
ORDINANCE NO. 2108

**AN ORDINANCE TO AUTHORIZE EXECUTION OF A LEASE
OF PROPERTY FROM THE CITY OF NOKOMIS, ILLINOIS**

**ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF NOKOMIS, ILLINOIS**

THIS 14TH DAY OF SEPTEMBER, 2023

Published in pamphlet form by the authority of the City Council of the City of
Nokomis, Montgomery County, Illinois, this 14 day of September, 2023.

CITY OF NOKOMIS, ILLINOIS

Ordinance No. 2108

**AN ORDINANCE TO AUTHORIZE EXECUTION OF A LEASE
OF PROPERTY FROM THE CITY OF NOKOMIS, ILLINOIS**

WHEREAS, the City of Nokomis, Illinois (the "City") an Illinois non-home rule municipal corporation pursuant to Article VII, § 8 of the 1970 Illinois Constitution, organized and operating under the Illinois Municipal Code (65 ILCS 5/1-1-1, *et seq.*); and

WHEREAS, "[t]he corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities" (65 ILCS 5/1-2-1); and

WHEREAS, the City of Nokomis is the owner of real estate commonly known as Suite 2, which is situated at 22 South Cedar Street, in the City of Nokomis, County of Montgomery, Illinois, and which is legally described as follows:

Suite 2 situated at 22 South Cedar Street in the City of
Nokomis, Illinois.

Situated in the County of Montgomery and State of Illinois.

Permanent Parcel No.: 08-23-153-001 (part of)

(hereinafter, the "Premises"); and

WHEREAS, the City Council for the City (the corporate authorities) has presently determined that it is no longer necessary, appropriate, or in the best interest of the City that the portion of the Premises previously used by the Township's library remain vacant and unused; and

WHEREAS, pursuant to Section 5/11-76-1 of the Illinois Municipal Code (65 ILCS 5/11-76-1), the City has the power to lease real estate for any term not exceeding 99 years; and

WHEREAS, the City desires to lease the Premises to Lessee, and Lessee desires to lease said the Premises from the City; and

WHEREAS, the corporate authorities have determined that the best interests of the City and its residents will be served by leasing the Premises to Lessee; and

WHEREAS, a *Real Estate Lease Agreement* has been presented to and is before the City Council for its consideration at which this Ordinance is being adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOKOMIS, MONTGOMERY COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: The above recitals are incorporated herein and made a part hereof.

SECTION 2: The Mayor, the City Clerk, and the City Attorney are hereby authorized to do all things and take all actions necessary and appropriate to enter into a lease agreement with PLOCHER CONSTRUCTION COMPANY, INC. for the property described hereinabove, and which is legally described as follows:

Suite 2 situated at 22 South Cedar Street in the City of Nokomis, Illinois.

Situated in the County of Montgomery and State of Illinois.

Permanent Parcel No.: 08-23-153-001 (part of)

SECTION 3: The initial term of the lease shall not exceed six (6) months, and the collective term of the lease, including the initial term and any renewal terms, shall not exceed two (2) years.

SECTION 4: The size, use, and zoning of the said real estate are as follows:

Size: N/A (vacant portion of municipal building)

Use: Municipal/governmental building

Zoning: N/A (the City of Nokomis does not have a zoning ordinance)

SECTION 5: The Mayor is further authorized to accept and consent to the recordation of such lease agreement and to execute all required documents to effectuate said lease and to take all other actions necessary to complete acceptance of said lease.

SECTION 6: The City Clerk is hereby authorized, upon the Mayor's direction, to certify a copy of this Ordinance and record it with the Recorder of Deeds of Montgomery County, Illinois.

SECTION 7: All ordinances, resolutions, motions, or parts thereof in conflict with this Ordinance are hereby superseded.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage *following a vote of at least 3/4 of the corporate authorities now holding office* and its passage, approval, and publication as provided by law.

SECTION 9: The City Clerk shall publish this Ordinance in pamphlet form and shall see to its inclusion in the next published update of the Code.

PASSED this 14th day of September, 2023, by roll call votes as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Present</u>
Commissioner Arkebauer	X			X
Commissioner Morris	X			X
Commissioner Glenn	X			X
Commissioner Stauder	X			X
Mayor Goldsmith	X			X

APPROVED by the Mayor of the City of Nokomis, Illinois this 14 day of September, 2023.


