



South Bend

# Redevelopment Commission

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

## Agenda

Regular Meeting, December 12, 2019 – 4:00 p.m.  
227 W. JEFFERSON BLVD., 1300 SOUTH BEND, INDIANA

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### 1. Roll Call

### 2. Approval of Minutes

- A. Minutes of the Regular Meeting of Thursday, November 14, 2019
- B. Minutes of the Regular Meeting of Monday, November 25, 2019

### 3. Approval of Claims

- A. Claims Submitted December 12, 2019

### 4. Old Business

- A. Permanent Supportive Housing Update

### 5. Public Hearing

- A. Public Hearing 2019 Additional Appropriations
  - 1. Resolution No. 3511 (Airport)
  - 2. Resolution No. 3512 (RWDA)

### 6. New Business

- A. River West Development Area
  - 1. Budget Request (City Cemetery Improvements 12.12.19)
  - 2. Development Agreement (SBCC Development Corp., LLC)
  - 3. Temporary Access Agreement (United Way St Joseph County)
  - 4. Second Amendment to Development Agreement (Jefferson 315 LLC)
  - 5. Second Amendment to Development Agreement (Bald Mountain)
  - 6. Fourth Amendment to Development Agreement (Ziker)

## **7. Progress Reports**

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

## **8. Next Commission Meeting:**

Thursday, December 26, 2019, 4:00 p.m. – CANCELLED

Thursday, January 9, 2020 Time to be Determined

## **9. Adjournment**

### **NOTICE FOR HEARING AND SIGHT IMPAIRED PERSONS**

Auxiliary Aid or Other Services are Available upon Request at No Charge.



South Bend  
**Redevelopment Commission**  
 227 West Jefferson Boulevard, Room 1308, South Bend, IN

**SOUTH BEND REDEVELOPMENT COMMISSION  
 REGULAR MEETING**

November 14, 2019  
 4:00 p.m.  
 Presiding: Marcia Jones, President

227 West Jefferson Boulevard  
 South Bend, Indiana

The meeting was called to order at 4:01 p.m.

**1. ROLL CALL**

Members Present:	Marcia Jones, President Quentin Phillips, Secretary Gavin Ferlic, Commissioner Lesley Wesley, Commissioner	
Members Absent:	Don Inks, Vice-President Todd Monk, Commissioner	
Legal Counsel:	Sandra Kennedy, Esq.	
Redevelopment Staff:	David Relos, RDC Staff Mary Brazinsky, Board Secretary	
Others Present:	Jitin Kain Daniel Buckenmeyer Pam Meyer Amanda Pietsch Chris Dressel Andrew Netter Lory Timmer Zach Hurst Kyle Silveus Charlotte Brach Mark Bode Conrad Damian Randy Rampola Mark Peterson & Eric Walton Jeff Parrott Matt Eckerle John Voorde Oliver Davis	DCI DCI DCI DCI DCI DCI DCI DCI Engineering Engineering Engineering Mayor's Office 718 E Broadway Barnes & Thornburg WNDU SB Tribune Baker Tilly Council Council

South Bend Redevelopment Commission Regular Meeting – November 14, 2019

Others Present  
Continued

Carl Hetler	UMC 1412 S Carroll
Greg Hann	128 S Scott #1
Jessica Piser	824 W Colfax
Bill Merryfield	218 Chapin St
Jim Bognar	807 W Washington
Kaine Kanczuzewski	
Rafael Morton	County Council
Mahan Mirza	702 W Colfax
Monica Murphy	WSBT
Kathy Schneider, St Margaret's House	117 N Lafayette

**2. Approval of Minutes**

- **Approval of Minutes of the Regular Meeting of Thursday, October 24, 2019**

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, October 24, 2019.

**3. Approval of Claims**

- **Claims Submitted November 14, 2019**

	Claims submitted	Explanation of Project	Items added after Agenda Distributed
REDEVELOPMENT COMMISSION Redevelopment Commission Claims November 14, 2019 for approval			
<b><u>324 FUND RIVER WEST DEVELOPMENT AREA</u></b>			
Kil Architecture Planning	1,760.80	Lafayette Building Skylight and Masonry	
Baker Tilly Municipal Advisors	8,750.00	Professional Services	
Kolata Enterprises LLC	270.00	Professional Services	
City of South Bend	22,321.00	Services Rendered Legal	
Indiana Earth, Inc.		Western Ave Streetscape Ph II	512,700.57
<b><u>429 FUND RIVER EAST DEVELOPMENT TIF</u></b>			
Baker Tilly Municipal Advisors	8,750.00	Professional Services	
Lawson-Fisher Associates P.C.	1,801.31	Corby St Storm sewer System Evaluation	
Indiana Earth, Inc.		Three Twenty at The Cascade = Site Utilities (Water & Storm)	9,457.25
<b><u>430 FUND SOUTH SIDE TIF AREA #1</u></b>			
Baker Tilly Municipal Advisors	8,750.00	Professional Services	
<b><u>433 FUND REDEVELOPMENT GENERAL</u></b>			
HC3 LLC dba St. Clair Development	146,969.24	510 S. Main St. Building Improvements	
<b><u>439 FUND CERTIFIED TECHNOLOGY PARK</u></b>			
Office Interiors, Inc.	4,662.33	Tech Resource Center	
<b><u>452 FUND TIF PARK BOND</u></b>			
Lawson-Fisher Associates P.C.	27,471.97	SBN - west Bank Corridor Improvements Final Design	
Total	231,506.65		522,157.82
Total Both Columns	753,664.47		

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved the claims submitted on Thursday, November 14, 2019.

**4. Old Business**

**5. New Business**

**A. River West Development Area**

**1. Permanent Supportive Housing Funding Update**

Ms. Meyer presented an update to the Commission on the revised focus to serve the homeless and the Gateway Center funding previously approved by the Commission, and to request shifting the funding to Permanent Supportive Housing projects. In March 2018 a request was approved by the Commission to allocate \$1.5M to a Gateway Center, which was a recommendation in the report from the Working Group on Homelessness. The Gateway Center was to be a facility operated by partners in a temporary facility, for persons experiencing chronic homelessness while waiting to move into Permanent Supportive Housing. Initially it was contemplated that the donated modular units might be used for this purpose. Site selection was challenging, and other options were considered. In August 2019 Mayor Pete presented an overview of the City strategy to address homelessness. In the presentation he shared a consensus between the City and service providers that there were no Permanent Supportive Housing units for people to move to and the concept of a Gateway Center didn't make sense. The idea of a Gateway Center was seen as costly, a short-term issue and not the long-term solution of Permanent Supportive Housing that the community had expressed as needed. The decision was made to pivot efforts away from the Gateway Center to address Permanent Supportive Housing as a private effort. At the same time was the Corporation for Supportive Housing Institute. South Bend Heritage, the City and Oaklawn's team application was approved for attendance at the Institute. The Institute process resulted in a successful proposal for up to 60 units of Permanent Supportive Housing in our community. Twenty of these would be in a new construction development and 40 would be scattered site vouchers. Oaklawn would be providing services to either the twenty-unit development or any voucher supported unit. To support this effort and the state funding that was committed of \$2.2M, the City determined that \$500,000 from the previously approved \$1.5M from the Gateway project would be allocated towards a future new construction development. Additionally, local home funding in the amount of \$970,000 is also committed to that project. The City also determined that up to \$1M would go towards the second phase of the Gemini apartments where up to 6 units of Permanent Supportive Housing would be committed. The \$1M dollars would pay for the cost of roof, masonry and fire stairs at the Colfax building of the complex which supports all of the units in that building. A total of \$165,000 of local home funding for the interior rehab for up to 6 units at Gemini in the Colfax building has been committed. To clarify the complex of the Gemini Apartments is two buildings with 30 units in each. The City supported of the first phase, which was the Washington Street building at \$1.2M, had the exact same repairs of roof, masonry and fire stairs plus parking lot and landscaping. Before the complex was

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known as Gemini and owned by South Bend Heritage, the complex had a history of issues and was a problem for many years. Support of the rehab is important given the Gemini complex is a key asset in the neighborhood and will have up to 6 units of Permanent Supportive Housing.

President Jones opened the floor for public comment.

Carl Hetler, Pastor at Broadway Christian Parish and Methodist Church, home address of 210 S Hawthorne Drive. Mr. Hetler spoke in support of this measure. The minister sees people in his ministry in need of Permanent Supportive Housing. This is a good model to work and should be spread throughout the City. Six units is an appropriate amount. They are working with all the partners of Permanent Supportive Housing throughout the City to be sure that people receive the support they need. The church is in support of this effort in hopes that people find the housing, safety and security that they need also with drug addiction services, mental health rehabilitation and other services they need.

