



OFFICE OF THE CITY CLERK  
BIANCA L. TIRADO, CITY CLERK

**MEMORANDUM**

**TO:** MEMBERS OF THE COMMON COUNCIL  
**FROM:** BIANCA L. TIRADO, CITY CLERK  
**DATE:** THURSDAY, JANUARY 18, 2024  
**SUBJECT:** COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **Monday, January 22, 2024:**

Council Chambers  
4<sup>th</sup> Floor County-City Building  
227 W. Jefferson Blvd.  
South Bend, IN 46601

The Council Chambers will be Open to the Public. Members of the Public May Attend this Meeting Virtually via Microsoft Teams Meeting app here: <http://tinyurl.com/012224CC>

- 4:00 P.M.**      **BOARD OF FINANCE MEETING**      **TBA**  
1. Annual Board of Finance Meeting where the South Bend Common Council convenes as a local Board of Finance to elect its officers and to review the City Controller's Annual Investment Report
- 4:30 P.M.**      **PERSONNEL & FINANCE**      **CHAIRPERSON NIEZGODSKI**  
1. **Organizational Meeting**
- 4:40 P.M.**      **COMMUNITY INVESTMENT**      **CHAIRPERSON, WARNER**  
1. **Organizational Meeting**  
2. [Bill No. 24-03](#)- Reconfirming Resolution: Real Property Tax Abatement for SBCC RE LLC and SBCC Development Corporation
- 5:00 P.M.**      **PUBLIC WORKS & PROPERTY VACATION**      **CHAIRPERSON, NIEZGODSKI**  
1. **Organizational Meeting**  
2. [Bill No. 05-24](#)- Alley/Street Vacation- 914 E. Jefferson Blvd



Council President Sharon L. McBride has called an **Informal Meeting** of the Council which will commence immediately after the adjournment of the Community Investment Committee Meeting.

**INFORMAL MEETING OF THE COMMON COUNCIL**

**PRESIDENT, S. MCBRIDE**

1. Discussion of Council Agenda
2. Update and Announcements
3. 2024 Official Common Council/City Clerk Photos
4. Adjournment

cc: Mayor James Mueller  
Committee Meeting List  
Media

**NOTICE FOR HEARING AND SIGHT IMPAIRED PERSONS**  
Auxiliary Aid or Other Services may be Available upon Request at No Charge.  
Please give Reasonable Advance Request when Possible



OFFICE OF THE CITY CLERK  
BIANCA L. TIRADO, CITY CLERK

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## MEMORANDUM

**TO:** MEMBERS OF THE COMMON COUNCIL  
**FROM:** BIANCA L. TIRADO, CITY CLERK  
**DATE:** THURSDAY, JANUARY 18, 2024  
**SUBJECT:** 2024 ANNUAL BOARD OF FINANCE MEETING NOTICE

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The annual **Board of Finance Meeting of the City of South Bend, Indiana** has been scheduled for **Monday, January 22, 2024** at **4:00 p.m.** in the Council Chambers. This is an annual meeting where the South Bend Common Council convenes as a local Board of Finance.

Council Chambers  
4<sup>th</sup> Floor County-City Building  
227 W. Jefferson Blvd.  
South Bend, IN 46601

The Council Chambers will be Open to the Public. Members of the Public May Attend this Meeting Virtually via Microsoft Teams Meeting app here: <http://tinyurl.com/012224CC>

The following agenda items have been set for the meeting:

1. **Election of Officers:** The Board must elect two (2) of its members to serve as the Board's officers, a president, and a secretary. I.C. 5-13-7-6(a)(1).
2. **Review of 2023 Investment Report:** The City's Department of Administration & Finance, along with the City's investment advisors at 1st Source Bank, have prepared the Annual Investment Report for the Year Ended December 31, 2023 (the "Investment Report") for the Board's review. I.C. 5-13-7-6(a)(2); I.C. 5-13-7-7(b)(1).
3. **Review of Investment Policy:** The City's investment policy (the "Investment Policy") documents the City's compliance with Indiana law governing the City's investment of its cash reserves. The Board is required to review the Investment Policy during this meeting. I.C. 5-13-7-7(b)(2).



cc: Mayor James Mueller  
Committee Meeting List  
Media

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## **SOUTH BEND COMMON COUNCIL**

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### **MEETING AGENDA**

Monday, January, 22, 2024

7:00 P.M.

The South Bend Common Council meeting will be open to the public at the Council Chambers on the 4th floor of the County-City Building, 227 W. Jefferson Blvd., South Bend, IN 46601 or available by way of a virtual meeting using the Microsoft Teams Meeting App. Public access to the meeting can be granted by this Microsoft Teams Link: <http://tinyurl.com/SBCC012224>

1. **INVOCATION**
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**
6. **REPORTS FROM CITY OFFICES**
7. **COMMITTEE OF THE WHOLE** **TIME: \_\_\_\_\_**  
BILL NO.

05-24 PUBLIC HEARING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:THE FIRST EAST-WEST ALLEY SOUTH OF JEFFERSON BLVD BETWEEN NOTRE DAME AVENUE AND THE NORTH-SOUTH ALLEY TO THE EAST OF NOTRE DAME AVENUE

8. **BILLS ON THIRD READING**

TIME: \_\_\_\_\_

BILL NO.

05-24 THIRD READING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:THE FIRST EAST-WEST ALLEY SOUTH OF JEFFERSON BLVD BETWEEN NOTRE DAME AVENUE AND THE NORTH-SOUTH ALLEY TO THE EAST OF NOTRE DAME AVENUE

9. **RESOLUTIONS**

BILL NO.

24-03 A RESOLUTION MODIFYING AND RECONFIRMING THE ADOPTION OF DECLARATORY RESOLUTION NO. 4827-19 DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 7102 LINCOLN WAY WEST, SOUTH BEND, IN 46628 AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A SIX-YEAR (6) REAL PROPERTY TAX ABATEMENT FOR SBCC RE LLC AND SBCC DEVELOPMENT CORP.

10. **BILLS ON FIRST READING**

BILL NO.

07-24 FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 609 LAPORTE AVENUE, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

08-24 FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 826 SOUTH BENDIX DRIVE, COUNCILMANIC DISTRICT NO. 6 IN THE CITY OF SOUTH BEND, INDIANA

09-24 FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA AUTHORIZING THE CITY OF SOUTH BEND, INDIANA TO FUND ITS TAXABLE ECONOMIC DEVELOPMENT REVENUE NOTE, SERIES 2024 (REALAMERICA PROJECT) AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO

11. **UNFINISHED BUSINESS**

12. **NEW BUSINESS**

13. **PRIVILEGE OF THE FLOOR**

14. **ADJOURNMENT**

**TIME:** \_\_\_\_\_

**Notice for Hearing and Sight Impaired Persons**  
**Auxiliary Aid Or Other Services Are Available Upon Request At No Charge.**  
**Please Give Reasonable Advance Request When Possible.**

*In the interest of providing greater public access and to promote greater transparency, the South Bend Common Council agenda has been translated into Spanish. All agendas are available online from the Council's website, and also in paper format in the Office of the City Clerk, 4<sup>th</sup> Floor County-City Building. Reasonable efforts have been taken to provide an accurate translation of the text of the agenda, however, the officiate is the English version. Any discrepancies which may be created in the translation, are not binding. Such translations do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Common Council or the City of South Bend, Indiana.*







## 2024 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-04-2024)

### COMMUNITY INVESTMENT COMMITTEE

Oversees the various activities of the Department of Community Investment. This Committee reviews all real and personal tax abatement requests and works closely with the Business Development Team.

Troy Warner, Chairperson

Rachel Tomas-Morgan, Vice-Chairperson

Ophelia Gooden-Rodgers., Member

Sherry Bolden-Simpson, Member

*Citizen Member*

*Citizen Member*

### COMMUNITY RELATIONS COMMITTEE

Oversees the various activities of the Engagement and Economic Empowerment, Neighborhood Development, and Community Resources Teams within the City's Department of CI and is charged with facilitating partnerships and ongoing communications with other public and private entities operating within the City.

Ophelia Gooden-Rodgers, Chairperson

Canneth Lee, Vice-Chairperson

*Citizen Member*

Sheila Niezgodski, Member

Sherry Bolden-Simpson, Member

### COUNCIL RULES COMMITTEE

Oversees the regulations governing the overall operation of the Common Council, as well as all matters of public trust. Its duties are set forth in detail in Section 2-10.1 of the *South Bend Municipal Code*.

Sharon L. McBride, Member

Sheila Niezgodski, Member

Troy Warner, Member

### HEALTH AND PUBLIC SAFETY COMMITTEE

Oversees the various activities performed by the Fire and Police Departments, EMS, Department of Code Enforcement, ordinance violations, and related health and public safety matters.

Rachel Tomas Morgan, Chairperson

Dr. Oliver Davis, Vice-Chairperson

Karen L. White, Member

Troy Warner, Member

*Citizen Member*

### INFORMATION AND TECHNOLOGY COMMITTEE- Innovation

Oversees the various activities of the City's Department of Innovation, which includes the Divisions of Information Technology and 311 so that the City of South Bend remains competitive and on the cutting edge of developments in this area. Reviewing and proposing upgrades to computer systems and web sites, developing availability and access to GIS data and related technologies are just some of its many activities.

Rachel Tomas Morgan, Chairperson

Sherry Bolden-Simpson, Vice-Chairperson

*Citizen Member*

Canneth Lee, Member

*Citizen Member*

### PARC COMMITTEE- Venues Parks and Arts (Parks, Recreation, Cultural Arts & Entertainment)

Oversees the various activities of the Century Center, College Football Hall of Fame, Four Winds Stadium, Morris Performing Arts Center, Studebaker National Museum, South Bend Regional Museum of Art, Potawatomi Zoo, My SB Trails, DTSB relations, and the many recreational and leisure activities offered by the Department of Venues Parks and Arts.

Canneth Lee, Chairperson

Troy Warner, Vice-Chairperson

*Citizen Member*

Dr. Oliver Davis, Member

Rachel Tomas Morgan, Member



### **PERSONNEL AND FINANCE COMMITTEE**

Oversees the activities performed by the Department of Administration and Finance, and reviews all proposed salaries, budgets, appropriations, and other fiscal matters, as well as personnel policies, health benefits and related matters.

Sheila Niezgodski, Chairperson  
Troy Warner, Vice-Chairperson  
Rachel Tomas Morgan, Member

Karen L. White, Member  
Canneth Lee, Member  
*Citizen Member*

### **PUBLIC WORKS AND PROPERTY VACATION COMMITTEE**

Oversees the various activities performed by the Building Department, the Department of Public Works and related public works and property vacation issues.

Sheila Niezgodski, Chairperson  
Karen L. White, Vice-Chairperson  
*Citizen Member*

Dr. Oliver Davis, Member  
Sherry Bolden-Simpson, Member  
*Citizen Member*

### **RESIDENTIAL NEIGHBORHOODS COMMITTEE**

Oversees the various activities and issues related to neighborhood development and enhancement.

Karen L. White, Chairperson  
Canneth Lee, Vice-Chairperson  
*Citizen Member*

Ophelia Gooden-Rodgers, Member  
Sheila Niezgodski, Member  
*Citizen Member*

### **UTILITIES COMMITTEE**

Oversees the activities of all enterprise entities including but not limited to the Bureau of Waterworks, Bureau of Sewers, and all related matters.

Sherry Bolden-Simpson, Chairperson  
Dr. Oliver Davis, Vice-Chairperson  
*Citizen Member*

Troy Warner, Member  
Ophelia Gooden-Rodgers, Member  
*Citizen Member*

### **ZONING AND ANNEXATION COMMITTEE**

Oversees the activities related to the Board of Zoning Appeals, recommendations from the Area Plan Commission and the Historic Preservation Commission, as well as all related matters addressing annexation and zoning.

Dr. Oliver Davis, Chairperson  
Ophelia Gooden Rodgers, Vice-Chairperson  
*Citizen Member*

Sheila Niezgodski, Member  
Karen L. White, Member

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### **SUB-COMMITTEE ON MINUTES**

Reviews the minutes prepared by the Office of the City Clerk of the regular, special, and informal meetings of the Common Council and makes a recommendation on their approval/modification to the Council.

Troy Warner, Member

Sherry Bolden-Simpson, Member



## 2024 COMMON COUNCIL STANDING COMMITTEES (Rev.01-04-2024)

### **CANNETH LEE, 1<sup>ST</sup> District Council Member**

#### **Chairperson, Committee of the Whole**

##### **PARC Committee, Chairperson**

Residential Neighborhoods Committee, Vice-Chairperson  
Community Relations Committee, Vice-Chairperson

Personnel & Finance Committee, Member  
Information & Technology Committee, Member

### **OPHELIA GOODEN-RODGERS, 2<sup>ND</sup> District Council Member**

##### **Community Relations Committee, Chairperson**

Zoning & Annexation Committee, Vice-Chairperson  
Community Investment Committee, Member

Utilities Committee, Member  
Residential Neighborhoods Committee, Member

### **SHARON L. MCBRIDE, 3<sup>RD</sup> District Council Member**

#### **President**

Council Rules Committee, Member

### **TROY WARNER, 4<sup>TH</sup> District Council Member**

##### **Community Investment Committee, Chairperson**

Personnel & Finance Committee, Vice-Chairperson  
PARC Committee, Vice-Chairperson  
Council Rules Committee, Member

Health & Public Safety Committee, Member  
Utilities Committee, Member  
Sub-Committee on the Minutes, Member

### **SHERRY BOLDEN-SIMPSON, 5<sup>TH</sup> District Council Member**

##### **Utilities Committee, Chairperson**

Information & Technology, Vice-Chairperson  
Public Works & Property Vacation Committee, Member  
Sub-Committee on Minutes, Member

Community Relations Committee, Member  
Community Investment Committee, Member

### **SHEILA NIEZGODSKI, 6<sup>TH</sup> District Council Member**

#### **Vice-President**

##### **Personnel & Finance Committee, Chairperson**

**Public Works & Property Vacation, Chairperson**  
Council Rules Committee, Member

Residential Neighborhoods Committee, Member  
Zoning & Annexation Committee, Member  
Community Relations Committee, Member

### **DR. OLIVER DAVIS, AT LARGE Council Member**

##### **Zoning & Annexation Committee, Chairperson**

Utilities Committee, Vice-Chairperson  
Health and Public Safety Committee, Vice-Chairperson

Public Works & Property Vacation, Member  
PARC Committee, Member

### **RACHEL TOMAS MORGAN, AT LARGE Council Member**

##### **Information & Technology Committee, Chairperson**

**Health & Public Safety Committee, Chairperson**  
Committee Investment Committee, Vice-Chairperson

PARC Committee, Member  
Personnel & Finance Committee, Member

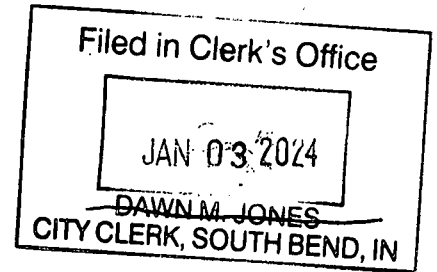
### **KAREN L. WHITE, AT LARGE Council Member**

##### **Residential Neighborhoods Committee, Chairperson**

Public Works & Property Vacation, Vice-Chairperson  
Personnel and Finance Committee, Member

Health & Public Safety Committee, Member  
Zoning & Annexation Committee, Member

South Bend Common Council  
4<sup>th</sup> Floor County City Building  
227 W. Jefferson  
South Bend, IN 46601



*Dawn Jones*

January 3, 2024

Dear Honorable Council,

Please accept this Ordinance to vacate the paper alley adjacent to my property. We have resided at 914 E. Jefferson for a little over 3 years. In that time, the alley south of our property has been overgrown grass that has never been used for access. The alley approach on Notre Dame Avenue is used as a private driveway of sorts for my neighbor, providing access to what used to be a parking lot when it was a business. The alley to the east has already been vacated. Our block is quite short, just over 400', far below the requirement for a mid-block connection. The only purpose the alley serves is access for the utility companies for the electric/phone/cable lines in the alley. The propose ordinance preserves those rights via a utility easement.

We are seeking this approval at this time because we would like to construct a small ancillary dwelling unit for our aging parents. By vacating the alley, we will be able to set the small accessory home (800 sq.ft.) at the current property line and use the vacated alley as a means of meeting our setback. With the utility easement in place, no construction will occur in the vacated alley. We investigated a development variance from the BZA, but were told by the Staff that the appropriate action was to vacate the alley. Historical aerials show that this alley has never been used. Recent changes in development (conversions from businesses to homes on this block) make access from that alley unlikely. The home at the corner of Notre Dame and Jefferson already has direct access to Notre Dame. The only other property abutting the alley, as well as our own, has access from the heavily used north-south alley.

We respectfully request approval to vacate this alley. While we prefer not to remove the approach on Notre Dame because of the frequency in which the utility companies use that access point, we understand it is a current City policy to remove the approach when the alley is vacated.

Thank you for your consideration.

Sincerely,

*Angela M. Smith*  
Angela M. Smith

1316 COUNTY-CITY BUILDING  
227 W. JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46601-1830

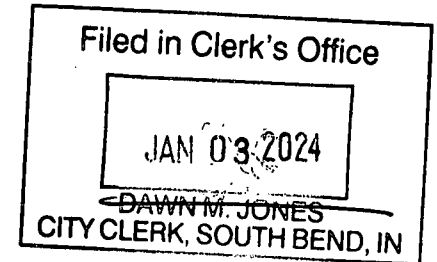


PHONE 574/235-9251  
FAX 574/235-9171

CITY OF SOUTH BEND JAMES MUELLER, MAYOR  
**BOARD OF PUBLIC WORKS**

December 19, 2023

Ms. Angela Smith  
914 E. Jefferson Blvd.  
South Bend, IN 46617  
[asmith@danchharner.com](mailto:asmith@danchharner.com)



*Bramo Justo*

RE: Alley/Street Vacation – 914 E. Jefferson Blvd. (Preliminary Review)

Dear Ms. Smith:

At its December 19, 2023 meeting, the Board of Public Works reviewed comments by the Engineering Division, Community Investment, Fire Department, Police Department. The following comments and recommendations were submitted:

Per IC 36-7-3-13, the vacation would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous. The vacation would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation would not hinder the public's access to a church, school or other public building or place. The vacation would not hinder the use of a public right of way by the neighborhood in which it is located or to which it is contiguous.

Therefore, the Board of Public Works submitted a **favorable** recommendation for the vacation of this alley vacation **contingent upon the removal of the approach**. If you still wish to pursue this alley vacation, please bring this BPW Recommendation Packet to the City Clerk's Office, located on the 4<sup>th</sup> floor of the County-City Building. Alley/Street vacations require a presentation to the Common Council, approval of an ordinance, and certification of the ordinance from the Mayor. The property must then be recorded with the Recorder's Office to ensure that your 50% ownership of the property is appropriately transferred to your name. If you have any questions about how the alley vacation will affect your property taxes, please contact the Auditor's Office.

In its Ordinance, the City of South Bend Common Council included the Board of Public Works' requirement that you **eliminate the alley approach by hiring a private contractor bonded with the City to tear out the approach, replace with curb, and establish a tree lawn in accordance with City standards and specifications**. These updates should be made within ninety (90) days of final approval from the Common Council. Please notify us when this work is complete. If you have any further questions, please call this office at (574) 235-9251.

Sincerely,

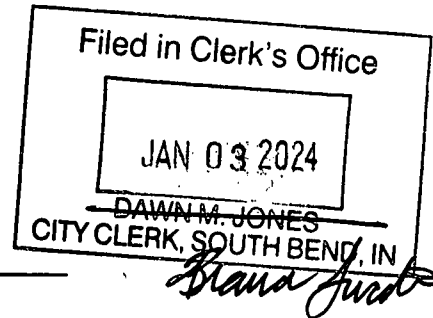
/s/ Theresa Heffner

Theresa Heffner, Clerk

Enclosures  
TH/lh

BILL NO. 05-24

ORDINANCE NO. \_\_\_\_\_



**AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:**

*The first East-West alley South of Jefferson Blvd between Notre Dame Avenue and the North-South alley to the East of Notre Dame Avenue*

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**STATEMENT OF PURPOSE AND INTENT**

To eliminate an unused alley to allow for the construction of an ancillary dwelling unit.

