

VILLAGE OF GILBERTS

RESOLUTION 21-2019

A RESOLUTION AUTHORIZING AND APPROVING AGREEMENTS FOR TWO PUBLIC UTILITY EASEMENT BETWEEN THE VILLAGE OF GILBERTS AND TYRRELL FARM NORTH LLC AND TYRRELL FARM SOUTH LLC

WHEREAS, Tyrrell Farm North LLC and Tyrrell Farm South LLC (“Grantors”) are the owners of certain real property consisting of approximately 44.9 acres located at 15N940 Tyrrell Road, Elgin, Kane County, Illinois 60120, and 57.5 acres located at 15N940 Tyrrell Road, Elgin, Kane County, Illinois 60120 (“Grantors’ Property”);

WHEREAS, Grantors desire to grant to the Village of Gilberts two easements for the purpose of constructing, installing, maintaining, repairing and replacing water, sanitary sewer and storm sewer equipment and related facilities (“Public Utilities”) on Grantors’ Property, as referenced in the Easements Agreements attached to this Resolution as Exhibits A and B;

THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS AS FOLLOWS:

Section 1. Recitals. The recitals set forth above are hereby incorporated into and made a part of this Resolution as though set forth in this Section 1.

Section 2. Approval of Public Utility Easement Agreements. The Village Board of Trustees hereby approves the Public Utility Easement Agreements attached to this Resolution as Exhibits A and B and authorizes and directs the Village Administrator to execute the agreements and have the easements recorded with the County Recorders Office.

Section 3. Effective Date. This Resolution shall be effective immediately.

PASSED BY THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this 15th day of October, 2019.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Elissa Kojzarek	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Nancy Farrell	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Jeanne Allen	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Lou Hacker	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Guy Zambetti	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
President Rick Zirk	<u> </u>	<u> </u>	<u> </u>	<u> </u>

APPROVED THIS 15th DAY OF October, 2019



Village President, Rick Zirk

Deputy Village Clerk, Terri D'Amato

Published: _____

EXHIBIT A

Tyrrell Farm North LLC Public Utility Easement

**NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC**

This Instrument prepared by:

Sharon E. Smith, Esq.
Hartman Simons & Wood LLP
6400 Powers Ferry Road NW, Suite 400
Atlanta, GA 30339

After recording, return to:

Benesch, Friedlander, Coplan & Aronoff LLP
71 South Wacker Drive, Suite 1600
Chicago, IL 60606
Attn: Michael J. Klein

PUBLIC UTILITY EASEMENT

THIS PUBLIC UTILITY EASEMENT (the “**Agreement**”) is made and entered into this _____ day of _____, 2019, by and between Tyrrell Farm North, LLC, an Illinois limited liability company (“**Grantor**”), with an address of 1321 Maple Avenue, Wilmette, IL 60091 and the Village of Gilberts, an Illinois municipal corporation, (“**Grantee**”), with an address of 87 Galligan Road, Gilberts, IL 60136.

RECITALS

WHEREAS, Grantor is the owner of certain real property consisting of approximately 44.9 acres and located at 15N940 Tyrrell Road, Elgin, Kane County, Illinois 60120, and more particularly described on Exhibit A attached hereto (“**Grantor’s Property**”);

WHEREAS, Grantor desires to grant to Grantee an easement for the purpose of constructing, installing, maintaining, repairing and replacing water, sanitary sewer and storm sewer equipment and related facilities (the “**Improvements**”) in the area of Grantor’s Property described on Exhibit B attached hereto and depicted on Exhibit C attached hereto (the “**Public Utility Easement Area**”);

WHEREAS, Grantor desires to grant to Grantee a temporary easement for the construction of the Improvements in the portion of Grantor’s Property described on Exhibit D attached hereto and as depicted on Exhibit C attached hereto (the “**Temporary Construction Easement Area**”).

NOW THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the benefits to be conferred on Grantor’s Property, Grantor, hereby grants to Grantee as follows:

1. Grant of Public Utility Easement. Grantor hereby grants to Grantee a non-exclusive, perpetual easement (the “**Public Utility Easement**”) for the purposes set forth below, on, under and across portions of the Grantor Property a set forth below:

(a) accessing, using, maintaining, cleaning out, repairing and replacing the Improvements to be constructed on Grantor’s Property by Grantor in the Public Utility Easement Area as

NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC

provided in Section 6 below and non-exclusively serving Grantor's Property and to enter upon Grantor's Property in the manner described in Section 5 below for the purposes described above.

(b) Grantee shall have the right to access the Improvements and the Public Utility Easement Area for purposes of maintenance, repair and replacement of the Improvements upon notice as required by Section 5 of this Agreement.

(c) Grantee shall restore the surface area and all landscaping, paving and other permitted improvements as required by Section 8 of this Agreement.

2. Temporary Construction Easement. In order to facilitate the construction of the Improvements in the Public Utility Easement Area, Grantor hereby grants and conveys to Grantee a non-exclusive, temporary construction easement (the "**Temporary Construction Easement**") over, across, through, upon and under the Temporary Construction Easement Area. The Temporary Construction Easement shall terminate on May 1, 2020 (the "**Temporary Construction Easement Termination Date**"). The Public Utility Easement Area and the Temporary Construction Easement Area are collectively referred to herein as the "**Easement Areas**".

