

MEIJER - DEVELOPER AGREEMENT

This Developer Agreement ("Agreement") is entered into this _____ day of December, 2015, by and between the City of Westfield, Indiana, a duly formed Indiana municipal corporation ("City"), and Meijer Stores Limited Partnership, a Michigan limited partnership ("Meijer").

RECITALS

1. Meijer has acquired certain real property located in the City of Westfield, Indiana, which legal description is more particularly described on **Exhibit A** attached hereto (the "Property").
2. In connection with obtaining certain approvals from the City of Westfield, and Meijer receiving road impact fee credits, Meijer shall improve the Property, which shall include certain road improvements and walking path(s), as identified on **Exhibit B** (the "Improvements") attached hereto.
3. This Agreement is based upon the exchange of adequate, valuable consideration, the receipt of which is hereby mutually acknowledged.

Therefore, the City and Meijer stipulate and agree as follows:

Section 1. Mutual Duties and Obligation

- A. This Agreement shall be deemed a part of the detailed development plan to be subsequently approved on the property, a drawing of which is attached hereto as **Exhibit C** and incorporated by reference herein (hereafter, the "Development").

Section 2. Duties and Obligation of Meijer. If Meijer decides to proceed with the Development,

- A. Meijer shall be required to build the Improvements and dedicate all rights-of-way associated therewith to the City as identified in **Exhibit B**, unless otherwise agreed to by the Director of Public Works and Meijer. The Improvements shall be installed prior to the first Certificate of Occupancy issuance.
- B. The Improvements shall be designed and constructed by Meijer, reviewed, inspected and, when deemed acceptable by the City, approved by City staff.
- C. Any right-of-way required for the Improvements on the Meijer property, which includes all roads and walking paths, shall be formally dedicated to the City, unless otherwise agreed to by the Director of Public Works and Meijer. Once dedicated, the City is to maintain the Improvements at its sole cost and expense.
- D. The full cost of the Improvements shall be calculated prior to construction and agreed to by the City and Meijer. The full upfront cost to construct the Improvements shall be paid by Meijer.

Section 3. Duties and Obligations of the City. If Meijer proceeds with the Development,

- A. The full cost of the Improvements shall be calculated prior to construction and agreed to by the City and Meijer. The full upfront cost to construct will be paid by Meijer.
- B. Meijer shall receive a credit of the estimated total Road Impact Fees, as shown on the attached **Exhibit D**, for construction of the Improvements in the amount of \$1,044,348.00, as identified on **Exhibit B**, unless otherwise agreed to by the Director of Public Works and Meijer.

Section 4. Termination

- A. Unless terminated earlier as provided in this Agreement, this Agreement shall be in effect from December __, 2015, for a period of 240 months (20 years) terminating on December __, 2035, and shall be of no effect after that time. All previously executed agreements and addendums between the Parties shall also be null and void at that time. This Agreement as well as any and all previous understandings shall all be contingent to the approval of this Agreement by the Westfield Board of Public Works.
- B. Should Meijer determine, at any time during the term of this Agreement, not to proceed with the Development, it shall notify the City in writing and this Agreement will no longer have any force or effect.
- C. If Meijer transfers title to this Property at any time during the term of this Agreement, other than its affiliates, this Agreement will automatically terminate and be of no further force or effect.

Section 5. Amendment

- A. No alteration, modification, or amendment to this Agreement is permitted, except by written agreement signed by the Parties or their successor in interest as appropriate.

Section 6. Dispute Resolution

- A. In the event that any dispute arising hereunder cannot be resolved by the Parties, each party waives its right to trial by jury, and stipulates that the Circuit or Superior Courts of Hamilton County, Indiana shall be the only proper court(s) of venue and jurisdiction.

Section 7. Authority

- A. The undersigned attests, subject to the penalties for perjury, that he is the contracting party, or that he is the properly authorized representative, agent, member or officer of the contracting party, that he has not, nor has any other member, employee, representative, agent or officer of the contracting party, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he has not received

or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

Section 8. Indemnification

- A. Each Party agrees to indemnify and hold harmless the other Party and the officers, agents, servants, and employees of such entity, in their official and personal capacities from and against any and all claims, demand, actions, causes of action, judgment, loss, costs, damages, injuries and expenses (including reasonable attorneys' fees) except for those arising out of or related to a Party's gross negligence or intentional wrongful conduct in its performance under this Agreement.

