

**RESOLUTION NO. RC-42-24**  
**A RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT**  
**(Morse Village)**

WHEREAS, the City of Noblesville, Indiana (the “City”) desires to enter into agreements with private entities to encourage investment and foster economic development within the City;

WHEREAS, LOR Corporation is an Indiana corporation, all organized and existing under the laws of the State of Indiana (the “Developer”);

WHEREAS, the Common Council of the City (the “Council”) has been advised by the Mayor, City administration and others of a proposed economic development agreement by and between the City and the Developer, the substantially final form of which agreement is attached hereto as Exhibit A and incorporated herein by reference (the “Project Agreement”);

WHEREAS, pursuant to the Project Agreement, the Developer has proposed to develop or cause to be developed a \$250M+ mixed-use development that includes approximately (i) 30,000 square feet of commercial, retail, restaurant, professional office space, (ii) +/-250 multi-family units, (iii) +/-100 4-, 3-, and 2-story for-sale townhomes, (iv) ±50 condominium units with the ability, subject to City consent and presentation of site and architectural plans, to convert to townhomes based on market feasibility and demand, and (v) 250 for-sale single-family homes (the “Single-Family Project Component”) (the “Project”);

WHEREAS, the Developer intends to make or cause to be made a minimum capital investment of not less than Twenty Six Million Dollars (\$26,000,000) in connection with the Project;

WHEREAS, the Developer has advised the City that, without the assistance of the City and the provision of the economic development incentives described in the Project Agreement, the Project will not move forward;

WHEREAS, the Council has reviewed the Project Agreement and considered the information provided to it by the Mayor, City administration and others relating to the proposed Project and therefore finds that the terms of the Project Agreement are consistent with the provisions of Indiana law and plan for development of the City, will serve to foster and encourage economic growth of the City and will be of public benefit to the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF NOBLESVILLE, HAMILTON COUNTY, INDIANA, AS FOLLOWS:


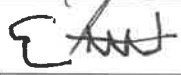



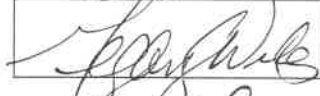
Section 1. The Project Agreement, in substantially final form attached hereto as Exhibit A, is hereby approved and the Mayor of the City is hereby authorized to execute said Project Agreement on behalf of the City. The Mayor of the City is hereby authorized and empowered to approve any such amendments, additions, deletions or changes to the Project Agreement as he deems necessary or advisable, with the advice of counsel, and his approval shall be signified by his execution of the Project Agreement.

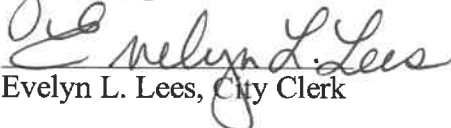
Section 2. The Mayor, the Controller and the Clerk of the City, and such other staff members, service providers and firms as they may direct are hereby authorized and directed to take any and all other actions on behalf of the City as may be necessary or appropriate to carry out the purposes of this resolution.

Section 3. This resolution shall be in full force and effect after its passage and execution by the Mayor.

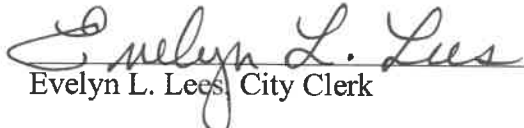
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Approved on this 15<sup>th</sup> day of October, 2024 by the Common Council of the City of Noblesville, Indiana:

AYE		NAY	ABSTAIN
	Mark Boice		
	Michael J. Davis		
	Evan Elliott		
	David M. Johnson		
	Darren Peterson		
	Pete Schwartz		
	Aaron Smith		
	Todd Thurston		
	Megan G. Wiles		

ATTEST:   
 Evelyn L. Lees, City Clerk

Presented by me to the Mayor of the City of Noblesville, Indiana, this 16<sup>th</sup> day of October, 2024 at 8:50 A.M.

  
 Evelyn L. Lees, City Clerk

  
 Chris Jensen, Mayor

MAYOR'S APPROVAL

10-16-24  
 Date

MAYOR'S VETO

Chris Jensen, Mayor


ATTEST:   
 Evelyn L. Lees, City Clerk



EXHIBIT A

Project Agreement

**ECONOMIC DEVELOPMENT AGREEMENT**

THIS ECONOMIC DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2024, by and among the City of Noblesville, Indiana (the “City”), the Noblesville Redevelopment Commission (the “Redevelopment Commission” and, together with the City, the “City Bodies”), and LOR Development Group, LLC, an Indiana limited liability company (the “Company” or “Developer”).

W I T N E S S E T H:

WHEREAS, the Redevelopment Commission desires to foster economic development and redevelopment within the City; and

WHEREAS, the Company has approached the Redevelopment Commission regarding the construction and equipping of certain economic development facilities, as more particularly described in Part I of Exhibit A attached hereto (collectively, the “Project”) on certain parcels of real property located within (or to be annexed into) the City (the “Project Site”) (see Exhibit B attached hereto for a legal description); and

WHEREAS, the Company has requested certain economic development assistance from the City with respect to the funding of Eligible Costs for the portion of the Project described in Part II of Exhibit A hereto; and

WHEREAS, the City Bodies have determined that the completion of the Project is in the best interests of the citizens of the City, and, therefore, the City Bodies desire to take certain steps in order to induce the Company to complete the Project; and

WHEREAS, to stimulate and induce the development of the Project Site and the completion of the Project, the City Bodies have agreed, subject to further proceedings as required by law, to provide the economic development incentives described herein.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

**ARTICLE I. DEFINITIONS**

The capitalized words and phrases used in this Agreement shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of such words and phrases):

“Act” means collectively, Indiana Code 36-7-11.9 and 12.

“Allocation Area No. 1” means the area to be designated by the Redevelopment Commission under Indiana Code 36-7-14-39 as an area for the purpose of the allocation and distribution of property taxes on real property to be used in the manner provided in Indiana Code 36-7-14-39, which shall be known as the “[Morse Village] Allocation Area No. 1.” Allocation Area No. 1 includes the Retail Project Component and the Multifamily Project Component.

“Allocation Area No. 2” means the area to be designated by the Redevelopment Commission under Indiana Code 36-7-14, Sections 39 and 56 as an area for the purpose of the allocation and distribution of property taxes on real property to be used in the manner provided in Indiana Code 36-7-14, Sections 39 and 56, which shall be known as the “[Morse Village] Allocation Area No. 2.” Allocation Area No. 2 includes the Townhome Project Component and the Condo Project Component.

“Allocation Area No. 3” means the area to be designated by the Redevelopment Commission under Indiana Code 36-7-14, Sections 39 and 56 as an area for the purpose of the allocation and distribution of property taxes on real property to be used in the manner provided in Indiana Code 36-7-14, Sections 39 and 56, which shall be known as the “[Morse Village] Allocation Area No. 3.” Allocation Area No. 3 includes the Single-Family Project Component.

“Ancillary Agreements” shall mean all instruments and agreements to be entered into by the Company or Component Project Developer (as applicable) referenced or contemplated herein, including, without limitation, the Loan Agreement(s).

“Area” shall mean the [Morse Village] Economic Development Area, as further described on Exhibit E, containing Allocation Area No. 1, Allocation Area No. 2, and Allocation Area No. 3.

