

#1567

GRANT OF EASEMENT Lot 289,290,
and 291 as shown on the
original plat of the town, now
City of South Bend. Located at
teh Northeast corner of Main
Street at the intersection with
Wayne Street.

9223119

GRANT OF EASEMENT

THIS GRANT OF EASEMENT is made this 22ND day of June, 1992, by the City of South Bend, Indiana, a municipal corporation, by and through its Board of Public Works (the "Grantor") in favor of National Autopark, Inc., an Indiana corporation, its successors and assigns (the "Grantee").

Recitals

A. The Grantee is the owner and operator of a multi-level parking garage facility (the "Parking Facility") located on the following described real estate in St. Joseph County, Indiana:

Lot Numbered Two Hundred Eighty-nine (289), Two Hundred Ninety (290), and Two Hundred Ninety-one (291) as shown on the original Plat of the Town, now City of South Bend.

Commonly described as being located at the Northeast corner of Main Street at the intersection with Wayne Street in South Bend, Indiana.

Tax Key No.: 18-3007-0239

(the above described property is herein referred to as the "Parking Facility Property").

B. Construction of the Parking Facility was undertaken in 1965 and the Parking Facility has remained in continuous use and operation since its construction.

C. When the Parking Facility was constructed, an enclosed pedestrian walkway (the "Skyway") was constructed over the adjacent public alleys located to the east and north of the Parking Facility. The Skyway connects the Parking Facility with (i) the building at 112 West Jefferson Boulevard, South Bend, Indiana, which is currently the location of the main offices of Norwest Bank Indiana, N.A., and is commonly known as the "Norwest Bank Building" and (ii) the building at 211-223 South Michigan Street, South Bend, Indiana, which is the location of the former Robertson's Department Store and is commonly known as the "Robertson's Building."

D. When the Parking Facility was constructed, an underground walkway (the "Tunnel") also was constructed under the adjoining public alleys located to the north and east of the Parking Facility. The Tunnel connects the Parking Facility to the basement of the Norwest Bank Building.

E. The Skyway and the Tunnel have been in continuous use and operation in the public right-of-way since the Parking Facility was constructed. No public record can be located of an easement previously granted by the City of South Bend with respect to the Skywalk or the Tunnel. This easement is granted, inter alia, to validate the existing use, and to authorize the continued use, of the public right-of-ways adjoining the Parking Facility for the Skyway and Tunnel.

F. When the Parking Facility was constructed, certain additional encroachments in, over and onto the adjacent public right-of-ways were created. Grantor acknowledges that such encroachments, as herein described, do not interfere with or obstruct the adjacent public right-of-ways. This easement is further granted to authorize the continued use of the Parking Garage Facility with such encroachments.

FILE NO. 92-23119
MAY 29 8 48 AM '92
ST. JOSEPH COUNTY, INDIANA
FILED IN THE OFFICE OF THE CLERK



NOW, THEREFORE, THIS INDENTURE WITNESSETH AS FOLLOWS:

1. **Grant of Easement.** In consideration of the sum of One Dollar (\$1.00) paid by Grantee and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby grants, bargains, sells and conveys to the Grantee, its successors and assigns, forever, the permanent and perpetual right and easement to use, operate, inspect, maintain, repair, remove and replace the following:

(a) the Tunnel, under, across and through the property described on Exhibit A attached hereto and by this reference made a part hereof and as further shown on the Survey prepared by Cole Associates, Inc., dated June 8, 1992 and attached hereto as Exhibit C (herein, the "Tunnel Property");

(b) the Skyway, over, across and through the property described on Exhibit B attached hereto and by this reference made a part hereof and as further shown on the Survey prepared by Cole Associates, Inc., dated June 8, 1992 and attached hereto as Exhibit C (herein, the "Skyway Property"); and

(c) those building encroachments of the Parking Facility identified and described on Parcel No. 1 in the survey prepared by Cole Associates, Inc. dated June 17, 1992, a copy of which is attached hereto as Exhibit D-1 and D-2 (which encroachments are referred to herein as the "Building Encroachments") on, over, across and through the public right-of-ways for the public streets, public alleys and public sidewalks adjacent to the Parking Facility as reflected on the said survey (which public right-of-ways are herein referred to as the "Encroachment Property").

TOGETHER with the right, liberty and privilege to the Grantee, its successors and assigns, by its agents, employees, contractors and workmen, to enter upon the Skyway Property, the Tunnel Property and the Encroachment Property, over the property of Grantor, as may from time to time be reasonably required for the purpose of using, inspecting, maintaining, repairing, removing and replacing the Skyway, the Tunnel and the Building Encroachments, subject to compliance with applicable laws, ordinances, codes and regulations.

