



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 6/8/23
FROM: Erik Glavich, Director, Growth & Opportunity
SUBJECT: Cultivate Donation Agreement

_____ Pres/V-Pres

ATTEST: _____ Secretary

Date: _____

Approved Not Approved

SOUTH BEND REDEVELOPMENT COMMISSION

Which TIF? River West; River East; South Side; Douglas Road; West Washington **RDC General Fund**

PURPOSE OF REQUEST: Donation Agreement with Cultivate Culinary School and Catering, Inc. ("Cultivate")

SPECIFICS: We are asking the Redevelopment Commission to consider a Donation Agreement from the Redevelopment General Fund that will provide \$100,000 to assist Cultivate in the construction of a new 21,000 square foot cold storage facility.

Through a Real Estate Purchase Agreement on July 28, 2022, cultivate acquired Commission-owned land located at 1503 Prairie Ave. and committed to building the new cold storage facility. A donation from the city will assist Cultivate with this project.

Staff recommends approval of this Donation Agreement.

INTERNAL USE ONLY: Project Code: _____;

Total Amount new/change (inc/dec) in budget: _____; Break down:

Costs: Engineering Amt: _____; Other Prof Serv Amt _____;

Acquisition of Land/Bldg (circle one) Amt: _____; Street Const Amt _____;

Building Imp Amt _____; Sewers Amt _____; Other (specify) Amt: _____

_____ . Going to BPW for Contracting? Y/N

Is this item ready to encumber now? ____ Existing PO# _____ Inc/Dec \$ _____

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

AGREEMENT FOR DONATION OF FUNDS

THIS AGREEMENT for Donation of Funds (this “Agreement”) is made effective this 8 day of June 2023 (the “Effective Date”) by and between the City of South Bend, Indiana, an Indiana municipal corporation, acting by and through its Department of Community Investment (the “City”), and the Cultivate Culinary School and Catering, Inc., an Indiana non-profit corporation (“Cultivate”).

RECITALS

WHEREAS, the City is a municipal corporation existing and operating in accordance with the laws of the State of Indiana; and

WHEREAS, Cultivate is an Indiana non-profit corporation and is qualified as a tax-exempt entity under Section 501(c)(3) of the Internal Revenue Code; and

WHEREAS, Cultivate operates programs that provide much-needed food and services to local residents; and

WHEREAS, Cultivate entered into a Real Estate Purchase Agreement (the “Purchase Agreement”) with the City acting by and through its governing body, the South Bend Redevelopment Commission on July 28, 2022, for certain real property located in South Bend, Indiana, and more particularly described in attached Exhibit A (the “Property”); and

WHEREAS, Cultivate has sought donation and grant opportunities, including funding from the City, and has worked with City staff in order to leverage additional funding opportunities; and

WHEREAS, the City desires to donate funds (the “City Funds”) to Cultivate for purposes of improvements to the Property, including the development of a cold storage food facility, as contemplated in the Purchase Agreement; and

WHEREAS, the City has determined that donating the City Funds to Cultivate for improvements to the Property constitutes a valid public purpose and will serve the interests of the City’s residents.

AGREEMENT

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

1. **RECITALS.** The foregoing recitals are hereby incorporated into this Agreement as if fully set forth herein.
2. **DONATION AMOUNT.** The Donation Amount of One Hundred Thousand Dollars (\$100,000.00) is the City’s contribution supporting its partnership efforts towards addressing hunger in South Bend. The donation amount shall be paid by the City to Cultivate within fifteen (15) days of the effective date of this Agreement, and which shall be used only for the purposes and in the amounts set forth in this Agreement.

