

MAINTENANCE AGREEMENT

This Maintenance Agreement (the "Agreement") is hereby entered into effective this ____ day of _____, 2014 ("Effective Date"), by and between the City of Westfield, Indiana ("City"), the Indiana Department of Transportation ("INDOT") and McDonald's Real Estate Company ("McDonald's"); hereinafter, City, INDOT and McDonald's may be referred to jointly as the "Parties", as follows:

- A. The City is the fee owner of the real estate and any and all improvements located thereon (which consist of a retention area) as described on Exhibit A attached hereto (the "Property"). City acquired the Property by a Quitclaim Deed dated _____, and recorded in the Office of the Recorder of Hamilton County, Indiana (the "Recorder"), as Instrument No. _____.
- B. INDOT, McDonald's (and certain other parties as set forth in the Plat, as hereinafter defined) are possessors of interest in the Property as set forth in that certain 32 at 31-Henke Center Secondary Plat as recorded with the Recorder as Instrument No. 2013032164 (the "Plat").
- C. The City and INDOT agree to maintain the Property in good condition and repair at their cost and expense.
- D. McDonald's shall have the right, but not the obligation, to augment the maintenance of the Property at its own expense and if it invokes such right, then McDonald's shall be granted free access to the Property for such maintenance right. However, such right of access may be revoked at any time by the City or INDOT upon prior written notice to McDonald's.
- E. Nothing in this Agreement shall be construed as an assumption by the Parties of any responsibilities and/or duties of the Hamilton County Drainage Board with regard to the drainage of the Property or the surrounding watershed.

This Agreement may be executed by the Parties in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument. Facsimile signatures shall have the same force and effect as if in original ink.

IN WITNESS HEREOF, the Parties have executed and delivered this Agreement as of the date set forth above, and the below signed individuals acknowledged their authority to bind their respective Parties.

This instrument prepared by: Brian J. Zaiger, Esq. 12800 N. Meridian Suite 300 Carmel, IN
ALL DUE CARE HAS BEEN DONE TO DELETE OR REDACT ANY SS#S

ALL OF WHICH IS APPROVED THIS _____ DAY OF _____ 2014.

WESTFIELD BOARD OF PUBLIC WORKS & SAFETY

Andy Cook

Randy Graham

Kate Snedeker

ATTEST:

Cindy Gossard, Clerk Treasurer