“Area No. 1 TIF Revenues” shall mean all real property tax proceeds attributable to the assessed valuation within Allocation Area No. 1 as of each assessment date in excess of the base assessed value as described in Indiana Code 36-7-14-39(b)(1).

“Area No. 2 TIF Revenues” shall mean all real property tax proceeds attributable to the assessed valuation within Allocation Area No. 2 as of each assessment date in excess of the base assessed value as described in Indiana Code 36-7-14-39(b)(1).

“Area No. 3 TIF Revenues” shall mean all real property tax proceeds attributable to the assessed valuation within Allocation Area No. 3 as of each assessment date in excess of the base assessed value as described in Indiana Code 36-7-14-39(b)(1).

“Bond Counsel” means Barnes & Thornburg LLP.

“Bond Financed Project” means the improvements set forth in Part II of Exhibit A.

“Bonds” shall mean one or more series of bonds or notes to be issued under the Act, the proceeds of which shall be applied to the Eligible Costs.

“Change Order” shall mean a change order between the City and Developer that is approved in writing by the City (or its designee) finalizing the inclusion into the Final Documents

and Drawings of a change proposed in a Change Order Request by the Developer that is approved by the City (or its designee).

“Change Order Request” shall mean a written request for a change to the Final Documents and Drawings.

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

“Closing” shall mean, with respect to the Bonds, not earlier than (a) the Developer’s closing on the construction loan, if necessary, for the Retail Project Component and the Roundabout, (b) the Component Project Developer for the Single-Family Project Component being approved by the City, and (c) permits being issued for the sanitary sewer infrastructure; however, in no event later than March 31, 2025.

“Closing Date” shall mean the date of the applicable Closing.

“Completion Date” shall mean the earlier of the date (i) the Project passes Final Inspection or (ii) the certificate of occupancy is issued, such date not to be later than \_\_\_\_\_, 202\_.

“Construction Drawings” shall mean construction drawings for the: (a) exterior of the buildings and other structures; and (b) sidewalks, patios, and other exterior elements; in each case comprising, or constituting a part of, the Project, which drawings shall be consistent with the Design Development Documents and the Laws.

“Construction Schedule” shall mean a schedule for construction of the Project in accordance with the Final Documents and Drawings.

“Council” means the Noblesville Common Council.

“Cure Period” shall mean a period of: (a) ten (10) days after written notice of such default in the case of any monetary default; and (b) thirty (30) days after a party failing to perform or observe any other term or condition of this Agreement to be performed or observed by it receives written notice specifying the nature of the default; provided that, if such default is of such a nature that it cannot be remedied within thirty (30) days, despite reasonably diligent efforts, then the thirty (30) day cure period shall be extended as may be reasonably necessary for the defaulting party to remedy the default, so long as the defaulting party: (i) commences to cure the default within the thirty (30) day period; and (ii) diligently pursues such cure to completion; provided that in no event shall a Cure Period extend more than one hundred eighty (180) days. Notwithstanding the foregoing, a Cure Period shall not be applicable to a default under an Ancillary Agreement, which shall be subject to any specific cure periods for such defaults expressly set forth in such Ancillary Agreement.

“Design Development Documents” shall mean detailed design development documents for the: (a) exterior of the buildings and other structures; and (b) sidewalks, patios, and other exterior elements; in each case comprising, or constituting a part of, the Project, which documents shall be consistent with the Site Plan and the Laws.

“Eligible Costs” shall mean the following categorical costs of providing for “economic development facilities” as defined and set forth in the Act:

- (i) Issuance Costs;
- (ii) the “Capitalized Interest Costs,” namely, a portion of the interest on the Bonds from the date of their original delivery through and including the anticipated period of construction of the portion of the Project financed by the Bonds, plus one year thereafter, in accordance with the Act, if any;
- (iii) all costs and expenses which the Company shall be required to pay, or advance under the terms of any contract or contracts (including the architectural and engineering services with respect thereto), for the construction of the portion of the Project described in Part II of Exhibit A hereto; and
- (iv) any sums required to reimburse the Company for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the portion of the Project described in Part II of Exhibit A hereto.

“Execution Date” shall mean the date set forth in the first paragraph of this Agreement.

“Final Documents and Drawings” shall mean the final Design Development Documents and the final Construction Drawings, as each is finalized and approved or reviewed by City pursuant to this Agreement.

“Final Inspection” shall mean an inspection of the Project after substantial completion thereof in a manner consistent with the Laws, including Indiana Administrative Code 675 and City regulations and ordinances.

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

“Issuance Costs” shall mean reasonable costs, fees and expenses incurred or to be incurred by the City in connection with the issuance and sale of the Bonds, including placement or other financing fees (including applicable counsel fees), attorney’s fees, financial advisor fees, professional fees, the fees and disbursements of bond counsel, fees of the City’s municipal or financial advisor, the acceptance fee of a Trustee, if any, and the first year of the Trustee’s fees hereunder, application fees and expenses, publication costs, the filing and recording fees in connection with any filings or recording necessary under a Trust Indenture, if any, or to perfect the lien thereof, the out-of-pocket costs of the City, the costs of preparing or printing the Bonds and the documentation supporting the issuance of the Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred in connection with the issuance and delivery of the Bonds, this Agreement or the Ancillary Agreements.

“Laws” shall mean all applicable laws, statutes, and/or ordinances, and any applicable governmental or judicial rules, regulations, guidelines, judgments, orders, and/or decrees.

“Loan Agreement(s)” shall mean the agreement between the Company and the City funding the loan of the Bond proceeds.



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

“Non-Compliance Notice” shall mean a written notice from City to the Company that identifies Material Defects with respect to the Project discovered by the Inspector during the Final Inspection.

“Permitted Change” shall mean any change to that portion of the Final Documents and Drawings consisting of the final Construction Drawings, so long as such change: (a) does not substantially affect the exterior appearance of the Project or the location, size, or number of parking spaces; (b) is not substantially inconsistent with the Construction Drawings approved by City; (c) is not substantially inconsistent with the Design Development Documents approved by City; and (d) is in substantial conformity with each of the Site Plan, the Required Permits, and the Laws.

“Plan Refinement Process” means the process to establish the Final Documents and Drawings as specified in Section 4.04.

“Plat” shall mean the plat of the Project Site that has received approval of the City on or before Closing and is ultimately recorded in the Office of the Recorder of Hamilton County, Indiana.

“Pledged TIF Revenues” means 85% of the Area No. 1 TIF Revenues of each year for the term of the applicable series of Bonds, 85% of the Area No. 2 TIF Revenues of each year for a period of 20 years, and 18% of the Area No. 3 TIF Revenues of each year for a period of 20 years.

“Prohibited Uses” shall mean those prohibited uses for the Project as set forth in Exhibit G.

“Project TIF Revenues” shall mean, collectively, the Area No. 1 TIF Revenues, the Area No. 2 TIF Revenues, and the Area No. 3 TIF Revenues.

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

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

“Roundabout” shall mean the roundabout described in Section 4.01(h).

“Site Plan” shall mean the site plan attached hereto as Exhibit C.

“Survey” shall mean an ALTA survey of the Project Site certified as of a current date by a reputable licensed surveyor; which Survey shall show that the Project Site is suitable for Development of the Project as contemplated in this Agreement.

“Title Commitment” shall mean a title insurance commitment for an owner’s policy of title insurance that: (a) is issued by a title insurer; and (b) commits to insure marketable fee simple title to the Project Site in the name of the Company.

