



South Bend

Redevelopment Commission

227 West Jefferson Boulevard, Room 1308, South Bend, Indiana

Agenda

Regular Meeting, August 25, 2016, 9:30 a.m.

1. Roll Call

2. Approval of Minutes

A. Minutes of the Regular Meeting of Thursday, August 11, 2016

3. Approval of Claims

A. Claims Submitted August 25, 2016

4. Old Business

5. New Business

A. River West Development Area

- (1) Third Amendment to Development Agreement (Former College Football Hall of Fame)
- (2) Request for Funding Increase (Chet Waggoner Drive)
- (3) First Amendment to Development Agreement (St. Joseph County Airport Authority)
- (4) Real Property Transfer Agreement (St. Joseph County Airport Authority)
- (5) Real Estate Purchase Agreement (Bare Hands Brewery)
- (6) Resolution No. 3345 (Heading for Home LLC project agreements)



(7) Assignment and Assumption of Real Estate Option Agreement (Heading for Home LLC)

(8) Real Estate Purchase Agreement (Heading for Home LLC)

(9) Development Agreement (Heading for Home LLC)

B. River East Development Area

(1) Development Agreement (River Walk L.L.C.)

(2) License Agreement for parking (Colfax Hill Partners, LLC)

C. Other

(1) Accounting Services Agreement for TIF Administration Services (H.J. Umbaugh & Associates)

6. Progress Reports

A. Tax Abatement

B. Common Council

C. Other

7. Next Commission Meeting:

Thursday, September 15, 2016, 9:30 a.m.

8. Adjournment

NOTICE FOR HEARING AND SIGHT IMPAIRED PERSONS

Auxiliary Aid or Other Services are Available upon Request at No Charge.

Please Give Reasonable Advance Request when Possible.



South Bend

Redevelopment Commission

227 West Jefferson Boulevard, Room 1308, South Bend, Indiana

SOUTH BEND REDEVELOPMENT COMMISSION REGULAR MEETING

August 11, 2016

9:30 a.m.

Presiding: Marcia Jones, President

227 West Jefferson Boulevard
South Bend, Indiana

The meeting was called to order at 9:30 a.m.

1. ROLL CALL

Members Present:

Marcia Jones, President
Dave Varner, Vice President
Don Inks, Secretary
Greg Downes, Commissioner
Gavin Ferlic, Commissioner
John Anella, Commissioner

Legal Counsel:

Benjamin Dougherty, Esq.

Redevelopment Staff:

David Relos, Associate
Mary Brazinsky, Recording Secretary

Others Present:

Brian Pawlowski
Aaron Kobb
Sarah Heintzelman
Conrad Damian
Carol Meehan
Tom Welsh
Mark Seaman

2. APPROVAL OF MINUTES

A. Approval of Minutes of the Regular Meeting of Thursday, July 28, 2016

Upon a motion by Secretary Inks, seconded by Commissioner Ferlic, the motion carried 5-0, the Commission approved the minutes of the regular meeting of Thursday, July 28, 2016.

3. APPROVAL OF CLAIMS

A. Claims Submitted August 11, 2016

Upon a motion by Commissioner Downes, seconded by Secretary Inks, the motion carried 5-0, the Commission approved the Claims submitted August 11, 2016.

4. Old Business

5. New Business

A. Receipt of Bids

(1) 802-812 S. Lafayette

Mr. Relos stated today at nine am was the deadline for the receipt of bids for 802-812 S. Lafayette which was taken through the Disposition Process. As of the deadline, no bids were received.

B. River West Development Area

(2) Approval of Bid Specifications and Design Considerations – 5 lots on Brick/Cleveland Road

Mr. Relos stated the next three items go together for the disposition of these five lots on Brick/Cleveland Roads, between Ameritech and Dylan Drives. This first item is approval of the Bid Specifications and Design Considerations.

Upon a motion by Commissioner Downes, seconded by Secretary Inks the motion carried 5-0, the Commission approved Bid Specifications and Design Considerations – 5 lots on Brick/Cleveland Road submitted August 11, 2016.

(3) Resolution No. 3344 - 5 lots on Brick/Cleveland Road

Mr. Relos stated Resolution No. 3344 is for the proposed fair market value of the property.

Upon a motion by Commissioner Downes, seconded by Secretary Inks the motion carried 5-0, the Commission approved Resolution No. 3344 – five lots on Brick/Cleveland Road submitted August 11, 2016.

(4) Request to Advertise - 5 lots on Brick/Cleveland Road

Mr. Relos requested the Commission's approval to advertise the disposition property.

Upon a motion by Commissioner Downes, seconded by Secretary Inks the motion carried 5-0, the Commission approved Request to Advertise – 5 lots on Brick/Cleveland Road submitted August 11, 2016.

(5) Ignition Park South AEP Line Removal/Relocation Funding Request

Mr. Relos presented a funding request for Ignition Park South AEP Line Removal/Relocation. Mr. Relos states this is to prepare Ignition Park South for development possibilities. Most utilities have been removed or relocated in the past year and a half. AEP's estimate is between \$32,000 to \$33,000 to remove and relocate the remaining utilities. Staff is requesting funds not to exceed \$50,000.

Upon a motion by Vice President Varner, seconded by Secretary Inks the motion carried 5-0, the Commission approved Ignition Park South AEP Line Removal/Relocation Funding Request submitted August 11, 2016.

(6) First Amendment to Lease - Tapastrie

Mr. Pawlowski presented a First Amendment to Lease for Tapastrie. Based on unexpected expenses related to water damage repairs and maintenance to their basement in the past year, Tapastrie is asking for Commission approval to abate their rent from August 2016 to January 2017.

Upon a motion by Secretary Inks, seconded by Commissioner Downes the motion carried 5-0, the Commission approved First Amendment to Lease - Tapastrie submitted August 11, 2016.

(7) Commencement Certificate GLC Portage Prairie, LLC

Ms. Heintzelman presented the Commencement Certificate GLC Portage Prairie, LLC. Per the Master Lease with GLC Portage Prairie LLC, once the Building Department issues a Certificate of Occupancy, a Commencement Certificate will be approved. The date of the Commencement Certificate is August 5, 2016, which triggers rental payments to GLC.

Upon a motion by Vice President Varner, seconded by Commissioner Downes the motion carried 5-0, the Commission approved Commencement Certificate GLC Portage Prairie, LLC submitted August 11, 2016.

(8) First Amendment to Master Lease - GLC Portage Prairie, LLC

Ms. Heintzelman presented a First Amendment to Master Lease – GLC Portage Prairie, LLC. To allow AM General to move its service parts, and logistics operations to Ameriplex at Interstate 80/90 in South Bend, and allow them time to ramp up those operations, it is requested for the Commission to pay an additional five months of rent. This move will bring 123 jobs and 9.3 million in annual payroll. The AM General lease is for ten years.

Upon a motion by Vice President Varner, seconded by Commissioner Downes the motion carried 5-0, the Commission approved First Amendment to Master Lease - GLC Portage Prairie, LLC submitted August 11, 2016.

(9) JPR Supplemental Remediation Environmental – Gates Service Center

Mr. Relos presented JPR Supplemental Remediation Environmental – Gates Service Center. To complete the closure of the hydraulic lifts at Gates Service Center, the remaining cap of the last hydraulic lift needs to be specially removed in order to allow access of the pumping, power washing and removal of residual waste water for off-site disposal. Four remaining 23 gallon to 40 gallon hydraulic oil reservoir tanks also cannot be removed, and need a 1-foot x 1-foot saw cut of concrete surrounding the plug to remove all contents, be cleaned, and backfilled with concrete fill. Approval is requested in the amount of \$5,965.

Upon a motion by Commissioner Downes, seconded by Commissioner Ferlic the motion carried 5-0, the Commission approved JPR Supplemental Remediation Environmental – Gates Service Center submitted August 11, 2016.

6. Progress Reports

- A. Tax Abatement
 - 1. AM General: 5 year tax abatement
 - 2. Transfer of Ownership (from SBG Realty to Somaschini Realty)
- B. Common Council
 - None
- C. Other

7. Next Commission Meeting:

Thursday, August 25, 2016, 9:30 a.m.

8. Adjournment

Thursday, August 11, 2016, 9:41 a.m.

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

THIS THIRD AMENDMENT TO DEVELOPMENT AGREEMENT (this “Third Amendment”) is made on August 25, 2016 (the “Effective Date”), by and between the South Bend Redevelopment Commission, the governing body of the City of South Bend Department of Redevelopment (the “Commission”), and Southhold, LLC, an Indiana limited liability company with its registered office at 120 Dixieway North, South Bend, Indiana (the “Developer”) (each a “Party,” and collectively the “Parties”).

RECITALS

A. The Commission and the Developer entered into that certain Development Agreement dated July 16, 2015, as amended by the First Amendment to Development Agreement dated March 24, 2016, and the Second Amendment to Development Agreement dated May 26, 2016 (collectively, the “Development Agreement”), for the redevelopment of the Project Site, including reusing and rehabilitating the building known as the former College Football Hall of Fame and constructing a new hotel on an adjacent parcel in downtown South Bend referred to as the Jefferson Lot.

B. The Developer has commenced construction activities on the Jefferson Lot and wishes to delay the commencement of the License Agreement for construction activities in or on the Hall of Fame Property contemplated in Section 3.3.2 of the Development Agreement until the Occupancy Date (as defined in Section 3.4.1(d) of the Development Agreement).

C. The Commission has agreed to delay the commencement of the License Agreement, and the Parties desire to amend the Development Agreement in accordance with the terms of this Third Amendment.

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

1. In consideration of the Commission’s agreement to delay the commencement of the License Agreement, the Developer will pay the sum of Seventy-Five Thousand Dollars (\$75,000.00) to the Commission within ten (10) days after the Effective Date of this Third Amendment. Upon receipt by the Commission, said amount will constitute a partial payment of the Purchase Price for the Hall of Fame Property under Section 3.4.1(d) of the Development Agreement.

2. In the second sentence of Section 3.3.2 of the Development Agreement, the term “August 11, 2016” is deleted and replaced by the term “the Occupancy Date (as defined below).”

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

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

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

COMMISSION:

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

DEVELOPER:

Southhold, LLC



Anant Patel, Sole Member

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Department of
Community Investment

Redevelopment Commission Agenda Item

DATE: August 25, 2016
FROM: David Relos, Economic Resources *DR*
SUBJECT: Request for Funding Increase (Chet Waggoner Dr.)

As development continues to thrive in Ameriplex at Interstate 80 / 90 on the northwest side of the City, a new street and utilities need to be built to open more sites on the east side of Dylan Dr. This paved street would be 28 feet wide and 1,600 feet long with a cul-de-sac at its end, and include a new water main and sanitary sewer.

This project would open 45 acres for development and spur an estimated \$30 million plus in private investment.

On June 30th the Commission approved a funding amount of \$650,000. Because bids came in higher than expected, in addition to needing third party inspection services and the infrastructure for future street lighting, a funding increase is requested.

Staff requests approval of a \$150,000 funding increase, to complete infrastructure improvements and inspection services for Chet Waggoner Dr.

INTERNAL USE ONLY: Project Code: 16J006
Total Amount increase in budget: \$150,000; broken down by:
Acct # 324-1050-460-42.03
Going to BPW for Contracting? Yes Is this item ready to encumber now? Yes
Existing PO# _____ Inc/Dec \$ _____



FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “First Amendment”), dated as of July 28, 2016 (the “Effective Date”), is made and entered into between the City of South Bend Department of Redevelopment, by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), and the St. Joseph County Airport Authority (“SBN”), organized and duly existing under the laws of Indiana (the Commission and SBN being sometimes referred to herein individually as a “Party” and collectively as the “Parties”).

RECITALS

WHEREAS, the Commission and SBN entered into that certain Development Agreement dated December 17, 2015 (the “Development Agreement”); and

WHEREAS, the Development Agreement provides for the transfer of the Annexation Parcels owned by SBN to the City’s Board of Public Works; and

WHEREAS, the Annexation Parcels will be accepted by the Commission, rather than the Board of Public Works; and

WHEREAS, to establish the Commission as the intended grantee of the Annexation Parcels under the terms of the Development Agreement, the Parties desire to amend the Development Agreement in accordance with this First Amendment.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The foregoing Recitals are incorporated into the operative provisions of this First Amendment as if fully set out herein. Capitalized terms used in this First Amendment will have the meanings set forth in the Development Agreement unless otherwise stated herein.

2. Section 7 of the Development Agreement is amended to read in its entirety as follows:

“Immediately upon the Effective Date of this Agreement, SBN will begin its application for all approvals, including, without limitation, approval from the FAA, necessary for SBN’s conveyance of the real property described in attached **Exhibit C** and attached **Exhibit C1** (the “Annexation Parcels”) to the Commission. Promptly upon receiving the necessary approvals, SBN shall transfer the Annexation Parcels to the Commission pursuant to a written agreement to be negotiated in good faith by SBN and the Commission, provided that the following conditions have first been satisfied: (1) SBN has completed its voluntary annexation of the Annexation Parcels into the City pursuant to Section 8 of this Agreement; and (2) the Commission has completed, to the Commission’s satisfaction (as determined in the Commission’s sole discretion), all of its due diligence concerning

the Annexation Parcels, including, without limitation, its review of title and environmental matters. The written agreement to be negotiated will provide that SBN will convey the Annexation Parcels to the Commission by corporate special warranty deed, but SBN will make no further warranties concerning the quality or fitness of the Annexation Parcels and will agree to convey them to the Commission in as-is condition. The conveyance of the Annexation Parcels will be subject to (i) applicable FAA regulations concerning the use of the Annexation Parcels in light of their proximity to the Airport, and (ii) a restriction that the Annexation Parcels not be used for residential purposes or other non-compatible uses as recommended by the FAA. Notwithstanding anything herein to the contrary, SBN's receipt of all necessary approvals to convey the Annexation Parcels, such that it will be entitled to do so freely without delay or cost to the City or Commission, is a condition precedent to all of the Commission's obligations under this Agreement, including without limitation its obligation to expend funds for the Ramp Project."

3. Both instances of the term "City" appearing in Section 9 of the Development Agreement are replaced by the term "Commission."

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

IN WITNESS WHEREOF, the Parties have duly executed this First Amendment to Development Agreement to be effective as of the Effective Date stated above.

[Signature page follows.]

**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

ST. JOSEPH COUNTY AIRPORT AUTHORITY

Signature

Printed Name and Title

ATTEST:

Signature

Printed Name and Title

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REAL PROPERTY TRANSFER AGREEMENT

This Real Property Transfer Agreement (this “Agreement”) is made on August 25, 2016 (the “Effective Date”), by and between the St. Joseph County Airport Authority (“SBN”), and the City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission, of 1400 S. County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana 46601 (the “Commission”) (each a “Party” and together the “Parties”).

RECITALS

A. SBN is organized and duly existing under the laws of the State of Indiana. The Commission exists and operates pursuant to Ind. Code 36-7-14 (as amended, the “Act”).

B. SBN owns certain parcels of real property located outside the corporate boundary of the City of South Bend (the “City”), and more particularly described in attached **Exhibit A** (the “Property”).

C. Pursuant to Ind. Code 36-7-14-12.2(a)(1), the Commission is empowered to acquire interests in real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the City.

D. Pursuant to Section 7 of the Development Agreement entered into by the Parties on December 17, 2015 (the “Development Agreement”), SBN desires to convey the Property to the Commission for nominal consideration after annexing the Property into the City.

E. By its letter dated June 9, 2016, the Federal Aviation Administration (the “FAA”) consented to SBN’s transfer of the Property to the Commission as provided for in the Development Agreement.

F. In accordance with the Development Agreement, SBN has initiated the legal processes for annexing and rezoning the Property.

G. The Commission has determined that accepting the Property from SBN under the terms of this Agreement is in the best interests of the residents of the City.

THEREFORE, in consideration of the mutual covenants and promises in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the Commission and SBN agree as follows:

1. **Transfer of Property.** SBN agrees to convey the Property to the Commission for and in consideration of One Dollar (\$1.00), and other valuable consideration, and the Commission agrees to accept the Property subject to the terms and conditions of this Agreement. SBN’s conveyance of the Property will be at the closing described in Section 10 below (the “Closing,” the date of which is the “Closing Date”).

2. Parties' Representatives. The Commission's representative for purposes of this Agreement will be Brian Pawlowski, Acting Executive Director, Department of Community Investment, City of South Bend, 1400 S. County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana 46601 (the "Commission's Representative"). SBN's representative for purposes of this Agreement will be Mike Daigle, Executive Director of the St. Joseph County Airport Authority, 4477 Progress Dr., South Bend, Indiana 46628 ("SBN's Representative").

3. Due Diligence.

(a) SBN acknowledges that the Commission's acceptance of the Property requires investigation into various matters (the Commission's "Due Diligence"). Therefore, the Commission's obligation to accept the Property is conditioned upon the satisfactory completion, in the Commission's sole discretion, of the Commission's Due Diligence, including, without limitation, the Commission's examination of environmental matters, real property title matters, and the like, as applicable.

(b) The Commission shall have until September 9, 2016, to complete its examination of the Property in accordance with this Section 3 (the "Due Diligence Period"). During the Due Diligence Period, the Commission and its representatives, agents, and contractors may enter and conduct any examination upon the Property the Commission deems appropriate to complete its Due Diligence.

4. SBN's Documents. Upon the Commission's request, SBN will provide the Commission a copy of all known environmental inspection, engineering, title, and survey reports and documents in SBN's possession relating to the Property.

5. FAA Approval; Preservation of Title. SBN represents and warrants that, except for annexation and zoning approvals contemplated in this Agreement, prior to the Effective Date of this Agreement it has obtained all necessary approvals, including the approval of the Federal Aviation Administration, to convey the Property to the Commission without the necessity of any action by or cost to the Commission. SBN represents and warrants that since the effective date of the Development Agreement it has not taken or allowed to be taken, and after the Effective Date of this Agreement it will not take or allow to be taken, any action causing the Property to become subject to any interests, liens, restrictions, easements, covenants, reservations, or other matters affecting SBN's title (such matters are referred to as "Encumbrances"). SBN acknowledges that, at the Commission's sole expense, the Commission has obtained or intends to obtain and to rely upon a commitment for title insurance on the Property (the "Title Commitment") and a survey of the Property (the "Survey") identifying all Encumbrances as of the Effective Date. The Property shall be conveyed to the Commission free of any Encumbrances other than Permitted Encumbrances (as defined in Section 7 below).

6. Title Commitment and Policy Requirements. The Commission shall obtain the Title Commitment (or an update to the same, as needed) for an owner's policy of title insurance issued by a title company selected by the Commission and reasonably acceptable to SBN (the "Title Company"). The Title Commitment shall (i) agree to insure good, marketable, and indefeasible fee simple title to the Property (including public road access) in the name of the Commission upon delivery and recordation of a special warranty deed from SBN to the

Commission, and (ii) provide for issuance of a final ALTA owner's title insurance policy, with any endorsements requested by the Commission, subject to the Permitted Encumbrances. Regardless of whether this transaction closes, the Commission shall be responsible for all of the Title Company's title search charges and all costs of the Title Commitment and owner's policy.

7. Review of Title Commitment and Survey. The Commission shall give SBN written notice, within sixty (60) days after the Effective Date, of any objections to the Title Commitment or Survey. Any exceptions identified in the Title Commitment or Survey to which written notice of objection is not given within such period shall be a "Permitted Encumbrance." If SBN is unable or unwilling to correct the Commission's title and survey objections on or before the Closing Date, then such objections shall constitute "Permitted Encumbrances."

8. Dispute Resolution.

(a) Forum. Any action to enforce the terms or conditions of this Agreement or otherwise concerning a dispute under this Agreement will be commenced in the courts of St. Joseph County, Indiana, unless the Parties mutually agree to an alternative method of dispute resolution.

(b) Waiver of Jury Trial. Both Parties hereby waive any right to trial by jury with respect to any action or proceeding relating to this Agreement.

9. Notices. All notices required or allowed by this Agreement, before or after Closing, shall be delivered in person or by certified mail, return receipt requested, postage prepaid, addressed to the Commission in care of the Commission's Representative (with a copy to South Bend Legal Department, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601, Attn: Corporation Counsel), or to SBN in care of SBN's Representative at their respective addresses stated in Section 2. Either Party may, by written notice, modify its address or representative for future notices.

10. Closing.

(a) The Closing Date will be on or about October 14, 2016.

(b) At Closing, SBN will convey the Property to the Commission by a special warranty deed, in the form attached hereto as **Exhibit B**, which conveyance will be subject to the reservations and restrictions required under the FAA's consent letter dated June 9, 2016.

(c) The Commission will pay all closing costs, including the Title Company's closing fees and/or document preparation fees, and all recordation fees associated with the Closing.

(e) The Commission shall have no obligation to complete the transaction contemplated in this Agreement unless, before the Closing Date, SBN has (i) completed its voluntary annexation of the Property into the City pursuant to Section 8 of the Development Agreement, and (ii) completed its rezoning of the Property to "Light Industrial," which the Parties expect to be completed simultaneous with the annexation of the Property into the City.

(f) The Parties agree to provide one another such customary documents as are reasonably required to complete the Closing.

11. No Warranties. The Commission agrees to accept the Property in its condition on the Closing Date "as-is, where-is" and without any representations or warranties by the SBN concerning title to or the condition, quality, or fitness of the Property. SBN offers no such

representation or warranty as to title or condition, and nothing in this Agreement will be construed to constitute such a representation or warranty as to title or condition.

12. Taxes. SBN, and SBN's successors and assigns, will be liable for any and all real property taxes and assessments, if any, assessed and levied against the Property for the time before the Closing Date ("Pre-Closing Taxes"). The Commission, and the Commission's successors and assigns, will be liable for any and all real property taxes and assessments, if any, assessed and levied against the Property for any time after the Closing Date. Nothing in this Agreement shall be construed to require the proration or other apportionment of real property taxes resulting in the Commission's liability for Pre-Closing Taxes.

13. Remedies. Upon any default in or breach of this Agreement by either Party, the defaulting Party will proceed immediately to cure or remedy such default within thirty (30) days after receipt of written notice of such default or breach from the non-defaulting Party, or, if the nature of the default or breach is such that it cannot be cured within thirty (30) days, the defaulting Party will diligently pursue and prosecute to completion an appropriate cure within a reasonable time. In the event of a default or breach that remains uncured for longer than the period stated in the foregoing sentence, the non-defaulting Party may terminate this Agreement, commence legal proceedings, including an action for specific performance, or pursue any other remedy available at law or in equity. All the Parties' respective rights and remedies concerning this Agreement and the Property are cumulative.

14. Commissions. The Parties mutually acknowledge and warrant to one another that neither the Commission nor SBN is represented by any broker in connection with the transaction contemplated in this Agreement. The Commission and SBN agree to indemnify and hold harmless one another from any claim for commissions in connection with the transaction contemplated in this Agreement.

15. Interpretation; Applicable Law. Both Parties having participated fully and equally in the negotiation and preparation of this Agreement, this Agreement shall not be more strictly construed, nor shall any ambiguities in this Agreement be presumptively resolved, against either Party. This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

16. Entire Agreement, Severability. This Agreement, together with Section 7 of the Development Agreement, embodies the entire agreement between SBN and the Commission and supersedes all prior discussions, understandings, or agreements, whether written or oral, between SBN and the Commission concerning the transaction contemplated in this Agreement. In the event of any conflict between the terms of this Agreement and the terms of the Development Agreement, the terms of this Agreement will prevail. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect and will in no way be affected, impaired, or invalidated.

17. Recitals and Exhibits. The above recitals and the attached exhibits are hereby incorporated into this Agreement.

18. Binding Effect; Counterparts; Signatures. All the terms and conditions of this Agreement will be effective and binding upon the Parties and their successors and assigns as of the Effective Date stated above. This Agreement may be separately executed in counterparts by the Commission and SBN, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

19. Authority to Execute. The undersigned persons executing and delivering this Agreement on behalf of the respective Parties represent and certify that they are the duly authorized representatives of each and have been fully empowered to execute and deliver this Agreement and that all necessary corporate action has been taken and done.

IN WITNESS WHEREOF, the Parties hereby execute this Real Property Transfer Agreement to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT COMMISSION

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

ST. JOSEPH COUNTY AIRPORT AUTHORITY

ATTEST:

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EXHIBIT A

Description of Property

Parcel I

Lots Numbered Two A (2A) and Outlot A (OLA) in Cascino Second Minor Subdivision as per plat thereof recorded September 9, 1991 as Instrument Number 9125343 in the Office of the Recorder of Saint Joseph County, Indiana. [Parcel Key Nos. 04-1021-035201 and 04-1021-035202]

Parcel II

A tract of land in the Northeast Quarter of the Northwest Quarter of Section 31, and the Northwest Quarter of the Northwest Quarter of Section 31, all in Township 38 North, Range 2 East, described as follows: Beginning at the intersection of the West line of the Southeast Quarter of the Southwest Quarter of Section 30, Township 38 North, Range 2 East, with the centerline of Indiana State Highway No. U.S. 20, also known as Lincoln Trail; running thence South 279.15 feet to the Northwest Corner of said Northeast Quarter of the Northwest Quarter of said Section 31; thence West 10.00 feet; thence South parallel with the West line of the Northeast Quarter of the Northwest Quarter of said Section 31, a distance of 583.45 feet, to the point of beginning of the description of the land herein described; thence running East parallel with the South line of said Northeast Quarter of the Northwest Quarter, a distance of 697.0 feet; thence South parallel with the West line of said Northeast Quarter of the Northwest Quarter, a distance of 350.0 feet; thence West parallel with the South line of said Northeast Quarter of the Northwest Quarter, a distance of 142.0 feet; thence South parallel to the West line of said Northeast Quarter of the Northwest Quarter of said Section 31, a distance of 400.0 feet to the South line of said Northeast Quarter of the Northwest Quarter; thence West 545.0 feet to the Southwest Corner of said Northeast Quarter of the Northwest Quarter of said Section 31; thence North along the West line of said Northeast Quarter of the Northwest Quarter a distance of 579.45 feet; thence West 10.0 feet; thence North 170.55 feet to the place of beginning. [Parcel Key No. 04-1021-035301]

Parcel III

A tract of land located in the Northeast Quarter of the Northwest Quarter of Section 31, Township 38 North, Range 2 East, German Township, St. Joseph County, Indiana, being all that portion of a tract of land, previously conveyed to the State of Indiana by a warranty deed signed by Herbert William Oesch and Evelyn E. Oesch, which lies outside of the Limited Access Right-of-Way for the U.S. 31 By-Pass of South Bend, and further described as follows: Commencing at the intersection of the West line of the Southeast Quarter of the Southwest Quarter of Section 30, Township 38 North, Range 2 East, with the centerline of USR 20, also known as Lincoln Trail, thence South 61°25' East, 981 feet along the centerline of said USR 20; thence South 1°21'15" East, 620.5 feet to an existing iron pin, said pin being the point of beginning for the following described tract; thence South 88°56'32" West 12.75 feet along the existing property line to an iron pin set; thence North 1°21'15" West, 416.10 feet along the existing property line to an iron pin set on the Limited Access Right-of-Way line along the Southwest Ramp at the U.S. 20-U.S. 31 bypass interchange, said point being 0.5 feet, measured perpendicular, from the Limited Access Right-of-Way Fence; thence South 38°25'53" East, 59.58 feet along the Limited Access Right-of-Way line to an iron pin set; thence South 29°13'45" East, 418.30 feet along the Limited Access Right-of-

Way line to an iron pin set on the South property line of the tract; thence South 88°56'32" West, 218.74 feet along the South property line of the tract to the point of beginning. Contains 1.151 acres more or less. [Parcel Key No. 04-1021-035302]

Parcel IV

A part of the Northeast Quarter of the Northwest Quarter of Section 31, Township 38 North, Range 2 East, St. Joseph County, Indiana, described as follows: Beginning on the West line of the Northeast Quarter of the Northwest Quarter of Section 31, North 0°11'00" West 119.44 feet from the Northwest corner of said Quarter Quarter Section; thence South 61°25'00" East 138.9 feet to the point of beginning; thence South 54°47'30" East a distance of 425.98 feet to a point; thence South 56°00'00" East a distance of 268 feet to a point; thence South parallel to the West line of said Quarter Quarter Section, a distance of 600 feet; thence due West a distance of 142.00 feet; thence South parallel to the West line of said Quarter Quarter Section, a distance of 400.00 feet; thence due East along the South line of said Quarter Quarter Section, a distance of 742.30 feet; thence North parallel to the West line of said Quarter Quarter Section, a distance of 48.00 feet; thence Northwesterly along the Southerly boundary line of U.S. 20-U.S. 31 bypass a distance of 516.95 feet to a point; thence due West a distance of 221.68 feet; thence due North a distance of 425.00 feet to a point on the Southerly boundary line of U.S. 20; thence Northwesterly along said Southerly boundary line of U.S. 20 a distance of 80.00 feet to a point; thence Northwesterly along said Southerly boundary line of U.S. 20 a distance of 794.34 feet to a point; thence South 28°35'00" West a distance of 60.00 feet to the Point of Beginning. [Parcel Key No. 04-1021-035303]

Parcel V

The West Half of the Northwest Quarter of Section 31 and the Southeast Quarter of the Northwest Quarter of said Section 31, all in Township 38 North, Range 2 East.

