

STATE OF INDIANA
VIGO SUPERIOR COURT
2017 TERM

VIGO COUNTY REDEVELOPMENT)
COMMISSION, a political subdivision)
under the laws of the State of Indiana,)
)
Plaintiff,)
)
v.)
)
NANTWORKS TERRE HAUTE, LLC,)
)
Defendant.)

CAUSE NO. 84D03-1711-PL-008041

**VERIFIED COMPLAINT FOR BREACH OF CONTRACT, DAMAGES AND
PREJUDGMENT ATTACHMENT**

Count I

Vigo County Redevelopment Commission, a political subdivision under the laws of the State of Indiana (hereinafter "Plaintiff" or "VCRC") by its attorneys, James O. McDonald and Jeffrey A. Lind, for its action against Nantworks Terre Haute, LLC, says as follows.

1. Plaintiff is a political subdivision under the Laws of the State of Indiana with its office situated in Vigo County, State of Indiana.
2. Defendant is a Delaware limited liability company whose resident agent is National Registered Agents, Inc., 150 West Market Street, Suite 800, Indianapolis, IN 46204.
3. Pursuant to the terms of a January 18, 2012 Contract for the Purchase and Sale of Real Estate, Plaintiff sold to Defendant, for the sum of One Dollar and additional consideration, subject to the terms and conditions of such Contract For Purchase of Real Estate, real estate and personal property situated in Vigo County, Indiana, a copy of which is attached hereto as Exhibit A and made a part hereof by reference, the same as if set out here in full; a copy of Plaintiff's recorded deed to Defendant is attached hereto as Exhibit B.
4. In order to induce Plaintiff to sell to Defendant the real estate and personal property described in Exhibit A for the sum of One Dollar, Defendant represented to Plaintiff that it would, after Plaintiff's sale of the described real estate and

personal property described in Exhibit A, prior to December 31, 2016, operate on the purchased real estate a pharmaceutical manufacturing or related facility which would employ two hundred thirty-four (234) full time employees. (¶ 11, p. 7, Exhibit A).

5. Defendant has breached the Parties Contract in that it has wholly failed to operate a pharmaceutical manufacturing or related facility on the real estate and has failed to employ any full-time employees to operate any pharmaceutical manufacturing or related facility on the Real Estate.

6. The Parties contract (Exhibit A) contemplated and implied that in order for Defendant to fulfill the terms of the Defendant's obligations which it agreed to perform in accordance with the contract, Defendant would pay the real estate and personal property taxes assessed on the real estate described in Exhibit A.

7. Defendant has breached its duty to pay the real estate and personal property taxes assessed on the real estate.

8. The amount of the unpaid real estate taxes and penalties owed at the time of the filing of this action is One Hundred Ninety-Six Thousand Eight Hundred Sixty-Five Dollars and Twenty-Two Cents (\$196,865.22).

9. Pursuant to paragraph 11 of Exhibit A Plaintiff is entitled to the sum of One Million One Hundred Ninety-Nine Thousand Nine Hundred Fifty-Two Dollars (\$1,199,952.00) plus prejudgment interest from January 1, 2017 plus unpaid real estate taxes in the amount of One Hundred Ninety-Six thousand Eight Hundred Sixty-Five Dollars and Twenty-Two Cents (\$196,865.22) plus prejudgment interest and reasonable attorney fees and court costs, pursuant to paragraph 27 of Exhibit A.

WHEREFORE, Plaintiff prays for judgment against the Defendant in the amount of One Million Three Hundred Ninety-Six Thousand Eight Hundred Seventeen Dollars and Twenty-Two Cents (\$1,396,817.22), plus prejudgment interest on One Million Three Hundred Ninety-Six Thousand Eight Hundred Seventeen Dollars and Twenty-Two Cents (\$1,396,817.22) commencing January 1, 2017, court costs and reasonable attorney fees.

Count II - Unjust Enrichment

10. Plaintiff reincorporates rhetorical paragraphs 1-9 of Count I, the same as if fully set forth herein.

11. Defendant would be unjustly enriched if it were allowed to retain title to the real estate and personal property which it obtained title to from Plaintiff by paying Plaintiff One Dollar and wholly failing to perform any of the obligations it agreed to perform, as provided by the terms of Exhibit A.

WHEREFORE, Plaintiff prays that the Court enter judgment in Plaintiff's favor by ordering that the real estate and personal property described in Exhibit A be vested in the Plaintiff, court costs and reasonable attorney fees.

Count III

12. Plaintiff reincorporates paragraphs 1-9 of Count I, the same as if fully set forth herein and paragraphs 10-11 of Count II, the same as if fully set forth herein.

13. Nantworks Terre Haute LLC is the owner of certain real estate located in Vigo County, Indiana, described in Exhibit B to this Complaint.

14. Included in Plaintiff's sale of assets to Nantworks Terre Haute LLC, as described in Exhibit A, are numerous items of equipment and fixtures attached to the improvements constructed upon the real estate at the time the same was sold to Nantworks Terre Haute LLC.

15. Nantworks Terre Haute LLC has removed from the buildings constructed upon the real estate several valuable items of equipment and fixtures since it became the owner of the real estate. Many of those pieces of equipment resulted in damages to the buildings from which the equipment was removed and threaten the viability of the structures and improvements for utilization by potential other manufactures who might be willing to use the real estate and improvements for the purpose Nantworks Terre Haute LLC represented to Plaintiff it would use the real estate and improvements.

16. Upon information and belief, there is equity in the real estate.

17. Upon information and belief, Nantworks Terre Haute LLC is actively attempting to sell yet additional equipment, machinery and fixtures attached to the real estate and remove the same from the buildings situated on the real estate.

18. Upon information and belief Nantworks Terre Haute LLC is actively attempting to sell the real estate.

19. Upon information and belief, the only asset of Nantworks Terre Haute LLC in Indiana is the real estate, machinery, equipment and fixtures attached to the real estate described in Exhibits A and B and said real estate and personal property is the only means within the state of Indiana available to pay Nantworks Terre Haute LLC's obligation to Plaintiff.

20. Nantworks Terre Haute LLC is attempting to sell the real estate and personal property subject to execution, or a material part of such property, outside of Indiana, not leaving enough behind to satisfy Plaintiff's claims, making its assets subject

to prejudgment attachment pursuant to Indiana Code Sections 34-25-2-1(b)(2)(D); 34-25-2-1(b)(4); 34-25-2-1(b)(5)(D); 34-25-2-1(b)(6)(D) and 34-25-2-1(c).

