
DEVELOPMENT AGREEMENT

AMONG

TOWN OF MUNSTER, INDIANA,

MUNSTER REDEVELOPMENT COMMISSION

TOWN OF MUNSTER ECONOMIC DEVELOPMENT COMMISSION

AND

**MAPLE LEAF CROSSING, LLC.
an Indiana Limited Liability Company**

Re:

MAPLE LEAF CROSSING PROJECT

DATED: June 3, 2019

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (the “Agreement”) made as of this 3rd day of June, 2019, by and among the Town of Munster, Indiana, an Indiana municipal corporation (the “Town”), the Town of Munster Redevelopment Commission, the governing body of the Munster, Indiana Department of Redevelopment (the “Redevelopment Commission”), and Town of Munster Economic Development Commission (the “Economic Development Commission”), and Maple Leaf Crossing, LLC., an Indiana limited liability company (the “Developer”).

WITNESSETH:

A. The Town has established a Redevelopment Commission in accordance with the RDC Act (as defined herein) and the Economic Development Commission in accordance with the EDC Act (as defined herein);

B. The Redevelopment Commission has the responsibility to investigate, study and survey areas and promote the use of land in a manner that best serves the Town, and has the responsibility to cooperate with departments and agencies of the Town that best serve the development or redevelopment of areas of the Town;

C. The Town, the Redevelopment Commission, and Economic Development Commission (collectively, the “Town Parties”) desire to stimulate and promote economic development activities in or about the Economic Development Area (as defined herein);

D. The Developer has acquired or will acquire certain real estate located in the Economic Development Area (approx. ± 6.07 acres) as depicted on Exhibit A hereto (the “Project Site”), and has submitted to the Town Parties a proposal in excess of \$36.0 million development and construction of the Project Site, as more specifically set forth in Section 1.10 of this Agreement (the “Project”);

E. The Redevelopment Commission, pursuant to a Declaratory Resolution and a Confirmatory Resolution (each as defined herein), have taken or will take such actions as shall be reasonably necessary to adopt an “economic development plan” for the Economic Development Area and to cause a portion of the Economic Development Area to be designated as an “allocation area” within the meaning of the RDC Act to be known as the “Maple Leaf Crossing Project Allocation Area.”

F. The Town Parties desire to induce the Developer to proceed with the Project in the Town, by providing to the Developer a financial incentive as set forth herein to be applied to the cost of the Project (the “Incentive”); the Town Parties anticipate that the total development and construction costs for the anticipated development within the Allocation Area (which includes the Project Site) will be in excess of \$36.0 million.

G. The Town Parties desire to take all steps as shall be reasonably necessary to issue one or more series of Economic Development Revenue Bonds (the “Bonds”) as described in Section 1.11, to finance all or a portion of the Incentive;

H. The Town Parties have determined that it is in the best interest of the citizens of the Town to assist in (i) the development of the Project, (ii) the provision of the Incentive to pay costs of the Project; and (iii) the taking of such other actions as are hereinafter set forth, all for the promotion of economic development in or about the Economic Development Area; and

I. The Town Parties and the Developer desire to enter into this Agreement to effectuate the foregoing recitals, to the end that the Project shall be constructed in the Economic Development Area.

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

DEFINED TERMS

“Affiliate” means any entity or business that is owned or controlled by, controls or is under common control with, the Developer.

“Agreement” means this Development Agreement among the Town, the Redevelopment Commission, the Economic Development Commission, and the Developer.

“Applicable Laws” means all laws, rules, regulations, ordinances, codes, administrative actions and/or orders of any Court or governmental agency or unit, whether federal, state or local properly exercising or having jurisdiction with respect to or over the subject matter in question.

“Business Day” means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in the Town are authorized or obligated by law or executive order to close.

“Confirmatory Resolution” means the resolution of the Redevelopment Commission confirming all prior actions of the Redevelopment Commission in connection with the creation of the Economic Development Area and the Allocation Area.

“Declaratory Resolution” means the resolution of the Redevelopment Commission declaring the Economic Development Area to be an “economic development area” within the meaning of the RDC Act, approving the Economic Development Plan for the Economic Development Area and designating the Allocation Area as a tax increment finance “allocation area” within the meaning of the RDC Act.

“Developer” means Maple Leaf Crossing, LLC., an Indiana limited liability company corporation.

“Economic Development Commission” means the Town of Munster Economic Development Commission, established pursuant to the EDC Act.

“Economic Development Plan” means the Economic Development Plan approved and adopted by the Redevelopment Commission in the Declaratory Resolution.

“Environmental Law” means any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force as amended and hereafter amended, including, but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.); (ii) the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.); (iii) the Clean Air Act (42 U.S.C. §7401 et seq.); (iv) the Clean Water Act (33 U.S.C. §11251 et seq.); (v) the Toxic Substances Control Act (15 U.S. C. §2601 et seq.); and (vi) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136 et seq.).

“EDC Act” means Indiana Code 36-7-11.9 and 12, et seq., as supplemented and amended.

“Hazardous Materials” means any substance, chemical, material or waste (a) the presence of which causes a nuisance or trespass of any kind; (b) which is regulated by any federal, state or local governmental authority because of its toxic, flammable, corrosive, reactive, carcinogenic, mutagenic, infectious, radioactive, or other hazardous property or because of its effect on the environment, natural resources or human health and safety, including, but not limited to, petroleum and petroleum products, asbestos-containing materials, polychlorinated biphenyls, lead and lead-based paint, radon, radioactive materials, flammables and explosives; or (c) which

is designated, classified, or regulated as being a hazardous or toxic substance, material, pollutant, waste (or a similar such designation) under any federal, state or local law, regulation or ordinance, including under any Environmental Law such as the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §11001 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §1801 et seq.), or the Clean Air Act (42 U.S.C. §7401 et seq.).

“Incentive” means the incentive provided to the Developer by the Town Parties to pay a portion of the costs of the Project, as set forth in Section 1.11 of this Agreement.

“Allocation Area” means the real property, which will include (but not be limited to) the Project Site, as described or to be described in the allocation provision of the Declaratory Resolution.

“Economic Development Area” means the geographic area within the Town, designated as the Ridge Road/Calumet Avenue Economic Development Area, which will include all of the Project Site, that has been designated or will be designated by the Declaratory Resolution as an economic development area.