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Pursuant to Indiana Code Section 36-7-3-12, the Common Council is charged with the authority to hear all petitions to vacate public ways or public places within the City. The following Ordinance vacates the above-described public property.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

SECTION I. The Common Council of the City of South Bend having held a Public Hearing on the petition to vacate the following property:

*The first East-West alley South of Jefferson Blvd between Notre Dame Avenue and the North-South alley to the East of Notre Dame Avenue*

hereby determines that it is desirable to vacate said property.

SECTION II. The City of South Bend hereby reserves the rights and easements of all utilities and the Municipal City of South Bend, Indiana, to construct and maintain any facilities, including, but not limited to, the following: electric, telephone, gas, water, sewer, surface water control structures and ditches, within the vacated right-of-way, unless such rights are released by the individual utilities.

SECTION III. The following property may be injuriously or beneficially affected by such vacating:

- 018-6007-0168 – 914 E Jefferson
- 018-6007-0167 – 904 E. Jefferson
- 018-6007-0169 – V/L south of alley.

SECTION IV. The purpose of the vacation of the real property is to allow for the construction of an ancillary dwelling unit on the adjacent property.

SECTION V. The vacation is subject to the elimination of the alley approach by hiring a private contractor bonded with the City to tear out the approach, replace with curb, and establish a tree lawn in accordance with City standards and specification.

SECTION VI. This ordinance shall be in full force and effect from and after its Passage by the Common Council and approval by the Mayor.

\_\_\_\_\_  
Sharon L. McBride, Council President  
South Bend Common Council

Attest:

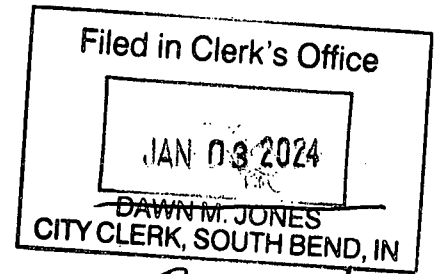
\_\_\_\_\_  
Bianca L. Tirado, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

\_\_\_\_\_  
Bianca L. Tirado, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_ o'clock \_\_\_\_ .m.

\_\_\_\_\_  
James Mueller, Mayor  
City of South Bend, Indiana



*Dawn M. Jones*

**INTEROFFICE MEMORANDUM  
BOARD OF PUBLIC WORKS**

**DATE:** November 29, 2023

**TO:** Kyle Ludlow, Public Works  
Kara Boyles, Engineering  
Zach Hurst, Engineering  
Chris Dressel, Community Investment  
Gerard Ellis, Fire Department  
Brad Rohrscheib, Police Department

**FROM:** Theresa Heffner, Clerk (theffner@southbendin.gov)

**SUBJECT:** REQUEST FOR RECOMMENDATIONS – ALLEY VACATION

**APPLICANT:** Angela Smith  
**LOCATION:** 914 E. Jefferson Blvd.

**PLEASE INSERT YOUR RECOMMENDATIONS IN THE APPROPRIATE FIELD BELOW, BASED ON THE FOLLOWING I.C. 36-7-3-13 CRITERIA:**

1. The vacation would/would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.
2. The vacation would/would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
3. The vacation would/would not hinder the public's access to a church, school or other public building or place.
4. The vacation would/would not hinder the use of a public right-of-way by the neighborhood in which it is located or to which it is contiguous.

**PUBLIC WORKS/ENGINEERING:** Favorable in conjunction with the removal of the approach.

**COMMUNITY INVESTMENT:** Favorable recommendation conditional on removal of approach.

**FIRE:** Favorable

**POLICE:** Favorable recommendation





**STREET/ALLEY VACATION APPLICATION**  
 City of South Bend – Board of Public Works  
 227 W. Jefferson Boulevard, Ste. 1316  
 South Bend, IN 46601

Filed in Clerk's Office  
 JAN 03 2024  
 DAWN M. JONES  
 CITY CLERK, SOUTH BEND, IN

*Briana Jones*

Date: November 29, 2023 Phone #: 574-876-7206  
 Name: Angela M. Smith Email: asmith@danchharner.com

Property Address: 914 E. Jefferson

Applicant property information:  Residential  Commercial  Industrial

Describe the general alley location with boundaries (Ex: Church Pl, between E. Colfax Ave & E. LaSalle Ave):  
 The first East-West alley South of Jefferson Blvd between Notre Dame Avenue and the North-South alley to the East of Notre Dame Avenue

Is your property adjacent to the alley of interest?  Yes  No  
 Do you own all adjacent properties to the alley of interest?  Yes  No  
 Does the existing alley provide garage access to other property owners?  Yes  No  
 Does the alley receive daily traffic excluding your own use?  Yes  No  
 Would the vacation hinder public access to any of the following: a church, school, or any other public building or place?  Yes  No

Reason for street/alley vacation and proposed use:  
 They alley is currently a paper alley with no regular traffic. The alley vacation would allow for a reduced setback for a proposed ancillary dwelling unit. The vacation would be subject to a 14' utility easement for AEP. We do not intend to construct anything in the vacated alley.

A map MUST be provided highlighting the area you would like to vacate with this application.

OFFICE USE ONLY:

Board Recommendation:  Yes  No

CITY OF SOUTH BEND, INDIANA  
 BOARD OF PUBLIC WORKS

*Elizabeth A. Maradik*  
 Elizabeth A. Maradik, President

*Gary A. Gilot*  
 Gary A. Gilot, Member

*Murray L. Miller*  
 Murray L. Miller, Member

*Joseph R. Molnar*  
 Joseph R. Molnar, Vice President

*Briana Micou*  
 Briana Micou, Member

*Theresa M. Heffner*  
 Attest: Theresa M. Heffner, Clerk

Date: December 19, 2023



Filed in Clerk's Office

JEFFERSON BLVD

S FRANCES ST

018-6007-0177

018-6007-0175

018-6007-0178

018-6007-0179

018-6007-0180

018-6007-0181

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S NOTRE DAME AVE

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018-6003-0064

018-6003-0063

018-6003-0068

018-6003-0069

018-6003-0070

018-6003-0074

018-6003-0073

018-6003-0075

JEFFERSON BLVD

EWAYNE ST

0055

005701

005701

Name	Mailing Address	Proper Address
DMS Living Trust – Donald William Shank Jr.	1224 Stanford Ave. Fullerton, CA 92831	227 S. Notre Dame Ave. South Bend, IN 46617
Jeffrey & Julia Wickes	223 S. Notre Dame Ave. South Bend, IN 46617	223 S. Notre Dame Ave. South Bend, IN 46617
Kevin Bradley	108 E. Jefferson St. Falls Church, VA 22046	219 S. Notre Dame Ave. South Bend, IN 46617
Edward & Tara Smalstig	500 S. Turnberry Ln. Yorktown, IN 47396	215 S. Notre Dame Ave. South Bend, IN 46617
East Race Villas, LLC.	127 N. Michigan St. South Bend, IN 46601	828 E. Jefferson Blvd. South Bend, IN 46617 & 824 E. Jefferson Blvd. South Bend, IN 46617
James Tamke	922 E. Jefferson Blvd. South Bend, IN 46617	922 E. Jefferson Blvd. South Bend, IN 46617
South Bend RE Holdings, LLC	250 School Ln. Springfield, PA 19064	926 E. Jefferson Blvd. South Bend, IN 46617 & 215 N. Frances St. South Bend, IN 46617
DMTM INC.	401 E. Colfax Ave. South Bend, IN 46617	222 Notre Dame Ave. South Bend, IN 46617
Morgan Caurro	212 S. Notre Dame Ave. South Bend, IN 46617	224 S. Notre Dame Ave. South Bend, IN 46617
Dorothy Macri's REV. Trust	3622 Sullivan Ct. South Bend, IN 46614	917 E. Wayne St. South Bend, IN 46617 & 215 S. Frances St. South Bend, IN 46617 & 217 S. Frances St. South Bend, IN 46617 & 227 S. Frances St. South Bend, IN 46617 & 229 S. Frances St. South Bend, IN 46617
Adam & Patricia Toering	236 S. Notre Dame Ave. South Bend, IN 46617	230 S. Notre Dame Ave. South Bend, IN 46617 & 236 S. Notre Dame Ave.

Filed in Clerk's Office  
 JAN 03 2024  
 DAWN M. JONES  
 CITY CLERK, SOUTH BEND, IN  
*Dawn Jones*

		South Bend, IN 46617
Brian & Jennifer Harbison	228 S. Notre Dame Ave. South Bend, IN 46617	228 S. Notre Dame Ave. South Bend, IN 46617
Janak Kanti & Rekha Patel	904 E. Jefferson Blvd. South Bend, IN 46617	904 E. Jefferson Blvd. South Bend, IN 46617
Timothy Smith & Angela Furore-Smith	914 E. Jefferson Blvd. South Bend, IN 46617	914 E. Jefferson Blvd. South Bend, IN 46617
Jeffrey Keller	918 E. Jefferson Blvd. South Bend, IN 46617	918 E. Jefferson Blvd. South Bend, IN 46617
Burton Cebulski Jr.	812 Rush Ave. Lehigh Acres, FL 33972	235 S. Frances St. South Bend, IN 46617

Filed in Clerk's Office  
 JAN 03 2024  
 DAWN M. JONES  
 CITY CLERK, SOUTH BEND, IN

*Brian & Jennifer*





CITY OF SOUTH BEND  
COMMUNITY INVESTMENT

JAN 17 2024

DAWN M. JONES  
CITY CLERK, SOUTH BEND, IN

January 17, 2024

Council Member Troy Warner  
Chairperson, Community Investment Committee  
South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, Indiana 46601

RE: **Reconfirming Resolution:** Real Property Tax Abatement for **SBCC RE LLC and SBCC Development Corp.**

Dear Council Member Warner,

Please find enclosed a resolution reconfirming a tax abatement for SBCC RE LLC and SBCC Development Corp., collectively, the owner of parcels for the facility and offices of the South Bend Chocolate Company and of the Indiana Dinosaur Museum.

On December 9, 2019, the Common Council of South Bend approved Confirming Resolution 4828-19, which confirmed Declaratory Resolution 4827-19 and established a six-year (6) real property tax abatement for the project.

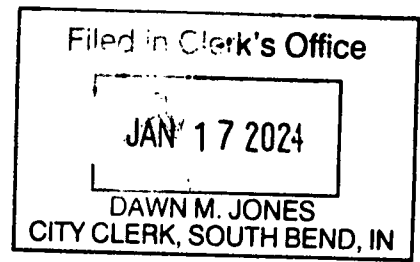
The Reconfirming Resolution serves two primary purposes: (1) reconfirms Declaratory Resolution 4827-19 for the parcels on which the project is being built and (2) extends the designation period of the 2019 abatement. The project could not be completed by the end of the original designation period because of the global pandemic, among other issues.

A representative from South Bend Chocolate Company will be available to meet with the Committee on Monday, January 22, 2024.

If you or any of the other Council members have questions concerning the report or need additional information, please feel free to call me at (574) 235-5838.

Sincerely,

Erik Glavich  
Director, Growth and Opportunity



**BILL NO. 24-03**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION MODIFYING AND RECONFIRMING THE ADOPTION OF DECLARATORY RESOLUTION NO. 4827-19 DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS**

**7102 Lincoln Way West, South Bend, IN 46628**

**AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A SIX-YEAR (6) REAL PROPERTY TAX ABATEMENT FOR**

**SBCC RE LLC and SBCC Development Corp.**

---

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

WHEREAS, Declaratory Resolution No. 4827-19 designated the areas described as:

*PART OF THE SOUTH HALF OF SECTION 30 AND PART OF THE NORTH HALF OF SECTION 31, ALL IN TOWNSHIP 38 NORTH RANGE 2 EAST GERMAN TOWNSHIP CITY OF SOUTH BEND, ST JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE NORTH 0 DEGREES 06 MINUTES 42 SECONDS EAST ALONG THE WEST LINE OF THE SAID EAST HALF A DISTANCE OF 119.58 FEET TO THE SOUTH RIGHT OF WAY LINE OF US HIGHWAY 20 AND BEING THE POINT OF BEGINNING; THENCE ALONG THE SOUTHERLY RIGHT OF WAY LINE OF US HIGHWAY 20 THE FOLLOWING FOUR COURSES: SOUTH 61 DEGREES 09 MINUTES 12 SECONDS EAST A DISTANCE OF 119.03 FEET, SOUTH 60 DEGREES 59 MINUTES 44 SECONDS EAST A DISTANCE OF 20.03 FEET, NORTH 30 DEGREES 44 MINUTES 00 SECONDS EAST A DISTANCE OF 60.00 FEET, THENCE SOUTH 54 DEGREES 57 MINUTES 57 SECONDS EAST A DISTANCE OF 639.40 FEET; THENCE SOUTH 58 DEGREES 07 MINUTES 33 SECONDS WEST A DISTANCE OF 79.21 FEET; THENCE SOUTH 66 DEGREES 37 MINUTES 15 SECONDS WEST A DISTANCE OF 660.43 FEET; THENCE SOUTH 01 DEGREES 15 MINUTES 45 SECONDS EAST A DISTANCE OF 372.18 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 45 SECONDS WEST DISTANCE OF 561.08 FEET TO THE*



*EAST LINE OF LAND CONVEYED TO THOMAS H. KOSEL AND ROSEMARY J. BELL, CO-TRUSTEES OF THE BELL-KOSEL FAMILY 2016 REVOCABLE TRUST, AS DESCRIBED IN INSTRUMENT NUMBER 1622300, ST. JOSEPH COUNTY RECORDER; THENCE NORTH 00 DEGREES 51 MINUTES 53 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 205.82 FEET; THENCE CONTINUING ALONG SAID EAST LINE NORTH 00 DEGREES 06 MINUTES 26 SECONDS WEST A DISTANCE OF 387.77 FEET TO THE SOUTHWEST CORNER OF LOT 2, AS SAID LOT IS KNOWN AND DESIGNATED ON THE PLAT OF KELLER AND HALL MINOR SUBDIVISION, INSTRUMENT NUMBER 9950876, ST. JOSEPH COUNTY RECORDER; THENCE SOUTH 89 DEGREES 33 MINUTES 41 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 2 A DISTANCE OF 249.58 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH 00 DEGREES 05 MINUTES 12 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 311.58 FEET; THENCE SOUTH 75 DEGREES 42 MINUTES 37 SECONDS EAST A DISTANCE OF 229.82 FEET; THENCE NORTH 13 DEGREES 51 MINUTES 50 SECONDS EAST A DISTANCE OF 225.00 FEET TO SAID SOUTH RIGHT OF WAY OF US HIGHWAY 20; THENCE SOUTH 61 DEGREES 04 MINUTES 30 SECONDS EAST ALONG SAID SOUTH RIGHT OF WAY A DISTANCE OF 24.33 FEET TO THE POINT*

as an Economic Revitalization Area under the provisions of Indiana Code 6-1.1-12.1 et seq., and South Bend Municipal Code Sections 2-76 et seq.; and

WHEREAS, upon proper notice, a public hearing was held, after which the Common Council adopted Confirming Resolution No. 4828-19 on December 9, 2019, confirming the adoption of Declaratory Resolution No. 4827-19; and

WHEREAS, SB QALICB Building LLC, an Indiana Limited Liability Company, was granted a three-year (3) designation period in Confirming Resolution No. 4828-19, which expired on November 25, 2022; and

WHEREAS, the area designated as an Economic Revitalization Area by Declaratory Resolution No. 4827-19 was subdivided after the adoption of Declaratory Resolution No. 4827-19 and Confirming Resolution No. 4828-19 and is comprised of parcels now identified by Key Numbers 71-03-30-400-014.000-009, 71-03-30-400-017.000-009, 71-03-30-400-018.000-009, 71-03-30-400-019.000-009, 71-03-30-400-020.000-009, 71-03-30-400-021.000-009, and 71-03-30-400-022.000-009; and

WHEREAS, SBCC RE LLC, an Indiana Limited Liability Company, owns parcel identified by Key Number 71-03-30-400-018.000-009 and which was included as part of the area designated as an Economic Revitalization Area through adoption of Declaratory Resolution No. 4827-19; and

WHEREAS, SBCC Development Corp., an Indiana Limited Liability Company, owns parcels identified by Key Numbers 71-03-30-400-014.000-009, 71-03-30-400-017.000-009, 71-03-30-400-019.000-009, 71-03-30-400-020.000-009, 71-03-30-400-021.000-009, and 71-03-30-400-022.000-009, and each of which was included as part of the area designated as an Economic Revitalization Area through adoption of Declaratory Resolution No. 4827-19; and

WHEREAS, SB QALICB Building LLC, SBCC RE LLC, and SBCC Development Corp. are common entities with common ownership; and

WHEREAS, the parcels owned by SBCC RE LLC, and SBCC Development Corp. collectively are the site of the new headquarters and manufacturing facility for the entity commonly known as the South Bend Chocolate Company; and

WHEREAS, the parcels owned by SBCC RE LLC, and SBCC Development Corp. collectively are also the site of the new Indiana Dinosaur Museum; and

WHEREAS, construction on the new headquarters and manufacturing facility for the South Bend Chocolate Company and on the Indiana Dinosaur Museum was delayed by the global pandemic and other issues outside of the control of SB QALICB Building LLC, SBCC RE LLC, and SBCC Development Corp.; and

WHEREAS, completion of the project by end of the original designation period was not possible; and

WHEREAS, the project will be completed in 2024; and

WHEREAS, SBCC RE LLC and SBCC Development Corp., collectively, have requested to extend the designation period confirmed by Confirming Resolution No. 4828-19; and

WHEREAS, the Common Council desires to reconfirm the designation of certain areas designated by Declaratory Resolution No. 4827-19 and confirmed by Confirming Resolution No. 4828-19 as an Economic Revitalization Area for purposes of a six-year (6) real property tax abatement; and

WHEREAS, the Common Council desires to extend the designation period confirmed by Confirming Resolution No. 4828-19; and

WHEREAS, the Common Council desires to transfer the abatement approval from SB QALICB Building LLC to SBCC RE LLC, and SBCC Development Corp.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of South Bend, Indiana, as follows:

SECTION I. The area designated as an Economic Revitalization Area by Resolution No. 4827-19 as adopted on November 25, 2019, and confirmed by Resolution No. 4828-19 as adopted on December 9, 2019, is deleted and in its place is inserted the area described as:

*Key Number:* 71-03-30-400-014.000-009  
*Commonly Known As:* 7002 Lincoln Way West  
*Legal Description:* Lot 4 South Bend Chocolate Company Minor 24/25  
NP #489 2/21/2023

*Key Number:* 71-03-30-400-017.000-009  
*Commonly Known As:* 7016 Lincoln Way West

*Legal Description:* Lot 2 South Bend Chocolate Company Minor 24/25  
NP #489 2/21/2023

*Key Number:* 71-03-30-400-018.000-009  
*Commonly Known As:* 7102 Lincoln Way West  
*Legal Description:* Lot 1 South Bend Chocolate Company Minor 24/25  
NP #489 2/21/2023

*Key Number:* 71-03-30-400-019.000-009  
*Commonly Known As:* 6912 Lincoln Way West  
*Legal Description:* Lot 5 South Bend Chocolate Company Minor 24/25  
NP #489 2/21/2023

*Key Number:* 71-03-30-400-020.000-009  
*Commonly Known As:* 2010 Pine Road  
*Legal Description:* Lot 6 South Bend Chocolate Company Minor 24/25  
NP #489 2/21/2023

*Key Number:* 71-03-30-400-021.000-009  
*Commonly Known As:* 1904 Pine Road  
*Legal Description:* Lot 7 South Bend Chocolate Company Minor 24/25  
NP #489 2/21/2023

*Key Number:* 71-03-30-400-022.000-009  
*Commonly Known As:* 7152 Lincoln Way West  
*Legal Description:* Lot 3 South Bend Chocolate Company Minor 24/25  
NP #489 2/21/2023

**SECTION II.** The Common Council hereby reconfirms Declaratory Resolution No. 4827-19 as amended by Section I of this Resolution and Confirming Resolution No. 4828-19 as amended by Section I of this Resolution for purposes of a six-year (6) real property tax abatement.

