



MEMORANDUM

TO: Mayor Laurel L. Prussing and Members of City Council
FROM: William R. Gray, Public Works Director
DATE: March 20, 2014
RE: Olympian Drive Permanent Easement Acquisition – TAG Warehouse, LLC

Introduction

City of Champaign, Champaign County, and City of Urbana staff have been negotiating with the owners of property west of the Illinois Central railroad tracks and adjacent to and north of the proposed Olympian Drive location over the past several weeks to secure a drainage easement for the Olympian Drive Improvements. (See attached exhibit for project location and permanent easement location.) TAG Warehouse LLC owns the property on which the 0.77 acres of permanent easement to be acquired is located. The agreed upon acquisition price is \$26,950.

This is the last right-of-way and easement acquisition needed in order to proceed with the construction of this project. This project is scheduled on the April 25, 2014 IDOT letting.

Attached please find the permanent drainage easement document and a companion ordinance approving this acquisition. Although these documents identify the grantee as the City of Urbana (Urbana is the project lead agency), it is the intention of the city to convey this easement in the future to the City of Champaign as this easement will be within their jurisdiction.

Fiscal Impact

Property and easement acquisition is being funded 100% by an Illinois Jobs Now grant from IDOT on a reimbursement basis. There are sufficient funds budgeted for this permanent easement acquisition.

Recommendation

It is recommended that An Ordinance Approving an Easement on Certain Real Estate (A Portion of a Real Estate Parcel with Permanent Index Number 41-15-30-400-007, Located in Champaign County, Illinois/TAG Warehouse, LLC) be approved.

ORDINANCE NO. 2014-03-033

AN ORDINANCE APPROVING AN EASEMENT ON CERTAIN REAL ESTATE

(A Portion of a Real Estate Parcel with Permanent Index Number 41-15-30-400-007, Located in Champaign County, Illinois / TAG Warehouse, LLC)

WHEREAS, Urbana City Code Section 2-118, Subsection (d), provides that the City may purchase real estate, or any interest therein, for any corporate purposes found and declared by the City Council, and that the City Council may authorize the purchase thereof under any terms and any conditions by ordinance duly passed; and

WHEREAS, the City Council desires to purchase a permanent drainage easement on a portion of a real estate parcel with Permanent Index Number 41-15-30-400-007 in Champaign County, Illinois, and more particularly described below, for construction of a roadway known as FAP Route 813 on Olympian Drive and upon the terms as set forth in the attached easement; and

WHEREAS, the City Council expressly finds and declares that said real estate is needed for governmental purposes of the City of Urbana.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

The acceptance of a 0.77 acre permanent drainage easement over a portion of a real estate parcel with Permanent Index Number 41-15-30-400-007, in Champaign County, Illinois, owned by TAG Warehouse, LLC, and legally described below, substantially on such terms as contained in the Non-Exclusive Permanent Drainage Easement attached hereto and incorporated herein, is hereby approved:

PARENT TRACT:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30 LYING WEST OF THE ILLINOIS CENTRAL GULF RAILROAD RIGHT-OF-WAY, AND LYING NORTH OF THE OLYMPIAN DRIVE RIGHT-OF-WAY WHICH IS DESCRIBED IN PLAT OF SURVEY RECORDED AS DOCUMENT NUMBER 99R02806, ALL IN TOWNSHIP 20 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS. ALL AS DESCRIBED IN TRUSTEE'S DEED RECORDED AS DOCUMENT NUMBER 2013R29622.

PERMANENT DRAINAGE EASEMENT:

COMMENCING AT AN IRON REBAR SURVEY MONUMENT FOUND AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 20 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS; THENCE NORTH 00 DEGREES 43 MINUTES 56 SECONDS WEST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 30, A DISTANCE OF 1,123.21 FEET TO A POINT ON THE EXISTING NORTHERLY RIGHT-OF-WAY LINE OF OLYMPIAN DRIVE AS FILED FOR RECORD AS DOCUMENT NUMBER 99R02807 IN THE OFFICE OF THE RECORDER OF CHAMPAIGN COUNTY, ILLINOIS; THENCE NORTH 64 DEGREES 54

MINUTES 18 SECONDS EAST ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 261.44 FEET TO AN IRON PIPE SURVEY MONUMENT SET FOR THE POINT OF BEGINNING; THENCE NORTH 69 DEGREES 31 MINUTES 09 SECONDS EAST ALONG THE PROPOSED NORTHERLY LINE OF PERMANENT DRAINAGE EASEMENT, A DISTANCE OF 622.08 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE NORTH 75 DEGREES 19 MINUTES 00 SECONDS EAST ALONG THE PROPOSED NORTHERLY LINE OF PERMANENT DRAINAGE EASEMENT, A DISTANCE OF 416.05 FEET TO AN IRON PIPE SURVEY MONUMENT SET;

