

**CITY OF HOBART, INDIANA  
BOARD OF PUBLIC WORKS AND SAFETY**

**Resolution Number 2017-02**

**A Resolution Approving Agreements and Other Documents for the Purchase of  
Improvements for New Public Works Maintenance Facility**

WHEREAS, the Common Council (“Council”) of the City of Hobart, Indiana (“City”), through the adoption of its Resolution No. 2017-10 on May 3, 2017, considered and approved the entry by the City into an installment contract (“Installment Contract”) with GM Development Companies LLC, or an affiliate thereof (“Developer”), for the purchase of fully developed improvements for a new Maintenance Facility for the Department of Public Works in the City (the “Project”) together with the entry into a Project Agreement (the “Project Agreement”), generally outlining the responsibilities of the Developer and City with respect to the development of the Project; and

WHEREAS, the Council, through said Resolution, further took note of the fact that the City is authorized by I.C. §36-1-10.5-1, *et seq.* to purchase land or structures for the operation of the City government and to pay an amount not to exceed the average of two (2) appraisals performed by Indiana licensed appraisers; and

WHEREAS, said Resolution also pledged distributions received and to be received by the City from (a) the Motor Vehicle Highway Account” pursuant to I.C. §8-14-1, and (b) the “Local Road and Street Account” pursuant to I.C. §8-14-2 (“Highway Revenues”) to the payment of the Installment Contract for a period of 10 years; and

WHEREAS, the Council, through said Resolution, also authorized the City to enter into the Installment Contract and the Project Agreement, to execute and deliver any agreements, acknowledgements or assignments as may be requested by the Developer’s Lender and to take any other action necessary to consummate the purchase of the Project pursuant to the Installment Contract; and

WHEREAS, the Board of Public Works and Safety (“Board”) of the City is the purchasing agency for the City pursuant to §31.004(A) of the Municipal Code of the City of Hobart enacted pursuant to the authority of I.C. §5-22-4-5(a); and

WHEREAS, the Board, in said capacity, has adopted Resolution No. 2017-01 of even date herewith approving the following instruments in connection with the Project finding them to be in conformance and accord with Council Resolution No. 2017-10;

1. Project Agreement between City of Hobart and Hobart Maintenance Building, LLC;
2. Participation and Purchase Agreement between Hobart Maintenance Building, LLC, City of Hobart and People’s Bank SB;

3. Installment Purchase Contract between City of Hobart and Hobart Maintenance Facility, LLC;
4. Temporary Easement Agreement between the City of Hobart and Hobart Maintenance Building, LLC; and

WHEREAS, the Board, in the exercise of said powers and duties, has received and reviewed the following additional instruments, which; and

WHEREAS, the following documents, which are attached hereto and made a part hereof, and which are referred to collectively, together with the documents approved in Board Resolution No. 2017-01 as the “Contract Documents,” are required for the implementation of the purchase and financing of the purchase of said improvements as part of the Project and have been received and reviewed by the City Attorney and the Board:

5. Certificate of the City of Hobart, Indiana;
6. Operating Agreement of Hobart Maintenance Building, LLC;
7. Consent of the Sole Member of Hobart Maintenance Building, LLC;
8. Consent of the Sole Member of GM Development Companies, LLC;
9. Certificate of Hobart Maintenance Building, LLC; and

WHEREAS, the Board desires to find that all of said documents are in accord with and in conformance to said Resolution 2017-10 of the Common Council of the City, that the Contract Documents may be executed where necessary on behalf of the City.

THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of the City of Hobart that:

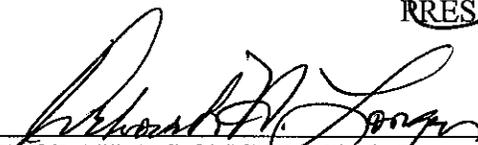
A. The Contract Documents and each of them are found and determined by the Board to be in good order, in accord with and conformance to the letter and spirit of Resolution 2017-10 of the Common Council, and are hereby approved. Those contract documents to which the City of Hobart is a party, with the exception of the Certificate of the City of Hobart, are authorized for execution and attestation by the Mayor and Clerk-Treasurer of the City.

B. The Certificate of the City of Hobart, Indiana is authorized for execution by the Hobart City Attorney.

C. This Resolution shall be in full force and effect from and after its passage.

ALL OF WHICH is ADOPTED AND APPROVED by the Board of Public Works and Safety of the City of Hobart, Indiana on this 5th day of May, 2017.

  
RESIDING OFFICER

ATTEST:   
DEBORAH A. LONGER, Clerk-Treasurer

**CERTIFICATE**  
**City of Hobart, Indiana**

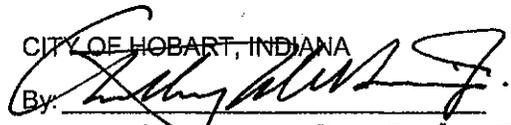
The undersigned hereby certifies, in his or her capacity as the City Attorney of the City of Hobart, Indiana (the "City"), that:

1. Attached hereto as Exhibit A is a true and correct copy of the Resolution adopted by the City, which Resolution: (a) has not been revoked, rescinded, modified, amended, or repealed; and (b) is in full force and effect on the date hereof.
2. The meeting at which the Resolution was adopted (the "Meeting") was duly called, and: (a) the Meeting was open to the public in compliance with Indiana Code §5-14-1.5; (b) there was a full, legal quorum present at the Meeting; (c) no actions taken at the Meeting were taken by secret ballot or by reference to agenda number or item only; and (d) if an agenda was used at the Meeting, it was posted at the entrance to the room in which the Meeting was held.
3. The City has executed the following documents (collectively, the "Documents"):
  - (a) A Project Agreement, which also has been executed by Hobart Maintenance Building LLC (the "Company");
  - (b) An Installment Contract, which also has been executed by the Company;
  - (c) A Participation and Purchase Agreement, which also has been executed by the Company and Peoples Bank SB (the "Bank"); and
  - (d) An Easement Agreement, which also has been executed by the Company;
4. None of the Documents has been canceled, modified, or amended. All of the Documents are in full force and effect on the date hereof. The City is not in default under any of the Documents.
5. The representations and warranties of the City contained in the Documents are true and correct in all material respects on and as of the date hereof.
6. All resolutions and/or consents authorizing and approving: (a) the execution of the Documents; (b) the transactions contemplated pursuant to the Documents; and (c) the performance by the City of its obligations under the Documents; have been obtained.
7. Each Document: (a) was executed and delivered by a person authorized to execute and deliver such Document on behalf of the City; and (b) constitutes a legal, valid and binding obligation of the City, as applicable, enforceable against the City in accordance with its terms.
8. Neither the execution and delivery of, nor the performance by the City under, the Documents will constitute a breach of, or result in a default under, any judgment, order, writ, injunction or decree of the State of Indiana (or any court, administrative agency or other governmental authority of the State of Indiana) that names the City and specifically is directed to it or to its property.
9. To the knowledge of the City, no action to: (a) contest the validity of the Documents; or (b) enjoin performance by the City of its obligations under the Documents; has been brought.
10. To the knowledge of the City, no litigation is pending or threatened: (a) seeking to restrain or enjoin the execution of the Documents and/or the sale and assignment of the right of the Company to receive installment payments under the Installment Contract (the "Payment Rights") to the Bank; (b) in any way contesting or affecting any authority for the sale and assignment of the Payment Rights, or the validity of any of the Documents; or (c) in any way contesting the existence or powers of the City.

May, 2017.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this 5<sup>TH</sup> day of

CITY OF HOBART, INDIANA

By: 

Printed: ANTHONY DEBONIS, JR.

Title: HOBART CITY ATTORNEY

**OPERATING AGREEMENT  
OF  
HOBART MAINTENANCE BUILDING LLC**

This Operating Agreement of Hobart Maintenance Building LLC (this "Agreement") is executed as of March 27, 2017, by and between Hobart Maintenance Building LLC, an Indiana limited liability company (the "Company"), and GM Development Companies LLC, the sole initial member of the Company (the "Member").

**1. Definitions**

**Act** shall mean the Indiana Business Flexibility Act, Indiana Code §23-18-1-1, et seq., and all amendments thereto.

**Affiliate** shall mean: (a) any Person that, directly or indirectly, controls, is controlled by, or is under common control with the specified Person; (b) any Person of which the specified Person serves as an officer, partner, or trustee, or with respect to which the specified Person served in a similar capacity; (c) any Person of which the specified Person, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities; (d) any Person that, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities of the specified Person; and (e) any relative or spouse of the specified Person who makes his or her home with the specified Person.

**Articles** shall mean the Articles of Organization of the Company, as properly: (a) adopted and amended from time to time by the Members; and (b) filed with the Indiana Secretary of State pursuant to the Act.

**Assignee** shall mean an assignee of Units that has not been admitted as a Substituted Member.

**Bankrupt Member** shall mean a Member that: (a) has become the subject of a decree or order for relief under any bankruptcy, insolvency, or similar law affecting creditors' rights now existing or hereafter in effect; or (b) has initiated, either in an original Proceeding or by way of answer in any state insolvency or receivership Proceeding, an action for liquidation, arrangement, composition, readjustment, dissolution, or similar relief.

**Capital Account** shall mean the amount of cash, and the fair market value of property (net of any liabilities secured by such contributed property that the Company is considered to assume or take subject to under Section 752 of the Code), that a given Member has contributed to the Company as a Capital Contribution, adjusted as follows:

- (a) The Capital Account shall be increased by all Profits allocated to the Member pursuant to Section 6.
- (b) The Capital Account shall be decreased by: (i) the amount of cash, and the fair market value of all property, distributed to a Member by the Company (net of liabilities securing such distributed property that the Member is considered to assume or take subject to under Section 752 of the Code); and (ii) all Losses allocated to a Member pursuant to Section 6.
- (c) The Capital Account shall be credited in the case of an increase, or debited in the case of a decrease, to reflect the Member's allocable share of any adjustment to the adjusted basis of Company assets pursuant to Section 734(b) of the Code to the extent provided by Section 1.704-1(b)(2)(iv)(m) of the Regulations.
- (d) The Capital Account shall be adjusted in any other manner required by Section 1.704-1(b)(2)(iv) of the Regulations, or otherwise, in order to be deemed properly maintained for federal income tax purposes.
- (e) Capital Accounts shall not bear interest.

(f) The transferee of Units shall succeed to the Capital Account attributable to the Units (or portion thereof) transferred.

**Capital Contribution** shall mean any contribution of property or services to the Company made by or on behalf of a Member or Assignee.

