

RESOLUTION R-35-17

A RESOLUTION APPROVING A
UTILITY EASEMENT GRANT
(Hoy Avenue)

WHEREAS, the City of Wheaton and the Forest Preserve District of DuPage County have entered into an intergovernmental agreement dated September 19, 2016 providing for the extension of city water supply improvements and the provision of city water to St. James Farm, a District preserve located in unincorporated Winfield Township, DuPage County; and

WHEREAS, said agreement conditions the installation of the water main system along Hoy Road, a Winfield Township highway, subject to the granting of a perpetual easement to the benefit of the City for construction and maintenance of the water main system.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the utility easement grant along Hoy Road from the Winfield Township Road District to the City of Wheaton is hereby approved, and the Mayor is hereby authorized to sign, and the City Clerk is authorized and directed to attest, this resolution of acceptance and the Utility Easement Grant incorporated herein as Exhibit A.

ADOPTED this 1st day of May, 2017.



Michael Gresk
Mayor

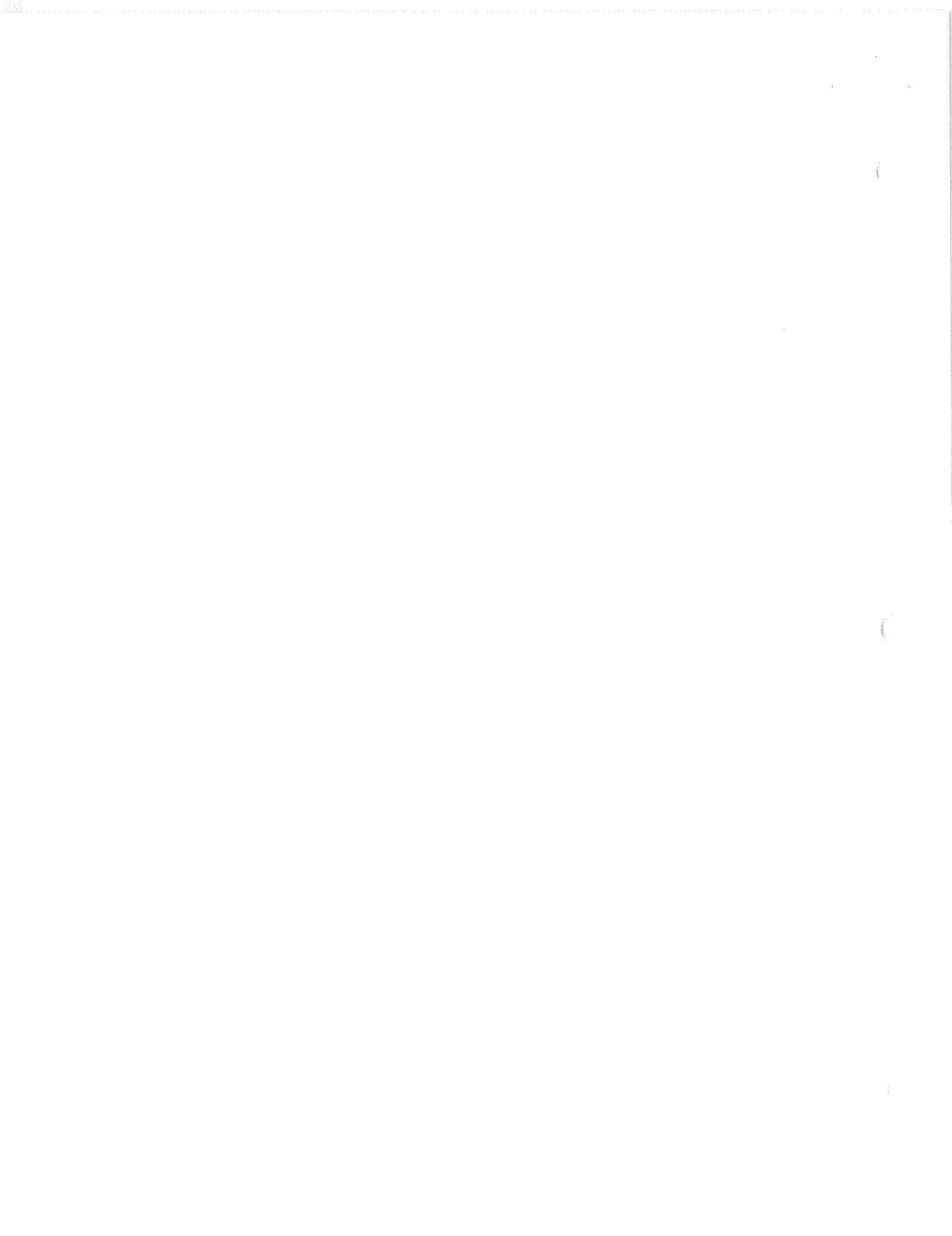
ATTEST:



Alan Bennett Hoyer
City Clerk

Ayes:	<u>Roll Call Vote</u> Councilman Suess Councilman Barbier Councilwoman Fitch Councilman Prendiville Mayor Gresk Councilman Rutledge Councilman Scalzo
Nays:	None
Absent:	None

Motion carried Unanimously



Prepared by and return to:

City of Wheaton
C/O City Manager
303 W. Wesley Street
Wheaton, IL 60187

UTILITY EASEMENT

THIS INDENTURE, is made and entered into this 2nd day of May, 2017 by and between the Winfield Township Road District, DuPage County, Illinois, a Municipal Corporation, hereinafter "GRANTOR", and the City of Wheaton, Illinois, an Illinois Home Rule Municipality, hereinafter "GRANTEE".

