CITY OF FISHERS AGENDA

BOARD/COMMISSION: Redevelopment Commission Meeting
DATE: 6/1/2023, at 4:00 PM
DIRECTIONS: City Services Building - Controller's Conference Room, 3 Municipal Drive, Fishers, IN 46038

In accordance with the Americans with Disabilities Act (ADA), the City of Fishers will, upon request, provide appropriate aid (i.e. interpreters) and/or assistance leading to effective participation for people with disabilities. Anyone who requires such assistance should email Kelly Lewark, Office Manager, no later than 48 hours before the scheduled event or call at (317) 595-3487.

Executive Session:
To conduct interviews and negotiations with industrial and commercial prospects or agents for industrial or commercial prospects under Indiana Code § 5-14-1.5-6.1(b)(4)

1. **Executive Session**
    a. To conduct interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects under Indiana Code § 5-14-1.5-6.1(b)(4)
2. **Call to Order**
3. **Confirmation of Quorum and Proper Notice of Meeting**
4. **Approval of Previous Minutes**
    a. 4-24-23
5. **Approval of Claims**
    a. 6-1-23
6. **Public Hearings**

a. FRC 01R060123 Stevanato BAN Terms

b. FRC 02R060123 OnPoint Innovation Project Agreement

7. Old Business

8. New Business

9. Meeting Adjournment

CITY OF FISHERS REDEVELOPMENT COMMISSION (FRC) MEETING MINUTES
April 24, 2023

EXECUTIVE SESSION – Executive Session was held from 4:00 to 4:10.

REGULAR MEETING:
Mr. Grothe called the Regular meeting to order at 4:11 p.m.
A quorum and proper notice of the meeting were confirmed.

FRC members present: Brad Johnson, Damon Grothe, Anderson Schoenrock, Ben Orr. Dan Canan and Tony Bonacuse did not attend.

Others present: Megan Baumgartner, Lawrence Summers, Jennifer Messer, Jordan Willy, Lisa Bradford

Meeting Minutes: The Minutes from the March 23, 2023, meeting were approved by consent.

Approval of Claims: The April 24, 2023, claims were approved by consent.

1. **FRC 01R042423 OnPoint Temporary Easement for Due Diligence**- Jordan Willy presented the Resolution which grants the company access at the Life Sciences Park so they can begin due diligence. Jennifer Messer asked for flexibility in timing**. Anderson Schoenrock made a Motion to approve, with additional flexibility in timing, seconded by Brad Johnson. The Motion was approved, 3-0.**
2. **FRC 02R042423 City Walk Project Agreement**- Megan Baumgardner presented visuals of the mixed-use development. The Project Agreement is 100 % TIF capture. Some properties will need to be annexed. **Brad Johnson made a Motion to approve, seconded by Anderson Schoenrock. The Motion was approved, 3-0.**
3. **FRC 03R042423 Sunblest Easement-** Megan Baumgartner presented this easement, which is from the Stevenato property to the Reynolds pond. **Anderson Schoenrock made a Motion to approve, seconded by Brad Johnson. The Motion was approved, 3-0.**
4. **FRC 04R042423 Approval of Commercial Property Sales Agreement –** Megan Baumgartner presented the Thompson Thrift sale of property to Chicken and Pickle. **Brad Johnson made a Motion to approve, seconded by Anderson Schoenrock. The Motion was approved, 3-0.**
5. **FRC 05R042423 Approval for access agreement for Launch Fishers-** This is for the Reynolds project- access is needed from the Launch Fishers property. **Damon Grothe made a Motion to approve, seconded by Anderson Schoenrock. The Motion was approved, 3-0.**
6. **FRC 061R042423 IoT Parking Lot Improvements-** In 2022, the I0T lab was approved, with future parking lot improvements. **Brad Johnson made a Motion to improve, with Anderson Schoenrock seconding. The Motion was approved, 3-0.**
7. **FRC 07R042423 Amendment to Kimley-Horn Agreement - Megan Baumgartner presented the Amendment.** This is the split of the last 8 acres available at the Life Sciences Park. **Anderson Schoenrock made a Motion to approve, seconded by Damon Grothe. The Motion was approved, 3-0.**

Old Business / New Business: Ben Orr shared the news about the new build at Fishers Elementary on Lantern Road.

The meeting adjourned at 4:31 p.m.

Fishers Redevelopment Commission
Claim Docket 6/1/23

Voucher #/ (APV#)	Inv. Date	Vendor	Description		Amount
			Professional Services		

Total **$0.00**

6/1/2023
President, Redevelopment Commission **Date**

6/1/2023
Secretary, Redevelopment Commission **Date**

6/1/2023
Lisa Bradford, City Controller **Date**

Fishers Redevelopment Commission
Consent Agenda 6/1/23

Hamilton County Treasurer	29-14-01-103-002.000.006 Taxes	$	41,837.38
Hamilton County Treasurer	29-14-09-00-006.002-006 Taxes	$	3,432.34
Hamilton County Treasurer	29-14-01-103011.000.006 Taxes	$	949.94
Hamilton County Treasurer	29-14-01-114-002.001-006 Taxes	$	5.00
Hamilton County Treasurer	29-14-01-114.003.000-006 Taxes	$	5.00
Hamilton County Treasurer	29-11-31-000-025-000.006 Taxes	$	1,270.74
Regions Bank	2020 Refunding Bond Annual Fees	$	1,000.00
Regions Bank	2020 Stations Custodial Fees	$	750.00
Regions Bank	2018A Yard Fees	$	2,500.00
Switch Offices LLC	May 2023 Vacant Rent	$	911.48
Switch Offices LLC	May 2023 Mojo Up Rent Subsity	$	293.75
CVK LLC	Meyer Najem 6/23 Rent	$	35,675.81
Onpoint Hub & Spoke	Hub & Spoke 6/23 Rent	$	38,172.03
Hageman Investments	Rebar 6/23 Rent	$	10,500.00
Regions Bank	2016 COIT Debt Service	$	252,550.00
Regions Bank	2018C North of North Debt Service	$	842,000.00
Regions Bank	2016A Economic Development Bonds Debt Service	$	716,000.00
Huntington Bank	2020 Fishers Station Refunding Debt Service	$	507,000.00
Morphey Construction, Inc	Technology Lane/IoT Work	$	244,275.00
Resultant LLC	Launch WiFi Equipment	$	23,040.76
		$	**2,722,169.23**

RESOLUTION NO. FRC 01R060123

RESOLUTION OF THE CITY OF FISHERS REDEVELOPMENT COMMISSION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO LEASE BETWEEN THE CITY OF FISHERS REDEVELOPMENT AUTHORITY AND THE CITY OF FISHERS REDEVELOPMENT COMMISSION AND RELATED MATTERS (STEVANATO PROJECT)

WHEREAS, the City of Fishers Redevelopment Authority (the "Authority") has been created pursuant to IC 36-7-14.5 as a separate body corporate and politic, and as an instrumentality of the City of Fishers, Indiana (the "City") to finance local public improvements for lease to the City of Fishers Redevelopment Commission (the "Commission"); and

WHEREAS, the Commission previously adopted its Resolution No. FRC 01R062121 on June 21, 2021 (the "2021 Resolution") authorizing the execution of a Lease among the Commission, as lessee and the Authority, as lessor (the "Original Lease") to finance the Projects (as defined in the "2021 Resolution"); and

WHEREAS, the Authority has previously authorized the issuance of one or more series of bonds of the Authority (the "Bonds") payable from the lease rentals under the Original Lease; and

WHEREAS, pursuant to the Original Lease, as consideration for the Leased Premises (as defined in the Original Lease), the Commission has agreed to pay the Authority fixed annual rental payments in an amount sufficient to pay principal and interest due in each twelve (12) month period on the Bonds, payable in semi-annual installments on January 15 and July 15 of each year; and

WHEREAS, the Authority previously issued its Taxable Lease Rental Revenue Bond Anticipation Notes, Series 2021C (Land Acquisition Project) (the "2021 BANs"), in the original aggregate principal amount of Twenty-Three Million Three Hundred Fifty Thousand Dollars ($23,350,000), pursuant to Resolution No. FRA 01R062121 adopted by the Authority at its June 21, 2021 meeting (the "Authority Resolution"); and

WHEREAS, the Authority desires to issue one or more series of taxable lease rental revenue bond anticipation notes pursuant to the Authority Resolution to be designated as the "Fishers Redevelopment Authority Taxable Lease Rental Revenue Bond Anticipation Notes, Series 2023__ (Stevanato Project)" (or such additional or different series designation as may be determined to be necessary or appropriate) in an amount not to exceed $28,000,000 (the "2023 BANs") to (a) redeem the 2021 BANs on the date of final maturity of the 2021 BANs, and (b) to pay all costs incurred on the account of the issuance and sale of such 2023 BANs; and

WHEREAS, due to changes in market conditions from the time of the issuance of the 2021 BANs to the present date, the Authority and the Commission desire to change certain terms of the Original Lease to align with the terms of the to be issued 2023 BANs and Bonds; and

WHEREAS, the Commission has been presented with an amendment to the Original Lease (the "Lease Amendment") and an amendment to the 2021 Resolution, for the purpose of increasing the maximum semi-annual lease rental payments due under the Original Lease to correspond with the changed market conditions with respect to the 2023 BANs and Bonds; and

WHEREAS, the Lease Amendment and the amendment to the 2021 Resolution shall authorize a maximum annual lease rental under the Original Lease, as amended by the Lease Amendment (as amended, the "Lease"), of not to exceed $3,300,000 annually; and