**Code** shall mean the Internal Revenue Code of 1986, as amended from time to time.

**Company** shall mean Hobart Maintenance Building LLC, an Indiana limited liability company, and any successor limited liability company.

**Distribution** shall mean a transfer of property to a Member on account of Units as described in Section 6.

**Dissociation** shall mean any action that causes a Person to cease being a Member as described in Section 9.

**Dissolution Event** shall mean any action that causes a Person to cease being a Member as described in Section 11.

**Expenses** shall mean all direct and indirect costs (including, without limitation, counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or out-of-pocket expenses) actually incurred in connection with: (a) the investigation, defense, settlement or appeal of a Proceeding; or (b) establishing or enforcing a right to indemnification under Section 13, applicable law, or otherwise.

**Indemnity Party** shall mean: (a) a Member; and (b) if the Member is an entity, any responsible officers, partners, shareholders, members, directors, or managers of such Member.

**Liability** shall mean the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan), or reasonable Expenses incurred with respect to a Proceeding.

**Losses** shall mean, for any fiscal year, the net loss of the Company for such fiscal year or fraction thereof, as determined for federal income tax purposes in accordance with the accounting method used by the Company for federal income tax purposes. Losses shall include expenditures of the Company described in Section 705(a)(2)(B) of the Code, including items treated under Section 1.704-1(b)(2)(iv)(i) of the Regulations as items described in Section 705(a)(2)(B) of the Code.

**Majority-In-Interest** shall mean, at any given time, Members (or, if the context expressly designates a small group of Members, such group of Members) holding in the aggregate more than 50% of the outstanding Units.

**Member** shall mean any Person: (a) that has signed this Agreement as a "Member," or (b) that is admitted as a member of the Company pursuant to this Agreement; and (b) that holds Units.

**Party** shall mean, for purposes of Section 13, a Person who was, is, or is threatened to be made a named defendant or respondent in a Proceeding.

**Person** shall mean a natural person, trust, estate, partnership, limited liability company, or any incorporated or unincorporated organization.

**Proceeding** shall mean any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

**Profits** shall mean, for any fiscal year, the net income of the Company for such fiscal year or fraction thereof, as determined for federal income tax purposes in accordance with the accounting method used by the

Company for federal income tax purposes. Profits shall include: (a) all income received by the Company that is exempt from federal income tax; and (b) the difference between the fair market value and the adjusted basis for book purposes of any asset distributed to a Member, determined at the time of distribution.

**Regulations** shall mean the permanent, temporary, or proposed regulations of the Department of the Treasury under the Code, as such regulations may be changed from time to time.

**Related Person** shall mean a person having a relationship to a Member that is described in Section 1.752-4(b) of the Regulations.

**Substituted Member** shall mean an Assignee that has been admitted as a Member.

**Taxable Year** shall mean the taxable year of the Company, as determined pursuant to Section 706 of the Code.

**Transfer** shall mean any sale, assignment, transfer, exchange, mortgage, pledge, grant, or other transfer, absolute or as security or encumbrance (including dispositions by operation of law).

**Unit** shall mean an interest of a Member or Assignee in the Profits, Losses, and Distributions of the Company, as determined in accordance with this Agreement. As of the date of this Agreement, the Company has 100 Units outstanding. The number of Units initially issued to each Member in exchange for the initial Capital Contribution of each Member is set forth on Exhibit A, which shall be amended in the event that the Company issues additional Units or acquires any outstanding Units.

## 2. Formation.

(a) **Organization.** The Member hereby authorizes and ratifies the formation of the Company as an Indiana limited liability company pursuant to the provisions of the Act, effective upon the date of the filing of the Articles with the Indiana Secretary of State.

(b) **Registered Agent.** The registered agent and the registered office are the Person and location, respectively, reflected in the Articles as filed with the Indiana Secretary of State. The Company from time to time may change the registered agent or office through appropriate filings with the Secretary of State. If: (a) the registered agent ceases to act as such for any reason; or (b) the registered office changes; then the Company promptly shall designate a replacement registered agent or file a notice of change of address, as the case may be. If the Company fails to designate a replacement registered agent or change of address of the registered office, then any Member may designate a replacement registered agent or file a notice of change of address.

(c) **Office.** The principal office of the Company is located at 8561 N. 175 E., Springport, Indiana 47386.

(d) **Business.**

(i) To pursue any lawful business whatsoever, or that at any time shall appear conducive to, or expedient for, the benefit of the Company or the protection of its assets;

(ii) To exercise all powers that may be legally exercised under the Act; and/or

(iii) To engage in any activities reasonably necessary or convenient to the foregoing.

### **3. Accounting.**

- (a) Records. The Company shall maintain the following records at its principal office:
- (i) A current list of the full name and last known business address of each Member;
  - (ii) A copy of the Articles and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any Articles have been executed;
  - (iii) Copies of the Company's federal, foreign, state, and local income tax returns and reports, if any, for the three most recent years;
  - (iv) Copies of this Agreement and all amendments thereto; and
  - (v) Any financial statements of the Company for the three most recent years.
- (b) Accounts. The Company shall maintain appropriate books and records, kept in accordance with generally accepted accounting principles, and a record of the Capital Account for each Member and Assignee. Each Member shall have the right to inspect and copy any books and records of the Company during normal business hours.

