

TOLONO, ILLINOIS

RESOLUTION NO. 2010- 2

**RESOLUTION AUTHORIZING ACQUISITION OF AN
EASEMENT FOR THE SOUTHWEST DRAINAGE PROJECT**

**Adopted by the
Board of Trustees for the Village of Tolono
This 19th day of October, 2010.**

**Published in pamphlet form by authority of the President and the Board of Trustees for the
Village of Tolono, Champaign County, Illinois. This 19th day of October, 2010.**

**THE VILLAGE OF TOLONO, ILLINOIS
RESOLUTION AUTHORIZING ACQUISITION OF AN
EASEMENT FOR THE SOUTHWEST DRAINAGE PROJECT**

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October 19, 2010

WHEREAS:

- A. The President and the Board of Trustees of the Village of Tolono are charged with providing for the health, care and welfare of the citizens of Tolono, Illinois; and
- B. The Village has had significant drainage issues in various parts of the Village including, but not limited to, the southwest portion of the Village; and
- C. The Board of Trustees previously approved a contract for the installation of a drainage tile intended to replace existing tile which has deteriorated in the southwest portion of the Village; and
- D. To install the new tile, the Village has had to secure various easements and requires one last easement from the Hutchins family; and
- E. The Village has reached agreement to acquire said easement for the sum of \$7,000.00 .

NOW THEREFORE be it resolved as follows:

- 1. The Board of Trustees of the Village of Tolono, Illinois hereby directs and authorizes the President, the Village Engineer, and/or the Village Attorney to secure an easement in a form substantially the same as on Exhibit A attached hereto and by reference incorporated herein.
- 2. The President is authorized and directed to make any reasonably necessary modifications to said documents after consideration of the advice of the Village attorney and Village Engineer.
- 3. Payment of \$7,000.00 for the acquisition of such easement is hereby approved and the President is directed and authorized to make such payment at the direction of the Village Attorney or Village Engineer. In the event that construction of the contemplated drainage plan is not completed by April 1, 2011, the President is further authorized to make payment of \$1,000.00 as provided for in the easement comprised of Exhibit A.
- 4. This Resolution shall be effective upon passage with publication consistent with applicable law.

PASSED, APPROVED, AND ADOPTED by the President and Board of Trustees of said Village this 19th day of October, 2010.

RECORDED by the Village Clerk this 19th day of October, 2010

APPROVED:

President, Village of Tolono, Illinois

ATTEST:

Diane L Phillips
Village Clerk

EXHIBIT A

RECORDER'S USE

Helen S. Zelle Testamentary Trust, Helen Jane Hutchins and Gardiner E. Hutchins, Trustees
County: Champaign
Parcel No.:
29-26-27-400-002

PERMANENT NON-EXCLUSIVE EASEMENT

THIS INDENTURE WITNESSETH, that the GRANTORS, Helen Jane Hutchins and Gardiner E. Hutchins, Trustees of the Helen S. Zelle Testamentary Trust, for and in consideration of Ten and no/100 Dollars (\$10.00) in hand paid, and the conditions and agreements hereinafter contained, the receipt of which is hereby acknowledged, hereby represents, that they own the fee simple title to and do by these present hereby give, grant and convey to the GRANTEE, The Village of Tolono, Illinois, a municipal corporation, a non-exclusive public drainage easement to include, but not limited to, a storm sewer pipe, manholes, and appurtenances thereto, privilege, right and authority to do and erect, construct, install and/or lay, and thereafter use, operate, inspect, repair, maintain, replace and remove in the area under the land contained in the easement of the GRANTORS, situated in Champaign County, State of Illinois, said easement being described as follows:

THE EAST 40 FEET OF EVEN WIDTH OF THE NORTH 491 FEET OF EVEN WIDTH OF THE SOUTH 891 FEET OF EVEN WIDTH OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 18 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN CHAMPAIGN COUNTY, ILLINOIS, WHICH IS EXISTING BUEL STREET RIGHT-OF-WAY BY PRESCRIPTION;

ALSO, A STRIP OF LAND 15 FEET IN WIDTH, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID SOUTHEAST QUARTER OF SAID SECTION 27, 865 FEET NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE NORTHWESTERLY 1,513 FEET TO THE POINT OF TERMINATION ON THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 27, SAID POINT OF TERMINATION BEING 1,573 FEET NORTH OF THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 27, THE SIDELINES OF SAID EASEMENT TO BE EXTENDED OR SHORTENED TO TERMINATE AT THE EAST AND WEST LINES OF SAID TRACT.

SAID PUBLIC DRAINAGE EASEMENT CONTAINING 41,660 SQUARE FEET (0.96 ACRES), MORE OR LESS OF WHICH 19,640 SQUARE FEET (0.45 ACRES), MORE OR LESS, IS EXISTING RIGHT-OF-WAY BY PRESCRIPTION.

THE SAID REAL ESTATE ALSO BEING SHOWN BY THE PLAT HERETO ATTACHED AND MADE A PART HEREOF.

