

**\$6,660,000**  
**City of La Crosse, Wisconsin**  
**Industrial Development Revenue Bonds, Series 2017**  
**(DuraTech Industries, Inc. Project)**

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**SECOND AMENDMENT TO BOND AGREEMENT**

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This Second Amendment to Bond Agreement (the “Amendment”) is dated April 14, 2023 and made effective as of April 15, 2023 by and among the CITY OF LA CROSSE, WISCONSIN (the “Issuer”), COMMERCIAL PROPERTIES PARTNERS, LLC, a Wisconsin limited liability company (“CPP”), DURATECH INDUSTRIES, INC., a Wisconsin corporation (“DuraTech” and collectively with CPP, the “Borrower”), BMO HARRIS BANK N.A., as trustee (the “Trustee”), and BMO HARRIS BANK N.A., as purchaser (the “Original Purchaser”), in conjunction with the \$6,660,000 City of La Crosse, Wisconsin Industrial Development Revenue Bonds, Series 2017 (DuraTech Industries, Inc. Project) (the “Bonds”).

RECITATIONS:

WHEREAS, the Bonds were issued on April 7, 2017 pursuant to a Bond Agreement dated as of April 1, 2017, and reissued and amended pursuant to a First Amendment to Bond Agreement dated September 18, 2017, by and among the Issuer, the Borrower, the Original Purchaser, and the Trustee (as amended, the “Bond Agreement”);

WHEREAS, the Original Purchaser is the owner of 100% of the Bonds, and the outstanding principal balance as of the date of this Amendment is [\$\_\_\_\_\_];

WHEREAS, the Borrower and the Original Purchaser have agreed to modify the interest rate provisions of the Bond Agreement and the Bonds;

WHEREAS, to give effect to such modifications, the Borrower and the Original Purchaser have requested that the Issuer amend the Bond Agreement and amend its \$6,660,000 Industrial Development Revenue Bonds, Series 2017 (DuraTech Industries, Inc. Project) (the “Amended Bonds”); and

WHEREAS, Section 10.02 of the Bond Agreement provides that the Bond Agreement may be amended with the consent of the Borrower and approved by requisite consent of the bondowners, and the Borrower and the Original Purchaser (as the sole bondowner under the Bond Agreement) have given such consent as evidenced by their respective signatures to this Amendment.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Issuer, the Borrower, the Original Purchaser and the Trustee hereby amend the Bond Agreement as follows:

**1. Amendment to Section 2.03 of Bond Agreement.** Effective as of April 15, 2023, Section 2.03 of the Bond Agreement shall be replaced in its entirety as follows:

“Section 2.03 – Interest on the Bonds.

(a) Commencing on April 15, 2023 through December 31, 2027, the Bonds shall bear interest at a variable rate, adjusted monthly, calculated pursuant to the following formula:

(One-Month Term SOFR Rate x Tax-Exempt Multiplier) + Credit Spread + Credit Spread Adjustment

Initial interest rate on April 15, 2023: ([\_\_\_%] x 83%) + 1.66% + 0.05% = [\_\_\_%]

(b) Commencing on January 1, 2028 through April 1, 2047, the Bonds shall bear interest at a rate selected by the Borrower with the consent of the Original Purchaser for the applicable Reset Period, which shall be reset on each Reset Date thereafter for such Reset Period, equal to:

(i) A variable rate equal to:

(One-Month Term SOFR Rate x Tax-Exempt Multiplier) + Credit Spread [**+** any applicable Credit Spread Adjustment]

- OR -

(ii) A fixed rate for a period of three (3) years, five (5) years, seven (7) years, or ten (10) years, as selected by the Borrower, with the consent of the Original Purchaser, which shall be reset on each Reset Date, calculated pursuant to the following formula:

(Term SOFR Rate x Tax-Exempt Multiplier) + Credit Spread [**+** any applicable Credit Spread Adjustment]

The Borrower shall have the option to convert from a variable rate to a fixed rate, for the remainder of such Reset Period, equal to the rate determined according to the above fixed rate formula as selected by the Borrower in writing and accepted by the Original Purchaser.

The Bonds, if bearing interest at the variable rate, shall bear interest at the rate determined according to the above variable rate formula, adjusted monthly, during such Reset Period.

