

## **SECOND AMENDMENT TO DEVELOPMENT AGREEMENT**

This Second Amendment to Development Agreement (this “Second Amendment”) is effective as of September 27, 2018 (the “Effective Date”), by and between the City of South Bend, Department of Redevelopment, acting by and through its governing body, the South Bend Redevelopment Commission (the “Commission”), and GLC Portage Prairie II, LLC, an Indiana limited liability company with offices at 112 West Jefferson Blvd., Suite 200, South Bend, Indiana 46601 (the “Developer”) (each, a “Party,” and collectively, the “Parties”).

### **RECITALS**

A. The Commission and the Developer entered into a Development Agreement, dated October 26, 2017, as amended by a First Amendment to Development Agreement, dated March 22, 2018 (collectively, the “Development Agreement”), concerning the Developer’s improvement of the Developer Property, including the construction of a new commercial building.

B. In accordance with and subject to the terms of the Development Agreement, the Commission agreed to expend no more than Four Hundred Fifty Thousand Dollars (\$450,000) of tax increment finance revenues to complete the Local Public Improvements in support of the Developer’s construction on the Developer’s Property, including but not limited to upgrades to the existing sanitary sewer lift station and asphalt work.

C. The Parties have agreed to designate One Hundred Fifty Thousand Dollars (\$150,000) of the Funding Amount as a contribution to the upgrades to the sanitary sewer lift station (the “Contribution Amount”), which upgrades have not yet been bid.

D. In accordance with Section 5.2(c) of the Development Agreement, bids were received for the asphalt work portion of the Local Public Improvements by the City of South Bend Board of Public Works (the “Board”), as the Commission’s agent, on September 25, 2018 at the Board’s public meeting, and the bids have exceeded the Funding Amount, after accounting for the Contribution Amount.

E. In order for the Board to award the contract to the winning bidder for the asphalt work portion of the Local Public Improvements (the “LPI Contract”), the Commission will be required to increase the Funding Amount by One Hundred Forty-Seven Thousand Eight Hundred Thirty-Four and 20/100 Dollars (\$147,834.20) (the “Funding Amount Increase”).

F. In consideration of the Commission’s willingness to increase the Funding Amount, and thereby to permit the Board’s award of the LPI Contract, the Developer has agreed to pay the Funding Amount Increase in the manner set forth in this Second Amendment.

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

1. Section 1.3 of the Development Agreement is amended to read in its entirety as follows:

Funding Amount. “Funding Amount” means an amount not to exceed Five Hundred Ninety-Seven Thousand Eight Hundred Thirty-Four and 20/100 Dollars (\$597,834.20) of tax increment finance revenues to be used for paying the costs associated with construction, equipping, inspection, and delivery of the Local Public Improvements, One Hundred Fifty Thousand Dollars (\$150,000) of which shall be reserved as a contribution toward upgrades to the sanitary sewer lift station as set forth in Exhibit C and any documentation regarding such upgrades provided to Developer by the Commission or its agent.

2. The Developer hereby expressly reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of completing the Local Public Improvements, including any necessary change orders to the LPI Contract, in excess of the Funding Amount, as such amount is hereby amended. The Developer hereby acknowledges that the Developer or the Developer’s designee will inspect the Local Public Improvements upon completion and hereby expressly reaffirms its obligation under Section 5.2(d) of the Development Agreement to pay all costs of inspecting the Local Public Improvements.

3. Notwithstanding any provision to the contrary, the Commission’s obligations to complete the asphalt portion of the Local Public Improvements will be satisfied in full upon the completion of the LPI Contract, irrespective of the final amount of the LPI Contract.

4. As an inducement for the Commission’s increase of the Funding Amount under this Second 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 Second Amendment, the Developer (or the Developer’s designee) will submit to the Commission certified funds in the amount of One Hundred Forty-Seven Thousand Eight Hundred Thirty-Four and 20/100 Dollars (\$147,834.20), which funds will be applied at an appropriate time to the LPI Contract in accordance with the City’s ordinary payment practices and applicable laws.

5. The Developer hereby expressly reaffirms its obligations under the Development Agreement, and, unless expressly modified by this Second Amendment, the terms and provisions of the Development Agreement remain in full force and effect.

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

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

8. This Second Amendment will be governed and construed in accordance with the laws of the State of Indiana.

9. This Second 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 Second Amendment to be effective as of the Effective Date stated above.

SOUTH BEND REDEVELOPMENT  
COMMISSION

\_\_\_\_\_  
Marcia I. Jones, President

ATTEST:

\_\_\_\_\_  
Donald E. Inks, Secretary

GLC PORTAGE PRAIRIE II, LLC,  
an Indiana limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_