



South Bend

Redevelopment Commission

227 West Jefferson Boulevard, Room 1308, South Bend, Indiana

Agenda

Regular Meeting, February 22, 2018 9:30 a.m.

1. **Roll Call**
2. **Approval of Minutes**
 - A. Minutes of the Regular Meeting of Thursday, February 8, 2018
3. **Approval of Claims**
 - A. Claims Submitted February 22, 2018
4. **Old Business**
5. **New Business**
 - A. River West Development Area
 1. Design Consulting Reimbursement Agreement (SJCPL)
 2. Resolution No. 3428 (Accepting 115 S. Lafayette from BPW)
 3. First Amendment to Real Estate Option Agreement (former Studebaker Museum Property & Cove Lot #4)
 4. License Agreement For Temporary Parking (Hibberd Development LLC)
 5. Real Estate Purchase Agreement (Five Corners LLC)
 6. Development Agreement (Wharf Partners, LLC)
 - B. Other
 1. Second Amendment Engineering Services Agreement
 2. First Amendment to Redevelopment Supervisory Services Agreement
6. **Progress Reports**
 - A. Tax Abatement
 - B. Common Council
 - C. Other

7. Next Commission Meeting:
Thursday, March 8, 2018, 9:30 a.m.

8. Adjournment

NOTICE FOR HEARING AND SIGHT IMPAIRED PERSONS
Auxiliary Aid or Other Services are Available upon Request at No Charge.
Please Give Reasonable Advance Request when Possible.



South Bend
Redevelopment Commission
 227 West Jefferson Boulevard, Room 1308, South Bend,
 Indiana

ITEM: 2A

**SOUTH BEND REDEVELOPMENT COMMISSION
 REGULAR MEETING**

February 8, 2018
 9:30 a.m.
 Presiding: Marcia Jones, President

227 West Jefferson Boulevard
 South Bend, Indiana

The meeting was called to order at 9:32 a.m.

1. ROLL CALL

Members Present: Marcia Jones, President
 Dave Varner, Vice-President
 Don Inks, Secretary
 Gavin Ferlic, Commissioner

Members Absent:

Legal Counsel: Benjamin Dougherty, Esq.

Redevelopment Staff: David Relos, RDC Staff
 Mary Brazinsky, Board Secretary

Others Present: James Mueller DCI
 Dan Buckenmeyer DCI
 Chris Dressel DCI
 Elizabeth Leonard Inks DCI
 Caleb Bauer South Bend Tribune
 Eric Henderson Prism Environmental
 Joshua Edwards South Bend Ethanol
 Conrad Damian 718 E Broadway
 Jonathon Geels Troyer Group
 Boris Bystrov Mercuria/SB Ethanol

2. Approval of Minutes

A. Approval of Minutes of the Regular Meeting of Thursday, January 25, 2018

Upon a motion by Commissioner Ferlic, seconded by Secretary Inks, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, January 25 2018.

3. Approval of Claims

A. Claims Submitted February 8, 2018

| | Claims submitted | Explanation of Project |
|---|------------------|--|
| REDEVELOPMENT COMMISSION Redevelopment Commission Claims February 8, 2018 for approval | | |
| <u>324 RIVER WEST DEVELOPMENT AREA</u> | | |
| Tri-County News | 55.86 | Ads for Bids |
| DLZ | 10,035.00 | Sample-Sheridan Signs / Tucker Dr. |
| Abonmarche | 5,900.00 | Lincoln Way W and Charles Martin Sr. Intersection |
| AEP | 1,795.46 | Portage Bridge Replacement Beautify and Outfit the Bridge Dect with Decorative Rail & Lighting |
| Jones Petrie Rafinski | 7,723.75 | Downtown East-West Streetscapes / Courtyard by Marriott |
| IDEM | 450.00 | Professional Services |
| CBS Service, LLC | 103,914.33 | Berlin Place No. 2 Electrical Mechanical & Plumbing - Division A |
| <u>422 FUND WEST WASHINGTON DEVELOPMENT TIF</u> | | |
| DLZ | 50,887.00 | Colfax Ave Two-Way |
| <u>429 FUND RIVER EAST DEVELOPMENT TIF</u> | | |
| HRP | 59,099.70 | Newman Center Site Development Division B & C |
| Lawson-Fishers Associates P.C. | 2,531.84 | IN-Corby St Storm Sewer System |
| Abonmarche | 8,072.16 | Parley Primary Center Safe Routes to School Construction Inspection Srvc |
| <u>430 FUND SOUTH SIDE TIF AREA #1</u> | | |
| McCormick Engineering | 607.50 | Bowen St. Improvements |
| Donohue | 2,430.00 | South Wellfield, WTP & Pressure Zone Improvements |
| <u>436 FUND TIF NORTHEAST RESIDENTIAL</u> | | |
| Usbank | 1,234,500.00 | Authority Lease Rental Revenue Refunding Bonds of 2015 Eddy St. Common |
| Usbank | 628,472.18 | Economic Development Revenue Bonds, Series 2017 (Eddy's St. Ph. II) |
| Total | 2,116,474.78 | |

Upon a motion by Secretary Inks, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved the claims submitted on Thursday, February 8, 2018.

4. Old Business

5. New Business

A. River West Development Area

1. Reimbursement Agreement (SJC Public Library)

Mr. Relos asked for Commission approval to table this item.

Upon a motion by Vice-President Varner, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved tabling the Reimbursement Agreement (SJC Public Library) submitted on February 8, 2018.

2. Agreement for Professional Services (Torti Gallas and Partners)

Mr. Dressel presented the Agreement for Professional Services with Torti Gallas and Partners. This is in conjunction with last meeting's budget request for a Loading Study which was approved for \$15,000. The block is bounded by Wayne, Lafayette, Jefferson and Main. This study will be looking at the full parking capacity of this block in light of a possible new development at the SW corner of Jefferson and Main.

Upon a motion by Secretary Inks, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved the Agreement for Professional Services (Torti Gallas and Partners) submitted on February 8, 2018.

3. Agreement for Professional Services (Opticos)

Mr. Dressel presented the Agreement for Professional Services with Opticos. This Agreement is for the Portage / Elwood project area, and will study opportunities in this portion of the city for the first time. Opticos will help build a vision for this commercial area, and will hold a one day meeting for residents and businesses to provide input as possibilities are explored.

Commission approval in a not- to-exceed amount of \$60,000 is requested.

Upon a motion by Secretary Inks, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved the Agreement for Professional Services (Opticos) submitted on February 8, 2018.

4. Certificate of Completion (JPR reuse of Schilling's Building)

Mr. Relos presented the Certificate of Completion for Jones Petrie Rafinski's reuse of the former Schilling's Building, located at 325 – 333 S. Lafayette. On March 24, 2016 the Commission entered in to an Agreement to Buy and Sell Real Estate (Agreement) with Jones Petrie Rafinski (JPR), for the former Schilling's property at the NW corner of Lafayette and Western.

As part of that Agreement they were to spend no less than \$650,000 on building improvements within 18 months from closing which occurred on March 31, 2016. JPR has supplied documentation that they have met their obligations under the Agreement and now request a Certificate of Completion.

Commission approval is requested.

Upon a motion by Secretary Inks, seconded by Vice-President Varner, the motion carried unanimously, the Commission approved the Certificate of Completion (JPR reuse of Schilling's Building) submitted on February 8, 2018.

5. First Amendment to Development Agreement (Hibberd Development, LLC)

Mr. Mueller presented the First Amendment to Development Agreement with Hibberd Development, LLC. This Amendment increases the Commission's support of this project by an additional \$130,000, to help connect the water and sanitary lines to the mains in Main St. in front of this building.

Commission approval is requested.

Upon a motion by Vice-President Varner, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved the First Amendment to Development Agreement (Hibberd Development, LLC) submitted on February 8, 2018.

6. Resolution No. 3425: Lease Termination and Bill of Sale

Mr. Buckenmeyer presented Resolution No. 3425, a Lease Termination and Bill of Sale for the ethanol plant on the southwest side of the City, formally known as Noble Americas South Bend Ethanol LLC and is now South Bend Ethanol LLC. The City has a long history of partnership with ethanol plant. This Resolution is a final housekeeping item to transfer equipment covered under the lease. The final lease payment has been made and this will release our interest in it.

Josh Edwards and Boris Bystrov from Mercuria were introduced to the Commissioners. Boris Bystrov also worked with Noble Americas. He explained that Mercuria Corporation is based out of Geneva, Switzerland. Boris thanked the City of South Bend and said it was exciting to be working with the City. They are looking to expand and work with the farming community as well. Their ethanol is a viable blend being exported all over the world, and will continue for years to come. They are not dependent on the current federal subsidy to continue as a viable business. They work with local bottling companies like Coca Cola for their CO2 byproduct.

Josh Edwards thanked the Commission and explained there are over 200 trucks in and out of the plant every day, and this partnership with the City will help continue their success.

