# CITY OF FISHERS AGENDA

**BOARD/COMMISSION:** Redevelopment Commission Meeting
**DATE:** 2/22/2024, at 4:00 PM
**DIRECTIONS:** Fishers Pavilion Conference Room, 10 Municipal Drive, ,

Controller's Conference Room
City Services Building, 3 Municipal Drive, Fishers, IN 46038

1. **Executive Session (if needed)**
   a. 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)
2. **Call to Order**
3. **Confirmation of Quorum and Proper Notice of Meeting**
4. **Election of Officers**
   a.
      - President
      - Vice-President
      - Secretary
5. **Approval of Previous Minutes**
   a. 1-9-24
6. **Approval of Claims**
   a. 2-22-24

7. **First Amendment to Land Acquisition Agreement (CityView)**

    a. Resolution and Amendment

8. **Consent to Collateral Assignment (CityView)**

    a. Consent

9. **Old Business**

10. **New Business**

11. **Meeting Adjournment**

CITY OF FISHERS REDEVELOPMENT COMMISSION (FRC) MEETING MINUTES
January 9, 2024

**EXECUTIVE SESSION** – Executive Session was not held.
**REGULAR MEETING:**
Mr. Grothe called the Regular meeting to order at 4:00 p.m. A quorum and proper notice of the meeting were confirmed.
FRC members present: Damon Grothe, Brad Johnson, Dan Canan, Tony Bonacuse, Anderson Schoenrock. Ben Orr was also present.
Others present: Lisa Bradford, Lawrence Summers, Jennifer Messer, Jordan Willy.

**Meeting Minutes:** Mr. Johnson made a motion to approve the minutes of the Dec. 26, 2024 meeting, seconded by Mr. Bonacuse. Motion approved, 5-0.

**Approval of Claims:** Mr. Canan made a motion to approve the January 10, 2024 claims, seconded by Mr. Bonacuse. Motion approved, 5-0.

**<u>FRC 01R010924 MJC Amendment</u>**

Jordan Willy presented the 2nd Amendment to MJC Agreement, extending the closing date.
**Mr. Grothe asked for a Motion. Mr. Schoenrock made a Motion to approve, seconded by Mr. Grothe. The Motion was approved, 5-0.**

**<u>Static Media Collateral Access Agreement</u>**
Jordan Willy presented the Agreement. This agreement provided specific collateral requirements for Bank of Montreal. No vote was required.

There was no Old Business. In New Business, Ben Orr provided an update on the Fishers School Board.
The meeting adjourned at 4:20 p.m.

# Fishers Redevelopment Commission
# Consent Agenda 2/22/24

| | | | |
|---|---|---|---|
| Hamilton County Treasurer | 14-14-01-01-03-002.000 Balance | $ | 1,045.93 |
| Hamilton County Treasurer | 14-14-01-01-03-011.000 Balance | $ | 23.75 |
| Hamilton County Treasurer | 15-14-01-01-14-002.001 Balance | $ | 0.25 |
| Hamilton County Treasurer | 15-14-01-01-14-003.000 Balance | $ | 0.25 |
| Rick L Alexander | Surveying Work | $ | 14,700.00 |
| Rick L Alexander | Surveying WOrk | $ | 3,600.00 |
| Veridus Group Inc | Life Sciences Site Work | $ | 960.15 |
| Veridus Group Inc | Life Sciences Work | $ | 920.02 |
| The Huntington National Bank | 2021A Pullman Point Annual Fee | $ | 2,000.00 |
| Visionary Cove LLC | Launch 2/24 Rent | $ | 60,372.00 |
| CVK LLC | Meyer Najem 2/24 Rent | $ | 36,216.93 |
| UrbanEco Properties LLC | IoT 2/24 Rent | $ | 14,634.86 |
| Switch Offices | 2/24 Vacant Space Rent | $ | 911.48 |
| CVK LLC | Meyer Najem 3/24 Rent | $ | 36,216.93 |
| | | **$** | **171,602.55** |

# FIRST AMENDMENT TO LAND ACQUISITION AGREEMENT

This First Amendment To Land Acquisition Agreement (this "First Amendment") is executed as of the ___ day of February, 2024, by and among Rebar CityView, LLC, an Indiana limited liability company and the managing member of HighGround Fishers I, LLC ("Buyer"), and the City of Fishers Redevelopment Commission, a commission of the City of Fishers ("City") authorized and existing pursuant to Ind. Code § 36-7-14 *et. seq*. (the "RDC" and together with the Buyer, the "Parties"), on the following terms and conditions:

## Recitals

WHEREAS, on or about December 31, 2023, the RDC and Buyer entered into that certain Land Acquisition Agreement concerning Development Land located in the City's Nickel Plate District, and more specifically, located immediately east of First Internet Bank's new corporate headquarters(the "LAA");

WHEREAS, since entering into the LAA, Buyer has requested that a cure period be added to the LAA;

WHEREAS, the RDC has agreed to Buyer's requested cure period;

WHEREAS, unless provided herein, this First Amendment does not otherwise change the obligations of the Buyer, or the incentives provided by the City;

WHEREAS, unless otherwise specifically stated, capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the LAA; and

WHEREAS, unless specifically amended by reference herein, all remaining terms and conditions of the LAA shall continue in full force and effect and are hereby ratified and affirmed.