**SECTION III.** The designation as an Economic Revitalization Area for purposes of a six-year (6) real property tax abatement expires on December 31, 2024.

**SECTION IV.** The Common Council hereby determines that SBCC RE LLC and SBCC Development Corp., collectively, is qualified and is granted property tax deduction for a period of six (6) years as shown in Section VI of Declaratory Resolution No. 4827-19 and further determines that the petition, the Statement of Benefits, and the Memorandum of Agreement between SB QALICB Building LLC and the City of South Bend associated with Declaratory Resolution No. 4827-19 as adopted on November 25, 2019, and Confirming Resolution No. 4828-19 as adopted on December 9, 2019, comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

**SECTION V.** This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

\_\_\_\_\_  
Sharon McBride, Council President  
South Bend Common Council

Attest:

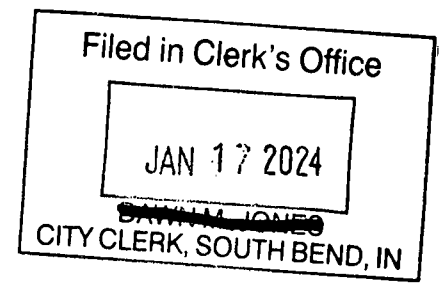
\_\_\_\_\_  
Bianca Tirado, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_\_ o'clock \_\_\_\_\_.p.m.

\_\_\_\_\_  
Bianca Tirado, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_ o'clock \_\_\_\_\_.p.m.

\_\_\_\_\_  
James Mueller, Mayor  
City of South Bend



**MEMORANDUM OF AGREEMENT**  
(REAL PROPERTY TAX ABATEMENT)

This Memorandum of Agreement (Agreement) dated as of January 17, 2024, serves as confirmation of a commitment by **SBCC RE LLC, SBCC Development Corp., SB QALIC Building, LLC, and Indiana Dinosaur Museum Inc.** (collectively, the “Applicant”), pending a January 22, 2024, public hearing, to comply with the project description, job creation and retention (and associated wage rates and salaries) figures contained in its petition, Statement of Benefits, and attachments and this Agreement.

1. Property Associated with the Abatement and Responsibilities of the Applicant. At the time of this Agreement, the property is located at 7102 Lincoln Way West, South Bend, IN 46628, and adjacent areas and has Key Numbers 71-03-30-400-014.000-009, 71-03-30-400-017.000-009, 71-03-30-400-018.000-009, 71-03-30-400-019.000-009, 71-03-30-400-020.000-009, 71-03-30-400-021.000-009, and 71-03-30-400-022.000-009. Throughout the duration of the abatement, the Applicant shall promptly report any changes in the address or Key Number of the property receiving the abatement to the Department of Community Investment and to the Office of the City Clerk. Moreover, the Applicant also shall report any material changes or improvements made to the property subject to the abatement including changes as the result of subdividing, replatting, or otherwise. The Applicant agrees that failure to promptly report changes can result in a finding of noncompliance on behalf of the Applicant under the commitments of this Agreement.

2. Commitments of City and Applicant. Subject to the adoption of a resolution amending and reconfirming Declaratory Resolution No. 4827-19 and Confirming Resolution No. 4828-19 by the South Bend Common Council (the “SBCC”), the City of South Bend, Indiana, (the “City”) commits to provide a **six-year (6) real property tax abatement** for the Applicant, based on the Applicant’s commitment set forth in its Application. The Applicant commits to the following (the “Commitments”):

(a) making total combined real property expenditures of no less than Six Million Three Hundred Thousand dollars (\$6,300,000.00) for (i) the construction of a new production and office building for the South Bend Chocolate Company and (ii) the construction of the Indiana Dinosaur Museum at property identified in Section 1 of this Agreement;

(b) retaining fifty-four (54) permanent full-time jobs with an total estimated annual payroll of One Million Nine Hundred Ninety Four Thousand Eight Hundred dollars (\$1,994,800.00)

(c) creating at least seventy (70) new full-time jobs with a total estimated annual payroll of One Million Six Hundred Seventy Four Thousand Four Hundred dollars (\$1,674,400.00) within five years of the tax abatement; and

(d) acting in good faith to complete the project as described in its Application.

3. Applicant's Compliance with City and State Laws. During the term of the abatement, the Applicant shall comply with Chapter 2, Article 6, of the South Bend Municipal Code, entitled "Tax Abatement Procedures," and all governing provisions of the Indiana Code. During the term of this abatement, the City may annually request information from the Applicant concerning the nature of the Project, the approved capital expenditure of the Project, the number of full-time permanent positions newly created by the Project, and the average wage rates and salaries (excluding benefits & overtime) associated with the positions, and the Applicant shall provide the City with adequate written evidence thereof within fifteen (15) days of such request (the "Annual Survey"). The City shall utilize this information and the information required to be filed by the Applicant in the CF-1 Compliance with the Statement of Benefits form to verify that the Applicant has at all times complied with the Commitments after the Commitment Date and during the duration of the abatement and for no other purpose. The Applicant further agrees to provide the City with such additional information as requested by the City to determine Applicant's compliance with the Commitments and with local and state requirements within twenty (20) days following any such request. Notwithstanding anything herein to the contrary, the Applicant acknowledges that the City may be required to disclose certain documents provided by the Applicant as required by a court order or applicable law.

4. Substantial Compliance and Rights of Termination. The City, by and through the SBCC, reserves the right to terminate the Economic Revitalization Area designation and associated property tax abatement deductions if it reasonably determines that the Applicant has not made reasonable efforts to substantially comply with all the Commitments, as defined in Section 2 of this Agreement, and the Applicant's failure to substantially comply with the Commitments was not due to factors beyond its reasonable control, as described in Section 5 below.

5. Factors Beyond Control. As used in this Agreement, factors beyond the control of the Applicant shall only include factors not reasonably foreseeable at the time of designation application and submission of Statement of Benefits which are not caused by any act or omission of the Applicant, and which materially and adversely affect the ability of the Applicant to substantially comply with this Agreement. Applicant has the burden to communicate to the City any such factors in which it believes is beyond its control and impacting its ability to fulfill the terms of this Agreement or any tax abatement benefit provided to the City. The City reserves the right to investigate the factors cited by Applicant under this Section 5 to the fullest extent possible and may deny Applicant's request upon the completion of the City's investigation.

6. Repayment of Tax Abatement Savings. If at any time during the term of this Agreement the Applicant shall: (a) be delinquent or in default with respect to any tax payment in St. Joseph County, Indiana; or (b) cease operations at the facility for which the tax abatement was granted; or (c) announce the cessation of operations at such facility, then the City may immediately terminate the Economic Revitalization Area designation and associated tax abatement deductions, and upon such termination, require Applicant to repay all of the tax abatement savings received through the date of such termination.

7. Notice/Hearing of Termination. In the event that the City determines that the Economic Revitalization Area designation and associated tax abatement deductions should be terminated or that all or a portion of the tax abatement savings should be repaid, it will give the Applicant notice of such determination, including a written statement calculating the amount due from the Applicant, and will

provide the Applicant with an opportunity to meet with the City's designated representatives to show cause why the abatement should not be terminated and/or the tax savings repaid. Such notice shall state the names of the person with whom the Applicant may meet and will provide that the Applicant shall have thirty (30) days from the date of such notice to arrange such meeting and to provide its evidence concerning why the abatement termination and/or tax savings repayment should not occur. If, after giving such notice and receiving such evidence, if any, the City determines that the abatement termination and/or the tax repayment action is proper, the Applicant shall be provided with written notice and a hearing before the SBCC before any final action shall be taken terminating the abatement and/or requiring repayment of tax benefits. The Applicant shall be entitled to appeal that determination to a St. Joseph County Superior or Circuit Court.

8. Repayment. In the event the City requires repayment of the tax abatement savings as provided hereunder, it shall provide Applicant with a written statement calculating the amount due (the "Statement"), and Applicant shall make such repayment to the City within one hundred twenty (120) days of the date of the Statement. If the Applicant does not make timely repayment, the City shall be entitled to all reasonable costs and attorneys' fees incurred in the enforcement of this Agreement and the collection of the tax abatement savings required to be repaid hereunder.

9. Voidance of Previous Agreement. This Agreement supersedes the Memorandum of Agreement dated December 2, 2019, as agreed to by SB QALIC Building, LLC, and the City.

10. Modification/Entire Agreement. This Agreement and the schedules attached hereto as Exhibit A contain the entire understanding between the City and the Applicant with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements, and conditions, expressed or implied, oral, or written, except as herein contained. This Agreement may not be modified or amended other than by an agreement in writing signed by the City and the Applicant. The Applicant understands that any and all filings required to be made or actions required to be taken to initiate or maintain the abatement are solely the responsibility of the Applicant.

11. Waivers. Neither the failure nor any delay on the part of the City 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 other right, remedy, power, or privilege with respect to any occurrence or be construed as a waiver of 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.

12. Governing Laws of Indiana. This Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by the laws and decisions of the courts of the State of Indiana.

13. Applicant's Consent to Jurisdiction. The Applicant hereby irrevocably consents to the jurisdiction of the Courts of the State of Indiana and of the St. Joseph County Circuit or Superior Court in connection with any action or proceeding arising out of or relating to this Agreement or any documents or instrument delivered with respect to any of the obligations hereunder, and any action related to this Agreement shall be brought in such County and in such Court.

14. Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been received when delivered by hand or by facsimile (with confirmation by registered or certified mail) or on the third business day following the mailing, by registered or certified mail, postage prepaid, return receipt requested, thereof, addressed as set forth below:

If to Applicant:	SBCC Development Corp. 7102 Lincoln Way West South Bend, IN 46628  Attn: Mark Tarnar
If to the City:	City of South Bend, Indiana 227 W. Jefferson Boulevard, Suite 1400S South Bend, Indiana 46601  Attn: Executive Director of Community Investment

15. Assignment and Transfer Prohibited. This Agreement shall be binding upon and inure to the benefit of the City and the Applicant and their successors and assigns, except (a) that no party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other party hereto, in which consent shall not be unreasonably withheld, and (b) Applicant may assign and transfer its rights under this Agreement to the Permitted Assign without prior written consent. "Permitted Assign" means the affiliated single purpose entity created for purposes of designing, constructing, owning, operating, and maintaining the project which is the subject of this Agreement.

16. Valid and Binding Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. By executing this Agreement, each person so executing affirms that he has been duly authorized to execute this Agreement on behalf of such party and that this Agreement constitutes a valid and binding obligation of the party.



17. Severability. The provisions of this Agreement and of each section or other subdivision herein are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part unless this Agreement is rendered totally unenforceable thereby.



18. No Personal Liability. No official, director, officer, employee, or agent of the City shall be charged personally by the Applicant, its employees, or its agents with any liabilities or expenses of defense or be held personally liable to the Applicant under any term or provision of this Agreement or because of the execution by such party of this Agreement or because of any default by such party hereunder.

**[Remainder of page intentionally blank.]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

<p><b>"Applicant"</b></p> <p>SBCC RE LLC SBCC Development Corp. SB QALIC Building, LLC Indiana Dinosaur Museum Inc.</p> <p>By: <u></u></p> <p>Mark Turner President The South Bend Chocolate Company, Inc., a duly authorized member of SBCC RE LLC, SBCC Development Corp., SB QALIC Building, LLC, and Indiana Dinosaur Museum Inc.</p> <p>Approved as to Legal Adequacy and Form this _____ day of _____, 2023.</p> <p>Counsel, South Bend Common Council</p> <hr/> <p>Counsel for Applicant</p>	<p><b>"City"</b></p> <p>City of South Bend, Indiana</p> <p>By: _____</p> <p>Sharon McBride President, South Bend Common Council</p> <p>By: _____</p> <p>Troy Warner Chairperson, Community Investment Committee</p> <p><u></u></p> <p>By: _____</p> <p>Erik Glavich Department of Community Investment</p> <p>By: _____</p> <p>James Mueller Mayor</p>
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**EXHIBIT A**

**Abatement Schedule**

Subject to the adoption by the SBCC of a resolution reconfirming the adoption of Declaratory Resolution No. 4827-19, the property owner is qualified for and is granted a real property tax abatement for a period of six (6) years as shown by the schedule outlined below.

Year 1 - 100%  
Year 2 - 100%  
Year 3 - 100%  
Year 4 - 95%  
Year 5 - 95%  
Year 6 - 90%

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# RESOLUTION

No. 4827-19

Passed by the Common Council of the City of South Bend, Indiana \_\_\_\_\_

\_\_\_\_\_  
November 25, 20 19

Attest: David M. Jones \_\_\_\_\_ City Clerk

Karen L. White

Attest: \_\_\_\_\_ President of Common Council

Presented by me to the Mayor of the City of South Bend, Indiana \_\_\_\_\_

\_\_\_\_\_  
November 25, 19  
20 \_\_\_\_\_

David M. Jones

\_\_\_\_\_  
City Clerk

Approved and signed by me November 25 20 19

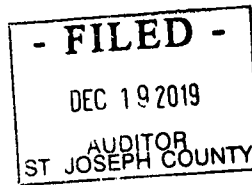
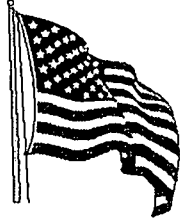
[Signature]

\_\_\_\_\_  
Mayor

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# United States of America



## Certificate

**STATE OF INDIANA, COUNTY OF ST. JOSEPH, ss:**

I, \_\_\_\_\_, Clerk of the City of South Bend, County of St. Joseph, Indiana, hereby certify that the attached and foregoing is a full, true, and correct copy of

**RESOLUTION 4827-19**

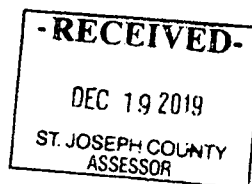
**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 24762 US HIGHWAY 20, SOUTH BEND, IN 46628 AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A SIX (6) YEAR REAL PROPERTY TAX ABATEMENT FOR SB QALICB BUILDING, LLC**

**ADOPTED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, NOVEMBER 25, 2019.**

**PRESENTED TO, APPROVED AND SIGNED BY MAYOR PETE BUTTIGIEG, NOVEMBER 25, 2019.**

**ATTEST: TIM SCOTT, PRESIDENT OF THE COMMON COUNCIL**

**ATTEST: DAWN M. JONES, CITY CLERK**



the original of which is now on file in the office of the Clerk of the City of South Bend, St. Joseph County, Indiana.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the City of South Bend, St. Joseph County, Indiana, this 18<sup>th</sup> day of December 20 19

Clerk of the City of South Bend  
St. Joseph County, Indiana

By:   
Deputy

**BILL NO. 19-74**

**RESOLUTION NO. 4827-19**

A RESOLUTION OF THE COMMON COUNCIL OF THE  
CITY OF SOUTH BEND DESIGNATING CERTAIN AREAS WITHIN  
THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS

**24762 US Highway 20, South Bend, IN 46628**

AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A SIX (6)  
YEAR REAL PROPERTY TAX ABATEMENT FOR

**SB QALICB Building, LLC**

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WHEREAS, a petition for real property tax abatement has been filed with the City Clerk for consideration by the Common Council of the City of South Bend, Indiana requesting that the area located at 24762 US Highway 20, South Bend, Indiana which is more particularly described as:

*PART OF THE SOUTH HALF OF SECTION 30 AND PART OF THE NORTH HALF OF SECTION 31, ALL IN TOWNSHIP 38 NORTH RANGE 2 EAST GERMAN TOWNSHIP CITY OF SOUTH BEND, ST JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE NORTH 0 DEGREES 06 MINUTES 42 SECONDS EAST ALONG THE WEST LINE OF THE SAID EAST HALF A DISTANCE OF 119.58 FEET TO THE SOUTH RIGHT OF WAY LINE OF US HIGHWAY 20 AND BEING THE POINT OF BEGINNING; THENCE ALONG THE SOUTHERLY RIGHT OF WAY LINE OF US HIGHWAY 20 THE FOLLOWING FOUR COURSES: SOUTH 61 DEGREES 09 MINUTES 12 SECONDS EAST A DISTANCE OF 119.03 FEET, SOUTH 60 DEGREES 59 MINUTES 44 SECONDS EAST A DISTANCE OF 20.03 FEET, NORTH 30 DEGREES 44 MINUTES 00 SECONDS EAST A DISTANCE OF 60.00 FEET, THENCE SOUTH 54 DEGREES 57 MINUTES 57 SECONDS EAST A DISTANCE OF 639.40 FEET; THENCE SOUTH 58 DEGREES 07 MINUTES 33 SECONDS WEST A DISTANCE OF 79.21 FEET; THENCE SOUTH 66 DEGREES 37 MINUTES 15 SECONDS WEST A DISTANCE OF 660.43 FEET; THENCE SOUTH 01 DEGREES 15 MINUTES 45 SECONDS EAST A DISTANCE OF 372.18 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 45 SECONDS WEST DISTANCE OF 561.08 FEET TO THE EAST LINE OF LAND CONVEYED TO THOMAS H. KOSEL AND ROSEMARY J. BELL, CO-TRUSTEES OF THE BELL-KOSEL FAMILY 2016 REVOCABLE TRUST, AS DESCRIBED IN INSTRUMENT NUMBER 1622300, ST. JOSEPH COUNTY RECORDER; THENCE NORTH 00 DEGREES 51 MINUTES 53 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 205.82 FEET; THENCE CONTINUING ALONG SAID EAST LINE NORTH 00 DEGREES 06 MINUTES 26 SECONDS WEST A DISTANCE OF 387.77 FEET TO THE SOUTHWEST CORNER OF LOT 2, AS SAID LOT IS KNOWN AND DESIGNATED ON THE PLAT OF KELLER AND HALL MINOR SUBDIVISION, INSTRUMENT NUMBER 9950876, ST. JOSEPH COUNTY RECORDER; THENCE SOUTH 89 DEGREES 33 MINUTES 41 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 2 A DISTANCE OF 249.58 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH 00 DEGREES 05 MINUTES 12 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 311.58 FEET; THENCE SOUTH 75 DEGREES 42 MINUTES 37 SECONDS EAST A DISTANCE OF 229.82 FEET; THENCE NORTH 13 DEGREES 51 MINUTES 50 SECONDS EAST A DISTANCE OF 225.00 FEET TO SAID SOUTH RIGHT OF WAY OF US HIGHWAY 20; THENCE SOUTH 61 DEGREES 04 MINUTES 30 SECONDS EAST ALONG SAID SOUTH RIGHT OF WAY A DISTANCE OF 24.33 FEET TO THE POINT*

and which will have Key Number when the parcel is recorded be designated as an Economic Revitalization Area under the provisions of Indiana Code § 6-1.1-12.1 et seq., and South Bend Municipal Code Sections 2-76 et seq., and;

WHEREAS, petitioner has agreed to and has accepted responsibility to report any changes in the final legal description and to report the final, appropriate Key Number to the Department of Community Investment and to the Office of the City Clerk; and

WHEREAS, the Department of Community Investment has concluded an investigation and

prepared a report with information sufficient for the Common Council to determine that the area qualifies as an Economic Revitalization Area under Indiana Code § 6-1.1-12.1, et seq., and South Bend Municipal Code Sections 2-76, et seq., and has further prepared maps and plats showing the boundaries and such other information regarding the area in question as required by law; and

WHEREAS, the Community Investment Committee of the Common Council has reviewed said report and recommended to the Common Council that the area qualifies as an Economic Revitalization Area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of South Bend, Indiana, as follows:

SECTION I. The Common Council hereby determines and finds that the Petition for Real Property Tax Abatement and the Statement of Benefits form completed by the Petitioner meet the requirements of Indiana Code § 6-1.1-12.1 et seq., for tax abatement.