WHEREAS, the Commission scheduled a public hearing regarding the amendment the Original Lease (the Original Lease as amended, the "Lease") to be held on June 1, 2023 and published notice of such public hearing on the Lease; and

WHEREAS, on this date said public hearing has been held and all interested parties have been provided the opportunity to be heard at the hearing; and

WHEREAS, the Commission intends to pay fixed annual rental payments to the Authority (the "Rental Payments") pursuant to the terms of the Lease, at a rate not to exceed Three Million Three Hundred Thousand Dollars ($3,300,000) per year in semiannual installments throughout the term of the Lease; and

WHEREAS, such lease rentals are payable from the local income tax revenues distributed to the City as the certified shares component of additional revenue derived from the expenditure rate tax under IC 6-3.6, or at the Commission's option, any other revenues legally available to the Commission; and

WHEREAS, the Commission has received on the date hereof information demonstrating that the amount financed through the Lease will not be less than the value of the Leased Premises, including the costs of financing the acquisition of the Leased Premises; and

WHEREAS, the Common Council of the City has previously adopted Resolution on May 15, 2023 amending the Common Council's Resolution No. R062121A, adopted by the Common Council on June 21, 2021 and approving the Lease pursuant to IC 36-7-14-25.2; and

WHEREAS, subject to the satisfaction of all statutorily required processes, the Commission desires to approve the execution of the Lease and authorize the publication, in accordance with IC 36-7-14-25.2, of notice of execution of the Lease.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FISHERS REDEVELOPMENT COMMISSION AS FOLLOWS:

1. The Commission hereby finds and determines that the terms of the Lease are based upon the value of the Leased Premises (as defined in the Lease), that the Rental Payments to be paid by the Commission, pursuant to the terms of the Lease, at a rate not to exceed Three Million Three Hundred Thousand Dollars ($3,300,000) per year, are fair and reasonable, and that the financing of the Projects and the use of the Leased Premises throughout the term of the Lease will serve the public purpose of the City and are in the best interests of its residents.

2. The Commission hereby amends its 2021 Resolution to authorize Rental Payments pursuant to the terms of the Lease at a rate note to exceed Three Million Three Hundred Thousand Dollars ($3,300,000) per year.

3. The Commission's approval of the Projects is hereby affirmed.

4. The President, Vice President and the Secretary of this Commission are hereby authorized and directed, on behalf of the Commission, to execute and deliver the Lease in substantially the form presented at this meeting with such changes in form or substance as the President or Vice President of this Commission shall approve, such approval to be conclusively evidenced by the execution thereof; provided that the Rental Payments shall not exceed the amount set forth in paragraph 1 hereof.

5. The Commission hereby authorizes the publication, in accordance with IC 36-7-14-25.2, of the notice of execution and approval of the Lease.

6. The President, Vice President and Secretary of this Commission, and each of them, is hereby authorized and directed to take all such further actions and to execute all such instruments as are desirable to carry out the transactions contemplated by this Resolution, in such forms as the President, Vice President or Secretary executing the same shall deem proper, such desirability to be conclusively evidenced by the execution thereof.

7. This Resolution shall be in full force and effect after adoption by the Commission.

ADOPTED the 1st day of June, 2023.

CITY OF FISHERS REDEVELOPMENT COMMISSION

____
President

____
Vice President

____
Secretary

____
Member

____
Member

DMS 26339107.1

FIRST AMENDMENT TO LEASE AGREEMENT

By and between

FISHERS REDEVELOPMENT AUTHORITY

And

FISHERS REDEVELOPMENT COMMISSION

Dated as of June 1, 2023

This First Amendment to Lease Agreement supplements and amends the Lease Agreement, dated as of June 25, 2021, by and between the Fishers Redevelopment Authority, as lessor, and the Fishers Redevelopment Commission, as lessee.

<u>FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN
FISHERS REDEVELOPMENT AUTHORITY, LESSOR
AND CITY OF FISHERS REDEVELOPMENT COMMISSION, LESSEE</u>

THIS AMENDMENT (the "Amendment"), entered into as of this 1st day of June 2023, by and between Fishers Redevelopment Authority (the "Lessor"), and City of Fishers Redevelopment Commission (the "Lessee");

WITNESSETH:

WHEREAS, the Lessor entered into a lease with the Lessee dated as of June 25, 2021 (the "Lease"); and

WHEREAS, the Lessor previously issued its Taxable Lease Rental Revenue Bond Anticipation Notes, Series 2021C (Land Acquisition Project) (the "2021 BANs"), in the original aggregate principal amount of Twenty-Three Million Three Hundred Fifty Thousand Dollars ($23,350,000), pursuant to Resolution No. FRA 01R062121 adopted by the Lessor at its June 21, 2021 meeting (the "Authority Resolution"); and

WHEREAS, the 2021 BANs are currently outstanding in the aggregate principal amount of Twenty-Three Million Three Hundred Fifty Thousand Dollars ($23,350,000); and

WHEREAS, the Lessor desires to issue one or more series of taxable lease rental revenue bond anticipation notes pursuant to the Authority Resolution to be designated as the "Fishers Redevelopment Authority Taxable Lease Rental Revenue Bond Anticipation Notes, Series 2023__ (Stevanato Project)" (or such additional or different series designation as may be determined to be necessary or appropriate) (the "2023 BANs") to (a) redeem the 2021 BANs on the date of final maturity of the 2021 BANs, and (b) to pay all costs incurred on the account of the issuance and sale of such 2023 BANs; and

WHEREAS, the costs of the Projects (as defined in the Lease) will be paid from proceeds of bonds, to be issued by the Lessor in the maximum principal amount of Twenty-Nine Million Dollars ($29,000,000) (the "Bonds"); and

WHEREAS, the value of the Leased Premises (as defined in the Lease) is estimated to be not less than Twenty-Nine Million Dollars ($29,000,000); and

WHEREAS, the Lessor and Lessee agree that changing market conditions from the date of the execution of the Lease have impacted the ability of the Lessor to issue its 2023 BANs and the Bonds under the Authority Resolution pursuant to the terms of the Lease, and that consequently, the Lessor and Lessee have agreed to amend the Lease as set forth herein; and

WHEREAS, the Lessee has determined, after a public hearing held pursuant to the Act after notice given pursuant to IC 5-3-1, that the lease rentals provided for in this Amendment are fair and reasonable, that the execution of this Amendment is necessary and that the service provided by the Project will serve the public purpose of the City and is in the best interests of its residents, and the Common Council of the City has by resolution approved this Amendment, and the resolution has been entered in the official records of the Common Council, and the Lessor has duly authorized the execution of this Lease by resolution, and the resolution has been entered in the official records of the Lessor;

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the parties to the Lease that the Lease shall be amended as follows:

1. Section 2(a) of the Lease is hereby deleted in its entirety and replaced as follows:

   "Lease Rental. (a) Fixed Rental Payments. The Lessee agrees to pay rental for the Leased Premises at a rate per year during the term of the Lease not to exceed Three Million Three Hundred Thousand Dollars ($3,300,000), payable in semi-annual installments. Each such semi-annual installment, payable as hereinafter described, shall be based on the value of the Leased Premises which are available for use and occupancy by the Lessee at the time such semi-annual installment is made. The first rental installment shall be due no earlier than the July 15 or January 15 following the date of the issuance of the Bonds. Thereafter, such rental shall be payable in advance in semi-annual installments on July 15 and January 15 of each year. The last semi-annual rental payment due before the expiration of this Lease shall be adjusted to provide for rental at the yearly rate so specified from the date such installment is due to the date of the expiration of this Lease.

   After the sale of the Bonds, the annual rental shall be reduced to an amount sufficient to pay principal and interest due in each twelve (12) month period commencing each year on July 15 rounded up to the next One Thousand Dollars ($1,000), plus Five Thousand Dollars ($5,000) each year, payable in advance in semi-annual installments. In addition, each such reduced semi-annual installment shall be based on the value of the Leased Premises which are available for use by the Lessee at the time such semi-annual installment is made. Such amount of adjusted rental shall be endorsed on this Lease at the end hereof in the form of Exhibit C attached hereto by the parties hereto as soon as the same can be done after the sale of the Bonds, and such endorsement shall be recorded as an addendum to this Lease."

2. Except as otherwise provided herein, all terms, conditions, and provisions of the Lease are hereby ratified and affirmed.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed for and on their behalf as of the day and year first above written.

LESSOR	LESSEE:
FISHERS REDEVELOPMENT AUTHORITY	CITY OF FISHERS REDEVELOPMENT COMMISSION
______________________________	______________________________
President	President
ATTEST:	ATTEST:
______________________________	______________________________
Secretary-Treasurer	Secretary

I affirm under penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ *Richard J. Hall*

This instrument was prepared by Richard J. Hall, Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204.

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared Rex Ramage and Beth Gehlhausen, personally known to be the President and Secretary-Treasurer, respectively, of the Fishers Redevelopment Authority (the "Authority"), and acknowledged the execution of the foregoing Amendment to Lease for and on behalf of the Authority.

WITNESS my hand and notarial seal this ______ day of June, 2023.

____
(Written Signature)

(Seal)

____
(Printed Signature)
Notary Public

My Commission expires: My county of residence is:

_____________________________ _______________________________________

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared Damon Grothe and Brad Johnson, personally known to be the President and Secretary, respectively, of the City of Fishers Redevelopment Commission (the "Commission"), and acknowledged the execution of the foregoing Amendment to Lease for and on behalf of the Commission.

