

## **ORDINANCE NO. 3334**

### **AN ORDINANCE TO APPROVE AN EASEMENT AGREEMENT BY AND BETWEEN THE CITY OF COLUMBIA, ILLINOIS AND A&M PROPERTY HOLDING, LLC.**

WHEREAS, it is necessary and appropriate that the City of Columbia, Illinois (the "City") approve an Easement Agreement by and between City Of Columbia, Illinois, an Illinois municipal corporation (the "Grantor"), and A&M Property Holding, LLC, an Illinois limited liability company (the "Grantee"); and

WHEREAS, the Grantee has requested the Grantor said easement to and for the benefit of the Grantee which will provide that the Improvements can remain on the Grantor's Property upon the terms and conditions set forth in said Easement Agreement; and

WHEREAS, it is necessary and appropriate that the City enact this ordinance to grant and approve the easement with the terms set forth in the Easement Agreement; and

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

**Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

**Section 2.** Attached hereto is the easement agreement by and between City Of Columbia, Illinois, an Illinois municipal corporation (the "Grantor"), and A&M Property Holding, LLC, an Illinois limited liability company (the "Grantee"); which is granted and approved by this ordinance. The City hereby approves the form of the attached Easement Agreement and does hereby authorize and direct the Mayor to sign the same.

**Section 3.** The City Council hereby authorizes and directs the City to record in the office of the Monroe County, Illinois Recorder the fully executed and attested Easements aforesaid and thereafter to file them with the permanent real estate records of the City.

**Section 4.** This ordinance shall be in full force and effect, from and after its passage, as provided by law.

Alderman Ebersohl moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Huch, and the roll call vote was as follows:

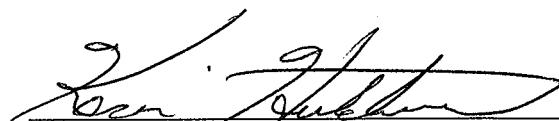
YEAS: Aldermen Ebersohl, Niemietz, Roessler, Huch, Reis, Holtkamp and Martens.

NAYS: None.

ABSENT: Alderman Agne.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 19<sup>th</sup> day of June, 2017.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



WESLEY J. HOEFFKEN, City Clerk

(SEAL)

*[Above Space Reserved for Recorder of Deeds]*

Prepared by:

Michael F. Flanagan, Esq.  
7611 State Line Road, Suite 303  
Kansas City, Missouri 64114



Document Title:

Easement Agreement

Date of Document:

May 1, 2017

Grantor:

City of Columbia, Illinois

Grantor's Address:

208 South Rapp, Columbia, IL 62236

Grantee:

A&M Property Holding, LLC

Grantee's Address:

710 South Main Street, Columbia, IL 62236

## **EASEMENT AGREEMENT**

**THIS EASEMENT AGREEMENT** (the "Agreement") is granted and entered into as of May 1, 2017 (the "Effective Date") by and between **CITY OF COLUMBIA, ILLINOIS**, an Illinois municipal corporation (the "Grantor"), and **A&M PROPERTY HOLDING, LLC**, an Illinois limited liability company (the "Grantee").

### **RECITALS**

**WHEREAS**, Grantor is the owner of certain real property located in Columbia, Monroe County, IL 62236 which is legally described on Exhibit "A" hereto ("Grantor's Property").

**WHEREAS**, Grantee is the owner of certain real property and improvements located at 710 South Main Street, Columbia, Monroe County, IL 62236 which is legally described on Exhibit "B" hereto ("Grantee's Property").

**WHEREAS**, Grantor's Property and Grantee's Property are located adjacent to one another.

**WHEREAS**, located in the northeast corner of Grantee's Property is a small shed, fence and concrete pad (collectively, the "Improvements") which slightly encroach upon Grantor's Property as depicted in that certain ALTA/NSPS Land Title Survey, dated April 6, 2017 (the "Survey") prepared by David J. Sherrill of Sherrill Associates, Inc., a true and correct copy of which is attached as Exhibit "C" hereto.

**WHEREAS**, Grantor desires to grant Grantee an easement to and for the benefit of Grantee which will provide that the Improvements can remain on Grantor's Property upon the terms and conditions set forth herein.

**NOW, THEREFORE**, for Ten Dollars (\$10.00) and such other good and valuable consideration, the receipt of which is acknowledged, Grantor and Grantee hereby agree as follows:

1. **Easement**. Grantor hereby grants Grantee, its successors, assigns a non-exclusive easement and free right of access, ingress and egress over and across that portion of Grantor's Property upon which the Improvements are currently constructed for the purpose of accessing, maintaining and utilizing the Improvements.

2. **Maintenance**. Grantee shall be responsible for maintaining the Improvements in first class condition throughout the term of this Agreement.

3. **Termination**. The easement herein granted may be terminated by Grantor upon not less than thirty (30) days prior written notice to Grantee, and upon receipt of such written termination, Grantee shall undertake to remove the Improvements from Grantor's Property prior to the expiration of such thirty (30) day period.

4. **Non-Disturbance.** Grantor agrees to not disturb, impede or interfere with the easement granted hereunder and Grantee shall have free and undisturbed access to the Improvements except for temporary disturbances reasonably caused by development, governmental regulation and rules, adjacent property development and other such causes.