Section 9. No Third Party Beneficiary

- A. This Agreement is intended for City and Meijer only. There are no intended third party beneficiaries to this Agreement.

In Witness Whereof, the City and Meijer have, through their duly-authorized representatives, entered into this Agreement. The Parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

“City”

City of Westfield, Indiana,
an Indiana municipal corporation

Signed: _____

Printed: _____

Title: _____

Dated: _____

“Meijer”

Meijer Stores Limited Partnership,
a Michigan limited partnership

By: Meijer Group, Inc., a Michigan corporation
Its: General Partner

By: _____

Michael L. Kinstle

Its: Vice President – Real Estate

Dated: _____

EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1

A PART OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 18 NORTH, RANGE 3 EAST, WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A HARRISON MONUMENT FOUND AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 2 PER THE HAMILTON COUNTY SURVEYORS OFFICE CORNER RECORD NUMBER 18030303; THENCE SOUTH 00 DEGREES 14 MINUTES 33 SECONDS WEST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 2, A DISTANCE OF 875.59 FEET TO THE NORTHWEST CORNER OF TRACT 1 PER THE WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 2006-00045611 IN THE OFFICE OF THE RECORDER, HAMILTON COUNTY, INDIANA;

THENCE NORTH 89 DEGREES 42 MINUTES 23 SECONDS EAST, ALONG A LINE PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 19 NORTH, RANGE 3 EAST, SAID LINE ALSO BEING THE NORTH LINE OF SAID TRACT 1, A DISTANCE OF 1329.18 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 2, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID TRACT 1 AND THE NORTHWEST CORNER OF TRACT 2 PER SAID WARRANTY DEED;

THENCE NORTH 89 DEGREES 42 MINUTES 23 SECONDS EAST, CONTINUING ALONG A LINE PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 35, SAID LINE ALSO BEING THE NORTH LINE OF SAID TRACT 2, A DISTANCE OF 28.50 FEET;

THENCE NORTH 00 DEGREES 14 MINUTES 34 SECONDS EAST, ALONG A LINE 28.50 FEET EAST OF AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 2, A DISTANCE OF 5.00 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF PINE RIDGE SECTION FIVE, RECORDED AS INSTRUMENT NUMBER 9921163 IN PLAT CABINET 2, SLIDE 247 IN THE OFFICE OF THE RECORDER, HAMILTON COUNTY, INDIANA;

THENCE NORTH 89 DEGREES 42 MINUTES 23 SECONDS EAST, ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID PINE RIDGE SECTION FIVE, A DISTANCE OF 31.50 FEET TO THE NORTHWEST CORNER OF SAID PINE RIDGE SECTION FIVE;

THENCE SOUTH 00 DEGREES 01 MINUTE 58 SECONDS WEST, ALONG THE WEST LINE OF SAID PINE RIDGE SECTION FIVE, A DISTANCE OF 276.49 FEET;

THENCE SOUTH 89 DEGREES 42 MINUTES 23 SECONDS WEST, ALONG A LINE PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 35, A DISTANCE OF 1390.20 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 2;

THENCE NORTH 00 DEGREES 14 MINUTES 33 SECONDS EAST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 2, A DISTANCE OF 271.50 FEET TO THE POINT OF BEGINNING, CONTAINING 8.66 ACRES, MORE OR LESS.

THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON THE INDIANA STATE PLANE COORDINATE SYSTEM EAST ZONE (NAD83).

PARCEL 2.1

A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 18 NORTH, RANGE 3 EAST, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89 DEGREES 27 MINUTES 17 SECONDS EAST ALONG THE NORTH LINE OF SAID QUARTER SECTION 1,329.35 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF SAID QUARTER SECTION; THENCE SOUTH 00 DEGREES 14 MINUTES 45 SECONDS WEST ALONG THE EAST LINE OF SAID WEST HALF 876.48 FEET; THENCE SOUTH 89 DEGREES 27 MINUTES 17 SECONDS WEST PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION 1,329.40 FEET TO THE WEST LINE OF SAID QUARTER SECTION; THENCE NORTH 00 DEGREES 14 MINUTES 55 SECONDS EAST ALONG SAID WEST LINE 876.48 FEET TO THE PLACE OF BEGINNING, CONTAINING 26.746 ACRES, MORE OR LESS.

