



South Bend

Redevelopment Commission

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

Agenda

Regular Meeting, July 26, 2018 9:30 a.m.

1. **Roll Call**
2. **Approval of Minutes**
 - A. Minutes of the Regular Meeting of Thursday, July 12, 2018
3. **Approval of Claims**
 - A. Claims Submitted July 26, 2018
4. **Old Business**
5. **New Business**
 - A. River West Development Area
 1. Lease (Tapastrie) – D2
6. **Progress Reports**
 - A. Tax Abatement
 - B. Common Council
 - C. Other
7. **Next Commission Meeting:**
Thursday, August 9, 2018, 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.

2. Approval of Minutes

A. Approval of Minutes of the Regular Meeting of Thursday, June 28, 2018

Upon a motion by Commissioner Ferlic, seconded by Secretary Inks, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, June 28, 2018.

3. Approval of Claims

A. Claims Submitted July 12, 2018

REDEVELOPMENT COMMISSION Redevelopment Commission Claims July 12, 2018 for approval	Claims submitted	Explanation of Project
<u>324 RIVER WEST DEVELOPMENT AREA</u>		
IDEM	2,400.00	Oliver-Plow
Walsh & Kelly Inc.	201,305.48	Marriott Hotel Site Development at Hall of Fame Ph. 3 A B & C
Walsh & Kelly Inc.	194,228.45	Downtown Cross Street Improvements
Dynamic Mechanical Services	3,791.55	Langlab HVAC Improvements
Opticos Design Inc.	2,779.00	Assessment Professional Services
Kolata Enterprises LLC	360.00	Professional Services
Ram Construction Services of Michigan	133,017.62	Leighton Deck Coating - Ph. II
Walsh & Kelly, Inc.	194,228.45	Downtown Cross Street Improvements
<u>430 FUND SOUTH SIDE TIF AREA #1</u>		
Botkin & Hall, LLP	692.87	Kohl's - South Bend

Upon a motion by Commissioner Ferlic, seconded by Secretary Inks, the motion carried unanimously, the Commission approved the claims submitted on Thursday, July 12, 2018.

4. Old Business

5. New Business

A. Administrative

- 1. Resolution No. 3437: (Authorizing Staff to Study Potential Benefits of Amending Tax Increment Financing Areas)**
- 2. Update on Potential TIF Area Adjustments**

Mr. Muller requested that Items 1 and 2 be combined for the presentation.

Upon a motion by Commissioner Ferlic, seconded by Vice-President Varner, the motion carried unanimously, the Commission combined Items 1 and 2 which are Resolution No. 3437: (Authorizing Staff to Study Potential Benefits of Amending Tax Increment Financing Areas) and Update on Potential TIF Area Adjustments submitted on July 12, 2018.

South Bend Redevelopment Commission Regular Meeting – July 12, 2018

Mr. Mueller presented to the Commission the TIF areas including River East, River West, South Side and a small piece on West Washington. Mr. Muller stated that TIF is one of the greatest tools we have to promote economic development for dense vibrant neighborhoods, increase upscaling and workforce development and providing an atmosphere for leadership and acceleration. Our policy goal is to keep this growth inclusive, so we will make sure we have inclusive networks, affordable housing, access to childcare and transit for home, work and play.

The main focus will be an expansion of River East. We are looking to add the Eddy Street right of way by the Jefferson school. We are looking at adding Potawatomi Park Zoo and the Mishawaka Avenue Corridor. Mishawaka Avenue is a gateway to our community. IUSB has a nice river trail by the Wooden Indian and we are looking at improvements in that area. We are looking at adding 119 acres in that piece.

River West North main additions are the South Bend Chocolate new factory / museum area; Council has annexed a portion already with the remainder being in process. We are looking to add 96 acres in this area. We are looking to remove the original proposed Portage Prairie build out area west of the US 31 bypass, and are suggesting removal of the Airport runway pieces for a total of 1,467 acres.

River West Central will include City Cemetery, Leeper Park and the Museum Campus, in addition to the Portage/Elwood area including the Portage Avenue shops and Muessel Grove Park. We are working on Westside Main Street Plan and Lincoln Park Neighborhood Plan. The Commission has already approved funding for the Charles Black Center and LaSalle Park, and we are looking at improvements to Pulaski Park. We are moving some parks into TIF areas to make things more straight forward. In 2014 the commitment was contemplated to add 67 acres and we are now looking at 140 acres based on conversations with different stakeholders.

We have a few options in the Mishawaka Avenue, Miami Street, and Lincoln Way East., which is approximately 36 acres. We are thinking about our neighborhoods and infrastructure needs; one thought is starting to move the South Side TIF North. The South East Master Plan goes from Miami Street to Michigan from Ewing up. It is a big swap. Option II is to move the South Side partly north to take off the burden from other plans. Option III is expanding the whole Michigan St. area. When we look at the last few years we have funded parks and public works. We would like to try to expedite the neighborhood plans in the urban corridors and move out in the following years. The swap would be a total of 551 acres.

We presented this to Council in May and received some preliminary feedback. One thought was the mutually annexed areas South east of Ireland and Ironwood and Miami Hills Apartments, but we would need some assistance to make this happen. There were some thoughts in the River West area where the Museum is from downtown that it may be more appropriate to enter from the

South Bend Redevelopment Commission Regular Meeting – July 12, 2018

South, which is an ongoing conversation. There is also talk about an East/West connection between the City Cemetery and the Coal Line Trail on Linden. There will be some corridor along that line. We would like to keep that area consistent. The neighborhood southeast of LaSalle Park is in consideration.

We are looking at adding 458 acres, removing 1,467 and swapping 551 acres. We ask Commission approval for the Resolution before you to study all areas in greater detail. The study will be done by our staff internally. The last TIF realignment was in November 2014.

Vice-President Varner asked about swapping 551 acres into the South Side TIF from River West. Mr. Mueller explained that the River West TIF is strained at this time. With swapping acres with the South Side TIF we can work on more projects including current projects like the Scottsdale pool.

Secretary Inks states a fair amount of this is related to non-taxable properties. There are some fiscal issues coming up for the City. Is there a way to make this a revenue neutral proposal for the City so any new increment generated could be retained by the City instead of going into the TIF? One of the criticisms of TIF is the impact of general resources to the general fund. We could propose this as revenue neutral, so any new revenue generated from these areas would be released.

Mr. Mueller states we could look at that. The long-term projections from Umbaugh shows a decrease of increment over time without projects. If you cap any new increment we are sure to see a decrease over time.

Commissioner Ferlic mentioned under Vice-President Varner's leadership he believes the City has used TIF to supplement the City budget when it was appropriate. He believes that's the way TIF should be used rather than to set a cap in the future.

Upon a motion by Vice-President Varner, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved Items 1 and 2, which are Resolution No. 3437: (Authorizing Staff to Study Potential Benefits of Amending Tax Increment Financing Areas) and Update on Potential TIF Area Adjustments submitted on July 12, 2018.

6. Progress Reports

A. Tax Abatement

B. Common Council

1. The proposed tax credit apartment project along the Lincolnway West corridor, in the old brewery along with scattered sites. Hopefully that goes through. We are looking at November to see if they receive a tax credit.

C. Other

South Bend Redevelopment Commission Regular Meeting – July 12, 2018

7. Next Commission Meeting:

Thursday, July 26, 2018, 9:30 a.m.

8. Adjournment

Thursday, July 12, 2018, 10:04 a.m.

