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RESOLUTION NO. 01-2023

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF AUBURN, INDIANA APPROVING THE PURCHASE OF THE PNC PARKING LOT LOCATED ON 5TH STREET IN THE CITY OF AUBURN, INDIANA

Summary

This Resolution calls for the City of Auburn to authorize the Mayor of the City of Auburn, Indiana, to negotiate and purchase on behalf of the City of Auburn, Indiana, certain real estate that is now known as the PNC Bank Parking Lot.

The Parcel ID Numbers associated with the real estate are 18-06-28-379-009, 18-06-29-379-012, and 18-29-379-010.

The legal description associated with the real estate is as follows:

Tract I

Beginning at the Southwest Corner of Lot 71 of the Original Plat in the City of Auburn, Indiana, thence North sixty-six feet (66') to the Northwest corner of said Lot 71; thence East eighteen feet one and one-half inches (18' 1 1/2") to a point; thence South sixty-six feet (66') to the South line of said Lot 71; thence West eighteen feet one and one-half inches (18' 1 1/2") to the place of beginning.

Tract II

A part of Lot numbered Twenty-five (25) in the Original Plat of the Town, now City of Auburn, Indiana, bounded by a line commencing at the Southeast corner of said lot and running thence North on the East line of said lot 66 feet; thence West on a line parallel with the South line of said lot 44 feet; thence South on a line parallel with the East line of said lot 66 feet to the South line thereof; thence East on the South line thereof 44 feet to the place of beginning, all in DeKalb County, Indiana.

Tract III

Lot 71 in Original Plat in the City of Auburn, Indiana, EXCEPT the East sixty (60) feet thereof, ALSO EXCEPTING, Beginning at the Southwest Corner of Lot 71 of the Original Plat in the City of Auburn, Indiana, thence North sixty-six feet (66') to the Northwest corner of said Lot 71; thence East eighteen feet one and one-half inches (18' 1 1/2") to a point; thence South sixty-six feet (66') to the South line of said Lot 71; thence West eighteen feet one and one-half inches (18' 1 1/2") to the place of beginning.

The above-described real estate hereinafter referred to as the following described real estate as determined by James L. Russell, Registered Indiana Land Surveyor No. 11679, certified to November 15, 1995: Lot #71 of the O.P. of Auburn, except the East sixty (60) feet and excepting the West 18.12 feet of said Lot, as same as Plat Book 3, page 132.

RESOLUTION NO. 01-2023

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INDIANA APPROVING THE PURCHASE OF THE PNC PARKING LOT LOCATED
ON 5TH STREET IN THE CITY OF AUBURN, INDIANA**

WHEREAS, the Common Council for the City of Auburn, Indiana (“Council”) has the power to purchase real property for the benefit of the City of Auburn, Indiana (“City”); and

WHEREAS, Indiana Code 36-1-10.5-5, et. seq, provides authority to the Council to purchase or acquire property for the benefit of the City; and

WHEREAS, the City desires to redevelop and expand the scope of the City of Auburn, Indiana, including providing for parking in the City and specifically in the downtown area of the City and to assist in providing more off-street parking within downtown for businesses and merchants in the area of the City of Auburn, Indiana; and

WHEREAS, pursuant to Indiana Code, the City has obtained two (2) appraisals for the subject property. One is in the amount of One Hundred Thirty Thousand (\$130,000.00) and the second appraisal is for One Hundred Eighty-eight Thousand (\$188,000.00). The average of the two (2) appraisals is One Hundred Fifty-Nine Thousand and 00/100 Dollars (\$159,000.00); and

WHEREAS, the funds to purchase the real estate are budgeted and available for the purchase; and

WHEREAS, the purchase will complete a continuous number of parcels that will allow for the development of a large parking lot for use on 5th street between Main and Jackson Street in the City of Auburn; and

WHEREAS, the acquisition of the real property parcel numbers 18-06-28-379-009, 18-06-29-379-012, and 18-29-379-010 and legally described as follows is necessary for the completion of the above-referenced project.

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The above-described real estate hereinafter referred to as the following described real estate as determined by James L. Russell, Registered Indiana Land Surveyor No. 11679, certified to November 15, 1995:

Lot #71 of the O.P. of Auburn, except the East sixty (60) feet and excepting the West 18.12 feet of said Lot, as same as Plat Book 3, page 132.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE
CITY OF AUBURN, INDIANA, AS FOLLOWS:**

1. The Council, after reviewing the two (2) appraisals for the real property, approves the above-referenced purchase for the average amount of the two appraisals in the amount of One-Hundred Fifty-nine Thousand and 00/100 Dollars (\$159,000.00).
2. The Council declares that the offer to purchase will be within the parameters of fair market value.
3. The Council has received and reviewed two (2) appraisals of the property referenced herein; and

4. The Council hereby declares that the City will maintain the appraisals in the offices at City Hall for five (5) years.

BE IT FURTHER RESOLVED that the City of Auburn Common Council herein authorizes the Mayor of the City of Auburn, Indiana, to offer and negotiate a purchase agreement consistent with this Resolution and the attached Exhibit “A” and to execute all other necessary documents required in the negotiation and acquisition of said real estate.

PASSED AND ADOPTED by the Common Council of the City of Auburn, Indiana, this ____ day of _____, 2023.

James Finchum, Councilmember

ATTEST:

Patricia M. Miller, Clerk-Treasurer

Presented by me to the Mayor of the City of Auburn, Indiana, this ____ day of _____, 2023

PATRICIA M. MILLER
Clerk-Treasurer

APPROVED AND SIGNED by me this ____ day of _____, 2023.

MICHAEL D. LEY, Mayor

VOTING:

AYE

NAY

Natalie DeWitt, President

James Finchum

Dennis Ketzenberger

Kevin Webb

Dennis K Kruse II

David Bundy

Michael Walter

PNC BANK, NATIONAL ASSOCIATION

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("Agreement"), made as of the ____ day of _____, 2023, (the "Effective Date"), between **PNC BANK, NATIONAL ASSOCIATION**, a national banking association and successor to The Auburn State Bank ("Seller"), having an office c/o PNC Realty Services, The Tower at PNC Plaza - 22nd Floor, 300 Fifth Avenue, Mail Stop: PT-PTWR-22-1, Pittsburgh, PA 15222-2401 and **THE CITY OF AUBURN, INDIANA**, a municipal city ("Purchaser"), having an office at 210 E. 9th Street, P.O. Box 506, Auburn, IN 46706. This Agreement is effective upon the delivery to both parties of a fully signed Agreement ("Effective Date").

WITNESSETH:

WHEREAS, Seller or its affiliate is the owner of the three (3) parcels of vacant ground ("Land") located on the North side of 5th Street between Main Street and Jackson Street in Union Township, City of Auburn, County of DeKalb, State of Indiana, Tax Parcel Numbers 17-06-29-379-009.000-025; 17-06-29-379-012.000-025; and 17-06-29-379-010.000-025, more particularly described on Exhibit A hereto and made a part hereof, and all buildings and improvements, if any ("Improvements"), located on the Land (the Improvements, together with the Land, and the items described in paragraph 1(b), being hereinafter collectively referred to as the "Premises"); and

WHEREAS, Seller desires to sell the Premises to Purchaser and Purchaser desires to purchase the Premises from Seller upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Sale and Purchase.

(a) Seller agrees to sell or cause to be sold to Purchaser, and Purchaser agrees to purchase from Seller, the Premises. The Premises does not include any signage, logos, or other proprietary property of Seller.

