



Board of Public Works and Safety

Agenda Item

Cover Sheet

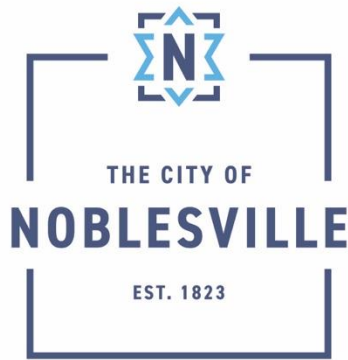
MEETING DATE: December 19, 2023

- ☐ Consent Agenda Item
- ☒ New Item for Discussion
- ☐ Previously Discussed Item
- ☐ Miscellaneous

ITEM #: 15

INITIATED BY: Justin Hubbard

- ☒ Information Attached
- ☐ Bring Paperwork from Previous Meeting
- ☐ Verbal
- ☐ No Paperwork at Time of Packets



TO: BOARD OF PUBLIC WORKS AND SAFETY
FROM: JUSTIN HUBBARD, PROJECT COORDINATOR, NOBLESVILLE ENGINEERING
SUBJECT: VREC III- MILHAUS RIVERWEST, LLC APPLICATION OF ROAD IMPACT FEE CREDITS
DATE: DECEMBER 19, 2023

Attached is a road impact fee agreement with the developer of Riverwest at the northwest corner of 146th Street and River Road. Instead of paying road impact fees to the City and the City completing improvements identified in the Road Impact Fee Zone Improvement Plan Study, Riverwest is completing the improvements directly. These improvements are in addition to the standard deceleration lane and protected left turn into the development.

The agreement allows RiverWest to give the credits for the improvements they are completing to developments with their project. RiverWest is credited with \$500,000.00 and is granting \$226,795.20 to VREC III-Milhaus RiverWest, LLC in connection with building permits issued for the development of the multifamily project known as Lavina at Riverwest. As of December 19th, 2023, the running balance of credits left is **\$500,000.00**. RiverWest is granting VREC III-Milhaus RiverWest, LLC **\$226,795.20** to be applied to the impact fee due upon the issuance of the building permit, with a total of \$273,204.80 in credit remaining.

I recommend the Board of Public Works approve the Agreement.

In advance, I greatly appreciate your consideration of this request.

Attachments:

1. Traffic Impact Fee Credit Agreement for Reimbursement
2. RiverWest Road Impact Fee Agreement
3. Improvement Area



ALLOCATION OF REIMBURSEMENT CREDIT

February 17, 2023

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

City of Noblesville c/o Mayor
16 South 10th Street
Noblesville, IN 46060

City Attorney
Noblesville, IN 46060

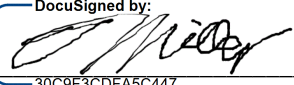
RE: AGREEMENT FOR REIMBURSEMENT OF COSTS BETWEEN THE CITY OF NOBLESVILLE (“THE CITY”) AND 146TH AND RIVER ROAD LAND, LLC (“THE DEVELOPER”) dated February 2, 2023 (the “Reimbursement Agreement”)

To Whom It May Concern:

Pursuant to Section 9 of the above referenced Reimbursement Agreement, notice is hereby provided by the Developer to the City that the Developer is applying \$226,795.20 of the \$500,000.00 total available credit for reimbursement of costs of construction of the Project (as such term is defined in the Reimbursement Agreement) against traffic impact fees payable by VREC III – Milhaus RiverWest, LLC in connection with building permits issued for the development of the multifamily project known as Lavina at Riverwest . This is the first credit by the Developer under the Reimbursement Agreement, and the remaining balance after such credit shall be in the amount of \$273,204.80.

Should you have any questions regarding this matter, please feel free to contact the Company.

