

ECONOMIC DEVELOPMENT AGREEMENT

Realty Link

This **ECONOMIC DEVELOPMENT AGREEMENT** (“**Agreement**”) is made and entered into this _____ day of _____, 2017 by and among the **TOWN OF WHITESTOWN, INDIANA**, a municipality and a political subdivision organized and existing under the laws of the State of Indiana (“**Town**”), the **WHITESTOWN REDEVELOPMENT COMMISSION** (“**Commission**”), a redevelopment commission organized and existing under the provisions of the Act (as hereinafter defined), and **IN WHITESTOWN PARKWAY, LLC**, a South Carolina limited liability company (“**Developer**”), for the purpose of providing certain utility infrastructure improvements to support the development and construction of a retail center to be located within the corporate limits of the Town.

PREAMBLE

WHEREAS, the Developer is the owner of or has negotiated the right to acquire a parcel of land comprising approximately 33 acres located within the corporate limits of the Town, in Boone County, Indiana, as more fully described on the attached **Exhibit A** (“**Property**”); and

WHEREAS, the Developer desires to develop a retail center on the Property as more fully described on the attached **Exhibit B** (“**Project**”), provided that certain utility relocation improvements are made by the Town as described on the attached **Exhibit C** (“**Town Improvements**”), to support the Project; and

WHEREAS, the Developer estimates that its construction investment in the first phase of the Project, not including land acquisition costs, furniture, fixtures, or equipment, will equal or exceed Thirty Million Dollars (\$30,000,000) (“**Project Investment**”); and

WHEREAS, the Project will (i) benefit the public health, safety, morals, and welfare for the Town; (ii) increase the economic well-being of the Town and the State of Indiana by creating jobs and employment opportunities; (iii) serve to protect and increase property values in the Town and the State of Indiana; and (iv) attract major new business enterprises to the Town; and

WHEREAS, as an inducement to the Developer to construct the Project and make the Project Investment, the Commission and the Town find that the Town Improvements should be made to provide improved utility infrastructure access to the Property and the Project and that the planning, design, and construction of the Town Improvements should be undertaken by the Town, with the support of Commission; and

WHEREAS, the Town and Commission estimate that the costs of the Town Improvements will not exceed Two Hundred Seventy-Five Thousand Dollars (\$275,000); and

WHEREAS, the Town will pay for costs of the Town Improvements from utility funds on hand, some or all of which may be reimbursed by the Commission from funds held or to be collected by the Commission in furtherance of economic development activities for and on behalf of the Town; and

WHEREAS, the Commission has previously determined that it is necessary and appropriate and in the best interest of the Town to designate the area in which the Property is located as an economic development area and has also established such economic development area, which includes the Property, as an allocation area (such economic development area and allocation area, collectively, the “**TIF Area**”) pursuant to Indiana Code 36-7-14 and Indiana Code 36-7-25, as supplemented and amended (collectively, the “**Act**”); and

WHEREAS, the Town and Commission (collectively, the “**Town Parties**”) anticipate that the tax increment revenues generated from the Project (the “**Project TIF Revenues**”) will be used by the Commission to reimburse the Town for costs of the Town Improvements and to provide additional infrastructure and related improvements in the TIF Area all in furtherance of the Act and the economic development of the Town; and

WHEREAS, the Town Parties have each authorized the execution of this Agreement by resolution of their respective governing bodies.

NOW, THEREFORE, in consideration of the promises and mutual obligations and covenants of the parties hereto contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer and the Town Parties agree as follows:

AGREEMENT

A. COMMITMENTS BY DEVELOPER

1. Covenant to Construct the Project. The Developer shall construct the Project on the Property in accordance with permits and approvals to be issued by the Town Building Department. The total cost of the first phase of the Project shall equal or exceed the Project Investment, without including any cost of the Town Improvements. The initial phase of the Project and Project Investment shall be substantially completed (as evidenced by the issuance of a certificate of occupancy) by June 1, 2019 (“**Completion Date**”). The Developer is responsible for providing or arranging to provide for the funding of all costs to complete the Project. Such funding and cost is separate and apart from the costs of the Town Improvements to be provided by the Town Parties.