2. **Binding Effect.** The easements granted herein are binding upon the Grantor and its successors and assigns.

3. **Appurtenant.** The easements granted herein shall benefit and be appurtenant to the Parking Facility Property.

4. **Duration.** In the event that the Skyway, the Tunnel or the Building Encroachments shall be removed and not replaced within a period of two (2) years, then the right and easement with respect to the Skyway, the Tunnel or the Building Encroachments, as the case may be, shall immediately cease and terminate as to such features so removed and not replaced as aforesaid.

5. **Related Agreement.** The provisions of this Agreement shall not affect, modify or restrict the obligations of any of the parties to that certain Agreement dated October 1, 1965, and recorded at Miscellaneous Record Book 217, page 170 in the Office of the Recorder of St. Joseph County, pertaining to the construction and maintenance of the Skyway.

IN WITNESS WHEREOF, the Grantor has duly executed this instrument on the date first indicated above.

CITY OF SOUTH BEND
BOARD OF PUBLIC WORKS

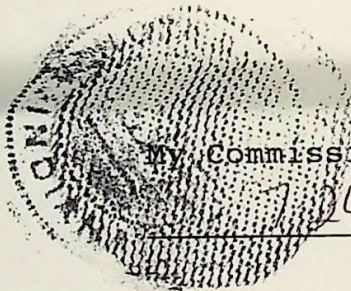
James R. Caldwell
Mary H. Mueller

STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)

Before me a Notary Public in and for said County and State personally appeared JAMES R. CALDWELL and MARY H. MUELLER, members of the Board of Public Works of the City of South Bend, Indiana, a municipal corporation, who, as officers of said municipal corporation, represented that they are duly authorized to execute and deliver the foregoing instrument for and on behalf of, and as binding upon, said municipal corporation.

IN WITNESS WHEREOF, I have hereunto affixed my hand and official seal this 22ND day of June, 1992.

Sandra M. Parmelee
SANDRA M. PARMERLEE, Notary Public
A resident of St. Joseph County, IN



My Commission Expires:
7-24-92

JAM-1:NWB-Aut2.EAS

This instrument prepared by James A. Masters, #9074-71,
NEMETH, MASTERS & LEONE, 307 Norwest Bank Building,
112 West Jefferson Boulevard, South Bend, Indiana, 46601;
Telephone: (219)234-0121.

DESCRIPTION OF PEDESTRIAN TUNNEL EASEMENT

An easement to permit pedestrian travel between the buildings located on Lots 285 and 291 as shown on the original plat of the Town, now City of South Bend, Indiana. The centerline of said pedestrian tunnel is described as follows:

Beginning at a point on the west line of said Lot 285, said point being 24.5 feet, more or less, north of the southwest corner of said Lot 285; thence west 4.3 feet, more or less; thence South 20.5 feet, more or less, to the point of curvature of a curve to the right; thence southwesterly along said curve 5.5 feet, more or less, to the point of tangency of said curve; thence southwesterly 14.8 feet, more or less; thence south 5.4 feet, more or less, to a point on the North line of said Lot 291, said point being 5.2 feet, more or less, west of the northeast corner of said Lot 291. The width of this easement is intended to be sufficient to include the 6.0 foot wide passageway, exterior wall thickness and any appurtenances that may add to the width of this tunnel. Actual width of this tunnel is indeterminable at this time.

EXHIBIT "A"

DESCRIPTION OF OVERHEAD PEDESTRIAN WALKWAY EASEMENT

Beginning at a point on the east line of Lot 291 as shown on the original plat of the Town, now City of South Bend, Indiana, said point being 15.5 feet, more or less, south of the northeast corner of said Lot 291; thence northeasterly 19.5 feet, more or less, to a point on the west line of Lot 286 in said original plat of the Town, now City of South Bend, said point being 1.5 feet, more or less, south of the northwest corner of said Lot 286; thence north along the west line of said Lot 286, extended north, 15.0 feet, more or less; thence southwesterly 19.5 feet, more or less, to a point on the east line of Lot 291 in said original plat of the Town, now City of South Bend, said point being 15.0 feet, more or less, north of the Point of Beginning; thence south along the east line of said lot 291, 15.0 feet, more or less, to the Point of Beginning.

EXHIBIT "B"

2481

INDEXED

ST. JOSEPH CO. RECORDS
MARIANNE SEACH
RECORDED
JUN 29 8 48 AM '92
INDIANA
FILED FOR RECORD

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