

Agreement prepared by and after
Recording mail to:

Dominick L. Lanzito
Peterson Johnson & Murray, LLC
200 W Adams, Suite 2125
Chicago, Illinois 60606

Legal description prepared by:
Willett Hofmann & Associates, Inc.
809 East 2nd Street
Dixon, IL 61021-0367

TEMPORARY CONSTRUCTION AND PERMANENT INGRESS-EGRESS EASEMENT AGREEMENT

This Temporary Construction and Permanent Ingress-Egress Easement Agreement (this “Agreement”) is effective as of the ____ day of _____, 2017 (“Effective Date”), by and between Rochelle Township High School District No. 212 (“Grantor”) and the City of Rochelle, an Illinois municipal corporation (“Grantee”). Grantor and Grantee are sometimes referred to in this Agreement individually as “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, Grantor is the owner of record of certain real property with parcel number 24-14-201-005, Rochelle, Ogle County, Illinois and legally described on the attached and incorporated Exhibit A (“Grantor’s Property”); and

WHEREAS, Grantee is the owner and operator of the Rochelle Municipal Utility, which is undergoing major improvements and expansion to Well 11 to support surrounding municipalities; and

WHEREAS, as part of the improvements to its Well 11 water filtration plant (“water filtration plant”), an access driveway (“Access Driveway”) will need to be constructed to allow access to said water filtration plant, which will be installed to convey and filter potable water between Grantee and adjacent municipalities; and

WHEREAS, to install the Access Driveway, Grantee needs a temporary construction easement on Grantor's Property to temporarily locate equipment and materials at the water filtration plant and construct a permanent Access Driveway on the easement to allow for ingress and egress to said water filtration plant; and

WHEREAS, Grantee has offered and Grantor is willing to accept the shared use of the Access Driveway for a future athletics parking lot for the Grantor's softball and baseball fields in lieu of payment for the requested easements; and

WHEREAS, Grantor desires to grant Grantee a temporary construction and permanent ingress and egress easement in and along Grantor's Property for the construction and installation of the Access Driveway on terms and conditions contained herein; and

NOW, THEREFORE, Grantor and Grantee covenant and agree as follows:

1. **INCORPORATION OF RECITALS.** The above recitals are hereby incorporated by reference as if set forth fully herein.
2. **GRANT OF EASEMENTS.** Grantor, for themselves and for their successors and assigns, hereby conveys and grants to Grantee, its successors and assigns, the following:

2.1 Temporary Construction Easement. A temporary, non-exclusive 30-foot easement over, under, in, along, across and upon the portion of Grantor's Property described on the attached and incorporated Exhibit A ("Construction Easement Area"). Grantee may use the Construction Easement Area for the purposes of constructing and installing the Access Driveway, and other work necessary and incident to the construction and installation of the Access Driveway, including but not limited to the right to conduct studies, tests, examinations and surveys; the right to temporarily place and store equipment, vehicles and materials, and to erect structures; the right to trim, cut, and remove all trees, structures, and any other obstruction or obstacles. Except as in cases of emergencies, Grantee's access to the Construction Easement Area shall be restricted to normal business hours.

2.2 Utility Easement. A permanent, non-exclusive easement over, under, in, along, across and upon the portion of Grantor's Property on the attached and incorporated Exhibit A ("Ingress-Egress Easement Area"), including the right to ingress and egress for the lawful construction, installation, operation, maintenance, repair, replacement and use of the Access Driveway.

Grantee's rights in the Easement Areas described above include the right to have Grantee's contractors and subcontractors upon the Easement Areas for the purposes described above.

