



AGENDA ITEM EXECUTIVE SUMMARY

Title: Recommendation to Approve Public Water Main and Temporary Construction Easements with the Q Center

Presenter: John Lamb

Please check appropriate box:

<input type="checkbox"/>	Government Operations	<input checked="" type="checkbox"/>	Government Services 01.26.15
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council

Estimated Cost:	N/A	Budgeted:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
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If NO, please explain how item will be funded:

Executive Summary:

The new 5th Avenue Water Main Project involves access and construction on the Q Center property to connect with the existing water main on their premises. In order to address liability issues and provide the City access to service the new main, a Temporary Construction Easement and Public Water Main Easement have been written.

These documents have been reviewed by City staff and the City attorney as well as Q Center representatives and their attorney.

Attachments: *(please list)*

Public Water Main Easement
Temporary Construction Easement

Recommendation / Suggested Action *(briefly explain):*

Recommendation to Approve Public Water Main Temporary Construction Easements with the Q Center and a Resolution Authorizing the Mayor and Clerk to execute the same.

For office use only

Agenda Item Number: 4.h

City of St. Charles, Illinois Public Water Main Easement

THIS IDENTURE, made
in the City of St. Charles,
State of Illinois, by and
Between _____ Q Center, LLC _____

(hereinafter referred to as "GRANTOR") and the City of St. Charles, a Municipal Corporation, organized and existing under the law of the State of Illinois, of Kane and DuPage Counties, Illinois (hereinafter referred to as "CITY").

WITNESSETH: That the GRANTOR in consideration of the sum of One (\$1.00) Dollar and other good and valuable consideration paid to him by the CITY, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and give to the CITY a permanent easement over, upon, under, and through the area as shown in Exhibit "A" for the privilege and authority to construct, reconstruct, repair, remove, inspect, and maintain water mains, valves, vaults, valve boxes, hydrants, service valves, and without limitation, such other installations as may be required to furnish public water service to adjacent areas as deemed necessary by the CITY, together with right of access across the property, for necessary men and equipment to do any of the above work. Locations of utility installation within the easement shall be subject to the approval of the CITY, as to design and location. All installations are subject to the ordinances of the CITY.

The right is also granted to the CITY to enter the property for all such purposes, and the right without liability to cut, trim, alter, or remove any vegetation, roots, structures or devices within the designated easement property as may be reasonably required incident to the right herein given.

Release of Claims; Indemnity. CITY assumes sole and entire responsibility for loss of life, injury to persons, or damage to property that may be sustained directly or indirectly due to the activities related to or operation the water main or use of the easement premises (including, any such loss, injury or damage due to the construction, maintenance, restoration, operation replacement or repair of the water main or any improvements thereto) by CITY, its agents, employees and contractors, and for those claiming through any of them (collectively the "CITY Group"). CITY for itself and for those claiming through CITY, hereby releases Grantor, its officers, directors, partners, members, employees, agents, licensees, contractors, guests and invitees (and their respective officers, directors, partners, employees, agents, licensees, contractors, guests and invitees, subsidiaries, affiliates, successors, grantees, and assigns) (collectively the "Grantor Indemnitees") from any liability, loss, claims, demands, liens, damages, and expenses (including, reasonable attorneys' fees incurred by the CITY Group in connection therewith) and for damage, destruction that may arise from operations on, or the use of, the easement premises by the City (including, without limitation, any such liability, loss, claims, demands, liens, damages, and expenses that may arise as a result of the construction,

maintenance, restoration, operation, replacement, or repair of the water main or any improvements thereto) by CITY Group. CITY hereby agrees to indemnify, defend, and hold harmless the Grantor Indemnitees from and against any and all liability, loss, claims, demands, liens, damages, and expenses (including, without limitation, reasonable attorneys' fees and litigation costs incurred by the Grantor Indemnitees in connection therewith) and for any and all loss of life, injury to persons or damage to property which is directly or indirectly due to the activities, operations or use of the easement premises by the City (including, without limitation, any such loss, injury, or damage due to the construction, maintenance, restoration, operation, replacement, or repair of the water main or any improvements thereto) by the CITY Group.

Without prior written consent of the CITY no buildings, structures, or other obstruction shall be constructed, planted, or placed in any such easement area, nor shall any other uses be made thereof which will interfere with the easement reserved and granted hereby.

LEGAL DESCRIPTION

Easement premises are legally described as follows:

A public water main easement in part of Section 22, Township 40 North, Range 8 East of the Third Principal Meridian which is 10 feet in width either side of a line, as measured perpendicular thereto, described as follows: Commencing at the northwest corner of Lot 9, Delnor Park, Country Club Addition No. 1; thence westerly along the westerly extension of the north line of said lot 9, 34.10 feet to the center line of Illinois State Route No. 25; thence northerly along said center line, being a curve to the left having a radius of 2292.01 feet, 206.06 feet, having a chord distance of 205.99 feet and having a chord bearing of North 12 degrees 38 minutes 58 seconds East, to the Point of Beginning; thence North 81 degrees 36 minutes 51 seconds West, 162.70 feet; thence North 45 degrees 28 minutes 37 seconds West to the easterly line of a public utility easement granted per Document 90K02779 as amended by Document 92K028925 for the terminus of said line, excepting that part within the right of way of said Illinois State Route No. 25, in the City of St. Charles, Kane County, Illinois.

The GRANTOR hereby retains the right to enjoy said easement and right-of-way for its own purposes, provided that such purposes shall not interfere with the uses and right-of-way granted to the CITY. All construction by the CITY shall be done in a good, workmanlike manner, and the CITY agrees that the premises will be left in a neat and presentable condition.

