

**Edwards,Michelle**

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**From:** Todd Nation <booknation@gmail.com>  
**Sent:** Tuesday, May 26, 2020 12:32 PM  
**To:** Azar, George; Bennett,Duke A; Witt, Steve; Greg Goode; Todd Thacker; Jeff Ford; andrewconnerth@gmail.com; Crossen,Martha; Connie Wrin; Brian Kooistra; Boland,Tammy; Kristin Craig; Loudermilk,Cheryl; Rob Hayworth; Mike Morris  
**Cc:** Edwards,Michelle  
**Subject:** \*Ext!\* CIB: Adopted Resolutions Regarding VCSC Purchase  
**Attachments:** CIB Resolution 2020-03 Authorizing Purchase of 686 Wabash Ave (Fully Executed w. exhibits) 4.10.20.pdf; CIB Resolution 2020-02 Approving License 686 Wabash (Fully Executed w. exhibits) 4.10.20.pdf; Ext! RE Agenda for March 27.jpeg

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

\*\*External Email - Think Before You Click\*\*  
- Helpdesk

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Hi Fellow Downtown Parking Committee Members,

I have attached the two CIB Resolutions pertaining to their VCSC property purchase below. These were adopted at the CIB's April 10 electronic meeting, held via Zoom.

The CIB's next meeting will also be held on Zoom. It's scheduled for tomorrow morning, May 27, at 9:00. If you want to watch or listen, I have attached information to use for access.

Thanks for your interest in the work of this committee.

More soon,

Todd Nation  
mobile 812-870-4986

**RESOLUTION NO. 2020-02**

**RESOLUTION OF THE VIGO COUNTY CAPITAL IMPROVEMENT BOARD  
APPROVING A LICENSE TO UTILIZE PROPERTY FOR PARKING PURPOSES**

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The Vigo County Capital Improvement Board of Managers (the “Board”) met at a duly called and authorized meeting of the Board held on the date set forth below, such meeting being called pursuant to a notice stating the time, place, and purpose of the meeting received by all the Board Members and posted on the Vigo County webpage for the public, and the following resolutions were made, seconded, and adopted by a majority of those present at the meeting, which constituted a legal quorum of the Board. In accordance with Executive Order 2020-09 issued by Governor Eric Holcomb on March 23, 2020, all members of the Board participated in the meeting by electronic means, and access was afforded electronically to the media and the public.

**WHEREAS**, the Vigo County School Corporation (the “School Corporation”) is the owner of real property located at 686 Wabash Avenue, Terre Haute, Indiana consisting of Parcel Nos. 84-06-21-432-025.000-002 and 84-06-21-432-026.000-002 (the “Property”) as more specifically depicted in Exhibit “A” attached hereto; and

**WHEREAS**, the School Corporation has expressed its willingness to transfer the ownership of the Property by sale to the Board to facilitate the development of the Terre Haute Convention Center Project (the “Project”) by the Board; and

**WHEREAS**, prior to any transfer of the Property, the School Corporation has expressed its willingness to allow the Board and its invitees to utilize the parking lots on the Property identified as Parking Lots A, B and C in Exhibit “A” pursuant to the terms of the License Agreement attached hereto as Exhibit “B” and made a part hereof (the “License Agreement”); and

**WHEREAS**, Ind. Code §36-1-11-8 authorizes the transfer of property between governmental entities upon terms and conditions agreed upon by the entities, as evidenced by the adoption of a substantially identical resolution by the governing body of each entity;

**WHEREAS**, the Board desires to accept the use of the Property pursuant to the License Agreement to facilitate the development of the Project; and

**WHEREAS**, the Board has been informed that the Board of School Trustees of the School Corporation is anticipated to adopt a resolution substantially identical to this Resolution at its next public meeting.

**NOW THEREFORE, BE IT RESOLVED**, by the Vigo County Capital Improvement Board of Managers as follows:

**SECTION 1.** The foregoing Recitals are incorporated herein by this reference.

**SECTION 2.** The Board hereby approves the adoption of the License Agreement and the use of the Property in accordance with the terms thereof to facilitate the development of the Project.

**SECTION 3.** The Board further authorizes, empowers and directs the President of the Board to take all actions necessary to provide for the use of the Property in accordance with the License Agreement and this Resolution and to execute all documents required in connection therewith, including the License Agreement, and to take all other lawful action necessary to facilitate the use of the Property for the development of the Project. Any and all documents previously executed in connection with the actions contemplated by this Resolution and any and all prior actions taken by representatives of the Board in connection with the transaction contemplated by this Resolution are hereby approved.

**SECTION 4.** This Resolution is effective immediately upon its passage.

Adopted and approved by the Vigo County Capital Improvement Board of Managers this 10<sup>th</sup> day of April, 2020 by roll call vote with the member votes indicated below.

**VIGO COUNTY CAPITAL IMPROVEMENT BOARD OF MANAGERS**

Jon Marvel, President	<u>X</u>	<u>    </u>	Steve Witt, Treasurer	<u>X</u>	<u>    </u>
	Aye	Nay		Aye	Nay
Mayor Duke Bennett, Secretary	<u>X</u>	<u>    </u>	David Patterson, Member	<u>X</u>	<u>    </u>
	Aye	Nay		Aye	Nay
Judith Anderson, Member	<u>X</u>	<u>    </u>	Brad Anderson, Member	<u>X</u>	<u>    </u>
	Aye	Nay		Aye	Nay
Barbara Lloyd, Member	<u>X</u>	<u>    </u>			
	Aye	Nay			

**CERTIFICATION**

I certify under the penalties of perjury that the foregoing members of the Vigo County Capital Improvement Board of Managers voted by roll call vote as indicated above at a public meeting conducted on April 10, 2020.

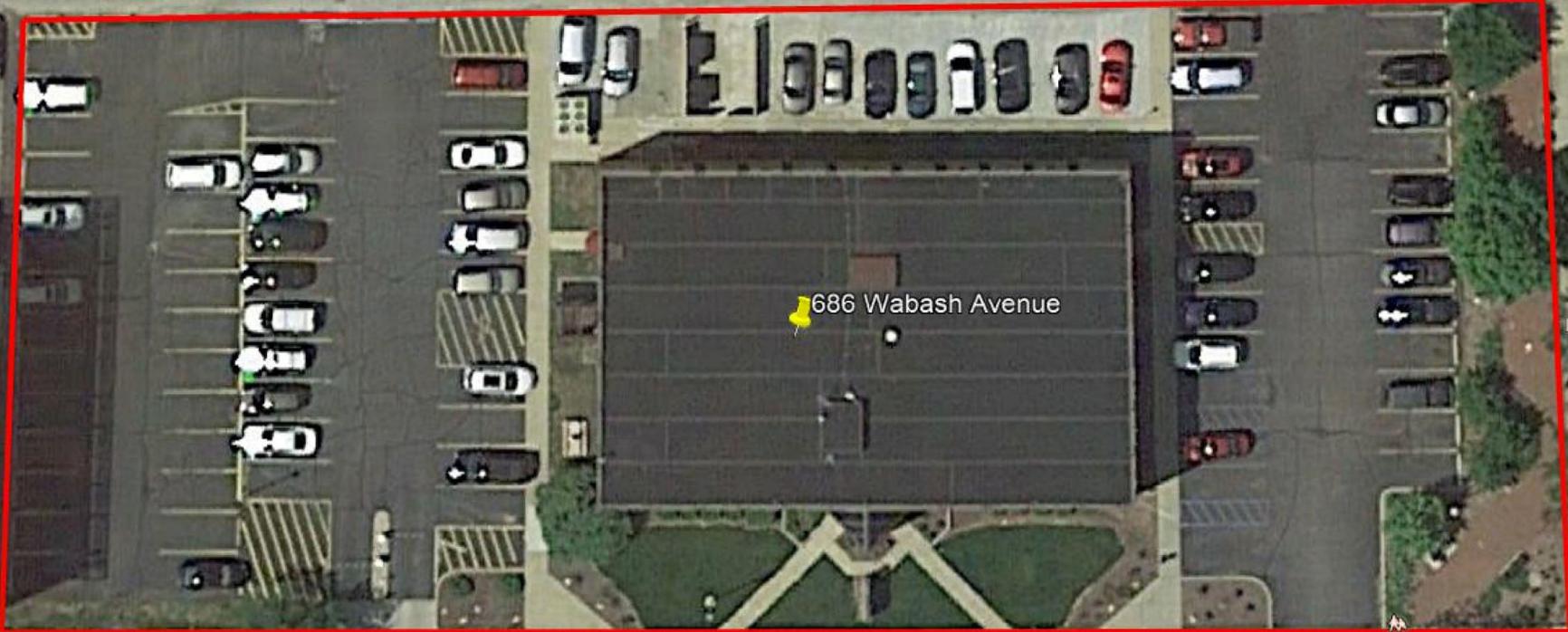
  
\_\_\_\_\_  
Jon Marvel, President

**EXHIBIT “A”**

**Illustration of Property**

See attached

EXHIBIT "A"



686 Wabash Avenue

**EXHIBIT "B"**  
**LICENSE AGREEMENT**

THIS LICENSE AGREEMENT (this "**Agreement**") is made as of the 13<sup>th</sup> day of April, 2020 (the "Effective Date") by and between **VIGO COUNTY SCHOOL CORPORATION**, an Indiana public school corporation, which is a subdivision of the State of Indiana (the "**Licensor**") and **VIGO COUNTY CAPITAL IMPROVEMENT BOARD OF MANAGERS** (the "**Licensee**").

**RECITALS**

**WHEREAS**, Licensor owns that certain real estate currently being utilized as parking lots that is depicted on Exhibit A attached hereto (collectively, the "**Parking Lot**"); and

**WHEREAS**, Licensee and Licensor intend to enter into a Real Estate Purchase Agreement (the "**Purchase Agreement**"), whereby Licensor agrees to sell and Licensee agrees to purchase, certain real estate of which the Parking Lot is a part, upon and subject to the terms and conditions more particularly set forth therein;

**WHEREAS**, Licensee desires to provide the Parking Lot for the parking needs for the personnel and patrons of Hilton Garden Inn located at 700 Wabash Avenue, Terre Haute, Indiana 47807 (the "**Hilton**") to facilitate the construction of the Vigo County Convention Center by the Licensee.

**WHEREAS**, Licensee has requested and Licensor is willing to grant to Licensee, a license to use the Parking Lot, subject to the terms provided for herein, so long as the Purchase Agreement is entered into within the sixty (60) days of the Effective Date and remains pending thereafter.

NOW, THEREFORE, in consideration of the foregoing, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Substitute Parking Spaces. As a continuing condition to the license granted by Licensor in this Agreement, commencing on the date hereof, Licensee shall make available to Licensor for its sole and exclusive use and at no cost to Licensor, fifty (50) parking spaces (the "**Substitute Parking Spaces**"), which may be used by Licensor and/or its tenants, their customers, invitees, officers and employees. The Substitute Parking Spaces shall be located at the Sky Garden Parking Garage located at 62 Ohio Street, Terre Haute, Indiana. Licensee may also fulfill all or any portion of the requirements for Substitute Parking Spaces by granting access to Licensor to designated spaces in the Parking Lot on a space-for space basis.

2. Scope of License. Provided that Licensee has made the Substitute Parking Spaces available to Licensee, and Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee and Licensee hereby accepts from Licensor a revocable exclusive license to use the Parking Lot solely for the purpose of parking of passenger automobiles, which are owned and/or operated by Licensee's invitees (including the Hilton) and their respective customers, invitees, officers and employees (the "**Permitted Parties**"). The Permitted Parties shall be entitled to use the Parking Lot for the sole purpose of vehicular access and parking, and pedestrian access to any

such parked vehicles. Notwithstanding anything to the contrary contained in this Agreement, Licensee hereby reserves for its sole use four (4) parking spaces in the Parking Lot, as identified on Exhibit A attached hereto.

3. Term. The term of this Agreement and the license granted hereby shall commence on the Effective Date and shall automatically expire upon the earlier of (i) the date the Purchase Agreement terminates; (ii) the date Substitute Parking Spaces are not available to Licensor for any reason; (iii) sixty (60) days after the Effective Date if the Purchase Agreement has not been approved by Licensor and Licensee.

4. Insurance. Licensee agrees to indemnify, protect, defend and hold Licensor and its directors, officers, partners, members, employees, and agents (collectively the “**Indemnitees**”) harmless from and against all claims, actions, losses, damages, costs, expenses and liabilities (except those caused by the gross negligence or willful misconduct of the Indemnitees) arising out of actual or alleged injury to or death of any person or loss of or damage to property caused by or resulting from the exercise, by the Permitted Parties, of any rights hereunder. To support Licensee’s indemnity obligations hereunder Licensee shall maintain in force commercial general liability insurance as required in the Purchase Agreement and shall name Licensor as an additional insured under such coverage. Licensee shall provide Licensor with evidence of such insurance coverage promptly upon request by Licensor.

5. Alterations or Improvements. Licensee shall not make, nor permit to be made, alterations or improvements to the Parking Lot, unless Licensee obtains the prior written consent of Licensor thereto. If Licensor permits Licensee to make any such alterations or improvements, Licensee shall make the same in accordance with all applicable laws and building codes, in a good and workmanlike manner and in quality equal to or better than the original construction of the Parking Lot and shall comply with such other reasonable requirements of Licensor, including without limitation the provision by Licensor to Licensee with requirements for the manner in which and the times at which such work shall be done and the contractor or subcontractors to be selected to perform such work and the posting and re-posting of notices of Licensor’s non-responsibility for mechanics’ liens. Licensee shall, prior to its contractor(s) commencing any work at the Parking Lot, provide certificates of insurance with customary limits for public construction for each contractor, naming Licensor, its lender (if any), and its property manager as additional insureds. Licensee shall promptly pay all costs attributable to such alterations and improvements and shall indemnify, defend and hold harmless Licensor from and against any mechanics’ liens or other liens or claims filed or asserted as a result thereof and against any costs or expenses which may be incurred as a result of building code violations attributable to such work. Such indemnity obligation shall be deemed to include the payment of reasonable attorneys’ fees and court costs incurred in defending any such lien or claim and shall survive the expiration or earlier termination of this License. Licensee shall promptly repair any damage caused by any such alterations or improvements. Any alterations or improvements to the Parking Lot, shall, at Licensor’s election, either (i) become a part of the realty and the property of Licensor and shall not be removed by Licensee, or (ii) be removed by Licensee upon the expiration or sooner termination hereof and any damage caused thereby repaired at Licensee’s cost and expense. In the event Licensee so fails to remove same, upon ten (10) days’ written notice and failure to cure, Licensor may have same removed and the Parking Lot so repaired at Licensee’s expense. At Licensor’s election, Licensor

and Licensor's architect, engineers or contractors shall have the right to supervise all construction operations within the Parking Lot at Licensor's expense. Licensor and Licensee acknowledge that Licensee intends to construct such improvements on the Parking Lot as is necessary to ensure its dedicated use as provided herein, subject to Licensor's reasonable approvals as provided in this Section.

6. Maintenance. Licensee shall, at its sole cost and expense, maintain the Parking Lot in good condition and repair. Licensee shall also repair any damage that occurs as a result of usage by the Permitted Parties.

7. Compliance with Law. Licensee shall at all times during the term hereof, comply with the orders and regulations of all governmental authorities with respect to zoning, building, fire, health and other codes, regulations, ordinances or laws applicable to the Parking Lot and any use being conducted thereon.

