

RESOLUTION R-104-17

A RESOLUTION APPROVING A
SANITARY SEWER EASEMENT GRANT
(Warrenville Avenue)

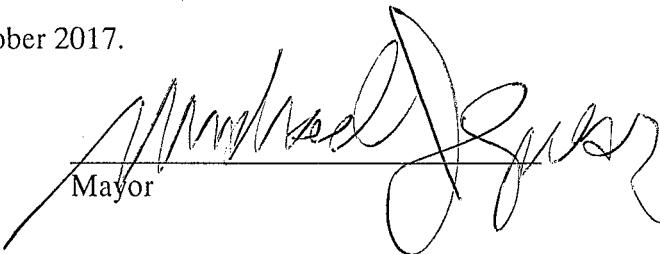
WHEREAS, the Wheaton Sanitary District proposes the construction of a sanitary sewer extension along Warrenville Avenue from Shaffner Road to the St James Farm Forest Preserve to provide sanitary sewer service to St James Farm and other properties along Warrenville Avenue located in unincorporated Winfield Township, DuPage County; and

WHEREAS, the City of Wheaton owns the Warrenville Avenue right-of-way from Shaffner Road to Center Street where the sanitary sewer is proposed to be located; and

WHEREAS, the City has agreed to grant an easement along said Warrenville Avenue right-of-way for the purpose of the Wheaton Sanitary District constructing, operating, and maintaining the Warrenville Avenue sanitary sewer.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the sanitary sewer easement grant along Warrenville Avenue for the Wheaton Sanitary District Warrenville Avenue Sanitary Sewer Extension project is hereby approved, and the Mayor is hereby authorized to sign, and the City Clerk is authorized and directed to attest, this resolution and the Sanitary Sewer Easement Grant incorporated herein as Exhibit A.

ADOPTED this 2nd day of October 2017.


Mayor

ATTEST:


Shawn Bennett Hagen
City Clerk

Roll Call Vote

Ayes: Councilman Prendiville
Mayor Gresk
Councilman Scalzo
Councilman Suess
Councilman Barbier

Nays: None
Absent: Councilwoman Fitch
Councilman Rutledge

Motion Carried Unanimously

Prepared by and return to:

Stephen R. Maney, P.E.
Executive Director
Wheaton Sanitary District
1S649 Shaffner Road
P.O. Box 626
Wheaton, IL 60187-0626

Sanitary Sewer Easement
City of Wheaton, Grantor
Wheaton Sanitary District, Grantee
Project: Warrenville Avenue Sanitary Sewer Extension

This Sanitary Sewer Easement is effective October 2, 2017 by and between the City of Wheaton, DuPage County, Illinois, a Municipal Corporation, Grantor (the City), and the Wheaton Sanitary District, DuPage County, Illinois, a Municipal Corporation, Grantee (the District).

Recitals

WHEREAS, the District has a long term goal of providing sanitary sewer service to the area east of St. James Forest Preserve, south of Springbrook Creek, west of Shaffner Road, and north of Butterfield Road; and

WHEREAS, the City owns or controls a public road right-of-way known as Warrenville Avenue located east of Center Avenue and west of Shaffner Road in the City of Wheaton, Illinois (the ROW); and

WHEREAS, the District has agreed to supply sanitary sewer services to St. James Forest Preserve pursuant to an Intergovernmental Agreement with the Forest Preserve District of DuPage County, Illinois, subject to the condition that the City grants the District a perpetual easement for the sanitary sewer in accordance with the terms of this Easement; and

WHEREAS, the City is amenable to conveying to the District a perpetual, non-exclusive sanitary sewer easement on, under, and through the ROW in exchange for the consideration herein and subject to the terms of this Easement.

Grant of Easement

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 the District, as hereinafter set forth, the City and the District agree as follows:

1. Grant of Easement. The City hereby grants, bargains, sells, conveys and warrants to the District, its successors, agents and assigns, a temporary construction easement to allow for the engineering, design, preparation work for, installation and testing of the sanitary sewer improvements described herein and a perpetual easement, legally described in paragraph 4 and depicted on Exhibit 1 attached hereto and incorporated herein as fully set forth, (the Easement) on, under and through the ROW for the purpose of conveying, carrying or transmitting sanitary sewer wastewater on, under or through pipes and conduits installed in the ROW with the right, privilege and authority in the District, 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 and relocate the sanitary sewer within the ROW, as is necessary and/or desirable. All work shall be in compliance with the engineering plans prepared by Rempe-Sharpe Consulting Engineers of Geneva, Illinois dated August 22, 2017 attached hereto by reference and incorporated herein as fully set forth as Exhibit 2.