MAYOR

ATTEST:


CITY CLERK

STATE OF ILLINOIS)
COUNTY OF MONTGOMERY) SS.
CITY OF NOKOMIS)

CERTIFICATE

I certify that I am the duly appointed and acting City Clerk of the City of Nokomis, Montgomery County, Illinois, and, as such, am the keeper of records and seal thereof; that the foregoing is a true, complete, and correct copy of Ordinance No. 2108 of said City; that said Ordinance, which is

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was passed by the City Council of the City of Nokomis, Montgomery County, Illinois, by yea and nay vote on the 14th day of September, 2023; that said Ordinance was approved by the Mayor on the 14 day of September, 2023; and that said Ordinance was then deposited in the office of the City Clerk of said City and filed therein; and that the same was recorded in the Record of Ordinances of said City.

I further certify said Ordinance provided by its terms that it should be published in pamphlet form; that the pamphlet form of said Ordinance, including the Ordinance and a cover sheet thereof, was prepared; that a copy of such Ordinance was posted in the Nokomis City Hall, commencing on the 14 day of September, 2023, to continue for at least ten (10) days thereafter; and that copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

DATED at Nokomis, Illinois, this 14 day of September, 2023.

(SEAL)



City Clerk

REAL ESTATE LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made this 14 day of June, 2018, by and between the CITY OF NOKOMIS, an Illinois Municipal Corporation (hereinafter referred to as the "City") and PLOCHER CONSTRUCTION COMPANY, INC., an Illinois Corporation currently in good standing with the Illinois Secretary of State's Office and having its principal office in the City of Nokomis, County of Montgomery, and State of Illinois (hereinafter referred to as "Lessee").

RECITALS:

WHEREAS, the City is the owner of real estate commonly known as Suite 2, which is situated at 22 South Cedar Street, in the City of Nokomis, County of Montgomery, and State of Illinois (referred to herein as the "Premises"); and

WHEREAS, the Township's library was previously located on the Premises; and

WHEREAS, Lessee has requested use of that part of the Premises the previously housed the Township's library; and

WHEREAS, the City desires to lease a portion of the Premises to the Lessee, and Lessee desires to lease said portion of the Premises from the City; and

WHEREAS, the City and Lessee (hereinafter, the "Parties") have reached an accord as to the terms and conditions upon which the City will lease the Premises to the Lessee and have memorialized the same herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration the receipt and sufficiency of which is acknowledged, the parties, intending to be legally bound, agree, represent, and warrant as follows:

1) Recitals. The above recitals are incorporated herein and made a part hereof.

2) Leased Premises. The City hereby leases to Lessee, and Lessee hereby leases and rents from the City, the Premises, which is described in Exhibit A, attached hereto and incorporated herein.

3) Term.

3.1 This Lease shall be for a term of six (6) months, commencing at midnight on September 1, 2023 and ending at midnight on March 1, 2024 (the "Initial Term"), and continuing for up to two (2) successive terms of six (6) months each (the "Renewal Terms"), unless terminated as provided in this

Lease ("Term"). In no event shall the collective Term extend beyond two (2) years or beyond midnight on June 1, 2025. Lessee shall take occupancy of the Premises immediately upon execution by the Parties.

3.2 Upon termination of this Lease, Lessee shall surrender the Premises together with alterations, installations, and improvements to the Premises, to the City in substantially as good a condition as the Premises existed upon occupancy, ordinary wear and tear excepted, with all areas cleaned to broom clean condition, and with all personal property of Lessee removed from the Premises and with all personal property in or upon the Premises and belonging to the City remaining or being returned.

3.3 Lessee shall not sell, convey, pledge, conceal, or otherwise dispose of any personal property on or in the Premises that belongs to, has been donated to, or is currently held by the City and/or any committees of the City and remains on or in the Premises after Lessee takes possession. Upon termination of this Lease, Lessee shall return the personal property referenced herein to the City's possession within 30 days thereof.

4) Rent. The rent payable by Lessee to the City hereunder shall be Six Hundred Fifty and No/100 Dollars (\$650.00) per month ("Rent"). Payment of Rent by the Lessee shall commence and be payable in advance of the 1st day of September, 2023, and continuing on the 1st day of each month thereafter during the Term of this Lease, as well as any Renewal Terms. Payments shall be made payable to "City of Nokomis, Illinois" and mailed or delivered to 22 South Cedar Street, Nokomis, IL 62675, or any other address that the City may designate from time to time in writing to Lessee.

