



South Bend

Redevelopment Commission

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

Agenda

Regular Meeting, January 12, 2017 9:30 a.m.

1. Roll Call

2. Election of Officers

3. Approval of Minutes

A. Minutes of the Regular Meeting of Thursday, December 29, 2016

4. Approval of Claims

A. Claims Submitted January 12, 2017

5. Old Business

6. New Business

A. Receipt of Bids

1. Receipt of Bids: SW Corner US 20 and Bypass

B. Administration

1. Resolution No. 3371: Approving A Schedule of Regular Meeting Times for Calendar Year 2017

2. Resolution No. 3372: Setting Procedures for Contracts for Property Related Services

3. Resolution No. 3373: Appointing Authorized Representatives to Conduct Certain Administrative Acts Relating to Redevelopment Property



C. River East Development Area

1. Development Agreement (Commerce Center Development, LLC)

D. Other

1. Redevelopment Supervisory Services Agreement
2. License Agreement DTSSB

7. Progress Reports

A. Tax Abatement

B. Common Council

C. Other

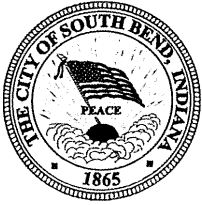
8. Next Commission Meeting:

Thursday, January 26, 2017, 9:30 a.m.

9. 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

ITEM: 3A

SOUTH BEND REDEVELOPMENT COMMISSION REGULAR MEETING

December 29, 2016

9:30 a.m.

Presiding: Marcia Jones, President

227 West Jefferson Boulevard
South Bend, Indiana

The meeting was called to order at 9:32 a.m.

1. ROLL CALL

Members Present:	Dave Varner, Vice President Don Inks, Secretary Gavin Ferlic, Commissioner
Members Absent:	Marcia Jones, President Greg Downes, Commissioner John Anella, Commissioner
Legal Counsel:	Benjamin Dougherty, Esq.
Redevelopment Staff:	David Relos, Associate Mary Brazinsky, Recording Secretary

Others Present:	Brian Pawlowski	DCI
	Aaron Kobb	DCI
	James Mueller	Mayor's Office
	Frank Perri	Wharf Partners LLC
	Tom Panzica	Wharf Partners LLC
	Denise Barkdull	Frost Brown Todd LLC
	Matt Gabet	Kite Realty Group
	Alex Hammel	Career Academy of South Bend
	Erin Blasko	SB Tribune
	Kenny Hayes	
	Murray Miller	
	Evan Sery	ABC57
	Molly Jirasek	WSBT
Kasey Chronis	WNDU	

2. APPROVAL OF MINUTES

A. Approval of Minutes of the Regular Meeting of Thursday, December 15, 2016

Upon a motion by Secretary Inks, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, December 15, 2016.

3. Claims None

4. Old Business None

5. New Business

A. River East Development Area

(1) Eddy Street Commons

a) Resolution No. 3363 (Eddy Street Commons Phase II)

b) Development Agreement (Kite Realty Group/Eddy Street Commons Phase II)

Brian Pawlowski presented Resolution No. 3363 (Eddy Street Commons Phase II) and the Development Agreement (Kite Realty Group/Eddy Street Commons Phase II). Mr. Pawlowski said that the development of Phase I has flourished providing growth and opportunity in South Bend, adding that the timing is now right to start Phase II. Both the developer and the City believe that the project can pay for itself and will be successful. Once built the project's tax revenue will fund its construction. The City will issue a bond in the gross of \$25M with a net of \$21M to \$23M. Approval is needed from the Redevelopment Commission, Economic Development Commission and Common Council. The proceeds will go to the project on infrastructure, public space/use, the Robinson Center and parking.

Matt Gabet, Kite Realty Group spoke about Phase II which is a natural extension of Phase I. This will continue the dense walkable urban environment which will include subgrade parking. The project includes a new and improved Robinson Center that will double in size. The project provides space available for flex units which can be used as either commercial or residential spaces.

Denise Barkdull, Frost Brown Todd, LLC (City Bond Council) explains that with the \$25M bond amount, a not-to-exceed amount was added since we will not know the final determination of cost. The difference between \$21M to \$25M is a reserve that is required to pay interest on the bonds while the project is under construction. TIF revenues are projected to cover the bond payments. Denise

explained in Resolution No. 3363 the City is pledging TIF revenues from the River East Residential TIF. It is projected the revenues from Phase II and Phase I will cover the debt. The City will not issue the bonds until Kite Realty Group is ready to proceed (Kite will provide a written 30 day notice).

Upon a motion by Commissioner Ferlic, seconded by Secretary Inks the motion carried unanimously, the Commission approved Resolution No. 3363 (Eddy Street Commons Phase II) submitted December 29, 2016.

Upon a motion by Commissioner Ferlic, seconded by Secretary Inks the motion carried unanimously, the Commission approved the Development Agreement (Kite Realty Group/Eddy Street Commons Phase II) submitted December 29, 2016.

(2) Development Agreement (Wharf Partners, LLC)

Aaron Kobb presented the Development Agreement with Wharf Partners, LLC. This is a prime undeveloped site which presents a lot of variables including the City's Blue Ways Project, the University's Hydro Project and Seitz Park. The vision is understood and embraced by all the teams and projects coming on line in this area. Much gratitude went out to the City teams working to make these projects a reality, including the Mayor's office, Ben Dougherty, Brian Pawlowski, Aaron Perri, Tim Corcoran, and several developmental office teams.

Frank Perri, Wharf Partners, LLC presented conceptual drawings from March 2016 explaining the transitional phases their project has gone through to come to fruition. Frank expressed his thanks to his partners the Panzica's, the Mayor's teams including James Mueller, Aaron Kobb, and Brian Pawlowski for bringing the Wharf Project to where it is today. The project would like to break ground no later than May 2017 and deliver units by late spring 2018.