EXCEPTING THEREFROM THE FOLLOWING 8 TRACTS:

TRACT I: Beginning at the Southwest corner of the Northwest Quarter of said Section 31; running thence North 544 feet; thence East 761 feet; thence South 544 feet; thence West 761 feet to the place of beginning.

TRACT II: Beginning at the Northwest Corner of the Northeast Quarter of said Section 31; running thence West 10 feet; thence South 754 feet; thence East 10 feet; thence North 754 feet to the place of beginning.

TRACT III: Beginning at a point 40 feet East and 353 feet South of the Northwest corner of said Section 31; thence South 220 feet; thence East 280 feet; thence North 220 feet; thence West 280 feet to the place of beginning.

TRACT IV: Beginning at a point 10 feet West of the Northeast corner of the Northwest Quarter of the Northwest Quarter of said Section 31; running thence South parallel with the East line of said Northwest Quarter of the Northwest Quarter of Section 31, 733 feet to the North line of a 20 foot drive; thence West on said North line 557.7 feet; thence North 734.6 feet to the North line of said Section 31; thence East 539.5 feet to the place of beginning.

TRACT V: A tract of parcel of land in the Northwest Quarter of Section 31, Township 38 North, Range 2 East, more particularly described as follows, to-wit: Beginning at a point on the South line of said Northwest Quarter of said Section 31 which point is 761 feet East of the Southwest corner of said Northwest Quarter; thence East 200 feet; thence North 544 feet; thence West 200 feet; thence South 544 feet to the place of beginning.

TRACT VI: A part of the Northwest Quarter of the Northwest Quarter of Section 31, Township 38 North, Range 2 East, described as beginning at a point 40 feet East and 40 feet South of the Northwest corner of the Northwest Quarter of said Section 31; thence South 313 feet; thence East 280 feet; thence North 313 feet; thence West 280 feet to the place of beginning.

TRACT VII: A tract of land in the Northwest Quarter of the Northwest Quarter of Section 31, Township 38 North, Range 2 East, bounded by a line running as follows: Beginning at the Northwest corner of said Section 31; thence running East along the North line of said Section 582 feet to an iron stake; thence South and parallel with the West line of said Section, 1090 feet; thence West and parallel with the North line of said Section 31, 582 feet; thence North 517 feet to the Southwest corner of Joseph Milewski land; thence East along the South line of the Milewski land, 320 feet; thence North and parallel with the West line of said Section 31, a distance of 533 feet to a point which is 40 feet South of the North line of said Section; thence West on a line 40 feet South of and parallel with the North line of said Section 31, a distance of 320 feet to the West line of said Section 31; thence North 40 feet to the place of beginning.

TRACT VIII: A parcel of land located in the Northwest Quarter of Section 31, Township 38 North, Range 2 East, of the Second Principal Meridian in German Township, St. Joseph County, Indiana, more particularly described as follows: Commencing at a railroad spike at the West Quarter corner of said Section 31; thence North along the West line of said Section 31, a distance of 544.00 feet to a railroad spike, to the point of beginning, said point of beginning also being the Northwest corner of property described in Deed Record 681, page 141 in the Office of the Recorder of St. Joseph County, Indiana; thence North along the West line of Section 31, a distance of 400.00 feet to a railroad spike; thence South $89^{\circ}56'27''$ East a distance of 2504.95 feet to an iron pipe in the North-South centerline of said Section 31, said centerline also being the West line of property described in Deed Record 779, page 518 in the Office of the Recorder of St. Joseph County, Indiana; thence South $1^{\circ}46'48''$ East along the North-South centerline of Section 31 a distance of 944.49 feet to a stone at the center of Section 31; thence North $89^{\circ}56'27''$ West along the East-West centerline of Section 31, also the North line of property described in Deed Record 720, page 117 and Deed Record 731, page 173 in the Office of the Recorder of St. Joseph County, Indiana, a distance of 1573.29 feet to an iron pipe, said iron pipe being the Southeast corner of property described in Deed Record 681, page 141 in the Office of the Recorder of St. Joseph County, Indiana; thence North along the East line of said property described in Deed Record 681, page 141, a distance of 544.00 feet to an iron pipe; thence North $89^{\circ}56'27''$ West along the North line of said property described in Deed Record 681, page 141, a distance of 961.00 feet to the point of beginning. [Parcel Key No. 04-1021-035110]

Parcel VI

A part of the South 1/2 of the Northeast Quarter of Section 31, Township 38 North, Range 2 East, St. Joseph County, Indiana, and described as follows: Beginning at a stone at the Southwest corner of said half-quarter section; thence North $0^{\circ}59'55''$ West 1,345.4 feet along the West line of said half-quarter section to the Western boundary of U.S.R. 31; thence South $33^{\circ}00'50''$ East 675.32 feet along said Western boundary; thence South $8^{\circ}47'10''$ East 409.58 feet; thence South $3^{\circ}11'15''$ East 376.16 feet to the South line of said half-quarter section; thence North $89^{\circ}46'50''$ West 427.96 feet along said South line to the point of beginning. [Parcel Key No. 04-1021-036004]

EXHIBIT B

Form of Special Warranty Deed

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that the St. Joseph County Airport Authority, duly organized and existing under the laws of Indiana (the "Grantor")

CONVEYS AND SPECIALLY WARRANTS to Department of Redevelopment of the City of South Bend, for the use and benefit of the Department of Redevelopment by and through its governing body, the South Bend Redevelopment Commission, 1400 S. County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana 46601 (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 real estate located in St. Joseph County, Indiana, more particularly described in attached Exhibit 1 (the "Property").

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; 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; and subject to all applicable building codes and zoning ordinances.

The Grantor reserves unto itself, its successors, and assigns for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Property. This public right shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the South Bend International Airport.

The Grantor conveys the Property to the Grantee subject to applicable laws and regulations of the Federal Aviation Administration, as the same may be replaced, amended, or supplemented from time to time ("FAA Regulations"), which affect the use of or construction upon the Property. The Grantee, and its successors and assigns, shall not use the Property for residential purposes or for any purpose in violation of FAA Regulations. The Grantee expressly agrees for itself, its successors, and assigns (a) not to construct or permit to stand on the Property any building, structure, poles, trees, or other object, whether natural or otherwise, of a height in excess of Federal Aviation Regulation (FAR) Part 77 surfaces relating to the South Bend International Airport; (b) to file a notice consistent with requirements of FAR Part 77 (FAA Form 7460-1) prior to constructing any facility, structure, or other item on the Property; (c) not to use or permit,

or suffer use of, the Property in such a manner as to create electrical interference with radio communication between the installation upon the airport and aircraft; make it difficult for flier to distinguish between airport lights and others; impair visibility in the vicinity of the South Bend International Airport; or endanger the landing, taking off, or maneuvering of aircraft; (d) not to use or permit, or suffer use of, the Property in such a manner as to create a potential for attracting birds and other wildlife that may pose a hazard to aircraft; and (e) not to use the Property for child care purposes or for a school or other full-time educational facility, provided, however, that the Property may be used for a museum or other facility with incidental educational purposes.

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.

[Signature page follows.]

GRANTOR:

ST. JOSEPH COUNTY AIRPORT AUTHORITY

ATTEST:

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

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared _____ and _____, known to me to be the _____ and _____, respectively, of the St. Joseph County Airport Authority 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 _____, 2016.

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.

EXHIBIT 1

Description of Property

Parcel I

Lots Numbered Two A (2A) and Outlot A (OLA) in Cascino Second Minor Subdivision as per plat thereof recorded September 9, 1991 as Instrument Number 9125343 in the Office of the Recorder of Saint Joseph County, Indiana. [Parcel Key Nos. 04-1021-035201 and 04-1021-035202]

Parcel II

A tract of land in the Northeast Quarter of the Northwest Quarter of Section 31, and the Northwest Quarter of the Northwest Quarter of Section 31, all in Township 38 North, Range 2 East, described as follows: Beginning at the intersection of the West line of the Southeast Quarter of the Southwest Quarter of Section 30, Township 38 North, Range 2 East, with the centerline of Indiana State Highway No. U.S. 20, also known as Lincoln Trail; running thence South 279.15 feet to the Northwest Corner of said Northeast Quarter of the Northwest Quarter of said Section 31; thence West 10.00 feet; thence South parallel with the West line of the Northeast Quarter of the Northwest Quarter of said Section 31, a distance of 583.45 feet, to the point of beginning of the description of the land herein described; thence running East parallel with the South line of said Northeast Quarter of the Northwest Quarter, a distance of 697.0 feet; thence South parallel with the West line of said Northeast Quarter of the Northwest Quarter, a distance of 350.0 feet; thence West parallel with the South line of said Northeast Quarter of the Northwest Quarter, a distance of 142.0 feet; thence South parallel to the West line of said Northeast Quarter of the Northwest Quarter of said Section 31, a distance of 400.0 feet to the South line of said Northeast Quarter of the Northwest Quarter; thence West 545.0 feet to the Southwest Corner of said Northeast Quarter of the Northwest Quarter of said Section 31; thence North along the West line of said Northeast Quarter of the Northwest Quarter a distance of 579.45 feet; thence West 10.0 feet; thence North 170.55 feet to the place of beginning. [Parcel Key No. 04-1021-035301]

Parcel III

A tract of land located in the Northeast Quarter of the Northwest Quarter of Section 31, Township 38 North, Range 2 East, German Township, St. Joseph County, Indiana, being all that portion of a tract of land, previously conveyed to the State of Indiana by a warranty deed signed by Herbert William Oesch and Evelyn E. Oesch, which lies outside of the Limited Access Right-of-Way for the U.S. 31 By-Pass of South Bend, and further described as follows: Commencing at the intersection of the West line of the Southeast Quarter of the Southwest Quarter of Section 30, Township 38 North, Range 2 East, with the centerline of USR 20, also known as Lincoln Trail, thence South 61°25' East, 981 feet along the centerline of said USR 20; thence South 1°21'15" East, 620.5 feet to an existing iron pin, said pin being the point of beginning for the following described tract; thence South 88°56'32" West 12.75 feet along the existing property line to an

iron pin set; thence North 1°21'15" West, 416.10 feet along the existing property line to an iron pin set on the Limited Access Right-of-Way line along the Southwest Ramp at the U.S. 20-U.S. 31 bypass interchange, said point being 0.5 feet, measured perpendicular, from the Limited Access Right-of-Way Fence; thence South 38°25'53" East, 59.58 feet along the Limited Access Right-of-Way line to an iron pin set; thence South 29°13'45" East, 418.30 feet along the Limited Access Right-of-Way line to an iron pin set on the South property line of the tract; thence South 88°56'32" West, 218.74 feet along the South property line of the tract to the point of beginning. Contains 1.151 acres more or less. [Parcel Key No. 04-1021-035302]

Parcel IV

A part of the Northeast Quarter of the Northwest Quarter of Section 31, Township 38 North, Range 2 East, St. Joseph County, Indiana, described as follows: Beginning on the West line of the Northeast Quarter of the Northwest Quarter of Section 31, North 0°11'00" West 119.44 feet from the Northwest corner of said Quarter Quarter Section; thence South 61°25'00" East 138.9 feet to the point of beginning; thence South 54°47'30" East a distance of 425.98 feet to a point; thence South 56°00'00" East a distance of 268 feet to a point; thence South parallel to the West line of said Quarter Quarter Section, a distance of 600 feet; thence due West a distance of 142.00 feet; thence South parallel to the West line of said Quarter Quarter Section, a distance of 400.00 feet;

thence due East along the South line of said Quarter Quarter Section, a distance of 742.30 feet; thence North parallel to the West line of said Quarter Quarter Section, a distance of 48.00 feet; thence Northwesterly along the Southerly boundary line of U.S. 20-U.S. 31 bypass a distance of 516.95 feet to a point; thence due West a distance of 221.68 feet; thence due North a distance of 425.00 feet to a point on the Southerly boundary line of U.S. 20; thence Northwesterly along said Southerly boundary line of U.S. 20 a distance of 80.00 feet to a point; thence Northwesterly along said Southerly boundary line of U.S. 20 a distance of 794.34 feet to a point; thence South 28°35'00" West a distance of 60.00 feet to the Point of Beginning. [Parcel Key No. 04-1021-035303]

Parcel V

The West Half of the Northwest Quarter of Section 31 and the Southeast Quarter of the Northwest Quarter of said Section 31, all in Township 38 North, Range 2 East.

EXCEPTING THEREFROM THE FOLLOWING 8 TRACTS:

TRACT I: Beginning at the Southwest corner of the Northwest Quarter of said Section 31; running thence North 544 feet; thence East 761 feet; thence South 544 feet; thence West 761 feet to the place of beginning.

TRACT II: Beginning at the Northwest Corner of the Northeast Quarter of said Section 31; running thence West 10 feet; thence South 754 feet; thence East 10 feet; thence North 754 feet to the place of beginning.

TRACT III: Beginning at a point 40 feet East and 353 feet South of the Northwest corner of said Section 31; thence South 220 feet; thence East 280 feet; thence North 220 feet; thence West 280 feet to the place of beginning.

TRACT IV: Beginning at a point 10 feet West of the Northeast corner of the Northwest Quarter of the Northwest Quarter of said Section 31; running thence South parallel with the East line of said Northwest Quarter of the Northwest Quarter of Section 31, 733 feet to the North line of a 20 foot drive; thence West on said North line 557.7 feet; thence North 734.6 feet to the North line of said Section 31; thence East 539.5 feet to the place of beginning.

TRACT V: A tract of parcel of land in the Northwest Quarter of Section 31, Township 38 North, Range 2 East, more particularly described as follows, to-wit: Beginning at a point on the South line of said Northwest Quarter of said Section 31 which point is 761 feet East of the Southwest corner of said Northwest Quarter; thence East 200 feet; thence North 544 feet; thence West 200 feet; thence South 544 feet to the place of beginning.

TRACT VI: A part of the Northwest Quarter of the Northwest Quarter of Section 31, Township 38 North, Range 2 East, described as beginning at a point 40 feet East and 40 feet South of the Northwest corner of the Northwest Quarter of said Section 31; thence South 313 feet; thence East 280 feet; thence North 313 feet; thence West 280 feet to the place of beginning.

TRACT VII: A tract of land in the Northwest Quarter of the Northwest Quarter of Section 31, Township 38 North, Range 2 East, bounded by a line running as follows: Beginning at the Northwest corner of said Section 31; thence running East along the North line of said Section 582 feet to an iron stake; thence South and parallel with the West line of said Section, 1090 feet; thence West and parallel with the North line of said Section 31, 582 feet; thence North 517 feet to the Southwest corner of Joseph Milewski land; thence East along the South line of the Milewski land, 320 feet; thence North and parallel with the West line of said Section 31, a distance of 533 feet to a point which is 40 feet South of the North line of said Section; thence West on a line 40 feet South of and parallel with the North line of said Section 31, a distance of 320 feet to the West line of said Section 31; thence North 40 feet to the place of beginning.

TRACT VIII: A parcel of land located in the Northwest Quarter of Section 31, Township 38 North, Range 2 East, of the Second Principal Meridian in German Township, St. Joseph County, Indiana, more particularly described as follows: Commencing at a railroad spike at the West Quarter corner of said Section 31; thence North along the West line of said Section 31, a distance of 544.00 feet to a railroad spike, to the point of beginning, said point of beginning also being the Northwest corner of property described in Deed Record 681, page 141 in the Office of the Recorder of St. Joseph County, Indiana; thence North along the West line of Section 31, a distance of 400.00 feet to a railroad spike; thence South $89^{\circ}56'27''$ East a distance of 2504.95 feet to an iron pipe in the North-South centerline of said Section 31, said centerline also being the West line of property described in Deed Record 779, page 518 in the Office of the Recorder of St. Joseph County, Indiana; thence South $1^{\circ}46'48''$ East along the North-South centerline of Section 31 a distance of 944.49 feet to a stone at the center of Section 31; thence North $89^{\circ}56'27''$ West along the East-West centerline of Section 31, also the North line of property described in Deed Record 720, page 117 and Deed Record 731, page 173 in the Office of the Recorder of St. Joseph County, Indiana, a distance of 1573.29 feet to an iron pipe, said iron pipe being the Southeast corner of property described in Deed Record 681, page 141 in the Office of the Recorder of St. Joseph County, Indiana; thence North along the East line

of said property described in Deed Record 681, page 141, a distance of 544.00 feet to an iron pipe; thence North $89^{\circ}56'27''$ West along the North line of said property described in Deed Record 681, page 141, a distance of 961.00 feet to the point of beginning. [Parcel Key No. 04-1021-035110]

Parcel VI

A part of the South 1/2 of the Northeast Quarter of Section 31, Township 38 North, Range 2 East, St. Joseph County, Indiana, and described as follows: Beginning at a stone at the Southwest corner of said half-quarter section; thence North $0^{\circ}59'55''$ West 1,345.4 feet along the West line of said half-quarter section to the Western boundary of U.S.R. 31; thence South $33^{\circ}00'50''$ East 675.32 feet along said Western boundary; thence South $8^{\circ}47'10''$ East 409.58 feet; thence South $3^{\circ}11'15''$ East 376.16 feet to the South line of said half-quarter section; thence North $89^{\circ}46'50''$ West 427.96 feet along said South line to the point of beginning. [Parcel Key No. 04-1021-036004]

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this "Agreement") is made on August 25, 2016 (the "Contract Date"), by and between the City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission ("Seller") and Chris Gerard, doing business as Bare Hands Brewery, a sole proprietorship with its principal place of business at 12804 Sandy Ct., Granger, Indiana 46530 ("Buyer") (each a "Party" and together the "Parties").

RECITALS

A. Seller exists and operates pursuant to the Redevelopment of Cities and Towns Act of 1953, as amended, being Ind. Code 36-7-14 (the "Act").

B. In furtherance of its purposes under the Act, Seller owns certain real property located in South Bend, Indiana (the "City"), and more particularly described in attached **Exhibit A** (the "Property").

C. Pursuant to the Act, Seller adopted its Resolution No. 3151 on August 15, 2013, whereby Seller established an offering price of Two Hundred Twenty-Seven Thousand Five Hundred Dollars (\$227,500.00) for the Property.

D. Pursuant to the Act, on August 15, 2013, Seller authorized the publication, on August 23, 2013, and August 30, 2013, respectively, of a notice of its intent to sell the Property and its desire to receive bids for said Property on or before September 12, 2013.

E. As of September 12, 2013, Seller received no bids for the Property, and, therefore, having satisfied the conditions stated in Section 22 of the Act, Seller now desires to sell the Property to Buyer on the terms stated in this Agreement.

THEREFORE, in consideration of the mutual covenants and promises in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, Buyer and Seller agree as follows:

1. **OFFER AND ACCEPTANCE**

A copy of this Agreement, signed by Buyer, constitutes Buyer's offer to purchase the Property on the terms stated in this Agreement and shall be delivered to Seller, in care of the following representative ("Seller's Representative"):

Brian Pawlowski, Acting Executive Director
Department of Community Investment
City of South Bend
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601

This offer shall expire thirty (30) days after delivery unless accepted by Seller. To accept Buyer's offer, Seller shall return a copy of this Agreement, counter-signed by Seller in accordance with applicable laws, to the following ("Buyer's Representative"):

Chris Gerard
12804 Sandy Ct.
Granger, Indiana 46530

2. PURCHASE PRICE

The purchase price for the Property shall be One Dollar (\$1.00) (the "Purchase Price"), payable by Buyer to Seller in cash at the closing described in Section 10 below (the "Closing," the date of which is the "Closing Date").

3. BUYER'S DUE DILIGENCE

A. Investigation. Seller acknowledges that Buyer's purchase of the Property requires investigation into various matters (Buyer's "Due Diligence"). Therefore, Buyer's obligation to complete the purchase of the Property is conditioned upon the satisfactory completion, in Buyer's discretion, of Buyer's Due Diligence, including, without limitation, Buyer's examination, at Buyer's sole expense, of zoning and land use matters, environmental matters, real property title matters, and the like, as applicable.

B. Due Diligence Period. Buyer shall have a period of sixty (60) days following the Contract Date to complete its examination of the Property in accordance with this Section 3 (the "Due Diligence Period").

C. Authorizations During Due Diligence Period. During the Due Diligence Period, Seller authorizes Buyer, upon Buyer providing Seller with evidence that Buyer has general liability insurance reasonably acceptable to Seller, in the amount of at least One Million Dollars (\$1,000,000), naming Seller as an additional insured and covering the activities, acts, and omissions of Buyer and its representatives at the Property, to

(i) enter upon the Property or to cause agents to enter upon the Property for purposes of examination; provided, that Buyer may not take any action upon the Property which reduces the value thereof and Buyer may not conduct any invasive testing at the Property without Seller's express prior written consent; further provided, that if the transaction contemplated herein is not consummated, Buyer shall promptly restore the Property to its condition prior to entry, and agrees to defend, indemnify and hold Seller harmless, before and after the Closing Date whether or not a closing occurs and regardless of any cancellations or termination of this Agreement, from any liability to any third party, loss or expense incurred by Seller, including without limitation, reasonable attorney fees and costs arising from acts or omissions of Buyer or Buyer's agents or representatives; and

(ii) file any application with any federal, state, county, municipal or regional agency relating to the Property for the purpose of obtaining any approval necessary for Buyer's

anticipated use of the Property. If Seller's written consent to or signature upon any such application is required by any such agency for consideration or acceptance of any such application, Buyer may request from Seller such consent or signature, which Seller shall not unreasonably withhold. Notwithstanding the foregoing, any zoning commitments or other commitments that would further restrict the future use or development of the Property, beyond the restrictions in place as a result of the current zoning of the Property, shall be subject to Seller's prior review and written approval.

D. Termination of Agreement. If at any time within the Due Diligence Period Buyer determines, in its sole discretion, not to proceed with the purchase of the Property, Buyer may terminate this Agreement by written notice to Seller's Representative.

4. SELLER'S DOCUMENTS; ENVIRONMENTAL SITE ASSESSMENT

Upon Buyer's request, Seller will provide Buyer a copy of all known environmental inspection, engineering, title, and survey reports and documents in Seller's possession relating to the Property. In the event the Closing does not occur, Buyer will immediately return all such reports and documents to Seller's Representative with or without a written request by Seller. In addition to reviewing any environmental reports provided by Seller, Buyer may, at Buyer's sole expense, obtain a Phase I environmental site assessment of the Property pursuant to and limited by the authorizations stated in Section 3 above.

5. PRESERVATION OF TITLE

After the Contract Date, Seller shall not take any action or allow any action to be taken by others to cause the Property to become subject to any interests, liens, restrictions, easements, covenants, reservations, or other matters affecting Seller's title (such matters are referred to as "Encumbrances"). Seller acknowledges that Buyer intends to obtain, at Buyer's sole expense, and to rely upon a commitment for title insurance on the Property (the "Title Commitment") and a survey of the Property (the "Survey") identifying all Encumbrances as of the Contract Date. The Property shall be conveyed to Buyer free of any Encumbrances other than Permitted Encumbrances (as defined in Section 7 below).

6. TITLE COMMITMENT AND POLICY REQUIREMENTS

Buyer shall obtain the Title Commitment for an owner's policy of title insurance issued by a title company selected by Buyer and reasonably acceptable to Seller (the "Title Company") within twenty (20) days of the Contract Date. The Title Commitment shall (i) agree to insure good, marketable, and indefeasible fee simple title to the Property (including public road access) in the name of the Buyer for the full amount of the Purchase Price upon delivery and recordation of a special warranty deed (the "Deed") from the Seller to the Buyer, and (ii) provide for issuance of a final ALTA owner's title insurance policy, with any endorsements requested by Buyer, subject to the Permitted Encumbrances. Regardless of whether this transaction closes, Buyer shall be responsible for all of the Title Company's title search charges and all costs of the Title Commitment and owner's policy.

7. **REVIEW OF TITLE COMMITMENT AND SURVEY**

Buyer shall give Seller written notice, within twenty (20) days after the Contract Date, of any objections to the Title Commitment or Survey. Any exceptions identified in the Title Commitment or Survey to which written notice of objection is not given within such period shall be a "Permitted Encumbrance." If the Seller is unable or unwilling to correct the Buyer's title and survey objections within the Due Diligence Period, Buyer may terminate this Agreement by written notice to Seller prior to expiration of the Due Diligence Period. If Buyer fails to so terminate this Agreement, then such objections shall constitute "Permitted Encumbrances" as of the expiration of the Due Diligence Period, and Buyer shall acquire the Property without any effect being given to such title and survey objections.

8. **DISPUTE RESOLUTION**

A. Forum. Any action to enforce the terms or conditions of this Agreement or otherwise concerning a dispute under this Agreement will be commenced in the courts of St. Joseph County, Indiana, unless the Parties mutually agree to an alternative method of dispute resolution.

B. Waiver of Jury Trial. Both Parties hereby waive any right to trial by jury with respect to any action or proceeding relating to this Agreement.

9. **NOTICES**

All notices required or allowed by this Agreement, before or after Closing, shall be delivered in person or by certified mail, return receipt requested, postage prepaid, addressed to Seller in care of Seller's Representative (with a copy to South Bend Legal Department, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601, Attn: Corporation Counsel), or to Buyer in care of Buyer's Representative at their respective addresses stated in Section 1 above. Either Party may, by written notice, modify its address or representative for future notices.

10. **CLOSING**

A. Timing of Closing. Unless this Agreement is earlier terminated, the Closing shall be held at the office of the Title Company, and the Closing Date shall be a mutually agreeable date not later than thirty (30) days after the end of the Due Diligence Period.

B. Closing Procedure.

(i) At Closing, Buyer shall deliver the Purchase Price to Seller, conditioned on Seller's delivery of the Deed, in the form attached hereto as **Exhibit B**, conveying the Property to Buyer, free and clear of all liens, encumbrances, title defects, and exceptions other than Permitted Encumbrances, and the Title Company's delivery of the marked-up copy of the Title Commitment (or pro forma policy) to Buyer in accordance with Section 6 above.

(ii) Possession of the Property shall be delivered to the Buyer at Closing, in the same condition as it existed on the Contract Date, ordinary wear and tear and casualty excepted.

C. RESERVED.

D. Closing Costs. Buyer shall pay all of the Title Company's closing and/or document preparation fees and all recordation costs associated with the transaction contemplated in this Agreement.

11. ACCEPTANCE OF PROPERTY AS-IS; REMEDIATION WORK; APPROVALS

A. "As-Is" Transaction. Buyer agrees to purchase the Property "as-is, where-is" and without any representations or warranties by Seller as to the condition of the Property or its fitness for any particular use or purpose. Seller offers no such representation or warranty as to condition or fitness, and nothing in this Agreement will be construed to constitute such a representation or warranty as to condition or fitness.

B. Remediation Work. The Parties acknowledge that Seller expects to complete certain environmental remediation work on the Property before the Closing Date (the "Seller's Work"). Seller will carry out Seller's Work in Seller's sole discretion and at Seller's sole expense. By undertaking Seller's Work, Seller accepts no liability for any damages or claims arising out of the environmental or other condition of the Property, and upon taking title to the Property Buyer accepts any and all such liabilities. In the event Seller's Work will be completed after the Closing Date, Seller will notify Buyer of the same, and Buyer will permit Seller to enter upon and have access to all parts of the Property necessary to complete Seller's Work.

