

COLLATERAL ASSIGNMENT OF DEVELOPMENT DOCUMENTS

This Collateral Assignment of Development Documents (this "Assignment") is made effective as of December 13, 2018 by and between **WHARF PARTNERS, LLC**, an Indiana limited liability company ("Assignor" or "Borrower"), and **LAKE CITY BANK**, an Indiana state-chartered banking institution ("Assignee"). All capitalized terms used but not elsewhere defined herein shall have the meanings ascribed to such terms in the Loan Agreement (as defined below).

R E C I T A L S :

A. Pursuant to that certain Construction Loan Agreement executed by and between Assignor and Assignee on or about the date hereof (as the same may be amended from time to time, the "Loan Agreement"), Assignee has agreed to make certain loans and other extensions of credit to or for the account of Borrower (collectively, the "Loan") upon the terms and subject to the conditions set forth therein.

B. Assignor has entered into that certain Development Agreement dated effective as of February 22, 2018, as amended (the "Development Agreement") with the **CITY OF SOUTH BEND, DEPARTMENT OF REDEVELOPMENT, ACTING BY AND THROUGH ITS GOVERNING BODY, THE SOUTH BEND REDEVELOPMENT COMMISSION** (the "Commission"). The Development Agreement, together with all associated material documents, agreements and instruments are set forth on Exhibit A attached hereto and will be referred to collectively as the "Development Documents".

C. Assignee has required as a condition to the execution and delivery of the Loan Agreement by Assignee that Assignor execute and deliver this Assignment in favor of Assignee for its benefit to secure Borrower's repayment of the Obligations (as hereinafter defined).

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Assignor and Assignee hereby agree as follows:

This Assignment is made upon the following terms, covenants and conditions:

1. Assignment and Grant of Security Interest. As collateral security for the payment and performance of all of the obligations and liabilities of Borrower to Assignee, whether now existing or hereafter arising, under the Loan Agreement, and any other indebtedness or liability of Borrower to Assignee, either direct or indirect, joint or several, absolute or contingent, now or hereafter existing, however created or arising, and however evidenced (collectively herein, the "Obligations"), Assignor does hereby (i) assign and transfer to Assignee all of such Assignor's right, title and interest in and to the Development Documents and all benefits accruing therefrom, and (ii) grant to Assignee a security interest in all of such Assignor's right, title and interest in and to the Development Documents and all benefits accruing therefrom, all products and proceeds of the foregoing, and all renewals, extensions, modifications, supplements, replacements and amendments thereto and thereof (collectively, the "Collateral").

2. Representations and Warranties. Assignor hereby agrees and represents and warrants to Assignee that:

(a) Assignor has delivered to Assignee true, correct and complete copies of the Development Documents and the Development Documents are in full force and effect;

(b) Assignor is the sole owner of Assignor's interest in the Development Documents, free and clear of all liens, claims and encumbrances, and Assignor shall make no other or further assignment of Assignor's interest in the Development Documents until the release of this Assignment;

(c) Subject to Commission's consent and approval, Assignor has full right and authority under the Development Documents to assign the same in accordance with the terms of this Assignment;

(d) the Development Documents are valid and enforceable in accordance with their terms except as bankruptcy, insolvency, similar laws which affect creditors' rights generally or general equitable principles may limit such enforceability;

(e) no presently effective Uniform Commercial Code financing statement covering any of the Collateral is on file with any public office;

(f) all information with respect to the Collateral set forth in any schedule, certificate or other writing at any time furnished or to be furnished by Assignor to Assignee, and all other written information furnished or to be furnished by Assignor to Assignee, is and will be true and correct in all material respects as of the date furnished; and

(g) the execution, delivery and performance of this Assignment will not violate any provision of any existing law or regulation or of any order or decree of any court or Governmental Authority applicable to Assignee, or of any material contract or other agreement binding upon or applicable to Assignor.

3. Amendment of the Development Documents; Further Assurances. Assignor agrees that Assignor:

(a) will not, without the prior written consent of the Assignee, such consent not to be unreasonably withheld, terminate, modify, amend or supplement or suffer or permit any termination, material modification, material amendment or material supplement of any of the Development Documents; will execute and deliver, on request of Assignee, such financing statements as well as extensions, renewals and amendments thereof, and other notices, instruments or agreements as Assignee may reasonably require, to perfect Assignee's interest in the Collateral or carry out the agreements of the parties herein contained, and will pay all reasonable costs and expenses of filing and recording such financing statements and other notices, instruments and agreements;

(b) will furnish Assignor such information concerning the Collateral as Assignee may from time to time reasonably request (including without limitation, each and every written demand, request, approval, notice or other communication given by or to Assignor under the Development Documents, including without limitation, any notices of any breaches of the Development Documents or claims for indemnification thereunder), and permit Assignee and its designees, upon reasonable advance notice to Assignor, to inspect, audit, and make copies of all records and other papers in the possession of Assignor which pertain to the Collateral;

(c) will at all times defend against any and all claims adverse to the claims and rights of Assignee.

