



Department of
Community Investment

Memorandum

January 29, 2015

TO: Redevelopment Commission
FROM: Scott Ford
SUBJECT: 2015 Infrastructure Bond – Public Hearing and Resolution No. 3273

On January 15, the Commission approved Resolution No. 3267. This Resolution approved preliminary plans, specifications, and cost estimates; scheduled a public hearing for January 29; authorized the publication of a notice of public hearing; and found that the project is not a controlled project for the purposes of the lease approval procedures of IC 6-1.1-20-1.1.

The South Bend Redevelopment Authority adopted a resolution on January 21, 2015 that approved the proposed form of lease between the Authority and the Commission for the lease of the Project and to provide for the issuance of lease rental revenue bonds of the Authority to finance the costs of the Project, including costs relating to the issuance of such bonds.

Resolution No. 3273 is the next step, whereby the Commission, upon Common Council (Council) approval, authorizes the President and Secretary to execute and deliver the Lease; determines the annual rental payments are fair and reasonable and that the project will serve a public purpose; and directs the Secretary to transmit to the Council a copy of this Resolution and authorizes the filing with the Council of an approving Resolution.

Memo from 1/15/15

The attached Resolutions # 3267 and Lease Agreement are for the purpose of issuance of bonds to finance the construction of local public improvements to support the City's Smart Streets initiative and West Side Main Streets Revitalization Plan. This bond is consistent with the inter-related aims of: Fiscal stewardship; Economic development; and, a Plan-driven redevelopment agenda, and will allow the City to strategically focus its resources on current priorities.

Project Description

The bond project consists of the planning, engineering, acquisition, construction, and maintenance of certain additions, changes, including, but not limited to pavement, streetscape, sidewalk, bulb-outs, signal control changes, trees, signage, markings, utilities, bicycle facilities, number of lanes, lane direction, drainage, utilities, parking, lighting, and right-of-way for the following stretches of road:



- 1) Bartlett Street between Lafayette Blvd and Riverside Drive
- 2) Michigan Street between Riverside Drive and Barbie Street
- 3) Main Street between Park Lane and Barbie Street
- 4) St. Joseph Street between LaSalle Avenue and Western Avenue
- 5) Lafayette Blvd between Park Lane and Indiana Avenue
- 6) Lincolnway West between W LaSalle Avenue and the City Limits (Woodland Avenue)
- 7) Western Avenue between Michigan Street and Mayflower Road
- 8) Marian and Madison Streets between Michigan and Lincolnway West.
- 9) Any cross streets related to the foregoing stretches.

The project is scheduled to be complete by fall 2016. The bond proceeds will enable a more efficient implementation pattern with concurrent construction that will minimize traffic disruption.

Bond Schedule

Based on a preliminary schedule, it is anticipated that the bond approval process would entail the following steps:

- January 15, 2015: Meeting of the Commission to adopt resolution authorizing reimbursement for preliminary costs from the proceeds from bonds and preliminary resolution approving the form of the lease and authorizing public hearing on the lease.
- January 21, 2015: Meeting of Redevelopment Authority to adopt a resolution to approve the lease.
- January 29, 2015: Meeting of the Commission to (i) hold a public hearing at which all interested are provided the opportunity to be heard regarding proposed lease, (ii) adopt a resolution approving the execution of the lease on behalf of the Commission, and (iii) adopt resolution authorizing funding of the 2015 Bonds and creation of funds and accounts
- February 9, 2015: Meeting of the Common Council to consider resolution approving the lease and approving issuance of bonds by the Authority.
- February 11, 2015: Execution of lease by Redevelopment Authority and Commission.
- February 18, 2015: Meeting of Redevelopment Authority to adopt the bond resolution approving the of the issuance of bonds, execution of trust agreement and agency agreement with South Bend Public Works and delegating approval of Preliminary Official Statement.
- March 10, 2015: Meeting of the South Bend Board of Public Works to approve of a form of Agency Agreement with the Authority.

