

TO: Mayor and City Council (PU)

FROM: Gary Holm, Director of Public Works

DATE: May 5, 2023

RE: Resolutions 23-068 and 23-069 Approval of a Temporary Construction License and Grant of Easement with Target Corp. for reconstruction of the Randall Rd. Sanitary Lift Station

The City's sanitary sewer lift station, located in front of 115 N Randall Rd., is at end-of-life and in need of reconstruction. On January 17, 2023 City Council approved a contract with Integral Construction for the reconstruction project.

In order to facilitate reconstruction, the City requested that the adjacent property owner, Target Corp., grant both a temporary construction license as well as a permanent easement. Target Corp. has been very cooperative and has agreed to grant the City both documents.

The temporary construction license and permanent grant of easement have both been reviewed by Target's and the City's attorneys.

Staff recommends:

RES 23-068-R Approval of a Temporary Construction License with Target Corp. for reconstruction of the Randall Rd. Sanitary Lift Station

and

RES 23-069-R Approval of a Grant of Easement with Target Corp. for reconstruction of the Randall Rd. Sanitary Lift Station

**CITY OF BATAVIA, ILLINOIS
RESOLUTION 23-069-R**

**APPROVAL OF GRANT OF EASEMENT WITH TARGET CORP. FOR RECONSTRUCTION OF THE
RANDALL RD. SANITARY LIFT STATION**

WHEREAS, the City of Batavia is responsible to own and maintain sanitary sewer lift stations as part of its sanitary sewer collection system; and

WHEREAS, the Randall Road Lift Station is nearing end-of-life and is in need of full reconstruction; and

WHEREAS, the City has previously awarded a contract for reconstruction of the Randall Rd. Lift Station; and

WHEREAS, a permanent easement is required to facilitate construction activities; and

WHEREAS, the property owner, Target Corp., desires to grant the City a permanent easement, subject to certain conditions; and

WHEREAS, the City desires to accept the easement, subject to the conditions that have been agreed; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: That the Mayor and City Clerk are hereby authorized to approve a grant of easement with Target Corp., attached hereto as Exhibit I, for reconstruction of the Randall Road Lift Station.

CITY OF BATAVIA, ILLINOIS RESOLUTION 23-069-R

PRESENTED to the City Council of the City of Batavia, Illinois, this 15th day of May, 2023.

PASSED by the City Council of the City of Batavia, Illinois, this 15th day of May, 2023.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 15th day of May, 2023.

Jeffery D. Schielke, Mayor

Ward	Alderman	Aye	Nay	Abstain	Absent
1	Baerren				
1	Solfa				
2	Lehman				
2	Wolff				
3	Ajazi				
3	Chanzit				
4	Malay				
4	Connelly				
5	Uher				
5	Beck				
6	Cerone				
6	VACANT				
7	Vogelsinger				
7	Miller				
Mayor	Schielke				
		AYES	NAYS	ABSTAIN	ABSENT
	TOTALS				

total holding office: Mayor and 13 Aldermen

ATTEST:

Kate Garrett, City Clerk

RES 23-069-R
EXHIBIT I

GRANT OF EASEMENT

This Grant of Easement ("Agreement") made this _____ day of May, 2023, by and between **TARGET CORPORATION** (formerly known as Dayton Hudson Corporation), a Minnesota Corporation (hereinafter referred to as "Grantor") with an address of 1000 Nicollet Mall, TPN-12H, Minneapolis, MN 55403 Attn: Real Estate Portfolio Management (T-0839) and the **CITY OF BATAVIA**, an Illinois Municipal Corporation (hereinafter referred to as "City").

WHEREAS, Grantor is the owner of a certain real property situated in the City of Batavia, Kane County, Illinois, described in Exhibit A attached hereto and forming a part hereof ("Grantor's Property"), and is desirous of granting to the City an easement for the existing underground sanitary sewer lines and related appurtenances ("Improvements") located within the Grantor's Property.

NOW, THEREFORE, in consideration of the acceptance of this grant by the City and for other good and valuable consideration, the Grantor grants to the City, subject to the terms and conditions set forth below, a perpetual, non-exclusive easement ("Easement") for the specific purpose of permitting the City the right to construct, operate, maintain, repair, remove and replace the Improvements under the surface of a portion of Grantor's Property being ten (10) feet in width, the center line of which is identified as the "Utility Line" on the site plan attached hereto and made a part hereof as Exhibit B ("Easement Parcel"), together with the right of reasonable and necessary ingress and egress to and from the Easement Parcel in connection with the exercise of the rights granted herein.

This grant is made on the following terms:

1. The Improvements, or any portion thereof, to be constructed, replaced, removed, maintained, and used in, over, along and under the Easement Parcel shall be constructed and maintained in a good and workmanlike manner and in compliance with all applicable governmental rules, regulations and requirements.