THENCE NORTH 84 DEGREES 54 MINUTES 04 SECONDS EAST ALONG THE PROPOSED NORTHERLY LINE OF PERMANENT DRAINAGE EASEMENT, A DISTANCE OF 206.26 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE NORTH 84 DEGREES 34 MINUTES 13 SECONDS EAST ALONG THE PROPOSED NORTHERLY LINE OF PERMANENT DRAINAGE EASEMENT, A DISTANCE OF 252.59 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE NORTH 88 DEGREES 32 MINUTES 43 SECONDS EAST ALONG THE PROPOSED NORTHERLY LINE OF PERMANENT DRAINAGE EASEMENT, A DISTANCE OF 312.20 FEET TO AN IRON PIPE SURVEY MONUMENT SET ON THE WESTERLY RIGHT-OF-WAY LINE OF THE CANADIAN NATIONAL RAILWAY; THENCE SOUTH 17 DEGREES 40 MINUTES 12 SECONDS WEST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF THE CANADIAN NATIONAL RAILWAY, A DISTANCE OF 18.51 FEET TO SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE; THENCE SOUTH 89 DEGREES 16 MINUTES 03 SECONDS WEST ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 305.50 FEET; THENCE SOUTH 85 DEGREES 04 MINUTES 25 SECONDS WEST CONTINUING ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 252.73 FEET; THENCE SOUTH 77 DEGREES 31 MINUTES 53 SECONDS WEST CONTINUING ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 569.19 FEET; THENCE SOUTH 71 DEGREES 56 MINUTES 52 SECONDS WEST CONTINUING ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 668.48 FEET TO THE POINT OF BEGINNING, CONTAINING 0.77 ACRES, MORE OR LESS, ALL AS SHOWN ON ACCOMPANYING PLAT OF SURVEY, ALL SITUATED IN THE CITY OF CHAMPAIGN, CHAMPAIGN COUNTY, ILLINOIS.

Section 2.

The Public Works Director of the City of Urbana, Illinois, or his designee, be and hereby is authorized to perform all acts necessary on behalf of the City of Urbana to effectuate the acquisition of the permanent drainage easement herein described and shall cause the same to be filed with the Champaign County Recorder of Deeds.

Section 3.

This Ordinance shall be in full force and effect from and after its passage.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor

Owner TAG Warehouse, LLC
Address 2805 Boulder Drive
Urbana, IL 61802- 6988

Route F.A.P. Route 813 – Olympian Drive
County Champaign
Job No. S10L0007
Parcel No. PE 101
P.I.N. No. 41-15-30-400-007
Section 95-00298-00-EG
Project No. P-95-337-10
Station 440+96.96
Station 458+52.00
Contract No.
Catalog No.

NON-EXCLUSIVE PERMANENT DRAINAGE EASEMENT

THE GRANTOR, TAG WAREHOUSE, LLC, an Illinois limited liability company, in consideration of twenty-six thousand nine hundred fifty dollars (\$26,950), receipt of which is hereby acknowledged, does grant and convey to the GRANTEE herein, THE CITY OF URBANA, a municipal corporation of the State of Illinois, and its permitted successor or assigns, a perpetual and irrevocable non-exclusive easement, privilege, right, and authority to excavate, construct, maintain, deepen, and thereafter use, inspect, and keep in repair, at GRANTEE'S sole cost and expense, an open ditch and crossroad culverts ("Improvements") of such character and sufficient size as to make a proper and sufficient outlet forever for drainage of rainwater over and through a PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 20 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF CHAMPAIGN, CHAMPAIGN COUNTY, ILLINOIS, said PART known as PERMANENT DRAINAGE EASEMENT, depicted in the Drainage Easement Plat, attached hereto and incorporated herein by this reference, and more particularly described as follows:

PARENT TRACT:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 30 LYING WEST OF THE ILLINOIS CENTRAL GULF RAILROAD RIGHT-OF-WAY, AND LYING NORTH OF THE OLYMPIAN DRIVE RIGHT-OF-WAY WHICH IS DESCRIBED IN PLAT OF SURVEY RECORDED AS DOCUMENT NUMBER 99R02806, ALL IN TOWNSHIP 20 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS. ALL AS DESCRIBED IN TRUSTEE'S DEED RECORDED AS DOCUMENT NUMBER 2013R29622.

