

**MEMORANDUM OF UNDERSTANDING
FOR THE DEVELOPMENT OF THE REAL ESTATE
COMMONLY KNOWN AS NORTH RIVER**

1/14

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into this 14th day of January, 2021 (the “Effective Date”), by and between the **CITY OF FORT WAYNE, INDIANA, DEPARTMENT OF REDEVELOPMENT** (“Redevelopment”), and **WELLS RESERVE, LLC**, an Indiana limited liability company, or an affiliate thereof (“Developer”) (collectively “Parties”), to wit:

RECITALS

A. Redevelopment owns and controls an approximately 29-acre tract of land comprised of multiple parcels north of downtown Fort Wayne, commonly known as North River, shown on Exhibit A (the “Site”), attached hereto.

B. Developer has proposed a schematic design for development of the Site which includes an outdoor multi-purpose soccer stadium, indoor arena, sports fieldhouse, and ancillary uses including a hotel, restaurants, residential, retail, office, and public space, as well as parking and public infrastructure, all as more particularly described herein (collectively, the “Project”).

C. Redevelopment desires to provide for development of the Site in a manner that provides economic and community benefits to the City of Fort Wayne, enhances quality of life at the neighborhood level, serves as a regional draw, attracts a diverse population, promotes activity into the evening, on weekends, and throughout the year, supports existing development, catalyzes further development, and is complementary of its surroundings, and further desires that the design of the Project reflect the urban nature of the Site through the implementation of certain design principles contained in attached Exhibit B (collectively, the “Site Objectives”).

D. Redevelopment believes that Developer can effectively develop and construct the Project in accordance with the Site Objectives and is therefore willing to work collaboratively and negotiate exclusively with Developer to further investigate the design, development, construction and operation of the Project, and with such exclusivity Developer is willing to diligently pursue such inspections, inquiries, investigations and feasibility studies as will allow Developer to commit to proceeding with the Project for a period of one hundred (120) days from and after the Effective Date of this MOU, as such period may be extended pursuant to this MOU (the “Due Diligence Period”).

E. It is the expectation of the Parties that the terms outlined in this MOU will be memorialized in certain final definitive development and other agreements (the “Definitive Agreements”) to be entered into between Redevelopment, Developer, and other appropriate parties, which Definitive Agreements will contain provisions conditioning the obligations of Redevelopment and Developer upon the receipt of approvals from all public bodies that are required to approve the actions necessary to consummate the transactions described in the Definitive Agreements.

F. Matters not contained in this MOU, but arising during the negotiation of the Definitive Agreements, shall, as a condition of the Definitive Agreement, be resolved through good faith negotiation and included in the Definitive Agreements.

UNDERSTANDING

The parties set forth their current understanding of the development of the Project on the Site as follows:

1. The representations, covenants and recitals set forth in the foregoing recital paragraphs are material to this MOU and are hereby incorporated into and made a part of this MOU as if the same were fully set forth in this Paragraph 1 including, without limitation, Redevelopment's agreement to hereby grant Developer the exclusive right to conduct the due diligence during the Due Diligence Period and enter into the Definitive Agreement prior to the deadline set forth in Paragraph 2 herein.

2. Redevelopment and Developer agree to proceed in the spirit of transparency and cooperation to coordinate the planning, design, development, construction and operation of the Project in a manner that addresses the Site Objectives. Except as provided in Paragraphs 1 and 21, this MOU is not intended as a binding agreement, but only as an expression of the type of development which Redevelopment and Developer are willing to pursue. In the event the Parties are able to negotiate the terms of the Project, the terms of this MOU will serve as a basis for the preparation and execution of Definitive Agreements. Neither Redevelopment nor Developer shall have any liability with regard to the Project unless and until Redevelopment and Developer have agreed upon and executed the Definitive Agreements except as provided herein. In the event the Definitive Agreements have not been agreed upon and executed within one hundred fifty (150) days of the Effective Date of this MOU, the Parties understand that this MOU will expire unless otherwise extended in writing.

3. Subject to the terms of this MOU, Redevelopment and Developer agree that Developer shall be the lead developer for the Site and shall therefore be principally responsible for the development of the Project, including identifying, financing and coordinating the work of third-party developers and other entities such as architects, engineers, investors, contractors and tenants necessary for the development of the Project. Nothing contained in this MOU shall limit the rights and decision-making authority of Redevelopment in matters directly or indirectly related to the Project.

