

Cross Reference: Warranty Deed dated November 8, 2012, and recorded December 19, 2012 as Instrument Number 201225156 in the Office of the Recorder of Clark County, Indiana.

DEED OF PRESERVATION AND CONSERVATION EASEMENT

THIS DEED OF PRESERVATION AND CONSERVATION EASEMENT, made this ____ day of October, 2013, by the INDIANA DEPARTMENT OF TRANSPORTATION, duly created and existing under and by virtue of Indiana Code 8-23, as amended, as an administrative department of the STATE OF INDIANA (“Grantor”) and HISTORIC LANDMARKS FOUNDATION OF INDIANA, INC., an Indiana not-for-profit corporation (“Grantee”).

WITNESSETH:

WHEREAS, Grantee is a publicly supported non-profit corporation incorporated in the State of Indiana and has received a determination of exemption by letter dated August 31, 1964, from the United States Internal Revenue Service under Section 501(c)(3) and Section 509(a)(1) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the “Code”); and

WHEREAS, Grantee has as a principal corporate purpose the preservation of the historical, architectural, archeological and cultural aspects of real property in Indiana; and

WHEREAS, Grantee is a qualified conservation organization in accordance with Section 170(h) of the Code, and this Deed of Preservation and Conservation Easement (the “Conservation Easement”) is intended to qualify as a qualified conservation contribution in accordance with Section 170(h) of the Code; and

WHEREAS, Grantor is the owner in fee simple of certain real property more particularly described on Exhibit A attached hereto and made a part hereof (the “Land”) located in Jeffersonville, Clark County, Indiana, and commonly known as 309 Pearl Street, which is improved with the following structures: a single-family residential structure (the “Buildings”) (the Land together with the Buildings and other improvements located thereon is hereafter referred to as the “Property”).

WHEREAS, the Property possesses significant architectural, historic and cultural significance, and is located within the Old Jeffersonville Historic District, a registered historic district as defined in Code Section 47(c)(3)(B) and listed in the National Register of Historic Places on October 6, 1987; and

WHEREAS, the Property is significant in American and Indiana history and culture and contributes significantly to the cultural heritage and visual beauty of Clark County and the State of Indiana and should be preserved; and

WHEREAS, in order to document the nature of the Buildings as of the Effective Date, attached hereto as Exhibit B and made a part hereof are photographs of the Buildings which accurately depict the Buildings as of the date hereof. The exterior surfaces of the Buildings as depicted on Exhibit B are referred to hereafter as the “Façades”; and

WHEREAS, the grant of a conservation easement by Grantor to Grantee on the Property will assist in preserving and maintaining the Property and its architectural, historic and cultural features and values pursuant to the provisions of the Indiana Uniform Conservation Easement Act, I.C. 32-23-5 (the “Act”).

NOW, THEREFORE, in consideration of Five Dollars (\$5.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor, pursuant to the Act, irrevocably warrants, grants and conveys unto Grantee, in perpetuity for the benefit of the people of Indiana, this perpetual Conservation Easement in, to and over the Property. In delineation and furtherance of the Conservation Easement granted hereby, Grantor and Grantee further covenant and agree as follows:

PURPOSE

1. Purpose. It is the purpose of this Conservation Easement to assure that the Property’s architectural, historic and cultural features and values (the Property’s “conservation and preservation values”) will be retained and maintained forever substantially in their current condition for conservation and preservation purposes and to prevent any use or change of the Property that will significantly impair or interfere with the Property’s conservation and preservation values. In particular, and not in diminution of the foregoing, the purpose of this Conservation Easement is to retain substantially in their present appearance and condition the Façades.