21. If Nantworks Terre Haute LLC sells the real estate and/or personal property, there will be no assets available to satisfy its obligations owed to Plaintiff.

22. The real estate and personal property removed from the real estate, and any proceeds from the sale of the real estate and the sale of personal property, may become unavailable to satisfy Nantworks Terre Haute LLC's obligations to Plaintiff.

23. Prejudgment attachment of the real estate and all personal property attached to or affixed thereto is necessary to satisfy Nantworks Terre Haute LLC's financial obligation to Plaintiff and provide Plaintiff the best opportunity to achieve the creation of jobs which Nantworks Terre Haute LLC represented to Plaintiff it would create in exchange for the real estate and personal property being transferred from Plaintiff to Defendant for the sum of One Dollar.

24. Pursuant to Indiana Code Section 34-25-2-5, the Vigo County Redevelopment Commission will provide a written undertaking in an amount determined by the Court.

25. The Vigo County Redevelopment Commission has made a showing that prejudgment attachment is just and has met all of the statutory requirements for prejudgment attachment.

WHEREFORE, Plaintiff, Vigo County Redevelopment Commission, respectfully requests that the Court issue an Order of Attachment regarding the real estate and personal property against Nantworks Terre Haute LLC until such time as the court determines the rightful owner of the real estate and personal property and the amount of damages to be awarded to Plaintiff.

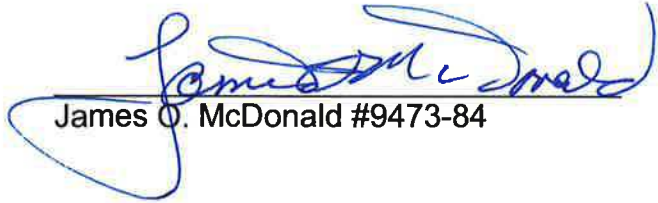
Respectfully submitted,

LIND LAW OFFICE
400 Ohio Street
Terre Haute, IN 47807
Telephone: (812) 234-5463



Jeffrey A. Lind #14290-06

EVERETT, EVERETT & McDONALD
648 Walnut Street
Terre Haute, IN 47807
Telephone: (812) 238-2456
E-Mail: jameso@mcdonaldlawoffice.com



James O. McDonald #9473-84

Verification

I hereby affirm under the penalties of perjury that the foregoing facts and representations are true.



Steven Witt, Executive Director Vigo County
Redevelopment Commission

CONTRACT FOR PURCHASE AND SALE OF REAL ESTATE

NANTWORKS TERRE HAUTE, LLC, a Delaware limited liability company (the "**Purchaser**"), hereby agrees to purchase from VIGO COUNTY REDEVELOPMENT COMMISSION, a political subdivision under the laws of the State of Indiana (the "**Seller**"), and Seller hereby agrees to sell to Purchaser the following described real estate located in Vigo County, Indiana containing approximately 211 acres, such real estate being more particularly described as follows:

Lot 1 in Vigo County Industrial Park II, Phase II, one lot subdivision, a replat of Vigo County Industrial Park II, Platted Subdivision Phase I, and Pfizer Addition to the Vigo County Industrial Park Phase I recorded on December 14, 2011 as Instrument Number 2011016842, records of the Vigo County Recorder's Office (a copy of such Plat is attached hereto as **Exhibit A**), a portion of the larger tract previously referenced by Pfizer as Parcels 1, 2, 3 and 4 of 100 Pfizer Drive (the "**Land**")

all improvements, structures and fixtures thereon and together with and subject to all entitlements, approvals, easements, rights-of-way, rights, licenses, means of access, hereditaments, estates, interests, liberties, privileges, servitudes, prescriptions, appurtenances, leases, tenements, riparian rights, waters, water courses, water rights, all interests in utilities, utility connections, curb cuts, sewers, sewer connections, governmental permits, streets, sidewalks, alleys, ditches, strips, gores, feeders and laterals adjoining such real estate or belonging to or in any way appertaining to the aforescribed real estate, and all personal property, if any, used in the use, maintenance and repair of the Real Estate,

subject to a reserved utility easement 25' wide off of the East side thereof for all utilities servicing adjacent property or the community at large (the "**Real Estate**").

all upon and subject to the following terms and conditions of this Contract for Purchase and Sale of Real Estate ("**Contract**") entered into effective as of this 19th day of January 2012 (the "**Effective Date**");

1. **Purchase Price and Manner of Payment.** The purchase price for the Real Estate shall be One and 00/100 Dollars (\$1.00) (the "**Purchase Price**"), which Purchase Price shall be paid by Purchaser to Seller in cash or other immediately available funds at Closing, less any other credits, reductions and prorations in Purchaser's favor for which this Contract provides and plus debits, additions and prorations charged to Purchaser for which this contract provides.

2. **Closing.** The sale and purchase of the Real Estate provided for herein shall be consummated through escrow at the Title Company, or at such other location as mutually agreed by the parties on or before the date which is ten (10) days following the earlier of (a) the expiration of the Feasibility Period or (b) Seller's receipt of Purchaser's affirmation of this Contract in accordance with the terms of **Section 3(b)** below, which closing date is estimated to occur on February 20, 2012, or at such other date as

Exhibit A

reasonably specified by Purchaser to Seller at least seven (7) days prior thereto. If this transaction is not consummated at a Closing on or before February 28, 2012, due to no fault of Seller, then this Contract shall be terminable at the will of Seller. The date and event of the sale and purchase of the Real Estate are herein referred to respectively as the "Closing Date" and the "Closing."

