

COUNTY OF DELAWARE, INDIANA  
COUNTY COUNCIL

ORIGINAL

ORDINANCE NO. 2023- 013

ORDINANCE OF DELAWARE COUNTY, INDIANA, AUTHORIZING AND APPROVING  
CERTAIN ACTIONS AND DOCUMENTS IN CONNECTION WITH THE AMENDMENT  
OF THE DELAWARE COUNTY, INDIANA ECONOMIC DEVELOPMENT REVENUE  
BONDS, SERIES 2014 (MURSIX CORPORATION PROJECT)

**WHEREAS**, the County of Delaware, Indiana (the "County"), is a political subdivision of the State of Indiana and by virtue of Indiana Code §§ 36-7-11.9 and 36-7-12 (collectively, the "Act"), is authorized and empowered to adopt this ordinance (this "Ordinance") and to carry out its provisions; and

**WHEREAS**, on November 25, 2014, pursuant to the Trust Indenture, dated as of November 1, 2014 (the "Original Bond Indenture"), between the County and Old National Trust Company, as Trustee (the "Trustee"), and as provided for in Ordinance No. 2014-013 of the County, adopted on June 24, 2014 and attached hereto as Attachment A (the "Original Bond Ordinance"), the County issued its Delaware County, Indiana Economic Development Revenue Bonds, Series 2014 (Mursix Corporation Project) in an original principal amount of \$4,220,000 (the "Bonds") and lent the proceeds of the Bonds to Mursix Corporation (the "Borrower") pursuant to a Loan Agreement, dated as of November 1, 2014 (the "Loan Agreement") between the County and the Borrower; and

**WHEREAS**, the Bonds were purchased by Old National Bank (the "Purchaser") pursuant to the Bond Purchase Agreement dated November 25, 2014 (the "Original Bond Purchase Agreement") among the County, the Borrower and the Purchaser; and

**WHEREAS**, the Bonds bear interest at the Tax-Exempt Interest Rate (as defined in the Original Bond Purchase Agreement) which uses an interest rate based on the London Interbank Offered Rate ("LIBOR"), a recognized global reference rate; and

**WHEREAS**, the ICE Benchmark Administration (IBA) has stated it intends to cease publication of LIBOR after June 30, 2023; and

**WHEREAS**, in anticipation of LIBOR's retirement, the Purchaser and the Borrower have agreed to certain amendatory language to the Original Bond Indenture and the Original Bond Purchase Agreement to provide for a new index upon which the interest rate for the Bonds will be calculated; and

**WHEREAS**, Section 9.2 of the Original Bond Indenture provides that the terms and provisions of the Bonds and the Original Bond Indenture may be modified or altered in any respect with the consent of the Borrower, the County, the Trustee and the Bondholders of all of the Bonds then outstanding; and

**WHEREAS**, the County and the Trustee desire to amend the Original Bond Indenture, with the consent of the Borrower and the Purchaser (as the Holder of 100% of the Bonds

outstanding) pursuant to the First Supplemental Trust Indenture (the "First Supplemental Indenture"), a form of which is attached hereto as Attachment B, to memorialize the mechanics for replacing LIBOR upon its retirement; and

**WHEREAS**, Section 8.12 of the Original Bond Purchase Agreement provides that the terms and provisions of the Original Bond Purchase Agreement may be modified or altered by the parties thereto; and

**WHEREAS**, the County, the Borrower and the Purchaser desire to amend the Original Bond Purchase Agreement, pursuant to the Amendment No. 1 to the Bond Purchase Agreement (the "First Amendment to BPA"), a form of which is attached hereto as Attachment C, to further memorialize the mechanics for replacing LIBOR upon its retirement;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF DELAWARE COUNTY, INDIANA, THAT:**

Section 1. Terms of the Bonds. The terms of the Bonds shall remain as provided for in the Original Bond Ordinance.

Section 2. Execution and Delivery of the First Supplemental Indenture and the First Amendment to BPA. The Board of Commissioners and the Auditor of the County are hereby authorized and directed, in the name and on behalf of the County, to execute or endorse and deliver the First Supplemental Indenture and the First Amendment to BPA, substantially in the forms submitted to the County Council, which are hereby approved in all respects.

Section 3. Changes in Financing Agreements. The Board of Commissioners and the Auditor of the County are hereby authorized, in the name and on behalf of the County, without further approval of the County Council, to approve such changes in the Financing Agreements (as defined in the Original Bond Ordinance) as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 4. General. The Board of Commissioners and the Auditor of the County, are hereby authorized and directed, in the name and on behalf of the County, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Ordinance (including the preambles hereto and the documents mentioned herein) and the securing of the Bonds, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 5. Binding Effect. The provisions of this Ordinance shall constitute a binding contract between the County and the holders of the Bonds, and this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 6. Reaffirmation of Original Bond Ordinance. All parts of the Original Bond Ordinance not modified by this Ordinance shall remain in full force and effect.

