



South Bend

Redevelopment Commission

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

Agenda

Regular Meeting, May 11, 2023 – 9:30 a.m.

<https://tinyurl.com/RedevelopmentCommission> or BPW Conference Room 13th Floor

1. **Roll Call**
2. **Approval of Minutes**
 - A. Minutes of the Regular Meeting of Thursday, April 27, 2023
3. **Approval of Claims**
 - A. None
4. **Old Business**
 - A. None
5. **New Business**
 - A. River West Development Area
 1. Budget Request (LaSalle Park Improvements)
 2. Purchase Agreement (Salvation Army Building Only)
6. **Progress Reports**
 - A. Tax Abatement
 - B. Common Council
 - C. Other
7. **Next Commission Meeting:**

Thursday, May 25, 9:30 am



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

**SOUTH BEND REDEVELOPMENT COMMISSION
SCHEDULED REGULAR MEETING**

April 27, 2023 – 9:30 am
<http://tiny.cc/RDC2023> or **BPW 13th Floor**

Presiding: Marcia Jones, President

The meeting was called to order at 9:30 a.m.

1. ROLL CALL

Members Present:	Marcia Jones, President – IP Eli Wax, Commissioner - IP David Relos, Commissioner – IP	IP = In Person V = Virtual
Members Absent:	Troy Warner, Vice-President Vivian Sallie, Secretary Leslie Wesley, Commissioner	
Legal Counsel:	Sandra Kennedy, Esq. Danielle Campbell, Asst. City Attorney	
Redevelopment Staff:	Mary Brazinsky, Board Secretary Joseph Molnar, RDC Staff	
Others Present:	Caleb Bauer Erik Glavich Chris Dressel Rosa Tomas Craig Braje Bill Jagger Matt Barrett Jordan Smith Leslie Biek Charlotte Brach Amy Paul Zach Hurst Jordan Gathers	DCI - IP DCI – IP DCI - IP DCI -V 126 E 5 th Street Michigan Old Fort Building Supply Resident Resident Engineering – V Engineering – V DCI – V Engineering – V VPA - V

2. Approval of Minutes

- **Approval of Minutes of the Regular Meeting of Thursday, April 13, 2023**

Upon a motion by Commissioner Wax, seconded by Commissioner Relos, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, April 13, 2023.

- **Approval of Executive Session Minutes, December 23, 2022**

Upon a motion by Commissioner Wax, seconded by Commissioner Relos, the motion carried unanimously, the Commission approved the minutes of the Executive Session of December 23, 2022.

- **Approval of Executive Session Minutes, March 9, 2023**

Upon a motion by Commissioner Wax, seconded by Commissioner Relos, the motion carried unanimously, the Commission approved the minutes of the Executive Session of March 9, 2023.

- **Approval of Executive Session Minutes, April 13, 2023**

Upon a motion by Commissioner Wax, seconded by Commissioner Relos, the motion carried unanimously, the Commission approved the minutes of the Executive Session of April 13, 2023.

3. Approval of Claims

- **Claim Submitted for April 11, and April 25, 2023**

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved the claims allowances for April 11, and April 25, 2023

4. Old Business

5. New Business

A. River East Development Area

1. **Budget Request (Angela Blvd Improvements Project)**

Charlotte Brach, Engineering Presented a Budget Request (Angela Blvd Improvements Project). The City of South Bend is partnering with Notre Dame for improvements on Angela Boulevard. The project will take place between 933 and Twyckenham. The first budget request is for the portion between Notre Dame Avenue and Twyckenham which will be a road diet; mostly paint work at the intersection and adding on street parking, reducing the travel lanes to one in each direction and narrowing the width for traffic calming.

Curb work will be done at the intersections to improve the safety of pedestrians crossing and a new signal will be added at Angela and Joyce. Pavement will be milled and re-surfaced. Notre Dame will reimburse the City of South Bend for the amount of this first budget request (\$2M). Commission approval is requested.

Commissioner Wax asked what the impact on neighboring streets is.