8. Default. It shall be an event of default under this Agreement if Licensee or any of the Permitted Parties (i) creates any public nuisance which has not been cured, to Licensor's reasonable satisfaction, within forty-eight (48) hours of written notice of the same, or (ii) fails to perform fully any obligation or duty of Licensee contained in the this Agreement within a reasonable amount of time (but in no event more than thirty (30) days) following written notice from Licensor of such failure. Upon the occurrence of any event of default on the part of Licensee that is not cured within the time lines set forth above, Licensor may immediately terminate this Agreement. In addition, Licensor shall be entitled to pursue all other remedies available at law or in equity and, if successful, shall be entitled to reimbursement of its costs and reasonable attorney fees from Licensee. Licensor's remedies hereunder shall survive termination or expiration of this Agreement.

9. Assignment. Licensee shall not assign, pledge or otherwise transfer this Agreement. The Parties acknowledge that the Licensee will be entering into an agreement with the Hilton to allow the use of the Parking Lot as provided herein, and that such agreement and use does not constitute a transfer under this Agreement.

10. Notice. Any notice required or permitted to be given or served by either party to this Agreement shall be deemed to have been given or served by either party to this Agreement when made in writing and hand delivered or mailed, by certified or registered mail, addressed as follows:

Notices to Licensor:           Vigo County School Corporation  
686 Wabash Avenue  
PO Box 3703  
Terre Haute, IN 47807  
Attention: Dr. Robert Haworth

With a copy to:               Bose McKinney & Evans LLP  
111 Monument Circle, Suite 2700  
Indianapolis, IN 46204  
Attention: Jonathan L. Mayes

Notices to Licensee: Vigo County Capital Improvement Board of Managers  
650 S. First Street  
Terre Haute, IN 47807  
Attention: Jon Marvel

With a copy to: Kroger Gardis & Regas, LLP  
111 Monument Circle, Suite 900  
Indianapolis, IN 46204  
Attention: Brian C. Bosma

The addresses may be changed from time to time by either party by serving notice as above provided.

11. Recording. Neither this Agreement nor a memorandum of this Agreement may be recorded without Licensor's prior written consent. Licensee acknowledges and agrees that this Agreement is not intended to create an easement, lease or other interest in any real estate notwithstanding any expense that that may be incurred by Licensee in connection with this Agreement.

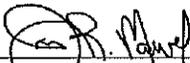
**[Signature page follows.]**

**SIGNATURE PAGE TO LICENSE AGREEMENT**

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

**LICENSEE:**

VIGO COUNTY CAPITAL IMPROVEMENT  
BOARD OF MANAGERS

By:  \_\_\_\_\_  
Jon Marvel, President

ATTEST:

By:  \_\_\_\_\_  
Mayor Duke Bennett, Secretary

**LICENSOR:**

VIGO COUNTY SCHOOL CORPORATION, an  
Indiana public school corporation, which is a  
subdivision of the State of Indiana

By:  \_\_\_\_\_  
Dr. Robert Haworth, Superintendent

**EXHIBIT A TO LICENSE AGREEMENT**

**Depiction of Parking Lot and Identification of Parking Lot and Spaces Reserved for  
Licensor**

[See attached]

EXHIBIT "A"

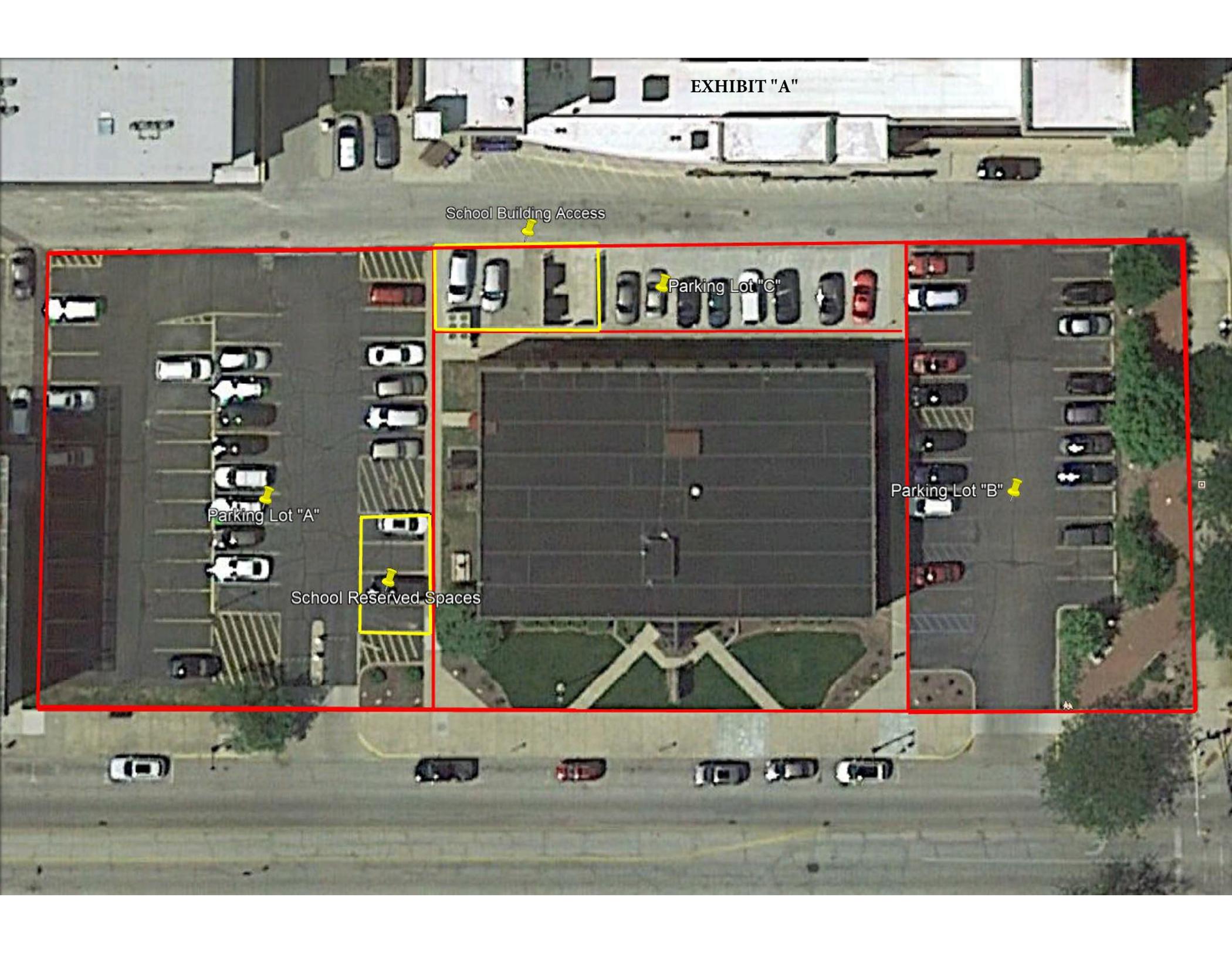
School Building Access

Parking Lot "C"

Parking Lot "A"

School Reserved Spaces

Parking Lot "B"



**RESOLUTION NO. 2020-03**

**RESOLUTION OF THE VIGO COUNTY CAPITAL IMPROVEMENT BOARD  
APPROVING THE PURCHASE AND LEASE OF PROPERTY**

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The Vigo County Capital Improvement Board of Managers (the “Board”) met at a duly called and authorized meeting of the Board held on the date set forth below, such meeting being called pursuant to a notice stating the time, place, and purpose of the meeting received by all the Board Members and posted on the Vigo County webpage for the public, and the following resolutions were made, seconded, and adopted by a majority of those present at the meeting, which constituted a legal quorum of the Board. In accordance with Executive Order 2020-09 issued by Governor Eric Holcomb on March 23, 2020, all members of the Board participated in the meeting by electronic means, and access was afforded electronically to the media and the public.

**WHEREAS**, the Vigo County School Corporation (the “School Corporation”) is the owner of real property located at 686 Wabash Avenue, Terre Haute, Indiana consisting of Parcel Nos. 84-06-21-432-025.000-002 and 84-06-21-432-026.000-002 (the “Property”) as more specifically depicted in Exhibit “A” attached hereto; and

**WHEREAS**, the School Corporation has expressed its willingness to transfer the ownership of the Property by sale to the Board on the terms contained herein to facilitate the development of the Terre Haute Convention Center Project by the Board; and

**WHEREAS**, the transfer of the Property shall be substantially on the terms of the Purchase Agreement attached hereto as Exhibit “B” (the “Agreement”) and made a part hereof; and

**WHEREAS**, Ind. Code §36-1-11-8 authorizes the transfer of property between governmental entities upon terms and conditions agreed upon by the entities, as evidenced by the adoption of a substantially identical resolution by the governing body of each entity;

**WHEREAS**, the Board desires to accept the transfer of the Property to facilitate the development of the Terre Haute Convention Center Project (the “Project”) in accordance with the terms contained in the Agreement; and

**WHEREAS**, the Board has been informed that the Board of School Trustees of the School Corporation is anticipated to adopt a resolution substantially identical to this Resolution at its next public meeting.

**NOW THEREFORE, BE IT RESOLVED**, by the Vigo County Capital Improvement Board of Managers as follows:

**SECTION 1.** The foregoing Recitals are incorporated herein by this reference.

**SECTION 2.** Pursuant to the provisions of Ind. Code §36-1-11-8, the Board hereby approves the purchase of the Property in accordance with the terms of the

Agreement to facilitate the development of the Project. The purchase price for the Property shall be Three Million and 00/100 Dollars (\$3,000,000.00) in readily available funds transferred at closing.

**SECTION 3.** The transfer of the Property to the Board shall be by Limited Warranty Deed, the form of which is attached as an exhibit to the Agreement (the “Deed”).

**SECTION 4.** Following the transfer of the Property to the Board, the School Corporation shall continue to occupy the Administration Building located thereon for the period indicated in the Agreement pursuant to the terms of a Lease, the form of which is attached as an exhibit to the Agreement (the “Lease”).

**SECTION 5.** The transfer shall be made by the School Corporation in “as is - where is” condition, without any representations or warranties whatsoever, express or implied, as to the condition of the Property, other than warranty of title. Prior to its acquisition, the Board shall have a sixty (60) day due diligence period in which to conduct all due diligence activities necessary for its acceptance of the Property.

**SECTION 6.** The Board hereby authorizes, empowers, and directs the President of the Board to direct the completion of all due diligence activities provided for in the Agreement and to proceed to close the transfer of the Property in the event such due diligence results are acceptable in the view of the President, as advised by the Board’s legal counsel.

**SECTION 7.** The Board further authorizes, empowers and directs the President of the Board to take all actions necessary to complete the transfer and lease of the Property in accordance with the Agreement, the Lease and this Resolution and to execute all documents and deliver the purchase price required in connection with the transfer of the Property pursuant to this Resolution, and to take all other lawful action necessary to complete the transfer and lease of the Property as contemplated herein, with such revisions to the foregoing documents as are acceptable to the President as evidenced by his signature upon such documents. Any and all documents previously executed in connection with the actions contemplated by this Resolution and any and all prior actions taken by representatives of the Board in connection with the transactions contemplated by this Resolution are hereby approved.

**SECTION 7.** This Resolution is effective immediately upon its passage.

[The remainder of this page intentionally left blank]

Adopted and approved by the Vigo County Capital Improvement Board of Managers this 10<sup>th</sup> day of April, 2020 by roll call vote with the member votes indicated below.

**VIGO COUNTY CAPITAL IMPROVEMENT BOARD OF MANAGERS**

Jon Marvel, President	<u>X</u>	<u>        </u>	Steve Witt, Treasurer	<u>X</u>	<u>        </u>
	Aye	Nay		Aye	Nay
Mayor Duke Bennett, Secretary	<u>X</u>	<u>        </u>	David Patterson, Member	<u>X</u>	<u>        </u>
	Aye	Nay		Aye	Nay
Judith Anderson, Member	<u>X</u>	<u>        </u>	Brad Anderson, Member	<u>X</u>	<u>        </u>
	Aye	Nay		Aye	Nay
Barbara Lloyd, Member	<u>X</u>	<u>        </u>			
	Aye	Nay			

**CERTIFICATION**

I certify under the penalties of perjury that the foregoing members of the Vigo County Capital Improvement Board of Managers voted by roll call vote as indicated above at a public meeting conducted on April 10, 2020.



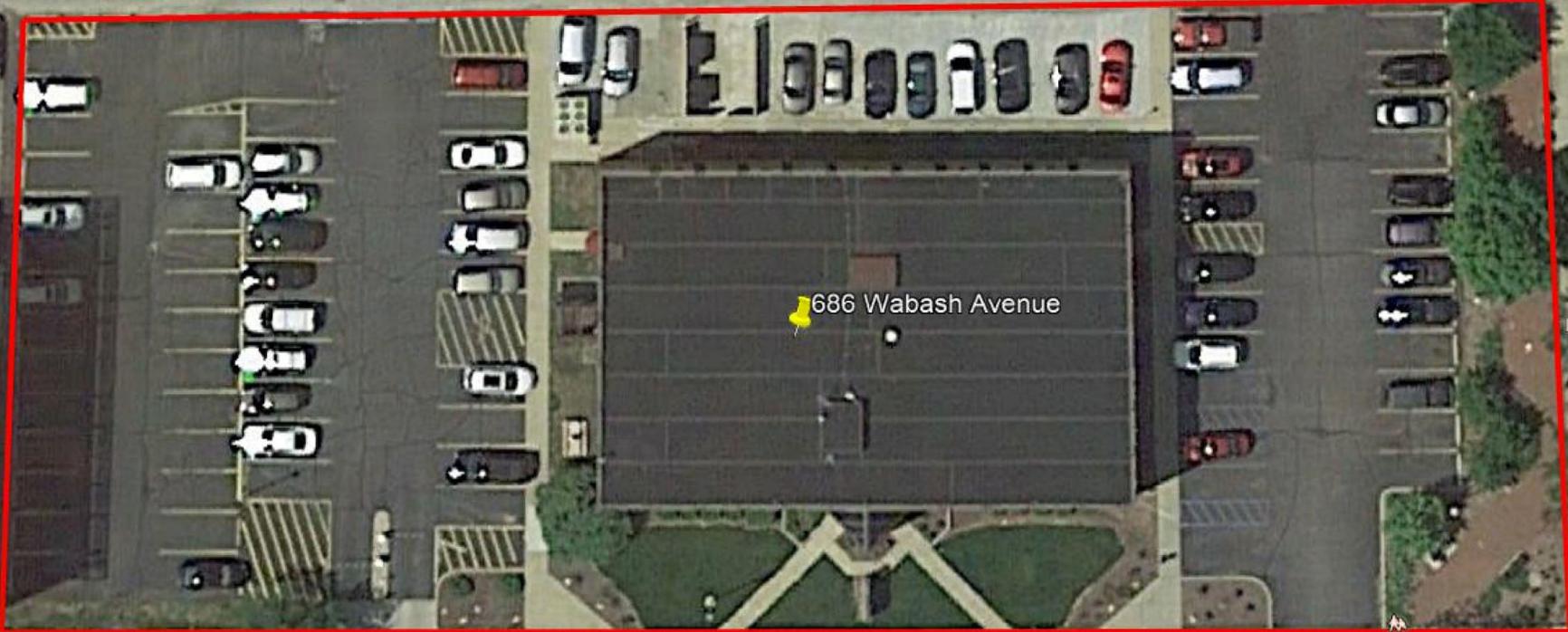
\_\_\_\_\_  
Jon Marvel, President

**EXHIBIT “A”**

**Illustration of Property**

See attached

EXHIBIT "A"



686 Wabash Avenue

**EXHIBIT “B”**

**Purchase Agreement**

See attached

## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this “**Agreement**”) is made as of the \_\_\_ day of \_\_\_\_\_, 2020 (the “**Effective Date**”) by and between **VIGO COUNTY SCHOOL CORPORATION**, an Indiana public school corporation, which is a subdivision of the State of Indiana (“**Seller**”), and the **VIGO COUNTY CAPITAL IMPROVEMENT BOARD OF MANAGERS** (“**Buyer**”).

