

RESOLUTION

CAPITAL IMPROVEMENT BOARD OF MANAGERS OF MARION COUNTY, INDIANA

WHEREAS, the Capital Improvement Board of Marion County, Indiana (the "CIB") is authorized by its enabling statute, Indiana Code § 36-10-9, to finance, construct, equip, operate and maintain any capital facilities or improvements of general public benefit or welfare which promote and serve the commercial, industrial and cultural interests of Indiana and its citizens;

WHEREAS, the CIB is authorized pursuant to Indiana Code § 36-10-9-6 to, among other things, acquire real property by lease or otherwise and lease or otherwise dispose of real property as is necessary or convenient for the exercise of its powers; construct, reconstruct, repair, remodel, enlarge or extend or add to any capital improvement built or acquired by the CIB; control and operate a capital improvement, including leasing all or part thereof; and make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under its enabling statute;

WHEREAS, the CIB currently leases (i) the professional baseball facility known as Victory Field (the "Facility") from the Marion County Convention and Recreational Facilities Authority ("MCCRFA") and (ii) the fourteen (14) acre tract of land upon which the Facility is constructed (the "Land") from the Indiana White River State Park Development Commission ("WRSP"). The CIB in turn subleases the Facility and the Land to the Indians, Inc. d/b/a Indianapolis Indians (the "Indians"). The terms of such lease and sublease documents expire on March 31, 2016. Upon the expiration of such terms, the Facility will become the property of WRSP;

WHEREAS, after lengthy negotiations between representatives of the CIB, the Indians and the WRSP, the parties have reached agreement as to the terms, conditions and provisions of (i) a Lease pursuant to which the WRSP will lease the Facility and the Land (collectively, the "Leased Premises") to the CIB (the "Lease"), and (ii) a Sublease Agreement pursuant to which the CIB will sublease the Leased Premises to the Indians (the "Sublease");

WHEREAS, the CIB believes it would be in the best interest of the CIB, the City of Indianapolis, Marion County, the State of Indiana and the citizens thereof to lease the Leased Premises from the WRSP and in turn sublease the Leased Premises to the Indians, on substantially the terms set forth in the Lease and Sublease, copies of which have been presented; and

WHEREAS, the CIB desires to approve and execute the Lease and Sublease.

NOW, THEREFORE, BE IT RESOLVED BY THE CAPITAL IMPROVEMENT BOARD OF MANAGERS OF MARION COUNTY, INDIANA AS FOLLOWS:

1. It is in the best interests of the CIB, the City of Indianapolis, Marion County, the State of Indiana and the citizens thereof that the CIB lease the Leased Premises from the WRSP and in turn sublease the Leases Premises to the Indians. The CIB hereby approves the Lease and

Sublease in the forms that have been presented and with such changes as are approved by the President or Vice President.

2. The President or Vice President and each of them is hereby authorized to execute the Lease and Sublease in the forms presented and with such changes as are approved by the President or Vice President, and to take all such actions and execute all such instruments as are desirable to carry out the transactions contemplated by or resulting from the Lease, the Sublease and this Resolution, in such forms as the President or Vice President executing the same shall deem proper, to be conclusively evidenced by the execution thereof.

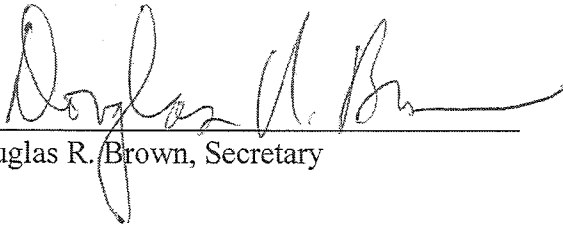
Adopted this 12th day of October, 2015.

CAPITAL IMPROVEMENT BOARD OF
MANAGERS OF MARION COUNTY



Earl A. Goode, President

Attest:



Douglas R. Brown, Secretary

LEASE

BY AND BETWEEN THE

CAPITAL IMPROVEMENT BOARD OF MANAGERS
OF MARION COUNTY, INDIANA

AND THE

STATE OF INDIANA
ACTING BY AND THROUGH THE
INDIANA WHITE RIVER STATE PARK DEVELOPMENT COMMISSION

LEASE

THIS LEASE (“Lease”) is made this ____ day of _____, 2015, by and between the State of Indiana acting by and through the Indiana White River State Park Development Commission, a body corporate and politic created by IC 14-13-1-5 (“Landlord”), and the Capital Improvement Board of Managers of Marion County, Indiana (“Tenant”);

WITNESSETH THAT, in consideration of the rents, covenants and agreements hereinafter set forth, such parties enter into the following agreement:

ARTICLE 1

EXHIBITS

The exhibits listed below and attached to this Lease are incorporated herein by this reference:

- | | |
|--------------------|--|
| EXHIBIT “A” | Legal description of real property (as defined below) leased to Tenant hereby. |
| EXHIBIT “B” | Sublease Agreement. |
| EXHIBIT “C” | Advertising Sign Content Requiring Landlord approval. |

ARTICLE 2

LEASED PREMISES AND TERM

Section 2.1. Leased Premises.

