REQUEST FOR COUNCIL ACTION

Date: February 27, 2023 Item No.: 10.e

Department Approval

City Manager Approval

Item Description: Approve 2210 Terminal Road Easement Agreement

1 BACKGROUND

- 2 The City of Roseville currently has an easement agreement with the property owner at 2210
- 3 Terminal Road for their north driveway accessing Terminal Road through a City parcel. As they
- were reviewing their property title, they realized that their east driveway out to Long Lake Road also
- 5 crosses a City parcel and is not under easement. They requested an easement similar to the one on
- 6 Terminal Road.
- 7 Our City Attorney worked with the property owner and drafted the attached Easement Agreement
- 8 (Attachment A). The easement allows the owner to keep and maintain a driveway over the City
- 9 parcel out to Long Lake Road. The owner is responsible for the maintenance of the driveway and
- any issues arising from the driveway in the easement.

11 POLICY OBJECTIVE

- 12 It is City policy to keep City-owned infrastructure in good operating condition and to keep systems
- operating in a safe condition.

14 **BUDGET IMPLICATIONS**

There are no costs for this easement agreement.

16 RACIAL EQUITY IMPACT SUMMARY

17 There should be no equity impacts associated with this agreement.

18 STAFF RECOMMENDATION

20

Staff recommends the City Council approve the easement agreement for 2210 Terminal Road.

REQUESTED COUNCIL ACTION

21 Motion to approve the easement agreement for 2210 Terminal Road.

Prepared by: Jesse Freihammer, Public Works Director

Attachments: A: Easement Agreement

B: Location Map

EASEMENT AGREEMENT

This Easement Agreement (the "Agreement") is made and entered into as of the ______ day of ______, 2023, by and between the City of Roseville, Minnesota, a municipal corporation ("City"), and Willow Properties #7, LLC, a Minnesota limited liability company ("Willow"), DJB-GIF2, LLC, a Minnesota limited liability company ("DJB"), and Ryan Terminal LLC, a Minnesota limited liability company ("Ryan,") and together with Willow and DJB, collectively, the "Grantee").

RECITALS

WHEREAS, City is the owner of a certain tract of land in the City of Roseville, Ramsey County, Minnesota, legally described on <u>Exhibit A</u> attached to and made a part of this Agreement, and commonly known as Parcel ID No. 082923420015 (the "City Property"); and

WHEREAS, Grantee is the collective owner, as tenants in common, of a certain tract of land in the City of Roseville, Ramsey County, Minnesota, legally described on Exhibit B attached to and made a part of this Agreement, and commonly known as Parcel ID No. 082923420001 (the "Grantee Property"); and

WHEREAS, a portion of the Grantee Property is adjacent to and abuts the City Property along the City Property's western boundary line, and the City Property's eastern boundary line is adjacent to and abuts Long Lake Road, a publicly dedicated and maintained right-of-way ("Road"); and

WHEREAS, City and Grantee (collectively, the "Parties" and individually, each a "Party") desire to enter into this Agreement so that Grantee shall have an easement for ingress and egress over a portion of the City Property to access the Road.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which by this reference are incorporated into and made a part of this Agreement, and in further consideration of the mutual promises and covenants set forth in this Agreement, which are acknowledged by the Parties to

comprise and constitute sufficient consideration to enter into this Agreement, the Parties hereby agree as follows:

- 1. <u>Ingress and Egress Easement</u>. The City hereby grants, bargains, sells and conveys to Grantee and Grantee's successors and assigns a non-exclusive, perpetual easement for pedestrian and vehicular ingress and egress to and from the Grantee Property over the City Property to access the Road (the "Easement"). The Easement is and will be defined and located over and across the paved driveway as it is now existing on the City Property. The Easement area may be relocated at the request and discretion of Grantee, subject to the permission of the City and any then-existing permit and zoning requirements. The Easement may be used by Grantee, Grantee's successors and assigns, and Grantee's tenants, invitees, employees, agents, customers, and other users of the improvements located on the Grantee Property.
- 2. <u>Covenants Running with the Land; Successors and Assigns</u>. The terms of this Agreement and the Easement granted herein shall constitute covenants running with the land and shall inure to the benefit of and be binding upon the Parties, respectively, and their respective successors and assigns. This Agreement is appurtenant to and benefits the Grantee Property.

3. <u>Additional Provisions.</u>

- a. By executing this Agreement, the Parties acknowledge and represent to one another that all actions and procedures necessary to validly authorize, execute and deliver this Agreement have been duly performed, and that the persons signing for each Party have been duly authorized to do so. City represents that it has authority, as the fee simple owner of the City Property, to grant the Easement described in this Agreement. City further represents that neither this Agreement nor the Easement granted herein (i) conflict with or violate or result in a breach of any of the provisions of, or constitute a default under, any agreement or instrument relating to the City Property, and (ii) are subordinate to any mortgage or similar senior lien(s) against the City Property (other than lien(s) for unpaid taxes and assessments), provided, however, that if such senior lien(s) do exist, then prior to the execution and recording of this Agreement, City must obtain the consent and subordination of any such lienholder(s) to this Agreement and Easement. City agrees that it shall not build, erect or maintain any improvements within the Easement that would materially interfere with Grantee's use of the Easement as described herein.
- b. It shall be the sole responsibility of Grantee to maintain (including without limitation snow and ice removal) the paved driveway and all other private improvements located within the Easement in a good, safe, and usable condition, fully consistent with all applicable laws, regulations, ordinances, codes, and other requirements of City. City shall have no responsibility to maintain the paved driveway or private improvements located within the Easement or to reimburse Grantee for any maintenance costs and expenses related thereto. Neither Party shall have any right to place a lien on the other Party's parcel in connection with this Agreement or the Easement granted herein.