### RECITALS

Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Property (as defined below and illustrated in **Exhibit A**), subject to and in accordance with the terms, conditions and other provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### 1. DEFINITIONS.

The following capitalized terms shall have the meanings set forth in this Section 1 for all purposes under this Agreement:

1.1. Closing. The consummation of the transactions described herein as more fully described in Section 4 below.

1.2. Closing Date. The earlier of the date that is fifteen (15) days following the Due Diligence Expiration Date and June 15, 2020, or such other date that is mutually agreed to by Seller and Buyer.

1.3. Deed. A Limited Warranty Deed in the form attached hereto as **Exhibit B**.

1.4. Due Diligence Expiration Date. The date that is sixty (60) days from the Effective Date stated in the preamble above.

1.5. Due Diligence Period. The period commencing on the Effective Date (or earlier if Buyer has previously entered on, or conducted investigations concerning, the Property) and continuing until the Due Diligence Expiration Date.

1.6. Earnest Money. Defined in Section 2.2 below.

1.7. Lease. A Lease Agreement in the form attached hereto as **Exhibit C**.

1.8. License Agreement. That certain License Agreement attached hereto as **Exhibit D**.

1.9. Obligations Surviving Termination. Buyer’s obligations under Sections 3.2 and Buyer’s and Seller’s obligations under Sections 10 and 14.

1.10. Property. That certain real estate located in Vigo County, Indiana commonly known as 686 Wabash Avenue, Terre Haute, Indiana and upon which Seller's administration building is currently located and consists of Parcel Nos. 84-06-21-432-025.000-002 and 84-06-21-432-026.000-002, together with all rights, privileges, interests, easements, improvements, fixtures and appurtenances thereto either permanently installed or used in connection with the Property, including all property of every kind, character and description owned by Seller and located on, attached to, or used in connection with the Property.

1.11. Purchase Price. Three Million and No/100 Dollars (\$3,000,000.00).

1.12. Title Company. Hendrich Title Insurance Company, which has offices at 498 Ohio Street, Terre Haute, Indiana 47807.

## **2. AGREEMENT TO SELL AND PURCHASE; PURCHASE PRICE.**

2.1. Agreement to Sell and Purchase. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property, subject to and in accordance with the terms, conditions and provisions hereof.

2.2. Payment of Purchase Price. The total purchase price to be paid by Buyer to Seller for the Property shall be the Purchase Price described in Section 1 above. The Purchase Price shall be payable in the following manner:

(a) Earnest Money. Buyer shall, no later than one (1) business day after the Effective Date deposit with the Title Company, as escrow agent, the sum of Five Thousand Dollars and No/100 Dollars (\$5,000.00), as earnest money (said amount being herein referred to as the "**Earnest Money**"), which shall be in the form of a wire transfer of immediately available funds. Provided that Buyer has not terminated this Agreement pursuant to Section 3.2 below on or before the Due Diligence Expiration Date, all of the Earnest Money shall become fully non-refundable and payable to Seller, except as otherwise expressly provided herein. If the sale hereunder is consummated in accordance with the terms hereof, the Earnest Money shall be paid to Seller and applied to the Purchase Price to be paid by Buyer at the Closing. In all other instances, the Earnest Money shall be paid to Seller or Buyer as provided in other provisions of this Agreement. Seller and Buyer agree to execute any reasonable agreement required by Title Company containing Title Company's standard escrow terms and conditions.

(b) Balance of Purchase Price. Buyer shall pay to Seller the balance of the Purchase Price, plus or minus net proration credits (as such credits may be determined in accordance with Section 5 and other applicable provisions of this Agreement), at Closing by wire transfer of immediately available funds.

## **3. SELLER'S DELIVERIES; LICENSES FOR PARKING.**

3.1. Seller's Deliveries. Within five (5) days of the Effective Date, Seller shall deliver to Purchaser the most recent version of any surveys, environmental reports, and other similar documents that, to Seller's actual knowledge without investigation or inquiry, are in Seller's possession and relate to the condition of the Property. Except as otherwise expressly set forth in this Agreement, Seller makes no representations or warranties, either expressed or implied, and shall have no liability with respect to the accuracy or completeness of any reports, records, or other

documentation or information relating to the Property provided to Buyer, and Buyer shall make its own independent inquiry regarding the economic feasibility, physical condition and legal status of the Property during the Due Diligence Period.

3.2. Inspections and Access. Buyer and its representatives shall be permitted to enter upon the Real Property at any reasonable time and from time to time during the Due Diligence Period to examine, inspect and investigate the Property (collectively, the “**Inspections**”), subject to the terms, conditions and limitations set forth in this Section 3.2.

(a) All of the Inspections shall be conducted at the expense of Buyer without contribution from Seller of any kind or amount.

(b) Buyer shall have a right to enter upon the Property for the purpose of conducting the Inspections and for no other purpose, and provided that in each such instance: (i) Buyer notifies Seller of such Inspections not less than 48 hours prior to such entry; and (ii) Buyer is in full compliance with all of the terms of this Agreement. At Seller’s election, a representative of Seller shall be present during any entry by Buyer or its representatives upon the Property for conducting said Inspections. Buyer shall take all necessary actions to insure that neither it nor any of its representatives shall interfere with the ongoing operations occurring at the Property during the course of performing any such Inspections, and in no event shall Buyer or any persons acting on Buyer’s behalf be permitted to (i) enter any buildings on the Property or (ii) except as expressly permitted by the License Agreement, carry on any activities on the Property, each without the prior written consent of Seller. Buyer shall not cause or permit any mechanics’ liens, materialmen’s liens or other liens to be filed against the Property as a result of the Inspections.

(c) Buyer shall have the right to conduct any inspections, studies or tests that Buyer deems appropriate in determining the condition of the Property; provided, however, Buyer shall not be permitted to perform any Phase II environmental assessments or any tests that require the physical alteration of the Property (including, without limitation, borings or samplings), without the prior written consent of Seller in each instance.

(d) Buyer agrees to indemnify, defend and hold Seller and its officers, directors, employees and other agents and representatives (collectively, the “**Indemnified Parties**”) harmless from and against any and all claims, losses, damages, costs and expenses including, without limitation, reasonable attorneys fees’ and court costs, suffered or incurred by any of the Indemnified Parties arising out of or in connection with the activities of Buyer (or Buyer’s employees, consultants, contractors or other agents) on or about the Property, including, without limitation, mechanics’ liens, damage to the Property and injury to persons or property resulting from such activities. Without limiting the foregoing, in the event that the Property is damaged, disturbed or altered in any way as a result of such activities, Buyer shall promptly restore the Property to its condition existing prior to the commencement of such activities. Furthermore, Buyer agrees to maintain and cause all of its contractors and other representatives conducting any Inspections to maintain and have in effect workers’ compensation insurance, with statutory limits of coverage, and commercial general liability insurance and limits of not less than Three Million Dollars (\$3,000,000), combined single limit, for personal injury, including bodily injury and death, and property damage. Such insurance shall name Seller and Seller’s officers, directors, employees and agents as additional insured parties. Buyer shall deliver to Seller, prior to commencing any Inspections, a certificate evidencing that the insurance required hereunder is in full force and effect.

(e) Buyer agrees to deliver to Seller complete copies of any written studies, reports, tests results or similar documents pertaining to the Property prepared by any third party for Buyer promptly upon Seller's request.

(f) Buyer shall have until the Due Diligence Expiration Date in which to conduct its due diligence investigations and analysis of the Property and of all information pertaining to the Property to determine whether the Property is acceptable to Buyer. If, during the Due Diligence Period, Buyer becomes aware of any problem or defect in the Property or other aspect of the Property, including its non-suitability for Buyer's intended use, which Buyer determines makes the Property unsuitable to Buyer, Buyer may, as its sole and exclusive right and remedy, terminate this Agreement by giving written notice of termination to Seller on or before the Due Diligence Expiration Date. If Buyer does not give such notice of termination on or before the Due Diligence Expiration Date, then this Agreement shall continue and the Earnest Money shall thereafter be non-refundable to Buyer except as a result of the termination of this Agreement pursuant to Section 14.1. In the event of such termination, the Earnest Money shall be returned to Buyer and neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination.

### 3.3. Title and Survey.

(a) Promptly following the Effective Date, Buyer shall order a commitment for an owner's policy of title insurance covering the Property issued by the Title Company (the "**Title Commitment**") and deliver such Title Commitment to Seller promptly upon receipt. Buyer shall, at Buyer's sole cost, within two (2) business days of the Effective Date order an ALTA survey of the Property (the "**Survey**"), which shall be certified to both parties, and otherwise in form and substance reasonably acceptable to both parties. Promptly upon receipt thereof, Buyer shall provide Seller with a copy of the Title Commitment and Survey and any update thereto. Buyer shall have until the date that is the earlier of: (i) ten (10) days following receipt of the Title Commitment and Survey; or (ii) sixty (60) days after the Buyer approves the Agreement (the "**Title/Survey Review Date**"), for examination of the Title Commitment and Survey and the making of any objections thereto, said objections to be made in writing and delivered to Seller on or before the Title/Survey Review Date. Buyer shall be deemed to have accepted all exceptions to the Title Commitment and the form and substance of the Survey, except only for matters expressly objected to in a written notice delivered to Seller on or before the Title/Survey Review Date. If any objections to the Title Commitment or Survey are properly made on or before the Title/Survey Review Date, Seller shall have the right, but not the obligation (except with respect to Monetary Encumbrances, as defined below), on or before the date that is ten (10) days after the Title/Survey Review Date (the "**Seller Cure Date**"), to cure such objections (by removal or by endorsement or other method reasonably acceptable to Buyer) or to agree in writing to cure same prior to Closing. If the Seller does not agree in writing to cure said objections by the Seller Cure Date, then Seller shall be deemed to have rejected Buyer's request to cure. If the objections are not so cured by Seller (or agreed to be cured by Seller), or waived by Buyer, then Buyer may, at its option, and as its sole and exclusive right and remedy terminate this Agreement by written notice thereof delivered to Seller on or before the date that is five (5) days after the Seller Cure Date. If Buyer does not give such notice of termination on or before the date that is five (5) days after the Seller Cure Date, Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 3.3(a), and this Agreement shall continue in full force and effect. In such event, all objections to the Title Commitment and Survey made by Buyer and not

agreed to be cured by Seller shall be deemed waived by Buyer and Buyer shall accept title to the Property subject thereto. In the event Buyer timely exercises its right to terminate pursuant to this Section 3.3(a), the Earnest Money shall be returned to Buyer and neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination. Notwithstanding anything to the contrary in this Section 3.3, Seller shall be obligated at Closing to cause to be removed any exceptions reflected in the Title Commitment relating to mortgages or other monetary liens created by or resulting from Seller's acts (collectively, "**Monetary Encumbrances**").

(b) Buyer may, within five (5) days after learning of same, or the Closing Date, whichever occurs first, notify Seller in writing of any objections to any title exceptions added to the Title Commitment (which do not relate to or arise out of actions by the Buyer) first arising between the Title/Survey Review Date and the Closing Date (such being referred to as "**Gap Objections**"). With respect to any Gap Objections, if Seller does not elect to cure any Gap Objections, Buyer shall have the option to terminate this Agreement (which option must be exercised within five (5) days after receipt of Seller's response to any Gap Objections, or the Closing Date, whichever occurs first), in which event the Earnest Money shall be returned to Buyer and neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination. If Seller elects to attempt to cure any such Gap Objections, the Closing Date shall be automatically extended by a reasonable additional time to effect such a cure, but in no event shall the extension exceed thirty (30) days.

3.4. License for Parking and Access. Buyer and Seller acknowledge and agree that (a) the License Agreement provides for Buyer's use of those certain parking lots designated as Lot A, Lot B and Lot C as illustrated on Exhibit A on the terms provided for therein, (b) attached hereto as Exhibit D is a true and complete copy of the License Agreement, and (c) Buyer and Seller hereby ratify the License Agreement and affirm their respective obligations thereunder.

#### 4. CLOSING.

4.1. Time and Place. The Closing shall be held on the Closing Date in escrow through Title Company. The parties agree to complete all arrangements for Closing prior to the Closing Date so that all requirements for Closing, with the exception of the delivery of the Purchase Price, are in place by the end of the day prior to the Closing Date and only the funding need be completed on the Closing Date.

4.2. Deliveries. At Closing Seller and Buyer shall execute and deliver the following items:

(a) Seller shall execute and deliver to Buyer the following:

(i) the Deed;

(ii) a non-foreign transferor certification pursuant to Section 1445 of the Internal Revenue Code;

(iii) a vendor's certificate in form sufficient to permit the Title Company to delete the so-called 'standard' exceptions (excepting any exception requiring a survey for deletion); and

(iv) evidence of its capacity and authority for the Closing of this transaction, including a duly executed and certified authorizing resolution.

(b) Buyer shall pay or deliver to Seller:

(i) the balance of the Purchase Price, by wire transfer, as provided in subsection 2.2(b) hereof; and

(ii) evidence of its capacity and authority for the Closing of this transaction, including a duly executed and certified authorizing resolution.

(c) Seller and Buyer shall jointly execute and deliver the following:

(i) a closing statement describing all prorations and other applicable credits;

(ii) an Indiana sales disclosure form;

(iii) the Lease; and

(iv) other documents reasonably necessary to consummate the transactions contemplated by this Agreement.

4.3. Closing Instructions to Title Company. The Closing shall be facilitated through an escrow established with the Title Company, using closing escrow instructions consistent with this Agreement. Notwithstanding the use of an escrow, the Closing shall be completed (with the escrow closed out) on the Closing Date, including the concurrent delivery of all required documents and the Purchase Price.

## 5. PRORATIONS.

5.1. Generally. All items of income and expense applicable to the Property shall be paid, prorated or adjusted as of the close of business on the day prior to the Closing Date. For purposes of calculating the prorations provided for in this Agreement, Buyer shall be deemed to be the owner of the Property on the Closing Date and shall receive the benefit of any income and have the liability of any expenses attributable to the Closing Date.

5.2. Real Estate Taxes and Assessments. Each of the parties anticipates that it will be exempt from any obligation to pay real estate taxes or any special assessments applicable to the Property and therefor, the parties agree that there shall be no need to prorate any such taxes or assessments. If this proves incorrect, then the parties shall prorate such taxes and assessment as of the date of Closing in a manner customary for real estate transactions in Indianapolis, Indiana.

