

**A RESOLUTION OF THE
COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA,
REGARDING AN ENVIRONMENTAL INDEMNIFICATION AGREEMENT
FOR THE NORTH RIVER PROPERTY**

WHEREAS, the City of Fort Wayne, Indiana ("City"), acting by and through the its Department of Redevelopment ("Redevelopment"), is authorized by Indiana Code 36-7-14-19 to acquire interests in real estate in need of redevelopment; and

WHEREAS, Redevelopment has, pursuant to Indiana Code 36-7-14-19, entered into an agreement to acquire a parcel of real estate in need of redevelopment containing approximately thirty (30) acres laying immediately north of the St. Mary's River and west of Clinton Street near downtown Fort Wayne, which property is legally described on Exhibit A to this Resolution ("North River Property"); and

WHEREAS, the North River Property is located within the North River Urban Renewal Area as established by Redevelopment by virtue of Declaratory Resolution 2002-50, dated November 18, 2002, and Confirmatory Resolution 2002-64, dated December 23, 2002, as adopted by the Fort Wayne Redevelopment Commission ("URA Resolutions"); and

WHEREAS, the North River Property is subject to and covered by the North River Urban Renewal Plan for the North River Urban Renewal Area prepared by Redevelopment and dated November, 2002 ("URA Plan").

1 the City by agreeing to indemnify and hold the owner and seller of the North
2 River Property harmless from and against the cost of any remediation
3 required during the process of redevelopment of the North River Property to
4 support the redevelopment goals of the City of Fort Wayne expressed in the
5 URA Resolutions and the URA Plan;
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7 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON
8 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:
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10 1. The Common Council finds, determines, ratifies and
11 confirms that the North River Property is a property in need of redevelopment
12 and that acquisition of the North River Property is in the best interests of the
13 Citizens of Fort Wayne and will support the redevelopment goals of the City
14 of Fort Wayne expressed in the URA Resolutions and the URA Plan.
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16 2. The Common Council further finds, determines, ratifies
17 and confirms that the execution and delivery of the Environmental
18 Indemnification Agreement for the North River Property attached hereto as
19 **Exhibit B and the purchase agreement attached hereto as Exhibit C is**
20 **are** hereby in all things approved as reasonable and necessary to acquire
21 the North River Property and support the redevelopment goals of the City of
22 Fort Wayne expressed in the URA Resolutions and the URA Plan.
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24 3. The Common Council hereby authorizes the Mayor and
25 the Clerk to execute and deliver the Environmental Indemnification
26 Agreement upon the completion of all other conditions precedent to the
27 acquisition of the North River Property by Redevelopment.
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4. This Resolution shall be in full force and effect from and after the time it has been adopted by Common Council, approved by the Mayor and otherwise executed and delivered in accordance with any and all laws appertaining thereto.



Council Member

APPROVED AS TO FORM AND LEGALITY:



Carol Helton, City Attorney

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

Lots Numbered 117, 118, 119, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152 and the East 47 feet of 139 in North Side Addition to the City of Fort Wayne, Indiana, according to the plat thereof, as recorded in Deed Record 35, page 112, in the Office of the Recorder of Allen County, Indiana.

PARCEL 2:

Lots Numbered 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40 in St. Vincent's Place Addition to the City of Fort Wayne, Indiana, according to the plat thereof, as recorded in Plat Record 12, page 30, in the Office of the Recorder of Allen County, Indiana and that portion of vacated Putnam Street lying adjacent to the North of Lots 28 and 40, as vacated by Declaratory Resolution Number 1331-1973.

PARCEL 3:

All that part of Lots Numbered 1 and 2 Feeder Addition to the City of Fort Wayne, according to the plat thereof, as recorded in Plat record 3, page 2, in the Office of the Recorder of Allen County, Indiana, lying East of the East property line of Harrison Street, and North of the North line of the following described tract made in accordance with a deed recorded March 6, 1981 in Deed Record Book 120, page 142, which tract is described as follows:

Commencing at a point on the South side of the Canal Feeder at the water edge where the line between the land of Hugh B. Reed, situate North of the St. Mary's River and the land bought by C. D. Fleming and S. B. Bond and Jones from S. B. Varnum produced northward would strike the said Canal Feeder; thence Southward along said line Four Hundred fifty (450) feet to a stake; thence Westward three hundred twenty-four (324) feet along the center line of Sixth Street to a stake; thence Northerly and at right angles Three Hundred Thirty-seven (337) feet to the water edge of said Feeder and thence Eastwardly along said water edge to the place of beginning in Allen County, Indiana.

PARCEL 4:

Block A in St. Vincent's Place Addition to the City of Fort Wayne, Indiana, according to the plat thereof, as recorded in Plat Record 12, page 30, in the Office of the Recorder of Allen County, Indiana.

PARCEL 5:

All that part of Lot Number 42 Feeder Addition to the City of Fort Wayne, Indiana, according to the plat thereof, as recorded in Plat Record 3, page 2, in the Office of the Recorder of Allen County, Indiana, which lies South of the North property line of Putnam Street produced and extended East across said Lot.

PARCEL 6:

A part of Lot Number 8 in the plat of Wells Reserve, Allen County, Indiana, described as follows: Beginning at the Northwest corner of Sixth and Calhoun Streets in the City of Fort Wayne, Indiana, thence running North along the West side of said Calhoun Street 419.9 feet; thence running West and Southerly 264.4 feet to a point on the East side of Harrison Street in said City 329.4 feet North of the Northeast corner of said Harrison and Sixth Street; thence from said point

South along the East side of said Harrison Street to the Northeast corner of said Harrison and Sixth Street, thence due East 250 feet to the place of beginning.

PARCEL 7:

All that parcel of land situated in the City of Fort Wayne, County of Allen, and State of Indiana being in section 2, Township 30 North, Range 12 East and section 35, Township 31 North, Range 12 East, and being a part of Lots Numbered 6 and 8 in Wells Reserve, separately bounded and described as follows, to-wit:

COMMENCING at the intersection of the North right-of-way line of Fourth street and the East right-of-way line of North Calhoun street, said point being the Point of Beginning; thence Northerly along the East right-of-way line of said North Calhoun street on an assumed bearing of North 00 degrees 00 minutes 00 seconds East 1136.40 feet; thence North 70 degrees 02 minutes 00 seconds East 185.00 feet; thence North 36 degrees 02 minutes 00 seconds East 248.20 feet; thence North 17 degrees 51 minutes 00 seconds East 43.10 feet; thence North 18 degrees 47 minutes 50 seconds East 335.08 feet; thence North 60 degrees 54 minutes 00 seconds East 16.81 feet to a point 32.00 feet West of the centerline of the mainline tract of the former Fort Wayne and Jackson Railroad Co.; thence along a curve to the right in a Southwesterly direction having a chord bearing of South 03 degrees 36 minutes 11 seconds East and a distance of 767.92 feet, an arc distance of 790.40 feet (having a radius of 951.94 feet) and being 32.00 feet West of and parallel to the centerline of said Railroad; thence South 20 degrees 11 minutes 00 seconds West 1064.97 feet 32.00 feet West of and parallel to the centerline of said Railroad to a point on the North line of Fourth Street; thence South 89 degrees 47 minutes 00 seconds West 136.23 feet along the North line of Fourth Street to the Point of Beginning, containing 12.29 acres, more or less.

PARCEL 8:

That portion of vacated Calhoun Street from the North Right-of-way line of Sixth Street to the North Right-of-way of Putnam Street, as vacated by Declaratory Resolution Number 1330-1973.

PARCEL 9:

A parcel of land situated in the City of Fort Wayne, County of Allen, State of Indiana in Section 2, Township 30 North, Range 12 East and Section 35, Township 31 North, Range 12 East and being a part of Lots Numbered 6 and 8 in Wells Reserve, more particularly described as follows, to-wit:

COMMENCING at the intersection of the North right-of-way line of Fourth Street and the East right-of-way line of Calhoun Street; thence North 89 degrees 42 minutes 24 seconds East (bearings in the description are based on an adjoining deed bearing of North 00 degrees 00 minutes 00 seconds East for the East right-of-way line of said Calhoun Street), on and along said North right-of-way line, a distance of 136.23 feet to the True Point of Beginning; thence North 20 degrees 11 minutes 00 seconds East, parallel with and 32.0 feet Northwesterly (measured at right angles) of the centerline of the mainline of the former Penn Central Railroad, a distance of 1132.69 feet (recorded 1064.97 feet) to the point of curvature of a regular curve to the left having a radius of 808.00 feet (951.94 feet recorded); thence Northwesterly and parallel with said Railroad centerline, on and along the arc of said curve, an arc distance of 731.59 feet (recorded 790.04 feet), being subtended by a long chord having a length of 706.86 feet and a bearing of North 05 degrees 45 minutes 20 seconds West; thence North 60 degrees 54 minutes 00 seconds East, not tangent to the last course, a distance of 82.00 feet to a point situated 50.0 feet Northeastly of said railroad centerline; thence Southeastly, on and along the arc of a curve to the right having a radius of 890.00 feet, an arc distance of 376.41 feet, being subtended by a long chord having a length of 373.61 feet and a

bearing of South 19 degrees 20 minutes 21 seconds East to the Northwesterly right-of-way line of North Clinton Street; thence South 00 degrees 43 minutes 21 seconds West, on and along said right-of-way line, a distance of 183.22 feet to the point of curvature of a regular curve to the right having a radius of 600.00 feet; thence Southwesterly, on and along the arc of said curve and along said right-of-way, an arc distance of 230.96 feet, being subtended by a long chord having a length of 229.85 feet and a bearing of South 10 degrees 27 minutes 10 seconds West to the point of tangency; thence South 20 degrees 11 minutes 00 seconds West, parallel with and 50.0 feet Southeasterly of said railroad centerline, a distance of 343.20 feet; thence South 00 degrees 07 minutes 19 seconds East, on and along said North Clinton Street right-of-way, a distance of 230.53 feet; thence South 20 degrees 11 minutes 00 seconds West and parallel with said railroad centerline, a distance of 523.15 feet (recorded 509.45 feet) to a point on the North right-of-way line of said Fourth Street; thence South 89 degrees 42 minutes 24 seconds West, on and along the North right-of-way of said Fourth Street, a distance of 172.93 feet to the Point of Beginning, containing 4.698 acres of land.

Excepting therefrom a tract of land conveyed to the State of Indiana, by Document Number 2011004101, described as follows:

A part of a parcel of land situated in the City of Fort Wayne, Allen County, Indiana, in Section 35, Township 31 North, Range 12 East and being part of Lot Number 8 in Wells Reserve, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT "B" (attached to Document Number 2011004101), described as follows: COMMENCING at the intersection of the North right-of-way line for Fourth Street and the East right-of-way line of Calhoun Street; thence North 89 degrees 42 minutes 24 seconds East (bearings in the description are based on an adjoining deed bearing North 00 degrees 00 minutes 00 seconds East for the East right-of-way line of said Calhoun Street), on and along said North right-of-way line, a distance of 136.23 feet (the forgoing portion of this description beginning with the words "COMMENCING at the" is quoted from Instrument No. 202098622 in the Office of the Recorder of Allen County, Indiana); thence North 20 degrees 11 minutes 00 seconds East, parallel with and 32.00 feet Northwesterly (measured at right angles) of the centerline of the mainline of the former Penn Central Railroad, a distance of 1132.69 feet (recorded 1064.97 feet) to the point of curvature of a regular curve to the left having a radius of 800.00 feet (951.94 feet recorded) thence Northwesterly and parallel with said Railroad centerline, on and along the arc of said curve, an arc distance of 731.59 feet (recorded 790.04 feet), being subtended by a long chord having a length of 706.86 feet and a bearing of North 05 degrees 45 minutes 20 seconds West; thence North 60 degrees 54 minutes 00 seconds East, not tangent to the last course, a distance of 82.08 feet to a point situated 50.0 feet Northeasterly of said railroad centerline (the forgoing portion of this description beginning with the words "thence North 20 degrees" is quoted from Instrument No. 202098622 in the Office of the Recorder of Allen County, Indiana); thence Southeasterly 317.83 feet along an arc to the right and having a radius of 890.00 feet and subtended by a long chord having a bearing of South 22 degrees 47 minutes 49 seconds East and a length of 316.15 feet to the point of beginning of this description: thence Southeasterly 58.58 feet along an arc to the right and having a radius of 890.00 feet and being subtended by a long chord having a bearing of South 10 degrees 40 minutes 51 seconds East and a length of 58.57 feet; thence North 89 degrees 09 minutes 01 seconds East 25.00 feet to the centerline of U.S. 27 (North Clinton Street); thence South 00 degrees 50 minutes 59 seconds East, 72.41 feet along said centerline; thence South 89 degrees 09 minutes 01 seconds West 35.00 feet to point "301" designated on said Right of Way Parcel Plat; thence North 00 degrees 50 minutes 59 seconds West 130.12 feet to the point of beginning and containing 0.065 acres, more or less, inclusive of the presently existing right-of-way which contains 0.028 acres, more or less.