4. Redevelopment and Developer agree that the soccer stadium is vital to the Project's success and agree to undertake commercially reasonable and good faith efforts to plan and develop the Project in cooperation with the United Soccer League's Fort Wayne Football Club, including its owners, investors, and developers ("FWFC").

5. During the Due Diligence Period, Redevelopment will negotiate exclusively with Developer on matters directly related to the development of the Site, so long as Developer continues to diligently pursue such inspections, inquiries, investigations and feasibility studies. However, Redevelopment may communicate with third-parties (such as FWFC) during the Due Diligence Period on matters related to the Site provided such communication supports the Project.

6. During the Due Diligence Period, Redevelopment and Developer agree to share any and all information or knowledge concerning any third party that may have any potential or verified interest in investment, participation, collaboration or inclusion in the Site and any ancillary uses thereof including but not limited to hotel accommodations, restaurants, residential, retail, office and other entertainment venues.

7. Redevelopment and Developer acknowledge that the design of the Project shall be based upon the preliminary concept drawings contained in Exhibit C (the "Concept Drawings"), attached hereto. Substantial modifications to the Concept Drawings may occur only with the consent of Redevelopment, which consent Redevelopment agrees shall not be unreasonably withheld, conditioned, or delayed, provided such modifications are consistent with the Site Objectives.

8. Redevelopment and Developer will work cooperatively to identify local economic development incentives that may facilitate development of the Project. The economic development incentives will be based upon demonstrated financial need and anticipated Project benefits. Redevelopment understands that Developer is entitled to a reasonable financial return commensurate with Developer's risk in undertaking the Project.

9. Redevelopment will take all necessary actions to: (i) rescind the existing North River Urban Renewal Area and tax allocation area, and (ii) establish a new Economic Development Area and tax allocation area ("TIF District"), as those terms are defined at Indiana Code 36-7-14, encompassing the Site.

10. Redevelopment will support Developer's efforts in applications for non-local economic development incentives, such as Community Revitalization Enhancement District tax credits, to the extent that such incentives are available for the Project.

11. Redevelopment and Developer will work diligently to create a plan for environmental remediation of the Site and related indemnities that seek to balance the cost of remediation with the potential liabilities, and benefits achieved through Site development.

12. Upon execution of this MOU, Redevelopment will provide to Developer environmental assessments, geotechnical reports, surveys and all other applicable materials and reports completed by Redevelopment regarding the Site. Developer will review the information provided by Redevelopment and incorporate the findings into the Project development plans. Redevelopment and Developer will make a good faith effort to share information acquired during the Due Diligence Period regarding the Project / Site that is material to the feasibility of the Project.

13. During the Due Diligence Period, Developer shall pursue such inspections, inquiries, investigations and feasibility studies that Developer determines are necessary to allow Developer to commit to proceed with the Project, subject to the Definitive Agreements.

14. Developer and Redevelopment agree to participate in status update meetings (which can be conducted remotely via video, teleconference, or if appropriate by email) at least every other week during the Due Diligence Period. It shall be the responsibility of Redevelopment to schedule such meetings.

15. Subject to the execution on an Access and Indemnification Agreement, substantially in the form attached hereto as Exhibit D, Redevelopment will allow Developer reasonable access to the Site for the purpose of conducting due diligence. Developer must notify Redevelopment at least one (1) business day in advance for due diligence activities.

16. As part of any Definitive Agreement which the parties may agree upon, Developer shall agree to design the Project in a manner that adheres to environmental sustainability principles such as best management practices for stormwater, energy conservation / efficiency, use of renewable energy,

materials and resources impact minimization, use of recyclable materials, water conservation / efficiency, and incorporation of alternative modes of transportation.

17. Developer agrees to use good faith efforts to utilize minority and women owned business enterprises in the planning, development and construction of the Project.

18. Prior to the expiration of the Due Diligence Period, Developer shall provide Redevelopment with the following information (the "Deliverables"):

- a. Description of Developer's Project development team and organizational structure;
- b. Summary of Developer's due diligence investigation;
- c. Revised schematic design of the Project, including the locations and proposed uses of various buildings, open spaces, roads, sidewalks, pathways, and parking;
- d. Schedule for the development, construction and occupation of the Project, including a phasing plan; and
- e. Description of the preliminary financing structure and strategy for the Project, including estimates of hard and soft costs, pro formas, returns, term sheets, developer fees, sources of equity and debt, economic development incentives and other information related to the financial structure of the Project.