WITNESS my hand and notarial seal this ______ day of June, 2023.

(Seal)

____
(Written Signature)

____
(Printed Signature)
Notary Public

My Commission expires:

____

My county of residence is:

____

RESOLUTION NO. FRC 02R060123_____

RESOLUTION APPROVING PROJECT AGREEMENT

WHEREAS, OnPoint Innovation Park 3, LLC, an Indiana limited liability company ("Developer"), is a sister company to Mayer Najem Construction, a Fishers-based construction company that has developed and constructed healthcare and other facilities throughout Indiana and in several other states;

WHEREAS, Developer has advised the City of Fishers (“City”) and City of Fishers Redevelopment Commission (the “Commission”) that it desires to develop a Class-A, flex/industrial, commercial office building approximately one hundred thousand square feet (100,000) (the “Project”) in size in Fishers Life Sciences Park and, specifically, on an approximately eight (8) acre portion of real property located at the 0 E. 126th Street and Cumberland Road that is currently identified by parcel identification no.: 15-11-31-00-00-025.000 (the “Site”);

WHEREAS, various life sciences companies will locate to the Project, Developer’s investment in the Project will total more than Fifteen Million and no/100 Dollars ($15,000,000.00) and the Project will culminate in not less than eighty-one (81) jobs;

WHEREAS, to incent Developer’s completion of the Project, the City and Commission, as applicable, desire to (a) transfer the Site to Developer; (b) waive City Fees; and (c) undertake the required procedural steps to authorize the Abatement pursuant to a project agreement substantially similar to the Project Agreement attached hereto as **Exhibit A** (the “Agreement”); and

WHEREAS, capitalized words used but not defined herein are used with the meaning ascribed to such terms in the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City of Fishers Redevelopment Commission meeting in regular session as follows:

Section 1. A project agreement substantially similar to the Agreement is hereby approved.

Section 2. The President and Secretary of the Commission are hereby authorized to execute a project agreement in substantially similar form to the Agreement.

Section 3. This Resolution shall be in full force and effect upon passage.

ALL OF WHICH IS RESOLVED by the City of Fishers Redevelopment Commission, Hamilton County, Indiana this 1st day of June 2023.

REDEVELOPMENT COMMISSION OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA

YAY **NAY**

YAY		NAY
	Tony Bonacuse	
	Dan Canan	
	Damon Grothe	
	Brad Johnson	
	Anderson Schoenrock	

This instrument prepared by: Lindsey Bennett, City Attorney, City of Fishers, Hamilton County, Indiana, Three Municipal Drive, Fishers, Indiana, 46038.

PROJECT AGREEMENT

This Project Agreement (the "Agreement") is executed as of the ___ day of May, 2023, by and among OnPoint Innovation Park 3, LLC an Indiana limited liability company ("Developer"), the City of Fishers, Indiana, an Indiana municipal corporation ("City"), and the City of Fishers Redevelopment Commission, a commission of the City authorized and existing pursuant to Ind. Code § 36-7-14 *et. seq*. ("Commission" and together with the Developer and City, the "Parties", or each a "Party"), on the following terms and conditions:

Recitals

WHEREAS, since 2012, the City has been working to fulfill its master plan of creating a sustainable, pedestrian friendly city where City residents live, work and play (the "Master Development Plan");

WHEREAS, as the City continues to fulfill its Master Development Plan, the City has induced a plethora of advanced technology, biopharmaceutical and research entities to locate within the City;

WHEREAS, Developer is a sister company to Mayer Najem Construction, a Fishers-based construction company that has developed and constructed facilities throughout Indiana and in several other states;

WHEREAS, Developer has advised the City that it desires to develop a flex/light industrial in Fishers Life Sciences Park in which various life sciences companies will locate, including Tenant 1 and Tenant 2 (as defined in <u>Section 3</u>);

WHEREAS, the Developer's investment in the Project (as defined in <u>Section 3</u>) will total more than Fifteen Million and no/100 Dollars ($15,000,000.00) and will culminate in not less eighty-one (81) jobs;

WHEREAS, City Bodies (as defined herein) have determined that the completion of the Project is in the best interests of the citizens of the City, and, therefore, City Bodies desire to induce Developer to complete the Project; and

WHEREAS, to stimulate and induce the development and completion of the Project, the City Bodies have agreed, subject to further proceedings as required by the Laws (as defined in <u>Section 3</u>), to provide the economic development incentives described herein.

<u>AGREEMENT</u>

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged hereby, the City, the Commission and Developer agree as follows:

1. **<u>Recitals</u>**. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this <u>Section 1</u>.

2. **<u>Mutual Assistance</u>**. The Parties agree, subject to further proceedings required by the Laws (as defined herein), to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications, as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

3. **Definitions**. As used in this Agreement, the following capitalized terms are used with the meanings provided in this <u>Section 3</u>.

Abatement shall mean, subject to early termination pursuant to the terms of this Agreement, a real property tax abatement on the Project in the following amounts: (a) Year 1=100%; (b) Year 2= 80%; (c) Year 3=60%; (d) Year 4=40%; and (e)Year 5=20%. As used in this definition, Year 1 refers to the first year for which real property tax is assessed and payable after Substantial Completion of the Project and each Year thereafter refers to each consecutive Year following Year 1.

Additional Compliance Information shall mean information requested by City from Developer pursuant to a Notice concerning Developer’s fulfillment of the Employment Commitment, reasonably necessary to determine compliance with the Employment Commitment, including, without limitation, the number of FTEs employed at the Site. The City shall have the right to request Additional Compliance Information at any time from the Effective Date until conclusion of the Term.

Ancillary Agreements shall mean, individually or collectively, the instruments and agreements referenced or contemplated herein, including, without limitation, the Multi-Party Agreement and any other agreements or reservations set forth therein and other documents needed to effectuate the intent of this Agreement.

Assessments shall mean all general and special governmental and utility assessments.

Building shall mean a Class-A, flex/industrial building commercial office building of approximately one hundred thousand square feet (100,000) in size constructed on the Site for the purpose of leasing space to Tenant 1, Tenant 2 and additional Life Sciences Tenants.

CF-1 shall mean a properly completed and executed Indiana form 51766 (R2/1-07), Compliance With Statement Of Benefits Real Estate Improvements, as amended.

Change Order shall mean a change order executed by the City (or its designee) and Developer finalizing the inclusion into the Final Documents for a Project of a change proposed in a Change Order Request by Company that is approved by the City (or its designee); provided that, in the case of a Permitted Change, such change order shall be effective if executed only by Company.

Change Order Request shall mean a written request for a change to the Final Documents.

City Body or City Bodies shall mean both or either of City, and/or the Commission, as applicable.

City Fees shall mean local fees assessed by the City for the Project, including road and park impact fees, permitting fees and sewer fees (such as capacity, connection, impact, and tap fees associated with initial construction of the Project; but not including post-occupancy monthly user or inspection fees).

Claims shall mean claims, liabilities, damages, injuries, losses, liens, costs, and/or expenses (including, without limitation, reasonable attorneys' fees); provided that in no event shall Claims include consequential or punitive damages.

Closing shall mean the date on which the City transfers and conveys the Site to Developer.

Closing Costs shall mean all recording fees, escrow closing costs, and such other closing fees, costs, and charges customarily associated with a commercial real estate closing.

Closing Date shall mean the date on which the City transfers and conveys the Site to Developer, which Date shall not be later than December 31, 2023, except that the Closing Date shall be extended day for day for each day that Developer demonstrates it is unable to complete its inspections of the Site because of trailers and other large equipment located on the Site.

Commitment shall mean a title insurance commitment for an owner's policy of title insurance that: (a) is issued by the Title Insurer; and (b) commits to insure marketable fee simple title to the Site in the name of Developer free of all Title Defects, other than those Title Defects that Developer expressly waives in writing.

Concept Plan shall mean the conceptual site plan for the Project that is attached hereto as Exhibit A.

Construction Drawings shall mean construction drawings with respect to the construction of the exterior components of the Project that are approved pursuant to the Plan Refinement Process.

Construction Schedule shall mean the portion of the Final Documents comprised of the scheduled date for Substantial Completion of the Project.

Cure Period shall mean a period of: (a) ten (10) days after Notice of such default in the case of any monetary default; and (b) thirty (30) days after a party failing to perform or observe any other term or condition of this Agreement to be performed or observed by it receives Notice specifying the nature of the default; provided that, if such default is of such a nature that it cannot be remedied within thirty (30) days, despite reasonably diligent efforts, then the thirty (30) day cure period shall be extended as may be reasonably necessary for the defaulting party to remedy the default, so long as the defaulting party: (i) commences to cure the default within the thirty (30) day period; and (ii) diligently pursues such cure to completion; provided that in no event shall a Cure Period extend more than one hundred twenty (120) days after the date of the default.

Current Year Taxes shall mean the Real Estate Taxes assessed for, and first becoming a lien against, the Site during the year in which the Closing occurs.

Deed shall mean a limited warranty deed by which the Commission shall convey its interest in the Site to Developer together with all improvements thereon, which deed shall be subject only to: (a) the Permitted Exceptions; and (b) matters created or consented to by Developer.

Divestiture Payment shall mean in the case of the exercise of the Power of Termination as a result of (a) a default by Developer under Section 13(a), One Dollar ($1.00); and/or (b) a default by Developer under Section 13(b), an amount equal to the Project Loan proceeds disbursed by the Project Lender for construction and development of the Project.

Effective Date shall mean the date set forth in the opening paragraph of this Agreement.

