ORIGINAL

RESOLUTION NO. 2016-36

2016-36A

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT (MAINSTREET PROJECT)

WHEREAS, the Town Council of the Town of Whitestown, Indiana (the "Council" and the "Town," respectively) has been advised by its staff of a proposed economic development agreement between Mainstreet Property Group, LLC, or an affiliate thereof (the "Developer") and the Town of Whitestown Redevelopment Commission, the form of which agreement is attached hereto as Exhibit A and incorporated herein by reference (the "Economic Development Agreement"), pursuant to which the Developer has proposed to undertake a certain economic development and redevelopment project in the Town (the "Project") and the Commission has proposed to take certain actions (the "Commission Actions") in connection therewith to facilitate the development of the Project; and

WHEREAS, the Council has reviewed the Economic Development Agreement and considered the information provided to it by its staff and others relating to the proposed Project and the Commission Actions in connection therewith and finds that the terms of the Economic Development Agreement are consistent with the provisions of Indiana Code 36-7-14 and Indiana Code 36-7-25, each as amended (collectively, the "Act") and will serve to foster and encourage economic development and redevelopment of the Town and will be of public benefit to the Town;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, as follows:

Section 1. The Economic Development Agreement, attached hereto as Exhibit A, is hereby approved and the President of the Commission is hereby authorized to execute said Economic Development Agreement.

Section 2. The President of the Commission is hereby authorized and empowered to approve such amendments, additions, deletions and changes to the Economic Development Agreement as he deems necessary or advisable, and his approval shall be signified by his execution of said Economic Development Agreement.

Section 3. The President and Secretary of the Commission, the Executive Director of the Commission, the President of the Council, the Clerk-Treasurer 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 Commission and the Town as may be necessary or appropriate to carry out the purposes of this resolution.

Section 4. This resolution shall take effect immediately upon its adoption by the Council.

ORIGINAL

Adopted the ~~27th day of July, 2016.~~
16th day of August 2016

Eric Miller, President

Susan Austin, Council Member

Clinton Bohm, Council Member

Jeff Wisnek, Council Member

Kevin Russell, Council Member

ATTEST:

Matt Sumner, Clerk-Treasurer

ORIGINAL

EXHIBIT A

Form of Economic Development Agreement

mainstreet®
development | health | investments

September 13, 2016

OVERNIGHT MAIL

Stephen C. Unger
Bose McKinney & Evans LLP
111 Monument Circle, Suite 2700
Indianapolis, IN 46204

Re: Economic Development Agreement

Dear Steve:

Enclosed please find the Economic Development Agreement between the Town of Whitestown, Indiana, Whitestown Redevelopment Commission, and MS Whitestown, LLC, which has been executed on behalf of MS Whitestown, LLC. The date has been left blank to be filled in upon the Town's execution of the same.

If you have any questions, please feel free to contact me at (317) 689-2129.

Sincerely,

Angela L. Gidley
Counsel

Enclosure
cc: Doug Pedersen (dpedersen@maininvest.com)

ECONOMIC DEVELOPMENT AGREEMENT

This **ECONOMIC DEVELOPMENT AGREEMENT** ("**Agreement**") is made and entered into this day of , 2016 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 **MS WHITESTOWN, LLC**, an Indiana limited liability company ("**Developer**"), for the purpose of providing certain public infrastructure improvements to support the development and construction of a skilled nursing care facility 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 10.5 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 skilled nursing care facility on the Property as more fully described on the attached **Exhibit B** ("**Project**"), provided that certain road and related public infrastructure improvements are made by the Town as described on the attached **Exhibit C** ("**Town Improvements**"), acting through the Commission, to support the Project; and

WHEREAS, the Developer estimates that its construction investment in the Project, not including land acquisition costs, furniture, fixtures, or equipment, will equal or exceed Ten Million One Hundred Thousand Dollars ($10,100,000.00) ("**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 a major new business enterprise 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 access to the Property and the Project and that the planning, design, construction of the Town Improvements should be undertaken by the Town, through the Commission; and

WHEREAS, the Town and Commission estimate that the costs of the Town Improvements will not exceed Six Hundred Thousand Dollars ($600,000); and

