



CITY OF FISHERS AGENDA

BOARD/COMMISSION: Redevelopment Commission Meeting

DATE: 4/24/2023, 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. 3-23-23

5. Approval of Claims

- a. 4-24-23

6. Public Hearings

- a. OnPoint Temporary Easement for Due Diligence
- b. City Walk Project Agreement
- c. Sunblest easement
- d. Approval of Commercial Property Sales Agreement
- e. Approval for access agreement for Launch Fishers
- f. IoT Parking Lot Improvements
- g. Amendment to Kimley-Horn Agreement

7. Old Business

8. New Business

9. Meeting Adjournment

CITY OF FISHERS REDEVELOPMENT COMMISSION (FRC) MEETING MINUTES

March 23, 2023

EXECUTIVE SESSION – Executive Session was not held.

REGULAR MEETING:

Mr. Schoenrock called the Regular meeting to order at 5:00 p.m. Mr. Grothe joined the meeting after a few minutes. A quorum and proper notice of the meeting were confirmed.

FRC members present: Brad Johnson, Damon Grothe, Anderson Schoenrock, Dan Canan, Tony Bonacuse, Ben Orr.

Others present: Megan Baumgartner, Lawrence Summers, Jennifer Messer, Jordin Alexander, Jordan Willy

Quorum and proper public notice of the meeting was confirmed.

Ben Orr was introduced as the new non-voting School Board member.

Meeting Minutes: Mr. Canan made a motion to approve the minutes from the February 15, 2023 meeting, seconded by Mr. Bonacuse. Motion approved, 5-0.

Approval of Claims: Mr. Canan made a motion to approve the March 23, 2023 claims, seconded by Mr. Johnson. Motion approved, 5-0.

FRC 01R032323- Resolution Approving Drainage Easement Agreement

Megan Baumgartner presented the Easement project for Drainage on the Reynolds property. This is an upgrade for Stevenato and is part of the master detention project in the Life Sciences Park.

Mr. Grothe asked for a Motion. Mr. Bonacuse made a Motion to approve, seconded by Mr. Johnson. Motion approved, 5-0.

FRC 02R032323 - Resolution Approving Surface Parking Use Agreement

Megan Baumgartner explained that The Alhuda congregation is having parking challenges for Friday services. This allows use of the Launch Fishers parking lot with a trail connection. There is not a limit on the availability. The RDC has the lease for Launch Fishers and they are on board.

Mr. Grothe asked for a Motion. Mr. Bonacuse made a Motion to approve, seconded by Mr. Canan. Motion approved, 5-0.

FRC 03R032323 - Resolution Approving Wifi Quote

Megan Baumgartner explained that the RDC is responsible for the WIFI at Launch Fishers. This Resultant quote covers upgrades needed per David Bolling.

Mr. Grothe asked for a Motion. Mr. Johnson made a Motion to approve, seconded by Mr. Bonacuse. Mr. Canan abstained. Motion approved, 4-0-1.

FRC 04R032323 - Resolution Approving Office Sublease

This is a 2-year full service sublease for Meyer Najem in the former Meyer Najem building.

Mr. Grothe asked for a Motion. Mr. Schoenrock made a Motion to approve, seconded by Mr. Bonacuse. Motion approved, 5-0.

FRC 05R032323 – Resolution Approving Sublease Renewal

This is a sublease renewal for 24 months for ZergNet/Static Media in the Meyer Najem building.

Mr. Grothe asked for a Motion. Mr. Johnson made a Motion to approve, seconded by Mr. Bonacuse. Motion approved, 5-0.

2023 TIF Letter -

Lawrence Summers explained the TIF Increment letter which is required by State Statute.

Mr. Grothe asked for a Motion. Mr. Schoenrock made a Motion to approve, seconded by Mr. Bonacuse. Motion approved, 5-0.

Old Business / New Business: None

The meeting adjourned at 5:25 p.m.

**Fishers Redevelopment Commission
Claim Docket 4/24/23**

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

Total \$0.00

4/24/2023

President, Redevelopment Commission Date

4/24/2023

Secretary, Redevelopment Commission Date

4/24/2023

Lisa Bradford, City Controller Date

**Fishers Redevelopment Commission
Consent Agenda 4/24/23**

Regions Bank	Annual Fees	\$	2,000.00
Regions Bank	BI1208 Fees	\$	2,000.00
Onpoint Hub & Spoke	Adjustment for CAM	\$	579.96
Switch Offices LLC	April 2023 Vacant Rent	\$	911.48
Switch Offices LLC	April 2023 Mojo Up Rent Subsity	\$	293.75
CVK LLC	Meyer Najem 5/23 Rent	\$	35,675.81
Onpoint Hub & Spoke	Hub & Spoke 5/23 Rent	\$	38,172.03
Hageman Investments	Rebar 5/23 Rent	\$	10,500.00

\$	90,133.03
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TEMPORARY EASEMENT AGREEMENT

This TEMPORARY EASEMENT AGREEMENT (this “**Agreement**”) is made effective as of the latter signature date hereof (the “**Effective Date**”) by and between the City of Fishers Redevelopment Commission, a commission of the City of Fishers authorized and existing pursuant to Ind. Code § 36-7-14 *et. seq.* (“**Grantor**”), and OnPoint Innovation Park 3, LLC, an Indiana limited liability company duly registered with the Indiana Secretary of State’s Office (“**Grantee** and together with Grantor, the “**Parties**”), as follows:

RECITALS

WHEREAS, Grantor owns certain real property generally located at 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 A (the “**Site**”);

WHEREAS, Grantor has the authority to grant this Easement as defined herein;

WHEREAS, Grantee desire to potentially acquire a portion of the Site and desires to complete certain due diligence inspections and tests to determine whether the Site is suitable for its project (individually or collectively, the “**Inspections**”);

WHEREAS, to complete the Inspections, Grantee must acquire the temporary right to access the Site (the “**Temporary Easement Area**”); and

WHEREAS, pursuant to this Agreement and the terms and provisions hereof, Grantor desires to provide Grantee an Easement (as defined in Section 1 herein) to use the Temporary Easement Area for the Permitted Purpose (as defined in Section 3 herein).

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

- 1. Temporary Easement.** Grantor, for itself and its officers, employees, successors and assigns, hereby grants, bargains, sells, transfers and conveys to Grantee, its successors and/or assigns, a non-exclusive temporary easement (the “**Easement**”) in, on, over and through the Temporary Easement Area for the Permitted Purpose (as defined in Section 3 herein).
- 2. Duration.** The duration of this Agreement and the Easement granted herein shall commence on the Effective Date and shall be in effect until the earlier of (a) completion of the Inspections; or (b) October 1, 2023 (the “**Term**”).
- 3. Use of Easement Area/Permitted Purpose.** The Easement shall be used by Grantee and any of its affiliates, contractors, subcontractors or utility entities with facilities in or about the adjacent properties together with any of the employees, contractors, consultants, and/or agents of

the foregoing (collectively, the “**Permitted Parties**”) for pedestrian and vehicular (including, without limitation, trucks and other construction vehicles and equipment) ingress and egress to, on and across the Temporary Easement Area for the purpose of completing the Inspections (individually or collectively, the “**Permitted Purpose**”). Grantee agrees to repair promptly any damage to the Temporary Easement Area caused by or resulting from Grantee’s use of the Temporary Easement Area by the Permitted Parties. Grantor and its affiliates, customers, tenants, subtenants, lessees, licensees, successors, and/or assigns, together with any of the employees, contractors, consultants, and/or agents of the foregoing, shall not take any action, or fail to take any action, which shall interfere with, disturb, impede, limit, compromise, and/or diminish use of the Temporary Easement Area by Grantee or any of the other Permitted Parties for the Permitted Purpose; provided however, the Parties acknowledge and agree that certain trailers are currently located on the Temporary Easement Area and that the location of the trailers on the Temporary Easement Area shall not be construed as Grantor impeding or limiting Grantee’s use thereof.

4. **Indemnification.** Grantee shall indemnify and hold harmless Grantor from and against any and all claims arising from or connected with: (i) the breach by Grantee of any term or condition of this Agreement; (ii) injury to, or death of, persons or loss of, or damage to, property, caused by the performance of any work at or about the Temporary Easement Area by the Permitted Parties except to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Grantor; (iii) the negligence or willful misconduct of a Grantee related to this Agreement or work at or about the Site except to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Grantor; or (iv) the Permitted Parties causing the filing of any mechanic’s or materialmen’s lien against the Temporary Easement Area.

5. **Binding Effect.** The rights, covenants and agreement contained herein shall run with the land and shall bind and benefit the Parties hereto and their respective transferees, successors, assigns and any person claiming by, through or under either party to this Agreement.

6. **Miscellaneous.** This Agreement shall be governed by and construed in all respects in accordance with the laws of the State of Indiana, without regard to Indiana’s conflicts of law provisions. The captions and headings herein are for convenience and shall not be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions, scope or intent of this Agreement. This Agreement and any other documents executed in connection herewith, constitute the entire understanding between the Parties with regard to the subject matter hereof and there are no representations, inducements, conditions, or other provisions other than those expressly set forth herein. This Agreement may not be modified, amended, altered or changed in any respect except by written agreement that is signed by each of the Parties hereto.

7. **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 jennifermesserlaw@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.

8. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though Grantor and Grantee are not signatories to the original or the same counterpart.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement under seal as of the day and year set forth below.

GRANTEE:

OnPoint Innovation Park 3, LLC

By: _____

Its: _____

GRANTOR:

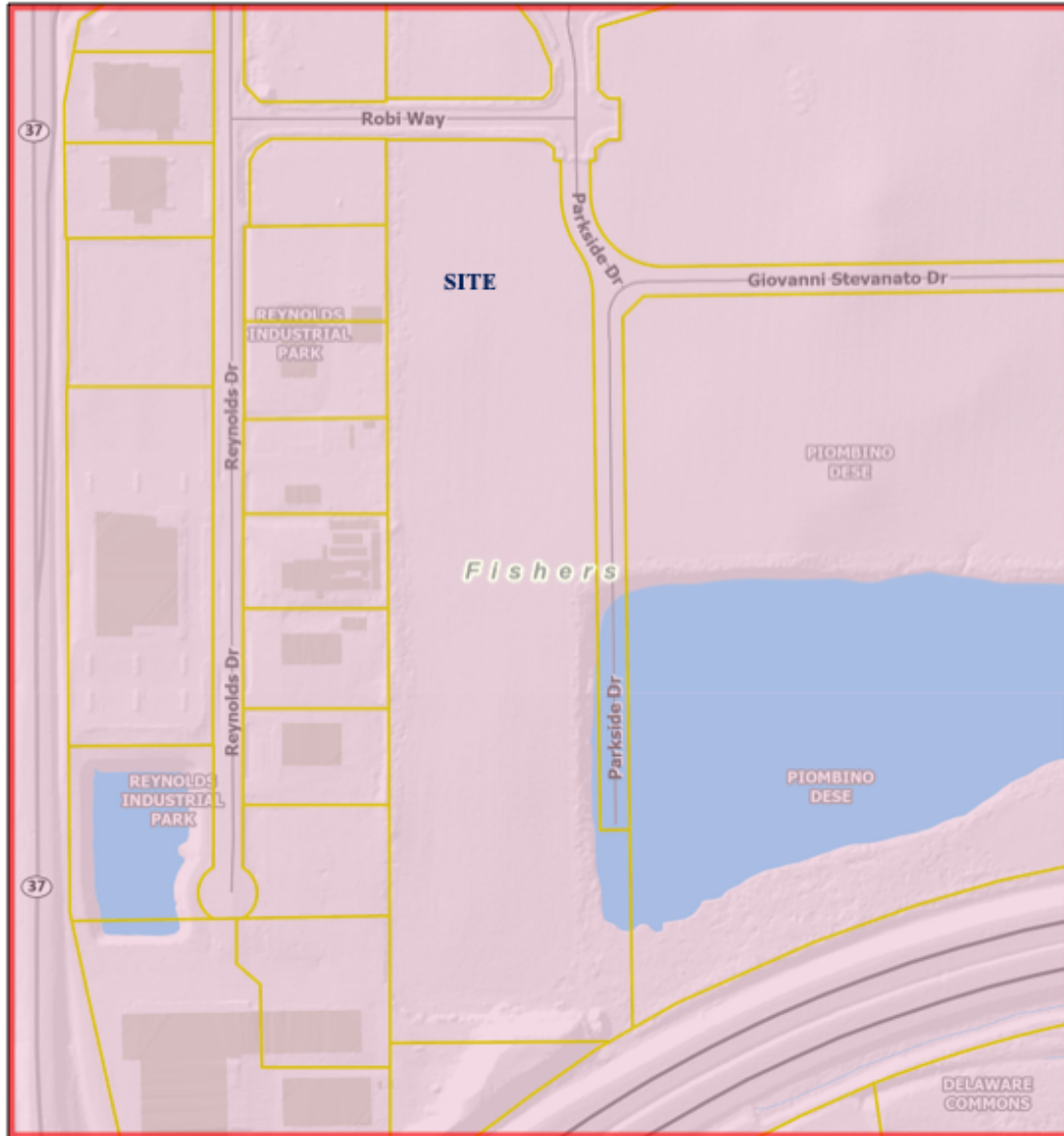
City of Fishers Redevelopment Commission

Damon Grothe, President

Attest: _____
Brad Johnson, Secretary

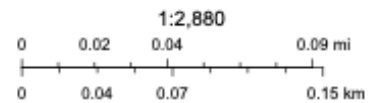
EXHIBIT A SITE

Hamilton County, Indiana



April 18, 2023

 Parcels



Author: Hamilton County
Hamilton County compiled this map. Although strict accuracy standards have been employed, Hamilton County does not warrant or guarantee the accuracy of the information contained herein and

RESOLUTION NO: FRC 01R042423

**RESOLUTION OF THE CITY OF FISHERS REDEVELOPMENT COMMISSION
APPROVING TEMPORARY EASEMENT AGREEMENT**

WHEREAS, the City of Fishers Redevelopment Commission (the “Commission”) owns property generally located north of State Road 37 and South of 126th Street in the City of Fishers, Hamilton County, Indiana (the “Life Sciences Property”);

WHEREAS, OnPoint Innovation Park 3, LLC (“Developer”) is interested in acquiring a portion of Life Sciences Property for a development project;

WHEREAS, Developer desires to perform certain inspections on the Life Sciences Property, and the Commission desires to allow Developer to perform the inspections all pursuant to an agreement substantially similar to the Temporary Easement Agreement attached hereto as Exhibit A (the “Easement Agreement”); and

WHEREAS, capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Easement Agreement.

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

Section 1. The Commission hereby approves a temporary easement agreement substantially similar to the Easement Agreement.

Section 2. The President and Secretary of the Commission are authorized to execute an easement agreement substantially similar to Easement 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 ____th day of April, 2023.

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

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 July, 2023, by and among The Village Holding Group, LLC, an Indiana limited liability company (“Developer”), the City of Fishers, Indiana, an Indiana municipal corporation (“City”), the City of Fishers Economic Development Commission, the Economic Development Authority for the City of Fishers (the “EDC”), and the City of Fishers Redevelopment Commission, a commission of the City authorized and existing pursuant to Ind. Code § 36-7-14 *et. seq.* (“RDC” and together with Developer, City and EDC, the “Parties”), on the following terms and conditions:

Recitals

WHEREAS, Developer is an Indiana real estate development company that has successfully delivered complicated multi-family and other high-density residential communities internationally. Developer has most recently completed multi-family, high density projects in the Middle East.

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

WHEREAS, as part of the Master Development Plan, the City has (a) worked with companies to develop multiple mixed-use developments that include apartments, condominiums, townhomes, office space and retail; (b) incented multiple high-growth, high-technology businesses to locate to the City; and (c) developed a life sciences corridor;

WHEREAS, as part of its Master Development Plan, the City desires to incent the development of additional multi-family, townhome and higher density development near its downtown Nickel Plate District;

WHEREAS, Developer submitted a proposal to City Bodies for a multi-family, townhome and condominium development on the Project Site, and the City determined that Developer's proposal was submitted pursuant to and consistent with the Master Development Plan, and therefore, City Bodies have agreed to provide certain incentives to assist Developer in the construction of the Project (as specifically defined in Section 1) on the Project Site;

WHEREAS, Developer anticipates investing approximately Seventy-Five Million and no/100 Dollars (\$75,000,000.00) developing the Project; WHEREAS, City Bodies have determined that 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 of the Project on the Project Site, City Bodies have agreed, subject to further proceedings required by law, to provide the economic development incentives described herein.

Agreement

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

1. Defined Terms.

Allocation Area shall mean a separate and distinct tax allocation area established by City Bodies pursuant to Ind. Code § 36-7-14 *et seq.* for the Project Site, which Allocation Area shall be established prior to Closing.

Ancillary Agreements shall mean, individually or collectively, the instruments and agreements referenced or contemplated herein, including, without limitation, the Funding Agreement, Taxpayer Agreement (if required by Developer) and any other agreements or reservations set forth therein and other documents needed to effectuate the intent of this Agreement.

Approved Costs shall mean all Hard Costs and Soft Costs (including capitalized interest on the Bonds) related to the Project.

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

Bond Documents shall mean the documents evidencing and/or securing the Bonds.

Bond Interest Rate shall have the meaning ascribed to such term in Subsection 11(d).

Bond Proceeds shall mean the proceeds of the Bond(s), which Bond Proceeds shall be used to pay (a) Approved Costs, (b) Closing Costs, and (c) reasonably incurred and documented administrative costs of the City associated with maintaining the Bond. The net Bond Proceeds for the Project shall not exceed Thirteen Million and no/100 Dollars (\$13,000,000.00) without approval of the City and Developer.

Bond or Bonds shall mean, for the Project, one or more series of taxable or tax exempt (as determined by the City Bodies, in their sole reasonable discretion) economic development revenue bonds to be issued under Ind. Code § 36-7-12 *et seq.* in a maximum par amount that Developer and City Bodies jointly determine will ensure that one hundred percent (100%) of all tax increment revenue generated in the Allocation Area is utilized to pay debt service on the Bonds. The Bonds shall be payable solely from the Pledged Increment, and City Bodies shall not be obligated to provide any other source of payment or security for the Bonds. The Bonds are estimated to be issued in the par amount of Sixteen Million, One Hundred Nine Thousand and no/100 Dollars (\$16,109,000.00) and produce the net Bond Proceeds as set forth and described on Exhibit A attached hereto; provided, however, such amounts are subject to change based on the date on which the structures on the Site are demolished, the date on which the Bonds are issued and other relevant variables.

Bond Term shall mean twenty-five (25) years from the date of issuance of the Bonds.

Change Order shall mean a change order executed by the City (or its designee) and Developer finalizing the inclusion into the Final Documents of a change proposed in a Change Order

Request by Developer 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 Developer.

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

City Body or City Bodies shall mean the City, EDC and/or RDC, as applicable.

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 completion of the following: (a) recordation of the Plat (if such recordation has not previously occurred); (ii) execution (if such execution has not previously occurred) of all Ancillary Agreements; (iii) the City's issuance of the Bonds and the purchase of the Bonds by the Developer; and (iv) Project Lender issuing the Project Loan to Developer (and Developer authorized to draw upon such Project Loan subject to the satisfaction of customary draw conditions).

Closing Costs shall mean all recording fees, escrow closing costs, and such other closing fees, costs, and charges customarily associated with closing of the Bonds.

Closing Date shall mean, for the Project, the date on which the Closing occurs.

Concept Plan shall mean the plan for the Project. The Concept Plan is attached as **Exhibit B** and may be updated from time to time upon mutual agreement of Developer and the City.

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

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.

Cure Period shall mean a period of: (a) ten (10) days after receipt of written notice of such default given 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 written 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 commercially reasonable 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 extent more than ninety (90) days after the date of default.

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.

Diligence Period shall mean sixty (60) days commencing on the Execution Date and terminating sixty (60) days thereafter.

Event of Default shall have the meaning set forth in Section 14.

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

Final Document(s) shall mean the Project, 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 12.

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

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) an act or omission of one of the other parties hereto; (b) unusually inclement weather but not cold, ice, sleet, snow or hail in amounts typical in Indiana; (c) the unusual unavailability of materials, equipment, services, or labor; and (d) utility or energy shortages or acts or omissions of public utility providers; provided that a party's failure to anticipate normal and customary delays due to weather or normal and customary time periods to obtain Required Permits shall not be deemed Force Majeure.

Funding Agreement shall mean an agreement for the Project pursuant to which the Bond Proceeds shall be disbursed to Developer in a commercially reasonable manner for Approved Costs. Developer shall be responsible for all costs to design and construct the Project in excess of the Bond Proceeds.

Hard Costs shall mean the costs incurred in connection with construction of the Project, which costs are customarily known in the industry as "hard costs".

Incurred Costs shall mean, if this Agreement is terminated (a) after expiration of the Diligence Period; and (b) prior to the Closing, all actual, 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 \$100,000.00).

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.

Material Defect(s) shall mean any item or component of the exterior of the 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.

Nickel Plate Rezone shall mean a rezoning of City's Nickel Plate District that, among other effects, will result in the Site being zoned for certain commercial and residential development like the Project.

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

Outside Closing Date shall mean **October 31, 2023**.

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 the 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 the 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 Inspection shall mean, as applicable, an inspection by the Inspector of any exterior item or component of the Project when reasonably deemed to be necessary or appropriate by any City Bodies and/or the Inspector.

Plan Refinement Process shall mean the process described in Section 12 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 prepared by Developer that has received all final approvals on or before Closing and is recorded in the Office of the Recorder of Hamilton County, Indiana prior to or contemporaneous with other documents needed for Closing, which Plat, at a minimum creates three (3) lots.

Pledged Increment shall mean one hundred (100%) of the tax increment revenue generated within the Allocation Area.

Project shall mean the development and construction of a (a) four-story, multifamily building comprised of eighty-seven (87) for-lease multifamily units; (b) six-story, residential building comprised of forty (40) for-sale condominiums; (c) six-story, residential building comprised of sixty-one (61) for-sale condominiums; and (d) forty-one (41), four-story townhomes, which Project is expected to represent an aggregate investment of approximately Seventy-Five Million and no/100 Dollars (\$75,000,000.00) in the City.

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, along with the Bond Proceeds shall be used to fund development and construction of the Project. The Project Loan shall be disbursed pursuant to the Project Loan Documents (and not

pursuant to the Funding Agreement), 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.

Project Site shall mean the sixteen (16) parcels of real property identified on **Exhibit B**.

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

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

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

Site Plan shall mean the site plan for the Project that is approved pursuant to the Plan Refinement Process.

Soft Costs shall mean costs incurred in connection with the Project, which costs are customarily known in the industry as “soft costs”.

Substantial Completion shall mean, with respect to the Project, the later of the date that: (a) Developer receives a final or temporary certificate of occupancy for such Project; and (b) the date that Developer’s architect certifies, per AIA Form G704, that the construction of the Project is substantially complete in material compliance with all Laws, this Agreement, the Final Documents (subject to Permitted Changes and Change Orders), and the Required Permits subject only to tenant improvements, certificates of occupancy for individual tenant spaces, landscaping and minor punch list items that do not materially interfere with the use or operation thereof.