Landlord hereby leases to Tenant and Tenant hereby rents from Landlord parcels of real property approximating a total of fourteen (14) acres which are fully described on Exhibit “A” attached hereto (“Real Estate”), which property includes a professional baseball facility (the “Facility”). The Real Estate and the Facility are herein referred to collectively, as the “Leased Premises.”

The “Facility” consists of the professional baseball facility, including the spectator and press areas, dugouts, locker rooms, clubhouses, suites, batting tunnels, bullpens, offices, scoreboards, signage, concession and point-of-sale areas and box office and other improvements, including parking and loading areas and vehicular and pedestrian access ways serving same.

Section 2.2. Sublease.

Attached hereto as Exhibit “B” is the Sublease Agreement by and between Tenant and the Indians, Inc. (the “Subtenant”), the certain terms of which are incorporated herein by reference (the “Sublease”). The terms herein shall have the same meaning as those used in the Sublease unless otherwise defined herein. Reference shall be made herein to various Sublease terms. In the event of any conflict between the terms hereof and the terms of the Sublease, the

terms of this Lease shall control. The term "Sublease" shall include any subsequent sublease agreement which Tenant may enter into with a subtenant in accordance with the terms and conditions of this Lease, and "Subtenant" shall include any subtenant from time to time under any such Sublease. The Sublease may not be amended or assigned by Subtenant except (a) as provided in Sections 11.1 and 10.2 of the Sublease or (b) with the prior written consent of Landlord and Tenant, and Tenant shall not enter any other sublease agreement without the prior written consent of Landlord; provided, however, in such instances where consent is necessary, it will not be unreasonably withheld, conditioned or delayed. Landlord agrees that it shall not disturb Tenant's peaceful possession of the Leased Premises so long as Subtenant is not in default of the Sublease, notwithstanding any default by Tenant hereunder or the right of Landlord to terminate this Lease or the Tenant's interest thereunder.

Section 2.3. Lease Term.

The term of this Lease (the "Lease Term") shall commence on April 1, 2016 (the "Commencement Date") and expire on March 31, 2036. The Lease Term shall be extended:

A. for the "Term" of any Sublease extensions, if extended pursuant to the terms of the Sublease, or

B. for a term of one (1) year following expiration of the Lease Term to allow Tenant to actively pursue a replacement professional baseball team to occupy the Facility, or

C. for the term of any sublease entered into no later than the expiration of the one (1) year period as provided in B hereof with another professional baseball team to use the Facility as its home field.

Provided, however, in no event shall the Lease Term and all extended terms exceed in total 99 years and, further provided, that Tenant shall have the right to terminate this Lease at any time upon written notice to Landlord (i) in connection with the termination of the Sublease in accordance with its terms or (ii) with the written consent of the Subtenant, if any.

Upon expiration or termination of the Lease Term and any extended term, any improvements upon the Leased Premises or to the Facility shall become the property of Landlord (except as otherwise provided in the Sublease) and said improvements shall be free and clear of all liens and encumbrances thereon.

Section 2.4. Conditions to Lease.

The parties agree that the Landlord's and Tenant's respective rights and obligations hereunder are expressly conditioned upon the Landlord owning all right, title and interest in and to the Facility. In the event the foregoing condition fails, the Landlord and Tenant agree to work in good faith to structure a lease and sublease arrangement substantially similar to the terms of this Lease and the Sublease among the Landlord, Tenant, Subtenant and MCCRFA.

ARTICLE 3

CONDITION; APPROVALS

Section 3.1. Leased Premises Condition; Committee.

