

PREPARED BY & RETURN TO:
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[Above space reserved for recorder]

INTERGOVERNMENTAL EASEMENT AGREEMENT BETWEEN JOLIET PARK DISTRICT AND CITY OF JOLIET

This Intergovernmental Easement Agreement (the "Agreement") made this ____ day of _____, 2024 ("Effective Date"), by and between the Joliet Park District, an Illinois park district ("Grantor") and the City of Joliet, an Illinois municipality ("Grantee"). Grantor and Grantee hereinafter may be referred collectively as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, Grantor is the owner of certain real property located at Gougar and Route 30, Joliet, Illinois, commonly referred to as Pilcher Park, as depicted on the Easement Plat dated July 16, 2024, attached as **Exhibit A** to this Agreement (the "Subject Property");

WHEREAS, Section 8-11 of the Illinois Park District Code (70 ILCS 1205/8-11) authorizes the Grantor to grant easements to municipalities, corporations or persons for the construction, operation and maintenance of facilities upon, under or across any Grantor property for various utilities including for storm water or other public services;

WHEREAS, Grantee desires to make certain stormwater and related improvements on the Subject Property in accordance with the approved Plans and Specifications, attached as **Exhibit B** to this Agreement ("Improvements");

WHEREAS, Grantee requires a temporary easement within the Subject Property for the construction and installation of the Improvements and a permanent easement for future use, operation, maintenance and repair of the Improvements;

WHEREAS, Grantor has determined that it is in the public's interest to grant a temporary construction easement on the Subject Property to the Grantee for the Grantee's construction of the Improvements pursuant to the terms of this Agreement;

WHEREAS, Grantor has determined that it is in the public's interest to grant a permanent easement to Grantee on the Subject Property for the use, operation, maintenance and repair of the Improvements pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree that:

1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference as though fully set forth. All exhibits identified in this Agreement are by this reference incorporated into this Agreement and made a part hereof.

2. Grant of Temporary Easement for Construction. Grantor, as the owner of the Subject Property, for itself and its successors in title to all or any portion of the Subject Property, hereby grants and conveys to Grantee, its officers, agents, employees, officials, contractors, and subcontractors a non-exclusive and temporary easement (the "Temporary Construction Easement") on, over, across and through that portion of the Subject Property legally described and depicted on **Exhibit A** ("Temporary Construction Easement Area") in order to construct the Improvements. Grantee's construction and installation of the Improvements, use and access of the Temporary Construction Easement Area for the construction and installation of the Improvements, and all other activities related to construction, installation, and commencement of operation of the Improvements on the Temporary Construction Easement Area are hereinafter referred to as the "Temporary Construction Easement Activity(ies)". This Temporary Construction Easement is a temporary easement and, unless it is extended in writing by the Grantor, shall expire, without any action by any Party, on the earlier of: (a) within thirty (30) days after final completion of construction of the Improvements; or (b) April 30, 2025 ("Temporary Construction Easement Term"). Grantor shall have no responsibility to design, construct, operate or maintain the Improvements.

3. Temporary Construction Easement Activities.

a. Grantee agrees to use due care in the Temporary Construction Easement Activities, so as not to unreasonably disturb Grantor's use of the Subject Property. To the greatest extent practicable, Grantee shall minimize interference with the public's use and enjoyment of the Subject Property during the Temporary Construction Easement Term.

b. Prior to beginning any Temporary Construction Easement Activity, Grantee shall erect a temporary construction fence acceptable to the Grantor around the Temporary Construction Easement Area, to ensure that all Temporary Construction Easement Activities are confined within the designated areas. The fence shall not be removed until all Temporary Construction Easement Activities have been completed. The Grantee shall not permit its construction personnel to be outside of the designated construction areas while engaged in Temporary Construction Easement Activities.

