

LICENSE AGREEMENT FOR USE

This License Agreement for Use (this “Agreement”) is made effective October 25, 2018, by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the “Commission”), and University of Notre Dame du Lac (the “University”) (each a “Party,” and collectively, the “Parties”).

RECITALS

A. The Commission owns certain real property and improvements located within the River East Development Area of the City of South Bend, Indiana (the “City”), as more particularly described on **Exhibit A** (the “Property”).

B. University has a long-term lease to use the real property described in attached **Exhibit B** (the “University Parcel”), which abuts the Property along the Property’s southern boundary.

C. University desires access to the Property for ingress and egress to and from the University Parcel during a certain project (the “Use”).

D. The Commission is willing to permit University to gain access to and use the Property for the Use, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Parties agree as follows:

1. **License.** The Commission grants to University a non-exclusive license for the Use, provided that the Use is reasonable at all times and comports with the terms of this Agreement and all applicable laws. University’s license is limited to use of the paved areas of the Property only.

2. **Term and Termination.** University’s license to use the Property shall commence on October 25, 2018 and shall terminate upon thirty (30) days’ written notice to University from the Commission or the Commission’s authorized representative. Additionally, the Commission or its authorized representative may revoke and terminate the license upon thirty (30) days’ written notice at any time for any reason, including, without limitation, for the transfer of the Property, as determined in its, his, or her sole discretion. Notwithstanding the foregoing sentence, the Commission or the Commission’s authorized representative may revoke and terminate the license without notice in the event there exists any default of University’s obligations under this Agreement.

3. **No Lease or Easement; Assignment.** The Commission represents that it is the sole owner in fee simple of the Property and has the lawful right to permit University to use the Property under this Agreement. The Parties acknowledge and intend that this Agreement will not constitute a lease of or an easement over the Property, and University will have no right or authority to convey any leasehold or other interest in the Property to any other person or entity. Except as expressly provided in this Agreement, any attempt by University to grant or lease any interest in the Property

to any other person or entity will be void ab initio and of no force or effect. The Parties agree that neither this Agreement nor any of University's rights under this Agreement may be assigned, in whole or in part, to any other party without the Commission's prior written consent.

4. Maintenance. At all times during the period of the license, University will keep the Property in good order and condition.

5. Security. University understands and agrees that the Commission shall not be liable for any loss, damage, destruction, or any bodily harm or injury that may result from the University's use of the Property.

6. Storage. University agrees that it will not cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked, or emitted at the Property.

7. Regulations; Other Permits. University understands and agrees that it will, at its own expense, observe and comply with all applicable statutes, laws, ordinances, requirements, orders, rules, and regulations of all governmental authorities in relation to its use of the Property. University understands and agrees that it will secure in its own name and at its own expense all other permits and authorizations, if any, necessary for its use of the Property in accordance with the terms of this Agreement.

8. Commission's Use. The Commission reserves the right to use the Property during the Term of this Agreement for any purpose that does not substantially interfere with or obstruct University's license under this Agreement.

9. Restoration. To the extent that any portion of the Property is disturbed or damaged in connection with University's use of the Property, University, at University's sole expense, shall restore the Property to the condition that existed immediately prior to such disturbance or damage to the satisfaction of the Commission.

10. Indemnification. University agrees and undertakes to defend, indemnify, and hold harmless the City and the Commission, and their respective officials, employees, agents, successors, and assigns, from and against any liability, loss, costs, damages, or expenses, including attorneys' fees, which the City or the Commission may suffer or incur as a result of any claims or actions which may be brought by any person or entity arising out of the license granted herein by the Commission or University's use of the Property. If any action is brought against the City or the Commission, or their respective officials, employees, agents, successors, and assigns, in connection with University's use of the Property, University agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

11. Insurance. University, at University's sole expense, shall maintain during the term of this Agreement commercial general liability insurance covering University in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence, inclusive of the limit an umbrella or excess policy. University agrees to include the Commission and the City as additional insureds on any such policy and produce to the Commission evidence of the same, including without limitation a properly endorsed policy and a certificate of insurance within thirty (30) days of the

execution of this Agreement and annually thereafter. To the extent that the Commission or the City is harmed as a result of University's use of the Property, University hereby grants the Commission first priority on any proceeds received from University's insurance. Notwithstanding anything in this Agreement to the contrary, neither the Commission nor the City waive any governmental immunity or liability limitations available to them under Indiana law.

12. Integration; Amendment. This Agreement supersedes all prior negotiations, understandings, and agreements, whether written or oral, concerning the subject matter of this Agreement and constitutes the Parties' entire agreement. This Agreement may not be altered except by a written instrument signed by authorized representatives of both Parties.

13. Waiver. Neither the failure nor any delay on the part of a party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

14. Severability. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement shall continue in full force and effect unless amended or modified by mutual consent of the parties.

15. Counterparts; Signatures. This Agreement may be separately executed in counterparts by the Commission and University, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures.

16. Authority. Each undersigned person signing on behalf of his or her respective Party certifies that he or she is duly authorized to bind his or her respective Party to the terms of this Agreement.

17. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Indiana.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have executed this License Agreement for Use to be effective as of the date set forth above.

SOUTH BEND REDEVELOPMENT
COMMISSION

By: _____
Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary

UNIVERSITY OF NOTRE DAME DU LAC

By: _____
Printed: _____
Title: _____

EXHIBIT A

Property

Lot 4 of the plat of Cascade Minor Subdivision recorded on April 12, 2018, as Document No. 1808428, in the Office of the Recorder of St. Joseph County, Indiana.

Parcel Key No. 018-5001-000702

EXHIBIT B

University Parcel

Parcel I of that certain property set forth in a Ground Lease between the University of Notre Dame du Lac and the City of South Bend, Indiana, acting by and through its Board of Park Commissioners, commonly known as 340 East Colfax Avenue in the City of South Bend, St. Joseph County, Indiana, to wit:

A part of Lots 3 through 8, inclusive, as shown on the recorded Plat of Miller and Green's First Addition to the Town of Lowell, now City of South Bend, together with that part of Green Street, now vacated, adjacent to said Lots, and also all that land lying South of Washington Street and bounded on the East by the East Race, and on the South and West by a tract of land owned by the City of South Bend, said tract being more particularly described as follows:

Beginning at a point on the West line of Gintz Avenue, 273.00 feet South of the South line of Colfax Avenue, measured at right angles to said South line of Colfax Avenue; thence South $05^{\circ}27'44''$ East, along said West line of Gintz Avenue, 137.22 feet; thence North $89^{\circ}54'36''$ East, 24.00 feet; thence South $03^{\circ}34'50''$ East, 227.30 feet to a point on the North line of a strip of land heretofore sold to the City of South Bend; thence South $54^{\circ}12'12''$ West, 32.03 feet; thence North $46^{\circ}07'59''$ West, 131.29 feet; thence North $41^{\circ}02'53''$ West, 31.37 feet; thence North $17^{\circ}50'28''$ West 66.26 feet; thence North $24^{\circ}37'29''$ West, 225.00 feet to a point 273.00 feet South of the South line of said Colfax Avenue; thence North $89^{\circ}57'36''$ East, parallel with said South line of Colfax Avenue 204.05 feet to the place of beginning.