Bond sale would occur in the third week of March with their closing the first to second week of April.

Amount

The bond amount is to be \$25M inclusive of all transaction costs, capitalize interest and debt service reserve fund, netting approximately \$21.4M in proceeds available for projects. The term of the bond is anticipated to be repaid over 20 years, with a maximum lease rental payment of up to \$1.9M per year.

Staff requests approval of Resolution # 3273 and the Lease Agreement between the South Bend Redevelopment Authority and South Bend Redevelopment Commission.

RESOLUTION NO. 3273

**RESOLUTION OF THE
SOUTH BEND REDEVELOPMENT COMMISSION
AUTHORIZING THE EXECUTION OF A LEASE FOR CERTAIN LOCAL
PUBLIC IMPROVEMENTS ON BEHALF OF THE CITY OF SOUTH BEND,
INDIANA, AND REGARDING OTHER RELATED MATTERS**

WHEREAS, the South Bend Redevelopment Commission (the "Commission"), governing body of the City of South Bend, Indiana, Department of Redevelopment (the "Department") and the Redevelopment District of the City of South Bend, Indiana (the "Redevelopment District"), exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953 which has been codified in Indiana Code 36-7-14 et seq., as amended from time to time (the "Act"); and

WHEREAS, the City of South Bend Redevelopment Authority (the "Authority") has been created pursuant to Indiana Code 36-7-14.5 as a separate body corporate and politic, and as an instrumentality of the City of South Bend, Indiana (the "City"), to finance local public improvements for lease to the Commission pursuant to Section 25.2 of the Act and Indiana Code 36-7-14.5; and

WHEREAS, the Commission has previously designated and declared an area in the City, known as the River West Development Area to be an economic development area and an allocation area (collectively, the "Area") for the purpose of collecting tax increment finance revenues (the "TIF Revenues"), adopted an Economic Development Plan, and established an allocation fund for said Area; and

WHEREAS, the Commission has been considering the need to finance the acquisition, construction and installation of certain local public improvements as part of the City's Smart Streets initiative and Westside Main Streets Revitalization Plan which local public improvements shall consist of all or any portion of the acquisition, construction and installation of the following: pavement, streetscape, and sidewalk improvements, bulb-out installation, street signage and markings, installation of bicycle facilities, road widening, intersection and traffic signal interconnection improvements, utility relocation, utility and sidewalk improvements, and installation of lighting and right-of-way improvements, all of which local public improvements are to be located along the following stretches of road: (i) Bartlett Street between Lafayette Blvd and Riverside Drive; (ii) Michigan Street between Riverside Drive and Barbie Street; (iii) Main Street between Park Lane and Barbie Street; (iv) St. Joseph Street between LaSalle Avenue and Western Avenue; (v) Lafayette Blvd between Park Lane and Indiana Avenue; (vi) Western Avenue between Michigan Street and Mayflower Road; (vii) Lincolnway West between West LaSalle Avenue and the City limits (Woodland Avenue); (viii) Marion and Madison Streets between Michigan Street and Lincolnway West; and (ix) any cross streets related to the foregoing stretches and various expenses related thereto (collectively, the "Project"); and

WHEREAS, on January 15, 2015, the Commission adopted Resolution 3267 approving the form of a lease to be dated as of February 1, 2015, with the Authority (the "Lease"), scheduling a public hearing on the Lease to be held on January 29, 2015 at 9:30 a.m., local time, authorizing the publication of a notice of public hearing on said lease pursuant to Indiana Code § 5-3-1; and

WHEREAS, a notice of public hearing on the Lease was published on January 16, 2015, pursuant to Indiana Code § 5-3-1; and

WHEREAS, on this date said public hearing has been held and all interested parties have been provided the opportunity to be heard at the hearing; and

