

Memorandum of Agreement

CitySquare Project

Worcester, Massachusetts

Worcester Renaissance, LLC, and Worcester Towers, LLC, Delaware limited liability companies managed by Worcester Renaissance Holdings, LLC, a Delaware limited liability company managed jointly by Berkeley Worcester MGR, LLC, a Delaware limited liability company having an address at c/o Berkeley Investments, Inc., 121 High Street, Boston, Massachusetts 02110 and Starwood Worcester MGR, LLC, having an address at 591 W. Putnam Avenue, Greenwich, Connecticut 06830 (collectively “Berkeley”) and the **city of Worcester**, a municipal corporation organized under a home rule charter adopted under the constitution and laws of the commonwealth of Massachusetts and having an address at City Hall, 455 Main Street, Worcester Massachusetts, 01608 (“City”), do hereby express these mutual representations and commitments as a precursor to the execution of full legally binding agreements concerning the public financing of the design and construction of new public ways and spaces, the modification of Worcester Center Boulevard and the design and construction of an underground public parking garage (“Public Project Elements”) to be accomplished in connection with the reconstruction of the former Worcester Center (a.k.a. Worcester Common Outlets) Mall property and two (2) existing office buildings (“Project Property”) proposed by Berkeley, said reconstruction to involve the demolition of large portions of the existing buildings, the reestablishment of locations of public ways and spaces on and through the Project Property, construction of 1.5 million square feet of new building space consisting of housing, commercial office, medical/clinical space, retail space and entertainment venues and the renovation of portions of the two existing office buildings and the remaining portions of the existing retail space and the existing parking garages (“Private Project Elements”).

1. **Private Investment.** Berkeley will cause to be invested not less than \$470 million to construct the Private Project Elements as stated in the development program attached hereto as exhibit A.
2. **Public Investment.** City agrees to raise and expend \$89.085 million to construct the Public Project Elements in accordance with the “Sources and Uses Statement” attached hereto as exhibit B. The Public Project Elements shall include only such work or expenses as are within the definition of “project costs” under section one of the District Improvement Financing Law, G.L. c. 40Q (“DIF Statute”) or are within the lawful authority of the City under section 2(c) of said statute. The City shall raise such amount through the sale of bonds, bond anticipation notes or other financing instruments under the DIF Statute (“DIF Bonds”). All such bonds shall qualify as exempt from federal income taxation under the Internal Revenue Code. The parties expect the commonwealth of Massachusetts to provide \$25 million to assist the City in the construction of the Public Project Elements. The City expects to apply

the state contribution to any notes outstanding prior to the issuance of long-term bonds under the DIF and that the maximum par amount of the long-term DIF Bonds issued by the City shall be \$64.085 million.

3. **Funding of Public Project Elements.** The City shall provide Berkeley with up to \$71,151,331 (“Delegated Public Project Elements – Construction Fund”) to procure the following Public Project Elements (“Delegated Public Project Elements”) as the same are shown on the Delegated Public Project Elements Budget attached hereto as exhibit C:
 - A. the design and construction of four new public streets and associated public spaces;
 - B. the design and construction of an underground two-level parking garage containing no fewer than 1,025 spaces;
 - C. the demolition of existing structures, the relocation and extension of utilities and other enabling work necessary for the construction of the rights of way of the proposed public streets, the public spaces, and the underground public parking garage;
 - D. the acquisition by the City of land and leasehold interests, including all lease payments; and,
 - E. the relocation of any remaining tenants or occupants of the Project Property displaced by the construction of the Delegated Public Project Elements.
4. **Funding of Contingencies.** The City shall provide Berkeley with up to \$8,050,000 (“Delegated Public Project - Contingency Fund”) to fund any net cost overruns in the procurement of the Delegated Public Project Elements. Should the net cost overruns in the procurement of the Delegated Public Project Elements items described above deplete the Delegated Public Project Elements - Contingency Fund, Berkeley shall then pay up to \$8,050,000 to fund such overruns. Should such cost overruns deplete the Delegated Public Project Elements - Contingency Fund and the like amount required to be paid by Berkeley, then the parties agree to seek additional funding sources to complete the construction of the Delegated Public Project Elements.
5. **Public Project Elements Produced By the City.** The City shall produce or procure the following Public Project Elements (“Direct Public Project Elements”) as the same are identified on the Sources & Uses Statement (exhibit B):
 - A. the modification of Worcester Center Boulevard;
 - B. the services of a construction management firm;
 - C. the services, salaries and ordinary maintenance items incurred by the City for the administration and management of the project;
 - D. the cost of construction and code inspection activities necessitated by the project;