5.3. Prorations. Except as provided in the Lease, any operating expenses of the Property shall be payable by Seller and Buyer in accordance with the parties' respective periods of ownership so that Seller pays all expenses attributable to the period prior to the Closing Date and Buyer pays all taxes and expenses attributable to the period on or after the Closing Date. If either party receives a bill for expenses for which the other party is obligated, such other party shall pay such bill promptly after receipt thereof. If Seller has prepaid any expenses as of the Closing Date, Buyer shall reimburse Seller at Closing for the portion thereof attributable to the period from and

after the Closing Date. If the current year's assessments for taxes are not available, then taxes will be prorated based on the most recent tax bill for the Property and this shall be a final settlement.

## 6. SELLER'S REPRESENTATIONS AND WARRANTIES.

6.1. List of Representations and Warranties. Seller hereby represents and warrants to Buyer the following matters, but only to the extent such matters are applicable to Seller or the Property:

(a) Authority. Seller has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The governing body of Seller has adopted resolutions authorizing such transactions.

(b) Conflicts. Neither the execution and delivery of this Agreement nor the consummation of the transactions herein contemplated conflict with or result in the material breach of any terms, conditions or provisions of or constitute a default under, any bond, note, or other evidence of indebtedness or any agreement to which Seller is a party.

(c) Leases and Agreements. Seller has not entered into any lease, option agreement, purchase agreement, right of first refusal agreement or other transfer or occupancy agreements demising any portion of the Property that will continue after Closing, other than matters of record.

(d) Violations of Laws. Seller has not received any written notice that the Property is currently in violation of any applicable federal, state, or local environmental or other safety laws or regulations.

(e) Litigation. No demands, claims, or litigation, including but not limited to condemnation, eminent domain, or similar proceedings, has been served upon Seller with respect to the Property that remains outstanding, and, to Seller's knowledge, no such demands, claims or litigation have been threatened in writing.

(f) Hazardous Materials. To Seller's knowledge without investigation or inquiry, Seller is not aware that, and has received no notice from any third party that, any Hazardous Materials (as defined in Section 7.3) have been deposited, stored, disposed of, placed, located or released on the Property in violation of applicable laws.

6.2. Modifications to Representations and Warranties. The representations and warranties of Seller set forth in this Agreement shall be deemed remade as of Closing, provided that Seller may give Buyer on or before the Closing Date one or more notices of modification to such representations and warranties (each a "**Statement of Modifications**"), and such representations and warranties shall be deemed to remade as of Closing as modified by any Statement of Modifications. If Seller gives a Statement of Modifications to Buyer within five (5) days of the Closing Date, Buyer shall have five (5) days thereafter to exercise its termination right under Section 6.4 and the Closing Date shall be delayed accordingly.

6.3. Definition of Knowledge. As used in this Sections 3 and 6 or other provisions of this Agreement, the term "**to Seller's knowledge**" or any other reference to the knowledge of Seller shall mean and apply to the actual knowledge of Dr. Robert Haworth (the "**Seller**

**Knowledge Individual**”), and not to any other persons or entities, (b) shall mean the actual (and not implied or constructive) knowledge of such individual, without any duty on such individual to conduct any investigation or inquiry of any kind, and (c) shall not apply to or be construed to apply to information or material which may be in the possession of Seller generally or incidentally, but which is not actually known to the Seller Knowledge Individual. Similarly, any reference to any written notice, claim, litigation, filing or other correspondence or transmittal to Seller set forth herein shall be limited to refer to only those actually received by or known to the Seller Knowledge Individual in the limited manner provided in clauses (a) - (c) of this paragraph. Under no circumstances shall the Seller Knowledge Individual have any personal obligations or liabilities under this Agreement or otherwise.

6.4. Limitations Concerning Buyer’s Knowledge and Third Party Protection. Notwithstanding anything contained in this Agreement to the contrary, all of the representations, warranties and certifications (collectively, the “**Representations**”) which are made by Seller and set forth herein or in any of the documents or instruments required to be delivered by Seller hereunder, shall be subject to the following conditions and limitations: (a) there shall be no liability on the part of Seller for any breach of a Representation arising from any matter or circumstance of which Buyer, its employees, consultants, agents or other representatives had actual (and not implied or constructive) knowledge at Closing (including matters and circumstances described in any Statement of Modifications); (b) in the event that prior to the time of Closing, Buyer gains knowledge of a fact or circumstance which, by its nature, indicates that a Representation was or has become untrue or inaccurate, and such fact or circumstance was not intentionally withheld from Buyer by Seller with the intent to defraud Buyer, then Buyer shall not have the right to bring any lawsuit or other legal action against Seller, nor pursue any other remedies against Seller, as a result of the breach of the Representation caused thereby, but Buyer’s sole and exclusive right and remedy shall be to terminate this Agreement, in which event the Earnest Money shall be returned to Buyer and neither party shall have any further obligations to the other party hereunder, except for the Obligations Surviving Termination; provided, however, that following the Due Diligence Expiration Date, such right of termination shall not be available for breaches of Representations that have no material impact of the value of the Property; and (c) to the extent that Buyer receives or obtains estoppel certificates, insurance policies, guarantees, warranties or other items from third parties (collectively, “**Third-Party Protections**”) which provide a claim, cause of action, defense or other protection for Buyer with respect to liability for which Buyer may have a right of recourse against Seller hereunder, Buyer agrees to pursue its rights with respect to such Third-Party Protections prior to pursuing any rights against Seller hereunder, and to pursue its rights against Seller only to the extent that such Third-Party Protections do not fully protect Buyer against such liability. Without limiting Section 15.6 or any other provision hereof, the parties hereto expressly acknowledge and agree that none of Seller’s representations, warranties or covenants herein may be relied on by the Title Company, whether by subrogation or otherwise.

6.5. Other Limitations. The representations and warranties of Seller set forth in Section 6.1 shall survive Closing, provided, however that the representations and warranties set forth in Sections 6.1(c) through 6.1(f) shall only survive Closing for a period of six (6) months. Notwithstanding anything to the contrary set forth in this Agreement or in any other agreement or document delivered in connection herewith: (a) Seller shall have no liability whatsoever to Buyer for a breach of any representation, warranty, covenant, agreement or other requirement or provision hereof or thereof, unless the valid claims for all such breaches against Seller collectively

aggregate more than the Liability Floor, in which event the full amount of such valid claims shall be actionable up to, but not in excess of, the Liability Cap in the aggregate for all liability; and (b) Seller shall not have any liability whatsoever to Buyer for a breach of any representation, warranty, covenant, agreement or other requirement or provision hereof or of any other agreement or document delivered in connection herewith, unless written notice containing a description of the specific nature of such breach shall have been given by Buyer to Seller within six (6) months after the Closing Date, and an action shall have been commenced by Buyer against Seller within two (2) months after such notice is provided to Seller. In no event shall Seller be liable for any incidental, consequential or punitive damages or for any damages in excess of the Liability Cap. For purposes of the foregoing: (A) “**Liability Floor**” shall mean Five Thousand and No/100 Dollars (\$5,000.00), and (B) “**Liability Cap**” shall mean Fifty Thousand and No/100 Dollars (\$50,000.00). Nothing contained in this Section shall limit either party's indemnification obligations contained in Section 16.

## 7. PURCHASE AS IS.

7.1. AS IS. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY SELLER TO BUYER AT CLOSING, BUYER WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH SELLER THAT BUYER IS PURCHASING THE PROPERTY IN ITS “AS-IS, WHERE IS” CONDITION “WITH ALL FAULTS” AS OF THE CLOSING DATE AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED, AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY OF ANY KIND, NATURE, OR TYPE WHATSOEVER FROM OR ON BEHALF OF SELLER. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY SELLER TO BUYER AT CLOSING, SELLER SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, INCLUDING THE POSSIBILITIES FOR FUTURE DEVELOPMENT OF THE PROPERTY, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, (H) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER, OR ADJACENT TO THE PROPERTY OR ANY OTHER ENVIRONMENTAL MATTER OR CONDITION OF THE PROPERTY, OR (I) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY CONTAINED IN

THIS AGREEMENT OR EXPRESSLY SET FORTH IN ANY DOCUMENTS DELIVERED BY SELLER TO BUYER AT CLOSING, ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. SELLER SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT BUYER IS A SOPHISTICATED AND EXPERIENCED BUYER OF PROPERTIES SUCH AS THE PROPERTY AND HAS BEEN DULY REPRESENTED BY COUNSEL IN CONNECTION WITH THE NEGOTIATION OF THIS AGREEMENT. SELLER HAS MADE NO AGREEMENT WITH BUYER TO ALTER, REPAIR OR IMPROVE ANY OF THE PROPERTY AS PART OF THIS TRANSACTION.

7.2. Release of Seller. Buyer acknowledges that it will have the opportunity to inspect the Property during the Due Diligence Period, and during such period, observe its physical characteristics and existing conditions and the opportunity to conduct such investigation and study on and of the Property and adjacent areas as Buyer deems necessary, and by Closing this transaction, Buyer shall be deemed to FOREVER RELEASE AND DISCHARGE Seller from all duties, obligations, responsibility and liability pertaining to the Property in any way, including but not limited to condition, valuation, salability, financability or utility of the Property, or its suitability for any purpose whatsoever (including, but not limited to, with respect to the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Materials or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines, and any structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and Hazardous Materials on, under, adjacent to or otherwise affecting the Property), including without limitation liabilities under CERCLA, EXCEPT that this paragraph shall not be construed to release, discharge, or waive any claims against Seller relating to the breach of any representation or warranty made by Seller in this Agreement or the documents delivered at Closing (collectively, the “**Excluded Claims**”). Further, by Closing this transaction, Buyer will be deemed to have WAIVED any and all objections and complaints (including, but not limited to, federal, state and local statutory and common law based actions, and any private right of action under any federal, state or local laws, regulations or guidelines to which the Property is or may be subject, including, but not limited to, CERCLA) concerning the physical characteristics and any existing conditions of the Property, with the exception of the Excluded Claims. Buyer further hereby assumes the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on the Property and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Materials or other contaminants, may not have been revealed by its investigation.

7.3. Certain Definitions. For purposes hereof, (a) the term “**CERCLA** “ means the Comprehensive Environmental Response Compensation and Liability Act and other federal laws

governing Hazardous Materials as in effect on the date of this Agreement, together with its implementing regulations and guidelines as of the date of this Agreement; and (b) the term “**Hazardous Materials**” means any substance which is (i) designated, defined, classified or regulated as a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under any applicable law, as currently in effect as of the date of this Agreement (ii) petroleum hydrocarbon, including crude oil or any fraction thereof and all petroleum products, (iii) PCBs, (iv) lead, (v) friable asbestos, (vi) flammable explosives, (vii) infectious materials or (viii) radioactive materials.

7.4. Survival. The terms and conditions of this Article 7 shall expressly survive the Closing, not merge with the provisions of any closing documents and shall be deemed incorporated into the Deed. Buyer acknowledges and agrees that the releases, waivers and disclaimers and other agreements set forth herein are an integral part of this Agreement and that Seller would not have agreed to sell the Property to Buyer for the Purchase Price without the releases, waivers and disclaimers and other agreements set forth above.

## **8. BUYER’S REPRESENTATIONS AND WARRANTIES.**

Buyer hereby represents and warrants to Seller as follows:

8.1. Authority. Buyer has the legal power, right and authority to enter into this Agreement and, at Closing, shall have the legal power, right and authority to consummate the transactions contemplated hereby. The governing body of Buyer has adopted resolutions authorizing such transactions.

8.2. Conflicts. Neither the execution and delivery of this Agreement nor the consummation of the transactions herein contemplated conflict with or result in the material breach of any terms, conditions or provisions of or constitute a default under, any bond, note, or other evidence of indebtedness or any agreement to which Buyer is a party.

8.3. Patriot Act. Buyer represents, warrants and covenants that neither Buyer nor any of its respective partners, officers, directors, members or shareholders (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (“**OFAC**”) pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) (the “**Order**”) and all applicable provisions of Title III of the USA Patriot Act (Public Law No. 107-56 (October 26, 2001)); (ii) is listed on the Denied Persons List and Entity List maintained by the United States Department of Commerce; (iii) is listed on the List of Terrorists and List of Disbarred Parties maintained by the United States Department of State, (iv) is listed on any list or qualification of “Designated Nationals” as defined in the Cuban Assets Control Regulations 31 C.F.R. Part 515; (v) is listed on any other publicly available list of terrorists, terrorist organizations or narcotics traffickers maintained by the United States Department of State, the United States Department of Commerce or any other governmental authority or pursuant to the Order, the rules and regulations of OFAC (including without limitation the Trading with the Enemy Act, 50 U.S.C. App. 1-44; the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06; the unrepealed provision of the Iraq Sanctions Act, Publ.L. No. 101-513; the United Nations Participation Act, 22 U.S.C. § 2349 aa-9; The Cuban Democracy Act, 22 U.S.C. §§ 60-01-10; The Cuban Liberty and Democratic Solidarity Act, 18.U.S.C. §§ 2332d and 233; and The Foreign Narcotic Kingpin Designation Act, Publ. L. No. 106-120 and 107-108, all as may be amended from time to time); or any other applicable requirements contained

in any enabling legislation or other Executive Orders in respect of the Order (the Order and such other rules, regulations, legislation or orders are collectively called the “**Orders**”); (vi) is engaged in activities prohibited in the Orders; or (vii) has been convicted, pleaded nolo contendere, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes or in connection with the Bank Secrecy Act (31 U.S.C. §§ 5311 et. seq.).

The representations and warranties of Buyer set forth in this Agreement shall be deemed remade as of Closing, and said representations and warranties as so remade shall survive the Closing without limitation on duration.

## **9. CLOSING COSTS.**

9.1. Seller Costs. Seller shall pay the following expenses incurred in connection with the transactions described herein:

- (a) the premium for a standard ALTA owner’s title policy with a policy limit equal to the Purchase Price;
- (b) Seller’s legal fees and expenses;
- (c) All costs and charges to cause the removal of any Monetary Encumbrances in accordance with Section 3.3(a);
- (d) Unless otherwise provided herein, all other closing costs customarily paid for by sellers of commercial real property in Indiana; and
- (e) Unless otherwise provided herein, one-half of any other closing costs not customarily charged solely to either buyers or sellers of commercial real property in Indiana, including the costs of an insured Closing.

9.2. Buyer Costs. Buyer shall pay the following expenses incurred in connection with the transactions described herein:

- (a) All title search fees and all costs to obtain any and all endorsements to the standard ALTA owner’s title policy (provided that the issuance of any of same will not be a condition to Closing in any respect);
- (b) The costs to obtain a lender’s policy of title insurance, if any, and all endorsements thereto;
- (c) The costs of the Survey;
- (d) Any and all costs and expenses of consultants, engineers and other professionals engaged by Buyer in connection with its due diligence;
- (e) Buyer’s legal fees and expenses;
- (f) Unless otherwise provided herein, all other closing costs customarily paid for by Buyers of commercial real property in Indiana; and

(g) Unless otherwise provided herein, one-half of any other closing costs not customarily charged solely to either buyers or sellers of commercial real property in Indiana, including the costs of an insured Closing.

## **10. BROKERAGE COMMISSIONS.**

Buyer and Seller each represents and warrants that it has not dealt with any broker, agent, finder or similar party in connection with the transaction contemplated by this Agreement, and each of Buyer and Seller hereby indemnifies, defends and holds harmless the other from any liability, cost or expense (including, without limitation, reasonable attorneys' fees and costs of enforcement of the foregoing indemnity, whether arising in any underlying action or in the enforcement of this right of indemnification) arising out of the falsity of the foregoing representation by such party. The provisions of this Section 10 shall survive the Closing or any earlier termination of this Agreement.