3. Conditions Precedent to Closing. Purchaser's obligations hereunder shall be subject to the satisfaction of the following conditions precedent:

a. As soon as practicable after the date both parties have executed this Contract, but in no event more than ten (10) days after the Effective Date, Purchaser shall have obtained an ALTA 1992 Form B standard commitment for an owner's policy of title insurance (as further described herein, the "Title Policy") issued by Fidelity National Title Insurance Company, through its agent, Hendrich Title Company of Terre Haute, Indiana (the "Title Company") which commitment shall contain the agreement of such Title Company to insure fee simple title to the Real Estate in the name of the Purchaser upon delivery of a special (or limited) warranty deed (the "Deed") from Seller to Purchaser, subject only to current general and special real estate taxes and assessments not yet delinquent and such other rights-of-way, easements, agreements, restrictions and minor defects of or encumbrances on title which do not materially adversely affect the marketability of title to the Real Estate or Purchaser's intended use of the Real Estate (collectively the "Permitted Exceptions"). Such title insurance commitment shall contain the commitment of the Title Company to insure such title in Purchaser for \$1,200,000.00 or such other amount as Purchaser shall require and contain endorsements thereto required by Purchaser. Such title insurance commitment and policy shall be issued at Seller's cost subject to the terms of Section 4(f) below. Within 10 business days from the issuance of the Title Insurance Commitment, Purchaser shall advise Seller of any defect or objections (other than Permitted Exceptions) affecting the marketability of title to or use of, the Real Estate and deliver to Seller a copy of the commitment and copies of the documents referenced thereon. Seller shall then have until the Closing Date to satisfy all such objections or provide notice to Purchaser that such objection(s) raised are Permitted Exceptions, and if such defects and objections are not Permitted Exceptions and satisfied to Purchaser's satisfaction within such time, then, at the option of the Purchaser, Purchaser may elect to terminate this Contract or proceed to Closing. Notwithstanding anything contained herein to the contrary, in the event any such defect or objection shall be deemed by Seller to be a Permitted Exception, Purchaser may waive such objection and proceed to closing, or take issue with Seller's determination that such objection is a Permitted Exception and terminate this contract by written notice to Seller. For purposes of this Contract, any such defect or objections shall be deemed to have been cured by Seller upon the issuance to Purchaser by the Title Company of its commitment to insure title to the Real Estate without exception for such defect or objection, at no additional cost to Purchaser. Notwithstanding anything to the contrary, Seller shall be obligated to remove and pay in full all deeds of trust,

assignments of rent and other liens securing payment of any monetary sums owed by Seller and affecting the Real Estate at or prior to the Closing, excluding only those caused by the activities of Purchaser or its representatives on the Real Estate.

b. On or before the expiration of thirty (30) days from the mutual execution and delivery hereof (the "Feasibility Period"), Purchaser shall conduct a feasibility study of the Real Estate as Purchaser deems necessary or desirable to own and operate the Real Estate consistent with Purchaser's intended use and consistent with Section 13. In the event Purchaser fails to deliver a notice of approval of Purchaser's feasibility study to Seller on or before the end of the Feasibility Period, Purchaser shall be deemed to have disapproved the results of such study and the condition contained in this Section 3(b) shall be deemed not satisfied and this Contract shall terminate. Seller shall allow Purchaser access to Seller's Records throughout the Feasibility Period. Purchaser shall not remove Seller's records from the Real Estate and shall return any copies thereof in the event that the Closing does not occur.

c. Seller shall have performed and complied in all respects with all of its obligations under this Contract that are to be performed or complied with by Seller on or before the Closing Date.

d. All of Seller's representations and warranties set forth in this Contract shall be true and correct in all material respects as of the Closing Date.

e. As of the Closing Date, there shall be no (i) material damage to the Real Estate or any portion thereof or (ii) pending or threatened condemnation or taking of any part of the Real Estate or any means of ingress or egress to the Real Estate, which, in Purchaser's judgment would materially adversely affect the value of the Real Estate; or (iii) litigation or administrative agency or other governmental proceeding of any kind whatsoever, pending or threatened, which after the Closing Date, that would materially adversely affect the value of the Real Estate.

4. Closing Adjustments and Prorations.

a. Taxes and Assessments. The real estate is not currently taxed, given its current ownership, after closing Purchaser shall be responsible for all real and personal property taxes associated with the Real Estate and Purchaser's operations thereon.

b. Recording Fees. Purchaser shall pay all recording costs related to the conveyance of the Real Estate to Purchaser;

c. Utilities. All expenses for utilities, if any, shall be prorated as of the Closing Date;

d. **Insurance and Service Contracts.** All insurance and management, farming or service contracts maintained by Seller in respect of the Real Estate, if any, shall be canceled as of the Closing Date;

e. **Costs for Survey, Permits and Studies.** Purchaser shall bear all costs for any survey obtained by Purchaser, all permits obtained by Purchaser, and all additional Purchaser's Inspections conducted by it. Seller shall deliver to Purchaser copies of all surveys related to the Real Estate in Seller's possession.

f. **Title Insurance.** Seller shall pay premiums and charges by the Title Company in connection with its issuance of the title commitment and owner's policy of title insurance described in **Section 4(a)** up to an amount equal to the lesser of (i) \$6,000.00; or (ii) the cost of the commitment and the title insurance premium. Purchaser shall pay the balance of any additional title insurance costs. Any closing fee charged by the Title Company for the use of its personnel and facilities shall be paid by the Purchaser.

All credits to Purchaser from the closing adjustments and prorations described above or elsewhere in this Contract shall reduce the cash portion of the Purchase Price payable at Closing and; if applicable, be paid into closing by Seller if such credits to Purchaser exceed the Purchase Price. All credits to Seller and debits to Purchaser from the closing adjustments and prorations described above or elsewhere in this Contract shall increase the amount of the Purchase Price payable at Closing. All costs, expenses, bills and other obligations relating to the operation of the Real Estate which are incurred or accrued prior to or on the Closing Date shall be paid by Seller. Except as otherwise provided in this Contract all costs, expenses, bills and other obligations relating to the operation of the Real Estate which are incurred or accrued after the Closing Date shall be paid by the Purchaser. If one party pays any of the obligations of the other party under this Contract, the paying party shall be entitled to immediate reimbursement thereafter from the other party.

5. **Risk of Loss, Condemnation and Insurance.** Until the purchase and sale of the Real Estate is consummated at the Closing, the risks of ownership and loss of the Real Estate shall be borne by Seller.

6. **Possession.** Possession of the Real Estate shall be delivered by Seller to Purchaser at Closing free and clear of all liens and encumbrances, except the Permitted Exceptions. Upon delivery of possession to Purchaser, the Real Estate shall be in the same condition as it is on the effective date.