Survey shall mean an ALTA survey of the Project Site, certified as of a current date by a reputable licensed surveyor; which Survey does not show any matters that would: (a) materially and adversely interfere with the construction and/or use of the Project; or (b) render construction of the Project unusually difficult or costly.

Taxpayer Agreement shall mean an agreement pursuant to which Developer agrees to pay an amount that, together with the Real Estate Taxes, is not less than the amount required to pay semi-annual debt service on the Bonds, which Taxpayer Agreement shall be required in the sole discretion of Developer, and if Developer elects to require a Taxpayer Agreement, such Taxpayer Agreement shall be executed on or before Closing.

Title Insurer shall mean First American Title Insurance Developer, Gina Longere.

2. Interpretation; Term and Other General Matters.

(a) The terms "include", "including" and "such as" shall each be construed as if followed by the phrase "without being limited to".

(b) Whenever a Party's consent, approval, agreement or election is required or permitted by this Agreement, such consent, approval, agreement or election shall not be unreasonably withheld, conditioned or delayed.

(c) The term of this Agreement shall be for the period commencing on the Execution Date and continuing through the first to occur of (i) Substantial Completion of the Project, or (ii) termination of this Agreement. Except as expressly set forth otherwise herein, this Agreement shall terminate upon the expiration of this term of this Agreement; provided, however, the obligation of the Parties (i) to pay any money owed pursuant to this Agreement, or (ii) pursuant to Section 12(l) (for a period of ten (10) years from Substantial Completion), shall survive termination of this Agreement.

3. City's Obligations. Subject to the terms and conditions of this Agreement, the applicable City Body shall: (a) in connection with Developer, jointly submit the Plat for final approval and recordation at or prior to Closing; (b) execute and perform (or cause the applicable City Bodies to execute and perform) the Ancillary Agreements; (c) issue the Bonds and, consistent with the Funding Agreement, make available the Bond Proceeds for Approved Costs incurred in connection with the Project, together with Closing Costs and fees associated with closing the Bonds at Closing; and, thereafter, within thirty (30) days after a completed draw request is submitted pursuant to the Funding Agreement (which requests shall not be submitted more frequently than monthly); (d) prior to Closing, create the Allocation Area and pledge the Pledged Increment to repayment of the Bonds; (e) provide reasonable assistance to Developer in connection with any zoning changes or variances determined to be necessary or appropriate by Developer for the construction and use of the Project in accordance with the Final Documents (subject to Permitted Changes and Change Orders); provided, however, City Bodies shall not be obligated to incur any expenses in connection with such assistance; (f) endeavor to complete the Nickel Plate Rezone; provided, however, the Parties understand and agree that the City cannot guarantee the result of such planned Nickel Plate Rezone; and (g) exercise commercially reasonable efforts to cause the review and timely issuance of the City's development and permit applications necessary to develop and construct the Project on the Project Site, including, whenever reasonably possible, coordinating with Developer to lower the Project's costs by supporting the issuance of interim, partial, and/or conditional approvals to allow project critical activities to occur while reserving final approval of less critical activities, to the extent allowed by the Laws; provided, however, City Bodies shall not be obligated to incur expenses related to such assistance.

4. Developer's Obligations. Subject to the terms and conditions of this Agreement, Developer shall: (a) voluntarily annex those portions of the Site that are not within the City's corporate boundaries into the City's corporate boundaries, including without limitation, complying with the City's voluntary annexation procedure and providing such documents, materials and other information requested by the City and reasonably necessary to complete the annexation process; (b) in connection with the City, jointly submit the Plat for final approval and recordation; (c)

complete the Project substantially in accordance with the Final Documents (subject to Change Orders and Permitted Changes); (d) pay, when due, all Real Estate Taxes and Assessments on the Project and the Project Site; (e) make or cause to be made the payments required by the Taxpayer Agreement (if required by Developer); (f) at Closing, cause the purchase of the Bonds; (g) obtain the Project Loans and ensure that proceeds of the Project Loans are available on the Closing Date (subject to the satisfaction of customary draw conditions); and (h) execute and perform the Ancillary Agreements.

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

(a) Closing. Subject to the terms and conditions of this Agreement, Closing shall occur (i) on a date designated by Developer that is by or before the Outside Closing Date, and (ii) at the office of the Title Insurer or at such other place as the City and Developer mutually may agree.

(b) Deliveries - Closing. At Closing, unless another time is specifically stated or the act has previously occurred:

(i) Developer shall execute and deliver to the City evidence reasonably satisfactory to the City that it has closed the Project Loan and is entitled to draw on the Project Loan beginning on such Closing Date (subject to the satisfaction of customary draw conditions);

(ii) The applicable City Bodies and the Developer shall execute and deliver the Ancillary Agreements;

(iii) The applicable City Bodies and the Developer shall execute and deliver the Bond Documents;

(iv) The applicable City Bodies and the Developer shall execute and deliver copies of such resolutions, consents of members, partners, officers and/or shareholders and other evidence as the RDC, EDC, City, Developer, or the Title Insurer reasonably may request;

(v) The applicable City Bodies and the Developer shall execute and deliver such other customary documents or instruments as the City, EDC, RDC, Developer or the Title Insurer may request in connection with the Closing;

(vi) The Developer shall deliver certificates of policies of insurance required pursuant to **Exhibit D**;

(vii) Developer shall be exclusively responsible for all Closing Costs; provided, however, Bond Proceeds may be used to pay such Closing Costs; and

(viii) Each Party shall be responsible for its own legal fees incurred in connection with negotiation of this Agreement and the Closing contemplated by this Agreement.

6. Taxes. At all times during Developer's ownership of the Project and the Project Site, Developer assumes and agrees to pay or cause to be paid all Real Estate Taxes and Assessments becoming a lien against the Project Site whenever due and payable.

7. Conditions to Developer Obligations. Notwithstanding anything to the contrary set forth herein, the obligations of Developer with respect to the Project Closing are subject to the satisfaction or waiver in writing, of the following prior to the applicable period specified in this Section 7:

(a) Environmental Condition. Prior to expiration of the Diligence Period, Developer shall have conducted all Property Inspections that it deems to be necessary or appropriate and has determined that there: (i) is no contamination or pollution of the Project 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 Project Site; and (iii) are no wetlands on the Project Site.

(b) Physical Condition. Prior to expiration of the Diligence Period, Developer shall have determined that no test, inspection, examination, study, or investigation of the Project Site establishes that there are conditions that would interfere materially with the construction and use of the Project or require unusually costly development techniques, in accordance with the terms and conditions of this Agreement.

(c) Zoning. Prior to the Closing, Developer shall determine that the Project Site is appropriately zoned for the Project.

(d) Utility Availability. Prior to the expiration of the Diligence Period, Developer shall have determined that gas, electricity, telephone, cable, water, storm and sanitary sewer, and other utility services are or will be: (i) in adjoining public rights-of-way or properly granted utility easements; and (ii) serving, or will serve, the Project Site at adequate pressures, and in sufficient quantities and volumes, for the construction and use of the Project in accordance with the terms and conditions of this Agreement.

(e) Required Permits. Prior to the Closing, Developer shall have (i) obtained; or (ii) determined that it shall be able to obtain, all Required Permits then available for the current stage of construction.

(f) Financial Ability. Prior to the Closing, Developer shall have determined that it has adequate funds (Project Loan proceeds, Bond Proceeds, and/or cash on hand) to construct the Project.

(g) Ancillary Agreements. On or before the Closing Date, the City (or the applicable City Bodies) and Developer, each exercising commercially reasonable discretion, shall have approved and executed (or execute at the Closing) the Ancillary Agreements.

(h) Bond Proceeds. On or before the Closing Date, City Bodies, using commercially reasonable efforts, shall have: (i) taken all action necessary to authorize the Bonds; and

(ii) demonstrated that the Bond Proceeds shall be made available to Developer in accordance with the Funding Agreement.

(i) Financing Documents. On or before the Closing Date, the Project Loan shall be closed, and in connection therewith, the Project Loan Documents, and any additional documents relating thereto, shall be fully executed by all parties thereto and the proceeds of the Project Loan shall be immediately available to Developer without Developer's satisfaction of any additional conditions (except for the satisfaction of customary draw conditions).

(j) Plat. On or before 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.

(k) City Body Approvals. As of the Closing Date, City Bodies have obtained all consents and approvals, and adopted all resolutions, required to be obtained and/or adopted in connection with the execution of, and the performance of its obligations under, this Agreement, the Ancillary Agreements, and any Bond Documents to which it is a party.

(l) Compliance. As of the Closing Date, 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.

(m) 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 the representations in Section 10(a) shall be true and accurate in all material respects.

If any of the conditions set forth in this Section are not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, Developer either may elect to: (A) waive in writing satisfaction of the conditions and proceed to the Closing; or (B) terminate this Agreement and any executed Ancillary Agreements by delivery of written notice to City Bodies; provided, that, with respect to any unsatisfied conditions resulting from a breach of this Agreement by a City Body, Developer shall have all of the rights and remedies set forth in Section 14. Notwithstanding anything to the contrary set forth herein, Developer shall (1) work diligently and in good faith to satisfy the conditions set forth in this Section, and (2) if Developer fails to terminate this Agreement for any unsatisfied condition on or before the expiration of the time period specified for satisfaction of such condition, Developer shall be deemed to have waived such condition and shall proceed to Closing.

8. Conditions to City Bodies' Obligations. Notwithstanding anything to the contrary set forth herein, the obligations of City Bodies with respect to proceeding to the Closing are subject to the satisfaction or waiver in writing, of the following prior to the applicable period specified in this Section:

(a) Required Permits. Prior to Closing, Developer shall have obtained, or City Bodies shall have determined that Developer shall be able to obtain, all Required Permits then available for the current stage of construction.

(b) Financial Ability. Prior to Closing, Developer shall have demonstrated to City Bodies that it has adequate funds (Project Loan proceeds, Bond Proceeds, and/or cash on hand) to construct the Project.

(c) Environmental Condition. Prior to the expiration of the Diligence Period, Developer shall have demonstrated to City Bodies that there: (i) is no contamination or pollution of the Project 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 Project Site; and (iii) are no wetlands on the Project Site. As of the expiration of the Diligence Period, there shall not have been any material adverse change in the environmental condition of the Project Site.

(d) Physical Condition. Prior to the expiration of the Diligence Period, City Bodies shall have determined that no test, inspection, examination, study, or investigation of the Project 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.

(e) Ancillary Agreements. Prior to Closing, the City (or the applicable City Bodies) and Developer, each exercising commercially reasonable discretion, shall have approved and executed (or at Closing will execute) the Ancillary Agreements.

(f) Financing Documents. On or before the Closing Date, the Project Loan shall be closed, and in connection therewith, the Project Loan Documents, and any additional documents relating thereto shall be fully executed by all parties thereto and the proceeds of the Project Loan shall be immediately available to Developer without Developer's satisfaction of any additional conditions (except for the satisfaction of customary draw conditions).

(g) Procedure. Prior to the expiration of the Diligence Period, the Parties have agreed on the terms on which the Bonds will be issued, and each of the City Bodies has completed all procedures required by the Laws in connection with consummating the transaction contemplated herein, including that all recommendations, approvals, authorizations, resolutions, and/or ordinances required to be completed, obtained, and/or adopted in connection with: (i) the issuance and sale of the Bonds on the terms to which the Parties have agreed; (ii) the use of the Bond Proceeds to pay Approved Costs incurred in connection with the Project; (iii) the pledging of the Pledged Increment to the payment of debt service on the Bonds; and (iv) the Allocation Area has been established.

(h) Plat. On or before 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.

(i) Developer Approvals. On or before the Closing Date, Developer has obtained all consents and approvals, and adopted all resolutions, required to be obtained and/or adopted in connection with the execution of, and the performance of its obligations under, this Agreement, the Ancillary Agreements, and any Bond Documents to which it is a party.

(j) Compliance. As of the Closing Date, 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.

(k) **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) the representations and warranties set forth in Subsections 10(b) and (c) shall be true and accurate in all material respects.

If one or more of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied, then, as their sole and exclusive remedy, City Bodies either may elect to: (i) waive in writing satisfaction of the conditions and proceed to the Closing; or (ii) terminate this Agreement and the Ancillary Agreements by a written notice to Developer; provided, that, with respect to any unsatisfied conditions resulting from a breach of this Agreement by Developer, City Bodies shall have all of the rights and remedies set forth in Section 14. Notwithstanding anything to the contrary set forth herein, (1) City Bodies shall work diligently and in good faith to satisfy the conditions set forth in this Section; and (2) if the applicable City Body fails to terminate this Agreement for any unsatisfied condition on or before the expiration of the time period specified for satisfaction of such condition, such City Body shall be deemed to have waived such condition and shall proceed to Closing.

9. Incurred Costs 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 party will proceed to Closing on or before the Outside Closing Date, unless otherwise mutually agreed in writing by the Developer and City. Accordingly, if, after expiration of the Diligence Period, Closing does not occur on or before the Outside Closing Date:

(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 8(e), (g) or (j) (provided that, in any instance, the parties have agreed on the terms) 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 7(a), (b), (c), (d), (e), (f), (i), (j) or (l), or (iii) failure of Developer to comply with the representations and warranties included in Sections 10(b) or (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 9 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.

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) the City is a municipal corporation organized and existing under

the laws of the State of Indiana; (iii) RDC is the governing body of the City of Fishers Redevelopment Department organized and existing under the laws of the State of Indiana; (iv) EDC is the governing body of the City of Fishers Economic Development Department organized and existing under the laws of the State of Indiana; (v) 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; (vi) it has been duly authorized by proper action: (A) to execute and deliver this Agreement; and (B) to perform its obligations hereunder, (vii) 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, 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 existing and validly formed under the laws of the State of Indiana; (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) (except for brokers or agents engaged to lease space in the Project) neither it nor any party affiliated with it has engaged or dealt with any real estate broker or agent in connection with the Project, the Project Site, or this transaction and no person or entity is entitled to claim a commission or fee in connection with this transaction by, through, or as a result of, the acts or omissions of Developer or any party affiliated with Developer; and (vii) it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual identification, sexual orientation, or national origin. If Developer has employees, Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and, if Developer has employees, 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, sexual identification, sexual orientation, or national origin. Developer states that it does not currently have employees.

(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.*, if Developer has employees, 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 Execution Date. If Developer has employees, within ten (10) days after the Execution Date, Developer shall execute an affidavit affirming that: (i) it is enrolled and is participating in the E-Verify program; and (ii) it does not knowingly employ any unauthorized aliens. In support of the affidavit, Developer shall provide the City with documentation that it has enrolled and is participating in the E-Verify program if it has employees. This Agreement shall not take effect until said affidavit is signed by Developer and delivered to the City's authorized representative if Developer has employees. Developer states that it does not currently have employees.

11. Allocation Area and Pledged Increment.

(a) Allocation Area. Subject to (i) all procedures required by the Laws, (ii) Developer satisfying its obligation to voluntarily annex into the City's corporate boundaries, and (iii) the terms and conditions of this Agreement, prior to Closing, City Bodies shall establish the Allocation Area, and RDC shall pledge the Pledged Increment to the repayment of the Bonds for the Bond Term. Pledged Increment will be utilized first to make current payments of interest and principal on the Bonds, second, to remedy any prior shortfalls with respect to payments of interest and principal on the Bonds, and third, to redeem Bonds prior to their maturity. City Bodies shall not pledge to the repayment of the Bonds any tax revenues or other funds of the City, except the Pledged Increment. City Bodies shall not be liable for any shortfall in the Pledged Increment. Any amounts due and owing on the Bonds at the expiration of the Bond Term shall be forgiven. For the avoidance of doubt, the Allocation Area shall be established prior to Closing.

(b) TIF Revenue Shortfalls. In the event Pledged Increment is, in any given period, insufficient to make payment on the Bonds, such shortfall shall accrue and be payable from future Pledged Increment during the Bond Term and no other source of City Bodies. In the event and to the extent Developer or any affiliate makes any payment on the Bonds, Developer or such affiliate will be subrogated to the rights of City Bodies to receive Pledged Increment in excess of current amounts payable on the Bonds in any subsequent time period. Such amounts payable to Developer or such affiliate will bear interest at the same rate or rates as the applicable Bond.

(c) Excess Pledged TIF Revenue. To the extent Pledged Increment is available in amounts in excess of the amount to make the then due or past due payments on the Bonds (pursuant to Subsection 11(b) above), such excess Pledged Increment shall be used to redeem the Bonds prior to their maturity.

(d) Interest During Construction. At the option and discretion of Developer, the Bonds may bear interest (i) at zero percent from their date of issuance until Substantial Completion (and, thereafter, at the Bond Interest Rate (as hereinafter defined)); or (ii) at the Bond Interest Rate from their date of issuance throughout the Bond Term. After the Project has been assessed and is generating increment, the Bonds will (i) bear interest at the Bond Interest Rate and (ii) be in accordance with the City authorizations relating to the Bonds. For purposes of this Agreement, the "Bond Interest Rate" shall mean a rate intended to be equal to or less than seven percent (7.0%) (except for the potential of a zero percent (0%) rate until Substantial Completion), as determined jointly by the Parties, each in the exercise of its reasonable discretion.

(e) Costs of Issuance and Administrative Fees. Developer shall be solely liable for all bond issuance costs and administrative fees, including bond and other counsel fees for both City Bodies and Developer, which amounts shall be paid from Bond Proceeds.

(f) Bond Structuring. The Bonds may be structured in one or more series to support the multi-component and phased nature of the Project.

12. Plan Refinement Process.

This Plan Refinement Process shall govern development and construction of the Project. 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 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 materially 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 materially 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.

(i) 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: (A) specify the part or parts that City is rejecting; and (B)

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.

(ii) 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 12 to the Plan Review Panel; provided, that no such delegation shall extend any of the timing deadlines set forth in this Section 12. 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 ninety (90) 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 the City 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.

13. Taxpayer Agreement If required by Developer, Developer agrees to enter into a Taxpayer Agreement for the Bonds mutually acceptable to the City Bodies that (a) states that beginning the calendar year following the first January 1 after Substantial Completion of the applicable Project and continuing through each calendar year of the Bond Term, Developer agrees to (i) annually (in semi-annual payments on the dates that are five days prior to the next-due payment of debt service on the Bonds) pay RDC the positive difference, if any, between: (A) the amount of the required debt service payment on the Bonds; and (B) the Pledged Increment distributable to RDC for the applicable year; (b) provides that the payments due by Developer thereunder are secured by an annually renewable lien against the Project Site that is the same in nature and priority to

(but different from and in addition to) the lien of Real Estate Taxes and, accordingly, shall: (i) be prior to any mortgage or other lien or encumbrance on such Project Site other than the lien of Real Estate Taxes; and (ii) renew automatically every January 1 during the Bond Term in its same priority; and (c) shall be recorded and run with the Project Site. City Bodies and Developer shall execute and record the Taxpayer Agreement at the Closing (if required by Developer). Nothing in this Agreement or the Taxpayer Agreement (if required by Developer) shall be deemed to release Developer from any obligation to pay Real Estate Taxes on the Project Site regardless of when payable or assessed.

14. Default.

(a) Events of Default. It shall be an “Event of Default” if either Party 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. During the continuance of an Event of Default, 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.

(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, 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 as a result 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.

15. Mutual Indemnification.

(a) City Bodies. To the extent permitted by applicable Laws, City Bodies shall indemnify and hold harmless Developer from and against all Claims arising from the breach by City Bodies of any term or condition of this Agreement.

(b) Developer. Developer shall indemnify and hold harmless City Bodies from and against any and all Claims arising from: (i) breaches by Developer under contracts to which Developer is a party, to the extent that such contracts relate to the performance of any work on the Project Site by Developer or any party acting by, under, through, or on behalf of Developer; (ii) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on the Project Site by Developer or any party acting by, under, through, or on behalf of Developer; (iii) the negligence or willful misconduct of Developer or any party acting by, under, through, or on behalf of Developer; or (iv) the breach by Developer of any term or condition of this Agreement.

Notwithstanding anything to the contrary set forth herein, City Bodies' and Developer's obligations under this Section shall survive the termination of this Agreement.

16. Assignment.

(a) Upon Closing, this Agreement shall run with the Project Site and shall be binding on successors in title to the Project Site. Prior to Substantial Completion of the Project, Developer shall not assign this Agreement without the approval of the City, and the City Bodies shall not assign this Agreement without the prior written approval of the Developer; provided that: (i) without the prior written approval of Developer, City Bodies may assign this Agreement to another agency or instrumentality of the City that legally is able to perform the respective obligations hereunder; and (ii) without the prior written approval of City, Developer may assign, partially or in its entirety, this Agreement to (A) a third party controlling, controlled by or under common control with Developer, or (B) collaterally assign this Agreement (or portion hereof) to a Project Lender.

(b) Notwithstanding any assignment permitted under this Section, the applicable City Bodies or Developer, as the case may be, shall remain liable to perform all of the terms and conditions to be performed by it under this Agreement, and the approval by the other party of any assignment shall not release any City Bodies or Developer, as the case may be, from such performance; provided that, if any City Body assigns this Agreement to another agency or instrumentality of the City that: (i) has full power and authority to accept an assignment of this Agreement and carry out the respective obligations hereunder; and (ii) 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.

17. 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. Notice shall be provided as follows: if to (x) the City Bodies: City of Fishers, Attn: Lindsey Bennett, City Attorney, 3 Municipal Drive, Fishers,

Indiana 46038, with copies (via email, only) to: Jennifer Messer, jennifermesserlaw@gmail.com, and (z) Developer at The Wanas Group, 11205 Governors Ln, Fishers, IN 46037, Attn: Hossam Wanas, CEO, with copies (via email, only) to: J. Murray Clark, murray.clark@faegredrinker.com. Each of the Parties may change its address for notice from time to time by delivering notice to the other party as provided above.

18. Authority. Each undersigned person executing this Agreement on behalf of the City, EDC, RDC and Developer represents and certifies that: (a) he or she has been empowered and authorized by all necessary action of the City, EDC RDC, or 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 the City, RDC, EDC and Developer, respectively; provided, however, each of the City's, EDC and RDC's ability to perform under this Agreement is subject to completion of certain procedures required by Laws which the City, EDC and RDC agree to undertake with diligence and in good faith.

19. Force Majeure. Notwithstanding anything to the contrary set forth herein, if any Party is delayed in, or prevented from, observing or performing any of its obligations (other than the obligation to pay money, including any payment required pursuant to the Taxpayer Agreement (if required by Developer) 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 written 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. The Parties acknowledge the ongoing COVID-19 pandemic, and agree: (y) to exercise commercially reasonable, good-faith efforts to: (i) consider all then-current information with respect to; and (ii) adjust for shortages that reasonably can be anticipated with respect to materials, equipment, services, and/or labor that reasonably are likely to occur as a result of; the COVID-19 pandemic; and (z) that, notwithstanding that the COVID-19 pandemic falls within the definition of "Force Majeure", the protections of this Section shall not apply to a claim of Force Majeure based on COVID-19 if the applicable party fails to comply with the foregoing requirement.