146th AND RIVER ROAD LAND, LLC

DocuSigned by:
By: 
30C9F3CDFA5C447...
Tadd M. Miller, Manager

The terms of this letter are hereby acknowledged by the below signed on the date set forth below:

NOBLESVILLE BOARD OF PUBLIC WORKS AND SAFETY

By: _____

Title: _____

Date: _____

AGREEMENT FOR REIMBURSEMENT OF COSTS BETWEEN
THE CITY OF NOBLESVILLE ("THE CITY") AND 146TH AND
RIVER ROAD LAND, LLC ("THE DEVELOPER")

This Agreement entered into by and between The Developer and the City of Noblesville

WITNESS THAT:

WHEREAS, the City has passed a Traffic Impact Fee Ordinance on January 26, 2021, Ord 02-01-21, pursuant to the provisions of Indiana Code 36-7-4-1300 et seq.; and,

WHEREAS, the property described in Exhibit A commonly known as RiverWest (the "Property"), which Property is also known by the Hamilton County Tax Parcels listed in Exhibit B, is zoned appropriately for the project and use; and,

WHEREAS, the Property is presently included within an area of the City which assesses a traffic impact fee of Two Hundred and Fifty Dollars (\$370) per trip, and,

WHEREAS, the Zone Improvement Plan for Ordinance 02-01-21 identified road impact fee eligible improvements at the intersection of River Road and 146th Street in an amount of \$520,000 in Table 5, intersection 203.

WHEREAS, as the Property is developed, those persons constructing buildings on the Property shall be obligated to pay traffic impact fees in accordance with the requirements of the Noblesville Impact Fee Ordinance and paragraph 8 of this Agreement; and,

WHEREAS, the purpose of this Agreement is (i) to establish the obligation of The Developer to construct improvements at 146th Street and River Road and the Property ("the Project"), and; (ii) to provide for The Developer to be reimbursed for a portion of the cost of that construction with Traffic Impact Fees that benefits the City's roadway; and,

WHEREAS, The Developer has agreed to construct the Project as detailed in Improvement Location Permit issued by the City of Noblesville under permit number LOCP-002213-2021.

WHEREAS, based on cost projection estimates for the Project, it is anticipated that the Developers will incur costs of approximately Five Hundred Thousand Dollars (\$500,000) to build the Project as shown in Exhibit C; and,

WHEREAS, the share for purposes of determining the maximum impact fee credit is not to exceed Thirty-Seven Thousand, Three Hundred Ninety-Eight Dollars (\$37,398) of the costs of the Project ("the Eligible Amount") are directly attributable to constructing improvements within the Project, which are identified in the Traffic Impact Fee Analysis, which is the basis for the City's existing and future Traffic Impact Fee Ordinance; and,

WHEREAS, Indiana Code 36-7-4-1335 provides that a person who constructs infrastructure of a type for which a unit imposes an impact fee may receive credits for certain infrastructure improvements that are of a type for which the City imposed an impact fee in the impact zone; and,

WHEREAS, Indiana Code 36-7-4-1330(4) provides that Impact Fees may be used to pay debt service, including interest on obligations to pay for infrastructure; and,

WHEREAS, in the event that the Project is either postponed or dissolved, the Developers have posted bonds, which have been accepted by the Board of Public Works and Safety, for an amount of 110% of the amount of the proposed construction costs, which is attached as Exhibit D; and,

WHEREAS, The Developer and the City are desirous of entering into an Agreement to defer the payment of impact fees generated from the Property as set forth herein.

IT IS HEREBY AGREED by and between the parties as follows:

1. Obligation of the Developers. The Developer shall construct storm sewer outfall and detention pond as part of the development approved for the Property in compliance with the approved plans stamped Released for Construction with a date of 7/11/2022. The Developer has post a Performance Bond, equal to 110% of the actual construction costs of The Project..
2. Amendment to Plans. In the event that field conditions, location of utilities, unsuitable soils, schedule, weather or development of the Property cause for a re-design or field changes to the Plans, The Developer shall propose such

change(s), in writing, to the City Engineer for his review. The City Engineer is not required to make any changes he deems would negatively impact the quality of the work or would generally be unacceptable on any other City infrastructure.