“Project” means the acquisition of approximately ± 6.07 acres of commercial real estate from the Town Parties as set forth herein and the construction of certain commercial and infrastructure facilities as described in Section 1.10 of this Agreement. The Parties presently contemplate that the entire Project will be located in the Allocation Area, all pursuant to the concept site plan attached as part of Exhibit “B”, and consist of (a) approximately 80,000 to 100,000 square feet of professional office and retail space, including some container architecture which (i) shall include a minimum of 10 containers providing functional retail spaces to be restricted by the Developer for rent to owner-operated businesses (the

“Restricted Retail Spaces”), (ii) Restricted Retail Spaces shall be offered for rent by the Developer to businesses which shall comply with restrictions described in Section 1.10(A)(3) hereof, shall not consist of any franchise already operating within a fifteen (15) mile radius of the Project Site, and shall have no more than ten (10) full-time employees, and (iii) Restricted Retail Spaces shall be offered for rent by such businesses at the reduced rate of \$15 per square foot gross rent (such amount, the “Restricted Retail Rental Rate”) until the final maturity date of the Bonds; *provided, however*, on or after each July 15, commencing July 15, 2023, the Developer may annually adjust the Restricted Retail Rental Rate based on the year-to-year percentage change in the U.S. Department of Labor, Bureau of Labor Statistic’s Consumer Price Index for All Urban Consumers (“CPI-U”), All Items Index, for the Chicago-Naperville-Elgin, IL-IN-WI Region (Not Seasonally Adjusted), as shown in such CPI-U report for the immediately preceding June index; (b) approximately 10,000 to 15,000 square feet of restaurant space; and (c) approximately 24,000 square feet of warehouse space.

“Project Implementation Plan” means the concept site plan for the Project submitted to the Redevelopment Commission by the Developer on October 8, 2018, and attached as part of Exhibit “A”.

“Project Site” means the real property described on Exhibit A hereto and which is the site of the Project.

“RDC Act” means Indiana Code 36-7-14 and 36-7-25, et seq., as supplemented and amended.

“Redevelopment Commission” means the Munster Redevelopment Commission, the governing body of the Munster, Indiana Department of Redevelopment and the Redevelopment District of the Town of Munster, Indiana, duly organized and validly existing under the RDC Act.

“State” means the State of Indiana.

“Town” means the Town of Munster, Indiana, a municipal corporation, duly organized and existing under the laws of the State; provided, that it is expressly understood and agreed by the Developer that, except as otherwise expressly provided in this Agreement, any obligations of the Town under this Agreement may be fulfilled by the duly authorized and appropriate (as the context so requires) subdivision, unit, agency, commission, department, authority, instrumentality, town council, town manager, or other officer, executive or representative or any combination, of the municipal corporation of the Town.

“Town Parties” means, collectively, the Town, the Redevelopment Commission, and the Economic Development Commission.

ARTICLE I

CONSTRUCTION

Section 1.1 Construction of Project.

A. The Developer has submitted and shall continue to submit to the Town plans, proposals and applications for permits and approvals necessary and appropriate for the construction and development of the Project, as described in Section 1.10 hereof. The Developer shall submit proposals to begin demolition within three (3) months after the date of full execution and delivery

of this Agreement by all Parties. The Town, the Redevelopment Commission and the Economic Development Commission will provide reasonable assistance in this application process.

B. The Developer shall construct the Project as set forth in Exhibit “B”, the Concept Site Plan, and Developer shall comply with Ordinance 1701, An Ordinance of the Munster Town Council Adopting Developmental Standards for the Munster Business Complex Business Planned Unit Development. (Exhibit “C”).

C. The Developer shall commence or cause the commencement of construction of the Project within six (6) months after approval of all applications and requests of Developer for, or relating to, the construction and development of the Project by the Town and any applicable agencies of the Town

D. Developer will substantially complete the construction and development of the Project, subject to force majeure as set forth in Section 7.4 hereof, and contingent upon the Town Parties performing in a timely manner their obligations hereunder and reviewing permit requests in a timely manner, as follows: 1. The warehouse and one office building shell shall be started before April 1 of 2020, and shall be completed before June 1, 2021; 2. The retail containers shall be started by August 21, 2020, and completed before June 1, 2021; 3. The southern retail space shell (abutting the railroad tracks) – one building shall be started by April 1, 2021, and completed by June 1, 2022; and 4. The second office building shell and second retail building shell of the southern retail space shall be started by June 1, 2022, and completed before June 1, 2023. Any delays caused by force majeure (see Section 7.4) or unreasonable delay in the Town reviewing requests for permits and approving plans shall provide the Developer an extension of the above timeframes equal to the time of the delay. Further, the Developer may change or amend the scheduled order of buildings to be constructed based upon its customer demands and needs with

the approval of the Munster Town Council, provided such approval shall not be unreasonably withheld.

Section 1.2 Construction and Operation of the Project.

The Developer shall not cause or permit any Hazardous Materials to be brought upon, kept, used, stored, discharged, released or transported at, or, to or from the Project Site without the prior written consent of the Town. The foregoing will not be construed to prohibit or limit the safe and lawful use and storage, on or with respect to the Project Site, of quantities of: (A) pre-packaged supplies, cleaning materials and petroleum products customarily used in the construction, operation and maintenance of businesses permitted pursuant to Section 1.10 hereof; (B) cleaning materials, personal grooming items and other items sold in pre-packaged containers for construction or consumer use and sold or used by businesses on or with respect to the Project Site; (C) petroleum products used in the operation and maintenance of motor vehicles from time to time located on the Project Site's driveways and parking areas; and/or (D) petroleum products and other motor vehicle fuels held for retail sale at any location or locations on the Project Site, provided that all of the foregoing are used, stored, handled, transported and disposed of in compliance with all laws governing such Hazardous Materials Laws.

Section 1.3 Developer to Construct the Project.

The Developer shall commence or cause the commencement of the construction of the Project in a good and workmanlike manner in accordance with all applicable building codes of the Town and the terms of this Agreement. The Developer shall complete or cause the completion of the Project as provided in Section 1.1 of this Agreement.

Section 1.4 Project Cooperation Between Developer and the Town.

The Town Parties acknowledge and agree to the right of the Developer to develop, acquire, lease, construct, equip and operate the Project in accordance with Applicable Laws, without undue interference from or disruption by the Town Parties, as a successful commercial venture. The Town Parties and the Developer recognize that, by creating additional jobs and investment, the construction of the Project benefits the community. Accordingly, the Town Parties and the Developer agree to work together towards the successful completion and operation of the Project. In addition, the Town Parties agree that they will promptly review all reasonable applications of Developer and Developer's contractors and subcontractors for permits, licenses and other approvals necessary for the construction and development of the Project (including but not limited to the site plan provided in Section 1.10 hereof), and that the Town Parties will not unreasonably delay or deny approval of any such applications.

Section 1.5 Areas Affected by Work.

The Town Parties shall not be liable or responsible for any damage to any land or area, or the owner/occupant of any land or area that results from construction of the Project or relates to the performance of work by or the non-performance of the Developer's obligation under this Agreement.

Section 1.6 Project Documents.

The Developer shall maintain in a safe place one (1) set of all plans, specifications, drawings, addenda, written amendments, shop drawings, change orders, work directive changes, field orders and written interpretations and clarifications in good order and annotated to show all changes made during construction, relating to the performance of the work or construction of the Project or any component thereof, which documents shall be available to the Town for such reference as may reasonably be required. The Developer will provide five (5) renderings for the

Project to the Town for display at various Town government buildings during the construction of the Project. Upon completion of the construction of the Project, copies of any “as built” drawings prepared by or on behalf of Developer shall be properly delivered to the Town.