GRANTOR’S COVENANTS

2.1 Grantor’s Covenants: Covenant to Maintain. Grantor agrees at all times to maintain the Property in a good and sound state of repair. Grantor’s obligations shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the Property in substantially the same condition and state of repair to that existing on the Effective Date. Grantor’s obligation to maintain shall also require that the Property’s fences, drives, walks and landscaping be maintained in good appearance with substantially similar plantings, vegetation, and natural screening to that existing on the Effective Date. The existing lawn areas shall be

maintained as lawns, regularly mown. Subject to the casualty provisions of paragraphs 7 and 8, this obligation shall require replacement, rebuilding, repair and reconstruction of the Buildings whenever necessary in accordance with The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (36 CFR 67), as these may be amended from time to time (hereinafter the "Secretary's Standards"), or replaced by an alternative standard in accordance with paragraph 4 hereof and in a manner which maintains or recreates, as the case may be, the appearance of the Façades.

2.2 Grantor's Covenants: Prohibited Activities. The following acts or uses are expressly forbidden on, over, or under the Property, except as otherwise conditioned in this paragraph:

(a) the Buildings shall not be demolished, removed or razed except as provided in paragraphs 7 and 8;

(b) nothing shall be erected or allowed to grow on the Property which would impair the visibility from street level of the Façades, except for temporary structures, such as scaffolds needed to assist workmen, and except for vegetation of the quantity and type now on the Property;

(c) no other buildings or structures, including communications transmission antennae or devices visible from any portion of the Property, camping accommodations or mobile homes, shall be erected or placed on the Property except for temporary structures required for the maintenance or rehabilitation of the Property, such as construction trailers;

(d) the dumping of ashes, trash, rubbish or any other unsightly or offensive materials is prohibited on the Property;

(e) the Property shall not be divided or subdivided in law or in fact and the Property shall not be devised or conveyed except as a unit; and

(f) no above ground utility transmission lines, except those reasonably necessary for the existing Buildings, may be created on the Property, subject to utility easements already recorded.

GRANTOR'S CONDITIONAL RIGHTS SUBJECT TO APPROVAL

3.1 Conditional Rights Requiring Approval by Grantee. Without the prior express written approval of the Grantee in accordance with paragraph 3.2, which approval may be withheld or conditioned in the sole discretion of Grantee, Grantor shall not undertake any of the following actions:

(a) increase or decrease the height of, make additions to, change the exterior construction materials or colors of, or move, improve, alter, reconstruct or change the Façades (including fenestration) and roofs of the Buildings;

(b) erect any external signs; external advertisements; or signs, illumination, or window-covering that is visible to the exterior of the Buildings through any fenestration, except: (i) such plaque permitted under paragraph 19 of this Conservation Easement; (ii) a sign stating solely the address of the Property; (iii) a temporary sign to advertise the sale or rental of the Property; (iv) normal indoor lighting meeting the Secretary's Standards or other reasonable standards applied by Grantee; and (v) such window-coverings of the character and quantity as are visible on Exhibit B.

(c) make substantial topographical changes, such as by example excavation for the construction of roads and recreational facilities;

(d) cut down, or otherwise remove live and healthy trees; and

(e) change the use of the Property to another use other than single-family residential. Grantee will consider any request for a change in use of the Property in light of existing planning and zoning regulations, if Grantee determines, in its sole discretion, that the proposed use: (i) does not impair the significant conservation and preservation values of the Property; and (ii) does not conflict with the Purpose of this Conservation Easement.

3.2 Review of Grantor's Requests for Approval.

(a) Grantor shall submit to Grantee for Grantee's approval of those conditional rights set out at paragraph 3.1 two copies of information (including plans, specifications, and designs where appropriate) identifying the proposed activity with reasonable specificity. In connection therewith, Grantor shall also submit to Grantee a timetable for the proposed activity sufficient to permit Grantee to monitor such activity. Grantor shall not make changes or take any action subject to the approval of Grantee unless expressly authorized in writing by an authorized representative of Grantee. Grantee reserves the right to consult with governmental agencies, nonprofit preservation and conservation organizations, and/or other advisors deemed appropriate by Grantee concerning the appropriateness of any activity proposed under this Conservation Easement.

