(Passed 9-0)

RESOLUTION 01-27

TO APPROVE CERTAIN MODIFICATIONS TO THE RESTRICTIONS IN THE QUITCLAIM DEED TO WONDERLAB AND CONSENT TO A GROUND LEASE AND PLACEMENT OF A LEASEHOLD MORTGAGE ON THE REAL ESTATE IN ORDER TO ALLOW WONDERLAB TO SECURE CONSTRUCTION FUNDING FOR THE FACILITY

WHEREAS, in 1997 the Common Council approved Resolution 97-04, which declared the City's intent to convey In Lots 83 and 84 in the City of Bloomington, Indiana (the "Real Estate") to WonderLab: Museum of Science, Health and Technology, Inc. ('WonderLab") for the purposes of establishing a permanent museum of science, health and technology for children and young teens, and upon certain related conditions; and

WHEREAS, in 1999, after acknowledging that WonderLab had met the relevant conditions, the Common Council and Mayor adopted Resolution 99-34, which approved conveyance of the Real Estate to WonderLab; and

WHEREAS, said conveyance was made by Quitclaim Deed (the "Quitclaim Deed") with certain restrictions (the "Restrictions") in furtherance of said purpose; and

WHEREAS, in order to secure financing for construction of such facility, WonderLab has now asked the City, acting through the Common Council and Mayor, to modify certain of the Restrictions; and

WHEREAS, it is in the best interests of the City and the public that the Council act to facilitate construction of the WonderLab facility.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. The Common Council hereby approves and authorizes its President to sign a modified Quitclaim Deed that reduces from twenty-four (24) months to twelve (12) months the length of time in which Paragraph 3 (C) of the Quitclaim Deed requires City to pay WonderLab or its designee the fair market value of improvements placed on the Real Estate, in the event of a reversion under the terms of the Quitclaim Deed.

SECTION 2. The Common Council hereby approves and authorizes its President to sign a modified Quitclaim Deed that amends the Restrictions in Paragraph 3(B) of the Quitclaim Deed to provide that the City's reversionary rights under the Quitclaim Deed will be void and of no further force or effect if the City fails to exercise its reversionary rights within Ninety (90) days following receipt, by the City, of written notice from WonderLab or its designee, that the Real Estate is no longer being used for the construction and/or operation of a WonderLab facility as the exclusive use of the Real Estate, provided that use conforming to the requirements of Paragraph 3(B) does not commence or recommence during that Ninety (90) day period.

SECTION 3. The Common Council hereby approves and authorizes its President to sign a modified Quitclaim Deed that extends from October 1, 2002, to and until March 1, 2003 the deadline contained in Paragraph 3 (B) of the Quitclaim Deed for WonderLab to complete construction and commence operation of the WonderLab facility upon the Real Estate.

SECTION 4. In accordance with Paragraph 3(D) of the Quitclaim Deed, the Common Council hereby gives its consent to the following and authorizes its President to sign a modified Quitclaim Deed referencing such consent in Paragraph 3(D):

(1) WonderLab's execution of a long-term ground lease of the Real Estate (the "Ground_Lease") to 4th Street Realty, LLC, an Indiana limited liability company (the "Developer") for a term extending beyond October 1, 2022, without the need

for any further consent or approval of the City, subject to the Restrictions in the Quitclaim Deed (as modified herein); and

(2) Placement of a mortgage on the Real Estate under the following terms and conditions. In this regard, the Common Council hereby acknowledges that WonderLab intends to enter into an agreement with the Developer for the Developer to construct and develop a WonderLab facility on the Real Estate, which facility is to be used and occupied by WonderLab for the operation of a WonderLab facility. As such, the Developer intends to procure financing (for its construction and ownership of the improvements comprising the WonderLab facility) secured by a leasehold mortgage on the rights of the Developer under the Ground Lease (the "Leasehold Mortgage"). The Common Council hereby consents to the recordation of such a Leasehold Mortgage upon the Real Estate and agrees that the Mayor will be authorized to execute and deliver an agreement recognizing the rights of any financial institution which is the holder of a Leasehold Mortgage, and agreeing that following any reversion of title under the Quitclaim Deed, title to the Real Estate will remain subject to such a Leasehold Mortgage, provided that such agreement also provides for release of said Leasehold Mortgage upon City's payment of the fair market value of the improvements on the Real Estate to WonderLab or its designee in accordance with Paragraph 3 (C) of the Quitclaim Deed, regardless of whether such fair market value is less than, equal to or more than the amount secured by the Leasehold Mortgage. The Council hereby consents to execution by the Mayor and, if required by law, by the Board of Public Works, of any and all documents necessary to effectuate this provision. Such documents may include amendments to Paragraph 3 (C) of the Quitclaim Deed, provided those amendments are consistent with the remaining portions of that Document, and the council hereby authorizes its President to execute such amendments to the Quitclaim Deed.

SECTION 5. The Common Council hereby waives its right under Paragraph 2 of the Quitclaim Deed to receive Sixty (60) days written notice prior to WonderLab's breaking ground for the facility and authorizes groundbreaking without further notice to the City.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 14th day of NOVEMBER, 2001.

Patricia Cole

PATRICIA COLE, President
Bloomington Common Council

ATTEST:

Regina Moore

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 15th day of November, 2001.

Regina Moore

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 15th day of November, 2001.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This resolution authorizes modification of the deed that conveyed the Maplefoot Parking Lot site to WonderLab in order to: reduce from 24 months to 12 months the period of time in which the City must make payment for the fair market value of improvements in the event of a reversion; add a 90 day time period in which the City must decide whether to exercise its reversionary rights in the event WonderLab fails to meet the conditions of the deed; and, extend the deadline for the WonderLab facility to be built and in operation until March 1, 2003. The resolution also authorizes WonderLab to enter into a long term ground lease of the property to 4th Street Realty which will construct the facility and lease it back to WonderLab, and also authorizes the City to enter into an agreement with 4th Street's lender to allow the construction loan mortgage on 4th Street's leasehold interest to attach to the City's reversionary interest in the real estate but only in such manner that the City will not be required to pay more than the fair market value of the improvements in order to reclaim the property, and authorizes the deed to be amended to reference consent to these transactions. Finally, the deed requirement for 60 days written notice to the City prior to groundbreaking is waived.

Note: The Council adopted this resolution on November 14, 2001 as amended by Am 01. This amendment entailed many changes that were the result of further discussions between WonderLab, Fourth Street Realty, and the City regarding changes to the quitclaim deed that would facilitate the financing of this project without undermining the City's interests in the property.

Signed copies to:
Controller
legal(5)
Mayors Econ Dev.
file
4th Street Realty
Wonderlab
CA/CA