

10

2017 071894

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2017 OCT 25 AM 8:59

MICHAEL B. BROWN  
RECORDER

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

Northern Indiana Public Service Company  
Attn: Lisa Juergens  
801 E 86th Avenue  
Merrillville, IN 46410

**CROSS-REFERENCE:** In accordance with Indiana Code § 32-23-2-5(a), the easement described below burdens the real estate acquired by \_\_\_\_\_ dated \_\_\_\_\_ and recorded in the Office of the Recorder for \_\_\_\_\_ County, Indiana, as Document No. \_\_\_\_\_.

DR 376 page 483  
DR 454 page 401

**Document is NOT OFFICIAL!**  
This Document is the property of the Lake County Recorder!

DR 630 page 59  
DR 1050 page 90

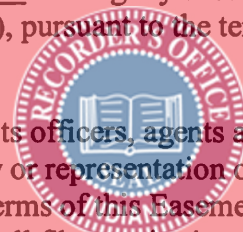
**FIBER OPTIC EASEMENT**

EASEMENT # 40603

Know All Men, That Northern Indiana Public Service Company, an Indiana corporation (the "Grantor"), in consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid to the Grantor, hereby grants to the City of East Chicago ("Grantee"), the right and authority to install fiber optics across a portion of that certain real property owned by Grantor located in Lake County, Indiana (the "Property"), as further depicted in Exhibit A and legally described in Exhibit B attached hereto and incorporated herein (the "Easement Area"), pursuant to the terms and conditions provided below in this Fiber Optic Easement (this "Easement").

1. Grantor grants to Grantee, its officers, agents and employees, the non-exclusive right, privilege and license without any warranty or representation of any kind or nature and only to the extent Grantor's title permits and subject to the terms of this Easement, a non-exclusive easement, right and the authority, to use the Easement Area to install fiber optics in accordance with the plans and specifications approved by Grantor (the "Fiber Optics"). This Easement will terminate in the event that Grantee ceases to use the Easement Area for purposes authorized under this Easement.

2. Grantor makes no representations or warranties regarding the suitability of the Property for Grantee's intended use of the Easement Area under this Easement. Grantor further also makes no representations or warranties regarding any subsurface utilities, improvements or conditions under the Property. Grantee acknowledges that it has freely chosen to enter the Property and to conduct its activities in the Easement Area, and that it is aware of, and fully appreciates, the nature and extent of the risks associated with doing so.



**FILED**

25  
CS  
RA

OCT 25 2017

NO SALES DISCLOSURE NEEDED

04254<sup>1</sup>

Approved Assessor's Office

By: \_\_\_\_\_

JOHN E. PETALAS  
LAKE COUNTY AUDITOR

3. Grantee acknowledges that the access allowed by this Easement is secondary to Grantor's access to the Property. The use of the Property for Grantee's intended use of the Easement Area under this Easement is subject and subordinate to possession and use of the Property by Grantor and/or Grantor's assigns. Grantor reserves full possession of the Property for Grantor's uses and purposes and the right to enter upon the Property at any and all times to install, repair, replace, renew, erect or complete the erection of any existing or future NIPSCO Facilities (as defined below) over, under or across the Property as Grantor desires. Grantor reserves the right to make replacements, inspections, alterations, extensions, or repairs to the NIPSCO Facilities or authorize others to perform such work, which work, to the extent commercially reasonable, shall be performed in such a manner as not to unreasonably interfere with Grantee's use of the Property as permitted under this Easement.

4. Grantee agrees to immediately notify Grantor of any incident or event which damages the Property or NIPSCO Facilities, or which could potentially damage the Property or NIPSCO Facilities. Grantee covenants that Grantee, its officers, agents, employees and assigns shall use due care and diligence in all operations and activities conducted at the Property and in the vicinity of the NIPSCO Facilities, as is necessary to avoid injury to persons (including death) or damage to property. In the event that Grantee, or its agents, employees or contractors damage any NIPSCO Facilities, Grantor shall perform the repairs, and Grantee shall reimburse Grantor for all costs and expenses incurred by Grantor to perform said repairs and compensate Grantor for any loss of use of the NIPSCO Facilities, including the loss of gas or electrical service to customers. Grantee will fully compensate Grantor for any loss of use of any portion of the NIPSCO Facilities caused by or resulting from Grantee's activities on the Property.