3. Construction of Project. The Developer commenced construction of the Project on September 1, 2022 and completion is anticipated to occur no later than December 31, 2023.
4. Relocation of Utilities. Developer is responsible for the relocation of all utilities required for The Project.
5. Creation of Special Account. – Not included in this agreement.
6. Interest Cost. Not included in this agreement.
7. Right-of-Way Dedication. Developer shall dedicate and obtain right-of-way per terms of the economic development agreement and City standards/ordinances, which are reflected in the approved plans, previously referenced improvement location permit.
8. Project Cost: Estimate of the road impact fee eligible improvements is included in Exhibit D. In no event shall the City be obligated to pay any portion of the cost of the project, except for allowing for the impact fee payments set forth herein.
9. Collection of Fees. The City shall provide credit for certain Traffic Impact Fees as building permits are issued for the development within the Property up to the maximum eligible agreed amount of \$500,000.00 for eligible construction improvements completed by the Developer or third parties on the Property, which eligible improvement estimates are attached as Exhibit D. Credits shall be applied in terms of dollars and not trips. Developer shall be entitled, in its sole discretion, to grant such credits to building permits within the described boundary of the Property. Developer granting of credits shall be on a signed letter that stated credit amount being applied, running balance of credits left, dates of prior credits being issued, and a location for an acknowledgement signature by the Noblesville Board of Public Works and Safety. Those fees shall be paid pursuant to the terms of the City's Traffic Impact Fee Ordinance and Indiana Code 36-7-4-1300. The balance of Traffic Impact Fees to be paid by the Developer or third party developers of the Property shall be the difference between the Eligible Amount and the Traffic Impact Fee calculation for the Developer's building permit. .
10. Construction Inspection. The City shall inspect the construction of the project through its Engineering Department.
11. Interest. Not included in this agreement.
12. Limitation of Obligation. The obligation of the City to accept all improvements subject to passing inspection and testing per The City's ordinances and Noblesville Construction Standards. Nothing herein shall be construed as a duty of the City to pay the reimbursement obligation from any source, other than the collected traffic impact fees, from the Property.
13. Project Dissolution. Should the project not be constructed within the time frame stated in this agreement, the City, through its Board of Public Works and Safety, may pursue completion of the project by placing claims against any applicable performance bonds submitted and accepted for the project. .
14. Dispute Resolution. In the event there is any dispute between the parties concerning the terms of this Agreement, said dispute shall first be considered by five (5) persons consisting of a representative of the Developer, the attorney designated by the Developers, a member of the City Council designated by the City's Board of Public Works, the City Engineer and the City Attorney. In the event there is no resolution of the dispute by said group, the issue shall be submitted to mediation pursuant to the Indiana Rules of Alternative Dispute Resolution prior to the initiation of litigation by either party.

15. Notices. For purposes of this Agreement, any notices, including Notice of Assignments of the Benefits herein by the Developers, shall be made to the following:

City of Noblesville c/o Mayor
16 South 10th Street
Noblesville, IN 46060

With copy to:
City Attorney
Noblesville, IN 46060

and

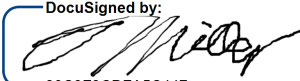
146th and River Road Land, LLC
c/o Tadd M. Miller
460 Virginia Avenue
Indianapolis, Indiana 46203

With copy to:

Dinsmore & Shohl LLP
211 North Pennsylvania Street
One Indiana Square, Suite 1800
Indianapolis, Indiana 46204
Attention: E. Joseph Kremp
Email: Joe.Kremp@Dinsmore.com

APPROVED this 2nd day of February 2023_

146TH AND RIVER ROAD LAND, LLC,
a Delaware limited liability company

By: 
30C9F3CDFAS0447...
Tadd M. Miller, Manager

All of which is approved by the Board of Public Works and Safety of the City of Noblesville
this _____ day of _____ 2023.

