



Department of
Community Investment

Memorandum

Monday, December 07, 2015

TO: RDC members

FROM: Chris Fielding

SUBJECT: Airport Authority improvements

In June of 2014 staff presented the potential of attracting Corporate Wings, owned by Ken Ricci, to the South Bend International airport. This has been an ongoing partnership with the Airport Authority to utilize TIF funding to make the improvements to the ramp and tarmac that would accommodate additional jets.

The total investment on behalf of the RDC as negotiated is set at \$1.5 million with private investment estimated to be approximately \$6 million.

The Airport Authority has offered to donate 66 acres of land at the intersection of Lincolnway and the US 20 bypass to the City for potential future commercial development. The AA will begin the voluntary annexation of the property prior to transferring the land.

The AA board meets on 12/17/2015 and staff is requesting approval and execution of the agreement for submittal to the AA Board.



DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement"), dated as of _____, 2015 (the "Effective Date"), is made and entered into between the City of South Bend Department of Redevelopment, by and through its governing body, the South Bend Redevelopment Commission (the "Commission"), and the St. Joseph County Airport Authority ("SBN"), organized and duly existing under the laws of Indiana (the Commission and SBN being sometimes referred to herein individually as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, the Commission exists and operates under the provisions of Indiana Code Section 36-7-14, as amended from time to time (the "Act"); and

WHEREAS, SBN owns and operates the South Bend International Airport (the "Airport") located in St. Joseph County, Indiana and within the River West Development Area (the "Area") of the City of South Bend (the "City"), which Area was previously designated by the Commission as an economic development area pursuant to the Act and as an allocation area for purposes of tax increment finance; and

WHEREAS, SBN owns and expects to lease to Corporate Wings – SBN, LLC, an Indiana limited liability company ("Corporate Wings"), the real estate within the Airport commonly known as the DHL Hangar, which is depicted in attached **Exhibit A** (the "Hangar Property"); and

WHEREAS, SBN desires, without cost to SBN, to construct an aircraft parking ramp adjacent to the Hangar Property, in the area marked in attached **Exhibit B** as "EXPANDED RAMP" (the "Ramp Property") for the purpose of allowing Corporate Wings to park aircraft as part of their Fixed Base Operator services (the "FBO Services") to the aviation community pursuant to a written agreement between SBN and Corporate Wings (the "FBO Agreement") dated _____ (collectively, the "Ramp Project"); and

WHEREAS, the Ramp Project is consistent with the objectives of the Commission's development plan for the Area and will benefit the health and welfare of the City and its residents, and

WHEREAS, SBN owns certain real estate located in St. Joseph County, Indiana, which it desires, at no cost to SBN, to convey, as-is, to the Commission in furtherance of the Commission's purposes under the Act, upon approval by the Federal Aviation Administration (the "FAA").

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. The foregoing Recitals are incorporated into the operative provisions of this Agreement as if fully set out herein.

2. Subject to the terms of this Agreement, SBN agrees to complete (or cause to be completed) the Ramp Project as described in attached **Exhibit B1** on a schedule to be reasonably determined and agreed by the Commission and SBN, as may be modified due to unforeseen circumstances and delays. Before any work on the Ramp Project will commence, the Commission will have received final site plans and bid specifications for such project in accordance with Section 4 below.

3. To complete the Ramp Project, the Commission agrees to expend an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) (the "Funding Amount"). Notwithstanding anything herein to the contrary, in the event the costs to complete the Ramp Project exceed the Funding Amount, SBN, at its sole option, may determine to pay to the Commission the amount of the excess costs to permit timely completion of the Ramp Project by the Commission, which amount shall be applied for such purpose. If SBN chooses not to pay any such excess costs of the Ramp Project (above the Funding Amount), the Commission may reduce the scope of the Ramp Project so that such work may be funded solely by the Funding Amount. In no event will the Commission be required to spend more than the Funding Amount in connection with the Ramp Project or this Agreement.

4. SBN will select and employ a professional, licensed engineer acceptable to both Parties (the "Engineer") to generate site plans and bid specifications for the Ramp Project (the "Plans and Specifications"). SBN will submit a final copy of the Plans and Specifications immediately upon their completion by the Engineer to the City's Board of Public Works. The costs of preparing said site plans and bid specifications will be paid out of and deducted from the Funding Amount.

