



South Bend

Redevelopment Commission

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

Agenda

Regular Meeting, March 28, 2024 – 9:30 a.m.

<https://tinyurl.com/RedevelopmentCommission> or Council Chambers 4th Floor

1. Roll Call

2. Approval of Minutes

- A. Minutes of the Regular Meeting of Thursday, March 14, 2024

3. Approval of Claims

- A. None

4. Old Business

- A. None

5. New Business

A. River West Development Area

1. Real Estate Purchase Agreement (Beacon and GLC)
2. Development Agreement (Beacon Health)
3. Lease (Beacon Health)
4. Development Agreement (GLC)
5. Real Estate Purchase Agreement (GLC)
6. Resolution No. 3596 (Execution of Lease Four Winds Field) – **Public Hearing**

B. West Washington Development Area

1. Budget Request (MLK Dream Center Building Cladding)

6. Progress Reports

- A. Tax Abatement
- B. Common Council
- C. Other

7. Next Commission Meeting:

Thursday, April 11, 2024, 9:30 am



South Bend
Redevelopment Commission
 227 West Jefferson Boulevard, Room 1308, South Bend, IN

**SOUTH BEND REDEVELOPMENT COMMISSION
 SCHEDULED REGULAR MEETING**

March 14, 2024, 2024 – 9:30 am

<https://tinyurl.com/RedevelopmentCommission> or **BPW 13th Floor**

Presiding: Marcia Jones, President

The meeting was called to order at 9:30 a.m.

1. ROLL CALL

Members Present:	Marcia Jones, President – IP Troy Warner, Vice-President - V Vivian Sallie, Secretary – IP Eli Wax, Commissioner - IP David Relos, Commissioner – IP Leslie Wesley, Commissioner - V	IP = In Person V = Virtual
Members Absent:		
Legal Counsel:	Sandra Kennedy, Esq. Danielle Campbell, Asst. City Attorney	
Redevelopment Staff:	Mary Sears, Board Secretary - Absent Joseph Molnar, Property Manager	
Others Present:	Caleb Bauer Erik Glavich Sarah Schaefer Kyle Willis Eric Horvath Leslie Biek Charlotte Brach Zach Hurst Alyson Herzig KM WNDU WSBT Lou Pierce Michael Divita Jordan Gathers Dick Nussbaum	DCI DCI DCI Admin & Finance Public Works Engineering Engineering Engineering SB Regional Chamber Resident WNDU WSBT Resident DCI VPA Resident

2. Approval of Minutes

A. Approval of Minutes of the Regular Meeting of Thursday, February 22, 2024

Upon a motion by Commissioner Relos, seconded by Secretary Sallie, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, February 22, 2024.

B. Approval of Minutes Executive Committee Meeting of Thursday, February 22, 2024

Upon a motion by Commissioner Relos, seconded by Secretary Sallie, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, February 22, 2024.

C. Approval of Minutes Executive Committee Meeting of Thursday, February 23, 2024

Upon a motion by Commissioner Relos, seconded by Secretary Sallie, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, February 22, 2024.

3. Approval of Claims

A. Claims Allowance February 20, 2024

B. Claims Allowance March 5, 2024

C. Claims Allowance March 12, 2024

Mr. Molnar noted that there were payments to Meridian Title which are related to the purchase of Claeys Candy and also the earnest money for the South Bend Community School Corporation Bendix site.

Upon a motion by Commissioner Relos, seconded by Secretary Sallie, the motion carried unanimously, the Commission approved the claims allowances February 20, March 5 and March 12, 2024.

4. Old Business

5. New Business

A. River West Development Area

1. Resolution No. 3594 (Disposition Offering Price of Twenty-Seven Vacant Lots NNN)

Joseph Molnar Presented Resolution No. 3594 (Disposition Offering Price of Twenty-Seven Vacant Lots NNN). Resolution No. 3594 is the disposition of twenty-seven vacant lots in the near northwest neighborhood. At the last meeting, the RDC accepted the properties from Board of Public Works. The city of South Bend has owned the lots which we received through a tax sale process with the county. The lots are vacant. The minimum bid for the twenty-seven lots is \$73,849 which is the average of two appraisals and are being packaged together.

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The city is looking to capitalize on the recent growth in the NNN with multiple housing developments in the neighborhood. The lots are north of Lincoln Way and south of Portage Avenue. We have had interest in both of the areas.

A map was shown of the area. To the east of the area is a proposed new pedestrian bridge. A proposed larger development was outlined. The Allen Edwin project. The Advantix project. There are properties BPW transferred to Habitat for Humanity for building. BPW also transferred a few other properties to the NNN for affordable housing. The Coal Line Trail Phase III runs along the railroad right away. There is a lot of development in this section and staff believes this is a good time to put the twenty-seven properties online.

This resolution will set the disposition offering price. The bids must align with the River West Development area guidelines and the zoning for those properties. The bids are zoned U1 or U2 which are single family, duplex or fourplex homes.

Commissioner Wax asked if this is an all or nothing appraisal and would we consider changing zoning.

Mr. Molnar stated that it is listed as all and would like to keep them together and keep the current zoning parameters.

Mr. Bauer states on a duplex development we are willing to explore especially special exception.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Resolution No. 3594 (Disposition Offering Price of Twenty-Seven Vacant Lots NNN) submitted on Thursday, March 14, 2024.

- 2. Approval of Bid Specifications (Twenty-Seven Vacant Lots NNN)**
Joseph Molnar Presented Approval of Bid Specifications (Twenty-Seven Vacant Lots NNN). Staff is requesting approval of the bid specifications as presented. Commission approval is requested.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Approval of Bid Specifications (Twenty-Seven Vacant Lots NNN) submitted on Thursday, March 14, 2024.

- 3. Request to Advertise (Twenty-Seven Vacant Lots NNN)**
Joseph Molnar Presented Request to Advertise (Twenty-Seven Vacant Lots NNN). Staff is requesting approval to Advertise the disposition posting in the South Bend Tribune on Friday, March 22, 2024, and Friday, March 29, 2024. Commission approval is requested.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Request to Advertise (Twenty-Seven Vacant Lots NNN) submitted on Thursday, March 14, 2024.

4. Second Amendment to Purchase Agreement (Monreaux)

Joseph Molnar Presented Second Amendment to Purchase Agreement (Monreaux). The Monreaux was approved for tax credits by the state of Indiana in Fall 2023. This second amendment extends the closing date until the end of 2024. We were hoping for summer closing but are allowing time to work through the environmental review. The project is for sixty units with fourteen at market rate and forty-six at affordable income restricted. The developer is working with a good architect that is taking cues from the larger South Bend architectural scene to make sure it fits well with our downtown.

Commissioner Wax asked if this is tied to the completion date.

Mr. Molnar states that whenever the closing happens, that is when the purchase agreement clock starts. As far as the credits they would need to be complete at the end of 2025 or beginning of 2026. Mr. Molnar will check and round back with the commissioners to make sure this does not jeopardize the project.

Upon a motion by Secretary Sallie, seconded by Commissioner Relos, the motion carried unanimously, the Commission approved Second Amendment to Purchase Agreement (Monreaux) submitted on Thursday, March 14, 2024.

5. Real Estate Purchase Agreement (River Glen GCND Holdings, LLC)

Caleb Bauer Presented Real Estate Purchase Agreement (River Glen GCND Holdings, LLC). This real estate purchase agreement is for the River Glen Office Park located across the river from Howard Park. This includes the three office buildings of the former Press Ganey headquarters. This parcel is 5.2 acres of 74,000 square feet of office space that has been vacant since 2021 with two-hundred ninety-two surface parking spaces. The proposed purchase price is \$3.2M, which is well below the average of two independent appraisals. The agreement before you contemplates a forty-five-day due diligence period followed by a fifteen-day closing period. Staff has ordered phase ones on the site which we received back this morning.

The city is recommending the purchase of the parcel based on the adopted Monroe Park/Edgewater Neighborhood Plan. Council adopted the plan in 2023 in which we call the Riverfront West area, which included the Crowe properties or former Press Ganey, the post office and everything in the area up to Jefferson Blvd. The neighbors weighed in on what they would like to see in the future. Mr. Bauer showed streets and building grids that were in the area in 1960s and current. A rough concept which is in the neighborhood plan is a reconnection to the urban street network. The city's long-term goal is to reconnect Jefferson Blvd past the Century Center.

This is a long-term vision. An illustration of what types of density of redevelopment we would like to see on the site. We would see more dense development occurring the closer you are to Jefferson and more density closer to Monroe. We do not anticipate having six-story buildings on Monroe Street where that could be viable near Jefferson. If the commission were to approve the

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purchase today in post-closing, staff would work to develop an RFP for developers to propose redevelopment of this site in alignment with the principles laid out in the Monroe/Edgewater neighborhood plan. Mr. Bauer stated that they have had development interest in this site and others in the area, but he is not at liberty to say with whom. There are no active conversations with developers at this site. We do expect to have multiple competitive proposals as part of an RFP. This site is one of the city's top priorities as we move forward to READI 2.0 if we are awarded the seventy-five million that our region has applied for. The timeliness around this purchase and RFP is insuring we are issuing the RFP well in advance of READI 2.0 project deadline.

Secretary Sallie asked for the time frame of the purchase and then development after the purchase.

Mr. Bauer states if approved, closing would occur within sixty days from execution of today's date. If all goes as planned, we anticipate issuing an RFP in early summer 2024. We would hope to have submissions back to RDC late summer, early fall. Submissions to READI 2.0 through the Regional Development Authority are fall to early winter 2024.

Commissioner Relos asked if staff could adjust the street grid.

Mr. Bauer stated that staff is willing to adjust the street grid in the future depending on needs.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Real Estate Purchase Agreement (River Glen GCND Holdings, LLC) submitted on Thursday, March 14, 2024.

6. Resolution No. 3595 (Approving Lease COSB Four Winds Field)

Eric Horvath, Director Public Works Presented Resolution No. 3595 (Approving Lease COSB Four Winds Field). Staff is requesting approval in this first step of the rental revenue bonds for the Four Winds Field stadium renovation expansion. The project will modernize the existing stadium infrastructure, adding a full second level above the existing facility, renovating the primary seating areas and suites, adding a new 20,000 square foot four-story club and event space building and a new playground and splash pad with additional restrooms and space for retail and concession areas.

The general project is estimated at \$45M in construction cost. The first step is approving this resolution today so we can close in June to make the 2024 construction season right after ball season in September. Construction could immediately start the first stage and run through the off-season. Construction would continue through 2025 and be able to have it ready for opening day in 2026.

Randy Rampola, Barnes & Thornburg, stated that the proposed structure of the financing is a lease financing with the Redevelopment Authority. We used this type of financing with the Morris Project. The primary source of revenue for that was the hotel/motel tax that was pledged to the project and to provide the best security for that bond to get the lowest interest rate and the most useful proceeds for the tax backup attached.

The payment structure of this bond is utilizing the professional sports development convention area revenues that are available now as a result of the legislative amendments last year that increased the amount of those revenues and also increased the territory that area encompasses. The revenues available are up to \$5M. The lease revenue provided for a maximum lease rental of \$4.76M for a term not to exceed twenty-years as part of the lease structure then that would also accompany the tax back up. We would then go into the bond market and get the best rating at the lowest interest rate, which allows the proceeds to be realized at the \$45M level in the most efficient way. The revenues that are pledged by Common Council as part of their approval would be those PSCDA revenues. The city's municipal advisor Crowe as done a similar analysis. They have worked with the Department of Revenue to show that the revenues going back before this area was created would generate well north of the \$5M that would be available in the statute. Even during COVID the area's revenue was just under \$7M. Sales tax is also captured but it is the income tax that provides the historical coverage.

The lease rental is set as a maximum of \$4.76M. In section two of the lease which has the lease rental also states that once the bonds are sold, the lease rental will be reduced to match the exact debt service. That is the high side number that Crowe is estimating using the high side interest rate market. We need to have the maximum because we won't be selling the bonds until June 2024, and we do not know if rates will be higher or lower. We start out with the maximum. The lease rental revenue is for 20 years through 2044. The lease rent on debt service will be lower than that and provide coverage. That would allow that extra coverage to 33% to 35% annually.

Today's action is asking the commission to approve the lease. On March 28, 2024, we would have a hearing. We would ask the Redevelopment Authority as well as Common Council for approval of the lease as well as their pledge of these revenues to be able to make the lease payments. Following that we would go for a rating and a bond sale. Right now, we would have the bond sale around Memorial Day which allows us to close early June 2024.

Commissioner Relos asked if there would be TIF backup.

Mr. Rampola states that they are not anticipating using TIF just the PSCDA revenue.

Commissioner Relos asked if there is not TIF being used why does it come through Redevelopment Commission.

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Mr. Rampola stated that it needed to be a lease revenue bond given the structure with the intention to use the tax backup. Because it is an Economic Development project, it makes sense to use the Redevelopment Commission.

Commissioner Wax asked if it would be Common Council and Administration pledging the PSCDA dollars to the Redevelopment Commission. Is that something they can do now. To oversimplify, the Redevelopment Commission is leasing the stadium property from the Redevelopment Authority for an amount determined later. That way we could get the bond now.

Mr. Rampola states what the financing mechanism allows you to monetize that revenue stream over the period of years to generate the cash. The stadium is currently owned by the Park Board so the Park Board will need to transfer title of the stadium to the Redevelopment Authority for lease to the Redevelopment Commission. For all intents and purposes, the operations of the stadium will remain in the parks department. It is similar to the Morris project as operations of the venue will not change the effect of financing.

Dick Nussbaum, attorney at 210 S Michigan St., South Bend 46601. About a year ago he was a member of a team that was able to get some legislation passed with the help of other local representatives. This legislation expanded the professional sports development area in South Bend and extended the time frame within which revenues could be collected so that a revenue stream of \$100M every twenty years was created. You hope that things will happen. The revenue stream is happening because it started in July at the level \$5M a year and it is generating in excess of that. It is great to see this come to fruition without any tax levy. It is nice to say that we have a tax backup, but no tax backup will be used. We have made it clear to the public that it is being captured and kept here is this community. It is nice to provide an asset in terms of the ability of our team to stay in South Bend due to additional standards that major league baseball is putting forth on major teams. There are other communities that are trying to meet the expectations. Chattanooga is borrowing or bonding \$100M to build a new stadium. This \$45M to make improvements to the ballpark is a much more efficient way of maintaining a city facility that will be enjoyed by the public for many years to come.

Vice-President Warner stated that as we go through this it's important to remind folks that thanks to those legislators that were able to capture these state tax dollars and invest them in that neighborhood and the community and the park itself that draws a lot of people.

Commissioner Wax states that it is one of his favorite examples of good legislative action. When you know a good idea is non-partisan and everyone works together to come up with something good. We have got to this point with a lot of teamwork and a lot of moving parts from everywhere, local and state to come to fruition; it is very exciting. Now that is at our end, there are still a lot of moving parts we talked about VPA, RDA, RDC and Common Council but to see everybody have a unified vision and unified goal working together to make this

happen is something to be proud of.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Resolution No. 3595 (Approving Lease COSB Four Winds Field) submitted on Thursday, March 14, 2024.

B. River West Development Area

1. Budget Request (LaSalle Colfax Design Amendment #1)

Leslie Biek Presented a Budget Request (LaSalle Colfax Design Amendment #1). This is a request for a design amendment that we have with JTR. We are moving on to Colfax, which is a similar scope of project on Colfax, adding in, perforated bike path and trying to put in foot traffic with a lot of the similar features that we did on the LaSalle project. The LaSalle project did eat into the budget due to unforeseen conditions and the bidding climate we have experienced in the last couple years. This budget request will allow us to complete the full design and bid for construction next year. The county is doing bridge deck replacement on Colfax so we are coordinating our work with their work so the road will not be shut down multiple times.

Commissioner Relos asked what the scope of work is.

Ms. Biek noted it is the length from Eddie with the primary streetscape portion from the bridge to Hill Street.

Commissioner Relos asked about the grade school drop off times at Colfax. They are already backed up; will this make it narrower.

Ms. Biek noted that they will be working on the design plan. We will definitely be working with the school, and we worked with them a lot for the LaSalle project to make sure that they were able to do the dismissals and drop off.

Commissioner Wax asked the last time a larger traffic study was done for that area. We are doing a lot of piece meal to determine the road diet. At the same time, we want to keep downtown safe but want to make sure downtown is accessible and especially as we are anticipating projects over the next number of years with new apartments and hundreds of jobs.

Ms. Biek stated they are not trying to make it more difficult. They are trying to make it safer by reducing the speeds when you come downtown, so we are using the same daily traffic, but we are making it a little more inconvenient. We have a graduate student that has been modeling the downtown and he is especially looking at the effects on LaSalle, Colfax, and Jefferson. He has shown that they need to all be the same so that traffic is dispersed equally through the area.

Commissioner Wax stated that with traffic calming studies it has shown we are not making people better drivers we are just moving them somewhere else. We are always going to be chasing the faster or more aggressive drivers. It is concerning that we are trying to make downtown South Bend the place to be, but

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we are also trying to make it inefficient to drive. He does not see how those two will work to make it safer.

Mr. Bauer stated the goal in the streetscape projects is not to restrict or reduce vehicular traffic. If you equalize accessibility of the streetscapes, two modes of transportation, particularly the retail restaurant, and residential growth we have seen in the East Bank has added a lot of vibrancy to the neighborhood. What we are hoping to resolve is to ensure that those pedestrian connections are safe but also maximizing on street parking on streets like Colfax, where we believe we can get more on street parking. In a better layout from the current design. There have been some really good analysis of road diets and speed reduction; John Hopkins University had an extensive study release. The study takes a look at the public safety side and how lane narrowing and raised intersections significantly improve public safety and reduce fatal, injury related traffic accidents by a notable amount. This is a nationwide study. The trade off is making our streets safer for drivers or pedestrians and may add a few minutes to the commute time.

Mr. Horvath stated studies have shown that economic development has suffered from efficient streets. We have seen that in downtown. We have taken a look at what our streets are used for beyond just vehicular modes. We are not just looking at how fast we can move from point A to point B. We are looking at what streets provide to the community beyond the ability to move traffic because they do provide more than just moving traffic. That is the part of how we have to design the downtown street system. A lot of studies will show that when you do make the street less efficient in downtown the economic development will actually increase.

Mr. Bauer added that he agrees that traffic calming redirection on to one street can lead to traffic flows on another. We know that engineering has really looked at that with the rollout of the full traffic calming plan. From the police department side, they are focused on traffic enforcement, and it has really picked up. There is an increase in traffic violations issued by the police department; that has become a new strategic focus for them. This is a multifaceted approach.

Commissioner Wax asked looking at the studies; does that just factor in the improved streets or does it also factor in the surrounding.

Mr. Bauer will send the study to Commissioner's.

Commissioner Wax stated that he would be a lot more comfortable with this if there was also investment in making the street more efficient in a way where they are working on the streetlights. It is a big concern because while it is safer, it is a pain in the neck to drive downtown. He would like to see something where it does not negatively impact.

Commissioner Relos stated that since the street changes downtown the concerning point is sitting at a stoplight for what seems to be five minutes with no traffic coming the other way and it seems to always be that way. It would be nice to adjust the motion detectors, so a car does not sit there idle for a long time. Are

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we looking at that system.

Ms. Biek noted that we are looking at improving the detection. It is not finished yet and the signals are not optimized to how they will be in the future.

Commissioner Wax added that the technology with both the hardware and software are much better than it used to be. They could change the traffic pattern from morning to afternoon times and guide the flow of traffic.

Commissioner Relos stated that he believes South Bend is one of the most convenient areas to get from one side to the other in 10 minutes. It is just frustrating to sit at a light downtown where no one is coming from opposite of traffic for any length of time.

Mr. Horvath noted that they are upgrading intersections and putting in new technology. It will be able to optimize traffic.

Ms. Biek noted that we have submitted for a grant, and we hope to get this one so we can be eligible for a citywide trial. If we do, we can apply for the greater federal grant opportunity.

Mr. Horvath stated that we are pleased to be able to adjust the system.

Upon a motion by Commissioner Relos, seconded by Secretary Sallie, the motion carried unanimously, the Commission approved Budget Request (LaSalle Colfax Design Amendment #1) submitted on Thursday, March 14, 2024.

6. Progress Reports

A. Tax Abatement

- Joseph Molnar stated that at the Common Council meeting the Council approved the following:
 - 8-year real property tax abatement for Momentum Development Group for the Salvation Army Building. A confirming resolution will be heard at the next council meeting. Demolition began immediately and construction will begin soon.
 - Mr. Bauer noted that \$6.4M in private investment and based on the lifetime of that abatement we will receive more than twice the property tax revenue than we would have with the status quo. It is good to get the building back to productive use.

B. Common Council

- None

C. Other

- Mr. Molnar stated that the Redevelopment Commission holds the title for the former Gates Service Center.
- Redevelopment Commission has closed with RealAmerica on the LIHTEC portion of their sites. Groundbreaking will happen soon.
- Commissioner Wax asked for a better description on the claims list.
- Rosa Tomas noted that she will follow up with Admin & Finance on that.

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7. **Next Commission Meeting:**
Thursday, March 28, 2024
8. **Adjournment**
Thursday, March 14, 2024, 10:43 a.m.

Vivian Sallie, Secretary

Troy Warner, Vice-President

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this “Agreement”), is effective as of March 28, 2024 (the “Effective Date”), by and between, Beacon Health System, Inc., an Indiana nonprofit corporation, with offices at 3245 Health Drive, Granger, Indiana 46530 (“Beacon”), Memorial Hospital of South Bend, Inc. and Beacon Medical Group, Inc. (f/k/a Memorial Health System, Inc.), each a subsidiary of Beacon, with offices at 615 N. Michigan Street, South Bend, Indiana 46601 (together, “Memorial”), Great Lakes Capital Development, LLC, an Indiana Limited Liability Company, with offices at 7410 Aspect Drive, Suite 100, Granger, IN 46530 (“GLC”), and the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”) (each, a “Party,” and collectively, the “Parties”).

RECITALS

WHEREAS, Beacon and/or Memorial own certain real property located in South Bend, Indiana, more particularly described in attached **Exhibit A** (the “Parcels”); and

WHEREAS, the Parties have engaged in negotiations pertaining to certain future development projects that will be constructed on and around the Parcels; and

WHEREAS, the Commission exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953, as amended (I.C. 36-7-14 *et seq.*, the “Act”); and

WHEREAS, the Act further provides that the clearance, replanning, and redevelopment of redevelopment areas are public uses and purposes for which public money may be spent; and

WHEREAS, Beacon and Memorial desire to sell the Parcels by executing and delivering deeds to GLC, in the forms attached hereto as **Exhibit B**; and

WHEREAS, in furtherance of the future development projects and as additional consideration for the transfer of the Parcels for such development, concurrently with the execution of this Agreement, the Commission and Beacon shall enter into, or cause the execution of a certain Development Agreement (the “Beacon Development Agreement”), and also concurrently with the execution of this Agreement, the Commission and GLC shall enter into, or cause the execution of a certain Development Agreement (the “GLC Development Agreement”); and

WHEREAS, the Parties acknowledge the transfer of the Parcels as contemplated by this Agreement is inextricably linked to the successful completion of both the Beacon Development Agreement and the GLC Development Agreement.

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

SECTION 1. INTERPRETATION, TERMS AND RECITALS.

1.1 Interpretation.

(a) The terms “herein,” “hereto,” “hereunder,” and all terms of similar import shall be deemed to refer to this Agreement as a whole rather than to any Article of, Section of, or Exhibit to this Agreement.

(b) Unless otherwise specified, references in this Agreement to (i) “Section” or “Article” shall be deemed to refer to the Section or Article of this Agreement bearing the number so specified, (ii) “Exhibit” shall be deemed to refer to the Exhibit of this Agreement bearing the letter or number so specified, and (iii) references to this “Agreement” shall mean this Agreement and any exhibits and attachments hereto.

(c) Captions used for or in Sections, Articles, and Exhibits of this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(d) The terms “include”, “including” and “such as” shall each be construed as if followed by the phrase “without being limited to.”

1.2 Recitals. The Recitals set forth above are incorporated into and are a part of this Agreement for all purposes.

SECTION 2. PURCHASE OF THE PARCELS.

2.1 Generally. On June 28, 2024, or an earlier date or later date agreed by the Parties in writing, (the “Closing Date”), Beacon and/or Memorial will convey to GLC the Parcels, as further described in Exhibit A, for One Dollar (\$1.00) (the “Purchase Price”) and other valuable consideration as set forth in this Agreement, by executing and delivering a deed to GLC or an entity designated and controlled by GLC, in the forms attached hereto as Exhibit B.

2.2 Other Terms and Conditions. The purchase of the Parcels is further subject to the following terms and conditions:

(a) Due Diligence. GLC may, at its sole expense, conduct reasonable survey, inspection, and examination of the Parcels related to zoning and land use matters, environmental matters, and real property title matters (“Due Diligence”); however, GLC shall not conduct any invasive testing at the Parcels without Beacon and/or Memorial’s express prior written consent. GLC shall have a period of forty-five (45) days following the Effective Date to complete its Due Diligence (the “Due Diligence Period”). GLC may provide written notice to Beacon and/or Memorial that it waives the remainder of the Due Diligence Period. Upon such written notice, Beacon/Memorial and GLC may proceed to Closing prior to the expiration of the Due Diligence period described in this Section. If GLC determines defects exist as revealed by title, survey, or environmental reports, GLC shall so notify Beacon and/or Memorial, and Beacon and/or Memorial shall have a

reasonable period of time, not to exceed thirty (30) days, after the receipt of that notice to cure the defects, and will, in good faith, exercise due diligence to do so. Upon curing said defects, the transaction will be closed within a reasonable time not to exceed thirty (30) days after GLC agrees in writing that the defects are cured. If the defects are not cured within the above required time, GLC shall have the right to terminate this Agreement by written notice as provided in Section 5.5 (“Notices and Demands”) and the remaining provisions in this Agreement shall be null and void.

(b) Preservation of Title. After the Execution Date, Beacon and/or Memorial shall not take any action or allow any action to be taken by others to cause the properties to become subject to any interests, liens, restrictions, easements, covenants, reservations, or other matters affecting title.

(c) Title and Abstract Costs. GLC shall be responsible for its own title or abstract costs related to its due diligence investigation of the Parcels as contemplated by this Section 2.

(d) Documents Pertaining to the Properties. Promptly after the Effective Date, Beacon and/or Memorial shall provide GLC with a copy of all known environmental inspection reports, engineering titles, and survey reports and documents in its possession relating to the Parcels. The Commission shall also provide GLC with a copy of all known reports pertaining to the Parcels in its possession.

(e) Closing Date. The closing of the transaction contemplated by this Section shall occur on the date mutually agreed upon by the Parties, occurring no later than June 28, 2024 subject to such extension as provided above for cure of title or related matters. At closing, Beacon and/or Memorial shall deliver to GLC (i) a Declaration of Restrictive Covenant imposing certain rights and restrictions with respect to competitive use of the Parcels (“Restriction”), and (ii) the deeds in the forms attached hereto as **Exhibit B** conveying the Parcels to GLC, subject to the Restriction, and GLC shall deliver to Beacon and/or Memorial the Purchase Price. Possession of the Parcels shall be delivered at closing, in the same condition as each existed on the Effective Date, ordinary wear and tear and casualty excepted. Each Party shall be responsible for an equal share of the closing and/or document preparation fees of the title company utilized, and all county recorder costs associated with the transactions contemplated in this Agreement.

(f) Taxes. Beacon and/or Memorial shall be responsible for all real property taxes related to the Parcels accruing through the Closing Date, if any, even if such taxes are not yet due and payable. GLC shall be responsible for all real property taxes accruing against the transferred property after the Closing Date, if any.

(g) Commissions. The Parties mutually acknowledge and warrant to one another that no Party is represented by any broker in connection with the transaction contemplated in this Agreement. The Parties agree to reimburse each other for any claim

for commissions charged by a broker in connection with the transaction contemplated in this Agreement.

(h) Temporary License Agreement. At closing, GLC and Beacon and/or Memorial shall execute a license agreement (“Temporary License Agreement”) for Beacon and/or Memorial’s temporary use of the paved parking area on for purposes of employee parking on the following parcels: Tax ID Nos. 018-1003-0095, 018-1003-0094, 018-1003-0093, 018-1003-0092, 018-1003-0100, 018-1003-0102, 018-1003-0101, 018-1003-0103, 018-1003-0111, 018-1003-0107, and 018-1003-0125. The Temporary License Agreement shall provide that Beacon and/or Memorial remain responsible for all costs of snow plowing, maintaining and insuring the Parcels and contain customary representation and indemnity of GLC and the Commission regarding any such use or injuries on such Parcels. The term of the Temporary License Agreement will remain in effect until such time as redevelopment activity commences on the site, and Beacon and/or Memorial provides its written consent to the termination of the Temporary License Agreement, which shall not be unreasonably withheld. GLC shall provide at least thirty (30) days advance notice of its intent to terminate the Temporary License Agreement. Notwithstanding the foregoing or anything to the contrary contained herein, in no event shall the Temporary License Agreement be terminated prior to the construction of the surface parking lot and ancillary projects associated therewith, as set forth in the Beacon Development Agreement.

(i) Other Agreements. In furtherance of the future development projects, concurrently with the execution of this Agreement, the Commission and Beacon shall enter into, or cause the execution of the Beacon Development Agreement, and concurrently with the execution of this Agreement, the Commission and GLC shall enter into, or cause the execution of the GLC Development Agreement. In the event that either of these agreements are not executed, this Agreement shall become null and void.

2.3 Post Closing Obligations. After the Closing, the following obligations will also be in effect:

(a) Ground Lease. GLC and the Commission shall enter into a ground lease agreement, as contemplated in the GLC Development Agreement, upon which the Commission shall construct new parking garages (the “Parking Garages”).

(b) Restriction of Competitive Uses. Due to the close proximity of the Parcels to the property generally located at 615 N. Michigan Street, South Bend, Indiana, and more particularly identified as Parcel Nos. 71-08-01-305-001.000-025 and 71-08-01-305-019.000-026, which is owned by Memorial and operated by Beacon (“Hospital Site”), Beacon desires to restrict certain competitive uses (“Competitive Uses”) from being performed on the Parcels by businesses that are not affiliated with Memorial or Beacon. “Competitive Uses” shall include operation of the Parcels as an inpatient hospital providing emergency or inpatient intensive care services or for provision of inpatient or outpatient surgeries. Memorial and Beacon further desire to have rights with respect to other listed uses including urgent care services, medical diagnostic and imaging services, outpatient

therapy services, and in-patient rehabilitation services (“Listed Uses”). The Listed Uses will not include services determined to be office-based services that do not require facility licensure. This Restriction of Competitive Uses shall be set out on a deed of conveyance of the Parcels (or form of Declaration of Restrictive Competitive Uses encumbering the Parcels) and shall constitute a restrictive covenant which runs with the land in perpetuity and shall inure to the benefit of the Parties and to their licensees, successors, lessees and assigns, for so long as Beacon is operating the Hospital Site for a Competitive Use. GLC agrees that it shall not permit any portion of the Parcels to be operated for a Competitive Use without Beacon’s prior written consent, and that GLC shall provide Beacon with a right of first refusal to match the terms of and lease (or purchase, as the case may be) any portion of the Parcels which GLC intends to lease or sell for a Listed Use (the “Matching Right”).

(c) Exercise of the Matching Right. In the event the Matching Right is exercised by Beacon, the process shall be as follows:

(i) Contemporaneously with the mutual execution of a letter of intent or other similar agreement relating to the sale or lease of a portion of the Parcels to a business involved in performing a Listed Use (the “LOI”), GLC will provide Beacon with written notice of the LOI using the same notice procedures set forth in Section 5.5 (“Notice and Demands”).

(ii) Following the receipt of the notice regarding an LOI, Beacon shall have thirty (30) calendar days to elect to match the terms of the LOI, and Beacon’s failure to respond within such thirty (30) calendar days shall be deemed (a) a consent to the proposed sale or lease for a Listed Use, and (b) such portion of the Parcels shall no longer be subject to the terms hereof with respect to the Listed Use.

(iii) In the event that Beacon provides GLC with notice that elects to match the terms of the LOI, GLC shall immediately terminate any discussions with the proposed tenant or purchaser and provide Beacon with a substantially similar agreement as was contemplated in the LOI (the “Matching Agreement”). Within thirty (30) days after receipt of the Matching Agreement, Beacon shall accept the terms of the Matching Agreement and thereafter consummate such transaction as contemplated in the Matching Agreement. If Beacon fails to accept the Matching Agreement within thirty (30) days (a) the portion of the Transferred Parcels subject to the LOI shall be released from this restriction for Listed Use, and (b) GLC shall have the right to (i) reengage with the original or any future proposed tenant or purchaser for such space, and/or (ii) seek any and all damages that might result from Beacon's delay.

SECTION 3. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.

3.1 Cooperation. In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to

settlement or final judgment including all appeals. Each Party shall select its own legal counsel. In no event shall any Party be required to bear the fees and costs of another Party's attorneys. The Parties agree that if any other provision of this Agreement, or this Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this Section 3.1, which shall survive such invalidation, nullification, or setting aside.

SECTION 4. DEFAULTS; DISPUTE RESOLUTION; INTERPRETATION.

4.1 Default. Any failure by any Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. Upon the occurrence of a default under this Agreement, the Parties shall proceed to resolve the default in accordance with Section 4.2 ("Dispute Resolution"). If the default is cured within thirty (30) days after the notice described in this Section 4.1, then no default shall exist and the noticing Party shall take no further action.

4.2 Dispute Resolution. The Parties agree they will attempt in good faith to resolve all claims, controversies, or disputes arising out of or relating to this Agreement or an alleged breach of this Agreement by negotiation. 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. Therefore, if a dispute cannot be resolved by negotiation, the Parties agree they shall next seek to resolve any disputes through mediation administered by an agreed upon mediator. To the extent that a dispute is not settled by mediation within 180 days of the commencement of the mediation, or such further period as the Parties shall hereafter agree in writing, the dispute or any unresolved portion thereof shall be decided by binding arbitration in St. Joseph County, Indiana. The procedures specified herein shall be the sole and exclusive methods for the resolution of disputes between the parties arising out of or relating to this Agreement. However, a Party may seek a temporary restraining order, a preliminary injunction or other preliminary judicial relief if in its judgment, such action is necessary to avoid irreparable damage. Despite such action, the Parties shall continue to participate in good faith in the procedures specified here. All applicable statutes of limitation shall be tolled while the procedures specified here are pending. The Parties will take any action required to effectuate such tolling.

4.3 Reversion. The Parties acknowledge and agree that the Parcels are currently being utilized by Beacon/Memorial as employee parking near the Hospital Site, and through the Beacon Development Agreement and GLC Development Agreement, Beacon will continue to have employee parking available. The GLC Development Agreement includes certain commitments from the Commission to construct Parking Garages on the Parcels near the Hospital Site. The Beacon Development Agreement includes certain commitments from the Commission through which the Commission will demolish an office building and the construct a surface parking lot on the site of the demolished building (as defined in the Beacon Development Agreement as the "Local Public Improvements") for Beacon's use as employee parking. The Beacon Development

Agreement further includes a commitment from the Commission to reserve certain parking spaces within the newly constructed Parking Garages for Beacon's use as employee parking. In the event that construction of the Parking Garage that will provide parking for Beacon employees as defined in the Beacon Development Agreement, as contemplated in the GLC Development Agreement, does not commence within five (5) years of the Effective Date of this Agreement (the "Required Commencement Date"), Beacon shall have the option to request reversion of the Parcels described in **Exhibit A**, and GLC will convey all of its rights and interests in the Parcels to Beacon, subject to Beacon's prior payment to the Commission of the total cost expended by the Commission to complete the Local Public Improvements, as more fully described in Beacon Development Agreement (the "Reversion"). If Beacon does not pay the Commission the total costs expended to complete the Local Public Improvements, GLC shall not be obligated to convey its rights and interests in the Parcels to Beacon. Beacon must elect to request the Reversion of the Parcels as described in this Section, if at all, prior to the Commission's commencement of construction of the Parking Garage and in no event later than one (1) year after the Required Commencement Date. Failure by Beacon to request the Reversion of the Parcels within this time frame shall be deemed Beacon's acknowledgement that the Required Commencement Date has been met, and the Parcels shall no longer be subject to the Reversion.

4.4 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, none of the Parties shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of terrorism, restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties, or similar basis for excused performance which is not within the reasonable control of the Party to be excused (each, an event of "Force Majeure"). Upon the request of any of the Parties, a reasonable extension of any date or deadline set forth in this Agreement due to such cause will be granted in writing for a period necessitated by the event of Force Majeure, or longer as may be mutually agreed upon by all the Parties.

4.5 Interpretation; Governing Law. 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 legal counsel. No Party shall be deemed the drafter of the Agreement, and no 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. This Agreement is governed by and construed in accordance with the laws of the State of Indiana.

SECTION 5. MISCELLANEOUS

5.1 Other Necessary Acts. Each Party shall execute and deliver to the other Parties all such other further instruments and documents as may be reasonably necessary to accomplish the

matters contemplated by this Agreement and to provide and secure to the other Parties the full and complete enjoyment of its rights and privileges hereunder. Notwithstanding the foregoing, the Parties understand and agree that certain actions contemplated by this Agreement may be required to be undertaken by persons, agencies, or entities that are not a party to this Agreement, including, but not limited to certain permits, consents, and/or approvals (to the extent they have not yet been obtained and completed), and that any action by such third parties shall require independent approval by the respective person, agency, entity, or governing body thereof.

5.2 Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be an original, but all of which together shall constitute one and the same instrument. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

5.3 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.

5.4 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.

5.5 Notices and Demands. Any notice, demand, or other communication required or permitted under the terms of this Agreement may be delivered (a) by hand-delivery (which will be deemed delivered at the time of receipt), (b) by registered or certified mail, return receipt requested (which will be deemed delivered three (3) days after mailing), or (c) by overnight courier service (which will be deemed delivered on the next business day) to each Party's respective addresses and representatives stated below.

Beacon: Beacon Health System, Inc.
3245 Health Drive
Granger, Indiana 46530
Attn: Chief Financial Officer

Memorial: Memorial Hospital of South Bend, Inc.
615 N. Michigan Street
South Bend, Indiana 46601
Attn: President

GLC: Great Lakes Capital Development LLC
7410 Aspect Drive, Suite 100
Granger, IN 46530
Attn: Audra Sieradzski
E-mail: asieradzski@greatlakescapital.com

With a copy to: Rich Deahl
E-mail: rdeahl@greatlakescapital.com

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

With a copy to: South Bend Legal Department
1200S County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Corporation Counsel

5.6 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the Parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties herein.

5.7 Tax Advice. Each Party acknowledges and agrees that it is responsible for its own federal, state, and/or local tax obligations or consequences that may arise from or relate to this Agreement. No Party is relying on any representation that may be made by another regarding the tax consequences of the matters contemplated herein and shall hold the other Parties harmless from any adverse tax consequences resulting from any and all provisions of this Agreement.

5.8 Assignment. Each Party's rights under this Agreement shall be personal to that Party. No Party may assign its rights or obligations under this Agreement to any third party without obtaining each other Party's prior written consent to such assignment, which each Party may give or withhold in its sole discretion, provided such consent is not unreasonably withheld. Notwithstanding the foregoing, GLC may, without any consent of the Parties, assign this Agreement to any affiliate or principal of GLC (which is under common control with GLC), provided GLC retains liability for performance of all obligations under this Agreement. In the event any Party seeks the consent to any such assignment, such Party shall provide all relevant

information concerning the identities of the persons or entities proposed to be involved in and an explanation of the purposes for the proposed assignment(s).

5.9 Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and certifies that he or she is the duly authorized officer or representative of such Party, that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party, and that all necessary action to execute and deliver this Agreement has been taken by such Party.

5.10 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, as well as to cooperate and support advancement of the rights and obligations of the Parties under each of the GLC Development Agreement and the Beacon Development Agreement.

5.11 Exhibits. All exhibits described herein and attached hereto are incorporated into this Agreement by reference.

5.12 Entire Agreement. No representation, promise, or inducement not included in this Agreement will be binding upon the Parties hereto. This Agreement cannot be modified except by mutual agreement of the Parties set forth in a written instrument signed by the Parties' authorized representatives.

5.13 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 Effective Date stated above.

BEACON HEALTH SYSTEM, INC.

Jeffrey P. Costello, Chief Financial Officer

MEMORIAL HOSPITAL OF SOUTH BEND, INC.

Larry A. Tracy, Jr., President

BEACON MEDICAL GROUP, INC. (f/k/a Memorial Health System, Inc.)

Jeffrey P. Costello, Chief Financial Officer

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

GREAT LAKES CAPITAL DEVELOPMENT LLC

Bradley J. Toothaker, Manager

AGREED, ACKNOWLEDGED, AND CONSENTED TO:

By the signatures below, the South Bend Redevelopment Commission hereby consents to the terms contained in this Real Estate Purchase Agreement as of the first date above written.

SOUTH BEND REDEVELOPMENT
COMMISSION

Troy Warner, Vice President

ATTEST:

Vivian Sallie, Secretary

EXHIBIT A

Description of Parcels to be Transferred to GLC

Parcel 1

Key No. 018-1003-0125

Legal Description: Lots 72 & 73 O P South Bend

Commonly Known As: 307 N. Dr. Martin Luther King Jr. Blvd.

