

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE ST. JOSEPH COUNTY BOARD OF COMMISSIONERS AND THE
SOUTH BEND REDEVELOPMENT COMMISSION**

§ 1. Background

The South Shore Line, which carries commuters between South Bend and Chicago, has been approved for significant funding for major improvements over the next five years. Various improvements are planned for the South Shore Line, including extension of the railroad by nine miles from Hammond to Dyer, adding a second track between Gary and Michigan City as well as moving the street-running tracks in Michigan City, rerouting the approach to South Bend International Airport, the purchase of new rail cars, and the completion of a federally-mandated safety project named Positive Train Control. All of these improvements should result in better and faster service for commuters going between South Bend and Chicago.

§ 2. Parties Involved

The parties involved in this Memorandum of Understanding (this “MOU”) are the St. Joseph County Board of Commissioners (the “County”) and the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”).

§ 3. Objectives

The County and the Commission agree to cooperate with the purpose of making improvements that would shorten the trip from South Bend to Chicago from two and one-half hours to approximately ninety minutes.

§ 4. Rationale

The South Shore Line currently operates mostly on a single track that is shared with freight rail. Adding a continuous second track between Gary and Michigan City as well as moving the street-running tracks in Michigan City would allow for more trains and more frequent service and would reduce delays and speed up travel times to and from Chicago. In addition, rerouting the approach to South Bend International Airport would take the rail line directly into the airport, significantly reducing travel time.

§ 5. Activities

The objectives indicated in § 3 (the “Objectives”) will be achieved by means of cooperative activities on DoubleTrack NWI and rerouting the approach to South Bend International Airport.

The County agrees to make reasonable efforts to assist in the addition of a continuous second track between Gary and Michigan City as well as moving the street-running tracks in Michigan City.

The Commission agrees to make reasonable efforts to assist in the rerouting of the approach to South Bend International Airport for the South Shore Line.

The parties agree that they will cooperate and consult one another on matters of mutual interest in order to perform their respective activities under this MOU.

The parties agree to work together in good faith, through cooperation in accordance with the provisions of this MOU, in order to implement the objectives set forth above. As a material inducement for carrying out the actions contemplated in this MOU, the parties mutually intend to rely upon on another's commitments hereunder.

Each party will bear its own costs in carrying out its respective activities under this MOU.

§ 6. Financing

The County and the Commission agree to use separately funded financing, subject to the appropriate government approvals, to carry out their respective agreed-upon activities in the furtherance of the Objectives. The County, by means determined in its sole discretion, intends to provide cash financing of approximately Eighteen Million Dollars (\$18,000,000.00), and the Commission, by means determined in its sole discretion, intends to provide financing of approximately Twenty-Five Million Dollars (\$25,000,000.00).

§ 7. Duration of the Agreement

This MOU is valid for five (5) years starting on the date that it is signed by the County and the Commission. The MOU can be terminated by either one of the two parties by providing sixty (60) days' written notice to the other party. It may also be extended by mutual agreement of the parties involved.

§ 8. Records

Each party shall retain all its records relating to this MOU for a period of three years following expiration or termination of the MOU, or following resolution of a dispute under this MOU, whichever occurs later.

§9. Notices

Any notice required or permitted to be given by either the County or the Commission pursuant to the terms of this MOU shall be in writing and shall be deemed given when delivered personally or deposited in the U.S. mail, First Class with postage prepaid, and addressed to the parties as follows:

If to the County: Andrew Kostielney, President
St. Joseph County Board of Commissioners
7th Floor
227 W. Jefferson Blvd.
South Bend, Indiana 46601

If to the Commission: City of South Bend
Department of Community Investment
227 W. Jefferson Blvd., Ste. 1400 S
South Bend, Indiana 46601
Attn: Executive Director

With a copy to: South Bend Legal Department
227 W. Jefferson Blvd., Ste. 1200 S
South Bend, Indiana 46601
Attn: Corporation Counsel

§ 10. Miscellaneous

Nothing in this MOU is intended or will be deemed to create a partnership or joint venture between the parties. The parties expressly disclaim the existence of any third-party beneficiaries of this MOU.

Neither party may assign, transfer, pledge or make other disposition of this MOU.

Any waiver by a party of a breach of a provision of this MOU will not operate or be construed to be a waiver of any other breach of that provision or of any breach of any other provision of this MOU. A failure by a party to insist upon strict adherence to any term of this MOU on one or more occasion will not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this MOU. Any waiver must be in writing and signed by the party against who enforcement is sought.

This MOU will be construed in accordance with the laws of the State of Indiana. In the event of a dispute, controversy or claim arising out of or relating to this MOU or to any agreement(s) concluded pursuant to this MOU, the parties will use their best efforts to promptly settle such dispute through direct negotiation. Any dispute that is not settled within sixty (60) days from the date a party has notified the other of the nature of the dispute and of the measures that should be taken to rectify it shall be resolved by litigation in the Circuit or Superior Courts of St. Joseph County, Indiana.

If any term of this MOU is found to be invalid, illegal or unenforceable, it is the intention of the parties that the remainder of this MOU will not be affected thereby.

IN WITNESS WHEREOF, St. Joseph County Board of Commissioners and the South Bend Redevelopment Commission enter into this MOU as evidenced by their duly authorized signatures below.

ST. JOSEPH COUNTY
BOARD OF COMMISSIONERS

SOUTH BEND REDEVELOPMENT
COMMISSION

Printed: _____

Its: _____

Date: June __, 2017

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

Date: May 25, 2017

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