SECTION II. The Common Council hereby determines and finds the following:

A. That the description of the proposed redevelopment or rehabilitation meets the applicable standards for such development;

B. That the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of this nature;

C. That the estimate of the number of individuals who will be employed or whose employment will be retained by the Petitioner can reasonably be expected to result from the proposed described redevelopment or rehabilitation;

D. That the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained by the Petitioner can be reasonably expected to result from the proposed redevelopment or rehabilitation;

E. That the other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation; and

F. That the totality of benefits is sufficient to justify the requested deduction, all of which satisfy the requirements of Indiana Code § 6-1.1-12.1-3.

SECTION III. The Common Council hereby determines and finds that the proposed described redevelopment or rehabilitation can be reasonably expected to yield benefits identified in the Statement of Benefits, Sections 1 through 3 of the Petition for Real Property Tax Abatement Consideration and the Memorandum of Agreement between the Petitioner and the City of South Bend, and that the Statement of Benefits form completed by the petitioner, said form being prescribed by the State Board of Accounts, are sufficient to justify the deduction granted under Indiana Code § 6-1.1-12.1-3.

SECTION IV. The Common Council hereby accepts the report and recommendation of the Community Investment Committee that the area herein described be designated as an Economic Revitalization Area and hereby adopts a Resolution designating this area as an Economic Revitalization Area for purposes of real property tax abatement.

SECTION V. The designation as an Economic Revitalization Area shall be limited to three (3) calendar years from the date of the adoption of this Resolution by the Common Council.

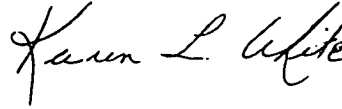
SECTION VI. The Common Council hereby determines that the property owner is qualified for and is granted property tax deduction for a period of six (6) years as shown by the schedule outlined below as well as the attachment pursuant to Indiana Code 6-1.1-12.1-17.

Year 1 - 100%  
Year 2 - 100%  
Year 3 - 100%  
Year 4 - 95%

Year 5 - 95%  
Year 6 - 90%

SECTION VII. The Common Council directs the City Clerk to cause notice of the adoption of this Declaratory Resolution for Real Property Tax Abatement to be published pursuant to Indiana Code § 5-3-1 and Indiana Code § 6-1.1-12.1-2.5, said publication providing notice of the public hearing before the Common Council on the proposed confirming of said declaration.

SECTION VIII. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.



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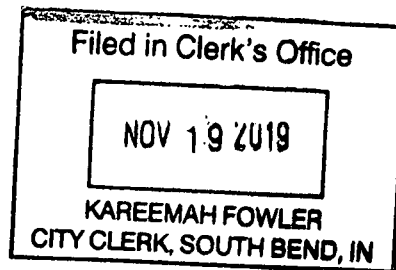
Tim Scott, Council President  
South Bend Common Council

PRESENTED 11/25/19

NOT APPROVED

ADOPTED 7/8





**CITY OF SOUTH BEND**  
**COMMUNITY INVESTMENT**  
**JITIN KAIN, INTERIM DIRECTOR**

Council Member Gavin Ferlic, Chairperson  
Community Investment Committee  
South Bend Common Council  
4th Floor, County City Building  
South Bend, IN 46601

November 18, 2019

RE: Real Property Tax Abatement Petition for: **SB QALICB Building, LLC (A.K.A. South Bend Chocolate Company)**

Dear Council Member Ferlic:

Please find attached the Department of Community Investment's report on a real property tax abatement petition for the above-referenced petitioner. Also attached is a copy of the petition, Statement of Benefits form, and supporting information. SB QALICB Building, LLC is proposing to invest more than \$6,300,000 in the construction of a new manufacturing facility and headquarters for the South Bend Chocolate Company.

The report contains the Department's findings relative to the above petition. The project meets the qualifications for a (6) six-year real property tax abatement and a representative from SB QALICB Building, LLC will be available to meet with the Committee on Monday, November 25, 2019.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-5823.

Sincerely,

Daniel Buckenmeyer  
Director Economic Resources & Business Development

DANIEL J. BUCKENMEYER  
BUSINESS DEVELOPMENT

ALKEYNA ALDRIDGE  
ENGAGEMENT & ECONOMIC EMPOWERMENT

PAMELA MEYER  
NEIGHBORHOOD DEVELOPMENT

TIM CORCORAN  
PLANNING & COMMUNITY RESOURCES

EXCELLENCE · ACCOUNTABILITY · INNOVATION · INCLUSION · EMPOWERMENT  
1400S County-City Building 227 W. Jefferson Blvd. South Bend, Indiana 46601 p 574.235.9371 www.southbendin.gov

## **TAX ABATEMENT REPORT**

TO: South Bend Common Council

FROM: Angelina Billo, Business Development Manager

SUBJECT: Real Property Tax Abatement Petition For: **SB QALICB Building, LLC (A.K.A. South Bend Chocolate Company)**

DATE: November 20, 2019

On November 18, 2019, a petition for real property tax abatement consideration for property located at 24762 US Highway 20, South Bend, Indiana was filed with the City Clerk by SB QALICB Building, LLC. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition, investigated the area, and makes the following report.

### **PROJECT SUMMARY**

- The South Bend Chocolate Company plans to relocate and expand its headquarters and its entire manufacturing operations currently located at 3300 West Sample Street, South Bend to a new facility located near the South Bend International Airport.
- SB QALICB Building, LLC is proposing to invest more than \$6,300,000 in the construction of approximately 81,000 sq. ft. new facility.
- Total project cost is approximately \$7,400,000.
- Petitioner is qualified for a six-year real property tax phase-in.
- The estimated amount of taxes phased-in for the six-year period is \$810,036. Estimated taxes to be paid for the six-year term are \$155,034.

### **EMPLOYMENT IMPACT**

Per this petition, the company will retain fifty-four (54) full-time jobs with an annual payroll of \$1,994,803. It is estimated that in five years, the business will create seventy (70) new, permanent full-time positions with an annual payroll of \$1,674,400.

**ABATEMENT QUALIFICATION**

1. A review of the tax abatements previously granted finds that the Petitioner, SB QALICB Building, LLC has not been granted or associated with any previous tax abatement.
2. The Area Plan Commission has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. The Building Commission has reviewed the petition and finds no building permit was issued.
4. The property is located in the River West Development area.
5. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (6) six-year real property tax abatement under section 2-75 Real Property Tax Abatement General Standards.

6 YEAR

19-Nov-19

### SB Chocolate Factory

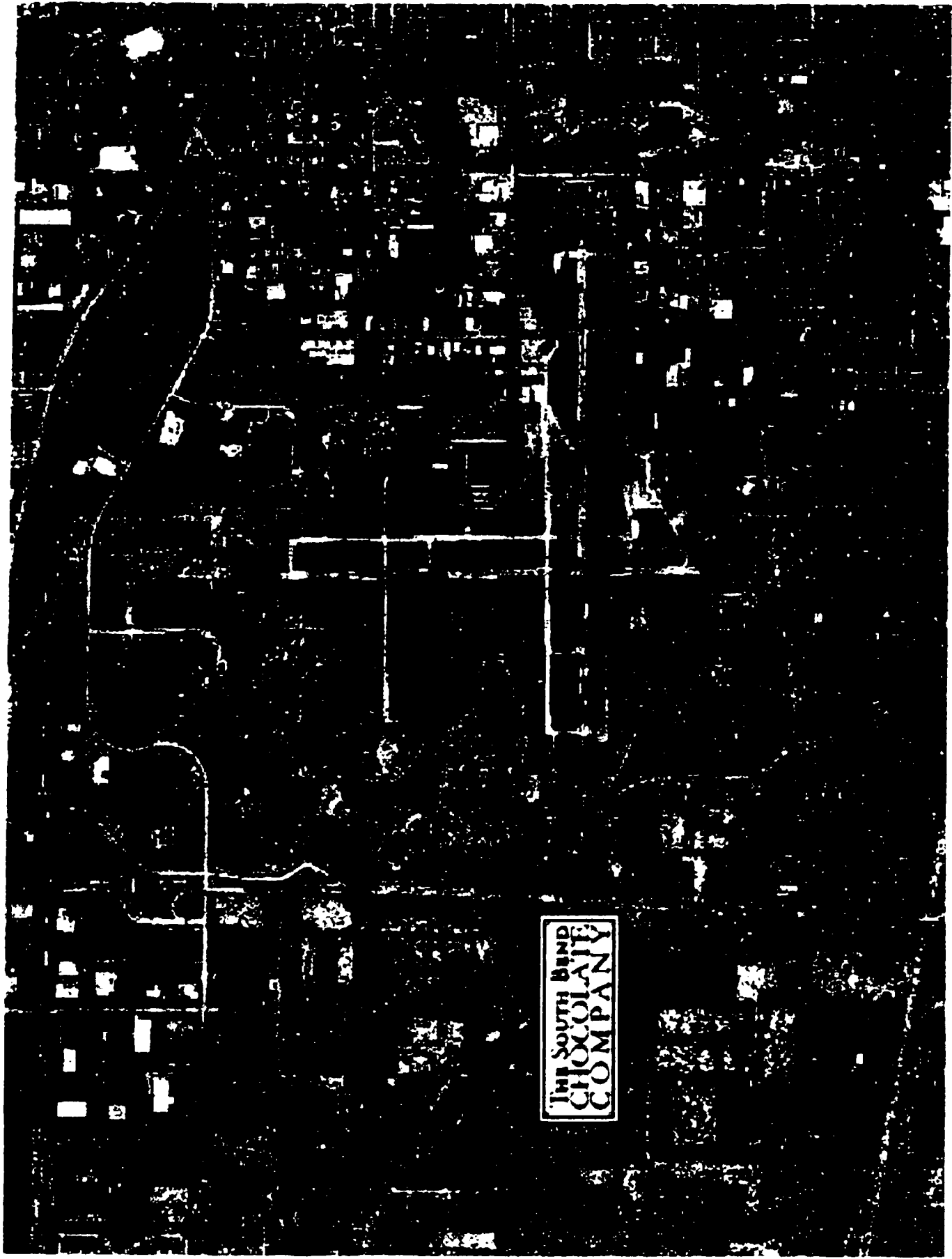
*South Bend German Township  
Real Property Tax Abatement Schedule\**

Tax Key Number	Multiple
Current Assessed Value:	272,700
Estimated Project Cost:	6,361,000

<u>Assessed Value:</u>		Current	Without	100%	100%	100%	95%	95%	90%
		<u>AV &amp; Tax</u>	<u>Abatement</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>
Current Assessed Value	100%	272,700	272,700	272,700	272,700	272,700	272,700	272,700	272,700
Base Assessed Value	80%		5,088,800	5,088,800	5,088,800	5,088,800	5,088,800	5,088,800	5,088,800
Less Abatement Deduction			0	(5,088,800)	(5,088,800)	(5,088,800)	(4,834,360)	(4,834,360)	(4,579,920)
Net Assessed Value		272,700	5,361,500	272,700	272,700	272,700	527,140	527,140	781,580
 <u>Property Taxes:</u>									
Assume constant tax rate of		5.8416%	5.8416%	5.8416%	5.8416%	5.8416%	5.8416%	5.8416%	5.8416%
Gross Tax (tax rate x net assessed value)		15,930	313,197	15,930	15,930	15,930	30,793	30,793	45,657
Less Circuit Breaker Credit		(7,749)	(152,352)	0	0	0	0	0	0
Net Tax		8,181	160,845	15,930	15,930	15,930	30,793	30,793	45,657
 <u>Circuit Breaker Cap</u>									
Circuit Breaker	3.0000%	8,181	160,845	160,845	160,845	160,845	160,845	160,845	160,845
Debt Service	0.0000%	0	0	0	0	0	0	0	0
Circuit Breaker Cap		8,181	160,845	160,845	160,845	160,845	160,845	160,845	160,845

<u>Year</u>	<u>Existing Taxes</u>	<u>New Project Taxes</u>	<u>Combined Existing &amp; New Taxes</u>	<u>Tax Abated</u>	<u>Net Tax Paid</u>
1	8,181	152,664	160,845	144,915	15,930
2	8,181	152,664	160,845	144,915	15,930
3	8,181	152,664	160,845	144,915	15,930
4	8,181	152,664	160,845	130,052	30,793
5	8,181	152,664	160,845	130,052	30,793
6	8,181	152,664	160,845	115,188	45,657
Totals	49,086	915,984	965,070	810,036	155,034

\*This schedule is for estimation purposes only and assumes constant tax rates. The true tax values will ultimately be determined by the actual assessed valuation and the then current tax rates.



THE SOUTH BEND  
CHOCOLATE  
COMPANY

# City of South Bend Petition for Incentives



*Petition must include a \$250 filing fee payable to the City Clerk's Office or online via the City's website at <http://southbendin.gov/government/content/tax-abatement> before processing can be complete*

<b>General Information</b>		<b>Project Name</b>	<b>Project Number</b>
Legal name as registered with Secretary of State	SB QALICB Building LLC		Filed in Clerk's Office
Business structure	Limited liability company		NOV 18 2019
Company website	www.sbchocolate.com		
<b>Proposed Project Information</b>		<b>KAREEMAH FOWLER</b>	
Proposed project address	24762 US Highway 20	Parent company name	CITY CLERK, SOUTH BEND, IN
City, State, Zip	South Bend, IN 46628	Legal owner	SB QALICB Building LLC
Site acreage or acreage required	15.54 acres	Is the real estate owned or leased	owned
Square feet of facility	81,000 Square feet	If leased by whom	
<b>Primary Contact Information</b>			
Primary company contact name	Janet Hjort	Title	Accountant
Address of company contact	3300 West Sample Street		Phone 574-233-2577
City, State, Zip	South Bend, IN 46619	Email	arp@sbchocolate.com
<b>Senior Official Information</b>			
Company senior official name	Mark Turner	Title	Owner/President
Address of company contact (if different from above)			Phone 574-993-0156
City, State, Zip		Email	mtarner@sbchocolate.com
<b>Consultant Information/Agent</b>			
Hired business consultant/agent name	Shawn Peterson	Consultant release (Y/N)	Yes
Address	One American Square, Ste 2900	Local economic development partners approval (Y/N)	No
City, State, Zip	Indianapolis, IN 46282	Email	shawn.peterson@strategusllc.com
<b>Project Overview</b>			
Brief description of your company, project, and why the property is necessary for economic growth	<p>The South Bend Chocolate Company will relocate and expand its headquarters and its entire manufacturing operations currently located at 3300 West Sample Street in South Bend to a new facility. The new facility must allow the company to respond to changing market conditions, expend and modernize its production lines, generate additional operational efficiencies and create an experience for its projected visitors. The Company is currently considering the site near the South Bend International Airport.</p>		
Certified Technology Park appropriate	N/A		
Is the project in a Tax Incremental Financing (TEF) area? If so, which?	Yes, River West Tax Increment Financing District		
Certify that the Building Permit has not been issued (Y/N)	Yes, no permit	Number of residential units created by project	0
If this is a petition for personal property tax abatement, has the equipment been installed?	No equipment has been installed.		

<b>Investment Details</b>			
Public Infrastructure needs (Off-site of project in dollars)	Has any 504 funding been received?	What is the value of any equipment being purchased in Indiana for the project?	What is the value of any equipment being purchased from out of state for the project?
	No		0

New Project Investments								
Calendar Year	2019	2020	2021	2022	2023	2024	2025	2026
Land Acquisition	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Building Lease Payments	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Building Purchase Costs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
New Building Construction	\$ 0.00	\$ 5,181,010.00	\$ 1,700,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Existing Building Improvements	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
New Machinery & Equipment	\$ 0.00	\$ 0.00	\$ 550,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Special Tooling/Retrofitting	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
New Furniture/Fixtures	\$ 0.00	\$ 0.00	\$ 400,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
New Computer/IT Hardware	\$ 0.00	\$ 0.00	\$ 65,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
New Software	\$ 0.00	\$ 0.00	\$ 10,000.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
On-site Rail Infrastructure	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
On-site Fiber Infrastructure	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>TOTAL</b>	<b>\$ 0.00</b>	<b>\$ 5,181,010.00</b>	<b>\$ 2,225,000.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>

Full-Time Permanent Indiana-Resident Positions by Calendar Year						
Calendar Year	Jobs retained	Total hourly wage w/o fringe or bonuses	Cumulative # of net NEW full time permanent jobs created at project	Hourly <del>average</del> wage, w/o benefits or bonuses, of cumulative net new jobs	Total training expenditure - not cumulative	Total # to be trained - not cumulative
2019	54	17.76				
2020			0	0		
2021			20	11.50		
2022			40	11.50		
2023			60	11.50		
2024			70	11.50		
2025			0	0		
2026			0	0		
2027			0	0		
2028			0	0		
2029			0	0		
2030			0	0		

Provide hourly wage information for new employees in the following positions.

	Full time	Part time
Laborers	10.10-15.00	10.10-15.00
Technical	0	0
Managerial	35000.00-42000.00/YR	0.00
Administrative	12.00/hr	10.10/hr

Who will be the individual responsible for coordinating with WorkOne on recruiting? Kristina Tressler

Does your company have an EEO hiring policy? YES Are you an EEO employer? YES

Please list the number of full time and part time minority and/or female employees for each of the last three years:

Year	2023		2022		2021		Please describe your commitment to diversity and inclusion by detailing your outreach and recruitment efforts for the last three years as well as current policies.
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	
Black	4	37	4	37			We hire from and outreach to South Bend neighborhoods which have a high minority population
Hispanic	40	10	40	10			
Asian	1	3	1	3			
Indian	0	0	0	0			
Female	40	95	40	95			
Other							

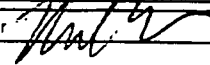
**Complete below for Real or Personal Property Tax Abatement only.**  
**Please sign for all requested incentives.**

**Public Benefit Item:**

Information is required on both the construction companies and the companies which will provide materials purchased for this project. Please complete the table below with the appropriate information. If you qualify for the points, please enter the full amount of available points.

		Qualify (Yes or No)	Earned Points	Available Points	
1	<b>Construction Related (Contractors):</b>				
	A.	Employ Local Companies (75%)	YES	20	20
	B.	Purchase Materials from Local Companies (75%)	YES	20	20
	C.	Require Employees vs. Independent Contractors	YES	19	19
	D.	Require Prevailing Wage (Davis Bacon)	NO	0	22
	E.	Require Health Benefits	YES	22	22
	F.	Require Pension Benefits	YES	18	18
	G.	Maintain Affirmative Action Plan	YES	20	20
			119	141	
2	<b>Wage &amp; Benefit Related (Owner):</b>				
	A.	Pay Target Wage Levels	YES	33	33
	B.	Provide Health Benefits	YES	34	34
	C.	Provide Pension Benefits	YES	29	29
	D.	Provide Training	YES	28	28
	E.	Provide Child Care	YES	15	15
	F.	Provide Transportation Assistance	NO	0	14
	G.	Provide Employer Assisted Housing program	NO	0	9
			139	162	
3	<b>Workforce Related:</b>				
	A.	Create New Jobs	YES	42	42
	B.	Retain Existing Jobs	YES	41	41
	C.	Maintain Affirmative Action Plan	YES	35	35
	D.	Provide Targeted Hiring Preference	YES	34	34
			152	152	
4	<b>Support a Municipal Facility:</b>				
	A.	Support a SB Municipal Facility (donations to the zoo, conservatory, museum, etc.)	YES	84	84
		Name of Facility	Morris Civic, South Bend History Museum		
			84	84	
<b>Sub-total from Above:</b>			494	539	

The undersigned owner(s) of real property, located within the City of South Bend, hereby petition the Common Council of the City of South Bend for a real and/or personal property tax abatement consideration and pursuant to I.C., 6-1.1-12.1-1, et seq., and South Bend Municipal Code Sec. 2-76 et seq., for this petition state the above.

Submitted By: Mark Tamer  Date: 11/1/2019



**For Staff Use Only Below This Line**

What is the current assessed value?	Real Property:	272,700	Personal Property:	
What is the projected assessed value?	Real Property:		Personal Property:	

What is the tax key number for this project? 025-1021-0352, 025-1021-035202.

What is the six digit NAICS code? 311352 025-1021-035303, 025-1021-034501

Please attach a Google map and street view of the location.