5. Grantee, and its officers, agents, employees and invitees, shall not alter or damage the Property except as expressly permitted under this Easement, or any of Grantor's electric lines, gas pipelines, structures, buildings or any Grantor equipment, materials or facilities located on the Property, including without limitation roads, gates, fences, railings or buildings (collectively, the "NIPSCO Facilities"), nor shall Grantee disturb, interfere with the use, operation, inspection, maintenance or repair any NIPSCO Facilities. In the event that Grantee desires to have Grantor relocate any NIPSCO Facilities, Grantee shall make such request in writing to Grantor. Should Grantor agree, in its sole discretion, to accommodate Grantee's request to relocate any NIPSCO Facilities to accommodate Grantee's installation of the Fiber Optics, Grantor shall provide Grantee with an estimate of the costs for such relocation and Grantee shall tender payment in such amount prior to Grantor commencing any relocation activities. Upon completion of any requested and agreed upon relocation, Grantor shall provide Grantee with a final invoice for the total costs of such relocation. Grantor shall reimburse Grantee in full for all costs incurred by Grantee for the relocation in excess of the initial estimate within thirty (30) days of receipt of the final invoice.

6. All labor provided and materials furnished in performing work under this Easement, shall be at Grantee's sole cost and expense. Grantee shall keep the Property fully protected against liens of any kind arising out of or connected to Grantee's operations on or contamination of the Property. In the event that a lien is placed on the Property as a result of Grantee's activities or presence on the Property, Grantee shall immediately notify Grantor of such lien. Grantee shall also take action, at Grantee's sole cost and expense, to have any such liens promptly removed from the Property, and shall provide Grantor with written evidence of such lien having been removed.

7. The Grantee shall not permit any structures or permanent improvements to be constructed or otherwise located on the Property, except as provided in this Easement without the express written consent of Grantor. Further, Grantee shall not permit holes, obstructions or other conditions on the Property which could create a hazard of any kind. No equipment shall be refueled while under, or in the vicinity of, any NIPSCO Facilities. The Grantee, at its sole cost and expense, shall keep and maintain the Property in a clean and orderly condition at all times and shall keep the Property free of materials and debris (including vehicles) except when such are being actively used by Grantee in accordance with this Easement. The Grantee shall not damage the Property or damage or alter any NIPSCO Facilities or any roads, gates, fences, railings or buildings on the Property; furthermore, Grantee shall not interfere with the use, operation, inspection, maintenance or repair of any NIPSCO Facilities. Grantee shall not cause the existing surface of the Property to erode in any way. Grantee and Grantee's employees, agents, contractors and subcontractors shall comply with Grantor's Gas Transmission Encroachment Guidelines at all times during any of their activities on the Property.

8. Grantee acknowledges that the use of the Easement Area shall be done at Grantee's sole risk, cost and expense, and that Grantee shall be solely responsible for obtaining and maintaining all necessary permits and approvals associated with or required for the use of the Easement Area. Grantee shall comply with all applicable laws, rules and regulations in conducting its operations and activities on the Property, including, but not limited to Indiana's "Call Before You Dig" law (IC Section 8-1-26), prior to commencing any work on the Property. Grantee shall also be solely responsible to ensure that all aspects of the maintenance and use of the Easement Area fully comply with all laws and requirements that are or may become applicable.

