



South Bend

Redevelopment Commission

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

Agenda

Regular Meeting, July 27, 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, July 13, 2023

3. Approval of Claims

- A. Claims Allowance 7.11.23
- B. Claims Allowance 7.24.23

4. Old Business

- A. None

5. New Business

A. River West Development Area

- 1. Resolution No. 3576 Rescinding Res. No. 3573 and Voiding RDC to BPW Lafayette Large Lot Transfer
- 2. First Amendment to Real Estate Purchase Agreement (Advantix)
- 3. Development Agreement (South Bend Youth Hockey)

B. Redevelopment General Fund (Pokagon)

- 1. Budget Request Digital Equity Funding

C. River East Development Area

- 1. Seitz Park License Agreement (Wharf Partners LLC)

6. Progress Reports

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

7. Next Commission Meeting:

Thursday, August 10, 2023, 9:30 am



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

**SOUTH BEND REDEVELOPMENT COMMISSION
 SCHEDULED REGULAR MEETING**

July 13, 2023 – 9:30 am

<https://tinyurl.com/RedevelopmentCommission> 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 Troy Warner, Vice-President – IP Vivian Sallie, Secretary - IP Eli Wax, Commissioner - IP David Relos, Commissioner – IP | IP = In Person V = Virtual |
| Members Absent: | Leslie Wesley, Commissioner - V | |
| 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 Tim Corcoran Rosa Tomas Michael Divita Amy Paul Charlotte Brach Zach Hurst Leslie Biek Alyson Herzig Todd Jensen Brandon Shields Mark Hillman Nicolas Munsen Ophelia Rogers Desmond Upchurch | DCI DCI DCI DCI DCI DCI Engineering Engineering Engineering Neighborhoods KCG Advantix COSB Legal Intern ND legal student Resident Resident |

2. Approval of Minutes

- **Approval of Minutes of the Regular Meeting of Thursday, June 22, 2023**

Upon a motion by Commissioner Relos, seconded by Vice-President Warner, the motion carried unanimously, the Commission approved the minutes of the regular meeting of Thursday, June 22, 2023.

3. Approval of Claims

A. Claims Allowance 7.7.23

Upon a motion by Commissioner Relos, seconded by Vice-President Warner, the motion carried unanimously, the Commission approved the claims allowance of July 7, 2023.

4. Old Business

5. New Business

A. River West Development Area

1. Budget Request (Coal Line Trail Phase II)

Tim Corcoran Presented a Budget Request (Coal Line Trail Phase II). This budget request for \$87k is for technical issues with the current phase with cost overruns for rivet removal and swing bollard, also water hookup provision. The main item is due to major flooding in 2018 where the water was coming from outside of the city limits. There is a natural and unnatural drainage pattern. Some of it was a factor of the railroad right away when it was a railroad. This part was not in the original design of the trail, and this was an unknown issue. The city is working to figure out a solution to deal with the drainage that represents approximately \$60k. A change order for this project has been issued. Commission approval is requested.

Commissioner Relos asked if the waters is doing swales to try to redirect runoff from the old St. Joe High School Football Field.

Mr. Corcoran stated yes. When the railroad came in, they built up the railroad and it acts like a dam. The water is running between the condominiums and on along the North Shore homes. There is actually a swale between them that is pretty deep. We later found that some of the pipes that empty stormwater back to the river were clogged and started to fill the area. As you move east, water runoff from St. Joe High School at the softball diamond were a dry creek line in the back. That was being trapped and would overflow during flood events causing a lot of problems for residents along the trail.

Commissioner Relos asked if we are trying to direct the water to the river.

Mr. Corcoran stated yes.

Secretary Sallie asked if the \$60k was for fixing the water issue.

Mr. Corcoran stated yes, that is the city expense, but Notre Dame has pitched in almost \$40k to the total cost which is around \$90k. This project is an 80/20 match. There is some contingency built in to cover other changes should they come up.

Vice-President Warner stated he is familiar with this issue and there are a whole lot of varied factors including the drop from Michigan Street down through the high school to the athletic fields. It is a slope back there. This includes some mysterious drainpipes with water running down the hill. In 2018 they found a few spots to cross over into the alley and into the backyard and homes on Angela. He was out there on Monday, and they are working a couple water lines that they did not anticipate having to deal with. The neighborhood is putting a unity garden where the athletic and softball field is, and engineers are working to get the water line to be able to use there. The neighborhood has been asking for a fix to this water problem for a long time; it is a critical fix.

Mr. Corcoran stated that during the flood there was a resident that lived on Angela that took incredibly detailed photos of everything step by step, which helped us.

Upon a motion by Secretary Sallie, seconded by Commissioner Relos, the motion carried unanimously, the Commission approved Budget Request (Coal Line Trail Phase II) submitted on Thursday, July 13, 2023.

2. Real Estate Purchase Agreement (KCG)

Joe Molnar Presented a Real Estate Purchase Agreement (KCG). This agreement is with KCG development out of Indianapolis. They are looking at a property at 1202 S Lafayette which is south of downtown just a few blocks south of Sample Street. They are proposing a \$13M investment on the site which is currently fully RDC owned. They are applying for the 2023 LIHTC credits. The end result would be fifty housing unit apartment building all affordable income restricted split between 30 percent, 50 percent, and 60 percent area median income. They are targeting 55 and up age housing bracket. A senior plus housing unit. A rough preliminary site plan was shown with parking behind the building. Staff proposed a \$1,000 purchase price for the property however, the deal would only go through if LIHTC was awarded. If they are not successful in the application we would not be obligated to transfer the property. The agreement anticipates minimum investment of \$13M by the developer and fifty housing units must be completed within thirty months of the commencement and closing.

Todd Jensen, KCG, Vice-President, Development noted that they are excited to be working with the city on this tax credit application. The city has been very supportive in providing the items needed for the application as well as financial support and an incentive package that scores points on the application giving them the best chance to receive the tax credits. He hopes all goes well at the awards in November 2023.

Mr. Molnar presented a brief overview of the LIHTC calendar. Council items were presented in June/July 2023. Purchase Agreements in July 2023. Applications submitted to LIHTC by the end of July 2023 with scoring announced November 2023.

Upon a motion by Commissioner Relos, seconded by Commissioner Wax, the motion carried unanimously, the Commission approved Real Estate Purchase Agreement (KCG) submitted on Thursday, July 13, 2023.