## **11. NOTICE.**

All notices, demands and communications (a "**Notice**") under this Agreement shall be delivered or sent by: (a) hand delivery, (b) certified mail, postage prepaid, return receipt requested, (c) nationally recognized overnight carrier, delivered to the address of the intended recipient set forth below or to such other address as either party may designate by notice pursuant to this Article or (d) electronic mail addressed as indicated below (or to such other address as may be designated) with a written copy thereof forwarded by hand delivery, certified mail or overnight carrier.

Notices to Seller:           Vigo County School Corporation  
686 Wabash Avenue  
PO Box 3703  
Terre Haute, IN 47807  
Attention: Dr. Robert Haworth  
E-mail: Robert.haworth@vigoschools.org

With a copy to:           Bose McKinney & Evans LLP  
111 Monument Circle, Suite 2700  
Indianapolis, IN 46204  
Attention: Jonathan L. Mayes  
E-mail: Jmayes@boselaw.com

Notices to Buyer:         Vigo County Capital Improvement Board of Managers  
650 S. First Street  
Terre Haute, IN 47807  
Attention: Jon Marvel  
E-mail: Jmarvel841@gmail.com

With a copy to:           Kroger Gardis & Regas, LLP  
111 Monument Circle, Suite 900  
Indianapolis, IN 46204  
Attention: Brian C. Bosma  
E-mail: Bcb@kgrlaw.com

Notices shall be deemed given: (i) on the date delivered, if sent by hand delivery; (ii) one business day after delivery to the overnight carrier, if sent by nationally recognized overnight carrier; (iii) three (3) business days after being mailed, if sent by certified mail, postage prepaid, return receipt requested; or (iv) on the date delivered, if by e-mail, provided that the transmission is completed no later than 5:00 p.m. Eastern Time on a business day and original of the notice is simultaneously sent by hand delivery, certified mail or overnight carrier. Notices may be sent by counsel for a party and such shall be deemed notice by the party so represented. Notices shall be deemed served as set forth above, even if such notices are rejected or delivery refused by the intended recipient.

## **12. CONDEMNATION.**

If all or any material part of the Property is taken by eminent domain or if a legal proceeding seeking such taking by eminent domain is filed prior to the Closing Date, then Buyer may, as its sole and exclusive right and remedy, terminate this Agreement by notice to Seller given on or before the earlier of (a) twenty (20) days after such taking or (b) the Closing Date, and, in the event of such termination, the Earnest Money shall be returned to Buyer and neither party shall have any further obligation under this Agreement, except for the Obligations Surviving Termination. If Buyer is not entitled to or does not elect to so terminate, the Closing shall take place as herein provided without abatement of the Purchase Price, and Seller shall assign and transfer to Buyer on the Closing Date, without warranty or recourse, all of Seller's right, title and interest in and to all condemnation awards paid or payable to Seller on account of such eminent domain proceedings (less Seller's reasonable costs of collection thereof and of amounts used for reasonable restoration).

## **13. OPERATIONS PRIOR TO CLOSING OR TERMINATION.**

13.1. Seller's Covenants. Seller covenants and agrees with Buyer that after the date hereof until the Closing or termination of this Agreement, Seller shall conduct its business involving the Property as follows:

(a) Seller shall not transfer title to any of the Property or create on the Property any easements or mortgages which will survive Closing.

(b) Seller shall not enter into any lease, option, purchase agreement, right of first refusal or other agreement affecting the Property or the operation, possession, use or control thereof.

(c) Without the prior written consent of Buyer, Seller shall refrain from entering into or amending any other contracts or agreements pertaining to the Property, other than contracts or other agreements entered into in the ordinary course of business.

## **14. DEFAULTS AND REMEDIES.**

14.1. Seller Default. In the event that Seller, on or prior to the Closing Date, shall default in the performance of its obligations hereunder, Buyer, as its sole and exclusive remedy, may either (a) seek specific performance of Seller's obligations hereunder, provided that any suit for specific performance must be brought within thirty (30) days after Seller's default, failing which, Buyer shall be deemed to have waived its right to specific performance to the maximum extent permitted by law, or (b) terminate this Agreement and receive a refund of the Earnest Money, whereupon

neither party shall have any further obligation to the other party hereunder. Seller shall not be liable to Buyer for any punitive, speculative or consequential damages. The provisions of this Section shall not limit Buyer's or Seller's right to pursue and recover on a claim with respect to any of the Obligations Surviving Termination. As a condition precedent to any suit for specific performance, Buyer must have tendered all of its deliveries on or before the Closing Date, with the exception of the delivery of the Purchase Price. Buyer hereby waives any other rights or remedies, including, without limitation, the right to seek money damages, except as expressly provided in this section. Buyer agrees not to file a lis pendens or other similar notice against the Property at any time or for any reason, except only in connection with, and after the filing of, a suit for specific performance.

14.2. Buyer Default. In the event that Buyer, on or prior to the Closing Date, shall default in the performance of its obligations under this Agreement or the License Agreement, then Seller, as its sole and exclusive remedy, may terminate this Agreement by notifying Buyer thereof and receive and retain the Earnest Money as liquidated damages, provided that this provision shall not limit Seller's or Buyer's rights to pursue and recover on a claim with respect to any of the Obligations Surviving Termination. Buyer shall not be liable to Seller for punitive, speculative or consequential damages. In the event Seller is entitled to the Earnest Money as liquidated damages, and to the extent Seller has not already received such funds, such funds shall be immediately paid to Seller by the Title Company upon receipt of written notice from Seller that Buyer has defaulted under this Agreement, and Buyer agrees to take all such actions and execute and deliver all such documents necessary or appropriate to effect such payment.

14.3. Attorneys' Fees and Costs. In the event legal action is instituted to interpret or enforce the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable costs and attorney's fees, including, without limitation, all costs and fees that are incurred in any trial, on any appeal and/or in any bankruptcy proceeding. For purposes of this Agreement, "prevailing party" shall include a party obtaining substantially the relief sought, whether by compromise, settlement or otherwise.

## **15. MISCELLANEOUS.**

15.1. Entire Agreement; Amendments. This Agreement, together with the exhibits attached hereto, constitute the entire agreement of the parties hereto regarding the purchase and sale of the Property, and all prior agreements, understandings, representations and statements, oral or written, including any so-called term sheets and letters of intent, are hereby merged herein and superseded hereby. This Agreement may only be amended or modified by an instrument in writing, signed by the party or parties intended to be bound thereby.

15.2. TIME OF THE ESSENCE. ALL PARTIES HERETO AGREE THAT TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THE PROVISIONS OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE PARTIES' RESPECTIVE OBLIGATIONS TO CLOSE ON THE CLOSING DATE.

15.3. Counterpart/Electronic Delivery. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Furthermore, executed counterparts of this Agreement may be delivered by facsimile or other reliable electronic means (including emails of pdf documents), and such facsimile or other electronic transmission shall be valid and binding for all purposes when transmitted to and actually received by the other party.

15.4. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State of Indiana and for all purposes shall be governed by and interpreted in accordance with the laws of such State without reference to conflicts of law principles or rules.

15.5. Recordation. Buyer shall not record this Agreement or a memorandum or other notice thereof in any public office or records without the express written consent of Seller except as may be required by law in connection with the filing of a suit for specific performance permitted by this Agreement. A breach by Buyer of this covenant shall constitute a material default by Buyer under this Agreement.

15.6. Assignment; Third Party Beneficiaries. Buyer shall not assign this Agreement without Seller's prior written consent, which consent may be withheld for any reason or no reason in Seller's sole discretion; provided, however, that, upon five (5) business days' prior written notice to Seller, Buyer, at Closing, may assign this Agreement to any entity owned or controlled by Buyer. In the event of an assignment to such entity, such entity shall take title to all of the Property, and Buyer shall be jointly and severally liable for Buyer's obligations hereunder. Subject to the previous sentence, this Agreement shall inure to the benefit of and be binding on and enforceable against the parties hereto and their respective successors and assigns. This Agreement is intended for the benefit of Buyer and Seller, and except as provided in the indemnity granted by Buyer under Section 3.2, with respect to the Indemnified Parties described therein, no other person or entity shall be entitled to rely on this Agreement, receive any benefit from it or enforce any provisions of it against Buyer or Seller.

15.7. Section Headings. The Section headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several Sections hereof.

15.8. Severability. If any portion of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

15.9. Waiver of Trial by Jury. SELLER AND BUYER, TO THE EXTENT THEY MAY LEGALLY DO SO, HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT, OR IN ANY WAY CONNECTED WITH, OR RELATED TO, OR INCIDENTAL TO, THE DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS AGREEMENT OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND IRRESPECTIVE OF WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE EXTENT THEY MAY LEGALLY DO SO, SELLER AND BUYER HEREBY AGREE THAT ANY SUCH CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE OTHER PARTY OR PARTIES HERETO TO WAIVER OF ITS OR THEIR RIGHT TO TRIAL BY JURY.

15.10. Exculpation of Related Parties. Notwithstanding anything to the contrary contained in this Agreement or in any of the documents executed pursuant to this Agreement (this Agreement

and said documents being hereinafter collectively referred to as the “**Documents**”) or provided under or required by law, the Documents shall not be binding on the direct or indirect officers, directors, trustees or managers of Seller or Buyer, or any of their respective employees, advisors, representatives or other agents or affiliates, but shall only be binding on Seller and Buyer and their respective assets, subject to the other limitations set forth herein.

15.11. Independent Counsel; Interpretation. Buyer and Seller each acknowledge that: (a) they have been represented by independent counsel in connection with this Agreement; (b) they have executed this Agreement with the advice of such counsel; and (c) this Agreement is the result of arms length negotiations between the parties hereto and the advice and assistance of their respective counsel. Notwithstanding any rule of law to the contrary: (i) the fact that this Agreement was prepared by Seller’s counsel as a matter of convenience shall have no import or significance, and any uncertainty or ambiguity in this Agreement shall not be construed against Seller because Seller’s counsel prepared this Agreement; and (ii) no deletions from prior drafts of this Agreement shall be construed to create the opposite intent of the deleted provisions.

15.12. No Waiver. No covenant, term or condition of this Agreement, other than as expressly set forth herein, shall be deemed to have been waived by Seller or Buyer unless such waiver is in writing and executed by Seller or Buyer, as the case may be.

15.13. Survival. The Obligations Surviving Termination shall survive any termination of this Agreement. Except as otherwise expressly provided herein, the representations, warranties, covenants, agreements or other obligations of Buyer or Seller in this Agreement shall not survive the Closing, and no action based thereon shall be commenced after such date.

15.14. Single Unified Transaction. Notwithstanding anything else set forth herein that might appear to be to the contrary, under no circumstances whatsoever may either Seller or Buyer compel the other to consummate the transactions described herein with respect to less than all of the Property. The parties mutually acknowledge and agree that this Agreement is not intended to have any conditions or other provisions that would permit either party to partially terminate this Agreement with respect to only part of the Property. Accordingly, either all of the Property or none of the Property must be transferred at the Closing.

15.15. No Partnership. Nothing contained herein shall be deemed or construed to constitute Buyer as a partner, joint venturer, coprincipal or associate of Seller, or of any person claiming by, through or under Seller, in the conduct of their respective businesses.

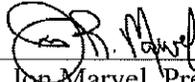
**[Signature page follows.]**

**SIGNATURE PAGE TO PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the Effective Date.

**BUYER:**

VIGO COUNTY CAPITAL IMPROVEMENT  
BOARD OF MANAGERS

By:  \_\_\_\_\_  
Jon Marvel, President

ATTEST:

By:  \_\_\_\_\_  
Mayor Duke Bennett, Secretary

**SELLER:**

VIGO COUNTY SCHOOL CORPORATION, an  
Indiana public school corporation, which is a  
subdivision of the State of Indiana

By: \_\_\_\_\_  
Joseph Irwin, III, President

ATTEST:

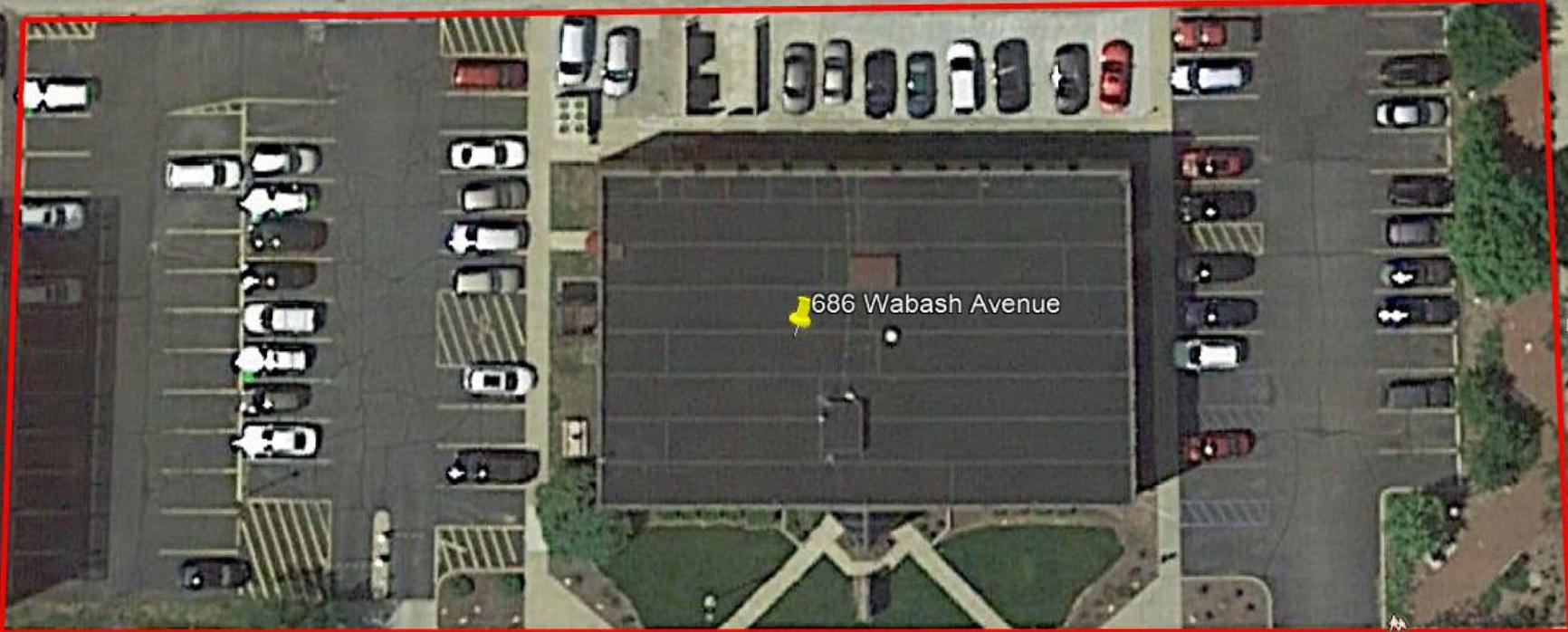
By: \_\_\_\_\_  
Jackie Lower, Secretary

**EXHIBIT A**

**DEPICTION OF PROPERTY AND  
IDENTIFICATION OF PARKING LOTS A, B and C**

[See attached]

EXHIBIT "A"



686 Wabash Avenue

**EXHIBIT B**

**FORM OF DEED**

**LIMITED WARRANTY DEED**

THIS INDENTURE WITNESSETH that \_\_\_\_\_ (“**Grantor**”), for and in consideration of TEN AND 00/100 DOLLARS and other good and valuable consideration, hereby BARGAINS, SELLS and TRANSFERS to \_\_\_\_\_ (“**Grantee**”), the following described real estate located in \_\_\_\_\_ County, Indiana (the “**Real Estate**”):

[INSERT LEGAL DESCRIPTION]

Subject to (1) all real estate taxes and assessments due and payable after the date hereof, which Grantee by its acceptance hereof agrees to pay, (2) all easements, covenants, conditions, restrictions and other matters of record, (3) all matters that would be disclosed by an accurate survey and inspection of the Real Estate, and (4) all existing laws and other governmental requirements. Except for matters set forth above, Grantor covenants with Grantee to warrant and defend title to the Real Estate against the lawful claims of all persons claiming by, through or under Grantor, but against none other.