David Relos, Property Development Manager

Dave Varner, Vice-President

ITEM: 3A

REDEVELOPMENT COMMISSION Redevelopment Commission Claims July 26, 2018 for approval	Claims submitted	Explanation of Project	Items added after Agenda Distributed
<u>324 RIVER WEST DEVELOPMENT AREA</u>			
IDEM	2,400.00	Oliver-Plow	
Walsh & Kelly Inc.	201,305.48	Marriott Hotel Site Development at Hall of Fame Ph. 3 A B & C	
Walsh & Kelly Inc.	194,228.45	Downtown Cross Street Improvements	
Dynamic Mechanical Services	3,791.55	Langlab HVAC Improvements	
Opticos Design Inc.	2,779.00	Assessment Professional Services	
Kolata Enterprises LLC	360.00	Professional Services	
Ram Construction Services of Michigan	133,017.62	Leighton Deck Coating - Ph. II	
Walsh & Kelly, Inc.	194,228.45	Downtown Cross Street Improvements	
Lawson-Fisher Associates P.C	13,162.50	Parks Improvements Program Manager	
DLZ	170.00	So. Bend Tucker Drive	
Bank of New York		Airport Econ Dev Area (RW) 2003 Bond 2011	548,638.00
US Bank		Police and Fire Bond Ref 2012	781,000.00
US Bank		Park Bond (2018)	496,320.00
Bank of New York		SB Cen Dev Area (RW) 2003 Bond Refinanced 2011	955,900.00
US Bank		Smart Streets Lease Bond of 2015	857,500.00
Wells Fargo		COIT So. Bend Bldg. Corp Refunding bond of 2010 CEDIT Series 2006A (Refunding 1997 Series A)	294,502.00
US Bank		TJX 2002 Bond(Refinanced 2014)	26,925.00
Fund 209		Prairie Ave Ln Fund 324 owes Fund 209	100,000.00
Barnes & Thornburg LLP		410 Wayne Street, LLC	10,677.91
Michigan NDT, Inc.		Nello Equipment	9,703.00
Kolata Enterprise LLC		Professional Services	517.50
Jones Petrie Rafinski		Downtown East-West Streetscapes	30,375.75
Jones Petrie Rafinski		Courtyard by Marriott Ph. 3	659.25
<u>422 FUND WEST WASHINGTON DEVELOPMENT AREA</u>			
DLZ	3,480.00	Colfax Ave Two-Way Conv.	
<u>429 FUND RIVER EAST DEVELOPMENT TIF</u>			
<u>430 FUND SOUTH SIDE TIF AREA #1</u>			
Botkin & Hall, LLP	692.87	Kohl's - South Bend	
Jones Petrie Rafinski	20,490.00	St. Joseph Streetscape Improvements	
Mc Cormick Engineering, LLC		Bowen St. Improvements	25,447.50
<u>436 FUND TIF NORTHEAST RESIDENTIAL</u>			
Major Moves		Triangle Development Major Moves Ln	60,446.00
US Bank		Eddy St Commons Bond of 2008, Refinanced 2015	1,234,153.00
US Bank		Eddy St Commons Bond of 2017	650,000.00
Major Moves		Major Moves - Eddy St Commons (2011)	186,218.00
Total	770,105.92		6,268,982.91
Total Of Both Columns	7,039,088.83		

LEASE

This Lease (“Lease”) is made effective as of April 1, 2018 (the “Effective 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 (the “Landlord”), and Tapastrie LLC, an Indiana limited liability company (the “Tenant”) (each a “Party,” and together, the “Parties”).

RECITALS

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

B. Landlord owns certain real property and improvements located in South Bend, Indiana, described as Lot 1 of Morris Civic Minor Subdivision recorded on July 13, 1998, as Document No. 9836277, with Parcel Key No. 018-1002-0043 (the “Property”), legally described in the attached Exhibit A.

C. Landlord and Tenant entered into a certain lease dated October 16, 2014, as amended by the First Amendment to Lease dated August 11, 2016 (the “2014 Lease”), under which Landlord leased to Tenant a portion of the Property comprised of approximately 5,900 square feet of commercial space (further described herein and identified as the “Premises”).

D. The term of the 2014 Lease expired on March 31, 2018, and the Parties desire to enter into a new agreement for the lease of the Premises with an effective date of April 1, 2018.

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

ARTICLE I
BASIC LEASE PROVISIONS

1.1. Basic Lease Provisions. The following basic provisions of this Lease (the “Basic Lease Provisions”) constitute an integral part of this Lease and are set forth in this Section 1.1 for the convenience of the Parties. The following Basic Lease Provisions shall be applied to and construed with the other relevant terms of this Lease and the Lease as a whole.

- (a) Premises: Defined in Section 2.1, consisting of approximately 5,900 square feet of commercial space (3,500 square feet on the ground floor and 2,400 square feet in the lower level) commonly referred to as 103 W. Colfax, within the Building commonly referred to as 201 N. Michigan Street.

- (b) Term: Three (3) Lease Years, as provided for in Section 3.1, with a renewal option for three (3) additional Lease Years, as provided for in Section 3.2.
- (c) Tenant's Use: Restaurant operation and other ancillary functions associated with such operation.
- (d) Landlord's Address: 1400 S. County-City Building
227 West Jefferson Boulevard
South Bend, Indiana 46601
Attn: Executive Director
- (e) Tenant's Address: 103 W. Colfax Ave.
South Bend, IN 46601
Attn: Thomas F. Welsh, Registered Agent
- (f) Building: The Palais Royale and Morris Civic Theater Complex, located on the Property and in which the Premises is situated, commonly referred to as 201 North Michigan Street, South Bend, Indiana.

ARTICLE II PREMISES

2.1. Premises. Landlord, in consideration of the Rent, as defined in Section 4.1, to be paid and the covenants to be performed by Tenant, hereby leases to Tenant, and Tenant hereby leases from Landlord, that certain Premises located in the Building and described in Exhibit B, subject to the terms and conditions of this Lease. Landlord reserves the right, with respect to the Building, to modify, increase or decrease the number, location, dimension, size, and height of other premises within the Building and other improvements in the Building; and the identity and type of other tenants of the Building. Tenant's interest in the Premises is and shall be subject to all easements, restrictions, liens, encumbrances, rights-of-way, or other matters now or hereafter of record affecting the Premises or the Building.

2.2. Common Areas. Tenant shall have the right, in common with all other tenants in the Building, to use the areas in and around the Building designated by Landlord from time to time as common areas (the "Common Areas"). Landlord shall operate, maintain and insure the Common Areas for their intended purposes in such a manner as Landlord shall determine to be necessary or appropriate, including, without limitation, that Landlord at any time may close or change any part of the Common Areas as Landlord determines to be necessary or appropriate. Tenant understands that Landlord does not control the sidewalks located in the Michigan Street

and Colfax Avenue right of way. Tenant shall be required to file any request for use of a portion of the sidewalk area for outdoor seating with the South Bend Board of Public Works.

2.3. Quiet Enjoyment. Landlord warrants that it is the owner in fee simple of the Premises, and that it has full right and authority to enter into this Lease, subject to all easements, restrictions, liens, encumbrances, rights-of-way and other matters of record. Landlord agrees that if Tenant observes all of the terms and conditions of, and performs all of its obligations under, this Lease, then, at all times during the Term, subject to the terms and conditions of this Lease, Tenant shall have the peaceful and quiet enjoyment of possession of the Premises, without any manner of hindrance from Parties claiming under, by, or through Landlord.

ARTICLE III TERM

3.1. Term. The term of this Lease will commence on the Effective Date and end on that date that is three (3) Lease Years after the Effective Date, unless earlier terminated in accordance with the provisions of this Lease (the "Termination Date"). A "Lease Year" shall mean each period of twelve (12) consecutive full months, beginning on the Effective Date (such that if the Commencement Date is not the first day of a calendar month, then the first Lease Year shall begin on the first day of the first calendar month following the Commencement Date, and any partial month in which the Commencement Date occurs will be included within the first Lease Year).

3.2. Renewal Option. Provided that no Event of Default, as hereinafter defined, or any facts which with the giving of notice or passage of time, or both, would constitute an Event of Default, exists at the time of the exercise of any option to renew the Term (the "Renewal Option") or exists at the end of the Term, Tenant may renew this Lease for an additional period of three (3) years (the "Extended Term"), on the same terms and provisions as provided in this Lease, except that the Rent due in the Extended Term shall be the amount set forth in Section 4.1, with delivery of written notice of the exercise of such option not later than ninety (90) days before the expiration of the Term. If Tenant fails to exercise its option to extend the Term in the time periods set forth in this Section 3.2, Tenant's option to renew shall immediately terminate and have no further force or effect, without further notice from Landlord.

3.3. Holding Over. If Tenant fails to surrender the Premises upon the expiration of the Term or earlier termination of the Lease (it being agreed that Tenant shall not be permitted to so hold over without Landlord's written consent), Tenant shall pay Landlord for each day of such holding over a sum equal to one hundred and fifty percent (150%) of the Rent payable during the preceding Lease Year prorated for the number of days for such holding over, plus all other amounts which Tenant would have been required to pay had this Lease been in effect (the "Holdover Rent"). If Tenant holds over without Landlord's written consent for a period in excess of thirty (30) days without any action from Landlord to dispossess Tenant, Tenant shall be deemed to occupy the Premises on a tenancy from month-to-month at the Holdover Rent, and all other terms and provisions of this Lease shall be applicable to such period. At any time, either Party may terminate such tenancy from month-to-month upon written notice delivered to the other Party at least thirty (30) days in advance. Tenant hereby waives any and all notice to

which Tenant may otherwise be entitled under the laws of the State of Indiana (the "State") as a prerequisite to a suit against Tenant for unlawful detention or possession of the Premises. Tenant shall Indemnify, as hereinafter defined, Landlord from any Loss, as hereinafter defined, resulting from such hold over, including without limitation any liability incurred by Landlord to any succeeding tenant of the Premises.

