



CITY OF WESTFIELD, IN
Westfield Building Corporation Meeting Agenda

BOARD OR COMMISSION: Westfield Building Corporation Meeting

MEETING DATE: Wednesday, August 27, 2025 at 2:00 PM

MEETING PLACE: Westfield City Hall Assembly Room

THE FOLLOWING AGENDA IS SUBJECT TO CHANGE AT THE DISCRETION OF WESTFIELD BUILDING CORPORATION

Board Members

Leo Dierckman, President/Mayor Appointed/1-1-2024 to 12-31-2026

Brian Simons, Vice President/Mayor Appointed/1-1-2024 to 12-31-2026

Ron Moore, Secretary/Mayor Appointed/1-1-2024 to 12-31-2026

CALL TO ORDER

NOTICE PRESENCE OF A QUORUM

APPROVAL OF MINUTES

Meeting Minutes for July 9, 2025

ITEMS OF BUSINESS

Approval of the Final Version of the Amended and Restated Union Square Parking Declaration

Approval of the 2026 Westfield Bldg Corporation Meeting Schedule (ALL MTGS. @ CITY HALL 10:00 AM)

- January 21, 2026
- April 15, 2026
- July 15, 2026
- October 21, 2026

Resolution 2025-03: Accepting and Conveying Real Estate Related to the Union at Grand Junction

ADDITIONAL ITEMS OF BUSINESS

ADJOURNMENT

Leo Dierckman, President
Brian Simons, Vice President
Ronald Moore, Secretary

WESTFIELD BUILDING CORPORATION

The Westfield Building Corporation held a public meeting on July 9, 2025, at Westfield City Hall, 130 Penn Street, Westfield, IN 46074. The meeting was called to order at 10:00 AM by Brian Simons. Ronald Moore and Brian Simons were present, Leo Dierckman was remote. No members were absent.

A quorum was noted as present.

Approval of April 24th Meeting Minutes

Leo Dierckman moved to approve the minutes. Ron Moore seconded the motion. The motion passed 3-0.

Approval of Union Square Parking Declaration

Ryan Wilmering with Wallack Somers & Haas, P.C. presented an amended and restated parking declaration. Mr. Wilmering summarized that the developer, Old Town has requested and the city has agreed, that, at the developer's option, it can substitute the reserved spaces they currently have with parking passes.

Another substantive change is the reservation of private bicycle parking areas in the garage.

Secretary Moore asked if Denison Parking is being engaged as the parking manager. Mr. Wilmering confirmed that process was underway.

Ron Moore moved to approve the resolution. Leo Dierckman seconded the motion. The motion passed 3-0.

Additional Business

None

Old Business

None

New Business

None

Public Comment

None

Board of Director Comments

No additional

Adjournment

Leo Dierckman made a motion to adjourn the meeting. Ron Moore seconded the motion. The motion passed 3-0. The meeting was adjourned at 10:10 AM.

_____	_____
Leo Dierckman, President	Date

_____	_____
Ronald Moore, Secretary/Treasurer	Date

2022048270 DECL \$25.00
 10/03/2022 08:40:33AM 59 PGS
 Jennifer Hayden
 Hamilton County Recorder IN
 Recorded as Presented



Cross-References

The deeds pursuant to which the parties hereto have received fee simple title are recorded in the Office of the Hamilton County Recorder as Instruments No. 2020080350, 2021081024, 2021081155, 2021081544 and 2022048267

The "Lease" referenced in this Declaration is recorded in the Office of the Hamilton County Recorder as Instrument No. 2022048268

DECLARATION Union Square

This Declaration (Union Square) (the "Declaration") is executed this 27th day of September, 2022, by and among Union Square Plaza LLC (the "Wrap Building Developer"), the City of Westfield Building Corporation (the "Building Corporation"), the City of Westfield Redevelopment Commission ("WRC"), and the City of Westfield, Indiana (the "City").

1. Definitions.

City Agency shall mean any agency, board, commission, department, instrumentality, or unit of the City

City Approval Process shall mean, with respect to each Project, the process by any City Agency for: (a) refining the Preliminary Plans into the Final Plans; and (b) obtaining the Required Permits; which shall be the same process customarily required for developers of commercial real estate projects seeking the equivalent of the "Required Permits" for their projects.

Conveyance Instrument shall mean any agreement or instrument that conveys, transfers, grants, creates, assigns, or mortgages any interest in all or any portion of either Property.

Development Agreement shall mean that certain Development Agreement (Union Square) attached hereto as Exhibit F executed by and among the Wrap Building Developer, the Building Corporation, WRC, and the City and dated June 9, 2022, as supplemented and amended.

Easements shall mean the easements granted pursuant to Section 2.

Equipment/Systems shall mean all equipment and mechanical and other systems and facilities installed as part of the Garage or the Wrap Building, including, without limitation:

- (a) entrance and exit gates, ticket dispensers and/or readers, and other equipment used in the control of entrance into, exit from, and/or parking in the Garage;
- (b) elevator facilities located in the Garage or the Wrap Building, as applicable, including: (a) the passenger elevators, the entrances and exits to and from such passenger elevators, and the lobbies serving such passenger elevators; and (b) the elevator shafts, motors, cables, and related facilities;
- (c) the system for the suppression and extinguishment of fires in or on the Properties, which may include, without limitation, fire alarms and other monitoring equipment, fire extinguishers, sprinklers, smoke and/or fire dampers and/or doors, and such other equipment and facilities commonly used in similar facilities for the suppression and/or

extinguishment of fires;

(d) stair towers located in the Garage or the Wrap Building, as applicable, together with the stairways located within such stair towers, the entrances and exits to and from such stair towers, and any lobbies servicing such stair towers, exits, and entrances;

(e) lines, conduits, pipes, mains, valves, meters, lifts, chases, and related facilities for the provision of: (i) electrical power; (i) natural gas; (iii) water for consumption, irrigation, and/or fire protection; (iv) sanitary sewer service; and/or (v) telephone, cable, satellite, internet, and other communications or information services; and

(f) systems providing heating, ventilation, and/or air conditioning for the Garage and/or the Wrap Building.

Execution Date shall mean the date set forth in the introductory paragraph of this Declaration.

Final Plans shall mean, at the time that all schematic design drawings, design development documents, construction drawings, schedules, and (in the case of the Garage Project) budgets for a Project have been approved by the applicable City Agencies pursuant to the City Approval Process, such schematic design drawings, design development documents, construction drawings, schedules, and (in the case of the Garage Project) budgets. To the extent that any Final Plans are inconsistent with the definition or description of the applicable Project, the Final Plans for such Project, having been approved through the City Approval Process, shall control.

Garage shall mean an above-ground structured parking facility containing approximately 300 parking spaces, together with entrances and exits, ramps and drives, elevator lobbies, and related facilities. The Garage: (a) will be “wrapped”, in whole or in part, by the Wrap Building; and (b) may incorporate a roof (as opposed to an open top level of parking spaces) on which a portion of the Wrap Building would be constructed, which portion may house a courtyard on the portion of the Wrap Building Site located immediately above the roof of the Garage.

Garage Project shall mean: (a) any demolition of existing improvements on, or other site preparations with respect to, the portion of the Garage Site (and, if applicable, the Wrap Building Site) that are deemed by Developer to be necessary or appropriate; (b) the construction of the Garage on the Garage Site; and (c) the encapsulation of the existing legal drain; together with any attendant improvements, all as reflected in the Final Plans for the Garage Project.

Garage Property shall mean, collectively, the Garage Site and the Garage.

Garage Property Owner shall mean any person or entity owning fee simple title to any portion of the Garage Property; provided that, during the Lease Term, the Possessory Interest Holder (which, on the Execution Date, is WRC) shall be deemed to be the Garage Property Owner, notwithstanding that the Building Corporation (or, if applicable, another City Agency) owns fee simple title to the Garage Property.

Garage Site shall mean that certain three-dimensional space more particularly described on Exhibit B, which description was determined during the course of the City Approval Process for the Garage Project and the Wrap Building Project. It has been determined that the Garage Site is not an “air-only” parcel, and that it includes the underlying real estate that provides support for the Garage.

Laws shall mean all applicable: (a) laws, statutes, and/or ordinances; (b) governmental rules, regulations, and/or guidelines; and (c) judicial orders, consents, and/or decrees.

Lease shall mean that certain Garage Lease Agreement executed by and between the Building Corporation (as “Lessor”) and WRC (as “Lessee”) and dated as of June 20, 2022, as amended by that certain Addendum to Lease Between City of Westfield Building Corporation, Lessor, and Westfield Redevelopment Commission, Lessee of even date herewith, and as may be further supplemented and amended, which

lease (including the addendum) will be recorded in the Recorder's Office prior to the recording of this Declaration.

Lease Term shall mean the term of the Lease, as set forth therein; provided that, if the Lease is terminated prior to the expiration of the term specified in the Lease, then such termination shall trigger an automatic expiration of the Lease Term for purposes of this Declaration.

Occupant shall mean a tenant, subtenant, licensee, or other occupant of any portion of the Wrap Building that (or who) legally is entitled to the exclusive use and occupancy of such portion under rights set forth in a lease, sublease, license, or other occupancy or use agreement.

Owner shall mean the Garage Property Owner and/or the Wrap Building Property Owner, as applicable.

Parking Space shall mean a parking space in the Garage.

Permittee shall mean, as applicable, the Garage Property Owner, the Wrap Building Property Owner, the Possessory Interest Holder, the Building Corporation, and/or the Occupants entitled to park in a Wrap Building Space.

Possessory Interest Holder shall mean the holder of the right to possess, operate, manage, and control the usage of the Garage Property. During the Lease Term, the Possessory Interest Holder shall be the "Lessee" under the Lease; accordingly, WRC, by virtue of the Lease, is the Possessory Interest Holder during the Lease Term.

Preliminary Plans shall mean schematic design drawings, design development documents, construction drawings, schedules, and (in the case of the Garage Project) budgets that have not yet been approved by the applicable City Agencies pursuant to the City Approval Process.

Property shall mean the Garage Property and/or the Wrap Building Property, as applicable.

Public Spaces shall mean those Parking Spaces: (a) that are not Wrap Building Spaces; and (b) which Parking Spaces shall remain available for use by the general public subject only to those restrictions described in Section 2(i)(iii).

Recorder's Office shall mean the Office of the Hamilton County Recorder.

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

Site Plan shall mean the site plan attached hereto as Exhibit A.

Structural Elements shall mean the structural elements of the Garage and/or the Wrap Building, as applicable, including, without limitation, footers and foundations, structural walls, structural ceilings and floors, and structural columns, joists, and beams.

Wrap Building shall mean a multi-floor building housing approximately 180 multifamily residential units and approximately 18,000 square feet of retail space, which building will "wrap" the Garage.

Wrap Building Project shall mean: (a) any demolition of existing improvements on, or other site preparations with respect to, the Wrap Building Site deemed by Developer to be necessary or appropriate; and (b) the construction of the Wrap Building on the Wrap Building Site; together with attendant public improvements and residential amenities, all as set forth in the Final Plans for the Wrap Building Project.

Wrap Building Property shall mean, collectively, the Wrap Building Site and the Wrap Building Project.

Wrap Building Property Owner shall mean the person or entity owning fee simple title to all or any portion

of the Wrap Building Property at any point in time. As of the Execution Date, Wrap Building Developer is the Wrap Building Property Owner.

Wrap Building Site shall mean that certain real estate more particularly described on Exhibit C. Because the Wrap Building Site is a three-dimensional space that “wraps”, and “notches into” the majority of the Garage Site, the Site Plan primarily reflects the general location of the Wrap Building and, to the extent possible, the Garage.

Wrap Building Spaces shall mean those Parking Spaces designated for the exclusive use of the Occupants.

2. Easements Grant. Subject to the terms and conditions of this Declaration, the easements set forth in this Section are declared, created, made, and reserved.

(a) **Construction.** For the benefit of the Properties, temporary reciprocal easements for construction and/or installation of each of the Garage and the Wrap Building in accordance with the applicable Final Plans and the terms and conditions of the Development Agreement, including, without limitation, easements for: (i) the construction and/or installation of the Structural Elements; (ii) the vertical and horizontal, as applicable, attachment of the Wrap Building to the Garage (and/or the Garage to the Wrap Building); and (iii) the installation of the Equipment/Systems.

(b) **Structural Support.** Easements of vertical and/or horizontal support as follows:

(i) For the benefit of the Properties, easements for: (A) attachment of the Wrap Building to the Garage (or the Garage to the Wrap Building, as applicable) in accordance with the applicable Final Plans; (B) creation of pedestrian connections between the Garage and the Wrap Building in accordance with the applicable Final Plans; and (C) maintaining such attachments and pedestrian connections in their as-installed places; and

(ii) For the benefit of the Wrap Building Property, easements for: (A) vertical and horizontal support from the Garage, including maintaining the Structural Elements in place; and (B) installing, maintaining in place, and using residential amenities on the roof of the Garage in accordance with the Final Plans for the Wrap Building.

(c) **Vehicular Access.** For the benefit of the Properties, non-exclusive reciprocal easements for vehicular access, ingress, and egress in, on, over, across, and through vehicular access points in the Garage (including entrances, exits, ramps, drives, and drive lanes) to and from the Parking Spaces from and to public streets adjacent to the Properties.

(d) **Parking.** For the benefit of the Wrap Building Property, permanent exclusive easements for parking in the Wrap Building Spaces. The number of Wrap Building Spaces shall be not less than the number of Parking Spaces necessary or reasonably appropriate to satisfy: (i) zoning requirements applicable with respect to the Wrap Building Property; and (ii) the parking needs of then-current and reasonably anticipated Occupants, taking into account the number of parking spaces customarily available to serve similarly sized residential and commercial developments in the general area; provided that, in no event shall there be fewer than 30% of the total available Parking Spaces in the Garage designated as Wrap Building Spaces (and, accordingly, for the exclusive use of the Occupants).

(e) **Pedestrian Access.** For the benefit of the Properties, permanent, non-exclusive reciprocal easements for pedestrian access, ingress, and egress in, on, over, across, and

through the common pedestrian facilities in the Properties to and from the Parking Spaces from and to the Wrap Building and the public sidewalks and other pedestrian walkways adjacent to the Properties. The foregoing shall not be deemed to grant a right of access, ingress, and egress in, on, over, across, and/or through any areas or facilities within the Wrap Building designated by the Wrap Building Owner as restricted pedestrian areas.

(f) **Equipment/Systems.** For the benefit of each Property, permanent, non-exclusive reciprocal easements in, on, over, across, under, and through the other Property as is necessary or reasonably appropriate for: (i) maintaining the Equipment/Systems in the locations where they are installed; (ii) accessing, maintaining, repairing, and/or replacing the Equipment/Systems as permitted by, or required pursuant to, this Declaration; and (iii) using the Equipment/Systems for their intended purposes.

(g) **Maintenance.** For the benefit of the Owners (including, during the term of the Lease, the Possessory Interest Holder), easements in, on, over, across, and through the Properties for the purposes of performing the maintenance, repairs, and/or replacements permitted by, or required pursuant to, this Declaration.

(h) **Encroachments.** For the benefit of the Properties, reciprocal easements allowing any portion of the completed Garage or completed Wrap Building that encroaches into or onto the Wrap Building Property or the Garage Property, respectively (whether due to minor construction variations or due to minor settling), to remain in its location, so long as such encroachment does not affect the safety or structural integrity of the Property in or upon which such encroachment is located.

(i) **Public Easements** For the benefit of the general public, easements for:

(i) pedestrian access, ingress, and egress in, on, over, across, and through common pedestrian facilities in the Garage and the Wrap Building to and from Public Spaces and public sidewalks and other pedestrian walkways adjacent to the Properties. The foregoing shall not be deemed to grant a right of access, ingress, and/or egress in, on, over, across, or through any areas or facilities within the Wrap Building designated by the Wrap Building Property Owner as restricted pedestrian areas.

(ii) vehicular access in, on, over, across, and through vehicular access points in the Garage (including entrances, exits, ramps, drives, and drive lanes) to and from Public Spaces and public streets adjacent to the Garage Site; and

(iii) parking vehicles in Public Spaces on a first-come, first-served basis; provided that the rights provided by such easement shall be subject to rules, parking charges, and directional signage from time-to-time imposed and/or posted by the Garage Property Owner.

Notwithstanding that members of the general public are the stated beneficiaries of the foregoing public easements, no member of the general public shall have the right to enforce, and/or make claims under, this Declaration. Accordingly, only the Garage Property Owner (which is the Possessory Interest Holder during the term of the Lease) and the Wrap Building Property Owner shall have the right to enforce and/or make claims under this Declaration.

3. Operating/Maintenance.

(a) **Garage Property.** The Garage Property Owner shall: (i) operate, maintain and

repair the Garage Property (including all Structural Elements located in or on the Garage Property) to a standard at least as high as the standards for the operation, maintenance, and repair of public parking garages in the City; (ii) maintain liability and casualty insurance with respect to the Garage Property; (iii) administer Parking Spaces; (iv) collect and account for revenues; and (v) restore and/or rebuild the Garage pursuant to plans and specifications reasonably approved by the Wrap Building Property Owner following a casualty event.

(b) **Wrap Building Property.** The Wrap Building Property Owner shall: (i) maintain and repair the Wrap Building Property (including all Structural Elements located in or on the Wrap Building Property); (ii) maintain liability and casualty insurance with respect to the Wrap Building Property; and (iii) restore and/or rebuild the Wrap Building Property pursuant to plans and specifications reasonably approved by the Garage Property Owner following a casualty event.

(c) **Revenue.** Revenue resulting from the leasing of Parking Spaces to Occupants shall be collected by the Garage Property Owner and deposited into an account dedicated, and restricted expressly, to the operation and maintenance of the Garage Property. It is anticipated that such revenues, in the aggregate, will be sufficient to pay all costs of operating and maintaining the Garage Property (including all such costs reasonably allocable to Wrap Building Spaces), with any remaining revenue from time-to-time being released to the Garage Property Owner.

4. Tax Appeals.

(a) **Covenant.** During the Lease Term, the Wrap Building Property Owner shall not challenge or appeal the applicable tax rate, the assessed value of the Wrap Building Property, or the application of the applicable tax rate to the assessed value of the Wrap Building Property, to the extent that such challenge or appeal would result in the Tax Increment being less than 110% of the aggregated Projected Phase Tax Increment for Phase I and Phase II.

(b) **Definitions.** The capitalized terms used only in this Section are defined as set forth below.

(i) **Allocation Area** shall mean the Union Square Allocation Area within the Grand Junction Economic Development Area created and expanded by the WRC in accordance with Indiana Code 36-7-14 for the purpose of capturing Tax Increment.

(ii) **Phase I** shall mean, collectively, the Garage Project, the Wrap Building Project, and two additional Projects, together with related site work (which may include demolition) and/or improvements (which may include surface parking), to be constructed within the Phase I Area. As reflected on the Site Plan, it currently is anticipated that the two additional Projects will be: (A) a two or three-story commercial building containing approximately 15,000 square feet, which will be known as The Union; and (B) a three or four-story office and/or commercial building containing approximately 40,000.00 square feet.

(iii) **Phase I Area** shall mean that certain real estate in the City, the general boundaries of which are State Road 32/West Main Street on the north, Union Street on the east, Jersey Street on the south, and Mill Street Road on the west, which real estate is delineated as the "Phase I Area" on the Site Plan and more particularly described on Exhibit D-1. The Garage Site and the Wrap Building Site are within the Phase I Area.

(iv) **Phase II** shall mean, collectively, three Projects, together with related site work (which may include demolition) and/or improvements (which may include surface parking), to be constructed within the Phase II Area. As reflected on the Site Plan, it currently is anticipated that: (A) each Project will include a building; and (B) the buildings, in the aggregate, will contain: (1) approximately 143,848 square feet; (2) approximately 124 multifamily residential units; and (3) approximately 4,400 square feet of commercial space.

(v) **Phase II Area** shall mean that certain real estate in the City, the general boundaries of which are Cherry Street on the east, Midland Trace Trail on the south, and Union Street on the west, which real estate is delineated as the "Phase II Area" on the Site Plan and more particularly described on Exhibit D-2.

(vi) **Project** shall mean, generally, each improvement to be constructed on a discrete portion of the Phase I Area or the Phase II Area in accordance with the Final Plans for such improvement and the terms and conditions of the Development Agreement. As reflected on the Site Plan, it currently is contemplated that there will be a total of seven Projects: (A) four of which (including the Garage Project and the Wrap Building Project) will be located in the Phase I Area; and (B) three of which will be located in the Phase II Area.

(vii) **Projected Phase Tax Increment** shall mean the projected annual Tax Increment in each of Phase I and Phase II, as set forth on Exhibit E. To the extent that the projections attached hereto as Exhibit E differ from those attached to the Development Agreement as "Exhibit F", then the projections set forth on Exhibit E shall control.

(viii) **Tax Increment** shall mean: (A) all property tax proceeds attributable to the assessed valuation of real property in the Allocation Area in excess of the assessed valuation described in Indiana Code §36-7-14-39, as such statutory provision exists on the date hereof; less (B) any fees withheld by the WRC to pay fees to the "Trustee" under that certain Trust Indenture executed by and between the City and BOKF, N.A., and dated as of September 1, 2022, as the same may be amended, restated, and/or replaced; and less (c) all other reasonable fees paid in connection with the administration and monitoring of such property tax proceeds.

5. Nature and Effect.

(a) **Purpose.** The Easements are granted for the purposes set forth in Section 2, and for no other purposes whatsoever.

(b) **Binding Effect.** The Easements: (i) shall inure to the benefit of the applicable Properties and Permittees; and (ii) together with the burdens thereof, shall: (A) run with and bind the Properties; and (B) bind the Owners and Occupants.

(c) **Construction Easement.** The construction easements granted pursuant to Subsection 2(a) automatically shall terminate on the date that is 15 days after completion of the last to be completed of the Garage or the Wrap Building. Notwithstanding that no instrument is necessary to terminate such easements, upon receipt of written request from an Owner, the parties shall execute a recordable memorandum of termination in form and substance jointly determined by the parties to be acceptable.

(d) Conveyance. Each Conveyance Instrument shall be deemed: (i) (unless the Conveyance Instrument expressly states otherwise) to assign, as an appurtenance to the interest in any portion of the applicable Property, the right to the use and benefit of the applicable Easements, regardless of whether the Conveyance Instrument expressly assigns such appurtenance and right; and (ii) to impose, as an encumbrance upon such interest, the burden and restriction of the applicable Easements, regardless of whether the Conveyance Instrument expressly imposes such encumbrance and restriction.

6. Reserved Rights. Each Owner reserves the right to use and operate its Property in such a manner as it deems to be appropriate, so long as such use and operation does not: (a) result in a violation of this Declaration or of any term of the Development Agreement; (b) interfere unreasonably with the exercise of any Easement rights; (c) result in a condition that interferes unreasonably with the use and enjoyment of the Properties; (d) impair the structural integrity of the Garage or the Wrap Building; or (e) render impossible or unusually difficult performance by an Owner of any of its obligations hereunder. Notwithstanding the foregoing, an Owner may restrict access to, or use of, all or any portion of its Property temporarily as may be required or reasonably necessary from time to time in connection with any action required or permitted hereunder to be taken; provided that, except in the case of an emergency, the Owner restricting access or use shall provide written notice of the intended restrictions at least two business days in advance of implementation thereof.

7. Remedies.

(a) Events of Default. It shall be an "Event of Default" if any party fails to perform or observe any term or condition of this Declaration that is required to be performed or observed by it: (i) with respect to the obligation to pay money, if such failure is not remedied within ten days after such payment is due; and (ii) with respect to any other obligation, if such failure is not cured as of the date that is 30 days after the defaulting party receives notice specifying the nature of the failure; provided that, if the failure is of a nature that it cannot be remedied within 30 days, despite the exercise of reasonably diligent efforts, then the 30-day period shall be extended as reasonably may be necessary for the defaulting party to remedy the failure, so long as the defaulting party: (A) commences to remedy the failure within the 30-day period; and (B) diligently pursues such remedy to completion.

(b) General Remedies. During the continuance of an Event of Default, any non-defaulting party may take whatever actions at law or in equity are necessary or appropriate to: (i) collect any payments due to it under this Declaration; (ii) protect the rights granted to it under this Declaration; (iii) enforce the performance or observance by the defaulting party of any term or condition of this Declaration (including, without limitation, the right to specifically enforce any such term or condition); or (iv) cure, for the account of the defaulting party, the underlying circumstance that resulted in the Event of Default.

(c) No Remedy Exclusive. 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; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Declaration 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 during the continuance of an 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 Section or by the Laws.

(d) Costs. If the non-defaulting party incurs any costs or expenses in connection with exercising its rights and remedies under, or enforcing, this Declaration, then the defaulting party shall reimburse the non-defaulting party for all such costs and expenses, together

with interest at the rate of 8% per annum.

(e) **Mortgagees.** This Declaration does not impose any obligation or liability on any mortgagee until such mortgagee's interest in the applicable Property ripens into fee simple ownership, and a mortgagee shall be liable for, and obligated to pay, only the required payments that are allocable to the applicable Property after the date on which: (i) the mortgagee's interest in such Property ripens into fee simple ownership; or (ii) the mortgagee assumes possession of such Property; whichever occurs first.

8. Amendments. This Declaration may be amended or terminated only by an instrument executed by all Owners (and, during the Lease Term, the Building Corporation) and recorded in the Recorder's Office, and, in connection therewith, the Owners shall not be required to obtain the consent or signature of any other Permittee. Each amendment or termination instrument executed and recorded by the Owners in accordance with this Section shall be binding, and no other Permittee shall have the right or power to prohibit any such amendment.

9. Assignment. No Owner shall assign any of its obligations under this Declaration without the consent of the other Owners; provided that: (a) a deemed assignment of this Declaration as a result of the execution and delivery of a Conveyance Instrument shall not require the consent of any other Owner or be prohibited by this Section; and (b) an Owner may delegate its obligations with respect to its Property to a parking and/or property manager or operator, as applicable, pursuant to an operating agreement or management agreement that is consistent with the terms and conditions of this Declaration in all respects; provided that such delegation shall not relieve or release the applicable Owner from responsibility or liability for the performance of its obligations hereunder. Except as otherwise expressly permitted in this Section, any assignment of obligations purported to be made by an Owner shall be null, void, and of no force or effect. For purposes of clarity, the fact that WRC, as the Possessory Interest Holder, is the "Garage Property Owner" during the Lease Term does not constitute (and shall not be deemed to constitute) an assignment in violation of this Section.

10. Notice. Any notice required or permitted to be given under this Declaration shall be in writing, and shall be deemed to have been given: (a) when delivered in person to the applicable party; (b) one business day after having being sent by national overnight delivery service, with confirmation of receipt; or (c) three business days after having been sent by certified or registered U.S. Mail, with postage prepaid and return receipt requested; in any case:

(a) to Union Square Plaza LLC (as the Wrap Building Property Owner) at 31 1st Street SW, Carmel, Indiana 46032, Attn: Justin Moffett, with a copy to Jerimi J. Ullom, Esq., Hall, Render, Killian, Heath & Lyman, P.C., 500 N. Meridian Street, Indianapolis, Indiana 46204;

(b) to WRC (as the Possessory Interest Holder and, accordingly, the Garage Property Owner during the Lease Term) at 2728 East 171st Street, Westfield, Indiana 46074, Attn: President, with a copy to Manny Herceg, Esq., Taft Stettinius & Hollister, One Indiana Square, Suite 3500, Indianapolis, Indiana 46204; and

(c) to the Building Corporation (as the Building Corporation during the Lease Term, and the Garage Property Owner after the Lease Term) at Taft, Stettinius & Hollister, One Indiana Square, Suite 3500, Indianapolis, Indiana 46220, Attn: Manny Herceg.

Any Owner (and during the Lease Term, the Building Corporation) may change its address for notice by written notice delivered to the other Owners (and, during the Lease Term, to the Building Corporation). If the parties mutually agree, then notice may be given via email, with confirmation of receipt.

11. Term. This Declaration shall remain in full force and effect until such time as an instrument of termination executed by all Owners (and, during the Lease Term, the Building Corporation) is recorded in the Recorder's Office; provided that, if it is determined that any term or condition of this Declaration is governed by, or subject to, the "rule against perpetuities" or any Law of similar effect, then, if not already

terminated by the Owners, such term or condition (or, if applicable, this entire Declaration) shall terminate on last to occur of: (a) the date that is 21 years after the death of the last survivor of the now-living descendants of Joseph R. Biden, President of the United States of America; or (b) the expiration of the longest period permitted pursuant to such rule or any other Law of similar effect.

12. Authority. Each undersigned person executing this Declaration on behalf of a party represents and certifies that: (a) he or she has been empowered and authorized by all necessary action of the applicable party to execute and deliver this Declaration; (b) he or she has full capacity, power, and authority to enter into this Declaration; and (c) the execution, delivery, and performance of this Declaration have been authorized by the applicable party.

13. Miscellaneous. This Declaration: (a) may be executed in separate counterparts, each of which shall be an original, but all of which together shall constitute a single instrument; and (b) shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Declaration 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. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Declaration shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. All Exhibits referenced in this Declaration are attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the Wrap Building Developer, the Building Corporation, WRC, and the City have executed this Declaration on the Execution Date.

UNION SQUARE PLAZA LLC

By: Old Town Companies L.L.C.

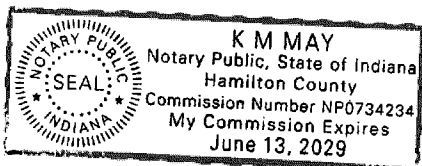
By: Justin W. Moffett
Justin W. Moffett, Manager

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared Justin Moffett, the Manager of Old Town Companies L.L.C., the sole member of Union Square Plaza LLC, LLC, who acknowledged the execution of the foregoing Declaration (Union Square) on behalf of such entity.

WITNESS my hand and Notarial Seal this 27th day of September, 2022.



By: K M May
Notary Public

Printed Name: K M May

I am a resident of HAMILTON County, Indiana.

My commission expires 6/13/2029.

IN WITNESS WHEREOF, the Wrap Building Developer, the Building Corporation, WRC, and the City have executed this Declaration on the Execution Date.

CITY OF WESTFIELD BUILDING CORPORATION

By: Ronald T. Moore

Printed: Ronald T. Moore

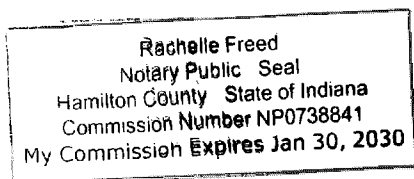
Title: President

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared Ronald T. Moore, the President of the City of Westfield Building Corporation, who acknowledged the execution of the foregoing Declaration (Union Square) on behalf of such entity.

WITNESS my hand and Notarial Seal this 19 day of September, 2022.



By: Rachelle Freed
Notary Public

Printed Name: Rachelle Freed

I am a resident of Hamilton County, Indiana.

My commission expires Jan 30, 2030.

IN WITNESS WHEREOF, the Wrap Building Developer, the Building Corporation, WRC, and the City have executed this Declaration on the Execution Date.

CITY OF WESTFIELD REDEVELOPMENT
COMMISSION

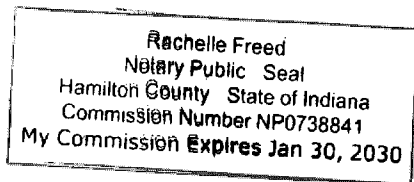
By: Joe Plankis
Joe Plankis, President

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared Joe Plankis, the President of the City of Westfield Redevelopment Commission, who acknowledged the execution of the foregoing Declaration (Union Square) on behalf of such entity.

WITNESS my hand and Notarial Seal this 19 day of September, 2022.



By: Rachelle Freed
Notary Public

Printed Name: Rachelle Freed

I am a resident of Hamilton County, Indiana.

My commission expires Jan 30, 2030

IN WITNESS WHEREOF, the Wrap Building Developer, the Building Corporation, WRC, and the City have executed this Declaration on the Execution Date.

CITY OF WESTFIELD, INDIANA

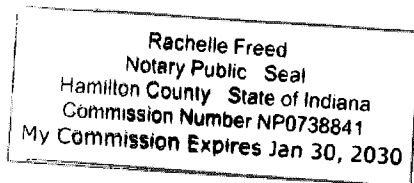
By: [Signature]
J. Andrew Cook, Mayor

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared J. Andrew Cook, the Mayor of the City of Westfield, Indiana, who acknowledged the execution of the foregoing Declaration (Union Square) on behalf of such entity.

WITNESS my hand and Notarial Seal this 19 day of September, 2022.



By: [Signature]
Notary Public

Printed Name: Rachelle Freed

I am a resident of Hamilton County, Indiana.

My commission expires Jan 30, 2030

Return after recording to Union Square Plaza LLC, 31 1st Street SW, Carmel, Indiana 46032, Attn: Justin Moffett

This instrument was prepared by Jennifer R. Shoup, Attorney-At-Law, Hall, Render, Killian, Heath & Lyman P.C., 500 North Meridian Street, Suite 400, Indianapolis, Indiana 46204. 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 R. Shoup.