NON-EXCLUSIVE PERMANENT DRAINAGE EASEMENT ("Easement Area"):

COMMENCING AT AN IRON REBAR SURVEY MONUMENT FOUND AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 20 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS; THENCE NORTH 00 DEGREES 43 MINUTES 56 SECONDS WEST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 30, A DISTANCE OF 1,123.21 FEET TO A POINT ON THE EXISTING NORTHERLY RIGHT-OF-WAY LINE OF OLYMPIAN DRIVE AS FILED FOR RECORD AS DOCUMENT NUMBER 99R02807 IN THE OFFICE OF THE RECORDER OF CHAMPAIGN COUNTY, ILLINOIS; THENCE NORTH 64 DEGREES 54 MINUTES 18 SECONDS EAST ALONG SAID

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In consideration of the grant of easement herein contained, the GRANTOR and GRANTEE hereby agree to the following terms and conditions:

1. The GRANTOR shall retain all rights not herein granted, to the ownership, cultivation, use, and occupation of the Easement Area. The GRANTOR agrees that it will not erect any building or structure or create or permit any hazard or obstruction of any kind or character, (without prior consent of the GRANTEE which consent shall not be unreasonably withheld, conditioned or delayed) which, in the reasonable judgment of the GRANTEE, will interfere with GRANTEE'S easement allowed herein within the Easement Area. The GRANTOR shall have the right to plant and harvest crops within the Easement Area as determined by the GRANTOR in GRANTOR'S sole discretion; provided such activity does not unreasonably interfere with GRANTEE'S easement allowed herein within the Easement Area. The GRANTOR shall not deny or impair the GRANTEE or its contractors' access thereto for purposes of construction, maintenance, repair, or replacement of the Improvements. The GRANTOR agrees not to interfere with the GRANTEE'S or its contractors' construction and maintenance of the Improvements. The GRANTEE is expressly given the right to modify, repair, or construct new Improvements at any reasonable time in the Easement Area which are for public use.
2. After initial construction of the Improvements, the GRANTOR shall have the right to grant other nonexclusive easements over, under, along, through or upon the Easement Area;

provided, however, that any such other easements shall be subject to the easement hereby granted; and provided, further, that the GRANTEE shall have first consented in writing, which consent will not be unreasonably withheld, conditioned or delayed to the terms, nature, and location of any such other easements within the Easement Area as not unreasonably interfering with the rights granted under this Non-Exclusive Permanent Drainage Easement. In the event the GRANTEE does not provide its written consent or rejection with explanation and basis for such rejection within thirty (30) days from GRANTOR'S request therefor, such request shall be deemed approved by the GRANTEE.

3. All materials, equipment, tools, supplies and apparatus used in the construction or maintenance of the Improvements, and all surplus soil and debris excavated in the course of the maintenance or construction of the Improvements, may be transported to or from and be used upon the site of said construction work, on and across the Easement Area. The GRANTOR shall not restrict or impede the GRANTEE or its contractors' access to, ingress to, or egress from the Improvements within the Easement Area.

4. The GRANTEE, at GRANTEE'S sole cost and expense, shall restore the surface area within the Easement Area disturbed or repair or replace any damage caused by construction or maintenance of the Improvements, with the surface to be restored and graded to provide proper drainage pursuant to the construction plans reviewed and approved by the GRANTOR. This shall include preparing the Easement Area for seeding and reseeding the Easement Area disturbed by construction and maintenance. In no event shall GRANTEE'S work set forth herein disturb the grading of the Easement Area or GRANTOR'S adjacent land.

5. The GRANTOR shall be privileged to remove any structures, sod, trees, bushes, shrubs, and plants of any kind which are on any part of the Easement Area, prior to the construction of the said Improvements. The GRANTEE may remove, at GRANTEE'S sole cost and expense, small portable structures, sod, rock, gravel, trees, signs, parking directional equipment or signage, bushes, shrubs, and plants of any kind which are on any part of the Easement Area during the construction, replacement, or maintenance of the Improvements. The GRANTEE shall not be obligated to replace small portable structures, trees, bushes, shrubs, and plants of any kind, or any portion of the Easement Area which may be removed or damaged.

6. The GRANTEE agrees to maintain, at the GRANTEE'S sole cost and expense, the Easement Area to the GRANTOR'S reasonable satisfaction. In the event the GRANTEE does not maintain the Easement Area as set forth herein, the GRANTOR shall have the right (but not the obligation) to maintain the Easement Area; provided the GRANTOR has given the GRANTEE thirty (30) days written notice to cure. The GRANTEE shall pay or reimburse the GRANTOR within thirty (30) days from the GRANTOR'S delivery of written invoice to the GRANTEE.