Kathy Schneider, Executive Director of St. Margaret's House speaking in support of this project. We have had many women who go there, and it has saved their lives. The most important thing is to get them housing. They need many more units but if this is where we are at then I support it completely. We need to get people inside.

Kaine Kanczuzewski, 2636 Thornacres Drive, Niles: this is more of a question with a million dollar commitment from the City for a commitment to the PSH does that mean that all units in the Colfax portion will also come online or is that purely just towards the six units and is there any guarantee that it won't be 30 or 40 down the road with a million dollar commitment down the road.

Mahan Mizer, 702 W Colfax, owner of a small bed and breakfast. My wife and I want to support this for those who are in need in the City. There are a lot of needs. The only question we have is what would be the character of the Colfax side of Gemini. If we are beginning with these six units would there be more in the future. What is the distinction between the Colfax side and Washington side? Why not 3 and 3? Is there a separation as far as people in each side? Prior to renovations there was quite a few problems. We would like to make sure with renovation that the problems do not return.

Jessica Piser, 824 W Colfax: Apologizes for not having coherent thoughts as a neighborhood we just found out about this Tuesday. I was at the Common Council meeting 2 months ago when the 1500 block rezoning was voted down. As the Councilmembers said at that meeting, they were voting no for their failure to work with the neighborhood. Failure to communicate with the neighborhood. As a neighbor it is disconcerting. This is a repeat of South Bend Heritage's lack of effort to work with the neighborhood. What kind of effort is it if they fail to communicate with the neighborhood? I do not see this moving forward as I do not see them working with us.

Jim Bognar, 807 W Washington: This Commission knows that I have come in to support the neighborhood. I thank County Council President Morton and Councilmember John Voorde for being here. The Common Council members did not know about this. It was very clear in the Council meeting that there would be an effort in whatever neighborhood, that Council would be aware, and it would not be done in a back-door meeting and that frankly the neighborhood would be involved. In talking with Councilmembers, John Voorde can speak to this. Council asked if this could be delayed until the new Council and new board. This is significant. We have a good neighborhood. This is the oldest neighborhood in the City. We care about the homeless and we have been a part and want to continue to be a part of the solution. What I am asking is for the Commission to table this measure until a new Council comes aboard so we continue this measure in a productive way where we can come together as one and solve this problem. I thank the Commission and hope that we can solve this at a later date where there can be a proper vetting. I thank you for all that you are doing.

John Voorde, 1029 Clairemont Drive: I am here representing not only the City Council but also as a member that grew up in that neighborhood. I would like to echo what the two previous speakers have said. One we do appreciate the work that has been done, we are supportive of scattered site housing, we do not want to ban any number of units in the Washington/Colfax apartments. I sold raffle tickets there when I was a kid. I think the majority of the Council, who also just found out about this last Tuesday at our meeting, I think a majority of the Council if I can speak for them, would support a continuation or a delay in the vote that you are about to take on this, if not to the new Council, we would be happy to deal with it as long as there is a formative give and take meeting with the Council that feels left out at this point and the neighborhood that is clearly involved and the City who has done a lot of good work here. To make sure everyone is informed and can feel better about this and not feel that an error has happened that you defer a vote. Would there be time for an informative discussion.

Rhonda Hughes, 1029 Riverside Drive: I speak in support of Permanent Supportive Housing. I think that the scattered site approach that would be part of something like 6 units at the Colfax/Washington apartments would be appropriate. I lived in those apartments at one time. I think that it is wonderful that South Bend Heritage is making these apartments available to the public again. So much of our public investment in the last several years has gone into tax abatements and other high-end upscale apartments. This modest infusion of 60 units of affordable market rate housing in our community is a very exciting thing. We need basically affordable housing in our community. If we had more affordable housing, we could have less homeless people. The ratio of 6 units for homeless is very appropriate. I don't know what decision is in the fortnight, but I urge your infusion of funds into housing of this particular kind for Permanent Supportive Housing.

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Oliver Davis, 1801 Nash Street: I have great concerns as to how this is being done. For those of us on the Council it was told to us after this kind of a situation on Washington Street, we were told there would be a lot more neighborhood involvement. Those of us that live in the 6<sup>th</sup> District were stunned when Oliver Apartments came. That was not discussed with us. I found out about it on the news. I found out from the neighbors that we didn't even have a meeting. When you're dealing with something as important as Permanent Supportive Housing. As a licensed clinical social worker, who has my specialty in dealing with homelessness, you have to work with the whole neighborhood to deal with support housing, that's why they call it support housing. It's not only the services in the facility but the whole group in the holistic neighborhood that builds up the support housing, so therefore it shocked me when this whole system was put in place that neighbors weren't included that should have been included. From the Oliver Apartments we had meetings in the Rum Village area to help deal with that situation. We had the same thing that came over in the Washington situation and here we are today, and it has been pushed, and a lot of people have said to me, is it a part of a political campaign, all of us should not be a part of it. It should be a part of South Bend, beyond any kind of campaign, beyond any kind of issues. In order to have supportive housing you have to have an understanding of where we are with the support of the neighborhood. Will they always understand everything, no, but there is something that can come together and have more of not a rush kind of environment. And for us to get notice on a Tuesday night was not the best. That's why we encourage our team and understand where we are because this is not how we had it set up. We've also had issues about the financial feasibility of what's going on with South Bend Heritage. There's a lot of concern that this is being pushed right now because they are in financial crisis. I think we need to have a better understanding of what their roll is because they have so much of the property within the City of South Bend and their financial management is not going to be put in place, what's going to happen to not only this site but other properties that they are dealing with. Those are some key things we are dealing with, so I urge you to come back with a better plan. I thank you.

The floor was closed to public comment.

Pam Meyer addressed some of the questions asked.

The first question about \$1M for 6 units; The \$1M is only for the masonry, the fire stairs and the roof. This is an exterior improvement only.

The dollar amount related to the rehab for 6 units is a total of \$165,000 is not TIF money, it is federal home dollars.

The character of the Colfax building is there a distinction between the Colfax side and the Washington side. Not to my knowledge, I think that the units that are best suited to come on line quickly, I think South Bend Heritage has selected the Colfax side vs. the Washington side. I can't speak to anything else related to that particular issue.



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The working with the neighborhood is an opportunity to engage the neighborhood. We have certainly committed and so has South Bend Heritage that relative to the new construction development when we would be seeking out a potential property and having communication across the communities about potential new site for the project that had been proposed for West Washington, that would be a fully engaged community process. That plan and process has been put aside for those vouchers and the length of time it takes. We are getting vouchers into the community that would be used in units that would be up hopefully within a 12-month period of time; instead of 2 to 3 years in a new construction because it takes so much longer to construct through our winter period.

The vouchers are project based and go along with the actual facility and are vouchers owned by South Bend Heritage as they are the actual applicant for the vouchers for their property sites. They are only for South Bend Heritage properties.

In order for us to better understand what engaging the neighborhoods means, I think we have to understand what people want to learn about voucher placement, so we know how to share that information.

There is no knowledge I have in regard to South Bend Heritage being in financial crisis so I cannot speak to that.

Commissioner Ferlic thanked everyone for coming out and voicing their concerns. Also, thank you to the administration for this issue as it is an important issue for the community. Based on the concerns, it makes sense to take a little bit more time. We may also want a Council update. The next Redevelopment Commission meeting is the same day as the next Council meeting due to Thanksgiving. If it does not affect the project in a negative way, we can look at this again on December 12<sup>th</sup>. We would want to reach out to Councilmembers and in addition we can give a little more time to reach out to neighbors and make sure that everything is clarified.

Commissioner Phillips agrees with Commission Ferlic that there needs to be more information for the neighbors to be further discussed.

President Jones said there is nothing more important than engaging the neighbors. That was a little slip with this. This is important as this is where people live. They need to be heard and need to be communicated with as much as we can. Slowing down and including more education and speaking with South Bend Heritage so they can add more information to the conversation by December 12<sup>th</sup> we can get a lot more conversations going so everyone is up to speed. This is something that I totally support but also would like a little more information.

Commissioner Ferlic wants to make sure accurate information is in place. Generally, neighbors are supportive when there is accurate information in place. The overall communication from Community Investment and the administration has been outstanding and I want to thank you for your efforts.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission tabled this item until Thursday, December 12, 2019.

**2. Budget Request (Coal Line Property Acquisition)**

Mr. Dressel presented a Budget Request (Coal Line Property Acquisition). This is a budget request for the ongoing Coal Line project. We are now ready for property negotiations. We have identified 9 different parcels under 8 property owners to acquire and build the trail on. These are all vacant parcels with no homes or buildings in the way. Five of them are fractions of an acre. No people will be relocated. This is on the old coal line rail line. On Lincolnway over the St. Joseph River to the East Bank Trail and to the 933 trails. Building on Phase I on Lincolnway. Phase II on the East Bank Trail. Commission approval is requested in the amount of \$221,765.