- E. the funding of a Debt Service Reserve Fund and a Capitalized Interest Fund; and
 - F. transactional costs related to the issuance of bonds.
6. **Construction Management Firm.** The construction management firm retained by the City shall be experienced in major public and private construction projects and shall be responsible for reviewing the design and engineering of the Public Project Elements; monitoring the construction of the Public Project Elements; determining the proper allocation of the project expenses between the Public Project Elements and the Private Project Elements and reviewing project invoices presented by Berkeley for payment from public funds and determining whether such invoices are proper for payment by the City. Berkeley shall provide the City and its construction manager with full access at reasonable times to all information and individuals involved in the Delegated Public Project Elements. The City shall make no payment to Berkeley unless Berkeley has first presented an invoice with appropriate supporting documentation to the construction management firm and such firm has approved such invoice for payment by the City. Berkeley shall report to the City promptly upon discovery that the cost of any work in the Delegated Public Project Elements is reasonably likely to exceed the amount allocated in the Delegated Public Project Elements – Construction Fund. The construction management firm shall review all requests for payment from the Delegated Public Project Elements - Contingency Fund and, if depleted, the equivalent amount for which Berkeley would be required to pay under this agreement, and shall approve for payment only such requests representing an increased expense for a previously budgeted item or a new expense for an item directly related to the scope of work of the particular project element involved. The construction management firm shall not approve for payment from the Delegated Public Project Elements – Contingency Fund any item which is a material change from the originally budgeted items or is otherwise beyond the scope of the Public Project Elements. The City shall make payments to Berkeley no later than thirty (30) days after Berkeley presents the invoice to the construction management firm, provided such firm approves the payment request. The development agreement shall provide for an appeal and dispute resolution process with respect to determinations of the construction management firm.
7. **Special Legislation.** The City shall obtain enactment into law of the special legislation attached hereto as exhibit D to authorize it a) to enter into a contract with Berkeley by which Berkeley would provide the design and construction of the Delegated Public Project Elements through design firms and construction contractors it selects; b) to lease space from Berkeley for 60 years for the public parking garage and to award the garage management contract to the same entity retained by Berkeley to manage the private garages on the Project Property; and, c) to record the order of taking for the street layouts beyond the 30-day limit otherwise required by state law.

8. **Public Parking Garage Lease.** Berkeley shall lease to the City for a term of not less than 60 years, sufficient space and rights, including access easements over property now owned by Berkeley, to allow the City to construct an underground two-level public parking garage containing no fewer than 1,025 spaces (“City Garage”).
9. **Public Parking Garage Operation & Management.** The City Garage shall be operated pursuant to an Operating and Allocation Agreement with Berkeley and a Management Agreement with a designee of Berkeley who shall be an experienced parking garage operator reasonably acceptable to the City. The Management Agreement shall be subject to the “safe harbour” provisions pertaining to the issuance of tax-exempt bonds in the Internal Revenue Code and Rev. Procedure 97-13. The Operating and Allocation Agreement shall provide for the joint operation as a single entity (“Single Garage”) of the City Garage and the remaining 900 space garage owned by Berkeley and currently known as the “Blue Garage” (the “Berkeley Garage”). The City shall set the rates for parking in the spaces open to the general public in the Single Garage and all operating revenues and all operating expenses shall be allocated between the parties based on the total number of parking spaces in the City Garage and the Berkeley Garage. The City shall use best efforts to maintain fair market rates for transient public parking in the Single Garage as established by rates at comparable parking garages for public transient parking. The City and Berkeley shall use best efforts to maintain fair market rates for monthly parking in their respective garages as established by comparable group rates at comparable parking garages for monthly or longer term parking. The agreements shall include an operating and maintenance standard that is consistent with the Private Project Elements, but the annual expense budget shall be subject to the reasonable approval of the City. Each party shall be solely responsible for setting up a capital reserve fund from its own share of parking revenues or elsewhere and for paying the costs of any needed capital repair or replacement to its garage structure. The two garage agreements shall be for an initial term of 10 years. Thereafter, each such agreement shall automatically renew for the following year unless notice is given of termination by either party at least 60 days prior to the end of any given year. Whichever party terminates the Operating and Allocation Agreement shall pay the costs of separating the access and ticketing points for the garages into an arrangement for the operation of separate facilities reasonably acceptable to the other party. Berkeley may designate up to ten percent of the parking spaces constructed in the City Garage, less a pro-rata share of all common ramps and other common areas as required by the I.R.C., for dedication to the exclusive use of individuals purchasing condominiums in project building “F”, provided that the City shall establish the terms and conditions of any such use, including the rate to be charged for each such space.
10. **Design Review.** Berkeley agrees that the project design shall be subject to reasonable design review standards developed by the City with the assistance of Sasaki Associates and which shall be set forth in the

development agreement. The design standards shall ensure consistency with the quality and nature of development proposed by Berkeley and shall be guided by the following general principles:

- A. CitySquare design should use high quality and creative design solutions to create the centerpiece of downtown Worcester and connect City Hall and the Common with Union Station and Washington Square;
- B. CitySquare design shall encourage the use of high quality, durable materials to enhance all aspects of site and building development and convey a sense of permanence;
- C. CitySquare design shall maximize opportunities for street activity by incorporating open and inviting ground floors;
- D. CitySquare design shall create streetscapes and public spaces that feel comfortable to pedestrians by encouraging inclusion of green space and/or green areas;
- E. CitySquare design shall distinguish buildings located at corners as gateways from the rest of the buildings along any street;
- F. CitySquare design shall encourage distinctive roof forms, profiles, and cornices to provide a termination to the top of the building in such a manner as to complement and enhance the character of the project and downtown Worcester;
- G. CitySquare design shall promote buildings with windows comprising 25-50% of upper facades visible from public rights-of-way and reflecting a rhythm, scale, and proportion compatible with the overall building design;
- H. CitySquare design shall ensure that all buildings incorporate elements which break up facade planes and avoid long, uninterrupted horizontal elements; and,
- I. CitySquare design shall extend to the sides and rears of buildings in a manner compatible with the design of the building fronts and prevent any large blank wall surface on facades visible from a public right-of-way. The surface of the rear wall on building E shall be treated in an architecturally acceptable manner.

11. **Minority & Women Employee Recruitment.** Berkeley shall commit to a minimum goal that twenty percent of the work force employed to construct the Delegated Public Project Elements and the Private Project Elements shall include individuals who are low-income, female or minority Worcester County residents, or any combination thereof, and shall further commit to a goal of utilizing bona-fide minority firms qualified by the State Office of Minority and Women Business Assistance (SOMWBA) or a local certifying agency for at least twenty percent of the total value of the contracts and subcontracts made by Berkeley to

construct the Delegated Public Project Elements and the Private Project Elements.

12. **Ramp Removal Agreement Amendment.** Berkeley agrees to amend the “Ramp Removal Agreement” entered into on August 14, 2003, by and between the City and Berkeley’s immediate predecessor in interest, Connecticut General Life Insurance Company, so as to delete the provisions requiring the City to maintain the “North Portal” open to through traffic and to construct an overhead pedestrian walkway connecting the Union Station Bus Port property to the “Red” parking garage. The City will cooperate with Berkeley to install appropriate signage providing direction to the Project Property. If the respective traffic consultants for Berkeley and the City agree that certain traffic mitigation measures, in addition to those recommended in Vanasse Associates’ February 2005 Traffic Impact Study, are warranted or advisable as a result of the proposed closing of the North Portal, the City shall provide such additional traffic mitigation measures as part of the Public Project Elements.
13. **Conveyance of “Vacuum Cleaner” Parcel to City.** Berkeley shall convey its interest in the “Vacuum Cleaner” parcel at Washington Square to the City.
14. **Public Square.** In exchange for the conveyance of the Vacuum Cleaner parcel and the amendment of the Ramp Removal Agreement, the City agrees to convey (or reserve) to Berkeley: a) the parcel of land adjacent to the Project Property on Worcester Center Boulevard which had been the location for one of the ramps providing access to the “Red” garage which was constructed as part of the Worcester Center project; b) a sufficient legal interest in the area at the corner of the proposed intersection of Front Street and Trumbull Street so as to allow Berkeley to own, maintain and control such area as a central square (“CitySquare”) which shall be open to the public on reasonable terms and conditions established by Berkeley. The City agrees to complete the initial streetscape and landscaping improvements on this area and transfer those improvements to Berkeley.
15. **“Building Line” Easement Conveyance.** Berkeley agrees to convey to the City, and the City agrees to accept, permanent easements for the construction and maintenance of sidewalks over the land within the Project Property located between the exterior walls of each of the buildings to be constructed within the Project Property and the nearest street layout line.
16. **Tax Increment Financing for Parcels H, J & E.** The City will approve a tax increment financing plan for the commercial uses of parcels H, J & E on such terms and conditions as may be acceptable to the City. Any tax increment financing plan for Parcel E shall provide that at least 50% of the rentable space in building E shall be for entertainment use.