Developer agrees to regularly share updates to the Deliverables with Redevelopment throughout the development process.

19. Following Redevelopment's receipt of the Deliverables, Developer may in its discretion elect to provide Redevelopment with a written notice of intent to proceed with the Project (the "Notice"). Redevelopment shall have the right to approve the Notice and agrees that its approval shall not be unreasonably withheld, conditioned or delayed. If Redevelopment approves the Notice, Redevelopment shall extend the Due Diligence Period for an additional thirty (30) days to permit Redevelopment and Developer to mutually agree upon the Definitive Agreements. Notwithstanding any provision to the contrary, either Redevelopment or Developer may terminate the MOU at any point following the delivery of the Notice if negotiations reach an impasse and, in the opinion of either party, a timely resolution is unlikely. Developer's failure to provide Notice prior to the expiration of the Due Diligence Period shall constitute a de facto termination of this MOU.

20. The Definitive Agreements shall be governed by and construed in accordance with the laws of the State of Indiana with venue in Allen County, Indiana.

21. Redevelopment and Developer agree to coordinate and consult with each other regarding the issuance of any information to the public, including press releases, responses to media inquiries and other public releases of information to the media or the public in general ("Public Releases"). The Parties shall have the opportunity to review and approve a Public Release prior to its dissemination. The Parties shall designate an individual to serve as a primary outlet for all matters relating to Public Releases. The Parties acknowledge that the provisions of this paragraph regarding Public Releases shall not prohibit either Party from making disclosures required or compelled by applicable laws.

22. This MOU may be assigned by Developer to a related party with the consent of Redevelopment, which consent will not be unreasonably withheld.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding as of the date hereinafter set forth.

**CITY OF FORT WAYNE, INDIANA, DEPARTMENT
OF REDEVELOPMENT**

By: Nancy Townsend

Printed: Nancy Townsend

Its: Executive Director

Date: 1/11/2021

WELLS RESERVE, LLC,
an Indiana limited liability company

By: ~~_____~~

Printed: Todd Ramsey

Its: Manager

Date: 1-4-21

Exhibit A - The "Site"



Exhibit B - Design Guidelines

Developer shall make a good faith effort to integrate the following design concepts into the Project:

- A public storm sewer installed along a portion of the western boundary of the Site is sized to allow for the direct discharge of onsite stormwater from the Site (i.e. no on-site detention is needed) provided no more than 80% of the Site is covered by impervious surfaces.
- The Project should be complementary of and integrated into the surrounding residential and commercial setting, Riverfront, Science Central and the historic St. Vincent Villas (currently the Headwaters Church campus).
- Massing, scale, building placement, and density should be designed through the lens of walkability, both to and through the site, primary building entrances should face the street, and development should be guided by the DE Downtown Edge Zoning District.
- Pedestrian and bicycle facilities should connect to existing and planned trails and sidewalks surrounding the site. Consider incorporating a protected bicycle route through the Site that connects the Urban Trail to the Pufferbelly Trail on the north side of the Site.
- In consideration of pedestrian traffic along Clinton, the Project should include safe, intuitive, and inviting crossings and adequate buffering from vehicular traffic. Adjacent structures and landscaping should promote an environment that is comfortable, welcoming, and human scale. The intersection of 4th Street and Clinton should be designed to support high levels of bike and pedestrian traffic.
- The Project will include opportunities for indoor and outdoor public art and other community gathering space.
- To the greatest extent possible, the Project will provide for universal accessibility.
- The parking arrangement will maximize parking efficiency for both private and public use, incorporating shared parking to the greatest extent possible.
- The visual impact of off-street parking should be minimized, especially from primary pedestrian corridors. Parking should not be located between building entrances and the public sidewalk.
- Parking should not be placed so as to isolate the development from the surrounding neighborhood, rather, it should “stitch” together the old and new parts of the neighborhood.
- Parking in adjacent areas such as Lawton Park may be considered.
- On-street parallel parking should be incorporated wherever possible;
- The Project will be designed to accommodate convenient and frequent bus service.
- Residential uses should target a range of income levels and be provided in locations where environmental remediation is minimal.
- Streets should be designed with all users in mind (rather than exclusively for cars or pedestrians). No less than 2 east/west streets should extend through the Site.

Exhibit C – “Concept Drawings” [Developer to provide hi-res, updated version]



NORTH RIVER DEVELOPMENT | DESIGN COLLABORATIVE | 2020.09.11

Exhibit D
Form of Access Agreement