(b) Within forty-five (45) days of Grantee's receipt of any plan or written request for approval hereunder, Grantee shall state in writing whether (a) it approves the plan or request as submitted, or (b) it disapproves the plan or request as submitted, in which case Grantee shall provide Grantor with written suggestions for modification or a written explanation for Grantee's disapproval. Any failure by Grantee to act within forty-five (45) days of receipt of Grantor's submission or resubmission of plans or requests shall not be deemed to constitute approval by Grantee of the plan or request as submitted nor to permit Grantor to undertake the proposed activity in accordance with the plan or request submitted. In the event Grantor does not implement any approval granted pursuant to paragraph 3.1 and 3.2 for a period of one (1) year, such approval shall be void. Grantor may resubmit the request for approval; however, such approval may be

given or denied in the sole discretion of Grantee.

4. Standards for Review. In exercising any authority created by this Conservation Easement to inspect the Property or the interiors of the Buildings; to review any construction, alteration, repair or maintenance; or to review reconstruction of any of the Buildings following casualty damage, Grantee shall apply the Secretary's Standards. In the event the Secretary's Standards are abandoned, materially altered, inapplicable, or become, in the sole judgment of Grantee, inappropriate for the purposes set forth in this paragraph or in paragraphs 2.1 and 8 hereof then, upon written notice to Grantor, Grantee may apply reasonable alternative standards. In no case may any newly applied standard, whether the Secretary's Standards or alternative standards, be applied retroactively.

5. Public Access. Grantor shall not impair the ability of the public (who have no legal ownership or use rights with respect to the Property) to view the Property and exteriors of Buildings from street level of the nearest public road or right-of-way. Grantee may make photographs, drawings, or other representations documenting the significant historical, cultural, and architectural character and features of the property and may publish them or distribute them for publication by others, or otherwise use them to fulfill its charitable or educational purpose.

GRANTOR'S RESERVED RIGHTS

6. Grantor's Reserved Rights Not Requiring Further Approval by Grantee. Subject to the provisions of paragraphs 2.1, 2.2, and 3.1, the following rights, uses, and activities of or by Grantor on, over, or under the Property are permitted by this Conservation Easement and by Grantee without further approval by Grantee:

(a) the right to engage in all those acts and uses that: (i) are permitted by governmental statute or regulation; (ii) do not substantially impair the conservation and preservation values of the Property; and (iii) are not inconsistent with the purpose of this Conservation Easement;

(b) pursuant to the provisions of paragraph 2.1, the right to maintain and repair the Buildings strictly according to the Secretary's Standards. As used in this subparagraph, the right to maintain and repair shall mean the use by Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the Buildings. The right to maintain and repair as used in this subparagraph shall not include the right to make changes in appearance, materials, colors, and workmanship from that existing prior to the maintenance and repair without the prior written approval of Grantee in accordance with the provisions of paragraphs 3.1 and 3.2;

(c) the right to continue all manner of existing use and enjoyment of the Property, including but not limited to the maintenance, repair, and restoration of existing fences; the right to maintain existing driveways, roads, and paths with the use of same or similar surface materials; the right to maintain existing utility lines, gardening and

building walkways, steps, and garden fences; the right to cut, remove, and clear grass or other vegetation and to perform routine maintenance, landscaping, horticultural activities, and upkeep, consistent with the purpose of this Conservation Easement; and

(d) the right to conduct at or on the Property educational and nonprofit activities that are not inconsistent with the protection of the conservation and preservation values of the Property.

CASUALTY DAMAGE OR DESTRUCTION; INSURANCE

7. Casualty Damage or Destruction. In the event that the Buildings or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. All permanent repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Buildings and to protect public safety, shall be undertaken in accordance with the Secretary's Standards or such alternative standard determined in accordance with paragraph 4 hereof.

8. Review After Casualty Damage or Destruction. If, after reviewing the extent of casualty damage or destruction as described in paragraph 7 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 9, Grantor and Grantee agree that the restoration/reconstruction of the Buildings is impractical or impossible, and that the purpose of this Conservation Easement will not be served by such restoration/reconstruction, Grantor and Grantee may (but are not obligated to) agree that Grantor may alter, demolish, remove or raze one or more of the Buildings, and/or construct new improvements on the Property. Grantor and Grantee may agree to extinguish this Conservation Easement in accordance with the laws of the State of Indiana and paragraph 23.2 hereof.