Employment Commitment shall mean (a) Tenant 1 and Tenant 2 executing a lease with Developer, having the obligation to begin paying rent and locating in the Building; (b) not less than eighty-one (81) FTEs employed at the Site by Life Sciences Entities; and (c) payment of a total annual payroll of not less than Five Million, Seven Hundred Forty Thousand, Eight Hundred and no/100 Dollars ($5,740,800.00); provided, however, with respect to subsection (b) hereof, beginning on the date that is two (2) years from Substantial Completion, Developer may satisfy the required eight-one (81) FTEs by including FTEs from all employers in the Building (as opposed to exclusively including employees of Life Sciences Entities). In the instance of subsections (b) and (c) hereof, the Employment Commitment shall continue throughout the Term.

Employment Commitment Date shall mean the later of (i) December 31, 2026 or (ii) the date that is 180 days from Substantial Completion, except that in the instance of subsections (b) and (c) of the definition of "Employment Commitment", the Employment Commitment shall continue throughout the Term.

Event of Default shall have the meaning set forth in Section 12.

Executive Director shall mean the Director of Economic Development for the City or, in the event of a vacancy in the Director's position, then the Mayor of the City.

Final Document(s) shall mean the final Construction Schedule and the final Construction Drawings, as each is finalized and approved or reviewed by the City in accordance with the Plan Refinement Process described in Section 11.

Final Inspection shall mean an inspection of the Project after Substantial Completion thereof.

Design Development Drawings shall mean the design development drawings for the exterior components of the Project that are approved pursuant to the Plan Refinement Process.

Force Majeure shall mean, with respect to Developer or City Bodies, any cause that is not within the reasonable control of Developer or City Bodies, respectively (including, without limitation: (a) unusually inclement weather but not prolonged inclement cold, ice, sleet, snow or hail; (b) the unusual unavailability of materials, equipment, services, or labor; (c) pandemic or epidemic causes; and (d) utility or energy shortages or acts or omissions of public utility providers); provided that a party's failure to reasonably anticipate delays due to weather or in obtaining Required Permits shall not be deemed Force Majeure.

FTEs shall mean full time employees who are employed for consideration for at least thirty-two (32) hours each week.

Incurred Costs shall mean, if this Agreement is terminated (including for default and failure to close) (a) after expiration of Due Diligence; and (b) prior to the Closing, all actual, commercially reasonable out-of-pocket, third-party costs and expenses incurred by a Party through the date of such termination, to the extent not previously paid or reimbursed by the other party (not to exceed $100,000).

Inspector shall mean such party designated by the City as its inspector.

Latent Defect shall mean a Material Defect with respect to the Project that: (a) is not discovered, and reasonably is not discoverable, by the City or Inspector during a Permitted Inspection and/or the Final Inspection; and (b) has a material and adverse effect on the use, operation, structure, or longevity of the Project.

Laws shall mean all applicable laws, statutes, and/or ordinances, building codes, and any applicable governmental or judicial rules, regulations, guidelines, judgments, orders, and/or decrees, including without limitation the City's Unified Development Ordinance and all applicable environmental laws.

Life Sciences Entity means, unless otherwise approved by the City in its sole discretion, a legal entity duly registered with the Office of the Indiana Secretary of State whose primary purpose is the research, development, manufacture, sale, use, or distribution of (a) pharmaceuticals, (b) biotechnology, (c) medical devices, (d) medical diagnostics or equipment or (e) health services, and service entities directly related thereto.

Material Defect(s) shall mean any item or component of the exterior of a Project that: (a) contains a material defect in workmanship or materials; (b) deviates materially from the Final Documents, other than any Permitted Change or Change Order; or (c) has not been performed materially in accordance with the terms and conditions of this Agreement.

Multi-Party Agreement shall mean an agreement by and among the Redevelopment Commission, Developer, and the Project Lender pursuant to which (a) the Project Lender agrees to give to the City and Redevelopment Commission: (i) notices of material defaults by Developer under the Project Loan Documents; and (ii) the right (but not obligation) to cure defaults by Developer under the Project Loan Documents; (b) provides for the release of the Project Loan in the event of the exercise of the Power of Termination and upon payment of the Divestiture Payment under Sections 13(a) and 13(b); and (c) the City and Redevelopment Commission agree to give the Project Lender notices of any defaults by Developer under this Project Agreement and any Ancillary Agreements with the right (but not obligation) to cure such defaults. The Multi-Party Agreement shall be in form and substance reasonably acceptable to the City, Redevelopment Commission, Developer, and Project Lender and shall specifically state that in the event of conflict between any term or provision of the Multi-Party Agreement and any term or provision included in the Project Loan Documents, the terms of the Multi-Party Agreement shall control.

Non-Compliance Notice shall mean a written notice identifying any Material Defect discovered during a Permitted Inspection or a Final Inspection.

Notice shall mean any written notice required to be given pursuant to this Agreement and provided pursuant to Section 18.

Permitted Change shall mean a change to a Final Document for the Project that: (a) is not material in the overall scope and design of a Project; (b) is in conformity with the Laws; (c) does not result in the Final Document containing a Material Defect; and (d) does not make it unlikely, impracticable, or impossible for Developer to complete and open a Project, or any component thereof, by the applicable date set forth in a Construction Schedule. In addition to the foregoing, any change required by the Laws shall constitute a Permitted Change.

Permitted Exceptions shall mean: (a) the lien of Current Year Taxes and Assessments not delinquent; (b) any exceptions to title reflected in the Commitment and not objected to by Developer; (c) this Agreement; (d) reservations of the Power of Termination; and (e) such other matters as are accepted by Developer in writing or which Developer is deemed to have waived pursuant to the terms and conditions of this Agreement.

Plan Refinement Process shall mean the process described in Section 11 hereof.

Plan Review Panel shall mean a plan review panel comprised of the City's Economic Development Director and such other parties as may hereafter be designated by the City in a written notice to Developer.

Plat shall mean the plat that has received all final approvals on or before Closing and is recorded in the Office of the Recorder of Hamilton County, Indiana contemporaneous with other documents needed for Closing which Plat shall, at a minimum, create a separate lot for the Site.

Power of Termination shall mean the Commission's right under Section 13(a), 13(b) of this Agreement to enter the Site and, upon payment of the Divestiture Payment, if applicable, to Developer or Project Lender, divest Developer of title thereto and to cause title to the Site to vest in the Commission which re-vesting shall be free and clear of any and all encumbrances, liens, mortgages, easements, agreements, and other matters of record other than those: (a) existing when the Commission transferred the Site to Developer; or (b) otherwise agreed-to by City. The Power of Termination shall lapse and expire by its own terms upon, as applicable, (x) Commencement of Construction, with respect to Section 13(a); and (y) Substantial Completion, with respect to Section 13(b).

Project shall mean the investment not less than Fifteen Million and no/100 Dollars ($15,000,000.00) developing and constructing the Building on the Site together with all Public Infrastructure required by the Laws.

Project Lender shall mean a financial institution that is not affiliated with Developer making the Project Loan, and any successor or assignee thereof.

Project Loan(s) shall mean one (1) or more construction loans to Developer, the proceeds of which shall be used to develop and construct the Project. The Project Loan shall be disbursed pursuant to the Project Loan Documents, and the proceeds available at Closing (subject to the satisfaction of customary draw conditions).

Project Loan Documents shall mean, individually or collectively and for the Project, the documents evidencing or securing the Project Loan(s).

Property Inspections shall mean surveys, borings, tests, inspections, examinations, studies, and investigations, including, without limitation, environmental assessments.

Public Infrastructure shall mean all streetscape and other infrastructure improvements required by and consistent with the Laws for the Project that shall be constructed by Developer and generally (but not always) are in the areas between the curb (including the curb) and the Building.

Real Estate Taxes shall mean all real estate taxes levied on, against, or with respect to the Site and/or the Project.

Reimbursement Amount shall mean, (a) if Developer fails to meet the Employment Commitment on or before the Employment Commitment Date, an amount equal to the following: the percentage Developer fell below the Employment Commitment, multiplied by the benefit of the Abatement received by Developer prior to the Employment Commitment Date (this subpart (a) shall no longer apply if the Developer meets the Employment Commitment prior to the Employment Commitment Date); and (b) for each calendar year of non-compliance commencing from the Employment Commitment Date until conclusion of the Term, an annual amount equal to the following: the percentage Developer fell below the Employment Commitment in such calendar year, as applicable, multiplied by any benefit of the Abatement received by Developer in such calendar year.

Required Permits shall mean all permits, licenses, approvals, and consents required by the Laws for construction and use of the Project.

Schematic Design Drawings shall mean the schematic design drawings for the exterior components of the Project that are approved pursuant to the Plan Refinement Process.

Site shall mean an approximately eight (8) acre portion of real property located at the 0 E 126th Street and Cumberland Road, currently identified by parcel identification no.: 15-11-31-00-00-025.000 and generally depicted in Exhibit B.

Site Plan shall mean the site plan for the Project that is approved as a result of the Plan Refinement Process.

Statement of Benefits shall mean a properly completed and executed Indiana form 51764 (R5/1-21), Statement of Benefits Real Property, as amended.

Substantial Completion shall mean the date that Developer receives the final certificate of occupancy for the Building, which Substantial Completion shall occur by or before June 30, 2025.

Survey shall mean an ALTA survey of the Site, certified as of a current date by a reputable licensed surveyor; which Survey shall show that the Site is suitable for development of the Project as contemplated in this Agreement and subject only to the Permitted Exceptions.

Tenant 1 shall mean Certus Medical LLC, an Indiana limited liability company.

