

AGENDA
REDEVELOPMENT COMMISSION
August 16, 2021 at 5:00 p.m.

The public may access the meeting at the following link:

<https://bloomington.zoom.us/j/94077897561?pwd=Tmw3TEtlWVZ4eExUZ2RwK05MaFVNUT09>
Meeting ID: 940 7789 7561 - Passcode: 094002

- I. ROLL CALL**
- II. READING OF THE MINUTES** –August 2, 2021 and Executive Summary for August 2, 2021
- III. EXAMINATION OF CLAIMS** –August 6, 2021 for \$1,737,385.04
- IV. EXAMINATION OF PAYROLL REGISTERS**– August 13, 2021 for \$32,436.13
- V. REPORT OF OFFICERS AND COMMITTEES**
 - A.** Director’s Report
 - B.** Legal Report
 - C.** Treasurer’s Report
 - D.** Business Development Updates
- VI. NEW BUSINESS**
 - A.** Resolution 21-42: Approval of Conveyance Agreement for Showers Administration Building
- VII. BUSINESS/GENERAL DISCUSSION**
- VIII. ADJOURNMENT**

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or e-mail human.rights@bloomington.in.gov.

***THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA MET on
Monday, August 2, 2021 at 5:00 p.m. via ZOOM, with Nicholas Kappas, President Presiding
<https://catstv.net/m.php?q=9974>***

I. ROLL CALL

Commissioners Present: Nicholas Kappas, David Walter, Deb Hutton, Cindy Kinnarney, Deborah Myerson and April Hennessey (MCCSC Representative)

Commissioners Absent: None

Staff Present: John Zody, Director, Housing & Neighborhood Development (HAND); Christina Finley, Financial Specialist, HAND

Others Present: Philippa Guthrie, Corporation Counsel; Dave Askins, B Square Bulletin; Jeff Underwood, Controller; Jen Pearl, BEDC; Alex Crowley, Director, Economic and Sustainable Development; Matt Smethurst, Project Manager, Engineering Department

II. READING OF THE MINUTES – There was a typo in Deborah Myerson’s name. Cindy Kinnarney made a motion to approve the July 19, 2021 minutes with the correction to Deborah Myerson’s name, via roll-call vote. David Walter seconded the motion. The motion passed unanimously.

III. EXAMINATION OF CLAIM REGISTER – Deb Hutton moved to approve the claim register for July 23, 2021, for \$59,504.53. David Walter seconded the motion. The motion passed unanimously.

IV. EXAMINATION OF PAYROLL REGISTERS – Cindy Kinnarney moved to approve the payroll register for July 30, 2021, for \$32,742.43. Deb Hutton seconded the motion. The motion passed unanimously.

V. REPORT OF OFFICERS AND COMMITTEES

A. Director’s Report. John Zody received an email from Deborah Myerson asking how the consolidated plan’s substantial amendments were publicly noticed. Zody explained that the plan was advertised in the Herald-Times through proper public notice. A copy of the plan was available for public comment on the Monroe County Library and City of Bloomington websites. A hard copy was available in the Indiana meeting room at the library and at City Hall. A notice that the plan was available for public comment was sent out in the HAND newsletter, which goes out to all of the neighborhood associations. The funding recommendations were discussed and approved at the July 19, 2021 RDC meeting.

B. Legal Report. Larry Allen stated the Redevelopment Commission met in executive session prior to this meeting at 4:30 p.m. via Zoom for the purpose of discussing real property transactions. Those conversations are confidential because they involve ongoing transactions.

Allen stated we are still meeting via Zoom. The Governor extended his emergency declaration executive order through the month of August. Under the new statute and pursuant to the RDC’s adopted electronic meeting policy, meetings can be held virtually.

In January, the RDC passed a resolution permitting repairs for RDC owned property from the maintenance (444) account. Allen informed the commission that the building at 627 N. Morton Street had skylights and the seals within the skylights failed. The cheaper and more effective option was to have them removed. The cost was approximately \$1,500.