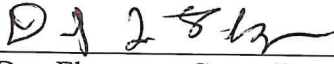
Section 7.      Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8.      Effective Date. This Ordinance shall be in full force and effect from and after its passage.

Section 9.      Copies of First Supplemental Indenture and First Amendment to BPA on File. Two copies of the First Supplemental Indenture and the First Amendment to BPA incorporated into this Ordinance were duly filed in the office of the Auditor of the County and are available for public inspection in accordance with Ind. Code § 36-1-5-4.

**Signature Page Follows**


Passed and adopted by the County Council of Delaware County, Indiana this 28th day of March, 2023.

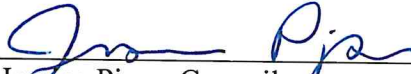
  
\_\_\_\_\_  
Dan Flanagan, Councilman


  
\_\_\_\_\_  
William Hughes, Councilman

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Matt Kantz, Councilman

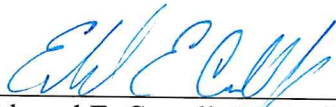
\_\_\_\_\_  
Jane Lasater, Councilwoman

  
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Eugene Whitehead, Councilman

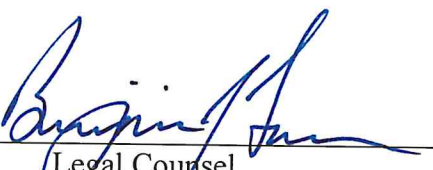
  
\_\_\_\_\_  
Jessica Piper, Councilwoman

  
\_\_\_\_\_  
Ryan Webb, Councilman

Attest:

  
\_\_\_\_\_  
Edward E. Carroll, Jr., Auditor

This Ordinance is approved in form by

  
\_\_\_\_\_  
Legal Counsel

ATTACHMENT A

BOND ORDINANCE NO. 2014-013

ATTACHMENT B

FIRST SUPPLEMENTAL BOND INDENTURE

ATTACHMENT C

AMENDMENT NO. 1 TO BOND PURCHASE AGREEMENT

\_\_\_\_\_, 2023

Delaware County, Indiana  
Muncie, Indiana

Old National Bank  
Muncie, Indiana

Mursix Corporation  
Muncie, Indiana

Old National Trust Company  
Evansville, Indiana

Re: Delaware County, Indiana Economic Development Revenue Bonds, Series 2014  
(Mursix Corporation Project) (the "Bonds")

Ladies and Gentlemen:

We have examined an executed copy of the First Supplemental Trust Indenture, dated as of [March 1, 2023] (the "First Supplement"), which supplements and amends the Trust Indenture dated as of November 1, 2014 (the "Original Indenture" and, together with the First Supplement, the "Indenture"), between Delaware County, Indiana (the "Issuer") and Old National Trust Company, as trustee (the "Trustee")

The opinion expressed herein is based on an analysis of existing laws, regulations, rulings and court decisions, covers certain matters not directly addressed by such authorities and speaks only as of the date hereof. Capitalized terms used but not defined herein shall have the meanings set forth in the Indenture.

Based on the foregoing and our review of such other information, papers and documents as we believe necessary or advisable, we are of the opinion that the First Supplement will not, in and of itself, adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

We express no opinion with respect to the laws of any jurisdiction other than the internal laws of the State of Indiana and the law of the United States of America. Our opinion is based upon such laws as are in effect on the date of this opinion letter, and we expressly disclaim any undertaking to advise you of any subsequent changes in law.

Except as set forth in the third grammatical paragraph of this letter, we express no opinion as to whether interest on the Bonds remains excluded from gross income for federal income tax purposes. We note that the continuing compliance, which we have not independently verified, by the Issuer and the Borrower with all requirements, covenants and agreements in the documents pursuant to which the Bonds were issued and certain other financing and tax compliance documents entered into in connection with the issuance and delivery of the Bonds, and the accuracy, which we have not independently verified, of all certifications, representations and warranties of the Issuer and the Borrower in such financing and tax compliance documents, may be necessary for the interest on the Bonds to be and to remain excluded from gross income for federal income tax purposes. Failure to comply with certain requirements could cause the interest on the Bonds to be included in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds.