Upon a motion by Secretary Inks, seconded by Vice-President Varner, the motion carried unanimously, the Commission approved Resolution No. 3425: Lease Termination and Bill of Sale submitted on February 8, 2018.

7. Resolution No. 3426: Accepting Transfer of Property from Board of Public Works: 322 S. Lafayette

Mr. Relos presented Resolution No. 3426, which accepts the transfer of 322 S. Lafayette from the Board of Public Works (BPW). This property will then eventually be taken through the Commission's disposition process. This property is the parking lot we previously did a land swap with JPR for our lot across the street. This is subject to the Board of Public Works approval next Tuesday, February 13, 2018.

Commission approval is requested.

Upon a motion by Commissioner Ferlic, seconded by Vice-President Varner, the motion carried unanimously, the Commission approved Resolution No. 3426: Accepting Transfer of Property from Board of Public Works: 322 S. Lafayette submitted on February 8, 2018.

8. Resolution No. 3427: Accepting Transfer of Property from Board of Public Works: PNA

Mr. Relos presented Resolution No. 3427, which accepts the transfer of 2401 W. Western from the Board of Public Works (BPW). This property is the NW corner of Olive and Western, and is the site of the former PNA Lodge # 83. It was purchased for intersection improvements, and the remaining approximately .9 acres will eventually be taken through the Commission's disposition process. This transfer is subject to the Board of Public Works approval next Tuesday, February 13, 2018.

Commission approval is requested.

Upon a motion by Commissioner Ferlic, seconded by Vice-President Varner, the motion carried unanimously, the Commission approved Resolution No. 3427: Accepting Transfer of Property from Board of Public Works: PNA submitted on February 8, 2018.

B. Ratification

1. License Agreement for Temporary Use (Science Alive Parking)

Mr. Relos presented the License Agreement for Temporary Use (Science Alive Parking). This was for the Library's Science Alive annual event to use the VA parking lot as an overflow lot during their event.

Commission ratification is requested.

Upon a motion by Secretary Inks, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved the ratification of the License Agreement for Temporary Use (Science Alive Parking) submitted on February 8, 2018.

South Bend Redevelopment Commission
Regular Meeting – February 8, 2018

6. Progress Reports

- A. Tax Abatement
- B. Common Council
- C. Other

7. Next Commission Meeting:

Thursday, February 22, 2018, 9:30 a.m.

8. Adjournment

Thursday, February 8, 2018, 9:50 a.m.

David Relos, Economic Resources

Marcia I. Jones, President

ITEM: 3A

| REDEVELOPMENT COMMISSION Redevelopment Commission Claims February 22, 2018 for approval | Claims submitted | Explanation of Project | Items added after Agenda Distributed |
|--|---------------------|---|--|
| <u>324 RIVER WEST DEVELOPMENT AREA</u> | | | |
| Plews Shadley Racher & Braun LLP | 1,250.50 | Environmental - General | |
| Selge Construction Co, Inc. | 143,522.83 | Western Ave & Olive | |
| Kolata Enterprises LLC | 540.00 | Professional Service | |
| Hull & Associates Inc. | 4,671.97 | GW & Vapor Intrusion Evaluation | |
| Walsh & Kelly Inc. | 23,151.25 | Monroe St. Parking Lot / Fellows Streetscape | |
| Aecom | 30,123.01 | South Shore Line Station Alternatives Feasibility Study | |
| Joseph A Dzierla & Associates, Inc. | 9,500.00 | Ziker Bldg. | |
| <u>422 FUND WEST WASHINGTON DEVELOPMENT TIF</u> | | | |
| Robert Tharbs | | Rent Assist-Colfax | 23,289.42 |
| <u>429 FUND RIVER EAST DEVELOPMENT TIF</u> | | | |
| Lawson-Fisher Associates | 7,377.73 | Corby St. Storms Sewer System Evaluation | |
| Total | 220,137.29 | | 23,289.42 |
| Total Of Both Columns | 243,426.71 | | |



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: February 22, 2018
FROM: Tim Corcoran, Director of Planning
SUBJECT: Library Block Master Plan

Which TIF? (circle one) **River West**; River East; South Side; Douglas Road; West Washington

PURPOSE OF REQUEST:

Specifics:

The Department of Community Investment is requesting a sum of \$25,000 from the Riverwest TIF to engage a consultant in partnership with the St. Joseph County Library and the Community Foundation of St. Joseph County to develop a master plan for the Library block.

The master plan will illustrate how and where the library will expand in the future while developing a vision for the remainder of the block. Through a joint selection committee that included the Library, Community Foundation and City representatives the highly distinguished New York firm, RAMSA (Robert A.M. Stern & Associates) was chosen from a pool of four top tier urban design and architecture firms.

INTERNAL USE ONLY: Project Code: _____;

Total Amount new/change (inc/dec) in budget: \$25,000 ; Break down:

Costs: Engineering Amt: _____; Other Prof Serv Amt _____;

Acquisition of Land/Bldg (circle one) Amt: _____; Street Const Amt _____;

Building Imp Amt _____; Sewers Amt _____; Other (specify) Amt: _____

_____ . Going to BPW for Contracting? Y/N

Is this item ready to encumber now? ___ Existing PO# _____ Inc/Dec \$ _____

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

DESIGN CONSULTING REIMBURSEMENT AGREEMENT

This Design Consulting Reimbursement Agreement (this “Agreement”) is made on February 8, 2018 (the “Effective Date”), by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, with offices at 1400 S. County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana 46601 (the “Commission”), and the St. Joseph County Public Library, an Indiana municipal corporation, with offices at 304 S. Main Street, South Bend, Indiana 46601 (the “Library”) (each a “Party,” and collectively, the “Parties”).

RECITALS

A. The Library owns certain real property and improvements located within the River West Development Area (the “Area”) of the City of South Bend, Indiana (the “City”), commonly known as 304 S. Main Street (the “Property”).

B. The Library has undertaken or will undertake to procure certain design consulting services from Robert A.M. Stern Architects, LLP (the “Architect”), including the Architect’s preparation of conceptual plans for the further development of the Property and its surrounding vicinity, which includes certain parcels of real property owned by the Commission and commonly known as 307-327 S. Michigan Street (collectively, the “Work Product”).

C. The Commission exists and operates pursuant to the Redevelopment of Cities and Towns Act of 1953, as amended, being Ind. Code 36-7-14 (the “Act”).

D. Pursuant to Sections 12.2(a)(13) and 39(b)(3)(J) of the Act, the Commission is empowered to expend tax increment finance revenues to the pay the costs of architectural services in connection with local public improvements supporting the redevelopment of the Area.

E. In furtherance of its purposes under the Act, the Commission desires to reimburse the Library for a portion of the Architect’s fees for delivering the Work Product, subject to the terms and conditions stated in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Library’s Retention of Architect. The Library will retain Robert A.M. Stern Architects, LLP, and no other firm, to prepare conceptual plans for the further development of the Property and its surrounding vicinity. This Agreement will terminate without further notice if the Library fails to enter into a written agreement with Robert A.M. Stern Architects, LLP, for such services (the “Consulting Agreement”) within thirty (30) days after the Effective Date of this Agreement.

2. Participation. The City Planner for the City (the “City Planner”) will have the right to participate in all meetings, telephone conferences, written communications, design

charrettes, and other interactions between the Library and the Architect in connection with the Architect's engagement as the Library's design consultant. The Library will notify the City Planner (or his designee) in advance of all such opportunities to participate in the Architect's planning and design activities.

3. Payment; Limitation. In support of the Library's engagement with the Architect, the Commission agrees to pay the Library a total sum not to exceed Twenty-Five Thousand Dollars (\$25,000.00) (the "City Portion") as partial reimbursement of the Library's costs under the Consulting Agreement. To request such reimbursement, the Library will submit to the City a written invoice including satisfactory documentary evidence that the Library previously paid the Architect the amount requested for reimbursement by the City, provided, however, that the City will not be required to make any payment to the Library under this Agreement if the City Planner is not satisfied with the Architect's Work Product.

4. Ownership and Use of Work Product. Subject to the terms of the Consulting Agreement between the Library and the Architect, the City acknowledges that the Library will have a non-exclusive license to use the Work Product delivered by the Architect to the Library. The Library agrees that the City will have the right to review, use, keep copies of, and otherwise share with the Library all Work Product at any time delivered by the Architect to the Library, provided the Architect consents in writing to such use by the City.

5. Compliance. The Library agrees that it will, at its own expense, observe and comply with all applicable statutes, laws, ordinances, requirements, orders, rules, and regulations of all governmental authorities in relation to its development of the Property, including its use of any of the Architect's Work Product.