7. **Free Access to Real Estate.** Commencing on the Effective Date, Seller shall give to Purchaser, and to its counsel and other representatives (collectively, the "**Purchaser Parties**") free and reasonable access to the Real Estate during the Feasibility Period. In connection therewith, the Purchaser shall have the right to enter upon the Real Estate for the purposes of conducting such tests and studies as Purchaser deems necessary or desirable in its sole discretion in order to determine the feasibility of the Real Estate

for Purchaser's intended use, which tests and studies may include, but shall not be limited to, soil borings, percolating tests, test pits, environmental studies, water pressure tests, surveys, and other investigations and invasive testing (collectively, "**Purchaser's Inspections**"). In such event, Purchaser will indemnify, defend and hold Seller, its officers, directors, agents, servants and employees harmless from and against all loss, claims liabilities, actions, manners of action, damage, cost or expense (including the reasonable expenses of litigation and attorneys' fees) arising out of Purchaser's agents, contractors and employees presence upon the Real Estate, except for such actions, liabilities and costs arising from pre-existing conditions on, in, under or about the Real Estate. In the event that Purchaser fails to close the purchase and sale of the Real Estate (other than as a result of Seller's breach) Purchaser agrees: a.) not to disclose the results of **Purchaser's Inspections to a third party, unless (i) such disclosure occurs in the course of litigation for which the Purchaser is a party, to the extent such materials are relevant thereto, (ii) Purchaser is ordered to do so by a governmental agency, or Seller consents to such disclosure, which consent shall not be unreasonably withheld; and b.)** Purchaser shall restore the condition of the Land and Real Estate to the condition which existed prior to such inspections.

The Real Estate is located within a secured area, consequently Purchaser shall work with Seller, through Steve Witt, to obtain such access and maintain the security in the secured area.

8. **Seller's Obligations at Closing.** At Closing, Seller agrees to deliver to Purchaser in accordance with the terms of this Contract the following:

a. A duly authorized and executed Deed in recordable form conveying good and marketable title to the Real Estate subject only to Permitted Exceptions, unless otherwise agreed in writing by Purchaser;

b. A duly authorized and executed Seller's Affidavit acceptable to the Title Company;

c. Sole possession and occupancy of the Real Estate;

d. An affidavit in a form satisfactory to Purchaser stating that Seller is not a "Foreign Person" as such term is used in § 1445 of the Internal Revenue Code;

e. All other documentation which may be reasonably required by the Title Company in order to insure Purchaser with good and marketable title to the Real Estate, subject to the Permitted Exceptions, which can be furnished by Seller without material cost or expense;

f. If required, Seller shall provide and record the Indiana Responsible Property Transfer Law Disclosure. Purchaser waives the notice requirements related thereto; and

g. All other necessary documents to complete the transaction contemplated by this Contract.

9. **Purchaser's Obligations at Closing.** At Closing, Purchaser shall (a) pay the Purchase Price to Seller in the manner set forth in **Section 2** above, subject to the Closing adjustments and prorations provided herein, and (b) do all other things on the part of the Purchaser to be done under this Contract.

10. **Representations and Warranties.** As a material inducement to Purchaser for entering into this Contract, Seller hereby represents and warrants to Purchaser as follows:

a. Seller is a political subdivision under and existing by virtue of the laws of the State of Indiana;

b. Seller has taken all necessary action to authorize the execution and performance of this Contract and the consummation of the transactions herein contemplated and none of the provisions of this Contract or any of the requirements of such transactions contravene or are in conflict with any laws pertaining to Seller or any other indenture or agreement to which Seller is a party or pursuant to which its assets may be bound;

c. Seller owns good, marketable and indefeasible fee simple title to the Real Estate, subject only to the Permitted Exceptions;

d. There are no known violations of any laws, regulations, codes, ordinances, orders or requirements affecting the Real Estate, including, but not limited to, applicable laws, regulations, ordinances or requirements relating to ecology, the environment, pollution, health or safety;

e. There is no litigation or proceeding pending or, to the best knowledge of Seller, threatened against or relating to the Real Estate, including, without limitation, any proceedings for condemnation or other exercise of eminent domain;

f. No assessments for improvements to the Real Estate have been made against the Real Estate which remain unpaid;

g. There are no liens or claims which may ripen into liens against the Real Estate; and

h. All amounts owing for labor and materials furnished at the Real Estate shall be paid by Seller prior to Closing.

i. All documents delivered or made available to Purchaser by Seller pursuant to the terms of this Contract, including the Seller's Records, are complete and accurate copies of the documents in Seller's or Seller's property manager's files.

j. Seller has not received any written notice of the commencement of any special assessments or condemnation actions.

k. **There are no leases or rights of any third party to occupy any portion of the Real Estate except as provided to Purchaser.**

The representations and warranties of Seller set forth in this **Section 10** shall survive the Closing of the transaction contemplated in this Contract.

11. **Purchaser's Covenant and Condition Subsequent.** For and in consideration of the Purchase Price, Purchaser covenants that Purchaser, or its affiliate, including but not limited to California Capital Equity, LLC, Nant Holdings, LLC or Nantworks, LLC, shall operate a pharmaceutical manufacturing or related facility on the Real Estate which shall employ 234 full-time employees at the former Pfizer Exubera facility on December 31, 2016 ("**Purchaser's Covenant**"). In the event of a failure of Purchaser's Covenant, Purchaser shall pay Seller an amount equal to the product of \$5,128.00 and the sum of 234 less the number of jobs at the former Pfizer Exubera facility as of December 31, 2016, provided, however, in the event that Purchaser has not received all necessary approvals and permits, including validation, by such date for Purchaser's intended use of the Real Estate as a pharmaceutical manufacturing or related facility by all applicable governmental authorities including, without limitation, the Food and Drug Administration, following Purchaser's expenditure of not less than \$1,200,000 toward entitling, permitting, designing and/or improving such facility, Purchaser's Covenant shall be deemed waived by Seller and Purchaser shall have no further obligation under this **Section 11**. In no event shall Seller pay Purchaser for a failure of Purchaser's Covenants.

12. **Purchaser's Phase I.** Purchaser shall at Purchaser's expense (and Purchaser's purchase of the Real Estate shall be Purchaser's warranty to Seller that Purchaser has done so): (a) update, but specific to the Real Estate: (i) the ASTM compliant Phase I report dated October 15, 2009 Phase I Environmental Site Assessment Addendum Parcels 1, 3 & 4 as prepared by Corradino ("**Phase I**"); and (ii) the September 10, 2010 Phase I Environmental Site Assessment Parcel 2 as prepared by Corradino; and (b) perform due diligence as to the prior site history and the identification of historic and/or recognized environmental conditions as disclosed by its review of the Seller's Records and Purchaser's Phase I. Purchaser shall deliver a copy of its Phase I to Seller with a reliance letter for Seller.