INDEX TO EXHIBITS

Exhibit A – Site Plan (delineating Garage Site and Wrap Building Site)

Exhibit B – Garage Site Legal Description

Exhibit C – Wrap Building Site Legal Description

Exhibit D-1 – Phase I Area Legal Description

Exhibit D-2 – Phase II Area Legal Description

Exhibit E – Projected Phase Tax Increment

Exhibit F – Development Agreement

EXHIBIT A
Site Plan
Depicts Phase I and Phase II

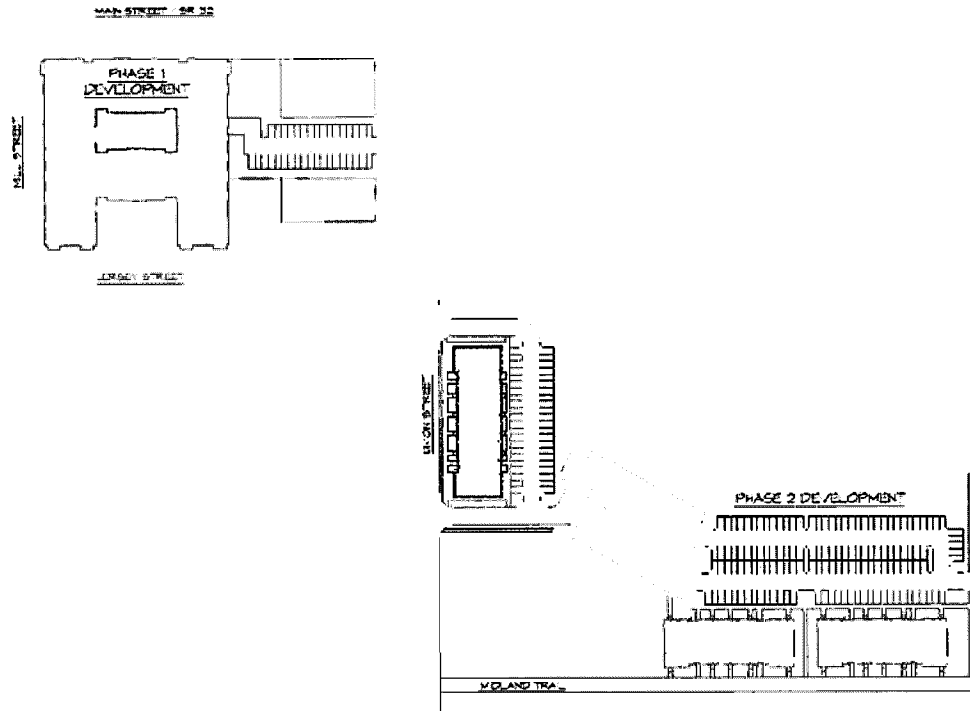


EXHIBIT B
Garage Site Legal Description

Garage Site Lower Level

That portion of the following described tract lying below a horizontal plan having an elevation of 884.70 feet (North American Vertical Datum of 1988):

Part of Lots 1, 9, 10, 15, and 16 and a part of the 12 foot alley lying between said lots 1 and 9, in Roberts Addition to Westfield, the plat of which is recorded Book 39, page 433 and part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, with the bearings herein based upon Indiana Geospatial Coordinate System's (InGCS) "Hamilton" Zone, described as follows: Commencing at the southwest corner of said Lot 10; thence North 0 degrees 59 minutes 58 seconds West 43.49 feet along the west line of said Lot 10; thence North 89 degrees 0 minutes 2 seconds East 19.92 feet to the point of beginning of this description:

thence North 0 degrees 23 minutes 28 seconds West 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 8.67 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 252.00 feet; thence South 0 degrees 23 minutes 28 seconds East 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 8.67 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence North 0 degrees 23 minutes 28 seconds West 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 112.67 feet; thence South 0 degrees 23 minutes 28 seconds East 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet to the point of beginning and containing 62,903 square feet or 1.444 acres, more or less.

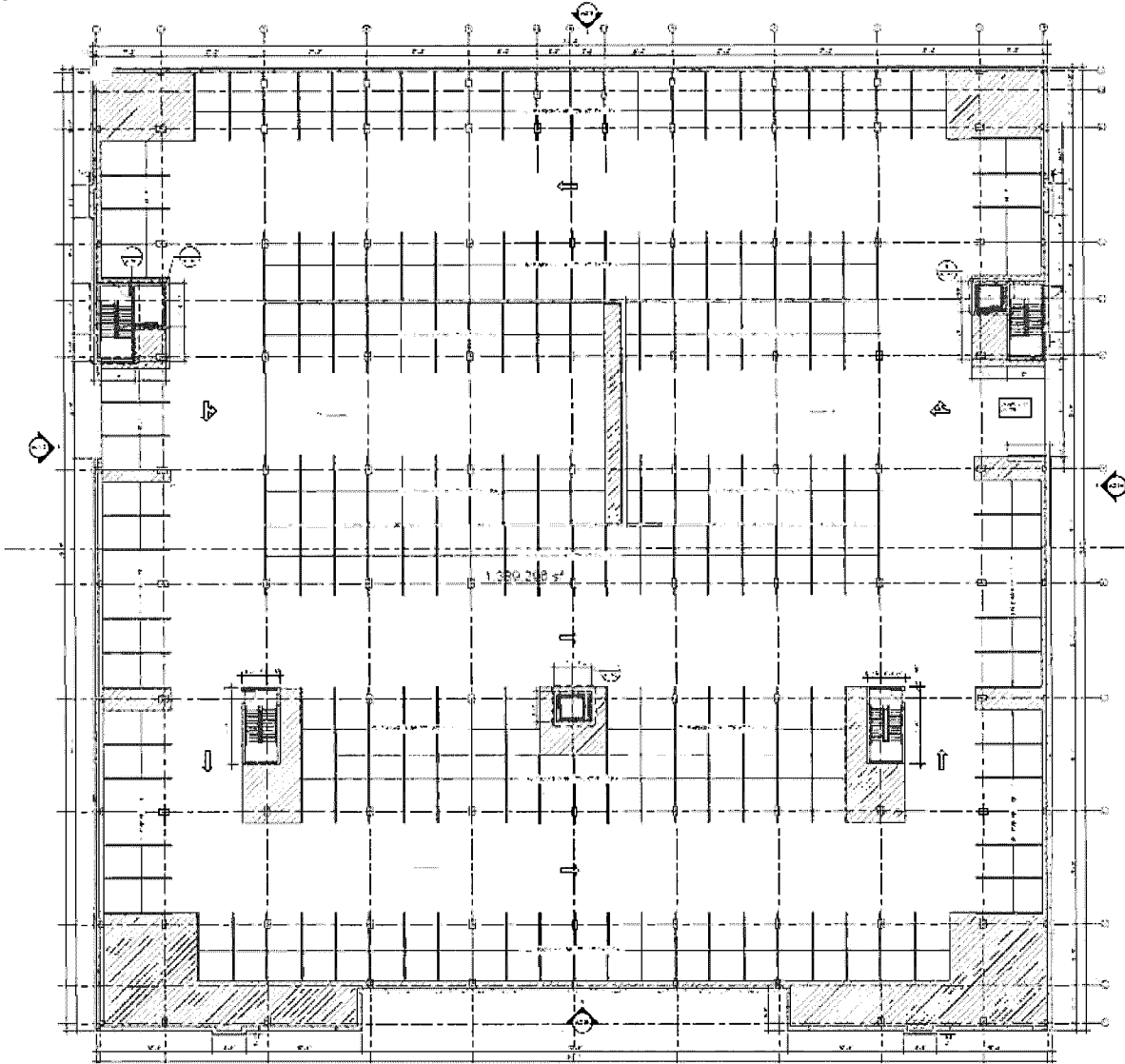
Garage Site Upper Level

That portion of the following described tract lying below a horizontal plan having an elevation of 900.70 feet (North American Vertical Datum of 1988) and lying above a horizontal plane having an elevation of 884.70 feet:

Part of Lots 1, 9, 10, 15, and 16 and a part the 12 foot alley lying between said lots 1 and 9, in Roberts Addition to Westfield, the plat of which is recorded Book 39, page 433 and part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, with the bearings herein based upon Indiana Geospatial Coordinate System's (InGCS) "Hamilton" Zone, described as follows: Commencing at the southwest corner of said Lot 10; thence North 0 degrees 59 minutes 58 seconds West 120.49 feet along the west line of said Lot 10 and a portion of the west line of said Lot 9; thence North 89 degrees 00 minutes 2 seconds East 20.74 feet to the point of beginning of this description: thence North 0 degrees 23 minutes 28 seconds West 137.74 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 8.67 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 252.00 feet; thence South 0 degrees 23 minutes 28 seconds East 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 8.67 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 137.74 feet; thence South 89 degrees 36 minutes 32 seconds West 20.40 feet; thence South 0 degrees 23 minutes 28 seconds East 8.54 feet; thence South 89 degrees 36 minutes 32 seconds West 92.02 feet; thence North 0 degrees 23 minutes 28 seconds

West 4.54 feet; thence South 89 degrees 36 minutes 32 seconds West 40.92 feet; thence South 0 degrees 23 minutes 28 seconds East 4.54 feet; thence South 89 degrees 36 minutes 32 seconds West 86.11 feet; thence North 0 degrees 23 minutes 28 seconds West 8.54 feet; thence South 89 degrees 36 minutes 32 seconds West 12.55 feet to the point of beginning and containing 46,283 square feet or 1.063 acres, more or less.

Depiction of Garage Site Lower Level



Depiction of Garage Site upper (ground) level- shows dividing line between garage site and commercial portion of Wrap Building Site

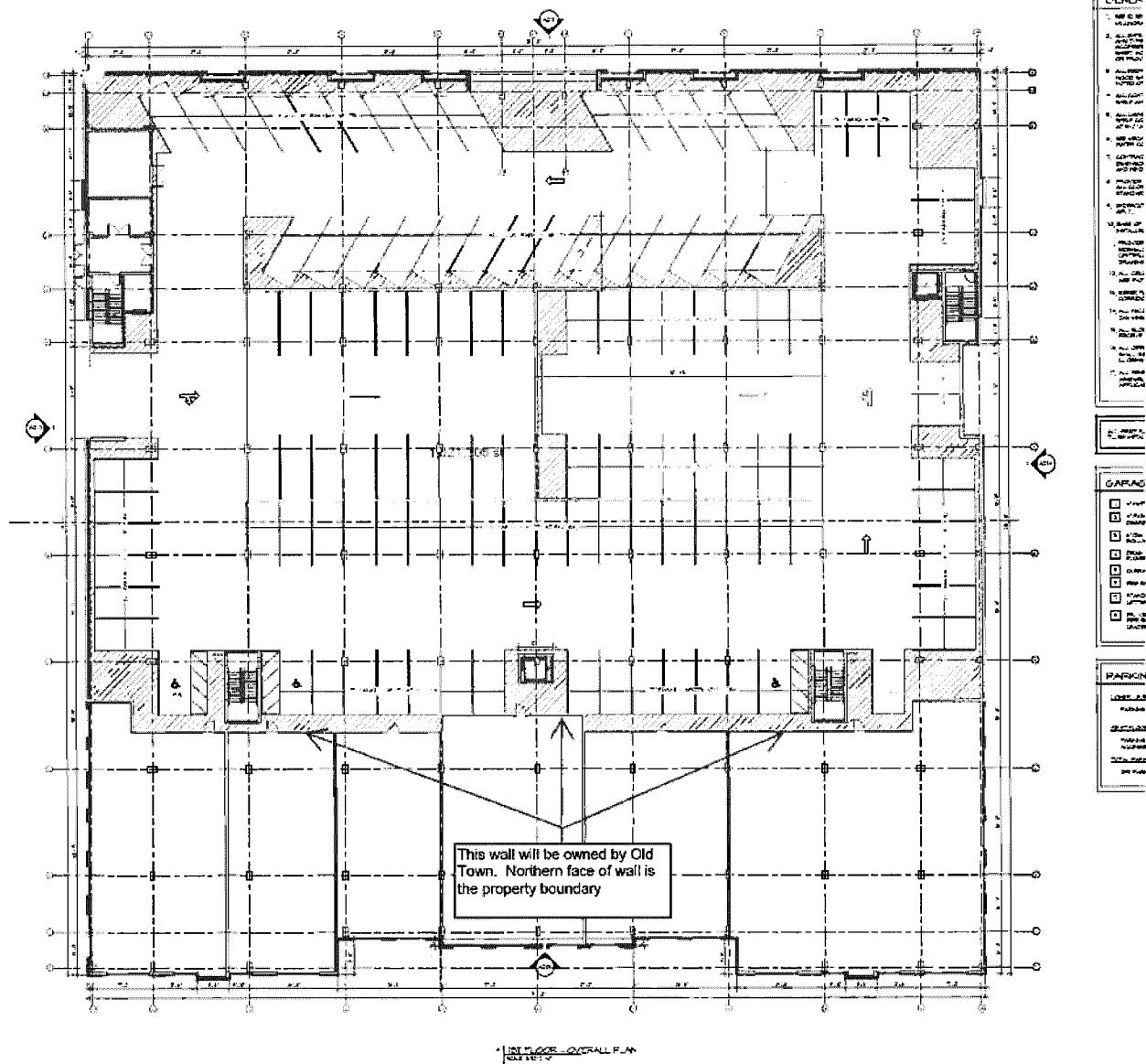


EXHIBIT C
Wrap Building Site Legal Description

Parcel 1 (Commercial Portion-Ground Level)

That portion of the following described tract lying below a horizontal plan having an elevation of 900.70 feet (North American Vertical Datum of 1988) and lying above a horizontal plane having an elevation of 884.70 feet:

Part of Lots 1, 9, 10, 15, and 16 and a part the 12 foot alley lying between said lots 1 and 9, in Roberts Addition to Westfield, the plat of which is recorded Book 39, page 433 and part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, with the bearings herein based upon Indiana Geospatial Coordinate System's (InGCS) "Hamilton" Zone, described as follows: Commencing at the southwest corner of said Lot 10; thence North 0 degrees 59 minutes 58 seconds West 43.49 feet along the west line of said Lot 10; thence North 89 degrees 0 minutes 2 seconds East 19.92 feet to the point of beginning of this description:

thence North 0 degrees 23 minutes 28 seconds West 77.00 feet; thence North 89 degrees 36 minutes 32 seconds East 12.55 feet; thence South 0 degrees 23 minutes 28 seconds East 8.54 feet; thence North 89 degrees 36 minutes 32 seconds East 86.11 feet; thence North 0 degrees 23 minutes 28 seconds West 4.54 feet; thence North 89 degrees 36 minutes 32 seconds East 40.92 feet; thence South 0 degrees 23 minutes 28 seconds East 4.54 feet; thence North 89 degrees 36 minutes 32 seconds East 92.02 feet; thence North 0 degrees 23 minutes 28 seconds West 8.54 feet; thence North 89 degrees 36 minutes 32 seconds East 20.40 feet; thence South 0 degrees 23 minutes 28 seconds East 77.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence North 0 degrees 23 minutes 28 seconds West 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 112.67 feet; thence South 0 degrees 23 minutes 28 seconds East 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet to the point of beginning and containing 16,620 square feet or 0.382 acres, more or less.

See depiction of Garage upper (ground) level attached as part of Exhibit B, which shows the dividing line between the Garage Site and this portion of the Wrap Building Site

Parcel 2 (Residential Portion – Above Garage and Commercial Portion)

That portion of the following described tract lying at and above a horizontal plan having an elevation of 900.70 feet (North American Vertical Datum of 1988):

Part of Lots 1, 9, 10, 15, and 16 and a part of the 12 foot alley lying between said lots 1 and 9, in Roberts Addition to Westfield, the plat of which is recorded Book 39, page 433 and part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, with the bearings herein based upon Indiana Geospatial Coordinate System's (InGCS) "Hamilton" Zone, described as follows: Commencing at the southwest corner of said Lot 10; thence North 0 degrees 59 minutes 58 seconds West 43.49 feet along the west line of said Lot 10; thence North 89 degrees 0 minutes 2 seconds East 19.92 feet to the point of beginning of this description:

thence North 0 degrees 23 minutes 28 seconds West 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 8.67 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 252.00 feet; thence South 0 degrees 23 minutes

28 seconds East 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 8.67 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence North 0 degrees 23 minutes 28 seconds West 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 112.67 feet; thence South 0 degrees 23 minutes 28 seconds East 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet to the point of beginning and containing 62,903 square feet or 1.444 acres, more or less.

This parcel is the same footprint as the Garage Site lower level, but begins at 900.70 feet, which is immediately above and adjacent to the Garage Site upper level and the commercial portion of the Wrap Building Site

EXHIBIT D-1

Phase 1 Area Legal Description

(From commitment IN1802883)

Part of the East Half of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Hamilton County, Indiana, being described as follows: Commencing at the northeast corner of the Northeast Quarter of Section 1, Township 18 North, Range 3 East; thence on the north line of said Northeast Quarter North 89 degrees 52 minutes 10 seconds West 210.00 feet to a point where the original line of the corporation of Westfield crosses the north line of Section 1 and the Point of Beginning of this description; thence North 89 degrees 52 minutes 10 seconds West 85.00 feet to the northeast corner of the 0.32 acre tract of real estate described in Instrument No. 200200097371; thence on the east line of said 0.32 acre tract the following three courses: 1) thence South 00 degrees 00 minutes 00 seconds West 153.00 feet; 2) thence South 89 degrees 52 minutes 10 seconds East 6.00 feet; 3) thence South 00 degrees 00 minutes 00 seconds West 50.00 feet to a 5/8 inch steel rod with yellow cap stamped "Miller Survey" on the north line of a 12 foot platted alley as platted in Robert's Addition to the Town of Westfield; thence on said north line South 89 degrees 52 minutes 10 seconds East 79.00 feet to a 5/8 inch steel rod with yellow cap stamped "Miller Survey" on the southerly extension of the east line of the tract of real estate described in Instrument No. 200000063972; thence on said east line North 00 degrees 00 minutes 00 seconds East 203.00 feet to the Point of Beginning, containing 0.39 acres, more or less.

(From commitment IN1805403A)

Lots Numbered 24 and 23 in the original plat of the Town, now City, of Westfield, as recorded May 20, 1934 Deed Book 121 in the Office of the Recorder of Hamilton County, Indiana. EXCEPT, 46 feet off the entire South end of Lot 23 herein.

(From commitment IN1806200)

PARCEL 1:

LOT NUMBER ONE (1) IN ROBERTS' ADDITION TO THE TOWN OF WESTFIELD, HAMILTON COUNTY, INDIANA, AS SHOWN BY PLAT THEREOF RECORDED IN DEED RECORD 39, PAGE 433 OF THE RECORDS IN THE RECORDER'S OFFICE OF HAMILTON COUNTY, INDIANA.

PARCEL 2:

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 18 NORTH, RANGE 3 EAST, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT NUMBER ONE (1) IN ROBERTS' ADDITION TO THE TOWN OF WESTFIELD, INDIANA AND RUN THENCE EAST 95 FEET; THENCE SOUTH 165 FEET; THENCE WEST 95 FEET; THENCE NORTH 165 FEET TO THE PLACE OF BEGINNING.

(From commitment IN1806544)

A part of the Northeast Quarter of Section 1, Township 16 North, Range 3 East, in Hamilton County, Indiana, described as follows:

Beginning at a point 85 feet West of the point where the West line of the Original Plat of the Town of Westfield, Indiana, crosses the Township line, running thence South 153 feet; thence East 6 feet; thence South 50 feet; thence West 86 feet; thence North 12.3 rods; thence East 80 feet to the Place of Beginning.

ALSO, beginning at a point 165 feet West of the point where the West line of the original Plat of the Town of Westfield, Indiana, crosses the Township lines, running thence South 203 feet; thence West 5.6 feet; thence North 203 feet; thence East 5.6 feet to the Place of Beginning.

(From commitment IN1806648)

Lot Numbered Nine (9) in Roberts Addition, an addition to the Town of Westfield, in Hamilton County, Indiana, as per plat thereof recorded in Deed Record 39, Page 433, in the Office of the Recorder of Hamilton County, Indiana.

(From commitment IN1907505)

Lots 15 and 16 in Roberts Addition to the Town of Westfield, as per Plat thereof recorded March 8, 1884 in Deed Record 39, Page 433, in Hamilton County, Indiana.

(From commitment IN1907506)

Lot Number Ten (10) in Judah Roberts Addition to the Town of Westfield, Hamilton County, Indiana, as per Plat thereof recorded in Deed Record 39, page 433, in the Office of the Recorder of Hamilton County, Indiana.

(From commitment IN1907507)

PARTS OF LOT 23 AND LOT 47 IN THE ORIGINAL TOWN PLAT OF WESTFIELD, AND PART OF A VACATED ALLEY ADJOINING SAID LOTS, IN HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF LOT 23 (SAID POINT BEING ALSO ON THE WEST LINE OF U.S. HIGHWAY NO. 31), A DISTANCE OF 110.75 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTH ALONG THE WEST LINE OF U.S. HIGHWAY NO. 31, A DISTANCE OF 122.6 FEET TO A POINT; THENCE WEST, PARALLEL TO THE NORTH LINE OF LOT 47, A DISTANCE OF 82.5 FEET TO A POINT ON THE WEST LINE OF LOT 47; THENCE NORTH, PARALLEL TO THE WEST LINE OF U.S. HIGHWAY NO. 31, A DISTANCE OF 122.6 FEET TO A POINT ON THE WEST LINE OF LOT 23; THENCE EAST, PARALLEL TO THE NORTH LINE OF LOT 23, A DISTANCE OF 82.5 FEET TO THE PLACE OF BEGINNING.

(From commitment IN1907508)

LOT 47 IN THE ORIGINAL PLAT OF WESTFIELD, HAMILTON COUNTY, INDIANA, AS PER PLAT THEREOF RECORDED MAY 20, 1834 IN DEED BOOK 121, EXCEPT 60 FEET OFF THE NORTH END OF SAID LOT AND ALSO EXCEPT 58.75 FEET OFF THE SOUTH END OF SAID LOT. SAID PART DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 58.75 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 47; THENCE NORTH ALONG THE EAST LINE OF SAID LOT, 38 FEET; THENCE WEST 82.50 FEET TO THE WEST LINE OF SAID LOT; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT, 38 FEET; THENCE EAST 82.50 FEET TO THE PLACE OF BEGINNING.

(From commitment IN1907509)

LOT 48 IN THE ORIGINAL TOWN OF WESTFIELD, AS PER PLAT THEREOF RECORDED MAY 16, 1834 IN DEED RECORD D, PAGE 12, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

ALSO: PART OF LOT 47 IN THE ORIGINAL TOWN OF WESTFIELD, AS PER PLAT THEREOF RECORDED IN DEED RECORD D, PAGE 12, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 47 IN THE ORIGINAL TOWN OF WESTFIELD, HAMILTON COUNTY, INDIANA, AND RUN THENCE NORTH 23 FEET; THENCE SOUTH 23 FEET; THENCE EAST 82 FEET TO THE PLACE OF BEGINNING.

ALSO: PART OF LOT 47 IN THE ORIGINAL TOWN OF WESTFIELD, AS PER PLAT THEREOF RECORDED IN DEED RECORD D, PAGE 12, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 47, 23 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT AND RUN THENCE NORTH ON THE EAST LINE THEREOF 35.75 FEET; THENCE WEST 82 FEET TO A POINT; THENCE SOUTH 35.75 FEET TO A POINT; THENCE EAST 82 FEET TO THE PLACE OF BEGINNING.

EXHIBIT D-2
Phase II Area Legal Description

PARCEL 1:

A PART OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST IN HAMILTON COUNTY, INDIANA, BEING DESCRIBED AS FOLLOWS, TO-WIT:

BEGIN AT A POINT IN THE CENTER OF COOL CREEK, SAID POINT BEING 399.0 FEET SOUTH AND 125.0 FEET EAST OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST IN WESTFIELD, HAMILTON COUNTY, STATE OF INDIANA; THENCE SOUTH PARALLEL TO THE WEST LINE OF SAID NORTHWEST QUARTER 360.17 FEET TO A POINT IN THE NORTH LINE OF AN OLD CEMETERY; THENCE SOUTHEASTERLY ON AND ALONG THE SAID NORTH LINE 158.3 FEET TO A CORNER POST, SAID POINT BEING 106.5 FEET NORTH OF THE NORTH RIGHT-OF-WAY LINE OF THE CENTRAL INDIANA R.R. AND THE NORTH RIGHT-OF-WAY LINE IS 22.3 FEET NORTH OF THE CENTER OF THE R.R. TRACK; THENCE SOUTH 106.5 FEET TO THE NORTH LINE OF SAID RAILROAD RIGHT-OF-WAY AND CORNER POST AND SAID POINT BEING 278.5 FEET EAST OF THE WEST LINE OF SAID NORTHWEST QUARTER; THENCE EASTERLY ON AND ALONG THE NORTH RIGHT-OF-WAY LINE 199.5 FEET TO A POINT, SAID POINT BEING 290.0 FEET WEST OF THE CENTER OF CHERRY STREET OR COUNTY ROAD RUNNING NORTH AND SOUTH IN THE SAID NORTHWEST QUARTER; THENCE NORTHERLY 150.0 FEET TO A POINT, SAID POINT BEING 172.3 FEET NORTH OF THE CENTER OF SAID R.R. TRACT AND 290.0 FEET WEST OF THE CENTER OF CHERRY STREET OR COUNTY ROAD; THENCE EASTERLY 290.0 FEET TO A POINT, SAID POINT BEING 172.3 FEET NORTH OF THE CENTER OF SAID R.R. TRACT; THENCE NORTHERLY ON AND ALONG THE CENTER OF SAID ROAD 163.9 FEET TO THE INTERSECTION WITH THE CENTER OF COOL CREEK; THENCE RUN NORTHWESTERLY, WESTERLY AND NORTHWESTERLY ON AND ALONG THE CENTERLINE OF SAID COOL CREEK TO THE PLACE OF BEGINNING. CONTAINING 3.3 ACRES, MORE OR LESS.

ALSO:

A PART OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, DESCRIBED AS FOLLOWS: BEGIN AT A POINT WHERE THE NORTH LINE OF THE RIGHT-OF-WAY OF THE CENTRAL INDIANA RAILROAD CROSSES THE COUNTY ROAD, RUN THENCE WEST 290 FEET, THENCE NORTH 150 FEET, THENCE EAST 290 FEET, THENCE SOUTH 150 FEET TO THE PLACE OF BEGINNING.

ALSO DESCRIBED:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, RUN SOUTH 365 FEET ON AND ALONG THE WEST LINE OF SAID QUARTER SECTION; THENCE EAST 768 FEET TO A POINT ON THE SOUTH LINE OF THE ORIGINAL PLAT OF THE TOWN OF WESTFIELD; THENCE SOUTH ON AND ALONG THE CENTERLINE OF A COUNTY ROAD (CHERRY STREET) 565.6 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND WHICH IS WHERE THE NORTH LINE OF THE RIGHT-OF-WAY OF THE CENTRAL INDIANA RAILROAD CROSSES THE SAID COUNTY ROAD; THENCE WEST 290 FEET; THENCE NORTH 150 FEET; THENCE EAST 290 FEET; THENCE SOUTH 150 FEET TO THE PLACE OF BEGINNING. CONTAINING 1 ACRE, MORE OR LESS, IN THE TOWN OF WESTFIELD, HAMILTON COUNTY, INDIANA.

EXCEPTING THEREFROM THAT PART CONVEYED TO THE CITY OF WESTFIELD, INDIANA BY WARRANTY DEEDS RECORDED JUNE 3, 2010 AS DOCUMENTS 2010024355 AND 2010024356.

PARCEL 2:

A PART OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, IN HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

BEGIN AT A POINT 365 FEET SOUTH OF THE NORTHWEST CORNER OF SAID QUARTER SECTION; RUN THENCE EAST 125 FEET; THENCE SOUTH 400.5 FEET; THENCE NORTHWESTERLY 133.7 FEET TO A POINT WHICH IS 213 FEET NORTH OF THE NORTH RAIL OF THE CENTRAL INDIANA RAILROAD; THENCE NORTH 353 FEET TO THE PLACE OF BEGINNING, IN HAMILTON COUNTY, INDIANA.

EXCEPT: PART OF A TRACT OF LAND DESCRIBED IN INSTRUMENT #89-13713 IN THE PUBLIC RECORDS OF HAMILTON COUNTY, INDIANA, LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER, SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST; THENCE SOUTH 00 DEGREES 45 MINUTES 28 SECONDS EAST 618.48 FEET (ASSUMED BEARING) TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 16 MINUTES 23 SECONDS EAST PARALLEL TO THE NORTH LINE OF SAID NORTHWEST QUARTER 125.00 FEET TO THE EAST LINE OF SAID TRACT AS DESCRIBED IN INSTRUMENT #89-13712; THENCE SOUTH 00 DEGREES 45 MINUTES 18 SECONDS EAST 147.02 FEET ON AND ALONG SAID EAST LINE TO A 5/8 INCH IRON ROD WITH YELLOW CAP STAMPED S0083 ON THE NORTH LINE OF A TRACT OF LAND DESCRIBED IN DEED RECORD 176, PAGE 219; THENCE NORTH 68 DEGREES 16 MINUTES 32 SECONDS WEST 135.28 FEET ON AND ALONG SAID NORTH LINE TO A P.K. NAIL IN THE WEST LINE OF SAID NORTHWEST QUARTER, SAID P.K. NAIL BEING 213.00 FEET NORTH OF THE NORTH RAIL OF THE CENTRAL INDIANA RAILROAD WHERE IT INTERSECTS THE WEST LINE OF THE SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 45 MINUTES 18 SECONDS WEST 95.36 FEET ON AND ALONG THE WEST LINE OF SAID NORTHWEST QUARTER TO THE POINT OF BEGINNING. PARCEL 3: PART

OF A TRACT OF LAND DESCRIBED IN INSTRUMENT #8913712 IN THE PUBLIC RECORDS OF HAMILTON COUNTY, INDIANA, LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER, SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST; THENCE SOUTH 00 DEGREES 45 MINUTES 28 SECONDS EAST 618.48 FEET (ASSUMED BEARING) TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 16 MINUTES 23 SECONDS EAST PARALLEL TO THE NORTH LINE OF SAID NORTHWEST QUARTER 125.00 FEET TO THE EAST LINE OF SAID TRACT AS DESCRIBED IN INSTRUMENT #8913712; THENCE SOUTH 00 DEGREES 45 MINUTES 18 SECONDS EAST 147.02 FEET ON AND ALONG SAID EAST LINE TO A 5/8" IRON ROD WITH YELLOW CAP STAMPED S0083 ON THE NORTH LINE OF A TRACT OF LAND DESCRIBED IN DEED RECORD 176, PAGE 219; THENCE NORTH 68 DEGREES 16 MINUTES 32 SECONDS WEST 135.28 FEET ON AND ALONG SAID NORTH LINE TO A P.K. NAIL IN THE WEST LINE OF SAID NORTHWEST QUARTER, SAID P.K. NAIL BEING 213.00 FEET NORTH OF THE NORTH RAIL OF THE CENTRAL INDIANA RAILROAD WHERE IT INTERSECTS THE WEST LINE OF THE SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 45 MINUTES 18 SECONDS WEST 95.36 FEET ON AND ALONG THE WEST LINE OF SAID NORTHWEST QUARTER TO THE POINT OF BEGINNING. CONTAINING 15,148.59 SQUARE FEET OR 0.35 ACRE, MORE OR LESS.

EXHIBIT E Projected Phase Tax Increment

PROPOSED PROJECT COMPONENTS AND ESTIMATED TAX INCREMENT (UNION SQUARE ALLOCATION AREA)

DESCRIPTION	Estimated Square Footage	Estimated Developer Cost	Assumed Assessed Value	Assessed Value Improvements	Less Assessed Value Existing Improvements	Estimated Net Assessed Value	Assumed Tax Rate	Estimated Tax Increment Revenue	Revenue by Year		
									Pay 2025	Pay 2026	Pay 2027
PHASE I - UNION SQUARE:											
Retail	32,200	\$ 8,600,000	\$130/SF	\$ 4,136,000	\$ (768,600)	\$ 3,417,400	\$ 2.1000	\$ 71,765			
Office	40,000	9,000,000	\$130/SF	5,200,000	-	5,200,000	\$ 2.1000	109,200			
Multi-Family (188 Units)	194,329	32,250,000	\$115/SF	22,347,835	-	22,347,835	\$ 2.0000	446,957			
		<u>\$ 49,850,000</u>	PHASE I	<u>\$ 31,733,835</u>		<u>\$ 30,965,235</u>		<u>\$ 627,922</u>	\$ 376,753	\$ 627,922	\$ 627,922
PHASE II - MIDLAND NORTH:											
Retail	10,000	\$ 1,800,000	\$130/SF	\$ 1,300,000	(180,700)	1,119,300	\$ 2.1000	\$ 23,505			
Multi-Family (100 Units)	128,000	18,000,000	\$115/SF	14,720,000	-	14,720,000	\$ 2.0000	294,400			
		<u>\$ 19,800,000</u>	PHASE II	<u>\$ 16,020,000</u>		<u>\$ 15,839,300</u>		<u>\$ 317,905</u>	-	190,743	317,905
Totals									<u>\$ 376,753</u>	<u>\$ 818,665</u>	<u>\$ 945,827</u>

- Key Assumptions:
- 1) Construction for Phase I begins summer 2022 and estimated to be 60% completed by the end of 2023. Project complete June 2024 and fully assessed 1/1/2025. Full tax increment revenue received beginning 2026. Phase II begins summer 2023: 60% complete 1/1/2025; complete Spring 2025 with full assessment 1/1/2026 pay 2027.
 - 2) Assessed Value of new construction based upon Developer representations of per square foot values.
 - 3) Developer's hard & soft cost excluding the public garage totals \$69,6150,000. Their assumed assessed values represent approximately 69% of cost.
 - 4) Total pay 2022 tax rate for commercial property in the City net of school referendum rates is \$2.1449. Since the City and School Corp project continuing reduction in the net rate, we have conservatively applied a \$2.10 rate for all commercial improvements and a \$2.00 rate for apartments which represents the cap for multi-family property.

Exhibit F
DEVELOPMENT AGREEMENT
Union Square

This Development Agreement (Union Square) (the "Agreement") is executed this 9th day of June, 2022, by and among the **City of Westfield Redevelopment Commission** ("WRC"), the **City of Westfield Building Corporation** (the "Building Corporation"), **the City of Westfield, Indiana** (the "City"), and **Union Square Plaza LLC**, an Indiana limited liability company (the "Developer").

Recitals

WHEREAS, the WRC, the Building Corporation and the City desire to foster economic development within the City and provide additional public parking in the City;

WHEREAS, the WRC has created and expanded the Allocation Area for the purposes of capturing incremental tax revenues in the manner set forth in Indiana Code 36-7-14-39;

WHEREAS, the Developer proposes to construct market rate apartment units and commercial space for retail or office use within the Allocation Area, each of which is a "Project" and collectively referred to as "Projects", as more particularly defined in Section 1 hereof;

WHEREAS, Developer expects that its investment in the Projects, collectively, will be approximately Sixty Nine Million Dollars (\$69,000,000) and has requested certain economic development assistance from the City and the WRC with respect to the Garage Project;

WHEREAS, to induce development of the Allocation Area and the completion of the Projects, the WRC, the City and the Building Corporation, subject to further proceedings as required by law, desire to provide for the financing of the Garage Project, as more particularly described herein; and

WHEREAS, the WRC, the Building Corporation and the City have determined that the Project conforms to the comprehensive plan of development for the City and is in the best interests of the citizens of the City;

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

1. Defined Terms.

Allocation Area shall mean the Union Square Allocation Area within the Grand Junction Economic Development Area created and expanded by the WRC in accordance with Indiana Code 36-7-14 for the purpose of capturing Tax Increment.

Available Bond Proceeds shall mean, at a given time, the amount of the Bond Proceeds that are available for disbursement to pay Garage Project Costs, net of capitalized interest, a reserve fund, if necessary, and Bond Issuance Costs.