Section 1.7 Intentionally Left Blank.

Section 1.8 Drug Free Work Place.

The Developer agrees to undertake reasonable best efforts at all times to provide and maintain a drug free workplace at the Project Site.

Section 1.9 Labor Objectives – Prevailing Wage.

A. The Developer agrees that the Project shall be subject to all applicable Town Ordinances.

B. Munster Contractors and/or Lake County Contractors.

1. Local Labor Force. The Developer acknowledges the creation of construction jobs in the Town of Munster, Lake County, Indiana, and the Northwestern part of the State, in particular, and other portions of the State, in general, as a principal goal, which the Redevelopment Commission wishes to achieve as a result of the Project. In that regard, Developer shall use reasonable good faith efforts to contract with and engage contractors and subcontractors, with principal places of business first in the Town of Munster, second in Lake County, Indiana, and third in other areas of the State, for employment opportunities relating to the construction of the Project, to the extent such contractors and subcontractors are reasonably available on a competitive basis (including the economic, quality, performance, workforce availability and other relative considerations). Reasonable good faith efforts shall mean that the Developer shall include

in all bid packages or request for proposals a provision that each contractor, construction manager, and subcontractor shall be given an incentive or other priority in awarding of a bid to: (i) hire or attempt to hire supervisory labor and construction workers that perform any of the work, first from the Town of Munster, second from Lake County, Indiana, and third from other areas of the State of Indiana; and (ii) to have or attempt to have at least a majority of its non-supervisory laborers and construction workers that perform any of the work hired from such areas, with priorities set forth in (i) above. Developer shall maintain evidence of the notices or request for proposals/bids that are sent out, the identity of the bidders, the name of the successful bidders, and the reason any bidders with principal places of business in Munster, Lake County, Indiana, or the State of Indiana, that otherwise comply with the bids were rejected, and will present said evidence to the Redevelopment Commission upon reasonable request. Developer will meet with Munster Contractors group prior to publication of the bid.

2. Record-keeping. The Developer agrees to maintain a record of all relevant data with respect to compliance with this section and to provide the Redevelopment Commission with such information, no less frequently than quarterly, until completion of the construction of the Project.

C. The above-referenced employment and wage requirements shall not apply to tradesmen and workers required by Developer for specialty construction, if any.

D. Non-Discrimination.

The Developer shall not discriminate against any applicant for employment with respect to the employee's hire, tenure, terms, conditions of employment or any manner directly or indirectly related to employment, because of the employee's race, religion, color, sex, age, genetic

information, handicap, national origin, ancestry, disabled veterans status or Vietnam era veterans status.

Section 1.10 Developer and Commission Covenants.

A. In completing the Project more specifically set forth in Exhibit B, contingent upon the Town Parties performing in a timely manner their obligations hereunder and subject to force majeure, the Developer covenants that it will:

1. Provide a full and complete site plan to the Redevelopment Commission and appropriate agencies for approval, including parking lot improvements, landscaping, etc.;

2. Construct the Project as set forth in Exhibit “B” and Section 1.1 above (all of which must comply with Ordinance 1701 (Exhibit C”) and approved by appropriate Town Boards, including the Redevelopment Commission and Plan Commission);

3. Record restrictive covenants for the real estate it purchases from the Town pursuant to this Agreement which provides that the sale of fireworks, adult uses defined by Munster ordinances, resale or consignment of goods, financial exchange institutions (other than full service license banking branches or auto branch), or retailers that advertise, specialize, or concentrate in the cost of merchandise at common prices (Dollar Stores) are prohibited unless otherwise approved by the Redevelopment Commission. Said restrictive covenants shall be approved by the Redevelopment Commission and inure to the benefit of the Redevelopment Commission and the Town of Munster.

4. Construct and maintain internal roads to service the Project.

5. The Developer understands and agrees that the Southern-most access to Calumet Avenue, as set forth in Exhibit “B”, may become closed by the Town in the event

the Calumet Avenue underpass project or other traffic safety concerns require the closure. Developer understands and agrees that in the event the closure of the Southern-most access point is necessary, Developer waives any and all claims against the Town or related entities that result therefrom. Developer is constructing the Southern-most access point at its own risk and understanding all potential future plans for Calumet Avenue.

6. The Developer shall pay the sum of fifty thousand dollars (\$50,000) toward the issuance costs for the Town's Bond Council (Barnes & Thornburg LLP.) and Municipal Advisors (Baker Tilly Municipal Advisors, LLC.) at closing on Bonds contemplated by this Development Agreement.

B. In the event that the Developer provides all of the above to the reasonable satisfaction of the Redevelopment Commission, complies with all other terms of this Agreement, and begins construction of the Project on or before April 1, 2020, the Redevelopment Commission agrees that it will take all reasonable steps to provide the Incentive as set forth in Section 1.11 hereof.

Section 1.11 Incentive; Issuance of Bonds.

The Town Parties, subject to further proceedings required by law, shall provide the following Incentive to the Developer:

A. The Town Parties shall sell the Real Estate (approx. ± 6.07 acres) at the price of Two Hundred Thousand (\$200,000) Dollars pursuant to the Contingent Purchase Agreement attached hereto as part of Exhibit "B". It is agreed that the sale price for the Real Estate has been reduced by approximately \$800,000 which constitutes part of the Incentive to the Developer.

B. The Town Parties agree to provide an incentive to the Developer through the issuance of one or more series of bonds to be purchased by the Developer and secured by certain tax increment revenues described as follows:

1. In consideration of the current estimated cost to develop the Project Site and construct the Project, the Redevelopment Commission and the Town shall each, subject to further proceedings required by law, cause the issuance of an economic development revenue bond pursuant to IC 36-7-12, as amended and all acts supplemental thereto, in a maximum aggregate principal amount of \$11 million (the “Phase 1 Bonds”), with the proceeds thereof to be provided, or deemed to be provided, to the Developer and applied solely to pay costs of the Project or to reimburse the Developer for prior payment of such costs. The Phase 1 Bonds shall have a term of twenty-two (22) years beginning with the first full taxable year after completion of the Project and shall bear interest at a taxable rate (for purposes of federal income taxes) not exceeding 6.00% per annum (the exact rate to be determined by negotiation with the Developer). The Developer agrees to purchase the Phase 1 Bonds, with the final terms thereof to be set forth in a bond purchase agreement, subject to the terms and conditions hereof. Subject to proceedings required by law, the Phase 1 Bonds shall be authorized by the Town Parties, no later than ninety (90) days following the execution of this Agreement. Subject to the Developer’s compliance with Section 1.1 (D), the Town Parties agree to issue the Bonds to the Developer no later than January 31, 2022; *provided, however*, at the election of the Developer, the Phase 1 Bonds may be issued after the Developer has incurred all or a portion of the costs of the Project, in which event the Developer may be reimbursed for prior payment of such costs of the Project

from the proceeds of the Phase 1 Bonds when issued. The proceeds of the Phase 1 Bonds will be disbursed in accordance with the terms of a trust indenture (the “Trust Indenture”) and a financing agreement (the “Financing Agreement”) to be executed in connection with the issuance of the Phase 1 Bonds.

