

STATE OF MICHIGAN
VILLAGE OF WEBBERVILLE DOWNTOWN DEVELOPMENT AUTHORITY
Resolution No. _____
(Dated October 15, 2018)

**RESOLUTION TO ADOPT THE WEBBERVILLE
DOWNTOWN DEVELOPMENT AUTHORITY'S
FACADE IMPROVEMENT PROGRAM**

WHEREAS, the Village of Webberville Downtown Development Authority (hereinafter, "WDDA") is charged under the *Downtown Development Authority Act* [MCL 125.1651 *et seq*] with correcting and preventing deterioration in the business districts to encourage historic preservation. {Please see preamble to the Act; also see MCL 125.1651a (h), i.e., that the DDA Act was enacted to provide a means for local units of government to eliminate property value deterioration and to promote economic growth in the communities served by those local units of government.}

WHEREAS, to effectuate the above goals, DDA's are authorized to acquire and dispose of interests in real property {please see preamble to the Act}.

WHEREAS, DDA's are also granted the following enumerated powers:

- a. Under MCL 125.1657 (1)(h) a DDA can purchase an interest in real property upon terms and conditions and in a manner the Authority considers proper;
- b. Pursuant to MCL 125.1657 (1) (g) a DDA is also authorized to make and enter into contracts necessary to exercise its powers and the performance of its duties; and
- c. Finally, pursuant to MCL 126.1657 (1) (c), a DDA is authorized to plan and propose the repair, restoration, preservation and/or reconstruction of an existing building which may be necessary or appropriate to a Plan, which – in the opinion of the DDA – aids in economic growth in the downtown district.

WHEREAS, under MCL 125.1652 (2) the enumeration of a power in the DDA Act {e.g., Section 7, Powers} shall not be construed as a limitation upon the general powers of an Authority.

WHEREAS, the Business District of Webberville is part of the Tax Increment Finance District of the WDDA (hereinafter, "TIF District") and is primarily filled with historic commercial buildings that are 30 to 100+ years old.

WHEREAS, the WDDA has determined that many existing facades of these old commercial buildings in the Business District are in different degrees of disrepair and it is foreseen that additional building facades will be falling into disrepair in the future due to age and the cost of maintenance in difficult economic times.

WHEREAS, the WDDA has developed a philosophy that "Restoration is preferable to Renovation" with regard to these building facades.

WHEREAS, the WDDA has determined to use its broad enumerated power to purchase an easement interest in real property to correct any existing deterioration to facades of buildings in the Business District and prevent future deterioration to the facades of buildings in the Business District.

WHEREAS, the WDDA finds that its entry into the contemplated facade easement contracts, with a requirement for perpetual maintenance of the facade by the Applicant, is a necessary contract in order to perform the DDA's primary duty under the Act to correct and prevent deterioration in the Business District and to encourage historic preservation.

WHEREAS, before the Program set forth in this Resolution is implemented, the Program was included in Paragraph 16.2 of the 2018 Tax Increment Finance and Development Plan Amendments approved by the WDDA and the Village of Webberville Council, pursuant to MCL 125.1667, because the Program will be funded with TIF District revenues that may only be expended pursuant to an approved Tax Increment Finance Plan (MCL 126.1665 (2)).

WHEREAS, the WDDA's paragraph 16.2 in its 2018 Plan Amendment specifically read as follows:

- 16.2 **Facade Improvement Fund:** The WDDA hereby establishes a Facade Improvement Fund (hereinafter "FIP") to assist existing businesses and buildings located within the WDDA's Downtown Business District to repair, maintain, and upgrade their facades. The assistance shall take the form of a purchase of a Facade Easement for consideration equal to fifty (50%) percent of the costs of qualified improvements to an existing building's facade to make it more marketable for sale or lease within the Downtown Business District and more attractive for the use in whole or part of any public or private person, corporation, limited liability company, or combination thereof. The exact terms and conditions of the WDDA's Facade Improvement Program, including an application process, shall be established and amended from time to time by Resolution of the WDDA. The revenue stream the WDDA will be using to fund the above loans will come from tax increment revenues, pursuant to MCL 125.1661 (1) (e). The WDDA shall not have more than \$100,000.00 in aggregate facade Easement purchases in any fiscal year under this Plan.