PARCEL 10:

A part of Lot Numbered 6 in Wells Reserve, Section 2, Township 30 North, Range 12 East, Allen County, Indiana, described as follows:

Commencing at the intersections of the North right of way line of Fourth Street and the East right of way line of North Calhoun Street; thence eastward along the North right of way of Fourth Street on an assumed bearing of North 89 degrees 47 minutes 00 seconds East 309.07 feet to the point of beginning; thence Eastward along the North right of way line of Fourth Street; North 89 degrees 47 minutes 00 seconds East 169.59 feet to a point on the West right of way of North Clinton Street; thence North 38 degrees 26 minutes 20 seconds East 19.08 feet along the West right of way of North Clinton Street; thence North 00 degrees 30 minutes 30 seconds West 462.60 feet along the West right of way of North Clinton Street, thence South 20 degrees 11 minutes 00 seconds West 509.45 feet to the point of beginning.

Containing 1.01 acres, more or less.

PARCELS 2, 3, 4, 5, 6, 7, 8, 9 and 10 being further described as follows:

A parcel of land situated in the City of Fort Wayne, County of Allen, State of Indiana in Section 2, Township 30 North, Range 12 East and Section 35, Township 31 North, Range 12 East and being a part of Lots Numbered 6 and 8 in Wells Reserve, and including Lots 28 through 40 and Block "A" in St. Vincent's Place Addition to the City of Fort Wayne, according to the plat thereof, as recorded in Plat Record 3, page 2 and that portion of vacated Putnam Street, as vacated by Declaratory Resolution 1331-1973 and that portion of vacated Calhoun Street, as vacated by Declaratory resolution Number 1330-1973, more particularly described as follows, to-wit:

Beginning at the intersection of the North right-of-way line of Fourth Street and the East right-of-way line of Calhoun Street; thence North 00 degrees 00 minutes 00 seconds East (deed bearing and is used as the basis for the bearings in this description), on and along said East right-of-way line, a distance of 700.35 feet to the North right-of-way line of Sixth Street; thence South 89 degrees 45 minutes 00 seconds West, on and along the North right-of-way line of Sixth Street, a distance of 300.00 to the East right-of-way line of North Harrison Street; thence North 00 degrees 13 minutes 49 seconds East, on and along the East right-of-way line of North Harrison Street, a distance of 742.92 feet to the North right-of-way line of Putnam Street; thence South 89 degrees 46 minutes 26 seconds East, on and along the North right-of-way line of Putnam Street and the South line of a 24.85 acre tract of land conveyed to Young Women's Christian Association by deed recorded in Document Number 79-23133 in the Office of the Recorder of Allen County, Indiana, a distance of 631.03 feet to an East corner of said 24.85 acre tract of land; thence North 18 degrees 33 minutes 42 seconds East, on and along the South line of said 24.85 acre tract, a distance of 336.52 feet (recorded 335.08 feet) to the most Easterly corner of said 24.85 acre tract of land; thence North 60 degrees 54 minutes 33 seconds East, a distance of 99.71 feet to a point situated 50.0 feet Northeastly of the centerline of the mainline of the former Penn Central Railroad; thence Southeastly, parallel with and 50.0 feet Northeastly of said railroad centerline, on and along the arc of a curve to the right having a radius of 890.00 feet, an arc distance of 328.42 feet, being subtended by a long chord having a length of 326.56 feet and a bearing of South 20 degrees 52 minutes 29 seconds East to the Northwest corner of a 0.065 acre tract of land conveyed to the State of Indiana, by Document Number 2011004101; thence South 00 degrees 43 minutes 55 seconds West, on and along the West line of said 0.065 acre tract, 119.74 feet to the Southwest corner of said 0.065 acre tract; thence South 89 degrees 16 minutes 06 seconds East, on and along the South line of

said 0.065 acre tract, 7.91 feet to the Westerly right-of-way line of North Clinton Street; thence South 00 degrees 43 minutes 55 seconds West, on and along said right-of-way line, a distance of 110.81 feet to the point of curvature of a regular curve to the right having a radius of 690.00 feet; thence Southwesterly, on and along the arc of said curve and along said right-of-way, an arc distance of 230.96 feet, being subtended by a long chord having a length of 229.85 feet and a bearing of South 10 degrees 27 minutes 44 seconds West to the point of tangency; thence South 20 degrees 11 minutes 33 seconds West, parallel with and 50.0 feet Southeasterly of said railroad centerline, a distance of 343.20 feet; thence South 00 degrees 06 minutes 46 seconds East, on and along said North Clinton Street right-of-way, a distance of 705.96 feet; thence South 39 degrees 20 minutes 00 seconds West, on and along said North Clinton Street right-of-way, a distance of 19.08 feet to the North right-of-way of Fourth Street; thence South 89 degrees 42 minutes 57 seconds West, on and along said North right-of-way line, a distance of 478.75 feet to the point of beginning, containing 24.79 acres of land.

PARCEL 11:

All that parcel of land situated in the City of Fort Wayne, County of Allen, State of Indiana, being a part of Lot Numbered 6 in the plat of Wells Reserve, Section 2, Township 30 North, Range 12 East, bounded and described according to a plan of a survey made by Mid-Michigan Engineering and Survey Co. dated May 25, 1978, as follows, to-wit:

BEGINNING at the intersection of the South line of Fourth Street and the East line of Calhoun Street; thence North 89 degrees 46 minutes East, along the South line of Fourth Street a distance of 117.70 feet to a point 32 feet distant in a Northwesterly direction from the centerline of the main track formerly of the Fort Wayne and Jackson Railroad Company; thence South 20 degrees 10 minutes 30 seconds West; along a line parallel with said centerline of track a distance of 280.0 feet to a point; thence North 69 degrees 49 minutes 30 seconds West, a distance of 22.51 feet to a point in the east line of Calhoun Street; thence North along the East line of Calhoun Street a distance of 254.58 feet to the point of beginning.

CONTAINING 18,133.33 square feet more or less or 0.416 of an acre, more or less.

PARCEL 12:

All that piece or parcel of land situate, lying and being part of Lot No. 6 of Well's Reserve in Section 2, Township 30 North, Range 12 East, Allen County, Indiana, and being more particularly described as follows: to wit,

BEGINNING at the intersection of the southerly right of way line of Fourth Street and the westerly right of way line of North Clinton Street; thence, South 00°17'50" East (bearings in this description are based on a survey bearing of North 89°42'57" East, for the southerly right of way line of Fourth Street from Z. K. Tazian Associates, Inc. Survey No. 03-09-35), on and along the westerly right of way line of North Clinton Street as established by State Highway Project No. F.A.U:414(6), a distance of 60.00 feet to a 5/8-inch rebar set at the northeast corner of a 1.29-acre tract of land conveyed to Fort Wayne Board of Park Commissioners by deed recorded in Document No. 990094251 in the Office of the Recorder of Allen County, Indiana; thence, North 72°05'50" West, on and along the northerly line of said 1.29-acre tract of land, a distance of 90.00 feet to a 5/8-inch rebar set; thence, in a southwestwardly direction, on and along the northerly line of said 1.29-acre tract of land as defined by a curve to the left, not tangent to the last course, having a radius of 375.0 feet, an arc distance of 100.30 feet, being subtended by a long chord having a length of 100.00 feet and a bearing of South 70°50'30" West, to a 5/8-inch rebar set; thence, in a southwestwardly direction, on and along the northerly line of said 1.29-acre tract of land, as defined by a curve to the

left, having a radius of 350.0 feet, an arc distance of 100.35 feet, being subtended by a long chord having a length of 100.00 feet and a bearing of South 58 °15'30" West, to a 5/8-inch rebar set; thence, in a southwestwardly direction, on and along the northwesterly line of said 1.29-acre tract of land as defined by a curve to the left, having a radius of 600.0 feet, an arc distance of 100.12 feet, being subtended by a chord having a length of 100.00 feet and a bearing of South 45 °18'30" West to a 5/8-inch rebar set; thence, in a southwestwardly direction, on and along the northwesterly line of said 1.29-acre tract of land, as defined by a curve to the left, having a radius of 800.0 feet, an arc distance of 100.07 feet, being subtended by a long chord having length of 100.00 feet and a bearing of South 36 °05'30" West, to a 5/8-inch rebar set; thence, in a southwestwardly direction, on and along the northwesterly line of said 1.29-acre tract of land, as defined by a curve to the left, having a radius of 600.0 feet, an arc distance of 64.14 feet, being subtended by a long chord having a length of 64.11 feet and a bearing of South 27 °42'50" West, to a 5/8-inch rebar set at the most southerly corner of a Flood Protection Levee Easement (Exhibit "L") granted to the City of Fort Wayne by Document No. 200003397 in the Office of the Recorder of Allen County, Indiana; thence, North 61 °59'02" West, a distance of 9.80 feet to a 5/8-inch rebar set at the most westerly corner of said Easement; thence, South 21°15'27" West, a distance of 92.16 feet to a 5/8-inch rebar set at the northeast corner of an Access Road Easement (Exhibit "B") granted to the City of Fort Wayne by Document No. 200003397 in the Office of the Recorder of Allen County, Indiana; thence, South 23°00'20" West, on and along the easterly line of said Easement and the southwestery projection, a distance of 59.84 feet to a 5/8-inch rebar set on the southerly projection of the east right of way line of Calhoun Street; thence, North 00 °03'46" West, on and along said southerly projection and the east right of way line of Calhoun Street, a distance of 204.74 feet to a 5/8-inch rebar found at the southwest corner of a 0.416-acre tract of land conveyed to Calhoun Investments, LLC by deed recorded in Document No. 200071999 in the Office of the Recorder of Allen County, Indiana; thence, South 69°50'12" East, on and along the south line of said 0.416 acre tract of land, a distance of 22.51 feet to a 5/8-inch rebar found at the southeast corner thereof; thence, North 20 °06'51" East on and along the east line of said 0.416-acre tract of land, a distance of 280.00 feet to a 5/8-inch rebar found at the northeast corner thereof, this being a point on the southerly right of way line of Fourth Street; thence, North 89 °42'57" East, on and along said southerly right of way line, a distance of 372.90 feet to the point of beginning; said parcel containing 1.27 acres of land, more or less.

PARCEL 13:

Lots Numbered 202 and 203, in North Side Addition to the City of Fort Wayne, as recorded in Deed Record 104, pages 512-516, in the Office of the Recorder of Allen County, Indiana.

ALSO:

Lot Number 204, EXCEPT the West 25 feet 3 inches, in North Side Addition to the City of Fort Wayne, as recorded in Deed Record 104, pages 512-516, in the Office of the Recorder of Allen County, Indiana.

EXHIBIT B
TITLE COMMITMENT

File No: 1728682

TITLE INSURANCE COMMITMENT
BY
First American Title Insurance Company
SCHEDULE A
AMENDED COMMITMENT

1. Commitment Date: **January 16, 2017 at 7:00 am**
2. Policy (or Policies) to be issued: Policy Amount
 - a. Owner's Policy
Proposed Insured:
3. **Fee Simple** interest in the land described in this Commitment is owned, at the Commitment Date, by
Calhoun Investments, LLC, an Indiana limited liability company
4. The land referred to in the Commitment is described as follows:
SEE ATTACHED EXHIBIT "A"

End of Schedule A

ALTA Commitment (6-17-06)
Schedule A

Titan Title Services, LLC
209 W. Wayne Street
Fort Wayne IN 46802-3123

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EXHIBIT B

ENVIRONMENTAL INDEMNIFICATION AGREEMENT

ENVIRONMENTAL INDEMNIFICATION AGREEMENT

This Environmental Indemnification Agreement (hereinafter "Agreement") made and entered into as of _____, 2017, by and between the City of Fort Wayne, Department of Redevelopment, by the Fort Wayne Redevelopment Commission, its successors and assigns ("Purchaser"), and Calhoun Investments, LLC, an Indiana limited liability company ("Seller").

RECITALS

- A. Concurrently herewith Seller is selling to Purchaser that certain real property located in the County of Allen, State of Indiana, more particularly described in Exhibit A, attached hereto (hereinafter "Property") pursuant to that certain Real Estate Purchase and Sale Agreement dated _____, 2017 (the "Purchase Agreement").
- B. Purchaser and Seller acknowledge and agree that certain contaminants (collectively, the "Contamination") may be present on the Property. As used herein, the term "Contamination" includes, without limitation, hazardous wastes or constituents, as defined in the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.); hazardous substances, as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.); any pesticide (as defined in the Federal Insecticide Fungicide, and Rodenticide Act, as amended (7 U.S.C. Section 136, et seq.); or any hazardous or toxic chemical or extremely hazardous substance, as defined in Emergency Planning and Community Right-to-Know Act of 1986, as amended (42 U.S.C. Section 11001, et seq.) or any media contaminated with any hazardous material as defined above. The term "Contamination" shall also include, without limitation, volatile organic compounds, gasoline, diesel fuel, petroleum products, or the constituents or breakdown products of any of the foregoing, explosives, radioactive material, polychlorinated biphenyls or related or similar materials, asbestos or asbestos-containing materials or any other substance or material defined as a hazardous or toxic substance or material by any federal, state or local law, ordinance, rule or regulation.
- C. As of the date hereof, the source, extent or cause of any such Contamination is not known to Purchaser or Seller. Notwithstanding such uncertainty, the scope of the indemnity obligations established hereby is not limited to any particular location or level of concentration of Contamination.
- D. Purchaser has agreed to purchase the Property and Seller has agreed to sell the Property to Purchaser on the condition that Purchaser take complete responsibility for the remediation of any Contamination and indemnify Seller as set forth herein.
- E. Seller has required the execution and delivery of this Agreement as a condition precedent to Seller's obligation to sell the Property to Purchaser, and Seller would not be willing to sell the Property to Purchaser in the absence of the execution and delivery by Purchaser of this Agreement.