5. SBN will cause the Ramp Project to be completed in accordance with the final Plans and Specifications prepared by the Engineer and in accordance with all applicable public procurement, competitive bidding, and construction laws and regulations. SBN will serve as the project manager for the Ramp Project. SBN will be responsible for all aspects of procuring, coordinating, and paying for the services, labor, and materials necessary to complete the Ramp Project (collectively, the "Project Management Duties"). Further, as part of SBN's Project Management Duties, SBN agrees to submit to the City's Board of Public Works all documents and reports necessary to evidence its procurement processes and all contracts and expenditures made in connection with the Ramp Project. For carrying out the Project Management Duties to the Commission's reasonable satisfaction, SBN will be entitled to a project management fee in an amount up to Eleven Percent (11%) of the Funding Amount (the "Project Management Fee"). The Project Management Fee will be paid out of and deducted from the Funding Amount. Upon the completion of the Ramp Project, or any portion thereof, SBN will submit to the Commission invoices for the costs and expenses of SBN's contractors, along with all associated bid documents and other documents evidencing the completion of the work. Upon satisfactory inspection and approval of the same, as determined in the Commission's reasonable discretion, the Commission will apply the Funding Amount to pay such invoices.

6. The Ramp Property will, at all times, remain under the control of and be maintained by SBN. All expenses relating to the control and operation of the Ramp Project, and any adjacent portions of the Hangar Property owned by SBN, including utility charges, shall be borne by SBN. Insuring and securing the Ramp Property and any personal property located thereon will be the obligation of SBN.

7. Immediately upon the Effective Date of this Agreement, SBN will begin its application for all approvals, including, without limitation, approval from the FAA, necessary for SBN's conveyance of the real property described in attached **Exhibit C** and attached **Exhibit C1** (the "Annexation Parcels") to the City. Promptly upon receiving the necessary approvals, SBN shall transfer the Annexation Parcels to the City pursuant to a written agreement to be negotiated in good faith by SBN and the City (through its Board of Public Works), provided that the following conditions have first been satisfied: (1) SBN has completed its voluntary annexation of the Annexation Parcels into the City pursuant to Section 8 of this Agreement; and (2) the Commission has completed, to the Commission's satisfaction (as determined in the Commission's sole discretion), all of its due diligence concerning the Annexation Parcels, including, without limitation, its review of title and environmental matters. The written agreement to be negotiated will provide that SBN will convey the Annexation Parcels to the City by corporate special warranty deed, but SBN will make no further warranties concerning the quality or fitness of the Annexation Parcels and will agree to convey them to the City in as-is condition. The conveyance of the Annexation Parcels will be subject to (i) applicable FAA regulations concerning the use of the Annexation Parcels in light of their proximity to the Airport, and (ii) a restriction that the Annexation Parcels not be used for residential purposes or other non-compatible uses as recommended by the FAA. Notwithstanding anything herein to the contrary, SBN's receipt of all necessary approvals to convey the Annexation Parcels, such that it will be entitled to do so freely without delay or cost to the City or Commission, is a condition precedent to all of the Commission's obligations under this Agreement, including without limitation its obligation to expend funds for the Ramp Project.

8. Immediately upon the Effective Date of this Agreement, SBN will commence and carry to completion, if possible, all necessary approval processes for SBN's voluntary annexation of the Annexation Parcels into the City. SBN will expend no more than Twenty-Five Thousand Dollars (\$25,000.00) for the costs and expenses of annexing the Annexation Parcels into the City.

9. SBN represents and warrants that the FBO Agreement requires Corporate Wings to complete its work on the Hangar Property under the FBO Agreement by December 31, 2016 (the "Hangar Renovation Deadline"). If Corporate Wings fails to substantially complete its renovation of the Hangar Property by the Hangar Renovation Deadline, as determined in SBN's reasonable discretion, the Commission may terminate this Agreement and, upon the Commission's written demand, SBN will pay to the Commission an amount equal to One Hundred Percent (100%) of the portion of the Funding Amount actually expended by the Commission on the Ramp Project as of the date of the Commission's demand, less the total value of the Annexation Parcels actually conveyed to the City (the "Transferred Land Value"). As used in Sections 9 and 10 of this Agreement, the term "Transferred Land Value" means an amount equal to Twenty Thousand

Dollars (\$20,000.00) multiplied by the total number of acres comprising the Annexation Parcels actually conveyed to the City.

