

## MEMORANDUM OF LEASE AGREEMENT

THIS MEMORANDUM OF LEASE AGREEMENT (this "Memorandum") is made as of the \_\_\_ day of October 2018, by and between Zion United Church of Christ ("Zion Church"), 715 E. Wayne Street, South Bend, Indiana 6617-3019, and the City of South Bend, Indiana, acting by and through its Board of Park Commissioners ("City"), 301 S. St. Louis Blvd., South Bend, Indiana 46617.

### RECITALS

- A. Zion Church and City entered into that certain Zion Church of Christ, and City of South Bend, Indiana Parking Lot Improvement and Shared Use Lease Agreement on September 10, 2018 (the "Agreement") pursuant to which Zion Church granted City certain rights, and City undertook certain obligations with respect to certain real property located in the City of South Bend, St. Joseph County, Indiana as more particularly identified in Agreement.
- B. Zion Church and City desire to execute and record a memorandum of the Agreement.

NOW, THEREFORE, for and inconsideration of the foregoing promises, the Agreement and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Zion Church and the City hereby represent and acknowledge the following:

1. **Term, Termination and Renewal.** The term of this Agreement shall commence as of the Effective Date and continue for an initial lease term of ten (10) years. The Agreement shall automatically renew for three (3) successive five (5) year lease terms, for a total maximum term of twenty-five (25) years. Except for material breach, neither Party may terminate this Agreement during the initial term. Upon the expiration of the Initial Term or during any Renewal Term, either Party may terminate this Agreement by providing thirty (30) days prior written notice to the other Party.
2. **Ownership and First Option to Purchase.** Zion Church owns or has perpetual easement rights to the following property ("Premises"):

Lot 249:

34 Ft. N Side Lot 249 W ½ Vac alley E & Adj Cottrells 1<sup>st</sup> Add to Lowell Vac Ord#10227-13 7/15/2013. [Parcel Key Number 018-6002-001801]

Lot 249:

32 Ft S Side Lot 249 W1/2 Vac alley E & Adj Cottrells 1<sup>st</sup> Add Vac Ord#10227-13 07-15-3. [Parcel Key Number 018-6002-018]

Lots 250 and 251:

250 W1/2 Vac alley E & Adj Cottrells 1<sup>st</sup> Add 14/15 Vac Ord #10227-13 07-15-2013 [Parcel Key Number 018-6002-0019] and 251 W ½ Vac alley E & Adj Cottrells 1<sup>st</sup> Add Vac Ord #1022-13 07-15-2-13. [Parcel Key Number 018-60020020]

The full and complete legal descriptions of the Premises are attached hereto as Exhibit "A". In the event Zion Church elects or is forced to sell said Premises during the Initial Term or any Renewal Term, Zion Church grants the City an exclusive first option to purchase the Premises.

3. **Incorporation of Agreement Terms By Reference.** All the terms, conditions, provisions and covenants of the Agreement are incorporated in this Memorandum by reference as though written out at length herein. In the event of any inconsistency between the provisions of this Memorandum and those of the Agreement, the provision of the Agreement shall control. Copies of the Agreement are held by both Zion Church and the City at their respective addresses first forth above.

[Signatures on Following Page]

ZION UNITED CHURCH OF CHRIST

*Thomas W Whipkey*  
Signature

Thomas W Whipkey  
Printed Name

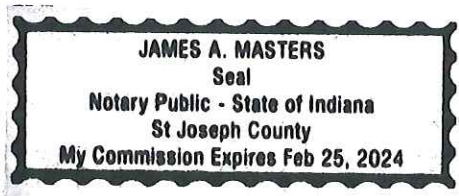
President, Board of Elders  
Title

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

Before me, the undersigned, a Notary Public for and in said County and State this 9th day of October, 2018, personally appeared Thomas W. Whipkey, Pres; Board of Elders, Zion Church of Christ and acknowledge execution of the foregoing Memorandum of Lease Agreement, for and on behalf of the organization.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:



*James A. Masters*  
Notary Public Residing in  
St. Joseph County, Indiana

JAMES A. MASTERS  
(printed signature)  
COMMISSION No. 680687

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

\_\_\_\_\_  
Mark Neil, President

\_\_\_\_\_  
Consuella Hopkins, Vice President

\_\_\_\_\_  
Aimee Buccellato, Member

\_\_\_\_\_  
Dan Farrell, Member

ATTEST: \_\_\_\_\_  
Eva Ennis, Clerk

STATE OF INDIANA                    )  
  ) SS:  
COUNTY OF ST JOSPEH            )

Before me, a Notary Public in and for said County and State, this \_\_ day of October, 2018, personally appeared \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, the members of the City of South Bend Board of Park Commissioners, and acknowledged execution of the foregoing Memorandum of Lease Agreement, for and on behalf of said Commission.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

\_\_\_\_\_  
Notary Public Residing in  
St. Joseph County, Indiana

\_\_\_\_\_  
(printed signature)

I affirm, under penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Clara McDaniels.

This instrument was prepared by Clara McDaniels, Assistant City Attorney, City of South Bend, Indiana, 227 W. Jefferson Blvd., Ste. 1200, South Bend, Indiana 466001.



## EXHIBIT A

Lot 249:

Lot or parcel of land Thirty-four (34) feet in width, North and South, taken off the entire length of the North side of Lot Numbered Two Hundred Forty-nine (249) as shown on the recorded Plat of Samuel L. Cottrell's Addition to the Town of Lowell, now within and a part of the City of South Bend, in St. Joseph County, Indiana. Recorded on June 24, 1963 in book 639 and page 355 in the St. Joseph County Recorder's Office. [Parcel Key Number 018-6002-00801], together with the west one-half of the vacated alley east of and adjacent thereto (Vac Ord #10227-13, 7/15/2013).

Lot: 249:

Lot or parcel of land thirty-two (32) feet in width, North and South, taken off of and from the entire length of the South side of Lot Numbered Two Hundred Forty-nine (249) as shown on the recorded Plat of Samuel L. Cottrell's Addition to the Town of Lowell, now within a part of the City of South Bend. Recorded on June 17, 1975 in book 802 and page 231 in the St. Joseph County Recorder's Office. [Parcel Key Number 018-6002-0018], together with the west one half of the vacated alley east of and adjacent thereto (Vac Ord #10227-13, 7/15/2013).

Lots 250 and 251:

Lots Numbered 250 and 251 in Cottrell's First Addition to the Town of Lowell, now a part of the City of South Bend, St. Joseph County, Indiana. Recorded on January 25, 1952 in book 495 and page 282 in the St. Joseph County Recorder's Office. [Parcel Key Numbers 018-6002-0019 and 018-6002-0020], together with the west one-half of the vacated alley east of and adjacent thereto (Vac Ord #10227-13, 7/15/2013).