WHEREAS, pursuant to the Lease, a copy of which is attached hereto as Exhibit A, the Commission intends to pay rent to the Authority (the "Rental Payments"), pursuant to the terms of the Lease, at an annual rate not to exceed One Million Nine Hundred Ninety Thousand and 00/100 Dollars (\$1,990,000.00), payable in semiannual installments on January 15 and July 15 beginning on the day the Project is completed and ready for use, or July 15, 2017, whichever is later, through expiration of the Lease, which Rental Payments are subject to reduction as set forth in the Lease; and

WHEREAS, the Project as described above and in Exhibit B to the Lease now also includes reference to Marion and Madison Streets between Michigan Street and Lincolnway West as such stretches of road were inadvertently omitted from the description of the Project contained in the Commission's Resolution No. 3267;

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

1. The President and Secretary of this Commission are hereby authorized and directed, on behalf of the City to execute and deliver the Lease in substantially the form presented at this meeting with such changes in form or substance as the President of this Commission shall approve, such approval to be conclusively evidenced by the execution thereof, which execution shall occur following approval of the Lease by the Common Council of the City (the "Common Council") as provided herein.

2. The Rental Payments to be paid by the Commission, pursuant to the terms of the Lease, at an annual rate not to exceed One Million Nine Hundred Ninety Thousand and 00/100 Dollars (\$1,990,000.00), payable in semiannual installments on January 15 and July 15, beginning on the day the Project is completed and ready for use or July 15, 2017, whichever is later, through expiration of the Lease and which Rental Payments are subject to reduction as set forth in the Lease, are fair and reasonable, and the use of the Project throughout the term of the Lease will serve the public purpose of the City and is in the best interests of its residents.

3. The Secretary of the Commission (the "Secretary") is hereby directed to transmit to the Common Council a copy of this Resolution, and the Commission hereby authorizes the filing with said Common Council of an approving resolution for the purpose of said Common Council's

finding, prior to execution of the Lease, that the Rental Payments are fair and reasonable and approving the Lease.

4. This resolution shall be in full force and effect after its adoption by the Commission.

* * * * *

ADOPTED AND APPROVED at a meeting of the South Bend Redevelopment Commission held on the 29th day of January, 2015.

**CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT**

Signature

Printed Name and Title

South Bend Redevelopment Commission

ATTEST:

Signature

Printed Name and Title

South Bend Redevelopment Commission

EXHIBIT A

**Form of Lease
(Attached)**

LEASE

Between

**SOUTH BEND
REDEVELOPMENT AUTHORITY**

and

**CITY OF SOUTH BEND, INDIANA,
REDEVELOPMENT COMMISSION**

DATED AS OF FEBRUARY 1, 2015

INDEX

	<u>Page</u>
Section 1. Definitions.....	1
Section 2. Lease of Project.....	2
Section 3. Rental Payments.....	3
Section 4. Rental Payment Dates and Amounts.....	3
Section 5. Abatement of Rent	4
Section 6. Net Lease	4
Section 7. Nonliability of Authority	4
Section 8. Alterations.....	4
Section 9. Insurance	4
Section 10. Use of Insurance and Condemnation Proceeds.....	5
Section 11. Liability Insurance	6
Section 12. General Insurance Provisions	6
Section 13. General Covenants	6
Section 14. Option to Purchase	6
Section 15. Defaults	7
Section 16. Notices	7
Section 17. Construction of Covenants.....	7
Section 18. Successors or Assigns	7

LEASE

This Lease entered into as of the 1st day of February, 2015, between the SOUTH BEND REDEVELOPMENT AUTHORITY (the "Authority"), a body corporate and politic organized and existing under Indiana Code 36-7-14.5, and the CITY OF SOUTH BEND, INDIANA, REDEVELOPMENT COMMISSION (the "Commission"), the governing body of the City of South Bend, Indiana, Department of Redevelopment and the Redevelopment District of the City of South Bend, Indiana (the "Lessee"), acting for and on behalf of the City of South Bend, Indiana.

WITNESSETH:

Section 1. Definitions. The terms defined in this Section 1 shall for all purposes of this Lease have the meanings herein specified unless the context otherwise requires.