5) Real Estate Taxes. Lessee shall be responsible for the payment of any and all real estate taxes due on leased portion of the Premises, if any. To the extent this Lease causes the City to incur any real estate tax liability on the Premises during the term of this Lease, the City may require Lessee to reimburse the City for such property tax liability. To the extent the City makes such request, the Lessee shall reimburse the City within thirty (30) days of written request by the City.

6) Maintenance and Repair.

6.1 Lessee, throughout the Term of this Lease, shall at its own expense, be responsible for any and all maintenance and repair to the leased portion of the Premises. Lessee shall, at a minimum, maintain the leased portion of the Premises in substantially the same condition as the Premises existed upon the occupancy of the Premises, ordinary wear and tear excepted.

6.2 Lessee shall be responsible for all repairs, maintenance, or replacements relating to the Premises that are made necessary by the

negligence or intentional acts of Lessee or its employees, agents, or invitees.

7) Lessee's Improvements. Lessee will not make any alterations, installations, improvements, or changes to the Premises at any time, for any reason, without the prior written approval of the City.

7.1 Lessee shall not permit any lien or claim for lien of any mechanic, laborer, or supplier or any other lien to be filed against the Premises, or any part thereof arising out of work performed, or alleged to have been performed by, or at the direction of, or on behalf of Lessee. If any such lien or claim for lien is filed, Lessee, within thirty (30) days thereafter, shall have such lien or claim for lien released of record. If Lessee fails to have such lien or claim for lien so released, the City, upon at least thirty (30) days' prior written notice to Lessee, may pay or discharge the same and Lessee shall reimburse the City within ten (10) days for the amount so paid by the City, including the City's expenses and attorneys' fees.

8) Insurance. Lessee, during the entire Term of this Lease, shall keep the Premises (as well as any improvements thereon) insured for the protection of the City (and the City shall be so named as an additional insured on any such policies), by maintaining general public liability and property damage insurance against claims for bodily injury or death and property damage occurring upon the Premises or areas adjacent thereto, and containing such terms and conditions and policy limits as the City deems, in its sole discretion, to be acceptable. Lessee shall furnish the City with a complete, true, and accurate copy of such insurance policies.

9) Indemnification. Lessee assumes liability for and shall indemnify, protect, save, and hold harmless City from and against any and all losses, damages, penalties, claims, actions, suits, costs, expenses, and disbursements, including attorneys' fees and expenses and court costs incurred by City in defending claims of whatsoever kind and nature imposed upon, incurred by, or asserted against the City, in any way relating to or arising out of this Lease and from the possession, use, operation, and maintenance of the Premises by the Lessee. The indemnities contained in this paragraph shall continue in full force and effect beyond the Term of this Lease and notwithstanding any termination of this Lease.

10) Inspection and Exhibition of Premises. Lessee, upon paying Rent and performing the covenants and agreements of this Lease, shall quietly have, hold, and enjoy the Premises and all rights granted to Lessee in this Lease. The City or any agent of the City may enter the Premises at all reasonable times and upon reasonable notice to inspect the Premises. When conveniently possible, the City shall give prior notice before such entry.

11) Use of Premises. The Premises shall be used in a safe, careful, and proper manner. Lessee shall comply with all applicable laws, ordinances, and

regulations as to the use, occupancy, maintenance, and condition of the Premises, now in effect or hereafter adopted. The Lessee shall keep the Premises free of rodents, insects, pests, and any obnoxious or noxious odors. The Premises shall not be used for any extra-hazardous use.

12) Lessee's Default and City's Remedies.

14.1 The occurrence of any one or more of the following events constitutes a default by Lessee under this Lease:

a. Lessee's failure to pay any installment of Rent, or any other amounts due from Lessee under this Lease as and when due;

b. Lessee's failure to observe or perform any other covenant, agreement, condition, or provision of this Lease, if such failure is not cured within fifteen (15) calendar days after written notice thereof from City to Lessee;

c. A trustee or receiver is appointed, voluntarily or involuntarily, for Lessee or for substantially all of its assets and is not discharged within sixty (60) days after such appointment;

d. Bankruptcy, reorganization, insolvency, or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted either (i) by Lessee, or (ii) against Lessee and are allowed against it or are consented to by it or are not dismissed within sixty (60) days after such institution; and/or

e. Lessee abandons the Premises. For purposes of this Lease, abandonment shall be deemed to have occurred upon determination by the Nokomis City Council that Lessee has vacated the Premises for a period of fifteen (15) days or more or that Lessee has allowed conditions to exist on the Premises that are not in compliance with the City's ordinances.