The Bonds, if bearing interest at the fixed rate, shall bear interest at the rate determined according to the above fixed rate formula as selected by the Borrower in writing and accepted by the Original Purchaser and delivered to the Trustee not less than thirty (30) days prior to the next succeeding Reset Date (provided that if no election is made by the Borrower during such notice period, then the Borrower shall be deemed to have made an election at the variable rate), which election shall be irrevocable, for such Reset Period for the duration of such Reset Period. Such fixed rate shall be

determined not less than two (2) Business Days nor more than three (3) Business Days prior to the end of the applicable Reset Period. Notwithstanding the foregoing, the interest rate on the Bonds shall never exceed the Maximum Rate.

(c) The following definitions are applicable to the foregoing formulas and to the remainder of this Section 2.03 and Section 2.08:

(i) “Benchmark” means initially, if a variable rate is selected, One-Month Term SOFR Rate, and if a fixed rate is selected, the Term SOFR Rate; *provided* that if a Benchmark Transition Event has occurred with respect to the One-Month Term SOFR Rate, the Term SOFR Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.03(i).

(ii) “Benchmark Replacement” means the first alternative set forth in the order below that can be determined by the Original Purchaser for the applicable Benchmark Replacement Date:

- (1) Daily Simple SOFR; or
- (2) the sum of: (i) the alternate benchmark rate that has been selected by the Original Purchaser giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for U.S. dollar-denominated syndicated or bilateral credit facilities at such time and (ii) the related Benchmark Replacement Adjustment.

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of the Loan Documents.

(iii) “Benchmark Replacement Adjustment” means with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by Original Purchaser giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated syndicated credit facilities.

(iv) “Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein; or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event”, the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by or on behalf of the administrator of such Benchmark (or such component thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness or non-compliance will be determined by reference to the most recent statement or publication referenced in such clause (3).

(v) “Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide such Benchmark (or such component thereof), 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 such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Board of Governors of the Federal Reserve System of the United States, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all available tenors of such Benchmark (or such component thereof) 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 such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

(vi) “Conforming Changes” means with respect to either the use or administration of the One-Month Term SOFR Rate or the Term SOFR Rate or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or

operational changes (including changes to the definition of “Business Day,” the definition of “Interest Period,” the definition of “U.S. Government Securities Business Day”, the timing and frequency of determining rates and making payments of interest, the timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Original Purchaser decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Original Purchaser in a manner substantially consistent with market practice (or, if the Original Purchaser decides that adoption of any portion of such market practice is not administratively feasible or if the Original Purchaser determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Original Purchaser decides is reasonably necessary in connection with the administration of the Loan Documents).

(vii) “Credit Spread” means initially (a) 1.66% or (b) such other Credit Spread as determined by the Original Purchaser for a similarly situated borrower as the Borrower based on the Original Purchaser’s then-current underwriting standards, and with credit committee oversight, including, without limitation, factors such as the current credit profile, market conditions and current and historical operating performance and which Credit Spread in the opinion of Bond Counsel will not adversely affect any exemption from federal income taxation to which the Bonds would otherwise be entitled; *provided, however*, that if at any time the Borrower’s Debt Service Coverage Ratio (as defined in the Credit Agreement) falls below 1.40, the Credit Spread shall be increased by 50 basis points.

(viii) “Credit Spread Adjustment” means the applicable adjustment, initially 0.05%.

(ix) “Daily Simple SOFR” means for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Original Purchaser in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for business loans; provided, that if the Original Purchaser decides that any such convention is not administratively feasible for the Original Purchaser, then the Original Purchaser may establish another convention in its reasonable discretion.

(x) “Floor” means the rate per annum of interest equal to 0.00%.

(xi) “Maximum Rate” means 20% per annum.

(xii) “One-Month Term SOFR Rate” means the one-month forward-looking rate per annum based on SOFR published by the Term SOFR administrator two (2) U.S. Government Securities Business Days prior to the first day of each month (such day, the “*Periodic Term SOFR Determination Day*”); *provided, however*, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day the One-Month Term SOFR Rate has not been published by the Term SOFR administrator and a Benchmark Replacement Date with respect to the One-Month Term SOFR Rate has not occurred, then the One-Month Term SOFR Rate will be the One-Month Term SOFR Rate as published by the Term SOFR administrator on the first preceding U.S. Government Securities Business Day for which such One-Month Term SOFR Rate was published by the Term SOFR administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S.

