

**RESOLUTION NO. 3331**

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION  
APPROVING THE TRANSFER OF TEMPORARY RIGHT-OF-WAY FOR USE IN  
CONNECTION WITH THE SMART STREETS PROJECT**

WHEREAS, the South Bend Redevelopment Commission (the “Commission”) exists and operates pursuant to I.C 36-7-14; and

WHEREAS, the South Bend Redevelopment Authority (the “Authority”) exists and operates pursuant to I.C. 36-7-14.5 as a separate body corporate and politic and an instrumentality of the City of South Bend, Indiana (the “City”); and

WHEREAS, the Authority issued its Lease Rental Revenue Bonds of 2015 (\$25,000,000.00) for the construction of certain local public improvements in the City, including the completion of the City’s Smart Streets initiative (the “Smart Streets Project”); and

WHEREAS, the Authority leased the Smart Streets Project to the Commission pursuant to the Lease dated February 1, 2015, as amended by the Addendum to Lease dated April 9, 2015; and

WHEREAS, pursuant to I.C. 36-7-14-12.2(a)(3), the Commission is empowered to “[s]ell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways . . . and other public purposes on any terms that may be agreed on”; and

WHEREAS in accordance with its purposes and powers under I.C. 36-7-14 and in furtherance of the Smart Streets Project, the Commission desires to grant to the City, acting by and through its Board of Public Works, a temporary easement over certain real property owned by the Commission as described in the temporary easement attached hereto as Exhibit 1 (the “Temporary Easement”); and

WHEREAS, the City’s Board of Public Works desires to acquire the Temporary Easement for purposes of the Smart Streets Project and is expected to adopt an appropriate resolution pursuant to I.C. 36-1-11-8.

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH BEND REDEVELOPMENT COMMISSION AS FOLLOWS:

1. The Commission hereby approves, and will execute simultaneously with this Resolution, the Temporary Easement in favor of the City for use in connection with the Smart Streets Project.
2. The Commission hereby authorizes and instructs David Relos or Aaron Kobb, each of the City’s Department of Community Investment, to deliver the Temporary Easement to

an authorized representative of the City's Board of Public Works and to take on behalf of the Commission all necessary administrative actions to accomplish the purposes of this Resolution.

3. This Resolution will be in full force and effect upon its adoption by the Commission.

ADOPTED at a regular meeting of the South Bend Redevelopment Commission held on March 10, 2016, at 1308 County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT  
COMMISSION

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Marcia I. Jones, President

ATTEST:

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Donald E. Inks, Secretary

4000.0000039 37093690.001

**EXHIBIT 1**

**Form of Temporary Easement**

[See attached.]

Project: 115-019  
Parcel: 8 Temp. ROW Dr. Constr.  
Tax ID: 71-08-12-310-008.000-026

**TEMPORARY EASEMENT**

**THIS INDENTURE WITNESSETH** that South Bend Redevelopment Commission, governing body of the City of South Bend Department of Redevelopment, the Grantor, grants to the **CIVIL CITY OF SOUTH BEND FOR THE USE AND BENEFIT OF ITS BOARD OF PUBLIC WORKS**, the Grantee, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, a temporary easement to enter upon and have possession of certain real property (the "Real Estate") of the Grantor for the purposes of curb and drive construction on and/or in the vicinity of the Real Estate (the "Project"), which Real Estate is situated in the County of St. Joseph, State of Indiana, and is more particularly described in the legal description attached hereto as Exhibit "A" and depicted upon the Right-of-Way Parcel Plat attached hereto as Exhibit "B," both of which exhibits are incorporated herein by reference.

The temporary easement granted herein is subject to any and all easements, conditions, and restrictions of record. However, the said Grantor, for the purpose of inducing the Civil City of South Bend to accept this grant and to pay the referenced consideration, represents that the Grantor is the owner in fee simple of the Real Estate and that there exist no encumbrances, conditions, restrictions, leases, liens of any kind or character which would be inconsistent with the temporary rights granted herein. The temporary easement granted herein shall be extinguished upon completion of the Project.

Any and all timber, shrubbery, fences, buildings, and any other improvements situated within the area of the temporary easement granted herein shall become the property of the Civil City of South Bend for the use and benefit of its Board of Public Works.

The undersigned Grantor executing this Temporary Easement represents and certifies that the Grantor is competent and fully empowered to execute and deliver this conveyance and in doing so is not violating any other agreement to which the Grantor is a party; that the Grantor has full legal capacity to convey the interest described herein and that all necessary action necessary to complete this conveyance has been duly taken.

**IN WITNESS WHEREOF**, the said Grantor has executed this instrument this 10th day of March, 2016.

**SOUTH BEND REDEVELOPMENT COMMISSION**

\_\_\_\_\_  
Marcia I. Jones, President

ATTEST:

\_\_\_\_\_  
Donald E. Inks, Secretary

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

Before me, the undersigned, a Notary Public in and for said County and State, this \_\_\_\_ day of March, 2016, personally appeared Marcia I. Jones and Donald E. Inks, personally known to me as the President and Secretary, respectively, of the Grantor and acknowledged the execution of the foregoing Temporary Easement for and on behalf of the Grantor.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

(SEAL)

\_\_\_\_\_, Notary Public  
Resident of \_\_\_\_\_ County, \_\_\_\_\_

My commission expires:

\_\_\_\_\_

Interests in land acquired by the  
Civil City of South Bend for the use and benefit of its Board of Public Works  
Grantee mailing address:  
227 W. Jefferson Blvd. Suite 1300 N  
South Bend, IN 46601

This instrument was prepared by Benjamin J. Dougherty, Assistant City Attorney, 1200 S. County-City Building, 227 W. Jefferson Blvd., South Bend, Indiana 46601.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Benjamin J. Dougherty.