Our opinion is limited to the date hereof and we do not undertake to advise the addressees of any facts or circumstances occurring or coming to our attention subsequent to the date hereof. This opinion is given solely for the use and benefit of the addressees hereof and no other persons shall be entitled to rely upon this letter for any reason whatsoever.

Respectfully submitted,

**ORIGINAL**

**FIRST SUPPLEMENTAL  
TRUST INDENTURE**

**Dated as of [March 1, 2023]**

**between**

**COUNTY OF DELAWARE, INDIANA**

**and**

**OLD NATIONAL TRUST COMPANY,  
as Trustee**

**Supplementing and amending the Trust Indenture dated as of November 1, 2014**

**\$4,220,000**

**County of Delaware, Indiana  
Economic Development Revenue Bonds, Series 2014  
(Mursix Corporation Project)**

THIS FIRST SUPPLEMENTAL TRUST INDENTURE made and entered into as of [March 1, 2023] (this "First Supplement"), is by and between the COUNTY OF DELAWARE, INDIANA, a political subdivision of the State of Indiana (the "Issuer") and OLD NATIONAL TRUST COMPANY, a national banking association duly established, existing and authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the United States of America, as trustee (the "Trustee"); terms used herein and not otherwise defined herein shall have the meanings as set forth in the hereinafter defined Original Bond Indenture.

**WITNESSETH:**

WHEREAS, the Issuer and the Trustee have entered into a Trust Indenture dated as of November 1, 2014 (the "Original Bond Indenture" and, together with this First Supplement, the "Indenture"), pursuant to which the Issuer issued its Economic Development Revenue Bonds, Series 2014 (Mursix Corporation Project) (the "Bonds") in the original aggregate principal amount of \$4,220,000 for the benefit of Mursix Corporation, an Indiana corporation (the "Borrower"); and

WHEREAS, the Borrower, the Issuer and the Old National Bank, as the original purchaser of the Bonds (the "Purchaser") entered into a certain Bond Purchase Agreement dated November 25, 2014 (the "Original Bond Purchase Agreement") in connection with the issuance of the Bonds; and

WHEREAS, the Bonds are currently held by the Purchaser; and

WHEREAS, the Bonds bear interest at the Tax-Exempt Interest Rate, which uses the London Interbank Offered Rate ("LIBOR"), a recognized global reference rate; and

WHEREAS, the ICE Benchmark Administration (IBA) has stated it intends to cease publication of LIBOR after June 30, 2023; and

WHEREAS, in anticipation of LIBOR's retirement, the Purchaser and the Borrower have agreed to certain amendatory language to the Original Indenture to provide for a new index upon which the interest rate for the Bonds will be calculated; and

WHEREAS, pursuant to Section 9.2 of the Original Bond Indenture, the Issuer and the Trustee may enter into amendments to the Original Bond Indenture with the consent of the Borrower, the Issuer, the Trustee and the Holders of all the Bonds then Outstanding;

WHEREAS, in accordance with Section 9.2 of the Original Bond Indenture, the Purchaser has consented in writing to the terms of this First Supplement; and

WHEREAS, concurrently with the execution and delivery of this First Supplement, the Borrower, the Issuer and the Purchaser will execute and deliver Amendment No. 1 to the Bond Purchase Agreement (the "First Amendment" and, together with the Original Bond Purchase Agreement, the "Purchase Agreement");

NOW, THEREFORE, that in order to secure the performance and observance of all the covenants and conditions herein set forth, and in consideration of the premises and of the mutual covenants herein contained, and for other valuable consideration, the receipt of which is hereby

acknowledged, the Issuer does hereby covenant and agree with the Trustee, for the benefit of the respective holders from time to time of the Bonds, as follows:

Section 1. Definitions. Unless otherwise defined in this First Supplement, all terms used herein shall have the meanings assigned to such terms in the Original Bond Indenture.

Section 2. Amendment of Section 1.1 of the Original Bond Indenture. The following defined terms shall be added to Section 1.1 of the Original Bond Indenture:

*"Adjusted Daily Simple SOFR"* means Daily Simple SOFR plus 0.11448%.

*"Benchmark"* means, as of the Effective Date, the Daily Simple SOFR Reference Rate; provided, that if a replacement of the Benchmark has occurred pursuant to Section 2.10 hereof, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate.

*"Benchmark Replacement"* means, with respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by the Purchaser:

- (a) Replacement SOFR; or
- (b) the sum of: (i) the alternate benchmark rate and (ii) the adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Purchaser as the replacement for the then-current Benchmark giving due consideration to (x) any selection or recommendation by the Relevant Governmental Body or (y) any evolving or then-prevailing market convention for determining an alternate benchmark rate or adjustment (or method for calculating or determining such adjustment) for the replacement of the then-current Benchmark for Dollar-denominated credit facilities.