Ms. Brach noted that this should not impact the neighboring streets too much. There is a lot of traffic on Angela, but the road diet will improve traffic flow all around campus. It is a high pedestrian travel area, and we are looking to improve crossing and safety.

Commissioner Wax asked will residents start avoiding that area due to congestion therefore creating new pedestrian risks on other streets since they are trying to bypass the congested area.

Ms. Brach noted that with the traffic being slower in other neighborhoods, streets are already narrower; that helps a lot with traffic. Every other street has a stop sign pattern installed slowing traffic.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Budget Request (Angela Blvd Improvements Project) submitted on Thursday, April 27, 2023.

B. River East Residential Development Area

1. Budget Request (Angela Blvd Improvements Project)

Charlotte Brach, Engineering Presented a Budget Request (Angela Blvd Improvements Project). This second budget request is for the portion of SR 933 and Notre Dame Avenue. This portion of the project includes a road diet to add a center left turn lane to reduce the travel lane widths. A shared use path will also be added on the north side of Angela along the Notre Dame Golf Course (there are currently no sidewalks there). Pavement will be milled and resurfaced. Budget request is in the amount of \$900k. Commission approval is requested.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Budget Request (Angela Blvd Improvements Project) submitted on Thursday, April 27, 2023.

C. South Side Development Area

1. Budget Request (Miami Street Pedestrian Islands)

Chris Dressel Presented a Budget Request (Miami Street Pedestrian Islands). This is a budget request for improvements on Miami Street that is a result of the neighborhood plan from 2020. We are looking to add a pedestrian refuge island at both Clayton and Byron Drives. These are in concert with improvements that have already started taking place on Miami. It is part of a planned road diet conversion from four lanes to three. Although along Miami Street there were sidewalks, they were not continuous on either side of the street; this created a scenario where pedestrians were encouraged to cross mid-block. Between Donmoyer and Ireland

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Road there is only one controlled crossing at Ridgedale (a one-mile section). We are proposing two pedestrian refuge islands. Where there is a three-lane road diet section, it would allow for safer crossings one lane at a time.

President Jones asked if we have any other areas like this that we will need to do the same thing for?

Mr. Dressel noted that yes, there is one by Trader Joe's.

Commissioner Wax noted they will be near those intersections but not at those intersections as that will defeat the purpose of the center turn lane.

Mr. Dressel stated that engineering would allow for clearance coming off of Byron and Clayton onto Miami.

Commissioner Wax asked about the turn lane as it is not really going to delay or slow down traffic too much as people start to turn. They can move over into the center lane, but we are not giving them a lot of time. We are only giving them 50 feet which will congest the whole pitch from switching to three lanes.

Mr. Dressel pulled up a map onto the screen with the conceptual look at the intersection.

Commissioner Wax asked if there will be a stop sign associated with this.

Mr. Dressel stated there would not be one. This walkway would be mid-block. We are asking \$150k for two locations.

Commissioner Relos commented that it could be a race track down that Miami Street.

Commissioner Wax commented that he hopes that people do not get more aggressive driving to avoid the slowdowns and this potentially backfires.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Budget Request (Miami Street Pedestrian Islands) submitted on Thursday, April 27, 2023.

D. River West Development Area

1. Certificates of Completion (Old Fort Building Supply)

Erik Glavich Presented Certificates of Completion (Old Fort Building Supply). For your consideration are two certificates of completion for old real estate purchase agreements that the commission had entered into with Old Fort Building Supply. The properties are located to the south between Lafayette and Main just north of Broadway. There were two agreements, one for 1996 and the other from 2002. Old Fort Building Supply was never issued certificates of completion, therefore, we are asking for the commission to approve these today. The 1996 agreement was for demolition of the building and construction of a parking lot. The 2002 agreement was development of a lot for outdoor masonry storage.

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Commissioner Relos asked if this was the block north of their building.

Bill Jagger, Owner Old Fort Building Supply replied yes.

Commissioner Relos asked if there were plans for the property.