3. Grantor's Use. Subject to the limitations set forth herein, Grantor reserves the right to the use and enjoyment of the Easement Areas, provided Grantor's use shall not unreasonably interfere with or restrict Grantee's full and complete use of the Easement Areas for the purposes set forth herein; provided, however, that Grantor shall not permanently or temporarily improve, disturb, damage, destroy, injure, or obstruct the Public Utility Easement Area, nor permit the Public Utility Easement to be permanently or temporarily improved, disturbed, damaged, destroyed, injured, or obstructed, at any time whatsoever, without the express prior written consent of Grantee. Grantee acknowledges and agrees that Grantor shall have the full use and enjoyment of the Temporary Construction Easement Area and this Agreement shall no longer burden such Temporary Construction Easement Area after the earlier to occur of (i) the Temporary Construction Easement Termination Date and (ii) Grantee's completion of the construction of the Improvements in the Public Utility Easement Area.

4. Grantee's Obligations. Grantee will perform all work in, under, or upon the Easement Areas expeditiously and in a good and workmanlike fashion. Grantee agrees that all work in, under, or upon the Easement Areas will be performed in such manner as not to unreasonably interfere with operations on Grantor's Property, and Grantee will give Grantor reasonable prior notice of such work as set forth in Section 5 below. Grantee represents and warrants that it will maintain the Easement Areas and the balance of Grantor's Property free and clear from any liens or encumbrances created or caused by Grantee of any nature whatsoever in connection with the exercise of Grantee's rights set forth in this Agreement.

5. Access. Grantee shall provide Grantor with 48-hour prior written notice prior to access of the Easement Areas, unless entry upon Grantor's Property is reasonably necessary for emergency repairs to the Improvements. Grantee shall take commercially reasonable efforts not to materially interfere with the business and operations conducted on Grantor's Property.

6. Construction and Maintenance.

(a) Grantee, at Grantee's sole cost and expense, shall construct the Improvements, with the right to perform such excavation, grading, and general earth disturbing activities necessary or incidental thereto, for the non-exclusive benefit of Grantor. The Improvements shall be constructed in a good and workmanlike manner, in compliance with all laws, rules and regulations, and shall provide Grantor's Property with access to the Improvements upon issuance of any required permits and payment of all applicable fees and charges. Grantee's construction of the Improvements shall cause no disruption of water, sanitary sewer and storm sewer service to Grantor's Property.

**NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC**

(b) From and after the construction and installation of the Improvements by Grantee, Grantee shall keep and maintain the Improvements in good condition and repair at Grantee's sole cost and expense.

7. Indemnification. Grantee agrees to indemnify, defend, and hold Grantor and its tenants, occupants, permittees, and invitees harmless from and against any and all claims, causes of action, costs, expenses, losses, liabilities, and damages (collectively, "Claims") arising directly from the negligence of Grantee or its employees, agents, or contractors in connection with the exercise of any right or the failure by Grantee to perform any obligation under this Agreement, all as set forth in this Agreement. The foregoing indemnification will not cover any Claims to the extent the same were caused by any act or omission of Grantor or its tenants, occupants, permittees, or invitees.

8. Restoration. Grantee will, at its sole cost and expense and promptly after completion of its work, restore the surface and subsurface of the Easement Areas and/or Grantor's Property as may have been disturbed in the construction, use, operation, maintenance, or repair of the Improvements to substantially the same condition that existed prior to Grantee's work, and repair all improvements and replace (or pay restitution) for any crops located on Grantor's Property which may have been damaged by work within the Easement Areas or which is a direct result of the exercise of the rights herein granted.

9. Successors. The rights and obligations of the parties hereto touch and concern the land and are binding upon and benefit the parties' respective heirs, successors, and assigns. The words "Grantor" and "Grantee" shall include heirs, executors, administrative successors and assigns, as the case may be, including, but not limited to, all future owners of Grantor's Property, it being intended that this Agreement shall run with the land.

10. Governing Law; Venue. Construction and interpretation of this Agreement will be governed by laws of the state in which Grantor's Property is located, excluding any principles of conflicts of laws. Any dispute arising under, in connection with, or incident to this Agreement or about its interpretation will be resolved exclusively in the state or federal courts located in the county in which Grantor's Property is located. Each of the parties irrevocably submits to those courts' venue and jurisdiction.