President Jones opened the floor for public comment.

Rhonda Hughes, 1029 Riverside Drive: This project has been around for a long time. Was it delayed at any point?

Mr. Dressel stated No, it's just the use of public funds for building trails. It takes a long time.

The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved Budget Request (Coal Line Property Acquisition) submitted on Thursday, November 14, 2019.

**3. Partial Façade Release (Catalyst III)**

Mr. Buckenmeyer presented Partial Façade Release (Catalyst III). In the early stages of Ignition Park, the City wanted to be sure that guidelines were followed regarding design, so we took an easement on this property. Everything there is completed and looks great. The City is doing a partial façade release of Catalyst III for them to continue on with new construction. The easement will stay on Catalyst I and II. This is for the new Press Ganey site. Commission approval is requested.

President Jones opened the floor for public comment.

Kaine Kanczuzewski, 2636 Thornacres Drive, Niles: The façade requirements stay the same, but the easement drops or does the façade requirements for Catalyst III are not required?

Mr. Buckenmeyer stated that the actual requirements are in the PUD so it will still follow the same design guidelines and fits in with the character of Catalyst I and II.

The floor was closed to public comment.

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Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved Partial Façade Release (Catalyst III) submitted on Thursday, November 14, 2019.

**4. License Agreement (Majority Builders)**

Mr. Buckenmeyer presented License Agreement (Majority Builders). This is promoting the project for Press Ganey. Majority has requested to place a sign on Ignition Dr. and Sample stating they are the builders. The Redevelopment Commission owns the property, and this is a license agreement to access that land. Commission approval is requested.

President Jones opened the floor for public comment. No public comment was made. The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved License Agreement (Majority Builders) submitted on Thursday, November 14, 2019.

**B. West Washington Chapin Development Area**

**1. First Amendment to Development Agreement (Indiana Landmarks)**

Mr. Hurst presented the First Amendment to Development Agreement (Indiana Landmarks). This is regarding the Kizer House on Washington and Chapin. The approved amount of \$200,000 is for window replacement and repair. The low bid came in at a little over \$200,000. This amendment memorializes the overage and Indiana Landmarks has agreed to cover that overage amount. Commission approval is requested.

President Jones opened the floor for public comment.

Rhonda Hughes, 1029 Riverside Drive: What is the ultimate plan for that property? Will it be sold?

Mr. Hurst stated that Indiana Landmarks plans to make it their base of operations. If the price is right someone may purchase it. For right now it will become their office space.

The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved the First Amendment to Development Agreement (Indiana Landmarks) submitted on Thursday, November 14, 2019.

**C. Other**

**1. Resolution No. 3501 (Setting Public Hearing 2019 Additional TIF Appropriations)**

Ms. Pietsch presented Resolution No. 3501 (Setting Public Hearing 2019

## South Bend Redevelopment Commission Regular Meeting – November 14, 2019

Additional TIF Appropriations). This sets the public hearing for the Airport Bond Debt Service Reserve for December 12<sup>th</sup>. This account has earned more interest than is anticipated with the budget. Commission approval is requested.

President Jones opened the floor for public comment. No public comment was made. The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved Resolution No. 3501 (Setting Public Hearing 2019 Additional TIF Appropriations) submitted on Thursday, November 14, 2019.

### **2. Resolution No. 3509 (Setting Public Hearing 2019 Additional RWDA Appropriations)**

Ms. Pietsch presented Resolution No. 3509 (Setting Public Hearing 2019 Additional RWDA Appropriations). This is to set a public hearing on December 12<sup>th</sup>. When the budget was made for 2019 the budget included the debt service amortization for the bonds instead of looking at the whole lease rental amount. Commission approval is requested.

President Jones opened the floor for public comment. No public comment was made. The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved Resolution No. 3509 (Setting Public Hearing 2019 Additional RWDA Appropriations) submitted on Thursday, November 14, 2019.

### **3. Resolution No. 3510 (Set-up Double Tracking Bond Accounts)**

Ms. Pietsch presented Resolution No. 3510 (Set-up Double Tracking Bond Accounts). This is for the ongoing double tracking bond which we will set-up the accounts and funds paying the lease payments.

Randy Rampola, Barnes and Thornburg stated this simply sets up the account by which the Redevelopment Commission will pay the lease rental payments to the Redevelopment Authority. That money will be paid to the bond trustee on behalf of the Redevelopment Authority and that will pay off the bond. The account is set up so it is expected that available TIF revenues in the River West Development Area will pay the lease rental which will pay the debt service on the bonds. The Resolution does indicate if the TIF revenue was ever insufficient, there would be a levy for a tax pay back. There is no expectation this mechanism will be needed. The reason we use this is to get the lowest cost in borrowing. The Redevelopment Authority met earlier today, and we are on track in respect to the bond financing. This is a house keeping matter to establish the needed fund account. December 4<sup>th</sup> is the expected date of the bond sale.

President Jones opened the floor for public comment. No public comment was made. The floor was closed to public comment.

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Upon a motion by Secretary Phillips, seconded by Commissioner Ferlic, the motion carried unanimously, the Commission approved Resolution No. 3510 (Set-up Double Tracking Bond Accounts) submitted on Thursday, November 14, 2019.

**6. Progress Reports**

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

**7. Next Commission Meeting:**

Thursday, November 25, 2019, 4:00 p.m.

**8. Adjournment**

Thursday, November 14, 2019, 4:50 p.m.

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David Relos, Property Development Manager

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Marcia Jones, President



South Bend  
**Redevelopment Commission**  
 227 West Jefferson Boulevard, Room 1308, South Bend, IN

**SOUTH BEND REDEVELOPMENT COMMISSION  
 REGULAR MEETING**

November 25, 2019  
 4:00 p.m.  
 Presiding: Marcia Jones, President

227 West Jefferson Boulevard  
 South Bend, Indiana

The meeting was called to order at 4:04 p.m.

**1. ROLL CALL**

Members Present:	Marcia Jones, President Quentin Phillips, Secretary Gavin Ferlic, Commissioner Todd Monk, Commissioner Lesley Wesley, Commissioner	
Members Absent:	Don Inks, Vice-President	
Legal Counsel:	Sandra Kennedy, Esq.	
Redevelopment Staff:	David Relos, RDC Staff Mary Brazinsky, Board Secretary	
Others Present:	Jitin Kain Daniel Buckenmeyer Tim Corcoran Amanda Pietsch Chris Dressel Kyle Silveus Charlotte Brach Conrad Damian	DCI DCI DCI DCI DCI Engineering Engineering 718 E Broadway

**2. Approval of Minutes**

- **Approval of Minutes of the Regular Meeting of Thursday, November 14, 2019**

Minutes will be reviewed prior to the next meeting and approved at the December 12, 2019 meeting.

**3. Approval of Claims**

- **Claims Submitted November 25, 2019**

	Claims submitted	Explanation of Project	Items added after Agenda Distributed
REDEVELOPMENT COMMISSION Redevelopment Commission Claims November 25, 2019 for approval			
<u>324 RIVER WEST DEVELOPMENT AREA</u>			
HWC Engineering	18,140.00	Western Ave	
Abonmarche	12,740.00	Western Ave & Falcon/Dundee / Mayflower & Adams	
United Consulting	362.55	Right-of-Way Coal Line Trail Ph I & 2	
AECOM	39,057.63	South Shore Line Station Alternatives Study	
Ziolkowski Construction, Inc.		315 & 319 W. Jefferson Exterior Renovations - Div. D	37,595.30
Geography Industries, Inc.		COSB Wayfinding Signage Program	15,700.00
<u>422 WEST WASHINGTON FUND DEVELOPMENT AREA</u>			
Geography Industries, Inc.		COSB Wayfinding Signage Program	10,000.00
<u>429 FUND RIVER EAST DEVELOPMENT TIF</u>			
Precision Wall System		Three Twenty at The Cascade-Glazed Assemblies	
Indiana Earth, Inc.		Three Twenty at The Cascade - Site Utilities (Water & Storm)	
Geography Industries, Inc.		COSB Wayfinding Signage Program	13,737.57
<u>430 FUND SOUTH SIDE TIF AREA #1</u>			
HRP Construction, Inc.		Miami St Basin Drainage Improvements	
Total	70,300.18		77,032.87
Total Of Both Columns	147,333.05		

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved the claims submitted on Thursday, November 25, 2019.