6. Indemnification. The Library agrees and undertakes to indemnify and hold the City and the Commission, and their respective agents, officials, employees, successors, and assigns, harmless from any liability, loss, costs, damages or expenses, including attorneys' fees, which the City or the Commission may suffer or incur as a result of any claims or actions which may be brought by any person or entity arising out of the Library's use of or reliance upon the Work Product. Without limiting the foregoing, the Parties mutually acknowledge and agree that if any action is brought against the City or the Commission, or their respective agents, officials, employees, successors, or assigns, in connection with such use of or reliance upon the Work Product, the Library agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

7. Default. If the Library fails to cure any failure in or default of any of its obligations or covenants under this Agreement within ten (10) days after receiving from the Commission written notice of the same, the Commission may (a) terminate this Agreement and cease any payment to the Library (b) initiate any legal action or proceeding it deems appropriate to enforce the terms of this Agreement and/or (c) pursue any other remedy available at law or in equity. All of the Commission's remedies will be cumulative.

8. Assignment. The Library may not assign this Agreement or any of its rights hereunder to any other person or party. Any attempt by the Library to assign or otherwise convey any interest in this Agreement will be void and of no force or effect.

9. Relationship. The Library and the City mutually acknowledge and agree that the Architect will at all times be an independent contractor of the Library alone, and no act or omission to act by the Library or the Architect will in any way bind or obligate the City. The City and the Library hereby renounce the existence of any form of agency relationship, joint venture, or partnership between the Library and the City and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Library and the City.

10. No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the Parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties.

11. Interpretation; Governing Law. Both Parties having participated fully and equally in the negotiation and preparation of this Agreement, this Agreement shall not be more strictly construed, nor shall any ambiguities in this Agreement be presumptively resolved, against either Party. This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

12. Entire Agreement. This Agreement embodies the entire agreement between the Commission and the Library and supersedes all prior discussions, understandings, or agreements, whether written or oral, between the Commission and the Library concerning its subject matter.

13. Authority; Counterparts; Signatures. Each undersigned person signing on behalf of his/her respective Party certifies that he/she is duly authorized to bind his/her respective Party to the terms of this Agreement. This Agreement may be separately executed in counterparts by the Commission and the Library, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have each executed this Design Consulting Reimbursement Agreement to be effective as of the Effective Date stated above.

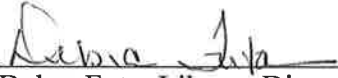
SOUTH BEND REDEVELOPMENT
COMMISSION, governing body of the
City of South Bend Department of
Redevelopment

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

ST. JOSEPH COUNTY PUBLIC LIBRARY,
an Indiana municipal corporation



Debra Futa, Library Director

4000.0000063 57167834.003

RESOLUTION NO. 3428

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION
ACCEPTING THE TRANSFER OF REAL PROPERTY FROM THE BOARD OF
PUBLIC WORKS OF THE CITY OF SOUTH BEND**

WHEREAS, the South Bend Redevelopment Commission, the governing body of the City of South Bend, Indiana, Department of Redevelopment (the “Commission”), exists and operates pursuant to Ind. Code 36-7-14 (the “Act”); and

WHEREAS, the City of South Bend, Indiana, Board of Public Works (the “Board”) has custody of real property owned by the City of South Bend, Indiana (the “City”) pursuant to Ind. Code 36-9-6-3; and

WHEREAS, the Board holds, by virtue of the tax deed recorded on February 20, 2018, as Document No. 1803894 in the Office of the Recorder of St. Joseph County, certain real property located in the City, commonly known as 115 S. Lafayette Boulevard, bearing Tax Key Number 018-3009-0288 (the “Property”); and

WHEREAS, the Board desires to convey the Property to the Commission pursuant to Ind. Code 36-1-11-8 for the purpose of making the Property available for re-use and redevelopment in accordance with the Commission’s purposes and powers under the Act; and

WHEREAS, the Board is expected to adopt a resolution on or about February 27, 2018, approving the conveyance of the Property to the Commission; and

WHEREAS, the Commission desires to accept the Property from the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH BEND REDEVELOPMENT COMMISSION AS FOLLOWS:

1. The Commission approves and accepts the Board’s conveyance of the Property to the Commission, subject to the Board’s adoption of an appropriate resolution pursuant to Ind. Code 36-1-11-8.
2. The Commission authorizes David Relos of the City’s Department of Community Investment to accept and present for recordation in the Office of the Recorder of St. Joseph County any deed for the Property received from the Board.
3. This Resolution will be in full force and effect upon its adoption.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on February 22, 2018, at 227 West Jefferson Boulevard, Room 1308, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

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Department of

Community Investment

Redevelopment Commission Agenda Item

DATE: February 22, 2018
 FROM: David Relos, Economic Resources *DR*
 SUBJECT: First Amendment to Real Estate Option Agreement (former Studebaker Museum property & Cove Lot 4)

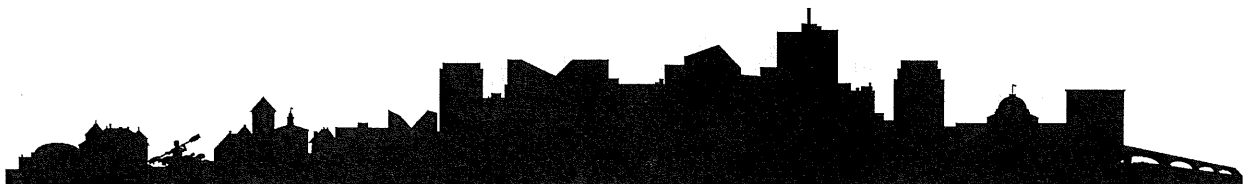
This First Amendment (Amendment) with Heading for Home LLC updates the original Real Estate Option Agreement (Agreement) approved September 29, 2016 for the former Studebaker Museum property and Cove Lot 4 (next to the Zion Hill Missionary Baptist Church on Monroe St).

Per Section 2 of the Agreement, the option period ends March 31, 2018, but could be extended to March 31, 2019 with a \$5,000 payment and notice of any development plans by February 1, 2018. This Amendment extends the notification date from February 1st to the 28th. Discussions began February 8th with Heading for Home regarding their option extension, and on February 12th they paid \$5,000 to extend their option period one year.

At this time Heading for Home is concentrating on the construction of the four Ivy at Berlin Place buildings, and once that development is complete, will study development possibilities for this property.

Staff requests approval of the First Amendment to Real Estate Option Agreement with Heading for Home LLC.

INTERNAL USE ONLY: Project Code: N/A
 Total Amount new in budget: N/A ; broken down by:
 Acct # N/A
 Going to BPW for Contracting? No Is this item ready to encumber now? N/A
 Existing PO# Inc/Dec \$



FIRST AMENDMENT TO REAL ESTATE OPTION AGREEMENT

This First Amendment To Real Estate Option Agreement (this “First Amendment”) is made as of February 22, 2018 (the “Effective Date”) by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the “Commission”), and Heading for Home LLC, a Delaware limited liability company with offices at 501 W. South St., South Bend, Indiana 46601 (the “Company”) (each a “Party” and collectively the “Parties”).

RECITALS

A. The Parties entered into that certain Real Estate Option Agreement dated September 29, 2016 (the “Option Agreement”), by which the Commission granted the Company an exclusive option to purchase the Property (as defined in the Option Agreement) from the Commission, subject to certain terms and conditions.

B. On February 12, 2018, the Company paid to the Commission the sum of Five Thousand Dollars (\$5,000.00) and requested an extension of the Option Period through and including March 31, 2019, which the Commission has determined to grant.

C. Pursuant to Section 11 of the Option Agreement, the Parties desire to amend the Option Agreement as set forth in this First Amendment to account for the Company’s payment on February 12, 2018, and to allow for the extension of the Option Period accordingly.

NOW, THEREFORE, in consideration of the mutual promises set forth in the Option Agreement and this First Amendment, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The second sentence of Section 2 of the Option Agreement is deleted in its entirety and replaced by the following: “If the Company desires to extend the Option Period through and including March 31, 2019, the Company will deliver to the Commission by February 28, 2018, a payment in the amount of Five Thousand Dollars (\$5,000.00).”

2. This First Amendment will be governed by and construed in accordance with the laws of the State of Indiana. This First Amendment shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. The undersigned persons executing and delivering this First Amendment on behalf of each of the Parties represent and certify that they are the duly authorized officers of such respective Party and have been fully empowered to execute and deliver this First Amendment on behalf of such Party and that all necessary action to execute and deliver this First Amendment has been taken by such Party. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Any electronic version of a manually executed original shall be deemed a manually executed original.

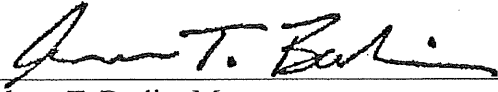
[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this First Amendment To Real Estate Option Agreement to be effective as of the Effective Date stated above.

**SOUTH BEND REDEVELOPMENT
COMMISSION**

HEADING FOR HOME LLC

Marcia I. Jones, President



Andrew T. Berlin, Manager

ATTEST:

Donald E. Inks, Secretary

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Department of
Community Investment

Memorandum

February 22, 2018

TO: South Bend Redevelopment Commission
FROM: David Relos, Economic Resources *DR*
SUBJECT: License Agreement For Temporary Parking (Hibberd Development LLC)

This License Agreement (Agreement) allows Hibberd Development LLC to park eighteen vehicles in the recently acquired parking lot at 322 S. Lafayette. This parking lot is directly behind the Hibberd Building, and will allow construction and ultimately tenant parking for this project.