4000.0000039 36869424.001

**EXHIBIT "A"**

Project: 115-019  
Parcel: 8 Temporary Right-of-Way for Drive Construction  
Tax ID: 71-08-12-107-004.000-026  
Form: T-1

Sheet 1 of 1

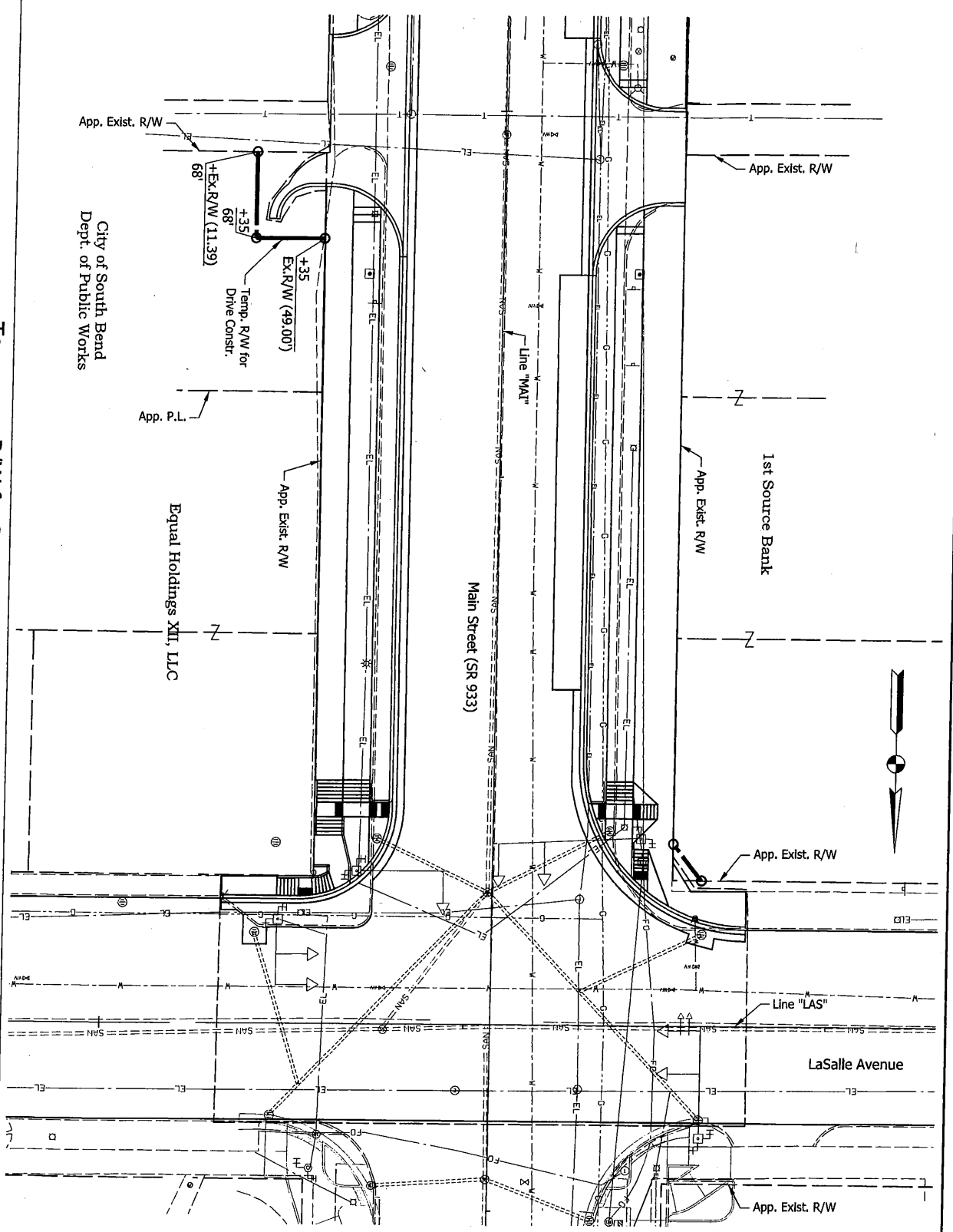
A part of Lot 10 in the Original Plat of the Town (now City) of South Bend, Indiana, the plat of which is recorded in Plat Book 1, page 1, in the Office of the Recorder of St. Joseph County, Indiana, and being that part of the grantor's land, described as follows: Beginning at the southwest corner of said lot; thence North 0 degrees 29 minutes 27 seconds West 24.82 feet along the west line of said lot; thence North 89 degrees 31 minutes 06 seconds East 18.75 feet; thence South 0 degrees 28 minutes 54 seconds East 24.89 feet to the south line of said lot; thence South 89 degrees 43 minutes 05 seconds West 18.75 feet along said south line to the point of beginning and containing 466 square feet, more or less.

This description was prepared for the City of South Bend, Indiana by Jessica L. Stapleton, Registered Indiana Professional Surveyor, License Number LS20600032, on the 19<sup>th</sup> day of October, 2015.

*Jessica L. Stapleton*



EXHIBIT "B"



Temporary R/W for Parcel #8

AMERICAN  
**STRUCTUREPOINT**  
INC.

7260 SHADELAND STATION  
INDIANAPOLIS, IN 46256-3957  
TEL 317.547.5580 FAX 317.543.0270  
www.structurepoint.com

DES. NO.:	SCALE:
PREPARED BY:	1" = 40'
DATE: 1/18/2016	
CHECKED BY:	SHEET NO.:
DATE:	
JOB NO.: 115-019 (OV B)	