



CITY OF SOUTH BEND

REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: 6/16/23
FROM: Joseph Molnar
SUBJECT: Authorizing Settlement Agreement

_____ Pres/V-Pres

ATTEST: _____ Secretary

Date: _____

APPROVED Not Approved

SOUTH BEND REDEVELOPMENT COMMISSION

Which TIF? (circle one) River West; River East; South Side; Douglas Road; West Washington

PURPOSE OF REQUEST: Resolution Approving Terms of Settlement Agreement and Authorizing Execution of Agreement

Specifics: The Commission on September 26, 2019 entered into a Real Estate Purchase Agreement with R Ray Real Estate, LLC (Masterbilt) for the purchase of 1530 Kemble St. (the "Property") with the intention of Masterbilt to perform certain lot improvements.

Subsequently, Masterbilt undertook several actions to prepare the property for the lot improvements including obtaining Quiet Title Judgment for the Property in Cause No. 71C01-2005-PL-000170, and the expenditure of other funds to invest in the Property and vacating former railroad easements on the property.

However, due to unforeseen circumstances, the lot improvements as outlined will not be completed. Masterbilt ended up purchasing another large already constructed building in the city limits of South Bend and made considerable investments in the new site, expanding Masterbilt's business as originally planned in the Purchase Agreement but at a different location. Furthermore, Masterbilt executed this business expansion without any Tax Increment Financing or Tax Abatement subsidies from the City of South Bend.

As the lot improvements will not be completed, to avoid costly litigation, Redevelopment staff and Masterbilt negotiated a settlement agreement by which the Commission would retake the Property quickly and efficiently. This resolution ratifies and approves the re-acquisition of the Property at Fifty Thousand Dollars (\$50,000.00), as well as transferring two small non-buildable lots near a current Masterbilt owned property and authorizes members of the Department of Law to negotiate the remaining terms of the Settlement Agreement.

Redevelopment Staff requests approval of the Resolution.

RESOLUTION NO. 3575

A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION APPROVING TERMS OF SETTLEMENT AND AUTHORIZING EXECUTION OF AGREEMENT

WHEREAS, the South Bend Redevelopment Commission (the “Commission”), governing body of the South Bend Department of Redevelopment (“Redevelopment”), exists and operates pursuant to I.C. 36-7-14 (the “Act”); and

WHEREAS, the Commission entered into a Real Estate Purchase Agreement (“Agreement”), dated September 26, 2019, with R Ray Real Estate, LLC (“R Ray”) for the purchase of certain property (“Property”), a copy of which is attached as Exhibit A; and

WHEREAS, as a part of the Agreement, R Ray was to perform certain lot improvements on the Property; and

WHEREAS, subsequent to the execution of the Purchase Agreement, R Ray undertook several actions to prepare the Property for the lot improvements as contemplated in the Purchase Agreement; however, due to unforeseen circumstances, the lot improvements as outlined in Section 11 of the Purchase Agreement will not be completed; and

WHEREAS, to avoid litigation, Redevelopment staff and R Ray negotiated a Settlement Agreement by which the Commission would re-take the Property quickly and efficiently, and

WHEREAS, certain other property owned by the Commission (the “Lots”) is included as part of the consideration in the Settlement Agreement to be conveyed to R Ray; and

WHEREAS, through its adoption of its Resolution No. 3569 on January 26, 2023, the Commission established an offering price of \$1,930.00 for the Lots; and

WHEREAS, pursuant to the Act, on January 16, 2023, the Commission authorized the publication on February 3, 2023, and February 10, 2023, respectively, of a notice of its intent to sell the Lots and its desire to receive bids for the Lots on or before February 23, 2023, at 9:00A.M.; and

WHEREAS, as of February 23, 2023, at 9:00A.M., the Commission received no bids for the Lots; and

WHEREAS, having satisfied the conditions stated in Section 22 of the Act, the Commission may convey the Lots as part of the Settlement Agreement.

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

1. The Commission hereby ratifies and approves the re-acquisition of the Property in exchange for the conveyance of the Lots and the sum of Fifty Thousand Dollars (\$50,000.00).

2. The Commission authorizes members of the Department of Law to negotiate any remaining terms of the Settlement Agreement on its behalf.

3. The Corporation Counsel of the City of South Bend, Indiana is hereby authorized and instructed to execute the final Settlement Agreement.

4. The Commission shall execute a Special Warranty Deed, as set forth in Exhibit B, conveying the Lots to R Ray, which will be held in escrow until receipt of an executed Special Warranty Deed from R Ray returning the Property to the Commission.

5. This Resolution will be in full force and effect upon its adoption by the Commission.

Signature Page Follows

ADOPTED at a meeting of the South Bend Redevelopment Commission held on June 22, 2023.

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia Jones, President

ATTEST:

Vivian Sallie, Secretary

EXHIBIT A

Real Estate Purchase Agreement

Exhibit B

Special Warranty Deed
City of South Bend Redevelopment Commission as Grantor
R Ray Real Estate, LLC as Grantee

AUDITOR'S RECORD

TRANSFER NO. _____
TAXING UNIT _____
DATE _____
KEY NOS. 018-3076-3059
018-3076-305301

SPECIAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that the City of South Bend, Department of Redevelopment, by and through its governing body, the South Bend Redevelopment Commission, 1400 S. County-City Building, 227 W. Jefferson Boulevard, South Bend, Indiana (the "Grantor")

CONVEYS AND SPECIALLY WARRANTS to R Ray Real Estate, LLC, an Indiana limited liability company with its registered office at 705 North Hill Street, South Bend, Indiana 46617 (the "Grantee"),

for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following real estate located in St. Joseph County, Indiana (the "Property"):

Tax ID: 018-3076-3059
Legal Description: LOT 45 KNOBLOCKS SUB BOL 84 N OF RR
Commonly Known As: 18 CHESTNUT-VAC LOT 50X120

Tax ID: 018-3076-305301
Legal Description: 6 X 20FT SW COR LOT 34 KNOBLOCKS SUB OF BOL 84
Commonly Know As: 18 VAC L34 6X20 WALNUT

The Grantor warrants title to the Property only insofar as it might be affected by any act of the Grantor during its ownership thereof and not otherwise.

The Grantor hereby conveys the Property to the Grantee free and clear of all leases or licenses; subject to real property taxes and assessments; subject to all easements, covenants, conditions, restrictions, and other matters of record; subject to rights of way for roads and such matters as would be disclosed by an accurate survey and inspection of the Property; subject to all applicable building codes and zoning ordinances; and subject to all provisions and objectives contained in the Commission's development area plan, and any design review guidelines associated therewith.

The Grantor conveys the Property to the Grantee subject to the limitation that the Grantee, and its successors and assigns, shall not discriminate against any person on the basis of race, creed, color, sex, age, or national origin in the sale, lease, rental, use, occupancy, or enjoyment of the Property or any improvements constructed on the Property.

Each of the undersigned persons executing this deed on behalf of the Grantor represents and certifies that s/he is a duly authorized representative of the Grantor and has been fully empowered, by