c. Grantee covenants and agrees to properly maintain the Temporary Construction Easement Area and the Subject Property and keep same in good order, free and clear from rubbish. All trees, stumps, and other debris resulting from the Temporary Construction Easement Activities shall be legally disposed of off of the Subject Property by the Grantee.

d. Grantor shall not be responsible for or have control over the construction means, methods, techniques or procedures with respect to Temporary Construction Easement Activities. In no event shall Grantor be responsible for or have any obligation with respect to the safety of any person performing work for, or on behalf of, Grantee on the Temporary Construction Easement Activities, including, without limitation, the Grantee's employees or the personnel of any contractor, subcontractor,

agent or consultant retained by the Grantee. Grantee shall provide Grantor with prior reasonable notice of its intention to commence Temporary Construction Easement Activities.

e. Grantee shall take such measures as are necessary to ensure that the Temporary Construction Easement Area and the Subject Property are maintained in a reasonably safe condition during Temporary Construction Easement Activities. Such measures shall include the installation of appropriate barricades and warning signs, and the strict enforcement of all applicable safety rules and regulations. All Temporary Construction Easement Activities by Grantee or by any contractor, subcontractor, consultant, or other entity hired by Grantee to perform such Temporary Construction Easement Activities shall be performed in a safe and sound manner and in accordance with all applicable federal, state and local laws.

f. Grantee further agrees to cause the Improvements to be: (i) constructed in a good and workmanlike manner; (ii) completed free of defects in workmanship or materials and otherwise in accordance with the Plans and Specifications; and (iii) completed free and clear of liens, claims or encumbrances.

4. Restoration. Upon the earlier of completion of the Temporary Construction Easement Activities, or expiration of the Temporary Construction Easement, the Grantee shall, at its sole cost and expense, restore the Temporary Construction Easement Area to the condition existing immediately prior to the commencement of the Temporary Construction Easement Activities, including but not limited to: (i) replacing any and all topsoil removed by Grantee on any portion of the Temporary Construction Easement Area; (ii) replacing any and all natural grass removed by seeding with a good quality seed on any portion of the Temporary Construction Easement Area; (iii) re-installing any park signage that was removed; (iv) restoring any pavement damaged or removed on any portion of the Temporary Construction Easement Area; (v) replacing any damaged or destroyed park amenity, with a new amenity of the same kind and as approved by the Grantor; (vi) replacing any trees removed with native species, as mutually agreed to by the Parties ; and (vii) restoring any portion of the Subject Property and any other adjacent property damaged or otherwise disturbed in connection with Temporary Construction Easement Activities to the same condition which existed immediately prior to commencing the Temporary Construction Easement Activities in accordance with this Section. With the exception of Section 4(vi) of this Agreement, all restoration shall be completed on or before April 30, 2025 or, if the restoration cannot be reasonably completed on or before April 30, 2025, the period for restoration shall be extended for a reasonable time, as approved by the Grantor, if the Grantee has commenced the restoration work, weather permitting, on or before April 30, 2025 and continues to diligently and in good faith to complete the restoration. The Parties agree that Grantee shall complete the tree restoration as specified in Section 4(vi) this Agreement as part of Grantee's annual tree replacement program in 2025-2026, on days and at times mutually agreed to by the Parties. Grantor shall determine in its sole and reasonable discretion when restoration of the Temporary Construction Easement Area, the Subject Property, and any adjacent property owned by Grantor is complete.

5. Grant of Non-exclusive Permanent Easement. Upon the earlier of Grantee's completion of the Temporary Construction Easement Activities or expiration of the Temporary Construction Easement as provided in Section 2 of this Agreement, Grantor grants to Grantee, and any of Grantee's officers, agents, contractors, sub-contractors, representatives, employees, licensees, successors or assigns, a non-exclusive permanent easement ("Permanent Easement") over, on, and across that portion of the Subject Property as legally described and depicted on **Exhibit A**, consisting of .27 acres, more or less ("Permanent Easement Premises"), for the right, privilege and authority to enter upon the Permanent Easement

Premises from time to time as Grantee, in its reasonable discretion deems necessary, or as otherwise specified pursuant to Section 6 or 7 of this Agreement, in order to use, operate, inspect, repair, replace, construct, and maintain the Improvements (collectively, "Permanent Easement Activity(ies)).