“Title Defects” shall mean conditions or defects disclosed in the Title Commitment or the Survey that, in the sole determination of the Company, will interfere with the construction and/or use of the Project; provided that the lien of any mortgage or other security instruments to be released at or before Closing shall not be a Title Defect.

“Trust Indenture” shall mean the Trust Indenture, dated as of the first day of the month in which the Bonds are issued, between the City and a trustee to be chosen by the City.

## **ARTICLE II. RECITALS**

2.01 Recitals Part of Agreement. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section 2.01.

## **ARTICLE III. MUTUAL ASSISTANCE**

3.01 Mutual Assistance. The parties agree, subject to further proceedings required by law, to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the case of the City Bodies, the adoption of such ordinances and resolutions), as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

## **ARTICLE IV. DEVELOPMENT AND PROJECT**

4.01 Project.

(a) The Project shall consist of the improvements described in Exhibit A hereto. The Project shall be constructed substantially in accordance with the Site Plan attached as Exhibit C and the architectural renderings attached as Exhibit D, which Site Plan and architectural renderings are considered preliminary and shall be subject to modification as described in subsection 4.01(b) hereof. The projected Project TIF Revenue is included in Exhibit H attached hereto. The Company shall serve as master developer for the Project and may (subject to the City’s approval, which approval shall not be unreasonably withheld) to designate one or more third-party developers (each, a “Component Project Developer”) to develop Component Projects (as defined in Exhibit A) in compliance with subsection 4.01(c) hereof. The City acknowledges that Developer and Component Project Developer may elect to enter into a separate development agreement to formalize their respective rights and obligations regarding the relevant Component Project and other matters relating to the Project (subject to the City’s approval, which approval shall not be unreasonably withheld).

(b) Upon consideration of market and other external factors, the Company, in consultation with the City, may modify or substitute alternate uses and configurations in the Site Plan; provided, however, that the prior approval of the City, not to be unreasonably withheld, shall be a condition

to such substitution or modification, and provided that the substitution or modification (i) does not reduce the total minimum investment by the Company set forth herein or the projected assessed value of the Project and (ii) complies with applicable zoning laws and approval requirements.

(c) The City will consider the following factors in evaluating a potential Component Project Developer: financial strength, reputation, experience, and any other factors the City deems necessary to ensure successful completion of the applicable Component Project.

(d) The Company shall establish the scope, timing and budget/construction costs of the work to be funded with the Bond proceeds in consultation with the City Bodies, and subject to the approval of the City Bodies, which approval shall not be unreasonably withheld.

(e) The Project shall be constructed in accordance with the Final Documents and Drawings, subject to modifications permitted pursuant to this Agreement.

(f) The Company shall use commercially reasonable efforts to lease approximately ten percent (10%) of the Multifamily Project Component's for-rent apartments to workforce housing based upon 80% of the area median income for Hamilton County as determined annually by the U.S. Department of Housing and Urban Development. Dedication to workforce housing would be evidenced by rents for said 10% of units that are at or below 30% of the 80% of area median income level. In the event the Company uses commercially reasonable efforts but cannot lease approximately 10% of the market rate apartment units for workforce housing in the manner set forth above, then the Company shall be entitled to lease to any lessee without regard to workforce housing requirements.

(g) No portion of the Project may be used for any of the Prohibited Uses.

(h) The Developer shall:

- Extend the gravity sanitary sewer interceptor from the Noblesville West Middle School property to and through the Project Site.
- Extend the gravity sanitary sewer main westerly toward the existing Hague Road lift station for future deactivation. City will handle deactivation of the lift station.
- Construct a new single lane roundabout at 206<sup>th</sup> and Hague Road to City standards and specifications (the "Roundabout"). The start of construction shall occur no later than the issuance of the 100th single family building permit.
- Widen to 12' lane and 2' wide asphalt shoulder along frontage of the Project on Hague Road, James Road, and 206<sup>th</sup> Street along with a full surface overlay on both sides of the roadway along development frontage that is owned by the Developer.
- With the City's assistance and as a part of the roundabout and widening projects, relocate utilities along both Hague Road and 206<sup>th</sup>, as necessary, that creates roadside clear zone separation from the edge of roadway to the above ground utility pole.

- Construct extensive trails and sidewalks through the Project Site including a new trailhead.
- Include beautification and landscaping packages through the Project Site.
- Construct a community clubhouse, greenspaces, pocket parks and other pedestrian-friendly, active-lifestyle improvements through the community.
- Create and highlight passive-style park focused on the preservation of an existing bald eagle nest located within the Project Site.
- Dedicate rights-of-way per the thoroughfare plan at timing of secondary platting, or sooner, if feasible, if right-of-way is needed to build a city capital project.
- Ensure sanitary sewer service will be served by gravity sanitary sewer.
- Incorporate Morse Village gateway signage for the Project.
- Conduct more due diligence including a feasibility study for a pedestrian bridge over Hague Road. The City is open to a two lane span bridge design, but will require full right-of-way dedication and the ability to remove the improvement at some time in the future should a bridge with greater span be desired.

(i) Where the context requires, the term “Project” when used herein shall apply to each Component Project separately. Each approved Component Project Developer shall execute an acknowledgement of the foregoing and an assumption of the Company’s obligations pursuant to this Agreement insofar as they relate to the applicable Component Project. Such acknowledgement and assumption shall be in form and substance satisfactory to the City Bodies and the Company. A default by a Component Project Developer in the performance of its assumed obligations pursuant to this Agreement shall not be deemed a default by the Company or any other Component Project Developer.

4.02 Subject to Section 4.06, the Company shall use its best efforts to complete the Retail Project Component by not later than \_\_\_\_\_, 202\_, in accordance with the schedule set forth in Part III of Exhibit A hereto. In connection with the Retail Project Component, the Company shall invest, and/or cause to be invested in the Retail Project Component, not less than \_\_\_\_\_ Dollars (\$\_\_\_\_\_) and reasonably expects the Retail Project Component to result in the creation of approximately \_\_\_\_\_ ( ) full-time jobs having an average annual salary of \$\_\_\_\_\_, by not later than \_\_\_\_\_, 202\_. The Company shall use its best efforts to complete the Multifamily Project Component by not later than \_\_\_\_\_, 202\_, in accordance with the schedule set forth in Part III of Exhibit A hereto. In connection with the Multifamily Project Component, the Company shall invest, and/or cause to be invested, not less than \_\_\_\_\_ Dollars (\$\_\_\_\_\_) and reasonably expects the Multifamily Project Component to result in the creation of approximately \_\_\_\_\_ ( ) full-time jobs having an average annual salary of \$\_\_\_\_\_, by not later than \_\_\_\_\_, 202\_. The Company shall use its best efforts to complete the Townhome Project Component by not later than \_\_\_\_\_, 202\_, in accordance with the schedule set forth in Part III of Exhibit A hereto. In connection with

the Townhome Project Component, the Company shall invest, and/or cause to be invested, not less than \_\_\_\_\_ Dollars (\$ \_\_\_\_\_). The Company shall use its best efforts to complete the Condo Project Component by not later than \_\_\_\_\_, 202\_, in accordance with the schedule set forth in Part III of Exhibit A hereto. In connection with the Condo Project Component, the Company shall invest, and/or cause to be invested, not less than \_\_\_\_\_ Dollars (\$ \_\_\_\_\_). The Company shall use its best efforts to complete the Single-Family Project Component by not later than \_\_\_\_\_, 202\_, in accordance with the schedule set forth in Part III of Exhibit A hereto. In connection with the Single-Family Project Component, the Company shall invest, and/or cause to be invested, not less than \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

4.03 Project Site. The Company has acquired, or shall cause to be acquired, and shall improve the Project Site described in Exhibit B attached hereto, subject to the performance by the City Bodies of their respective obligations under this Agreement, by constructing the Project on such Project Site, as more particularly described in Section 4.01 hereof.