13. **Warranty, Release, Indemnities and Covenant.**

a. Seller hereby agrees to defend, indemnify and hold harmless Purchaser for, from and against any and all Environmental Claims arising from an Environmental Condition that was caused by Seller or caused or otherwise created prior to Closing (**except to the extent any such pre-existing Environmental Condition is exacerbated by Purchaser**), including any costs, expenses and liabilities incurred by the Purchaser as a result of such Environmental Claim(s), subject to the limitation that any claim for indemnity by the Purchaser must be tendered to the Seller **within 30 days**, or **such shorter period if required by law**, following Purchaser's determination that there is a reasonable basis for Seller to provide indemnification and deliver therewith all documents which support or are the basis of such claim. The right of indemnity under this Section applies only to an Environmental Claim made by or deriving from (a) a requirement of a governmental agency for remediation of the Environmental Condition based on the compliance with any requirements of Environmental Laws including those requiring notification, testing or reporting; (b) exceedance of a regulatory closure or cleanup level; or (c) a claim brought by a private party as a result of an Environmental Condition. Where the Seller accepts a tender of a claim for indemnification, Seller reserves the right to control the remediation for which Seller is liable under this indemnification provision and to perform the remediation. In any event such remediation shall be performed in the least costly manner that achieves the applicable industrial remediation closure level, provided that: (i) the engineering firm conducting the remediation and the scope of work of the remediation, shall be subject to the approval of Purchaser, which Purchaser shall not unreasonably withhold; (ii) the remediation shall be conducted in the manner which shall prevent any disruption of Purchaser's business operations; (iii) the remediation, and the repair and **restoration of the Real Estate** and any improvements or property of Purchaser which are **affected by the remediation**, shall be at Seller's sole cost and expense; and (iv) Seller shall be responsible for compliance with all applicable laws, including Environmental Laws relating to notification, testing and reporting, in connection with the remediation. The parties to this Contract acknowledge and agree that it is not the intention of Purchaser to assume or be subject to any liabilities, costs or obligations relating to Environmental Conditions which were in existence prior to Closing (**except to the extent exacerbated by Purchaser**) or were caused by Seller, and that all such liabilities, costs and obligations shall be retained by Seller and not transferred to Purchaser.

b. Purchaser hereby agrees to defend, indemnify and hold harmless Seller and Seller's Agents for, from and against any and all liability arising out of any **Environmental Condition or Environmental Claim** at, on or under the Real Estate: (i) **created or caused by the acts or omissions of Purchaser**; (ii) **created or caused from and after Closing by any party except for Seller or its tenants, agents, employees or contractors**; and (iii) any exacerbation by Purchaser of an Environmental Condition existing before Closing. Purchaser further agrees to defend, indemnify and hold harmless Seller from the Purchaser's operations which **violate or fail to comply** with any applicable Environmental Law whether real or **alleged**.

c. Purchaser agrees that, **except as otherwise expressly provided in Section 13(a)** or elsewhere in this Contract, Purchaser is purchasing the Real Estate in

"AS IS ", "WHERE IS" condition and "WITH ALL FAULTS" and that Seller has not made any express or implied representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, concerning the Real Estate or the Seller Records, including, without limitation, the condition or suitability of the Real Estate or any portion thereof for any particular purpose.

d. It is understood and agreed that the Purchase Price reflects that the Real Estate is being sold by Seller, and purchased and accepted by Purchaser, subject to and in accordance with the terms and provisions of this Contract. Purchaser acknowledges and agrees that, in the event the Closing shall occur, Purchaser shall be deemed to have been given ample and sufficient opportunity to inspect the Real Estate and Seller's Records, and, further, that Purchaser shall be deemed to have determined to purchase the Real Estate and each component thereof based upon such inspection, and, upon Closing, and **except as otherwise expressly provided in Section 13(a) of this Contract**, Purchaser shall be deemed to have assumed the risk that adverse matters, **including, but not limited to, adverse past, present and future physical characteristics and conditions, including, but not limited to, construction defects and other adverse physical conditions**, whether or not revealed by Purchaser's inspections, and Purchaser, upon the Closing, shall be deemed (**except as provided in Section 13(a) of this Contract**) to have waived, relinquished, and released Seller from and against any all claims, demands, **causes of action (including, without limitation, causes of action in tort)**, losses, damages, liabilities, costs and expenses (**including, without limitation, attorneys' fees and court costs**) of any and every kind or character, known or unknown, foreseeable and unforeseeable, accrued and unaccrued, ordinary and extraordinary, that Purchaser might now have, or in the future might have the right to assert or allege, against Seller and/or Seller's agents and which might arise at any time by reason of any statements, opinions or information obtained from Seller or Seller's agents related to or involving the Real Estate or any part thereof, any latent or patent physical characteristics or conditions of the Real Estate or any part thereof.

e. Without intending to limit the application or scope of the preceding provisions of this Section, Purchaser further specifically acknowledges and agrees Seller has provided to Purchaser access to an Environmental Health & Safety ("EHS") due diligence document collection, pertaining to the Real Estate which is a part of the Seller's Records.

f. Seller and Purchaser covenant and agree with one another to cooperate in efforts to determine whether an event or issue is the subject of an indemnity under this Contract, in the defense of any such Environmental Claim, the reporting and communications with any applicable agency if such is required and in the remediation or other similar activities, if applicable. Purchaser agrees to provide copies of all tests, reports and similar documentation related to an Environmental Claim and Seller will coordinate with Purchaser as to any related communications with governmental agencies, consultants, engineers and other similar persons or entities.

g. Seller hereby covenants that, in relation to a representation or assertion by Purchaser that Purchaser and Purchaser Parties are innocent purchasers of the Real Estate under the transaction contemplated by this Contract made in response to and as a defense against any claims related to the environmental condition of the Real Estate at the time of Closing, Seller will not object to, oppose, or otherwise challenge any representation or assertion made by Purchaser in any proceeding or action that Purchaser has conducted "all appropriate inquiry" (as defined under applicable Environmental Laws) into the historical operation and environmental condition of the Real Estate prior to Closing. Purchaser covenants to assert all available defenses to any Environmental Claim and shall cooperate with Seller in the assertion of Purchaser's defenses and the defense of any such Environmental Claim. Purchaser acknowledges and will not challenge Seller's prior and continued establishment of its own defenses under Environmental Laws.

h. The term "Environmental Claim(s)" means any claim or cause of action that is asserted against or demanded of any of parties to this Contract after the Closing date by any third party, including, without limitation, any governmental authority, agency, department or entity having jurisdiction over the Land, and which asserts, claims or demands that a party to this Contract has an obligation to (i) comply with any Environmental Law regarding the Land; (ii) remediate an Environmental Condition existing at, on or under the Land existing at the time of Closing; or (iii) pay for any testing, remediation, cleanup or other costs or liabilities to any person or entity as a result of an Environmental Condition.