NOW, THEREFORE, for good and sufficient consideration, the receipt of which is hereby acknowledged, Purchaser agrees as follows:

AGREEMENT

1. Recitals. The recitals set forth above are true and correct and are by this reference incorporated herein.
2. Ongoing Investigation and Cooperation. Purchaser agrees to continue to monitor and investigate any Contamination in a manner consistent with protecting its interest in the Property and the indemnification of

Seller hereunder. Seller agrees to fully cooperate with such efforts, and covenants and agrees that it will promptly provide to Purchaser copies of any notices, demands, claims, inquiries, or any other correspondence received from any party relative to any Contamination.

3. **Indemnification.** Purchaser, on behalf of itself, its successors and assigns, agrees to indemnify, defend and hold Seller and its former and current members, managers, officers, employees and agents and North River Capital, LLC and all of its former and current affiliates, and each of their former and current members, shareholders, managers, directors, officers, employees and agents (the "Indemnified Parties") harmless from any claims (including without limitation third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlements of claims), interest or losses, including reasonable attorneys' fees and expenses (including any such fees and expenses incurred in enforcing this Agreement or collecting any sums due hereunder), consultant fees, and expert fees, together with all other costs and expenses of any kind or nature (collectively, the "Costs") that arise directly or indirectly from or in connection with any Contamination of, from, or affecting the Property. The indemnification provided herein shall be available to each of the Indemnified Parties regardless of (i) the legal theory of any claim, action or proceeding in which the Indemnified Party is named, including, but not limited to, claims, actions or proceedings based upon breach of statutory or regulatory obligations, negligence, recklessness, willful misconduct, intentional misconduct, contract (including claims for indemnification), contribution, equitable principles or any other theory; (ii) the capacity in which such Indemnified Party is named; and (iii) the nature of the person pursuing or otherwise a party to such claim, action or proceeding, with such indemnification to extend to claims, actions or proceedings pursued by or otherwise involving a former or then current Property owner or operator, a neighboring former or then current property owner or operator, a governmental entity, agency or organization or any other person.

4. **Remedial Work.** In the event any investigation or monitoring of site conditions or any cleanup, containment, restoration, removal or other remedial work (collectively the "Remedial Work") is required under any applicable federal, state or local law or regulation, by any judicial order, or by any governmental entity, or in order to comply with any agreements with any governmental authority in connection with any Contamination, Purchaser shall perform or cause to be performed the Remedial Work in compliance with such law, regulation, order or agreement; provided, that Purchaser may withhold such compliance pursuant to a good faith dispute regarding the application, interpretation or validity of the law, regulation, order, or agreement, subject to the requirements of paragraph 5 below. All costs and expenses of such Remedial Work shall be paid by Purchaser including, without limitation, the charges of contractor(s) and/or the consulting engineer.

5. **Permitted Contests.** Notwithstanding any provision of this Agreement to the contrary, Purchaser will be permitted to contest or cause to be contested, subject to compliance with the requirements of this paragraph, by appropriate action any Remedial Work requirement

6. **Release.** Purchaser, on behalf of itself and its successors and assigns, hereby releases the Indemnified Parties from any and all claims, demands, obligations, causes of action and liability arising out of or related to any Contamination (the "Release") of, from, or affecting the Property. Purchaser agrees never to commence, aid in any way or prosecute against the Indemnified Parties, any action, counterclaim or other proceeding based upon any claims, demands, causes of action, obligations, damages or liabilities covered by the Release.

7. **Attorneys' Fees.** In the event that either Party is named as a defendant party to any action, proceeding, controversy, claim or dispute concerning the Contamination, or concerning the enforcement of this instrument or the rights granted herein or obligations created hereby, the prevailing Party shall be entitled to recover its reasonable attorneys' fees, costs and expenses from Purchaser.

8. **Default Interest.** Any Costs and other payments required to be paid by one Party to another Party under this Agreement which are not paid within one hundred twenty (120) business days of receipt of demand therefor shall thereupon be considered "Delinquent". In addition to all other rights and remedies of the unpaid Party against the other Party as provided herein, or under applicable law, the other Party shall pay to the unpaid Party Default Interest (as defined below) on any such payments which are or have become Delinquent. Default Interest shall be paid by the other Party from the date such payment becomes Delinquent through and including the date of

payment of such Delinquent sums. As used herein, "Default Interest" shall be equal to two percent (2%) per annum in excess of the prime rate published from time to time in The Wall Street Journal, but in any event no greater than the maximum rate of interest permitted to be contracted for by law.

9. Independent Obligations. The obligations of Purchaser under this Agreement have been undertaken by Purchaser in consideration for a reduction in the purchase price to be paid by Purchaser for the Property and are separate and distinct from other obligations which Purchaser may have to Seller which survive the transfer of title of the Property to Purchaser. This Agreement may be enforced by Seller without regard to any other rights and remedies Seller may have against Purchaser under any other agreement between Purchaser and Seller and without regard to any limitations on Seller's recourse under any such other agreement.

10. Miscellaneous. If any term of this Agreement or any application thereof shall be invalid, illegal or unenforceable, the remainder of this Agreement and any other application of such term shall not be affected thereby. No delay or omission in exercising any right hereunder shall operate as a waiver of such right or any other right. This Agreement shall be binding upon Purchaser and its successors and assigns, and shall inure to the benefit of and be enforceable by Seller and its and successors and assigns. This Agreement shall be governed and construed in accordance with the laws of the State of Indiana.

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the day and year first above written.

"PURCHASER"
CITY OF FORT WAYNE
BY THE REDEVELOPMENT COMMISSION
DEPARTMENT OF REDEVELOPMENT

By: _____

Printed Name: Greg Leatherman

Its: Executive Director

"SELLER"
CALHOUN INVESTMENTS, LLC,
an Indiana limited liability company

By: _____

Printed Name: _____

Its: _____

**SCHEDULE B - SECTION I
REQUIREMENTS**

The following requirements must be met:

- a. Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
- b. Pay us the premiums, fees and charges for the policy.
- c. Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
- d. You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
- e. Title Company must be furnished a copy of the operating agreement of Calhoun Investments, LLC, an Indiana limited liability company and any amendments thereto.
- f. Title Company must be furnished proof of the authority and incumbency of the manager of Calhoun Investments, LLC, an Indiana limited liability company to execute the deed. If there is no manager, Title Company must be furnished proof of the authority and incumbency of the member to execute the deed.
- g. Warranty Deed to To Be Determined from Calhoun Investments, LLC, an Indiana limited liability company executed by the manager, or if there is no manager, executed by all of the members.
- h. Title Company requires release of lien filed by Fort Wayne Neighborhood Code Enforcement against insured real estate in the amount of \$78.00 plus interest and costs, if any, recorded December 22, 2006 as Document Number 206077654. (Parcel 13)
- i. Title Company requires release of lien filed by Fort Wayne Neighborhood Code Enforcement against insured real estate in the amount of \$86.00 plus interest and costs, if any, recorded December 22, 2006 as Document Number 206077654. (Parcel 13)
- j. Title Company requires release of lien filed by Fort Wayne Neighborhood Code Enforcement against insured real estate in the amount of \$62.00 plus interest and costs, if any, recorded December 22, 2006 as Document Number 206077654. (Parcel 13)
- k. Title Company requires release of lien filed by Fort Wayne Neighborhood Code Enforcement against insured real estate in the amount of \$100.06 plus interest and costs, if any, recorded February 6, 2009 as Document Number 2009005127. (Parcel 13)
- l. Title Company requires release of lien filed by Fort Wayne Neighborhood Code Enforcement against insured real estate in the amount of \$100.06 plus interest and costs, if any, recorded February 6, 2009 as Document Number 2009005127. (Parcel 13)

- m. Title Company requires release of lien filed by Fort Wayne Neighborhood Code Enforcement against insured real estate in the amount of \$77.18 plus interest and costs, if any, recorded February 6, 2009 as Document Number 2009005127. (Parcel 1)
- n. Title Company requires release of lien filed by Fort Wayne Neighborhood Code Enforcement against insured real estate in the amount of \$125.10 plus \$100.06 plus interest and costs, if any, recorded February 6, 2009 as Document Number 2009005127. Parcel 13)
- o. Title Company requires release of lien filed by Fort Wayne Neighborhood Code Enforcement against insured real estate in the amount of \$100.06 plus interest and costs, if any, recorded February 6, 2009 as Document Number 2009005127. (Parcel 13)
- p. Title Company requires release of Emergency Order to Repair by the City of Fort Wayne, Indiana, Department of Neighborhood Code Enforcement, Unsafe Building Section, against subject real estate, to Mary Lou Klemm, dated September 13, 1989 and recorded September 15, 1989 as Document Number 89-36210. (Parcel 1)

Title Company Note: The legal description on the above document appears to erroneously show Lot 156, instead of Lot 146.

- q. Title Company requires release of Emergency Order to Repair by the City of Fort Wayne, Indiana, Department of Neighborhood Code Enforcement, Unsafe Building Section, against subject real estate, to Mid-Continent Investments Inc., dated August 2, 1990 and recorded August 14, 1990 as Document Number 90-32420. (Parcel 1)
- r. Title Company requires release of Order to Demolish by the City of Fort Wayne, Indiana, Dept. of Neighborhood Code Enforcement, Unsafe Building Section against subject real estate to Michael Paul Suhr c/o Michael Bowers, dated February 21, 2008 and recorded March 14, 2008 as Document Number 2008013097. (Parcel 13)
- s. Title Company requires release of Record of Hearing and Findings of Hearing Officer by the Department of Neighborhood Code Enforcement, to Michael Paul Suhr c/o Michael Bowers, dated March 27, 2008 and recorded April 24, 2008 as Document Number 2008020140. (Parcel 13)
- t. Title Company requires release of Notice of Public Bid by The Neighborhood Code Enforcement to Michael Paul Suhr Family Trust, dated June 5, 2008 and recorded July 17, 2008 as Document Number 2008034696. (Parcel 13)
- u. NOTE: By virtue of IC 27-7-3.6, a fee of \$5 will be collected from the purchaser of the policy for each policy issued in conjunction with closings occurring on or after July 1, 2006. The fee should be designated in the 1100 series of the HUD-1 form as a TIEFF (Title Insurance Enforcement Fund Fee) charge.

- v. **Note for information:** Pursuant to I.C. 27-7-3.7-(1-10), effective July 1, 2009, concerning Good Funds in real estate transactions requires funds deposited into an escrow account for closing from any party to the transaction in amounts over \$10,000.00 to be in the form of an irrevocable wire transfer. Funds deposited into an escrow account for closing in an amount less than \$10,000.00 must be in the form of cash (*), irrevocable wire transfer, cashier's check, certified check, check drawn on the escrow account of another closing agent or check drawn on the trust account of a real estate broker licensed under IC 25-34.1. Personal checks exceeding \$500.00 will not be accepted. (*) Please note: In an effort to protect our customers and our employees, it is Titan Title's preference not to accept cash at Closing. However, if cash is tendered at Closing, Titan Title will comply with relevant Internal Revenue Service reporting regulations.
- w. You must file a Disclosure of Sales Information form prescribed by the State Board of Tax Commissioners pursuant to I.C. 6-1.1-5.5. The disclosure form must be filed with the County Auditor's office prior to recording.
- x. Effective July 1, 2006, no document executed in the State of Indiana may be accepted for recording unless the document includes the following affirmation statement: "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 (name)." See Indiana Code 36-2-11-15.

