Parcel Identification No.: 30-07-27-200-003.000-009

 Cross Reference 2023-04356

**FUNDING AGREEMENT**

This Funding Agreement (the “**Agreement**”) is entered into to be effective as of the 1st day of January, 2026 (the “**Effective Date**”) by and between the City of Greenfield, Hancock County, Indiana, an Indiana municipal corporation (the “**City**”), and Vita of Greenfield IL, LLC, an Indiana limited liability company (the “**Company**”, and together with the City, the “**Parties**”) as follows:

witnesseth:

 **WHEREAS**, Company is the owner of certain real property consisting of approximately 5.23 acres generally located at 1581 Community Way, Greenfield, Indiana, Parcel Identification No.: 30-07-27-200-003.000-009, as more specifically described and depicted in **Exhibit A**, which is attached hereto and incorporated herein (the “**Property**”);

 **WHEREAS**, the Company has developed, constructed, and operated an assisted living and memory care facility known as Vita Senior Living of Greenfield on the Property (the “**Project**”);

 **WHEREAS**, the Project has been developed, constructed, and operated for the purpose of providing housing to income eligible persons under the federal low-income housing tax credit program, 26 U.S.C. §42 (the “**Federal Code**”);

 **WHEREAS**, the Project is subject to an extended use agreement under the Federal Code (the “**Extended Use Agreement**”) as administered by the Indiana Housing and Community Development Authority (“**IHCDA**”) for a period of at least thirty (30) years;

 **WHEREAS**, pursuant to Ind Code §6-1.1-10-16.7, for assessment dates after December 31, 2021, all or part of the Property is exempt from property taxation because the Company has entered into a certain agreement with the City to make payments in lieu of taxes under Ind. Code §36-1-8-14.3 (the “**Abatement**”);

 **WHEREAS**, notwithstanding the agreement, Company recognizes that the Abatement places an additional burden on the City’s general fund, and in particular, decreases anticipated revenue necessary to support public safety expenditures, including but not limited to personnel costs (the “**Revenue Shortfall**”);

 **WHEREAS**, in consideration for causing the Revenue Shortfall, Company now desires to make certain payments (each a “**Revenue** **Shortfall Payment**”) to the City as further set forth herein; and

 **WHEREAS**, in accordance with Ind. Code §36-1-3-4, the Parties now desire to enter into this Agreement to specifically outline each Party’s obligations regarding the Revenue Shortfall Payments.

 **NOW, THEREFORE,** in consideration of the foregoing premises, mutual covenants, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. RECITALS

The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Article I.

1. MUTUAL ASSISTANCE

 The Parties agree, subject to further proceedings required by law, to take such commercially reasonable actions, including the execution and delivery of such documents, instruments, petitions and certifications, as may be necessary or appropriate from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent of this Agreement.