Tom Panzica of Wharf Partners, LLC and Panzica Building Corporation will be the architects and contractors for the site. The site was acquired in 2011. Tom explained that Wharf Partners, LLC is committed to developing a project that is worthy of the site while being responsive to the market. The St. Joseph River once powered the industrial past of South Bend and it's about to happen again. If developed properly, it will power South Bend's future as a recreational and aesthetic amenity of downtown. Tom stated he already sees this with the vitality it's bringing to our area. This site was once Stephenson Mills, and that it has been either an industrial site or a restaurant. For a generation it has been vacant, under-utilized land. The final project will be a mid-height mixed use development including a restaurant that will be consistent with the East Bank plan.

Ben Dougherty added that the Development Agreement includes a late addition to Exhibit B adding III: A single 5-6 story building containing a minimum of 15 condominiums plus commercial space of approx. 6,000 sq. ft., plus a private parking garage.

Brian Pawlowski said as a result of the Regional Cities Initiative, the City was awarded \$5M for riverfront improvements from this site to the Farmer's Market, including Howard Park.

Upon a motion by Secretary Inks, seconded by Commissioner Ferlic the motion carried unanimously, the Commission approved the Development Agreement with Wharf Partners, LLC submitted December 29, 2016.

B. River West Development Area

(1) Real Estate Purchase Agreement (Career Academy of South Bend Inc.)

David Relos presented the Real Estate Purchase Agreement with Career Academy of South Bend Inc (Lots 4KB and 4L). These are the two lots just to the south and west of the school, and would allow them to expand their operations. These lots fall off into the natural retention area behind them and is not ideal for siting a building.

Alex Hammel with the Career Academy explained that their space right now is 100% utilized for their building and parking lot. With the school's growth over the years they have developed sports teams, but have no green space for them to practice, causing them to have to go off-site. There is an area that is flat close to the school where they can build some fields and utilize the wetland areas for testing water samples and other outdoor classroom environmental studies.

Upon a motion by Secretary Inks, seconded by Commissioner Ferlic the motion carried unanimously, the Commission approved the Real Estate Purchase Agreement with Career Academy of South Bend Inc. submitted December 29, 2016.

6. Progress Reports

A. Tax Abatement

B. Common Council

C. Other

LangLab

Brian Pawlowski brought to the Commission's attention that LangLab may be coming to Redevelopment in January 2017. Brian explained that LangLab is a lot like Unity Gardens, where they are a huge community benefit and we would like to see them expand. This will be a small business development project that will benefit a number of people.

South Bend Redevelopment Commission
Regular Meeting – December 29, 2016

7. Next Commission Meeting:

Thursday, January 12, 2017, 9:30 a.m.

8. Adjournment

Thursday, December 29, 2016, 10:05 a.m.



Aaron Kobb, Director of Economic Resources

Marcia I. Jones, President

ITEM: 4A

	Claims submitted	Explanation of Project
REDEVELOPMENT COMMISSION Redevelopment Commission Claims January 12, 2017 for approval		
<u>324 RIVER WEST DEVELOPMENT AREA</u>		
Airmarking Co. Inc.	28,024.37	Fellows and Dubail Neighborhood Improvements
Fuerbringer Landscaping & Design, Inc.	4,621.00	Fellows and Dubail Neighborhood Improvements
Peddinghaus Corp.	68,010.00	Nello Corporation Equipment Purchase
RealAmerica Development Management	22,948.20	The LaSalle Apartments
St. Joseph County Auditor	122,921.25	Certificate of Tax Distribution
Rieth-Riley Construction	124,836.18	One Way to Two Way Street Conversion
Kolata Emprises, LLC	1,012.50	Professional Services
United Consulting	7,899.00	Ph. I & II Coal Line Trail
Wells Fargo Bank	527,000.00	SB Redev Auth Lease Rental Rev Ref Bonds of 2009 Morris
Wells Fargo Bank	3,961,666.72	Erskine
UsBank	786,000.00	1st Mortgage Rev Refunding Bond, Series Police & Fire Station
The Bank of New York Mellin Trust Co.	1,501,236.75	Indiana Bond Bank Special Program Bonds, Series 2011A
Wells Fargo Bank	336,500.00	Tax Lease Rental Rev Refunding Bonds of 2010
UsBank	439,932.50	ED Income Tax Refunding Revenue Bonds of 2006A & 2006B
UsBank	1,236,500.00	SB Redev Auth Lease Rental Rev Ref Bonds 2015 Eddy St.
Jones Petrie Rafinski	8,332.01	Colveleski Utility Relocate Const. & Courtyard by Marriott HOF
HRP Construction	86,634.87	Berlin Place Site Development
Troyer Group	10,551.38	Harrison Cl: City
Christopher B. Burke Engineering, LLC	10,741.15	Chet Waggoner Court Co Services
HRP Construction	218,866.12	Chet Waggoner Court Co Services
<u>430 FUND SOUTH SIDE TIF AREA #1</u>		
Southgate	900.00	Reimbursement Brian Hart
Rieth-Riley Construction	124,836.18	One Way to Two Way Street Conversion

RESOLUTION NO. 3371

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION
APPROVING A SCHEDULE OF
REGULAR MEETING TIMES FOR CALENDAR YEAR 2017**

WHEREAS, pursuant to Ind. Code § 36-7-14, the South Bend Redevelopment Commission (“Commission”) is the governing body of the City of South Bend Department of Redevelopment; and

WHEREAS, pursuant to Ind. Code § 36-7-14-8(g), the Commissioners may adopt the rules and bylaws it considers necessary for the proper conduct of Commission proceedings and the carrying out of Commission duties; and

WHEREAS, Article IV, Section 1 of the *Amended and Restated By-Laws of the South Bend Redevelopment Commission* effective July 16, 2015, provides that the Commission shall adopt a schedule of regular meetings at its first meeting of each year; and

WHEREAS, the Commission desires to approve and adopt a schedule of regular meeting dates and times for calendar year 2017; and

NOW, THEREFORE, BE IT RESOLVED by the South Bend Redevelopment Commission as follows:

1. The Commission approves and adopts as its regular meeting schedule for calendar year 2017 the meeting dates and times stated in the attached schedule.
2. Unless otherwise announced, regular meetings shall be held without further notice at 9:30 a.m., local time, at the Board of Public Works Meeting Room, 1308 County-City Building, 227 West Jefferson Street, South Bend, Indiana 46601.
3. This Resolution shall be in full force and effect after its adoption by the South Bend Redevelopment Commission.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on January 12, 2017, 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