Tenant 2 shall mean Radiological Care Services LLC, an Indiana limited liability company.

Title Defects shall mean conditions or defects disclosed in the Commitment or the Survey that, in the commercially reasonable discretion of Developer, will interfere with the development, construction and/or intended use of the Project, including, but not limited to, claims, liens, options, rights of first refusal or offer and other encumbrances and interests of any kind or nature whatsoever; provided that the lien of any mortgage or other security instruments to be released at or before the Closing (a "Financial Defect") shall not be a Title Defect nor shall Developer, City, or any City Bodies have any obligation to cure any Title Defects. Encumbrances disclosed to and expressly approved in writing by Developer shall not be deemed to be a Title Defect. Developer, City, and/or any City Bodies shall cure all Financial Defects on or before closing.

Title Insurer shall mean First American Title Insurance Developer (Gina Longere).

Term shall mean, unless earlier terminated pursuant to this Agreement, the time period beginning on the date that Developer first claims the benefit of the Abatement and ending on December 31st of the last year that Developer claims the benefit of the Abatement.

4. City's Obligations.Subject to Section 9, City or the Commission, as applicable, shall: (a) submit the Plat for final approval and recordation at or prior to Closing; (b) for a purchase price of $1.00, transfer the Site to Developer pursuant to the Deed on the Closing Date; (c) waive City Fees; (d) review and issue the City's development and permit applications necessary to develop the Site and construct the Project; (e) undertake the required procedural steps to authorize the Abatement (provided, however, a specific result of such procedure is not hereby guaranteed); and (f) otherwise comply with all terms and provisions of this Agreement.

5. Developer's Obligations.Subject to Section 8, Developer shall: (a) accept the transfer of the Site pursuant to the Deed on the Closing Date; (b) by or before June 30, 2025, invest not less than Fifteen Million and no/100 Dollars ($15,000,000.00) in the development and construction of the Project together with the personal property used at the Site; (c) in accordance with the terms of this Agreement, either satisfy the Employment Commitment or pay the Reimbursement Amount; (d) file a Statement of Benefits with the City prior to the City authorizing the Abatement; (e) by or before April 15th of each year of the Term, file a CF-1 with the City's legislative body and the Hamilton County Assessor showing the extent to which there has been compliance with the Statement of Benefits submitted for the Site; (f) from the Effective Date and throughout the Term, provide, within twenty (20) business days of receipt of Notice from the City, Additional Compliance Information to the City; (g) if applicable, pay the City the Reimbursement Amount within ten (10) business days of receiving Notice stating that such Reimbursement Amount is due; (h) pay, when due, all Real Estate Taxes and Assessments on the Site and the Project (subject to the Abatement); (i) construct and complete the Project by or before June 30, 2025; (j) obtain all Required Permits; (k) maintain, repair and replace the Project in good condition and repair (subject to ordinary wear and tear and casualty and condemnation); subject to the terms and conditions of this Agreement; and (l) otherwise comply with all terms and provisions of this Agreement.

6. Closing. Subject to the terms and conditions of this Agreement,

(a) Closing. The Closing Date shall occur: (i) on or before the date that is thirty (30) days after the conditions in Sections 8 and 9 have been satisfied or waived, but in no event later than December 31, 2023, except as extended by mutual agreement of the City and Developer, and (ii) either at the office of the Title Insurer or at such other place as City and Developer mutually may agree.

(b) Deliveries. At the Closing, unless another time is specifically stated:

(i) Developer shall pay the Closing Costs by wire transfer of immediately available funds.

(ii) Developer shall pay for any title insurance premiums for any such policy required by Developer, including, without limitation, lender's policies, endorsement fees, search fees, costs, and expenses charged for the owner's policies of title insurance.

(iii) Developer shall pay the cost of the Survey and the Plat and such Plat shall be recorded, if not previously recorded.

(iv) Each party shall be responsible for its own legal fees incurred in connection with negotiation and performance of this Agreement and the Closing.

(v) Developer and/or the applicable City Bodies shall execute and deliver the following:

(A) the Deed conveying to Developer fee simple title to the Site subject only to the Permitted Exceptions;

(B) a vendor's affidavit from the Commission, in form and substance reasonably satisfactory to Developer and such that the Title Insurer agrees to delete the standard exceptions for non-survey matters;

(C) an affidavit that the Commission is not a "foreign person", in form and substance required by the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder;

(D) a certification by the City Bodies and Developer that the representations and warranties set forth in Subsection 10(a) (City Bodies) and Sections 10(b) and (c) (Developer) remain true and accurate in all respects as of the Closing Date;

(E) copies of such resolutions, consents of members, partners, officers, and/or shareholders and other evidence as the Commission, City, Developer, or the Title Insurer reasonably may request, establishing that: (1) the persons executing and delivering the foregoing documents have been empowered and authorized by all necessary action; and (2) the execution and delivery of such documents, and the conveyance of the Site to Developer in accordance with the terms and conditions of this Agreement, have, in each case, been properly authorized by the signatories thereto;

(F) such other customary documents or instruments as City, the Commission, Developer or the Title Insurer reasonably may request in connection with the Closing (including, for example, a Sales Disclosure Form and a closing statement); and

(G) fully executed versions of the Ancillary Documents.

7. Property Inspections. Prior to the Closing Date, Developer shall cause the Property Inspections to be completed for the Site and provide to City (or its designee), promptly after receipt thereof, true, correct, and complete copies of all results of, and reports received in connection with, the Property Inspections. Developer shall determine in its sole discretion whether the Site is suitable for the Project. The Developer shall be entitled to access the Site pursuant to the Access Agreement attached as Exhibit C which Access Agreement shall be effective upon execution by the Commission and Developer.

8. Conditions to Developer Obligations.The obligations of Developer with respect to the Closing are subject to the satisfaction or waiver in writing, by Developer, in its commercially reasonable discretion, of the following prior to the applicable period specified in this Section:

Title. As of the Closing Date, Developer shall have obtained the Commitment for the Site.

Survey. As of the Closing Date, Developer shall have obtained the Survey for the Site.

Title Conditions. Prior to Closing, Developer shall have determined that the Title Insurer shall: (i) insure, for its fair market value, as applicable, marketable, fee simple title to the Site in the name of Developer, free of all Title Defects, other than those Title Defects that Developer is deemed to have waived pursuant to the terms and conditions of this Agreement; and (ii) issue such endorsements as Developer reasonably deems to be necessary or appropriate.

Survey Conditions. As of the Closing Date, Developer shall have determined that, upon recordation of the Plat, the Survey: (i) describes the perimeter of the Site as single parcel without gaps, gores, or overlaps; (ii) shows no encroachments thereto; (iii) shows no Title Defects thereto; and (iv) establishes that no part of the parcel is located within: (A) a "flood hazard zone", as shown on the applicable Federal Insurance Rate Map; or (B) a "floodway" or "flood plain", as shown on the applicable Flood Control District Map; and (v) otherwise acceptable to Developer in its sole discretion. Prior to Closing, the Survey shall establish the precise legal description of the Site.

Environmental Condition. As of the Closing Date, Developer shall have determined that there: (i) is no contamination or pollution of the Site, or any groundwater thereunder by any hazardous waste, material, or substance in violation of any Laws; (ii) are no underground storage tanks located on the Site; and (iii) are no wetlands on the Site.

Physical Condition. As of the Closing Date, Developer shall have determined that no test, inspection, examination, study, or investigation of the Site establishes that there are conditions that would interfere materially with the construction and use of the Project, in accordance with the terms and conditions of this Agreement.

Zoning. As of the Closing Date, Developer shall have determined that: (i) the zoning of the Site is proper and appropriate for the construction of the Project and use of the Project in accordance with the terms and conditions of this Agreement; and (ii) the Site is subject only to commitments and restrictions that are acceptable to Developer in its sole discretion.

Utility Availability. As of the Closing Date, Developer shall have determined that gas, electricity, telephone, cable, water, storm and sanitary sewer, and other utility services are: (i) in adjoining public rights-of-way or properly granted utility easements; and (ii) serving, or will serve, the Site at adequate pressures, and in sufficient quantities and volumes, for the construction and use of the Project.

Required Permits. As of the Closing Date, Developer shall have (i) obtained; or (ii) determined that it shall be able to obtain; all Required Permits in a timely manner so as to permit Developer to comply with the terms and conditions of this Agreement.

Financial Ability. As of the Closing Date, Developer, exercising commercially reasonable discretion, shall have determined that it has adequate funds to construct the Project.

Plat. As of the Closing Date, the Plat shall have received final approval from the Transfer and Mapping Department of the Office of the Auditor of Hamilton County, Indiana and be recorded. The Plat shall establish the precise legal description of the Site for purposes of title insurance and closing documents.

No Breach. As of the Closing Date: (i) there shall be no breach of this Agreement by City Bodies that the applicable City Body has failed to cure within the Cure Period; and (ii) all of the representations in Section 10(a) shall be true and accurate in all other respects.

(m) Approvals. The City Bodies shall have obtained all required approvals from their respective governing bodies necessary for the City Bodies' compliance with the terms of this Agreement and obtained approval of the Abatement.

(n) Compliance. This Agreement and compliance with the terms hereof are not in violation of any applicable Laws and no claims or causes of action asserting any violation of Laws shall have been asserted or threatened by any third party.

(o) Ancillary Agreements. As of the Closing Date, the Developer has, in good faith negotiated and executed the Ancillary Agreement.