Parcel 2

Key No. 018-1003-0107

Legal Description: Lot 172 & So 1/2 Vac Alley Op South Bend

Commonly Known As: 309 N Dr. Martin Luther King Jr Blvd

Parcel 3

Key No. 018-1003-0111

Legal Description: Lot 171 & So 41ft Lot 170 & No 1/2 Vac Alley Op South Bend

Commonly Known As: 321 N Dr. Martin Luther King Jr Blvd

Parcel 4

Key No. 018-1003-0103

Legal Description: 36 Ft S Side Lot 175 O P So Bend

Commonly Known As: 324 N Main Street

Parcel 5

Key No. 018-1003-0102

Legal Description: N 30 Ft Lot 175 O P So Bend

Commonly Known As: 328 N Main Street

Parcel 6

Key No. 018-1003-0100

Legal Description: Lot 176 Ex 55'E End O P So Bend

Commonly Known As: 336 N Main Street

Parcel 7

Key No. 018-1003-0092

Legal Description: Lot 162& E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13
03-22-2013

Commonly Known As: 401 N. Martin Luther King Jr. Dr.

Parcel 8

Key No. 018-1003-0093

Legal Description: Lot 161& E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13
03-22-2013

Commonly Known As: 409 N. Martin Luther King Jr. Dr.

Parcel 9

Key No. 018-1003-0094

Legal Description: Lot 160 & S1/2 Vac alley N & Adj & E1/2 Vac alley W & Adj O P So Bend
14/15 Vac Ord #10218-13 03-22-13 13/14 Vac Ord#10176-12 10-11-12

Commonly Known As: 413 N. Martin Luther King Jr. Dr.

Parcel 10

Key No. 018-1003-0095

Legal Description: Lots 165 166 E Pt Of 167 & Lots 157 158 & 159 & Ew vac alley Ex Pt Sold
For St & Pt Vac Ns Alley Original Plat So Bend 14/15 Vac Ord#10218-13 03-22-13 13/14 Vac
Ord#10176-12 10-11-12

Commonly Known As: 425 N. Martin Luther King Jr. Dr.

Parcel 11

Key No. 018-1003-0089

Legal Description: Lots 163 & 164 & W1/2 Vac alley E & Adj O P So Bend 14/15 Vac Ord
#10218-13 7/15/2013

Commonly Known As: 410 416 N. Main St.

Parcel 12

Key No. 018-1003-0117

Legal Description: 56x100 Ft Nw Pt Lot 115 O P South Bend

Commonly Known As: 332 N. Martin Luther King Jr. Dr.

Parcel 13

Key No. 018-1003-0118

Legal Description: 56' Ne Pt Lot 115 & S 22.75' Vac Madison St N & Adj O P South Bend

Commonly Known As: 110 E Madison St.

EXHIBIT B

**Forms of Warranty Deeds
Transferring Parcels to GLC**

AUDITOR'S RECORD

TRANSFER NO. _____

TAXING UNIT _____

DATE _____

KEY NOS. -- See Exhibit 1

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that Memorial Health System, Inc., an Indiana not-for-profit corporation now known as Beacon Medical Group, Inc., with a mailing address of 615 N. Michigan St., South Bend, Indiana 46601 (the "Grantor")

CONVEYS AND SPECIALLY WARRANTS to Great Lakes Capital Development LLC, 7410 Aspect Drive, Suite 100, Granger, IN 46530 (the "Grantee"),

for and in consideration of One Dollar (\$1.00) 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"):

See Attached Exhibit 1.

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 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 the rights and restrictions set forth in that certain Declaration of Restrictions (during the term thereof) dated _____, 2024 and recorded with the Office of the Recorder of St. Joseph County as Instrument No. _____ on _____, 2024 (the "Restriction"). This Restriction shall run with the land in perpetuity and shall inure to the benefit of the Grantor and Grantee and their licensees, successors, lessees, and assigns, so long as Grantor is operating the Hospital Site for a Competitive Use (as defined in such Restriction).

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.

Each of the undersigned persons executing this deed on behalf of the Grantor represents and certifies that they are a duly authorized representative of the Grantor and have 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

EXHIBIT 1

Description of Property

Key No. 018-1003-0125

Legal Description: Lots 72 & 73 O P South Bend

Commonly Known As: 307 N. Dr. Martin Luther King Jr. Blvd.

Key No. 018-1003-0107

Legal Description: Lot 172 & So 1/2 Vac Alley Op South Bend

Commonly Known As: 309 N Dr. Martin Luther King Jr Blvd

Key No. 018-1003-0111

Legal Description: Lot 171 & So 41ft Lot 170 & No 1/2 Vac Alley Op South Bend

Commonly Known As: 321 N Dr. Martin Luther King Jr Blvd

Key No. 018-1003-0103

Legal Description: 36 Ft S Side Lot 175 O P So Bend

Commonly Known As: 324 N Main Street

Key No. 018-1003-0102

Legal Description: N 30 Ft Lot 175 O P So Bend

Commonly Known As: 328 N Main Street

Key No. 018-1003-0100

Legal Description: Lot 176 Ex 55'E End O P So Bend

Commonly Known As: 336 N Main Street

AUDITOR'S RECORD
TRANSFER NO. _____
TAXING UNIT _____
DATE _____
KEY NOS. – See Exhibit 1

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that Memorial Hospital of South Bend, Inc., an Indiana not-for-profit corporation, with a mailing address of 615 N. Michigan St., South Bend, Indiana 46601 (the “Grantor”)

CONVEYS AND SPECIALLY WARRANTS to Great Lakes Capital Development LLC, 7410 Aspect Drive, Suite 100, Granger, Indiana 46530 (the “Grantee”),

for and in consideration of One Dollar (\$1.00) 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”):

See Attached Exhibit 1.

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 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 the rights and restrictions set forth in that certain Declaration of Restrictions (during the term thereof) dated _____, 2024 and recorded with the Office of the Recorder of St. Joseph County as Instrument No. _____ on _____, 2024 (the “Restriction”). This Restriction shall run with the land in perpetuity and shall inure to the benefit of the Grantor and Grantee and their licensees, successors, lessees, and assigns, so long as Grantor is operating the Hospital Site for a Competitive Use (as defined in such Restriction).

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.

EXHIBIT 1

Description of Property

Key No. 018-1003-0092

Legal Description: Lot 162 & E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13 03-22-2013

Commonly Known As: 401 N. Martin Luther King Jr. Dr.

Key No. 018-1003-0093

Legal Description: Lot 161 & E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13 03-22-2013

Commonly Known As: 409 N. Martin Luther King Jr. Dr.

Key No. 018-1003-0094

Legal Description: Lot 160 & S1/2 Vac alley N & Adj & E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13 03-22-13 13/14 Vac Ord#10176-12 10-11-12

Commonly Known As: 413 N. Martin Luther King Jr. Dr.

Key No. 018-1003-0095

Legal Description: Lots 165 166 E Pt Of 167 & Lots 157 158 & 159 & Ew vac alley Ex Pt Sold For St & Pt Vac Ns Alley Original Plat So Bend 14/15 Vac Ord#10218-13 03-22-13 13/14 Vac Ord#10176-12 10-11-12

Commonly Known As: 425 N. Martin Luther King Jr. Dr.

Key No. 018-1003-0089

Legal Description: Lots 163 & 164 & W1/2 Vac alley E & Adj O P So Bend 14/15 Vac Ord #10218-13 7/15/2013

Commonly Known As: 410 416 N. Main St.

Key No. 018-1003-0117

Legal Description: 56x100 Ft Nw Pt Lot 115 O P South Bend

Commonly Known As: 332 N. Martin Luther King Jr. Dr.

Key No. 018-1003-0118

Legal Description: 56' Ne Pt Lot 115 & S 22.75' Vac Madison St N & Adj O P South Bend

Commonly Known As: 110 E Madison St.

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”), is effective as of March 28, 2024 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), Beacon Health System, Inc., an Indiana nonprofit corporation, with offices at 3245 Health Drive, Granger, Indiana 46530 (“Beacon”) and Memorial Hospital of South Bend, Inc., a subsidiary of Beacon, with offices at 615 N. Michigan Street, South Bend, Indiana 46601 (“Memorial”) (each, a “Party,” and collectively, the “Parties”).

RECITALS

WHEREAS, the Commission exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953, as amended (I.C. 36-7-14 *et seq.*, the “Act”); and

WHEREAS, the Act provides that the clearance, replanning, and redevelopment of redevelopment areas are public uses and purposes for which public money may be spent; and

WHEREAS, Beacon and Memorial own certain real property located in South Bend, Indiana (the “City”) described in Exhibit A, together with all improvements thereon and all easements, rights, licenses, and other interests appurtenant thereto (collectively, the “Beacon Property”), which each desire to develop; and

WHEREAS, Beacon currently has private financing and desires to construct, renovate, or otherwise rehabilitate certain elements of Memorial Property (the “Project”) in accordance with the project plan (the “Project Plan”) attached hereto as Exhibit B; and

WHEREAS, the Memorial Property is located within the corporate boundaries of the City, within the River West Development Area (the “Area”); and

WHEREAS, the Commission has adopted (and subsequently amended, from time to time) a development plan, which contemplates development of the Area consistent with the Project Plan; and

WHEREAS, the Commission seeks to support Beacon’s development of a new patient tower, which will generate over \$230 million of new development in the downtown area; and

WHEREAS, it is anticipated Beacon’s Memorial Patient Tower will add additional full-time positions at the hospital; and

WHEREAS, the Commission believes that accomplishing the Project as described herein advances a public good, the expected benefits exceed the expected costs to the Commission, and is in the best interests of the health, safety, and welfare of the City and its residents; and

WHEREAS, the Commission desires to facilitate and assist the Project Plan by undertaking the local public improvements stated in **Exhibit C** (the “Local Public Improvements”) and the financing thereof, subject to the terms and conditions of this Agreement and in accordance with the Act; and

WHEREAS, the Commission previously entered into a certain Ground Lease (the “Ground Lease”) with Memorial for the property located at 111 W. Jefferson Blvd, South Bend, Indiana 46601; and

WHEREAS, Memorial desires to surrender the Ground Lease to the Commission and the Commission is willing to accept the surrender on the terms and conditions set forth herein.

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

SECTION 1. DEFINITIONS.

Unless otherwise defined in this Agreement, capitalized terms used in this Agreement have the following meanings:

1.1 Assessed Value. “Assessed Value” means the market value-in-use of a property, used for property tax assessment purposes as determined by the St. Joseph County Assessor.

1.2 Board of Works. “Board of Works” means the Board of Public Works of the City, a public body granted the power to award contracts for public works pursuant to I.C. 36-1-12.

1.3 Funding Amount. “Funding Amount” means an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) of tax increment finance revenues to be used for paying the costs associated with the construction, equipping, inspection, and delivery of the Local Public Improvements.

1.4 Private Investment. “Private Investment” means an amount no less than Two Hundred Thirty Million Dollars (\$230,000,000.00), not including the Funding Amount, that has been or will be expended by Beacon for the costs associated with constructing the improvements set forth in the Project Plan, including architectural, engineering, construction and any other costs directly related to completion of the Project that are expected to contribute to increased access to healthcare services at Memorial Hospital and increases to the Assessed Value of the Project Property and surrounding properties.

SECTION 2. INTERPRETATION, TERMS AND RECITALS.

2.1 Interpretation.

(a) The terms “herein,” “hereto,” “hereunder,” and all terms of similar import shall be deemed to refer to this Agreement as a whole rather than to any Article of, Section of, or Exhibit to this Agreement.

(b) Unless otherwise specified, references in this Agreement to (i) “Section” or “Article” shall be deemed to refer to the Section or Article of this Agreement bearing the number so specified, (ii) “Exhibit” shall be deemed to refer to the Exhibit of this Agreement bearing the letter or number so specified, and (iii) references to this “Agreement” shall mean this Agreement and any exhibits and attachments hereto.

(c) Captions used for or in Sections, Articles, and Exhibits of this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(d) The terms “include”, “including” and “such as” shall each be construed as if followed by the phrase “without being limited to.”

2.2 Recitals. The Recitals set forth above are incorporated into and are a part of this Agreement for all purposes.

SECTION 3. BEACON’S DEVELOPMENT OBLIGATIONS.

3.1 Generally. The Parties acknowledge and agree that the Commission’s agreements to perform and abide by the covenants and obligations set forth in this Agreement are material consideration for Beacon’s commitment to perform and abide by the covenants and obligations of Beacon contained in this Agreement.

3.2 The Project.

(a) Beacon will perform all necessary work to complete the improvements set forth in the Project Plan attached hereto as **Exhibit B** and the plans and specifications to be approved by the City Planner, or his designee, pursuant to Section 3.7 (“Submission of Plans and Specifications for Project”) of this Agreement, which improvements shall comply with all zoning and land use laws and ordinances.

(b) Beacon will expend the Private Investment to complete the Project in accordance with **Exhibit B** and the plans and specifications to be approved by the Commission pursuant to Section 3.7 (“Submission of Plans and Specifications for Project”) of this Agreement.

3.3 Cooperation. Beacon agrees to endorse and support the Commission’s efforts to expedite the Local Public Improvements through any required planning, design, public bidding, construction, inspection, waiver, permitting, and related regulatory processes.

3.4 Grant of Easement. Beacon will grant to the Commission a temporary, non-exclusive easement on, in, over, under and across any part(s) of the parcels on which the local public improvements will be performed (the “Easement”) in the form attached hereto as **Exhibit D**, to permit the Commission to fulfill its obligations under this Agreement, including the construction, equipping, inspection, and delivery of the Local Public Improvements. The

Easement shall: (a) inure to the benefit of the Commission and the Board of Works or any contractors acting on behalf of the Commission in connection with the construction, equipping, inspection, and delivery of the Local Public Improvements; (b) bind Beacon and its grantees, successors, and assigns; and (c) terminate no later than upon completion of the Local Public Improvements, as determined by the Board of Works. Furthermore, Beacon agrees to obtain any and all other easements from any governmental entity and/or any other third parties that Beacon or the Commission deems necessary or advisable in order to complete the Local Public Improvements, and the obtaining of such easements is a condition precedent to the Commission's obligations under this Agreement.

3.5 Timeframe for Completion. Beacon hereby agrees to complete the Project as set forth in the Project Plan and any other obligations Beacon may have under this Agreement by December 31, 2027 (the "Mandatory Project Completion Date"). Beacon further agrees the total Project will be completed in accordance with the Project Plan attached hereto as **Exhibit B**. Notwithstanding any provision of this Agreement to the contrary, Beacon's failure to complete the Project or any other obligations Beacon may have under this Agreement by the Mandatory Project Completion Dates will constitute a default under this Agreement without any requirement of notice of or an opportunity to cure such failure.

3.6 Reporting Obligations. On or before June 30 and December 31 of each year until substantial completion of the Project, Beacon shall submit to the Commission a report, in the format set forth as **Exhibit E**, demonstrating Beacon's good-faith compliance with the terms of this Agreement. The report shall include the following information and documents: (i) a status report of the construction completed to date, (ii) an update on the project schedule, and (iii) an itemized accounting generally identifying the Private Investment to date.

3.7 Submission of Plans and Specifications for Project. The Parties acknowledge and agree that, prior to the Effective Date, Beacon delivered a complete set of plans and specifications for the Project to the City's Executive Director of the Department of Community Investment who has approved of the same. Having met this standard requirement, the expenditure of the Funding Amount may occur.

3.8 Costs and Expenses of Construction of Project. Beacon hereby agrees to pay, or cause to be paid, all costs and expenses of planning, construction, management, and all other activities or purposes associated with the Project (including legal, architectural, and engineering fees), exclusive of the Local Public Improvements, which shall be paid for by the Commission by and through the Funding Amount subject to the terms of this Agreement.

3.9 Specifications for Local Public Improvements. Beacon will be responsible for the preparation of all bid specifications related to the Local Public Improvements, and Beacon will pay all costs and expenses of such preparation, provided, however, that if the Commission pays any costs or expenses of such preparation, then the amount paid by the Commission will be deducted from the Funding Amount. Beacon will submit all bid specifications related to the Local Public Improvements to the City of South Bend Engineering Department (the "Engineering Department"). The Engineering Department may approve or disapprove said bid specifications for the Project in its sole discretion and may request revisions or amendments to be made to the

same. The Commission shall not be required to expend the Funding Amount unless the Engineering Department has approved all bid specifications.

3.10 Non-Interference. Beacon hereby agrees to use commercially reasonable efforts to minimize disruption for those living and working near the Project Property during construction of the Project.

3.11 Insurance. Beacon shall purchase and maintain comprehensive insurance coverage as is appropriate for the work being performed by it with respect to the Project. Beacon shall provide proof of such adequate insurance to the Commission and shall notify the Commission and the City of any change in or termination of such insurance. During the period of construction or provision of services regarding any Local Public Improvements, Beacon shall maintain insurance in the kinds and for at least the minimum amounts as described in Exhibit F attached hereto and the Commission and the City shall be named as additional insureds on such policies that provide coverage for Parcel 018-1014-0540, where the Local Public Improvements will be completed (but not on any worker's compensation policies).

3.12 Information. Beacon agrees to provide any and all due diligence items with respect to the Local Public Improvements reasonably requested by the Commission.

SECTION 4. COMMISSION'S DEVELOPMENT OBLIGATIONS.

4.1 Generally. The Parties acknowledge and agree that Beacon's agreement to perform and abide by the covenants and obligations set forth in this Agreement is material consideration for the Commission's commitment to perform and abide by the covenants and obligations of the Commission contained in this Agreement.

4.2 Completion of Local Public Improvements.

(a) The Commission hereby agrees to complete (or cause to be completed) the Local Public Improvements described in Exhibit C, attached hereto, on a schedule to be reasonably determined and agreed to by the Commission and Beacon, as may be modified due to unforeseen circumstances and delays.

(b) Before any work on the Local Public Improvements will commence, (a) the Commission will have received satisfactory plans and specifications for the Project and responded in accordance with Section 3.7 ("Submission of Plans and Specifications for Project") of this Agreement, and (b) the Engineering Department will have received satisfactory bid specifications for the Local Public Improvements and approved the same in accordance with Section 3.9 ("Specifications for Local Public Improvements") of this Agreement.

(c) The Local Public Improvements will be completed in accordance with all applicable public bidding and contracting laws and will be subject to inspection by the Engineering Department or its designee.

(d) It is the intent of the Parties that the Commission will cover the full amount of the costs associated with the Local Public Improvements. Therefore, in the event the costs associated with the Local Public Improvements are in excess of the Funding Amount, the Commission will be responsible for funding the excess amount, and the Parties shall amend this Agreement as necessary to permit timely completion of the Local Public Improvements by the Commission, or an agent of the Commission.

SECTION 5. GROUND LEASE SURRENDER AND ACCEPTANCE.

5.1 Generally. The Commission and Memorial entered into a certain Amended and Restated Agreement for the Lease and Development of Real Property within the South Bend Central Development Area dated January 23, 1998 (the “Central Development Area Agreement”). As part of the Central Development Area Agreement, the Commission and Memorial also entered into a Ground Lease (the “Ground Lease”), a copy of which is attached hereto as **Exhibit G**, for the property located at 111 W. Jefferson Blvd., South Bend, Indiana 46601 (the “Premises”). Memorial desires to surrender the Ground Lease to the Commission and the Commission is willing to accept the surrender on the terms set forth in this Section 5.

5.2 Surrender. Subject to the terms of this Agreement, Memorial hereby surrenders to the Commission and its successors and assigns, as of April 23rd, 2024 (the “Surrender Date”), the Ground Lease and the term and estate granted by the Ground Lease, together with the Premises, so that the Ground Lease shall be wholly extinguished, and the term of the Ground Lease shall expire on the Surrender Date.

5.3 Cancellation Payment. The Commission recognizes the benefit to be derived by the City by regaining the full use of the Premises, including more than 170 parking spaces, and in consideration of the surrender by Memorial and of the acceptance thereof by the Commission, following the execution and delivery of this Agreement, the Commission shall pay the sum of Four Million Dollars (\$4,000,000.00) to Memorial on the Surrender Date.

5.4 Mutual Release. The Commission, for itself and its successors and assigns, accepts Memorial’s surrender of the Premises as of the Surrender Date and, in consideration of the surrender by Memorial and of the acceptance thereof by the Commission, the Commission and Memorial hereby mutually release each other, and their respective heirs, executors, administrators, successors, and assigns, from any and all claims, obligations, liabilities, demands, actions, and causes of action of each and every kind and nature whatsoever arising out of, resulting from, or relating to the Ground Lease prior to, on or after the Surrender Date.

5.5 Representations and Warranties. The Commission and Memorial each hereby represent and warrant, as of the date hereof and the Surrender Date, that: (i) the person executing this Agreement on its behalf is duly authorized to execute and deliver this Agreement on its behalf; and (ii) the execution, delivery and performance of this Agreement has been duly authorized by all necessary action and does not violate its formation or management documents, or any contract, agreement, commitment, order, judgment, or decree to which it is a party or to which it or the Premises are bound. Memorial hereby represents and warrants, as of the date hereof and the Surrender Date, that it has not done, or suffered anything to be done, whereby the Premises have

been encumbered in any way whatsoever, nor shall the Premises be in any way encumbered on the Surrender Date.

5.6 Indemnification. The Commission and Memorial each agree to indemnify, hold harmless, and defend the other from and against any and all claims, liabilities, losses, costs, damages, and expenses, including reasonable attorneys' fees, in the enforcement of this indemnity asserted against or suffered by the other party arising out of, related to, or caused by the breach or inaccuracy of any covenant, obligation, warranty or representation under this Agreement by such party.

5.7 Further Assurances. The Commission and Memorial shall promptly execute, acknowledge, and deliver to the other such further instruments and take such further actions as may be reasonably required to carry out and effectuate the intent and purpose of this Section 5.

5.8 Temporary Lease Agreement. Upon execution of this Agreement, the Commission and Memorial shall enter into a Lease Agreement, in the form attached hereto as Exhibit H, for the continued operation of Memorial's physical therapy services and the Beacon Health & Fitness Center until such time as the facilities are able to relocate. This Temporary Lease Agreement shall end no later than December 31, 2025 for the Health & Fitness Center and December 31, 2025 for the physical therapy services offices.

5.9 Assignment of Existing Leases. Memorial shall assign to the Commission any leases it holds for the Premises, delivering to the Commission any rent deposits effective March 29, 2024, and effective on March 29, 2024, the Commission shall have all the rights and responsibilities of Lessor to the Premises.

SECTION 6. PARKING AGREEMENT.

6.1 Generally. The Parties acknowledge and agree that concurrently with the execution of this Agreement, Beacon, Memorial, and the Commission shall enter into or cause the execution of a certain Real Estate Purchase Agreement with Great Lakes Capital Development LLC ("GLC") for the transfer of certain real property near the Beacon Property (the "Parcels") from Beacon and Memorial to Great Lakes Capital ("GLC") for the construction of other new development ("Purchase Agreement"). In furtherance of such other new development, concurrently with the execution of this Agreement, the Commission shall enter into or cause the execution of a certain Development Agreement with GLC, under which the Commission will commit to constructing certain local public improvements on the Parcels, to include the development of new parking garages near the Beacon Property ("GLC Development Agreement"). Provided the transfer of Parcels to GLC takes place as set forth in this Section 6, in consideration of the other terms and conditions set forth in this Agreement, the Commission agrees to commit to reserving certain parking spaces for Beacon's future use at no charge, as set forth below. In the event the Purchase Agreement and GLC Development Agreement described in this Section 6 are not executed, this Section shall become null and void.

6.2 Spaces. Three Hundred (300) parking spaces will be reserved annually for the use of Beacon for its employees Monday through Friday for the hours of 6:00 A.M. – 8:00 P.M. The

City reserves the right to use any and all spaces reserved for Beacon when not in use by Beacon staff.

6.3 Term. The initial term of this parking agreement shall commence on the date of substantial completion of the garages and continue for a term of twenty-five (25) years, with a series of two (2) consecutive options to renew, for twenty-five (25) years each. To exercise an option, Beacon must not then be in default. The option will be deemed exercised unless Beacon provides written notice to the Commission not less than one (1) year before the end of the current term. Five (5) years prior to completion of the third term, if exercised by Beacon, the City and Beacon will work collaboratively to find an equivalent arrangement to serve the parking needs of Beacon.

6.4 Annual Report. Beacon shall report in writing to the Commission before December 31 of each calendar year the number of spaces being utilized along with its good faith estimation of its parking needs for the following calendar year. The Commission and Beacon will use this information to determine if the number of reserved spaces should be altered. Any alteration of the allocation of reserved spaces for Beacon must be mutually agreed to, in writing, by the Commission and Beacon.

SECTION 7. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.

7.1 Cooperation. In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own legal counsel. In no event shall the Commission be required to bear the fees and costs of the Beacon's attorneys, and in no event shall Beacon be required to bear the fees and costs of the Commission's attorneys. The Parties agree that if any other provision of this Agreement, or this Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this Section 7.1, which shall survive such invalidation, nullification, or setting aside.

SECTION 8. DEFAULTS; DISPUTE RESOLUTION; INTERPRETATION.

8.1 Default. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. Upon the occurrence of a default under this Agreement, the Parties shall proceed to resolve the default in accordance with Section 8.2 ("Dispute Resolution"). If the default is cured within thirty (30) days after the notice described in this Section 8.1, then no default shall exist and the noticing Party shall take no further action.

8.2 Dispute Resolution. The Parties agree they will attempt in good faith to resolve all claims, controversies, or disputes arising out of or relating to this Agreement or an alleged breach

of this Agreement by negotiation. 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. Therefore, if a dispute cannot be resolved by negotiation, the Parties agree they shall next seek to resolve any disputes through mediation administered by an agreed upon mediator. To the extent that a dispute is not settled by mediation within 180 days of the commencement of the mediation, or such further period as the Parties shall hereafter agree in writing, the dispute or any unresolved portion thereof shall be decided by binding arbitration in St. Joseph County, Indiana. The procedures specified herein shall be the sole and exclusive methods for the resolution of disputes between the parties arising out of or relating to this Agreement. However, a Party may seek a temporary restraining order, a preliminary injunction or other preliminary judicial relief if in its judgment, such action is necessary to avoid irreparable damage. Despite such action, the Parties shall continue to participate in good faith in the procedures specified here. All applicable statutes of limitation shall be tolled while the procedures specified here are pending. The Parties will take any action required to effectuate such tolling.

8.3 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, none of the Parties shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of terrorism, restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties, or similar basis for excused performance which is not within the reasonable control of the Party to be excused (each, an event of “Force Majeure”). Upon the request of any of the Parties, a reasonable extension of any date or deadline set forth in this Agreement due to such cause will be granted in writing for a period necessitated by the event of Force Majeure, or longer as may be mutually agreed upon by all the Parties.

8.4 Interpretation; Governing Law. 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 legal counsel. Neither Party shall be deemed the drafter of the Agreement, and 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. This Agreement is governed by and construed in accordance with the laws of the State of Indiana.

SECTION 9. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP; CONFLICT OF INTEREST; INDEMNITY.

9.1 No Agency, Joint Venture or Partnership. The Parties acknowledge and agree that:

- (a) The Project is a private development;

(b) None of the Commission, the Board of Works, Beacon, or Memorial has any interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the Commission, the Board of Works, Beacon, and/or Memorial expressly accepts the same; and

(c) The Parties hereby renounce the existence of any form of agency relationship, joint venture or partnership between the Commission/ Board of Works and Beacon/Memorial, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Commission/Board of Works and the Beacon/Memorial.

9.2 Conflict of Interest; Commission Representatives Not Individually Liable. No member, official, or employee of the Commission or the City may have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the Commission or the City shall be personally liable to Beacon or Memorial, or any successor in interest, in the event of any default or breach by the Commission or for any amount which may become due to the Beacon or Memorial, or their successors and assigns, or on any obligations under the terms of this Agreement. No partner, member, employee, or agent of the Beacon or Memorial or the successors of them shall be personally liable to the Commission under this Agreement.

9.3 Indemnity. Beacon and Memorial agree to indemnify, defend, and hold harmless the Commission and the City from and against any third-party claims suffered by the Commission or the City resulting from or incurred in connection with the Local Public Improvements.

SECTION 10. MISCELLANEOUS.

10.1 Other Necessary Acts. Each Party shall execute and deliver to the other Parties all such other further instruments and documents as may be reasonably necessary to accomplish the matters contemplated by this Agreement and to provide and secure to the other Parties the full and complete enjoyment of its rights and privileges hereunder. Notwithstanding the foregoing, the Parties understand and agree that certain actions contemplated by this Agreement may be required to be undertaken by persons, agencies, or entities that are not a party to this Agreement, including, but not limited to certain permits, consents, and/or approvals (to the extent they have not yet been obtained and completed), and that any action by such third parties shall require independent approval by the respective person, agency, entity, or governing body thereof.

10.2 Equal Employment Opportunity. Beacon, for itself and its successors and assigns, agrees that during the construction of the Project:

(a) Beacon will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Beacon agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and

(b) Beacon will state, in all solicitations or advertisements for employees placed by or on behalf of Beacon, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

10.3 Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be an original, but all of which together shall constitute one and the same instrument. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

10.4 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.

10.5 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.

10.6 Notices and Demands. Any notice, demand, or other communication required or permitted under the terms of this Agreement may be delivered (a) by hand-delivery (which will be deemed delivered at the time of receipt), (b) by registered or certified mail, return receipt requested (which will be deemed delivered three (3) days after mailing), or (c) by overnight courier service (which will be deemed delivered on the next business day) to each Party's respective addresses and representatives stated below.

Beacon: Beacon Health System, Inc.
3245 Health Drive
Granger, Indiana 46530
Attn: Chief Financial Officer

Memorial: Memorial Hospital of South Bend, Inc.
615 N. Michigan Street
South Bend, Indiana 46601
Attn: President

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

With a copy to: South Bend Legal Department
1200S County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Corporation Counsel

10.7 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the Parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties herein.

10.8 Tax Advice. Each Party acknowledges and agrees that it is responsible for its own federal, state, and/or local tax obligations or consequences that may arise from or relate to this Agreement. No Party is relying on any representation that may be made another regarding the tax consequences of the matters contemplated herein and shall hold the other Parties harmless from any adverse tax consequences resulting from any and all provisions of this Agreement.

10.9 Assignment. Beacon's rights under this Agreement shall be personal to Beacon and shall not run with the land. Beacon may not assign its rights or obligations under this Agreement to any third party without obtaining the Commission's prior written consent to such assignment, which the Commission may give or withhold in its sole discretion, provided such consent is not unreasonably withheld. In the event Beacon seeks the Commission's consent to any such assignment, Beacon shall provide to the Commission all relevant information concerning the identities of the persons or entities proposed to be involved in and an explanation of the purposes for the proposed assignment(s).

10.10 Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and certifies that he or she is the duly authorized officer or representative of such Party, that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party, and that all necessary action to execute and deliver this Agreement has been taken by such Party.

10.11 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.

10.12 Exhibits. All exhibits described herein and attached hereto are incorporated into this Agreement by reference.

10.13 Entire Agreement. No representation, promise, or inducement not included in this Agreement will be binding upon the Parties hereto. This Agreement cannot be modified except by mutual agreement of the Parties set forth in a written instrument signed by the Parties' authorized representatives.

10.14 Time. Time is of the essence of this Agreement.

Signature Page Follows

IN WITNESS WHEREOF, the Parties hereby execute this Agreement to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT
COMMISSION

Troy Warner, Vice President

ATTEST:

Vivian Sallie, Secretary

BEACON HEALTH SYSTEM, INC.

Jeffrey P. Costello, Chief Financial Officer

MEMORIAL HOSPITAL OF SOUTH BEND, INC.

Larry A. Tracy, Jr., President

EXHIBIT A

Description of Beacon Property

Key Number: 018-1011-0400

Legal Description: Lot 1A Ex pt sold for Street Memorial Hospital 2nd Replat cont 11.46Ac
17/18Split#21068 3-28-2016 10/11NP#4437 07-02-2010 Fixed in 17/18

Commonly Known As: 621 Memorial Dr.

Key Number: 018-1014-0540

Legal Description: Lots 187 thru 189 & N 37.5' Lot 190 & Lots 195 thru 198 & E/W & N/S vac
alleys & S1/2 vac Navarre St N & adj O P South Bend

Commonly Known As: 531 N. Main St.

EXHIBIT B

Project Plan

Beacon will complete the construction of a development known as the “Memorial Patient Tower” and consisting of each of the following elements:

- Construct Two Hundred Thirty-Two Million (\$232,000,000.00) patient tower, inclusive of major enabling projects that support the patient tower.
- Complete Project by December 31, 2027, as evidenced by a certificate of occupancy and any other necessary licenses, certificates, or permits.

Beacon will complete the work contemplated herein in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations.

EXHIBIT C

Description of Local Public Improvements

The Commission will complete, or cause to be completed, the following work in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations:

The work to be performed shall include furnishing of all labor, services, materials, insurance, and equipment to provide for the demolition of the structure located at 531 N. Main St., South Bend, Indiana 46601, which is comprised of a 6-story office building. The work shall include the demolition and removal of the building, basement, and foundation, as well as the demolition and removal of site improvements. Work will also include the construction of a surface parking lot on the site of demolished building, the facilitation of a connection from the newly constructed parking lot to the existing courtyard of Memorial Hospital, vacation of a section of Navarre Street, and construction of a mutually acceptable pedestrian crosswalk improvement on Main Street to access the Memorial campus

Any and all costs associated with improvements not explicitly described this Exhibit and not approved pursuant to Section 3.10 (“Specifications for Local Public Improvements”) are the sole responsibility of Beacon. In the event the costs associated with the Local Public Improvements exceed the Funding Amount, the Commission will be responsible for funding the excess amount, and the Parties shall amend this Agreement as necessary to permit timely completion of the Local Public Improvements by the Commission or an agent of the Commission.

Local Public Improvements shall be constructed on the following parcels:

Key Number: 018-1014-0540

Legal Description: Lots 187 thru 189 & N 37.5' Lot 190 & Lots 195 thru 198 & E/W & N/S vac alleys & S1/2 vac Navarre St N & adj O P South Bend

Commonly Known As: 531 N. Main St.

Key Number: 018-1014-0546

Legal Description: 36' N. Side Lot 194 Original Plat of South Bend

Commonly Known As: 524 N. Lafayette Blvd.

Key Number: 018-1014-0547

Legal Description: 16 Ft N. Side 113 Ft. W. End Lot 193 30 Ft. S. Side Ex 20x52 Ft. SE Corner Lot 194 Original Plat of South Bend

Commonly Known As: 506 N. Lafayette Blvd.

Key Number: 018-1014-0548

Legal Description: 50 Ft. S. Side 113 Ft. W. End Lot 193 OP South Bend

Commonly Known As: 502 N. Lafayette Blvd.

Key Number: 018-1014-0549

Legal Description: 52 Ft. E. End Lot 193 20x52 Ft. SE Corner Lot 194 OP South
Bend

Commonly Known As: 215 W. Marion St.

Vacated Navarre Street as part of parcels Key Nos. 018-1014-540 (S ½) and 018-
1011-0400 (N ½)

EXHIBIT D

Form of Easement

GRANT OF TEMPORARY EASEMENT

THIS INDENTURE, made as of the _____ of _____, 2024 (the “Effective Date”), by and between Beacon Health System, Inc., 615 N. Michigan St., South Bend, Indiana 46601 (the “Grantor”), and the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, 1400S County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601 (the “Grantee”).

WITNESSETH:

For the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which Grantor hereby acknowledges, Grantor hereby grants, conveys, and warrants to Grantee a temporary, non-exclusive easement (the “Easement”) on, in, over, under and across the real property described in attached Exhibit 1 (the “Property”) for the construction, equipping, and delivery of certain improvements on the Property (the “Local Public Improvements”), together with the right of ingress to and egress from the Easement for said purposes, all pursuant to a certain Development Agreement by and between Grantor and Grantee, dated March 28 (the “Development Agreement”). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Development Agreement.

The Easement granted herein shall pertain to the air, surface, and subsurface rights and interests of Grantor, for the use and benefit of Grantee, and its successors and assigns, to the extent necessary to accomplish and carry out the construction, equipping, and delivery of the Local Improvements on the Property. The Easement hereby granted includes the right and privilege for Grantee at reasonable times to clean and remove from said Easement any debris or obstructions interfering with said Easement.

The Easement granted herein, and its associated benefits and obligations, shall inure to the benefit of Grantee and Grantee’s contractors acting on Grantee’s behalf in connection with the Local Public Improvements.

Notwithstanding anything contained herein to the contrary, unless extended in writing by Grantor, the Easement shall terminate and be of no further force and effect on the date (hereinafter, the “Construction Termination Date”) of the earliest of the following: (a) completion of the Local Public Improvements; (b) expiration or earlier termination of the Development Agreement; or (c) such earlier date as Grantor and Grantee may agree to in writing.

EXHIBIT 1

Description of Property

Local Public Improvements shall be performed on the following parcels:

Key Number: 018-1014-0540

Legal Description: Lots 187 thru 189 & N 37.5' Lot 190 & Lots 195 thru 198 &
E/W & N/S vac alleys & S1/2 vac Navarre St N & adj O P South Bend

Commonly Known As: 531 N. Main St.

Key Number: 018-1014-0546

Legal Description: 36' N. Side Lot 194 Original Plat of South Bend

Commonly Known As: 524 N. Lafayette Blvd.

Key Number: 018-1014-0547

Legal Description: 16 Ft N. Side 113 Ft. W. End Lot 193 30 Ft. S. Side Ex 20x52
Ft. SE Corner Lot 194 Original Plat of South Bend

Commonly Known As: 506 N. Lafayette Blvd.

Key Number: 018-1014-0548

Legal Description: 50 Ft. S. Side 113 Ft. W. End Lot 193 OP South Bend

Commonly Known As: 502 N. Lafayette Blvd.

Key Number: 018-1014-0549

Legal Description: 52 Ft. E. End Lot 193 20x52 Ft. SE Corner Lot 194 OP South
Bend

Commonly Known As: 215 W. Marion St.

Vacated Navarre Street as part of parcels Key Nos. 018-1014-540 (S ½) and 018-
1011-0400 (N ½)

EXHIBIT E

Form of Report to Commission

City of South Bend
Department of Community Investment

Development Agreement Review

Answer the below questions and return to the Department of Community Investment.

Project Information

Project Name: _____

Address: _____

Construction Completed to Date:

Project Schedule Update:

Itemized Accounting of Private Investment to Date:

Name: _____

Address: _____

Position: _____

Email: _____

Signature: _____

Date: _____

EXHIBIT F

Minimum Insurance Amounts

- | | | | |
|----|------------------------------------|----------------------|--|
| A. | Worker's Compensation | | |
| | 1. | State | Statutory |
| | 2. | Applicable Federal | Statutory |
| | 3. | Employer's Liability | \$100,000.00 |
| B. | Comprehensive General Liability | | |
| | 1. | Bodily Injury | |
| | | a. | \$5,000,000.00 |
| | | b. | \$5,000,000.00 |
| | | | Each Occurrence |
| | | | Annual Aggregate Products
and Completed Operation |
| | 2. | Property Damage | |
| | | a. | \$5,000,000.00 |
| | | b. | \$5,000,000.00 |
| | | | Each Occurrence |
| | | | Annual Aggregate |
| C. | Comprehensive Automobile Liability | | |
| | 1. | Bodily Injury | |
| | | a. | \$500,000.00 |
| | | b. | \$500,000.00 |
| | | | Each Person |
| | | | Each Accident |
| | 2. | Property Damage | |
| | | a. | \$500,000.00 |
| | | | Each Occurrence |

EXHIBIT G

Ground Lease

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AMENDED AND RESTATED
AGREEMENT FOR THE LEASE AND DEVELOPMENT
OF REAL PROPERTY WITHIN
THE SOUTH BEND CENTRAL DEVELOPMENT AREA
BY AND BETWEEN
THE SOUTH BEND REDEVELOPMENT COMMISSION
AND MEMORIAL HOSPITAL OF SOUTH BEND, INC.

STEPHEN E. JAMORSKI
ST. JOSEPH CO. RECORDER
STATE OF INDIANA
FILED FOR RECORD.

98 FEB - 3 PM 2:31

THIS AGREEMENT, made as of the 23rd day of JANUARY, 1998, by and among the CITY OF SOUTH BEND, DEPARTMENT OF REDEVELOPMENT, acting by and through the SOUTH BEND REDEVELOPMENT COMMISSION, (COMMISSION) and Memorial Hospital of South Bend, Inc., (DEVELOPER)

WITNESSETH:

WHEREAS, to further the objectives of the Redevelopment of Cities and Towns Act of 1953, as amended, being I.C. 36-7-14-1, et seq.:

1. The Commission has investigated areas within the corporate boundaries of the City of South Bend and has prepared and approved the South Bend Central Development Area Development Plan (Plan) to develop the area known as the South Bend Central Development Area. A copy of the Plan and amendments thereto have been recorded in the St. Joseph County Recorder's Office.
2. The Commission and Developer desire to cooperate in the development of certain real property situated in the South Bend Central Development Area according to the Plan and this agreement.
3. The Commission believes that developing the said real property according to this agreement is in the best interest of the health, safety and welfare of the City and its residents and complies with the public purposes and provisions of the Act and applicable federal, state and local laws under which the development has been undertaken and is being assisted.
4. Commission and Developer, by Memorial Health System, Inc., previously entered into an Agreement for the Lease and Development of Real Property Within the South Bend Central Development Area dated as of December 20, 1996, (the "Prior Agreement"). Commission and Developer now desire to supplement and amend the Prior Agreement, and wish to have this Agreement restate, replace and supersede the Prior Agreement in its entirety.

NOW, THEREFORE, in consideration of the mutual promises and obligations in this agreement the Commission and Developer agree as follows:

SECTION I. DEFINITIONS.

"**Agreement**" means this development agreement between the Commission, and Developer.

"**Bonds**" means lease rental revenue bonds or revenue bonds issued by the City of South Bend in an amount sufficient to fund the design, construction and acquisition of the Parking Garage and Public Plaza.