7. The GRANTEE shall maintain sufficient liability insurance (such amount as determined by GRANTOR in GRANTOR'S reasonable discretion) at all times to provide coverage for any injuries or accidents (and name GRANTOR as an additional insured) which occur on the GRANTOR'S property as a result of the GRANTEE'S use, possession, or management of the Easement Area. The GRANTEE shall deliver a certificate of insurance evidencing such coverage prior to the date the GRANTEE or its contractor(s) enters the Easement Area. The GRANTEE

covenants and agrees to indemnify, defend and hold harmless the GRANTOR, its successors, and assigns from and against any and all claims against the GRANTOR, its successors, and assigns for losses, liabilities, damages (including but not limited to property damage and crop damage to any of the GRANTOR'S adjacent land), judgments, costs and expenses and any actions or proceedings, by or on behalf of any person or entity, other than the GRANTOR, arising from the GRANTEE'S use, possession or management of the GRANTOR'S parcel or activities therein or arising out of the GRANTEE'S or any GRANTEE'S permittees' use, exercise or enjoyment of an easement, and from and against all costs, attorneys' fees, expenses and liabilities incurred with respect to any such claim, action or proceeding arising therefrom. In case any action or proceeding is brought against the GRANTOR by reason of any such claim, the GRANTEE, upon notice from the GRANTOR and at the GRANTEE'S sole cost and expense, covenants to resist or defend such action or proceeding.

8. If either the GRANTOR or the GRANTEE fails to perform any obligation imposed upon it by this Non-Exclusive Permanent Drainage Easement, the non-defaulting party may serve written notice of default upon the defaulting party, and if such default is not corrected within ten (10) days thereafter, the defaulting party shall be deemed in breach of this agreement, and the non-defaulting party may seek any and all remedies available to it at law or in equity, including specific performance. Default by either party shall entitle the non-defaulting party to reasonable costs, attorneys' fees, and expenses incurred by the non-defaulting party by reason of the default (breach) of this agreement.

9. The GRANTOR, without limiting the interest above granted and conveyed, acknowledges that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including, without limitation, any diminution in value to any remaining property of the GRANTOR caused by the GRANTEE'S use of the Easement Area. This acknowledgement does not waive any claim for trespass or negligence against the GRANTEE or the GRANTEE'S agents which may cause damage to the GRANTOR'S remaining property.

10. All rights, title, and privileges herein granted, including all benefits and burdens, shall constitute a covenant, which runs with the land, and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, permitted successors, permitted assigns, and legal representatives. GRANTEE may not assign its rights hereunder without the prior written consent (not to be unreasonably withheld, conditioned or delayed) of the GRANTOR having first been obtained.

11. The language contained herein expresses the mutual intent of the parties and no rule of strict construction shall be applied against any party hereto.

12. This easement may not be modified or amended unless such amendment is set forth in writing and executed by both the GRANTOR and GRANTEE with the formalities hereof.

13. Whenever a transfer of ownership of any parcel or portion thereof subject to this easement occurs, the obligation of the transferor for performance of covenants with respect to such transferred parcel (or portion thereof) shall automatically terminate. Any transferee

shall automatically assume and be bound by the burdens and obligations hereunder running with the land to the owner of the parcel or portion thereof being transferred.

14. This easement shall be interpreted and enforced in the State of Illinois. The Venue shall be in Champaign County, Illinois.

IN WITNESS WHEREOF, the GRANTOR has executed this easement on the date as stated below.

GRANTOR:

TAG Warehouse, LLC, an Illinois limited liability company

By: _____
C. Todd Atkins, President

STATE OF ILLINOIS)
) ss.
COUNTY OF CHAMPAIGN)

I, the undersigned, a notary public in and for the said County, in the State aforesaid do hereby certify that **C. TODD ATKINS**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument in his capacity as the duly authorized President of TAG Warehouse, LLC, as his free and voluntary act, and the free and voluntary acts of said company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of March, 2014.

Notary Public

GRANTEE:

Accepted by the City of Urbana.

Date: _____ By: _____
William R. Gray
Public Works Director/City Engineer

Approved as to form.