Allen said there is a broken window on the west side of College Square facing the B-Line that needs repaired. The repair cost is \$869.31. Allen said after speaking with property management it is believed that the window was broken by an individual.

Allen stated the Economic Development plan has been uploaded to the City website.

- C. Treasurer's Report. Jeff Underwood was available to answer questions.
- D. Business Development Updates: Alex Crowley said we are waiting for the Economic Development Administration to make a decision on our grant request. He said we should hear something within the month.

Crowley said there is continued interest in the commercial space at the Trades and 4th Street garage, which we are evaluating.

A. NEW BUSINESS

- A. John Zody asked to amend the agenda. He requested to add the approval of the substantial amendment to the consolidated plan, which was discussed at the July 19, 2021 meeting.

David Walter moved to amend the agenda to include the approval of the substantial amendment to the consolidated plan, via roll-call vote. Cindy Kinnarney seconded the motion. The board unanimously approved.

- B. Resolution 21-41: Approval of Change Order #10 for West 17th Street Reconstruction Project. Matt Smethurst stated this change order is for additional bonding and overruns and underruns on contract pay items. Smethurst said the additional items that overran were asphalt paving and curb and gutter. The change order will include an adjustment for an increase in the cost of bonding and result in an increase of \$56,760.11. The Board of Public Works will also review this change order.

Nicholas Kappas asked for public comment. There were no comments from the public.

David Walter made a motion to approve Resolution 21-41, via roll-call vote. Cindy Kinnarney seconded the motion. The board unanimously approved.

- C. Approval of the Substantial Amendment to the Consolidated Plan. John Zody stated that on July 19, 2021, the RDC approved a resolution that included \$660,000 of CDBG CARES Act funding recommendations for nine local agencies. Zody said the 2020-2024 consolidated plan must be amended to include those agencies. All agency applications were reviewed by a scoring committee. The recommendations were put out for public comment from July 22-27. One public comment was received, which was in regard to the formatting and large amount of content involved in the plan. Zody said we did not receive any substantial feedback on the recommendations. Any public participation as well as the public participation plan was included in the amendment.

Zody said because the funding recommendations were approved on July 19, 2021, the minutes for tonight's meeting will suffice as documentation for the approval of the substantial amendment.

Nicholas Kappas asked for public comment. There were no comments from the public.

Deb Hutton moved to approve the substantial amendment to the 2020-2024 consolidated plan to reflect the COVID funding recommendations, via roll-call vote. Deborah Myerson seconded the motion. The motion was unanimously approved.

VII. BUSINESS/GENERAL DISCUSSION

VIII. ADJOURNMENT – Deb Hutton moved to adjourn. David Walter seconded the motion. The meeting adjourned.

Nicholas Kappas, President

Cindy Kinnarney, Secretary

Date

EXECUTIVE SESSION

The Redevelopment Commission of the City of Bloomington, Indiana, met on Monday, August 2, 2021 at 4:30 p.m., via ZOOM.

Commissioners Present (via ZOOM): Nicholas Kappas, David Walter, Deborah Myerson, Cindy Kinnarney, and Deb Hutton

Commissioners Absent: None

Staff Present: John Zody, Director, Housing and Neighborhood Development (HAND); Christina Finley, Financial Specialist, HAND.

Others Present: Larry Allen, Assistant City Attorney, City Legal Department; Alex Crowley, Executive Director, Economic and Sustainable Development; Jeff Underwood, City Controller

The Commission discussed information in accordance with **Ind. Code § 5-14-1.5-6.1(b)(2)(D)**: strategy regarding real property transactions by the governing body.

No other matters were discussed.

The meeting adjourned at 5:00 p.m.