Tenant agrees to accept the Leased Premises in its present “as is” condition. Tenant or Subtenant shall provide the other party and Landlord with written notice of any changes it proposes to make to the aesthetics or content of the exterior façade, landscaping, exterior signage or interior signage which can be seen from beyond the property lines of the Leased Premises. Within seven (7) days after receipt of any such written notice, Landlord shall present any objections to the proposed changes to the Committee (as defined in the Sublease), which shall work to resolve the objection to the satisfaction of the Landlord, Tenant and Subtenant, provided that Landlord shall not be permitted to make any objections to any proposed changes by the Subtenant which are necessary to keep the Leased Premises in compliance with all Triple-A professional baseball standards, rules, regulations and policies during the Lease Term (including, but not limited to, alterations with respect to the location of the bullpens and light levels of the field lighting). In the event the Committee shall not so resolve any such objection, the Landlord shall have the right to approve or disapprove of the proposed change in the content of such façade, landscaping or signage, which approval shall not be unreasonably withheld, conditioned or delayed. Provided, further, however, that Landlord shall have no right to object to any interior content or signage which can be seen from beyond the property lines of the Leased Premises so long as it does not advertise the products and services listed on Exhibit “C” attached hereto.

Section 3.2. Permits, Licenses and Authorizations.

Tenant shall be responsible for maintaining (or causing Subtenant to maintain) all of the governmental permits, licenses and authorizations required for the operation of the Facility upon the Leased Premises (“Permits”). Landlord agrees to cooperate with Tenant and Subtenant in any reasonable fashion to assist in securing such Permits.

ARTICLE 4

RENT

Section 4.1. No Rent.

Tenant shall not be obligated to pay rent to Landlord during the Lease Term or any extension thereof.

Section 4.2. Taxes.

A. Tenant shall pay, and shall cause Subtenant to pay, all taxes allocated to or between them as provided in Article V of the Sublease.

B. If the Tenant is successful in securing an exemption from assessment of real estate related taxes due to its status as a political subdivision, the Tenant shall not be obligated to pay any real estate taxes or assessments related to the Leased Premises. Tenant shall pay any such taxes or assessments if it cannot obtain an exemption after good faith efforts and any special assessment fee or imposition which is the result of specific legislation regarding Tenant's operation of the Leased Premises.

C. Tenant shall also pay all other charges and levies, including but not limited to, special assessments of any kind or nature whatsoever which may be made or imposed upon the Leased Premises and all the buildings and improvements hereafter to be placed thereon during the Lease Term or any extension thereof.

Section 4.3. Payments for Tenant.

If Landlord pays any monies or incurs any expense to correct a breach of this Lease by Tenant or to do anything in this Lease required to be done by Tenant, Landlord shall provide written notice thereof to Tenant and all undisputed portions of such amounts so paid or incurred shall be payable by Tenant on the first day of the next calendar month thereafter, or the first calendar day of the next calendar month following the resolution of any such dispute.

ARTICLE 5

USE OF THE FACILITY

Section 5.1. Use of the Facility.

The Leased Premises shall be occupied and used by Tenant and Subtenant solely for the purposes set out in the Sublease. Use of the Facility shall be coordinated as set forth in the Sublease. The parties agree that a representative of Landlord shall at all times be a member of the Committee and that the structure and role of the Committee shall not change without the prior written consent of Landlord. Committee meetings may be called as set forth in the Sublease.

ARTICLE 6

UTILITIES CONSUMPTION

Tenant shall cause Subtenant to promptly pay all charges for use or consumption of sewer, gas, electricity, water and all other utility services on the Leased Premises, as provided in the Sublease.

ARTICLE 7

OPERATION OF PREMISES

Section 7.1. Operation by Subtenant.

Tenant shall cause Subtenant to operate, maintain and repair the Facility as set forth in the Sublease, including without limitation under Section 4.2 of the Sublease, and comply with all laws, ordinances, rules and regulations of governmental, public, private and other authorities and agencies.

ARTICLE 8

COST AND MAINTENANCE OF LEASED PREMISES

Section 8.1. Cost and Maintenance of Leased Premises.

Tenant shall, or shall cause Subtenant under the Sublease to, at all times manage, maintain and keep the Leased Premises (including all of the improvements thereon) in accordance with the terms of the Sublease, including without limitation Sections 3.5, 4.1 and 4.2 of the Sublease.

Section 8.2. Structural and Other Alterations to the Facility.

Tenant shall have the right to make alterations which may be required by Tenant, or, in its discretion, to permit Subtenant to make, (a) structural and other alterations to the Facility for the purpose of complying with mandates of professional baseball leagues in which Subtenant competes so long as such alterations do not materially change the external aesthetics of the Leased Premises and (b) other structural and other alterations to the Facility as reasonably requested by Tenant upon the prior written approval of Landlord, such approval not to be unreasonably withheld, conditioned or delayed.

Section 8.3. Dignified Use.

The Leased Premises shall be used in a dignified and ethical manner consistent with the general high standards of the operation of a baseball stadium and entertainment complex as permitted in the Sublease, and not in violation of national, state or local laws.