**4. Old Business**

**5. New Business**

**A. River West Development Area**

**1. Budget Request (Supplemental Design Services for Coal Line Trail)**

Mr. Dressel presented a Budget Request (Supplemental Design Services for Coal Line Trail). This is a request for \$19,647.63 for services under the Coal Line Trail for supplemental design work. Commission approval is requested.

President Jones opened the floor for public comment. No public comment was made. The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved Budget Request (Supplemental Design Services for Coal Line Trail) submitted on Thursday, November 25, 2019.

**2. Resolution No. 3513 (Declaring Certain Properties Blighted)**

Mr. Relos presented Resolution No. 3513 (Declaring Certain Properties Blighted). This is for 5 vacant lots in a key area. The area is north of the City Cemetery between LaPorte and Lincoln Way West. The City owns a number of vacant lots in this area. This resolution would declare them blighted under Statute Section 19.5. The properties are \$1,000 each for a total of \$5,000. Commission approval is requested.

Commissioner Ferlic asked is this part of the parks program?

Mr. Corcoran answered that in 2014 with the Westside Main Streets plan, we identified this area as part of a green/open space. It hasn't been designed yet, but we have acquired properties through the tax sale process as they become available. The blighted properties are a unique opportunity to pick up 5 lots outside the tax sale process at a lesser amount of money. These are standard size city lots along Euclid.

President Jones opened the floor for public comment. No public comment was made. The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved Resolution No. 3513 (Declaring Certain Properties Blighted) submitted on Thursday, November 25, 2019.

**3. Agreement to Buy and Sell Real Estate (Northwood Investments, LLC)**

Mr. Relos presented Agreement to Buy and Sell Real Estate (Northwood Investments, LLC). This is an agreement to acquire the properties in Resolution No. 3513. It includes a 30-day due diligence period and 30-day closing after that. The properties are \$1,000 each for a total of \$5,000. Commission approval is requested.

President Jones opened the floor for public comment. No public comment was made. The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved Agreement to Buy and Sell Real Estate (Northwood Investments, LLC) submitted on Thursday, November 25, 2019.

**4. Budget Request (Block and Landscape Concept Plans)**

Mr. Corcoran presented Budget Request (Block and Landscape Concept Plans). We are requesting \$31,120 to develop a high-level block plan and concept for the area bounded by LaSalle, Main Street, Colfax and MLK. This is the block that



South Bend Redevelopment Commission Regular Meeting – November 25, 2019

incorporates Jon Hunt Plaza, The Morris and LaSalle Hotel. There are some ideas of what this may look like in the future, as well as some Main Street work. This is using a landscape architect to look at some high-level work that can happen in the future and look at more detailed studies. Commission approval is requested.

President Jones opened the floor for public comment. No public comment was made. The floor was closed to public comment.

Upon a motion by Commissioner Ferlic, seconded by Secretary Phillips, the motion carried unanimously, the Commission approved Budget Request (Block and Landscape Concept Plans) submitted on Thursday, November 25, 2019.

**6. Progress Reports**

A. Tax Abatement

1. There are four on-deck for tonight's Council Meeting.

B. Common Council

C. Other

1. Commissioner Todd Monk appreciation. President Jones thanked him for his service on the Redevelopment Commission as he moves on to a position in Columbus Ohio.

**7. Next Commission Meeting:**

Thursday, December 12, 2019, 4:00 p.m.

**8. Adjournment**

Thursday, November 25, 2019, 4:13 p.m.

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David Relos, Property Development Manager

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Marcia Jones, President

	Claims submitted	Explanation of Project
<b>REDEVELOPMENT COMMISSION</b>		
Redevelopment Commission Claims December 12, 2019 for approval		
<u>324 FUND RIVER WEST DEVELOPMENT AREA</u>		
Midland Engineering Co, Inc.	140,049.00	Vested Unterest Building Roof Repair
Slatile Roofing & Sheet Metal Co.,	55,812.00	315 & 319 W. Jefferson Exterior Renovations - Div. A
Abonmarche	8,700.00	Mayflower Rd & Adams Rd Traffic Impact Study
<u>422 WEST WASHINGTON FUND DEVELOPMENT AREA</u>		
Riley-Riley Construction Co., Inc.	139,135.72	Gemini Site Improvements
<u>429 FUND RIVER EAST DEVELOPMENT TIF</u>		
Water Works General Fund	62,694.00	Cascades SDC Charges
<u>433 FUND REDEVELOPMENT GENERAL</u>		
HC3 LLC dba St. Clair Development	14,193.72	510 S. Main St. Building Improvements
<u>452 FUND TIF PARK BOND</u>		
Smithgroup, Inc.	20,355.00	So. Bend Seltz Parking Prelim & Final Eng.
<b>Total</b>	<b>440,939.44</b>	
<b>Total Both Columns</b>	<b>440,939.44</b>	

**RESOLUTION NO. 3511**

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION  
APPROPRIATING TAX INCREMENT FINANCING REVENUES FROM  
ALLOCATION AREA FUND FOR THE PAYMENT OF CERTAIN OBLIGATIONS  
AND EXPENSES RELATED TO THE AIRPORT BOND DEBT SERVICE  
RESERVE AREA FUND NO. 315**

WHEREAS, the South Bend Redevelopment Commission (the "Commission") has caused to issue several bonds funding the development of certain local improvements located within the various development areas in the City of South Bend; and

WHEREAS, to provide for the repayment of such bonds, the Commission has established several Debt Service Funds and has deposited monies into those funds for the purpose of repaying those bonds; and

WHEREAS, the Debt Service Funds earn interest income over the course of the year which can be appropriated and transferred for the use of the Commission pursuant to IC 36-7-14-39, during calendar year 2019; and

WHEREAS, the Debt Service Funds also contain monies held in reserve to guarantee that payments can be made on said bonds, which, at the end of the life of the bonds are no longer required to be held in the Debt Service Fund and become available for the Commission's use in accordance with IC 36-7-14-39; and

WHEREAS, the Commission has determined it is necessary and desirable to appropriate the interest income and other available monies of the various Debt Service Funds and to transfer those monies to the appropriate fund for the use of the Commission in accordance with the uses specified in IC 36-7-14-39.

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

1. For the expenditures of the Airport Bond Debt Service Reserve Fund 315, for the fiscal year 2019, excess funds in the amount of Seven Thousand Dollars (\$7,000.00) are hereby appropriated and ordered transferred out of the Airport Bond Debt Service Reserve Fund 315 for the purposes hereinafter specified, subject to the laws governing the same. The sums hereby appropriated and transferred shall be deemed to include all expenditures authorized to be made in said year, unless otherwise expressly stipulated or provided by law.
2. For the fiscal year ending December 31, 2019, the above referenced appropriations are made within the Airport Economic Development Area.
3. The above referenced funds herein appropriated are hereby ordered transferred to the River West TIF Revenue Fund 324.

4. This resolution shall be in full force and effect from and after its adoption.

Adopted at the Regular Meeting of the South Bend Redevelopment Commission held Thursday, December 12, 2019, at 4:00 p.m., 1308 County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT COMMISSION

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Marcia I. Jones, President

ATTEST:

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Quentin Phillips, Secretary

**RESOLUTION NO. 3512**

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION  
SETTING A PUBLIC HEARING ON ADDITIONAL 2019 APPROPRIATIONS OF TAX  
INCREMENT FINANCING REVENUES FROM  
THE RIVER WEST DEVELOPMENT AREA ALLOCATION AREA 1**

WHEREAS, the South Bend Redevelopment Commission (the "Commission"), the governing body of the Department of Redevelopment of the City of South Bend, Indiana (the "City") and the City of South Bend, Indiana, Redevelopment District (the "District"), exists and operates under the provisions of Indiana Code 36-7-14, as amended (the "Act"); and

WHEREAS, in accordance with the Act, the Commission, from time to time, has declared, confirmed, and established allocation areas for certain redevelopment and economic development areas within the District for the purposes of tax increment financing; and

WHEREAS, the Commission has further created allocation area funds for receiving tax increment revenues received from the allocation areas; and

WHEREAS, the Commission previously was presented with Resolution No. 3471, which it approved on February 14, 2019, appropriating tax increment financing revenues from River West Development Area Allocation Area No. 1 Fund 324; and

WHEREAS, one expenditure for which the monies were appropriated in Resolution No. 3471 was incorrectly set forth, causing a deficit; and

WHEREAS, the Commission desires to cause the additional appropriation of funds from the River West Development Area, Allocation Area No. 1, Fund No. 324 in order to pay the remaining expenses (the "Resolution"); and

WHEREAS, such appropriations are subject to the provisions of Indiana Code 6-1.1-18-5; and

WHEREAS, the proposed appropriations are not for the operating expenses of the Commission.