JACK MARTIN, PRESIDENT

JOHN DITSLEAR, MEMBER

LAURIE DYER, MEMBER

ROBERT J. ELMER, MEMBER

RICK L. TAYLOR, MEMBER

ATTEST:

EVELYN L. LEES, CLERK
CITY OF NOBLESVILLE, INDIANA

Exhibit A – Legal Description

OVERALL LAND DESCRIPTION

A part of the Southeast Quarter of Section 14, Township 18 North, Range 4 East, Hamilton County, Indiana, described as follows:
Commencing at the Southwest corner of said Southeast Quarter Section; thence North 00 degrees 04 minutes 56 seconds East along the West line thereof a distance of 16.50 feet to North Right-of-Way line of 146 th Street and the Point of Beginning; thence continuing North 00 degrees 04 minutes 56 seconds East along the West line thereof a distance of 986.27 feet to the North line of Instrument Number 2003-78229 as recorded in the Office of the Recorder of Hamilton County, Indiana, the following 4 courses are along the northerly line thereof and the northerly lines of Instrument Number 2018-40454, Instrument Number 2008-00128 and Instrument Number 2012-061186; (1) thence South 89 degrees 15 minutes 34 seconds East a distance of 239.40 feet; (2) thence South 00 degrees 02 minutes 51 seconds East a distance of 6.18 feet; (3) thence South 89 degrees 15 minutes 27 seconds East a distance of 717.74 feet; (4) thence South 89 degrees 15 minutes 35 seconds East a distance of 549.41 feet to the West line of Instrument Number 2011-41274; thence South 00 degrees 56 minutes 29 seconds West along the West line thereof a distance of 200.00 feet; thence South 89 degrees 15 minutes 35 seconds East along the South line thereof a distance of 200.00 feet; thence North 00 degrees 56 minutes 29 seconds East along the East line thereof a distance of 200.00 feet to the North line of Deed Book 307, Page 252; thence South 89 degrees 15 minutes 35 seconds East along the North line thereof a distance of 212.10 feet; thence South 00 degrees 04 minutes 55 seconds East along the East line thereof a distance of 3.57 feet; thence South 89 degrees 15 minutes 23 seconds East along the North line of Instrument Number 2019-54850 a distance of 421.21 feet; thence South 00 degrees 01 minutes 05 seconds West along the East line thereof a distance of 99.98 feet; thence North 89 degrees 15 minutes 35 seconds West along the South line thereof a distance of 17.99 feet to the West Right-of-Way line of River Road, the following 4 courses are along said West Right-of-Way line; (1) thence South 04 degrees 37 minutes 58 seconds West a distance of 70.45 feet; (2) thence South 00 degrees 07 minutes 59 seconds West a distance of 29.71 feet; (3) thence South 89 degrees 15 minutes 35 seconds East a distance of 2.47 feet; (4) thence South 01 degrees 46 minutes 41 seconds West a distance of 100.01 feet to the North line of Instrument Number 2019-18986; thence North 89 degrees 15 minutes 35 seconds West along the North line thereof a distance of 390.44 feet; thence South 00 degrees 08 minutes 03 seconds West along the West line thereof and the West line of Instrument Number 2004-61687 a distance of 200.00 feet; thence South 89 degrees 15 minutes 35 seconds East along the South line thereof a distance of 390.04 feet to said West Right-of-Way line; thence South 00 degrees 07 minutes 59 seconds West along the West line thereof a distance of 99.98 feet; thence South 07 degrees 09 minutes 25 seconds West along the West line thereof a distance of 100.64 feet; thence South 03 degrees 53 minutes 23 seconds West along the West line thereof a distance of 100.14 feet to the North line of Instrument Number 9543369; thence North 89 degrees 15 minutes 35 seconds West along the North line thereof a distance of 71.16 feet; thence South 00 degrees 07 minutes 59 seconds West along the West line thereof a distance of 176.50 feet to said North Right-of-Way line of 146 th Street; thence North 89 degrees 15 minutes 35 seconds West along the North line thereof a distance of 303.38 feet; thence North 00 degrees 04 minutes 55 seconds West along the North line thereof a distance of 16.15 feet; thence North 89 degrees 15 minutes 35 seconds West along the North line thereof a distance of 690.11 feet to a West line of Instrument Number 2012-61186; thence North 00 degrees 04 minutes 55 seconds West along the West line thereof do 393.15 feet; thence North 89 degrees 15 minutes 35 seconds West along a South line thereof a distance of 270.93 feet to the East line of Instrument Number 2013-65993; thence South 00 degrees 00 minutes 58 seconds East along the East line thereof a distance of 409.29 feet to said North Right-of-Way line of 146 th Street; thence North 89 degrees 15 minutes 35 seconds West along the North line thereof a distance of 959.95 feet to the Point of Beginning, containing 46.23 Acres, more or less.