17. **Permit Fee Reduction.** The City shall, by ordinance in the form substantially as attached hereto as exhibit F, reduce the permit fees for construction, building or utility permits necessary to construct the improvements described in the development program, including all tenant fit-out, to a maximum of \$2 million to be paid in two equal annual installments on January 3, 2006 and January 3, 2007. The permit fee reduction shall not apply to any portion of the project after it has received the first permit for use and occupancy by a tenant of each such portion of the project and shall expire on June 30, 2015.
18. **Items for City Council Approval.** On or about May 10, 2005, the city manager shall submit to the city council of Worcester the following items for their approval:
- An Order establishing the boundaries of the “CitySquare District Improvement Financing District” as the property line of the Project Property and including the area of the street of Worcester Center Boulevard as it now abuts the Project Property;
 - An Order approving a District Improvement Financing Development Program consistent with the Development Program described in Exhibit A;
 - A Loan Order approving the borrowing under the District Improvement Financing law;
 - An Order approving the filing of Special Legislation;
 - An Order of Taking of the New Street Layout; and,
 - An Ordinance Reducing the Permit Fees for the Project
19. **Cash Disbursement Conditions.** The City shall release the funds to Berkeley as follows:
- First, upon:
- A. the approval of the District Improvement Financing and Tax Increment Financing Plans by the City and the Economic Assistance Coordinating Council; and,
 - B. the enactment into law of the special legislation; and,
 - C. the execution of a development agreement between the City and Berkeley containing all business terms as described in this memorandum; and,
 - D. the commencement of the reconstruction of approximately 165,000 square feet of retail and restaurant space with approximately 25,000 square feet of space for a live theater in the project buildings known as “C” and “D”; and,
 - E. the initial sale by the City of DIF bonds or bond anticipation notes for this project;

then the City shall record the order of taking establishing the new public street layout and shall pay Berkeley for all of the Public Project Elements (as verified by the construction management firm) incurred from the beginning of the project. Such payment shall not exceed \$10 million and shall be made as soon as practical upon the receipt by the City of proceeds from the initial issuance of debt financing instruments specific to this project and in no event later than thirty (30) days after the recording of the order of taking.

Second, upon:

- F. the execution by Berkeley of a garage lease consistent with the terms herein; and,
- G. the presentation by Berkeley of written financial and legal commitments assuring that construction shall commence as soon as practicable after the demolition of a sufficient portion of the existing structures on either: (1) medical clinic or office building containing approximately 275,000 square feet (project building “H” or “J”); and, (2) the construction of a condominium building containing at least one hundred-fifty market rate units (project building “F”); and,
- H. the presentation by Berkeley of legally binding commitments sufficient to assure that if the 84,300 square feet entertainment complex containing a mega-plex cinema, restaurants and retail space (project building “E”), or in the alternative, any such use or uses which are consistent with the character of the project and produce at least an equal amount of real estate tax revenue as is projected for building E, are not open for use and occupancy on or before June 30, 2010, Berkeley shall cause the City to be paid an amount equal to the anticipated incremental tax revenue for building E for fiscal years 2011 through 2015 or until building E is put into taxable service, whichever occurs first; and,
- I. the approval by the City of the design plans and construction specifications for the new public streets, public amenities and the underground public parking garage; and,
- J. the issuance by Berkeley, acting on behalf of the City under the special legislation, of notices to proceed to the contractor(s) performing the demolition portions of the Delegated Public Project Elements,

then the City shall pay Berkeley monthly such amounts as certified as obligations of the City by the construction manager retained by the City under the terms of this memorandum of understanding up to a total of \$61,151,331 less the amount of retainage required by law to be withheld from payments to contractors on public construction projects and plus any amounts approved for payment from the Delegated Public Project Elements - Contingency Fund. Berkeley shall utilize such payments to make monthly progress payments to contractors retained by Berkeley on behalf of the City under the special legislation for the demolition of the existing elements of the Project Property and the design and construction

of the Delegated Public Project Elements. Such payments shall continue until the completion of the Delegated Public Project Elements, a period projected by Berkeley as lasting 30 –36 months (the “Demolition and Garage & Streets Construction Period”).