i. The term "Environmental Condition" means any use, disposal, treatment or release of Hazardous Materials at, on or under the Real Estate or the failure of the Land to comply with Environmental Law as a result thereof.

j. The term "Environmental Law" means and includes, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. §6901, *et. seq.*, the Clean Water Act, 33 U.S.C. §1251, *et. seq.*, the Clean Air Act, 42 U.S.C. §7401, *et. seq.*, the Safe Drinking Water Act, 42 U.S.C. §300f, *et. seq.*, the Toxic Substances Control Act, 15 U.S.C. § 2601, *et. seq.*, the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et. seq.*, all regulations promulgated under any of the foregoing laws, any state law equivalents to any of the foregoing, and any other law related to environmental matters or liability with respect to or affecting the Land, all as amended from time to time (collectively, "Environmental Laws").

k. "Hazardous Materials" means any substance or material which is or contains (i) any "hazardous substance" as now or hereafter defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601 *et seq.*) ("CERCLA") or regulations promulgated under CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act, as amended (42 U.S.C. §6901 *et seq.*) ("RCRA") or regulations promulgated under RCRA; (iii) any "extremely hazardous substance" listed in federal regulations pursuant to Section 302 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §11001 *et seq.*) (iv) any substance regulated by

the Toxic Substances Control Act, as amended (15 U.S.C. §2601 et seq.); (v) any additional "hazardous substances" and "hazardous wastes" identified and regulated by State laws or rules intended to implement or supplement CERCLA or RCRA; (vi) gasoline, diesel fuel, or other petroleum hydrocarbons; (vii) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (viii) polychlorinated biphenyls; (ix) radon gas; (x) flammable explosives; and (xi) any additional substance, material, chemical or waste which is now or may hereafter be classified, identified or defined to be hazardous or toxic or that is or becomes regulated because of its toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness or reactivity under any environmental law, ordinance, rule or regulation, now or hereinafter enacted, adopted or amended by any federal, state or local governmental authority.

l. **"Seller's Records"** shall mean and include all files and information regarding the use, operation, maintenance and repair of the Real Estate in possession or control of Seller and its property manager, including but not limited to agreements, plans, documentation, any leases, contracts, maintenance agreements, property tax statements, property tax notices, insurance policies, personal property inventories, environmental reports, soils investigations, structural investigation reports, warranties, site plans, **permits, building plans, surveys, maintenance records and correspondence** pertaining to any leases or the Real Estate, and all other material documents relating in any way to the use, ownership or operation of the Real Estate, being the documents listed in **Exhibit B**, including the Phase I studies Seller obtained contemporaneously with its purchase of the Real Estate.

m. The terms and provisions of **Section 12** and this **Section 13** of this Contract shall survive the Closing; but the provisions of **Section 13(a)** shall not be assignable by Purchaser without a warranty from Purchaser and all assignees that the assignee(s) have conducted a **ASTM compliant** Phase I and performed due diligence as to the **prior** site history and the **identification** of historic and/or recognized environmental conditions as disclosed by its review of the then owner/seller's records related to the Real Estate and Assignee's Phase I.

14. **Use of Brokers.** Purchaser represents and warrants to Seller that it has dealt with no broker, finder or other person with respect to this Contract or the transactions contemplate hereby, and, insofar as it knows, no broker or other person is entitled to any commission or finder's fee in any such connection. Seller represents and warrants to Purchaser that it has dealt with no broker, finder or other person with respect to this Contract or the transactions contemplated hereby, and, insofar as it knows, no broker or other person is entitled to any commission or finder's fee in any such connection. Seller and Purchaser each agree to indemnify and hold harmless one another against any loss, liability, damage or claim incurred by reason of any brokerage commission or finder's fee alleged to be payable because of any act, omission or statement of the indemnifying party. Such indemnity obligation shall be deemed to include the payment of reasonable attorneys' fees and court costs incurred in defending any such claim.

15. **Default.** In the event the purchase and sale contemplated by this Contract is not consummated due to the breach hereof or default hereunder by Purchaser, Seller shall have no rights to a claim for damages, specific performance or otherwise, and this Contract shall be of no further force and effect. Seller and Purchaser expressly recognize the difficulty of precisely ascertaining the amount of damages to the Seller in the event of a default by the Purchaser hereunder and declare and agree that the payment of Seller's costs as set forth herein represent reasonable damages to the Seller.

In the event the purchase and sale contemplated by this Contract is not consummated due to the breach hereof or default hereunder by Seller, then Purchaser may, at its sole election, proceed with one of the following mutually exclusive alternatives: (a) terminate this Contract, and Seller shall pay Purchaser or pay on Purchaser's behalf the reasonable costs Purchaser incurred at the Title Company to produce a commitment and, provided Purchaser has approved or waived in writing all of its conditions to Closing (other than those which are not satisfied due to Seller's default), Purchaser is not in default of this Contract, and Purchaser is otherwise ready, willing and able to close the transaction contemplated hereunder, Purchaser's actual and reasonable non-refundable third party out-of-pocket due diligence costs and expenses not to exceed \$35,000 (the "**Maximum Damages**") and neither party shall have any further liability or obligation to the other hereunder, except for provisions of this Contract which expressly state that they shall survive the termination of this Contract or (b) file in any court of competent jurisdiction an action for specific performance to cause Seller to convey the Real Estate to Purchaser pursuant to the terms and conditions of this Contract; but Purchaser shall not be entitled to recover monetary damages from Seller in connection with such default. Provided however, any such suit for specific performance must be filed within three (3) months of the earlier of February 28, 2012 or the date of Seller's alleged breach or default. In the event the purchase and sale contemplated by this Contract is not consummated due to a breach hereof or default hereunder by Seller, in no event shall Purchaser be entitled to recover any punitive, special, incidental or consequential damages from Seller whether under contract, tort or any other theory of law, including, without limitation, any damages based on lost profits or loss of use of funds, nor shall Purchaser be entitled to recover an amount in excess of the Maximum Damages, provided however in no event shall the foregoing limitation on damages apply to Seller's indemnification and other obligations contained in **Section 13** above. Notwithstanding anything to the contrary, if Seller has rendered specific performance unavailable by conveying the Real Estate to a third party (either directly or indirectly through an affiliate of Seller) in breach of this Contract, then notwithstanding the satisfaction or waiver of Seller's conditions to Closing set forth in **Section 9**, Seller shall pay to Purchaser the greater of (a) the amount by which the purchase price paid to Seller for the Real Estate by such third party exceeds the Purchase Price (in each case net of closing costs paid or payable by Seller in connection therewith), or (b) the actual and reasonable non-refundable third party out-of-pocket costs incurred by Purchaser in connection with the transactions contemplated by this Contract up to the Maximum Damages.