Mr. Jagger replied when they started the process of a purchase agreement for the property, when his brother retired is when they became aware of the certificates not being completed. The lack of certificates of completion were on the title report. The business has been sold to Ellen W. and are currently working at hiring people and expanding the real estate portion. Mr. Glavich has helped us in getting the certificates of completion through the Redevelopment Commission and recorded.

Mr. Glavich states that the property has been well maintained and there are no violations or complaints against the property.

Commissioner Wax asked as far as we are aware the agreement was completed, and everything complied.

Mr. Glavich states yes.

Commissioner Wax asked going forward and we able to keep track of these agreements to what is outstanding,

Mr. Glavich stated that these pre-date him but yes, we now have a tracking system for these.

Mr. Bauer states that when Joe Molnar presented the status of the existing development agreements, he mentioned that there is a significant number of these that have been completed with no certificates. We will be bringing a packet of these through the Redevelopment Commission for approval. We have gone back to agreements in 2000 then we will be working our way back.

Matt Barrett, resident, asked whether or not there has been public notice given to surrounding property owners in case they may have an issue with a property owner.

Danielle Campbell, Assistant City Attorney responded that there is not a requirement for this.

Upon a motion by Commissioner Wax, seconded by Commissioner Relos, the motion carried unanimously, the Commission approved Certificates of Completion (Old Fort Building Supply) submitted on Thursday, April 27, 2023.

6. Progress Reports

A. Tax Abatement

1. The Common Council confirmed two single family residential real property tax abatements for Cross Community. They have a program where residents go through homeownership and financial education classes. Cross Community is building brand new homes using the city's pre-approved plans and the new homeowners will then receive the benefits of a tax abatement to that property for five years.

Commissioner Relos asked how many houses there were.

Mr. Glavich noted that two were subject to this tax abatement. Tina Patton, President of Cross Community had an original plan of five. Two are completed and they are getting ready to begin construction on another two; there is a third one as well.

Commissioner Wax noted the cool part of this is that the abatements transfer to the property owners. The idea is that after the family completes their homeowner education and purchase the home it enables them to get lower monthly payments and financing. The abatement keeps their payments lower for a number of years when it is transferred with home ownership. They will pay lower property taxes.

Mr. Glavich noted it will be significant savings for new homeowners in a neighborhood where we need housing.

Commissioner Wax stated that they wanted to be sure that homeowners had the education and knowledge, so they were not hit all of a sudden with surprise that comes five years later and now the mortgage goes up.

B. Common Council

C. Other

7. Next Commission Meeting:

Thursday, May 11, 2023

8. Adjournment

Thursday, April 27, 2023, 10:01 a.m.

David Relos, Acting Secretary

Marcia Jones, President



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 05/11/2023

FROM: Patrick Sherman, Project Manager, Public Works

SUBJECT: LaSalle Park Improvements

_____ Pres/V-Pres

ATTEST: _____ Secretary

Date: _____

APPROVED Not Approved

SOUTH BEND REDEVELOPMENT COMMISSION

Funding Source* (circle one) **River West**; River East; South Side; Douglas Road; West Washington; RDC General

*Funds are subject to the City Controller's determination of availability; if funds are unavailable, as solely determined by the City Controller, then the authorization of the expenditure of such funds shall be void and of no effect.

Purpose of Request:

Improvements planned and designed at LaSalle Park include adding paths, a skating loop, new exterior restrooms, and a park pavilion. Bids for the project were received at the Board of Public Works meeting on April 25th. Two bids were received, and both were over the consultant opinion of cost, likely due to the EPA mandated Soil Management Plan on the site. The lowest was rejected due to lack of a good faith effort to reach the required M/WBE goals on the project. \$1,226,571 has already been budgeted for the project. The request is from River West TIF and is for \$905,000 to bridge the funding gap and award.



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 5/9/23

FROM: Joseph Molnar

SUBJECT: Former Salvation Army Building
Purchase Agreement

_____ Pres/V-Pres

ATTEST: _____ Secretary

Date: _____

APPROVED Not Approved

SOUTH BEND REDEVELOPMENT COMMISSION

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

PURPOSE OF REQUEST: Sale of former Salvation Army Building for the purpose of restoration and redevelopment.