4.04 Project Description: Plan Refinement Process. The Project shall consist of the items and/or parameters set forth in Exhibit A attached hereto. The Company shall commence construction of the Project by no later than sixty (60) days following the successful procurement of all permits and other governmental approvals, and shall complete construction and equipping of the Project by \_\_\_\_\_, 202\_, subject to permitted delays provided for in Section 4.06 hereof. In addition to the City's policies and procedures under the Laws, the following process shall be considered the Plan Refinement Process for the Project. The Company shall submit to the City for its review the Design Development Documents. Within thirty (30) days after receipt of the Design Development Documents, the City shall deliver to the Company written notice either: (A) confirming that such Design Development Documents are acceptable; or (B) objecting to such Design Development Documents, specifying the part or parts to which the City objects and including the specific basis for such objection. Upon confirmation that the Design Development Documents are acceptable, or if the City fails to respond within the time period provided above, such Design Development Documents shall be deemed to be final and, accordingly: (i) shall become part of the Final Documents and Drawings for the Project; and (ii) shall be subject to modification only by Change Orders. Following approval of the Design Development Documents, the Company shall submit to the City for its review the Construction Drawings for each trade or other discrete aspect of construction of the Project. Within thirty (30) days after the City receives the Construction Drawings, the City shall deliver to the Company written notice either: (i) confirming that such Construction Drawings are acceptable; or (ii) objecting to such Construction Drawings, specifying the part or parts to which the City objects and including the specific basis for such objection. Upon confirmation that the Construction Drawings conform to the corresponding approved Design Development Documents, or if the City fails to respond within the time period provided above, such Construction Drawings shall be deemed to be final and, accordingly: (i) shall become part of the Final Documents and Drawings for the Project; and (ii) shall be subject to modification only by Change Orders. If, at any stage of the Plan Refinement Process described in this Section 4.04, the City objects to or rejects, as applicable, all or any portion of the Design Development Documents or the Construction Drawings, then, the Company shall endeavor in good faith to address such objection to the City's reasonable satisfaction within twenty (20) days after the Company receives notice of such objection and resubmit the relevant documents to the City. Within twenty (20) business days after the City receives such resubmissions, the City shall deliver to the Company written notice of its confirmation, objection, approval, or rejection, as applicable, in accordance

with this section. This process shall continue until such time as the Design Development Documents and the Construction Drawings are confirmed or approved, as applicable, by the City, at which time each of the foregoing shall be final and, accordingly: (i) shall become part of the Final Documents and Drawings for the Project; and (ii) shall be subject to modification only by Change Orders.

4.05 Change Orders. If the Developer desires to make any changes to the Final Documents and Drawings, then the Developer shall submit a Change Order Request to the City for review and approval. The Developer agrees that it shall not perform any such work until the Change Order has been approved and executed by the City and the Developer. Within ten (10) days after City receives the Change Order Request, City shall deliver to the Developer written notice that it approves or rejects the Change Order Request; provided, that: (i) City shall not withhold its approval unreasonably; and (ii) if City rejects all or any part of the Change Order Request, then such notice shall: (A) specify the part or parts that City is rejecting; and (B) include the specific basis for such rejection. If the City approves a Change Order Request, then the City and the Developer shall execute a Change Order. Notwithstanding anything to the contrary set forth herein: (i) Developer shall not be required to obtain the approval of the City with respect to a Permitted Change; and (ii) a Change Order with respect to a Permitted Change shall be effective if executed only by the Developer. Changes to the Final Documents and Drawings which are not identified in a Change Order approved by the City, other than Permitted Changes in a Change Order submitted to the City for review in accordance with the foregoing, shall not be deemed a Permitted Change and shall constitute a default hereunder.

4.06 Permitted Delays. Whenever performance is required of any party hereunder, such party shall use all due diligence and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or materials, or damage to work in progress by reason of fire or other casualty, a material worsening of the existing pandemic or the occurrence of any new epidemic or pandemic with material economic consequences or similar causes beyond the reasonable control of a party (other than financial reasons), then the time for performance as herein specified shall be appropriately extended by the time of the delay actually caused by such circumstances. If (i) there should arise any permitted delay for which the Company or any of the City Bodies is entitled to delay its performance under this Agreement and (ii) the Company or such City Body anticipates that such permitted delay will cause a delay in its performance under this Agreement, then the Company or such City Body, as the case may be, agrees to provide written notice to the other parties of this Agreement of the nature and the anticipated length of such delay.

4.07 Inspection of the Project.

(a) Authorized Inspection. Any duly authorized representative of the City, including the City's Inspector, shall have access to and the right to walk through the Project. The Inspector shall have the right to perform a Permitted Inspection on the Project. The Company will reasonably cooperate with the City in connection with any such walk-through or Permitted Inspection. Upon reasonable written notice delivered to the Developer, which notice shall specify the portion of the construction to be subject to the Permitted Inspection or walked through, the inspector may perform a Permitted Inspection, and the City may otherwise walk through the Project.

Within seven (7) business days after a Permitted Inspection, the City may deliver to the Developer a Non-Compliance Notice. If the City timely delivers a Non-Compliance Notice, then the Developer shall correct, or cause to be corrected, as soon as is practicable, all Material Defects identified in the Non-Compliance Notice, except and to the extent that any such Material Defects previously have been accepted, or deemed to have been accepted, by the City. Notwithstanding anything to the contrary set forth herein, all items or components of the Project with respect to which no Material Defects are identified in a timely Non-Compliance Notice shall be deemed to be accepted by the City.

(b) Final Inspection. If the Company delivers to the City a written request for a Final Inspection, then, on or before the later of the date that is five (5) business days after: (i) receipt of such request; or (ii) the date specified in such request as the substantial completion date; the City shall: (1) conduct the Final Inspection; and (2) deliver a Non-Compliance Notice (if applicable) to the Company; provided, that: (y) upon receipt of a Non-Compliance Notice, the Company shall correct, or cause to be corrected, as soon as is practicable, all Material Defects identified in the Non-Compliance Notice; and (z) all then-completed items or components of the Project with respect to which no Material Defects are identified in a timely Non-Compliance Notice shall be deemed to be accepted by the City. Upon: (i) correction of all Material Defects identified in the Non-Compliance Notice; or (ii) deemed acceptance pursuant to this Subsection; City shall have no further inspection rights with respect to the Project pursuant to this Section 4.07(b). The failure of the City to conduct the Final Inspection within the required timeframe shall be deemed a waiver of its right to conduct such inspection and its determination that no Material Defects exist.

(c) Failure to Cure. If the Company fails to cure or take substantial steps to cure any item in a Non-Compliance Notice, in each case, within forty-five (45) days of the receipt of such notice, then the City, in addition to any other right or remedy provided herein (and regardless of any Cure Period provided herein), shall be entitled to the sum of \$300 per day from the Developer for each day after the expiration of such forty-five (45) day period that any items in any Non-Compliance Notice remain incomplete; provided that, if such Material Defect is of such a nature that it cannot be remedied within thirty (30) days, despite reasonably diligent efforts, then the forty-five (45) day cure period shall be extended as may be reasonably necessary for the Developer to remedy such Material Defect, so long as the Developer commences to remedy such Material Defect within the forty-five (45) day period and thereafter continuously and diligently pursues such remedy to completion.