### **4. Management.**

- (a) Rights. The business and affairs of the Company shall be managed by the Members, who may delegate certain responsibilities for the operation of the Company to any other Member or group of Members.
- (b) Chief Operating Officer. The Members shall, by a Majority-In-Interest, designate one of the Members, or the member of one of the Members, as the Chief Operating Officer. The provisions of this Subsection and Subsections 4(c) and 4(d) shall govern the rights and responsibilities of the Chief Operating Officer. The Chief Operating Officer shall: (i) serve for a term of one year, or until his or her successor has been designated; and (ii) be subject to removal at any time by a Majority-In-Interest of the Members. The Chief Operating Officer shall be responsible for the day-to-day operations of the Company's business, and, subject to the provisions of Subsection 4(d), shall have full and complete power and discretion to make all decisions and to do all things reasonably necessary or convenient to carry out the business of the Company, including, without limitation, the power to designate another Member, or the member of another Member, to operate in his or her stead as Chief Operating Officer. The Chief Operating Officer shall be required to devote only such time to the Company's business as deemed by him or her to be necessary or appropriate, it being understood that the Chief Operating Officer also may engage in similar or other businesses. Compensation, if any, to the Chief Operating Officer shall be subject to approval by a Majority-In-Interest of the Members. The initial Chief Operating Officer is GM Development Companies LLC.
- (c) Powers. Subject to the restrictions of Subsection 4(d), the Chief Operating Officer shall have the power and authority, on behalf of the Company, to engage in the following activities:
- (i) To appoint employees and agents of the Company and define their duties and fix their compensation;

- (ii) To: (A) borrow or raise money from banks, other lending institutions, or Members or their Affiliates from time to time as required by the Company; (B) execute, accept, endorse, and deliver, as evidence of such borrowing, all kinds of securities, including, without limitation, promissory notes, drafts, bills of exchange, letters of credit, warrants, bonds, debentures, and other negotiable instruments and evidences of indebtedness; and (C) secure the payment and full performance of such securities by giving a security interest in, or a mortgage, pledge, conveyance, or assignment in trust of, the whole or any part of the tangible or intangible assets of the Company, including leases or other contract rights, whether at the time owned or thereafter acquired;
  - (iii) To: (A) enter into, make, perform, and carry out all types of contracts, leases and other agreements; and (B) amend, extend, or modify any contract, lease, or agreement at any time entered into by the Company;
  - (iv) To sell, exchange, or otherwise dispose of, in the ordinary course of the Company's business, any property or assets of the Company, whether real, personal, or mixed, for cash or on terms, or for other property;
  - (v) To execute, on behalf and in the name of the Company, any and all contracts, agreements, instruments, notes, certificates, titles, or other documents of any kind or nature as deemed to be necessary or appropriate;
  - (vi) To: (A) prepay (in whole or in part), refinance, recast, increase, modify, or extend any debt, security interest, or mortgage that may affect any property owned or leased by the Company; and, in connection therewith, (B) enter into and execute for and on behalf of the Company any extensions, renewals, modifications, or replacements of such debt, security interest, or mortgage; and
  - (vii) To employ and compensate such persons, firms, or corporations as the Chief Operating Officer shall deem necessary or appropriate to carry on, assist, or promote the Company business, including, without limitation, auditors, accountants, attorneys, and other professionals.
- (d) **Limitations.** The Chief Operating Officer shall have no authority to take any of the following actions without the prior written consent of a Majority-In-Interest of the Members:
- (i) Enter into, amend, or terminate any agreements with the Chief Operating Officer or any Affiliates;
  - (ii) Take any other action that is inconsistent with any policy adopted by the Members that is then in effect; or
  - (iii) Sell, exchange, or otherwise dispose of any property or assets of the Company, except in the ordinary course of the Company's business.
- (e) **Distributions.** Distributions shall be made in such amounts and at such times as determined by a Majority-In-Interest of the Members.
- (f) **Liability.** No Member shall be liable as such for the Liabilities of the Company. The failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this Agreement or the Act shall not

be grounds for imposing personal liability on the Members for liabilities of the Company.

(g) **Representations.** Each Member hereby represents and warrants to the Company and the other Members that: (i) the Member is acquiring its Units for the Member's own account as an investment and without an intent to distribute the Units; and (ii) the Member acknowledges that the Units have not been registered under the Securities Act of 1933, as amended, or any state securities laws, and may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

(h) **Conflicts of Interest.**

(i) A Member shall be entitled to enter into transactions that may be considered to be competitive with, or a business opportunity that may be beneficial to, the Company, it being expressly understood that the Members may enter into transactions that are similar to the transactions into which the Company may enter. Notwithstanding the foregoing, Members shall account to the Company, and hold as trustee for it, any property, profit, or benefit derived by the Member, without the consent of the other Members, in the conduct and winding up of the Company business or from a use or appropriation by the Member of Company property.

(ii) It is anticipated that the Company may enter into contracts with the Members, in their individual capacities and not in their capacities as Members, or with Affiliates of Members, for the performance of services or the acquisition of property. No contract with a Member, or with Affiliates of Members, shall be entered into by the Company without the approval of a Majority-In-Interest of the Members.

(iii) No transaction with the Company shall be voidable solely because a Member has a direct or indirect interest in the transaction, if the disinterested Members, knowing the material facts of the transaction and the Member's interest, authorize, approve, or ratify the transaction.

(i) **Compensation.** Each Member shall be reimbursed for all reasonable Expenses incurred: (i) in managing the Company; or (ii) on behalf of the Company. No Member shall be entitled to compensation for services performed in its capacity as a Member, other than receipt of its share of Profits and Distributions.