11. Notices. All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing and delivered personally, by certified mail, return receipt requested, postage prepaid, or by overnight courier (such as Federal express), sent to the following addresses:

If to <u>Grantee</u> :	Village of Gilberts 87 Galligan Road Gilberts, IL 60136 Attn: Village Administrator
With a copy to:	Julie Tappendorf Ancel Glink, P.C. 140 S. Dearborn Street, Ste 600 Chicago, IL 60603
If to <u>Grantor</u> :	Tyrrell Farm North, LLC 39373 N. Dilleys Road Wadsworth, IL 60083-9256 Attn: Patrick E. Tyrrell Email: patricktyrrell@comcast.net

**NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC**

with a copy to: Keith Clayton
1321 Maple
Wilmette, IL 60091
Email: clonk@sbcglobal.net

with an additional copy to: Benesch, Friedlander, Coplan & Aronoff LLP
71 South Wacker Drive, Suite 1600
Chicago, IL 60606
Attn: Michael J. Klein
Fax: 312-767-9192
Email: mklein@beneschlaw.com

[Signatures begin on following page]

**NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC**

IN WITNESS WHEREOF, Grantor and Grantee have signed, sealed and delivered this instrument the day and year first set forth above.

GRANTOR:

TYRRELL FARM NORTH, LLC,
an Illinois limited liability company

Patrick Tyrrell, Manager

Dated: _____

Keith T. Clayton, Manager

Dated: _____

I certify that Patrick Tyrrell, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on the date below and acknowledged that he signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Dated: _____, 2019

Notary Public

I certify that Keith T. Clayton, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on the date below and acknowledged that he signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Dated: _____, 2019

Notary Public

**NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC**

GRANTEE:

VILLAGE OF GILBERTS, an Illinois
municipal corporation

By: _____
Name: _____
Title: _____

Dated: _____

I certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on the date below and acknowledged that he/she signed and delivered the instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

Dated: _____, 2019

Notary Public

**NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC**

EXHIBIT A

GRANTOR'S PROPERTY LEGAL DESCRIPTION

THAT PART OF THE WEST ½ OF THE NORTHEAST ¼ AND OF THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 25, TOWNSHIP 42, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE WEST ½ OF SAID NORTHEAST ¼; THENCE NORTH ALONG THE EAST LINE OF THE WEST ½ OF SAID NORTHEAST ¼, 1087.62 FEET FROM THE POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG A LINE FORMING AN ANGLE OF 59 DEGREES 31 MINUTES TO THE LEFT WITH A PROLONGATION OF THE LAST DESCRIBED LINE, 2934.95 FEET TO A POINT ON THE NORTH LINE OF THE EAST ½ OF SAID NORTHWEST ¼; THENCE EAST ALONG SAID NORTH LINE AND THE NORTH LINE OF THE WEST ½ OF SAID NORTHEAST ¼ TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG THE EAST LINE OF THE WEST ½ OF SAID NORTHEAST ¼ TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

Parcel Number: 02-25-200-006

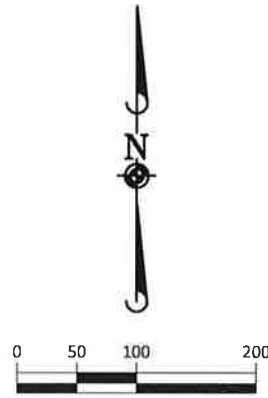
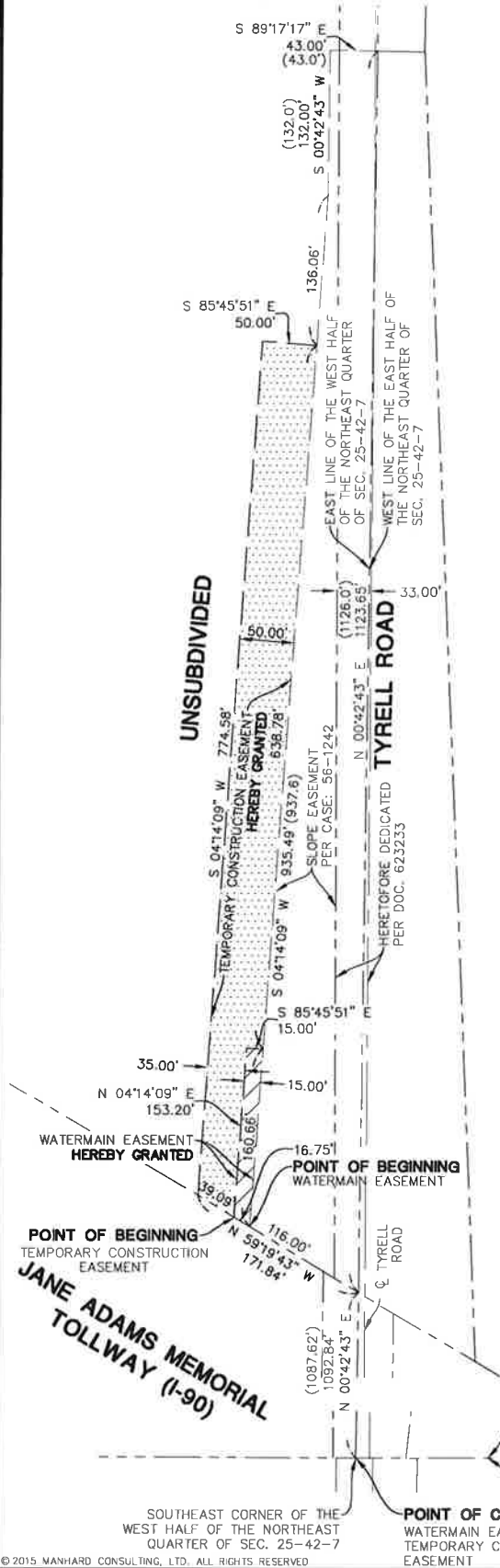
**NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC**

