

**“EXHIBIT B”
EASEMENT
AGREEMENT**

Prepared By & Return To:

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900 Community Drive
Springfield, IL 62703
(217) 525-1571

FOR RECORDER’S USE ONLY

This EASEMENT AGREEMENT (this “Agreement”) dated as of the date last signed below is entered into by and between _____ (“Grantor(s)”), and **CITY OF NOKOMIS, an Illinois municipal corporation** (“Grantee”; and together with Grantor(s) sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

A. Grantor(s) is the owner of a certain parcel of land in the City of Nokomis, County of Montgomery, and State of Illinois, legally described in **Exhibit A** attached hereto (the “Subject Parcel”); and

B. Grantee desires to receive from Grantor(s) and Grantor(s) desires to grant to Grantee certain easement rights with respect to the Subject Parcel for the purposes described in this Agreement, and subject to the terms and conditions of this Agreement.

AGREEMENTS

NOW, THEREFORE, for and in consideration of Grantee’s payment of Ten and 00/100 Dollars (\$10.00) to Grantor(s) in hand paid, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Grant of Easement.** Grantor(s), for himself/herself/their and his/her/their heirs, trustees, personal representatives, successors and assigns, hereby grants and conveys unto Grantee a perpetual, non-exclusive easement (the “Easement”) over, upon, across, in, through, and under that portion of the Subject Parcel legally described on **Exhibit B**, attached hereto (the “Easement Property”), for the purposes stated herein.

2. **Permitted Use.** The Easement shall be used by Grantee solely for the purposes set forth in Section 2 hereof and for no other purpose whatsoever. The Easement is granted for the purpose of installing, constructing, excavating, operating, accessing, continuing, inspecting, testing, surveying, repairing, maintaining, servicing, improving, renewing, modifying,

supplementing, enlarging, reinstalling, reconstructing, relocating, replacing, and removing over, upon, across, in, through, and under the Subject Parcel (and, all lots, streets, roads, or highways abutting the Subject Parcel) pipes and distribution lines and systems for the transport of water, together with all necessary facilities and appurtenances incident to installing, excavating, operating, repairing, maintaining, improving, modifying, relocating and replacing said pipes and distribution lines, including, without limitation, all pipe, valves, fittings, flanges, utility tracers, markers, and hydrants and other hardware required to convey water, together with the perpetual right of pedestrian and vehicular access, ingress and egress at all reasonable times to and from the Easement Property. Grantee agrees to access the Easements via the shortest and most direct route utilizing the public road, to the extent practical or utilizing Grantee's existing easements.

3. Covenants. It is further covenanted between the Grantor(s) and the Grantee, as follows:

a. That, during the term of the Easement, the Grantor(s) shall not place, erect, construct, or permit a building, structure, or other above or below ground obstruction that may interfere with the purposes for which the Easement is granted.

b. That, following the date of this Agreement, no trees, shrubbery, or other landscaping shall be planted or otherwise placed by the Grantor(s) on the Easement Property during the term of said Easement without first acquiring the Grantee's prior written consent, which consent may be withheld by Grantee's sole and absolute discretion.

c. That Grantor(s) authorize the Grantee to cut, trim, and spray herbicides on trees and shrubbery currently located on the Easement Property, whether aboveground or belowground, where required to properly maintain said water pipes and distribution lines and systems in a manner approved and accepted in the industry. Grantee shall compensate Grantor(s) for all damages sustained by Grantor(s) and caused by Grantee's actions.

d. That all pipes, equipment, systems, and other facilities, installed on or under the above-described lands at the Grantee's expense, shall remain the property of the Grantee, removable at the option of the Grantee.

e. That the Grantor(s) covenants that he/she/they is/are the sole owner(s) of the Subject Parcel; that Grantor(s) is seized of and has the right to convey the Easement, rights, and privileges herein granted; and that the Grantee shall have quiet and peaceable possession, use, and enjoyment of the Easement, rights, and privileges herein granted.

f. That the Grantee shall have the right to remove any improvements, landscaping, or natural foliage located on the Subject Parcel where such removal is reasonably necessary and economical to Grantee's use of the Easement.

g. That no use of the Easement by Grantee and its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successors, and assigns shall violate any applicable law, rule or regulation relating to the Easement.

h. That, to the extent allowed by law, Grantee shall indemnify and hold the Grantor(s) harmless against any claim of liability or loss from personal injury or property damages resulting from or arising out of the negligence or willful misconduct of the Grantee and its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successors, and assigns, except to the extent such claims or damages may be due to or caused in whole or in part by the negligence or willful misconduct of Grantor(s), its employees, contractors, or agents.

i. That, in the event that the terms of this Agreement are violated by Grantor(s), or by the agents or employees or contractors of Grantor(s), then, upon written notice by Grantee to Grantor(s), Grantor(s) shall promptly correct the violation at the expense of Grantor(s).