"**Common Area Charge**" means an annual payment to be paid by the Developer to the Commission in consideration of the physical support and enhancement to the Memorial-Leighton Health•Plex provided by the Parking Garage and Public Plaza.

"**Construction Manager**" means a firm qualified and experienced in the field of construction management which shall be selected by Developer and Commission to coordinate the construction of the MEPT Building and the Memorial Building on the surface of the underground level of the Parking Garage and attendant issues.

"**Lease Agreement**" means the Ground Lease between the Commission and Developer for the lease of the Leased Site, substantially in the form attached as Exhibit A, hereto.

"**Leased Site**" means that portion of Property more particularly described at Exhibit B, hereto, to be leased by the Commission to the Developer pursuant to the Lease Agreement, including the entirety of the surface of the concrete deck which is the roof of the Parking Garage contained within the perimeter of the Leased Site and all air rights above that surface, but excluding any portion of the Property extending below the surface of the Parking Garage roof deck which is used as a parking garage.

"**Memorial-Leighton Health•Plex**" means an approximately 75,000 square foot multi-use building to be constructed by Developer on the Leased Site.

"**MEPT**" means Riggs & Company, a division of Riggs Bank N.A., as trustee of the Multi-Employer Property Trust, a Trust organized under 12 C.F.R. Section 9.18.

"**MEPT Site**" means that portion of the Property to be leased to MEPT, more particularly described at Exhibit E, hereto.

"**Office Building**" means a multi-tenant office building containing not less than 60,000 square feet of leasable Class A office space to be constructed by MEPT upon the MEPT Site.

"**Parking Garage**" means the parking structure, including appurtenant access drives and ramps, for motor vehicles to be constructed by the Commission below ground level at the Property and above ground level on a portion of the Property, as depicted at

Exhibits C-1 and C-2, hereto. The Parking Garage shall include approximately 215 underground parking spaces and approximately 429 above-ground parking spaces.

"Property" means the real property located in South Bend, St. Joseph County, bounded generally by Jefferson Street to the south, Michigan Street to the east, Washington Street to the north and Main Street to the west, more particularly described at Exhibit D.

"Public Plaza" means the improved Public Plaza Site.

"Public Plaza Site" means that portion of the Property depicted at Exhibit C-3 hereto, upon which the Commission is to construct the Public Plaza.

"Urban Design" means Urban Design Group, Inc., 4850 Sears Tower, Chicago, IL 60606.

"Walker" means Walker Parking Consultants/Engineers, Inc., 7330 Shadeland Station, Suite 100, Indianapolis, Indiana 46256.

SECTION II. LEASE

A. Lease Agreement. Subject to all of the terms of this Agreement and of the Lease Agreement, the Commission agrees to lease to the Developer and the Developer agrees to lease from the Commission the Leased Site for a period of fifty (50) years and extended terms under Options to Extend. All as set forth in the Lease Agreement.

B. Title Insurance. The Commission shall procure from St. Joseph Title Corp. and furnish the Developer a lessee's title insurance policy for the Leased Site which insures the Developer's leasehold interest in a sum equal to prepaid lease rental provided in the Lease Agreement, and subject only to those exceptions agreed upon by the Commission and Developer.

C. Commission's Title. The Commission's title to the Property shall be, and the Commission hereby represents and warrants to the Developer that the same is, good, merchantable and marketable fee simple title, free and clear of any liens, encumbrances, except as provided in Section II.B. of this Agreement.

SECTION III. PROJECT DEVELOPMENT

A. Architect and Engineers - The Commission shall retain, at its sole expense, Walker to design, prepare plans and specifications for, and to oversee the bidding and construction of, the Parking Garage and the structural slab upon which the Public Plaza is to be constructed. The contract between the Commission and Walker shall require Walker to subcontract with Matthews Purucker Anella, Inc. to perform architectural design services relating to the Parking Garage facades, stair and elevator towers and the interior of the Parking Garage retail space.

The Commission shall retain Urban Design to design, prepare plans and specifications for, and to oversee the bidding and construction of, the Public Plaza.

The Developer shall retain, at its sole expense, Urban Design to design, prepare plans and specifications for, and to oversee the bidding and construction of, the Memorial-Leighton Health•Plex. Developer shall be responsible, either through Urban Design or such other architect of Developer's choosing, for the design and construction of the surface of the Parking Garage contained within the perimeter of the Leased Site, as the same shall serve as the ground floor of the Memorial-Leighton Health•Plex. The Developer shall bear all costs associated with the increased design and construction costs to allow the portion of the surface of the Parking Garage contained within the perimeter of the Leased Site also to serve as the ground floor of the Memorial-Leighton Health•Plex.

The agreement between the Developer and Urban Design for architectural services shall require Urban Design, and any engineering consultant to Urban Design under such contract, to work cooperatively and coordinate its work program with Walker and to provide Walker with any and all information as may be required by Walker to allow Walker to design that portion of the Parking Garage that will serve as the foundation and support of the Memorial-Leighton Health•Plex. The agreement between the Commission and Walker for architectural services shall require Walker to work cooperatively and coordinate its work program with Urban Design in the design of that portion of the Parking Garage that will serve as the foundation and support of the Memorial-Leighton Health•Plex. Prior to the execution of any agreement with Walker by the Commission, Walker shall provide verification of and policy information concerning professional liability insurance coverage, the amount of such coverage and the name and address of the insurance carrier, all to the satisfaction of the Developer.

B. Survey - The Commission shall procure from Lang Feeney & Associates a boundary survey of the Property and a boundary survey of the Leased Site and any additional surveys as may be necessary for the development contemplated by this Agreement. The boundary survey of the Leased Site will be secured after the finalization by Developer of its final design for the Memorial-

Leighton Health•Plex. To the extent the surveys may be upgraded in order to allow standard title exceptions to be waived, the Developer may request and pay for such upgrade.

SECTION IV. CONSTRUCTION - COMMISSION

A. Parking Garage

1. Design. The Commission shall construct the Parking Garage at the Property. The Parking Garage shall be substantially of the same size, scope and nature as that specified at Exhibit F, hereto, and as designed by Walker pursuant to its proposal to the Commission dated December 6, 1996, shall conform to all plans and specifications approved by the Design Development Administrator for the City of South Bend and the Developer, and shall include the following minimum features:

a. approximately 680 total parking spaces, a minimum of 120 of which shall be made available for lease by Developer, subject to Section IV.A.3, below.

b. minimum clearance of 8'2".

c. a minimum of three (3) elevators, one (1) of which shall enter the Memorial-Leighton Health•Plex from the Parking Garage, the cost of the construction of such elevator shall be borne solely by Developer; one (1) of which shall enter the Trammell Crow Building from the Parking Garage, the cost of the construction of such elevator shall be borne solely by Trammell Crow; and at least one (1) of which shall enter at and above grade levels of the Parking Garage from the Parking Garage, the cost of the construction of such elevator shall be borne solely by the Commission.

d. approximately 11,000 square feet of leasable retail space at grade level in the Parking Garage, facing Michigan Street.

e. complementary in design and exterior materials with the design and exterior materials of the Memorial-Leighton Health•Plex and MEPT Building.

f. designed and maintained to assure the structural integrity of the support it provides for the Memorial-Leighton Health•Plex. Neither the Commission nor its designee may take any action or make any change to the Parking Garage that compromises the integrity of the structural support provided to the Memorial-Leighton Health•Plex.

2. Operations.

a. The Parking Garage shall be available for use by patrons of the Memorial-Leighton Health•Plex from 6:00 A.M. - 9:00 P.M., Monday - Friday; 8:00 A.M. - 6:00 P.M., Saturday; 10:00 A.M. - 6:00 P.M. Sunday, or such other hours as mutually agreed upon by the Developer and Commission.

b. The Commission shall maintain the Parking Garage and keep it clean from trash, defacing marks and other debris.

c. The Commission shall provide a minimum of one (1) employee to oversee the daily operation of the Parking Garage at all times during which the Parking Garage is available for use, as set forth above. Should the Developer and the Commission agree there is a need to post security personnel or take other measures to ensure the safety of persons and property within the Parking Garage, the Commission and Developer shall share in the cost of the provision of such security.

d. The Developer may institute a validation procedure with the cooperation of the Commission to facilitate the use of the Parking Garage by Developer's patrons.

e. The Commission shall not permit or suffer the presence of any food vending machines or any other manner of food vending or food sales in the Parking Garage, but not including the retail space and not including special events conducted at the Parking Garage by or with the approval of the Commission, upon notification in advance to the Developer.

f. The Commission shall not permit or suffer the presence of any signage in the Parking Garage, but not including in, outside of or at the retail space, without the prior approval of the Developer.

3. Lease of Parking Spaces. Subject to the minimum parking requirements of the Developer set forth at Section IV.A.1.a., the Developer and MEPT shall be given the first opportunity to lease parking spaces in the Parking Garage, prior to the opening of the Parking Garage for use by the public. Thereafter, the Developer and MEPT may lease additional parking spaces, to the extent the same are available. To the extent there are no additional parking spaces available for lease at the time requested by Developer, Developer shall have the first right to lease any parking spaces as they come available, subject only to the equivalent right of MEPT. As between MEPT and the Developer, the Commission shall give preference in leasing to the request that is best in terms of the development of the South Bend Central Development Area, which decision shall be within the sole discretion of the Commission.

B. Public Plaza. The Commission shall construct the Public Plaza at the Public Plaza Site. The Public Plaza shall be substantially of the same size, scope and nature as that specified at Exhibit C-3, hereto, and as designed by Urban Design pursuant to its proposal to the Commission, dated December 20, 1996, shall conform to all plans and specifications approved by the Design Development Administrator for the City of South Bend and the Developer, and shall include the following minimum features:

1. complementary in design and materials with the design and exterior materials of the Memorial-Leighton Health•Plex and MEPT Building,

2. sidewalks surrounding the Property on its south, east and western boundaries.

C. Time for Construction. Construction of the Parking Garage on the Property shall begin on or before June 30, 1997. Construction of that portion of the Parking Garage located under the Leased site and necessary to allow the construction of the Memorial-Leighton Health•Plex to commence shall be completed not later than November 15, 1997. Construction of the Parking Garage shall be completed on or before March 1, 1999. The obligation of the Commission to construct the Parking Garage is expressly conditioned upon the issuance of the Bonds.

Construction of the Public Plaza on the Public Plaza Site shall commence on or before July 31, 1998, and shall be substantially completed not later than August 1, 1999. The obligation of the Commission to construct the Public Plaza is expressly conditioned upon the issuance of the Bonds.

In the event the Bonds are not issued by June 1, 1997, the Commission or the Developer may terminate this Agreement and the Lease and any other agreements with the City of South Bend, Indiana pertaining to this project and Developer shall receive a full refund of the Deposit, plus any interest accruing thereon, and any other deposits which it has made, after which Developer may develop its project in a different location.

SECTION V. CONSTRUCTION - DEVELOPER

A. Nature of Improvements. The Developer shall construct the Memorial Leighton Health•Plex. The construction of the Memorial-Leighton Health•Plex on the Leased Site shall be substantially of the same size, scope and nature as that specified at Exhibit G, hereto, and as designed by Urban Design pursuant to its proposal to the Developer, dated November 27, 1996, and shall substantially conform to all plans and specifications approved by the Design Development Administrator for the City of South Bend.

The Memorial-Leighton Health•Plex shall include the following minimum features:

1. approximately 75,000 square foot leasable/useable floor space
2. a minimum height of four (4) stories
3. a mix of uses that includes health and fitness facilities available to the public on a membership basis, community education, clinical treatment programs, orthopedic therapy, physical therapy, educational instruction, and office uses
4. complementary in design and exterior materials with the design and exterior materials of the MEPT Building and Parking Garage
5. the design and installation of landscaping and site improvements within the perimeter of the Leased Site
6. the installation of signage, as permitted pursuant to policies and guidelines jointly established by the Developer, the Commission and MEPT.

B. Time for Construction. Construction of the Memorial-Leighton Health•Plex on the Leased Site shall begin within one (1) month of the date on which that portion of the Parking Garage located under the Leased Site and necessary to allow the construction of the Memorial-Leighton Health Plex to commence is completed. Construction of the Memorial-Leighton Health•Plex shall be completed on or before February 28, 2000.

C. Building Trades Labor - Developer shall construct the Memorial-Leighton Health•Plex primarily through a contractor or contractors signatory to a collective bargaining agreement with the St. Joseph County Building Trades.

SECTION VI. TIME FOR CERTAIN OTHER ACTIONS.

A. Time for Submitting Plans to Design Development Administrator. The Developer shall submit preliminary construction plans for the Project to the Design Development Administrator for the City of South Bend for review and approval by February 1, 1997, and shall secure the approval of the Design Development Administrator to the final site plan for the Memorial-Leighton Health•Plex prior to the commencement of construction.

B. Progress Reports. From the date of this Agreement until the Commission issues the Certificate of Completion, the Developer

shall make progress reports in such detail, at such times and in such manner as the Commission may reasonably request, and at such time as the Developer may desire. It is the expressed intention of the Developer to work closely and cooperatively with the Commission and its agents in the design of the Memorial-Leighton Health•Plex and during construction thereof, but the parties agree that speed and accuracy during construction is essential and Developer must be free to rely on timely approvals or proposed changes by the Commission or its agents.

C. Legal Status of Developer. Prior to the execution of the Lease Agreement, the Developer has provided to the Commission of Developer's legal status as an Indiana non-profit corporation.

SECTION VII. COORDINATION OF CONTRACTORS

The Commission shall retain Construction Manager to perform construction management services in order to coordinate the timing and logistics of the construction of the Parking Garage, the Memorial-Leighton Health•Plex, and the MEPT Building. All costs associated with construction management services relating exclusively to the construction of the Parking Garage shall be borne exclusively by the Commission. All costs associated with construction management services relating exclusively to the construction of the Memorial-Leighton Health•Plex shall be borne exclusively by the Developer. All costs associated with construction management services relating exclusively to the construction of the MEPT Building shall be borne exclusively by MEPT. All costs associated with the services performed by Construction Manager, but not including any services relating exclusively to the construction of the MEPT Building or to exclusively to the Memorial-Leighton Health•Plex, shall be split equally among the Commission, Developer and MEPT: Provided, however, that in the event MEPT fails or refuses to share in the cost of the services provided by Construction Manager, the Commission shall not be liable for and shall not pay any portion of MEPT's obligation to Construction Manager under this Agreement or separate agreement with Construction Manager, and in that event, the Developer shall bear MEPT's share of this cost. The Commission, Developer and MEPT shall enter into an escrow agreement to fund Construction Manager's services. Such agreement shall require that the Developer and MEPT advance their respective shares of the contract between the Commission and Construction Manager prior to the execution of the contract for construction management services and that payments from the escrow be allocated equally among the deposits: Provided, however, that the Commission shall deposit its respective share of the cost into the escrow only upon the issuance of the Bonds and, prior to that time, the escrowed deposits of the Developer and MEPT will cover the Commission's payment obligations, subject to the rights of reimbursement and set-off upon the deposit of the Commission's deposit.

SECTION VIII. FAITHFUL PERFORMANCE GUARANTEE

A. Amount. At or prior to the time of executing this Agreement, the Developer delivered to the Commission a faithful performance guarantee in a form satisfactory to the Commission in the amount of ten percent of the rental set forth at Section II.A., above (Deposit) as security for performing its obligations under this Agreement. The Commission shall deposit the Deposit in an interest bearing account.

B. Retention by Commission. If before the issuance of a Certification of Completion as provided in Section IX. of this Agreement, the Developer defaults in its obligations under this Agreement and fails to cure such defect as this Agreement provides, then the Commission may exercise any and all rights it may have pursuant to the Deposit without any reduction, offset, or recoupment, as liquidated damages. Exercise of these rights shall be in addition to any other remedies and shall not waive any other right under this Agreement or other laws.

C. Return to Developer. Upon issuing the Certificate of Completion upon completion of redevelopment as required by this Agreement, the Commission shall return the Deposit to the Developer, along with any interest that may have accrued thereon.

SECTION IX. COMPLETION.

A. Certificate of Completion. Promptly after the Developer completes construction of the Memorial-Leighton Health•Plex under this Agreement and in substantial accordance with the plans and specifications approved by the Commission, the Commission shall furnish the Developer with a Certificate of Completion. This Certificate shall be a conclusive determination of satisfaction and termination of all covenants, requirements, obligations and the like in this Agreement. After the issuance of the Certificate of Completion by the Commission, neither the Commission nor any other party shall thereafter have or be entitled to exercise any rights, remedies, or controls otherwise available with respect to the Leased Site or any easement or other portion of the said Leased Site as a result of a default in or breach of any provisions of this Agreement by the Developer or any successor in interest or assign.

B. Form of Certification. Each Certification provided for in this Section shall be in such form as to be recordable in the St. Joseph County Recorder's Office.

C. Refusal or Failure to Provide Certification. If the

Commission refuses or fails to provide Certification within thirty (30) days after the Developer's written request, the Commission shall provide the Developer with a written statement indicating how the Developer failed to comply with the provisions of this Agreement and giving the measures necessary, in the Commission's opinion, for the Developer to take in order to obtain such certification.

SECTION X. COMMON AREA CHARGE

Developer shall pay to the Commission on December 1, 1998 and each December 1 thereafter, a Common Area Charge during the term of the Lease Agreement, and any extension thereof, as follows:

1998	\$ 7,500
1999	\$ 7,500
2000	\$ 32,000
2001	\$ 55,000
2002	\$ 80,000
2003	\$ 92,000
2004	\$108,000
2005	\$125,000
2006	\$138,000
2007 and thereafter	\$150,000

Provided, however, that the amount of any real property taxes paid by the Developer in any calendar year in respect of the Property and/or the improvements thereon shall serve to reduce by a corresponding amount the amount of the Common Area Charge paid by the Developer to the Commission in such calendar year.

SECTION XI. EASEMENTS

A. Foundation Easements. The Commission shall, by separate instrument, grant to Developer, its successors and assigns, for the benefit of the Leased Site and as appurtenant thereto, the perpetual right, privilege and easement, subject to termination as provided herein, to use those portions of the Property which are designated as the Memorial-Leighton Health•Plex Foundation Easements for the construction, maintenance, repair, replacement and operation therein of underground foundations, footings, piles, caissons, columns and building supports for the Memorial-Leighton Health Plex: Provided, however, that the design and construction of said facilities must be consistent with and not compromise the structural integrity of the Parking Garage, and that the design of said facilities being subject to the approval of the Commission: Provided, further, that the increased cost to the construction of that portion of the Parking Garage constructed within the Memorial-Leighton Health•Plex Foundation Easement

necessitated by its service as the footings, foundations and support for the Memorial-Leighton Health•Plex shall be borne by Developer.

B. Easements for Underground Utilities and Mechanical Systems. The Commission shall, by separate instrument, grant to Developer, its successors and assigns, for the benefit of the Leased Site and as appurtenant thereto, the perpetual right, privilege and easement, subject to termination as provided herein, to construct, use, maintain, repair, and replace, in, under and on that portion of the Property located under the Leased Site, at such locations determined by Urban Design, provided that such locations are determined by Walker not to interfere or unreasonably complicate or increase the cost of the operation, use and maintenance of the Parking Garage, underground pipes, wires, conduits, heating and ventilation systems, elevator machine room and pits, electrical equipment vault or room, insulation on the underside of the slab under the Leased Site, service entrance, and other similar facilities, appliances or equipment to supply the Developer building with heat, air conditioning, electricity, gas, water, storm and sanitary sewer and telephone services and other utility services for the proper and convenient use and operation thereof (together with the right of ingress and egress for the installation, maintenance, repair and replacement thereof): Provided, however, that Developer shall observe, fulfill and comply with certain protocol to be established by the Commission concerning notification and the manner and timing of such activities.

C. Elevator Easement. The Commission shall, by separate instrument, grant to Developer, its successors and assigns, for the benefit of the Leased Site and as appurtenant thereto, the perpetual right, privilege and easement, subject to termination as provided herein, to use those portions of the Property which are designated as the Memorial-Leighton Health•Plex Elevator Easement Areas for the construction, maintenance, repair, replacement and operation therein of an elevator providing access between the below grade level of the Parking Garage below the Leased Site and the Leased Site and the ground and upper levels of the Memorial-Leighton Health•Plex: Provided, however, that the design and construction of the elevator and supporting and related machinery and equipment shall be the responsibility of, and the cost of the same shall be borne by, Developer.

D. Public Plaza and Parking Garage Easement. The Commission shall, by separate instrument, grant to Developer, its successors and assigns, for the benefit of the Leased Site and as appurtenant thereto, the perpetual right, privilege and easement, subject to termination as provided herein, of ingress and egress in, over and across the Public Plaza and Parking Garage to permit access to the Memorial-Leighton Health•Plex and Michigan Street, Jefferson Boulevard and Main Street.

E. Public Art and Monument Sign Easement The Commission shall, by separate instrument, grant to Developer, its successors and assigns, for the benefit of the Leased Site and as appurtenant thereto, the perpetual right, privilege and easement, subject to termination as provided herein, for the installation, maintenance, repair, and replacement of a monument sign advertising the identify of and tenants within the Memorial-Leighton Health•Plex and public art in the form of sculpture or such other form as approved by the Commission: Provided, however, that the design, installation and maintenance of such signs and public art shall be the responsibility of, and the cost of the same shall be borne by, Developer.

SECTION XII. PARKING GARAGE RETAIL

The Commission agrees with Developer that approximately 11,000 square feet of floor space for retail purposes will be made available for rent to the public by the Commission in the Parking Garage at the eastern perimeter of the Parking Garage.

For purposes of this Agreement, the term "retail purposes" shall mean any business which offers tangible merchandise for sale to the consuming public, including but not limited to: books, cameras, candies and nuts, small electrical appliances, apparel, shoes, sporting goods, hardware, toys, household accessories, drugs, toiletries and sundries, and shall also include restaurants, coffee shops, and other similar services and establishments, but shall not those business uses listed at Exhibit H, hereto.

SECTION XIII. MANAGEMENT OF PUBLIC PLAZA

The Commission shall operate and maintain the Public Plaza in a manner deemed by the Commission to be appropriate and in the best interests of the development. The Commission shall have the right (i) to establish, modify and enforce reasonable rules and regulations with respect to the Public Plaza; (ii) to enter into, modify and terminate easements, but not including any easement granted to Developer under Section XI.D, herein, and other agreements pertaining to the use and maintenance of the Public Plaza; (iii) to close all or any portion of the Public Plaza to such extent as may, in the opinion of the Commission, be necessary to prevent a dedication thereof or the accrual of any rights to any person or to the public therein beyond that deemed appropriate by the Commission, but not to exclude Developer and its licensees, invitees, and agents; (iv) to close temporarily any portion of the Public Plaza; (v) to do and perform such other acts in and to said areas and improvements as, in the exercise of its sound discretion, the Commission shall deem advisable, but in all cases consistent with the easements granted to Developer.

SECTION XIV. INSURANCE

A. Developer Liability Insurance.

1. Developer shall purchase and maintain such insurance or require its construction manager or contractors to provide such insurance as will protect Developer from claims set forth below which may arise out of or result from the Developer's construction of the Memorial-Leighton Health•Plex, whether such activities be by the Developer, its contractors or subcontractors or by anyone directly employed by any of them, or by anyone for whose acts any of them may be liable:

a. claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable;

b. claims for damages because of bodily injury, occupational sickness or disease or death of the Developer's or Developer's contractors employees;

c. claims for damages because of bodily injury, sickness or disease or death of any person other than Developer's or Developer's contractors' employees;

d. claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by Developer or Developer's contractors, or (2) by another person;

e. claims for damages, other than to the Memorial-Leighton Health•Plex itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

f. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and

g. claims involving contractual liability insurance.

h. umbrella excess liability coverage

Liability insurance shall include all major divisions of coverage and be on a comprehensive basis.

2. The insurance required by Section XI.A.1. shall be written for not less than the limits of liability specified in the Lease Agreement, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of

SECTION XV. PROHIBITIONS AGAINST ASSIGNMENT

A. Representations as to Development. The Developer represents and agrees that it has entered into this Agreement for the purpose of development of the Leased Site and none other. The Developer further recognizes that:

1. in view of the importance of the development of the Leased Site to the general welfare of the City,

2. the substantial financial and other public assistance that has been made available by law and by the federal and local governments for the purpose of making the development of the Leased Site and of the Property possible, and

3. the fact that a transfer in ownership of the Developer is for practical purposes an assignment by Developer of its obligations under this Agreement;

the qualifications and identity of the Developer and its stockholders or partners are of particular concern to the Commission. The Developer further recognizes that it is due to such qualifications and identity that the Commission is entering into this Agreement with the Developer, and in so doing is further willing to accept and rely on the obligations of the Developer for the faithful performance of all undertakings and covenants.

B. Prohibition Against Transfer of Interest. The Developer agrees for itself and any successor in interest that the Developer shall not change the identity of the parties in control of the Developer whether by increased capitalization, merger with another corporation, change in corporate structure or other amendments or otherwise prior to the issuance of a Certificate of Completion under Section IX, herein, without first having obtained prior written approval from the Commission. The Developer and the parties signing the Agreement on behalf of the Developer represent that they have the authority of all of its existing stockholders to agree to this provision on their behalf and to bind them with respect to it.

C. Prohibition Against Assignment of Agreement. The Developer represents and agrees for itself, its successors and assigns, that the Developer has not made or will not make:

1. any total or partial assignment of this Agreement; or

2. any contract or agreement for any total or partial assignment of this Agreement

without prior written approval of the Commission.

D. Approval of Qualifications Prior to Transfer. The Commission may require as conditions precedent to any approval of any assignment any and all information regarding the qualifications, financial responsibility, legal status, experience, background, and any and all other information it deems necessary or desirable in order to achieve and safeguard the purposes of this Agreement.

E. No Transfer of Developer's Obligations. Absent specific written agreement by the Commission to the contrary, no transfer or approval by the Commission thereof shall relieve the Developer or any other party bound in any way by the Agreement or otherwise with respect to the construction of the improvements and completion of the Memorial-Leighton Health•Plex from any of its obligations with respect thereto.

F. Information as to Interest. The Developer agrees that during the period between execution of this Agreement and the completion of construction of the Memorial-Leighton Health•Plex, the Developer will promptly notify the Commission of any act or transaction involving or resulting in any change in the ownership of the Developer of which it or any of its officers have been notified or otherwise have knowledge or information.

SECTION XVI. REMEDIES.

A. In General. Except as otherwise provided in this Agreement, upon any default in or breach of the Agreement by any party or any successor to such party, such party (or successor), upon written notice from the other, shall proceed immediately to cure or remedy such default or breach within thirty (30) days after receiving the notice. If action is not taken or not diligently pursued, or the default or breach is not cured or remedied within a reasonable time, the aggrieved party may institute proceedings necessary or desirable in its opinion to cure and remedy the default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations.

B. Termination by Developer Prior to Execution of Lease Agreement by Commission.

If the Lease Agreement is not executed by the Commission in the manner and condition and by the date provided herein, and any such failure is not cured within forty-five (45) days after the date of written demand by the Developer, this Agreement shall be terminated at the option of the Developer, by written notice to the Commission, and, except for return of the Deposit, the Commission and the Developer shall have no further rights against or liability to the others under this Agreement.

C. Termination by Commission Prior to Execution of Lease Agreement.

In the event that:

1. prior to the execution of the Lease Agreement by the Commission and in violation of this Agreement:

a. the Developer (or successor in interest) assigns or attempts to assign the Agreement or any rights therein or the Leased Site, or

b. there is any change in the ownership of the Developer or with respect to the identity of the parties holding ownership interests in the Developer or the degree thereof, which the Commission reasonably has refused to approve; or

2. the Developer does not submit reasonably satisfactory architectural and site plans, or evidence of necessary sufficient financing for the Memorial-Leighton Health•Plex, in satisfactory form and in the manner and by the dates respectively provided in the Agreement therefor; or

3. the Developer does not pay the Lease Rental and execute the Lease Agreement pursuant to this Agreement,

then this Agreement and any rights of the Developer in this Agreement and the Leased Site shall, at the option of the Commission, without need of the consent of the Developer, be terminated.

In the event of any default or failure referred to in subdivisions a., b., or c. of this Section XVI.C., which remains uncured by the Developer after notice and opportunity to cure have been provided by the Commission, the Deposit shall be retained by the Commission as liquidated damages and as its property without any deduction, offset, or recoupment whatsoever. Neither the Developer (or successor in interest) nor the Commission shall have any further rights against or liability to the other under this Agreement.

D. Termination of the Lease Agreement upon Happening of Event Subsequent to Execution of Lease Agreement. If subsequent to the execution of the Lease Agreement by the Commission and Developer prior to completion of the construction of the Memorial-Leighton Health•Plex as certified by the Commission:

1. the Developer (or successor in interest) shall default in or violate its obligations with respect to the construction of the Memorial-Leighton Health•Plex, including the nature and the dates for the beginning and completion thereof, or shall abandon or

substantially suspend construction work, and any such default, violation, abandonment, or suspension shall not be cured, ended, or remedied within three (3) months (six (6) months, if the default is with respect to the date of completion of the construction) after written demand by the Commission so to do; or

2. the Developer (or successor in interest) shall place thereon any encumbrance or lien unauthorized by the Agreement, or shall cause any levy or attachment to be made, or any materialmen's or mechanics' lien, or any other unauthorized encumbrance or lien to attach, and such taxes or assessments are not paid, or the encumbrance or lien removed or discharged or provision reasonably satisfactory to the Commission made for such payment, removal, or discharge, within ninety (90) days after written demand by the Commission so to do; or

3. there is, in violation of this Agreement, any transfer of any part of the Leased Site, or any change in the ownership of the Developer, or with respect to the identity of the parties in control of the Developer or the degree thereof as provided in Section XV, and such violation shall not be cured within sixty (60) days after written demand by the Commission to the Developer, then the Commission shall have the right to re-enter and take possession of the Leased Site and to terminate the Lease Agreement and revert in the Commission the estate leased by the Lease Agreement to the Developer. The intent of this provision, together with other provisions of the Agreement, is that the lease of the Leased Site to the Developer shall be made upon, and that the Lease Agreement shall contain, a condition subsequent to the effect that the event of any default, failure, violation, or other action or inaction by the Developer specified in this paragraph D the Developer's failure to remedy, end, or abrogate such default, failure, violation, or other action or inaction, within the period and in the manner stated in such subdivisions, the Commission at its option may declare a termination in favor of the Commission all the rights and interest in and to the Leased Site leased under the Lease Agreement to the Developer, and that all such rights and interests of the Developer, and any assigns or successors in interest to and in the Leased Site, shall revert to the Commission.

E. Reletting of Reacquired Property; Disposition of Proceeds.
Upon the termination of Developer's interest in the Leased Site as provided in Section XVI.D., above, the Commission shall use its best efforts to relet the Leased Site or part thereof as soon and in such manner as the Commission shall find feasible and consistent with the objectives of the South Bend Central Development Plan to a qualified and responsible party or parties (as determined by the Commission) who will assume the obligation of making or completing the construction of the Memorial-Leighton Health• Plex in its stead or of another project as shall be satisfactory to the Commission and in accordance with the uses specified for such Property or part thereof in the Plan. Upon such reletting of the Leased Site, the

proceeds shall be applied:

1. First, to reimburse the Commission, on its own behalf or on behalf of the City, for all costs and expenses incurred by the Commission, including but not limited to:

a. salaries of personnel, in connection with the recapture, management, and reletting of the Leased Site or part thereof, but less any income derived by the Commission from the Leased Site or part thereof in connection with recapture such management or reletting;

b. all taxes, assessments, water and sewer charges, and Common Area Charges with respect to the Leased Site and/or Memorial-Leighton Health•Plex or part thereof;

c. any payments made or needed to be made to discharge any encumbrances or liens existing on the Leased Site and/or Memorial-Leighton Health•Plex or part thereof at the time of revesting of title in the Commission or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer, its successors or transferees;

d. any expenditures made or obligations incurred in making or completing the construction or any part thereof on the Leased Site and/or Memorial-Leighton Health•Plex or part thereof;

e. and any amounts otherwise owing the Commission by the Developer and its successor or transferee; and

2. Second, to reimburse the Developer, its successor or transferee, up to the amount equal to the sum of the Lease Rental paid by it for the Leased Site (or allocable to the part thereof) and the cash actually invested by the Developer in construction on the Leased Site or part thereof.

Any balance remaining after such reimbursements shall be retained by the Commission as its property.

F. Other Rights and Remedies of Commission; No Waiver by Delay. The Commission shall have the right to institute such actions or proceedings as either may deem desirable for effectuating the purposes of this Section XVI.F. This would include the right to execute and record or file among the public land records in the office in which the Lease Agreement is recorded a written declaration of the termination of all the right, title, and interest of the Developer, and its successors in interest and assigns, in the Leased Site, and the full vesting of title in the Commission. Any delay by the Commission in instituting or prosecuting any such actions or proceedings or otherwise asserting

its rights under this Section XVI.F. shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way. This provision intends that the Commission should not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this paragraph because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved; nor shall any waiver in fact made by the Commission with respect to any specific default by the Developer under this paragraph be considered or treated as a waiver of the Commission's rights to any other defaults by the Developer under this paragraph or with respect to the particular default except to the extent specifically waived in writing.

G. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law or by the Agreement, shall be cumulative. The exercise by either party of any one or more of such remedies shall not preclude the exercise, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either such party with respect to the performance, manner or time thereof, any obligation of the other party, or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to that particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver of any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

H. Party in Position of Surety With Respect to Obligations. The Developer, for itself, its successors and assigns, and for all other persons who are or who shall become liable upon or subject to any obligation or burden under this Agreement, whether by express or implied assumption or otherwise, hereby waives, to the fullest extent permitted by law, any and all claims or defenses otherwise available on the ground of its or their being or having become a person in the position of a surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation on the generality of the foregoing, any and all claims and defenses based upon extension of time, indulgence, or modification of terms of contract.

SECTION XVII. Limitation upon Encumbrance of Property and Leased Site.

Prior to the Commission's issuing a Certificate of Completion, the Developer shall not:

1. engage in any transaction creating any encumbrance upon

the Property or Leased Site, whether by express agreement or operation of law; or

2. allow any encumbrance to be made on the Property or Leased Site.

SECTION XVIII. ENFORCED DELAY IN PERFORMANCE FOR CAUSES BEYOND CONTROL OF PARTY.

For the purposes of any of the provisions of the Agreement, neither the Commission nor the Developer, as the case may be, nor any successors in interest, shall be considered in breach of or in default in its obligations with respect to the preparation of the Property for the construction, or the beginning and completion of construction, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence. These include, but are not limited to, acts of God, acts of the public enemy, acts of the federal government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, or delays of subcontractors due to such causes. The purpose and intent of this provision is that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Commission with respect to the preparation of the Leased Site for development or of the Developer with respect to construction of the Memorial-Leighton Health•Plex, or the Commission with respect to construction of the Parking Garage and/or Public Plaza, as the case may be, shall be extended for the period of the enforced delays as determined by the Commission: Provided, That the party seeking the benefit of the provisions of this paragraph shall, within ten (10) days after the beginning of the enforced delay, have first notified the other party thereof in writing and of the cause or causes thereof, and shall have requested an extension for the period of the enforced delay.

SECTION XIX. NOTICES; APPROVALS

A. Notices. A notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

1. in the case of the Developer, is addressed to or delivered personally to the Developer as follows:

Memorial Hospital of South Bend, Inc.
615 North Michigan Street
South Bend, IN 46601

ATTN: Philip A. Newbold, President

with a copy to:

Barnes & Thornburg
100 North Michigan Street
South Bend, IN 46601; and

2. in the case of the Commission is addressed to or delivered personally in care of the Commission, 1200 County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601, or at such other address with respect to either such party as that party may from time to time designate in writing and forward to the other as provided in this Section.

B. Approvals. Unless written notification to the contrary is given, as provided above, Ann E. Kolata shall be and hereby is authorized to act as the representative of the Commission for purposes of the issuance of any approvals required under this Agreement. Unless written notification to the contrary is given, as provided above, Ted Foti or Philip A. Newbold shall be and hereby are authorized to act as the representative of the Developer for purposes of the issuance of any approvals required under this Agreement.

SECTION XX. MISCELLANEOUS.

A. Conflict of Interest; Commission Representatives Not Individually Liable. No member, official, or employee of the Commission shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he/she is, directly or indirectly, interested. No member, official, or employee of the Commission shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Commission or for any amount which may become due to the Developer or successor or assign or on any obligations under the terms of the Agreement.

B. No Partnership. Any intention to create a joint venture or partnership relationship between the parties is hereby expressly disclaimed.

C. Exhibits and Additional Instruments. The Commission and Developer agree, upon receipt of a request from any other, to execute additional instruments as may be necessary or desirable to evidence the easements granted pursuant to Section XI, or the termination of said easements, or the any other agreements made hereunder, in accordance with the terms and provisions thereof.

The Commission and Developer further agree that the Exhibits referenced in this Agreement shall be attached hereto and incorporated herein as the same become available, and shall be initialed by the persons referred to at Section XVIII.B., herein, to evidence the parties' approval of the same.

D. Recordation. A Memorandum of this Agreement shall be recorded in the office of the St. Joseph County Recorder immediately subsequent to its execution.

E. Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Project:

1. The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Developer will state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

F. Provisions Not Merged With Lease. None of the provisions of the Agreement are intended to or shall be merged by reason of any Lease transferring an interest in the Leased Site from the Commission to the Developer or any successor in interest, and any such Lease Agreement shall not be deemed to affect or impair the provisions and covenants of the Agreement.

G. Titles of Articles and Sections. Any titles of the several parts, sections, and paragraphs of the Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

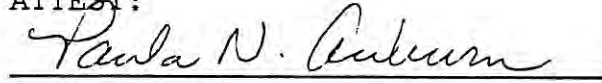
IN WITNESS WHEREOF, the Parties hereby execute this Agreement on the date first written above.

CITY OF SOUTH BEND
DEPARTMENT OF REDEVELOPMENT

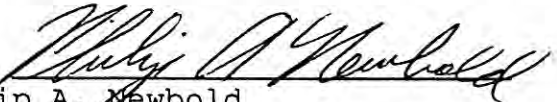


Robert W. Hunt, President

ATTEST:


Paula N. Auburn, Secretary

MEMORIAL HOSPITAL OF SOUTH BEND,
INC.

By: 
Philip A. Newbold
Its: President and C.E.O.

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

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the City of South Bend, Department of Redevelopment by Robert W. Hunt , President, and Paula N. Auburn , Secretary, and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on January 23, 1998.

C Cheryl K Phipps
Notary Public
Residing in St. Joseph County, IN
CHERYL K PHIPPS
NOTARY PUBLIC STATE OF INDIANA
ST. JOSEPH COUNTY
MY COMMISSION EXP. JAN. 7, 1999

My Commission Expires:

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

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Memorial Hospital of South Bend, Inc., by its President and C.E.O., Philip A. Newbold, and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on January 23, 1998.

Bruce R. Bancroft
Bruce R. Bancroft Notary Public
Residing in St. Joseph County, IN

My Commission Expires:
October 4, 2001

This document prepared by Anne E. Bruneel, Chief Assistant City Attorney, 1400 County-City Building, South Bend, Indiana 46601.

LEASE\MEMORIAL.3

EXHIBIT A

GROUND LEASE

THIS LEASE is entered into effective as of the ____ day of _____, 1998, by and between MEMORIAL HOSPITAL OF SOUTH BEND, INC. ("Memorial") and the CITY OF SOUTH BEND, INDIANA, DEPARTMENT OF REDEVELOPMENT, acting by and through the SOUTH BEND REDEVELOPMENT COMMISSION (the "Commission").

RECITALS

WHEREAS, the Commission, acting pursuant to its redevelopment authority under Ind. Code §36-7-14-1 et seq., has created the South Bend Central Development Area (the "Project Area") for the purpose of carrying out in such Project Area a redevelopment project and has adopted the South Bend Central Development Area Development Plan (the "Plan") to guide such redevelopment project. A copy of the Plan is recorded in the office of the Recorder of St. Joseph County, Indiana;

WHEREAS, the Commission is the owner of certain real estate more particularly described at Exhibit A hereto and hereinafter referred to as the Lease Parcel; and

WHEREAS, Memorial desires to lease the Leased Premises, which is a part of the Lease Parcel, from the Commission; and

WHEREAS, Memorial and the Commission desire to set forth their agreement with respect to the leasing of the Lease Parcel and certain other matters affecting the Lease Parcel.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Memorial and the Commission agree as follows:

ARTICLE I

DEFINITIONS

Terms defined in the Recitals shall have the meanings set forth therein. The following terms, when used in this Lease with initial capital letters, have the following respective meanings:

"Basic Rent" has the meaning set forth in Section 4.01.

"City" means the City of South Bend, Indiana.

"Commencement Date" has the meaning set forth in Section 3.01.

"Condemnation Proceeds" means the total aggregate award, including any award for the Commission's fee simple title or

Memorial's leasehold estate, in the event of a total taking or Constructive Total Taking of the Leased Premises.

"Constructive Total Taking" means a taking of such scope that the remaining portion of the Leased Premises and Improvements after restoration thereof is not suitable to achieve the objectives of Memorial.

"Development Agreement" means the Amended and Restated Agreement for the Lease and Development of Real Property Within the South Bend Central Development Area by and between the South Bend Redevelopment Commission and Memorial Hospital of South Bend, Inc., dated _____.

"Environmental Laws" means federal, state and local laws and implementing regulations, effective on or after the date of execution of this Lease, relating to pollution or protection of the environment, including laws or regulations relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances, wastes or materials into the environment (including, without limitation, ambient air, surface water, ground water or land), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances, wastes or materials. Such laws shall include, but not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §9601, et seq. the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §3251 et seq., the Clean Air Act, as amended 42 U.S.C. §1857, et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. §466 et seq., and Indiana Code, Title 13 - Environment, as amended.