If the Benchmark Replacement as determined pursuant to clause (a) or (b) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Indenture and the Loan Documents. Prior to the effective date of any Benchmark Replacement as determined pursuant to clause (a) or (b) above, the Issuer, the Trustee and the Purchaser shall have received a Favorable Opinion of Bond Counsel. If the Issuer, the Trustee and the Purchaser do not receive such Favorable Opinion of Bond Counsel prior to the effectiveness of the Benchmark Replacement, the Bonds will bear interest at a rate per annum equal to the [Prime Rate].

*"Benchmark Transition Event"* means (a) the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark, the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, announcing or stating that (i) such administrator has ceased or will cease on a specified date to provide such Benchmark, permanently or indefinitely, provided, that at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark or (ii) such Benchmark is not, or as of a specified future date will not be, representative or (b) the Purchaser reasonably determines that any law, rule or regulation has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Purchaser to make, maintain or purchase bonds whose interest is determined by reference to the then-current Benchmark or to determine or charge interest rates based upon the then-current Benchmark.

*"Bond Counsel"* means Ice Miller LLP or any other attorney at law or firm of attorneys selected by the Issuer and reasonably acceptable to the Trustee and the Borrower of nationally recognized standing in matters pertaining to the validity of and the tax-exempt nature of interest on bonds issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America.

*"Conforming Changes"* means, with respect to either (i) the use or administration of Daily Simple SOFR or (ii) the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or conforming changes (including changes to the definition of "Business Day," the definition of "U.S. Government Securities Business Day", timing and frequency of determining rates, timing of borrowing requests or other notices, the applicability and length of lookback periods, and other technical, administrative or conforming matters) that the Purchaser reasonably determines are consistent with industry standards and appropriate to reflect the adoption and implementation of any such rate and to permit the administration thereof by the Purchaser.

*"Daily Simple SOFR"* means, with respect to any Interest Period, the SOFR Reference Rate for a tenor comparable to such Interest Period on the day (such day, the *"Daily Simple SOFR Determination Day"*) that is [five (5)] U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any

Daily Simple SOFR Determination Day the Daily Simple SOFR Reference Rate has not been published by the SOFR Administrator, then Daily Simple SOFR will be the Daily Simple SOFR Reference Rate as published by the SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such SOFR Reference Rate for such tenor was published by the SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than [six (6)] U.S. Government Securities Business Days prior to such Daily Simple SOFR Determination Day; provided, further, that if Daily Simple SOFR as so determined (including pursuant to the foregoing proviso) shall be less than the Floor, then Daily Simple SOFR shall be deemed to be the Floor for the purposes of the Indenture and the Loan Documents.

*"Daily Simple SOFR Reference Rate"* means the forward-looking term rate based on SOFR.

*"Effective Date"* means August 1, 2023, which is the date on which the index used to determine the Tax-Exempt Interest Rate is converted from the LIBOR Rate to the Daily Simple SOFR Reference Rate.

*"Favorable Opinion of Bond Counsel"* means, with respect to any action relating to the Bonds, the occurrence of which requires such an opinion, a written legal opinion of Bond Counsel addressed to the Issuer, the Trustee, the Borrower, and the Purchaser, to the effect that such action is permitted under this Indenture and will not impair the exclusion of interest on the Bonds from gross income for purposes of federal income taxation (subject to customary exceptions).

*"Floor"* means a rate of interest equal to 0.00%.

*"Interest Period"* means commencing on the Effective Date, each U.S. Government Securities Business Day to but not including the next succeeding U.S. Government Securities Business Day.

*"Loan Documents"* has the meaning as ascribed thereto in the Bond Purchase Agreement.

*"Prime Rate"* means the rate of interest publicly announced from time to time by the Purchaser as its "prime rate", which rate may not be the lowest or most favorable rate then being charged commercial borrowers or others by the Purchaser. Any change in the Prime Rate announced by the Purchaser shall take effect at the opening of business on the day specified in the public announcement of such change. Notwithstanding the foregoing, if the Prime Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Indenture.

*"Relevant Governmental Body"* means the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.

*"Replacement SOFR"* means SOFR, with the accrual methodology and other conventions for such rate being established by the Purchaser in its reasonable discretion; provided, further, that if Replacement SOFR shall be less than the Floor, then Replacement SOFR shall be deemed to be the Floor for the purposes of this Indenture and the other Loan Documents.

