdown of estimated costs of the TIF Project is anticipated to be fully financed from TIF Obligations and/or from Pay-As-You-Go funds from the TIF Fund. See **Section II.G – Tax Increment Financing Obligations** and **Section II.E – Financing** for more detailed information. The Costs of the TIF Projects set forth on this and the prior pages are based on the best available information at the time of this Application. Some of these costs are based on conceptual layouts using a cost per linear foot and other costs are based on allocated budgets to the anticipated scope of the work. All indicated costs are estimates only and are subject to change and the actual costs will likely differ from the amounts stated herein.

	<b>TOTAL*</b>	<b><u>Proposed Financing Method</u></b>
1. Capital Costs	<u>\$ (see 8 below)</u>	
2. Estimated Financing Costs	<u>\$ 423,514</u>	TIF Obligations
3. Professional Services	<u>\$ (see footnote)</u>	
4. Land	<u>\$ unknown</u>	
5. Relocation Costs	<u>\$ -0-</u>	
6. Environmental Impact Studies	<u>\$ -0-</u>	
7. Public Information	<u>\$ -0-</u>	
8. Construction of Capital Improvements	<u>\$7,000,000</u>	TIF Obligations
9. Costs of the sale/lease of County property that results in a loss to County	<u>\$ -0-</u>	
10. Capitalized Interest Fund	<u>\$ 462,786</u>	TIF Obligations
11. Reserve Fund	<u>\$ 570,700</u>	TIF Obligations
<b>Total Project Cost:</b>	<b><u>\$8,457,000</u></b>	<b>TIF Obligations</b>
12. Additional Capital Improvements	<u>\$7,700,000</u>	TIF Obligations/Pay-As-You-Go

\*Notes to Items 1 through 12:

- 2) Estimated Financing Costs for the TIF Obligations are provided in **Section II.G.**
- 3) Estimated Professional Services costs are included in Construction of Capital Improvements.
- 6) Estimated Environmental Impact Studies costs are included in Construction of Capital Improvements.
- 8) See **Section II.C** for estimated breakdown of costs.
- 10) Estimated capitalized interest are provided in **Section II.G.**
- 11) Estimated Reserve Fund for the TIF Obligations are provided in **Section II.G.**