The license fee is \$20 per space per month, and may be terminated with a 30 day notification period.

Commission approval is requested for this License Agreement for Temporary Parking.

INTERNAL USE ONLY: Project Code: _____
Total Amount new in budget: N/A ; broken down by:
Acct # _____
Going to BPW for Contracting? N/A Is this item ready to encumber now? N/A
Existing PO# (no) Inc/Dec \$ n/a



LICENSE AGREEMENT FOR TEMPORARY PARKING

This License Agreement For Temporary Parking (this “Agreement”) is made on February 22, 2018 (the “Effective Date”), by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the “Commission”), and Hibberd Development, LLC, an Indiana limited liability company with its registered office at 1329 E. Washington St., South Bend, Indiana 46617 (the “Company”) (each a “Party,” and collectively, the “Parties”).

RECITALS

A. The Commission owns, or will acquire from the South Bend Board of Public Works, certain real property and improvements located within the River West Development Area of the City of South Bend, Indiana (the “City”), described as Lot Number Two Hundred Seventy-Nine (279) as shown on the Original Plat of the City and commonly known as 322 S. Lafayette Boulevard, South Bend, Indiana, Parcel Key Number 018-3008-0256 (the “Property”).

B. The Company desires temporary access to the Property for the purpose of parking passenger vehicles of the Company’s tenants residing in and licensees and invitees visiting the building at 321 S. Main Street owned and operated by the Company (the “Company’s Building”).

C. The Commission is willing to permit the Company to gain access to and temporarily use the Property to provide parking spaces to the Company’s tenants, licensees, and invitees, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Parties agree as follows:

1. License. The Commission grants to the Company a temporary, non-exclusive license to enter and use eighteen (18) parking spaces located on the Property (the “Parking Spaces”) for the parking of passenger vehicles of the Company’s tenants residing in the Company’s Building and licensees and invitees visiting the Company’s Building, provided that the Company’s use of the Property is reasonable at all times and comports with the terms of this Agreement and all applicable laws. The Commission, or its authorized representative, reserves the right to specifically designate the location and configuration of the Parking Spaces on the Property that are available for the Company’s use and may modify such location or configuration during the Term (as defined below) upon reasonable notice to the Company. The Company’s license is limited to use of the Parking Spaces as stated above and a reasonable course of ingress to and egress from the Parking Spaces.

2. Term. The Company’s license to use the Parking Spaces shall be effective starting on January 1, 2018, and shall terminate upon revocation as set forth in this Agreement (the “Term”). Upon thirty (30) days’ written notice to the Company, the Commission or the Commission’s authorized representative may revoke and terminate the license at any time for any reason, including, without limitation, to accommodate future development of the Property or the surrounding area, as determined in its, his, or her sole discretion. Notwithstanding the foregoing sentence, the Commission or the Commission’s authorized representative may revoke and

terminate the license without notice in the event there exists any default of the Company's obligations under this Agreement.

3. No Lease or Easement; Assignment. The Commission represents that it is the sole owner in fee simple of the Property and has the lawful right to permit the Company to use the Property under this Agreement. The Parties acknowledge and intend that this Agreement will not constitute a lease of or an easement over the Property or the Parking Spaces, and the Company will have no right or authority to convey any leasehold or other interest in the Property or the Parking Spaces to any other person or entity, provided, however, that the Company may permit the tenants of Company's Building to use the Parking Spaces licensed to Company hereunder and may charge the tenants a fee for such use not to exceed the License Fee defined in Section 4 below. Except as expressly provided in this Agreement, any attempt by the Company to grant or lease any interest in the Property or the Parking Spaces to any other person or entity will be void ab initio and of no force or effect. The Parties agree that neither this Agreement nor any of the Company's rights under this Agreement may be assigned, in whole or in part, to any other party without the Commission's prior written consent.

4. License Fee. In consideration for the license granted in this Agreement, the Company will pay a monthly license fee of Three Hundred Sixty Dollars (\$360.00) (calculated as \$20.00 per parking space per month) (the "License Fee"). The Company will pay to the Commission the License Fee for the months of January and February of 2018 on the Effective Date and thereafter on the first business day of each month during the Term of this Agreement.

5. Maintenance. At all times during the period of the license, the Company will keep the Property in good order and condition, including, without limitation, clearing all ice and snow from the Parking Spaces (as the same may be designated or configured from time to time pursuant to Section 1 of this Agreement) and any path of vehicular access to such Parking Spaces from the public rights-of-way abutting the Property, which will be the Company's responsibility unless the City or the Commission undertakes to remove ice and snow from the entirety of the Property.

6. Security. The Company understands and agrees that the Commission shall not be liable for any loss, damage, destruction, or theft of the Company's property or any bodily harm or injury that may result from the Company's use of the Property. The Company understands and agrees that it will at all times be solely responsible for the safety and security of all persons, property, and vehicles, including any property contained within the vehicles, on the Property in connection with the Company's use of the Parking Spaces under the terms of this Agreement.

7. Storage. The Company agrees that it will not store any supplies, materials, goods, or personal property of any kind on the Property without the prior written consent of the Commission. In addition, the Company will not cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked, or emitted at the Property.

8. Regulations; Other Permits. The Company understands and agrees that it will, at its own expense, observe and comply with all applicable statutes, laws, ordinances, requirements, orders, rules, and regulations of all governmental authorities in relation to its use of the Parking Spaces. The Company understands and agrees that it will secure in its own name and at its own

expense all other permits and authorizations, if any, necessary for its use of the Parking Spaces in accordance with the terms of this Agreement.

9. Commission's Use. The Commission reserves the right to use the Property during the Term of this Agreement for any purpose that does not substantially interfere with or obstruct the Company's license under this Agreement.

10. Restoration. To the extent that any portion of the Property is disturbed or damaged in connection with the Company's use of the Property, including disturbances or damage caused by the vehicles of the Company's tenants, licensees, or invitees, the Company, at the Company's sole expense, shall restore the Property to the condition that existed immediately prior to such disturbance or damage to the satisfaction of the Commission.

11. Property Taxes. The Company will be responsible for the payment of all real property taxes and assessments, of any nature whatsoever (the "Taxes"), levied against the portion of the Property containing the Parking Spaces for all periods during the term of the Company's license. The Commission will have no liability for any Taxes associated with the Property, whether accruing during the term of the license or after the term of the license, and nothing in this Agreement will be construed to require the proration or other apportionment of Taxes resulting in the Commission's liability therefor.

12. Indemnification. The Company agrees and undertakes to defend, indemnify, and hold harmless the City and the Commission, and their respective officials, employees, agents, successors, and assigns, from and against any liability, loss, costs, damages, or expenses, including attorneys' fees, which the City or the Commission may suffer or incur as a result of any claims or actions which may be brought by any person or entity arising out of the license granted herein by the Commission or the Company's use of the Property or the Parking Spaces. If any action is brought against the City or the Commission, or their respective officials, employees, agents, successors, and assigns, in connection with the Company's use of the Property, the Company agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

13. Insurance. The Company, at the Company's sole expense, shall maintain during the Term of this Agreement commercial general liability insurance covering the Company in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence, inclusive of the limit an umbrella or excess policy. The Company agrees to include the Commission and the City as additional insureds on any such policy and produce to the Commission evidence of the same, including without limitation a properly endorsed policy and a certificate of insurance. To the extent that the Commission or the City is harmed as a result of the Company's use of the Property, the Company hereby grants the Commission first priority on any proceeds received from the Company's insurance. Notwithstanding anything in this Agreement to the contrary, neither the Commission nor the City waive any governmental immunity or liability limitations available to them under Indiana law.

14. Integration; Amendment. This Agreement supersedes all prior negotiations, understandings, and agreements, whether written or oral, concerning the subject matter of this

Agreement and constitutes the Parties' entire agreement. This Agreement may not be altered except by a written instrument signed by authorized representatives of both Parties.

15. Counterparts; Signatures. This Agreement may be separately executed in counterparts by the Commission and the Company, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

16. Authority. Each undersigned person signing on behalf of his or her respective Party certifies that he or she is duly authorized to bind his or her respective Party to the terms of this Agreement.

17. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Indiana.

IN WITNESS WHEREOF, the Parties have executed this License Agreement For Temporary Parking to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

HIBBERD DEVELOPMENT, LLC,
an Indiana limited liability company

Mark W. Neal, Manager
Dated:

4000.0000065 23564789.003

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this “Agreement”) is made on February 22, 2018 (the “Contract Date”), by and between the City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (“Seller”) and Five Corners LLC, an Indiana limited liability company with its registered address at 814 Marietta Street, South Bend, Indiana 46601 (“Buyer”) (each a “Party” and together the “Parties”).