**5. Contributions.** Each of the Members as made an initial Capital Contribution as shown on Exhibit A. The Members shall not be required to make additional Capital Contributions. Except as otherwise provided in this Agreement, a Member shall be entitled to a return of its Capital Contribution only upon the dissolution and winding up of the Company.

**6. Allocations/Distributions.**

(a) **Profits/Losses.** Subject to the provisions of Subsection 6(b), Profits, Losses, and other items of income, gain, deduction, and credit shall be allocated among the Members in proportion to their Units.

(b) **Contributed Property.** If property that has an adjusted basis that is different from its fair market value is contributed to the Company, then gain or loss and depreciation with respect to such property shall be allocated in accordance with Section 704(c) of the Code and the Regulations thereunder as in effect on the date of this Agreement.

(c) Distributions. Distributions in anticipation of a Dissolution Event or subsequent to a Dissolution Event shall be made as provided in Subsection 11(c). All other Distributions shall be made to the Members in proportion to their Units.

**7. Tax Matters.** The records of the Company shall be maintained on the cash method of accounting for tax purposes, unless otherwise required by the Code or the Regulations. GM Development Companies LLC, shall be designated as the "Tax Matters Partner" of the Company pursuant to Section 6231(a)(7) of the Code. The Tax Matters Partner shall take such actions as are necessary to cause each other Member and Assignee to become a "Notice Partner" within the meaning of Section 6223 of the Code. The Tax Matters Partner shall not take any action contemplated by Section 6223 through 6229 of the Code without the prior written consent of all other Members.

**8. Units Transfer.** No Member or Assignee may Transfer all or a portion of its Units without the unanimous consent of all of the Members (excluding Assignees). Any attempted Transfer of Units, or any part thereof, in violation of this Section shall be null and void.

**9. Dissociation.**

(a) Dissociation. A Person shall cease to be a Member upon the happening of any of the following events:

- (i) The withdrawal of a Member with the unanimous consent of the remaining Members;
- (ii) A Member becoming a Bankrupt Member;
- (iii) In the case of a Member who is a natural person, the death of the Member;
- (iv) In the case of a Member that is an estate, the distribution by the fiduciary of the estate's Units.

Assignees shall not be deemed to be Members for purposes of this Subsection.

(b) Rights. In the event any Member dissociates prior to the dissolution and winding up of the Company:

- (i) If the Dissociation causes a dissolution and winding up of the Company under Section 11, then the Member shall be entitled to participate in the winding up of the Company to the same extent as any other Member, except that any Distributions to which the Member would have been entitled shall be reduced by the damages sustained by the Company as a result of the dissolution and winding up.
- (ii) If the Dissociation does not cause a dissolution and winding up of the Company under Section 11, then the Member thereafter shall hold his Units as an Assignee.

**10. Assignees/Additional Members.**

(a) Assignee Rights. The Assignee of Units has no right to participate in the management of the business and affairs of the Company or to become a Member. The Assignee is entitled only to: (a) receive the Distributions and return of capital; and (b) be allocated the Profits and Losses attributable to the Units.

(b) **Substitute Members.** An Assignee of Units shall be admitted as a Substitute Member, and admitted to all of the rights of the Member originally assigned the Units, only with the unanimous approval of the remaining Members. The Members may grant or withhold the approval of such admission for any Assignee in their sole and absolute discretion. If so admitted, the Substitute Member shall: (a) have all of the rights and powers; and (b) be subject to all of the restrictions and liabilities; of the Member originally assigned the Units. The admission of a Substitute Member, without more, shall not release the Member originally assigned the Units from any Liability to the Company that may have existed prior to the admission.

(c) **Additional Members.** Additional Members may be admitted only: (i) with the written approval of the Members; and (ii) upon the terms and conditions set forth in such approval. The additional Members shall be required to execute an agreement evidencing: (i) acceptance of its Units; (ii) acceptance of the terms and conditions of the Articles; and (iii) the written approval of the Members.

## **11. Dissolution.**

(a) **Dissolution.** The Company shall be dissolved, and its affairs wound up, upon the first to occur of the following events (which shall constitute Dissolution Events, unless the Members agree to continue the business):

(i) The expiration of the term, if any, set forth in the Articles, unless the business of the Company is continued with the consent of all of the Members;

(ii) The unanimous written consent of all of the Members; or

(iii) The Dissociation of any Member, unless the business of the Company is continued with the unanimous written consent of the remaining Members within 60 days after such Dissociation.

(b) **Effect.** Upon Dissolution, the existence of the Company shall continue, but the Members shall wind up all of the Company's affairs and proceed to liquidate all of the Company's assets as promptly as is consistent with obtaining their fair value.

(c) **Asset Distribution.** Upon the winding up of the Company, the Company property shall be distributed:

(i) To creditors, including Members that are creditors, to the extent permitted by law, in satisfaction of Company liabilities; and

(ii) To Members in accordance with positive Capital Account balances, taking into account all Capital Account adjustments for the Company's taxable year in which the liquidation occurs. Liquidation proceeds shall be paid within 60 days after the end of the Company's taxable year, or, if later, within 90 days after the date of liquidation. Such distributions shall be in cash or property (which need not be distributed proportionately), or partly in both, as determined by approval of the Members.