End of Schedule B - Section I

8. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: N Fri Lot 119 North Side Add
 Value of Land \$2,000.00 Value of Improvements \$1,100.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$47.95 - PAID
 2nd Installment \$47.95 - PAID
 Duplicate No. 1852018 PIN No. 02-07-35-456-004.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
9. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: S Fri Of Lot 119 North Side Add
 Value of Land \$2,600.00 Value of Improvements \$1,300.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$60.33 - PAID
 2nd Installment \$60.33 - PAID
 Duplicate No. 1852019 PIN No. 02-07-35-456-005.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
10. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Lots 118-120-122-124-126 & 128 North Side Add
 Value of Land \$26,800.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$414.57 - PAID
 2nd Installment \$414.57 - PAID
 Duplicate No. 1852022 PIN No. 02-07-35-456-008.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
11. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Lot 130 North Side Add
 Value of Land \$4,500.00 Value of Improvements \$3,000.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$116.02 - PAID
 2nd Installment \$116.02 - PAID
 Duplicate No. 1902027 PIN No. 02-12-02-202-011.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

12. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Lot 132 North Side Add
 Value of Land \$4,500.00 Value of Improvements \$2,600.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$109.83 - PAID
 2nd Installment \$109.83 - PAID
 Duplicate No. 1902028 PIN No. 02-12-02-202-012.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
13. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: N 24 Ft Lot 134 North Side Add
 Value of Land \$1,700.00 Value of Improvements \$1,200.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$44.86 - PAID
 2nd Installment \$44.86 - PAID
 Duplicate No. 1902029 PIN No. 02-12-02-202-013.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
14. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Ex N 24 Ft Lot 134 North Side Add
 Value of Land \$2,300.00 Value of Improvements \$1,400.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$57.23 - PAID
 2nd Installment \$57.23 - PAID
 Duplicate No. 1902030 PIN No. 02-12-02-202-014.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
15. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: N 1/2 Lot 136 North Side Add
 Value of Land \$2,300.00 Value of Improvements \$1,300.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$55.69 - PAID
 2nd Installment \$55.69 - PAID
 Duplicate No. 1902031 PIN No. 02-12-02-202-015.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

16. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: S 1/2 Lot 136 North Side Add
 Value of Land \$2,300.00 Value of Improvements \$1,300.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$55.69 - PAID
 2nd Installment \$55.69 - PAID
 Duplicate No. 1902032 PIN No. 02-12-02-202-016.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
17. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Lot 138 North Side Add N 23 5 Ft
 Value of Land \$2,300.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$35.58 - PAID
 2nd Installment \$35.58 - PAID
 Duplicate No. 1902033 PIN No. 02-12-02-202-017.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
18. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Lot 140 & S 26.5 Ft Lot 138 North Side Add
 Value of Land \$6,900.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$106.73 - PAID
 2nd Installment \$106.73 - PAID
 Duplicate No. 1902034 PIN No. 02-12-02-202-018.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
19. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Ex W 74 Ft Lot 139 North Side Add
 Value of Land \$1,400.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$21.65 - PAID
 2nd Installment \$21.65 - PAID
 Duplicate No. 1902026 PIN No. 02-12-02-202-010.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

20. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Ex S 24 Ft Lot 142 North Side Add
 Value of Land \$2,400.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$37.12 - PAID
 2nd Installment \$37.12 - PAID
 Duplicate No. 1902043 PIN No. 02-12-02-203-009.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
21. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: S 24 Ft Lot 142 North Side Add
 Value of Land \$2,200.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$34.03 - PAID
 2nd Installment \$34.03 - PAID
 Duplicate No. 1902044 PIN No. 02-12-02-203-010.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
22. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Lot 144 North Side Add
 Value of Land \$4,500.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$69.61 - PAID
 2nd Installment \$69.61 - PAID
 Duplicate No. 1902045 PIN No. 02-12-02-203-011.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
23. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: N 1/2 Lot 146 North Side Add
 Value of Land \$2,400.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$37.12 - PAID
 2nd Installment \$37.12 - PAID
 Duplicate No. 1902046 PIN No. 02-12-02-203-012.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

24. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: S 1/2 Lot 146 North Side Add
 Value of Land \$2,400.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$37.12 - PAID
 2nd Installment \$37.12 - PAID
 Duplicate No. 1902047 PIN No. 02-12-02-203-013.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
25. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: N 1/2 Lot 148 North Side Add
 Value of Land \$2,300.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$35.58 - PAID
 2nd Installment \$35.58 - PAID
 Duplicate No. 1902048 PIN No. 02-12-02-203-014.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
26. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: S 1/2 Lot 148 North Side Add
 Value of Land \$2,300.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$35.58 - PAID
 2nd Installment \$35.58 - PAID
 Duplicate No. 1902049 PIN No. 02-12-02-203-015.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
27. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: Lot 150 North Side Add
 Value of Land \$4,500.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$69.61 - PAID
 2nd Installment \$69.61 - PAID
 Duplicate No. 1902050 PIN No. 02-12-02-203-016.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

28. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: W 40 Ft Lot 152 North Side Add
 Value of Land \$2,500.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$38.67 - PAID
 2nd Installment \$38.67 - PAID
 Duplicate No. 1902051 PIN No. 02-12-02-203-017.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
29. Taxes of 2015 due and payable in 2016 (Parcel 1)
 In name of: Calhoun Investments LLC
 Description: E 82 1/2 Ft Lot 152 North Side Add
 Value of Land \$3,100.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$47.95 - PAID
 2nd Installment \$47.95 - PAID
 Duplicate No. 1902052 PIN No. 02-12-02-203-018.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
30. Taxes of 2015 due and payable in 2016 (Parcels 2 and 3)
 In name of: Calhoun Investments LLC
 Description: St Vincents Place Addn Lots 28 to 40 & Vac Putnam St & Feeders Addn pts Lots 1 & 2 E of Harrison St
 Value of Land \$58,600.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$906.49 - PAID
 2nd Installment \$906.49 - PAID
 Duplicate No. 1852007 PIN No. 02-07-35-454-001.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
31. Taxes of 2015 due and payable in 2016 (Parcels 4 and 5)
 In name of: Calhoun Investments LLC
 Description: Blk A St Vincents Add & W pt Lot 42 Feeders Addn
 Value of Land \$51,400.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$795.11 - PAID
 2nd Installment \$795.11 - PAID
 Duplicate No. 1852023 PIN No. 02-07-35-457-001.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

32. Taxes of 2015 due and payable in 2016 (Parcel 6)
In name of: Calhoun Investments LLC
Description: Pt Lot 8 Wells Reserve Sp Cor Calhoun & 6th St 250 X 328.5 Fr Frt
Value of Land \$71,700.00 Value of Improvements \$NONE
Mortgage Exemption \$NONE Homestead Deduction \$NONE
Homestead Supplemental \$NONE
1st Installment \$1,109.14 - PAID
2nd Installment \$1,109.14 - PAID
Duplicate No. 1852009 PIN No. 02-07-35-454-003.000-074
Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

33. Taxes of 2015 due and payable in 2016 (Parcel 7)
In name of: Calhoun Investments LLC
Description: 12.29 a Pt Of Lot 6 & 8 Wells Res B/W Calhoun & Clinton N Of 4th St
Value of Land \$184,400.00 Value of Improvements \$NONE
Mortgage Exemption \$NONE Homestead Deduction \$NONE
Homestead Supplemental \$NONE
1st Installment \$2,852.51 - PAID
2nd Installment \$2,852.51 - PAID
Duplicate No. 1852025 PIN No. 02-07-35-457-003.000-074
Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

Title Company Note: The Office of the Auditor does not appear to include that portion of vacated Calhoun Street in the taxes as vacated by Declaratory Resolution Number 1330-1973.

34. Taxes of 2015 due and payable in 2016 (Parcel 9)
In name of: Calhoun Investments LLC
Description: 4.698 A Pt Lots 6 & 8 Wells Res Between Calhoun & Clinton N of 4th St
Value of Land \$71,200.00 Value of Improvements \$NONE
Mortgage Exemption \$NONE Homestead Deduction \$NONE
Homestead Supplemental \$NONE
1st Installment \$1,101.40 - PAID
2nd Installment \$1,101.40 - PAID
Duplicate No. 1902070 PIN No. 02-12-02-205-001.000-074
Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

35. Taxes of 2015 due and payable in 2016 (Parcel 10)
 In name of: Calhoun Investments LLC
 Description: 1.01 A Pt Lot 6 Wells Res B/W Calhoun St & Clinton St N Of Fourth St
 Value of Land \$1902071 Value of Improvements \$02-12-02-205-002.000-074
 Mortgage Exemption \$49,300.00 Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$762.63 - PAID
 2nd Installment \$762.63 - PAID
 Duplicate No. 1902071 PIN No. 02-12-02-205-002.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
36. Taxes of 2015 due and payable in 2016 (Parcel 11)
 In name of: Calhoun Investments LLC
 Description: 18133.3 ft E Of Calhoun S Of Fourth St Pt Lot 6 Wells Reserve
 Value of Land \$19,000.00 Value of Improvements \$8,100.00
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$419.21 - PAID
 2nd Installment \$419.21 - PAID
 Duplicate No. 1902072 PIN No. 02-12-02-206-001.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
37. Taxes of 2015 due and payable in 2016 (Parcel 12)
 In name of: Calhoun Investments Llc
 Description: 1.27a Tr 117.7ft E Of Calhoun St & S Of Fourth St Pt Lot 6 Wells Reserve
 Value of Land \$52,100.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$805.94 - PAID
 2nd Installment \$805.94 - PAID
 Duplicate No. 1902075 PIN No. 02-12-02-207-003.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

38. Taxes of 2015 due and payable in 2016 (Parcel 13)
 In name of: Calhoun Investments LLC
 Description: N 1/2 W 1/2 Lot 202 North Side Add
 Value of Land \$1,900.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$29.39 - PAID
 2nd Installment \$29.39 - PAID
 Duplicate No. 1902056 PIN No. 02-12-02-204-004.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
39. Taxes of 2015 due and payable in 2016 (Parcel 13)
 In name of: Calhoun Investments LLC
 Description: S 1/2 W 1/2 Lot 202 North Side Add
 Value of Land \$700.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$10.83 - PAID
 2nd Installment \$10.83 - PAID
 Duplicate No. 1902057 PIN No. 02-12-02-204-005.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
40. Taxes of 2015 due and payable in 2016 (Parcel 13)
 In name of: Calhoun Investments LLC
 Description: E 1/2 Lot 202 North Side Add
 Value of Land \$2,600.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$40.22 - PAID
 2nd Installment \$40.22 - PAID
 Duplicate No. 1902058 PIN No. 02-12-02-204-006.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
41. Taxes of 2015 due and payable in 2016 (Parcel 13)
 In name of: Calhoun Investments LLC
 Description: Lot 203 North Side Add
 Value of Land \$5,200.00 Value of Improvements \$NONE
 Mortgage Exemption \$NONE Homestead Deduction \$NONE
 Homestead Supplemental \$NONE
 1st Installment \$80.44 - PAID
 2nd Installment \$80.44 - PAID
 Duplicate No. 1902059 PIN No. 02-12-02-204-007.000-074
 Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.

42. Taxes of 2015 due and payable in 2016 (Parcel 13)
In name of: Calhoun Investments LLC
Description: Ex W 25 Ft 3 In Lot 204 North Side Add
Value of Land \$2,100.00 Value of Improvements \$NONE
Mortgage Exemption \$NONE Homestead Deduction \$NONE
Homestead Supplemental \$NONE
1st Installment \$32.48 - PAID
2nd Installment \$32.48 - PAID
Duplicate No. 1902061 PIN No. 02-12-02-204-009.000-074
Taxes of 2016 payable in 2017 are a lien but not yet computed and not yet due and payable.
43. Plat, restrictions, covenants, building setback lines, easements, use restrictions and assessments recorded in Plat Record 12, page 30 but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin. Violation thereof will not result in forfeiture or reversion of title. (Parcels 2 and 4)
44. Restrictions recorded February 4, 1926 in Miscellaneous Record 68, pages 360-362 and in Deed Record 302, pages 136-137; Release of Forfeiture recorded June 4, 1957 in Miscellaneous Record 178, pages 258-259 and re-recorded July 2, 1957 in Miscellaneous Record 179, pages 90-91, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law. Violation thereof will not result in forfeiture or reversion of title. (Parcels 2 and 4)
45. Declaration of Covenants recorded August 19, 1969 in Miscellaneous Record 340, pages 70-72, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law. Violation thereof will not result in forfeiture or reversion of title. (Parcels 4, 5, 7 and 9)
46. Declaration of Covenants recorded March 17, 1970 as Document Number 70-4280, but omitting any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law. Violation thereof will not result in forfeiture or reversion of title. (Parcels 4, 5, 7 and 9)
47. Easement for ingress and egress over a portion of insured real estate as reserved in Deeds recorded June 20, 1934 in Deed Record 342, pages 540-541 and recorded July 20, 1934 in Deed Record 343, pages 174-175. (Parcel 13)

Title Company Note: Said easements may no longer exist due to merger of title.
48. Easement over a portion of insured real estate to maintain poles and wires as reserved to the City of Fort Wayne in deed recorded March 20, 1936 in Deed Record 350, pages 84-85. (Parcels 7, 9 and 10)

49. Easement for sewer rights and utility easements for the benefit of other real estate in North Side Addition as set out in Deed recorded October 7, 1938 in Deed Record 360, pages 124-125. (Parcel 1)
50. Easement for sewer rights and utility easements for the benefit of other real estate in North Side Addition as set out in Deed recorded July 14, 1939 in Deed Record 362, pages 187-188. (Parcel 1)
51. Easement for the purpose of making repairs to sewer as reserved in Deeds recorded July 25, 1941 in Deed Record 368, page 459 and recorded July 31, 1941 in Deed Record 368, page 491. (Parcel 1)

