

**RESOLUTION NO. 0003-2022**

**A RESOLUTION OF THE BOARD OF PARK COMMISSIONERS OF THE  
CITY OF SOUTH BEND, INDIANA, APPROVING A TEMPORARY  
EASEMENT AT BYERS SOFTBALL COMPLEX/PHILLIP ST. CLAIR  
PARK**

WHEREAS, the City of South Bend, Indiana Board of Park Commissioners (the “Board of Park Commissioners”) has custody of real property used for park purposes, pursuant to Indiana Code Section 36-10-3-11(a)(4); and

WHEREAS, Northern Indiana Public Utility Service Company LLC (“NIPSCO”) has requested a temporary easement over Parcel Number 71-08-17-254-001.000-026 as set forth in Exhibit A (the “Easement”) for the purpose of using the Easement as a temporary construction area for an electrical project and desires to use the area for staging equipment, materials, and other construction activities; and

WHEREAS, the City of South Bend and NIPSCO have negotiated terms and conditions governing the Easement, as set forth in Exhibit B, and the Board of Park Commissioners desires to approve the Easement subject to these terms and conditions and the terms of this Resolution.


NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SOUTH BEND BOARD OF PARK COMMISSIONERS AS FOLLOWS:

1. The Board of Park Commissioners hereby approves the Easement in a form substantially similar to the document attached hereto as Exhibits A and B, in a final form approved by the City of South Bend Department of Law. The City of South Bend, by and through its Board of Public Works is authorized to execute the Easement in a form substantially similar to the document attached hereto as Exhibit B, in a final form approved by the City of South Bend Department of Law.
2. This Resolution shall be in full force and effect upon its adoption by the Board of Park Commissioners.

(Remainder of page intentionally left blank)

ADOPTED at a meeting of the Board of Park Commissioners on October 17, 2022, Ribbon Room, Howard Park Event Center, 219 S. St. Louis Blvd., South Bend, Indiana 46617.


**CITY OF SOUTH BEND, INDIANA  
BOARD OF PARK COMMISSIONERS**

  
\_\_\_\_\_  
Mark Neal, President

\_\_\_\_\_  
Consuella Hopkins, Vice President

  
\_\_\_\_\_  
Sam Centellas, Member

ATTEST:

  
\_\_\_\_\_  
Jessica Williams, Clerk

# **EXHIBIT**

**Owner: City of South Bend**

Parcel ID: 71-08-17-254-001.000-026

Site Address: V/L Orchid, South Bend, IN 46619

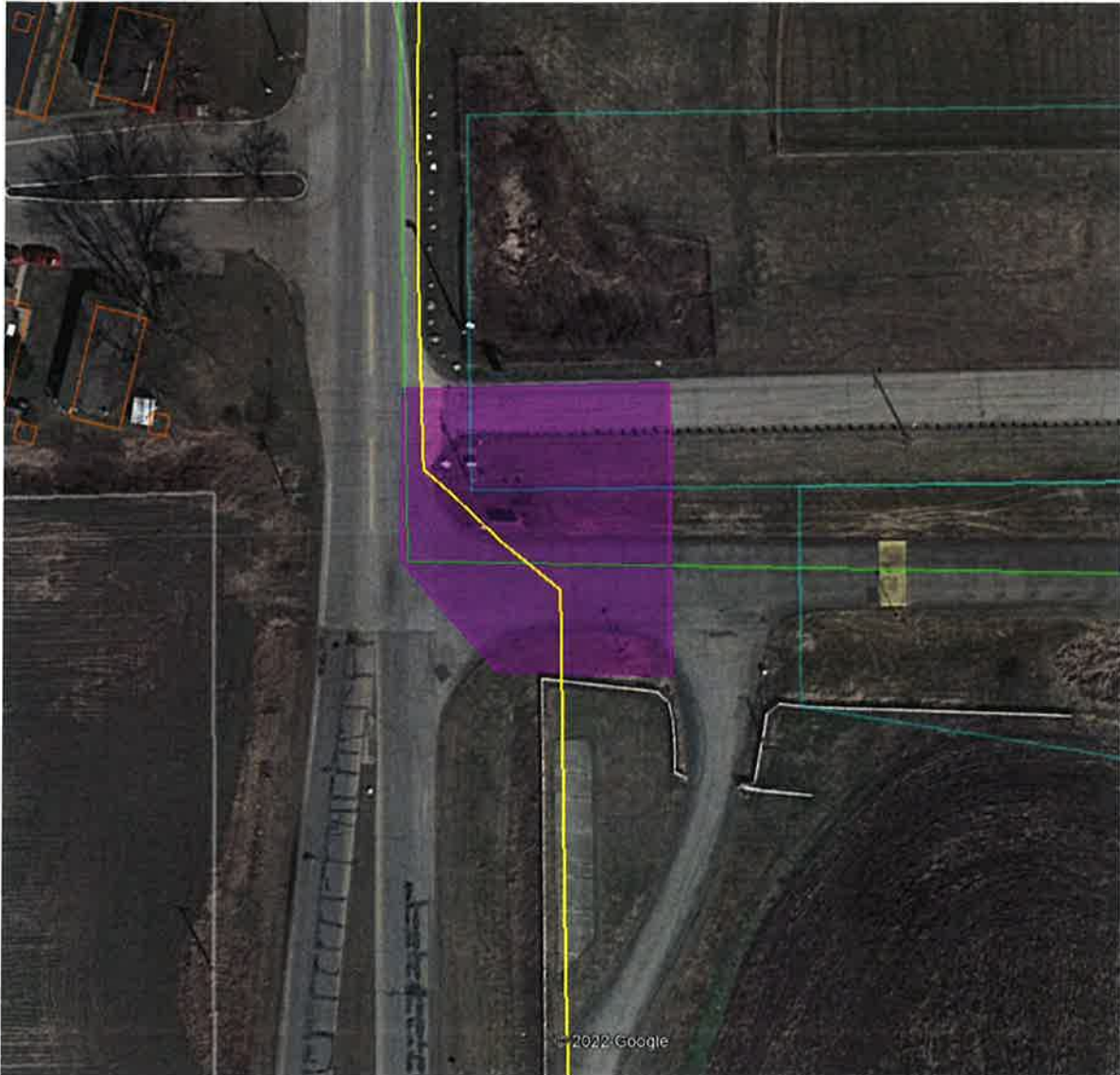


Exhibit B

**TEMPORARY EASEMENT**

THIS TEMPORARY EASEMENT (this "Easement") is made and entered into on , October 17, by and between City of South Bend, by and through its Board of Public Works, owners of property with an address at V/L Orchid, South Bend, IN 46619 ("Grantor"), and NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC, an Indiana limited liability company, with offices and an address at 801 East 86<sup>th</sup> Avenue, Merrillville, IN 46410 (the "Grantee") (collectively hereinafter referred to as "Parties").

**RECITALS**

**WHEREAS**, Grantor is the owner of that certain real property located in, St. Joseph County, Indiana, as Parcel ID(s) 71-08-17-254-001.000-026 as shown on Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

**WHEREAS**, the Grantee desires to use a portion of the Property as a temporary construction area for an electric project and desires to use the area for staging equipment, material and other construction activities.

**TEMPORARY EASEMENT**

**NOW THEREFORE**, for and in consideration of the foregoing premises and of the performance of the promises and covenants set forth herein, the Parties agree as follows:

1. Grantor grants to Grantee, its contractors, employees, agents and invitees the right, privilege and license without any warranty or representation of any kind or nature and only to the extent Grantor title permits and subject to the terms set forth herein, to temporarily use that certain portion of the Property, as depicted in Exhibit A attached hereto and incorporated by reference (the "Temporary Easement Area"), for staging equipment, material and other construction activities (the "Work"). Grantee shall not have the right to stage equipment on adjoining lands of Grantor without first obtaining Grantor's prior written approval. The Grantor understands Grantee has or may seek access to City rights-of-ways ("ROW") for portions of the Work. Grantee understands and agrees to secure the required permits and/or approvals from the City of South Bend for this ROW access.
2. The term of this Easement shall be twelve (12) months, commencing on the date Grantee notifies Grantor that the Work is scheduled to begin (the "Term"). Grantee shall have the option to extend the Term, on a month-to-month basis at a rate of \$100.00 per month upon thirty (30) day written notice to Grantor.
3. Grantee, and its officers, agents, employees and invitees, shall not alter or permanently damage the Property or Temporary Easement Area, including, but not limited to removal of trees upon expiration of the Term. Grantee shall repair any damage or disruption to the Temporary Easement Area at its sole expense and restore it to the extent reasonably possible to the same or better condition the Temporary Easement Area was immediately prior to the commencement of the Work. Grantor will notify Grantor promptly upon completion of restoration, so as to provide Grantor with sufficient time to inspect and provide written notice of its acceptance of the restoration of the Temporary Easement Area.
4. Grantee shall pay Grantor within thirty (30) days of the commencement of the Work, the sum of Five Hundred Dollars (\$500.00) as consideration for this Easement.
5. The Grantee shall and will indemnify and save the Grantor harmless from and against any and all damage, injuries, losses, claims, demands or costs resulting directly by the fault, culpability, or negligence of the Grantee in the use of the Temporary Easement Area, except to the extent any damage, injuries, losses, claims, demands or costs are caused by the negligence of Grantor, its employees, agents, invitees or contractors.
6. All labor provided and materials furnished in using the Temporary Easement Area shall be at Grantee's sole cost and expense. Grantee shall comply with all laws, rules, and regulations applicable to