RECITALS

A. Seller exists and operates pursuant to the Redevelopment of Cities and Towns Act of 1953, as amended, being Ind. Code 36-7-14 (the “Act”).

B. In furtherance of its purposes under the Act, Seller owns certain real property located in South Bend, Indiana (the “City”), and more particularly described in attached **Exhibit A** (the “Property”).

C. Pursuant to the Act, Seller adopted its Resolution No. 3329 on February 22, 2016, whereby Seller established an offering price of Eighty-Four Thousand Dollars (\$84,000.00) for the Property.

D. Pursuant to the Act, on February 22, 2016, Seller authorized the publication, on March 4, 2016, and March 11, 2016, respectively, of a notice of its intent to sell the Property and its desire to receive bids for said Property on or before March 24, 2016.

E. As of March 24, 2016, Seller received no bids for the Property, and, therefore, having satisfied the conditions stated in Section 22 of the Act, Seller now desires to sell the Property to Buyer on the terms stated in this Agreement.

THEREFORE, in consideration of the mutual covenants and promises in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, Buyer and Seller agree as follows:

1. OFFER AND ACCEPTANCE

A copy of this Agreement, signed by Buyer, constitutes Buyer’s offer to purchase the Property on the terms stated in this Agreement and shall be delivered to Seller, in care of the following representative (“Seller’s Representative”):

Daniel Buckenmeyer, Director of Economic Resources and Business Development
Department of Community Investment
City of South Bend
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601

This offer shall expire thirty (30) days after delivery unless accepted by Seller. To accept Buyer's offer, Seller shall return a copy of this Agreement, counter-signed by Seller in accordance with applicable laws, to the following ("Buyer's Representative"):

Charles S. Hayes, Managing Member
Five Corners LLC
814 Marietta Street
South Bend, Indiana 46601

2. PURCHASE PRICE

The purchase price for the Property shall be Eighty-Four Thousand Dollars (\$84,000.00) (the "Purchase Price"), payable by Buyer to Seller in cash at the closing described in Section 10 below (the "Closing," the date of which is the "Closing Date").

3. BUYER'S DUE DILIGENCE

A. Investigation. Buyer and Seller have made and entered into this Agreement based on their mutual understanding that Buyer intends to use the Property for the construction and operation of multiple commercial buildings (the "Buyer's Use"). Seller acknowledges that Buyer's determination whether Buyer's Use is feasible requires investigation into various matters (Buyer's "Due Diligence"). Therefore, Buyer's obligation to complete the purchase of the Property is conditioned upon the satisfactory completion, in Buyer's discretion, of Buyer's Due Diligence, including, without limitation, Buyer's examination, at Buyer's sole expense, of zoning and land use matters, environmental matters, real property title matters, and the like, as applicable.

B. Due Diligence Period. Buyer shall have a period of ninety (90) days following the Contract Date to complete its examination of the Property in accordance with this Section 3 (the "Due Diligence Period").

C. Authorizations During Due Diligence Period. During the Due Diligence Period, Seller authorizes Buyer, upon Buyer providing Seller with evidence that Buyer has general liability insurance reasonably acceptable to Seller, in the amount of at least One Million Dollars (\$1,000,000), naming Seller as an additional insured and covering the activities, acts, and omissions of Buyer and its representatives at the Property, to

(i) enter upon the Property or to cause agents to enter upon the Property for purposes of examination; provided, that Buyer may not take any action upon the Property which reduces the value thereof and Buyer may not conduct any invasive testing at the Property without Seller's express prior written consent; further provided, that if the transaction contemplated herein is not consummated, Buyer shall promptly restore the Property to its condition prior to entry, and agrees to defend, indemnify and hold Seller harmless, before and after the Closing Date whether or not a closing occurs and regardless of any cancellations or termination of this Agreement, from any liability to any third party, loss or expense incurred by Seller, including

without limitation, reasonable attorney fees and costs arising from acts or omissions of Buyer or Buyer's agents or representatives; and

(ii) file any application with any federal, state, county, municipal or regional agency relating to the Property for the purpose of obtaining any approval necessary for Buyer's anticipated use of the Property. If Seller's written consent to or signature upon any such application is required by any such agency for consideration or acceptance of any such application, Buyer may request from Seller such consent or signature, which Seller shall not unreasonably withhold. Notwithstanding the foregoing, any zoning commitments or other commitments that would further restrict the future use or development of the Property, beyond the restrictions in place as a result of the current zoning of the Property, shall be subject to Seller's prior review and written approval.

D. Termination of Agreement. If at any time within the Due Diligence Period Buyer determines, in its sole discretion, not to proceed with the purchase of the Property, Buyer may terminate this Agreement by written notice to Seller's Representative.

4. SELLER'S DOCUMENTS; ENVIRONMENTAL SITE ASSESSMENT

Upon Buyer's request, Seller will provide Buyer a copy of all known environmental inspection, engineering, title, and survey reports and documents in Seller's possession relating to the Property. In the event the Closing does not occur, Buyer will immediately return all such reports and documents to Seller's Representative with or without a written request by Seller. In addition to reviewing any environmental reports provided by Seller, Buyer may, at Buyer's sole expense, obtain a Phase I environmental site assessment of the Property pursuant to and limited by the authorizations stated in Section 3 above.

5. PRESERVATION OF TITLE

After the Contract Date, Seller shall not take any action or allow any action to be taken by others to cause the Property to become subject to any interests, liens, restrictions, easements, covenants, reservations, or other matters affecting Seller's title (such matters are referred to as "Encumbrances"). Seller acknowledges that Buyer intends to obtain, at Buyer's sole expense, and to rely upon a commitment for title insurance on the Property (the "Title Commitment") and a survey of the Property (the "Survey") identifying all Encumbrances as of the Contract Date. The Property shall be conveyed to Buyer free of any Encumbrances other than Permitted Encumbrances (as defined in Section 7 below).

6. TITLE COMMITMENT AND POLICY REQUIREMENTS

Buyer shall obtain the Title Commitment for an owner's policy of title insurance issued by a title company selected by Buyer and reasonably acceptable to Seller (the "Title Company") within twenty (20) days of the Contract Date. The Title Commitment shall (i) agree to insure good, marketable, and indefeasible fee simple title to the Property (including public road access) in the name of the Buyer for the full amount of the Purchase Price upon delivery and recordation of a special warranty deed (the "Deed") from the Seller to the Buyer, and (ii) provide for issuance of a final ALTA owner's title insurance policy, with any endorsements requested by Buyer, subject

to the Permitted Encumbrances. Regardless of whether this transaction closes, Buyer shall be responsible for all of the Title Company's title search charges and all costs of the Title Commitment and owner's policy.

7. REVIEW OF TITLE COMMITMENT AND SURVEY

Buyer shall give Seller written notice, within twenty (20) days after Buyer's receipt of the Title Commitment, of any objections thereto. Buyer shall give Seller written notice, within twenty (20) days after Buyer's receipt of the Survey, of any objections thereto. Any exceptions identified in the Title Commitment or Survey to which written notice of objection is not given within such period shall be a "Permitted Encumbrance." If the Seller is unable or unwilling to correct the Buyer's title and survey objections within the Due Diligence Period, Buyer may terminate this Agreement by written notice to Seller prior to expiration of the Due Diligence Period. If Buyer fails to so terminate this Agreement, then such objections shall constitute "Permitted Encumbrances" as of the expiration of the Due Diligence Period, and Buyer shall acquire the Property without any effect being given to such title and survey objections.

8. DISPUTE RESOLUTION

A. Forum. Any action to enforce the terms or conditions of this Agreement or otherwise concerning a dispute under this Agreement will be commenced in the courts of St. Joseph County, Indiana, unless the Parties mutually agree to an alternative method of dispute resolution.

B. Waiver of Jury Trial. Both Parties hereby waive any right to trial by jury with respect to any action or proceeding relating to this Agreement.

9. NOTICES

All notices required or allowed by this Agreement, before or after Closing, shall be delivered in person or by certified mail, return receipt requested, postage prepaid, addressed to Seller in care of Seller's Representative (with a copy to South Bend Legal Department, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601, Attn: Corporation Counsel), or to Buyer in care of Buyer's Representative at their respective addresses stated in Section 1 above. Either Party may, by written notice, modify its address or representative for future notices.

10. CLOSING

A. Timing of Closing. Unless this Agreement is earlier terminated, the Closing shall be held at the office of the Title Company, and the Closing Date shall be a mutually agreeable date not later than thirty (30) days after the end of the Due Diligence Period.

B. Closing Procedure.

(i) At Closing, Buyer shall deliver the Purchase Price to Seller, conditioned on Seller's delivery of the Deed, in substantially the form attached hereto as **Exhibit B**, subject

to necessary modifications completed by an authorized representative of the Commission to account for the subdivision replatting of the Property anticipated under Section 10.C(ii), conveying the Property to Buyer, free and clear of all liens, encumbrances, title defects, and exceptions other than Permitted Encumbrances, and the Title Company's delivery of the marked-up copy of the Title Commitment (or pro forma policy) to Buyer in accordance with Section 6 above.