1. COMPANY OBLIGATIONS
	1. **Company Obligations**. In consideration of and as a material inducement for the Company causing the Revenue Shortfall, Company shall fully satisfy each of the following commitments (individually or collectively, the “**Company Obligations**”):
		1. Company shall make Revenue Shortfall Payments in the years and amounts listed on **Exhibit B**, attached hereto and incorporated herein. The annual Revenue Shortfall Payment payable by Company with respect to the Property shall be imposed as property taxes and payable in two equal installments due and payable on or before May 10 and November 10 of each successive calendar year, with the initial installment of the payment becoming due and payable on or before May 10, 2026 (the “**Initial Payment**”).
		2. The Revenue Shortfall Payments described in this Article III are to be paid to the City of Greenfield, c/o Clerk-Treasurer, on or before June 1 and December 1 of each year this Agreement is in effect.
		3. The City shall have the right to enforce the Revenue Shortfall Payments when due, including all penalties, costs, reasonable attorney fees, and expenses imposed in enforcing the same, as set forth in Ind. Code §6-1.1-22-1 *et. seq*. Upon payment of all Revenue Shortfall Payments, this Agreement shall be released by the City.
2. CITY’S OBLIGATIONS
	1. **City Obligations**. In consideration of and as a material inducement for the Company fulfilling the Company Obligations described in Article III, the City shall perform the following:
		1. The City shall apply any Revenue Shortfall Payments to its General Fund, to be utilized to support public safety expenditures.
		2. The City shall cause this Agreement to be recorded against the Property.
3. TERM
	1. Except as otherwise provided in Article VI or VII, this Agreement and applicable Revenue Shortfall Payments required hereunder shall continue for a period of thirty (30) years beginning with the Initial Payment (the “**Initial Term**”). The Initial Term may be extended by a mutual, written agreement of the Parties.
4. DEFAULT
	1. The following shall be deemed an event of default (each, an “**Event of Default**”):
		1. The failure to pay or caused to be paid any Revenue Shortfall Payments required by this Agreement.
		2. The foreclosure of any lien against the Property.
		3. The initiation of any bankruptcy petition against the Company or its successors, assigns, or affiliates which have title to the Property or any other action seeking appointment of receive or other allegation of insolvency against the owner of the Property.
	2. Upon occurrence of any action listed in Section 6.1, the City may immediately take any and all acts to protect the City’s interests, move to terminate the Agreement, notifying the Hancock County Assessor of such termination, and initiate a claim in the proceeding to foreclose the lien of the City, which lien shall include the amount of unpaid Revenue Shortfall Payments, any unpaid real estate taxes assessed against the Property, and reasonable attorneys’ fees and costs of collection as authorized by Ind. Code §6-1.1-22-13(d). For purposes of this Article VI, in the event of a failure to timely pay or caused to be paid any Revenue Shortfall Payment, no event of default will be deemed to have occurred if the late payment, including penalties, is made within thirty (30) days of the due date. Notwithstanding the payment necessary to satisfy the lien of the City in any foreclosure proceeding, the *in rem* lien of the City to enforce the Revenue Shortfall Payments due, shall remain in full force and effect through the end of Initial Term, as provided by Section 3.1 and Article V.
5. TERMINATION
	1. The City may terminate this Agreement in accordance with Article VI.
	2. Notwithstanding anything contained herein to the contrary, after January 1, 2050, either party may terminate this Agreement for any reason and without cause by giving written notice to the other party upon ninety (90) days advance notice. Upon termination pursuant to this Section 7.2, this Agreement shall become null and void, and of no further force or effect; provided, however, that Company shall pay the applicable pro rata amount of Revenue Shortfall Payments for the year in which such termination occurs up to the date of termination and receive a credit for all Revenue Shortfall Payments already paid for such year. Upon termination of this Agreement under the circumstances referred to in this Section, all other provisions of this Agreement shall become null and void, and of no further force or effect.
	3. Either party may terminate this Agreement at any time upon a material breach of this Agreement or failure to perform any term of this Agreement by the other, unless such material breach or failure is cured within thirty (30) days after written notice is given to the party in material breach; provided, however, that if any such claimed material breach or failure is of a nature that it cannot be cured within thirty (30) days, a non-breaching party shall not have the right to terminate this Agreement as long as the party in material breach is diligently pursuing appropriate action to cure the material breach within a total of forty-five (45) days or failure if such action was commenced within thirty (30) days after the giving of notice of the material breach or failure.
6. GENERAL PROVISIONS
	1. Indemnity; No Joint Venture or Partnership. Company covenants and agrees at its sole expense to pay and to indemnify and save harmless the City and its officers and agents (the "Indemnitees") harmless of, from and against, any and all claims, damages, demands, expenses and liabilities relating to bodily injury or property damage resulting directly or indirectly from this Agreement unless such claims, damages, demands, expenses or liabilities arise by reason of the willful act or omission of the City. Company’s obligation to indemnify the City pursuant this Section 8.1 shall survive termination of this Agreement.
	2. Company represents and warrants to the City that it: (a) is duly registered with the Indiana Secretary of State’s Office; (b) shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement ; (c) has the authority: (i) to enter into this Agreement; and (ii) to perform its obligations hereunder, (d) has been authorized by proper action: (x) to execute and deliver this Agreement; and (y) to perform its obligations hereunder; and (e) this Agreement is the legal, valid, and binding obligation of Company.
	3. Nothing contained in this Agreement shall be construed as creating either a joint venture or partnership relationship between the City and Company or any affiliate thereof.