(b) The sale and purchase shall include all right, title, and interest of Seller in and to:

(i) All easements, rights-of-way, privileges, appurtenances, and other rights, if any, pertaining to the Premises; and

(ii) All of the articles of personal property located at the Premises on the Closing Date in its "as-is" "where-is" condition on the Closing Date (as hereinafter defined in Article 4).

(iii) Subject, however, to the terms of the Post-Closing Lease.

2. Purchase Price.

(a) The purchase price ("Purchase Price") payable by Purchaser for the sale of the Premises shall be the sum of ONE HUNDRED FIFTY-NINE THOUSAND and 00/100's DOLLARS (\$159,000.00) subject to adjustments and prorations as hereinafter provided, payable as follows:

3. Title.

(a) The Premises shall be conveyed subject to, and Purchaser hereby approves the matters set forth on Exhibit B hereto and made a part hereof; and

(b) Upon execution hereof by all parties, Purchaser shall order and promptly deliver, when received, to Seller a copy of a commitment (the "Title Commitment") to issue an ALTA 2006 owner's title insurance policy issued by a nationally recognized title insurance company reasonably acceptable to Seller ("Title Company"), reflecting the status of title to the Premises. Purchaser shall be solely responsible for the costs of obtaining such Title Commitment and for the cost of obtaining any owner's title policy and any lender's title policy, as well as all title endorsements. Purchaser shall be responsible for the cost of any survey of the Premises desired by Purchaser or required for the purchase ("Survey"); provided, however, in the event Purchaser obtains a Survey, it shall be certified to the Seller.

(c) Purchaser shall have until the date which is five (5) days after receipt of the Title Commitment to notify Seller in writing of any reasonable objection which Purchaser may have to any exception reported in the Title Commitment and which is not a Permitted Encumbrance and to any matter shown on the Survey (together, a "Title Objection"). If Purchaser fails to make a Title Objection by such date, all items shown on the Title Commitment and Survey shall be deemed to be Permitted Encumbrances and Purchaser shall take title to the Premises subject thereto. Any objections with respect to the form of the Title Commitment, notes thereto, and standard exceptions shall be resolved between Purchaser and the Title Company; provided, however, that Seller shall provide its form documents to the Title Company if requested to do so by the Purchaser, to resolve standard exceptions to title.

(d) Seller may, at its sole option, undertake to eliminate any matter which has resulted in a Title Objection. If Seller elects to eliminate (or attempt to eliminate) any such matter, Seller may extend the Closing Date for an additional reasonable period of time, which period shall not exceed thirty (30) days from the then existing Closing Date. If Seller is unable or does not desire to eliminate any one or more of such Title Objections, or if Seller has extended the Closing Date to correct a Title Objection and is unable to do so, then Seller shall so notify Purchaser. Upon receipt of such notice, Purchaser shall have the option to either waive such matters in writing (such matters thereafter being deemed to be Permitted Encumbrances) and consummate the transaction contemplated herein or terminate this Agreement at any time within ten (10) business days after receipt of Seller's notice. If no election to terminate is made in writing by Purchaser within such ten (10) day period, Purchaser shall be deemed to have waived all Title Objections and shall take title to the Premises subject thereto. Purchaser's failure to notify Seller of any title defects to which it objects within the time period provided in this Article shall constitute an agreement by Purchaser that the encumbrances and matters identified in the Title Commitment, Survey and Exhibit B hereto and to which Purchaser does not object are permitted and shall automatically be deemed to be Permitted Encumbrances.

(e) In the event of termination under this Article, this Agreement shall be deemed to be terminated, and the parties hereto shall have no further obligations to or recourse against each other with regard to the matters provided for in this Agreement, except for rights and obligations which expressly survive the termination hereof.

(f) If Purchaser desires to use a legal description in the Deed (as hereinafter defined) which differs from that set forth in Seller's vesting deed, Purchaser may use the legal description prepared by Purchaser's surveyor, provided (a) such survey is prepared by a surveyor licensed in the State in which the Premises are located; (b) the legal description and survey are subject to the reasonable approval of Seller; and (c) the survey is certified to Seller and signed by the surveyor, with an original thereof to be provided to Seller. Any survey of the Premises desired by Purchaser shall be the responsibility of Purchaser, at Purchaser's sole cost and expense.

(g) Notwithstanding the foregoing or anything in this Agreement to the contrary, in the event Purchaser elects not to obtain an owner's title policy from the Title Company on the Closing Date, Seller shall deliver, and Purchaser shall accept, a quit claim deed for the Premises, without representation or warranty of any kind, in lieu of the Deed described in Article 9(a) of this Agreement.

4. Closing Date. The closing of the transactions contemplated hereby ("Closing") shall take place in escrow with the Title Company or at such office as may be reasonably designated by mutual agreement of Purchaser and Seller. The date of the Closing ("Closing Date") shall be on or before March 1, 2023, subject to postponement by Seller through its election to utilize a cure period as provided in Article 3 and/or Article 11 hereof. Possession of the Premises shall be delivered to Purchaser immediately upon completion of the Closing; subject, however, to the terms of the Post-Closing Lease.

5. Time of Essence. TIME SHALL BE OF THE ESSENCE IN THE PAYMENT OF ALL SUMS, PERFORMANCE OF ALL OBLIGATIONS, GIVING OF ALL NOTICES AND THE EXERCISE OF ALL RIGHTS UNDER THIS AGREEMENT.

6. Representations and Warranties of Seller.

(a) Seller represents, warrants, and agrees that:

(i) Seller is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America;

(ii) To the best of Seller's knowledge, Seller has not received any written notice from any governmental body having jurisdiction asserting the existence of any violations of any applicable building, safety, fire, or health laws with respect to the Premises;

(iii) To the best of Seller's knowledge, there are no third-party service, maintenance or similar contracts related to the ownership, operation, maintenance or management of the Premises other than those which may be terminated without penalty, and which Seller shall terminate in connection with the Closing provided that at Tenant's election such third-party service, maintenance or similar contracts shall remain in effect during the Post Closing Lease and assumed by Purchaser;

(b) For the purposes of the representations and warranties of Seller set forth in this Agreement, the words "to the best of Seller's knowledge" shall be limited to being the actual knowledge and information without any inquiry or investigation or any duty to do so (as distinguished from, and to exclude, what is exclusively constructive knowledge or receipt of constructive notice) of the employees of Seller who are responsible for the current management and operation of the Premises and shall not include any information which Seller or its agents, counsel, directors, officers or employees, management companies or leasing agents, as a reasonably prudent person, should reasonably have known, and shall expressly exclude any state of facts or matters of which Purchaser has knowledge as of the Closing Date. The representations and warranties of Seller do not survive the Closing.

7. Affirmative and Negative Covenants of Seller.

(a) Seller shall, at its sole cost and expense:

(i) Promptly deliver to Purchaser copies of any notice received by the employees of Seller who are responsible for the current management and operation of the Premises after the Effective Date regarding all actions, suits, and other proceedings affecting the Premises, or the use, possession, or occupancy thereof which may adversely affect Purchaser or the Premises;

(ii) Promptly deliver to Purchaser copies of notices received by the employees of Seller who are responsible for the current management and operation of the Premises after the Effective Date of releases of toxic substances or any actual condemnation of the Premises or any portion thereof given by or on behalf of any Federal, state, or local agency; and

(iii) Make its personnel available to Purchaser at reasonable times and upon reasonable notice, in connection with inspection of the Premises; and

(b) From the Effective Date to the Closing Date or termination hereof, Seller shall not enter into any lease (other than the Post-Closing Lease) or other occupancy arrangement for the Premises which is not terminable before Closing, without the prior written consent of Purchaser in each instance.

