

FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT

This Fourth Amendment To Development Agreement (this “Fourth Amendment”) is effective as of December 12, 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, further amended on April 25, 2019 by a Second Amendment to Development Agreement, and on September 26, 2019 by a Third 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 Thirty-Five Thousand One Hundred Dollars (\$235,100) of tax increment finance revenues solely for the replacement of the Developer Property's roof (the "Roof Replacement Dedicated Funds"); and

C. The Board of Public Works, acting as the Commission's agent, awarded the roof replacement contract to the winning bidder (the "LPI Contract"), who, in the course of performing the LPI Contract uncovered issues requiring immediate attention, the cost of which exceeds the amount of the Roof Replacement Dedicated Funds;

D. In order to approve the change order (the "Change Order") and fund the additional work, the Board requires an increase of the Roof Replacement Dedicated Funds amount by Twenty-One Thousand Two Hundred Eighty-Eight and 10/100 Dollars (\$21,288.10) (the "Funding Amount Increase"); and

E. In consideration of the Commission's willingness to approve the Funding Amount and thereby permit the Board's approval of the Change Order, the Developer will pay the Funding Amount Increase in the manner set forth in this Fourth Amendment.

NOW, THEREFORE, in consideration of the mutual promises and obligations stated in the Development Agreement and this Fourth 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 Thousand Dollars (\$300,000.00) of tax increment finance revenues, plus Fifty-Six Thousand Three Hundred Eighty-Eight and 10/100 Dollars (\$56,388.10) of funds provided by the Developer, 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 approve the Change Order. The Funding Amount Increase will be applied at the appropriate time to the Change Order 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 other 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 Fifty-Six Thousand Three Hundred Eighty-Eight and 10/100 Dollars (\$256,388.10) 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 Fourth Amendment, the terms and provisions of the Development Agreement remain in full force and effect.

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

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

6. This Fourth 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 Fourth 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 M. Phillips, Secretary