"Improvements" means all buildings, structures, landscaping, driveways, walkways, parking lots, paved surfaces and other improvements which are to be located or constructed on the Lease Parcel as provided in this Lease.

"Lease Parcel" has the meaning set forth in Exhibit A.

"Leased Premises" has the meaning set forth in Exhibit A.

"Mortgage" or **"Mortgage Loan"** means both so-called permanent loans and interim building or construction loans, and all advances thereunder, relating to and secured by a mortgage lien upon the Commission's leasehold interest in the Leased Premises, or any part thereof, permitted under this Lease; and also shall refer to and include security agreements, financing statements and any other documentation evidencing such liens and encumbrances.

"Mortgagee" means the mortgagee or any assignee of the mortgagee under any Mortgage Loan.

"Plans" means preliminary construction plans prepared by or for Memorial in sufficient detail to show exterior design, structural design, exterior materials, positioning and appearance of the Improvements to be constructed on the Lease Parcel and landscaping plans (including a schedule of plants to be utilized).

"Rent" has the meaning set forth in Section 4.01.

"Taxes" means all real estate taxes, personal property taxes, special and general assessments, sewer service charges and other governmental impositions and charges of every kind and nature whatsoever, extraordinary as well as ordinary, which may be assessed, levied, or become due and payable with respect to, or become a lien on, the Leased Premises or Improvements, or any part thereof or appurtenance thereto.

"Term" has the meaning set forth in Article III.

"Unavoidable Delay" means and includes any delay caused by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, fire or other casualty, "acts of God", restrictive governmental authority, riots, insurrection, war, or the act, failure to act, or default of the other party, or other reason beyond the subject party's reasonable control and not avoidable by reasonable diligence.

ARTICLE II

LEASED PREMISES

Section 2.01. Warranty of Leasehold. The Commission hereby warrants and represents that it holds marketable title to the Lease Parcel and subject to those matters set forth at Section 2.03 and that it has the authority to convey to Memorial the leasehold estate hereby created.

Section 2.02. Leased Premises. The Commission hereby leases to Memorial and Memorial hereby leases from the Commission, upon and subject to the terms, conditions, covenants and provisions hereof, the Leased Premises described on Exhibit B attached hereto and made a part hereof, which is included as a part of the Lease Parcel, including the entirety of the surface of the concrete deck which is the roof of the Parking Garage contained within the perimeter of the Leased Premises and all air rights above that surface, but excluding any portion of the Leased

Premises extending below the surface of the Parking Garage roof deck which is used as a parking garage, and all appurtenances, rights, privileges, interests, tenements, hereditaments and easements in any way now or hereafter belonging or appertaining thereto, together with any interest that the Commission may now or hereafter have in any and all buildings, structures and improvements (including the "Improvements") that may now or hereafter be erected thereon (collectively referred to herein as the "Leased Premises"). The Leased Premises may be enlarged upon Memorial's request to allow construction and use of an elevator and stair tower to permit additions to the Memorial-Leighton Health•Plex.

Section 2.03. Leasehold Title. The leasehold estate created by this Lease and the Commission's rights hereunder are subject to the following:

(a) The lien of all real estate taxes, all general and special assessments and all other governmental dues, charges and impositions not delinquent;

(b) All easements, restrictions, agreements, covenants and other matters of record, including (without limitation), the building and use restrictions in the South Bend Central Development Plan as the same may be amended from time to time;

(c) All rights of the public, the State of Indiana and any political subdivision of the State of Indiana (including without limitation counties and municipalities) in and to that part of the Lease Parcel which has been taken or used for highways, streets, rights-of-way and related purposes;

(d) All applicable zoning, building and land use and other governmental restrictions, laws, ordinances, rules and regulations; and

(e) Bond indentures and related documents.

Section 2.04. Covenant of Quiet Enjoyment. Commission covenants and agrees that Memorial, upon paying the Rent to be paid by it as herein provided and upon keeping, observing and performing all other covenants and agreements to be kept, observed or performed by it hereunder, shall at all times during the Term have the peaceable and quiet enjoyment and possession of the Leased Premises, without hinderance from the Commission or anyone claiming under the Commission, subject to matters to which this Lease is subject as provided in the foregoing Section 2.03. Neither the Commission nor its designee may take any action or make any change to the Parking Garage, as defined in the Development Agreement, or any other portion of the Lease Parcel that compromises the integrity or in any manner affects the structural support provided to the Memorial-Leighton Health•Plex

or any other portion of the Leased Premises or improvements to be constructed thereupon.

ARTICLE III

TERM

The term of this Lease (the "Term") shall commence on November 15, 1997, or the date of substantial completion by the City of the structural slab which will serve as the ground floor of the Health•Plex, whichever is later (the "Commencement Date") and shall end on November 15, 2047, unless sooner terminated as provided in this Lease. The Commission hereby grants Memorial a series of four (4) consecutive irrevocable options to extend the term of this Lease each for an additional fifty (50) years, upon the same terms and conditions, except that the rental shall be for the annual sum of One Dollar (\$1.00). To exercise an option, the Memorial must not then be in default. The option will be deemed exercised with no notice or action required by Memorial unless and until Memorial gives written notice to the Commission not less than ninety (90) days before the end of the original term of this Lease that it does not intend to exercise the option.

ARTICLE IV

RENT

Section 4.01. Basic Rent. Memorial shall pay to the Commission as basic rent for the Leased Premises for the Term, the total sum calculated as the product of the total area, in square feet, of the surface of the Leased Premises and the rental rate of \$4.45 per square foot, the resultant product to be endorsed hereon, payable, in advance, upon the execution of the Lease Agreement (the "Basic Rent"). The Basic Rent shall be paid in full in advance on the Commencement Date. Any additional rent payments, as described in Section 4.02, below, shall be paid as provided in Section 4.02. If the Leased Premises are enlarged, additional rent shall be paid, and the amount of the additional rent shall be calculated in the same manner as the Basic Rent. The amount of the additional rent shall be paid upon the execution of an addendum concerning the increase to the Leased Premises and the amount of the additional rent shall be endorsed thereon.

Total Rental, Initial Term: Ninety-two Thousand Eight Hundred Eighty and 40/100 Dollars (\$92,880.40)

Section 4.02. Rent Payments. The term "Rent" as used herein shall mean and include Basic Rent and all additional sums,

and assignees shall use and occupy the Leased Premises for purposes consistent with its use and operation of a multi-use facility comprising office and health and fitness facilities available to the public on a membership basis, community education, physical therapy, orthopedic therapy, various clinical related programs and classes, any other similar programs related to the mission of Memorial, and for no other purposes without the prior permission of the Commission, which permission the Commission agrees not to unreasonably withhold or delay.

Section 5.02. Signs. Memorial shall have the right to erect and maintain on the Improvements and the Lease Parcel all signs that it deems appropriate to the conduct of its business, subject, however, to the provisions of the South Bend Municipal Code and to the approval of the Design Development Administrator of the City of South Bend. The Improvements shall be designated and known as the Memorial-Leighton Health•Plex.

Section 5.03. Compliance with Laws, Insurance Policies, Etc. During the Term, Memorial, at its expense, shall observe and comply with all present and future statutes, laws, ordinances, requirements, orders, rules and regulations (including, without limitation, the Americans With Disabilities Act and all Environmental Laws) of all governmental authorities and all orders, rules and regulations of the National Board of Fire Underwriters, the Indiana Board of Fire Underwriters, or any other body or bodies exercising similar functions, affecting the Leased Premises, or any part thereof, or the construction of the Improvements or the use or manner of use of the Lease Parcel and Improvements. If compliance with any such statute, law, ordinance, rule, regulation, order or requirement legally may be delayed pending the prosecution of any such proceeding, Memorial may delay such compliance until a final determination of such proceeding.

Section 5.04. Covenant Against Waste, Nuisance. Memorial shall not (i) commit or permit any waste to, or (ii) cause or permit any nuisance (public or private) to occur or exist in or on the Leased Premises, or any part thereof.

Section 5.05. Non-Discrimination. Memorial shall not discriminate on the basis of race, creed, color, ancestry, national origin, religion, handicap, sex or political affiliation in the leasing, use or occupancy of the Lease Premises and shall comply with all applicable federal, state and local laws and regulations prohibiting such discrimination.

Section 5.06. Hazardous Substances.

(a) Memorial covenants and agrees not to permit any "hazardous material" to be placed, held, located or disposed of upon, or released upon, under or at the Leased Premises, or any

part thereof. For purposes of this Lease, "hazardous material" means and includes any hazardous, toxic or dangerous waste, substance or material defined as such in, or for purposes of, any Environmental Law (excluding, however, consumer goods stored or handled in the same form or manner as sold to a consumer). To the extent any substance or material is regulated ("environmentally regulated material") by any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, now or at any time hereafter regulating, relating to or imposing liability or standards of conduct concerning any hazardous material, underground storage tanks or petroleum products placed, held, located or disposed of on the Leased Premises or Improvements, Memorial shall place, hold, locate or dispose of such environmentally regulated material in compliance with such applicable law: Provided, however, that nothing in this Section 5.06 shall prohibit the storage, use and disposal at the Leased Premises of common swimming pool chemicals available for commercial use, provided such storage, use and disposal is conducted in compliance with all federal, state and local laws.

(b) If Memorial has knowledge of or receives any notice of (i) the happening of any event affecting the Leased Premises involving the spill or discharge of any hazardous material which is required to be reported to the Indiana Department of Environmental Management or the United States Environmental Protection Agency (a "Hazardous Discharge") or (ii) any complaint, order, citation or notice with regard to air emissions, water discharges, noise emissions or any other environmental health or safety matter with respect to the Leased Premises (an "Environmental Complaint") from any person or entity, including without limitation the United States Environmental Protection Agency, Memorial shall give immediate notice thereof to the Commission disclosing full details of the Hazardous Discharge or Environmental Complaint, as applicable.

(c) Memorial shall indemnify and hold the Commission harmless from all loss, cost, claims, damages, fines, penalties, liability and/or expense, including but not limited to reasonable attorney's fees, incurred by any such party as a result of (i) any failure to observe the requirements in paragraph (a) above, (ii) an Environmental Complaint arising from any event or circumstance occurring during the Term, or (iii) a Hazardous Discharge occurring during the Term.

ARTICLE VI

ASSIGNMENT AND SUBLETTING

Section 6.01. Lease Termination Does Not Terminate Sublease. In the event of the termination of this Lease from any

cause whatsoever (including the voluntary surrender thereof by Lessee), and while any sublease allowed under this Lease Agreement is in full force and effect, such termination shall not act as a merger, and Memorial's interest as sublessor in each of said subleases shall be deemed automatically assigned, transferred, and conveyed to the Commission; and, from and after such termination, the Commission (as well as any such sublessee) shall be bound by the provisions of each of the subleases, then in full force and effect, on the part of Memorial (as sublessor) to be performed thereunder, and each of the sublessees shall be deemed thereupon (and without further act) to have been turned over or assigned by operation of law to the Commission. It is the intention hereof to provide that the termination of this Lease while any such sublease is in full force and effect shall not in any way, by reason thereof, terminate such sublease or militate against the rights of any such sublessee. The foregoing is further subject to the right of the Commission to terminate any sublease which is in default (notice thereof, if any required, having been given and the time for curing such default having expired), and to any other rights and remedies reserved to Memorial in any such sublease, and any other rights and remedies afforded to a lessor of real property against a defaulting lessee by law or in equity. The Commission will, at the request of Memorial, execute and deliver to any sublessee, or proposed sublessee, a document reciting, in substance, that any default by Memorial under this Lease or any termination of this Lease thereby, or otherwise, before the expiration of the term hereof, shall not, by reason thereof, affect the rights of such sublessee or proposed sublessee while such sublease or proposed sublease is in full force and effect.

Section 6.02. Default by Sublessee. Each such sublease entered into by Memorial covering any portion of the Lease Parcel shall contain a provision therein substantially providing that in the event the sublessee defaults in any of the provisions thereunder on the part of sublessee to be performed, after notice of such default and the failure to cure same by sublessee, Memorial may, after the expiration of the notice period (if notice is applicable), reenter that portion of the Lease Premises subleased by summary proceedings, or otherwise have the right to expel the sublessee; and shall further provide that the notice period for any default shall not exceed thirty (30) days for the nonpayment of any moneys due to Memorial and shall not exceed sixty (60) days for the failure to perform any other provision under such sublease on the part of sublessee to be performed, unless the performance of such other provisions cannot reasonably be accomplished within said sixty (60) day period, in which case sublessee may be permitted the additional time reasonably necessary to complete performance.

ARTICLE VII

TAXES

Section 7.01. Payment of Taxes and Assessments. To the extent the same are imposed, Memorial shall pay and discharge punctually, as and when the same shall become due and payable all Taxes which are due and payable with respect to the Lease Parcel and the Improvements, or any part thereof, or any appurtenances or equipment owned by or leased to Memorial thereon or therein during any calendar year (or part thereof within the Term or in which the Term ends), together with all interest and penalties thereon.

Memorial shall be deemed to have complied with the covenants of Section 7.01 if payment of Taxes shall have been made either within any period allowed by applicable law before the same shall become a lien upon the Lease Parcel or Improvements; or, if the Tax constitute a lien before it is due and payable, then, before any penalty or interest is assessed with respect thereto. Memorial shall send to the Commission satisfactory evidence of payment of Real Estate Taxes and any other payment hereunder if requested to do so by Memorial in writing. Memorial reserves the right to contest the assessment of the Leased Premises, following the procedures set forth for such contests in Indiana law.

Section 7.02. Proration of Real Estate Taxes. Real Estate taxes due and payable during the calendar year in which the Term ends shall be prorated based upon the number of days within such calendar year as shall fall within the last year of the Term. Memorial shall pay on the date of termination of this Lease such pro rata share of Real Estate Taxes due and payable during the calendar year in which the Term ends.

Section 7.03. Separate Assessments. Upon request of Memorial at any time, the Commission will make application individually, or will join in the Commission's application, and will execute such instruments as may be necessary or appropriate to obtain separate tax assessments for the Lease Premises and Improvements.

ARTICLE VIII

CONSTRUCTION OF IMPROVEMENTS

Section 8.01. Nature of Improvements. Pursuant to and in accordance with the terms and conditions of the Development Agreement, Memorial shall construct the Improvements.

Section 8.02. Incorporation of the terms and conditions of the Development Agreement. The terms and conditions of the Development Agreement are incorporated until such time as the Certificate of Completion as defined in the Development

Agreement, is issued. Until such time, any default by Memorial under the Development Agreement shall constitute a default under this Lease and shall entitle the Commission to exercise any and all rights and remedies provided in either the Development Agreement or this Lease or both.

ARTICLE IX

ALTERATIONS, REPLACEMENTS

Maintenance and Repair by Memorial. Memorial shall at all times during the Term, at its expense, keep and maintain or cause to be kept and maintained the Leased Premises and Improvements in good, clean and safe condition and repair including, without limitation, the making of all necessary structural repairs and replacements. The Commission shall not be required to furnish any services or facilities or to make any improvements, repairs or alterations in or to the Leased Premises or the Improvements during the Term.

ARTICLE X

MECHANICS' LIENS; INDEMNIFICATION; NONLIABILITY

Section 10.01. Mechanics' Liens. Memorial shall promptly after the filing thereof discharge of record, at Memorial's expense, any mechanics' materialmen's or other lien, or notice of intention to file any such lien, filed against the Leased Premises or Improvements or any part thereof or interest therein: Provided, however, that Memorial shall have the right to contest the validity of any such lien in any manner permitted by law so long as Memorial (i) shall provide to the Commission title insurance, an indemnity, bond or other assurance or security reasonably satisfactory to the Commission; and (ii) shall thereafter diligently proceed to cause such lien or notice of intention to file a lien to be removed and discharged. If Memorial shall fail to so discharge, or to seek to discharge, any such lien or notice of intention to file a lien, then the Commission may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond for the amount claimed or in such other manner as is or may be permitted by law, and Memorial shall reimburse and indemnify the Commission in respect thereto.

Section 10.02. Indemnification by Memorial. Unless allegedly caused or alleged to be caused by the several, joint, concurrent or comparative negligence, or sole negligence, of the Commission Memorial shall, at its sole cost and expense, indemnify and save harmless the Commission, against and from any and all claims, damages, losses, fines, penalties, liability,

costs and/or expenses (including but not limited to reasonable attorneys' fees) arising from Memorial's possession, use or control of the Leased Premises or Improvements or any part thereof; (ii) any condition of the Leased Premises or Improvements or any part thereof, (iii) any breach or default on the part of Memorial in the performance of any covenant or agreement on the part of Memorial to be performed pursuant to the terms of this Lease, (iv) any willful or negligent act or omission of Memorial, or any of its agents, contractors, licensees, subtenants or its or their servants, employees, customers or invitees, or (v) any accident, injury to or death of persons or damage to property whatsoever in or about the Leased Premises or Improvements or any part thereof; and in case any claim, action or proceeding shall be brought against the Commission by reason of any such claim, damage and/or liability, Memorial, upon written notice from such party, shall defend such action or proceeding with counsel acceptable to such party.

Section 10.03. Nonliability. The Commission shall not be responsible or liable to Memorial, or any person, firm or corporation claiming by, through or under Memorial for, or by reason of, (i) any injury or damage occurring during the Term to the Improvements or any equipment or apparatus or appliances in the Improvements, (ii) any failure or defect of water, heat, electric light or power supply, or of any apparatus or appliance in connection therewith, or for any injury or loss or damage to person or property resulting therefrom, or (iii) any injury, loss, or damage to any persons or to the Leased Premises or the Improvements, or to any property of Memorial or of any other person, contained in or upon the Leased Premises or the Improvements, caused by or arising or resulting from the electric wiring, or plumbing, water, steam, sewerage, or other pipes, or by or from any machinery or apparatus, or by or from any defect in or leakage, bursting or breaking of any of the foregoing the same, or by or from, any leakage, running or overflow of water or sewerage in any part of said premises, or by or from any other defect or other cause whatsoever, except where the same is caused by the negligence or intentional act of the Commission.

ARTICLE XI

INSURANCE

Section 11.01. Liability Insurance. Memorial shall maintain and keep in force at all time during the Term, with an insurance company or companies licensed to do business in the State of Indiana, selected by Memorial and acceptable to the Commission (i) comprehensive general public liability insurance covering any and all claims for injuries to or death of persons or damage to property occurring in or upon the Leased Premises and Improvements and having initial minimum levels of combined

coverage for bodily injury (including death resulting therefrom) and property damage, including umbrella coverage, of not less than Fifteen Million Dollars (\$15,000,000), for each occurrence and on an annual aggregate basis and (ii) workmen's compensation and employer's liability insurance in such amounts as shall be required by law from time to time, but in no event less than One Hundred Thousand Dollars (\$100,000) per accident. Memorial's comprehensive general public liability insurance shall have extensions of coverage to include blanket contractual liability for written and oral contracts, broad form property damage and premises operations (including explosion, collapse and underground coverage). In addition, Memorial shall maintain or cause its contractor(s) or construction manager to maintain products and completed operations coverage through the period ending two (2) years after completion of the construction of the Improvements. Each policy referred to in this Section 11.01 shall name the Commission as an additional insured. Such liability insurance may be provided by a single policy or combination of underlying policies, with the balance provided by an excess or umbrella liability policy; provided such excess or umbrella insurance complies with all of the other requirements of this Lease with respect to such insurance.

Section 11.02. Property Insurance. During the Term, Memorial shall keep the Improvements insured with an insurance company licensed to do business in the State of Indiana, selected by Memorial and acceptable to the Commission for the benefit of Memorial and the Commission, as their respective interests may appear, against loss or damage by fire or other casualty (including earthquake, to the extent customary and available on reasonable terms) covered by a customary extended coverage endorsement, in an amount equal to one hundred percent (100%) of the replacement cost thereof and providing for and having a deductible in an amount not exceeding Twenty Five Thousand Dollars (\$25,000). The replacement cost of the Improvements shall be certified by a registered architect, registered engineer, or professional appraisal engineer selected by Memorial and employed at the expense of Memorial at the time of completion of the Improvements and on or before each anniversary of such completion date thereafter during the Term: Provided, however, that such certification shall not be required so long as such insurance shall be maintained in an amount at least equal to the amount specified by Memorial or before such completion date and on or before each anniversary date thereof during the Term. Notwithstanding the foregoing, Memorial shall at all times maintain such insurance in an amount sufficient to meet all co-insurance requirements under such insurance policy. The Commission shall not carry any insurance concurrent in coverage and contributing in the event of loss with any insurance required to be furnished by Memorial hereunder, if the effect of such separate insurance would be to reduce the protection or the payment to be made under Memorial's insurance.

Section 11.03. Proof of Insurance. Memorial shall deliver copies of the insurance policies showing the coverages required by this Article XI to the Commission on or before the date of execution of this Lease, and thereafter a copy of each replacement policy shall be provided not less than ten (10) days prior to the expiration of the policy being replaced. Each such policy referred to in this Article XI shall contain a provision providing that the policy shall not be canceled, not renewed or materially amended without thirty (30) days prior written notice to the Commission and Memorial.

Section 11.04. Waiver of Subrogation. Memorial and the Commission waive all rights against each other and against those for whom the other is legally liable for all losses covered by insurance provided under this Article XI to the extent the upper limits of such insurance are adequate to cover such losses, and if not adequate, then to the maximum of the policy limits, it being the intent of this provision to allocate all risk of such loss to such insurance: Provided, however, that this waiver shall not be effective if it would preclude or prejudice the right of Memorial or the Commission to recover under such insurance policy. If the policies of insurance provided for under this Article XI require an endorsement to provide for continued coverage where there is a waiver of subrogation, Memorial will request such policies to be so endorsed.

Section 11.05. Insurance Proceeds. The proceeds of any and all policies of insurance upon the Improvements maintained pursuant to Section 11.02 remaining after any required payment to any Mortgagee shall be used as toward the repair, reconstruction, replacement or rebuilding of the Improvements.

The Commission, Memorial, and any Mortgagee shall cooperate fully in collecting such insurance proceeds and will execute and deliver any and all proofs, receipts, releases and other instruments whatsoever as may be necessary or proper for such purpose.

Section 11.06. General Provisions. In the event Memorial shall fail or refuse to obtain any insurance required by this Article XI, the Commission, in addition to any other right the Commission may have under this Lease at law or in equity, shall have the right to obtain such insurance. The cost of such insurance shall constitute a debt payable by Memorial upon demand of the Commission.

ARTICLE XII

DESTRUCTION

Section 12.01. Memorial's Obligation to Repair. If at any

time during the Term the Improvements shall be destroyed or damaged by fire or other cause, Memorial shall cause the same to be repaired, replaced or rebuilt within a period of time which, under all prevailing circumstances, shall be reasonable, subject to Unavoidable Delays. In the repair or restoration of any Improvements hereunder, Memorial will repair, replace or rebuild the Improvements so damaged or destroyed to their condition immediately before such damage or destruction, subject to all these applicable laws, ordinances, or regulations of any governmental authority affecting the same. If the insurance proceeds recovered in respect of any such damage or destruction, less any cost of recovery and any amounts required to be paid to any Mortgagee, shall be insufficient to pay the entire cost of such restoration, repair, replacement or rebuilding, Memorial shall provide for the deficiency. In such event, the time within which Memorial shall be required to commence and complete its obligations hereunder shall include a reasonable time to obtain and close the necessary commitments for equity or mortgage financing to cover the deficiency or deficiencies.

Section 12.02. No Rent Rebate. In no event shall Basic Rent or other charges due hereunder be rebated in the event of such damage or destruction.

ARTICLE XIII

CONDEMNATION

Section 13.01. Total Condemnation. If at any time during the Term there shall be a total taking or a Constructive Total Taking of the Leased Premises or any part thereof in condemnation proceedings or by any right of eminent domain or by a conveyance in lieu thereof, this Lease shall terminate on the date of such taking and the Rent payable by the Commission hereunder shall be prorated and paid to the date of such taking.

Section 13.02. Proceeds of Total Condemnation. In the event of any such total taking or Constructive Total Taking and the termination of this Lease, the Condemnation Proceeds shall be paid to Memorial but shall be applied by Memorial in the following order or priority:

(a) First, to the payment of expenses and charges, including without limitation reasonable attorneys' fees, incurred by Memorial in connection with such taking;

(b) Second, to any Mortgagee in the order of priority of such Mortgages to the extent of unpaid principal amount of such Mortgages and all accrued and unpaid interest thereon and all costs, expenses and advances pursuant thereto and all advances

made by such Mortgagee for the benefit of the leased Premises and the continued use and operation thereof;

(c) Third, to Memorial.

Nothing herein contained shall impair the right of Memorial to the full award, compensation or damages payable as an award for loss of business or for moving expenses, as long as such award shall not reduce the amount of the award otherwise recoverable by the Commission from the condemning authority.

Section 13.03. Partial Condemnation. In the event of a taking that is less than a Constructive Total Taking, this Lease shall not terminate or be affected in any way, except as provided in Section 13.04. The Condemnation Proceeds in such event shall be apportioned and paid, to the extent available (following any required payments to Mortgagees), in the following order of priority:

(a) Memorial and the Commission shall first be entitled to their expenses and charges, including without limitation reasonable attorneys' fees, incurred in connection with the taking;

(b) The balance of the Condemnation Proceeds shall be payable to Memorial for application by Memorial to the costs of restoring, repairing, replacing or rebuilding the Improvements in the manner then reasonably feasible as required by Section 13.04;

(c) The Condemnation Proceeds, if any, remaining after restoration, repair, replacement or rebuilding shall be paid to Memorial, except to the extent of an equitable portion of the Condemnation Proceeds allocable by agreement of the Commission and Memorial on account of any taking of title to any portion of the Lease Parcel.

Section 13.04. Restoration. In the event of a taking that is less than a Constructive Total Taking, Memorial shall proceed with due diligence, subject to Unavoidable Delays, to restore, repair, replace or rebuild the remaining portions of the Improvements substantially the same as before the taking. If the Condemnation Proceeds are insufficient to pay the entire cost of such restoration, repair, replacement or rebuilding, Memorial shall pay any such deficiency.

Section 13.05. Temporary Condemnation. If, at any time during the Term, the whole or any part of the Leased Premises or Improvements or the Commission's interest therein under this Lease shall be taken in condemnation proceedings or by any right of eminent domain for temporary use or occupancy, the foregoing provisions of this Article shall not apply, and, except to the

extent that Memorial may be prevented from so doing pursuant to the terms of the order of the condemning authority, Memorial shall perform and observe all of the other terms, covenants, conditions and obligations hereof upon the part of Memorial to be performed and observed, as though such taking had not occurred. In the event of any such taking of the character referred to in this Section 13.05, Memorial shall be entitled to receive the entire amount of the Condemnation Proceeds paid for such taking, whether paid by way of damages, rent, costs of moving or restoration or otherwise. Upon the expiration of any such period of temporary use or occupancy, if it be during the Term, Memorial will, at its sole cost and expense, restore the Improvements, as nearly as may be reasonably possible, to the condition in which the same were immediately prior to such taking.

Section 13.06. Rent Adjustment. In the event of a taking of the character referred to in Section 13.01, this Lease shall terminate as to the portion of the Leased Premises so taken. No such partial taking shall affect the Rent payable hereunder.

Section 13.07. Rights to Appear. Memorial, the Commission and any Mortgagee shall have the right to participate in any condemnation proceeding for the purpose of protecting their rights hereunder, and in this connection, specifically and without limitation, to introduce evidence to establish the value of or damage to the Lease Parcel, the Leased Premises, the Improvements or any part thereof.

ARTICLE XIV

MORTGAGES

Section 14.01. Restriction of the Commission Mortgages. During the Term, the Commission shall not have the right or power to mortgage or otherwise create any security or other liens or encumbrances upon or affecting its leasehold interest in the Lease Parcel or its interest in the Improvements, or any part thereof.

ARTICLE XIV

SPECIFIC PERFORMANCE

In addition to any other rights that Memorial or the Commission may have pursuant to this Lease, if the other fails or refuses to execute, acknowledge and deliver any instrument or instruments or to take any other action (other than an action solely involving the payment of any sum of money) required to effectuate provisions of this Lease within the time period required by this Lease or, if no time period therefor is

specified in this Lease, within any reasonable time period specified in any request from the other party, then from and after the date fifteen (15) days after the date of delivery of a final written demand to the other party requesting such execution, acknowledgment and delivery or other action, the requesting party shall be entitled to specific performance, declaratory relief, or such other remedies at law or equity which may be appropriate to effectuate the provisions of this Lease.

ARTICLE XV

DEFAULTS

Section 15.01. Events of Default. Each of the following events, if not remedied as hereinafter provided, shall be deemed an "Event of Default":

(a) Memorial's failure to pay any installment of Rent within ten (10) days of the date when the same shall be due and payable; or

(b) Memorial's failure to perform any other covenant or agreement herein contained on Memorial's part to be kept or performed and the continuance of such failure for a period of ninety (90) days after notice in writing to Memorial from the Commission specifying the nature of such failure, and provided the Commission shall not cure said failure as provided in Section 15.02.

Upon the occurrence of any Event of Default, the Commission may, at its option, give to Memorial a written notice of election to end the Term of this Lease upon a date specified in such notice, which date shall be not less than ninety (90) days after the date of delivery to Memorial of such notice by the Commission. The notice shall specify, in detail, the nature of the Event of Default claimed by the Commission, shall specify the date on which the Term of this Lease is to be ended, and shall be delivered as provided in Section 18.

Section 15.02. Extensions. If the Commission gives notice at any time of a default of a nature that cannot be cured within the ninety (90) day period provided in Section 15.01(b), then such default shall not be deemed an Event of Default so long as Memorial, following notice from the Commission, proceeds to cure the default as soon as reasonably possible and continues to take all reasonable steps necessary to complete the same within a period of time which, under all prevailing circumstances, shall be reasonable. In addition, no Event of Default shall be deemed to have occurred if and so long as Memorial shall be delayed in or prevented from curing the same within the applicable cure period by Unavoidable Delay.

Section 15.03. Remedies. Upon any Event of Default pursuant to Section 15.01, or at any time thereafter so long as the same is not cured, the Commission may, in addition to and without prejudice to any other rights and remedies the Commission shall have at law or in equity, (i) cure any such Event of Default and collect the cost thereof from Memorial upon demand or (ii) file suit in a St. Joseph County Court for damages and eviction.

During any period of possession hereunder, the Commission, at the Commission's option, may complete such construction, alterations, repairs, replacements and/or decorations in the Leased Premises as the Commission, in the Commission's reasonable judgment, considers advisable and necessary for the purpose of completion, leasing or reletting of the Improvements; and the making of such alterations, repairs, replacements, and/or decorations shall not operate or be construed to release Memorial from liability hereunder as aforesaid.

ARTICLE XVI

NON-WAIVER

Failure of Memorial or the Commission to complain of any act or omission on the part of the other party, however long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by Memorial or the Commission at any time, express or implied, of any breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. No acceptance by the Commission of any partial payment shall constitute an accord or satisfaction but shall only be deemed a part payment on account.

ARTICLE XVII

FORCE MAJEURE

In the event that Memorial or the Commission shall be delayed, hindered in, or prevented from the performance of any act required hereunder by reason of Unavoidable Delay, then performance of such act shall be excused for the period of the Unavoidable Delay and the period for the performance of any such act shall be extended for a period equivalent to the period of the Unavoidable Delay.

ARTICLE XVIII

NOTICES

No notice, approval, consent or other communication authorized or required by this Lease shall be effective unless the same shall be deemed given when either (i) hand delivered, with signed receipt obtained therefor, (ii) sent postage prepaid by United States registered or certified mail, return receipt requested, directed or addressed in each case to the other party at its address set forth below, or such other address as either party may designate by notice given from time to time in accordance with this Article XVIII or (iii) sent by nationally recognized overnight courier service with all charges prepaid or billed to sender.

The address for notices to Memorial is:

615 North Michigan Street
South Bend, IN 46601
Attn: President

with a copy to:

Barnes & Thornburg
100 North Michigan
South Bend, IN 46601

The address for notices to the Commission is:

1200 County-City Building
South Bend, IN 46601
Attention: Director of Redevelopment

with a copy to:

South Bend City Attorney
1400 County-City Building
South Bend, IN 46601

ARTICLE XIX

CERTIFICATES

Section 19.01. Either party shall, without charge, at any time and from time to time hereafter, within ten (10) days after written request of the other, certify by written instrument duly executed and acknowledged to any mortgagee or purchaser, or proposed mortgagee or proposed purchaser, or any other person, firm or corporation specified in such request:

(a) As to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment;

(b) As to the validity and force and effect of this Lease, in accordance with its tenor as then constituted;

(c) As to the existence of any default hereunder;

(d) As to the existence of any offsets, counterclaims or defenses thereto on the part of such other party;

(e) As to the commencement and expiration dates of the Term;

(f) As to whether or not the Plans for the Improvements required by Article VI have been accepted and approved by Memorial; and

(g) As to any other matters as may reasonably be so requested.

Any certificate referred to in this Article XIX may be relied upon by the party requesting it and any other person, firm or corporation to whom the same may be exhibited or delivered, and the contents of such certificate shall be binding on the party executing same.

Section 19.02. Specific Performance. Memorial shall be entitled to specific performance to enforce the provisions of this Article XIX, it being agreed that money damages is not an adequate remedy for any breach thereof.

ARTICLE XX

GENERAL

Section 20.01. Governing Law. This Lease and the performance thereof shall governed, interpreted, construed and regulated by the laws of the State of Indiana.

Section 20.02. Partial Invalidity. If any term, covenant, condition or provision of this Lease, or the application thereof to any person or circumstance, shall at any time or to any extent be held invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term, covenant, condition and provision of this Lease shall continue to be valid, binding and enforceable to the fullest extent permitted by law.

Section 20.03. Memorandum of Lessee. The parties shall, at the request of either of them, promptly execute and deliver

duplicate originals of an instrument, in recordable form which will constitute a memorandum of this Lease, setting forth a description of the Leased Premises, the term of this Lease and any other portions thereof.

Section 20.04. Remote Vesting. This Lease and all rights and interests created hereby are intended to comply in all respects with applicable common or statutory law, including the common law Rule Against Perpetuities or analogous statutory restrictions. Therefore, any provision of this Lease that shall be construed by a final, non-appealable judicial determination to create or permit to arise any interest in the Leased Premises that may vest in the future in any person, shall be deemed to prohibit the creation of such interest from and after the date which is twenty-one (21) years after the death of the survivor of the now living lawful descendants of any of the persons who are attorneys practicing in the Office of the South Bend City Attorney as of the date of this Lease.

Section 20.05. Interpretation. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The section headings and references to sections used herein are for reference and convenience only, and shall not enter into the interpretation hereof. This Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

Section 20.06. Entire Agreement. No oral statement or prior written matter shall have any force or effect. This agreement shall not be modified or canceled except by a writing signed by the parties.

Section 20.07. Parties. Except as herein otherwise expressly provided, the covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Memorial and the Commission and their respective successors and assigns.

Section 20.08. Attorneys' Fees. Memorial shall, subject to all the terms and conditions of this Lease, pay and indemnify the Commission against all reasonable legal costs and charges, including reasonable counsel fees, lawfully and reasonably incurred in obtaining possession of the Leased Premises after default of Memorial or upon the expiration of the Term. Each party shall pay to and indemnify the other against all such reasonable legal costs and charges lawfully and reasonably incurred in successfully enforcing any covenant or agreement of the other party herein contained.

Section 20.09. Authority. Memorial and the Commission each

represent and warrant to the other that they have the power and authority to execute and deliver this lease and to carry out and perform all covenants to be performed by it hereunder.

Section 20.10. Survival. The Commission's obligation under this Lease to indemnify and hold Memorial harmless shall survive the expiration of the Term or earlier termination of this Lease.

Section 20.11. Relationship of Parties. Nothing contained herein, including, but not limited to, the method of computing Rent, shall be deemed or construed by the parties thereto or by any third party as creating between the parties hereto the relationship of principal and agent, partnership, joint venturer, or any relationship other than the relationship of lessor and lessee.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT,
acting by and through the
SOUTH BEND REDEVELOPMENT COMMISSION

By: _____
Robert W. Hunt, President

ATTEST:

Paula N. Auburn, Secretary

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

Before me, a Notary Public in and for said County and State personally appeared Robert W. Hunt and Paula N. Auburn, President and Secretary, respectively, of the South Bend Redevelopment Commission and acknowledged the execution of the foregoing Ground Lease as their voluntary act and deed this day of
 , 1998.

Notary Public
Residing in St. Joseph County, IN

My Commission Expires:

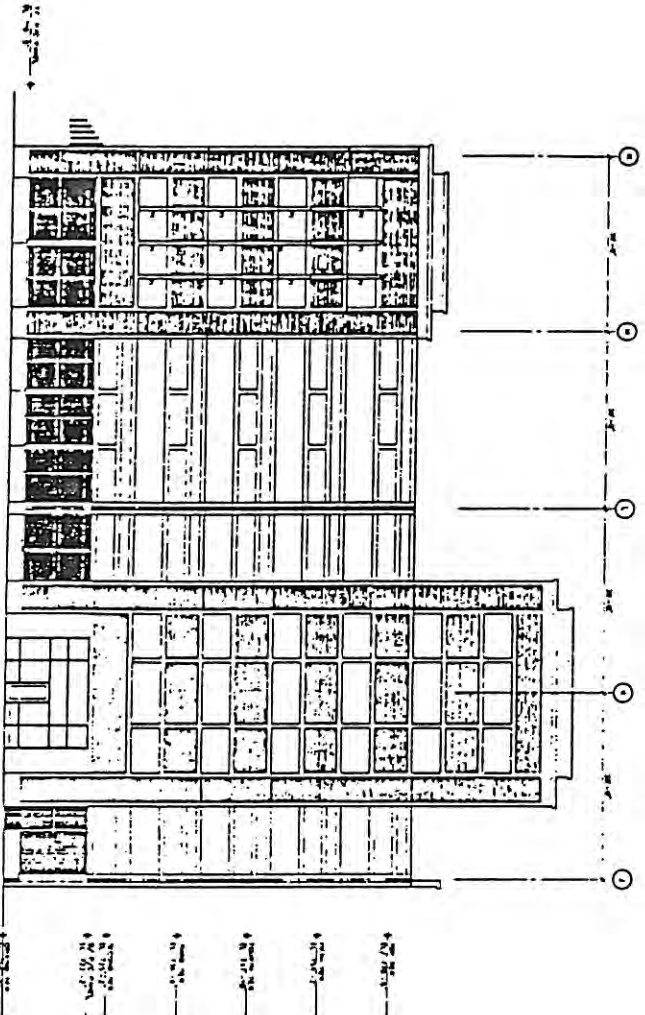
EXHIBIT B
MEMORIAL LEASED PREMISES

A parcel of land being a part of Lots 29, 30, 31 and 32 in the Original Plat of the Town (now City) of South Bend, Indiana, and adjacent vacated alley as shown in the Office of the Recorder of St. Joseph County, Indiana, and being more particularly described as follows:

Beginning at the Southwest corner of said Lot 31; thence North 0-10'-28" West along the East right-of-way line of Main Street, a distance of 92.99 feet; thence North 89-39'-15" East, a distance of 222.84 feet; thence South 0-20'-45" East, a distance of 94.22 feet to the North right-of-way line of Jefferson Boulevard; thence South 89-58'-12" West along said North right-of-way line, a distance of 223.12 feet to the place of beginning.