10. By the date that is twelve (12) months after the completion of the Ramp Project (the "Job Creation Deadline"), SBN will create eighteen (18) new jobs at the Airport earning an average hourly wage of \$12.50, and SBN will maintain said jobs for a period of at least two (2) years following the Job Creation Deadline (the "Job Creation Requirement"). In the event SBN fails to satisfy the Job Creation Requirement, SBN will pay to the Commission, upon the Commission's written demand, an amount equal to one-eighteenth (1/18) of the product of (a) \$1,500,000 minus (b) the Transferred Land Value, multiplied by the number of jobs by which the Developer fell short of the Job Creation Requirement as of the Commission's demand.

11. This Agreement shall be binding upon the parties hereto and their respective successors and assigns. Neither Party may assign this Agreement to any other person or entity without the prior written consent of the other Party.

12. This Agreement constitutes the entire agreement between the Parties in relation to its subject matter. No representation, promise, or inducement not included in this Agreement will be binding upon the Parties. This Agreement cannot be modified except by mutual agreement of the Parties set forth in a written instrument signed by the Parties' authorized representatives.

13. The Parties agree to take such actions, including the execution and delivery of documents and instruments, as may be necessary or appropriate to carry out the terms and intent of this Agreement and to aid and assist each other in carrying out the terms and intent of this Agreement.

14. If any portion of this Agreement, or its application to any person, entity, or property, is held invalid or unenforceable, the application or validity of any other portion of this Agreement shall not be affected.

15. The Parties shall each bear their own costs and expenses with respect to the preparation of this Agreement, including, without limitation, the fees and expenses of their respective legal counsel.

16. This Agreement shall be construed in accordance with the laws of the State of Indiana and venue shall lie in St. Joseph County, Indiana.

17. This Agreement may be executed in more than one counterpart which, when executed, shall together constitute one agreement. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

18. All exhibits described in and attached to this Agreement are incorporated into this Agreement by reference.

19. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement to be effective as of the Effective Date.

**CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT**

Signature

Printed Name and Title

South Bend Redevelopment Commission

ATTEST:

Signature

Printed Name and Title

South Bend Redevelopment Commission

ST. JOSEPH COUNTY AIRPORT AUTHORITY

Signature

Printed Name and Title

ATTEST:

Signature

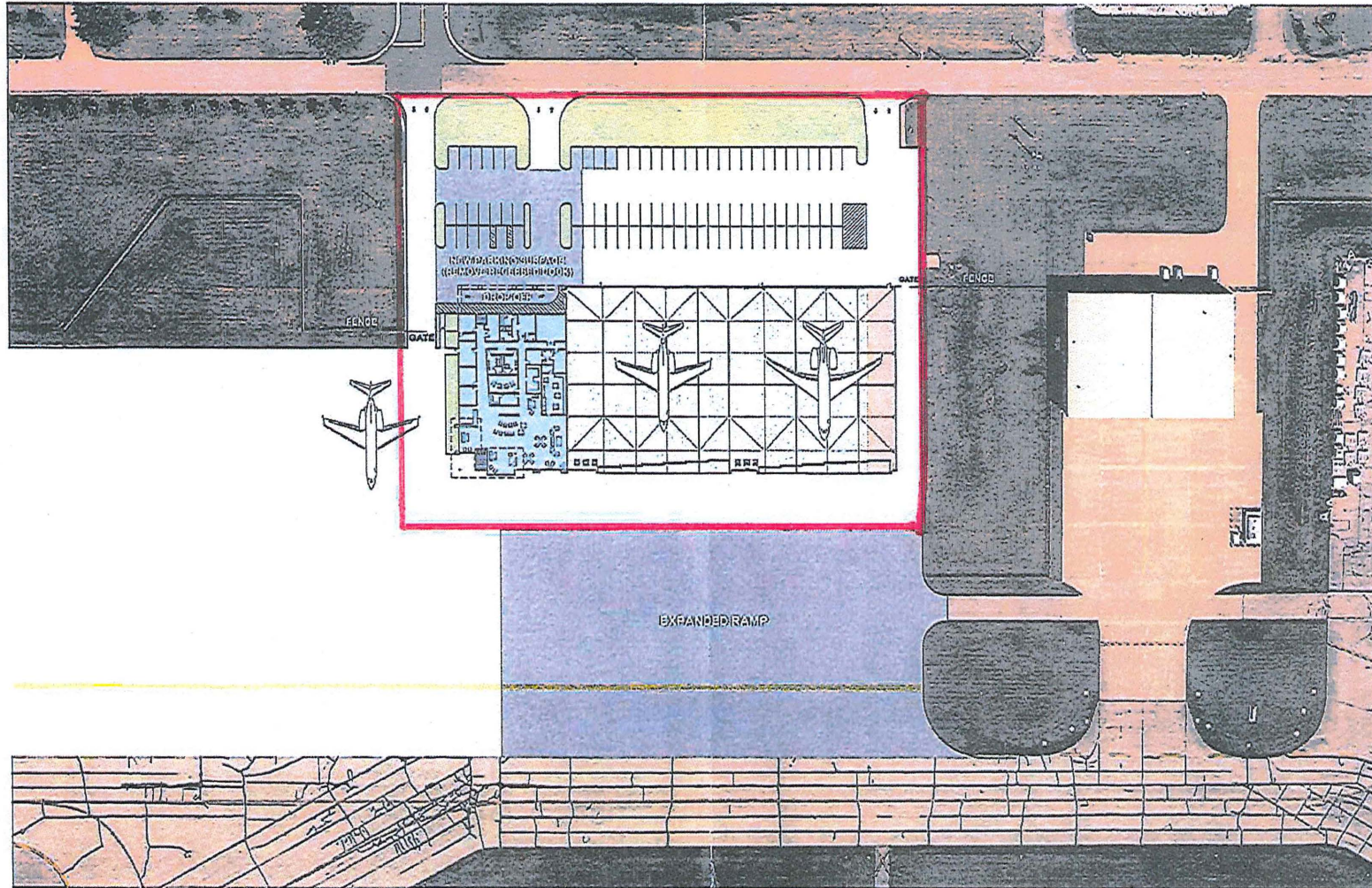
Printed Name and Title

4000.0000035 44862901.005

Exhibit A

Depiction of Hangar Property

[See attached.]