Specifics: In 2019, the City purchased the former Salvation Army Building at 510 S. Main Street. Beginning in the winter of 2019, the northern portion of the building has been used for the Weather Amnesty Program each winter. The City has recently partnered with the Center for the Homeless and provided funding for the expansion of their services. The Center for the Homeless will now provide Weather Amnesty services in the upcoming winters.

The City now desires to sell the Salvation Army Building for redevelopment. Staff was approached by the Momentum Development Group with interest in rehabbing the entire building and returning it to an active use in the community. Momentum intends to redevelop the building into a mixed-use building consisting of retail space, office space, and a commissary kitchen.

The submitted Real Estate Purchase Agreement commits Momentum to the following:

- Sale price of \$1,000.
- Begin construction within 12 months of closing date.
- Complete construction within 36 months of closing date.
- Momentum will invest a minimum of \$6,000,000 worth of property improvements into the property.
- In the event the property improvements and investments are not completed, the Commission shall have the right to reenter and take possession of the property.

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

This project is an exiting addition to the currently ongoing private and public investments in the southern portion of the greater Downtown South Bend area. Redevelopment of the site will bring a currently large vacant and underused building back to life.

Staff recommends approval of the Purchase Agreement.

INTERNAL USE ONLY: Project Code: _____;
Total Amount new/change (inc/dec) in budget: _____; Break down:
Costs: Engineering Amt: _____; Other Prof Serv Amt _____;
Acquisition of Land/Bldg (circle one) Amt: _____; Street Const Amt _____;
Building Imp Amt _____; Sewers Amt _____; Other (specify) Amt: _____
_____. Going to BPW for Contracting? Y/N
Is this item ready to encumber now? ____ Existing PO# _____ Inc/Dec \$ _____

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (this “Agreement”) is made on May 11th 2023 (the “Contract Date”), by and between the City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (“Seller”) and Momentum Development Group with its registered office at P.O. Box 815 South Bend, IN 46624 (“Buyer”) (each a “Party” and together the “Parties”).

RECITALS

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

B. In furtherance of its purposes under the Act, Seller owns certain real property located in South Bend, Indiana (the “City”), specifically, parcel numbers 018-3017-0615, 018-3017-0618, 018-3017-0620, 018-3017-0621, 018-3017-0622, and 018-3017-0623 (the “Offered Parcels”).

C. Through its adoption of its Resolution No. 3570 on January 26, 2023, Seller established an offering price of Six Hundred Seventy-One Thousand Five Hundred Dollars (\$671,500.00) for the Offered Parcels.

D. Pursuant to the Act, on January 16, 2023, Seller authorized the publication on February 3, 2023, and February 10, 2023, respectively, of a notice of its intent to sell the Offered Parcels and its desire to receive bids for said Offered Parcels on or before February 23, 2023, at 9:00A.M.

E. As of February 23, 2023, at 9:00A.M., Seller received no bids for the Offered Parcels.

F. Buyer subsequently expressed interest in purchasing one of the individual parcels contained within the Offered Parcels, which is commonly known as 510 S. Main St. and is more particularly described in attached **Exhibit A** (the “Property”).

G. Having satisfied the conditions stated in Section 22 of the Act, Seller now desires to sell the Property to Buyer on the terms stated in this Agreement.

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

1. **RECITALS**

The recitals above are hereby incorporated into this Agreement by reference.

2. **OFFER AND ACCEPTANCE**

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

representative (“Seller’s Representative”):

TO SELLER: Caleb Bauer
Executive Director
Department of Community Investment
City of South Bend
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601

WITH COPY TO: South Bend Legal Department
Attn: Corporation Counsel
City of South Bend
1200 S. County-City Building
227 W. Jefferson Blvd.
South Bend, Indiana 46601

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

TO BUYER: Momentum Development Group
P.O. Box 815
South Bend, IN 46624

WITH COPY TO: Kristopher Priemer
P.O. Box 815
South Bend, IN 46624

3. PURCHASE PRICE AND EARNEST MONEY DEPOSIT

A. Purchase Price. The purchase price for the Property shall be One Thousand Dollars (\$1,000.00) (the "Purchase Price"), payable by Buyer to Seller in cash at the closing described in Section 10 below (the "Closing," the date of which is the "Closing Date").