(d) Certification. An acceptance, or deemed acceptance, by the City pursuant to Section 4.07(b) shall mean that the City has fully and finally accepted the Project as being: (i) in compliance with the Laws; (ii) constructed with the proper application of construction means or methods, and the City shall be deemed to have waived any further right to assert Material Defects. Within twenty (20) business days after receipt of a written request from the Company, the City shall certify to any lender of the Company or purchaser of the Project the status of the Final Inspection and whether any Material Defects identified in any Non-Compliance Notice, if any, have been remedied.

4.08 General; Testing. In the case of Inspections, the parties shall: (i) comply with all health and safety rules of which such party has been informed that have been established for

personnel present on the construction site; and (ii) coordinate the Inspections so that the Inspections do not interfere with the performance of construction. The City and the Company each shall have the right to accompany, and/or have its construction manager accompany, the Inspector during any Permitted Inspection and/or the Final Inspection. Notwithstanding anything to the contrary set forth herein, to the extent the City, in the exercise of its reasonable discretion, requires any sampling or testing (e.g., soil bearing capacity testing, concrete testing, vibration monitoring) as part of a Permitted Inspection and/or Final Inspection: (i) the deadline for the City's issuance of a Non-Compliance Notice shall be deemed extended to five (5) business days following the City's receipt of a complete and final set of such test or sample results; and (ii) the Completion Date shall likewise be extended.

4.09 Insurance. During construction of the Project, the Company shall maintain the policies of insurance described on Exhibit F. Each such policy shall: (a) be written by a company reasonably acceptable to City; and (b) provide that it shall not be modified or canceled without written notice to the City at least thirty (30) days in advance. The policy of general liability insurance shall name the City Bodies as additional insureds. The Company shall deliver to the City certificates of the insurance policies required by this Section 4.09, executed by the insurance company or the general agency writing such policies.

4.10 Project Standards, Etc. In addition to generally applicable requirements relating to local review and approval of the Project, the Redevelopment Commission shall have the right to review and approve detailed plans for the Project, including aspects of the Project relating to construction material and quality and esthetic standards. The City shall provide the Company with requirements required to be met with respect to construction quality and esthetics. Other generally applicable City review requirements will remain fully applicable.

## **ARTICLE V. ECONOMIC DEVELOPMENT INCENTIVES**

5.01 Taxable Economic Development Revenue Bonds. The Redevelopment Commission, and the Council shall each, subject to further proceedings required by law, including the completion of necessary proceedings for the annexation of the Project Site, cause the issuance of, in one or more series, economic development revenue bonds pursuant to IC 36-7-12 (the "Bonds"), in an amount that generates gross proceeds not to exceed Thirteen Million Six Hundred Nineteen Thousand Dollars (\$13,619,000). The interest rate on the bonds shall not exceed the lesser of (a) seven and one-half percent (7.5%) per annum or (b) the Company's cost of funds. The Company (or an affiliate thereof) shall purchase the Bonds. Each purchaser of the Bonds shall (i) expressly agree that non-payment of the principal or interest on the Bonds due to insufficiency of Pledged TIF Revenues shall not be deemed to be a default under the Bonds and (ii) covenant that it will not sell, convey, pledge or otherwise transfer the Bonds without prior compliance with applicable state and federal securities laws. The proceeds of the Bonds shall be loaned to the Company and shall be used for the payment (or reimbursement to the Company of the prior payment) of the Eligible Costs set forth in Part II of Exhibit A, pursuant to a draw process that requires the approval of the City Parties. The Company may obtain the disbursement of proceeds of the Bonds by submitting a Disbursement Request (as such term is defined in the Trust Indenture) to the City and Trustee in accordance with the terms and conditions of the Trust Indenture, which shall be subject to approval by a designee of the City. If the Company (or its affiliate) purchases the Bonds, the purchaser shall receive credit against the purchase price in the same principal amount



as the Eligible Costs not to exceed \$13,619,000, which the Trustee shall record upon receipt by the Trustee of the approved Disbursement Request. Subject to the approval of Disbursement Requests, proceeds of the Bonds may be “deemed” disbursed with respect to reimbursements to Company for previously incurred and paid costs for the Project so long as the Company or an affiliate thereof shall be the purchaser of the Bonds.

The principal amount of each series of Bonds shall be based on assumptions that include without limitation the following:

- (a) The estimated amount of Eligible Costs set forth in Part II of Exhibit A.
- (b) The Bonds shall mature not later than a date twenty-five (25) years after their date of issuance.
- (c) The Bond payments shall be based on a minimum 100% coverage ratio of projected Pledged TIF Revenues to Bond payments in each bond year, plus \$5,000 per year for Trustee and related miscellaneous expenses. The projected Pledged TIF Revenues shall assume no growth in Pledged TIF Revenues.
- (d) All of the City’s fees and expenses (including professional costs) incurred in connection with relating to the negotiation of the incentive and the Issuance Costs of the Bonds shall be paid from the Bond proceeds.
- (e) The City shall be satisfied that the amount of the projected Pledged TIF Revenues is reasonable and that the process for calculating such Pledged TIF Revenues is fair and reasonable.
- (f) Any portion of the principal and interest due on the Bonds that remains unpaid due to a shortfall in Pledged TIF Revenues shall not be deemed defeased or otherwise satisfied and shall continue to be due and owing until the earlier of: (1) full payment by the City; or (2) the maturity date of the Bonds. Interest shall not accrue on the interest that remains unpaid beyond the applicable debt service payment date. After the final maturity date, all Bonds shall be deemed to be paid and no longer outstanding for all purposes of the Trust Indenture, all obligations of the City under the Trust Indenture shall terminate, and under no circumstances shall any payments be due on any Bonds after the final maturity date.

5.02 Impact Fees. All Road Impact, Park Impact and Sanitary Sewer connection and availability fees charged by the City shall be paid or credited for in kind improvements through credit agreements for applicable eligible improvements. The applicable creditable amount must exceed the actual fee amount if no fee is paid.

5.03 Other City Assistance. City shall vacate existing right-of-way within the parcel southeast of Hague Road and E. 209<sup>th</sup> Street with a parcel number of 10-06-13-00-00-021.000. City will assist Developer and manage the relocation of the existing utilities through the 105 IAC 13 process. City will handle the deactivation of the lift station.