16. **Notices.** All notices, requests, demands, consents and other communications required or permitted under this Contract shall be in writing and shall be deemed to have been duly and properly given on the date of service if delivered personally, by confirmed fax transmission or by express courier, or three (3) days following the date of mailing if deposited in a receptacle of the United States registered or certified mail, first class postage prepaid, return receipt requested, addressed appropriately as follows:

If to the Seller: Vigo County Redevelopment Commission
630 Wabash Avenue, Suite 101
Terre Haute, Indiana 47807
Attention: Steve Witt, Director
Fax: (812) 232-6054

If to Purchaser: Nantworks Terre Haute, LLC
11755 Wilshire Boulevard, Suite 2000
Los Angeles, California 90025
Attention: Michael Brunelle
Fax: (310) 405-7411

With a copy to: Advisors LLP
11911 San Vicente Boulevard, Suite 265
Los Angeles, California 90049
Attention: Robert J. Plotkowski
Fax: (310) 472-5433

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

17. **Assignment.** Purchaser may freely assign its interest in this Contract to any affiliate of Purchaser or may nominate any such affiliate entity to receive title to the Real Estate pursuant to this Contract.

18. **Binding on Successors.** This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

19. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Indiana.

20. **Counterparts.** This Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Contract.

21. **Modification.** This Contract may not be changed or modified except by an agreement in writing signed by both of the parties.

22. **Captions.** The captions of the various Sections herein contained are solely for the convenience of the various parties hereto and shall not be construed to interpret or limit the content of any provision or paragraph of this Contract.

23. **Offer and Acceptance.** This Contract, as first executed and delivered in at least two (2) counterparts by Purchaser, constitutes an offer to purchase the Real Estate at the Purchase Price and upon the terms and conditions contained herein. For this offer to be accepted, one (1) counterpart, duly executed by Seller, must be returned by Seller to Purchaser at the address set forth in Section 16 above prior to 5:00 p.m., Eastern Standard Time, on January 17, 2012. Otherwise, this offer shall expire, without notice.

24. **Limitations on Seller.** The Seller covenants and agrees, upon acceptance of this Contract and during its term, not to:

- a. Permit any part of the Real Estate to be occupied by any person or entity without the prior written consent of Purchaser;
- b. Enter into any letter of intent or any other agreement to sell or transfer the Real Estate;
- c. Sell or transfer the Real Estate;
- d. Encumber the Real Estate or subject the Real Estate to liens; or
- e. Enter into any lease or agreement affecting the Real Estate which will survive the Closing.

25. **Exhibits.** All exhibits attached hereto are made a part hereof and incorporated herein by this reference.

26. **Entire Agreement.** This Contract constitutes the entire agreement among the parties hereto and supersedes all prior discussions, agreements, writings and representations between Seller and Purchaser with respect to the Real Estate and the transaction contemplated herein.

27. **Attorneys' Fees.** Should any litigation, action or proceeding be commenced between the parties hereto concerning this Contract, the party to this Contract who prevails in such litigation, action or proceeding shall be entitled, in addition to such other relief as may be granted, to court costs and reasonable attorneys' fees as determined by the court.

IN WITNESS WHEREOF, Purchaser has executed this Contract this ___ day of January 2012.

"PURCHASER"

NANTWORKS TERRE HAUTE, LLC

By: 

Michael Brunelle
Printed name and title *VP Acquis. Trans & Development*

Accepted and agreed to by Seller, by its officer duly authorized, this 18th day of January 2012.

"SELLER"

VIGO COUNTY REDEVELOPMENT COMMISSION

By: 
Mary Caye Pfister, President

Exhibit A

Vigo County Industrial Park II, Phase II,
a replat of Vigo County Industrial Park II, Platted Subdivision Phase I,
and Pfizer Addition to the Vigo County
Industrial Park Phase I
SHEET 1 of 1

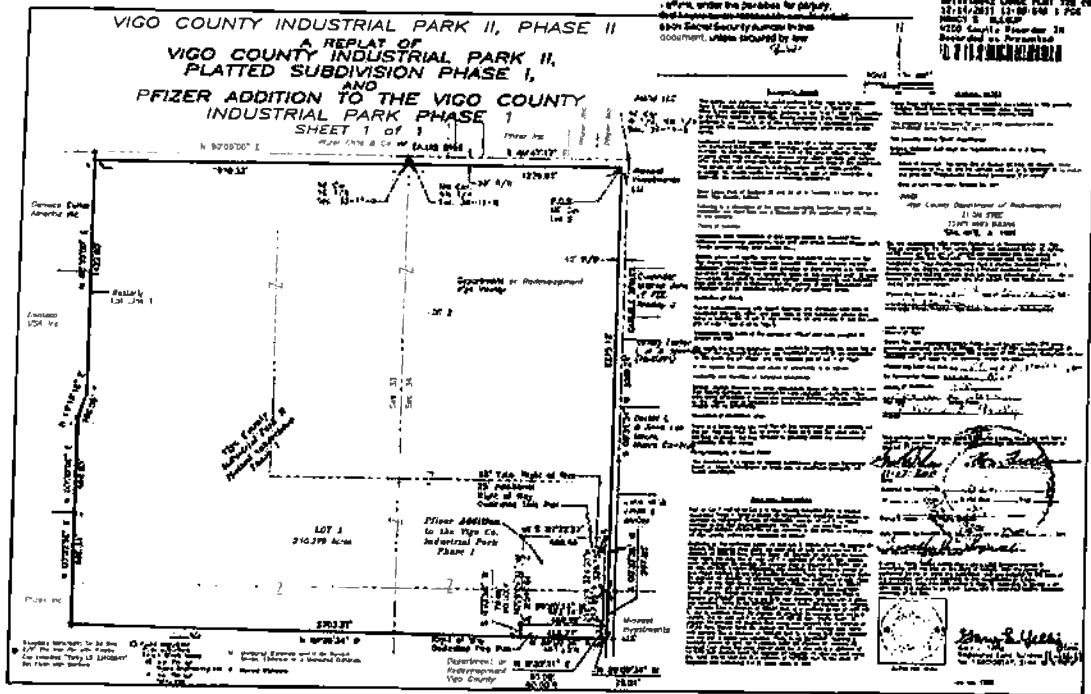


Exhibit B

Seller's Records

- Those records, files, information, drawings, reports, agreements, inventories, plans, surveys, documentation, statements, notices, investigations, records, permits and Environmental Health and Safety Due Diligence Data located:
 - in storage room 138 in Building 1250
 - in Room 137 in Building 1250
 - in storage room 203 in Building 1250
 - in Document Storage Room in Building 1249
- Seller's Phase I reports obtained by Seller in 2009 and 2010 delivered to Purchaser