5. **Indemnification.** Grantee agrees to indemnify, reimburse and hold Grantor harmless from any expense, claim, or cause of action, including attorneys' fees, arising from or as a result of the use of the easement granted herein.

6. **No Limitation of Remedies.** The rights and remedies contained in this Agreement and reserved to Grantor, Grantee, or their respective assigns and successors, except as otherwise provided in this Agreement, shall not be exclusive of any other right or remedy, but shall be cumulative and in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the right to exercise any power or remedy shall impair any such right, power or remedy or be construed as a waiver of any default or nonperformance or as acquiescence in such delay or omission.

8. **Modification.** This Agreement may be modified only by written agreement executed by Grantor and Grantee.

9. **Headings.** The headings in this Agreement are used as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Agreement or in any way affect its terms.

10. **Severability.** If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

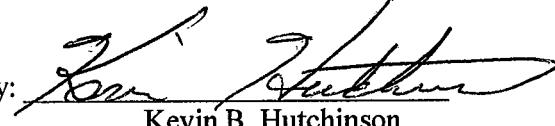
11. **Governing Law.** This Agreement shall be construed according to and governed by the laws of the State of Illinois.

**[SIGNATURES APPEAR ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto have caused this Easement Agreement to be duly executed on the day and year first above written.

**GRANTOR:**

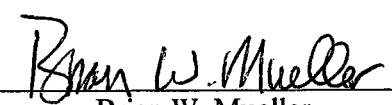
**CITY OF COLUMBIA, ILLINOIS,**  
an Illinois municipal corporation

By:   
Kevin B. Hutchinson

Title: Mayor

**GRANTEE:**

**A&M PROPERTY HOLDING, LLC,**  
an Illinois limited liability company

By:   
Brian W. Mueller

Title: Manager

## **ACKNOWLEDGMENT**

STATE OF ILLINOIS )  
COUNTY OF MONROE )  
ss.

On this 19th day of May, 2017, before me appeared Kevin B. Hutchinson, to me personally known, who, being by me duly sworn did say that he is the Mayor of the City of Columbia, Illinois, an Illinois municipal corporation, and that said instrument was signed on behalf of such Illinois municipal corporation by authority of its City Council, and said Kevin B. Hutchinson acknowledged said instrument to be the free act and deed of said Illinois municipal corporation.

In Testimony Whereof, I have hereunto set my hand and affixed by official seal the day and year first above written. 

John R. McHaffey  
NOTARY PUBLIC  
10/10/2000

### **My Commission Expires:**

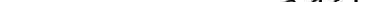
08-13-2017  
[SEAL]



## **ACKNOWLEDGMENT**

STATE OF ILLINOIS )  
COUNTY OF MONROE )  
ss.

On this 27 day of May, 2017, before me appeared Brian W. Mueller, to me personally known, who, being by me duly sworn did say that he is the Manager of A&M Property Holding, L.L.C., an Illinois limited liability company, and that said instrument was signed on behalf of such limited liability company by authority of its Members, and said Brian W. Mueller acknowledged said instrument to be the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed by official seal the day and  
year first above written. 

John Z. Meloff  
NOTARY PUBLIC

### **My Commission Expires:**

08-13-11  
[SEAL]



**EXHIBIT "A"**

**LEGAL DESCRIPTION  
(Grantor's Property)**

All that portion of the former Illinois Central Gulf Railroad Right-of-Way in the City of Columbia, Illinois as it extends from Centerville Avenue to State Route #3, also known as FA Rt. 14, and described as follows:

A 40 foot strip lying adjacent to and Westerly of Ferkel Street and extending Southeasterly along said Right-of-Way from Centerville Avenue to Rohm Street;

A 75 foot strip lying and being 37.5 feet on each side of the centerline of said former railroad and extending from Rohm Street Southeasterly along the said railroad Right-of-Way to the Southerly line of Lot 3 of Mitweide's Subdivision;

A 60 foot strip lying and being 30 feet on each side of the centerline of said former railroad Right-of-Way and extending from the North line of Lot 4 of Mitweide's Subdivision along said centerline Southerly to the intersection of said Right-of-Way with the Northerly Right-of-Way of a highway now known as FA Rt. 14 (formerly known as State Route #3).

**EXHIBIT "B"**

**LEGAL DESCRIPTION**  
(Grantee's Property)

Lot 1 of "TROLLEY TRACTS", a final subdivision plat being a resubdivision of Lot 1-B of "Charles Mitweide's Subdivision" of U.S. Survey 773, Claim 2053 and part of former Rohn's Street (40' wide, now vacated) in the Town, now City of Columbia, Monroe County, Illinois, as per plat recorded on November 7, 1997, in the Recorder's Office of Monroe County, Illinois, in Envelope #2-69A as Document #218019.

Except any interest in the coal, oil, gas and other minerals underlying the land which have been heretofore conveyed or reserved in prior conveyances, and all rights and easements in favor of the estate of said coal, oil, gas and other minerals, if any.

Situated in Monroe County, Illinois

APN/Parcel ID(s): 04-22-118-019

**EXHIBIT "C"**

**SURVEY**  
(Grantee's Property)