6. Maintenance and Repair. The Grantee shall maintain the Improvements in such a manner so as to ensure that the Improvements remain in good working order and repair at all times and will further ensure that the Improvements comply at all times with applicable federal, state and local law. In the event that the Grantor determines that the Grantee is not in compliance with the terms of this Section 6, the Grantor shall provide the Grantee written notice of said noncompliance. Upon receipt of said notice, the Grantee shall have thirty (30) days to commence the necessary measures to cure said noncompliance. Notwithstanding the above thirty (30) day cure period, the Grantee shall take immediate action to cure said noncompliance in the case of an emergency likely to cause immediate harm, damage or danger to surrounding property or to the public or private health, safety or welfare. In the event that the Grantee fails to commence the necessary measures to cure said noncompliance at the expiration of the periods set forth herein, or otherwise exhibits an unwillingness to cure said non-compliance, the Grantor shall have the right, but not the obligation, to take all steps necessary to bring the Improvements into good working order and repair and to ensure compliance with all applicable federal, state and local laws, and Grantee shall be responsible for all reasonable costs and expenses incurred by the Grantor in connection with same, including reasonable attorneys' fees.

7. Permanent Easement Conditions. The grant of the Permanent Easement and ancillary rights given to Grantee under this Agreement shall be subject to the conditions that:

a. Grantor reserves the right of access to and use of the Permanent Easement Premises in any manner not inconsistent with the rights granted to Grantee under this Agreement, including but not limited to the right to install structures, landscaping, gardens, shrubs, driveways, sidewalks, parking lots, and ingress and egress roadways on the Permanent Easement Premises that do not then or later conflict with the Improvements or the easement rights granted hereunder;

b. Grantee shall notify Grantor prior to commencement of any Permanent Easement Activity on the Permanent Easement Premises. The Parties shall reasonably cooperate with respect to the commencement, timing, and location of such Permanent Easement Activity so as to protect the public at large and to avoid any interference with Grantor's use of the Subject Property or the Permanent Easement Premises;

c. All Permanent Easement Activities by any entity shall be performed in a safe and sound manner and in accordance with all applicable federal, state and local laws, including the ordinances and regulations of Grantee;

d. Grantee shall restore the Permanent Easement Premises to the condition which existed immediately prior to the beginning of any Permanent Easement Activities, to the same requirements, standards and specifications set forth in Section 4 above with respect to restoration of the Temporary Construction Easement Premises, provided that such restoration shall be completed within thirty (30) days after completion of the Permanent Easement Activities, or, if the restoration cannot be reasonably completed within thirty (30) days, the period for restoration shall be extended for a reasonable time as approved by Grantor. Grantee shall similarly restore any portions of the Subject Property, and any other real estate owned by Grantor, or property adjacent to the Subject Property which is damaged or otherwise disturbed in connection with any Permanent Easement Activities to the same requirements, standards

and specifications set forth in Section 4 above with respect to restoration of the Temporary Construction Easement Premises, provided that such restoration shall be completed within thirty (30) days after completion of the Permanent Easement Activities, or, if the restoration cannot be reasonably completed within thirty (30) days, the period for restoration shall be extended for a reasonable time as approved by Grantor. Grantee shall be responsible for all costs associated with said restoration of the Permanent Easement Premises, the Subject Property, any other real estate owned by Grantor, or property adjacent to the Subject Property as provided herein.