3. Real Estate Purchase Agreement (Advantix)

Joe Molnar Presented a Real Estate Purchase Agreement (Advantix). Advantix is a non-profit based out of Evansville Indiana. This project is a scattered site development project (maps of the sites provided). This LIHTC project will be on thirty-seven separate city owned properties, and it will consist of fifty housing units. The units will be split between thirty percent, fifty percent and eighty percent income restricted to the area median income. The units are spread over quite a few different neighborhoods with the majority of the concentration in the north. There are some in Kennedy Park, City Cemetery, Muessel Grove, LaSalle Park, and these will go through Board of Public Works as they own those properties. The majority of them are small former single-family plots that were picked up through tax sale primarily and other state programs. RDC does own the one singular large site that Advantix is looking forward to in keeping cost down. The BPW purchase agreement was approved last Tuesday. The total project envisions a \$12.5M investment. The properties were shown to the commissioners. A preliminary site plan was shown including twelve townhomes, seven facing Lincoln Way West, five facing W Marion as well as the offices for the whole fifty-unit development in the north portion of the property. Advantix plans to use the catalog of well-designed buildings that the city planners have put together. They are looking into a new program so a renter with fifteen years of rent payments could purchase the property. The details are a little rough as no one has gotten to the fifteen years yet.

RDC commitments are the property sale of \$1,000. There would be no property transfer unless the state approved the LIHTC credits on the RDC site. The trapezoid site has a minimum of \$1M investment and a minimum of ten housing units. We do think twelve is a possibility, but we included some flexibility in the plan. Council items were presented in June/July 2023. Purchase Agreements in July 2023. Applications submitted to LIHTC by the end of July 2023 with scoring announced November 2023.

Brandon Shields, Broker Division Business Development Manager, Advantix noted it has been a long journey, but the city has been extremely helpful and supportive, and they are grateful for the opportunity. Sometimes scattered sites can be a little tricky, but they look forward to development on these forgotten places throughout the years.

South Bend Redevelopment Commission Regular Meeting – July 13, 2023

Commissioner Wax confirmed the timelines, assuming the tax credits are awarded; closing would be before the end of December 2023?

Mr. Molnar stated closing would be within six months of the November 2023 award date. The state has restricted timelines of the award for six months for each project to get their financing in line and then to complete the projects within two years.

Commissioner Relos asked if the state has defined on the lease to own homes after fifteen years? Is the property deeded to them or is there a balance due that they have to produce as they have the option to buy?

Mr. Molnar stated that the state will run the program and it is on a to be determined basis. Mr. Shields confirmed that it is to be determined.

Ophelia Rogers, resident, asked when these companies come to South Bend do they bring their own construction crews, or do they use any of the local unions in the city?

Mr. Bauer stated that it would depend on the developer. In the case of Advantix, they are from the Evansville Housing Authority, and they do their own construction. They have staff that book throughout the state. As far as KCG goes, they may be looking for builders.

Mr. Jensen, KCG, noted they have their own builders, but it is their intention to use local materials and labor. It just makes sense for the projects.

Upon a motion by Commissioner Relos, seconded by Secretary Sallie, the motion carried unanimously, the Commission approved Real Estate Purchase Agreement (Advantix) submitted on Thursday, July 13, 2023.

4. MOU (Valerie Loew 2023 – 2028)

Joe Molnar Presented MOU (Valerie Loew 2023 – 2028). This is a local artist that has used artifacts from the former Fat Daddy's building that the city has saved. She creates molds and uses them in her artistic projects. She originally did this in 2021 and the city has formed a good relationship with Ms. Loew. She asked if she could use them again. This agreement states that she would be allowed to use and return the molds as needed in the next five years. She will not hold the molds but use them for brief periods. We are happy to help a South Bend artist. Commission approval is requested.

Upon a motion by Commissioner Wax, seconded by Vice-President Warner, the motion carried unanimously, the Commission approved MOU (Valerie Loew 2023 – 2028) submitted on Thursday, July 13, 2023.

5. First Amendment to Real Estate Purchase Agreement (The Monreaux)

Joe Molnar Presented First Amendment to Real Estate Purchase Agreement (The Monreaux). This is one of the LIHTC projects from July 2022. This project is a minimum investment of \$16M with sixty housing units of which forty-six will be affordable. The award was delayed until February 2023. There are no changes to the commitments, this just extends their timeline to March 31, 2024. Commission approval is requested.

Mr. Bauer noted that technically the tax credits will actually be awarded in this coming round. They are guaranteed to be awarded. This gives the developer one additional year. We will be bringing a development agreement before you in the next couple of months, but we are finalizing the negotiations portions.

Upon a motion by Commissioner Wax, seconded by Secretary Sallie, the motion carried unanimously, the Commission approved First Amendment to Real Estate Purchase Agreement (The Monreaux) submitted on Thursday, July 13, 2023.

6. Progress Reports

A. Tax Abatement

1. Erik Glavich noted that the Common Council confirmed three tax abatements. Two of the abatements were ten-year real property tax abatements for LIHTC projects for both KCG and Advantix.
 - Confirming Tax Abatement for property located at 1202 S Lafayette Blvd.
 - Designating Tax Abatement for property located at 1144 Corby Blvd. Five Corners partnering with Holladay property. One for one-hundred eight apartment building and the next is for condo/retail space. The for-sale condo space is not included in the abatements.
 - Confirming Tax Abatement for property located at 1405 Portage Avenue/Peak Investment and Asset Management, LLC. The old speedway gas station will be torn down and will be building two new retail complexes with six stores. Two stores will be along Portage Avenue. (Portage/Elwood). Macog has funds for storage tank remediation through the state of Indiana.
 - Confirming Tax Abatement for property commonly known as multiple properties
 - Designating Tax Abatement for property located at 1901 N. Bendix Drive for Crossroads Solar that almost exclusively hires felons returning to the workplace. They have grown and are at compacity.

B. Common Council

C. Other

1. Desmond Upchurch, resident, 327 S Francis Street, asked if we have an exact amount of what is affordable.

Mr. Bauer noted that it is 80% of the HUD table which is \$43,700 per year in income. The rent that is affordable is based on HUD percentages.

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Mr. Upchurch asked are they going to be offset by a certain range?

Mr. Bauer noted the HUD housing table starting at the 80% AMI down to the 30% AMI ranges.

Mr. Upchurch asked for the exact numbers not the percentages to tell the citizens of South Bend. Typically, a resident does not look at the HUD percentages, they just want to know why their rent amount went up.

Mr. Bauer states that each community is different. The AMI for St Joseph County for 60% AMI for a 2-bedroom apartment is \$1,053 per month. This is the HUD fair market housing table.

7. Next Commission Meeting:

Thursday, July 27, 2023

8. Adjournment

Thursday, July 13, 2023, 10:21 a.m.

