

TEMPORARY ACCESS AGREEMENT

This Temporary Access Agreement (this “Agreement”) is made and entered into as of December 12, 2019 (the “Effective Date”), by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the “Commission”), and United Way of St. Joseph County Inc., an Indiana nonprofit corporation with its principal office at 3517 East Jefferson Boulevard, South Bend, Indiana 46615 (the “Company”).

RECITALS

A. Commission owns in fee simple certain real property located within the River West Development Area of the City of South Bend, Indiana (the “City”), located at 405 Dubail Street, as more particularly described in attached Exhibit A (the “Property”).

B. Company is interested in accessing the Property in order to determine whether it is a suitable location for development.

C. Company desires to obtain from Commission a right of access to the Property to allow Company to obtain estimates for potential development purposes, and Commission has agreed to grant the same on the terms and conditions stated in this Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Commission and Company, agree as follows:

1. Grant of Access to Company. Commission hereby grants to Company a non-exclusive, temporary access right to the Property for the limited purpose of allowing Company to enter the premises with Company’s architect, designer, engineer, surveyor, environmental consultant, and/or construction tradespeople to determine the potential cost and suitability for Company’s purposes of developing the Property. The parties agree that Company will have no right under this Agreement to install improvements of any kind on the Property.

2. Term and Termination. The term of this Agreement shall be one hundred twenty (120) days and may be extended by a written amendment to this Agreement signed by both Parties. Commission may terminate this Agreement at any time with or without cause by giving Company written notice of termination.

3. Maintenance; Restoration. Company will, at its sole expense, repair any damage to the Property made by Company or its invitees upon the Property. In the event Company fails to preserve the Property at all times in substantially the same condition and repair in which it exists on the date hereof, Commission or the City may, at its option, incur costs and expenses to maintain and repair the Property, which costs and expenses Company will pay promptly upon the written demand of Commission or the City, as the case may be.

4. Ownership. Commission represents and warrants that it is lawfully seized of the Property, that it has full right and power to grant the access right, and that the Property is free from all encumbrances, except any matters of record.

5. Hazardous Materials. The Company shall not cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept, used, discharged, leaked, or emitted upon the Property.

6. Indemnification; Insurance. Company shall indemnify and hold Commission harmless from and against any and all claims resulting from damage to any property upon the Property or injury to any person upon the Property. In addition, Company will maintain commercial general liability insurance coverage in the minimum amount of at least \$1,000,000 per occurrence and will designate the Commission and the City as additional insureds under any such policy of insurance. Promptly following the Effective Date of this Agreement, Company will produce to Commission a certificate of insurance evidencing the same.

7. Reservation of Rights. Commission reserves for itself the free use of the Property in any manner not inconsistent with the terms of this Agreement.

8. Property Interest. The Parties acknowledge that the purpose of the Agreement is for Company to engage in further study regarding the feasibility of using the Property for office space. Therefore, Commission agrees that it will not enter into any agreement for the sale of the Property during the term of this Agreement.

9. Benefit. Commission and Company intend that each of the rights and obligations set forth herein shall inure to the burden or benefit of the respective parties and their related companies, successors, and assigns.

10. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Indiana.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties have signed this Temporary Access Agreement to be effective as of the Effective Date.

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST:

Quentin M. Phillips, Secretary

UNITED WAY OF ST. JOSEPH COUNTY INC.

By: _____

Printed: _____

Its: _____

EXHIBIT A

Description of Property

A parcel of real property located in the City of South Bend, Indiana, and more particularly described as the East 1/2 of Lot 92 of the Bowman Place Addition.

Parcel Key Number 018-7033-1282

A parcel of real property located in the City of South Bend, Indiana, commonly known as 405 Dubail Street, and more particularly described as the West 1/2 of Lot 93 of the Bowman Place Addition.

Parcel Key Number 018-7033-1281