**South Bend Redevelopment Commission
2017 Regular Meeting Dates and Times
County-City Building, 227 W. Jefferson Boulevard
Board of Public Works Conference Room 1308, South Bend, IN 46601**

January 12	9:30 a.m.	
January 26	9:30 a.m.	
February 9	9:30 a.m.	
February 23	9:30 a.m.	
March 9	9:30 a.m.	
March 23	9:30 a.m.	
April 13	9:30 a.m.	
April 27	9:30 a.m.	
May 11	9:30 a.m.	
May 25	9:30 a.m.	
June 15	9:30 a.m.	3 rd Thursday
June 29	9:30 a.m.	5 th Thursday
July 13	9:30 a.m.	
July 27	9:30 a.m.	
August 10	9:30 a.m.	
August 24	9:30 a.m.	
September 14	9:30 a.m.	
September 28	9:30 a.m.	
October 12	9:30 a.m.	
October 26	9:30 a.m.	
November 9	9:30 a.m.	
November 20	9:30 a.m.	
December 14	9:30 a.m.	
December 28	9:30 a.m.	

**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.**

RESOLUTION NO. 3372

**RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION
SETTING PROCEDURES FOR CONTRACTS FOR PROPERTY
RELATED SERVICES**

WHEREAS, I.C. 36-7-14-12.2 provides that the Redevelopment Commission may acquire, hold, use, sell, exchange, lease, rent or otherwise dispose of property for the purposes set forth and described in I.C. 36-7-14 (the “Act”); and

WHEREAS, the Commissioners have the authority under I.C. 36-7-14-8(g) to adopt such rules and bylaws as they consider necessary for the proper conduct of their proceedings and the carrying out of their duties and the safeguarding of money and property placed in their custody; and

WHEREAS, the Commission enters into contracts, from time to time, with title companies, appraisers, surveyors, and environmental contractors so as to better understand the status of title and the condition of real estate in which the Commission has a current or prospective interest; and

WHEREAS, the Commission wishes to delegate to certain staff members of the City of South Bend (the “City”) the authority to initiate certain contracts with title companies, appraisers, surveyors, and environmental contractors subject to the limitations stated in this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the South Bend Redevelopment Commission as follows:

1. The following staff members or their successors (“Staff”) are authorized to initiate contracts for services (the “Contracts”) on behalf of the Commission:
 - a. Brian Pawlowski;
 - b. Aaron Kobb;
 - c. David Relos;
 - d. Tim Corcoran;
 - e. Patrick C. Kerr; and
 - f. Richard M. Estes.
2. All Contracts initiated by Staff must be related to property the Commission owns, is interested in acquiring, or intends to sell, use, exchange, lease or otherwise dispose in furtherance of its purposes under the Act. The Contracts shall be strictly limited to the services identified in paragraph 5 of this Resolution.
3. Each Contract must be approved by the Director of the City’s Department of Community Investment (the “Director”).
4. Each Contract must be made with one of the service providers on the Director’s list of approved service providers, as amended from time to time.

5. Staff's authority to initiate the Contracts is limited to the following maximum amount for each respective service:

<u>SERVICE</u>	<u>MAXIMUM FEE</u>
Title Searches and Policies	\$ 200.00 per parcel
Appraisals (Commercial/Industrial)	\$ 5,000.00 per appraisal
Appraisals (Residential)	\$ 1,000.00 per appraisal
Land Surveys/Replats/Subdivisions	\$ 5,000.00 per survey/replat/subdivision
Environmental Assessments	\$ 5,000.00 per assessment

6. All Contracts initiated by Staff must be presented to the Commission at its next regular meeting as part of the Commission's regular claims approval process or separately for ratification by the Commission.
7. The authority granted under this Resolution expires on December 31, 2017.
8. This Resolution shall be in full force and effect after its adoption.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on January 12, 2017, 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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ITEM: 6B3

RESOLUTION NO. 3373

A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION APPOINTING AUTHORIZED REPRESENTATIVES TO CONDUCT CERTAIN ADMINISTRATIVE ACTS RELATING TO REDEVELOPMENT PROPERTY

WHEREAS, the South Bend Redevelopment Commission (the “Commission”) is the governing body of the City of South Bend Department of Redevelopment established under the Redevelopment of Cities and Towns Act of 1953, as amended, being I.C. 36-7-14-1 *et seq.* (the “Act”); and

WHEREAS, I.C. 36-7-14-12.2 provides that the Commission may acquire, hold, use, sell, exchange, lease, rent, or otherwise dispose of property for the purposes set forth and described in I.C. 36-7-14; and

WHEREAS, the Commissioners have the authority under I.C. 36-7-14-8(g) to adopt such rules and bylaws as they consider necessary for the proper conduct of their proceedings and the carrying out of their duties and the safeguarding of money and property placed in their custody; and

WHEREAS, the Commission owns, manages, leases, and sells property within the boundaries of the City of South Bend (the “City”); and

WHEREAS, as a result of such owning, managing, leasing, and selling of property, City staff members receive frequent requests to perform administrative functions on behalf of the Commission, including but not limited to, the approval of plats, the release of obsolete financing documents, the submission of forms to other various entities, and the execution of documents related to the ownership, maintenance, and disposition of property; and

WHEREAS, the City’s staff members are familiar with the property owned by the Commission; and

WHEREAS, the Commission desires to expressly authorize certain members of the City’s staff to take such administrative acts and to execute such administrative documents as necessary to provide for the proper maintenance and management of its property interests.

NOW, THEREFORE, BE IT RESOLVED by the South Bend Redevelopment Commission as follows:

1. The following staff members of the City are authorized to perform, on behalf of the Commission, all administrative acts related to the Commission’s owning, managing, leasing, and selling of property, including, but not limited to, acts relating to the disposition of property, the closing of a property transaction, a replatting process, a tax appeal process, the release of obsolete financing documents, a petition or application regarding land use before an administrative

body, or any other review process, whether such process was initiated by the Commission or another entity:

- a. Brian Pawlowski;
- b. Aaron Kobb;
- c. David Relos;
- d. Tim Corcoran;
- e. Patrick C. Kerr; and
- f. Richard M. Estes.

