



## INTER-OFFICE MEMORANDUM

### DEPARTMENT OF PUBLIC WORKS DIVISION OF ENGINEERING

**TO:** Mary Brazinsky, Executive Assistant  
Department of Community Investment

**FROM:** Zach Hurst, Project Engineer

**SUBJECT:** Indiana Landmarks (Kizer House)

**DATE:** October 8, 2020

---

The window repairs at Kizer House (Kizer Mansion) originally had a budget of \$200,000 as approved in February 2019 by the Redevelopment Commission. The public bid process resulted in a low bid from J.W. Wertz & Son at a price of \$218,800. Indiana Landmarks submitted funds in the amount of \$18,800 to the City to move forward with the contract.

During the course of construction, the contractor worked with the project architect to value engineer the sill material used during the repair process, which brought the overall contract value back under \$200,000.

This amendment to the Development Agreement reflects that change in the contract awarded through the Board of Public Works, and generates a refund back to Indiana Landmarks in the amount of \$18,800 – their original contribution to the public portion of the project.

## SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this "Second Amendment") is made on October 8, 2020, by and between the South Bend Redevelopment Commission, the governing body of the City of South Bend Department of Redevelopment (the "Commission"), and Historic Landmarks Foundation of Indiana Inc. d/b/a Indiana Landmarks (the "Developer") (each a "Party," and collectively the "Parties").

### RECITALS

A. The Commission and the Developer entered into a Development Agreement dated effective February 14, 2019 (the "Agreement"), as amended by a First Amendment to Development Agreement dated November 14, 2019 (the "First Amendment") (together the Agreement and First Amendment are referred to as the "Development Agreement"), for the development of a Project in the West Washington-Chapin Development Area.

B. As set forth in the Agreement, the Commission agreed to expend no more than Two Hundred Thousand Dollars (\$200,000.00) 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 rehabilitation or replacement of the windows and the installation of storm windows (the "LPI").

C. In order to accommodate the low bid that resulted from the public bidding process, the Parties entered into the First Amendment, which increased the Commission's funding amount for the LPI, and the Developer paid the overage amount, totaling Eighteen Thousand Eight Hundred Dollars (\$18,800.00).

D. The LPI have been completed pursuant to the Development Agreement, and the contractor and project architect were able to value engineer the sill material used during the repair process, bringing the contract amount paid by the Board on behalf of the Commission for the LPI below Two Hundred Thousand Dollars (\$200,000.00), which amount is Eighteen Thousand Eight Hundred Dollars (\$18,800.00) less than the Commission's amended funding amount (the "Developer Excess Payment").

E. In order to repay the Developer Excess Payment to the Developer, the Parties desire to amend the Development Agreement to reflect the reduction in the Commission's amended funding amount, to acknowledge the overage amounts paid by the Developer, and to authorize the refund of the Developer Excess Payment to the Developer.

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:

**1.4 Funding Amount.** "Funding Amount" means an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00) 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.

2. As an inducement for the Commission's increase of the Funding Amount under the First Amendment, the Developer submitted to the Commission and the Commission acknowledged receipt of funds in the amount of Eighteen Thousand Eight Hundred Dollars (\$18,800.00), which funds were held by the Commission and paid, in part, toward the LPI Contract in accordance with the Board's ordinary payment practices and applicable laws.

3. The Parties acknowledge that the Developer paid the Commission funds in excess of the Funding Amount, and the Commission desires to refund the Developer Excess Payment to the Developer.

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

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

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

7. 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:

HISTORIC LANDMARKS FOUNDATION OF INDIANA, INC.  
D/B/A INDIANA LANDMARKS

By:  \_\_\_\_\_  
Marsh Davis, President