

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “First Amendment”), dated as of July 28, 2016 (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 and SBN entered into that certain Development Agreement dated December 17, 2015 (the “Development Agreement”); and

WHEREAS, the Development Agreement provides for the transfer of the Annexation Parcels owned by SBN to the City’s Board of Public Works; and

WHEREAS, the Annexation Parcels will be accepted by the Commission, rather than the Board of Public Works; and

WHEREAS, to establish the Commission as the intended grantee of the Annexation Parcels under the terms of the Development Agreement, the Parties desire to amend the Development Agreement in accordance with this First Amendment.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The foregoing Recitals are incorporated into the operative provisions of this First Amendment as if fully set out herein. Capitalized terms used in this First Amendment will have the meanings set forth in the Development Agreement unless otherwise stated herein.

2. Section 7 of the Development Agreement is amended to read in its entirety as follows:

“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 Commission. Promptly upon receiving the necessary approvals, SBN shall transfer the Annexation Parcels to the Commission pursuant to a written agreement to be negotiated in good faith by SBN and the Commission, 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 Commission 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 Commission 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."

3. Both instances of the term "City" appearing in Section 9 of the Development Agreement are replaced by the term "Commission."

4. Unless expressly modified by this First Amendment, the terms and provisions of the Development Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties have duly executed this First Amendment to Development Agreement to be effective as of the Effective Date stated above.

[Signature page follows.]

**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

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