NOW THEREFORE, the foregoing recitals are incorporated into this First Amendment by reference to such recitals and in consideration of the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Section 1, **DEFINED TERMS**, shall be amended to add the following:

"**Cure Period** shall mean a period of thirty (30) days; provided, however, that if such breach cannot reasonably be remedied or cured within such thirty (30) day period, the defaulting party shall have an additional sixty (60) days to cure, so long as the defaulting party commences the remedy or cure within the aforesaid thirty (30) day period and diligently pursues such remedy or cure thereafter."

2. Section 6(a), Event of Default, shall be replaced in full as follows:

"(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."

*[signatures on following pages]*

IN WITNESS WHEREOF, RDC and Buyer have executed this Land Acquisition Agreement as of the day and year first written above.

"**RDC**"

FISHERS REDEVELOPMENT COMMISSION

By:_________________________________
___________________, President

ATTEST:

By:___________________________
_________________, Secretary

**"BUYER"**

**REBAR CITYVIEW, LLC**

By: Rebar Companies, LLC

By: ___________________________________

______________________________

## RESOLUTION APPROVING FIRST AMENDMENT TO LAND ACQUISITION AGREEMENT AND CONSENT TO COLLATERAL ASSIGNMENT (CITY VIEW)

WHEREAS, Rebar CityView, LLC ("Buyer") is a sister company to Rebar Development, an Indiana real estate development company that has delivered complex multi-family, office, retail and community amenities across Indiana;

WHEREAS, Buyer has assumed certain rights from HighGround Fishers I, LLC, an Indiana limited liability Buyer and HighGround Fishers I, Inc., an Indiana corporation (jointly, the "Hageman Entities") to develop and construct a mixed-use development consisting of (i) approximately one hundred eighty-four (184) luxury, age restricted, active adult (55 and over in conformance with the Housing for Older Persons Act) residential units and (ii) approximately sixteen thousand, five hundred square feet (16,500 sq. ft.) of commercial/retail and restaurant space along 116th Street adjacent to the First Internet Bank building;

WHEREAS, because of rising construction costs and the difficulty of assembling multiple parcels of real property, Buyer requested that the City of Fishers Redevelopment Commission ("Commission") enter into a land acquisition agreement with Buyer so that Buyer can proceed with land acquisition, utility relocation and demolition of the improvements on the Development Land (collectively, "Site Work");

WHEREAS, in December, 2023, the Commission approved a certain Land Acquisition Agreement that allowed the Buyer to proceed with Site Work in furtherance of the Project (the "Land Acquisition Agreement");

WHEREAS, since approving the Land Acquisition Agreement, the Buyer's lender has requested that Buyer enter into a Collateral Assignment of the Land Acquisition Agreement that includes a cure period;

WHEREAS, the Land Acquisition Agreement did not include a cure period, and therefore, Buyer has requested an amendment to the Land Acquisition Agreement that provides for cure;

WHEREAs, the Commission desires to provide a cure period pursuant to a first amendment substantially similar to the First Amendment To Land Acquisition Agreement attached hereto and incorporated herein as **Exhibit A** (the "First Amendment");

WHEREAS, the Commission additionally desires to approve a consent to assignment substantially similar to the Consent To Assignment attached hereto and incorporated herein as **Exhibit B** (the "Consent"); and

WHEREAS, capitalized terms used but not defined herein are used with the meaning included in the 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 first amendment substantially similar to the First Amendment.

**Section 2**. The President and Secretary of the Commission are authorized to execute a first amendment substantially similar to the First Amendment.

**Section 3**. The Commission hereby approves a consent to assignment substantially similar to the Consent.

**Section 4**. The President and Secretary of the Commission are authorized to execute a consent to assignment substantially similar to the Consent.

**Section 5**. 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 February, 2024.

**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.

**Exhibit A**
**First Amendment**
***[separately included]***

**Exhibit B**
**Consent To Collateral Assignment**
***[separately included]***

## CONSENT TO ASSIGNMENT

This CONSENT TO ASSIGNMENT ("**Consent**") dated as of February __, 2024 is executed by 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.* (the "**RDC**"), to and for the benefit of First Farmers Bank & Trust (the "**Lender**").

1. Concurrently herewith, the Lender has agreed to make a loan (the "**Loan**") to Rebar CityView, LLC, an Indiana limited liability company (the "**Borrower**").

2. The Borrower has entered into agreements pursuant to which Borrower has the right to purchase fee simple title to certain real estate and improvements (collectively, the "**Property**") defined as the "Development Land" in the Purchase Agreement (as hereinafter defined).

3. The Borrower and RDC have executed a certain Land Acquisition Agreement dated as of December 31, 2023 (as may be amended, the "**Purchase Agreement**"), pursuant to which the RDC has agreed, subject to certain conditions, to purchase the Property to be developed by the Borrower.