Date: _____ By: _____
Curt Borman
Assistant City Attorney

Return to:
City of Urbana
Public Works Department – Engineering Division
706 S. Glover Ave.
Urbana, IL 61802
(217) 384-2342

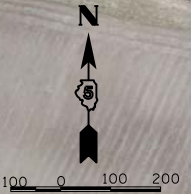
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TAG WAREHOUSE, LLC
0.77 ACRES
DRAINAGE EASEMENT

PROPOSED OLYMPIAN DRIVE

APOLLO DRIVE

ILLINOIS CENTRAL RAILROAD COMPANY

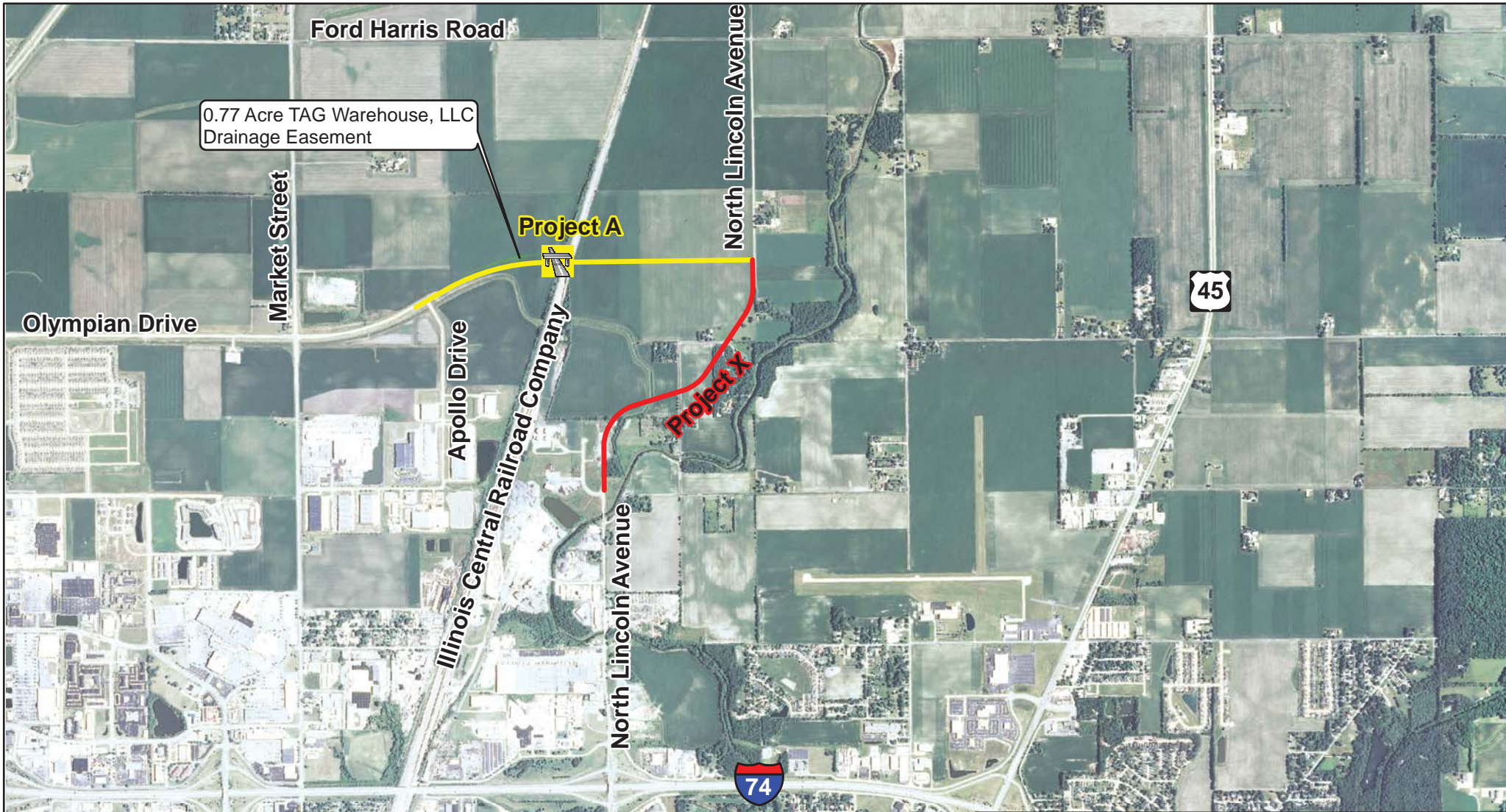


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TAG WAREHOUSE, LLC

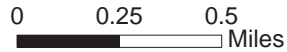
DRAINAGE EASEMENT

HANSON 10L0007



Legend

-  Project X
-  Project A
-  TAG Warehouse, LLC Drainage Easement
-  Proposed Olympian Drive Bridge over ICRC



Location Map

TAG Warehouse, LLC
Drainage Easement