2. In the event that the Parties agree to amend or expand the scope of the Project and the resulting cost to develop the Project Site and construct the Project substantially exceeds \$40 million, the Redevelopment Commission and the Town each agree, subject to further proceedings required by law, to cause the issuance of a second economic development revenue bond pursuant to IC 36-7-12, as amended and all acts supplemental thereto (the “Phase 2 Bonds” and, together with the Phase 1 Bonds, the “Bonds”). The principal amount of the Phase 2 Bonds shall be determined based upon the following parameters (i) the amount of additional Pledged TIF Revenues estimated to result from the increased Project costs that are substantially in excess of \$40 million, (ii) an amortization term of twenty-two (22) years following the date of issuance thereof, and (iii) a taxable interest rate (for purposes of federal income taxes) not exceeding 6.00% per annum (the exact rate to be determined by negotiation with the Developer). The Developer agrees to purchase the Phase 2 Bonds, with the final terms thereof to be set forth in a bond purchase agreement, subject to the terms and conditions hereof. Subject to proceedings required by law, the Phase 2 Bonds shall be authorized and issued by the Town Parties to the Developer, no later than no later than ninety (90) days following the date on which (i) the Parties agree to amend or expand the scope of the Project and (ii) the Developer provides evidence, subject to the reasonable

satisfaction of the Town Parties, of the estimated costs to develop the Project Site and construct the Project, as so amended by agreement among the Parties.

3. The Developer acknowledges and agrees that the Bonds will be secured by and payable solely from the Pledged TIF Revenues (as defined below), and that the Redevelopment Commission and the Town will not pledge any tax revenues or funds of the Redevelopment Commission or the Town to the repayment of the Bonds, except the Pledged TIF Revenues. In the event that the Pledged TIF Revenues are insufficient to make scheduled Principle payment on the Bond, interest shall continue to accrue and will be paid out of excess future Pledged TIF Revenues, if any, during the term of the Bond (22 years). The Developer hereby agrees that non-payment of the Bonds due to the inadequacy of the Pledged TIF Revenues shall not be deemed to be a default on the Bonds, and that in such event there shall be no recourse to any of the Town Parties. The Developer acknowledges and agrees that the pledge of the Pledged TIF Revenues to the Bonds will automatically terminate immediately following the expiration of the final term of the Bonds, regardless of whether any principal of or interest on the Bonds remains outstanding due to any inadequacy of the Pledged TIF Revenues. Furthermore, in the event that the Project is not completed by December 31, 2024 (subject to any permitted delays and extensions contemplated in paragraph 1.1(D) hereof), the Developer acknowledges and agrees that the Trust Indenture, the Financing Agreement and the Bonds will contain provisions automatically modifying the definition of Pledged TIF Revenues, as used herein and therein, to mean only 85% of such annual tax increment revenues generated by the portions of the Project which the Developer has completed and have been fully assessed by the county assessor by that time. The Developer further acknowledges and agrees that the Trust Indenture, the Financing

Agreement and the Bonds will contain provisions automatically terminating the pledge of the Pledged TIF Revenues to the Bonds in the event that any proceeding is commenced and not cured within 90 days by or against the Developer under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, and the Project has not yet been completed in accordance with the terms of this Agreement.

4. Based on the information provided by the Developer, the Developer currently contemplates that the estimated \$40.0 million investment in the Project will result in an increase in an increase in the assessed valuation of the real property on the Project Site of approximately \$30.0 million as a result of the Project, and will generate estimated tax increment revenues in the amounts set forth on Exhibit “D” hereto (85% of such annual tax increment revenues generated by the investment in the Project for a period of not more than twenty-two (22) years beginning with the first full taxable year after completion of the Project, the “Pledged TIF Revenues”). The Redevelopment Commission shall, subject to further proceedings required by law, cause the Pledged TIF Revenues to be pledged to the payment of the Bonds. In connection with such pledge, the Town and the Redevelopment Commission will use their best efforts, subject to compliance with all procedures required by law (including approvals by the Town Council of the Town and the Town of Munster Plan Commission) to create the Allocation Area as a separate tax increment financing allocation area consisting solely of the parcels on which the Project Site is located.

5. In the event that the actual amount of Pledged TIF Revenues received by the Redevelopment Commission in any semi-annual period exceeds the amount required to pay the semi-annual debt service payment on the Bonds, the Redevelopment Commission and the

Town shall use any such excess amount to prepay a portion of the outstanding principal amount of the Bonds.

Section 1.12 Right of First Refusal and Option Agreement

A. Option Agreement. The Parties have executed an Option Agreement (Exhibit “E”) concurrently with the execution of this Development Agreement. The Option Agreement is incorporated into this Development Agreement by reference.

B. Right of First Refusal Agreement. The Parties have executed a Right of First Refusal Agreement (Exhibit “F”) concurrently with the execution of this Development Agreement. The Right of First Refusal Agreement is incorporated into this Development Agreement by reference.

Section 1.13 Waiver of Tax Appeals/Assessments/Assessed Valuation Deductions, Credits, or Exemptions.

The Developer as the property owner, including all subsequent property owner(s), waives its rights to appeal real (land and improvements) property assessed valuations of the Project or within the Project site unless deemed to be a clerical error of assessment application, mistake of law, incorrect assessment methodology or a mathematical error. The Munster Town Council reserves the right to waive the above condition upon written request of the Developer as the property owner, including all subsequent property owner(s). Moreover, the Developer as the property owner, including all subsequent property owner(s), waives its rights to request or file an assessed valuation deduction, credit or exemption, whether available to a property owner as of

the date of this Development Agreement or which subsequently may be authorized by the state of Indiana Legislature, to tangible real property improvements to be constructed, built or developed.

Section 1.14 Permits and Compliance with Applicable Laws.

The Developer shall be responsible for (a) giving all necessary notices to and obtaining all necessary permits, approvals, consents and authorizations of the proper governmental authorities having jurisdiction over the construction of the Project and (b) complying with all Applicable Laws bearing on the construction of the Project and shall notify the Town of any of the plans and specifications for construction that are at variance therewith. The Town shall cooperate with the Developer in obtaining all such permits, approvals, consents and authorizations to the extent permitted by law. In addition, the Town shall process all such necessary permits, approvals, consents and authorizations that it issues or over which it has authority in a reasonable manner and shall waive all fees relating to such permits, approvals, consents and authorizations.

Section 1.15 Site Management.

During the performance of the construction of the Project, the Developer shall take all reasonably necessary steps to cause the Project Site to be kept free from accumulation of waste materials, rubbish and other debris resulting from such construction in amounts beyond those typically accumulated in a well managed and well maintained construction project of comparable scope. Upon final completion of the construction of the Project or any specified portion thereof, the Developer shall cause all refuse and debris, tools, construction equipment, machinery and

surplus materials (to the extent such items are not going to be used in the Developer's operation of the Project) to be removed from that portion of the Project Site upon which the work or specified portion thereof has been completed.