Whereas, the WDDA intends to open the facade improvement program to the historic downtown area of Webberville for the first five (5) years of the program and then expand it to include all buildings within the WDDA's TIF District. The historic Downtown Area shall be comprised of properties located within the TIF District along Grand River Ave from Gramer Road west to Elm Street and Main Street from the Railroad Tracks north to Beach Street.

IT IS THEREFORE RESOLVED that the WDDA's Facade Improvement Program (hereinafter, "FIP") shall be established as follows:

1. An eligible Applicant for the FIP shall be either an Owner(s), including land contract Vendees with Vendor's written consent, or a tenant(s) with Owner's written consent, who has a commercial, retail, mixed use, or professional building or structure located within the TIF District and the Downtown District [because this Program will be funded with TIF District Revenues – which may only be spent in the TIF District – pursuant to an approved Tax Increment Finance and Development Plan (MCL 125.1665 (2))].

- 1.1 The FIP shall not require the Applicant to obtain the subrogation of any existing mortgages and/or other lien holders to the FIP Easement being purchased.
 - 1.2 The Applicant shall provide, at Applicant's sole cost, a title search from a local title company at the time of filing the Application, verifying the ownership interest in the real property that is granting the Easement.
 - 1.2.1 The title search shall verify the legal description of the property, tax identification number of the property; the registered owner(s) of the property, and all lien holders and mortgagees of record;
 - 1.2.2 All mortgages and liens on the property must be paid current at the time of closing and proof that same are current must be submitted with the title search by the Applicant and again at the closing of Easement with the DDA; and
 - 1.2.3 All real property and personal property taxes due to the Village of Webberville and/or Leroy Township must be paid current at the time of the closing of Easement with the DDA and proof that same are current must be submitted with the title search by the Applicant.
 - 1.3 To be eligible for this FIP, the property must be within the Tax Increment Finance District and the Downtown District of the WDDA.
2. **FIP Funding:** the WDDA shall purchase from the Applicant a written and recordable Easement (hereinafter, the "FIP Easement") over the Applicant's facade on an eligible building or structure as follows:
- 2.1 The Applicant shall submit plans to the sole satisfaction of the WDDA and FIP Committee, detailing what facade improvements are contemplated and the cost of same.
 - 2.1.1 All FIP projects proposed by an Applicant shall comply with all applicable Village of Webberville Zoning Ordinances, Building Codes, Maintenance Codes, Sign Ordinance, and other applicable rules and regulations; and
 - 2.1.2 FIP improvements may require zoning and /or building permits, which shall be at the Applicant's sole cost.
 - 2.1.3 All FIP projects proposed by an applicant shall complete with only design standards approved by the WDDA.
 - 2.2 Within 30 days of the date the Application is submitted, the WDDA's FIP Committee shall meet with the Applicant to discuss the FIP project prior to the full WDDA Board considering approval of the FIP Applicant or the WDDA may extend the review process within this time frame by sending written notice to Applicant. The full WDDA Board shall affirmatively act upon the Application within 90 days of the Application being submitted or it shall be deemed rejected.