2. Non-exclusive Grant. The Easement 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 or interfere with the right or interest of the City, its successors and/or assigns, in the use and quiet enjoyment of the ROW and any and all City Utilities of previously granted easements. Subject the foregoing rights of priority the City shall not unreasonably interfere with the Easement and related rights granted herein to the District.

3. Use and Maintenance. Subject to all terms and conditions of this grant of easement the District, its successors and assigns, shall have the right to clear and keep clear from the ROW all trees, undergrowth and other obstructions that may unreasonably interfere with the normal operations or maintenance of the sanitary sewer being operated and maintained by the District, or its successors or assigns. It shall be the sole duty and obligation of the District to construct, repair, maintain and operate the sanitary sewer its cost and expense. In the event of any construction activity or damage to the ROW or the improvements located thereon by the District or its agents, invitees, employees, contractors, successors and assigns, the District shall, at its sole cost and expense, restore that portion of the ROW and improvements which are subject to construction or damage to the condition existing prior to the occurrence of such construction or damage.

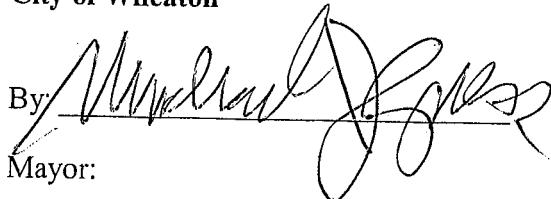
4. Hold Harmless and Indemnification. To the fullest extent permitted by law, the District shall defend and hold harmless, the City, its elected and appointed officials, employees, agents successors and assigns from any and all claims, actions, causes of action, damages, injuries, death, and costs including reasonable attorney's and expert fees, which may arise from or in connection with the negligent or willful acts of the District, any of its employees, successors, assigns, contractors, consultants and subcontractors in exercising any grant, actual or implied, under this easement. There are no third person beneficiaries of this easement and nothing herein shall be interpreted to waive or otherwise compromise their statutory or common law immunities or privileges.

4. Legal Description. All of the Warrenville Avenue right-of-way located in the corporate limits of the City of Wheaton, DuPage County, Illinois, lying between the east line of the Shaffner Road right-of-way extended and the west line of the Center Avenue right-of-way extended, except

the north 41 feet, all in the northeast quarter of Section 25, Township 39 North, Range 9 East of the Third Principal Meridian in Winfield Township, DuPage County, Illinois.

5. Authority of the City to Grant Easement. The City covenants that it has the right to grant the approvals, privileges and easement stated herein, and the District covenants that it has the right to accept the terms and conditions of this easement and has done so by action of its officials. .

City of Wheaton

By: 
Mayor:

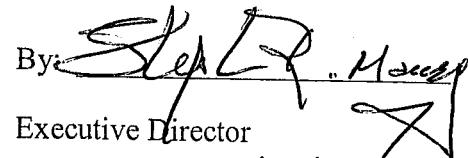
Date signed: 10/3/17

Attest: Aaron Bennett Hagan

City Clerk

Date signed: 10/3/17

Wheaton Sanitary District

By: 
Executive Director

Date signed: 1/29/18

Attest: Diana M. Falter

Assistant District Clerk

Date signed: 01/29/2018

SHAFFNER ROAD

66'

LIMITS

CORPORATE
PATH

AVENUE

ESSEX ROAD

WHEATON

WHEATON
PRAIRIE
OF
WARRENVILLE

CITY

ILLINOIS

25' EASEMENT

WHEATON WARRENVILLE SOUTH HIGH SCHOOL

CENTER AVENUE

66'

REMPPE-SHARPE
CONSULTING ENGINEERS
1324 WEST STATE STREET • GENEVA, ILLINOIS 60134
Telephone (847) 223-4227 • Fax (847) 223-1293

By _____

WHEATON AVENUE SANITARY SEWER EXTENSION
WHEATON SANITARY DISTRICT
SANITARY SEWER EASEMENT

By _____

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