

CITY OF SOUTH BEND, INDIANA
AUTHORIZATION FOR ENTRY UPON AND THE TEMPORARY USE OF
PUBLIC PROPERTY LOCATED AT 501 W SOUTH STREET

THIS AGREEMENT is made effective the ^{21st} day of November, 2022, by the City of South Bend, by and through its Board of Park Commissioners ("City") and Heading for Home, LLC ("Heading for Home").

RECITALS

WHEREAS, in accordance with IC 36-10-4 the exclusive control of all property within the City used for park purposes is vested in the City of South Bend Board of Park Commissioners ("Board"); and

WHEREAS, the City is the owner of certain property at 501 W South Street within the City of South Bend, Indiana, which property is more specifically described at *Exhibit "A"* attached hereto and incorporated herein ("Property"); and

WHEREAS, Heading for Home desires temporary access to the Property for the purpose of construction work at the Ivy at Berlin Place complex ("Activity"); and

WHEREAS, the City is willing to permit Heading for Home and its designated agents to gain access to and temporary use of the Property subject to certain terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The City grants to Heading for Home, its agents, contractors and employees, a temporary non-exclusive right on, in and across the Property for the purpose of conducting the Activity described herein. This non-exclusive right to enter upon and use the Property for said Activity shall be at all reasonable times.

2. In consideration for authorization and approval by the City for Heading for Home and its designated agent(s) to enter upon and use the Property in conducting the Activity, Heading for Home hereby agrees and undertakes to hold the City of South Bend, Indiana, and the South Bend Board of Park Commissioners, the agents, contractors, employees, successors and assigns of each, free and harmless from any liability, loss, costs, damages or expenses, including attorney's fees, which the City of South Bend or the South Bend Board of Park Commissioners may suffer or incur, as a result of any claims or actions which may be brought by any person or entity to the extent said claims or actions result from Heading for Home's negligence. If any action is brought against the City of South Bend or the South Bend Board of Park Commissioners, the agents, contractors, employees, successors and assigns of each, to the extent said claims or actions result from Heading for Home's negligence, the undersigned agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

3. The rights granted under this Agreement shall terminate without further action by the City upon the earlier of six (6) months following the Effective Date of this Agreement, by which the Activity will have ceased on the Property or (ii) delivery of written notice from the City to Heading for Home.

4. To the extent that any portion of the Property is disturbed in connection with the exercises of the privileges granted under this Agreement, Heading for Home shall restore the Property to a substantially similar but at least the same condition in which it was immediately prior to such disturbance to the satisfaction of the City at Heading for Home's sole expense. Heading for Home shall require its agents to place plywood under its equipment on any portion of the Property containing turf or any other irrigated area.

5. Heading for Home understands and agrees that all necessary permits and authorizations needed in order to conduct the Activity will be secured in its own name and at its own expense, or that of its agents. Heading for Home shall not, without the prior written consent of the City, cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked or emitted in or about, or treated at the Property.

6. Heading for Home understands and agrees that it will, at its own expense, observe and comply with all present and future statutes, laws, ordinances, requirements, orders, rules and regulations of all governmental authorities.

7. Heading for Home and its designated agent(s) performing the Activity, at its expense, shall maintain during the term of this Agreement, commercial general liability insurance on the Property covering it as the named insured and identifying the City of South Bend, Indiana and the South Bend Board of Park Commissioners as an "additional insured" with terms satisfactory to the City and with companies qualified to do business in the State of Indiana, for limits of not less than \$700,000.00 for bodily injury, including death resulting therefrom, and personal injury for any one (1) person in any one (1) occurrence, \$5,000,000.00 for such injuries for all persons for any one (1) occurrence, \$1,000,000.00 property damage insurance, or a combined single limit in the amount of \$6,000,000.00. Notwithstanding the foregoing, Heading for Home and its designated agent(s) performing the Activity shall, at all times, maintain said general liability insurance naming the City of South Bend, Indiana and the South Bend Board of Park Commissioners as an "additional insured" for bodily injury, including death resulting therefrom and personal injury with limits sufficient to cover the City or the City's exposure to liability for said injuries, which amounts are set forth at Indiana Code § 34-13-3-4, as the same may be amended, superseded or recodified from time to time.

7. The undersigned person(s) signing on behalf of his/her respective Parties certify that he/she is duly authorized to bind his/her respective Party to the terms hereof.


IN WITNESS WHEREOF, the Parties have each executed this Agreement as of the date first written above.

**CITY OF SOUTH BEND,
BOARD OF PARK
COMMISSIONERS**

Mark Neal, President



Consuella Hopkins, Vice President



Sam Centellas, Member

ATTEST:

Jessica Williams, Clerk

HEADING FOR HOME, LLC

Signature

Printed Name and Title

GHS Elkhart & St. Joseph Counties, IN

Click Tools

Cell County Id: 018-3014-0515

Owner Name: CITY OF SOUTH BEND IN FDO PARKS AND REC
Property Address: 501 W SOUTH ST
Cell State ID: 71-08-11-027-010.000-026
Map to Esri
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Share
Home