9. Insurance. Grantor at its expense shall (i) keep the Buildings insured by an insurance company acceptable to Grantee for the full replacement value against loss from perils commonly insured under standard fire and extended coverage policies against loss or damage resulting from fire, windstorm, vandalism, explosion and such other hazards as may be reasonably required by Grantee, which names Grantee as an additional insured party thereunder; and (ii) carry and maintain comprehensive general liability insurance against claims for personal injury, death and property damage under a policy issued by a financially responsible insurance company approved by Grantee, which names Grantee as an additional insured party thereunder with coverage per person per occurrence of not less than One Million Dollars (\$1,000,000.00) adjusted annually for inflation from January 1, 2014. Grantor shall submit to Grantee an annual certificate of insurance evidencing the required coverages.

INDEMNIFICATION; TAXES

10. Indemnification. Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, Grantee, its agents, directors and employees, or independent contractors from and against any and all claims, liabilities, expenses, costs,

damages, losses and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person; physical damage to the Property; the presence or release in, on, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance or regulation as a hazardous, toxic, polluting or contaminating substance; or other injury or other damage occurring on or about the Property, unless such injury or damage is caused by Grantee or any agent, trustee, employee or contractor of Grantee. In the event that Grantor is required to indemnify Grantee pursuant to the terms of this paragraph, the amount of such indemnity, until discharged, shall constitute a lien on the Property with the same effect and priority as a mechanic's lien; provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property.

11. Taxes, Assessments and Charges. Grantor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on the Property unless Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation to pay such charges shall be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action. Grantee is hereby authorized, but in no event required or expected, to make or advance upon three (3) days prior written notice to Grantor in the place of Grantor, any payment relating to taxes, assessments, water rates, sewer rentals and other governmental or municipality charge, fine, imposition or lien asserted against the Property and may do so according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or assessment or into the validity of such tax, assessment, sale or forfeiture. Such payment if made by Grantee shall constitute a lien on the Property with the same effect and priority as a mechanic's lien and shall bear interest until paid by Grantor at the highest statutory rate of interest permitted to be charged under applicable law; provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property nor shall anything herein jeopardize the priority of this Conservation Easement.

ADMINISTRATION AND ENFORCEMENT

12. Written Notice. Any notice which either Grantor or Grantee may desire or be required to give to the other party shall be in writing and shall be mailed postage prepaid by overnight courier, registered or certified mail with return receipt requested, or hand delivered; if to Grantor, then at 100 North Senate Avenue, Indianapolis, Indiana 46204, and if to Grantee, then to 1201 N. Central Avenue, Indianapolis, Indiana 46202. Each party may change its address set forth herein by a notice to such effect to the other party.

13. Evidence of Compliance. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with any obligation of Grantor contained in this Conservation Easement.

14. Inspection. Representatives of Grantee shall be permitted at all reasonable times

to inspect the Property, including the interiors of the Buildings. Inspection of the interiors of the Buildings will be made at a time mutually agreed upon by Grantor and Grantee.

15. Grantee's Remedies. In the event of an alleged violation of any of the provisions of this Conservation Easement, (i) Grantee may, following written notice to Grantor, institute suit(s) to enjoin any violation of the terms of this Conservation Easement by ex parte, temporary, preliminary and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Property and Buildings to the condition and appearance required under this Conservation Easement; and/or (ii) Grantee may (but shall be under no obligation to) enter upon the Property, correct any such violation and hold Grantor responsible for the cost thereof. Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligations hereunder. In the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the terms of this Conservation Easement, including all reasonable court costs, and attorney's, architectural, engineering and expert witness fees, which costs and expenses shall constitute a lien on the Property with the same effect and priority as a mechanic's lien and shall bear interest until paid by Grantor at the highest statutory rate of interest permitted to be charged under applicable law; provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property nor shall anything herein jeopardize the priority of this Conservation Easement. Exercise by Grantee of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

16. Notice from Government Authorities. Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Property received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

17. Notice of Proposed Sale. Grantor shall promptly notify Grantee in writing of any proposed sale of the Property or of any listing of the Property for sale and provide the opportunity for Grantee to explain the terms of the Conservation Easement to the real estate listing agent and potential new owners prior to sale closing.