Please list the amount of real and personal property taxes paid for the last five years when applicable.	Real Property Taxes:	Personal Property Taxes:
2018/19 Year One	4834 = 10.	
2017/18 Year Two	0	
2016/17 Year Three	0	
2015/16 Year Four	0	
2014/15 Year Five	0	

Please fill out the following Public Benefit Summary Information and add to total from above.

Public Benefit Item:		(Y or N)	Points	Points
<b>5. Project Related:</b>				
A.	Redevelop a Site that has Special Needs	Yes		49
B.	Develop Based on Local University Research	No		35
C.	Achieve a Physical Element of a Plan	Yes	36	36
Sub-total Project Related:		85	36	120
<b>6. Super Size Projects (point values are cumulative):</b>				
A.	100% to 199%	Yes	25	25
B.	200% to 299%	Yes	68	68
C.	300% to 399%	Yes	65	65
D.	400% and Over	Yes	52	52
Sub-total Super Size Projects:			210	210
<b>Pay for Municipal Infrastructure:</b>				
A.	Pay for Oversizing or Upgrading			14
B.	Pay for 26-50% of Extension Cost			26
C.	Pay for 51-75% of Extension Cost			39
D.	Pay for 76-100% of Extension Cost			52
Sub-total Infrastructure Related:				131
Total from Applicant Section:		494	494	539
Total from Staff Section:		295	246	461
Total Public Benefit Points:		761	740	1000



**STATEMENT OF BENEFITS  
REAL ESTATE IMPROVEMENTS**

State Form 51767 (R6 / 10-14)  
Prescribed by the Department of Local Government Finance

Filed in Clerk's Office  
NOV 18 2019  
KAREEMAH FOWLER  
CLERK, SOUTH BEND, IN

20 ____ PAY 20 ____
FORM SB-1 / Real Property
<b>PRIVACY NOTICE</b>
Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (IC) provisions:  
 Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)  
 Residentially distressed area (IC 6-1.1-12.1-4.1)

**INSTRUCTIONS:**

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body BEFORE the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.
2. The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.
3. To obtain a deduction, a Form 322/RE must be filed with the County Auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between March 1 and May 10 of a subsequent year.
4. A property owner who files for the deduction must provide the County Auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)
5. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17

SECTION 1 TAXPAYER INFORMATION					
Name of taxpayer SB QALICB Building LLC					
Address of taxpayer (number and street, city, state, and ZIP code) 3300 West Sample Street, South Bend, IN 46619					
Name of contact person		Telephone number ( ) 574-233-2577		E-mail address ARP@SBCHOCOLATE.COM	
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT					
Name of designating body COMMON COUNCIL OF SOUTH BEND				Resolution number	
Location of property 24762 US HWY 20 SOUTH BEND IN 46628		County ST. JOSEPH		DLGF taxing district number	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Construction of a new manufacturing, retail and tourism facility				Estimated start date (month, day, year) 5/1/2020	
				Estimated completion date (month, day, year) 6/30/2021	
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT					
Current number 54	Salaries 1,994,803	Number retained 54	Salaries 0	Number additional 70	Salaries 1,674,400
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT					
			REAL ESTATE IMPROVEMENTS		
			COST		ASSESSED VALUE
Current values					188100
Plus estimated values of proposed project			6361010		5088808
Less values of any property being replaced			82000		82000
Net estimated values upon completion of project					6026100
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER					
Estimated solid waste converted (pounds) _____			Estimated hazardous waste converted (pounds) _____		
Other benefits					
SECTION 6 TAXPAYER CERTIFICATION					
I hereby certify that the representations in this statement are true.					
Signature of authorized representative				Date signed (month, day, year) 11/18/2019	
Printed name of authorized representative MARK TARNER			Title OWNER		

## EXHIBIT A

### SOUTH BEND CHOCOLATE COMPANY PARCEL DESCRIPTION

THIS DESCRIPTION IS BASED UPON THE SBCC DEVELOPMENT CORP. MINOR SUBDIVISION (UNRECORDED) PREPARED BY LANG FEENEY AND ASSOCIATES, JOB NO. 137-87A, DATED 8-22-2019

PART OF THE SOUTH HALF OF SECTION 30 AND PART OF THE NORTH HALF OF SECTION 31, ALL IN TOWNSHIP 38 NORTH RANGE 2 EAST GERMAN TOWNSHIP CITY OF SOUTH BEND, ST JOSEPH COUNTY, INDIANA, AS DEPICTED ON THE ATTACHED PARCEL PLAT, MARKED **EXHIBIT B**, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE NORTH 0 DEGREES 06 MINUTES 42 SECONDS EAST ALONG THE WEST LINE OF THE SAID EAST HALF A DISTANCE OF 119.58 FEET TO THE SOUTH RIGHT OF WAY LINE OF US HIGHWAY 20 AND BEING THE POINT OF BEGINNING; THENCE ALONG THE SOUTHERLY RIGHT OF WAY LINE OF US HIGHWAY 20 THE FOLLOWING FOUR COURSES: SOUTH 61 DEGREES 09 MINUTES 12 SECONDS EAST A DISTANCE OF 119.03 FEET, SOUTH 60 DEGREES 59 MINUTES 44 SECONDS EAST A DISTANCE OF 20.03 FEET, NORTH 30 DEGREES 44 MINUTES 00 SECONDS EAST A DISTANCE OF 60.00 FEET, THENCE SOUTH 54 DEGREES 57 MINUTES 57 SECONDS EAST A DISTANCE OF 639.40 FEET; THENCE SOUTH 58 DEGREES 07 MINUTES 33 SECONDS WEST A DISTANCE OF 79.21 FEET; THENCE SOUTH 66 DEGREES 37 MINUTES 15 SECONDS WEST A DISTANCE OF 660.43 FEET; THENCE SOUTH 01 DEGREES 15 MINUTES 45 SECONDS EAST A DISTANCE OF 372.18 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 45 SECONDS WEST DISTANCE OF 561.08 FEET TO THE EAST LINE OF LAND CONVEYED TO THOMAS H. KOSEL AND ROSEMARY J. BELL, CO-TRUSTEES OF THE BELL-KOSEL FAMILY 2016 REVOCABLE TRUST, AS DESCRIBED IN INSTRUMENT NUMBER 1622300, ST. JOSEPH COUNTY RECORDER; THENCE NORTH 00 DEGREES 51 MINUTES 53 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 205.82 FEET; THENCE CONTINUING ALONG SAID EAST LINE NORTH 00 DEGREES 06 MINUTES 26 SECONDS WEST A DISTANCE OF 387.77 FEET TO THE SOUTHWEST CORNER OF LOT 2, AS SAID LOT IS KNOWN AND DESIGNATED ON THE PLAT OF KELLER AND HALL MINOR SUBDIVISION, INSTRUMENT NUMBER 9950876, ST. JOSEPH COUNTY RECORDER; THENCE SOUTH 89 DEGREES 33 MINUTES 41 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 2 A DISTANCE OF 249.58 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH 00 DEGREES 05 MINUTES 12 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 311.58 FEET; THENCE SOUTH 75 DEGREES 42 MINUTES 37 SECONDS EAST A DISTANCE OF 229.82 FEET; THENCE NORTH 13 DEGREES 51 MINUTES 50 SECONDS EAST A DISTANCE OF 225.00 FEET TO SAID SOUTH RIGHT OF WAY OF US HIGHWAY 20; THENCE SOUTH 61 DEGREES 04 MINUTES 30 SECONDS EAST ALONG SAID SOUTH RIGHT OF WAY A DISTANCE OF 24.33 FEET TO THE POINT OF BEGINNING. CONTAINING 15.55 ACRES, MORE OR LESS.

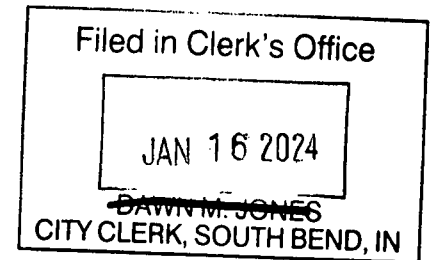
SUBJECT TO RIGHTS OF WAY AND EASEMENTS OF RECORD.

THIS DOCUMENT WAS PREPARED FOR THE SOUTH BEND CHOCOLATE COMPANY BY HANS P. MUSSER, INDIANA REGISTERED LAND SURVEYOR, LICENSE NUMBER 29700002, ON OCTOBER 31, 2019.

JOB NO.: 18-0244

DATE: OCT. 31, 2019





# City of South Bend

## BOARD OF ZONING APPEALS

January 9, 2024

Honorable Oliver Davis  
4th Floor, County-City Building  
South Bend, IN 46601

RE: Special Exception at 609 Laporte Avenue

Dear Committee Chair Davis:

Enclosed is an Ordinance for the proposed Special Exception at the above referenced location. Please include the attached Ordinance on the Council agenda for **first reading** at your January 22, 2024, Council meeting and set it for public hearing at your February 12, 2024, Council meeting. The petition is tentatively scheduled for public hearing at the February 5, 2024, South Bend Board of Zoning Appeals meeting. The staff report and recommendation of the South Bend Board of Zoning Appeals will be forwarded to the Office of the City Clerk by noon on the Wednesday following the public hearing.

The petitioner provided the following to describe the proposed project:  
*A Special Exception to allow for the use of a duplex.*

The full petition is attached for your reference. Changes may occur between the filing and the public hearing. Any substantial changes will be identified at the Council meeting.

If you have any questions, please feel free to contact our office.

Sincerely,

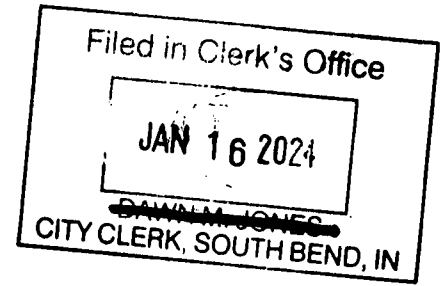
A handwritten signature in cursive script that reads "Kari Myers".

Kari Myers  
Zoning Specialist

CC: Bob Palmer

**BILL NO. 07-24**

**ORDINANCE NO. \_\_\_\_\_**



**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 609 LAPORTE AVENUE, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA**

---

**STATEMENT OF PURPOSE AND INTENT**

**Request a Special Exception to allow for the use of duplex.**

---

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of South Bend, Indiana, as follows:

**SECTION I.** The Common Council has provided notice of the hearing on the Petition from the Advisory Board of Zoning Appeals pursuant to Indiana Code Section 5-14-1.5-5, requesting that a Special Exception be granted for property located at:

609 Laporte Avenue, South Bend, IN 46628. 018-1051-2197

In order to permit a two-unit dwelling.

**SECTION II.** Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the petition of the Advisory Board of Zoning Appeals, a copy of which is on file in the Office of the City Clerk.

**SECTION III.** The Common Council of the City of South Bend, Indiana, hereby finds that:

1. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience, or general welfare;
2. The proposed use will not injure or adversely affect the use of adjacent area of property values therein;
3. The proposed use will be consistent with the character of the district in which it is located, and the land uses authorized therein;
4. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan;

**SECTION IV.** Approval is subject to the Petitioner complying with the reasonable conditions, if any, established by the Advisory Board of Zoning Appeals which are on file in the Office of the City Clerk.

**SECTION V.** This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor, and legal publication, and full execution of any conditions or Commitments placed upon the approval.

\_\_\_\_\_  
Sharon McBride, Council President  
South Bend Common Council

Attest:

\_\_\_\_\_  
Bianca Tirado, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

\_\_\_\_\_  
Bianca Tirado, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_ o'clock \_\_\_\_ .m.

\_\_\_\_\_  
James Mueller, Mayor  
City of South Bend, Indiana

City of South Bend  
**BOARD OF ZONING APPEALS**

227 W. Jefferson - Suite 1400S  
South Bend, IN 46601  
zoning@southbendin.gov  
RECEIVED JAN 04 2024

**Petition for Variance - Special Exception**

**Property Information**

Tax Key Number: \_\_\_\_\_  
Address: 609 LA PORTE AV SOUTH BEND, IN 46628  
Owner: NORTHWOOD INVESTMENTS LLC  
Zoning: Choose the current district U1

**Project Summary:** HOME HAS TRADITIONALLY BEEN USED AS A DUPLEX, THOUGH NOT ZONED AS SUCH. WISH TO CONTINUE USE AS A DUPLEX WITH SPECIAL EXEMPTION

**Requested Action**

- Special Exception/ Use Variance – complete and attach Criteria for Decision Making  
Use requested: 2 UNIT DWELLING
- Variance(s) - List variances below, complete and attach Criteria for Decision Making  
Variance(s) requested:

**Required Documents**

- Completed Application (including Criteria for Decision Making and Contact Information)
- Site Plan drawn to scale
- Filing Fee \$300



## Criteria for Decision Making

### Special Exception - if applicable

A Special Exception may only be granted upon making a written determination, based upon the evidence presented at a public hearing. Please address how the project meets the following criteria.

(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare, because:

HOME HAS BEEN USED AS A DUPLEX FOR MOST OF IT'S HISTORY. THIS HAS NOT BEEN A HARM TO THE COMMUNITY AND PROVIDES AFFORDABLE HOUSING IN A TIME OF SCARCITY.

(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein, because:

NEIGHBORS FEEL THE HOME IS AN ASSET. CURRENT OWNER ALSO OWNS 613 LAPORTE + SEVERAL OTHER HOMES NEARBY. ALL ARE WELL MAINTAINED AFFORDABLE HOMES,

(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein, because:

HOMES IN THIS AREA ARE GENERALLY LATE 19<sup>TH</sup> EARLY 20<sup>TH</sup> CENTURY. ROOF LINES AND STRUCTURE OF HOMES ARE SIMILAR.

(4) The proposed use is compatible with the recommendations of the Comprehensive Plan, because:

~~IT SUPPORTS EFFIE~~

HOME SUPPLIES 1 BED 1 BATH HOUSING IN AN AREA IN NEED OF SMALLER RESIDENTIAL UNITS.

**Contact Information**

Property owner(s) of the petition site:

Name: NORTHWOOD INVESTMENTS LLC

Address: 1929 DORWOOD DR  
SOUTH BEND, IN 46617

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Contact Person:

Name: TIM WIDERQUIST

Address: 1929 DORWOOD DR  
SOUTH BEND, IN 46617

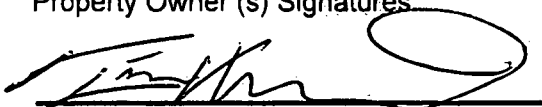
Phone Number: 574-310-1123

E-mail: WIDERQUIST@GMAIL.COM

By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.

The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.

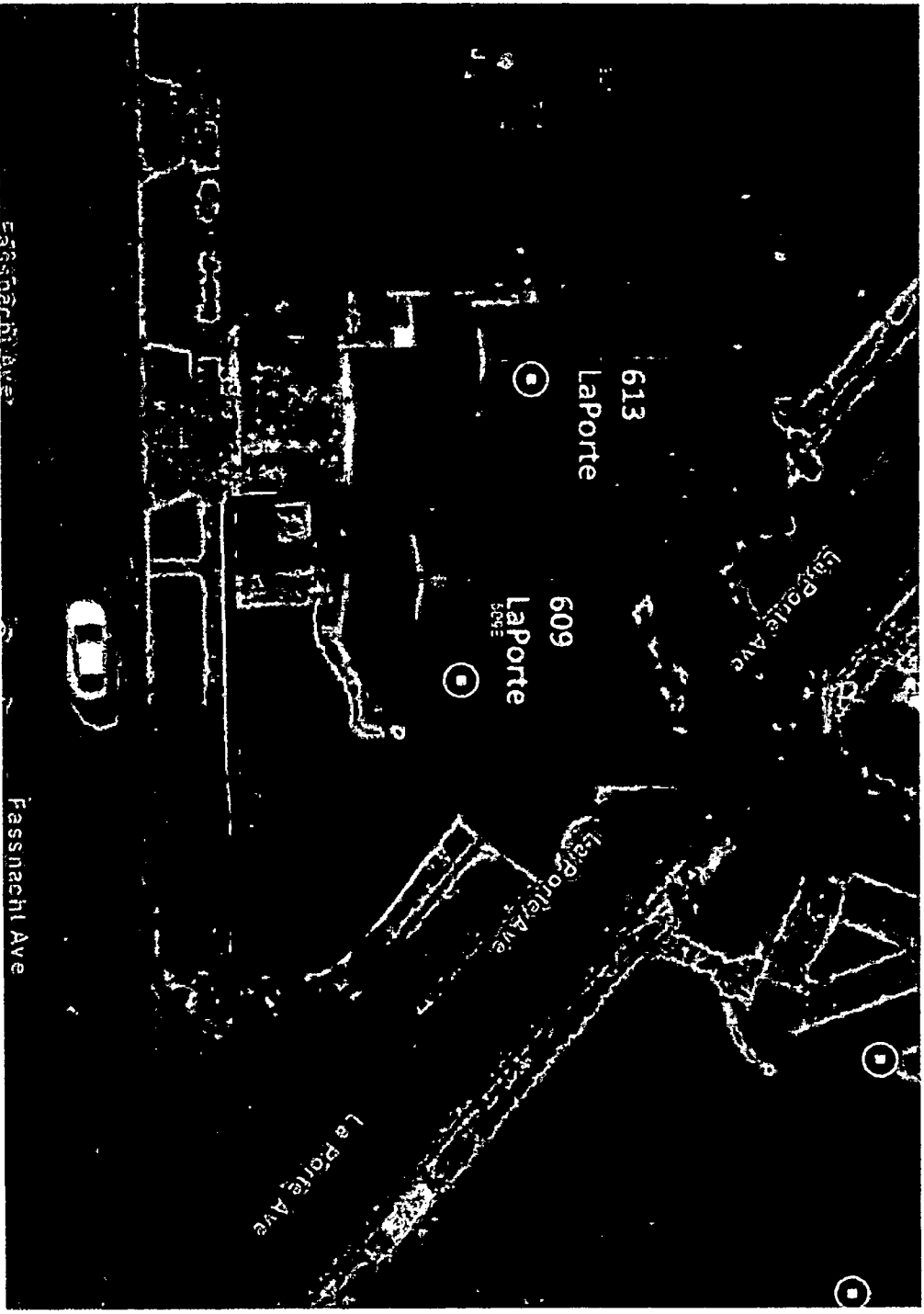
Property Owner (s) Signatures:

  
\_\_\_\_\_

\_\_\_\_\_

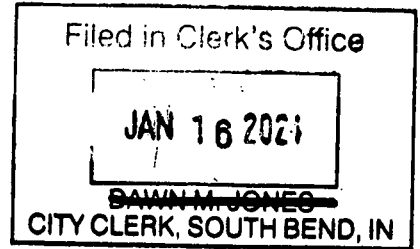
\_\_\_\_\_

\_\_\_\_\_





City of South Bend  
**BOARD OF ZONING APPEALS**



January 9, 2024

Honorable Oliver Davis  
4th Floor, County-City Building  
South Bend, IN 46601

RE: Special Exception at 826 S. Bendix Drive

Dear Committee Chair Davis:

Enclosed is an Ordinance for the proposed Special Exception at the above referenced location. Please include the attached Ordinance on the Council agenda for **first reading** at your January 22, 2024, Council meeting and set it for public hearing at your February 12, 2024, Council meeting. The petition is tentatively scheduled for public hearing at the February 5, 2024, South Bend Board of Zoning Appeals meeting. The staff report and recommendation of the South Bend Board of Zoning Appeals will be forwarded to the Office of the City Clerk by noon on the Wednesday following the public hearing.

The petitioner provided the following to describe the proposed project:  
*A Special Exception to allow for the use of a duplex.*

The full petition is attached for your reference. Changes may occur between the filing and the public hearing. Any substantial changes will be identified at the Council meeting.