EXHIBIT B

PUBLIC UTILITY EASEMENT AREA LEGAL DESCRIPTION

THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 42 MINUTES 43 SECONDS EAST ALONG THE EAST LINE OF SAID WEST HALF, A DISTANCE OF 1092.84 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE JANE ADAMS MEMORIAL TOLLWAY (I-90); THENCE NORTH 59 DEGREES 19 MINUTES 43 SECONDS WEST ALONG SAID NORTHERLY RIGHT OF WAY, A DISTANCE OF 116.00 FEET TO THE SOUTHWEST CORNER OF A SLOPE EASEMENT AS TAKEN PER CONDEMNATION CASE NUMBER 56-1242, ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING NORTH 59 DEGREES 19 MINUTES 43 SECONDS WEST ALONG SAID NORTHERLY RIGHT-OF-WAY, A DISTANCE OF 16.75 FEET TO A LINE PARALLEL WITH AND 15.00' WEST OF SAID SLOPE EASEMENT; THENCE NORTH 04 DEGREES 14 MINUTES 09 SECONDS EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 153.20 FEET; THENCE SOUTH 85 DEGREES 45 MINUTES 51 SECONDS EAST, A DISTANCE OF 15.00 FEET TO SAID SLOPE EASEMENT; THENCE SOUTH 04 DEGREES 14 MINUTES 09 SECONDS WEST ALONG SAID SLOPE EASEMENT, A DISTANCE OF 160.66 FEET TO THE POINT OF BEGINNING, IN KANE COUNTY, ILLINOIS, AND CONTAINING APPROXIMATELY 0.054 ACRES.

WATERMAIN EASEMENT EXHIBIT

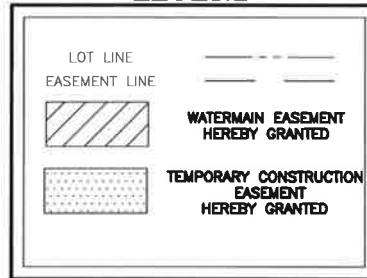


SCALE: 1"=100'

BASIS OF BEARINGS

COORDINATES AND BEARINGS ARE BASED UPON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE (NAD 83), ADJUSTED TO GROUND VALUES, AS ESTABLISHED BY A REAL-TIME KINEMATIC (RTK) GLOBAL NAVIGATION SATELLITE SYSTEM (GNSS) UTILIZING THE TRIMBLE VRS NOW NETWORK.

LEGEND



EASEMENT AREA

TEMPORARY CONSTRUCTION EASEMENT:
37,214 SQUARE FEET (0.223 ACRES)
WATERMAIN EASEMENT:
2,356 SQUARE FEET (0.054 ACRES)

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700 Springer Drive, Lombard, IL 60148 ph: 630 891 8500 fx: 630 891 8583 manhard.com
Civil Engineers • Surveyors • Water Resource Engineers • Water & Wastewater Engineers
Construction Managers • Environmental Scientists • Landscape Architects • Planners

WATERMAIN EXTENSION			
VILLAGE OF GILBERTS, ILLINOIS			
WATERMAIN EASEMENT			
DRAWN BY:	RELEASE DATE:	SCALE:	CODE:
MGS	2019-07-11	1"=100'	GDL.GIL.03

13_30_Dwg Name: P:\Caigr03\dwg\Surv\Final Drawings\Plot of Easement\GDL02-PE WATERMAIN NORTH.dwg Updated By: MScrim11

**NORTH PUBLIC UTILITY EASEMENT
Tyrrell Farm North, LLC**

EXHIBIT D

TEMPORARY CONSTRUCTION EASEMENT AREA LEGAL DESCRIPTION

THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 42 MINUTES 43 SECONDS EAST ALONG THE EAST LINE OF SAID WEST HALF, A DISTANCE OF 1092.84 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE JANE ADAMS MEMORIAL TOLLWAY (I-90); THENCE NORTH 59 DEGREES 19 MINUTES 43 SECONDS WEST ALONG SAID NORTHERLY RIGHT OF WAY, A DISTANCE OF 132.75 FEET TO POINT OF BEGINNING; THENCE CONTINUING NORTH 59 DEGREES 19 MINUTES 43 SECONDS WEST, A DISTANCE OF 39.09 FEET TO A LINE PARALLEL WITH AND 50.00 FEET WEST OF A SLOPE EASEMENT AS TAKEN PER CONDEMNATION CASE NUMBER 56-1242; THENCE NORTH 04 DEGREES 14 MINUTES 09 SECONDS EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 774.58 FEET; THENCE SOUTH 85 DEGREES 45 MINUTES 51 SECONDS EAST, A DISTANCE OF 50.00 FEET TO THE WEST LINE OF SAID SLOPE EASEMENT; THENCE SOUTH 04 DEGREES 14 MINUTES 09 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 638.78 FEET; THENCE NORTH 85 DEGREES 45 MINUTES 51 SECONDS WEST, A DISTANCE OF 15.00 FEET TO A LINE PARALLEL WITH AND 15.00 FEET WEST OF THE WEST LINE OF SAID SLOPE EASEMENT; THENCE SOUTH 04 DEGREES 14 MINUTES 09 SECONDS WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 153.20 FEET TO THE POINT OF BEGINNING, IN KANE COUNTY, ILLINOIS, AND CONTAINING APPROXIMATELY 0.223 ACRES.