Third, upon the certification of final completion by Berkeley and the project architect, a reconciliation payment or payments of such amounts held as retainage under law for each of the Delegated Public Project Elements to be released according to law as each such project element is completed satisfactorily in accordance with the development agreement, plus any approved and previously unpaid Delegated Public Project Elements costs, to the extent that funds exist in the Delegated Public Project Elements – Construction Fund or Contingency Fund.

20. **Sequencing of Demolition & Construction.** The City and Berkeley agree that the Development Agreement shall contain a Delegated Public Project Elements demolition and construction schedule based upon the date the city council approves the DIF items and that Berkeley shall manage the procurement of the Delegated Public Project Elements such that the construction of Project Buildings H (or J) and F shall commence as soon as practical after the demolition of the areas necessary for the construction of those buildings is completed. Demolition shall continue through the remainder of the buildings to be demolished as Buildings H (or J) and F commence and continue under construction. The public roadway portions of the Delegated Public Project Elements shall commence construction as soon as practical after the construction of the area of the underground parking garage supporting each roadway section.
21. **Term of this Memorandum.** This memorandum of agreement shall remain in effect until the execution of full legally binding agreements concerning the items discussed herein or 270 days, whichever first occurs. The parties agree that this memorandum of agreement is subject to the execution of such agreements, including, but not limited to, a development agreement, and receipt of approvals from all appropriate city and state agencies and Berkeley’s Investment Committee.

Worcester Renaissance LLC

Young Park, President, Berkeley Investments, Inc., manager of Berkeley Worcester MGR, LLC, manager-member of Worcester Renaissance Holdings, LLC, manager of Worcester Renaissance LLC.

Worcester Towers, LLC

Young Park, President, Berkeley Investments, Inc., manager of Berkeley Worcester MGR, LLC, manager-member of Worcester Renaissance Holdings, LLC, manager of Worcester Renaissance LLC.

City of Worcester

Michael V. O'Brien
City Manager
City of Worcester

Dated: May 2, 2005

Exhibits

Exhibit A - Development Program

Exhibit B - Sources and Uses Statement

Exhibit C - Delegated Project Elements Budget

Exhibit D - Special Legislation

Exhibit E - Permit Fees Reduction Ordinance

Exhibit A

Development Program

Phase 1:

Bldg / Item	Use	Gross SF	Construction Schedule
C (Current)	Repositioned Retail, re-tenanting	75,000	Underway
Enabling	Demolition and site preparation		Commence 2005
Garage	New underground public parking garage (construction forms support for new roads and buildings; green roof)	480,000	Commence 2006 Delivery 2008
Site/Roads	New city streets, sidewalks and green roof on garage		Commence 2005 Delivery 2008
D	Retrofitted, re-skinned retail/entertainment, repositioned with new tenants	119,000	Commence Exterior Wall 2005 Interior Fit-out 2008
F	Housing, with accessory retail. New construction over new underground garage	188,000	Commence 2006 Delivery 2008
H	Commercial with accessory retail, new construction over existing basement and new parking	275,000	Commence 2006 Delivery 2008
I	Retrofitted, re-skinned retail/restaurants/commercial; repositioned with new tenants	14,000	Commence TBD Delivery 2008
E	Entertainment and Retail, Commercial	84,300	Commence TBD Delivery 2010

Subject to negotiation with the prospective office tenant, Phase 1 might also include:

J	Office/ Accessory Retail/Housing/Commercial	275,000	Commence TBD Delivery 2009
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Phase 2:

J	Housing/ Accessory Retail/Commercial (if Phase 1 Bldg J is not built)	275,000	Commence 2008 Delivery 2010
K	Housing/Commercial/ Accessory Retail (no big box discount)	250,000	Commence 2008 Delivery 2010
L	Retail/Housing/Hotel	25,000	Commence 2008 Delivery 2010

Phase 3:

C (Future)	Housing/ Accessory Retail/Hotel/Commercial	320,000	Commence 2010 Delivery 2012
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Exhibit B

(Page One)

**Sources & Uses Statement
Delegated Public Project Elements**

Delegated Public Project Elements	
Sources of Funds	Issue Summary
State Equity Contribution to Project	\$ 25,000,000.00
Par amount of Bonds for Project Elements	\$ 54,200,000.00
Total Sources of Funds	\$ 79,200,000.00

Uses of Funds	
Delegated Project Elements - Construction Fund	\$ 71,151,331.00
Delegated Project Contingency	\$ 8,050,000.00
Adjustment for rounding	\$ (1,331.00)
Total Uses of Funds	\$ 79,200,000.00

Exhibit B

(Page Two)