## ARTICLE VI. CONDITIONS TO CLOSING

6.01 Company's Conditions to Closing. The obligations of the Company with respect to Closing are subject to the satisfaction or waiver in writing, of the following prior to the applicable period specified in this Section 6.01:

- (a) Title. Within thirty (30) days after the Execution Date, the Company shall have obtained the Title Commitment.
- (b) Survey. Within forty-five (45) days after the Execution Date, the Company shall have obtained the Survey.
- (c) Permits. The Company shall have completed and filed all necessary documentation to secure all Required Permits and approvals for construction and installation of the Project.
- (d) Title and Survey Conditions. On or before Closing, the Company shall have determined that there are no exceptions or matters of record reflected in the Title Commitment that would constitute Title Defects and shall have also determined that, upon recordation of the Plat, the Survey: (i) describes the perimeter of the Project Site as a single parcel without gaps, gores, or overlaps; (ii) shows no encroachments thereto; (iii) shows no Title Defects thereto; (iv) establishes that no part of the Project Site upon which building improvements are to be constructed is located within: (A) a "flood hazard zone", as shown on the applicable Federal Insurance Rate Map; or (B) a "floodway" or "flood plain", as shown on the applicable Flood Control District Map, unless otherwise agreed to by the Company; and (v) otherwise reasonably is acceptable to the Company. The Company shall be responsible, at its cost, for obtaining the policy of title insurance contemplated pursuant to the Title Commitment, together with any endorsements that it deems to be necessary or appropriate.
- (e) Environmental Condition. Prior to Closing, the Company, at its expense, shall have determined that: (i) there is no contamination or pollution of the Project Site, or any groundwater thereunder, by any hazardous waste, material, or substance in violation of any Laws; and (ii) there are no underground storage tanks located on the Project Site. To the extent deemed necessary or appropriate by the Company, the Company shall have obtained a comfort letter issued by the Indiana Department of Environmental Management through the Indiana Brownfields Program ("IDEM") confirming, among other things, IDEM's opinion that the Company meets the requirements to be considered a bona fide prospective purchaser of the Project Site. The Company shall provide the City with all Property Inspection reports prepared for the Project Site.
- (f) Physical Condition. Prior to Closing, the Company, at its expense, shall have determined that no test, inspection, examination, study, or investigation of the Project Site establishes that there are conditions that would interfere materially

with the construction and use of the Project, in accordance with the terms and conditions of this Agreement.

- (g) Zoning. Prior to Closing, the Company shall have determined that: (i) the zoning of the Project Site is proper and appropriate for the construction of the Project and use of the Project in accordance with the terms and conditions of this Agreement; and (ii) the Project Site is subject only to commitments and restrictions that are acceptable to the Company in its reasonable discretion.
- (h) Utility Availability. Prior to Closing, the Company, at its expense, shall have determined that gas, electricity, telephone, cable, water, storm and sanitary sewer, and other utility services are: (i) in adjoining public rights-of-way or properly granted utility easements; and (ii) serving, or will serve, the Project Site at adequate pressures, and in sufficient quantities and volumes, for the construction and use of the Project in accordance with the terms and conditions of this Agreement.
- (i) Required Permits. Prior to Closing, the Company shall have: (i) obtained; or (ii) determined that it shall be able to obtain, all Required Permits.
- (j) Final Construction Plans. Prior to Closing, final construction plans shall have been completed and approved by the City.
- (k) Financial Ability. Prior to Closing, the Company shall demonstrate to the reasonable satisfaction of the City Bodies that the Company has adequate funds (construction loan proceeds, Bond proceeds, and/or cash on hand) to construct the Project.
- (l) Ancillary Agreements. Prior to Closing: (i) the applicable City Bodies and the Company, each exercising commercially reasonable discretion, shall have approved the form and substance of all Ancillary Agreements; and (ii) all other parties to the Ancillary Agreements shall have approved the form and substance of all Ancillary Agreements.
- (m) Financing Documents. Prior to Closing, the construction loan lender and the applicable City Bodies shall have approved the form and substance of the construction loan documents, Loan Agreement, and any additional documents relating thereto. At Closing, the Loan Agreement and any additional documents relating thereto shall be fully executed by all parties thereto.
- (n) Project Site. The Company shall have closed on the acquisition of the Project Site.
- (o) No Breach. As of the Closing Date, there shall be no breach of this Agreement by the City Bodies that the City Bodies have failed to cure within the Cure Period.

If one or more of the conditions set forth in this Section 6.01 is not, or cannot be, timely and completely satisfied, as determined by the Company in its sole and absolute discretion, then, as its sole and exclusive remedy, the Company either may elect to: (i) waive in writing satisfaction of the conditions and to proceed to Closing; or (ii) terminate this Agreement by a written notice to City, provided that, with respect to breaches of this Agreement by City, the Company shall have all of the rights and remedies set forth in this Agreement. Notwithstanding anything to the contrary set forth herein, (1) the Company shall work diligently and in good faith to satisfy the conditions set forth in this Section 6.01; and (2) if the Company fails to terminate this Agreement for any unsatisfied condition on or before the earlier of (i) the Closing Date; or (ii) two (2) business days after the applicable deadline set forth in each of the foregoing subsections (a) or (b) the Company shall be deemed to have waived such condition.

6.02 City's Conditions to Closing. The obligations of the City with respect to Closing are subject to the satisfaction or waiver in writing, of the following prior to the applicable period specified in this Section 6.02:

- (a) Annexation of Project Site. Prior to the creation of the Area and the Closing, the Project Site must be annexed into the corporate boundaries of the City of Noblesville.
- (b) Financial Ability. Prior to Closing, the Company must demonstrate to the reasonable satisfaction of the City Bodies that the Company has adequate funds (construction proceeds, Bond proceeds, and/or cash on hand) to construct the Retail Project Component and the Roundabout.
- (c) Single-Family Project Component. Prior to Closing, the City must have approved the Component Project Developer for the Single-Family Project Component.
- (d) Sanitary Sewer Permits. Prior to Closing, the City must have issued the permits for the sanitary sewer infrastructure for the Project.

6.03 Closing. Subject to the terms and conditions of this Agreement, Closing shall occur on or before March 31, 2025, with (i) the Closing Date and (ii) the location of the Closing to be established mutually by the City and the Company.

## ARTICLE VII. AUTHORITY

7.01 Actions. Each of the City Bodies represents and warrants that it has taken or will take (subject to further proceedings required by law and the Company's performance of its agreements and obligations hereunder) such action(s) as may be required and necessary to enable each of the respective City Bodies to execute this Agreement and to carry out fully and perform the terms, covenants, duties and obligations on its part to be kept and performed as provided by the terms and provisions hereof.

7.02 Powers. The City Bodies represent and warrant that each has full constitutional and lawful right, power and authority, under currently applicable law, to execute and deliver and perform their respective obligations under this Agreement.

7.03 Future Actions. The parties acknowledge that the agreements of the City Bodies under this Agreement are subject to future actions by such bodies, and by the bodies of the City, and compliance with statutory procedures required by Law, including public notice and public hearing requirements. The City Bodies agree to use their best efforts to complete such statutory procedures, and to coordinate with the governing bodies of the City to complete such statutory procedures, and to take the final actions required to implement such agreements.

## ARTICLE VIII. GENERAL PROVISIONS

8.01 Indemnity; No Joint Venture or Partnership. The Company covenants and agrees at its expense to pay and to indemnify and save the City Bodies, and their officers and agents (the “Indemnitees”) harmless of, from and against, any and all Claims resulting directly or indirectly from the Company’s (and/or any affiliate’s thereof) Project activities with respect to work performed on the Project Site unless such claims, damages, demands, expenses or liabilities arise by reason of the negligent act or omission of the City Bodies, or other Indemnitees. However, nothing contained in this Agreement shall be construed as creating either a joint venture or partnership relationship between the City Bodies and the Company or any affiliate thereof. To the extent permitted by law, the City Bodies shall indemnify and hold harmless the Company from and against any and all Claims, to the extent arising from or connected with the negligence or willful misconduct of the City Bodies or any party acting by, under, through, or on behalf of any of the City Bodies in connection with any Inspection.

