



Department of
Community Investment

Memorandum

Monday, July 25, 2016

TO: Redevelopment Commission
FROM: Jitin Kain 
SUBJECT: License Agreement for Saigon Market Site Work

Attached to this memorandum is a license agreement between the Commission and owners of Saigon Market, an ethnic grocery store, located at the SW corner of Main and Colfax Ave.

Saigon Market owns the surface parking lot directly on the SW corner of Main and Colfax Avenue. The market has a curb cut on Main Street as the primary entrance into the parking lot. A narrower curb cut on Colfax allows for deliveries into a vacated alley but not into the parking lot. As part of the Smart Streets initiative, the curb cut from Main Street will be removed as it will be too close to the new intersection once traffic patterns are changed. This will create a safety concern for patrons exiting the parking lot from Main St. The City has offered moving the curb cut to Colfax Ave. which the owners of Saigon Market have agreed to.

The current TIF infrastructure bond will cover the costs of the new approach on Colfax Avenue within the public Right of Way. Due to grade differential between the existing parking lot and current sidewalk, pavement work is to be done on the Saigon Market surface parking lot to ensure that the right of way drainage does not impact the private parking lot. Additionally, the new and widened approach on Colfax will eliminate 2 parking space within Saigon's lot. As compensation of the 2 parking spaces, the owner has requested a decorative fence around the perimeter of the lot. Since the TIF bond cannot be utilized for any expenditures on private property, staff requests the use of RWDA TIF for this purpose.

Staff requests approval of the attached license agreement and a project budget in the amount of not to exceed \$15,000 from the RWDA.



LICENSE AGREEMENT FOR SITE WORK

This License Agreement for Site Work (this "Agreement") is entered into on July 28, 2016 (the "Effective Date"), by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the "Commission") and Bao N. Nguyen and Oanh P. Nguyen (collectively, the "Owner") (each a "Party" and collectively the "Parties").

RECITALS

A. The Owner owns certain real property located at the southwest corner of the intersection of Main Street and Colfax Avenue in the City of South Bend, Indiana (the "City"), commonly known as 133 Main Street and identified as Parcel Key Number 018-1008-0314 (the "Property"). The Property is situated within the River West Development Area, as determined and designated by the Commission in accordance with Ind. Code 36-7-14.

B. To advance and carry out the City's Smart Streets Initiative, the City, acting through its Board of Public Works, has undertaken certain street, sidewalk, and utilities improvements in the vicinity of the Property (the "Smart Streets Work").

C. The Smart Streets Work necessitates certain alterations around and on the Property, including paving and grading on the Property to ensure proper drainage of the public rights-of-way in the vicinity of the Property and the removal of an existing driveway to the Property from Main Street.

D. To facilitate the City's work on and around the Property, the Owner desires to grant the Commission, and its agents and contractors, a temporary license to enter upon and alter the Property in accordance with the terms of this Agreement.

E. The Commission has determined that completing the site work upon the terms of this Agreement is in the best interest of the City and its residents.

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

1. Recitals. The above recitals are incorporated into this Agreement.
2. License. The Owner hereby grants to the Commission, and to the Commission's agents and contractors, a temporary license to enter upon and conduct all necessary site work upon the Property at the times the Commission or its agents or contractors may determine to be efficient and appropriate.
3. Term. This Agreement and the license herein granted will commence on the Effective Date state above and will end on such date determined by the Commission or its representative upon which all site work on the Property is satisfactorily completed (the

“Termination Date”). The Owner will have no right to terminate the license before the Termination Date.

4. Scope of Site Work.

(a) Paving. Consistent with the City’s Smart Streets Work, which includes the installation of storm sewer utilities in the vicinity of the Property, certain paving and grading work (the “Paving”) to be performed on the surface parking lot located on the Property is necessary to ensure proper drainage of the public rights-of-way in the vicinity. Accordingly, the Commission will cause the Paving to be completed at a time and in a manner that will not interfere with the construction schedule or specifications of the City’s Smart Streets Work.

(b) Driveways and Fence. The City’s Smart Streets Work necessitates the removal of an existing driveway, located within the public right-of-way, from Main Street onto the Property (the “Main Driveway”). To ensure the Owner continues to have adequate access to the Property in light of the removal of the Main Driveway, the City will widen and relocate an existing driveway, located within the public right-of-way, from Colfax Avenue onto the Property (the “Colfax Driveway”). The City’s widening and relocation of the Colfax Driveway will require the elimination of two (2) parking spaces from the Owner’s surface parking lot on the Property. As full and final compensation for the elimination of said parking spaces, the Owner has requested, and the Commission hereby agrees to provide, the installation of a fence enclosing the surface parking lot located on the Property (the “Fence,” together with the Paving collectively referred to as the “Improvements”). The Commission will cause the Fence to be installed at a time and in a manner that will not interfere with the construction schedule or specifications of the City’s Smart Streets Work.

(c) Funding Limit. The Commission will expend no more than Fifteen Thousand Dollars (\$15,000.00) to complete the Improvements.

5. Cooperation. The Parties agree to cooperate with one another in good faith to provide for and to coordinate the Commission’s completion of the Improvements on the Property.

6. Ownership of Improvements. Upon completion of the Improvements, the Owner will own all right, title, and interest in and to the Improvements. Neither the Commission nor the City will retain any ownership interest in the Improvements after their completion.

7. Warranty, Maintenance, and Repair. Upon completion of the Improvements, (a) the Commission shall assign any warranties it may have regarding the Improvements to the Owner, and (b) the Owner shall assume all maintenance, repair, and replacement obligations which are outside of any warranty assigned to the Owner.

8. Indemnification. The Commission will indemnify and hold the Owner harmless from and against any and all liabilities, damages, injuries, losses, claims, demands, or costs caused by any acts of the Commission, or its agents or contractors, in the installation and construction of the Improvements. Upon completion of the Fence or the Paving (or both),

however, the Owner will assume any and all liabilities, damages, injuries, losses, claims, demands, or costs arising out of the same.

9. Entire Agreement; Amendment. This instrument contains the entire agreement between the Parties relating to its subject matter. This Agreement may be amended only by a written instrument signed by authorized representatives of the Parties.

10. Authority; Counterparts; Signatures. Each undersigned person signing on behalf of his/her respective Party certifies that he/she is duly authorized to bind his/her respective Party to the terms of this Agreement. This Agreement may be separately executed in counterparts by the Commission and the Owner, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

IN WITNESS WHEREOF, the Parties have executed this License Agreement for Site Work to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT
COMMISSION, governing body of the
City of South Bend Department of
Redevelopment

By: _____
Marcia I. Jones, President

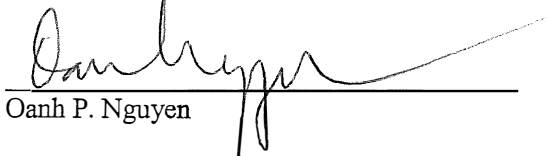
ATTEST:

Donald E. Inks, Secretary

OWNER



Bao N. Nguyen



Oanh P. Nguyen

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