

RESOLUTION NO. 3384

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION
APPROVING THE RELEASE OF CERTAIN DEED RESTRICTIONS ON PROPERTY
CONVEYED BY THE REDEVELOPMENT COMMISSION TO IVY TECH
COMMUNITY COLLEGE OF INDIANA**

WHEREAS, the South Bend Redevelopment Commission (the “Commission”) exists and operates pursuant to Indiana Code 36-7-14 (as amended, the “Act”); and

WHEREAS, pursuant to its powers and in furtherance of its purposes under the Act, the Commission adopted its Resolution No. 2795 on November 2, 2010, and pursuant thereto subsequently purchased certain parcels of real property located in the City of South Bend, Indiana, commonly known as 230 East Sample Street and 919 Carroll Street and bearing Parcel Key Nos. 018-7001-000301 and 018-7008-0279, respectively (together, the “Tract”); and

WHEREAS, on August 28, 2012, the Commission and Ivy Tech Community College of Indiana (“Ivy Tech”) entered into that certain Real Estate Donation Agreement concerning the Commission’s donation of the Tract to Ivy Tech upon certain terms and conditions (the “Donation Agreement”); and

WHEREAS, pursuant to the Donation Agreement, the Commission conveyed the Tract to Ivy Tech by a Warranty Deed dated September 10, 2012, and recorded on October 9, 2012, as Document No. 1232244 in the Office of the Recorder of St. Joseph County (the “Deed”); and

WHEREAS, under the Donation Agreement, Ivy Tech agreed to “use the [Tract] to help carry out its mission to provide access to educational programs and training services for students, employees, and employers from the City of South Bend, St. Joseph County, and surrounding communities”; and

WHEREAS, to enable its use of the Tract in accordance with the Donation Agreement, Ivy Tech demolished the structure that existed on the Tract at the time it took ownership of the Tract; and

WHEREAS, in order to carry out its educational mission, as that mission is described in the Donation Agreement, Ivy Tech wishes to create educational and career programs related to horticulture by partnering with Green Sense Farms, LLC (“GSF”), an Indiana owned and operated vertical farming company (the “Partnership”); and

WHEREAS, in establishing the Partnership, Ivy Tech anticipates transferring ownership of the portion of the Tract commonly known as 230 East Sample Street and bearing Parcel Key No. 018-7001-000301 (the “Property”) to GSF and requiring GSF to construct a 20,000-30,000 square foot indoor vertical farming operation on the Property, which would include a clear span fabric building, offices, loading docks, and parking lots; and

WHEREAS, under the Partnership, Ivy Tech (a) will require GSF to employ at least fifteen (15) students of Ivy Tech at the vertical farming operation on the Property and allow Ivy Tech to use the vertical farming operation as a training center for students pursuing degrees or certifications in courses related to plant physiology, pesticide certifications, fertigation, use of indoor lighting in farming, and culinary arts, and (b) expects to work with GSF to create credit courses and academic concentrations centered around indoor vertical farming; and

WHEREAS, the Deed and Section 4 of the Donation Agreement prohibit Ivy Tech from making or contracting for any total or partial sale, assignment, conveyance, lease, or transfer of the Tract for purposes not authorized under the Donation Agreement (the “Deed Restrictions”); and

WHEREAS, Ivy Tech has requested that the Commission release the Deed Restrictions affecting the Tract and thereby permit the Partnership to proceed; and

WHEREAS, in light of the educational and public benefits expected to arise out of the Partnership between Ivy Tech and GSF, the Commission desires to release the Deed Restrictions and to express its support for the Partnership’s anticipated use of the Property.

NOW, THEREFORE, BE IT RESOLVED by the South Bend Redevelopment Commission that:

1. The Commission hereby terminates and forever releases the Deed Restrictions governing Ivy Tech’s use of the Tract and permits Ivy Tech to dispose of all or any part of the Tract, including the Property, free of the Deed Restrictions.

2. The Commission hereby approves, and will execute simultaneously with this Resolution, the Termination Of Restrictions And Right Of Reverter Under Real Estate Donation Agreement attached hereto as **Exhibit A** (the “Termination”).

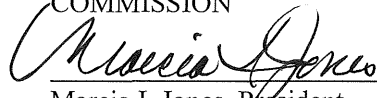
3. The Commission hereby authorizes and instructs David Relos or Aaron Kobb, each of the City of South Bend Department of Community Investment, to deliver the Termination to Ivy Tech and to take on behalf of the Commission all necessary administrative actions to accomplish the purposes of this Resolution, including ensuring that the Termination is properly and promptly recorded in the Office of the Recorder of St. Joseph County.

4. This Resolution will be in full force and effect upon its adoption by the Commission.

[Signature page follows.]


ADOPTED at a regular meeting of the South Bend Redevelopment Commission held on February 23, 2017, at 1308 County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT
COMMISSION



Marcia I. Jones, President

ATTEST:



Donald E. Inks, Secretary

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EXHIBIT A

**Form of Termination Of Restrictions And Right Of
Reverter Under Real Estate Donation Agreement**

[See attached.]