**Sources and Uses Statement
Direct Public Project Elements**

	Direct Public Project Elements
Sources of Funds	
Par amount of Bonds for Project Elements	\$ 2,750,000.00
Par amount of Bonds for Capitalized Interest	\$ 7,135,000.00
Developer Contribution Permit Fees	\$ 2,000,000.00
DIF Reserve Account	\$ 1,120,000.00
Premium on Loans	\$ 650,000.00
Total Sources of Funds	\$ 13,655,000.00

Uses of Funds	
WCB - widening project	\$ 1,750,000.00
Construction Management - Delegated Elements	\$ 1,000,000.00
City - Project Management	\$ 1,120,000.00
Construction/Code Inspectional Services	\$ 1,000,000.00
Deposit to Debt Service Reserve Fund	\$ 1,000,000.00
Deposit into Capitalized Interest	\$ 7,135,250.00
Issuance Costs	\$ 640,843.00
Adjustment for rounding	\$ 9,907.00
Total Uses of Funds	\$ 13,655,000.00

Exhibit C**Delegated Project Elements Budget****Estimated Public Expenses
05/02/05**

Item	2005 Estimate	Escalation at 5% / ann.	Estimated Total
Construction Hard Costs			
Enabling Work	\$14,699,000	1 year	\$15,433,950
New Underground Garage	\$34,114,000	1.5 years	\$36,672,550
Streets/Streetscape/Garage Green Roof	\$7,637,000	2 years	\$8,400,700
Total Estimated Hard Costs	\$56,450,000		\$60,507,200
Soft Costs			
Architectural - Garage	\$1,160,440		\$1,160,440
Architectural - Streets/Streetscape	\$526,750		\$526,750
Architectural - Enabling	\$155,000		\$155,000
Architectural - East Garage	\$300,000		\$300,000
Architectural - Master Plan rel. to above	\$200,000		\$200,000
A&E - Geotech / Environmental / Civil	\$50,000		\$50,000
Pre-Construction Management	\$80,000		\$80,000
Estm. A & E Reimbursables @ 11%	\$271,941		\$271,941
Misc. Consultants (Commissioning, etc.)	\$100,000		\$100,000
Insurance	\$550,000		\$550,000
Developer Project Management	\$750,000		\$750,000
Utility Hookups	\$200,000		\$200,000
Materials Testing	\$250,000		\$250,000
Traffic Details	\$50,000		\$50,000
Tenant Relocations	\$6,000,000		\$6,000,000
Total Estimated Soft Costs	\$10,644,131		\$10,644,131
Contingency for Hard and Soft Costs Above	\$7,647,107		\$8,050,000
Total Public Funds Requested	\$74,741,237		\$79,201,331

Special Legislation

**AN ACT RELATIVE TO THE FINANCING AND CONSTRUCTION
OF A PUBLIC PARKING GARAGE AND OTHER IMPROVEMENTS
IN THE CITY OF WORCESTER**

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by authority of the same, as follows:

Section 1. The general court hereby finds and declares that: (a) the private sector is prepared to invest \$470 million into downtown Worcester for the reconstruction of the former Worcester Center (a.k.a. Worcester Common Outlets) Mall property (“Project Property”) by demolishing large portions of the existing buildings, reestablishing the locations of public ways and spaces on and through the Project Property, constructing 1.5 million square feet of new building space consisting of housing, commercial office, medical/clinical space, retail space and entertainment venues and renovating portions of the two existing office buildings and the remaining portions of the existing retail space and the existing parking garages (collectively, the “Private Project Elements”); (b) the Private Project Elements require public participation in the form of the construction of new public ways and spaces, the modification of Worcester Center Boulevard and the construction of an underground public parking garage (the “Public Project Elements”); (c) the Private and Public Project Elements will significantly enhance the role of Worcester as a transit-oriented urban center serving the economic development and the general welfare of the commonwealth and will stimulate employment and employment training, apprenticeship, health care and related opportunities for all residents of said city and the commonwealth; (d) the Public Project Elements serve the public interest by correcting the public urban design errors of the past and connecting downtown Worcester and the project area with the intermodal transportation center at Union Station, the city’s convention center and arena facilities and the Worcester Medical Center; (e) a substantial portion (consisting of the underground public parking garage) of the Public Project Elements shall be constructed underneath substantial portions of the Private Project Elements and shall require common footings, columns, certain building support systems and utility and conduit locations; (f) public convenience, safety and necessity require that the design and construction of the Public Project Elements be accomplished by the same design and construction contractors accomplishing the design and construction of the Private Project Elements; (g) combining the design and construction of the garage portion of the Public Project Elements with the Private Project Elements will produce economies of scale and likely reduce development and operational costs; and, (h) the combination of the design and construction of much of the Public Project Elements with the design and construction of the Private Project Elements will serve the public interest so

long as certain public policy protections concerning prevailing wages, apprenticeship training, health care, inclusionary participation and the like are appropriately included in the contracts for the design and construction of the Public Project Elements.