Section 8.4. Surrender of Premises.

At the expiration or termination of the Lease Term or any extension thereof, Tenant and Subtenant shall surrender the Leased Premises in substantially the same condition as they were in on the Commencement Date, alterations and improvements under this Lease and the Sublease excepted, and reasonable wear and tear and damage by unavoidable casualty excepted, and deliver all keys for, and all combinations on locks, safes and vaults in, the Leased Premises to Landlord at Landlord's Notice Address as specified in ARTICLE 17, or, at Landlord's option, to Landlord's office.

ARTICLE 9

LIENS

Section 9.1. Liens.

A. Tenant shall not and shall not allow Subtenant to suffer any mechanics' or materialmen's lien to be filed against the Leased Premises by reason of work, labor, services or materials performed or furnished to Tenant or Subtenant. If any such lien shall at any time be filed as aforesaid, Tenant or Subtenant may contest the same in good faith, but, notwithstanding such contest, Tenant or Subtenant shall, within fifteen (15) days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction, or otherwise. In the event of Tenant's or Subtenant's failure to release of record any such lien within the aforesaid period, Landlord may remove said lien by paying the full amount thereof or by bonding or in any other manner Landlord deems appropriate, without investigating the validity

thereof, and irrespective of the fact that Tenant or Subtenant may contest the propriety or the amount thereof, and Tenant or Subtenant, as applicable, upon demand, shall pay Landlord the amount so paid out by Landlord in connection with the discharge of said lien, together with reasonable expenses incurred in connection therewith, including reasonable attorneys' fees. Nothing contained in this Lease shall be construed as a consent on the part of Landlord to subject Landlord's estate in the Leased Premises to any lien or liability under the lien laws of the State of Indiana.

B. Without first obtaining prior written consent from the Landlord and the Committee, Tenant or Subtenant shall not create or suffer to be created a security interest or other lien in or to the Leased Premises (other than Tenant's or Subtenant's trade fixtures or personal property), and should any security interest be created in breach of the foregoing, Landlord shall be entitled to discharge the same by exercising the rights and remedies afforded it under paragraph A of this Section.

ARTICLE 10

INSURANCE

Section 10.1. Subtenant's and Tenant's Insurance.

During the Lease Term and any extension thereof, the Tenant shall cause the Subtenant to carry and maintain, at its sole expense, the insurance coverage set forth in Article VI of the Sublease.

Section 10.2. Evidence of Insurance.

On or before the Commencement Date and upon the date of renewal of the policies of insurance that it is required to maintain pursuant to this ARTICLE 10, Subtenant shall deliver to Tenant and the Landlord certificates of insurance evidencing such insurance. Such certificates shall specify the types and amounts of coverage evidenced thereby, the waiver of subrogation described in Section 6.2 of the Sublease and the insurance criteria described in Section 6.3 of the Sublease.

Section 10.3. Indemnification.

Tenant agrees to hold harmless Landlord and its officers, directors, employees and agents, from any and all actions, causes of action, demands, and claims of any nature whatsoever for injury to or death of persons or loss of or damage to property in any way arising out of (a) Tenant's failure to fulfill any of its duties or obligations hereunder, including without limitation the maintenance, improvement, repair or replacement of the Facility, or any portion thereof, as contemplated by this Lease after the Commencement Date, (b) all possession, use, occupancy or operation of the Leased Premises hereunder and (c) Tenant's breach of any of its representations, warranties or covenants contained hereunder, in each case except to the extent the Landlord shall be entitled to indemnity by the Subtenant under the Sublease, which indemnity includes the Environmental Indemnity by Tenant set forth in section 4.4 of the Sublease. Any claims by the Tenant for negligent, wrongful or willful acts or omissions of the Landlord or its affiliates, employees, agents or contractors shall be subject to the Indiana Tort Claims Act, IC 34-13-3, and

the limitations thereunder.

ARTICLE 11

OFFSET STATEMENT, ATTORNMENT. SUBORDINATION

Section 11.1. Offset Statement.

Within 10 days after Landlord's written request Tenant shall deliver, executed in recordable form, a declaration to any person designated by Landlord (a) ratifying this Lease; (b) stating the Commencement and Expiration Dates; and (c) certifying (i) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writings as shall be stated), (ii) that all conditions under this Lease to be performed by Landlord have been satisfied (stating exceptions, if any), and (iii) that no defenses or offsets against the enforcement of this Lease by Landlord exist (or stating those claimed). Persons receiving such statements shall be entitled to rely upon them.

Section 11.2. Attornment.