CROSS-REFERENCE: Document No. 1232244

TERMINATION OF RESTRICTIONS AND RIGHT OF REVERTER
UNDER REAL ESTATE DONATION AGREEMENT

This Termination Of Restrictions And Right Of Reverter Under Real Estate Donation Agreement (this “Termination”), is made on February 23, 2017 (the “Effective Date”), by the South Bend Redevelopment Commission, the governing body of the City of South Bend Department of Redevelopment (the “Commission”).

RECITALS

A. The Commission conveyed certain real property, commonly known as 230 East Sample Street and 919 Carroll Street, South Bend, Indiana, and more particularly described in attached Exhibit 1 (the “Property”) to Ivy Tech Community College of Indiana (“Ivy Tech”) by a Warranty Deed dated September 10, 2012, and recorded on October 9, 2012 as Document No. 1232244 in the Office of the Recorder of St. Joseph County (the “Deed”) pursuant to that certain Real Estate Donation Agreement dated August 28, 2012, by and between the Commission and Ivy Tech (the “Donation Agreement”).

B. The Deed and the Donation Agreement contain certain restrictions on Ivy Tech’s conveyance of the Property (the “Deed Restrictions”) and establish the Commission’s right to a reversion of the Property upon Ivy Tech’s violation of the Deed Restrictions.

C. In order to facilitate Ivy Tech’s anticipated conveyance of a portion of the Property to Green Sense Farms, LLC (“GSF”) for use in a collaborative, educational project between Ivy Tech and GSF, the Commission has determined, as set forth in its Resolution No. 3384 dated February 23, 2017, to terminate and release the Deed Restrictions affecting the Property.

NOW, THEREFORE, in consideration of the above premises, the Commission states as follows:

1. Recitals. The above Recitals are incorporated into and made a part of this Termination.

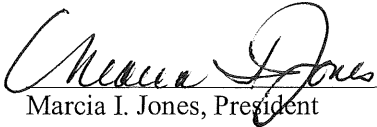
2. Termination. The Commission hereby terminates and forever releases the Deed Restrictions affecting the Property. Specifically, the restrictions on Ivy Tech’s conveyance of the Property set forth in the Deed and in Section 4 of the Donation Agreement will have no further force or effect.

3. Relinquishment. The Commission hereby relinquishes its right to a reversion of the Property under the Deed or Section 4 of the Donation Agreement.

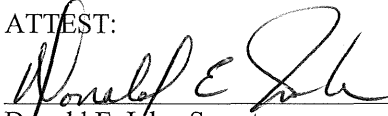
4. Recordation. Promptly following execution by the Commission, this Termination will be recorded in the Office of the Recorder of St. Joseph County.

IN WITNESS WHEREOF, the Commission hereby executes this Termination to be effective on the Effective Date stated above.

SOUTH BEND REDEVELOPMENT COMMISSION



Marcia I. Jones, President

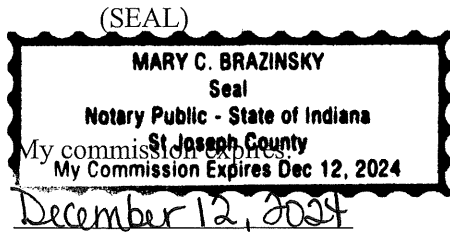
ATTEST:


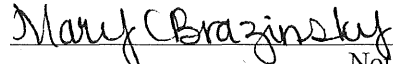
Donald E. Inks, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, this 17 day of February, 2017, personally appeared Marcia I. Jones and Donald E. Inks, personally known to me as the President and Secretary, respectively, of the South Bend Redevelopment Commission, the governing body of the City of South Bend, Indiana, Department of Redevelopment, and acknowledged the execution of the foregoing Termination for and on behalf of the South Bend Redevelopment Commission.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.





_____, Notary Public
Resident of St Joseph County, _____

This instrument was prepared by Benjamin J. Dougherty, Assistant City Attorney, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana 46601.

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. Benjamin J. Dougherty.

Exhibit 1

Description of Property

Parcel I: Lot Numbered Four (4) as shown on the recorded Plat of Mary Hutchin's Addition to the City of South Bend, **excepting therefrom** a tract of land 7 feet in width, North and South, taken off of the entire length of the South side thereof for street purposes.

Parcel II: A parcel of land located in Section 13, Township 37 North, Range 2 East, beginning at a point on the South line of Sample Street 680.3 feet East of the East line of Michigan Street; thence South to the Northwest corner of Lot Five (5) as shown on the recorded Plat of Adam S. Baker's First Addition to the City of South Bend and continuing South along the West line of said lot to the North line of Ohio Street; thence East along the South line of said Lot 5 and also Lot 6 in the above addition, which is also the North line of Ohio Street, to a point 14 feet East of the Southeast corner of Lot 6 of Adam S. Baker's First Addition to the City of South Bend; thence North to a point on the South line of Sample Street, which point is 809 feet East of the West line of Michigan Street; thence West along the South line of Sample Street, a distance of 128.7 feet to the place of beginning, together with the East Half of the vacated alley lying West and adjacent to Lot 5.

Parcel III: Lot Numbered Seven (7) as shown on the recorded Plat of Adam S. Baker's First Addition to the City of South Bend.

Common Address: 230 East Sample St., South Bend, Indiana 46601
Tax Key No. 18-7001-000301

Common Address: 919 Carroll, South Bend, IN
Tax Key No: 18-7008-0279