its use of the Temporary Easement Area, and shall, at its own cost and expense, provide security to protect any personal property owned by Grantee in the Temporary Easement Area. At all times during the performance of the Work, Grantee agrees to conduct the Work in a temporary manner consistent with keeping the Temporary Easement Area in good order and condition and substantially free from debris. During times of construction, maintenance of traffic and any other signage and barriers must be checked regularly to ensure adequate safety zones and public paths are maintained. Except in cases of an emergency, Grantee and its subcontractors must notify Grantor, by and through its Director of Venues, Parks & Arts (or their designee), a minimum of forty-eight (48) hours prior to any scheduled maintenance work.

7. To the extent reasonably possible, Grantee shall use the Temporary Easement Area in a manner permitting Grantor full use of the remaining portions of the Property and for access to the adjoining property.

8. All written notices required or permitted under this License shall be served by (i) certified mail, return receipt requested, to the party to whom the same is directed at that party's respective address, as set forth below, (ii) overnight delivery by recognized overnight carrier to the party to whom the same is directed at that party's respective address, as set forth below, or (iii) facsimile transmission to the party to whom the same is directed at that party's respective facsimile number, as set forth below (provided that the facsimile confirmation sheet showing successful transmission is retained by the sender):

If to Grantee: Northern Indiana Public Service Company LLC  
Attn: Survey and Land  
801 East 86<sup>th</sup> Avenue  
Merrillville, Indiana 46410

With a copy to: NiSource Corporate Services Company  
801 East 86<sup>th</sup> Avenue  
Merrillville, Indiana 46410  
Attn: Legal Department

If to Grantor: City of South Bend, Indiana  
Department of Venues, Parks & Arts  
Attn. Executive Director  
219 S. St. Louis Blvd.  
South Bend, IN 46617

With a copy to: City of South Bend, Indiana  
Department of Law  
Attn. Corporation Counsel  
227 W. Jefferson Blvd., 1200S  
South Bend, IN 46601

Or at such other address, facsimile number, or email address as either party may from time-to-time designate by giving written notice, as provided herein. The date of service of notice shall be the date on which such notice is received (or, alternatively, if notice is given by certified mail, the date upon which receipt is refused).

9. This Easement contains the entire agreement and understanding of the Parties hereto with respect to the easement grant. No part of this Easement may be amended or modified, except in writing signed by both Grantor and Grantee. Should any provision of this Easement be declared invalid by a legislative, administrative or judicial body of competent jurisdiction, then the other provisions contained herein shall remain in full force and effect and shall be unaffected by such declaration.

10. The terms, conditions and covenants set forth herein shall be binding upon, and accrue to the benefit of Grantor and Grantee, and each of their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have entered into this Temporary Easement as of the date provided above.

CITY OF SOUTH BEND, INDIANA  
BOARD OF PUBLIC WORKS

\_\_\_\_\_  
Elizabeth A. Maradik, President

\_\_\_\_\_  
Joseph R. Molnar, Vice President

\_\_\_\_\_  
Gary A. Gilot, Member

\_\_\_\_\_  
Jordan V. Gathers, Member

\_\_\_\_\_  
Murray L. Miller, Member

ATTEST:

\_\_\_\_\_  
Theresa Heffner, Clerk

**By:**

Northern Indiana Public Service Company LLC

\_\_\_\_\_  
**(Print)**

\_\_\_\_\_  
**(Title)**

\_\_\_\_\_  
**(Date)**