8.02 Time of Essence. Time is of the essence of this Agreement. The parties shall make every reasonable effort to expedite the subject matters hereof (subject to any time limitations described herein) and acknowledge that the successful performance of this Agreement requires their continued cooperation.

8.03 Costs. In the event the Bonds fail to close, the Company shall pay the City’s fees, including attorneys’ fees, financial advisory fees and any other fees deemed reasonable and applicable.

8.04 Retail/Office Tenants. The Company, for and on behalf of itself and any successor owner of the Project, agrees that the Project shall not be leased or used for the Prohibited Uses. The Prohibited Uses include those uses identified in Exhibit G. For as long as the Bonds remain outstanding, the Company shall inform the City of all commercial tenants of the Project prior to such tenants taking occupancy.

### 8.05 Default

(a) Events of Default. It shall be an Event of Default if either party fails to perform or observe any term or condition of this Agreement to be performed or observed by it after notice from the other party, and such default is not cured within the applicable Cure Period.

(b) General Remedies. Whenever an Event of Default occurs, the non-defaulting party may take whatever actions at Law or in equity are necessary or appropriate to: (i) collect any payments due under this Agreement; (ii) protect the rights granted to the non-defaulting party under this Agreement; (iii) enforce the performance or observance by the defaulting party of any term or condition of this Agreement (including, without limitation, the right to specifically

enforce any such term or condition); or (iv) cure, for the account of the defaulting party, any failure of the defaulting party to perform or observe a material term or condition of this Agreement to be performed or observed by it. If the non-defaulting party incurs any costs or expenses in connection with exercising its rights and remedies under, or enforcing, this Agreement, then the defaulting party shall reimburse the non-defaulting party for all such costs and expenses.

(c) No Remedy Exclusive. Except as provided to the contrary in this Agreement, no right or remedy herein conferred upon, or reserved to, a non-defaulting party is intended to be exclusive of any other available right or remedy, unless otherwise expressly stated; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at Law or in equity. No delay or omission by a non-defaulting party to exercise any right or remedy upon any Event of Default shall impair any such right or remedy, or be construed to be a waiver thereof, and any such right or remedy may be exercised from time to time, and as often as may be deemed to be expedient. To entitle a non-defaulting party to exercise any of its rights or remedies, it shall not be necessary for the non-defaulting party to give notice to the defaulting party, other than such notice as may be required by this Agreement or by Law.

(d) Termination. Notwithstanding any other provision, other than the issuance of the Bonds and the pledge of Pledged TIF Revenues, if the Company has not completed the Project within eighteen (18) months after Completion Date, the City shall have the right to terminate this Agreement and shall have no further responsibilities hereunder.

8.06 Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, by the adoption of an ordinance or resolution of each of the City Bodies approving said amendment, as provided by law, and by the execution of said amendment by the parties or their successors in interest.

8.07 Delay. Subject to permitted delays described in Section 4.06, if the Company has commenced construction of the Project, Company falls one hundred twenty (120) or more days behind the Completion Date, then:

(a) City, by delivery of written notice to the Company, may require the Company to submit, within thirty (30) days, a Catch-Up Plan for City's written approval, which approval shall not be unreasonably withheld. At such time as City has approved a Catch-Up Plan, Company shall implement, and diligently pursue the application of, such Catch-Up Plan.

(b) If the Company: (i) fails to timely submit a Catch-Up Plan; (ii) submits a Catch-Up Plan that is rejected by the City; (iii) fails to implement an approved Catch-Up Plan; or (iv) implements an approved Catch-Up Plan, but fails to diligently pursue the application thereof; or (v) implements an approved Catch-Up Plan and diligently pursues the application thereof, but, after completing all of the terms and conditions of the Catch-Up Plan, again falls sixty (60) or more days behind the applicable dates set forth in the Catch-up Plan; then City may develop a reasonable Catch-Up Plan and require the Company to implement, and diligently pursue the application of, such Catch-Up Plan.

The Company shall be responsible for all costs and expenses to prepare and implement a Catch-Up Plan (including the reasonable costs and expenses incurred by City pursuant to this Subsection). The Company's liability for such costs and expenses shall survive termination of this Agreement. No delay or failure by the Local Government Bodies to enforce any of the covenants, conditions, reservations and rights contained in this Section 8.07, or to invoke any available remedy with respect to an Event of Default by the Company shall under any circumstances be deemed or held to be a waiver by the Local Government Bodies of the right to do so thereafter, or an estoppel of the Local Government Bodies to assert any right available to them upon the occurrence, recurrence of continuation of any violation or violations hereunder.

(c) Injunctive Remedies. If an Event of Default occurs, the Local Government Bodies shall be entitled to see specific performance or injunctive relief and in each case Company hereby waives any claim or defense that the Local Government Bodies have an adequate remedy at law.

(d) No Limitation. Notwithstanding anything to the contrary set forth herein, the rights and remedies set forth in this Section 8.07 are not exclusive and shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity.

8.08 No Other Agreement. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

8.09 Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

8.10 Indiana Law. This Agreement shall be construed in accordance with the laws of the State of Indiana.

8.11 Venue. The parties agree that if any litigation arises out of this Agreement that such litigation shall be brought in a court of competent jurisdiction in Hamilton County, Indiana. The Company and the City Bodies hereby waive, to the extent permitted under applicable Law: (a) the right to a trial by jury; and (b) any right the Company or the City Bodies may have to: (i) assert the doctrine of "forum non conveniens"; or (ii) object to venue.

8.12 Notices. All notices and requests required pursuant to this Agreement shall be deemed sufficiently made if delivered, as follows:

To the Company:

LOR Development Group, LLC  
Attn.: Adam Hill

\_\_\_\_\_, IN \_\_\_\_\_  
Email: [ahill@LorCorp.com](mailto:ahill@LorCorp.com)

With a copy to:

Lisa Lee  
Ice Miller LLP  
One American Square Suite 2900  
Indianapolis, IN 46282  
Email: [lisa.lee@icemiller.com](mailto:lisa.lee@icemiller.com)

To the City Bodies:

Noblesville Redevelopment Commission  
Attn.: Director, Andrew Murray  
16 S. 10<sup>th</sup> Street.  
Noblesville, IN 46060  
Email: [amurray@noblesville.in.us](mailto:amurray@noblesville.in.us)

With a copy to:

Jonathan Hughes, Esq.  
111 Monument Circle  
Suite 2700  
Indianapolis, IN 46204  
Email: [jhughes@boselaw.com](mailto:jhughes@boselaw.com)

or at such other addresses as the parties may indicate in writing to the others in writing. Any notice required or permitted to be given to a party under this Agreement, shall be deemed given when (i) hand delivered, with evidence of receipt of such delivery, (ii) deposited into Federal Express or other similar type of overnight carrier service, (iii) two (2) business days after mailed by U.S. Certified or Registered Mail, postage prepaid, or (iv) upon the receipt of an electronic email transmission, followed by delivery by one of the other means identified in (i)-(iii).