ARTICLE IV
RENT AND COMMON EXPENSES

4.1. Rent.

- (a) The First Rental Amount, Second Rental Amount, Third Rental Amount, and Fourth Rental Amount, as those terms are defined below, shall collectively be referred to herein as "Rent." Rent shall be paid to Landlord as set forth below, in lawful United States currency without notice, demand, deduction, set-off, counterclaim or recoupment, and without relief from valuation or appraisal laws, in monthly installments commencing on the Effective Date and during the entire Term and Extended Term (should Tenant exercise its Renewal Option), on or before the first (1st) day of each calendar month, in advance.
- i. Commencing on the Effective Date and continuing through September 30, 2018, Tenant shall pay the First Rental Amount, consisting of base rent in the amount of Three Thousand Four Hundred Eighty-One Dollars (\$3,481.00) ("Base Rent"), less an incentive in the amount of Five Hundred Dollars (\$500.00) and less a construction hardship in the amount of Two Thousand Eighty-Eight and 60/100 Dollars (\$2,088.60), together with an amount fixed for 2018 for Real Estate Taxes (as hereinafter defined) of Two Hundred Seventy Two and 65/100 Dollars (\$272.65) and Common Expenses (as hereinafter defined) of Six Hundred Forty Eight and 19/100 Dollars (\$648.19), for a total amount of One Thousand Eight Hundred Thirteen and 24/100 Dollars (\$1,813.24).
 - ii. Commencing on October 1, 2018 and continuing through September 30, 2019, Tenant shall pay the Second Rental Amount, consisting of Base Rent, less an incentive in the amount of One Thousand Dollars (\$1,000.00), plus Real Estate Taxes and Common Expenses, for an estimated total amount of Three Thousand Four Hundred One and 84/100 Dollars (\$3401.84).
 - iii. Commencing on October 1, 2019 and continuing through March 31, 2020, Tenant shall pay the Third Rental Amount, consisting of Base Rent, less an incentive in the amount of Five Hundred Dollars (\$500.00), plus Real Estate Taxes and Common Expenses, for an estimated total amount of Three Thousand Nine Hundred One and 84/100 Dollars (\$3,901.84).
 - iv. Commencing on April 1, 2020 and continuing through March 31, 2021, Tenant shall pay the Fourth Rental Amount, consisting of Base Rent, plus Real Estate Taxes and Common Expenses, for an estimated total amount of Four Thousand Four Hundred One and 84/100 (\$4,401.84).

(b) Upon Tenant's exercise of the Renewal Option set forth in Section 3.2, Base Rent shall be determined by assessing the prevailing economic conditions in the downtown South Bend, Indiana area and negotiated by the Parties in good faith at the beginning of each Lease Year of the Extended Term, commencing with Tenant's first payment of the Extended Term.

4.2. Late Charge. Any amount of Rent that is overdue shall bear interest at the lesser of: (a) the maximum rate payable by Tenant under State law; or (b) the rate of eighteen percent (18%) per annum from the date when such amount is due and payable under this Lease until the date paid.

4.3. Real Estate Taxes. Tenant shall be liable for any and all real property taxes and assessments of any nature levied against the Premises during the Term (the "Real Estate Taxes"), and the Parties acknowledge that Real Estate Taxes are subject to applicable assessments and may be increased or decreased during the Term or Extended Term depending on such assessments. The Parties further acknowledge that because of the uncertainty related to the amounts due yearly for Real Estate Taxes, the Rent to be paid hereunder after the First Rental Term may similarly increase or decrease accordingly. The obligations of Tenant hereunder with respect to the payment of Real Estate Taxes levied during the final year of the Term or Extended Term shall survive the Termination Date.

4.4. Common Expenses.

(a) Payment. Subject to Section 4.1(a), Tenant shall pay to Landlord its pro rata share of the common expenses, as hereinafter defined, which share shall equal the amount of all Common Expenses multiplied by Tenant's pro rata share. Notwithstanding the foregoing, the Parties acknowledge that Common Expenses will be fixed in the amount of Six Hundred Forty Eight and 19/100 Dollars (\$648.19) for the Term but may vary from year to year during the Extended Term depending on actual amounts expended by Landlord, and such variation may affect the Rent to be paid hereunder during the Extended Term.

(b) Common Expenses. "Common Expenses" shall mean all costs and expenses of every kind or nature paid or incurred by Landlord during the Term or Extended Term in operating, managing and servicing the Building, including, without limitation: (i) reasonable and customary management fees; (ii) wages, salaries and benefits of maintenance personnel (not to exceed the amount fairly and equitably allocated to the Building); (iii) charges under maintenance contracts; (iv) costs and expenses to perform or provide maintenance or repairs and to satisfy Landlord's obligation to operate, maintain and insure the Common Areas under this Lease; (v) sewer, water and storm water drainage charges attributable to the Common Areas; (vi) costs for signage located in the Common Areas, including, without limitation, costs for light bulbs and electricity, and costs incurred with respect to any exterior sign for the Building; (vii) costs and expenses to provide light, heat, air conditioning and ventilation for the Common Areas; (viii) exterior building maintenance which is not of a structural or roof repair nature; and (ix) alley maintenance and sidewalk cleaning, including snow and ice shoveling.

ARTICLE V
MAINTENANCE AND REPAIRS TO THE PREMISES

5.1. Landlord Maintenance and Repairs. Landlord shall, at its expense: (a) keep the foundations and roof of the Premises in good order, repair and condition; and (b) maintain the exterior walls of the Premises in a structurally sound condition, except to the extent that there is damage caused by any act or omission of Tenant or its employees, agents, contractors, invitees or licensees, and (c) replace window glass that may be damaged or broken with glass of the same or substantially similar quality, except to the extent that any damage or breakage is caused by any act or omission of Tenant or its employees, agents, contractors, invitees or licensees. Landlord shall be responsible for the replacement and maintenance of all heating, ventilating, and cooling equipment and systems serving the Premises (the "HVAC Systems"); provided, however, that Landlord may bill Tenant for such replacement if Landlord's consultant determines with reasonable certainty that the need to replace the HVAC Systems was as a result of Tenant's misuse of it or Tenant's failure to notify the Landlord of its malfunctioning. Except as provided in this Section 5.1, Landlord shall not be obligated to make repairs, replacements or improvements of any kind to or for the Premises, or any trade fixtures or equipment contained therein, all of which such repairs, replacements or improvements shall be the responsibility of Tenant.

5.2. Tenant Maintenance and Repairs. Except for repairs to be performed by Landlord pursuant to Section 5.1, Tenant shall: (a) keep the Premises clean, neat, and safe, and in good order, repair and condition, including, without limitation, that Tenant shall make all maintenance, repairs, alterations, additions, or replacements to the Premises and shall provide routine janitorial services at Tenant's expense; (b) keep all glass in windows, doors, fixtures, and other locations clean and in good order, repair, and condition, and replace interior light bulbs or fluorescent lights as needed; and (c) paint and decorate the Premises as necessary or appropriate to comply with the terms and conditions of this Section 5.2. Notwithstanding any provision to the contrary, including Section 6.1, the Tenant shall be responsible for notifying the Landlord of any damage to, malfunctioning of, or apparent repairs necessary to be made to the HVAC Systems or to the plumbing, electrical or other systems used by or for the Premises. Plumbing and electrical maintenance and repair expenses which are directly attributable to the plumbing and electrical systems utilized by and exclusively serving Tenant shall be the responsibility of Tenant.

ARTICLE VI
ALTERATIONS AND IMPROVEMENTS TO THE PREMISES

6.1. Tenant Alterations.

(a) Alterations. Tenant, at its sole cost and expense, may install in the Premises such improvements and equipment as Tenant reasonably determines to be necessary or appropriate to conduct its business. Tenant, at its cost and expense, also may make non-structural alterations or improvements to the interior of the Premises if: (i) Tenant delivers to Landlord written notice describing the proposed alteration or improvement with particularity, and provides to Landlord copies of any plans and specifications for the alteration or improvement; and (ii) on the Termination Date, Tenant surrenders the part of the Premises altered or improved in as good a

condition as on the Effective Date. Tenant shall not, without the prior written consent of Landlord, make any: (1) alterations, improvements, or additions of or to the exterior of the Premises; or (2) except as described above, structural or other alterations, improvements, or additions of or to any part of the Premises. All alterations, improvements, or additions to the Premises, exclusive of moveable equipment and furniture, shall become the sole property of Landlord on the Termination Date.