C. Approvals for Relocation. The Parties acknowledge that Buyer intends to seek from relevant authorities all necessary approvals, including without limitation re-zoning and special use approvals, to facilitate Buyer's relocation to the Property of all of Buyer's current operations existing as of the Contract Date at its Granger, Indiana, location (Buyer's "Relocation"). In the event Buyer fails to obtain within six (6) months after the Closing Date all zoning and land use approvals necessary for Buyer's Relocation, Seller agrees to negotiate in good faith with Buyer for the re-conveyance of the Property to Seller, provided, however, Seller will not be required to bear any costs in connection with the transaction or assume any liabilities in connection with the Property.

12. BUYER'S POST-CLOSING OBLIGATIONS

A. Property Improvements. Within thirty-six (36) months after the Closing Date (the "Phase 1 Deadline"), Buyer will expend at least Four Hundred Fifty-Five Thousand Eight Hundred Twenty-Eight Dollars (\$455,828.00) to complete improvements to the Property, including the interior of the existing structure on the Property, to facilitate Buyer's Relocation (as defined above) (the "Phase 1 Investment"). Within sixty (60) months after the Closing Date (the "Phase 2 Deadline"), Buyer will expend a total sum of at least Nine Hundred Seventy-Eight Thousand Nine Hundred Eight-Seven Dollars (\$978,987.00), including the Phase 1 Investment to complete further improvements to the Property, including any expansion of the existing structure

or the construction of one or more new structures on the Property (the "Phase 2 Investment"). All work associated with the Phase 1 Investment and the Phase 2 Investment will be carried out in compliance with all applicable laws and industry standards.

B. Certificate of Completion. Promptly after Buyer completes both the Phase 1 Investment and the Phase 2 Investment, Buyer may request from Seller a certificate acknowledging such completion and releasing Seller's reversionary interest in the Property (the "Certificate of Completion"). The Parties agree to record the Certificate of Completion immediately upon issuance, and Buyer will pay the costs of recordation.

C. Reversion upon Default. In the event Buyer fails to perform any of its obligations, or satisfactorily prove such performance, under this Section 12, then Seller shall have the right to re-enter and take possession of the Property and to terminate and revest in Seller the estate conveyed to Buyer at Closing and all of Buyer's rights and interests in the Property without offset or compensation for the value of any investments or improvements made by Buyer after the Closing Date. The Parties agree that Seller's conveyance of the Property to Buyer at Closing will be made on the condition subsequent set forth in the foregoing sentence.

13. TAXES

Buyer, and Buyer's successors and assigns, shall be liable for any and all real property taxes assessed and levied against the Property with respect to the year in which the Closing takes place and for all subsequent years. Seller shall have no liability for any real property taxes associated with the Property, and nothing in this Agreement shall be construed to require the proration or other apportionment of real property taxes resulting in Seller's liability therefor.

14. REMEDIES

Upon any default in or breach of this Agreement by either Party, the defaulting Party will proceed immediately to cure or remedy such default within thirty (30) days after receipt of written notice of such default or breach from the non-defaulting Party, or, if the nature of the default or breach is such that it cannot be cured within thirty (30) days, the defaulting Party will diligently pursue and prosecute to completion an appropriate cure within a reasonable time. In the event of a default or breach that remains uncured for longer than the period stated in the foregoing sentence, the non-defaulting Party may terminate this Agreement, commence legal proceedings, including an action for specific performance, or pursue any other remedy available at law or in equity. All the Parties' respective rights and remedies concerning this Agreement and the Property are cumulative.

15. COMMISSIONS

The Parties mutually acknowledge and warrant to one another that neither Buyer nor Seller is represented by any broker in connection with the transaction contemplated in this Agreement. Buyer and Seller agree to indemnify and hold harmless one another from any claim for commissions in connection with the transaction contemplated in this Agreement.

16. INTERPRETATION; APPLICABLE LAW

Both Parties having participated fully and equally in the negotiation and preparation of this Agreement, this Agreement shall not be more strictly construed, nor shall any ambiguities in this Agreement be presumptively resolved, against either Party. This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

17. ENTIRE AGREEMENT

This Agreement embodies the entire agreement between Seller and Buyer and supersedes all prior discussions, understandings, or agreements, whether written or oral, between Seller and Buyer concerning the transaction contemplated in this Agreement.

18. ASSIGNMENT

Buyer and Seller agree that this Agreement or any of Buyer's rights hereunder may not be assigned by Buyer, in whole or in part, without the prior written consent of Seller. In the event Buyer wishes to obtain Seller's consent regarding a proposed assignment of this Agreement, Seller may request and Buyer shall provide any and all information reasonably demanded by Seller in connection with the proposed assignment and/or the proposed assignee.

19. BINDING EFFECT; COUNTERPARTS; SIGNATURES

All the terms and conditions of this Agreement will be effective and binding upon the Parties and their successors and assigns at the time the Agreement is fully signed and delivered by Buyer and Seller. This Agreement may be separately executed in counterparts by Buyer and Seller, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

20. AUTHORITY TO EXECUTE

The undersigned persons executing and delivering this Agreement on behalf of Seller represent and certify that they are the duly authorized representatives of Seller and have been fully empowered to execute and deliver this Agreement and that all necessary corporate action has been taken and done. The undersigned representative of Buyer represents and warrants that Buyer is a sole proprietorship and that he is duly authorized to bind Buyer to the terms of this Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereby execute this Real Estate Purchase Agreement to be effective as of the Contract Date stated above.

BUYER:

Chris Gerard, doing business as Bare Hands Brewery, a sole proprietorship



Chris Gerard

Dated: 8/22/16

SELLER:

City of South Bend, Department of Redevelopment,
by and through its governing body, the South Bend
Redevelopment Commission

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

4000.0000001 42458324.003

EXHIBIT A

Description of Property

Real property located in the City of South Bend, County of St. Joseph, Indiana, more particularly described as follows:

Lot A as shown on the plat of Vail's Subdivision (First Replat), recorded on October 4, 2013, as Document No. 1330638 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel Key No. 018-3012-044003

Commonly known as 331 W. Wayne St., South Bend, Indiana

EXHIBIT B

Form of Special Warranty 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 Chris Gerard, doing business as Bare Hands Brewery, a sole proprietorship with its principal place of business at 12804 Sandy Ct., Granger, Indiana 46530 (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"):

Lot A as shown on the plat of Vail's Subdivision (First Replat), recorded on October 4, 2013, as Document No. 1330638 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel Key No. 018-3012-044003
Commonly known as 331 W. Wayne St., South Bend, Indiana

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; 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 Grantor's development area plan and any design review guidelines associated therewith, as the same may be amended from time to time.

The Grantor conveys the Property to the Grantee pursuant to the terms of that certain Real Estate Purchase Agreement dated August 25, 2016, by and between the Grantor and the Grantee (the "Agreement") and subject to all Permitted Encumbrances established under the Agreement. Capitalized terms not otherwise defined in this deed will have the meanings stated in the Agreement. Pursuant to Section 12 of the Agreement, the Grantor conveys the Property to the Grantee by this deed subject to a certain condition subsequent. In the event the Grantee fails to perform any of its obligations, or satisfactorily prove such performance, under Section 12 of the Agreement, then the Grantor shall have the right to re-enter and take possession of the Property and to terminate and revert in the Grantor the estate conveyed to the Grantee by this deed and all of the Grantee's rights and interests in the Property without offset or compensation for the value of any investments improvements made by the Grantee after the

delivery of this deed to the Grantee. The recordation of a Certificate of Completion in accordance with Section 12 of the Agreement will forever release and discharge the Grantor's reversionary interest stated in the foregoing sentence.

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 _____, 2016.

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.

RESOLUTION NO. 3345

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION
APPROVING ASSIGNMENT OF REAL ESTATE OPTION AGREEMENT,
DEVELOPMENT PLANS, REAL ESTATE PURCHASE AGREEMENT, AND
DEVELOPMENT AGREEMENT IN CONNECTION WITH THE DEVELOPMENT OF
A MIXED-USE PROJECT ON PROPERTY LOCATED IN THE RIVER WEST
DEVELOPMENT AREA**

WHEREAS, the South Bend Redevelopment Commission (the “Commission”), governing body of the City of South Bend, Department of Redevelopment, exists and operates pursuant to Ind. Code 36-7-14 (as amended, the “Act”); and

WHEREAS, in furtherance of its purposes under the Act, the Commission entered into that certain Real Estate Option Agreement dated July 30, 2015 (the “Option Agreement”), with Swing-Batter-Swing, LLC for the purchase of certain Commission-owned real property (the “Property”) located in the City of South Bend (the “City”); and

WHEREAS, on August 22, 2016, pursuant to Section 9 of the Option Agreement, the owner of Swing-Batter-Swing, LLC requested that the Commission consent to an assignment of the Option Agreement from Swing-Batter-Swing, LLC to Heading for Home LLC (the “Company”) by executing the Assignment and Assumption of Real Estate Option Agreement dated August 22, 2016, by and between Swing-Batter-Swing, LLC and the Company attached hereto as Exhibit 1 (the “Assignment”); and

WHEREAS, the Commission consents to Swing-Batter-Swing, LLC’s assignment of the Option Agreement to the Company; and

WHEREAS, on August 22, 2016, the owner of the Company submitted its Notice of Intent (as defined in the Option Agreement) to purchase the Property from the Commission, which includes the site plans and specifications for the Company’s proposed development of the Property as a mixed-use project attached hereto as Exhibit 2 (the “Development Plans”); and

WHEREAS, in accordance with Section 3 of the Option Agreement, the Commission desires to approve the Development Plans and thereby accept the Company’s exercise of its option to purchase the Property in accordance with the terms of the Option Agreement; and

WHEREAS, the Option Agreement provides that, upon the Company’s exercise of its option, the Commission and the Company will enter into a purchase agreement for the Property containing certain provisions; and

WHEREAS, in accordance with the Option Agreement, the Commission and the Company desire to enter into the purchase agreement attached hereto as Exhibit 3 (the “Real Estate Purchase Agreement”); and

WHEREAS, in furtherance of its purposes under the Act, the Commission desires to promote the Company's development of the Property into a mixed-use project by expending tax increment finance revenues for certain local public improvements on or around the Property; and

WHEREAS, to provide for the Commission's expenditure of tax increment finance revenues and the Company's concomitant obligations, the Commission and the Company desire to enter into the development agreement attached hereto as Exhibit 4 (the "Development Agreement").

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

1. The Commission hereby consents to Swing-Batter-Swing, LLC's assignment of the Option Agreement to the Company and will execute the Assignment simultaneously with this Resolution.

2. The Commission hereby approves the Development Plans included in the Company's Notice of Intent to purchase the Property.

3. The Commission hereby approves, and will execute simultaneously with this Resolution, the Real Estate Purchase Agreement.

4. The Commission hereby approves, and will execute simultaneously with this Resolution, the Development Agreement.

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

ADOPTED at a regular meeting of the South Bend Redevelopment Commission held on August 25, 2016, 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 1

**Assignment and Assumption of Real Estate Option Agreement between
Swing-Batter-Swing, LLC and Heading for Home LLC**

[See attached.]

**ASSIGNMENT AND ASSUMPTION
OF
REAL ESTATE OPTION AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF REAL ESTATE OPTION AGREEMENT (this “**Assignment and Assumption**”) dated as of August 22, 2016, is entered into by and between Swing-Batter-Swing, LLC, an Indiana limited liability company (“**Assignor**”), and Heading for Home LLC, a Delaware limited liability company (“**Assignee**”).

RECITALS

A. Reference is hereby made to that certain Real Estate Option Agreement dated July 30, 2015, by and between Assignor and the South Bend Redevelopment Commission (“**Commission**”) (the “**Option Agreement**”) in connection with the option to purchase the Property, as that term is defined in the Option Agreement. All initially-capitalized terms not otherwise defined herein shall have the meanings set forth in the Option Agreement unless the context clearly indicates otherwise.

B. Assignor desires to assign to Assignee, all of Assignor’s right, title, interests, and obligations as option holder in, to and under the Option Agreement with respect to the Property, and Assignee desires to accept the assignment thereof and assume Assignor’s right, title, interests, and obligations thereunder.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT

1. Assignment and Assumption.

1.1 Assignment. Assignor hereby transfers, assigns and conveys, without recourse, representation or warranty, express or implied, all of Assignor’s rights, interests, liabilities and obligations in and to the Property, and all of Assignor’s rights, interests, liabilities and obligations under the Option Agreement to acquire same to Assignee. Assignee hereby assumes all such rights, interests, liabilities and obligations, and joins in all representations, warranties, releases, and indemnities, of Assignor under the Option Agreement relating to such Property and the Option Agreement assigned to it above. Assignee agrees that its option to acquire the Property pursuant to the Option Agreement shall be subject to all terms and conditions thereof. Commencing as of the date hereof, Commission shall have the right to deal exclusively with Assignee with respect to the Option Agreement.

1.2 Assumption. Assignee hereby assumes all of the terms and provisions under the Option Agreement, and all of Assignor’s obligations under the Option Agreement arising after the date hereof and agrees fully and faithfully to pay, perform and discharge, as and when payment, performance and discharge are due, all of Assignor’s obligations under the Option Agreement arising after the date hereof.

1.3 Successors and Assigns. This Assignment and Assumption shall be binding on and inure to the benefit of Assignor and Assignee and their respective heirs, executors, administrators, successors in interest and permitted assigns.

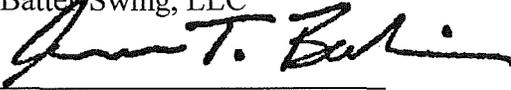
1.4. Consent. This Assignment shall be subject to the consent of the Commission.

1.5. Representation. Assignor represents and warrants that the Assignee is controlled by Andrew Berlin.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption of Real Estate Option Agreement as of the day and year first above written.

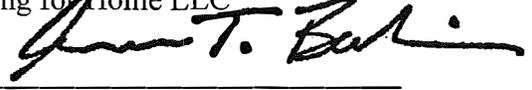
ASSIGNOR:

Swing-Batter Swing, LLC

By: 

ASSIGNEE:

Heading for Home LLC

By: 

The undersigned hereby consents to this Assignment.

COMMISSION:

CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

EXHIBIT 2

Development Plans

[See attached.]

August 22, 2016

South Bend Redevelopment Commission
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601
Attn: Brian Pawlowski, Acting Executive Director,
Department of Community Investment

Re: Notice of Intent to Exercise Option ("Notice") pursuant to that certain Real Estate Option Agreement dated July 30, 2015

Dear Sir/Madam:

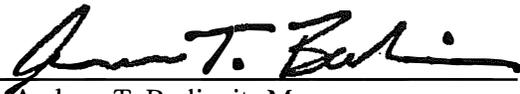
Pursuant to the terms contained in the Real Estate Option Agreement (the "Option Agreement") dated July 30, 2015 by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the "Commission"), and Swing-Batter-Swing, LLC, an Indiana limited liability company, which has assigned its interest concurrently herewith to Heading for Home LLC, a Delaware limited liability company (the "Company") with offices at 501 W. South Street, South Bend, Indiana 46601, this letter shall serve as the written notice of the Company's intent to exercise its option to purchase that certain property legally described in the Option Agreement (the "Property") as required under Section 3 of the Option Agreement. Any capitalized term used but not defined in this Notice shall have the meaning set forth in the Option Agreement.

Enclosed are the schematics for the Company's proposed development of the Property as a mixed-use project including, without limitation, residential, commercial, and retail/hospitality uses. Pursuant to Section 3 of the Option Agreement, the Company now desires for the Commission at the Commission's next meeting to consider a resolution approving: (i) the attached schematics, (ii) the assignment of the Option Agreement to the Company, (iii) the Development Agreement, dated as of August 25, 2016, by and between the Commission and the Company, and (iv) the form of Real Estate Purchase Agreement, dated August 25, 2016, by and between the Commission, as the seller and the Company, as the buyer.

All terms and conditions contained in the Option Agreement shall continue in full force and effect and all Commission and Company obligations shall continue as stated therein.

Sincerely,

HEADING FOR HOME LLC

By: 

Andrew T. Berlin, its Manager

Enclosures



Berlin Flats

Jan. 22, 2016

Project No. 15M119

Berlin Flats - South Bend, IN

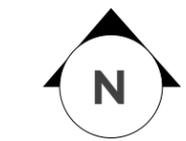
Cover

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DAY MULLINS
DIERDORF**
LEADERSHIP + DESIGN®