Vivian Sallie, Secretary

Marcia Jones, President



**City of South Bend
Department of Administration & Finance
Claims Allowance Request**

To: South Bend Redevelopment Commission
From: Kyle Willis, City Controller
Date: Tuesday, July 11, 2023

Pursuant to Indiana Code 36-4-8-7, I have audited and certified the attached claims and submit them for allowance in the following amounts:

| | |
|--------------|---------------------|
| GBLN-0059691 | \$168,298.73 |
| GBLN-0059727 | \$197,500.00 |
| GBLN-0000000 | \$0.00 |
| Total: | <u>\$365,798.73</u> |

Kyle Willis

The attached claims described above were allowed in the following total amount at a public meeting on the date stated below:

\$ 365,798.73

South Bend Redevelopment Commission

By: _____
Name:

Date:

Attest: _____
Name:

Expenditure approval

RDC Payments-7/11/23 Pymt Run

GBLN-0059691

Payment method: CHK-Total
Voucher: RDCP-00018015
Payment date: 7/11/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|--------------------------|-----------------|-----------------------------|-----------|----------------|---|----------------|
| V-00000982 | LAWSON-FISHER ASSOCIATES | 202135102230576 | PSA for 10% Design Services | 7/16/2023 | \$23,996.33 | 429-10-102-121-431002-- PROJ00000308 | PO-0013618 |

Payment method: CHK-Total
Voucher: RDCP-00018016
Payment date: 7/11/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|-------------------------------|-----------|--------------------------|-----------|----------------|---|----------------|
| V-00001513 | SLATILE ROOFING & SHEET METAL | 6/16 INV | MarMain Roof Replacement | 7/16/2023 | \$114,662.15 | 324-10-102-121-443001-- PROJ00000372 | PO-0021898 |

Payment method: CHK-Total
Voucher: RDCP-00018017
Payment date: 7/11/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|-------------------------|-----------|--|-----------|----------------|---|----------------|
| V-00010599 | Site Design Group, Ltd. | 955606 | South Bend Notre dame Urban Trail Design | 7/20/2023 | \$3,401.25 | 429-10-102-121-431002-- PROJ00000378 | PO-0021578 |

Payment method: CHK-Total
Voucher: RDCP-00018018
Payment date: 7/11/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|-------------------------|-----------|---|-----------|----------------|-------------------------|----------------|
| V-00003121 | Tuesley Hall Konopa LLP | 59230017A | Legal Services - 300 E. Lasalle (May invoice) | 6/25/2023 | \$2,588.00 | 324-10-102-121-431001-- | PO-0024731 |

| | | | | | | | |
|------------|----------------------------|-----------|---|-----------|-------------|-------------------------|------------|
| V-00003121 | Tuesley Hall Konopa LLP | 59230017A | Legal Services - 300 E. Lasalle (April invoice) | 5/27/2023 | \$18,956.00 | 324-10-102-121-431001-- | PO-0024731 |
| V-00003121 | Tuesley Hall Konopa LLP | 59230017A | Legal Services - 300 E. Lasalle (Feb invoice) | 3/26/2023 | \$2,065.00 | 324-10-102-121-431001-- | PO-0024731 |

Payment method: CHK-Total
Voucher: RDCP-00018019
Payment date: 7/11/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|----------------|-----------|---------------------|-----------|----------------|---|----------------|
| V-00011720 | Elevate Energy | 530062023 | Upskill SB Services | 7/20/2023 | \$2,630.00 | 433-10-102-123-439300-- PROJ00000417 | PO-0024439 |

Expenditure approval

RDC Payments-April Wire
GBLN-0059727

Payment method: Wire-Total
Voucher: RDCP-00018215
Payment date: 4/12/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|-----------------|-------------|------------------|-------------------------|-----------------|-----------------------|-----------------------------------|-----------------------|
| V-00001743 | US BANK | 27886 | 2013 CENTURY CTR BONDS | 4/12/2023 | \$197,500.00 | 324-10-102-121-452000- DS0062- | |



**City of South Bend
Department of Administration & Finance
Claims Allowance Request**

To: South Bend Redevelopment Commission
From: Kyle Willis, City Controller
Date: Monday, July 24, 2023

Pursuant to Indiana Code 36-4-8-7, I have audited and certified the attached claims and submit them for allowance in the following amounts:

| | |
|--------------|--------------------|
| GBLN-0060174 | \$45,872.96 |
| GBLN-0000000 | \$0.00 |
| GBLN-0000000 | \$0.00 |
| Total: | <u>\$45,872.96</u> |

Kyle Willis

The attached claims described above were allowed in the following total amount at a public meeting on the date stated below: \$ 45,872.96

South Bend Redevelopment Commission

By: _____
Name:

Date:

Attest: _____

Name:

Expenditure approvalRDC Payments-7/18/23 Pymt Run
GBLN-0060174**Payment method:** CHK-Total
Voucher: RDCP-00018415
Payment date: 7/18/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|--------------------------|-----------|---|-----------|----------------|---|----------------|
| V-00001012 | LOCHMUELLER GROUP INC | 514237 | Seitz Park Phase I: Construction Inspection | 7/27/2023 | \$17,890.25 | 324-10-102-121-444000-- PROJ00000079 | PO-0007779 |
| V-00001012 | LOCHMUELLER GROUP INC | 514237 | Seitz Park Phase I: Construction Inspection | 7/27/2023 | \$7,480.00 | 452-11-206-289-444000-- PROJ00000079 | PO-0007779 |
| V-00001012 | LOCHMUELLER GROUP INC | 514237 | Change Order #1 | 7/27/2023 | \$4,900.31 | 436-10-102-121-444000-- PROJ00000079 | PO-0007779 |

Payment method: ACH-Total
Voucher: RDCP-00018416
Payment date: 7/18/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|-------------------|-----------|------------------|-----------|----------------|---|----------------|
| V-00001518 | SMITHGROUP INC | 171927 | Amendment #6 | 7/27/2023 | \$5,412.50 | 436-10-102-121-444000-- PROJ00000079 | PO-0006606 |

Payment method: ACH-Total
Voucher: RDCP-00018417
Payment date: 7/18/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|-------------|-----------|---------------------------|-----------|----------------|---|----------------|
| V-00001933 | LYNN WETZEL | 92 | Commuter's Trust Prof Svs | 7/21/2023 | \$3,441.90 | 433-10-102-123-439300-- PROJ00000383 | PO-0021586 |

Payment method: CHK-Total
Voucher: RDCP-00018418
Payment date: 7/18/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|----------|------|-----------|------------------|----------|----------------|----------------------|----------------|
|----------|------|-----------|------------------|----------|----------------|----------------------|----------------|

| | | | | | | | |
|------------|----------------------------|-----------|--|-----------|------------|-------------------------|------------|
| V-00003121 | Tuesley Hall Konopa LLP | 59230017A | Legal Services - 300 E. Lasalle matter | 7/27/2023 | \$3,248.00 | 324-10-102-121-431001-- | PO-0024730 |
|------------|----------------------------|-----------|--|-----------|------------|-------------------------|------------|