*"SOFR"* means a per annum rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

*"SOFR Administrator"* means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

*"Tax-Exempt Interest Rate"* means (i) from the Closing Date through and including June 30, 2023, a variable rate of interest, adjusted on each Interest Rate Adjustment Date, equal to  $(65\% \times \text{LIBOR Rate}) + 2.80\%$ , and (ii) commencing on the Effective Date and thereafter, a variable rate of interest, adjusted on each Interest Rate Adjustment Date, equal to  $(65\% \times \text{Adjusted Daily Simple SOFR Index Rate}) + 2.80\%$ .

*"Taxable Rate"* means, commencing on the date of Determination of Taxability, (i) from the Closing Date through and including June 30, 2023, a variable rate of interest, adjusted each Interest Rate Adjustment Date, equal to  $\text{LIBOR Rate} + 4.10\%$ , and (ii) from the Effective Date and thereafter, a variable rate of interest, adjusted each Interest Rate Adjustment Date, equal to  $\text{Adjusted Daily Simple SOFR Index Rate} + 4.10\%$ .

*"U.S. Government Securities Business Day"* means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

Section 3. Addition of Sections 2.10 and 2.11 to the Original Indenture. Sections 2.10 and Section 2.11 are hereby added at the end of Article II in the Original Indenture and read as follows:

*Section 2.10. Notice of Transition to Daily Simple SOFR Rate.* Commencing on the Effective Date, the index used to determine the Tax-

Exempt Interest Rate will be converted from LIBOR to the Daily Simple SOFR Reference Rate as provided herein.

*Section 2.11. Benchmark Replacement.* Notwithstanding anything to the contrary herein or in the Loan Documents:

- (a) *Benchmark Transition Event.* Following the occurrence of a Benchmark Transition Event, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and the other Loan Documents on such date as may be determined by the Purchaser, without any amendment to, or further action or consent of any other party to, this Indenture or the other Loan Documents.
- (b) *Benchmark Replacement Conforming Changes.* In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Purchaser will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in the other Loan Documents, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Indenture or the other Loan Documents.
- (c) *Notices; Standards for Decisions and Determinations.* The Purchaser will promptly notify the Issuer, the Borrower and the Trustee of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. In the event that any Conforming Changes entail changes to interest rates or payments, or that reasonably could be determined to be other than technical, administrative or conforming in nature, the Purchaser shall provide notice of the conforming changes to the Issuer, the Borrower and the Trustee together with notice that the changes will become effective on the fifteenth day (unless each such party agrees to a shorter period of time) from the date of the delivery of the notice if no objection is received from either the Issuer or the Borrower within such fifteen-day period (or such shorter period of time agreed to by the parties). Any other determination, decision or election that may be made by the Purchaser pursuant to this Section 2.12, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or selection, will be conclusive and binding absent manifest

error and may be made in its sole discretion and without consent from any other party hereto. The Trustee shall promptly provide a copy of any notice given pursuant to this Section 2.12 to Bond Counsel.

- (d) Prior to the effective date of any alternative benchmark rate, index or methodology, the Issuer, the Trustee and the Purchaser shall have received a Favorable Opinion of Bond Counsel. Notwithstanding the foregoing, if, in connection with any replacement of the then-current Benchmark with the Benchmark Replacement or any other amendments made in connection therewith, the Issuer, the Trustee and the Purchaser do not receive such Favorable Opinion of Bond Counsel prior to the effectiveness of such replacement or any such other amendments, the Bonds will bear interest at a rate per annum equal to the [Prime Rate].

Section 4. Amendment of Exhibit A of the Original Bond Indenture.

(a) The definitions of "Tax-Exempt Interest Rate" and "Taxable Rate" as set forth on page A-1 within the form of Bond in Exhibit A to the Indenture shall be amended and restated in its entirety with the following:

"Tax-Exempt Interest Rate" means (i) from the Closing Date through and including June 30, 2023, a variable rate of interest, adjusted on each Interest Rate Adjustment Date, equal to  $(65\% \times \text{LIBOR Rate}) + 2.80\%$ , and (ii) commencing on the Effective Date and thereafter, a variable rate of interest, adjusted on each Interest Rate Adjustment Date, equal to  $(65\% \times \text{Adjusted Daily Simple SOFR Index Rate}) + 2.80\%$ .

"Taxable Rate" means, commencing on the date of Determination of Taxability, (i) from the Closing Date through and including June 30, 2023, a variable rate of interest, adjusted each Interest Rate Adjustment Date, equal to  $\text{LIBOR Rate} + 4.10\%$ , and (ii) from the Effective Date and thereafter, a variable rate of interest, adjusted each Interest Rate Adjustment Date, equal to  $\text{Adjusted Daily Simple SOFR Index Rate} + 4.10\%$ .