Berlin Flats

Site Plan



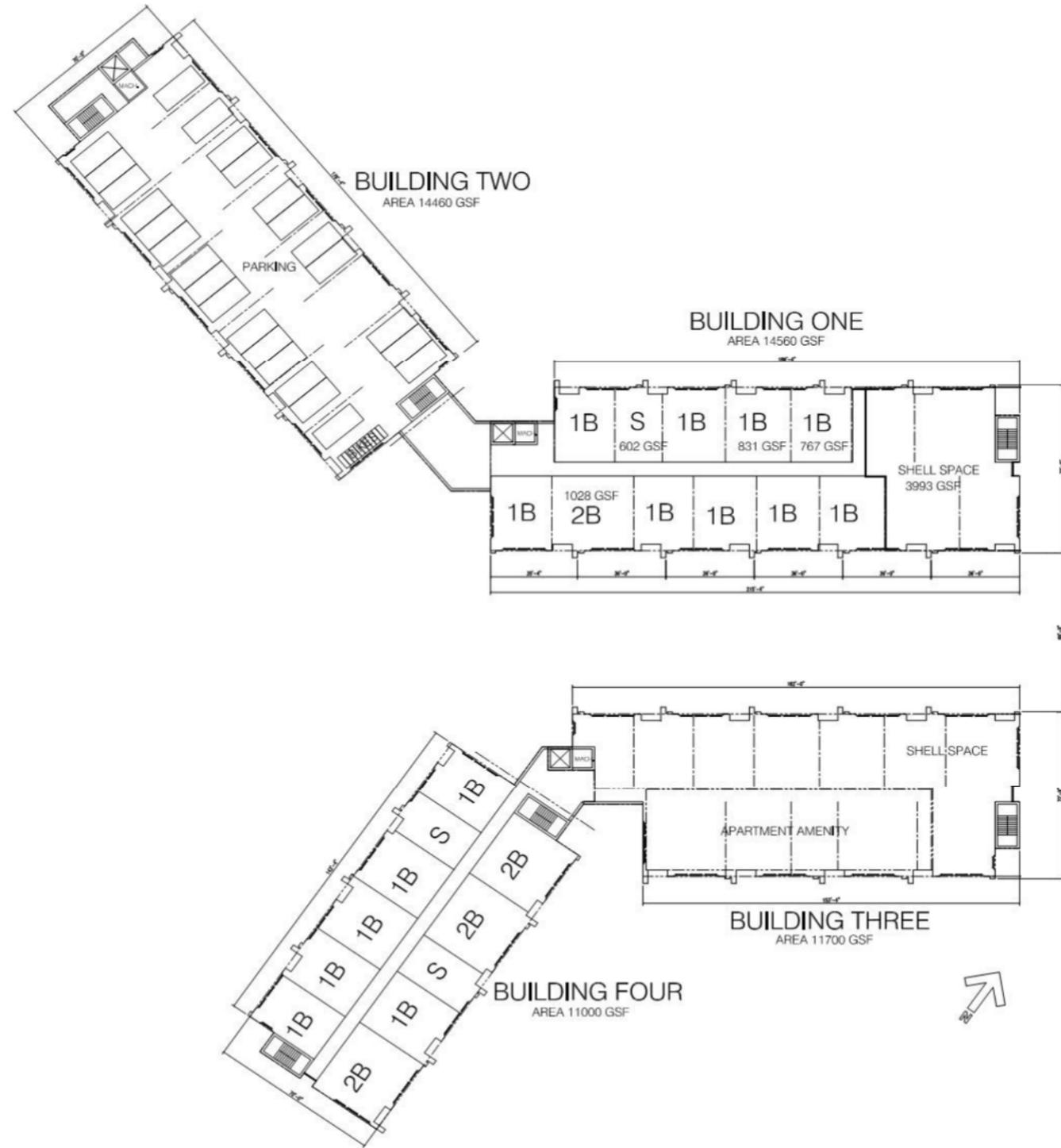
Jan. 22, 2016

Project No. 15M119

Berlin Flats - South Bend, IN

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26 at-grade parking stalls



Berlin Flats

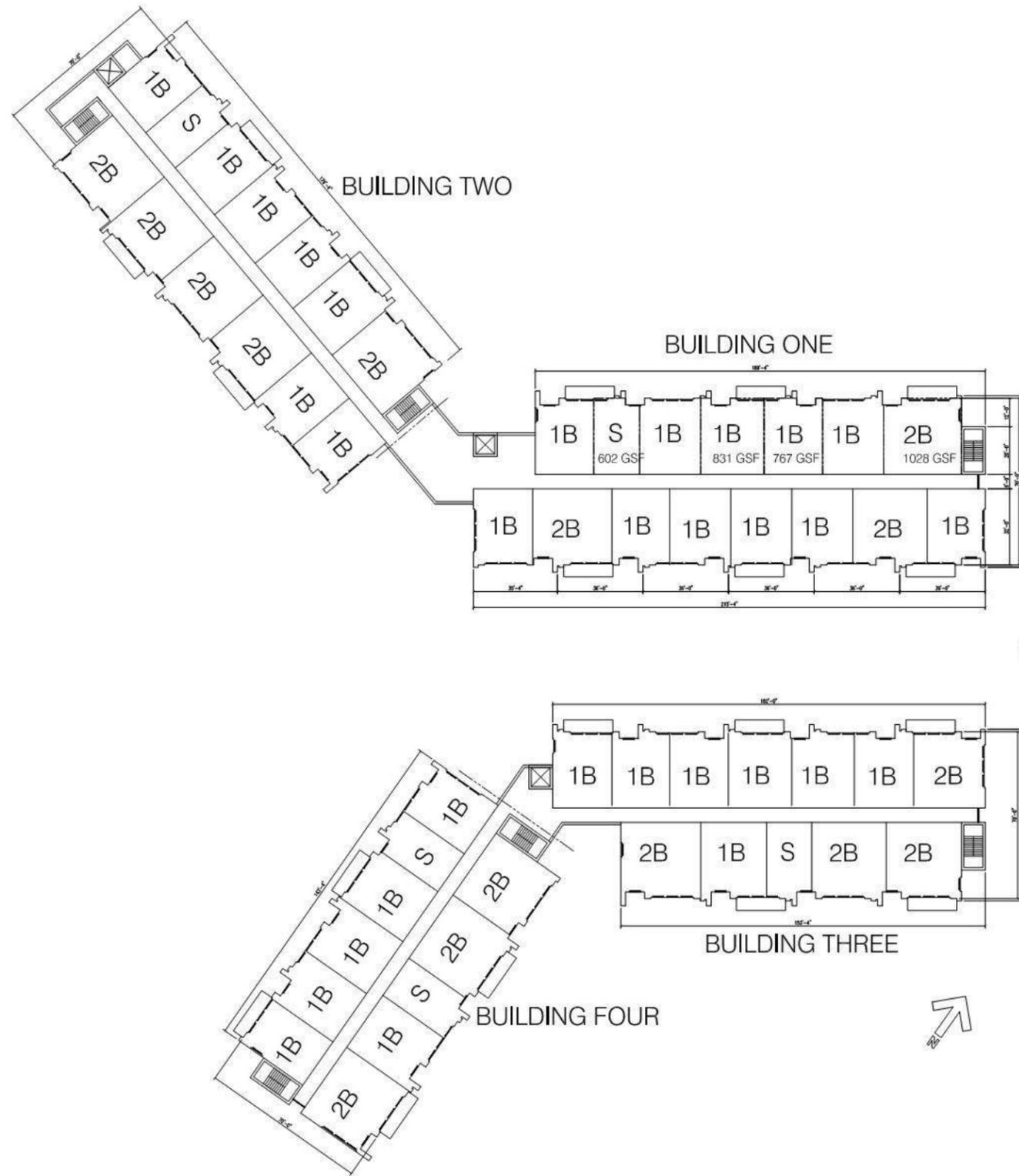
March 29, 2016

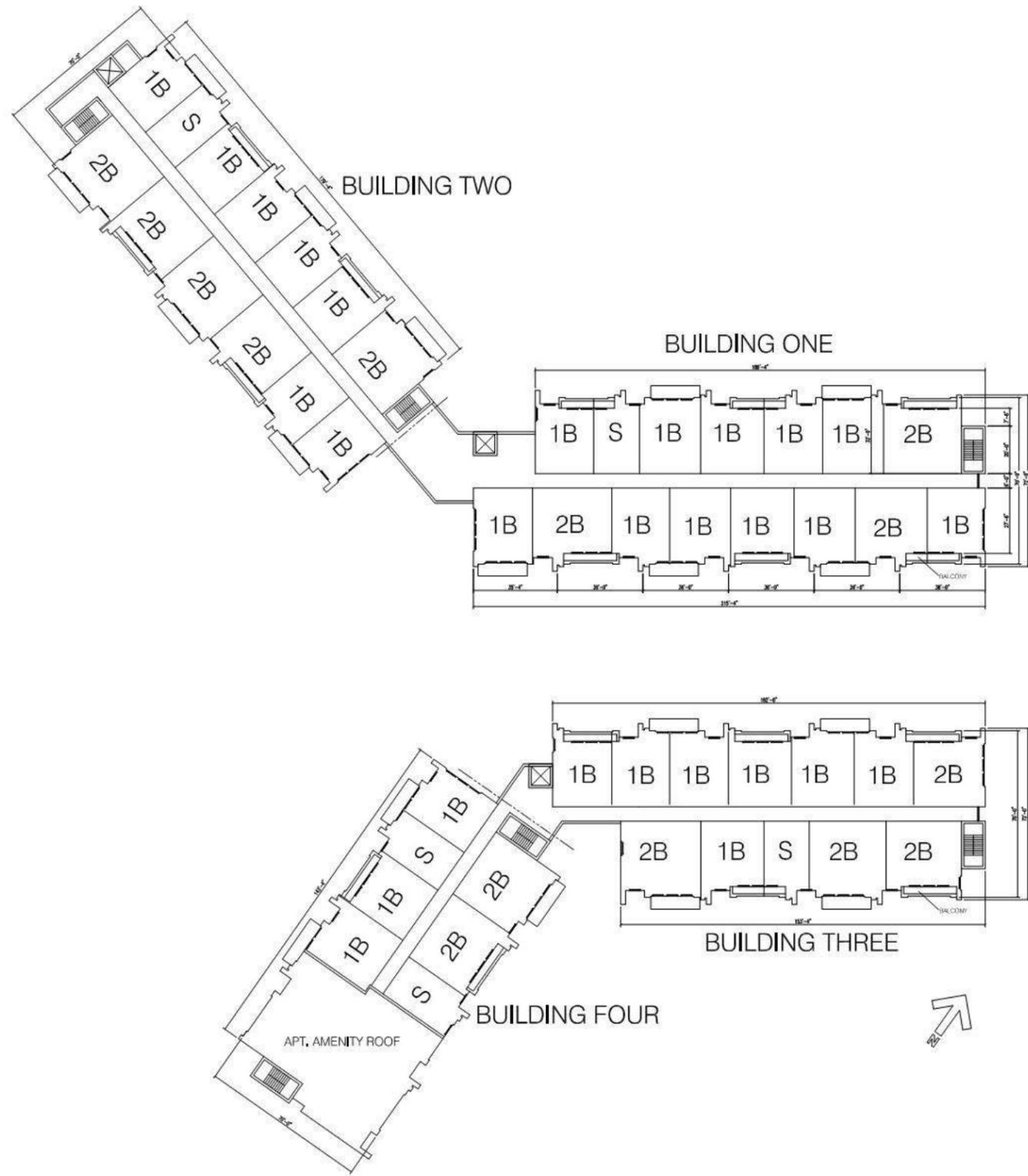
Project No. 15M119

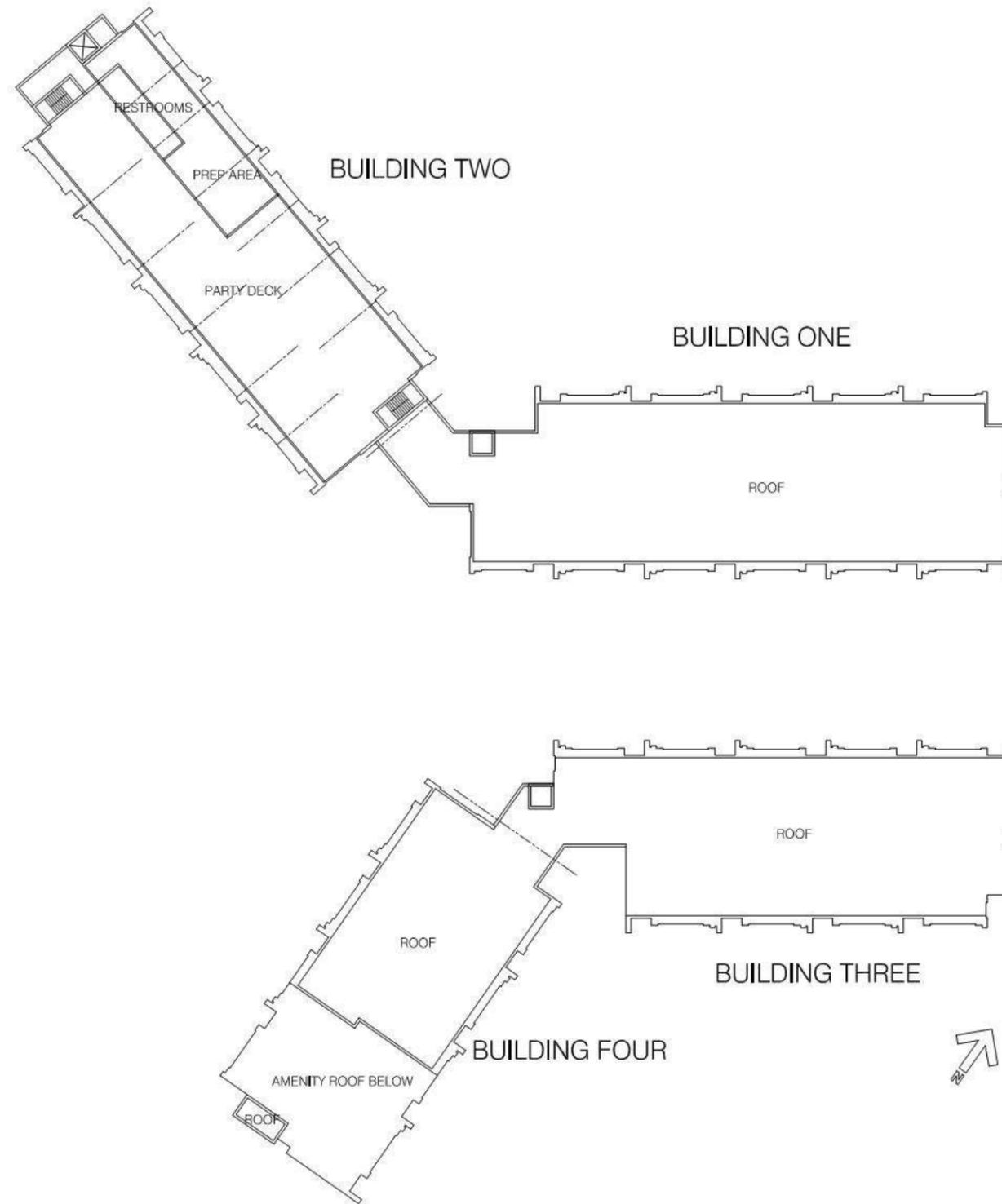
First Floor Plan

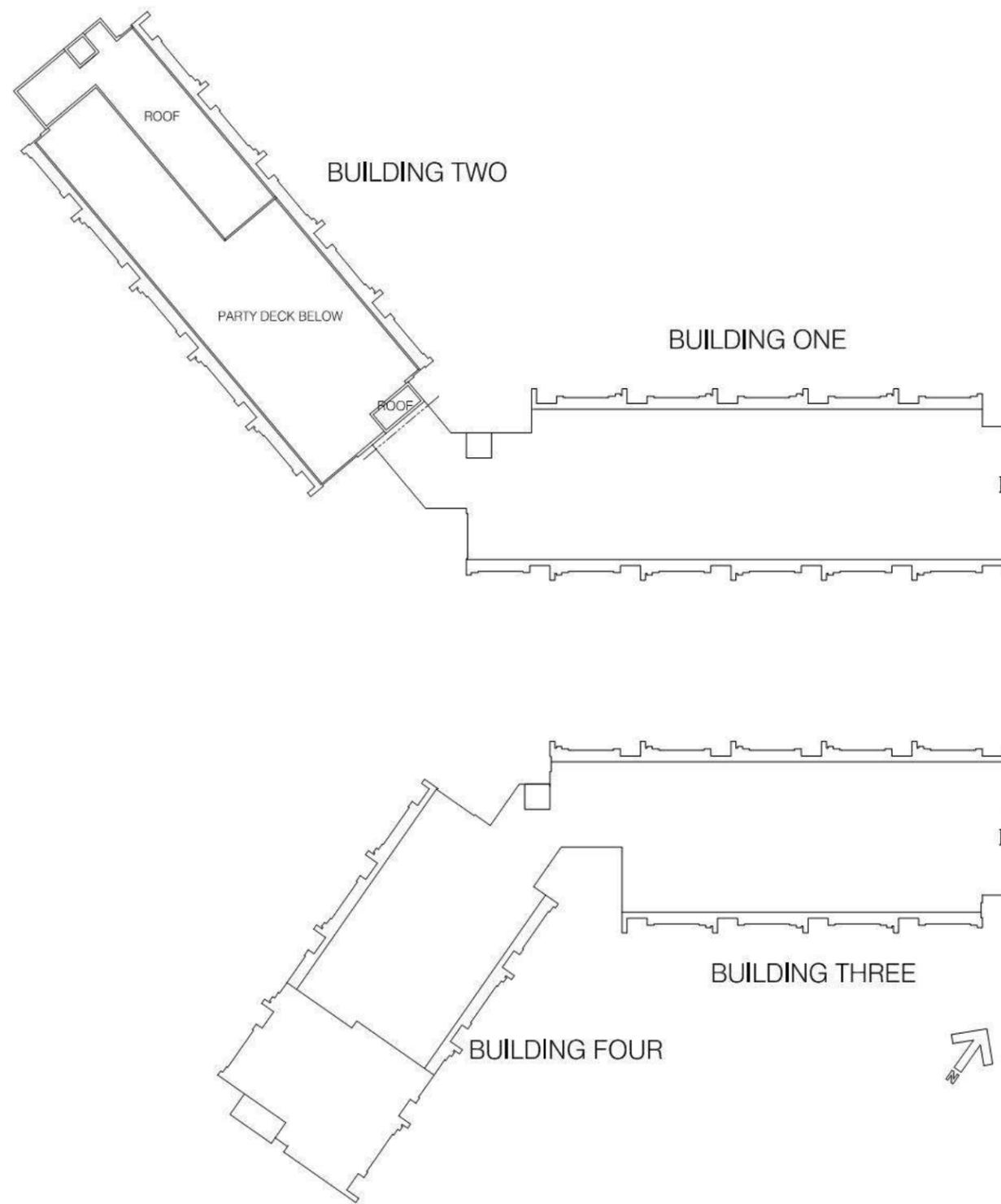
Berlin Flats - South Bend, IN

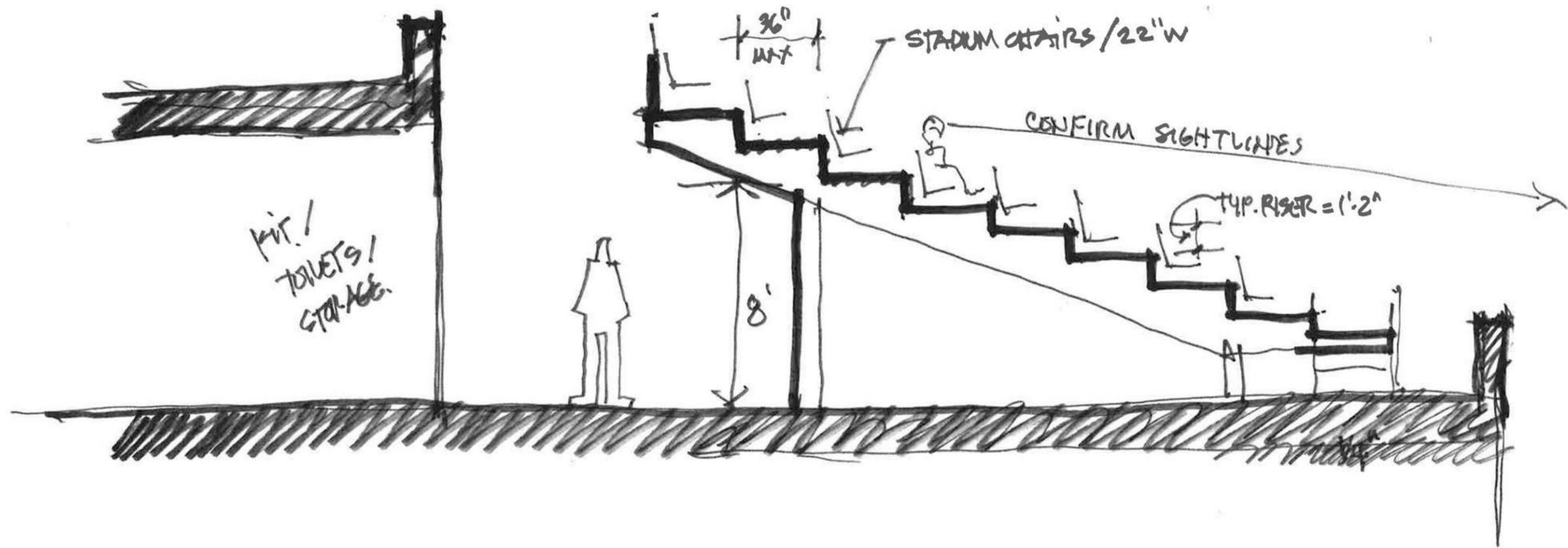
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Berlin Flats

Jan. 22, 2016

Project No. 15M119

Perspective

Berlin Flats - South Bend, IN

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Perspective

Jan. 22, 2016

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Elevation

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Jan. 22, 2016

Project No. 15M119

Berlin Flats - South Bend, IN

EXHIBIT 3

Real Estate Purchase Agreement

[See attached.]

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this “Agreement”) is made on August 25, 2016 (the “Contract Date”), by and between the City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (“Seller”) and Heading for Home LLC, a Delaware limited liability company with its principal place of business at 501 W. South St., South Bend, Indiana 46601 (“Buyer”) (each a “Party” and together the “Parties”).

RECITALS

A. Seller exists and operates pursuant to the Redevelopment of Cities and Towns Act of 1953, as amended, being Ind. Code 36-7-14 (the “Act”).

B. In furtherance of its purposes under the Act, Seller owns certain real property located in South Bend, Indiana (the “City”), and more particularly described in attached **Exhibit A** (the “Property”).

C. Swing-Batter-Swing, LLC holds an exclusive option to purchase the Property from Seller upon certain conditions pursuant to the Parties’ Real Estate Option Agreement dated July 30, 2015 (the “Option Agreement”), which option was placed of record by the Memorandum Of Real Estate Option Agreement dated July 30, 2015, and recorded on July 31, 2015, as Document No. 1519603 in the Office of the Recorder of St. Joseph County, Indiana.

D. On August 22, 2016, pursuant to Section 9 of the Option Agreement, Swing-Batter-Swing, LLC requested the Commission’s consent to an assignment of the Option Agreement from Swing-Batter-Swing, LLC to Buyer, and Seller has consented to the assignment as set forth in Resolution No. 3345 dated August 25, 2016.

E. On August 22, 2016, Buyer submitted its Notice of Intent (as defined in the Option Agreement) to purchase the Property from Seller, which Seller approved as set forth in Resolution No. 3345 dated August 25, 2016.

THEREFORE, in consideration of the mutual covenants and promises in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, Buyer and Seller agree as follows:

1. OFFER AND ACCEPTANCE

A copy of this Agreement, signed by Buyer, constitutes Buyer’s offer to purchase the Property on the terms stated in this Agreement and shall be delivered to Seller, in care of the following representative (“Seller’s Representative”):

Brian Pawlowski
Acting Executive Director
Department of Community Investment
City of South Bend
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601

This offer shall expire fifteen (15) days after delivery unless accepted by Seller. To accept Buyer's offer, Seller shall return a copy of this Agreement, counter-signed by Seller in accordance with applicable laws, to the following ("Buyer's Representative"):

Heading for Home LLC
c/o South Bend Cubs
501 West South Street
South Bend, Indiana 46601
Attn: Joe Hart

With a copy to:

TWG Development, LLC
333 North Pennsylvania Street, Suite 100
Indianapolis, Indiana 46204
Attn: J.B. Curry

With a copy to:

Patzik, Frank & Samotny Ltd.
150 South Wacker Drive, Suite 1500
Chicago, Illinois 60606
Attn: Alan B. Patzik

2. PURCHASE PRICE

In accordance with Section 4 of the Option Agreement, the purchase price for the Property shall be One Dollar (\$1.00) (the "Purchase Price"), payable by Buyer to Seller in cash at the closing described in Section 10 below (the "Closing," the date of which is the "Closing Date").

3. BUYER'S DUE DILIGENCE

A. Investigation. Buyer and Seller have made and entered into this Agreement based on their mutual understanding that Buyer intends to use the Property for the development of a mixed-use project including, without limitation, residential, commercial, and retail/hospitality uses (the "Buyer's Use"). Seller acknowledges that Buyer's determination whether Buyer's Use is feasible requires investigation into various matters (Buyer's "Due Diligence"). Therefore, Buyer's obligation to complete the purchase of the Property is conditioned upon the satisfactory

completion, in Buyer's discretion, of Buyer's Due Diligence, including, without limitation, Buyer's examination, at Buyer's sole expense, of zoning and land use matters, environmental matters, real property title matters, and the like, as applicable.

B. Due Diligence Period. Buyer shall have a period of sixty (60) days following the Contract Date to complete its examination of the Property in accordance with this Section 3 (the "Due Diligence Period").

C. Authorizations During Due Diligence Period. During the Due Diligence Period, Seller authorizes Buyer, upon Buyer providing Seller with evidence that Buyer has general liability insurance reasonably acceptable to Seller, in the amount of at least One Million Dollars (\$1,000,000), naming Seller as an additional insured and covering the activities, acts, and omissions of Buyer and its representatives at the Property, to

(i) enter upon the Property or to cause agents to enter upon the Property for purposes of examination; provided, that Buyer may not take any action upon the Property which reduces the value thereof and Buyer may not conduct any invasive testing at the Property without Seller's express prior written consent; further provided, that if the transaction contemplated herein is not consummated, Buyer shall promptly restore the Property to its condition prior to entry, and agrees to defend, indemnify and hold Seller harmless, before and after the Closing Date whether or not a closing occurs and regardless of any cancellations or termination of this Agreement, from any liability to any third party, loss or expense incurred by Seller, including without limitation, reasonable attorney fees and costs arising from acts or omissions of Buyer or Buyer's agents or representatives; and

(ii) file any application with any federal, state, county, municipal or regional agency relating to the Property for the purpose of obtaining any approval necessary for Buyer's anticipated use of the Property. If Seller's written consent to or signature upon any such application is required by any such agency for consideration or acceptance of any such application, Buyer may request from Seller such consent or signature, which Seller shall not unreasonably withhold. Notwithstanding the foregoing, any zoning commitments or other commitments that would further restrict the future use or development of the Property, beyond the restrictions in place as a result of the current zoning of the Property, shall be subject to Seller's prior review and written approval.

D. Termination of Agreement. If at any time within the Due Diligence Period Buyer determines, in its sole discretion, not to proceed with the purchase of the Property, Buyer may terminate this Agreement by written notice to Seller's Representative.

4. SELLER'S DOCUMENTS; ENVIRONMENTAL SITE ASSESSMENT

Upon Buyer's request, Seller will provide Buyer a copy of all known environmental inspection, engineering, title, and survey reports and documents in Seller's possession relating to the Property. In the event the Closing does not occur, Buyer will immediately return all such reports and documents to Seller's Representative with or without a written request by Seller. In addition to reviewing any environmental reports provided by Seller, Buyer may, at Buyer's sole expense,

obtain a Phase I environmental site assessment of the Property pursuant to and limited by the authorizations stated in Section 3 above.

5. PRESERVATION OF TITLE

After the Contract Date, Seller shall not take any action or allow any action to be taken by others to cause the Property to become subject to any interests, liens, restrictions, easements, covenants, reservations, or other matters affecting Seller's title (such matters are referred to as "Encumbrances"). Seller acknowledges that Buyer intends to obtain, at Buyer's sole expense, and to rely upon a commitment for title insurance on the Property (the "Title Commitment") and a survey of the Property (the "Survey") identifying all Encumbrances as of the Contract Date. The Property shall be conveyed to Buyer free of any Encumbrances other than Permitted Encumbrances (as defined in Section 7 below).

6. TITLE COMMITMENT AND POLICY REQUIREMENTS

As a condition precedent to Buyer's obligation to close hereunder Buyer shall receive the Title Commitment for an owner's policy of title insurance issued by a title company selected by Buyer and reasonably acceptable to Seller (the "Title Company") within ten (10) days of the Contract Date. The Title Commitment must (i) agree to insure good, marketable, and indefeasible fee simple title to the Property (including public road access) in the name of the Buyer for the full amount of the Purchase Price upon delivery and recordation of a quit claim deed (the "Deed") from the Seller to the Buyer, and (ii) provide for issuance of a final ALTA owner's title insurance policy, with any endorsements requested by Buyer, subject to the Permitted Encumbrances. Regardless of whether this transaction closes, Buyer shall be responsible for all of the Title Company's title search charges and all costs of the Title Commitment and owner's policy.

7. REVIEW OF TITLE COMMITMENT AND SURVEY

Buyer shall give Seller written notice, within ten (10) days after receipt of the last of the Title Commitment and the Survey, of any objections to the Title Commitment or Survey. Any exceptions identified in the Title Commitment or Survey to which written notice of objection is not given within such period shall be a "Permitted Encumbrance." If the Seller is unable or unwilling to correct or commence action to correct the Buyer's title and survey objections within the Due Diligence Period, Buyer may terminate this Agreement by written notice to Seller prior to expiration of the Due Diligence Period. If Buyer fails to so terminate this Agreement, then such objections shall constitute "Permitted Encumbrances" as of the expiration of the Due Diligence Period, and Buyer shall acquire the Property without any effect being given to such title and survey objections.

8. DISPUTE RESOLUTION

A. Forum. Any action to enforce the terms or conditions of this Agreement or otherwise concerning a dispute under this Agreement will be commenced in the courts of St.

Joseph County, Indiana, unless the Parties mutually agree to an alternative method of dispute resolution.

B. Waiver of Jury Trial. Both Parties hereby waive any right to trial by jury with respect to any action or proceeding relating to this Agreement.

9. NOTICES

All notices required or allowed by this Agreement, before or after Closing, shall be delivered in person or by certified mail, return receipt requested, postage prepaid, addressed to Seller in care of Seller's Representative (with a copy to South Bend Legal Department, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601, Attn: Corporation Counsel), or to Buyer in care of Buyer's Representative at their respective addresses stated in Section 1 above. Either Party may, by written notice, modify its address or representative for future notices.

10. CLOSING

A. Timing of Closing. Unless this Agreement is earlier terminated, the Closing shall be completed through an escrow ("Escrow") at the offices of the Title Company in accordance with the general provisions of the usual form of "New York Style" Deed and Money Escrow Agreement ("Escrow Agreement") then provided and used by the Title Company with such special provisions inserted in the Escrow Agreement as may be required to conform with this Agreement. The Closing Date shall be a mutually agreeable date not later than thirty (30) days after the end of the Due Diligence Period.

B. Closing Procedure.

(i) At Closing, Buyer shall deliver the Purchase Price to Seller, conditioned on Seller's delivery of the Deed, in the form attached hereto as **Exhibit B**, conveying the Property to Buyer, free and clear of all liens, encumbrances, title defects, and exceptions other than Permitted Encumbrances, and the Title Company's delivery of the marked-up copy of the Title Commitment (or pro forma policy) to Buyer in accordance with Section 6 above.

(ii) Possession of the Property shall be delivered to the Buyer at Closing, in the same condition as it existed on the Contract Date, ordinary wear and tear excepted.

C. Condition Precedent. It shall be a condition precedent to Closing that Seller will have approved the relocation of certain public utilities on and/or in the vicinity of the Property to be performed by Seller (or its designee) and will have approved the Development Agreement, dated August 25, 2016, by and between Seller and Buyer and the confirmation of the Funding Amount (as defined in the Development Agreement) to Buyer for development of the Property.

D. Closing Costs. Buyer shall pay all of the Title Company's closing and/or document preparation fees and all recordation costs associated with the transaction contemplated in this Agreement.

11. ACCEPTANCE OF PROPERTY AS-IS; DEVELOPMENT PLANS

A. As-Is Transaction. Buyer agrees to purchase the Property “as-is, where-is” and without any representations or warranties by Seller as to the condition of the Property or its fitness for any particular use or purpose. Seller offers no such representation or warranty as to condition or fitness, and nothing in this Agreement will be construed to constitute such a representation or warranty as to condition or fitness. Notwithstanding the foregoing, Seller hereby represents and warrants that Seller has obtained all requisite consents and approvals to execute this Agreement and perform its obligations hereunder.

B. Development Plans. Buyer agrees to develop the Property and carry out Buyer’s Use (as defined above) of the Property in accordance with the terms of Resolution No. 3345 dated August 25, 2016, and the Development Agreement between the Parties dated August 25, 2016.

12. TAXES

Buyer, and Buyer’s successors and assigns, shall be liable for any and all real property taxes assessed and levied against the Property with respect to the year in which the Closing takes place and for all subsequent years. Seller shall have no liability for any real property taxes associated with the Property, and nothing in this Agreement shall be construed to require the proration or other apportionment of real property taxes resulting in Seller’s liability therefor.

13. REMEDIES

Upon any default in or breach of this Agreement by either Party, the defaulting Party will proceed immediately to cure or remedy such default within thirty (30) days after receipt of written notice of such default or breach from the non-defaulting Party, or, if the nature of the default or breach is such that it cannot be cured within thirty (30) days, the defaulting Party will diligently pursue and prosecute to completion an appropriate cure within a reasonable time. In the event of a default or breach that remains uncured for longer than the period stated in the foregoing sentence, the non-defaulting Party may terminate this Agreement, commence legal proceedings, including an action for specific performance, or pursue any other remedy available at law or in equity; provided, however, no Party shall be liable for consequential, speculative or punitive damages. All the Parties’ respective rights and remedies concerning this Agreement and the Property are cumulative.

14. COMMISSIONS

The Parties mutually acknowledge and warrant to one another that neither Buyer nor Seller is represented by any broker in connection with the transaction contemplated in this Agreement. Buyer and Seller agree to indemnify and hold harmless one another from any claim for commissions in connection with the transaction contemplated in this Agreement.

15. INTERPRETATION; APPLICABLE LAW

Both Parties having participated fully and equally in the negotiation and preparation of this Agreement, this Agreement shall not be more strictly construed, nor shall any ambiguities in this

Agreement be presumptively resolved, against either Party. This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

16. ENTIRE AGREEMENT

This Agreement embodies the entire agreement between Seller and Buyer and supersedes all prior discussions, understandings, or agreements, whether written or oral, between Seller and Buyer concerning the transaction contemplated in this Agreement.

17. ASSIGNMENT

Buyer and Seller agree that this Agreement or any of Buyer's rights hereunder may not be assigned by Buyer, in whole or in part, without the prior written consent of Seller. In the event Buyer wishes to obtain Seller's consent regarding a proposed assignment of this Agreement, Seller may request and Buyer shall provide any and all information reasonably demanded by Seller in connection with the proposed assignment and/or the proposed assignee.

18. BINDING EFFECT; COUNTERPARTS; SIGNATURES

All the terms and conditions of this Agreement will be effective and binding upon the Parties and their successors and assigns at the time the Agreement is fully signed and delivered by Buyer and Seller. This Agreement may be separately executed in counterparts by Buyer and Seller, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

19. AUTHORITY TO EXECUTE; EXISTENCE

The undersigned persons executing and delivering this Agreement on behalf of the respective Parties represent and certify that they are the duly authorized representatives of each and have been fully empowered to execute and deliver this Agreement and that all necessary corporate action has been taken and done. Further, the undersigned representative of Buyer represents and warrants that Buyer is duly organized, validly existing, and in good standing under the laws of the State of Indiana.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereby execute this Real Estate Purchase Agreement to be effective as of the Contract Date stated above.

BUYER:

Heading for Home LLC,
a Delaware limited liability company

Andrew Berlin
Its: Manager
Dated:

SELLER:

City of South Bend, Department of Redevelopment,
by and through its governing body, the South Bend
Redevelopment Commission

Marcia I. Jones, President

ATTEST:

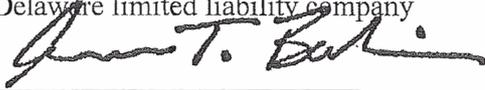
Donald E. Inks, Secretary

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IN WITNESS WHEREOF, the Parties hereby execute this Real Estate Purchase Agreement to be effective as of the Contract Date stated above.

BUYER:

Heading for Home LLC,
a Delaware limited liability company



Printed: Andrew Berlin
Its: Manager
Dated: August 25, 2016

SELLER:

City of South Bend, Department of Redevelopment,
by and through its governing body, the South Bend
Redevelopment Commission

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

EXHIBIT A

Description of Property

Lots 2 and 3 of the plat of Coveleski Park Minor Subdivision recorded on February 11, 2015, as Document No. 1503430 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 18-3014-051501 and 18-3014-051502]

EXHIBIT B

Form of Quit Claim Deed

QUIT CLAIM 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 QUIT CLAIMS to Heading for Home LLC, a Delaware limited liability company with its principal place of business at 501 W. South St., South Bend, Indiana 46601 (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 and 3 of the plat of Coveleski Park Minor Subdivision recorded on February 11, 2015, as Document No. 1503430 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 18-3014-051501 and 18-3014-051502]

The Grantor hereby conveys the Property to the Grantee free and clear of all leases or licenses; subject to the terms and conditions stated in South Bend Redevelopment Commission Resolution No. 3345 dated August 25, 2016, and the Development Agreement between Grantor and Grantee dated August 25, 2016; 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; and subject to all applicable building codes and zoning ordinances.

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 Quit Claim Deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the ____ day of _____, 2016.

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.

EXHIBIT 4

Development Agreement

[See attached.]

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”), is effective as of August 25, 2016 (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 Commission exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953, as amended (Ind. Code 36-7-14, the “Act”).

B. The Act provides that the clearance, replanning, and redevelopment of redevelopment areas are public uses and purposes for which public money may be spent.

C. The Commission granted Swing-Batter-Swing, LLC (“SBS”) an exclusive option to purchase certain real property described in attached Exhibit A (the “Developer Property”) upon the terms stated in the Real Estate Option Agreement dated July 30, 2015 (the “Option Agreement”), which Option Agreement SBS assigned to the Developer under the Assignment and Assumption of Real Estate Option Agreement dated August 22, 2016, by and between SBS and the Developer.

D. Upon exercising its option and acquiring the Developer Property from the Commission, the Developer desires to develop the Developer Property as a mixed-use project including, without limitation, residential, commercial, and retail/hospitality uses (the “Project”) in substantial accordance with the plans and specifications, as defined in and attached to the Commission’s Resolution No. 3345 dated August 25, 2016 (the “Development Plans”).

E. The Developer Property is located within the corporate boundaries of the City of South Bend, Indiana (the “City”), within the River West Development Area (the “Area”).

F. The Commission has adopted (and subsequently amended, from time to time) a development plan, which contemplates development of the Area consistent with the Project.

G. The Commission believes that accomplishing the Project as described herein is in the best interests of the health, safety, and welfare of the City and its residents.

H. The Commission desires to facilitate and assist the Project by undertaking the local public improvements stated in Exhibit B (the “Local Public Improvements”) and the financing thereof, subject to the terms and conditions of this Agreement and in accordance with the Act.

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

SECTION 1. DEFINITIONS.

Unless otherwise defined in this Agreement, capitalized terms used in this Agreement have the following meanings:

1.1 Assessed Value. “Assessed Value” means the market value-in-use of a property, used for property tax assessment purposes as determined by the St. Joseph County Assessor.

1.2 Board of Works. “Board of Works” means the Board of Public Works of the City, a public body granted the power to award contracts for public works pursuant to Ind. Code 36-1-12.