Tenant and Subtenant shall, in the event of a sale or assignment of Landlord's interest in the Leased Premises or this Lease, attorn to the purchaser or such assignee and recognize the same as Landlord hereunder. Tenant and Subtenant shall execute, at Landlord's request, any attornment agreement required by any ground lessor or assignee to be executed, containing such provisions as such ground lessor or assignee requires, provided Tenant and Subtenant receive an executed non-disturbance agreement from any such ground lessor or assignee in a form acceptable to Tenant and Subtenant.

Section 11.3. Future Mortgage.

The parties agree that Landlord may desire to mortgage its fee interest in the Leased Premises. In such case, Tenant and Subtenant shall cooperate in such regard with Landlord, including execution of appropriate forms of subordination and estoppel certificates, so long as the rights of Tenant and Subtenant are not disturbed and the Leased Premises are not negatively impacted.

ARTICLE 12

DAMAGE AND DESTRUCTION

The terms of Section 7.2 of the Sublease shall address damage or destruction by fire or other casualty to the Leased Premises, and the obligations of Tenant thereunder shall become obligations hereof.

ARTICLE 13

DEFAULT AND REMEDIES

Section 13.1. Default by the Tenant.

A. An Event of Default by the Tenant shall be deemed to have occurred under this Lease if:

(i) It fails to observe or perform any obligation, condition or covenant on its part to be performed or observed hereunder, and such failure remains uncured for more than 30 days after the Tenant's receipt of written notice of such failure from the Landlord (or such longer period as may be reasonably necessary to effect such cure, if such cure cannot be effected within such 30 day period using reasonable efforts);

(ii) The Tenant's interest in and to the Facility or this Lease is taken by process of law directed against the Tenant, or is subject to attachment by any creditor or claimant of the Tenant, and such attachment is not discharged or disposed of within 30 days after levy thereof;

(iii) The Tenant (a) admits in writing its inability to pay debts generally as they become due, (b) makes an assignment for the benefit of creditors, (c) applies for or consents to the appointment of a receiver, trustee or liquidator of the Tenant or substantially all of the Tenant's assets, (d) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization under any bankruptcy or insolvency laws, or (e) files an answer admitting the material allegations of a petition filed against the Tenant in any bankruptcy, reorganization or insolvency proceedings; or

(iv) A court enters an order, judgment or decree, without the application, approval or consent of the Tenant, approving a petition (a) seeking reorganization of the Tenant under any bankruptcy or insolvency law, (b) appointing a receiver, trustee or liquidator for the Tenant or substantially all of the Tenant's assets, or (c) adjudicating the Tenant as bankrupt or insolvent, and such order, judgment or decree is not vacated, stayed or set aside within 90 days after its date of entry.

If the Tenant shall be deemed in default under this Lease, pursuant to the above terms, the Landlord shall be entitled to seek any rights and remedies available to it at law or at equity, including, but not limited to, the rights to (i) seek monetary damages, including interest on the unpaid rental at a rate of 1-1/2% percent per month, eighteen percent (18%) per annum, (ii) terminate this Lease, (iii) cure such default on behalf of the Tenant and bill the Tenant for all costs incurred by the Landlord to effect such cure, and (iv) seek specific performance by Tenant of any and all covenants and obligations hereunder, notwithstanding that an adequate remedy at law may exist.

Section 13.2. Default by the Landlord.

A. An Event of Default by the Landlord shall have occurred under this Lease if:

(i) The Landlord fails to perform or observe any obligation or condition on its part to be performed or observed hereunder that relates to the Tenant's right to use and operate the Facility, subject to the rights of use by the Landlord; or

(ii) The Landlord fails to perform or observe any other obligation or condition on its part to be performed or observed hereunder, and such failure remains uncured for more

than 30 days after the Landlord's receipt of written notice of such failure from the Tenant (or such longer period as may be reasonably required to effect such cure if such cure cannot be effected within such 30 day period using reasonable efforts).

B. If the Landlord shall be deemed in default under this Lease pursuant to the terms and conditions of paragraph 13.2(A) above, the Tenant shall be entitled to seek all rights and remedies available to it at law or at equity, including, but not limited to, the right to (i) terminate this Lease, (ii) cure such default on behalf of the Landlord, or (iii) seek specific performance by Landlord of any and all covenants and obligations hereunder, notwithstanding that an adequate remedy at law may exist.

ARTICLE 14

ACCESS BY LANDLORD

Section 14.1. Right of Entry.

Landlord, its agents and employees shall have the right to enter the Leased Premises and the buildings and improvements thereon from time to time at reasonable times and upon prior reasonable notice to examine the same and/or to show the Leased Premises to other persons.