EXHIBIT C-1

DATE: 10/11/01 BY: [illegible]



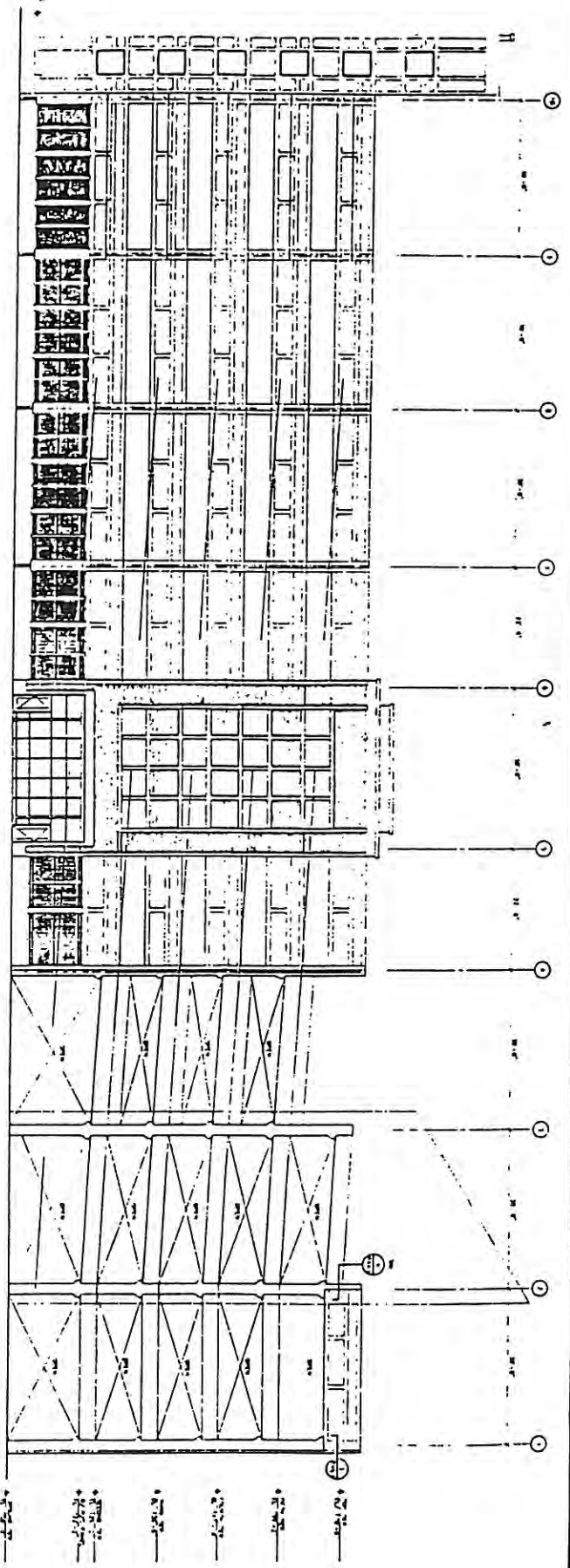
NORTH ELEVATION

11

NOT TO SCALE
 ALL DIMENSIONS IN FEET AND INCHES
 UNLESS OTHERWISE NOTED

13194-03	LEIGHTON PLAZA
10/11/01	30TH FLOOR
	NOVANA
ELEVATIONS	
PA2.4	

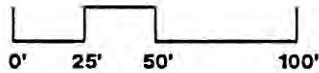
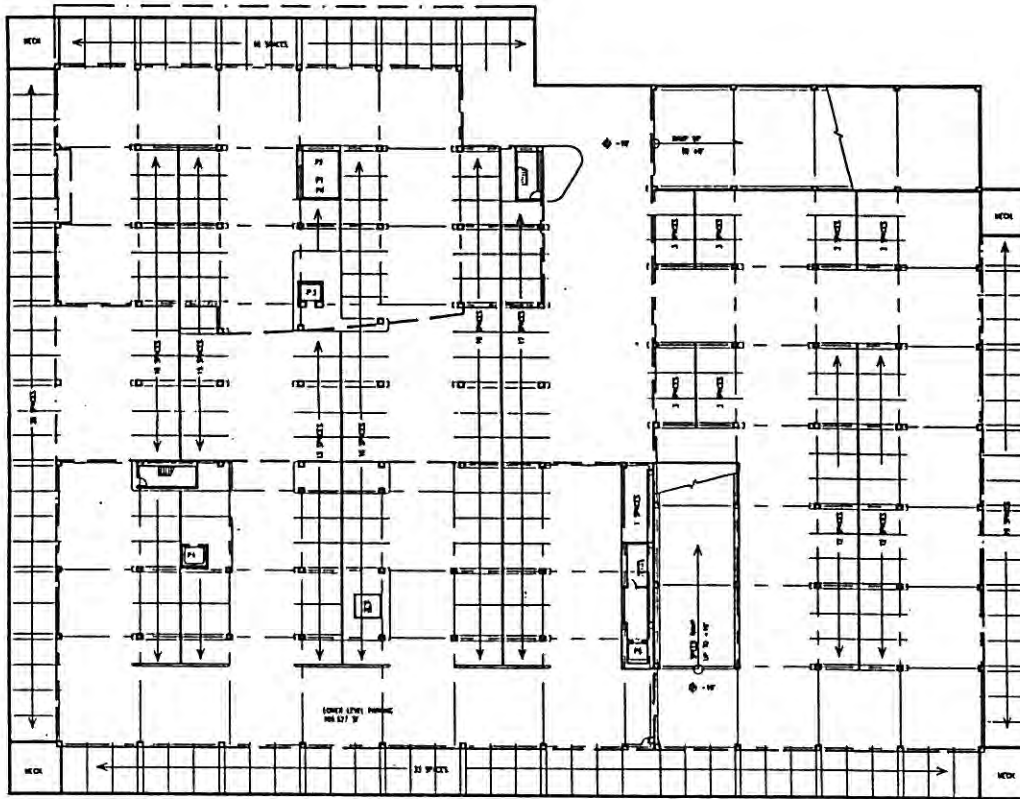
WBL



WEST ELEVATION

12

EXHIBIT C-2

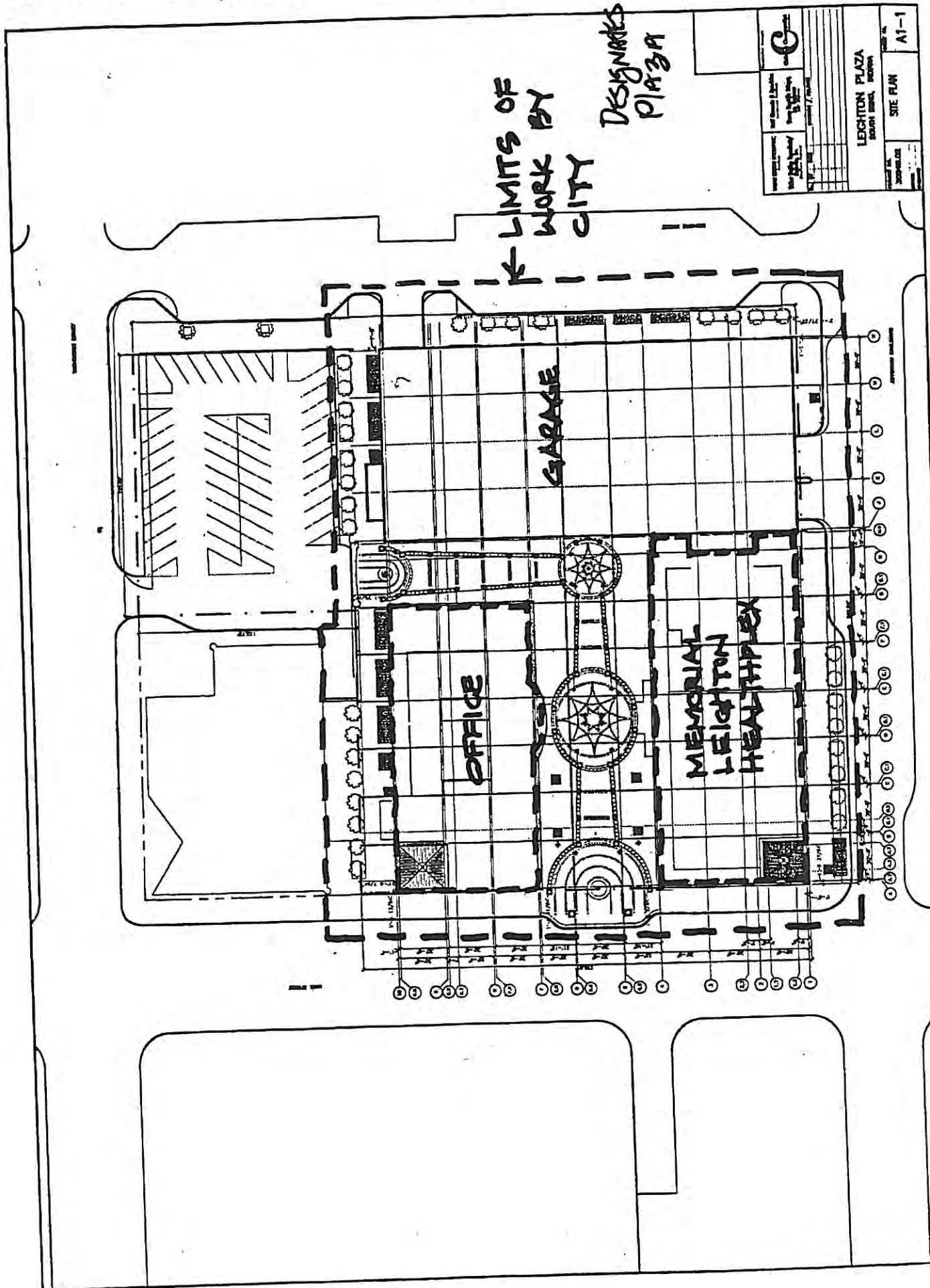


TOTAL PARKING INCLUDING RAMP: 548
TOTAL PARKING SPACES (LOWER LEVEL): 236
LOWER LEVEL PLAN

DOWNTOWN MIXED USE DEVELOPMENT

URBAN DESIGN GROUP INC

South Bend, Indiana
24 July 1998



PROJECT NO. 100-100000-0000	SHEET NO. A1-1
LEIGHTON PLAZA SOUTH WING, SECOND FLOOR	
DATE 11/11/97	SCALE AS SHOWN
SITE PLAN	

EXHIBIT D

LEGAL DESCRIPTION OF PROPERTY

A parcel of land being a part of the West Half of the Northwest Quarter of Section 12, Township 37 North, Range 2 East, Portage Township, City of South Bend, St. Joseph County, Indiana, and being more particularly described as follows:

Beginning at the Southwest corner of Lot 31 as the same is shown and designated on the Original Plat of the Town (now City) of South Bend and recorded in the office the Recorder of St. Joseph County, Indiana; thence North $89^{\circ}58'12''$ East (Bearing Assumed for this survey) along the North right-of-way line of Jefferson Boulevard, a distance of 345.54 feet to the Southeast corner of Lot 30 in said Original Plat; thence North $0^{\circ}20'45''$ West, along the West right-of-way line of Michigan Street, a measured distance of 277.24 feet; thence North $89^{\circ}54'06''$ West, a distance of 52.81 feet; thence North $0^{\circ}20'45''$ West, a distance of 12.49 feet; thence South $89^{\circ}39'15''$ West, a distance of 77.22 feet; thence South $0^{\circ}20'45''$ East, a distance of 11.89 feet; thence North $89^{\circ}54'06''$ West, a distance of 214.68 feet to the East right-of-way line of Main Street; thence South $00^{\circ}10'28''$ East along the East right-of-way line of Main Street, a measured distance of 278.01 feet to the place of beginning containing 96,756 square feet.

The above described parcel of land being subject to the legal rights of public highways, if any, and subject to any easements, covenants or restrictions of record.

PROPDES\ENTIRE

EXHIBIT E

**LEGAL DESCRIPTION OF THE
OFFICE BUILDING SITE**

A parcel of land being a part of Lots 27, 28, 33 and 34 in the Original Plat of the Town (now City) of South Bend, Indiana and adjacent vacated alley as shown in the Office of the Recorder of St. Joseph County, Indiana and being more particularly described as follows: Commencing at the Southwest corner of said Lot 31; thence North $0^{\circ}10'28''$ West along the East right-of-way line of Main Street, a distance of 163.82 feet; thence continuing North $0^{\circ}10'28''$ West along said East right-of-way line, a distance of 92.67 feet; thence North $89^{\circ}39'15''$ East, a distance of 182.85 feet; thence South $0^{\circ}20'45''$ East, a distance of 92.67 feet; thence South $89^{\circ}39'15''$ West, a distance of 183.12 feet to the place of beginning.

Exhibit F - Description of Parking Garage

The parking garage consists of an underground garage containing approximately 215 parking spaces that will be constructed on the site. The underground garage will be connected to the Memorial and MEPT buildings by elevators constructed by Memorial and MEPT. There will also be an above ground parking garage containing 429 parking spaces located along Michigan Street. This above ground garage will contain approximately 11,000 s.f. of retail space fronting on Michigan Street. Total parking provided by the underground and above ground garages is approximately 644 spaces.

EXHIBIT "G"

A four story building having approximately 20,360 square feet on each floor and a fifth floor of approximately 2,397 square feet for a total of approximately 83,837 square feet. The facility will house a four lane lap pool, a heated therapeutic pool, two aerobic studios, a cardiovascular exercise area, a strengthening and conditioning area, a child care room, a basketball/volleyball gymnasium, locker rooms, whirlpools, steam rooms and a virtual golf driving range. Some of the services that will be offered include wellness and disease prevention programs, support for pulmonary/cardiac rehabilitation, an outpatient traumatic brain injury program, fitness and wellness programs, and orthopedic and sports therapy.

EXHIBIT H
PROHIBITED USES-RETAIL SPACE

- 1) Any business which constitutes a controlled use within the meaning of Section 21-1(31) of the South Bend Municipal Code.
- 2) Any business which sells cigarettes.
- 3) Any business which sells liquor.

EXHIBIT H

Lease Agreement

LEASE AGREEMENT

This Lease Agreement (“Lease”) or (“Agreement”) is made effective as of April 23rd, 2024 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Landlord”), and Beacon Health System, an Indiana nonprofit corporation (the “Tenant”), with offices at 3245 Health Drive, Granger, Indiana 46530 (each a “Party,” and together, the “Parties”).

RECITALS

A. As of the Effective Date of this Lease, Landlord owns certain real property and improvements located in South Bend, Indiana, commonly known as parcel number 71-08-12-153-003.000-026 and more particularly described in the description attached Exhibit 1 (the “Property”).

B. Tenant previously owned and occupied the Property pursuant to a Ground Lease, which the Parties agreed to extinguish pursuant to the terms of a certain Development Agreement made between the Parties, dated March 28, 2024.

C. The Parties have agreed that Tenant will be able to continue occupying and using a portion of the existing space in the Property on the Effective Date for a limited time period and under the terms set forth herein.

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:

1. Leased Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the 1st, 3rd, 4th and 5th Floors of the Property, as further depicted in the attached **Exhibit 2** (the “Leased Premises”). Landlord reserves the right to perform maintenance and improvements to the Property to modify, increase, or decrease the location, dimension, size, and height of improvements in the Property at its sole discretion after consultation with Tenant.

2. Lease Term.

a. The term of this Lease shall begin on the Effective Date and end no later than December 31, 2025, subject to the Termination and Surrender and Holdover provisions set forth herein.

b. Tenant shall have the option to vacate and terminate a portion of the Leased Premises at any time during the term of the Lease, with a written notice of that intention at least 45 days in advance, with the reduction of Rent set forth herein.

3. Rent. In consideration hereof, the Tenant covenants and agrees to pay all existing utility accounts in Tenant’s name before the Effective Date and other routine costs of building maintenance and daily operations incurred by Tenant during the Lease Term, as described in Section 9 of this Lease. Tenant shall keep all utilities currently in Tenant’s name throughout the term of this Lease, except as otherwise set forth herein. The Parties acknowledge that immediately prior to the Effective Date, Tenant owned and occupied the Property under a long-term lease and had sufficient utilities for its needs as of the Effective Date. If new utilities must be added or

accessed during the term of the Lease, Landlord may agree to allow the installation of such utility service, provided that the Parties negotiate in good faith a cost sharing agreement acceptable to Landlord in its sole discretion.

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 month installments commencing on the Effective Date and during the entire term on or before the first (1st) day of each calendar month, in advance.

- i. During the time Tenant leases the entirety of the Leased Premises, the rental amount payable shall be Seven Thousand Five Hundred Dollars (\$7,500.00) per month, except for the initial month following the Effective Date, which shall be pro-rated.
- ii. In the occasion that Tenant vacates the 3rd, 4th, and 5th Floor of the Property and only occupies the 1st Floor of the Property, the rental amount payable shall be Five Thousand Dollars (\$5,000.00) per month. For the reduced rental rate to apply, Tenant must provide written notice to Landlord at least 45 days in advance of its intent to vacate the 3rd, 4th, and 5th Floors of the Leased Premises.

In the event rent is not paid on or before the first day of the month it becomes due, Tenant shall also pay Landlord a late charge, which shall be equal to \$150.00 per day for each day rent is late after the first of the month with a five (5) day grace period before late fees are charged.

4. Quiet Enjoyment. Landlord warrants that it is the owner in fee simple of the Property, 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 Property, without any manner of hindrance from parties claiming under, by, or through Landlord, except as otherwise set forth in Section 1 of this Lease and as communicated to Tenant.

5. Use. The Property shall be used and occupied for physical therapy services and as a health and fitness center and all other work performed by employees of Tenant in the ordinary course of their duties on behalf of, associated with, and/or affiliated with Tenant and consistent with Tenant's past use of the Property. Tenant shall continue to retain the same rights to parking during the term of this Lease as previously provided in the Ground Lease for the Property, including the roof of the parking garage and other spaces otherwise designated. The Property may not be used for any other purpose inconsistent with Tenant's use before the Effective Date without the prior written approval of the Landlord.

6. Landlord Maintenance and Repairs. Landlord agrees to maintain the Property in a condition of safety and habitability appropriate to the use of the Property as physical therapy services and as a health and fitness center and consistent with its condition as of the Effective Date. Landlord shall, at its expense: (a) keep the building and its foundations, structure, floors, ceilings, utility infrastructure, and roof of the Property in good order, repair and condition; and (b) maintain the exterior walls of the Property 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, 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 alteration, renovation, repairs, replacement and maintenance of all gas, water, electricity, heating, ventilating, and cooling equipment and systems serving the Property (the "Utility Systems"); provided, however, that Landlord may bill Tenant for any repairs or replacement if Landlord's consultant determines with reasonable certainty that the need to repair or replace the Utility Systems was solely and as a direct result of Tenant's misuse thereof or Tenant's failure to notify the Landlord of any malfunctioning. Except as provided in this Section 6, Landlord shall be obligated to make construction, reconstruction, alterations, renovations, maintenance, repairs, replacements, or improvements of any kind to or for the Property, or any fixtures or equipment contained therein.

7. Tenant Maintenance and Repairs. Tenant shall have access to the portions of the 2nd floor that contain pool mechanicals and is responsible for maintenance of the pool mechanicals while Tenant continues to lease the 3rd, 4th, and 5th floors of the building for the purpose of operating a health and fitness center. Except for construction, reconstruction, alterations, renovations, maintenance, or repairs to be performed by Landlord, Landlord's obligations pursuant to Section 6, or in areas used by Landlord, Tenant in the areas used by Tenant shall: (a) keep the Property clean, neat, sanitary and safe, and in good order, repair and condition, including, without limitation, that Tenant shall make all minor, routine maintenance, routine repairs, or routine replacements to the Property and shall provide routine janitorial services at Tenant's sole 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. The Tenant shall be responsible for notifying the Landlord of any visible, known damage to, malfunctioning of, or apparent repairs necessary to be made to the Utility Systems used by Tenant in the Property. Said improvements shall be agreed to without amending this Lease and performed by Landlord with Tenant reimbursing Landlord after completion and approval of the improvements. Tenant's improvements under this clause and Tenant's responsibility shall not exceed Ten Thousand Dollars (\$10,000.00), documented by sufficient invoices. Tenant shall not make any alterations, additions, repairs, or improvements to the Leased Premises unless agreed to by Landlord in advance.

8. Hazardous Substances. With the exception of chemicals typically used for the maintenance of swimming pools, the Tenant shall not knowingly cause or permit the use, generation, release, manufacture, refining, production, processing, storage, or disposal of any hazardous substances, as that term is defined under any present or future federal, state, or municipal law, ordinance, rule or regulation applicable to the environmental condition of the Property ("Hazardous Substances"). Should the Landlord knowingly require the use or storage of any Hazardous Substances for any purpose allowed herein, except as otherwise noted, Landlord shall provide notice to Tenant of Landlord's use or storage of such Hazardous Substance and the purpose thereof. Tenant may continue to store substances for maintenance of the pool facilities while this Lease remains active, but upon Landlord's request, Tenant must remove any remaining Hazardous Substances upon termination of the Lease.

9. Utility Services. The Parties acknowledge that Tenant owned and occupied the Property pursuant to the terms of a Ground Lease immediately prior to entering into this Lease. Tenant acknowledges that the Property previously contained the necessary mains, meters, connections, and conduits for gas, water, and sewer facilities and electric service to the Property, as well as equipment, products, goods, services, materials, and supplies needed for proper operation of the heating ventilating and cooling system (“HVAC System”) located in the Property. During the time Tenant leases the Leased Premises, Tenant shall: (a) maintain accounts for all sewer, water, gas, electricity, telephone, and other utility services (“Utilities”) used by Tenant at the Property solely in its name; (b) promptly pay all charges for Utilities in Tenant’s name; and (c) deliver to Landlord, upon demand, receipts or other satisfactory evidence of payment of the charges for Utilities. In the occasion that Tenant vacates the 3rd, 4th, and 5th Floors of the Property and only occupies the 1st Floor of the Property, the Parties shall transfer all Utilities into Landlord’s name, and Landlord shall become responsible for paying all Utilities expenses associated with the Property. At all times, Landlord shall provide the equipment, products, goods, services, materials, and supplies needed for proper operation of the HVAC System as of the Effective Date and through the term of the Lease.

10. Loss of Use. In the event the Leased Premises are made untenable or are partially destroyed by weather, Act of God, act of nature, water, gas, fire, explosion, or other casualty, provided such total or partial destruction is not caused by Tenant, (a) the Lease Premises shall be repaired as speedily as possible, at Landlord’s sole discretion and expense; and (b) either Party may elect to terminate this Lease by notifying the other Party in writing within thirty (30) days of the casualty.

11. Tenant Abandonment. Tenant understands and agrees if it abandons the Leased Premises during the term of this tenancy, Tenant shall not be relieved of its duties and obligations under this Lease before the date of abandonment. Exercise of Tenant’s rights under the Compliance or Termination provisions shall not constitute abandonment.

12. Force Majeure. With the exception of the payment of Rent, in the event that either Party is unable to perform any of its obligations under this Lease, or to enjoy any of its benefits, because of pandemic; epidemic; water, gas, fire, explosion, or other casualty; natural disaster; or decrees of governmental bodies not the fault of the affected Party (“Force Majeure Event”), the Party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Lease shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Lease.

13. Tenant’s Liability Insurance. Tenant, at its expense, shall maintain during the Lease Term and any holdover period, commercial general liability insurance on the Property 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 \$1,000,000.00 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. Landlord will continue to maintain during the Lease Term and any holdover period the types and amounts of coverage it had as of the Effective Date.

14. Coverage Verification. All policies of insurance required by this Lease to be maintained by Tenant shall be in a form, and maintained with an insurer, reasonably satisfactory to Landlord, and Tenant shall provide written notice to Landlord at least thirty (30) days in advance of the cancellation, termination, or change of or to any such policy. Additionally, Tenant shall cause Landlord to receive certificates of such insurance, duly executed by the insurance company or the general agency writing such policies, and effective not later than the Effective Date. Tenant shall cause Landlord to receive appropriate renewal or replacement certificates 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 Lease, Landlord may obtain replacement coverage and the cost of same shall be payable by Tenant immediately.

15. Assignment and Sublease. Tenant shall not assign this Lease or sublet the Property. Notwithstanding anything to the contrary contained herein, Tenant shall be liable without limitation for the acts and omissions of any third party allowed by Tenant to use the Property.

16. Indemnification. To the extent allowed by law and subject to the limits of Indiana’s Tort Immunity Statute, Tenant shall indemnify, defend, and hold harmless Landlord from any and all loss, costs (including reasonable attorney’s fees), and liability on account of any damages, injuries, claims, and demands to the extent caused by negligent errors, omissions, or misconduct of Tenant, its agents, invitees, or employees but only to the extent that same are caused by the negligence, misconduct, or other fault of Tenant, its agents, invitees, or employees. To the extent allowed by law and subject to the limits of Indiana’s Tort Immunity Statute, Landlord shall indemnify, defend, and hold harmless Tenant from all loss, costs (including reasonable attorney’s fees), and liability on account of any damages, injuries, claims, and demands to the extent caused by the negligent errors, omissions, or misconduct of Landlord, its agents, invitees, or employees.

17. Termination. In the event that either Party breaches any covenant or obligation in this lease, including the nonpayment of rent and any late fees assessed, the non-breaching Party shall give the breaching party written notice of any intent to terminate this lease for such breach and of the cause therefore. If the breaching Party does not correct the breach specified within thirty (30) days (or, in the event the breach is of a nature that cannot be reasonably remedied within thirty (30) days, fails to commence to remedy such breach within thirty (30) days and continue with reasonable diligence to correct same) this Lease may then be terminated by thirty (30) days’ written notice by the non-breaching Party to the breaching Party for such uncured cause. Upon cancellation or termination of this Lease, Tenant shall be released from any further obligation under the terms of this Lease arising after the date of such termination. If the Lease is cancelled or terminated due to an uncured breach by Tenant, Tenant must vacate the Property within ten (10) business days.

Tenant may terminate the lease for any reason upon five (5) business days written notice to Landlord.

18. Surrender and Holdover. Upon the termination of this Lease by lapse of time or otherwise, Tenant agrees that it will surrender and deliver to Landlord possession of the Property in substantially the same condition as on the Effective Date, ordinary wear and tear excepted. Tenant shall remove all of Tenant's personal property prior to such surrender and delivery. Any personal property not removed by Tenant within ten (10) business days of Landlord's written demand will be deemed abandoned and Landlord may, after a 2nd written notice allowing one (1) business day, dispose of such personal property as allowed under Ind. Code § 5-22-22. In the event that Tenant does not vacate the Property upon the termination of this Lease, Tenant shall pay Landlord a delay fee in the amount of Three Hundred Dollars (\$300.00) per day through December 31, 2025. If Tenant has not vacated the Property as of January 1, 2025, Tenant shall pay Landlord a delay fee in the amount of Five Hundred Dollars (\$500.00) per day. This Section shall survive the termination of this Lease.

19. Notices. Any notices or communications required or requested to be given under the terms of this Lease shall be deemed properly given if mailed by United States mail, registered and with postage prepaid, if to:

To Landlord at:

Executive Director of Community Investment
Department of Community Investment
City of South Bend
227 W. Jefferson Blvd., 1200N
South Bend, Indiana 46601

With a copy to:

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

To Tenant at:

Beacon Health System, Inc.
3245 Health Drive
Granger, IN 46530

With a copy to:

Beacon Properties Administration
100 Navarre Plate, Suite 6645
South Bend, IN 46601

Addresses for notices may be changed by delivery notice of such change in the manner provided above.

20. Brokers. Landlord and Tenant each represent and warrant that they have not obligated the other to compensate any real estate agent, broker or finder or their intermediary in connection with the negotiation, preparation or execution of this Lease.

21. Severability. If any provisions of this Lease shall be invalid or unenforceable, the remainder hereof shall nevertheless continue in full force and effect.

22. 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, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of 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.

23. Counterparts; Signatures. This Agreement may be separately executed in counterparts by the Parties, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

24. Authority. Each undersigned person signing on behalf of their respective Party certifies that they are duly authorized to bind their respective Party to the terms of this Agreement.

25. Governing Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of Indiana. Any dispute arising hereunder shall be heard in the state courts located in St. Joseph County.

26. Entire Agreement. The Lease contains the entire agreement and understanding between the Parties hereto and may not be amended or changed except by agreement in writing executed by the Parties.

27. Successors and Assigns. This Lease shall be binding upon and shall inure to the benefit of the Parties hereto, their respective successors and assigns.

28. Compliance. The Parties shall comply with all federal, state and local laws and ordinances, lawful orders, and regulations affecting the Property, and the health, cleanliness, safety, construction, occupancy and use of same, in effect from time to time. Further, the Parties covenant and agree to make a good faith effort to provide and maintain a drug-free workplace at the Property. Tenant and Landlord shall give written notice to the other within one (1) business

day after receiving actual notice that any employee of Tenant or Landlord has been convicted of a criminal drug violation occurring at the Property. Additionally, the Tenant shall comply with all applicable laws and regulations in their hiring and employment practices and policies for any activity occurring at the Property and covered by this Lease. The Tenant shall also comply with all federal, state, and municipal laws, regulations, and standards applicable to their activities pursuant to this Lease including, but not limited to, the requirements imposed by Ind. Code 22-9-1-10 (non-discrimination), the provisions of Ind. Code 5-22-16.5 (disqualification for dealings with the government of Iran), and the provisions of Ind. Code 22-5-1.7 (requiring E-Verify for new employees and prohibiting employment of unauthorized aliens). Each of the foregoing provisions is incorporated herein as if set forth in full, and the Tenant certifies that it is in compliance with each such provision and shall remain in compliance through the term of this Lease. The Tenant certifies by entering into this Lease neither it nor its respective executives nor any of their respective subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Lease by any federal agency or by any department, agency or political subdivision within the United States.

29. Memorandum of Lease. Upon written request by Tenant, a Memorandum of Lease in recordable form shall be executed by both Parties and recorded in conformance with the laws of the State of Indiana at Tenant's sole cost and expense.

Signature Page Follows

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year written below.

“LANDLORD”

SOUTH BEND REDEVELOPMENT COMMISSION

Troy Warner, Vice President

ATTEST:

Vivian Sallie, Secretary

“TENANT”

BEACON HEALTH SYSTEM, INC.

Jeffrey P. Costello, Chief Financial Officer

Date: _____

EXHIBIT 1

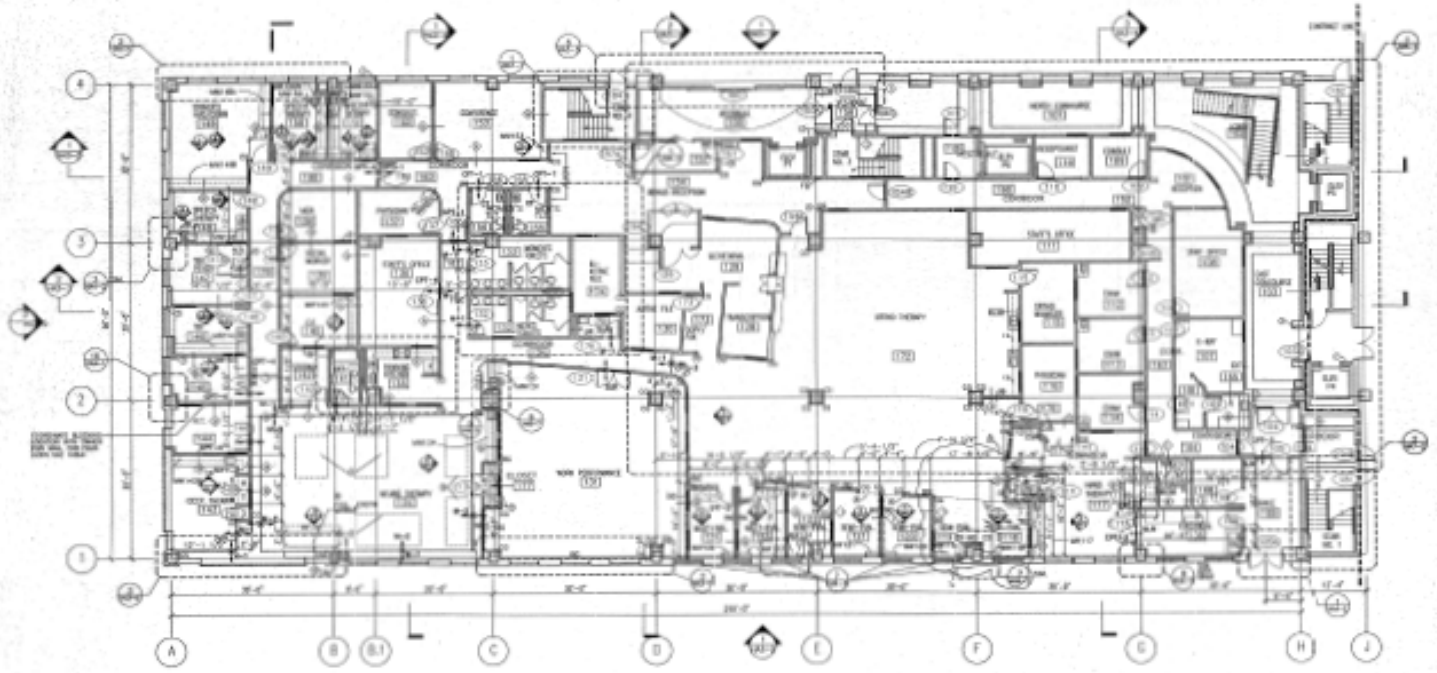
Description of Property

Portions (as described herein) of Lot 1 as shown on the recorded plat of Leighton Plaza First Minor Subdivision recorded on February 23, 2017, as Document No. 1704410 in the Office of the Recorder of St. Joseph County, Indiana. [Parcel Key No. 018-3006-0190; State Parcel ID: 71-08-12-153-003.000-026]

Commonly Known As: 111 W. Jefferson Blvd., South Bend, Indiana 46601 (Fitness Center and Office Space) and 130 S. Main St., South Bend, Indiana 46601 (Parking Garage).

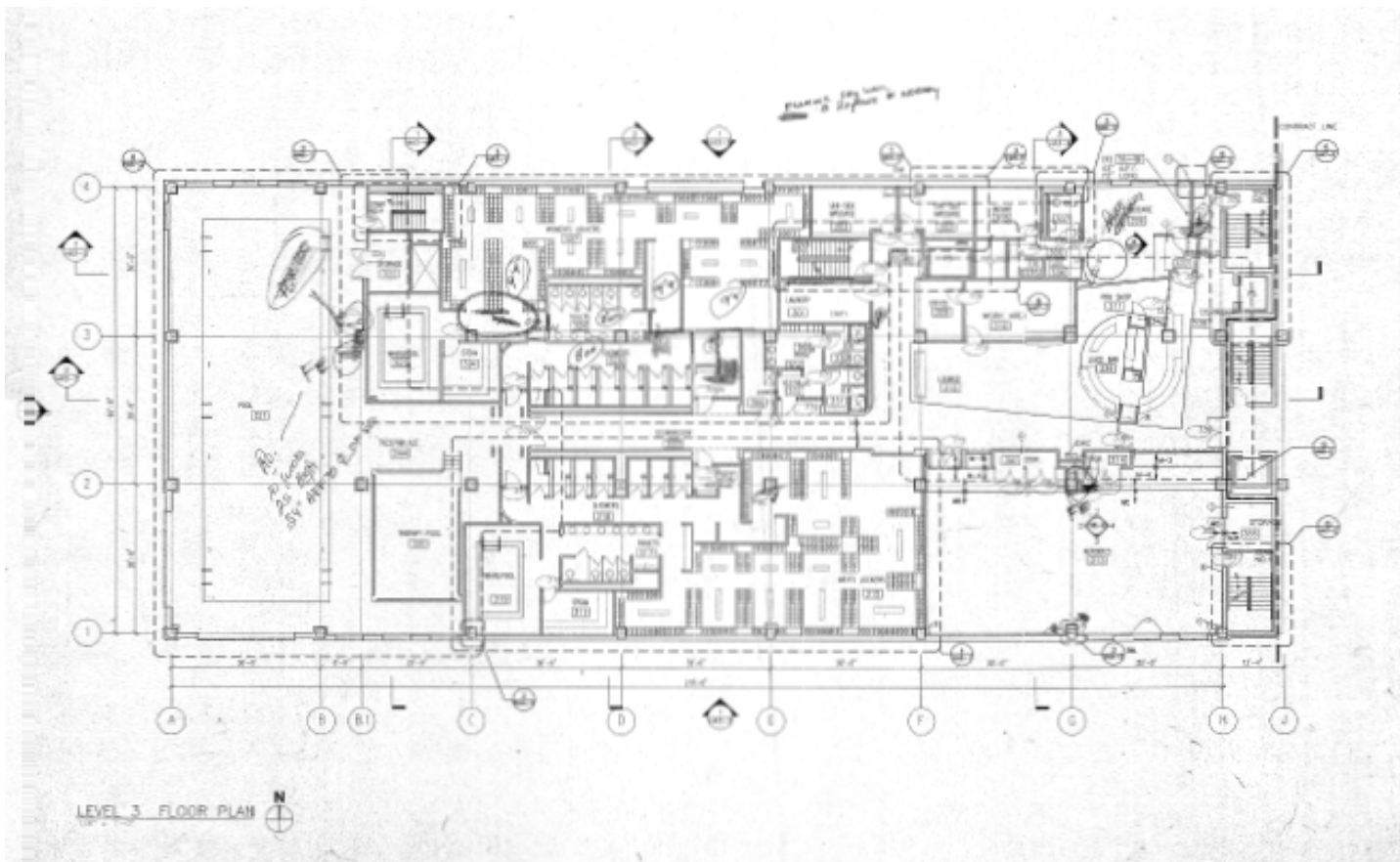
EXHIBIT 2

Floor Plans

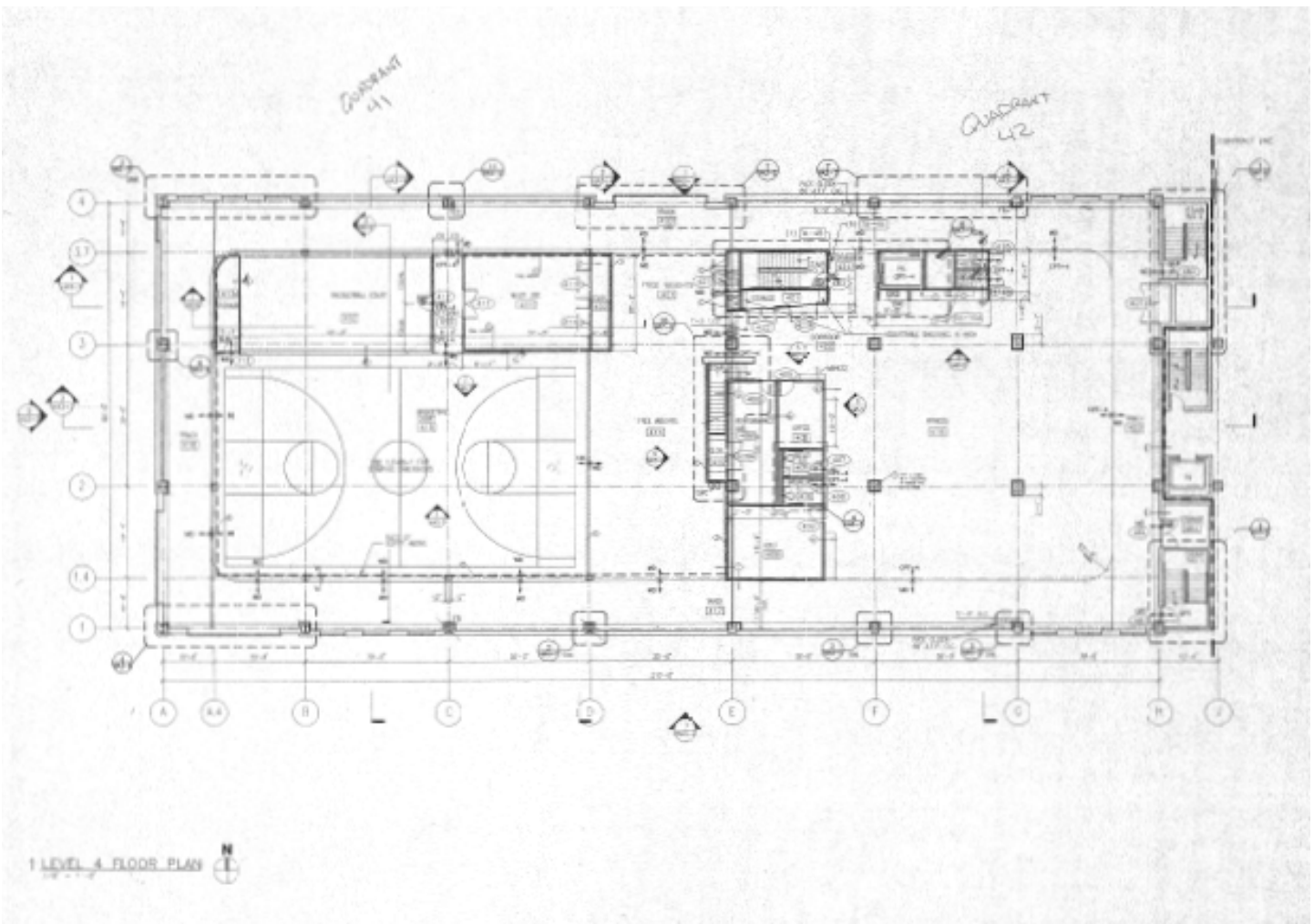


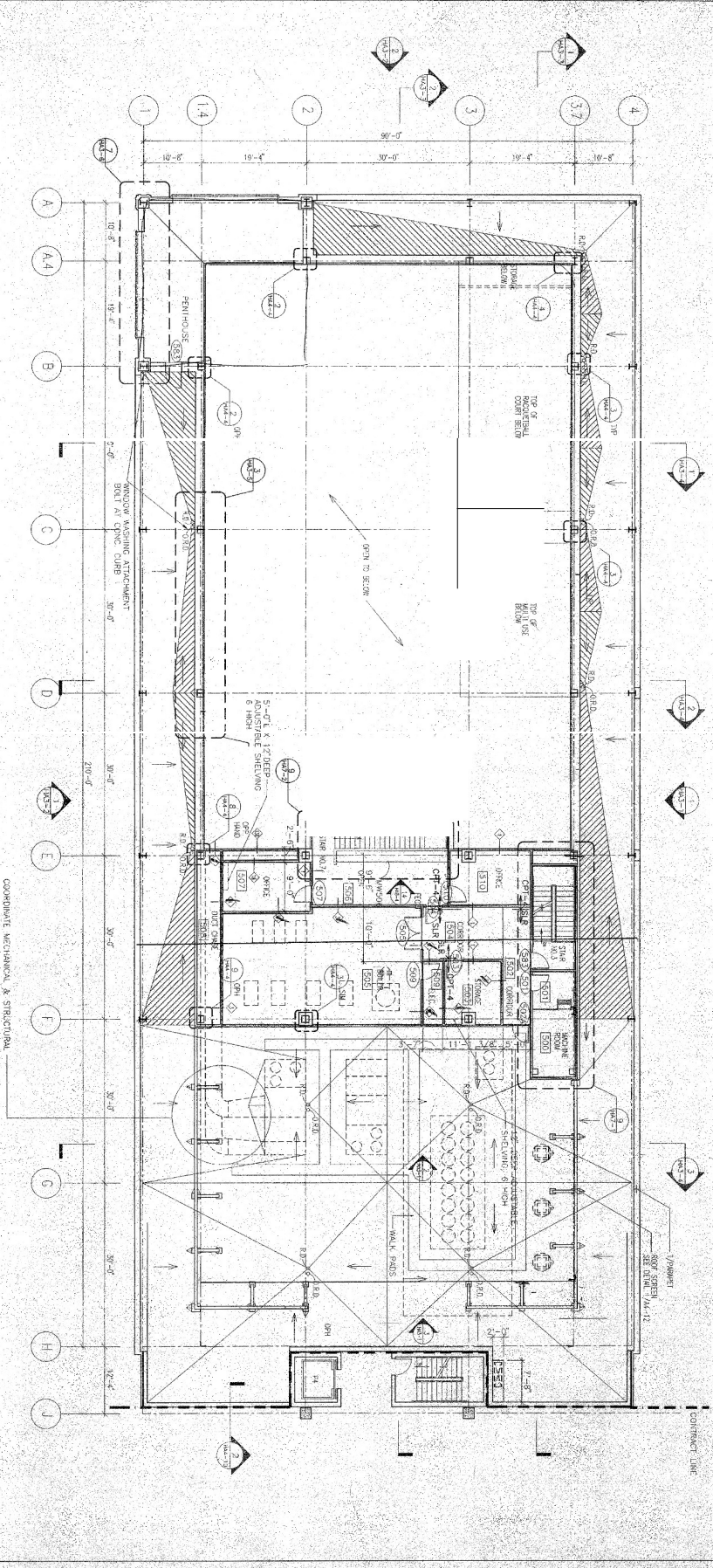
1 LEVEL 1 FLOOR PLAN

- LEGEND**
- CG CORNER GUARD
 - BG BUMPER GUARD
 - DENOTES WALL OPENING



LEVEL 3 FLOOR PLAN





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COORDINATE MECHANICAL & STRUCTURAL

<p>MEMORIAL HEALTHPLEX SOUTH BAY, MIAMI</p>		<p>LEBAN DESIGN GROUP INC. ARCHITECTS 400 WEST PALM BLVD., SUITE 1700 MIAMI, FL 33134</p>		<p>MEMORIAL HEALTHPLEX MECHANICAL SYSTEMS</p>	
<p>LEBAN DESIGN GROUP INC. ARCHITECTS 400 WEST PALM BLVD., SUITE 1700 MIAMI, FL 33134</p>		<p>HELIANTSON & KOYE MECHANICAL ENGINEERS 3000 N.W. 107th AVE., SUITE 100 MIAMI, FL 33177</p>		<p>LEBAN DESIGN GROUP INC. ARCHITECTS 400 WEST PALM BLVD., SUITE 1700 MIAMI, FL 33134</p>	
<p>MEMORIAL HEALTHPLEX MECHANICAL SYSTEMS</p>		<p>HELIANTSON & KOYE MECHANICAL ENGINEERS 3000 N.W. 107th AVE., SUITE 100 MIAMI, FL 33177</p>		<p>LEBAN DESIGN GROUP INC. ARCHITECTS 400 WEST PALM BLVD., SUITE 1700 MIAMI, FL 33134</p>	
<p>MEMORIAL HEALTHPLEX MECHANICAL SYSTEMS</p>		<p>HELIANTSON & KOYE MECHANICAL ENGINEERS 3000 N.W. 107th AVE., SUITE 100 MIAMI, FL 33177</p>		<p>LEBAN DESIGN GROUP INC. ARCHITECTS 400 WEST PALM BLVD., SUITE 1700 MIAMI, FL 33134</p>	

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”), is effective as of March 28, 2024 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), and Great Lakes Capital Development, LLC, an Indiana Limited Liability Company, with offices at 7410 Aspect Drive, Suite 100, Granger, IN 46530 (the “Developer”) (each, a “Party,” and collectively, the “Parties”).

