

MEMORANDUM OF OPTION

This Memorandum of Option (this “Memorandum”) is made effective this ____ day of _____, 2018, by and between **Bald Mountain LLC**, an Indiana limited liability company (the “Developer”), and the **City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission** (the “City”). The Developer and the City are each referred to herein as a “party” and collectively as the “parties”.

RECITALS

- A. The Developer and the City entered into a Real Estate Purchase Agreement, dated April 26, 2018, as amended by that First Amendment to Real Estate Purchase Agreement, dated August 23, 2018 (together, the “Agreement”) for the purchase of certain real estate located in St. Joseph County, Indiana (the “Property”), as more particularly described on **Exhibit A**, attached hereto and made a part hereof.
- B. Pursuant to Section 12 of the Agreement, the Developer agreed to grant to the City a perpetual right to repurchase from the Developer a portion of the Property (the “Buyback Parcel”), more particularly described on **Exhibit B**, attached hereto and made a part hereof.
- C. In accordance with Section 10(B)(ii) of the Agreement, the parties desire to memorialize for recording the parties’ rights with regard to the Buyback Parcel (the “Option”).

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

- 1. The term of the Option shall be perpetual, commencing on the Closing Date of the Agreement.
- 2. The City shall provide a notice of its intent to exercise the Option at least three (3) months prior to the repurchase of the Buyback Parcel. Additionally, prior to closing on the purchase of the Buyback Parcel, the City shall seek and file, with the Developer’s cooperation and consent, which consent shall not be unreasonably withheld, a petition for the formal subdivision of the Property into two (2) parcels comprised of the Buyback Parcel and the remainder.
- 3. The purchase price for the Buyback Parcel shall be One Dollar (\$1.00).
- 4. The City shall certify to the Developer that the Buyback Parcel will be used as a part of a parcel assembly for future development and will provide for replacement parking spaces as set forth in Section 12(B) of the Agreement.
- 5. The Developer shall not construct or permit to be constructed any building, structure, or facilities, above or below grade, including storm water management facilities or utilities of any kind or description on the Buyback Parcel other than (a) a surface parking lot serving the

Building to be constructed by the Developer in accordance with the Agreement, and (b) a dumpster enclosure; provided such enclosure (if any) shall be removed/relocated by Developer at its cost if requested by City upon transfer of the Buyback Parcel. The Developer also agrees and covenants not to place or suffer any lien or encumbrance of any kind or description upon the Buyback Parcel. If a lien or encumbrance on the Buyback Parcel is unavoidable, then, prior to the lien or encumbrance, the Developer shall secure in favor of the City the obligation of the mortgage or lien holder to release any such lien or encumbrance upon the City's exercise of the Option.

6. The parties agree to abide by the indemnification provisions set forth in Section 12(D) of the Agreement.
7. Capitalized terms used in this Memorandum but not otherwise defined herein shall have the meanings set forth in the Agreement.
8. The undersigned individuals executing and delivering this document on behalf of the respective parties represent and certify that they are duly authorized representatives of each and have been fully empowered to execute and deliver this Memorandum and that all necessary corporate action has been taken. Further, the undersigned representative of the Developer represents and warrants that the Developer is duly organized, validly existing, and in good standing under the laws of the State of Indiana.
9. This Memorandum may be executed in any number of counterparts, each of which counterpart, when so executed and delivered, shall be an original, but all such counterparts when taken together shall constitute one and the same Memorandum.

SIGNATURE PAGES FOLLOW

EXHIBIT A

Property

Lot 260AA of the record plat of the Original Town of South Bend, Jefferson and Main, Second Replat, recorded on March 25, 2013, as Document No. 1308726 in the Office of the Recorder of St. Joseph County.

Parcel Key No. 018-3007-0231

EXHIBIT B

Buyback Parcel

A part of the Northwest Quarter of Section 12, Township 37 North, Range 2 East, Portage Township, City of South Bend, St. Joseph County, Indiana, which is described as: Beginning at the Northwest corner of Lot #260AA of the plat of "Original Town of South Bend, Jefferson and Main, Second Replat" as recorded by Document No. 1308726 in the records of the St. Joseph County, Indiana Recorder's Office; thence North 89°59'03" East, along the South right-of-way line of Jefferson Boulevard, a distance of 20.00 feet; thence South 00°03'04" East, a distance of 212.21 feet to the South line of said Lot #260AA; thence along the South and West line of said Lot for the next five (5) courses, South 89°59'15" West, a distance of 44.98 feet and South 89°49'01" West, a distance of 14.00 feet and North 00°01'36" West, a distance of 11.02 feet and North 51°26'10" East, a distance of 49.86 feet and North 00°03'04" West, a distance of 170.00 feet to the point of beginning.

Containing 0.12 acres, more or less.

Subject to all legal highways, easements, and restrictions of record.