9. Grantor may (or Grantee shall at the request of Grantor) disturb, modify, move or remove the Fiber Optics, and any other improvements installed or constructed by Grantee within the Easement Area (regardless of whether they are approved by Grantee), or any portion of the Property as Grantor determines is needed, in order to allow Grantor to operate, inspect, maintain, construct, repair, alter, replace, modify and/or upgrade the Property or any NIPSCO Facilities. Grantor shall not be responsible for compensating Grantee for any loss of use of, interference with operation of, or damage to the Fiber Optics occasioned by Grantor's activities. Grantee shall, at its own cost and expense, be responsible for

restoration of the Fiber Optics.

10. Grantee agrees that it will not take any action that results in the release of a pollutant, contaminant or Hazardous Substance (as defined below), at or from the Property. Grantee shall immediately notify Grantor of any release of or discovery of a prior release of a pollutant, contaminant or Hazardous Substance on the Property caused by Grantee or its contractors and regardless of whether such release is reportable under law. For purposes of this Easement, "Hazardous Substance" shall mean any hazardous, flammable, corrosive, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any federal, state or local statute, regulation or ordinance relating to the protection of human health or the environment, including, without limitation, pipeline liquids, petroleum, oil and its fractions.

11. Grantee shall comply with all governmental statutes, ordinances, regulations, orders and directives concerning public health, safety or the environment ("Environmental Laws") applicable to its activities within, on and along the Property. If, as a result of any activities by the Grantee, there is any release of a pollutant, contaminant or Hazardous Substance, the Grantee shall, at its sole cost and expense, take those steps as may be reasonably necessary to contain the release and restore the affected areas to being in compliance with all applicable local, state and federal Environmental Laws. Grantee shall provide to Grantor copies of any and all correspondence, notices, etc., prepared by or received by Grantee under Environmental Laws, associated with its operations on the Property.

12. Grantee covenants and agrees to indemnify, hold harmless and defend Grantor, its agents and employees from and against any and all losses, damages, liability, claims for damages on account of or by reason of injury, including death, which may be sustained by any person (including without limitation the employees of Grantee, and any contractor or subcontractor of Grantee), from and against any and all damages to property, including environmental contamination or liability and loss of use (including without limitation damage to or loss of use of property of Grantor), caused by or arising out of any act or omission of Grantee, its agents, employees or subcontractors, in connection with the License provided under this Easement, the presence of Grantee, and of Grantee's employees, contractors, subcontractors, agents and facilities, on the Property and/or Grantee's breach of this Easement. Grantee shall give Grantor written notice of any claim, demand, suit or action arising from the exercise of this Easement within ten (10) business days from the date that Grantee becomes aware of such claim, demand, suit or action.

13. Grantee shall ensure that any and all contractors and subcontractors on the Property, at all times during which people or materials subject to their supervision or control are on the Property, maintain in effect from a company or companies authorized to do business in the State of Indiana and approved by the National Association of Insurance Commissioners, or through self-insurance, the

following minimum insurance: (a) General Liability insurance in the amount of Two Million Dollars (\$2,000,000.00) per person combined single limit for bodily injury and with a general aggregate of Two Million Dollars (\$2,000,000.00) per occurrence against all claims and demands for any injury to persons and for any property damage; which may occur or be claimed to have occurred as the result of the activities or use of the Property, naming Grantor an additional insured. It being understood and agreed that these limits may be provided by a combination of primary and excess liability policies; (b) Comprehensive Automobile Liability insurance in the amount of One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury and property damage, again, it being understood and agreed that these limits may be provided by a combination of primary and excess liability policies; (c) Workers Compensation insurance in an amount not less than the statutory minimums provided under Indiana law; and (d) Excess or Umbrella Liability insurance with a combined single limit of not less than Three Million Dollars (\$3,000,000.00) per occurrence and project or per location aggregate. Certificates showing the foregoing insurance shall be furnished to Grantor prior to a subcontractor's first entry to the Property. Further, Grantor reserves the continued right to review the amounts of the foregoing insurance coverage and to, from time to time, require the Grantee to increase such coverage amounts, if deemed necessary by Grantor in its sole discretion.