8. Apportionments.

(a) The following items shall be apportioned as of 11:59 PM of the day immediately preceding the Closing Date:

(i) Purchaser assumes and agrees to pay (A) all assessments for improvements first becoming a lien after the Closing Date, and (B) its *pro rata* portion of the real estate taxes assessed for and first becoming a lien during the calendar year in which Closing occurs (the "Current Year Taxes") (based upon the number of days remaining in such calendar year after the Closing Date). Seller shall pay (1) all assessments for improvements not assumed by Purchaser, (2) both installments of real estate taxes payable during the calendar year in which Closing occurs, (3) its *pro rata* portion of the Current Year Taxes (based upon the number of days in such current year prior to and including the Closing Date), and (4) all delinquent real estate taxes and assessments (and penalties and interest thereon, if any). The present tax rate and assessed values shall be used for the purposes of the prorations under this Section if the

applicable tax rate and assessed values have not been set. Any taxes or assessments (and penalties and interest thereon, if any) which are either (X) not assumed by Purchaser and which are not due and payable at the time of the Closing, or (Y) delinquent at time of the Closing, shall be allowed to Purchaser as a credit against the Purchase Price at the Closing, and Seller shall not be further liable for such taxes or assessments;

(ii) Charges for water, sewer rents, electricity, steam, gas, and telephone, which are not metered; provided that if the consumption of any of such utilities is measured by meters, Seller at the Closing shall furnish a current reading of each meter or shall do so with reasonable promptness following the Closing and shall be responsible for the payment of utilities until a final reading has been accomplished. Purchaser agrees to transfer existing or establish new utility accounts within no later than three (3) days after the Closing Date and provided, further, that if there is not a meter or if the current bill for any of such utilities has not been issued prior to the Closing Date, the charges therefor shall be adjusted at the Closing on the basis of the charges for the prior period for which bills were issued and shall be further adjusted when the bills for the current period are issued; and

(b) If on the Closing Date the Premises shall be affected by any special or other assessment for public improvements or otherwise which is or may become payable by Seller in installments, then, for purposes of this Agreement, all the unpaid installments of such assessment which are due and payable prior to Closing shall be paid by Seller, and all unpaid installments which are to become due and payable on or after the Closing shall be paid and discharged by Purchaser. Purchaser shall be responsible for the payment of any and all future installments of assessments, whether or not the first installment thereof is then a charge or lien.

(c) Purchaser shall pay the costs of any transfer tax, and Purchaser shall pay all recording fees due in connection with the delivery or recording of the Deed. Purchaser shall pay all taxes and recording fees due in connection with Purchaser's mortgage (if any). Seller shall pay all title clearance charges and the recording costs related thereto.

(d) Purchaser shall pay any closing fee or closing charge of the Title Company or settlement agent who closes the transaction.

(e) The provisions of this Article 8 shall survive the Closing.

9. Closing Documents.

(a) At the Closing, Seller, at its sole cost and expense, shall deliver or cause to be delivered to Purchaser the following, each of which shall be in form and substance in reasonable conformity with this Agreement:

(i) A Limited Warranty Deed ("Deed"), conveying to Purchaser fee simple absolute title to the Premises, free and clear of all liens and encumbrances other than Permitted Encumbrances and those set forth in the Title Commitment and not objected to by Purchaser or otherwise permitted hereunder, which Deed shall be in recordable form, duly executed by Seller or the record title holder and acknowledged;

(ii) A resolution from the Secretary or Assistant Secretary of Seller authorizing the officer signing the Deed to sell properties on behalf of Seller

- (iii) An affidavit of title in a form reasonably acceptable to Seller;
 - (iv) An affidavit and such other certificates or affidavits as Purchaser may reasonably request in order to establish that Seller is not a foreign person, as defined in Internal Revenue Code Section 1445(b)(2), as amended;
 - (v) A duly executed counterpart of an Assignment and Assumption Agreement of the Post-Closing Lease;
 - (vi) All keys to the Premises in the possession of Seller; and
 - (vii) A duly executed settlement statement or closing statement.
- (b) At the Closing, Purchaser, at its sole cost and expense, shall deliver to Seller the following, each of which shall be in form and substance in reasonable conformity with this Agreement:
- (i) The consideration required pursuant to Article 2, in the amount and form required thereby;
 - (ii) A duly executed settlement statement or closing statement;
 - (iii) A duly executed counterpart of an Assignment and Assumption Agreement of the Post-Closing Lease;
 - (iv) A resolution or consent of an authorized officer or member of Purchaser, authorizing the purchase of the Premises and the execution of documentation in connection therewith; and
 - (v) Such other affidavits and documents as are otherwise required to consummate the transaction contemplated by this Agreement.

10. Brokerage. Seller and Purchaser each covenant, represent and warrant that it has had no dealings or communications with any broker or agent in connection with the consummation of this Agreement, and each covenants and agrees to pay, hold harmless and indemnify the other from and against any and all cost, expense (including reasonable attorneys' fees) or liability for any compensation, commissions or charges claimed by any broker or agent with whom the indemnifying party dealt with respect to this Agreement or the negotiation thereof.

11. Condemnation and Destruction.

(a) Risk of loss to the Premises from fire or other casualty shall be borne by Seller until Closing. If the Premises or any portion thereof is damaged or destroyed by fire or other casualty prior to the Closing, which damage in either party's reasonable judgment materially affects the value of the Premises, and if Seller is unable or chooses not to restore, within ninety (90) calendar days following such casualty, the damaged portion of the Premises to a condition substantially equivalent to that which existed immediately prior to such casualty, either party may elect to terminate this Agreement. If either party elects to terminate this Agreement, it shall notify the other in writing within thirty (30) calendar days after Purchaser has received written notice of such damage or destruction from Seller (unless within such thirty (30) day period Seller shall have

advised Purchaser of its intention to restore the damaged portion of the Premises as provided in the preceding sentence, in which case the Closing shall be extended for up to ninety (90) days following such casualty), and this Agreement shall be deemed to be terminated and the parties hereto shall have no further obligations to or recourse against each other with regard to the matters provided for herein except for the rights and obligations which expressly survive the termination hereof. If Seller does not restore the damaged portion of the Premises as provided above, and if neither party elects to terminate this Agreement as provided in this paragraph, then the parties shall attempt to negotiate a reduction in the Purchase Price based on the amount of damage to the Premises. If the parties are able to agree on such a reduction, the transaction shall proceed as contemplated herein, but at the reduced Purchase Price. If the parties do not agree to a price reduction in writing within sixty (60) days of the damage, then this Agreement shall automatically terminate.

(b) If prior to the Closing all or any material portion of the Premises, as reasonably determined by Seller, becomes the subject of a condemnation proceeding by a public or quasi-public authority having the power of eminent domain, Seller shall immediately notify Purchaser thereof in writing and either party may elect to terminate this Agreement. If either party elects to terminate this Agreement, it shall so notify the other within thirty (30) calendar days after Purchaser has received written notice of such proceedings from Seller, and this Agreement shall be deemed null and void and the parties hereto shall have no further obligations to or recourse against each other with regard to the matters provided for herein except for the rights and obligations which expressly survive the termination hereof. If neither party shall elect to terminate this Agreement as provided in this paragraph, then the transaction shall proceed as contemplated herein, in which event Purchaser shall be entitled to receive all proceeds of any award or payment in lieu thereof, and there shall be no reduction of the Purchase Price.