3. **CONDITIONS SUBSEQUENT.** Cultivate reaffirms its obligations to perform all requirements set forth in Section 11 of the Purchase Agreement. Notwithstanding the foregoing, the parties expressly acknowledge that, as an inducement to providing the Donation Amount to Cultivate, Cultivate will increase its investment amount to a minimum of Ten Million Dollars (\$10,000,000.00) and the size of the planned cold storage facility shall increase to 21,000 square feet.
4. **TERM.** Notwithstanding any provision of this Agreement to the contrary, Cultivate's failure to comply with the conditions in Section 3 will constitute a default under this Agreement without any requirement of notice of or an opportunity to cure such failure.
5. **CONFLICTS OF INTEREST.** Cultivate hereby certifies and agrees that no employee of the City, or its designees or agents, and no member of the governing body of the City or Cultivate (and no one with whom there is a family or business tie) who exercises any functions or responsibilities with respect to the receipt and use of the Donation Amount during his or her tenure or for one year thereafter, shall have any financial benefit, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the use of the Donation Amount.
6. **RECORDS, REPORTING, AND AUDIT RIGHTS.** Cultivate shall maintain records related to all expenditures involving the Donation Amount for a minimum of three (3) years. From time to time, the City may request reports from Cultivate detailing the expenditures as they relate to the operations or any conditions subsequent that are funded by or made possible by the Donation Amount. Additionally, the City reserves the right at its expense to audit the financial records of Cultivate as they relate to the Donation Amount and the operations and/or conditions subsequent, and Cultivate agrees to cooperate with the City during such audit, provided that any audit initiated by the City shall occur only during Cultivate's normal business hours.
7. **DEFAULT AND CLAW BACK.** In the event that any of the Donation Amount is not used as set forth in this Agreement, or to the extent that any of the Donation Amount is found not to have been used in furtherance of the Agreement's stipulations, then Cultivate shall be in default of this Agreement, and the City shall have the right following a ten (10) business day period for Cultivate to cure to demand in writing repayment of that portion of the Donation Amount deemed to have been not used according to this Agreement. Cultivate shall immediately repay such funds to the City upon such written demand.
8. **EQUAL OPPORTUNITY, NONDISCRIMINATION, AND COMPLIANCE.** Cultivate shall comply with all applicable laws and regulations in its hiring and employment practices and policies for any activity covered by this Agreement.

Additionally, Cultivate shall comply with all federal, state, and municipal laws, regulations, and standards applicable to its activities pursuant to this Agreement including, but not limited to, the requirements imposed by Ind. Code 22-9-1-10 (non-discrimination), and the provisions of Ind. Code 22-5-1.7 (requiring E-Verify for new employees and prohibiting employment of persons not authorized to work in the United States). Each of the foregoing provisions is incorporated herein as if set forth in full, and Cultivate certifies that it is in compliance with each such provision and shall remain in compliance through the term of this Agreement.

9. **INDEMNIFICATION.** Cultivate agrees to reimburse the City, its officers, and employees, for any and all claims of any nature which directly and solely arise from Cultivate's misuse of the Donation Amount.
10. **WAIVER.** No failure or delay on the part of either party in exercising any right under this Agreement will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will have effect unless given in a written document signed by the party waiving such right. No waiver of any right will be deemed a waiver of any other right hereunder.
11. **SEVERABILITY.** All provisions of this Agreement shall be considered as separate terms and conditions, and in the event any one shall be held illegal, invalid or unenforceable, all the other provisions hereof shall remain in full force and effect as if the illegal, invalid, or unenforceable provision were not a part hereof, unless the provision held illegal, invalid or unenforceable is a material provision of this Agreement, in which case Cultivate and the City agree to amend this Agreement with replacement provisions containing mutually acceptable terms and conditions.
12. **DRUG-FREE WORKPLACE.** Cultivate agrees to make a good faith effort to provide and maintain a drug-free workplace. Cultivate will give written notice to the City within ten (10) days after receiving actual notice that an employee of Cultivate within the State of Indiana has been convicted of a criminal drug violation occurring in the workplace.
13. **NOTICES.** Any notices or other communications required or permitted under this Agreement shall be in writing, and shall be (a) personally delivered, or (b) sent by certified mail, postage prepaid, return receipt requested, or (c) by overnight delivery by reputable courier to the address of the party set forth in this Section, Such notice or communication shall be deemed given if (i) sent by personal delivery or by overnight courier, when delivered in person, or (ii) in the case of mailed notice three (3) business days following deposit in the United States mail. Notice of change of address shall be given by written notice in the manner detailed in this Section.