Payment method: CHK-Total
Voucher: RDCP-00018419
Payment date: 7/18/2023

| Vendor # | Name | Invoice # | Line description | Due date | Invoice amount | Financial dimensions | Purchase order |
|------------|-----------------------------------|-----------|------------------------------------|-----------|----------------|---|----------------|
| V-00010644 | Indiana Dinosaur Museum Inc | 6282023 | SBCC Grant Indiana Dinosaur Museum | 7/28/2023 | \$3,500.00 | 324-10-102-121-441000-- PROJ00000403 | PO-0022186 |



CITY OF SOUTH BEND REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 7/21/23
FROM: Joseph Molnar
SUBJECT: Resolution Rescinding Resolution No. 3573

_____ 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: Rescinding Resolution No. 3573

Specifics: On May 25, 2023 the RDC adopted Resolution No. 3573 approving the transfer of 900 S Franklin to the South Bend Board of Public Works for the purpose of developing affordable housing through an agreement with Advantix Development Corporation. The deed had not yet been recorded when a different property was identified to serve as the large site for the Advantix project and the 900 S. Franklin property is no longer needed for the project. This Resolution rescinds Resolution No. 3573 and voids the unrecorded deed.

City Staff recommends approval of the Resolution.

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

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

RESOLUTION NO. 3576

A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION RESCINDING ITS RESOLUTION NO. 3573 AND VOIDING THE TRANSFER OF REAL PROPERTY TO THE SOUTH BEND BOARD OF PUBLIC WORKS

WHEREAS, on May 25, 2023, the South Bend Redevelopment Commission (the “Commission”), governing body of the City of South Bend, Indiana (the “City”), Department of Redevelopment, adopted Resolution No. 3573 approving the transfer of Commission-owned property at 900 S Franklin, South Bend, Indiana (the “Property”), to the South Bend Board of Public Works (the “Board”); and

WHEREAS, the purpose of the transfer was for the Board to transfer the Property to an Indiana non-profit and tax-exempt entity under Section 501(c)(3) of the Internal Revenue Code for the purpose of developing affordable infill housing; and

WHEREAS, a different property was identified to serve the purpose of developing affordable infill housing and the Commission and Board no longer desire to transfer the Property as a result; and

WHEREAS, the quit claim deed executed by the Commission pursuant to Resolution No. 3573 was not presented for recording in the Office of the Recorded of St. Joseph County, Indiana; and

WHEREAS, it is anticipated that the Board will adopt a resolution voiding the Commission's conveyance of the Property to the Board.

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

1. Resolution No. 3573 of the South Bend Redevelopment Commission is hereby rescinded.
2. The unrecorded quit claim deed executed pursuant to Resolution No. 3573 is hereby voided.
3. The Commission hereby voids all other commitments related to Resolution No. 3573, with the understanding that the Board will also approve a voiding resolution.
4. This Resolution will be in full force and effect upon its adoption by the Commission.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on July 27, 2023.

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST:

Vivian Sallie, Secretary



CITY OF SOUTH BEND REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 7/21/23
FROM: Joseph Molnar
SUBJECT: First Amendment 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: First Amendment of the Advantix Purchase Agreement to fix scrivener error

Specifics: On July 13th 2023, the RDC approved a Purchase Agreement with Advantix Development Corporation for land at Lincolnway West and Marion for the development of affordable housing. The Agreement contained a scrivener’s error indicating the wrong contact information for notices and communications. This First Amendment substitutes the correct contact information.

City Staff recommends approval of the First Amendment.

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 \$ _____

FIRST Amendment to REAL ESTATE PURCHASE AGREEMENT

This FIRST AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT (this “**Amendment**”) is made and entered into to be effective as of the 27th day of July, 2023, by and between South Bend Redevelopment Commission (“**Seller**”), as Seller, and Advantix Development Corporation, an Indiana non-profit corporation, with its registered address being 500 SE 10th Street, Evansville, Indiana (“**Buyer**”), as Buyer (each a “Party” and collectively, the “Parties”).

RECITALS

A. Seller and Buyer entered into that certain Real Estate Purchase Agreement, dated effective as of July 13, 2023 (the “**Agreement**”), for the purchase and sale of certain real property located in the in St. Joseph County, City of South Bend, State of Indiana as more particularly described in Exhibit A of the Agreement (the “**Real Estate**”). All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

B. Seller and Buyer now desire to amend the Agreement in order to provide for an extension of the Closing date thereunder and to address certain other matters, all as set forth hereunder.

AGREEMENT

NOW, THEREFORE, in consideration of these premises, and the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

1. **Recitals.** The recitals set forth above, including each and every recital contained therein, are incorporated into and made a part of this Amendment as though fully set forth herein.
2. **Amendments.** The Agreement is hereby amended as follows:
 - a) Section 12 (A.): the text following the words “To Buyer” shall be deleted in its entirety and replaced with the following:

Advantix Development Corporation
Attn: Tim Martin
500 SE 10th Street
Evansville, Indiana 47713

3. **Entire Agreement; Conflict.** Except as otherwise stated herein, all other terms, conditions and agreements contained in the Agreement remain unmodified and in full force and effect. The Parties hereby expressly reaffirm their respective obligations under the Agreement, and unless expressly modified by this First Amendment, the terms and provisions of the Agreement remain in full force and effect. To the extent a conflict exists between the terms of this Amendment and the Agreement, the terms of this Amendment shall control.

4. **Capitalized Terms.** Capitalized Terms used in this First Amendment will have the same meanings set forth in the Agreement, except as otherwise stated herein.

5. **Counterparts; Electronic or Facsimile Transmission.** This Amendment may be executed in counterparts which, when combined, shall constitute one instrument. The electronic or facsimile transmission of a signed counterpart of this Amendment shall be binding upon the party whose signature is contained on the transmitted copy.

[Signature Page Follows.]

IN WITNESS WHEREOF, Buyer and Seller have executed this First Amendment to Real Estate Purchase Agreement to be effective as of the date set forth above.

“BUYER”:

Advantix Development Corporation,
an Indiana non-profit corporation

By: Timothy L. Martin
Timothy L. Martin, its sole member

“SELLER”:

South Bend Redevelopment Commission

By: _____
Marcia I. Jones, President

Attest: _____
Vivian Sallie, Secretary



CITY OF SOUTH BEND REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 7/25/23
FROM: Erik Glavich, Director, Growth & Opportunity
SUBJECT: South Bend Youth Hockey (Ice Box) Development 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: Development Agreement for property located at 1421 S. Walnut Street, South Bend, Indiana 46619 (The Ice Box Skating Rink)

SPECIFICS: The Commission will consider a Development Agreement with South Bend Youth Hockey Inc, a nonprofit corporation which owns and operates the Ice Box. The Ice Box will build a new third rink and expand their facilities.

