

RESOLUTION NO. 3424

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION
CONSENTING TO THE ASSIGNMENT OF REAL ESTATE PURCHASE
AGREEMENT TO MICHIGAN STREET SHOPS, LLC**

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

WHEREAS, pursuant to its purposes under the Act, the Commission entered into that certain Real Estate Purchase Agreement dated August 10, 2017, as amended by the First Amendment To Real Estate Purchase Agreement dated December 14, 2017 (collectively, the “Purchase Agreement”), with Cressy & Everett Commercial Corporation (the “Corporation”) for the Corporation’s purchase from the Commission of certain real property located in the River West Development Area within the City of South Bend, Indiana (as more particularly described in the Purchase Agreement, the “Property”); and

WHEREAS, Section 17 of the Purchase Agreement requires the Corporation to obtain the Commission’s consent to any assignment by the Corporation of the Corporation’s interests in the Purchase Agreement, except in circumstances not presently applicable; and

WHEREAS, by a letter dated January 9, 2018, attached hereto as **Exhibit A**, the Corporation notified the Commission of its intention to assign the Purchase Agreement to Michigan Street Shops, LLC (the “Company”), and the Corporation has presented the Assignment dated January 8, 2018 (the “Assignment”), attached hereto as **Exhibit B**, evidencing the Company’s assumption of all the Corporation’s rights and obligations under the Purchase Agreement; and

WHEREAS, the Commission desires to express its consent to the Assignment, to approve necessary revisions to certain closing documents, and to direct the closing of the transaction accordingly; and

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH BEND REDEVELOPMENT COMMISSION AS FOLLOWS:

1. The Commission hereby consents to the Assignment and to the Company’s assumption of all the Corporation’s rights and obligations under the Purchase Agreement.
2. The Commission hereby approves, and will execute simultaneously with this Resolution, the Special Warranty Deed attached hereto as **Exhibit C** (the “Revised Deed”) conveying ownership of the Property to the Company as the Corporation’s assignee. For purposes of closing, the Revised Deed replaces the form of deed attached to the Purchase Agreement as Exhibit B.
3. The Commission hereby acknowledges that, in advance of delivery at closing, the form of Assignment And Assumption Of Leases attached to the Purchase Agreement as Exhibit

C (the "Lease Assignment") will be amended (a) to identify Michigan Street Shops, LLC, as the assignee of all the leases described in the Lease Assignment and (b) to include all current amendments to said leases.

4. The Commission hereby authorizes and instructs David Relos of the City of South Bend Department of Community Investment to deliver to the Company, at closing, the Revised Deed (in lieu of the form of such instrument prescribed by the Purchase Agreement) and to take on behalf of the Commission all necessary administrative actions to accomplish the purposes of this Resolution.

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

ADOPTED at a meeting of the South Bend Redevelopment Commission held on January 11, 2018, 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

Letter from Edward F. Bradley, Jr. on behalf of Cressy & Everett Commercial Corporation d/b/a Newmark Grubb Cressy & Everett dated January 9, 2018



January 9, 2018

Mr. James Mueller
Executive Director of Community Investment
City of South Bend

VIA EMAIL ONLY

RE: Assignment of Cressy Purchase Agreement to Michigan Street Shops, LLC

Dear James:

As you know, Newmark Grubb Cressy & Everett ("Cressy") is under contract with the City for the purchase of the properties commonly known as the retail storefronts for the Leighton Parking Garage and Wayne Street Parking Garage in downtown South Bend. Pursuant to that contract, Cressy would like to assign its rights to the newly formed entity, Michigan Street Shops, LLC. All the principals of Cressy are members of Michigan Street Shops, LLC.

Please accept this letter as representation that Michigan Street Shops, LLC, fully intends to fulfill the obligations of Cressy as outlined in the purchase agreement and amendment between Cressy and the City.

Should you have any questions, please feel free to contact me. Thank you.

Respectfully submitted,

Edward F. Bradley, Jr.
Senior Vice President, Principal
Newmark Grubb Cressy & Everett

EXHIBIT B

Assignment dated January 8, 2018

ASSIGNMENT

This Assignment is made and entered into the 8th day of January 2018, by and between Cressy & Everett Commercial Corporation (“Assignor”), and Michigan Street Shops, LLC (“Assignee”).

RECITALS

Assignor has entered into an agreement and subsequent amendments dated August 10, 2017, & December 14, 2017 (all together, the “Purchase Agreement”) to purchase real property from the City of South Bend, Indiana, Department of Redevelopment acting by and through its governing body, the South Bend Redevelopment Commission, for property located in South Bend, Indiana and further described in the attached **Exhibit A**.