If to the City:

City of South Bend, Indiana
Department of Community Investment
Attn. Executive Director
227 W. Jefferson Blvd., Ste. 1400S
South Bend, IN 46601

With a copy to:

City of South Bend, Indiana
Department of Law
Attn. Corporation Counsel
227 W. Jefferson Blvd., Ste. 1200S
South Bend, IN 46601

If to Cultivate:

Cultivate Culinary School and Catering, Inc.
Attn. Executive Director
1403 Prairie Ave.
South Bend, IN 46619

14. **ASSIGNMENT.** Cultivate shall not assign or subcontract the whole or any part of this Agreement or its obligations hereunder without the prior written consent of the City.
15. **REPRESENTATIONS OF CULTIVATE.** Cultivate represents and warrants that it has maintained its 501(c)(3) status and will maintain such throughout the term of this Agreement. Additionally, the undersigned person executing and delivering this Agreement on behalf of Cultivate certifies that he or she is the duly authorized officer of Cultivate and has been fully empowered to execute and deliver this Agreement and that all necessary corporate action has been taken and done.
16. **NON-COLLUSION.** The undersigned attests, subject to the penalties of perjury, that he or she has not, nor has any other director, officer, employee, representative, or agent of Cultivate, directly or indirectly, to the best of his or her knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, and that he or she has not received or paid any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof.
17. **AGREEMENT CONSTRUCTION.** This Agreement was negotiated by the parties at arm's length and each of the parties hereto has reviewed the Agreement

after the opportunity to consult with independent counsel. Neither party shall maintain that the language in this Agreement shall be construed against any signatory hereto. The captions and Section numbers of this Agreement are for convenience and in no way define or limit the scope or intent of the Sections of this Agreement. Further, notwithstanding anything to the contrary herein, no person other than the parties hereto, and their permitted assigns, shall have any right of action under this Agreement.

18. **COUNTERPARTS AND FACSIMILE SIGNATURES.** This Agreement may be executed in two or more counterparts, which together shall constitute one and the same agreement among the parties. Facsimile and electronic signatures shall be deemed original signatures.

19. **ENTIRE AGREEMENT, AMENDMENTS, APPLICABLE LAW, AND JURISDICTION.** This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understandings of any and every nature between them. This Agreement may be amended only by separate writing, signed by authorized representatives of both Cultivate and the City. This Agreement will be construed and interpreted according to the laws of the State of Indiana and any actions arising hereunder shall be tried in the county courts of St. Joseph County, Indiana.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement for Donation of Funds to be effective as of the Effective Date stated above.

CITY OF SOUTH BEND, INDIANA
DEPARTMENT OF COMMUNITY INVESTMENT

_____ Date: _____
Caleb Bauer, Executive Director

_____ Date: _____
Sarah Hull, Sr. Purchasing Agent

CULTIVATE CULINARY SCHOOL AND CATERING, INC.

_____ Date: _____
Jim Conklin, Executive Director

EXHIBIT A

Description of Property

Tax ID No. 018-8052-2114

Parcel Key No. 71-08-14-179-002.000-026

Legal Description: Lot 1 Prairie Ave Minor Sub #5997 7-16-04 NP5997 7-16-04

Commonly known as: 1503 Prairie Avenue, South Bend, IN 46613

Tax ID No. 018-8052-211401

Parcel Key No. 71-08-14-179-004.000-026

Legal Description: Lot 2 Prairie Ave Minor Sub #5997 7-16-04 NP5997 7-16-04

Commonly known as: 1503 Prairie Avenue, South Bend, IN 46613

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this "Agreement") is made on July 28, 2022 (the "Contract Date"), by and between the City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission ("Seller") and Cultivate Culinary School and Catering, Inc. an Indiana nonprofit corporation with its registered office at 1403 Prairie Ave., South Bend IN 46613 ("Buyer") (each a "Party" and together the "Parties").

RECITALS

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

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

C. Pursuant to the Act, Seller adopted its Resolution No. 3195 on January 16, 2014, whereby Seller established an offering price of Sixty-Three Thousand Five Hundred Dollars (\$63,500.00) for the Property.

D. Pursuant to the Act, on January 16, 2014, Seller authorized the publication, on January 24, 2014, and January 31, 2014, respectively, of a notice of its intent to sell the Property and its desire to receive bids for said Property on or before February 13, 2014, at 9:00A.M.

