



USE AND DEVELOPMENT COMMITMENT

Evansville-Vanderburgh Convention & Visitors Commission is the petitioner ("Petitioner") to apply for Special Use certain real estate situated in Evansville, Vanderburgh County, Indiana, more particularly described on Exhibit "A," attached hereto and by this reference made a part hereof (the "Real Estate"); and

WHEREAS, the Real Estate is currently classified as R-3, R-4 & A zoning districts under the Vanderburgh County Zoning Code and is so indicated on the zoning maps maintained by the staff of the Evansville-Vanderburgh County Area Plan Commission; and

WHEREAS, Petitioner has requested that the Real Estate be reclassified to zoning district SU-7; and

WHEREAS, Petitioner wish to accommodate possible concerns of surrounding property owners by making a written commitment concerning the use and development of the Real Estate pursuant to I.C. 36-7-4-1015;

NOW, THEREFORE, in consideration of the foregoing, Petitioner and Owner make the following use and development commitments concerning the use of the Real Estate:

I. Use. This Use and Development Commitment shall not prevent or be construed to prevent future rezoning of the Real Estate or amendment of this Use and Development Commitment in the manner provided by law.

Use of the Real Estate shall be limited to the following uses permitted in the SU-7 zoning districts, as described below effective as of the date of this Use and Development Commitment and as approved by the Vanderburgh County Area Plan Commission, and use of the Real Estate shall also include all other reasonable and necessary uses allowed in SU-7.

The Petitioner:

(a) Shall construct and maintain the improvements upon the Real Estate in a design similar to that shown in the Project Summary attached hereto as Exhibit "B". Without limitation, the Petitioner shall construct and maintain a park trail in a design similar to the park trail outlined in item 26 of Exhibit "B", and shall allow access to neighbors each day to and from the park trail and any green space and play areas (other than the softball/baseball play fields and surrounding areas that are shown as separately fenced on Exhibit "B") on the softball and baseball complex through a man gate accessible from Heckel Road from dawn to the later of dusk or the time that the lights for the fields are turned off, provided however, that during tournaments at the Real Estate vendors and team use of the green space and park trail may limit neighbors use. Further, the parking lots shall be located to the north of the fields;

(b) Shall abide by the following as it relates to lighting:

(i) Lighting for all field areas shall be Musco Light-Structure Green with full shielding or similar lighting, but in any case, all field, parking lot area and other lighting shall be fully

shielded and horizontal light trespass shall not exceed .5 foot candles along the north side of Heckel Road as that road exists as of September 18, 2013. Internal optics and external visors shall be used on all sports lights fixtures to reduce spill and glare issues and shall be as dark-skies friendly as technologically practical;

(ii) No lighting shall be turned on more than 30 minutes prior to dusk. Field Lighting shall be turned off by 10:30 PM and all lighting shall be turned off by 11:00 PM on any night for which school is scheduled to be in session on the following day in the Evansville Vanderburgh School Corporation (or any successor that serves students in what is the Oak Hill elementary school district at the time of the filing of this Use and Development Commitment) (a "School Night"). On nights per other than School Nights, field lighting shall be turned off by 11:00 PM and all lighting shall be turned off by 11:30 PM. Despite the foregoing, the following exceptions shall exist. In the event that there is a delay in a game caused by weather (other than heat and/or heat index), the lights are permitted to remain on until the earlier of the conclusion of the game or one hour after the time that the lights would otherwise be required to be turned off. The Petitioner may from time to time designate up to a total of 25 nights each year as a Permitted Late Tournament Night. Permitted Late Tournament Nights may only be on Friday or Saturday nights. During Permitted Late Tournament Nights, field lighting shall be turned off by 1:00 AM the next morning and all lighting shall be turned off by 1:30 AM the next morning. The Petitioner may also from time to time designate up to ten School Nights as Late School Nights. During Late School Nights field lighting shall be turned off by 11:00 PM and all lighting shall be turned off by 11:30 PM.

(iii) In order to keep game activity as far north as possible after dusk, during any time that field lights are permitted to be on, if at any time not all of the fields of play are required for game use, the Petitioner shall cause the fields to be taken out of play in a south to north order. When a field is not being played upon, the field lights on it shall be turned off.