j. That Grantor(s) reserves all rights attendant to its ownership of the Subject Parcel, including, but not limited to, the use and enjoyment of the Subject Parcel for all purposes not inconsistent with the terms and conditions of this Agreement.

k. That Grantor(s) may grant, create, or suffer any claim, lien, encumbrance, easement, restriction or other charge or exception to title to the Subject Parcel (each, an "Encumbrance") so long as each such Encumbrance is subject to this Agreement and the Easement granted herein.

l. That Grantee shall cause all work conducted with respect to the Easement to be completed free from mechanic's liens and actions filed against the Easement to foreclose on the Easement through a recorded *lis pendens*.

m. That Grantee agrees to use reasonable efforts to maintain the pipes and lines and systems in a good state of repair so that no unreasonable damage will result to adjacent lands of Grantor(s) from use of the Easement by Grantee.

4. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, personal representatives, successors and assigns. It is the intention of the Parties that this Agreement and all of the various rights, obligations, restrictions and Easement created in this Agreement shall run with the land and shall inure to the benefit of and be binding upon all future owners, users of any of the Subject Parcel and the Easement, assignees of Grantee and lessees of the Subject Parcel and all persons claiming under them.

5. Notices. All notices required to be given by any of the provisions of this Agreement to a Party, unless otherwise stated, shall be in writing and delivered in person or by a national overnight delivery service (and shall be effective when received, when refused or when the same cannot be delivered) to the appropriate Party at the address set forth below (or at such other address designated in prior writing to the other Party):

To Grantor: Owner of Record

To Grantee: City of Nokomis
22 South Cedar Street
Nokomis, IL 62075

Each Party shall promptly deliver notice to the other Party of changes in address or ownership of the Subject Parcel or ownership interest in this Agreement, as appropriate.

6. Force Majeure. The time for performance by Grantor(s) or Grantee of any term, provision, or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from strikes, civil riots, floods, labor or supply shortages, material or labor restrictions by governmental authority, litigation, injunctions, and any other cause not within the control of Grantor(s) or Grantee, as the case may be.

7. Recording. This Agreement shall be recorded by Grantee at its sole cost and expense.

8. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without reference to its conflict of laws rules. Each Party hereby irrevocably submits to the exclusive jurisdiction of any federal or state court located in Montgomery County, Illinois in connection with any dispute arising out of or in connection with this Agreement. The non-prevailing Party in any litigation in connection with this Agreement shall be responsible for the prevailing Party's reasonable legal fees and expenses. EACH PARTY HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

9. Captions and Headings; Exhibits. The captions and headings in this Agreement are for convenience and shall not be held or deemed to define, limit, describe, explain, modify, amplify, or add to the interpretation, construction, or meaning of any provisions of or the scope or intent of this Agreement. The Exhibits hereto (i) are incorporated in this Agreement by reference in their entirety, and (ii) unless expressly otherwise provided herein, shall be prepared by Grantor(s) and shall be subject to Grantee's prior written approval.

10. Cumulative Remedies. Except as otherwise expressly provided herein, each and every one of the rights, benefits, and remedies provided to either Party by this Agreement, or by any instrument or documents executed pursuant to this Agreement, are cumulative and shall not be exclusive of any other of said rights, remedies, and benefits allowed by law or equity to such Party.

11. Counterparts. This Agreement may be executed in one or more counterparts, and by the Parties in separate counterparts, each of which when executed shall be deemed to be an

original but all of which taken together shall constitute one and the same agreement.

12. Severability. If any provision of this Agreement is deemed unenforceable in whole or in part, such provision shall be limited to the extent necessary to render the same valid or shall be excised from this Agreement, as circumstances require, and this Agreement shall be construed as if such provision had been so limited or as if such provision had not been included herein, as the case may be. Additionally, if any laws, rules or regulations promulgated by any state, county or local jurisdiction, including without limitation those concerning zoning, subdivision or land use, or should any court of competent jurisdiction, make the Easement either void or voidable, Grantor(s) agrees that upon the written request of Grantee, Grantor(s) and Grantee shall convert the Easement to a ground lease between Grantor(s), as lessor, and Grantee, as lessee, which ground lease shall (i) permit uses consistent with those set forth in Section 2 hereof, and (ii) otherwise include only those terms and conditions consistent with this Agreement.