12. Representations and Warranties and Covenants of Purchaser. Purchaser represents and warrants the following:

(a) Both before and after the Closing, Purchaser shall not (i) issue any press release or other publicity of any kind whatsoever with respect to this Agreement or any of the transactions contemplated hereby; or (ii) disclose or advertise Seller's name or the names of any Seller's affiliates, or disclose the Purchase Price, in any press release, advertising or promotional materials with respect to the Premises, in each case, without the prior written consent of Seller in each instance. Seller shall notify Purchaser of its consent or refusal within ten (10) business days after Purchaser's request for consent. Both before and after the Closing, Purchaser agrees that it will keep confidential, and will make reasonable efforts to have the respective partners, employees, officers, directors, shareholders, agents, counsel, accountants and affiliates of Purchaser, keep confidential, the terms of this Agreement, and all information, records, materials and other data pertaining to the Premises which was acquired or learned from this Agreement or the negotiations relating thereto or arising out of the transactions contemplated hereby, except to the extent necessary to effect the transactions contemplated hereby. The provisions of this paragraph shall survive the Closing and the termination of this Agreement. This section is not intended to prohibit, and does not (i) prohibit the release of information that is already public; (ii) prohibit Purchaser from providing any information concerning the purchase of the Premises to its advisers (attorneys, accountants, lenders, title insurers, and others assisting with the purchase); or (iii) limit or restrict disclosures as may be required by law (pursuant to State or local open meeting or open record laws, or so-called "sunshine" acts), but only to the extent required by law.

(b) Purchaser is Corporation duly organized, validly existing and in good standing under the laws of the State of Indiana and has the power and authority to enter into the Agreement and complete the transaction contemplated hereby. The officer executing this Agreement on behalf of Purchaser has the power and authority to bind Purchaser.

(c) If this Agreement shall be terminated by either party, Purchaser shall deliver to Seller (at Seller's request and without cost to Seller) copies of all reports, studies, tests, analyses and other information and documents compiled by Purchaser in reviewing and inspecting the Premises.

(d) Purchaser agrees to indemnify, defend and hold Seller, its subsidiaries, affiliates, and their respective officers, directors and employees, harmless of, and from any claim, proceeding, suit, damage, liability, loss, cost, charge or expense or any other liability of every nature, kind and description whatsoever (including, without limitation, reasonable attorney's fees and expenses, whether or not legal proceedings are commenced, and if legal proceedings are commenced, including fees and expenses incurred at trial and all levels of appeal) incurred or suffered by any of the foregoing entities or persons by reason of, or resulting from or arising out of any activity, including, without limitation, tests, inspections, studies and/or investigations performed or caused to be performed by Purchaser on the Premises.

(e) Purchaser is not the AFL-CIO Building Investment Trust or an affiliate or subsidiary thereof (collectively, the "BIT"). Purchaser has not and shall not finance all or any part of the Purchase Price with funds borrowed from the BIT. The BIT is not involved with the transactions contemplated by this Agreement, and the BIT is not receiving consideration from Purchaser in connection with this Agreement or Purchaser's purchase of the Premises.

(f) The purchase of the Premises under this Agreement (the "Transaction") is not a "covered real estate transaction" as such term is defined under proposed, interim and final regulations promulgated by the U.S. Department of the Treasury on behalf of CFIUS, including but not limited to 31 C.F.R. Part 802 and other regulations implementing The Defense Production Act of 1950 (P.L. 81-774, 50 U.S.C. §§4501 *et seq.*) ("DPA"), the Foreign Investment and National Security Act of 2007 (P.L. 110-49, 121 Stat. 246) ("FINSAs") and the Foreign Investment Risk Review Modernization Act of 2018 (Title XVII, P.L. 115-232) ("FIRRMA"), as all of the same may have been or may hereafter be amended, restated, supplemented or otherwise modified.

(g) The Transaction and any other matter, transaction, performance or non performance obligation relating to the Premises, by the Purchaser or any Purchaser affiliate is not and would not be "designed or intended to evade or circumvent" the Committee on Foreign Investment in the United States ("CFIUS") jurisdiction over "covered transactions" as such terms are defined in FIRRMA Section 1703(a)(4).

(h) Purchaser is, and during the term of this Agreement shall remain in full compliance with all the applicable laws and regulations of the United States of America that prohibit, regulate, or restrict transactions based on national security, including but not limited to DPA, FINSAs and FIRRMA.

(i) Neither Purchaser nor any affiliate of Purchaser has filed or is required to file a declaration or notice with CFIUS in connection with the Transaction nor has Purchaser or any Purchaser affiliate received any notice or any other inquiry or investigation from CFIUS or

any other governmental authority related to this Agreement, the Premises and/or Purchaser's acquisition of the Premises.

(j) Purchaser shall notify Seller no later than two (2) calendar days after receipt of a notice from CFIUS or any member agency of CFIUS of any action by CFIUS, including but not limited to, an investigation of the Transaction or Purchaser, and shall provide Seller with a copy of any written inquiry, question or notice related or pertaining with respect to, or arising out of the Transaction, the Premises, or this Agreement.

(k) Purchaser hereby covenants, warrants, acknowledges, and agrees that the representations and warranties made in this Section 12 with respect to CFIUS are covenants affecting the Premises and such covenants (i) are true and correct as of the execution date of this Agreement and, (ii) shall during the term of this Agreement, remain true and correct at the Closing Date. Purchaser shall fully and timely comply with any and all requests and requirements of CFIUS and Purchaser shall, subject to the terms and conditions hereof and with prompt notice to Seller, fully and timely take any mitigation measure requested or required by CFIUS in connection with a review or CFIUS investigation.

(l) In the event that (i) any of the representations or warranties contained in subparagraphs (f), (g), (h) or (i) shall be inaccurate or incomplete and/or, (ii) it is determined that any covenant set forth in subparagraphs (j) or (k) above has been breached, then Seller shall have the right to terminate this Agreement and Seller shall be released from any further liability under this Agreement.

13. Seller's Default. If Seller shall default in performance of its obligations under this Agreement, which default remains uncured for five (5) business days after receipt of written notice from Purchaser, then Purchaser's sole and exclusive remedies shall be either to (i) terminate this Agreement, or (ii) seek specific performance. Notwithstanding the foregoing, in the event there is a breach or default by Seller of an obligation that survives closing, if any, Purchaser's remedies shall be limited to its actual monetary damages incurred as a result of such breach or default, if any, and in no event shall Purchaser be entitled to recover consequential and/or punitive damages.

14. Purchaser's Default.

(a) If Purchaser shall default in performance of its obligations under this Agreement, which default remains uncured for five (5) business days after receipt of written notice from Seller, the Seller shall have the right to terminate this Agreement upon written notice to Purchaser. A "default" by Purchaser under this Agreement includes, but is not limited to, failure to comply with the terms of this Agreement; any misrepresentation made by Purchaser to Seller; or the commission of fraud by Purchaser in connection with the purchase of the Premises.

(b) Notwithstanding anything to the contrary contained in this Agreement, Purchaser agrees that (i) all indemnification obligations of Purchaser set forth in this Agreement and/or any other indemnification agreement delivered to Seller in connection with Purchaser's inspection of the Premises prior to or after the execution of this Agreement (collectively, the "Indemnification Obligations") shall survive the termination of this Agreement and the Closing and (ii) Purchaser shall not be exculpated from liability with respect to (x) a breach of Article 12 or Article 26 hereof and/or (y) the Indemnification Obligations. Purchaser further agrees that Seller shall have full recourse against Purchaser and any other person or entity who breaches subparagraph 12(a) or Article 26 or who has Indemnification Obligations, and Seller shall have

the ability to seek and obtain any money or other judgment against any of the foregoing persons or entities with respect to any such breach or Indemnification Obligation(s).