RECITALS

WHEREAS, the Commission exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953, as amended (I.C. 36-7-14 *et seq.*, the “Act”); and

WHEREAS, the Act provides that the clearance, replanning, and redevelopment of redevelopment areas are public uses and purposes for which public money may be spent; and

WHEREAS, the Parties are, together with this Agreement, entering into a certain Real Estate Purchase Agreement with Beacon Health System, Inc. and its subsidiaries Memorial Hospital of South Bend, Inc. and Beacon Medical Group, Inc. (f/k/a Memorial Health System, Inc.) (collectively, “Beacon”) for (a) Developer’s acquisition of certain real property from Beacon as generally described in **Exhibit A**, together with all improvements thereon and all easements, rights, licenses, and other interests appurtenant thereto (collectively the “Project Property”), and (b) Commission’s agreement to enter into this Agreement as well as a separate Development Agreement with Beacon, in furtherance of future development projects related to the Project Property and other Beacon property (the “Beacon Purchase Agreement”); and

WHEREAS, upon acquisition of the Project Property under the Beacon Purchase Agreement, and subject to the terms and conditions of this Agreement, the Developer intends to improve, construct, renovate, or otherwise rehabilitate certain elements of such Project Property in accordance with the project plan (the “Project Plan”) attached hereto as **Exhibit B**, using a combination of private financing and public funding (collectively, the “Project”); and

WHEREAS, the Project Property is located within the corporate boundaries of the City of South Bend, Indiana (the “City”), within the River West Development Area (the “Area”); and

WHEREAS, the Commission has adopted (and subsequently amended, from time to time) a development plan, which contemplates development of the Area consistent with the Project Plan; and

WHEREAS, the Commission seeks to support the Project, which will include the development of new housing units, a new hotel, and additional retail and office space, all in the downtown Area; and

WHEREAS, the Commission believes that accomplishing the Project as described herein advances a public good, the expected benefits of which exceed the expected costs to the

Commission, and is in the best interests of the health, safety, and welfare of the City and its residents; and

WHEREAS, the Commission desires to facilitate and assist the Project Plan by undertaking the local public improvements stated in **Exhibit C** (the “Local Public Improvements”) and the financing thereof, subject to the terms and conditions of this Agreement and in accordance with the Act; and

WHEREAS, the Developer (or an entity under common control with Developer) owns certain real property described in **Exhibit I** in a redevelopment area, together with all improvements thereon and all easements, rights, licenses, and other interests appurtenant thereto (collectively, the “Developer Property”), which is situated in the Area and is set forth on the acquisition list related thereto, pursuant to Commission’s Resolution No. 550; and

WHEREAS, the Commission desires to acquire the Developer Property and, simultaneously with this Agreement, the Developer and Commission are entering into a certain Purchase Agreement (in the form attached as **Exhibit J** (the “Purchase Agreement”)) for Developer’s sale of such Developer Property to Commission.

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

SECTION 1. DEFINITIONS.

Unless otherwise defined in this Agreement, capitalized terms used in this Agreement have the following meanings:

1.1 **Assessed Value.** “Assessed Value” means the market value-in-use of a property, used for property tax assessment purposes as determined by the St. Joseph County Assessor.

1.2 **Board of Works.** “Board of Works” means the Board of Public Works of the City, a public body granted the power to award contracts for public works pursuant to I.C. 36-1-12.

1.3 **Funding Amount.** “Funding Amount” means at least (i) Twenty-Four Million Dollars (\$24,000,000.00) of tax increment finance revenues, and (ii) contingent upon an executed agreement by one or more of the Parties with the Northern Indiana Regional Development Authority (“RDA”) for its Regional Economic Acceleration Development Initiative and direction of funding thereunder to the Commission, the amount of Eleven Million Seven Hundred Eighty Thousand Dollars (\$11,780,000.00) (“READI Grant”); all of which shall be used for paying the costs associated with the construction, equipping, inspection and delivery of the Local Public Improvements and Project.

1.4 **Private Investment.** “Private Investment” means an amount (provided the Funding Amount includes the READI Grant), no less than One Hundred Two Million Dollars (\$102,000,000.00), not including the Funding Amount, to be expended by the Developer after the Effective Date (subject to Commission’s satisfaction of its obligations hereunder) for the costs associated with constructing the improvements set forth in the Project Plan, including architectural,

engineering, and any other costs directly related to completion of the Project that are expected to contribute to increases in the Assessed Value of the Project Property.

SECTION 2. INTERPRETATION, TERMS, AND RECITALS.

2.1 Interpretation.

(a) The terms “herein,” “hereto,” “hereunder,” and all terms of similar import shall be deemed to refer to this Agreement as a whole rather than to any Article of, Section of, or Exhibit to this Agreement.

(b) Unless otherwise specified, references in this Agreement to (i) “Section” or “Article” shall be deemed to refer to the Section or Article of this Agreement bearing the number so specified, (ii) “Exhibit” shall be deemed to refer to the Exhibit of this Agreement bearing the letter or number so specified, and (iii) references to this “Agreement” shall mean this Agreement and any exhibits and attachments hereto.

(c) Captions used for or in Sections, Articles, and Exhibits of this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(d) The terms “include”, “including” and “such as” shall each be construed as if followed by the phrase “without being limited to.”

2.2 Recitals. The Recitals set forth above are incorporated into and are a part of this Agreement for all purposes.

SECTION 3. FEASIBILITY AND DUE DILIGENCE ON PROJECT PROPERTY.

3.1 General Planning Process.

(a) The Parties agree, as a condition of commencing construction of the Project, to continue to cooperate in good faith to prepare, evaluate and agree (if mutual agreement may be reached) on a planning schedule for (i) refinement of the scope of the Project Plan and Local Public Improvements, (ii) review of total anticipated costs of the Project and models estimating operating performance of each aspect of the Project Plan, and (iii) timing for critical milestones to confirm both (x) mutual agreement to the scope of Project, and (y) that as a requirement for advancement, financial metrics for the Project Plan meet or exceed an eight percent (8%) return on cost, prior to finalizing construction plans for submission to the Commission for the Project or otherwise being obligated to commence construction on the Project Property (the “Mutual Project Diligence”). The Mutual Project Diligence shall be completed no later than eighteen (18) months from the Effective Date. Subject to both Developer acquiring the Project Property under the Beacon Purchase Agreement and the Parties’ reaching agreement to the Mutual Project Diligence, the Parties will execute an addendum hereto, to reflect any applicable changes and an agreement to commence Project construction/advancement (“Notice to Commence”), which may also confirm additional terms and conditions regarding each element of Local Public

Improvements and/or the Project with respect to plans, specifications, timeline and funding to ensure coordination and completion of all work to support the Project.

(b) As part of Mutual Project Diligence, Developer may, from time to time, elect to submit to the Commission for its review schematic design or development drawings, which will be reviewed in accordance with Section 4.8. The Commission shall cause the City's Executive Director of Community Investment, or their designee ("Reviewer"), to provide notice of approval or disapproval within fourteen (14) days after receipt of the proposed drawings under Section 4.8. If proposed drawings or plans are disapproved, the Reviewer shall explain in a written notice specific reasons for the disapproval, and Developer shall be entitled to submit revised proposed drawings. Any subsequent submission to address a disapproved item will be reviewed within ten (10) days after receipt of the revised proposed drawings; provided, however, that the Commission and Reviewer may not then disapprove of any feature that was included in prior proposed drawings that was not disapproved unless in the reasonable good faith judgment of the Reviewer, the revisions materially adversely affect such feature. This process shall continue until the drawings submitted are fully approved.

(c) The Commission covenants and agrees to pay directly (or reimburse Developer) for any costs incurred by Developer in connection with acquiring and owning the Project Property between the date of acquisition of such property and the earlier of the date on which (i) the Parties agree to a Notice to Commence, or (ii) the Commission acquires the Project Property under the Option Agreement. Such costs include, for example, any environmental, survey or other diligence costs before acquisition, real estate taxes, insurance premiums, utility services and related costs of holding the Project Property and/or leasing the same to Beacon for continued parking rights. Any such costs will be paid directly by Commission or otherwise reimbursed to Developer within thirty (30) days of Developer providing an invoice together with supporting documentation of the costs incurred.

3.2 Other Diligence on Project Property. The execution of the Notice to Commence is subject to the satisfaction or waiver in writing of the following terms and conditions:

(a) Project Property. Developer shall have acquired title to the Project Property under the Beacon Purchase Agreement.

(b) READI Grant. The RDA shall have awarded the READI Grant (and such amount be included in the Funding Amount), for investment in the Local Public Improvements and/or Project.

(c) Additional Property. The Commission shall have acquired, at its sole cost and expense, and transferred to Developer (or caused the following to be transferred to Developer) to become part of the Project Property, certain property generally located at 333 N. Martin Luther King Jr. Drive (identified as Parcel No. 018-1003-0112) currently owned by 300 North Michigan Associates, LLC (the "300 North Michigan Site")

(d) Billboards. The Commission shall have at its sole cost and expense terminated all easement or other rights of any billboards to remain on the Project Property, including on the 300 North Michigan Site and on property generally referred to as 324 N. Main Street and caused such billboards to be removed (or have reached an agreement acceptable to the Developer for such owner of the billboards to remove the billboards from the Project Property).

(e) INDOT. The Indiana Department of Transportation shall have agreed to any right of way dedications or reconfigurations as may be required by the Parties in connection with the Project.

(f) Final Plans. Final plans for the Project shall have been completed and approved by the Commission or Reviewer under Sections 3.1 and/or 4.8 hereof.

(g) Required Permits. Developer shall have obtained (or determined that it will be able to obtain) all required permits and all permits related to the Project.

(h) Tax Abatement. The Commission shall have supported a proposal to the Common Council of the City of South Bend for a ten (10) year real property tax abatement with respect to the Project, on a schedule acceptable to Developer.

(i) Notice to Commence. The Parties shall have confirmed, through the Mutual Project Diligence, final scope of the Project and agreement to anticipated economics related to the development and operation of the Project.

(j) Entitlements. The Project Property shall have been zoned to permit the construction of the Project, with issuance of any required variances and other approvals with respect to the Project.

(k) Platting. Developer shall have created a plat for the Project Property with separate legal lots of record for components of the Project.

(l) Local Public Improvements. Developer (or its affiliate or designee) and Commission (or the City of South Bend), as applicable, shall have agreed to terms of a certain (i) Ground Lease, for the lease of ground to the Commission for its construction and location of one or more parking garage structures, and (ii) perpetual easement in favor of Developer, for Developer's right to use structural components of such garage in connection with construction of the Project, and a license agreement for access to and use of certain parking spaces within the garage structures to serve the Project.

(m) Purchase Agreement. The Parties shall have closed on the purchase and sale of Developer's Property pursuant to the Purchase Agreement set forth in the form attached hereto as **Exhibit J**.

(n) Option to Purchase. The Parties shall have executed the Option to Purchase Agreement in the form (or substantially similar to the form) attached hereto as **Exhibit G** and executed, recorded, and placed of record in the office of the County Recorder of St.

Joseph County, Indiana a memorandum of the Option set forth in Section 6, in the form (or substantially similar to the form) attached hereto as **Exhibit H**.

If one or more of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, Developer may elect (absent mutual agreement to the contrary) to: (i) waive in writing satisfaction of the conditions and proceed with the Notice to Commence; or (ii) terminate this Agreement by a written notice to the Commission. In the event the Developer elects to terminate this Agreement in accordance with this Section 3, the Commission shall have the option to purchase the Project Property from the Developer, under the terms set forth in Section 6. Notwithstanding anything to the contrary set forth herein, Developer and Commission shall work diligently and in good faith to satisfy the conditions set forth in this Section 3.

SECTION 4. DEVELOPER'S DEVELOPMENT OBLIGATIONS.

4.1 Generally. The Parties acknowledge and agree that the Commission's agreements to perform and abide by the covenants and obligations set forth in this Agreement are material consideration for the Developer's commitment to perform and abide by the covenants and obligations of the Developer contained in this Agreement. For the avoidance of all doubt, the Commission's completion of the Local Public Improvements, in the timeframes and as further described in this Agreement, or as agreed in a Notice to Commence after Mutual Project Diligence, shall be a condition precedent to any and all obligations of the Developer relating to this Agreement.

4.2 The Project. After the later of (a) acquiring fee title to the Project Property, and (b) Developer's execution of a Notice to Commence, the Developer will expend, subject to the Commission's satisfaction of its obligations hereunder related to advancement of the Funding Amount and timely completion of the Local Public Improvements, the Private Investment necessary to perform all necessary work to complete the improvements set forth in the Project Plan attached hereto as **Exhibit B** and the plans and specifications which will be approved by the Commission's Reviewer, or their designee, pursuant to Section 4.8 ("Submission of Plans and Specifications for Project") of this Agreement, which improvements shall comply with all zoning and land use laws and ordinances.

4.3 Cooperation. The Developer agrees to endorse and support the Commission's efforts to expedite the Local Public Improvements through any required planning, design, public bidding, construction, inspection, waiver, permitting, and related regulatory processes. Notwithstanding the foregoing or anything to the contrary contained herein, the Parties agree to work with the engineering firm designated by Developer for the Project, to prepare the design for the Local Public Improvements at Commission's expense. The Parties acknowledge that (i) the Commission is responsible for such expenses, including those if any incurred for such design prior to the Parties entering into a Notice to Commence, and (ii) from and after the Notice to Commence, the Parties agree to seek reimbursement from the READI Grant if applicable for such expenses. Developer, on behalf of and in collaboration and cooperation with the Commission, shall coordinate the preparation of the plans and specifications for the Local Public Improvements, which plans and specifications shall be submitted to and approved by the Commission prior to bidding (which approval shall not be unreasonably withheld, conditioned, or delayed).

4.4 Lease and Grant of Easement. Upon the execution of the Notice to Commence, the Developer will grant to the Commission (a) a ground lease, for the pad site location for each of the garage structures contemplated to be constructed by Commission within the Project Property, and (b) a temporary, non-exclusive easement on, in, over, under and across any part(s) of the Project Property (the “Easement”) in the form attached hereto as **Exhibit D**, to permit the Commission to fulfill its obligations under this Agreement, including the construction, equipping, inspection, and delivery of the Local Public Improvements. The Easement shall (a) inure to the benefit of the Commission and the Board of Works or any contractors acting on behalf of the Commission in connection with the construction, equipping, inspection, and delivery of the Local Public Improvements; (b) shall bind the Developer and its grantees, successors, and assigns; and (c) shall terminate no later than upon completion of the Local Public Improvements, as determined by the Board of Works.

4.5 Grant of Structure Easement and Parking License. Upon the execution of the Notice to Commence, the Commission and Developer will enter into a perpetual structure easement, in such a form to be mutually agreed, for the grant by the City (or Commission) to Developer of an easement and related rights to use structural components of the garage structures to be constructed by Commission in connection with Developer’s construction of the Project. Simultaneously upon execution of the Notice to Commence, the Commission and Developer will enter into a license for Developer’s right to access and to use certain parking spaces within the garage structures to serve the Project. The intent of the license will also reserve to the Commission all rights and responsibilities with respect to the maintenance and operation of the garage, as well as retention of a certain portion of the Parking Garages to be controlled by the Commission for the right and benefit of Beacon Health Systems and/or its affiliates.

4.6 Timeframe for Completion.

(a) Provided that the Parties enter into a Notice to Commencement and Commission has completed the Local Public Improvements by June 30, 2026 (or such other date as may be agreed in the Notice to Commence), the Developer hereby agrees to complete the Project in two phases as set forth in the Project Plan (“Phase 1” and “Phase 2”) and any other obligations the Developer may have under this Agreement. The Developer further agrees the total Project will be completed in accordance with the Project Plan attached hereto as **Exhibit B** (unless otherwise agreed in a Notice to Commence). Subject to the terms of any such Notice to Commence, Phase 1 shall be completed by the later of (i) 24 months following Commission’s completion of the Parking Garage and Local Public Improvements for Phase I, or (ii) December 31, 2026, and Phase 2 shall be completed by the later of (iii) 24 months following Commission’s completion of the Parking Garage and Local Public Improvements for Phase II, or (iv) December 31, 2028 (collectively, the “Mandatory Project Completion Dates”).

(b) The Developer’s failure to complete Phase 1 or Phase 2 of the Project or any other obligations the Developer may have under this Agreement by the Mandatory Project Completion Dates will constitute a default under this Agreement without any requirement of notice or an opportunity to cure such failure. Notwithstanding the foregoing, Developer may extend the Mandatory Project Completion Dates by two (2) additional twelve (12) month periods, provided that at least 33% of the Project has already been

completed. In order to extend the Mandatory Project Completion Dates, Developer shall provide written notice to Commission of the extension at least one month prior to the applicable Mandatory Project Completion Date.

4.7 Reporting Obligations. Upon substantial completion of the Project, the Developer hereby agrees to (or cause its general contractor to) report to the Commission the number of local contractors and local laborers involved in the Project and the amount of contracts entered into with local contractors related to the Project.

4.8 Submission of Plans and Specifications for Project. Promptly upon completion of all plans and specifications for the Project, or changes thereto, and prior to the Commission's expenditure of the Funding Amount (other than for planning and design related engagements for the Local Public Improvements), the Developer shall deliver a complete set thereof to the Commission's Reviewer, or their designee who will promptly approve the plans or will work in good faith with the Developer to reasonably modify said plans and specifications for the Project and thereafter approve the plans. Without limiting the generality of the foregoing, the Parties agree that with respect to each item of a Local Public Improvement, including site work, the Parking Garages and related public work:

(a) The Parties will cooperate, in good faith, to further establish a scope of work, schedule for completion and budget for items of such work;

(b) The Parties will enter into an addendum hereto, containing the agreed terms and conditions concerning the plans, specifications and timeline for each component of the Local Public Improvements for Developer to cause to be constructed (or to manage as part of the overall Project); and

(c) Commission shall pay the cost to design and construct the Local Public Improvements in accordance with each addendum for such work, which costs shall at least total the Funding Amount.

4.9 Reporting Obligations. On or before June 30 and December 31 of each year from and after the Parties enter into a Notice to Commence, until substantial completion of the Project, the Developer shall submit to the Commission a report, in the format set forth as **Exhibit E**, demonstrating the Developer's good-faith compliance with the terms of this Agreement. The report shall include the following information and documents: (i) a status report of the construction completed to date, (ii) an update on the project schedule, (iii) an itemized accounting generally identifying the Private Investment to date, and (iv) a status report of the number of jobs created for employment at the Project Property.

4.10 Costs and Expenses of Construction of Project. The Developer hereby agrees to pay, or cause to be paid, all costs and expenses of planning, construction, management, and all other activities or purposes associated with the Project (including legal, architectural, and engineering fees), exclusive of the Local Public Improvements, which shall be paid for by the Commission subject to the terms of this Agreement.

4.11 Specifications for Local Public Improvements. The Commission will be responsible for the preparation of all bid specifications related to the Local Public Improvements,

and the Commission will pay all costs and expenses of such preparation. The Commission will seek Developer's approval of the bid specifications, which consent will not be unreasonably withheld. Thereafter the Commission will submit all bid specifications related to the Local Public Improvements to the City of South Bend Engineering Department (the "Engineering Department"). The Engineering Department may approve or disapprove said bid specifications for the Local Public Improvements in its reasonable discretion and may request revisions or amendments to be made to the same. The Commission shall not be required to expend the Funding Amount on the Local Public Improvements (other than for planning and design related engagements for the Local Public Improvements) until the Engineering Department has approved all bid specifications.

4.12 Non-Interference. Developer hereby agrees to use commercially reasonable efforts to minimize disruption for those living and working near the Project Property during construction of the Project.

4.13 Insurance. The Developer shall purchase and maintain comprehensive insurance coverage as is appropriate for the work being performed with respect to the Project. The Developer shall provide proof of such adequate insurance to the Commission and shall notify the Commission and the City of any change in or termination of such insurance. During the period of construction or provision of services regarding any Local Public Improvements, the Developer shall maintain insurance in the kinds and for at least the minimum amounts as described in **Exhibit G** attached hereto and the Commission and the City shall be named as additional insureds on such policies (but not on any worker's compensation policies).

4.14 Information. The Developer agrees to provide any and all due diligence items with respect to the Project reasonably requested by the Commission.

SECTION 5. COMMISSION'S DEVELOPMENT OBLIGATIONS.

5.1 Generally. The Parties acknowledge and agree that the Developer's agreement to perform and abide by the covenants and obligations set forth in this Agreement is material consideration for the Commission's commitment to perform and abide by the covenants and obligations of the Commission contained in this Agreement.

5.2 Completion of Local Public Improvements.

(a) After the Developer has obtained fee simple title to the Project Property, the Commission hereby agrees to complete (or cause to be completed) the Local Public Improvements described in **Exhibit C**, attached hereto, on a schedule to be reasonably determined and agreed to by the Commission and the Developer, as may be modified due to unforeseen circumstances and delays in accordance with each addendum to be agreed to between the Parties (as referred in Section 4.8 above).

(b) Before any work on the Local Public Improvements will commence, (i) the Commission will have received satisfactory plans and specifications for the Project and responded in accordance with Section 4.8 ("Submission of Plans and Specifications for Project") of this Agreement, and (ii) the Engineering Department will have received satisfactory bid specifications for the Local Public Improvements and approved the same

in accordance with Section 4.11 (“Specifications for Local Public Improvements”) of this Agreement.

(c) The Local Public Improvements will be completed in accordance with all applicable public bidding and contracting laws and will be subject to inspection by the Engineering Department or its designee.

(d) Notwithstanding anything contained herein to the contrary, in the event the costs associated with the Local Public Improvements are in excess of the Funding Amount, Developer, at its sole option, may determine to pay to the Commission the amount of the excess costs to permit timely completion of the Local Public Improvements by the Commission, or an agent of the Commission, which amounts shall be applied for such purpose. If Developer chooses not to pay any such excess costs of the Local Public Improvements (above the Funding Amount), the Commission may reduce the scope of the Local Public Improvements to the amount which may be funded with the Funding Amount, by providing reasonable notice to the Developer.

5.3 Reporting Obligations. Upon the letting of contracts for substantial portions of the Local Public Improvements and again upon substantial completion of the Local Public Improvements, the Commission hereby agrees to report to the Developer, the amount of bid awards for each contract related to the Local Public Improvements, and information regarding which contractor is awarded each contract with respect to the Local Public Improvements. Additionally, on or before June 30 and December 31 of each year until substantial completion of the Local Public Improvements, the Commission shall submit to the Developer a report, in the format similar to Exhibit E, demonstrating the Commission’s good-faith compliance with the terms of this Agreement. The report shall include the following information and documents: (i) a status report of the construction of the Local Public Improvements completed to date, (ii) an update on the Local Public Improvements project schedule, and (iii) an itemized accounting generally identifying the Funding Amount expended to the date of the report.

5.4 Easements. Other than the Easement the Developer will be granting the Commission, as contemplated in Section 4.4, the Commission shall obtain any and all other easements from any governmental entity and/or any other third parties that the Developer or the Commission deems necessary or advisable in order to complete the Local Public Improvements and the Project.

5.5 Additional Easements. In addition, without limiting the foregoing, as a condition to Developer’s obligations hereunder, the Parties will enter into a permanent easement (as contemplated in Section 4.5 above) regarding the right of Developer to use certain parking areas within the Parking Garages as well as a permanent easement allowing Developer to attach to structural components of the Parking Garages for purposes of the design and construction of real estate improvements adjacent to and connected to such Parking Garages.

5.6 Cooperation. The Commission agrees to endorse and support the Developer’s efforts to expedite the Project through any required planning, design, permitting, waiver, and related regulatory processes, provided, however, that the Commission will not be required to expend any money in connection therewith.

5.7 Public Announcements, Press Releases, and Marketing Materials. The Commission hereby agrees to coordinate all public announcements and press releases relating to the Project with the Developer.

SECTION 6. OPTION TO PURCHASE PROJECT PROPERTY.

6.1 Generally. The Parties acknowledge and agree that the Commission's commitment to construct the Local Public Improvements is inextricably connected to the Developer's commitment to develop the Project Property as set forth herein, and the Commission's construction of the Local Public Improvements will occur before the Developer begins significant vertical construction work towards completing the Project Plan. The Parties further acknowledge and agree that the Project Plan is one piece of a greater downtown South Bend plan for development of the Madison Lifestyle District, and if the Developer does not proceed with constructing the Project as set forth herein, the Commission shall be entitled to an exclusive option to purchase the Project Property ("Option"), as further defined herein. More specifically, upon Developer acquiring the Project Property, the Parties agree to execute an Option to Purchase, in the form (or substantially similar to the form) attached hereto as **Exhibit G**. Notwithstanding the foregoing, if Developer does not acquire the Project Property from Beacon, this Section 6 shall become null and void.

6.2 Events to Trigger Option to Purchase. The Commission shall have the right to exercise its Option if:

(a) The conditions set forth in Section 3.2 cannot be fulfilled and the Developer elects to terminate this Agreement as a result; or

(b) Developer fails to secure construction financing for the Project and commence construction of Phase 1 of the Project within Twelve (12) months following Commission's completion of the Local Public Improvements related to such Phase 1 of the Project.

6.3 Exercise of Option. The Commission may exercise its Option by delivering written notice of such intent in writing no later than ninety (90) days following the trigger event(s) as set forth in Section 6.2. In the event the Commission exercises its Option, the purchase price shall be One Dollar (\$1.00), and Developer shall convey the Project Property to the Commission by Special Warranty Deed.

6.4 Recording of Memorandum. Upon the Developer's acquisition of title to the Project Property, the Parties shall execute, record, and place of record a memorandum of this Option, in the form (or substantially similar to the form) attached hereto in **Exhibit H**, in the office of the County Recorder of St. Joseph County, Indiana.

6.5 Release of Option. Promptly upon (or simultaneously with) Developer's commencement of construction of Phase 1 of the Project and its closing on construction financing for such Phase 1, the Commission will issue to Developer a certificate acknowledging such commencement and releasing Commission's Option in the Property (the "Option Release"). The Parties agree to record the Option Release immediately upon issuance, and Developer will pay the costs of recordation.

SECTION 7. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.

7.1 Cooperation. In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own legal counsel; however, Developer shall reimburse the Commission for its reasonable attorneys' fees associated with the Commission's defense of this Agreement against a third-party lawsuit challenging Developer's authority or actions hereunder. In no event shall the Commission be required to bear the fees and costs of the Developer's attorneys. The Parties agree that if any other provision of this Agreement, or this Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this Section 7.1, which shall survive such invalidation, nullification, or setting aside.

SECTION 8. DEFAULT.

8.1 Default. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. Upon the occurrence of a default under this Agreement, the non-defaulting Party may (a) terminate this Agreement, or (b) institute legal proceedings at law or in equity (including any action to compel specific performance) seeking remedies for such default. If the default is cured within thirty (30) days after the notice described in this Section 8.1, then no default shall exist and the noticing Party shall take no further action.

8.2 Liquidated Damages and Option to Purchase.

(a) In the event Developer fails to commence construction of the Project within the time frame set forth in Section 6.2(b), the Commission shall have (i) the exclusive right to exercise its Option to purchase the Project Property by following the procedures set forth in Section 6; and (ii) be entitled to recover from Developer, as liquidated damages, One Hundred Fifty Percent (150%) of the portion of the Funding Amount expended by the Commission in furtherance of its Local Public Improvements that is specific to Developer's Project Plan and which cannot be reused for other development plans of the Project Property ("Liquidated Damages").

(b) If and in the event Developer fails to (i) complete Phase 1 or Phase 2 of the Project by the applicable Mandatory Project Completion Date, or (ii) expend the full amount of the Private Investment for the Project upon the completion of Phase 2, then the Commission shall be entitled to recover from Developer, all Liquidated Damages together with any other remedies available under this Agreement including, without limitation, this Section 8.

If the Developer fails to perform and complete the work within the timeframe for completion, the Parties agree that the Liquidated Damages shall be considered not as a penalty,

but as agreed upon monetary damages sustained by the Commission, the City, and citizens of South Bend for the Commission's direct investment into the Project, the negative impact upon the Commission's ability to develop other projects in South Bend, and expenses of City employees supporting the Project, including redevelopment staff, engineering staff, legal department staff, and a construction manager on site.

8.3 General Remedies. Whenever an event of default occurs, the non-defaulting party may take whatever actions at law or in equity are necessary or appropriate to: (a) collect any payments due under this Agreement; (b) protect the rights granted to the non-defaulting party under this Agreement; (c) enforce the performance or observance by the defaulting party of any term or condition of this Agreement (including, without limitation, the right to specifically enforce any such term or condition); or (d) cure, for the account of the defaulting party, any failure of the defaulting party to perform or observe a material term or condition of this Agreement to be performed or observed by it. If the non-defaulting party incurs any costs or expenses, as well as attorneys' fees, in connection with exercising its rights and remedies under, or enforcing, this Agreement, then the defaulting party shall reimburse the non-defaulting party for all such costs and expenses, as well as reasonable attorneys' fees.

8.4 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, neither of the Parties shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of terrorism, restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties, or similar basis for excused performance which is not within the reasonable control of the Party to be excused (each, an event of "Force Majeure"). Upon the request of any of the Parties, a reasonable extension of any date or deadline set forth in this Agreement due to such cause will be granted in writing for a period necessitated by the event of Force Majeure, or longer as may be mutually agreed upon by all the Parties.

SECTION 9. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP; CONFLICT OF INTEREST; INDEMNITY.

9.1 No Agency, Joint Venture or Partnership. The Parties acknowledge and agree that:

- (a) The Project is a private development;
- (b) None of the Commission, the Board of Works, or the Developer has any interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the Commission, the Board of Works, and/or the Developer expressly accepts the same; and
- (c) The Parties hereby renounce the existence of any form of agency relationship, joint venture or partnership between the Commission, the Board of Works, and the Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Commission, the Board of Works, and the Developer.

9.2 Conflict of Interest; Commission Representatives Not Individually Liable. No member, official, or employee of the Commission or the City may have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the Commission or the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Commission or for any amount which may become due to the Developer, or its successors and assigns, or on any obligations under the terms of this Agreement. No partner, member, employee, or agent of the Developer or successors of them shall be personally liable to the Commission under this Agreement.

9.3 Indemnity. The Developer agrees to indemnify, defend, and hold harmless the Commission and the City from and against any third-party claims suffered by the Commission or the City resulting from or incurred in connection with the Developer's actions involving the Local Public Improvements or the Project. Further, the Parties agree that their approval of each other's plans or specifications does not create any liability to the approving party, and, to the extent that such liability may be found, the party that created the plans or specifications shall fully indemnify the approving party against any claims arising from such plans or specifications.

SECTION 10. MISCELLANEOUS.

10.1 Other Necessary Acts. Each Party shall execute and deliver to the other Party all such other further instruments and documents as may be reasonably necessary to accomplish the matters contemplated by this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder. Notwithstanding the foregoing, the Parties understand and agree that certain actions contemplated by this Agreement may be required to be undertaken by persons, agencies, or entities that are not a party to this Agreement, including, but not limited to certain permits, consents, and/or approvals (to the extent they have not yet been obtained and completed), and that any action by such third parties shall require independent approval by the respective person, agency, entity, or governing body thereof.

10.2 Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Project:

(a) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and

(b) The Developer will state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

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

same instrument. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

10.4 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.

10.5 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.

10.6 Notices and Demands. Any notice, demand, or other communication required or permitted under the terms of this Agreement may be delivered (a) by hand-delivery (which will be deemed delivered at the time of receipt), (b) by registered or certified mail, return receipt requested (which will be deemed delivered three (3) days after mailing), or (c) by overnight courier service (which will be deemed delivered on the next business day) to each Party's respective addresses and representatives stated below.

Developer: Great Lakes Capital Development LLC
7410 Aspect Drive, Suite 100
Granger, IN 46530
Attn: Audra Sieradzki
E-mail: asieradzki@greatlakescapital.com

With a copy to: Rich Deahl
E-mail: rdeahl@greatlakescapital.com

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

With a copy to: South Bend Legal Department
1200S County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Corporation Counsel

10.7 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.

10.8 Interpretation; Governing Law. 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 legal counsel. Neither Party shall be deemed the drafter of the Agreement, and 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. This Agreement is governed by and construed in accordance with the laws of the State of Indiana.

10.9 Attorneys' Fees. In the event the Commission pursues any legal action (including arbitration) to enforce or interpret this Agreement, Developer shall pay Commission's reasonable attorneys' fees and other costs and expenses (including expert witness fees).

10.10 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the Parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties herein.

10.11 Tax Advice. Each Party acknowledges and agrees that it is responsible for its own federal, state, and/or local tax obligations or consequences that may arise from or relate to this Agreement. Neither Party is relying on any representation that may be made by the other regarding the tax consequences of the matters contemplated herein and shall hold the other Party harmless from any adverse tax consequences resulting from any and all provisions of this Agreement.

10.12 Assignment. The Developer's rights under this Agreement shall be personal to the Developer and shall not run with the land. None of the Parties shall assign this Agreement without the prior written approval of the other parties hereto; provided that (a) without the prior written approval of Developer, the Commission may assign this Agreement to another agency, board, commission, department and/or instrumentality of the City of South Bend, Indiana; and (b) without the prior written approval of the Commission, Developer may (i) assign this Agreement to any affiliate or principal of Developer (which is under common control); or (ii) collaterally assign this Agreement to its construction financing lender. In the event the Developer seeks the Commission's consent to any such assignment, the Developer shall provide to the Commission all relevant

information concerning the identities of the persons or entities proposed to be involved in and an explanation of the purposes for the proposed assignment(s).

10.13 Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and certifies that he or she is the duly authorized officer or representative of such Party, that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party, and that all necessary action to execute and deliver this Agreement has been taken by such Party.

10.14 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.

10.15 Exhibits. All exhibits described herein and attached hereto are incorporated into this Agreement by reference.

10.16 Entire Agreement. Except for as may be provided in the Purchase Agreement, no representation, promise, or inducement not included in this Agreement will be binding upon the Parties hereto. This Agreement cannot be modified except by mutual agreement of the Parties set forth in a written instrument signed by the Parties' authorized representatives.

10.17 Time. Time is of the essence of this Agreement.

Signature Page Follows

IN WITNESS WHEREOF, the Parties hereby execute this Agreement to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT
COMMISSION

Troy Warner, Vice President

ATTEST:

Vivian Sallie, Secretary

Great Lakes Capital Development LLC

Bradley J. Toothaker, Manager

EXHIBIT A

Description of Project Property

Tax ID No. 018-1003-0125

Parcel Key No. 71-08-12-103-002.000-026

Legal Description: Lots 72 & 73 O P South Bend

Commonly known as: 307 N. Dr. Martin Luther King Jr. Boulevard, South Bend, IN 46601

Tax ID No. 018-1003-0107

Parcel Key No. 71-08-01-358-008.000-026

Legal Description: Lot 172 & So 1/2 Vac Alley Op South Bend

Commonly known as: 309 N. Dr. Martin Luther King Jr. Boulevard, South Bend, IN 46601

Tax ID No. 018-1003-0111

Parcel Key No. 71-08-01-358-007.000-026

Legal Description: Lot 171 & So 41ft Lot 170 & No 1/2 Vac Alley Op South Bend

Commonly known as: 321 N. Dr. Martin Luther King Jr. Boulevard, South Bend, IN 46601

Tax ID No. 018-1003-0112

Parcel Key No. 71-08-01-358-006.000-026

Legal Description: Lot 169 & 25'N End Lot 170 O P So Bend

Commonly known as: 333 N. Dr. Martin Luther King Jr. Boulevard, South Bend, IN 46601

Tax ID No. 018-1003-0101

Parcel Key No. 71-08-01-358-005.000-026

Legal Description: 55'E End Lot 176 O P So Bend

Commonly known as: Parcel immediately east of 336 N. Main Street

Tax ID No. 018-1003-0100

Parcel Key No. 71-08-01-358-001.000-026

Legal Description: Lot 176 Ex 55'E End O P So Bend

Commonly known as: 336 N. Main Street, South Bend, IN 46601

Tax ID No. 018-1003-0102

Parcel Key No. 71-08-01-358-002.000-026

Legal Description: N 30 Ft Lot 175 O P So Bend

Commonly known as: 336 N. Main Street, South Bend, IN 46601

Tax ID No. 018-1003-0103

Parcel Key No. 71-08-01-358-003.000-026

Legal Description: 36 Ft S Side Lot 175 O P So Bend

Commonly known as: 324 N. Main Street, South Bend, IN 46601

Tax ID No. 018-1003-0092

Parcel Key No. 71-08-01-355-006.000-026

Legal Description: Lot 162& E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13
03-22-2013

Commonly known as: 401 N. Dr. Martin Luther King Jr. Boulevard, South Bend, IN 46601

Tax ID No. 018-1003-0093

Parcel Key No. 71-08-01-355-005.000-026

Legal Description: Lot 161& E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13
03-22-2013

Commonly known as: 409 N. Dr. Martin Luther King Jr. Boulevard, South Bend, IN 46601

Tax ID No. 018-1003-0094

Parcel Key No. 71-08-01-355-004.000-026

Legal Description: Lot 160 & S1/2 Vac alley N & Adj & E1/2 Vac alley W & Adj O P So Bend
14/15 Vac Ord #10218-13 03-22-13 13/14 Vac Ord#10176-12 10-11-12

Commonly known as: 413 N. Dr. Martin Luther King Jr. Boulevard, South Bend, IN 46601

Tax ID No. 018-1003-0095

Parcel Key No. 71-08-01-355-003.000-026

Legal Description: Lots 165 166 E Pt Of 167 & Lots 157 158 & 159 & Ew vac alley Ex Pt Sold
For St & Pt Vac Ns Alley Original Plat So Bend 14/15 Vac Ord#10218-13 03-22-13
13/14 Vac Ord#10176-12 10-11-12

Commonly known as: 425 N. Dr. Martin Luther King Jr. Boulevard, South Bend, IN 46601

Tax ID No. 018-1003-0089

Parcel Key No. 71-08-01-355-002.000-026

Legal Description: Lots 163 & 164 & W1/2 Vac alley E & Adj O P So Bend 14/15 Vac Ord
#10218-13 7/15/2013

Commonly known as: 322 N. Main Street, South Bend, IN 46601

EXHIBIT B

Project Plan

Subject to the Mutual Project Diligence, the Developer will complete the construction of a development known as the “Madison Street District” and consisting of each of the following elements:

Phase 1

- Construction of a 150-unit apartment building that includes workforce housing units;
- Construction of a 105-bed hotel;
- Construction of flex/office/research/other space measuring at least 35,000 square feet in size; and
- Construction of a retail space measuring at least 1,400 square feet in size.