Section 1.16 Utility Service During Construction.

The Developer, at its expense and in compliance with applicable rules and regulations of relevant utility companies and government agencies, shall be responsible for (a) arranging for provision to the Project Site during the construction phase of the Project of such water, electrical, waste disposal and other utility services as are reasonably required for completion of such construction in the time and manner contemplated by this Agreement, and (b) payment for all such services.

Section 1.17 Access to Work.

Prior to final completion of the Project, the Town and all governmental agencies having legal jurisdiction thereover shall be afforded such access to the Project Site as may reasonably be necessary for their observation and inspection of the Project. The Town and any such governmental agencies shall notify the Developer of their desire to access the Project Site, not less than one Business Day prior to the desired date of the access to the Project Site. The Town and any such governmental agencies accessing the Project Site shall not interfere with the construction or operation of the Project by the Developer and shall be accompanied at all times by personnel of the Developer. The Developer shall advise persons with such access of the Developer's site safety procedures and programs so that they may comply therewith as applicable. This Section 1.17 shall not limit the rights, otherwise provided by law, of the building inspector, fire inspector or other similar regulatory office to inspect the Project.

Section 1.18 Insurance.

A. The Developer shall purchase and maintain insurance at all times during the term of this Agreement as required by law.

B. The Developer shall obtain and maintain or cause its contractors to obtain and maintain in force builder's risk insurance in an amount equal to one hundred percent (100%) of the insurable value of the Project protecting against risks of physical loss of the work. Such insurance shall insure against the perils of fire, extended coverage, vandalism and malicious mischief. The Developer shall furnish the Town with a certificate of insurance showing coverage of such risks. If a fire or other insured casualty shall occur during the construction of the Project, the Developer shall apply any related insurance proceeds received by the Developer to the construction of the Project. The parties further agree that an event of an insured casualty constitutes an unforeseeable construction delay which shall extend the schedule contemplated in paragraph 1.1(D).

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE DEVELOPER

The Developer makes the following representations and warranties, which representations and warranties are true and correct on the date hereof:

Section 2.1 Organization and Existence.

The Developer is a limited liability company ~~corporation~~ duly organized, validly existing and in good standing under the laws of the State of Indiana. The Developer has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted and as contemplated under this Agreement.

Section 2.2 Power and Authority.

The Developer has all requisite corporate power and authority to enter into this Agreement and to perform its obligations under this Agreement.

Section 2.3 Due Authorization.

All corporate acts and other proceedings required to be taken by the Developer to authorize the execution, delivery and performance of this Agreement have been duly and properly taken.

Section 2.4 Due Execution.

This Agreement has been duly executed and properly delivered by the Developer and constitutes the valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, subject to (i) bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights generally heretofore or hereafter enacted and (ii) to the exercise of judicial discretion in accordance with the general principle of equity.

Section 2.5 No Violation.

The execution and delivery of this Agreement by the Developer does not, and the consummation of the transactions contemplated hereby and compliance with the terms hereof will not, (a) conflict with or result in a violation of (i) its organizational documents; (ii) any judgment, order, writ, injunction, decree, statute, law, ordinance, rule or regulation applicable to the Developer; or (iii) Applicable Laws; or (b) conflict with, or result in or cause any material breach, violation of or default under, any material contract, agreement, other instrument, commitment, arrangement of understanding to which the Developer is a party or which otherwise applies to the Developer which would have a material adverse effect on Developer's ability to perform its obligations hereunder.

Section 2.6 No Consents Required.

No authorization, consent or approval of, or filing with or notice to, any person (including any governmental authority or body) is required in connection with the execution or delivery of this Agreement by the Developer which has not been obtained and which, if not obtained, would have a material adverse effect on the ability of the Developer to perform its obligations hereunder.

Section 2.7 No Material Non-Arm's-Length Transactions.

The Developer has or will engage 1st Metropolitan Development Corp. Builders, Inc., as the general contractor for the Project, which has the same owner as Developer. Other than the general contractor, tThe Developer has not entered into any transaction or agreement with any Affiliate of the Developer on other than commercially reasonable terms which transaction or agreement could have a materially adverse effect on the Developer's ability to perform its obligation under this Agreement.

Section 2.8 No Litigation.

There is no court, administrative, regulatory or similar proceeding (whether civil, quasi-criminal), arbitration or other dispute settlement procedure, investigation or inquiry by any governmental body, or any similar matter or proceeding (collectively, “proceeding”) against or involving the Developer or any Affiliate of the Developer (whether in progress or to the best knowledge of the Developer threatened) which, if determined adversely to the Developer or any Affiliate of the Developer would materially adversely affect the Developer’s ability to perform any of its obligations under this Agreement, or which purports to affect the legality, validity or enforceability of this Agreement; to the Developer’s knowledge, no event has occurred which might give rise to any such proceedings; and there is no judgment, decree, injunction, rule, award or order of any governmental authority or body outstanding against the Developer or any Affiliate of the Developer which has or may have a materially adverse effect on the Developer’s ability to perform any of its obligations under this Agreement.

Section 2.9 Financial Capability to Complete Project.

As of the date hereof, the Developer has or will have sufficient assets or has or will have otherwise taken all steps reasonably necessary to secure all financing necessary to carry out and complete its obligations under this Agreement. Upon Developer’s request, the Town Parties shall cooperate as reasonably necessary for Developer to obtain third party financing for the Project.

Section 2.10 Survival of Representations and Warranties.

The Developer covenants that the representations and warranties made by it in this Agreement shall be true and correct on each day that this Agreement remains in full force and effect, with the same effect as if such representations and warranties had been made and given on and as of such day; except that if any such representation and warranty is specifically given in

respect of a particular date or particular period of time and related only to such date or period of time, then such representation and warranty shall continue to be given only as of such date or for such period of time.

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE TOWN, THE REDEVELOPMENT COMMISSION, AND THE ECONOMIC DEVELOPMENT COMMISSION

Each of the Town Parties makes the following representations and warranties, which representations and warranties are true and correct on the date hereof, and makes the following covenants and agreements:

Section 3.1 Power and Authority.

Each of the Town Parties has all requisite corporate power and authority to enter into this Agreement and to perform their respective obligations under this Agreement.

Section 3.2 Due Authorization.

All acts and other proceedings required to be taken by the Town Parties to authorize the execution, delivery and performance of this Agreement have been duly and properly taken.

Section 3.3 Due Execution.

This Agreement has been duly executed and properly delivered by the Town Parties and constitutes the valid and binding obligation of each of the Town Parties, enforceable in accordance with this Agreement's terms, subject to (i) bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights generally heretofore or hereafter enacted; (ii) the exercise of judicial discretion in accordance with the general principles of equity; (iii) the valid exercise of the constitutional powers of the Town Parties, the State and the United States of America; and (iv) public policy of the State and the United States of America.