"2015 Infrastructure Project Principal and Interest Account" means the account by that name created in the Redevelopment Bond Fund by the Lease Resolution.

"Act" means Indiana Code 36-7-14.5, as the same from time to time may be amended or supplemented.

"Authority" means the South Bend Redevelopment Authority, a body corporate and politic organized and existing under the Act, or if said Authority shall be abolished, the authority, board, body, instrumentality or agency succeeding to the principal functions thereof.

"Bonds" means South Bend Redevelopment Authority Lease Rental Revenue Bonds, Series 2015.

"Lease" means this Lease as the same may be amended, modified or supplemented by any amendments or modifications hereof or supplements hereto entered into in accordance with the provisions hereof.

"Lessee" means the City of South Bend, Indiana, Redevelopment Commission, the governing body of the South Bend Department of Redevelopment and the Redevelopment District of the City of South Bend, Indiana, or if said Commission shall be abolished, the commission, board, body or agency succeeding to the principal functions thereof.

"Lease Resolution" means the resolution of the Commission passed on _____, 2015, establishing funds for the payment of lease rentals.

"Permitted Encumbrances" means those items listed in Exhibit A hereto and any future (a) liens for taxes not then delinquent, (b) this Lease and the Trust Agreement, leases, subleases and other agreements permitted pursuant to Section 13 hereof, (c) utility, access and other easements and rights-of-way, restrictions and exceptions that Lessee certifies will not interfere with or impair the Project, (d) any mechanics', laborers', materialmen's, suppliers' or vendors' lien or right in respect thereof if payment is not yet due and payable and (e) such minor

defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as do not, in the opinion of the Trustee, materially impair the Authority's title or Lessee's use of the Project.

"Project" means, collectively, the projects and interests in the real estate described at Exhibit B attached hereto and incorporated herein (including all right-of-way easements and leasehold interests contained therein) and improvements to be constructed thereon by the Authority or its agent, which Project is to be financed with the proceeds of the Bonds issued by the Authority and leased to the Commission, pursuant to the Lease.

"Redevelopment District Bond Fund" means the Redevelopment District Bond Fund of Lessee authorized by Indiana Code 36-7-14-27 and the Lease Resolution.

"Trust Agreement" means the Trust Agreement dated as of _____ 1, 2015, between the Authority and the Trustee, securing the Bonds.

"Trustee" means the financial institution selected to serve as trustee pursuant to the Trust Agreement, and any successor trustee.

Any term not defined herein, which is defined in the Lease Resolution or in the Trust Agreement, shall have the meaning as defined in such resolution or agreement.

Section 2. Lease of Project. In consideration of the rentals and other terms and conditions herein specified the Authority does hereby lease, demise and let to the Lessee the Project: TO HAVE AND TO HOLD the same with all rights, privileges, easements and appurtenances thereunto belonging, unto the Lessee for a term not to exceed Twenty-two (22) years, beginning on the date the Project is complete and ready for use, and ending on the day prior to such date at most Twenty-two (22) years thereafter. However, the term of this Lease shall terminate at the earlier of (a) the exercise of the option to purchase by Lessee and payment of the option price, or (b) the payment or defeasance of all obligations of Lessor incurred (i) to finance the cost of the leased property, (ii) to refund such obligations, (iii) to refund such refunding obligations. The date the Project is complete and ready for use shall be endorsed on this Lease at the end hereof by the parties hereto as soon as the same can be done after such completion date and such endorsement shall be recorded as an addendum to this Lease. The Authority hereby represents that it is possessed of, or will acquire, a good and indefeasible estate in fee simple or an insurable right-of-way easement subject only to Permitted Encumbrances, to the above-described real estate, and the Authority warrants and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of the Lessee.