EXHIBIT B

Tyrrell Farm South LLC Public Utility Easement

**SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC**

This Instrument prepared by:

Sharon E. Smith, Esq.
Hartman Simons & Wood LLP
6400 Powers Ferry Road NW, Suite 400
Atlanta, GA 30339

After recording, return to:

Benesch, Friedlander, Coplan & Aronoff LLP
71 South Wacker Drive, Suite 1600
Chicago, IL 60606
Attn: Michael J. Klein

PUBLIC UTILITY EASEMENT

THIS PUBLIC UTILITY EASEMENT (the “**Agreement**”) is made and entered into this _____ day of _____, 2019, by and between Tyrrell Farm South, LLC, an Illinois limited liability company (“**Grantor**”), with an address of 1321 Maple Avenue, Wilmette, IL 60091 and the Village of Gilberts, an Illinois municipal corporation, (“**Grantee**”), with an address of 87 Galligan Road, Gilberts, IL 60136.

RECITALS

WHEREAS, Grantor is the owner of certain real property consisting of approximately 57.5 acres and located at 15N940 Tyrrell Road, Elgin, Kane County, Illinois 60120, and more particularly described on Exhibit A attached hereto (“**Grantor’s Property**”);

WHEREAS, Grantor desires to grant to Grantee an easement for the purpose of constructing, installing, maintaining, repairing and replacing water, sanitary sewer and storm sewer equipment and related facilities (the “**Improvements**”) in the area of Grantor’s Property described on Exhibit B attached hereto and depicted on Exhibit C attached hereto (the “**Public Utility Easement Area**”);

WHEREAS, Grantor desires to grant to Grantee a temporary easement for the construction of the Improvements in the portion of Grantor’s Property described on Exhibit D attached hereto and as depicted on Exhibit C attached hereto (the “**Temporary Construction Easement Area**”).

NOW THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the benefits to be conferred on Grantor’s Property, Grantor, hereby grants to Grantee as follows:

1. Grant of Public Utility Easement. Grantor hereby grants to Grantee a non-exclusive, perpetual easement (the “**Public Utility Easement**”) for the purposes set forth below, on, under and across portions of the Grantor Property a set forth below:

(a) accessing, using, maintaining, cleaning out, repairing and replacing the Improvements to be constructed on Grantor’s Property by Grantor in the Public Utility Easement Area as

SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC

provided in Section 6 below and non-exclusively serving Grantor's Property and to enter upon Grantor's Property in the manner described in Section 5 below for the purposes described above.

(b) Grantee shall have the right to access the Improvements and the Public Utility Easement Area for purposes of maintenance, repair and replacement of the Improvements upon notice as required by Section 5 of this Agreement.

(c) Grantee shall restore the surface area and all landscaping, paving and other permitted improvements as required by Section 8 of this Agreement.

2. Temporary Construction Easement. In order to facilitate the construction of the Improvements in the Public Utility Easement Area, Grantor hereby grants and conveys to Grantee a non-exclusive, temporary construction easement (the "**Temporary Construction Easement**") over, across, through, upon and under the Temporary Construction Easement Area. The Temporary Construction Easement shall terminate on May 1, 2020 (the "**Temporary Construction Easement Termination Date**"). The Public Utility Easement Area and the Temporary Construction Easement Area are collectively referred to herein as the "**Easement Areas**".

3. Grantor's Use. Subject to the limitations set forth herein, Grantor reserves the right to the use and enjoyment of the Easement Areas, provided Grantor's use shall not unreasonably interfere with or restrict Grantee's full and complete use of the Easement Areas for the purposes set forth herein; provided, however, that Grantor shall not permanently or temporarily improve, disturb, damage, destroy, injure, or obstruct the Public Utility Easement Area, nor permit the Public Utility Easement to be permanently or temporarily improved, disturbed, damaged, destroyed, injured, or obstructed, at any time whatsoever, without the express prior written consent of Grantee. Grantee acknowledges and agrees that Grantor shall have the full use and enjoyment of the Temporary Construction Easement Area and this Agreement shall no longer burden such Temporary Construction Easement Area after the earlier to occur of (i) the Temporary Construction Easement Termination Date and (ii) Grantee's completion of the construction of the Improvements in the Public Utility Easement Area.

4. Grantee's Obligations. Grantee will perform all work in, under, or upon the Easement Areas expeditiously and in a good and workmanlike fashion. Grantee agrees that all work in, under, or upon the Easement Areas will be performed in such manner as not to unreasonably interfere with operations on Grantor's Property, and Grantee will give Grantor reasonable prior notice of such work as set forth in Section 5 below. Grantee represents and warrants that it will maintain the Easement Areas and the balance of Grantor's Property free and clear from any liens or encumbrances created or caused by Grantee of any nature whatsoever in connection with the exercise of Grantee's rights set forth in this Agreement.