AUGUST 31, 2014
 10,976 SF RENOVATION

MAY 2015
 21,670 SF HANGAR ADDITION

FUTURE DEVELOPMENT
 18,130 SF HANGAR ADDITION



PROPOSED SITE PLAN
 SCALE: 1" = 30'-0"
 02-28-14

PROPOSED RENOVATION ADDITION FOR:
CORPORATE WINGS, LLC
 SOUTH BEND, IN

Ex. A

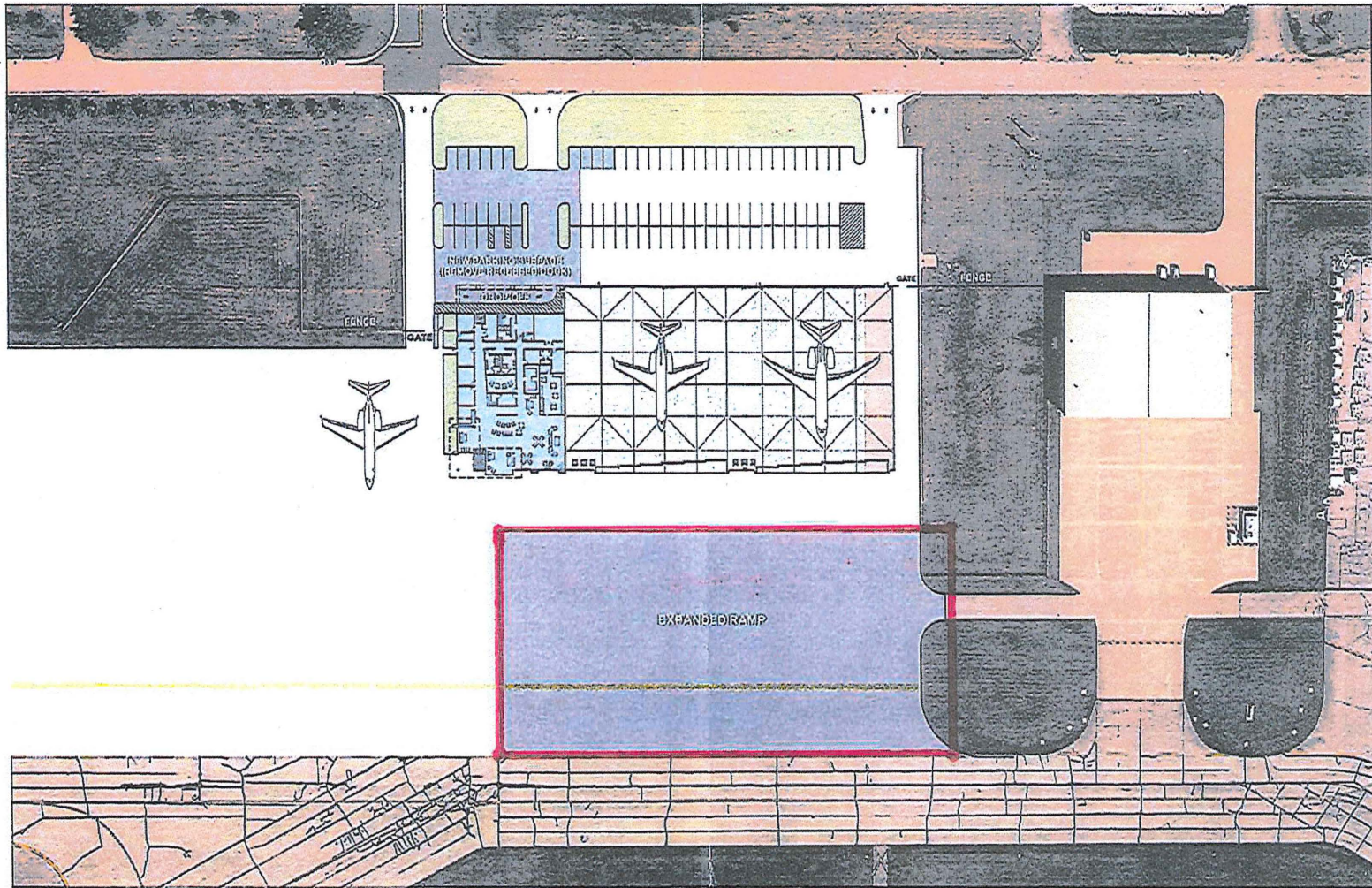



HEBARD & HEBARD
 Architects, Inc.

Exhibit B

Depiction of Ramp Property

[See attached.]



 AUGUST 31, 2014
10,976 SF RENOVATION

MAY 2015
21,670 SF HANGAR ADDITION

FUTURE DEVELOPMENT
18,130 SF HANGAR ADDITION



PROPOSED SITE PLAN
SCALE: 1" = 30'-0"
02-26-14

PROPOSED RENOVATION ADDITION FOR:
CORPORATE WINGS, LLC
SOUTH BEND, IN

Ex. B



HEBARD & HEBARD
Architects, Inc.

Exhibit B1

Scope of Work for Ramp Project

In compliance with all applicable laws and regulations and in accordance with the terms of the Development Agreement, SBN will cause to be completed the following work: design of the Ramp Project, fence modifications serving the Ramp Project, site preparations for the Ramp Project, and construction of the ramp, including all design, administration, inspections and paving.