14. Grantee releases and waives any and all rights to recover any and all losses, claims, expenses and damages for personal injuries, property damages, loss of life or property from Grantor for or on account of any loss of any kind or nature suffered by Grantee arising out of Grantee's use of the Property; and assigns all risk of injuries or damages to its officials, employees, contractors, subcontractors, or agents.

15. All written notices required or permitted under this Easement 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, or (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.

If to Grantor: Northern Indiana Public Service Company  
801 East 86<sup>th</sup> Avenue  
Merrillville, Indiana 46410  
Attn: Real Estate

With a copy to: André Wright  
Senior Counsel  
NiSource Corporate Services Company  
801 East 86th Avenue

Merrillville, IN 46410

If to Grantee:

City Engineer  
City of East Chicago

East Chicago, Indiana

Or at such other 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).

16. Grantee shall use the Property solely for purposes of the use of the Easement Area, and shall not allow, and shall take reasonable measures to prevent use of the Property and the Easement Area by any other persons or for any purpose.

17. This Easement grants permission for only the Easement Area, and shall not be deemed or construed as granting permission for any other or further use of the Property. Further, the Easement is applicable to only the foregoing described Property, and no additional rights of ingress and/or egress other than those specifically described above shall be used without first obtaining written approval from Grantor. Grantee shall not assign this Easement without obtaining the prior written consent of Grantor.

18. This Easement may not 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.

IN WITNESS WHEREOF, the parties hereto have entered into this Fiber Optic Easement as of the 23rd day of August, 2017.

**CITY OF EAST CHICAGO**

By: [Signature]

Its: Board of Works President

**Document is NOT OFFICIAL!**

**This Document is the property of the Lake County Recorder!**

**STOP**

By: [Signature]

Its: VP Engineering

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF LAKE )

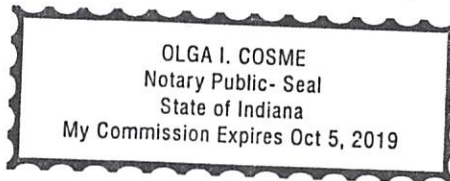


BE IT REMEMBERED that on this 23rd day of August, 2017, before me, a Notary Public in and for the county and state aforesaid, personally appeared Valesiano F. Gomez, President of the City of East Chicago and acknowledged the execution of the above and foregoing instrument on behalf of the City of East Chicago as their voluntary act and deed for the uses and purposes set forth.

WITNESS my hand and notarial seal this 23rd day of August, 2017.

Notary [Signature]  
Print Name Olga Cosme  
Notary Public

My Commission Expires 10-05-2019  
A Resident of Lake County, Indiana



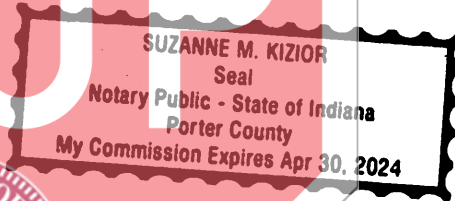
STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

BE IT REMEMBERED that on this 25<sup>th</sup> day of September, 2017, before me, a Notary Public in and for the county and state aforesaid, personally appeared Russell Atkins, VP Engineering of Northern Indiana Public Service Company and acknowledged the execution of the above and foregoing instrument on behalf of Northern Indiana Public Service Company as their voluntary act and deed for the uses and purposes set forth.

WITNESS my hand and notarial seal this 25<sup>th</sup> day of September, 2017.

Notary Suzanne M. Kizior  
Print Name Suzanne M. Kizior  
Notary Public

My Commission Expires 4-30-24  
A Resident of Porter County, Indiana



I affirm, under penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. André Wright.

This instrument was prepared by André Wright.



