

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement (this “Easement”) is made and entered into as of May 26, 2016 (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 1011 LLC, an Indiana limited liability company with its registered office at 1011 S. Main St., South Bend, Indiana 46544 (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”), as described and approximately depicted in attached **Exhibit A** (the “Easement Parcel”).

B. Company owns in fee simple the real property described in attached **Exhibit B** (the “Company Parcel”), which abuts the Easement Parcel along the Easement Parcel’s eastern boundary.

C. Company desires to obtain from Commission an easement for access over the Easement Parcel to the Company Parcel, and Commission has agreed to grant the same on the terms and conditions stated in this Easement.

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

1. **Grant of Easement to Company.** Commission hereby grants to Company a non-exclusive, temporary easement for the following limited purposes: (a) for vehicular ingress and egress over and across the Easement Parcel to and from the Company Parcel by Company and its agents, contractors, employees, and tenants; and (b) for Company’s installation, use, and maintenance of a crushed gravel driveway and a concrete curb cut and approach in the public right-of-way and/or on the Easement Parcel (the “Permitted Improvements”) for vehicular access from the Company Parcel over the Easement Parcel and onto Lafayette Boulevard, provided that the City has first approved Company’s plans for installing any such elements. The parties agree that Company will have no right under this Easement to install improvements of any kind on the Easement Parcel other than those specifically permitted in the preceding sentence.

2. **Termination.** Commission may terminate this Easement at any time with or without cause by giving Company written notice of termination.

3. **Maintenance; Restoration.** Company will, at its sole expense, maintain and repair the Easement Parcel and any Permitted Improvements made by Company upon or abutting the Easement Parcel (including in the public right-of-way along Lafayette Boulevard) in accordance

with its rights under Section 1 above. In the event Company disturbs or damages any part of the Easement Parcel or the public right-of-way along Lafayette Boulevard in the course of installing the Permitted Improvements, Company will promptly restore such areas to substantially the same condition that existed immediately prior to such installation. In addition, within sixty (60) days after receiving a notice of termination from Commission in accordance with Section 2 above, Company, at its sole expense, will (a) remove any and all Permitted Improvements installed by the Company, (b) restore the Easement Parcel to its condition that existed on the Effective Date of this Agreement, and (c) restore the sidewalk and curb along Lafayette Boulevard to the same condition that existed before Company's installation of the curb cut and approach. Company agrees to complete all of the foregoing restoration work to the City's satisfaction, as determined in the City's sole and absolute discretion. In the event Company fails to preserve the Easement Parcel or the Permitted Improvements at all times in good condition and repair, Commission or the City may, at its option, incur costs and expenses to maintain and repair the Easement Parcel or the Permitted Improvements, which costs and expenses Company will pay promptly upon the written demand of Commission or the City, as the case may be.

4. Clear Path of Travel. Commission and Commission's agents and employees will place no permanent structures in, on, or over the Easement Parcel that will obstruct or interfere with the Company's use of the Easement without Company's prior consent.

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

6. 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 Easement Parcel or the Permitted Improvements.

7. Indemnification; Insurance. Company shall indemnify and hold Commission harmless from and against any and all claims resulting from damage to any property upon the Easement Parcel or injury to any person upon the Easement Parcel or the Permitted Improvements. In addition, Company will maintain commercial general liability insurance coverage in the minimum amount of at least \$5,000,000 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 Easement, Company will produce to Commission a certificate of insurance evidencing the same.

8. Reservation of Rights. Commission reserves for itself the free use of the Easement Parcel in any manner not inconsistent with the terms of this Easement.

9. Covenant Running with the Land. Commission and Company intend that each of the rights and obligations set forth herein shall run with the land and create equitable servitudes burdening the Easement Parcel and benefitting the Company Parcel, shall bind every person having any fee, leasehold, or other interest therein, and shall inure to the burden or benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

10. Recording. This Easement, as well as any instrument releasing or terminating the Easement, shall be duly recorded in the Office of the Recorder of St. Joseph County, Indiana, and all recording fees will be paid by Company.