Phase 2

- Construction of a 91-unit apartment building that includes workforce housing units;
- Construction of retail space measuring at least 7,000 square feet in size; and

The Developer will complete the work contemplated herein in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations.

EXHIBIT C

Description of Local Public Improvements

Subject to the Mutual Project Diligence, the Commission will complete, or cause to be completed, the following work in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations:

Phase 1

- Construct a cast-in-place concrete parking structure with 625 parking spaces; and
- Make pedestrian crossing improvements on streets on and around the development site
- Site work to be identified

Phase 2

- Construct a precast concrete parking structure with approximately 300 parking spaces.

Any and all costs associated with improvements in Phase 1 and Phase 2 not explicitly described in this Exhibit and not approved pursuant to Section 4.11 (“Specifications for Local Public Improvements”) are the sole responsibility of the Developer.

EXHIBIT D

Form of Temporary Easement

GRANT OF TEMPORARY EASEMENT

THIS INDENTURE, made as of the _____ of _____, 2024 (the “Effective Date”), by and between Great Lakes Capital LLC, with offices at 7410 Aspect Drive, Suite 100, Granger, IN 46530 (the “Grantor”), and the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, 1400S County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601 (the “Grantee”).

WITNESSETH:

For the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which Grantor hereby acknowledges, Grantor hereby grants, conveys, and warrants to Grantee a temporary, non-exclusive easement (the “Easement”) on, in, over, under and across the real property described in attached Exhibit 1 (the “Property”) for the construction, equipping, and delivery of certain improvements on the Property (the “Local Public Improvements”), together with the right of ingress to and egress from the Easement for said purposes, all pursuant to a certain Land Exchange and Development Agreement by and between Grantor and Grantee, dated March 28, 2024 (the “Development Agreement”). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Development Agreement.

The Easement granted herein shall pertain to the air, surface, and subsurface rights and interests of Grantor, for the use and benefit of Grantee, and its successors and assigns, to the extent necessary to accomplish and carry out the construction, equipping, and delivery of the Local Improvements on the Property. The Easement hereby granted includes the right and privilege for Grantee at reasonable times to clean and remove from said Easement any debris or obstructions interfering with said Easement.

The Easement granted herein, and its associated benefits and obligations, shall inure to the benefit of Grantee and Grantee’s contractors acting on Grantee’s behalf in connection with the Local Public Improvements.

Notwithstanding anything contained herein to the contrary, unless extended in writing by Grantor, the Easement shall terminate and be of no further force and effect on the date (hereinafter, the “Construction Termination Date”) of the earliest of the following: (a) completion of the Local Public Improvements; (b) expiration or earlier termination of the Development Agreement; or (c) such earlier date as Grantor and Grantee may agree to in writing.

EXHIBIT 1

Description of Property

Parcel 1

Key No. 018-1003-0125

Legal Description: Lots 72 & 73 O P South Bend

Commonly Known As: 307 N. Dr. Martin Luther King Jr. Blvd.

Parcel 2

Key No. 018-1003-0107

Legal Description: Lot 172 & So 1/2 Vac Alley Op South Bend

Commonly Known As: 309 N Dr. Martin Luther King Jr Blvd

Parcel 3

Key No. 018-1003-0111

Legal Description: Lot 171 & So 41ft Lot 170 & No 1/2 Vac Alley Op South Bend

Commonly Known As: 321 N Dr. Martin Luther King Jr Blvd

Parcel 4

Key No. 018-1003-0103

Legal Description: 36 Ft S Side Lot 175 O P So Bend

Commonly Known As: 324 N Main Street

Parcel 5

Key No. 018-1003-0102

Legal Description: N 30 Ft Lot 175 O P So Bend

Commonly Known As: 328 N Main Street

Parcel 6

Key No. 018-1003-0100

Legal Description: Lot 176 Ex 55'E End O P So Bend

Commonly Known As: 336 N Main Street

Parcel 7

Key No. 018-1003-0092

Legal Description: Lot 162& E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13
03-22-2013

Commonly Known As: 401 N. Martin Luther King Jr. Dr.

Parcel 8

Key No. 018-1003-0093

Legal Description: Lot 161& E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13
03-22-2013

Commonly Known As: 409 N. Martin Luther King Jr. Dr.

Parcel 9

Key No. 018-1003-0094

Legal Description: Lot 160 & S1/2 Vac alley N & Adj & E1/2 Vac alley W & Adj O P So Bend
14/15 Vac Ord #10218-13 03-22-13 13/14 Vac Ord#10176-12 10-11-12

Commonly Known As: 413 N. Martin Luther King Jr. Dr.

Parcel 10

Key No. 018-1003-0095

Legal Description: Lots 165 166 E Pt Of 167 & Lots 157 158 & 159 & Ew vac alley Ex Pt Sold
For St & Pt Vac Ns Alley Original Plat So Bend 14/15 Vac Ord#10218-13 03-22-13 13/14 Vac
Ord#10176-12 10-11-12

Commonly Known As: 425 N. Martin Luther King Jr. Dr.

Parcel 11

Key No. 018-1003-0089

Legal Description: Lots 163 & 164 & W1/2 Vac alley E & Adj O P So Bend 14/15 Vac Ord
#10218-13 7/15/2013

Commonly Known As: 410 416 N. Main St.

Parcel 12

Key No. 018-1003-0117

Legal Description: 56x100 Ft Nw Pt Lot 115 O P South Bend

Commonly Known As: 332 N. Martin Luther King Jr. Dr.

Parcel 13

Key No. 018-1003-0118

Legal Description: 56' Ne Pt Lot 115 & S 22.75' Vac Madison St N & Adj O P South Bend

Commonly Known As: 110 E Madison St.

EXHIBIT E

Form of Report to Commission

City of South Bend
Department of Community Investment

Development Agreement Review

Answer the below questions and return to the Department of Community Investment.

Project Information

Project Name: _____

Address: _____

Construction Completed to Date:

Project Schedule Update:

Itemized Accounting of Private Investment to Date:

Number of Jobs Created:

Name: _____

Address: _____

Position: _____

Email: _____

Signature: _____

Date: _____

EXHIBIT F

Minimum Insurance Amounts

- | | | | |
|----|------------------------------------|----------------------|--|
| A. | Worker's Compensation | | |
| | 1. | State | Statutory |
| | 2. | Applicable Federal | Statutory |
| | 3. | Employer's Liability | \$100,000.00 |
| | | | |
| B. | Comprehensive General Liability | | |
| | 1. | Bodily Injury | |
| | | a. | \$5,000,000.00 |
| | | b. | \$5,000,000.00 |
| | | | Each Occurrence |
| | | | Annual Aggregate Products
and Completed Operation |
| | 2. | Property Damage | |
| | | a. | \$5,000,000.00 |
| | | b. | \$5,000,000.00 |
| | | | Each Occurrence |
| | | | Annual Aggregate |
| | | | |
| C. | Comprehensive Automobile Liability | | |
| | 1. | Bodily Injury | |
| | | a. | \$500,000.00 |
| | | b. | \$500,000.00 |
| | | | Each Person |
| | | | Each Accident |
| | 2. | Property Damage | |
| | | a. | \$500,000.00 |
| | | | Each Occurrence |

Exhibit G

Option to Purchase Agreement

OPTION TO PURCHASE AGREEMENT

THIS EXCLUSIVE OPTION TO PURCHASE AGREEMENT (the "Option Agreement") is made and entered into by and between the South Bend Redevelopment Commission, governing body of the South Bend Department of Redevelopment ("Commission"), and Great Lakes Capital Development, LLC, an Indiana Limited Liability Company, with offices at 7410 Aspect Drive, Suite 100, Granger, IN 46530 (the "Developer") (the Commission and the Developer are each sometimes referred to herein as a "Party" or collectively as the "Parties").

PRELIMINARY STATEMENT

Developer is the owner of certain real estate, as more particularly described in **Exhibit 1** to this Option Agreement (the "Property"). The Parties have entered into a certain Development Agreement dated March 28, 2024 (the "Development Agreement") relating to the Developer's construction of new housing units, a new hotel, and retail and office space in downtown South Bend and the Commission's contribution to the construction of a parking garage on the Property (the "Development Agreement"). The Parties acknowledge and agree that the Project Plan set forth in the Development Agreement is one piece of a greater downtown South Bend plan for development of the Madison Lifestyle District, and if the Developer does not proceed with completing the Project as set forth in the Development Agreement, the Commission, the City, and citizens of the South Bend will suffer significant injury. Therefore, if the Project is not completed, in accordance with the Project Plan set forth in the Development Agreement, the Commission shall be entitled to an exclusive option to purchase the Project Property ("Option"), if certain conditions are present, and, in the event of exercise of said Option, Developer agrees to sell the Property to the Commission, upon the terms and conditions hereinafter set forth. Unless otherwise specified herein, all capitalized terms have the meaning set forth in the Development Agreement.

In consideration of the mutual promises contained in this Option Agreement, the Parties agree to the following:

AGREEMENT

1. **Exclusive Option to Purchase.** The Developer hereby grants the Commission the exclusive Option to purchase the Property, subject to the terms and conditions set forth herein. The Option must be exercised by Commission, if at all, no later than one year after the trigger events set forth in the Development Agreement (the "Option Period"), which shall occur if:
 - a. The conditions set forth in Section 3.2 of the Development Agreement that must be satisfied or waived in writing prior to execution of the Notice of Commence cannot be fulfilled and the Developer elects to terminate the Development Agreement as a result, or
 - b. Developer fails to (1) complete Phase 1 or Phase 2 of the Project by the Mandatory Completion Dates set forth in Section 4.6 of the Development Agreement, or (2) expend the full amount of Private Investment as defined in Section 1.4 of the Development Agreement for the Project by the end of the Mandatory Completion

Dates.

As a consideration for this Option, the parties acknowledge that the Commission will pay the Funding Amount and construct the Local Public Improvements as set forth in the Development Agreement (the "Option Payment").

2. Exercise of Option. Commission may exercise the Option by giving notice to the Developer in writing during the Option Period in the manner provided for the giving of notices in Section 10 of this Option Agreement.

3. Purchase Price. In the event of exercise, the Commission shall purchase from Developer and Developer shall sell to the Commission, the Property for the purchase price of One Dollar (\$1.00), as well as any costs typically paid by the seller at closing, including but not limited to taxes, closing costs, and transfer fees (the "Purchase Price").

4. Purchase Agreement and Closing. If the Option is exercised, the Commission and Developer will promptly negotiate the terms of a purchase agreement for the Property, which shall include the Purchase Price and shall specify that the Commission shall accept Property described in Exhibit 1, as-is with all faults. The Commission and its counsel shall be responsible for preparing the initial draft of the purchase agreement, which will be in a form customary for transactions of similar scope and significance to the Parties and, with the exception of the foregoing, will include customary representations, warranties, indemnities, covenants, customary conditions of closing and other customary matters. At closing, Developer shall deliver a warranty deed free and clear of all encumbrances excepting and subject to all legal highways, applicable zoning ordinances, and easements of record and real estate taxes and assessments prorated in accordance with local custom.

5. Recording of Memorandum. The Parties shall concurrently herewith execute, record and place of record a memorandum of this Option Agreement in the office of the County Recorder of St. Joseph County, Indiana.

6. Governing Law and Jurisdiction. This Option Agreement will be governed by Indiana law, without regard to principles of conflicts of law. Any dispute between the Parties shall be heard in any court of competent jurisdiction in St. Joseph County, Indiana.

7. Benefit of the Parties. This Option Agreement is made solely for the benefit of the Parties, and no one else shall acquire or have any right under (or by virtue of) this Option Agreement.

8. Binding Effect and Assignment. This Option Agreement shall be binding upon and inure to the benefit of the Parties and to their respective successors and assigns. The rights and obligations contained in this Option Agreement shall not be assigned by either Party.

9. Amendment. This Option Agreement may only be amended or modified as may be agreed upon in writing by all Parties.

10. Notices. All notices and other communications hereunder shall be in writing and shall be furnished by hand delivery or by registered or certified mail to the Parties at the addresses set forth below. Any such notice shall be duly given upon the date it is delivered to the addresses shown below, addressed as follows:

If to the Commission, to:

South Bend Redevelopment Commission
c/o Department of Community Investment
227 W. Jefferson Blvd., Suite 1400 S.
South Bend, IN 46601
Attn: Executive Director

With a copy to:

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

If to Developer, to:

Great Lakes Capital Development LLC
7410 Aspect Drive, Suite 100
Granger, IN 46530
Attn: Audra Sieradzki
E-mail: asieradzki@greatlakescapital.com

With a copy to:

Rich Deahl
E-mail: rdeahl@greatlakescapital.com

11. Severability. If any term, provision, covenant or restriction contained in this Option Agreement that is intended to be binding and enforceable is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions contained in this agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

12. 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.

13. Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and certifies that he or she is the duly authorized officer or representative of such Party, that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party, and that all necessary action to execute and deliver this Agreement has been taken by such Party.

14. Time. Time is of the essence of this Agreement.

15. Entire Agreement. The Parties acknowledge that upon final execution of this Option Agreement, all previous statements, proposals, offers and information and any oral statements or understandings are hereby rendered void, null, and of no legal consequence in connection with the subject matter hereof and that this Option Agreement represents an expression of the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous written or oral agreements or understandings of any kind between the Parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Option to Purchase Agreement on the ____ day of _____ 2024.

SOUTH BEND REDEVELOPMENT
COMMISSION

Troy Warner, Vice President

ATTEST:

Vivian Sallie, Secretary

GREAT LAKES CAPITAL
DEVELOPMENT LLC

Bradley J. Toothaker, Manager

EXHIBIT 1

Property Description

Parcel 1

Key No. 018-1003-0125

Legal Description: Lots 72 & 73 O P South Bend

Commonly Known As: 307 N. Dr. Martin Luther King Jr. Blvd.

Parcel 2

Key No. 018-1003-0107

Legal Description: Lot 172 & So 1/2 Vac Alley Op South Bend

Commonly Known As: 309 N Dr. Martin Luther King Jr Blvd

Parcel 3

Key No. 018-1003-0111

Legal Description: Lot 171 & So 41ft Lot 170 & No 1/2 Vac Alley Op South Bend

Commonly Known As: 321 N Dr. Martin Luther King Jr Blvd

Parcel 4

Key No. 018-1003-0103

Legal Description: 36 Ft S Side Lot 175 O P So Bend

Commonly Known As: 324 N Main Street

Parcel 5

Key No. 018-1003-0102

Legal Description: N 30 Ft Lot 175 O P So Bend

Commonly Known As: 328 N Main Street

Parcel 6

Key No. 018-1003-0100

Legal Description: Lot 176 Ex 55'E End O P So Bend

Commonly Known As: 336 N Main Street

Parcel 7

Key No. 018-1003-0092

Legal Description: Lot 162& E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13
03-22-2013

Commonly Known As: 401 N. Martin Luther King Jr. Dr.

Parcel 8

Key No. 018-1003-0093

Legal Description: Lot 161& E1/2 Vac alley W & Adj O P So Bend 14/15 Vac Ord #10218-13
03-22-2013

Commonly Known As: 409 N. Martin Luther King Jr. Dr.

Parcel 9

Key No. 018-1003-0094

Legal Description: Lot 160 & S1/2 Vac alley N & Adj & E1/2 Vac alley W & Adj O P So Bend
14/15 Vac Ord #10218-13 03-22-13 13/14 Vac Ord#10176-12 10-11-12

Commonly Known As: 413 N. Martin Luther King Jr. Dr.

Parcel 10

Key No. 018-1003-0095

Legal Description: Lots 165 166 E Pt Of 167 & Lots 157 158 & 159 & Ew vac alley Ex Pt Sold
For St & Pt Vac Ns Alley Original Plat So Bend 14/15 Vac Ord#10218-13 03-22-13 13/14 Vac
Ord#10176-12 10-11-12

Commonly Known As: 425 N. Martin Luther King Jr. Dr.

Parcel 11

Key No. 018-1003-0089

Legal Description: Lots 163 & 164 & W1/2 Vac alley E & Adj O P So Bend 14/15 Vac Ord
#10218-13 7/15/2013

Commonly Known As: 410 416 N. Main St.

Parcel 12

Key No. 018-1003-0117

Legal Description: 56x100 Ft Nw Pt Lot 115 O P South Bend

Commonly Known As: 332 N. Martin Luther King Jr. Dr.

Parcel 13

Key No. 018-1003-0118

Legal Description: 56' Ne Pt Lot 115 & S 22.75' Vac Madison St N & Adj O P South Bend

Commonly Known As: 110 E Madison St.

Exhibit H

Memorandum of Option Agreement

MEMORANDUM OF OPTION AGREEMENT

This Memorandum of Option Agreement (this “Memorandum”) is entered into as of the _____ day of _____, 2024 (the “Effective Date”), by and between South Bend Redevelopment Commission, governing body of the Department of Redevelopment of the City of South Bend, Indiana (the “Commission”), and Great Lakes Capital Development, LLC, an Indiana Limited Liability Company, with offices at 7410 Aspect Drive, Suite 100, Granger, IN 46530 (the “Developer”) (the Commission and the Developer are each sometimes referred to herein as a "Party" or collectively as the "Parties").

WITNESSETH

WHEREAS, the Developer is the owner of that certain real estate situated in the City of South Bend, County of St. Joseph and State of Indiana, comprising 13 parcels which are more particularly described on Exhibit 1, attached hereto and made a part hereof as if fully rewritten herein (the “Property”); and

WHEREAS, as of the date hereof, the Commission and the Developer entered into an Option Agreement (the “Agreement”) whereby the Developer granted the Commission an exclusive option (the “Option”) to purchase the Property (the “Option Property”) upon terms and conditions more particularly set forth in the Agreement, and pursuant to the terms of a certain Development Agreement between the Parties dated March 28, 2024 (the “Development Agreement”); and

WHEREAS, the parties are desirous of placing their interests therein as a matter of record.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and the parties intending to be legally bound thereby, the parties hereto hereby agree as follows:

1. The term of the Option commenced upon the Effective Date and shall continue until the Developer completes Phase 1 and Phase 2 of the Project by the Mandatory Completion Dates set forth in Section 4.6 of the Development Agreement and expends the full amount of Private Investment as defined in Section 1.4 of the Development Agreement for the Project by the end of the Mandatory Completion Dates, which must be evidenced by a Certificate of Completion, unless earlier terminated pursuant to terms set forth in the Agreement.

2. 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 but one and the same Memorandum.

3. The recitals set forth above are true and correct and are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the day and year first above written.

SOUTH BEND REDEVELOPMENT
COMMISSION

By: _____
Troy Warner, Vice President

ATTEST:

By: _____
Vivian Sallie, Secretary

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared Troy Warner and Vivian Sallie, known by me to be Vice President and Secretary, respectively, of the Commission in the foregoing Memorandum, and who, in such capacity, acknowledged the execution of the same, being authorized so to do.

WITNESS my hand and Notarial Seal this _____ day of _____, 2024.

, Notary Public
Residing in _____ County, IN

My Commission Expires: _____

GREAT LAKES CAPITAL DEVELOPMENT LLC

Bradley J. Toothaker, Managing Member

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared Bradley J. Toothaker, to me known to be the Managing Member of the Developer in the above Memorandum of Option and acknowledged the execution of the same as his free and voluntary act and deed.

WITNESS my hand and Notarial Seal this _____ day of _____, 2024.

_____, Notary Public
Residing in _____ County, IN

My Commission Expires: _____

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

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

EXHIBIT 1

Property Description

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Key No. 018-1003-0102

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14/15 Vac Ord #10218-13 03-22-13 13/14 Vac Ord#10176-12 10-11-12

Commonly Known As: 413 N. Martin Luther King Jr. Dr.

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Key No. 018-1003-0095

Legal Description: Lots 165 166 E Pt Of 167 & Lots 157 158 & 159 & Ew vac alley Ex Pt Sold
For St & Pt Vac Ns Alley Original Plat So Bend 14/15 Vac Ord#10218-13 03-22-13 13/14 Vac
Ord#10176-12 10-11-12

Commonly Known As: 425 N. Martin Luther King Jr. Dr.

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Key No. 018-1003-0089

Legal Description: Lots 163 & 164 & W1/2 Vac alley E & Adj O P So Bend 14/15 Vac Ord
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Commonly Known As: 410 416 N. Main St.

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Key No. 018-1003-0117

Legal Description: 56x100 Ft Nw Pt Lot 115 O P South Bend

Commonly Known As: 332 N. Martin Luther King Jr. Dr.

Parcel 13

Key No. 018-1003-0118

Legal Description: 56' Ne Pt Lot 115 & S 22.75' Vac Madison St N & Adj O P South Bend

Commonly Known As: 110 E Madison St.

EXHIBIT I

Description of Developer Property

LOTS NUMBERED 289, 290 AND 291 AS SHOWN ON THE ORIGINAL PLAT OF THE TOWN, NOW CITY OF SOUTH BEND, TOGETHER WITH THE SOUTH HALF OF THE VACATED ALLEY LYING NORTH AND ADJACENT TO SAID LOT 291, IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

ALSO, THE RIGHTS AND BENEFITS OF AN AGREEMENT BY AND BETWEEN THE NATIONAL BANK AND TRUST COMPANY OF SOUTH BEND, ROBERTSON BROS. DEPARTMENT STORE, INC., AN INDIANA CORPORATION AND NATIONAL AUTO-PARK, INC., RECORDED NOVEMBER 16, 1965 AS MISCELLANEOUS RECORD 217, PAGE 170 OF THE ST. JOSEPH COUNTY RECORDS. FIRST AMENDMENT TO AGREEMENT BY AND AMONG WELLS FARGO BANK, NATIONAL ASSOCIATION, AS SUCCESSOR IN INTEREST TO THE NATIONAL BANK AND TRUST COMPANY OF SOUTH BEND, AND COYNE INVESTMENTS, LLC, AS SUCCESSOR IN INTEREST TO NATIONAL AUTO-PARK, INC., RECORDED JANUARY 30, 2012 AS INSTRUMENT NUMBER 1202558 OF THE ST. JOSEPH COUNTY RECORDS.

ALSO, THE RIGHTS AND BENEFITS OF A GRANT OF EASEMENT BY AND BETWEEN THE CITY OF SOUTH BEND, INDIANA, A MUNICIPAL CORPORATION, AND NATIONAL AUTOPARK, INC., AN INDIANA CORPORATION, DATED JUNE 22, 1992 AND RECORDED JUNE 28, 1992 AS INSTRUMENT NUMBER 9223119 OF THE ST. JOSEPH COUNTY RECORDS.

EXHIBIT J

[Form of Real Estate Purchase Agreement]

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (this “Agreement”) is made and entered into on March 28, 2024, by and between 112 West Jeff LLC, an Indiana limited liability company (“Seller”) and City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (“Purchaser”). Seller and Purchaser are each referred to herein as a “Party” and together as the “Parties”.

BACKGROUND

- A. Seller owns (i) the property commonly known as the Wayne Street Garage, located at 119 West Wayne Street, South Bend, Indiana, and legally described on Exhibit A, attached hereto (the “Property”), and (ii) rights as Landlord under those certain lease agreements encumbering the Property (the “Leases”).
- B. Purchaser exists and operates pursuant to the Redevelopment of Cities and Towns Act of 1953, as amended, cited as Indiana Code § 36-7-14 (the “Act”).
- C. In furtherance of its purposes under the Act, Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, the Property together with all rights, privileges and appurtenances pertaining thereto and all rights under the Leases in connection therewith (collectively, “Rights”), all in accordance with the terms and conditions of this Agreement.
- D. The Property is situated in the River West Development Area and is set forth on the acquisition list related thereto, pursuant to Purchaser’s Resolution No. 550.
- E. Seller desires to sell the Property to the Purchaser in accordance with this Agreement and the Act.

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

1. **Background.** The background provisions above are incorporated into the body of this Agreement as if fully set forth herein and made a part hereof.
2. **Purchase and Sale of Property.** On the Closing Date (defined below), subject to the terms and conditions of this Agreement, Seller agrees to sell, convey, assign and transfer to Purchaser and Purchaser agrees to purchase from Seller, the Property and Rights.
3. **Purchase Price and Payment Terms.** The purchase price for the Property and Rights shall be Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,00.00) (the “Purchase Price”). The Purchase Price (subject to any adjustments, credits or prorations set forth herein) shall be paid at Closing (as defined below).
4. **Date of Closing.** The closing on the purchase and sale of the Property and Rights (the “Closing”) shall take place at 10:00 a.m. on or before the ninetieth (90th) day after the Effective Date (the “Closing Date”) in the offices of Fidelity National Title Insurance Corporation

at 4215 Edison Lakes Parkway, Mishawaka, IN 46545 (the "Title Company") or on such other date or at such other time or place or manner (e.g. by correspondence) as is mutually agreed upon by the parties.

5. Title Commitment & Survey.

(a) Within seven (7) days after the date this Agreement is signed by both Parties, Seller shall order and request to be furnished to Purchaser, at Seller's cost, a commitment for an ALTA Owner's Title Insurance Policy issued through the Title Company for the full amount of the Purchase Price, along with all documents listed as exceptions therein (the "Commitment"); provided, however, that Purchaser shall be responsible to obtain and pay the associated cost for any title insurance endorsements or lender's policy that it may require. In addition, during such seven (7) day period, Seller agrees to provide Purchaser with (i) a copy of any survey of the Property currently in Seller's possession and/or control, if any, and to permit Purchaser to obtain (at any time) a survey of the Property ("Survey") at Purchaser's sole cost and expense, from a licensed professional surveyor, (ii) copy of the Leases, together with any amendments thereto, (iii) environmental reports (if any) currently in Seller's possession and/or control, (iv) permits, licenses, equipment leases, warranties, (v) engineering reports, and (vi) any additional documents in Seller's current possession and control which materially relate to the Property ("Seller Documents"). Upon delivery of all Seller Documents, Seller agrees to provide notice to Purchaser confirming that such delivery is complete.

(b) Prior to Closing, the Commitment shall show in Seller, good and merchantable title to the Property, in fee simple, free and clear of all liens and encumbrances other than the following exceptions: (i) zoning and building laws, ordinances and regulations; (ii) legal streets and highways; (iii) building setback lines, rights-of-way and covenants, restrictions, conditions, and easements of record; (iv) the lien of real estate taxes which are not then due and payable; (v) those certain Leases with respect to the Property between Seller, as landlord; (vi) matters as would be disclosed by a current and accurate survey and physical inspection of the Property, and (vii) any encumbrances created by or existing due to actions of or with consent Purchaser (collectively, the "Permitted Exceptions"). At or as soon as reasonably practicable after Closing, an owner's title insurance policy in conformance with the Commitment indicating the release of all mortgage liens, if any, shall be provided to Purchaser at Seller's cost.

(c) *Review of Title Commitment and Survey.* Purchaser shall, within the fifteen (15) days after delivery of the Commitment, provide Seller with written notice of any objections to the Commitment and/or Survey, other than the Permitted Exceptions.

(d) *Cure of Defects.* If Purchaser raises any such objections to the Commitment and/or Survey within the period set forth in Section 5(c) above, Seller shall have fifteen (15) days after receipt of Purchaser's objections to notify Purchaser that Seller will remove or cause the Title Company to insure against any such objectionable exceptions. If Seller gives Purchaser notice that Seller cannot or will not cause an objectionable exception to be removed, Purchaser shall provide a written notice to Seller, within fifteen (15) days after receipt of Seller's notice regarding the objectionable exception, to either proceed with the

purchase and take title to the Property subject to such exceptions, or terminate this Agreement after which neither Party would have any further obligations hereunder.

6. Due Diligence Investigation.

(a) For a period of ninety (90) days after the Effective Date (the “Inspection Period”), Purchaser may review the Seller Documents, Commitment and Survey and inspect, examine, and survey the Property, including without limitation, the right to conduct studies and obtain engineering reports and otherwise do feasibility studies as it deems necessary regarding the operations of the Property, including review of leases, occupancy, rent rolls and historical operating performance, and such other matters as Purchaser may determine in its reasonable discretion.

(b) In connection with the investigation under Section 6(a), Seller grants to Purchaser and its agents, employees and contractors the right to enter upon the Property, at all reasonable times during the Inspection Period, to conduct Purchaser’s diligence. Notwithstanding the foregoing, Purchaser will notify Seller’s diligence contact prior to any entry and will not unreasonably interfere with or disrupt other tenants’ business operations or other use at the Property. Purchaser will hold Seller harmless from and against any damage, injury, claim or lien caused by the activities of Purchaser or its agents on the Property.

7. Right to Terminate. During the Inspection Period, if a mutually agreed to appraiser licensed in the State of Indiana and qualified to provide appraisals of parking garage structures reasonably determines in their professional judgment that the value of the Property is less than ninety percent (90%) of the Purchase Price, then Purchaser may elect to terminate this Agreement at any time prior to the expiration of the Inspection Period by providing written notice to Seller, in which case neither party shall have any continuing rights or obligations hereunder.

8. As Is, Where Is Condition of Property. The Parties acknowledge that Purchaser has had or will be provided full and open access to conduct any and all investigations and inspections it deemed necessary or desirable under the circumstances to evaluate the Property (subject to the rights of the tenants under the Leases). Purchaser acknowledges and agrees that the Purchaser is accepting the Property in its present condition “AS IS, WHERE IS”. Purchaser acknowledges that except for title to the Property or representations specifically set forth herein, Seller has not made, and does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, concerning the Property including, without limitation (i) the income to be derived from the Property, (ii) the suitability of the Property for any and all activities and uses which Purchaser may conduct, (iii) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property, (iv) the environmental or general condition, manner, state of repair or lack of repair of the Property, or (v) the compliance of or by the Property with any laws, rules, ordinances or regulations of any applicable governmental authority or body.

9. Obligations of Parties at Closing. At the Closing, the parties hereby shall satisfy and perform the following:

(a) Seller shall execute and deliver to Purchaser the following items: (i) a limited warranty deed conveying title to the Property to Purchaser in the general form attached as Exhibit B; (ii) an Indiana Sales Disclosure form (if applicable); (iii) closing statement; (iv) all keys to the Property; and (vii) any other document(s) reasonably required from Seller by the Title Company in order to issue an owner's policy of title insurance based on the Commitment

(b) In addition to the deliveries in Section 9(a), Seller also agrees at Closing to deliver a general assignment and assumption agreement in the form attached at Exhibit C to assign to Purchaser (i) all rights of Seller and for Purchaser's assumption of rights and obligations under, in and to the Leases and all licenses and other agreements to occupy all or any part of the Property, (ii) all rents and other sums due, accrued, or to become due under the Leases, all guarantees by third parties of the tenant's obligations under said Leases, and all lease security and other deposits, if any; (iii) all permits, approvals, authorizations, disclosure documents, and certificates of occupancy, issued by any federal, state, county, or other governmental authority relating to the use, maintenance, construction, improvement, or occupancy of the Property; and (iv) all unexpired claims, warranties, and guarantees, if any, received in connection with the improvement of the Property (the "Warranties"), to the extent such rights are assignable.

(c) Purchaser shall deliver to Seller the following items: (i) payment of the Purchase Price in accordance with Section 3 hereof; (ii) a closing statement; (iii) an Indiana Sales Disclosure form (if applicable), (iv) an assumption of all rights and obligations under the Leases, and (v) any other document(s) reasonably required from Purchaser by the Title Company in order to complete the sale of the Property and close the transaction,

10. **Representations of Seller.** Seller represents to Purchaser, which representations shall not survive Closing, are as follows:

(a) *Authority to Enter into Agreement.* Seller has full power and authority to enter into and carry out the terms and provisions of this Agreement and the transactions contemplated hereby, including the sale, assignment, transfer, conveyance and delivery of the Property and Rights to Purchaser, without obtaining the approval or consent of any other party. Seller's execution, delivery and performance of this Agreement and all other agreements or instruments contemplated hereby, including the sale, assignment, transfer, conveyance and delivery of the Property and Rights, will be the legal, valid and binding obligations of Seller enforceable in accordance with their terms.

(b) *No Liens.* Seller holds fee simple title to the entire Property and Rights and to Seller's actual knowledge and without any independent investigation, inquiry or investigation, there are no recorded or unrecorded mortgage, judgment or similar liens, security interests or other encumbrances against the Premises which will not be satisfied at or prior to Closing.

(c) *Litigation.* To Seller's actual knowledge and without any independent investigation, inquiry or investigation, there is no action, temporary restraining order, injunction, suit, or proceeding, at law or in equity, or before or by a judicial or administrative court or agency, relating to the Property or Rights, including but not limited

to the United States Environmental Protection Agency, relating to hazardous substances or hazardous wastes having been placed, held, located, released, disposed, stored or dumped on or at the Property.

(d) *Contracts and Agreements.* Seller is not a party to any executed, valid and binding contract to sell the Property or Rights other than this Agreement. Seller is not a party to any other contract, agreement, or other commitment which is directly related to the Property (other than the Leases or as listed as Permitted Exceptions) that will be binding following closing.

(e) *Leases.* All Leases provided to Purchaser are in full force and effect and to Seller's actual knowledge, other than as may be reflected on a rent roll of Leases and without any independent investigation, inquiry, or investigation, neither Seller nor any tenant is in violation of any lease. Seller has not received advanced payment of rent other than those monthly rents paid in advance. Seller shall have provided a rent roll of Leases to Purchaser prior to this agreement's execution and also at the Closing.

At Closing, Seller shall represent and warrant to Purchaser that all representations and warranties of Seller in this Agreement remain true and correct as of the Closing, except for any changes in any such representations or warranties that occur and are disclosed by Seller to Purchaser expressly and in writing at any time upon their occurrence (prior to Closing). If there is any change in any representation or warranty and Seller does not cure or correct such changes prior to the Closing, then Purchaser may, at Purchaser's option, (i) close and consummate the transaction contemplated by this Agreement, or (ii) terminate this Agreement by written notice to Seller and thereafter the parties hereto shall have no further rights or obligations hereunder.

11. **Representations of Purchaser.** Purchaser represents and warrants to Seller the following as of the date of this Agreement: Purchaser has the right, power and authority to enter into this Agreement and to perform its obligation hereunder and the execution and delivery of this Agreement by Purchaser shall not violate, or put Purchaser in default under any agreement, contract, instrument, mortgage, indenture or other similar document binding upon Purchaser. Purchaser's execution, delivery and performance of this Agreement and all other agreements or instruments contemplated hereby, including the purchase and assumption of the Property and Rights, will be the legal, valid and binding obligations of Purchaser enforceable in accordance with their terms. In the event that any one or more of the foregoing warranties or representations shall be untrue as of the date hereof and/or as of Closing, the same shall be deemed a default hereunder by Purchaser entitling Seller to pursue any and all remedies on account thereof provided hereunder and/or at law or in equity.

12. **Risk of Loss, Condemnation or Destruction.** Risk of loss shall remain on Seller prior to Closing. If prior to the Closing of this transaction, all or any substantial part of the Property is condemned, damaged or destroyed, Purchaser shall have the option of either applying the proceeds of any condemnation award or insurance policies to reduce the total purchase price payable by Purchaser herein or terminating this Agreement by delivering written notice of termination pursuant to this Section to Seller within ten (10) days of the date Seller notifies Purchaser in writing of such condemnation, damages or destruction.

13. **Prorations at Closing.** General real estate taxes and assessments (collectively,

“Taxes”) levied or assessed against the Property, and which are due and payable as of the Closing Date, shall be paid by Seller at or before Closing. All Taxes with respect to time periods prior to Closing (which are a lien against the Property, but not yet due and payable) shall be prorated based on the number of days in the year in which the Closing occurs that each party owned the Property, and credited against the Purchase Price (together with any unpaid taxes for prior years) and Purchaser shall be responsible for the payment of any such taxes as they become due. The Parties agree that (i) Seller shall also provide Purchaser a credit against the Purchase Price in an amount equal to any rent received by Seller under the Leases related solely to time periods from and after Closing and (ii) Purchaser shall provide Seller with a credit for any rent which should have been received by Seller under the Leases related solely to time periods up to the Closing. The Parties agree that expenses, such as utility expenses serving the Property shall be prorated such that Seller receives rent and is responsible for all such expenses related to periods prior to Closing, and Purchaser receives rent and is responsible for such services provided on and after Closing.

14. Remedies.

(a) *Rights of Seller.* In the event that Purchaser fails to purchase the Property in accordance with the terms and conditions of this Agreement, or otherwise defaults in the performance of Purchaser’s obligations pursuant to this Agreement, for any reason whatsoever, other than Seller’s default or as otherwise permitted hereunder, Seller shall have the right to pursue any and all remedies available to it including, without limitation, specific performance of this Agreement.

(b) *Rights of Purchaser.* In the event that Seller shall default in the performance of Seller’s obligations hereunder at or prior to Closing, for any reason whatsoever, other than Purchaser’s default or as otherwise permitted hereunder, Purchaser, at Purchaser’s option, may (i) purchase the Property notwithstanding such default pursuant to the remaining terms and provisions of this Agreement, in which event such default shall be waived, or (ii) shall have the right but not the obligation to pursue any and all remedies available to it including, without limitation, specific performance of this Agreement; provided that any suit for specific performance must be filed and served within sixty (60) days of Seller’s default and Purchaser hereby waives the right to bring suit at any later date. Purchaser shall give Title Company and Seller written notice of Purchaser’s election of such remedy.

(c) *Additional Rights.* The non-breaching Party shall, in addition to the above remedies, be entitled to recover from the breaching Party its attorney fees, expenses and costs (collectively, “Costs”) arising from such breach and incurred in enforcing this Agreement.

15. **Costs and Expenses.** Except as otherwise provided for herein, Seller and Purchaser shall each be responsible for their own costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement, including expenses and their respective representatives, agents and professional advisors. At Closing, the Parties agree to share, equally, standard closing costs charged by the Title Company to close this transaction. Seller agrees to pay for all costs of releasing and recording any releases and the owner’s policy of title insurance.

Purchaser agrees to pay for any and all costs to record any mortgages related to the Property, the deed, and any expenses for a lender's policy of title insurance.

16. **Brokerage Services.** Each Party represents and warrants to the other that it has dealt with no broker, finder or other person with respect to this Agreement contemplated for the purchase and sale of the Property and that no other broker will be entitled to a commission with regard to this transaction. The Parties agree to indemnify each other from and against any claims related to its breach of the foregoing representation.

17. **Miscellaneous.**

(a) Time is of the essence of this Agreement.

(b) Purchaser may not assign this Agreement without first obtaining Seller's advance written consent; and any assignment in contravention of this provision shall be void. Notwithstanding the foregoing, Purchaser may assign this Agreement to any related or affiliated entity without Seller's advance consent but with advance written notice to Seller; and regardless of consent, no assignment shall release the Purchaser herein named from any obligation or liability under this Agreement. Any permitted assignee shall be deemed to have made any and all representations and warranties made by Purchaser or Seller hereunder, as if the assignee were the original signatory hereto. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Purchaser and Seller and their successors and permitted assigns.

(c) If any term or condition of this Agreement is found to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby.

(d) This Agreement constitutes the entire agreement between the parties with respect to the transaction contemplated herein, and, unless specified otherwise in this Agreement, no representation, inducement, promises or prior agreements, oral or written, between the Parties or made by any agent on behalf of the Parties or otherwise shall be of any force or effect. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements relating to the purchase and sale of the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by both Parties hereto.

(e) This Agreement shall be construed and interpreted under the laws of the State of Indiana, without regard to conflicts of law principles.

(f) The provisions of this Agreement shall not merge into the documentation from this transaction and shall survive and not merge into the Closing of this transaction and the execution and delivery of the deed pursuant hereto.

(g) Notice from one party to another relating to this Agreement shall be deemed effective if made in writing (including telecommunications) and delivered to the recipient's address or email set forth below by any of the following means: (i) hand delivery; (ii) registered or certified mail, postage prepaid, with return receipt requested; (iii) first class or express mail, postage prepaid; (iv) Federal Express or like overnight courier service; or

(v) email or other digital transmission with request for assurance of receipt in a manner typical with respect to communications of that type. All notice shall be deemed effective upon delivery.

“Purchaser”

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

“Seller”

112 WEST JEFF LLC
c/o Great Lake Capital Management
Attn: Rich Deahl
7410 Aspect Drive, Suite 100
Granger, IN 46530
Email: rdeahl@greatlakescapital.com

With a copy to:

South Bend Legal Department
1200 S. County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Corporation Counsel

(h) Purchaser and Seller shall, at the time of Closing, execute such other papers and documents as may be legally necessary or reasonably required by the Title Company in order to close the transaction.

(i) This Agreement may be executed in multiple counterparts, each of which shall be considered an original with counterparts signed by one party when combined with the counterparts signed by the party to this Agreement constituting an original contract.

(j) The undersigned representatives of Purchaser and Seller warrant that each has the right and authority on behalf of the Purchaser and Seller, respectively, to execute this Agreement and to make the agreements contained herein.

(k) This Agreement shall be binding only if and upon the execution hereof by both Parties.

(l) The obligations of Seller under this Agreement and under all of the documents referenced herein are intended to be binding only on the assets of Seller and shall not be personally binding upon, nor shall any resort be had to, the private properties of any member of Seller or any trustee, partner, member, manager, officer, director, employee or affiliate of Seller.

[Signature Page Follows]

IN WITNESS WHEREOF, a duly authorized representative of the parties has executed and delivered this Real Estate Purchase Agreement on the date set forth opposite the name of each but effective as of the Effective Date.