Bonds shall mean one or more series of taxable or tax-exempt economic development revenue bonds to be issued by the City under Indiana Code 36-7-11.9 and 12 pursuant to a Trust Indenture, in the estimated principal amount not to exceed \$12,250,000, the proceeds of which shall be made available to Developer in accordance with the Bond Documents, to construct the Garage Project, payable from a pledge of LIT Revenues by the Common Council to the extent the Tax Increment is not sufficient.

Bond Issuance Costs shall mean, namely, the costs, fees and expenses incurred or to be incurred by the

City, the Building Corporation and the WRC in connection with the issuance and sale of the Bonds, including underwriting or placement or other financing fees (including applicable counsel fees), rating fees, the fees and disbursements of bond counsel, the fees and disbursements of the City, the Building Corporation and the WRC's financial advisor, the acceptance fee and other fees of the Trustee, application fees and expenses, publication costs, the filing and recording fees in connection with any filings or recording necessary under the Trust Indenture or to perfect the lien thereof, the fees and disbursements of the counsel to the City, the Building Corporation, the WRC, the Westfield Economic Development Commission and the purchasers of the Bonds, the costs of preparing or printing the Bonds, the costs of reproducing documents and any other costs of a similarly nature reasonably incurred.

Bond Debt Service shall mean the regular (non-default) payments of principal and/or interest due and payable pursuant to the Bond Documents.

Bond Documents shall mean the documents required in connection with the issuance and sale of the Bonds, including, without limitation, the Trust Indenture, the Funding Agreement, the Garage Property Lease and customary closing certificates and opinions.

Bond Proceeds shall mean the proceeds of the Bonds.

Catch-Up Default shall mean, after: (a) the proper exercise by the Building Corporation of its right under Subsection 12(a) to require the development and implementation of a Catch-Up Plan; and (b) the Building Corporation's approval (or, if applicable pursuant to Subsection 12(b), development) of a Catch-Up Plan; the failure by Developer either to implement such Catch-Up Plan or, once implemented, to satisfy its obligations thereunder.

Catch-Up Plan shall mean, with respect to a Project, a plan pursuant to which Developer will: (a) avoid falling further behind the dates set forth in the then-current Construction Schedule for such Project; and (b) complete the construction of such Project, in accordance with such Construction Schedule, as updated, revised, and/or amended to reflect such plan.

City Agency shall mean any agency, board, commission, department, instrumentality, or unit of the City.

City Approval Process shall mean, with respect to each Project, the process by a City Agency for: (a) refining the Preliminary Plans into the Final Plans; and (b) obtaining the Required Permits; which shall be the same process customarily required for developers of commercial real estate projects seeking the equivalent of the "Required Permits" for their projects.

Claims shall mean claims, damages, injuries, losses, costs, and expenses (including, without limitation, attorneys' fees).

Closing shall mean the closing with respect to: (a) the issuance and purchase of the Bonds; (b) the conveyance of the Garage Site to the Building Corporation; and (c) the execution of the Garage Property Lease; subject to the Conditions set forth in Section 5(i).

Closing Date shall mean the date of the Closing.

Common Council shall mean the Common Council of the City.

Construction Schedule shall mean, with respect to each Project, a detailed schedule for construction of such Project in accordance with the Final Plans for such Project, which schedule is comprised of the construction schedule included as a portion of the Final Plans.

Developer Affiliate shall mean a person or entity that directly or indirectly controls, is controlled by, or is

under common control with Developer. For purposes of this definition, "control" (including the terms "controls", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

Disbursement Request shall mean a written request prepared by Developer for a disbursement of Available Bond Proceeds, which request shall: (a) be in the form required by the Bond Documents and the Funding Agreement; and (b) include all supporting materials required pursuant to the Funding Agreement.

Event of Default shall have the meaning set forth in Subsection 11(a).

E-Verify Program shall mean: (a) the program currently operated by the U.S. Department of Homeland Security that electronically confirms an individual's eligibility to work in the United States, authority for which is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208, 110 Stat. 3009 (8 U.S.C. §1324a), as amended; or (b) any successor work authorization program designated by the U.S. Department of Homeland Security or such other federal agency as may be authorized to verify the work authorization status of newly-hired employees. The E-Verify Program is the "E-Verify Program" defined in Ind. Code. §22-5-1.7-3.

Final Plans shall have the meaning ascribed to such term in Subsection 7(a).

Fundamental Flaw shall mean: (a) a flaw in the design or construction of a Project that must be addressed to avoid, correct, rectify, or reverse: (i) a material violation of any Law; (ii) a violation of applicable insurance requirements that could result in an insurer: (A) disclaiming coverage or liability; or (B) canceling or refusing to renew a policy; (iii) a violation of applicable warranty requirements that could result in a contractor or material supplier: (A) disclaiming coverage or liability; (B) refusing to issue or honor a warranty; or (C) canceling or refusing to extend a warranty; or (iv) an actual: (A) inability to obtain a Required Permit; or (B) attempt by a governmental authority to cancel or revoke a Required Permit; and/or (c) a design or construction issue that materially affects: (i) the structural integrity of the applicable Project; or (ii) in the case of the Garage Project or the Wrap Building Project: (A) the successful integration of the Garage with the Wrap Building (or the Wrap Building with the Garage, as the case may be); and/or (B) the ability of the Garage to provide the necessary support for the Wrap Building.

Funding Agreement shall mean an agreement among the City, the Building Corporation and the Developer pursuant to which Available Bond Proceeds shall be disbursed to Developer in a commercially reasonable manner to pay (or reimburse Developer for) Garage Project Costs. The Funding Agreement shall incorporate the terms and conditions set forth on Exhibit E; provided that, if and to the extent that the executed Funding Agreement is inconsistent with the terms and conditions set forth on Exhibit E, then the executed Funding Agreement shall control.

Garage shall mean an above-ground structured parking facility containing approximately 300 parking spaces, together with entrances and exits, ramps and drives, elevator lobbies, and related facilities. The Garage: (a) will be "wrapped", in whole or in part, by the Wrap Building; and (b) may incorporate a roof (as opposed to an open top level of parking spaces) on which a portion of the Wrap Building would be constructed, which portion may house a courtyard on the portion of the Wrap Building Site located immediately above the roof of the Garage.

Garage Budget shall mean the budget reflecting the estimated total Garage Project Costs.

Garage Construction Contract shall mean a guaranteed maximum price construction contract pursuant to which the contractor selected by Developer to construct the Garage Project (which contractor may be a Developer Affiliate) will satisfy the obligations of Developer hereunder with respect to the construction of the Garage Project.

Garage Operating Agreement shall mean an agreement by and among WRC, the Building Corporation, and Developer that addresses the day-to-day operation of the Garage, which agreement, without limitation: (a) establishes standards for the maintenance and repair of the Garage Property, and the requirements for satisfying such standards; (b) addresses, at a minimum, the following with respect to the Garage Property: (i) use and operation, including determining the locations of public and private parking spaces; (ii) a process for the leasing of parking spaces in the Garage to residents of the Wrap Building, which may be pursuant to lease agreements directly between the garage operator and the residents, or a lease agreement between the garage operator and Developer, with Developer subsequently subleasing such spaces to the residents; (iii) the maintenance of insurance; and (iv) the maintenance of records, including with respect to parking revenue; (c) otherwise requires that the obligations set forth under the Garage/Wrap Building Declaration are satisfied; and (d) contemplates the hiring of a qualified operator to discharge the obligations of WRC thereunder.

Garage Project shall mean: (a) any demolition of existing improvements on, or other site preparations with respect to, the portion of the Garage Site (and, if applicable, the Wrap Building Site) that are deemed by Developer to be necessary or appropriate; (b) the construction of the Garage on the Garage Site; and (c) the encapsulation of the existing legal drain; together with any attendant improvements, all as reflected in the Final Plans for the Garage Project.

Garage Project Costs shall mean the fees, costs, and expenses incurred (or to be incurred) by Developer in connection with the design, development, and construction of the Garage Project, including costs and expenses to: (a) develop and design the Garage Project; (b) prepare the Garage Site for construction (including demolition work, earthwork, environmental remediation work, and the extension of utilities); (c) design, relocate, and/or construct infrastructure to support the Garage Project; (d) encapsulate the existing legal drain; (e) design, relocate, and/or install perimeter hardscape and landscape for the Garage Project; (f) acquire the materials to construct, and construct, the Garage Project, and to satisfy its obligations under the Garage Construction Contract; (g) pay to Developer a construction fee equal to 4% of the total Garage Project Costs (determined without including the amount of such fee in the determination of the total amount of the Garage Project Costs) and (h) all costs and expenses which the City, the Building Corporation and the WRC shall be required to pay in connection with the construction of the Garage Project (including recording fees related to the Garage Site), costs of insurance of all kinds that maybe required or necessary in connection with the Garage Project, costs for architectural and engineering, development and consultant services and any sums required to reimburse the City, the Building Corporation, WRC or Developer for advances made by either of them subsequent to the date of inducement by the City for any of the above items for any other costs incurred and for work done by either of them which are properly chargeable to the Garage Project

Garage Property shall mean, collectively, the Garage Site and the Garage.

Garage Property Lease shall mean a lease pursuant to which the Building Corporation leases the Garage Property to WRC, which lease shall: (a) provide for a term that is coterminous with the term of the Bonds; (b) obligate WRC to make the Lease Rental Payments; (c) provide that, subject to the Garage/Wrap Building Declaration, WRC: (i) shall have the exclusive right to possess the Garage Property; and (ii) at its expense, shall be responsible, for the operation, management, maintenance, and repair of the Garage Property (including, in its capacity as the tenant and "possessory interest holder", satisfying the obligations of the "garage property owner" under the Garage/Wrap Building Declaration); and (d) address ownership of the Garage Property upon the expiration or earlier termination of the Term; provided that, if and to the extent that the executed Garage Property Lease is inconsistent with this definition, then the executed Garage Property Lease shall control.

Garage Site shall mean a three-dimensional space, the exact description of which shall be determined during the course of the City Approval Process for the Garage Project and the Wrap Building Project. The

Garage Site will be “wrapped” by, and will “notch into” the Wrap Building Site and, as a result, is difficult to depict; however, in general, it is that portion of the Phase I Area that is surrounded on four sides by the Wrap Building Site. It is yet to be determined whether the Garage Site will be an “air-only” parcel, or whether it will include the underlying real estate that provides support for the Garage.

Garage/Wrap Building Declaration shall mean an agreement between the Building Corporation and Developer and acknowledged and consented to by the WRC, that includes: (a) the easements, rights, obligations, and other terms and conditions set forth on Exhibit C; and (b) such other terms, conditions, and provisions as are deemed by the Building Corporation and Developer to be necessary or appropriate.

Laws shall mean all applicable: (a) laws, statutes, and/or ordinances; (b) governmental rules, regulations, and/or guidelines; and (c) judicial orders, consents, and/or decrees.

Lease Rental Payments shall mean semi-annual payments of rent to be paid by WRC to the Building Corporation pursuant to the Garage Property Lease, the amount of which shall be sufficient to pay the Bond Debt Service for such semi-annual period.

LIT Revenues shall mean local income tax revenues legally available to the City under Ind. Code § 6-3.6 for use to pay the Lease Rental Payments.

Phase shall mean Phase I and/or Phase II, as applicable.

Phase I shall mean, collectively, the Garage Project, the Wrap Building Project, and two additional Projects, together with related site work (which may include demolition) and/or improvements (which may include surface parking), to be constructed within the Phase I Area. As reflected on the Site Plan, it currently is anticipated that the two additional Projects will be: (a) a two or three-story commercial building containing approximately 15,000 square feet, which will be known as The Union; and (b) a three or four-story office and/or commercial building containing approximately 40,000.00 square feet.

Phase I Area shall mean that certain real estate in the City, the general boundaries of which are State Road 32/West Main Street on the north, Union Street on the east, Jersey Street on the south, and Mill Street Road on the west, which real estate is delineated as the “Phase I Area” on the Site Plan. The Garage Site and the Wrap Building Site are within the Phase I Area.

Phase II shall mean, collectively, three Projects, together with related site work (which may include demolition) and/or improvements (which may include surface parking), to be constructed within the Phase II Area. As reflected on the Site Plan, it currently is anticipated that: (a) each Project will include a building; and (b) the buildings, in the aggregate, will contain: (i) approximately 143,848 square feet; (ii) approximately 124 multifamily residential units; and (iii) approximately 4,400 square feet of commercial space.

Phase II Area shall mean that certain real estate in the City, the general boundaries of which are Cherry Street on the east, Midland Trace Trail on the south, and Union Street on the west, which real estate is delineated as the “Phase II Area” on the Site Plan.

Preliminary Plans shall mean schematic design drawings, design development documents, construction drawings, schedules, and (in the case of the Garage Project) budgets that have not yet been approved by the applicable City Agencies pursuant to the City Approval Process.

Project shall mean, generally, each improvement to be constructed on a discrete portion of the Phase I Area or the Phase II Area in accordance with the Final Plans for such improvement and the terms and conditions of this Agreement. As reflected on the Site Plan, it currently is contemplated that there will be a total of seven Projects: (a) four of which (including the Garage Project and the Wrap Building Project) will be located in the Phase I Area; and (b) three of which will be located in the Phase II Area.

Projected Phase Tax Increment shall mean the projected annual Tax Increment in each of Phase I and Phase II, as set forth on Exhibit F, as such Exhibit may be updated and/or replaced by the agreement of the parties prior, to or in connection with, the Closing.

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

Site Plan shall mean, collectively, the site plan for Phase I and Phase II, attached hereto as Exhibit A, which site plan reflects the current locations, types, and intended uses of the various Projects within each Phase.

Tax Increment shall mean all property tax proceeds attributable to the assessed valuation of real property in the Allocation Area in excess of the assessed valuation described in Indiana Code 36-7-14-39(b), as such statutory provision exists on the date of issuance of the Bonds, less any fees withheld by the WRC to pay Trustee fees under the Indenture and all other reasonable fees paid in connection with the administration and monitoring of such property tax proceeds

Trust Indenture shall mean a trust indenture executed by and between the City and the Trustee.

Trustee means the trustee selected by the City.

Unauthorized Alien shall have the meaning set forth in 8 U.S.C. §1324a(h)(3) (as reflected pursuant to Ind. Code §22-5-1.7-9).

Wrap Building shall mean a multi-floor building housing approximately 180 multifamily residential units and approximately 18,000 square feet of retail space, which building will "wrap" the Garage.

Wrap Building Project shall mean: (a) any demolition of existing improvements on, or other site preparations with respect to, the Wrap Building Site deemed by Developer to be necessary or appropriate; and (b) the construction of the Wrap Building on the Wrap Building Site; together with attendant public improvements and residential amenities, all as set forth in the Final Plans for the Wrap Building Project.

Wrap Building Project Lender shall mean the bank, institution, corporation, or other entity making a construction loan to Developer, the proceeds of which shall be used to construct the Wrap Building Project.

Wrap Building Project Loan shall mean, with respect to the Wrap Building Project, a construction loan, the proceeds of which shall be used by Developer to acquire the materials to construct, and to construct, all or any portion of the Wrap Building Project.

Wrap Building Project Loan Documents shall mean the documents evidencing and/or securing the Wrap Building Project Loan.

Wrap Building Site shall mean a three-dimensional space, the exact description of which shall be determined during the course of the City Approval Process for the Garage Project and the Wrap Building Project. The Wrap Building Site will "wrap", and will "notch into" the Garage Site and, as a result, is difficult to depict; however, in general, it is that portion of the Phase I Area that surrounds ("wraps") the Garage on four sides. If it is determined that the Garage Site will be an "air-only" parcel, then the underlying real estate that provides support for the Garage shall constitute a portion of the Wrap Building Site.

Wrap Building Property shall mean, collectively, the Wrap Building Site and the Wrap Building Project.

2. Obligations/Incentives. The obligations set forth in this Section are subject to the terms and

conditions of this Agreement, and to satisfaction of the requirements of all Laws (including, without limitation, the conducting of all proceedings required by the Laws).

(a) Conveyance Garage Site. At the Closing: (i) Developer shall convey the Garage Site to the Building Corporation by limited warranty deed; and (ii) the Building Corporation shall accept such conveyance.

(b) Garage Lease. The Building Corporation shall lease the Garage Property to WRC pursuant to the Garage Property Lease.

(c) Garage Operation. WRC, as lessee under the Garage Property Lease (and, accordingly, the holder of the possessory interest in the Garage Property), shall be responsible, at its cost and expense, for the operation, maintenance, repair, and replacement of the Garage, subject to and in accordance with the terms and conditions of the Garage Property Lease, the Garage/Wrap Building Declaration and the Garage Operating Agreement.

(d) Bonds. WRC, the Building Corporation, Developer, and the City shall work cooperatively and in good faith to establish the terms on which the Bonds will be issued (including, without limitation, the maximum principal amount thereof). The City shall issue and sell the Bonds and loan the proceeds of the Bonds to the Building Corporation to finance the Garage Project Costs. Available Bond Proceeds shall be deposited into the construction account established under the Trust Indenture for use to pay (or reimburse Developer for) Garage Project Costs.

(e) Payment Sources. The City will pledge the LIT Revenues to the payment of Lease Rental Payments to the extent the Tax Increment is not sufficient. Lease Rental Payments made by the WRC to the Building Corporation will be used to pay Bond Debt Service.

(f) Cherry Street Bridge. The City shall exercise commercially reasonable efforts to reconstruct the Cherry Street bridge in accordance with the City's downtown master plan. WRC, Building Corporation, and the City acknowledge that the timing of the development and construction of the Projects comprising Phase II will depend on the timeline within which the foregoing bridge work is completed.

(g) Projects. Developer: (i) for the benefit of WRC and the Building Corporation, shall design and construct the Garage Project in accordance with the terms and conditions of this Agreement and the Garage Construction Contract; (ii) shall design and construct the Wrap Building Project in accordance with the terms and conditions of this Agreement; and (iii) shall exercise commercially reasonable, good faith efforts to construct the remaining Projects in each Phase by the estimated completion dates (or within the applicable periods) shown on Exhibit B. The Garage Construction Contract shall be (a) subject to approval of the City and the Building Corporation, the approval of which shall not be unreasonably withheld; and (b) Developer estimates that, upon completion of both Phases, its total capital investment will be approximately \$69,000,000.00, excluding the Garage Project Costs (which shall be paid with Available Bond Proceeds).

3. Closing. Subject to the terms and conditions of this Agreement, it is anticipated that the Closing shall occur on or before the date that is six (6) months following the date of execution of this Agreement; provided that, subject to the terms and conditions of this Agreement (including the conditions set forth in Section 5), the "outside date" for the Closing shall be the date that is 12 months after the date on which the Common Council approves the issuance of the Bonds. The actual Closing Date and the location of the Closing shall be established mutually by City, WRC, Building Corporation and Developer.

4. Closing Documents. At the Closing, WRC, the Building Corporation, Developer, and/or the City, as applicable, shall execute and deliver (or cause to be executed and delivered) the following:

- (a) a limited warranty deed conveying to the Building Corporation title to the Garage Site;
- (b) the Garage Property Lease;
- (c) the Bond Documents;
- (d) the Wrap Building Project Loan Documents;
- (e) the Garage Construction Contract;
- (f) the Garage/Wrap Building Declaration;
- (g) an affidavit affirming that Developer: (i) is enrolled in the E-Verify Program; (ii) is participating in the E-Verify Program; and (iii) does not knowingly employ, or contract with, any Unauthorized Aliens;
- (h) confirmations by the applicable parties of the representations made by it in this Agreement;
- (i) copies of such resolutions, consents, authorizations, and other evidence as either party reasonably may request to establish that: (i) the persons executing and delivering the foregoing documents have been empowered and authorized by all necessary action of WRC, the Building Corporation, Developer, or the City, as applicable; and (ii) the execution and delivery of, and the performance of its obligations under, such documents, have been authorized by WRC, the Building Corporation, Developer, or the City, respectively; and
- (j) such other customary documents and instruments as any party may request in connection with the Closing.

The parties agree that the Garage Operating Agreement, together with a recordable memorandum thereof, will be executed prior to the date on which the Garage opens for use by tenants and members of the general public.

5. Conditions. Except to the extent waived by proceeding to the Closing, the obligation of each of City, WRC, Building Corporation, and Developer to proceed to the Closing is subject to the satisfaction, as of the Closing Date, of the conditions set forth in this Subsection.

- (a) The Allocation Area has been expanded to include the entirety of the Phase I Area and the Phase II Area.
- (b) Developer owns fee simple title to the entirety of the Phase I Area and the Phase II Area.
- (c) The parties have: (i) determined whether the Garage Site will include the land on which the Garage will be located (or whether the Garage Site will be an "air-only" parcel); and (ii) agreed on the legal description of the Garage Site for purposes of the limited warranty deed and the Garage Property Lease.
- (d) The Final Plans for the Garage Project and the Wrap Building Project have been

completed, or the parties are sufficiently satisfied with the progress of such Final Plans to proceed to the Closing.

(e) Developer has obtained (or the parties have determined that Developer will be able to obtain) all Required Permits for the Garage Project and the Wrap Building Project, to the extent that such Required Permits are available by their terms prior to commencement of construction.

(f) WRC, the Building Corporation, and/or the City, as applicable, have passed resolutions: (i) authorizing the execution of this Agreement; (ii) authorizing the issuance, closing, and funding of the Bonds and the execution of the Garage Property Lease; and (iii) authorizing the use of the Available Bond Proceeds to pay Garage Project Costs.

(g) WRC, the Building Corporation, Developer, and the City have agreed on the terms on which the Bonds will be issued.

(h) The Garage Budget has been finalized, and Developer, in the exercise of its reasonable discretion, has determined that the Available Bond Proceeds will be sufficient to pay the Garage Project Costs.

(i) Developer has determined or established: (i) that the development and construction of the Wrap Building Project is economically feasible; (ii) that the Wrap Building Project Lender is prepared to close on the Wrap Building Project Loan on terms satisfactory to Developer in its sole discretion; and (iii) to its satisfaction, and to the reasonable satisfaction of the City, the Building Corporation and the WRC, that it will have adequate funds (loan proceeds, equity investments, and/or cash on hand) to construct the Wrap Building Project.

(j) To the extent required by the Wrap Building Project Lender, Developer, WRC, the Building Corporation, and/or the City, as applicable, each acting in good faith, and the Wrap Building Project Lender have agreed to lender protection provisions described in Section 13 hereof

(k) Each of WRC, the Building Corporation, and Developer has agreed on the form and substance of the Garage Property Lease and the Garage/Wrap Building Declaration, including, without limitation, that WRC and Developer have reached an agreement with respect to the minimum and maximum number of parking spaces that will be designated for use exclusively by tenants and other occupants of the Wrap Building.

(l) Each of the City, Building Corporation, and Developer has agreed on the form and substance of the Funding Agreement.

(m) Developer is enrolled in the E-Verify Program.

(n) Each party has determined that: (i) there is no continuing breach of this Agreement by any other party; and (ii) all of the representations of the other parties set forth in this Agreement remain true and accurate in all material respects.

6. Condition Failure. If one or more of the conditions set forth in Section 5 is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, the applicable party either may elect to: (a) waive satisfaction of the conditions and proceed to Closing; or (b) terminate this Agreement by a written notice to the other parties; provided that, with respect to breaches of this Agreement by a party, the non-defaulting parties shall have the rights and remedies set forth in Section 11. Notwithstanding anything

to the contrary set forth herein, the parties shall work diligently and in good faith to satisfy the conditions set forth in this Section.

7. Plan Approval.

(a) Final Plans. Developer shall proceed through the City Approval Process to refine the Preliminary Plans for each Project into the Final Plans for such Project (and, as Developer proceeds through the City Approval Process for the Garage Project, Developer shall finalize the Garage Budget). At such time as all schematic design drawings, design development documents, construction drawings, and schedules comprising the Preliminary Plans for a Project have been approved through the City Approval Process, such drawings, documents, and schedules shall constitute the "Final Plans" for such Project. To the extent that any Final Plans are inconsistent with the definition or description of the applicable Project, the Final Plans for such Project, having been approved through the City Approval Process, shall control.

(b) Site Plan. Each of WRC, the Building Corporation and the City acknowledges it has reviewed and approves of the Site Plan, including the locations, types, and intended uses of the Projects comprising each Phase. Notwithstanding anything provided to the contrary in the City Approval Process, the City shall have the right to reject any proposed changes to the Site Plan that: (i) materially lessen the scope or scale of either Phase; (ii) materially alter the intended use, or the mix of uses, of the Projects in either Phase; (iii) contemplate architecture that is materially inconsistent with the architecture of other Projects or other public-private redevelopment projects in the area; or (iv) result in the use of materials of a quality materially inferior to materials incorporated into other Projects or other public-private projects in the area.

(c) Timing. Developer shall proceed through the City Approval Process for the Garage Project and the Wrap Building Project substantially in accordance with the estimated plan schedule attached hereto as Exhibit B. With respect to the other Projects in each Phase, Exhibit B reflects the currently anticipated timeframes for proceeding through the City Approval Process and estimated completion dates (or periods within which completion will occur) of all Projects, but is not intended to be binding on Developer. Developer acknowledges that the City, the Building Corporation and the WRC anticipate paying Bond Debt Service from Tax Increment generated and collected from all Projects in each Phase described in this Agreement. Accordingly, Developer agrees to exercise commercially reasonable, good-faith efforts to proceed through the City Approval Process for each Project in accordance with such schedule; provided that if, despite the exercise of such efforts, Developer is unable to adhere to such schedule, whether due to economic infeasibility or otherwise, then such inability shall not be an Event of Default, and, accordingly, none of WRC, the Building Corporation, nor the City shall be entitled to any remedies that would be available to it during the continuance of an Event of Default.

(d) Changes. Without being required to obtain the approval of the City (or its designated employee or consultant), Developer may execute change orders with respect to the Final Plans for the Wrap Building Project so long as the change reflected in the applicable change order: (i) will not result in a Fundamental Flaw; (ii) will not make it likely that the Tax Increment generated by Phase I or Phase II will be significantly less than the Projected Phase Increment for Phase I or Phase II, respectively; (iii) will not make it unlikely, impracticable, or impossible for Developer to complete and open the Garage or the Wrap Building by the date (or within the time period) set forth in the applicable Construction Schedule, as in effect immediately prior to the intended change; and (iv) is consistent with, and will have no negative effect on, the Final Plans for the Wrap Building Project or the Garage Project. For purposes of clarity, Developer shall be required to obtain

the approval of the City (or its designated employee or consultant) prior to executing changes orders: (i) with respect to the Final Plans for the Garage Project; (ii) for any changes that would make it likely that the Tax Increment generated by Phase I or Phase II will be significantly less than the Projected Phase Increment for Phase I or Phase II, respectively; and (iii) that would make it unlikely, impracticable, or impossible for Developer to complete and open the Garage or the Wrap Building by the date (or within the time period) set forth in the applicable Construction Schedule, as in effect immediately prior to the intended change. The City agrees that its approval described in this section (d) shall not be unreasonably withheld, including in the case of adjustments to Final Plans related to the connection between the Garage and the Wrap Building.

8. Construction.

(a) Construction. Developer shall construct the Garage Project and the Wrap Building Project, and each other Project constructed by it hereunder: (i) in a good and workmanlike manner; (ii) in substantial accordance with the applicable Final Plans, the terms and conditions of this Agreement, and the terms and conditions of the construction contract for such Project; and (iii) in compliance with the Laws.

(b) Available Bond Proceeds. Available Bond Proceeds shall be disbursed in accordance with the Funding Agreement and the other Bond Documents to pay (or reimburse Developer for) Garage Project Costs.

(c) E-Verify. Developer: (i) shall verify the work eligibility status of all newly-hired employees through the E-Verify Program; and (ii) shall not: (A) knowingly employ, or contract with, an Unauthorized Alien; or (B) retain an employee, or contract with a person, that Developer learns is an Unauthorized Alien. To the extent required by IC §§22-5-1.7, Developer shall require its contractor and each subcontractor to certify to Developer that, at the time of certification, the contractor or such subcontractor: (i) does not knowingly employ, or contract with, any Unauthorized Aliens; and (ii) has enrolled, and is participating, in the E-Verify Program. Developer shall maintain such certifications on file until the applicable construction contract or subcontract expires or is terminated.

(d) No Discrimination. Developer shall not discriminate against any employee or applicant for employment because of race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States Military service veteran status. Developer agrees to: (i) post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this Subsection; and (ii) state, in all solicitations or advertisements for employees placed or published by or on behalf of Developer, that all qualified applicants will receive consideration for employment without regard to race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States Military service veteran status. The foregoing shall apply notwithstanding any Law that may allow, or be interpreted to allow, discrimination on the basis of religious freedom or otherwise, and, to the fullest extent permitted by the Laws.

9. Inspection. Upon reasonable written notice delivered to Developer, which notice shall specify the portion of the construction to be inspected, the Building Corporation or its designee may perform an inspection of any item or element of the Garage Project; provided that, in connection therewith, the Building Corporation shall: (a) comply with all health and safety rules of which the Building Corporation has been informed that have been established for personnel present on the Garage Site; and (b) coordinate the inspection so that it does not materially interfere with the performance of construction by Developer. Developer shall have the right to accompany, and/or to have its construction manager accompany, the

Building Corporation during any such inspection.

10. Insurance-Garage Project. During construction of the Garage Project, Developer shall maintain with respect to such Project policies of insurance with coverages not less than that reflected on Exhibit D, together with any additional policies of insurance required by the Garage Construction Contract to be maintained. Each such policy shall: (a) be written by a company reasonably acceptable to the Building Corporation; and (b) provide that it shall not be modified or canceled without written notice to the Building Corporation at least 30 days in advance. Each policy of general liability insurance required by this Section to be maintained by Developer shall name the Building Corporation as an additional insured.

11. Events of Default.

(a) **Events of Default.** It shall be an "Event of Default" if any party fails to perform or observe any term or condition of this Agreement that is required to be performed or observed by it: (i) with respect to the obligation to pay money, if such failure is not remedied within ten days after such payment is due; and (ii) with respect to any other obligation, if such failure is not cured as of the date that is 30 days after the defaulting party receives notice specifying the nature of the failure; provided that, if the failure is of a nature that it cannot be remedied within 30 days, despite the exercise of reasonably diligent efforts, then the 30-day period shall be extended as reasonably may be necessary for the defaulting party to remedy the failure, so long as the defaulting party: (A) commences to remedy the failure within the 30-day period; and (B) diligently pursues such remedy to completion.

(b) **General Remedies.** During the continuance of an Event of Default, any non-defaulting party may take whatever actions at law or in equity are necessary or appropriate to: (i) collect any payments due to it under this Agreement; (ii) protect the rights granted to it 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, the underlying circumstance that resulted in the Event of Default.

(c) **No Remedy Exclusive.** Except as provided to the contrary in Section 12, 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; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission by a non-defaulting party to exercise any right or remedy during the continuance of an 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 Section or by the Laws.

(d) **Costs.** If the non-defaulting party incurs any costs or expenses in connection with exercising its rights and remedies under, or enforcing, this Agreement, then the defaulting party shall reimburse the non-defaulting party for all such costs and expenses, together with interest at the rate of 8% per annum.

12. Delay-Catch-Up Plan.

(a) **Catch-Up Plan.** If, at any time after Developer has commenced construction of the Garage Project or the Wrap Building Project, Developer falls 90 or more days behind with respect to any construction benchmark date (or the expiration of the period within which

such benchmark is to be reached) set forth in the Construction Schedule for the Garage Project or the Wrap Building Project, then the Building Corporation, by delivery of written notice to Developer, may require Developer to submit, within 20 days, a Catch-Up Plan for the Building Corporation's reasonable approval. Following approval by Building Corporation of a Catch-Up Plan, Developer shall implement, and diligently pursue the application of, such Catch-Up Plan.

(b) **Rejection.** If Developer: (i) fails to timely submit a Catch-Up Plan, and, at the time, is not working cooperatively with the Building Corporation to complete a Catch-Up Plan; or (ii) the Building Corporation rejects a Catch-Up Plan submitted by Developer; then the Building Corporation may develop a commercially reasonable Catch-Up Plan and require Developer to implement, and diligently pursue the application of, such Catch-Up Plan.

(c) **Catch-Up Default.** If there is a Catch-Up Default, then such Catch-Up Default shall constitute an Event of Default, and the Building Corporation shall have the right to exercise the remedies available to it with respect to a continuing Event of Default under Section 11. For purposes of clarity, unless and until there is a Catch-Up Default, a construction delay of the nature contemplated in Subsection 12(a) shall not constitute an Event of Default.

(d) **Re-Default.** If: (i) Developer has complied with its obligations with respect to the implementation of, and the satisfaction of its obligations under, a Catch-Up Plan; and (ii) subsequent to the satisfaction of such obligations again falls 90 days or more behind with respect to any construction benchmark date (or 90 days behind the expiration of the period within which such benchmark is to be reached) set forth in the Construction Schedule for the Garage Project or the Wrap Building Project (as revised to reflect the dates and/or time periods set forth in the most recent Catch-Up Plan under which Developer has satisfied its obligations), then, upon the expiration of such 90-day period, the provisions of this Section again shall apply.

(e) **Costs.** Notwithstanding that a construction delay of the nature contemplated in Subsection 12(a) is not an Event of Default unless and until there is a Catch-Up Default, following the expiration of the 90-day period referenced in Subsection 12(a), the Building Corporation shall have the right to: (i) exercise the remedy of specific performance to enforce the obligations of Developer pursuant to this Section; and (ii) recover from Developer all actual, out-of-pocket, third-party costs and expenses incurred by the Building Corporation in connection with exercising its rights and remedies under, or otherwise enforcing, the terms and conditions of this Section, together with interest at the rate of 8% per annum.

(f) **Sole Remedy.** The rights and remedies of the Building Corporation set forth in this Section are the sole rights and remedies available to any party for construction delays.

13. Lender Protections. Remedies available to a non-defaulting party under this Agreement (including, in the case of the Building Corporation, the remedies specified in Section 12) shall be subject to reasonable lender protection provisions. Each party agrees that, to the extent that lender protection provisions required by the Wrap Building Project Lender (or any other lender requesting such protections with respect to a loan secured by a Project) are commercially reasonable and customary in commercial loans in the area, such party shall agree to such provisions as long as (i) such provisions do not harm the rights of the holders of the Bonds set forth in the Indenture or (ii) require the WRC, the City, or the Building Corporation to cure any default by the Developer or a Developer Affiliate under the Wrap Building Project Loan (or any loan secured by a Project) or perform, guarantee or pay for any obligations on behalf of the Developer or a Developer Affiliate under the Wrap Building Project Loan (or any loan secured by a Project).