(b) Permits. Before making any alterations, improvements, or additions, Tenant shall: (i) obtain all permits, licenses, and approvals necessary for the completion of the improvements, alterations, or additions; and (ii) deliver to Landlord: (A) copies of such permits, licenses, and approvals; and (B) evidence reasonably satisfactory to Landlord that Tenant has procured workers' compensation, builder's risk, general liability, and personal and property damage insurance as Landlord reasonably may require. Tenant shall at Tenant's cost and expense: (1) complete the construction of any alterations, improvements or additions in a good and workmanlike manner and in compliance with all Laws and all permits, licenses and approvals; and (2) assure that all contractors, subcontractors, laborers, and suppliers performing work or supplying materials are paid in full.

(c) Liens. Tenant shall not suffer or cause the filing of any mechanic's or other lien against the Premises or the Building. Tenant shall further not enter into any contract or agreement that provides explicitly or implicitly that a lien may be attached against the Premises, the Building or any improvements. If any mechanic's or other lien is filed against the Premises, the Building, or any part thereof for work claimed to have been done for Tenant, or materials claimed to have been furnished to Tenant, then Tenant shall: (i) cause such lien to be discharged of record within twenty (20) days after notice of the filing by bonding or as provided or required by law; or (ii) provide evidence satisfactory to Landlord that the lien is being contested by proceedings adequate to prevent foreclosure of the lien, together with indemnity satisfactory to Landlord (in an amount equal to at least one hundred fifty percent (150%) of the claimed lien) to Landlord within thirty (30) days after notice of the filing thereof. All liens suffered or caused by Tenant shall attach to Tenant's interest only. Nothing in this Lease shall be deemed or construed to: (1) constitute consent to, or request of, any Party for the performance of any work for, or the furnishing of any materials to, Tenant; or (2) give Tenant the right or authority to contract for, authorize, or permit the performance of, any work or the furnishing of any materials that would permit the attaching of a mechanic's lien to the Premises or the Building or Landlord's interest therein.

ARTICLE VII USE

7.1. Use of the Premises. Tenant shall operate the Premises for purposes of a restaurant operation under such assumed name as Tenant determines appropriate, subject to Landlord's advance written approval, and for other associated ancillary purposes. Tenant may, subject to approval and limitation by the City of South Bend Board of Public Works, be permitted to use an outdoor seating area. The Premises may not be used for any other purpose without the prior written approval of the Landlord. Tenant shall not permit, allow, or cause to be conducted in the Premises: (a) a public or private auction; or (b) a sale that would indicate to the

public that Tenant: (i) is bankrupt, (ii) is going out of business, or (iii) has lost or is preparing to terminate its possession of the Premises. The Premises shall not be used except in a manner consistent with the general high standards of the neighborhood, and shall not be used in a disreputable or immoral manner or in violation of federal, state or local laws or ordinances.

7.2. Compliance with Law. Tenant shall comply with all federal, state and local laws and ordinances, lawful orders, and regulations affecting the Premises, and the health, cleanliness, safety, construction, occupancy and use of same, in effect from time to time. Tenant shall fully comply with all federal, state and local laws and ordinances in effect from time to time prohibiting discrimination or segregation by reason of race, color, religion, disability, gender or national origin or otherwise.

7.3. Operation by Tenant. Tenant covenants and agrees that it: will not place or maintain any merchandise or vending machines outside the building on the Premises; will store garbage, trash, rubbish and other refuse in rat-proof and insect-proof containers with adequate screening to hide such garbage, trash, rubbish and refuse from view on the Premises and the Building, and will remove the same frequently and regularly; will not permit any sound system to be audible or objectionable advertising medium to be visible outside the Premises; will not commit or permit waste or a nuisance upon the Premises; will not permit or cause objectionable odors to emanate or be dispelled from the Premises; will not permit the loading or unloading or the parking or standing of delivery vehicles outside any area designated therefore, nor permit any use of vehicles which will interfere with the use of any portion of the Building; and will comply with all laws, recommendations, ordinances, rules and regulations of governmental, public, private and other authorities and agencies, including those with authority over insurance rates, with respect to the use or occupancy of the Premises, and including, but not limited to, the Occupational Safety and Health Act ("OSHA") and the Americans With Disabilities Act ("ADA"), as the same may be amended from time to time. Tenant shall not do or permit anything to be done in and about the Building or Premises which will obstruct or interfere with the rights of other tenants or occupants of the Building or which will increase the rate of fire insurance for the building.

7.4. Emissions and Hazardous Materials.

(a) Emissions. Tenant shall not, without the prior written consent of Landlord:

i. make, or permit to be made, any use of the Premises or any portion thereof which emits, or permits the emission of, an unreasonable amount of dust, sweepings, dirt, cinders, fumes or odors into the atmosphere, the ground or any body of water, whether natural or artificial (including without limitation rivers, streams, lakes, ponds, dams, canals, sanitary or storm sewers, or flood control channels), which is in violation of any Laws;

ii. create, or permit to be created, any sound level which will interfere with the quiet enjoyment of any real property by any tenant or occupant of the Building, or which will create a nuisance or violate any Laws;

iii. create, or permit to be created, any ground vibration that is discernible outside the Premises; or

iv. produce, or permit to be produced, any intense glare, light or heat except within an enclosed or screened area and then only in such manner that the glare, light or heat shall not be discernible outside the Premises.

(b) Hazardous Materials. Tenant shall be permitted to use and store those Hazardous Materials, as defined below, which are used in the normal course of Tenant's Use at the Premises, so long as such Hazardous Materials are used, stored, handled and disposed of in compliance with applicable laws. Subject to the exception contained in the preceding sentence, Tenant shall not, without the prior written consent of Landlord, cause or permit, knowingly or unknowingly, any Hazardous Material to be brought or remain upon, kept, used, discharged, leaked, or emitted in or about, or treated at, the Premises or the Building. As used in this Lease, "Hazardous Material(s)" shall mean any hazardous, toxic, infectious or radioactive substance, material, matter or waste which is or becomes regulated by any federal, state or local law, ordinance, order, rule, regulation, code or any other governmental restriction or requirement, and shall include, but not be limited to, asbestos, petroleum products, and the terms "Hazardous Substance" and "Hazardous Waste" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. Sec. 9601 et seq. ("CERCLA"), and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Sec. 6901 et seq. ("RCRA"), and the term "Hazardous Chemical" as defined in OSHA (hereinafter "Environmental Laws").

In addition to, and in no way limiting, Tenant's duties and obligations under this Lease, should Tenant breach any of its duties and obligations as set forth in this Section 7.4(b), or if the presence of any Hazardous Material(s) on the Premises results in contamination of the Premises, the Building, any land other than the Building, the atmosphere, or any water or waterway (including without limitation groundwater), or if contamination of the Premises or of the Building by any Hazardous Material(s) otherwise occurs for which Tenant is otherwise legally liable to Landlord for damages resulting therefrom, Tenant shall Indemnify, as hereinafter defined, Landlord from and against any Loss, as hereinafter defined, arising during or after the Term as a result of such contamination. The term "Loss," in this Section 7.4(b) includes, without limitation, costs and expenses incurred in connection with any investigation of site conditions or any cleanup, remediation, removal, fines, monitoring, or restoration work required or imposed by any federal, state or local governmental agency or political subdivision because of the presence of Hazardous Material(s) on or about the Premises or the Building, or because of the presence of Hazardous Material(s) anywhere else which came or otherwise emanated from Tenant or the Premises. The indemnification contained in this Section 7.4(b) shall survive the Termination Date.

7.5. Rights Reserved to Landlord. Landlord shall have the following rights exercisable upon reasonable prior notice, but without liability to Tenant for damage or injury to property, person, or business (all claims or damage being hereby released), and without effecting a constructive eviction or disturbance of Tenant's use or possession or giving rise to any claim for offsets or abatement of rent:

- (a) To change the name or street address of the Building;
- (b) To install and maintain signs on the exterior and interior of the Building which signs will not affect the access to or visibility of the Premises or Tenant's signs;
- (c) To designate and/or approve, prior to installation, all types of window coverings, awnings, covered entrances and signs and lettering (in accordance with Section 7.6) on windows and building exteriors and elsewhere visible from the sidewalk around the Building, and to control all internal lighting that may be visible from outside the Building;
- (d) To have pass keys to the Building, Premises, and all portions thereof;
- (e) To grant to anyone the exclusive right to conduct any business or render any service in the Building if such exclusive right shall not operate to exclude Tenant from the use expressly permitted in Section 7.1;
- (f) To decorate, remodel, repair, alter or otherwise prepare the Premises for re-occupancy (i) during the last three (3) months of the Term, but only if during or prior to such time Tenant vacates the Premises, or (ii) at any time after Tenant abandons the Premises;
- (g) To enter the Premises to make inspections, repairs, alterations, or additions in or to the Premises, or during the final three (3) months of the Term to exhibit the Premises to prospective tenants, purchasers, or others, at reasonable hours and at any time in the event of an emergency, and to perform any acts related to the safety protection, preservation, re-letting, sale or improvement of the Premises;
- (h) To require all persons entering or leaving the Premises during such hours as Landlord may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to enter and to exclude or expel any peddler, solicitor, or unruly or loud person at any time from the Premises;
- (i) To close the Premises during time of emergency and, subject to Tenant's right to admittance under such regulations as shall be prescribed from time to time by Landlord, after regular business hours;
- (j) To approve the weight, size and location of safes and other heavy equipment and articles in and about the Premises and to require all such items to be moved in and out of the Premises only at such times and in such manner as Landlord shall direct and in all events at Tenant's sole risk and responsibility;
- (k) With prior written notice to Tenant and without the interruption of Tenant's business, to decorate, alter, repair or improve the Building at any time, and Landlord and its representative for that purpose may enter on and about the Building with such materials as Landlord may deem necessary, may erect scaffolding and all other necessary structures on or about the Building and may close or temporarily suspend operations of entrances, doors, corridors, elevators and other facilities. Tenant waives any claim for damages including the loss of business resulting from such action by Landlord, but in the exercise of its rights under this subparagraph, Landlord shall not unreasonably interfere with the conduct of Tenant's business and shall provide access to the Premises for Tenant's customers and staff during business hours; and
- (l) To do or permit to be done any work in or about the Building or any adjacent or nearby building, land, street or alley.

