

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

This Third Amendment to Development Agreement (this “Third Amendment”), is effective as of June 28, 2018 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), and Heading for Home LLC, a Delaware limited liability company with offices at 501 W. South St., South Bend, Indiana 46601 (the “Developer”) (each, a “Party,” and collectively, the “Parties”).

RECITALS

A. The Parties entered into that certain Development Agreement dated August 25, 2016, as amended by the First Amendment dated June 15, 2017 and the Second Amendment dated April 26, 2018 (collectively, the “Development Agreement”), concerning the Developer’s development of the Developer Property as a mixed-use project including, without limitation, residential, commercial, and retail/hospitality uses.

B. In accordance with and subject to the terms of the Development Agreement, the Commission agreed to expend no more than Four Million Forty-Eight Thousand Dollars (\$4,048,000.00) (the “Funding Amount”) to complete certain Local Public Improvements in support of the Developer’s construction on the Developer’s Property.

C. In accordance with Section 5.2(c) of the Development Agreement, bids were received for the Local Public Improvements by the City of South Bend Board of Public Works (the “Board”), as the Commission’s agent, and the winning bid exceeded the Funding Amount.

D. At its public meeting on June 26, 2018, the Board conditionally awarded the contract for the Local Public Improvements (the “LPI Contract”) upon the Commission’s increase of the Funding Amount by Forty-Five Thousand Dollars (\$45,000.00) (the “Funding Amount Increase”).

E. In consideration of the Commission’s willingness to increase the Funding Amount, and thereby to permit the Board’s award of the LPI Contract, the Developer has agreed to pay the Funding Amount Increase in the manner set forth in this Third Amendment.

NOW, THEREFORE, in consideration of the mutual promises and obligations stated in the Development Agreement and this Third Amendment, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. In Section 1.3 of the Development Agreement, which defines the Commission’s Funding Amount, the term “Four Million Forty-Eight Thousand Dollars (\$4,048,000.00)” shall be deleted and replaced with the term “Four Million Ninety-Three Thousand Dollars (4,093,000.00).”

2. The Developer hereby expressly reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of completing the Local Public Improvements, including any necessary change orders to the LPI Contract, in excess of the Funding Amount, as such amount is hereby amended. The Developer hereby acknowledges that the Developer or the Developer’s designee will inspect the Local Public Improvements upon completion and hereby expressly

reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of inspecting the Local Public Improvements.

3. Notwithstanding any provision to the contrary, the Commission's obligations to complete the Local Public Improvements will be satisfied in full upon the completion of the LPI Contract, irrespective of the final amount of the LPI Contract.

4. As an inducement for the Commission's increase of the Funding Amount under this Third Amendment and as a further assurance to the Commission pursuant to Section 9.12 of the Development Agreement, within five (5) days after the Effective Date of this Third Amendment, the Developer (or the Developer's designee) will submit to the Commission certified funds in the amount of Forty-Five Thousand Dollars (\$45,000.00), which funds will be applied at an appropriate time to the LPI Contract in accordance with the Board's ordinary payment practices and applicable laws.

5. Unless expressly modified by this Third Amendment, the terms and provisions of the Development Agreement remain in full force and effect.

6. Capitalized terms used in this Third Amendment will have the meanings set forth in the Development Agreement unless otherwise stated herein.

7. The recitals set forth above are hereby incorporated into the operative provisions of this Third Amendment.

8. This Third Amendment will be governed and construed in accordance with the laws of the State of Indiana.

9. This Third Amendment may be executed in separate counterparts, each of which when so executed shall be an original, but all of which together shall constitute one and the same instrument. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties hereby execute this Third Amendment To Development Agreement to be effective as of the Effective Date stated above.

COMMISSION:

CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

DEVELOPER:

HEADING FOR HOME LLC,
a Delaware limited liability company

By: _____
Name: Andrew Berlin
Title: Manager