Nicholas Kappas, President

Cindy Kinnarney, Secretary

Date

21-42
RESOLUTION
OF THE
REDEVELOPMENT COMMISSION
OF THE
CITY OF BLOOMINGTON, INDIANA

TO APPROVE CONVEYANCE AGREEMENT FOR
SHOWERS ADMINISTRATION BUILDING

- WHEREAS, pursuant to Indiana Code 36-7-32, the Redevelopment Commission of the City of Bloomington (“RDC”) and the Common Council of the City of Bloomington created a Certified Technology Park (“CTP”) in Downtown Bloomington; and
- WHEREAS, pursuant to Indiana Code § 36-7-14-22, the RDC is vested with the power to disburse and offer for sale real property; and
- WHEREAS, in accordance with Indiana Code § 36-7-14-22, the RDC formally offered the Showers Administration Building located at 601 N. Morton Street and associated parcels for sale in 2014 pursuant to Resolution 14-05; and
- WHEREAS, bids were received but no suitable offers were accepted following the offering; and
- WHEREAS, Indiana Code § 36-7-14-22(h) permits the sale of the real property by private negotiation after the closing of the bid and rejection of any offers; and
- WHEREAS, 601 N. Morton LLC submitted an offer to purchase Lots 7 and 8, which includes the Showers Administration Building and the adjacent parking lot;
- WHEREAS, City Staff has negotiated a conveyance agreement to sell Lots 7 and 8 (“Property”) for a total amount of Four Hundred Thousand Dollars (\$400,000.00), a copy of which is attached to this Resolution as Exhibit A (“Conveyance Agreement”);

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

1. The RDC finds that the sale of the Property has a valid public purpose.
2. The RDC approves the Conveyance Agreement and authorizes President Nicholas Kappas to sign the Conveyance Agreement.
3. This approval shall not be interpreted as satisfaction of any of the other required contingencies.

BLOOMINGTON REDEVELOPMENT COMMISSION

Nicholas Kappas, President

ATTEST:

Cindy Kinnarney, Vice President

Date

REAL ESTATE CONVEYANCE AGREEMENT

This Real Estate Conveyance Agreement (“Agreement”) is entered into this _____ day of August, 2021, by and between the City of Bloomington Redevelopment Commission (“RDC”) and 601 N. Morton LLC, an Indiana limited liability company (“Purchaser”).

RECITALS

- A. The RDC owns real property and improvements (hereinafter referred to as “Real Estate”) of historic and architectural significance in Bloomington, Indiana, commonly known as the Showers Administration Building and located at 601 North Morton Street, in Monroe County, Indiana, which is more particularly described as follows:

Lots 7 and 8 of Hunter’s Addition to Bloomington, in the Office of the Recorder of Monroe County, Indiana
- B. Purchaser recognizes that the Real Estate includes a historic structure, and desires to maintain the character and elements of its uniqueness within the Trades District.
- C. Pursuant to Indiana Code Section 36-1-11-3, the RDC desires to convey the Real Estate to Purchaser and, pursuant to its governing authority, Purchaser desires to accept the Real Estate and any and all improvements located on the Real Estate, subject and according to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual representations, benefits and covenants contained in this Agreement and subject to the warranty deed executed in connection with this Agreement, the RDC and Purchaser covenant and agree as follows:

TERMS AND CONDITIONS

- 1. **Agreement to Convey**: The RDC agrees to convey the Real Estate to Purchaser for Four Hundred Thousand Dollars (\$400,000.00) and for other valuable consideration described in this Agreement. Purchaser agrees to accept the Real Estate from the RDC. The Purchase Price shall be paid by Purchaser to RDC at the Closing in immediately available cash proceeds. At the Closing, unless otherwise agreed to in writing, the Purchase Price shall be allocated between the lots as follows: Lot 7 - \$250,000, Lot 8 - \$150,000. (NOTE: Lot 8 is improved with the structure commonly known as the “Administration Building.”)
- 2. **Closing**: The purchase and sale of the Real Estate shall be closed on within thirty (30) days following the expiration or Purchaser’s waiver of the Conditions Precedent to Closing, subject to the terms and conditions set forth in this Agreement, unless the parties mutually agree to a different date and/or time. The purchase and sale of the Real Estate shall be closed at a time, date, and location mutually agreed to by the parties. The date and event of the consummation of the purchase and sale of the Real Estate as contemplated hereby is referred to herein, respectively, as the “Closing Date” and the “Closing.”
- 3. **Conditions Precedent to Closing**: Purchaser's obligations hereunder shall be subject to the condition that as of the Closing Date there is no breach of any of RDC's representations or warranties hereunder and to the satisfaction of the following additional conditions precedent:

- A. Initial Earnest Money Deposit.** Purchaser shall deposit ten thousand dollars (\$10,000.00) with Capstone Title Partners (“Title Company”), which shall act as the Escrow Agent for this transaction.
- B. Title Insurance.** Title to the Real Estate shall be good and merchantable and shall be conveyed to Purchaser free and clear of any and all liens, encumbrances, claims and interests of any kind or nature whatsoever except the following:
- (1) current real estate taxes not delinquent; and
 - (2) such other leases, liens, rights, and encumbrances as may be approved by Purchaser. (collectively, "Permitted Exceptions").

As evidence of such title, RDC shall, at Purchaser’s sole cost and expense, obtain and deliver to Purchaser, as soon as practicable after the date hereof, but in no event more than **twenty-one (21)** days after all parties’ execution of this Agreement (such date being referred to herein as the "Effective Date"), a commitment ("Commitment") for an ALTA owner's policy of title insurance issued by the Title Company, together with legible copies of all instruments identified as exceptions in the Commitment, in which Commitment the Title Insurer shall agree to insure in an amount equal to the Purchase Price that upon delivery of a general warranty deed from RDC to Purchaser, Purchaser shall have fee simple title to the Real Estate free and clear of all matters normally excluded by the preprinted exceptions and of all liens, encumbrances, claims, and interests except for Permitted Exceptions. Permitted Exceptions shall be determined by Purchaser, in its sole and absolute discretion, within **thirty (30)** days after receipt of the Commitment. If any exceptions, other than Permitted Exceptions, are not able to be cured by RDC within **thirty (30)** days after receipt of notice thereof from Purchaser, or are not waived by Purchaser, this Agreement shall terminate and neither party shall have any further obligation hereunder and the Earnest Money Deposit shall be promptly returned to Purchaser. RDC shall cause the final owner's policy of title insurance to be delivered to Purchaser within **thirty (30)** days after Closing. Any closing fee charged by Title Company shall be paid by Purchaser.

- C. Feasibility Period.** Purchaser shall have **one hundred and twenty (120)** days after execution of the Conveyance and Redevelopment Agreement (“Effective Date”) to determine whether the Property is suitable, in Purchaser’s sole discretion, for Purchaser’s Intended Use (“Initial Feasibility Period”). During the Initial Feasibility Period (and the Extension Period as defined by 3D, below), the Purchaser may pursue examination of all matters relating to the property, including but not limited to the following:
- i. **Survey.** Purchaser may, at Purchaser’s sole cost and expense, cause a staked survey of the Real Estate to be prepared (the "Survey"). The Survey must be acceptable to Purchaser in all respects. The Survey shall be ordered by Purchaser immediately following the Effective Date. Any objection to the results of the Survey shall be communicated to RDC not later than **ninety (90)** days following the Effective Date or this condition shall be deemed withdrawn by Purchaser, unless the parties agree to an extension of time. If any objections raised by Purchaser are not able to be cured by RDC within **thirty (30)** days after receipt of notice thereof from Purchaser, or are not waived by Purchaser,

this Agreement shall terminate and neither party shall have any further obligation hereunder.