E. As of February 13, 2014, at 9:00A.M., Seller received no bids for the Property, and, therefore, having satisfied the conditions stated in Section 22 of the Act, Seller now desires to sell the Property to Buyer on the terms stated in this Agreement.

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

1. RECITALS

The recitals above are hereby incorporated into this Agreement by reference.

2. OFFER AND ACCEPTANCE

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

TO SELLER: Caleb Bauer
Acting Executive
Director
Department of Community Investment
City of South Bend
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601

WITH COPY TO: South Bend Legal Department
Attn: Corporation Counsel
City of South Bend
1200 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601

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

TO BUYER: Cultivate Culinary School and Catering, Inc.
Attn. Jim Conklin Executive Director
1403 Prairie Ave.
South Bend, Indiana 46619

WITH COPY TO: _____

3. PURCHASE PRICE AND EARNEST MONEY DEPOSIT

A. Purchase Price. The purchase price for the Property shall be One Thousand Dollars (\$1,000.00) (the "Purchase Price"), payable by Buyer to Seller in cash at the closing described in Section 10 below (the "Closing," the date of which is the "Closing Date").

B. Earnest Money Deposit. Within five (5) business days after the Contract Date, Buyer will deliver to Seller the sum of One Hundred Dollars (\$100.00), which Seller will hold as an earnest money deposit (the "Earnest Money Deposit"). Seller will be responsible for disposing of the Earnest Money Deposit in accordance with the terms of this Agreement. The Earnest Money Deposit shall be credited against the Purchase Price at the Closing or, if no Closing occurs, refunded or forfeited as provided below.

C. Termination During Due Diligence Period. If Buyer exercises its right to terminate this Agreement by written notice to Seller in accordance with Section 4 below, the Earnest Money

Deposit shall be refunded to Buyer. If Buyer fails to exercise its right to terminate this Agreement by written notice to Seller within the Due Diligence Period, then the Earnest Money Deposit shall become non-refundable.

D. Liquidated Damages. If Seller complies with its obligations hereunder and Buyer, not having terminated this Agreement during the Due Diligence Period in accordance with Section 4 below, fails to purchase the Property on or before the Closing Date, the Earnest Money Deposit shall be forfeited by Buyer and retained by Seller as liquidated damages in lieu of any other damages.

4. BUYER'S DUE DILIGENCE

A. Investigation. Buyer and Seller have made and entered into this Agreement based on their mutual understanding that Buyer intends to develop the Property into a cold storage food facility and other office spaces (the "Buyer's Use"). Seller acknowledges that Buyer's determination whether Buyer's Use is feasible requires investigation into various matters (Buyer's "Due Diligence"). Therefore, Buyer's obligation to complete the purchase of the Property is conditioned upon the satisfactory completion, in Buyer's discretion, of Buyer's Due Diligence, including, without limitation, Buyer's examination, at Buyer's sole expense, of zoning and land use matters, environmental matters, real property title matters, and the like, as applicable.

B. Due Diligence Period. Buyer shall have a period of ninety (90) days following the Contract Date to complete its examination of the Property in accordance with this Section 4 (the "Due Diligence Period").

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

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

(ii) file any application with any federal, state, county, municipal or regional agency relating to the Property for the purpose of obtaining any approval necessary for Buyer's anticipated use of the Property. If Seller's written consent to or signature upon any such application is required by any such agency for consideration or acceptance of any such application Buyer may request from Seller such consent or signature, which Seller

shall not unreasonably withhold. Notwithstanding the foregoing, any zoning commitments or other commitments that would further restrict the future use or development of the Property, beyond the restrictions in place as a result of the current zoning of the Property, shall be subject to Seller's prior review and written approval.

D. Environmental Site Assessment. Buyer may, at Buyer's sole expense, obtain a Phase I environmental site assessment of the Property pursuant to and limited by the authorizations stated in this Section 4.

E. Fair Market Value Appraisal. Buyer will, at Buyer's sole expense, obtain two desktop appraisals as to the property's fair market value as of the date this agreement is executed.

