

.LICENSE AGREEMENT FOR USE

This License Agreement For Use (this “Agreement”) is made on January 28, 2021, by and between the South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment (the “Commission”), and M & M Promotions, LLC. (the “Licensee”) (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”), commonly known as 1010 & 1100 Prairie Ave., South Bend, IN 46601, as further described on Exhibit A (the “Commission Property”).

B. The Licensee desires temporary access to portions of the Commission Property during a ticketed public event occurring on September 18, 2021 (the “Event”).

C. The Commission is willing to permit the Licensee to gain access to and temporarily use certain portions of the Commission Property during the Event, subject to applicable laws and 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 Licensee a temporary, exclusive license to enter and use the portions of the Commission Property outlined and shaded in red on Exhibit B, which is attached hereto and incorporated herein by reference (the "Property"), during the Event, provided that the Licensee’s use of the Property is reasonable at all times and comports with the terms of this Agreement and all applicable laws. The Licensee agrees that the Event layout shall be substantially similar to the layout set forth on Exhibit C, which is attached hereto and incorporated herein by reference. Any material changes to the layout shall be subject to review and approval of the Commission. Access to and use of the unshaded portions of the Commission Property is specifically denied.

2. Term and Termination. The Licensee’s license to use the Property shall be effective at 12:00 a.m. on September 11, 2021 and shall terminate at 11:59 p.m. on September 25, 2021 (the “Term”).

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 Licensee 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 Licensee 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 Licensee to grant or lease any interest in the 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 Licensee’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. The Licensee will keep the Property in good order and condition during the Term, including, without limitation, clearing all debris from the Property.

5. Security. The Licensee shall provide security sufficient for the Event and to ensure compliance with the terms of this Agreement. The Licensee understands and agrees that the Commission and the City shall not be liable for any loss, damage, destruction, or theft of the Licensee's or its employees' or invitees' property or any bodily harm or injury that may occur during the Event or result from the Licensee's or its employees' or invitees' use of the Property or unauthorized access to or use of the Commission Property or any adjacent properties. The Licensee understands and agrees that it will at all times be solely responsible for the safety and security of all persons, property, and vehicles, including any property contained within the vehicles, on the Property in connection with the Event or the Licensee's or its employees', contractors', agents', or invitees' use of the Property under the terms of this Agreement. Additionally, the Licensee shall ensure that no employees, contractors, agents, or invitees of the Licensee shall access or use the unshaded portions of the Commission Property or any adjacent properties.

6. Storage. Other than the equipment required for the Event, the Licensee agrees that it will not store or allow to be stored any supplies, materials, goods, or personal property of any kind on the Property. The Licensee shall not allow any equipment, vehicles, machinery, or any other personal property to be placed or stored on the unshaded portions of the Commission Property. In addition, the Licensee 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 Licensee understands and agrees that it will, at its own expense, observe and comply with all applicable statutes, laws, ordinances, requirements, orders, rules, regulations, and guidelines of all relevant governmental authorities in relation to its use of the Property and that it will consult with other City departments as may be reasonably requested by the City. The Licensee 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. COVID-19. The parties acknowledge and agree that a Declaration of Public Health Emergency by the Governor of the State of Indiana or any similar such declaration from the officials of St. Joseph County or the City may subject the occurrence of the Event to special rules and guidelines promulgated by the Indiana State Department of Health ("ISDH") and/or the St. Joseph County Health Department ("SJCHD"). The Licensee agrees that it will consult with officials from the ISDH and/or the SJCHD with regard to the Event and will follow all rules and guidelines promulgated by those authorities or suggested to the Licensee by either of those entities specifically for the Event. If either the ISDH or the SJCHD determines that it is not in the interest of public health to hold the Event, then this Agreement shall immediately terminate without liability to the City or the Commission.

9. Restoration. To the extent that any portion of the Property is disturbed or damaged in connection with the Licensee's use of the Property, the Licensee, at the Licensee'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. Further, if any damage to any portion of the Commission Property is evident or suspected at any time during the Term, the Licensee shall immediately notify the Commission and restore those portions of the Commission Property to the condition that existed immediately prior to the Term at the Licensee's sole expense.

10. Indemnification. The Licensee 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 Event, the license granted herein by the Commission, the Licensee's use of the Property, or the acts or omissions of the Licensee's employees, contractors, agents, or invitees, including acts or omissions occurring on adjacent properties. If any action is brought against the City or the Commission, or their respective officials, employees, agents, successors, and assigns, in connection with the Event, the license granted herein, the Licensee's use of the Property, or the acts or omissions of the Licensee's employees, contractors, agents, or invitees, including acts or omissions occurring on adjacent properties, the Licensee agrees to defend such action or proceedings at its own expense and to pay any judgment rendered therein. This Section shall survive the termination of this Agreement.

11. Insurance. The Licensee, at the Licensee's sole expense, shall maintain during the Term of this Agreement commercial general liability insurance sufficiently covering the Event, but in no event less than Five Million Dollars (\$5,000,000), and shall name the City and the Commission as additional insureds. The Licensee shall provide the Commission with a Certificate of Insurance evidencing the amount no later than fourteen (14) days prior to the Event. Failure to provide a Certificate of Insurance in the amount stated above will result in the immediate termination of this Agreement with no liability to the City or the Commission. To the extent that the Commission or the City is harmed as a result of the Event, Licensee's use of the Property, or the acts or omissions of the Licensee's employees, contractors, agents, or invitees, the Licensee hereby grants the Commission first priority on any proceeds received from the Licensee'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. This Section shall survive the termination of this Agreement.

12. 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.

13. 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. This Section shall survive the termination of this Agreement.

14. 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.

15. Counterparts; Signatures. This Agreement may be separately executed in counterparts by the Commission and the Licensee, and the same, when taken together, will be regarded as one original Agreement. Electronic signatures will be regarded as original signatures.

16. 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.

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

{Signature Page Follows}

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

M&M Promotions, LLC

Doug Michael, Partner

Date: _____

Steve Mihaljevic, Partner

Date: _____

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST:

Quentin M. Phillips, Secretary

Date: _____

EXHIBIT A

Property Description

Tax Key No. 018-8021-084904

State Parcel ID: 71-08-14-226-002.000-026

Legal Description: Lot 4 Ignitions Park Major Sub Sec 2 15/16 NP#4562 07-01-2014

Commonly Known As: 1010 Prairie Ave., South Bend, IN 46601

Tax Key No. 018-8021-084903

State Parcel ID: 71-08-14-203-002.000-026

Legal Description: Lot 3 Ignitions Park Major Sub Sec 2 15/16 NP#4562 07-01-2014

Commonly Known As: 1100 Prairie Ave., South Bend, IN 46601

Tax Key No. 018-8021-084902

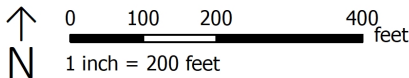
State Parcel ID: 71-08-14-203-003.000-026

Legal Description: Lot 2 Ignitions Park Major Sub Sec 2 15/16 NP#4562 07-01-2014

Commonly Known As: 1100 Prairie Ave., South Bend, IN 46601

EXHIBIT B

Property Map



 Subject Area

City of South Bend
Department of Community Investment
Planning and Community Resources

1/19/2021

EXHIBIT C
Event Layout Map

