

**AN ORDINANCE APPROVING AND AUTHORIZING
THE EXECUTION OF A NONEXCLUSIVE UTILITY LICENSE AGREEMENT**

(Green Street at Goodwin Avenue)

WHEREAS, the City of Urbana is a municipal corporation within the State of Illinois located at Urbana, Illinois;

WHEREAS, the University of Illinois is a body corporate and politic of the State of Illinois having its principal office in Urbana, Illinois;

WHEREAS, the City of Urbana has determined that it is appropriate to install upon certain premises, namely the premises in and about the intersection of Green Street and Goodwin Avenue, Urbana, Illinois, certain street lights and traffic control signals in order to more properly light the aforesaid intersection and control traffic to and through the said intersection;

WHEREAS, the University of Illinois is the owner of the property on which the City of Urbana seeks to install and maintain the aforesaid street lights and traffic control signals;

WHEREAS, the University of Illinois and the City of Urbana have expressed a willingness to enter into and memorialize a nonexclusive utility license arrangement whereby the University of Illinois is willing to grant to the City of Urbana and the City of Urbana is willing to accept from the University of Illinois a nonexclusive utility license for the purpose of installing and maintaining by the City of Urbana of certain street lights and traffic control signals on the property owned by the University of Illinois; and

WHEREAS, the University of Illinois and the City of Urbana have agreed on the terms and conditions of such nonexclusive utility license, subject to

approval by the Board of Trustees for the University of Illinois and the City Council for the City of Urbana.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Nonexclusive Utility License between the University of Illinois, acting by and through its Board of Trustees, and the City of Urbana, pursuant to this Ordinance, in substantially the form of the copy of said Nonexclusive Utility License attached hereto and hereby incorporated herein by reference, be and the same is hereby authorized and approved.

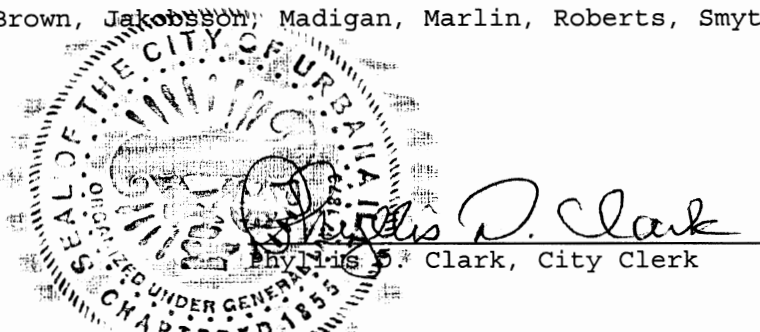
Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Nonexclusive Utility License as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this 3rd day of June, 2013.

AYES: Ammons, Brown, Jakobsson, Madigan, Marlin, Roberts, Smyth

NAYS:

ABSTAINS:



APPROVED by the Mayor this 7th day of June, 2013.

Laurel Lunt Prussing, Mayor

By: Charles A. Smyth, Mayor Pro-tem



UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN
FACILITIES & SERVICES

LETTER OF TRANSMITTAL

To: Bill Gray

Date: July 23, 2013

From: Leta Summers

Re: Nonexclusive Utility License Agreement
Abstract

Enclosed is the executed Nonexclusive Utility License Agreement Abstract between the City of Urbana and the University of Illinois.

Please let me know if you have any questions.

Leta Summers
115-x3 MC/800
1501 South Oak Street
Champaign, IL 61820
Phone: (217) 244-8817 ~ Fax: (217)244-5775
lsummers@illinois.edu <http://www.fs.illinois.edu>

NONEXCLUSIVE UTILITY LICENSE AGREEMENT ABSTRACT

Area of License: Three tracts located on the Southeast, Northeast and Northwest corners of the intersection of Green Street and Goodwin Avenue in Urbana, Illinois and described in more detail in Exhibits 1 and 2.

Project Description: Licensee will install upon Premises and maintain street lighting and traffic signals

Licensee's Name & Address: City of Urbana
400 South Vine Street
Urbana, Illinois 61801

License Period: Twenty years

Consideration: \$1.00

Comments:

This cover sheet is for information purposes and is not a part of the following License Agreement.

