



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 5/23/23
FROM: Joseph Molnar
SUBJECT: Parking Lot Access Agreement former
Salvation Army Building

_____ 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: Approval of a parking lot access agreement at the former Salvation Army Building

Specifics: On May 11th the RDC approved a Purchase Agreement with Momentum Development Group for the former Salvation Army Building on at 510 S Main Street in Downtown South Bend. This proposed Access Agreement allows for Momentum to have full access of the surrounding parking lots until December 31st 2023 to aid in the redevelopment of the site.

City Staff recommends approval.

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 \$ _____

TEMPORARY ACCESS AGREEMENT

This Temporary Access Agreement (this "Agreement") is made and entered into as of May 25, 2023, by and between the City of South Bend, Indiana, acting by and through its Redevelopment Commission (collectively, the "City"), and Momentum Development Group with its registered office at P.O. Box 815 South Bend, IN 46624 ("Developer")(each a "Party" and together the "Parties").

RECITALS

A. The City is the owner of certain real property located in South Bend, Indiana, and more particularly described in attached Exhibit A (the "Property").

B. The Property is comprised of several parking lots in Downtown South Bend.

C. The Developer is undergoing due diligence related to the purchase of the former Salvation Army Building, which is located adjacent to the Property at 510 S. Main St.

D. The City has agreed to grant the Developer a temporary right of access to the Property on the terms and conditions stated in this Agreement.

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

1. Grant of Access to the Developer. The City hereby grants to the Developer an exclusive, temporary access right to use portions of the Property for the purposes of vehicular parking and construction staging (the "Work"). The Developer understands and agrees that it will obtain in its own name and at its own expense all necessary permits and authorizations needed to conduct the Work. The Developer further understands and agrees that it will be responsible for safeguarding any materials, equipment, or other items that it stores on the Property while competing the Work and shall install temporary construction perimeter fencing, post appropriate signage, and take any other necessary measures to properly shield the public from potential hazards on the Property. The parties agree that the Developer will have no right under this Agreement to install permanent improvements of any kind on the Property, or to store or allow to be stored on a permanent basis any supplies, materials, goods, or personal property of any kind on the Property without the prior written consent of the City. Except as otherwise provided herein, at all times during the Work, the Developer will use or cause to be used reasonable efforts to keep the Property in substantially the same order and condition as of the Effective Date (as defined below).

2. Term and Termination. This Agreement shall commence effective June 1, 2023 (the "Effective Date") and shall terminate on December 31, 2024.

3. Compliance. The Developer understands and agrees that it will, at its own expense, observe and comply with, or cause to be observed and complied with, all applicable statutes, laws, ordinances, requirements, orders, rules, and regulations of all governmental authorities in relation to the Work.

4. Ownership. The City 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 Developer 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. The Developer understands and agrees that the City shall not be liable for any loss, damage, destruction, or theft of Developer's property or the property of Developer's invitees, or any bodily harm or injury that may result from the Developer's use of the Property. The Developer understands and agrees that it will be solely responsible for the safety and security of all persons on the Property and any personal property the Developer or its invitees use in connection with the Work while on the Property. The Developer shall indemnify, defend, and hold the City harmless from and against any and all claims resulting from damage to any property upon the Property or injury to any invitee of the Developer upon the Property and to pay any judgment rendered therein. Notwithstanding the foregoing or anything herein to the contrary, the City does not waive any governmental immunity or liability limitations available to it under Indiana law.

7. Insurance. The Developer will maintain commercial general liability insurance coverage in the minimum amount of at least \$1,000,000 per occurrence and will designate the City as an additional named insured under any such policy of insurance. Promptly following the Effective Date of this Agreement, the Developer will produce to the City a certificate of insurance evidencing the same.

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

9. Benefit. The Parties 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. Notices. Any notices required under this Agreement may be provided (a) by hand-delivery (which will be deemed delivered at the time of receipt) or (b) by registered or certified mail, return receipt requested (which will be deemed delivered three (3) days after mailing), to each party's respective address and the representatives stated below.

City: City of South Bend, Indiana
1400 S. County-City Building
227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Executive Director

With a copy to: South Bend Legal Department
1200 S County-City Building

227 W. Jefferson Blvd.
South Bend, IN 46601
Attn: Corporation Counsel

Developer: Momentum Development Group
P.O. Box 815
South Bend, IN 46624
Attn: Kristopher Priemer

11. Waiver. One or more waivers of any condition herein by the City shall not be construed as a waiver of a subsequent breach of the same condition.

12. Governing Law and Jurisdiction. This Agreement shall be governed and construed in accordance with the laws of the State of Indiana and any claims arising hereunder shall be brought in the courts of St. Joseph County, Indiana.

13. Authority. Each undersigned person signing on behalf of his/her respective party certifies that he/she is duly authorized to bind his/her respective Party to the terms of this Agreement.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties have entered into this Temporary Access Agreement and executed the same on the date set forth next to their signatures.

SOUTH BEND REDEVELOPMENT
COMMISSION

MOMENTUM DEVELOPMENT GROUP

Marcia I. Jones, President

By: _____



Printed: Kristopher Priemer

Title: President

Date: _____

5/23/23

ATTEST:

Vivian Sallie, Secretary

Date: _____

EXHIBIT A

Description of Property

Tax ID No. 018-3017-0615

Parcel Key No. 71-08-12-306-008.000-026

Legal Description: E 37 FT LOT 31 MARTINS ADD

Commonly known as: 114 MONROE

Tax ID No. 018-3017-0620

Parcel Key No. 71-08-12-306-002.000-026

Legal Description: N 1/2 LOT 34 & S 1/2 VAC ALLEY N & ADJ MARTINS ADD

Commonly known as: 520 S MAIN

Tax ID No. 018-3017-0621

Parcel Key No. 71-08-12-306-003.000-026

Legal Description: S 1/2 LOT 34 MARTINS ADD

Commonly known as: 524 S MAIN

Tax ID No. 018-3017-0622

Parcel Key No. 71-08-12-306-004.000-026

Legal Description: 32 FT NO SIDE LOT 35 MARTINS ADD

Commonly known as: 528 S MAIN

Tax ID No. 018-3017-0623

Parcel Key No. 71-08-12-306-005.000-026

Legal Description: S 34 FT LOT 35 MARTINS ADD

Commonly known as: 530 S MAIN