

PROPERTY ADDRESS:

6033-6037 W. North Avenue
Oak Park, IL 60302

**P.I.N. 16-05-105-007-0000
16-05-105-008-0000
16-05-105-009-0000**

Return to:

MIA Property Acquisitions, LLC – 6033
North

Attn: Bartlomiej Przyjemski
3901 N. 25th Avenue
Schiller Park, IL 60176

(for recorder's use only)

**SEWER EASEMENT AGREEMENT BETWEEN
THE VILLAGE OF OAK PARK AND MIA PROPERTY ACQUISITIONS, LLC – 6033 NORTH**

THIS SEWER EASEMENT AGREEMENT (hereinafter referred to as the “Agreement” or the “Sewer Easement Agreement”) is entered into this _____ day of November, 2020, by and between the Village of Oak Park, an Illinois home rule municipal corporation with offices at 123 Madison Street, Oak Park, Illinois 60302 (hereinafter referred to as “GRANTOR”), and MIA Property Acquisitions, LLC – 6033 North, an Illinois limited liability company, with offices at 3901 N. 25th Avenue, Schiller Park, IL 60176 (hereinafter referred to as “GRANTEE”).

RECITALS

WHEREAS, GRANTOR is the owner of the Humphrey Avenue public right of way in Oak Park, Illinois (hereinafter referred to collectively the “Public Right of Way”) and depicted on **Exhibit A** attached hereto and incorporated herein by reference (hereinafter “Sewer Easement”);

WHEREAS, GRANTEE desires to acquire an easement for the purpose of maintaining a sewer pipe and appurtenant sewer facilities including the storm water sewer system as defined below on and through the property more particularly described and depicted on **Exhibit A**;

WHEREAS, GRANTEE is the owner of that certain tract of land legally described on **Exhibit B** attached hereto and incorporated herein by reference (hereinafter referred to as “Grantee’s Property”) and pursuant to that certain “Ordinance Granting a Special Use Permit for a Major Planned Development Containing Three Four-Story Multiple Family Buildings at the Property Located at 6033 North Avenue,” recorded November 18, 2019 as document number 1932217059, GRANTEE has constructed three four-story multiple family buildings on such property;

WHEREAS, Grantee’s Property has been improved with the development of three four-story multiple family buildings set forth above and related site improvements, including a sanitary and storm water drainage system, consisting of certain pipes, pipelines, culverts, catch basins, conduits and facilities appurtenant thereto, including ancillary inlet and outlet facilities and transportation vessels used in connection therewith (hereinafter referred to collectively, the “Storm Sewer System”);

WHEREAS, the sewer pipe and Storm Sewer System are located under the Public Right of Way, in the locations depicted on the Sewer Easement;

WHEREAS, GRANTEE desires to receive from GRANTOR, and GRANTOR is willing to provide to GRANTEE, a permanent easement appurtenant to GRANTEE’s Property (i) upon, over and across the portions of Public Right of Way depicted on Exhibit A to permit GRANTEE to maintain the Storm Sewer System as constructed on the Public Right of Way up to the Storm Sewer System’s connection to the GRANTOR’s manhole on North Avenue, and to operate, use, maintain repair, remove, renew and replace the Storm Sewer System, and (ii) upon, over and across Public Right of Way for the purpose of running and transferring water accumulating and

originating on GRANTEE's Property to the Storm Sewer System and subject to the conditions and limitations set forth herein; and

WHEREAS, GRANTOR has determined that it is in the public interest for the sewer pipe and Storm Sewer System to have been constructed on the Public Right of Way.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, the parties hereby agree that:

1. RECITALS INCORPORATED. The foregoing recitals are incorporated herein by reference as though fully set forth.

2. EASEMENT GRANT. GRANTOR hereby grants to GRANTEE its officers, agents, representatives, employees, licensees, successors, or assigns a permanent easement under and through the Public Right of Way and as depicted on the Sewer Easement, for the purpose of providing the maintenance of a sewer pipe and appurtenant sewer facilities. Grantee shall also have the specific rights of ingress and egress, consistent with this Sewer Easement Agreement, for the construction, reconstruction, operation and maintenance of a sewer pipe and appurtenant sewer facilities, consistent with the easement provided herein. Subject to the other terms and conditions of this Sewer Easement Agreement, Grantee shall also have the right to remove impediments to operation and maintenance of the Sewer Easement such as turf and sidewalks. Grantee further agrees all construction, reconstruction, operation, maintenance, removal and any other activities which disturb the Sewer Easement will be coordinated with Grantor so as to minimize any disruption to Public Right of Way.