Such authority shall include the authority to execute documents on behalf of the Commission that relate to the completion of such administrative acts, provided, however, that staff members are not authorized to execute any deed of conveyance on behalf of the Commission. For purposes of this Resolution, an administrative act is one in which the authorized staff member determines, upon the advice of legal counsel, that said act occurs within the normal course of owning, managing, leasing, or selling property and does not adversely impact an interest of the Commission in light of the Commission's overall purpose and goals as set forth under the Act.

2. This Resolution supersedes Resolution No. 3265, and the authority granted under this Resolution continues until further action of the Commission.
3. This Resolution shall be in full force and effect after its adoption.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on January 12, 2017, 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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ITEM: 6C1

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”), is effective as of January 12, 2017 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), and Commerce Center Development, LLC, an Indiana limited liability company with its registered address at 121 S. Niles Avenue, South Bend, Indiana 46617 (the “Developer”) (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 and its affiliate, East Bank South Bend Development LLC (the “Affiliate”), together own certain real property and improvements described in attached **Exhibit A** (collectively, the “Developer Property”); and

WHEREAS, the Developer desires to redevelop the Developer Property (the “Project”) in accordance with the project plan (the “Project Plan”) attached hereto as **Exhibit B**; and

WHEREAS, under the Indiana Economic Development Corporation’s Regional Cities Initiative, the Regional Development Authority for North Central Indiana (the “RDA”) has preliminarily awarded the Developer a grant of Four Million Nine Hundred Thousand Dollars (\$4,900,000.00) for completion of the Project, which grant is expected to be formalized under a written agreement between the Developer and the RDA (the “RDA Contract”); and

WHEREAS, the Developer Property is located within the corporate boundaries of the City of South Bend, Indiana (the “City”) and 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; 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 Five Million Dollars (\$5,000,000.00) 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 Twenty-Seven Million Dollars (\$27,000,000.00) 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 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 and the Affiliate 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, the Affiliate, and their respective 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 delivered 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 delivered 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. The Commission agrees to assist the Developer in obtaining 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, provided, however, that the Commission will not be required to expend any money in so assisting the Developer.

4.5 Timeframe for Completion. The Developer agrees to complete the Project and any other obligations the Developer may have under this Agreement by the completion date established in the RDA Contract or otherwise agreed between the Developer and the RDA, as

may be modified due to unforeseen circumstances and delays (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 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 ten (10) 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 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 associated with the construction and occupancy of the Project (including all regulatory, legal, architectural, and engineering fees), exclusive of the costs to construct the Local Public Improvements (which shall be paid for by the Commission 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 Director of Redevelopment

Engineering. The Director of Redevelopment Engineering may approve or disapprove said bid specifications for the Project in his reasonable 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 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 this 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.

(b) Before any work on the Local Public Improvements will commence, (a) the Commission will have received satisfactory plans and specifications for the Project in accordance with Section 4.8 of this Agreement, and (b) the Director of Redevelopment Engineering 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 Director of Redevelopment Engineering or his designee.

(d) The Parties agree that the Commission will not be required to expend more than fifty percent (50%) of the Funding Amount before January 1, 2019.

(e) 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 agrees to coordinate all public announcements and press releases relating to the Project with the Developer.

5.5 Real Property Tax Abatement. The Developer anticipates applying to the South Bend Common Council for an abatement of real property taxes assessed against the Developer Property following the Developer's completion of the Project. The Commission agrees to endorse and support the Developer's application for a ten-year abatement not to exceed one hundred percent (100%) abatement for the first five (5) years and ninety-five percent (95%) abatement for the remaining five (5) years.

5.6 Other Incentives. As a material inducement for the Commission to enter into this Agreement and to pledge the Funding Amount to the Project, the Developer agrees that it will not request or pursue any further incentives from the City or any of the City's boards or commissions in connection with the Developer's completion of the Project, with the sole exception of the real property tax abatement described in Section 5.5 above.

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.

8.3 Indemnity. The Developer agrees to indemnify, defend, and hold harmless the Commission and the City from and against any claims, losses, or liabilities 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 Dispute Resolution; Waiver of Jury Trial. 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. 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: Commerce Center Development, LLC
121 S. Niles Avenue
South Bend, Indiana 46617
Attn: David M. Matthews

With a copy to: May Oberfell Lorber
4100 Edison Lakes Parkway, Suite 100
Mishawaka, Indiana 46545
Attn: Marcellus M. Lebbin

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

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

David Varner, Vice President

ATTEST:

Donald E. Inks, Secretary

COMMERCE CENTER DEVELOPMENT, LLC,
an Indiana limited liability company



David M. Matthews, Member

4000.0000089 55041351.005

EXHIBIT A

Description of Developer Property

PARCEL I: THE EAST 26.25 FEET OF THE NORTH 65 FEET OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, RECORDED MAY 4, 1860 IN PLAT BOOK J, PAGE 455 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

PARCEL II: THE EAST HALF OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW WITHIN AND A PART OF THE CITY OF SOUTH BEND, RECORDED MAY 4, 1860 IN PLAT BOOK J, PAGE 455 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, EXCEPTING THEREFROM THE NORTH 65 FEET.

PARCEL III: LOT NUMBERED THIRTEEN (13) IN THE ORIGINAL TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, TOGETHER WITH THE VACATED ALLEY SOUTH AND ADJACENT AND ALSO THE WEST 44 FEET OF THE VACATED BRIDGE STREET LYING EAST AND ADJACENT TO LOT 13 AND THE VACATED ALLEY SOUTH.

PARCEL IV: THE NORTH 65.00 FEET OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL AS RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, EXCEPTING THE EAST 26.5 FEET THEREOF.

PARCEL V: A LOT OR PARCEL OF LAND 65.00 FEET IN LENGTH NORTH AND SOUTH TAKEN OFF OF AND FROM THE ENTIRE WIDTH OF THE NORTH END OF LOT NUMBERED FIFTEEN (15) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, EXCEPTING THEREFROM A STRIP OF LAND 2 FEET IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE ENTIRE EAST END THEREOF.

