



CITY OF SOUTH BEND REDEVELOPMENT COMMISSION

Redevelopment Commission Agenda Item

DATE: June 28, 2018
FROM: David Relos, Property Development Manager
SUBJECT: Second Amendment to Real Estate Purchase Agreement
(Franklin Street Technology Park, LLC)

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

PURPOSE OF REQUEST:

This Second Amendment to Real Estate Purchase Agreement is to correct the deed for this property's legal description. The current deed contains the various parcels that made up this block prior to it being replatted. With the replat this block now contains one parcel, and the deed is being updated to reflect this one parcel.

Staff requests approval of the Second Amendment to Real Estate Purchase Agreement with Franklin Street Technology Park LLC, to update the deed's legal description.

INTERNAL USE ONLY: Project Code: _____;
Total Amount new/change (inc/dec) in budget: ___-0-_____; Breakdown:
Costs: Engineering Amt: _____; Other Prof Serv Amt _____;
Acquisition of Land/Bldg (circle one) Amt: _____; Street Const Amt _____;
Building Imp Amt _____; Sewers Amt _____; Other (specify) Amt: _____
_____. Going to BPW for Contracting? Y/N
Is this item ready to encumber now? ___N/A___ Existing PO# _____ Inc/Dec \$ _____

SECOND AMENDMENT TO REAL ESTATE PURCHASE AGREEMENT

This Second Amendment To Real Estate Purchase Agreement (this “Second Amendment”) is made effective as of June 28, 2018 (the “Effective Date”), by and between the City of South Bend, Indiana, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (“Seller”) and Franklin Street Technology Park LLC (formerly Five Corners LLC), an Indiana limited liability company with its principal place of business 814 Marietta Street, South Bend, Indiana 46601 (“Buyer”) (each a “Party” and together the “Parties”).

RECITALS

A. Buyer and Seller entered into that certain Real Estate Purchase Agreement, dated February 22, 2018 (“the “Purchase Agreement”), as subsequently amended on May 24, 2018 by that certain First Amendment to Real Estate Purchase Agreement (the “First Amendment” and together, the “Agreement”), for the purchase and sale of the Property (as defined in the Purchase Agreement) located in the City of South Bend.

B. Seller recently re-platted the Property, consolidating four (4) parcels into one (1) parcel, changing the legal description of the Property, and necessitating a change to certain exhibits attached to the Agreement.

C. The Parties wish to further amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and obligations in this Second Amendment and the Agreement, the adequacy of which consideration is hereby acknowledged, the Parties agree as follows:

1. **Exhibit A** of the Purchase Agreement is hereby deleted in its entirety and replaced with the **Exhibit One** attached hereto.

2. The Revised Deed defined in and attached to the First Amendment as **Exhibit A** shall be deleted in its entirety and destroyed. The Commission hereby approves, and will execute simultaneously with this Second Amendment, to be held by the Seller until Closing, the Special Warranty Deed attached hereto as **Exhibit Two** (the “Second Revised Deed”), correcting the legal description of the Property. For the purposes of Closing, the Second Revised Deed replaces all other deeds attached to the Agreement, and the Commission hereby authorizes and instructs David Relos of the City of South Bend Department of Community Investment to deliver to Buyer, at Closing, the Second Revised Deed. Buyer agrees to accept the Second Revised Deed at Closing.

3. Unless expressly modified by this Second Amendment, the terms and provisions of the Agreement remain in full force and effect.

4. Capitalized terms used in this Second Amendment will have the meanings set forth in the Agreement unless otherwise stated herein.

IN WITNESS WHEREOF, the Parties hereby execute this Second Amendment to Real Estate Purchase Agreement to be effective on the Effective Date stated above.

BUYER:

Franklin Street Technology Park LLC,
an Indiana limited liability company

Charles S. Hayes, Managing Member

SELLER:

City of South Bend, Department of Redevelopment,
by and through its governing body, the South Bend
Redevelopment Commission

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

EXHIBIT ONE

Description of Property

Lot A of the recorded plat of Studebaker Corridor Fourth Minor Subdivision – Plat of City of South Bend First Replat, recorded on April 24, 2018, as Document No. 1809856 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel Key No. 018-8002-0061

EXHIBIT TWO

Second Revised Deed

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 Franklin Street Technology Park LLC, an Indiana limited liability company with its registered address at 814 Marietta Street, South Bend, Indiana 46601 (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”):

Lot A of the recorded plat of Studebaker Corridor Fourth Minor Subdivision – Plat of City of South Bend First Replat, recorded on April 24, 2018, as Document No. 1809856 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel Key No. 018-8002-0061

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, licenses, and interests; subject to the terms and provisions of that certain Real Estate Purchase Agreement dated February 22, 2018, as amended from time to time, by and between the Grantor and the Grantee (the “Purchase Agreement”); 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 affecting the area in which the Property is situated and any design review guidelines associated therewith.

Pursuant to Section 11 of the Purchase Agreement, the Grantor conveys the Property to the Grantee by this deed subject to certain conditions subsequent. In the event the Grantee fails to complete Phase I of the Property Improvements (as further defined in the Purchase Agreement), by the date that is two (2) years after the Grantor’s conveyance of the Property to the Grantee hereunder, then the Grantor shall have the right (but not the obligation) to re-enter and take possession of the Property (or any portion thereof) and to terminate and re-vest in the Grantor the estate conveyed to the Grantee by this deed and all of the Grantee’s rights and interests in the Property (or any portion thereof) without offset or compensation for the value of

any improvements to the Property made by the Grantee. The recordation of a Certificate of Completion in accordance with Section 11 of the Purchase Agreement will forever release and discharge the Grantor's reversionary interest stated in this paragraph.

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 proper action of the governing body of the Grantor, to execute and deliver this deed, that the Grantor has full corporate capacity to convey the real estate described herein, and that all necessary action for the making of such conveyance has been taken and done.

[Signature page follows.]

GRANTOR:

CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Marcia I. Jones and Donald E. Inks, known to me to be the President and Secretary, respectively, of the South Bend Redevelopment Commission and acknowledged the execution of the foregoing Special Warranty Deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the 14th day of June 2018.

My Commission Expires:
December 12, 2024

Mary C. Brazinsky, Notary Public
Residing in St. Joseph County, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Sandra L. Kennedy.

This instrument was prepared by Sandra L. Kennedy, Assistant City Attorney, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana 46601.