Exhibit B – Parcel Numbers

Multifamily Parcels

- 1. 10-10-14-00-00-012.000
- 2. 10-10-14-04-02-003.000
- 3. 10-10-14-00-00-011.002

Senior Living Parcel

- 1. 10-10-14-00-00-017.000

Retail Parcel

- 1. 10-10-14-04-02-012.000

Townhome Parcels

- 1. 10-10-14-04-01-004.000
- 2. 10-10-14-00-00-015.000

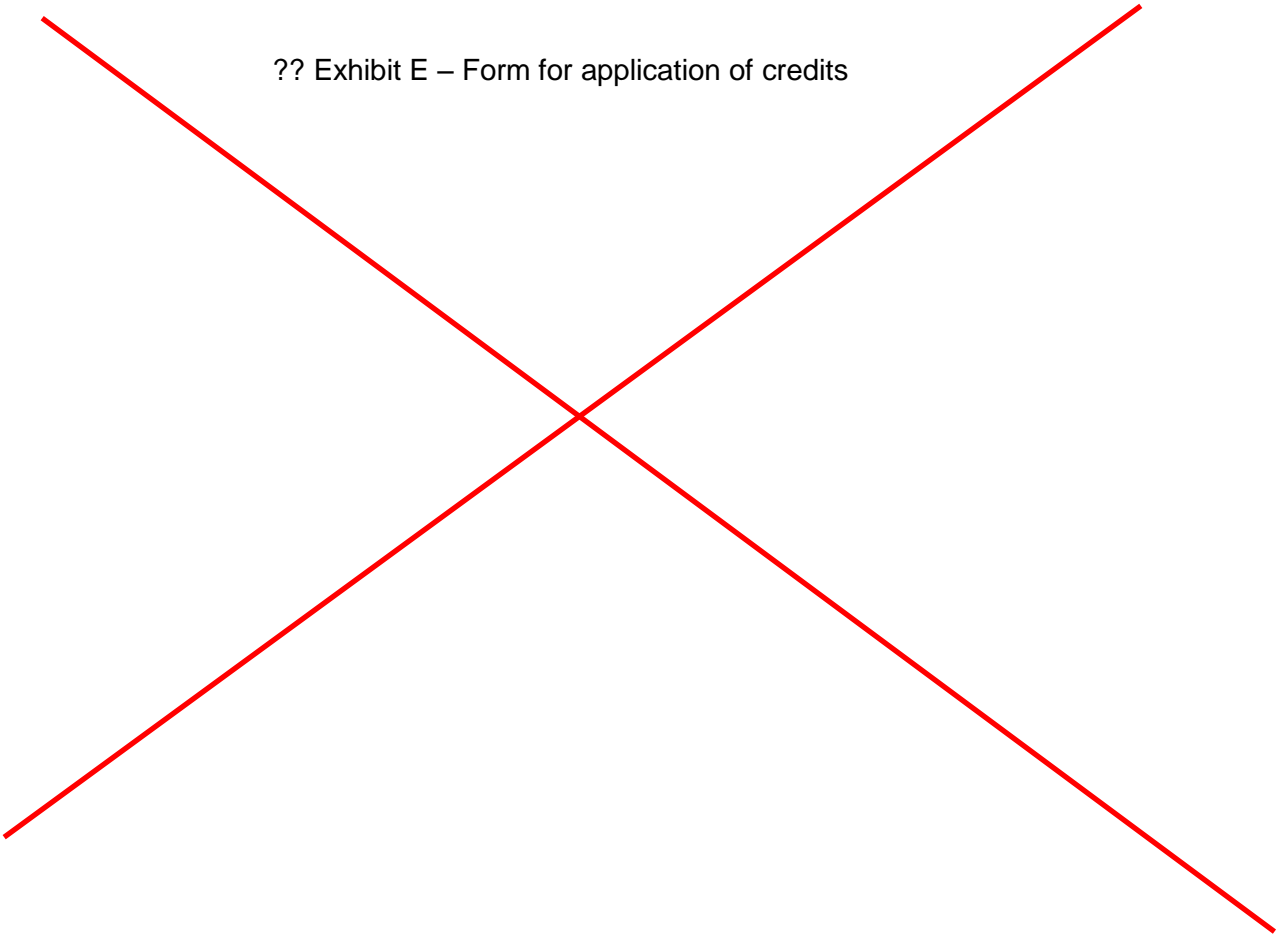
Common Areas

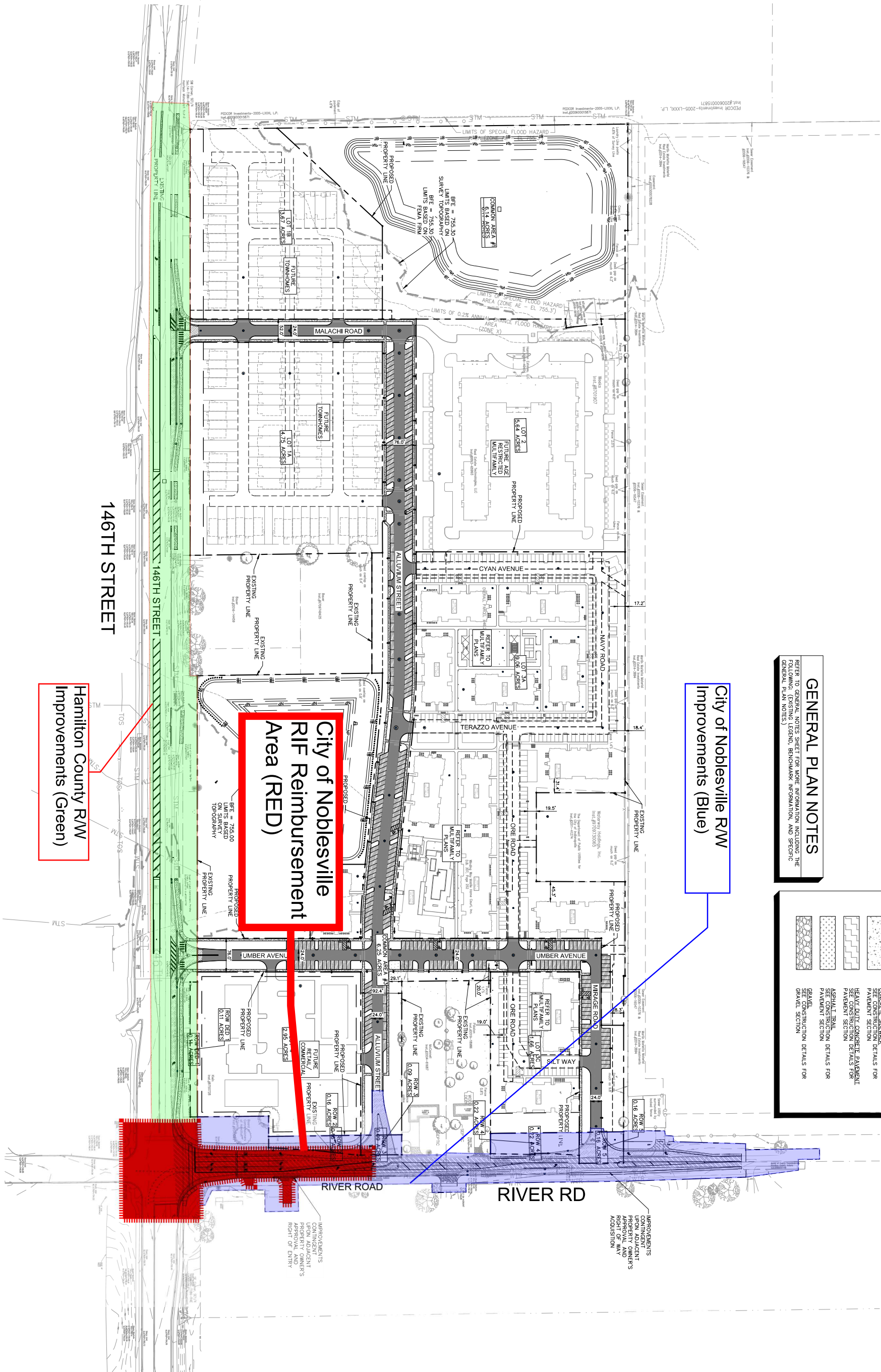
- 1. 10-10-14-04-01-001.000
- 2. 10-10-14-04-02-006.000
- 3. 10-10-14-00-00-011.000