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

1. The Commission will appropriate additional funds in the amount of Five Thousand Eighty Dollars (\$5,080.00) from the River West Development Area, Allocation Area No. 1, Fund 324 for the fiscal year ending December 31, 2019.
2. The appropriation approved herein shall be in addition to all appropriations previously approved by the Commission for fiscal year ending December 31, 2019.

3. The President and Secretary of the Commission are hereby authorized and directed to certify a copy of this Resolution, together with such other proceedings and actions as may be necessary, to the Department of Local Government Finance.

4. This Resolution will be in full force and effect upon its adoption by the Commission.

ADOPTED at a regular meeting of the South Bend Redevelopment Commission held on December 12, 2019, at 1308 County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT  
COMMISSION

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Marcia I. Jones, President

ATTEST:


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Quentin M. Phillips, Secretary



# CITY OF SOUTH BEND REDEVELOPMENT COMMISSION

## Redevelopment Commission Agenda Item

DATE: December 6, 2019  
FROM: Chris Dressel   
SUBJECT: Budget Increase Request (City Cemetery Improvements)

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

PURPOSE OF REQUEST:

Specifics:

Staff requests the Redevelopment Commission's approval of an additional \$75,000 budgeted for the next phase of City Cemetery entrance improvements as part of a master revitalization plan for the City Cemetery area. It's anticipated that project construction will commence in Spring 2020.

As identified during the master plan process, there's a priority need for improved corridor appearance and cemetery access. These funds would serve to construct an entrance park/plaza that will serve cemetery visitors and neighbors.

If you should have any questions or need more information, please feel free to contact me at either [tcorcoran@southbendin.gov](mailto:tcorcoran@southbendin.gov) or 235-7692.

INTERNAL USE ONLY: Project Code: \_\_\_\_\_;  
Total Amount new/change (inc/dec) in budget: \$75,000; Break down:  
Costs: Engineering Amt: \_\_\_\_\_; Other Prof Serv Amt \_\_\_\_\_;  
Acquisition of Land/Bldg (circle one) Amt: \_\_\_\_\_; Street Const Amt \$75,000;  
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

## **DEVELOPMENT AGREEMENT**

This Development Agreement (this “Agreement”), is effective as of December 12, 2019 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), and SBCC Development Corp., an Indiana corporation with offices at 3300 West Sample Street, South Bend, Indiana 46619 (the “Developer”) (each, a “Party,” and collectively, the “Parties”).

### **RECITALS**

WHEREAS, the Commission exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953, as amended (I.C. 36-7-14 *et seq.*, the “Act”); and

WHEREAS, the Act provides that the clearance, replanning, and redevelopment of redevelopment areas are public uses and purposes for which public money may be spent; and

WHEREAS, pursuant to a Real Estate Purchase Agreement dated April 13, 2017 made by and between the Parties (the "REPA"), the Commission sold the Developer certain real property described in **Exhibit A**, together with all improvements thereon and all easements, rights, licenses, and other interests appurtenant thereto (collectively, the “Developer Property”); and

WHEREAS, in exchange for the discounted purchase price for the Developer Property, the REPA contains certain post-closing development obligations that the Developer must meet; and

WHEREAS, the Developer currently has private financing and desires to construct, renovate, or otherwise rehabilitate certain elements of the Developer Property (the “Project”) in accordance with the project plan (the “Project Plan”) attached hereto as **Exhibit B**; and

WHEREAS, the Developer Property is located within the corporate boundaries of the City of South Bend, Indiana (the “City”), within the River West Development Area (the “Area”); and

WHEREAS, the Commission has adopted (and subsequently amended, from time to time) a development plan, which contemplates development of the Area consistent with the Project; and

WHEREAS, the Commission believes that accomplishing the Project as described herein will benefit the City and its residents; and

WHEREAS, the Commission desires to facilitate and assist the Project by undertaking the local public improvements stated in **Exhibit C** (the “Local Public Improvements”) and the financing thereof, subject to the terms and conditions of this Agreement and in accordance with the Act.

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



## **SECTION 1. DEFINITIONS.**

Unless otherwise defined in this Agreement, capitalized terms used in this Agreement have the following meanings:

1.1 Assessed Value. “Assessed Value” means the market value-in-use of a property, used for property tax assessment purposes as determined by the St. Joseph County Assessor.

1.2 Board of Works. “Board of Works” means the Board of Public Works of the City, a public body granted the power to award contracts for public works pursuant to I.C. 36-1-12.

1.3 Funding Amount. “Funding Amount” means an amount not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) 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.

1.4 Private Investment. “Private Investment” means an amount no less than Seven Million Four Hundred Thousand Dollars (\$7,400,000.00) to be expended by the Developer for the costs associated with constructing the improvements set forth in the Project Plan, including architectural, engineering, and any other costs directly related to completion of the Project that are expected to contribute to increases in the Assessed Value of the Developer Property.

## **SECTION 2. INTERPRETATION, TERMS, AND RECITALS.**

### **2.1 Interpretation.**

(a) The terms “herein,” “hereto,” “hereunder,” and all terms of similar import shall be deemed to refer to this Agreement as a whole rather than to any Article of, Section of, or Exhibit to this Agreement.

(b) Unless otherwise specified, references in this Agreement to (i) “Section” or “Article” shall be deemed to refer to the Section or Article of this Agreement bearing the number so specified, (ii) “Exhibit” shall be deemed to refer to the Exhibit of this Agreement bearing the letter or number so specified, and (iii) references to this “Agreement” shall mean this Agreement and any exhibits and attachments hereto.

(c) Captions used for or in Sections, Articles, and Exhibits of this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

(d) The terms “include”, “including” and “such as” shall each be construed as if followed by the phrase “without being limited to.”

2.2 Recitals. The Recitals set forth above are incorporated into and are a part of this Agreement for all purposes.

### **SECTION 3. ACCESS.**

3.1 Grant of Easement. The Developer will grant to the Commission a temporary, non-exclusive easement on, in, over, under and across any part(s) of the Developer Property (the "Easement") in the form attached hereto as **Exhibit D**, to permit the Commission to fulfill its obligations under this Agreement, including the construction, equipping, inspection, and delivery of the Local Public Improvements. The Easement shall (a) inure to the benefit of the Commission and the Board of Works or any contractors acting on behalf of the Commission in connection with the construction, equipping, inspection, and delivery of the Local Public Improvements; (b) shall bind the Developer and its grantees, successors, and assigns; and (c) shall terminate no later than upon completion of the Local Public Improvements, as determined by the Board of Works.

3.2 Sewer and Water Service Agreement. The Parties acknowledge that the Developer and the Board of Works will be entering into a Sewer and Water Service Agreement (the "Service Agreement") that contains obligations on behalf of the Developer pertaining to the Local Public Improvements. The Parties agree that the satisfactory performance of the terms of the Service Agreement shall be integral to the performance of this Agreement, and any default under the Service Agreement by the Developer may be considered a default of the terms of this Agreement.

### **SECTION 4. DEVELOPER'S OBLIGATIONS.**

4.1 Generally. The Parties acknowledge and agree that the Commission's agreements to perform and abide by the covenants and obligations set forth in this Agreement are material consideration for the Developer's commitment to perform and abide by the covenants and obligations of the Developer contained in this Agreement. Additionally, the Parties acknowledge that the post-closing terms of the REPA may conflict with the terms of this Agreement, and, in the event of which, the Parties agree that the terms of this Agreement shall prevail.

#### 4.2 The Project.

(a) The Developer will perform all necessary work to complete the improvements set forth in the Project Plan attached hereto as Exhibit B and the plans and specifications to be approved by the City Planner, or his designee, pursuant to Section 4.8 of this Agreement, which improvements shall comply with all zoning and land use laws and ordinances.

(b) The Developer will expend the Private Investment to complete the Project in accordance with the Project Plan attached hereto as Exhibit B and the plans and specifications to be approved by the Commission pursuant to Section 4.8 of this Agreement.

4.3 Cooperation. The Developer agrees to endorse and support the Commission's efforts to expedite the Local Public Improvements through any required planning, design, public bidding, construction, inspection, waiver, permitting, and related regulatory processes.

4.4 Obtain Necessary Easements. The Developer agrees to obtain any and all easements from any governmental entity and/or any other third parties that the Developer or the Commission deems necessary or advisable in order to complete the Local Public Improvements,

and the obtaining of such easements is a condition precedent to the Commission's obligations under this Agreement.