Exhibit C

Identification of Annexation Parcels

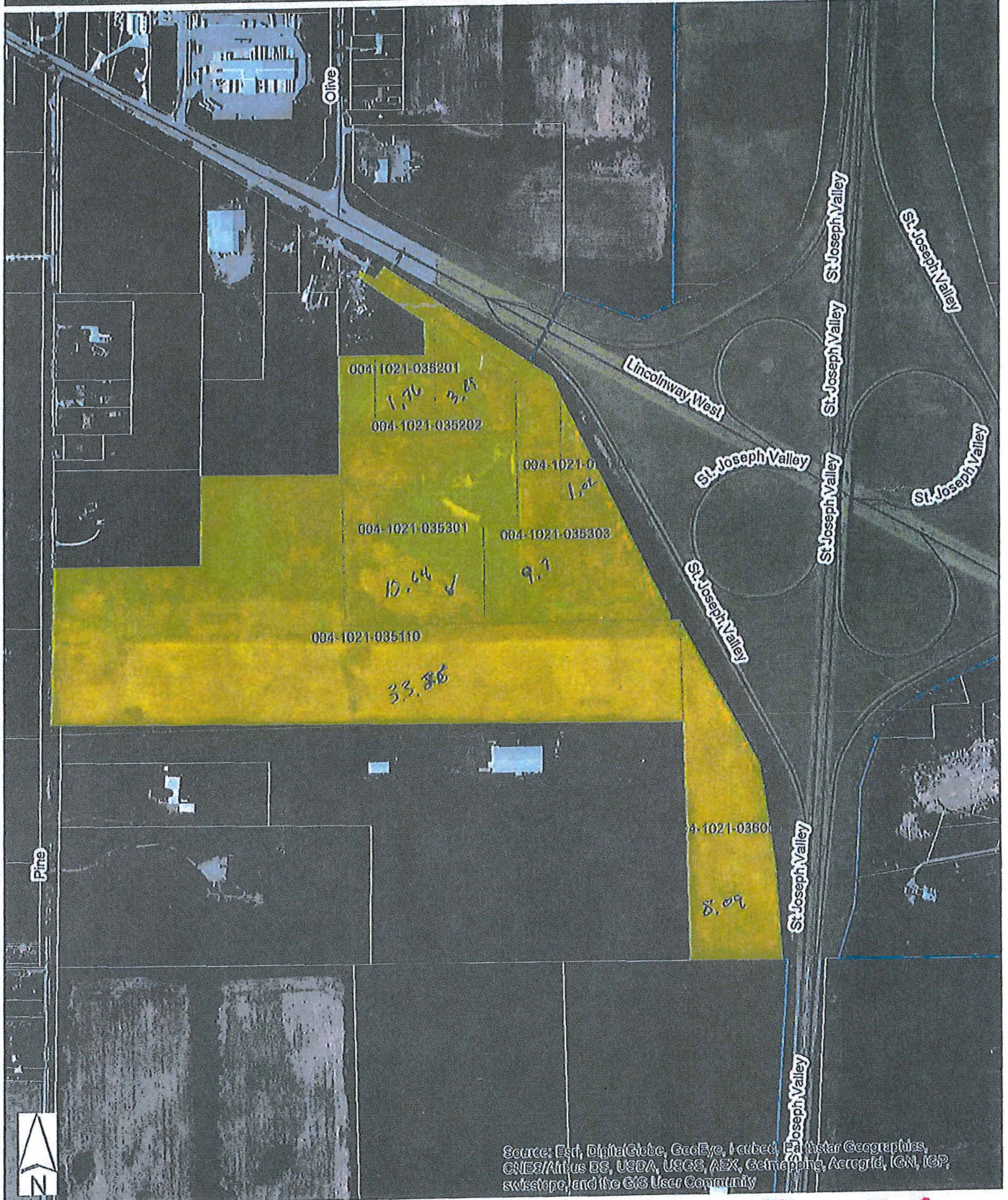
| Parcel | State Parcel Number | Local Tax Key Number | Acreage |
|---------------|----------------------------|-----------------------------|----------------|
| A | 71-03-31-151-001.000-008 | 004-1021-035110 | |
| B | 71-03-31-126-005.000-008 | 004-1021-035301 | |
| C | 71-03-31-126-002.000-008 | 004-1021-035303 | |
| D | 71-03-31-126-006.000-008 | 004-1021-035302 | |
| E | 71-03-31-126-004.000-008 | 004-1021-035202 | |
| F | 71-03-31-126-003.000-008 | 004-1021-035201 | |
| G | 71-03-31-176-002.000-008 | 004-1021-036004 | |

Exhibit C1

Depiction of Annexation Parcels

[See attached.]

Airport Land Transfer



Source: Esri, DigitalGlobe, GeoEye, iSatellite, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Geomatics, Aergrid, IGN, IGP, swisstopo, and the GIS User Community

Ex C1