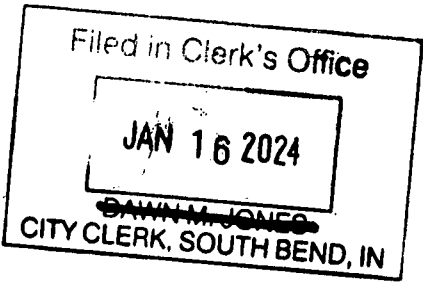
If you have any questions, please feel free to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Kari Myers".

Kari Myers  
Zoning Specialist

CC: Bob Palmer



**BILL NO. 08-24**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 826 SOUTH BENDIX DRIVE, COUNCILMANIC DISTRICT NO. 6 IN THE CITY OF SOUTH BEND, INDIANA**

---

**STATEMENT OF PURPOSE AND INTENT**

**Request a Special Exception to allow for the use of a duplex**

---

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of South Bend, Indiana, as follows:

**SECTION I.** The Common Council has provided notice of the hearing on the Petition from the Advisory Board of Zoning Appeals pursuant to Indiana Code Section 5-14-1.5-5, requesting that a Special Exception be granted for property located at:

826 S. Bendix Drive, South Bend, IN 46619. 018-4044-1631

In order to permit a two-unit dwelling

**SECTION II.** Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the petition of the Advisory Board of Zoning Appeals, a copy of which is on file in the Office of the City Clerk.

**SECTION III.** The Common Council of the City of South Bend, Indiana, hereby finds that:

1. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience, or general welfare;
2. The proposed use will not injure or adversely affect the use of adjacent area of property values therein;
3. The proposed use will be consistent with the character of the district in which it is located, and the land uses authorized therein;
4. The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan;

**SECTION IV.** Approval is subject to the Petitioner complying with the reasonable conditions, if any, established by the Advisory Board of Zoning Appeals which are on file in the Office of the City Clerk.

**SECTION V.** This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor, and legal publication, and full execution of any conditions or Commitments placed upon the approval.

---

Sharon McBride, Council President  
South Bend Common Council

Attest:

---

Bianca Tirado, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

---

Bianca Tirado, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_ o'clock \_\_\_\_ .m.

---

James Mueller, Mayor  
City of South Bend, Indiana

City of South Bend  
**BOARD OF ZONING APPEALS**

RECEIVED JAN 05 2024  
227 W. Jefferson - Suite 1400S  
South Bend, IN 46601  
zoning@southbendin.gov

**Petition for Variance - Special Exception**

**Property Information**

Tax Key Number: 018-4044-1631  
Address: 826 S. Bendix Dr  
Owner: William C. Hazel Jr  
Zoning: U1 Urban Neighborhood 1

**Project Summary:**

No changes are proposed. Existing building, built 1926 per tax record, was constructed as two family. The north and south side units are mirrored floor plans, townhouse style. Each unit has it's own front entrance, each has an interior staircase to it's respective second floor bedrooms and bath.

**Requested Action**

- Special Exception/ Use Variance – *complete and attach Criteria for Decision Making*  
Use requested: Two family
- Variance(s) - *List variances below, complete and attach Criteria for Decision Making*  
Variance(s) requested:

**Required Documents**

- Completed Application (including Criteria for Decision Making and Contact Information)
- Site Plan drawn to scale
- Filing Fee

**PAYED**  
JAN 05 2024  
Per KB  
\$300



## Criteria for Decision Making

### **Special Exception - if applicable**

A Special Exception may only be granted upon making a written determination, based upon the evidence presented at a public hearing. Please address how the project meets the following criteria.

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare, because:**

House is existing, built 1926 per tax record. It was built as two family dwelling and per conversation with seller has been used as such during the time her parents owned the home since the late 1960's. The request is to change the zoning to match the existing building.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein, because:**

Use of the property as two family is consistent with it's use, both historically per seller and per intent of it's original construction.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein, because:**

No physical changes to the two family home are proposed. Purpose is to have zoning changed (two family) to match the existing physical building.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan, because:**

As I understand it, U1 urban zoning does allow for both single and two family use, but two family use needs to be requested as it is not assigned automatically.

**Contact Information**

**Property owner(s) of the petition site:**

Name: William C. Hazel, Jr

Address: 1376 Berkshire Dr  
South Bend, IN 46614

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**Contact Person:**

Name: (Bill) William C. Hazel, Jr

Address: 1376 Berkshire Dr  
South Bend, IN 46614

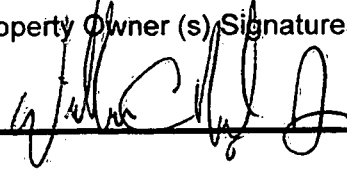
Phone Number: 574 210-6348

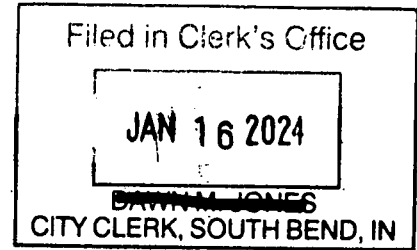
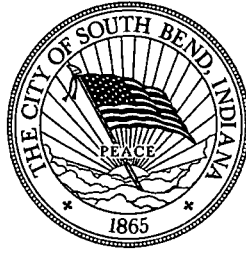
E-mail: bchj637802@yahoo.com

**By signing this petition, the Petitioner/Property Owners of the above described Real Estate acknowledge they are responsible for understanding and complying with the South Bend Zoning Ordinance and any other ordinance governing the property. Failure of staff to notify the petitioner of a requirement does not imply approval or waiver from anything contained within the ordinance.**

**The undersigned authorizes the contact person listed above to represent this petition before the South Bend Plan Commission and Common Council and to answer any and all questions related to this petition.**

Property Owner (s) Signatures:

 1/05/2024  
\_\_\_\_\_  
\_\_\_\_\_



**CITY OF SOUTH BEND**  
DEPARTMENT OF COMMUNITY INVESTMENT

January 17, 2024

Councilmember Troy Warner, Chairperson  
Community Investment Committee  
South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

RE: An Ordinance of the Common Council of the City of South Bend, Indiana, Authorizing the City of South Bend, Indiana, to Fund Its "Taxable Economic Development Revenue Note, Series 2024 (RealAmerica Project)" and Approving and Authorizing Other Actions in Respect Thereto

Dear Councilmember Warner,

Please find attached an ordinance authorizing a \$3.8 million forgivable economic development loan to support the construction of the 150-unit Diamond View and Stadium Flats apartment developments by RealAmerica. The project has been awarded Low Income Housing Tax Credits from the Indiana Housing and Community Development Authority and will provide 60 income-qualified affordable housing units and 90 market-rate housing units.

This transformative development will revitalize the block immediately to the west of Four Winds Field and is part of significant redevelopment momentum on the south side of downtown South Bend.

The forgivable loan would be funded utilizing Tax Increment Financing funds controlled by the South Bend Redevelopment Commission, but requires approval of Common Council, Redevelopment Commission, and Economic Development Commission in order to be issued. The bond would be forgivable provided the development is completed within the required timeframes and private investment exceeds \$21.5 million.

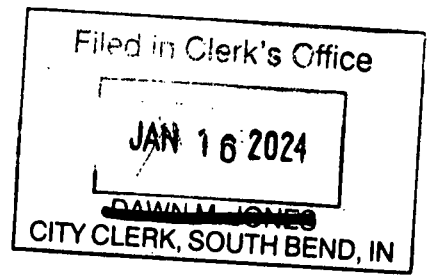
Sincerely,

A handwritten signature in black ink, appearing to read "Erik Glavich".

Erik Glavich  
Director of Growth & Opportunity

**BILL NO. 09-24**

**ORDINANCE NO. \_\_\_\_\_**



**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA AUTHORIZING THE CITY OF SOUTH BEND, INDIANA TO FUND ITS TAXABLE ECONOMIC DEVELOPMENT REVENUE NOTE, SERIES 2024 (REALAMERICA PROJECT) AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO**

---

**STATEMENT OF PURPOSE AND INTENT**

---

This ordinance authorizes the funding of the City of South Bend, Indiana ("City") Taxable Economic Development Revenue Note, Series 2024 (RealAmerica Project) ("Series 2024 Note") in an amount not to exceed Three Million Eight Hundred Thousand Dollars (\$3,800,000.00) ("Loan") and further approves and authorizes other actions in respect thereto.

Indiana Code 36-7-11.9 and 12 (collectively, "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose and pursuant to the Act, the City is authorized to make loans for the purpose of financing, reimbursing or refinancing all or a portion of the costs of acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment in or near the City. Legacy25, Inc., an Indiana Nonprofit Corporation ("Legacy25" or "Borrower") and RealAmerica Development, LLC, common entities desiring to share the rights and obligations under the development agreement, have proposed the development, construction and equipping of: (i) a new residential apartment building containing at least seventy thousand (70,000) square feet, which shall include

a minimum of sixty (60) total apartment units, of which all sixty (60) apartment units will be exclusively available for tenants at eighty percent (80%) or lower of the area median income; (ii) a second new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units; and (iii) a third new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units on certain real estate acquired by the Developer with an investment of approximately \$21,500,000 (collectively, "Development"), and to induce the Developer to construct the Development, the Commission has determined to fund a loan to the Borrower, as evidenced by the Series 2024 Note, to fund the construction of site work and infrastructure improvements needed to serve the Development ("Local Public Improvements"), all in or physically connected to the River West Development Area and the River West Development Area Allocation Area No. 1 as established by the South Bend Redevelopment Commission ("Redevelopment Commission").

The South Bend Economic Development Commission ("Commission") has rendered its Project Report regarding the issuance and funding of the Series 2024 Note from the City to the Borrower to finance a portion of the Local Public Improvements and the Project Report has been or will be submitted to the South Bend Area Plan Commission. The Commission conducted a public hearing and adopted a resolution and Project Report, which resolution and Project Report have been transmitted hereto, finding that the financing of a portion of the Local Public Improvements complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of the City, its residents, and its visitors. The Commission has approved and recommended the adoption of this form of ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has

transmitted for approval by the Common Council the forgivable loan agreement between the City and the Borrower (including the form of the Series 2024 Note), dated as of the first day of the month the Series 2024 Note is issued ("Loan Agreement"). The Redevelopment Commission has pledged TIF Revenues (as defined in the Loan Agreement), junior and subordinate to any outstanding bonds payable from TIF Revenues and any bonds issued in the future on a parity with any outstanding bonds on hand to the funding of the Series 2024 Note pursuant to and in accordance with the Loan Agreement.

The form of the Series 2024 Note, the Loan Agreement and a form of this proposed ordinance have been submitted to the Commission for its approval, which are incorporated by reference in the Commission's resolution following the Commission's public hearing, which resolution has been transmitted to the Common Council. Based upon the resolution adopted by the Commission pertaining to the Local Public Improvements, the Common Council hereby finds and determines that the funding approved by the Commission for the Local Public Improvements will be of benefit to the health and general welfare of the citizens of the City, complies with the provisions of the Act and the amount necessary to fund a portion of the costs of the Local Public Improvements will require making the Loan and delivering the Series 2024 Note.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, THAT:

Section 1. It is hereby found, determined, ratified and confirmed that the financing and reimbursement of the Local Public Improvements, the making of the Loan to the Borrower to be evidenced by the Borrower's Series 2024 Note complies with the purposes and provisions of the Act and: (i) will result in the diversification of the tax base, the creation of job opportunities and the construction of housing and affordable housing within the jurisdiction of the City, (ii) will

serve a public purpose, and will be of benefit to the health and general welfare of the City, (iii) complies with the purposes and provisions of the Act and it is in the public interest that the City take such lawful actions as determined to be necessary or desirable to encourage the diversification of the tax base, the creation of job opportunities, and the construction of housing and affordable housing within the jurisdiction of the City, and (iv) will not have a material adverse competitive effect on any similar facilities already constructed or operating in or near the City.

Section 2. The substantially final form of the Loan Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provisions of IC 36-1-5-4, two (2) copies of the Loan Agreement are on file in the office of the Clerk for public inspection.

Section 3. The costs of the Local Public Improvements will be funded to the Borrower from the Loan upon closing of the Loan. The City shall fund the Loan from TIF Revenues on hand, junior and subordinate to any outstanding bonds payable from TIF Revenues and any bonds issued in the future on a parity with any outstanding bonds, pledged by the Redevelopment Commission to the Borrower in the maximum amount not to exceed Three Million Eight Hundred Thousand Dollars (\$3,800,000), payable upon closing of the Loan. To the extent the representations in Section 2.2 of the Loan Agreement are met, payments on the series of the Loan shall be forgiven. If certain representations in Section 2.2 are not met, the Loan shall not be forgiven. The Series 2024 Note shall accrue interest at a rate not in excess of five percent (5.0%) per annum. The Series 2024 Note shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City. The Series 2024 Note shall not be subject to optional redemption prior to maturity.

Section 4. The Mayor, Controller and the Clerk are authorized and directed to execute the Loan Agreement, and such other documents approved or authorized herein and any other document which may be necessary, appropriate or desirable to consummate the transactions contemplated by the Loan Agreement and this ordinance, and their execution is hereby confirmed on behalf of the City. The Mayor, Controller and Clerk are authorized to arrange for the delivery of such Series 2024 Note to the Borrower, payment for which will be made in the manner set forth in the Loan Agreement. The Mayor, Controller and Clerk may, by their execution of the Loan Agreement and any other documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in the Loan Agreement and any other documents without further approval of this Common Council or the Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

Section 5. The provisions of this ordinance and the Loan Agreement shall constitute a contract binding between the City and the Borrower.

Section 6. The Mayor, Controller or Clerk, or any other officer having responsibility with respect to the making of the Loan, evidenced by the Series 2024 Note, are authorized and directed, alone or in conjunction with any of the foregoing, or with any other officer, employee, consultant or agent of the City, to deliver a certificate for inclusion in the transcript of proceedings for the Series 2024 Note, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the Loan as of the funding date thereof.

Section 7. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this ordinance, the Loan Agreement or under any judgment obtained against the City, including without limitation the Commission or Redevelopment Commission, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any



constitution or statute or otherwise, or under any circumstances, under or independent of the Loan Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the City, including without limitation the Commission or Redevelopment Commission, either directly or through the City, or otherwise, for the payment for or to the City of any sum that may remain due and unpaid by the City upon any of such Series 2024 Note. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the City or any receiver thereof, or for or to any owner or holder of any sum that may remain due and unpaid upon the Series 2024 Note hereby secured shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Loan Agreement and the issuance and funding of the Series 2024 Note.

Section 8. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section 9. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 10. It is hereby determined that all formal actions of the Common Council relating to the adoption of this ordinance were taken in one or more open meetings of the Common Council, that all deliberations of the Common Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including IC 5-14-1.5, as amended.

Section 11. The Mayor, Controller, and Clerk, and any other officer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute and deliver such further documents and to take such further actions as such person(s) deem(s) necessary or desirable to effect the purposes of this ordinance, and any such documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved.

Section 12. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

Passed and adopted by the South Bend Common Council this 12<sup>th</sup> day of February, 2024.

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Sharon McBride, Council President  
South Bend Common Council

Attest:

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Bianca Tirado, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of February, 2024, at \_\_\_\_\_ o'clock \_\_\_\_ p.m.

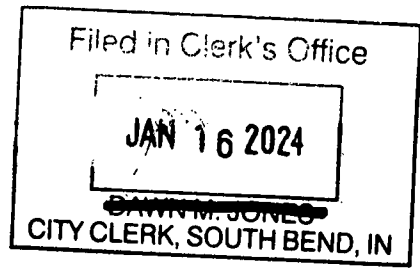
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Bianca Tirado, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of February, 2024, at \_\_\_\_ o'clock \_\_\_\_ p.m

---

James Mueller, Mayor  
City of South Bend, Indiana



LOAN AGREEMENT

BETWEEN

LEGACY25, INC.

AND

CITY OF SOUTH BEND, INDIANA

Dated as of February 1, 2024

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## LOAN AGREEMENT

This is a LOAN AGREEMENT dated as of February 1, 2024 ("Loan Agreement") between LEGACY25, INC., an Indiana Nonprofit Corporation duly organized and existing and authorized to do business under the laws of the State of Indiana ("Legacy25" or "Borrower") and RealAmerica Development, LLC, an Indiana Limited Liability Company (collectively, with "Legacy25", "Developer"), and the CITY OF SOUTH BEND, INDIANA ("City"), a municipal corporation duly organized and validly existing under the laws of the State of Indiana.

### PRELIMINARY STATEMENT

WHEREAS, Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (collectively, "Act"), has been enacted by the General Assembly of Indiana.

WHEREAS, the Act provides that a municipal corporation may, pursuant to the Act, make direct loans to users or developers for the cost of acquisition, construction, or installation of economic development projects, including the construction of site work and infrastructure improvements ("Local Public Improvements") needed to serve the redevelopment and development of three (3) new residential apartment buildings, consisting of: (i) a new residential apartment building containing at least seventy thousand (70,000) square feet, which shall include a minimum of sixty (60) total apartment units, of which all sixty (60) apartment units will be exclusively available for tenants at eighty percent (80%) or lower of the area median income; (ii) a second new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units; and (iii) a third new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units on certain real estate acquired by the Developer as set forth on Exhibit B attached hereto, together with all necessary appurtenances, related improvements and equipment, with an overall investment of approximately \$21,500,000 ("Development"), with such loan to be secured by the pledge of secured or unsecured debt obligations of the Borrower to enhance revitalization efforts, increase the level of diversification of the tax base, promote economic development and job opportunities, and enhance the City's efforts to create a vibrant and active residential and business community; and

WHEREAS, the South Bend Redevelopment Commission ("Commission") has established the River West Development Area ("Area") and the River West Development Allocation Area No. 1 ("Allocation Area") and adopted an economic development plan, as amended (collectively, as amended, "Plan") for the Area pursuant to a declaratory resolution, as amended to date, and as confirmed by a confirmatory resolution, as amended to date (collectively, "Area Resolution").

The Plan contained specific recommendations for economic development in the Area, and the Area Resolution established the Allocation Area in accordance with IC 36-7-14-39 for the purpose of capturing the TIF Revenues (as hereinafter defined).

The City, upon finding that the Local Public Improvements needed to serve the Development (hereinafter, collectively, "Project") and the proposed financing of the construction thereof will create additional employment opportunities in the City; will benefit the health, safety, morals, and general welfare of the citizens of the City and the State of Indiana; will enhance

revitalization efforts; will increase the level and diversity of the tax base; will enhance efforts to create a vibrant and active residential and business community; and will comply with the purposes and provisions of the Act, adopted an ordinance approving the proposed financing.

In order to induce the Borrower to complete the Project, the City intends to issue and fund the forgivable Taxable Economic Development Revenue Note, Series 2024 ("Series 2024 Note") in an amount not to exceed \$3,800,000.00 pursuant to the provisions of this Loan Agreement, and loan the proceeds of the Series 2024 Note, on a forgivable basis, to the Borrower to finance a portion of the cost of the Project in or physically connected to the Area.

This Loan Agreement provides for the payment of the Series 2024 Note by the Borrower and further provides for the Borrower's repayment obligation to be evidenced by the Series 2024 Note, substantially in the form attached hereto as Exhibit A.

Subject to the further provisions of this Loan Agreement, the loan will be payable solely out of the payments to be made by the Borrower (if any) on the Series 2024 Note.

In consideration of the premises, the forgivable loan, the acceptance of the Series 2024 Note by the City, and of other good and valuable consideration, the receipt whereof is hereby acknowledged, the Borrower has executed and delivered this Loan Agreement.

This Loan Agreement is executed upon the express condition that if the Borrower shall pay or cause to be paid all indebtedness hereunder (unless the 2024 Note is forgiven pursuant to Section 3.1 hereof) and shall keep, perform and observe all and singular the covenants and promises expressed in the Series 2024 Note, and this Loan Agreement to be kept, performed and observed by the Borrower, then the Series 2024 Note shall be forgiven by the holder of the Series 2024 Note.

The Borrower and the City hereby covenant and agree as follows:

## ARTICLE I.

### DEFINITIONS AND EXHIBITS

Section 1.1. Terms Defined. As used in this Loan Agreement, the following terms shall have the following meanings unless the context clearly otherwise requires:

"Act" means, collectively, Indiana Code 36-7-11.9 and -12, and any successor provisions of the Indiana Code or successor codes.