NONEXCLUSIVE UTILITY LICENSE

THIS AGREEMENT (“License”) is made and entered into as of the 8th day of July, 2013, by and between THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS, a body corporate and politic of the State of Illinois, with its principal office in Urbana, IL 61801, hereinafter referred to as “LICENSOR,” and CITY of URBANA, a municipal corporation of the State of Illinois, located at Urbana, IL, hereinafter referred to as “LICENSEE”;

WITNESSETH:

WHEREAS, LICENSOR is the owner of the described premises as shown in Exhibit 1 and as legally described in Exhibit 2; and,

WHEREAS, the LICENSEE desires to install and maintain streetlights, traffic signals, and related appurtenances as shown in Exhibit 1; and,

WHEREAS, the parties hereto have agreed upon terms and conditions and wish to enter into an agreement (hereinafter the “License”); and,

NOW, THEREFORE, it is agreed by the parties hereto as follows:

1. **Mutual Covenants**. For and in consideration of the terms and conditions hereinafter set forth, LICENSOR, to the extent it has the authority to License such right, licenses to LICENSEE, on a nonexclusive basis, the below described premises together with the right of access to said premises, to construct, install, reconstruct, add to, operate, maintain, repair, alter, replace, move and remove below described facilities, in, under, across and through said premises owned by the LICENSOR and described as follows:

Premises: Three tracts located on the Southeast, Northeast, and Northwest corners of the intersection of Green Street and Goodwin Avenue in Urbana, Illinois and as shown on Exhibit 1 and legally described in Exhibit 2 which is attached and incorporated herein by reference; (hereinafter referred to as “Premises”).

Project Description and Use: LICENSEE will install upon Premises street lighting and traffic signal equipment and other appurtenances thereto (hereinafter referred to as “Facilities”). Said Facilities will be constructed per the Plans for Proposed Street Improvements (Goodwin Avenue Intersection Improvements at Green Street) prepared by the LICENSEE and approved by the LICENSOR as of the date of this License.

Furthermore, the parties agree that said nonexclusive License will allow LICENSOR the use of Premises and the right to grant other licenses and easements or permits for other uses within Premises provided that it does not impact the ability of LICENSEE to utilize Premises as outlined in this License. Title to and use of Premises will remain in LICENSOR, its successors or assigns, free and clear of all rights and claims of LICENSEE and of the public, subject to the right, permission and authority herein expressly provided in this License. This License will be in effect as provided herein so long as it does not impede LICENSOR’S use of Premises including LICENSOR’S right to ingress and egress across said Premises, and other rights that are provided for herein.

2. **Consideration**. The LICENSEE shall pay a nominal fee of \$1.00 to the LICENSOR for the License herein granted.