1.3 Funding Amount. “Funding Amount” means an amount not to exceed Three Million Four Hundred Thousand Dollars (\$3,400,000.00) of tax increment finance revenues to be used for paying the costs associated with the construction, equipping, inspection, and delivery of the Local Public Improvements.

1.4 Private Investment. “Private Investment” means an amount no less than Eighteen Million Dollars (\$18,000,000.00) to be expended by the Developer for the costs associated with constructing the improvements set forth in the Project Plan, including architectural, engineering, and any other costs directly related to completion of the Project.

SECTION 2. INTERPRETATION, TERMS, AND RECITALS.

2.1 Interpretation.

(a) The terms “herein,” “hereto,” “hereunder,” and all terms of similar import shall be deemed to refer to this Agreement as a whole rather than to any Article of, Section of, or Exhibit to this Agreement.

(b) Unless otherwise specified, references in this Agreement to (i) “Section” or “Article” shall be deemed to refer to the Section or Article of this Agreement bearing the number so specified, (ii) “Exhibit” shall be deemed to refer to the Exhibit of this Agreement bearing the letter or number so specified, and (iii) references to this “Agreement” shall mean this Agreement and any exhibits and attachments hereto.

(c) Captions used for or in Sections, Articles, and Exhibits of this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(d) The terms “include”, “including” and “such as” shall each be construed as if followed by the phrase “without being limited to.”

2.2 Recitals. The Recitals set forth above are incorporated into and are a part of this Agreement for all purposes.

SECTION 3. ACCESS.

3.1 Grant of Easement. The Developer will grant to the Commission a temporary, non-exclusive easement on, in, over, under and across any part(s) of the Developer Property (the "Easement") in the form attached hereto as Exhibit C, to permit the Commission to fulfill its obligations under this Agreement, including the construction, equipping, inspection, and delivery of the Local Public Improvements. The Easement shall (a) inure to the benefit of the Commission and the Board of Works or any contractors acting on behalf of the Commission in connection with the construction, equipping, inspection, and delivery of the Local Public Improvements; (b) shall bind the Developer and its grantees, successors, and assigns; and (c) shall terminate no later than upon completion of the Local Public Improvements, as determined by the Board of Works.

SECTION 4. DEVELOPER'S OBLIGATIONS.

4.1 Generally. The Parties acknowledge and agree that the Commission's agreements to perform and abide by the covenants and obligations set forth in this Agreement are material consideration for the Developer's commitment to perform and abide by the covenants and obligations of the Developer contained in this Agreement.

4.2 The Project.

(a) As a condition precedent to the Parties' respective rights and obligations under this Agreement, the Developer will acquire the Developer Property from the Commission in accordance with the terms and conditions of the Option Agreement.

(b) The Developer will perform all necessary work to complete the improvements set forth in the Development Plans as such Development Plans may be revised upon completion of the finalized survey, engineering, and site layout.

(c) The Developer will expend the Private Investment to complete the Project in substantial accordance with the Development Plans as such Development Plans may be revised upon completion of the finalized survey, engineering, and site layout.

(d) Other than modifications based on the finalized survey, engineering and site layout and modifications due to unforeseen circumstances, the Developer will not undertake any substantial deviation from the Development Plans without first obtaining the Commission's written approval.

Notwithstanding anything to the contrary contained herein, Developer shall not eliminate a commercial component of the development.

4.3 Cooperation. The Developer agrees to endorse and support, at no cost to Developer, the Commission's efforts to expedite the Local Public Improvements through any required planning, design, public bidding, construction, inspection, waiver, permitting, and related regulatory processes. To the extent that any portion of this Project is to be located in City owned rights of way, the Commission will assist the Developer in good faith in obtaining for the Developer and its designees access thereto to enable the construction of such portion of the

Project, provided, however, that the Commission will not support or facilitate the vacation of any portion of West Monroe Street lying east of South Lafayette Boulevard for construction of the Project.

4.4 Obtain Necessary Easements. The Developer agrees to request any and all easements from any governmental entity and/or any other third parties that the Developer or the Commission deems necessary or advisable in order to complete the Local Public Improvements, and the obtaining of such easements is a condition precedent to the Commission's obligations under this Agreement.

4.5 Timeframe for Completion. The Developer hereby agrees to complete the Project and any other obligations the Developer may have under this Agreement by the date that is twenty-four (24) months after the Effective Date of this Agreement (the "Mandatory Project Completion Date"). Notwithstanding any provision of this Agreement to the contrary, the Developer's failure to complete the Project or any other obligations the Developer may have under this Agreement by the Mandatory Project Completion Date will constitute a default under this Agreement without any requirement of notice of or an opportunity to cure such failure.

4.6 RESERVED.

4.7 Reporting Obligations.

(a) Upon the letting of contracts for substantial portions of the Project and again upon substantial completion of the Project, the Developer hereby agrees to report to the Commission the number of local contractors and local laborers involved in the Project, the amount of bid awards for each material contract related to the Project, and information regarding which contractor is awarded each contract with respect to the Project.

(b) On or before June 30 and December 31 of each year until substantial completion of the Project, the Developer shall submit to the Commission a report demonstrating the Developer's good-faith compliance with the terms of this Agreement. The report shall include the following information and documents: (i) a status report of the construction completed to date, (ii) an update on the project schedule, (iii) an itemized accounting generally identifying the Private Investment to date, and (iv) a status report of the number of jobs created for employment at the Developer Property.

(c) On or before April 15 of the year that is one year after substantial completion of the Project and on each April 15 thereafter until April 15 of the year which is three (3) years after substantial completion of the Project, the Developer shall submit to the Commission a report with the following information: (i) the number of jobs created as a result of the Project and wage and benefit information for the jobs created; and (ii) a detailed description of the of the job and wage details for the number of people employed by the Developer in connection with the Project.

4.8 RESERVED.

4.9 Costs and Expenses of Construction of Project. The Developer hereby agrees to pay, or cause to be paid, all costs and expenses of construction for the Project (including legal fees, architectural and engineering fees), exclusive of the Local Public Improvements, which shall be paid for by the Commission by and through the Funding Amount subject to the terms of this Agreement.

4.10 Specifications for Local Public Improvements. The Developer will be responsible for the preparation of all bid specifications related to the Local Public Improvements, and the Developer will pay all costs and expenses of such preparation, provided, however, that if the Commission pays any costs or expenses of such preparation, then the amount paid by the Commission will be deducted from the Funding Amount. The Developer will submit all bid specifications related to the Local Public Improvements to the City of South Bend Engineering Department (the "Engineering Department"). The Engineering Department may approve or disapprove said bid specifications in its sole discretion and may request revisions or amendments to be made to the same.

4.11 Non-Interference. Developer hereby agrees to use commercially reasonable efforts to minimize disruption for those living and working near the Developer Property during construction of the Project.

4.12 Insurance. The Developer shall purchase and maintain comprehensive insurance coverage as is appropriate for the work being performed with respect to the Project. The Developer shall provide proof of such adequate insurance to the Commission and shall notify the Commission and the City of any change in or termination of such insurance. During the period of construction or provision of services regarding any Local Public Improvements, the Developer shall maintain insurance in the kinds and for at least the minimum amounts as described in Exhibit D attached hereto and the Commission and the City shall be named as additional insureds on such policies (but not on any worker's compensation policies).

4.13 Information. The Developer agrees to provide any and all due diligence items with respect to the Project reasonably requested by the Commission.

SECTION 5. COMMISSION'S OBLIGATIONS.

5.1 Generally. The Parties acknowledge and agree that the Developer's agreement to perform and abide by the covenants and obligations set forth in this Agreement is material consideration for the Commission's commitment to perform and abide by the covenants and obligations of the Commission contained in the Agreement.

5.2 Completion of Local Public Improvements.

(a) The Commission hereby agrees to complete (or cause to be completed) the Local Public Improvements described in Exhibit B attached hereto on a schedule to be reasonably determined and agreed to by the Commission and the Developer, as may be modified due to unforeseen circumstances and delays.

(b) Before any work on the Local Public Improvements will commence, (i) the Developer will have acquired the Developer Property from the Commission in

accordance with the terms of the Option Agreement, and (ii) the Engineering Department will have received satisfactory bid specifications for the Local Public Improvements and approved the same in accordance with Section 4.10 of this Agreement.

(c) The Local Public Improvements will be completed in accordance with all applicable public bidding and contracting laws and will be subject to inspection by the Engineering Department or its designee.

(d) Notwithstanding anything contained herein to the contrary, in the event the costs associated with the Local Public Improvements are in excess of the Funding Amount, Developer, at its sole option, may determine to pay to the Commission the amount of the excess costs to permit timely completion of the Local Public Improvements by the Commission, or an agent of the Commission, which amounts shall be applied for such purpose. If Developer chooses not to pay any such excess costs of the Local Public Improvements (above the Funding Amount), the Commission may reduce the scope of the Local Public Improvements to the amount which may be funded with the Funding Amount. In no event will the Commission be required to spend more than the Funding Amount in connection with the Local Public Improvements.

5.3 Cooperation. The Commission agrees to endorse and support the Developer's efforts to expedite the Project through any required planning, design, permitting, waiver, and related regulatory processes, provided, however, that the Commission will not be required to expend any money in connection therewith.

5.4 Public Announcements, Press Releases, and Marketing Materials. The Commission hereby agrees to coordinate all public announcements and press releases relating to the Project with the Developer.

SECTION 6. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.

6.1 Cooperation. In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own legal counsel and retain such counsel at its own expense, and in no event shall the Commission be required to bear the fees and costs of the Developer's attorneys nor shall the Developer be required to bear the fees and costs of the Commission's attorneys. The Parties agree that if any other provision of this Agreement, or this Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this Section 6.1, which shall survive such invalidation, nullification, or setting aside. Notwithstanding the foregoing, in the event the Project or the terms of this Agreement face legal challenge for any reason other than Developer's failure to comply with the terms hereof, the Developer may elect to abandon the Project.

SECTION 7. DEFAULT.

7.1 Default. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written

notice of such failure from the other Party, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. Upon the occurrence of a default under this Agreement, the non-defaulting Party may (a) terminate this Agreement, or (b) institute legal proceedings at law or in equity (including any action to compel specific performance) seeking remedies for such default. If the default is cured within thirty (30) days after the notice described in this Section 7.1, then no default shall exist and the noticing Party shall take no further action.

7.2 Reimbursement Obligation. In the event that the Developer fails (a) to complete the Project by the Mandatory Project Completion Date, subject to an event of Force Majeure as stated in Section 7.4, or (b) to expend the full amount of the Private Investment by the Mandatory Project Completion Date, subject to an event of Force Majeure as stated in Section 7.4, and provided no substitute developer completes the Project, then upon the written demand of the Commission, the Developer will repay the Commission One Hundred Percent (100%) of the portion of the Funding Amount expended by the Commission in furtherance of the Local Public Improvements as of the date of the Commission's demand.

7.3 Utility Assessments. The Parties acknowledge that applicable laws, including without limitation Chapter 17, Article 10, of the South Bend Municipal Code, require an owner of property to pay certain costs associated with the City's installation of utilities serving that property. In consideration of the Developer's obligations under this Agreement, the Commission agrees to pay on the Developer's behalf any such installation charges under Chapter 17, Article 10 of the South Bend Municipal Code arising out of the Developer's construction of the Project. By contrast, the Developer will pay when due any charges or fees imposed on the Developer for the Developer's use of the Developer Property following its initial construction of the Project, and the Commission will have no obligation to pay any such charges or fees or to reimburse the Developer for the same.

7.4 Obligation and Rights of Mortgage Lenders. The holder of any mortgage or other security arrangement with respect to the Project, or any portion thereof (the "Holder"), shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction for completion, but shall otherwise be bound by all of the terms and condition of this Agreement which pertain to the Project or such portion thereof in which the Holder holds an interest. In the event that the Holder elects not to complete the Project, such election shall be made within thirty (30) days of the Holder gaining possession thereof, the Commission shall have the option to repurchase the Project or such portion thereof from the Holder at a purchase price equal to its fair market value. Any such Holder who comes into possession of the Project, or any portion thereof, pursuant to a foreclosure of a mortgage or deed in lieu of such foreclosure shall take the Project, or such portion thereof, subject to any pro rata claims for payments or charges against the Project, or such portion thereof, which accrue prior and subsequent to the time such Holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such Holder to devote the Project, or any portion thereof, to any uses or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement subject to all of the terms and the conditions of this Agreement.

7.5 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, none of the Parties shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, inclement weather, fires, delays by municipal bodies, casualties, acts of God, acts of terrorism, restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties, or other circumstances which are not within the reasonable control of the Party to be excused (each, an event of “Force Majeure”). Upon the request of any of the Parties, a reasonable extension of any date or deadline set forth in this Agreement due to such cause will be granted in writing for a period necessitated by the event of Force Majeure, or longer as may be mutually agreed upon by all the Parties.

SECTION 8. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP; CONFLICT OF INTEREST; INDEMNITY.

8.1 No Agency, Joint Venture or Partnership. The Parties acknowledge and agree that:

(a) The Project is a private development;

(b) None of the Commission, the Board of Works, or the Developer has any interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the Commission, the Board of Works, and/or the Developer expressly accepts the same; and

(c) The Parties hereby renounce the existence of any form of agency relationship, joint venture or partnership between the Commission, the Board of Works, and the Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Commission, the Board of Works, and the Developer.

8.2 Conflict of Interest; Commission Representatives Not Individually Liable. No member, official, or employee of the Commission or the City may have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the Commission or the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Commission or for any amount which may become due to the Developer, or its successors and assigns, or on any obligations under the terms of this Agreement. No partner, member, employee, or agent of the Developer or successors of them shall be personally liable to the Commission under this Agreement.

8.3 Indemnity. The Developer agrees to indemnify, defend, and hold harmless the Commission and the City from and against any liabilities, damages, or losses arising out of any third-party claim for bodily injury or property damage alleged to have occurred in or on the

Developer Property or the improvements constructed thereon, except to the extent caused by the negligence of the Commission or its contractors.

SECTION 9. MISCELLANEOUS.

9.1 Severability. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement shall continue in full force and effect unless amended or modified by mutual consent of the parties.

9.2 Other Necessary Acts. Each Party shall execute and deliver to the other Parties all such other further instruments and documents as may be reasonably necessary to accomplish the Project and the Local Public Improvements contemplated by this Agreement and to provide and secure to the other Parties the full and complete enjoyment of its rights and privileges hereunder. Notwithstanding the foregoing, the Parties understand and agree that certain actions contemplated by this Agreement may be required to be undertaken by persons, agencies, or entities that are not a party to this Agreement, including, but not limited to certain permits, consents, and/or approvals (to the extent they have not yet been obtained and completed), and that any action by such third parties shall require independent approval by the respective person, agency, entity, or governing body thereof.

9.3 Waiver of Jury Trial. The Parties acknowledge that disputes arising under this Agreement are likely to be complex and they desire to streamline and minimize the cost of resolving such disputes. In any legal proceeding, each party irrevocably waives the right to trial by jury in any action, counterclaim, dispute, or proceeding based upon, or related to, the subject matter of this Agreement. This waiver applies to all claims against all parties to such actions and proceedings. This waiver is knowingly, intentionally, and voluntarily made by both parties.

9.4 Attorneys' Fees. In the event of any litigation, mediation, or arbitration between the Parties regarding an alleged breach of this Agreement, none of the Parties shall be entitled to any award of attorney's fees.

9.5 Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Project:

(a) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and

(b) The Developer will state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

9.6 Counterparts. This Agreement 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.

9.7 Notices and Demands. Any notice, demand, or other communication required or permitted under the terms of this Agreement may be delivered (a) by hand-delivery (which will be deemed delivered at the time of receipt), (b) by registered or certified mail, return receipt requested (which will be deemed delivered three (3) days after mailing), or (c) by overnight courier service (which will be deemed delivered on the next business day) to each Party's respective addresses and representatives stated below.

Developer: Heading for Home LLC
c/o South Bend Cubs
501 West South Street
South Bend, Indiana 46601
Attn: Joe Hart

With a copy to: TWG Development, LLC
333 North Pennsylvania Street, Suite 100
Indianapolis, Indiana 46204
Attn: J.B. Curry
(the Developer's "Project Manager")

With a copy to: Patzik, Frank & Samotny Ltd.
150 South Wacker Drive, Suite 1500
Chicago, Illinois 60606
Attn: Alan B. Patzik

Commission: South Bend Redevelopment Commission
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Brian Pawlowski

With a copy to: South Bend Legal Department
1200 S. County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Corporation Counsel

9.8 Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of Indiana.

9.9 Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and certifies that he or she is the duly authorized officer or representative of such Party, that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party, and that all necessary action to execute and deliver this Agreement has been taken by such Party.

9.10 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the Parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties herein.

9.11 Assignment. The Developer's rights under this Agreement shall be personal to the Developer and shall not run with the land. Prior to substantial completion of the Project, Developer may not assign its rights or obligations under this Agreement to any third party without obtaining the Commission's prior written consent to such assignment, which the Commission may give or withhold in its sole but reasonable discretion. In the event the Developer seeks the Commission's consent to any such assignment, the Developer shall provide to the Commission all relevant information concerning the identities of the persons or entities proposed to be involved in and an explanation of the purposes for the proposed assignment(s). The Commission acknowledges that the Developer intends to contract with the Developer's Project Manager for the provision of certain services associated with constructing the Project and that the Project Manager will serve as the Developer's agent responsible for carrying out certain of the Developer's obligations under this Agreement. The Parties agree, however, that such delegation of responsibilities to the Project Manager will not reduce, relieve, release or otherwise affect the Developer's obligations under this Agreement or the Developer's liability to the Commission therefor.

9.12 Further Assurances. The Parties agree that they will each undertake in good faith, as permitted by law, any action and execute and deliver any document reasonably required to carry out the intents and purposes of this Agreement.

9.13 Exhibits. All exhibits described herein and attached hereto are incorporated into this Agreement by reference.

9.14 Entire Agreement. No representation, promise, or inducement not included in this Agreement will be binding upon the Parties hereto. This Agreement cannot be modified except by mutual agreement of the Parties set forth in a written instrument signed by the Parties' authorized representatives.

9.15 Time. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties hereby execute this 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

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IN WITNESS WHEREOF, the Parties hereby execute this 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

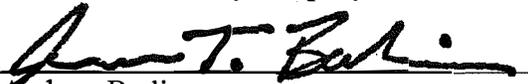
By: 
Name: Andrew Berlin
Title: Manager

EXHIBIT A

Description of Developer Property

Lots 2 and 3 of the plat of Coveleski Park Minor Subdivision recorded on February 11, 2015, as Document No. 1503430 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 18-3014-051501 and 18-3014-051502]

EXHIBIT B

Description of Local Public Improvements

The Commission will complete, or cause to be completed, the following work in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations:

- A. Site preparation and construction, including building concrete, structural masonry, structural steel/misc. metals, lumber package, framing labor, and earthwork and utilities.
- B. Other infrastructure elements or other improvements to the Developer Property associated with the construction of the Project.

EXHIBIT C

Form of Easement

[See attached.]

GRANT OF TEMPORARY EASEMENT

THIS INDENTURE, made as of the _____ day of _____, 2016 (the “Effective Date”), by and between Heading for Home LLC, a Delaware limited liability company with offices at 501 W. South St., South Bend, Indiana 46601 (the “Grantor”), and the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, 1400 S. County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601 (the “Grantee”).

WITNESSETH:

For the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which Grantor hereby acknowledges, Grantor hereby grants, conveys, and warrants to Grantee a temporary, non-exclusive easement (the “Easement”) on, in, over, under and across the real property described in attached Exhibit 1 (the “Property”) for the construction, equipping, and delivery of certain improvements on the Property (the “Local Public Improvements”), together with the right of ingress to and egress from the Easement for said purposes, all pursuant a certain Development Agreement by and between Grantor and Grantee, dated August 25, 2016 (the “Development Agreement”). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Development Agreement.

The Easement granted herein shall pertain to the air, surface, and subsurface rights and interests of Grantor, for the use and benefit of Grantee, and its successors and assigns, to the extent necessary to accomplish and carry out the construction, equipping, and delivery of the Local Improvements on the Property. The Easement hereby granted includes the right and privilege for Grantee at reasonable times to clean and remove from said Easement any debris or obstructions interfering with said Easement.

The Easement granted herein, and its associated benefits and obligations, shall inure to the benefit of Grantee and Grantee’s contractors acting on Grantee’s behalf in connection with the Local Public Improvements.

Notwithstanding anything contained herein to the contrary, unless extended in writing by Grantor, the Easement shall terminate and be of no further force and effect on the date of the earliest of the following: (a) completion of the Local Public Improvements; (b) expiration or earlier termination of the Development Agreement; or (c) such date as Grantor and Grantee may agree to in writing.

[Signature page follows.]

EXHIBIT 1

Description of Property

Lots 2 and 3 of the plat of Coveleski Park Minor Subdivision recorded on February 11, 2015, as Document No. 1503430 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 18-3014-051501 and 18-3014-051502]

EXHIBIT D

Minimum Insurance Amounts

- | | | |
|----|------------------------------------|--|
| A. | Worker's Compensation | |
| | 1. State | Statutory |
| | 2. Applicable Federal | Statutory |
| | 3. Employer's Liability | \$100,000.00 |
| B. | Comprehensive General Liability | |
| | 1. Bodily Injury | \$5,000,000 Per Occurrence, inclusive of umbrella coverage |
| | 2. Property Damage | \$5,000,000 Per Occurrence, inclusive of umbrella coverage |
| C. | Comprehensive Automobile Liability | |
| | 1. Bodily Injury | |
| | a. \$500,000.00 | Each Person |
| | b. \$500,000.00 | Each Accident |
| | 2. Property Damage | |
| | a. \$500,000.00 | Each Occurrence |

**ASSIGNMENT AND ASSUMPTION
OF
REAL ESTATE OPTION AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF REAL ESTATE OPTION AGREEMENT (this “**Assignment and Assumption**”) dated as of August 22, 2016, is entered into by and between Swing-Batter-Swing, LLC, an Indiana limited liability company (“**Assignor**”), and Heading for Home LLC, a Delaware limited liability company (“**Assignee**”).

RECITALS

A. Reference is hereby made to that certain Real Estate Option Agreement dated July 30, 2015, by and between Assignor and the South Bend Redevelopment Commission (“**Commission**”) (the “**Option Agreement**”) in connection with the option to purchase the Property, as that term is defined in the Option Agreement. All initially-capitalized terms not otherwise defined herein shall have the meanings set forth in the Option Agreement unless the context clearly indicates otherwise.

B. Assignor desires to assign to Assignee, all of Assignor’s right, title, interests, and obligations as option holder in, to and under the Option Agreement with respect to the Property, and Assignee desires to accept the assignment thereof and assume Assignor’s right, title, interests, and obligations thereunder.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT

1. Assignment and Assumption.

1.1 Assignment. Assignor hereby transfers, assigns and conveys, without recourse, representation or warranty, express or implied, all of Assignor’s rights, interests, liabilities and obligations in and to the Property, and all of Assignor’s rights, interests, liabilities and obligations under the Option Agreement to acquire same to Assignee. Assignee hereby assumes all such rights, interests, liabilities and obligations, and joins in all representations, warranties, releases, and indemnities, of Assignor under the Option Agreement relating to such Property and the Option Agreement assigned to it above. Assignee agrees that its option to acquire the Property pursuant to the Option Agreement shall be subject to all terms and conditions thereof. Commencing as of the date hereof, Commission shall have the right to deal exclusively with Assignee with respect to the Option Agreement.

1.2 Assumption. Assignee hereby assumes all of the terms and provisions under the Option Agreement, and all of Assignor’s obligations under the Option Agreement arising after the date hereof and agrees fully and faithfully to pay, perform and discharge, as and when payment, performance and discharge are due, all of Assignor’s obligations under the Option Agreement arising after the date hereof.

1.3 Successors and Assigns. This Assignment and Assumption shall be binding on and inure to the benefit of Assignor and Assignee and their respective heirs, executors, administrators, successors in interest and permitted assigns.

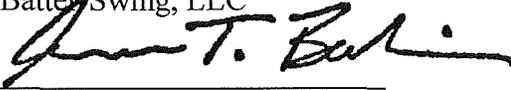
1.4. Consent. This Assignment shall be subject to the consent of the Commission.

1.5. Representation. Assignor represents and warrants that the Assignee is controlled by Andrew Berlin.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption of Real Estate Option Agreement as of the day and year first above written.

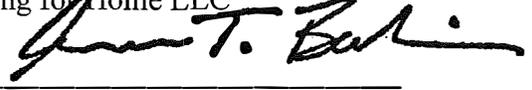
ASSIGNOR:

Swing-Batter Swing, LLC

By: 

ASSIGNEE:

Heading for Home LLC

By: 

The undersigned hereby consents to this Assignment.

COMMISSION:

CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this “Agreement”) is made on August 25, 2016 (the “Contract Date”), by and between the City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (“Seller”) and Heading for Home LLC, a Delaware limited liability company with its principal place of business at 501 W. South St., South Bend, Indiana 46601 (“Buyer”) (each a “Party” and together the “Parties”).

RECITALS

A. Seller exists and operates pursuant to the Redevelopment of Cities and Towns Act of 1953, as amended, being Ind. Code 36-7-14 (the “Act”).

B. In furtherance of its purposes under the Act, Seller owns certain real property located in South Bend, Indiana (the “City”), and more particularly described in attached **Exhibit A** (the “Property”).

C. Swing-Batter-Swing, LLC holds an exclusive option to purchase the Property from Seller upon certain conditions pursuant to the Parties’ Real Estate Option Agreement dated July 30, 2015 (the “Option Agreement”), which option was placed of record by the Memorandum Of Real Estate Option Agreement dated July 30, 2015, and recorded on July 31, 2015, as Document No. 1519603 in the Office of the Recorder of St. Joseph County, Indiana.

D. On August 22, 2016, pursuant to Section 9 of the Option Agreement, Swing-Batter-Swing, LLC requested the Commission’s consent to an assignment of the Option Agreement from Swing-Batter-Swing, LLC to Buyer, and Seller has consented to the assignment as set forth in Resolution No. 3345 dated August 25, 2016.

E. On August 22, 2016, Buyer submitted its Notice of Intent (as defined in the Option Agreement) to purchase the Property from Seller, which Seller approved as set forth in Resolution No. 3345 dated August 25, 2016.

THEREFORE, in consideration of the mutual covenants and promises in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, Buyer and Seller agree as follows:

1. OFFER AND ACCEPTANCE

A copy of this Agreement, signed by Buyer, constitutes Buyer’s offer to purchase the Property on the terms stated in this Agreement and shall be delivered to Seller, in care of the following representative (“Seller’s Representative”):

Brian Pawlowski
Acting Executive Director
Department of Community Investment
City of South Bend
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601

This offer shall expire fifteen (15) days after delivery unless accepted by Seller. To accept Buyer's offer, Seller shall return a copy of this Agreement, counter-signed by Seller in accordance with applicable laws, to the following ("Buyer's Representative"):

Heading for Home LLC
c/o South Bend Cubs
501 West South Street
South Bend, Indiana 46601
Attn: Joe Hart

With a copy to:

TWG Development, LLC
333 North Pennsylvania Street, Suite 100
Indianapolis, Indiana 46204
Attn: J.B. Curry

With a copy to:

Patzik, Frank & Samotny Ltd.
150 South Wacker Drive, Suite 1500
Chicago, Illinois 60606
Attn: Alan B. Patzik

2. PURCHASE PRICE

In accordance with Section 4 of the Option Agreement, the purchase price for the Property shall be One Dollar (\$1.00) (the "Purchase Price"), payable by Buyer to Seller in cash at the closing described in Section 10 below (the "Closing," the date of which is the "Closing Date").

3. BUYER'S DUE DILIGENCE

A. Investigation. Buyer and Seller have made and entered into this Agreement based on their mutual understanding that Buyer intends to use the Property for the development of a mixed-use project including, without limitation, residential, commercial, and retail/hospitality uses (the "Buyer's Use"). Seller acknowledges that Buyer's determination whether Buyer's Use is feasible requires investigation into various matters (Buyer's "Due Diligence"). Therefore, Buyer's obligation to complete the purchase of the Property is conditioned upon the satisfactory

completion, in Buyer's discretion, of Buyer's Due Diligence, including, without limitation, Buyer's examination, at Buyer's sole expense, of zoning and land use matters, environmental matters, real property title matters, and the like, as applicable.