WITNESS our hands and seals this _____ day of _____, 2014.

PROPERTY OWNER(S)

PROPERTY OWNER(S)

STATE OF ILLINOIS)
)
COUNTY OF KANE) SS

I, _____, A Notary Public, in and for said County and State, DO
HEREBY CERTIFY THAT _____

_____ personally known to me to be the same person(s) whose name(s) subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notaries seal this _____ day of _____, 2014.

SEAL

NOTARY PUBLIC

City of St. Charles, Illinois

Temporary Construction Easement

THIS IDENTURE, made
in the City of St. Charles,
State of Illinois, by and
Between _____ Q Center, LLC _____

_____ (hereinafter referred to as "GRANTOR") and the City of St. Charles, a Municipal Corporation, organized and existing under the law of the State of Illinois, of Kane and DuPage Counties, Illinois (hereinafter referred to as "CITY").

WITNESSETH: That the GRANTOR in consideration of the sum of One (\$1.00) Dollar and other good and valuable consideration paid to him by the CITY, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and give to the CITY a temporary construction easement for the purpose of water main construction, on, over and through the following described real estate:

LEGAL DESCRIPTION

A temporary construction easement in part of Section 22, Township 40 North, Range 8 East of the Third Principal Meridian which is 35 feet in width, parallel to and southerly of a line, as measured perpendicular thereto, described as follows: Commencing at the northwest corner of Lot 9, Delnor Park, Country Club Addition No. 1; thence westerly along the westerly extension of the north line of said lot 9, 34.10 feet to the center line of Illinois State Route No. 25; thence northerly along said center line, being a curve to the left having a radius of 2292.01 feet, 206.06 feet, having a chord distance of 205.99 feet and having a chord bearing of North 12 degrees 38 minutes 58 seconds East, to the Point of Beginning; thence North 81 degrees 36 minutes 51 seconds West, 162.70 feet; thence North 45 degrees 28 minutes 37 seconds West to the easterly line of a public utility easement granted per Document 90K02779 as amended by Document 92K028925 for the terminus of said line, excepting that part within the right of way of said Illinois State Route No. 25, and excepting that part which is 10 feet in width, parallel to and southerly of the described line, as measured perpendicular thereto, in the City of St. Charles, Kane County, Illinois.

The above referenced real estate and improvements located thereon are herein referred to as the "premises."

The right, easement and privilege granted herein shall terminate one year from the execution of this document, or on the completion of the proposed project, whichever is the sooner.

Release of Claims; Indemnity. CITY assumes sole and entire responsibility for loss of life, injury to persons, or damage to property that may be sustained directly or indirectly due to the activities related to or operation the water main or use of the easement premises (including, any such loss, injury or damage due to the construction, maintenance, restoration, operation replacement or repair of the water main or any improvements thereto) by CITY, its agents, employees and contractors, and for those claiming through any of them (collectively the "CITY Group"). CITY for itself and for those claiming through CITY, hereby releases Grantor, its officers, directors, partners, members, employees, agents, licensees, contractors, guests and invitees (and their respective officers, directors, partners, employees, agents, licensees, contractors, guests and invitees, subsidiaries, affiliates, successors, grantees, and assigns) (collectively the "Grantor Indemnitees") from any liability, loss, claims, demands, liens, damages, and expenses (including, reasonable attorneys' fees incurred by the CITY Group in connection therewith) and for damage, destruction that may arise from operations on, or the use of, the easement premises by the City (including, without limitation, any such liability, loss, claims, demands, liens, damages, and expenses that may arise as a result of the construction, maintenance, restoration, operation, replacement, or repair of the water main or any improvements thereto) by CITY Group. CITY hereby agrees to indemnify, defend, and hold harmless the Grantor Indemnitees from and against any and all liability, loss, claims, demands, liens, damages, and expenses (including, without limitation, reasonable attorneys' fees and litigation costs incurred by the Grantor Indemnitees in connection therewith)and for any and all loss of life, injury to persons or damage to property which is directly or indirectly due to the activities, operations or use of the easement premises by the City (including, without limitation, any such loss, injury, or damage due to the construction, maintenance, restoration, operation, replacement, or repair of the water main or any improvements thereto) by the CITY Group.

The GRANTOR shall have and retain all right to use and occupy the premises and access to GRANTOR's remaining property, except as herein expressly granted; provided, however, that GRANTOR's use and occupation of the premises may not interfere with CITY's use of the premises for the purposes herein described.

The GRANTOR, without limiting the interest above granted and conveyed, acknowledges that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including without limitation, any diminution in value to any remaining property of the GRANTOR caused by the opening, improving and using the premises for the purpose of water main construction. This acknowledgment does not waive any claim for trespass or negligence against the CITY or CITY's agents which may cause damage to the GRANTOR's remaining property.

This grant shall constitute a covenant, which runs with the land, and shall be binding upon the legal representatives, successors and assigns of the GRANTOR.

WITNESS our hands and seals this _____ day of _____, 2014.

PROPERTY OWNER(S)

PROPERTY OWNER(S)

STATE OF ILLINOIS)
)
COUNTY OF KANE) SS

I, _____, A Notary Public, in and for said County and State, DO

HEREBY CERTIFY THAT _____

personally known to me to be the same person(s) whose name(s) subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notaries seal this _____ day of _____, 2014.

SEAL

NOTARY PUBLIC