PARCEL VI: A STRIP OF LAND 2 FEET IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE EAST SIDE OF THE NORTH 65 FEET OF LOT NUMBERED FIFTEEN (15) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND.

PARCEL VII: LOTS NUMBERED NINETEEN (19), TWENTY (20), TWENTY-ONE (21), TWENTY-TWO (22), TWENTY-THREE (23) AND TWENTY-FOUR (24) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND. ALSO, THE FOLLOWING VACATED ALLEY: (BEGINNING AT THE NORTHWEST CORNER OF SAID LOT NUMBERED TWENTY-TWO (22); THENCE EAST ON THE NORTH LINE OF SAID LOT NUMBERED TWENTY-TWO (22), TO THE NORTHEAST CORNER OF SAID LOT; THENCE NORTH TO THE SOUTHEAST CORNER OF SAID LOT NUMBERED TWENTY-ONE (21) TO THE SOUTHWEST CORNER OF SAID LOT NUMBERED TWENTY-ONE (21); THENCE SOUTH 14 FEET TO THE PLACE OF BEGINNING. TOGETHER WITH THE EAST 22 FEET OF VACATED BRIDGE STREET LYING SOUTH OF THE SOUTH LINE OF LASALLE STREET AND NORTH OF THE NORTH LINE OF COLFAX AVENUE.

PARCEL VIII: A NON-EXCLUSIVE EASEMENT AS SET OUT IN A SPECIAL WARRANTY DEED BY AND BETWEEN INDIANA & MICHIGAN ELECTRIC COMPANY, AN INDIANA CORPORATION AND EAST BANK CENTER, AN INDIANA PARTNERSHIP RECORDED SEPTEMBER 29, 1980 AS DOCUMENT NUMBER 8015929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

PART OF LOTS NUMBERED FOURTEEN (14) AND FIFTEEN (15) AS SHOWN ON THE RECORDED ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, ST JOSEPH COUNTY, INDIANA, DESCRIBED AS BEGINNING AT A POINT 65 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT NUMBERED 15 ON THE WEST LINE OF SAID LOT, RUNNING THENCE SOUTH WITH SAID WEST LINE 53 FEET; THENCE EAST 99 FEET; THENCE NORTH 53 FEET; THENCE WEST 99 FEET TO THE PLACE OF BEGINNING.

Commonly known as 401 Colfax Avenue, 230 Sycamore Street, 228 Sycamore Street, and 312 LaSalle Avenue, South Bend, Indiana

Parcel Key Nos. 018-5003-0066, 018-5003-006101, 018-5003-0060, 018-5003-006001, 018-5003-0059, and 018-5003-005901

EXHIBIT B

Project Plan

In accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations, the Developer will construct on the Developer Property a nine-story mixed-use development comprised of at least one hundred twenty-five (125) residential units, a grocery store (including a pharmacy), and street-level retail space. In addition, the Developer will construct a public plaza of approximately 4,000 square feet in area (including approximately 2,800 square feet in the northeastern corner of the Developer Property) along and abutting the East Race Waterway.

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 this Agreement and in compliance with all applicable laws and regulations:

Site preparation, infrastructure elements, and/or other improvements to the Developer Property necessary for the Developer's completion of the Project, to be further specified by the Developer as soon as reasonably practicable.

EXHIBIT D

Form of Easement

GRANT OF TEMPORARY EASEMENT

This Grant of Temporary Easement (this "Easement") is made as of the 22nd day of December, 2016 (the "Effective Date"), by Commerce Center Development, LLC, an Indiana limited liability company and East Bank South Bend Development LLC, an Indiana limited liability company (together, the "Grantor"), and in favor of 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 to a certain Development Agreement by and between Grantor and Grantee, dated January 12, 2017 (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 (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 Grantor and Grantee may agree to in writing.

IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Easement on the date shown in the acknowledgment set forth below to be effective as of the Effective Date.

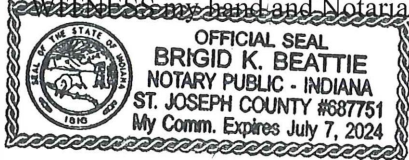
GRANTOR:

Commerce Center Development, LLC,
an Indiana limited liability company

David M. Matthews
David M. Matthews, Member

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared David M. Matthews, to me known to be the Member of Commerce Center Development, LLC, and acknowledged the execution of the same as the Grantor's free and voluntary act and deed.

WITNESS my hand and Notarial Seal this 22nd day of December, 2016.
 _____
_____, Notary Public

Residing in St. Joseph County, IN

My Commission Expires: 7/7/2024



East Bank South Bend Development LLC,
an Indiana limited liability company

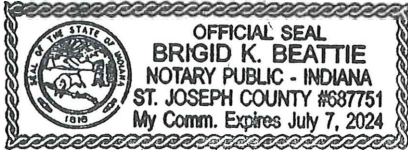
David M. Matthews

David M. Matthews, Member

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared David M. Matthews, to me known to be the Member of East Bank South Bend Development LLC, and acknowledged the execution of the same as the Grantor's free and voluntary act and deed.

WITNESS my hand and Notarial Seal this 22nd day of December, 2016.



Brigid K. Beattie

_____, Notary Public
Residing in St. Joseph County, IN

My Commission Expires: 7/7/2024

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

PARCEL I: THE EAST 26.25 FEET OF THE NORTH 65 FEET OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, RECORDED MAY 4, 1860 IN PLAT BOOK J, PAGE 455 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

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PARCEL IV: THE NORTH 65.00 FEET OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL AS RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, EXCEPTING THE EAST 26.5 FEET THEREOF.

PARCEL V: A LOT OR PARCEL OF LAND 65.00 FEET IN LENGTH NORTH AND SOUTH TAKEN OFF OF AND FROM THE ENTIRE WIDTH OF THE NORTH END OF LOT NUMBERED FIFTEEN (15) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, EXCEPTING THEREFROM A STRIP OF LAND 2 FEET IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE ENTIRE EAST END THEREOF.

PARCEL VI: A STRIP OF LAND 2 FEET IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE EAST SIDE OF THE NORTH 65 FEET OF LOT NUMBERED FIFTEEN (15) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND.