(c) Shall install all stadium speakers to face inward toward the northeast direction within the complex, and all noise from any speaker or other amplified sound source shall not exceed 70 decibels as measured from any point along the north side of Heckel Road as that road exists as of September 18, 2013. Access to the sound and speaker system shall be limited to tournament play, and no speakers or other sound amplification device shall be used after the time that field lights are required to be turned off above;

(d) Shall maintain a six foot (6') privacy fence along the entire south side of the complex; and

(e) Shall use reasonable efforts to discourage motor vehicle access to the Real Estate from Heckel Road. Such efforts shall include, without limitation, signage indicating that access to the Real Estate is from the Green River Road entrance and signage indicating that access via the Heckel Road entrance is for approved vehicles only; and

(f) Shall not sell alcohol upon the Real Estate during any youth tournament in which the fields are fully occupied by youth players and shall not sell recreational drugs (even if it becomes legal to do so) upon the Real Estate.

2. Enforcement. All commitments and undertakings herein expressed shall be binding upon Petitioner, its successors and assignees, and shall run in favor of the Area Plan Commission of Evansville-Vanderburgh County and all Owners of the real estate lying within the radius of one (1)

mile from the Real Estate and may be enforced by any of the foregoing invoking any legal, equitable or special remedy, including specific performance, injunction or equitable relief pursuant to the manner of enforcement as set forth in 36-7-4-1015, 36-7-4-1013 and 36-7-4-1014. If it is necessary to initiate administrative or judicial proceedings to enforce any such commitment or undertaking, the person or entity obtaining enforcement in such proceedings shall also recover its reasonable attorneys' fees and costs of suit from the undersigned.

3. Recording. This Commitment shall be recorded in the office of the Recorder of Vanderburgh County, Indiana, and shall take effect upon the adoption of the zoning Classification of the Real Estate to a SU-7 District with a Use and Development Commitment.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this 24 day of September, 2013, by the Evansville-Vanderburgh City Convention & Visitors Commission.

EVANSVILLE-VANDERBURGH  
CONVENTION & VISITORS COMMISSION

By: [Signature]  
Printed Name: Robert L. Warren  
Title: EXECUTIVE DIRECTOR

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VANDERBURGH )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, personally appeared the above-named Robert Warren, who acknowledged the execution of the foregoing Use and Development Commitment to be his free and voluntary act and deed.

WITNESS my hand and Notarial Seal this 24<sup>th</sup> day of September, 2013.

My County of residence is  
Vanderburgh County, Indiana

[Signature]  
Signature of Notary Public  
Janet M. Fisher  
Printed Name of Notary Public

My Commission expires:  
3/29/2016

This Instrument Prepared by: G. Michael Schopmeyer, Esq.  
Kahn, Dees, Donovan & Kahn, LLP  
501 Main Street, Suite 305  
P.O. Box 3646  
Evansville, Indiana 47735-3646  
(812) 423-3183

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. Ashley K. Ben

EXHIBIT A TO  
USE AND DEVELOPMENT COMMITMENT

A part of the South Half and a part of the South Half of the Northeast Quarter of Section 35, Township 5 South, Range 10 West, Center Township, Vanderburgh County, Indiana, and Lot 15 in Glynn Haven Subdivision, the plat of which is recorded in Plat Book J, page 225 in the office of the Recorder of said County, all being described in composite as follows:

Commencing at a 1" iron pin marking the southeast corner of said section; thence North 88 degrees 56 minutes 12 seconds West 1471.92 feet along the south line of said section to a mag nail with washer stamped "BLA FIRM 0030" marking the southeast corner of Parcel A as shown on the Parcelization Plat recorded as Instrument 2013R00023855 in the office of said Recorder and the POINT OF BEGINNING of this description; thence continuing North 88 degrees 56 minutes 12 seconds West 491.77 feet along the south line of said section to the southeast corner of the West Half of the Southwest Quarter of the Southeast Quarter of said section and the southeast corner of Glynn Haven Subdivision; thence North 0 degrees 55 minutes 13 seconds East 30.00 feet along said half-quarter-quarter line to the southeast corner of Lot 15 of said Glynn Haven Subdivision; thence North 89 degrees 56 minutes 12 seconds West 103.56 feet (103.70 feet by said plat of Glynn Haven) along the south line of said Lot 15 to the southwest corner of said lot; thence North 0 degrees 53 minutes 25 seconds East 174.55 feet along the west line of said Lot 15 and along the east line of the tract of land described in Deed Record 576, page 220 in the office of said Recorder to the northeast corner of said tract; thence North 88 degrees 55 minutes 40 seconds West 223.96 feet (224 feet by said Deed Record 576, page 200 to the east line of Heckel Subdivision, the plat of which is recorded in Plat Book T, page 45 in the office of said Recorder; thence North 0 degrees 54 minutes 20 seconds East 87.79 feet along said east line to the northeast corner of said Heckel Subdivision; thence North 88 degrees 55 minutes 21 seconds West 332.20 feet along the north line of said subdivision to the northwest corner thereof; thence South 1 degree 09 minutes 50 seconds West 121.66 feet along the west line of said subdivision to the north line of said Glynn Haven Subdivision; thence North 88 degrees 55 minutes 19 seconds West 689.92 feet along said north line to the west line of Parcel II as described in Instrument 2007R00026614 in the office of said Recorder; thence North 1 degree 09 minutes 55 seconds East 1158.34 feet along said west line to a corner of said Parcel II; thence South 88 degrees 57 minutes 46 seconds East 689.75 feet along the north line of the Southeast Quarter of the Southwest Quarter of said section to the northeast corner of said quarter-quarter section; thence North 0 degrees 59 minutes 10 seconds East 1316.39 feet along the west line of the Northwest Quarter of the Southeast Quarter of said section to the center of said section; thence North 1 degree 21 minutes 42 seconds East 580.72 feet along the west line of the South Half of the Northeast Quarter of said section to the center of Firlick Creek; thence along the center of said creek thru the following 17 numbered courses;

- 1) South 64 degrees 30 minutes 07 seconds East 146.58 feet;
- 2) thence South 43 degrees 05 minutes 42 seconds East 85.63 feet;
- 3) thence North 41 degrees 53 minutes 07 seconds East 89.26 feet;
- 4) thence North 9 degrees 42 minutes 55 seconds West 99.97 feet;
- 5) thence North 8 degrees 55 minutes 23 seconds East 15.40 feet;
- 6) thence North 73 degrees 29 minutes 13 seconds East 135.90 feet;
- 7) thence South 66 degrees 50 minutes 47 seconds East 41.34 feet;
- 8) thence South 31 degrees 18 minutes 56 seconds East 42.17 feet;
- 9) thence North 54 degrees 54 minutes 58 seconds East 104.10 feet;
- 10) thence North 81 degrees 20 minutes 00 seconds East 95.91 feet;
- 11) thence South 67 degrees 05 minutes 58 seconds East 110.40 feet;
- 12) thence South 81 degrees 55 minutes 47 seconds East 135.43 feet;
- 13) thence North 77 degrees 38 minutes 54 seconds East 201.11 feet;
- 14) thence North 84 degrees 15 minutes 56 seconds East 242.15 feet;
- 15) thence North 69 degrees 00 minutes 38 seconds East 122.06 feet;
- 16) thence South 71 degrees 24 minutes 40 seconds East 126.52 feet;
- 17) thence South 33 degrees 09 minutes 56 seconds East 76.91 feet;

thence leaving said creek South 0 degrees 58 minutes 01 second West 671.42 feet along the east line of Parcel III as described in said Instrument 2007R00026614 to a corner of said tract; thence North 88 degrees 51 minutes 23 seconds West 903.36 feet along the south line of said South Half of the Northeast Quarter of said section to the northeast corner of the West Half of the Northwest Quarter of the Southeast Quarter of said section; thence South 0 degrees 56 minutes 55 seconds West 1316.01 feet along the east line of said half-quarter-quarter section to the southeast corner thereof; thence South 88 degrees 53 minutes 25 seconds East 491.77 feet along the north line of the South Half of the Southeast Quarter of said section to a 3/4" rebar with plastic cap stamped "BLA FIRM 0030" marking the northeast corner of Parcel A of the aforesaid Parcelization Plat; thence South 0 degrees 55 minutes 13 seconds West 1328.48 feet along the east line of said Parcel A to the point of beginning and containing 93.74 acres, more or less, inclusive of the presently existing right-of-way for Heckel Road along the south side of said Parcel A which contains 0.45 acres, more or less.

The above-described 93.74-acre tract consists of Parcel A as shown on said Parcelization Plat, together with Parcels II and III described in said Instrument 2007R00026614, excepting from said Parcel II the portion thereof lying within said Heckel Subdivision and the portion thereof lying within said Glynn Haven Subdivision and westerly of said Heckel Subdivision.

EXHIBIT "B" TO  
USE AND DEVELOPMENT COMMITMENT