- ii. **Condition of Real Estate and Assessments.** The RDC shall within thirty (30) days after the Effective Date send any appraisals, environmental reports or studies in its possession to Purchaser. Purchaser may inspect the property and obtain any environmental site assessment it deems necessary.
 - iii. **Government and Land Use Approvals** Purchaser, at its expense, shall secure zoning, historic preservation, building plan, and any such other governmental approval and permits as may be required for Purchaser to utilize the Property for Purchaser's intended use.
 - iv. **Financing.** Purchaser may secure a commitment from a financial institution to financing in an amount and terms acceptable to Purchaser, in its sole discretion.
 - v. **Economic Incentives.** Purchaser may pursue to Purchaser's satisfaction available federal, state, and local economic incentives to help offset the development costs of the Property. This transaction is not contingent upon Purchaser receiving any form of economic incentives from the City of Bloomington, such as tax abatement, tax increment financing, etc. However, Purchaser is free to pursue local incentives such as a façade grant through the Bloomington Urban Enterprise Association. Negotiations will be the Purchaser's responsibility, and are not guaranteed by Seller although Seller pledges its cooperation and assistance in Purchaser's efforts to gain economic incentives to support this project.
 - vi. **Earnest Money Non-Refundable.** The Initial Earnest Money Deposit shall be deemed non-refundable at the end of the Initial Feasibility Period. The Initial Earnest Monday Deposit shall be applicable to the Purchase Price at Closing.
- D. Extension of Feasibility Period.** After the Initial Feasibility Period and upon the Purchaser providing written notice to Seller at least three (3) days prior to the expiration of the Initial Feasibility Period, Purchaser shall have the option of one sixty (60) day extension of the Initial Feasibility Period ("Extension Period"). In addition, Purchaser shall deposit \$10,000 with the Title Company as consideration for the extension of the Initial Feasibility Period ("Extension Deposit"), which shall be refundable to Purchaser in the event Purchaser provides notice of termination of the Agreement prior to the end of the Extension Period. The Initial Earnest Money Deposit and Extension Deposit will be applicable to the Purchase Price at the Closing.
- E. End of Feasibility and Extension Periods.** In the event Purchaser finds a condition which is not acceptable to Purchaser, in Purchaser's sole discretion, during the Initial Feasibility Period or Extension Period, as applicable, Purchaser may provide notice to Seller at least three (3) days prior to the end of the Initial Feasibility Period or Extension Period, if exercised by Purchaser, that Purchaser is terminating this Agreement. In the event such notice is given prior to the expiration of the Initial Feasibility Period, the Initial Earnest Money Deposit shall be promptly returned to Purchaser. In the event such notice is given during the Extension Period, the Initial Earnest Money Deposit shall be retained by Seller and the Extension Deposit shall be promptly returned to Purchaser.

4. **Retention Requirements:** The RDC's conveyance is subject to the following restrictions:
- A. **Renovation Schedule.** Purchaser agrees to begin renovation of the Administration Building on Lot 8 within **one (1) year from the Closing Date**, except due to circumstances beyond Purchaser's control.
 - B. **Use Period.** For a **ten (10) year period** after the Real Estate is conveyed, unless the Parties otherwise agree in writing, Purchaser shall operate 100% of Lots 7 and 8 of the Real Estate, including any newly developed improvements, as non-residential space.
 - C. **Historic Preservation.** Purchaser acknowledges that in the spirit of the historic district designation of Lot 8, in addition to exterior features, upon completing the renovation of the Real Estate, Purchaser will make reasonable effort, as financially feasible, to preserve, maintain, and restore historic interior features and details of the Administration Building, including but not limited to the trim, flooring and fireplaces.
 - D. **Intended Use.** Purchase intends to use the Real Estate as the corporate headquarters office building for Fine Tune Expense Management, LLC and/or leased office space ("Intended Use").
5. **Transfer Back to RDC:** As part of the consideration for this conveyance, Purchaser and RDC, for themselves, and for their successors and assigns, agree to be bound by and shall fully comply with all terms of this Real Estate Conveyance Agreement. If at any time within ten (10) years after the conveyance date, Purchaser materially fails to comply with the Retention Requirements, as defined by paragraph 4, above, and such breach continues for ninety (90) days after written notice from the RDC, then the Real Estate herein conveyed together with any improvements may, at the sole option of the RDC, be purchased by the RDC as defined below, unless Purchaser's compliance with these terms and conditions occurs during said ninety (90) day period or the Purchaser demonstrates diligence in pursuing such compliance, which shall extend the ninety (90) day period by an additional ninety (90) days ("Cure Period"). If the Purchaser has not cured the breach upon expiration of the Cure Period, the RDC may execute its remedy to purchase at its election.