- 2.3 The WDDA shall purchase FIP Easements for a fixed price that shall be calculated as follows:
- 2.3.1 For buildings under common ownership with one use inside, depending on the height of the building, as follows:
- 2.3.1.1 If the building is one story, then the lesser of: (a) fifty (50%) percent of the cost of the eligible facade improvements (see paragraph 3.1); or (b) \$100.00 per linear foot as measured in a straight line at the base of the building, without accounting for any bump-outs or bump-ins of less than two (2) feet, to a maximum of \$4,000 per facade side (up to four (4) sides) for a maximum of \$16,000 per building of total eligible expense upon approval of the WDDA;
- 2.3.1.2 If the building is two stories, then the lesser of: (a) fifty (50%) percent of the cost of the eligible facade improvements (see paragraph 3.1); or (b) \$200.00 per linear foot as measured in a straight line at the base of the building, without accounting for any bump-outs or bump-ins of less than two (2) feet, to a maximum of \$9,000 per facade side (up to four (4) sides) for a maximum of \$36,000 per building of total eligible expense upon approval of the WDDA;
- 2.3.1.3 If the building is three stories or greater, then the lesser of: (a) fifty (50%) percent of the cost of the eligible facade improvements (see paragraph 3.1); or (b) \$300.00 per linear foot as measured in a straight line at the base of the building, without accounting for any bump-outs or bump-ins of less than two (2) feet, to a maximum of \$13,500 per facade side (up to four (4) sides) for a maximum of \$54,000 per building of total eligible expense upon approval of the WDDA;
- 2.3.1.4 The requirement of four sides is not intended to eliminate bump-outs or bump-ins greater than two (2') feet or obtuse angles such as those contained on the buildings at the corner of Grand River Ave., and Grand Ave., all of which shall qualify for the FIP and shall be added to one of the sides of the building for the purpose of calculating facade linear footage.
- 2.3.2 When one building is under one ownership but divided into more than one commercial, retail, mixed use (including 2nd floor residential uses), and/or professional tenancy, each separate unit which has an individual storefront facade and an independent ground floor entry shall be eligible to individually participate in the FIP Funds.
- 2.3.3 As an incentive for major renovation and/or repairs of the facade of condemned buildings (as determined by the Building Department of the Village of Webberville) or other buildings that have been vacant for at least 180 days, the WDDA may, upon a majority vote and after careful review of the Project scope and other WDDA obligations, pay more than the maximum fee per facade side established in paragraph 2.3.1, to purchase a FIP Easement and the WDDA may increase the

- length of time of the Easement or the conditions/burdens placed upon the Grantor, as a condition of the higher purchase price being paid.
- 2.3.4 The definition of a “facade side,” for the purpose of this Resolution shall be a minimum of six (6') feet and a maximum of ten (10') feet in height of exposed facade and at a minimum, a width that is at least as deep as the narrowest portion of the building’s depth from the road frontage it pulls its address from. For example, if the building is 3 stories, but the exposed wall on the east side is 7' above the adjoining building’s west wall, then that side of the building shall qualify as a one story building. To qualify as a 2 story building, the east wall must have at least sixteen (16') feet of exposed facade above the neighboring west wall and 3 or more stories must have at least twenty-six (26') feet of exposed facade above the neighboring west wall.
- 2.4 The total amount the WDDA shall pay to purchase a facade Easement for a building during any five (5) year period may not exceed \$16,000 or \$36,000 or \$52,000 {depending on whether its one story, two stories, or three stories}, except:
- 2.4.1 As contemplated in paragraph 2.3.3;
- 2.4.2 The WDDA may purchase several facade Easements over the same facade during the course of any five (5) year period for those property owners who desire to complete the work on the facade in increments, so long as the WDDA is not paying more than once in any five (5) year period for the same improvement and the total does not exceed \$16,000/\$36,000/\$52,000 in that five (5) year period.
- 2.5 All eligible improvements for a FIP Easement must be started within sixty (60) days of approval by the WDDA, and completed within twelve (12) months of the commencement date of the work, unless extended by Resolution of the WDDA.
- 2.6 Upon completion of the improvements, and in consideration for the grant of a facade Easement (as described in paragraph 4), the WDDA will purchase a written five (5) year Easement over the Applicant’s facade, subject to a written agreement that the Applicant, or its successor in title, maintain the facade in the same condition as it is at the time of entry into the Easement Agreement for five (5) years from the date of grant of the Easement.
- 2.6.1 Under MCL 125.1657(1)(h) the WDDA is authorized to: (a) purchase an interest in real property on terms and conditions and in a manner the Authority considers proper, and (b) make a finding that the proposed manner of purchasing a facade Easement with a maintenance agreement is proper under MCL 125.1657(1)(h).
- 2.6.2 Pursuant to MCL 125.1657(1)(g) the WDDA is also authorized to: (a) make and enter into contracts necessary to the exercise of its powers and the performance of its duties, and (b) find the entry to the

contemplated facade Easement contracts with its requirement for maintenance of the facade by the Applicant for five (5) years is a necessary contract in order to perform the DDA's primary duty under the Act to correct and prevent deterioration in the Business District and to encourage historic preservation.

2.6.3 The WDDA is also authorized to plan and propose the renovation, repair, restoration, preservation, and/or reconstruction of an existing building which may be necessary or appropriate to a Plan which, in the opinion of the WDDA, aids in economic growth in the Downtown District. The WDDA finds that restoration, repair, renovation, preservation, and/or reconstruction of existing aged facades in the Downtown District will aid economic growth in said area.