4. Further Assignment of the Development Documents. Assignor shall not, without the prior written consent of Assignee, sell, assign or convey any part of or all of such Assignor's right, title and interest in and to the Development Documents or pledge or otherwise encumber, create or permit

to exist any pledge, lien or other encumbrance upon any part or all of such Assignor's right, title and interest in and to the Development Documents other than the assignment interest hereby created.

5. Assignor Appointed Attorney-in-Fact. Assignor hereby irrevocably constitutes and appoints Assignee and any officer or agent thereof, with full power of substitution, as such Assignor's true and lawful attorney-in-fact and in the name of such Assignor or in its own name, from time to time, after the occurrence and during the continuance of a Default, in Assignee's discretion, for the purpose of carrying out the terms of this Assignment, to take any and all appropriate action and to execute and deliver any and all documents and instruments that Assignee may deem necessary or advisable to accomplish the purposes of this Assignment, including without limitation, to apply the proceeds of the Collateral to the Obligations and in furtherance thereof, in the name of Assignor or in Assignee's own name, demand, collect, withdraw, receive for or sue for all amounts due or to become due and payable upon any Collateral, execute any documents respecting any Collateral, and endorse the name of the Assignor on any or all commercial paper, transfer documents or as otherwise given in payment. Assignor hereby ratifies, to the extent permitted by law, all that any such attorneys will lawfully do or cause to be done by virtue hereof. This power, being coupled with an interest, is irrevocable until the Obligations are indefeasibly paid in full.

6. Default; Remedies. Any one or more of the following events (each herein called a "Default") shall occur, that is to say, in case (a) a breach of any representation or warranty or a default which remains uncured for thirty (30) days following written notice shall be made in the due observance or performance of any term, covenant or condition to be observed or performed pursuant to the terms, covenants or conditions of this Assignment, or (b) the occurrence of any Event of Default under the Loan Agreement.

Upon the occurrence of a Default, the Assignee may, at any time, at its election and without notice, and to the extent permitted by law:

(a) Exercise any one or more of the rights or remedies set forth in the Loan Agreement or herein, and in addition, Assignee shall have full power and authority to exercise all or any one or more of the rights or remedies of a secured party under the Uniform Commercial Code of Indiana;

(b) Proceed immediately to exercise each and all of the powers, rights and privileges the Assignor may have with respect to the Development Documents or otherwise with respect to the Collateral;

(c) Proceed to protect and enforce this Assignment by suit or proceedings in equity, at law or otherwise, whether for the foreclosure hereunder or for the enforcement of any other proper, legal or equitable remedy available under applicable law; or

(d) Without demand, notice or advertisement, all of which are hereby expressly waived to the extent permitted by applicable law, Assignee may sell, pledge, transfer or otherwise dispose of, or enter into an agreement with respect to the foregoing, or otherwise realize on any of the Collateral, or any part thereof, at public or private sales, or otherwise, and at such time or times within ordinary business hours, for a purchase price or prices in cash or, without assuming any credit risk or thereby discharging the Obligations to the extent of said purchase price until paid in cash and reserving the right to resell the Collateral upon the failure of said purchaser to so pay the purchase price therefor, upon credit or future delivery, and upon such terms and conditions that Assignee deems satisfactory.

7. Assignee's Obligations; Assignment for Security Purposes Only; Indemnity. The Collateral is assigned and transferred to Assignee as collateral security only and, accordingly, Assignee by its acceptance shall not be deemed to have assumed or become liable for any of the obligations or

liabilities of Assignor, whether provided for by the terms of any Development Documents or arising by operation of law or otherwise, and any such assumption is expressly disclaimed. Nothing contained in this Assignment shall alter, amend, discharge, modify or release Assignor from any of its obligations under the Development Documents. The relationship between Assignee and Assignor are solely that of a lender and borrower, and nothing contained herein shall in any manner be construed as making the parties hereto partners or joint venturers or creating any other relationship. Assignor hereby agrees to indemnify and hold the Assignee free and harmless from and against any and all loss, damage, claim, liability, cost and expense (including reasonable attorneys' fees and costs) incurred by Assignee (collectively, "Losses") by reason of the Assignee's acceptance of this Assignment or any efforts to impose any liability upon the Assignee for the obligations of the Assignor with respect to the Collateral, except arising from Assignee's gross negligence or willful misconduct.