Notwithstanding the foregoing, the Project may be modified to add additional property to the Project or remove any portion of the Project, provided, however, following such modification, the rental payable under this Lease shall be based on the value of the portion of the Project which is available for use, and the rental payments due under this Lease shall be in amounts sufficient to pay when due all principal of and interest on all outstanding Bonds. If any part of the Project shall be partially or totally destroyed, or is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use or occupancy by the Lessee, as described in Section 5 hereof, the Lessee and the Authority agree to substitute other public improvements of

similar value as the Project, which substitute improvements shall then constitute the Project under this Lease.

Section 3. Rental Payments.

(a) During the term of this Lease, the Lessee agrees to pay rental for said premises as set forth in Section 4 hereof. Such rental shall be paid from the 2015 Infrastructure Project Principal and Interest Account of the Redevelopment District Bond Fund. All rentals payable under the terms of this Lease shall be paid to the Trustee or to such other bank or trust company as may from time to time succeed the Trustee under the Trust Agreement. All payments so made shall be considered as payments to the Authority of the rentals payable hereunder. The Lessee shall receive credit for any Bond maturing within seven (7) days of the date of the lease rental payment, at the face value thereof, which the Lessee acquires and delivers to the Trustee as a part of its lease rental payment.

(b) As additional rental the Lessee agrees to pay all fees, charges and reimbursement of expenses of the Trustee under the Trust Agreement and all prudent charges and expenses of the Authority incurred in the performance of its obligations hereunder.

Section 4. Rental Payment Dates and Amounts. The first semiannual rental installment in the amount of Nine Hundred Ninety-five Thousand Dollars (\$995,000) shall be due on the day that the Project is completed and ready for use or July 15, 2017, whichever is later. If completion is later than July 15, 2017, the first installment shall be in an amount which provides for rental at the rate of \$995,000 for the semiannual period in which the Project is completed and ready for use, prorated from the date of completion until the first January 15 or July 15 following such date of completion. Thereafter such rentals shall be payable in advance in semiannual installments of \$995,000 on January 15 and July 15 of each year. The last semiannual rental payment due before the expiration of this Lease shall be adjusted to provide for rental at the amount specified above for the applicable semiannual period prorated from the date such installment is due to the date of the expiration of this Lease (without taking into account any subsequent early termination of this Lease pursuant to Section 2 hereof).

After the sale of the Bonds issued by the Authority to pay the cost of the acquisition of the property therefor and other expenses incidental thereto, the sum of the first and second semiannual rental installments and the sum of the third and fourth semiannual rental installments, and so on, shall be reduced to an amount equal to the multiple of One Thousand Dollars (\$1,000.00) next highest to the highest sum of principal and interest due in any year ending on a Bond maturity date on such Bonds plus Five Thousand Dollars (\$5,000.00), payable in equal semiannual installments. Such amount of reduced annual rental shall be endorsed on this Lease at the end hereof by the parties hereto as soon as the same can be done after the sale of said Bonds, and such endorsement shall be recorded as an addendum to this Lease.

The Lessee will not take any action or fail to take any action that would result in the loss of the exclusion from gross income for federal tax purposes of interest on the Bonds pursuant to Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"), as in

effect on the date of delivery of the Bonds, nor will the Lessee act in any manner which would adversely affect such exclusion. The Lessee further covenants that it will not make any investment or do any other act or thing during the period that any Bond is outstanding hereunder which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code and the regulations thereunder as in effect on the date of delivery of the Bonds. All officers, members, employees and agents of the Lessee are authorized and directed to provide certifications of facts and estimates that are material to the reasonable expectations of the Lessee as of the date the Bonds are issued and to enter into covenants on behalf of the Lessee evidencing the Lessee's commitments made herein.

Section 5. Abatement of Rent. If any part of the Project is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use by the Lessee, it shall then be the obligation of the Authority to restore and rebuild that portion of the Project as promptly as may be done, unavoidable strikes and other causes beyond the control of the Authority excepted; provided, however, that the Authority shall not be obligated to expend on such restoration or rebuilding more than the condemnation proceeds received by the Authority.