20. Merger. All prior agreements, understandings, and commitments with respect to the transaction contemplated herein are hereby superseded, terminated, and merged herein, and shall be of no further force or effect. Absent an amendment to, or modification of, this Agreement in accordance with this section, in no event shall City Bodies be obligated to perform any work, incur any expenses, or provide any incentives (whether with respect to the Project Site, the Project, or any site or improvements adjacent to, or in the vicinity of, the Project Site) other than as specifically set forth in this Agreement. This Agreement may be amended or modify only by written instrument executed by City Bodies and Developer.

21. Miscellaneous. Subject to Section 16, 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 the City, EDC, RDC, and Developer. 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, the City, EDC, and RDC 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 Fishers, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. Any amounts due or to be paid hereunder shall bear interest at the prime rate as published in *The Wall Street Journal* plus five percent (5%) per annum from the date due until paid.

22. 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 22 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.

Index of Exhibits:

Exhibit A: Project Proceeds
Exhibit B: Concept Plan
Exhibit C: Project Site
Exhibit D: Insurance

[signatures on following pages]

IN WITNESS WHEREOF, the City, EDC, RDC 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

“EDC”

**CITY OF FISHERS ECONOMIC
DEVELOPMENT COMMISSION**

By: _____

“RDC”

FISHERS REDEVELOPMENT
COMMISSION

By: _____
Damon Grothe, President

ATTEST:

By: _____
Brad Johnson, Secretary

“DEVELOPER”

The Villages Holding Group, LLC

By: _____

Its: _____

Exhibit A Project Proceeds

CITY OF FISHERS, INDIANA

Proposed Village Project

ILLUSTRATIVE PROJECT COSTS AND FUNDING

Assumes the Bonds are purchased by the Developer with a 7% interest rate

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050
Net																																	
Cap																																	
Op																																	
M																																	
D																																	
T																																	

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050
Construction																																	
Operating																																	
Maintenance																																	
Debt Service																																	
Total																																	

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	
Construction																																		
Operating																																		
Maintenance																																		
Debt Service																																		
Total																																		

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050
Construction																																	
Operating																																	
Maintenance																																	
Debt Service																																	
Total																																	

Exhibit B
Concept Plan
[included on following pages]



Exhibit C Project Site

Table 1

Formatted Parcel No	Last Transfer Date	Deeded Owner	Address	House No	Street Dir	Street Name	Street Suffix	City	Zip	Legal Description
14-11-31-03-01-01 0.000	3/15/2022, 12:00 AM	The Village Holding Group LLC	12002 Lantern Rd	12002		Lantern Rd		Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 7
14-11-31-03-01-00 1.000	4/1/2022, 12:00 AM	The Village Holding Group LLC	12162 Lantern Rd	12162		Lantern Rd		Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 17
14-11-31-03-01-00 9.000	7/15/2022, 12:00 AM	The Village Holding Group LLC	8803 E 121st St	8803	E	121st	St	Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 8
14-11-31-03-01-01 6.000	10/19/2021, 12:00 AM	The Village Holding Group LLC	11968 Lantern Rd	11968		Lantern Rd		Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 1
14-11-31-03-01-01 5.000	7/15/2022, 12:00 AM	The Village Holding Group LLC	8821 Circle Dr	8821		Circle Dr		Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 2
15-11-31-03-01-00 5.000	7/15/2022, 12:00 AM	The Village Holding Group LLC	8850 E 121st St	8850	E	121st	St	Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 13
14-11-31-03-01-01 3.000	7/15/2022, 12:00 AM	The Village Holding Group LLC	8830 Circle Dr	8830		Circle Dr		Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 4 Irregular Shape
14-11-31-03-01-01 2.000	7/15/2022, 12:00 AM	The Village Holding Group LLC	8830 Circle Dr	8830		Circle Dr		Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 5 Irregular Shape
14-11-31-03-01-00 2.000	7/15/2022, 12:00 AM	The Village Holding Group LLC	8820 E 121st St	8820	E	121st	St	Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 16

Formatted Parcel No	Last Transfer Date	Deeded Owner	Address	House No	Street Dir	Street Name	Street Suffix	City	Zip	Legal Description
14-11-31-03-01-00 6,000	7/15/2022, 12:00 AM	The Village Holding Group LLC	8843 E 121st St	8843	E	121st	St	Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 12 & 11
14-11-31-03-01-00 7,000	12/29/2021, 12:00 AM	The Village Holding Group LLC	8833 E 121st St	8833	E	121st	St	Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 10 Irregular Shape
14-11-31-03-01-00 3,000	12/29/2021, 12:00 AM	The Village Holding Group LLC	8830 E 121st St	8830	E	121st	St	Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 15
14-11-31-03-01-00 4,000	10/26/2021, 12:00 AM	The Village Holding Group LLC	8844 E 121st St	8844	E	121st	St	Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 14 Irregular Shape
14-11-31-03-01-01 4,000	7/15/2022, 12:00 AM	The Village Holding Group LLC	0 Circle Dr	0		Circle Dr		Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 3
14-11-31-03-01-00 8,000	1/20/2022, 12:00 AM	The Village Holding Group LLC	8813 E 121st St	8813	E	121st	St	Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 9
14-11-31-03-01-01 1,000	10/20/2021, 12:00 AM	Village Holding Group LLC	8850 Circle Dr	8850		Circle Dr		Fishers	46038	Acreage .00 Section 31, Township 18, Range 5 CIRCLE HEIGHTS Section 1 Lot 6

Exhibit D
Developer Insurance Requirements

Developer shall obtain and maintain and require any general contractor or subcontractor(s) to obtain and maintain the below listed policies of insurance written by a Developer reasonably acceptable to the City and for which certificates of insurance shall be provided to the City prior to commencement of any work on the Project. The City and the Redevelopment Commission shall be named as additional insureds on Developer's Commercial General Liability policies of insurance.

1.	Workers Compensation insurance coverage in accordance with statutory requirements.
2.	Employers Liability Insurance with limits of not less than \$1,000,000.00 each accident; \$1,000,000.00 Disease- each employee; and \$1,000,000.00 Disease Policy Limit.
3.	Commercial General Liability Insurance on ISO form GC0001 10 01 (or a substitute form providing equivalent coverage) and General Contractor and Subcontractors shall provide the Developer with Certificate of Insurance and Additional Insured Endorsement on ISO form GC2010 11 85 (or a substitute form providing equivalent coverage) and CG2037 10 01 (or substitute forms providing equivalent coverage) naming the City and the Redevelopment Commission as additional insureds thereunder. Additional insured coverage shall apply as primary insurance with respect to any other insurance afforded the City and the Redevelopment Commission per the follows: \$1,000,000.00 Each Occurrence (BI & PD Combined Single Limit); \$2,000,000.00 General Occurrence (subject to per project general aggregate provision); and
4.	Business Automobile Liability Insurance: Written in the amount of not less than \$1,000,000.00 each accident to include the City and the Redevelopment Commission as additional insureds.
5.	Umbrella Liability: \$2,000,000.00.

RESOLUTION NO: FRC FRC 02R042423

**RESOLUTION OF THE CITY OF FISHERS REDEVELOPMENT COMMISSION
APPROVING PROJECT AGREEMENT (CITY WALK)**

WHEREAS, The Village Holding Group, LLC, an Indiana limited liability company (“Developer”), is an Indiana real estate development company that has successfully delivered complicated multi-family and other high-density residential communities internationally, including, most recently, completing multi-family, high density projects in the Middle East;

WHEREAS, Developer submitted a proposal to the City Bodies for a multi-family, townhome and condominium development on the Project Site that is comprised of (a) four-story, multifamily building comprised of eighty-seven (87) for-lease multifamily units; (b) six-story, residential building comprised of forty (40) for-sale condominiums; (c) six-story, residential building comprised of sixty-one (61) for-sale condominiums; and (d) forty-one (41), four-story townhomes;

WHEREAS, the Project is expected to represent an aggregate investment of approximately Seventy-Five Million and no/100 Dollars (\$75,000,000.00) in the City;

WHEREAS, the City of Fishers Redevelopment Commission (the “Commission”) has determined that completion of the Project is in the best interests of the citizens of the City and desires to induce Developer to complete the Project by approving a project agreement substantially similar to the Project Agreement and issuing a developer-backed bond in the approximate amount of Sixteen Million, One Hundred Nine Thousand and no/100 Dollars (\$16,109,000.00); and

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

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

Section 1. The Commission hereby approves a project agreement substantially similar to the Project Agreement.

Section 2. The President and Secretary of the Commission are hereby authorized to execute a project agreement substantially similar to the Project 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 ____th day of April, 2023.

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

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.

RESOLUTION NO: FRC 03R042423

**RESOLUTION OF THE CITY OF FISHERS REDEVELOPMENT COMMISSION
APPROVING AMENDED AND RESTATED DRAINAGE EASEMENT AGREEMENT**

WHEREAS, the City of Fishers Redevelopment Commission (the “Commission”) is continuing to master plan the Fishers Life Sciences Park generally located north of State Road 37 and South of 126th Street in the City of Fishers, Hamilton County, Indiana (the “Life Sciences Park”);

WHEREAS, for the past year, the Commission has worked to provide onsite stormwater detention and to develop a plan for stormwater that cannot be retained within the Life Sciences Park site;

WHEREAS, Regency Windsor Sunblest II Limited Partnership (“Sunblest”) owns real property east of the Life Sciences Park on which a retention pond is located and to which stormwater from the west naturally flows;

WHEREAS, Sunblest has provide the Commission an easement to drain to its property and into the pond located on its site, if the Commission will cause approximately one hundred feet (100’) of existing twenty-one inch (21”) pipe between Sunlake Western Pond (Pond/Lake #2) and Launch Fishers Pond (City Owned/Operated), to be replaced with thirty-six inch (36”) pipe, all pursuant to the Amended and Restated Drainage Easement Agreement attached hereto and incorporated herein as **Exhibit A** (the “Easement Agreement”);

WHEREAS, the Commission now desires to enter into an easement agreement substantially similar to the Easement Agreement; and

WHEREAS, capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Easement Agreement.

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

Section 1. The Commission hereby approves an easement agreement substantially similar to the Easement Agreement.

Section 2. The President and Secretary of the Commission are authorized to execute an easement agreement substantially similar to Easement 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 ____th day of April, 2023.

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

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.

Cross-Reference: 9007531, and 2019002115
Last Deed of Record: 9001374

AMENDED AND RESTATED DRAINAGE EASEMENT AGREEMENT

THIS AMENDED AND RESTATED DRAINAGE EASEMENT AGREEMENT ("**Agreement**") is made this ____ day of _____, 2023, by and among REGENCY WINDSOR SUNBLEST II LIMITED PARTNERSHIP, an Indiana limited partnership ("**Grantor**"), RMAC, LLC, an Indiana limited liability company ("**Grantee**"), and the City of Fishers Redevelopment Commission, a commission of the City of Fishers, authorized and existing pursuant to Ind. Code § 36-7-14 *et. seq.* ("**Grantee No. 2**", and together with Grantor and Grantee the "**Parties**", and each a "**Party**").

RECITALS

WHEREAS, Grantor is the fee simple owner of certain real property situated in Fishers, Indiana, as legally described on Exhibit A attached hereto and incorporated herein (the "**Grantor Property**");

WHEREAS, Grantee is the fee simple owner of certain real property situated in Fishers, Indiana, as legally described on Exhibit B attached hereto and incorporated herein (the "**Grantee Property**");

WHEREAS, Grantee No. 2 has master planned the development of certain real property situated in the City of Fishers, Indiana, as described and depicted on Exhibit C attached hereto and incorporated herein (the "**Life Sciences Park**") and is the fee simple owner of the Commission Property, as defined in Section 7 below, which is a part of the Life Sciences Park;

WHEREAS, Grantee has requested the right to direct stormwater from the Grantee Property to a portion of the Grantor Property more particularly described and depicted on Exhibit D attached hereto and incorporated herein (the "**Drainage Area**");

WHEREAS, Grantor and Springdale Properties, LLC, the predecessor of Grantee, entered into a certain Drainage Easement Agreement dated January 1, 2019 and recorded January 18, 2019 as Instrument No. 2019002115 in the office of the Recorder of Hamilton County, Indiana, related to drainage across the Grantor Property, which easement is hereby amended, restated and replaced for all purposes by this Agreement;

WHEREAS, Grantee No. 2 has requested the right to direct stormwater from the Life Sciences Park to the Grantee Property, which stormwater may be directed to the Drainage Area; and

WHEREAS, Grantee and Grantee No. 2 has each constructed certain drainage facilities and improvements on the Grantee Property and on the Life Sciences Park (the “**On-Site Drainage Facilities**”) to help reduce the flow of stormwater which would otherwise flow through the Drainage Facilities.

WHEREAS, Grantee hereby provides an easement to Grantee No. 2 allowing Grantee No. 2 to direct stormwater from the Life Sciences Park to the Grantee Property; and

WHEREAS, Grantor has agreed to provide an easement (a) for stormwater from the Life Sciences Park to flow into the Drainage Area; and (b) for allowing Grantee No. 2 to access the Temporary Easement Area to complete the Commission Work as such terms are defined below, subject to the provisions set forth in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants herein set forth and other valuable consideration, the receipt of which is hereby acknowledged, Grantor, Grantee and the City agree as follows.

1. **Drainage Easement.** For and in consideration of Grantee No. 2, at its sole cost and expense, completing the Commission Work described in Section 7 hereof and for Grantee’s and Grantee No. 2’s obligations and agreements herein, and subject to the terms and conditions of this Agreement, Grantor hereby grants to (i) each of Grantee and Grantee No. 2, a non-exclusive, perpetual easement along, under, over and upon the Drainage Area to permit stormwater drainage solely from the Grantee Property and the Life Sciences Park (jointly, the “**Benefited Real Estate**”) to flow across the Drainage Area (the “**Drainage Easement**”), and (ii) Grantee, a non-exclusive, perpetual right to enter along, under, over and upon the Drainage Area to repair, maintain, replace, and remove the existing 30” storm sewer pipe (the “**Drainage Facilities**”) reasonably necessary to permit stormwater drainage from the Benefited Real Estate to flow into the Drainage Area (the “**Maintenance Easement**”) at Grantee’s sole cost and expense. The Drainage Easement and the Maintenance Easement granted by this Agreement, and the associated benefits and obligations, shall run with and bind the Grantor Property, Grantee Property and the Life Sciences Park. The use of the Drainage Easement by owners of the Life Sciences Park which have not executed by this Agreement shall nonetheless be subject to and conditioned on the limitations, waivers and conditions of this Agreement and by permitting any stormwater drainage from such owner’s property to drain into the Drainage Area, such owners shall be deemed to have accepted and agreed to be bound by the terms of this Agreement. Nothing in this Agreement shall be construed to permit the use of the Drainage Easement for any other purpose than for stormwater drainage exclusively from the Benefited Real Estate through the Drainage Facilities to the Drainage Area. Stormwater drainage from any other property, including drainage that first flows onto any part of the Benefited Real Estate from another

property is prohibited. Each of Grantee and Grantee No. 2 acknowledges its use of the Drainage Area is subject to all matters recorded in the Hamilton County, Indiana Recorder or Clerk's Office.

2. **Limitations on Easement.** The grant of the Drainage Easement is to allow the Benefitted Real Estate the right to drain stormwater into a retention pond on the Grantor Property, as the same is identified on Exhibit D (the "**Pond**"). Except for the Commission Work, neither Grantee nor Grantee No. 2 nor any owner of any part of the Benefitted Real Estate shall have the right to modify the Drainage Area or construct any improvements in the Drainage Area that are not Drainage Facilities. No part of this Agreement shall be construed as conveying rights to the public. Grantee and Grantee No. 2 acknowledge that Grantor has made no representation or warranty as to the suitability of the Drainage Area for the construction of the Drainage Facilities or uses contemplated herein. If the Drainage Area is not sufficient to store the stormwater run-off from the Benefitted Real Estate, Grantor shall have no obligation to improve the Drainage Area or provide additional real property to accept stormwater run-off from the Benefitted Real Estate and Grantee and Grantee No. 2 shall indemnify and hold Grantor harmless from any Claims or Losses, as defined below, from or related to insufficient storage of stormwater in the Drainage Area, except to the extent due to the gross negligence or intentional misconduct of Grantor. Grantor shall have no obligation with respect to whether the Drainage Area complies with any local, state or federal law regarding stormwater run-off or retention, it being the Parties' express intent that Grantee and Grantee No. 2 shall have the obligation to ensure that Grantee's and Grantee No. 2's use of the Drainage Area and the owners of any part of the Benefitted Real Estate use of the Drainage Area complies with all applicable laws.

3. **Grantee's Covenants.** Grantee and the successor owners of the Grantee Property shall at all times keep the On-Site Drainage Facilities and all other drainage on or otherwise serving the Grantee Property in good operating condition, so that the same operate at maximum efficiency to reduce the amount of stormwater drainage to the Drainage Area. Grantee No. 2 and the successor owners of all or any part of the Life Sciences Park shall at all times keep the On-Site Drainage Facilities and all other drainage systems on or otherwise serving the Life Sciences Park in good operating condition so that the same operate at maximum efficiency to reduce the amount of stormwater drainage to the Drainage Area. Neither Grantee nor Grantee No. 2 shall make, or permit to be made, any modifications to the On-Site Drainage Facilities or make any changes on the Benefitted Real Estate which would result in any increase in the amount of stormwater drainage or the stormwater drainage flow to the Drainage Area unless approved by Grantor, at Grantor's sole discretion. Grantee No. 2 hereby expressly acknowledges and agrees that its obligations in this Section 3 shall apply to all On-Site Drainage activities on the Life Sciences Park regardless of whether Grantee No. 2 is the owner of the applicable part of the Life Sciences Park in which the On-Site Drainage Facilities are located.

Grantee shall maintain the Drainage Facilities and any other improvements made within the Drainage Area in such a manner as to ensure that the use of the Drainage Area has no adverse effect on the Pond, Grantor Property or any adjacent property. Grantee, Grantee No. 2 and any owner of all or a part of the Benefitted Real Estate agree to exercise reasonable care in its exercise of its easement rights hereunder including, but not limited to, Grantee's inspection, repair and improvement of the Drainage Facilities as required herein. Grantee, Grantor No. 2

and all owners of interests in all or a part of the Benefitted Real Estate hereby accept the Drainage Area subject to all matters of record and in its "AS-IS, WHERE-IS" condition, with all faults and without any representation or warranty of any kind, express or implied, by Grantor, including, without limitation, any warranty of fitness for a particular purpose. In the event Grantee's, Grantee No. 2's, or any owner of all or a part of the Benefitted Real Estate exercise of its rights under this Agreement causes any direct or indirect damage to the Grantor Property, Grantee and successor owners of all or a part of the Grantee Property, with regard to acts by the Grantee or the owner of all or a part of the Grantee Property and Grantee No. 2, with regard to acts by Grantee No. 2 or owners of all or a part of the Life Sciences Park, shall repair or restore the Grantor Property to the condition immediately prior to such damage and shall pay or reimburse to Grantor for any and all costs incurred as a result of or arising from such damage. In addition to the foregoing, in the event that stormwater drainage flows through the emergency drainage overflow path on the Grantor Property, Grantee and the successor owners of all or a part of the Grantee Property, with regard to acts by the Grantee or the owner of all or a part of the Grantee Property and Grantee No. 2, with regard to acts by Grantee No. 2 or owners of all or a part of the Life Sciences Park shall repair and/or restore the Grantor Property to its condition immediately prior to such flow and shall pay or reimburse to Grantor any and all costs incurred as a result of or related to any damage caused to Grantor's Property (including reasonable engineer and attorney fees) as a result of water flowing in the emergency drainage overflow path. Grantee and Grantee No. 2 each represents, warrants and covenants to Grantor that the Grantee or Grantee No. 2, as applicable, will not grant, allow, authorize and/or permit any other party or property to drain directly and/or indirectly into the Drainage Area and/or Pond through the Benefitted Real Estate, except for properties that have been, in Grantor's sole and absolute discretion, preapproved by Grantor in writing.

a. When Grantor shall undertake any construction, maintenance, replacement, restoration, enlargement or repair and all related work thereto for the Pond, including water treatment and dredging, as determined in Grantor's sole discretion (collectively, the "**Pond Costs**"), (i) Grantee shall reimburse Grantor for Twenty-Five percent (25%) of the Pond Costs paid by Grantor ("**Grantee's Share**"); and (ii) Grantee No. 2 shall reimburse Grantor for Thirty-Seven and One/Half percent (37.5%) of the Pond Costs paid by Grantor ("**Grantee No. 2's Share**"). In the event that Grantee and/or Grantor No. 2 fails to pay Grantee's Share and/or Grantee No. 2's Share of the Pond Costs, Grantor shall be entitled to recover interest from Grantee and/or Grantee No. 2, as applicable, at the rate of twelve percent (12%) per annum, from the date(s) incurred until repaid.

b. In the event Grantee fails to maintain or repair the Drainage Facilities, Grantor shall give Grantee written notice of any failure to maintain or repair the Drainage Facilities. Such notice shall state with specificity any required maintenance or repair. In the event that such (i) maintenance or repair is required and (ii) Grantee fails to take substantial corrective action within the thirty (30) days after actual receipt of the notice, Grantor have the right to maintain or repair the Drainage Facilities as Grantor deems reasonably necessary, and Grantor shall be entitled to recover from Grantee its costs and expenses incurred in performing such maintenance or repairs (plus a ten percent (10%) management fee), together with interest thereon at the rate of twelve percent (12%) per annum from the date(s) incurred until repaid by Grantee. Notwithstanding the foregoing, in the event of an emergency, Grantor shall have the immediate

right to maintain or repair the Drainage Facilities as Grantor deems reasonably necessary, and Grantor shall be entitled to recover from Grantee its costs and expenses incurred in performing such maintenance or repairs, together with interest thereon at the rate of twelve percent (12%) per annum from the date(s) incurred until repaid by Grantee.

4. **Grantor's Covenants.** Grantor retains all rights to the use and enjoyment of the Drainage Area, provided that such use and enjoyment shall not unreasonably interfere with the Drainage Easement, the Drainage Facilities, or Grantee's or Grantee No. 2's exercise of any of its rights under this Agreement.

