

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 UTILITY EASEMENT AGREEMENT

This Temporary Construction and Permanent Utility 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 24-14-201-003, 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 support surrounding municipalities; and

WHEREAS, as part of the improvements, a new 12-inch diameter potable water transmission main and related appurtenances and a Gravity Sanitary Sewer Main (“Water and Sewer Mains”) will be installed to convey potable water and receive sanitary sewer water between Grantee and adjacent municipalities; and

WHEREAS, to install the Water and Sewer Mains, Grantee needs a temporary construction easement on Grantor's Property to temporarily locate equipment and materials and a permanent utility easement; and

WHEREAS, Grantee has offered and Grantor is willing to accept payment of TEN DOLLARS AND NO CENTS (\$10.00) as consideration for the requested easements; and

WHEREAS, Grantor desires to grant Grantee a temporary construction and permanent utility easement in and along Grantor's Property for the construction and installation of the Water and Sewer Mains on terms and conditions contained herein; and

NOW, THEREFORE, for sum of TEN DOLLARS AND NO CENTS (\$10.00) to be paid by Grantee to Grantor, 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 Water and Sewer Mains, and other work necessary and incident to the construction and installation of the Water and Sewer Mains, 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 ("Utility Easement Area"), including the right to ingress and egress for the lawful construction, installation, operation, maintenance, repair, replacement and use of the Water and Sewer Mains.

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 Water and Sewer Mains are completed, or (ii) six (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 Utility Easement. The Utility 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 Utility Easement.

4. **RESERVATION BY GRANTOR/NON-EXCLUSIVE USE.** All right, title and interest in and to the Temporary Construction Easement and Utility 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 Water and Sewer Mains to be placed within the Utility 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 Water and Sewer Mains 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. **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.
7. **COMPLIANCE WITH LAWS.** Grantee shall construct and install the Water and Sewer Mains 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.
8. **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.
9. **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.

10. **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: David Plyman, 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

11. **ASSIGNMENT.** Grantee may not assign their rights hereunder without the prior written consent of Grantor.
12. **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.

13. **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.
14. **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.
15. **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.
16. **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 party hereto upon a document transmitted electronically or by fax machine shall be considered an original signature.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement by persons legally entitled to do so as of the day and year first set forth above.

[SIGNATURES ON FOLLOWING PAGE]

UTILITY EASEMENT PLAT

Pin: 24-14-201-003

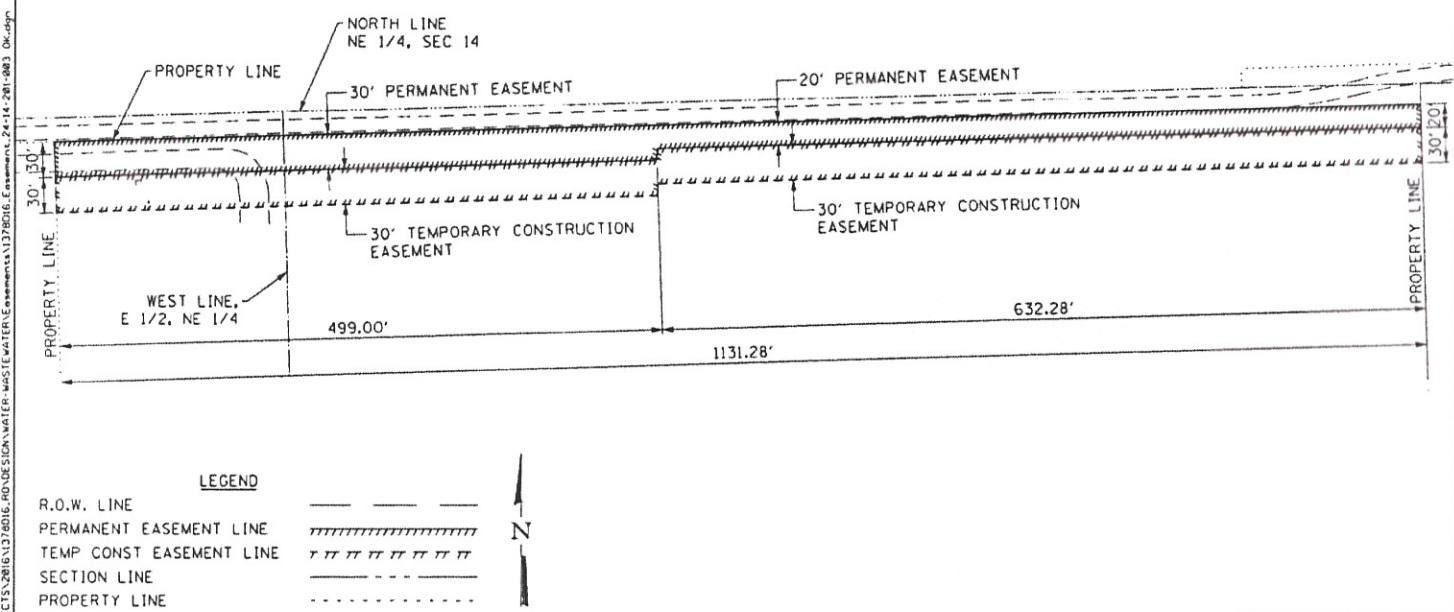
PERMANENT EASEMENT

The Northerly 30.00 feet of the Westerly 499.00 feet and the Northerly 20.00 feet of the Easterly 632.28 feet of the following tract of land,
Part of the Northeast Quarter of Section 14, Township 40 North, Range 1 East of the Third Principal Meridian, Ogle County, Illinois bounded and described as follows:

Commencing at the Southwest Corner of the Northeast Quarter of said Section 14; thence North 89 degrees 43 minutes 51 seconds East along the South Line of said Northeast Quarter, a distance of 2256.45 feet; thence North 0 degrees 08 minutes 15 seconds West along the monumented West Line of Jos S. Askvig Subdivision, a subdivision as recorded in the Recorder's Office of Ogle County, Illinois, a distance of 1106.36 feet to the Point of Beginning of the hereinafter described parcel of land; thence North 0 degrees 08 minutes 15 seconds West along the West Line of said Jos S. Askvig Subdivision and the West Line of Jos S. Askvig Subdivision No. 2, a subdivision as recorded in the Recorder's Office of Ogle County, Illinois, a distance of 717.42 feet to a point being 44.0 feet South of the Northwest Corner of Lot 8 in said Jos S. Askvig Subdivision No. 2; thence South 89 degrees 51 minutes 45 seconds West perpendicular to the last described course, a distance of 100.00 feet; thence North 0 degrees 08 minutes 15 seconds West parallel with the monumented West Line of said Jos S. Askvig Subdivision No. 2, a distance of 173.00 feet; thence North 89 degrees 51 minutes 45 seconds East perpendicular to the last described course, a distance of 100.00 feet to said monumented West Line; thence North 0 degrees 08 minutes 15 seconds West along said monumented West Line and then Northerly extension thereof, a distance of 622.56 feet to a point 17.13 feet South of the North Line of the Northeast Quarter of said Section 14; thence South 89 degrees 45 minutes 45 seconds West parallel with said North Line, a distance of 1483.95 feet to the beginning of a curve; thence Westerly to Southerly on a line curved to the left, having a radius of 92.00 feet, a central angle of 89 degrees 37 minutes 15 seconds, a chord bearing of South 44 degrees 45 minutes 33 seconds West and an arc distance of 143.90 feet to the termination of said curve; thence South 0 degrees 03 minutes 05 seconds East, a distance of 1417.17 feet; thence North 89 degrees 43 minutes 51 seconds East parallel with the South line of said Northeast Quarter, a distance of 1577.59 feet to the Point of Beginning, excepting therefrom the following tract, which contains 2,000 acres, more or less, and is described as follows: Part of the Northeast Quarter of Section 14, Township 40 North, Range 1 East of the Third Principal Meridian, bounded and described as follows:

Commencing at the Southwest Corner of the Northeast Quarter of said Section 14; thence North 89 degrees 43 minutes 51 seconds East along the South Line of said Northeast Quarter, a distance of 688.75 feet to the East Line of the Flagg Park District Bicycle Path; thence North 0 degrees 22 minutes 50 seconds East along said East Line, a distance of 228.51 feet to the beginning of a Curve thence Northwesterly along said East Line, said line being curved to the left, having a radius of 258.00 feet, a chord bearing of North 2 degrees 45 minutes 24 seconds West, a central angle of 6 degrees 16 minutes 29 seconds and an arc distance of 28.25 feet to the termination of said curve; thence North 5 degrees 53 minutes 38 seconds West along said East Line, distance of 105.02 feet to the beginning of a curve; thence Northwesterly along said East Line, said line being curved to the right, having a radius of 242.00 feet, a chord bearing of North 2 degrees 58 minutes 21 seconds West, a central angle of 5 degrees 50 minutes 34 seconds and an arc distance of 24.68 feet to the termination of said curve; thence North 0 degrees 03 minutes 05 seconds West along said East Line, a distance of 2137.97 feet to the Point of Beginning of the hereinafter, described parcel of land; thence continuing North 0 degrees 03 minutes 05 seconds West along said East Line, a distance of 108.61 feet to the beginning of a curve; thence Northeasterly along said East Line, said line being curved to the right, having a radius of 92.00 feet, a chord bearing of North 44 degrees 45 minutes 33 seconds East, a central angle of 89 degrees 37 minutes 15 seconds and an arc distance of 143.90 feet to the termination of said curve; thence North 89 degrees 34 minutes 11 seconds East along the South Line of said Flagg Park District Bicycle Path, a distance of 352.49 feet; thence South 0 degrees 25 minutes 49 seconds East perpendicular to the last described course, a distance of 200.00 feet; thence South 89 degrees 34 minutes 11 seconds West parallel with said South Line, a distance of 445.21 feet to the Point of Beginning with said parcel, after deducting aforesaid exception; contains 52.237 acres, more or less, and is subject to all easements, agreements, county codes and/or ordinances of record, if any, all situated in the Township of Flagg, the County of Ogle, and the State of Illinois.

ALSO,
A 30 foot wide temporary construction easement lying south of and adjacent to the above described permanent easement.



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SCALE: 1"=150'
0' 75' 150' 225'

WILLET HOFMANN ASSOCIATES, INC.
PROFESSIONAL ARCHITECTURE AND SURVEYING
809 EAST 2ND STREET, DUNGEN, IL 61021-0867
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ROCHELLE, ILLINOIS
OGLE COUNTY

Pin: 24-14-201-003 UTILITY EASEMENT

EXHIBIT A

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