ARTICLE 15

HOLDING OVER; SUCCESSORS; EMINENT DOMAIN; CONDEMNATION

Section 15.1. Holding Over.

If Tenant or Subtenant holds over without Landlord's written consent Tenant or Subtenant shall occupy the Leased Premises on a tenancy from month to month and all other terms and provisions of this Lease shall be applicable to such period.

Section 15.2. Successors.

All rights and liabilities herein given to or imposed upon the respective parties hereto shall bind and inure to the several respective successors and assigns of the parties except that no rights shall inure to the benefit of any assignee or subtenant of Tenant unless the assignment or sublease was approved by Landlord in writing. Notwithstanding the above, the terms of the Sublease are hereby approved. Subject to the written consent of Tenant, Landlord, at any time and from time to time, may make an assignment of its interest in this Lease and, in the event of such assignment, Landlord and its successors and assigns (other than the assignee of Landlord's interest in this Lease) shall be released from any and all liability thereafter accruing hereunder.

Section 15.3. Eminent Domain; Condemnation.

A. If all of the Leased Premises or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings, this Lease shall automatically

terminate on the earlier to occur of (i) the date on which title to the Leased Premises vests in the condemning authority, or (ii) the date on which Tenant is dispossessed of the Leased Premises.

B. If a portion of the Leased Premises or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and such taking materially affects Tenant's or Subtenant's ability to utilize the Leased Premises, the Tenant shall have the right to terminate this Lease effective as of the earlier to occur of (i) the date on which title to the condemned portion of the Leased Premises vests in the condemning authority, or (ii) the date on which the Tenant or Subtenant is dispossessed of the portion of the Leased Premises, by giving written notice to Landlord within sixty (60) days after the Tenant's or Subtenant's receipt of notice of the partial condemnation.

C. If a portion of the Leased Premises or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and Tenant does not terminate this Lease pursuant to the terms and conditions of Section 15.3.B above, (i) this Lease shall be deemed terminated with respect to only the condemned portion of the Leased Premises or use thereof; and (ii) the Landlord shall, at its sole cost and expense to the extent of an award received by the Landlord, promptly make any repairs and restoration that Tenant deems reasonably necessary as a result of such condemnation.

D. Tenant, Subtenant and Landlord shall each have the right to seek, at their respective sole cost and expense, any award to which it might be entitled as a result of any condemnation of all or any portion of the Leased Premises or the use thereof, without regard to the ultimate lease termination in Sections 15.3A-C. No such party shall have any rights to any award made to another.

E. If all or a portion of the Leased Premises or the use thereof is temporarily condemned, this Lease shall remain in full force and effect.

ARTICLE 16

QUIET ENJOYMENT

The Landlord covenants that, subject to the terms and conditions of this Lease, the Tenant and Subtenant shall peaceably and quietly have, hold and enjoy the Leased Premises for the Lease Term and any extensions hereof.

ARTICLE 17

NOTICES

All notices permitted or required to be made hereunder shall be in writing and delivered by hand, overnight courier or certified mail. Notices shall be deemed given (a) when actually received if delivered by hand, (b) one business day after delivery to an overnight courier if delivered by an overnight courier, or (c) three business days after deposit with the United States Postal Service if delivered by certified mail. All such notices shall be addressed to the appropriate party as follows:

If to the Landlord, to: White River State Park Development Commission
Executive Director
801 West Washington Street
Indianapolis, IN 46204

With a copy to: Office of the Indiana Attorney General
Advisory Section
Indiana Gov't Center South, 5th Floor
302 W. Washington Street
Indianapolis, IN 46204

If to the Tenant, to: Executive Director
100 S. Capitol Avenue
Indianapolis, IN 46225

With a copy to: Bingham Greenebaum Doll LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204-2982
Attn: W. Tobin McClamroch, Esq.

Either party may from time to time designate a different address for notices by giving notice to that effect to the other party in accordance with the terms and conditions of this ARTICLE 17.

ARTICLE 18

MISCELLANEOUS

Section 18.1. Force Majeure.

Wherever there is provided in this Lease a time for the performance of any obligation other than the payment of a sum certain, the time provided therefor shall be extended for as long as and to the extent that delay in compliance with such time limitation is due to an act of God or other factors beyond the reasonable control of such party.

Section 18.2. Non Discrimination.

Pursuant to the Indiana Civil Rights Law, specifically including IC §22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Tenant covenants that it shall not discriminate against any employee or applicant for employment relating to this Lease with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law.

Section 18.2. Partial Invalidity.