“Purchaser”
SOUTH BEND REDEVELOPMENT
COMMISSION

Dated: _____

TROY WARNER, VICE PRESIDENT

ATTEST:

Dated: _____

VIVIAN SALLIE, SECRETARY

“Seller”

112 WEST JEFF, LLC
BY: GREAT LAKES CAPITAL MANAGEMENT,
LLC
ITS: MANAGER

Dated: _____

BY: _____
PRINTED: BRADLEY J. TOOTHAKER
ITS: MANAGING MEMBER

EXHIBIT A
DESCRIPTION OF PROPERTY

LOTS NUMBERED 289, 290 AND 291 AS SHOWN ON THE ORIGINAL PLAT OF THE TOWN, NOW CITY OF SOUTH BEND, TOGETHER WITH THE SOUTH HALF OF THE VACATED ALLEY LYING NORTH AND ADJACENT TO SAID LOT 291, IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

ALSO, THE RIGHTS AND BENEFITS OF AN AGREEMENT BY AND BETWEEN THE NATIONAL BANK AND TRUST COMPANY OF SOUTH BEND, ROBERTSON BROS. DEPARTMENT STORE, INC., AN INDIANA CORPORATION AND NATIONAL AUTO-PARK, INC., RECORDED NOVEMBER 16, 1965 AS MISCELLANEOUS RECORD 217, PAGE 170 OF THE ST. JOSEPH COUNTY RECORDS. FIRST AMENDMENT TO AGREEMENT BY AND AMONG WELLS FARGO BANK, NATIONAL ASSOCIATION, AS SUCCESSOR IN INTEREST TO THE NATIONAL BANK AND TRUST COMPANY OF SOUTH BEND, AND COYNE INVESTMENTS, LLC, AS SUCCESSOR IN INTEREST TO NATIONAL AUTO-PARK, INC., RECORDED JANUARY 30, 2012 AS INSTRUMENT NUMBER 1202558 OF THE ST. JOSEPH COUNTY RECORDS.

ALSO, THE RIGHTS AND BENEFITS OF A GRANT OF EASEMENT BY AND BETWEEN THE CITY OF SOUTH BEND, INDIANA, A MUNICIPAL CORPORATION, AND NATIONAL AUTOPARK, INC., AN INDIANA CORPORATION, DATED JUNE 22, 1992 AND RECORDED JUNE 28, 1992 AS INSTRUMENT NUMBER 9223119 OF THE ST. JOSEPH COUNTY RECORDS.

EXHIBIT B
FORM LIMITED WARRANTY DEED

[attached]

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Parcel Key No:

71-08-12-157-002.000-026

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

LIMITED WARRANTY DEED

THIS INDENTURE WITNESSETH, that 112 West Jeff, LLC, an Indiana limited liability company (the "Grantee"), for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate in St. Joseph County, in the State of Indiana, which is legally described on Exhibit A attached hereto and made apart hereof (the "Real Estate").

This conveyance of the Real Estate is subject to: (i) zoning and building laws, ordinances and regulations; (ii) legal streets and highways; (iii) building setback lines, rights-of-way and covenants, restrictions, conditions, and easements of record; (iv) the lien of real estate taxes and assessments which are not now due and payable; (v) rights of tenants in possession under unrecorded leases; (vi) matters as would be disclosed by a current and accurate survey and physical inspection of the Real Estate, and (vii) any encumbrances created by or existing due to actions of or with consent Grantee.

TO HAVE AND TO HOLD the Real Estate to Grantee and Grantee's successors and assigns forever. Grantor covenants and warrants as its sole warranty of title that said Real Estate is free of any encumbrance made or suffered by said Grantor except any set forth above, and that Grantor and Grantor's successors shall warrant and defend the same to said Grantee and said Grantee's successors and assigns forever, against the lawful claims and demands of all persons claiming by, though, or under the said Grantor, but against none other.

The undersigned person executing this Limited Warranty Deed on behalf of Grantor represents and certifies that the undersigned is a duly authorized officer of Grantor and has been fully empowered to execute and deliver this Limited Warranty Deed; that Grantor has full corporate power and authority to convey the Real Estate; and that all necessary action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, the Grantor has caused this Limited Warranty Deed to be executed on _____, 2024.

112 WEST JEFF, LLC
BY: GREAT LAKES CAPITAL MANAGEMENT, LLC
ITS: MANAGER

By: _____
Printed: Bradley J. Toothaker
Its: Managing Member

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

Before me, a Notary Public in and for said County and State, personally appeared Bradley J. Toothaker, Managing Member of Great Lakes Capital Management, LLC, the Manager of 112 West Jeff, LLC, as Grantor, who acknowledged execution of the foregoing Limited Warranty Deed for and on behalf of said entity.

Witness my hand and Notarial seal on _____, 2024.

(SEAL)

(signature)

Notary Public

My Commission Expires:

My County of Residence:

EXHIBIT A
DESCRIPTION OF PROPERTY

LOTS NUMBERED 289, 290 AND 291 AS SHOWN ON THE ORIGINAL PLAT OF THE TOWN, NOW CITY OF SOUTH BEND, TOGETHER WITH THE SOUTH HALF OF THE VACATED ALLEY LYING NORTH AND ADJACENT TO SAID LOT 291, IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

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EXHIBIT C
FORM ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Agreement”) is made as of _____, 2024, by and between 112 West Jeff, LLC, an Indiana limited liability company (“Assignor”), City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (“Assignee”).

All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth in that certain Real Estate Purchase Agreement, dated March 28, 2024, by and between Assignor and Assignee. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby transfers and assigns unto Assignee, without representation, warranty or recourse, all of Assignor’s right, title and interest in, to and under any and all of the following items, to the extent that they are related to the Property described on Exhibit A attached hereto: (i) all rights of Assignor (and for Assignee’s assumption of) rights and obligations under, in and to the Leases and all licenses and other agreements to occupy all or any part of the Property, (ii) all rents and other sums due, accrued, or to become due under the Leases, all guarantees by third parties of the tenant’s obligations under said Leases, and all lease security and other deposits, if any; (iii) all permits, approvals, authorizations, disclosure documents, and certificates of occupancy, issued by any federal, state, county, or other governmental authority relating to the use, maintenance, construction, improvement, or occupancy of the Property; and (iv) all unexpired claims, warranties, and guarantees, if any, received in connection with the improvement of the Property (the “Warranties”), all to the extent such rights are assignable (collectively, the “Assigned Rights and Obligations”).

Assignee does hereby accept the foregoing assignment and does hereby assume and agree to perform, fulfill and observe all of the duties, obligations, responsibilities and liabilities of Assignor arising under or in connection with the Assigned Rights and Obligations, including, without limiting the generality of the foregoing, all of the duties, obligations and liabilities to be performed, fulfilled or observed by the landlord/lessor under the Lease.

Assignee hereby agrees to indemnify, defend and hold Assignor harmless from and against any and all claims, loss, cost, damage, expense and liability, including, without limitation, reasonable attorneys’ fees and expenses, suffered or incurred by Assignor and arising or accruing from and after the date hereof in connection with the performance or observance or the failure or refusal to perform or observe any agreement or obligation of the landlord under the Lease or any term or provision thereof required to be performed by the landlord thereunder at any time from and after the date hereof.

Assignor hereby agrees to indemnify, defend and hold Assignee harmless from and against any and all claims, loss, cost, damage, expense and liability, including, without limitation reasonable attorneys’ fees and expenses, suffered or incurred by Assignee and arising or accruing prior to the date hereof in connection with the performance or observance or the failure or refusal to perform or observe any agreement or obligation of the landlord under the Lease pursuant to any

term or provision thereof required to be performed by the landlord thereunder at any time prior to the date hereof.

This Agreement is delivered pursuant to the Purchase Agreement and is subject to all of the terms and conditions thereof, including without limitation Section 9(b) thereof.

The provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the successors and assigns of Assignor and Assignee, respectively. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Assignor and Assignee have executed this Assignment and Assumption Agreement as of the date first set forth above.

“Assignor”

Dated: _____

112 WEST JEFF, LLC
BY: GREAT LAKES CAPITAL MANAGEMENT, LLC
ITS: MANAGER

By: _____

Printed: _____

Its: Managing Member

“Assignee”

SOUTH BEND REDEVELOPMENT
COMMISSION

Dated: _____

Troy Warner, Vice President

ATTEST:

Vivian Sallie, Secretary

Exhibit A: Legal Description

RESOLUTION NO. 3597

**A RESOLUTION OF THE SOUTH BEND
REDEVELOPMENT COMMISSION AUTHORIZING THE EXECUTION
OF A LEASE BETWEEN THE SOUTH BEND REDEVELOPMENT AUTHORITY AND
THE SOUTH BEND REDEVELOPMENT COMMISSION RELATING TO THE FOUR
WINDS FIELD AT COVELESKI STADIUM PROJECT, AND ALL MATTERS
RELATED THERETO**

WHEREAS, the South Bend Redevelopment Commission (the “Commission”), the governing body of the South Bend Department of Redevelopment and the Redevelopment District of the City of South Bend, Indiana (the “District”), exists and operates under the provisions of Indiana Code 36-7-14, as amended from time to time (the “Act”); and

WHEREAS, the City of South Bend, Indiana (the “City”), has determined to undertake certain improvements to the Four Winds Field at Coveleski Stadium (the “Stadium”) consisting of enhancements to the Stadium including, without limitation, modernizing the existing stadium infrastructure, adding a full second level above the existing facility, renovating the primary seating areas and suites, adding a new 20,000 square foot, four-story club and event space building, and a new playground and splash pad with additional improvements including, without limitation, additional restrooms, additional circulation space, updated retail and concessions areas, a new improved entrance, and all projects related to the foregoing projects (collectively, the “Project”) for the purpose of increasing the Stadium’s capacity and providing for increased future success; and

WHEREAS, the Commission has given consideration to (i) financing the cost of all or a portion of the Project; (ii) funding a debt service reserve fund, if necessary in connection with the issuance of the Bonds (defined herein); and (iii) paying costs incurred in connection with the issuance of the Bonds; and

WHEREAS, the South Bend Redevelopment Authority (the “Authority”) has been established pursuant to the applicable provisions of Indiana Code 36-7-14 as a separate body corporate and politic, and as an instrumentality of the City to finance local public improvements for lease to the Commission; and

WHEREAS, on March 14, 2024, the Commission at a duly advertised and noticed public meeting, adopted its Resolution No. 3595 approving a proposed form of lease (the “Lease”) with the Authority, as Lessor, for the real estate on which the Project will be located (the “Leased Premises”) in order to provide for the completion of the Project in order to better serve the residents of the City and provide for further economic development in the City, and the Commission scheduled a public hearing regarding the Lease to be held on March 28, 2024, at 9:30 a.m. (local time), in Room 1308 of the County-City Building located at 227 West Jefferson Boulevard, South Bend, Indiana, and published notice of such public hearing on the Lease in accordance with applicable Indiana law; and

WHEREAS, on this date said public hearing has been held, and all interested parties have been provided the opportunity to be heard at the hearing; and

WHEREAS, the Commission intends to pay rent to the Authority (the “Rental Payments”) pursuant to the terms of the Lease, at a rate not to exceed Four Million Four Hundred Seventy-six Thousand Dollars (\$4,476,000.00) per year, in semiannual installments, with a term no longer than twenty (20) years beginning on the date the Authority acquires an interest in the Leased Premises, and ending on the day prior to a date not later than twenty (20) years after such date of acquisition by the Authority; and

WHEREAS, the Commission seeks to authorize execution of the Lease and authorize the publication, in accordance with Indiana Code. 36-7-14-25.2 and Indiana 6-1.1-20-5, of a Notice of Execution and Approval of Lease and a Notice of Decision to Enter into a Lease;

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH BEND REDEVELOPMENT COMMISSION, AS FOLLOWS:

SECTION 1. The Commission hereby finds and determines that (i) the terms of the Lease are based upon the value of the Leased Premises, that the Rental Payments to be paid by the Commission, pursuant to the terms of the Lease, at a rate not to exceed Four Million Four Hundred Seventy-six Thousand Dollars (\$4,476,000.00) per year, in semiannual installments, with a term no longer than twenty (20) years beginning on the date the Authority acquires an interest in the Leased Premises and ending on the day prior to a date not later than twenty (20) years after such date of acquisition by the Authority, are fair and reasonable, (ii) the use of the Leased Premises throughout the term of the Lease will serve the public purpose of the City and is in the best interests of its residents, and (iii) the execution and delivery of the Lease is needed.

SECTION 2. The President or Vice-President and the Secretary of this Commission are hereby authorized and directed, on behalf of the City, and subject to obtaining approval from the Common Council of the City (the “Common Council”), to execute and deliver the Lease in substantially the form presented at this public meeting with such changes in form or substance as the President or Vice-President of this Commission shall approve, such approval to be conclusively evidenced by the execution thereof; provided that the Rental Payments shall not exceed the amounts set forth in Section 1 hereof.

SECTION 3. The Secretary of the Commission is hereby directed to transmit to the Common Council a copy of this Resolution and the Lease and to request the Common Council to adopt a Resolution approving the Lease and its execution by the Commission and the Authority, prior to the execution of the Lease.

SECTION 4. The Commission hereby authorizes the publication and posting in three (3) public places of a notice of the decision of the Commission to enter into a lease in excess of Five Thousand Dollars (\$5,000) all in accordance with Indiana Code 5-3-1 and 6-1.1-20-5.

SECTION 5. The Commission hereby authorizes the publication, in accordance with Indiana Code 5-3-1 and 36-7-14-25.2, of the Notice of Execution and Approval of Lease, following execution of the lease by the Commission.

SECTION 6. The President, Vice-President and Secretary of this Commission, and each of them, is hereby authorized and directed to take all such further actions and to execute all such documents or instruments as are desirable to carry out the transactions contemplated by this

Resolution, in such forms as the President, Vice-President or Secretary executing the same shall deem proper, such desirability to be conclusively evidenced by the execution thereof.

SECTION 7. This Resolution shall be in full force and effect from and after its adoption by the Commission.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on March 28, 2024, in Room 1308, County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana, 46601.

SOUTH BEND REDEVELOPMENT COMMISSION

By: _____
Troy Warner, Vice-President

ATTEST:

Vivian Sallie, Secretary

LEASE AGREEMENT

between

SOUTH BEND REDEVELOPMENT AUTHORITY

LESSOR

and

SOUTH BEND
REDEVELOPMENT COMMISSION

LESSEE

Dated as of April 1, 2024

(Four Winds Field at Coveleski Stadium Project)

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and dated as of this 1st day of April, 2024, by and between the SOUTH BEND REDEVELOPMENT AUTHORITY (the “Lessor”), a separate body corporate and politic organized and existing under the provisions of I.C. 36-7-14.5 as an instrumentality of the City of South Bend, Indiana (the “City”), and the CITY OF SOUTH BEND REDEVELOPMENT COMMISSION (the “Lessee”), the governing body of the City of South Bend, Department of Redevelopment, acting for and on behalf of the City.

WITNESSETH:

WHEREAS, the City has created the Lessor under and in pursuance of the provisions of I.C. 36-7-14, I.C. 36-7-14.5 and I.C. 36-7-25 (collectively, the “Act”), for the purpose of financing, constructing, acquiring and leasing to the Lessee certain local public improvements and redevelopment and economic development projects; and

WHEREAS, the City has created the Lessee to undertake redevelopment and economic development in the City in accordance with the Act; and

WHEREAS, the Lessee is the governing body of the South Bend Department of Redevelopment and the Redevelopment District of the City (the “District”) which District is coterminous with the boundaries of the City; and

WHEREAS, in accordance with prior resolutions adopted by the Lessee, the Lessee has designated a certain area of the City known as the “River West Development Area” (the “Area”) as an economic development area under the Act and approved an economic development plan for the Area; and

WHEREAS, the City has determined to undertake certain renovations and improvements to Four Winds Field at Coveleski Stadium (the “Stadium”) consisting of enhancements to the Stadium including, without limitation, modernizing the existing stadium infrastructure, adding a full second level above the existing facility, renovating the primary seating areas and suites, adding a new 20,000 square foot, four-story club and event space building, and a new playground and splash pad with additional improvements including, without limitation, additional restrooms, additional circulation space, updated retail and concessions areas, a new improved entrance, and all projects related to the foregoing projects (collectively, the “Project”) for the purpose of increasing the Stadium’s capacity and providing for increased future success; and

WHEREAS, the Project will foster further economic development and redevelopment throughout the District, including the Area; and

WHEREAS, the City, the Lessor, and the Lessee seek to provide a means to finance the Project; and

WHEREAS, the Act authorizes the Lessor to issue bonds for the purpose of obtaining money to pay the cost of acquiring property or constructing, improving, reconstructing or renovating local public improvements; and

WHEREAS, the costs related to acquiring and completing the Project will be paid from proceeds of bonds to be issued by the Lessor in one (1) or more series; and

WHEREAS, the annual rentals to be paid under this Lease by the Lessee will be pledged by the Lessor to pay debt service on and other necessary incidental expenses of the Authority relating to the Bonds to be issued by the Lessor to finance the acquisition and completion of the Project; and

WHEREAS, the Lessor has acquired or will acquire an interest in the real estate on which the Project will be located (the "Leased Premises") described on Exhibit A hereto and such interest shall be for a term no less than the term of this Lease; and

WHEREAS, the Lessee has determined, after a public hearing held pursuant to the Act after notice given pursuant to I.C. § 5-3-1, that the lease rentals provided for in this Lease are fair and reasonable, that the execution of this Lease is necessary and that the service provided by the Project will serve the public purpose of the City and is in the best interests of its residents, and the Common Council of the City (the "Common Council") has, by resolution, approved this Lease in accordance with the provisions of Section 25.2 of the Act, and the Resolution has been entered in the official records of the Common Council; and

WHEREAS, the Lessor has determined that the lease rentals provided for in this Lease are fair and reasonable, that the execution of this Lease is necessary, that the service provided by the Project will serve the public purpose of the City and is in the best interests of its residents, and the Lessor has duly authorized the execution of this Lease by Resolution, and the Resolution has been entered in the official records of the Lessor.

THIS AGREEMENT WITNESSETH THAT:

1. **Premises, Term and Warranty**. The Lessor does hereby lease, demise and let to Lessee all of the Lessor's right, title and interests in and to the Leased Premises.

TO HAVE AND TO HOLD the Leased Premises with all rights, privileges, easements and appurtenances thereunto belonging, unto the Lessee, beginning on the date the Lessor acquires an interest in any of the Leased Premises and ending on the day prior to a date not later than twenty (20) years after such date of acquisition by the Lessor. Notwithstanding the foregoing, the term of this Lease will terminate at the earlier of (a) the exercise by the Lessee of the option to purchase all of the Leased Premises pursuant to Section 11 hereof and the payment of the option price, or (b) the payment or defeasance of all obligations issued by the Lessor and secured by this Lease or any portion thereof; provided that no bonds or other obligations of the Lessor issued to finance the Leased Premises remain outstanding at the time of such payment or defeasance. The Lessor hereby represents that it is possessed of, or will acquire, the Leased Premises and the Lessor warrants and will defend the Leased Premises against all claims whatsoever not suffered or caused by the acts or omissions of the Lessee or its assigns.

Notwithstanding the foregoing, the Leased Premises may be amended to add additional property to the Leased Premises or remove any portion of the Leased Premises, including, but not limited to the Leased Premises, provided however, following such amendment, the rental payable under this Lease shall be based on the value of the portion of the Leased Premises which is

available for use, and the rental payments due under this Lease shall be in amounts sufficient to pay when due all principal of and interest on all outstanding Bonds.

2. **Lease Rental.** (a) **Fixed Rental Payments.** The Lessee agrees to pay rental for the Leased Premises at an annual rate per year during the term of the Lease not to exceed Four Million Four Hundred Seventy-six Thousand Dollars (\$4,476,000), payable in semi-annual installments. Each such semi-annual installment, payable as hereinafter described, shall be based on the value of the Leased Premises, together with that portion of the Leased Premises which is complete and ready for use by the Lessee at the time such semi-annual installment is made. Such rental shall be payable in advance in semi-annual installments on January 15 and July 15 of each year, with the first rental installment due no earlier than January 15, 2025. The last semi-annual rental payment due before the expiration of this Lease shall be adjusted to provide for rental at the yearly rate so specified from the date such installment is due to the date of the expiration of this Lease.

After the sale of the Bonds, the annual rental shall be reduced to an amount sufficient to pay principal and interest due in each twelve (12) month period commencing each year on August 1, rounded up to the next One Thousand Dollars (\$1,000), together with incidental costs in each year in an amount to be determined at the time the Bonds are sold for the purpose of paying annual trustee fees and related costs, payable in advance in semi-annual installments. In addition, each such reduced semi-annual installment shall be based on the value of the Leased Premises at the time such semi-annual installment is made. Such amount of adjusted rental shall be endorsed on this Lease at the end hereof in the form of Exhibit B attached hereto by the parties hereto as soon as the same can be done after the sale of the Bonds, and such endorsement shall be recorded as an addendum to this Lease.

(b) **Additional Rental Payments.** (i) The Lessee shall pay as further rental in addition to the rentals paid under Section 2(a) for the Leased Premises (“Additional Rentals”) the amount of all taxes and assessments levied against or on account of the Leased Premises or the receipt of lease rental payments and the amount required to reimburse the Lessor for any insurance payments made by it under Section 6. The Lessee shall pay as additional rental all administrative expenses of the Lessor, including ongoing trustee fees, relating to the Bonds. Any and all such payments shall be made and satisfactory evidence of such payments in the form of receipts shall be furnished to the Lessor by the Lessee, at least three (3) days before the last day upon which such payments must be paid to avoid delinquency. If the Lessee shall in good faith desire to contest the validity of any such tax or assessment, the Lessee shall so notify the Lessor and shall furnish bond with surety to the approval of the Lessor conditioned for the payment of the charges so desired to be contested and all damages or loss resulting to the Lessor from the nonpayment thereof when due, the Lessee shall not be obligated to pay the contested amounts until such contests shall have been determined. The Lessee shall also pay as Additional Rentals the amount calculated by or for the Lessor as the amount required to be rebated, or paid as a penalty, to the United States of America under Section 148(f) of the Internal Revenue Code of 1986, as amended and in effect on the date of issue of the Bonds (“Code”), after taking into account other available moneys, to prevent the Bonds from becoming arbitrage bonds under Section 148 of the Code.

(ii) The Lessee may, by Resolution, pay Additional Rentals to enable the Lessor to redeem or purchase Bonds prior to maturity. Rental payments due under this Section 2 shall be reduced to the extent such payments are allocable to the Bonds redeemed or purchased by the

Lessor with such Additional Rentals. The Lessee shall be considered as having an ownership interest in the Leased Premises valued at an amount equal to the amount of the Additional Rentals paid pursuant to this subsection (b)(ii).

(c) **Source of Payment of Rentals.** The annual rentals set forth in Section 2(a) hereof and the Additional Rentals shall be payable from a special benefits tax levied upon the District and received by the Lessee for deposit into the Four Winds Field at Coveleski Stadium Principal and Interest Account of the Redevelopment District Bond Fund (the "Bond Fund") pursuant to Indiana Code 36-7-14-27 (the "Special Benefits Tax Revenues"). The Lessee may pay the annual rentals and the Additional Rentals, or any other amounts due hereunder, from any revenues legally available to the Lessee; provided, however, the Lessee shall be under no obligation to pay any annual rentals or Additional Rentals or any other amounts due hereunder from any moneys or properties of the Lessee except the Special Benefits Tax Revenues deposited into said account in the Bond Fund.

3. **Payment of Rentals.** All rentals payable under the terms of this Lease shall be paid by the Lessee to the bank or trust company designated as Trustee ("Trustee") under the Trust Indenture between it and the Lessor ("Indenture"), or to such other bank or trust company as may from time to time succeed such bank as Trustee under the Indenture securing the bonds to be issued by the Lessor to finance the acquisition and construction of the Leased Premises. Any successor trustee under the Indenture shall be endorsed on this Lease at the end hereof by the parties hereto as soon as possible after selection, and such endorsement shall be recorded as an addendum to this Lease. All payments so made by the Lessee shall be considered as payment to the Lessor of the rentals payable hereunder.

4. **Abatement of Rent; Substitution.** If any part of the Leased Premises is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use by the Lessee, it shall then be the obligation of the Lessor to restore and reconstruct that portion of the Leased Premises as promptly as may be done, unavoidable strikes and other causes beyond the control of the Lessor excepted; provided, however, that the Lessor shall not be obligated to expend on such restoration or reconstruction more than the condemnation proceeds received by the Lessor.

If any part of the Leased Premises shall be partially or totally destroyed, or is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use or occupancy by the Lessee, the rent shall be abated for the period during which the Leased Premises or such part thereof is unfit or unavailable for use, and the abatement shall be in proportion to the percentage of the Leased Premises which is unfit or unavailable for use or occupancy.

Notwithstanding the foregoing, the Leased Premises may be amended to add additional property to the Leased Premises or remove any portion of the Leased Premises, provided however, following such amendment, the rental payable under this Lease shall be based on the value of the portion of the Leased Premises which is available for use, and the rental payments due under this Lease shall be in amounts sufficient to pay when due all principal of and interest on all outstanding Bonds. In the event that all or a portion of the Leased Premises shall be unavailable for use by the Lessee, subject to the completion of any process required by law, the Lessor and the Lessee shall amend the Lease to add to and/or replace a portion of the Leased Premises to the extent necessary

to provide for available Leased Premises with a value supporting rental payments under the Lease sufficient to pay when due all principal of and interest on outstanding Bonds.

5. **Maintenance, Alterations and Repairs.** The Lessee may enter into agreements with one (1) or more other parties for the operation, maintenance, repair and alterations of all or any portion of the Leased Premises. Such other parties may assume all responsibility for operation, maintenance, repairs and alterations to the Leased Premises. At the end of the term of this Lease, the Lessee shall deliver the Leased Premises to the Lessor in as good condition as at the beginning of the term, reasonable wear and tear only excepted.

6. **Insurance.** During the full term of this Lease, the Lessee shall, at its own expense, keep in effect public liability insurance in amounts customarily carried for similar properties. Such insurance may be provided under the public liability self-insurance program of the City. Additionally, notwithstanding anything in this Lease to the contrary, Lessee does not waive any governmental immunity or liability limitations available to it under Indiana law.

The proceeds of the public liability insurance required herein (after payment of expenses incurred in the collection of such proceeds) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds are paid. Such policies shall be for the benefit of persons having an insurable interest in the Leased Premises, and shall be made payable to the Lessor, the Lessee, and the Trustee and to such other person or persons as the Lessor may designate. Such policies shall be countersigned by an agent of the insurer who is a resident of the State of Indiana and deposited with the Lessor and the Trustee. If, at any time, the Lessee fails to maintain insurance in accordance with this Section, such insurance may be obtained by the Lessor and the amount paid therefor shall be added to the amount of rentals payable by the Lessee under this Lease; **provided, however,** that the Lessor shall be under no obligation to obtain such insurance and any action or non-action of the Lessor in this regard shall not relieve the Lessee of any consequence of its default in failing to obtain such insurance.

The insurance policies described in this Section 6 may be acquired by another party and shall satisfy this Section as long as the Lessor, the Lessee and the Trustee are named as additional insureds under such policies. Such coverage may be provided by scheduling it under a blanket insurance policy or policies.

7. **Eminent Domain.** If title to or the temporary use of the Leased Premises, or any part thereof, shall be taken under the exercise or the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, any net proceeds received from any award made in such eminent domain proceedings (after payment of expenses incurred in such collection) shall be paid to and held by the Trustee under the Indenture.

Such proceeds shall be applied in one (1) or more of the following ways:

- (a) The restoration of the Leased Premises to substantially the same condition as it existed prior to the exercise of that power of eminent domain, or
- (b) The acquisition, by construction or otherwise, of other improvements suitable for the Lessee's operations on the Leased Premises and which are in furtherance of the purposes of the Act and the Plan (the improvements shall be deemed a part of the Leased Premises and available for use and occupancy by the Lessee without the

payment of any rent other than as herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby).

Within ninety (90) days from the date of entry of a final order in any eminent domain proceedings granting condemnation, the Lessee shall direct the Lessor and the Trustee in writing as to which of the ways specified in this Section the Lessee elects to have the net proceeds of the condemnation award applied. Any balance of the net proceeds of the award in such eminent domain proceedings not required to be applied for the purposes specified in subsections (a) or (b) above shall be deposited in the sinking fund held by the Trustee under the Indenture and applied to the repayment of the Bonds.

The Lessor shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof and will to the extent it may lawfully do so permit the Lessee to litigate in any such proceedings in its own name or in the name and on behalf of the Lessor. In no event will the Lessor voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof without the written consent of the Lessee, which consent shall not be unreasonably withheld.

8. **General Covenant.** The Lessee shall not assign this Lease or mortgage, pledge or sublet the Leased Premises herein described, without the written consent of the Lessor. The Lessee shall contract with the other parties to use and maintain the Leased Premises in accordance with the laws, regulations and ordinances of the United States of America, the State of Indiana, the City and all other proper governmental authorities.

9. **Tax Covenants.** In order to preserve the exclusion of interest on the Bonds from gross income for federal income tax purposes and as an inducement to purchasers of the Bonds, the Lessee and the Lessor represent, covenant and agree that none of the Lessor, the Lessee or the City will take any action or fail to take any action with respect to the Bonds, this Lease or the Leased Premises that will result in the loss of the exclusion from gross income for federal tax purposes of interest on the Bonds under Section 103 of the Code, nor will they act in any other manner which will adversely affect such exclusion; and it will not make any investment or do any other act or thing during the period that the Bonds are outstanding which will cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

The covenants in this Section are based solely on current law in effect and in existence on the date of issuance of the Bonds. It shall not be an event of default under this Lease if interest on any Bonds is not excludable from gross income pursuant to any provision of the Code which is not in existence and in effect on the issue date of the Bonds.

All Officers, Members, Employees and Agents of the Lessor, the Lessee, and the City are authorized to provide certifications of facts and estimates that are material to the reasonable expectations of the Lessor, the Lessee, and the City as of the date the Bonds are issued and to enter into covenants on behalf of the Lessor, the Lessee, and the City evidencing the Lessor's, the Lessee's, and the City's commitments set forth herein. In particular, all or any Members or Officers of the Lessor, the Lessee, and the City are authorized to certify and enter into covenants regarding the facts and circumstances and reasonable expectations of the Lessor, the Lessee, and the City on the date the Bonds are issued and the commitments set forth herein with respect to the Lessor, the Lessee, and the City regarding the amount and use of the proceeds of the Bonds.

Notwithstanding any other provisions hereof, the foregoing covenants and authorizations (the "Tax Sections") which are designed to preserve the exclusion of interest on the Bonds from gross income under federal income tax law (the "Tax Exemption") need not be complied with if the Lessee receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

10. **Option to Renew.** The Lessor hereby grants to the Lessee the right and option to renew this Lease for a further like or lesser term upon the same or like conditions as herein contained, and applicable to the portion of the premises for which the renewal applies, and the Lessee shall exercise this option by written notice to the Lessor given upon any rental payment date prior to the expiration of this Lease.

11. **Option to Purchase.** The Lessor hereby grants to the Lessee the right and option, on any date, upon sixty (60) days' written notice to the Lessor, to purchase the Leased Premises, or any portion thereof, at a price equal to the amount required to pay all indebtedness incurred on account of the Leased Premises, or such portion thereof (including indebtedness incurred for the refunding of any such indebtedness), including all premiums payable on the redemption thereof and accrued and unpaid interest, and including the proportionate share of the expenses and charges of liquidation, if the Lessor is to be then liquidated. In no event, however, shall such purchase price exceed the capital actually invested in such property by the Lessor represented by outstanding securities or existing indebtedness plus the cost of transferring the property and liquidating the Lessor. The phrase "capital actually invested" as used herein shall be construed to include, but not by way of limitation, the following amounts expended by the Lessor in connection with the acquisition and financing of the Leased Premises: organization expenses, financing costs, carry charges, legal fees, architects' fees and reasonable costs and expenses incidental thereto.

Upon request of the Lessee, the Lessor agrees to furnish an itemized statement setting forth the amount required to be paid by the Lessee in order to purchase the Leased Premises, or any portion thereof, including, but not limited to all indebtedness incurred on account of the Leased Premises in accordance with the preceding paragraph. Upon the exercise of the option to purchase granted herein, the Lessor will upon payment of the option price deliver, or cause to be delivered, to the Lessee documents conveying to the Lessee, or any entity (including the City) designated by the Lessee, all of the Lessor's title to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to the property was subject when conveyed to the Lessor; (ii) those liens and encumbrances created by the Lessee and to the creation or suffering of which the Lessee consented, and liens for taxes or special assessments not then delinquent; and (iii) those liens and encumbrances on its part contained in this Lease.

In the event of purchase of the Leased Premises, or any portion thereof as set forth above, by the Lessee or conveyance of the Leased Premises, or any portion thereof as set forth above, to the Lessee or the Lessee's designee, the Lessee shall procure and pay for all surveys, title searches, abstracts, title policies and legal services that may be required, and shall furnish at the Lessee's expense all documentary stamps or tax payments required for the transfer of title.

Nothing contained herein shall be construed to provide that the Lessee shall be under any obligation to purchase the Leased Premises, or any portion thereof as set forth above, or under any obligation respecting the creditors, members or security holders of the Lessor.

12. **Transfer to Lessee.** If the Lessee has not exercised its option to renew in accordance with the provisions of Section 10, and has not exercised its option to purchase the Leased Premises, or any portion thereof, in accordance with the provisions of Section 11, and upon the full discharge and performance by the Lessee of its obligations under this Lease, the Leased Premises, or such portion thereof remaining, shall thereupon become the absolute property of the Lessee, subject to the limitations, if any, on the conveyance of the site for the Leased Premises to the Lessor and, upon the Lessee's request the Lessor shall execute proper instruments conveying to the Lessee, or to any entity (including the City) designated by the Lessee, all of Lessor's title to the Leased Premises, or such portion thereof.

13. **Defaults.** If the Lessee shall default (a) in the payment of any rentals or other sums payable to the Lessor hereunder, or in the payment of any other sum herein required to be paid for the Lessor; or (b) in the observance of any other covenant, agreement or condition hereof, and such default shall continue for ninety (90) days after written notice to correct such default; then, in any or either of such events, the Lessor may proceed to protect and enforce its rights by suit or suits in equity or at law in any court of competent jurisdiction, whether for specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy; or the Lessor, at its option, without further notice, may terminate the estate and interest of the Lessee hereunder, and it shall be lawful for the Lessor forthwith to resume possession of the Leased Premises and the Lessee covenants to surrender the same forthwith upon demand.

The exercise by the Lessor of the above right to terminate this Lease shall not release the Lessee from the performance of any obligation hereof maturing prior to the Lessor's actual entry into possession. No waiver by the Lessor of any right to terminate this Lease upon any default shall operate to waive such right upon the same or other default subsequently occurring.

14. **Notices.** Whenever either party shall be required to give notice to the other under this Lease, it shall be sufficient service of such notice to deposit the same in the United States mail, in an envelope duly stamped, registered and addressed to the other party or parties at the following addresses: (a) to Lessor: South Bend Redevelopment Authority, Attention: President, c/o Department of Community Investment, 227 West Jefferson Blvd., Suite 1405, South Bend, Indiana; (b) to Lessee: South Bend Redevelopment Commission, Attention: President, c/o Department of Community Investment, 227 West Jefferson Blvd., Suite 1405, South Bend, Indiana.

The Lessor, the Lessee and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

15. **Successors or Assigns.** All covenants of this Lease, whether by the Lessor or the Lessee, shall be binding upon the successors and assigns of the respective parties hereto.

16. **Construction of Covenants.** The Lessor was organized for the purpose of acquiring, constructing, equipping and renovating local public improvements and leasing the same to the Lessee under the provisions of the Act. All provisions herein contained shall be construed in accordance with the provisions of the Act, and to the extent of inconsistencies, if any, between the covenants and agreements in this Lease and the provisions of the Act, the Act shall be deemed

to be controlling and binding upon the Lessor and the Lessee; provided, however, any amendment to the Act after the date hereof shall not have the effect of amending this Lease.

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be executed for and on their behalf on the date first written above.

LESSOR:

**SOUTH BEND REDEVELOPMENT
AUTHORITY**



_____, President

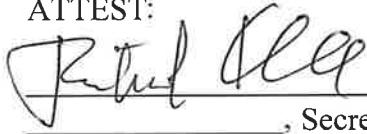
LESSEE:

**SOUTH BEND REDEVELOPMENT
COMMISSION**

~~Marcia I. Jones, President~~

Troy Warner, Vice-President

ATTEST:



_____, Secretary-Treasurer

ATTEST:

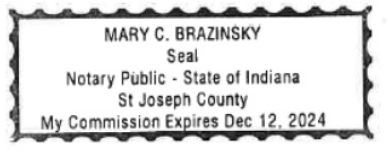
Vivian Sallie, Secretary

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

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared Erin Linder Hanig and Richard Klee Jr., personally known to be the President and Secretary-Treasurer, respectively, of the South Bend Redevelopment Authority (the "Authority"), and acknowledged the execution of the foregoing Lease for and on behalf of the Authority.

WITNESS my hand and notarial seal this 26 day of March, 2024.

(Seal)



Mary Brazinsky

(Written Signature)

Mary Brazinsky

(Printed Signature)
Notary Public

My Commission expires :

12-12-2024

My county of residence is :

St Joseph

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

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared Marcia I. Jones and Vivian Sallie, personally known to be the President and Secretary, respectively, of the South Bend Redevelopment Commission (the “Commission”), and acknowledged the execution of the foregoing Lease for and on behalf of the Commission.

WITNESS my hand and notarial seal this ____ day of _____, 2024.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Randolph R. Rompola

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

All of the City's interest in all or a portion of the Leased Premises which consists of existing Four Winds Field at Coveleski Stadium, as more particularly described as follows:

501 West South Street, South Bend, Indiana 46601

[A more detailed description of the Leased Premises will be provided prior to recording of the Lease].

EXHIBIT B

**ADDENDUM TO LEASE BETWEEN SOUTH BEND REDEVELOPMENT
AUTHORITY, LESSOR AND SOUTH BEND REDEVELOPMENT COMMISSION,
LESSEE**

THIS ADDENDUM (this “Addendum”), entered into as of this 26 day of March, 2024, by and between South Bend Redevelopment Authority (the “Lessor”), and South Bend Redevelopment Commission (the “Lessee”);

WITNESSETH:

WHEREAS, the Lessor entered into a lease with the Lessee dated as of April 1, 2024 (the “Lease”); and

WHEREAS, it is provided in the Lease that there shall be endorsed thereon the adjusted rental.

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the parties to the Lease that the adjusted rental is set forth on Appendix I attached hereto.

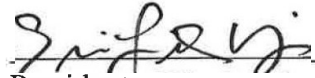
IN WITNESS WHEREOF, the Parties hereto have caused this Addendum to be executed for and on their behalf as of the day and year first above written.

LESSOR

LESSEE

**SOUTH BEND REDEVELOPMENT
AUTHORITY**

**SOUTH BEND REDEVELOPMENT
COMMISSION**



President

~~President~~ Vice-President

ATTEST:

ATTEST:



Secretary-Treasurer

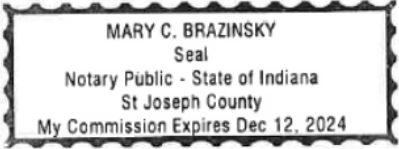
Secretary

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

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared Erin Linder Hanig and Richard Klee, Jr., personally known to be the President and Secretary-Treasurer, respectively, of the South Bend Redevelopment Authority (the "Authority"), and acknowledged the execution of the foregoing Addendum to Lease for and on behalf of the Authority.

WITNESS my hand and notarial seal this 26 day of March, 2024.

(Seal)



Mary Brazinsky
(Written Signature)

Mary Brazinsky
(Printed Signature)
Notary Public

My Commission expires:
12.12.2024

My county of residence is:
St Joseph

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

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared _____ and _____, personally known to be the Vice-President and Secretary, respectively, of the South Bend Redevelopment Commission (the "Commission"), and acknowledged the execution of the foregoing Addendum to Lease for and on behalf of the Commission.

WITNESS my hand and notarial seal this _____ day of _____, 2024.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Randolph R. Rompola

This instrument was prepared by Randolph R. Rompola Barnes & Thornburg LLP,
201 South Main Street, Suite 400, South Bend, Indiana 46601.

Appendix I to Addendum to Lease

Adjusted Rental Schedule

<u>Payment</u>	<u>Total</u>
<u>Date</u>	<u>Rental Payment</u>



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 03/28/2024
FROM: Patrick Sherman: Public Works
SUBJECT: MLK Dream Center Building Cladding

_____ Pres/V-Pres

ATTEST: _____ Secretary

Date: March 28, 2024

APPROVED Not Approved

SOUTH BEND REDEVELOPMENT COMMISSION

Which TIF? (circle one) River West; River East; South Side; Douglas Road; West Washington

PURPOSE OF REQUEST: Venues Parks and Art and Public Works are requesting \$140,000.00 from RWDA to enable us to use a “Random Plank” building cladding to maintain the original design intent of the architect.

SPECIFICS: The original bid included metal cladding panels, but unfortunately, the architect failed to specify the cladding as intended by the design and as seen in the building renderings. A large portion of the building will be covered in metal building cladding that is installed as planks. The included cladding meets the functional requirements, but it lacks the desired aesthetic impact due to its monolithic appearance.

Given the building's longevity (lasting 50 years or more), we believe it's important to invest in its visual appeal. Upgrading to a Random Plank cladding design, which was the initial intent, will significantly enhance the overall aesthetic of the Dream Center. This design choice aligns with the original vision and creates a more visually engaging exterior.

This cost increase reflects the difference between the originally envisioned "Random Plank" design and the currently included more basic cladding. If the architect had included the correct specification for the Random Plank cladding, we believe that the additional cost would have been reflected in the original bid, and we would have had a bid that was \$140,000 more than what we received. We understand this represents an additional cost, but we believe it's a worthwhile investment in the building's long-term value and positive community impact.