(ii) Possession of the Property shall be delivered to the Buyer at Closing, in the same condition as it existed on the Contract Date, ordinary wear and tear and casualty excepted.

C. Conditions Precedent to Closing. Unless waived by the Parties before or at Closing, the following shall be conditions precedent to Closing:

(i) In accordance with the terms of Section 11 below, Buyer's Property Improvements will include the construction of multiple commercial buildings on the Property. In addition to all other applicable requirements and procedures, including without limitation seeking approval of the planned unit development architectural review board having authority over the Property, Buyer will, before the Closing Date, cooperate in good faith with the City Planner for the City of South Bend (the "City Planner") in developing its construction design and plans for the Property (the "Construction Plan"). Unless the City Planner, in his sole discretion, approves the following elements of the Construction Plan, Seller will have no obligation to complete the conveyance of the Property to Buyer as contemplated in this Agreement: (i) number and density of buildings; (ii) exterior building materials, including color; (iii) exterior building design, including roofline, building articulation, and placement and type of windows, doors, and other openings; (iv) ground floor interaction with street frontages; (v) vehicular and pedestrian access; and (vi) storm water management improvements. The Parties mutually acknowledge and agree that the foregoing condition does not supersede or diminish Buyer's obligation to seek and obtain the approval of all other necessary governmental or other authorities in connection with its construction of the Property Improvements.

(ii) Buyer will have no obligation to accept Seller's conveyance of the Property as contemplated in this Agreement unless, before the Closing Date, (a) the South Bend Common Council has approved, in its discretion and in accordance with applicable laws and procedures, a real property tax abatement upon terms, conditions, and limitations acceptable to both Buyer and the Director of Business Development of the City's Department of Community Investment; (b) Seller (or its designee) has obtained the vacation of public alleys on the Property, as determined necessary by mutual agreement of the Parties and in accordance with applicable laws and procedures; (c) all obsolete utility lines and easements have been removed and released, at the Commission's expense, from the vacated alleys on the Property; and (d) the Commission (through its authorized representatives) has obtained a subdivision replat of the Property resulting in its reduction to one (1) lot.

Notwithstanding any provision of this Agreement to the contrary, in the event this transaction is not completed due to the failure of one or more of the foregoing conditions, Seller shall have no liability for any of Buyer's losses, damages, costs, or expenses of any kind, including attorney fees, incurred in connection with its proposed acquisition of the Property under this Agreement.

D. Closing Costs. Buyer shall pay all of the Title Company's closing and/or document preparation fees and all recordation costs associated with the transaction contemplated in this Agreement.

11. POST-CLOSING DEVELOPMENT OBLIGATIONS

A. Construction Requirements. By the date that is twelve (12) months after the Closing Date (the "Building Commencement Date"), Buyer agrees to begin construction of substantial elements of the improvements on the Property, which will be completed in phases as provided below, including multiple commercial buildings, surface parking lots, landscaping, and associated elements (collectively, the "Property Improvements"). Buyer agrees to expend no less than Three Million Dollars (\$3,000,000.00) for the costs of completing the Property Improvements that are expected to contribute to increases in the Property's assessed value, as defined by the Property's value-in-use for property tax assessment purposes as determined by the St. Joseph County Assessor, to be approximately apportioned as follows: One Million Five Hundred Thousand Dollars (\$1,500,000.00) for Phase I and One Million Five Hundred Thousand Dollars (\$1,500,000.00) for Phases II and III together. Buyer will complete the Property Improvements in three phases, depicted as Phases I, II, and III in the drawing attached hereto as **Exhibit C** (the "Phase Plan"). Buyer agrees to complete Phase I of the Property Improvements in accordance with the Construction Plan approved by the City Planner under Section 10.C(i) above by no later than the date that is two (2) year after the Closing Date (the "Phase I Completion Deadline"). Promptly upon completing Phase I of the Property Improvements, Buyer will submit to Seller satisfactory records, as determined in Seller's sole discretion, proving the above required expenditures and will permit Seller (or its designee) to inspect the Property to ensure that Buyer's work was completed satisfactorily and in accordance with the approved Construction Plan. Buyer agrees to complete Phase II of the Property Improvements in accordance with the Construction Plan approved by the City Planner under Section 10.C(i) above by no later than the date that is three (3) years after the Closing Date (the "Phase II Completion Deadline"). Buyer agrees to complete Phase III of the Property Improvements in accordance with the Construction Plan approved by the City Planner under Section 10.C(i) above by no later than the date that is four (4) years after the Closing Date (the "Phase III Completion Deadline").

B. Certificate of Completion. Promptly after Buyer completes Phase I of the Property Improvements and satisfactorily proves the same in accordance with the terms of Section 11.A. above, Seller will issue to Buyer a certificate acknowledging such completion and releasing Seller's reversionary interest in the Property (the "Certificate of Completion"). The Parties agree to record the Certificate of Completion immediately upon issuance, and Buyer will pay the costs of recordation.

C. Remedies Upon Default. The remedies set forth in this Section 10.C. will be cumulative with and will not be exclusive of any other remedies available to Seller at law or in equity.

- (i) In the event Buyer fails to meet the Phase I Completion Deadline, then Seller shall have the right (but not the obligation), without the necessity of affording Buyer any notice or an opportunity to cure under Section 14 below or otherwise, to re-enter and take possession of the Property (or any

portion thereof) and to terminate and revert in Seller the estate conveyed to Buyer at Closing and all of Buyer's rights and interests in the Property (or any portion thereof) without offset or compensation for the value of any improvements to the Property made by Buyer.

- (ii) In the event Buyer fails to meet the Phase II Completion Deadline or the Phase III Completion Deadline, or satisfactorily to prove such performance in accordance with Section 11.A above, then Seller shall have the right, without the necessity of affording Buyer any notice or an opportunity to cure under Section 14 below or otherwise, to recover from Buyer a cash payment in the amount of Fifty Thousand Dollars (\$50,000.00) for each such failure, which payment will be due to Seller immediately upon Seller's demand.

The Parties agree that Seller's conveyance of the Property to Buyer at Closing will be made on the condition subsequent set forth in the foregoing sentence. Further, the Parties agree that Seller's reversionary interest in the Property will be subordinate to the first-priority mortgage encumbering the Property, if any, arising out of Buyer's contemporaneous financing for construction of the Property Improvements on the Property, provided that Buyer notifies Seller in advance of the execution or recording of such first-priority mortgage.

D. Survival. The Parties mutually acknowledge that the terms and provisions of this Section 11 will survive Seller's conveyance of the Property to Buyer at the Closing.

12. ACCEPTANCE OF PROPERTY AS-IS; COMPLIANCE WITH REGULATIONS

Buyer agrees to purchase the Property "as-is, where-is" and without any representations or warranties by Seller as to the condition of the Property or its fitness for any particular use or purpose. Seller offers no such representation or warranty as to condition or fitness, and nothing in this Agreement will be construed to constitute such a representation or warranty as to condition or fitness. Buyer acknowledges and agrees that it will timely comply with all applicable federal, state, and local laws and regulations in all respects of its development of the Property and construction of the Property Improvements, including, without limitation, the prompt payment of any and all system development charge(s) computed and payable under South Bend Municipal Code Sections 17-79 and 17-80 in connection with Buyer's construction of the Property Improvements.

13. TAXES

Buyer, and Buyer's successors and assigns, shall be liable for any and all real property taxes assessed and levied against the Property with respect to the year in which the Closing takes place and for all subsequent years. Seller shall have no liability for any real property taxes associated with the Property, and nothing in this Agreement shall be construed to require the proration or other apportionment of real property taxes resulting in Seller's liability therefor.

14. REMEDIES

Upon any default in or breach of this Agreement by either Party, the defaulting Party will proceed immediately to cure or remedy such default within thirty (30) days after receipt of written notice of such default or breach from the non-defaulting Party, or, if the nature of the default or breach is such that it cannot be cured within thirty (30) days, the defaulting Party will diligently pursue and prosecute to completion an appropriate cure within a reasonable time. In the event of a default or breach that remains uncured for longer than the period stated in the foregoing sentence, the non-defaulting Party may terminate this Agreement, commence legal proceedings, including an action for specific performance, or pursue any other remedy available at law or in equity. All the Parties' respective rights and remedies concerning this Agreement and the Property are cumulative.

15. COMMISSIONS

The Parties mutually acknowledge and warrant to one another that neither Buyer nor Seller is represented by any broker in connection with the transaction contemplated in this Agreement. Buyer and Seller agree to indemnify and hold harmless one another from any claim for commissions in connection with the transaction contemplated in this Agreement.