15. Intentionally Deleted.

16. Notices. All notices, requests, or other communications desired or required to be given under this Agreement shall be in writing and shall be sent by a party or by a party's attorney via (i) by portable document format ("PDF") copy bearing the PDF signature of a duly authorized officer of any party hereto, whether delivered by facsimile, e-mail or physical delivery service ("PDF Signature"), or (ii) by electronic signature of a duly authorized officer of any party hereto, including, without limitation, "click through" acceptance, pursuant to electronic signature procedures Seller or Purchaser may establish from time to time ("Electronic Signature"); or by (a) certified or registered mail, return receipt requested, postage prepaid, (b) national prepaid overnight delivery service, (c) by email or facsimile transmission (following with hard copies to be sent by national prepaid overnight delivery service) or (d) personal delivery with receipt acknowledged in writing, as follows:

If to Seller:

Kathleen A. Taylor
Vice President
PNC Bank, N. A.
c/o PNC Realty Services
The Tower at PNC Plaza - 22nd Floor
300 Fifth Avenue
Mail Stop: PT-PTWR-22-1
Pittsburgh, PA 15222-2401
Telephone: 412-762-3345
Fax: 412-762-5199
Email: Kathleen.taylor@pnc.com

With a copy to:

Michael G. Balent, Esq.
Managing Chief Counsel - PNC Realty Services
PNC Bank, N.A.
Legal Department
1600 Market Street - 8th Floor
Philadelphia, PA 19103
Telephone: 215-585-5029
Fax: 215-585-8713
Email: michael.balent@pnc.com

With a second copy to:

Boyden "Erik" Gabell, III, Esquire
Gabell Beaver LLC
306 Lansdowne Road
Havertown, PA 19083
Telephone: 484-394-0131
Fax: 877-347-4197
Email: egabell@gabellbeaver.com

If to Buyer:

Mayor's Office
210 E Ninth St
Auburn, IN 46706
Phone 260.925.5430
Fax 260.920.3340
mayor@ci.auburn.in.us

Clerk-Treasurer's Office
210 E Ninth St
Auburn, IN 46706
Phone 260.925.6450
Fax 260.920.3341
clerktreasurer@ci.auburn.in.us

City Attorney
210 E. Ninth St
Auburn, IN 46706
Phone 260.925 2300 Ext. 305
erik@lawmwb.com

All notices shall be deemed given when actually received or refused by the party to whom the same is directed (except to the extent sent by certified or registered mail, return receipt requested, postage prepaid, in which event such notice shall be deemed given three (3) business days after the date of mailing). Each party may designate a change of address or supplemental addressee(s) by notice to the other parties, given at least ten (10) business days before such change of address is to become effective.

17. Entire Agreement, Basis of Purchase.

(a) This Agreement contains all of the terms agreed upon between the parties with respect to the subject matter hereof and supersedes any and all prior written or oral understandings.

(b) Except as expressly set forth in this Agreement or in the documents to be delivered at Closing, Seller hereby expressly disclaims any and all warranties, express or implied, relating in any way to the Premises, including, without limitation, any warranty provided for under statutory or common law or the uniform commercial code, including but not limited to warranties of merchantability and fitness for a particular purpose. Both Purchaser and Seller are acting at arm's length to protect their own interests, and both Purchaser and Seller shall use their own independent business judgment concerning the sale and purchase of the Premises. Purchaser has completed to its satisfaction (or shall have completed by the Closing Date), all investigations, inspections and tests which Purchaser deems necessary in its sole discretion to determine, among other things: (i) the condition of the Premises, including, but not limited to, the soil condition of the Premises, the existence of any environmental condition, and the existence of patent or latent defects in construction of the Improvements on the Premises; (ii) the condition of title to the Premises, including, but not limited to, the status of all leases of the Premises (if any); (iii) the status of all building code, zoning and other applicable governmental requirements of whatever kind regarding the Premises or any intended use of the Premises, including, without limitation, the status of any permit, application, license, approval, certificate or other intangible right of whatever kind regarding the Premises; and (iv) the status and effect of all recorded covenants

and restrictions relating to the Premises, it being agreed as set forth above that neither Seller nor any agent or representative of Seller shall give any warranty or make any representation regarding such matters, and Seller is not liable or responsible for, or bound in any manner by, any express or implied representations, warranties, covenants, agreements, obligations, guarantees, statements, information or inducements pertaining to the Premises or any part thereof. Upon Closing except as set forth in the Post-Closing Lease, Purchaser shall assume the risk of any adverse matters with respect to the Premises, including but not limited to, mold, moisture, asbestos, lead based paint, any and all issues identified on the Environmental Report (even if Purchaser opted not to execute and deliver the Environmental Disclosure and Confidentiality Agreement and did not receive a copy of the Environmental Report), construction defects and adverse physical and environmental conditions, that may not have been revealed by Purchaser's investigations. Purchaser agrees that should any cleanup, remediation or removal of hazardous substances or other environmental conditions on the Premises be required after the date of Closing, insofar as Seller and Purchaser are concerned, Seller shall not have any responsibility for such cleanup, removal, or remediation. Purchaser acknowledges that it agrees to accept conveyance of the Premises at Closing in its "as-is, where-is" condition as of the Closing Date, solely based upon its reliance on its own investigations, inspections, and judgment.

(c) WITHOUT LIMITING THE PROVISIONS OF SUBPARAGRAPH (b) OF THIS ARTICLE AND NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, PURCHASER HEREBY RELEASES SELLER AND (AS THE CASE MAY BE) SELLER'S OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, TRUSTEES, PARTNERS, EMPLOYEES, MANAGERS AND AGENTS, FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS, AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES, WHETHER OR NOT SUIT IS INSTITUTED), ARISING FROM OR RELATING TO ANY DEFECT IN THE PREMISES, THE LEGAL STATUS OF ANY AGREEMENT WITH RESPECT THERETO, OR THE PHYSICAL CONDITION OF THE PREMISES OR ANY PART THEREOF, INCLUDING BUT NOT LIMITED TO ANY ENVIRONMENTAL CONDITION SUBJECT, HOWEVER, TO THE TERMS OF THE POST-CLOSING LEASE. THE RELEASE SET FORTH HEREIN DOES NOT APPLY TO THE EXPRESS REPRESENTATIONS OR WARRANTIES OF SELLER SET FORTH IN THIS AGREEMENT OR ANY INDEMNITY OR WARRANTY EXPRESSLY MADE BY SELLER IN ANY DOCUMENT DELIVERED AT CLOSING.

(d) The provisions of this Article shall survive the Closing.

18. Amendments. This Agreement may not be changed, modified, or terminated except by an instrument executed by the parties hereto.

19. Waiver. No waiver by either party of any failure or refusal of the other party to comply with any of its obligations shall be deemed a waiver of any other or subsequent failure or refusal so to comply.

20. Successors and Assigns.

(a) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Except as described below, Purchaser may not assign this Agreement or all or any part of its rights and obligations hereunder to one or more parties without the prior

written consent of Seller which consent may be withheld or given in Seller's sole discretion. Purchaser shall have the right, however, with Seller's consent (not to be unreasonably withheld), to assign this Agreement to an entity owned or controlled by Purchaser. In such case, Seller shall not withhold its consent so long as (i) Purchaser provides Seller with a copy of an assignment and assumption agreement for such assignment, reasonably acceptable to Seller; (ii) Purchaser provides Seller information reasonably requested by Seller to establish that the assignee is not a "Sanctioned Person" (as hereinafter defined) and Seller in fact establishes that the assignee is not a Sanctioned Person; and (iii) Purchaser remains liable for all obligations hereunder through the Closing Date, including but not limited to liability for the payment of any transfer tax imposed with respect to such assignment. Purchaser shall notify Seller of any assignment no less than five (5) business days prior to the Closing Date.