18. Liens. Any lien on the Property created pursuant to any paragraph of this Conservation Easement may be confirmed by judgment and foreclosed by Grantee in the same manner as a mechanic's lien; provided, however, that no lien created pursuant to this Conservation Easement shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property nor shall any such lien jeopardize the priority of this Conservation Easement.

Grantor warrants to Grantee that no lien or encumbrance exists on the Property as of the Effective Date and that no existing lien or encumbrance has or will have priority over this Conservation Easement and the rights of Grantee hereunder subsequent to the Effective Date

other than the lien of current ad valorem taxes not yet due or payable. Grantor shall immediately cause to be satisfied or released any lien or claim of lien that may hereafter come to exist against the Property.

19. Plaque. Grantor agrees that Grantee may provide and maintain a plaque on the Property giving notice of the significance of the Property and the existence of this Conservation Easement.

BINDING EFFECT; ASSIGNMENT

20. Runs with the Land. The obligations imposed by this Conservation Easement shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. This Conservation Easement shall extend to and be binding upon Grantor and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor and Grantee, and the words “Grantor” and “Grantee” when used herein shall include all such persons. Any right, title or interest herein granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word “Grantee” shall include all such successors and assigns.

Anything contained herein to the contrary notwithstanding, an owner of the Property shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Property by reason of a bona fide transfer. The restrictions, stipulations and covenants contained in this Conservation Easement shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Property or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Property, but the failure to so insert the restrictions, stipulations and covenants contained in this Conservation Easement shall not affect the validity of this Agreement or the continuing validity and binding effect of this Conservation Easement.

21. Assignment. Grantee may, at its discretion and without prior notice to Grantor, convey, assign or transfer this Conservation Easement to a unit of federal, state or local government or to a similar local, state or national organization that is a “qualified organization” under Section 170(h) of the Code, as amended, whose purposes, inter alia are to promote preservation or conservation of historical, cultural, or architectural resources (such as but not limited to the National Trust for Historic Preservation in the United States), provided that any such conveyance, assignment or transfer requires that the purpose for which the Conservation Easement was granted will continue to be carried out by the assignee.

In the event Grantee ceases to be qualified to hold this Conservation Easement under the Act, Grantee covenants and agrees that the rights and obligations herein accepted by Grantee shall, in that event, pass to and be vested in such other qualified organization or governmental body under the Act and Section 170(h) of the Code as Grantee shall elect; and if Grantee shall fail so to elect, then such rights and obligations shall pass to and be vested in the State of Indiana. If none of the instrumentalities named in this paragraph accepts these rights and obligations, then Grantee (or if Grantee fails, then Grantor) shall cause such rights and

obligations to be accepted by an organization having as one of its principal purposes the preservation of historic or architectural landmarks or acceptance of easements for “conservation purposes” as defined in Section 170(h)(4) of the Code and which is an organization qualified to receive such easements under the Act and Section 170(h) of the Code.

22. Recording and Effective Date. Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this instrument in the Office of the Recorder of Clark County, Indiana. Grantor and Grantee intend that the restrictions arising under this Conservation Easement take effect on the day and year this instrument is recorded in the land records of Clark County, Indiana (the “Effective Date”).

PERCENTAGE INTERESTS; EXTINGUISHMENT

23.1 Percentage Interests. For purposes of allocating proceeds pursuant to paragraphs 23.2 and 23.3, Grantor and Grantee stipulate that as of the Effective Date, Grantor and Grantee are each vested with real property interests in the Property and that such interests have a stipulated percentage interest in the fair market value of the Property. Said percentage interests shall be determined by the ratio of the value of this Conservation Easement on the Effective Date to the value of the Property, without deduction for the value of the Conservation Easement, on the Effective Date. The values on the Effective Date shall be those values prescribed by federal regulation, including the value allowed as a deduction for federal income tax purposes attributable to this Conservation Easement. For purposes of this paragraph, the ratio of the value of the Conservation Easement to the value of the Property unencumbered by the Conservation Easement shall remain constant, and the percentage interests of Grantor and Grantee in the fair market value of the Property thereby determinable shall remain constant except that the value of improvements made to the Property after the Effective Date is reserved to Grantor.