B. Earnest Money Deposit. Within five (5) business days after the Contract Date, Buyer will deliver to Seller the sum of One Hundred Dollars (\$100.00), which Seller will hold as an earnest money deposit (the "Earnest Money Deposit"). Seller will be responsible for disposing of the Earnest Money Deposit in accordance with the terms of this Agreement. The Earnest Money Deposit shall be credited against the Purchase Price at the Closing or, if no Closing occurs, refunded or forfeited as provided below.

C. Termination During Due Diligence Period. If Buyer exercises its right to terminate this Agreement by written notice to Seller in accordance with Section 4 below, the Earnest Money Deposit shall be refunded to Buyer. If Buyer fails to exercise its right to terminate this Agreement by written notice to Seller within the Due Diligence Period, then the Earnest Money Deposit shall become non-refundable.

D. Liquidated Damages. If Seller complies with its obligations hereunder and Buyer,

not having terminated this Agreement during the Due Diligence Period in accordance with Section 4 below, fails to purchase the Property on or before the Closing Date, the Earnest Money Deposit shall be forfeited by Buyer and retained by Seller as liquidated damages in lieu of any other damages.

4. BUYER'S DUE DILIGENCE

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

B. Due Diligence Period. Buyer shall have a period of ninety (90) days following the Contract Date to complete its examination of the Property in accordance with this Section 4 (the "Due Diligence Period").

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

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

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

D. Environmental Site Assessment. Buyer may, at Buyer's sole expense, obtain a Phase I environmental site assessment of the Property pursuant to and limited by the authorizations stated in this Section 4.

E. Termination of Agreement. If at any time within the Due Diligence Period Buyer determines, in its sole discretion, not to proceed with the purchase of the Property, Buyer may terminate this Agreement by written notice to Seller's Representative, and Buyer shall be entitled to a full refund of the Earnest Money Deposit.

5. SELLER'S DOCUMENTS

Upon Buyer's request, Seller will provide Buyer a copy of all known environmental inspection, engineering, title, and survey reports and documents in Seller's possession relating to the Property. In the event the Closing does not occur, Buyer will immediately return all such reports and documents to Seller's Representative with or without a written request by Seller.

6. PRESERVATION OF TITLE

After the Contract Date, Seller shall not take any action or allow any action to be taken by others to cause the Property to become subject to any interests, liens, restrictions, easements, covenants, reservations, or other matters affecting Seller's title (such matters are referred to as "Encumbrances"). Seller acknowledges that Buyer intends to obtain, at Buyer's sole expense, and to rely upon a commitment for title insurance on the Property (the "Title Commitment") and a survey of the Property (the "Survey") identifying all Encumbrances as of the Contract Date. The Property shall be conveyed to Buyer free of any Encumbrances other than Permitted Encumbrances (as defined in Section 8 below).

7. TITLE COMMITMENT AND POLICY REQUIREMENTS

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

8. REVIEW OF TITLE COMMITMENT AND SURVEY

Within twenty (20) days after Buyer's receipt of the Title Commitment, Buyer shall give Seller written notice of any objections to the Title Commitment. Within twenty (20) days after Buyer's receipt of the Survey, Buyer shall give Seller written notice of any objections to the Survey. Any exceptions identified in the Title Commitment or Survey to which written notice of objection is

not given within such period shall be a "Permitted Encumbrance." If the Seller is unable or unwilling to correct the Buyer's title and survey objections within the Due Diligence Period, Buyer may terminate this Agreement by written notice to Seller prior to expiration of the Due Diligence Period, in which case the Earnest Money Deposit shall be refunded to Buyer. If Buyer fails to so terminate this Agreement, then such objections shall constitute "Permitted Encumbrances" as of the expiration of the Due Diligence Period, and Buyer shall acquire the Property without any effect being given to such title and survey objections.