14. Representations. Each of WRC, the Building Corporation, Developer, and the City represents and warrants to the others that: (a) it shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement; (b) it has the power, and has been authorized, to enter into this Agreement and to perform its obligations hereunder; and (c) this Agreement is its legal, valid, and binding obligation. Each undersigned person executing this Agreement on behalf of a party or the City represents and certifies that he or she has been empowered and authorized by all necessary action of the applicable entity to execute and deliver this Agreement. In addition to the foregoing: (a) each of WRC, the Building Corporation, and the City warrants to Developer that it is a public body organized and existing under the laws of the State of Indiana; and (b) Developer represents and warrants to WRC, the Building Corporation, and the City that it is a limited liability company organized and existing under the laws of the State of Indiana.

15. Mutual Indemnification.

(a) **Mutual.** Each party shall indemnify and hold harmless the others from and against any and all Claims arising from, or connected with: (i) the indemnifying party's negligence or willful misconduct (or the negligence or willful misconduct of any party acting by, under, through, or on behalf of it); and/or (ii) any default by the indemnifying party under this Agreement.

(b) **Individual.**

(i) Developer shall indemnify and hold harmless the City, the Building Corporation and the WRC from and against any and all Claims arising from, or in connection with (i) construction of the Garage Project (ii) breaches by the Developer under contracts to which Developer is a party, to the extent that such contract related to the performance of any work on the Garage Property by the Developer or any party acting by, under, through, or on behalf of Developer; (iii) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on the Garage Property by Developer, or any party acting by, under, through, or on behalf of Developer; (iv) the negligence or willful misconduct of Developer or any party acting by, under, through, or on behalf of Developer relating to the performance of any work on the Garage Property; (v) Developer suffering or causing the filing of any mechanic's or materialmen's lien against the Garage Property or any adjacent property owned by the City, the Building Corporation or WRC; (vi) breach by Developer of any term or condition of this Agreement.

(ii) The Building Corporation shall indemnify and hold harmless Developer from and against any and all Claims arising from, or in connection with, the acts or omissions of the Building Corporation or its agent in the course of any inspection of the Garage Project conducted by or on behalf of the Building Corporation; provided, however, such indemnification obligation shall in no event include any Claim arising out or related to the mere discovery by Building Corporation or its agent of a defect or other issue that results in a Claim.

(c) **Exception/Survival.** The indemnification obligations of the parties in this Section: (i) shall not apply to the extent that a Claim arises due to the negligence or willful misconduct of another party; and (ii) as applicable to a Project shall survive for a period of two years after the first to occur of the substantial completion date of such Project or the earlier termination of this Agreement, as applicable to such Project.

16. Assignment.

(a) **General Rule.** None of WRC, the Building Corporation, nor Developer shall assign this Agreement without the prior written consent of the other parties; provided that, without the written consent of the other party: (i) WRC or the Building Corporation may assign this Agreement to another City Agency that has full power, authority, and capability to accept such assignment and perform the obligations of WRC or the Building Corporation, respectively, hereunder; and (ii) Developer may assign this Agreement, either in its entirety or to the extent applicable to a particular Project, to a Developer Affiliate that has full power, authority, and capability to accept such assignment and perform the obligations of Developer hereunder. The foregoing shall not operate to prevent Developer to assign or collaterally assign its rights hereunder to the Wrap Building Project Lender (or any other lender making a loan secured by a Project).

(b) **No Release.** Notwithstanding any assignment permitted under this Section, an assigning party 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 parties of any assignment shall not release the assigning party from such performance; provided that, if WRC or the Building Corporation assigns this Agreement to another City Agency, that: (i) has full power, authority, and capability to accept an assignment of this Agreement and carry out the obligations of WRC or the Building Corporation, respectively, hereunder; and (ii) expressly assumes all such obligations in writing; then WRC or the Building Corporation, respectively, 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 either party to this Agreement shall be in writing, and shall be deemed to have been given when: (a) delivered in person to the other party; or (b) sent by national overnight delivery service, with confirmation of receipt, addressed as follows: to WRC at 2728 East 171st Street, Westfield, Indiana 46074, Attn: President, with a copy to Manny Herceg, Esq., Taft Stettinius & Hollister, One Indiana Square, Suite 3500, Indianapolis, Indiana 46204; to the Building Corporation at Taft, Stettinius & Hollister, One Indiana Square, Suite 3500, Indianapolis, Indiana 46220, Attn: Manny Herceg; and to Developer at 31 1st Street SW, Carmel, Indiana 46032, with a copy to Jerimi J. Ullom, Esq., Hall, Render, Killian, Heath & Lyman, P.C., 500 N. Meridian Street, Indianapolis, Indiana 46204. Any party may change its address for notice by written notice delivered to the other parties as provided above.

18. 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 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 parties; (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. For purposes of this Section, "Force Majeure" shall mean, with respect to a party: (a) an act or omission of another party (or of the City); or (b) any other cause that is not within the reasonable control of such party (including, without limitation: (i) unusually inclement weather; (ii) the unusual unavailability of materials, equipment, services or labor; (iii) epidemics, pandemics, and other public health circumstances resulting in a governmental declaration of a public health emergency or its equivalent; and (iv) utility or energy shortages or acts or omissions of public utility providers).

22. Miscellaneous. Subject to Section 16, this Agreement shall inure to the benefit of, and be binding upon, the parties, and their respective successors and assigns. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. This Agreement: (a) may be modified only by

a written agreement signed by the City, WRC, the Building Corporation, and Developer. 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. All Exhibits to this Agreement are attached hereto and incorporated herein by reference.

[Signature Page Follows]

IN WITNESS WHEREOF, WRC, Building Corporation, Developer, and City have executed this Agreement as of the date set forth in the introductory paragraph hereof.

CITY OF WESTFIELD REDEVELOPMENT
COMMISSION

By: Joseph Plankis
Printed: JOSEPH PLANKIS
Title: PRESIDENT

CITY OF WESTFIELD BUILDING CORPORATION

By: Ronald T. Moore
Printed: Ronald T Moore
Title: President

UNION SQUARE PLAZA LLC

By: _____
Printed: _____
Title: _____

CITY OF WESTFIELD, INDIANA

By: Jo Andrew Cook
Printed: Jo Andrew Cook
Title: Mayor

IN WITNESS WHEREOF, WRC, Building Corporation, Developer, and City have executed this Agreement as of the date set forth in the introductory paragraph hereof.

CITY OF WESTFIELD REDEVELOPMENT
COMMISSION

By: _____

Printed: _____

Title: _____

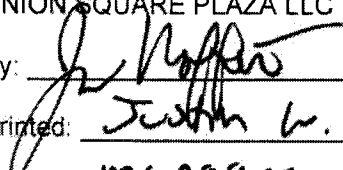
CITY OF WESTFIELD BUILDING CORPORATION

By: _____

Printed: _____

Title: _____

UNION SQUARE PLAZA LLC

By:  _____

Printed: Justin W. Muffett

Title: manager

CITY OF WESTFIELD, INDIANA

By: _____

Printed: _____

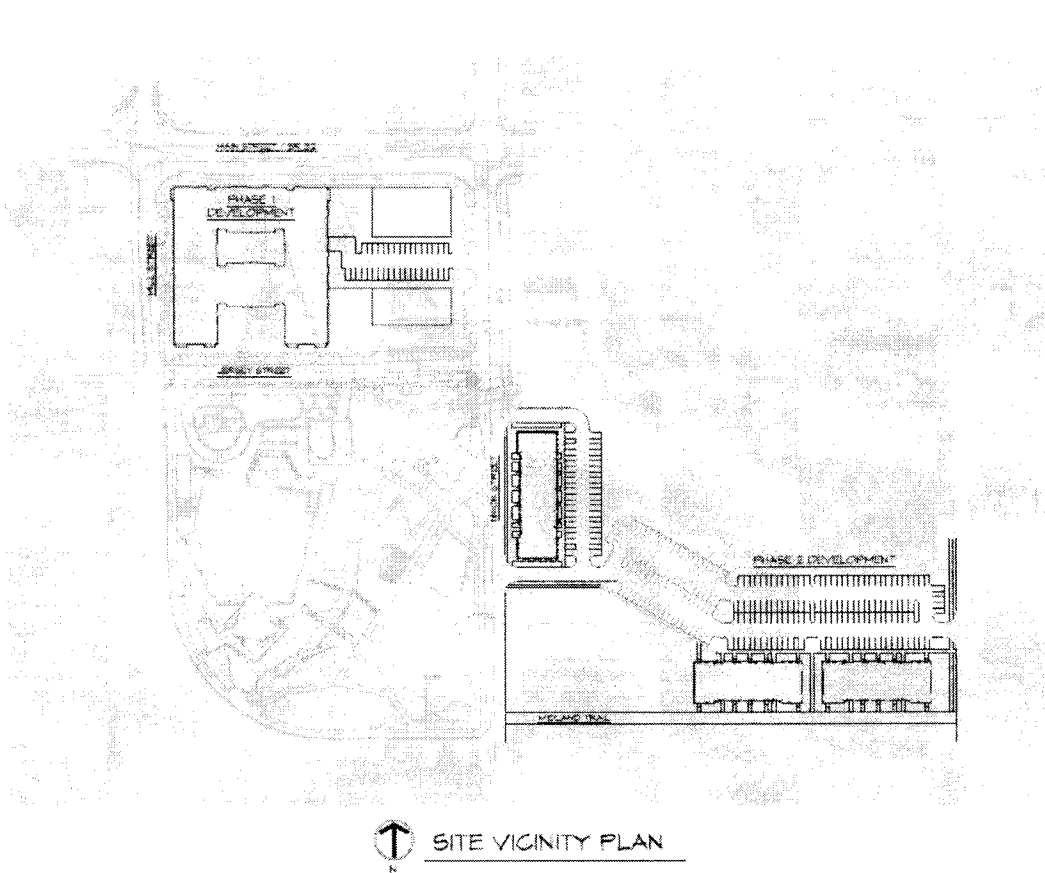
Title: _____

INDEX TO EXHIBITS

Exhibit A	Site Plan
Exhibit B	Estimated Project Schedule
Exhibit C	Garage/Wrap Building Declaration Provisions
Exhibit D	Insurance Requirements (Developer)
Exhibit E	Funding Agreement Provisions
Exhibit F	Tax Increment Projections

EXHIBIT A - Page
Site Plan Page 1

Delineation of Phase I and Phase II

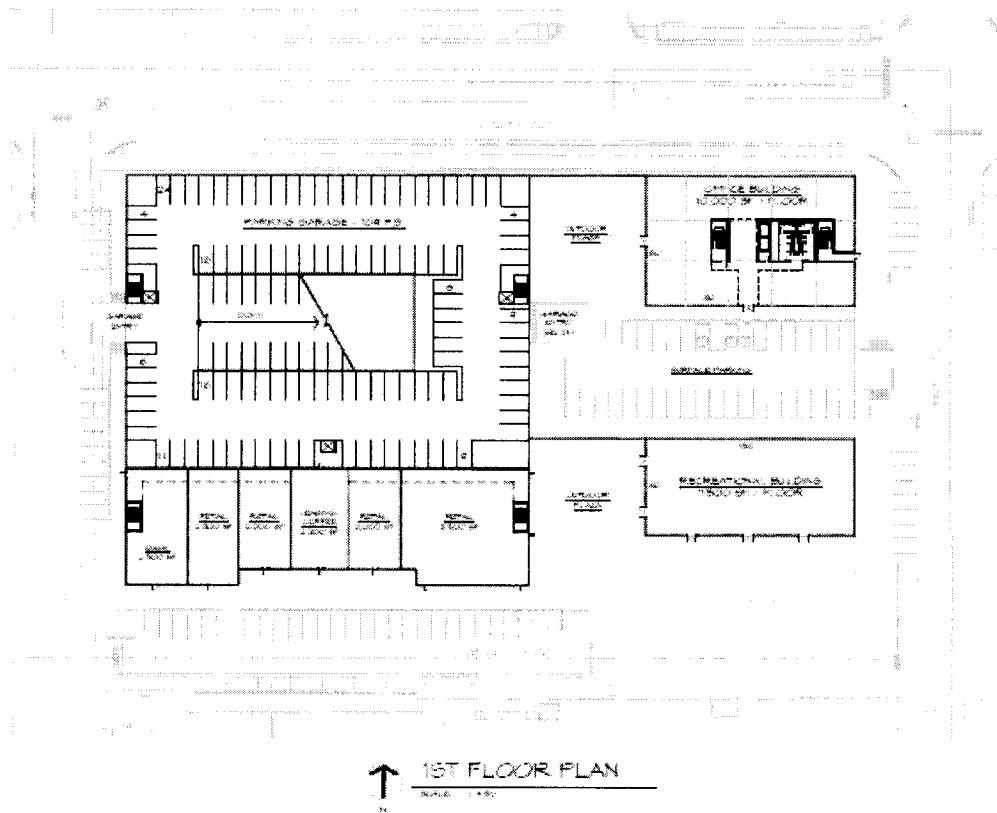


STUDIO M
ARCHITECTURE & PLANNING

UNION SQUARE
WESTFIELD, INDIANA

EXHIBIT A
Site Plan Page 2

Phase I



STUDIO M
ARCHITECTURE & PLANNING

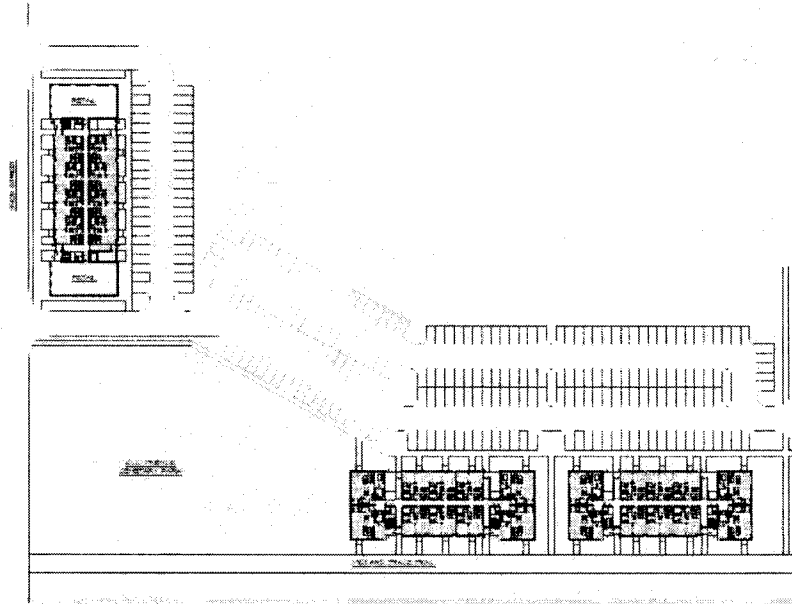
10.12.2017

UNION SQUARE
WESTFIELD, INDIANA

A1

EXHIBIT A
Site Plan Page 3

Phase II



1ST FLOOR PLAN

SCALE 1" = 20'



STUDIO M
ARCHITECTURE & PLANNING

3.7.2020

UNION SQUARE
WESTFIELD, INDIANA

OPT 1

EXHIBIT B
Estimated Project Schedule

Phase 1:

Construction Start Garage Project and Wrap Building Project – June 2022

Construction Finish Garage Project and Wrap Building Project – March – May 2024

Construction Start Rec Building Project– April 2023

Construction Finish Rec Building Project- May 2024

Construction Start Office Project– April 2023

Construction Finish Office Project– May 2024

Phase 2:

Construction Start Multifamily Buildings w/ Main Level Retail Projects – April 2024

Construction Finish Multifamily Buildings w/ Main Level Retail Projects – June 2025

***All required zoning approvals have been obtained. Construction plans are required to be submitted to Planning Director for review and placement on APC Agenda as Consent Agenda Approval items 30 days prior to construction start.**

EXHIBIT C
Garage/Wrap Building Declaration Provisions

The Garage/Wrap Building Declaration will include, at a minimum, the provisions set forth in this Exhibit, but this Exhibit is not intended to be a comprehensive listing of all of the provisions that will be in the Garage/Wrap Building Declaration. As determined by the parties prior to the Closing, certain terms and conditions set forth in this Exhibit may be revised as necessary or required and may also be addressed in the Garage Operating Agreement instead of (or in addition to) the Garage/Wrap Declaration.

All capitalized terms used but not defined in this Exhibit shall have the meanings ascribed to such terms in that certain Development Agreement (Union Square) executed by and among WRC, the Building Corporation, and Developer to which this Exhibit is attached (the "Agreement").

1. Definitions.

Garage Property Owner shall mean any person or entity owning fee simple title to any portion of the Garage Property; provided that, during the term of the Garage Property Lease, the Tenant (as the Possessory Interest Holder) shall be deemed to be the Garage Property Owner for purposes of the Garage/Wrap Building Declaration, notwithstanding that the Building Corporation (or, if applicable, another City Agency) owns fee simple title to the Garage Property.

Possessory Interest Holder shall mean the holder of the right to possess, operate, manage, and control the usage of the Garage Property. By virtue of the Garage Property Lease, the tenant thereunder (as opposed to the Building Corporation) is the Possessory Interest Holder during the term of the Garage Property Lease. On the date hereof, WRC is the tenant under the Garage Property Lease and, accordingly, the Possessory Interest Holder.

Property shall mean the Garage Property and/or the Wrap Building Property, as applicable.

Property Owner shall mean the Garage Property Owner and/or the Wrap Building Property Owner, as applicable.

Wrap Building Property Owner shall mean any person or entity owning fee simple title to any portion of the Wrap Building Property.

2. Easements Grant. The easements set forth in this Section shall be declared, created, made, and reserved; provided that such easements are not necessarily the only easements that will be granted in the Garage/Wrap Building Declaration.

(a) **Construction.** For the benefit of the Properties, temporary reciprocal easements for construction and/or installation of each of the Garage Project and the Wrap Building Project in accordance with the applicable Final Plans and the terms and conditions of the Agreement, including, without limitation, easements for constructing structural elements (including columns) and installing systems and equipment.

(b) **Structural Support.** For the benefit of the Properties, reciprocal easements of vertical and/or horizontal support. Such easements may include (but are not necessarily limited to), those set forth in this Section.

(i) If the Garage Site does not include the land on which the Garage will be constructed (and such land instead is part of the Wrap Building Site), then, for the benefit of the Garage Property, an easement for support

by such land, together with: (A) the right to retain the Garage in its location once construction of the Garage Project is complete; and (B) the right to replace all or any portion of the Garage on such land.

(ii) For the benefit of the Properties, easements for: (A) attachment of the Wrap Building to the Garage (or the Garage to the Wrap Building, as applicable) in accordance with the applicable Final Plans; (B) creation of pedestrian connections between the Garage and the Wrap Building in accordance with the applicable Final Plans; and (C) maintaining such attachments and pedestrian connections in place.

(iii) For the benefit of the Wrap Building Property, easements for: (A) vertical and horizontal support from the Garage; and (B) installing, maintaining in place, and using residential amenities on the roof of the Garage in accordance with the Final Plans for the Wrap Building Project;

(c) Vehicular Access. For the benefit of the Properties, reciprocal easements for vehicular access, ingress, and egress in, on, over, across, and through vehicular access points in the Garage (including entrances, exits, ramps, drives, and drive lanes) to and from Garage parking spaces and public streets adjacent to the Garage Site.

(d) Parking. For the benefit of the Wrap Building Property, easements for parking in parking spaces designated for the exclusive use of tenants or other occupants of the Wrap Building, the terms and conditions of which will be determined by the parties prior to the Closing; provided that, in all events the number of parking spaces reserved for the exclusive use of such tenants or other occupants be less than the number of parking spaces necessary or reasonably appropriate to satisfy: (i) zoning requirements applicable with respect to the Wrap Building Property; and (ii) the parking needs of then-current and reasonably anticipated tenants and other occupants, taking into account the number of parking spaces customarily available to serve similarly sized residential and commercial developments in the general area; provided that, in no event shall there be fewer than 30% of the total available parking spaces in the Garage designated for the exclusive use of tenants or occupants of the Wrap Building Property.

(e) Pedestrian Access. For the benefit of the Properties, reciprocal easements for pedestrian access, ingress, and egress in, on, over, across, and through common pedestrian facilities in the Garage and the Wrap Building to and from Garage parking spaces and public sidewalks and other pedestrian walkways adjacent to the Garage Property or the Wrap Building Property. The foregoing shall not be deemed to grant a right of access, ingress, and/or egress in, on, over, across, or through any areas or facilities within the Wrap Building properly designated by the Wrap Building Property Owner as restricted pedestrian areas.

(f) Equipment/Systems. For the benefit each Property, reciprocal easements in, on, over, across, under, and through the other Property as is necessary or reasonably appropriate or: (i) the construction and/or installation of equipment and mechanical and other systems and facilities (which may include, without limitation, control equipment, elevator facilities, stair tower facilities, fire suppression systems, utility facilities, and venting systems; (ii) maintaining the foregoing equipment, facilities, and systems in their locations; and (iii) use of such equipment, facilities, and systems for their intended purposes.

(g) Maintenance. for the benefit of the Property Owners (and, during the term of the Garage Property Lease, the Possessory Interest Holder), easements for performing

maintenance, repairs, and/or replacements permitted by, or required pursuant to, the Garage/Wrap Building Declaration.

(h) Encroachments. For the benefit of the Properties, reciprocal easements allowing any portion of the completed Garage or completed Wrap Building that encroaches onto the Wrap Building Property or the Garage Property, respectively (whether due to minor construction variations or due to minor settling), to remain in its location, so long as such encroachment does not affect the safety or structural integrity of the Property in or upon which such encroachment is located.

(i) Public Easements. For the benefit of the general public, easements for:

(i) pedestrian access, ingress, and egress in, on, over, across, and through common pedestrian facilities in the Garage and the Wrap Building to and from public parking spaces in the Garage and public sidewalks and other pedestrian walkways adjacent to the Garage Site and the Wrap Building Site. The foregoing shall not be deemed to grant a right of access, ingress, and/or egress in, on, over, across, or through any areas or facilities within the Wrap Building properly designated by the Wrap Building Project Owner as restricted pedestrian areas.

(ii) vehicular access in, on, over, across, and through vehicular access points in the Garage (including entrances, exits, ramps, drives, and drive lanes) to and from public parking spaces in the Garage and public streets adjacent to the Garage Site; and

(iii) parking vehicles in public parking spaces in the Garage on a first-come, first-served basis; provided that the rights provided by such easement shall be subject to rules, parking charges, and directional signage from time-to-time imposed and/or posted by the Garage Property Owner.

Notwithstanding that members of the general public are the stated beneficiaries of the foregoing public easements, no member of the general public shall have the right to enforce, and/or make claims under, the Garage/Wrap Building Declaration with respect thereto; accordingly, only the Garage Property Owner (which is the Possessory Interest Owner during the term of the Garage Property Lease) and the Wrap Building Property Owner shall have the right to enforce, and/or make claims under, the Garage/Wrap Building Declaration respect thereto.

3. Operating/Maintenance.

(a) Garage. The Garage Property Owner will be required to: (i) operate, maintain, and repair the Garage Property to a standard at least as high as the standards for the maintenance and repair of public parking garages in the City, including maintenance of all structural elements located in or on the Garage Property; (ii) maintain liability and casualty insurance with respect to the Garage Property; (iii) administer parking spaces; (iv) collect and account for revenues; and (v) restore and/or rebuild the Garage pursuant to plans and specifications reasonably approved by the Wrap Building Property Owner following a casualty event.

(b) Wrap Building. The Wrap Building Property Owner will be required to: (i) maintain and repair the Wrap Building Property, including structural elements located in or on the

Wrap Building Property; (ii) maintain liability and casualty insurance with respect to the Wrap Building Property; and (iii) restore and/or rebuild the Wrap Building Property pursuant to plans and specifications reasonably approved by the Garage Property Owner if there is casualty damage.

4. Resident Parking.

(a) **Space Leases.** The Garage/Wrap Building Declaration and/or the Garage Operating Agreement will: (a) include the right of the Wrap Building Property Owner to lease parking spaces for exclusive use by occupants of the Wrap Building 24 hours per day, seven days per week; provided that the Garage Property Owner may elect to require the Garage Property Owner to enter into such lease directly with such occupants; (b) contemplate a process therefor; provided that, at the election of the Wrap Building Property Owner, the Garage Property Owner will lease such parking spaces to the Wrap Building Property Owner for subsequent lease to individual residents.

(b) **Revenues.** Revenue resulting from the leasing of parking spaces to residential tenants of the Wrap Building shall be collected by the Garage Property Owner and deposited into an account dedicated and restricted expressly to the operation and maintenance of the Garage Property. It is anticipated that such revenues, in the aggregate, will be sufficient to pay all costs of operating and maintaining the Garage Property (including all such costs reasonably allocable to parking spaces reserved for the exclusive use of tenants and other occupants of the Wrap Building), with any remaining revenue from time-to-time being released to the Garage Property Owner.

5. Encroachments. Notwithstanding that legal descriptions of each of the Garage Site and the Wrap Building Site will be attached to the Garage/Wrap Building Declaration, each of WRC and Developer acknowledges and agrees that it is likely that, when constructed, the Garage Project and/or the Wrap Building Project may not be located entirely within the boundaries of the Garage Site or the Wrap Building Site, respectively. Accordingly, the Garage/Wrap Building Declaration may include provisions that address the exchanging of deeds, or the granting of more specific easements or licenses, after completion of each of the Garage Project and the Wrap Building Project.

6. Tax Appeal. The Wrap Building Property Owner will be required to covenant that it will not challenge or appeal the applicable tax rate, the assessed value of the Wrap Building Project, or the application of the applicable tax rate to the assessed value, to the extent that such challenge or appeal would result in the Tax Increment being less than 110% of the aggregated Projected Phase Tax Increment for Phase I and Phase II.

EXHIBIT D
Required Insurance

The attached sample Certificate of Liability Insurance sets forth the minimum coverages Developer is required to maintain during construction of the Garage Project and otherwise in accordance with this Agreement. Each policy shall name Building Corporation as an additional insured. No policy may be modified or canceled without written notice to Building Corporation at least 30 days in advance.



CERTIFICATE OF LIABILITY INSURANCE

SAMPLE-

OP ID: KP

DATE (MM/DD/YYYY)

07/21/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: DAR THE ROCCHIO AGENCY 4660 LISBORN DRIVE CARMEL, IN 46033 David A. Rocchio	CONTACT NAME: NAME OF INSURANCE AGENT?	
	PHONE (Area, Loc., Ext.): AGENT PHONE	FAX (Area, Loc., Ext.): AGENT FAX
INSURED: CONTRACTOR-VENDOR NAME MUST MATCH NAME ON CONTRACT CONTRACTOR ADDRESS	E-MAIL ADDRESS: AGENT EMAIL ADDRESS	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: NAME OF INSURANCE COMPANY	
	INSURER B: PROVIDING THE INSURANCE, MUST	
	INSURER C: BE A: RATED OR BETTER	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:	
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSR. TYPE	TYPE OF INSURANCE	PROD. SUBR. (INSR. W/O)	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☐ GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC ☐ OTHER	Y	Y	POLICY NUMBER	01/01/2021 01/01/2022
				LIMITS	
				EACH OCCURRENCE \$ 1,000,000	
				DAMAGE TO RENTED PREMISES (if a contract) \$ 100,000	
				MED EXP (any one person) \$ 5,000	
				PERSONAL & ADV INJURY \$ 1,000,000	
				GENERAL AGGREGATE \$ 2,000,000	
				PRODUCTS - COMPOUND AGG \$ 2,000,000	
A	☒ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS	Y	Y	POLICY NUMBER	01/01/2021 01/01/2022
				COMBINED SINGLE LIMIT (if a contract) \$ 1,000,000	
				BODILY INJURY (Per person) \$	
				BODILY INJURY (Per incident) \$	
				PROPERTY DAMAGE (if a contract) \$	
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED. ☒ RETENTIONS 0	Y	Y	POLICY NUMBER	01/01/2021 01/01/2022
				EACH OCCURRENCE \$ 5,000,000	
				AGGREGATE \$ 5,000,000	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY EMPLOYER/EMPARTNER/EXECUTIVE OFFICER/OWNER/BOARD EXCLUDED? (Mandatory in NH) If yes, describe job: DESCRIPTION OF OPERATIONS below	Y/N N	N/A	Y	POLICY NUMBER
				01/01/2021 01/01/2022	
				X PER STATUTE ☐ OTHER	
				E.L. EACH ACCIDENT \$ 1,000,000	
				E.L. DISEASE - EA EMPLOYEE \$ 1,000,000	
				E.L. DISEASE - POLICY LIMIT \$ 1,000,000	
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required):					
ALL PROJECTS					
SEE ATTACHED NOTEPAD FOR INSURANCE REQUIREMENTS.					

CERTIFICATE HOLDER	CANCELLATION
OLD TOWN CONSTRUCTION, LLC 1132 S. RANGELINE ROAD CARMEL, IN 46032	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE David A. Rocchio

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ACORD 25 (2014/01)

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4842-9012-1199v12

EXHIBIT E

Funding Agreement Provisions

Provisions consistent with those set forth in this Exhibit shall be included in the Funding Agreement. These provisions may be modified as required or necessary to conform to the Trust Indenture. All capitalized terms used but not defined in this Exhibit shall have the meanings ascribed to such terms in that certain Development Agreement (Union Square) executed by and among the City, WRC, the Building Corporation, and Developer to which this Exhibit is attached (the "Agreement").

1. Information. In connection with each request for disbursement of Available Bond Proceeds, Developer shall provide the following to the City (or its designated employee or consultant):

(a) in the case of the first request for disbursement only, a certification by Developer that the Building Corporation has approved the Garage Construction Contract;

(b) copies of invoices, together with a certification by Developer that: (i) all such invoices are for the payment of Garage Project Costs; and (ii) the Garage Project Costs being paid pursuant to such invoices have not been paid previously with a disbursement of Available Bond Proceeds;

(c) a certification by Developer or the general contractor for the Garage Project that: (i) it has obtained lien waivers from subcontractors with contracts for work in an aggregate amount of at least \$50,000.00 that otherwise would have the right to claim valid mechanics' or similar liens against all or a portion of the Garage Property for: (A) work or services performed; or (B) supplies, material, or equipment provided; with respect to the Garage Project through the date of the immediately previous request for disbursement; and (ii) upon receipt of the requested disbursement: (A) full payment will be made to the parties (and only to the parties) named in such invoices; and (B) after such payments, all invoices submitted as part of Disbursement Requests prior to and including the current Disbursement Request will have been paid in full;

(d) reasonably satisfactory evidence that: (i) no mechanics' liens have been filed against all or any portion of the Garage Property for: (A) work or services performed; or (B) supplies, material, or equipment provided; with respect to the Garage Project; and (ii) no other liens or encumbrances have been recorded against all or any portion of the Garage Property in connection with the construction of the Garage Project; since the date of the immediately previous Disbursement Request, other than: (A) the lien of real estate taxes not delinquent; and (B) grants of easements reasonably determined by WRC or the Building Corporation, as applicable, and Developer, to be necessary or appropriate in connection with the construction and/or use of the Garage Project (taking into account its integration with the Wrap Building); and

(e) an architect's certification: (i) stating that the portion of the Garage Project completed to date: (A) has been constructed in substantial accordance with the Final Plans therefor and the Laws; and (B) does not encroach upon any easements or rights-of-way, or across any building set-back lines or utility lines (except to the extent that such encroachment is permitted, and/or is reasonably expected to occur given the integrated nature of the Garage and the Wrap Building); and (ii) certifying: (A) the estimated values of work in place on the Garage Site; and (B) the percentage of completion of the Garage Project.

2. Disbursement.

4842-9012-1199v12

(f) Disbursement Approval. Absent any good faith questions or concerns with respect to the information included as part of a Disbursement Request, the City, within five (5) business days after receipt of a complete Disbursement Request, shall submit to the Trustee a statement authorizing disbursement in accordance with the Disbursement Request; provided that, if the City identifies any good faith questions or concerns with respect to such Disbursement Request, then the City will not be obligated to authorize the disbursement until such time that its questions or concerns have been addressed to its reasonable satisfaction.

(g) Frequency/Retainage. Disbursements of Available Bond Proceeds shall not be made more frequently than monthly, and, notwithstanding anything to the contrary set forth herein, retainage of 10% shall be withheld from each disbursement of Available Bond Proceeds, which retainage shall be paid with the final disbursement of Available Bond Proceeds.

3. Bypass Authority. This Exhibit shall not be construed as prohibiting the City from authorizing a disbursement of Available Bond Proceeds without proceeding through the process set forth herein, so long: (a) as such authorization is not prohibited by the terms and conditions of the Trust Indenture; and (b) the City has been authorized by proper action to authorize such a disbursement.

EXHIBIT F
Phase I Tax Increment Projections/Phase II Tax Increment Projections

WESTFIELD REDEVELOPMENT COMMISSION

PROPOSED PROJECT COMPONENTS AND ESTIMATED TAX INCREMENT
(UNION SQUARE ALLOCATION AREA)

DESCRIPTION	Estimated Square Footage	Estimated Developer Cost	Assumed Assessed Value	Assessed Value Improvements	Less Assessed Value Existing Improvements	Estimated Net Assessed Value	Assumed Tax Rate	Estimated Tax Increment Revenue	Revenue by Year		
									Pay 2025	Pay 2026	Pay 2027
PHASE I - UNION SQUARE											
Retail	32,000	\$ 8,100,000	\$130 SF	\$ 4,160,000	\$ (768,500)	\$ 3,391,400	\$ 2.0000	\$ 67,828			
Office	30,000	9,000,000	\$130 SF	3,900,000	-	3,900,000	\$ 2.0000	78,000			
Multi-Family (160-180 Units)	228,000	32,250,000	\$115 SF	26,220,000	-	26,220,000	\$ 2.0000	524,400			
		<u>\$49,350,000</u>	PHASE I	<u>\$ 34,280,000</u>		<u>\$33,511,400</u>		<u>\$ 670,228</u>	<u>\$ 602,671</u>	<u>\$ 670,228</u>	<u>\$ 670,228</u>
PHASE II - MIDLAND NORTH											
Retail	10,000	\$ 1,800,000	\$130 SF	\$ 1,300,000	(180,700)	1,119,300	\$ 2.0000	\$ 22,386			
Multi-Family (100-120 Units)	120,000	18,000,000	\$115 SF	13,800,000	-	13,800,000	\$ 2.0000	276,000			
		<u>\$19,800,000</u>	PHASE II	<u>\$ 15,100,000</u>		<u>\$14,919,300</u>		<u>\$ 298,386</u>	-	223,790	298,386
Totals									<u>\$ 602,671</u>	<u>\$ 894,018</u>	<u>\$ 968,614</u>

Key Assumptions:

- 1) Construction for Phase I begins in 2022 and estimated to be 75% completed by the end of 2023. Project complete 8-1-2024 and fully assessed 1-1-2025. Full tax increment revenue received beginning 2026. Phase II expected to follow one year later.
- 2) Assessed Value of new construction based upon Developer representations of per square foot values.
- 3) Developer's hard & soft cost excluding the public garage totals \$69,150,000. Their assumed assessed values represent approximately 71% of cost.
- 4) Total pay 2021 tax rate for commercial property in the City net of school referendum rates is \$2.1990. Since the City and School Corp project continuing reduction in the net rate, we have conservatively applied a \$2.00 rate which represents the cap for multi-family property for all commercial improvements.