2. Easements. Prior to the construction of the Town Improvements, the Developer shall provide easements to the Town Parties that are acceptable to the Town Parties for the Town Improvements and record all necessary documents for the conveyance of the easements. The easements shall be substantially in the form attached hereto as **Exhibit D**. The Developer agrees to provide additional easements (in, over, and across the Property) as may be reasonably requested in the future by the Town Parties, without additional compensation, to facilitate the provision of utility service to future users in and around the Property. The exact location of other easements, if any, will be determined at a future date by the mutual cooperation of the parties.

3. Cooperation. The Developer covenants and agrees to diligently take or cause to be taken (and shall cooperate with Town Parties to enable Town Parties to take or cause to be taken) all actions necessary or desirable under statutes, regulations and rules applicable to the Project, and to execute and deliver or cause to be executed and delivered (and shall cooperate with Town Parties to enable Town Parties to execute and deliver or cause to be executed and delivered) such

agreements, instruments, documents, indentures, applications and other papers as may be necessary or desirable under such statutes, regulations and rules to assist and permit Town Parties to undertake and complete the Town Improvements. The Town covenants and agrees to diligently take or cause to be taken (and shall cooperate with Town Parties to enable Town Parties to take or cause to be taken) all actions necessary or desirable under statutes, regulations and rules applicable to the Project, and to execute and deliver or cause to be executed and delivered (and shall cooperate with Town Parties to enable Town Parties to execute and deliver or cause to be executed and delivered) such agreements, instruments, documents, indentures, applications and other papers as may be necessary or desirable under such statutes, regulations and rules to assist and permit Town Parties to undertake and complete the Town Improvements.

4. **Records, Reporting.** For a period up to and including five (5) year(s) following the Completion Date, the Developer shall keep and maintain in its offices complete and accurate records and supporting documents relating to the receipt and expenditures of Developer related to the construction and completion of the Project.

5. **Inspection of Records.** The Developer will cooperate with and permit any duly authorized representative of the Town Parties, during regular business hours of Developer, to have access to and the right to examine the records and supporting documents required to be kept and maintained under this Agreement. Such access and right will terminate five (5) years following the Completion Date. Prior to such termination, the Developer will cooperate reasonably with the Town Parties in connection with any such examination. Any examination expenses incurred by the Town Parties will be the responsibility of the Town Parties.

6. **Inspection of Project.** For a period up to and including five (5) year(s) following the Completion Date, any duly authorized representative of the Town Parties shall, during regular business hours of Developer, have access to and the right to inspect the Project, subject to any applicable lease or occupancy agreements affecting the Project. The Developer will cooperate reasonably with the Town Parties in connection with any such inspection. This Section shall be in addition to and does not affect the other inspection rights of the Town Parties under applicable law.

7. **Nondiscrimination.** Developer and its officers, agents and employees will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions or privileges of employment, because of her or his race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability or United States military service veteran status.

8. **Information Reporting.** The Developer shall cooperate in all reasonable ways and provide necessary and reasonable information to the Town Parties or any other applicable governmental authority to enable the Town Parties to review Developer's performance of its obligations under this Agreement, assure its compliance with the terms of this Agreement, prepare any reports required by applicable law, and to comply with any other reporting requirements of the Act and/or this Agreement.