Section 2. Notwithstanding any general or special law to the contrary, but subject to the requirements of this act, the city of Worcester shall secure the design and construction of the Public Project Elements with the same design and construction entities performing similar work on the correlative Private Project Elements by entering into a contract or contracts (“Contract”) with Worcester Renaissance, LLC, and Worcester Towers, LLC, both Delaware limited liability companies duly registered with the secretary of the commonwealth as foreign limited liability companies, the owners of record of the Project Property (“Project Developer”), or its successors in interest in the Project Property. The Project Developer may perform its design and construction obligations under the Contract by employing independent design and construction contractors and subcontractors. The Contract shall specify the extent to which the Project Developer shall be responsible for the planning, design and construction of Public Project Elements. Any Public Project Elements undertaken directly by said city, or the commonwealth, shall be subject to the general laws governing the award of public design and construction contracts. The Contract shall require the Project Developer to make good faith efforts to hire Massachusetts firms and residents and to comply with (a) section 27 of chapter 149 of the General Laws relating to prevailing wages, (b) section 29 of said chapter 149 relative to obtaining security by bond for payment of labor and materials, and (c) chapter 2, section 35 of the Worcester Revised Ordinances (1996), the so-called *Responsible Employer Ordinance*. The attorney general of the commonwealth shall have authority to enforce the requirements set forth in the preceding sentence to the same extent as concerns public construction contracts awarded directly by a municipality.

Section 3. The Contract shall specify a maximum amount to be paid by said city for the acquisition, design and construction of the Public Project Elements. The Contract shall require said city, as part of the administration and management of the project, to retain a construction management firm experienced in major public and private construction projects, which firm shall be responsible for monitoring the construction of the Public Project Elements, performing an independent analysis of the project expenses and determining the proper allocation of the project expenses between the Public Project Elements and the Private Project Elements. The Contract shall provide that said city shall pay the total actual costs of the Public Project Elements as determined by said construction management firm up to the maximum amount stated in the Contract and that the Project Developer shall pay an amount in excess of said amount. Neither said city, nor the commonwealth, shall be liable for any Public Project Elements costs beyond the amount specified in the Contract. The Contract shall provide that no order of taking involving the acquisition of any Project Property by eminent domain may be recorded until the Project Developer presents to said city a title report showing all persons who would be entitled to damages by reason of such a taking together with legally binding waivers of any right to damages beyond which is provided in the

Contract from all such persons executed under section seven A of chapter seventy-nine of the general laws. The Contract shall also provide that no transfer of funds for the design or construction of the underground public parking garage, including the demolition of the existing buildings and structures related to said construction, shall be made by said city until the Project Developer has presented said city with legally binding commitments sufficient to assure the city that the Project Developer shall construct taxable improvements sufficient to produce at least an equal amount of real estate tax and other project revenue as is projected by the city as necessary to cover the cost of the bonds issued by the city for the Public Project Elements.

Section 4. Notwithstanding any general or special law to the contrary, but subject to the requirements of this act, said city shall have authority to acquire from the Project Developer a leasehold interest and related access easements for a term of not less than sixty years in such portion of the Project Property as may be necessary to locate, construct and operate the underground public parking garage portion of the Public Project Elements; provided that, said city shall place said underground public parking garage under the care, custody and control of its off-street parking board established under chapter 365 of the acts of 1955, as amended, which board shall manage and operate said garage as a public parking garage under authority of said act, except that the rates and charges for the use of said garage shall be determined by said board and may not be delegated to any garage operator and that said board may operate said underground public parking garage through management agreements with the entity selected by the Project Developer for the operation of the private parking garages on the Project Property. Said city shall also have authority to enter into real estate transactions with the Project Developer concerning the exchange of street remnants, the conveyance of easements to the city between the street layout lines and the buildings in the project, the conveyance the parcel owned by the Project Developer at 36 Washington Square to the city and the ownership, control and maintenance of such portions of the roof of said underground public parking garage as may be necessary or proper in the judgment of the city to construct and operate the project.

