
THE CITY OF ROCHELLE
Ogle County, Illinois

RESOLUTION
NO. _____

**A RESOLUTION APPROVING A CONTRACT OPERATOR SERVICES
AGREEMENT**

JOHN BEARROWS, Mayor
SUE MESSER, City Clerk

TOM McDERMOTT
BIL HAYES
KATE SHAW-DICKEY
DAN McDERMOTT
JOHN GRUBEN
DON BURKE
City Council

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
Peterson, Johnson, and Murray Chicago, LLC, City Attorneys
200 W. Adams, Suite 2125, Chicago, IL 60606

CITY OF ROCHELLE
Ogle County, Illinois

RESOLUTION NO. _____
Date Passed: November 9, 2020

**A RESOLUTION APPROVING A CONTRACT OPERATOR SERVICES
AGREEMENT**

WHEREAS, Section 7 of Article VII of the 1970 Constitution of the State of Illinois provides that a municipality that is not a home rule unit shall only have the powers granted to them by law and as such the City of Rochelle, Ogle County, Illinois being a non-home rule unit pursuant to the provisions of said Section 7 of Article VII, and may exercise only the powers expressly granted by law; and

WHEREAS, the Illinois General Assembly granted non-home rule municipalities broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities.” 65 ILCS 5/1-2-1; and

WHEREAS, while “non-home rule municipalities have the authority to enact ordinances, such ordinances may in no event conflict with state law or prohibit what a state statute expressly permits . . . A local ordinance may impose more rigorous or definite regulations in addition to those enacted by the state legislature so long as they do not conflict with the statute.” (*Village of Wauconda v. Hutton*, 291 Ill. App. 3d 1058, 1060 (1997)); and

WHEREAS, the City of Rochelle (“City”) owns the City of Rochelle Railroad (“CIR”), a common carrier with trackage and related appurtenances that connects with trackage owned and operated by BNSF Railway Company (“BNSF”) and Union Pacific Railroad Company (“UP”) (collectively referred to as “Connecting Carriers”); and

WHEREAS, the City and Burlington Junction Railway, Inc. (“BJRY”) previously entered into a contract regarding the performance of rail switching services which terminates on December 31, 2020; and

WHEREAS, the City and BJRY negotiated and now desire to enter into a new Contract Operator Services Agreement (the “Agreement”) providing for switching services as well as other services designed to improve and expand the rail and related services available to customers located on or using the CIR rail lines; and

WHEREAS, it has been determined by the Corporate Authorities of the City of Rochelle that it is in the best interest of the City and its residents to approve said Agreement; and

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council of the City of Rochelle, Ogle County, Illinois, as follows:

SECTION ONE: The foregoing recitals shall be, and are hereby, incorporated into and made a part of this Resolution as if fully set forth in this Section One.

SECTION TWO: That the Mayor and City Council of the City of Rochelle hereby approve said the Contract Operator Services Agreement, attached hereto as **Exhibit A**, and the City Manager is hereby authorized to execute said Agreement and any ancillary documents necessary to memorialize said Agreement, subject to review and revision as to form by the City Attorney.

SECTION THREE: If any provision of this Resolution or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Resolution is severable.

SECTION FOUR: Where the conditions imposed by any provisions of this Resolution are more restrictive than comparable provisions imposed by Resolution in any other local law, ordinance, resolution, rule or regulation, the regulations of this Resolution will govern.

SECTION FIVE: The City Clerk shall publish this Resolution in pamphlet form.

SECTION SIX: This Resolution shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 9th day of November, 2020.

AYES:

NAYS:

ABSENT:

APPROVED THIS 9th day of November, 2020.

MAYOR

ATTEST:

CITY CLERK

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

CERTIFICATE

I, _____, City Clerk of the City of Rochelle, County of Ogle and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. _____, “A RESOLUTION APPROVING A CONTRACT OPERATOR SERVICES AGREEMENT” which was adopted by the Mayor and City Council of the City of Rochelle on November 9, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this 9th day of November, 2020..

CITY CLERK