21. Article Headings. The headings of the various Articles of this Agreement have been inserted only for the purpose of convenience and are not part of this Agreement and shall not be deemed in any manner to modify, explain, qualify, or restrict any of the provisions of this Agreement.

22. Governing Law. THIS AGREEMENT SHALL BE INTERPRETED, AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO SHALL FOR ALL PURPOSES BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF INDIANA APPLICABLE TO AGREEMENTS EXECUTED, DELIVERED AND PERFORMED WITHIN SUCH JURISDICTION.

23. Waiver of Jury Trial. IT IS MUTUALLY AGREED BY AND BETWEEN SELLER AND PURCHASER THAT THE RESPECTIVE PARTIES HERETO SHALL AND DO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT. EACH PARTY ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THIS WAIVER AND HAS BEEN ADVISED BY COUNSEL AS NECESSARY OR APPROPRIATE. THIS WAIVER IS MADE KNOWINGLY AND VOLUNTARILY BY THE PARTIES HERETO.

24. Waiver of Formal Tender. The requirement for formal tender of payment and deed is hereby waived.

25. No Recording. Neither party shall record this Agreement or any memorandum thereof without the prior written consent of the other party, which consent may be withheld in such party's sole discretion.

26. Compliance.

(a) Purchaser represents, warrants and covenants to Seller that (i) no Covered Entity (as hereinafter defined) or any Person (as hereinafter defined) providing funds to Purchaser for the purchase of the Premises is a Sanctioned Person (as hereinafter defined); (ii) no Covered Entity is directly or indirectly controlled by a Sanctioned Person; (iii) none of the funds used by Purchaser to purchase the Premises will be derived from any unlawful activity; (iv) each Covered Entity is in compliance with, and shall continue to comply with, all Anti-Terrorism Laws (as hereinafter defined); and (v) Purchaser is not acting hereunder and will not act hereunder for or on behalf of a Sanctioned Person.

(b) Purchaser shall provide to Seller all information reasonably requested by Seller from time to time relating to the sources of funds and/or Persons conducting business with Purchaser, including, but not limited to, the full legal name of Purchaser and/or the beneficial owners of Purchaser, their primary residences or places of business, social security numbers or company tax identification numbers, dates of birth and/or their percentage ownership of Purchaser and copies of Purchaser's and/or its beneficial owners' organizational and governing documents.

(c) In the event that (i) any of the representations or warranties contained in subparagraph (a) above shall be inaccurate or incomplete, (ii) it is determined that any covenant set forth in subparagraphs (a) or (b) above has been breached, (iii) the information Purchaser provides under subparagraph (b) above is inaccurate or incomplete and/or (iv) Seller determines, in its good faith judgment, that (x) completion of the purchase and sale of the Premises could violate any Anti-Terrorism Law or any other Law, (y) any of the sources of funds for the Purchase Price are derived from any illegal activity or any marijuana-related business or (z) the intended future use of the Premises is for any marijuana-related use (including, without limitation, a medical marijuana dispensary), then Seller shall have the right to terminate this Agreement and Seller shall be released from any further liability under this Agreement.

(d) As used in this Article 26, the following terms shall have the meanings set forth below:

"Anti-Terrorism Laws" means any Laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued, or enforced pursuant to such Laws, all as amended, supplemented or replaced from time to time.

"Covered Entity" means (a) Purchaser and each direct or indirect subsidiary of Purchaser and (b) each Person (as hereinafter defined) that, directly or indirectly, is in control of a Person described in clause (a) above. For purposes of this definition, control of a Person means the direct or indirect (x) ownership of, or power to vote, 25% or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.

"Law" means any law(s) (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, issued guidance, release, ruling, order, executive order, injunction, writ, decree, bond, judgment, authorization or approval, lien, or award of or any settlement arrangement, by agreement, consent or otherwise, with any governmental authority, foreign or domestic.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority, or other entity.

"Sanctioned Person" means any individual person, group, regime, entity, or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including but not limited to the blocking of Premises or rejection of transactions), under any Anti-Terrorism Law.

27. Miscellaneous.

(a) If any provision of this Agreement is held to be illegal, invalid, or unenforceable, said provision shall be fully severable; the Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of the Agreement; and the remaining provisions of the Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from the Agreement. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible which is and shall be legal, valid and enforceable.

(b) This Agreement may be executed in any number of counterparts, and by each of the parties on separate counterparts, each of which, when so executed, shall be deemed an original, but all of which shall constitute but one and the same instrument. Execution and delivery of a counterpart of this Agreement (i) by portable document format ("PDF") copy bearing the PDF signature of a duly authorized officer of any party hereto, whether delivered by facsimile, e-mail or physical delivery service ("PDF Signature"), or (ii) by electronic signature of a duly authorized officer of any party hereto, including, without limitation, "click through" acceptance, pursuant to electronic signature procedures Seller or Purchaser may establish from time to time ("Electronic Signature"), shall be equally as effective as delivery of a manually executed counterpart of this Agreement and shall constitute a valid and binding execution and delivery of this Agreement by such party. Each of Seller and Purchaser agrees that: (x) each PDF Signature and/or Electronic Signature of such party will be enforceable to the same extent as a manual signature, whether in court or otherwise; and (y) such party will not raise any defenses or regulatory or statutory claims attempting to invalidate the enforceability of its PDF Signature or Electronic Signature.

(c) In addition to the acts and deeds recited herein and contemplated to be performed, executed, and delivered by Seller and Purchaser, Seller and Purchaser agree to perform, execute, and deliver or cause to be performed, executed, and delivered at the Closing or after the Closing any and all such further and reasonable acts, deeds, and assurances as may be reasonably necessary to consummate the transaction contemplated hereby in accordance with this Agreement.

(d) The parties acknowledge that either of them may elect to affect the sale or purchase of the Premises as an exchange pursuant to Section 1031 of the Internal Revenue Code and will cooperate in the accomplishment of that purpose, provided that neither party shall incur any liability or expense beyond those inherent in an acquisition or sale of the Premises nor be delayed in the Closing. Either party may assign this Agreement to an intermediary for the purpose of effectuating a 1031 exchange; provided, however, that Purchaser shall provide Seller with any information reasonably requested to establish that Purchaser's intermediary is not a Sanctioned Person and shall do so in advance of the Closing such that the Closing Date is not delayed.

(e) If either party shall bring an action or suit or proceeding (including any cross-complaint, counterclaim or third-party suit) against the other party by reason of the breach or alleged breach of any covenant, term or obligation of this Agreement, or otherwise arising out of this Agreement, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of suit, including reasonable attorneys' fees and expenses.

(f) If the time for performance of any of the terms, conditions and provisions hereof shall fall on a Saturday, Sunday, or bank holiday, then the time of such performance shall be extended to the next business day thereafter.

28. Purchaser's Right and Obligation of Inspection During Contingency Period. The parties acknowledge that Purchaser needs an adequate opportunity to make such legal, factual, and other inquiries and investigations as Purchaser deems necessary with respect to the Premises. To allow Purchaser the opportunity to ascertain the feasibility of the purchase, Purchaser is granted until 5:00 p.m. (Eastern Time) on the date which is twenty (20) days following the Effective Date (the "Contingency Period") to satisfy itself, in its sole discretion, that the Premises is suitable for Purchaser's needs. The parties agree to confirm the expiration date of the Contingency Period by email.

