

## SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this "Second Amendment") is made on December 12, 2019, by and between the South Bend Redevelopment Commission, the governing body of the City of South Bend Department of Redevelopment (the "Commission"), and Jefferson 315 LLC, an Indiana limited liability company (the "Developer") (each a "Party," and collectively the "Parties").

### RECITALS

A. The Commission and the Developer entered into a Development Agreement dated effective April 25, 2019, as amended by a First Amendment to Development Agreement dated October 24, 2019 (together, the "Development Agreement"), for the development of a Project in the River West Development Area.

B. As set forth in the Development Agreement, the Commission agreed to expend no more than Two Hundred Six Thousand Eight Hundred Seventy-Three Dollars (\$206,873.00) of tax increment finance revenues to complete the Local Public Improvements in support of the Developer's construction on the Developer's Property, including but not limited to repairs to or replacement of the windows, roof, exterior bricks, parking lot, and fencing (the "LPI").

C. In accordance with Section 5.2(c) of the Development Agreement, bids were received for the LPI by the City of South Bend Board of Public Works (the "Board"), as the Commission's agent, and the winning bidders were awarded contracts for various portions of the LPI, including the winning bidder for masonry work (the "Masonry Contractor").

D. In the course of performing the masonry work, the Masonry Contractor discovered additional concerns and recommended further repairs; however, the cost of the change order exceeds the remaining Funding Amount.

E. In order to approve the change order (the "Change Order"), the Board requires an increase of the Funding Amount by One Thousand One Hundred Fifty Dollars (\$1,150.00) (the "Funding Amount Increase").

F. In consideration of the Commission's willingness to increase the Funding Amount, and thereby to permit the Board's approval of the Change Order, the Developer has paid the Funding Amount Increase in the manner set forth in this Second Amendment.

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

1. Section 1.4 shall be deleted in its entirety and replaced with the following:

**1.4 Funding Amount.** "Funding Amount" means an amount not to exceed Two Hundred Eight Thousand Twenty-Three Dollars (\$208,023.00) of tax increment finance revenues to be used for paying the costs associated with the construction, equipping, inspection, and delivery of the Local Public Improvements.

2. The Developer hereby expressly reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of completing the LPI, including any necessary change orders to the LPI Contract, in excess of the Funding Amount, as such amount is hereby amended. The Developer hereby acknowledges that the Developer or the Developer's designee may inspect the LPI upon completion and hereby expressly reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of inspecting the LPI.

3. Notwithstanding any provision to the contrary, the Commission's obligations to complete the LPI will be satisfied in full upon the completion of the LPI Contract, irrespective of the final amount of the LPI Contract.

4. As an inducement for the Commission's increase of the Funding Amount under this First Amendment and as a further assurance to the Commission pursuant to Section 9.13 of the Development Agreement, the Developer has submitted to the Commission and the Commission acknowledges receipt of funds in the amount of One Thousand One Hundred Fifty Dollars (\$1,150.00), which funds will be applied at an appropriate time to the LPI Contract in accordance with the Board's ordinary payment practices and applicable laws.

5. The Developer hereby expressly reaffirms its obligations under the Development Agreement, and, unless expressly modified by this Second Amendment, the terms and provisions of the Development Agreement remain in full force and effect.

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

7. The recitals set forth above are hereby incorporated into the operative provisions of this Second Amendment.

8. This Second Amendment will be governed and construed in accordance with the laws of the State of Indiana.

9. This Second Amendment may be executed in separate counterparts, each of which when so executed shall be an original, but all of which together shall constitute one and the same instrument. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

*SIGNATURE PAGE FOLLOWS*

IN WITNESS WHEREOF, the Parties hereby execute this Second Amendment to Development Agreement as of the first date stated above.

COMMISSION:

SOUTH BEND REDEVELOPMENT  
COMMISSION

By: \_\_\_\_\_  
Marcia I. Jones, President

ATTEST:

By: \_\_\_\_\_  
Quentin M. Phillips, Secretary

DEVELOPER:

JEFFERSON 315 LLC

By: \_\_\_\_\_  
Corey Cressy, Managing Member