Notwithstanding anything to the contrary set forth herein, (1) Developer shall work diligently and in good faith to satisfy the conditions set forth in this Section 8; and (2) if Developer fails to terminate this Agreement for any unsatisfied condition on or before the earlier of (i) the Closing Date; or (ii) two (2) business days after the applicable deadline set forth in each of the foregoing subsections; Developer shall be deemed to have waived such condition. Moreover, the City acknowledges that Developer may require certain other permits, approvals, waivers and accommodations in connection with the development and construction of the Project, and the City, to the extent of its authority, will reasonably cooperate with Developer in obtaining such permits, approvals, waivers and accommodations.

9. Conditions to City Bodies' Obligations. The obligations of City Bodies with respect to the Closing are subject to the satisfaction or waiver in writing of the following prior to the applicable period specified in this Section:

Required Permits. As of the Closing Date, City Bodies shall have determined that Developer has obtained will be able to obtain all Required Permits.

Financial Ability. As of the Closing Date, Developer shall have demonstrated to City, exercising commercially reasonable discretion, that Developer has adequate funds to construct the Project.

Procedures. As of the Closing Date, the applicable City Bodies shall have completed all procedures required by Laws to undertake the obligations contemplated hereunder; and all requisite public bodies shall have approved the transaction including approval of the Abatement.

(d) Plat. As of the Closing Date, the Plat shall have received final approval from the Transfer and Mapping Department of the Office of the Auditor of Hamilton County, Indiana and be recorded. The Plat shall establish the precise legal description of the Site for purposes of title insurance and closing documents.

(e) Compliance. This Agreement and compliance with the terms hereof are not in violation of any applicable Laws and no claims or causes of action asserting any violation of Laws shall have been asserted or threatened by any third party.

(f) No Breach. As of the Closing Date: (i) there shall be no breach of this Agreement by Developer that Developer has failed to cure within the Cure Period; and (ii) all of the representations and warranties set forth in Subsection 10(b) and (c) shall be true and accurate in all respects.

(g) Ancillary Agreements. As of the Closing Date, the City Bodies have negotiated in good faith and executed the Ancillary Agreement.

If one or more of the conditions set forth in this Section 9 is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, City either may elect to: (i) waive in writing satisfaction of the conditions and proceed to the Closing; or (ii) terminate this Agreement by providing Notice to Developer; provided that, with respect to any unsatisfied conditions resulting from a breach of this Agreement by Developer, City and/or the applicable City Body shall have all of the rights and remedies set forth in this Agreement. Notwithstanding anything to the contrary set forth herein, (1) City shall work diligently and in good faith to satisfy the conditions set forth in this Section; and (2) if City fails to terminate this Agreement for any unsatisfied condition; on or before the earlier of (i) the Closing Date; or (ii) two (2) business days after the applicable deadline set forth in each of the foregoing subsections; City shall be deemed to have waived such condition.

10. Representations and Warranties.

(a) City Bodies. Each City Body represents and warrants to Developer that: (i) it shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement; (ii) City is a municipal corporation organized and existing under the laws of the State of Indiana; (iii) the Commission is the governing body of the City of Fishers Redevelopment Department organized and existing under the laws of the State of Indiana; (iv) subject to completion of the applicable proceedings required by Laws, it has the power: (A) to enter into this Agreement; and (B) to perform its obligations hereunder; (v) it has been duly authorized by proper action: (A) to execute and deliver this Agreement; and (B) to perform its obligations hereunder, (vi) this Agreement is the legal, valid, and binding obligation of it; and (viii) it has not engaged or dealt with any real estate broker or agent in connection with the Project, Site, or this transaction and no person or entity is entitled to claim a commission or fee in connection with this transaction or otherwise by, through, or as a result of, the acts or omissions of a City Body.

(b) Developer. Developer represents and warrants to each City Body that: (i) Developer is an Indiana limited liability company, duly registered with the Office of the Indiana Secretary of State ; (ii) it shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement; (iii) it has the authority: (A) to enter into this Agreement; and (B) to perform its obligations hereunder, (iv) it duly has been authorized by proper action: (A) to execute and deliver this Agreement; and (B) to perform its obligations hereunder; (v) this Agreement is the legal, valid, and binding obligation of Developer; (vi) it has not engaged or dealt with any real estate broker or agent in connection with the Project, Site, or this transaction and no person or entity is entitled to claim a commission or fee in connection with this transaction or otherwise by, through, or as a result of, the acts or omissions of Developer. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and Developer will state, in all solicitations or advertisements for employees placed by or on behalf of Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) E-Verify. All terms defined in IND. CODE § 22-5-1.7 *et seq*. are adopted and incorporated into this Section. Pursuant to IND. CODE § 22-5-1.7 et seq., Developer covenants to enroll in and verify the work eligibility status of all of its employees using the E-Verify program, if it has not already done so as of the Effective Date. Upon Closing, Developer shall execute an affidavit affirming that: (a) it is enrolled and is participating in the E-Verify program; and (b) it does not knowingly employ any unauthorized aliens. In support of the affidavit, Developer shall provide City with documentation that it has enrolled and is participating in the E-Verify program. This Agreement shall not take effect until said affidavit is signed by Developer and delivered to City's authorized representative.

11. Plan Refinement Process.

This Plan Refinement Process shall govern development and construction of the Project. The City has reviewed and approved the Concept Plan for the Project; provided, however, such Concept Plan may be updated from time to time upon mutual agreement of Developer and the City. At its sole cost and expense, Developer shall submit for review and approval the following documents, which documents shall be submitted to the City in the order listed below, with respect to the Project:

(a) Site Plan.

(b) Schematic Design Drawings.

(c) Design Development Drawings.

(d) Construction Drawings and Construction Schedule.

(e) Approval of Submitted Document. Within fourteen (14) days after the City receives each of the Site Plan, the Schematic Design Drawings, the Design Development Drawings, the Construction Drawings and the Construction Schedule (each, a "Submitted Document"), the City shall deliver to Developer written notice that it approves or rejects the Submitted Document; provided that, if the City rejects, in good faith, all or any part of a Submitted Document, then such notice shall: (i) specify the part or parts that City is rejecting; and (ii) include the specific basis for such rejection. Upon the City's approval of a Submitted Document, or if the City fails to respond within the time period provided above, any such Submitted Document shall be deemed approved. Provided that a Submitted Document complies with the Laws, the City shall approve each Submitted Document if it is consistent with the immediately preceding Submitted Document approved by the City. For example, and without limitation, if the Design Development Drawings comply with the Laws and are consistent with the Schematic Design Drawings, the City shall approve the Design Development Drawings.

(f) Resubmitted Documents. If, at any stage of the Plan Refinement Process, the City, rather than approving any Submitted Document, instead notifies Developer that it rejects a Submitted Document (each, a "Rejected Document"), then Developer shall promptly: (i) revise the Rejected Document; and (ii) resubmit the foregoing to the City. The City shall follow the review procedure described in foregoing Subsection (e), and Developer shall revise and resubmit any Rejected Document in accordance with the preceding sentence until such Rejected Document is approved (each, a "Resubmitted Document"). Upon approval of any Resubmitted Document or if the City fails to respond within the time period provided above, the Resubmitted Document shall become final and part of the Project, subject to modifications by Change Order approved by the City and Permitted Changes. Notwithstanding the involvement of the City in the Plan Refinement Process, Developer shall be responsible for ensuring that Resubmitted Documents and Change Orders approved by the City in writing are implemented in design for the Project.

(g) Change Orders and Permitted Changes. If Developer desires to make changes to the Final Documents (that are not a Permitted Change), then Developer shall submit a Change Order Request to the City for review and approval. Within fourteen (14) days after the City receives the Change Order Request, the City shall deliver to Developer written notice that it approves or rejects the Change Order Request; provided that, if the City rejects all or any part of a Change Order Request, then such notice shall: (i) specify the part or parts that City is rejecting; and (ii) include the specific basis for such rejection. Upon the City's approval of a Change Order Request, or if the City fails to respond within the time period provided above, any such Change Order Request (and the Change Order) shall be deemed approved. Change Order Requests shall be deemed to be Submitted Documents. Developer shall not be required to obtain the approval of the City with respect to a Permitted Change.

(h) Permits. Developer acknowledges that the Plan Refinement Process is in addition to, and not in lieu of, any plan review or Required Permits required under applicable Laws, and it shall not be deemed a warranty or representation of any kind by City Bodies that Submitted Documents or Resubmitted Documents comply with, or are approved under, applicable Laws. Prior to commencing construction, Developer shall obtain Required Permits for the Project that are available prior to commencement and shall obtain the remainder of the Required Permits upon availability. The City shall use reasonable efforts to assist Developer in its efforts to obtain the Required Permits. Developer acknowledges that City Bodies cannot (and do not) guarantee that it will be able to obtain the Required Permits.

(i) Review Panel. Consistent with the Laws and notwithstanding anything to the contrary set forth herein, the City, at its option, may delegate all or any part of its review, approval, or rejection obligations pursuant to this Section 11 to the Plan Review Panel; provided, that no such delegation shall extend any of the timing deadlines set forth in this Section 11. Any determination by the Plan Review Panel shall be binding on City Bodies.

(j) Permitted Inspection. Upon reasonable written notice delivered to Developer, which notice shall specify the portion of the construction to be inspected, the City may perform a Permitted Inspection; provided, however, Permitted Inspections shall not typically occur more than one (1) time per calendar month. Within seven (7) business days after a Permitted Inspection, the City may deliver to Developer, a Non-Compliance Notice. If the City timely delivers a Non-Compliance Notice, then Developer shall correct, or cause to be corrected, as soon as is commercially practicable, all Material Defects identified in the Non-Compliance Notice, except and to the extent that any such Material Defect previously have been accepted, or deemed to have been accepted, by the City. Notwithstanding anything to the contrary set forth herein, all items or components of the Project with respect to which no Material Defect is identified in a timely Non-Compliance Notice shall be deemed to be accepted by the City.