**EXHIBIT C**

**FORM OF LEASE**

**LEASE AGREEMENT**

THIS LEASE, is executed as of the \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the **VIGO COUNTY CAPITAL IMPROVEMENT BOARD OF MANAGERS** (“**Landlord**”), an Indiana political subdivision, and **VIGO COUNTY SCHOOL CORPORATION**, an Indiana public school corporation, which is a subdivision of the State of Indiana (“**Tenant**”).

**WITNESSETH:**

1. **Leased Premises.** Landlord hereby leases and demises to Tenant and Tenant agrees to lease from Landlord the building located at 686 Wabash Avenue, Terre Haute, Indiana 47807 and more particularly described in the attached Exhibit A, incorporated herein by reference (the “**Leased Premises**”). Landlord acknowledges and agrees that throughout the Lease Term, Tenant shall have exclusive use of the four (4) reserved parking spaces identified on Exhibit B attached hereto and shall have northside access to the building, along with use of such access drives, sidewalks and other common areas and improvements necessary for the use and enjoyment of the Leased Premises. In addition, Landlord shall make available to Tenant for its sole and exclusive use throughout the Lease Term, fifty (50) parking spaces (the “**Substitute Parking Spaces**”), which may be used by Tenant and/or its invitees, officers and employees. The Substitute Parking Spaces shall be located at the Sky Garden Parking Garage located at 62 Ohio Street, Terre Haute, Indiana. Landlord may also fulfill all or any portion of the requirements for Substitute Parking Spaces by granting access to Tenant to designated spaces in the parking lots adjacent to the Leased Premises reasonably acceptable to Tenant on a space-for-space basis.

Tenant has personally inspected the Leased Premises and accepts the same “as is” without representation or warranty by Landlord of any kind and with the understanding that Landlord shall have no responsibility with respect thereto except as expressly set forth herein.

2. **Term.** The term of this Lease (the “**Lease Term**”) shall commence on the date hereof (the “**Commencement Date**”), and expire September 30, 2021 (the “**Expiration Date**”), unless sooner terminated in accordance with this Lease.

3. **Rent.** As provided in the Purchase Agreement dated \_\_\_\_\_, 2020 by and between Landlord and Tenant and pursuant to which Tenant sold the Leased Premises to Landlord, the parties agree that there shall be no annual rent or monthly rent (together “**Minimum Rent**”) paid by Tenant to Landlord during the term of this Lease except as otherwise provided herein.

4. **Additional Rent.** Tenant agrees to pay as “**Additional Rent**” all costs, charges and expenses paid or incurred during the Lease Term for Real Estate Taxes, Insurance Premiums and Operating Expenses for or attributable to the Leased Premises as required herein.

As used herein, the term “**Real Estate Taxes**” shall mean real estate taxes with respect to the Leased Premises by any authority having the direct or indirect power to tax, including any city, state or federal government or any school, agricultural, sanitary, fire, street, drainage or other

improvement district thereof, or against Landlord's business of leasing the Leased Premises. If the Leased Premises are not separately assessed, then Tenant's liability shall be an equitable proportion of the Real Estate Taxes for all of the land and improvements included within the tax parcel assessed, based upon the respective valuations assigned in Assessor's worksheets or such other information as may be reasonably available.

As used herein, the term "**Insurance Premiums**" shall include premiums for all insurance required to be obtained or maintained by Tenant in respect of the Leased Premises as set forth in Sections 12 and 14 of this Lease.

As used herein, the term "**Operating Expenses**" shall include, without limitation, all expenses for operation, repair, replacement and maintenance of the Leased Premises in accordance with the terms and conditions of this Lease incurred by Tenant.

To the extent that the Lease Term includes any partial calendar years, the Additional Rent included in this section shall be prorated based upon the number of days in such calendar year included within the Lease Term divided by 360.

In the event Tenant fails to pay all such Real Estate Taxes, Insurance Premiums and Operating Expenses in a timely fashion, Landlord shall have the right, but not the responsibility, to make such payment and to charge the same to Tenant for prompt payment thereafter.

With respect to the payment of any taxes or assessment, or the cost of compliance with any statute, regulation or ordinance, Tenant shall have the right at its own expense to in good faith contest the amount of such taxes or assessment or the necessity or manner of compliance with such regulation, statute or ordinance in any administrative or court proceeding, provided that Tenant saves Landlord harmless from any tax, interest, penalties or costs connected therewith by appropriate surety bond or other assurance reasonably satisfactory to Landlord and its mortgagee.

5. Use of Leased Premises. The Leased Premises are to be used by Tenant in a manner consistent with its current uses and any uses incidental thereto.

6. Maintenance and Repairs. During the term of this Lease, Tenant shall, at its own cost and expense, maintain in such condition and repair as desired by Tenant in its sole and absolute discretion, the entire Leased Premises, including the performance of janitorial services, trash removal and all internal and external building maintenance and repairs (but excluding any maintenance and repairs with respect to any parking lots or other exterior improvements and facilities serving the Leased Premises). Landlord shall have no responsibility for the maintenance, repair or replacement of any part of the Leased Premises. Notwithstanding anything to the contrary contained herein, Landlord acknowledges and agrees that Landlord intends to demolish the Leased Premises following the expiration of the term of this Lease and therefore, Tenant may elect not to maintain the Leased Premises or make any necessary repair or replacement thereto; provided that, Tenant shall be responsible for compliance with all local ordinances, codes, regulations and statutes pertaining to health and safety, building codes and similar orders of government authorities pertaining to the maintenance and condition of the Leased Premises to the extent required for Tenant's then operations in the Leased Premises, if any. Notwithstanding anything to the contrary herein, Landlord shall be responsible for maintaining in good condition and repair any and all

parking spaces (including reasonable snow and ice removal) and other common areas that may be used by Tenant pursuant to this Lease.

7. Assignment and Sublease. Tenant shall not assign (including any collateral assignment) this Lease in whole or in part or sublet the Leased Premises in whole or in part without the prior written consent of Landlord. In the event Landlord consents, or is not required to so consent, to such assignment or subletting, Tenant shall nevertheless remain fully and primarily liable to perform all of the covenants and conditions contained in this Lease, including but not limited to payment of Minimum Rent and Additional Rent as provided herein. The acceptance of rent from any other person or entity shall not be deemed to be a waiver of any of the provisions of this Lease or consent to the assignment of this Lease or the subletting of the Leased Premises.

Notwithstanding anything contained herein to the contrary, Tenant shall be entitled, without Landlord's consent, to sublet any part of the Leased Premises to the Vigo County School Corporation Foundation.

8. Default and Remedy.

(a) The occurrence of any of the following shall be deemed an "Event of Default":

(i) Failure to pay the Minimum Rent as herein provided when due;

(ii) Failure to pay any Additional Rent, costs or expenses as may be provided in this Lease when due;

(iii) Failure to perform any act to be performed by Tenant hereunder or to comply with any condition or covenant contained herein;

(iv) The abandonment of the Leased Premises by Tenant for a period of ten (10) days or more or Tenant's adjudication as a bankrupt; the making by Tenant of a general assignment for the benefit of creditors; Tenant's taking the benefit of any insolvency action or law; the appointment of a permanent receiver or trustee in bankruptcy for Tenant or its assets; the appointment of a temporary receiver for Tenant or its assets if such temporary receivership has not been vacated or set aside within thirty (30) days from the date of such appointment; the initiation of an arrangement or similar proceeding for the benefit of creditors by or against Tenant; or dissolution or other termination of Tenant's corporate charter.

(b) Upon the occurrence of any Event of Default as defined above, and the continuance of such a default for ten (10) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than ten (10) days are reasonably required to cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within such ten (10) day period and thereafter diligently prosecutes such cure to completion; and further provided that Landlord shall not be required to give such ten (10) days' notice more than two (2) times during any twelve (12) month period. At any time thereafter, either with or without notice or demand, Landlord may:

(i) Terminate Tenant's rights hereunder without terminating Tenant's obligations hereunder;

(ii) Re-enter the Leased Premises with or without process of law, using such means as may be necessary to remove all persons and property therefrom;

(iii) Remove all Tenant's personal property from the Leased Premises and dispose of the same immediately, applying the net proceeds to the amounts owed to Landlord; and/or

(iv) Exercise any other right or remedy available to Landlord at law or in equity in addition or as an alternative to Landlord's other rights and remedies specified herein.

If Landlord re-enters the Leased Premises as a result of occurrence of an Event of Default, Landlord shall be under no duty whatsoever to attempt to relet the Leased Premises or otherwise to mitigate its damages resulting from occurrence of such Event of Default unless and until all other rentable space in the vicinity of the Leased Premises owned by Landlord and not being used by Landlord for its own use, is leased and occupied. If Landlord relets the Leased Premises or some portion thereof during the balance of the Lease Term, the proceeds of such reletting, after deduction of all costs in connection with repossession and reletting of the Leased Premises (including, without limitation, all attorneys' fees, leasing commissions, remodeling costs and similar expenses), shall be applied to satisfaction of Tenant's obligations hereunder. Landlord shall have the right at any time to file suit to recover any sums that have fallen due hereunder from time to time on one or more occasions without being obligated to wait until expiration of the Lease Term, including, but not limited to, past due Rental, interest, delinquency service charges, advances and attorneys' fees. Landlord shall also be entitled immediately to recover as damages from Tenant a sum of money equal to the total of the cost of recovering possession of the Leased Premises, the unpaid Rental owed at the time of such termination or repossession, the balance of Rental for the remainder of the Lease Term less the fair market rental value of the Leased Premises for such period, and any other sum of money or damages owed by Tenant to Landlord.

The failure of Landlord to exercise any option herein provided on account of any default shall not constitute a waiver of the same or any subsequent default, and no waiver of any condition or covenant of this Lease shall be deemed to constitute a waiver of any default for the same or any other condition or covenant. No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy provided herein or by law, but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute.

9. Alterations. Tenant shall not make or permit alterations or additions to or upon any part of the Leased Premises or the improvements located on the Leased Premises without first obtaining the written consent of Landlord which shall not be unreasonably withheld or delayed. Tenant shall at its sole expense and cost, ensure that all permitted alterations and additions which are made or necessitated thereby (whether inside or outside the Leased Premises) shall be made in accordance with all applicable laws, rules, codes, ordinances and regulations in a good and workmanlike manner and in quality equal to or better than the original construction of the Leased Premises, and Tenant shall comply with such requirements as Landlord considers necessary or desirable. Tenant shall promptly pay all costs attributable to such alterations and additions.

Tenant shall indemnify, defend and save harmless Landlord from all costs, loss or expense incurred in connection with any construction or installation. No person shall be entitled to any lien directly or indirectly derived through or under Tenant or through or by virtue of any act or omission of Tenant upon the Leased Premises for any improvements or fixtures made thereon or installed therein or for or on account of any labor or material furnished to the Leased Premises or for or on account of any matter or thing whatsoever; and nothing in this Lease contained shall be construed to constitute a consent by Landlord to the creation of any lien. In the event any lien is filed against the Leased Premises, or any part thereof, for work claimed to have been done for or material claimed to have been furnished to Tenant, Tenant shall cause such lien to be discharged of record within thirty (30) days after filing by bonding or as provided or required by law or in any other lawful manner. Tenant shall indemnify, defend and save harmless Landlord from all costs, losses, expenses and attorneys' fees incurred in connection with any such lien.

10. Inspection. Landlord or Landlord's agents or invitees shall be permitted to inspect or examine the Leased Premises at any reasonable time upon prior notice to Tenant.

11. Landlord's Right to Mortgage. Tenant agrees at any time, and from time to time, to execute a consent to the assignment of this Lease by Landlord to its mortgagee. Tenant's rights shall be subject and subordinate to any bona fide mortgage now existing upon or hereafter placed upon the Leased Premises by Landlord; provided, however, that if the mortgagee shall take title to the Leased Premises through foreclosure or deed in lieu of foreclosure, Tenant shall be allowed to continue in possession of the Leased Premises as provided for in this Lease so long as Tenant shall not be in default hereunder.

12. Fire and Extended Coverage Insurance.

During the term of this Lease, Tenant shall maintain fire and extended coverage insurance on the Leased Premises with vandalism and malicious mischief, riot and civil commotion, and sprinkler leakage endorsement covering all improvements located on the Leased Premises in an amount equal to the full insurable value thereof on a replacement cost basis in the form of a Causes of Loss – Special Form policy (or the then industry replacement of that policy form). Such policies shall provide for the proceeds from any loss to be payable to Landlord and Tenant, and, at the request of Landlord, to any first mortgagee, as their respective interests may appear. In addition, Tenant shall maintain insurance on all of Tenant's property on the Leased Premises; and, notwithstanding the provisions of Sections 16 and 17 below, Landlord shall not be liable for any damage to Tenant's property, however caused. Tenant hereby expressly waives any right of recovery against Landlord for damage to any property of Tenant located in or about the Leased Premises, however caused.

13. Fire and Other Casualty. In the event of total or partial destruction of the Leased Premises by fire or other casualty, all proceeds from the fire and extended coverage required under Section 12 above shall be paid jointly to Landlord and Tenant, as their respective interests may appear, and Landlord may restore and repair the Leased Premises to the extent Landlord and Tenant reasonably determine necessary for Tenant's continued operation in the Leased Premises; or upon written notice to Landlord, Tenant may terminate and cancel this Lease; whereupon Landlord and Tenant shall be released from their obligations hereunder accruing after the date of termination. In the event of termination of this Lease pursuant to this Section, the proceeds of the foregoing insurance shall be applied: (a) first to the Tenant to cover temporary replacement quarters

acceptable to the Tenant through the Expiration Date as the Tenant reasonably determines is required; and (b) the balance thereof shall become the sole property of Landlord. Upon or prior to the Commencement Date, Tenant shall furnish to Landlord a certificate evidencing the foregoing coverage in a form acceptable to Landlord indicating Landlord as an insured under the foregoing policy. Such policy shall provide primary coverage to Landlord and Tenant.

14. Public Liability and Property Damage Insurance. Tenant shall obtain and pay the premiums for a policy or policies of insurance from companies acceptable to Landlord, shall keep the same in force during the Lease Term and shall furnish to Landlord a certificate thereof (or such other document or duplicate policy evidencing such insurance in a form acceptable to Landlord and any first mortgagee of the Leased Premises), naming Landlord and its officers, directors, employees and agents, and any first mortgagee of the Leased Premises if requested by Landlord, as additional insureds for the following minimum coverages against loss, damage and injury to person and property occurring in, on or about the Leased Premises:

(a) Commercial general liability and property damage insurance in form and substance consistent with Tenant's current coverages and with limits of not less than Three Million Dollars (\$3,000,000), combined single limit including umbrella coverage, for personal injury, including bodily injury and death, and property damage.