3. **TERM OF EASEMENTS.**

- 3.1 Temporary Construction Easement. The Temporary Construction Easement shall commence on the Effective Date of this Agreement and shall automatically terminate and expire upon the later of: (i) the date construction of the Access Driveway are completed, or (ii) twelve (12) months after the effective date of this Agreement. Upon the expiration of the term of the Temporary Construction Easement, all of the rights and benefits of Grantee in, to and under this Agreement with respect to the Temporary Construction Easement shall automatically terminate and be of no further force and effect.
- 3.2 Ingress-Egress Easement. The Ingress-Egress Easement shall commence on the Effective Date of this Agreement and shall run with the land and continue in full force and effect until Grantee formally vacates the Ingress-Egress Easement.
4. **RESERVATION BY GRANTOR/NON-EXCLUSIVE USE**. All right, title and interest in and to the Temporary Construction Easement and Ingress-Egress Easement under this Agreement which may be used and enjoyed without interfering with the rights conveyed by this Agreement are reserved to Grantor; provided, however, that Grantor shall not locate any structures which may cause damage to or interfere with the Access Driveway to be placed within the Ingress-Egress Easement Area; or develop, landscape, or beautify any easement area in any way which would unreasonably or materially increase the costs to Grantee of constructing and installing the Access Driveway or restoring any of the Easement Areas after such installation.
5. **RESTORATION**. In the event the surface of any easement area is disturbed by Grantee's exercise of any of its easement rights under this Agreement, such area shall be restored, as reasonably as practical, to the condition in which it existed at the commencement of such activities.
6. **CONSTRUCTION AND MAINTENANCE OF ACCESS DRIVEWAY**. Grantee shall be responsible for all of the construction costs for the two-lane driveway, **except** Grantor shall pay for the entire asphalt surface for one lane of the two-lane driveway. Grantee shall install the stone base for the entire two-lane driveway and shall pay for the asphalt for the second lane of the two-lane driveway. Grantor and Grantee shall each be responsible for Fifty (50%) Percent of the maintenance costs for the Access Driveway. Grantee will pay for the full design and construction management of the Access Driveway. However, should Grantor damage the Access Driveway during the construction of the afore-mentioned parking lot, Grantor shall be responsible for all costs to repair or rebuild the portions of the Access Driveway damaged by Grantors or its contractors. Grantee shall be responsible for handling storm water retention for the Access Driveway only. Any storm water retention issues related to anticipated high school parking lot shall be the responsibility of the Grantor.
7. **INDEMNIFICATION**. Grantee does hereby agree to defend, hold harmless, and indemnify Grantor, its successors and assigns, from and against any and all claims, causes of action, liability, loss, damage, costs and expenses (including reasonable attorneys' fees)

for damage to property or persons whatsoever, arising from or caused by Grantee's negligent exercise of any of Grantee's rights under this Agreement. Nothing contained herein shall be interpreted to waive any statutory or common law grant of privilege of immunity.

Grantor does hereby agree to defend, hold harmless, and indemnify Grantee, its successors and assigns, from and against any and all claims, causes of action, liability, loss, damage, costs and expenses (including reasonable attorneys' fees) for damage to property or persons whatsoever, arising from or caused by Grantor's negligent exercise of any of Grantor's rights under this Agreement. Nothing contained herein shall be interpreted to waive any statutory or common law grant of privilege of immunity.

8. **COMPLIANCE WITH LAWS.** Grantee shall construct and install the Access Driveway in a workmanlike manner and in compliance with applicable laws, statutes, ordinances, rules and regulations of all governing public authorities as those statutes, ordinances, rules and regulation are amended from time to time.
9. **COVENANTS RUNNING WITH THE LAND.** The Parties agree that the easements and other rights conferred by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the Parties and their respective grantees, heirs, successors and assigns.
10. **AUTHORIZED REPRESENTATIVE.** Each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.
11. **NOTICES.** Any notice, request or other communication to be given by any party hereunder shall be in writing and shall be deemed adequately given only if (i) sent by personal delivery, (ii) by Federal Express or other overnight messenger service, (iii) first class registered or certified mail, postage prepaid, return receipt requested or (iv) by electronic mail, and addressed to the party for whom such notices are intended, addressed in each case as follows:

All notices to Grantor shall be sent to:

Richard J. Craven,
Superintendent
Rochelle Township High School District No. 221
1401 Flagg Road
Rochelle, Illinois 61068
jcraven@rthsd212.org

All notices to Grantee shall be sent to:

City of Rochelle
420 North 6th St.
PO Box 601
Rochelle, IL 61068
Attention: _____, City Manager

With a copy to: Dominick L. Lanzito, City Attorney
Peterson Johnson & Murray
200 W. Adams, Suite 2125
Chicago, Illinois 60606
dlanzito@pjmlaw.com

12. **ASSIGNMENT.** Grantee may not assign their rights hereunder without the prior written consent of Grantor.
13. **ENTIRE AGREEMENT; AMENDMENT.** This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by the parties hereto. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement, and the parties acknowledge and understand that, upon completion, any and all such Schedules and Exhibits shall be deemed to be made a part collectively hereof.
14. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to conflict of laws provisions. If legal action, arbitration or other proceeding is brought to enforce or to resolve any dispute arising under this Agreement, the prevailing Party shall be entitled to recover reasonable Attorneys' fees and other costs incurred in such proceeding, in addition to any other relief to which it may be entitled.
15. **SEVERABILITY.** Should any one or more of the provisions of this Agreement be determined to be invalid, unlawful or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby and each such provision shall be valid and remain in full force and effect.
16. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument. Facsimile and electronic mail signatures shall be treated as original signatures of the parties for the purposes hereto.
17. **ELECTRONIC/FAX SIGNATURES.** Unless required otherwise elsewhere in this Agreement, any signed document transmitted electronically or by facsimile (fax) machine shall be treated in all manner and respect as an original document and the signature of any

GRANTEE:

City of Rochelle, an Illinois municipal corporation

By: _____
City Manager

STATE OF ILLINOIS)
) SS.
COUNTY OF OGLE)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that _____ 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 severally acknowledged that he signed and delivered the said instrument as his free and voluntary act for the uses and purposes herein set forth.

Given under my and official seal, this ____ day of _____, 2017

Notary Public

Printed Name of Notary

My Commission Expires:

INGRESS-EGRESS EASEMENT PLAT

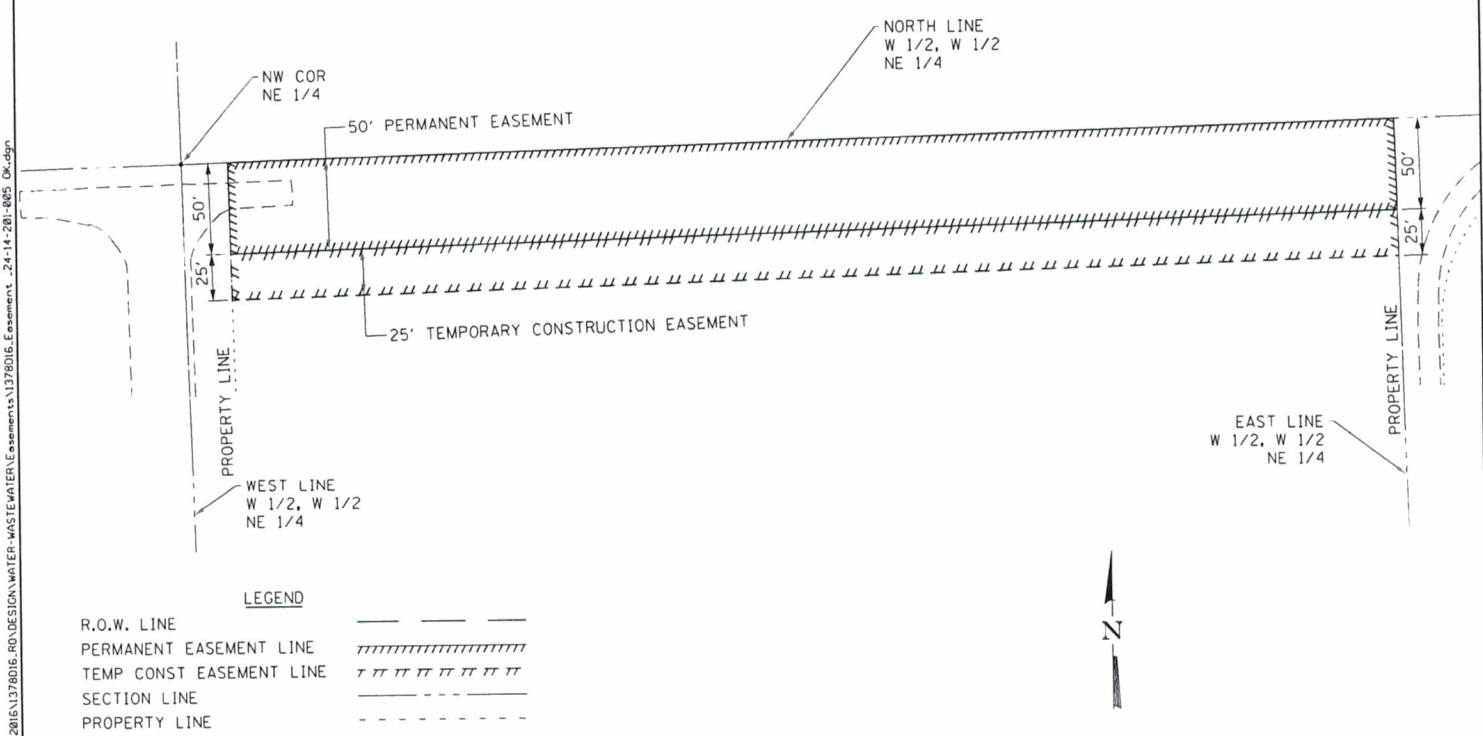
Pin: 24-14-201-005

PERMANENT EASEMENT

The Northerly 50 feet of the following tract of land,
Part of the West Half of the West Half of the Northeast Quarter of Section 14, Township 40 North, Range 1 East of the
Third Principal Meridian, Ogle County, Illinois described as follows:

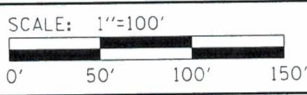
Beginning at the Northeast corner of said West Half of the West Half of the Northeast Quarter; thence South 01 degree 31 minutes 01 seconds East along the East Line of said West Half of the West Half of the Northeast Quarter, 2425.43 feet; thence South 88 degrees 28 minutes 59 seconds West 208.50 feet; thence South 01 degree 31 minutes 01 seconds East, parallel with the East Line of said West Half of the West Half of the Northeast Quarter, 164.39 feet to a point 50' North of the South Line of said West Half of the West Half of the Northeast Quarter; thence South 88 degrees 22 minutes 27 seconds West, parallel with the South Line of said West Half of the West Half of the Northeast Quarter, 243.70 feet; thence North 01 degrees 37 minutes, 33 seconds West, a distance of 350.62 feet; thence South 88 degrees 22 minutes 27 seconds West, a distance of 54.27 feet; thence North 01 degree 37 minutes 33 seconds West, a distance of 2.51 feet to a point on a curve; thence along a curve concave to the West, having a radius of 1040.00 feet, on arc distance of 227.93 feet, a chord bearing of North 07 degrees 54 minutes 17 seconds West, a chord distance of 227.48 feet; thence North 14 degrees 11 minutes 00 seconds West 359.33 feet; thence along a curve concave to the East, having a radius of 960.00 feet, on arc length of 213.28 feet, a chord bearing of North 07 degrees 49 minutes 07 seconds West, a chord distance of 212.85 feet thence North 01 degree 27 minutes 14 seconds West 1447.91 feet to a point in the North Line of said West Half of the West Half of the Northeast Quarter, thence North 88 degrees 22 minutes 51 seconds East, along the North Line of said West Half of the West Half of the Northeast Quarter, 633.11 feet to the Point of Beginning, containing 34.29 acres, In Ogle County, Illinois.

ALSO,
A 25 foot wide temporary construction easement lying South of and adjacent to the above described permanent easement.



FILE # SANPROJECTS\2018\1378016.PRO\DESIGN\WATER-WASTEWATER\Easements\1378016.Easement_24-14-201-005_Dk.dgn

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ROCHELLE, IL
OGLE COUNTY
Pin: 24-14-201-005 INGRESS-EGRES

EXHIBIT
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