

## STATEMENT OF COMMITMENTS

### COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A VARIANCE PETITION OR SPECIAL EXCEPTION PETITION

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

#### Legal Description:

*See Attachment "A"*

#### Statement of COMMITMENTS:

1. Applicability of Commitments.

The commitments set forth below and itemized hereafter shall be effective and control only in the event the Property is developed in the future as a data center campus.

2. Local Community Protections.

The following community protections are given and shall be required in the event the Property is developed as a data center campus:

a. The data center shall be cooled by a closed-loop system.

(i) Closed-loop systems only shall be used as a primary means of heat rejection for the proposed data center facilities (no evaporative or open-loop as primary means). If new technology becomes available that provides cooling with less water use and or less electricity use than current closed-loop systems, then use of such new technology shall be acceptable to utilize for cooling upon Administrator approval.

(ii) All water utilized by any data center shall be provided by a municipal provider. The developer shall not utilize natural aquifers to supply data centers or for construction. In the case of rare emergency or unforeseen mechanical issue, water will be disposed of per Indiana Department of Environmental Management ("IDEM") regulations and not discharged into the public wastewater system.

(iii) The Property owner/operator shall not drill wells on the Property for the purpose of providing water for the operations of the data center facilities and grounds, but wells shall be

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allowed for testing, monitoring, etc. for any local, state, or federal requirements, per all applicable regulations.

- b. Through collaboration with the local electric provider, the data center developer will pay all related costs associated with the new substation for the data center and the additional generation, transmission, and distribution infrastructure needed to service the data center.
  - c. Through careful planning and collaboration with the local electric provider, the data center shall be enrolled in a renewable power program offered by the provider.
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3. Site Plan Generally: Maximum Building Heights.

Development of the Property shall be in substantial conformance with the data center campus site plan filed in this companion variance matter on July 1, 2026, and attached hereto as Attachment “B” (the “Data Center Site Plan”). The maximum buildings sizes and general locations of the buildings described in the Data Center Site Plan shall coincide with those set forth therein. The Administrator shall have the authority to approve any minor or non-substantial deviations therefrom. Notwithstanding the foregoing, the Owner shall have the unilateral right to reduce the size of any building set forth on the Data Center Site Plan.

- a. The maximum roof line height of the buildings set forth on the Data Center Site Plan, shall be as follows:

- (i) Building 1 and 2: Sixty feet (60’)

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4. Additional Site Plan and Development Requirements.