Title Company Note: Said easements may no longer exist due to merger of title.
52. Easement for sewer rights and utility easements for the benefit of other real estate in North Side Addition as set out in Deed recorded September 19, 1941 in Deed Record 369, pages 279-280. (Parcel 1)
53. Easement for Electric Lines reserved to Indiana Service Corporation by Warranty Deed recorded February 27, 1946 in Deed Record 387, page 199. (Parcels 3 and 5)
54. Sewer easement over a portion of insured real estate for the benefit of the properties on the west part of Lot as reserved in Deed recorded June 12, 1946 in Deed Record 389, page 93, and the terms and provisions thereof. (Parcel 1)
55. Easement for sidewalk purposes over a portion of insured real estate and over part of adjacent parcel on the west for the joint use of real estate served thereby as recorded May 17, 1949 as Deed Record 415, page 95. (Parcel 13)
56. Easement for construction of right of way for sewer and utility purposes over a portion of insured real estate as condemned by Declaratory Resolution No. 1058-1961. (Parcels 11 and 12)
57. Easement to maintain a sewage pump and pump house over a portion of insured real estate granted to the City of Fort Wayne by Declaratory Resolution No. 544-1925. (Parcel 12)
58. Easement for utilities lying within the vacated 8th Street as reserved by Declaratory Resolution No. 544-1925. (Parcels 7 and 9)
59. Easement for utilities lying within the vacated Calhoun Street as reserved by Declaratory Resolution No. 1330-1973. (Parcel 8)
60. Easement for utilities lying within the vacated Putnam Street as reserved by Declaratory Resolution No. 1331-1973 and by General Ordinance No. G-109-71. (Parcel 2)
61. Terms and provisions of Right of Way for highway purposes by Penn Central Transportation Company to the State of Indiana recorded March 5, 1970 as Document Number 70-3701. (Parcel 10)

62. Utility Easement granted to Indiana & Michigan Electric Company, General Telephone Company of Indiana, Inc. together with the City Utilities of Fort Wayne, Indiana over a portion of insured real estate by instrument recorded February 8, 1973 as Document Number 73-3226. (Parcels 2,3,4,5 and 8)
63. Utility Easement granted to Indiana & Michigan Electric Company, General Telephone Company of Indiana, Inc., together with the City Utilities of Fort Wayne, Indiana over a portion of insured real estate by instrument recorded February 8, 1973 as Document Number 73-3227. (Parcels 6 and 8)
64. Terms and Provisions of Agreement as recorded August 5, 1974 as Document Number 74-18050. (Parcels 2,3 and 4)
65. Utility Easement granted to Indiana & Michigan Electric Company over a portion of insured real estate by instrument recorded January 28, 1975 as Document Number 75-1565. (Parcel 7)
66. Easements, encumbrance, right or benefit as reserved by deed recorded June 7, 1977 as Document Number 77-14032. (Parcels 7 and 10)
67. Easements, encumbrance, right or benefit as reserved by deed recorded June 4, 1979 as Document Number 79-15115. (Parcel 11)
68. Easements over insured real estate and rights reserved and excepted and the terms and conditions as set out in instrument recorded February 29, 1980 as Document Number 80-4592. (Parcels 9 and 12)
69. Easement for a surface vehicle and pedestrian easement over a portion of insured real estate granted to Neil L. Diver and Gene V. Bailey, Co-Personal Representatives of the Estate of C. Gordon Diver, its successors and assigns by instrument recorded August 31, 1988 as Document Number 88-36038. (Parcel 12)
70. Easement for Communication, fiber optic and telecommunication lines and systems over a portion of insured real estate granted to CRC Properties, Inc., by instrument recorded September 17, 1992 as Document Number 92-51466, as modified by Partial Easement Termination Agreement recorded March 22, 2005 as Document Number 205017055. (Parcels 9 and 12)
71. Easements over insured real estate and rights reserved and excepted and the terms and conditions as set out in instrument recorded October 24, 1995 as Document Number 95-49330. (Parcels 9 and 12)
72. Easements over portions of insured real estate for flood protection purposes as condemned on April 8, 1999 to the City of Fort Wayne, Indiana in allen Circuit Court Cause No. 02C01-9807-CP-974 and recorded January 18, 2000 as Document Number 200003397, and the terms and provisions thereof. (Parcel 12)
73. Terms and condition of a letter agreement between Norfolk Southern Railway Company and OmniSource Corporation dated July 11, 2000 as evidenced by QuitClaim Deed recorded March 14, 2001 as Document Number 201015406. (Parcel 9)

74. Easements over a portion of insured real estate and terms and conditions as set out and reserved in QuitClaim Deed recorded March 14, 2001 as Document Number 201015406. (Parcel 9)
75. Easement for the purpose of constructing, operating, maintaining, repairing, and reconstructing, potable water mains and appurtenances, as well as a pedestrian trail over a portion of insured real estate granted to the City of Fort Wayne, Indiana by instrument recorded December 6, 2004 as Document Number 204087274, and the terms and provisions thereof. (Parcel 9)
76. Easement over a portion of insured real estate and terms and provisions of Potable Water Easement Agreement dated April 4, 2014 and recorded April 23, 2014 as Document Number 2014017894. (Parcel 9)
77. Rights of tenants under unrecorded leases.
78. Rights of way for drainage tiles, ditches, feeders and laterals, if any.
79. Rights of the public, State of Indiana, County and Municipality in and to that part of the land taken or used for road purposes.
80. The acreage indicated in the legal description is solely for the purpose of identifying the said tract of land and should not be construed as insuring the quantity of land.

End of Schedule B - Section II



REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (“Agreement”) is made and entered by and between Calhoun Investments, LLC, an Indiana limited liability company (“Calhoun”), and the City of Fort Wayne, an Indiana municipality (“City”).

Background

- A. Calhoun owns approximately 30 acres of undeveloped real estate lying north of the Saint Mary’s River and west of Clinton Street in Fort Wayne, Indiana, which real estate is legally described in the attached Exhibit A (“Real Estate”).
- B. Approximately 18 acres of the Real Estate is zoned I-3. The permitted uses in such classification including salvage yards, junk yards and recycling processing facilities. The balance of the Real Estate is zoned I-1, I-2 and multi-family residential.
- C. A portion of the Real Estate that is zoned I-3 was used as a scrap recycling site. That use was abandoned on or about 1998 and, the Real Estate was then used for office and other miscellaneous purposes. In 2006, all active use of the Real Estate ceased.
- D. In 2016, Calhoun listed the Real Estate for sale for \$6,000,000, a price well below the value determined in the last MIA appraisal obtained by it. The indicated highest and best use of the Real Estate in that appraisal was commercial and/or residential use of the site and, accordingly, Calhoun set a listing price at a level that essentially provided for Calhoun’s absorption of the cost of any remediation that may be necessary to repurpose the site for such purposes. Calhoun’s expectation was that any buyer would be fully responsible for any and all remediation necessary for any uses other than industrial uses and the Real Estate was marketed with that explicit understanding.
- E. The City has, from time to time, and again recently, expressed an interest in purchasing the Real Estate. During the 2007-2010 period, the City conducted extensive environmental testing on the Real Estate. The results of that testing were consistent with the expectations for the site in light of prior uses. Based upon its prior investigations, the City is willing to assume responsibility for any environmental remediation required for the Real Estate.
- F. The City has also asked that Calhoun provide the City, as a public entity, with a significant discount to Calhoun’s listing price. Calhoun is willing to discount the purchase price as a charitable accommodation to the City, converting the purchase contemplated herein to a part sale/part charitable contribution transaction.
- G. The City acknowledges that it has already conducted extensive due diligence in connection with the purchase of the Real Estate, including a review of a title insurance commitment and survey of the property, and is willing to waive all further title and survey related conditions as well as any other typical conditions to closing other than those specifically set forth herein.

For and inconsideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

I.
SALE AND PURCHASE

1.1 Real Estate to be Purchased. In consideration of the Purchase Price (as hereinafter defined) and upon the terms and conditions hereinafter set forth, Calhoun shall sell to the City, and the City shall purchase from Calhoun:

1.1.1 The Real Estate, together with all rights, tenements, hereditaments and appurtenances pertaining to such real estate, including, without limitation, any and all rights of Calhoun in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining such real property to the center line thereof to the extent included in the legal description(s) of the Real Estate, but subject to public rights-of-way and easements; any strips and gores of land adjacent to, abutting or used in connection with such real property; any easements and rights, if any, inuring to the benefit of such real property or to Calhoun in connection therewith; and any and all rights in and to any leases, licenses or other assets of any type or nature pertaining to the use of such real property.

1.1.2 All improvements, structures and fixtures owned by Calhoun and placed, constructed or installed on the Real Estate (if any) (the "Improvements");

1.2 Real Estate and Improvements. The Real Estate and Improvements, shall be referred to collectively herein as the "Property."

II.
PURCHASE PRICE AND GOOD FAITH FEE

2.1 Purchase Price. The purchase price (the "Purchase Price") for the Property shall be Four Million Six Hundred Thirty-Five Thousand and 00/100 Dollars (\$4,635,000.00) and shall be payable in the manner set forth in Article III below.

2.2 Good Faith Fee. A non-refundable Good Faith Fee in the amount of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) shall be paid to Calhoun by wire transfer within two (2) business days following the Effective Date of this Agreement. The Good Faith Fee shall be applied at Closing in the manner provided in Article III below. If the transaction does not close for any reason, including, but not limited to a termination by the City for failure of condition pursuant to Article V or a termination for breach pursuant to Article XV, Seller shall be entitled to retain the Good Faith Fee without further liability to the City.

III.
PAYMENT OF PURCHASE PRICE

3.1 Purchase Price Payment. The Purchase Price (subject to prorations, Closing costs, adjustments and other expenses as provided for in this Agreement) shall be payable by wire transfer or other funds reasonably acceptable to the Title Company and Calhoun for immediate disbursement to Calhoun or as Calhoun directs at Closing.

3.2 Application of Good Faith Fee. All of the Good Faith Fee shall be applied at Closing to reduce the cash otherwise due from the City on such date in accordance with Section 3.1.

IV.
TITLE AND SURVEY

4.1 Title Commitment. The City has obtained from the Title Agent a commitment of the Titan Title Company ("Title Company") to furnish the City with a Standard Owner's Policy of Title Insurance (2006 ALTA) (the "Owner's Title Policy"), at Closing. A copy of such commitment is attached hereto as Exhibit B ("Commitment"). The City acknowledges that it has reviewed the Commitment, accepts the same and all exceptions noted therein and, except for matters occurring after the date of the Commitment not shown in the Commitment, waives any right to terminate this Agreement or otherwise fail to close the transaction contemplated herein based upon any circumstance, condition or other title defect reflected in or that should have been reflected in the Commitment. Prior to Closing, the City may, at its option and expense, arrange for the removal of any special or general exceptions, including the survey exceptions, from the Title Policy. Such removal shall not, however, be a condition to the City's obligation to close.

4.2 Survey. Calhoun has provided the City with a survey of the Property prepared by T-E Incorporated and dated as of March 3, 2017 ("Survey"). The City has reviewed the Survey, accepts the same and waives any right to terminate this Agreement or otherwise fail to close the transaction contemplated herein based upon any circumstance or condition reflected in or that should have been reflected in the Survey.

V.
CITY'S CONDITIONS TO CLOSING

5.1 City's Obligation to Close. The City's obligation to close the purchase of the Property shall be subject to the following conditions:

- (i) The final approval of the Fort Wayne –Allen County Community Investment Board ("CIB") of the City's funding for the purchase;
- (ii) The approval of the Common Council of the City of Fort Wayne ("Common Council");
- (iii) The approval of the Fort Wayne Redevelopment Commission; and

- (iv) Delivery of all Closing Documents in form and content reasonably acceptable to City. The City agrees to use good faith efforts to obtain the approvals set forth in (i), (ii) and (iii) above.

If the foregoing conditions have not been satisfied on or before December 1, 2017, this Agreement shall immediately terminate unless the City and Calhoun otherwise agree in writing.

VI.
INTENTIONALLY LEFT BLANK

VII.
RIGHT TO SELL TO THIRD PARTY

7.1 Right to Sell to Third Party. Calhoun may, during the period prior to Closing, solicit and entertain *bona fide* offers to purchase all or a substantial portion of the Property. If Calhoun receives such an offer, whether it be above or below the Purchase Price, and it wishes to accept said offer, Calhoun shall notify the City of the existence of such offer, its intention to accept the same and provide the City with a copy of the actual offer. The City shall have a period of thirty (30) days following its receipt of Calhoun's notice to waive all conditions to Closing and rights of termination, including those set for in Article V, and close the purchase of the Property at the Purchase Price and, except for the Closing Date, in accordance with the terms of this Agreement. If it fails to waive the conditions and rights to terminate, Calhoun may terminate this Agreement and sell the Property to the third party. If the City waives all conditions and rights of termination, it shall close on the purchase of the Property within sixty (60) days of Calhoun's notice of intent to accept an alternate offer under this Article VII.