Government Securities Business Days prior to such Periodic Term SOFR Determination Day, provided that, if the One-Month Term SOFR Rate determined as provided shall ever be less than the Floor, then the One-Month Term SOFR Rate shall be deemed to be the Floor.

(xiii) “Put Date” means January 1, 2028 and each applicable Reset Date thereafter.

(xiv) “Relevant Governmental Body” means the Board of Governors of the Federal Reserve System of the United States and/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 of the United States and/or the Federal Reserve Bank of New York, or any successor thereto.

(xv) “Reset Date” means the first day of each Reset Period.

(xvi) “Reset Period” means each period of three (3) years, five (5) years, seven (7) years, or ten (10) years from each Reset Date, as selected by the Borrower, through the day immediately preceding the next Reset Date or the maturity date of the Bonds (as applicable).

(xvii) “SOFR” means a rate per annum equal to the secured overnight financing rate as administered by the Federal Reserve Bank of New York or a successor administrator of the secured overnight financing rate.

(xviii) “Tax-Exempt Multiplier” means the tax-exempt multiplier determined from time to time by the Original Purchaser or as modified by change in law as shown on its internal pricing sheets for tax-exempt interest rates which are not bank-qualified pursuant to Section 265 of the Code; the initial Tax-Exempt Multiplier shall be 83%.

(ix) “Term SOFR Rate” means for the applicable tenor, the Term SOFR Reference Rate on the day (such day, the “*Term SOFR Determination Day*”) that is two (2) U.S. Government Securities Business Days prior to (a) with respect to the Term SOFR Rate, the first day of such applicable Interest Period as such rate is published by the Term SOFR administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Term SOFR Determination Day the Term SOFR Rate for the applicable tenor has not been published by the Term SOFR administrator and a Benchmark Replacement Date with respect to the Term SOFR Rate has not occurred, then Term SOFR will be the Term SOFR Rate for such tenor as published by the Term SOFR administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Rate for such tenor was published by the Term SOFR administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Term SOFR Determination Day, provided that, if the Term SOFR Rate determined as provided shall ever be less than the Floor, then the Term SOFR Rate shall be deemed to be the Floor. The term “Interest Period” as used herein means the period from each Reset Date to but not including the subsequent Reset Date or the Maturity Date, as applicable, which can be three (3) years, five (5) years, seven (7) years, or ten (10) years, as determined by Borrower and approved by Original Purchaser, during which period the Bonds bear interest at the rate established in accordance with Section 2.03(b) of the Bond Agreement (subject to redemption or prepayment).

(xx) “Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

(xxi) “U.S. Government Securities Business Day” means any day except for (1) a Saturday, (2) a Sunday or (3) 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.

(d) The Original Purchaser shall provide the Borrower and the Trustee with such information as to historical and current interest rates as the Borrower and the Trustee shall reasonably request from time to time.

(e) All determinations of the interest rate hereunder shall be final and conclusive absent manifest error.

(f) Interest on the Bonds shall be payable on the fifteenth day of each month, commencing on [May 15, 2023]. Interest on the Bond is computed on a 360-day year, actual days elapsed; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under the Bond is computed using this method. This calculation method results in a higher effective interest rate than the numeric interest rate stated in the Bond.

Interest shall accrue only on principal amounts actually deposited and from the date such amounts are actually deposited into the Project Fund pursuant to Section 3.01 of the Bond Agreement, until disbursed from the Project Fund pursuant to Section 4.02 of the Bond Agreement.

(g) In the event of a change in the Corporate Tax Rate (as hereinafter defined) during any period where interest is accruing on a tax-exempt basis causes a reduction in the tax equivalent yield on the Bonds, the interest payable on the Bonds would be increased to compensate for such change in the effective yield to a rate calculated by multiplying the bond interest rate by the ratio equal to  $(1 \text{ minus } A) \text{ divided by } (1 \text{ minus } B)$ , where A equals the Corporate Tax Rate in effect as of the date of the corporate tax rate adjustment as announced by the IRS and B equals the Corporate Tax Rate in effect on the date of the issuance of the Bonds. The Corporate Tax Rate would mean the highest marginal statutory rate of federal income tax imposed on corporations organized in the United States applicable to the Original Purchaser (expressed as a decimal).