23.2 Extinguishment. Grantor and Grantee hereby recognize that an unexpected change in the conditions surrounding the Property may make impossible the continued ownership or use of the Property for the purpose of this Conservation Easement and may necessitate extinguishment of the Conservation Easement. Such a change in conditions may include, but is not limited to, partial or total destruction of the Buildings resulting from casualty. Such an extinguishment must be the result of a judicial proceeding and shall entitle Grantee to share in any net proceeds resulting from the extinguishment in an amount that reflects its percentage interest in the fair market value of the Property, as such interest is determined under the provisions of paragraph 23.1, adjusted, if necessary, to reflect a partial termination or extinguishment of this Conservation Easement. All such proceeds received by Grantee shall be used by Grantee in a manner consistent with Grantee’s primary purposes. Net proceeds shall include, without limitation, net insurance proceeds, and proceeds from the sale or exchange by Grantor of any portion of the Property after the extinguishment. In the event of extinguishment, the provisions of this paragraph shall survive extinguishment and shall constitute a lien on the Property with the same effect and priority as a mechanic’s lien; provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property.

23.3 Condemnation. If all or any part of the Property is taken under the power of

eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of those interests in the Property that are subject to the taking and all incidental and direct damages resulting from the taking. All expenses reasonably incurred by Grantor and Grantee in connection with such taking shall be paid out of the recovered proceeds. Grantor and Grantee shall be respectively entitled to compensation from the balance of the recovered proceeds in conformity with the provisions of paragraphs 23.1 and 23.2 unless otherwise provided by law; provided, however, that if the Property is encumbered by a mortgage or deed of trust at the time of such condemnation, Grantor and Grantee shall be entitled to their respective percentage interests in any proceeds remaining after satisfaction of all mortgages or deeds of trust.

INTERPRETATION

24. Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of the Conservation Easement.

(a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of Property shall not apply in the construction or interpretation of this Conservation Easement, and this instrument shall be interpreted broadly to effect its purpose and the transfer of rights and the restrictions on use herein contained.

(b) This instrument is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Conservation Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law or private agreement either in existence now or at any time subsequent hereto. This instrument may be re-recorded at any time by any person if the effect of such re-recording is to make more certain the enforcement of this instrument or any part thereof. The invalidity or unenforceability of any provision of this instrument shall not effect the validity of enforceability of any other provision of this instrument.

(c) Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Conservation Easement and such ordinance or regulation.

(d) This instrument shall be interpreted to transfer to Grantee any development or density rights which may exist now or at some time hereafter by reason of the fact that under any applicable zoning, transfer of development rights or similar ordinance or law the Property may be developed to a use more intensive (in terms of height, bulk or other objective criteria regulated by such ordinance or law) than the Property is devoted as of the Effective Date.

(e) This instrument reflects the entire agreement of Grantor and Grantee. Any prior or simultaneous correspondence, understanding, agreements, and representations are null and void upon execution hereof, unless set out in this instrument.

(f) In the event Grantee shall at any time in the future become the fee simple owner of the Property, this Conservation Easement shall nevertheless remain severed from the fee.

AMENDMENT

25. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Conservation Easement, provided that no amendment shall be made that will adversely affect the qualification of this Conservation Easement or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Code and the laws of the State of Indiana. Any such amendment shall be consistent with the protection of the conservation and preservation values of the Property and the purpose of this Conservation Easement; shall not affect its perpetual duration; shall not permit additional development on the Property other than the development permitted by this Conservation Easement on the Effective Date; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural, historic, cultural, and open space values protected by this Conservation Easement. Any such amendment shall be recorded in the Office of the Recorder of Clark County, Indiana. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