- c. Grantee shall indemnify and hold City and City's respective constituents harmless from and against any claims, liabilities, losses, costs, and expenses arising from any injury, loss or damage whatsoever to any person or property occurring within the Easement, except to the extent caused by City's gross negligence or willful misconduct.
- d. This Agreement may be amended or terminated only by a written agreement executed by all Parties hereto, or their respective successors or assigns, and recorded in all applicable land records of the City Property and the Grantee Property. This Agreement will, upon Grantee's written approval provided to City, automatically terminate and be of no further force or effect if (i) the City Property is publicly dedicated and becomes part of the Road and (ii) the Grantee Property has direct access to the Road in substantially similar location and manner as per the Easement granted in this Agreement.
- e. This Agreement shall be interpreted, construed and governed by applicable Minnesota law. This Agreement contains the entire agreement of the Parties concerning the subject matter herein and supersedes all prior and contemporaneous representations, understandings and agreements relating to such subject matter, if any, all of which are merged herein. This Agreement may be signed in any number of counterparts and by facsimile, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. As soon as practicable upon full execution of this Agreement, the Parties shall cooperate to cause the Agreement to be recorded in all applicable land records of the City Property and the Grantee Property, respectively, and Grantee shall be solely responsible for all costs of recording the Agreement.

[Remainder of page intentionally left blank; signature and acknowledgment pages follow.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective as of the date and year first above written.

	CITY:
	City of Roseville, Minnesota, a municipal corporation
	By: Name: Dan Roe Its: Mayor
	By: Name: Patrick J. Trudgeon Its: City Manager
STATE OF MINNESOTA)) ss. COUNTY OF RAMSEY)	
This instrument was acknowledged and Patrick J. Trudgeon, the Mayor and Minnesota, a municipal corporation, on behavior	before me on, 2023, by Dan Roe City Manager, respectively, of City of Roseville alf of the municipal corporation.
	Signature of Person Taking Acknowledgement
(Notary Stamp)	
[Remainder of page intentionally left blank; signature and acknowledgment pages follow.]	

Willow Properties #7, LLC, a Minnesota limited liability company By: Name: Timothy W. Elam Its: President STATE OF MINNESOTA) ss. COUNTY OF _______ This instrument was acknowledged before me on _______, 2023, by Timothy W. Elam, as President of Willow Properties #7, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

GRANTEE:

[Remainder of page intentionally left blank; signature and acknowledgment pages follow.]

Title or rank

Serial Number, if any

(Seal, if any)

GRANTEE (cont'd): DJB-GIF2, LLC, a Minnesota limited liability company By: Name: David J. Berglund Its: President STATE OF MINNESOTA) ss. COUNTY OF ______) This instrument was acknowledged before me on ______, 2023, by David J. Berglund, as President of DJB-GIF2, LLC, a Minnesota limited liability company, on behalf of the limited liability company. Signature of Person Taking Acknowledgement (Seal, if any) Title or rank Serial Number, if any

[Remainder of page intentionally left blank; signature and acknowledgment page follows.]

GRANTEE (cont'd): Ryan Terminal LLC, a Minnesota limited liability company By: Name: Colin Ryan Manager Its: STATE OF MINNESOTA) ss. COUNTY OF This instrument was acknowledged before me on _______, 2023, by Colin Ryan, as Manager of Ryan Terminal LLC, a Minnesota limited liability company, on behalf of the limited liability company. Signature of Person Taking Acknowledgement (Seal, if any) Title or rank Serial Number, if any

[End of signature and acknowledgment pages.]

This instrument was drafted by, and after recording should be returned to:

Moss & Barnett, P.A. (JMS) A Professional Association 150 South Fifth Street, Suite 1200 Minneapolis, MN 55402 (612) 877-5000

8270356v1

EXHIBIT A

City Property

The land described is situated in the County of Ramsey, State of Minnesota, and is legally described as follows:

Outlot C, Gateway Business Park, according to the recorded plat thereof. (Torrens Property, Certificate of Title No. 388248)

EXHIBIT B

Grantee Property

The land described is situated in the County of Ramsey, State of Minnesota, and is legally described as follows:

The East 407 feet of the West 627 feet of the East three-fourths of the North half of the Southeast quarter, all in Section 8, Township 29, Range 23. Except the South 50 rods thereof, and excepting and reserving unto the parties of the first part the Northerly 35 feet of the Easterly 27.4 feet of the above described property.

(Torrens Property, Certificate of Title No. 558012)



2359 Long Lake Rd Proposed Driveway Easement



2359LongLakeRd