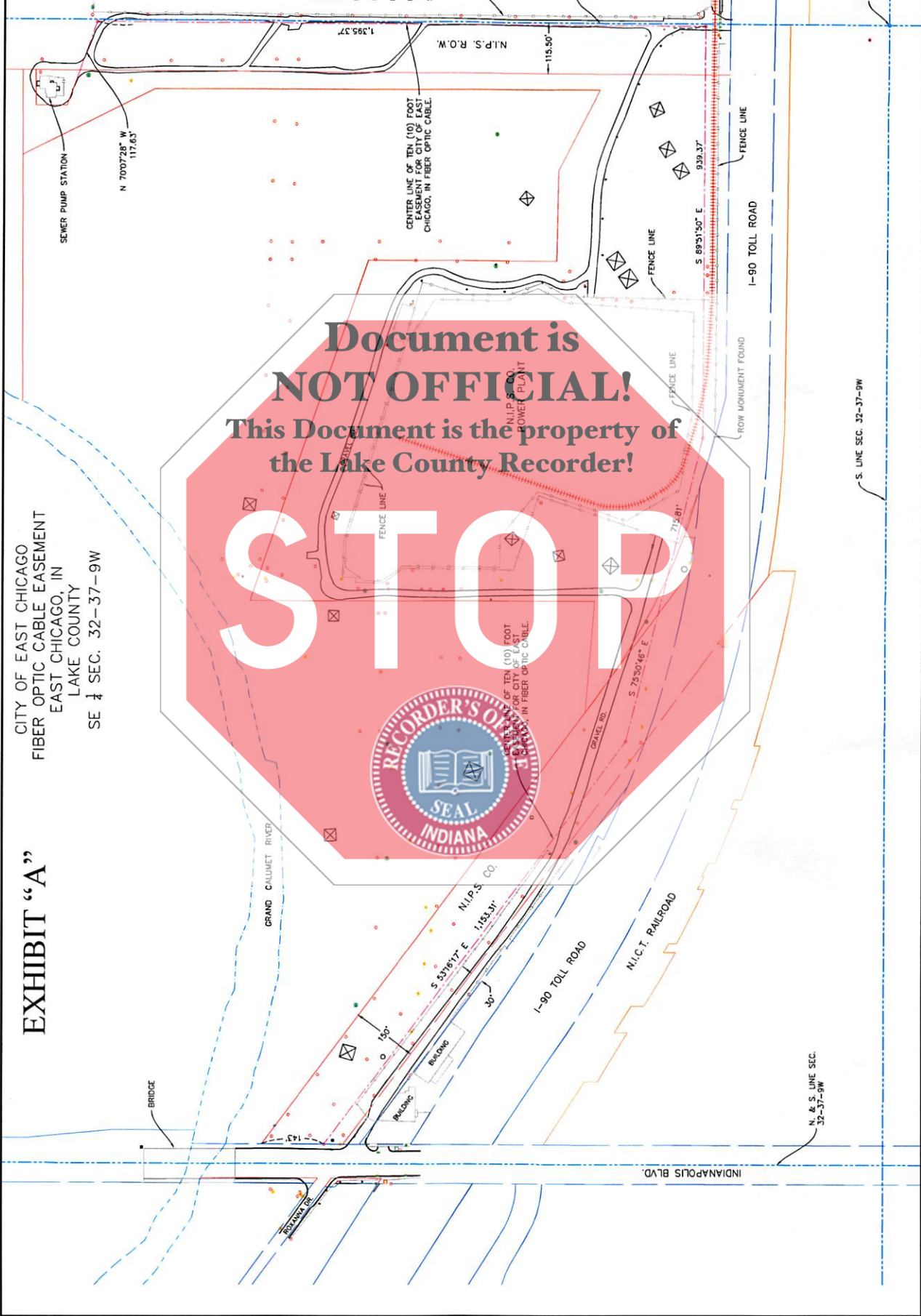


# EXHIBIT "A"

CITY OF EAST CHICAGO  
FIBER OPTIC CABLE EASEMENT  
EAST CHICAGO, IN  
LAKE COUNTY  
SE 1/4 SEC. 32-37-9W



- SYMBOL LEGEND**
- GAS MARKER
  - STEEL POWER POLE
  - STONE SEWER MANHOLE
  - TRANSMISSION TOWER
  - WOODEN POST
  - WOODEN POWER POLE
- LINE LEGEND**
- CENTER LINE OF 100' EASEMENT FOR CITY OF EAST CHICAGO, IN
  - FENCE LINE
  - PARCEL LINE
  - RAILROAD ROW
  - ROAD ROW
  - SECTION LINE