B. COMMITMENTS BY TOWN PARTIES

1. **Covenant to Construct Town Improvements.** The Town Parties will construct the Town Improvements as support for the project and as generally depicted in **Exhibit C** attached hereto, in an amount not to exceed \$275,000 (the "Improvement Cap"), on or before May 1, 2018;

provided the Town Parties shall use best efforts to commence the construction of the Town Improvements on or before February 15, 2018 (weather permitting) (such dates, the “Critical Dates”). The Town Parties shall cause the public bidding of the Town Improvements to commence by no later than December 1, 2017. The Town Improvements shall be separate and apart from the Project and the cost of the Town Improvements shall not be considered a part of the Project Investment. The design, development, and construction of the Town Improvements will be made, authorized, and approved by the Town, and as and to the extent appropriate any other departments, boards or other agencies of the Town, and will conform to the standards of construction related to and specific to the Town Improvements. The Town Parties will provide for the funding of the Town Improvements through funds on hand of the Town’s utility, which may be reimbursed from the Commission.

a) The Town agrees that it shall utilize those certain Utility Relocation Plans prepared for the Town of Whitestown, Public Works, dated August 7, 2017, prepared by HWC Engineering – Job 2016-196-S (the “Construction Drawings”), in seeking out public bids for the Town Improvements, and shall provide reasonable advanced written notice to Developer of the publishing of the public bid guidelines, public request for proposals, and such other applicable bid-related timelines and guidelines.

b) In the event that the costs of the Town Improvements exceeds the Improvement Cap, whether as a product of the public bidding process or other causes, then the Developer shall either (i) terminate this Agreement prior to the Town Parties accepting a bid for the Town Improvements by providing written notice of such termination to the Town Parties within forty-eight (48) hours of the Town Parties’ receipt of bids for the Town Improvements, in which case the Town Parties will not construct the Town Improvements, or absent such termination, (ii) reimburse the Town Parties, within thirty (30) days of invoicing from the Town Parties, for the costs of the Town Improvements that exceed the Improvement Cap.

2. **Building Approvals.** Subject to applicable laws, rules, and regulations, the Town Parties shall hold such meetings and assist Developer with all necessary permit applications and other submittals to each and any other applicable board, commission or office of the Town to facilitate procurement, by the Developer, of all necessary and appropriate authorizations, approvals, permits and other entitlements required or otherwise associated with the Project to accommodate the timely construction of the Project.

3. **Exculpation.** The Town Parties covenant and agree that the Developer will not be directly liable for or with respect to the costs of the Town Improvements (other than payment of taxes levied on the Property, damages for breach as provided herein, or any other taxes or municipal service charges generally applicable to residents of and property owners in the Town).

4. **Certificates.** On Developer’s request, the Town Parties shall each execute and deliver a certificate stating: (a) that this Agreement is in full force and effect or will provide a written explanation of why this Agreement is not in full force and effect; (b) that Developer is not in default under the terms of this Agreement or specifying why Developer is in default; or (c) any other matters which the Developer reasonably requests. When Developer has satisfied all of its obligations under this Agreement then, on Developer’s request, the Town Parties shall each execute an instrument in recordable form evidencing the termination of this Agreement and releasing the covenants.

C. **OTHER AGREEMENTS**

1. **Best Efforts**. Each party shall use its best efforts to perform its obligations made in this Agreement in a timely manner.

2. **Unavoidable Delay - Force Majeure**. If any party to this Agreement is delayed or prevented from performing any act required by this Agreement by reason of acts of God, strikes, lockouts, mass labor disruption, inability to procure materials, or governmental regulations, without fault and beyond the reasonable control of the party obligated (financial inability excepted), the performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay. Changes in laws or regulations enacted by any one of the Town Parties will not be deemed a force majeure event to the detriment of Developer. Each party shall diligently make efforts to perform any obligations delayed under this Section C.2. immediately upon the event of force majeure no longer preventing such obligation from being performed.

3. **Agreement Binding on the Town Parties**. No covenant, obligation or other agreement in this Agreement shall be deemed to be a covenant, obligation or agreement of any past, present or future member, official, officer, agent or employee of the Town Parties, other than in his or her official capacity, and neither the officers of the governing bodies of the respective Town Parties executing this Agreement shall be liable personally by reason of the covenants, obligations or agreements of the Town Parties under this Agreement.