11. Governing Law. This Easement 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 Access Easement Agreement to be effective as of the Effective Date.

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST

Donald E. Inks, Secretary

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

Before me, a Notary Public in and for said County and State, personally appeared Marcia I. Jones and Donald E. Inks, President and Secretary, respectively, of the South Bend Redevelopment Commission, and acknowledged the execution of the foregoing Access Easement Agreement.

WITNESS my hand and seal this ____ day of ____, 2016.

My Commission Expires:

Notary Public

(Printed Name)

Resident of _____ County, Indiana

EXHIBIT A

Description of Easement Parcel

A parcel of real property located in the City of South Bend, Indiana, and commonly known as 920 Lafayette Boulevard [Parcel Key Number 018-8001-0006]

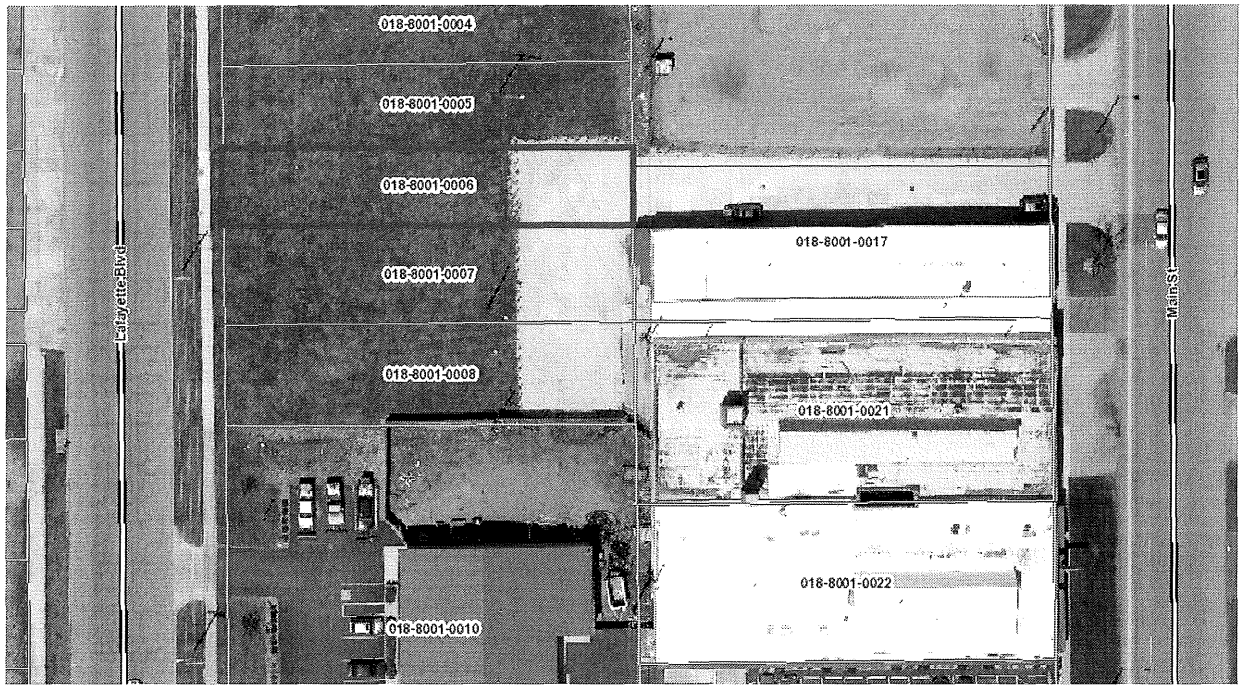


EXHIBIT B

Description of Company Parcel

A parcel of real property located in the City of South Bend, Indiana, and commonly known as 921-1011 Main Street [Parcel Key Numbers 018-8001-0017, 018-8001-0021, and 018-8001-0022]