16. INTERPRETATION; APPLICABLE LAW

Both Parties having participated fully and equally in the negotiation and preparation of this Agreement, this Agreement shall not be more strictly construed, nor shall any ambiguities in this Agreement be presumptively resolved, against either Party. This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

17. ENTIRE AGREEMENT

This Agreement embodies the entire agreement between Seller and Buyer and supersedes all prior discussions, understandings, or agreements, whether written or oral, between Seller and Buyer concerning the transaction contemplated in this Agreement.

18. ASSIGNMENT

Buyer and Seller agree that neither this Agreement nor any of Buyer's rights hereunder may be assigned by Buyer, in whole or in part, without the prior written consent of Seller. In the event Buyer wishes to obtain Seller's consent regarding a proposed assignment of this Agreement, Seller may request and Buyer shall provide any and all information reasonably demanded by Seller in connection with the proposed assignment and/or the proposed assignee.

19. BINDING EFFECT; COUNTERPARTS; SIGNATURES

All the terms and conditions of this Agreement will be effective and binding upon the Parties and their successors and assigns at the time the Agreement is fully signed and delivered by Buyer and Seller. This Agreement may be separately executed in counterparts by Buyer and Seller, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

20. AUTHORITY TO EXECUTE; EXISTENCE

The undersigned persons executing and delivering this Agreement on behalf of the respective Parties represent and certify that they are the duly authorized representatives of each and have been fully empowered to execute and deliver this Agreement and that all necessary corporate action has been taken and done. Further, the undersigned representative of Buyer represents and warrants that Buyer is duly organized, validly existing, and in good standing under the laws of the State of Indiana.

IN WITNESS WHEREOF, the Parties hereby execute this Real Estate Purchase Agreement to be effective as of the Contract Date stated above.

BUYER:

Five Corners LLC,
an Indiana limited liability company

Charles S. Hayes, Managing Member
Dated:

SELLER:

City of South Bend, Department of Redevelopment,
by and through its governing body, the South Bend
Redevelopment Commission

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

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EXHIBIT A

Description of Property

Parcel I: Lot Numbered One (1) as shown on the recorded Plat of Studebaker Corridor Fourth Minor Subdivision, recorded May 7, 1993 as Document Number 9315731 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel II: Lots Numbered Fifty-three (53) and Fifty-four (54) as shown on the recorded Plat of South Bend City, as platted by Samuel Morrison, now a part of the City of South Bend, in St. Joseph County, Indiana.

Parcel III: Lots Numbered Fifty-five (55) and Fifty-six (56) as shown on the recorded Plat of South Bend City, as platted by Samuel Morrison, now a part of the City of South Bend, in St. Joseph County, Indiana.

Parcel IV: Lots Numbered Fifty-seven (57), Fifty-eight (58), Fifty-nine (59), Sixty (60), Seventy-one (71), Seventy-two (72), Seventy-three (73) and Seventy-four (74) all as shown on the recorded Plat of South Bend City, platted by Samuel Morrison, now within and a part of the City of South Bend, Indiana.

[Parcel Key Nos. 018-8002-0061, 018-8002-0070, 018-8002-0071, 018-8002-0073, 018-8002-0074, 018-8002-0075, 018-8002-0076, 018-8002-0077, 018-8002-0078, 018-8002-0079, 018-8002-0094, 018-8002-0096, 018-8002-0097, 018-8002-0098, 018-8002-0099, 018-8002-0100, 018-8002-0101, 018-8002-0102, and 018-8002-0104]

EXHIBIT B

Form of Special Warranty Deed

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that the City of South Bend, Department of Redevelopment, by and through its governing body, the South Bend Redevelopment Commission, 1400 S. County-City Building, 227 W. Jefferson Boulevard, South Bend, Indiana (the "Grantor")

CONVEYS AND SPECIALLY WARRANTS to Five Corners LLC, an Indiana limited liability company with its registered address at 814 Marietta Street, South Bend, Indiana 46601 (the "Grantee"), for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following real estate located in St. Joseph County, Indiana (the "Property"):

Parcel I: Lot Numbered One (1) as shown on the recorded Plat of Studebaker Corridor Fourth Minor Subdivision, recorded May 7, 1993 as Document Number 9315731 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel II: Lots Numbered Fifty-three (53) and Fifty-four (54) as shown on the recorded Plat of South Bend City, as platted by Samuel Morrison, now a part of the City of South Bend, in St. Joseph County, Indiana.

Parcel III: Lots Numbered Fifty-five (55) and Fifty-six (56) as shown on the recorded Plat of South Bend City, as platted by Samuel Morrison, now a part of the City of South Bend, in St. Joseph County, Indiana.

Parcel IV: Lots Numbered Fifty-seven (57), Fifty-eight (58), Fifty-nine (59), Sixty (60), Seventy-one (71), Seventy-two (72), Seventy-three (73) and Seventy-four (74) all as shown on the recorded Plat of South Bend City, platted by Samuel Morrison, now within and a part of the City of South Bend, Indiana.

[Parcel Key Nos. 018-8002-0061, 018-8002-0070, 018-8002-0071, 018-8002-0073, 018-8002-0074, 018-8002-0075, 018-8002-0076, 018-8002-0077, 018-8002-0078, 018-8002-0079, 018-8002-0094, 018-8002-0096, 018-8002-0097, 018-8002-0098, 018-8002-0099, 018-8002-0100, 018-8002-0101, 018-8002-0102, and 018-8002-0104.]

The Grantor warrants title to the Property only insofar as it might be affected by any act of the Grantor during its ownership thereof and not otherwise.

The Grantor hereby conveys the Property to the Grantee free and clear of all leases, licenses, and interests; subject to the terms and provisions of that certain Real Estate Purchase Agreement dated February 22, 2018, by and between the Grantor and the Grantee (the "Purchase Agreement"); subject to real property taxes and assessments; subject to all easements, covenants, conditions, restrictions, and other matters of record; subject to rights of way for roads and such matters as would be disclosed by an accurate survey and inspection of the Property; subject to all applicable building codes and zoning ordinances; and subject to all provisions and objectives contained in the Commission's development area plan affecting the area in which the Property is situated and any design review guidelines associated therewith.

Pursuant to Section 11 of the Purchase Agreement, the Grantor conveys the Property to the Grantee by this deed subject to certain conditions subsequent. In the event the Grantee fails to complete Phase I of the Property Improvements (as further defined in the Purchase Agreement), by the date that is two (2) years after the Grantor's conveyance of the Property to the Grantee hereunder, then the Grantor shall have the right (but not the obligation) to re-enter and take possession of the Property (or any portion thereof) and to terminate and re-vest in the Grantor the estate conveyed to the Grantee by this deed and all of the Grantee's rights and interests in the Property (or any portion thereof) without offset or compensation for the value of any improvements to the Property made by the Grantee. The recordation of a Certificate of Completion in accordance with Section 11 of the Purchase Agreement will forever release and discharge the Grantor's reversionary interest stated in this paragraph.

The Grantor conveys the Property to the Grantee subject to the limitation that the Grantee, and its successors and assigns, shall not discriminate against any person on the basis of race, creed, color, sex, age, or national origin in the sale, lease, rental, use, occupancy, or enjoyment of the Property or any improvements constructed on the Property.

Each of the undersigned persons executing this deed on behalf of the Grantor represents and certifies that s/he is a duly authorized representative of the Grantor and has been fully empowered, by proper action of the governing body of the Grantor, to execute and deliver this deed, that the Grantor has full corporate capacity to convey the real estate described herein, and that all necessary action for the making of such conveyance has been taken and done.

[Signature page follows.]

GRANTOR:

CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Marcia I. Jones and Donald E. Inks, known to me to be the President and Secretary, respectively, of the South Bend Redevelopment Commission and acknowledged the execution of the foregoing Special Warranty Deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the ____ day of _____, 2018.

My Commission Expires:

Notary Public
Residing in St. Joseph 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. Benjamin J. Dougherty.

This instrument was prepared by Benjamin J. Dougherty, Assistant City Attorney, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana 46601.