7.6. Exterior Signs. Tenant shall comply with all zoning regulations and other state and local laws governing the installation and use of exterior signs and window and door graphics, and Landlord's approval shall be required in advance of installation, which approval shall not be unreasonably withheld.

7.7. Sidewalks. Tenant acknowledges that the use of the sidewalks adjoining the Premises is controlled by the South Bend Board of Public Works (the "BPW"). The Landlord makes no representation concerning the availability of such use for dining or other purposes. Tenant understands that it must make application to the BPW for a permit to use the adjoining sidewalks.

7.8. Parking. During the term of this Lease, the Landlord will not be required to provide any parking spaces to the Tenant, and it is expressly understood by Tenant that no parking spaces are provided to or designated for use by Tenant under this Lease.

ARTICLE VIII UTILITIES

8.1. Utility Services. Landlord shall provide the necessary mains, meters, and conduits for water and sewer facilities and electric service to the Premises, as well as water for operation of the heat pumps located in the Premises. Tenant shall: (a) promptly pay all charges for sewer, water, gas, electricity, telephone, and other utility services used in, on, at, or from, the Premises (the "Utility Charges"); and (b) deliver to Landlord, upon demand, receipts or other satisfactory evidence of payment of the Utility Charges.

8.2. Landlord's Reserved Rights. With prior written notice to Tenant, Landlord reserves the right to suspend or reduce the services of heating, elevators, plumbing, electrical, air conditioning or other mechanical systems in the Building when necessary by reason of governmental regulations, civil commotion, riot, accident or emergency, or for repairs, alterations or improvements which are in the reasonable judgment of Landlord desirable or necessary, or for any other reason beyond the power or control of Landlord (including without limitation, the unavailability of fuel or energy or compliance by Landlord with any applicable laws, rules or regulations relating thereto), without liability in damages and without any reduction in rent payable by Tenant. The exercise of such right by Landlord shall not constitute an actual or constructive eviction in whole or in part, nor entitle Tenant to any abatement or diminution of Rent, relieve Tenant from any of Tenant's obligations under this Lease, or impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to tenant or injury to or interruption of Tenant's business or otherwise. Landlord shall not in any way be liable or responsible to Tenant for any loss, damage or expense which Tenant may sustain or incur if, during the Lease Term and for reasons beyond the control of Landlord, either the quality or character of electric current is changed or is no longer available or suitable for Tenant's requirements.

ARTICLE IX INSURANCE AND INDEMNIFICATION

9.1. Tenant's Liability Insurance. Tenant, at its expense, shall maintain during the Term, commercial general liability insurance on the Premises covering Tenant as the named insured and identifying Landlord as an "additional insured" with terms satisfactory to Landlord and with companies qualified to do business in the State, for limits of not less than \$700,000.00 for bodily injury, including death resulting therefrom, and personal injury for any one (1) occurrence, \$1,000,000.00 property damage insurance, or a combined single limit in the amount of \$5,000,000.00. At all times, Tenant shall maintain limits naming Landlord as an "additional insured" in an amount sufficient to cover any possible liability Landlord may have pursuant the amounts set forth at Indiana Code § 34-13-3-4, as the same may be amended, superseded or recodified from time to time.

9.2. Dram Shop Coverage. In addition to the insurance required under this Article, for any such period of time as Tenant shall serve liquor or other alcoholic beverages in or from the Premises, Tenant agrees to maintain minimum limits of coverage of at least \$2,000,000 covering "liquor law" liability (sometimes also known as "dram shop" insurance) which shall insure Tenant, as the named insured, and Landlord, as the additional insured, and all those claiming by, through or under Landlord, against any and all claims, demands or actions for personal or bodily injury to, or death of, one person or multiple persons in one or more accidents, and for damage to property, as well as for damages due to loss of means of support, loss of consortium, and the like so that at all times Landlord will be fully protected against claims that may arise by reason of or in connection with the sale and dispensing of liquor and alcoholic beverages in and from the Premises.

9.3. Hazardous Materials Coverage. Notwithstanding the above-mentioned commercial general liability insurance policy limit for Tenant, if Tenant does or intends to bring, possess, use, store, treat or dispose any Hazardous Material in or upon the Premises, Tenant shall purchase additional public liability insurance and supply Landlord with certificates of insurance reflecting the additional insurance, with coverage of no less than Five Million Dollars (\$5,000,000.00) and purchase environmental impairment liability insurance with coverage of not less than Five Million Dollars (\$5,000,000.00) with a deductible of not greater than Fifty Thousand Dollars (\$50,000.00) to insure that anything contaminated with or by the Hazardous Material be removed from the Premises, and that the Premises be restored to a clean, neat, attractive, healthy, sanitary and non-contaminated condition. Each of Landlord and the City of South Bend will be named as an "additional insured" on any such policies.

9.4. Coverage Verification. All policies of insurance required by this Article to be maintained by Tenant shall: (a) be in a form, and maintained with an insurer, reasonably satisfactory to Landlord; and (b) provide that such policies shall not be subject to cancellation, termination, or change without written notice to Landlord at least thirty (30) days in advance. Tenant shall deposit with Landlord the policy or policies of insurance required to be maintained by Tenant pursuant to this Article, or proper certificates of such insurance, duly executed by the insurance company or the general agency writing such policies and effective not later than the Commencement Date. Tenant shall deposit appropriate renewal or replacement policies or certificates with Landlord not less than ten (10) days prior to the expiration of any such policy or policies. Tenant shall also furnish Landlord with certificates evidencing such coverages from time to time upon Landlord's request. If Tenant shall fail to timely procure or renew any of the

insurance required under this Article, Landlord may obtain replacement coverage and the cost of same shall be payable by Tenant with the next installment of Rent thereafter becoming due and payable.

9.5. Indemnity.

(a) Definition of Loss. The term “Loss,” as used throughout this Lease, shall mean any and all claims, demands, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions, causes of action, and losses of any and every kind and nature (including, without limitation, sums paid in settlement of claims and for attorney’s fees and court costs).

(b) Definition of Indemnify. The term “Indemnify,” as used throughout this Lease, shall mean that Tenant shall indemnify Landlord, save it harmless and, at Landlord’s option and with attorneys approved in writing by Landlord, defend Landlord, and its contractors, agents, employees, members, managers, officers, and mortgagees, if any, from any Loss arising out of the condition specified in the particular indemnity provision.

(c) General Indemnity. Except for loss, injury or damage caused solely by the willful misconduct or gross negligence of Landlord, its employees, contractors, or agents, Tenant covenants to Indemnify Landlord for any Loss in connection with or arising from any use or condition of the Premises or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, licensees, invitees or visitors, occurring on or about the Premises and in the case of Tenant, its agents, contractors or employees occurring on or about the Building. Except for loss, injury or damage caused by the negligent acts or willful misconduct of Tenant, its employees, contractors, invitees, licensees, visitors or agents, Landlord covenants to Indemnify Tenant, and save it harmless, from and against any and all claims, actions, damages, injuries, accidents, liability and expense, including reasonable attorneys’ fees, in connection with or arising from, or occasioned wholly or in part by, any act or omission of Landlord, its agents, contractors or employees occurring on or about the Building, excluding the Premises.

(d) Covenant to Hold Harmless. Landlord shall be defended and held harmless by Tenant from any liability or claims for damages to any person or any property in or upon the Premises unless caused by the willful act of Landlord, including but not limited to the person and property of Tenant and its officers, agents, employees, and shall pay all expenses incurred by Landlord in defending any such claim or action, including without limitation attorney fees of Landlord and any judgment or court costs. All property kept, stored or maintained in the Premises shall be so kept, stored or maintained solely at the risk of Tenant.

