

A RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION AND PERMANENT EASEMENT FROM THE ROLLING MEADOWS STATION LLC

WHEREAS, the City finds it necessary to install a storm sewer through Kimball Hill Park; and

WHEREAS, the construction of the storm sewer requires the Rolling Meadows Station, LLC to grant the City a temporary construction and permanent easement for the City to install the storm sewer; and

WHEREAS, the City finds that it is useful and necessary for the City to use, occupy and acquire the permanent and temporary construction easements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rolling Meadows, Illinois, as follows:

SECTION ONE: The recitals set forth herein are hereby incorporated herein, verbatim.

SECTION TWO: The City Council hereby accepts the temporary construction and permanent easement from the Rolling Meadows Station, LLC; and

SECTION THREE: The Mayor and City Clerk are hereby authorized and directed to execute and deliver, on behalf of the City, a grant of a permanent and temporary construction easement in a form which is substantially set forth in the attached Exhibit "A" as may be revised subject to the approval of the City Manager and the City Attorney.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SECTION FOUR: This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

PASSED AND APPROVED by the City Council of Rolling Meadows, Cook County, Illinois this 23rd day of August, 2022.

AYES: Budmats, O'Brien, Vinezeano, Bisesi, Reyez, Sanoica, McHale

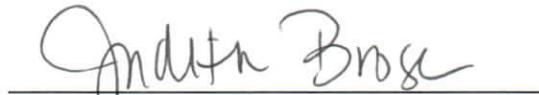
NAYS: 0

ABSENT: 0



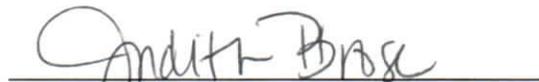
Joe Gallo, Mayor

ATTEST:



Judith Brose, Deputy City Clerk

Published this 26th day of August, 2022.



Judith Brose, Deputy City Clerk

THIS INSTRUMENT PREPARED BY
AND SHOULD BE RETURNED TO:

James E. Macholl
STORINO, RAMELLO & DURKIN
9501 West Devon Avenue
Suite 800
Rosemont, Illinois

GRANT OF PUBLIC UTILITY AND DRAINAGE EASEMENT AGREEMENT

This Grant of Public Utility and Drainage Easement Agreement ("Agreement") is made by and between ROLLING MEADOWS STATION, LLC, a Delaware limited liability company ("Grantor"), and the CITY OF ROLLING MEADOWS, an Illinois municipal corporation ("Grantee"). Grantor and Grantee are sometimes hereinafter referred to as, the "Parties."

RECITALS

WHEREAS, Grantee, an Illinois unit of local government, located in the County of Cook and the State of Illinois, has authorized construction of a certain storm sewer collection system within the City of Rolling Meadows; and

WHEREAS, Grantor is the owner in fee simple of the real estate legally described on Exhibit A attached hereto and made a part hereof ("Grantor's Property"), a portion of which is strategically located to provide routes for storm sewers to be constructed and maintained by Grantee under a portion of Grantor's Property ("Public Utilities"); and

WHEREAS, in order for Grantee to construct and operate the Public Utilities with related facilities on a portion of Grantor's Property, Grantee requires from Grantor a temporary construction easement and a permanent and exclusive easement to construct, repair, maintain, own and operate the Public Utilities to be constructed upon, under and through the easement area, as hereinafter more fully described; and

WHEREAS, Grantor desires to grant to Grantee (i) a non-exclusive, temporary easement for the construction of the Public Utilities, and (ii) an exclusive, permanent easement for the operation, maintenance, repair, replacement and existence of the Public Utilities.

NOW, THEREFORE, in consideration of Fifty Thousand and 00/100ths Dollars (\$50,000.00) and the premises and the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Parties agree as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference as though fully set forth.
2. Grant of Exclusive Temporary Construction Easement. Grantor hereby grants to Grantee, and Grantee's officers, agents, representatives, employees, contractors, subcontractors, material suppliers, successors and assigns, a non-exclusive, temporary construction easement (the "Temporary Construction Easement ") over, on and across that portion of Grantor's Property, which is described and depicted on Exhibit B hereto, and designated as the "Temporary Construction Easement," (the "Temporary Construction Easement Area") for the purpose of constructing the Public Utilities.
3. Term of Temporary Construction Easement. The Temporary Construction Easement granted pursuant to Paragraph 2 of this Agreement shall begin on the date of full execution of this Agreement by the Parties and shall expire sixty (60) days after final completion of the construction of the Public Utilities. Notwithstanding the above, the Temporary Construction Easement granted pursuant to Paragraph 2 shall expire no later than December 31, 2023, provided that Grantee may make a written request for an extension of the term for the Temporary Construction Easement, which in such event Grantor's consent to such extension request shall not to be unreasonably withheld. Any such agreed upon extension of the term of the Temporary Construction Easement shall be in writing. Upon the expiration of the term of the Temporary Construction Easement (as may be extended by mutual agreement), the rights and benefits of Grantee in, to and under this Agreement with respect to the Temporary Construction Easement shall automatically terminate and be of no further force and effect.
4. Grant of Exclusive Permanent Easement. Grantor hereby grants to Grantee, and Grantee's officers, agents, representatives, employees, contractors, subcontractors, material suppliers, successors and assigns, an exclusive perpetual easement (the "Permanent Easement ") over, on and across that portion of Grantor's Property, which is described and depicted on Exhibit B hereto, and designated as the "Public Utility and Drainage Easement" (the "Permanent Easement Area") for the existence of, and the right, privilege and authority to enter upon the Permanent Easement Area, from time to time, as Grantee, in its reasonable discretion deems necessary, in order to inspect, repair, maintain, operate, and replace the Public Utilities.
5. Easement Conditions. The Temporary Construction Easement Area and Perpetual Easement Area, together with any ancillary rights given to Grantee under this