If any provision of this Lease or its application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Lease or the application of such provision to persons or circumstances, other than those as to which it is so determined invalid or unenforceable to any extent, shall not be affected thereby, and each provision hereof shall be valid and enforceable to the fullest extent permitted by law.

Section 18.3. Effect of the Landlord's Status as an Indiana Governmental Entity.

Nothing in this Lease is intended by the Landlord to be, or is to be construed as being, a waiver by the Landlord of the any of the rights, immunities or protections available to an Indiana Governmental Entity as defined by IC 34-6-2-49. The Landlord retains the right to assert and avail itself of such rights, immunities and protections in every situation in which they may be assertable and available.

Section 18.4. Time of the Essence.

Time is of the essence with respect to all provisions of this Lease. Accordingly, subject to applicable grace and cure periods provided for herein and the terms and conditions of ARTICLE 13 above, the failure of either party to perform any act strictly within the applicable period specified herein shall entitle the other party to exercise all rights and remedies contemplated hereby.

Section 18.5. Entire Agreement.

This Lease, together with all exhibits attached hereto and incorporated herein by reference, constitutes the entire and exclusive agreement between the Landlord and the Tenant relating to the Tenant's use of the Leased Premises during the Lease Term and any extended term. This Lease may not be modified or terminated, nor any of its provisions waived, except by an agreement in writing signed by the party against whom the enforcement of any such modification, termination or waiver is sought. All prior agreements and understandings relative to the development, use, possession or occupancy of the Leased Premises by the Landlord are deemed merged herein or hereby revoked. Effective as of the Commencement Date, this Lease shall supersede and replace the Lease dated December 8, 1994 by and between the Landlord and Tenant concerning the Real Estate, provided the terms of such Lease shall survive and continue to govern all matters arising under such Lease, including without limitation all indemnity obligations thereunder.

Section 18.6. Representations.

Each party hereby represents and warrants to the other that it has all necessary right, power and authority to enter into this Lease. Additionally, each party represents and warrants that the execution and delivery of this Lease and the performance and observance of all obligations and conditions to be performed or observed by each party hereunder have been duly authorized by all necessary action of the Landlord and Tenant.

Section 18.7. Governing Law.

This Lease shall be governed by and construed in accordance with the laws of the State of Indiana.

Section 18.8. Consent.

Whenever the consent of either party is required hereunder, such party shall not unreasonably withhold its consent.

Section 18.9. Recording.

The parties agree not to place this Lease of record but each party shall, at the request of the other, or at the request of Subtenant, execute and acknowledge so that the same may be recorded as a Short Form Lease or Memorandum of Lease, indicating the Lease Term, but omitting rent and other terms and an Agreement specifying the date of commencement and termination of the Lease Term; provided, however, that the failure to record said Short Form Lease, Memorandum of Lease or Agreement shall not affect or impair the validity and effectiveness of this Lease. Tenant shall pay all costs, taxes, fees and other expenses in connection with or prerequisite to recording.

Section 18.10. Dispute Resolution.

Any dispute, controversy or claim arising out of or relating to this Lease or the rights of either party thereunder ("Dispute") shall first be submitted to good faith negotiation by the parties. The party requesting such good faith negotiation shall notify the other party in writing and such negotiation shall commence within fifteen (15) days of such notice. No other action, legal or otherwise, may be taken in connection with the Dispute until the parties have made a good faith effort to negotiate for a period of at least thirty (30) days.

Section 18.11. Attorney's Fees.

If either party incurs any expense as a result of the other party's failure to perform any of Tenant's obligations hereunder, including, but not limited to reasonable attorney's fees and court costs, Tenant shall pay or reimburse Landlord for such expenses and any such expenses that have not been paid or reimbursed by Tenant may be added to or included in any judgment rendered in Landlord's favor in any lawsuit or other proceeding against Tenant.

Section 18.12. Captions; Section Numbers and Exhibits.

This Lease shall be construed without reference to titles of Articles, Sections and Exhibits, which are inserted only for convenience of reference.

Section 18.13. Number and Gender.

The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others.

Section 18.14. Waiver.

No waiver by Landlord or Tenant of any breach of any term, covenant or condition hereof shall be deemed a waiver of the same or any subsequent breach of the same or any other term, covenant or condition hereof, regardless of Landlord's knowledge of such breach when such rent is accepted. No covenant, term or condition of this Lease shall be deemed waived by Landlord or Tenant unless waived in writing.

Section 18.15. No Partnership.

Landlord does not, in any way or for any purpose, become a partner, employer, principal, master, agent or joint venturer of or with Tenant.

Section 18.16. Third Party Beneficiary.

