

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:
Fehr Graham
515 Lincoln Highway
Rochelle, IL 61068

PERMANENT UTILITY EASEMENT AGREEMENT

This Permanent Utility Easement Agreement (this “Agreement”) is effective as of the ____ day of _____, 2019 (“Effective Date”), by and between Residential Alternatives of Illinois, Inc. (“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 24-14-100-019, Rochelle, Ogle County, Illinois and legally described as Lot 6 of Manor Court of Rochelle Illinois (“Grantor’s Property”); and

WHEREAS, Grantee is the owner and operator of the Rochelle Municipal Utility, which owns and operates various public utility systems; and

WHEREAS, as part of the site development improvements, Grantor has installed a water main and fire hydrant (“Water Mains”) connected to the Grantee’s public water main; 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 permanent utility easement in and along Grantor's Property for the Water 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 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 Mains.

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

3. TERM OF EASEMENTS.

3.1 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 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 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 Main or restoring any of the Easement Area after such installation.

5. 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.

6. **COMPLIANCE WITH LAWS.** Grantee shall construct and install the Water 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.
7. **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.
8. **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.
9. **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:

Residential Alternatives of Illinois, Inc.
285 S. Farnham St.
Galesburg, IL 61401

All notices to Grantee shall be sent to:

City of Rochelle
420 North 6th St.
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@pjmchicago.com

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

11. 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.

12. 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.

13. 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.

14. 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.

15. 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]

GRANTEE:

City of Rochelle, an Illinois municipal corporation

By: _____
Jeff Fiegenschuh, 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 Jeff Fiegenschuh 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 _____, 2019

Notary Public

Printed Name of Notary

My Commission Expires:

Exhibit A