2. City shall, immediately following construction or maintenance of the Improvements and appurtenances, remove or cause to be removed from the Easement Parcel all debris, surplus material, and construction equipment, leaving Grantor's Property in a neat and presentable condition. The City shall further have a continuing obligation to promptly restore to a level surface any portion of the Easement Parcel that settles.

3. That upon at least thirty (30) days' notice to Grantor (except that in an emergency the work may be initiated after reasonable notice) the City shall have the right of ingress to and egress from the Easement Parcel for purposes of construction, repair, and maintenance, and shall promptly restore any property used for such ingress and egress to its prior condition.

4. The City shall have the right from time to time to trim and cut down and clear away any and all trees and brush now or hereafter on the Easement Parcel or overhanging the Easement Parcel that in the opinion of the City may interfere with the use of the Improvement.

5. The grant of this easement shall not be construed as an agreement by Grantor to alter the location of the building set back line along the easterly boundary of Grantor's Property on which the Easement Parcel is located as it existed immediately prior to the granting of this easement. Furthermore, the City agrees that the building set back line along the easterly boundary of Grantor's Property shall always be determined as if the easement granted herein did not exist.

6. Grantor reserves the right to use the Easement Parcel for all purposes that will not unreasonably interfere with the City's full enjoyment of the rights granted by this instrument, provided, however, that Grantor shall not erect or construct any building on the Easement Parcel without the prior written consent of the City.

7. Any installation, maintenance, replacement, repair and/or removal of the Improvements performed by the City, its agents and employees shall be performed (i) at the City's sole cost and expense, and (ii) during months other than November, December, or January (except in the event of an emergency). In addition, the City, its agents and employees shall (a) promptly pay all costs and expenses associated with said work, and (b) diligently complete such work as quickly as possible.

8. The City shall not permit any mechanics', materialmen's or other liens to be filed against Grantor's Property or any part thereof for work or materials furnished the City in connection with the Easement, and the City agrees to indemnify, defend and hold Grantor harmless from and against the same.

9. To the extent permitted by applicable law, the City shall indemnify, defend and hold harmless Grantor from and against any and all claims, demands, losses, damages, costs and expenses (including but not limited to court costs, penalties and reasonable attorneys' fees), judgments, liabilities and

causes of action of any nature whatsoever resulting from or relating to the use or occupancy of the Easement Parcel by Grantee or arising in any manner out of the acts or omissions of Grantee or its agents or employees or any other persons acting under Grantee's direction or control in connection with the Easement or with the use or occupancy of the Easement Parcel. The indemnity obligations set forth in Sections 8 and 9 of this Grant of Easement shall survive any termination of the Easement.

10. Grantee agrees that it is accepting the Easement without any warranty or representation regarding the Easement or the Easement Parcel, and subject to all valid and existing licenses, leases, grants, exceptions, encumbrances, title defects, matters of record, reservations and conditions affecting Grantor's Property and/or affecting access thereto.

11. The easement described in this instrument is to and shall run with the land and shall be for the benefit and use of and shall be binding upon the Grantor and the City and their respective heirs, administrators, assigns and successors.

12. This agreement shall be governed by and construed in accordance with the laws of the State or Commonwealth in which the Grantor's Property is located. This agreement shall not be construed strictly for or against either Grantor or the City. This agreement may be signed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one instrument. All notices to Grantor shall be delivered in writing at the address noted in the recitals.

13. Grantor and the City each represents and warrants to the other that it has the full capacity, right, power and authority to execute, deliver and perform under this agreement and that all required actions, consents and approvals therefor have been duly taken and obtained.

[Rest of page intentionally left blank.]

SIGNATURE PAGE TO GRANT OF EASEMENT

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the date first above written.

GRANTOR
TARGET CORPORATION

By: _____
James L. Tucker
Its: Senior Director – Real Estate

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 2nd day of May, 2023, by James L. Tucker, the Senior Director – Real Estate of TARGET CORPORATION, a Minnesota corporation, on behalf of said corporation.

Notary Public
Heather DeAnne Luebke

My Commission Expires: January 31, 2028

SIGNATURE PAGE TO GRANT OF EASEMENT

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the date first above written.

CITY OF BATAVIA

By _____ Mayor

ATTEST:

City Clerk

By _____

STATE OF ILLINOIS)
)ss.
COUNTY OF KANE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023,
by _____, the
_____ of _____,
a _____ corporation, on behalf of said corporation.

Notary Public

EXHIBIT A

Grantor's Property

LOT 3 IN UNIT NO. 2 WINDMILL PLACE, BEING A RESUBDIVISION OF LOT 2 IN UNIT NO. 1 WINDMILL PLACE, ACCORDING TO THE PLAT THEREOF, RECORDED MARCH 11, 1992, WITH THE RECORDER OF DEEDS OF KANE COUNTY, ILLINOIS, AS DOCUMENT NO. 92K16422, IN BATAVIA, KANE COUNTY, ILLINOIS.

Commonly Known As: 115 N. Randall Road, Batavia, Illinois 60510

PIN: 12-20-230-006

EXHIBIT B

Site Plan (depicting Easement Parcel)