3. **Eligible Facade Improvements:** All eligible facade improvements must be permanent and fixed in type and/or nature and have an anticipated useful life of ten (10) years or more.

3.1 Facade features eligible to be restored, renovated, or constructed with Easement purchase dollars shall include, but not be limited to:

3.1.1 Signage promoting an on premises commercial/residential use;

3.1.2 Exterior walls;

3.1.3 Exterior windows;

3.1.4 Exterior doors;

3.1.5 Storefronts;

3.1.6 Painting of exterior surfaces;

3.1.7 Cleaning and/or tuck-pointing of brick and stone;

3.1.8 Awnings (where permitted by design guidelines and zoning ordinances);

3.1.9 Exterior architectural features;

3.1.10 Exterior lighting (where permitted by local ordinance); and

3.1.11 Dryvit of exterior walls and the Exterior Insulation and Finishing Systems (EIFS) installation.

3.2 Restoration required for FIP funding:

3.2.1 Any building on the State National Register must be restored or rehabilitated according to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings in order to be eligible for the FIP.

3.2.2 The WDDA's philosophy is that restoration is preferable to renovation with regards to the FIP.

3.2.2.1 Restoration is the attempt to return the facade to its original appearance at the time the building was constructed through the use of authentic materials and the faithful replication of the building to conditions shown in old photos and records. Restoration is eligible for the FIP.

3.2.2.2 Renovation projects shall be sensitive to the historic appearance of the building but may include modern materials and design elements.

- 3.3 Facade features that are not eligible for calculating funding under Paragraph 2.3 shall include, but not be limited to:
- 3.3.1 Expenses incurred prior to FIP Application approval;
 - 3.3.2 Real property acquisition;
 - 3.3.3 Mortgage, title work, title searches, land contract financing, loan fees, easement work, or register of deeds filing;
 - 3.3.4 Site plan fees, sign permit fees, or building permit fees;
 - 3.3.5 Appraiser, attorney, architect, interior decorator, or other professional fees;
 - 3.3.6 Wages paid to Applicant or Applicant's relatives to the 3rd degree of kinship for work associated with the FIP;
 - 3.3.7 Permanent job tools or those that have a shelf life longer than one (1) year;
 - 3.3.8 Furnishings, trade fixtures, or other items taxed as personal property; and
 - 3.3.9 Roofs, landscapes, sidewalks, or approaches (except approaches that make the building American Disability Act ("ADA") compliant for ingress/egress).
- 3.4 In the event the actual physical construction has not commenced within sixty (60) days of the date of approval by the WDDA and/or is not completed within twelve (12) months of commencement, the FIP approval shall be deemed rejected/cancelled/withdrawn unless the WDDA, by an affirmative vote, determines to extend same.
- 3.5 Rights Reserved - the WDDA reserves the right to reject any and all Applicants for failure to follow the terms of this Program. The specific Program Procedures and Guidelines detailed herein are subject to revision or amendment by the WDDA Board at any time. The WDDA may discontinue this Program at any time. Additionally, the Program shall automatically stop acting on funding request in any budget year if the WDDA runs out of FIP funding in that year, without any liability to Applicants who have not been funded.
- 3.6 *The FIP Program Description* - shall be available at the Village of Webberville Hall and provided to all potential Applicants together with this Resolution.
- 3.7 *The FIP Application Procedures Checklist* - shall be available at the Village of Webberville Hall and provided to all potential Applicants together with this Resolution.
- 3.8 *The FIP Application* - shall be available at the Village of Webberville Hall and provided to all potential Applicants together with this Resolution.

3.9 *The FIP Five (5) Year Facade Improvement Easement* - is a sample copy which shall be available at the Village of Webberville Hall and provided to all potential Applicants together with this Resolution.

4. FIP Easements shall be in writing under the following terms and conditions:

4.1 The FIP Easement shall be drafted by the WDDA with the assistance of its Attorney.

4.2 All owner(s) [as determined by the title search] and, if applicable, the tenant, shall execute the FIP Easement as Grantors.