(d) **Winding Up.** The winding up of the Company shall be completed when all debts, liabilities, and obligations of the Company have been paid and discharged, or reasonably adequate provisions therefor have been made, and all of the remaining property and assets of the Company have been distributed to the Members. Upon the completion of winding up

the Company, articles of dissolution shall be delivered to the Secretary of State for filing. The articles of dissolution shall set forth the information required by the Act.

**12. Amendments.** This Agreement may be amended or modified from time to time only by a written instrument adopted by all of the Members.

**13. Indemnification.**

(a) Company Obligation.

(i) To the greatest extent not inconsistent with the laws and public policies of Indiana, and provided that the Indemnity Party has met the standard of conduct for indemnification set forth in Subsection 13(c), the Company shall indemnify any Indemnity Party made a party to any Proceeding because such Indemnity Party is or was a Member (or a responsible officer, partner, shareholder, member, director, or manager thereof) against all Liability incurred by such Indemnity Party in connection with any Proceeding.

(ii) The Company shall pay for or reimburse the reasonable Expenses incurred by an Indemnity Party in connection with any such Proceeding in advance of final disposition thereof if: (A) the Indemnity Party furnishes to the Company: (1) a written affirmation of its good faith belief that he, she or it has met the standard of conduct for indemnification described in Subsection 13(c); and (2) a written undertaking to repay the advance if it is ultimately determined that the Indemnity Party did not meet such standard of conduct; and (B) a determination is made in accordance with Subsection 13(d) that, based upon facts then known to those making the determination, indemnification would not be precluded under Section. The foregoing undertaking: (A) must be a general obligation of the Indemnity Party subject to such reasonable limitations as the Company may permit; but (B) need not be secured, and may be accepted without reference to financial ability to make repayment.

(iii) The Company shall indemnify an Indemnity Party that is wholly successful, on the merits or otherwise, in the defense of any such Proceeding against reasonable Expenses incurred by the Indemnity Party in connection with the Proceeding without the requirement of a determination under Subsection 13(c).

(iv) Upon demand by an Indemnity Party for indemnification or advancement of funds to pay Expenses, the Company promptly shall determine whether the Indemnity Party is entitled thereto in accordance with this Section. The indemnification and advancement of funds to pay Expenses provided for under this Section shall be applicable to any Proceeding arising from acts or omissions occurring before or after the adoption of this Section.

(b) Company Power. The Company shall have the power, but not the obligation, to indemnify any person who is or was an employee or agent of the Company to the same extent as if such person was an Indemnity Party.

(c) Conduct. Indemnification of an Indemnity Party is permissible under this Section only if: (i) the Indemnity Party conducted himself, herself, or itself in good faith; (ii) the Indemnity

Party reasonably believed that his, her, or its conduct was in, or at least not opposed to, the Company's best interest; and (iii) in the case of any criminal Proceeding, the Indemnity Party had no reasonable cause to believe his, her, or its conduct was unlawful. Indemnification is not permissible against Liability to the extent that such Liability is the result of the Indemnity Party's willful misconduct, recklessness, violation of this Agreement, or any improperly obtained financial or other benefit to which the Indemnity Party was not legally entitled. The termination of a Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Indemnity Party did not meet the standard of conduct described in this Subsection.

(d) **Determination.** A determination as to whether indemnification or advancement of funds to pay Expenses is permissible shall be made by: (i) the Members by a majority vote consisting of Members who are not at the time a party to the Proceeding; or (ii) independent special legal counsel selected in accordance with clause (i).

(e) **Application.** Any Indemnity Party who is a party to a Proceeding may apply for indemnification from the Company to the court, if any, conducting the Proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving notice the court considers necessary, may order indemnification if it determines:

(i) in a Proceeding in which the Indemnity Party is wholly successful, on the merits or otherwise, the Indemnity Party is entitled to indemnification under this Section, in which case the court shall order the Company to pay the Indemnity Party his, her or its reasonable Expenses incurred to obtain such court ordered indemnification; or

(ii) the Indemnity Party is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the Indemnity Party met the standard of conduct set forth in Subsection 13(c).

(f) **Benefit Plan.** Indemnification shall be provided for the conduct of an Indemnity Party with respect to an employee benefit plan if the Indemnity Party reasonably believed his, her, or its conduct to be in the interests of the participants in and beneficiaries of the plan.

(g) **No Limit.** Nothing contained in this Section shall be deemed to be exclusive of any right under the law, by contract or otherwise, relating to indemnification of, or advancement of funds to pay Expenses to, any Indemnity Party or any other person or entity that is or was serving at the Company's request as a director, officer, partner, member, manager, trustee, employee, or agent of another foreign or domestic company, partnership, association, limited liability company, corporation, joint venture, trust, employee benefit plan, or other enterprise, whether for-profit or not. Nothing contained in this Section shall limit the ability of the Company to otherwise indemnify or advance funds to pay Expenses to any person. It is the intent of this Section to provide indemnification to an Indemnity Party to the fullest extent now or hereafter permitted by the law consistent with the terms and conditions of this Section. If indemnification is permitted under this Section, then indemnification shall be provided in accordance with this Section, regardless of the nature of the legal or equitable theory upon which a claim is asserted, including without limitation, negligence, breach of duty, waste, breach of contract (except to the extent the claim relates to this Agreement or a contract between the Company and the Indemnity Party seeking indemnification), breach of warranty, strict liability, violation of federal or state securities law, violation of the Employee Retirement Income Security Act of 1974, as amended, or violation of any other state or federal law.