5. **Grantee's and Grantee No. 2's Indemnity.** Each of Grantee and Grantee No. 2 agrees to indemnify, defend, and hold Grantor harmless from and against any and all claims, actions, judgments, liabilities, losses, damages, injuries, fines, penalties, costs and/or expenses (including, without limitation, reasonable attorneys' fees and court costs) (collectively the "**Losses and Claims**") arising from or connected with (i) the negligence or willful misconduct of Grantee, Grantee No. 2 or any party acting under, through, or on behalf of Grantee or Grantee No.2, including any current or future owner of all or a part of the Life Sciences Park, as applicable, (ii) the breach by Grantee or Grantee No. 2, as applicable, of any term of condition of this Agreement, or (iii) the construction, maintenance, replacement, restoration, and repair of the Drainage Facilities or Commission Work or any other work on the Grantor Property by or on behalf of Grantee, Grantee No. 2 or any owner of all or a part of the Benefitted Real Estate, including, but not limited to, any mechanic's, laborer's or materialman's lien related to the same. Each of Grantee and Grantee No. 2 shall at all times maintain liability insurance with regard to its obligations under this Agreement naming Grantor or its assignee as a named insured with coverage in an amount of not less than Two Million Dollars (\$2,000,000) combined single limit. Such policy shall be carried by an insurance company reasonably acceptable to Grantor and the premiums thereof shall be paid by Grantee or Grantee No. 2, as applicable, at its cost and expense.

6. **Fees and Lien against the Grantee Property and the Commission Property.** If Grantee or Grantee No. 2 fails to timely pay any such sums as set forth in this Agreement, Grantor may institute an action in any court of competent jurisdiction in Hamilton County, Indiana, against Grantee and/or Grantee No. 2 for the recovery of such sums, and interest at the rate of twelve percent (12%) per annum from the date such payment was due. Additionally, Grantor shall have a lien on the Grantee Property and/or Commission Property, as applicable, for any delinquent amounts owed by the Grantee and/or Grantee No. 2, as applicable, which lien may be perfected and enforced in accordance with the provisions for the perfection and enforcement of mechanic's liens or common law liens in the State of Indiana as may exist from time to time or such other statutes as may hereafter be enacted for the enforcement of liens of the type provided for herein. For purposes of this Section 6, "**Commission Property**" shall mean that certain portion of real property within the Life Sciences Park generally known 0 E. 126th Street, Fishers, Indiana and legally described in Exhibit H, attached hereto and made a part hereof.

7. **Commission Work.** For and in partial consideration of Grantor granting the Drainage Easement to Grantee No. 2, Grantee No. 2 shall, at Grantee No. 2's sole cost and expense, cause

approximately one hundred feet (100') of existing twenty-one inch (21") pipe between Sunlake Western Pond (Pond/Lake #2) and Launch Fishers Pond (City Owned/Operated), as depicted on Exhibit E to be replaced with thirty-six inch (36") pipe pursuant as depicted in Exhibit F (the "**Commission Work**"). The Commission Work shall commence no later than one hundred twenty (120) days after the execution of this Agreement, shall be diligently pursued to completion after work has commenced and shall be completed no later than sixty (60) days after construction on the Commission Work commences, subject to reasonable delays due to unexpected weather conditions and other matters outside of Grantee No. 2's reasonable control (the "**Completion Date**"). In the event the Commission Work is not completed by the Completion Date, except for minor punchlist items which do not materially affect Grantor's use of the construction area, Grantee No. 2 shall pay a per diem fee to of \$250.00 for each day of delay from the Completion Date until the Commission Work is actually completed. The Commission Work shall further be completed as provided in the Temporary Easement Agreement. Grantor hereby grants to Grantee No 2, its contractors and subcontractors, the non-exclusive right to enter along, under, over and upon the areas marked as the "**Temporary Easement Area**" on Exhibit G to complete the Commission Work pursuant to the Temporary Easement Agreement attached as Exhibit I. Grantee No. 2 and Grantor acknowledge and agree that the Commission Work is expected to decrease the elevation of the ponds to 817.6 (Lake 1) and 816.25 (Lake 2) (each, as applicable, the "**Maximum Pond Level**") during a 100-year design storm and to create a maximum peak discharge rate of 3.11cfs for a 10-year design storm and of 9.46 cfs for a 100-year design storm (each, as applicable, the "**Maximum Flow Rate**"). Grantee No. 2 shall also install sod along the sides of the Ponds made visible by the reduction of water level resulting from the Commission Work so that the Ponds have grass down to the normal water level of each Pond after the completion of the Commission Work.

If, however, it is determined by Grantor that the elevation of one or both of the Sunlake Western Pond or Sunlake Eastern Pond (as depicted on Exhibit E) exceeds the Maximum Pond Level and/or the Maximum Flow Rate, Grantee No. 2 shall be required to make improvements to lower the Ponds to levels at or below the Maximum Pond Level and/or reduce the flow rate to a level at or below the Maximum Flow Rate (the "**Additional Improvements**"). To determine the necessary Additional Improvements, the Parties shall work in good faith and follow commercially reasonable standards to determine the type and scope of such Additional Improvements. If, in good faith and following commercially reasonable negotiations, the Parties are unable to agree to the type and scope of such Additional Improvements, the Grantor may request that Grantee No. 2 participate in mediation. Upon Grantee No. 2's receipt of a request for civil mediation, the Parties shall promptly select a mutually agreed upon certified mediator from the list of mediators eligible to perform civil mediations in the State of Indiana. Within thirty days (unless delayed by the mediator's schedule), the Parties shall participate in mediation with the chosen mediator. Mediation shall be a condition precedent to filing a lawsuit, and the costs and expenses associated with the mediation shall be exclusively borne by Grantee No. 2.

8. **Liens.** Neither Grantee nor Grantee No. 2 shall permit (a) any mechanic's, laborer's or materialman's lien, or (b) any other lien, charge or encumbrance arising after the date hereof and not caused by Grantor (severally and collectively, a "**Lien**") to be filed against or imposed on the Grantor Property or any part thereof by reason of labor, services or materials claimed to have been performed or furnished to or for Grantee or Grantee No. 2, indebtedness incurred by

Grantee or Grantee No. 2 or by any other act or omission of Grantee or Grantee No. 2. Grantee and/or Grantee No. 2, as applicable, shall pay or discharge such Lien within twenty (20) days after notice from Grantor.

9. **Non-Dedication of Easement.** This Agreement shall not be deemed to dedicate the Drainage Easement or Drainage Facilities for public purposes or dedicate the Drainage Easement or Drainage Facilities to any municipality or other political subdivision or governmental body or agency.

10. **Termination.** If use of the Drainage Easement is permanently discontinued by Grantee, then the Drainage Easement will terminate, and Grantee will execute a termination in recordable form to release this Drainage Easement. In the event Grantee grants, allows, authorizes and/or permits any other party or property to drain directly and/or indirectly into the Drainage Area and/or Pond, Grantor shall have the right to terminate this Agreement and the Drainage Easement.

11. **Attorney Fees.** In the event it shall be necessary for any Party to retain an attorney to enforce the obligations of any other Party hereunder, the prevailing Party shall be entitled to recover from the other Party all attorneys' fees and expenses actually incurred in connection therewith (without reference to any statutory presumption).

12. **Additional Provisions; Complete Agreement.** The recitals presented above are part of this Agreement and are hereby incorporated as part of this Agreement. Grantor, Grantee and Grantee No. 2 each covenants that to the best of its knowledge it is the owner in fee simple of the Grantor Property, the Grantee Property and the Commission Property, respectively, is lawfully seized thereof and has the right to grant the foregoing easement and/or other rights provided for herein and to be bound by the obligations herein. This Agreement is fully integrated and represents the full and complete agreement of the Parties and shall bind and inure to the benefit of the respective successors and assigns of the Parties, as the successor owners to all or a part of the Drainage Area, the Grantee Property or the Commission Property as applicable. Notwithstanding the foregoing, the obligations of Grantee No. 2 in this Agreement are personal to Grantee No. 2 regardless of whether Grantee No. 2 retains ownership of all or any part of the Commission Parcel and may not be assigned, including any assigned by operation of law, without the consent of Grantor, which may be withheld in Grantor's sole discretion. In the event that Grantee No. 2 is dissolved or otherwise terminated as an entity, the provisions of this Agreement related to Grantee No. 2 shall immediately be assumed in full by the City of Fishers, Indiana, which shall expressly include the assumption of all obligations of Grantee No. 2 hereunder.

13. **Payment of Engineering Fees.** Within thirty (30) days of the execution of this Agreement, Grantee No. 2 shall pay to Grantor Grantor's engineering fees incurred in matters related to this Agreement which are in the amount of \$6,778.98.

14. **Exhibits.** The following exhibits are attached hereto and incorporated herein as if specifically set forth:

Exhibit A: Grantor Property
Exhibit B: Grantee Property (Reynolds)
Exhibit C: Life Sciences Park
Exhibit D: Drainage Area/Pond
Exhibit E: Pond Depictions/Commission Work
Exhibit F: Specifications for Commission Work
Exhibit G: Easement Area
Exhibit H: Commission Property
Exhibit I: Temporary Easement Agreement

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, Grantor has set its hand and seal as of the day and year first written above.

GRANTOR

REGENCY WINDSOR SUNBLEST II LIMITED PARTNERSHIP
an Indiana limited partnership

By: Regency Windsor Capital, Inc.
An Illinois corporation,
Its General Partner

By: _____
Neal R. Lohuis, Treasurer

By: Lambert Properties Limited Partnership,
A Florida limited partnership
Its General Partner

By: Lambert Investment Properties, Inc.,
A Florida corporation
Its General Partner

By: _____
Phillip A. Lambert, Secretary

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Neal R. Lohuis, the Treasurer of Regency Windsor Capital, Inc., a General Partner of Regency Windsor Sunblest II Limited Partnership, who is personally known to me and who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

WITNESS my hand and Notarial Seal this ____ day of _____, 2023.

(SEAL)

Printed Name: _____
Notary Public

I am a resident of
_____ County, _____.

My commission expires:

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Philip A. Lambert, the Secretary of Lambert Investment Properties, Inc., the General Partner of Lambert Properties Limited Partnership, a General Partner of Regency Windsor Sunblest II Limited Partnership, who is personally known to me and who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

WITNESS my hand and Notarial Seal this ____ day of _____, 2023.

(SEAL)

Printed Name: _____
Notary Public

I am a resident of
_____ County, _____.

My commission expires:

GRANTEE:

RMAC, LLC, an Indiana limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, the _____ of RMAC, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing instrument for and on behalf of said Grantee.

Witness my hand and notarial seal this ____ day of _____, 2023.

County of Residence

Signature

Commission Expiration Date

Printed Name

CONSENT TO GRANT OF EASEMENT

The undersigned hereby consents to the easement granted to Grantee by Grantor, as provided in this Assignment, and consents to the drainage of Grantee into Grantor's storm sewer system, pursuant to the Agreement dated November 30, 1989, by and between Northeast Commerce Park, an Indiana limited partnership, and Regency Windsor Capital, Inc., an Illinois corporation recorded April 5, 1990 as Instrument No. 9007531 in the office of the Recorder of Hamilton County, Indiana.

CITIMARK VISIONARY WAY LAND, LLC, an
Indiana limited liability company

By: _____

Name: _____

Title: _____

This instrument was prepared by Jennifer C. Messer, Jennifer C. Messer Law, 202 E. 71st Street, Indianapolis, Indiana 46220..

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

EXHIBIT A
GRANTOR PROPERTY – LEGAL DESCRIPTION

Part of the Northwest 1/4 of Section 31, Township 18 North, Range 5 East in Hamilton County, Indiana, described as follows:

Commencing at the Northwest corner of said Northwest 1/4; thence North 89°04'30" East, along the North line of said Northwest 1/4, 1557.61 feet to the East right of way line of the Norfolk and Western Railroad; thence South 00°40'55" East, along said right of way line 40.00 feet to the Point of Beginning; thence North 89°04'30" East, parallel with the North line of said Northwest 1/4, 593.96 feet; thence South 00°41'58" East, 830.00 feet; thence North 89°04'30" East, 628.41 feet to the West right of way line of State Road 37; thence South 00°47'55" East, along said West right of way line, 1350.01 feet; thence along said right of way line on a curve to the right, 452.40 feet, said curve having a radius of 3732.72 feet and a chord that bears South 02°40'24" West, 452.12 feet to the South line of said Northwest 1/4; thence South 89°02'15" West, along said South line, 990.88 feet; thence North 00°52'07" West, 1318.87 feet; thence South 89°34'17" West, 392.28 feet to the East right of way line of the Norfolk and Western Railroad; thence along said right of way line on a curve to the left, 1085.76 feet, said curve having a radius of 3094.42 feet and a chord that bears North 09°22'12" East, 1080.19 feet; thence North 00°40'55" West, along said right of way line 246.81 feet to the Point of Beginning.

EXHIBIT B
GRANTEE PROPERTY – LEGAL DESCRIPTION

Lot Four (4) in REYNOLDS INDUSTRIAL PARK, as per plat thereof, recorded in Plat Cabinet 5, Slide 640, Instrument No. 2017005480 in the Office of the Recorder of Hamilton County, Indiana.

EXHIBIT C
LIFE SCIENCES PARK

CITY OF FISHERS REDEVELOPMENT COMMISSION

PARCEL 1

PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 18 NORTH,
RANGE 5 EAST, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION;
THENCE ALONG THE NORTH LINE THEREOF SOUTH 89 DEGREES 30 MINUTES 11
SECONDS WEST (BEARINGS BASED UPON EAST LINE OF QUARTER SECTION
BEING NORTH 00 DEGREES 00 MINUTES 38 SECONDS WEST) 2034.35 FEET; THENCE
SOUTH 00 DEGREES 00 MINUTES 09 SECONDS EAST 77.44 FEET TO A REBAR WITH
YELLOW PLASTIC CAP STAMPED "K&G LS FIRM 0141" (HEREINAFTER "REBAR")
ON THE SOUTH LINE OF THE LAND OF CITY OF FISHERS AS DESCRIBED IN
INSTRUMENT NO. 2011041814 IN THE OFFICE OF THE RECORDER OF HAMILTON
COUNTY, INDIANA AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH
00 DEGREES 00 MINUTES 09 SECONDS EAST 197.11 FEET TO A "REBAR" ON THE
NORTHERLY LINE OF THE LAND OF CITY OF FISHERS PER CAUSE NO. 29C01-1804-
PL-003039; THENCE THE FOLLOWING FIVE (5) COURSES ALONG THE NORTHERLY
AND WESTERLY LINES OF THE LAND PER SAID CAUSE NO. 29C01-1804-PL-003039;
(1) NORTH 89 DEGREES 59 MINUTES 33 SECONDS EAST 265.58 FEET TO A "REBAR";
(2) NORTH 42 DEGREES 49 MINUTES 07 SECONDS EAST 20.45 FEET TO A "REBAR";
(3) NORTH 00 DEGREES 00 MINUTES 27 SECONDS WEST 40.00 FEET TO A "REBAR";
(4) NORTH 22 DEGREES 37 MINUTES 39 SECONDS WEST 65.00 FEET TO A "REBAR";
(5) NORTH 37 DEGREES 26 MINUTES 39 SECONDS WEST 99.86 FEET TO A "REBAR"
ON THE SOUTH LINE OF THE LAND OF CITY OF FISHERS PER THE AFORESAID
INSTRUMENT NO. 2011041814, SAID POINT BEING ON A CURVE TO THE RIGHT
HAVING A RADIUS OF 6570.00 FEET AND A CHORD BEARING NORTH 89 DEGREES
16 MINUTES 41 SECONDS WEST 28.03 FEET; THENCE WESTERLY ALONG SAID
CURVE 28.03 FEET TO A "REBAR"; THENCE CONTINUING ALONG THE SOUTH LINE
OF LAST SAID INSTRUMENT NORTH 89 DEGREES 09 MINUTES 21 SECONDS WEST
165.76 FEET TO THE POINT OF BEGINNING, CONTAINING 1.13 ACRES, MORE OR
LESS.

PARCEL 2:

PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 18 NORTH,
RANGE 5 EAST, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION;
THENCE ALONG THE NORTH LINE THEREOF SOUTH 89 DEGREES 30 MINUTES 11
SECONDS WEST (BEARINGS BASED UPON EAST LINE OF QUARTER SECTION
BEING NORTH 00 DEGREES 00 MINUTES 38 SECONDS WEST) 2034.35 FEET; THENCE
SOUTH 00 DEGREES 00 MINUTES 09 SECONDS EAST 344.55 FEET TO A REBAR WITH

CAP STAMPED "FIRM 0102" ON THE SOUTH LINE OF THE LAND OF CITY OF FISHERS PER CAUSE NO. 29C01-1804-PL-003039 AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 00 MINUTES 09 SECONDS EAST 1542.02 FEET TO A MAG NAIL; THENCE NORTH 89 DEGREES 21 MINUTES 46 SECONDS EAST 367.69 FEET TO A REBAR WITH NO CAP ON THE NORTHERLY RIGHT-OF-WAY OF INTERSTATE 69 (PROJECT I-69-1(33))), SAID POINT BEING ON A CURVE TO THE RIGHT HAVING A RADIUS OF 2421.83 FEET AND A CHORD BEARING NORTH 59 DEGREES 25 MINUTES 40 SECONDS EAST 57.80 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE 57.80 FEET TO THE SOUTHWEST CORNER OF LOT 1 IN THE PLAT OF LOT 1 PIOMBINO DESE AS RECORDED IN INSTRUMENT NO. 2021086794 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE THE FOLLOWING SIX (6) COURSES ALONG THE WESTERLY PERIMETER OF SAID PLAT; (1) NORTH 00 DEGREES 47 MINUTES 31 SECONDS WEST 339.81 FEET; (2) SOUTH 89 DEGREES 12 MINUTES 27 SECONDS WEST 50.00 FEET; (3) NORTH 00 DEGREES 47 MINUTES 33 SECONDS WEST 904.54 FEET TO A POINT ON A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 139.00 FEET AND A CHORD BEARING NORTH 17 DEGREES 28 MINUTES 52 SECONDS WEST 79.83 FEET; (4) NORTHWESTERLY ALONG SAID CURVE 80.97 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 174.00 FEET AND A CHORD BEARING NORTH 17 DEGREES 28 MINUTES 52 SECONDS WEST 99.93 FEET; (5) NORTHWESTERLY ALONG SAID CURVE 101.36 FEET; (6) NORTH 00 DEGREES 47 MINUTES 33 SECONDS WEST 58.57 FEET TO THE SOUTH LINE OF THE LAND OF CITY OF FISHERS PER CAUSE NO. 29C01-1804-PL-003039; THENCE THE FOLLOWING FOUR (4) COURSES ALONG THE SOUTH LINE OF SAID CAUSE NO. 29C01-1804-PL-003039; (1) SOUTH 89 DEGREES 59 MINUTES 33 SECONDS WEST 11.00 FEET TO A REBAR WITH YELLOW PLASTIC CAP STAMPED K&G LS FIRM 0141 (HEREINAFTER "REBAR"); (2) NORTH 00 DEGREES 00 MINUTES 27 SECONDS WEST 20.00 FEET TO A "REBAR"; (3) NORTH 51 DEGREES 34 MINUTES 28 SECONDS WEST 24.13 FEET TO A "REBAR"; (4) SOUTH 89 DEGREES 59 MINUTES 33 SECONDS WEST 265.58 FEET TO THE POINT OF BEGINNING, CONTAINING 12.81 ACRES, MORE OR LESS.

OMPI OF AMERICA INC.

LOT 1 IN THE PLAT OF LOT 1 PIOMBINO DESE AS RECORDED IN INSTRUMENT NO. 2021086794 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

LIST BIOTHERAPEUTICS INC.

PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 18 NORTH, RANGE 5 EAST, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

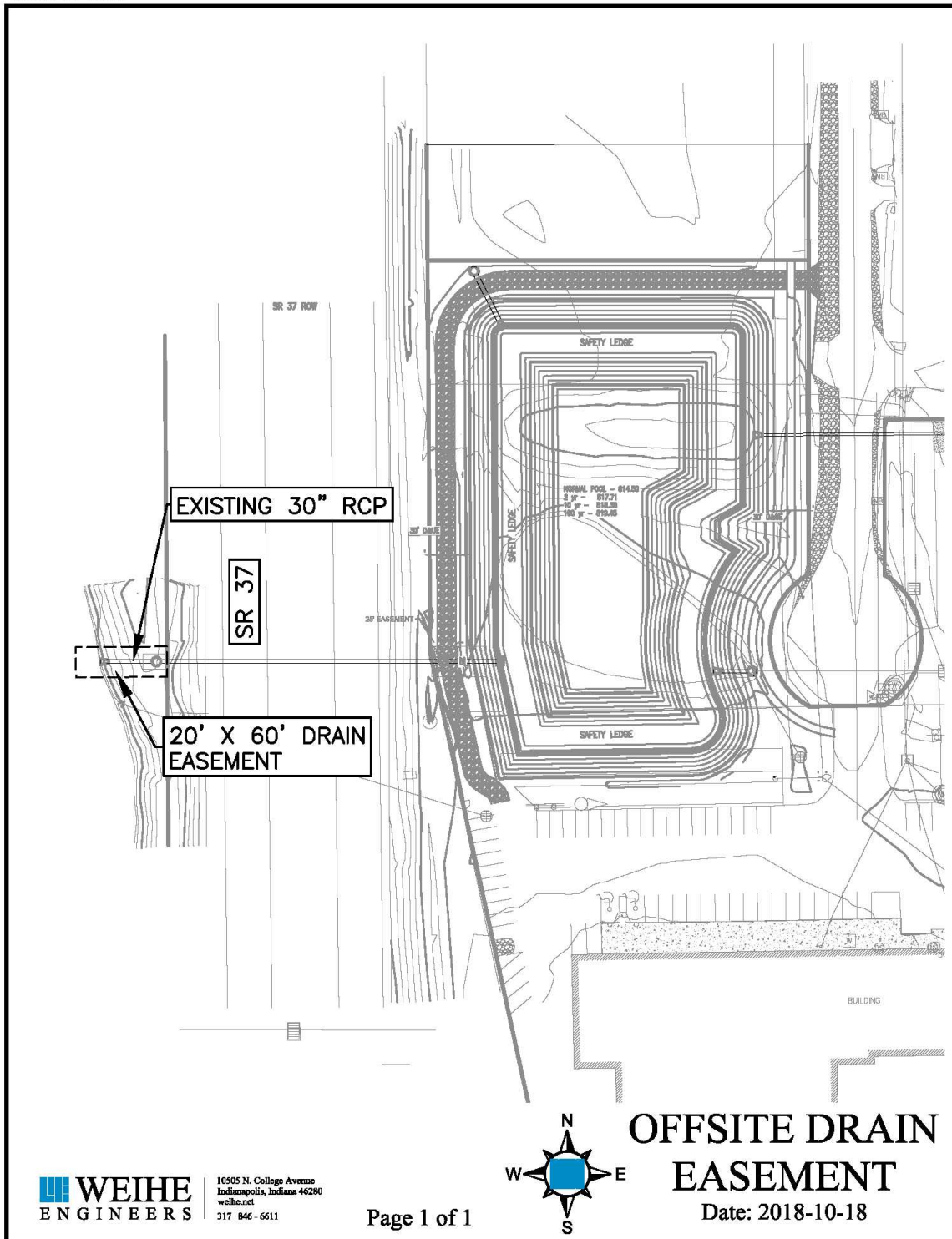
COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE ALONG THE EAST LINE THEREOF SOUTH 00 DEGREES 03 MINUTES 38 SECONDS EAST (BEARINGS BASED UPON EAST LINE OF QUARTER SECTION BEING SOUTH 00 DEGREES 03 MINUTES 38 SECONDS EAST) 94.96 FEET; THENCE SOUTH 89