Agreement (collectively, the "Easement Premises"), shall be subject to the following conditions:

- (a) Grantor reserves the right of access to and use of the Easement Premises in any manner not inconsistent with the rights granted to Grantee under this Agreement;
 - (b) Grantee shall notify Grantor not less than five (5) days prior to commencement of any excavation, construction, repair, maintenance or other work or activity on the Easement Premises ("Commencement Date"). The Parties shall reasonably cooperate with respect to the commencement, timing, and location of such work or activity so as to protect the public at large and to avoid any material interference with Grantor's use of Grantor's Property;
 - (c) All construction or other work or activity by any entity within the Easement Premises shall be performed in a safe and sound manner and in accordance with all applicable federal, state and local laws;
 - (d) Grantee shall be responsible for the payment of all costs associated with any work or activity performed by Grantee on its storm sewer line on the Easement Premises pursuant to the grants of easement set forth in Paragraphs 2 and 4 above.
 - (e) Grantee shall restore the surface of the Easement Premises to the condition which existed immediately prior to the beginning of any work or activity performed on the Easement Premises pursuant to the grants of easement set forth in Paragraphs 2 and 4 above ("Restorative Work"). Within a reasonable time after Grantee's notice to Grantor of completion of the Restorative Work, the Parties shall together inspect the Restorative Work, and Grantor shall deliver to Grantee, written approval of the Restorative Work, such approval not to be unreasonably withheld.
 - (f) All right, title and interest in and to the Easement Premises under this Agreement which may be used and enjoyed without interfering with the rights conveyed by this Agreement are reserved to Grantor, provided, however, no permanent utilities, fences, trees, landscaping, or any other structure that would impede access to the utilities or function of the utilities shall be placed on the Easement Premises, but the Grantor's Property may be used for paved areas, driveways and sidewalks and Grantor may develop, landscape, or beautify the Easement Premises in any way which would not unreasonably or materially increase the costs to Grantee of installing the Public Utilities or restoring the Easement Premises after such installation.
6. Maintenance and Repair. Grantee, or its successor or assignee, shall maintain its storm sewer line in such a manner so as to ensure that its portion of the Public Utilities remains in good working order and repair at all times, and will further ensure that its

portion of the Public Utilities complies at all times with applicable federal, state and local law.

7. Indemnification. To the fullest extent permitted by law, Grantee hereby agrees to defend, indemnify and hold harmless Grantor, its officials, agents and employees, against all mechanics liens, injuries, deaths, loss, damages, claims, suits, liabilities, judgments, cost and expenses, which may in anywise accrue against Grantor, its officials, agents and employees arising in whole or in part or in consequence of Grantee's installation of the Public Utilities, Restorative Work and maintenance, inspection, operation, replacement and repair of the Public Utilities by Grantee, its contractors, subcontractors, officers, agents, employees, material suppliers, successors and assigns, or which may in anywise result therefore, except that arising out of the sole legal cause of Grantor, its agents or employees. Grantee shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefore or incurred in connections therewith, and, if any judgment shall be rendered against Grantor, its officials, agents and employees, in any such action, Grantee shall, at its own expense, satisfy and discharge the same. Grantee expressly understands and agrees that any insurance policies required by this Agreement, or otherwise provided by Grantee, shall in no way limit the responsibility to indemnify, keep and save harmless and defend Grantor, their officials, agents and employees as herein provided.