- a. Loading Docks. The loading docks at the Property shall be situated generally consistent with the Data Center Site Plan on only one side of any building. Loading docks shall not be placed on the building sides nearest to any protected districts.
  - b. Truck Parking. Only short-term commercial truck parking shall be allowed while actively loading or unloading at the loading docks, as generally depicted on the Data Center Site Plan. There shall be no long-term commercial truck parking or truck storage on the Property, including semi tractor-trailers and delivery trucks, except only when loading or unloading large equipment for data halls, which involves specialized logistics and equipment to ensure the safe and timely delivery and installation of heavy and sensitive IT infrastructure. In such instances, parking shall be limited to a maximum of 48 hours. This restriction shall not include construction trailers being used while the data center campus buildings are being constructed. Additionally, commercial truck maintenance shall also be prohibited on the Property.
  - c. Screening of Facilities and Equipment. Mechanical equipment, including but not limited to generators, HVAC, and cooling/chilling systems shall be screened consistent with Sec. 744-
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508. Additionally, a fence or wall that is a minimum of 10 feet in height and 100% opacity shall be provided on the north and south sides of the utility yard located directly west of Building 1 to screen the equipment from abutting properties, and the same shall be provided on the west side of the utility yard located directly south of Building 2.
- d. SPCC Plan. Before building permits are released, there will a spill prevention, control and countermeasure (“SPCC”) plan in effect which will be in compliance with all applicable regulations including IDEM and the US Environmental Protection Agency (“EPA”).
- e. Sound Standards and Generator Operations.
- (i) A sound study shall be prepared by a qualified acoustical engineer demonstrating that sound levels at the exterior Property line of the data center campus, emanating from the data center campus, will not exceed 65 decibels, measured Lmax, during regular and emergency operation.
  - (ii) The measurement method of how the Property owner shall determine decibel levels at the Property line for monitoring and compliance, as prepared by a qualified acoustical engineer, shall be submitted to the Administrator prior to ILP issuance.
  - (iii) Annual sound testing shall be conducted at least once per year to ensure sound levels at the Property line do not exceed 65 decibels, measured Lmax, during operation. The results of the sound testing shall be submitted to the Administrator and to the district Councilor.
  - (iv) All generators shall be located in insulated enclosures.
  - (v) The generators shall only run during testing and power outages outside the control of the Property owner/operator.
  - (vi) There shall be no generator testing between 5:00 p.m. and 7:00 a.m.
  - (vii) Weekends and the following holidays shall be avoided for generator testing to the extent possible: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day. Nothing in this specific commitment shall be construed to restrict the testing schedule necessary for compliance with applicable air permits.
  - (viii) Per request from community neighbor, the generators shall be tested annually when the adjacent local school is not in regular session. Nothing in this specific commitment shall be construed to restrict the testing schedule necessary for compliance with applicable air permits.
  - (ix) All generators shall operate strictly within the limits of the IDEM air permit and other applicable regulations.
  - (x) For air quality, Diesel Particulate Filters (“DPFs”), acting as exhaust after treatment devices, shall be included on each generator.
  - (xi) All generators shall be individual generators, each with its own separate belly tank for fuel storage. All generators’ belly tanks shall be located above ground and shall be double-lined tanks with alarm sensors.
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- (xii) The total number of generators on the Property shall be up to a maximum of 31.
- f. Lighting. All outdoor lighting for the proposed use of a data center shall comply with the full Development Standards and remain directed away from all adjacent parcels (Sec. 744-600). All exterior lighting shall meet the zoning ordinance requirements in Sec. 744-600, including use of full cut-off light fixture shields on all pole and building mounted lighting. Additionally, all required exterior parking lot lighting fixtures shall be solar powered where feasible, and motion sensor controls shall be utilized for required lighting in pedestrian areas, entrances, and walkways where feasible.
  - g. Cryptocurrency Mining Prohibition. The data center facilities shall not be used to mine cryptocurrency.
  - h. Nuclear Prohibition. Nuclear energy facilities, including but not limited to nuclear power plants, small modular reactors (“SMRs”), micro-reactors, and nuclear fuel storage facilities, shall be explicitly prohibited on the Property.
  - i. Buried Utilities. All on-site utility lines shall be placed underground, as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment including, without limitation, any poles with new easements and right-of-way.
  - j. Decommissioning Plan. If the Property is no longer used for a data center campus, then all data center related diesel fuel, closed-loop water mixture, electronic batteries, and e-waste materials shall be removed from the Property by the Property owner and shall be properly disposed of following all applicable local, state, and federal regulations. Further information on the Decommissioning Plan shall be provided in the Plan of Operation filed with this variance petition.
  - k. Drainage Plans. A complete set of drainage plans for the development of the Property shall be posted on a public-facing project website prior to, or concurrently with, submitting same to the City of Indianapolis, Department of Business and Neighborhood Services (“DBNS”) for a drainage permit.
  - l. A public-facing project website shall provide a means to contact the local operator and house documents that have been committed to through the public hearing process, including generator testing schedules, generator maintenance protocols, sound study results, and complaint form with responses to complaints.
  - m. No temporary construction driveway nor permanent driveway shall be allowed to the north of the property.
  - n. Construction or Repairing of Buildings. Construction hour limitations shall be consistent with the Noise Section (Sec. 391-300) of the Revised Code of the Consolidated City and County.
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Construction and repair work, as referenced in said Section, generally shall not occur between 6:00 p.m. and 7:00 a.m., except in the case of urgent necessity in the interest of public health and safety.

- o. Dust Suppression. Effective site dust suppression control measures shall be utilized to mitigate adverse dust concerns during site development and construction activities.
  - p. Construction Traffic. No data center campus construction traffic or equipment associated with the Property shall be allowed on Kitley Avenue north of the Pennsy Trail during student drop off and pick up times while the Irvington Community School, Inc. school is operating at 6705 Julian Avenue.
  - q. School Communication. An open line of communication shall exist between the Property owner/operator and the school, including, at minimum, to convey generator testing schedules, generator emergency operations, and security events while the Irvington Community School, Inc. school is operating at 6705 Julian Avenue.
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5. Landscaping.