TRANSFER FEE

26. Except as otherwise provided herein, there shall be assessed by Grantee and collected from the purchaser of the Property, or any portion thereof, subject to this Conservation Easement, a transfer fee in the amount of One Hundred and No/100 Dollars (\$100.00), which transfer fee shall be paid to Grantee and used by Grantee for the purpose of preserving the historical, architectural, archaeological or cultural aspects of real property. Such fee shall not apply to transfers between: (a) spouses, (b) parents and children, (c) grandparents and grandchildren, (d) siblings, (e) a corporation and any shareholder who owns ten percent (10%) or more of the stock in such corporation; (f) a limited liability company and any member who owns ten percent (10%) or more of the ownership interest in such company; transfers by gift; transfers by will, bequest, intestate succession; or transfer to Grantee. In the event of non-payment of the transfer fee, the amount shall bear interest at the highest statutory rate of interest permitted to be charged under applicable law from the date of transfer and shall, together with accrued interest and attorney's fees and cost of collection, constitute a lien on the Property with the same effect and priority as a mechanic's lien.

PUBLIC LAW 109-280 "SPECIAL RULES" COMPLIANCE

27. Protection of Entire Building. Grantor and Grantee agree that the restrictions of

this Conservation Easement shall apply to the entire exterior of the Buildings (including the front, sides, rear, and height of the Buildings), and that no change to the exterior of the Buildings may be made by Grantor except as provided herein.

28. Inconsistent Changes Prohibited. Grantor and Grantee agree that Grantor shall not undertake, and Grantee shall not permit, any change to the exterior of the Buildings which would be inconsistent with the historical character of such exterior.

29. Certification of Qualification of Grantee Under Penalty of Perjury. By execution of this Conservation Easement, Grantor and Grantee agree, and hereby certify under penalty of perjury, that Grantee is a qualified easement-holding organization (as defined in Section 170(h)(3) of the Code) with a purpose of environmental protection, open space preservation, or historic preservation, and that the Grantee has both the resources to manage and enforce the restrictions of this Conservation Easement and a commitment to do so.

RIGHT OF FIRST REFUSAL

30. Right of First Refusal.

(a) In the event Grantor intends to sell the Property and receives an offer to purchase, option, letter of intent, purchase contract or other agreement relating to the sale, transfer or conveyance of the Property at any time (the "Offer") from a third party, which Grantor is willing to accept, Grantor shall, within five (5) days after receipt of such Offer, notify Grantee and deliver a true copy of such Offer to Grantee, which shall constitute an offer on the part of Grantor to sell and convey the Property to Grantee on all of the same terms and conditions as are contained in said Offer. The notice shall be mailed by Grantor to Grantee at its address of record by certified mail, return receipt attached. Grantee then shall have a period of thirty (30) days after receipt of a copy of such Offer in which to notify Grantor in writing of Grantee's election to purchase the Property on all of the same terms and conditions as are contained in said Offer, if Grantee desires to do so. If the Offer calls for the delivery of any consideration other than the payment of money by the purchaser, or if the Offer is combined with or conditioned upon the sale or purchase of other property, Grantee shall be entitled to disregard such portion of the consideration or such combination or condition.

(b) Failure to Exercise. If Grantee does not notify Grantor of its election to purchase the Property within such thirty (30) day period, then Grantor shall be free to proceed with the sale of the Property to such third party strictly in accordance with the terms of said Offer; provided, however, that if the terms of said Offer are changed, or if such sale is not consummated with such third party within one hundred eighty (180) days after such Offer was originally received by Grantor, Grantor shall again be required to offer the Property for sale to Grantee in accordance with the terms of this paragraph before proceeding to sell to a third party under said Offer or any other offer. The failure or neglect of Grantee to exercise this option and right of first refusal in any instance shall not constitute a waiver of this option and right of first refusal as to any subsequent Offer with regard to the same or any other part of or interest in the Property, and each such

Offer shall be subject to the terms and provisions hereof.