This Agreement specifies that (1) the Funding Amount provided by Redevelopment Commission will not exceed \$2.0 million and (2) the Private Investment by the Developer will be no less than \$9.0 million. The Developer agrees to complete the project by the end of 2026. The Funding Amount will be used to purchase new “chiller” equipment for the new and existing rinks, with the remaining funds to be used for parking lots on the property.

Staff recommends approval of this Development 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 \$ _____

EXCELLENCE | ACCOUNTABILITY | INNOVATION | INCLUSION | EMPOWERMENT

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”), is effective as of July 27, 2023 (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 South Bend Youth Hockey Inc, an Indiana Domestic Nonprofit Corporation with offices at 1421 South Walnut Street, South Bend, IN, 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, the Developer owns 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, 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 is in the best interests of the health, safety, and welfare of 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 Two Million Dollars (\$2,000,000.00) 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 Nine Million Dollars (\$9,000,000.00), not including the Funding Amount, 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. Private Investment can include funds provided to the Developer by public entities other than the Commission. Upon reasonable demand, Developer must provide written proof to Commission of its ability to finance its obligations contained herein this Section 1.4.

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.

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.

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 4.7 (“Submission of Plans and Specifications for Project”) 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 4.7 (“Submission of Plans and Specifications for Project”) 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 complete the Project as set forth in the Project Plan and any other obligations the Developer may have under this Agreement by December 31, 2026 (the “Mandatory Project Completion Date”). The Developer further agrees the total Project will be completed in accordance with the Project Plan attached hereto as **Exhibit B**.

Notwithstanding any provision of this Agreement to the contrary, the Developer’s failure to complete the Project or any other obligations the Developer may have under this Agreement by the Mandatory Project Completion Date will constitute a default under this Agreement without any requirement of notice of or an opportunity to cure such failure.

4.6 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, in the format set forth as Exhibit E, 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.

4.7 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's Executive Director Department of Community Investment, or his or her 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.

4.8 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.

4.9 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 approved all bid specifications.

4.10 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.

4.11 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 F 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).

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

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. If the cost of the Local Public Improvements is less than the Funding Amount, the the Parties agree to work together and, if appropriate, to amend this Agreement to identify other appropriate and lawful projects to which Commission may contribute any remaining amount.

(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 responded in accordance with Section 4.7 ("Submission of Plans and Specifications for Project") 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 4.9 ("Specifications for Local Public Improvements") 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; however, the Developer shall reimburse the Commission for its reasonable attorneys' fees associated with the Commission's defense of this Agreement against a third-party lawsuit. In no event shall the Commission be required to bear the fees and costs of the Developer'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 (a) to complete the Project by the Mandatory Project Completion Date, or (b) to 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 the Commission pursues any legal action (including arbitration) to enforce or interpret this Agreement, Developer shall pay Commission's reasonable attorneys' fees and other costs and expenses (including expert witness 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: South Bend Youth Hockey Inc
1421 S. Walnut St.
South Bend, IN 46619
Attn: Dennis Jordan, President

With a copy to: Sopko, Nussbaum, Inabnit & Kaczmarek
210 S. Michigan St.
P.O. Box 300
South Bend, IN 46624

Commission: South Bend Redevelopment Commission
1400S 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
1200S 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:

Vivian Sallie, Secretary

South Bend Youth Hockey Inc



Dennis Jordan, President

EXHIBIT A

Description of Developer Property

Tax ID No. 018-8021-084501

Parcel Key No. 71-08-15-276-004.000-026

Legal Description: Lot 1A Ice Box Minor Sub 1st Replat 14/15 NP#991 02-21-2014 14/15
Split#447 01/23/2014 99-00 New Replat 10975 11-10-98

Commonly known as: 1421 South Walnut Street, South Bend, IN, 46619

EXHIBIT B

Project Plan

The Developer will complete the following work in accordance with the terms and conditions of this Agreement and in compliance with all applicable laws and regulations:

The Developer will construct a new ice rink and complete all other improvements at the property known as the Ice Box to a level approved by the City, specifically:

- Construct a third ice rink;
- Install new refrigeration system for new and existing rinks;
- Expand lobby and construct new support areas, including new locker rooms;
- Install a new parking lot with approximately 92 spaces on the west side of the Developer Property; and
- Rehabilitate (e.g., milling and resurfacing) parking lot(s) that will remain on the Developer Property.

The Developer shall not permit, allow, or leave any of the items defined under the Project Plan to remain partially unfinished or incomplete by the expiration of the Mandatory Project Completion Date of this Agreement.

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:

- Purchase equipment and materials for new refrigeration system for new and existing rinks; and
- Rehabilitate (e.g., milling and resurfacing) parking lot(s) that will remain on the Developer Property.

It is understood between the parties that the Commission will contribute an amount not to exceed the Funding Amount specified in Section 1.3 of this Agreement for the Local Public Improvements. The Developer shall have the sole responsibility to fund any and all costs associated with Local Public Improvements which exceeds this amount. Any and all costs associated with improvements not explicitly described above and not approved pursuant to Section 4.9 (“Specifications for Local Public Improvements”) or that require funding above the Funding Amount are the sole responsibility of the Developer.

EXHIBIT D

Form of Easement

GRANT OF TEMPORARY EASEMENT

THIS INDENTURE, made as of the _____ of _____, 2023 (the “Effective Date”), by and between South Bend Youth Hockey Inc, an Indiana Domestic Nonprofit Corporation with offices at 1421 South Walnut Street, South Bend, IN, 46619 (the “Grantor”), and the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, 1400S 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 _____, 2023 (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:

South Bend Youth Hockey Inc, an Indiana Domestic Nonprofit Corporation

Dennis Jordan

Printed: Dennis Jordan

Its: President

STATE OF Indiana)
) SS:
COUNTY OF St. Joseph)

Before me, the undersigned, a Notary Public in and for said State, personally appeared _____, to me known to be the _____ 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.

WITNESSED by me and Notarial Seal this 24th day of July, 2023.



Kari L. Myers

KARI L. MYERS, Notary Public

Residing in St. Joseph County, Indiana

My Commission Expires: 9-20-25

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. Michael J. Schmidt.