8. Hazardous Materials. No explosives or flammable or hazardous materials of any kind shall be transported across, brought upon, or stored or deposited on, the Subject Property (except as needed for vehicles or equipment for construction of the Temporary Construction Easement Activities, or as otherwise needed for the Permanent Easement Activities, provided that Grantee and its contractors shall be liable for any damage to or contamination of the Subject Property resulting from such activity or use). As used in this Agreement, "hazardous materials" means any hazardous or toxic substances, materials or wastes, including, but not limited to solid, semi-solid, liquid or gaseous substances which are toxic, ignitable, corrosive, carcinogenic or otherwise dangerous to human, plant or animal health or well-being and those substances, materials, and wastes listed in the United States Department of Transportation Table (49 CFR 972.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto or such substances, materials, and wastes regulated under any applicable Laws, including, without limitation, any material, waste or substance which is (a) petroleum, (b) asbestos, (c) polychlorinated biphenyls, (d) designated as "Hazardous substances" pursuant to Section 1251 et. seq. (33 U.S.C. Section 1321) or listed pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et. seq. (42 U.S.C. Section 6903), or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et. seq. (42 U.S.C. Section 9601) or any other applicable environmental law.

9. No Liens. Grantee shall not permit any mechanics or other lien or charge to be filed against the Grantor or the Subject Property by reason of any work, labor, services or materials performed by or for the Grantee or furnished to the Grantee in performance of any Temporary Construction Easement Activity or any Permanent Easement Activity. If any such mechanics or other lien or charge shall at any time be filed against the Grantor or the Subject Property, Grantee shall within forty-five (45) days after receipt of a notice of such lien or charge cause the same to be discharged of record. In the event Grantee fails to discharge such lien or charge within said 45-day period, Grantor may, on ten (10) days' prior notice to Grantee, discharge the same, and all costs and expenses, including reasonable attorneys' fees, incurred by Grantor in procuring such discharge, shall be payable by Grantee on demand.

10. Indemnification. Grantee agrees to indemnify, defend and save Grantor, its respective officers, elected officials, agents and employees, and all other persons or entities acting at the direction of Grantor, harmless from and against any and all liabilities, claims, losses, or demands for personal injury, including death, or property damage arising out of or caused by any act or omission of Grantee, any of its contractors or subcontractors, anyone directly or indirectly employed or engaged by any of them, or anyone for whose acts any of them may be liable, arising from Grantee's conduct of the Temporary Construction Easement Activities, Permanent Easement Activities, or Grantee's performance, exercise or use of any of the easement rights or responsibilities granted to it under this Agreement.

11. Insurance. Grantee shall maintain liability insurance in reasonable amounts, and with reputable companies as are reasonably acceptable to Grantor and/or the risk management

association of which it is a member or may be self-insured for this coverage, to protect Grantor against claims arising directly or indirectly out of or in connection with: (a) Grantee's conduct of the Temporary Construction Easement Activities or use of the Temporary Construction Easement Area pursuant to this Agreement; and (b) Grantee's conduct of the Permanent Easement Activities or use of the Permanent Easement Premises or the Subject Property pursuant to this Agreement. Grantee shall name, or cause any contractor hired to perform any work on the Temporary Construction Easement Area or the Permanent Easement Premises to name the Grantor, its respective elected and appointed officials, officers, employees and agents as an additional insureds in the same coverages and coverage amounts that Grantee requires said contractors to provide for Grantee's benefit. Prior to commencing any activity on the Subject Property, Temporary Construction Easement Area or Permanent Easement Premises, Grantee shall provide to Grantor a copy of a Certificate of Insurance evidencing the coverages and additional insured status required hereby, including evidence satisfactory to Grantor of the amount of any self-insured retentions available for and applicable to claims arising under this Agreement.

12. Project Coordination; Payment of Fees, Costs, and Expenses; Construction of Improvements.

a. Grantee shall be solely responsible for the payment of all fees, costs, and expenses associated in any way with the Temporary Construction Easement Activities, including but not by limitation, the costs for any and all design, construction, and initial operation of the Improvements. Grantor shall not have any duty to make any payments or expend any funds related in any way thereto.

b. Grantee shall be solely responsible for the payment of all fees, costs, and expenses associated in any way with the Permanent Easement Activities and the maintenance duties specified in Section 6 of this Agreement. Grantor shall have any duty to make any payments or expend any funds related in any way thereto.