WHEREAS, the Commission will pay for costs of the Town Improvements from funds on hand of the Commission which are held 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 it 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 Commissioner. The total cost of the Project shall equal or exceed the Project Investment, without including any cost of the Town Improvements. The Project shall be completed (as evidenced by the issuance of a conditional or temporary certificate of occupancy) by September 15, 2017 ("**Completion Date**"). Notwithstanding the foregoing, in the event the Developer assigns this Agreement to its lender pursuant to Section C.5. below and thereafter lender forecloses upon or otherwise realizes upon the collateral identified in any related mortgage, the Completion Date shall be extended to September 15, 2018. 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 from funds on hand of the Commission.

2. **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 related to the construction and completion of the Project.

3. **Inspection of Records**. The Developer will cooperate with and permit any duly authorized representative of the Town Parties, during regular business hours of Developer and upon not less than ten (10) days' prior written notice, 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 will be at the expense of the Town Parties.

4. **Inspection of Project.** Any duly authorized representative of the Town Parties shall, during regular business hours of Developer, upon not less than five (5) calendar days' written notice to Developer, have access to and the right to inspect the Project. The Developer will cooperate reasonably with the Town Parties in connection with any such inspection. Any inspection will be at the expense of the Town Parties.

5. **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.

6. **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**. Subject to and contingent upon the Town receiving a Deed and Dedication of Public Right-of-Way, free of encumbrances, for the area of the Town Improvements on the areas currently owned by Eagle Alliance Church, Inc., the Town Parties shall construct the Town Improvements on or before December 31, 2016 as generally depicted in **Exhibit C** attached hereto, as support for the Project. 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 Commission, 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 work with and inform the Developer of the construction of the Town Improvements in order to ensure that the Town Improvements conform to the needs and uses for the Project. The Town Parties will provide for the funding of the Town Improvements through funds on hand of the Commission.

2. **Cooperation**. The Town Parties covenant and agree to take or cause to be taken (and shall cooperate with Developer to enable Developer to take or cause to be taken) all actions necessary or desirable under statutes, regulations and rules applicable to the Project and the Town Improvements, and to execute and deliver or cause to be executed and delivered (and shall cooperate with Developer to enable Developer 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 Developer to undertake and complete the Project and enable the Town Parties to undertake and complete the Town Improvements.

3. **Building Approvals**. 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.

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

5. **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, labor troubles, 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.

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 mortgageor 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:

If to Developer:	MS Whitestown, LLC c/o Mainstreet Property Group, LLC 14390 Clay Terrace Blvd., Suite 205 Carmel, IN 46032 Attention: Angela L. Gidley, Counsel
If to Commission : ***and/or Town***	Town of Whitestown 6210 Veterans Drive

Whitestown, Indiana 46075
Attention: Town Manager

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 of Developer.** Upon the occurrence of any default on the part of the Developer hereunder, the 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:

(a) suspend or terminate the Town Parties' obligation to fund and construct the Town Improvements; and

(b) 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.

Notwithstanding anything in this Agreement to the contrary, the Town Parties may not institute any action, suit or other proceeding in law, in equity or otherwise, that might or would result in Developer being required to involuntarily expend additional sums towards the Project Investment.

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 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 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 Commission determines that the Developer has failed to perform by not meeting or exceeding its Project Investment, the Developer agrees to make payments to the Commission equivalent to the projected lost real property tax increment revenues resulting from the shortfall in the minimum Project Investment (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 Commission determines, based upon the calculations of its financial advisor, that a Developer Shortfall Payment is due, the Commission shall invoice the Developer for a Developer Shortfall Payment which the Developer shall pay to the Commission within thirty (30) days' of mailing by the 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 commence the dispute resolution procedures as provided in Section C.15 below.

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.