B. Due Diligence Period. Buyer shall have a period of sixty (60) days following the Contract Date to complete its examination of the Property in accordance with this Section 3 (the "Due Diligence Period").

C. Authorizations During Due Diligence Period. During the Due Diligence Period, Seller authorizes Buyer, upon Buyer providing Seller with evidence that Buyer has general liability insurance reasonably acceptable to Seller, in the amount of at least One Million Dollars (\$1,000,000), naming Seller as an additional insured and covering the activities, acts, and omissions of Buyer and its representatives at the Property, to

(i) enter upon the Property or to cause agents to enter upon the Property for purposes of examination; provided, that Buyer may not take any action upon the Property which reduces the value thereof and Buyer may not conduct any invasive testing at the Property without Seller's express prior written consent; further provided, that if the transaction contemplated herein is not consummated, Buyer shall promptly restore the Property to its condition prior to entry, and agrees to defend, indemnify and hold Seller harmless, before and after the Closing Date whether or not a closing occurs and regardless of any cancellations or termination of this Agreement, from any liability to any third party, loss or expense incurred by Seller, including without limitation, reasonable attorney fees and costs arising from acts or omissions of Buyer or Buyer's agents or representatives; and

(ii) file any application with any federal, state, county, municipal or regional agency relating to the Property for the purpose of obtaining any approval necessary for Buyer's anticipated use of the Property. If Seller's written consent to or signature upon any such application is required by any such agency for consideration or acceptance of any such application, Buyer may request from Seller such consent or signature, which Seller shall not unreasonably withhold. Notwithstanding the foregoing, any zoning commitments or other commitments that would further restrict the future use or development of the Property, beyond the restrictions in place as a result of the current zoning of the Property, shall be subject to Seller's prior review and written approval.

D. Termination of Agreement. If at any time within the Due Diligence Period Buyer determines, in its sole discretion, not to proceed with the purchase of the Property, Buyer may terminate this Agreement by written notice to Seller's Representative.

4. SELLER'S DOCUMENTS; ENVIRONMENTAL SITE ASSESSMENT

Upon Buyer's request, Seller will provide Buyer a copy of all known environmental inspection, engineering, title, and survey reports and documents in Seller's possession relating to the Property. In the event the Closing does not occur, Buyer will immediately return all such reports and documents to Seller's Representative with or without a written request by Seller. In addition to reviewing any environmental reports provided by Seller, Buyer may, at Buyer's sole expense,

obtain a Phase I environmental site assessment of the Property pursuant to and limited by the authorizations stated in Section 3 above.

5. PRESERVATION OF TITLE

After the Contract Date, Seller shall not take any action or allow any action to be taken by others to cause the Property to become subject to any interests, liens, restrictions, easements, covenants, reservations, or other matters affecting Seller's title (such matters are referred to as "Encumbrances"). Seller acknowledges that Buyer intends to obtain, at Buyer's sole expense, and to rely upon a commitment for title insurance on the Property (the "Title Commitment") and a survey of the Property (the "Survey") identifying all Encumbrances as of the Contract Date. The Property shall be conveyed to Buyer free of any Encumbrances other than Permitted Encumbrances (as defined in Section 7 below).

6. TITLE COMMITMENT AND POLICY REQUIREMENTS

As a condition precedent to Buyer's obligation to close hereunder Buyer shall receive the Title Commitment for an owner's policy of title insurance issued by a title company selected by Buyer and reasonably acceptable to Seller (the "Title Company") within ten (10) days of the Contract Date. The Title Commitment must (i) agree to insure good, marketable, and indefeasible fee simple title to the Property (including public road access) in the name of the Buyer for the full amount of the Purchase Price upon delivery and recordation of a quit claim deed (the "Deed") from the Seller to the Buyer, and (ii) provide for issuance of a final ALTA owner's title insurance policy, with any endorsements requested by Buyer, subject to the Permitted Encumbrances. Regardless of whether this transaction closes, Buyer shall be responsible for all of the Title Company's title search charges and all costs of the Title Commitment and owner's policy.

7. REVIEW OF TITLE COMMITMENT AND SURVEY

Buyer shall give Seller written notice, within ten (10) days after receipt of the last of the Title Commitment and the Survey, of any objections to the Title Commitment or Survey. Any exceptions identified in the Title Commitment or Survey to which written notice of objection is not given within such period shall be a "Permitted Encumbrance." If the Seller is unable or unwilling to correct or commence action to correct the Buyer's title and survey objections within the Due Diligence Period, Buyer may terminate this Agreement by written notice to Seller prior to expiration of the Due Diligence Period. If Buyer fails to so terminate this Agreement, then such objections shall constitute "Permitted Encumbrances" as of the expiration of the Due Diligence Period, and Buyer shall acquire the Property without any effect being given to such title and survey objections.

8. DISPUTE RESOLUTION

A. Forum. Any action to enforce the terms or conditions of this Agreement or otherwise concerning a dispute under this Agreement will be commenced in the courts of St.

Joseph County, Indiana, unless the Parties mutually agree to an alternative method of dispute resolution.

B. Waiver of Jury Trial. Both Parties hereby waive any right to trial by jury with respect to any action or proceeding relating to this Agreement.

9. NOTICES

All notices required or allowed by this Agreement, before or after Closing, shall be delivered in person or by certified mail, return receipt requested, postage prepaid, addressed to Seller in care of Seller's Representative (with a copy to South Bend Legal Department, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601, Attn: Corporation Counsel), or to Buyer in care of Buyer's Representative at their respective addresses stated in Section 1 above. Either Party may, by written notice, modify its address or representative for future notices.

10. CLOSING

A. Timing of Closing. Unless this Agreement is earlier terminated, the Closing shall be completed through an escrow ("Escrow") at the offices of the Title Company in accordance with the general provisions of the usual form of "New York Style" Deed and Money Escrow Agreement ("Escrow Agreement") then provided and used by the Title Company with such special provisions inserted in the Escrow Agreement as may be required to conform with this Agreement. The Closing Date shall be a mutually agreeable date not later than thirty (30) days after the end of the Due Diligence Period.

B. Closing Procedure.

(i) At Closing, Buyer shall deliver the Purchase Price to Seller, conditioned on Seller's delivery of the Deed, in the form attached hereto as **Exhibit B**, conveying the Property to Buyer, free and clear of all liens, encumbrances, title defects, and exceptions other than Permitted Encumbrances, and the Title Company's delivery of the marked-up copy of the Title Commitment (or pro forma policy) to Buyer in accordance with Section 6 above.

(ii) Possession of the Property shall be delivered to the Buyer at Closing, in the same condition as it existed on the Contract Date, ordinary wear and tear excepted.

C. Condition Precedent. It shall be a condition precedent to Closing that Seller will have approved the relocation of certain public utilities on and/or in the vicinity of the Property to be performed by Seller (or its designee) and will have approved the Development Agreement, dated August 25, 2016, by and between Seller and Buyer and the confirmation of the Funding Amount (as defined in the Development Agreement) to Buyer for development of the Property.

D. Closing Costs. Buyer shall pay all of the Title Company's closing and/or document preparation fees and all recordation costs associated with the transaction contemplated in this Agreement.

11. ACCEPTANCE OF PROPERTY AS-IS; DEVELOPMENT PLANS

A. As-Is Transaction. Buyer agrees to purchase the Property “as-is, where-is” and without any representations or warranties by Seller as to the condition of the Property or its fitness for any particular use or purpose. Seller offers no such representation or warranty as to condition or fitness, and nothing in this Agreement will be construed to constitute such a representation or warranty as to condition or fitness. Notwithstanding the foregoing, Seller hereby represents and warrants that Seller has obtained all requisite consents and approvals to execute this Agreement and perform its obligations hereunder.

B. Development Plans. Buyer agrees to develop the Property and carry out Buyer’s Use (as defined above) of the Property in accordance with the terms of Resolution No. 3345 dated August 25, 2016, and the Development Agreement between the Parties dated August 25, 2016.

12. TAXES

Buyer, and Buyer’s successors and assigns, shall be liable for any and all real property taxes assessed and levied against the Property with respect to the year in which the Closing takes place and for all subsequent years. Seller shall have no liability for any real property taxes associated with the Property, and nothing in this Agreement shall be construed to require the proration or other apportionment of real property taxes resulting in Seller’s liability therefor.

13. REMEDIES

Upon any default in or breach of this Agreement by either Party, the defaulting Party will proceed immediately to cure or remedy such default within thirty (30) days after receipt of written notice of such default or breach from the non-defaulting Party, or, if the nature of the default or breach is such that it cannot be cured within thirty (30) days, the defaulting Party will diligently pursue and prosecute to completion an appropriate cure within a reasonable time. In the event of a default or breach that remains uncured for longer than the period stated in the foregoing sentence, the non-defaulting Party may terminate this Agreement, commence legal proceedings, including an action for specific performance, or pursue any other remedy available at law or in equity; provided, however, no Party shall be liable for consequential, speculative or punitive damages. All the Parties’ respective rights and remedies concerning this Agreement and the Property are cumulative.

14. COMMISSIONS

The Parties mutually acknowledge and warrant to one another that neither Buyer nor Seller is represented by any broker in connection with the transaction contemplated in this Agreement. Buyer and Seller agree to indemnify and hold harmless one another from any claim for commissions in connection with the transaction contemplated in this Agreement.

15. INTERPRETATION; APPLICABLE LAW

Both Parties having participated fully and equally in the negotiation and preparation of this Agreement, this Agreement shall not be more strictly construed, nor shall any ambiguities in this

Agreement be presumptively resolved, against either Party. This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

16. ENTIRE AGREEMENT

This Agreement embodies the entire agreement between Seller and Buyer and supersedes all prior discussions, understandings, or agreements, whether written or oral, between Seller and Buyer concerning the transaction contemplated in this Agreement.

17. ASSIGNMENT

Buyer and Seller agree that this Agreement or any of Buyer's rights hereunder may not be assigned by Buyer, in whole or in part, without the prior written consent of Seller. In the event Buyer wishes to obtain Seller's consent regarding a proposed assignment of this Agreement, Seller may request and Buyer shall provide any and all information reasonably demanded by Seller in connection with the proposed assignment and/or the proposed assignee.

18. BINDING EFFECT; COUNTERPARTS; SIGNATURES

All the terms and conditions of this Agreement will be effective and binding upon the Parties and their successors and assigns at the time the Agreement is fully signed and delivered by Buyer and Seller. This Agreement may be separately executed in counterparts by Buyer and Seller, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

19. AUTHORITY TO EXECUTE; EXISTENCE

The undersigned persons executing and delivering this Agreement on behalf of the respective Parties represent and certify that they are the duly authorized representatives of each and have been fully empowered to execute and deliver this Agreement and that all necessary corporate action has been taken and done. Further, the undersigned representative of Buyer represents and warrants that Buyer is duly organized, validly existing, and in good standing under the laws of the State of Indiana.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereby execute this Real Estate Purchase Agreement to be effective as of the Contract Date stated above.

BUYER:

Heading for Home LLC,
a Delaware limited liability company

Andrew Berlin
Its: Manager
Dated:

SELLER:

City of South Bend, Department of Redevelopment,
by and through its governing body, the South Bend
Redevelopment Commission

Marcia I. Jones, President

ATTEST:

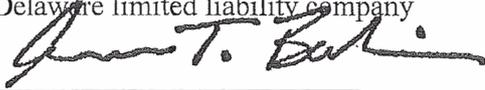
Donald E. Inks, Secretary

4000.0000069 35609161.005

IN WITNESS WHEREOF, the Parties hereby execute this Real Estate Purchase Agreement to be effective as of the Contract Date stated above.

BUYER:

Heading for Home LLC,
a Delaware limited liability company



Printed: Andrew Berlin
Its: Manager
Dated: August 25, 2016

SELLER:

City of South Bend, Department of Redevelopment,
by and through its governing body, the South Bend
Redevelopment Commission

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

EXHIBIT A

Description of Property

Lots 2 and 3 of the plat of Coveleski Park Minor Subdivision recorded on February 11, 2015, as Document No. 1503430 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 18-3014-051501 and 18-3014-051502]

EXHIBIT B

Form of Quit Claim Deed

QUIT CLAIM 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 QUIT CLAIMS to Heading for Home LLC, a Delaware limited liability company with its principal place of business at 501 W. South St., South Bend, Indiana 46601 (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 and 3 of the plat of Coveleski Park Minor Subdivision recorded on February 11, 2015, as Document No. 1503430 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 18-3014-051501 and 18-3014-051502]

The Grantor hereby conveys the Property to the Grantee free and clear of all leases or licenses; subject to the terms and conditions stated in South Bend Redevelopment Commission Resolution No. 3345 dated August 25, 2016, and the Development Agreement between Grantor and Grantee dated August 25, 2016; 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; and subject to all applicable building codes and zoning ordinances.

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 Quit Claim Deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the ____ day of _____, 2016.

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.

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”), is effective as of August 25, 2016 (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 Commission exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953, as amended (Ind. Code 36-7-14, the “Act”).

B. The Act provides that the clearance, replanning, and redevelopment of redevelopment areas are public uses and purposes for which public money may be spent.

C. The Commission granted Swing-Batter-Swing, LLC (“SBS”) an exclusive option to purchase certain real property described in attached Exhibit A (the “Developer Property”) upon the terms stated in the Real Estate Option Agreement dated July 30, 2015 (the “Option Agreement”), which Option Agreement SBS assigned to the Developer under the Assignment and Assumption of Real Estate Option Agreement dated August 22, 2016, by and between SBS and the Developer.

D. Upon exercising its option and acquiring the Developer Property from the Commission, the Developer desires to develop the Developer Property as a mixed-use project including, without limitation, residential, commercial, and retail/hospitality uses (the “Project”) in substantial accordance with the plans and specifications, as defined in and attached to the Commission’s Resolution No. 3345 dated August 25, 2016 (the “Development Plans”).

E. The Developer Property is located within the corporate boundaries of the City of South Bend, Indiana (the “City”), within the River West Development Area (the “Area”).

F. The Commission has adopted (and subsequently amended, from time to time) a development plan, which contemplates development of the Area consistent with the Project.

G. The Commission believes that accomplishing the Project as described herein is in the best interests of the health, safety, and welfare of the City and its residents.

H. The Commission desires to facilitate and assist the Project by undertaking the local public improvements stated in Exhibit B (the “Local Public Improvements”) and the financing thereof, subject to the terms and conditions of this Agreement and in accordance with the Act.

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

SECTION 1. DEFINITIONS.

Unless otherwise defined in this Agreement, capitalized terms used in this Agreement have the following meanings:

1.1 Assessed Value. “Assessed Value” means the market value-in-use of a property, used for property tax assessment purposes as determined by the St. Joseph County Assessor.

1.2 Board of Works. “Board of Works” means the Board of Public Works of the City, a public body granted the power to award contracts for public works pursuant to Ind. Code 36-1-12.

1.3 Funding Amount. “Funding Amount” means an amount not to exceed Three Million Four Hundred Thousand Dollars (\$3,400,000.00) of tax increment finance revenues to be used for paying the costs associated with the construction, equipping, inspection, and delivery of the Local Public Improvements.

1.4 Private Investment. “Private Investment” means an amount no less than Eighteen Million Dollars (\$18,000,000.00) to be expended by the Developer for the costs associated with constructing the improvements set forth in the Project Plan, including architectural, engineering, and any other costs directly related to completion of the Project.

SECTION 2. INTERPRETATION, TERMS, AND RECITALS.

2.1 Interpretation.

(a) The terms “herein,” “hereto,” “hereunder,” and all terms of similar import shall be deemed to refer to this Agreement as a whole rather than to any Article of, Section of, or Exhibit to this Agreement.

(b) Unless otherwise specified, references in this Agreement to (i) “Section” or “Article” shall be deemed to refer to the Section or Article of this Agreement bearing the number so specified, (ii) “Exhibit” shall be deemed to refer to the Exhibit of this Agreement bearing the letter or number so specified, and (iii) references to this “Agreement” shall mean this Agreement and any exhibits and attachments hereto.

(c) Captions used for or in Sections, Articles, and Exhibits of this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(d) The terms “include”, “including” and “such as” shall each be construed as if followed by the phrase “without being limited to.”

2.2 Recitals. The Recitals set forth above are incorporated into and are a part of this Agreement for all purposes.

SECTION 3. ACCESS.

3.1 Grant of Easement. The Developer will grant to the Commission a temporary, non-exclusive easement on, in, over, under and across any part(s) of the Developer Property (the "Easement") in the form attached hereto as Exhibit C, to permit the Commission to fulfill its obligations under this Agreement, including the construction, equipping, inspection, and delivery of the Local Public Improvements. The Easement shall (a) inure to the benefit of the Commission and the Board of Works or any contractors acting on behalf of the Commission in connection with the construction, equipping, inspection, and delivery of the Local Public Improvements; (b) shall bind the Developer and its grantees, successors, and assigns; and (c) shall terminate no later than upon completion of the Local Public Improvements, as determined by the Board of Works.

SECTION 4. DEVELOPER'S OBLIGATIONS.

4.1 Generally. The Parties acknowledge and agree that the Commission's agreements to perform and abide by the covenants and obligations set forth in this Agreement are material consideration for the Developer's commitment to perform and abide by the covenants and obligations of the Developer contained in this Agreement.

4.2 The Project.

(a) As a condition precedent to the Parties' respective rights and obligations under this Agreement, the Developer will acquire the Developer Property from the Commission in accordance with the terms and conditions of the Option Agreement.

(b) The Developer will perform all necessary work to complete the improvements set forth in the Development Plans as such Development Plans may be revised upon completion of the finalized survey, engineering, and site layout.

(c) The Developer will expend the Private Investment to complete the Project in substantial accordance with the Development Plans as such Development Plans may be revised upon completion of the finalized survey, engineering, and site layout.

(d) Other than modifications based on the finalized survey, engineering and site layout and modifications due to unforeseen circumstances, the Developer will not undertake any substantial deviation from the Development Plans without first obtaining the Commission's written approval.

Notwithstanding anything to the contrary contained herein, Developer shall not eliminate a commercial component of the development.

4.3 Cooperation. The Developer agrees to endorse and support, at no cost to Developer, the Commission's efforts to expedite the Local Public Improvements through any required planning, design, public bidding, construction, inspection, waiver, permitting, and related regulatory processes. To the extent that any portion of this Project is to be located in City owned rights of way, the Commission will assist the Developer in good faith in obtaining for the Developer and its designees access thereto to enable the construction of such portion of the

Project, provided, however, that the Commission will not support or facilitate the vacation of any portion of West Monroe Street lying east of South Lafayette Boulevard for construction of the Project.

4.4 Obtain Necessary Easements. The Developer agrees to request any and all easements from any governmental entity and/or any other third parties that the Developer or the Commission deems necessary or advisable in order to complete the Local Public Improvements, and the obtaining of such easements is a condition precedent to the Commission's obligations under this Agreement.

4.5 Timeframe for Completion. The Developer hereby agrees to complete the Project and any other obligations the Developer may have under this Agreement by the date that is twenty-four (24) months after the Effective Date of this Agreement (the "Mandatory Project Completion Date"). Notwithstanding any provision of this Agreement to the contrary, the Developer's failure to complete the Project or any other obligations the Developer may have under this Agreement by the Mandatory Project Completion Date will constitute a default under this Agreement without any requirement of notice of or an opportunity to cure such failure.

4.6 RESERVED.

4.7 Reporting Obligations.

(a) Upon the letting of contracts for substantial portions of the Project and again upon substantial completion of the Project, the Developer hereby agrees to report to the Commission the number of local contractors and local laborers involved in the Project, the amount of bid awards for each material contract related to the Project, and information regarding which contractor is awarded each contract with respect to the Project.

(b) On or before June 30 and December 31 of each year until substantial completion of the Project, the Developer shall submit to the Commission a report demonstrating the Developer's good-faith compliance with the terms of this Agreement. The report shall include the following information and documents: (i) a status report of the construction completed to date, (ii) an update on the project schedule, (iii) an itemized accounting generally identifying the Private Investment to date, and (iv) a status report of the number of jobs created for employment at the Developer Property.

(c) On or before April 15 of the year that is one year after substantial completion of the Project and on each April 15 thereafter until April 15 of the year which is three (3) years after substantial completion of the Project, the Developer shall submit to the Commission a report with the following information: (i) the number of jobs created as a result of the Project and wage and benefit information for the jobs created; and (ii) a detailed description of the of the job and wage details for the number of people employed by the Developer in connection with the Project.

4.8 RESERVED.

4.9 Costs and Expenses of Construction of Project. The Developer hereby agrees to pay, or cause to be paid, all costs and expenses of construction for the Project (including legal fees, architectural and engineering fees), exclusive of the Local Public Improvements, which shall be paid for by the Commission by and through the Funding Amount subject to the terms of this Agreement.

4.10 Specifications for Local Public Improvements. The Developer will be responsible for the preparation of all bid specifications related to the Local Public Improvements, and the Developer will pay all costs and expenses of such preparation, provided, however, that if the Commission pays any costs or expenses of such preparation, then the amount paid by the Commission will be deducted from the Funding Amount. The Developer will submit all bid specifications related to the Local Public Improvements to the City of South Bend Engineering Department (the "Engineering Department"). The Engineering Department may approve or disapprove said bid specifications in its sole discretion and may request revisions or amendments to be made to the same.

4.11 Non-Interference. Developer hereby agrees to use commercially reasonable efforts to minimize disruption for those living and working near the Developer Property during construction of the Project.

4.12 Insurance. The Developer shall purchase and maintain comprehensive insurance coverage as is appropriate for the work being performed with respect to the Project. The Developer shall provide proof of such adequate insurance to the Commission and shall notify the Commission and the City of any change in or termination of such insurance. During the period of construction or provision of services regarding any Local Public Improvements, the Developer shall maintain insurance in the kinds and for at least the minimum amounts as described in Exhibit D attached hereto and the Commission and the City shall be named as additional insureds on such policies (but not on any worker's compensation policies).

4.13 Information. The Developer agrees to provide any and all due diligence items with respect to the Project reasonably requested by the Commission.

SECTION 5. COMMISSION'S OBLIGATIONS.

5.1 Generally. The Parties acknowledge and agree that the Developer's agreement to perform and abide by the covenants and obligations set forth in this Agreement is material consideration for the Commission's commitment to perform and abide by the covenants and obligations of the Commission contained in the Agreement.

5.2 Completion of Local Public Improvements.

(a) The Commission hereby agrees to complete (or cause to be completed) the Local Public Improvements described in Exhibit B attached hereto on a schedule to be reasonably determined and agreed to by the Commission and the Developer, as may be modified due to unforeseen circumstances and delays.

(b) Before any work on the Local Public Improvements will commence, (i) the Developer will have acquired the Developer Property from the Commission in

accordance with the terms of the Option Agreement, and (ii) the Engineering Department will have received satisfactory bid specifications for the Local Public Improvements and approved the same in accordance with Section 4.10 of this Agreement.

(c) The Local Public Improvements will be completed in accordance with all applicable public bidding and contracting laws and will be subject to inspection by the Engineering Department or its designee.

(d) Notwithstanding anything contained herein to the contrary, in the event the costs associated with the Local Public Improvements are in excess of the Funding Amount, Developer, at its sole option, may determine to pay to the Commission the amount of the excess costs to permit timely completion of the Local Public Improvements by the Commission, or an agent of the Commission, which amounts shall be applied for such purpose. If Developer chooses not to pay any such excess costs of the Local Public Improvements (above the Funding Amount), the Commission may reduce the scope of the Local Public Improvements to the amount which may be funded with the Funding Amount. In no event will the Commission be required to spend more than the Funding Amount in connection with the Local Public Improvements.

5.3 Cooperation. The Commission agrees to endorse and support the Developer's efforts to expedite the Project through any required planning, design, permitting, waiver, and related regulatory processes, provided, however, that the Commission will not be required to expend any money in connection therewith.

5.4 Public Announcements, Press Releases, and Marketing Materials. The Commission hereby agrees to coordinate all public announcements and press releases relating to the Project with the Developer.

SECTION 6. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.

6.1 Cooperation. In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own legal counsel and retain such counsel at its own expense, and in no event shall the Commission be required to bear the fees and costs of the Developer's attorneys nor shall the Developer be required to bear the fees and costs of the Commission's attorneys. The Parties agree that if any other provision of this Agreement, or this Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this Section 6.1, which shall survive such invalidation, nullification, or setting aside. Notwithstanding the foregoing, in the event the Project or the terms of this Agreement face legal challenge for any reason other than Developer's failure to comply with the terms hereof, the Developer may elect to abandon the Project.

SECTION 7. DEFAULT.

7.1 Default. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written

notice of such failure from the other Party, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. Upon the occurrence of a default under this Agreement, the non-defaulting Party may (a) terminate this Agreement, or (b) institute legal proceedings at law or in equity (including any action to compel specific performance) seeking remedies for such default. If the default is cured within thirty (30) days after the notice described in this Section 7.1, then no default shall exist and the noticing Party shall take no further action.

7.2 Reimbursement Obligation. In the event that the Developer fails (a) to complete the Project by the Mandatory Project Completion Date, subject to an event of Force Majeure as stated in Section 7.4, or (b) to expend the full amount of the Private Investment by the Mandatory Project Completion Date, subject to an event of Force Majeure as stated in Section 7.4, and provided no substitute developer completes the Project, then upon the written demand of the Commission, the Developer will repay the Commission One Hundred Percent (100%) of the portion of the Funding Amount expended by the Commission in furtherance of the Local Public Improvements as of the date of the Commission's demand.

7.3 Utility Assessments. The Parties acknowledge that applicable laws, including without limitation Chapter 17, Article 10, of the South Bend Municipal Code, require an owner of property to pay certain costs associated with the City's installation of utilities serving that property. In consideration of the Developer's obligations under this Agreement, the Commission agrees to pay on the Developer's behalf any such installation charges under Chapter 17, Article 10 of the South Bend Municipal Code arising out of the Developer's construction of the Project. By contrast, the Developer will pay when due any charges or fees imposed on the Developer for the Developer's use of the Developer Property following its initial construction of the Project, and the Commission will have no obligation to pay any such charges or fees or to reimburse the Developer for the same.

7.4 Obligation and Rights of Mortgage Lenders. The holder of any mortgage or other security arrangement with respect to the Project, or any portion thereof (the "Holder"), shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction for completion, but shall otherwise be bound by all of the terms and condition of this Agreement which pertain to the Project or such portion thereof in which the Holder holds an interest. In the event that the Holder elects not to complete the Project, such election shall be made within thirty (30) days of the Holder gaining possession thereof, the Commission shall have the option to repurchase the Project or such portion thereof from the Holder at a purchase price equal to its fair market value. Any such Holder who comes into possession of the Project, or any portion thereof, pursuant to a foreclosure of a mortgage or deed in lieu of such foreclosure shall take the Project, or such portion thereof, subject to any pro rata claims for payments or charges against the Project, or such portion thereof, which accrue prior and subsequent to the time such Holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such Holder to devote the Project, or any portion thereof, to any uses or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement subject to all of the terms and the conditions of this Agreement.

7.5 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, none of the Parties shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, inclement weather, fires, delays by municipal bodies, casualties, acts of God, acts of terrorism, restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties, or other circumstances which are not within the reasonable control of the Party to be excused (each, an event of “Force Majeure”). Upon the request of any of the Parties, a reasonable extension of any date or deadline set forth in this Agreement due to such cause will be granted in writing for a period necessitated by the event of Force Majeure, or longer as may be mutually agreed upon by all the Parties.

SECTION 8. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP; CONFLICT OF INTEREST; INDEMNITY.

8.1 No Agency, Joint Venture or Partnership. The Parties acknowledge and agree that:

(a) The Project is a private development;

(b) None of the Commission, the Board of Works, or the Developer has any interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the Commission, the Board of Works, and/or the Developer expressly accepts the same; and

(c) The Parties hereby renounce the existence of any form of agency relationship, joint venture or partnership between the Commission, the Board of Works, and the Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Commission, the Board of Works, and the Developer.

8.2 Conflict of Interest; Commission Representatives Not Individually Liable. No member, official, or employee of the Commission or the City may have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the Commission or the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Commission or for any amount which may become due to the Developer, or its successors and assigns, or on any obligations under the terms of this Agreement. No partner, member, employee, or agent of the Developer or successors of them shall be personally liable to the Commission under this Agreement.