4.5 Timeframe for Completion. The Developer hereby agrees to commence construction of the Project on or before July 1, 2020 (the "Mandatory Project Commencement Date") and to complete the Project no later than December 31, 2023 (the "Mandatory Project Completion Date"). Notwithstanding any provision of this Agreement to the contrary, the Developer's failure to commence the Project by the Mandatory Project Commencement Date or to complete it by the Mandatory Project Completion Date will constitute a default under and material breach of this Agreement without any requirement of notice of or an opportunity to cure such failure.

4.6 Developer's Employment Obligations. The Developer shall maintain fifty four (54) full time positions and create seventy (70) new full-time job opportunities located at the Developer Property (the "Job Creation Requirement") with the annual payroll estimates and time frame set forth in the tax abatement petition approved by the South Bend Common Council on November 25, 2019 (the "Job Creation Deadline") and maintain said jobs for at least the period of time described in Section 4.7(c) below. Notwithstanding any provision of this Agreement to the contrary, the Developer's failure to satisfy the Job Creation Requirement by the Job Creation Deadline will constitute a default under this Agreement without any requirement of notice of or an opportunity to cure such failure.

4.7 Reporting Obligations.

(a) Upon the letting of contracts for substantial portions of the Project and again upon substantial completion of the Project, the Developer hereby agrees to report to the Commission the number of local contractors and local laborers involved in the Project, the amount of bid awards for each contract related to the Project, and information regarding which contractor is awarded each contract with respect to the Project.

(b) On or before June 30 and December 31 of each year until substantial completion of the Project, the Developer shall submit to the Commission a report demonstrating the Developer's good-faith compliance with the terms of this Agreement. The report shall include the following information and documents: (i) a status report of the construction completed to date, (ii) an update on the project schedule, (iii) an itemized accounting generally identifying the Private Investment to date, and (iv) a status report of the number of jobs created for employment at the Developer Property.

(c) On or before April 15 of the year that is one year after substantial completion of the Project and on each April 15 thereafter until April 15 of the year which is five (5) years after substantial completion of the Project, the Developer shall submit to the Commission a report with the following information: (i) the number of jobs created as a result of the Project and wage and benefit information for the jobs created; and (ii) a detailed description of the of the job and wage details for the number of people employed by the Developer in connection with the Project.

4.8 Submission of Plans and Specifications for Project. Promptly upon completion of all plans and specifications for the Project, or changes thereto, and prior to the Commission's expenditure of the Funding Amount, the Developer shall deliver a complete set thereof to the City Planner, or his designee, who may approve or disapprove said plans and specifications for the Project in his or her sole discretion and may request revisions or amendments to be made to the same.

4.9 Costs and Expenses of Construction of Project. The Developer hereby agrees to pay, or cause to be paid, all costs and expenses of planning, construction, management, and all other activities or purposes associated with the Project (including legal, architectural, and engineering fees), exclusive of the Local Public Improvements, which shall be paid for by the Commission by and through the Funding Amount subject to the terms of this Agreement.

4.10 Specifications for Local Public Improvements. The Developer will be responsible for the preparation of all bid specifications related to the Local Public Improvements, and the Developer will pay all costs and expenses of such preparation, provided, however, that if the Commission pays any costs or expenses of such preparation, then the amount paid by the Commission will be deducted from the Funding Amount. The Developer will submit all bid specifications related to the Local Public Improvements to the City of South Bend Engineering Department (the "Engineering Department"). The Engineering Department may approve or disapprove said bid specifications for the Project in its sole discretion and may request revisions or amendments to be made to the same. The Commission shall not be required to expend the Funding Amount unless the Engineering Department has reviewed and released all bid specifications.

4.11 Non-Interference. Developer hereby agrees to use commercially reasonable efforts to minimize disruption for those living and working near the Developer Property during construction of the Project.

4.12 Insurance. The Developer shall purchase and maintain comprehensive insurance coverage as is appropriate for the work being performed with respect to the Project. The Developer shall provide proof of such adequate insurance to the Commission and shall notify the Commission and the City of any change in or termination of such insurance. During the period of construction or provision of services regarding any Local Public Improvements, the Developer shall maintain insurance in the kinds and for at least the minimum amounts as described in **Exhibit E** attached hereto and the Commission and the City shall be named as additional insureds on such policies (but not on any worker's compensation policies).

4.13 Information. The Developer agrees to provide any and all due diligence items with respect to the Project reasonably requested by the Commission.

4.14 Other Incentives. The Developer agrees that, for its completion of the Project (as defined in the Project Plan), the Developer will not request or pursue any financial incentive or support from the City other than the Commission's commitment of the Funding Amount under this Agreement, including without limitation any tax abatement with respect to the Developer Property or any other property associated with the Project.

## **SECTION 5. COMMISSION'S OBLIGATIONS.**

5.1 Generally. The Parties acknowledge and agree that the Developer's agreement to perform and abide by the covenants and obligations set forth in this Agreement is material consideration for the Commission's commitment to perform and abide by the covenants and obligations of the Commission contained in this Agreement.

### 5.2 Completion of Local Public Improvements.

(a) The Commission hereby agrees to complete (or cause to be completed) the Local Public Improvements described in Exhibit C attached hereto on a schedule to be reasonably determined and agreed to by the Commission and the Developer, as may be modified due to unforeseen circumstances and delays.

(b) Before any work on the Local Public Improvements will commence, (a) the Commission will have received satisfactory plans and specifications for the Project and approved the same in accordance with Section 4.8 of this Agreement, and (b) the Engineering Department will have received satisfactory bid specifications for the Local Public Improvements and approved the same in accordance with Section 4.10 of this Agreement.

(c) The Local Public Improvements will be completed in accordance with all applicable public bidding and contracting laws and will be subject to inspection by the Engineering Department or its designee.

(d) Notwithstanding anything contained herein to the contrary, in the event the costs associated with the Local Public Improvements are in excess of the Funding Amount, Developer, at its sole option, may determine to pay to the Commission the amount of the excess costs to permit timely completion of the Local Public Improvements by the Commission, or an agent of the Commission, which amounts shall be applied for such purpose. If Developer chooses not to pay any such excess costs of the Local Public Improvements (above the Funding Amount), the Commission may reduce the scope of the Local Public Improvements to the amount which may be funded with the Funding Amount. In no event will the Commission be required to spend more than the Funding Amount in connection with the Local Public Improvements.

5.3 Cooperation. The Commission agrees to endorse and support the Developer's efforts to expedite the Project through any required planning, design, permitting, waiver, and related regulatory processes, provided, however, that the Commission will not be required to expend any money in connection therewith.

5.4 Public Announcements, Press Releases, and Marketing Materials. The Commission hereby agrees to coordinate all public announcements and press releases relating to the Project with the Developer.

## **SECTION 6. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.**

6.1 Cooperation. In the event of any administrative, legal, or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own legal counsel and retain such counsel at its own expense, and in no event shall the Commission be required to bear the fees and costs of the Developer's attorneys nor shall the Developer be required to bear the fees and costs of the Commission's attorneys. The Parties agree that if any other provision of this Agreement, or this Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this Section 6.1, which shall survive such invalidation, nullification, or setting aside.

## **SECTION 7. DEFAULT.**

7.1 Default. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. Upon the occurrence of a default under this Agreement, the non-defaulting Party may (a) terminate this Agreement, or (b) institute legal proceedings at law or in equity (including any action to compel specific performance) seeking remedies for such default. If the default is cured within thirty (30) days after the notice described in this Section 7.1, then no default shall exist and the noticing Party shall take no further action.

7.2 Reimbursement Obligation. In the event that the Developer fails to (a) commence the Project by the Mandatory Project Commencement Date, (b) complete the Project by the Mandatory Project Completion Date, or (b) expend the full amount of the Private Investment by the Mandatory Project Completion Date, then upon the written demand of the Commission, the Developer will repay the Commission One Hundred Fifty Percent (150%) of the portion of the Funding Amount expended by the Commission in furtherance of the Local Public Improvements as of the date of the Commission's demand.

7.3 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, none of the Parties shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of terrorism, restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties, or similar basis for excused performance which is not within the reasonable control of the Party to be excused (each, an event of "Force Majeure"). Upon the request of any of the Parties, a reasonable extension of any date or deadline set forth in this Agreement due to such cause will be granted in writing for a period necessitated by the event of Force Majeure, or longer as may be mutually agreed upon by all the Parties.

**SECTION 8. NO AGENCY, JOINT VENTURE, OR PARTNERSHIP; CONFLICT OF INTEREST; INDEMNITY.**

8.1 No Agency, Joint Venture or Partnership. The Parties acknowledge and agree that:

(a) The Project is a private development;

(b) None of the Commission, the Board of Works, or the Developer has any interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the Commission, the Board of Works, and/or the Developer expressly accepts the same; and

(c) The Parties hereby renounce the existence of any form of agency relationship, joint venture or partnership between the Commission, the Board of Works, and the Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the Commission, the Board of Works, and the Developer.