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

EXHIBIT 1

Description of Property

Tax ID No. 018-8021-084501

Parcel Key No. 71-08-15-276-004.000-026

Legal Description: Lot 1A Ice Box Minor Sub 1st Replat 14/15 NP#991 02-21-2014 14/15
Split#447 01/23/2014 99-00 New Replat 10975 11-10-98

Commonly known as: 1421 South Walnut Street, South Bend, IN, 46619

EXHIBIT E

Form of Report to Commission

City of South Bend
Department of Community Investment

Development Agreement Review

Answer the below questions and return to the Department of Community Investment.

Project Information

Project Name: _____

Address: _____

Construction Completed to Date:

Project Schedule Update:

Itemized Accounting of Private Investment to Date:

Number of Jobs Created:

Name: _____

Address: _____

Position: _____

Email: _____

Signature: _____

Date: _____

EXHIBIT F

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. \$4,000,000.00 Each Occurrence
 - b. \$5,000,000.00 Annual Aggregate Products and Completed Operation

 - 2. Property Damage
 - a. \$4,000,000.00 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



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: July 20, 2023
FROM: Denise Linn Reidl, CIO
SUBJECT: Digital Equity Funding

_____ 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:

Innovation & Technology staff requests the Redevelopment Commission's approval of \$100,000 to promote digital equity in South Bend. Specifically, funds will go towards services and equipment to expand South Bend Open Wi-Fi in targeted parks, corridors, and community centers. Sites for Open Wi-Fi expansion and the selection process can be viewed at southbendin.gov/sbow/expansion.

This funding will facilitate the tripling of the Open Wi-Fi footprint since 2022 and will enhance community connectivity options for South Bend residents.

Please do not hesitate to contact Driedl@southbendin.gov for any additional information.

INTERNAL USE ONLY: Project Code: _____;

Total Amount – New Project Budget Appropriation \$ _____;

Total Amount – Existing Project Budget Change (increase or decrease) \$ _____;

Funding Limits: Engineering: \$ _____; Other Prof Serv Amt \$ _____;

Acquisition of Land/Bldg (circle one) Amt: \$ _____; Street Const Amt \$ _____;

Building Imp Amt \$ _____; Sewers Amt \$ _____; Other (specify) Amt \$ _____

LICENSE AGREEMENT
FOR USE OF REDEVELOPMENT COMMISSION PROPERTY

This License Agreement (this “Agreement”) is made on July 27, 2023 (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 Wharf Partners LLC, (the “Company”) (each a “Party,” and collectively, the “Parties”).

RECITALS

A. The Commission owns certain real property and improvements located within the River East Development Area of the City of South Bend, Indiana (the “City”), as described in Exhibit A, attached hereto and incorporated herewith, Parcel Key No. 71-08-12-130-008.000-026 (the “Property”); and

B. The Company approached the Commission with its desire to use a portion of the Property, as set forth in Exhibit B, attached hereto and incorporated herewith, (the “Licensed Premises”) for the purpose of constructing and maintaining a restaurant patio open to the general public, and for appurtenant equipment and fixtures so related (the “Company Uses”) while the Company conducts its business in the vicinity of the Property; and

C. The Commission is willing to confer a personal privilege to the Company to permit the Company to use the Property for the Purposes, subject to the terms and conditions set forth in this Agreement, pursuant to IC §36-7-14-12.2(a)(3).

PROVISIONS OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants stated in this Agreement, the Parties agree as follows:

1. License. The Commission grants to the Company a revocable, -exclusive license to enter and use the Licensed Premises, as fully described in Exhibit B, for the Company Uses, while the Company conducts its business in the vicinity of the Property, provided that the Company’s use of the Property is reasonable at all times and comports with the terms of this Agreement and all applicable laws. The Commission, or its authorized representative, reserves the right to specifically designate the location and configuration of the Licensed Premises on the Property that are available for the Company’s use and may modify such location or configuration during the Term (as defined below) upon reasonable notice to the Company. The Company’s license is limited to use of the Licensed Premises for the Company Uses as stated above and the Company may not enter or use any other structure on or other area of the Property for any reason without prior written permission or use the Licensed Premises for any purpose other than the Company Uses defined herein. Company agrees to conduct the Company Uses in a manner that complies with the Americans with Disabilities Act, as amended.

2. Term. The Company’s license to use the Licensed Premises shall be effective starting on July 27, 2023, and continuing until such time revoked by the Commission, or its designee or successor. Upon ninety (90) days’ written notice to the Company at the above-

mentioned registered office address, the Commission or the Commission's authorized representative may revoke and terminate the license at any time for any reason, including, without limitation, to accommodate future development of the Property or the surrounding area, as determined in its, his, or her sole discretion. Notwithstanding the foregoing sentence, the Commission or the Commission's authorized representative may revoke and terminate the license upon thirty (30) days' written notice in the event there exists any material default of the Company's obligations under this Agreement. Following such written notice of material default, Company shall be afforded fifteen (15) days within which to cure the default. If the default is not cured within this period, the Commission may terminate the license and demand the removal of any improvements without further notice.

3. No Lease; No Assignment; No estate or interest. The Parties acknowledge and intend that this Agreement is a license and will not constitute a lease of the Property or the Licensed Premises to the Company. This Agreement does not convey any estate or interest in the Property or the Licensed Premises to the Company and does not convey any future promise or option to the Company in any regard to an estate or interest in the Property or the Licensed Premises. Furthermore, the Company will have no right or authority to convey any interest in the Property or the Licensed Premises to any other person or entity. Any attempt by the Company to grant or lease any interest in the Property or the Licensed Premises to any other person or entity will be void ab initio and of no force or effect. The Parties agree that neither this Agreement nor any of the Company's rights or use of the Property or the Licensed Premises under this Agreement is assignable or transferable, in whole or in part, by Company to any other person or entity, except that the Company may assign this Agreement to an entity which has agreed in writing with Company to perform the Company Uses. The Commission shall receive written notice of any such assignment, together with contact information for the entity performing the Company Uses. Said provision notwithstanding, the Parties acknowledge that the Commission may assign and/or transfer its rights under this Agreement to any other department, division, or board of the City of South Bend, including but not limited to the South Bend Board of Park Commissioners, which may own the Property in the future.

4. No Improvements. Except as contemplated herein and reasonably necessary for the Company Uses, the Company shall not make any changes or improvements to the physical, electrical and mechanical features of the Property and the Licensed Premises.

5. Security. The Company understands and agrees that the Commission shall not be liable for any loss, damage, destruction, or theft of the Company's property or any bodily harm or injury that may result from the Company's use of the Property. The Company understands and agrees that it will at all times be solely responsible for the safety and security of all persons, property, and vehicles, including any property contained within the vehicles, on the Property in connection with the Company's use of the Licensed Premises under the terms of this Agreement.

6. Storage. The Company agrees that it will not store any supplies, materials, goods, or personal property of any kind on the Property without the prior written consent of the Commission. In addition, the Company will not cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked, or emitted at the Property.