9. NOTICES

All notices required or allowed by this Agreement, before or after Closing, shall be delivered in person or by certified mail, return receipt requested, postage prepaid, addressed to Seller in care of Seller's Representative (with a copy to South Bend Legal Department, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601, Attn: Corporation Counsel), or to Buyer in care of Buyer's Representative at their respective addresses stated in Section 2 above. Either Party may, by written notice, modify its address or representative for future notices.

10. CLOSING

A. Timing of Closing. Unless this Agreement is earlier terminated, the Closing shall be held at the office of the Title Company, and the Closing Date shall be a mutually agreeable date not later than thirty (30) days after the end of the Due Diligence Period but not before May 1st 2023.

B. Closing Procedure.

(i) At Closing, Buyer shall deliver the Purchase Price to Seller, conditioned on Seller's delivery of the Deed, in the form attached hereto as **Exhibit B**, conveying the Property to Buyer, free and clear of all liens, encumbrances, title defects, and exceptions other than Permitted Encumbrances, and the Title Company's delivery of the marked-up copy of the Title Commitment (or pro forma policy) to Buyer in accordance with Section 7 above.

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

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

11. BUYER'S POST-CLOSING DEVELOPMENT OBLIGATIONS

A. Property Improvements; Proof of Investment. Within Thirty-Six (36) months after the Closing Date, the Buyer will expend an amount not less than Six Million Dollars (\$6,000,000.00) on improvements to the site, as well as the cost of equipment, needed to redevelop the Property for the uses set forth herein, and, in addition, the cost of tenant improvements, including but not limited to architecture, engineering, and legal fees, furniture, fixtures and

equipment necessary to operate the businesses operating therein (“Property Improvements”). Promptly upon completing the Property Improvements, Buyer will submit to Seller satisfactory records, as determined in Seller’s sole discretion, proving the above required expenditures and will permit Seller (or its designee) to inspect the Property to ensure that Buyer’s Property Improvements were completed satisfactorily.

B. Post-Closing Buyer Commitments. The Buyer shall:

(i) Commence construction of the project within 12 months of the Closing Date;

(ii) Complete construction of the project and Property Improvements within 36 months of the Closing Date;

(iii) In its development of the Property, Buyer shall comply with all applicable federal, state, and local laws, including, but not limited to, the applicable requirements of the City of South Bend Zoning Ordinance, including variances as necessary.

(iv) Provide the design, plans, and specifications for Property Improvements consistent with City standards for the review and comment by the City's Planning Director or his designee, who, in his sole discretion, may request revisions or amendments to be made to the same. Acceptance of the design and plans by the Planning Director or his designee prior to construction shall be a prerequisite for the issuance of a Certificate of Completion.

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

D. Remedies Upon Default. In the event Buyer fails to complete the Property Improvements or to comply with Section 11.B., above, or satisfactorily to prove such performance, in accordance with Section 11.A above, then, in addition to pursuing any other remedies available at law or in equity, Seller shall have the right to:

re-enter and take possession of the Property and to terminate and revest in Seller the estate conveyed to Buyer at Closing and all of Buyer’s rights and interests in the Property without offset or compensation for the value of any improvements made by Buyer.

The Parties agree that Seller’s conveyance of the Property to Buyer at Closing will be made on the condition subsequent set forth in the foregoing sentence and the terms of this Section 11 will be referenced in the deed.

12. SELLER'S POST-CLOSING OBLIGATIONS

On and after the Closing Date, the Seller commits to working with the Buyer to finalize plans, designs, and specifications for Property Improvements to the satisfaction of the City departments, consistent with City standards.

13. ACCEPTANCE OF PROPERTY AS-IS

Buyer agrees to purchase the Property “as-is, where-is” and without any representations or warranties by Seller as to the condition of the Property or its fitness for any particular use or purpose. Seller offers no such representation or warranty as to condition or fitness, and nothing in this Agreement will be construed to constitute such a representation or warranty as to condition or fitness.