If RDC executes its option to purchase of the Real Estate under this Section, the RDC shall purchase the Real Estate in accordance with the Fair Market Value ("FMV"). The FMV shall be determined by three (3) independent appraisers in a certified appraisal report based on the market value of the real estate, improvements and leaseholds, then in effect, employing methodologies that include, minimally, comparative analysis, income approach, and cost analysis. All appraisers shall be MAI certified and licensed in the State of Indiana and specifically experienced in valuation of commercial and investment property. Each party shall select one appraiser, and the two selected appraisers shall select a third appraiser, all meeting the above-stated qualifications. The appraisers shall then compile a unified appraisal report for the Real Estate determining the FMV of the Real Estate. The RDC may also obtain any additional reports that may be necessary to comply with Indiana law, including but not limited to the acquisition of a second appraisal report. The RDC shall pay all of the costs and expenses of the conveyance and of the appraisal(s) that may arise under the terms of this Section.

In the event the valuation is disputed, the disputing party may seek to obtain a judicial determination of value through a proceeding filed in the Monroe Circuit Court. This Section 5 shall survive the Closing and remain in effect for a period of ten (10) years from the Closing Date.

6. **Lot 6 Use and Right of First Refusal:** The RDC shall retain ownership of the adjacent 013-74380-00 Hunter Lot 6 (“Lot 6”). The Parties shall enter into a Right of Entry and Use Agreement at Closing for the Purchaser’s temporary access and use of Lot 6 during its construction and renovation of the Real Estate, which shall provide that the Purchaser, inter alia, shall insure against and restore any damage or loss to Lot 6 arising from Purchaser’s use.

For a period of **seven (7)** years after the Closing, Purchaser shall have an ongoing right of first refusal to purchase Lot 6 on the terms and conditions received in an offer from a third-party prospective buyer. Purchaser shall submit to the seller a notice of its intent to exercise its option to purchase within **thirty (30) days** of being notified of the third-party offer to purchase. If no notice to exercise this right is given during the thirty-day period, the right of first refusal to purchase shall expire.

7. **Warranty Deed and Other Documents:** The RDC agrees to deliver a warranty deed to the Purchaser at Closing. The RDC and Purchaser also agree, on or before Closing, to execute or exchange, or both, any and all documents reasonably required to close the transaction provided for under this Agreement.

A. **As-Is, Where Is and No Warranty or Other Representation.** Purchaser understands and acknowledges that, upon the Closing, the Real Estate shall be transferred by Seller “as is, where is, and with all faults” and, other than the express representations made by Seller in this Agreement, Seller makes no other representations or warranties regarding the Real Estate, its feasibility for Purchaser’s intended use, or condition of the Real Estate. Purchaser relies solely on its own evaluation and determination regarding matters relating to the Real Estate.