8.2 Conflict of Interest; Commission Representatives Not Individually Liable. No member, official, or employee of the Commission or the City may have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the Commission or the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Commission or for any amount which may become due to the Developer, or its successors and assigns, or on any obligations under the terms of this Agreement. No partner, member, employee, or agent of the Developer or successors of them shall be personally liable to the Commission under this Agreement.

8.3 Indemnity. The Developer agrees to indemnify, defend, and hold harmless the Commission and the City from and against any third-party claims suffered by the Commission or the City resulting from or incurred in connection with the Local Public Improvements or the Project.

**SECTION 9. MISCELLANEOUS.**

9.1 Severability. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement shall continue in full force and effect unless amended or modified by mutual consent of the parties.

9.2 Waiver. Neither the failure nor any delay on the part of a Party to exercise any right, remedy, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege preclude any other or further exercise of the same or of any right, remedy, power, or privilege with respect to any occurrence

be construed as a waiver of any such right, remedy, power, or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

9.3 Other Necessary Acts. Each Party shall execute and deliver to the other Parties all such other further instruments and documents as may be reasonably necessary to accomplish the Project and the Local Public Improvements contemplated by this Agreement and to provide and secure to the other Parties the full and complete enjoyment of its rights and privileges hereunder. Notwithstanding the foregoing, the Parties understand and agree that certain actions contemplated by this Agreement may be required to be undertaken by persons, agencies, or entities that are not a party to this Agreement, including, but not limited to certain permits, consents, and/or approvals (to the extent they have not yet been obtained and completed), and that any action by such third parties shall require independent approval by the respective person, agency, entity, or governing body thereof.

9.4 Dispute Resolution; Waiver of Jury Trial. 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. The Parties acknowledge that disputes arising under this Agreement are likely to be complex and they desire to streamline and minimize the cost of resolving such disputes. In any legal proceeding, each Party irrevocably waives the right to trial by jury in any action, counterclaim, dispute, or proceeding based upon, or related to, the subject matter of this Agreement. This waiver applies to all claims against all parties to such actions and proceedings. This waiver is knowingly, intentionally, and voluntarily made by both Parties.

9.5 Attorneys' Fees. In the event of any litigation, mediation, or arbitration between the Parties regarding an alleged breach of this Agreement, none of the Parties shall be entitled to any award of attorney's fees.

9.6 Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction of the Project:

(a) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and

(b) The Developer will state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

9.7 Counterparts. This Agreement 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.

9.8 Notices and Demands. Any notice, demand, or other communication required or permitted under the terms of this Agreement may be delivered (a) by hand-delivery (which will be



deemed delivered at the time of receipt), (b) by registered or certified mail, return receipt requested (which will be deemed delivered three (3) days after mailing), or (c) by overnight courier service (which will be deemed delivered on the next business day) to each Party's respective addresses and representatives stated below.

Developer: SBCC Development Corp.  
3300 W. Sample St.  
South Bend, IN 46619  
Attn: Mark Turner, President

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

Commission: South Bend Redevelopment Commission  
1400 S. County-City Building  
227 W. Jefferson Blvd.  
South Bend, IN 46601  
Attn: Executive Director,  
South Bend Department of Community Investment

With a copy to: South Bend Legal Department  
1200 S. County-City Building  
227 W. Jefferson Blvd.  
South Bend, IN 46601  
Attn: Corporation Counsel

9.9 Governing Law. This Agreement is governed by and construed in accordance with the laws of the State of Indiana.

9.10 Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and certifies that he or she is the duly authorized officer or representative of such Party, that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party, and that all necessary action to execute and deliver this Agreement has been taken by such Party.

9.11 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 herein.

9.12 Assignment. The Developer's rights under this Agreement shall be personal to the Developer and shall not run with the land. The Developer may not assign its rights or obligations under this Agreement to any third party without obtaining the Commission's prior written consent

to such assignment, which the Commission may give or withhold in its sole discretion. In the event the Developer seeks the Commission's consent to any such assignment, the Developer shall provide to the Commission all relevant information concerning the identities of the persons or entities proposed to be involved in and an explanation of the purposes for the proposed assignment(s).

9.13 Further Assurances. The Parties agree that they will each undertake in good faith, as permitted by law, any action and execute and deliver any document reasonably required to carry out the intents and purposes of this Agreement.

9.14 Exhibits. All exhibits described herein and attached hereto are incorporated into this Agreement by reference.

9.15 Entire Agreement. No representation, promise, or inducement not included in this Agreement will be binding upon the Parties hereto. This Agreement cannot be modified except by mutual agreement of the Parties set forth in a written instrument signed by the Parties' authorized representatives.

9.16 Time. Time is of the essence of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT  
COMMISSION

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

ATTEST:

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

SBCC DEVELOPMENT CORP.

By: \_\_\_\_\_  
Mark A. Turner, President

**EXHIBIT A**

**Description of Developer Property**

**(see attached)**

## **EXHIBIT B**

### **Project Plan**

The Developer will construct a new and expanded manufacturing facility and headquarters, as well as a museum building on the Developer Property, in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations.

## **EXHIBIT C**

### **Description of Local Public Improvements**

The Commission will complete, or cause to be completed, the following work in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations:

- A. Extend sewer service to serve Developer Property and to allow Developer connection in accordance with the Service Agreement.
- B. Extend water service to serve Developer Property and to allow Developer connection in accordance with the Service Agreement.
- C. Pay System Development Charge on behalf of Developer in an amount not to exceed Five Hundred Thousand Dollars (\$500,000) in accordance with the Commission's Resolution No. 3431, dated March 8, 2018.

**EXHIBIT D**

**Form of Easement**

## GRANT OF TEMPORARY EASEMENT

THIS INDENTURE, made effective as of the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ (the “Effective Date”), by and between SBCC Development Corp., an Indiana corporation with offices at 3300 West Sample Street, South Bend, Indiana 46619 (the “Grantor”), and the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, 1400 S. County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601 (the “Grantee”).

### WITNESSETH:

For the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which Grantor hereby acknowledges, Grantor hereby grants, conveys, and warrants to Grantee a temporary, non-exclusive easement (the “Easement”) on, in, over, under and across the real property described in attached Exhibit 1 (the “Property”) for the construction, equipping, and delivery of certain improvements on the Property (the “Local Public Improvements”), together with the right of ingress to and egress from the Easement for said purposes, all pursuant to a certain Development Agreement by and between Grantor and Grantee, dated December 12, 2019 (the “Development Agreement”). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Development Agreement.

The Easement granted herein shall pertain to the air, surface, and subsurface rights and interests of Grantor, for the use and benefit of Grantee, and its successors and assigns, to the extent necessary to accomplish and carry out the construction, equipping, and delivery of the Local Improvements on the Property. The Easement hereby granted includes the right and privilege for Grantee at reasonable times to clean and remove from said Easement any debris or obstructions interfering with said Easement.

The Easement granted herein, and its associated benefits and obligations, shall inure to the benefit of Grantee and Grantee’s contractors acting on Grantee’s behalf in connection with the Local Public Improvements.

Notwithstanding anything contained herein to the contrary, unless extended in writing by Grantor, the Easement shall terminate and be of no further force and effect on the date (hereinafter, the “Construction Termination Date”) of the earliest of the following: (a) completion of the Local Public Improvements; (b) expiration or earlier termination of the Development Agreement; or (c) such earlier date as Grantor and Grantee may agree to in writing.



IN WITNESS WHEREOF, Grantor has executed this Grant of Temporary Easement on the date shown in the acknowledgment set forth below to be effective as of the Effective Date.

GRANTOR:

SBCC Development Corp., an Indiana corporation

\_\_\_\_\_  
Mark A. Tarner, President

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

Before me, the undersigned, a Notary Public in and for said State, personally appeared Mark A. Tarner, to me known to be the President of the Grantor in the above Grant of Temporary Easement, and acknowledged the execution of the same as the Grantor's free and voluntary act and deed.

WITNESS my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
Residing in \_\_\_\_\_ County, IN

My Commission Expires: \_\_\_\_\_

This instrument was prepared by Sandra L. Kennedy.

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. Sandra L. Kennedy, Assistant City Attorney, City of South Bend, Indiana, Department of Law, 1200 S. County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601.