PARCEL VII: LOTS NUMBERED NINETEEN (19), TWENTY (20), TWENTY-ONE (21), TWENTY-TWO (22), TWENTY-THREE (23) AND TWENTY-FOUR (24) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND. ALSO, THE FOLLOWING VACATED ALLEY: (BEGINNING AT THE NORTHWEST CORNER OF SAID LOT NUMBERED TWENTY-TWO (22); THENCE EAST ON THE NORTH LINE OF SAID LOT NUMBERED TWENTY-TWO (22), TO THE NORTHEAST CORNER OF SAID LOT; THENCE NORTH TO THE SOUTHEAST CORNER OF SAID LOT NUMBERED TWENTY-ONE (21) TO THE SOUTHWEST CORNER OF SAID LOT NUMBERED TWENTY-ONE (21); THENCE SOUTH 14 FEET TO THE PLACE OF BEGINNING. TOGETHER WITH THE EAST 22 FEET OF VACATED BRIDGE STREET LYING SOUTH OF THE SOUTH LINE OF LASALLE STREET AND NORTH OF THE NORTH LINE OF COLFAX AVENUE.

PARCEL VIII: A NON-EXCLUSIVE EASEMENT AS SET OUT IN A SPECIAL WARRANTY DEED BY AND BETWEEN INDIANA & MICHIGAN ELECTRIC COMPANY, AN INDIANA CORPORATION AND EAST BANK CENTER, AN INDIANA PARTNERSHIP RECORDED SEPTEMBER 29, 1980 AS DOCUMENT NUMBER 8015929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

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Commonly known as 401 Colfax Avenue, 230 Sycamore Street, 228 Sycamore Street, and 312 LaSalle Avenue, South Bend, Indiana

Parcel Key Nos. 018-5003-0066, 018-5003-006101, 018-5003-0060, 018-5003-006001, 018-5003-0059, and 018-5003-005901

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. \$5,000,000.00 Each Occurrence
 - b. \$5,000,000.00 Annual Aggregate Products and Completed Operation

 - 2. Property Damage
 - a. \$5,000,000.00 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

ITEM: 6D1

REDEVELOPMENT LEGAL SERVICES AGREEMENT

This Redevelopment Legal Services Agreement (this “Agreement”) is entered into as of January 12, 2017 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”) and the Civil City of South Bend, an Indiana municipal corporation, acting by and through the South Bend Board of Public Works (the “Provider”).

RECITALS

A. The Commission exists and operates under the provisions of I.C. 36-7-14, commonly known as the “Redevelopment of Cities and Towns Act of 1953,” as amended from time to time (the “Act”).

B. Pursuant to the Act, the Commission has the power and duty to investigate, study, and survey areas within the corporate boundaries of the City of South Bend (the “City”) that the Commission has determined to be in need of redevelopment within the meaning of the Act and to redevelop said areas in a manner that will promote land use in order to serve the best interests of the City and its inhabitants.

C. Pursuant to the Act, the Commission has adopted resolutions declaring various areas of the City (the “Areas”) to be areas in need of redevelopment within the meaning of the Act and has adopted a development plan (the “Development Plans”) for each of the Areas in order to facilitate redevelopment of the Areas.

D. The Commission desires to undertake certain actions and promote certain activities within the Areas that are necessary to carry out the Development Plans for the Areas and facilitate development of the Areas (the “Projects”).

E. The Commission requires certain legal services related to the acquisition and redevelopment of property located in the Areas in connection with the Projects, which services the Commission may procure in accordance with the Act, including the provisions of I.C. 36-7-14-12.2(a)(13), I.C. 36-7-14-39(b)(3)(J), and I.C. 36-7-14-25.1(a).

F. The Provider is an Indiana municipal corporation and has staff members in the City’s Department of Law (the “Legal Department”) with the knowledge, experience, and expertise to provide the legal services that are reasonable and necessary for carrying out the Projects.

G. The Commission has determined that it is in the best interests of the Commission to retain the Provider to assist the Commission in accomplishing the Projects.

H. The Provider is willing to assist the Commission’s redevelopment efforts by providing the requested legal services, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties agree as follows:

SECTION 1. **Definitions.** For purposes of this Agreement, the following terms have the meanings referred to in this Section:

Contract Administrator: The term “Contract Administrator” shall mean the Executive Director of the Department of Community Investment.

Requested Services: The term “Requested Services” shall mean the services described in **Exhibit A** attached hereto and incorporated herein.

Taxes: All governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, of every kind and nature whatsoever, which at any time during the Term may be assessed, levied, or imposed on, or become due and payable out of or in respect of activities conducted on behalf of the Commission.

SECTION 2. **Retention and Acceptance of Provider.**

The Commission hereby retains the Provider to render to the Commission the Requested Services. The Provider hereby accepts the appointment to render the Requested Services to the Commission and agrees to render the Requested Services in accordance with the terms and conditions of this Agreement and all applicable laws, including, but not limited to, the Act. The Provider hereby certifies that its Legal Department staff members have sufficient experience and expertise to complete the Requested Services in a professional and timely manner.

The parties acknowledge and agree that the Agreement For Services By And Between The City Of South Bend, Department Of Redevelopment, Acting By And Through The South Bend Redevelopment Commission, And The Civil City Of South Bend, dated January 29, 2015, concerning the Provider’s provision of legal services to the Commission, is hereby terminated and superseded by this Agreement.

SECTION 3. **Project Information.**

A. **Information and Communications.** The Commission shall provide all documents, maps, reports, and other data requested by the Provider necessary for the Provider to accomplish the Requested Services. The Commission and the Provider agree that the Commission shall be permitted to obtain at no additional cost and to retain any and all documents prepared or caused to be prepared by the Provider in connection with the services to be provided by the Provider and the Provider agrees to provide the Commission with said documents upon request by the Commission. Said documents may be used by the Commission or others with respect to the Commission’s undertakings with respect to the Projects.