F. Termination of Agreement. If at any time within the Due Diligence Period Buyer determines, in its sole discretion, not to proceed with the purchase of the Property, Buyer may terminate this Agreement by written notice to Seller's Representative, and Buyer shall be entitled to a full refund of the Earnest Money Deposit.

5. SELLER'S DOCUMENTS

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

6. PRESERVATION OF TITLE

After the Contract Date, Seller shall not take any action or allow any action to be taken by others to cause the Property to become subject to any interests, liens, restrictions, easements, covenants, reservations, or other matters affecting Seller's title (such matters are referred to as "Encumbrances"). Seller acknowledges that Buyer intends to obtain, at Buyer's sole expense, and to rely upon a commitment for title insurance on the Property (the "Title Commitment") and a survey of the Property (the "Survey") identifying all Encumbrances as of the Contract Date. The Property shall be conveyed to Buyer free of any Encumbrances other than Permitted Encumbrances (as defined in Section 8 below).

7. TITLE COMMITMENT AND POLICY REQUIREMENTS

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

8. REVIEW OF TITLE COMMITMENT AND SURVEY

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

9. NOTICES

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

10. CLOSING

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

B. Closing Procedure.

(i) At Closing, Buyer shall deliver the Purchase Price to Seller, conditioned on Seller's delivery of the Deed, in the form attached hereto as **Exhibit B**, conveying the Property to Buyer, free and clear of all liens, encumbrances, title defects, and exceptions other than Permitted Encumbrances, and the Title Company's delivery of the marked-up copy of the Title Commitment (or pro forma policy) to Buyer in accordance with Section 7 above.

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

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

11. BUYER'S POST-CLOSING DEVELOPMENT OBLIGATIONS

A. Property Improvements; Proof of Investment. Within Sixty (60) months after the Closing Date, the Buyer will expend an amount not less than Three Million Dollars (\$3,000,000.00) on improvements to the site, as well as the cost of equipment, needed to redevelop the Property for the uses set forth herein ("Property Improvements"). Promptly upon completing the Property Improvements, Buyer will submit to Seller satisfactory records, as determined in Seller's sole discretion, proving the above required expenditures and will permit Seller (or its designee) to inspect the Property to ensure that Buyer's Property Improvements were completed satisfactorily.

B. Post-Closing Buyer Commitments. The Buyer shall:

- (i) Commence construction of the project within 36 months of the Closing Date;
- (ii) Complete construction of the project within 60 months of the Closing Date;
- (iii) Develop a cold storage food facility and associated uses related to the functioning of the facility containing at least 12,000 square feet;
- (iv) Employ a minimum total of 12 full-time employees in the Organization.
- (v) In its development of the Property, Buyer shall comply with all applicable federal, state, and local laws, including, but not limited to, the applicable requirements of the City of South Bend Zoning Ordinance, including variances as necessary.
- (vi) Provide the design, plans, and specifications for Property Improvements consistent with City standards for the review and comment by the City's Planning Director or his designee, who, in his sole discretion, may request revisions or amendments to be made to the same. Acceptance of the design and plans by the Planning Director or his designee prior to construction shall be a prerequisite for the issuance of a Certificate of Completion.

C. Certificate of Completion. Promptly after Buyer completes the Property Improvements and satisfactorily proves the same in accordance with the terms of Section 11.A. above, as well as compliance with Section 11.B. above, Seller will issue to Buyer a certificate acknowledging such completion and releasing Seller's reversionary interest in the Property (the "Certificate of Completion"). The Parties agree to record the Certificate of Completion immediately upon issuance, and Buyer will pay the costs of recordation.

D. Remedies Upon Default. In the event Buyer fails to complete the Property Improvements or to comply with Section 11.B., above, or satisfactorily to prove such performance, in accordance with Section 11.A above, then, in addition to pursuing any other remedies available at law or in equity, Seller shall have the right to:

(i) recover from Buyer a cash payment in an amount equal to the average appraised value of the Property, as determined by the desktop appraisals Buyer obtained under Section 4E ; or alternatively, (ii) re-enter and take possession of the Property and to terminate and re-vest in Seller the estate conveyed to Buyer at Closing and all of Buyer's rights and interests in the Property without offset or compensation for the value of any improvements made by Buyer.