Except for loss, injury or damage caused solely by the willful misconduct or gross negligence of Landlord, its employees, contractors, or agents, the Landlord shall not be liable for damage caused by hidden defects or failure to keep said Premises in repair, and shall not be liable for any damage done or occasioned by or from plumbing, gas, water, steam, or other pipes, or sewerage, or the bursting or leaking of plumbing or of any plumbing or heating fixtures or waste or soil pipe existing in connection with the Building or Premises, nor for damage occasioned by water, nor for any damages arising from negligence of co-tenants or other

occupants of the Building, or the agents, employees or servants of any of them, or of any owners or occupants of adjacent or contiguous property.

The Landlord shall not be liable for any injury to the Tenant, its employees and agents or any other person, occurring on said Premises, irrespective of whether said injury is caused by a defect in said Premises or by reasons of said Premises becoming out of repair or arising from any other cause whatsoever, and the Landlord shall not be liable for damage to Tenant's property or to the property of any other person which may be located in or upon said Premises and the Tenant agrees to indemnify, defend, and save harmless the Landlord from any and all claims arising out of injuries to persons or property occurring on said Premises.

9.6. Release of Subrogation. Each Party hereto does hereby release and discharge the other Party from any liability, which the released Party would have had (but for this section) to the releasing Party, arising out of or in connection with any accident or occurrence or casualty: (a) which is or would be covered by a fire and extended-coverage policy with vandalism and malicious mischief endorsement or by a sprinkler leakage or water damage policy, regardless of whether or not such coverage is being carried by the releasing Party, and (b) to the extent of recovery under any other casualty, which accident, occurrence or casualty may have resulted in whole or in part from any act or neglect of the released Party, its officers, agents or employees; and insofar as Tenant is the releasing Party, it will also release the other tenants in the Building from any such liability as if the other tenants were each a released Party under this section. Notwithstanding anything contained in this Lease to the contrary, Landlord shall not be liable for any damage to person or Party arising from the negligent act or omission or willful misconduct of any other tenant or occupant of the Building and Tenant hereby expressly waives any claim for such damages.

ARTICLE X CASUALTY AND CONDEMNATION

10.1. Casualty.

(a) Insubstantial Damage. If the Premises is damaged by fire or any other casualty (the "Casualty Damage"), and the estimated cost to repair such Casualty Damage is less than fifty percent (50%) of the estimated cost to replace the Premises, then Landlord shall repair such Casualty Damage so long as sufficient insurance proceeds recovered as a result of such Casualty Damage remain after deducting the amount of any expenses incurred in collecting the insurance proceeds. Notwithstanding anything to the contrary set forth herein, in no event shall Landlord be required to repair or replace: (1) the improvements to the Premises made by Tenant; or (2) any trade fixtures, equipment, or inventory of Tenant (or any other person or entity) located on, in, or about the Premises.

(b) Substantial Damage. If: (i) there is Casualty Damage to the Premises, and the cost to repair such Casualty Damage is equal to or greater than fifty percent (50%) of the estimated cost to replace the Premises; or (ii) there is Casualty Damage to the Building of which the Premises is a part, and the cost to repair such Casualty Damage is equal to or greater than twenty-five percent (25%) of the cost to replace the Building; then Landlord may elect either to:

(1) repair or rebuild the Premises, or the Building of which the Premises is a part; or (2) terminate this Lease upon delivery of written notice to Tenant within ninety (90) days after the occurrence of the Casualty Damage.

(c) Partial Abatement of Base Rent. Base Rent shall be abated proportionately (based upon the proportion that the unusable space in the Premises due to the Casualty Damage bears to the total space in the Premises) for each day that the Premises or any part thereof is unusable by reason of any Casualty Damage.

(d) Repair of Tenant Improvements. If Landlord is required or elects to repair the Premises, then Tenant shall repair or replace: (i) the alterations, improvements, and additions to the Premises made by Tenant; and/or (ii) any equipment of Tenant located on, in, or about the Premises.

(e) Notice. Tenant shall give Landlord prompt written notice of any Casualty Damage in or to the Premises, or to the Common Areas of which Tenant has knowledge.

10.2. Condemnation. If: (a) all or a substantial part of the Premises is taken or condemned for public use under any statute or by the right of eminent domain; or (b) all or a substantial part of the Premises is conveyed to a public body under threat of condemnation (collectively, the "Condemnation"); and the Condemnation renders the Premises unsuitable for Tenant's Use, then, at the option of either Landlord or Tenant exercised within ninety (90) days after the Condemnation occurs: (i) this Lease shall terminate as of the date possession of all or such part of the Premises is taken by, or conveyed to, the condemning authority; (ii) all Base Rent shall be apportioned as of the date that possession of all or such part of the Premises is taken by, or conveyed to, the condemning authority; and (iii) all obligations hereunder, except those due or mature, shall cease and terminate. All compensation awarded or paid for the Condemnation (the "Condemnation Proceeds") shall belong to and be the sole property of Landlord. If any Condemnation is temporary in nature, then this Lease shall not terminate and, instead, Base Rent shall be abated proportionately (based upon the proportion of the Premises taken by, or conveyed to, the condemning authority in relation to the Premises as a whole) for each day that the Premises or any part thereof is unusable by reason of the Condemnation.

ARTICLE XI SURRENDER

11.1. Surrender of Leased Premises. Except as herein otherwise expressly provided in this Article XI, Tenant shall surrender and deliver up the Premises, together with all property affixed to the Premises, to Landlord at the expiration or other termination of this Lease or of Tenant's right to possession hereunder, without fraud or delay, in good order, condition and repair except for reasonable wear and tear after the last necessary repair, replacement, or restoration is made by Tenant, free and clear of all liens and encumbrances, and without any payment or allowance whatsoever by Landlord on account of any improvements made by Tenant.

11.2. Removal of Certain Property. All moveable equipment and furniture furnished by or at the expense of Tenant shall be removed by or on behalf of Tenant at or prior to the expiration or other termination of this Lease or of Tenant's right of possession hereunder, but only if, and to the extent, that the removal thereof will not cause physical injury or damage to the Premises or necessitate changes or repairs to the same. Tenant shall repair and restore any injury or damage to the Premises arising from such removal so as to return the Premises to the condition described in Section 11.1 above, or alternatively, at Landlord's discretion, Tenant shall pay or cause to be paid to Landlord one hundred ten percent (110%) of the cost of repairing or restoring injury or damage which costs shall be deemed due and payable as of the date on which surrender by Tenant is required under this Lease.

11.3. Property Not Removed. Any personal property of Tenant which shall remain in or upon the Premises after Tenant has surrendered possession of the Premises shall be deemed to have been abandoned by Tenant, and at the option of Landlord, such property: (a) shall be retained by Landlord as its property; (b) shall be disposed of by Landlord in such manner as Landlord shall determine, without accountability to any person; or (c) shall be removed by Tenant within three (3) business days at Tenant's expense upon written request from Landlord; provided, however, that if Tenant fails to remove such property within such timeframe, Landlord may remove such property at Tenant's expenses, charging Tenant one hundred ten percent (110%) of the costs incurred by Landlord to remove said items, which funds shall be due immediately upon notification of Tenant of such charges. Landlord shall not be responsible for any loss or damage occurring to any property owned by Tenant remaining in the Premises after Tenant surrenders possession thereof.

11.4. Survival of Terms. The terms of this Article XI shall survive any termination of this Lease.

ARTICLE XII DEFAULT

12.1. Events of Default. Each and all of the following events shall be deemed an "Event of Default" by Tenant under this Lease:

(a) Nonpayment. Tenant's failure to pay Rent or other sums or charges that Tenant is obligated to pay by any provision of this Lease when due and that is not paid within ten (10) days of notice from Landlord.

(b) Insurance Not Maintained. Any failure to maintain the insurance coverages required to be maintained by Tenant under this Lease.

(c) All Other Lease Violations. Tenant's failure to perform or observe any other covenant, condition, or agreement of this Lease, which failure is not cured by Tenant within thirty (30) days after the giving of notice thereof by Landlord specifying the items in default.

(d) Falsification of Information. If Tenant or any agent of tenant falsifies any report in any material respect or misrepresents other information in any material respect required to be furnished to Landlord pursuant to this Lease.

(e) Merger or Consolidation. If Tenant is merged or consolidated with any other entity, or there is a transfer of a controlling interest in Tenant.

(f) Tenant's Dissolution or Liquidation. The commencement of steps or proceedings toward the dissolution, winding up, or other termination of the existence of Tenant or toward the liquidation of its assets, which includes Tenant's failure to maintain a business license or any other license in accordance with state or local law.