Seller agrees to provide to Purchaser, within five (5) business days of the Effective Date, documents and other items pertaining to the Premises which are non-proprietary and are in the possession of those employees of Seller who are responsible for the current management and operation of the Premises and readily obtainable; provided, however, that Seller shall provide Purchaser with any environmental reports or studies with respect to the Premises only upon receipt of Seller's form environmental release letter duly signed by Purchaser. There is no obligation on Seller's part to obtain such information from any third party. The material provided may have been obtained from various sources, and, while assumed to be true, correct, and reliable, Seller makes no warranty or representation, express or implied, as to the accuracy or comprehensiveness of the information provided. Purchaser acknowledges that it shall rely upon its own investigation, develop its own independent estimate of income and expenses, and fully inspect the Premises, including, without limitation, concerning structural and environmental matters, before making its independent decision concerning its obligation to complete the purchase. Seller agrees that at any reasonable time and from time to time during the Contingency Period, Purchaser shall have the right to fully inspect the Premises. Purchaser may conduct the inspections and tests desired by Purchaser so long as:

(i) such tests and inspections do not disrupt the use of the Premises by Seller and by the tenants thereof (if any);

(ii) any damage to the Premises is repaired to at least as good a condition as existed prior to the test;

(iii) Purchaser shall not conduct any invasive environmental testing unless a Phase I study of the Premises recommends such testing, and such testing is subject to such reasonable conditions as may be prescribed by Seller; and

(iv) Prior to any entry, Purchaser shall provide Seller with a certificate of insurance naming Seller as an additional insured thereon and evidencing liability and contractual liability coverage reasonably satisfactory to Seller for Purchaser's inspection activities.

All tests and repairs, if needed, shall be at the cost of Purchaser. Purchaser further agrees to indemnify and hold Seller harmless from any loss, liability or expense incurred by Seller arising out of or in connection with any claim, damage, or loss as a result of Purchaser's actions or inactions in conducting the tests upon the Premises, or any third party's property or injury to or death of any person arising out of Purchaser actions or inactions in conducting tests on the Premises.

In the event Purchaser determines that the Premises is not suitable for Purchaser's needs, Purchaser shall deliver written notice to Seller, on or before 5:00 p.m. (Eastern Time) on the last day of the Contingency Period that Purchaser will not purchase the Premises and this Agreement shall be deemed to be terminated. In the event Seller does not receive written notification on or before the last day of the Contingency Period, it shall be presumed that Purchaser intends to complete the purchase, waives any and all contingencies. Promptly upon termination, the parties hereto shall have no further obligations hereunder except for the rights and obligations that expressly survive Closing.

29. Lease-back of Premises; Post-Closing Lease. At Closing, Seller and Purchaser shall execute and deliver the Post-Closing Lease, a true and correct copy of which is attached hereto as Exhibit C. The full execution of the Post-Closing Lease by Purchaser, as "Landlord", at Closing shall be a condition precedent to Seller's obligation to convey title to the Property to Purchaser and such failure by Purchaser shall be a default by Purchaser. Purchaser, as "Landlord" under the Post-Closing Lease, shall deliver Notice of Commencement to Seller, as "Tenant" thereunder, as more particularly described in the Post-Closing Lease.

[SIGNATURES ON FOLLOWING PAGE]

1st Reading 01/17/2023
2nd Reading 02/07/2023

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

WITNESS:

SELLER:

PNC BANK, NATIONAL ASSOCIATION,
successor to _____

By: _____

Name: _____

Title: _____

PURCHASER:

THE CITY OF AUBURN, INDIANA

By: _____

Name: _____

Title: _____

Tax Identification Number: _____

EXHIBITS

- A. Legal Description
- B. Permitted Encumbrances
- C. Post-Closing Lease

EXHIBIT A

LEGAL DESCRIPTION

THE LEGAL DESCRIPTION IS NOT WARRANTED OR GUARANTEED BY SELLER

The Parcel ID Numbers associated with the real estate are 18-06-28-379-009, 18-06-29-379-012, and 18-29-379-010.

The legal description associated with the real estate is as follows:

Tract I

Beginning at the Southwest Corner of Lot 71 of the Original Plat in the City of Auburn, Indiana, thence North sixty-six feet (66') to the Northwest corner of said Lot 71; thence East eighteen feet one and one-half inches (18' 1 1/2") to a point; thence South sixty-six feet (66') to the South line of said Lot 71; thence West eighteen feet one and one-half inches (18' 1 1/2") to the place of beginning.

Tract II

A part of Lot numbered Twenty-five (25) in the Original Plat of the Town, now City of Auburn, Indiana, bounded by a line commencing at the Southeast corner of said lot and running thence North on the East line of said lot 66 feet; thence West on a line parallel with the South line of said lot 44 feet; thence South on a line parallel with the East line of said lot 66 feet to the South line thereof; thence East on the South line thereof 44 feet to the place of beginning, all in DeKalb County, Indiana.

Tract III

Lot 71 in Original Plat in the City of Auburn, Indiana, EXCEPT the East sixty (60) feet thereof, ALSO EXCEPTING, Beginning at the Southwest Corner of Lot 71 of the Original Plat in the City of Auburn, Indiana, thence North sixty-six feet (66') to the Northwest corner of said Lot 71; thence East eighteen feet one and one-half inches (18' 1 1/2") to a point; thence South sixty-six feet (66') to the South line of said Lot 71; thence West eighteen feet one and one-half inches (18' 1 1/2") to the place of beginning.

The above-described real estate hereinafter referred to as the following described real estate as determined by James L. Russell, Registered Indiana Land Surveyor No. 11679, certified to November 15, 1995:

Lot #71 of the O.P. of Auburn, except the East sixty (60) feet and excepting the West 18.12 feet of said Lot, as same as Plat Book 3, page 132.

EXHIBIT B

PERMITTED ENCUMBRANCES

1. Possible additional assessments for taxes, either prospective or retroactive, for new construction or for any major improvements, as well as for current year's taxes levied or to be levied and not yet certified.
2. Unrecorded easements, discrepancies, or conflicts in boundary lines, shortages in area and encroachments which an accurate and complete survey would disclose, or which are not shown by the public records.
3. Rights or claims of any parties in possession.
4. Unfiled municipal claims.
5. Easements and rights granted for utilities.
6. Rights, public and private, in and to any portion of the Premises that lies within the right of way of any public street or alley abutting the Premises.
7. Zoning and building laws, ordinances, and regulations.

First Reading _____
Second Reading _____

EXHIBIT C
POST-CLOSING LEASE

Attached on the following page is exhibit "C"

PARKING SPACE LEASE AGREEMENT

This Lease Agreement (the "Lease") is made as of this ____ day of _____, 2023, (the "Effective Date"), by and between THE CITY OF AUBURN, INDIANA, a municipal city ("Lessor") and PNC BANK, NATIONAL ASSOCIATION, a national banking association ("Lessee").

NOW, THEREFORE, in consideration of \$10 paid in hand, and other good and valuable consideration the receipt of which is hereby acknowledged, the parties agree as follows:

1. Lease. Lessor Leases to Lessee the exclusive use of eight (8) parking spaces (collectively, the "Spaces") within the parking lot located on the North side of 5th Street between Main Street and Jackson Street in Union Township, City of Auburn, County of DeKalb, State of Indiana, Tax Parcel Numbers 17-06-29-379-009.000-025; 17-06-29-379-012.000-025; and 17-06-29-379-010.000-025 (the "Lot") as shown on Exhibit A attached hereto, subject to the terms and conditions hereinafter set forth. Lessee shall have the right to identify the Spaces by signs or painted markings within the Spaces. Lessee shall comply with all reasonable rules and regulations promulgated by Lessor from time to time with respect to the Lot. Lessee shall not be obligated to provide Lessor with any of the names, license plate numbers or other information regarding the persons using the Lot.