3. EASEMENT ACCESS. GRANTOR further grants to GRANTEE or any of its officers, agents, representatives, employees, licensees, successors, or assigns the perpetual right, privilege and authority to enter upon the Public Right of Way, either by vehicle or on foot to survey, construct, reconstruct, repair, inspect, maintain, renew, operate, relocate and remove the sewer pipe and appurtenant sewer facilities.

4. EASEMENT CONDITIONS. This grant of easement shall be subject to the following conditions:

a) No permanent buildings shall be constructed or placed on the surface of said Public Way without GRANTOR's express permission.

b) GRANTOR shall have the right to install landscaping, trees, gardens, shrubs, driveways, sidewalks, parking lots, ingress and egress roadways on the Sewer Easement that do not then or later conflict with the aforesaid uses or rights.

c) GRANTEE shall also have the right from time-to-time to clear all obstructions from the surface and subsurface as may be required incident to the grant herein given that interfere with the construction, installation, reconstruction, repair, removal, replacement, maintenance, operation or use of its sewer pipe and Storm Sewer System, subject to GRANTOR's permit requirements, and GRANTEE shall have the duty to restore the surface(s) as set forth in paragraph five (5) below.

d) All construction by any entity within the Sewer Easement shall be performed in accordance with the applicable requirements of municipal, county, state, and federal laws, ordinances, or regulations and GRANTEE shall perform all work on the Sewer Easement in a good and workmanlike manner and free from any liens and encumbrances.

e) GRANTOR reserves the right of access across the Sewer Easement.

f) GRANTOR shall not grant any future easement or access to another entity or person in, across or over the Sewer Easement without GRANTEE'S approval, which shall not be unreasonably withheld or delayed.

5. RESTORATION. GRANTEE, its assigns, successor or designees, shall, upon completion of any work authorized by this easement grant, restore the surface(s) of the Sewer Easement and the Public Right of Way to the same or better condition than that which existed prior to the beginning of any work, including the replacement of any turf areas, driveways, sidewalks, parking lot pavement and ingress and egress roadway pavement or other pavement.

6. CONSTRUCTION FENCING. Prior to beginning any substantial construction, maintenance or repair of the sewer authorized by this Agreement, GRANTEE shall erect a temporary construction fence around the Sewer Easement and any applicable temporary construction easement area(s) to ensure that all construction, maintenance or repair activities

are confined within the Sewer Easement and any temporary construction easement area(s) until such time as said construction or maintenance activities are completed.

7. CONSTRUCTION LIMITED TO SEWER EASEMENT. During the construction, maintenance or repair of the Storm Sewer System authorized by this Agreement, all work activity shall be confined within the Sewer Easement and any applicable temporary construction easement area(s), including but not limited to, the movement and storage of equipment and materials. All debris resulting from the construction, maintenance or repair activities shall be legally disposed of off of GRANTOR'S property. No construction personnel shall be permitted on GRANTOR'S property outside the Sewer Easement or any applicable temporary construction easement area(s) while engaged in construction, maintenance or repair activities. Any construction work, maintenance or repairs undertaken pursuant to this Agreement by Grantee shall not unreasonably interfere with GRANTOR'S use of the Sewer Easement.

8. NOTICE OF CONSTRUCTION WORK, MAINTENANCE OR REPAIRS. GRANTEE shall notify GRANTOR in writing at least forty-eight (48) hours in advance of any construction work, maintenance or repairs to be undertaken within the Public Right of Way, except in the event that emergency repairs are required. Any notice required to be given pursuant to this paragraph, or by this Sewer Easement Agreement, shall be by personal delivery, a nationally recognized overnight delivery service, or facsimile as follows:

To GRANTOR: Village Manager
Village of Oak Park
123 Madison Street
Oak Park, Illinois 60302
Facsimile: (708) 358-5101

To GRANTEE: MIA Property Acquisitions, LLC – 6033 North
Attn: Bartłomiej Przyjemski
3901 N. 25th Avenue
Schiller Park, IL 60176
Facsimile: (708)-843-0507

All notices shall be deemed given upon the time of delivery if by personal delivery or nationally recognized overnight delivery service or upon confirmed transmission by facsimile. Either party by notice to the other may change or add persons and places where notices are to be sent or delivered pursuant to the provisions of this paragraph.