Exhibit C – Project Exhibit

Exhibit D – Estimate of Road Impact Fee
Eligible Improvements

?? Exhibit E – Form for application of credits





GENERAL PLAN NOTES

REFER TO GENERAL NOTES SHEET FOR MORE INFORMATION INCLUDING THE GENERAL PLAN LEGEND, BENCHMARK INFORMATION, AND SPECIFIC GENERAL PLAN NOTES.

PAVING LEGEND	
	STANDARD DUTY ASPHALT PAVEMENT SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION
	HEAVY DUTY ASPHALT PAVEMENT SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION
	RIGHT OF WAY PAVEMENT SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION
	CONCRETE SIDEWALK DETAILS FOR PAVEMENT SECTION
	HEAVY DUTY CONCRETE PAVEMENT SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION
	ASPHALT TRAIL SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION
	GRAVEL SEE CONSTRUCTION DETAILS FOR GRAVEL SECTION

Indiana Utilities Protection Service

Call 811

before you dig

NORTH



No.	REVISIONS	DATE	BY
	SCHEMATIC DESIGN	10/11/2021	ANN
	DESIGN DEVELOPMENT	10/29/2021	ANN
△	NOBLESVILLE TAC AND HCHD COMMENTS	03/29/2022	EMF
△	NOBLESVILLE COMMENTS	05/10/2022	EMF
△	HAMILTON CO. HIGHWAY DEPT COMMENTS	06/13/2022	ANN
△	NOBLESVILLE COMMENTS	06/17/2022	EMF

SCALE: AS NOTED

DESIGNED BY: ANN

DRAWN BY: RCB

CHECKED BY: BAS

KimleyHorn

©2022 KIMLEY-HORN AND ASSOCIATES, INC.
250 EAST 96TH STREET, SUITE 580,
INDIANAPOLIS, IN 46240
PHONE: 317-218-9560
WWW.KIMLEY-HORN.COM

NOT APPROVED FOR CONSTRUCTION

BRYAN A. KIMLEY

Professional Engineer

Seal Number: 000000000



OVERALL DEVELOPMENT PLAN

RIVERWEST MASS GRADING & PUBLIC INFRASTRUCTURE

ORIGINAL ISSUE: 11/29/2021

KHA PROJECT NO. 170127001

SHEET NUMBER

C1.0