(h) **Insurance.** The Company may purchase and maintain insurance for its benefit, the benefit of any Indemnity Party, or both, against any Liability asserted against or incurred by

any Person in any capacity or arising out of a Person's service with the Company, whether or not the Company would have the power to indemnify such Person against such Liability.

**14. Miscellaneous.**

(a) **No Partnership.** The Members have formed the Company under the Act, and expressly do not intend to form a partnership or a limited partnership. The Members do not intend to be partners one to another, or partners as to any third party. To the extent that any Member, by word or action, represents to another Person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member that incurs personal Liability by reason of such wrongful representation.

(b) **Creditors Rights.** This Agreement is entered into by the Members and the Company for the exclusive benefit of the Company, the Members, and their successors and assignees. This Agreement is not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under this Agreement or any other agreement between the Company and any Member with respect to any Capital Contribution or otherwise.

(c) **Notice.** Notice to the Company shall be deemed to be given when mailed by first class mail, or sent by a nationally recognized overnight carrier, postage prepaid, to its principal office. Notice to a Member shall be deemed to be given when mailed by first class mail, or sent by a nationally recognized overnight carrier, postage prepaid, to the Member at the address reflected in the Company's records, unless such Member has notified the Company in writing of a different address.

(d) **No Partition.** Notwithstanding anything to the contrary set forth herein or in any governing law, no Member shall: (i) have the right of partition with respect to any property of the Company during the term hereof; or (ii) make application to any court or authority having jurisdiction in the matter, or otherwise commence or prosecute any Proceeding, for partition of Company property or the sale thereof. Upon any breach of this Section, the Company and each other Member, in addition to any other rights or remedies that they have at law or in equity, shall be entitled to a decree or other order restraining and enjoining any such application, action, or Proceeding.

(e) **Indiana Law.** The laws of the State of Indiana, including the Act, shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

(f) **Miscellaneous.** Section and other headings contained in this Agreement are for reference only, and are not intended to describe, interpret, define or limit the scope, extent or intent of any provision of this Agreement. This Agreement may be executed in counterparts, each of which shall be an original but all of which together shall be a single instrument. This Agreement and the Articles represent the entire agreement among the Members. If any term or condition hereof is illegal or invalid for any reason whatsoever, then such illegality or invalidity shall not affect the validity of the remainder of this Agreement. Except as otherwise provided in this Agreement, every term and condition hereof shall be binding upon, and shall inure to the benefit of, the Members and their respective heirs, legatees, legal representatives, successors, and assigns.

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth above.

MEMBER:

GM DEVELOPMENT COMPANIES LLC

By: \_\_\_\_\_  
Gregory W. Martz, Sole Member

COMPANY:

HOBART MAINTENANCE BUILDING  
LLC

By: GM Development Companies  
LLC, Chief Operating Officer

By: \_\_\_\_\_  
Gregory W. Martz, Sole Member

**EXHIBIT A**

<u>Member</u>	<u>Initial Capital Contribution</u>	<u>Units</u>
GM Development Companies LLC	\$100	100

**CONSENT OF THE SOLE MEMBER  
OF HOBART MAINTENANCE BUILDING LLC**

WHEREAS, the undersigned, being the sole Member of Hobart Maintenance Building LLC (the "Company"), deems it advisable and in the best interest of the Company to commit to: (a) construct certain improvements in Hobart, Indiana, pursuant to a "Project Agreement" executed with the City of Hobart, Indiana (the "Project"); and (b) enter into an installment contract with the City of Hobart, Indiana (the "City"), pursuant to which City shall purchase the completed Project from the Company on an installment basis (the "Installment Contract");

WHEREAS, the undersigned, being the sole Member of the Company, deems it advisable and in the best interest of the Company to sell and assign to Peoples Bank SB (the "Bank") the Company's right to receive the installment payments under the Installment Contract (the "Payment Rights"), the proceeds of which sale and assignment will be used to pay the costs to construct the Project (the "Project Costs");

WHEREAS, the undersigned, being the sole Member of the Company, deems it advisable and in the best interest of the Company to enter into a "Participation Agreement" in connection with the sale and assignment of the Payment Rights to the Bank; and

WHEREAS, the Project Agreement, the Installment Contract, and the Participation Agreement, collectively, are the "Company Documents";

NOW THEREFORE, the undersigned, being the sole Member of the Company, consents to the adoption of, and adopts, the following actions;

BE IT RESOLVED, that the Member hereby consents to: (a) the transactions contemplated pursuant to the Company Documents; (b) the execution by the Company of the Company Documents; and (c) the performance by the Company of its obligations under the Company Documents;

BE IT FURTHER RESOLVED, that the Member shall have the authority to execute the Company Documents and all additional documents as may be necessary to close the transactions contemplated pursuant to the Company Documents (collectively, the "Transaction Documents");

BE IT FURTHER RESOLVED, that the Member acknowledges that it shall authorize Gregory W. Martz, as the sole Member of GM Development Companies, LLC, to execute the Transaction Documents; and

BE IT FURTHER RESOLVED, that the Member acknowledges, endorses, and consents to all prior actions taken by Gregory W. Martz, as the sole Member of GM Development Companies, LLC, acting as the sole Member of the Company, including, without limitation, the execution and delivery of the Transaction Documents.

This Consent of the Sole Member of Hobart Firehouse LLC is effective this \_\_\_\_ day of May, 2017.