DEGREES 56 MINUTES 22 SECONDS WEST 56.38 FEET TO A REBAR WITH YELLOW PLASTIC CAP STAMPED "K&G LS FIRM 0141" (HEREINAFTER "REBAR") ON THE WEST LINE OF THE LAND OF CITY OF FISHERS AS DESCRIBED IN INSTRUMENT NO. 2011041814 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA AND THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 08 MINUTES 29 SECONDS WEST 428.48 FEET ALONG THE WEST LINE OF LAST SAID INSTRUMENT TO THE NORTHEAST CORNER OF THE RIGHT-OF-WAY OF GIOVANNI STEVANATO DRIVE PER THE PLAT OF LOT 1 PIOMBINO DESE SUBDIVISION AS RECORDED IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA AS INSTRUMENT NUMBER 2021086794; THENCE THE FOLLOWING SEVEN (7) COURSES ALONG THE NORTHERLY LINE OF SAID RIGHT-OF-WAY AND THE EASTERLY RIGHT-OF-WAY LINE OF PARKSIDE DRIVE PER SAID PLAT; (1) SOUTH 89 DEGREES 56 MINUTES 22 SECONDS WEST 2.11 FEET; (2) SOUTH 44 DEGREES 34 MINUTES 23 SECONDS WEST 32.73 FEET; (3) SOUTH 89 DEGREES 12 MINUTES 24 SECONDS WEST 275.14 FEET; (4) SOUTH 85 DEGREES 06 MINUTES 56 SECONDS WEST 140.16 FEET; (5) SOUTH 89 DEGREES 12 MINUTES 24 SECONDS WEST 1065.18 FEET; (6) NORTHWESTERLY 194.78 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 124.00 FEET AND A CHORD BEARING NORTH 45 DEGREES 47 MINUTES 34 SECONDS WEST 175.36 FEET; (7) NORTH 00 DEGREES 47 MINUTES 33 SECONDS WEST 57.89 FEET TO A "REBAR" ON THE SOUTHERLY LINE OF THE LAND OF CITY OF FISHERS PER CAUSE NO. 29C01-1804-PL-003039; THENCE THE FOLLOWING NINE (9) COURSES ALONG SOUTHERLY AND EASTERLY LINES; (1) NORTH 89 DEGREES 59 MINUTES 33 SECONDS EAST 9.00 FEET TO A "REBAR"; (2) NORTH 00 DEGREES 00 MINUTES 27 SECONDS WEST 20.00 FEET TO A "REBAR"; (3) NORTH 54 DEGREES 47 MINUTES 40 SECONDS EAST 26.02 FEET TO A "REBAR"; (4) NORTH 89 DEGREES 59 MINUTES 33 SECONDS EAST 20.00 FEET TO A "REBAR"; (5) NORTH 00 DEGREES 17 MINUTES 00 SECONDS WEST 70.00 FEET TO A "REBAR" (6) SOUTH 89 DEGREES 59 MINUTES 33 SECONDS WEST 20.00 FEET TO A "REBAR"; (7) NORTH 46 DEGREES 43 MINUTES 37 SECONDS WEST 21.88 FEET TO A "REBAR"; (8) NORTH 00 DEGREES 00 MINUTES 27 SECONDS WEST 105.00 FEET TO A "REBAR"; (9) NORTH 72 DEGREES 49 MINUTES 32 SECONDS EAST 317.80 FEET TO A "REBAR" ON THE SOUTH LINE OF THE LAND OF CITY OF FISHERS PER AFORESAID INSTRUMENT NO. 2011041814; THENCE THE FOLLOWING SIX (6) COURSES ALONG THE SOUTH LINE OF LAST SAID INSTRUMENT; (1) NORTH 89 DEGREES 12 MINUTES 11 SECONDS EAST 424.51 FEET TO A "REBAR"; (2) SOUTH 86 DEGREES 30 MINUTES 28 SECONDS EAST 200.56 FEET TO A "REBAR"; (3) NORTH 89 DEGREES 12 MINUTES 11 SECONDS EAST 300.00 FEET TO A "REBAR"; (4) SOUTH 79 DEGREES 29 MINUTES 13 SECONDS EAST 50.99 FEET TO A "REBAR"; (5) NORTH 89 DEGREES 12 MINUTES 11 SECONDS EAST 300.00 FEET TO A "REBAR"; (6) SOUTH 76 DEGREES 45 MINUTES 46 SECONDS EAST 41.24 FEET TO THE POINT OF BEGINNING, CONTAINING 17.59 ACRES, MORE OR LESS.

**EXHIBIT D
DRAINAGE AREA**



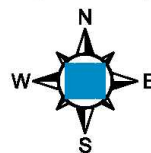
The Pond



WEIHE
ENGINEERS

10505 N. College Avenue
 Indianapolis, Indiana 46280
 weihe.net
 317 | 846 - 6611

Page 1 of 1



**OFFSITE DRAIN
 EASEMENT**

Date: 2018-10-18

EXHIBIT E POND DEPICTIONS

Pond Labeling - Life Science/Sunlake

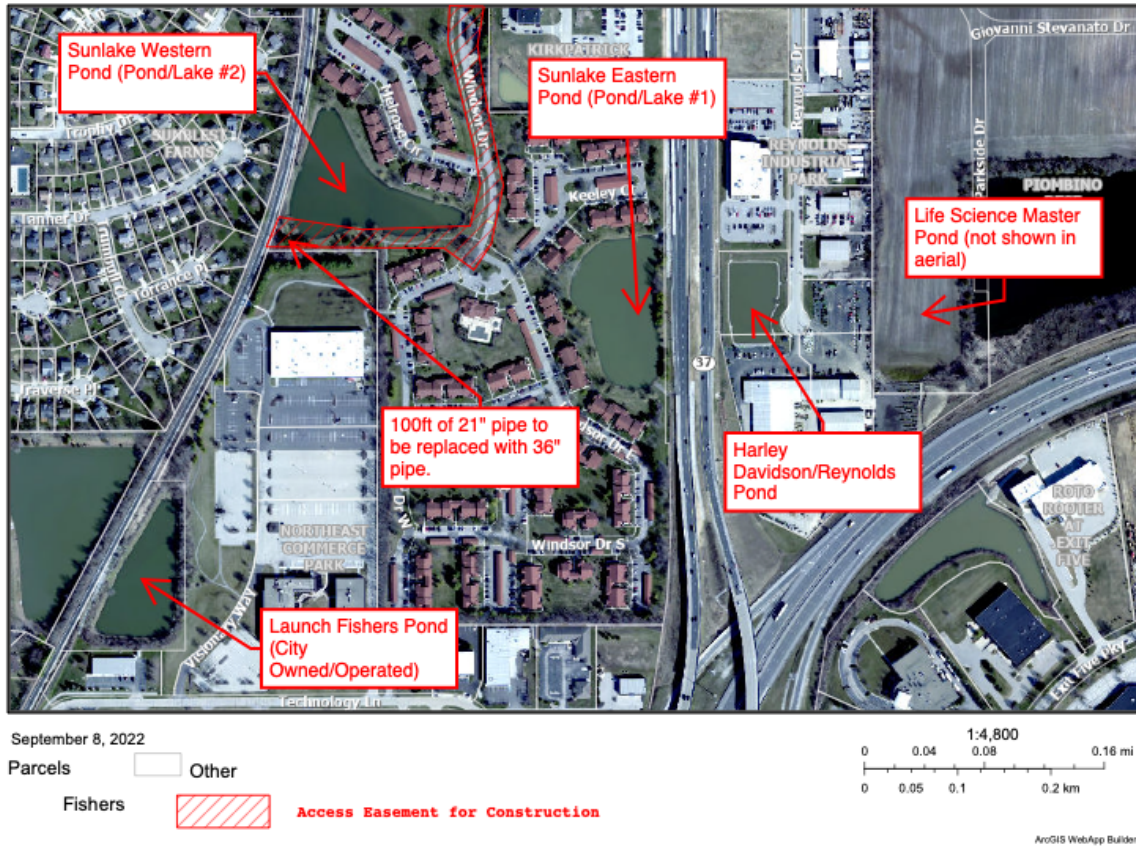
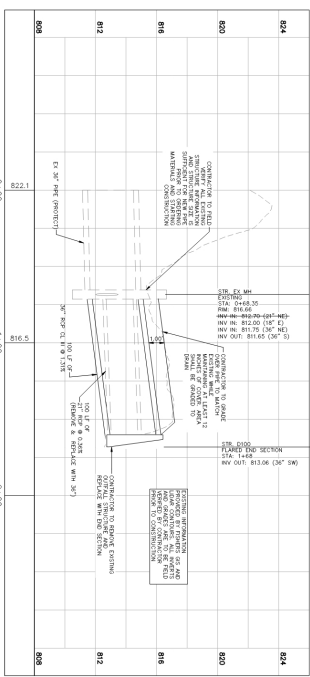


EXHIBIT F
COMMISSION WORK DEPICTION

[included on following page]



FULL DEPTH GRANULAR BASECOURSE REQUIRED (PLAN VIEW)

FULL DEPTH GRANULAR BASECOURSE REQUIRED (PROFILE VIEW)

	EXISTING PROFILE GRADE
	PROPOSED PROFILE GRADE

PROPOSED UNDERGROUND ELECTRICAL SERVICE

PROPOSED GAS LINE (BY GAS COMPANY)

PROPOSED PHONE LINE

PROPOSED ROCK DRILL UNIT
PROPOSED UNDERDRILL
PROPOSED TAILPIPE

PROPOSED STORM SEWER LINE
STRUCTURE ID

PROPOSED STORM STRUCTURES

PROPOSED SATURATED SAND LINE

PROPOSED SANITARY LATERAL LINE
PROPOSED SANITARY MANHOLE
PROPOSED STORM/SANITARY CLE

PROPOSED WATER LINE
PROPOSED FIRE PROTECTION LINE
PROPOSED WATER VALVE BOX

FIRE MITRANT, FIRE DEPT COMM.
PROPOSED WATER BODYS & THE

PROPOSED TRANSFER PAO
(BY OTHERS)

PLAN & PROFILE NOTE

1. FULL DEPTH GRANULAR BACKFILL REQUIRED FOR ALL SIDECUTS UNDER AND WITHIN 5 FEET OF PAVEMENT.

GENERAL PI ANNOTE

REFER TO GENERAL NOTES SHEET FOR MORE INFORMATION INCLUDING FOLLOWING: (EXISTING LEGEND, BENCHMARK INFORMATION, AND SPECIAL GENERAL PLAN NOTES.)

1

△	OFFSITE	STORM SEWER REPLACEMENT	11/2/22	AMM
△		OCS COORDINATION	08/18/22	AMM
△		TAC COMMENTS	05/31/22	AMM
△		TAC COMMENTS	05/04/22	AMM
△		TAC COMMENTS	04/27/22	AMM
△		TAC COMMENTS	03/31/22	AMM

EXHIBIT G TEMPORARY EASEMENT AREA

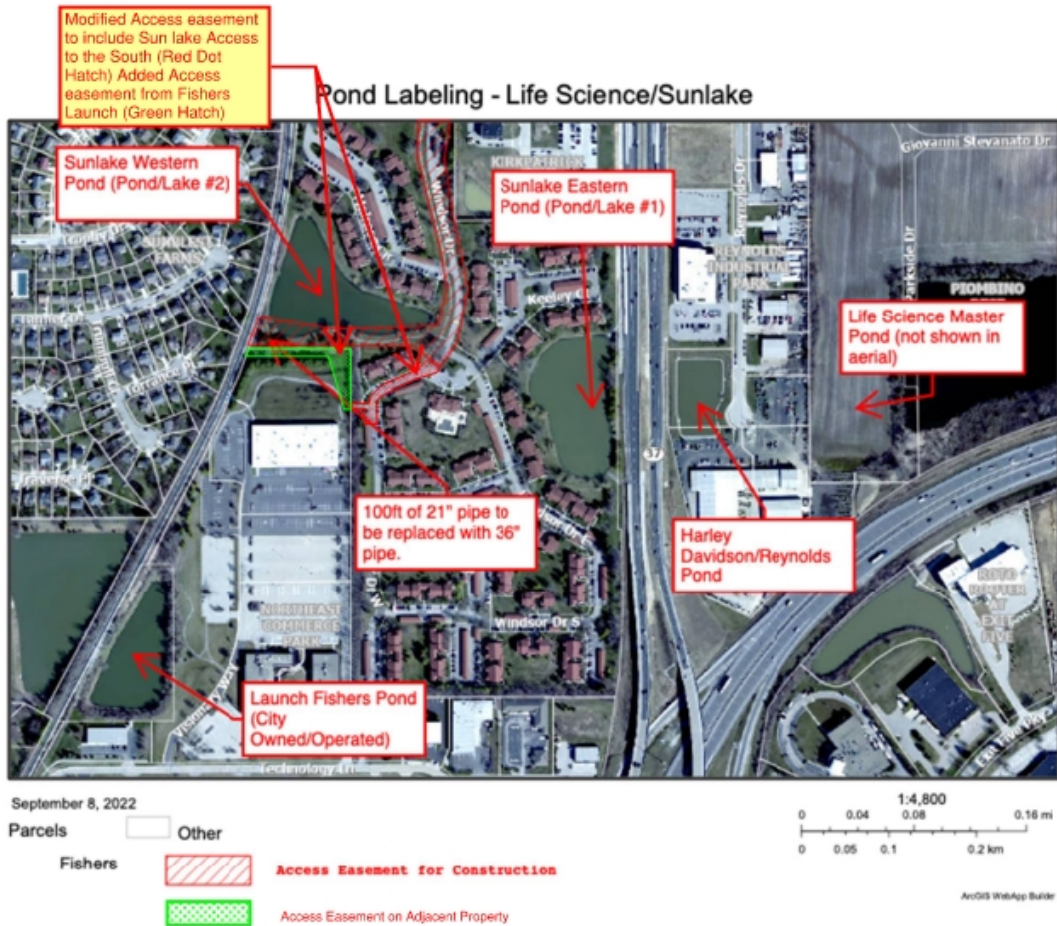


EXHIBIT H
Legal Description of Commission Property

CITY OF FISHERS REDEVELOPMENT COMMISSION

PARCEL 1

PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 18 NORTH, RANGE 5 EAST, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE ALONG THE NORTH LINE THEREOF SOUTH 89 DEGREES 30 MINUTES 11 SECONDS WEST (BEARINGS BASED UPON EAST LINE OF QUARTER SECTION BEING NORTH 00 DEGREES 00 MINUTES 38 SECONDS WEST) 2034.35 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 09 SECONDS EAST 77.44 FEET TO A REBAR WITH YELLOW PLASTIC CAP STAMPED "K&G LS FIRM 0141" (HEREINAFTER "REBAR") ON THE SOUTH LINE OF THE LAND OF CITY OF FISHERS AS DESCRIBED IN INSTRUMENT NO. 2011041814 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 00 MINUTES 09 SECONDS EAST 197.11 FEET TO A "REBAR" ON THE NORTHERLY LINE OF THE LAND OF CITY OF FISHERS PER CAUSE NO. 29C01-1804-PL-003039; THENCE THE FOLLOWING FIVE (5) COURSES ALONG THE NORTHERLY AND WESTERLY LINES OF THE LAND PER SAID CAUSE NO. 29C01-1804-PL-003039; (1) NORTH 89 DEGREES 59 MINUTES 33 SECONDS EAST 265.58 FEET TO A "REBAR"; (2) NORTH 42 DEGREES 49 MINUTES 07 SECONDS EAST 20.45 FEET TO A "REBAR"; (3) NORTH 00 DEGREES 00 MINUTES 27 SECONDS WEST 40.00 FEET TO A "REBAR"; (4) NORTH 22 DEGREES 37 MINUTES 39 SECONDS WEST 65.00 FEET TO A "REBAR"; (5) NORTH 37 DEGREES 26 MINUTES 39 SECONDS WEST 99.86 FEET TO A "REBAR" ON THE SOUTH LINE OF THE LAND OF CITY OF FISHERS PER THE AFORESAID INSTRUMENT NO. 2011041814, SAID POINT BEING ON A CURVE TO THE RIGHT HAVING A RADIUS OF 6570.00 FEET AND A CHORD BEARING NORTH 89 DEGREES 16 MINUTES 41 SECONDS WEST 28.03 FEET; THENCE WESTERLY ALONG SAID CURVE 28.03 FEET TO A "REBAR"; THENCE CONTINUING ALONG THE SOUTH LINE OF LAST SAID INSTRUMENT NORTH 89 DEGREES 09 MINUTES 21 SECONDS WEST 165.76 FEET TO THE POINT OF BEGINNING, CONTAINING 1.13 ACRES, MORE OR LESS.

PARCEL 2:

PART OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 18 NORTH, RANGE 5 EAST, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE ALONG THE NORTH LINE THEREOF SOUTH 89 DEGREES 30 MINUTES 11 SECONDS WEST (BEARINGS BASED UPON EAST LINE OF QUARTER SECTION BEING NORTH 00 DEGREES 00 MINUTES 38 SECONDS WEST) 2034.35 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 09 SECONDS EAST 344.55 FEET TO A REBAR WITH

CAP STAMPED "FIRM 0102" ON THE SOUTH LINE OF THE LAND OF CITY OF FISHERS PER CAUSE NO. 29C01-1804-PL-003039 AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 00 MINUTES 09 SECONDS EAST 1542.02 FEET TO A MAG NAIL; THENCE NORTH 89 DEGREES 21 MINUTES 46 SECONDS EAST 367.69 FEET TO A REBAR WITH NO CAP ON THE NORTHERLY RIGHT-OF-WAY OF INTERSTATE 69 (PROJECT I-69-1(33)), SAID POINT BEING ON A CURVE TO THE RIGHT HAVING A RADIUS OF 2421.83 FEET AND A CHORD BEARING NORTH 59 DEGREES 25 MINUTES 40 SECONDS EAST 57.80 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE 57.80 FEET TO THE SOUTHWEST CORNER OF LOT 1 IN THE PLAT OF LOT 1 PIOMBINO DESE AS RECORDED IN INSTRUMENT NO. 2021086794 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE THE FOLLOWING SIX (6) COURSES ALONG THE WESTERLY PERIMETER OF SAID PLAT; (1) NORTH 00 DEGREES 47 MINUTES 31 SECONDS WEST 339.81 FEET; (2) SOUTH 89 DEGREES 12 MINUTES 27 SECONDS WEST 50.00 FEET; (3) NORTH 00 DEGREES 47 MINUTES 33 SECONDS WEST 904.54 FEET TO A POINT ON A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 139.00 FEET AND A CHORD BEARING NORTH 17 DEGREES 28 MINUTES 52 SECONDS WEST 79.83 FEET; (4) NORTHWESTERLY ALONG SAID CURVE 80.97 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 174.00 FEET AND A CHORD BEARING NORTH 17 DEGREES 28 MINUTES 52 SECONDS WEST 99.93 FEET; (5) NORTHWESTERLY ALONG SAID CURVE 101.36 FEET; (6) NORTH 00 DEGREES 47 MINUTES 33 SECONDS WEST 58.57 FEET TO THE SOUTH LINE OF THE LAND OF CITY OF FISHERS PER CAUSE NO. 29C01-1804-PL-003039; THENCE THE FOLLOWING FOUR (4) COURSES ALONG THE SOUTH LINE OF SAID CAUSE NO. 29C01-1804-PL-003039; (1) SOUTH 89 DEGREES 59 MINUTES 33 SECONDS WEST 11.00 FEET TO A REBAR WITH YELLOW PLASTIC CAP STAMPED K&G LS FIRM 0141 (HEREINAFTER "REBAR"); (2) NORTH 00 DEGREES 00 MINUTES 27 SECONDS WEST 20.00 FEET TO A "REBAR"; (3) NORTH 51 DEGREES 34 MINUTES 28 SECONDS WEST 24.13 FEET TO A "REBAR"; (4) SOUTH 89 DEGREES 59 MINUTES 33 SECONDS WEST 265.58 FEET TO THE POINT OF BEGINNING, CONTAINING 12.81 ACRES, MORE OR LESS.

EXHIBIT I
TEMPORARY EASEMENT AGREEMENT

[included on following pages]

TEMPORARY EASEMENT AGREEMENT

This TEMPORARY EASEMENT AGREEMENT (this “**Agreement**”) is made effective as of the _____ day of _____, 2023 (the “**Effective Date**”) by and between the REGENCY WINDSOR SUNBLEST II LIMITED PARTNERSHIP, an Indiana limited partnership (“**Grantor**”) and the Fishers Redevelopment Commission, a commission of the City of Fishers, authorized and existing pursuant to Ind. Code § 36-7-14 *et. seq.* (“**Grantee No. 2**”, and together with Grantor the “**Parties**”, and each a “**Party**”).

RECITALS

WHEREAS, Grantor owns that certain parcel of real property located in Fishers, Indiana, as depicted in **Exhibit A** attached hereto and incorporated herein (the “**Project Site**”);

WHEREAS, Grantor has the authority to grant this Easement as defined herein;

WHEREAS, Grantee No. 2 is required to complete the pipe replacement and related ancillary work as described and set forth in the specifications attached as **Exhibit B** (the “**Commission Work**”);

WHEREAS, to complete the Commission Work, Grantee No. 2 must acquire the temporary right to gain access to and the use of the area marked with cross hatching and identified as “Temporary Easement Area” in **Exhibit C** (the “**Temporary Easement Area**”);

WHEREAS, pursuant to this Agreement and the terms and provisions hereof, Grantee No. 2. desires to obtain the Easement (as defined in Section 1 herein) to use the Temporary Easement Area for the Permitted Purposes (as defined in Section 3 herein); and

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Temporary Easement. Grantor hereby grants to Grantee No. 2, a non-exclusive temporary easement (the “**Easement**”) in, on, over and through the Temporary Easement Area for the Permitted Purposes (as defined in Section 3 herein). In addition, Grantee is granted the right to access the Temporary Easement Area through Windsor Drive subject to such reasonable rules and regulations as Grantor may impose to insure that such access does not materially affect the use or appearance of Windsor Drive and no other use may be made of Windsor Drive. Two parking spaces adjacent to the enter to the Fisher’s Launch area identified in Exhibit C shall also be available to Grantee No. 2 for staging purposes.

2. Duration. The duration of this Agreement and the Easement granted herein (the “**Term**”) shall commence on the Effective Date and shall be in effect until the earlier of (a) substantial completion of Commission Work; or (b) December 31, 2023. Nothing in this Easement shall be deemed to extend the period for Grantee No. 2 to complete the Commission Work as otherwise agreed on by the Parties in writing. Unless otherwise provided in a written

and recorded amendment to this Agreement, the Easement shall terminate and be of no further effect as of December 31, 2023.

