



Department of
Community Investment

Redevelopment Commission Agenda Item

DATE: August 10, 2017
FROM: David Relos, Economic Resources *DR*
SUBJECT: Memorandum of Assignment and Assumption of Ground and Airspace Lease
& Memorandum of Assignment and Assumption of Ground Lease (Leighton
Complex)

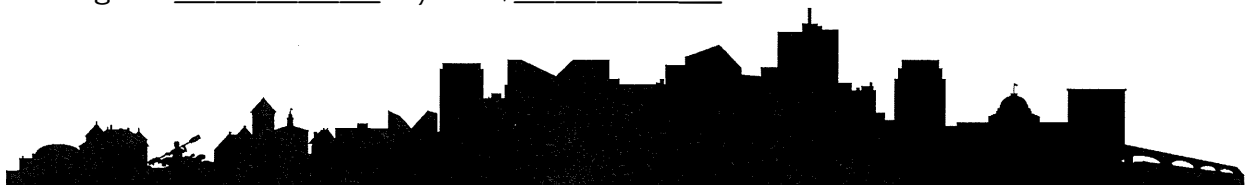
In an effort to consolidate the City's parking garage ownership and management, on September 15, 2016 the Commission approved the assignment to the Board of Public Works leases that were in its name related to the parking garages. Two of these leases were entered in to in 1998 between the Commission and developers of the two office buildings of the Leighton Complex.

These two ground leases allow the buildings to sit atop the lower level of the Leighton parking garage. In both instances they allow air rights above the ground, though one specifies a height limit while the other does not, and is the reason one includes "Airspace" in its name and the other does not.

Because the original ground leases were recorded, these Memorandums will be recorded and put on record their assignment to the Board of Public Works.

Staff requests approval of the Memorandum of Assignment and Assumption of Ground and Airspace Lease and the Memorandum of Assignment and Assumption of Ground Lease for the Leighton Complex's two office buildings.

INTERNAL USE ONLY: Project Code: _____ N/A _____
Total Amount new in budget: _____ N/A _____; broken down by:
Acct # _____ N/A _____
Going to BPW for Contracting? No Is this item ready to encumber now? N/A
Existing PO# _____ Inc/Dec \$ _____



Cross-Reference: Document No. 9810420

**MEMORANDUM OF ASSIGNMENT AND ASSUMPTION
OF GROUND AND AIRSPACE LEASE**

This Memorandum Of Assignment And Assumption Of Ground And Airspace Lease (this “Memorandum”) is made as of August 10, 2017 (the “Effective Date”), by and between the South Bend Redevelopment Commission (the “Commission”), and the City of South Bend Board of Public Works (the “Board”) (each a “Party” and together the “Parties”).

RECITALS

WHEREAS, pursuant to the Commission’s Resolution No. 3361 dated September 15, 2016, and the Board’s Resolution No. 44-2016 dated September 27, 2016, the Commission and the Board entered into that certain Assignment And Assumption Of Garage-Related Agreements dated September 27, 2016 (the “Assignment”); and

WHEREAS, by the Assignment, the Commission assigned to the Board all of the Commission’s rights, interests, and obligations in, to, and under that certain Ground and Airspace Lease dated March 6, 1998, and recorded on March 9, 1998, as Document No. 9810420 in the Office of the Recorder of St. Joseph County (the “Ground Lease”); and

WHEREAS, the Parties desire to place as a matter of public record their respective interests as the assignor and the assignee, respectively, of the Ground Lease.

NOW, THEREFORE, the Parties state as follows:

1. Effective on September 27, 2016, the Commission assigned the Ground Lease to the Board, and the Board assumed all rights, interests, and obligations of the Commission under the terms and provisions of the Ground Lease.
2. No third party’s consent was required to effect the Parties’ assignment and assumption of the Ground Lease under the Assignment.
3. The recitals set forth above are true and correct and are hereby incorporated herein by reference.
4. This Memorandum will be governed by and construed in accordance with the laws of the State of Indiana.

[Signature pages follow.]

IN WITNESS WHEREOF, the Parties have executed this Memorandum to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT
COMMISSION, governing body of the South Bend
Department of Redevelopment of the City of South
Bend, Indiana

By: _____
Marcia I. Jones, President

ATTEST:

By: _____
Donald E. Inks, Secretary

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared Marcia I. Jones and Donald E. Inks, known by me to be the President and Secretary, respectively, of the South Bend Redevelopment Commission, and who, in such capacity, acknowledged the execution of the foregoing instrument as said Commission's free and voluntary act and deed.

WITNESS my hand and Notarial Seal this _____ day of _____, 2017.

_____, Notary Public
Residing in _____ County, IN

My Commission Expires: _____

CITY OF SOUTH BEND
BOARD OF PUBLIC WORKS

Gary Gilot
Gary Gilot, President

Therese Dorau
Therese Dorau, Member

Suzanna Fritzberg, Member

Elizabeth Maradik
Elizabeth Maradik, Member

James Mueller
James Mueller, Member

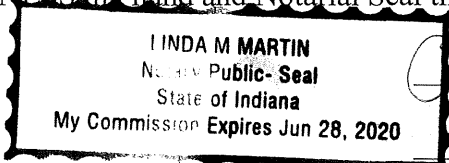
ATTEST:

Linda Martin
Linda Martin, Clerk

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared the Board of Public Works members, of the City of South Bend Board of Public Works, and acknowledged the execution of the foregoing instrument as said Board's free and voluntary act and deed.

WITNESS my hand and Notarial Seal this 8 day of August, 2017.



Linda M. Martin
_____, Notary Public
Residing in St. Joseph County, IN

My Commission Expires: _____

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.

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