(g) Bankruptcy. The commencement of a case under any chapter of the United States Bankruptcy Code by or against Tenant, or the filing of a voluntary or involuntary petition proposing the adjudication of Tenant as bankrupt or insolvent, or the reorganization of Tenant, or an arrangement by Tenant with its creditors, unless the petition is filed or case commenced by a Party other than Tenant and is withdrawn or dismissed within thirty (30) days after the date of its filing.

(h) Assignment or Attachment. The making of an assignment by Tenant of Tenant's obligations hereunder for the benefit of its creditors, or if in any other manner Tenant's interest in this Lease passes to another by operation of law, including, without limitation, by attachment, execution, or similar legal process, which is not discharged or vacated within thirty (30) days, except as permitted under this Lease.

(i) Appointment of Receiver or Trustee. The appointment of a receiver or trustee for the business or property of Tenant, unless such appointment shall be vacated within ten (10) days after its entry.

(j) Inability to Pay. The admission in writing by Tenant of its inability to pay its debts when due.

(l) As Otherwise Provided. The occurrence of any other event described as a default elsewhere in the Lease or any amendment thereto, regardless of whether such event is defined as an "Event of Default."

12.2. Remedies. Upon the occurrence of an Event of Default, Landlord, without notice to Tenant in any instance (except where expressly provided for below or by applicable law) may do any one or more of the following:

(a) Satisfy Tenant Obligations. Landlord may perform, on behalf of and at the expense of Tenant, any obligation of Tenant under this Lease which Tenant has failed to perform and of which Landlord has given Tenant notice (entering upon the Premises for such purpose, if necessary), the cost of which performance by Landlord, plus interest thereon at the lesser of (i) the highest rate permitted by law, or (ii) eighteen percent (18%) per annum from the date of such expenditure, and reasonable cost and expense incurred by Landlord, shall be payable by Tenant

to Landlord with the first Rent installment thereafter becoming due and payable. The performance by Landlord of any Tenant obligation under this Section 12.2(a) shall not be construed either as a waiver of the Event of Default or of any other right or remedy of Landlord with respect to such Event of Default or as a waiver of any term or condition of this Lease. Notwithstanding the provisions of this Section 12.2(a) and regardless of whether an Event of Default shall have occurred, Landlord may exercise the remedy described in this Section 12.2(a) without any notice to Tenant if Landlord, in its good faith judgment, believes that it or the Premises would be materially injured by failure to take rapid action or if the unperformed obligation of Tenant constitutes an emergency.

(b) Termination of Lease. Landlord may terminate this Lease, by written notice to Tenant, without any right by Tenant to reinstate its right by payment of Rent due or other performance of the terms and conditions hereof. Upon such termination, Tenant shall immediately surrender possession of the Premises to Landlord, and Landlord shall, in addition to all other rights and remedies that Landlord may have, immediately become entitled to receive from Tenant: (i) an amount equal to the aggregate of all Rent which then remains due to Landlord but unpaid by Tenant; (ii) reasonable costs and expenses incurred by Landlord in connection with a re-entry or taking of possession of the Premises; (iii) reasonable costs and expenses incurred by Landlord in connection with making alterations and repairs for the purpose of re-letting the Premises; and (iv) reasonable attorneys' fees.

(c) Termination of Possessory Rights. Landlord may terminate Tenant's rights to possession of the Premises without terminating this Lease or Tenant's obligations hereunder and Tenant shall continue to be obligated to pay all Rent which then remains due to Landlord but unpaid by Tenant and Tenant shall continue to be obligated for future Rent as the same comes due under this Lease.

(d) Acceleration of Rent. Landlord may, whether it terminates the Lease or Tenant's possessory rights to the Premises, accelerate and declare immediately due all of the Rent that otherwise would have been due from the date of the Event of Default through the stated expiration date of the Term or Extended Term, the option for which has been exercised.

(e) Rent Minus Fair Market Value. Landlord may declare immediately due and payable from Tenant, in addition to any damages or other amounts becoming due from Tenant under any other provision of this Lease, an amount equal to the difference between (i) the Rent reserved in this Lease from the date of the Event of Default through the stated expiration date of the Term or Extended Term, the option for which has been exercised, and (ii) the then-fair market value of the Premises for the same period.

(f) Other Remedies. Pursue any legal or equitable remedy allowed by applicable laws of the State.

12.3. Failure to Surrender. If Tenant fails to surrender the Premises upon expiration of the Term or earlier termination of the Lease pursuant to Section 12.2(b), or termination of Tenant's possession rights, the provisions of Section 3.3 shall apply, and Landlord may, without further notice and with or without process of law, enter upon and re-enter the Premises and

possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and all other persons and property from the Premises and may have, hold and enjoy the Premises and the right to receive all rental and other income of and from the same.

12.4. Reimbursement of Landlord's Costs in Exercising Remedies. Landlord may recover from Tenant, and Tenant shall pay to Landlord upon demand, such reasonable and actual costs and expenses as Landlord may incur in recovering possession of the Premises, placing the same in good order and condition and repairing and altering the same for reletting, and all other reasonable and actual costs and expenses, commissions and charges incurred by Landlord in reletting and otherwise exercising any remedy provided herein or as a result of any Event of Default by Tenant hereunder (including, without limitation, reasonable attorneys' fees).

12.5. Remedies Are Cumulative. No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy herein or by law provided, but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute.

ARTICLE XIII ASSIGNMENT AND SUBLETTING

13.1. Assignment and Subletting. Tenant shall not assign, sublet, mortgage, encumber, or in any manner transfer, in whole or in part, any interest in this Lease or the Premises, or otherwise allow the occupancy of the Premises by any person or entity other than Tenant,

13.2. Assignment by Landlord. Landlord, at any time and from time to time, may assign its interest in this Lease, and, if: (a) Landlord assigns its interest in this Lease; and (b) the assignee assumes all of the obligations of Landlord under the terms and conditions of this Lease; then Landlord and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

ARTICLE XIV ATTORNMEN, SUBORDINATION, AND ESTOPPEL CERTIFICATES

14.1. Attornment. In the event any proceedings are brought for the foreclosure of, or in the event of conveyance by deed-in-lieu of foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Landlord covering the Premises, Tenant hereby attorns to the successor-in-interest of Landlord and covenants and agrees to execute an instrument in writing reasonably satisfactory to same whereby Tenant attorns to such successor-in-interest and recognizes such successor-in-interest as Landlord hereunder.

14.2. Subordination.

(a) Landlord shall have the right at any time and from time-to-time to create security interests in the form of a mortgage, deed of trust or other similar lien or encumbrance (a

“Mortgage”) upon or affecting Landlord’s fee estate in the Premises, or any part thereof, and the rights of Tenant under this Lease shall be subject and subordinate to any such Mortgage; provided, however, that in the event of any foreclosure or sale under any such Mortgage or the delivery by Landlord of any deed-in-lieu of foreclosure to the holder of any such Mortgage, then the holder of any such Mortgage agrees not to disturb Tenant’s possession so long as Tenant is not in default under the terms of this Lease beyond any notice and/or cure periods provided for under this Lease and attorns to such holder or the foreclosure purchaser as Landlord under this Lease. Said subordination shall be self-operative and no further instrument of subordination shall be necessary unless required by any such Mortgage holder, in which event Tenant agrees to, within ten (10) days after request by Landlord or the Mortgage holder, execute any agreement reasonably required by such Mortgage holder to memorialize said subordination and to memorialize the terms of any related agreements between Tenant and such Mortgage holder. Any holder of any such Mortgage is herein referred to as “Landlord’s Mortgagee(s).” Notwithstanding the foregoing, a Landlord’s Mortgagee may at any time subordinate its Mortgage to this Lease without Tenant’s consent by notice in writing to Tenant, and thereupon this Lease shall be deemed prior to such Mortgage without regard to their respective dates of execution and delivery and, in that event, such Landlord’s Mortgagee shall have the same rights with respect to this Lease as though it had been executed prior to the execution and delivery of any such Mortgage and had been assigned to such Landlord’s Mortgagee.

(b) This Lease shall be subject to and subordinate to all easements, restrictions, liens, encumbrances, rights-of-way, or other matters affecting the Premises of record.

14.3. Estoppel Certificates. Tenant and Landlord agree to execute and deliver, within ten (10) days after a request by the other Party, a statement, in writing, certifying to Landlord and/or any Party designated by Landlord, or Tenant and/or any Party designated by Tenant, as the case may be, that: (a) this Lease is in full force and effect; (b) the Commencement Date; (c) that Rent is paid currently without any off-set or defense thereto, (d) the amount of Rent, if any, paid in advance; (e) that there are no known uncured defaults by Landlord or Tenant, or stating those known and claimed, provided that, in fact, such facts are accurate and ascertainable, and (f) any other information reasonably requested.

