



# CITY OF SOUTH BEND

## REDEVELOPMENT COMMISSION

### Redevelopment Commission Agenda Item

DATE: October 10, 2023  
FROM: Zach Hurst, PE  
SUBJECT: Second Amendment to DA – Nexus Center

\_\_\_\_\_ 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:

This second amendment to the Development Agreement with The Nexus Center LLC would allow the City's contractor, R Yoder Construction, to perform additional work under the City's existing contract, funded by the original Development Agreement dated August 12, 2021.

The Nexus Center LLC will reimburse the Commission Thirty-Six Thousand Seven Hundred Five Dollars and Three Cents (\$36,705.03) to accomplish additional improvements to the new handicap-accessible rear vestibule, parking lot striping, and removal of large concrete debris on the property. The City's construction specifications are set up to ensure that quality construction is performed for the owner, and that the contractor is also paid fairly. Both sides have a high level of comfort when operating under the City's contract.

This amendment does not incur any added cost to the City. This allows the development partner to make full use of every last dollar the Commission has allocated, which is of the utmost importance to these smaller developers.

INTERNAL USE ONLY: Project ID: PROJ 292 \_\_\_\_\_;

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 \$ \_\_\_\_\_

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## SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this “Second Amendment”) is made on October 12, 2023, by and between the South Bend Redevelopment Commission, the governing body of the City of South Bend Department of Redevelopment (the “Commission”), and The Nexus Center, LLC, an Indiana limited liability company, with its registered address at 21710 Ravenna Drive, South Bend, Indiana 46628 (the “Developer”) (each a “Party,” and collectively the “Parties”).

### RECITALS

A. The Commission and the Developer entered into a Development Agreement dated August 1, 2021, as amended by a First Amendment to Development Agreement dated September 8, 2022 (collectively, the “Development Agreement”), pertaining to certain local public improvements (“LPI”) to a cultural, community, and commercial center, with a focus on family health and wellness, economic development, financial literacy, education, and crime prevention in the South Side Development Area (the “Project”).

B. As set forth in the Development Agreement, the Commission agreed to expend no more than Five Hundred Twenty-Five Thousand Dollars (\$525,000.00) of tax increment finance revenues to complete the LPI in support of Developer’s Project (the “Funding Amount”).

C. As further set forth in the Development Agreement, the Parties agreed that in the event the costs associated with the LPI were 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 LPI by the Commission, or an agent of the Commission, which amounts shall be applied for such purpose.

D. The LPI for the Project not yet completed includes additional improvements to the airlock vestibule at the new handicap accessible rear entrance to the property, parking lot striping, and removal of existing large concrete debris on the property (the “Remaining LPI”).

E. The costs associated with the Remaining LPI exceed the Funding Amount by Thirty-Six Thousand Seven Hundred Five Dollars and Three Cents (\$36,705.03) (the “Overage Amount”).

F. The Developer desires to pay the Commission the Overage Amount in order that the Commission will timely complete the remaining LPI, and the Commission accordingly desires to increase the Funding Amount by the Overage Amount (the “Funding Amount Increase”).

G. In consideration of the Commission’s willingness to approve the Funding Amount Increase, and thereby permit the Remaining LPI to be implemented, the Developer agrees to pay the Funding Amount Increase in the manner set forth in this Second Amendment.

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

1. Section 1.3, Funding Amount, shall be modified to delete the phrase “Five Hundred Twenty Five Thousand Dollars (\$525,000.00)” and shall be replaced by the phrase “Five Hundred Sixty-One Thousand Seven Hundred Five Dollars and Three Cents (\$561,705.03).”

2. The Developer hereby expressly reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of completing the LPI in excess of the Funding Amount, as such amount is hereby amended. The Developer hereby acknowledges that the Developer or the Developer’s designee may inspect the LPI upon completion and hereby expressly reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of inspecting the LPI.

3. Notwithstanding any provision to the contrary, the Commission’s obligations to complete the LPI will be satisfied in full upon the completion of the work related to the Remaining LPI.

4. As an inducement for the Commission’s increase of the Funding Amount under this First Amendment and as a further assurance to the Commission pursuant to Section 9.13 of the Development Agreement, prior to the Commission’s expenditure of additional funds as contemplated herein, the Developer shall submit funds to the Commission through staff of the Department of Community Investment in the amount of Thirty-Six Thousand Seven Hundred Five Dollars and Three Cents (\$36,705.03), which funds will be applied at an appropriate time to the Remaining LPI contract(s) in accordance with the Board of Public Works’ ordinary payment practices and applicable laws.

5. The Developer hereby expressly reaffirms its obligations under the Development Agreement, and, unless expressly modified by this Second Amendment, the terms and provisions of the Development Agreement remain in full force and effect.

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

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

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

9. This Second Amendment may be executed in separate counterparts, each of which when so executed shall be an original, but all of which together shall constitute one and the same instrument. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

*Signature Page Follows*

IN WITNESS WHEREOF, the Parties hereby execute this Second Amendment to Development Agreement as of the first date stated above.

SOUTH BEND REDEVELOPMENT  
COMMISSION

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

ATTEST:

By: \_\_\_\_\_  
Vivian Sallie, Secretary

THE NEXUS CENTER, LLC

By: \_\_\_\_\_  
David R. Buggs, Sr., Manager

By: \_\_\_\_\_  
LaRissa Chism Buggs, M.D., Co-Manager