4.3 The Grantee of the FIP Easement shall be the WDDA. The Grantor shall not be able to assign its rights or responsibilities under the Easement. The Grantee WDDA may assign its rights to the Village of Webberville without the consent of the Grantor.

4.4 The FIP Easement shall be over the exterior face of the building or structure and shall require the Owner and, if applicable, the tenant, to maintain the building's facade in the same condition and manner it was in when the WDDA accepted the Easement for the five (5) years following the Easement purchase.

4.4.1 As part of the process, and prior to closing, the WDDA shall take photographic evidence of the condition of the facade over which the FIP Easement is being purchased. At least one photograph of each side shall be taken and preserved, with date and time stamp by the WDDA. A copy shall be kept in the Village Office and a copy to the Attorney. Any photo taken by the WDDA for this purpose may be used by the WDDA to promote the Program or the Village of Webberville, in general.

4.4.2 For the purpose of the FIP Easement, the facade shall be defined as the front of the building with an imposing or decorative face, and any sides of the building facing a public way or space and finished accordingly. The facade shall include all stairs, ramps, hand rails, fire escapes, awnings, fixed lighting, signs, windows, and doors on the front and sides of a building that is facing a public way or space.

4.5 The Easement shall be recorded at the Register of Deeds; the expense for same, including any county or state transfer taxes, shall be paid by the Applicant.

4.6 The FIP Easement shall provide that if maintenance or repair work is required to the facade during the five (5) year period after its granting, then:

4.6.1 The WDDA shall make a determination if work is required to maintain or repair the facade to the condition it was in at the time the Easement was entered into, which decision shall be made in its sole discretion.

- 4.6.2 If the WDDA determines work is required on the facade, then it shall write the Owner, and tenant if applicable, and inform them of the work required.
- 4.6.3 The Owner, and if applicable, the tenant, shall have thirty (30) days to present to the WDDA a proposal to complete the work, which work must be completed within ninety (90) days of the notice received under Paragraph 4.6.2, unless a longer period is approved by the WDDA due to climatic conditions.
- 4.6.4 If the work is not completed within the time frame outlined in Paragraph 4.6.3, the WDDA then has the right, but not the obligation, to perform the work itself. If the WDDA does perform the work, then it is authorized to place a written lien on the property for the cost of the repairs and/or maintenance, including the cost of labor and materials.
- 4.6.7 The WDDA may bring a legal action against the Owner, and where applicable, the tenant, to collect its lien under Paragraph 4.6.4, in which case, the WDDA's actual attorney fees and costs shall be awarded to the WDDA in addition to the cost of the lien.

4.7 At the end of the five (5) years from the date of the grant of the FIP Easement, the Easement shall be designed to automatically terminate without any further affirmative action of the WDDA.

- 5. The WDDA shall not have more than \$100,000.00 in aggregate FIP funding in any fiscal year under this Program. The amount of the spending authorized by the WDDA at its sole discretion shall be established in its annual fiscal year budget.
- 6. The FIP may be amended, expanded, or contracted at any time by Resolution of the WDDA with or without retroactive effect.
- 7. The WDDA shall open the facade improvement program to the historic downtown area of Webberville for the first five (5) years of the program and then it shall automatically expand it to include all buildings within the WDDA's TIF District on the five (5) year anniversary of the adoption of this Resolution. The historic Downtown Area shall be comprised of properties located within the TIF District along Grand River Ave from Gramer Road west to Elm Street and Main Street from the Railroad Tracks north to Beach Street.

I further certify that the following Members were present at said meeting:

and that the following Members were absent:

I further certify that Member, _____, moved for adoption of said resolution, and that Member, _____ supported said motion.

I further certify that the following Members voted for adoption of said Resolution:

and that the following Members voted against adoption of said Resolution:

Joshua Rockney
DDA Chairperson

I certify that the above is a true copy of Resolution No _____
adopted by the Village of Webberville Downtown Development
Authority at its regular meeting held on October 15, 2018.

Jamie E. Hord,
DDA Secretary

Drafted by: John L. Gormley (P53539)
Attorney for WDDA
101 East Grand River Ave.
Fowlerville, Michigan 48836
(517) 223-3758

C:\Users\john.GORMLEY\LAWS\RFC\Matters - Open\WDDA - WDDA - Facade Improvement Program - General\Facade Improvement Program Res 1.vpd