(c) Remedies. If Grantor breaches this Right of First Refusal, including, without limitation, entering into a sale, transfer or conveyance in conflict with this Right of First Refusal, such transaction shall be voidable by Grantee and Grantee shall be entitled, in addition to any other remedy available at law or in equity, to seek specific performance and/or immediate injunctive relief as a result of Grantor's breach hereof. In addition Grantee shall be entitled to collect from Grantor all actual and consequential damages, costs, damages, losses and expenses (including all attorneys' fees, professional fees, court costs, title search fees and related costs) for such breach and in enforcing this Right of First Refusal. Notwithstanding anything to the contrary contained herein, this Right of First Refusal shall in no way restrict Grantor's right, power or authority to mortgage the Property.

TO HAVE AND TO HOLD, the said Deed of Conservation and Preservation Easement, unto the said Grantee and its successors and permitted assigns forever. This DEED OF CONSERVATION AND PRESERVATION EASEMENT may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument.

IN WITNESS WHEREOF, Grantor and Grantee have set their hands under seal on the days and year set forth below.

Grantor and Grantee expressly acknowledge and understand that, by their execution of this document, the certification under paragraph 29 is made under penalty of perjury.

GRANTEE

HISTORIC LANDMARKS
FOUNDATION OF INDIANA, INC.

By: _____
J. Marshall Davis, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared J. Marshall Davis, the President of Historic Landmarks Foundation of Indiana, Inc., who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____ 2013.

My Commission Expires: _____

_____, Notary Public residing
in _____ County, Indiana

GRANTOR

INDIANA DEPARTMENT OF
TRANSPORTATION

By: _____
(signature)

(printed name)

Its: _____
(title)

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of the Indiana Department of Transportation, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____ 2013.

My Commission Expires: _____
_____, Notary Public residing
in _____ County, Indiana

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. Thomas H. Engle

This instrument prepared by (and return to) Thomas H. Engle, Attorney-at-Law
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204.

EXHIBIT A

Legal Description of the Land

Parcel 1:

Project:	0300798	Sheet:	1 of 1
Parcel:	104 Fee	Code:	4839
Key No.:	10-19-00-100-131.000-010		

Being a part of Lot Nos. 144 and 145 in the City of Jeffersonville, Indiana, bounded thus, Beginning at the southeast corner of Lot of Mrs. Ransom on the west side of Pearl Street 23 feet 10 ½ inches; thence Westwardly 107 feet 2 inches; thence at right angles Northwardly 23 feet 10 ½ inches thence at right angles Eastwardly 107 feet 2 inches to the place of beginning.

The above-described parcel being that parcel of land conveyed February 12, 2008 by virtue of Special Warranty Deed Recorded February 27, 2008 in Instrument Number 200803002 in the office of the Recorder of Clark County, Indiana.

Parcel 2:

Project:	0300798	Sheet:	1 of 1
Parcel:	108 Fee	Code:	4839
Key No.:	10-19-00-100-130.000-010		

Being part of Lots Nos. 144 and 145 in the City of Jeffersonville, said County and State, bounded thus: Beginning at a stake in the east line of said Lot No. 145, which stake is 86 feet 1-1/2 inches northwardly from the southeast corner of said Lot No. 145; thence at right angles westwardly across Lots Nos. 145 and 144, 107-1/2 fee(t), more or less, to a stake; thence at right angles southwardly and parallel to the east line of Lot No. 144, 22 feet and 9-1/2 inches to a stake, thence at right angles eastwardly across Lots Nos. 144 and 145, 107-1/2 fee(t), more or less to a stake on the east line of Lot No. 145; thence northwardly along the east line of Lot No. 145, 22 feet 9-1/2 inches, to the place of beginning.

The above-described parcel being that parcel of land conveyed October 27, 1997 by virtue of an Executor's Deed of Correction Recorded November 6, 1997 in Deed Drawer 29, Instrument Number 20086 in the Office of the Recorder of Clark County, Indiana.

EXHIBIT B

Photographs of the Buildings



Above: East elevation; **Below:** East and south elevations





Above: South elevation, front; **Below:** South elevation, rear





Above: Detail of windows flanking chimney, south elevation; **Below:** West elevation





Above: North elevation; **Below:** North elevation, rear



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