Section 3.4 No Violation.

The execution and delivery of this Agreement by the Town Parties do not, and the consummation by the Town Parties of the transactions contemplated hereby and compliance by the Town Parties with the terms hereof will not:

A. Conflict with or result in a violation of (i) any provision of any instrument governing any of the Town Parties (including, without limitation, the State Constitution, and any Town, Commission or state enabling legislation) or (ii) any judgment, order, writ, injunction, decree, statute, law, ordinance, rule or regulation applicable to any of the Town Parties; or

B. Conflict with or result in or cause any material breach, violation of or default under any material contract, agreement, other instrument, commitment, arrangement, or understanding, or grant to which any of the Town Parties is a party or which is otherwise applicable to any of the Town Parties, including, without limitation, the terms of all bond indentures, resolutions or other similar documentation, arising from or in any way related to the planning, development, construction and maintenance of the Project.

Section 3.5 Operation of Project.

There is no law, ordinance, regulation or rule of any of the Town Parties enacted or, to the best knowledge of the Town Parties, proposed that would prohibit the Developer from fully utilizing the Project on a 24-hours-a-day, seven-days-a-week basis in the manner currently contemplated.

Section 3.6 No Consents Required.

No authorization, consent or approval of, or filing with or notice to, any person (including any governmental authority or body) is required in connection with the execution or delivery of this Agreement by the Town Parties.

Section 3.7 No Litigation.

There is no proceeding against or involving any of the Town Parties (whether in progress or to the best of knowledge of any of the Town Parties threatened) which, if determined adversely to any of the Town Parties would materially adversely affect its or their ability to perform any of the provisions of this Agreement or which purports to affect the legality, validity and enforceability of this Agreement; to each of the Town Party's knowledge, no event has occurred which might give rise to any proceeding; and there is no judgment, decree, injunction, rule, aware or order of any governmental body outstanding against any of the Town Parties which has or may have a materially adverse effect on its or their ability to perform any of the provisions of this Agreement or which purports to affect the legality, validity and enforceability of this Agreement.

Section 3.8 Survival of Representations and Warranties.

Each of the Town Parties covenants that the representations and warranties made by it in this Agreement shall be true and correct on each day that this Agreement remains in force and effect, with the same effect as if such representations and warranties had been made and given on and as of such day; except that if any such representation and warranty is specifically given in respect of a particular date or particular period of time and related only to such date or period of time, then such representation and warranty shall continue to be given only as of such date or for such period of time.

Section 3.9 Joint and Several Liability.

The Town Parties shall be jointly and severally liable for all obligations of any of the Town Parties under this Agreement, including, but not limited to, the payment of the Incentive to the Developer.

Section 3.10 Utilities.

All utilities (such as water, electric, gas and sewers) are available to the Project Site.. The parties acknowledge and agree that the Developer may retire existing utility services and easements and redesign and reconfigure the utility services to suit the needs of the contemplated development of the Project. The Town Parties agree to work with Developer and make reasonable best efforts to reconstitute utility services at the Project Site.

Section 3.11 Soil Conditions.

The Town Parties shall provide any test results or evaluations of the Project Site in its possession. To the best of the Town Parties' knowledge and belief, the Project Site is suitable for its intended use. The Developer has been afforded the opportunity to conduct any said testing the Developer felt was necessary prior to entering into this Agreement.

Section 3.12 No Existing Hazardous Waste On The Project Site.

The Project Site does not, at the present time, contain any Hazardous Materials or Hazardous Waste, and to the extent that the Project Site at the present time contains any Hazardous Materials or Hazardous Waste, any such Hazardous Waste and/or Hazardous Materials will be promptly and thoroughly remediated at the cost and expense of the Town Parties.

ARTICLE IV

AFFIRMATIVE COVENANTS OF THE DEVELOPER

The Developer covenants and agrees as follows:

Section 4.1 Conduct of Business.

The Developer shall do or cause to be done all things reasonably necessary to maintain its corporate existence and maintain its qualifications to do business in the State of Indiana, to maintain its organizational power to own its properties and assets and to carry on its business in

accordance with normal industry standards so as not to adversely affect Developer's ability to perform its obligations under this Agreement.

Section 4.2 Compliance with Applicable Laws, Sublease and Contracts.

The Developer shall comply in all material respects with the requirements of all Applicable Laws applicable to Developer's construction of the Project. In addition, the Developer shall comply in all material respects with all obligations, insurance policies and contracts to which it is a party and which, if contravened, could have a material adverse effect on the Developer's ability to perform its obligations under this Agreement.

Section 4.3 Payment of Claims.

The Developer shall or shall cause any contractor, with respect to the construction of the Project, to pay and discharge all lawful claims for labor, material and supplies; provided, however, that no such claim need be paid if (a) it is being actively and diligently contested in good faith by appropriate proceedings; (b) reserves considered adequate by the Developer and its accountants shall have been set aside; and (c) all enforceable proceedings with respect to such claim have been stayed and appropriate security shall have been given, if required, to prevent the commencement or continuation of proceedings.

ARTICLE V

DEFAULT AND REMEDIES

Section 5.1 Events of Default.

The following events, if not remedied, as hereinafter provided, shall be deemed an “Event of Default” by the respective party:

A. The Developer’s failure to comply with any material term of this Development Agreement, including by not limited to the failure to construct the Project in accordance with this Agreement;

B. The failure by any of the Town Parties to perform any covenant or agreement herein on such Town Party’s part to be kept or performed.

Section 5.2 Extensions Upon Default.

In the event of an Event of Default by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of written notice, commence to cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide written notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional ninety (90) days to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the end of the

additional ninety (90) day period, the remedy to the aggrieved party shall be as set forth below in Section 5.3.

Section 5.3. Remedies.

Upon the occurrence of any Event of Default, subject to the extensions and cure rights provided in Section 5.2 hereof, the remedies to aggrieved party shall be as follows:

A. In the case of an Event of Default by the Developer as stated in subsection (A) of Section 5.1, the Town shall be entitled to seek any and all remedies available to it at law or in equity.

B. In the case of an Event of Default by any of the Town Parties, the Developer shall be entitled to seek any and all remedies available to it at law or in equity.

ARTICLE VI

TERM OF AGREEMENT AND TERMINATION

The term (“Term”) of this Agreement, and its effectiveness, shall commence upon the full execution of this Agreement by each of the parties hereto and shall continue in full force and effect until the first to occur of (i) the Developer substantially completes construction of the Project and receives the entire amount of the Incentive, or (ii) the termination of this Agreement by the Town Parties upon not less than thirty (30) days’ prior written notice to the Developer due to a failure by the Developer to complete the construction of the Project in accordance with Section 1.1 hereof following the applicable extension and cure periods set forth in Section 5.2 hereof or elsewhere in this Agreement, or (iii) the termination of this Agreement by the Developer upon not less than thirty (30) days’ prior written notice to the Town Parties due to a failure by the Town Parties to deliver to the Developer any portion of the Incentive pursuant to Section 1.11 or the failure of the

Developer to receive the zoning variance or any other local, state or federal approval necessary to complete the construction or operation of the Project. The parties hereto acknowledge that, notwithstanding the termination of this Agreement, the Town Parties may have continuing obligations under the financing agreements entered into with respect to the issuance of the Bonds.