14.2 If a default by Lessee occurs under this Lease, the City shall have the right to pursue any and all rights and remedies it may have available to it at equity or at law, including, but not limited to, the following remedies, which shall be cumulative (and not exclude any other remedy) and exercisable in the City's discretion, without the necessity of any further notice other than that which may be required in any given case by the provisions of the Illinois Forcible Entry and Detainer Act, 735 ILCS 5/9-101 *et seq.*, or any successor law thereto:

a. Termination of this Lease.

b. Pursuing the payment of Rent and other charges due and unpaid under this Lease; and

c. Pursuing the payment of future Rent and other damages payable by Lessee under this lease.

15) Waiver. No party shall be deemed to have waived any right, power or privilege under this Lease, unless such waiver shall have been executed in writing and expressly acknowledged by the parties to be charged with such waiver. Any waiver of a default shall not be deemed a waiver of any subsequent default.

16) No Assignment or Sublease. Lessee shall not enter into a sublease for the Premises (or portion thereof) or in any other way assign its rights under this Lease without the express written consent of City, which shall not be unreasonably withheld.

17) Notices to Parties. Any notices, demands, or other communications required or permitted hereunder shall be in writing and delivered to the other party or the other party's authorized agent, either in person or by United States Certified Mail, Return Receipt Requested, postage fully prepaid, to the address set forth hereinafter, or to such other addresses as either party may designate in writing and deliver as herein provided:

CITY:

City of Nokomis
Attn: Mayor
22 South Cedar Street
Nokomis, IL 62675

LESSEE:

Plocher Construction Company, Inc.
c/o Christopher W. Byron, registered agent
411 St. Louis St.
Edwardsville, IL 62025

18) Construction and Venue. The interpretation and validity of this Lease shall be governed by the laws of the State of Illinois, without giving effect to that state's principles of conflicts of law or choice of law. The parties further consent to and submit to the exclusive jurisdiction and venue with respect to any matters pertaining to this Lease in and by the state courts sitting in Montgomery County, Illinois and by the federal courts sitting in Sangamon County, Illinois.

19) Entire Agreement. This Lease, and the Exhibits attached hereto contain the entire agreement between the City and Lessee concerning the Premises and there are no other agreements, either oral or written. Time is of the essence in this Lease.

20) Binding Effect. This Lease shall be binding upon and inure to the benefits of the City and Lessee and their respective heirs, legal representatives, successors, and permitted assigns, but this provision shall not operate to permit any transfer, assignment, mortgage, encumbrance, lien, charge, or subletting contrary to

the provisions of this Lease.

21) Use of Headings. The clause headings appearing in this Lease have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the clauses to which they pertain.

22) Amendments and Modifications. Except as otherwise provided for herein, this Lease may not be amended, modified, or terminated, nor may any obligation hereunder be waived orally, and no such amendment, modification, termination, or waiver shall be effective for any purpose unless it is in writing, and bears the signatures of all of the Parties hereto.

23) Counterparts. This Lease may be signed in any number of counterparts, each of which shall be an original, with the main effect as if the signatures thereto and hereto were upon the same instrument.

24) Acknowledgement. Lessee hereby acknowledges that it has read this Lease, understands it, agrees to its terms and conditions and has been given an executed copy. This Lease is not to be recorded in the property records unless express permission is granted by the City. Lessee acknowledges that it was advised and had the opportunity to seek the advice of legal, tax, and any other professionals of its own choice concerning this Lease prior to executing this Lease.

25) Non-Discrimination. No person shall be illegally excluded from employment rights in, participation in, or be denied the benefits of this Lease on the basis of race, religion, color, sex, age, disability, handicapped status, or national origin. Each Party hereto shall fully comply with the provisions of Section 750 Appendix A or Part 750 of Title 44 of the Illinois Administrative Code.

26) Authority to Sign. Each person signing below on behalf of the Parties hereto agrees, represents and warrants that he/she has been duly and validly authorized to sign this Lease on behalf of the party that he/she indicates that he/she represents.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Lease the day and year first above written.

CITY:

City of Nokomis, Illinois

By: 
Mayor

ATTEST:

By: *Rachel Davis*
 City Clerk

LESSEE:

Plocher Construction Company, Inc.

By: _____

Printed: _____

Its: _____
 Title

Exhibit A

Suite 2 situated at 22 South Cedar Street in the City of
Nokomis, Illinois.

Situated in the County of Montgomery and State of Illinois.

Permanent Parcel No.: 08-23-153-001 (part of)