(k) Final Inspection. If Developer delivers to the City a written request for a Final Inspection, then, on or before the later of the date that is ten (10) business days after: (i) receipt of such request; or (ii) the date specified in such request as the Substantial Completion date; the City shall: (A) conduct the Final Inspection; and (B) deliver a Non-Compliance Notice (if applicable) to Developer; provided that: (1) upon receipt of a Non-Compliance Notice, Developer shall correct, or cause to be corrected, as soon as is commercially practicable, all Material Defects identified in the Non-Compliance Notice; and (2) all then-completed items or components of the Project with respect to which no Material Defects are identified in a timely Non-Compliance Notice shall be deemed to be accepted by the City. If the City fails to conduct a Final Inspection within the time period provided above, the Project shall be deemed to be accepted by the City. All Material Defects shall be completed as soon as commercially practicable; and, upon correction of all Material Defect identified in the Non-Compliance Notice, the applicable work shall be deemed completed. Upon: (y) correction of all Material Defects identified in the Non-Compliance Notice; or (z) deemed acceptance pursuant to this Subsection; the City shall have no further inspection rights except to ensure compliance by Developer with the Required Permits and as permitted by the Laws.

(l) Failure to Cure. If Developer fails to cure any item in a Non-Compliance Notice or any Latent Defect identified in writing by the City, within forty-five (45) days of the receipt of such notice, then the City, in addition to any other right or remedy provided herein (and regardless of any Cure Period provided herein), shall be entitled to Two Hundred Fifty and no/100 Dollars ($250.00) per day from Developer for each day after the expiration of such 45-day period that any items in any (i) Non-Compliance Notice remain incomplete; or (ii) other notice of any Latent Defect remain incomplete; provided that, if such Material Defect or Latent Defect is of such a nature that it cannot be remedied within forty-five (45) days, despite reasonably diligent efforts, then the forty-five (45) day period shall be extended as may be reasonably necessary for Developer to remedy such Material Defect or Latent Defect (not to exceed one hundred twenty (120) days) so long as Developer commences to remedy such Material Defect or Latent Defect within the forty-five (45) day period and thereafter continuously and diligently pursues such remedy to completion.

(m) General. In the case of a Permitted Inspection or the Final Inspection, the Parties shall: (i) comply with all health and safety rules of which such party has been informed that have been established for personnel present on the construction site; and (ii) coordinate the inspections so that the inspections do not interfere with the performance of construction. The City and Developer each shall have the right to accompany, and/or have its construction manager accompany, the inspecting party during any Permitted Inspection and/or the Final Inspection.

(n) No Waiver of Police Power. The foregoing rights in favor of the City shall be addition to, and not in lieu of, any rights and remedies the City may have under this Agreement or applicable Laws; and nothing set forth herein shall be deemed to waive any authority, right, remedy, or power vested in any City Bodies under applicable Laws.

(o) Information Review. Upon City’s request, Developer agrees to permit the Executive Director to review and inspect copies of the following: (i) any third-party inspections and reports related to the construction of the Project; or (ii) receipts, invoices or other financial documents related to construction of the Project.

12. Default.

(a) Events of Default. It shall be an “Event of Default” if any party hereto fails to perform or observe any term or condition of this Agreement to be performed or observed by it if such default or failure is not cured within the applicable Cure Period.

(b) General Remedies. Whenever an Event of Default occurs, the non-defaulting party may take whatever actions at law or in equity are necessary or appropriate to: (i) collect any payments due under this Agreement; (ii) protect the rights granted to the non-defaulting party under this Agreement; (iii) enforce the performance or observance by the defaulting party of any term or condition of this Agreement (including, without limitation, the right to specifically enforce any such term or condition); or (iv) cure, for the account of the defaulting party, any failure of the defaulting party to perform or observe a material term or condition of this Agreement to be performed or observed by it. If the non-defaulting party incurs any costs or expenses in connection with exercising its rights and remedies under, or enforcing, this Agreement, then the defaulting party shall reimburse the non-defaulting party for all such costs and expenses, together with interest at the rate of twelve percent (12%) per annum.

(c) No Remedy Exclusive; Limitation. No right or remedy herein conferred upon, or reserved to, a non-defaulting party is intended to be exclusive of any other available right or remedy, unless otherwise expressly stated; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission by a non-defaulting party to exercise any right or remedy upon any Event of Default shall impair any such right or remedy, or be construed to be a waiver thereof, and any such right or remedy may be exercised from time to time, and as often as may be deemed to be expedient. To entitle a non-defaulting party to exercise any of its rights or remedies, it shall not be necessary for the non-defaulting party to give Notice to the defaulting party, other than such Notice as may be required by this Agreement or by the Laws. In no event shall any party hereunder be liable to the other for punitive or consequential damages because of an Event of Default by such party. In the event either party hereto employs an attorney in connection with Claims by one party against the other arising from the operation of this Agreement, the non-prevailing party shall pay the prevailing party all reasonable fees and expenses, including attorneys' fees, incurred in connection with such Claims. The term "prevailing party" as used in this Agreement shall include, but not be limited to, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise.

13. Special Remedies.

(a) No Commencement. Subject to Force Majeure and after offering in writing to meet with Developer to discuss Developer's failure to commence, if Developer has not commenced construction of the Project within ninety (90) days after the Closing Date, then, at any time until Developer commences construction of the Project, City may elect, in addition to any other legal and equitable remedies available to City, to (i) unilaterally terminate this Agreement; and (ii) re-enter the Site and exercise its Power of Termination and cause title to the Site to vest in the Commission, without any liability or obligation to Developer. The Power of Termination and foregoing rights shall be deemed exercised upon delivery to Developer of Notice delivered at any time after such ninety (90) day period but prior to Commencement of Construction (as defined herein below) of the Project. Upon delivery of such Notice to Developer, Developer shall surrender possession of the Site to the Commission and title to the Site shall automatically, and without further action, vest in the Commission; provided, however, if title to the property cannot automatically vest in the Commission, Developer acknowledges and agrees that it shall execute a limited warranty deed and take all other required action under the Laws or by the Title Insurer to reconvey the Site to the Commission. Any such re-vesting shall be free and clear of all encumbrances, liens, mortgages, easements, agreements, and other matters of record other than those existing immediately prior to Closing. No delay or failure by City Bodies to enforce any of the covenants, conditions, reservations and rights contained in this Section 13(a) or to invoke any available remedy with respect to an Event of Default by Developer shall under any circumstances be deemed or held to be a waiver by City Bodies of the right to do so thereafter, or an estoppel of City Bodies to assert any right available to it upon the occurrence, recurrence of continuation of any violation or violations hereunder. For purposes of this Section 13(a), "Commencement of Construction" shall mean material and substantial work on the Project pursuant to Required Permits such as installation of footings and foundations and shall not be deemed to occur as a result of mere excavation work.

(b) Work Stop. After Commencement of Construction, subject to Force Majeure, if all construction work of a material nature ceases with respect to the Project for a period of at least one hundred twenty (120) consecutive days or for more than a total of two hundred (200) days during any three hundred sixty (360) day period, then, at any time until construction work of a material nature resumes and is continuing, City may elect, in addition to any other legal and equitable remedies available to City, to (i) unilaterally terminate this Agreement; (ii) re-enter the Site and exercise its Power of Termination and cause title to the Site to vest in the Commission, without any liability or obligation to Developer. Subject to the foregoing, the Power of Termination and foregoing rights shall be deemed exercised upon delivery to Developer of Notice prior to material resumption of the construction work. Such Notice together with evidence of remittance of the Divestiture Payment to Developer may be recorded by the Commission contemporaneously with, or at any time after, its delivery of such Notice and payment to Developer. Upon delivery of such Notice and payment, if applicable, Developer shall surrender possession of the Site to the Commission and title to the Site shall automatically and without further action of the parties' vest in the Commission; provided, however, if title to the property cannot automatically vest in the Commission, Developer acknowledges and agrees that it shall execute a limited warranty deed and take all other required action under the Laws or by the Title Insurer to convey the Site to the Commission. Any such vesting of shall be free and clear of any, and all encumbrances, liens, mortgages, easements, agreements, and other matters of record other than existing immediately prior to Closing. No delay or failure by City Bodies to enforce any of the covenants, conditions, reservations and rights contained in this Section 13(b), or to invoke any available remedy with respect to an Event of Default by Developer shall under any circumstances be deemed or held to be a waiver by City Bodies of the right to do so thereafter, or an estoppel of City Bodies to assert any right available to it upon the occurrence, recurrence of continuation of any violation or violations hereunder.

(c) Abatement Termination. If the City Bodies exercise the Power of Termination pursuant to Section 13(a) or 13(b), the Abatement shall, without further action of the parties, automatically terminate.

14. Abatement Compliance &Termination.

(a) Compliance/CF-1 for Real Property Information. By or before April 15th of each year of the Term, Developer shall file a CF-1 with the City's legislative body and the Hamilton County Auditor showing the extent to which there has been compliance with the Statement of Benefits submitted for the Site.