WITNESSETH:

WHEREAS, GRANTOR owns or controls certain public road right-of-way known as Hoy Avenue, located North of Butterfield Road and West of Wiesbrook Road in Winfield Township, Illinois; and

WHEREAS, GRANTOR has authorized the installation of a water main system within that portion of Hoy Avenue legally described in the attached **Exhibit "A"** and depicted in the attached **Exhibit "B"** (hereinafter "Easement Premises"); and

WHEREAS, GRANTEE has agreed to supply water to the watermain subject to the conditions that the Forest Preserve District of DuPage County deed the watermain to the GRANTEE pursuant to an Intergovernmental Agreement with the Forest Preserve District of DuPage County, Illinois and subject to the condition GRANTOR grant the GRANTEE a perpetual easement for the watermain in accordance with the terms of this easement; and

WHEREAS, GRANTOR is amenable to conveying to GRANTEE a perpetual, non-exclusive easement on, under, and through the Easement Premises in exchange for the consideration herein and subject to the terms of this Agreement; and

NOW THEREFORE, in consideration of the payment of Ten Dollars (\$10.00), the adequacy and receipt of which is hereby acknowledged, and in consideration of certain additional undertakings of GRANTEE, as hereinafter set forth, GRANTOR hereby agrees as follows:

1. **Grant of Easement.** GRANTOR does hereby grant, bargain, sell, convey and warrant to the GRANTEE, its successors, agents and assigns, a perpetual easement on, under and through the Easement Premises, for the purpose of conveying, carrying or transmitting potable water on, under or through the Easement with the right, privilege and authority in said GRANTEE, its successors, agents and assigns, lessees and tenants, to design, engineer, construct, locate, lay, maintain, operate, inspect, alter, improve, repair, make service connections, remove, and rebuild pipes, mains, conduits, equipment and accessories (hereinafter "Water Main

System") and relocate the Water Main System within the Easement Premises, as is necessary and/or desirable in connection therewith.

2. Non-exclusive Grant. The easement hereby granted is non-exclusive and is made subject to all easements, conditions, and restrictions, reservations and other matters of public record, and shall in no way restrict the right or interest of GRANTOR, its successors and/or assigns in the use and quiet enjoyment of the Easement Premises to the extent that such use does not unreasonably interfere with the easement and related rights granted herein to GRANTEE.
3. Use and Maintenance. The GRANTEE, or its successors and assigns, shall have the right to clear and keep clear from the Easement Premises all trees, undergrowth and other obstructions that may unreasonably interfere with the normal operations or maintenance of the water main system being operated and maintained by the GRANTEE, or its successors or assigns. It shall be the sole duty and obligation of the GRANTEE to construct, repair, maintain and operate the facilities at its cost and expense; and, in the event of any construction activity or damage to the Easement Premises or the improvements located thereon by the GRANTEE or its agents, invitees, employees, contractors, successors and assigns, GRANTEE shall, at its sole cost and expense, restore that portion of the Easement Premises and improvements which are subject to construction or damage to the condition existing prior to the occurrence of such construction or damage.
4. Authority of GRANTOR to Grant Easement. GRANTOR covenants that it has the right to grant the approvals, privileges and easement stated herein, and further covenants that GRANTEE shall have quiet and peaceful possession, use and enjoyment of said easement.

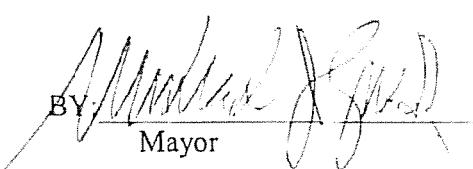
IN WITNESS WHEREOF, GRANTOR has caused this instrument to be executed in its name by the proper officers thereunto duly authorized on the day and year first above written.

WINFIELD TOWNSHIP ROAD DISTRICT

BY: 
John S. Dugay
Highway Commissioner

ATTEST: 
Jeff D. Bur
Road District Clerk

CITY OF WHEATON

BY: 
Michael J. Kilk
Mayor

ATTEST: 
Helen Danicich
City Clerk

LEGAL DESCRIPTION

ALL OF HOY AVENUE LYING BETWEEN THE WEST LINE OF THE SOUTHEAST 1/4 OF SECTION 25,
TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN AND THE
CENTERLINE OF WIESBROOK ROAD, EXCEPT THE NORTH 41 FEET OF HOY AVENUE, IN WINFIELD
TOWNSHIP, DUPAGE COUNTY, ILLINOIS.

HOY AVENUE UTILITY EASEMENT