	4. Cure. Except as otherwise specifically stated herein, before any failure of the Parties to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform such obligation and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within seven (7) days of the receipt of such notice. If after said notice, the breaching party fails to cure the breach, the non-breaching party may seek any remedy available at law or equity.
	5. No Third-Party Beneficiaries. This Agreement shall be deemed to be for the benefit solely of the Parties hereto and shall not be deemed to be for the benefit of any third party.
	6. Effective Date. Notwithstanding anything herein to the contrary, this Agreement shall not be effective until all Parties hereto have executed this Agreement, and the City has approved or ratified this Agreement as required by law.
	7. E-Verify. All terms defined in IND. CODE § 22-5-1.7 *et. seq.,* are adopted and incorporated into this Section. Pursuant to IND. CODE § 22-5-1.7 *et. seq*., Company covenants to enroll in and verify the work eligibility status of all of its employees using the E-Verify program, if it has not already done so as of the Effective Date. Within ten (10) days after the Effective Date, Company shall execute an affidavit affirming that: (a) it is enrolled and is participating in the E-Verify program; and (b) it does not knowingly employ any unauthorized aliens. In support of the affidavit, Company shall provide City with documentation that it has enrolled and is participating in the E-Verify program. This Agreement shall not take effect until said affidavit is signed by Company and delivered to City’s authorized representative.
	8. No Remedy Exclusive; Limitation. No right or remedy herein conferred upon, or reserved to, a non-defaulting party is intended to be exclusive of any other available right or remedy, unless otherwise expressly stated; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission by a non-defaulting party to exercise any right or remedy upon any Event of Default shall impair any such right or remedy, or be construed to be a waiver thereof, and any such right or remedy may be exercised from time to time, and as often as may be deemed to be expedient. To entitle a non-defaulting party to exercise any of its rights or remedies, it shall not be necessary for the non-defaulting party to give notice to the defaulting party, other than such notice as may be required by this Agreement or by the Laws. In no event shall any party hereunder be liable to the other for punitive or consequential damages as a consequence of an event of default by such party. In the event either party hereto employs an attorney in connection with claims by one party against the other arising from the operation of this Agreement, the non-prevailing party shall pay the prevailing party all reasonable fees and expenses, including attorneys’ fees, incurred in connection with such Claims. The term “prevailing party” as used in this Agreement shall include, but not be limited to, a party who obtains legal counsel or brings an action against the other by reason of the other’s breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise.
	9. Notice. Any notice required or permitted to be given by any party to this Agreement shall be in writing, and shall be given (and deemed to have been given) when: (i) delivered in person to the other party; (ii) three (3) days after being sent by U.S. Certified Mail, Return Receipt Requested; or (iii) the following business day after being sent by national overnight delivery service, with confirmation of receipt, addressed as follows: to City at 10 South State Street, Greenfield, Indiana, 46140 Attn: Gregg Morelock, City Attorney, with a copy to: Christopher P. Greisl, Barnes & Thornburg LLP, 11 S. Meridian Street, Indianapolis, IN 46204; and to Company at 350 Westfield Road, Suite 210, Noblesville, IN 46060, Attn: Paul Ezekiel Turner, with a copy to Matthew S. Carr, Frost Brown Todd, 111 Monument Circle, Suite 4500, P.O. Box 44961, Indianapolis, IN 46244. Any party may change its address for notice from time to time by delivering notice to the other party as provided above.
	10. Merger. All prior agreements, understandings, and commitments are hereby superseded, terminated, and merged herein, and shall be of no further force or effect.
	11. Assignment. The rights and obligations contained in this Agreement may not be assigned by Company without the express prior written consent of the City, which assignment shall not be unreasonably withheld.
	12. Miscellaneous. Subject to Section 8.11, this Agreement shall inure to the benefit of, and be binding upon City, Company, and their respective successors and assigns. This Agreement may be signed in one or more counterparts, each of which shall constitute one and the same instrument. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Agreement shall be tried and litigated only in the state courts in Hancock County, Indiana, or the federal courts with venue that includes Hancock County, Indiana. Company waives, to the extent permitted under applicable law: (i) the right to a trial by jury; and (ii) any right Company may have to: (A) assert the doctrine of “forum non conveniens”; or (B) object to venue. This Agreement may be modified only by a written agreement signed by City and Company. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. All Exhibits to this Agreement are attached hereto and incorporated herein by reference. Time is of the essence in this Agreement. If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law; provided that, in lieu of such invalid or unenforceable provision, there will be added to this Agreement a provision as similar to the invalid or unenforceable provision as is possible to reflect the intent of the Parties and still be valid and enforceable. The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Agreement or the scope or content of any of its provisions. Nothing contained in this Agreement shall be construed to create a partnership or joint venture between or among Company, City or their successors in interest. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Site is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.
	13. The persons executing and delivering this Agreement on behalf of the Parties hereto represent and warrant to the other Party that such person is duly authorized to act for and on behalf of said Party and execute and deliver this Agreement in such capacity as is indicated below.