If any part of the Project shall be partially or totally destroyed, or is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use or occupancy by the Lessee, the rent shall be abated for the period during which the Project or such part thereof is unfit or unavailable for use, and the abatement shall be in proportion to the percentage of the Project which is unfit or unavailable for use or occupancy.

Section 6. Net Lease. It is expressly understood and agreed that this Lease shall be what is known as a net lease (i.e., the rent being absolutely net to the Authority and that all other expenses in connection with the Project of any nature whatsoever shall be those of the Lessee) and that during the lease term the Lessee shall be obligated to pay as its expenses without reimbursement from the Authority all costs of taxes and assessments, if any, and maintenance, operation and use in connection with or relating to the Project, including but not limited to all costs and expenses of all services, repair or replacement of all parts of the Project or improvements of the Project.

Section 7. Nonliability of Authority. The Authority shall not be liable for damage caused by hidden defects or failure to keep the Project in repair and shall not be liable for any damage done or occasioned by or from plumbing, gas, water, or other pipes or the bursting or leaking of plumbing or heating fixtures in connection with said premises, nor for damage occasioned by water, snow or ice. The Authority shall not be liable for any injury to the Lessee or any sublessee of the Lessee or any other person which injury occurs on, in or about the Project howsoever arising. The Authority shall not be liable for damage to the Lessee's property or to the property of any sublessee of the Lessee or of any other person which may be located in, upon or about the Project.

Section 8. Alterations. Lessee shall have the right, without the consent of the Authority, to make all alterations, modifications and additions and to do all improvements it deems necessary or desirable to the Project, which do not reduce the rental value of the Project.

Section 9. Insurance. During the full term of this Lease, the Lessee shall, at its own expense, carry combined bodily injury insurance, including accidental death, and property

damage insurance with reference to the Leased Premises in an amount not less than Five Hundred Thousand Dollars (\$500,000) on account of each occurrence with one or more good and responsible insurance companies. Such public liability insurance may be by blanket insurance policy or policies.

The proceeds of the public liability insurance required herein (after payment of expenses incurred in the collection of such proceeds) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds are paid. Such policies shall be for the benefit of persons having an insurable interest in the Project, and shall be made payable to the Authority, the Lessee, and the Trustee and to such other person or persons as the Authority may designate. Such policies shall be countersigned by an agent of the insurer who is a resident of the State of Indiana and deposited with the Authority and the Trustee. If, at any time, the Lessee fails to maintain insurance in accordance with this Section, such insurance may be obtained by the Authority and the amount paid therefor shall be added to the amount of rentals payable by the Lessee under this Lease; provided, however, that the Authority shall be under no obligation to obtain such insurance and any action or non-action of the Authority in this regard shall not relieve the Lessee of any consequence of its default in failing to obtain such insurance.

The insurance policies described in this Section 9 may be acquired by another party and shall satisfy this Section as long as the Authority, the Lessee and the Trustee are named as additional insureds under such policies. Such coverage may be provided by scheduling it under a blanket insurance policy or policies.

Section 10. Use of Condemnation Proceeds. If title to or the temporary use of the Project, or any part thereof, shall be taken under the exercise or the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, any net proceeds received from any award made in such eminent domain proceedings (after payment of expenses incurred in such collection) shall be paid to and held by the Trustee under the Trust Agreement.

Such proceeds shall be applied in one (1) or more of the following ways:

- (a) The restoration of the Project to substantially the same condition as it existed prior to the exercise of that power of eminent domain, or
- (b) the acquisition, by construction or otherwise, of other improvements suitable for the Lessee's operations on the Project and which are in furtherance of the purposes of the Act (the improvements shall be deemed a part of the Project and available for use and occupancy by the Lessee without the payment of any rent other than as herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby).

Within ninety (90) days from the date of entry of a final order in any eminent domain proceedings granting condemnation, the Lessee shall direct the Authority and the Trustee in writing as to which of the ways specified in this Section the Lessee elects to have the net proceeds of the condemnation award applied. Any balance of the net proceeds of the award in

such eminent domain proceedings not required to be applied for the purposes specified in subsections (a) or (b) above shall be deposited in the sinking fund held by the Trustee under the Trust Agreement and applied to the repayment of the Bonds.