(b) Abatement Termination, Hearing and Reimbursement. If the City determines that (i) Developer has not or cannot reasonably satisfy the Employment Commitment, or (ii) has not complied with its Statement of Benefits, the City may terminate the Abatement (or Developer's right to it); provided, however, if the City terminates the Abatement based on subsections (i), the City shall provide Notice and in such Notice specifically state the information on which it is relying to terminate the abatement. It shall be a violation of this Agreement for City to terminate the Abatement based on subsections (i) without substantial, compelling evidence that Developer cannot satisfy the Employment Commitment. For the avoidance doubt, an employer relocating from the Building shall not be substantial, compelling evidence to allow the City to terminate the Abatement pursuant to subsection (i) hereof, if Developer demonstrates that it has another employer timely moving into the Building that will allow it to otherwise meet the Employment Commitment. Developer shall have thirty (30) days to respond to such Notice prior to City terminating the Abatement, which right shall not be subject to a Cure Period.

(c) Abatement Hearing. If the City determines that the Abatement should be terminated, the City shall give Developer Notice of such determination and provide Developer an opportunity to appear before the City Council to show cause why the Abatement should not be terminated. Developer shall have thirty (30) days from the date of such Notice to confirm that it desires to be added to the City Council's next agenda and to provide evidence concerning why the Abatement should not be terminated. If the City Council adopts a resolution terminating the Abatement, Developer shall be entitled to appeal the determination to a Hamilton County Superior or Circuit Court.

15. No Limitation. Notwithstanding anything to the contrary set forth herein, the rights and remedies set forth in Sections 12, 13 and 14 are not exclusive and shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity.

16. Indemnification. Developer shall indemnify and hold harmless each of the City Bodies from and against any and all Claims of third parties arising from or connected with: (a) breaches by Developer under contracts to which Developer is a party and which contracts relate to the performance of any work on the Site by Developer or any party acting by, under, through, or on behalf of Developer; (b) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on the Site by Developer or any party acting by, under, through, or on behalf of Developer; (c) the negligence or willful misconduct of Developer or any party acting by, under, through, or on behalf of Developer; (d) Developer suffering or causing the filing of any mechanic's or materialmen's lien against the Site, Project, or any adjacent property owned by City Bodies and arising by or through Developer; or (e) the breach by Developer of any term or condition of this Agreement. Notwithstanding anything to the contrary set forth herein, Developer's obligations under this Section shall survive the termination of this Agreement.

17. Assignment. The City shall be entitled to record this Agreement in the Office of the Hamilton County Recorder against the Site. Upon Closing, this Agreement shall run with the Site and shall be binding on successors in title to the Site. Prior to Substantial Completion of the Project, no party hereto shall assign this Agreement without the prior written approval of the other parties; provided that: (a) without the prior written approval of Developer, City Bodies may assign this Agreement to another agency or instrumentality of City that legally is able to perform the respective obligations hereunder; and (b) without the prior written approval of City Bodies, Developer may assign this Agreement, or any portion thereof, in one or more assignment transactions, to one or more subsidiaries or affiliates of Developer or any entity which controls or is controlled by Developer. Notwithstanding any assignment permitted under this Section, the Developer shall remain liable to perform all of the terms and conditions to be performed by it under this Agreement, and the approval of any assignment shall not release the Developer from such performance, unless the assignee expressly assumes all such obligations in writing, and the City approves in writing the assignment document between Developer and any such assignee; provided that, if any City Bodies assigns this Agreement to another agency or instrumentality of City that: (a) has full power and authority to accept an assignment of this Agreement and carry out the respective obligations hereunder; and (b) expressly assumes all such obligations in writing; then the applicable City Bodies shall be released from liability under this Agreement for all obligations to be performed after the date of such assignment and assumption.

18. Notice. Any notice required or permitted to be given by any party to this Agreement shall be in writing, and shall be given (and deemed to have been given) when: (a) delivered in person to the other party; (b) three (3) days after being sent by U.S. Certified Mail, Return Receipt Requested; or (c) the following business day after being sent by national overnight delivery service, with confirmation of receipt, addressed as follows: to City at 3 Municipal Drive, Fishers, Indiana 46038, Attn: Scott Fadness, Mayor, with a copy to: Jennifer Messer (via email, only) at jennifercmesserlaw@gmail.com; and to Developer at 11787 Lantern Road, Suite 100, Fishers, Indiana Attention: Keith Konkoli, with a copy (via email only) to _____________. Each of the parties may change its address for notice from time to time by delivering notice to the other party as provided above.

19. Authority. Each undersigned person executing this Agreement on behalf of City, the Commission, and Developer represents and certifies that: (a) he or she has been empowered and authorized by all necessary action of City, the Commission, and Developer, respectively, to execute and deliver this Agreement; (b) he or she has full capacity, power, and authority to enter into and carry out this Agreement; and (c) the execution, delivery, and performance of this Agreement duly have been authorized by City, the Commission, and Developer, respectively; provided, however, City's and the Commission's ability to perform under this Agreement is subject to completion of certain procedures required by Laws which City and the Commission agree to undertake with diligence and in good faith.

20. Force Majeure. Notwithstanding anything to the contrary set forth herein, if either party is delayed in, or prevented from, observing or performing any of its obligations under, or satisfying any term or condition of, this Agreement as a result of Force Majeure, then: (a) the party asserting Force Majeure shall deliver Notice to the other party; (b) such observation, performance, or satisfaction shall be excused for the period of days that such observation, performance, or satisfaction is delayed or prevented; and (c) the deadlines for observation, performance, and satisfaction, as applicable, shall be extended for the same period.

21. Merger. All prior agreements, understandings, and commitments are hereby superseded, terminated, and merged herein, and shall be of no further force or effect.

22. Incurred Costs, Roundabout Property and Failure to Close. Each of the City Bodies and Developer is entering into this Agreement, and incurring significant expense, under the good-faith assumption that the other Parties will proceed to the Closing on or before December

31, 2023, unless otherwise mutually agreed in writing by the Developer and City. Accordingly, if this Agreement is terminated in accordance with its terms prior to the Closing:

(a) due to (i) a continuing Event of Default by one of the City Bodies, (ii) failure of the applicable City Body to satisfy the condition included in Sections 9(c), 9(e), or 9(g) or (iii) failure of any City Body to comply with the representations and warranties included in Section 10(a), then City Bodies shall reimburse Developer for its Incurred Costs.

(b) due to (i) a continuing Event of Default by Developer, (ii) failure of Developer to satisfy the conditions included in Section 8(a) - (j) or (o), or (iii) failure of Developer to comply with the representations and warranties included in Sections 10(b) or 10(c), then Developer shall reimburse the City for its Incurred Costs.

(c) If this Agreement is terminated for any reason other than those set forth above, then each party shall be responsible for paying its own costs and expenses.

(d) Any reimbursement or action required under this Section 10 shall be paid or performed, as applicable, by such party within thirty (30) days after receipt of written invoice or notice therefor, together with reasonable evidence supporting the amount set forth in such invoice.

23. Execution of Agreement. Upon City Bodies' approval and execution of this Agreement, the City shall provide to Developer the executed Agreement (the "City-Executed Agreement"). Within ten (10) days of Developer's receipt of the City-Executed Agreement , Developer shall execute this Agreement and provide the City a copy of such fully executed Agreement. Failure to strictly comply with this Section 23 shall terminate and automatically revoke any offer made by City Bodies herein, and shall, without further action of any of City Bodies, nullify and render of no force or effect City Bodies' approval of this Agreement.

24. Miscellaneous. Subject to Section 17, this Agreement shall inure to the benefit of, and be binding upon, City Bodies and Developer, and their respective successors and assigns. This Agreement may be signed in one or more counterparts, each of which shall constitute one and the same instrument. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Agreement shall be tried and litigated only in the state courts in Hamilton County, Indiana, or the federal courts with venue that includes Hamilton County, Indiana. Developer waives, to the extent permitted under applicable law: (a) the right to a trial by jury; and (b) any right Developer may have to: (i) assert the doctrine of "forum non conveniens"; or (ii) object to venue. This Agreement may be modified only by a written agreement signed by City, the Commission, and Developer. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. All Exhibits to this Agreement are attached hereto and incorporated herein by reference. Time is of the essence in this Agreement. If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law; provided that, in lieu of such invalid or unenforceable provision, there will be added to this Agreement a provision as similar to the invalid or unenforceable provision as is possible to reflect the intent of the parties and still be valid and enforceable. The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Agreement or the scope or content of any of its provisions. Nothing contained in this Agreement shall be construed to create a partnership, employment relationship or joint venture between Developer, City and the Commission or their successors in interest. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Site is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. Unless otherwise specifically stated, any amounts owed pursuant to this Agreement shall accrue interest at rate published in the Wall Street Journal plus six percent (6%) per annum from the date due until paid.

25. Exhibits.

Exhibit A: Concept Plan
Exhibit B: Site
Exhibit C: Access Agreement

[*signatures included on following pages*]

IN WITNESS WHEREOF, City, the Commission and Developer have executed this Project Agreement as of the day and year first written above.

"CITY"

CITY OF FISHERS, INDIANA

By: ________________________________
Scott Fadness, Mayor

"COMMISSION"

FISHERS REDEVELOPMENT COMMISSION

By:__________________________________
Damon Grothe, President

ATTEST:

By:_____________________________
Brad Johnson, Secretary

“DEVELOPER”

ONPOINT INNOVATION, LLC

By:__________________________________

Its: __________________________________

EXHIBIT A

CONCEPT PLAN

EXHIBIT B

SITE

EXHIBIT C

ACCESS AGREEMENT

[*separately provided*]