

TEMPORARY CONSTRUCTION EASEMENT
101 W. Illinois Avenue, Aurora, IL

This Agreement is entered into this _____ day of _____, 2023 by and between Fox Valley Park District (Grantor), and the City of Aurora, an Illinois Municipal Corporation (Grantee).

WITNESSETH

WHEREAS, the street address of the Grantor's property is commonly known as 101 W. Illinois Avenue, Aurora, Illinois 60506; and

WHEREAS, the City requests permission to construct a new water main to said property and connect to the existing water service, and

WHEREAS, the parties acknowledge that the replacement and looping of the existing water main will have a positive impact to the Grantor's property.

NOW, THEREFORE, the parties hereto agree as follows:

Grantor grants to Grantee, and Grantee's employees, agents, and independent contractors, a temporary construction easement over, along, upon, across and under the Subject Property as depicted on the attached Plat of Easement Exhibit A, subject to the following terms and conditions.

1. The existing water main serving 101 W. Illinois Avenue has a history of breaks and requires replacement.
2. The residents on Orchard Avenue have complained about the water quality being supplied from the water main that currently dead ends at 827 Orchard Avenue. The proposed water main extension will provide a looped water main improving the water quality on Orchard Avenue.
3. All proposed improvements shall be installed and paid as described in the intergovernmental agreement to be concurrently approved.
4. All construction related debris and material generated by the water main improvements shall be removed from 101 W. Illinois Avenue.
5. Following completion of the water main improvements, the areas occupied by the temporary construction easement area shall be restored to the condition it was in, or as closely as reasonably possible to such condition, in a timely manner.
6. Grantee shall indemnify and hold Grantor harmless from and against all claims, injuries, suits, damages, costs, losses, and reasonable expenses and reasonable attorney's fees resulting from or arising out of the water main improvements on the

Subject Property pursuant to this Agreement. Grantee shall provide Grantor with a Certificate of Insurance for all its Contractors naming Grantor as additional insured.

7. This grant of temporary construction easement is made and executed by the Grantor subject to any and all existing easements and covenants, conditions and restrictions of record on the Subject Property.
8. The temporary construction easement hereby granted shall be for the purpose of installing a new water main to the 101 W. Illinois Avenue property and properly abandoning the existing water main located on the property.
9. The laws of the State of Illinois shall govern the validity, performance and enforcement of this Agreement. Enforcement shall be by an appropriate action or actions to secure the specific performance of this Agreement, or to secure any and all other remedies available at law or in equity in connection with the covenants, agreement, conditions, and obligations contained herein. Venue for any action shall be the Circuit Court of Kane County, Illinois.
10. The failure of the parties to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.
11. This Agreement supersedes all prior agreement and negotiations between the parties and sets forth all promises, inducements, agreements, conditions, and understanding between and among the parties relative to the subject matter hereof. There are no promises, agreements, conditions, or understanding, either oral or written, expressed or implied, between or among them, other than are herein set forth.
12. Except as herein otherwise provided, no subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the parties unless reduced to writing and signed by them or their successor in interest or their assigns.
13. Should any provision of this Agreement or application thereof to any party or circumstance be held invalid and such invalidity does not affect other provisions or applications of this Agreement which can be given effect without the invalid application or provision, then all remaining provisions shall remain in full force and effect.
14. All notices, elections and other communications between the parties hereto shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, or delivered personally, to the parties at the following addresses, or at such other address as the parties may, by notice, designate:

If to the Grantee:

City of Aurora
77 S. Broadway Avenue
Aurora, IL 60507
Attn: Kurt Muth, Engineering Division

If to the Grantor:

Fox Valley Park District
101 W. Illinois Avenue
Aurora, Illinois 60506

Notices shall be deemed received on the third business day following deposit in the U.S. Mail, if given by certified mail as aforesaid, and upon receipt, if personally delivered.

15. This Agreement, including all the covenants and conditions herein contained, shall be construed as creating a right of way and easement appurtenant to property owned by the Grantor, and shall extend to, be binding upon and inure to the benefit of the heirs, executors, administrators, successors in title, agents and assigns of the Grantor and Grantee respectively. Upon any sale, assignment or transfer of any real estate encumbered by this Easement in favor of Grantee, the transferor of the real estate shall be relieved of all duties and obligations from and after such transfer and the transferee of such real estate shall upon completion of such transfer be subject to the terms and provisions of this Agreement and shall be responsible for all duties and obligations hereunder. All rights granted to the Grantee via this document shall be temporary and shall expire upon completion of the installation of said improvements and surface restoration.

16. Either party may record the Agreement against title to the Subject Property.

By execution of this instrument through its authorized representatives the City of Aurora, Illinois acknowledges and accepts the grant of temporary easement for the purposes and on the terms and conditions set forth in this instrument.

IN WITNESS WHEREOF, the undersigned have executed this Agreement the ___ day of _____ 2023.

GRANTOR:

FOX VALLEY PARK DISTRICT

Executive Director

ACKNOWLEDGMENT

STATE OF ILLINOIS)
)SS
COUNTY OF _____)

I, _____, a Notary Public in and for said County in the State aforesaid,
DO HEREBY CERTIFY that _____, Executive Director of the Fox Valley
Park District, personally known to me to be the same person whose name is subscribed to the
foregoing instrument as such Executive Director appeared before me this day in person and
acknowledged that they signed and delivered said instrument as their own free and voluntary
act as such Executive Director for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2023.

Notary Public

GRANTEE:

CITY OF AURORA

City Engineer

ATTEST: _____
Clerk

(SEAL)

ACKNOWLEDGMENT

State of Illinois)
)ss
County of Kane)

I, _____, a notary public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT _____ City Engineer of Aurora, and _____, Clerk of City of Aurora, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such City Engineer and City Clerk appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act as such City Engineer and City Clerk for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2023.

Notary Public