PARCEL 2.2

A PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 18 NORTH, RANGE 3 EAST, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89 DEGREES 27 MINUTES 17 SECONDS EAST ALONG THE NORTH LINE OF SAID QUARTER SECTION 1,329.35 FEET TO THE NORTHWEST CORNER OF THE EAST HALF OF SAID QUARTER SECTION AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 89 DEGREES 27 MINUTES 17 SECONDS EAST ALONG SAID NORTH LINE 28.50 FEET; THENCE SOUTH 00 DEGREES 14 MINUTES 45 SECONDS WEST PARALLEL WITH THE WEST LINE OF THE EAST HALF OF SAID QUARTER SECTION 876.48 FEET; THENCE SOUTH 89 DEGREES 27 MINUTES 17 SECONDS WEST PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION 28.50 FEET TO THE WEST LINE OF SAID EAST HALF; THENCE NORTH 00 DEGREES 14 MINUTES 45 SECONDS EAST ALONG SAID WEST LINE 876.48 FEET TO THE PLACE OF BEGINNING, CONTAINING 0.573 ACRES, MORE OR LESS.

EXHIBIT B
IMPROVEMENTS AND ESTIMATED ROAD IMPACT FEE CREDITS
 (Page 1 of 2)

1. Trail Corridor Improvements (identified as red in Exhibit C).

Land	AC	0.9 \$	118,322.00	\$	106,489.80
Earthwork	CY	900 \$	8.00	\$	7,200.00
Landscaping	LS	1 \$	14,000.00	\$	14,000.00
Light Duty Asphalt	SY	1200 \$	22.00	\$	26,400.00
Traffic Sign	EA	6 \$	230.00	\$	1,380.00
Pavement Markings	EA	6 \$	40.00	\$	240.00
4" Painted Lines	LF	1320 \$	0.50	\$	660.00
12" Stop Bar	LF	20 \$	1.00	\$	20.00
Detectable Warning/ADA Ramps	EA	2 \$	500.00	\$	1,000.00
ESTIMATED TOTAL TRAIL CORRIDOR COSTS					\$157,390

2. Frontage Road Improvements (identified as blue in Exhibit C).

Land	AC	1.98 \$	118,322.00	\$	234,277.56
Earthwork	CY	2600 \$	8.00	\$	20,800.00
Heavy Duty Asphalt	SY	6070 \$	27.00	\$	163,890.00
Traffic Sign	EA	12 \$	230.00	\$	2,760.00
Pavement Markings	EA	12 \$	40.00	\$	480.00
4" Painted Lines	LF	1735 \$	0.50	\$	867.50
12" Stop Bar	LF	63 \$	1.00	\$	63.00
Curb and Gutter	LF	3470 \$	15.00	\$	52,050.00
Curb Inlet	EA	10 \$	1,200.00	\$	12,000.00
Manhole	Ea	6 \$	2,000.00	\$	12,000.00
12" RCP Pipe	LF	3000 \$	36.00	\$	108,000.00
Underdrains/Finger Drains	LF	200 \$	16.00	\$	3,200.00
ESIMATED TOTAL FRONTAGE ROAD COST					\$610,388

EXHIBIT B
IMPROVEMENTS AND ESTIMATED ROAD IMPACT FEE CREDITS
 (Page 2 of 2)

3. Midland Trace Trail Improvements (identified as green in Exhibit C).

Land	AC	2.06	\$ 80,000.00	\$ 164,800.00
Earthwork	CY	1300	\$ 8.00	\$ 10,400.00
Light Duty Asphalt	SY	3000	\$ 22.00	\$ 66,000.00
Traffic Sign	EA	10	\$ 230.00	\$ 2,300.00
Landscaping	LS	1	\$ 10,000.00	\$ 10,000.00
Tree Clearing	AC	0.5	\$ 10,000.00	\$ 5,000.00
Pavement Markings	EA	10	\$ 40.00	\$ 400.00
4" Painted Lines	LF	2220	\$ 0.50	\$ 1,110.00
12" Stop Bar	LF	60	\$ 1.00	\$ 60.00
Detectable Warning/ADA Ramps	EA	3	\$ 500.00	\$ 1,500.00
Pedestrian Crossing Signal at Spring Mill Road	EA	1	\$ 15,000.00	\$ 15,000.00
ESTIMATED TOTAL MIDLAND TRAIL COST				\$276,570

