



Department of
Community Investment

Memorandum

June 25, 2015

TO: South Bend Redevelopment Commission
FROM: Brock Zeeb, Economic Resources
SUBJECT: Temporary Use Agreement – Sounds By South Bend LLC

Sounds By South Bend LLC has requested approval of a Temporary Use Agreement for the top level of the Wayne Street parking garage on Friday, July 3rd, for a fireworks viewing party. The event will be open to the public and free of charge, and is expected to include a DJ, live band, catering, and service of alcoholic beverages.

The City will coordinate with DTSB and users of the garage in order to limit any inconvenience on parking tenants in the garage.

Staff requests approval of the Temporary Use Agreement with Sounds By South Bend.



**LICENSE AGREEMENT
FOR TEMPORARY USE OF REDEVELOPMENT COMMISSION PROPERTY**

THIS LICENSE AGREEMENT (this "Agreement") is made on June __, 2015, by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the "Commission"), and Sounds By South Bend L.L.C., an Indiana limited liability company with a registered office address of 315 Napoleon Street, South Bend, Indiana 46617 (the "Company") (each a "Party," and collectively, the "Parties").

RECITALS

WHEREAS, the Commission owns certain real property and improvements located within the River West Development Area of the City of South Bend, Indiana (the "City"), as more particularly described in Exhibit A attached hereto (the "Property"); and

WHEREAS, the Company desires temporary access to the Property for the purpose of conducting the event known as "The No. Coast to Coast Fireworks Viewing Party" (the "Activity"), as described in the proposal attached hereto as Exhibit B (the "Activity Proposal"); and

WHEREAS, the Commission is willing to permit the Company to gain access to and temporary use of the Property for the Activity, subject to the 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 Commission grants to the Company, its agents, employees, and invitees, a temporary, non-exclusive license to enter and use the Property for the purpose of conducting the Activity, provided that the Company's use of the Property is reasonable at all times and comports with the terms of the Activity Proposal, the terms of this Agreement, and all applicable laws.
2. The Company's license to use the Property for the Activity shall be effective from **8:00 p.m. to 11:00 p.m. on July 3, 2015**, provided, however, that the Commission or the Commission's authorized representative may revoke and terminate the license at any time for any reason, as determined in its, his, or her sole discretion. The Company agrees that it will not store any supplies, materials, goods, or personal property of any kind on the Property except during the time of the license stated in the foregoing sentence. Immediately upon the completion of the Activity, the Company will remove from the Property all supplies, materials, goods, and personal property (including trash) used in connection with the Activity.
3. The Company understands and agrees that it will secure in its own name and at its own expense all necessary permits and authorizations needed in order to conduct the Activity. The Company shall not, without the prior written consent of the Commission, cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked, or emitted at the Property.

4. The Company 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 the Activity conducted on the Property.

5. To the extent that any portion of the Property is disturbed or damaged in connection with the Company's use of the Property for the Activity, the Company, at the Company'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.

6. The Company agrees and undertakes to indemnify and hold the City and the Commission, and their respective agents, employees, successors, and assigns, harmless from 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 approval granted herein by the Commission or any action related to the Activity. If any action is brought against the City or the Commission, or their respective agents, employees, successors, or assigns, in connection with Activity, the Company agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

7. The Company, at the Company's sole expense, shall maintain during the term of this Agreement commercial general liability insurance covering the Company and the Activity in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence. The Company agrees to include the Commission and the City as additional insureds on any such policy and produce to the Commission a certificate of insurance evidencing the same. To the extent that the Commission or the City is harmed as a result of the Company's use of the Property, the Company hereby grants the Commission first priority on any proceeds received from the Company'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.

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

(SIGNATURE PAGE FOLLOWS)

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

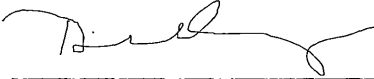
**SOUTH BEND REDEVELOPMENT
COMMISSION**

By: _____
Marcia I. Jones, President
South Bend Redevelopment Commission

ATTEST:

Donald E. Inks, Secretary
South Bend Redevelopment Commission

**SOUNDS BY SOUTH BEND L.L.C.,
an Indiana limited liability company**

By: 

Dena Woods, Manager

EXHIBIT A

Description of Property

Top floor of the Wayne Street Parking Garage located at 121 Wayne Street, South Bend, Indiana.
[Parcel Key No. 18-3003-0058]

EXHIBIT B

Activity Proposal

The Company will host an event for viewing the fireworks displays in downtown South Bend on July 3, 2015. The event will be open to the public and free of charge. The Company will seek all necessary approvals to include the following in the event at the Property: a DJ, a live band, catering, and service of alcoholic beverages.

