

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement (this “First Amendment”), is effective as of September 13, 2018 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), and Wayne Street Associates, LLC, an Indiana limited liability company (the “Developer”) (each, a “Party,” and collectively, the “Parties”).

RECITALS

A. The Parties entered into that certain Development Agreement dated October 27, 2016, (the “Development Agreement”), concerning the Developer’s development and rehabilitation of certain elements of the Developer Property in order to create Class A office space.

B. In accordance with and subject to the terms of the Development Agreement, the Commission agreed to expend no more than Two Hundred Fifty Thousand Dollars (\$250,000.00) (the “Funding Amount”) to complete certain Local Public Improvements (the “LPI”) in support of the Developer’s construction on the Developer’s Property.

C. Bids were solicited and received for the LPI in accordance with Section 5.2(c) of the Development Agreement, and all change orders were submitted to the City of South Bend, Indiana, Board of Public Works (the “Board”) for approval.

D. The LPI were inspected by the Engineering Department, which verified that an overage in the amount of Seventeen Thousand Seven Hundred Sixty-Nine and 20/100 (\$17,769.20) was incurred (the “Overage”).

E. In accordance with Section 5.2(d) of the Development Agreement, the Developer has agreed to pay the Overage in the manner set forth in this First Amendment.

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

1. In Section 1.3 of the Development Agreement, which defines the Commission’s Funding Amount, the term “Two Hundred Fifty Thousand Dollars (\$250,000.00)” shall be deleted and replaced with the term “Two Hundred Sixty-Seven Thousand Seven Hundred Sixty-Nine and 20/100 Dollars (\$267,769.20).”

2. The Developer hereby expressly reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of completing the LPI, in excess of the Funding Amount, as such amount is hereby amended.

3. As an inducement for the Commission’s increase of the Funding Amount under this First Amendment and as a further assurance to the Commission pursuant to Section 9.12 of the Development Agreement, within five (5) days after the Effective Date of this First Amendment, the Developer (or the Developer’s designee) will submit to the Commission certified funds in the amount of Seventeen Thousand Seven Hundred Sixty-Nine and 20/100 Dollars (\$17,769.20), which

funds will be applied to any open LPI invoices in accordance with the ordinary payment practices of the Board and applicable laws.

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

5. Capitalized terms used in this First Amendment will have the meanings set forth in the Development Agreement unless otherwise stated herein.

6. The recitals set forth above are hereby incorporated into the operative provisions of this First Amendment.

7. This First Amendment may be executed in separate counterparts, each of which when so executed shall be an original, but all of which together shall constitute one and the same instrument. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties hereby execute this First Amendment To Development Agreement to be effective as of the Effective Date stated above.

COMMISSION:

CITY OF SOUTH BEND,
DEPARTMENT OF REDEVELOPMENT

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

DEVELOPER:

WAYNE STREET ASSOCIATES LLC,

By: _____

Name: Edward Bradley

Title: President