Assignor wishes to assign all its right title and interest in the Purchase Agreement to Assignee, and Assignee has consented to the assignment and agreed to be bound by all the terms and conditions as set forth in the Purchase Agreement.

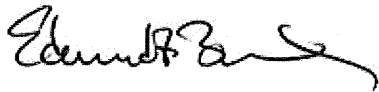
NOW, THEREFORE, Assignor hereby assigns all its right title and interest in the above referenced Purchase Agreement to Assignee, and Assignee hereby accepts such assignment and agrees to be bound by all terms and conditions contained in the Purchase Agreement.

Assignor: Cressy & Everett Commercial Corporation



By: Edward F. Bradley, Principal

Assignee: Michigan Street Shops, LLC



By: Edward F. Bradley, Managing Member

Exhibit A
Description of Property

Michigan Street Lots

Lots 2 through 9 as shown on the recorded plat of Leighton Plaza First Minor Subdivision recorded on February 23, 2017, as Document No. 1704410 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 018-3006-019002, 018-3006-019003, 018-3006-019004, 018-3006-019005, 018-3006-019006, 018-3006-019007, 018-3006-019008, 018-3006-019009]

Wayne Street Lot

Lot 2 of the recorded plat of Wayne Street Parking Garage Minor Subdivision recorded on February 19, 2016, as Document No. 1604082 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key No. 018-3003-005801]

EXHIBIT C

Revised Deed

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that the City of South Bend, Department of Redevelopment, by and through its governing body, the South Bend Redevelopment Commission, 1400 S. County-City Building, 227 W. Jefferson Boulevard, South Bend, Indiana (the "Grantor")

CONVEYS AND SPECIALLY WARRANTS to Michigan Street Shops, LLC, an Indiana limited liability company with its principal place of business at 4100 Edison Lakes Parkway, Suite 350, Mishawaka, Indiana 46545 (the "Grantee"), for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following real estate located in St. Joseph County, Indiana (the "Property"):

Lots 2 through 9 as shown on the recorded plat of Leighton Plaza First Minor Subdivision recorded on February 23, 2017, as Document No. 1704410 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 018-3006-019002, 018-3006-019003, 018-3006-019004, 018-3006-019005, 018-3006-019006, 018-3006-019007, 018-3006-019008, 018-3006-019009]

and

Lot 2 of the recorded plat of Wayne Street Parking Garage Minor Subdivision recorded on February 19, 2016, as Document No. 1604082 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key No. 018-3003-005801]

The Grantor warrants title to the Property only insofar as it might be affected by any act of the Grantor during its ownership thereof and not otherwise.

The Grantor hereby conveys the Property to the Grantee free and clear of all leases or licenses, except as agreed by the Grantor and the Grantee (as assignee of Cressy & Everett Commercial Corporation, doing business as Newmark Grubb Cressy & Everett) under the terms of the Real Estate Purchase Agreement dated August 10, 2017, as amended by the First Amendment To Real Estate Purchase Agreement dated December 14, 2017; subject to real property taxes and assessments; subject to all easements, covenants, conditions, restrictions, and other matters of record; subject to rights of way for roads and such matters as would be disclosed by an accurate survey and inspection of the Property; subject to all applicable building codes and zoning ordinances; and subject to all provisions and objectives contained in the Commission's development area plan and any design review guidelines associated therewith.

The Grantor conveys the Property to the Grantee subject to the limitation that the Grantee, and its successors and assigns, shall not discriminate against any person on the basis of race, creed, color, sex, age, or national origin in the sale, lease, rental, use, occupancy, or enjoyment of the Property or any improvements constructed on the Property.

Each of the undersigned persons executing this deed on behalf of the Grantor represents and certifies that s/he is a duly authorized representative of the Grantor and has been fully empowered, by proper action of the governing body of the Grantor, to execute and deliver this deed, that the Grantor has full corporate capacity to convey the real estate described herein, and that all necessary action for the making of such conveyance has been taken and done.

GRANTOR:

CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

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

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Marcia I. Jones and Donald E. Inks, known to me to be the President and Secretary, respectively, of the South Bend Redevelopment Commission and acknowledged the execution of the foregoing Special Warranty Deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the ____ day of _____, 2018.

My Commission Expires:

Notary Public
Residing in St. Joseph County, Indiana

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.

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