(b) Tenant shall insure its fixtures, equipment and tenant improvements.

All insurance policies required under this Lease shall, to the extent available and customarily agreed to by the insurer, contain an agreement by the insurer that the policy shall not terminate, be canceled or amended except upon thirty (30) days prior written notice to Landlord.

15. Eminent Domain. If all or any part of the Leased Premises shall be acquired by the exercise of eminent domain by any public or quasi-public body in such a manner that the Leased Premises shall become unusable by Tenant for the purpose it is then using the Leased Premises, this Lease may be terminated by Tenant by giving written notice to Landlord within fifteen (15) days after possession of the Leased Premises or part thereof is so taken. Tenant shall have no claim against Landlord on account of any such acquisition for the value of any unexpired portion of the Lease Term. All damages awarded shall belong to and be the sole property of Landlord; provided, however, that Tenant shall be entitled to any award expressly made to Tenant by any governmental authority for the cost of or the removal of Tenant's stock, equipment, fixtures and leasehold improvements.

16. Waiver of Subrogation. Landlord and Tenant agree that the insurance policies required hereunder to be maintained and any insurance policies maintained at the election of either party hereto providing coverage with respect to the Leased Premises or the use thereof shall contain a clause whereby each insurer waives its right of subrogation against the other party. Upon request of either party, the other party agrees to furnish evidence of such waiver. To the extent any loss or damage is or could have been insured by the insurance such party is required to maintain hereunder and to the extent necessary to make such waivers of subrogation effective, each party hereto releases the other of all liability for any loss or damage to property.

17. Release and Indemnity.

(a) Release. All of Tenant's trade fixtures, merchandise, inventory, special fire protection equipment, telecommunication and computer equipment, supplemental air conditioning equipment, kitchen equipment and all other personal property in or about the Leased Premises, which is deemed to include the trade fixtures, merchandise, inventory and personal property of others located in or about the Leased Premises or Common Areas at the invitation, direction or acquiescence (express or implied) of Tenant (all of which property shall be referred to herein, collectively, as "**Tenant's Property**"), shall be and remain at Tenant's sole risk. Landlord shall not be liable to Tenant or to any other person for, and Tenant hereby releases Landlord (and its affiliates, property managers and mortgagees) from (a) any and all liability for theft or damage to Tenant's Property, and (b) any and all liability for any injury to Tenant or its employees, agents, contractors, guests and invitees in or about the Leased Premises, the Building or the Common Areas, except to the extent of personal injury and/or property damage caused by the negligence or willful misconduct of Landlord, its agents, employees or contractors. Nothing contained in this Section 17(a) shall limit (or be deemed to limit) the waivers contained in Section 16 above. In the event of any conflict between the provisions of Section 16 and this Section 17(a), the provisions of Section 16 shall prevail. This Section 17(a) shall survive the expiration or earlier termination of this Lease.

(b) Indemnification by Tenant. Tenant shall protect, defend, indemnify and hold Landlord, its agents, employees and contractors of all tiers harmless from and against any and all claims, damages, demands, penalties, costs, liabilities, losses, and expenses (including reasonable attorneys' fees and expenses at the trial and appellate levels) to the extent (a) arising out of or relating to any act, omission, negligence, or willful misconduct of Tenant or Tenant's agents, employees, contractors, customers or invitees in or about the Leased Premises, (b) arising out of or relating to any of Tenant's property, or (c) arising out of any other act or occurrence within the Leased Premises, in all such cases except to the extent of personal injury and/or property damage caused by the negligence or willful misconduct of Landlord, its agents, employees or contractors. Nothing contained in this Section 17(b) shall limit (or be deemed to limit) the waivers contained in Section 16 above. In the event of any conflict between the provisions of Section 16 and this Section 17(b), the provisions of Section 16 shall prevail. This Section 17(b) shall survive the expiration or earlier termination of this Lease.

(c) Indemnification by Landlord. Landlord shall protect, defend, indemnify and hold Tenant, its agents, employees and contractors harmless from and against any and all claims, damages, demands, penalties, costs, liabilities, losses and expenses (including reasonable attorneys' fees and expenses at the trial and appellate levels) to the extent arising out of or relating to any act, omission, negligence or willful misconduct of Landlord or Landlord's agents, employees or contractors and except to the extent any such act or omission is reasonably caused by Tenant's failure to comply with its obligations under this Lease. Nothing contained in this Section 17(c) shall limit (or be deemed to limit) the waivers contained in Section 16 above. In the event of any conflict between the provisions of Section 16 and this Section 17(c), the provisions of Section 16 shall prevail. This Section 17(c) shall survive the expiration or earlier termination of this Lease.

18. Utilities. Tenant shall obtain and pay the costs of all utilities serving the Leased Premises. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service or other service furnished to the Leased Premises; and no such failure or interruption shall entitle Tenant to terminate this Lease or withhold sums due hereunder.

19. Surrender. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Leased Premises, together with all other property affixed to the Leased Premises in its then AS IS condition. Tenant shall be permitted to remove any property of Tenant as Tenant determines, provided that Tenant shall be required to remove any files and records of Tenant that are confidential in nature. All property remaining on the Leased Premises after the expiration or earlier termination of this Lease shall, at Landlord's option, be deemed abandoned and may be removed and disposed of by Landlord without liability to Tenant.

If Tenant shall remain in possession of all or any part of the Leased Premises after the expiration of the Lease Term, then Tenant shall be deemed a tenant of the Leased Premises from month-to-month with the Minimum Rent being increased to Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) per month. Such month to month tenancy shall be terminable by either party upon thirty (30) days prior written notice to the other party. All other terms and conditions of this Lease shall remain in full force and effect during such time Tenant remains in possession of all or any part of the Leased Premises. Anything to the contrary notwithstanding, any holding over by Tenant without Landlord's prior written consent shall constitute a default hereunder and shall be subject to all the remedies set forth in Section 8 of this Lease.

20. Waiver. No waiver of any covenant or condition or the breach of any covenant or condition of this Lease shall be taken to constitute a waiver of any subsequent breach of such covenant or condition nor justify or authorize a non-observance on any other occasion of such covenant or condition or any other covenant or condition; nor shall the acceptance of rent by Landlord at any time when Tenant is in default of any covenant or condition hereof be construed as a waiver of such default or of Landlord's right to terminate this Lease on account of such default.

21. Covenant of Quiet Enjoyment. Tenant shall, at all times during the Lease Term, have the peaceable and quiet enjoyment of possession of the Leased Premises without any manner of hindrance from Landlord or any persons lawfully claiming under Landlord, except as may be provided in Sections 10 and 11 above.

Notice. All notices, demands and communications (a "Notice") under this Agreement shall be delivered or sent by: (a) hand delivery, (b) certified mail, postage prepaid, return receipt requested, (c) nationally recognized overnight carrier, delivered to the address of the intended recipient set forth below or to such other address as either party may designate by notice pursuant to this Article or (d) electronic mail addressed as indicated below (or to such other address as may be designated) with a written copy thereof forwarded by hand delivery, certified mail or overnight carrier.

Notices to Tenant:                      Vigo County School Corporation  
686 Wabash Avenue  
PO Box 3703  
Terre Haute, IN 47807

Attention: Dr. Robert Haworth  
E-mail: Robert.haworth@vigoschools.org

With a copy to: Bose McKinney & Evans LLP  
111 Monument Circle, Suite 2700  
Indianapolis, IN 46204  
Attention: Jonathan L. Mayes  
E-mail: Jmayes@boselaw.com

Notices to Landlord: Vigo County Capital Improvement Board of Managers  
650 S. First Street  
Terre Haute, IN 47807  
Attention: Jon Marvel  
E-mail: Jmarvel841@gmail.com

With a copy to: Kroger Gardis & Regas, LLP  
111 Monument Circle, Suite 900  
Indianapolis, IN 46204  
Attention: Brian C. Bosma  
E-mail: bcb@kgrlaw.com

Notices shall be deemed given: (i) on the date delivered, if sent by hand delivery; (ii) one business day after delivery to the overnight carrier, if sent by nationally recognized overnight carrier; (iii) three (3) business days after being mailed, if sent by certified mail, postage prepaid, return receipt requested; or (iv) on the date delivered, if by e-mail, provided that the transmission is completed no later than 5:00 p.m. Eastern Time on a business day and original of the notice is simultaneously sent by hand delivery, certified mail or overnight carrier. Notices may be sent by counsel for a party and such shall be deemed notice by the party so represented. Notices shall be deemed served as set forth above, even if such notices are rejected or delivery refused by the intended recipient.

All rental payments shall be made to Landlord at the above address. The addresses may be changed from time to time by either party by serving notice as above provided.

22. Benefit of Landlord and Tenant. This Lease and all of the terms and provisions hereof shall inure to the benefit of and be binding upon Landlord and Tenant and their respective heirs, successors, assigns and legal representatives.

23. Governing Law. This Lease shall be governed in accordance with the laws of the State of Indiana.

24. Attorneys' Fees. In the event that either party hereto shall bring legal action against the other party for breach of the terms of this Lease and shall recover a judgment against such party therein, then the prevailing party shall be entitled to reimbursement from the other party for all expenses thus incurred, including reasonable attorneys' fees.

25. Estoppel Certificate. Tenant shall, within ten (10) days following receipt of a request from Landlord, execute, acknowledge and deliver to Landlord, or to any lender, holder of any mortgage, purchaser or prospective lender or purchaser designated by Landlord, a written statement in such form as Landlord may reasonably request certifying (i) that this Lease is in full force and effect and unmodified (or, if modified, stating the nature of such modification); (ii) the date to which the Minimum Rent, Additional Rent, and other charges have been paid; and (iii) that there are not, to Tenant's knowledge, any uncured defaults (or specifying such defaults if any are claimed). Any such statement may be relied upon by any prospective purchaser or mortgagee. Tenant's failure to deliver such statement within such period shall be conclusive upon Tenant that this Lease is in full force and effect and unmodified and that there are no uncured defaults in Landlord's performance hereunder.

26. Force Majeure. Each party shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond Landlord's or Tenant's control, respectively, including, but not limited to, war, invasion or hostility; pandemic, epidemic, or other wide spread health crisis, work stoppages, boycotts, slowdowns or strikes; shortages of materials, equipment, labor or energy; man-made or natural casualties; unusual weather conditions; acts or omissions of governmental or political bodies; or civil disturbances or riots, and the period for the performance of any such obligation shall be extended for the period of such delay.

27. Partial Invalidity. If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid, unenforceable or violate a party's legal rights, then such term, covenant, condition or provision shall be deemed to be null and void and unenforceable; however, all other provisions of this Lease, or the application of such term or provision to persons or circumstances other than those which are held invalid, unenforceable or violative of legal rights, shall not be affected thereby, and each and every other term, condition, covenant and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

28. Entire Agreement. This Lease contains the entire agreement between the parties and no modification of this Lease shall be binding upon the parties unless evidenced by an agreement in writing signed by the Landlord and the Tenant after the date hereof. If there be more than one Tenant named herein, the provisions of this Lease shall be applicable to and binding upon such tenants jointly and severally.

29. Captions. The captions of this Lease are for convenience only and do not in any way limit or amplify the terms and provisions of this Lease.

30. Counterparts. This Lease may be executed in separate counterparts, each of which when so executed shall be an original, but all of such counterparts shall together constitute but one and the same instrument.

**[Signature page follows.]**

**SIGNATURE PAGE TO LEASE AGREEMENT**

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

**LANDLORD:**

VIGO COUNTY CAPITAL IMPROVEMENT  
BOARD OF MANAGERS

By: \_\_\_\_\_  
Jon Marvel, President

ATTEST:

By: \_\_\_\_\_  
Mayor Duke Bennett, Secretary

**TENANT:**

VIGO COUNTY SCHOOL CORPORATION, an  
Indiana public school corporation, which is a  
subdivision of the State of Indiana

By: \_\_\_\_\_  
Joseph Irwin, III, President

ATTEST:

By: \_\_\_\_\_  
Jackie Lower, Secretary

**EXHIBIT A TO LEASE AGREEMENT**

Legal Description of Leased Premises

**EXHIBIT B TO LEASE AGREEMENT**

Illustration of Reserved Parking Spaces

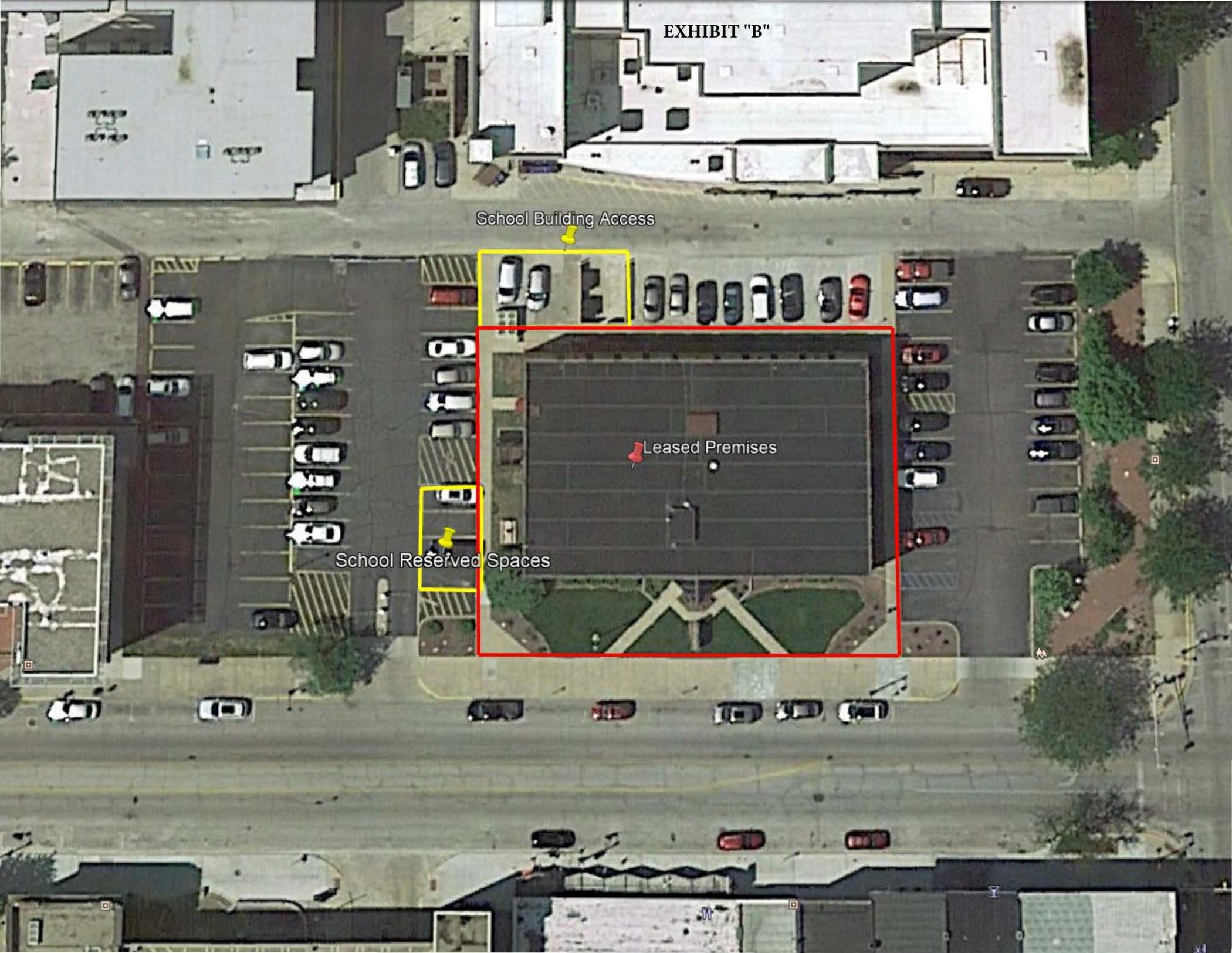
[See attached]

EXHIBIT "B"

School Building Access

Leased Premises

School Reserved Spaces



**EXHIBIT D**  
**LICENSE AGREEMENT**

[See attached]

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this “**Agreement**”) is made as of the 13<sup>th</sup> day of April, 2020 (the “**Effective Date**”) by and between **VIGO COUNTY SCHOOL CORPORATION**, an Indiana public school corporation, which is a subdivision of the State of Indiana (the “**Licensor**”) and **VIGO COUNTY CAPITAL IMPROVEMENT BOARD OF MANAGERS** (the “**Licensee**”).