3. Use of Easement Area/Permitted Purposes. The Easement shall be used by Grantee No. 2 and any of its affiliates, contractors, subcontractors or utility entities with facilities in or about the adjacent properties together with any of the employees, contractors, consultants, and/or agents of the foregoing (collectively, the “**Permitted Parties**”) solely for construction purposes related to the Commission Work, including pedestrian and vehicular (including, without limitation, trucks and other construction vehicles and equipment) ingress and egress to (including, without limitation, parking and staging), on and across the Temporary Easement Area for the purpose of completing the Commission Work (individually or collectively, the “**Permitted Purposes**”). Grantee No. 2 shall repair any damage to the Project Site caused by or related to the Commission Work. Grantee No. 2 agrees to use and cause the Permitted Parties to use the Easement Area in a manner which avoids any material interference with the residential use of the Grantor’s Property or Grantor’s operations on the Grantor’s Property. Without limiting the foregoing, Grantee No 2 shall: (i) limit construction activities at the Project Site to between the hours of 9:00 a.m. and 7:00 p.m., (ii) restrict construction trucks and vehicles from roads and paved areas, except the limited use of Windsor Drive permitted herein, (iii) prevent any blocking of the roads, driveways and accessways on the Project Site, (iv) prevent the use of any parking areas reserved for residents’ use for any purpose and (v) clean up, at least daily, any debris, mud or dirt on the Project Site (other than in the Temporary Easement Area) resulting from or related to Grantee No. 2’s activities. Grantee No. 2 further agrees, promptly after completion of the Commission Work, to repair any damage to the Temporary Easement Area caused by or resulting from Grantee No. 2’s or any Permitted Parties’ use of the Temporary Easement Area and to restore the Temporary Easement Area to its condition as existed as of the date of this Agreement, including, without limitation, the restoration of fencing, paths, landscaping and sod replacement as reasonably requested by Grantor.

4. Indemnification. Grantee No. 2 shall indemnify and hold harmless Grantor from and against any and all claims arising from or connected with: (i) the breach by Grantee No. 2 of any term or condition of this Agreement; (ii) injury to, or death of, persons or loss of, or damage to, property, caused by the performance of any work at or about the Temporary Easement Area by the Permitted Parties except to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Grantor; (iii) the negligence or willful misconduct of a Grantee No. 2 related to this Agreement or work at or about the Project Site except to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Grantor; or (iv) the filing of any mechanic’s or materialmen’s lien against the Temporary Easement Area or the Project Site relating to the Construction Work or any other work or materials provided by or for the Permitted Parties.

5. Binding Effect. The rights, covenants and agreement contained herein shall run with the land and shall bind and benefit the Parties hereto and their respective transferees, successors, assigns and any person claiming by, through or under either party to this Agreement. Notwithstanding the foregoing, (i) the obligations of Grantee No. 2 are Grantee No. 2 shall not assign its rights or obligations under the Temporary Easement Agreement without Grantor’s written consent. In the event that Grantee No. 2 is dissolved or otherwise terminated as an entity,

the obligations of Grantee No. 2 hereunder shall immediately be vested with the City of Fishers, Indiana.

6. Miscellaneous. This Temporary Easement Agreement shall inure to the benefit of, and be binding upon, the Grantee No. 2 and Grantor. In no event shall Grantee No. 2 be permitted to assign its rights or obligations under this Agreement without the written consent of Grantor; the foregoing shall not, however, limit the rights of Permitted Parties to use the Easement. This Temporary Easement Agreement may be signed in multiple counterparts which, when taken together, shall constitute one and the same instrument. This Temporary Easement Agreement shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Temporary Easement 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. Each of Grantor and Grantee No. 2 waives, to the extent permitted under applicable law: (a) the right to a trial by jury; and (b) any right Grantor or Grantee No. 2 may have to: (i) assert the doctrine of “forum non conveniens”; or (ii) object to venue. This Temporary Easement Agreement may be modified only by a written agreement signed by Grantee No. 2 and Grantor. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Temporary Easement Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. All Exhibits to this Temporary Easement Agreement are attached hereto and incorporated herein by reference. Time is of the essence in this Temporary Easement Agreement. The captions in this Temporary Easement Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Temporary Easement Agreement or the scope or content of any of its provisions. Nothing contained in this Temporary Easement Agreement shall be construed to create a partnership or joint venture between Grantor and the Grantee No. 2 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 Temporary Easement Area 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.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

GRANTOR

REGENCY WINDSOR SUNBLEST II LIMITED PARTNERSHIP
an Indiana limited partnership

By: Regency Windsor Capital, Inc.
An Illinois corporation,
Its General Partner

By: _____
Neal R. Lohuis, Treasurer

By: Lambert Properties Limited Partnership,
A Florida limited partnership
Its General Partner

By: Lambert Investment Properties, Inc.,
A Florida corporation
Its General Partner

By: _____
Phillip A. Lambert, Secretary

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Neal R. Lohuis, the Treasurer of Regency Windsor Capital, Inc., a General Partner of Regency Windsor Sunblest II Limited Partnership, who is personally known to me and who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

WITNESS my hand and Notarial Seal this ____ day of _____, 2023.

(SEAL)

Printed Name: _____
Notary Public

I am a resident of
_____ County, _____.

My commission expires:

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Philip A. Lambert, the Secretary of Lambert Investment Properties, Inc., the General Partner of Lambert Properties Limited Partnership, a General Partner of Regency Windsor Sunblest II Limited Partnership, who is personally known to me and who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

WITNESS my hand and Notarial Seal this ____ day of _____, 2023.

(SEAL)

Printed Name: _____
Notary Public

I am a resident of
_____ County, _____.

My commission expires:

City of Fishers Redevelopment Commission

Attest: _____
Brad Johnson, Secretary

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Damon Grothe and Brad Johnson, the President and Secretary, respectively, of THE CITY OF FISHERS REDEVELOPMENT COMMISSION, a commission of the City of Fishers, who acknowledged the execution of the foregoing instrument for and on behalf of said Grantee No. 2.

Signature _____

Printed Name

EXHIBIT A TO TEMPORARY EASEMENT AGREEMENT

PROJECT SITE

Part of the Northwest 1/4 of Section 31, Township 18 North, Range 5 East in Hamilton County, Indiana, described as follows:

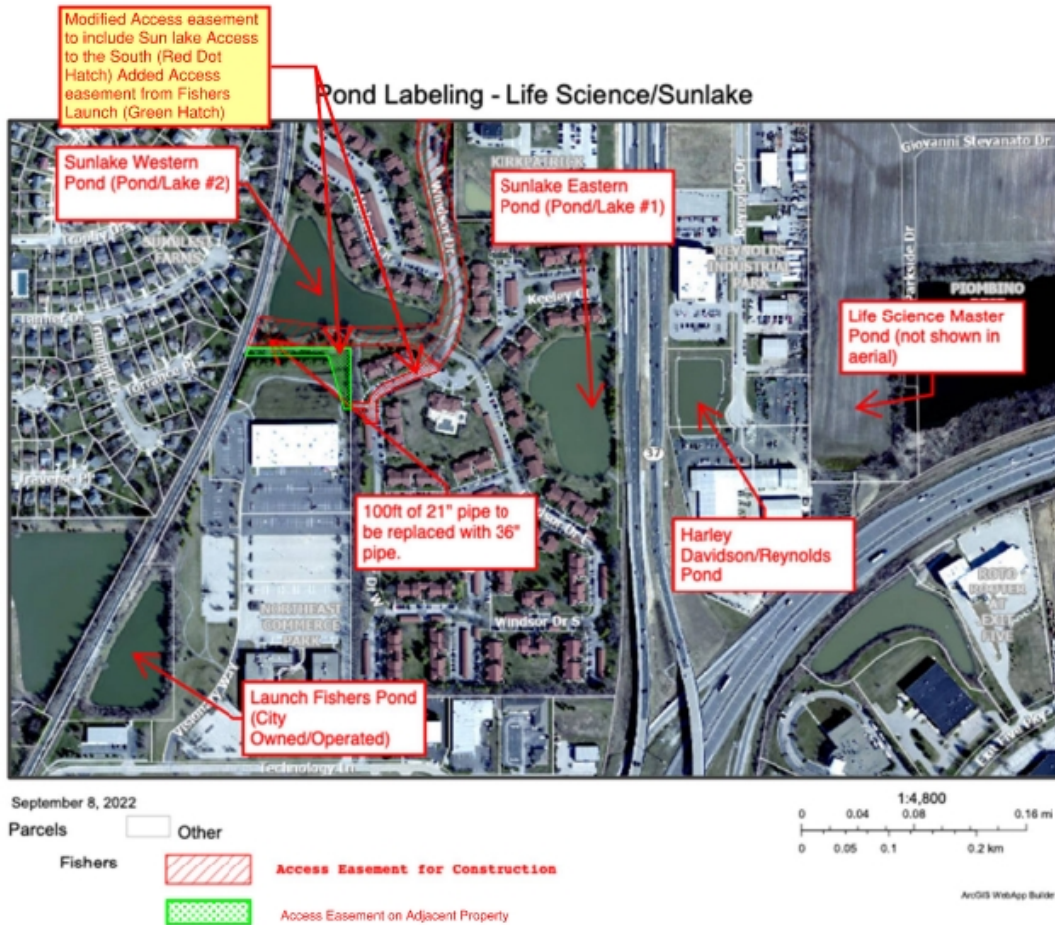
Commencing at the Northwest corner of said Northwest 1/4; thence North 89°04'30" East, along the North line of said Northwest 1/4, 1557.61 feet to the East right of way line of the Norfolk and Western Railroad; thence South 00°40'55" East, along said right of way line 40.00 feet to the Point of Beginning; thence North 89°04'30" East, parallel with the North line of said Northwest 1/4, 593.96 feet; thence South 00°41'58" East, 830.00 feet; thence North 89°04'30" East, 628.41 feet to the West right of way line of State Road 37; thence South 00°47'55" East, along said West right of way line, 1350.01 feet; thence along said right of way line on a curve to the right, 452.40 feet, said curve having a radius of 3732.72 feet and a chord that bears South 02°40'24" West, 452.12 feet to the South line of said Northwest 1/4; thence South 89°02'15" West, along said South line, 990.88 feet; thence North 00°52'07" West, 1318.87 feet; thence South 89°34'17" West, 392.28 feet to the East right of way line of the Norfolk and Western Railroad; thence along said right of way line on a curve to the left, 1085.76 feet, said curve having a radius of 3094.42 feet and a chord that bears North 09°22'12" East, 1080.19 feet; thence North 00°40'55" West, along said right of way line 246.81 feet to the Point of Beginning.

EXHIBIT B TO TEMPORARY EASEMENT AGREEMENT

COMMISSION WORK
[separately provided]

EXHIBIT C TO TEMPORARY EASEMENT AGREEMENT

TEMPORARY EASEMENT AREA



RESOLUTION NO: FRC 04R042423

**RESOLUTION OF THE CITY OF FISHERS REDEVELOPMENT COMMISSION
APPROVING PURCHASE AND SALE AGREEMENT (CITY WALK)**

WHEREAS, the City of Fishers Redevelopment Commission (the “Commission”) is a party to that certain January 2023, Land Acquisition Agreement (the “LAA”) with TTRG IN Fishers Swordfish, LLC (“Developer”), pursuant to which Developer is authorized to sale portions of real property generally located at and about the City of Fisher planned Event Center (the “Property”);

WHEREAS, pursuant to the LAA, contracts for sale of the Property are subject to Commission approval; and

WHEREAS, the Commission now desires to approve the Purchase And Sale Agreement between Developer and CNP Holdings LLC (the “PSA”).

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

Section 1. The Commission hereby approves the PSA.

Section 2. 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 ____th day of April, 2023.

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

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.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS ("**Agreement**") is made and entered into this 1^A day of February, 2023 (the "**Effective Date**"), by and between TTRG IN FISHERS SWORDFISH, LLC, a Delaware limited liability company ("**Seller**"), and CNP HOLDINGS LLC, a Missouri limited liability company, or assigns ("**Purchaser**").

WHEREAS, Seller is the owner of that certain parcel of land comprising approximately 1.35 acres located in the City of Fishers, Hamilton County, Indiana as more particularly described in **Exhibit A** attached hereto (the "**Land**"); and

WHEREAS, Purchaser desires to purchase the Property (as hereafter defined) from Seller and Seller has agreed to sell the Property to Purchaser in accordance with, and subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the recitals set forth above, which are fully incorporated herein by this reference, and the mutual covenants and agreements herein set forth, Purchaser and Seller agree as follows:

Article 1 SALE AND PURCHASE

Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase and accept from Seller, upon the terms and conditions set forth herein, the Land, together with (i) all improvements, rights and appurtenances thereto, including, without limitation, all of Seller's right, title and interest in and to adjacent streets, alleys, rights of way, easements and any adjacent strips of real estate (the foregoing, together with all such improvements, rights and appurtenances thereto being referred to herein collectively as the "**Real Property**"), and (ii) any interest in any intangible property used or useful in connection with the foregoing, including, without limitation, contract rights, warranties, guaranties, licenses, permits, entitlements, and governmental approvals which benefit the Real Property (collectively, the "**Property**"). The Property is depicted on the Site Plan attached hereto as **Exhibit B**. All of the Property shall be conveyed, assigned and transferred to Purchaser at Closing (hereinafter defined) free and clear of all liens, claims, easements and encumbrances whatsoever except for the Permitted Encumbrances (hereinafter defined).

Article 2 PURCHASE PRICE AND EARNEST MONEY; OPENING OF ESCROW

2.01 Purchase Price. The price ("**Purchase Price**") of the Property shall be One Million and 00/100 Dollars (\$1,000,000.00). The Purchase Price is payable in cash or immediately available funds at Closing, subject to closing adjustments.

2.02 Earnest Money. Within three (3) business days of the Effective Date Purchaser shall deliver to Assured Quality Title Company, Attn: Jose Evans (the "**Title Company**") an earnest money deposit, in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00), to be held in accordance with the terms of this Agreement (the "**Earnest Money**"). If Purchaser

terminates this Agreement for any reason during the Inspection Period (hereafter defined) or for cause following the Inspection Period as specified herein, the Earnest Money, together with any interest thereon, if applicable, shall be returned to Purchaser, except for an amount equal to One Hundred Dollars (\$100.00) which shall be retained by Seller as independent consideration for Seller's agreement to enter into this Agreement (the "**Independent Consideration**"). If Purchaser completes this Agreement and purchases the Property, such Earnest Money, including interest, shall be applied by Seller towards the Purchase Price. If Purchaser defaults under this Agreement following the Inspection Period, Seller shall be entitled to retain the Earnest Money as its sole damages under this Agreement pursuant to the terms of Section 10.01.

2.03 Balance of Purchase Price. The balance of the Purchase Price shall be payable in cash or immediately available funds at the time of Closing, subject to closing adjustments specified herein.

2.04 Opening of Escrow. For purposes of this Agreement, the escrow ("**Escrow**") created pursuant hereto shall be deemed opened on the date Title Company shall have received an executed counterpart of this Agreement from both Purchaser and Seller. Title Company shall notify Purchaser and Seller, in writing, of the date Escrow is opened. In addition, Purchaser and Seller agree to execute, deliver and be bound by any reasonable and customary supplemental escrow instructions of Title Company or other instruments as may reasonably be required by Title Company in order to consummate the transaction contemplated by this Agreement. Any such supplemental instructions shall not conflict with, amend or supersede any portions of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control.

Article 3 TITLE AND SURVEY

3.01 Condition of Title. It shall be a condition to Closing (hereafter defined) and a covenant of Seller that title to the Property be conveyed to Purchaser by Seller by the Deed (hereafter defined) subject only to the following condition of title ("**Approved Condition of Title**"):

- (a) A lien to secure payment of real estate taxes, none due and payable as of Closing.
- (b) Matters affecting the Real Property created by or with the written consent of Purchaser.
- (c) Exceptions which are disclosed by the Commitment described in Section 3.02(a) and which are approved by Purchaser in accordance with Section 3.04.

3.02 Title Commitment and Reports. Within five (5) days from the Effective Date, Seller, at Seller's sole cost and expense, shall deliver or cause to be delivered to Purchaser the following, if readily available or in Seller's possession ("**Seller's Deliverables**"):

- (a) A Commitment for Title Insurance ("**Commitment**") covering the Property, issued by the Title Company, setting forth the status of the title to the Property and showing all liens, claims, encumbrances, easements, rights of way, encroachments, reservations, restrictions and any other matters affecting the Property, which shall commit to delete the standard printed exceptions.
- (b) A true, complete and legible copy of all documents referred to in the Commitment, including, but not limited to, deeds, lien instruments, plats, reservations, restrictions and easements.
- (c) Any and all property tax statements pertaining to the Property which are in the possession or control of Seller, its agents or representatives.
- (d) Copies of all service plans for all special taxing districts which affect the Property, if applicable.
- (e) Soil reports and any compaction or drainage studies concerning the Property, to the extent available.
- (f) Copies of all existing licenses, permits, easement agreements, site development agreements and any other agreements affecting development of the Property.
- (g) Copies of all applications and correspondence or other written communications to or from any governmental entity, department or agency regarding any permit, approval, consent or authorization with respect to the development of the Property which are in the possession or control of Seller, its agents or representatives, if any.
- (h) Any and all tentative, parcel and/or final maps, development plans, site plans, permits, certificates of occupancy, specifications or any other governmentally approved or processed documents relating to the subdivision or development of the Property which are in the possession or control of Seller, its agents or representatives.
- (i) Copies of all other documents in Seller's possession or readily obtainable by Seller which pertain in any way to the Property, including, but not limited to plans, plats, surveys, title materials, consultant or other third party reports, environmental reports, correspondence or memoranda.

3.03 Survey. Concurrently with the Effective Date, Seller shall deliver to Purchaser any existing survey of the Property in Seller's possession, and Purchaser may elect to obtain a new survey or an update to any existing survey provided to Purchaser (as applicable, the "**Survey**") of the Property at Purchaser's expense.

3.04 Title Review. Purchaser shall have until the later of (a) that date which is twenty (20) business days from the last to be delivered of the Title Commitment and Survey or (b) the

expiration of the Inspection Period (defined below) in which to review such items and to deliver to Seller in writing such objections as Purchaser may have to any of the items. Any items to which Purchaser does not object within such period shall be deemed to be permitted encumbrances ("**Permitted Encumbrances**"). If Purchaser timely objects to any matter contained in the Commitment or Survey ("**Title Objections**") as hereinabove provided, Seller may, but shall not be obligation to, use reasonable efforts to cure such objections, within ten (10) business days after Seller's receipt of Purchaser's notice ("**Title Cure Period**"). If Seller has not yet satisfied each of Purchaser's stated Title Objections within the Title Cure Period, Seller shall notify Purchaser in writing ("**Seller's Notice**") of any of Purchaser's Title Objections which Seller is unable or unwilling to satisfy, and prior to the end of the Inspection Period, Purchaser shall elect either to (i) terminate this Agreement and be reimbursed the Earnest Money (less the Independent Consideration), and neither party shall have any further rights, duties or obligations hereunder, or (ii) purchase the Property subject to the Title Objections not so removed or cured, in which event those Title Objections shall be deemed to be Permitted Encumbrances. If Purchaser fails to provide written notice to Seller of its election to either terminate this Agreement or purchase the Property within said 10-business day period, then Purchaser shall automatically be deemed to have elected to terminate this Agreement. Notwithstanding anything in the foregoing to the contrary, any lien or option to purchase shall be released by Seller at Seller's sole cost and expense at or before Closing and shall not be a Permitted Encumbrance.

3.05 Updated Commitment. Seller covenants and agrees that during the term of the Escrow, it will not cause or permit title to the Real Property to differ from the Approved Condition of Title described in Section 3.01. If Purchaser elects not to terminate this Agreement in accordance with Section 3.04, Seller, upon request of Purchaser, shall, or Purchaser may, cause Title Company to reissue from time to time the Commitment prior to Closing. Purchaser shall have the right to object to any new exceptions other than the Permitted Encumbrances which may appear of record or be revealed by any updated Commitment, and such new exceptions must be eliminated or ameliorated by Seller to Purchaser's satisfaction prior to Closing as a condition to Closing for Purchaser's benefit. If Seller fails to cure such items, Purchaser shall again have the right to terminate this Agreement and be reimbursed the Earnest Money, less the Independent Consideration (and Purchaser may pursue all rights and remedies available to it pursuant to this Agreement or otherwise), or waive the objection. The time periods for objecting to and curing the additional exceptions and for terminating this Agreement shall be the same as those set forth in Section 3.04, commencing with the date Purchaser receives the updated Commitment, and, if necessary, the Closing Date shall be extended for such purposes.

3.06 Title Policy. Title shall be evidenced by the willingness of the Title Company to issue its 2021 ALTA Extended Coverage Owner's Form Policy of Title Insurance in the amount of the Purchase Price showing title to the Property vested in Purchaser subject only to the Approved Condition of Title (the "**Title Policy**").

Article 4

INSPECTION AND GOVERNMENTAL APPROVALS

4.01 Inspection Period. At Purchaser's sole cost and expense, Purchaser shall have a period of ninety (90) days from the Effective Date ("**Inspection Period**") in which to enter upon the Property and conduct soil, engineering, environmental and other tests with regard to the

Property and to investigate the availability of utilities, governmental requirements applicable to the Property and Purchaser's intended use thereof, the availability of all necessary permits and licenses, and otherwise to determine the desirability and utility of the Property for Purchaser's intended use. Purchaser hereby agrees to indemnify and hold Seller harmless from any and all liabilities or obligations to the extent solely incurred as a result of such access to the Property. Notwithstanding that Purchaser will perform its own inspection and investigation of the Property, Seller agrees to provide Purchaser with copies of any reports in Seller's possession affecting the Property, including, without limitation, any soils and/or environmental reports. Purchaser and Purchaser's agents are hereby given permission to enter the Property during the Inspection Period for the purposes of conducting such tests, investigations and inspections. Purchaser (or the particular agent performing the work or service) shall provide written notice (and as to any agent of Purchaser a certificate of insurance as required below) to Seller at least twenty-four (24) hours prior to the time that the entity or its agents or representatives intend to enter onto the Property during the Inspection Period. This right to enter the Property is strictly limited to the purposes set forth in this Agreement. Prior to conducting such tests and entering upon the Property, Purchaser shall deliver, or cause to be delivered to Seller from any agent of Purchaser and each other party entering onto the Property to perform work or services pursuant to this Paragraph for Purchaser, certificates of insurance naming Seller as an additional insured and providing evidence of the issuance of an insurance policy with an insurance company authorized to do business in the State of Indiana, for comprehensive general public liability insurance (including contractual liability) against claims for bodily injury, death or property damage occurring on, in or about the Property, such insurance to afford protection of not less than \$1,000,000 combined single limit per occurrence, caused by or as a result of the acts or omissions of Purchaser and/or its employees, agents, engineers, surveyors, consultants or other contractors or representatives arising out of or suffered as a result of the exercise of Purchaser's rights hereunder. Such certificates shall name Seller and, the underlying Seller, and such other parties as Seller shall designate as additional insured parties thereunder and the insurance reflected on such certificate shall provide coverage on an occurrence made basis. Purchaser covenants that it shall not cause or permit any liens to attach to the Property as a result of Purchaser's acts hereunder or as a result of Purchaser's access to the Property. Anything to the contrary notwithstanding, the provisions of this Section shall survive the termination of this Agreement.