13. Entire Understanding and Amendment. This Agreement constitutes the entire understanding between the Parties with regard to the subject matter hereof and there are no representations, inducements, conditions, or other provisions other than those expressed herein. This Agreement may not be modified, amended, altered or changed in any respect except by written agreement signed by both Parties. No waiver of any breach of any terms of this Agreement shall be effective unless made in writing signed by the waiving Party, and no such waiver shall be construed as a waiver of any subsequent breach of that term or of any other term of the same or different nature. The failure of either Party to object to any breach of any term or condition of this Agreement shall not be deemed a waiver of any term or condition of this Agreement and shall not be deemed a waiver of any right or remedy the nonbreaching party may have arising out of the breach, nor shall it be deemed a waiver of its right to subsequently enforce the term or condition.

14. Further Acts. Grantor(s) shall cooperate with Grantee in executing any documents reasonably necessary to protect Grantee's rights under this Agreement or Grantee's use of the Easement and to take such commercially reasonable action as Grantee may reasonably request in writing to effect the intent of this Agreement. All costs associated with obtaining and maintaining all government approvals by Grantee or Grantee's contractors or agents shall be the sole responsibility of Grantee.

15. Relationship of Parties; No Sale. Grantee's status shall be strictly construed as a holder of easement on the Subject Parcel limited to its express rights granted herein. Nothing herein shall be construed to render Grantee a fee interest ownership in or of the Subject Parcel, nor as an actual or constructive transfer of ownership of or a fee interest in the Subject Parcel to Grantee. The Parties expressly intend that for all times and for all purposes, Grantor(s) shall be and remain the sole and exclusive owner of the Subject Parcel during its lawful fee ownership thereof with the full benefits and rights of ownership thereof, subject only to the rights expressly granted to Grantee herein for the duration of the Easement.

16. Singular/Plural Form. It is further understood, whenever necessary, words used in this instrument in the singular shall be construed to read in the plural and that words used in the masculine gender shall be construed to read in the feminine or words used in the neutral gender shall be construed to be read in the masculine or feminine gender, whichever is appropriate.

17. Homestead. The undersigned waives any and all rights under the Homestead Exemption laws of the State of Illinois.

IN WITNESS WHEREOF, the undersigned has set his hand and seal, this ____ day of _____, 2024.

_____, **Grantor**

STATE OF ILLINOIS)
) SS
COUNTY OF MONTGOMERY)

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that _____ is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledge that he signed, sealed and delivered said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal on this ____ day of _____, 2024.

Notary Public

ACCEPTED this _____ day of _____, 2024, by the City of Nokomis, an Illinois municipal corporation, pursuant to authority given by the City Council of said City at a regular meeting of the council.

**CITY OF NOKOMIS, an Illinois
municipal corporation**

ATTEST:

By _____
Dylan Goldsmith, Mayor

Clerk

EXEMPT UNDER THE PROVISIONS OF 35 ILCS 200,
SEC. 31-45(b)(1) Real Estate Transfer Tax Law.

Date Buyer, Seller or Representative

EXHIBIT A

SUBJECT PARCEL:

Part of Blocks One (1) and Two (2) in Miller's Division to the City of Nokomis, Montgomery County, Illinois. Beginning at an iron pin set on the South Right-of-Way line of State Route 16 and Nineteen (19) feet West of the West line of Hargraves addition to the city of Nokomis; thence South $01^{\circ}35'08''$ East on the West line of an existing alley for a distance of 395.00 feet to an iron pin set; thence South $88^{\circ}49'06''$ West, a distance of 479.40 feet to an iron pin set on the Southerly Right of Way line of State Route 16; thence North $49^{\circ}10'06''$ East. 619.02 feet on the said Southerly Right-of-Way line to the Point of Beginning, containing 2.17 acres more or less.

Portions of P.I.N.: 08-22-403 & 08-22-454-012

EXHIBIT B

EASEMENT PROPERTY:

Part of Block's One (1) and Two (2) in Miller's Division to the City of Nokomis, Montgomery County, Illinois. Beginning at an iron pin set on the South Right-of-Way line of State Route 16 and Nineteen (19) feet West of the West line of Hargraves addition to the city of Nokomis; thence South $01^{\circ}35'08''$ East on the West line of an existing alley for a distance of 25.83 feet; thence South $49^{\circ}10'06''$ West, parallel to the Southerly Right-of-Way line of State Route 16 a distance of 83.66 feet; thence South $40^{\circ}49'54''$ East. 15.00 feet; thence South $49^{\circ}10'06''$ West, parallel to the Southerly Right-of-Way line of State Route 16 a distance of 40.00 feet; thence North $40^{\circ}49'54''$ West, 15.00 feet; thence South $49^{\circ}10'06''$ West, parallel to the Southerly Right-of-Way line of State Route 16 a distance of 454.88 feet; thence South $88^{\circ}49'06''$ West, a distance of 31.34 feet to the Southerly Right-of-Way line of State Route 16; thence North $49^{\circ}10'06''$ East. 619.02 feet on the said South Right-of-Way line to the Point of Beginning.