5. Access. Grantee shall provide Grantor with 48-hour prior written notice prior to access of the Easement Areas, unless entry upon Grantor's Property is reasonably necessary for emergency repairs to the Improvements. Grantee shall take commercially reasonable efforts not to materially interfere with the business and operations conducted on Grantor's Property.

6. Construction and Maintenance.

(a) Grantee, at Grantee's sole cost and expense, shall construct the Improvements, with the right to perform such excavation, grading, and general earth disturbing activities necessary or incidental thereto, for the non-exclusive benefit of Grantor. The Improvements shall be constructed in a good and workmanlike manner, in compliance with all laws, rules and regulations, and shall provide Grantor's Property with access to the Improvements upon issuance of any required permits and payment of all applicable fees and charges. Grantee's construction of the Improvements shall cause no disruption of water, sanitary sewer and storm sewer service to Grantor's Property.

**SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC**

(b) From and after the construction and installation of the Improvements by Grantee, Grantee shall keep and maintain the Improvements in good condition and repair at Grantee's sole cost and expense.

7. Indemnification. Grantee agrees to indemnify, defend, and hold Grantor and its tenants, occupants, permittees, and invitees harmless from and against any and all claims, causes of action, costs, expenses, losses, liabilities, and damages (collectively, "**Claims**") arising directly from the negligence of Grantee or its employees, agents, or contractors in connection with the exercise of any right or the failure by Grantee to perform any obligation under this Agreement, all as set forth in this Agreement. The foregoing indemnification will not cover any Claims to the extent the same were caused by any act or omission of Grantor or its tenants, occupants, permittees, or invitees.

8. Restoration. Grantee will, at its sole cost and expense and promptly after completion of its work, restore the surface and subsurface of the Easement Areas and/or Grantor's Property as may have been disturbed in the construction, use, operation, maintenance, or repair of the Improvements to substantially the same condition that existed prior to Grantee's work, and repair all improvements and replace (or pay restitution) for any crops located on Grantor's Property which may have been damaged by work within the Easement Areas or which is a direct result of the exercise of the rights herein granted.

9. Successors. The rights and obligations of the parties hereto touch and concern the land and are binding upon and benefit the parties' respective heirs, successors, and assigns. The words "Grantor" and "Grantee" shall include heirs, executors, administrative successors and assigns, as the case may be, including, but not limited to, all future owners of Grantor's Property, it being intended that this Agreement shall run with the land.

10. Governing Law; Venue. Construction and interpretation of this Agreement will be governed by laws of the state in which Grantor's Property is located, excluding any principles of conflicts of laws. Any dispute arising under, in connection with, or incident to this Agreement or about its interpretation will be resolved exclusively in the state or federal courts located in the county in which Grantor's Property is located. Each of the parties irrevocably submits to those courts' venue and jurisdiction.

11. Notices. All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing and delivered personally, by certified mail, return receipt requested, postage prepaid, or by overnight courier (such as Federal express), sent to the following addresses:

If to <u>Grantee</u> :	Village of Gilberts 87 Galligan Road Gilberts, IL 60136 Attn: Village Administrator
With a copy to:	Julie Tappendorf Ancel Glink, P.C. 140 S. Dearborn Street, Ste 600 Chicago, IL 60603
If to <u>Grantor</u> :	Tyrrell Farm South, LLC 39373 N. Dilleys Road Wadsworth, IL 60083-9256 Attn: Patrick E. Tyrrell Email: patricktyrrell@comcast.net

**SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC**

with a copy to: Keith Clayton
1321 Maple
Wilmette, IL 60091
Email: clonk@sbcglobal.net

with an additional copy to: Benesch, Friedlander, Coplan & Aronoff LLP
71 South Wacker Drive, Suite 1600
Chicago, IL 60606
Attn: Michael J. Klein
Fax: 312-767-9192
Email: mklein@beneschlaw.com

[Signatures begin on following page]

**SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC**

IN WITNESS WHEREOF, Grantor and Grantee have signed, sealed and delivered this instrument the day and year first set forth above.

GRANTOR:

TYRRELL FARM SOUTH, LLC,
an Illinois limited liability company

Patrick Tyrrell, Manager

Dated: _____

Keith T. Clayton, Manager

Dated: _____

I certify that Patrick Tyrrell, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on the date below and acknowledged that he signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Dated: _____, 2019

Notary Public

I certify that Keith T. Clayton, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on the date below and acknowledged that he signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Dated: _____, 2019

Notary Public

**SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC**

GRANTEE:

VILLAGE OF GILBERTS, an Illinois
municipal corporation

By: _____
Name: _____
Title: _____

Dated: _____

I certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on the date below and acknowledged that he/she signed and delivered the instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

