

RIGHT-OF-ENTRY PERMIT

THE SOUTH BEND REDEVELOPMENT COMMISSION, the governing body of the CITY OF SOUTH BEND DEPARTMENT OF REDEVELOPMENT (“Grantor”), subject to the exceptions, reservations, and conditions hereinafter set forth, hereby grants to INDIANA MICHIGAN POWER COMPANY (“Grantee”) and its employees, contractors, and agents the right to enter upon, over and across certain property situated in City of South Bend, St. Joseph County, Indiana, upon the following conditions:

1. This Right-of-Entry is effective with regard to the lands identified by St Joseph County Tax Parcels # 71-08-14-227-001.000-026 (hereinafter referred to as the “Premises”).

2. This Right-of-Entry shall remain in full force and effect until work is completed or December 31, 2020, whichever shall first occur. Grantor may, in its sole discretion, terminate this permit at any time upon giving Grantee thirty (30) days notice of its intent so to do.

3. Consideration for this Right-of-Entry shall be the Grantee’s agreement to follow and obey the terms of this right of entry permit.

4. Grantee, its contractors, agents and employees, shall have the right to enter upon the Premises for the sole purpose of **LAND AND TOPOGRAPHICAL SURVEY, GEOTECHNOLOGICAL STUDIES (INCLUDING SOIL BORINGS), AS WELL AS PHASE ONE ENVIRONMENTAL WALK-OVER IN PREPARATION FOR PURCHASE OF PREMISES**. It is understood that the right to enter upon the Premises shall be at the sole risk of Grantee, its employees, contractors, and agents, and that all work and activities carried out by Grantee, its employees, contractors, and agents, shall be performed in a safe manner with such care and diligence as is necessary to avoid injury (including death) to persons, or damage to property. As additional consideration for the grant of this Right-of-Entry, Grantee agrees to indemnify, hold harmless and defend Grantor from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage, or expense of whatsoever kind and nature, including attorneys’ fees, which Grantor may suffer or incur by reason of bodily injury, including death, to any person or persons, or by reason of damage to or destruction of any property, including the loss of use thereof, arising out of or in any manner connected with the exercise of the rights herein granted, or which Grantor may sustain or incur in connection with any litigation, investigation or other expenditures incident thereto, including any suit instituted to enforce the obligation of this agreement of indemnity, due in whole or in part to any act, omission, or negligence of Grantee or any of its employees, contractors, or agents. In the event the injuries, including death or damages are due to the sole negligence of Grantor or its employees, contractors, or agents, then and only then shall Grantee not be liable under the provisions of this paragraph.

5. Grantor makes no representations or warranties regarding the condition of the Premises or its fitness for any particular use or purpose. Grantee shall repair any damage to the Premises, including all lands, roads, property, buildings or fences, which may result from the work authorized by this permit and from any and all damages due to negligence of their

employees, contractors, or agents. Any repairs to the Premises shall return the Premises to substantially the same or better condition that the Premises was in prior to such damage.

6. Grantee shall comply with all state, federal and local laws and regulations applicable to Grantee's work, including all environmental and health and safety laws and regulations. Grantee agrees that it will not store any supplies, materials, goods, construction vehicles, or personal property of any kind on the Premises without the prior written consent of the Grantor. This Right-of-Entry is hereby made subject to all easements and rights-of-way heretofore granted and to all covenants, conditions, and restrictions of record, and to such state of facts as an accurate survey or examination of the Premises may disclose.

7. All the labor to be performed and material to be furnished in the operations pursuant hereto shall be at Grantee's sole expense. Grantee shall keep the Premises fully protected against liens of every character arising out of or connected to Grantee's operations or contamination of the Premises. In the event that a lien is placed on the land as a result of this permit or as a result of tests conducted upon the Premises, Grantee shall immediately notify Grantor of such lien. Grantee shall also promptly take action, at Grantee's sole expense, to have any such liens removed from the Premises.

8. Grantee shall provide, and require any subcontractors to provide, comprehensive general liability insurance covering both personal injury, including death, and property damage. Limits of coverage shall not be less than \$500,000 each occurrence/\$1,000,000 aggregate for broad form property damages and \$500,000 each person/\$1,000,000 each occurrence for personal injury.

9. Premises are presently occupied by overhead high voltage power lines, among other improvements, and this Right-of-Entry is granted on the following express conditions:

- i) Grantor excepts and reserves, for itself, its successors and assigns, the right to use, operate, maintain, repair, replace, renew, upgrade, install, or remove, all existing electric lines, access roads, and all other facilities now existing or hereafter installed on the above described Premises.
- ii) All work shall be conducted in accordance with applicable OSHA safety regulations, and in such manner as to avoid contact with energized high voltage overhead electric lines present on the above described Premises.
- iii) Grantor's towers, structures, conductors and other facilities shall not be disturbed. Access to Grantor's electric transmission lines and facilities shall be maintained and available at all times.
- iv) No drilling or trenching shall be conducted directly beneath the electric lines or immediately adjacent to towers without the consent of Grantor.
- v) No equipment shall be refueled while under, or in the vicinity of, the lines.

10. This right-of-entry is applicable only to the forgoing described property. No additional rights of ingress and egress other than those specifically described within this right-of-entry are granted without the prior written approval of Grantor.

11. 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.

12. 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.

13. This agreement may be separately executed in counterparts by the parties, and the same, when taken together, will be regarded as one original Agreement. Electronically transmitted signatures will be regarded as original signatures. Further, 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.

14. This agreement will be governed by and construed in accordance with the laws of the State of Indiana, and any controversies arising hereunder shall be heard in any court of competent jurisdiction in St. Joseph County, Indiana.

INDIANA MICHIGAN POWER COMPANY
COMMISSION

SOUTH BEND REDEVELOPMENT

By: _____
Terry W Smith
Real Estate Agent

By: _____
Donald E. Inks, Vice President

ATTEST: _____
Quentin M. Phillips, Secretary

DATE: _____

DATE: _____