4. **Developer's Failure to Perform**. If the Developer fails to perform any material obligation under this Agreement within thirty (30) days after the Developer's receipt of written notice from the Town Parties or to show cause why it should not be deemed in default, then the Developer shall be in default of this Agreement. In the event of such a default, the Developer shall be liable to the Town Parties for the cost of the Town Improvements, together with legal fees and other costs of collection that may be paid or incurred by the Town Parties or any other governmental office or authority in connection with the collection of all amounts due from the Developer hereunder.

5. **Assignment**. Developer may not assign its interests, rights and responsibilities under this Agreement without the written consent of the Town Parties, which consent shall not be unreasonably withheld, conditioned or delayed. The President of the Commission is hereby authorized to grant or deny any such written consent on behalf of the Town Parties. Notwithstanding the foregoing, no such consent on the part of the Town Parties shall be required following the completion of the Project. In addition, and without limitation, the Town Parties acknowledge and agree that the Developer may encumber its interest in the Project with a mortgage and assign this Agreement to such lender and that upon the occurrence of any default or event of default thereunder, the holder(s) of each and any such mortgage and assignment shall have the right, without the consent of the Town Parties, to foreclose upon or otherwise realize upon the collateral identified in any such mortgagor assignment, and that any transfer of the Property or the Project done in connection with or in lieu of any foreclosure or in connection with the exercise of any other rights by any such lender or holder shall not require the consent of the Town Parties, including any transfer of the Property or the Project to any one or more third parties by any such lender or holder, and the transferee thereunder will be deemed to have assumed all of the rights and obligations of the Developer under this Agreement to the extent first arising from and after the date of such transfer. In such a case, the Developer (or any duly approved or deemed approved successor thereto, if applicable) will not be released or otherwise relieved of or from any

obligations hereunder. Town Parties agree to give notices to such lender simultaneous with any notices to Developer if lender notifies Town Parties at the address provided in Section 8 below of the assignment of Developer's interest in the Project.

6. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon Developer, the Commission, the Town and their respective legal representatives, and permitted successors and assigns.

7. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

8. **Notices.** Except as otherwise specifically set forth in the Agreement, all notices, demands, consents or approvals given in connection with this Agreement (the "Notice") shall be in writing and shall be deemed sufficiently given or delivered: (a) on the date the Notice is delivered by personal delivery; (b) on the date the Notice is delivered by any nationally recognized overnight delivery service providing tracking service; (c) on the date the return receipt is signed or refused for any Notice sent by certified mail, postage prepaid, return receipt requested; so long as in each case, the Notice is delivered at the addresses set forth below, or to any other address for which notice is given as provided in this Section:

<i>If to Developer:</i>	IN Whitestown Parkway, LLC Attn: Legal Department 550 S. Main Street, Suite 300 Greenville, SC 29601
With a copy to:	IN Whitestown Parkway, LLC Attn: Andrew J. Dettro W56N857 Meadow Court, Suite 101 Cedarburg, WI 53012
With a copy to:	Graybill, Lansche & Vinzani, LLC Attn: Brett D. Budlong 225 Seven Farms Drive, Suite 207 Charleston, SC 29492
<i>If to Commission : and/or Town</i>	Town of Whitestown 6210 Veterans Drive Whitestown, Indiana 46075 Attention: Town Manager
With a copy to:	Bose McKinney & Evans LLP Attn: Stephen Unger 111 Monument Circle, Suite 2700 Indianapolis, Indiana 46204

9. **Wording.** Any word used in this Agreement shall be construed to mean either singular or plural as indicated by the number of signatures hereto. All references to the Act, the

Indiana Code, and codified ordinances, rules, or any other statute, regulation or ordinance are intended to refer to the provisions presently in effect and to all future amendments, modifications, replacements or successor provisions.

10. **Construction.** This Agreement shall be construed and enforced in accordance with the laws of the State of Indiana. This Agreement shall constitute the entire agreement of Developer, Town and Commission and no oral, verbal or implied agreement or understanding shall cancel, modify or vary the terms of this Agreement. No representations or promises shall be binding on the parties hereto except those representations and promises contained herein or in some future writing signed by the parties making such representations and promises. This Agreement may only be amended by a written instrument executed by each of the parties to this Agreement, or their permitted successors or assigns.