B. Point of Contact. The Commission hereby designates the Contract Administrator to serve on behalf of the Commission as the Provider's principal point of contact for purposes of this Agreement. The Contract Administrator will be responsible for the provision of relevant information to the Provider concerning the Projects and any Requested Services to be rendered by the Provider in connection with the Projects. The parties acknowledge and agree that any employee of the City of South Bend rendering the Requested Services to the Commission under this Agreement will remain an employee of the City of South Bend and will report to his or her supervisor(s) as determined by the head of the Legal Department.

SECTION 4. Compensation.

A. Fees for Services. As compensation for the Requested Services, the Commission agrees to pay the Provider a flat fee for each respective calendar year during which this Agreement is in effect (the "Annual Fee"). For the first calendar year during which this Agreement is in effect (the "Base Year"), the Annual Fee shall be Seventy-Five Thousand Five Hundred Dollars (\$75,500.00). For any calendar year after the Base Year during which this Agreement remains in effect, the Annual Fee shall be equal to One Hundred Two percent (102%) of the Annual Fee for the previous calendar year.

B. Invoices. On a quarterly basis, the Provider shall submit to the Commission an invoice for a progress payment equal to one-quarter (1/4) of the effective Annual Fee. Each quarterly invoice will identify the name and Area of each Project for which the Provider rendered the Requested Services during such quarter. The Commission agrees to pay each such invoice within thirty (30) days of receipt. In the event this Agreement terminates as provided in Section 6, all non-disputed sums owing and due the Provider for services rendered shall be paid within thirty (30) days of receipt of any invoice.

C. Reimbursable Expenses. The Commission shall not reimburse the Provider for expenses unless such expenses have been approved in writing by the Commission. Expenses which may be reimbursed under this provision shall be reasonable and necessary, and shall relate to the Projects of the Commission. All claims for reimbursement of expenses shall be supported by a detailed itemization of the expense including invoices or receipts with the nature of the claim incurred.

D. Subject to Appropriations. Notwithstanding any provision to the contrary, the Commission's payments required under this Agreement are subject to the appropriation of sufficient funds by the Commission in accordance with I.C. 36-7-14.

SECTION 5. Term.

The term of this Agreement (the "Term") shall commence on January 1, 2017, and shall terminate in accordance with Section 6 of this Agreement or upon the parties' mutual agreement. If not terminated under Section 6 of this Agreement or by the parties' mutual agreement, this Agreement shall automatically renew on an annual basis.

SECTION 6. Termination and Default.

A. Termination. Either party may terminate this Agreement upon an event of Default (as defined below) by the other party. Upon termination of this Agreement for any reason, copies of all data, electronic files, documents, procedures, reports, estimates, summaries other work papers, and any other supporting documents, whether completed or in process, accumulated by the Provider or prepared or provided by the Commission or the Provider relating to this Agreement or the Requested Services shall be and remain the property of the Commission and be delivered to the Commission upon request in a usable form within sixty (60) days of the date of termination of this Agreement. The Commission shall retain or be granted by the Provider without restriction all title, ownership, or intellectual property rights, including copyright, patent, trademark, and trade secret rights, in any data gathered or generated by the Provider in performance of the Requested Services under this Agreement.

B. 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 (the “Default Notice”), unless such period is extended by written mutual consent, shall constitute a default (a “Default”) under this Agreement. Any Default 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. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period.

SECTION 7. Confidentiality.

A. Confidential Information. The Provider acknowledges that information which the Commission regards as confidential or proprietary in nature (the “Information”), may come to the knowledge of the Provider during the Provider’s performance of services. The Provider shall treat the Information as strictly confidential and agrees that the Provider will not, at any time or in any manner, either directly or indirectly, (i) use, or allowed to be used, any Information for the Provider’s own benefit or the benefit of any director, official, employee or agent or any third party, or (ii) divulge, disclose or communicate in any manner any Information to any third party without the written consent of the Commission. The Provider shall be responsible for maintaining the confidentiality of any Information in its possession, including taking appropriate measures to secure said Information against such uses and dissemination and to inform any person to which it allows to access such information of its confidentiality. Notwithstanding anything to the contrary contained in this Agreement, the parties will adhere to their respective obligations under the Indiana Access to Public Records Act, and nothing herein will be construed to relieve either party of such obligations.

B. Covenants Survive Agreement. The confidentiality provisions of this Agreement remain in full force and effect after, and survive the termination of, the Term of this Agreement.

SECTION 8. Relationship.

A. No Employment. Neither the Provider nor any person rendering the Requested Services to the Commission under this Agreement will constitute or be construed as an employee of the Commission.

B. Tax Obligations. The Provider is solely responsible for compliance with federal, state, and local laws and regulations relating to Taxes and Social Security payments that may be required to be made in connection with the compensation provided under this Agreement. The Commission, however, may file informational returns with the United States Internal Revenue Service or similar state agency regarding payments made to the Provider in accordance with this Agreement under conditions imposed by federal, state, or local laws applicable to such payment.

SECTION 9. Indemnification.

The Provider hereby agrees to defend, indemnify, and hold harmless the Commission, its officials, directors, employees, and agents from any and all claims of any nature which arise from the performance by the Provider under this Agreement and from all costs and attorney fees in connection therewith, excepting for claims arising out of the negligence of the Commission, its officials, directors, employees, and agents. The obligations of the Provider under this Section shall survive the termination of this Agreement.

SECTION 10. Equal Opportunity.

The Provider shall comply with federal, state, and local law in its hiring and employment practices and policies for any activity covered by this Agreement.

SECTION 11. Entire Agreement.

This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understanding of any and every nature between them.

SECTION 12. Law Governing.

This Agreement shall be construed and interpreted according to the laws of the State of Indiana.

SECTION 13. Assignment.

The Provider's obligations under this Agreement may not be assigned or transferred to any other person or entity without the prior written consent of the Commission.

SECTION 14. Amendment.

This Agreement may be amended only by separate writing signed by authorized representatives of both the Provider and the Commission.

SECTION 15. Notices.

All notices or other communications which are required or permitted under the terms of this Agreement shall be sufficient if delivered personally, by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address and individual set forth below. All such notices to either party shall be deemed to have been provided when delivered, if delivered personally, three (3) days after mailed, if sent by registered or certified mail, or the next business day, if sent by generally recognized, prepaid, overnight air courier services.