B. **SELLER RELEASE.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, UPON CLOSING, PURCHASER RELEASES THE RDC, ITS DIRECTORS, OFFICERS, EMPLOYEES, CITY STAFF, AGENTS, RDC-RELATED PARTIES, AND ANY SUCCESSORS AND ASSIGNS (“RELEASED PARTIES”) FROM AND AGAINST ANY AND ALL CLAIMS WHICH PURCHASER OR ANY PARTY RELATED TO OR AFFILIATED WITH PURCHASER HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER RELATED TO OR IN CONNECTION WITH THE PROPERTY OTHER THAN THOSE CLAIMS ARISING OUT OF FRAUDULENT ACTIONS OR INTENTIONAL MISREPRESENTATION BY THE RELEASED PARTIES. THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT ACCORDING TO ITS EXPRESS TERMS AND PROVISION, INCLUDING THOSE RELATING TO UNKNOWN AND UNSUSPECTED CLAIMS, DAMAGES, AND CAUSES OF ACTION.

8. **Time and Place of Closing:** The Closing of the transaction shall take place at a time and place mutually acceptable to the RDC and Purchaser.

9. **Closing Adjustments and Prorations:**

- A. **Taxes:** RDC acknowledges that the Real Estate is currently exempt from property taxation. Purchaser shall notify the County Assessor of the change in status and shall be responsible for all property taxation after the Real Estate is transferred from the RDC to Purchaser.
- B. **Recording Fees:** RDC shall pay all recording costs related to the conveyance of the Property to Purchaser.
- C. **Insurance Contracts:** All insurance maintained by RDC in respect of the Property, if any, shall be cancelled as of the Closing Date.
- D. **Other Closing Costs:** The Purchaser shall be responsible for any other ordinary and customary closing costs.

10. Covenants and Assurances:

- i. The RDC and Purchaser acknowledge and assure that, prior to execution of this Agreement, each secured the necessary authorizations required by law or its governing authority, and that, in the event a deficiency in process is determined, each will take any and all steps necessary to immediately cure such deficiency in order to fully implement and ratify the terms of this Agreement.
- ii. The RDC owns good, marketable and indefeasible fee simple title to the Real Estate free and clear of any and all liens, mortgages, pledges, security interests, conditional sales agreements, charges and other claims, interests or encumbrances except the Permitted Exceptions and those encumbrances that shall be removed at Closing.
- iii. There are no mechanic's or materialmen's liens against the Property, and no unpaid claims for labor performed, materials furnished or services rendered in connection with constructing, improving or repairing the Property in respect of which liens may or could be filed against the Property.
- iv. To the best of the RDC's knowledge, the Real Estate is free and clear of all hazardous materials, except for asbestos, chemical irritants in the vault/safe, and possible residue from underground storage tanks that were removed from the Real Estate to the north of the Administration Building.
- v. Purchaser shall at all times use and maintain the Real Estate in accordance with the laws, codes, ordinances and regulations of the United States of America, the State of Indiana, County of Monroe and the City of Bloomington, Indiana, that apply to Purchaser.
- vi. Purchaser agrees to invest a minimum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) ("Investment") to renovate the Administration Building, which shall be inclusive of the total of Purchaser's costs for acquisition, site planning, land use approvals, engineering, construction, and restoration. Investment shall not include furnishings and trade fixtures associated with the business operations located or to be located in the Real Estate.
- vii. This Agreement constitutes the sole and only agreement between the RDC and Purchaser and supersedes any prior understanding or written or oral agreements between the RDC and Purchaser respecting the transaction.

viii. This Agreement shall be construed according to the laws of the State of Indiana.

11. **Default:** In the event the purchase and sale contemplated by this Agreement is not consummated due to the breach hereof or default hereunder by a party, or if any representation or warranty made herein is untrue or breached as of the Closing Date, then the non-breaching party may avail itself of any and all remedies at law or in equity, including, but not limited to, a suit for specific performance of this Agreement or for damages for the breach of this Agreement or any of the representations or warranties set forth herein, and shall further be entitled to recover attorneys' fees incurred in connection with any such action.