(b) Despite the modifications to the form of Bond as described above, a replacement bond will not be created, executed and authenticated to replace the original Bond, which is currently held by the Purchaser, and the Purchaser has agreed to no replacement being required.

Section 5. Ratification of Original Bond Indenture. As supplemented hereby, the Original Bond Indenture is in all respects ratified and confirmed and the Original Bond Indenture as so supplemented hereby shall be read, taken and construed as one and the same instrument.

Section 6. Counterparts. This First Supplement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

Section 7. Severability. If any provision of this First Supplement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 8. Effective Date of this First Supplement. Although this First Supplement is dated as of [March 1, 2023], this First Supplement shall be effective on the closing date of [March \_\_\_, 2023].

Section 9. Governing Law. This First Supplement shall be governed by and construed in accordance with the laws of the State of Indiana.

[The remainder of this page intentionally left blank; signature pages follow.]

IN WITNESS WHEREOF, Delaware County, Indiana, has caused this First Supplement to be executed in its name and on its behalf by the Board of County Commissioners and its corporate seal to be hereunto affixed and attested by its Auditor, and the Trustee has caused this First Supplement to be signed in its name and on its behalf by its duly authorized officer, all as of the day and year first written above.

DELAWARE COUNTY, INDIANA

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

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

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

ATTEST:

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

OLD NATIONAL TRUST COMPANY, as Trustee

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Signature page to  
First Supplemental Trust Indenture – County of Delaware, Indiana  
Economic Development Revenue Bonds, Series 2014  
Series 2014 Bonds (Mursix Corporation Project)*

ACKNOWLEDGMENT AND CONSENT  
TO FIRST SUPPLEMENT

Old National Bank, holder of 100% of the Bonds, hereby: (i) acknowledges receipt of the foregoing First Supplement; (ii) consents to the amendments to the Original Bond Indenture contained therein; (iii) consents to the execution and delivery of the First Supplement; (iv) waives any additional notice of execution and delivery of the First Supplement it may be entitled to pursuant to the Original Bond Indenture; and (v) waives any and all other requirements contained in the Original Bond Indenture, the Loan Agreement, or the Bonds which are conditions precedent or required prior to: (a) the execution and delivery of First Supplement; and (b) the effectiveness of the terms and conditions set forth therein.

In addition, the undersigned authorized representative of Old National Bank certifies as follows: no changes made by First Supplement to the amount or timing of any payment under the Indenture are: (i) intended to induce any party to consent to the First Supplement; (ii) intended to compensate any party for any modification to the Indenture not described in the First Supplement; (iii) concessions granted to the Borrower because of any financial difficulty experienced by the Borrower, or concessions secured by First Supplement to account for any credit deterioration of the Borrower; or (iv) intended to compensate any party for any change in rights or obligations not derived from the Original Bond Indenture.

Dated: \_\_\_\_\_, 2023

OLD NATIONAL BANK

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

Printed: \_\_\_\_\_

Its: \_\_\_\_\_

ACKNOWLEDGMENT AND CONSENT  
TO FIRST SUPPLEMENT

Mursix Corporation hereby: (i) acknowledges receipt of the foregoing First Supplement; (ii) consents to the amendments to the Original Bond Indenture contained therein; (iii) consents to the execution and delivery of the First Supplement; (iv) waives any additional notice it may be entitled to pursuant to the Original Bond Indenture; and (v) waives any and all other requirements contained in the Original Bond Indenture, the Loan Agreement, or the Bonds which are conditions precedent or required prior to: (a) the execution and delivery of First Supplement; and (b) the effectiveness of the terms and conditions set forth therein.

Dated: \_\_\_\_\_, 2023

MURSIX CORPORATION

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

Printed: \_\_\_\_\_

Its: \_\_\_\_\_

**ORIGINAL**

**AMENDMENT NO. 1**

Dated [March \_\_, 2023]

to

**BOND PURCHASE AGREEMENT**

dated as of November 25, 2014

among

MURSIX CORPORATION,  
as Borrower,

and

DELAWARE COUNTY, INDIANA,  
as Issuer,

and

OLD NATIONAL BANK,  
as Original Purchaser,

Relating to

Delaware County, Indiana Economic Development Revenue  
Bonds, Series 2014 (Mursix Corporation Project)

## **AMENDMENT NO. 1 TO BOND PURCHASE AGREEMENT**

**AMENDMENT NO. 1 TO BOND PURCHASE AGREEMENT** (this "First Amendment"), dated [March \_\_\_\_, 2023] among Old National Bank (the "Original Purchaser"), Delaware County, Indiana, a county and political subdivision of the State of Indiana, as issuer (the "Issuer"), and Mursix Corporation, an Indiana corporation, as borrower (the "Borrower"); terms used herein and not otherwise defined herein shall have the meanings as set forth in the hereinafter defined Original Bond Purchase Agreement.