8.3 Indemnity. The Developer agrees to indemnify, defend, and hold harmless the Commission and the City from and against any liabilities, damages, or losses arising out of any third-party claim for bodily injury or property damage alleged to have occurred in or on the

Developer Property or the improvements constructed thereon, except to the extent caused by the negligence of the Commission or its contractors.

SECTION 9. MISCELLANEOUS.

9.1 Severability. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement shall continue in full force and effect unless amended or modified by mutual consent of the parties.

9.2 Other Necessary Acts. Each Party shall execute and deliver to the other Parties all such other further instruments and documents as may be reasonably necessary to accomplish the Project and the Local Public Improvements contemplated by this Agreement and to provide and secure to the other Parties the full and complete enjoyment of its rights and privileges hereunder. Notwithstanding the foregoing, the Parties understand and agree that certain actions contemplated by this Agreement may be required to be undertaken by persons, agencies, or entities that are not a party to this Agreement, including, but not limited to certain permits, consents, and/or approvals (to the extent they have not yet been obtained and completed), and that any action by such third parties shall require independent approval by the respective person, agency, entity, or governing body thereof.

9.3 Waiver of Jury Trial. The Parties acknowledge that disputes arising under this Agreement are likely to be complex and they desire to streamline and minimize the cost of resolving such disputes. In any legal proceeding, each party irrevocably waives the right to trial by jury in any action, counterclaim, dispute, or proceeding based upon, or related to, the subject matter of this Agreement. This waiver applies to all claims against all parties to such actions and proceedings. This waiver is knowingly, intentionally, and voluntarily made by both parties.

9.4 Attorneys' Fees. In the event of any litigation, mediation, or arbitration between the Parties regarding an alleged breach of this Agreement, none of the Parties shall be entitled to any award of attorney's fees.

9.5 Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Project:

(a) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and

(b) The Developer will state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

9.6 Counterparts. This Agreement 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.

9.7 Notices and Demands. Any notice, demand, or other communication required or permitted under the terms of this Agreement may be delivered (a) by hand-delivery (which will be deemed delivered at the time of receipt), (b) by registered or certified mail, return receipt requested (which will be deemed delivered three (3) days after mailing), or (c) by overnight courier service (which will be deemed delivered on the next business day) to each Party's respective addresses and representatives stated below.

Developer: Heading for Home LLC
c/o South Bend Cubs
501 West South Street
South Bend, Indiana 46601
Attn: Joe Hart

With a copy to: TWG Development, LLC
333 North Pennsylvania Street, Suite 100
Indianapolis, Indiana 46204
Attn: J.B. Curry
(the Developer's "Project Manager")

With a copy to: Patzik, Frank & Samotny Ltd.
150 South Wacker Drive, Suite 1500
Chicago, Illinois 60606
Attn: Alan B. Patzik

Commission: South Bend Redevelopment Commission
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Brian Pawlowski

With a copy to: South Bend Legal Department
1200 S. County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Corporation Counsel

9.8 Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of Indiana.

9.9 Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and certifies that he or she is the duly authorized officer or representative of such Party, that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party, and that all necessary action to execute and deliver this Agreement has been taken by such Party.

9.10 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the Parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties herein.

9.11 Assignment. The Developer's rights under this Agreement shall be personal to the Developer and shall not run with the land. Prior to substantial completion of the Project, Developer may not assign its rights or obligations under this Agreement to any third party without obtaining the Commission's prior written consent to such assignment, which the Commission may give or withhold in its sole but reasonable discretion. In the event the Developer seeks the Commission's consent to any such assignment, the Developer shall provide to the Commission all relevant information concerning the identities of the persons or entities proposed to be involved in and an explanation of the purposes for the proposed assignment(s). The Commission acknowledges that the Developer intends to contract with the Developer's Project Manager for the provision of certain services associated with constructing the Project and that the Project Manager will serve as the Developer's agent responsible for carrying out certain of the Developer's obligations under this Agreement. The Parties agree, however, that such delegation of responsibilities to the Project Manager will not reduce, relieve, release or otherwise affect the Developer's obligations under this Agreement or the Developer's liability to the Commission therefor.

9.12 Further Assurances. The Parties agree that they will each undertake in good faith, as permitted by law, any action and execute and deliver any document reasonably required to carry out the intents and purposes of this Agreement.

9.13 Exhibits. All exhibits described herein and attached hereto are incorporated into this Agreement by reference.

9.14 Entire Agreement. No representation, promise, or inducement not included in this Agreement will be binding upon the Parties hereto. This Agreement cannot be modified except by mutual agreement of the Parties set forth in a written instrument signed by the Parties' authorized representatives.

9.15 Time. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties hereby execute this 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

4000.0000069 65411392.008

IN WITNESS WHEREOF, the Parties hereby execute this 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

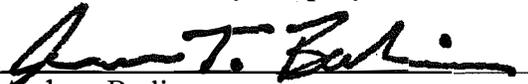
By: 
Name: Andrew Berlin
Title: Manager

EXHIBIT A

Description of Developer Property

Lots 2 and 3 of the plat of Coveleski Park Minor Subdivision recorded on February 11, 2015, as Document No. 1503430 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 18-3014-051501 and 18-3014-051502]

EXHIBIT B

Description of Local Public Improvements

The Commission will complete, or cause to be completed, the following work in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations:

- A. Site preparation and construction, including building concrete, structural masonry, structural steel/misc. metals, lumber package, framing labor, and earthwork and utilities.
- B. Other infrastructure elements or other improvements to the Developer Property associated with the construction of the Project.

EXHIBIT C

Form of Easement

[See attached.]

GRANT OF TEMPORARY EASEMENT

THIS INDENTURE, made as of the _____ day of _____, 2016 (the “Effective Date”), by and between Heading for Home LLC, a Delaware limited liability company with offices at 501 W. South St., South Bend, Indiana 46601 (the “Grantor”), and the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, 1400 S. County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601 (the “Grantee”).

WITNESSETH:

For the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which Grantor hereby acknowledges, Grantor hereby grants, conveys, and warrants to Grantee a temporary, non-exclusive easement (the “Easement”) on, in, over, under and across the real property described in attached Exhibit 1 (the “Property”) for the construction, equipping, and delivery of certain improvements on the Property (the “Local Public Improvements”), together with the right of ingress to and egress from the Easement for said purposes, all pursuant a certain Development Agreement by and between Grantor and Grantee, dated August 25, 2016 (the “Development Agreement”). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Development Agreement.

The Easement granted herein shall pertain to the air, surface, and subsurface rights and interests of Grantor, for the use and benefit of Grantee, and its successors and assigns, to the extent necessary to accomplish and carry out the construction, equipping, and delivery of the Local Improvements on the Property. The Easement hereby granted includes the right and privilege for Grantee at reasonable times to clean and remove from said Easement any debris or obstructions interfering with said Easement.

The Easement granted herein, and its associated benefits and obligations, shall inure to the benefit of Grantee and Grantee’s contractors acting on Grantee’s behalf in connection with the Local Public Improvements.

Notwithstanding anything contained herein to the contrary, unless extended in writing by Grantor, the Easement shall terminate and be of no further force and effect on the date of the earliest of the following: (a) completion of the Local Public Improvements; (b) expiration or earlier termination of the Development Agreement; or (c) such date as Grantor and Grantee may agree to in writing.

[Signature page follows.]

EXHIBIT 1

Description of Property

Lots 2 and 3 of the plat of Coveleski Park Minor Subdivision recorded on February 11, 2015, as Document No. 1503430 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key Nos. 18-3014-051501 and 18-3014-051502]

EXHIBIT D

Minimum Insurance Amounts

- | | | |
|----|------------------------------------|--|
| A. | Worker's Compensation | |
| | 1. State | Statutory |
| | 2. Applicable Federal | Statutory |
| | 3. Employer's Liability | \$100,000.00 |
| B. | Comprehensive General Liability | |
| | 1. Bodily Injury | \$5,000,000 Per Occurrence, inclusive of umbrella coverage |
| | 2. Property Damage | \$5,000,000 Per Occurrence, inclusive of umbrella coverage |
| C. | Comprehensive Automobile Liability | |
| | 1. Bodily Injury | |
| | a. \$500,000.00 | Each Person |
| | b. \$500,000.00 | Each Accident |
| | 2. Property Damage | |
| | a. \$500,000.00 | Each Occurrence |

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement"), is effective as of August 25, 2016 (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 River Walk L.L.C., Indiana limited liability company with its registered address at 1122 Stratford Place, South Bend, Indiana 46614, and River Walk IV LLC, an Indiana limited liability company with its registered address at 314 W. Catalpa Drive, Suite F, Mishawaka, Indiana 46545 (collectively, the "Developer" or the "Developer Entities") (each, a "Party," and collectively, the "Parties").

RECITALS

WHEREAS, the Commission exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953, as amended (I.C. 36-7-14 *et seq.*, the "Act"); and

WHEREAS, the Act provides that the clearance, replanning, and redevelopment of redevelopment areas are public uses and purposes for which public money may be spent; and

WHEREAS, the Developer Entities own certain real property described in **Exhibit A**, together with all improvements thereon and all easements, rights, licenses, and other interests appurtenant thereto (collectively, the "Developer Property"); and

WHEREAS, the Developer desires to construct, renovate, or otherwise rehabilitate certain elements of the Developer Property (the "Project") in accordance with the project plan (the "Project Plan") attached hereto as **Exhibit B**; and

WHEREAS, the Developer Property is located within the corporate boundaries of the City of South Bend, Indiana (the "City"), within the River East Development Area (the "Area"); and

WHEREAS, the Commission has adopted (and subsequently amended, from time to time) a development plan, which contemplates development of the Area consistent with the Project; and

WHEREAS, the Commission believes that accomplishing the Project as described herein is in the best interests of the health, safety, and welfare of the City and its residents; and

WHEREAS, the Commission desires to facilitate and assist the Project by undertaking the local public improvements stated in **Exhibit C** (the "Local Public Improvements") and the financing thereof, subject to the terms and conditions of this Agreement and in accordance with the Act.

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

SECTION 1. DEFINITIONS.

Unless otherwise defined in this Agreement, capitalized terms used in this Agreement have the following meanings:

1.1 Assessed Value. “Assessed Value” means the market value-in-use of a property, used for property tax assessment purposes as determined by the St. Joseph County Assessor.

1.2 Board of Works. “Board of Works” means the Board of Public Works of the City, a public body granted the power to award contracts for public works pursuant to I.C. 36-1-12.

1.3 Funding Amount. “Funding Amount” means an amount not to exceed One Hundred Seventy Thousand Dollars (\$170,000.00) of tax increment finance revenues to be used for paying the costs associated with the construction, equipping, inspection, and delivery of the Local Public Improvements.

1.4 Private Investment. “Private Investment” means an amount no less than One Million Two Hundred Thousand Dollars (\$1,200,000.00) to be expended by the Developer for the costs associated with constructing the improvements set forth in the Project Plan, including architectural, engineering, and any other costs directly related to completion of the Project that are expected to contribute to increases in the Assessed Value of the Developer Property.

SECTION 2. INTERPRETATION, TERMS, AND RECITALS.

2.1 Interpretation.

(a) The terms “herein,” “hereto,” “hereunder,” and all terms of similar import shall be deemed to refer to this Agreement as a whole rather than to any Article of, Section of, or Exhibit to this Agreement.

(b) Unless otherwise specified, references in this Agreement to (i) “Section” or “Article” shall be deemed to refer to the Section or Article of this Agreement bearing the number so specified, (ii) “Exhibit” shall be deemed to refer to the Exhibit of this Agreement bearing the letter or number so specified, and (iii) references to this “Agreement” shall mean this Agreement and any exhibits and attachments hereto.

(c) Captions used for or in Sections, Articles, and Exhibits of this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(d) The terms “include”, “including” and “such as” shall each be construed as if followed by the phrase “without being limited to.”

2.2 Recitals. The Recitals set forth above are incorporated into and are a part of this Agreement for all purposes.

SECTION 3. ACCESS.

3.1 Grant of Easement. The Developer will grant to the Commission a temporary, non-exclusive easement on, in, over, under and across any part(s) of the Developer Property (the "Easement") in the form attached hereto as **Exhibit D**, to permit the Commission to fulfill its obligations under this Agreement, including the construction, equipping, inspection, and delivery of the Local Public Improvements. The Easement shall (a) inure to the benefit of the Commission and the Board of Works or any contractors acting on behalf of the Commission in connection with the construction, equipping, inspection, and delivery of the Local Public Improvements; (b) shall bind the Developer and its grantees, successors, and assigns; and (c) shall terminate no later than upon completion of the Local Public Improvements, as determined by the Board of Works.

SECTION 4. DEVELOPER'S OBLIGATIONS.

4.1 Generally. The Parties acknowledge and agree that the Commission's agreements to perform and abide by the covenants and obligations set forth in this Agreement are material consideration for the Developer's commitment to perform and abide by the covenants and obligations of the Developer contained in this Agreement.

4.2 The Project.

(a) The Developer will perform all necessary work to complete the improvements set forth in the Project Plan attached hereto as Exhibit B and the plans and specifications submitted to the Commission pursuant to Section 4.8 of this Agreement, which improvements shall comply with all zoning and land use laws and ordinances.

(b) The Developer will expend the Private Investment to complete the Project in accordance with the Project Plan attached hereto as Exhibit B and the plans and specifications submitted to the Commission pursuant to Section 4.8 of this Agreement.

4.3 Cooperation. The Developer agrees to endorse and support the Commission's efforts to expedite the Local Public Improvements through any required planning, design, public bidding, construction, inspection, waiver, permitting, and related regulatory processes.

4.4 Obtain Necessary Easements. The Developer agrees to obtain any and all easements from any governmental entity and/or any other third parties that the Developer or the Commission deems necessary or advisable in order to complete the Local Public Improvements, and the obtaining of such easements is a condition precedent to the Commission's obligations under this Agreement.

4.5 Timeframe for Completion. The Developer hereby agrees to complete the Project and any other obligations the Developer may have under this Agreement by the date that is sixty (60) months after the Effective Date of this Agreement (the "Mandatory Project Completion Date"). Notwithstanding any provision of this Agreement to the contrary, the Developer's failure to complete the Project or any other obligations the Developer may have under this Agreement by the Mandatory Project Completion Date will constitute a default under this Agreement without any requirement of notice of or an opportunity to cure such failure.

4.6 RESERVED.

4.7 RESERVED.

4.8 Submission of Plans and Specifications for Project. Promptly upon completion of all plans and specifications for the Project, or changes thereto, the Developer shall deliver a complete set thereof to the Commission.

4.9 Costs and Expenses of Construction of Project. The Developer hereby agrees to pay, or cause to be paid, all costs and expenses of construction for the Project (including legal fees, architectural and engineering fees), exclusive of the Local Public Improvements, which shall be paid for by the Commission by and through the Funding Amount subject to the terms of this Agreement.

4.10 Specifications for Local Public Improvements. The Commission will supply all necessary bid specifications relating to the demolition of structures on the Developer Property as part of the Local Public Improvements. To the extent any other plans or specifications are necessary to carry out work associated with the remaining Local Public Improvements, the Developer will be responsible for the preparation of all such plans and/or specifications at the Developer's sole expense.

4.11 Non-Interference. Developer hereby agrees to use commercially reasonable efforts to minimize disruption for those living and working near the Developer Property during construction of the Project.

4.12 Insurance. The Developer shall purchase and maintain comprehensive insurance coverage as is appropriate for the work being performed with respect to the Project. The Developer shall provide proof of such adequate insurance to the Commission and shall notify the Commission and the City of any change in or termination of such insurance. During the period of construction or provision of services regarding any Local Public Improvements, the Developer shall maintain insurance in the kinds and for at least the minimum amounts as described in Exhibit E attached hereto and the Commission and the City shall be named as additional insureds on such policies (but not on any worker's compensation policies).

4.13 Information. The Developer agrees to provide any and all due diligence items with respect to the Project reasonably requested by the Commission.

SECTION 5. COMMISSION'S OBLIGATIONS.

5.1 Generally. The Parties acknowledge and agree that the Developer's agreement to perform and abide by the covenants and obligations set forth in this Agreement is material consideration for the Commission's commitment to perform and abide by the covenants and obligations of the Commission contained in the Agreement.

5.2 Completion of Local Public Improvements.

(a) The Commission hereby agrees to complete (or cause to be completed) the Local Public Improvements described in Exhibit C attached hereto on a schedule to be

reasonably determined and agreed to by the Commission and the Developer, as may be modified due to unforeseen circumstances and delays, provided, however, that in no event will the Commission be required to spend more than the Funding Amount in connection with the Local Public Improvements.

(b) Before any work on the Local Public Improvements will commence, the Commission will have received plans and specifications for the Project pursuant to Section 4.8 of this Agreement.

(c) The Local Public Improvements will be completed in accordance with all applicable public bidding and contracting laws and will be subject to inspection by the City of South Bend Engineering Department or its designee.

SECTION 6. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.

6.1 Cooperation. In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own legal counsel and retain such counsel at its own expense, and in no event shall the Commission be required to bear the fees and costs of the Developer's attorneys nor shall the Developer be required to bear the fees and costs of the Commission's attorneys. The Parties agree that if any other provision of this Agreement, or this Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this Section 6.1, which shall survive such invalidation, nullification, or setting aside.

SECTION 7. DEFAULT.

7.1 Default. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. Upon the occurrence of a default under this Agreement, the non-defaulting Party may (a) terminate this Agreement, or (b) institute legal proceedings at law or in equity (including any action to compel specific performance) seeking remedies for such default. If the default is cured within thirty (30) days after the notice described in this Section 7.1, then no default shall exist and the noticing Party shall take no further action.

7.2 Reimbursement Obligation. In the event that the Developer fails (a) to complete the Project by the Mandatory Project Completion Date, or (b) to expend the full amount of the Private Investment by the Mandatory Project Completion Date, then upon the written demand of the Commission, the Developer will repay the Commission One Hundred Fifty Percent (150%) of the portion of the Funding Amount expended by the Commission in furtherance of the Local Public Improvements as of the date of the Commission's demand.

7.3 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, none of the Parties shall be deemed to be in default where delays in performance or

failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of terrorism, restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties, or similar basis for excused performance which is not within the reasonable control of the Party to be excused (each, an event of "Force Majeure"). Upon the request of any of the Parties, a reasonable extension of any date or deadline set forth in this Agreement due to such cause will be granted in writing for a period necessitated by the event of Force Majeure, or longer as may be mutually agreed upon by all the Parties.

SECTION 8. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP; CONFLICT OF INTEREST; INDEMNITY.

8.1 No Agency, Joint Venture or Partnership. The Parties acknowledge and agree that:

(a) The Project is a private development;

(b) None of the Commission, the Board of Works, or the Developer has any interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the Commission, the Board of Works, and/or the Developer expressly accepts the same; and

(c) The Parties hereby renounce the existence of any form of agency relationship, joint venture or partnership between the Commission, the Board of Works, and the Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Commission, the Board of Works, and the Developer.

8.2 Conflict of Interest; Commission Representatives Not Individually Liable. No member, official, or employee of the Commission or the City may have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the Commission or the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Commission or for any amount which may become due to the Developer, or its successors and assigns, or on any obligations under the terms of this Agreement. No partner, member, employee, or agent of the Developer or successors of them shall be personally liable to the Commission under this Agreement.

8.3 Indemnity. The Developer agrees to indemnify, defend, and hold harmless the Commission and the City from and against any third-party claims suffered by the Commission or the City resulting from or incurred in connection with the Local Public Improvements or the Project.

SECTION 9. MISCELLANEOUS.

9.1 Severability. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement shall continue in full force and effect unless amended or modified by mutual consent of the parties.

9.2 Other Necessary Acts. Each Party shall execute and deliver to the other Parties all such other further instruments and documents as may be reasonably necessary to accomplish the Project and the Local Public Improvements contemplated by this Agreement and to provide and secure to the other Parties the full and complete enjoyment of its rights and privileges hereunder. Notwithstanding the foregoing, the Parties understand and agree that certain actions contemplated by this Agreement may be required to be undertaken by persons, agencies, or entities that are not a party to this Agreement, including, but not limited to certain permits, consents, and/or approvals (to the extent they have not yet been obtained and completed), and that any action by such third parties shall require independent approval by the respective person, agency, entity, or governing body thereof.

9.3 Waiver of Jury Trial. The Parties acknowledge that disputes arising under this Agreement are likely to be complex and they desire to streamline and minimize the cost of resolving such disputes. In any legal proceeding, each party irrevocably waives the right to trial by jury in any action, counterclaim, dispute, or proceeding based upon, or related to, the subject matter of this Agreement. This waiver applies to all claims against all parties to such actions and proceedings. This waiver is knowingly, intentionally, and voluntarily made by both parties.

9.4 Attorneys' Fees. In the event of any litigation, mediation, or arbitration between the Parties regarding an alleged breach of this Agreement, none of the Parties shall be entitled to any award of attorney's fees.

9.5 Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Project:

(a) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and

(b) The Developer will state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

9.6 Counterparts. This Agreement 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.

9.7 Notices and Demands. Any notice, demand, or other communication required or permitted under the terms of this Agreement may be delivered (a) by hand-delivery (which will be

deemed delivered at the time of receipt), (b) by registered or certified mail, return receipt requested (which will be deemed delivered three (3) days after mailing), or (c) by overnight courier service (which will be deemed delivered on the next business day) to each Party's respective addresses and representatives stated below.

Developer: River Walk L.L.C.
1122 Stratford Place
South Bend, Indiana 46614
Attn: James Sieradzki

and

River Walk IV LLC
314 W. Catalpa Dr., Suite F
Mishawaka, Indiana 46545
Attn: James Sieradzki

Commission: South Bend Redevelopment Commission
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Brian Pawlowski

With a copy to: South Bend Legal Department
1200 S. County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Corporation Counsel

9.8 Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of Indiana.

9.9 Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and certifies that he or she is the duly authorized officer or representative of such Party, that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party, and that all necessary action to execute and deliver this Agreement has been taken by such Party.

9.10 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the Parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties herein.

9.11 Assignment. The Developer's rights under this Agreement shall be personal to the Developer and shall not run with the land. The Developer may not assign its rights or obligations

under this Agreement to any third party without obtaining the Commission's prior written consent to such assignment, which the Commission may give or withhold in its sole discretion. In the event the Developer seeks the Commission's consent to any such assignment, the Developer shall provide to the Commission all relevant information concerning the identities of the persons or entities proposed to be involved in and an explanation of the purposes for the proposed assignment(s).

9.12 Further Assurances. The Parties agree that they will each undertake in good faith, as permitted by law, any action and execute and deliver any document reasonably required to carry out the intents and purposes of this Agreement.

9.13 Exhibits. All exhibits described herein and attached hereto are incorporated into this Agreement by reference.

9.14 Entire Agreement. No representation, promise, or inducement not included in this Agreement will be binding upon the Parties hereto. This Agreement cannot be modified except by mutual agreement of the Parties set forth in a written instrument signed by the Parties' authorized representatives.

9.15 Time. Time is of the essence of this Agreement.

[SIGNATURE PAGE FOLLOWS]

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

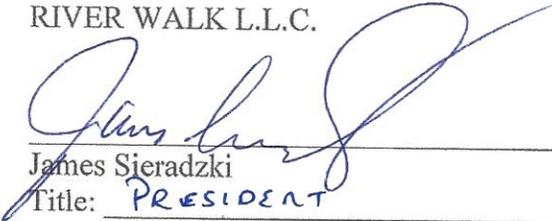
SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

RIVER WALK L.L.C.

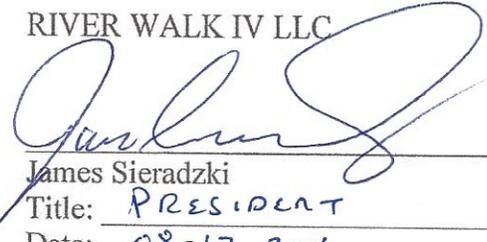


James Sieradzki

Title: PRESIDENT

Date: 08-17-2016

RIVER WALK IV LLC



James Sieradzki

Title: PRESIDENT

Date: 08-17-2016.

4000.0000040 58155134.004

EXHIBIT A

Description of Developer Property

Parcels of real property located in St. Joseph County, Indiana, commonly known as 304-325 Notre Dame Avenue, South Bend, Indiana and 325 Frances Street, South Bend, Indiana [Parcel Key Nos. 018-6006-0166, 018-6006-016602, and 018-6006-016603]

EXHIBIT B

Project Plan

The Developer will complete the following work in accordance with the terms and conditions of the Agreement and in compliance with all applicable laws and regulations:

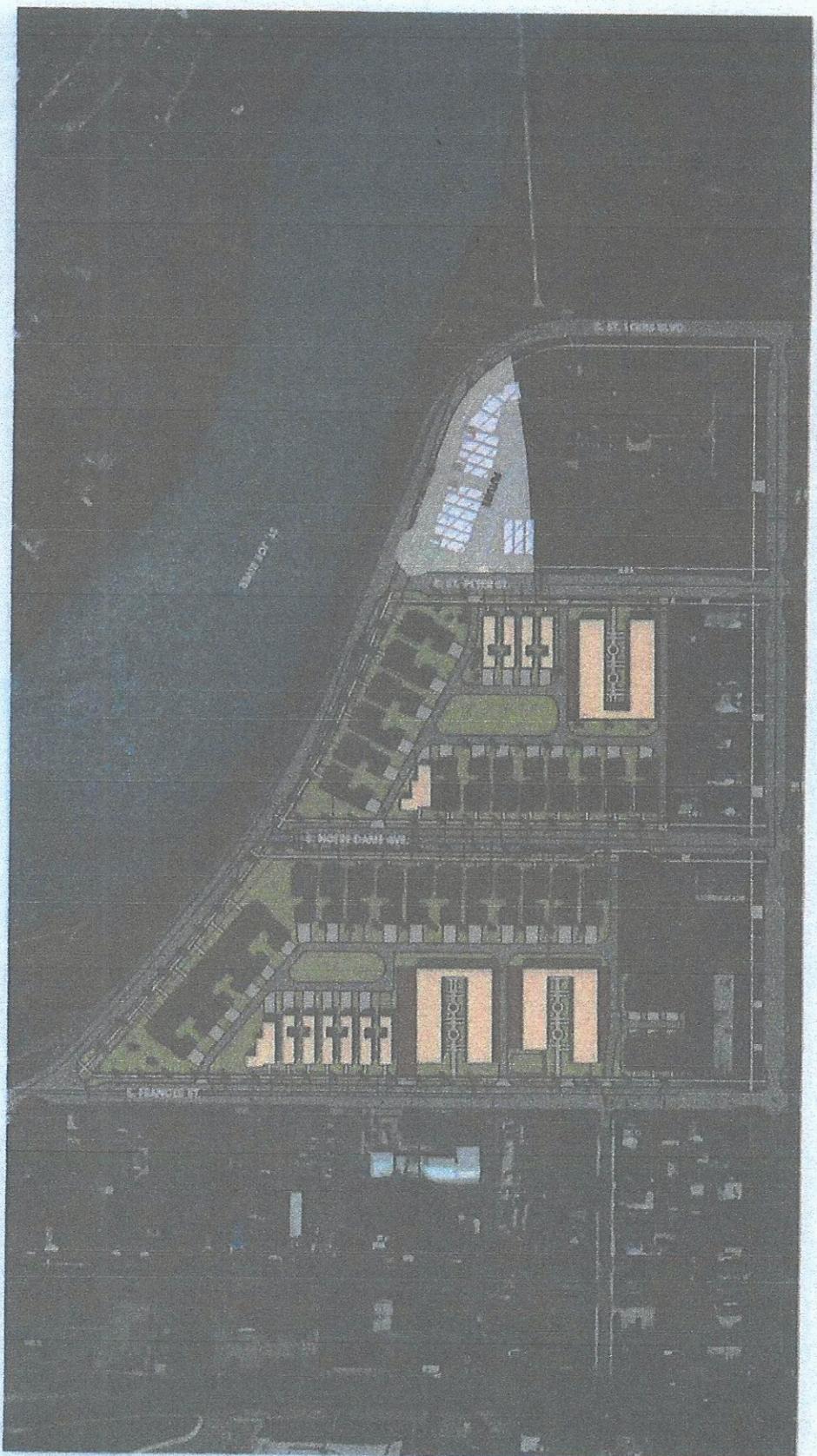
Construction of residential units and associated amenities on the Developer's Property, as depicted in attached Exhibit B-1, as a part of the Developer's overall development including 100 residential units on the land comprising the Developer's Property and other parcels in the vicinity of the Developer's Property.