9. UTILITY LOCATIONS. GRANTOR shall provide utility locations of any of its maintained and owned utility infrastructure located within the Sewer Easement, or in proximity to the EASEMENT PREMISES, within 48 hours of notice to GRANTOR by GRANTEE of GRANTEE'S intent to perform any work in the Sewer easement pursuant to this Agreement as set forth in Paragraph eight (8) above.

10. HOLD HARMLESS. GRANTEE shall indemnify, defend and hold GRANTOR harmless from any and all claims, causes of action, damages, lawsuits, reasonable attorney fees, and/or administrative proceedings (collectively, "Claims") now or hereafter existing and resulting from GRANTEE'S use of the Public Right of Way or any activities taken by Grantee pursuant to this Sewer Easement Agreement; provided, however, that the foregoing obligation of GRANTEE to indemnify and hold GRANTOR harmless shall not extend to Claims arising from (i) the negligence or willful misconduct of GRANTOR or its agents, employees or contractors or (ii) to pre-existing conditions in the Public Right of Way. Further, GRANTEE shall not permit any liens to be placed on the EASEMENT PREMISES or any other property of GRANTOR resulting from the installation, repair, replacement, modification or maintenance of the Canopies on the north and west side of the Building, and will immediately cause such liens to be extinguished.

11. ACCEPTANCE OF SEWER EASEMENT AND USE AT GRANTEE'S RISK. GRANTEE accepts the Sewer Easement in its present condition. GRANTEE shall expend any time, money or labor in the Sewer Easement at GRANTEE's own risk and shall conduct any and all work in the Sewer Easement at its own risk.

12. INSURANCE. GRANTEE and any of its contractors shall maintain an insurance policy with minimum coverage of \$1,000,000.00 per occurrence for all risks applicable to the EASEMENT PREMISES and construction activities within the Sewer Easement or the Public Right of Way. The GRANTOR and its officers, officials, employees, agents and volunteers shall be named as additional insureds on said policy. GRANTEE shall be responsible for the payment of any deductibles pursuant to said policy. The coverage shall contain no special limitations on the scope of protection afforded to GRANTOR and its officers, officials, employees, agents and volunteers. Said policy shall be maintained as long as the Agreement remains in effect and GRANTEE's sewer pipe and appurtenant sewer facilities remain in the Sewer Easement and shall be binding upon GRANTEE's successors and assigns to this Agreement. GRANTEE shall provide the GRANTOR with a certificate of insurance evidencing the GRANTOR and its officers, officials, employees, agents and volunteers as additional insureds. GRANTEE shall provide thirty (30) days written notice of any change in coverage or cancellation of coverage and shall provide the GRANTOR with a new certificate of insurance meeting the requirements of this paragraph. GRANTEE, its successors and assigns, shall provide a certificate of insurance at any time to the GRANTOR while this Agreement remains in effect.

13. HEADINGS AND TITLES. The headings and titles of any provisions of this Agreement are for convenience or reference only and are not to be considered in construing this Agreement.

14. ENTIRE AGREEMENT. This instrument contains the entire agreement between the parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect, and modifications to this Sewer Easement Agreement must be in writing and must be signed by all parties to this Sewer Easement Agreement.

15. COVENANT RUNNING WITH THE LAND. The easement and the promises contained in this Sewer Easement Agreement shall be a covenant running with the land and shall be binding upon GRANTEE, GRANTOR and any of their lessees, successors in interest, heirs, tenants, devisees and assigns from and after the date of execution by the parties hereto.

16. LAW GOVERNING. The laws of the State of Illinois shall govern the terms of this Sewer Easement Agreement both as to interpretation and performance.

17. TERMINATION. The easement granted by this Sewer Easement Agreement and the promises and obligations contained herein shall terminate and expire if for any reason GRANTEE serves notice upon GRANTOR pursuant to paragraph 8 above that it no longer intends to use the Sewer Easement for the purposes herein set forth. Upon termination, the GRANTOR may record with the Cook County Recorder of Deeds a release and termination of this Sewer Easement Agreement.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the parties hereto have executed this Sewer Easement Agreement as of the day and year first above written.

GRANTOR – VILLAGE OF OAK PARK

By: Cara Pavlicek
Its: Village Manager

State of Illinois))
County of Cook))

The foregoing instrument was acknowledged before me by Cara Pavlicek, Village Manager of the Village of Oak Park, this _____ day of _____, 2020.