SE SECTION CORNER OF SEC. 32-37-9W FOUND

S. LINE SEC. 32-37-9W

N. & S. LINE SEC. 32-37-9W

# EXHIBIT "B"

NORTHERN INDIANA PUBLIC SERVICE COMPANY

TO

CITY OF EAST CHICAGO, INDIANA

EASEMENT FOR FIBER OPTIC CABLE:

A STRIP OF LAND IN THE SOUTHEAST (SE $\frac{1}{4}$ ) QUARTER OF SECTION THIRTY-TWO (32), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE NINE (9) WEST OF THE SECOND PRINCIPAL MERIDIAN, IN LAKE COUNTY, INDIANA. THE SAID STRIP OF LAND BEING TEN (10) FEET WIDE, LYING FIVE (5) FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE.

BEGINNING AT A POINT ON THE EAST LINE OF THE RIGHT-OF-WAY OF INDIANAPOLIS BOULEVARD SAID POINT OF BEGINNING BEING FOUND BY COMMENCING AT THE POINT OF INTERSECTION OF THE EAST LINE OF THE RIGHT-OF-WAY OF INDIANAPOLIS BOULEVARD IN EAST CHICAGO, INDIANA, AND THE NORTH LINE OF THE NORTHERN INDIANA PUBLIC SERVICE COMPANY'S 150 FOOT STRIP HEREBY REFERRED TO BY THE INDIANA INDUSTRIAL LAND COMPANY BY WARRANTY DEED DATED MAY 25, 1926, AND RECORDED JUNE 1, 1926, BOOK 376, PAGE 483, IN THE RECORDS OF THE RECORDER'S OFFICE OF LAKE COUNTY, INDIANA WHICH IS ONE HUNDRED FORTY THREE (143) FEET SOUTHERNLY ALONG THE EAST LINE OF THE RIGHT-OF-WAY OF INDIANAPOLIS BOULEVARD TO THE SAID POINT OF BEGINNING; THENCE SOUTHEASTERLY PARALLEL TO THE SAID NORTH LINE SOUTH FIFTY-THREE (53) DEGREES SIXTEEN (16) MINUTES SEVENTEEN (17) SECONDS EAST, ELEVEN HUNDRED FIFTY-THREE AND THIRTY-ONE HUNDREDTHS (1,153.31); THENCE SOUTH SEVENTY-FIVE (75) DEGREE FIFTY (50) MINUTES FORTY-SIX (46) SECONDS EAST, SEVEN HUNDRED FIFTEEN AND EIGHTY-ONE HUNDREDTHS (715.81) FEET; THENCE SOUTH EIGHTY-NINE (89) DEGREES FIFTY-ONE (51) MINUTES FIFTY (50) SECONDS EAST, NINE HUNDRED THIRTY-NINE AND THIRTY-SEVEN HUNDREDTHS (939.37) FEET; THENCE NORTHERNLY PARALLEL TO THE EAST LINE OF SAID SECTION THIRTY-TWO (32) A DISTANCE OF THIRTEEN HUNDRED NINETY-FIVE AND THIRTY-SEVEN HUNDREDTHS (1,395.37) FEET; THENCE NORTH SEVENTY (70) DEGREES SEVEN (7) MINUTES TWENTY-EIGHT SECONDS WEST, ONE HUNDRED SEVENTEEN AND SIXTY-THREE HUNDREDTHS (117.63) FEET TO A POINT. THE BEARING HEREIN REFERS TO THE INDIANA COORDINATE SYSTEM, WEST ZONE.