Subtenant shall be deemed to be a third-party beneficiary of this Lease entitled to enforce the terms and provisions hereof against Landlord.

Non-Collusion and Acceptance

Each of the individuals signing for the Landlord and for the Tenant attests, subject to the penalties for perjury, that he / she is the properly authorized representative of the party on whose behalf this Lease is signed. Each person represents that neither he / she nor any officer, employee or agent of the party on whose behalf the person is signing, has entered into or been offered any sum of money or other consideration for the execution of this Lease other than that which appears upon the face hereof. **Furthermore, if either of the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Lease, that person attests to compliance with the disclosure requirements in IC 4-2-6-10.5.**

In Witness Whereof, Landlord and the Tenant have, through their duly authorized representatives, entered into this Lease. The parties, having read and understood the foregoing terms of this Lease, do by their respective signatures dated below agree to the terms thereof.

(LANDLORD)

**STATE OF INDIANA ACTING BY AND
THROUGH THE WHITE RIVER STATE
PARK DEVELOPMENT COMMISSION**

By: _____

Name: _____

Title: _____

Date: _____

Approved as to form and legality:
Office of the Indiana Attorney General

_____ (for)

Gregory F. Zoeller, Attorney General

Date: _____

(TENANT)

**CAPITAL IMPROVEMENT BOARD OF
MANAGERS OF MARION COUNTY,
INDIANA**

By: _____

Augustus Levengood, Executive Director

EXHIBIT A

Legal Description of Leased Premises

Beginning at the intersection of the Eastern channel line of White River (being also the Western boundary of vacated Water Street) with the Southern 31.5 foot right-of-way line of relocated Washington/Maryland Street per plans for project no. IX-B176(4), the next six (6) courses being along said line: 1) South 88 degrees 03 minutes 59 seconds East (bearings based on Indiana State Plane Coordinate System, East Zone) along a variable width right-of-way 198.26 feet to the beginning of a non-tangent curve concave Northwesterly having a central angle of 42 degrees 26 minutes 03 seconds and a radius of 542.72 feet; 2) thence Easterly and Northeasterly along said curve and 44.5 foot right-of-way an arc distance of 401.95 feet (said arc being subtended by a chord having a bearing of North 58 degrees 09 minutes 03 seconds East and a length of 392.82 feet) to the Point of Tangency thereof; 3) North 36 degrees 56 minutes 01 seconds East along said 44.5 foot right-of-way 296.92 feet (296.87 feet, plan) to the Point of Curvature of a curve concave Southeasterly having a central angle of 55 degrees 03 minutes 03 seconds and a radius of 413.87 feet; 4) thence Northeasterly and Easterly along said curve and 44.5 foot right-of-way an arc distance of 397.65 feet (said arc being subtended by a chord having a bearing of North 64 degrees 27 minutes 33 seconds East and a length of 382.53 feet) to the end thereof; 5) thence South 87 degrees 47 minutes 21 seconds East along a variable right-of-way 86.10 feet to a point where said right-of-way is 44.84 feet wide; 6) thence South 87 degrees 58 minutes 42 seconds East along a variable right-of-way 247.81 feet to a point where said right-of-way is 45 feet wide; being also on the West right-of-way of West Street per plans for project IX-B029(2), the next two (2) courses being along said line; 1) South 44 degrees 03 minutes 19 seconds East 38.45 feet to a point on the 50 foot right-of-way of said street; 2) South 02 degrees 18 minutes 56 seconds West along a variable right-of-way 739.99 feet to a point where said right-of-way is 65 feet wide; thence North 79 degrees 48 minutes 15 seconds West 496.79 feet; thence North 87 degrees 55 minutes 00 seconds West 152.81 feet to a point on the North face of an existing retaining wall; thence North 87 degrees 57 minutes 01 seconds West along the North face of said wall and the prolongation thereof 764.47 feet to the Eastern channel line of White River, being also the Western boundary of vacated Water Street; thence North 19 degrees 35 minutes 14 seconds East along said Eastern channel line 58.79 feet to the POINT OF BEGINNING.

EXHIBIT B
Sublease Agreement

EXHIBIT C

ADVERTISING SIGN CONTENT AND LOCATIONS REQUIRING LANDLORD APPROVAL

- Promoting violence
- Illegal activity, including illegal drug use
- Political advertising
- Tobacco related products or the use thereof
- Feminine hygiene products
- Contraceptive devices or services
- Adult entertainment or disreputable sexually oriented businesses
- Advertising for telephone services imposing charges per call or minute, other than long distance calls or cellular calls
- “get rich” products or services
- Contain profanity