14. TAXES

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

15. REMEDIES

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

16. COMMISSIONS

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

17. INDEMNITY

The Parties agree to indemnify, save harmless, and defend each other from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense and settlement), which either party may subsequently incur, become responsible for, or pay out as a result of a breach by the other party.

18. INTERPRETATION; APPLICABLE LAW

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

19. 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.

20. 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.

21. 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.

22. 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.

22 ENTIRE AGREEMENT

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

23. ASSIGNMENT

Buyer and Seller agree that this Agreement or any of Buyer's rights hereunder may not be assigned by Buyer, in whole or in part, without the prior written consent of Seller. In the event Buyer wishes to obtain Seller's consent regarding a proposed assignment of this Agreement, Buyer shall provide any and all information reasonably demanded by Seller in connection with the proposed assignment and/or the proposed assignee.

24. BINDING EFFECT; COUNTERPARTS; SIGNATURES

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

25. AUTHORITY TO EXECUTE; EXISTENCE

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

26. TIME

Time is of the essence of this Agreement.

[Signature page follows.]

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

BUYER:

Momentum Development Group

By: 

Printed: Kristopher Priemer _____

Its: President _____

Dated: May 8, 2023 _____

SELLER:

South Bend Redevelopment Commission

Marcia I. Jones, President

ATTEST:

Vivian Sallie, Secretary

EXHIBIT A

Description of Property

Parcel No. 71-08-12-306-001.000-026

Tax ID: 018-3017-0618

Legal Description: W. 128' Lot 31, All Lots 32 & 33 & N. 1/2 Vac. Alley So. & Adj. Martins Addition

Commonly Known As: 510 S. Main Street

EXHIBIT B

Form of Special Warranty Deed

AUDITOR'S RECORD

TRANSFER NO. _____

TAXING UNIT _____

DATE _____

KEY NO. 018-3017-0618

SPECIAL WARRANTY DEED

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

CONVEYS AND SPECIALLY WARRANTS to Momentum Development Group, P.O. Box 815 South Bend, IN 46624 (the "Grantee"), for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following real estate located in St. Joseph County, Indiana (the "Property"):

Parcel No. 71-08-12-306-001.000-026

Tax ID: 018-3017-0618

Legal Description: W. 128' Lot 31, All Lots 32 & 33 & N. 1/2 Vac. Alley So. & Adj. Martins Addition

Commonly Known As: 510 S. Main Street

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

The Grantor hereby conveys the Property to the Grantee free and clear of all leases or licenses; subject to real property taxes and assessments; subject to all easements, covenants, conditions, restrictions, and other matters of record; subject to rights of way for roads and such matters as would be disclosed by an accurate survey and inspection of the Property; subject to all applicable building codes and zoning ordinances; and subject to all provisions and objectives contained in the Commission's 2019 River West Development Area Plan, as thereafter amended from time to time, and any design review guidelines associated therewith.

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

Pursuant to Section 11 of the Purchase Agreement, the Grantor conveys the Property to the Grantee by this deed subject to certain conditions subsequent. In the event the Grantee fails to perform the Property Improvements, or satisfactorily to prove such performance, in accordance with Section 11 of the Purchase Agreement, then the Grantor shall have the right to re-enter and take possession of the Property and to terminate and revert in the Grantor the estate conveyed to the Grantee by this deed and all of the Grantee's rights and interests in the Property without offset or compensation for the value of any improvements to the Property made by the Grantee. The recordation of a Certificate of Completion in accordance with Section 11 of the Purchase Agreement will forever release and discharge the Grantor's reversionary interest stated in this paragraph.

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

[SIGNATURE PAGE FOLLOWS]

GRANTOR:

SOUTH BEND
REDEVELOPMENT COMMISSION

Marcia I. Jones, President

ATTEST:

Vivian Sallie, Secretary

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

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

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the ____ day of _____, 2023.

My Commission Expires:

Notary Public
Residing in St. Joseph County, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Danielle Campbell Weiss

This instrument was prepared by Danielle Campbell Weiss, Assistant City Attorney, City of South Bend, Indiana, Department of Law, 227 W. Jefferson Boulevard, Suite 1200S, South Bend, IN 46601.