The Authority shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof and will to the extent it may lawfully do so permit the Lessee to litigate in any such proceedings in its own name or in the name and on behalf of the Authority. In no event will the Authority voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the written consent of the Lessee, which consent shall not be unreasonably withheld.

Section 11. Liability Insurance. The Lessee shall, at all times during the full term of this Lease, keep in effect, public liability and property damage insurance, insuring the Lessee, the Authority and the Trustee in amounts customarily carried for similar properties.

Section 12. General Insurance Provisions. All insurance policies required by Sections 9 and 11, shall be with insurance companies rated B+ or better by A.M. Best Company (or a comparable rating service if A.M. Best company ceases to exist or rate insurance companies), and shall be countersigned by an agent of the insurer who is a resident of the State of Indiana, and such policies, or copies thereof, shall be deposited with the Authority and the Trustee. If, at any time, the Lessee fails to maintain insurance in accordance with Sections 9 and 11, such insurance may be obtained by the Authority, or may be obtained by the Trustee, and the amount paid for such insurance shall be added to the amount of rental payable by the Lessee under this Lease; provided, however, that neither the Authority nor the Trustee shall be under any obligation to obtain such insurance, and any action or non-action of the Authority or Trustee in this regard shall not relieve the Lessee of any consequences of a default in failing to obtain such insurance.

Section 13. Covenants. The Lessee shall not assign this Lease. The Lessee covenants that, except for Permitted Encumbrances, it will not encumber the Project, or permit any encumbrance to exist thereon, and that it shall use and maintain the Project in accordance with the laws and ordinances of the United States of America, the State of Indiana, and all other proper governmental authorities. The Authority agrees that it will, at the request of the Lessee, execute and deliver to or upon the order of the Lessee such instrument or instruments as may be reasonably required by the Lessee in order to subject the Project, or the Authority's interest therein, to such encumbrances as shall be specified in such request and as shall be permitted by the provisions of this Section 13 or otherwise by the definition of "Permitted Encumbrances".

Section 14. Option to Purchase. The Authority hereby grants Lessee the right and option, on any rental payment date, upon thirty days' written notice to the Authority, to purchase the Project at a price equal to the amount required to enable the Authority to provide for the redemption of all outstanding Bonds, all premiums payable on the redemption thereof, and accrued and unpaid interest, and to pay the cost of redeeming the Bonds and liquidating the Authority if it is to be liquidated.

Upon request of the Lessee, the Authority agrees to furnish an itemized statement setting forth the amounts required to be paid by the Lessee on the next rental payment date in order to purchase the Project in accordance with the preceding paragraph.

If the Lessee exercises its option to purchase, the Lessee shall pay to the Trustee that portion of the purchase price which is required to provide for the payment of all the Bonds, including all premiums payable on the redemption thereof, accrued and unpaid interest thereon and the costs of redemption thereof. Such payment shall not be made until the Trustee gives to the Lessee a written statement that such amount will be sufficient to retire all Bonds including all premiums payable on the redemption thereof and accrued and unpaid interest.

The remainder of such purchase price, if any, shall be paid by the Lessee to the Authority. Nothing herein contained shall be construed to provide that the Lessee shall be under any obligation to purchase the Project, or under any obligation in respect to any creditors or bondholders of the Authority.

If the Lessee has not exercised its option to purchase the Project at the expiration of the term of the Lease and upon the full discharge and performance by the Lessee of its obligations under this Lease, the Authority shall execute a deed of the Project to the Lessee conveying good and merchantable title thereto, subject only to Permitted Encumbrances.