ARTICLE XV MISCELLANEOUS

15.1. Security Deposit. The security deposit paid by Tenant under the terms of the 2014 Lease (the “Security Deposit”) shall be carried over by Landlord into the Term of this Lease. The Security Deposit will be held by Landlord, without interest, and may be applied to any liability, costs or damages caused to Landlord, including but not limited to cleaning, breakage, repairs, non-payment, and/or non-performance, without waiving or limiting Landlord’s right to hold Tenant liable for any liability, costs or damage otherwise due. Any portion of the Security Deposit not so expended will be returned forty-five (45) days after termination or expiration of the Lease and surrender of the Premises and all keys to Landlord.

15.2. Recordation. The Parties agree that this lease shall not be recorded, but upon the request of either Party, a Memorandum of Lease shall be prepared by Landlord, and shall be

promptly executed, delivered, and recorded in the Office of the Recorder of St. Joseph County, and the costs of recordation shall be charged to the Party requesting the Memorandum of Lease.

15.3. Notices. Any notice, demand, request or other instrument (any "Notice") which may be or is required to be given under this Lease shall be in writing and shall be deemed given and received: (a) on the date of delivery when delivered in person (with receipt for delivery); (b) three (3) business days after deposit with the U.S. Postal Service, when sent by United States certified or registered mail, return receipt requested, postage prepaid; or (c) on the next business day following deposit of any such Notice with a national overnight delivery carrier (with receipt evidencing such delivery) such as, but not limited to, Federal Express or UPS. Any Notice to be delivered in person or by mail shall be addressed: (a) if to Landlord, at the address set forth in Section 1.1(d) hereof, or at such other address as Landlord may designate by written notice; and (b) if to Tenant, at the address set forth in Section 1.1(e) hereof, or at such other address as Tenant may designate by written notice.

15.4. Waiver. One or more waivers of any covenant or condition by Landlord shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render unnecessary Landlord's consent or approval to or of any subsequent similar act by Tenant.

15.5. Entire Agreement; Amendment. This Lease and the exhibits attached hereto (which exhibits are incorporated herein by reference) set forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Premises, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between Landlord and Tenant other than as are herein set forth. No alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by authorized representatives of both Landlord and Tenant.

15.6. Dispute Resolution; Remedies Cumulative. Any litigation over the terms or performance of this Lease will be commenced in the courts of St. Joseph County, Indiana. In any legal proceeding concerning this Lease, each Party irrevocably waives the right to trial by jury with respect to any and all causes of action, counterclaims, and disputes. The rights and remedies of Landlord and Tenant hereunder shall be cumulative, and no one of them shall be deemed or construed as exclusive of any other right or remedy hereunder, at law, or in equity. The exercise of any one such right or remedy by Landlord or Tenant shall not impair its standing to exercise any other such right or remedy.

15.7. Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent due hereunder shall be deemed to be other than on account of the Rent first due hereunder. No endorsement or statement on any check or letter accompanying any check or payment of Rent shall be deemed to be an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to the right of Landlord to recover the balance of such Rent or to pursue any other right or remedy.

15.8. Relationship. Nothing contained herein shall be deemed or construed to create between the Parties any relationship other than that of landlord and tenant.

15.9. Information. Tenant shall provide to Landlord, upon request, accurate financial statements of Tenant certified by the highest-ranking financial officer of Tenant.

15.10. Construction. The laws of the State of Indiana shall govern the validity, performance, and enforcement of this Lease. The invalidity or unenforceability of any term or condition of this Lease shall not affect the other terms and conditions, and this Lease shall be construed in all respects as if such invalid or unenforceable term or condition had not been contained herein. The Parties acknowledge that this Lease was negotiated and prepared by the Parties and their respective counsel; therefore, if any provision of this Lease requires judicial interpretation, the court interpreting or construing such provision shall not construe it more strictly against either Party. The captions of this Lease are for convenience only and do not in any way limit or alter the terms and conditions of this Lease. Whenever in this Lease a singular word is used, it also shall include the plural wherever required by the context and vice versa. All references in this Lease to periods of days shall be construed to refer to calendar days, not business days, unless business days are specified.

15.11. Force Majeure. Notwithstanding anything to the contrary set forth herein, if Landlord or Tenant is delayed in, or prevented from observing or performing any of its obligations hereunder (other than the payment of any amount of money due hereunder) as the result of: (a) an act or omission of the other Party; or (b) any other cause that is not within the control of the delayed or prevented Party (including, without limitation, inclement weather, the unavailability of materials, equipment, services or labor, and utility or energy shortages or acts or omissions of public utility providers); then: (A) such observation or performance shall be excused for the period of the delay; and (B) any deadlines for observation or performance shall be extended for the same period.

15.12. Counterparts. This Lease may be executed in separate counterparts, each of which when so executed shall be an original, but all of which together shall constitute but one and the same instrument.

15.13. Successors and Assigns. Except as otherwise expressly provided herein, this Lease, and all of the terms and conditions hereof, shall inure to the benefit of, and be binding upon, the respective heirs, executors, administrators, successors, and assigns of Landlord and Tenant. All indemnities set forth herein shall survive the Termination Date.

15.14. Authority. Each person executing this Lease represents and warrants that: (a) he or she has been authorized to execute and deliver this Lease by the entity for which he or she is signing; and (b) this Lease is the valid and binding agreement of such entity, enforceable in accordance with its terms.

15.15. Exculpation. If there is a breach or default by Landlord under this Lease, Tenant shall look solely to the equity interest of Landlord in the Premises and any rentals derived

therefrom; provided that in no event shall any judgment be sought or obtained against any individual person or entity comprising Landlord.

15.16. Equal Opportunity Obligation. Tenant agrees not to (1) discriminate against any employee or applicant for employment, to be employed by Tenant with respect to his or her hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his or her race, color, religion, sex, handicap, national origin, or ancestry, or (2) violate the City of South Bend Human Rights Ordinance.

15.17. Anti-Collusion Requirement. By executing this Lease, Tenant certifies that it has not, nor has any member, employer, representative or agent of its firm, directly or indirectly, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, that it has not received nor paid any sum of money or other consideration for the negotiation and execution of this Lease other than that which is set out herein.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the Effective Date stated above.

“LANDLORD”

CITY OF SOUTH BEND, INDIANA,
DEPARTMENT OF REDEVELOPMENT
by and through the South Bend Redevelopment Commission

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

Date: _____

“TENANT”

TAPASTRIE LLC, an Indiana limited liability company

J. Welsh

Signature

Thomas Welsh President Tapastrie LLC
Printed Name and Title

Date: July 19, 2018

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

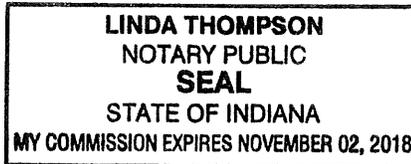
Before me, the undersigned, a Notary Public for and in said County and State this _____ day of _____, 2018, personally appeared Marcia I. Jones and Donald E. Inks, known to me to be the President and Secretary, of the South Bend Redevelopment Commission and acknowledged execution of the foregoing Lease on behalf of said Commission.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

Mary C. Brazinsky, Notary Public
Resident of St. Joseph County, Indiana

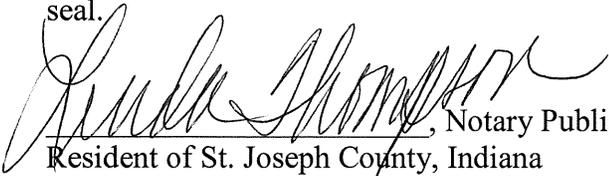
My commission expires: December 12, 2024

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



Before me, the undersigned, a Notary Public for and in said County and State this 19th day of JULY, 2018, personally appeared THOMAS WELSH, member of Tapastrie LLC and acknowledged execution of the foregoing Lease on behalf of said company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.


_____, Notary Public
Resident of St. Joseph County, Indiana

My commission expires: NOVEMBER 2, 2018

EXHIBIT A

Legal Description of Property

Lot Numbered One (1) as shown on the recorded Plat of Morris Civic Minor Subdivision, recorded July 13, 1998 as Document Number 9836277 in the Office of the Recorder of St. Joseph County, State of Indiana.

PLAT OF MORRIS CIVIC MINOR SUBDIVISION
RECORDED JULY 13, 1998 AS DOCUMENT NUMBER 9836277
IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA

EXHIBIT B

Description of Premises

Approximately 5,900 square feet of commercial space (3,500 square feet on the ground floor and 2,400 square feet in the lower level) commonly referred to as 103 W. Colfax, within the Building commonly referred to as 201 N. Michigan Street.