13. Term. Except as otherwise provided herein, this Agreement shall commence on the Effective Date and shall be perpetual. If any of the rights or restrictions imposed by this Agreement would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until 21 years after the death of the survivor of the now living descendants of the current Governor of the State of Illinois as of the date of this Agreement.

14. Additional Easements. Grantor shall have the right to grant other easements over, along, across or upon the Permanent Easement Premises; provided, however, that any such other easements shall be subject to the rights granted to Grantee hereunder.

15. Recording. This Agreement shall be recorded in the Office of the Will County Recorder of Deeds by Grantee.

16. Exceptions. The Temporary Construction Easement and Permanent Easement granted herein shall be subject to all covenants, easements and restrictions of record, building and zoning ordinances, resolutions and regulations, and to all questions of survey and rights of any Parties which would be revealed by a physical inspection of the Subject Property. All rights granted Grantee are expressly subject to the terms and conditions of the deed conveying title to Subject Property to Grantor.

17. Entire Agreement; Amendment. This instrument contains the entire agreement between the Parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect, and modifications to this Agreement must be in writing and must be signed by all Parties to this Agreement.

18. Severability. Invalidation by judgment or court order of any one or more of the covenants or restrictions contained herein shall in no way affect any other provisions which shall remain in full force and effect.

19. No Assignment; Covenant Running with the Land. This Agreement shall be binding on the Parties and their successors and assigns. The rights granted hereunder to Grantee are non-transferable and shall not be assigned. The terms, conditions and provisions of this Agreement shall be a covenant running with the land and shall be binding upon the heirs, executors and administrators, personal representatives, successors and assigns of the parties hereto.

20. Governing Law; Venue. The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance. Venue for any action arising out of the terms or conditions of this Agreement shall be proper only in the Circuit Court of Will County Illinois.

21. Captions and Section Headings. Captions and section headings are for convenience only and are not a part of this Agreement and shall not be used in construing it.

22. Notices. Any notice, request, approval, demand, instruction or any other communication to be given to either Party hereunder, shall be in writing and shall be conclusively deemed to be delivered when personally delivered, or when deposited for overnight delivery with a courier such as Federal Express or other overnight/same day courier service, and such notices are addressed to the following addresses:

If to Grantor: Joliet Park District
3000 West Jefferson Street
Plainfield, IL 60544
Attn: Executive Director

If to Grantee: City of Joliet
150 W. Jefferson Street
Joliet, IL 60432
Attn:

23. No Waiver of Tort Immunity. Nothing contained in this Agreement shall constitute a waiver by any of the Parties of any right, privilege or defense which it has under statutory or common law, included but not limited to the Illinois Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10.

24. No Third-Party Beneficiaries. This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and entity who is not a party to this Agreement or to acknowledge, establish, or impose any legal duty to any third party.

25. Authority. Each Party hereby warrants and represents to the other that all appropriate action of its governing board has been taken to authorize entry into and the execution of this Agreement by it, by the persons signing below, and each Party shall provide proof thereof on request of the other Party.

26. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

GRANTOR

JOLIET PARK DISTRICT

By: _____

Its: _____

Attest: _____

Its: _____

GRANTEE

CITY OF JOLIET

By: _____

Its: _____

Attest: _____

Its: _____

GRANTOR'S ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT _____ and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this __ day of _____, 20____.

Notary Public

My Commission expires:_____

GRANTEE'S ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT _____ and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this __ day of _____, 20____.

Notary Public

My Commission expires:_____

EXHIBIT A

EASEMENT PLAT – SEE ATTACHED

EXHIBIT B

APPROVED PLANS AND SPECIFICATIONS FOR IMPROVEMENTS