Commission: Department of Community Investment
 1400 S. County-City Building
 South Bend, Indiana 46601
 Attn: Executive Director

Provider: Department of Public Works
 1300 N. County-City Building
 South Bend, Indiana 46601
 Attn: Executive Director

SECTION 16. Counterparts.

This Agreement may be executed in counterparts, all of which shall be deemed originals.

SECTION 17. Authority.

The undersigned persons executing and delivering this Agreement on behalf of the respective parties represent and certify that they are the duly authorized officers or members of the parties with authority to execute this Agreement and that all necessary action has been taken and done to enter into this Agreement.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Redevelopment Legal Services Agreement to be effective as of the Effective Date stated above.

**SOUTH BEND BOARD OF
PUBLIC WORKS**

Gary Gilot, President

Therese Dorau, Member

Suzanna Fritzberg, Member

Elizabeth Maradik, Member

James Mueller, Member

ATTEST:

Linda Martin, Clerk

**SOUTH BEND REDEVELOPMENT
COMMISSION**

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

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EXHIBIT A

Requested Services

1. Drafting of documents related to the acquisition and redevelopment of property in the Areas pursuant to the Development Plans.
2. Review and approval of documents prepared by others related to the acquisition and redevelopment of property in the Areas pursuant to the Development Plans.
3. Consultation with and advising of members of the Department concerning legal issues related to the acquisition and redevelopment of property in the Areas pursuant to the Development Plans.
4. Other services related to the acquisition and redevelopment of property in the Areas pursuant to the Development Plans, as assigned by the Contract Administrator.

**LICENSE AGREEMENT
FOR TEMPORARY USE OF REDEVELOPMENT COMMISSION PROPERTY**

This License Agreement (this “Agreement”) is made on January 12, 2017 (the “Effective Date”), by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the “Commission”), Downtown South Bend, Inc. an Indiana non-profit corporation with a registered office address of 217 S. Michigan St., South Bend, Indiana 46601 (the “Company”) (each a “Party,” and collectively, the “Parties”).

RECITALS

WHEREAS, the Commission owns certain real property and improvements located within the River West Development Area of the City of South Bend, Indiana (the “City”), as more particularly described in **Exhibit A** attached hereto (the “Property”); and

WHEREAS, Southhold, LLC (“Southhold”) retains or will acquire certain rights of access to the Property, including rights pursuant to the Temporary Access Agreement between Southhold and the Commission dated July 16, 2015, and any subsequent agreement between Southhold and the Commission; and

WHEREAS, the Company desires temporary access to the Property for the purpose of conducting the event known as the DTSB Ambassador Appreciation Program (the “Activity”), as described in the proposal attached hereto as **Exhibit B** (the “Activity Proposal”); and

WHEREAS, the Commission is willing to permit the Company to gain access to and temporarily use the Property for the Activity, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The Commission grants to the Company, its agents, employees, and invitees, a temporary, non-exclusive license to enter and use the Property for the purpose of conducting the Activity, provided that the Company’s use of the Property is reasonable at all times and comports with the terms of the Activity Proposal, the terms of this Agreement, and all applicable laws.

2. The Company’s license to use the Property for the Activity shall be effective during the times stated for set-up, operations, and teardown in the Activity Proposal, provided, however, that the Commission or the Commission’s authorized representative may revoke and terminate the license at any time for any reason, as determined in its, his, or her sole discretion. The Company agrees that it will not store any supplies, materials, goods, or personal property of any kind on the Property or otherwise use the Property for any purposes except during the time of the license stated in the foregoing sentence. Immediately upon the completion of the Activity, the Company will remove from the Property all supplies, materials, goods, and personal property (including trash) used in connection with the Activity. At all times during the period of the Activity, the Company will keep the Property in good order and condition.

3. 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 on the Property and any property the Company uses or stores on the Property in connection with the Activity.

4. The Company shall not, without the prior written consent of the Commission, cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked, or emitted at the Property.

5. The Company understands and agrees that it will secure in its own name and at its own expense all necessary permits and authorizations needed in order to conduct the Activity.

6. 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 the Activity conducted on the Property.

7. 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 permitted use of the Property in accordance with the Activity Proposal and the other terms of this Agreement.

8. To the extent that any portion of the Property is disturbed or damaged in connection with the Company's use of the Property, 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.

9. The Company agrees and undertakes to indemnify and hold the City and the Commission, and their respective agents, employees, successors, assigns, and licensees 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 approval 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 Activity, the Company agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

10. The Company, at the Company's sole expense, shall maintain during the term of this Agreement commercial general liability insurance covering the Company and the Activity 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 insured's 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.

11. 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, the Parties have each executed this Agreement to be effective as of the Effective Date stated above.

**SOUTH BEND REDEVELOPMENT
COMMISSION**

Marcia I. Jones, President

ATTEST:

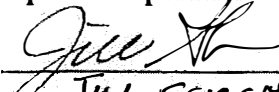
Donald E. Inks, Secretary

**DOWNTOWN SOUTH BEND, INC.,
an Indiana not-for-profit corporation**

By:

Printed:

Its:

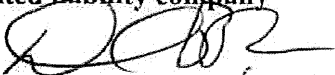


JULIE SCICCHITANO
Executive Director

CONSENT OF SOUTHHOLD, LLC

Southhold, LLC hereby consents to the foregoing License Agreement between the South Bend Redevelopment Commission and Downtown South Bend, Inc.,

SOUTHHOLD, LLC,
an Indiana limited liability company

By: 
Printed: DANIEL BOCHNER
Its: VP DEVELOPMENT
Date: 1-11-17

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EXHIBIT A

Description of Property

Main Floor of the former College Football Hall of Fame building, described as:

Lot 1 of the recorded plat of Hall of Fame Second Minor Subdivision, recorded on July 22, 2015, as Document No. 1518735, in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key No. 018-3091-347405]

EXHIBIT B

Activity Proposal

DTSB Ambassador Appreciation Program

Set-up: 12:00 p.m. to 2:00 p.m.

Program: 2:00 p.m. to 4:00 p.m.

Clean-up: 4:00 p.m. to 6:00 p.m.