- 3. Term and Termination.** The initial term of the License will be for a period of twenty (20) years from June 1, 2013 through May 31, 2033 (License Term) subject to the rights of the LICENSOR as outlined herein, and will thereafter renew automatically at one (1) - year intervals (Extended Term) and will be in full force and effect during any term and for so long hereafter as said improvements are continued in service and have not been abandoned or discontinued by LICENSEE, its successors or assigns unless terminated by the LICENSOR as otherwise provided herein. In the event that the use of this License for the purposes provided shall be abandoned or otherwise discontinued, LICENSEE will notify LICENSOR in writing and the said License will thereupon cease and terminate, and LICENSEE will surrender or cause to be surrendered to LICENSOR, or its successors or assigns, the peaceable possession of the above described Premises. Notwithstanding the above, this License will terminate in the absence of notice by LICENSEE if LICENSEE abandons or discontinues the use of Premises as described in Article 1 within thirty (30) business days from the date appearing on the Licensee's notice of abandonment or thirty (30) business days from the date of abandonment when no notice of abandonment is given.
- 4. Relocation Requirements.** Should LICENSEE'S Facilities and appurtenances described herein interfere with the planned use or development of LICENSOR'S property, or in any way disrupt any programs or research of the LICENSOR, or any entities with which it has an agreement, or interfere with relocation of road right-of-way required by the LICENSOR, state or other government authority, LICENSOR will request in writing the relocation of said Facilities and appurtenances. Within 180 days after such written request, LICENSEE will relocate said Facilities and appurtenances to another location on LICENSOR'S land, or public right-of-way, selected by the mutual consent of both parties, which will not be unreasonably withheld by either of them. Any such relocation made at the request of LICENSOR will be performed at the sole expense of LICENSEE. If such relocation is made, LICENSOR will provide a like license to LICENSEE covering said Facilities at a new location.
- 5. Facilities Construction and Maintenance.** LICENSEE agrees that:
- a. It will not begin construction of Facilities in advance of the delivery of a fully signed original of said License and in accordance with the construction schedule. Said construction schedule is estimated to begin on or about May 1, 2014 and be completed no later than October 30, 2014. LICENSEE agrees to provide LICENSOR written notice if this schedule will not be maintained. In the event LICENSEE does not begin construction of said Facilities by August 1, 2014, LICENSOR will have the right to terminate License.
 - b. It or its CONTRACTOR shall contact LICENSOR, three days in advance of installation so that LICENSOR may record the location of the installation with its electronic measuring instruments and then enter the data in the campus geographical information system utility maps.
 - c. It will conduct its construction, reconstruction, repair and maintenance work on the Premises in such a manner so as to minimize the interference with pedestrians and traffic, as well as the normal use of LICENSOR property. Furthermore, it agrees to provide LICENSOR with access to Premises during construction, repair, and maintenance of Facilities.
 - d. It will maintain or cause to be maintained such barriers and danger signals during construction, reconstruction, repair or maintenance work performed on Premises and adjacent public right-of-way as will reasonably avoid damage to life, limb, and property and will use as guidelines; The State of Illinois Uniform Manual of Traffic Control

Devices, The Illinois Department of Transportation Traffic Control Plans for Construction and Maintenance Projects, or as otherwise required by the LICENSOR.

- e. It or its contractors at its/their sole cost and expense and in a workmanlike manner will perform all construction and maintenance. The surface disturbed by said construction or maintenance of Facilities will be restored to as good condition as it was prior to installation of said Facilities.
 - f. It will follow certain typical construction standards that include, but are not limited to; (1) notification to (JULIE), the state-wide locator system, as required by law, of impending project and requesting existing utilities in the area be so indicated, (2) flagging all tile lines that are discovered through trenching, (3) burial of Facilities at a minimum depth of 48 inches, (4) provision to LICENSOR, upon completion of project, of a set of as-built plans, (5) restoration of Premises to pre-installation condition, (agreement by LICENSEE, in the event rocks are excavated from any required trenching, not to backfill the excavation with soil containing rocks of any greater concentration or size than that which existed originally and to dispose of any excavated rocks, (7) removal of all construction related debris and material from LICENSOR property, (8) placing "direct buried cable" warning markers in such a manner as not to interfere with LICENSOR'S mowing of area, such as said markers being placed at surface level, and (9) immediate discontinuation by LICENSEE, in the event archaeological resources are discovered in the process of constructing Facilities, of activities that may affect said archaeological resources and provision of notification, within 24 hours of discovery, to LICENSOR.
 - g. It will repair damage to landscaping on Premises and other land designated by LICENSOR that is created during construction of Facilities. Additionally, it will be liable for any damage to valuable trees and other landscaping caused by said installation, and will reimburse LICENSOR for such costs at customary rates or costs within 30 (thirty) days of receipt of invoice. LICENSOR will provide an accounting for all damages and the basis for reimbursement.
 - h. It will limit ingress and egress to Premises to the direct road right-of-way as specified in Exhibit 1.
 - i. It will provide 48-hour advance written notice of the time in which maintenance work will be performed on the Premises, except for emergency repairs in which case LICENSEE agrees to verbally notify Facilities & Services Service Office, at 217-333-0340, of the emergency nature of the repairs within 24 hours of beginning repair work.
6. **Damage to Premises.** LICENSEE will indemnify and save harmless the LICENSOR from any and all damages to Premises and adjoining land and facilities or persons by reason of the location, construction, installation or maintenance of LICENSEE'S Facilities on Premises. Furthermore, LICENSEE agrees, at its own expense, to repair any and all injury or damage that may be caused to Premises and to LICENSOR'S adjoining property which may arise out of or be in any way connected with the construction, installation or maintenance operations by LICENSEE, or its contractors, of Facilities.