11. **Default By Developer.** Upon the occurrence of any default on the part of the Developer hereunder, the Town or Commission, on behalf of the Town Parties, shall give Developer written notice (herein a “Developer Default Notice”) of the circumstances constituting that default and the Developer shall have thirty (30) days following its receipt of such Developer Default Notice in which to cure any such default or such longer period as may be reasonably required, provided that Developer commences such cure within that thirty (30) day period and diligently pursues such cure to completion. In the event that Developer fails to timely cure any such default hereunder, the Town Parties may:

- 1. suspend or terminate the Town Parties’ obligation to fund and construct the Town Improvements; and
- 2. institute any action, suit or other proceeding in law or in equity or otherwise, which the Town Parties deem necessary or appropriate for the protection of their interests.

12. **Reimbursement Obligations.** Subject to this Section C.12, under certain circumstances, Developer will be obligated to reimburse a portion of the costs of the Town Improvements to the Commission (“**Reimbursement Obligations**”):

(a) **Failure to Use Town Improvements.** If the Town Parties determine that the Town Improvements become unnecessary or non-essential to the use of the Project because of a change of scope, design or other circumstances beyond the Town Parties’ control relating to the Project which renders the Town Improvements as unnecessary or non-essential to the use of the Project, the Developer will reimburse the Town or Commission within thirty (30) days of the date of delivery of a written request for reimbursement of the costs of the Town Improvements, or the costs of necessary modifications to the Town Improvements to make them necessary and essential to the Project. For the avoidance of doubt, this provision will require the Developer to reimburse the Town or Commission in full for the costs of the Town Improvements if the Developer does not construct or complete the Project or abandons the Project such that it is not used for its intended purpose.

(b) **Failure to Meet Project Investment Target.** If the Town or Commission determines that the Developer has failed to perform by not meeting or exceeding its Project Investment on or before the Completion Date, the Developer agrees to make payments to

the Town or Commission equivalent to the projected lost real property tax increment revenues resulting from the shortfall in the minimum Project Investment or delay (such payments, herein "Developer Shortfall Payments"). The calculation of Developer Shortfall Payments shall be undertaken by the Commission's financial advisor on or before March 1 of each year, commencing from the date of first assessment of the Project and continuing for a period ending the shorter of when (i) the actual real property tax increment revenues generated from the Project Investment equal the costs of the Town Improvements or (ii) the actual real property tax increment revenues generated from the Project Investment, that have been paid, plus the Developer Shortfall Payments paid equal the cost of the Town Improvements. If in any year the Town or Commission determines, based upon the calculations of its financial advisor, that a Developer Shortfall Payment is due, the Town or Commission shall invoice the Developer for a Developer Shortfall Payment which the Developer shall pay to the Town or Commission within thirty (30) days' of mailing by the Town or Commission. In any event, the obligations to calculate and make Developer Shortfall Payments hereunder shall expire and be of no effect once the real property tax increment revenues that have been paid, together with any then paid Developer Shortfall Payments, equal or exceed the cost of the Town Improvements.

13. Default of Town Parties. Upon the occurrence of any default on the part of the Town Parties hereunder, the Developer shall give the Town Parties written notice ("Town Default Notice") of the circumstances constituting that default and the Town Parties shall have thirty (30) days following its receipt of such Town Default Notice in which to cure any such default or such longer period as may be reasonably required, provided that the Town Parties commence such cure within that thirty (30) day period and diligently pursue such cure to completion. In the event that the Town Parties fail to timely cure any such default hereunder, the Developer may institute any action, suit or other proceeding in law or in equity or otherwise, which the Developer deems necessary or appropriate for the protection of its interests. Notwithstanding anything to the contrary, the Town Parties' total obligations and liabilities under this Agreement shall not exceed the Improvement Cap.