Section 15. Defaults. If the Lessee shall (a) default in the payment of any rentals or other sums payable to the Authority hereunder, or in the payment of any other sum herein required to be paid for the Authority, (b) fail to comply with the terms set forth in the Lease Resolution, or (c) default in the observance of any other covenant, agreement or condition hereof, and such default under (c) shall continue for ninety (90) days after written notice to correct the same, then, in any of such events, the Authority may proceed to protect and enforce its rights, either at law or in equity, by suit, action, mandamus or other proceedings, whether for specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy.

Section 16. Notices. Whenever either party shall be required to give notice to the other under this Lease, it shall be sufficient service of such notice to deposit the same in the United States mail, in an envelope duly stamped, registered and addressed to the other party at its last known place of business. A copy of any notice shall be mailed by first-class mail to the Trustee at its last known place of business.

Section 17. Construction of Covenants. All provisions contained herein shall be construed in accordance with the provisions of the Act and to the extent of inconsistencies, if any, between the covenants and agreements in this Lease and the provisions of the Act, the provisions of said Act shall be deemed to be controlling and binding upon the parties.

Section 18. Successors or Assigns. All covenants of this Lease, whether by the Authority or the Lessee, shall be binding upon the successors and assigns of the respective parties hereto.

* * * * *

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed for and on their behalf as of the day and year first hereinabove written.

SOUTH BEND
REDEVELOPMENT AUTHORITY

By: _____
President

ATTEST:

Secretary-Treasurer

CITY OF SOUTH BEND, INDIANA,
REDEVELOPMENT COMMISSION

By: _____
President

ATTEST:

Secretary

(Signature Page to Lease)

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, personally known by me to be the President and Secretary-Treasurer, respectively, of the South Bend Redevelopment Authority, and acknowledged the execution of the foregoing Lease for and on behalf of said Authority.

WITNESS my hand and Notarial Seal this _____ day of _____, 2015.

(SEAL)

(Written Signature)

(Printed Signature)

My Commission expires: _____

My County of residence is: _____ County

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, personally known by me to be the President and Secretary, respectively, of the City of South Bend, Indiana, Redevelopment Commission, and acknowledged the execution of the foregoing Lease for and on behalf of said Commission.

WITNESS my hand and Notarial Seal this _____ day of _____, 2015.

(SEAL)

(Written Signature)

(Printed Signature)

My Commission expires: _____

My County of residence is: _____ County

"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." Randolph R. Rompola

This instrument was prepared by Randolph R. Rompola, FAEGRE BAKER DANIELS LLP, 202 S. Michigan Street, Suite 1400, South Bend, Indiana, 46601.

EXHIBIT A

PERMITTED ENCUMBRANCES

The standard encumbrances and exceptions to the title as would be set forth on the Policy of Title Insurance covering the real estate and improvements thereon which are subject to the Lease to be provided at the time the Bonds are delivered.

EXHIBIT B

PROJECT DESCRIPTION **AND** **REAL ESTATE DESCRIPTION**

The Project includes the acquisition, construction and installation of certain local public improvements as part of the City's Smart Streets initiative and Westside Main Streets Revitalization Plan which local public improvements shall consist of all or any portion of the acquisition, construction and installation of the following: pavement, streetscape, and sidewalk improvements, bulb-out installation, street signage and markings, installation of bicycle facilities, road widening, intersection and traffic signal interconnection improvements, utility relocation, utility and sidewalk improvements, and installation of lighting and right-of-way improvements.

The aforementioned Project will be located on real estate described as follows:

The foregoing local public improvements are to be located along the following stretches of road: (i) Bartlett Street between Lafayette Blvd and Riverside Drive; (ii) Michigan Street between Riverside Drive and Barbie Street; (iii) Main Street between Park Lane and Barbie Street; (iv) St. Joseph Street between LaSalle Avenue and Western Avenue; (v) Lafayette Blvd between Park Lane and Indiana Avenue; (vi) Western Avenue between Michigan Street and Mayflower Road; (vii) Lincolnway West between West LaSalle Avenue and the City limits (Woodland Avenue); (viii) Marion and Madison Streets between Michigan Street and Lincolnway West; and (ix) any cross streets related to the foregoing stretches.