(h) Overdue principal and interest on the Bonds shall (to the extent legally enforceable) bear interest at the Default Rate. Any interest on any Bond which is payable, but is not punctually paid or duly provided for, may be paid in any lawful manner, at the discretion of the Trustee. All unpaid principal and interest shall be paid on April 1, 2047.

(i) Effect of Benchmark Transition Event. Notwithstanding anything to the contrary herein or in any other Loan Document:

(1) *Benchmark Replacement.* Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark

Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, the Bond Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (2) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (Chicago time) on the 5th Business Day after the date notice of such Benchmark Replacement is provided by the Original Purchaser to the Borrower without any amendment to, or further action or consent of any other party to, the Bond Agreement or any other Loan Document.

(2) *Benchmark Replacement Conforming Changes.* In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Original Purchaser will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to the Bond Agreement or any other Loan Document.

(3) *Notice; Standards for Decisions and Determinations.* The Original Purchaser will promptly notify the Borrower 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. The Original Purchaser will promptly notify the Borrower of the removal or reinstatement of any Benchmark pursuant to this Section 2.03(i). Any determination, decision or election that may be made by the Original Purchaser pursuant to this Section 2.03(i), including any determination with respect to a 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 any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to the Bond Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.03(i).”

## **2. Amendment of Bonds.**

a. The Amended Bonds shall be amended in the form attached hereto as Exhibit A. The Amended Bonds shall be executed in the manner set forth in Section 2.15 of the Bond Agreement and authenticated as provided in Section 2.16 of the Bond Agreement.

b. Upon execution of this Amendment, the Original Purchaser shall surrender the Bonds and the Trustee shall deliver the duly executed and authenticated Amended Bonds to the Original Purchaser.

**3. Terms of Bond Agreement Remain in Effect Except as Amended.** Except as specifically amended by this Amendment, the terms and provisions of the Bond Agreement and the Amended Bonds issued pursuant thereto shall remain in full force and effect.



**4. Representations and Warranties of the Borrower.** The Borrower hereby represents and warrants that:

- a. All of the representations and warranties made by the Borrower in the Bond Agreement are true and correct on the date of this Amendment;
- b. No Default or Event of Default under the Bond Agreement has occurred and is continuing as of the date of this Amendment;
- c. The making, execution and delivery of this Amendment and performance of and compliance with the terms of the Bond Agreement (as amended by this Amendment) have been duly authorized by the Borrower; and
- d. The Borrower's consent, pursuant to Section 10.03 of the Bond Agreement, to the amendment of the Bond Agreement by this Amendment, is evidenced by the Borrower's execution of this Amendment.

**5. Representations and Warranties of the Original Purchaser.** The Original Purchaser hereby represents and warrants that:

- a. Original Purchaser is the lawful holder of all (100%) of the Amended Bonds issued pursuant to the Bond Agreement;
- b. Original Purchaser hereby waives notice as required under Section 10.02 of the Bond Agreement;
- c. Original Purchaser's making, execution and delivery of this Amendment has been duly authorized by all necessary action by Original Purchaser; and
- d. Original Purchaser's consent, pursuant to Section 10.02 of the Bond Agreement, to the amendment of the Bond Agreement by this Amendment, is evidenced by the Original Purchaser's execution of this Amendment.

**6. Representations and Warranties of the Trustee.** The Trustee hereby represents and warrants that:

- a. Trustee has accepted and hereby reaffirms acceptance of the powers and duties of the Trustee as set forth in Article VII of the Bond Agreement; and
- b. Trustee's making, execution and delivery of this Amendment has been duly authorized by all necessary action by Trustee.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the undersigned have caused this Second Amendment to Bond Agreement to be executed all as of the date first above written.

**CITY OF LA CROSSE, WISCONSIN**

By: \_\_\_\_\_  
Mitch Reynolds, Mayor

By: \_\_\_\_\_  
Nikki M. Elsen, City Clerk

**COMMERCIAL PROPERTIES PARTNERS, LLC**

By: Pretasky Enterprises, LLC, its Sole Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**DURATECH INDUSTRIES, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BMO HARRIS BANK N.A., as Original Purchaser**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BMO HARRIS BANK N.A., as Trustee**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**FORM OF AMENDED BOND**

[SEE ATTACHED]