EXHIBIT D

ROAD IMPACT FEE ASSESSMENT

Assessment Request #: 15-RIFE-09

Estimate Date: 9/24/2015

Calculations Performed by: A. Murray

(I.C. 36-7-4-1321 and City Ordinance No. 12-13)



Property Information:			
Property Description:	SE Corner of SR 32/Spring Mill Rd	Applicant:	Jon Sheidler
Parcel:	08-09-02-00-00-001.000	Name:	Woolpert
Address:	17145 Springmill Road Westfield, IN 46074	Address:	7635 Interactive Way Indianapolis, Indiana 46278
		Contact:	(317) 223-2226

Development Information:

Existing:

Undeveloped/Vacant

Proposed:

Retail Building

190,000 square feet

Gas Station

2,500 square feet convenience store

10 vehicular fueling positions

Road Impact Fee Calculation:

In accordance with I.C. 36-7-4-1321 and the City's adopted impact fee ordinance, road impact fees are calculated based on the number of twenty-four-hour trips taken from the latest version of the *Trip Generation Manual*, a study published by the Institute of Transportation Engineers (the following were developed based on the guidelines set forth in the 9th Edition).

Land Use Code:	Free-Standing Discount Superstore (813)		
Independent Variable:	1,000	Sq. Ft. Gross Floor Area	
Weighted Trip Average:	50.75	per	1,000 Sq. Ft. GFA (average weekday 24-hour trip rate)
Land Use Code:	Gasoline Station with Convenience Store (945)		
Independent Variable:	1	Vehicle Fueling Position	
Weighted Trip Average:	162.78	per	1 Vehicle Fueling Position (average weekday 24-hour trip rate)

Trips:

A "trip" is a single or one-direction vehicle movement exiting or entering the site. For trip generation purposes, the total trips for a 24-hour period are the total of all trips entering plus all trips exiting a site during this period (e.g., one vehicle in and out of site equals two trips).

Pass-by Trips:

A pass-by trip is a trip made as an intermediate stop from an origin to a primary destination, and is generally a trip attracted from traffic already passing the site on an adjacent street. Trip generation estimates may be able to be reduced, subject to the land use, its context and available data from the Trip Generation Manual. If appropriate, the calculation below takes pass-by trips into consideration.

Calculation: Free-Standing Discount Superstore (813)

	Sq. Ft. GFA	Variable	Trip Average		
Trips:	190,000	/ 1,000	x 50.75	=	9,642.50 24-hour trips
Pass-by Trips:	Average pass-by trip percentage:				28% pass-by trip reduction %
					2,699.90 pass-by trips
Credits:	No structure demolition is proposed				0.00 structure demolition credits
	Total net trips:				6,942.60 24-hour trips

Calculation: Gasoline Station with Convenience Store (945)

	Fueling Positions	Variable	Trip Average		
Trips:	10	/ 1	x 162.78	=	1,627.80 24-hour trips
Pass-by Trips:	Average pass-by trip percentage:				59% pass-by trip reduction %
					1,009.24 pass-by trips
Credits:	No structure demolition is proposed				0.00 structure demolition credits
	Total net trips:				618.56 24-hour trips

Road Impact Fee: \$250 per trip (effective 01/01/2015 through 12/31/2015)

Road Impact Fee Assessment:							Total Fee
24-hour trips	fee per trip	road impact fee	pass-by trip discount	redevelopment credits			
11,270.30	x \$250	= \$ 2,817,575	- \$ 927,284.00	- 0.00	=		\$ 1,890,291

X	This is being provided as an estimate for informational purposes only at the request of the applicant and is not binding upon the applicant or the City. The actual assessment of road impact fees for this development is subject to change.
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