Dated: _____, 2019

Notary Public

**SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC**

EXHIBIT A

GRANTOR'S PROPERTY LEGAL DESCRIPTION

THE PART OF THE WEST 1/2 OF THE NORTHEAST 1/4 AND OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 25 TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE WEST 1/2 OF SAID NORTHEAST 1/4; THENCE NORTH ALONG THE EAST LINE OF THE WEST 1/2 OF SAID NORTHEAST 1/4 739.5 FEET; THENCE NORTHWESTERLY ALONG A LINE FORMING AN ANGLE OF 59 DEGREES 31 MINUTES TO THE LEFT WITH A PROLONGATION OF THE LAST DESCRIBED LINE 2803.20 FEET TO THE EASTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILROAD COMPANY; THENCE SOUTHEASTERLY ALONG SAID EASTERLY RIGHT OF WAY LINE TO THE SOUTH LINE OF THE EAST 1/2 OF SAID NORTHWEST 1/4;. THENCE EAST ALONG SAID SOUTH LINE AND THE SOUTH LINE OF THE WEST 1/2 OF SAID NORTHEAST 1/4 TO THE POINT OF BEGINNING, EXCEPT THEREFROM THAT PART TAKEN FOR ROAD PURPOSES, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS

Parcel Number: 02-25-200-007

**SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC**

EXHIBIT B

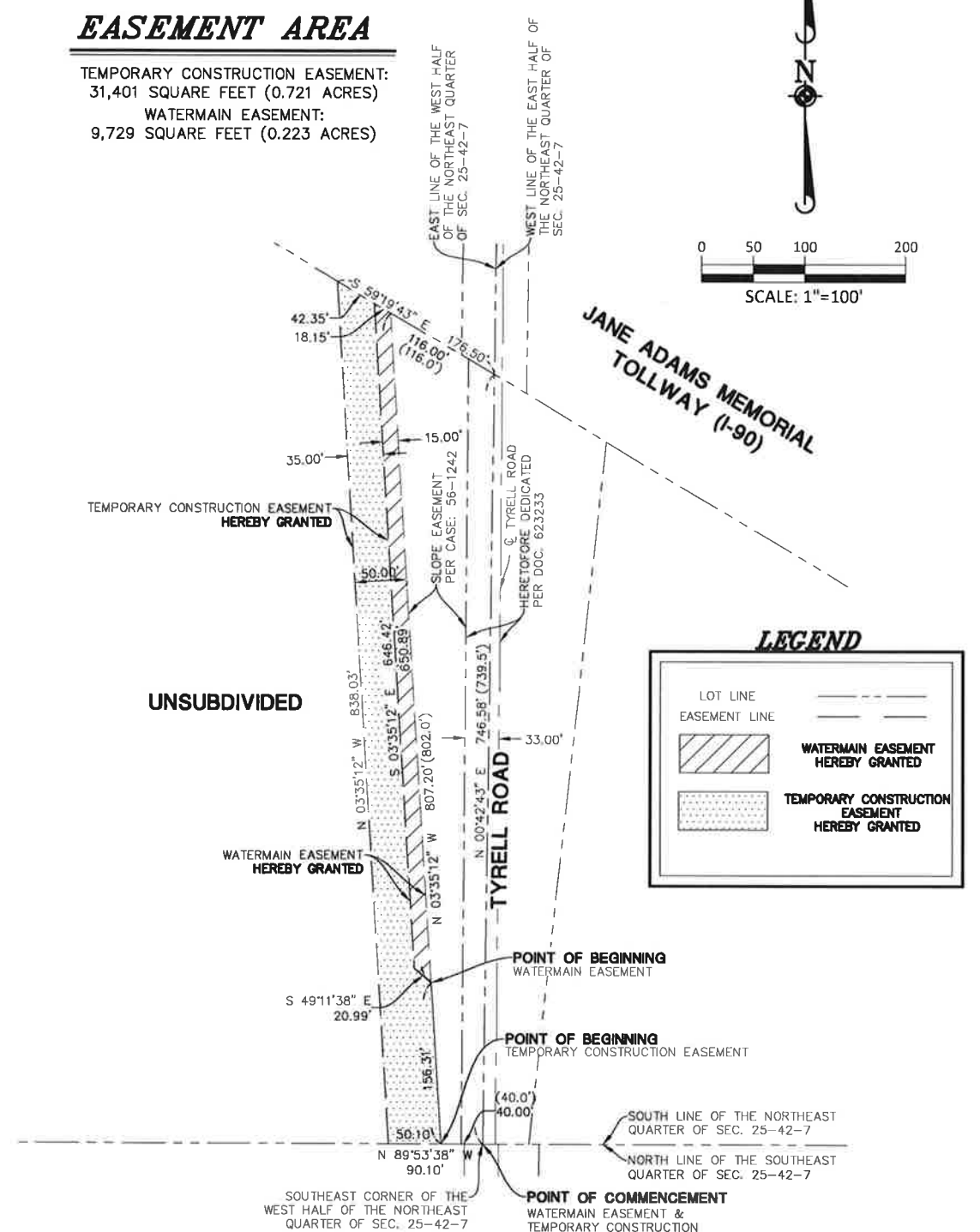
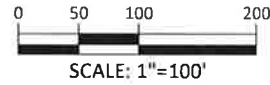
PUBLIC UTILITY EASEMENT AREA LEGAL DESCRIPTION

THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 89 DEGREES 53 MINUTES 38 SECONDS WEST ALONG THE SOUTH LINE OF SAID WEST HALF, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF A SLOPE EASEMENT AS TAKEN PER CONDEMNATION CASE NUMBER 56-1242; THENCE NORTH 03 DEGREES 35 MINUTES 12 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 156.31 FEET TO THE POINT OF BEGINNING; THENCE NORTH 49 DEGREES 11 MINUTES 38 SECONDS WEST, A DISTANCE OF 20.99 FEET TO A LINE PARALLEL WITH AND 15.00 FEET WEST OF THE WEST LINE OF SAID SLOPE EASEMENT; THENCE NORTH 03 DEGREES 35 MINUTES 12 SECONDS WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 646.42 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE JANE ADAMS MEMORIAL TOLLWAY (1-90); THENCE SOUTH 59 DEGREES 19 MINUTES 43 SECONDS EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 18.15 FEET TO THE WEST LINE OF SAID SLOPE EASEMENT; THENCE SOUTH 03 DEGREES 35 MINUTES 12 SECONDS EAST ALONG SAID WEST LINE, A DISTANCE OF 650.89 FEET TO THE POINT OF BEGINNING, IN KANE COUNTY, ILLI NOIS.

WATERMAIN EASEMENT EXHIBIT

EASEMENT AREA

TEMPORARY CONSTRUCTION EASEMENT:
31,401 SQUARE FEET (0.721 ACRES)
WATERMAIN EASEMENT:
9,729 SQUARE FEET (0.223 ACRES)



LEGEND

	LOT LINE
	EASEMENT LINE
	WATERMAIN EASEMENT HEREBY GRANTED
	TEMPORARY CONSTRUCTION EASEMENT HEREBY GRANTED

BASIS OF BEARINGS

COORDINATES AND BEARINGS ARE BASED UPON THE ILLINOIS STATE PLANE COORDINATE SYSTEM, EAST ZONE (NAD 83), ADJUSTED TO GROUND VALUES, AS ESTABLISHED BY A REAL-TIME KINEMATIC (RTK) GLOBAL NAVIGATION SATELLITE SYSTEM (GNSS) UTILIZING THE TRIMBLE VRS NOW NETWORK.

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Civil Engineers • Surveyors • Water Resource Engineers • Water & Wastewater Engineers
Construction Managers • Environmental Scientists • Landscape Architects • Planners

WATERMAIN EXTENSION			
VILLAGE OF GILBERTS, ILLINOIS			
WATERMAIN EASEMENT			
DRAWN BY: MGS	RELEASE DATE: GDL.GIL.03	SCALE: 1"=100'	CODE: GDL.GIL.03

1:5-20 Dwg Name: p:\gdg\103\dwg\Surv\Final Drawings\Plot of Easement\GDL.GIL.02-PE-WA-EMAIN-SDU.Hr.dwg Updated By: M.Schmitt

**SOUTH PUBLIC UTILITY EASEMENT
Tyrrell Farm South, LLC**

EXHIBIT D

TEMPORARY CONSTRUCTION EASEMENT AREA LEGAL DESCRIPTION

THAT PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF SAID NORTHEAST QUARTER; THENCE NORTH 89 DEGREES 53 MINUTES 38 SECONDS WEST ALONG THE SOUTH LINE OF SAID WEST HALF, A DISTANCE OF 40.00 FEET TO THE WEST LINE OF A SLOPE EASEMENT AS TAKEN PER CONDEMNATION CASE NUMBER 56-1242, ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89 DEGREES 53 MINUTES 38 SECONDS WEST, A DISTANCE OF 50.10 FEET TO A LINE PARALLEL WITH AND 50.00 FEET WEST OF THE WEST LINE OF A SLOPE EASEMENT AS TAKEN PER CASE NUMBER 56-1242; THENCE NORTH 03 DEGREES 35 MINUTES 12 SECONDS WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 838.03 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE JANE ADAMS MEMORIAL TOLLWAY (1-90); THENCE SOUTH 59 DEGREES 19 MINUTES 43 SECONDS EAST ALONG SAID SOUTHERLY RIGHT-OF WAY LINE, A DISTANCE OF 42.35 FEET TO A LINE PARALLEL WITH AND 15.00 FEET WEST OF THE WEST LINE OF SAID SLOPE EASEMENT; THENCE SOUTH 03 DEGREES 35 MINUTES 12 SECONDS EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 646.42 FEET; THENCE SOUTH 49 DEGREES 11 MINUTES 38 SECONDS EAST, A DISTANCE OF 20.99 FEET TO THE WEST LINE OF SAID SLOPE EASEMENT; THENCE SOUTH 03 DEGREES 35 MINUTES 12 SECONDS EAST ALONG SAID WEST LINE, A DISTANCE OF 156.31 FEET TO THE POINT OF BEGINNING IN KANE COUNTY, ILLINOIS.