EXHIBIT B-1

Depiction of Residential Units

[See attached.]

SUSQ. Family: 43
Townhome Units: 57
Total Sales Price \$38,000,000



Site Plan - Aerial Plan
SCALE: 1" = 160'0"

Century Builders
Riverwalk Development
04/18/16



EXHIBIT C

Description of Local Public Improvements

The Commission will complete, or cause to be completed, the following work in accordance with the terms and conditions of the Agreement and in compliance with all applicable laws and regulations:

- A. Environmental testing and remediation, including asbestos abatement.
- B. Demolition of structures existing on the Developer's Property on the Effective Date of this Agreement.
- C. Procurement of professional services for engineering, testing, demolition, and inspection, as needed to complete items A and B above.

In the event the Commission completes all of the above Local Public Improvements without expending the entire sum of the Funding Amount, the Commission will cause to be completed site work necessary for screening the Developer's Property, including without limitation by fencing and landscaping.

EXHIBIT D

Form of Easement

GRANT OF TEMPORARY EASEMENT

THIS INDENTURE, made as of the 17th day of August, 2016 (the "Effective Date"), by and between River Walk L.L.C. and River Walk IV LLC (collectively, the "Grantors"), and the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, 1400 S. County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601 (the "Grantee").

WITNESSETH:

For the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which Grantors hereby acknowledge, Grantors hereby grant, convey, and warrant to Grantee a temporary, non-exclusive easement (the "Easement") on, in, over, under and across the real property described in attached Exhibit 1 (the "Property") for the construction, equipping, and delivery of certain improvements on the Property (the "Local Public Improvements"), together with the right of ingress to and egress from the Easement for said purposes, all pursuant a certain Development Agreement by and between Grantors and Grantee, dated August 25, 2016 (the "Development Agreement"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Development Agreement.

The Easement granted herein shall pertain to the air, surface, and subsurface rights and interests of Grantors, for the use and benefit of Grantee, and its successors and assigns, to the extent necessary to accomplish and carry out the construction, equipping, and delivery of the Local Improvements on the Property. The Easement hereby granted includes the right and privilege for Grantee at reasonable times to clean and remove from said Easement any debris or obstructions interfering with said Easement.

The Easement granted herein, and its associated benefits and obligations, shall inure to the benefit of Grantee and Grantee's contractors acting on Grantee's behalf in connection with the Local Public Improvements.

Notwithstanding anything contained herein to the contrary, unless extended in writing by Grantors, the Easement shall terminate and be of no further force and effect on the date (hereinafter, the "Construction Termination Date") of the earliest of the following: (a) completion of the Local Public Improvements; (b) expiration or earlier termination of the Development Agreement; or (c) such earlier date as Grantors and Grantee may agree to in writing.

RIVER WALK IV LLC

James Sieradzki

James Sieradzki

Title: PRESIDENT

Date: 08-17-2016

STATE OF INDIANA)

)

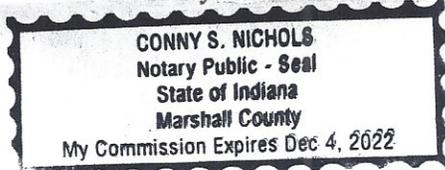
) SS:

COUNTY OF ST. JOSEPH)

)

Before me, the undersigned, a Notary Public in and for said State, personally appeared James Sieradzki, to me known to be the PRESIDENT of River Walk IV LLC, and acknowledged the execution of the same as the company's free and voluntary act and deed.

WITNESS my hand and Notarial Seal this 17th day of August, 2016.



Conny S. Nichols

Conny S. Nichols, Notary Public
Residing in MARSHALL County, IN

My Commission Expires: 12-4-2022

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

Parcels of real property located in St. Joseph County, Indiana, commonly known as 304-325 Notre Dame Avenue, South Bend, Indiana and 325 Frances Street, South Bend, Indiana [Parcel Key Nos. 018-6006-0166, 018-6006-016602, and 018-6006-016603]

EXHIBIT E

Minimum Insurance Amounts

- A. Worker's Compensation
 - 1. State Statutory
 - 2. Applicable Federal Statutory
 - 3. Employer's Liability \$100,000.00

- B. Comprehensive General Liability
 - 1. Bodily Injury
 - a. \$1,000,000.00 Each Occurrence
 - b. \$5,000,000.00 Annual Aggregate Products and Completed Operation

 - 2. Property Damage
 - a. \$1,000,000.00 Each Occurrence
 - b. \$5,000,000.00 Annual Aggregate

- C. Comprehensive Automobile Liability
 - 1. Bodily Injury
 - a. \$500,000.00 Each Person
 - b. \$500,000.00 Each Accident

 - 2. Property Damage
 - a. \$500,000.00 Each Occurrence

- D. Comprehensive Liability Insurance
 - 1. Bodily Injury
 - a. \$1,000,000.00 Each Occurrence
 - b. \$5,000,000.00 Annual Aggregate Products and Completed Operation

 - 2. Property Damage
 - a. \$1,000,000.00 Each Occurrence
 - b. \$5,000,000.00 Annual Aggregate



Department of
Community Investment

Memorandum

Thursday August 25th, 2016

TO: South Bend Redevelopment Commission

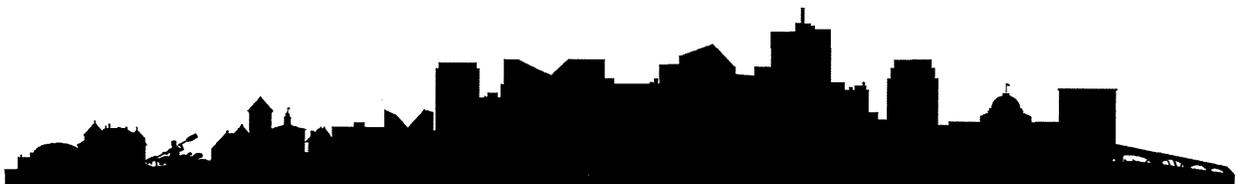
FROM: Sarah Heintzelman, Business Development

SUBJECT: Temporary Use Agreement of Redevelopment Commission Owned Property

Colfax Hill Partners LLC, is an Indiana limited liability company that has developed the parcel at the corner of Hill and Colfax into a multistoried mixed use building. They are looking to lease 14 spaces at 126 Niles Ave. currently owned by the Commission to help meet the parking needs of their new development.

This lease will help Colfax Hill Partners offer additional parking for both their residential and commercial tenants. The company will lease 14 spaces at \$25 dollars a space per month for a one year term. This property currently has a building used by Parks for storage equipment for the East Race and the agreement does ensure access for the Park's Department to their facility.

Staff requests approval for the Temporary Use of Redevelopment Commission Property Agreement with Colfax Hill Partners.



LICENSE AGREEMENT
FOR TEMPORARY USE OF REDEVELOPMENT COMMISSION PROPERTY

This License Agreement (this “Agreement”) is made on August 25, 2016 (the “Effective Date”), by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the “Commission”), and Colfax Hill Partners, LLC, an Indiana limited liability company with a registered office address of 1115 Burns Avenue, South Bend, Indiana 46617 (the “Company”) (each a “Party,” and collectively, the “Parties”).

RECITALS

A. The Commission owns certain real property and improvements located within the River East Development Area of the City of South Bend, Indiana (the “City”), commonly known as 126 Niles Avenue, South Bend, Indiana, Parcel Key No. 018-5004-0076 (the “Property”).

B. The Company desires temporary access to the Property for the purpose of parking passenger vehicles of the Company’s tenants residing in the apartment building located at 525-527 E Colfax Avenue, South Bend (the “Company’s Building”) as well as temporary access to the Property for the purpose of parking construction vehicles and equipment being used to complete the construction of the Company’s Building.

C. The Commission is willing to permit the Company to gain access to and temporarily use the Property to provide parking spaces to the Company’s tenants and for temporary parking of construction vehicles and equipment, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants stated in this Agreement, the Parties agree as follows:

1. **License.** The Commission grants to the Company a temporary, non-exclusive license to enter and use fourteen (14) parking spaces located on the Property (the “Parking Spaces”) for the parking of passenger vehicles of the Company’s tenants residing in the Company’s Building and construction vehicles and equipment being used to complete construction of the Company’s Building, provided that the Company’s use of the Property is reasonable at all times and comports with the terms of this Agreement and all applicable laws. The Commission, or its authorized representative, reserves the right to specifically designate the location and configuration of the Parking Spaces on the Property that are available for the Company’s use and may modify such location or configuration during the Term (as defined below) upon reasonable notice to the Company. The Company’s license is limited to use of the Parking Spaces as stated above and a reasonable course of ingress to and egress from the Parking Spaces, and the Company may not enter or use any structure on or other area of the Property.

2. **Term.** The Company’s license to use the Parking Spaces shall be effective starting on the Effective Date and ending on August 31, 2017 (the “Term”). Upon ninety (90) days’ written notice to the Company, the Commission or the Commission’s authorized representative may revoke and terminate the license at any time for any reason, including, without limitation, to accommodate future development of the Property or the surrounding area, as determined in its,

his, or her sole discretion. Notwithstanding the foregoing sentence, the Commission or the Commission's authorized representative may revoke and terminate the license without notice in the event there exists any default of the Company's obligations under this Agreement.

3. No Lease; Assignment. The Parties acknowledge and intend that this Agreement will not constitute a lease of the Property or the Parking Spaces, and the Company will have no right or authority to convey any leasehold interest in the Property or the Parking Spaces to any other person or entity; provided Company may permit the tenants of Company's Building to utilize the Parking Spaces licensed to Company hereunder and may charge the tenants a fee for the same. Any attempt by the Company to grant or lease any interest in the Property or the Parking Spaces other than as limited herein to any other person or entity will be void ab initio and of no force or effect. The Parties agree that neither this Agreement nor any of the Company's rights under this Agreement may be assigned, in whole or in part, to any other party without the Commission's prior written consent.

4. License Fee. In consideration for the license granted in this Agreement, the Company will pay a license fee of Four Thousand Two Hundred Dollars (\$4,200.00) payable in monthly installments of Three Hundred Fifty Dollars (\$350.00) (calculated as \$25.00 per parking space per month) (the "License Fee"). The Company will pay the Monthly License Fee to the Commission on the Effective Date and thereafter on the first business day of each month during the Term of this Agreement.

5. Maintenance. At all times during the period of the license, the Company will keep the Property in good order and condition, including, without limitation, clearing all ice and snow from the Parking Spaces (as the same may be designated or configured from time to time pursuant to Section 1 of this Agreement) and any path of vehicular access to such Parking Spaces from the public rights-of-way abutting the Property.

6. Security. The Company understands and agrees that the Commission shall not be liable for any loss, damage, destruction, or theft of the Company's property or any bodily harm or injury that may result from the Company's use of the Property. The Company understands and agrees that it will at all times be solely responsible for the safety and security of all persons, property, and vehicles, including any property contained within the vehicles, on the Property in connection with the Company's use of the Parking Spaces under the terms of this Agreement.

7. Storage. The Company agrees that it will not store any supplies, materials, goods, or personal property of any kind on the Property without the prior written consent of the Commission. In addition, the Company will not cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked, or emitted at the Property.

8. Regulations; Other Permits. The Company understands and agrees that it will, at its own expense, observe and comply with all applicable statutes, laws, ordinances, requirements, orders, rules, and regulations of all governmental authorities in relation to its use of the Parking Spaces. The Company understands and agrees that it will secure in its own name and at its own expense all other permits and authorizations, if any, necessary for its use of the Parking Spaces in accordance with the terms of this Agreement.

9. Commission's Use. The Commission reserves the right to use the Property during the Term of this Agreement for any purpose that does not substantially interfere with or obstruct the Company's license under this Agreement. Accordingly, the Company will not obstruct or hinder any operations by the Commission or the Commission's agents, contractors, tenants, or licensees using the building on the Property or areas of the Property other than the Parking Spaces designated in accordance with Section 1 of this Agreement.

10. Restoration. To the extent that any portion of the Property is disturbed or damaged in connection with the Company's use of the Property, including disturbances or damage caused by the vehicles or equipment of the Company's tenants or contractors, the Company, at the Company's sole expense, shall restore the Property to the condition that existed immediately prior to such disturbance or damage to the satisfaction of the Commission.

11. Indemnification. The Company agrees and undertakes to indemnify and hold the City and the Commission, and their respective agents, employees, successors, and assigns, harmless from any liability, loss, costs, damages or expenses, including attorneys' fees, which the City or the Commission may suffer or incur as a result of any claims or actions which may be brought by any person or entity arising out of the license granted herein by the Commission or the Company's use of the Property. If any action is brought against the City or the Commission, or their respective agents, employees, successors, or assigns, in connection with the Company's use of the Property, the Company agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

12. Insurance. The Company, at the Company's sole expense, shall maintain during the Term of this Agreement commercial general liability insurance covering the Company in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence. The Company agrees to include the Commission and the City as additional insureds on any such policy and produce to the Commission a certificate of insurance evidencing the same. To the extent that the Commission or the City is harmed as a result of the Company's use of the Property, the Company hereby grants the Commission first priority on any proceeds received from the Company's insurance. Notwithstanding anything in this Agreement to the contrary, neither the Commission nor the City waive any governmental immunity or liability limitations available to them under Indiana law.

13. Integration; Amendment. This Agreement supersedes all prior negotiations, understandings, and agreements, whether written or oral, concerning the subject matter of this Agreement and constitutes the Parties' entire agreement. This Agreement may not be altered except by a written instrument signed by authorized representatives of both Parties.

14. Counterparts; Signatures. This Agreement may be separately executed in counterparts by the Commission and the Company, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

15. Authority. Each undersigned person signing on behalf of his/her respective Party certifies that he/she is duly authorized to bind his/her respective Party to the terms of this Agreement.

IN WITNESS WHEREOF, each Party has executed this Agreement to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT
COMMISSION

By: _____
Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

COLFAX HILL PARTNERS, LLC,
an Indiana limited liability company

By: Andra C Sieradzki
_____, Member
Andra C. Sieradzki, manager
4000.0000004 64416109.007



Department of
Community Investment

Redevelopment Commission Agenda Item

DATE: August 25, 2016
FROM: David Relos, Economic Resources *DR*
SUBJECT: TIF Neutralization Professional Services Proposal
H. J. Umbaugh Associates

This proposal from H. J. Umbaugh & Associates is to provide professional services for the annual TIF Neutralization worksheets required by state law.

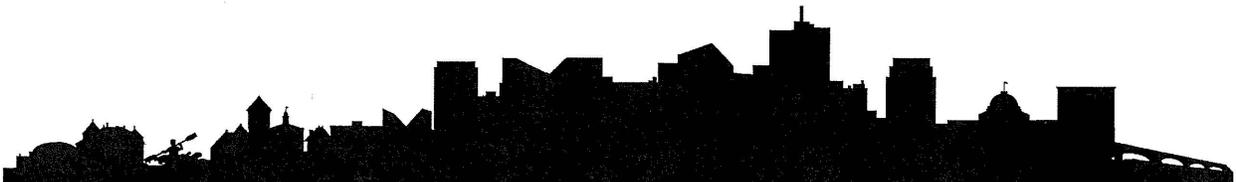
These worksheet calculations are done for each TIF area, and are used to adjust the base value by adjusting for natural growth in property values.

For example, if the base value of a TIF area was originally \$1,000,000, and the area had natural appreciation of 3%, or \$30,000, this amount would become part of the increment captured unless the base is adjusted.

After adjustment, this \$30,000 would be added to the base, which would now be \$1,030,000, allowing other taxing jurisdictions to maintain their tax base by capturing the natural appreciation of property. Increment captured by the TIF area should be a result of new development, not the natural appreciation in property values that pre-existed the TIF.

Staff requests approval of this professional services agreement in a not-to-exceed amount of \$12,500 (being the same amount as last year).

INTERNAL USE ONLY: Project Code: __JOTHER__
Total Amount new/change (inc/dec) in budget: __\$12,500__; broken down by:
Acct # various
Going to BPW for Contracting? No Is this item ready to encumber now? Yes
Existing PO# _____ Inc/Dec \$ _____



UMBAUGH

H. J. Umbaugh & Associates
Certified Public Accountants, LLP
112 IronWorks Avenue
Suite C
Mishawaka, IN 46544
Phone: 574-935-5178
Fax: 574-935-5928
www.umbaugh.com

August 16, 2016

City of South Bend Redevelopment Commission
c/o Mr. David Relos, Department of Community Investment
227 W. Jefferson Blvd.
Suite 1400 S.
South Bend, IN 46601

Re: Accounting Services Agreement for TIF Administration Services

Dear Mr. Relos:

You have requested that H.J. Umbaugh & Associates, Certified Public Accountants, LLP (the "Firm") provide to the City of South Bend Redevelopment Commission (the "Client") those services more fully set forth in Exhibit A hereto (the "Services").

Fees and Costs

Fees charged for work performed are generally based on hourly rates, as set forth in Exhibit B, for the time expended, a fixed amount or other arrangement as mutually agreed upon as more appropriate for a particular matter. Hourly rates for work performed by our professionals vary by individual and reflect the complexity of the engagement.

Disclosure of Conflicts of Interest with Various Forms of Compensation

The Municipal Securities Rulemaking Board (MSRB) is expected to require us, as your municipal advisor, to provide written disclosure to you about the actual or potential conflicts of interest presented by various forms of compensation. Exhibit C sets forth the potential conflicts of interest associated with various forms of compensation. By signing this letter of engagement, the signee acknowledges that he/she has received Exhibit C and that he/she has been given the opportunity to raise questions and discuss the matters contained within the exhibit with the municipal advisor.

Billing Procedures

Normally, you will receive a monthly statement showing fees and costs incurred in the prior month. Occasionally, we may bill on a less frequent basis if the time involved in the prior month was minimal or if arrangements are made for the payment of fees from bond proceeds. The account balance is due and payable on receipt of the statement. Once our representation has been concluded or terminated, a final billing will be sent to you. If requested to provide an estimate of our fees for a given matter, we will endeavor in good faith to provide our best estimate, but unless there is a mutual agreement to a fixed fee, the actual fees incurred on any project may be less than or exceed the estimate. Any questions or errors in any fee statement should be brought to our attention in writing within sixty (60) days of the billing date.

Termination

Both the Client and the Firm have the right to terminate the engagement at any time after reasonable advance written notice. On termination, all fees and charges incurred prior to termination shall be paid promptly. Unless otherwise agreed to by the Client and the Firm, this engagement will terminate 60 days after completion of the scope of services as outlined in Exhibit A.

Members of the South Bend
Redevelopment Commission
Re: Accounting Services Agreement for TIF Administration Services
August 16, 2016
Page 2

Accountants' Opinion

In performing our engagement, we will be relying on the accuracy and reliability of information provided by Client personnel. We will not audit, review, or examine the information. Please also note that our engagement cannot be relied on to disclose errors, fraud, or other illegal acts that may exist. However, we will inform you of any material errors and any evidence or information that comes to our attention during the performance of our procedures that fraud may have occurred. In addition, we will report to you any evidence or information that comes to our attention during the performance of our procedures regarding illegal acts that may have occurred, unless they are clearly inconsequential. We have no responsibility to identify and communicate significant deficiencies or material weaknesses in your internal control as part of this engagement.

The responsibility for auditing the records of the Client rests with the Indiana State Board of Accounts and the work performed by the Firm shall not include an audit or review of the records or the expression of an opinion on financial data.

Client Responsibilities

It is understood that the Firm will serve in an advisory capacity with the Client. The Client is responsible for management decisions and functions, and for designating an individual with suitable skill, knowledge or experience to oversee the services we provide. The Client is responsible for evaluating adequacy and results of the services performed and accepting responsibility for such services. The Client is responsible for establishing and maintaining internal controls, including monitoring ongoing activities.

Additional Services

Exhibit A sets forth the scope of the Services to be provided by the Firm. From time to time, additional services may be requested by the Client beyond the scope of Exhibit A. The Firm may provide these additional services and be paid at the Firm's customary fees and costs for such services. In the alternative, the Firm and the Client may complete a revised and supplemented Exhibit A to set forth the additional services (including revised fees and costs, as needed) to be provided. In either event, the terms and conditions of this letter shall remain in effect.

E-Verify Program

The Firm participates in the E-Verify program. For the purpose of this paragraph, the E-Verify program means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s.401(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603). The Firm does not employ any "unauthorized aliens" as that term is defined in 8 U.S.C. 1324a(h)(3).

Investments

The Firm certifies that pursuant to Indiana Code 5-22-16.5 *et seq.* the Firm is not now engaged in investment activities in Iran. The Firm understands that providing a false certification could result in the fines, penalties, and civil action listed in I.C. 5-22-16.5-14.

Members of the South Bend
Redevelopment Commission
Re: Accounting Services Agreement for TIF Administration Services
August 16, 2016
Page 3

Municipal Advisor Registration

The Firm is a Municipal Advisor registered with the Securities and Exchange Commission and the Municipal Securities Rulemaking Board. As such, the Firm is providing certain specific municipal advisory services to the Client. The Firm is neither a placement agent to the Client nor a broker/dealer.

The offer and sale of any Bonds shall be made by the Client, in the sole discretion of the Client, and under its control and supervision. The Client agrees that the Firm does not undertake to sell or attempt to sell the Bonds, and will take no part in the sale thereof.

Other Financial Industry Activities and Affiliations

Umbaugh Cash Advisory Services, LLC ("UCAS") is a wholly-owned subsidiary of the Firm. UCAS is registered as an investment adviser with the Securities and Exchange Commission under the federal Investment Advisers Act. UCAS provides non-discretionary investment advice with the purpose of helping clients create and maintain a disciplined approach to investing their funds prudently and effectively. UCAS may provide advisory services to the clients of the Firm.

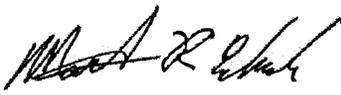
UCAS has no other activities or arrangements that are material to its advisory business or its clients with a related person who is a broker-dealer, an investment company, other investment adviser or financial planner, bank, law firm or other financial entity.

If the foregoing accurately represents the basis upon which we may provide Services to the Client, we ask that you execute this letter, in the space provided below setting forth your agreement. Execution of this letter can be performed in counterparts each of which will be deemed an original and all of which together will constitute the same document.

If you have any questions, please let us know. We appreciate this opportunity to be of services to you and the Redevelopment Commission.

Very truly yours,

H.J. Umbaugh & Associates
Certified Public Accountants, LLP

By: 
Matthew R. Eckerle, Principal

The undersigned hereby acknowledges and agrees to the foregoing letter of engagement.

South Bend Redevelopment Commission
City of South Bend, Indiana

Date: _____

By: _____

EXHIBIT A

Services Provided

Scope of Services

The Firm agrees to perform the following services for the South Bend Redevelopment Commission (the "Commission") with respect to all existing TIF Areas located within the City of South Bend (the "City"). Articles I and II below describe services to be performed.

Article I. Calculate Base Value Adjustments ("Neutralization") for Trending and General Reassessments

- a. Contact the County Auditor's office and, with its cooperation and based on information provided by the County Auditor and Assessor, assist in performing or checking calculations with respect to base value adjustments, including determining base value adjustment factors, appeal and tax rate assumptions, and captured assessed values in conjunction with annual Trending or General Reassessments. In performing this work, we rely on the accuracy of the information provided by the County Auditor and Assessor. We will not audit their information.
- b. If necessary, travel to the County Auditor's and/or County Assessor's offices to perform field work that may be required. Obtain new tax abatement information, a list of new developments, a list of demolished structures, a list of parcels with tax status changes, and outstanding appeals information (if available) for each TIF Area to use in the calculation. Compare resulting calculations to historical captured value.

Article II. Assist With Assessed Value Certification and Abstract Preparation

- a. Assist the County Auditor's office with the monitoring of captured assessed value amounts for each taxing district that are used during the assessed value certification process. If needed, assist the Auditor's office with any corrections to captured assessed value amounts that must be undertaken prior to certification.
- b. Assist the County Auditor's office with the monitoring of captured assessed value amounts for each taxing district that are used in the preparation of the County Abstract. If needed, assist the Auditor's office with any corrections to captured assessed value amounts that must be undertaken prior to the completion of the Abstract.

EXHIBIT B

The Firm's fees for services as set forth in Articles I and II of Exhibit A shall be billed at the Firm's standard billing rates based upon the actual time and expenses incurred. The total annual fee shall not exceed Twelve Thousand Five Hundred Dollars (\$12,500) without prior approval from the Client.

Standard Hourly Rates by Job Classification
01/01/2016

Senior Partners / Principals	\$300.00	to	\$550.00
Partners / Principals	\$230.00	to	\$450.00
Managers	\$175.00	to	\$325.00
Consultants	\$95.00	to	\$250.00
Municipal Bond Disclosure Specialist	\$85.00	to	\$180.00
Support Personnel	\$75.00	to	\$135.00

- *Billing rates are subject to change periodically due to changing requirements and economic conditions. Actual fees will be based upon experience of the staff assigned and the complexity of the engagement.*

The above fees shall include all expenses incurred by the Firm with the exception of expenses incurred for travel, if any, outside the State of Indiana. No such expenses will be incurred without the prior authorization of the Client. The fees do not include the charges of other entities such as rating agencies, bond and official statement printers, couriers, newspapers, bond insurance companies, bond counsel and local counsel, and electronic bidding services, including Parity®. Coordination of the printing and distribution of Official Statements or any other Offering Document are to be reimbursed by the Client based upon the time and expense for such services.

EXHIBIT C

Disclosure of Conflicts of Interest with Various Forms of Compensation

The forms of compensation for municipal advisors vary according to the nature of the engagement and requirements of the client, among other factors. Various forms of compensation present actual or potential conflicts of interest because they may create an incentive for an advisor to recommend one course of action over another if it is more beneficial to the advisor to do so. This exhibit discusses various forms of compensation and the timing of payments to the advisors.

Fixed fee. Under a fixed fee form of compensation, the municipal advisor is paid a fixed amount established at the outset of the transaction. The amount is usually based upon an analysis by the client and the advisor of, among other things, the expected duration and complexity of the transaction and the agreed-upon scope of work that the advisor will perform. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, the advisor may suffer a loss. Thus, the advisor may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives. There may be additional conflicts of interest if the municipal advisor's fee is contingent upon the successful completion of a financing, as described below.

Hourly fee. Under an hourly fee form of compensation, the municipal advisor is paid an amount equal to the number of hours worked by the advisor times an agreed-upon hourly billing rate. This form of compensation presents a potential conflict of interest if the client and the advisor do not agree on a reasonable maximum amount at the outset of the engagement, because the advisor does not have a financial incentive to recommend alternatives that would result in fewer hours worked. In some cases, an hourly fee may be applied against a retainer (*e.g.*, a retainer payable monthly), in which case it is payable whether or not a financing closes. Alternatively, it may be contingent upon the successful completion of a financing, in which case there may be additional conflicts of interest, as described below.

Fee contingent upon the completion of a financing or other transaction. Under a contingent fee form of compensation, payment of an advisor's fee is dependent upon the successful completion of a financing or other transaction. This form of compensation presents a conflict because the advisor may have an incentive to recommend unnecessary financings or financings that are disadvantageous to the client. For example, when facts or circumstances arise that could cause the financing or other transaction to be delayed or fail to close, an advisor may have an incentive to discourage a full consideration of such facts and circumstances, or to discourage consideration of alternatives that may result in the cancellation of the financing or other transaction.

Fee paid under a retainer agreement. Under a retainer agreement, fees are paid to a municipal advisor periodically (*e.g.*, monthly) and are not contingent upon the completion of a financing or other transaction. Fees paid under a retainer agreement may be calculated on a fixed fee basis (*e.g.*, a fixed fee per month regardless of the number of hours worked) or an hourly basis (*e.g.*, a minimum monthly payment, with additional amounts payable if a certain number of hours worked is exceeded). A retainer agreement does not present the conflicts associated with a contingent fee arrangement (described above).

Fee based upon principal or notional amount and term of transaction. Under this form of compensation, the municipal advisor's fee is based upon a percentage of the principal amount of an issue of securities (*e.g.*, bonds) or, in the case of a derivative, the present value of or notional amount and term of the derivative. This form of compensation presents a conflict of interest because the advisor may have an incentive to advise the client to increase the size of the securities issue or modify the derivative for the purpose of increasing the advisor's compensation.