8. Expenses. If any action or proceeding is commenced to which action or proceeding Assignee is made a party and in which it becomes necessary to defend or uphold this Assignment, all reasonable costs incurred by Assignee for the expenses of such litigation (including reasonable attorneys' fees and expenses) shall be paid to Assignee by Assignor upon demand therefor. In addition, in case it becomes necessary for Assignee to commence or be made a party to any other suit in equity, action at law or other appropriate proceeding, Assignor further covenants and agrees to pay to Assignee all costs of such suit, action or proceeding as well as the reasonable fees of Assignee's attorneys in connection therewith, which costs and fees may be included in the judgment in any such suit, action or proceeding.

9. Assignment Controls. To the extent the terms of this Assignment conflict with the provisions of the Development Documents, the terms of this Assignment shall control.

10. Amendments. No amendments or waiver of any provision of this Assignment nor consent to any departure by Assignor herefrom shall in any event be effective unless the same shall be in writing, approved and signed by Assignee and Assignor, and then such waiver or consent be effective only in the specific instance and for the specific purpose for which given.

11. Address for Notices. Any notice required or permitted to be given under this Assignment shall be given in accordance with the Loan Agreement.

12. Governing Law; Severability. This Assignment shall be governed by, and be construed and interpreted in accordance with, the internal laws of the State of Indiana. Whenever possible, each provision of this Assignment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Assignment shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity and without invalidating the remaining provisions of this Assignment.

13. WAIVER OF JURY TRIAL. ASSIGNOR AND ASSIGNEE HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS ASSIGNMENT.

14. Execution in Counterparts. This Assignment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

15. Waivers. Assignor consents to, and waives notice of, any extension, renewal, or modification from time to time of any of the Obligations and the release of any party primarily or secondarily liable, whether as borrower, guarantor or otherwise, or of any security, and Assignor further agrees that except as provided in this Assignment, nothing Assignee shall do or leave undone, with regard to the collection of the Obligations or any other collateral security therefor, shall affect the rights of Assignee under this Assignment. No delay or failure on the part of Assignee in the exercise of any right, power or remedy shall operate as a waiver thereof, and no single or partial exercise by Assignee of any right, power or remedy shall preclude other or further exercise of any other right, power or remedy. All remedies are cumulative and are not exclusive.

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[signature pages follow]

[SIGNATURE PAGE - COLLATERAL ASSIGNMENT OF DEVELOPMENT DOCUMENTS]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment effective as of the day and year first above written.

ASSIGNOR:

WHARF PARTNERS, LLC,
an Indiana limited liability company

By: _____
Frank A. Perri, Manager

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Frank A. Perri, the Manager of Wharf Partners, LLC, an Indiana limited liability company, who, having been duly sworn, acknowledged the execution of the foregoing instrument for and on behalf of such entity as such officer or other representative.

WITNESS my hand and Notarial Seal this ___ day December, 2018.

Notary Public

Notary Public (Printed)

My Commission Expires:

My County of Residence:

[SIGNATURE PAGE - COLLATERAL ASSIGNMENT OF DEVELOPMENT DOCUMENTS]

ASSIGNEE:

LAKE CITY BANK

By: _____
Patti McNarney, Vice President

[SIGNATURE PAGE - COLLATERAL ASSIGNMENT OF DEVELOPMENT DOCUMENTS]

CONSENT

The undersigned hereby, on behalf of the Commission: (1) consents to the foregoing Assignment; (2) agrees that Assignor entering into this Assignment shall not be deemed to be a breach under the Development Documents described in the foregoing Assignment; and (3) agrees that, should Assignee choose to exercise its rights under this Assignment, the undersigned shall recognize Assignee as Developer (as defined in the Development Documents) and accord to Assignee all rights and privileges of Developer under the Development Documents.

**SOUTH BEND REDEVELOPMENT
COMMISSION**

By: _____

Printed: _____

Title: _____

Date: _____, 2018

EXHIBIT A

DESCRIPTION OF DEVELOPMENT DOCUMENTS