### RECITALS

**WHEREAS**, Licensor owns that certain real estate currently being utilized as parking lots that is depicted on Exhibit A attached hereto (collectively, the “**Parking Lot**”); and

**WHEREAS**, Licensee and Licensor intend to enter into a Real Estate Purchase Agreement (the “**Purchase Agreement**”), whereby Licensor agrees to sell and Licensee agrees to purchase, certain real estate of which the Parking Lot is a part, upon and subject to the terms and conditions more particularly set forth therein;

**WHEREAS**, Licensee desires to provide the Parking Lot for the parking needs for the personnel and patrons of Hilton Garden Inn located at 700 Wabash Avenue, Terre Haute, Indiana 47807 (the “**Hilton**”) to facilitate the construction of the Vigo County Convention Center by the Licensee.

**WHEREAS**, Licensee has requested and Licensor is willing to grant to Licensee, a license to use the Parking Lot, subject to the terms provided for herein, so long as the Purchase Agreement is entered into within the sixty (60) days of the Effective Date and remains pending thereafter.

NOW, THEREFORE, in consideration of the foregoing, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Substitute Parking Spaces. As a continuing condition to the license granted by Licensor in this Agreement, commencing on the date hereof, Licensee shall make available to Licensor for its sole and exclusive use and at no cost to Licensor, fifty (50) parking spaces (the “**Substitute Parking Spaces**”), which may be used by Licensor and/or its tenants, their customers, invitees, officers and employees. The Substitute Parking Spaces shall be located at the Sky Garden Parking Garage located at 62 Ohio Street, Terre Haute, Indiana. Licensee may also fulfill all or any portion of the requirements for Substitute Parking Spaces by granting access to Licensor to designated spaces in the Parking Lot on a space-for space basis.

2. Scope of License. Provided that Licensee has made the Substitute Parking Spaces available to Licensee, and Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee and Licensee hereby accepts from Licensor a revocable exclusive license to use the Parking Lot solely for the purpose of parking of passenger automobiles, which are owned and/or operated by Licensee’s invitees (including the Hilton) and their respective customers, invitees, officers and employees (the “**Permitted Parties**”). The Permitted Parties shall be entitled to use the Parking Lot for the sole purpose of vehicular access and parking, and pedestrian access to any

such parked vehicles. Notwithstanding anything to the contrary contained in this Agreement, Licensee hereby reserves for its sole use four (4) parking spaces in the Parking Lot, as identified on Exhibit A attached hereto.

3. Term. The term of this Agreement and the license granted hereby shall commence on the Effective Date and shall automatically expire upon the earlier of (i) the date the Purchase Agreement terminates; (ii) the date Substitute Parking Spaces are not available to Licensor for any reason; (iii) sixty (60) days after the Effective Date if the Purchase Agreement has not been approved by Licensor and Licensee.

4. Insurance. Licensee agrees to indemnify, protect, defend and hold Licensor and its directors, officers, partners, members, employees, and agents (collectively the “**Indemnitees**”) harmless from and against all claims, actions, losses, damages, costs, expenses and liabilities (except those caused by the gross negligence or willful misconduct of the Indemnitees) arising out of actual or alleged injury to or death of any person or loss of or damage to property caused by or resulting from the exercise, by the Permitted Parties, of any rights hereunder. To support Licensee’s indemnity obligations hereunder Licensee shall maintain in force commercial general liability insurance as required in the Purchase Agreement and shall name Licensor as an additional insured under such coverage. Licensee shall provide Licensor with evidence of such insurance coverage promptly upon request by Licensor.

5. Alterations or Improvements. Licensee shall not make, nor permit to be made, alterations or improvements to the Parking Lot, unless Licensee obtains the prior written consent of Licensor thereto. If Licensor permits Licensee to make any such alterations or improvements, Licensee shall make the same in accordance with all applicable laws and building codes, in a good and workmanlike manner and in quality equal to or better than the original construction of the Parking Lot and shall comply with such other reasonable requirements of Licensor, including without limitation the provision by Licensor to Licensee with requirements for the manner in which and the times at which such work shall be done and the contractor or subcontractors to be selected to perform such work and the posting and re-posting of notices of Licensor’s non-responsibility for mechanics’ liens. Licensee shall, prior to its contractor(s) commencing any work at the Parking Lot, provide certificates of insurance with customary limits for public construction for each contractor, naming Licensor, its lender (if any), and its property manager as additional insureds. Licensee shall promptly pay all costs attributable to such alterations and improvements and shall indemnify, defend and hold harmless Licensor from and against any mechanics’ liens or other liens or claims filed or asserted as a result thereof and against any costs or expenses which may be incurred as a result of building code violations attributable to such work. Such indemnity obligation shall be deemed to include the payment of reasonable attorneys’ fees and court costs incurred in defending any such lien or claim and shall survive the expiration or earlier termination of this License. Licensee shall promptly repair any damage caused by any such alterations or improvements. Any alterations or improvements to the Parking Lot, shall, at Licensor’s election, either (i) become a part of the realty and the property of Licensor and shall not be removed by Licensee, or (ii) be removed by Licensee upon the expiration or sooner termination hereof and any damage caused thereby repaired at Licensee’s cost and expense. In the event Licensee so fails to remove same, upon ten (10) days’ written notice and failure to cure, Licensor may have same removed and the Parking Lot so repaired at Licensee’s expense. At Licensor’s election, Licensor

and Licensor's architect, engineers or contractors shall have the right to supervise all construction operations within the Parking Lot at Licensor's expense. Licensor and Licensee acknowledge that Licensee intends to construct such improvements on the Parking Lot as is necessary to ensure its dedicated use as provided herein, subject to Licensor's reasonable approvals as provided in this Section.

6. Maintenance. Licensee shall, at its sole cost and expense, maintain the Parking Lot in good condition and repair. Licensee shall also repair any damage that occurs as a result of usage by the Permitted Parties.

7. Compliance with Law. Licensee shall at all times during the term hereof, comply with the orders and regulations of all governmental authorities with respect to zoning, building, fire, health and other codes, regulations, ordinances or laws applicable to the Parking Lot and any use being conducted thereon.

8. Default. It shall be an event of default under this Agreement if Licensee or any of the Permitted Parties (i) creates any public nuisance which has not been cured, to Licensor's reasonable satisfaction, within forty-eight (48) hours of written notice of the same, or (ii) fails to perform fully any obligation or duty of Licensee contained in the this Agreement within a reasonable amount of time (but in no event more than thirty (30) days) following written notice from Licensor of such failure. Upon the occurrence of any event of default on the part of Licensee that is not cured within the time lines set forth above, Licensor may immediately terminate this Agreement. In addition, Licensor shall be entitled to pursue all other remedies available at law or in equity and, if successful, shall be entitled to reimbursement of its costs and reasonable attorney fees from Licensee. Licensor's remedies hereunder shall survive termination or expiration of this Agreement.

9. Assignment. Licensee shall not assign, pledge or otherwise transfer this Agreement. The Parties acknowledge that the Licensee will be entering into an agreement with the Hilton to allow the use of the Parking Lot as provided herein, and that such agreement and use does not constitute a transfer under this Agreement.

10. Notice. Any notice required or permitted to be given or served by either party to this Agreement shall be deemed to have been given or served by either party to this Agreement when made in writing and hand delivered or mailed, by certified or registered mail, addressed as follows:

Notices to Licensor:           Vigo County School Corporation  
686 Wabash Avenue  
PO Box 3703  
Terre Haute, IN 47807  
Attention: Dr. Robert Haworth

With a copy to:               Bose McKinney & Evans LLP  
111 Monument Circle, Suite 2700  
Indianapolis, IN 46204  
Attention: Jonathan L. Mayes

Notices to Licensee: Vigo County Capital Improvement Board of Managers  
650 S. First Street  
Terre Haute, IN 47807  
Attention: Jon Marvel

With a copy to: Kroger Gardis & Regas, LLP  
111 Monument Circle, Suite 900  
Indianapolis, IN 46204  
Attention: Brian C. Bosma

The addresses may be changed from time to time by either party by serving notice as above provided.

11. Recording. Neither this Agreement nor a memorandum of this Agreement may be recorded without Licensor's prior written consent. Licensee acknowledges and agrees that this Agreement is not intended to create an easement, lease or other interest in any real estate notwithstanding any expense that that may be incurred by Licensee in connection with this Agreement.

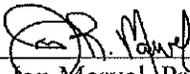
**[Signature page follows.]**

**SIGNATURE PAGE TO LICENSE AGREEMENT**

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

**LICENSEE:**

VIGO COUNTY CAPITAL IMPROVEMENT  
BOARD OF MANAGERS

By:  \_\_\_\_\_  
Jon Marvel, President

ATTEST:

By:  \_\_\_\_\_  
Mayor Duke Bennett, Secretary

**LICENSOR:**

VIGO COUNTY SCHOOL CORPORATION, an  
Indiana public school corporation, which is a  
subdivision of the State of Indiana

By:  \_\_\_\_\_  
Dr. Robert Haworth, Superintendent

**EXHIBIT A TO LICENSE AGREEMENT**

**Depiction of Parking Lot and Identification of Parking Lot and Spaces Reserved for  
Licensor**

[See attached]

EXHIBIT "A"

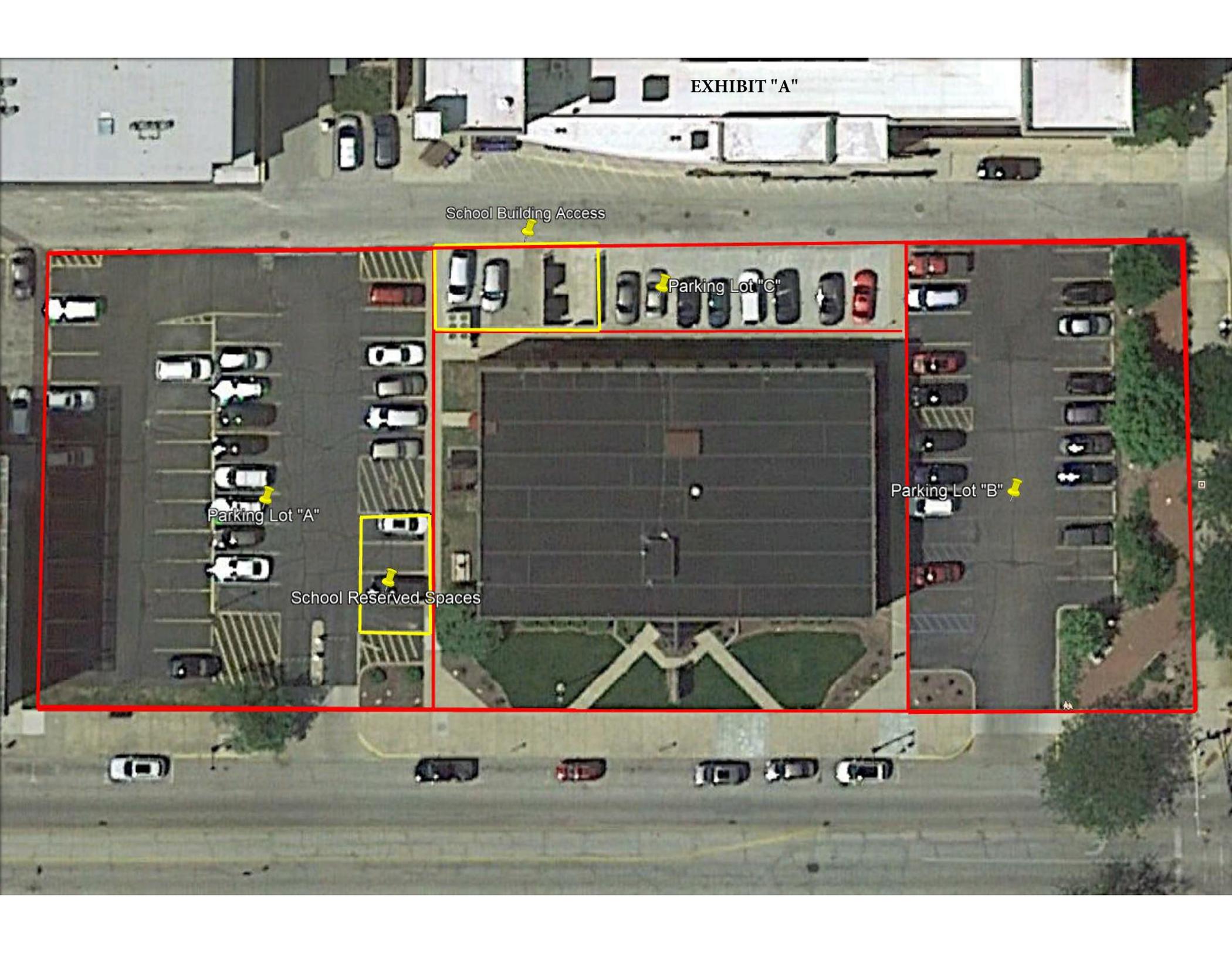
School Building Access

Parking Lot "C"

Parking Lot "A"

School Reserved Spaces

Parking Lot "B"





## **Vigo County Capital Improvement Board**

### **Notice of Special Meeting of the Vigo County Capital Improvement Board of Managers by Remote Participation**

The Vigo County Capital Improvement Board of Managers will hold a special meeting of the Board on Wednesday May 27, 2020 at 9:00 am. Pursuant to State of Indiana Executive Order 20-09 (the "Order"), all members of the Board and staff will be participating in the meeting by telephonic or electronic means. Any votes conducted will be by roll call vote.

In accordance with the Indiana Open Door Law and the Order, media and members of the public are encouraged to observe the meeting electronically by ZOOM® call participation using meeting ID 989 492 4377 and password VigoCIB. Members of the public may also listen to the meeting by dialing 1(929)205-6099 and entering meeting ID 989 492 4377. No public testimony or comments will be taken. The ZOOM® application may be downloaded for free at <https://zoom.us/>.

### **Notice of Executive Session**

Following the Regular Meeting of the Vigo County Capital Improvement Board of Managers at or after 9:30 am an executive session via ZOOM® call may be convened to discuss the following items under the provisions of Ind. Code 5-14-1.5-6.1(b)(2)(D): the purchase or lease of real property. Final action on any matter may only be taken in a public meeting.