2022048270 DECL \$25.00
 10/03/2022 08:40:33AM 59 PGS
 Jennifer Hayden
 Hamilton County Recorder IN
 Recorded as Presented



Cross-References

The deeds pursuant to which the parties hereto have received fee simple title are recorded in the Office of the Hamilton County Recorder as Instruments No. 2020080350, 2021081024, 2021081155, 2021081544 and 2022048267

The "Lease" referenced in this Declaration is recorded in the Office of the Hamilton County Recorder as Instrument No. 2022048268

DECLARATION Union Square

This Declaration (Union Square) (the "Declaration") is executed this 27th day of September, 2022, by and among Union Square Plaza LLC (the "Wrap Building Developer"), the City of Westfield Building Corporation (the "Building Corporation"), the City of Westfield Redevelopment Commission ("WRC"), and the City of Westfield, Indiana (the "City").

1. Definitions.

City Agency shall mean any agency, board, commission, department, instrumentality, or unit of the City

City Approval Process shall mean, with respect to each Project, the process by any City Agency for: (a) refining the Preliminary Plans into the Final Plans; and (b) obtaining the Required Permits; which shall be the same process customarily required for developers of commercial real estate projects seeking the equivalent of the "Required Permits" for their projects.

Conveyance Instrument shall mean any agreement or instrument that conveys, transfers, grants, creates, assigns, or mortgages any interest in all or any portion of either Property.

Development Agreement shall mean that certain Development Agreement (Union Square) attached hereto as Exhibit F executed by and among the Wrap Building Developer, the Building Corporation, WRC, and the City and dated June 9, 2022, as supplemented and amended.

Easements shall mean the easements granted pursuant to Section 2.

Equipment/Systems shall mean all equipment and mechanical and other systems and facilities installed as part of the Garage or the Wrap Building, including, without limitation:

- (a) entrance and exit gates, ticket dispensers and/or readers, and other equipment used in the control of entrance into, exit from, and/or parking in the Garage;
- (b) elevator facilities located in the Garage or the Wrap Building, as applicable, including: (a) the passenger elevators, the entrances and exits to and from such passenger elevators, and the lobbies serving such passenger elevators; and (b) the elevator shafts, motors, cables, and related facilities;
- (c) the system for the suppression and extinguishment of fires in or on the Properties, which may include, without limitation, fire alarms and other monitoring equipment, fire extinguishers, sprinklers, smoke and/or fire dampers and/or doors, and such other equipment and facilities commonly used in similar facilities for the suppression and/or

extinguishment of fires;

(d) stair towers located in the Garage or the Wrap Building, as applicable, together with the stairways located within such stair towers, the entrances and exits to and from such stair towers, and any lobbies servicing such stair towers, exits, and entrances;

(e) lines, conduits, pipes, mains, valves, meters, lifts, chases, and related facilities for the provision of: (i) electrical power; (i) natural gas; (iii) water for consumption, irrigation, and/or fire protection; (iv) sanitary sewer service; and/or (v) telephone, cable, satellite, internet, and other communications or information services; and

(f) systems providing heating, ventilation, and/or air conditioning for the Garage and/or the Wrap Building.

Execution Date shall mean the date set forth in the introductory paragraph of this Declaration.

Final Plans shall mean, at the time that all schematic design drawings, design development documents, construction drawings, schedules, and (in the case of the Garage Project) budgets for a Project have been approved by the applicable City Agencies pursuant to the City Approval Process, such schematic design drawings, design development documents, construction drawings, schedules, and (in the case of the Garage Project) budgets. To the extent that any Final Plans are inconsistent with the definition or description of the applicable Project, the Final Plans for such Project, having been approved through the City Approval Process, shall control.

Garage shall mean an above-ground structured parking facility containing approximately 300 parking spaces, together with entrances and exits, ramps and drives, elevator lobbies, and related facilities. The Garage: (a) will be “wrapped”, in whole or in part, by the Wrap Building; and (b) may incorporate a roof (as opposed to an open top level of parking spaces) on which a portion of the Wrap Building would be constructed, which portion may house a courtyard on the portion of the Wrap Building Site located immediately above the roof of the Garage.

Garage Project shall mean: (a) any demolition of existing improvements on, or other site preparations with respect to, the portion of the Garage Site (and, if applicable, the Wrap Building Site) that are deemed by Developer to be necessary or appropriate; (b) the construction of the Garage on the Garage Site; and (c) the encapsulation of the existing legal drain; together with any attendant improvements, all as reflected in the Final Plans for the Garage Project.

Garage Property shall mean, collectively, the Garage Site and the Garage.

Garage Property Owner shall mean any person or entity owning fee simple title to any portion of the Garage Property; provided that, during the Lease Term, the Possessory Interest Holder (which, on the Execution Date, is WRC) shall be deemed to be the Garage Property Owner, notwithstanding that the Building Corporation (or, if applicable, another City Agency) owns fee simple title to the Garage Property.

Garage Site shall mean that certain three-dimensional space more particularly described on Exhibit B, which description was determined during the course of the City Approval Process for the Garage Project and the Wrap Building Project. It has been determined that the Garage Site is not an “air-only” parcel, and that it includes the underlying real estate that provides support for the Garage.

Laws shall mean all applicable: (a) laws, statutes, and/or ordinances; (b) governmental rules, regulations, and/or guidelines; and (c) judicial orders, consents, and/or decrees.

Lease shall mean that certain Garage Lease Agreement executed by and between the Building Corporation (as “Lessor”) and WRC (as “Lessee”) and dated as of June 20, 2022, as amended by that certain Addendum to Lease Between City of Westfield Building Corporation, Lessor, and Westfield Redevelopment Commission, Lessee of even date herewith, and as may be further supplemented and amended, which

lease (including the addendum) will be recorded in the Recorder's Office prior to the recording of this Declaration.

Lease Term shall mean the term of the Lease, as set forth therein; provided that, if the Lease is terminated prior to the expiration of the term specified in the Lease, then such termination shall trigger an automatic expiration of the Lease Term for purposes of this Declaration.

Occupant shall mean a tenant, subtenant, licensee, or other occupant of any portion of the Wrap Building that (or who) legally is entitled to the exclusive use and occupancy of such portion under rights set forth in a lease, sublease, license, or other occupancy or use agreement.

Owner shall mean the Garage Property Owner and/or the Wrap Building Property Owner, as applicable.

Parking Space shall mean a parking space in the Garage.

Permittee shall mean, as applicable, the Garage Property Owner, the Wrap Building Property Owner, the Possessory Interest Holder, the Building Corporation, and/or the Occupants entitled to park in a Wrap Building Space.

Possessory Interest Holder shall mean the holder of the right to possess, operate, manage, and control the usage of the Garage Property. During the Lease Term, the Possessory Interest Holder shall be the "Lessee" under the Lease; accordingly, WRC, by virtue of the Lease, is the Possessory Interest Holder during the Lease Term.

Preliminary Plans shall mean schematic design drawings, design development documents, construction drawings, schedules, and (in the case of the Garage Project) budgets that have not yet been approved by the applicable City Agencies pursuant to the City Approval Process.

Property shall mean the Garage Property and/or the Wrap Building Property, as applicable.

Public Spaces shall mean those Parking Spaces: (a) that are not Wrap Building Spaces; and (b) which Parking Spaces shall remain available for use by the general public subject only to those restrictions described in Section 2(i)(iii).

Recorder's Office shall mean the Office of the Hamilton County Recorder.

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

Site Plan shall mean the site plan attached hereto as Exhibit A.

Structural Elements shall mean the structural elements of the Garage and/or the Wrap Building, as applicable, including, without limitation, footers and foundations, structural walls, structural ceilings and floors, and structural columns, joists, and beams.

Wrap Building shall mean a multi-floor building housing approximately 180 multifamily residential units and approximately 18,000 square feet of retail space, which building will "wrap" the Garage.

Wrap Building Project shall mean: (a) any demolition of existing improvements on, or other site preparations with respect to, the Wrap Building Site deemed by Developer to be necessary or appropriate; and (b) the construction of the Wrap Building on the Wrap Building Site; together with attendant public improvements and residential amenities, all as set forth in the Final Plans for the Wrap Building Project.

Wrap Building Property shall mean, collectively, the Wrap Building Site and the Wrap Building Project.

Wrap Building Property Owner shall mean the person or entity owning fee simple title to all or any portion

of the Wrap Building Property at any point in time. As of the Execution Date, Wrap Building Developer is the Wrap Building Property Owner.

Wrap Building Site shall mean that certain real estate more particularly described on Exhibit C. Because the Wrap Building Site is a three-dimensional space that "wraps", and "notches into" the majority of the Garage Site, the Site Plan primarily reflects the general location of the Wrap Building and, to the extent possible, the Garage.

Wrap Building Spaces shall mean those Parking Spaces designated for the exclusive use of the Occupants.

2. Easements Grant. Subject to the terms and conditions of this Declaration, the easements set forth in this Section are declared, created, made, and reserved.

(a) **Construction.** For the benefit of the Properties, temporary reciprocal easements for construction and/or installation of each of the Garage and the Wrap Building in accordance with the applicable Final Plans and the terms and conditions of the Development Agreement, including, without limitation, easements for: (i) the construction and/or installation of the Structural Elements; (ii) the vertical and horizontal, as applicable, attachment of the Wrap Building to the Garage (and/or the Garage to the Wrap Building); and (iii) the installation of the Equipment/Systems.

(b) **Structural Support.** Easements of vertical and/or horizontal support as follows:

(i) For the benefit of the Properties, easements for: (A) attachment of the Wrap Building to the Garage (or the Garage to the Wrap Building, as applicable) in accordance with the applicable Final Plans; (B) creation of pedestrian connections between the Garage and the Wrap Building in accordance with the applicable Final Plans; and (C) maintaining such attachments and pedestrian connections in their as-installed places; and

(ii) For the benefit of the Wrap Building Property, easements for: (A) vertical and horizontal support from the Garage, including maintaining the Structural Elements in place; and (B) installing, maintaining in place, and using residential amenities on the roof of the Garage in accordance with the Final Plans for the Wrap Building.

(c) **Vehicular Access.** For the benefit of the Properties, non-exclusive reciprocal easements for vehicular access, ingress, and egress in, on, over, across, and through vehicular access points in the Garage (including entrances, exits, ramps, drives, and drive lanes) to and from the Parking Spaces from and to public streets adjacent to the Properties.

(d) **Parking.** For the benefit of the Wrap Building Property, permanent exclusive easements for parking in the Wrap Building Spaces. The number of Wrap Building Spaces shall be not less than the number of Parking Spaces necessary or reasonably appropriate to satisfy: (i) zoning requirements applicable with respect to the Wrap Building Property; and (ii) the parking needs of then-current and reasonably anticipated Occupants, taking into account the number of parking spaces customarily available to serve similarly sized residential and commercial developments in the general area; provided that, in no event shall there be fewer than 30% of the total available Parking Spaces in the Garage designated as Wrap Building Spaces (and, accordingly, for the exclusive use of the Occupants).

(e) **Pedestrian Access.** For the benefit of the Properties, permanent, non-exclusive reciprocal easements for pedestrian access, ingress, and egress in, on, over, across, and

through the common pedestrian facilities in the Properties to and from the Parking Spaces from and to the Wrap Building and the public sidewalks and other pedestrian walkways adjacent to the Properties. The foregoing shall not be deemed to grant a right of access, ingress, and egress in, on, over, across, and/or through any areas or facilities within the Wrap Building designated by the Wrap Building Owner as restricted pedestrian areas.

(f) **Equipment/Systems.** For the benefit of each Property, permanent, non-exclusive reciprocal easements in, on, over, across, under, and through the other Property as is necessary or reasonably appropriate for: (i) maintaining the Equipment/Systems in the locations where they are installed; (ii) accessing, maintaining, repairing, and/or replacing the Equipment/Systems as permitted by, or required pursuant to, this Declaration; and (iii) using the Equipment/Systems for their intended purposes.

(g) **Maintenance.** For the benefit of the Owners (including, during the term of the Lease, the Possessory Interest Holder), easements in, on, over, across, and through the Properties for the purposes of performing the maintenance, repairs, and/or replacements permitted by, or required pursuant to, this Declaration.

(h) **Encroachments.** For the benefit of the Properties, reciprocal easements allowing any portion of the completed Garage or completed Wrap Building that encroaches into or onto the Wrap Building Property or the Garage Property, respectively (whether due to minor construction variations or due to minor settling), to remain in its location, so long as such encroachment does not affect the safety or structural integrity of the Property in or upon which such encroachment is located.

(i) **Public Easements** For the benefit of the general public, easements for:

(i) pedestrian access, ingress, and egress in, on, over, across, and through common pedestrian facilities in the Garage and the Wrap Building to and from Public Spaces and public sidewalks and other pedestrian walkways adjacent to the Properties. The foregoing shall not be deemed to grant a right of access, ingress, and/or egress in, on, over, across, or through any areas or facilities within the Wrap Building designated by the Wrap Building Property Owner as restricted pedestrian areas.

(ii) vehicular access in, on, over, across, and through vehicular access points in the Garage (including entrances, exits, ramps, drives, and drive lanes) to and from Public Spaces and public streets adjacent to the Garage Site; and

(iii) parking vehicles in Public Spaces on a first-come, first-served basis; provided that the rights provided by such easement shall be subject to rules, parking charges, and directional signage from time-to-time imposed and/or posted by the Garage Property Owner.

Notwithstanding that members of the general public are the stated beneficiaries of the foregoing public easements, no member of the general public shall have the right to enforce, and/or make claims under, this Declaration. Accordingly, only the Garage Property Owner (which is the Possessory Interest Holder during the term of the Lease) and the Wrap Building Property Owner shall have the right to enforce and/or make claims under this Declaration.

3. Operating/Maintenance.

(a) **Garage Property.** The Garage Property Owner shall: (i) operate, maintain and

repair the Garage Property (including all Structural Elements located in or on the Garage Property) to a standard at least as high as the standards for the operation, maintenance, and repair of public parking garages in the City; (ii) maintain liability and casualty insurance with respect to the Garage Property; (iii) administer Parking Spaces; (iv) collect and account for revenues; and (v) restore and/or rebuild the Garage pursuant to plans and specifications reasonably approved by the Wrap Building Property Owner following a casualty event.

(b) **Wrap Building Property.** The Wrap Building Property Owner shall: (i) maintain and repair the Wrap Building Property (including all Structural Elements located in or on the Wrap Building Property); (ii) maintain liability and casualty insurance with respect to the Wrap Building Property; and (iii) restore and/or rebuild the Wrap Building Property pursuant to plans and specifications reasonably approved by the Garage Property Owner following a casualty event.

(c) **Revenue.** Revenue resulting from the leasing of Parking Spaces to Occupants shall be collected by the Garage Property Owner and deposited into an account dedicated, and restricted expressly, to the operation and maintenance of the Garage Property. It is anticipated that such revenues, in the aggregate, will be sufficient to pay all costs of operating and maintaining the Garage Property (including all such costs reasonably allocable to Wrap Building Spaces), with any remaining revenue from time-to-time being released to the Garage Property Owner.

4. Tax Appeals.

(a) **Covenant.** During the Lease Term, the Wrap Building Property Owner shall not challenge or appeal the applicable tax rate, the assessed value of the Wrap Building Property, or the application of the applicable tax rate to the assessed value of the Wrap Building Property, to the extent that such challenge or appeal would result in the Tax Increment being less than 110% of the aggregated Projected Phase Tax Increment for Phase I and Phase II.

(b) **Definitions.** The capitalized terms used only in this Section are defined as set forth below.

(i) **Allocation Area** shall mean the Union Square Allocation Area within the Grand Junction Economic Development Area created and expanded by the WRC in accordance with Indiana Code 36-7-14 for the purpose of capturing Tax Increment.

(ii) **Phase I** shall mean, collectively, the Garage Project, the Wrap Building Project, and two additional Projects, together with related site work (which may include demolition) and/or improvements (which may include surface parking), to be constructed within the Phase I Area. As reflected on the Site Plan, it currently is anticipated that the two additional Projects will be: (A) a two or three-story commercial building containing approximately 15,000 square feet, which will be known as The Union; and (B) a three or four-story office and/or commercial building containing approximately 40,000.00 square feet.

(iii) **Phase I Area** shall mean that certain real estate in the City, the general boundaries of which are State Road 32/West Main Street on the north, Union Street on the east, Jersey Street on the south, and Mill Street Road on the west, which real estate is delineated as the "Phase I Area" on the Site Plan and more particularly described on Exhibit D-1. The Garage Site and the Wrap Building Site are within the Phase I Area.

(iv) **Phase II** shall mean, collectively, three Projects, together with related site work (which may include demolition) and/or improvements (which may include surface parking), to be constructed within the Phase II Area. As reflected on the Site Plan, it currently is anticipated that: (A) each Project will include a building; and (B) the buildings, in the aggregate, will contain: (1) approximately 143,848 square feet; (2) approximately 124 multifamily residential units; and (3) approximately 4,400 square feet of commercial space.

(v) **Phase II Area** shall mean that certain real estate in the City, the general boundaries of which are Cherry Street on the east, Midland Trace Trail on the south, and Union Street on the west, which real estate is delineated as the "Phase II Area" on the Site Plan and more particularly described on Exhibit D-2.

(vi) **Project** shall mean, generally, each improvement to be constructed on a discrete portion of the Phase I Area or the Phase II Area in accordance with the Final Plans for such improvement and the terms and conditions of the Development Agreement. As reflected on the Site Plan, it currently is contemplated that there will be a total of seven Projects: (A) four of which (including the Garage Project and the Wrap Building Project) will be located in the Phase I Area; and (B) three of which will be located in the Phase II Area.

(vii) **Projected Phase Tax Increment** shall mean the projected annual Tax Increment in each of Phase I and Phase II, as set forth on Exhibit E. To the extent that the projections attached hereto as Exhibit E differ from those attached to the Development Agreement as "Exhibit F", then the projections set forth on Exhibit E shall control.

(viii) **Tax Increment** shall mean: (A) all property tax proceeds attributable to the assessed valuation of real property in the Allocation Area in excess of the assessed valuation described in Indiana Code §36-7-14-39, as such statutory provision exists on the date hereof; less (B) any fees withheld by the WRC to pay fees to the "Trustee" under that certain Trust Indenture executed by and between the City and BOKF, N.A., and dated as of September 1, 2022, as the same may be amended, restated, and/or replaced; and less (c) all other reasonable fees paid in connection with the administration and monitoring of such property tax proceeds.

5. Nature and Effect.

(a) **Purpose.** The Easements are granted for the purposes set forth in Section 2, and for no other purposes whatsoever.

(b) **Binding Effect.** The Easements: (i) shall inure to the benefit of the applicable Properties and Permittees; and (ii) together with the burdens thereof, shall: (A) run with and bind the Properties; and (B) bind the Owners and Occupants.

(c) **Construction Easement.** The construction easements granted pursuant to Subsection 2(a) automatically shall terminate on the date that is 15 days after completion of the last to be completed of the Garage or the Wrap Building. Notwithstanding that no instrument is necessary to terminate such easements, upon receipt of written request from an Owner, the parties shall execute a recordable memorandum of termination in form and substance jointly determined by the parties to be acceptable.

(d) Conveyance. Each Conveyance Instrument shall be deemed: (i) (unless the Conveyance Instrument expressly states otherwise) to assign, as an appurtenance to the interest in any portion of the applicable Property, the right to the use and benefit of the applicable Easements, regardless of whether the Conveyance Instrument expressly assigns such appurtenance and right; and (ii) to impose, as an encumbrance upon such interest, the burden and restriction of the applicable Easements, regardless of whether the Conveyance Instrument expressly imposes such encumbrance and restriction.

6. Reserved Rights. Each Owner reserves the right to use and operate its Property in such a manner as it deems to be appropriate, so long as such use and operation does not: (a) result in a violation of this Declaration or of any term of the Development Agreement; (b) interfere unreasonably with the exercise of any Easement rights; (c) result in a condition that interferes unreasonably with the use and enjoyment of the Properties; (d) impair the structural integrity of the Garage or the Wrap Building; or (e) render impossible or unusually difficult performance by an Owner of any of its obligations hereunder. Notwithstanding the foregoing, an Owner may restrict access to, or use of, all or any portion of its Property temporarily as may be required or reasonably necessary from time to time in connection with any action required or permitted hereunder to be taken; provided that, except in the case of an emergency, the Owner restricting access or use shall provide written notice of the intended restrictions at least two business days in advance of implementation thereof.

7. Remedies.

(a) Events of Default. It shall be an "Event of Default" if any party fails to perform or observe any term or condition of this Declaration that is required to be performed or observed by it: (i) with respect to the obligation to pay money, if such failure is not remedied within ten days after such payment is due; and (ii) with respect to any other obligation, if such failure is not cured as of the date that is 30 days after the defaulting party receives notice specifying the nature of the failure; provided that, if the failure is of a nature that it cannot be remedied within 30 days, despite the exercise of reasonably diligent efforts, then the 30-day period shall be extended as reasonably may be necessary for the defaulting party to remedy the failure, so long as the defaulting party: (A) commences to remedy the failure within the 30-day period; and (B) diligently pursues such remedy to completion.

(b) General Remedies. During the continuance of an Event of Default, any non-defaulting party may take whatever actions at law or in equity are necessary or appropriate to: (i) collect any payments due to it under this Declaration; (ii) protect the rights granted to it under this Declaration; (iii) enforce the performance or observance by the defaulting party of any term or condition of this Declaration (including, without limitation, the right to specifically enforce any such term or condition); or (iv) cure, for the account of the defaulting party, the underlying circumstance that resulted in the Event of Default.

(c) No Remedy Exclusive. 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; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Declaration 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 during the continuance of an 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 Section or by the Laws.

(d) Costs. If the non-defaulting party incurs any costs or expenses in connection with exercising its rights and remedies under, or enforcing, this Declaration, then the defaulting party shall reimburse the non-defaulting party for all such costs and expenses, together

with interest at the rate of 8% per annum.

(e) **Mortgagees.** This Declaration does not impose any obligation or liability on any mortgagee until such mortgagee's interest in the applicable Property ripens into fee simple ownership, and a mortgagee shall be liable for, and obligated to pay, only the required payments that are allocable to the applicable Property after the date on which: (i) the mortgagee's interest in such Property ripens into fee simple ownership; or (ii) the mortgagee assumes possession of such Property; whichever occurs first.

8. Amendments. This Declaration may be amended or terminated only by an instrument executed by all Owners (and, during the Lease Term, the Building Corporation) and recorded in the Recorder's Office, and, in connection therewith, the Owners shall not be required to obtain the consent or signature of any other Permittee. Each amendment or termination instrument executed and recorded by the Owners in accordance with this Section shall be binding, and no other Permittee shall have the right or power to prohibit any such amendment.

9. Assignment. No Owner shall assign any of its obligations under this Declaration without the consent of the other Owners; provided that: (a) a deemed assignment of this Declaration as a result of the execution and delivery of a Conveyance Instrument shall not require the consent of any other Owner or be prohibited by this Section; and (b) an Owner may delegate its obligations with respect to its Property to a parking and/or property manager or operator, as applicable, pursuant to an operating agreement or management agreement that is consistent with the terms and conditions of this Declaration in all respects; provided that such delegation shall not relieve or release the applicable Owner from responsibility or liability for the performance of its obligations hereunder. Except as otherwise expressly permitted in this Section, any assignment of obligations purported to be made by an Owner shall be null, void, and of no force or effect. For purposes of clarity, the fact that WRC, as the Possessory Interest Holder, is the "Garage Property Owner" during the Lease Term does not constitute (and shall not be deemed to constitute) an assignment in violation of this Section.

10. Notice. Any notice required or permitted to be given under this Declaration shall be in writing, and shall be deemed to have been given: (a) when delivered in person to the applicable party; (b) one business day after having being sent by national overnight delivery service, with confirmation of receipt; or (c) three business days after having been sent by certified or registered U.S. Mail, with postage prepaid and return receipt requested; in any case:

(a) to Union Square Plaza LLC (as the Wrap Building Property Owner) at 31 1st Street SW, Carmel, Indiana 46032, Attn: Justin Moffett, with a copy to Jerimi J. Ullom, Esq., Hall, Render, Killian, Heath & Lyman, P.C., 500 N. Meridian Street, Indianapolis, Indiana 46204;

(b) to WRC (as the Possessory Interest Holder and, accordingly, the Garage Property Owner during the Lease Term) at 2728 East 171st Street, Westfield, Indiana 46074, Attn: President, with a copy to Manny Herceg, Esq., Taft Stettinius & Hollister, One Indiana Square, Suite 3500, Indianapolis, Indiana 46204; and

(c) to the Building Corporation (as the Building Corporation during the Lease Term, and the Garage Property Owner after the Lease Term) at Taft, Stettinius & Hollister, One Indiana Square, Suite 3500, Indianapolis, Indiana 46220, Attn: Manny Herceg.

Any Owner (and during the Lease Term, the Building Corporation) may change its address for notice by written notice delivered to the other Owners (and, during the Lease Term, to the Building Corporation). If the parties mutually agree, then notice may be given via email, with confirmation of receipt.

11. Term. This Declaration shall remain in full force and effect until such time as an instrument of termination executed by all Owners (and, during the Lease Term, the Building Corporation) is recorded in the Recorder's Office; provided that, if it is determined that any term or condition of this Declaration is governed by, or subject to, the "rule against perpetuities" or any Law of similar effect, then, if not already

terminated by the Owners, such term or condition (or, if applicable, this entire Declaration) shall terminate on last to occur of: (a) the date that is 21 years after the death of the last survivor of the now-living descendants of Joseph R. Biden, President of the United States of America; or (b) the expiration of the longest period permitted pursuant to such rule or any other Law of similar effect.

12. Authority. Each undersigned person executing this Declaration on behalf of a party represents and certifies that: (a) he or she has been empowered and authorized by all necessary action of the applicable party to execute and deliver this Declaration; (b) he or she has full capacity, power, and authority to enter into this Declaration; and (c) the execution, delivery, and performance of this Declaration have been authorized by the applicable party.

13. Miscellaneous. This Declaration: (a) may be executed in separate counterparts, each of which shall be an original, but all of which together shall constitute a single instrument; and (b) shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Declaration 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. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Declaration shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. All Exhibits referenced in this Declaration are attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the Wrap Building Developer, the Building Corporation, WRC, and the City have executed this Declaration on the Execution Date.

UNION SQUARE PLAZA LLC

By: Old Town Companies L.L.C.

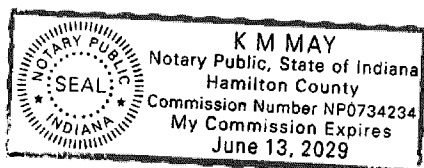
By: Justin W. Moffett
Justin W. Moffett, Manager

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared Justin Moffett, the Manager of Old Town Companies L.L.C., the sole member of Union Square Plaza LLC, LLC, who acknowledged the execution of the foregoing Declaration (Union Square) on behalf of such entity.

WITNESS my hand and Notarial Seal this 27th day of September, 2022.



By: K M May
Notary Public

Printed Name: K M May

I am a resident of HAMILTON County, Indiana.

My commission expires 6/13/2029.

IN WITNESS WHEREOF, the Wrap Building Developer, the Building Corporation, WRC, and the City have executed this Declaration on the Execution Date.

CITY OF WESTFIELD BUILDING CORPORATION

By: Ronald T. Moore

Printed: Ronald T. Moore

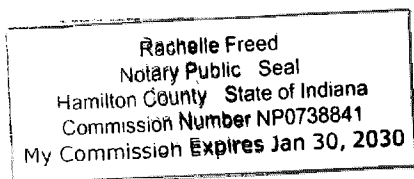
Title: President

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared Ronald T. Moore, the President of the City of Westfield Building Corporation, who acknowledged the execution of the foregoing Declaration (Union Square) on behalf of such entity.

WITNESS my hand and Notarial Seal this 19 day of September, 2022.



By: Rachelle Freed
Notary Public

Printed Name: Rachelle Freed

I am a resident of Hamilton County, Indiana.

My commission expires Jan 30, 2030.

IN WITNESS WHEREOF, the Wrap Building Developer, the Building Corporation, WRC, and the City have executed this Declaration on the Execution Date.

CITY OF WESTFIELD REDEVELOPMENT
COMMISSION

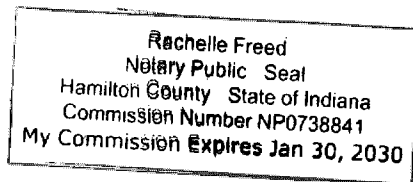
By: Joe Plankis
Joe Plankis, President

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared Joe Plankis, the President of the City of Westfield Redevelopment Commission, who acknowledged the execution of the foregoing Declaration (Union Square) on behalf of such entity.

WITNESS my hand and Notarial Seal this 19 day of September, 2022.



By: Rachelle Freed
Notary Public

Printed Name: Rachelle Freed

I am a resident of Hamilton County, Indiana.

My commission expires Jan 30, 2030

IN WITNESS WHEREOF, the Wrap Building Developer, the Building Corporation, WRC, and the City have executed this Declaration on the Execution Date.

CITY OF WESTFIELD, INDIANA

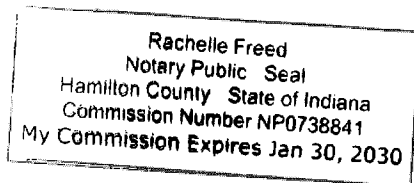
By: [Signature]
J. Andrew Cook, Mayor

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared J. Andrew Cook, the Mayor of the City of Westfield, Indiana, who acknowledged the execution of the foregoing Declaration (Union Square) on behalf of such entity.

WITNESS my hand and Notarial Seal this 19 day of September, 2022.



By: [Signature]
Notary Public

Printed Name: Rachelle Freed

I am a resident of Hamilton County, Indiana.

My commission expires Jan 30, 2030

Return after recording to Union Square Plaza LLC, 31 1st Street SW, Carmel, Indiana 46032, Attn: Justin Moffett

This instrument was prepared by Jennifer R. Shoup, Attorney-At-Law, Hall, Render, Killian, Heath & Lyman P.C., 500 North Meridian Street, Suite 400, Indianapolis, Indiana 46204. 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 R. Shoup.

INDEX TO EXHIBITS

Exhibit A – Site Plan (delineating Garage Site and Wrap Building Site)

Exhibit B – Garage Site Legal Description

Exhibit C – Wrap Building Site Legal Description

Exhibit D-1 – Phase I Area Legal Description

Exhibit D-2 – Phase II Area Legal Description

Exhibit E – Projected Phase Tax Increment

Exhibit F – Development Agreement

EXHIBIT A
Site Plan
Depicts Phase I and Phase II

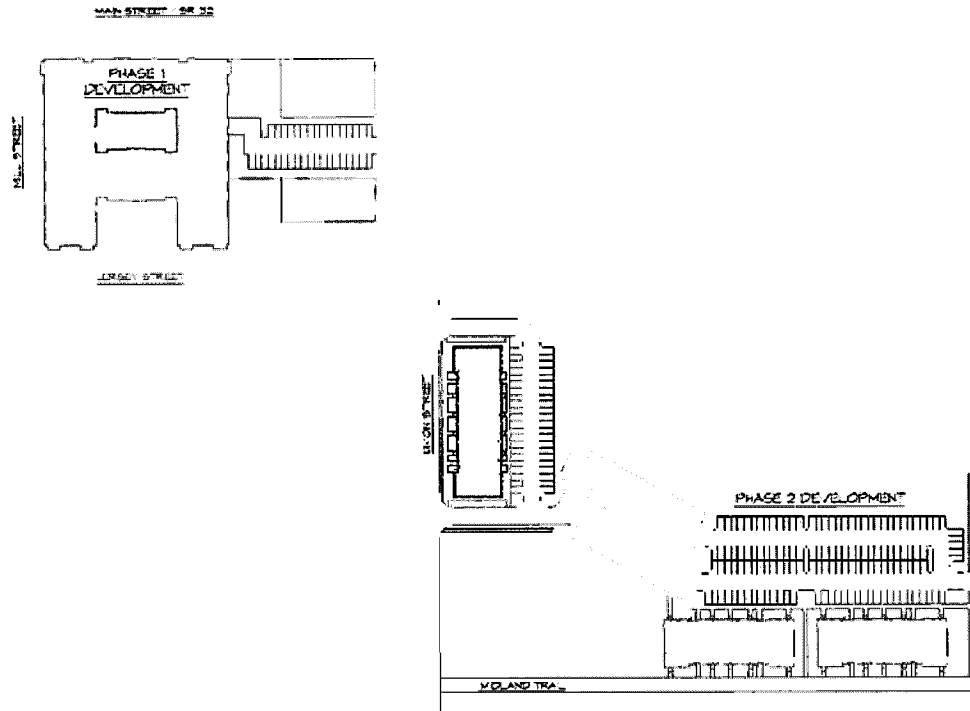


EXHIBIT B
Garage Site Legal Description

Garage Site Lower Level

That portion of the following described tract lying below a horizontal plan having an elevation of 884.70 feet (North American Vertical Datum of 1988):

Part of Lots 1, 9, 10, 15, and 16 and a part of the 12 foot alley lying between said lots 1 and 9, in Roberts Addition to Westfield, the plat of which is recorded Book 39, page 433 and part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, with the bearings herein based upon Indiana Geospatial Coordinate System's (InGCS) "Hamilton" Zone, described as follows: Commencing at the southwest corner of said Lot 10; thence North 0 degrees 59 minutes 58 seconds West 43.49 feet along the west line of said Lot 10; thence North 89 degrees 0 minutes 2 seconds East 19.92 feet to the point of beginning of this description:

thence North 0 degrees 23 minutes 28 seconds West 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 8.67 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 252.00 feet; thence South 0 degrees 23 minutes 28 seconds East 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 8.67 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence North 0 degrees 23 minutes 28 seconds West 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 112.67 feet; thence South 0 degrees 23 minutes 28 seconds East 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet to the point of beginning and containing 62,903 square feet or 1.444 acres, more or less.