VIII.
TRANSACTION DOCUMENTS

8.1 Transaction Documents. Not less than five (5) days prior to Closing, Calhoun shall furnish to the City for its review and approval copies of the proposed Deed, authorizing resolutions, Closing Statement(s), all documents reasonably necessary to satisfy the requirements of the Title Company and such other documents and instruments necessary to close the transaction as herein intended including business prorations needed for preparation of the Closing Statement (collectively the "Closing Documents").

IX.
NAMING RIGHTS

9.1 Street Naming Rights. The parties agree that 4th Street from Harrison Street to Spy Run Avenue shall be named "Rifkin Way," "Rifkin Boulevard" or some other such similar name to be agreed upon between the parties (the "Street"). The name of the Street shall be designated on official city maps as well as street signs similar to other street signs in any development on the Property or, if none, to other street signs in the neighborhood.

9.2 Covenant in Deed. The naming rights for the Street contemplated herein shall be reserved in perpetuity pursuant to a covenant in the Deed contemplated herein.

X. CLOSING

10.1 Closing Date. Subject to satisfaction of all conditions precedent to Closing, the closing of the transaction contemplated herein shall be held on or before December 1, 2017, or such earlier date as the City may designate (the "Closing Date" or the "Closing"). The Closing shall be held in escrow at the Wayne Street, Fort Wayne office of the Titan Title Services, LLC (the "Title Agent"), or at such other location as may be acceptable to all parties.

10.2 Calhoun's Closing Deliveries. At the Closing, Calhoun shall cause to be delivered to the Title Agent or to the City, as applicable, the items, documents and instruments specified herein in form acceptable to the City, each being duly executed and acknowledged, and in recordable form, where required:

10.2.1 A general warranty deed (the "Deed") executed by the Calhoun and dated as of the Closing Date, conveying good marketable and insurable fee simple title to the Real Estate, subject to all real estate taxes, assessments and other governmental liens and encumbrances of record, and to all encroachments and easements, visible or of record, and to all restrictions and conditions of record. Calhoun shall pay or otherwise satisfy any mortgage, mechanic's liens or judgment liens prior to or at Closing.

10.2.2 An executed counterpart of the Environmental Indemnification Agreement attached hereto as Exhibit C.

10.2.3 Evidence reasonably acceptable to Title Agent authorizing the consummation by Calhoun of the purchase and sale transaction contemplated hereby and the execution and delivery of the Closing Documents by a manager, member or authorized signer on behalf of Calhoun, the authority of a manager, member or authorized signer of Calhoun to execute and deliver such Closing Documents on behalf of Calhoun, and the valid execution of such Closing Documents on behalf of Calhoun.

10.2.4 Such other documents, affidavits and instruments as reasonably requested by the City or Title Agent to effect the sale as herein intended provided the same are reasonably acceptable to Calhoun and necessary for the issuance of the Owner's Title Policy, including a closing settlement statement (the "Closing Statement") making such prorrations and adjustments as required under this Agreement.

10.3 City's Closing Deliveries. At the Closing, the City, or its assignee, shall cause to be delivered to the Title Agent:

10.3.1 Collected funds payable to the Title Agent representing the cash payment due in accordance with Article III hereof, less such credits to which the City is entitled under the this Agreement as reflected in the Closing Statement.

10.3.2 An executed counterpart of the Environmental Indemnification Agreement attached hereto as Exhibit C.

10.3.3 If applicable, an executed Form 8234, as contemplated by Section 18.2.

10.3.4 Evidence reasonably acceptable to Calhoun and the Title Agent authorizing the consummation of the contemplated transaction by the City and the execution and delivery on behalf of the City of the Closing Documents, the authority of the City to execute and deliver such Closing Documents and the valid execution of such Closing Documents on behalf of the City.

10.3.5 Such documents, affidavits or instruments as reasonably requested by the Title Agent to effect the purchase as herein intended provided the same are reasonably acceptable to Calhoun and necessary for the issuance of the Owner's Title Policy, including the Closing Statement.

10.4 Recording and Distribution of Proceeds. Upon the completion of the deliveries specified in Section 10.2 and Section 10.3 above, the Title Agent shall be authorized to simultaneously cause the appropriate Closing Documents to be immediately recorded in the public records of the appropriate jurisdiction, and shall deliver the balance of the proceeds from the sale to Calhoun, after deducting all of Calhoun's expenses as provided herein.

10.5 Allocation of Costs Related to the Closing. Calhoun shall pay the cost of the Commitment and Owner's Title Policy and the Survey. The City shall pay the cost of any title endorsements it requests or requires of the Title Company and any recording fees. Taxes shall be prorated in accordance with Section 14.3. All other escrow and Closing costs shall be allocated equally between Calhoun and the City. Each party shall pay its own attorneys' fees.

XI.

REPRESENTATIONS AND WARRANTIES

11.1 Calhoun's Representations. In addition to the representations and warranties expressly contained elsewhere in other articles of this Agreement, Calhoun makes the following representations, warranties and covenants, which shall be true and correct as of the date hereof and as of the Closing Date, and the truth of which shall be a condition precedent to the City's obligation to close the transaction contemplated herein:

11.1.1 There are no unpaid bills or claims in connection with the construction of or any repairs to the Property nor shall there be on the date of Closing; that no work or services have been performed to or on the Property which could give rise to the creation of any mechanic's, materialman's or similar lien.

11.1.2 There are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy pending against, contemplated by or threatened against Calhoun or the Property, and Calhoun has not received written notice of such action pending, contemplated or threatened against any tenant at the Property.

11.1.3 As of the Closing Date, that the City will not be obligated under any employment, maintenance, management or service contract pertaining to the Property except as may be expressly assumed in writing by the City at or prior to Closing.

11.1.4 Subject to Section 16.3, Calhoun shall operate and maintain the Property through Closing in accordance with its prior practices, and in no event shall Calhoun permit the physical condition of the Property to deteriorate from its current condition, reasonable and ordinary wear and tear and matters covered by casualty insurance excepted. To this end, Calhoun shall not enter into any leases with respect to the Property.

11.1.5 The terms “hazardous waste,” “hazardous substance,” “disposal,” “release” and “threatened release” as used in this Agreement, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et. seq. (“CERCLA”), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 (“SARA”), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et. seq., The Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et. seq., or other applicable local, state or Federal environmental, health or safety laws, rules or regulations adopted pursuant to any of the foregoing or otherwise enacted (“Environmental Laws”). CALHOUN MAKES NO REPRESENTATION WHATSOEVER REGARDING THE PRESENCE OF ANY HAZARDOUS SUBSTANCE ON THE PROPERTY OR AS TO THE PROPERTY'S STATE OF COMPLIANCE WITH RESPECT TO ANY AND ALL ENVIRONMENTAL LAWS. Calhoun's conveyance of the Property to the City will be AS IS, WITH ALL FAULTS. The terms and conditions of the Environmental Indemnification Agreement attached as Exhibit C hereto shall govern all rights and obligations of the parties to this Agreement with respect to the environmental condition of the Property.

11.1.6 No person, firm, corporation or other entity has any right or option to acquire the Property, or any part thereof, from Calhoun other than the City.

11.2 City's Representation. The City represents and warrants that it is duly formed and in good standing, that it has the requisite authority to enter into this Agreement and to consummate the transaction contemplated hereby.

XII. **SURVIVAL**

12.1 Survival of Warranties, Representations and Covenants. All warranties, representations, covenants, obligations and agreements contained in this Agreement shall expressly survive the execution and delivery of the Deed.

XIII.
POSSESSION

13.1 City's Possession. The City shall be entitled to full possession of the Property at Closing.

XIV.
PRORATIONS AND ADJUSTMENTS

14.1 Allocation of Property Income. With respect to the Property, Calhoun shall be entitled to all income produced from the operation of the Property which is allocable to the period prior to the Closing and shall be responsible for all expenses allocable to that period; and the City shall be entitled to all income and responsible for all expenses allocable to the period beginning at 12:01 A.M. on the day the Closing occurs and thereafter. At the Closing, all items of income and expense with respect to the Property shall be prorated accordingly.

14.2 Manner of Income Allocation. All prorations and payments to be made under the foregoing provisions shall be made on the basis of a written statement or statements mutually acceptable to the parties. In the event any prorations, apportionments or computation shall prove to be incorrect for any reason, then either party shall be entitled to an adjustment to correct the same, provided that it makes written demand on the one from whom it is entitled to such adjustment within two (2) months after it becomes aware or receives notice that the erroneous payment or computation was made. Further, any sums owed by one party to the other as herein above provided shall be paid without offset.

14.3 Real Estate Tax Proration. The City shall receive a credit for any accrued but unpaid real estate taxes applicable to any period before the Closing Date. If the amount of any such taxes has not been determined as of the Closing, such credit shall be based on the most recent tax bills. Any such prorations shall be final.

14.4 Utilities. Calhoun shall cause the meters, if any, for utilities to be read the day on which the Closing Date occurs and to pay the bills rendered on the basis of such readings. If any such meter reading for any utility is not available, then adjustment therefor shall be made on the basis of the most recently issued bills therefor which are based on meter readings no earlier than thirty (30) days before the Closing Date, and such adjustment shall be re-prorated when the next utility bills are received.

14.5 The Obligations Arising Prior to Closing. Other than those obligations of Calhoun expressly assumed by the City herein, Calhoun shall pay and discharge any and all monetary liabilities of each and every kind arising out of or by virtue of the conduct of its business before the Closing Date on or related to the Property.

14.6 Survival. The provisions of this Article XIV shall survive the Closing.

XV.
TERMINATION AND REMEDIES

15.1 Default by Calhoun. If Calhoun defaults in or fails to perform any part of this Agreement, then the City may, at its option, (i) declare this Agreement null and void; or (ii) proceed in equity to specifically enforce this Agreement. Calhoun acknowledges and agrees that the City shall be entitled to the remedy of specific enforcement of its rights hereunder.

15.2 Default by the City. If the City defaults in or fails to perform any part of this Agreement, and Calhoun has performed all of its obligations under this Agreement, and all of the conditions have been satisfied, and the City fails or refuses to perform its obligations, then Calhoun may at its option (i) declare this Agreement null and void; (ii) proceed in equity to specifically enforce this Agreement; or (iii) proceed at law with a suit for damages, including, but not limited to, all third-party expenses incurred by Calhoun in connection with the transaction.

15.3 Notice of Default. Before either party shall be entitled to declare this Agreement in default, it shall give the other party written notice of the claimed default and ten (10) days in which to cure said default.

15.4 Exclusive Remedies. The remedies provided in Sections 15.1 and 15.2 shall be the exclusive remedies for breach or default under this Agreement.

XVI.
RISK OF LOSS, INSURANCE AND MAINTENANCE

16.1 Risk of Loss. Risk of loss, including any loss by casualty, until the Closing shall be borne by the City. The City shall have no right to terminate this Agreement based upon any damage, loss or destruction of the Property or any part thereof, by fire or other casualty, and acknowledges and agrees that it will have no right to terminate this Agreement based upon such damage, loss or destruction.

16.2 Insurance. Calhoun shall maintain the current insurance coverage in force for the Property in full force and effect through the Closing Date.

16.3 Maintenance of Site. The City, at its expense, shall be responsible for maintaining the Property in accordance with all ordinances of the City and other statutory or regulatory requirements from the Effective Date through the Closing or, if this Agreement is terminated prior to Closing, through said termination date. Without limiting the foregoing, the City shall be responsible for mowing all grass and weeds, removal of trash and other debris from the Property and for the eviction of all trespassers.

XVII.
NOTICES

17.1 Notices. Any notice, request, demand, instruction or other communication to be given to either party hereunder, except those required to be delivered at Closing, shall be in

writing, and shall be deemed to be given when sent via email with a confirming copy (i) hand delivered, or (ii) delivered by recognized overnight courier service, addressed as follows:

IF TO CALHOUN: Calhoun Investments, LLC
 c/o MetalX, LLC
 Attn: Daniel M. Rifkin, President
 Telephone No.: 260-232-3031
 Email: drifkin@metalx.net

WITH A COPY TO: Ronald J. Ehinger
 Bose McKinney & Evans LLP
 200 E. Main St., Suite 536
 Fort Wayne, IN 46802
 Telephone No.: 260.387.6005
 Email: rehinger@boselaw.com

IF TO CITY: The City of Fort Wayne, Indiana
 Redevelopment Commission
 Attention: Nancy Townsend, Executive Director
 200 East Berry Street, Suite 320
 Fort Wayne, IN 46802
 Telephone No.: 260.427.2323
 Email: nancy.townsend@cityoffortwayne.org

WITH A COPY TO: City of Fort Wayne
 Department of Development
 Attn: Greg Leatherman, Director of Community Development
 200 East Berry Street, Suite 320
 Fort Wayne, Indiana 46802
 Telephone No.: 260.427.2102
 Email: Greg.Leatherman@cityoffortwayne.org

WITH A COPY TO: Timothy J. Haffner, Esq.
 Faegre Baker Daniels LLP
 110 West Berry St, Suite 2400
 Fort Wayne, Indiana 46802
 Telephone No.: 260.460.1616
 Email : Timothy.Haffner@FaegreBD.com

17.2 Changes to Notice Address. The addresses and addressees for the purpose of this article may be changed by either party by giving notice of such change to the other party in the manner provided herein for giving notice. For the purpose of changing such addresses or addressees only, unless and until such written notice is received, the last address and addressee stated herein shall be deemed to continue in effect for all purposes.