8. Insurance. Prior to the commencement of construction on the Easement Premises by Grantee or its agents, representatives, employees, contractors, subcontractors, material suppliers, successors and assigns, Grantee will, or will cause its contractor to maintain during construction and deliver to Grantor a Certificate of Insurance that evidences Grantee's and its contractors, subcontractors, material suppliers, successors and assigns general liability insurance coverage in amounts not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate and that names Grantor as an additional insured. All general liability coverages shall be provided on an occurrence policy form. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice be certified mail, return receipt requested, has been given to the member. The insurance coverage shall be primary as respects Grantor, its officials, agents, employees and volunteers. Any insurance or self-insurance maintained by Grantor, its officials, agents, employees and volunteers shall be excess insurance and shall not contribute with it.

9. Liens. Grantee shall not permit or suffer any lien to be imposed upon or to accrue against Grantor or the Easement Premises, resulting from Grantee's construction, repair, maintenance, replacement and operation of the Public Utilities. Grantee shall indemnify, defend and hold harmless Grantor and the Easement Premises from and against any liens and encumbrances arising out of any labor or services performed or

materials furnished by or at the direction of Grantee and, in the event that any such lien shall arise or accrue against Grantor or the Easement Premises, Grantee shall promptly take action to remove and clear any lien upon notice thereof.

10. Entire Agreement. 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.
11. 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.
12. Law Governing. The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance.
13. Captions and Paragraph Headings. Captions and paragraph headings are for convenience only and are not a part of this Agreement and shall not be used in construing it.
14. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective legal representatives, successors and assigns.
15. 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. Facsimile and electronically submitted (via email) copies of this executed Agreement shall be effective and conclusive proof of execution for all purposes.
16. Binding Effect. This Agreement shall be recorded in the public records of Cook County, Illinois to evidence the agreements made hereunder; which agreements shall be perpetual and shall run with and bind land and shall inure to the benefit of Grantor and Grantee, and their respective Grantees, successors and assigns.
17. Construction. The rule of strict construction does not apply to this Agreement. This Agreement shall be given a reasonable construction so that the intention of the parties to confer commercially usable right of enjoyment on the beneficiaries hereof is carried out.

18. Authority. Each of the Parties hereto hereby represents and warrants to the other that the execution and delivery of this Agreement by the representing and warranting party has been duly authorized, that this Agreement has been validly executed and delivered by such party, and that this Agreement is binding upon such party in accordance with its terms.
19. Notices. Any notice permitted or required by this Agreement shall be deemed received, if delivered, when actually received, or, if mailed, on the third day after mailing by registered or certified mail, postage prepaid, to the party's address set forth below their respective signatures to this Agreement, or to such other address designated in writing to the other party.
20. Plan. Upon Grantor's request, Grantee shall provide Grantor with as-built drawings and a survey showing the location and depth of the improvements installed in the Utility Easement Area.
21. Abandonment. In the event Grantee or its successors and assigns abandon or terminate their use of all of the improvements in the Easement Premises for a period of thirty-six (36) consecutive months, this Agreement and all easement rights granted there under shall terminate automatically and this Agreement shall be of no further force and effect.
22. Further Cooperation. Each party to this Agreement agrees to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this agreement.

[Signature page follows]

Dated as of August _____, 2022.

GRANTOR:

ROLLING MEADOWS STATION, LLC,
a Delaware limited liability company,

By: Grocery Retail Partners I LLC,
a Delaware limited liability company, its
sole member

By: PECO GRP I Managing Member,
LLC, a Delaware limited liability company,
its manager

By: _____
Name: _____
Title: _____

ATTEST:

GRANTEE.

CITY OF ROLLING MEADOWS, an
Illinois municipal corporation,

ATTEST:

Joe Gallo, Mayor

Judith Brose, Deputy City Clerk

COUNTY OF HAMILTON)
)SS:
STATE OF OHIO)

The foregoing instrument was acknowledged before me on _____, 2022 by _____, _____, of PECO GRP I Managing Member, LLC, a Delaware limited liability company the Manager of Grocery Retail Partners I LLC, a Delaware limited liability company the sole member of ROLLING MEADOWS STATION LLC, a Delaware limited liability company on behalf of the companies.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year above-mentioned.

Notary Public

STATE OF ILLINOIS)
)SS:
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify, that Joe Gallo, Mayor of the City of Rolling Meadows, and Judith Brose, Deputy City Clerk of the City of Rolling Meadows, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and, as such Mayor and Deputy City Clerk, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of the City of Rolling Meadows for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this ____ day of _____, 2022.

Notary Public

EXHIBIT A
Grantors Real Estate Legal Description

LOT 4 IN ROLLING MEADOWS SHOPPING CENTER SUBDIVISION OF LOT L IN ROLLING MEADOWS UNIT NO. 4, BEING A SUBDIVISION OF PART OF THE SOUTH HALF OF SECTION 25 AND PART OF THE NORTH HALF OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN.

EXHIBIT B
Plat of Easement