- NOTARY SEAL -

Notary Public

SIGNATURES CONTINUE ON FOLLOWING PAGE

EXHIBIT A

Plat of Sewer Easement

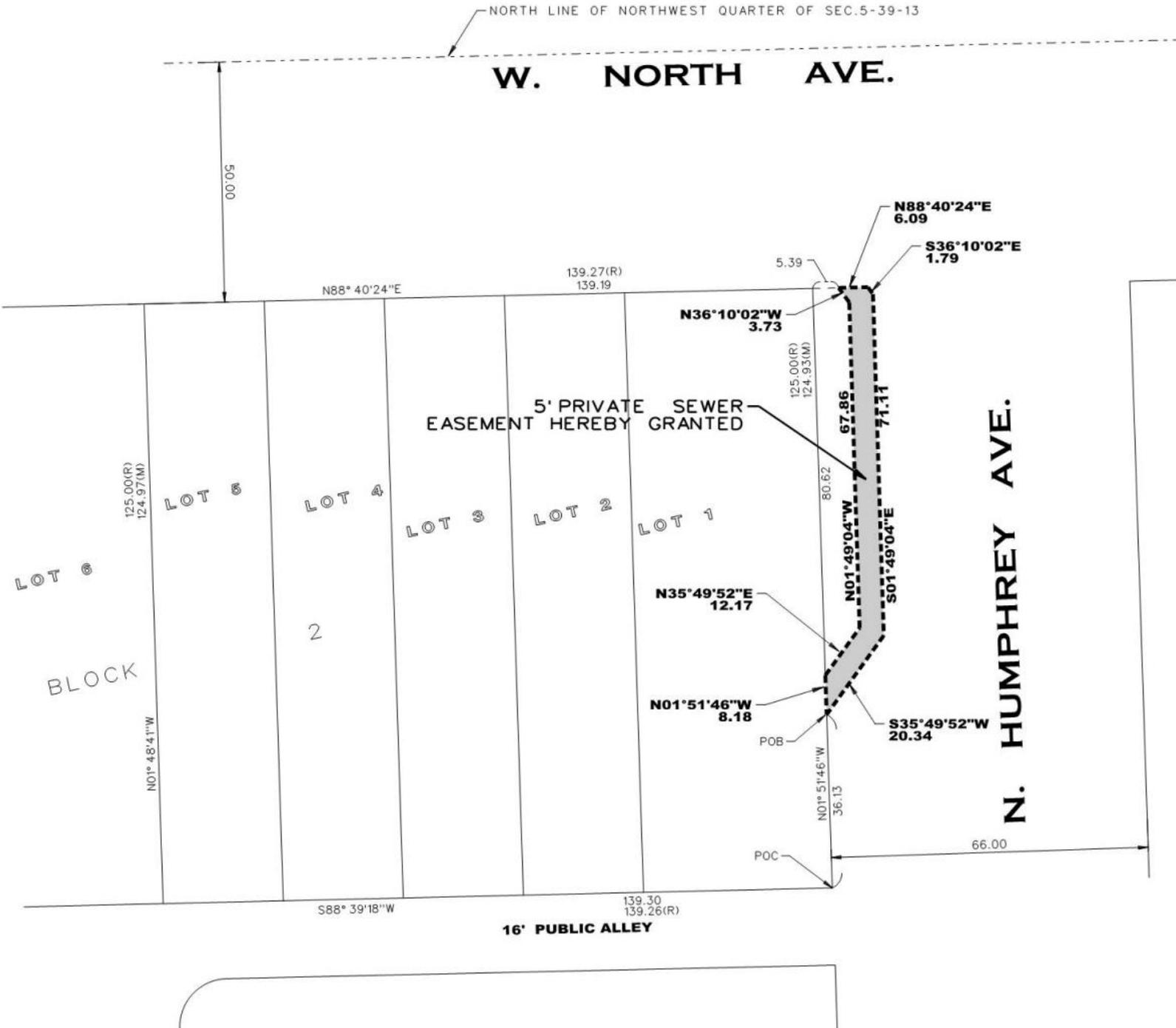


EXHIBIT B

GRANTEE'S PROPERTY

LOTS 1,2,3,4 AND 5 IN BLOCK 2 IN FAIR OAKS TERRACE, A SUBDIVISION OF THE EAST 50 ACRES OF THE NORTH 75 ACRES OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.