14. Governing Law. Except to the extent preempted by federal law, the laws of the State of Indiana shall govern all aspects of this Agreement, including execution, interpretation, performance and enforcement.

15. Dispute Resolution. Any lawsuit arising out of or relating to this Agreement must be brought in a state or federal court of appropriate jurisdiction situated in the State of Indiana. The Town Parties and Developer consent to the jurisdiction of such court and irrevocably waive any objections they may have to such jurisdiction or venue.

16. No Waiver. Neither failure nor delay on the part of the Town Parties or Developer in exercising any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any further exercise thereof or the exercise of any other right. No waiver of any provision of this Agreement or consent to any departure by Developer or the Town Parties therefrom shall be effective unless the same shall be in writing, signed on behalf of the Town Parties or Developer by a duly authorized officer thereof, and the same shall be effective only in the specific instance for which it is given. No notice to or demand on the Town Parties or Developer shall entitle the Town Parties or Developer to any other or further notices or demands in similar or other circumstances, or constitute a waiver of any of the

Town Parties' or Developer' right to take other or further action in any circumstances without notice or demand.

17. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original for all purposes.

18. **Binding of Successors, Assigns.** Subject to the further provisions of this Agreement, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the Town Parties and Developer and their respective successors and assigns.

19. **Further Assurances.** Subject to the further provisions of this Agreement, Developer and the Town Parties shall, at such party's expense, upon request of the other such party, duly execute and deliver, or cause to be executed and delivered, such further instruments and perform or cause to be performed such further acts as may be reasonably necessary or proper in the reasonable opinion of the Town Parties or Developer to carry out the provisions and purposes of this Agreement.

20. **Severability.** The invalidity, illegality or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity, legality or enforceability of the remaining provisions.

21. **Headings.** The headings of the articles, sections and paragraphs used in this Agreement are for convenience only and shall not be read or construed to affect the meaning or construction of any provision.

22. **Entire Agreement.** This Agreement and the document incorporated by reference herein constitutes the entire agreement by and between the Town Parties and Developer and supersedes all prior agreements, written or verbal, between the Town Parties and Developer. No statements, promises or agreements whatsoever, in writing or verbally, in conflict with the terms of this Agreement have been made by the Town Parties or Developer that in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations of this Agreement.

23. **Public Use of Town Improvements.** The parties hereby acknowledge and agree that nothing herein shall be deemed to provide the Developer with any preferential or special legal entitlements (e.g., license, lease, franchise or other special right) to the use of the Town Improvements and that the Town Improvements shall be available for use by the general public, where applicable.

24. **Interpretation.** The headings in this Agreement are inserted for convenience and identification only and are not intended to aid in the interpretation of this Agreement. Unless the context requires otherwise, (i) the singular includes the plural and vice versa, (ii) the recitals, all schedules, attachments and exhibits identified herein form a part of this Agreement, (iii) the word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it, and (iv) where a term is defined, another part of speech or grammatical form of that term shall have a corresponding meaning.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Town Parties and Developer have executed this Agreement the day and year first written above.

TOWN OF WHITESTOWN, INDIANA

Town Council President

Attest:

Clerk-Treasurer

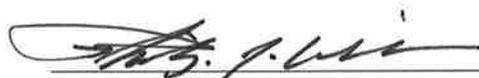
WHITESTOWN REDEVELOPMENT
COMMISSION

President

Attest:

Secretary

IN WHITESTOWN PARKWAY, LLC



Philip J. Wilson, Manager

Attest:

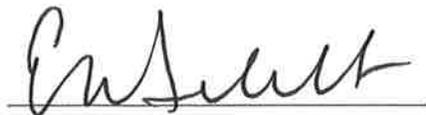


EXHIBIT A

Property Legal Description

A part of Block-E in the Anson Development - Phase 1 South Right-of-Way Dedication & Easement Location document as recorded in Plat Book 16, Page 63, Instrument Number 200600001996 and amended by Anson Development - Phase 1 South - Revision 11 Right-of-Way Dedication & Easement Location document as recorded in Plat Book 22, Page 80, Instrument Number 201400006390 in the Office of the Recorder of Boone County, Indiana (hereafter referred to as Anson Development), and also being a part of the Northwest Quarter of Section 6, Township 17 North, Range 2 East, in Eagle Township, Boone County, Indiana being more particularly described as follows:

COMMENCING at the Northeast corner of the Northeast Quarter of said Section 1; thence South 00 degrees 44 minutes 31 seconds West (the basis of bearing is the Indiana West Zone NAD 83 State Plane Coordinate System) along the East line thereof a distance of 445.97 feet; thence North 88 degrees 08 minutes 09 seconds East a distance of 228.74 feet to a point on the West Right-of-Way line of Gateway Drive per said Anson Development; (the next 6 courses being along the Right-of-Way lines of Gateway Drive and Central Boulevard per said Anson Development) thence South 01 degrees 50 minutes 53 seconds East a distance of 20.47 feet; thence North 88 degrees 09 minutes 07 seconds East a distance of 100.00 feet; thence North 01 degrees 50 minutes 53 seconds West a distance of 5.50 feet; thence North 43 degrees 09 minutes 07 seconds East a distance of 21.21 feet; thence North 88 degrees 09 minutes 07 seconds East a distance of 275.24 feet to the POINT OF BEGINNING of this description; thence continuing North 88 degrees 09 minutes 07 seconds East a distance of 1282.60 feet to the Northwest corner of the plat of The Townhomes at Anson as recorded in Instrument Number 200600013860 in said Recorder's Office; (the next 3 courses being along the perimeter lines of said plat) thence South 01 degrees 49 minutes 26 seconds East a distance of 115.00 feet; thence North 88 degrees 09 minutes 07 seconds East a distance of 551.00 feet; thence North 01 degrees 49 minutes 26 seconds West a distance of 115.00 feet to the South Right-of-Way line of Central Boulevard per said Anson Development; thence North 88 degrees 09 minutes 07 seconds East along said South Right-of-Way line a distance of 135.27 feet; thence South 08 degrees 10 minutes 41 seconds East a distance of 444.55 feet to a point on a curve on the North Right-of-Way line of Common Drive, said curve having a radius of 185.00 feet, the radius point of which bears South 09 degrees 56 minutes 23 seconds East; (the next 6 courses being along the North Right-of-Way line of said Common Drive) thence Southwesterly along said curve to the left an arc distance of 247.23 feet to a point which bears North 86 degrees 30 minutes 28 seconds West from said radius point; thence South 03 degrees 29 minutes 32 seconds West a distance of 52.74 feet to a point on a curve having a radius of 115.00 feet, the radius point of which bears North 86 degrees 30 minutes 28 seconds West; thence Southwesterly along said curve to the right an arc distance of 170.61 feet to a point which bears South 01 degrees 30 minutes 28 seconds East from said radius point; thence South 88 degrees 29 minutes 32 seconds West a

distance of 526.09 feet to a point on a curve having a radius of 335.00 feet; thence Southwesterly along said curve to the left an arc distance of 224.03 feet, said curve being subtended by a long chord having a bearing of South 69 degrees 20 minutes 02 seconds West and a length of 219.88 feet to a point on a reverse curve having a radius of 30.00 feet; thence Westerly along said curve to the right an arc distance of 36.99 feet, said curve being subtended by a long chord having a bearing of South 85 degrees 29 minutes 41 seconds West and a length of 34.69 feet to a point on a reverse curve having a radius of 383.00 feet, said point also being on the North Right-of-Way line of Perry Worth Road; (the next 4 courses being along said North Right-of-Way line of Perry Worth Road) thence Northwesterly along said curve to the left an arc distance of 218.25 feet, said curve being subtended by a long chord having a bearing of North 75 degrees 30 minutes 40 seconds West and a length of 215.31 feet; thence South 88 degrees 09 minutes 50 seconds West a distance of 760.69 feet; thence North 02 degrees 06 minutes 20 seconds West a distance of 773.28 feet to the POINT OF BEGINNING. Containing 33.011 acres, more or less.