XVIII. MISCELLANEOUS

18.1 Eminent Domain. In the event that, prior to the date of the Closing, Calhoun acquires knowledge of any pending or threatened claim, suit or proceeding to condemn or take all or a material part of the Real Estate under the power of eminent domain, then Calhoun shall immediately give notice thereof to the City. Calhoun may negotiate in good faith with the governmental unit, agency or department, but any settlement of the claim shall be subject to the approval of the City. The City shall have no right to terminate this Agreement or its obligations hereunder based upon any actual or threatened condemnation, but will be entitled to a reduction in the Purchase Price for any amount actually received by Calhoun in any eminent domain proceeding or the settlement thereof.

18.2 Charitable Contribution. Seller may, at its option engage the services of a MIA appraiser to perform an appraisal of the Property. To the extent such appraisal supports a fair market value for the property that exceeds the Purchase Price, the City shall execute the Donor Acknowledgment on a Form 8234 prepared by Calhoun and executed by said appraiser.

18.3 Reliance. Neither party has made any representations, warranties or covenants to the other concerning any tax benefits or tax treatment which may accrue to be given to the other party in connection with the transaction contemplated hereby. Each party has relied upon its own examination of the full Agreement and the provisions thereof, and the counsel of its own advisors, and the warranties, representations and covenants expressly contained in this Agreement itself.

18.4 No Oral Modification. No modification or amendment of this Agreement shall be of any force or effect unless made in writing and executed by both the City and Calhoun.

18.5 Choice of Law and Venue. In the event that any litigation arises hereunder, it is specifically stipulated that this Agreement shall be interpreted and construed according to the laws of the state in which the Real Estate is situated.

18.6 Attorneys' Fees. The prevailing party in any litigation between the parties arising under this Agreement shall be entitled to recover reasonable attorneys' fees.

18.7 Counterparts. This Agreement shall be executed in any number of counterparts which together shall constitute the agreement of the parties. The article headings herein contained are for purposes of identification only and shall not be considered in construing this Agreement.

18.8 Assignment. This Agreement, and the rights and obligations hereunder, may be assigned by the City; provided, however, as a condition to closing, the City must execute and deliver the Environmental Indemnification Agreement attached hereto as Exhibit C, and said assignee must be an organization for which contributions to such organization are tax deductible as charitable contributions. This Agreement may not be assigned by Calhoun.

18.9 Date of Agreement; Effective Date; Time. All references in this Agreement to the “Effective Date,” “the date hereof,” “the Effective Date of this Agreement” or similar references shall be deemed to refer to the last date, in point of time, on which all parties hereto have executed and received a fully executed copy of this Agreement. Unless otherwise provided, in computing any time period set forth in this Agreement, the day of the triggering act or event shall not be counted, and all subsequent days shall be counted; provided, however, that the last day of any such period shall not be included if it is a weekend day or a legal holiday, in which case such period shall be extended to the next day that is not a weekend day or legal holiday.

18.10 Parties Bound. This Agreement and the terms and provisions hereof shall inure to the benefit and be binding upon the parties hereto and their respective heirs, executors, personal representatives, permitted successors and assigns whenever the context so requires or permits.

18.11 Enforceability. If any provisions of this Agreement are held to be illegal, invalid or unenforceable under present or future laws, such provisions shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement, provided that both parties hereto may still effectively realize the complete benefit of the transaction contemplated hereby.

18.12 Gender Number. Any references to one gender used herein, whether masculine, feminine or neuter, shall be deemed to be a reference to any other gender as may be appropriate under the circumstances; further, the singular shall include the plural and the plural the singular.

18.13 Time of the Essence. Time is of the essence with respect to all the time periods expressed in this Agreement and the Closing hereunder.

18.14 Sales Commissions. Calhoun shall pay all sales commissions earned by The Zacher Company. Calhoun and the City represent and warrant that they have not dealt with any other real estate broker, salesperson or finder in connection with this transaction and in the event of any claim for broker’s or finder’s fees or commissions in connection with the negotiation, execution or consummation of this Agreement or the transactions contemplated hereby. Each party shall indemnify and hold harmless the other party from and against any such claim based upon any statement, representation or agreement of such party.

18.15 Confidentiality. This Agreement, all of the terms and conditions set forth herein and all information related to the environmental condition of the Property are confidential and may not be disclosed by any party or person except in accordance with the strict compliance with the terms of the Confidentiality Agreement attached hereto as Exhibit D and executed contemporaneously herewith. The obligation of confidentiality shall include, but not be limited

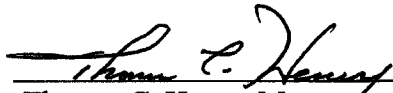
to, a duty to avoid any discussion of the environmental condition of the Property in accordance with the terms of said Confidentiality Agreement as well as any prior confidentiality agreements entered into between Calhoun and the City and/or its departments or commissions.

18.16 Entire Agreement. This Agreement, the exhibits attached hereto and all of the confidentiality agreements referenced in Section 18.15 contain the entire agreement between or among the parties related to the Property, and no written or oral promise, representation, warranty or covenant not included in this Agreement or any such referenced agreements has been made by any party or has been relied upon by any party.

[SIGNATURES ON FOLLOWING PAGE]

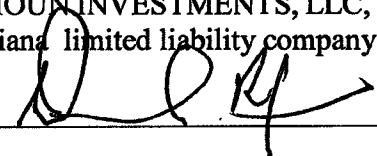
EXECUTED by the City the 27th day of July, 2017.

THE CITY OF FORT WAYNE, INDIANA
an Indiana municipality

By: 
Thomas C. Henry, Mayor

EXECUTED by Calhoun the 27th day of July, 2017.

CALHOUN INVESTMENTS, LLC,
an Indiana limited liability company

By: 

Printed Name: Daniel M Rifkin

Its: Member

EXHIBIT C
ENVIRONMENTAL INDEMNIFICATION

ENVIRONMENTAL INDEMNIFICATION AGREEMENT

This Environmental Indemnification Agreement (hereinafter "Agreement") made and entered into as of _____, 2017, by and between the City of Fort Wayne, Department of Redevelopment, by the Fort Wayne Redevelopment Commission, its successors and assigns ("Purchaser"), and Calhoun Investments, LLC, an Indiana limited liability company ("Seller").

RECITALS

- A. Concurrently herewith Seller is selling to Purchaser that certain real property located in the County of Allen, State of Indiana, more particularly described in Exhibit A, attached hereto (hereinafter "Property") pursuant to that certain Real Estate Purchase and Sale Agreement dated _____, 2017 (the "Purchase Agreement").
- B. Purchaser and Seller acknowledge and agree that certain contaminants (collectively, the "Contamination") may be present on the Property. As used herein, the term "Contamination" includes, without limitation, hazardous wastes or constituents, as defined in the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.); hazardous substances, as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.); any pesticide (as defined in the Federal Insecticide Fungicide, and Rodenticide Act, as amended (7 U.S.C. Section 136, et seq.); or any hazardous or toxic chemical or extremely hazardous substance, as defined in Emergency Planning and Community Right-to-Know Act of 1986, as amended (42 U.S.C. Section 11001, et seq.) or any media contaminated with any hazardous material as defined above. The term "Contamination" shall also include, without limitation, volatile organic compounds, gasoline, diesel fuel, petroleum products, or the constituents or breakdown products of any of the foregoing, explosives, radioactive material, polychlorinated biphenyls or related or similar materials, asbestos or asbestos-containing materials or any other substance or material defined as a hazardous or toxic substance or material by any federal, state or local law, ordinance, rule or regulation.
- C. As of the date hereof, the source, extent or cause of any such Contamination is not known to Purchaser or Seller. Notwithstanding such uncertainty, the scope of the indemnity obligations established hereby is not limited to any particular location or level of concentration of Contamination.
- D. Purchaser has agreed to purchase the Property and Seller has agreed to sell the Property to Purchaser on the condition that Purchaser take complete responsibility for the remediation of any Contamination and indemnify Seller as set forth herein.
- E. Seller has required the execution and delivery of this Agreement as a condition precedent to Seller's obligation to sell the Property to Purchaser, and Seller would not be willing to sell the Property to Purchaser in the absence of the execution and delivery by Purchaser of this Agreement.

NOW, THEREFORE, for good and sufficient consideration, the receipt of which is hereby acknowledged, Purchaser agrees as follows:

AGREEMENT

- 1. Recitals. The recitals set forth above are true and correct and are by this reference incorporated herein.
- 2. Ongoing Investigation and Cooperation. Purchaser agrees to continue to monitor and investigate any Contamination in a manner consistent with protecting its interest in the Property and the indemnification of

Seller hereunder. Seller agrees to fully cooperate with such efforts, and covenants and agrees that it will promptly provide to Purchaser copies of any notices, demands, claims, inquiries, or any other correspondence received from any party relative to any Contamination.

3. Indemnification. Purchaser, on behalf of itself, its successors and assigns, agrees to indemnify, defend and hold Seller and its former and current members, managers, officers, employees and agents and North River Capital, LLC and all of its former and current affiliates, and each of their former and current members, shareholders, managers, directors, officers, employees and agents (the "Indemnified Parties") harmless from any claims (including without limitation third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlements of claims), interest or losses, including reasonable attorneys' fees and expenses (including any such fees and expenses incurred in enforcing this Agreement or collecting any sums due hereunder), consultant fees, and expert fees, together with all other costs and expenses of any kind or nature (collectively, the "Costs") that arise directly or indirectly from or in connection with any Contamination of, from, or affecting the Property. The indemnification provided herein shall be available to each of the Indemnified Parties regardless of (i) the legal theory of any claim, action or proceeding in which the Indemnified Party is named, including, but not limited to, claims, actions or proceedings based upon breach of statutory or regulatory obligations, negligence, recklessness, willful misconduct, intentional misconduct, contract (including claims for indemnification), contribution, equitable principles or any other theory; (ii) the capacity in which such Indemnified Party is named; and (iii) the nature of the person pursuing or otherwise a party to such claim, action or proceeding, with such indemnification to extend to claims, actions or proceedings pursued by or otherwise involving a former or then current Property owner or operator, a neighboring former or then current property owner or operator, a governmental entity, agency or organization or any other person.

4. Remedial Work. In the event any investigation or monitoring of site conditions or any cleanup, containment, restoration, removal or other remedial work (collectively the "Remedial Work") is required under any applicable federal, state or local law or regulation, by any judicial order, or by any governmental entity, or in order to comply with any agreements with any governmental authority in connection with any Contamination, Purchaser shall perform or cause to be performed the Remedial Work in compliance with such law, regulation, order or agreement; provided, that Purchaser may withhold such compliance pursuant to a good faith dispute regarding the application, interpretation or validity of the law, regulation, order, or agreement, subject to the requirements of paragraph 5 below. All costs and expenses of such Remedial Work shall be paid by Purchaser including, without limitation, the charges of contractor(s) and/or the consulting engineer.

5. Permitted Contests. Notwithstanding any provision of this Agreement to the contrary, Purchaser will be permitted to contest or cause to be contested, subject to compliance with the requirements of this paragraph, by appropriate action any Remedial Work requirement

6. Release. Purchaser, on behalf of itself and its successors and assigns, hereby releases the Indemnified Parties from any and all claims, demands, obligations, causes of action and liability arising out of or related to any Contamination (the "Release") of, from, or affecting the Property. Purchaser agrees never to commence, aid in any way or prosecute against the Indemnified Parties, any action, counterclaim or other proceeding based upon any claims, demands, causes of action, obligations, damages or liabilities covered by the Release.

7. Attorneys' Fees. In the event that either Party is named as a defendant party to any action, proceeding, controversy, claim or dispute concerning the Contamination, or concerning the enforcement of this instrument or the rights granted herein or obligations created hereby, the prevailing Party shall be entitled to recover its reasonable attorneys' fees, costs and expenses from Purchaser.

8. Default Interest. Any Costs and other payments required to be paid by one Party to another Party under this Agreement which are not paid within one hundred twenty (120) business days of receipt of demand therefor shall thereupon be considered "Delinquent". In addition to all other rights and remedies of the unpaid Party against the other Party as provided herein, or under applicable law, the other Party shall pay to the unpaid Party Default Interest (as defined below) on any such payments which are or have become Delinquent. Default Interest shall be paid by the other Party from the date such payment becomes Delinquent through and including the date of

payment of such Delinquent sums. As used herein, "Default Interest" shall be equal to two percent (2%) per annum in excess of the prime rate published from time to time in The Wall Street Journal, but in any event no greater than the maximum rate of interest permitted to be contracted for by law.