In the event there is damage to any of the Premises and its appurtenances or LICENSOR'S adjoining property requiring repair as a result of Facilities installation by LICENSEE, LICENSEE must immediately notify LICENSOR and JULIE. As required by law, LICENSOR will repair the damage and LICENSEE will reimburse LICENSOR for the cost of the repair plus an additional overhead factor of 20% (if LICENSEE or its CONTRACTOR utilized JULIE prior to the installation) or an additional overhead factor of 30% (if LICENSEE or its CONTRACTOR did not utilize JULIE prior to the installation.)

7. **Notices and Payments.** All notices provided for herein, including change in mailing address, will be effective only if made in writing, unless otherwise noted, and either personally delivered with an executed acknowledgment of receipt or deposited in the United States mail, certified return receipt requested, postage prepaid, and addressed as follows:
 - a. To LICENSEE: Mayor, City of Urbana, 400 South Vine Street, Urbana, Illinois, 61801 and City Engineer, City of Urbana, 706 South Glover Avenue, Urbana, Illinois, 61802;
 - b. To LICENSOR: (written notice and fee payments), University of Illinois, Facilities and Services, Utility Distribution Group, 1501 South Oak Street, Champaign, IL 61820; Campus Information Technologies and Educational Services, Mike Smeltzer, 2129 DCL, 1304 W. Springfield, MC-256, Urbana, Illinois 61801 and a copy (written only) to, Office of Capital Programs and Real Estate Services, 506 S. Wright, MC 321, Urbana, Illinois 61801 (verbal notification and project coordination).
 - c. Any notice will be deemed delivered no later than five (5) days after notice is mailed or, if personally delivered, when acknowledgment of receipt is signed, as provided above.
 - d. Fee payments and regular correspondence will be made to LICENSEE and LICENSOR at the addresses above by regular U.S. Mail.
8. **Limits of Liability.** LICENSEE agrees that LICENSOR is not liable for any damages to said Facilities caused, either directly or indirectly, by LICENSOR, provided LICENSOR has notified the state-wide locator system, JULIE, and said Facilities have been located prior to excavation or demolition.
9. **Insurance Requirement.** LICENSEE or its contractors will, at its/their sole cost and expense, at all times during the term of this license, maintain in full force a policy or policies of insurance, written by one or more responsible insurance carriers, which will insure LICENSOR against liability for bodily injury and/or property damage, including LICENSOR property, occurring on or about the Premises which may in any way arise out of, result from or be in any way connected with the construction, maintenance, use or operation of LICENSEE'S Facilities on said Premises. The liability under such insurance will not be less than One Million Dollars (\$1,000,000) for any one occurrence. Upon execution of this License and on subsequent anniversary dates of liability insurance renewals, LICENSEE will provide LICENSOR with a certificate of insurance naming the LICENSOR as additional insured as respects liability the LICENSOR incurs as a result of the activities of the LICENSEE on the Premises. LICENSEE agrees to provide thirty (30) days advance written notice to LICENSOR of any modifications, changes or cancellations. LICENSOR reserves the right to adjust the limit of coverage requirements as appropriate based upon current prudent business practices of like enterprises involving the same or similar risks.
10. **Access.** LICENSOR agrees that, during said License period, it will permit officers, agents, and employees of LICENSEE to have such access to Premises as may be necessary for the proper inspection, repair, or servicing of any portion of said improvements, with appropriate notice as provided herein.
11. **Capacity to License.** The rights and license authorized under the terms of this License are only to the extent LICENSOR has the present right and capacity to grant the same, and it will be the responsibility of LICENSEE to secure any additional authorizations that may be necessary or required for its purposes.
12. **Assignment.** LICENSEE will not assign this License without the prior written consent of LICENSOR, which consent will not be unreasonably withheld.

