



INTER-OFFICE MEMORANDUM

DEPARTMENT OF PUBLIC WORKS DIVISION OF ENGINEERING

TO: Redevelopment Commission
City of South Bend

FROM: Zach Hurst, Project Engineer

SUBJECT: Addition of Private Funding – 201 S Main (Barnes and Thornburg Building)
Bald Mountain, LLC

DATE: December 10, 2019

Bald Mountain, LLC, wishes to use the remainder of their TIF allotment (\$104,750) to perform site restoration within the public right of way surrounding their construction site. The project's contractor, Weigand Construction, has estimated the value of the work to be performed at \$120,324 by way of a formal Engineer's Estimate. The difference of \$15,574 must be reimbursed to the City to allow the City to enter into a fully-funded contract for the work.

City policy dictates that a performance bond must be held for any major work which disturbs public right of way. A performance bond guarantees funds available to the City in case work on the site becomes stalled for an extended period of time, and the City must replace and re-open the right of way. In lieu of this bond, Bald Mountain LLC will immediately furnish \$15,574 upon execution of this action to arrive at the revised 'Funding Amount'.

Between the remaining TIF dollars and the funding from Bald Mountain LLC, the City has the same protection and has mitigated its risk against paying to repair a private contractor's disturbance of the right of way.

Please contact me with any questions (3057)

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 Bald Mountain, 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 January 24, 2019, which was amended by a First Amendment to Development Agreement on September 26, 2019 (together, the "Development Agreement"), for the development of a Project in the River West Development Area.

B. The Commission agreed to expend an amount not to exceed Three Hundred Sixty Thousand Dollars (\$360,000) of tax increment finance revenues to complete the Local Public Improvements ("LPI") in support of the Project in accordance with the Project Plan.

C. As part of the LPI, the Commission has agreed to restore the sidewalks, trails, curbs, lighting, landscaping, trees, brick pavers, drive approaches, and roadway in the public right of way along Main Street and Jefferson Boulevard (the "ROW LPI") as set forth in the 201 S Main Public Improvements Agreement, dated December 10, 2019 ("Improvements Agreement").

D. In accordance with the Improvements Agreement, the Parties have agreed to accept the Developer's cost estimate for the ROW LPI, and in lieu of a performance bond, Developer has agreed to deposit an amount with the Commission equal to the difference between the remaining Funding Amount and the cost estimate (the "Overage"), in order to ensure completion of the ROW LPI.

E. To ensure an award to a winning bidder for the ROW LPI, the Developer also agrees to pay any amounts by which the lowest responsible bid for the ROW LPI from a responsive bidder exceeds the Funding Amount, as well as for any change orders related thereto.

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 1.3 shall be deleted in its entirety and replaced with the following:

1.3 Funding Amount. "Funding Amount" means an amount not to exceed Three Hundred Seventy-Five Thousand Five Hundred Seventy-Four Dollars (\$375,574.00) 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. At least One Hundred Twenty Thousand Three Hundred Twenty-Four Dollars (\$120,324.00) of the Funding Amount shall be used exclusively for the repairs to or replacement of sidewalks, trails, curbs, lighting,

landscaping, trees, rick pavers, drive approaches, and roadway in the public right of way along Main Street and Jefferson Boulevard.

2. 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.

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

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

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

6. 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.

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:

BALD MOUNTAIN, LLC

By: _____
E. Lewis Hansell, Manager