24. **Force Majeure.** Each party shall be excused for any failure or delay in performing any of its obligations under this Agreement, if such failure or delay is caused by an event of Force Majeure. As used herein, the term "**Force Majeure**" means any act of God; any accident (including equipment failure, HVAC failure or electricity outage for extended periods of time, destruction or damage to equipment not caused by the party relying upon such circumstance or

event); any explosion; any fire, flood, ice, earthquake, lightning, tornado, hurricane or other severe weather condition or calamity; any civil disturbance, labor dispute or labor or material shortage; any sabotage or act (or specific, imminent threatened act) of terrorism; any act of a public enemy, uprising, insurrection, civil unrest, war or rebellion; any action or restraint by court order or public or governmental authority or lawfully established civilian authority; a material adverse change in the national financial economic situation in the United States; the establishment of a general banking moratorium by Federal or State of Indiana authorities; a major financial crisis or material disruption in commercial banking or securities markets; or any other circumstance or event beyond the reasonable control of the party relying upon such circumstance or event. Each party shall diligently make efforts to perform any obligations delayed under this Section C.24. immediately upon the event of Force Majeure no longer preventing such obligation from being performed.

25. **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

MS WHITESTOWN, LLC

By: Manstreet Asset Management, Inc., its Manager

By: Doug Pedersen

Doug Pedersen, Vice President of Development

Attest:

3024415

EXHIBIT A

Property Legal Description

Part of the land conveyed to Eagle Alliance Church, Inc. in Instrument Number 9802618 as recorded in the Office of the Recorder of Boone County, Indiana and being part of the South Half of the Southeast Quarter of Section 31, Township 18 North, Range 2 East of the Second Principal Meridian, Eagle Township of Boone County, Indiana more particularly described as follows:

Commencing at a Harrison monument found marking the Southwest corner of the Southeast Quarter of said Section 31; thence along the along the south line of said quarter section North 88 degrees 22 minutes 43 seconds East (basis of bearing being the Indiana State Plane West Zone) a distance 1050.63 feet to the POINT OF BEGINNING; thence North 30 degrees 49 minutes 05 seconds East a distance of 402.63 feet to a point on a tangent curve to the left having a radius of 639.85 feet, the radius point of which bears North 59 degrees 10 minutes 55 seconds West; thence northeasterly along said curve an arc distance of 117.47 feet to a point which bears South 69 degrees 42 minutes 03 seconds East from said radius point; thence North 88 degrees 31 minutes 26 seconds East a distance of 741.56 feet; thence South 01 degrees 28 minutes 34 seconds East a distance of 67.08 feet; thence North 88 degrees 31 minutes 26 seconds East a distance of 194.66 feet to the west line of a parcel conveyed to The Boys & Girls Club of Zionsville, Inc. recorded as Instrument Number 0512257 in said Recorder's office; thence South 00 degrees 14 minutes 34 seconds East along said west line a distance of 374.81 feet to said south line of quarter section; thence South 88 degrees 22 minutes 43 seconds West along said south line a distance of 1,196.58 feet to the Point of Beginning, containing 10.50 acres of land, more or less.

EXHIBIT B

Description of Project

96 bed, 8 building licensed skilled nursing care facility generally depicted below