### **RECITALS**

WHEREAS, the Issuer and Old National Trust Company, as trustee (the "Trustee") have entered into a Trust Indenture dated as of November 1, 2014 (the "Original Bond Indenture"), pursuant to which the Issuer issued its Economic Development Revenue Bonds, Series 2014 (Mursix Corporation Project) (the "Bonds") in the original aggregate principal amount of \$4,220,000 for the benefit of Borrower; and

WHEREAS, the Borrower, the Issuer and the Original Purchaser entered into a certain Bond Purchase Agreement dated November 25, 2014 (the "Original Bond Purchase Agreement" and, together with this First Amendment, the "Purchase Agreement") in connection with the issuance of the Bonds; and

WHEREAS, the Bonds bear interest at the Tax-Exempt Interest Rate, which uses the London Interbank Offered Rate ("LIBOR"), a recognized global reference rate; and

WHEREAS, the ICE Benchmark Administration (IBA) has stated it intends to cease publication of LIBOR after June 30, 2023; and

WHEREAS, in anticipation of LIBOR's retirement, the Original Purchaser and the Borrower have agreed to certain amendatory language to the Original Indenture to provide for a new index upon which the interest rate for the Bonds will be calculated; and

WHEREAS, pursuant to Section 8.12 of the Original Bond Purchase Agreement, the Borrower and the Bank have agreed to certain amendments to the Original Bond Purchase Agreement, all on the terms and conditions set forth herein; and

WHEREAS, concurrently with the execution and delivery of this First Amendment, the Issuer and Trustee will execute and deliver the First Supplemental Trust Indenture dated as of [March 1, 2023] (the "First Supplement" and, together with the Original Bond Indenture, the "Indenture") in order to amend certain provisions of the Original Bond Indenture to provide for a new index upon which the interest rate for the Bonds will be calculated;

**NOW, THEREFORE**, in consideration of the agreements and provisions contained herein, the parties hereto hereby agree as follows:

**Article 1. Definitions.** Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Original Bond Purchase Agreement.

**Article 2. Amendments to Original Bond Purchase Agreement.**

Section 2.01 Replacement of Certain Definitions. The following definitions in Section 1.1 of the Original Bond Purchase Agreement are hereby deleted in their entirety and the following are substituted therefor:

**"Business Day"** means any day other than (a) a Saturday or Sunday or (b) a day on which the Trustee or the Original Purchaser are required or authorized to be closed or (c) a day on which The New York Stock Exchange is closed or the payment system of the Federal Reserve is not in operation; provided that, when used in connection with interest at a rate based on SOFR, or any other calculation or determination involving SOFR, the term "Business Day" means a U.S. Government Securities Business Day.

**"Interest Rate Adjustment Date"** means (i) when the LIBOR Rate is being used to calculate the Tax-Exempt Interest Rate on the Bonds, (a) the Closing Date and thereafter, the first day of each month through and including June 1, 2023, and (b) June 30, 2023, and (ii) commencing on the Effective Date, each Daily Simple SOFR Determination Day until payment in full of the Bonds.

**"Tax-Exempt Interest Rate"** means (i) from the Closing Date through and including June 30, 2023, a variable rate of interest, adjusted on each Interest Rate Adjustment Date, equal to  $(65\% \times \text{LIBOR Rate}) + 2.80\%$ , and (ii) commencing on the Effective Date and thereafter, a variable rate of interest, adjusted on each Interest Rate Adjustment Date, equal to  $(65\% \times \text{Adjusted Daily Simple SOFR Index Rate}) + 2.80\%$ .

**"Taxable Rate"** means, commencing on the date of Determination of Taxability, (i) from the Closing Date through and including June 30, 2023, a variable rate of interest, adjusted each Interest Rate Adjustment Date, equal to  $\text{LIBOR Rate} + 4.10\%$ , and (ii) from the Effective Date and thereafter, a variable rate of interest, adjusted each Interest Rate Adjustment Date, equal to  $\text{Adjusted Daily Simple SOFR Index Rate} + 4.10\%$ .