9. Independent Obligations. The obligations of Purchaser under this Agreement have been undertaken by Purchaser in consideration for a reduction in the purchase price to be paid by Purchaser for the Property and are separate and distinct from other obligations which Purchaser may have to Seller which survive the transfer of title of the Property to Purchaser. This Agreement may be enforced by Seller without regard to any other rights and remedies Seller may have against Purchaser under any other agreement between Purchaser and Seller and without regard to any limitations on Seller's recourse under any such other agreement.

10. Miscellaneous. If any term of this Agreement or any application thereof shall be invalid, illegal or unenforceable, the remainder of this Agreement and any other application of such term shall not be affected thereby. No delay or omission in exercising any right hereunder shall operate as a waiver of such right or any other right. This Agreement shall be binding upon Purchaser and its successors and assigns, and shall inure to the benefit of and be enforceable by Seller and its and successors and assigns. This Agreement shall be governed and construed in accordance with the laws of the State of Indiana.

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the day and year first above written.

"PURCHASER"
CITY OF FORT WAYNE
BY THE REDEVELOPMENT COMMISSION
DEPARTMENT OF REDEVELOPMENT

By: _____

Printed Name: Greg Leatherman

Its: Executive Director

"SELLER"
CALHOUN INVESTMENTS, LLC,
an Indiana limited liability company

By: _____

Printed Name: _____

Its: _____

EXHIBIT D
CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this "Agreement") is made and entered into this ____ day of _____, 2017, by and between Calhoun Investments, LLC, an Indiana limited liability company ("Calhoun") and the City of Fort Wayne, an Indiana municipality ("City").

In consideration of the promises and covenants contained in this Agreement and the parties' agreement to enter into the Real Estate Purchase Agreement simultaneously herewith, the parties hereto agree as follows:

1. Purpose

This Agreement is entered into to assure the protection and preservation of the confidential and/or proprietary nature of information previously or to be disclosed by Calhoun or obtained by the City in connection with the City's potential purchase of real estate from Calhoun (the "Transaction").

2. Confidential Information

2.1 "Confidential Information" of Calhoun includes all oral, written, printed, and/or stored information provided by Calhoun to the City or developed or otherwise collected by the City or its consultants and contractors, whether provided or received before or after the date of this Agreement, and in whatever form or medium provided or received, that pertains to or is otherwise related to the property of Calhoun.

2.2 Without in any way limiting the foregoing, and by way of example, Confidential Information shall include all information relating to the environmental condition of all real estate owned by Calhoun, including, but not limited to, any Phase I or Phase II assessments and all other environmental test results.

2.3 The term "information" is used in this Agreement in its broadest context and includes technical, financial or business data, analyses, models and designs in any form, and includes all information provided by Calhoun that contains, reflects, or is derived from the Confidential Information.

2.4 Calhoun's failure to mark any writing as "confidential" shall not affect the confidential nature of such writing or the information contained therein.

3. Exceptions

Confidential Information shall not include any information that is or subsequently becomes publicly available without a breach of any obligation owed to Calhoun by the City or any third party.

4. Duty of Nondisclosure

4.1 The City shall maintain the Confidential Information in the strictest confidence, and shall not disclose any Confidential Information to any person other than those persons permitted to receive such information by Section 4.3 and Section 4.5 below.

4.2 The City shall take reasonable security precautions, at least as great as the precautions it takes to protect its own highly confidential information that it does not desire to disclose or disseminate, to keep confidential the Confidential Information.

4.3 The City may disclose the Confidential Information to the officials and employees of the City and to the attorneys and environmental consultants and contractors of the City who need to know this information for the purpose of evaluating the Transaction and who agree to keep such information confidential (collectively, "Representatives"). Before accessing or developing any Confidential Information, such Representatives shall agree to maintain the confidentiality of the Confidential Information in accordance with the terms of this Agreement. The City agrees to be liable for any breach of this Agreement by any of the Representatives.

4.4 Representatives authorized to receive Confidential Information shall not include members of the Common Council of the City of Fort Wayne, the Fort Wayne Redevelopment Commission, or the Fort Wayne-Allen County Community Investment Board. While the parties contemplate disclosures of certain Confidential Information to such persons, those disclosures shall be in accordance with Section 4.5.

4.5 Calhoun may provide its written authorization for the City to disclose Confidential Information to persons other than its Representatives. Calhoun may condition any such authorization on the City obtaining, prior to disclosing any Confidential Information to such persons, the intended recipient's agreement to be bound by the terms hereof to the same extent as if they were parties hereto.

4.6 The City and its Representatives shall destroy all originals, copies, reproductions and summaries of Confidential Information at Calhoun's request or upon termination or expiration of this Agreement if there is no such request. The obligation to destroy shall also apply to any notes, extracts, studies, compilations, memoranda, analyses and other documents which are based upon or derived from such Confidential Information. Notwithstanding the foregoing obligation, the City and its Representatives may retain a copy of the Confidential Information and notes, extracts, studies, compilations, memoranda, analyses and other documents based on Confidential Information that relates to any real estate purchased by it if the Transaction is consummated.

4.7 In the event that the City or any of the Representatives are requested pursuant to, or required by applicable law, regulation or legal process to disclose any of the Confidential Information, the City will promptly notify Calhoun in writing before any disclosure, so that it may seek a protective order or other form of protection or, in Calhoun's sole discretion, waive compliance with the terms of this Agreement. In the event that no such protective order or other remedy is obtained, or Calhoun waives compliance with the terms of this Agreement, the City will furnish only that portion of the Confidential Information which it is advised by counsel is legally required, and will exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

5. Restrictions on Use

The City and the Representatives will use Confidential Information solely for the purpose of evaluating potential environmental risks and liabilities relating to the consummation of the Transaction.

6. Material Breach

Any disclosure or use of Confidential Information in violation of this Agreement will be deemed a material breach of this Agreement.

7. Notification of Breach

The City shall notify Calhoun immediately upon discovery of any unauthorized use or disclosure of Confidential Information, any other breach of this Agreement by the City or any of the Representatives, or any breach of the confidentiality obligations of the persons authorized to receive Confidential Information pursuant to Section 4.5. In any such circumstance, the City will cooperate with Calhoun in every reasonable way to help Calhoun regain possession of the Confidential Information, and prevent its further unauthorized use or disclosure.

8. Ownership and Control of Confidential Information

All Confidential Information is and shall remain the property of Calhoun. By disclosing information to the City, and allowing the collection of information by it or its Representatives, Calhoun does not grant any express or implied rights in the Confidential Information to the City.

9. Injunctive Relief

The City acknowledges that monetary damages may be inadequate to protect Calhoun against actual or threatened breach of this Agreement and without prejudice to any other rights and remedies otherwise available, the City agrees that Calhoun shall be entitled to specific performance and injunctive relief for any such breach of the City's obligation under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction. The City hereby waives any bond that would otherwise be required in connection with the issuance of any injunction or other equitable relief.

10. Entirety of Agreement, Modification and Nonwaiver

10.1 This Agreement supplements the confidentiality obligations set for the in the Real Estate Purchase Agreement and any prior Confidentiality Agreements entered into between Calhoun and the City (and/or its departments, agencies and commissions) relating to the subject matter hereof. The confidentiality obligations in the Real Estate Purchase Agreement and any prior confidentiality agreements shall remain in full force and effect. This Agreement shall not be modified except by a written agreement signed by both parties.

10.2 None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of Calhoun, its agents or employees. Any waiver may be effected only by an instrument in writing signed by an authorized representative of Calhoun.

11. Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of Indiana without regard to the conflict of laws provisions of that State.

12. Disclaimer

The City acknowledges that neither Calhoun nor Calhoun's representatives makes any express or implied representation or warranty as to the accuracy or completeness of the Confidential Information. The City agrees that neither Calhoun nor Calhoun's representatives will have any liability relating to the Confidential Information or for any errors therein or omissions therefrom. The City further agrees that it will be entitled to rely solely on such representations and warranties as included in the Real Estate Purchase Agreement, subject to such limitations and restrictions as may be contained therein.

13. Notice

Any notice required to be given under this Agreement shall be given to the appropriate party in accordance with the terms of the Real Estate Purchase Agreement.

14. Power and Authority; Due Authorization; No Conflict; Enforceability; Binding on Successors and Assigns

Each party represents and warrants to the other party that (i) such party has the power and authority to execute, deliver and perform its obligations under this Agreement, (ii) the execution, delivery and performance of this Agreement have been duly authorized by such party and does not and shall not conflict with any agreement or instrument to which it is bound, (iii) this Agreement constitutes the legal, valid and binding obligation of such party, enforceable against it in accordance with its terms, and (iv) subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

15. Severability of Provisions; Judicial Modification

If any term, provision, covenant or restriction of this Agreement is or may be held by a court of competent jurisdiction to be void or unenforceable, the remainder of the Agreement and the other terms, provisions, covenants

and restrictions hereof shall survive and continue in full force and effect without being impaired or invalidated in any way. It is hereby stipulated and declared to be the intention of the parties that they would have executed the Agreement had the terms, provisions, covenants, and restrictions which may be hereafter declared invalid, void, or unenforceable not initially been included herein. If a court of competent jurisdiction determines that any restriction or portion thereof is overly restrictive and unenforceable, the court may reduce or modify such restriction to those which it deems reasonable and enforceable under the circumstances, and the parties agree to request the court to exercise such power, and, as so reduced or modified, the parties hereto agree that the restrictions contained herein shall remain in full force and effect, shall be enforceable, and shall be enforced.

16. Period of Confidentiality and Survival

16.1 The obligations of the City and the Representatives shall continue in effect for thirty-six (36) months from the date of the termination pursuant to Section 17, provided, however, that the confidentiality obligations with respect to any information relating to any hazardous waste or materials at the site and/or the levels thereof shall remain in effect indefinitely. Any Confidential Information that constitutes a trade secret as defined by applicable Indiana law shall also continue as such notwithstanding the expiration of the period of confidentiality or expiration or termination of this Agreement. Calhoun shall, in addition to the rights and remedies provided in this Agreement, shall have all of the rights and remedies available under the Indiana Uniform Trade Secrets Act and other applicable law with respect to such information.

16.2 Any termination or on expiration of this Agreement in accordance with Paragraph 17 shall not affect the obligations under of this Agreement with respect to Confidential Information disclosed prior to said termination or expiration.

17. Term; Termination

Any party may terminate this Agreement on written notice to all other parties. Unless earlier terminated, this Agreement shall remain in full force and effect until the earliest of (i) the date the Transaction is consummated; and (ii) eighteen (18) months from the date hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

THE CITY OF FORT WAYNE, INDIANA

CALHOUN INVESTMENTS, LLC

By: _____

By: _____

Printed Name: Thomas C. Henry

Printed Name: _____

Title: Mayor

Title: _____

Address: 200 East Berry Street, Fourth Floor
Fort Wayne, IN 46802

Address: 5642 Coventry Lane
Fort Wayne, IN 46804

BILL NO. R-17-11-13

REPORT OF COMMITTEE ON FINANCE

November 28, 2017

Jason Arp Chair

Geoff Paddock Co-Chair

All Council Members

A Resolution of the Common Council of the City of Fort Wayne, Indiana, regarding an Environmental Indemnification Agreement for the North River Property

COMMITTEE ON FINANCE HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

DO NOT PASS

ABSTAIN

NO REC

_____	_____	_____	_____
<i>John N. Crawford</i>	<i>JG</i>	_____	_____
<i>Thomas A. Dilick</i>	_____	_____	_____
<i>John J. Huff</i>	_____	_____	_____
<i>Geoff Paddock</i>	_____	_____	_____
<i>Paul G. ...</i>	<i>MA</i>	_____	_____
_____	<i>Regina ...!</i>	_____	_____
_____	<i>MA</i>	_____	_____

**LANA R. KEESLING
CITY CLERK**

Lana R. Keesling

Public Hearing Date: N/A

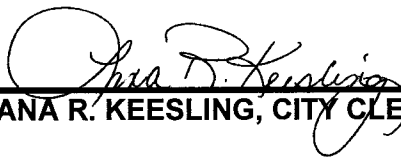
Read the first time in full and on motion by Councilman Arp.

Read the second time by title and referred to the Finance Committee.

Read the third time in full and on motion by Councilman Arp, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: November 28, 2017



 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Resolution No. R-17-11-13/A on the 28th day of November, 2017

ATTEST:



 LANA R. KEESLING
 CITY CLERK



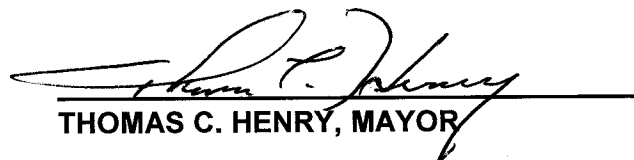
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th of November 2017, at the hour of 10:45 o'clock A.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 30th day of November 2017, at the hour of 10:30 O'clock AM E.S.T.



 THOMAS C. HENRY, MAYOR