7. Regulations; Other Permits. The Company understands and agrees that it will, at its own expense, observe and comply with all applicable statutes, laws, ordinances, requirements, orders, rules, and regulations of all governmental authorities in relation to its use of the Licensed Premises. The Company understands and agrees that it will secure in its own name and at its own expense all other permits and authorizations, if any, necessary for its use of the Licensed Premises in accordance with the terms of this Agreement.

8. Commission's Use. The Commission retains possession and control of the Property and the Licensed Premises and reserves the right to use the Property during the Term of this Agreement for any purpose, including, but not limited to, general maintenance. The Company remains responsible for the maintenance and repair of all equipment, fixtures, or other property it places in the Licensed Premises.

9. Loss of Use. The Company agrees that full or partial closure and/or loss of use and enjoyment of the Property for a period in excess of 90 consecutive days, would result in harm to the City. The Company acknowledges that, if the work consisting of Company's initial construction and installation of its facilities suitable for the Company Uses within the Licensed Premises which requires full or partial closure of the Property ("Initial Work") is not completed within 120 days after the date the Initial Work is commenced, the City may assess a \$250.00 per day Property use fee for each day after the 120th day until the Initial Work is complete. Notwithstanding the foregoing, the City agrees that (1) Company's initial clean-up work will not trigger commencement of the 90-day period for completing the Initial Work, and (2) days where Company is prevented from performing the Initial Work due to circumstances beyond Company's reasonable control will not count toward the 90-day period. Prior to commencing the Initial Work, Company will provide the City with written notice confirming the Initial Work start date. In the event that the Initial Work is not complete prior to the riverwalk opening to the public, the Initial Work shall not impede pedestrian traffic on the riverwalk or present any safety hazards, as reasonably determined by the City.

10. Abandonment; Revocation of License. The failure of Company to use the Licensed Premises for the Company Uses, shall not be deemed to constitute an abandonment or waiver of the rights granted herein, except as otherwise provided in this paragraph. Should three years pass from the date that this Agreement is executed, and Company has either never used the Licensed Premises or has ceased using the Licensed Premises for a period of 12 consecutive months, the Commission may send Company written notice of its intention to terminate this Agreement. If Company fails to notify the Commission, within 60 days after receiving the Commission's notice, that Company has plans to resume the Company Uses in the Licensed Premises, this Agreement will terminate without any additional notice required by the Commission or Company. The provisions of this Section shall supersede any termination provisions elsewhere in this Agreement. Company will be responsible for the cost and removal of such unused facilities within six months of the termination of this Agreement under this Section. The Commission reserves the right to revoke this Agreement at any time under the terms of this Section if the Licensed Premises ceases to be used for a purpose which is open to and accessible by the general public without discrimination or based on membership (e.g., a private club) or any other basis.

11. Restoration. To the extent that any portion of the Property is disturbed or damaged in connection with the Company's use of the Property, including but not limited to the Initial Work,

the Company, at the Company's sole expense, shall restore the Property to the condition that existed immediately prior to such disturbance or damage to the satisfaction of the Commission.

12. Indemnification. The Company agrees and undertakes to indemnify and hold the City and the Commission, and their respective agents, employees, successors, and assigns, harmless from any liability, loss, costs, damages or expenses, including attorneys' fees, which the City or the Commission may suffer or incur as a result of any claims or actions which may be brought by any person or entity arising out of the license granted herein by the Commission or the Company's use of the Property. If any action is brought against the City or the Commission, or their respective agents, employees, successors, or assigns, in connection with the Company's use of the Property, the Company agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

13. Insurance. The Company, at the Company's sole expense, shall maintain during the Term of this Agreement commercial general liability insurance covering the Company in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence. The Company agrees to include the Commission and the City as additional insureds on any such policy and produce to the Commission a certificate of insurance evidencing the same. To the extent that the Commission or the City is harmed as a result of the Company's use of the Property, the Company hereby grants the Commission first priority on any proceeds received from the Company's insurance. Notwithstanding anything in this Agreement to the contrary, neither the Commission nor the City waive any governmental immunity or liability limitations available to them under Indiana or other applicable law.

14. Integration; Amendment. This Agreement supersedes all prior negotiations, understandings, and agreements, whether written or oral, concerning the subject matter of this Agreement and constitutes the Parties' entire agreement. This Agreement may not be altered except by a written instrument signed by authorized representatives of both Parties.

15. Counterparts; Signatures. This Agreement may be separately executed in counterparts by the Commission and the Company, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

16. 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.

17. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Indiana.

[Signature page follows.]

IN WITNESS WHEREOF, each Party has executed this Agreement to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT
COMMISSION

By: _____
Marcia I. Jones, President

ATTEST:

Vivian Sallie, Secretary

WHARF PARTNERS LLC

By: _____,
Frank A. Perri _____, Managing Member

Quick Tools

Parcel County/Id: 018-5001-0005

Owner Name: DEPARTMENT OF REDEVELOPMENT CITY OF SOUTH BEND

Property Address: 340 E COLFAX AVE

Parcel State ID: 71-08-12-130-008,000-026

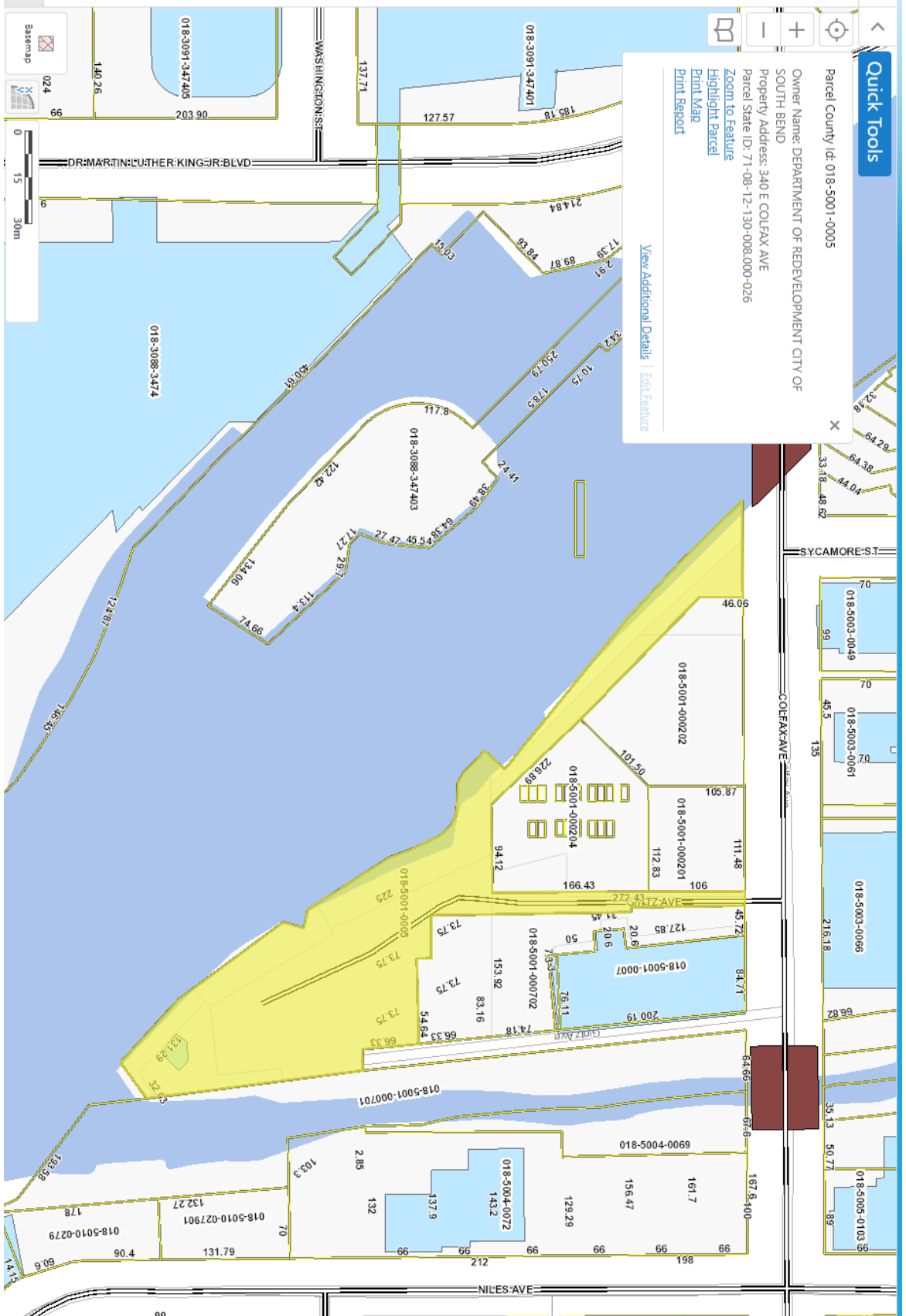
[Zoom to Feature](#)

[Highlight Parcel](#)

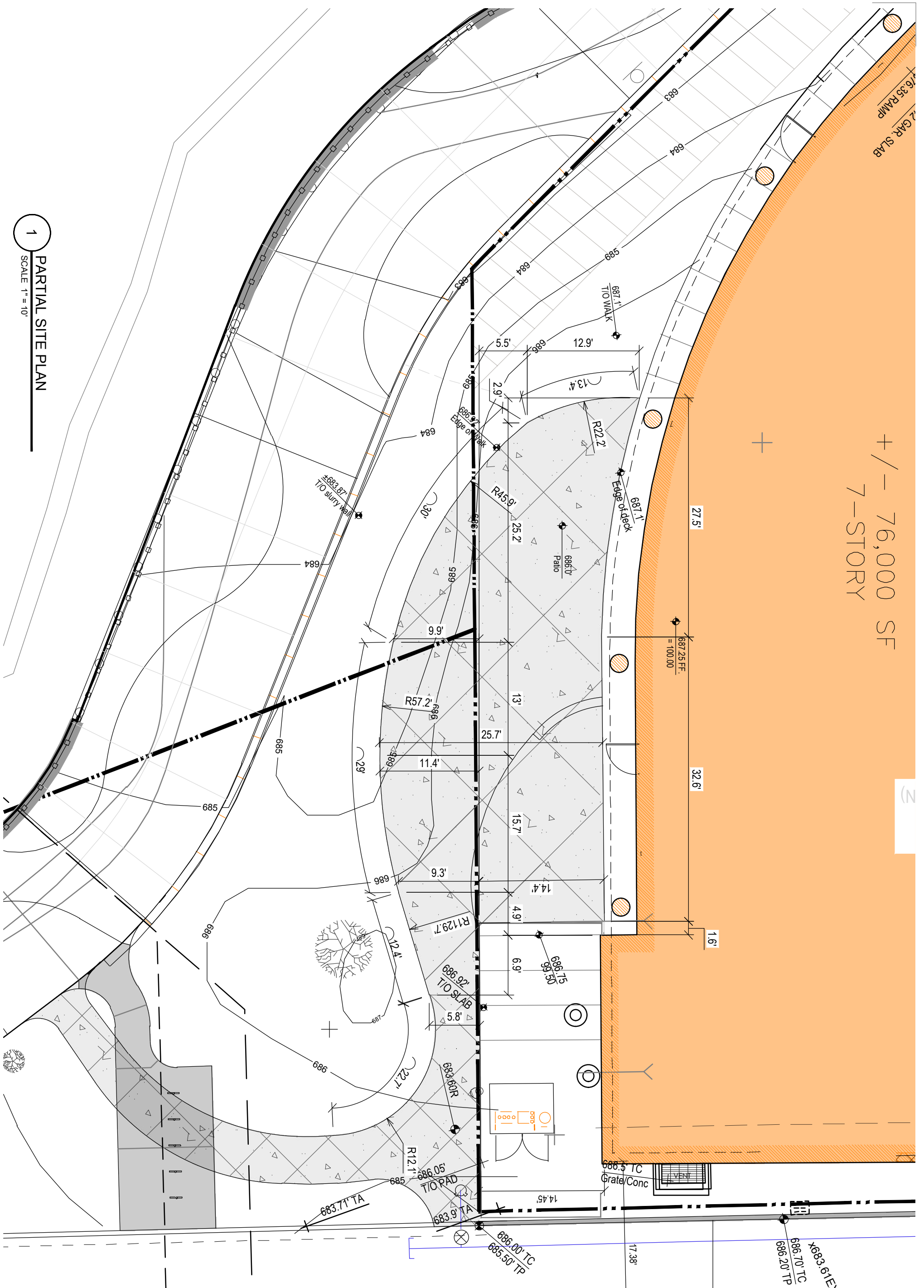
[Print Map](#)

[Print Report](#)

[View Additional Details](#) | [Edit Feature](#)



+/- 76,000 SF
7-STORY



1 PARTIAL SITE PLAN
SCALE 1" = 10'



Panzica Construction Group

416 East Monroe St.
Suite 320
South Bend, IN 46601
574.234.0124

Job Description

Mixed Use Development
THREE TWENTY
at The Cascade
320 East Colfax Avenue at the St. Joseph River
South Bend, Indiana 46617

410516
Project #

File #
April 25, 2023
Date

Revisions

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PANZICA BUILDING CORPORATION

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