[*signatures on following pages*]

**IN WITNESS WHEREOF**, the undersigned Parties have caused the execution of this Funding Agreement by their duly authorized representatives as of the day, month, and year first above written, but this Funding Agreement shall be effective as of the Effective Date.

 **“CITY”**

CITY OF GREENFIELD, INDIANA

Guy Titus, Mayor of the City of

 Greenfield, Indiana

STATE OF INDIANA )

 ) SS:

COUNTY OF HANCOCK )

Before me, a Notary Public, in and for said County and State, personally appeared Guy Titus, in his capacity as the Mayor, acting for and behalf of the City of Greenfield, Indiana, and who, having been duly sworn, stated that any and all representations and warranties contained therein are true and correct in all material respects.

Witness my hand and Notarial Seal this\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2025.

 Notary Public

 Printed Name

My Commission Expires: My County of Residence:

[EXECUTIONS CONTINUED ON FOLLOWING PAGE]

 “COMPANY”

**VITA OF GREENFIELD IL, LLC**, an Indiana limited liability company

By: Vita of Greenfield MM, LLC, an Indiana limited liability company, its Managing Member

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

Paul Ezekiel Turner, Manager

STATE OF INDIANA )

 ) SS:

COUNTY OF \_\_\_\_\_\_\_\_\_\_ )

Before me, a Notary Public, in and for said County and State, personally appeared Paul Ezekiel Turner in his capacity as the Manager of Vita of Greenfield MM, LLC, the Managing Member of Vita of Greenfield, LLC, and who, having been duly sworn, stated that any and all representations and warranties contained therein are true and correct in all material respects.

Witness my hand and Notarial Seal this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2025.

 Notary Public

 Printed Name

My Commission Expires: My County of Residence:

This instrument prepared by Christopher P. Greisl, Esq., Barnes & Thornburg LLP, 11 S. Meridian Street, Indianapolis, Indiana 46204.

I affirm under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ Christopher P. Greisl

**EXHIBIT A**

[*The Property*]

The Land referred to herein below is situated in the County of Hancock, State of Indiana, and is described as follows:

PARCEL 1: FEE SIMPLE

Lot 3 in Replat of Brandywine Community Church, an Addition to the City of Greenfield, Indiana, as per plat thereof recorded March 17, 2023 as Instrument No. 202302415 in Cabinet D, Slide 231-232 in the Office of the Recorder of Hancock County, Indiana.