Section 5. Said city shall, by eminent domain, acquire all property rights and street easements necessary to locate and construct the public streets, walkways and associated public spaces of the Public Project Elements and shall maintain the same in the public domain and under the care, custody and control of said city. The provisions of this act shall apply to any order of taking adopted by said city prior to the effective date of this act and, notwithstanding the provisions of section three of chapter seventy-nine of the general laws or any other general or any special law to the contrary, any such order of taking shall be valid if it is recorded in the Worcester district registry of deeds within thirty days of the effective date of this act.

Section 6. No transfer of funds for any portion of the work on the Public Project Elements shall be made by said city until the Project Developer have executed the Contract, which, in addition to the requirements of this act, may contain such terms and conditions, including the recognition of expenses incurred by said city or paid by the Project Developer prior to the effective date

of this act, as the city manager of said city shall deem necessary and proper and upon which the Project Developer shall agree. Notwithstanding any general law, special act or administrative rule or regulation to the contrary, for purposes of eligibility for reimbursement for any state grant, otherwise qualifying expenses incurred by said city or paid by the Project Developer prior to the effective date of this act shall be deemed to have been incurred or paid as of the effective date of this act.

Section 7. This act shall take effect immediately upon its passage.

Permit Fees Reduction Ordinance

**AN ORDINANCE RELATIVE TO CERTAIN PERMIT AND INSPECTION FEES
FOR THE CENTRAL STREET HOTEL PROJECT**

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter two of the Revised Ordinances of 1996 is hereby amended by inserting a new section twenty-nine B as follows:

§ 29B. CitySquare Project Permit Fees

(a) The city council hereby finds and declares that Worcester Renaissance, LLC, is prepared to invest \$470 million into downtown Worcester for the reconstruction of the former Worcester Center (a.k.a. Worcester Common Outlets) Mall property ("CitySquare Project") by demolishing large portions of the existing buildings, reestablishing the locations of public ways and spaces on and through the Project Property, constructing 1.5 million square feet of new building space consisting of housing, commercial office, medical/clinical space, limited retail space and entertainment venues and renovating portions of the two existing office buildings and the remaining portions of the existing retail space and the existing parking garages (collectively, the "Private Project Elements").

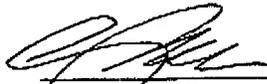
(b) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the fees for construction, building or utility permits issued by the city of Worcester or any department, agency, board or commission thereof, (hereinafter collectively referred to as "permits"), necessary for construction of the development program as stated in the attachment to a certain Memorandum of Agreement dated April 30, 2005 by and between the city of Worcester and Worcester Renaissance, LLC, and Worcester Towers, LLC, shall be aggregated and reduced to two million dollars.

(c) The fee established by this ordinance shall be paid by Worcester Renaissance, LLC, in two equal annual installments of one million dollars on January 3, 2006 and January 3, 2007.

(d) Fees payments under this ordinance shall be made to the city manager, who shall issue appropriate documentation confirming payment of the fee. Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the CitySquare Project, process the permit application without payment of additional fees and shall indicate on the permit application the following: "Fee paid pursuant to § 29B, c. 2, R.O. 1996."

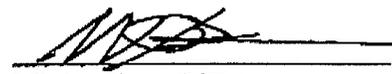
(e) Anticipating that Worcester Renaissance, LLC, shall construct and complete the Private Project Elements in phases and that the tenants of Worcester Renaissance, LLC, shall thereafter finish construction of each tenantable space within the CitySquare Project, this permit fee reduction shall apply to any permits necessary for such tenant fit-out but shall expire upon the date of issuance of the first permit for use and occupancy for each such portion of the Project Property. Notwithstanding the previous sentence, this ordinance shall expire on June 30, 2015 and the fee otherwise then in effect shall apply to any permits issued after such date.

Worcester Renaissance LLC



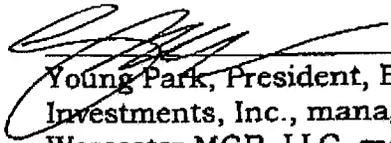
Young Park, President, Berkeley Investments, Inc., manager of Berkeley Worcester MGR, LLC, manager-member of Worcester Renaissance Holdings, LLC, manager of Worcester Renaissance LLC.

City of Worcester



Michael V. O'Brien
City Manager
City of Worcester

Worcester Towers, LLC



Young Park, President, Berkeley Investments, Inc., manager of Berkeley Worcester MGR, LLC, manager-member of Worcester Renaissance Holdings, LLC, manager of Worcester Renaissance LLC.

Dated: May 2, 2005