HOBART MAINTENANCE BUILDING  
LLC

By: GM Development Companies  
LLC, Member

By: \_\_\_\_\_  
Gregory W. Martz, Member

**CONSENT OF THE SOLE MEMBER  
OF GM DEVELOPMENT COMPANIES LLC**

WHEREAS, the undersigned is the sole Member of GM Development Companies LLC ("GMDC"), which is the sole Member of Hobart Maintenance Building LLC (the "Company");

WHEREAS, GMDC, as the sole Member of the Company and pursuant to that certain Consent of the Sole Member of Hobart Maintenance Building LLC (the "Company Consent"), deemed it advisable and in the best interest of the Company to execute, and perform its obligations under, the Transaction Documents (as defined in the Company Consent); and

WHEREAS, pursuant to the Company Consent, GMDC acknowledged that it would authorize the undersigned, as the sole Member of GMDC, to execute the Transaction Documents;

NOW THEREFORE, the undersigned, being the sole Member of GMDC authorizes and approves:

1. The execution and delivery by Gregory W. Martz, acting as the sole Member, and on behalf, of GMDC, acting as the sole Member, and on behalf, of the Company, of the Transaction Documents.
2. Any and all actions taken, and all Transaction Documents executed, by Gregory W. Martz in connection with the consummation of the transactions contemplated pursuant to the Transaction Documents.

This Consent of the Sole Member of GM Development Companies LLC is effective as of May \_\_\_\_, 2017.

GM DEVELOPMENT COMPANIES LLC

By: \_\_\_\_\_  
Gregory W. Martz, Member

**CERTIFICATE**  
**Hobart Maintenance Building LLC**

The undersigned hereby certifies, on behalf of Hobart Maintenance Building LLC (the "Company"), and in his capacity as the sole Member of GM Development Companies, LLC ("GMDC"), which is the sole Member of the Company, that:

1. The Company is a limited liability company, organized and validly existing under the laws of the State of Indiana.
  2. GMDC is the sole member of the Company.
  3. Attached hereto as Exhibit A is a true and correct copy of the: (a) Consent of the Sole Member of Hobart Maintenance Building LLC, executed by GMDC, as sole Member of the Company; and (b) the Consent of the Sole Member of GM Development Companies, LLC, executed by the undersigned as the sole Member of GMDC; which Consents: (a) have not been revoked, rescinded, modified, amended, or repealed; and (b) are in full force and effect on the date hereof.
  4. The Company certifies that the Articles of Organization, Operating Agreement, and Certificate of Existence that have been provided are true and correct as of the date hereof.
  5. The Company has executed the following documents:
    - (a) A Project Agreement, which also has been executed by the City of Hobart, Indiana (the "City");
    - (b) An Installment Contract, which also has been executed by the City;
    - (c) A Participation and Purchase Agreement, which also has been executed by the City and Peoples Bank SB (the "Bank"); and
    - (d) An Easement Agreement, which also has been executed by the City.
- All of the foregoing, collectively, are the "Documents". All capitalized terms used but not defined in this Certificate shall have the meanings ascribed to such terms in the Documents.
6. None of the Documents has been canceled, modified, or amended. All of the Documents are in full force and effect on the date hereof. The Company is not in default under any of the Documents.
  7. The representations and warranties of the Company contained in the Documents are true and correct in all material respects on and as of the date hereof.
  8. All resolutions and/or consents authorizing and approving: (a) the execution of the Documents; (b) the transactions contemplated pursuant to the Documents; and (c) the performance by the Company of its obligations under the Documents; have been obtained.
  9. Each Document: (a) was executed and delivered by a person authorized to execute and deliver such Document on behalf of the Company; and (b) constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.
  10. Neither the execution and delivery of, nor the performance by the Company under, the Documents will: (a) violate the Operating Agreement of the Company; or (b) constitute a breach of, or result in a default under, any judgment, order, writ, injunction or decree of the State of Indiana (or any court, administrative agency or other governmental authority of the State of Indiana) that names the Company and specifically

is directed to it or to its property.

11. To the knowledge of the Company, no action to: (a) contest the validity of the Documents; or (b) enjoin performance by the Company of its obligations under the Documents; has been brought.

12. To the knowledge of the Company, no litigation is pending or threatened: (a) seeking to restrain or enjoin the execution of the Documents and/or the sale and assignment of the right of the Company to receive installment payments under the Installment Contract (the "Payment Rights") to the Bank; (b) in any way contesting or affecting any authority for the sale and assignment of the Payment Rights, or the validity of any of the Documents; or (c) in any way contesting the existence or powers of the Company.

13. The Company has received reasonably equivalent value from the Bank for the conveyance of the Payment Rights, and the conveyance of the Payment Rights is being made by the Company in good faith and without intent to hinder, delay, or defraud its creditors.

14. The Company has no reason to expect that the Pledged Revenue will not be sufficient to pay in full each Installment Payment on the applicable Payment Due Date in accordance with the terms and conditions of the Installment Purchase Contract.

15. Company shall not take, or, to the extent within its power, permit any person or entity controlling, controlled by, or under common control with the Company to take, any action that would cause a Taxable Event.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this \_\_\_\_ day of May, 2017.

HOBART MAINTENANCE BUILDING  
LLC

By: GM Development Companies  
LLC, Member

By: \_\_\_\_\_  
Gregory W. Martz, Member