- a. Administrator Approval. Generally, subject to site engineering, pond size and location, use of utility easements, tree inventory survey results, etc., landscaping proposed for the Property shall comply with the Landscaping and Screening requirements of the Consolidated Zoning/Subdivision Ordinance of the City of Indianapolis. Buffering specifically proposed for the Property shall be materially consistent with the Data Center Site Plan and otherwise comply with the Landscaping and Screening requirements of the Consolidated Zoning/Subdivision Ordinance of the City of Indianapolis. Prior to filing for an improvement location permit related to the development of the Property, a final landscape plan shall be submitted for Administrator approval.
  - b. Mounding. An undulating earthen berm shall be constructed to provide a continuous buffer strip along a lot line that is adjacent to a Protected District, as identified on the Data Center Site Plan. An earthen berm shall be built to a minimum height of eight (8) feet above the natural surface of the ground. In no instance shall the peak height of an earthen berm be less than three (3) feet measured from the established street grade. The berm shall be installed prior to Building 1 beginning operation.
  - c. A vegetated buffer strip shall be planted and maintained consisting of two (2) staggered rows of evergreen trees, each row planted fifteen (15) feet on center, with a height of five (5) feet at time of planting in all yards that are adjacent to a Protected District. The vegetated buffer strip shall be installed prior to Building 1 beginning operation.
  - d. Transitional Yards. The existing utility easement on the northern Property line shall serve as a
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- transitional yard, as depicted on the Data Center Site Plan.
- e. Maintenance and Replacement. Owner shall maintain and replace as needed landscaping at the Property. Substantially damaged, irreparably sick or dead plantings shall be replaced by the Owner with the same species, or a species with similar characteristics, within three (3) months or if not possible, advisable or practical due to weather or season, as soon as is practical thereafter. Owner shall maintain in good repair all fences. Fences that are damaged, broken, or contain failing paint or stain shall be repaired, replaced or refinished as needed.
  - f. The Property owner shall coordinate with The Parks Alliance of Indianapolis (also known as the Indianapolis Parks Foundation, Inc.), for no less than five (5) years, to contribute an annual gift for trail stewardship, benefiting the Pennsy Trail in Warren Township.
  - g. Through coordination with the local electric provider, the data center developer shall be responsible for the planting of native seed mix (native wildflower seed mix and native grasses seed mix) within the existing transmission line easement at the north end of the Property. This responsibility consists of a three-year establishment and maintenance period, including the initial invasive control and clearing, herbicide applications, native seed installation, and three (3) years of maintenance for the existing approximately 4.5 +/- acre easement area.
  - h. Additional evergreen trees shall be planted on the northern side of the property and shall be properly maintained thereafter. Additional evergreen trees shall be a minimum height of ten (10) feet at time of planting.
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These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of variance or special exception petition 2026-CVR-815 by the Metropolitan Development Commission.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made);
3. The Warren Township Development Association Inc;
4. The City-County Councilor whose district includes the real estate; and
5. The Irvington Community School, Inc., operating at 6705 Julian Avenue.

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of variance petition # 2026-CVR-815 by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner(s) has executed this instrument this \_\_\_\_\_ day of July, 2026.

Signature: \_\_\_\_\_  
Printed: Jonathan L. Goodburn  
Title / Member/CFO /  
Organization Thunderbird CC Land Partners,  
Name: LLC

Signature: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title / \_\_\_\_\_  
Organization \_\_\_\_\_  
Name: \_\_\_\_\_

STATE OF INDIANA       )  
                                          ) SS:  
COUNTY OF HAMILTON )

*Before me, a Notary Public in and for said County and State, personally appeared Jonathan L. Goodburn, Member/CFO / Thunderbird CC Land Partners, LLC owner(s) (title / organization name) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.*

*Witness my hand and Notarial Seal this*  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
*Notary Public*

\_\_\_\_\_  
*Printed Name of Notary Public*

*My Commission expires:* \_\_\_\_\_

*My County of residence:* \_\_\_\_\_

I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law. – Mark R. Leach, Senior Land Use Planner, Faegre Drinker Biddle & Reath LLP

*This instrument was prepared by Mindy Westrick Brown and Mark R. Leach, Faegre Drinker Biddle & Reath LLP.*

Attachment "A"  
Legal Description

The Land is described as follows:

Block A, in the "Replat of Lot 2, Block A, and Block B", Replat of Thunderbird Commerce Center, recorded June 18, 2025, as Instrument Number A202500050908, in the Office of the Recorder of Marion County, Indiana.

Property Address: 305 Fintail Drive, Indianapolis, IN 46219  
THUNDERBIRD COMMERCE CENTER  
Local Parcel #: 7047778  
State Parcel #: 49-10-11-115-003.002-770

# Attachment "B" Data Center Site Plan