Section 2.02 Addition of New Definitions. The following definitions are hereby added to Section 1.1 of the Original Bond Purchase Agreement:

**"Adjusted Daily Simple SOFR"** means Daily Simple SOFR plus 0.11448%.

**"Daily Simple SOFR"** means, with respect to any Interest Period, the SOFR Reference Rate for a tenor comparable to such Interest Period on the day (such day, the "Daily Simple SOFR Determination Day") that is [five (5)] U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Daily Simple SOFR Determination Day the Daily Simple SOFR Reference Rate has not been published by the SOFR Administrator, then Daily Simple SOFR will be the Daily Simple SOFR Reference Rate as published by the SOFR Administrator on the first

preceding U.S. Government Securities Business Day for which such SOFR Reference Rate for such tenor was published by the SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than [six (6)] U.S. Government Securities Business Days prior to such Daily Simple SOFR Determination Day; provided, further, that if Daily Simple SOFR as so determined (including pursuant to the foregoing proviso) shall be less than the Floor, then Daily Simple SOFR shall be deemed to be the Floor for the purposes of the Indenture and the Loan Documents.

**"Daily Simple SOFR Determination Day"** has the meaning as ascribed thereto within the definition of "Daily Simple SOFR".

**"Daily Simple SOFR Reference Rate"** means the forward-looking term rate based on SOFR.

**"Effective Date"** means August 1, 2023, which is the date on which the index used to determine the Tax-Exempt Interest Rate is converted from the LIBOR Rate to the Daily Simple SOFR Reference Rate.

**"Interest Period"** means commencing on the Effective Date, each U.S. Government Securities Business Day to but not including the next succeeding U.S. Government Securities Business Day.

**"SOFR"** means a per annum rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

**"SOFR Administrator"** means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

**"U.S. Government Securities Business Day"** means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

### **Article 3. Representations and Warranties.**

Section 3.01 Borrower Representations. The Borrower represents and warrants to the Original Purchaser that that no Event of Default or circumstance that, with notice or the passage of time, would constitute an Event of Default has occurred that has not been cured to the satisfaction of the Original Purchaser or waived by the Original Purchaser in accordance with the Original Bond Purchase Agreement.

Section 3.02 Accreditation of Original Purchaser. The Original Purchaser hereby represents to the Issuer that, as of the date of this First Amendment and as of the Effective Date, is and will be an "accredited investor" that is a "bank" within the meaning of the 1933 Act (as defined in Section 2.2.1 of the Original Bond Purchase Agreement) or a "qualified institutional buyer" within the meaning of Rule 144A(a)(1) promulgated by the Securities and Exchange

Commission pursuant to the 1933 Act.

**Article 4. Conditions Precedent.**

Section 4.01 This First Amendment shall be deemed effective as of the date hereof and as of the Effective Date upon the satisfaction or waiver by the Original Purchaser in writing of all of the following conditions:

- (a) First Amendment. This First Amendment shall have been executed by the parties hereto.
- (b) Opinion. Receipt by the Purchaser of opinion of Bond Counsel in form and substance satisfactory to the Purchaser.
- (c) Fees and Expenses. The Borrower shall have paid the fees and expenses of the Original Purchaser's and/or the Issuer's counsel in connection with the preparation and consummation of this First Amendment.

**Article 5. Miscellaneous.**

Section 5.01 Effect. Except as specifically amended hereby, the Original Bond Purchase Agreement shall remain in full force and effect in accordance with its terms and is hereby ratified and confirmed in all respects.

Section 5.02 No Waiver. The execution, delivery and effectiveness of this First Amendment shall not operate as a waiver of any right, power or remedy of the Original Purchaser under the Original Bond Purchase Agreement, nor constitute a waiver of any provision of the Original Bond Purchase Agreement, except as specifically set forth herein.

Section 5.03 Headings. The captions or headings in this First Amendment are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of this First Amendment.

Section 5.04 Governing Law. This First Amendment shall be governed by and construed in accordance with the laws of the State of Indiana (but giving effect to federal laws applicable to national banks), notwithstanding the fact that Indiana conflict of law rules might otherwise require the substantive rules of law of another jurisdiction to apply.

Section 5.05 Counterparts. This First Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument, and any of the parties hereto may execute this First Amendment by signing any such counterpart.

[The remainder of this page intentionally left blank; signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment in their respective corporate names by their duly authorized officers, all as of the date first written above.

DELAWARE COUNTY, INDIANA

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

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

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

ATTEST:

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

OLD NATIONAL BANK, as Trustee

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Signature page to  
First Supplemental Trust Indenture – County of Delaware, Indiana  
Economic Development Revenue Bonds, Series 2014  
Series 2014 Bonds (Mursix Corporation Project)*

MURSIX CORPORATION

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

Printed: \_\_\_\_\_

Title: \_\_\_\_\_