ARTICLE VII

MISCELLANEOUS

Section 7.1 No Agency, Partnership or Joint Venture.

Nothing contained in this Agreement nor any act of the Town Parties or the Developer, or any other person, shall be deemed or construed by any person to create any relationship of third-party beneficiary, or if principal and agent, limited or general partnership, or joint venture between the Town Parties and the Developer.

Section 7.2 Negotiated Document.

The Developer and the Town Parties acknowledge that the provisions and the language of this Agreement have been negotiated at arm's-length and agree that no provision of this Agreement shall be construed against either the Developer or the Town Parties by reason of either party having drafted such provision of this Agreement.

Section 7.3 Compliance with Laws.

The Developer and the Town Parties each acknowledge that the obligations of the Town Parties described in this Agreement, including without limitation any obligation to acquire property, or to sell, lease or dispose of any interest in property owned by the Town Parties, may involve certain and various legally required proceedings and/or approvals, and any and all such obligations or undertakings of the Town Parties described herein are accordingly subject to compliance with such proceedings and all other Applicable Laws to which the Town Parties may

be subject. The foregoing will not be construed to limit, excuse, waive or otherwise negate, in whole or in part, the obligation of the Town Parties to make payment of the Incentive as provided in Section 1.11 hereof.

Section 7.4 Force Majeure.

Neither the Developer nor any successor in interest to Developer shall be considered in breach or default of its obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by an event of force majeure, including with limitation, an Act of God, acts of vandals, criminals or public enemies, act of terrorism, war, blockade, public riot, strike or work stoppage interruption, tariff, or other trade regulation limiting the availability of supplies and materials, lightning, fire, storm, flood, explosion, blackout, orders of the government of the United States of America, the State or municipality or any of their departments, agencies or officials, orders of any civil military authority, which is not reasonably within the control of the Developer; provided that such event of force majeure shall not be deemed to exist as to any matter initiated or sustained by either party in bad faith, and further provided that the Developer notifies the Town Parties in writing within sixty (60) days of the commencement of such claimed event of force majeure.

Section 7.5 Exhibits.

All Exhibits identified in or attached to this Agreement are incorporated herein and made part hereof by this reference.

Section 7.6 Captions.

The captions, headings and arrangements in this Agreement are for convenience only and do not in any way define, limit or modify the terms or provisions hereof.

Section 7.7 Number and Gender.

Whenever the singular number is used in this Agreement, the same shall include the plural where appropriate and words of any gender shall include the other gender where appropriate.

Section 7.8 Notices.

No notice, approval, consent or other communication authorized or required by this Agreement shall be effective unless the same shall be in writing. Any such communications shall be effective (i) upon receipt if it is hand delivered, with signed receipt therefore obtained, (ii) seventy two (72) hours after it is sent postage prepaid by United States registered or certified mail, return receipt requested, (iii) twenty four (24) hours after it is deposited with a national courier for overnight delivery, or (iv) twenty four (24) hours after it is sent by fax, with written confirmation therefore obtained, directed or addressed in each case set forth in (i) through (iv) above to the other party at its address (or fax number) set forth below.

The addresses and fax numbers for notices are:

To the Town Parties: Town of Munster
Munster Town Hall
1005 Ridge Road
Munster, In 46321
Attention: Town Manager
Fax No. 219-836-8350

With a copy to: David W. Westland, Esq.
Westland & Bennett P.C.
2929 Carlson Drive, Suite 300
Hammond, Indiana, 46323

To the Developer: Maple Leaf Crossing, LLC.
400 Fisher St., Suite J
Munster, Indiana, 46321

With a copy to: David Beach, Esq.
Eichorn and Eichorn, LLP
2929 Carlson Drive, Suite 100
Hammond, Indiana, 46323

Any party may, in substitution of the foregoing, designate a different address and addresses (and/or fax number or numbers) within the continental United States for purposes of this Section by written notice delivered to all other parties in the manner prescribed in this Section at least ten (10) days in advance of the date upon which such change of address is to be effective.

Section 7.9 Survival.

All representations, warranties and indemnities set forth in this Agreement shall survive the termination hereof for a period equal to the term of the Bonds.

Section 7.10 Counterparts.

This Agreement may be executed in a number of identical counterparts and, if so, executed, each such counterpart is deemed an original for all purposes, and all such counterparts shall collectively constitute one Agreement.

Section 7.11 Binding Effect.

The Developer may assign its rights and obligations under this Agreement to an Affiliate of the Developer without the consent of the Town Parties, and may otherwise assign its rights and obligations under this Agreement with the consent of the Town Parties, which consent shall not be unreasonably withheld. The rights of the Developer and the Town under this Agreement shall inure to the Developer and the Town, respectively, and upon their respective successors and permitted assigns. However, the respective obligations of the Developer and the Town under this Agreement shall not extend to their shareholders, officers, directors, office holders, employees, agents, consultants, contractors, members, partners, joint ventures or Affiliates of the Developer.

Section 7.12 Time of the Essence.

Time is of the essence in the performance of this Agreement and each and every provision contained herein.

Section 7.13 Costs of Proceedings.

In the event of the institution of any proceeding relating to the performance of this Agreement, the parties agree that costs and expenses, including reasonable attorneys' fees and expenses, incurred by the prevailing party (as defined herein) in connection with such proceeding, will be paid by the non-prevailing party. The prevailing party shall be defined as (i) the party which ultimately is awarded an amount (net of any offsets or counterclaims awarded to the other party) in excess of the last settlement offer made in writing by the other party, or (ii) the party which made the last settlement offer in writing, if the amount ultimately awarded (net of any offsets or counterclaims awarded to the other party) is less than such last settlement offer, or (iii) the party which ultimately is awarded an amount, regardless of sum, if no settlement offer was ever made in writing by the other party, or (iv) if no amount is awarded, but instead equitable relief is granted, the party in whose favor such equitable relief is granted-

Section 7.14 Severability.

If and in the event any provision of this Agreement is determined to be invalid for any reason, it shall be severed and all other provisions not determined invalid shall continue with full force and effect; provided, however, that if (i) such declaration of invalidity relieves a party of a material obligation to the other, or eliminates a material benefit to a party, and (ii) the effect of either of the foregoing is to deprive the other party of substantially all of the benefits to such party of the transactions contemplated by this Agreement, then the adversely affected party shall have the right to terminate this Agreement, by giving notice of such termination to the other party.

Section 7.15 Non-Waiver.

No failure by either party hereto, at any time, to require the performance by the other of an term of this Agreement, shall in any way affect the right of either party to enforce such terms, nor

shall any waiver by either party of any term hereof by taken or held to be a waiver of any other provision of this Agreement. No waiver of any term or provision of this Agreement shall be effective unless the same is in writing, signed by the parties hereto.