"Affidavit of Completion" means a written certificate of the Borrower stating that the Project has been completed in accordance with the terms of the Development Agreement and the Project is ready for use.

"Allocation Area" means the River West Development Area Allocation Area No. 1.

"Area" means the River West Development Area.

"Authorized Representative" means any officer of the Borrower or any other person certified by an officer of the Borrower to be the Borrower's Authorized Representative and with respect to the City means the Executive Director of the Department of Community Investment or any other person certified by the Mayor.

"Authorizing Resolution" means Resolution No. 3587 adopted by the South Bend Redevelopment Commission on January 11, 2024, authorizing the use of TIF Revenues on hand or to be on hand to fund the Series 2024 Note.

"Bond Counsel" means a nationally recognized firm of municipal bond attorneys acceptable to the City and the Borrower.

"Borrower" means Legacy25, Inc., an Indiana nonprofit corporation duly organized and existing and authorized to do business under the laws of the State of Indiana, or any successors and/or assigns thereto permitted under Section 3.3 hereof.

"Business Day" means any day other than a Saturday, Sunday or holiday, on which commercial banks in the City are open for conducting substantially all of their banking activities.

"City" means South Bend, Indiana, or any successor thereto or assign thereof.

"Commission" means the South Bend Economic Development Commission.

"Counsel" means an attorney duly admitted to practice law before the highest court of any state, and, without limitation, may include legal counsel for either the City or the Borrower.

"Developer" means Legacy25, Inc. and RealAmerica Development, LLC, common entities desiring to share the rights and obligations under the Development Agreement.

"Development" shall have the meaning set forth in the Project definition below.

"Development Agreement" means the agreement dated January 11, 2024 by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission and RealAmerica Development, LLC, an Indiana Limited Liability Company, with offices at 8250 Dean Road, Indianapolis, Indiana 46240, and Legacy25, Inc., an Indiana Nonprofit Corporation with offices at 8250 Dean Road, Indianapolis, Indiana 46240.

"Guaranty Agreement" means the agreement of RealAmerica Development, LLC to guarantee the payment of the Series 2024 Note, to the extent the Series 2024 Note is not forgiven pursuant to the Loan Agreement, in the form set forth on Exhibit C attached hereto.

"Loan" means the loan by the City to the Borrower.

"Mandatory Project Completion Date" means within thirty-six (36) months of the closing date, which closing date shall commence on February 29, 2024 or such earlier or later closing date as may be agreed to in writing by the parties.



"Note" or "Notes" means the Series 2024 Note, and any other note executed by the Borrower in connection with the Series 2024 Note, and any notes issued in exchange therefor pursuant (and subject) to Section 3.7 hereof.

"Note Counsel" means Ice Miller LLP or another a nationally recognized firm of municipal bond attorneys acceptable to the City and the Borrower.

"Project" means the construction of site work and infrastructure improvements needed to serve the redevelopment and development of: (i) a new residential apartment building containing at least seventy thousand (70,000) square feet, which shall include a minimum of sixty (60) total apartment units, of which all sixty (60) apartment units will be exclusively available for tenants at eighty percent (80%) or lower of the area median income; (ii) a second new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units; and (iii) a third new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units on certain real estate acquired by the Developer with an overall investment of approximately \$21,500,000, as set forth on Exhibit B attached hereto, together with all necessary appurtenances, related improvements and equipment ("Development"), all in or physically connected to the Area.

"Project Costs" with respect to the Project shall mean any and all costs permitted by the Act including, but not limited to:

(i) the "Note Issuance Costs," namely the reasonable third-party costs, fees and expenses incurred or to be incurred by the City in connection with the Loan, the reasonable fees of disbursements of the City's municipal advisor, application fees and expenses, publication costs, the filing and recording fees in connection with any necessary filings or recordings or to perfect the lien thereof, the out-of-pocket costs of the City, the reasonable fees and disbursements of Counsel to the City, the reasonable fees and expenses of Note Counsel, the costs of preparing or printing the Series 2024 Note and the documentation supporting the Loan, the costs of reproducing documents and any other costs of a similar nature reasonably incurred;

(ii) design costs and other expenses directly related to the construction and equipping of the Project;

(iii) the cost of insurance of all kinds that may be required or necessary in connection with the construction or equipping of the Project;

(iv) all costs and expenses which Borrower shall be required to pay, under the terms of any contract or contracts (including the architectural and engineering, development, and legal services with respect thereto), for the construction of the Project; and

(v) any sums required to reimburse the Borrower for advances made subsequent to the date the Series 2024 Note is funded for any of the above items or for any other costs previously incurred and for work done by Borrower which are properly chargeable to the Project.

"Redevelopment Commission" means the South Bend Redevelopment Commission.

"Series 2024 Note" means the Series 2024 Note of the Borrower in the aggregate maturity amount of \$3,800,000 in substantially the form attached hereto as Exhibit A which will be issued and delivered by the Borrower to the City to evidence the Loan in the amount due by the Borrower and any Note issued in exchange for the Series 2024 Note pursuant to Section 3.7 hereof.

"State" means the State of Indiana.

"TIF Revenues" means property tax proceeds on hand or to be on hand in the allocation fund for the Allocation Area from the assessed valuation of real property in the Allocation Area in excess of the assessed valuation described in IC 36-7-14-39(b)(1) as reduced by the credit provided for in IC 36-7-14-39.5 as such statutory provisions exist on the date of the issuance of the Series 2024 Note.

"Written Request" means a request in writing from an authorized representative of the party making the request.

Section 1.2. Rules of Interpretation. For all purposes of this Loan Agreement, except as otherwise expressly provided, or unless the context otherwise requires:

(a) "This Loan Agreement" means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Loan Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular and the singular as well as the plural.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as consistently applied.

(e) The terms defined elsewhere in this Loan Agreement shall have the meanings therein prescribed for them.

Section 1.3. Exhibits. The following Exhibits are attached to and by reference made a part of this Loan Agreement.

- Exhibit A. Form of Series 2024 Note
- Exhibit B. Description of Real Estate Acquired
- Exhibit C. Form of Guaranty Agreement

(End of Article I)

## ARTICLE II.

### REPRESENTATIONS; LOAN OF TIF REVENUES

Section 2.1. Representations by City. The City represents and warrants that:

(a) The City is a municipal corporation duly organized and validly existing under the laws of the State. Under the provisions of the Act, the City has been authorized by action of its governing body to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder.

(b) The City agrees to make the Loan for the purpose of financing a portion of the construction of the Project for the benefit of the Borrower, to benefit the health, safety, morals and general welfare of the citizens of the City, increase economic well-being of the State, promote job opportunities and attract major new businesses.

Section 2.2. Representations by Borrower. Borrower represents and warrants that:

(a) The Borrower is an Indiana Nonprofit Corporation duly organized under the laws of the State of Indiana, validly exists and authorized to do business under the laws of the State of Indiana, is not in violation of any provision of its Articles of Incorporation, has not received notice and has no reasonable grounds to believe that it is in violation of any laws in any manner material to its ability to perform its obligations under this Loan Agreement and the Series 2024 Note, has the power to enter into and to perform its obligations under this Loan Agreement and the Series 2024 Note, and has duly authorized the execution and delivery of this Loan Agreement and the Series 2024 Note by appropriate corporate action.

(b) The Borrower anticipates creating at least 2 full-time job opportunities, with a total estimated annual payroll of One Hundred Thousand Dollars (\$100,000.00). The Borrower and its affiliates shall cause a total investment of up to approximately \$21,500,000.00 in real and depreciable personal property (exclusive of land costs).

(c) All of the proceeds from the Series 2024 Note (including any income earned on the investment of such proceeds) provided to the Borrower will be used solely for Project Costs.

(d) The Borrower intends to develop, construct and operate or cause the Development to be developed, constructed and operated as an economic development facility under the Act until the expiration or earlier termination of this Loan Agreement as provided herein, unless the Borrower has sold or otherwise transferred the Development to a Surviving Corporation (as hereinafter defined) in accordance with Section 3.3 or assigned this Loan Agreement in accordance with Section 3.11 of this Loan Agreement.

(e) Neither the execution and delivery of this Loan Agreement, the consummation of the transactions contemplated hereby including execution and delivery of the Series 2024 Note nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement, will contravene the Borrower's Articles of Incorporation or any law or any governmental rule, regulation or order presently binding on the Borrower or conflicts with or results in a breach of the terms, conditions or provisions of any agreement or instrument to which Borrower is now a party

or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any liens, charges, or encumbrances whatsoever upon any of the property or assets of Borrower under the terms of any instrument or agreement.

(f) The execution, delivery and performance by the Borrower of this Loan Agreement and the Series 2024 Note do not require the consent or approval of the giving of notice to, the registration with, or the taking of any other action in respect of, any federal, state or other governmental authority or agency, not previously obtained or performed.

(g) Assuming the due authorization, execution and delivery thereof by the other parties thereto, this Loan Agreement and the Series 2024 Note have been duly executed and delivered by the Borrower and constitute the legal, valid and binding agreements of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general.

(h) There are no actions, suits or proceedings pending, or, to the knowledge of the Borrower, threatened, before any court, administrative agency or arbitrator which, individually or in the aggregate, might result in any material adverse change in the financial condition of the Borrower or might impair the ability of the Borrower to perform its obligations under this Loan Agreement or the Series 2024 Note.

(i) No event has occurred and is continuing which with the lapse of time or the giving of notice would constitute an event of default under this Loan Agreement or the Series 2024 Note.

(j) Upon the Mandatory Project Completion Date, as further set forth in Section 6.1 of the Development Agreement and as evidenced by written Certificates of Completion, to be delivered to the Controller, the Series 2024 Note will be forgiven.

Section 2.3. Series 2024 Note. Concurrently with the execution and delivery hereof, the City is authorizing the Loan to the Borrower and will fund the Loan following the execution of the Development Agreement. The Loan is being evidenced by the execution and delivery by the Borrower of the Series 2024 Note substantially in the form attached hereto as Exhibit A.

(End of Article II)

## ARTICLE III.

### PARTICULAR COVENANTS OF THE BORROWER

Section 3.1. Forgiveness of Payment of Loan. To the extent the applicable representation and condition in Section 2.2(j) is met, payment on the Series 2024 Note shall be forgiven immediately and the Series 2024 Note shall be considered paid and of no further force or effect. If the representation in Section 2.2(j) is not met, the Loan shall remain in effect and be payable upon the maturity date set forth in each Section 2024 Note.

Section 3.2. RESERVED.

Section 3.3. Continuing Existence and Qualification. The Borrower covenants that so long as any Series 2024 Note is outstanding, it: (a) will maintain in good standing its corporate existence and qualification to do business in the State; and (b) will not (1) dissolve or otherwise dispose of all or substantially all of its assets, and (2) consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it; provided that the Borrower may, without violating its agreement contained in this Section, consolidate with or merge into another corporation or other entity, or permit one or more other corporations or other entities to consolidate with or merge into it, or sell or otherwise transfer to another corporation or entity all or substantially all of its assets as an entirety and thereafter dissolve, provided the surviving, resulting or transferee entity (such corporation being hereinafter called the "Surviving Corporation") (if other than the Borrower) expressly accepts, agrees and assumes in writing to pay and perform all of the obligations of the Borrower herein and be bound by all of the agreements of the Borrower contained in this Loan Agreement to the same extent as if the Surviving Corporation had originally executed this Loan Agreement, and the Surviving Corporation is an Indiana corporation or is a foreign corporation or partnership, trust or other person or entity organized under the laws of one of the states of the United States and is qualified to do business in the State of Indiana as a foreign corporation or partnership, trust or other person or entity.

Section 3.4. Assignment, Sale or Other Disposition of Project. Until the Loan is repaid (or deemed forgiven) in full, any sale, lease or other disposition of the Development or any portion thereof is subject to the conditions of Section 3.11 hereof.

Section 3.5. Indemnity. The Borrower will pay, protect, defend, indemnify and save the City, the Commission and the Redevelopment Commission harmless from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses of the City), causes of actions, suits, claims, demands and judgments of any nature arising from or relating to the Project, provided, that the liability of Borrower under this Section 3.5 shall be limited to the amount of the Loan actually received by Borrower as of the date of the alleged breach of the terms of this Loan Agreement. If any proceeding is instituted for which indemnity may be sought under this Section 3.5, the party that may seek such indemnity shall notify the Borrower and the City in writing in a timely manner to allow the Borrower to defend any action or claim in such proceeding.

Section 3.6. Issuance of Substitute Notes. Upon the surrender of any Note, the Borrower will execute and deliver to the holder thereof a new Note dated the date of the Note being surrendered but with appropriate notations thereon to reflect payments of principal already paid

on such Note; provided, however, that there shall never be outstanding at any one time more than one Note.

Section 3.7. Payment of Expenses of Loan. The Note Issuance Costs (as defined under "Project Costs" in Article I hereof) will be paid by the Borrower on the date the Loan is funded.

Section 3.8. Reserved.

Section 3.9. Other Amounts Payable by the Redevelopment Commission. The Redevelopment Commission covenants and agrees to pay the following:

(a) All reasonable out-of-pocket costs incurred by the City incident to the payment of the Series 2024 Note as the same become due and payable.

(b) An amount sufficient to reimburse the City and Commission for all expenses reasonably incurred by the City under this Loan Agreement and in connection with the performance of its obligations under this Loan Agreement.

(c) All reasonable expenses incurred in connection with the enforcement of any rights under this Loan Agreement by the City.

Section 3.10. Completion of Project. The Borrower agrees that it will use reasonable efforts to cause to be made, executed, acknowledged and delivered any contracts, orders, receipts, writings and instructions with any other persons, firms, corporations or partnerships and in general do all things which may be requisite or proper, all for constructing and completing the Project, to the extent permitted by law, by the Mandatory Project Completion Date.

If the moneys comprising the Loan should not be sufficient to pay in full the costs of the construction of the Project, the Borrower agrees, for the benefit of the City and to fulfill the purposes of the Act, to use commercially reasonable efforts to cause the completion of the construction of the Project and to pay or cause to be paid that portion of the costs therefor as may be in excess of the moneys available therefor. The City does not make any warranty, either express or implied, that the moneys will be available for payment of the costs of the construction of the Project, will be sufficient to pay all the costs which will be incurred in that connection. The Borrower shall not be entitled to any reimbursement therefor from the City, nor shall it be entitled to any diminution in or abatement or postponement of the amounts payable hereunder or under the Series 2024 Note.

Section 3.11. Sale, Substitution, or Lease of the Development; Assignment of Loan Agreement. The Borrower, subject to the written consent of the City (which consent shall not be unreasonably withheld), may sell, lease or transfer or otherwise dispose of the Project or any portion thereof only if the sale, lease or transfer or other disposition shall not relieve the Borrower from liability from all payments due under this Loan Agreement and the performance of all of the other obligations of this Loan Agreement, except as permitted by Section 3.4 hereof, unless the transferee accepts, agrees and assumes in writing to pay and perform all of the obligations of the Borrower herein and be bound by all of the agreements of the Borrower contained in this Loan Agreement to the same extent as if the transferee had originally executed this Loan Agreement.

(End of Article III)

## ARTICLE IV.

### EVENTS OF DEFAULT AND REMEDIES THEREFOR

Section 4.1. Events of Default. (a) The occurrence and continuance of any of the following events shall constitute an "event of default" hereunder:

(i) Failure of the Borrower to achieve and maintain the covenant set forth in Section 2.2(j) hereof, as further set forth in Section 6.1 of the Development Agreement; and

(ii) Failure of the Borrower to observe and perform any other covenant, condition or provision of this Agreement for a period of ninety (90) days after written notice, specifying such failure and requesting that it be remedied, given to the Borrower by the City, unless (i) the nature of the default is such that it cannot be remedied within the ninety (90) day period, (ii) the Borrower institutes corrective action within the ninety (90) day period and (iii) the Borrower diligently pursues such action until the default is remedied.

(b) Subject to the further provisions of this Article IV, during the occurrence and continuance of any event of default hereunder, the City or Borrower, as the case may be, shall have the rights and remedies hereinafter set forth in addition to any other remedies herein or by law provided:

(i) Acceleration. Solely if an event of default under Section 5.1(a)(i) of this Loan Agreement has occurred and is continuing, the City shall, by written notice to the Borrower, declare the principal of the Series 2024 Note due and payable, and upon any such declaration, the principal of the Series 2024 Note shall become and be immediately due and payable. The Borrower hereby acknowledges its obligation to repay upon default of Section 2.2(i) as set forth herein. This representation constitutes an agreement between the City and the Borrower that enhances or otherwise further secures the Series 2024 Note pursuant to IC 36-7-25-6 and shall be treated in the same manner as property taxes for real property owned by the Borrower or its affiliates, successors and assigns by merger or acquisition, for purposes of IC 6-1.1-22-13.

(ii) Right to Bring Suit, Etc. The City, with or without entry, personally or by attorney, may proceed to protect and enforce its rights by a suit or suits in equity or at law, whether for damages or for the specific performance of any covenant or agreement contained in the Series 2024 Note or this Loan Agreement, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable remedy, as the City shall deem most effectual to protect and enforce any of its rights or duties hereunder; provided, however that all reasonable costs incurred by the City under this Article shall be paid to the City by the Borrower on demand.

In the event of default by the City, the Borrower may proceed to protect and enforce its rights by a suit for the specific performance or any covenant or agreement contained in this Loan Agreement.



(iii) Waiver of Events of Default. If after any event of default occurs and prior to the City or Borrower exercising any of the remedies provided in this Loan Agreement, the Borrower or City, as the case may be, will have completely cured such default or the City or Borrower has waived such default, then in every case such default will be waived, rescinded and annulled by the City or Borrower by written notice given to the Borrower or City. No such waiver, annulment or rescission will affect any subsequent default or impair any right or remedy consequent thereon.

Section 4.2. Remedies Cumulative. No remedy herein conferred upon or reserved to the City or Borrower is intended to be exclusive of any other remedy or remedies provided herein. The remedies set forth in this Section are the sole and exclusive remedies of the City against Borrower under this Loan Agreement.

Section 4.3. Delay or Omission Not a Waiver. No delay or omission of the City or Borrower to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of any such event of default or an acquiescence therein.

Section 4.4. Waiver of Extension, Appraisal or Stay Laws. To the extent permitted by law, neither the Borrower nor the City will during the continuance of any event of default hereunder insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Loan Agreement; and the Borrower and City hereby expressly waive all benefits or advantage of any such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted to the City or Borrower, respectively, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

Section 4.5. Remedies Subject to Provisions of Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Loan Agreement invalid or unenforceable under the provisions of any applicable law.

Section 4.6. Rights of the City. If there shall be pending proceedings for the bankruptcy or for the reorganization of the Borrower under the United States Bankruptcy Code or any other applicable law, or in case a receiver, trustee, or custodian shall have been appointed for the property of the Borrower, or in the case of any other similar judicial proceedings relative to the Borrower, or to the creditors or property of the Borrower, the City shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to the Loan Agreement and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the City allowed in such judicial proceedings relative to the Borrower, its creditors, or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of its charges and expenses; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby

authorized to make such payments to the City, and to pay to the City any amount due it for compensation and expenses, including reasonable counsel fees and expenses incurred by it to the date of such distribution.

Section 4.7. Waiver of Events of Default. If after any event of default shall have occurred under this Loan Agreement and prior to the City or Borrower exercising any of the remedies provided in this Article, the Borrower or City, as the case may be, shall have completely cured such default, such default may be waived at the discretion of the City or Borrower and, if so waived, shall be rescinded and annulled by the City or Borrower by written notice given to the Borrower or City, respectively.

Section 4.8. Limitation of Liability. The City agrees and acknowledges that Borrower's representations, warranties, covenants, agreements and performance obligations under this Loan Agreement are limited to and apply exclusively to the operations of Developer at the Project site and any determination as to whether Borrower is in default of this Loan Agreement will be limited to Developer's operations at the Project site.