EXHIBIT 1

Description of Property

(see attached)

## EXHIBIT E

### Minimum Insurance Amounts

- |    |                                    |                      |  |
|----|------------------------------------|----------------------|--|
| A. | Worker's Compensation              |                      |  |
|    | 1.                                 | State                | Statutory  |
|    | 2.                                 | Applicable Federal   | Statutory  |
|    | 3.                                 | Employer's Liability | \$100,000.00   |
|    |                                    |                      |  |
| B. | Comprehensive General Liability    |                      |  |
|    | 1.                                 | Bodily Injury        |  |
|    |                                    | a. \$5,000,000.00    | Each Occurrence                                      |
|    |                                    | b. \$5,000,000.00    | Annual Aggregate Products<br>and Completed Operation |
|    | 2.                                 | Property Damage      |  |
|    |                                    | a. \$5,000,000.00    | Each Occurrence                                      |
|    |                                    | b. \$5,000,000.00    | Annual Aggregate                                     |
|    |                                    |                      |  |
| C. | Comprehensive Automobile Liability |                      |  |
|    | 1.                                 | Bodily Injury        |  |
|    |                                    | a. \$500,000.00      | Each Person  |
|    |                                    | b. \$500,000.00      | Each Accident  |
|    | 2.                                 | Property Damage      |  |
|    |                                    | a. \$500,000.00      | Each Occurrence                                      |

**TEMPORARY ACCESS AGREEMENT**

This Temporary Access Agreement (this “Agreement”) is made and entered into as of December 12, 2019 (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 United Way of St. Joseph County Inc., an Indiana nonprofit corporation with its principal office at 3517 East Jefferson Boulevard, South Bend, Indiana 46615 (the “Company”).

RECITALS

A. Commission owns in fee simple certain real property located within the River West Development Area of the City of South Bend, Indiana (the “City”), located at 405 Dubail Street, as more particularly described in attached **Exhibit A** (the “Property”).

B. Company is interested in accessing the Property in order to determine whether it is a suitable location for development.

C. Company desires to obtain from Commission a right of access to the Property to allow Company to obtain estimates for potential development purposes, and Commission has agreed to grant the same on the terms and conditions stated in this Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Commission and Company, agree as follows:

1. **Grant of Access to Company.** Commission hereby grants to Company a non-exclusive, temporary access right to the Property for the limited purpose of allowing Company to enter the premises with Company’s architect, designer, engineer, surveyor, environmental consultant, and/or construction tradespeople to determine the potential cost and suitability for Company’s purposes of developing the Property. The parties agree that Company will have no right under this Agreement to install improvements of any kind on the Property.

2. **Term and Termination.** The term of this Agreement shall be one hundred twenty (120) days and may be extended by a written amendment to this Agreement signed by both Parties. Commission may terminate this Agreement at any time with or without cause by giving Company written notice of termination.

3. **Maintenance; Restoration.** Company will, at its sole expense, repair any damage to the Property made by Company or its invitees upon the Property. In the event Company fails to preserve the Property at all times in substantially the same condition and repair in which it exists on the date hereof, Commission or the City may, at its option, incur costs and expenses to maintain and repair the Property, which costs and expenses Company will pay promptly upon the written demand of Commission or the City, as the case may be.

4. **Ownership.** Commission represents and warrants that it is lawfully seized of the Property, that it has full right and power to grant the access right, and that the Property is free from all encumbrances, except any matters of record.

5. Hazardous Materials. The Company shall not cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked, or emitted upon the Property.

6. Indemnification; Insurance. Company shall indemnify and hold Commission harmless from and against any and all claims resulting from damage to any property upon the Property or injury to any person upon the Property. In addition, Company will maintain commercial general liability insurance coverage in the minimum amount of at least \$1,000,000 per occurrence and will designate the Commission and the City as additional insureds under any such policy of insurance. Promptly following the Effective Date of this Agreement, Company will produce to Commission a certificate of insurance evidencing the same.

7. Reservation of Rights. Commission reserves for itself the free use of the Property in any manner not inconsistent with the terms of this Agreement.

8. Property Interest. The Parties acknowledge that the purpose of the Agreement is for Company to engage in further study regarding the feasibility of using the Property for office space. Therefore, Commission agrees that it will not enter into any agreement for the sale of the Property during the term of this Agreement.

9. Benefit. Commission and Company intend that each of the rights and obligations set forth herein shall inure to the burden or benefit of the respective parties and their related companies, successors, and assigns.

10. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Indiana.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties have signed this Temporary Access Agreement to be effective as of the Effective Date.

SOUTH BEND REDEVELOPMENT  
COMMISSION

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

ATTEST:

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

UNITED WAY OF ST. JOSEPH COUNTY INC.

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**

**Description of Property**

A parcel of real property located in the City of South Bend, Indiana, and more particularly described as the East 1/2 of Lot 92 of the Bowman Place Addition.

Parcel Key Number 018-7033-1282

A parcel of real property located in the City of South Bend, Indiana, commonly known as 405 Dubail Street, and more particularly described as the West 1/2 of Lot 93 of the Bowman Place Addition.

Parcel Key Number 018-7033-1281

## 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

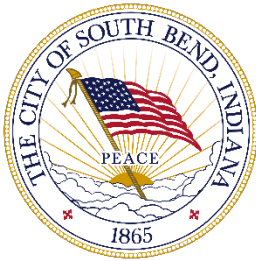
ATTEST:

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

DEVELOPER:

JEFFERSON 315 LLC

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



## 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

**FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT**

This Fourth Amendment To Development Agreement (this “Fourth Amendment”) is effective as of December 12, 2019 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), and Ziker Sample Street, LLC, an Indiana limited liability company (the “Developer”) (each, a “Party,” and collectively, the “Parties”).

RECITALS

A. The Parties entered into that certain Development Agreement dated November 20, 2017, as amended on May 24, 2018 by a First Amendment to Development Agreement, further amended on April 25, 2019 by a Second Amendment to Development Agreement, and on September 26, 2019 by a Third Amendment to Development Agreement (together, the “Development Agreement”) concerning the Developer’s undertaking of the Project; and

B. The Commission agreed to expend an amount not to exceed Two Hundred Thirty-Five Thousand One Hundred Dollars (\$235,100) of tax increment finance revenues solely for the replacement of the Developer Property's roof (the "Roof Replacement Dedicated Funds"); and

C. The Board of Public Works, acting as the Commission's agent, awarded the roof replacement contract to the winning bidder (the "LPI Contract"), who, in the course of performing the LPI Contract uncovered issues requiring immediate attention, the cost of which exceeds the amount of the Roof Replacement Dedicated Funds;

D. In order to approve the change order (the "Change Order") and fund the additional work, the Board requires an increase of the Roof Replacement Dedicated Funds amount by Twenty-One Thousand Two Hundred Eighty-Eight and 10/100 Dollars (\$21,288.10) (the "Funding Amount Increase"); and

E. In consideration of the Commission's willingness to approve the Funding Amount and thereby permit the Board's approval of the Change Order, the Developer will pay the Funding Amount Increase in the manner set forth in this Fourth Amendment.

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

1. Section 1.3 of the Development Agreement shall be deleted in its entirety and replaced with the following:

**Funding Amount.** “Funding Amount” means an amount not to exceed Three Hundred Thousand Dollars (\$300,000.00) of tax increment finance revenues, plus Fifty-Six Thousand Three Hundred Eighty-Eight and 10/100 Dollars (\$56,388.10) of funds provided by the Developer, to be used for paying the costs associated with the construction, equipping, inspection, and delivery of the Local Public Improvements, specifically as set forth on **Exhibit C.**

2. The Developer shall pay the Funding Amount Increase to the Commission in certified or immediately available funds no later than five (5) days after the date hereof, upon the confirmed receipt of which, the Commission will authorize the Board to approve the Change Order. The Funding Amount Increase will be applied at the appropriate time to the Change Order in accordance with the Board's ordinary payment practices and applicable law. Further, the Developer hereby expressly reaffirms its obligation under Section 5.2(e) of the Development Agreement to pay all costs of completing the LPI, including any other 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 obligations under Section 5.2(e) of the Development Agreement to pay all costs of inspecting the LPI.

3. Paragraph C of Exhibit C of the Development Agreement shall be deleted in its entirety and replaced with the following:

C. Two Hundred Fifty-Six Thousand Three Hundred Eighty-Eight and 10/100 Dollars (\$256,388.10) of the Funding Amount ("Dedicated Funds") shall be dedicated to the replacement of the Developer Property's roof. The Dedicated Funds shall not be used to pay for any other Local Public Improvements related to the Project.

4. The Parties hereby expressly reaffirm their obligations under the Development Agreement, and, unless expressly modified by this Fourth Amendment, the terms and provisions of the Development Agreement remain in full force and effect.

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

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

6. This Fourth 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 Fourth Amendment to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT  
COMMISSION

ZIKER SAMPLE STREET, LLC

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

\_\_\_\_\_  
David Ziker, Sole Member  
Dated:

ATTEST:

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