

LICENSE AGREEMENT FOR TEMPORARY USE

This License Agreement For Temporary Use (this "Agreement") is made effective October 1, 2018, by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the "Commission"), acting by and through its Department of Community Investment, and Electric Conduit Construction Company, a Delaware corporation with its principal office at 100 West 10th Street, Wilmington, Delaware 19808 (the "Company") (each a "Party," and collectively, the "Parties").

RECITALS

A. The Commission owns certain real property and improvements located within the River West Development Area of the City of South Bend, Indiana (the "City"), located on Main Street, and commonly known as 316 Main Street, South Bend, Indiana, Parcel Key Number 018-3015-0581; 517 Main Street, South Bend Indiana, Parcel Key Number 018-3015-0580; 515 Main Street, South Bend, Indiana, Parcel Key Number 018-3015-0579; and 511 South Main Street, South Bend, Indiana, Parcel Key Number 018-3015-0578, as each parcel is more particularly described on Exhibit A and outlined on the map attached as Exhibit B (collectively, the "Property").

B. The Company desires temporary access to the Property for the purpose of storing certain equipment and materials for use during a certain project for which it was contracted (the "Equipment").

C. The Commission is willing to permit the Company to gain access to and temporarily use the Property to for the storage of the Equipment, 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 the Company a temporary, non-exclusive license to enter and use the Property for the storage of the Equipment, provided that the Company's use of the Property is reasonable at all times and comports with the terms of this Agreement and all applicable laws. The Company's license is limited to use of the paved areas of the Property only.

2. Term and Termination. The Company's license to use the Property shall be commence on October 1, 2018, and shall terminate on December 1, 2018 (the "Term"). Upon thirty (30) days' written notice to the Company, the Commission or the Commission's authorized representative may revoke and terminate the license at any time for any reason, including, without limitation, to accommodate future development of the Property or the surrounding area, 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 the Company'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 the Company 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 the Company 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 the Company 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 the Company'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, the Company will keep the Property in good order and condition.

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

6. Storage. The Company 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. 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 its use of the Property. The Company 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 the Company's license under this Agreement.

9. Restoration. To the extent that any portion of the Property is disturbed or damaged in connection with the Company's use of the Property, 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.

10. Property Taxes. The Company will be responsible for the payment of all real property taxes and assessments, of any nature whatsoever (the "Taxes"), levied against the Property for all periods during the term of the Company's license. The Commission will have no liability for any Taxes associated with the Property, whether accruing during the term of the license or after the term of the license, and nothing in this Agreement will be construed to require the proration or other apportionment of Taxes resulting in the Commission's liability therefor.

11. Indemnification. The Company 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 the Company'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 the Company's use of the Property, the Company agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein.

12. Insurance. The Company, at the Company's sole expense, shall maintain during the Term of this Agreement commercial general liability insurance covering the Company in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence, inclusive of the limit an umbrella or excess policy. The Company 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 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.

13. 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.

14. 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.

15. 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.


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

17. 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.

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

IN WITNESS WHEREOF, the Parties have executed this License Agreement for Temporary Use to be effective as of the Effective Date stated above.


DEPARTMENT OF
COMMUNITY INVESTMENT
BY AND ON BEHALF OF
SOUTH BEND REDEVELOPMENT
COMMISSION

By: 
David Relos
Property Development Manager

ATTEST:

Signature: _____
Printed: _____
Title: _____

ELECTRIC CONDUIT
CONSTRUCTION COMPANY

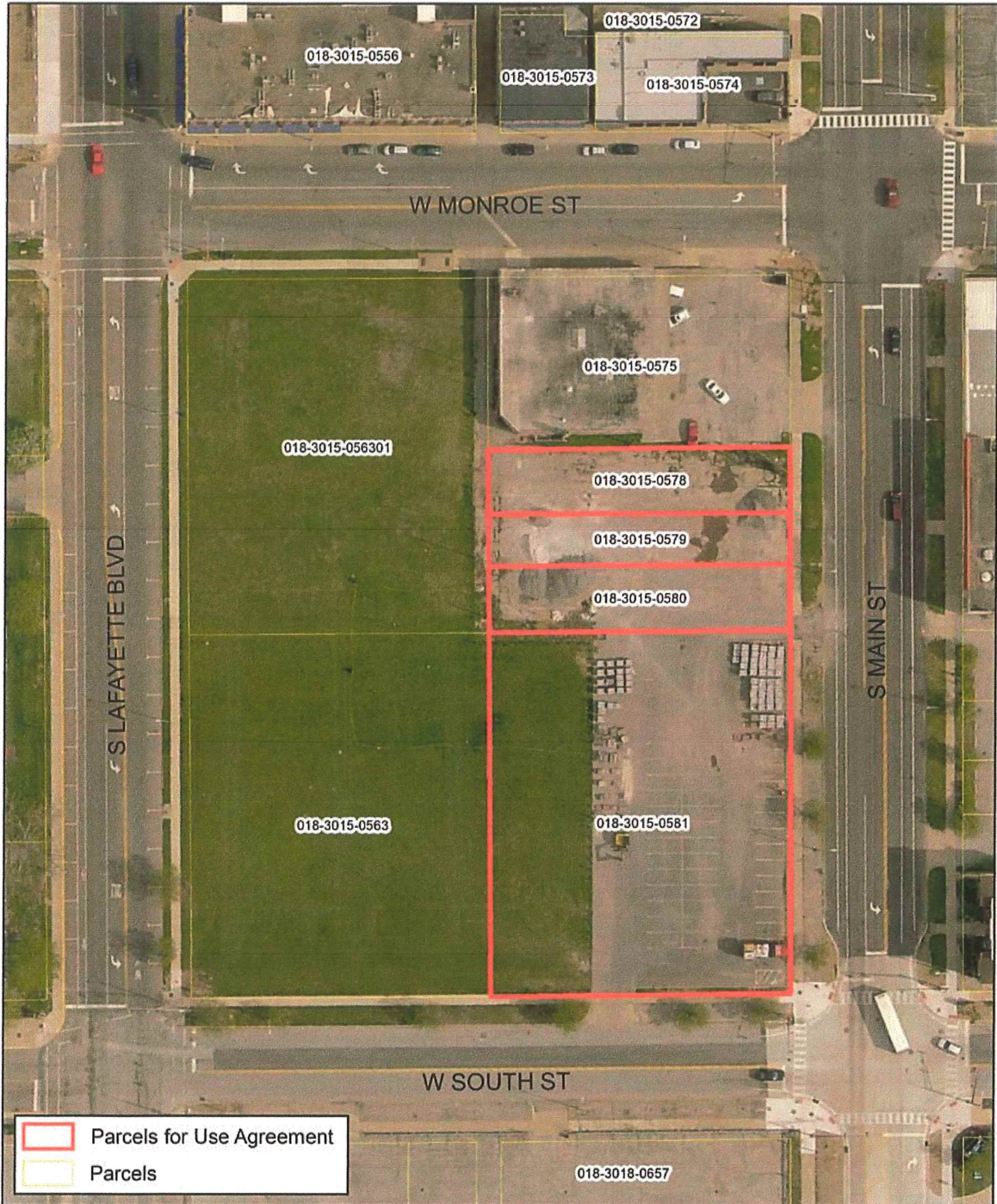
By: 
Printed: Luke Wells
Title: Project Manager

APPROVED
SOUTH BEND
REDEVELOPMENT COMMISSION

Pres/V-Pres
ATTEST: _____ Secretary/V-Pres
DATE: October 11, 2018

EXHIBIT B

Map



Parcels for Temporary Use by
Electric Conduit Construction Company