8.13 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

8.14 Assignment. Until the Project is completed, the rights and obligations contained in this Agreement may not be assigned by the Company or any affiliate thereof without the express prior written consent of each of the City Bodies; provided, however, that the Company may transfer all or a portion of its rights and obligations hereunder to an affiliate of the Company upon notice to but without the consent of the City Bodies, but any such transfer to an affiliate of the Company



shall not have the effect of releasing the Company and/or its assignees from the Company's obligations hereunder. Upon completion of the Project, the Company shall be entitled to assign this Agreement to any purchaser of the Project without City's prior written consent; provided such purchaser shall be required to assume all obligations of the Company under this Agreement arising after such purchase. Upon such assumption, the Company shall be released from all obligations pursuant to this Agreement arising after the date the purchaser assumes this Agreement. With respect to any assignment of this Agreement prior to the date that is three (3) years following the Completion Date, the Company shall demonstrate to the City that the new purchaser and associated affiliates of the Project have comparable financial strength and reputation as the Company, including its affiliates.

8.15 No Third-Party Beneficiaries. This Agreement shall be deemed to be for the benefit solely of the parties hereto and shall not be deemed to be for the benefit of any third party.

8.16 Conflict with Expense Reimbursement Agreement. In the event of a conflict between a provision in this Agreement and a provision in the Expense Reimbursement Agreement, dated August 20, 2024, between the City and the Developer (the "Expense Reimbursement Agreement"), the provisions of the Expense Reimbursement Agreement shall control.

8.17 Effective Date. Notwithstanding anything herein to the contrary, this Agreement shall not be effective until all parties hereto have executed this Agreement and each of the City Bodies have approved or ratified this Agreement at public meetings.

IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF NOBLESVILLE, INDIANA

By: \_\_\_\_\_  
Chris Jensen, Mayor

NOBLESVILLE REDEVELOPMENT  
COMMISSION

By: \_\_\_\_\_  
Jack Martin, President

LOR DEVELOPMENT GROUP, LLC

By: \_\_\_\_\_  
Adam L. Hill, Manager

**EXHIBIT A**

**DESCRIPTION OF PROJECT**

**Part I - Project**

The Project is a \$250,000,000+ mixed-use development that includes approximately (i) 30,000 square feet of commercial, retail, restaurant, professional office space, with at least 5,000 square feet of sit down restaurants (the “Retail Project Component”), (ii) +/-250 multi-family units (the “Multifamily Project Component”), (iii) +/-100 4-, 3-, and 2-story for-sale townhomes (the “Townhome Project Component”), (iv) ±50 condominium units with the ability, subject to City consent and presentation of site and architectural plans, to convert to townhomes based on market feasibility and demand (the “Condo Project Component”) and (v) 250 for-sale single-family homes (the “Single-Family Project Component”) (each of the foregoing, a “Component Project” and, collectively, the “Component Projects”).

**Part II – Bond Financed Project and Eligible Costs**

Proceeds of the Bonds (net of Issuance Costs and capitalized interest, if any) may be applied solely to those Eligible Costs consisting of the costs incurred for site development infrastructure including but not limited to drainage, sanitary sewer, water and other utility improvements including relocations, detention systems, road improvements including widening and pavement overlays/reconstruction, legal drain reconstruction, pedestrian infrastructure including trails and sidewalks, landscaping, gateway and way making improvements, construction contingencies, land acquisition and preparation, green spaces and amenity structures and parks, and related engineering and design costs but no developer profit, developer fees or similar type fees.

- Costs incurred for 206<sup>th</sup> and Hague Road improvements and Roundabout.
- Costs incurred to extend the sanitary sewer interceptor.
- Costs incurred to extend sanitary sewer toward lift station (for future deactivation).
- Costs associated with creating and highlighting a passive-style park focused on the preservation of an existing bald eagle nest located within the development.
- Costs incurred to build central green amenity spaces along with other community greenspaces and parks.

**Part III – Schedule**

Activity	Projected Start	Project Completion
Land Closing (Multiple Parcels)	_____	_____
Bond Financed Projects	_____	_____

Retail Project Component	_____	_____
Multifamily Project Component	_____	_____
Townhome Project Component	_____	_____
Condo Project Component	_____	_____
Single-Family Project Component	_____	_____

**EXHIBIT B**

**LEGAL DESCRIPTION OF THE PROPERTY**

**EXHIBIT C**

**SITE PLAN**

**EXHIBIT D**

**PROJECT DESIGN RENDERINGS**

**EXHIBIT E**

**[MORSE VILLAGE] ECONOMIC DEVELOPMENT AREA**



## EXHIBIT F

### DEVELOPER INSURANCE REQUIREMENTS

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

1. Workers Compensation insurance coverage in accordance with statutory requirements.
2. Employers Liability Insurance with limits of not less than \$1,000,000.00 each accident; \$1,000,000.00 Disease each employee; and \$1,000,000.00 Disease Policy Limit.
3. Commercial General Liability Insurance on ISO form GCO001 10 01 (or a substitute form providing equivalent coverage) and general contractor and subcontractor(s) shall provide the Company with Certificate of Insurance and Additional Insured Endorsement on ISO form GC2010 11 85 (or a substitute form providing equivalent coverage) and CG203 7 10 01 (or substitute forms providing equivalent coverage) naming the City of Noblesville as an Additional Insured thereunder. Additional insured coverage shall apply as primary insurance with respect to any other insurance afforded the City of Noblesville per the follows:
  - i. \$1,000,000.00 Each Occurrence (BI & PD Combined Single Limit);
  - ii. \$2,000,000.00 General Occurrence (subject to per project general aggregate provision); and
  - iii. \$1,000,000.00 Personal Injury Liability to include coverage for employee-related claims.
4. Business Automobile Liability Insurance: Written in the amount of not less than \$1,000,000.00 each accident to include the City of Noblesville as an additional insured.
5. Umbrella Liability: \$5,000,000.00.
6. Professional Liability: If the contract is the subject of any professional services or design work, the party rendering those services must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed for a minimum limit of \$2,000,000.00.

The general contractor and subcontractor(s) shall obtain from each of its insurers a waiver of subrogation on the General Liability, Automobile and Workers Compensation policies in favor of the City of Noblesville with respect to losses arising out of or in connection with the Project.

**EXHIBIT G**  
**PROHIBITED USES**

Tattoo parlor

Piercing studio

Nail salon (specifically not including nail services that are part of a high-end day spa or other similar use)

Massage parlor (specifically not including massage services that are part of a high-end day spa or other similar use)

Refund anticipation loan lenders, title loan businesses, short-term loan providers, cash for precious metal stores and pawn shops

Sexually-oriented business

Adult entertainment business, including retail; night club or cabaret; adult novelty shop or business (including bookstore or video store specializing in adult or sexually explicit material)

Discotheque or otherwise for musical/dance reviews or topless/nude shows

Tobacco shop, cigar lounge, hookah, head or other smoke shop

A facility for the sale or use of paraphernalia used for the ingestion or use of illicit or recreational drugs

Weapon dealers

Gambling facility

Billiard or Pool Hall

Second hand or government surplus store

Mattress store

Non-profit or institutional use by any entity which is exempt from property taxation and causes any portion of the Property Location to be exempt from property taxes

A store selling or advertising primarily “dollar” merchandise

Flea market, consignment or used good store selling primarily distressed or damaged merchandise

Laundromat or dry cleaning processing plant (specifically not including a high-end dry cleaning facility that does not use harsh chemicals at the facility)

Pet stores

Animal clinic that have outdoor, overnight boarding facilities (specifically does not prohibit pet spas, pet wellness businesses, veterinarian services or other similar businesses)

Businesses that emit noxious odors

**EXHIBIT H**

**PROJECTED PROJECT TIF REVENUE**