Section 7.16 Governing Law.

This Agreement is entered into in the State of Indiana and shall be governed by and construed (and all of the rights and obligations hereunder shall be determined) in accordance with the internal laws of the State of Indiana, without reference to the choice of law principles thereof.

Section 7.17 No Third Party Beneficiaries.

Nothing in this Agreement shall be construed as creating any rights of entitlement that inure to the benefit of any person or entity not a party of this Agreement.

Section 7.18 Jurisdiction and Consent to Suit.

Subject to the provisions of this Agreement, each of the Town Parties and the Developer hereby agrees and consents to the exclusive personal and subject matter jurisdiction of the courts of the State of Indiana situated in Lake County, Indiana, or the United States District Court for the Northern District of Indiana, Hammond ~~Munster~~ Division, which shall be the sole and exclusive forum in connection with any claim, cause of action or other dispute by either of them against the other arising out of or relating to the terms, obligations and conditions of this Agreement. The parties agree that service shall be effective by notice under the Federal Rules of Civil Procedure to any individual listed in Section 7.8 or authorized representative or agent; provided, however, that each party shall retain any rights in may have under Applicable Laws then in effect to seek a change of judge in any proceeding before such designated court. Each of the Town Parties covenants that it shall not assert in any such action, as a defense to any claim by the Developer for breach or violation by the Town Party of this Agreement, any defense of sovereign or

governmental immunity to which the Town Party might otherwise claim to be entitled under Applicable Laws then in effect.

Section 7.19 Confidentiality.

The parties acknowledge that the Agreement shall be subject to public disclosure under the laws of the State, if, as and when it is executed and becomes effective.

Section 7.20 Standards for Consent.

Where any provision of this Agreement requires the consent or approval of either party, each party agrees that it will not unreasonably withhold, condition, or delay such consent or approval, except as otherwise expressly provided in this Agreement, and the reasonableness of each party's determination shall be evaluated in accordance with any particular standards governing such particular consent or approval as expressly set forth in this Agreement, or if no standards are expressly set forth, then in accordance with all relevant facts and circumstances. Where any provision of this Agreement requires one party to do anything to the satisfaction of the other party, the other party agrees that it will not unreasonably refuse to state its satisfaction with such action. Any dispute over the reasonableness of either party withholding or conditioning its consent or satisfaction shall be resolved pursuant to this article of this Agreement.

ARTICLE VIII

DISPUTE RESOLUTION AND TERMINATION

Section 8.1 Alternative Dispute Resolution.

If a dispute arises between the Developer and the Town Parties relating to this Agreement, the Developer and the Town Parties, to the fullest extent permitted by applicable law, agree to use the following procedure to resolve the dispute:

A. A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute; and

B. If, within fourteen (14) days after that meeting, the parties have not succeeded in negotiating a resolution to the dispute, they hereby agree to submit the dispute to mediation.

1. The parties will jointly appoint a mutually acceptable mediator, seeking assistance in this regard from the American Arbitration Association if they are unable to agree upon this appointment within twenty-one (21) days from the conclusion of the negotiation period; and

2. The parties agree to participate in good faith in the mediation and negotiation related thereto for a period of thirty (30) days.

C. If, upon the completion of the mediation process described in subparagraphs A and B, the parties have not succeeded in reaching a resolution to the dispute, then the parties may assert claims or bring actions in a court of law, or pursue any other remedy with respect to any rights of the parties under this Agreement or in connection with the transactions contemplated this Agreement.

ARTICLE IX

DEVELOPER'S INDEMNIFICATION OBLIGATIONS

Section 9.1 Environmental Indemnification.

The Developer agrees, at the Developer's sole cost and expense, to protect, defend, indemnify and save harmless the Town Parties from and against any and all liabilities, obligations, claims damages, penalties, causes of action, response and clean up costs, and other costs expenses (including, without limitation, reasonable attorneys' fees, the cost of any remedial action,

consultant fees, investigation and laboratory fees, court costs and litigation expenses) arising out of or relating to, the presence, disposal, escape, seepage, leakage, spillage discharge, emission, release or threatened release of any Hazardous Materials on, from or affecting the Project Site to the extent (a) ~~such Hazardous Materials are not already on or located within the Project Site and~~ (b) caused by the Developer in the construction of the Project and as a result of a breach of this Agreement.

Section 9.2 Covenant Not To Sue :

A. The Developer covenants not to sue the Town Parties and their governing body members, officers, agents, employees and independent contractors for any damage or injury to the persons or property of the Developer or its officers, agents, employees, independent contractors or any other persons who may be about the Project during construction thereof, except for matters arising out of the gross negligence or willful misconduct of the Town Parties and their governing body members, officers, agents, employees and independent contractors. [NEED TO DISCUSS THIS]

B. The Town Parties and their governing body members, officers, agents, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, employees, independent contractors or any other persons who may be about the construction of the Project except for matters arising out of the gross negligence or willful misconduct of the Town Parties and their governing body members, officers, agents, attorneys, employees and independent contractors.

C. All covenants, stipulations, promises, agreements and obligations of the Town Parties contained herein shall be deemed to be the covenants, stipulations, promises, agreements

and obligations of the Town Parties and not of any of their governing body members, officers, agents, attorneys, employees or independent contractors in their individual capacities.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above, to be effective on the Effective Date of this Agreement.

[signature pages follow this page]

SIGNATURE PAGE OF TOWN OF MUNSTER, INDIANA
TO
DEVELOPMENT AGREEMENT

TOWN OF MUNSTER, INDIANA

BY: _____
Dr. Andy Koultourides, President

ATTEST:

David F. Shafer, IAMC, CMC, Clerk-Treasurer

SIGNATURE PAGE OF TOWN OF MUNSTER REDEVELOPMENT COMMISSION
TO
DEVELOPMENT AGREEMENT

TOWN OF MUNSTER
REDEVELOPMENT COMMISSION

By: _____

Title: _____

ATTEST:

By: _____

Secretary

SIGNATURE PAGE OF TOWN OF MUNSTER ECONOMIC DEVELOPMENT COMMISSION
TO
DEVELOPMENT AGREEMENT

TOWN OF MUNSTER ECONOMIC
DEVELOPMENT COMMISSION

By: _____

Title: _____

ATTEST:

By: _____
Secretary

SIGNATURE PAGE OF MAPLE LEAF CROSSING, LLC.
TO
DEVELOPMENT AGREEMENT

MAPLE LEAF CROSSING, LLC.
an Indiana Limited Liability Company

By: _____

Title: _____

EXHIBIT A – PROJECT SITE

EXHIBIT B – CONCEPT SITE PLAN / PURCHASE AGREEMENT

EXHIBIT C – ORDINANCE 1701 – PUD ORDINANCE

EXHIBIT D – TAX ESTIMATE

EXHIBIT E – OPTION AGREEMENT

EXHIBIT F – RIGHT OF FIRST REFUSAL AGREEMENT