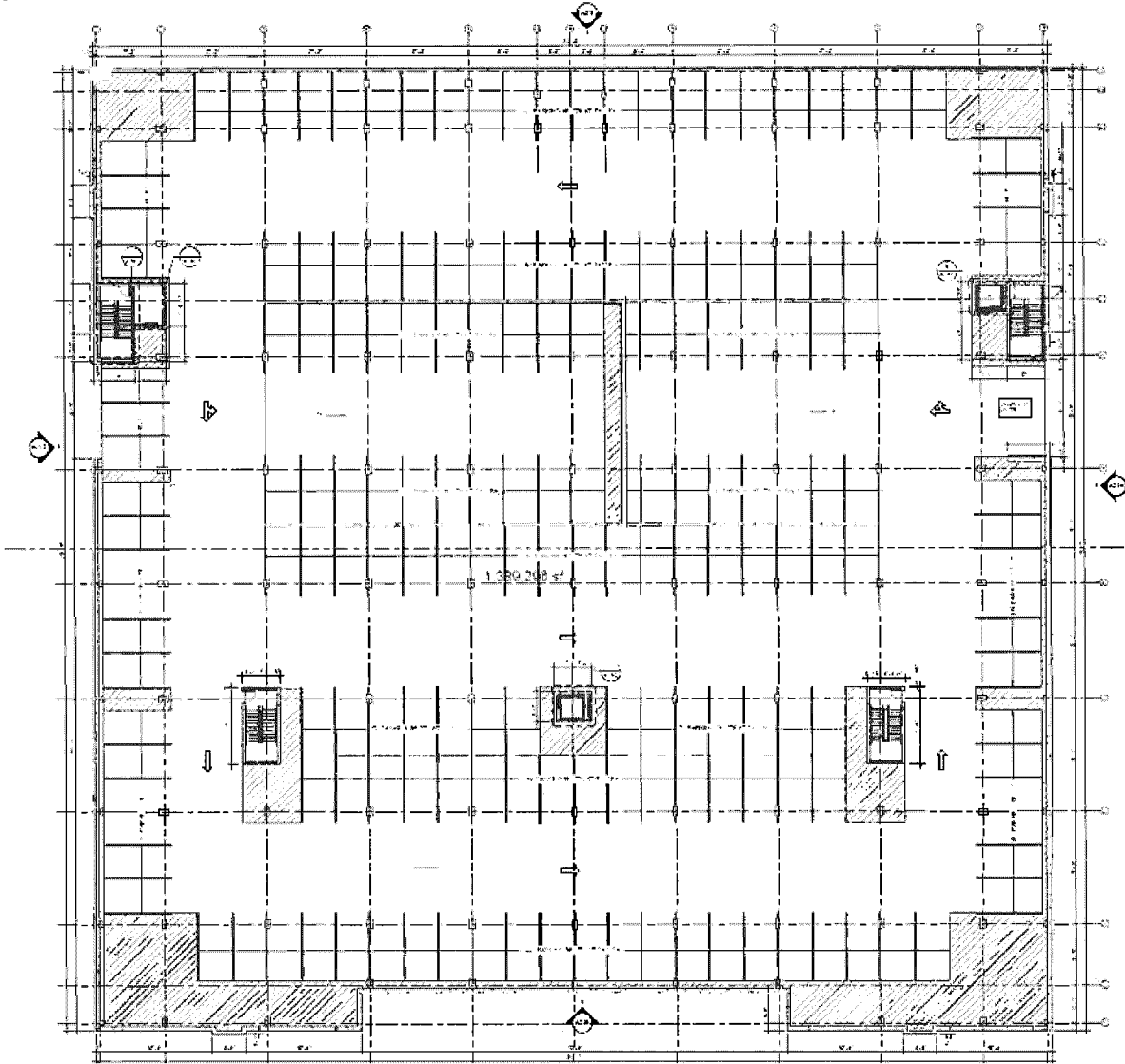
Garage Site Upper Level

That portion of the following described tract lying below a horizontal plan having an elevation of 900.70 feet (North American Vertical Datum of 1988) and lying above a horizontal plane having an elevation of 884.70 feet:

Part of Lots 1, 9, 10, 15, and 16 and a part the 12 foot alley lying between said lots 1 and 9, in Roberts Addition to Westfield, the plat of which is recorded Book 39, page 433 and part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, with the bearings herein based upon Indiana Geospatial Coordinate System's (InGCS) "Hamilton" Zone, described as follows: Commencing at the southwest corner of said Lot 10; thence North 0 degrees 59 minutes 58 seconds West 120.49 feet along the west line of said Lot 10 and a portion of the west line of said Lot 9; thence North 89 degrees 00 minutes 2 seconds East 20.74 feet to the point of beginning of this description: thence North 0 degrees 23 minutes 28 seconds West 137.74 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 8.67 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 252.00 feet; thence South 0 degrees 23 minutes 28 seconds East 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 8.67 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 137.74 feet; thence South 89 degrees 36 minutes 32 seconds West 20.40 feet; thence South 0 degrees 23 minutes 28 seconds East 8.54 feet; thence South 89 degrees 36 minutes 32 seconds West 92.02 feet; thence North 0 degrees 23 minutes 28 seconds

West 4.54 feet; thence South 89 degrees 36 minutes 32 seconds West 40.92 feet; thence South 0 degrees 23 minutes 28 seconds East 4.54 feet; thence South 89 degrees 36 minutes 32 seconds West 86.11 feet; thence North 0 degrees 23 minutes 28 seconds West 8.54 feet; thence South 89 degrees 36 minutes 32 seconds West 12.55 feet to the point of beginning and containing 46,283 square feet or 1.063 acres, more or less.

Depiction of Garage Site Lower Level



Depiction of Garage Site upper (ground) level- shows dividing line between garage site and commercial portion of Wrap Building Site

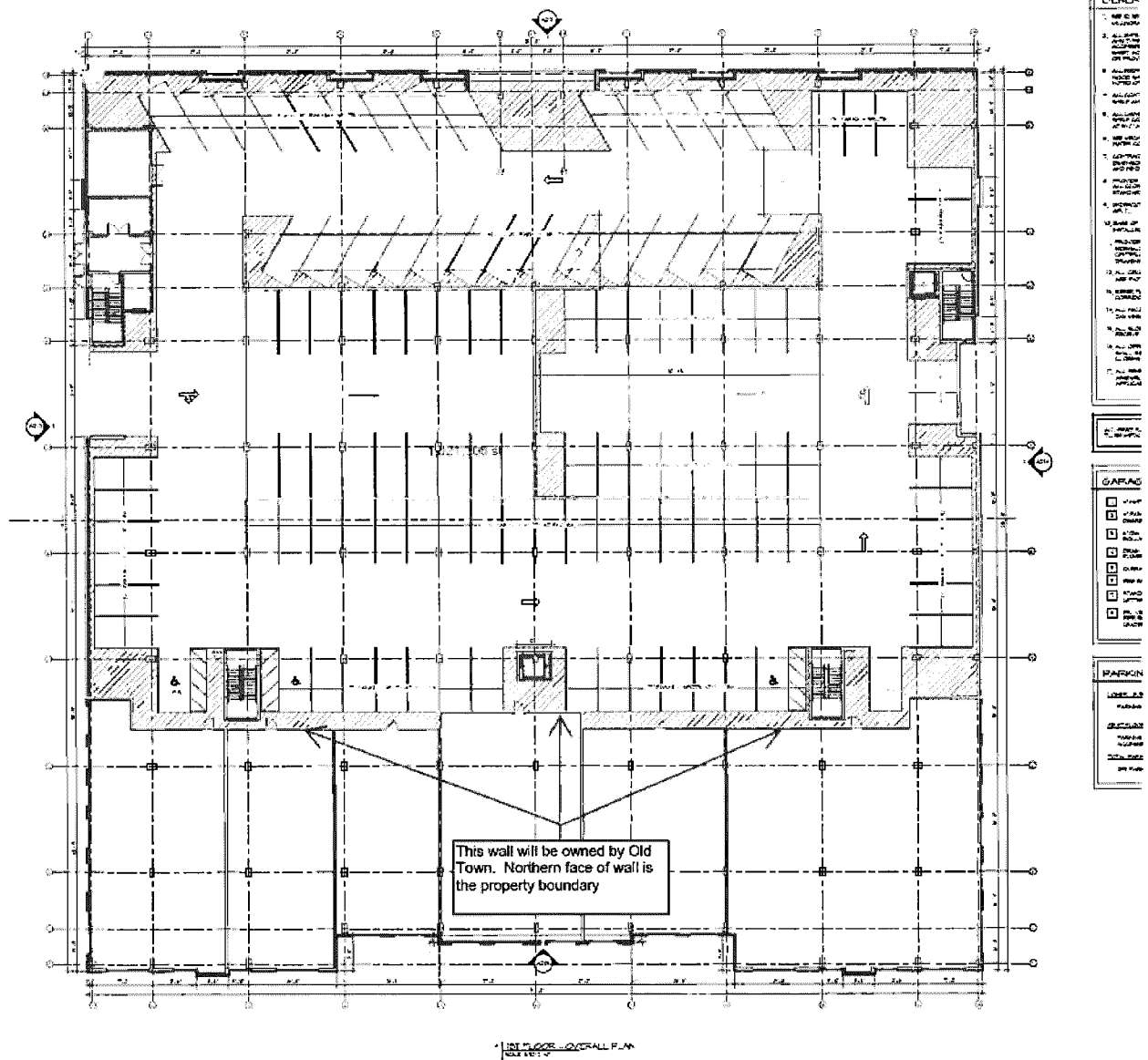


EXHIBIT C
Wrap Building Site Legal Description

Parcel 1 (Commercial Portion-Ground Level)

That portion of the following described tract lying below a horizontal plan having an elevation of 900.70 feet (North American Vertical Datum of 1988) and lying above a horizontal plane having an elevation of 884.70 feet:

Part of Lots 1, 9, 10, 15, and 16 and a part the 12 foot alley lying between said lots 1 and 9, in Roberts Addition to Westfield, the plat of which is recorded Book 39, page 433 and part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, with the bearings herein based upon Indiana Geospatial Coordinate System's (InGCS) "Hamilton" Zone, described as follows: Commencing at the southwest corner of said Lot 10; thence North 0 degrees 59 minutes 58 seconds West 43.49 feet along the west line of said Lot 10; thence North 89 degrees 0 minutes 2 seconds East 19.92 feet to the point of beginning of this description:

thence North 0 degrees 23 minutes 28 seconds West 77.00 feet; thence North 89 degrees 36 minutes 32 seconds East 12.55 feet; thence South 0 degrees 23 minutes 28 seconds East 8.54 feet; thence North 89 degrees 36 minutes 32 seconds East 86.11 feet; thence North 0 degrees 23 minutes 28 seconds West 4.54 feet; thence North 89 degrees 36 minutes 32 seconds East 40.92 feet; thence South 0 degrees 23 minutes 28 seconds East 4.54 feet; thence North 89 degrees 36 minutes 32 seconds East 92.02 feet; thence North 0 degrees 23 minutes 28 seconds West 8.54 feet; thence North 89 degrees 36 minutes 32 seconds East 20.40 feet; thence South 0 degrees 23 minutes 28 seconds East 77.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence North 0 degrees 23 minutes 28 seconds West 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 112.67 feet; thence South 0 degrees 23 minutes 28 seconds East 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet to the point of beginning and containing 16,620 square feet or 0.382 acres, more or less.

See depiction of Garage upper (ground) level attached as part of Exhibit B, which shows the dividing line between the Garage Site and this portion of the Wrap Building Site

Parcel 2 (Residential Portion – Above Garage and Commercial Portion)

That portion of the following described tract lying at and above a horizontal plan having an elevation of 900.70 feet (North American Vertical Datum of 1988):

Part of Lots 1, 9, 10, 15, and 16 and a part of the 12 foot alley lying between said lots 1 and 9, in Roberts Addition to Westfield, the plat of which is recorded Book 39, page 433 and part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, with the bearings herein based upon Indiana Geospatial Coordinate System's (InGCS) "Hamilton" Zone, described as follows: Commencing at the southwest corner of said Lot 10; thence North 0 degrees 59 minutes 58 seconds West 43.49 feet along the west line of said Lot 10; thence North 89 degrees 0 minutes 2 seconds East 19.92 feet to the point of beginning of this description:

thence North 0 degrees 23 minutes 28 seconds West 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 8.67 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence North 0 degrees 23 minutes 28 seconds West 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 252.00 feet; thence South 0 degrees 23 minutes

28 seconds East 30.50 feet; thence North 89 degrees 36 minutes 32 seconds East 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 8.67 feet; thence South 89 degrees 36 minutes 32 seconds West 1.00 feet; thence South 0 degrees 23 minutes 28 seconds East 214.74 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence North 0 degrees 23 minutes 28 seconds West 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 112.67 feet; thence South 0 degrees 23 minutes 28 seconds East 9.92 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet; thence South 0 degrees 23 minutes 28 seconds East 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 8.67 feet; thence North 0 degrees 23 minutes 28 seconds West 1.00 feet; thence South 89 degrees 36 minutes 32 seconds West 30.50 feet to the point of beginning and containing 62,903 square feet or 1.444 acres, more or less.

This parcel is the same footprint as the Garage Site lower level, but begins at 900.70 feet, which is immediately above and adjacent to the Garage Site upper level and the commercial portion of the Wrap Building Site

EXHIBIT D-1

Phase 1 Area Legal Description

(From commitment IN1802883)

Part of the East Half of the Northeast Quarter of Section 1, Township 18 North, Range 3 East, Hamilton County, Indiana, being described as follows: Commencing at the northeast corner of the Northeast Quarter of Section 1, Township 18 North, Range 3 East; thence on the north line of said Northeast Quarter North 89 degrees 52 minutes 10 seconds West 210.00 feet to a point where the original line of the corporation of Westfield crosses the north line of Section 1 and the Point of Beginning of this description; thence North 89 degrees 52 minutes 10 seconds West 85.00 feet to the northeast corner of the 0.32 acre tract of real estate described in Instrument No. 200200097371; thence on the east line of said 0.32 acre tract the following three courses: 1) thence South 00 degrees 00 minutes 00 seconds West 153.00 feet; 2) thence South 89 degrees 52 minutes 10 seconds East 6.00 feet; 3) thence South 00 degrees 00 minutes 00 seconds West 50.00 feet to a 5/8 inch steel rod with yellow cap stamped "Miller Survey" on the north line of a 12 foot platted alley as platted in Robert's Addition to the Town of Westfield; thence on said north line South 89 degrees 52 minutes 10 seconds East 79.00 feet to a 5/8 inch steel rod with yellow cap stamped "Miller Survey" on the southerly extension of the east line of the tract of real estate described in Instrument No. 200000063972; thence on said east line North 00 degrees 00 minutes 00 seconds East 203.00 feet to the Point of Beginning, containing 0.39 acres, more or less.

(From commitment IN1805403A)

Lots Numbered 24 and 23 in the original plat of the Town, now City, of Westfield, as recorded May 20, 1934 Deed Book 121 in the Office of the Recorder of Hamilton County, Indiana. EXCEPT, 46 feet off the entire South end of Lot 23 herein.

(From commitment IN1806200)

PARCEL 1:

LOT NUMBER ONE (1) IN ROBERTS' ADDITION TO THE TOWN OF WESTFIELD, HAMILTON COUNTY, INDIANA, AS SHOWN BY PLAT THEREOF RECORDED IN DEED RECORD 39, PAGE 433 OF THE RECORDS IN THE RECORDER'S OFFICE OF HAMILTON COUNTY, INDIANA.

PARCEL 2:

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 18 NORTH, RANGE 3 EAST, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT NUMBER ONE (1) IN ROBERTS' ADDITION TO THE TOWN OF WESTFIELD, INDIANA AND RUN THENCE EAST 95 FEET; THENCE SOUTH 165 FEET; THENCE WEST 95 FEET; THENCE NORTH 165 FEET TO THE PLACE OF BEGINNING.

(From commitment IN1806544)

A part of the Northeast Quarter of Section 1, Township 16 North, Range 3 East, in Hamilton County, Indiana, described as follows:

Beginning at a point 85 feet West of the point where the West line of the Original Plat of the Town of Westfield, Indiana, crosses the Township line, running thence South 153 feet; thence East 6 feet; thence South 50 feet; thence West 86 feet; thence North 12.3 rods; thence East 80 feet to the Place of Beginning.

ALSO, beginning at a point 165 feet West of the point where the West line of the original Plat of the Town of Westfield, Indiana, crosses the Township lines, running thence South 203 feet; thence West 5.6 feet; thence North 203 feet; thence East 5.6 feet to the Place of Beginning.

(From commitment IN1806648)

Lot Numbered Nine (9) in Roberts Addition, an addition to the Town of Westfield, in Hamilton County, Indiana, as per plat thereof recorded in Deed Record 39, Page 433, in the Office of the Recorder of Hamilton County, Indiana.

(From commitment IN1907505)

Lots 15 and 16 in Roberts Addition to the Town of Westfield, as per Plat thereof recorded March 8, 1884 in Deed Record 39, Page 433, in Hamilton County, Indiana.

(From commitment IN1907506)

Lot Number Ten (10) in Judah Roberts Addition to the Town of Westfield, Hamilton County, Indiana, as per Plat thereof recorded in Deed Record 39, page 433, in the Office of the Recorder of Hamilton County, Indiana.

(From commitment IN1907507)

PARTS OF LOT 23 AND LOT 47 IN THE ORIGINAL TOWN PLAT OF WESTFIELD, AND PART OF A VACATED ALLEY ADJOINING SAID LOTS, IN HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF LOT 23 (SAID POINT BEING ALSO ON THE WEST LINE OF U.S. HIGHWAY NO. 31), A DISTANCE OF 110.75 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTH ALONG THE WEST LINE OF U.S. HIGHWAY NO. 31, A DISTANCE OF 122.6 FEET TO A POINT; THENCE WEST, PARALLEL TO THE NORTH LINE OF LOT 47, A DISTANCE OF 82.5 FEET TO A POINT ON THE WEST LINE OF LOT 47; THENCE NORTH, PARALLEL TO THE WEST LINE OF U.S. HIGHWAY NO. 31, A DISTANCE OF 122.6 FEET TO A POINT ON THE WEST LINE OF LOT 23; THENCE EAST, PARALLEL TO THE NORTH LINE OF LOT 23, A DISTANCE OF 82.5 FEET TO THE PLACE OF BEGINNING.

(From commitment IN1907508)

LOT 47 IN THE ORIGINAL PLAT OF WESTFIELD, HAMILTON COUNTY, INDIANA, AS PER PLAT THEREOF RECORDED MAY 20, 1834 IN DEED BOOK 121, EXCEPT 60 FEET OFF THE NORTH END OF SAID LOT AND ALSO EXCEPT 58.75 FEET OFF THE SOUTH END OF SAID LOT. SAID PART DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 58.75 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 47; THENCE NORTH ALONG THE EAST LINE OF SAID LOT, 38 FEET; THENCE WEST 82.50 FEET TO THE WEST LINE OF SAID LOT; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT, 38 FEET; THENCE EAST 82.50 FEET TO THE PLACE OF BEGINNING.

(From commitment IN1907509)

LOT 48 IN THE ORIGINAL TOWN OF WESTFIELD, AS PER PLAT THEREOF RECORDED MAY 16, 1834 IN DEED RECORD D, PAGE 12, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

ALSO: PART OF LOT 47 IN THE ORIGINAL TOWN OF WESTFIELD, AS PER PLAT THEREOF RECORDED IN DEED RECORD D, PAGE 12, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 47 IN THE ORIGINAL TOWN OF WESTFIELD, HAMILTON COUNTY, INDIANA, AND RUN THENCE NORTH 23 FEET; THENCE SOUTH 23 FEET; THENCE EAST 82 FEET TO THE PLACE OF BEGINNING.

ALSO: PART OF LOT 47 IN THE ORIGINAL TOWN OF WESTFIELD, AS PER PLAT THEREOF RECORDED IN DEED RECORD D, PAGE 12, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 47, 23 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT AND RUN THENCE NORTH ON THE EAST LINE THEREOF 35.75 FEET; THENCE WEST 82 FEET TO A POINT; THENCE SOUTH 35.75 FEET TO A POINT; THENCE EAST 82 FEET TO THE PLACE OF BEGINNING.

EXHIBIT D-2
Phase II Area Legal Description

PARCEL 1:

A PART OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST IN HAMILTON COUNTY, INDIANA, BEING DESCRIBED AS FOLLOWS, TO-WIT:

BEGIN AT A POINT IN THE CENTER OF COOL CREEK, SAID POINT BEING 399.0 FEET SOUTH AND 125.0 FEET EAST OF THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST IN WESTFIELD, HAMILTON COUNTY, STATE OF INDIANA; THENCE SOUTH PARALLEL TO THE WEST LINE OF SAID NORTHWEST QUARTER 360.17 FEET TO A POINT IN THE NORTH LINE OF AN OLD CEMETERY; THENCE SOUTHEASTERLY ON AND ALONG THE SAID NORTH LINE 158.3 FEET TO A CORNER POST, SAID POINT BEING 106.5 FEET NORTH OF THE NORTH RIGHT-OF-WAY LINE OF THE CENTRAL INDIANA R.R. AND THE NORTH RIGHT-OF-WAY LINE IS 22.3 FEET NORTH OF THE CENTER OF THE R.R. TRACK; THENCE SOUTH 106.5 FEET TO THE NORTH LINE OF SAID RAILROAD RIGHT-OF-WAY AND CORNER POST AND SAID POINT BEING 278.5 FEET EAST OF THE WEST LINE OF SAID NORTHWEST QUARTER; THENCE EASTERLY ON AND ALONG THE NORTH RIGHT-OF-WAY LINE 199.5 FEET TO A POINT, SAID POINT BEING 290.0 FEET WEST OF THE CENTER OF CHERRY STREET OR COUNTY ROAD RUNNING NORTH AND SOUTH IN THE SAID NORTHWEST QUARTER; THENCE NORTHERLY 150.0 FEET TO A POINT, SAID POINT BEING 172.3 FEET NORTH OF THE CENTER OF SAID R.R. TRACT AND 290.0 FEET WEST OF THE CENTER OF CHERRY STREET OR COUNTY ROAD; THENCE EASTERLY 290.0 FEET TO A POINT, SAID POINT BEING 172.3 FEET NORTH OF THE CENTER OF SAID R.R. TRACT; THENCE NORTHERLY ON AND ALONG THE CENTER OF SAID ROAD 163.9 FEET TO THE INTERSECTION WITH THE CENTER OF COOL CREEK; THENCE RUN NORTHWESTERLY, WESTERLY AND NORTHWESTERLY ON AND ALONG THE CENTERLINE OF SAID COOL CREEK TO THE PLACE OF BEGINNING. CONTAINING 3.3 ACRES, MORE OR LESS.

ALSO:

A PART OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, DESCRIBED AS FOLLOWS: BEGIN AT A POINT WHERE THE NORTH LINE OF THE RIGHT-OF-WAY OF THE CENTRAL INDIANA RAILROAD CROSSES THE COUNTY ROAD, RUN THENCE WEST 290 FEET, THENCE NORTH 150 FEET, THENCE EAST 290 FEET, THENCE SOUTH 150 FEET TO THE PLACE OF BEGINNING.

ALSO DESCRIBED:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, RUN SOUTH 365 FEET ON AND ALONG THE WEST LINE OF SAID QUARTER SECTION; THENCE EAST 768 FEET TO A POINT ON THE SOUTH LINE OF THE ORIGINAL PLAT OF THE TOWN OF WESTFIELD; THENCE SOUTH ON AND ALONG THE CENTERLINE OF A COUNTY ROAD (CHERRY STREET) 565.6 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND WHICH IS WHERE THE NORTH LINE OF THE RIGHT-OF-WAY OF THE CENTRAL INDIANA RAILROAD CROSSES THE SAID COUNTY ROAD; THENCE WEST 290 FEET; THENCE NORTH 150 FEET; THENCE EAST 290 FEET; THENCE SOUTH 150 FEET TO THE PLACE OF BEGINNING. CONTAINING 1 ACRE, MORE OR LESS, IN THE TOWN OF WESTFIELD, HAMILTON COUNTY, INDIANA.

EXCEPTING THEREFROM THAT PART CONVEYED TO THE CITY OF WESTFIELD, INDIANA BY WARRANTY DEEDS RECORDED JUNE 3, 2010 AS DOCUMENTS 2010024355 AND 2010024356.

PARCEL 2:

A PART OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, IN HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

BEGIN AT A POINT 365 FEET SOUTH OF THE NORTHWEST CORNER OF SAID QUARTER SECTION; RUN THENCE EAST 125 FEET; THENCE SOUTH 400.5 FEET; THENCE NORTHWESTERLY 133.7 FEET TO A POINT WHICH IS 213 FEET NORTH OF THE NORTH RAIL OF THE CENTRAL INDIANA RAILROAD; THENCE NORTH 353 FEET TO THE PLACE OF BEGINNING, IN HAMILTON COUNTY, INDIANA.

EXCEPT: PART OF A TRACT OF LAND DESCRIBED IN INSTRUMENT #89-13713 IN THE PUBLIC RECORDS OF HAMILTON COUNTY, INDIANA, LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER, SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST; THENCE SOUTH 00 DEGREES 45 MINUTES 28 SECONDS EAST 618.48 FEET (ASSUMED BEARING) TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 16 MINUTES 23 SECONDS EAST PARALLEL TO THE NORTH LINE OF SAID NORTHWEST QUARTER 125.00 FEET TO THE EAST LINE OF SAID TRACT AS DESCRIBED IN INSTRUMENT #89-13712; THENCE SOUTH 00 DEGREES 45 MINUTES 18 SECONDS EAST 147.02 FEET ON AND ALONG SAID EAST LINE TO A 5/8 INCH IRON ROD WITH YELLOW CAP STAMPED S0083 ON THE NORTH LINE OF A TRACT OF LAND DESCRIBED IN DEED RECORD 176, PAGE 219; THENCE NORTH 68 DEGREES 16 MINUTES 32 SECONDS WEST 135.28 FEET ON AND ALONG SAID NORTH LINE TO A P.K. NAIL IN THE WEST LINE OF SAID NORTHWEST QUARTER, SAID P.K. NAIL BEING 213.00 FEET NORTH OF THE NORTH RAIL OF THE CENTRAL INDIANA RAILROAD WHERE IT INTERSECTS THE WEST LINE OF THE SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 45 MINUTES 18 SECONDS WEST 95.36 FEET ON AND ALONG THE WEST LINE OF SAID NORTHWEST QUARTER TO THE POINT OF BEGINNING. PARCEL 3: PART

OF A TRACT OF LAND DESCRIBED IN INSTRUMENT #8913712 IN THE PUBLIC RECORDS OF HAMILTON COUNTY, INDIANA, LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER, SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST; THENCE SOUTH 00 DEGREES 45 MINUTES 28 SECONDS EAST 618.48 FEET (ASSUMED BEARING) TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 16 MINUTES 23 SECONDS EAST PARALLEL TO THE NORTH LINE OF SAID NORTHWEST QUARTER 125.00 FEET TO THE EAST LINE OF SAID TRACT AS DESCRIBED IN INSTRUMENT #8913712; THENCE SOUTH 00 DEGREES 45 MINUTES 18 SECONDS EAST 147.02 FEET ON AND ALONG SAID EAST LINE TO A 5/8" IRON ROD WITH YELLOW CAP STAMPED S0083 ON THE NORTH LINE OF A TRACT OF LAND DESCRIBED IN DEED RECORD 176, PAGE 219; THENCE NORTH 68 DEGREES 16 MINUTES 32 SECONDS WEST 135.28 FEET ON AND ALONG SAID NORTH LINE TO A P.K. NAIL IN THE WEST LINE OF SAID NORTHWEST QUARTER, SAID P.K. NAIL BEING 213.00 FEET NORTH OF THE NORTH RAIL OF THE CENTRAL INDIANA RAILROAD WHERE IT INTERSECTS THE WEST LINE OF THE SAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 45 MINUTES 18 SECONDS WEST 95.36 FEET ON AND ALONG THE WEST LINE OF SAID NORTHWEST QUARTER TO THE POINT OF BEGINNING. CONTAINING 15,148.59 SQUARE FEET OR 0.35 ACRE, MORE OR LESS.

EXHIBIT E Projected Phase Tax Increment

PROPOSED PROJECT COMPONENTS AND ESTIMATED TAX INCREMENT (UNION SQUARE ALLOCATION AREA)

DESCRIPTION	Estimated Square Footage	Estimated Developer Cost	Assumed Assessed Value	Assessed Value Improvements	Less Assessed Value Existing Improvements	Estimated Net Assessed Value	Assumed Tax Rate	Estimated Tax Increment Revenue	Revenue by Year		
									Pay 2025	Pay 2026	Pay 2027
PHASE I - UNION SQUARE:											
Retail	32,200	\$ 8,600,000	\$130/SF	\$ 4,136,000	\$ (768,600)	\$ 3,417,400	\$ 2.1000	\$ 71,765			
Office	40,000	9,000,000	\$130/SF	5,200,000	-	5,200,000	\$ 2.1000	109,200			
Multi-Family (188 Units)	194,329	32,250,000	\$115/SF	22,347,835	-	22,347,835	\$ 2.0000	446,957			
		<u>\$ 49,850,000</u>	PHASE I	<u>\$ 31,733,835</u>		<u>\$ 30,965,235</u>		<u>\$ 627,922</u>	\$ 376,753	\$ 627,922	\$ 627,922
PHASE II - MIDLAND NORTH:											
Retail	10,000	\$ 1,800,000	\$130/SF	\$ 1,300,000	(180,700)	1,119,300	\$ 2.1000	\$ 23,505			
Multi-Family (100 Units)	128,000	18,000,000	\$115/SF	14,720,000	-	14,720,000	\$ 2.0000	294,400			
		<u>\$ 19,800,000</u>	PHASE II	<u>\$ 16,020,000</u>		<u>\$ 15,839,300</u>		<u>\$ 317,905</u>	-	190,743	317,905
Totals									<u>\$ 376,753</u>	<u>\$ 818,665</u>	<u>\$ 945,827</u>

- Key Assumptions:
- 1) Construction for Phase I begins summer 2022 and estimated to be 60% completed by the end of 2023. Project complete June 2024 and fully assessed 1/1/2025. Full tax increment revenue received beginning 2026. Phase II begins summer 2023: 60% complete 1/1/2025; complete Spring 2025 with full assessment 1/1/2026 pay 2027.
 - 2) Assessed Value of new construction based upon Developer representations of per square foot values.
 - 3) Developer's hard & soft cost excluding the public garage totals \$69,6150,000. Their assumed assessed values represent approximately 69% of cost.
 - 4) Total pay 2022 tax rate for commercial property in the City net of school referendum rates is \$2.1449. Since the City and School Corp project continuing reduction in the net rate, we have conservatively applied a \$2.10 rate for all commercial improvements and a \$2.00 rate for apartments which represents the cap for multi-family property.

Exhibit F
DEVELOPMENT AGREEMENT
Union Square

This Development Agreement (Union Square) (the "Agreement") is executed this 9th day of June, 2022, by and among the **City of Westfield Redevelopment Commission** ("WRC"), the **City of Westfield Building Corporation** (the "Building Corporation"), the **City of Westfield, Indiana** (the "City"), and **Union Square Plaza LLC**, an Indiana limited liability company (the "Developer").

Recitals

WHEREAS, the WRC, the Building Corporation and the City desire to foster economic development within the City and provide additional public parking in the City;

WHEREAS, the WRC has created and expanded the Allocation Area for the purposes of capturing incremental tax revenues in the manner set forth in Indiana Code 36-7-14-39;

WHEREAS, the Developer proposes to construct market rate apartment units and commercial space for retail or office use within the Allocation Area, each of which is a "Project" and collectively referred to as "Projects", as more particularly defined in Section 1 hereof;

WHEREAS, Developer expects that its investment in the Projects, collectively, will be approximately Sixty Nine Million Dollars (\$69,000,000) and has requested certain economic development assistance from the City and the WRC with respect to the Garage Project;

WHEREAS, to induce development of the Allocation Area and the completion of the Projects, the WRC, the City and the Building Corporation, subject to further proceedings as required by law, desire to provide for the financing of the Garage Project, as more particularly described herein; and

WHEREAS, the WRC, the Building Corporation and the City have determined that the Project conforms to the comprehensive plan of development for the City and is in the best interests of the citizens of the City;

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

1. Defined Terms.

Allocation Area shall mean the Union Square Allocation Area within the Grand Junction Economic Development Area created and expanded by the WRC in accordance with Indiana Code 36-7-14 for the purpose of capturing Tax Increment.

Available Bond Proceeds shall mean, at a given time, the amount of the Bond Proceeds that are available for disbursement to pay Garage Project Costs, net of capitalized interest, a reserve fund, if necessary, and Bond Issuance Costs.

Bonds shall mean one or more series of taxable or tax-exempt economic development revenue bonds to be issued by the City under Indiana Code 36-7-11.9 and 12 pursuant to a Trust Indenture, in the estimated principal amount not to exceed \$12,250,000, the proceeds of which shall be made available to Developer in accordance with the Bond Documents, to construct the Garage Project, payable from a pledge of LIT Revenues by the Common Council to the extent the Tax Increment is not sufficient.

Bond Issuance Costs shall mean, namely, the costs, fees and expenses incurred or to be incurred by the

City, the Building Corporation and the WRC in connection with the issuance and sale of the Bonds, including underwriting or placement or other financing fees (including applicable counsel fees), rating fees, the fees and disbursements of bond counsel, the fees and disbursements of the City, the Building Corporation and the WRC's financial advisor, the acceptance fee and other fees of the Trustee, application fees and expenses, publication costs, the filing and recording fees in connection with any filings or recording necessary under the Trust Indenture or to perfect the lien thereof, the fees and disbursements of the counsel to the City, the Building Corporation, the WRC, the Westfield Economic Development Commission and the purchasers of the Bonds, the costs of preparing or printing the Bonds, the costs of reproducing documents and any other costs of a similarly nature reasonably incurred.

Bond Debt Service shall mean the regular (non-default) payments of principal and/or interest due and payable pursuant to the Bond Documents.