Section 4.9. Force Majeure. A party will not be deemed to be in default or otherwise in violation of any term of this Loan Agreement to the extent such party's action, inaction or omission is the result of Force Majeure Event (as defined below). The City and Borrower agree to use commercially reasonable efforts to promptly resolve any Force Majeure Event that adversely and materially impacts their performance under this Loan Agreement. A force majeure event pauses a party's performance obligation for the duration of the event but does not excuse it. "Force Majeure Event" means any event or occurrence that is not within the control of such party or its affiliates and prevents a party from performing its obligations under this Loan Agreement, including without limitation, any act of God; pandemic; act of a public enemy; war; riot; sabotage; blockage; embargo; failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority; labor strike, lockout or other labor or industrial disturbance (whether or not on the part of agents or employees of either party); civil disturbance; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake or other casualty; any law, order, regulation or other action of any governing authority; any action, inaction, order, ruling moratorium, regulation, statute, condition or other decision of any governmental agency having jurisdiction over the party hereto, over the Project or over a party's operations.

(End of Article IV)

ARTICLE V.

IMMUNITY

Section 5.1. Immunity. No covenant or agreement contained in this Loan Agreement shall be deemed to be a covenant or agreement of any member of the City, the Commission or the Redevelopment Commission or of any officer or employee of the City, the Commission, the Redevelopment Commission or their legislative and fiscal bodies in his or her individual capacity, and neither the members of the City, the Commission, the Redevelopment Commission nor any officer or employee of the City executing the Loan Agreement shall be liable personally on the Loan or be subject to any personal liability or accountability by reason of the Loan.

(End of Article V)

ARTICLE VI.

SUPPLEMENTS AND AMENDMENTS TO THIS LOAN AGREEMENT

Section 6.1. Supplements and Amendments to this Loan Agreement. The Borrower and the City may from time to time enter into such supplements and amendments to this Loan Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof.

(End of Article VI)

ARTICLE VII.

DEFEASANCE

Section 7.1. Defeasance. If the Loan is funded and repayment of the Series 2024 Note is forgiven pursuant to the terms of this Loan Agreement, then and in that case, all property, rights and interest hereby conveyed or assigned or pledged shall revert to the Borrower, and the estate, right, title and interest of the City therein shall thereupon cease, terminate and become void; and this Loan Agreement, and the covenants of the Borrower contained herein, shall be discharged and the City in such case on demand of the Borrower and at its cost and expense, shall execute and deliver to the Borrower a proper instrument or proper instruments acknowledging the satisfaction and termination of this Loan Agreement, and shall convey, assign and transfer or cause to be conveyed, assigned or transferred, and shall deliver or cause to be delivered, to the Borrower, all property, including money, then held by the City together with the Series 2024 Note marked paid or cancelled.

(End of Article VII)

## ARTICLE VIII.

### MISCELLANEOUS PROVISIONS

Section 8.1. Termination by Borrower. Borrower has the right to terminate this Loan Agreement for any reason or no reason by delivering notice to the City at least 5 business days prior to the desired termination date.

Section 8.2. Dispute Resolution. The Borrower and the City ("Parties") shall use their best efforts to resolve quickly and informally any disputes that could impede performance of the Parties' obligations under this Loan Agreement. If the Parties are not able to resolve a dispute through such informal efforts, the dispute shall be resolved by mediation in accordance with the Indiana Rules of Dispute Resolution. Such mediation shall be a condition precedent to a Party commencing litigation against the other Party. This Agreement shall be governed and construed in accordance with the laws of the State of Indiana, without giving effect to its conflict of law rules. Any litigation commenced by a Party related to or arising out of this Agreement must be filed in the state courts of St. Joseph County, Indiana. The Parties further consent to the personal jurisdiction by said courts over it and hereby expressly waive, in the case of any such action, any defenses thereto based on jurisdictions, venue or forum non conveniens.

Section 8.3. Confidentiality. Borrower acknowledges that portions of this Loan Agreement and the materials, communications, data and information related to this Loan Agreement may constitute public records subject to disclosure under the State's public records laws and agrees that the City may disclose such portions of this Loan Agreement and the materials, communications, data and information related to this Loan Agreement as required by law, provided that the City gives Borrower prior written notice sufficient (in no event less than 7 calendar days) to allow Borrower to review any request for public record and make a recommendation to the City concerning its response to any request for public records related to this Loan Agreement.

Section 8.4. Information Security. The City agrees to use reasonable physical and technical measures to maintain the security of all electronic and tangible records relating to this Loan Agreement.

Section 8.5. Loan Agreement for Benefit of Parties Hereto. Nothing in this Loan Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, their successors and assigns and the holder of the Series 2024 Note, any right, remedy or claim under or by reason of this Loan Agreement or any covenant, condition or stipulation hereof; and the covenants, stipulations and agreements in this Loan Agreement contained are and shall be for the sole and exclusive benefit of the parties hereto, their successors and assigns and the holder of the Series 2024 Note.

Section 8.6. Severability. If any one or more of the provisions contained in this Loan Agreement or in the Series 2024 Note shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein, shall not in any way be affected or impaired thereby.



Mr. Gareth Kuhl  
429 N. Pennsylvania Street, Suite 210  
Indianapolis, IN 46204

Section 8.9. Successors and Assigns. Whenever in this Loan Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all the covenants, promises and agreements in this Loan Agreement contained by or on behalf of the Borrower, or by or on behalf of the City, shall bind and inure to the benefit of the respective successors and assigns, whether so expressed or not.

Section 8.10. Counterparts. This Loan Agreement is being executed in any number of counterparts, each of which is an original and all of which are identical. Each counterpart of this Loan Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

Section 8.11. Governing Law. It is the intention of the parties hereto that this Loan Agreement and the rights and obligations of the parties hereunder and the Series 2024 Note and the rights and obligations of the parties thereunder, shall be governed by and construed and enforced in accordance with, the laws of the State of Indiana.

Section 8.12. Third-Party Beneficiary. The parties hereto acknowledge and agree that the terms of this Loan Agreement may be enforced by the Redevelopment Commission. The Redevelopment Commission shall be deemed to be a third-party beneficiary of this Loan Agreement. Except as provided in the foregoing sentence and as specifically set forth herein, nothing in this Loan Agreement is intended to confer any rights or remedies under or by reason of this Loan Agreement on any person or entity other than the parties hereto and their successors and permitted assigns.

(End of Article VIII)



IN WITNESS WHEREOF, the City has caused this Loan Agreement to be executed in its name by its authorized officers and has caused its corporate seal to be hereunto affixed, and the Borrower has caused this Loan Agreement to be executed in their names, all as of the date first above written.

LEGACY25, INC.,  
an Indiana nonprofit corporation

By: \_\_\_\_\_

Printed: Ronda Shrewsbury

Title: President

REALAMERICA DEVELOPMENT, LLC  
an Indiana limited liability company

By: \_\_\_\_\_

Printed: Ronda Shrewsbury

Title: President and Owner

CITY OF SOUTH BEND, INDIANA

By: \_\_\_\_\_  
James Mueller, Mayor

By: \_\_\_\_\_  
Kyle Willis, City Controller

ATTEST:

By: \_\_\_\_\_  
Bianca Tirado, City Clerk

ACKNOWLEDGED BY THE SOUTH BEND  
REDEVELOPMENT COMMISSION, as Third-  
Party Beneficiary

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

Attest:

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

This instrument prepared by Lisa A. Lee, Ice Miller LLP, One American Square, Suite 2900,  
Indianapolis, Indiana 46282.

EXHIBIT A

FORM OF LEGACY25, INC.  
TAXABLE ECONOMIC DEVELOPMENT REVENUE NOTE  
SERIES 2024 NOTE

Issue Date: February \_\_, 2024  
Original Principal: \$3,800,000  
Maturity Date: \_\_\_\_\_, 203\_\_  
Interest Rate: \_\_\_\_%

FOR VALUE RECEIVED, the undersigned, Legacy25, Inc. ("Borrower"), a nonprofit corporation incorporated and existing under the laws of the State of Indiana and authorized to do business under the laws of the State of Indiana, hereby promises to pay to the order of the City of South Bend, Indiana ("City"), in immediately available funds, the interest and principal due under the Loan Agreement, dated as of February 1, 2024, between the City and Borrower ("Loan Agreement"), upon maturity, to the extent all or a portion of the principal and interest payable under this Series 2024 Note is not forgiven pursuant to the Loan Agreement, at such place as the City may direct, in immediately available funds based upon the outstanding principal amount drawn on this Note, which shall not to exceed \$3,800,000. Pursuant to the Guaranty Agreement, RealAmerica Development, LLC promises to pay the interest and principal due under the Loan Agreement, upon maturity, to the extent all or a portion of the principal and interest payable under this Series 2024 Note is not forgiven pursuant to the Loan Agreement

In certain events and in the manner set forth in the Loan Agreement, payments due under this Series 2024 Note are entitled to forgiveness.

This Series 2024 Note is issued pursuant to the Loan Agreement, and is entitled to the benefits, and is subject to the conditions thereof. The Borrower's obligations under this Series 2024 Note are subject in all respects to the further provisions of the Loan Agreement.

This Note is the Note referred to in the Loan Agreement and is subject to, and is executed in accordance with, all of the terms, conditions and provisions thereof, including those respecting prepayments.

In any case where the date of payment hereunder shall not be on a Business Day (as defined in the Loan Agreement), then such payment shall be made on the next succeeding Business Day with the same force and effect as if made on the date of payment hereunder.

All terms used in this Note which are defined in the Loan Agreement shall have the meanings assigned to them in the Loan Agreement.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and attested by its duly authorized officers or representatives.

Dated the Issue Date set forth above.

LEGACY25, INC., an Indiana nonprofit corporation

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT B

DESCRIPTION OF REAL ESTATE ACQUIRED

**Tax ID No.** 018-3015-056301

**Parcel Key No.** 71-08-12-305-001.000-026

**Legal Description:** Lots 55 56 & 57 & W 1/2 Vac Alley E & Adj & N 1/2 Vac Alley S & Adj To Lot 57 Martins Addn

**Commonly known as:** 504 S. Lafayette Blvd., South Bend, Indiana 46601

**Tax ID No.** 018-3015-0578

**Parcel Key No.** 71-08-12-305-005.000-026

**Legal Description:** S 1/2 Lot 44 & 3 Ft N Side Lot 45 E 1/2 Vac Alley W & Adj Martins Add

**Commonly known as:** 511 S. Main St., South Bend, Indiana 46601

**Tax ID No.** 018-3015-0579

**Parcel Key No.** 71-08-12-305-006.000-026

**Legal Description:** 32 Ft N Side Lot 45 & E 1/2 Vac Alley W & Adj Martins Add

**Commonly known as:** 515 S. Main St., South Bend, Indiana 46601

**Tax ID No.** 018-3015-0580

**Parcel Key No.** 71-08-12-305-007.000-026

**Legal Description:** 31 Ft Sside Lot 45 & N 1/2 Vac Alley So. & Adj & E 1/2 Vac Alley W & Adj Martins Add

**Commonly known as:** 517 S. Main St., South Bend, Indiana 46601

**Tax ID No.** 018-3015-0563

**Parcel Key No.** 71-08-12-305-008.000-026

**Legal Description:** S 1/2 Lot 44 & 3 Ft N Side Lot 45 E 1/2 Vac Alley W & Adj Martins Add

**Commonly known as:** 520 S. Lafayette Blvd., South Bend, Indiana 46601

**Tax ID No.** 018-3015-0581

**Parcel Key No.** 71-08-12-305-009.000-026

**Legal Description:** Lot 46 47 48 1/2 Vac All No. & Adj & E 1/2 Vac Alley W & Adj Martins Addition

**Commonly known as:** Northwest corner of S. Main St. and W. South St., South Bend, Indiana 46601

EXHIBIT C  
FORM OF GUARANTY AGREEMENT

GUARANTY AGREEMENT  
(RealAmerica Development, LLC)

In consideration of the issuance of the City of South Bend, Indiana's ("Issuer") Taxable Economic Development Revenue Note, Series 2024 (RealAmerica Project), in the aggregate principal amount not to exceed \$3,800,000 ("Series 2024 Note"), as evidence of a loan to Legacy25, Inc., an Indiana Nonprofit Corporation ("Borrower"), as authorized by an ordinance of the Issuer adopted on February 12, 2024 to fund the construction of site work and infrastructure improvements ("Local Public Improvements") needed to serve the redevelopment and development of: (i) a new residential apartment building containing at least seventy thousand (70,000) square feet, which shall include a minimum of sixty (60) total apartment units, of which all sixty (60) apartment units will be exclusively available for tenants at eighty percent (80%) or lower of the area median income; (ii) a second new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units; and (iii) a third new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units on certain real estate (collectively, "Development" and hereinafter collectively with the Local Public Improvements, the "Project") to induce the Borrower and RealAmerica Development, LLC ("Guarantor") to construct the Development, all in or physically connected to the River West Development Area and the River West Development Area Allocation Area No. 1 as established by the Commission, the Issuer intends to issue and fund its forgivable Series 2024 Note, pursuant to a Loan Agreement, dated as of February 1, 2024, between the Issuer and the Borrower ("Loan Agreement"), and loan the proceeds of the Series 2024 Note, on a forgivable basis, to the Borrower to finance a portion of the costs of the Project.

The Loan Agreement provides for the payment of the Series 2024 Note by the Borrower and further provides for the Borrower's repayment obligation to be evidenced by the Series 2024 Note and, subject to provisions of the Loan Agreement, the loan will be payable solely out of the payments to be made by the Borrower (if any) on the Series 2024 Note.

The Guarantor is willing to enter into this Agreement to guarantee the payment of the Series 2024 Note, to the extent the Series 2024 Note is not forgiven pursuant to the Loan Agreement ("Indebtedness").

In addition to the obligation of the Guarantor to pay and perform when due the Indebtedness, if not forgiven pursuant to the Loan Agreement, upon the written demand of the Issuer, after the occurrence of any of the following events, the Guarantor shall immediately pay in full and satisfy the Indebtedness or portion thereof remaining unpaid or unsatisfied at such time, whether or not such Indebtedness may then be due and payable, together with the costs and expenses (including without implied limitation reasonable attorneys' fees) incurred by the Issuer in connection with the collection or enforcement of this Guaranty, without relief from valuation and appraisal laws:

- (a) The dissolution, liquidation, or termination of the business of the Borrower;
- (b) The assignment by the Borrower for the benefit of its creditors;
- (c) The appointment of a receiver or a trustee for the Borrower or any of its assets;
- (d) The filing of an involuntary petition to adjudicate the Borrower as bankrupt and the failure of the Borrower to obtain a dismissal of such petition within sixty (60) days; or
- (e) The filing by the Borrower of a voluntary petition to adjudicate the Borrower as bankrupt or for reorganization.

The obligations of the Guarantor under this Guaranty Agreement ("Agreement") shall be absolute and unconditional under any and all circumstances (including, but without limitation, any event, occurrence or circumstance, whether or not within the contemplation of the parties hereto and whether or not affecting the purposes of or any consideration to the Guarantor in entering into this Agreement) and shall remain in full force and effect until the Indebtedness has been paid in full. The obligations of the Guarantor shall not be affected, modified or impaired upon the happening from time to time of any event, including but without limitation any of the following, whether or not with notice to, or the consent of, the Guarantor:

(a) The waiver, surrender, compromise, alteration, settlement, discharge, release or termination of any or all of the obligations, covenants or agreements of the Borrower except for the payment and performance of the Indebtedness in full, to the extent not forgiven;

(b) The failure to give notice to the Borrower or the Guarantor of the occurrence of an event of default under the terms and provisions of this Agreement or any documents executed in connection with the Indebtedness;

(c) The extension of time for payment of any obligation or any amount due under this Agreement, if not forgiven, or of the time for performance of any other obligation, covenant or agreement under or arising out of this Agreement or any documents executed in connection with the Indebtedness;

(d) The rescission, waiver, modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in this Agreement or the Loan Agreement or any other act or thing or omission or delay to do any other act or thing which may in any manner or to any extent vary the risk of the Guarantor or would otherwise operate as a discharge of the Guarantor as a matter of law;

(e) The taking, suffering or omitting to take any of the actions referred to in this Agreement or any documents executed in connection with the Indebtedness;

(f) The failure, omission, delay or lack of diligence on the part of Borrower, as the owner of the Series 2024 Notes, to enforce, assert or exercise any right, power or remedy conferred on the Borrower under this Agreement or any documents executed in connection with the Indebtedness;

(g) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, reorganization, arrangement, composition with creditors or readjustment of, or any similar proceedings affecting the Borrower or the allegation or contest of the validity of this Agreement or any documents executed in connection with the Indebtedness;

(h) The release or discharge of the Borrower from the performance or observance of any obligation, covenant or agreement contained in any documents executed in connection with the Indebtedness;

(i) Any event or action that would result in the release or discharge of the Guarantor from the performance or observance of any obligation, covenant or agreement contained in this Agreement;

(j) The default or failure of the Guarantor fully to perform its obligations set forth in this Agreement;

(k) The invalidity, illegality or unenforceability of any documents executed in connection with the Indebtedness or any part thereof; or

(l) Any other cause similar or dissimilar to any of the foregoing.

The Guarantor acknowledges that the Guarantor has had an opportunity to review the Indebtedness, all other documentation evidencing the Indebtedness; and all other documentation and information which the Guarantor feels is necessary or appropriate in order to execute and deliver this Agreement to the Issuer and the Borrower. The Guarantor warrants and represents to the Issuer and the Borrower that the Guarantor has knowledge of the Borrower's financial condition and affairs and of all other circumstances which bear upon the risk assumed by the Guarantor under this Agreement. The Guarantor agrees to continue to keep informed thereof while this Agreement is in force and further agrees that the Borrower does not have and will not have any obligation to investigate the financial condition or affairs of the Borrower for the benefit of the Guarantor or to advise the Guarantor of any fact respecting, or any change in, the financial condition or affairs of the Borrower or any other circumstance which may bear upon the Guarantor's risk hereunder which comes to the knowledge of the Borrower at any time, whether or not the Borrower knows, believes or has reason to know or to believe that any such fact or change is unknown to the Guarantor or might or does materially increase the risk of the Guarantor hereunder.

This Agreement shall be binding upon the Guarantor and its respective successors, assigns and legal representatives and shall inure to the benefit of the Borrower and its successors, assigns and legal representatives. Notice of the acceptance of this Agreement is hereby waived by the Guarantor. The Guarantor shall have no right of contribution with respect to any other guarantor unless and until the Indebtedness has been paid in full or forgiven pursuant to the Loan Agreement. The Guarantor shall not pursue collection of any indebtedness of the Borrower to the Guarantor or exercise any right or remedy with respect to any security therefore unless and until the Indebtedness has been paid in full.



The Guarantor agrees that the Guarantor shall not cause or permit any substantial amount of the Guarantor's property, business or assets to be sold, terminated, assigned, conveyed, pledged or otherwise transferred or encumbered without fair and adequate consideration. The Guarantor also agrees to submit annual financial statements within 90 days of its fiscal year-end and to provide the Guarantor's federal income tax return within 2 weeks of filing.

If any demand is made at any time upon the Borrower for the repayment or recovery of any amount or amounts received by the Borrower in payment or on account of the Indebtedness, to the extent not forgiven pursuant to the Loan Agreement, and the Borrower repays all or any part of such amount or amounts by reason of any judgment, decree or order of any court or administrative body or by reason of any settlement or compromise of any such demand, the Guarantor will be and remain liable hereunder for the amount or amounts so repaid or recovered to the same extent as if such amount or amounts had never been received originally by the Borrower.

The Guarantor agrees that all actions or proceedings arising directly, indirectly or otherwise in connection with, out of, related to or from this Agreement shall be litigated, at the Borrower's sole discretion or election, in a court having situs within the State of Indiana where the Project is located. The Guarantor hereby consents and submits to the jurisdiction of any local, state or federal court located within Indiana.

The Guarantor agrees that this Guaranty shall be assignable to successor holders in the event of the sale of the Series 2024 Note.

This Agreement is executed and shall be construed in accordance with the laws of the State of Indiana.

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

REALAMERICA DEVELOPMENT, LLC

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Ronda Shrewsbury, Managing Member