The Parties agree that Seller's conveyance of the Property to Buyer at Closing will be made on the condition subsequent set forth in the foregoing sentence and the terms of this Section 11 will be referenced in the deed. Further, the Parties agree that Seller's reversionary interest in the Property will be subordinate to the first-priority mortgage encumbering the Property, if any, arising out of Buyer's contemporaneous financing of the redevelopment of the Property, provided that Buyer notifies Seller in advance of the execution or recording of such first-priority mortgage.

12. SELLER'S POST-CLOSING OBLIGATIONS

On and after the Closing Date, the Seller commits to working with the Buyer to finalize plans, designs, and specifications for Property Improvements to the satisfaction of the City departments, consistent with City standards.

12. ACCEPTANCE OF PROPERTY AS-IS

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

13. TAXES

Buyer, and Buyer's successors and assigns, shall be liable for any and all real property taxes assessed and levied against the Property with respect to the year in which the Closing takes place and for all subsequent years. Buyer currently has a 95% exemption on the real and personal property located in St. Joseph County, Indiana. This exemption shall be extended to the real estate and personal property purchased under this agreement. Seller shall have no liability for any real property taxes associated with the Property, and nothing in this Agreement shall be construed to require the proration or other apportionment of real property taxes resulting in Seller's liability therefor.

14. REMEDIES

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

respective rights and remedies concerning this Agreement and the Property are cumulative.

15. COMMISSIONS

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

16. INDEMNITY

The Parties agree to indemnify, save harmless, and defend each other from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense and settlement), which either party may subsequently incur, become responsible for, or pay out as a result of a breach by the other party.

17. INTERPRETATION; APPLICABLE LAW

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

18. DISPUTE RESOLUTION; WAIVER OF JURY TRIAL

Any action to enforce the terms or conditions of this Agreement or otherwise concerning a dispute under this Agreement will be commenced in the courts of St. Joseph County, Indiana, unless the Parties mutually agree to an alternative method of dispute resolution. The Parties acknowledge that disputes arising under this Agreement are likely to be complex and they desire to streamline and minimize the cost of resolving such disputes. In any legal proceeding, each Party irrevocably waives the right to trial by jury in any action, counterclaim, dispute, or proceeding based upon, or related to, the subject matter of this Agreement. This waiver applies to all claims against all parties to such actions and proceedings. This waiver is knowingly, intentionally, and voluntarily made by both Parties.

19. WAIVER

Neither the failure nor any delay on the part of a Party to exercise any right, remedy, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege preclude any other or further exercise of the same or of any right, remedy, power, or privilege with respect to any occurrence be construed as a waiver of any such right, remedy, power, or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

20. SEVERABILITY

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

21. FURTHER ASSURANCES

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

22. ENTIRE AGREEMENT

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

23. ASSIGNMENT

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

24. BINDING EFFECT; COUNTERPARTS; SIGNATURES

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

25. AUTHORITY TO EXECUTE; EXISTENCE

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

26. TIME

Time is of the essence of this Agreement.

[Signature page follows.]

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

BUYER:

Cultivate Culinary School and Catering, Inc.
an Indiana nonprofit corporation

By: Jim Conklin

Printed: JIM CONKLIN

Its: Executive Director

Dated: 7/19/2022

SELLER:

South Bend Redevelopment Commission

Marcia I. Jones
Marcia I. Jones, President

ATTEST: Troy Warner

Troy Warner, Secretary

EXHIBIT A

Description of Property

Tax ID No. 018-8052-2114

Parcel Key No. 71-08-14-179-002.000-026

Legal Description: Lot 1 Prairie Ave Minor Sub #5997 7-16-04 NP5997 7-16-04

Commonly known as: 1503 Prairie Ave., South Bend, IN 46613

Tax ID No. 018-8052-211401

Parcel Key No. 71-08-14-179-004.000-026

Legal Description: Lot 2 Prairie Ave Minor Sub #5997 7-16-04 NP5997 7-16-04

Commonly known as: 1503 Prairie Ave., South Bend, IN 46613

EXHIBIT B

Form of Special Warranty Deed

AUDITOR'S RECORD

TRANSFER NO. _____

TAXING UNIT _____

DATE _____

KEY NO. 018-8052-2114

018-8052-211401

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that the City of South Bend, Department of Redevelopment, by and through its governing body, the South Bend Redevelopment Commission, 1400 S. County-City Building, 227 W. Jefferson Boulevard, South Bend, Indiana (the "Grantor")