EXHIBIT C

Phase Plan

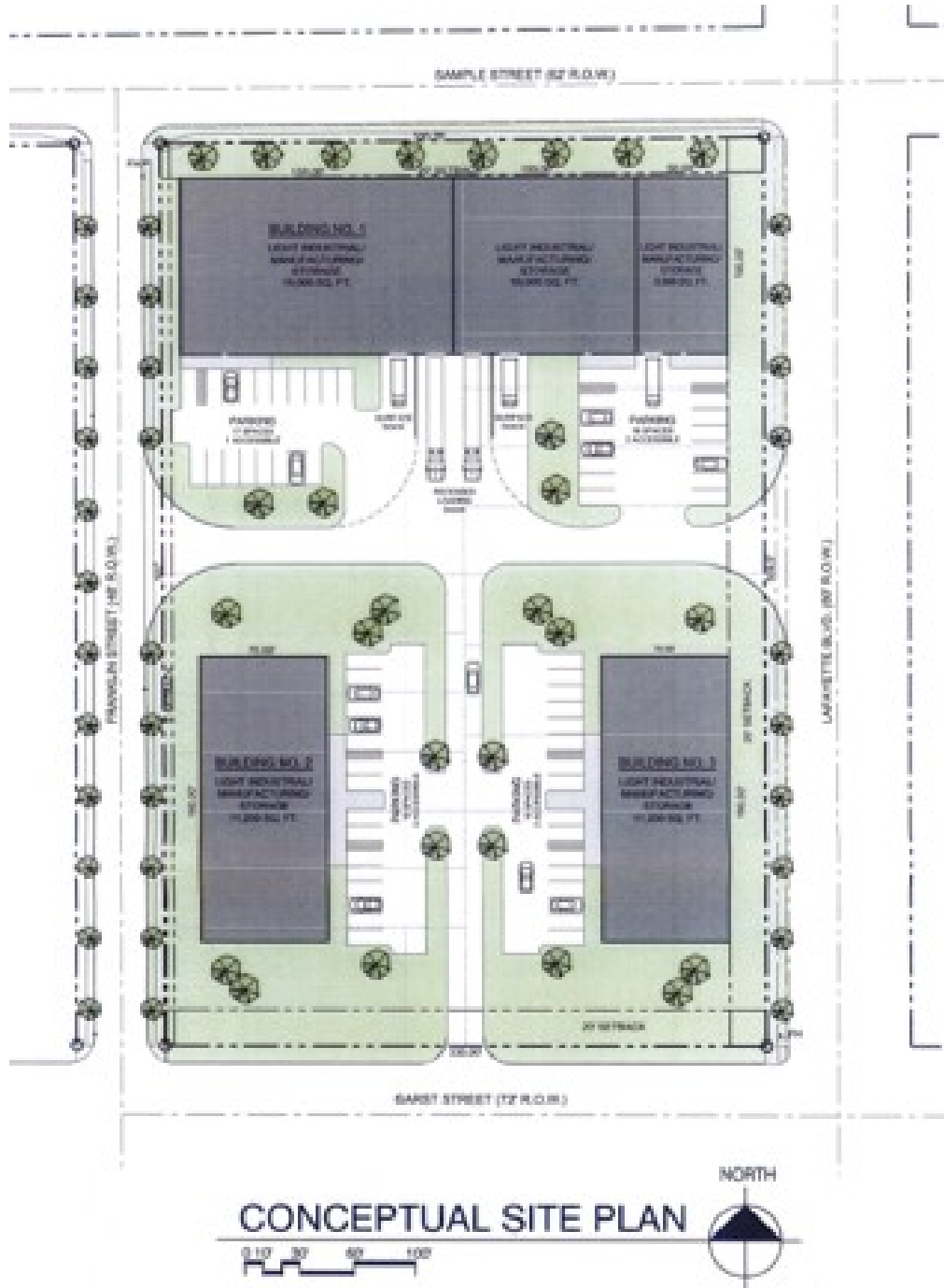
[See attached.]

EXHIBIT C

The site will be developed in up to three phases.

- Phase 1: A building will be constructed on the northerly section of the block facing Sample Street.
- Phases 2 and 3: Two additional buildings will be constructed individually or at the same time on the Southeast and Southwest sections of the lot.

This is generally illustrated in the early conceptual drawings (below) provided by the developer. A final site plan will be created following these general Phase descriptions, but adhering to the conditions of the Development Agreement herein and any other requirements as defined by the City Planner and/or Director of Business Development.



SECOND AMENDMENT TO ENGINEERING SERVICES AGREEMENT

This Second Amendment To Engineering Services Agreement (this “Second Amendment”) is made on _____, 2018 (the “Effective Date”), by and between the South Bend Redevelopment Commission, the governing body of the City of South Bend Department of Redevelopment (the “Commission”), and the Civil City of South Bend, an Indiana municipal corporation, acting by and through the South Bend Board of Public Works (the “Provider”).

RECITALS

A. The Commission and the Provider entered into that certain Engineering Services Agreement dated November 22, 2016, as amended by the First Amendment To Engineering Services Agreement dated April 13, 2017 (collectively, the “Services Agreement”), for the provision of engineering services to the Commission in relation to the Commission’s Projects (as defined in the Services Agreement).

B. The Commission and the Provider wish to amend the Services Agreement as set forth in this Second Amendment.

NOW, THEREFORE, in consideration of the mutual promises and obligations in this Second Amendment and the Services Agreement, the adequacy of which consideration is hereby acknowledged, the Parties agree as follows:

1. Effective on January 1, 2018, the entirety of Section 4.A. of the Services Agreement is deleted and replaced by the following:

A. Fees for Services. The Provider will render the Requested Services to the Commission through the work of the Provider’s employees holding the position titles “Engineer I” and “Assistant City Engineer.” As compensation for the Requested Services, the Commission agrees to pay the Provider a flat fee for each respective calendar year in an amount not to exceed the total amount stated in the table below (the “Annual Fee”).

| <u>Period</u> | <u>Position</u> | <u>Annual Fee</u> |
|--------------------------------|-------------------------|--------------------------|
| January 1 to December 31, 2018 | Engineer I | \$78,320.00 |
| | Assistant City Engineer | \$117,582.99 |
| | <u>Total for 2018</u> | \$195,902.99 |
| January 1 to December 31, 2019 | Engineer I | \$80,689.06 |
| | Assistant City Engineer | \$120,924.77 |
| | <u>Total for 2019</u> | \$201,613.83 |

2. Section 5 of the Agreement is amended to read in its entirety as follows: “The term of this Agreement (the “Term”) shall commence on January 1, 2017, and shall expire on December 31, 2019, unless earlier terminated in accordance with Section 6 of this Agreement or by the parties’ mutual agreement.”

3. Unless expressly modified by this Second Amendment, the terms and provisions of the Services Agreement remain in full force and effect.

4. Capitalized terms used in this Second Amendment will have the meanings set forth in the Services Agreement unless otherwise stated herein.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment To Engineering Services Agreement to be effective as of the Effective Date stated above.

SOUTH BEND BOARD OF PUBLIC WORKS

Gary Gilot, President

Therese Dorau, Member

Suzanna Fritzberg, Member

Elizabeth Maradik, Member

James Mueller, Member

ATTEST:

Linda Martin, Clerk

Date:

SOUTH BEND REDEVELOPMENT COMMISSION

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

Date:

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FIRST AMENDMENT TO REDEVELOPMENT SUPERVISORY SERVICES AGREEMENT

This First Amendment To Redevelopment Supervisory Services Agreement (this “First Amendment”) is made on _____, 2018 (the “Effective Date”), by and between the South Bend Redevelopment Commission, the governing body of the City of South Bend Department of Redevelopment (the “Commission”), and the Civil City of South Bend, an Indiana municipal corporation, acting by and through the South Bend Board of Public Works (the “Provider”).

RECITALS

A. The Commission and the Provider entered into that certain Redevelopment Supervisory Services Agreement dated January 12, 2017 (the “Services Agreement”), for the provision of supervisory services to the Commission in relation to the Commission’s Projects (as defined in the Services Agreement).

B. The Commission and the Provider wish to amend the Services Agreement as set forth in this First Amendment.

NOW, THEREFORE, in consideration of the mutual promises and obligations in this First Amendment and the Services Agreement, the adequacy of which consideration is hereby acknowledged, the Parties agree as follows:

1. Effective on January 1, 2018, the entirety of Section 4.A. of the Services Agreement is deleted and replaced by the following:

A. Fees for Services. The Provider will render the Requested Services to the Commission through the work of the Provider’s employees holding the position titles “Executive Director of Community Investment” and “Director of Business Development.” As compensation for the Requested Services, the Commission agrees to pay the Provider a flat fee for each respective calendar year in an amount not to exceed the total amount stated in the table below (the “Annual Fee”).

| <u>Period</u> | <u>Position</u> | <u>Annual Fee</u> |
|--------------------------------|--|--------------------------|
| January 1 to December 31, 2018 | Executive Director of Community Investment | \$50,000.00 |
| | Director of Business Development | \$40,000.00 |
| | <u>Total for 2018</u> | \$90,000.00 |
| January 1 to December 31, 2019 | Executive Director of Community Investment | \$50,000.00 |
| | Director of Business Development | \$40,000.00 |
| | <u>Total for 2019</u> | \$90,000.00 |

2. Unless expressly modified by this First Amendment, the terms and provisions of the Services Agreement remain in full force and effect.

3. Capitalized terms used in this First Amendment will have the meanings set forth in the Services Agreement unless otherwise stated herein.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment To Redevelopment Supervisory Services Agreement to be effective as of the Effective Date stated above.

**SOUTH BEND BOARD OF
PUBLIC WORKS**

**SOUTH BEND REDEVELOPMENT
COMMISSION**

Gary Gilot, President

Marcia I. Jones, President

Therese Dorau, Member

Donald E. Inks, Secretary

Suzanna Fritzbeg, Member

Date:

Elizabeth Maradik, Member

James Mueller, Member

ATTEST:

Linda Martin, Clerk

Date:

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