EXHIBIT B

Description of Project

Developer intends to construct approximately 250,000 square feet of inline retail space on the Property, together with related site work and common areas.

EXHIBIT C

Description of Town Improvements

The Town intends to relocate approximately 1,552 linear feet of municipal sanitary sewer mains and related facilities, and approximately 1,748 linear feet of municipal water mains and related facilities, as generally set forth in the Utility Relocation Plans prepared for the Town of Whitestown, Public Works, dated August 7, 2017, by HWC Engineering – Job 2016-196-S

EXHIBIT D

Form of Easement

TEMPORARY CONSTRUCTION EASEMENT

This indenture witnesseth that _____, hereinafter called "Grantor(s)" for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to **THE TOWN OF WHITESTOWN, INDIANA and/or WHITESTOWN MUNICIPAL UTILITIES**, whose address is Whitestown Municipal Complex, 6210 Veterans Drive, Whitestown, IN 46075 and its successors and assigns, (hereinafter called "Grantee") a temporary construction easement to place, construct, operate, control, maintain, reconstruct, relocate, change the size of, repair and/or remove sewer and/or water mains, pipes and conduits, and all associated grinder pumps, valves, pumps, fittings, meters, hydrants, and accessories, and all other necessary, incidental, auxiliary, or related facilities and structures convenient or proper for the purpose of rendering utility services (the "Facilities") along, under, over, through and across a strip of land more particularly described in the legal description and drawing attached hereto as Exhibit A and incorporated herein by reference ("Real Estate"), together with the rights of Grantee, its successors and assigns, to:

- (1) enter into and upon the Real Estate described above with men, machinery, vehicles, and materials at any and all times for the purpose of maintaining, repairing, renewing, or adding to the aforesaid Facilities;
- (2) remove trees, bushes, undergrowth, and other obstructions interfering with the activities authorized herein;
- (3) for doing anything necessary, useful, or convenient for the enjoyment of the easement herein granted, including ingress and egress across the subservient real estate; and
- (4) any and all activities necessary, incidental, or related to the installation of the aforesaid Facilities.

Grantor(s) shall have the right to fully use and enjoy the Real Estate except for such use as may impair, impede, obstruct, or interfere with the exercise by Grantee of the rights granted herein. Grantee covenants that, in the installation, maintenance, or operation of such Facilities, it will restore the area disturbed by its work to a condition that is as near the condition that existed at the time that the portion was disturbed by it as is commercially reasonable. The grants, covenants and stipulations herein provided shall extend to and be binding upon the respective heirs, successors, and assigns of the parties.

This temporary construction easement shall expire and terminate upon the earlier to occur of (i) completion of the original construction of the Facilities, or (ii) the date that is twenty-four (24) months following the date hereof.

The undersigned executing this Easement on behalf of Grantor(s) represent and certify that Grantor(s) is/are the owner(s) of the Real Estate, that the undersigned is duly authorized and

fully empowered to execute and deliver this easement, that Grantor(s) has/have full legal capacity to convey the easement described herein, and that all necessary action for the making of such conveyance by Grantor(s) has been taken and done.

The deed reference required by I.C. § 32-5-2-2 for the Real Estate burdened by the easement herein granted is recorded in the office of the Recorder of Boone County, Indiana, as Instrument No. _____

Executed this _____ day of _____, 20____
by "Grantor(s)".

Signature

Printed Name

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ who acknowledged the execution of the foregoing Grant of Temporary Easement, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____, 20____.

County Resident of
Notary Public My Commission expires:

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. _____
(Declarant)

Form of instrument prepared by Stephen C. Unger, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, IN 46204.

Exhibit A

[Temporary Easement Parcel Description]