CONVEYS AND SPECIALLY WARRANTS to Cultivate Culinary School and Catering, Inc. an Indiana nonprofit corporation with its registered office at 1403 Prairie Ave., South Bend, IN 46613 (the "Grantee"), for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following real estate located in St. Joseph County, Indiana (the "Property"):

Tax ID No. 018-8052-2114

Parcel Key No. 71-08-14-179-002.000-026

Legal Description: Lot 1 Prairie Ave Minor Sub #5997 7-16-04 NP5997 7-16-04

Commonly known as: 1503 Prairie Ave., South Bend, IN 46613

Tax ID No. 018-8052-211401

Parcel Key No. 71-08-14-179-004.000-026

Legal Description: Lot 2 Prairie Ave Minor Sub #5997 7-16-04 NP5997 7-16-04

Commonly known as: 1503 Prairie Ave., South Bend, IN 46613

The Grantor warrants title to the Property only insofar as it might be affected by any act of the Grantor during its ownership thereof and not otherwise.

The Grantor hereby conveys the Property to the Grantee free and clear of all leases or licenses; subject to real property taxes and assessments; subject to all easements, covenants, conditions, restrictions, and other matters of record; subject to rights of way for roads and such matters as would be disclosed by an accurate survey and inspection of the Property; subject to all applicable building codes and zoning ordinances; and subject to all provisions and objectives contained in the Commission's 2019 River West Development Area Plan, as thereafter amended from time to time, and any design review guidelines associated therewith.

The Grantor conveys the Property to the Grantee subject to the limitation that the Grantee, and its successors and assigns, shall not discriminate against any person on the basis of race, creed, color, sex, age, or national origin in the sale, lease, rental, use, occupancy, or enjoyment of the Property or any improvements constructed on the Property.

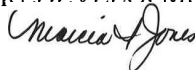
Pursuant to Section 11 of the Purchase Agreement, the Grantor conveys the Property to the Grantee by this deed subject to certain conditions subsequent. In the event the Grantee fails to perform the Property Improvements, or satisfactorily to prove such performance, in accordance with Section 11 of the Purchase Agreement, then the Grantor shall have the right to re-enter and take possession of the Property and to terminate and re-vest in the Grantor the estate conveyed to the Grantee by this deed and all of the Grantee's rights and interests in the Property without offset or compensation for the value of any improvements to the Property made by the Grantee. The recordation of a Certificate of Completion in accordance with Section 11 of the Purchase Agreement will forever release and discharge the Grantor's reversionary interest stated in this paragraph.

Each of the undersigned persons executing this deed on behalf of the Grantor represents and certifies that s/he is a duly authorized representative of the Grantor and has been fully empowered, by proper action of the governing body of the Grantor, to execute and deliver this deed, that the Grantor has full corporate capacity to convey the real estate described herein, and that all necessary action for the making of such conveyance has been taken and done.

[SIGNATURE PAGE FOLLOWS]

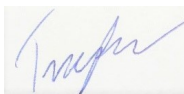
GRANTOR:

SOUTH BEND
REDEVELOPMENT COMMISSION



Marcia I. Jones, President

ATTEST:



Troy Warner, Secretary

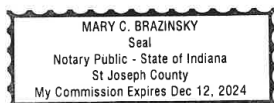
STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Marcia I. Jones and Troy Warner, known to me to be the President and Secretary, respectively, of the South Bend Redevelopment Commission and acknowledged the execution of the foregoing Special Warranty Deed being authorized so to do.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the 28 day of July, 2022.

My Commission Exp:

12.12.2024



Mary C. Brazinsky

Notary Public

Residing in St. Joseph County, Indiana



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Danielle Campbell Weiss.

This instrument was prepared by Danielle Campbell Weiss, Assistant City Attorney, City of South Bend, Indiana, Department of Law, 227 W. Jefferson Boulevard, Suite 1200S, South Bend, IN 46601. .