13. Default. In the event LICENSOR notifies LICENSEE in writing that it is not in compliance with this License Agreement, then LICENSEE will formally notify LICENSOR of its plan for corrective action within 30 (thirty) days after receipt of such notice. Upon approval of LICENSOR, LICENSEE will proceed with diligence to bring the agreement into compliance. If LICENSEE fails to pay the LICENSOR any amounts due as required by this agreement or fails to respond to notice of non-compliance and continues in non-compliance for a period of 30 (thirty) days after appropriate notice then LICENSOR may terminate this License.

14. Laws and Certification.

Anti-Bribery/Barred From Bidding Certification. LICENSEE certifies it is not barred under 30 ILCS 500/50-5(a) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Equal Employment/Non-discrimination. LICENSEE agrees to comply with applicable provisions of the Illinois Human Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of the Section 750.10 of the Illinois Department of Human Rights Rules is specially incorporated herein. LICENSEE shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). LICENSEE agrees to incorporate this clause into all Subcontracts under this Contract.

15. Miscellaneous Provisions.

- a. **Time of the Essence.** Time is of the essence of each term and provision of this License.
- b. **Binding Effect.** The terms and conditions hereof shall extend to and be obligatory upon the herein, executors and administrators, successors and assigns of the parties hereto.

16. Signature Authorization. LICENSEE warrants that the person signing has the authority to bind the LICENSEE on all provisions contained in this document.

SIGNATURES ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have caused this License to be executed in their respective names and behalf by their respective duly authorized officers all as and of this date and year first herein above set forth.

LICENSOR: THE BOARD OF TRUSTEES OF
THE UNIVERSITY OF ILLINOIS

LICENSEE: CITY OF URBANA

By: Stacey L Ballmes
Comptroller date
Stacey L Ballmes
Coordinator for University Contracts
2013.07.12 15:49:11 -05'00'

By: Paul Perry 6/7/13
Mayor date

Attest: [Signature] 6/7/13
Deputy City Clerk

APPROVED AS TO LEGAL FORM:

[Signature]
Office of University Counsel

APPROVED:

[Signature]
Director of Unit

[Signature] 7/2/13
Office of Capital Programs and Real Estate Services

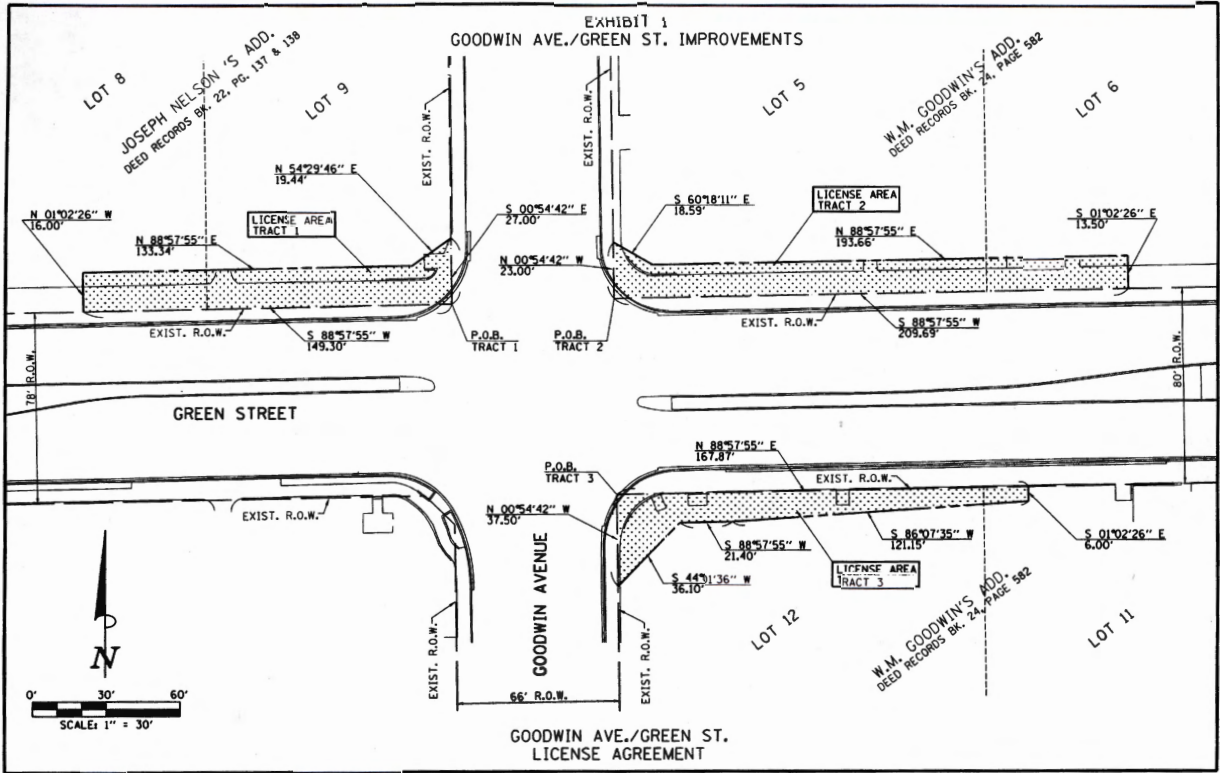


Exhibit 2
Legal Descriptions of License Areas
Goodwin Avenue/Green Street

Tract 1

A part of Lots 8 and 9 in Joseph Nelson's Addition to the City of Urbana, as recorded in the Deed of Records Book 22 at page 137 and 138, Champaign County, Illinois, more particularly described as follows, with bearings based on Illinois State Plane Coordinate System, East Zone:

Beginning at the southeast corner of the above described Lot 9, thence along the south line of aforesaid Lots 8 and 9, South 88 degrees 57 minutes 55 seconds West 149.30 feet; thence North 01 degrees 02 minutes 26 seconds West 16.00 feet; thence North 88 degrees 57 minutes 55 seconds East 133.34 feet; thence North 54 degrees 29 minutes 46 seconds East 19.44 feet, to a point on the east line of aforesaid Lot 9; thence along said east line of Lot 9, South 00 degrees 54 minutes 42 seconds East 27.00 feet, to the Point of Beginning, containing 2478 square feet, more or less, all situated in the City of Urbana, Champaign County, Illinois.

Tract 2

A part of Lots 5 and 6 in W. M. Goodwin's Addition to the City of Urbana, as recorded in the Deed of Records Book 24 at page 582, Champaign County, Illinois, more particularly described as follows, with bearings based on Illinois State Plane Coordinate System, East Zone:

Beginning at the southwest corner of the above described Lot 5, thence along the west line of said Lot 5, North 00 degrees 54 minutes 42 seconds West 23.00 feet; thence South 60 degrees 18 minutes 11 seconds East 18.59 feet; thence North 88 degrees 57 minutes 55 seconds East 193.66 feet; thence South 01 degrees 02 minutes 26 seconds East 13.50 feet, to the south line of aforesaid Lot 6; thence along aforesaid south line of Lots 5 and 6, South 88 degrees 57 minutes 55 seconds West 209.69 feet, to the Point of Beginning, containing 2907 square feet, more or less, all in the City of Urbana, Champaign County, Illinois.

Tract 3

A part of Lots 11 and 12 in W. M. Goodwin's Addition to the City of Urbana, as recorded in the Deed of Records Book 24 at page 582, Champaign County, Illinois, more particularly described as follows, with bearings based on Illinois State Plane Coordinate System, East Zone:

Beginning at the northwest corner of the above described Lot 12, thence along the north line of aforesaid Lots 11 and 12, North 88 degrees 57 minutes 55 seconds East 167.87 feet; thence South 01 degrees 02 minutes 26 seconds East 6.00 feet; thence South 86 degrees 07 minutes 35 seconds West 121.15 feet; thence South 88 degrees 57 minutes 55 seconds West 21.40 feet; thence South 44 degrees 01 minutes 36 seconds West 36.10 feet, to the west line of aforesaid Lot 12; thence along said west line of Lot 12, North 00 degrees 54 minutes 42 seconds West 37.50 feet, to the Point of Beginning, containing 1977 square feet, more or less, all in the City of Urbana, Champaign County, Illinois.

Tracts 1, 2, and 3 totaling 7362 square feet, or 0.169 of an acre, more or less, all in the City of Urbana, Champaign County, Illinois.