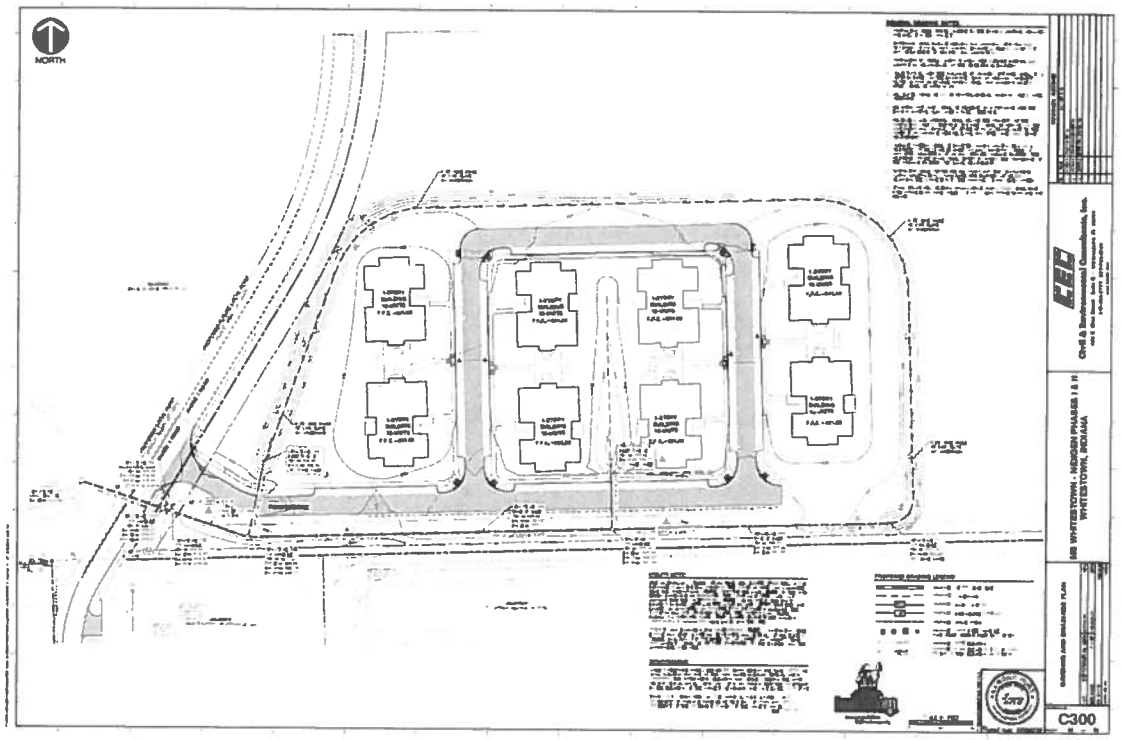
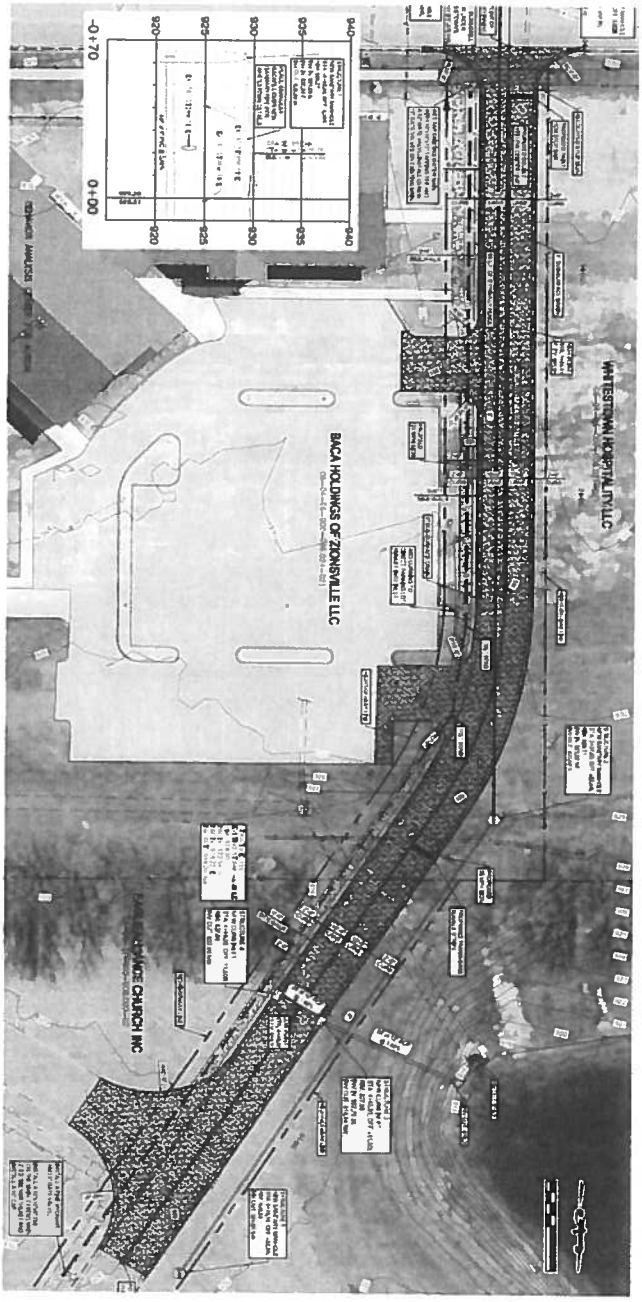


EXHIBIT C

Description of Town Improvements

A new access road generally depicted below