In consideration of the grant of easement herein contained, the parties hereby agree to the following terms and conditions:

1. That the GRANTORS shall retain all rights not herein granted, to the ownership, use and occupation of the above described easement area, except that the GRANTORS shall place no fill, permanent building or structure over the said facilities as finally constructed, in such a manner as to damage them or to restrict the operation of the facilities, nor deny the GRANTEE access thereto for purposes of maintenance, repair, or replacement thereof. During the period of construction of said sewer, the GRANTEE shall have exclusive use of the easement area for said construction work. Grantor shall complete such work in an expeditious manner and attempt to do so by April 1, 2011. In the event such construction is not completed by April 1, 2011, then Grantee shall pay Grantor an additional \$1,000.00.

2. That GRANTORS expressly reserve the right to connect any and all existing and future drain tile located upon GRANTORS' real estate to the subject storm sewer. GRANTEE shall not assess GRANTORS any connection fee for such access to the storm sewer.

3. That GRANTEE owns said sewer and shall be entirely responsible for its maintenance, that property owner shall obtain a permit from the Village of Tolono to connect private drain tiles servicing GRANTORS' property to said sewer. The granting of a permit shall be in the reasonable discretion of GRANTEE and shall be subject to visual inspection and approval by the Village. (Notwithstanding the foregoing, the parties agree it shall be unreasonable for GRANTEE to deny a connection by GRANTORS to the subject storm sewer for anything other than valid engineering reasons.) All private drain tiles on GRANTORS land connecting to the sewer shall be maintained by the GRANTORS with no responsibility by GRANTEE for such private drain tiles.

4. That all materials or equipment used in the construction and/or maintenance of said facilities, and all surplus soil and debris excavated in the course thereof, may be transported to or from and be used upon the site of said construction work, on and across the above described easement area.

5. That the GRANTEE, or its contractor, shall refill the excavations and restore the surfaces within the easement area to the approximate elevations and conditions existing at the place of construction before the commencement thereof and shall remove from the easement area all surplus soil and debris resulting from any such construction work. The "approximate elevation" shall be interpreted to mean such elevations as will provide drainage and usefulness comparable with that now existing.

6. That the GRANTEE, or its contractor, in consideration of the granting of this easement and as a condition of such grant, will repair or replace to conform as nearly to the original condition as is reasonable, at no cost to the GRANTORS, any existing field

tile, fence, driveway or sidewalk that is damaged, destroyed, or disturbed during the construction of said improvement.

7. That the GRANTORS, shall be privileged to remove small portable structures, sod, trees, bushes, shrubs and plants of any kind which are on any part of the easement area, prior to the construction of the said improvement; it being understood that the GRANTEE may remove small portable structures, sod, trees, bushes, shrubs and plants of any kind which are on any part of the easement area during the construction of the said improvements; and shall not be obligated to replace small portable structures, trees, bushes, shrubs and plants of any kind, on any portion of the easement area which may be removed or damaged.

8. That consideration herein shall be full payment for any damages to GRANTORS land, by reason of installation, operation and maintenance of the improvements referred to herein, and that this grant shall constitute a covenant which runs with the land, and shall be binding upon the heirs, executors, administrators, and assigns of the GRANTORS, and the terms and conditions hereinabove set forth shall be binding upon the GRANTORS, and the GRANTEE.

9. Notwithstanding language otherwise, the within grant of easement shall provide for GRANTEE being able to access the property over, under and through the land for purposes of maintenance after the initial installation. In such event, GRANTEE shall reimburse GRANTORS for the reasonable value of damage to crops as the result of such maintenance and otherwise restore any damaged improvements at GRANTEE's expense all as may occur after the initial installation.

10. The parties recognize that the within premises is currently unimproved farmland with the potential for future development. In the event that GRANTORS desire to relocate the within easement it may do so by:

- a. Giving notice to GRANTEE at least sixty (60) days in advance. Such notice shall contain detail of an alternate easement and substitute drainage tile which documents the ability of the alternate easement to deliver a level of water flow no less than that which exists in the current drainage tile contemplated by this easement. Such plans shall be prepared by a licensed engineer and be made in accordance with applicable federal, state, county and village laws and ordinances.
- b. In the event of such relocation, the relocation shall be performed at GRANTORS' expense in a workman-like manner complying with applicable law and under required permits. During construction, the flow of water shall not be interrupted.
- c. Upon the completion of such relocation, GRANTORS shall grant GRANTEE a new easement containing the same terms as this easement. In exchange, GRANTEE shall execute and record an instrument that releases that portion of this easement that is relocated.

The GRANTORS, without limiting the interest above granted and conveyed, does hereby acknowledge that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including any diminution in value to any remaining property of the GRANTORS caused by the opening,

improving and using the above-described premises for utility purposes. This acknowledgment does not waive any claim for trespass or negligence against the GRANTEE or GRANTEE's agents which may cause damage to the GRANTORS remaining property.

IN WITNESS WHEREOF, the GRANTORS have set their hands and Seal, this _____ day of _____, A.D., 20____.

_____(SEAL) _____(SEAL)
_____(SEAL) _____(SEAL)
_____(SEAL) _____(SEAL)
_____(SEAL) _____(SEAL)

STATE OF _____)
)SS
COUNTY OF _____)

I, _____, a Notary Public, in and for said County and State aforesaid, do hereby certify that _____

who are 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 notarial seal this _____ day of _____, A.D., 20____.

NOTARY PUBLIC