

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

This Third Amendment To Development Agreement (this “Third Amendment”) is effective as of September 26, 2019 (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 Ziker Sample Street, 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 November 20, 2017, as amended on May 24, 2018 by a First Amendment to Development Agreement, and amended further on April 25, 2019 by a Second Amendment to Development Agreement (together, the “Development Agreement”) concerning the Developer’s undertaking of the Project; and

B. The Commission agreed to expend an amount not to exceed Two Hundred Thousand Dollars (\$200,000) of tax increment finance revenues solely for the replacement of the Developer Property's roof (the "Roof Replacement"); and

C. In accordance with Section 5.2(c) of the Development Agreement, bids were received for the Roof Replacement by the City of South Bend Board of Public Works (the "Board"), as the Commission agent, and the lowest responsive bid from a responsible bidder exceeded the Dedicated Funds; and

D. On September 24, 2019, the Board awarded the contract to the winning bidder (the "LPI Contract") subject to an increase in the Dedicated Funds by Thirty-Five Thousand One Hundred Dollars (\$35,100) (the "Funding Amount Increase"); and

E. In consideration of the Commission's willingness to approve the Funding Amount Increase and thereby 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 Third Amendment.

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

1. Section 1.3 of the Development Agreement shall be deleted in its entirety and replaced with the following:

Funding Amount. “Funding Amount” means an amount not to exceed Three Hundred Thirty-Five Thousand One Hundred Dollars (\$335,100) of tax increment finance revenues to be used for paying the costs associated with the construction, equipping, inspection, and delivery of the Local Public Improvements, specifically as set forth on **Exhibit C**.

2. The Developer shall pay the Funding Amount Increase to the Commission in certified or immediately available funds no later than five (5) days after the date hereof, upon the confirmed receipt of which, the Commission will authorize the Board to enter into the LPI Contract.

The Funding Amount Increase will be applied at the appropriate time to the LPI Contract in accordance with the Board's ordinary payment practices and applicable law. Further, the Developer hereby expressly reaffirms its obligation under Section 5.2(e) of the Development Agreement to pay all costs of completing the LPI, 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 may inspect the LPI upon completion and hereby expressly reaffirms its obligations under Section 5.2(e) of the Development Agreement to pay all costs of inspecting the LPI.

3. Paragraph C of Exhibit C of the Development Agreement shall be deleted in its entirety and replaced with the following:

C. Two Hundred Thirty-Five Thousand One Hundred Dollars (\$235,100) of the Funding Amount (“Dedicated Funds”) shall be dedicated to the replacement of the Developer Property’s roof. The Dedicated Funds shall not be used to pay for any other Local Public Improvements related to the Project.

4. The Parties hereby expressly reaffirm their obligations under the Development Agreement, and, unless expressly modified by this Third Amendment, the terms and provisions of the Development Agreement remain in full force and effect.

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

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

6. This Third 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.

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

SOUTH BEND REDEVELOPMENT
COMMISSION

ZIKER SAMPLE STREET, LLC

Marcia I. Jones, President

David Ziker, Sole Member
Dated:

ATTEST:

Quentin Phillips, Secretary