Bond Documents shall mean the documents required in connection with the issuance and sale of the Bonds, including, without limitation, the Trust Indenture, the Funding Agreement, the Garage Property Lease and customary closing certificates and opinions.

Bond Proceeds shall mean the proceeds of the Bonds.

Catch-Up Default shall mean, after: (a) the proper exercise by the Building Corporation of its right under Subsection 12(a) to require the development and implementation of a Catch-Up Plan; and (b) the Building Corporation's approval (or, if applicable pursuant to Subsection 12(b), development) of a Catch-Up Plan; the failure by Developer either to implement such Catch-Up Plan or, once implemented, to satisfy its obligations thereunder.

Catch-Up Plan shall mean, with respect to a Project, a plan pursuant to which Developer will: (a) avoid falling further behind the dates set forth in the then-current Construction Schedule for such Project; and (b) complete the construction of such Project, in accordance with such Construction Schedule, as updated, revised, and/or amended to reflect such plan.

City Agency shall mean any agency, board, commission, department, instrumentality, or unit of the City.

City Approval Process shall mean, with respect to each Project, the process by a City Agency for: (a) refining the Preliminary Plans into the Final Plans; and (b) obtaining the Required Permits; which shall be the same process customarily required for developers of commercial real estate projects seeking the equivalent of the "Required Permits" for their projects.

Claims shall mean claims, damages, injuries, losses, costs, and expenses (including, without limitation, attorneys' fees).

Closing shall mean the closing with respect to: (a) the issuance and purchase of the Bonds; (b) the conveyance of the Garage Site to the Building Corporation; and (c) the execution of the Garage Property Lease; subject to the Conditions set forth in Section 5(i).

Closing Date shall mean the date of the Closing.

Common Council shall mean the Common Council of the City.

Construction Schedule shall mean, with respect to each Project, a detailed schedule for construction of such Project in accordance with the Final Plans for such Project, which schedule is comprised of the construction schedule included as a portion of the Final Plans.

Developer Affiliate shall mean a person or entity that directly or indirectly controls, is controlled by, or is

under common control with Developer. For purposes of this definition, "control" (including the terms "controls", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

Disbursement Request shall mean a written request prepared by Developer for a disbursement of Available Bond Proceeds, which request shall: (a) be in the form required by the Bond Documents and the Funding Agreement; and (b) include all supporting materials required pursuant to the Funding Agreement.

Event of Default shall have the meaning set forth in Subsection 11(a).

E-Verify Program shall mean: (a) the program currently operated by the U.S. Department of Homeland Security that electronically confirms an individual's eligibility to work in the United States, authority for which is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208, 110 Stat. 3009 (8 U.S.C. §1324a), as amended; or (b) any successor work authorization program designated by the U.S. Department of Homeland Security or such other federal agency as may be authorized to verify the work authorization status of newly-hired employees. The E-Verify Program is the "E-Verify Program" defined in Ind. Code. §22-5-1.7-3.

Final Plans shall have the meaning ascribed to such term in Subsection 7(a).

Fundamental Flaw shall mean: (a) a flaw in the design or construction of a Project that must be addressed to avoid, correct, rectify, or reverse: (i) a material violation of any Law; (ii) a violation of applicable insurance requirements that could result in an insurer: (A) disclaiming coverage or liability; or (B) canceling or refusing to renew a policy; (iii) a violation of applicable warranty requirements that could result in a contractor or material supplier: (A) disclaiming coverage or liability; (B) refusing to issue or honor a warranty; or (C) canceling or refusing to extend a warranty; or (iv) an actual: (A) inability to obtain a Required Permit; or (B) attempt by a governmental authority to cancel or revoke a Required Permit; and/or (c) a design or construction issue that materially affects: (i) the structural integrity of the applicable Project; or (ii) in the case of the Garage Project or the Wrap Building Project: (A) the successful integration of the Garage with the Wrap Building (or the Wrap Building with the Garage, as the case may be); and/or (B) the ability of the Garage to provide the necessary support for the Wrap Building.

Funding Agreement shall mean an agreement among the City, the Building Corporation and the Developer pursuant to which Available Bond Proceeds shall be disbursed to Developer in a commercially reasonable manner to pay (or reimburse Developer for) Garage Project Costs. The Funding Agreement shall incorporate the terms and conditions set forth on Exhibit E; provided that, if and to the extent that the executed Funding Agreement is inconsistent with the terms and conditions set forth on Exhibit E, then the executed Funding Agreement shall control.

Garage shall mean an above-ground structured parking facility containing approximately 300 parking spaces, together with entrances and exits, ramps and drives, elevator lobbies, and related facilities. The Garage: (a) will be "wrapped", in whole or in part, by the Wrap Building; and (b) may incorporate a roof (as opposed to an open top level of parking spaces) on which a portion of the Wrap Building would be constructed, which portion may house a courtyard on the portion of the Wrap Building Site located immediately above the roof of the Garage.

Garage Budget shall mean the budget reflecting the estimated total Garage Project Costs.

Garage Construction Contract shall mean a guaranteed maximum price construction contract pursuant to which the contractor selected by Developer to construct the Garage Project (which contractor may be a Developer Affiliate) will satisfy the obligations of Developer hereunder with respect to the construction of the Garage Project.

Garage Operating Agreement shall mean an agreement by and among WRC, the Building Corporation, and Developer that addresses the day-to-day operation of the Garage, which agreement, without limitation: (a) establishes standards for the maintenance and repair of the Garage Property, and the requirements for satisfying such standards; (b) addresses, at a minimum, the following with respect to the Garage Property: (i) use and operation, including determining the locations of public and private parking spaces; (ii) a process for the leasing of parking spaces in the Garage to residents of the Wrap Building, which may be pursuant to lease agreements directly between the garage operator and the residents, or a lease agreement between the garage operator and Developer, with Developer subsequently subleasing such spaces to the residents; (iii) the maintenance of insurance; and (iv) the maintenance of records, including with respect to parking revenue; (c) otherwise requires that the obligations set forth under the Garage/Wrap Building Declaration are satisfied; and (d) contemplates the hiring of a qualified operator to discharge the obligations of WRC thereunder.

Garage Project shall mean: (a) any demolition of existing improvements on, or other site preparations with respect to, the portion of the Garage Site (and, if applicable, the Wrap Building Site) that are deemed by Developer to be necessary or appropriate; (b) the construction of the Garage on the Garage Site; and (c) the encapsulation of the existing legal drain; together with any attendant improvements, all as reflected in the Final Plans for the Garage Project.

Garage Project Costs shall mean the fees, costs, and expenses incurred (or to be incurred) by Developer in connection with the design, development, and construction of the Garage Project, including costs and expenses to: (a) develop and design the Garage Project; (b) prepare the Garage Site for construction (including demolition work, earthwork, environmental remediation work, and the extension of utilities); (c) design, relocate, and/or construct infrastructure to support the Garage Project; (d) encapsulate the existing legal drain; (e) design, relocate, and/or install perimeter hardscape and landscape for the Garage Project; (f) acquire the materials to construct, and construct, the Garage Project, and to satisfy its obligations under the Garage Construction Contract; (g) pay to Developer a construction fee equal to 4% of the total Garage Project Costs (determined without including the amount of such fee in the determination of the total amount of the Garage Project Costs) and (h) all costs and expenses which the City, the Building Corporation and the WRC shall be required to pay in connection with the construction of the Garage Project (including recording fees related to the Garage Site), costs of insurance of all kinds that maybe required or necessary in connection with the Garage Project, costs for architectural and engineering, development and consultant services and any sums required to reimburse the City, the Building Corporation, WRC or Developer for advances made by either of them subsequent to the date of inducement by the City for any of the above items for any other costs incurred and for work done by either of them which are properly chargeable to the Garage Project

Garage Property shall mean, collectively, the Garage Site and the Garage.

Garage Property Lease shall mean a lease pursuant to which the Building Corporation leases the Garage Property to WRC, which lease shall: (a) provide for a term that is coterminous with the term of the Bonds; (b) obligate WRC to make the Lease Rental Payments; (c) provide that, subject to the Garage/Wrap Building Declaration, WRC: (i) shall have the exclusive right to possess the Garage Property; and (ii) at its expense, shall be responsible, for the operation, management, maintenance, and repair of the Garage Property (including, in its capacity as the tenant and "possessory interest holder", satisfying the obligations of the "garage property owner" under the Garage/Wrap Building Declaration); and (d) address ownership of the Garage Property upon the expiration or earlier termination of the Term; provided that, if and to the extent that the executed Garage Property Lease is inconsistent with this definition, then the executed Garage Property Lease shall control.

Garage Site shall mean a three-dimensional space, the exact description of which shall be determined during the course of the City Approval Process for the Garage Project and the Wrap Building Project. The

Garage Site will be “wrapped” by, and will “notch into” the Wrap Building Site and, as a result, is difficult to depict; however, in general, it is that portion of the Phase I Area that is surrounded on four sides by the Wrap Building Site. It is yet to be determined whether the Garage Site will be an “air-only” parcel, or whether it will include the underlying real estate that provides support for the Garage.

Garage/Wrap Building Declaration shall mean an agreement between the Building Corporation and Developer and acknowledged and consented to by the WRC, that includes: (a) the easements, rights, obligations, and other terms and conditions set forth on Exhibit C; and (b) such other terms, conditions, and provisions as are deemed by the Building Corporation and Developer to be necessary or appropriate.

Laws shall mean all applicable: (a) laws, statutes, and/or ordinances; (b) governmental rules, regulations, and/or guidelines; and (c) judicial orders, consents, and/or decrees.

Lease Rental Payments shall mean semi-annual payments of rent to be paid by WRC to the Building Corporation pursuant to the Garage Property Lease, the amount of which shall be sufficient to pay the Bond Debt Service for such semi-annual period.

LIT Revenues shall mean local income tax revenues legally available to the City under Ind. Code § 6-3.6 for use to pay the Lease Rental Payments.

Phase shall mean Phase I and/or Phase II, as applicable.

Phase I shall mean, collectively, the Garage Project, the Wrap Building Project, and two additional Projects, together with related site work (which may include demolition) and/or improvements (which may include surface parking), to be constructed within the Phase I Area. As reflected on the Site Plan, it currently is anticipated that the two additional Projects will be: (a) a two or three-story commercial building containing approximately 15,000 square feet, which will be known as The Union; and (b) a three or four-story office and/or commercial building containing approximately 40,000.00 square feet.

Phase I Area shall mean that certain real estate in the City, the general boundaries of which are State Road 32/West Main Street on the north, Union Street on the east, Jersey Street on the south, and Mill Street Road on the west, which real estate is delineated as the “Phase I Area” on the Site Plan. The Garage Site and the Wrap Building Site are within the Phase I Area.

Phase II shall mean, collectively, three Projects, together with related site work (which may include demolition) and/or improvements (which may include surface parking), to be constructed within the Phase II Area. As reflected on the Site Plan, it currently is anticipated that: (a) each Project will include a building; and (b) the buildings, in the aggregate, will contain: (i) approximately 143,848 square feet; (ii) approximately 124 multifamily residential units; and (iii) approximately 4,400 square feet of commercial space.

Phase II Area shall mean that certain real estate in the City, the general boundaries of which are Cherry Street on the east, Midland Trace Trail on the south, and Union Street on the west, which real estate is delineated as the “Phase II Area” on the Site Plan.

Preliminary Plans shall mean schematic design drawings, design development documents, construction drawings, schedules, and (in the case of the Garage Project) budgets that have not yet been approved by the applicable City Agencies pursuant to the City Approval Process.

Project shall mean, generally, each improvement to be constructed on a discrete portion of the Phase I Area or the Phase II Area in accordance with the Final Plans for such improvement and the terms and conditions of this Agreement. As reflected on the Site Plan, it currently is contemplated that there will be a total of seven Projects: (a) four of which (including the Garage Project and the Wrap Building Project) will be located in the Phase I Area; and (b) three of which will be located in the Phase II Area.

Projected Phase Tax Increment shall mean the projected annual Tax Increment in each of Phase I and Phase II, as set forth on Exhibit F, as such Exhibit may be updated and/or replaced by the agreement of the parties prior, to or in connection with, the Closing.

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

Site Plan shall mean, collectively, the site plan for Phase I and Phase II, attached hereto as Exhibit A, which site plan reflects the current locations, types, and intended uses of the various Projects within each Phase.

Tax Increment shall mean all property tax proceeds attributable to the assessed valuation of real property in the Allocation Area in excess of the assessed valuation described in Indiana Code 36-7-14-39(b), as such statutory provision exists on the date of issuance of the Bonds, less any fees withheld by the WRC to pay Trustee fees under the Indenture and all other reasonable fees paid in connection with the administration and monitoring of such property tax proceeds

Trust Indenture shall mean a trust indenture executed by and between the City and the Trustee.

Trustee means the trustee selected by the City.

Unauthorized Alien shall have the meaning set forth in 8 U.S.C. §1324a(h)(3) (as reflected pursuant to Ind. Code §22-5-1.7-9).

Wrap Building shall mean a multi-floor building housing approximately 180 multifamily residential units and approximately 18,000 square feet of retail space, which building will "wrap" the Garage.

Wrap Building Project shall mean: (a) any demolition of existing improvements on, or other site preparations with respect to, the Wrap Building Site deemed by Developer to be necessary or appropriate; and (b) the construction of the Wrap Building on the Wrap Building Site; together with attendant public improvements and residential amenities, all as set forth in the Final Plans for the Wrap Building Project.

Wrap Building Project Lender shall mean the bank, institution, corporation, or other entity making a construction loan to Developer, the proceeds of which shall be used to construct the Wrap Building Project.

Wrap Building Project Loan shall mean, with respect to the Wrap Building Project, a construction loan, the proceeds of which shall be used by Developer to acquire the materials to construct, and to construct, all or any portion of the Wrap Building Project.

Wrap Building Project Loan Documents shall mean the documents evidencing and/or securing the Wrap Building Project Loan.

Wrap Building Site shall mean a three-dimensional space, the exact description of which shall be determined during the course of the City Approval Process for the Garage Project and the Wrap Building Project. The Wrap Building Site will "wrap", and will "notch into" the Garage Site and, as a result, is difficult to depict; however, in general, it is that portion of the Phase I Area that surrounds ("wraps") the Garage on four sides. If it is determined that the Garage Site will be an "air-only" parcel, then the underlying real estate that provides support for the Garage shall constitute a portion of the Wrap Building Site.

Wrap Building Property shall mean, collectively, the Wrap Building Site and the Wrap Building Project.

2. Obligations/Incentives. The obligations set forth in this Section are subject to the terms and

conditions of this Agreement, and to satisfaction of the requirements of all Laws (including, without limitation, the conducting of all proceedings required by the Laws).

(a) Conveyance Garage Site. At the Closing: (i) Developer shall convey the Garage Site to the Building Corporation by limited warranty deed; and (ii) the Building Corporation shall accept such conveyance.

(b) Garage Lease. The Building Corporation shall lease the Garage Property to WRC pursuant to the Garage Property Lease.

(c) Garage Operation. WRC, as lessee under the Garage Property Lease (and, accordingly, the holder of the possessory interest in the Garage Property), shall be responsible, at its cost and expense, for the operation, maintenance, repair, and replacement of the Garage, subject to and in accordance with the terms and conditions of the Garage Property Lease, the Garage/Wrap Building Declaration and the Garage Operating Agreement.

(d) Bonds. WRC, the Building Corporation, Developer, and the City shall work cooperatively and in good faith to establish the terms on which the Bonds will be issued (including, without limitation, the maximum principal amount thereof). The City shall issue and sell the Bonds and loan the proceeds of the Bonds to the Building Corporation to finance the Garage Project Costs. Available Bond Proceeds shall be deposited into the construction account established under the Trust Indenture for use to pay (or reimburse Developer for) Garage Project Costs.

(e) Payment Sources. The City will pledge the LIT Revenues to the payment of Lease Rental Payments to the extent the Tax Increment is not sufficient. Lease Rental Payments made by the WRC to the Building Corporation will be used to pay Bond Debt Service.

(f) Cherry Street Bridge. The City shall exercise commercially reasonable efforts to reconstruct the Cherry Street bridge in accordance with the City's downtown master plan. WRC, Building Corporation, and the City acknowledge that the timing of the development and construction of the Projects comprising Phase II will depend on the timeline within which the foregoing bridge work is completed.

(g) Projects. Developer: (i) for the benefit of WRC and the Building Corporation, shall design and construct the Garage Project in accordance with the terms and conditions of this Agreement and the Garage Construction Contract; (ii) shall design and construct the Wrap Building Project in accordance with the terms and conditions of this Agreement; and (iii) shall exercise commercially reasonable, good faith efforts to construct the remaining Projects in each Phase by the estimated completion dates (or within the applicable periods) shown on Exhibit B. The Garage Construction Contract shall be (a) subject to approval of the City and the Building Corporation, the approval of which shall not be unreasonably withheld; and (b) Developer estimates that, upon completion of both Phases, its total capital investment will be approximately \$69,000,000.00, excluding the Garage Project Costs (which shall be paid with Available Bond Proceeds).

3. Closing. Subject to the terms and conditions of this Agreement, it is anticipated that the Closing shall occur on or before the date that is six (6) months following the date of execution of this Agreement; provided that, subject to the terms and conditions of this Agreement (including the conditions set forth in Section 5), the "outside date" for the Closing shall be the date that is 12 months after the date on which the Common Council approves the issuance of the Bonds. The actual Closing Date and the location of the Closing shall be established mutually by City, WRC, Building Corporation and Developer.

4. Closing Documents. At the Closing, WRC, the Building Corporation, Developer, and/or the City, as applicable, shall execute and deliver (or cause to be executed and delivered) the following:

- (a) a limited warranty deed conveying to the Building Corporation title to the Garage Site;
- (b) the Garage Property Lease;
- (c) the Bond Documents;
- (d) the Wrap Building Project Loan Documents;
- (e) the Garage Construction Contract;
- (f) the Garage/Wrap Building Declaration;
- (g) an affidavit affirming that Developer: (i) is enrolled in the E-Verify Program; (ii) is participating in the E-Verify Program; and (iii) does not knowingly employ, or contract with, any Unauthorized Aliens;
- (h) confirmations by the applicable parties of the representations made by it in this Agreement;
- (i) copies of such resolutions, consents, authorizations, and other evidence as either party reasonably may request to establish that: (i) the persons executing and delivering the foregoing documents have been empowered and authorized by all necessary action of WRC, the Building Corporation, Developer, or the City, as applicable; and (ii) the execution and delivery of, and the performance of its obligations under, such documents, have been authorized by WRC, the Building Corporation, Developer, or the City, respectively; and
- (j) such other customary documents and instruments as any party may request in connection with the Closing.

The parties agree that the Garage Operating Agreement, together with a recordable memorandum thereof, will be executed prior to the date on which the Garage opens for use by tenants and members of the general public.

5. Conditions. Except to the extent waived by proceeding to the Closing, the obligation of each of City, WRC, Building Corporation, and Developer to proceed to the Closing is subject to the satisfaction, as of the Closing Date, of the conditions set forth in this Subsection.

- (a) The Allocation Area has been expanded to include the entirety of the Phase I Area and the Phase II Area.
- (b) Developer owns fee simple title to the entirety of the Phase I Area and the Phase II Area.
- (c) The parties have: (i) determined whether the Garage Site will include the land on which the Garage will be located (or whether the Garage Site will be an "air-only" parcel); and (ii) agreed on the legal description of the Garage Site for purposes of the limited warranty deed and the Garage Property Lease.
- (d) The Final Plans for the Garage Project and the Wrap Building Project have been

completed, or the parties are sufficiently satisfied with the progress of such Final Plans to proceed to the Closing.

(e) Developer has obtained (or the parties have determined that Developer will be able to obtain) all Required Permits for the Garage Project and the Wrap Building Project, to the extent that such Required Permits are available by their terms prior to commencement of construction.

(f) WRC, the Building Corporation, and/or the City, as applicable, have passed resolutions: (i) authorizing the execution of this Agreement; (ii) authorizing the issuance, closing, and funding of the Bonds and the execution of the Garage Property Lease; and (iii) authorizing the use of the Available Bond Proceeds to pay Garage Project Costs.

(g) WRC, the Building Corporation, Developer, and the City have agreed on the terms on which the Bonds will be issued.

(h) The Garage Budget has been finalized, and Developer, in the exercise of its reasonable discretion, has determined that the Available Bond Proceeds will be sufficient to pay the Garage Project Costs.

(i) Developer has determined or established: (i) that the development and construction of the Wrap Building Project is economically feasible; (ii) that the Wrap Building Project Lender is prepared to close on the Wrap Building Project Loan on terms satisfactory to Developer in its sole discretion; and (iii) to its satisfaction, and to the reasonable satisfaction of the City, the Building Corporation and the WRC, that it will have adequate funds (loan proceeds, equity investments, and/or cash on hand) to construct the Wrap Building Project.

(j) To the extent required by the Wrap Building Project Lender, Developer, WRC, the Building Corporation, and/or the City, as applicable, each acting in good faith, and the Wrap Building Project Lender have agreed to lender protection provisions described in Section 13 hereof

(k) Each of WRC, the Building Corporation, and Developer has agreed on the form and substance of the Garage Property Lease and the Garage/Wrap Building Declaration, including, without limitation, that WRC and Developer have reached an agreement with respect to the minimum and maximum number of parking spaces that will be designated for use exclusively by tenants and other occupants of the Wrap Building.

(l) Each of the City, Building Corporation, and Developer has agreed on the form and substance of the Funding Agreement.

(m) Developer is enrolled in the E-Verify Program.

(n) Each party has determined that: (i) there is no continuing breach of this Agreement by any other party; and (ii) all of the representations of the other parties set forth in this Agreement remain true and accurate in all material respects.

6. Condition Failure. If one or more of the conditions set forth in Section 5 is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, the applicable party either may elect to: (a) waive satisfaction of the conditions and proceed to Closing; or (b) terminate this Agreement by a written notice to the other parties; provided that, with respect to breaches of this Agreement by a party, the non-defaulting parties shall have the rights and remedies set forth in Section 11. Notwithstanding anything

to the contrary set forth herein, the parties shall work diligently and in good faith to satisfy the conditions set forth in this Section.

7. Plan Approval.

(a) Final Plans. Developer shall proceed through the City Approval Process to refine the Preliminary Plans for each Project into the Final Plans for such Project (and, as Developer proceeds through the City Approval Process for the Garage Project, Developer shall finalize the Garage Budget). At such time as all schematic design drawings, design development documents, construction drawings, and schedules comprising the Preliminary Plans for a Project have been approved through the City Approval Process, such drawings, documents, and schedules shall constitute the "Final Plans" for such Project. To the extent that any Final Plans are inconsistent with the definition or description of the applicable Project, the Final Plans for such Project, having been approved through the City Approval Process, shall control.

(b) Site Plan. Each of WRC, the Building Corporation and the City acknowledges it has reviewed and approves of the Site Plan, including the locations, types, and intended uses of the Projects comprising each Phase. Notwithstanding anything provided to the contrary in the City Approval Process, the City shall have the right to reject any proposed changes to the Site Plan that: (i) materially lessen the scope or scale of either Phase; (ii) materially alter the intended use, or the mix of uses, of the Projects in either Phase; (iii) contemplate architecture that is materially inconsistent with the architecture of other Projects or other public-private redevelopment projects in the area; or (iv) result in the use of materials of a quality materially inferior to materials incorporated into other Projects or other public-private projects in the area.

(c) Timing. Developer shall proceed through the City Approval Process for the Garage Project and the Wrap Building Project substantially in accordance with the estimated plan schedule attached hereto as Exhibit B. With respect to the other Projects in each Phase, Exhibit B reflects the currently anticipated timeframes for proceeding through the City Approval Process and estimated completion dates (or periods within which completion will occur) of all Projects, but is not intended to be binding on Developer. Developer acknowledges that the City, the Building Corporation and the WRC anticipate paying Bond Debt Service from Tax Increment generated and collected from all Projects in each Phase described in this Agreement. Accordingly, Developer agrees to exercise commercially reasonable, good-faith efforts to proceed through the City Approval Process for each Project in accordance with such schedule; provided that if, despite the exercise of such efforts, Developer is unable to adhere to such schedule, whether due to economic infeasibility or otherwise, then such inability shall not be an Event of Default, and, accordingly, none of WRC, the Building Corporation, nor the City shall be entitled to any remedies that would be available to it during the continuance of an Event of Default.

(d) Changes. Without being required to obtain the approval of the City (or its designated employee or consultant), Developer may execute change orders with respect to the Final Plans for the Wrap Building Project so long as the change reflected in the applicable change order: (i) will not result in a Fundamental Flaw; (ii) will not make it likely that the Tax Increment generated by Phase I or Phase II will be significantly less than the Projected Phase Increment for Phase I or Phase II, respectively; (iii) will not make it unlikely, impracticable, or impossible for Developer to complete and open the Garage or the Wrap Building by the date (or within the time period) set forth in the applicable Construction Schedule, as in effect immediately prior to the intended change; and (iv) is consistent with, and will have no negative effect on, the Final Plans for the Wrap Building Project or the Garage Project. For purposes of clarity, Developer shall be required to obtain

the approval of the City (or its designated employee or consultant) prior to executing changes orders: (i) with respect to the Final Plans for the Garage Project; (ii) for any changes that would make it likely that the Tax Increment generated by Phase I or Phase II will be significantly less than the Projected Phase Increment for Phase I or Phase II, respectively; and (iii) that would make it unlikely, impracticable, or impossible for Developer to complete and open the Garage or the Wrap Building by the date (or within the time period) set forth in the applicable Construction Schedule, as in effect immediately prior to the intended change. The City agrees that its approval described in this section (d) shall not be unreasonably withheld, including in the case of adjustments to Final Plans related to the connection between the Garage and the Wrap Building.

8. Construction.

(a) Construction. Developer shall construct the Garage Project and the Wrap Building Project, and each other Project constructed by it hereunder: (i) in a good and workmanlike manner; (ii) in substantial accordance with the applicable Final Plans, the terms and conditions of this Agreement, and the terms and conditions of the construction contract for such Project; and (iii) in compliance with the Laws.

(b) Available Bond Proceeds. Available Bond Proceeds shall be disbursed in accordance with the Funding Agreement and the other Bond Documents to pay (or reimburse Developer for) Garage Project Costs.

(c) E-Verify. Developer: (i) shall verify the work eligibility status of all newly-hired employees through the E-Verify Program; and (ii) shall not: (A) knowingly employ, or contract with, an Unauthorized Alien; or (B) retain an employee, or contract with a person, that Developer learns is an Unauthorized Alien. To the extent required by IC §§22-5-1.7, Developer shall require its contractor and each subcontractor to certify to Developer that, at the time of certification, the contractor or such subcontractor: (i) does not knowingly employ, or contract with, any Unauthorized Aliens; and (ii) has enrolled, and is participating, in the E-Verify Program. Developer shall maintain such certifications on file until the applicable construction contract or subcontract expires or is terminated.

(d) No Discrimination. Developer shall not discriminate against any employee or applicant for employment because of race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States Military service veteran status. Developer agrees to: (i) post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this Subsection; and (ii) state, in all solicitations or advertisements for employees placed or published by or on behalf of Developer, that all qualified applicants will receive consideration for employment without regard to race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States Military service veteran status. The foregoing shall apply notwithstanding any Law that may allow, or be interpreted to allow, discrimination on the basis of religious freedom or otherwise, and, to the fullest extent permitted by the Laws.

9. Inspection. Upon reasonable written notice delivered to Developer, which notice shall specify the portion of the construction to be inspected, the Building Corporation or its designee may perform an inspection of any item or element of the Garage Project; provided that, in connection therewith, the Building Corporation shall: (a) comply with all health and safety rules of which the Building Corporation has been informed that have been established for personnel present on the Garage Site; and (b) coordinate the inspection so that it does not materially interfere with the performance of construction by Developer. Developer shall have the right to accompany, and/or to have its construction manager accompany, the

Building Corporation during any such inspection.

10. Insurance-Garage Project. During construction of the Garage Project, Developer shall maintain with respect to such Project policies of insurance with coverages not less than that reflected on Exhibit D, together with any additional policies of insurance required by the Garage Construction Contract to be maintained. Each such policy shall: (a) be written by a company reasonably acceptable to the Building Corporation; and (b) provide that it shall not be modified or canceled without written notice to the Building Corporation at least 30 days in advance. Each policy of general liability insurance required by this Section to be maintained by Developer shall name the Building Corporation as an additional insured.

11. Events of Default.

(a) **Events of Default.** It shall be an "Event of Default" if any party fails to perform or observe any term or condition of this Agreement that is required to be performed or observed by it: (i) with respect to the obligation to pay money, if such failure is not remedied within ten days after such payment is due; and (ii) with respect to any other obligation, if such failure is not cured as of the date that is 30 days after the defaulting party receives notice specifying the nature of the failure; provided that, if the failure is of a nature that it cannot be remedied within 30 days, despite the exercise of reasonably diligent efforts, then the 30-day period shall be extended as reasonably may be necessary for the defaulting party to remedy the failure, so long as the defaulting party: (A) commences to remedy the failure within the 30-day period; and (B) diligently pursues such remedy to completion.

(b) **General Remedies.** During the continuance of an Event of Default, any non-defaulting party may take whatever actions at law or in equity are necessary or appropriate to: (i) collect any payments due to it under this Agreement; (ii) protect the rights granted to it 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, the underlying circumstance that resulted in the Event of Default.

(c) **No Remedy Exclusive.** Except as provided to the contrary in Section 12, 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; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission by a non-defaulting party to exercise any right or remedy during the continuance of an 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 Section or by the Laws.

(d) **Costs.** If the non-defaulting party incurs any costs or expenses in connection with exercising its rights and remedies under, or enforcing, this Agreement, then the defaulting party shall reimburse the non-defaulting party for all such costs and expenses, together with interest at the rate of 8% per annum.

12. Delay-Catch-Up Plan.

(a) **Catch-Up Plan.** If, at any time after Developer has commenced construction of the Garage Project or the Wrap Building Project, Developer falls 90 or more days behind with respect to any construction benchmark date (or the expiration of the period within which

such benchmark is to be reached) set forth in the Construction Schedule for the Garage Project or the Wrap Building Project, then the Building Corporation, by delivery of written notice to Developer, may require Developer to submit, within 20 days, a Catch-Up Plan for the Building Corporation's reasonable approval. Following approval by Building Corporation of a Catch-Up Plan, Developer shall implement, and diligently pursue the application of, such Catch-Up Plan.

(b) **Rejection.** If Developer: (i) fails to timely submit a Catch-Up Plan, and, at the time, is not working cooperatively with the Building Corporation to complete a Catch-Up Plan; or (ii) the Building Corporation rejects a Catch-Up Plan submitted by Developer; then the Building Corporation may develop a commercially reasonable Catch-Up Plan and require Developer to implement, and diligently pursue the application of, such Catch-Up Plan.

(c) **Catch-Up Default.** If there is a Catch-Up Default, then such Catch-Up Default shall constitute an Event of Default, and the Building Corporation shall have the right to exercise the remedies available to it with respect to a continuing Event of Default under Section 11. For purposes of clarity, unless and until there is a Catch-Up Default, a construction delay of the nature contemplated in Subsection 12(a) shall not constitute an Event of Default.

(d) **Re-Default.** If: (i) Developer has complied with its obligations with respect to the implementation of, and the satisfaction of its obligations under, a Catch-Up Plan; and (ii) subsequent to the satisfaction of such obligations again falls 90 days or more behind with respect to any construction benchmark date (or 90 days behind the expiration of the period within which such benchmark is to be reached) set forth in the Construction Schedule for the Garage Project or the Wrap Building Project (as revised to reflect the dates and/or time periods set forth in the most recent Catch-Up Plan under which Developer has satisfied its obligations), then, upon the expiration of such 90-day period, the provisions of this Section again shall apply.

(e) **Costs.** Notwithstanding that a construction delay of the nature contemplated in Subsection 12(a) is not an Event of Default unless and until there is a Catch-Up Default, following the expiration of the 90-day period referenced in Subsection 12(a), the Building Corporation shall have the right to: (i) exercise the remedy of specific performance to enforce the obligations of Developer pursuant to this Section; and (ii) recover from Developer all actual, out-of-pocket, third-party costs and expenses incurred by the Building Corporation in connection with exercising its rights and remedies under, or otherwise enforcing, the terms and conditions of this Section, together with interest at the rate of 8% per annum.

(f) **Sole Remedy.** The rights and remedies of the Building Corporation set forth in this Section are the sole rights and remedies available to any party for construction delays.

13. Lender Protections. Remedies available to a non-defaulting party under this Agreement (including, in the case of the Building Corporation, the remedies specified in Section 12) shall be subject to reasonable lender protection provisions. Each party agrees that, to the extent that lender protection provisions required by the Wrap Building Project Lender (or any other lender requesting such protections with respect to a loan secured by a Project) are commercially reasonable and customary in commercial loans in the area, such party shall agree to such provisions as long as (i) such provisions do not harm the rights of the holders of the Bonds set forth in the Indenture or (ii) require the WRC, the City, or the Building Corporation to cure any default by the Developer or a Developer Affiliate under the Wrap Building Project Loan (or any loan secured by a Project) or perform, guarantee or pay for any obligations on behalf of the Developer or a Developer Affiliate under the Wrap Building Project Loan (or any loan secured by a Project).

14. Representations. Each of WRC, the Building Corporation, Developer, and the City represents and warrants to the others that: (a) it shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement; (b) it has the power, and has been authorized, to enter into this Agreement and to perform its obligations hereunder; and (c) this Agreement is its legal, valid, and binding obligation. Each undersigned person executing this Agreement on behalf of a party or the City represents and certifies that he or she has been empowered and authorized by all necessary action of the applicable entity to execute and deliver this Agreement. In addition to the foregoing: (a) each of WRC, the Building Corporation, and the City warrants to Developer that it is a public body organized and existing under the laws of the State of Indiana; and (b) Developer represents and warrants to WRC, the Building Corporation, and the City that it is a limited liability company organized and existing under the laws of the State of Indiana.

15. Mutual Indemnification.

(a) **Mutual.** Each party shall indemnify and hold harmless the others from and against any and all Claims arising from, or connected with: (i) the indemnifying party's negligence or willful misconduct (or the negligence or willful misconduct of any party acting by, under, through, or on behalf of it); and/or (ii) any default by the indemnifying party under this Agreement.

