

WRITTEN COMMITMENT OF PETITIONER

THIS ARTICLE OF AGREEMENT entered into this 3rd day of January, 2023, by and between Ceres Solutions, hereinafter for convenience and brevity referred to as "Petitioner", Gary Kincade of Warren County, Indiana, hereinafter for convenience and brevity referred to as "Owner" and the Area Plan Commission of Warren County, Indiana, hereinafter for convenience and brevity referred to as "Plan Commission", **WITNESSETH:**

That

WHEREAS, Petitioner is in the process of leasing certain real estate from the Owner situate in Attica, Washington Township, Warren County, Indiana, more particularly described in Exhibit A attached hereto and by reference made a part hereof, hereinafter for convenience and brevity referred to as the "real estate" and

WHEREAS, Petitioner has petitioned the Plan Commission for rezoning the above-described real estate from Commercial-Two (C-2) to Industrial- One (I-1), and

WHEREAS, the Plan Commission is desirous of protecting the interests of adjoining property owners to ensure that the use of the real estate as an industrial property as requested by Petitioner will not cause undue harm or hardship to the adjoining landowners or to the general public, and

WHEREAS, Petitioner is willing to enter into certain covenants and promises with



respect to the approval of the application for rezoning made by the Petitioner in order to address concerns of the Plan Commission, and

WHEREAS, the Plan Commission and Petitioner desire to reduce to writing the covenants and promises made by the Petitioner in connection with the approval of the application for rezoning made by the Petitioner,

NOW THEREFORE, it is agreed by and between the Plan Commission, Owner, and Petitioner that in consideration of the approval of the application for rezoning made by the Petitioner, Petitioner and Owner agree to accept and be bound by the following covenants upon which approval of the rezoning request is conditioned:

(1) This written commitment shall be binding upon the Petitioner and any successor in interest to the Petitioner.

(2) Petitioner's industrial use of the real estate shall be limited to **only** storing liquid propane (LP) tanks on the property as described to Plan Commission.

(3) Petitioner shall refrain from engaging in any other type of commercial or industrial activity or enterprise without prior approval of the Plan Commission, which may be obtained only after public hearing accordance with the terms and provisions of the Indiana Statutes and the Warren County Zoning Ordinance which govern rezoning requests.

(4) In the event Petitioner shall cease to store LP tanks on the real estate, or in the event Owner/Petitioner shall no longer be the title holder to the real estate, Petitioner and the

Plan Commission agree that the rezoning of the real estate to Industrial-One (I-1) shall terminate and the zoning classification of the real estate shall return to Commercial-Two (C-2).

(5) Petitioner agrees that the approval of the rezoning request for the real estate is contingent upon and conditioned upon Petitioner's continued compliance with each and every term and provision of this written commitment. Violation of the terms and provisions hereof shall entitle the Plan Commission to revoke the approval of Petitioner's rezoning request.

(6) Petitioner agrees that this written commitment shall inure to the benefit of and be obligatory upon the heirs, successors and assigns of the parties hereto, and shall be a covenant running with the real estate.

(7) Petitioner agrees that any violation of the written commitment shall constitute a violation of the Zoning Ordinance for Warren County, Indiana, and as such, shall be subject to all enforcement remedies and penalties as set forth in the Zoning Ordinance for Warren County, Indiana, and as further set forth in the Zoning Statutes of the State of Indiana as made and provided by Indiana Code 36-7-4-1 et seq.

(8) Petitioner agrees that this written commitment may be recorded in the Miscellaneous Records of the Recorder of Warren County, Indiana.

IN WITNESS WHEREOF, the parties have hereunto set their hands to triplicate copies hereof on the day and year first above written.

PETITIONER

OWNER

CERES SOLUTIONS COOPERATIVE, INC.

Howard Jones
BY: Howard Jones
ITS: Vice President, Energy

Mary D. Kincaide
Gary D. Kincaide

**AREA PLAN COMMISSION OF
WARREN COUNTY, INDIANA**

Matthew Jones
BY: _____, Acting President

ATTEST: Karen Brooks
Karen Brooks, Secretary

WARREN COUNTY COMMISSIONERS

Andy Adams

John Comer

GA

ATTEST: Brian Weston Helms
Warren County Auditor

STATE OF INDIANA)
) SS:
COUNTY OF WARREN)

Before me, a Notary Public in and for said County and State, on the ___ day of November, 2022, personally appeared _____, on behalf of Ceres Solutions Cooperative, Inc., who acknowledged the execution of the above and foregoing instrument. I have, in witness thereof, subscribed my name and affixed my official seal.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signed: _____ My Commission Expires: _____

Printed: _____, Notary Public _____

Resident of _____ County, State of _____.

STATE OF INDIANA)
) SS:
COUNTY OF WARREN)

Before me, a Notary Public in and for said County and State, on the ___ day of November, 2022, personally appeared Gary D. Kincade who acknowledged the execution of the above and foregoing instrument. I have, in witness thereof, subscribed my name and affixed my official seal.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signed: _____ My Commission Expires: _____

Printed: _____, Notary Public _____

Resident of _____ County, State of _____.

STATE OF INDIANA)
) SS:
COUNTY OF WARREN)

Before me, a Notary Public in and for said County and State, on the ___ day of November, 2022, personally appeared _____ and Karen Brooks on behalf of the Area Plan Commission of Warren County who acknowledged the execution of the above and foregoing instrument. I have, in witness thereof, subscribed my name and affixed my official seal.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signed: _____ My Commission Expires:

Printed: _____, Notary Public _____

Resident of _____ County, State of _____.

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

Ingrid J. Barce

This Instrument Prepared by:
Ingrid J. Barce, Attorney No. 35673-53
BARCE & REDLIN, P.C.
103 N. Jackson Ave., P.O. Box 252
Fowler, Indiana 47944