4.02 Approval Period. Purchaser shall have one hundred eighty (180) days from the end of the Inspection Period ("**Approval Period**") to obtain the written approvals of all appropriate governmental authorities and other third parties, as applicable, including, without limitation permits, site plan approvals, subdivision, environmental approvals, storm water drainage permits and utility connections, for Purchaser's building design, landscape design, signage and preliminary site plan for the proposed improvement of the Property. Seller agrees to reasonably cooperate with Purchaser and the City of Fishers, Indiana throughout the approval process to ensure that Purchaser is not delayed in securing the approvals for its intended development. In the event Seller is responsible for delays encountered by Purchaser in securing any approvals, Seller agrees to extend the Approval Period for a period of time which is equivalent to any such delay.

4.03 Extensions of the Approval Period. Provided that Purchaser is diligently pursuing obtaining the approvals necessary for Purchaser's construction and development of the Property, Purchaser shall have the right to extend the Approval Period for two (2) thirty (30) day extensions, by delivering written notice to Seller prior to the expiration of the Approval Period or

any extension thereof, and delivery by Purchaser of an additional earnest money deposit of \$25,000 for each such extension (which additional earnest money deposit(s) shall be deemed a portion of the Earnest Money). Seller, at no cost or expense to Seller, shall cooperate with Purchaser in pursuing all governmental and third party approvals required hereunder.

4.04 Purchaser's Option to Terminate. If Purchaser determines in its sole and absolute discretion that the Property is not suitable for Purchaser's intended use, or if Purchaser is not successful in obtaining the approvals necessary for Purchaser's construction and development of the Property within the time periods specified above, Purchaser shall have the right either to (A) terminate this Agreement by written notice to Seller on or before expiration of the Inspection Period in which event the Earnest Money (less the Independent Consideration) and all interest earned thereon, if applicable, shall be returned to Purchaser and neither party shall have any further rights or obligations to the other hereunder, except Purchaser's obligations to promptly repair and restore all damage to the Property and indemnify and hold Seller harmless from and against all losses, claims, costs, damages and liabilities to the extent solely arising out of or in connection with any entry upon the Property by Purchaser and its agents, servants, employees and contractors, or (B) waive the requirements and/or contingencies regarding such inspection or approvals and proceed with this Agreement, in which event the Closing shall occur on or before thirty (30) days following such waiver, provided the contingencies contained in Article 9 are satisfied to Purchaser's satisfaction.

Article 5

SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS

5.01 Seller hereby covenants and represents and warrants to Purchaser that:

- (a) On the Closing Date, Seller shall convey the Property to Purchaser by Deed (hereafter defined) and provide a Title Policy insuring good and marketable indefeasible title in fee simple to the Property in Purchaser in accordance with the terms and conditions of this Agreement. After the date of this Agreement, Seller shall not alienate, lien, encumber or otherwise transfer all or any portion of the Property or enter into any agreement affecting the Property or otherwise cause or permit any act that could result in a change in the Approved Condition of Title.
- (b) There are no actions, suits, claims, assessments or proceedings pending or, to the knowledge of Seller, threatened against or affecting the Property, in law or equity, including, but not limited to, judicial, municipal or administrative proceedings in eminent domain, or federal, state or local agency actions regarding environmental matters.
- (c) Seller has received no notice of any condemnation or eminent domain proceedings, nor entered into negotiations for the sale of any of the Property in lieu of condemnation and, to the best of Seller's knowledge, no condemnation or eminent domain proceedings or negotiations have been commenced or threatened in connection with the Property or any part thereof.

- (d) All utilities, including water, gas, sanitary sewer, storm sewer, electric power and telephone service have been (or will be before Closing) stubbed to the boundary line of the Land, in the form and amount necessary for the intended use of the Land by Purchaser, and there are no unpaid assessments for the installation of these services.
- (e) At Closing, there will be no unpaid bills or claims in connection with any work by or on behalf of Seller on the Property.
- (f) Except as otherwise disclosed in or pursuant to this Agreement (including the Declaration in Section 11.17), there are no agreements, including leases, affecting the Property or which will be binding on Purchaser as the owner of the Property. From and after the date of this Agreement, Seller shall not, without the prior written consent of Purchaser, which consent Purchaser may withhold in its sole and absolute discretion, enter into any lease, rental agreement, maintenance contract, service contract, listing agreement or any other contract, declaration or other agreement affecting, encumbering or relating to the Property or any portion thereof which will survive Closing or will otherwise affect the use, operation or enjoyment of the Property after Closing.
- (g) Seller has validly executed this Agreement and the same constitutes the binding obligation of Seller. Seller is validly existing and in good standing in the state of its organization, has full authority to transact business in the State of Indiana and has full power, authority and capacity to enter into this Agreement and to carry out Seller's obligations under this Agreement.
- (h) To the best of Seller's knowledge, the Property does not contain a Hazardous Substance (as defined in this subparagraph below), whether located upon or beneath the Property, and no debris has been buried beneath the surface of the Property, and Seller has not discharged and has no knowledge of any person having discharged any Hazardous Substances on the Property. Without limiting the other provisions of this Agreement, Seller shall cooperate with Purchaser's investigation of matters relating to the foregoing provisions of this paragraph and to provide access to and copies of any data and/or documents dealing with potentially Hazardous Substances used at the Property and any disposal practices followed. Seller agrees that Purchaser may make inquiries of governmental agencies regarding such matters, without liability for the outcome of such discussions. The term "**Hazardous Substances**" includes, without limitation, any hazardous or toxic materials, substances or wastes, such as (A) those defined, classified, designated, listed or otherwise considered under any environmental law as a "hazardous waste," "hazardous substance," "hazardous material," "extremely hazardous waste," "acutely hazardous waste," "radioactive waste," "biohazardous waste," "pollutant," "toxic pollutant," "contaminant," "restricted hazardous waste," "infectious waste," "toxic substance," or any other term or expression intended to

define, list, regulate or classify substances by reason of properties harmful to health, safety or the indoor or outdoor environment, (B) any materials, substances or wastes which are toxic, ignitable, corrosive, explosive, flammable, infectious, carcinogenic, mutagenic or reactive and which are or become regulated by any local governmental authority, any agency of the State of Indiana or any agency of the United States Government, (C) asbestos, (D) methane, oil, petroleum and petroleum based or derived substances or products or additives, (E) urea formaldehyde foam insulation, (F) polychlorinated biphenyls (PCBs), (G) freon and other chlorofluorocarbons, (H) any drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources, (I) trichloroethylene, tetrachloroethene, (J) mold and (K) lead-based paint.

- (i) Seller will not do anything or knowingly permit anything to be done during the term of this Agreement that will result in the creation of any easements, restrictions or rights-of-way which might adversely affect Purchaser's use of the Property except as agreed to by Purchaser in the Declaration or development documents. From the Effective Date until Closing, Seller shall maintain the Property in its current condition and Seller shall, at its expense, remove all trash, including without limitation, construction or organic debris, or other trash or waste located on the Property (whether currently existing or brought unto the Property after the date of this Agreement) prior to Closing.
- (j) Seller is not a foreign person within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, and Seller will furnish the Seller's Certificate (hereafter defined) to Purchaser prior to Closing in accordance with the terms and provisions of Section 9.03.
- (k) All documents delivered to Purchaser by Seller pursuant to this Agreement are true and correct copies of originals and any and all information supplied to Purchaser by Seller in accordance with Section 3 hereof is true and accurate.
- (l) Seller is not aware of any intended public improvements which will result in any charge being levied or assessed against the Property or any delinquent taxes, assessments (special, general or otherwise), or bonds of any nature affecting the Property, or any portion thereof.
- (m) Seller shall notify Purchaser of any material information concerning the Property about which Seller learns during the course of the Escrow promptly upon Seller's obtaining knowledge of same. If Seller becomes aware of any change in any condition with respect to the Property or of any event or circumstance which makes any representation or warranty of Seller to Purchaser under this Agreement materially untrue or misleading, and of any covenant of Seller under this Agreement which Seller will be incapable

of performing or less likely to perform (a "**Changed Condition**"), Seller shall promptly notify Purchaser of such matter. If Seller notifies Purchaser of any Changed Condition, Purchaser shall have ten (10) business days following receipt of written notice from Seller of such condition to review the events and circumstances giving rise to such condition. If Purchaser disapproves the Changed Condition (as determined in Purchaser's sole and absolute discretion), Purchaser may elect to (i) accept such changed conditions or (ii) terminate this Agreement. If such Changed Condition results from a breach by Seller of its obligations under this Agreement, Purchaser shall be entitled to exercise its remedies set forth in Section 10.02 below.

- (n) Seller has received no notice and has no knowledge of any violation of applicable law, ordinance, rule, regulation or requirement of any governmental agency, body or subdivision affecting or relating to the Property, including, without limitation, any subdivision, building, use or environmental law, ordinance, rule, requirement or regulation. Seller shall deliver to Purchaser each and every notice or communication Seller receives from any governmental body relating to the Property upon Seller's receipt of the same.

5.02 The above representations, warranties and covenants shall be true and correct on the Effective Date and on the Closing Date and shall survive the Closing for a period of one (1) year after Closing. The obligation of Purchaser to close this transaction is expressly conditioned upon these representations, warranties and covenants being true and correct on the Closing Date.

Article 6 COMMISSIONS

Each party hereby warrants and covenants to the other party that it has not dealt with any real estate broker or salesperson in connection with this sale of the Property except Thompson Thrift Commercial, representing Seller, as a seller's agent, and that no real estate commissions, finders' fees or brokers' fees have been or will be incurred in connection with this Agreement or the sale contemplated hereby except a commission to be paid by Seller to Seller's broker at Closing in accordance with the terms of a separate commission agreement between Seller and said broker. Seller hereby agrees to defend, indemnify and hold harmless Purchaser, and Purchaser hereby agrees to defend, indemnify and hold harmless Seller, from and against any claims by other third parties for brokerage commission, finder's fees, or other fees relative to this Agreement or the sale of the Property, and any court costs, attorneys' fees or other costs or expenses arising therefrom and alleged to be due by authorization of the indemnifying party.

Article 7 CONDEMNATION

In the event of a taking by condemnation or similar proceedings or actions, of only a portion of the Land, which Purchaser believes, in its sole discretion, is not material to the use of the remainder, this Agreement shall not terminate, but shall remain in full force and effect, and Seller

shall assign or pay to Purchaser at Closing, Seller's interest in and to any condemnation awards or proceeds arising from any such proceedings or actions pertaining to the portion of the land taken in lieu thereof. In the event of a taking by condemnation or similar proceedings or actions, of all of the Land, or any portion of the Land which Purchaser believes, in its sole discretion, is material to the use of the remainder, Purchaser shall have the option to give notice to Seller to terminate this Agreement, in which event the Earnest Money (less the Independent Consideration), including all interest earned thereon, shall be returned to Purchaser and neither Purchaser nor Seller shall have any further rights or obligations hereunder. If Purchaser does not exercise its option to so terminate this Agreement, then the Agreement shall remain in full force and effect and Seller shall assign or pay to Purchaser, at Closing, Seller's interest in and to any and all condemnation awards or proceeds arising from any such proceedings or actions pertaining to the portion of the land taken in lieu thereof. Promptly upon Seller obtaining actual knowledge thereof, Seller shall give Purchaser notice of any pending or threatened condemnation or similar proceedings or actions in lieu thereof which may arise in connection with all or any part of the Land.

Article 8

PURCHASER'S CONTINGENCIES AND CONDITIONS TO CLOSING

The following contingencies are conditions precedent to Purchaser's obligations under this Agreement and shall be removed or satisfied, to Purchaser's sole and absolute satisfaction, prior to the Closing:

- (a) Approval by Purchaser of the Approved Condition of Title and Title Company has committed to issue the Title Policy.
- (b) Seller shall have completed rough grading the Property with all off-site work completed and all utilities delivered to within five feet (5') of the Property line.
- (c) Seller shall have constructed a shared detention pond serving the Property in compliance with all federal, state, and local laws, requirements, and regulations.
- (d) Purchaser shall have received documentation satisfactory to Purchaser evidencing that the Land has easement rights for the access to and use of a shared storm water detention facility.
- (e) Purchaser shall have received documentation satisfactory to Purchaser evidencing that the Land has easement rights for access to and use of a completed parking facility in proximity to the Land (the final location of which to be determined prior to expiration of the Inspection Period, and subject to the reasonable prior written approval of Purchaser).
- (f) All representations and warranties made by Seller to Purchaser in this Agreement shall be true and correct as of Closing.

- (g) As of the Closing Date, Seller shall have made all deposits with Title Company required of Seller pursuant to the provisions of Section 9.03 of this Agreement.

Article 9 CLOSING

9.01 Time and Place of Closing. For purposes of this Agreement, the "**Closing**" shall be defined as the date that the Title Company's standard form of special warranty deed ("**Deed**"), conveying the Property to Purchaser, is recorded in the real property records of Hamilton County, Indiana ("**Official Records**"). The Closing shall occur on or before thirty (30) days after the earlier to occur of (i) the end of the Approval Period, as the same may be extended, or (ii) the date upon which Purchaser provides written notice of its election to purchase the Property. The exact date of Closing ("**Closing Date**") shall be specified by Purchaser.

9.02 Purchaser's Obligations. At the Closing, Purchaser shall deliver or cause to be delivered to Seller the following:

- (a) The Purchase Price, less the Earnest Money and the prorations set forth in Section 9.04.
- (b) A settlement statement.
- (c) Such other instruments as are reasonably required by the Title Company to complete Closing as required hereunder.

9.03 Seller's Obligations. At the Closing, Seller, at Seller's sole cost and expense, shall deliver or cause to be delivered to Purchaser the following:

- (a) Deed, fully executed and acknowledged by Seller, conveying the Property to Purchaser, subject only to the Permitted Encumbrances.
- (b) Evidence satisfactory to Purchaser and Title Company that the person or persons executing the Closing documents on behalf of Seller have full right, power and authority to do so, that Seller is validly existing and in good standing, and that the sale of the Property to Purchaser has been properly authorized.
- (c) Certificate in form and substance reasonably satisfactory to Purchaser stating that Seller (or any of the parties comprising or owning Seller if Seller is a corporation, partnership, joint venture, trust or other type of business association) is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code and setting forth Seller's United States taxpayer identification number (the "**Seller's Certificate**").
- (d) A bill of sale and assignment, conveying all of Seller's right, title and interest, if any, in and to any and all personalty, appurtenances, entitlements and engineering drawings pertaining to the Property, if applicable.

- (e) An assignment of all of Seller's right, title and interest in and to any intangible personal property and any contracts and agreements with any governmental entity, agency or authority or utility company or district (but only to the extent such items relate to the Property and Purchaser has notified Seller in writing of its desire to obtain an assignment thereof).
- (f) A Seller's/Title Affidavit in a form acceptable to Title Company and Purchaser.
- (g) Any and all building and development permits, utility will serve letters, use permits and other governmental approvals and/or entitlements relative to the Property (collectively, the "**Permits**").
- (h) A settlement statement.
- (i) Such other instruments as are reasonably required by the Title Company to complete Closing as required hereunder.

9.04 Adjustments and Prorations. All ad valorem taxes, assessments and other state, county, school, municipal and municipal utility district fees, taxes, charges and assessments (special or otherwise) relating to the Property ("**Taxes**"), if any, for any fiscal years of the applicable taxing authorities prior to closing, including any penalties and/or interest thereon, shall be paid by Seller at Closing. All Taxes for the fiscal year of the applicable taxing authorities during which the Closing occurs shall be prorated as of the Closing Date and, unless then due and paid at Closing, shall be assumed by Purchaser. In the event that as of Closing the actual tax bills for the year or years in question are not available and the amount of taxes to be prorated as aforesaid cannot be ascertained, then rates and assessed valuation of the previous year, with known changes, shall be used, and when the actual amount of taxes and assessments for the year or years in question shall be determinable, then such taxes and assessments will be re-prorated between the parties to reflect the actual amount of such taxes and assessments. If any adjustments are necessary subsequent to Closing pursuant to the previous sentence, then Purchaser may invoice Seller for such additional amounts as may be owing, and such amounts shall be paid within ten (10) days from receipt of the invoice. The provisions of this Section shall survive the Closing.

9.05 Closing Costs - Seller. Seller shall pay for (i) the standard coverage portion of the Owner's Title Policy up to the amount of the Purchase Price, (ii) Seller's own attorneys' fees, (iii) one-half (1/2) of the escrow service fee for the Title Company, (iv) recording costs for releasing any liens affecting the Property and for curing any other objectionable matters affecting title to the Property pursuant to Article 3, (v) the recording of the Deed, and (vi) such other incidental expenses as are customarily borne by sellers of property in the county where the Property is located. If, as a result of no fault of Purchaser or Seller, Escrow fails to close, Purchaser and Seller shall share equally all of Title Company's fees and charges.

9.06 Closing Costs - Purchaser. Purchaser shall pay for (i) one-half (1/2) of the escrow service fee for the Title Company, (ii) Purchaser's own attorneys' fees, (iii) that portion of the premium for the Title Policy attributable to ALTA extended coverage, (iv) any transfer or

conveyance tax, and (v) such other incidental expenses as are customarily borne by purchasers of property in the county where the Property is located.

9.07 Disbursements and Other Actions by Title Company. Upon Closing, Title Company shall promptly undertake all of the following in the manner indicated:

- (a) Recording. Cause the Deed and any other documents which the parties hereto may mutually direct to be recorded in the Official Records.
- (b) Funds. Disburse from funds deposited by Purchaser with Title Company towards payment of all items chargeable to the account of Purchaser pursuant hereto in payment of such costs (including the Purchase Price [as appropriately adjusted] to Seller) and disburse the balance of such funds, if any, to Purchaser.
- (c) Title Policy. Issue the Title Policy to Purchaser.
- (d) Documents to Purchaser. Deliver to Purchaser the Seller's Certificate, appropriately executed by Seller, the Permits, a conformed copy of the recorded Deed, any other documents which are to be delivered to Purchaser hereunder, and, when issued, deliver to Purchaser the Title Policy.

9.08 Possession. Upon the completion of the Closing, Seller shall deliver to Purchaser possession of the Property free and clear of all parties in possession and tenancies of every kind, with all parts of the Property in the same condition as on the Effective Date.

Article 10 REMEDIES

10.01 Purchaser's Default. If Purchaser commits a default under this Agreement and fails to cure such default within fifteen (15) days of receipt of written notice thereof from Seller, and Closing fails to occur by reason of such default, then in any such event, Title Company may be instructed by Seller to cancel the Escrow and Seller shall thereupon be released from its obligations hereunder. Purchaser and Seller agree that based upon the circumstances now existing, known and unknown, it would be impractical or extremely difficult to establish Seller's damage by reason of Purchaser's default. Accordingly, Purchaser and Seller agree that it would be reasonable at such time to award Seller "liquidated damages" equal to the total of all Earnest Money placed into escrow by purchaser pursuant to this Agreement less any of Title Company's charges.

Seller and Purchaser acknowledge and agree that the applicable foregoing amounts of liquidated damages are reasonable as liquidated damages and shall be Seller's sole and exclusive remedy in lieu of any other relief, right or remedy, at law or in equity, to which Seller might otherwise be entitled by reason of Purchaser's default. Accordingly, if Purchaser fails to complete the purchase of the Property and such failure (a) continues for fifteen (15) days following receipt of written notice thereof from Seller and (b) constitutes a breach of this Agreement, then Seller may instruct Title Company to cancel the Escrow whereupon Seller shall be relieved from all liability hereunder, and, promptly following Title Company's receipt of such instruction, Title

Company shall (i) cancel the Escrow, (ii) pay all of Title Company's charges from the total amount of the Earnest Money then held by Title Company and (iii) disburse to Seller the remaining balance of the Earnest Money. If Closing fails to occur for any reason other than Purchaser's default under this Agreement, Title Company shall disburse to Purchaser all of the Earnest Money (less the Independent Consideration) then held by Title Company, plus the accrued interest thereon, less Purchaser's share of escrow cancellation charges. Without limiting the foregoing provisions of this paragraph, Seller waives any and all rights which Seller otherwise would have had under applicable law or in equity to specifically enforce this Agreement.

10.02 Seller's Default. If Seller defaults in performing any of its obligations under this Agreement, Purchaser may (i) terminate this Agreement upon written notice to Seller, in which event Purchaser shall be entitled to the prompt return of the Earnest Money (less the Independent Consideration) and reimbursement by Seller of reasonable out of pocket costs incurred by Purchaser in connection with this Agreement up to a maximum amount of \$50,000, or (ii) pursue specific performance of this Agreement.

10.03 Termination Pursuant to Agreement. If Purchaser terminates this Agreement pursuant to a right granted to Purchaser hereunder to do so, then the Earnest Money (less the Independent Consideration) shall be returned to Purchaser and neither party hereto shall have any further rights, duties or obligations hereunder.

Article 11 MISCELLANEOUS

11.01 Assigns. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective heirs, legal representatives, successors and assigns. Purchaser shall also have the right to assign this Agreement without the consent of Seller to a special purpose entity controlled by or under common control with Purchaser, provided, however, that Purchaser shall remain primarily liable for all obligations under this Agreement and agrees to provide notice of any such assignment to Seller.

11.02 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF INDIANA AND THE OBLIGATIONS OF THE PARTIES HERETO ARE AND SHALL BE PERFORMABLE IN THE COUNTY WHERE THE PROPERTY IS LOCATED. BY EXECUTING THIS AGREEMENT, EACH PARTY HERETO EXPRESSLY (i) CONSENTS AND SUBMITS TO PERSONAL JURISDICTION CONSISTENT WITH THE PREVIOUS SENTENCE, (ii) WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CLAIM OR DEFENSE THAT SUCH VENUE IS NOT PROPER OR CONVENIENT, AND (iii) CONSENTS TO THE SERVICE OF PROCESS IN ANY MANNER AUTHORIZED BY APPLICABLE LAW. ANY FINAL JUDGMENT ENTERED IN AN ACTION BROUGHT HEREUNDER SHALL BE CONCLUSIVE AND BINDING UPON THE PARTIES HERETO.

11.03 Entire Agreement. This Agreement is the entire agreement between Seller and Purchaser concerning the sale of the Property and supersedes any prior agreements relating thereto. No modification hereof or subsequent agreement relative to the subject matter hereof shall be binding on either party unless reduced to writing and signed by both parties to be bound.

11.04 Survival. Any of the provisions of this Agreement which expressly provide for their survival and any provisions pertaining to a period of time following Closing shall survive Closing and the delivery of the Deed and shall not be merged therein. All indemnity provisions in this Agreement and the provisions of Section 11.11 hereof shall survive the Closing or any termination of this Agreement.