(b) **Individual.**

(i) Developer shall indemnify and hold harmless the City, the Building Corporation and the WRC from and against any and all Claims arising from, or in connection with (i) construction of the Garage Project (ii) breaches by the Developer under contracts to which Developer is a party, to the extent that such contract related to the performance of any work on the Garage Property by the Developer or any party acting by, under, through, or on behalf of Developer; (iii) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on the Garage Property by Developer, or any party acting by, under, through, or on behalf of Developer; (iv) the negligence or willful misconduct of Developer or any party acting by, under, through, or on behalf of Developer relating to the performance of any work on the Garage Property; (v) Developer suffering or causing the filing of any mechanic's or materialmen's lien against the Garage Property or any adjacent property owned by the City, the Building Corporation or WRC; (vi) breach by Developer of any term or condition of this Agreement.

(ii) The Building Corporation shall indemnify and hold harmless Developer from and against any and all Claims arising from, or in connection with, the acts or omissions of the Building Corporation or its agent in the course of any inspection of the Garage Project conducted by or on behalf of the Building Corporation; provided, however, such indemnification obligation shall in no event include any Claim arising out or related to the mere discovery by Building Corporation or its agent of a defect or other issue that results in a Claim.

(c) **Exception/Survival.** The indemnification obligations of the parties in this Section: (i) shall not apply to the extent that a Claim arises due to the negligence or willful misconduct of another party; and (ii) as applicable to a Project shall survive for a period of two years after the first to occur of the substantial completion date of such Project or the earlier termination of this Agreement, as applicable to such Project.

16. Assignment.

(a) **General Rule.** None of WRC, the Building Corporation, nor Developer shall assign this Agreement without the prior written consent of the other parties; provided that, without the written consent of the other party: (i) WRC or the Building Corporation may assign this Agreement to another City Agency that has full power, authority, and capability to accept such assignment and perform the obligations of WRC or the Building Corporation, respectively, hereunder; and (ii) Developer may assign this Agreement, either in its entirety or to the extent applicable to a particular Project, to a Developer Affiliate that has full power, authority, and capability to accept such assignment and perform the obligations of Developer hereunder. The foregoing shall not operate to prevent Developer to assign or collaterally assign its rights hereunder to the Wrap Building Project Lender (or any other lender making a loan secured by a Project).

(b) **No Release.** Notwithstanding any assignment permitted under this Section, an assigning party 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 parties of any assignment shall not release the assigning party from such performance; provided that, if WRC or the Building Corporation assigns this Agreement to another City Agency, that: (i) has full power, authority, and capability to accept an assignment of this Agreement and carry out the obligations of WRC or the Building Corporation, respectively, hereunder; and (ii) expressly assumes all such obligations in writing; then WRC or the Building Corporation, respectively, 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 either party to this Agreement shall be in writing, and shall be deemed to have been given when: (a) delivered in person to the other party; or (b) sent by national overnight delivery service, with confirmation of receipt, addressed as follows: to WRC at 2728 East 171st Street, Westfield, Indiana 46074, Attn: President, with a copy to Manny Herceg, Esq., Taft Stettinius & Hollister, One Indiana Square, Suite 3500, Indianapolis, Indiana 46204; to the Building Corporation at Taft, Stettinius & Hollister, One Indiana Square, Suite 3500, Indianapolis, Indiana 46220, Attn: Manny Herceg; and to Developer at 31 1st Street SW, Carmel, Indiana 46032, with a copy to Jerimi J. Ullom, Esq., Hall, Render, Killian, Heath & Lyman, P.C., 500 N. Meridian Street, Indianapolis, Indiana 46204. Any party may change its address for notice by written notice delivered to the other parties as provided above.

18. 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 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 parties; (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. For purposes of this Section, "Force Majeure" shall mean, with respect to a party: (a) an act or omission of another party (or of the City); or (b) any other cause that is not within the reasonable control of such party (including, without limitation: (i) unusually inclement weather; (ii) the unusual unavailability of materials, equipment, services or labor; (iii) epidemics, pandemics, and other public health circumstances resulting in a governmental declaration of a public health emergency or its equivalent; and (iv) utility or energy shortages or acts or omissions of public utility providers).

22. Miscellaneous. Subject to Section 16, this Agreement shall inure to the benefit of, and be binding upon, the parties, and their respective successors and assigns. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. This Agreement: (a) may be modified only by

a written agreement signed by the City, WRC, the Building Corporation, and Developer. 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. All Exhibits to this Agreement are attached hereto and incorporated herein by reference.

[Signature Page Follows]

IN WITNESS WHEREOF, WRC, Building Corporation, Developer, and City have executed this Agreement as of the date set forth in the introductory paragraph hereof.

CITY OF WESTFIELD REDEVELOPMENT
COMMISSION

By: Joseph Plankis
Printed: JOSEPH PLANKIS
Title: PRESIDENT

CITY OF WESTFIELD BUILDING CORPORATION

By: Ronald T. Moore
Printed: Ronald T Moore
Title: President

UNION SQUARE PLAZA LLC

By: _____
Printed: _____
Title: _____

CITY OF WESTFIELD, INDIANA

By: Jo Andrew Cook
Printed: Jo Andrew Cook
Title: Mayor

IN WITNESS WHEREOF, WRC, Building Corporation, Developer, and City have executed this Agreement as of the date set forth in the introductory paragraph hereof.

CITY OF WESTFIELD REDEVELOPMENT
COMMISSION

By: _____

Printed: _____

Title: _____

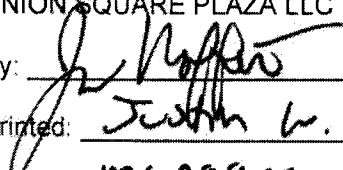
CITY OF WESTFIELD BUILDING CORPORATION

By: _____

Printed: _____

Title: _____

UNION SQUARE PLAZA LLC

By:  _____

Printed: Justin W. Muffett

Title: manager

CITY OF WESTFIELD, INDIANA

By: _____

Printed: _____

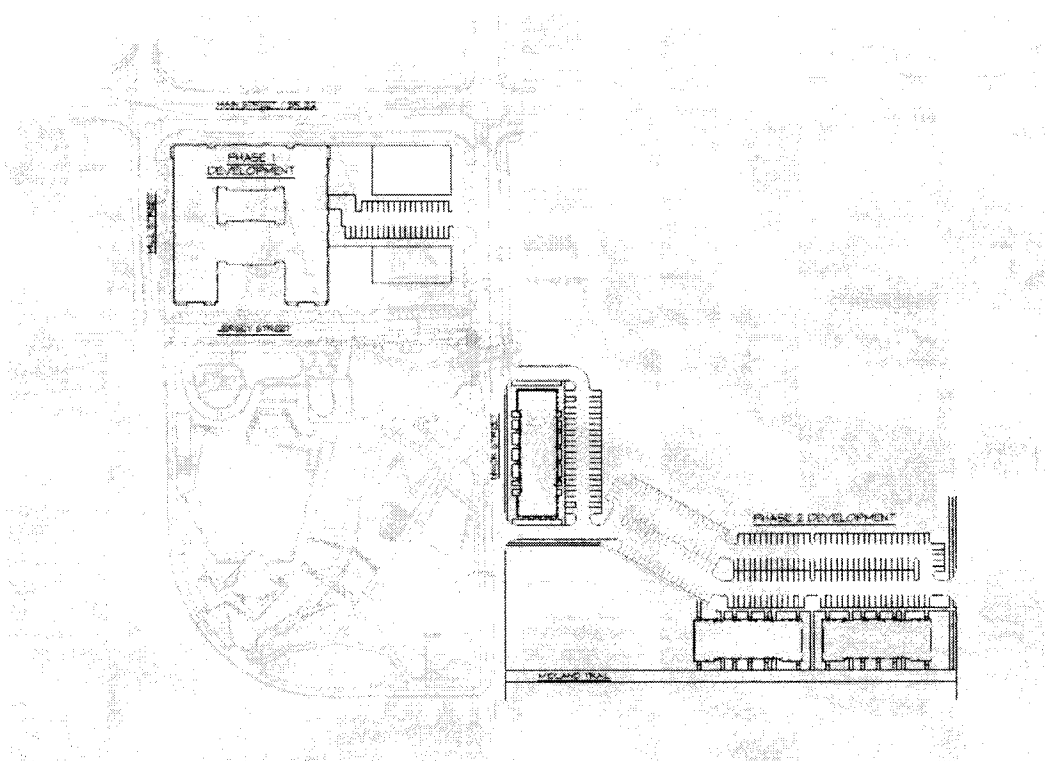
Title: _____

INDEX TO EXHIBITS

Exhibit A	Site Plan
Exhibit B	Estimated Project Schedule
Exhibit C	Garage/Wrap Building Declaration Provisions
Exhibit D	Insurance Requirements (Developer)
Exhibit E	Funding Agreement Provisions
Exhibit F	Tax Increment Projections

EXHIBIT A - Page
Site Plan Page 1

Delineation of Phase I and Phase II



SITE VICINITY PLAN

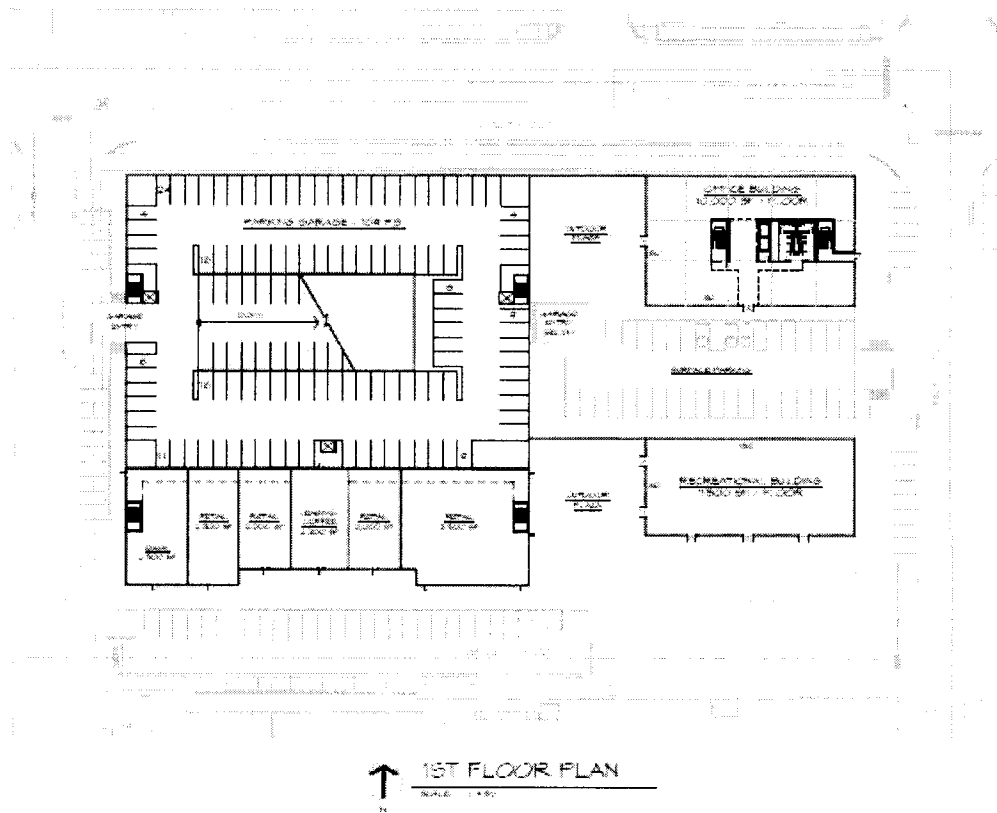


STUDIO M
ARCHITECTURE & PLANNING

UNION SQUARE
WESTFIELD, INDIANA

EXHIBIT A
Site Plan Page 2

Phase I



STUDIO M
ARCHITECTURE & PLANNING

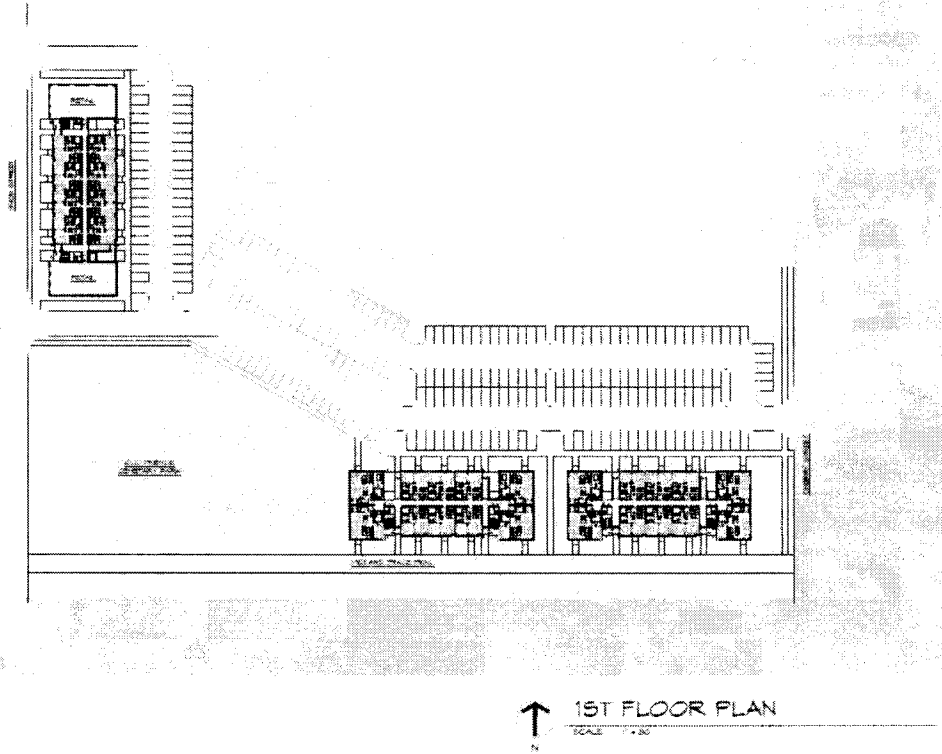
10.12.2017

UNION SQUARE
WESTFIELD, INDIANA

A1

EXHIBIT A
Site Plan Page 3

Phase II



STUDIO M
ARCHITECTURE & PLANNING

3.7.2020

UNION SQUARE
WESTFIELD, ND, USA

OPT 1

EXHIBIT B
Estimated Project Schedule

Phase 1:

Construction Start Garage Project and Wrap Building Project – June 2022

Construction Finish Garage Project and Wrap Building Project – March – May 2024

Construction Start Rec Building Project– April 2023

Construction Finish Rec Building Project- May 2024

Construction Start Office Project– April 2023

Construction Finish Office Project– May 2024

Phase 2:

Construction Start Multifamily Buildings w/ Main Level Retail Projects – April 2024

Construction Finish Multifamily Buildings w/ Main Level Retail Projects – June 2025

***All required zoning approvals have been obtained. Construction plans are required to be submitted to Planning Director for review and placement on APC Agenda as Consent Agenda Approval items 30 days prior to construction start.**

EXHIBIT C
Garage/Wrap Building Declaration Provisions

The Garage/Wrap Building Declaration will include, at a minimum, the provisions set forth in this Exhibit, but this Exhibit is not intended to be a comprehensive listing of all of the provisions that will be in the Garage/Wrap Building Declaration. As determined by the parties prior to the Closing, certain terms and conditions set forth in this Exhibit may be revised as necessary or required and may also be addressed in the Garage Operating Agreement instead of (or in addition to) the Garage/Wrap Declaration.

All capitalized terms used but not defined in this Exhibit shall have the meanings ascribed to such terms in that certain Development Agreement (Union Square) executed by and among WRC, the Building Corporation, and Developer to which this Exhibit is attached (the "Agreement").

1. Definitions.

Garage Property Owner shall mean any person or entity owning fee simple title to any portion of the Garage Property; provided that, during the term of the Garage Property Lease, the Tenant (as the Possessory Interest Holder) shall be deemed to be the Garage Property Owner for purposes of the Garage/Wrap Building Declaration, notwithstanding that the Building Corporation (or, if applicable, another City Agency) owns fee simple title to the Garage Property.

Possessory Interest Holder shall mean the holder of the right to possess, operate, manage, and control the usage of the Garage Property. By virtue of the Garage Property Lease, the tenant thereunder (as opposed to the Building Corporation) is the Possessory Interest Holder during the term of the Garage Property Lease. On the date hereof, WRC is the tenant under the Garage Property Lease and, accordingly, the Possessory Interest Holder.

Property shall mean the Garage Property and/or the Wrap Building Property, as applicable.

Property Owner shall mean the Garage Property Owner and/or the Wrap Building Property Owner, as applicable.

Wrap Building Property Owner shall mean any person or entity owning fee simple title to any portion of the Wrap Building Property.

2. Easements Grant. The easements set forth in this Section shall be declared, created, made, and reserved; provided that such easements are not necessarily the only easements that will be granted in the Garage/Wrap Building Declaration.

(a) **Construction.** For the benefit of the Properties, temporary reciprocal easements for construction and/or installation of each of the Garage Project and the Wrap Building Project in accordance with the applicable Final Plans and the terms and conditions of the Agreement, including, without limitation, easements for constructing structural elements (including columns) and installing systems and equipment.

(b) **Structural Support.** For the benefit of the Properties, reciprocal easements of vertical and/or horizontal support. Such easements may include (but are not necessarily limited to), those set forth in this Section.

(i) If the Garage Site does not include the land on which the Garage will be constructed (and such land instead is part of the Wrap Building Site), then, for the benefit of the Garage Property, an easement for support

by such land, together with: (A) the right to retain the Garage in its location once construction of the Garage Project is complete; and (B) the right to replace all or any portion of the Garage on such land.

(ii) For the benefit of the Properties, easements for: (A) attachment of the Wrap Building to the Garage (or the Garage to the Wrap Building, as applicable) in accordance with the applicable Final Plans; (B) creation of pedestrian connections between the Garage and the Wrap Building in accordance with the applicable Final Plans; and (C) maintaining such attachments and pedestrian connections in place.

(iii) For the benefit of the Wrap Building Property, easements for: (A) vertical and horizontal support from the Garage; and (B) installing, maintaining in place, and using residential amenities on the roof of the Garage in accordance with the Final Plans for the Wrap Building Project;

(c) Vehicular Access. For the benefit of the Properties, reciprocal easements for vehicular access, ingress, and egress in, on, over, across, and through vehicular access points in the Garage (including entrances, exits, ramps, drives, and drive lanes) to and from Garage parking spaces and public streets adjacent to the Garage Site.

(d) Parking. For the benefit of the Wrap Building Property, easements for parking in parking spaces designated for the exclusive use of tenants or other occupants of the Wrap Building, the terms and conditions of which will be determined by the parties prior to the Closing; provided that, in all events the number of parking spaces reserved for the exclusive use of such tenants or other occupants be less than the number of parking spaces necessary or reasonably appropriate to satisfy: (i) zoning requirements applicable with respect to the Wrap Building Property; and (ii) the parking needs of then-current and reasonably anticipated tenants and other occupants, taking into account the number of parking spaces customarily available to serve similarly sized residential and commercial developments in the general area; provided that, in no event shall there be fewer than 30% of the total available parking spaces in the Garage designated for the exclusive use of tenants or occupants of the Wrap Building Property.

(e) Pedestrian Access. For the benefit of the Properties, reciprocal easements for pedestrian access, ingress, and egress in, on, over, across, and through common pedestrian facilities in the Garage and the Wrap Building to and from Garage parking spaces and public sidewalks and other pedestrian walkways adjacent to the Garage Property or the Wrap Building Property. The foregoing shall not be deemed to grant a right of access, ingress, and/or egress in, on, over, across, or through any areas or facilities within the Wrap Building properly designated by the Wrap Building Property Owner as restricted pedestrian areas.

(f) Equipment/Systems. For the benefit each Property, reciprocal easements in, on, over, across, under, and through the other Property as is necessary or reasonably appropriate or: (i) the construction and/or installation of equipment and mechanical and other systems and facilities (which may include, without limitation, control equipment, elevator facilities, stair tower facilities, fire suppression systems, utility facilities, and venting systems; (ii) maintaining the foregoing equipment, facilities, and systems in their locations; and (iii) use of such equipment, facilities, and systems for their intended purposes.

(g) Maintenance. for the benefit of the Property Owners (and, during the term of the Garage Property Lease, the Possessory Interest Holder), easements for performing

maintenance, repairs, and/or replacements permitted by, or required pursuant to, the Garage/Wrap Building Declaration.

(h) Encroachments. For the benefit of the Properties, reciprocal easements allowing any portion of the completed Garage or completed Wrap Building that encroaches onto the Wrap Building Property or the Garage Property, respectively (whether due to minor construction variations or due to minor settling), to remain in its location, so long as such encroachment does not affect the safety or structural integrity of the Property in or upon which such encroachment is located.

(i) Public Easements. For the benefit of the general public, easements for:

(i) pedestrian access, ingress, and egress in, on, over, across, and through common pedestrian facilities in the Garage and the Wrap Building to and from public parking spaces in the Garage and public sidewalks and other pedestrian walkways adjacent to the Garage Site and the Wrap Building Site. The foregoing shall not be deemed to grant a right of access, ingress, and/or egress in, on, over, across, or through any areas or facilities within the Wrap Building properly designated by the Wrap Building Project Owner as restricted pedestrian areas.

(ii) vehicular access in, on, over, across, and through vehicular access points in the Garage (including entrances, exits, ramps, drives, and drive lanes) to and from public parking spaces in the Garage and public streets adjacent to the Garage Site; and

(iii) parking vehicles in public parking spaces in the Garage on a first-come, first-served basis; provided that the rights provided by such easement shall be subject to rules, parking charges, and directional signage from time-to-time imposed and/or posted by the Garage Property Owner.

Notwithstanding that members of the general public are the stated beneficiaries of the foregoing public easements, no member of the general public shall have the right to enforce, and/or make claims under, the Garage/Wrap Building Declaration with respect thereto; accordingly, only the Garage Property Owner (which is the Possessory Interest Owner during the term of the Garage Property Lease) and the Wrap Building Property Owner shall have the right to enforce, and/or make claims under, the Garage/Wrap Building Declaration respect thereto.

3. Operating/Maintenance.

(a) Garage. The Garage Property Owner will be required to: (i) operate, maintain, and repair the Garage Property to a standard at least as high as the standards for the maintenance and repair of public parking garages in the City, including maintenance of all structural elements located in or on the Garage Property; (ii) maintain liability and casualty insurance with respect to the Garage Property; (iii) administer parking spaces; (iv) collect and account for revenues; and (v) restore and/or rebuild the Garage pursuant to plans and specifications reasonably approved by the Wrap Building Property Owner following a casualty event.

(b) Wrap Building. The Wrap Building Property Owner will be required to: (i) maintain and repair the Wrap Building Property, including structural elements located in or on the

Wrap Building Property; (ii) maintain liability and casualty insurance with respect to the Wrap Building Property; and (iii) restore and/or rebuild the Wrap Building Property pursuant to plans and specifications reasonably approved by the Garage Property Owner if there is casualty damage.

4. Resident Parking.

(a) **Space Leases.** The Garage/Wrap Building Declaration and/or the Garage Operating Agreement will: (a) include the right of the Wrap Building Property Owner to lease parking spaces for exclusive use by occupants of the Wrap Building 24 hours per day, seven days per week; provided that the Garage Property Owner may elect to require the Garage Property Owner to enter into such lease directly with such occupants; (b) contemplate a process therefor; provided that, at the election of the Wrap Building Property Owner, the Garage Property Owner will lease such parking spaces to the Wrap Building Property Owner for subsequent lease to individual residents.

(b) **Revenues.** Revenue resulting from the leasing of parking spaces to residential tenants of the Wrap Building shall be collected by the Garage Property Owner and deposited into an account dedicated and restricted expressly to the operation and maintenance of the Garage Property. It is anticipated that such revenues, in the aggregate, will be sufficient to pay all costs of operating and maintaining the Garage Property (including all such costs reasonably allocable to parking spaces reserved for the exclusive use of tenants and other occupants of the Wrap Building), with any remaining revenue from time-to-time being released to the Garage Property Owner.

5. Encroachments. Notwithstanding that legal descriptions of each of the Garage Site and the Wrap Building Site will be attached to the Garage/Wrap Building Declaration, each of WRC and Developer acknowledges and agrees that it is likely that, when constructed, the Garage Project and/or the Wrap Building Project may not be located entirely within the boundaries of the Garage Site or the Wrap Building Site, respectively. Accordingly, the Garage/Wrap Building Declaration may include provisions that address the exchanging of deeds, or the granting of more specific easements or licenses, after completion of each of the Garage Project and the Wrap Building Project.

6. Tax Appeal. The Wrap Building Property Owner will be required to covenant that it will not challenge or appeal the applicable tax rate, the assessed value of the Wrap Building Project, or the application of the applicable tax rate to the assessed value, to the extent that such challenge or appeal would result in the Tax Increment being less than 110% of the aggregated Projected Phase Tax Increment for Phase I and Phase II.

EXHIBIT D
Required Insurance

The attached sample Certificate of Liability Insurance sets forth the minimum coverages Developer is required to maintain during construction of the Garage Project and otherwise in accordance with this Agreement. Each policy shall name Building Corporation as an additional insured. No policy may be modified or canceled without written notice to Building Corporation at least 30 days in advance.



CERTIFICATE OF LIABILITY INSURANCE

SAMPLE-

OP ID: KP

DATE (MM/DD/YYYY)

07/21/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: DAR THE ROCCHIO AGENCY 4660 LISBORN DRIVE CARMEL, IN 46033 David A. Rocchio		CONTACT NAME: NAME OF INSURANCE AGENT? PHONE: AGENT PHONE FAX: AGENT FAX E-MAIL: AGENT EMAIL ADDRESS ADDRESS:		
INSURED: CONTRACTOR-VENDOR NAME MUST MATCH NAME ON CONTRACT CONTRACTOR ADDRESS		INSURER(S) AFFORDING COVERAGE		PAGE #
		INSURER A - NAME OF INSURANCE COMPANY		
		INSURER B - PROVIDING THE INSURANCE, MUST		
		INSURER C - BE A- RATED OR BETTER		
		INSURER D:		
		INSURER E:		

COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:	
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSR. TYPE	TYPE OF INSURANCE	REDUCED LIMITS	POLICY NO.	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☐ GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJE. ☐ LOC. ☐ OTHER:	Y	Y	POLICY NUMBER	01/01/2021 01/01/2022
					LIMITS
					EACH OCCURRENCE \$ 1,000,000
					DAMAGE TO RENTED PREMISES (if a contract) \$ 100,000
					MED. EXP. (any one person) \$ 5,000
					PERSONAL & ADV. INJURY \$ 1,000,000
					GENERAL AGGREGATE \$ 2,000,000
					PRODUCTS - COMPOUND AGG. \$ 2,000,000
					\$
A	☒ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS	Y	Y	POLICY NUMBER	01/01/2021 01/01/2022
					COMBINED SINGLE LIMIT (if a contract) \$ 1,000,000
					BODILY INJURY (Per person) \$
					BODILY INJURY (Per incident) \$
					PROPERTY DAMAGE (if a contract) \$
					\$
A	☒ UMBRELLA LIAB. ☒ OCCUR ☐ EXCESS LIAB. ☐ CLAIMS-MADE ☐ DEF. ☒ RETENTION \$ 0	Y	Y	POLICY NUMBER	01/01/2021 01/01/2022
					EACH OCCURRENCE \$ 5,000,000
					AGGREGATE \$ 5,000,000
					\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY EMPLOYER/EMPARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (Mandatory in NH) If yes, describe job: DESCRIPTION OF OPERATIONS below	Y/N	N/A	Y	POLICY NUMBER
					01/01/2021 01/01/2022
					☒ PER STATUTE ☐ OTHER
					E.L. EACH ACCIDENT \$ 1,000,000
					E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
					E.L. DISEASE - POLICY LIMIT \$ 1,000,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required):					
ALL PROJECTS					
SEE ATTACHED NOTEPAD FOR INSURANCE REQUIREMENTS.					

CERTIFICATE HOLDER	CANCELLATION
OLD TOWN CONSTRUCTION, LLC 1132 S. RANGELINE ROAD CARMEL, IN 46032	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE David A. Rocchio

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ACORD 25 (2014/01)

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4842-9012-1199v12

EXHIBIT E

Funding Agreement Provisions

Provisions consistent with those set forth in this Exhibit shall be included in the Funding Agreement. These provisions may be modified as required or necessary to conform to the Trust Indenture. All capitalized terms used but not defined in this Exhibit shall have the meanings ascribed to such terms in that certain Development Agreement (Union Square) executed by and among the City, WRC, the Building Corporation, and Developer to which this Exhibit is attached (the "Agreement").

1. Information. In connection with each request for disbursement of Available Bond Proceeds, Developer shall provide the following to the City (or its designated employee or consultant):

- (a) in the case of the first request for disbursement only, a certification by Developer that the Building Corporation has approved the Garage Construction Contract;
- (b) copies of invoices, together with a certification by Developer that: (i) all such invoices are for the payment of Garage Project Costs; and (ii) the Garage Project Costs being paid pursuant to such invoices have not been paid previously with a disbursement of Available Bond Proceeds;
- (c) a certification by Developer or the general contractor for the Garage Project that: (i) it has obtained lien waivers from subcontractors with contracts for work in an aggregate amount of at least \$50,000.00 that otherwise would have the right to claim valid mechanics' or similar liens against all or a portion of the Garage Property for: (A) work or services performed; or (B) supplies, material, or equipment provided; with respect to the Garage Project through the date of the immediately previous request for disbursement; and (ii) upon receipt of the requested disbursement: (A) full payment will be made to the parties (and only to the parties) named in such invoices; and (B) after such payments, all invoices submitted as part of Disbursement Requests prior to and including the current Disbursement Request will have been paid in full;
- (d) reasonably satisfactory evidence that: (i) no mechanics' liens have been filed against all or any portion of the Garage Property for: (A) work or services performed; or (B) supplies, material, or equipment provided; with respect to the Garage Project; and (ii) no other liens or encumbrances have been recorded against all or any portion of the Garage Property in connection with the construction of the Garage Project; since the date of the immediately previous Disbursement Request, other than: (A) the lien of real estate taxes not delinquent; and (B) grants of easements reasonably determined by WRC or the Building Corporation, as applicable, and Developer, to be necessary or appropriate in connection with the construction and/or use of the Garage Project (taking into account its integration with the Wrap Building); and
- (e) an architect's certification: (i) stating that the portion of the Garage Project completed to date: (A) has been constructed in substantial accordance with the Final Plans therefor and the Laws; and (B) does not encroach upon any easements or rights-of-way, or across any building set-back lines or utility lines (except to the extent that such encroachment is permitted, and/or is reasonably expected to occur given the integrated nature of the Garage and the Wrap Building); and (ii) certifying: (A) the estimated values of work in place on the Garage Site; and (B) the percentage of completion of the Garage Project.

2. Disbursement.

(f) Disbursement Approval. Absent any good faith questions or concerns with respect to the information included as part of a Disbursement Request, the City, within five (5) business days after receipt of a complete Disbursement Request, shall submit to the Trustee a statement authorizing disbursement in accordance with the Disbursement Request; provided that, if the City identifies any good faith questions or concerns with respect to such Disbursement Request, then the City will not be obligated to authorize the disbursement until such time that its questions or concerns have been addressed to its reasonable satisfaction.

(g) Frequency/Retainage. Disbursements of Available Bond Proceeds shall not be made more frequently than monthly, and, notwithstanding anything to the contrary set forth herein, retainage of 10% shall be withheld from each disbursement of Available Bond Proceeds, which retainage shall be paid with the final disbursement of Available Bond Proceeds.

3. Bypass Authority. This Exhibit shall not be construed as prohibiting the City from authorizing a disbursement of Available Bond Proceeds without proceeding through the process set forth herein, so long: (a) as such authorization is not prohibited by the terms and conditions of the Trust Indenture; and (b) the City has been authorized by proper action to authorize such a disbursement.

EXHIBIT F
Phase I Tax Increment Projections/Phase II Tax Increment Projections

WESTFIELD REDEVELOPMENT COMMISSION											
PROPOSED PROJECT COMPONENTS AND ESTIMATED TAX INCREMENT (UNION SQUARE ALLOCATION AREA)											
DESCRIPTION	Estimated Square Footage	Estimated Developer Cost	Assessed Assessed Value	Assessed Value Improvements	Less Assessed Value Existing Improvements	Estimated Net Assessed Value	Assumed Tax Rate	Estimated Tax Increment Revenue	Revenue by Year		
									Pay 2025	Pay 2026	Pay 2027
PHASE I - UNION SQUARE											
Retail	32,000	\$ 8,100,000	\$130/SF	\$ 4,160,000	\$ (768,500)	\$ 3,391,400	\$ 2.0000	\$ 67,828			
Office	30,000	9,000,000	\$130/SF	3,900,000	-	3,900,000	\$ 2.0000	78,000			
Multi-Family (160-180 Units)	228,000	32,250,000	\$115/SF	26,220,000	-	26,220,000	\$ 2.0000	524,400			
		<u>\$49,350,000</u>	PHASE I	<u>\$ 34,280,000</u>		<u>\$33,511,400</u>		<u>\$ 670,228</u>	<u>\$ 602,671</u>	<u>\$ 670,228</u>	<u>\$ 670,228</u>
PHASE II - MIDLAND NORTH											
Retail	10,000	\$ 1,800,000	\$130/SF	\$ 1,300,000	(180,700)	1,119,300	\$ 2.0000	\$ 22,386			
Multi-Family (100-120 Units)	120,000	18,000,000	\$115/SF	13,800,000	-	13,800,000	\$ 2.0000	276,000			
		<u>\$19,800,000</u>	PHASE II	<u>\$ 15,100,000</u>		<u>\$14,919,300</u>		<u>\$ 298,386</u>	<u>-</u>	<u>223,790</u>	<u>298,386</u>
Totals									<u>\$ 602,671</u>	<u>\$ 894,018</u>	<u>\$ 968,614</u>

Key Assumptions: 1) Construction for Phase I begins in 2022 and estimated to be 75% completed by the end of 2023. Project complete 8-1-2024 and fully assessed 1-1-2025. Full tax increment revenue received beginning 2026. Phase II expected to follow one year later.
2) Assessed Value of new construction based upon Developer representations of per square foot values.
3) Developer's hard & soft cost excluding the public garage totals \$69,150,000. Their assumed assessed values represent approximately 71% of cost.
4) Total pay 2021 tax rate for commercial property in the City net of school referendum rates is \$2.1980. Since the City and School Corp project continuing reduction in the net rate, we have conservatively applied a \$2.00 rate which represents the cap for multi-family property for all commercial improvements.