4. As a condition to the Lender making the Loan to the Borrower, the Lender has required that: (i) the Borrower collaterally assign the Purchase Agreement to the Lender pursuant to a Collateral Assignment of Land Acquisition Agreement (the "**Assignment**") substantially in the form of <u>Exhibit "A"</u> attached hereto; and (ii) the RDC consents to the terms of the Assignment in favor of the Lender and agrees that, upon the Lender's request, the RDC will continue to perform its duties and obligations under the Purchase Agreement upon the occurrence of an "<u>Event of Default</u>" (as defined in the Assignment) by the Borrower under the Assignment or any of the other documents and instruments evidencing or securing the Loan (collectively, the "**Loan Documents**").

5. Although RDC consents to the Assignment, Lender hereby acknowledges and agrees that its rights pursuant to the Assignment are not and shall not be interpreted to be greater than the right sof Borrower under the Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the RDC hereby agrees as follows:

**A G R E E M E N T S:**

(a) The RDC hereby consents to the terms of the Assignment notwithstanding any term to the contrary contained in the Purchase Agreement. The RDC hereby agrees that if an Event of Default has occurred under the Loan Documents and such Event of Default is not cured within any applicable grace or cure period expressly provided for in any such Loan Document and if the Lender has given written notice to the RDC of such Event of Default, then the Lender shall have the right at the Lender's option, to require that the RDC perform its obligations under the Purchase Agreement for the benefit of the Lender or the Lender's assignee or successor in interest. The Lender shall exercise such option by giving written notice to the RDC stating that such Event of Default has occurred under the Loan Documents and indicating the Lender's intent to exercise its rights under the Assignment. If the Lender elects to exercise its rights under the Assignment, then the RDC shall perform all of its duties and obligations under the Purchase Agreement for the benefit of the Lender (or its benefit or successor), which duties and obligations shall be consistent with and shall not exceed RDC's obligations to Borrower under the Purchase Agreement.

(b) The RDC hereby acknowledges that the Assignment and the exercise by the Lender of any of its rights and remedies thereunder shall not render the Lender liable to the RDC for any obligations of the Borrower or any other party under the Purchase Agreement.

(c) The RDC certifies that no party is in default under the Purchase Agreement as of the date hereof and there are not any circumstances which would constitute a default with the giving of notice, the passage of time, or both. The RDC agrees not to enter into any material amendment or modification of the Purchase Agreement without the prior written consent of the Lender.

(d) The RDC agrees to give prompt written notice to the Lender of any default or breach by the Borrower of any of its obligations or duties under the Purchase Agreement, and that, prior to the RDC exercising any of its rights or remedies under the Purchase Agreement, the Lender shall have an opportunity to remedy or cure such breach for a period of thirty (30) days after any cure period set forth in the Purchase Agreement; provided, however, that if such breach cannot reasonably be remedied or cured within such thirty (30) day period, the Lender shall have an additional sixty (60) days to cure, so long as the Lender commences the remedy or cure within the aforesaid thirty (30) day period and diligently pursues such remedy or cure thereafter. If Lender remedies or cures the breach, the RDC shall accept such remedy or cure and not pursue any rights under the Purchase Agreement as a result thereof.

(e) For purposes of this Agreement, all notices, demands or documents required or permitted to be given to either party shall be in writing and shall be (a) delivered in person, (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (c) sent by overnight express carrier, addressed to the address set forth on the signature page to this Agreement or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

(f) This Agreement shall be binding upon and inure to the benefit of the Lender and the RDC and their respective successors and assigns. This Agreement and all rights and obligations hereunder, including matters of construction, validity, and performance, shall be governed by the laws of the State of Indiana. All provisions of this Agreement shall be deemed valid and enforceable to the extent permitted by law. Any provision or provisions of this Agreement which are held unenforceable, invalid, or contrary to law by a court of competent jurisdiction, shall be of no force or effect, and in such event each and all of the remaining provisions of this Agreement shall subsist and remain and be fully effective according to the terms of this Agreement as though such invalid, unenforceable or unlawful provision or provision had not been included in this Agreement. Time is of the essence of this Agreement.

(g) Receipt of an executed signature page to this Agreement by facsimile or other electronic transmission shall constitute effective delivery thereof.

*[Signatures Appear on the Following Page]*

IN WITNESS WHEREOF, this Consent of the RDC has been executed and delivered as of the date first above written.

Fishers Redevelopment Commission

By: ______________________________
_________________, President

Attest: ___________________________
_________________, Secretary

Send notices to:

The City of Fishers
8701 E 116th Street, Suite 270
Fishers, IN 46038
Attn: Scott Fadness, Mayor
Copy: Jennifer Messer (via email only at jennifercmesserlaw@gmail.com)

First Farmers Bank & Trust

By: _____________________________________
Matthew Maher, Senior Commercial Lender

Send notices to:

First Farmers Bank & Trust
101 W. Sycamore
Kokomo, Indiana 46901
Attention: Matthew Maher

Signature Page to Consent to Assignment

**Exhibit A**
**Collateral Assignment**

[see attached]