12. **Notices.** All notices, requests, demands, consents and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly and properly given on the date of service if delivered personally or on the date of mailing if deposited in a receptacle of the United States mail, first class postage prepaid, addressed appropriately as follows:

If to Purchaser: 601 N. Morton LLC
Attention: Matthew J. Smith
6690 W South Lake Gage Drive
Angola, IN 46703

Copy to: Angela Parker
Carmin Parker P.C.
400 W 7th Street, Suite 104
Bloomington, IN 47404

If to RDC: The Redevelopment Commission of Bloomington, Indiana
Attn.: Larry Allen
City of Bloomington Legal Department
401 N. Morton St, Ste. 220
Bloomington, IN 47404

Either party may change its address for purposes of this Paragraph by giving the other party written notice of the new address in the manner set forth above.

13. **Assignment.** Neither party may assign its interest in this Agreement without the prior written consent of the other party except RDC hereby consents to the assignment of this Agreement from the individual Purchasers to an LLC created by the individual Purchasers as outlined in the introductory recital to this Agreement.

14. **Survival of Provisions:** Except for those terms, covenants and conditions which are to be fully performed prior to the Closing, the terms, covenants, conditions, and representations contained in this Agreement survive the Closing and delivery of the warranty deed.

15. **Severability:** In case any provision contained in this Agreement is held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

16. **Binding on Successors.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, representatives, successors and permitted assigns.
17. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.
18. **Modification.** This agreement may not be changed or modified except by an agreement in writing signed by the party sought to be charged with such modification.
19. **Waiver.** No failure on the part of either party to exercise any power or right given hereunder or to insist upon strict compliance with any obligations specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof; provided, however, that either party may, at its sole option, waive in writing any requirement, covenant or condition herein established for the benefit of such party without affecting any of the other terms or provisions of this Agreement. No delay on the part of either party in the exercise of any power or right hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any power or right preclude other or further exercise thereof or the exercise of any power or right. All rights and remedies existing under this Agreement shall be cumulative and shall be in addition to those otherwise provided by law.
20. **Entire Agreement.** This Agreement constitutes the entire agreement among the parties hereto and supersedes all prior discussions, letters of intent, agreements, writings and representations between RDC and Purchaser with respect to the Property and the transaction contemplated herein.
21. **Governing Law.** This Agreement shall be governed by the laws of the State of Indiana.

IN WITNESS WHEREOF, the RDC and Purchaser have executed this Agreement as of the dates set forth below.

**CITY OF BLOOMINGTON
REDEVELOPMENT COMMISSION**

601 N MORTON LLC

By: _____
Nicholas Kappas, President

By: _____
Matthew J. Smith

Date: _____

Date: _____

ATTEST:

By: _____
Cindy Kinnarney, Secretary

Date: _____

CITY OF BLOOMINGTON

By: _____
John Hamilton, Mayor

Date: _____

This instrument was prepared by Larry D. Allen, Attorney for the RDC of Bloomington, Indiana, 401 N. Morton, Suite 220, Bloomington, Indiana 47404; Telephone: (812) 349-3426.

I, Larry D. Allen, 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/ Larry D. Allen
Attorney No. 30505-53

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for the State of Indiana, personally appeared John Hamilton, Mayor of Bloomington, and executed the foregoing Real Estate Conveyance Agreement this _____ day of _____, 2021.

Notary Public's Signature

Printed Name of Notary Public

My Commission Expires: _____

County of Residence: _____

Commission Number: _____

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for the State of Indiana, personally appeared, Nicholas Kappas, President, City of Bloomington Redevelopment Commission, and executed the foregoing Real Estate Conveyance Agreement this _____ day of _____, 2021.

Notary Public's Signature

Printed Name of Notary Public

My Commission Expires: _____

County of Residence: _____

Commission Number: _____

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for the State of Indiana, personally appeared _____, on behalf of 601 N Morton LLC and executed the foregoing Real Estate Conveyance Agreement this _____ day of _____, 2020.

Notary Public's Signature

Printed Name of Notary Public

My Commission Expires: _____

County of Residence: _____

Commission Number: _____