(For Reference Only) Property Address: 1581 Community Way, Greenfield, IN 46140 (For Reference Only) Tax Parcel ID No.: 30-07-27-200-003.000-009

PARCEL 2: NON EXCLUSIVE EASEMENT

Non exclusive easements for drainage, access, ingress and egress, as created, limited and defined in the Declaration of Easements, recorded March 17, 2023, as Instrument Number 202302414, in the Office of the Recorder of Hancock County, Indiana.

PARCEL 3: NON EXCLUSIVE EASEMENT

Non exclusive drainage easement as created, limited and defined in a Drainage Easement Agreement, recorded May 16, 2023, as Instrument Number 202304357, in the Office of the Recorder of Hancock County, Indiana.

(For Reference Only) Property Address: 1581 Community Way, Greenfield, IN 46140
(For Reference Only) Tax Parcel ID No.: 30-07-27-200-003.000-009

**EXHIBIT B**

REVENUE SHORTFALL PAYMENTS

 Assessment Payment Bi-Annual Annual

 Year Year Payments Payment

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 1 | 2026 | 2027 | $17,000.00 |  $ 34,000.00  |
| 2 | 2027 | 2028 | $17,340.00 |  $ 34,680.00  |
| 3 | 2028 | 2029 | $17,686.80 |  $ 35,373.60  |
| 4 | 2029 | 2030 | $18,040.54 |  $ 36,081.07  |
| 5 | 2030 | 2031 | $18,401.35 |  $ 36,802.69  |
| 6 | 2031 | 2032 | $18,769.38 |  $ 37,538.75  |
| 7 | 2032 | 2033 | $19,144.76 |  $ 38,289.52  |
| 8 | 2033 | 2034 | $19,527.66 |  $ 39,055.31  |
| 9 | 2034 | 2035 | $19,918.21 |  $ 39,836.42  |
| 10 | 2035 | 2036 | $20,316.58 |  $ 40,633.15  |
| 11 | 2036 | 2037 | $20,722.91 |  $ 41,445.81  |
| 12 | 2037 | 2038 | $21,137.37 |  $ 42,274.73  |
| 13 | 2038 | 2039 | $21,560.11 |  $ 43,120.22  |
| 14 | 2039 | 2040 | $21,991.32 |  $ 43,982.63  |
| 15 | 2040 | 2041 | $22,431.14 |  $ 44,862.28  |
| 16 | 2041 | 2042 | $22,879.76 |  $ 45,759.52  |
| 17 | 2042 | 2043 | $23,337.36 |  $ 46,674.71  |
| 18 | 2043 | 2044 | $23,804.11 |  $ 47,608.21  |
| 19 | 2044 | 2045 | $24,280.19 |  $ 48,560.37  |
| 20 | 2045 | 2046 | $24,765.79 |  $ 49,531.58  |
| 21 | 2046 | 2047 | $25,261.11 |  $ 50,522.21  |
| 22 | 2047 | 2048 | $25,766.33 |  $ 51,532.66  |
| 23 | 2048 | 2049 | $26,281.66 |  $ 52,563.31  |
| 24 | 2049 | 2050 | $26,807.29 |  $ 53,614.57  |
| 25 | 2050 | 2051 | $27,343.44 |  $ 54,686.87  |
| 26 | 2051 | 2052 | $27,890.30 |  $ 55,780.60  |
| 27 | 2052 | 2053 | $28,448.11 |  $ 56,896.22  |
| 28 | 2053 | 2054 | $29,017.07 |  $ 58,034.14  |
| 29 | 2054 | 2055 | $29,597.41 |  $ 59,194.82  |
| 30 | 2055 | 2056 | $30,189.36 |  $ 60,378.72  |
|  |  |  |  |  |