11.05 No Public Disclosure. Seller shall keep confidential each of the provisions of this Agreement and all business strategy, plans, discoveries, or marketing information in connection herewith, except (a) if and to the extent the information is already a matter of public knowledge; (b) if and to the extent Seller acquired the information totally apart from Purchaser's employees, agents or representatives; (c) such disclosures as may be necessary to Seller's broker, lender, attorney, accountant, and space planner (collectively, "**Permitted Confidants**"); or (d) such disclosures as are required by law or by any litigation between the parties hereto. Seller shall also timely require each of its Permitted Confidants to keep that information confidential. Before making any disclosure required by law, Seller, or the Permitted Confidant, as the case may be, shall give as much notice thereof as is legally permitted, along with a copy of the proposed disclosure. The foregoing duties of confidentiality shall continue until the purchase contemplated hereby is fully completed.

11.06 Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall, for all purposes, be deemed to be an original, and all such counterparts shall together constitute but one and the same agreement.

11.07 Severability. If any provisions of this Agreement applicable to any party or circumstance 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 party or circumstance, other than those as to which it is determined invalid or unenforceable, shall not be affected thereby, and each remaining provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

11.08 Headings. 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.

11.09 Waiver of Conditions by Purchaser. Notwithstanding any provision of this Agreement, Purchaser may, at its sole option, waive any provision that is a condition to its performance hereunder.

11.10 Time is of the Essence. Time is of the essence with respect to this Agreement.

11.11 Attorneys' Fees. In the event of litigation concerning the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys' fees, court costs and expenses, whether at the trial or appellate level. Any judgment or order entered in any final judgment shall contain a specific provision providing for the recovery of all costs and expenses of suit, including actual attorneys' fees (collectively "**Costs**") incurred in enforcing, perfecting and executing such judgment. For the purposes of this paragraph, Costs shall include, without limitation, attorneys' fees, costs and expenses incurred in

(i) postjudgment motions, (ii) contempt proceeding, (iii) garnishment, levy, and debtor and third party examination, (iv) discovery, and (v) bankruptcy litigation.

11.12 Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served (i) by depositing the same in the United States mail or with a reputable nationwide delivery service, addressed to the party to be notified, postage prepaid, and overnight, registered or certified with return receipt requested, (ii) by delivering the same in person to such party, or (iii) by email. Notice given in accordance with (i) above shall be effective on the date of delivery. Notice given in accordance with (ii) above shall be effective upon receipt at the address of the addressee or upon refusal to accept delivery (such refusal being evidenced by advice from the courier company or individual used to make delivery). Notice given in accordance with (iii) above shall be effective on the date of delivery with read-receipt confirmation followed with a written notice delivered pursuant to one of the other two manners specified above. For purposes of notice, the addresses of the parties shall be as follows:

Seller: Thompson Thrift Development, Inc.
901 Wabash Avenue, Suite 300
Terre Haute, IN 47807
Attn: Timothy E. Fears – Sr. VP – Legal Dept.
Email: tfears@thompsonthrift.com

Purchaser: CNP Holdings LLC
104 Armour Road
North Kansas City, MO 64116
Attn: Chase Watson
Email: cwatson@maxusprop.com

With copies to: Stinson LLP
1201 Walnut, Suite 2900
Kansas City, MO 64106
Attn: Karl R. Phares
Email: karl.phares@stinson.com

Either party may change its address by notice to the other party.

11.13 Business Days and Holidays. Whenever any time limit or date provided herein falls on a Saturday, Sunday or holiday observed by national banking associations in the State of Indiana ("**Bank Holiday**"), then such date shall be extended to the next day which is not a Saturday, Sunday or Bank Holiday. The term "**business day**" means any weekday which is not a Bank Holiday.

11.14 Rule of Construction. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement, and the parties agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

11.15 Exhibits. All exhibits or addenda referred to in this Agreement are incorporated herein for all purposes.

11.16 Declaration. Purchaser acknowledges that Seller has informed Purchaser that Seller intends to record a Declaration against the Property (the "**Declaration**"). The Declaration shall be subject to the reasonable approval of Purchaser.

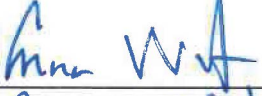
11.17 Repurchase Option. At Closing, the Property shall be conveyed subject to an agreement (the "Repurchase Option") in a form to be agreed upon by Seller and Buyer during the Due Diligence Period (and recorded at Closing) whereby Seller will have the right to repurchase the Property from Buyer at the Purchase Price paid by Buyer, if Buyer fails to commence construction of approved improvements on the Property by the date which is eighteen (18) months after the date of the Closing. For purposes hereof, Purchaser shall be deemed to have commenced construction at such time as a foundation for a permanent building has been poured on the Property.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, and intending to be legally bound, Purchaser and Seller have executed and delivered this Agreement under seal as their free act and deed as of the Effective Date.

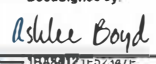
Purchaser:

CNP HOLDINGS LLC,
a Missouri limited liability company

By: 
Name: Chase Watson
Title: Manager

Seller:

TTRG IN FISHERS SWORDFISH, LLC,
a Delaware limited liability company

By: 
Name: Ashlee Boyd
Title: Authorized Representative

JOINDER BY TITLE COMPANY

Title Company hereby acknowledges receipt of a fully executed original of the foregoing Purchase and Sale Agreement on this ____ day of February, 2023, and agrees to act in accordance with the provisions of the Purchase and Sale Agreement. Title Company agrees to deliver immediately to Purchaser and Seller fully executed copies of this Agreement.

Title Company:

ASSURED QUALITY TITLE COMPANY

By: 
Name: James Krueger
Title: Escrow Officer

ATTACHMENTS:

Exhibit A Legal Description of the Land
Exhibit B Site Plan

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

[TO BE ATTACHED UPON COMPLETION OF PLAT OR SURVEY]

EXHIBIT B
SITE PLAN



RESOLUTION NO: FRC 05R042423

**RESOLUTION OF THE CITY OF FISHERS REDEVELOPMENT COMMISSION
APPROVING TEMPORARY EASEMENT AGREEMENT**

WHEREAS, the City of Fishers Redevelopment Commission (the “Commission”) is continuing to master plan the Fishers Life Sciences Park generally located north of State Road 37 and South of 126th Street in the City of Fishers, Hamilton County, Indiana (the “Life Sciences Park”);

WHEREAS, for the past year, the Commission has worked to provide onsite stormwater detention and to develop a plan for stormwater that cannot be retained within the Life Sciences Park site;

WHEREAS, 12175 VISIONARY COVE, LLC (“12175”) owns real property east of the Life Sciences Park that the Commission must use to complete improvements allowing the Life Sciences Park to ultimately drain to property owned by Regency Windsor Sunblest II Limited Partnership;

WHEREAS, 12175 has agreed to provide a temporary easement to the Commission pursuant to a temporary easement agreement substantially similar to the Temporary Easement Agreement attached hereto as **Exhibit A** (the “Easement Agreement”) if the Commission will complete the pipe replacement and related ancillary work depicted in the Easement Agreement;

WHEREAS, the Commission now desires to enter into a temporary easement agreement substantially similar to the Easement Agreement; and

WHEREAS, capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Easement Agreement.

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

Section 1. The Commission hereby approves a temporary easement agreement substantially similar to the Easement Agreement.

Section 2. The President and Secretary of the Commission are authorized to execute a temporary easement agreement substantially similar to Easement 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 ____th day of April, 2023.

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

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.

TEMPORARY EASEMENT AGREEMENT

This TEMPORARY EASEMENT AGREEMENT (this “**Agreement**”) is made effective as of the _____ day of _____, 2023 (the “**Effective Date**”) by and between the 12175 VISIONARY COVE, LLC, an Indiana limited liability company (“**Grantor**”) and the Fishers Redevelopment Commission, a commission of the City of Fishers, authorized and existing pursuant to Ind. Code § 36-7-14 *et. seq.* (“**Grantee**”, and together with Grantor the “**Parties**”, and each a “**Party**”).

RECITALS

WHEREAS, Grantor owns that certain parcel of real property located in Fishers, Indiana, as depicted in **Exhibit A** attached hereto and incorporated herein (the “**Grantor Property**”);

WHEREAS, Grantor has the authority to grant the Easement (as defined in **Section 1** herein);

WHEREAS, Grantee is required to complete the pipe replacement and related ancillary work as described and depicted in **Exhibit B** (the “**Commission Work**”);

WHEREAS, to complete the Commission Work, Grantee must acquire the temporary right to gain access to and the use of the area marked in green and labeled “Temporary Easement Area” and generally depicted with a red line in **Exhibit C** (the “**Temporary Easement Area**”); and

WHEREAS, pursuant to this Agreement and the terms and provisions hereof, Grantee desires to obtain the Easement to use the Temporary Easement Area for the Permitted Purposes (as defined in **Section 3** herein).

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Temporary Easement. Grantor hereby grants to Grantee, a non-exclusive temporary easement (the “**Easement**”) in, on, over and through the Temporary Easement Area for the Permitted Purposes. Grantee and other Permitted Parties (as defined in Section 3 below) shall access the Temporary Easement Area by utilizing Windsor Drive West and the public walkway (“Walkway”) shown in Exhibit B. Grantee shall be responsible for obtaining any other permits or approvals to use the Walkway for the Permitted Purposes.

2. Duration. The duration of this Agreement and the Easement granted herein (the “**Term**”) shall commence on the Effective Date and shall be in effect until the earlier of (a) substantial completion of Commission Work; or (b) December 31, 2023. Nothing in this Easement shall be deemed to extend the period for Grantee to complete the Commission Work as otherwise agreed on by the Parties in writing. Unless otherwise provided in a written and

recorded amendment to this Agreement, the Easement shall terminate and be of no further effect as of December 31, 2023. Grantee estimates that regular use of Temporary Easement Area will begin on or after _____, 2023. Grantee will provide Grantor with a contact person who can provide weekly updates to Grantor on the status of the use of the Temporary Easement Area and answer any complaints or concerns of Grantor or Grantor's tenants.

3. Use of Easement Area/Permitted Purposes. The Easement shall be used by Grantee and any of its affiliates, contractors, subcontractors or utility entities with facilities in or about the adjacent properties together with any of the employees, contractors, consultants, and/or agents of the foregoing (collectively, the "**Permitted Parties**") solely for construction purposes related to the Commission Work, including pedestrian and vehicular (including, without limitation, trucks and other construction vehicles and equipment) ingress and egress to (including, without limitation, parking and staging), on and across the Temporary Easement Area for the purpose of completing the Commission Work (individually or collectively, the "**Permitted Purposes**"). Grantee shall repair any damage to the Grantor Property caused by or related to the Commission Work. Grantee agrees to use and cause the Permitted Parties to use the Easement Area in a manner which avoids any material interference with the commercial use of the Grantor's Property or Grantor's operations on the Grantor's Property. Without limiting the foregoing, Grantee shall: (i) limit construction activities at the Grantor Property to between the hours of 8:00 a.m. and 7:00 p.m., (ii) prevent any blocking of the roads, driveways and accessways on the Grantor Property, (iii) prevent the use of any parking areas reserved for Grantor's use for any purpose; (iv) clean up, at least daily, any debris, mud or dirt on the Grantor Property (other than in the Temporary Easement Area) resulting from or related to Grantee's activities; and (v) limit ingress and egress to and from the Temporary Easement Area to Windsor Drive West and that portion of the Walkway shown in Exhibit B. Grantee further agrees, promptly after completion of the Commission Work, to repair any damage to the Temporary Easement Area and Walkway caused by or resulting from Grantee's or any Permitted Parties' use of the Temporary Easement Area or Walkway and to restore the Temporary Easement Area and Walkway to its condition as existed as of the date of this Agreement, including, without limitation, the restoration of fencing, paths, landscaping and sod replacement, concrete and asphalt repairs, restoration and repair of damages to bushes and trees, and any other restoration or repair work as reasonably requested by Grantor. Grantee shall take reasonable efforts to minimize damage to property of Grantor including but not limited to installation of plywood sheets to reduce ruts and damages to existing surface conditions. Grantee will take photos before, during and after construction to confirm compliance with the terms and conditions of this Agreement.

4. Indemnification. Grantee shall indemnify and hold harmless Grantor from and against any and all claims arising from or connected with: (i) the breach by Grantee of any term or condition of this Agreement; (ii) injury to, or death of, persons or loss of, or damage to, property, caused by the performance of any work at or about the Temporary Easement Area by the Permitted Parties except to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Grantor; (iii) the negligence or willful misconduct of a Grantee related to this Agreement or work at or about the Grantor Property except to the extent such claims or damages may be due to or caused by the gross negligence or willful misconduct of Grantor; or (iv) the filing of any mechanic's or materialmen's lien against the Temporary

Easement Area or the Grantor Property relating to the Commission Work or any other work or materials provided by or for the Permitted Parties. The foregoing indemnification obligations of Grantee shall survive the termination of this Agreement.

5. Binding Effect. The rights, covenants and agreement contained herein shall run with the land and shall bind and benefit the Parties hereto and their respective transferees, successors, assigns and any person claiming by, through or under either party to this Agreement. Notwithstanding the foregoing, (i) the obligations of Grantee are Grantee shall not assign its rights or obligations under the Temporary Easement Agreement without Grantor's written consent. If Grantee is dissolved or otherwise terminated as an entity, the obligations of Grantee hereunder shall immediately be vested with the City of Fishers, Indiana.

6. Miscellaneous. This Temporary Easement Agreement shall inure to the benefit of, and be binding upon, the Grantee and Grantor. In no event shall Grantee be permitted to assign its rights or obligations under this Agreement without the written consent of Grantor; the foregoing shall not, however, limit the rights of Permitted Parties to use the Easement. This Temporary Easement Agreement may be signed in multiple counterparts which, when taken together, shall constitute one and the same instrument. This Temporary Easement Agreement shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Temporary Easement 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. Each of Grantor and Grantee waives, to the extent permitted under applicable law: (a) the right to a trial by jury; and (b) any right Grantor or Grantee may have to: (i) assert the doctrine of "forum non conveniens"; or (ii) object to venue. This Temporary Easement Agreement may be modified only by a written agreement signed by Grantee and Grantor. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Temporary Easement Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. All Exhibits to this Temporary Easement Agreement are attached hereto and incorporated herein by reference. Time is of the essence in this Temporary Easement Agreement. The captions in this Temporary Easement Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Temporary Easement Agreement or the scope or content of any of its provisions. Nothing contained in this Temporary Easement Agreement shall be construed to create a partnership or joint venture between Grantor and the Grantee 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 Temporary Easement Area 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.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

GRANTOR:

By: 12175 VISIONARY COVE, LLC
an Indiana limited liability company

By: _____

Its: _____

GRANTEE:

City of Fishers Redevelopment Commission

Damon Grothe, President

Attest: _____
Brad Johnson, Secretary

EXHIBIT A

GRANTOR PROPERTY

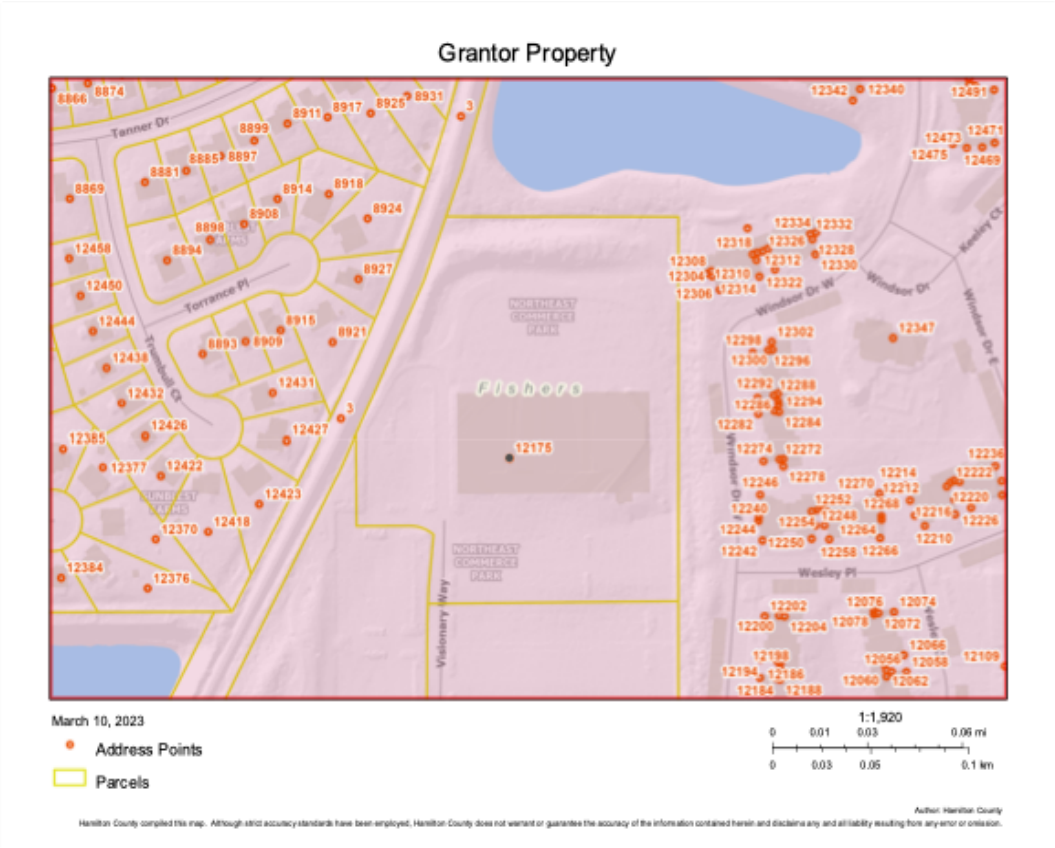


EXHIBIT B

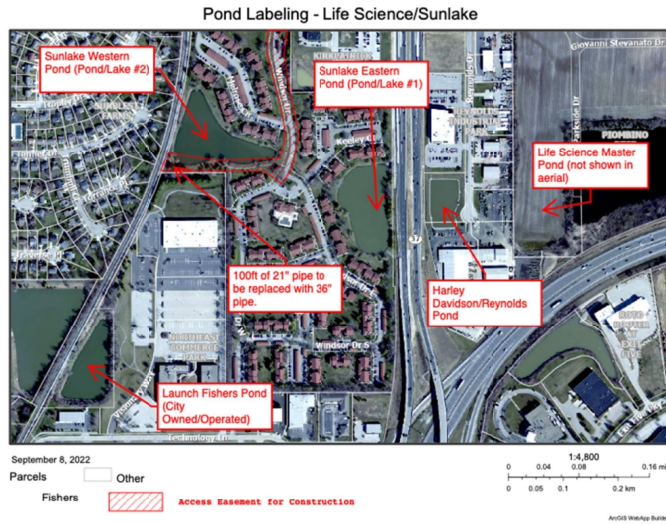
COMMISSION WORK

- Replace the existing 21" pipe with a 36" pipe in the area depicted below in blue.



EXHIBIT C

TEMPORARY EASEMENT AREA





RESOLUTION NO: FRC 06R042423

**RESOLUTION OF THE CITY OF FISHERS REDEVELOPMENT COMMISSION
APPROVING PAYMENT FOR PARKING IMPROVEMENTS**

WHEREAS, the City of Fishers Redevelopment Commission (the “Commission”) leases property generally known as 9059 Technology Drive, Fishers, Indiana 46038 where the IoT lab is located (the “Leased Property”);

WHEREAS, pursuant to a lease amendment executed by the Commission on August 16, 2022, the Commission agreed to improve the parking lot for the Leased Property and contribute Three Hundred Sixty-Eight Thousand, Five Hundred Seventy-Three and 53/100 Dollars (\$368,573.53) (the “Lessee Portion”) toward the cost to complete the parking lot improvements; and

WHEREAS, the parking lot improvements have been completed, and the Commission now desires to transfer and convey the Lessee Portion to the City of Fishers to pay for the parking lot improvements.

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

Section 1. The Commission hereby approves transfer of the Lessee Portion to the City.

Section 2. 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 ____th day of April, 2023.

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

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.

AMENDMENT NUMBER 1 TO THE AGREEMENT BETWEEN THE CLIENT AND KIMLEY-HORN AND ASSOCIATES, INC.

AMENDMENT NUMBER 1 DATED December April 20, 2023 to the agreement between City of Fishers, Hamilton County, Indiana, an Indiana municipal corporation, ("Client") and Kimley-Horn and Associates, Inc., ("Consultant") dated April 15, 2021 ("the Agreement") concerning Fishers Innovation Park (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

Therefore, it is mutually agreed that the Agreement is amended to include Additional Services to be performed by Consultant and provisions for additional compensation by the Client to the Consultant, all as set forth in Exhibit A hereto. The parties ratify the terms and conditions of the Agreement not inconsistent with this Amendment, all of which are incorporated by reference.

CLIENT:

CITY OF FISHERS, HAMILTON COUNTY,
INDIANA, AN INDIANA MUNICIPAL
CORPORATION

By: _____

Title: _____

Date: _____

CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

DocuSigned by:

B8D7ACA618274D4...

By: _____

Title: William A. Butz, Jr. – Vice President

Date: April 20, 2023

Consultant shall perform the following Additional Services:

Task 1 Final Plat

Kimley-Horn will engage and coordinate the efforts of a licensed surveyor to prepare a Secondary Plat to subdivide the 18.41-acre parcel into two lots in accordance with the published municipal standards. One field visit will be made to monument the proposed lot corners upon substantial completion of construction. Proposed right of way lines, lot lines, and easements will be shown in accordance with the proposed Infrastructure Plans. Preparation of separate easement documents and/or exhibits is not part of this task. In this task, Kimley-Horn shall complete up to two (2) modifications of the plat resulting from joint comments from both the municipality and the Client. If the survey, comments, or field conditions require additional field work, markup or coordination, Kimley-Horn will provide these services hourly as an Additional Service.

The services currently authorized to be performed by Consultant in accordance with the Agreement and previous amendments, if any, shall be modified as followed:

None.

Consultant and Client agree to the following general schedule in connection with the Additional Services set forth above:

None

For the Additional Services set forth above, Client shall pay Consultant the following additional compensation:

Task 1 Secondary Plat..... \$6,900 (Lump Sum)

RESOLUTION NO: FRC 07R042423

**RESOLUTION OF THE CITY OF FISHERS REDEVELOPMENT COMMISSION
APPROVING AMENDED CONTRACT**

WHEREAS, on April 15, 2021, the City of Fishers Redevelopment Commission (the “Commission”) entered into a contract with Kimley-Horn And Associates Inc. to perform certain site work at the City’s Life Sciences Park; and

WHEREAS, the Commission now desires for Kimley-Horn to perform additional work by subdividing the portion of the Life Sciences Park owned by the Commission pursuant to the Amendment Number 1 attached hereto (the “Amendment”).

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

Section 1. The Commission hereby approves the Amendment.

Section 2. The President and Secretary of the Commission are authorized to execute the Amendment.

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 ____th day of April, 2023.

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

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.