DAILY ENTERED FOR TAXATION
Subject to final acceptance for transfer

2012006157 SWD \$22.00
04/24/2012 09:41:20A 4 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented

APR 24 2012



Timothy M. Spang
VIGO COUNTY AUDITOR

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, That Vigo County, Department of Redevelopment, a body corporate and politic, by its Redevelopment Commission, organized and existing under the laws of the State of Indiana (hereinafter called Grantor), for and in consideration of the payment to it of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby **CONVEYS and SPECIALLY WARRANTS (as defined and limited below)** to NantWorks Terre Haute LLC, a California limited liability company (hereinafter called Grantee), the following described real estate in Vigo County, Indiana, to-wit:

Vigo County Industrial Park II, Phase II, One Lot Subdivision, a replat of Vigo County Industrial Park II, Platted Subdivision, and Pfizer Addition to the Vigo County Industrial Park Phase I recorded on December 14, 2011 as Instrument Number 2011016842, records of the Vigo County Recorder's Office.

Subject to a reserved utility easement 25' wide off of the East side thereof for all utilities servicing adjacent property or the community at large.

ALSO

A non-exclusive easement benefitting the above described real estate (as such easement rights are defined by, and the above described real estate is subject to the obligations of, that certain Grant of Easement from Pfizer Inc. to County of Vigo, for the use and benefit of its Department of Redevelopment, also known as the Vigo County Redevelopment Commission dated December 16, 2010 and recorded December 20, 2010 as Instrument Number 2010017260, records of the Vigo County Recorder's Office) over the following described real estate in Vigo County, Indiana, to wit :

Part of the South Half of Section 28 and part of the West Half of the Southwest Quarter of Section 27, all in Township 11, North, Range 9 West, in Honey Creek Township, Vigo County, Indiana, and more particularly described as follows:

Beginning at a railroad spike in a brass pipe found at the Southeast corner of said Section 28; thence North 89 degrees 54 minutes 04 seconds West along the south line of said Section 28 a distance of 1738.32 feet to mag nail with washer stamped "HENNESSY LS20200026"; thence North 00 degrees 05 minutes 56 seconds East 152.10 feet to a set 5/8 inch iron pin

Exhibit B

with cap stamped "K.J. HENNESSY LS20200026", herein called monument; thence South 89 degrees 54 minutes 05 seconds East 289.74 feet to a found monument; thence North 11 degrees 27 minutes 25 seconds West 13.16 feet to a set monument; thence South 89 degrees 54 minutes 04 seconds East 143.13 feet to a set monument; thence North 80 degrees 25 minutes 11 seconds East 384.41 feet to a set monument; thence North 14 degrees 02 minutes 49 seconds East 406.15 feet to a set monument; thence North 38 degrees 10 minutes 25 seconds East 272.50 feet to a set monument; thence North 18 degrees 34 minutes 04 seconds East 182.98 feet to a set monument; thence South 29 degrees 56 minutes 23 seconds East 66.75 feet to a set monument; thence South 18 degrees 34 minutes 04 seconds West 147.39 feet to a set monument; thence South 38 degrees 10 minutes 25 seconds West 270.45 feet to a found monument; thence South 14 degrees 02 minutes 49 seconds West 102.71 feet to a found monument; thence South 00 degrees 06 minutes 19 seconds East 345.34 feet to a found monument; thence North 90 degrees 00 minutes 00 seconds East 1228.82 feet to a set monument; thence North 01 degrees 01 minutes 22 seconds East 697.57 feet to a set monument; thence South 88 degrees 58 minutes 38 seconds East 50.00 feet to a set monument; thence South 01 degrees 01 minutes 22 seconds West 857.06 feet to mag nail with washer stamped "HENNESSY LS20200026" set on the south line of the West Half of the Southwest Quarter of said Section 27; thence North 89 degrees 40 minutes 47 seconds West along said south line 467.42 feet to the Point of Beginning, containing 10.49 acres, more or less.

All subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Grantor does covenant with the Grantees and their assigns that the above-described real estate is not subject to any encumbrances made by Grantor (except as noted above) and that Grantor will warrant and defend the same to the said Grantee and his assigns forever against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

As a further consideration of the payment of the above sum, the person executing this deed on behalf of Grantor represents and certifies, for the purpose of inducing Grantee to accept this Warranty Deed, that he/she is the duly elected President of Grantor and has been fully empowered by the Grantor to execute and deliver this deed; that Grantor has full capacity to convey the real estate conveyed by this instrument and that all necessary action for the making of such conveyance has been taken..

IN WITNESS WHEREOF, Vigo County, Department of Redevelopment, has caused this deed to be executed in its name and on its behalf by its duly authorized President and attested by its Secretary, this 23rd day of April, 2012.

Vigo County, Department of Redevelopment

By Mary Caye Pfister
Mary Caye Pfister, President
(Printed Name)

Attest:

Richard Burger
Secretary Richard Burger

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

I, Daryl L. McCleary, a Notary Public in and for said county and state, do hereby certify that Mary Caye Pfister and Richard Burger, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, and to be such President and Secretary, appeared before me this day in person and, being first duly sworn, said and acknowledged that they are such President and Secretary and that they signed and delivered said deed as a free and voluntary act of said Vigo County, Department of Redevelopment, by its Redevelopment Commission, and as their own free and voluntary act as such President and Secretary by authority of the Grantor for the use and purposes therein set forth.

Given under my hand and notarial seal this 23rd day of April, 2012.

Daryl L. McCleary
Notary Public
Daryl L. McCleary
(Printed Name)

My Commission Expires:

09-06-2015

My County of Residence:

VIGO



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Jeffrey A. Lind, #14290-06

This instrument was prepared by Jeffrey A. Lind, attorney, 400 Ohio, Terre Haute, IN 47807

Tax duplicate sent to 10182 Culver Blvd. Culver City, CA 90232

Address 10182 Culver Blvd. Culver City, CA 90232