2. Term. The term of the Lease shall be for twenty-five (25) years commencing upon the date of Closing under that certain Agreement of Sale dated of even date herewith between Lessor, as "Purchaser", and Lessee, as "Seller", for the purchase and sale of all of Lessee's right, title, and interest in the Lot ("Lessee's Property") (the "Commencement Date"). Unless sooner terminated pursuant to law or pursuant to any of the terms hereof, this Lease shall expire at 11:59 PM on the last day of the three hundredth (300th) month following the Commencement Date (the "Expiration Date"). Thereafter the term of this Lease shall automatically renew on a yearly basis with either party having the right to terminate upon ninety (90) days' notice to the other prior to the expiration of the then current lease period.

3. Maintenance; Service. Lessor, at its sole cost and expense, shall keep the Lot in good order, repair, and condition, which shall include, but not be limited to, (i) cleaning the Lot and the Spaces and removing any rubbish and/or debris no less than twice per month and, (ii) keeping the Lot and the Spaces paved and clearly painted or striped. Lessor, at its sole cost and expense, shall be responsible for snow and ice removal (including salting of the Lot and the Spaces and other prudent safety measures). Lessee shall not make any alterations, improvements, or additions to the Lot except to repair any damage to the Lot caused by Lessee. Except as specifically described herein, Lessee shall not be required to make any repairs or provide any services in connection with the Lot and the Spaces, nor shall Lessee be required to participate in the reimbursement of any of Lessor's real estate taxes; insurance premiums; operating, management, and/or administrative expenses associated with the Lot, the Spaces, and/or Lessor's Property.

4. Hours. Lessee may use the leased spaces during the five (5) days of each weekday a period of 8 a.m. to 6.00 p.m. Monday through Friday.

5. Defaults; Towing. Lessee or Lessor shall be in default hereunder if it breaches the terms of this Lease and such breach continues uncured for fifteen (15) days after such defaulting party's receipt of written notice from the non-defaulting party of such breach. Upon a default, the non-defaulting party shall have the right to exercise all rights and remedies available at law or in equity against the defaulting party. Lessee shall have the sole right to tow, or cause to be towed, any vehicle from the Spaces and to charge the owner of such vehicle for the cost of such towing. Lessor shall be in default hereunder and Lessee shall have the right to terminate this Lease if: (i) Lessor is unable to provide Lessee with access to the Lot or one or more of the Spaces for a period of three (3) consecutive business days; or (ii) if Lessor breaches the terms of this Lease and fails to cure such breach within ten (10) business days after the receipt of written notice of default from Lessee

6. Liability. (a) Lessor hereby agrees to indemnify and hold Lessee harmless from and against any and all losses, costs, expenses and damages (collectively, "Losses") of any nature arising out of or in any manner related to the Lot or the Spaces which is attributable to the negligence or willful misconduct of Lessor, or its employees, agents or contractors and Lessor shall bear all costs and expenses, including reasonable attorney's fees incurred by Lessee in any case, action or proceeding brought against Lessor by reason of such Losses.

(b) Lessee hereby agrees to indemnify and hold Lessor harmless from and against any and all Losses of any nature arising out of or in any manner related to Lessee's use of the Spaces or the Lot or arising from any act of negligence or willful misconduct of Lessee or its employees, contractors or agents and Lessee shall bear all costs and expenses, including reasonable attorney's fees incurred by Lessor in any case, action or proceeding brought against Lessee by reason of such Losses, except to the extent of any such Losses resulting from the negligence or willful misconduct of Lessor, or its agents, employees or contractors.

7. Notice. All notices, requests, demands and other communications required or permitted under this Lease ("notices") shall be in writing, signed by or on behalf of the party giving notice and shall be deemed to have been given as follows: (a) if personally delivered: on the date of actual delivery to Lessor or to Lessee; or, (b) if mailed: on the date upon which any notice shall have been received as shown by a Certified or Registered Return Receipt. The following addresses shall be used for the foregoing purposes:

To Lessor at:

Mayor's Office
210 E Ninth St
Auburn, IN 46706
Phone 260.925.5430
Fax 260.920.3340
mayor@ci.auburn.in.us

Clerk-Treasurer's Office
210 E Ninth St
Auburn, IN 46706
Phone 260.925.6450
Fax 260.920.3341
clerktreasurer@ci.auburn.in.us

And to Lessee at:

PNC Bank, National Association
c/o PNC Realty Services
300 Fifth Avenue
Pittsburgh, PA 15222-2401
Mail Stop: PT-PTWR-22-1
Attn: Transaction Manager
with a copy to:
PNC Bank, National Association
Legal Division
1600 Market Street – 28th Floor
Philadelphia, PA 19103
Attn: Michael G. Balent, Esq., Chief Counsel

8. Recordation/Confidentiality. Lessee shall not record or register this License or a short form memorandum thereof, without the prior written consent of Lessor, which consent Lessor shall not unreasonably withhold. Lessor and Lessee acknowledge and understand that the terms and provisions of this License. The parties desire to keep such information regarding this Lease confidential and have based their decisions to enter into this Lease, in part, on Lessor's and Lessee's covenant to keep confidential the terms and provisions of this Lease. Accordingly, each party hereby covenants and agrees not to reveal, disclose, or disseminate information regarding the terms and provisions of this Lease except with the prior written consent of the other party, provided that, each party may disclose such information (i) to its respective employees, officers, attorneys, consultants, contractors or agents who are assisting each party with the negotiation and execution of this Lease, and/or to any of Lessee's potential successors-in-interest; or any assignee(s) of Lessee's rights, privileges, and obligations herein; (ii) as required by any governmental or regulatory authority, (iii) in connection with the negotiation and/or consummation of any sale or

financing transaction for the Lot, (iv) in connection with the negotiation and/or consummation of the assignment, sublet, transfer or sale of this Lease or Lessee's Property or, (v) pursuant to a court order or subpoena.

9. Applicable Law. This Lease shall be interpreted in accordance with the laws of the State where the Lot is located.

10. Attorneys. Should any action or proceeding be commenced to enforce any of the provisions of this Lease or in connection with its meaning, the prevailing party in such action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, not limited to taxable costs, and reasonable attorneys' fees.

11. Severability. If any particular term, covenant, or provision of this Lease shall be determined to be invalid and unenforceable, the same shall not affect the remaining provisions of this Lease which shall nevertheless remain in full force and effect.

12. Entire Contract. This Lease constitutes the entire contract between the parties hereto and there are no understandings, promises, representations or warranties, oral or written, relating to the subject matter of this Lease, including, without limitation, the Prior Agreement, which exist or bind any of the parties hereto, their respective heirs, executors, administrators, successors, or assigns, except as set forth herein. No amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by both parties.

13. Binding Effect, Time. This Lease shall become effective and binding only upon execution hereof by both Lessor and Lessee and shall be binding upon and inure to the benefit of the said parties and their respective heirs, executors, administrators, successors and permitted assigns. Each party has the full right, power, and authority to enter into this Lease, and has obtained all necessary consents and resolutions required under the documents governing such party's affairs in order to consummate this transaction. The persons executing this Lease have been duly authorized to do so and this Lease is a binding obligation of each party, enforceable in accordance with its terms. Time, wherever mentioned in this Lease, is of the essence with respect to the performance of the respective obligations of Lessor and Lessee set forth in this Lease.

IN WITNESS HEREOF, Lessor and Lessee, intending to be legally bound, have executed this Lease Agreement as of the date and year first above written.

LESSOR:

THE CITY OF AUBURN, INDIANA

Attest: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

LESSEE:

PNC BANK, NATIONAL ASSOCIATION

Attest: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

First Reading _____
Second Reading _____

Exhibit A

Spaces

The Eight (8) Spaces to be mutually determined by the parties.