

RESOLUTION NO. 18-19

**RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF
A UTILITY EASEMENT AGREEMENT BETWEEN
THE MORTON GROVE-NILES WATER COMMISSION AND THE VILLAGE OF NILES**

WHEREAS, in 2017, the Morton Grove-Niles Water Commission (“MGNWC” or “Commission”) was established by the Village of Morton Grove, a home rule Illinois municipal corporation (“Morton Grove”), and the Village of Niles, a home rule Illinois municipal corporation (“Niles”), by the adoption of ordinances pursuant to Division 135 of Article 11 of the Illinois Municipal Code (65 ILCS 5/11-135-1, *et seq.*) (“Division 135”). The establishing ordinances are Morton Grove Ordinance 17-5, which was adopted on March 13, 2017, and Niles Ordinance No. 2017-19, which was adopted on March 14, 2017. In order to accomplish the objectives set forth in the above-referenced Ordinances, Morton Grove and Niles also approved, under those same Ordinances, an intergovernmental agreement entitled, “Intergovernmental Agreement For The Establishment And Operation Of The Morton Grove-Niles Water Commission And For The Purchase And Sale Of Water To The Commission For Commission Use And To Commission Wholesale Water Customers” (the “IGA”), to provide for the governance and operation of the MGNWC and to create the Board of Commissioners of the Morton Grove-Niles Water Commission (“MGNWC Board”) to govern the MGNWC; and

WHEREAS, the MGNWC was established for purposes of constructing and operating a public water supply system (the “MGNWC System”) consisting of water transmission mains, pumping, storage, and other related water delivery and receiving infrastructure between a connection point on the Evanston water system and existing water receiving points of Niles and Morton Grove (the “Project”); and

WHEREAS, the Village of Niles (“Property Owner”) is the fee simple owner of real estate commonly known as 7000, 7102, 7106 & 7246 Touhy Ave., Niles, Illinois. PIN: 10-30-321-021; 10-30-321-023; 10-30-321-024; 10-30-321-010. The MGNWC and the Property Owner have negotiated a Utility Easement Agreement, a copy of which is attached hereto as Exhibit “A” and made a part hereof, for the purposes of granting certain temporary construction easement rights and permanent easement rights to allow the MGNWC to construct and operate a water distribution system. The temporary construction easement areas and permanent easement areas are legally described in the attached Utility Easement Agreement; and

WHEREAS, the Board of Commissioners of the Morton Grove-Niles Water Commission has the authority to approve of and enter into the Utility Easement Agreement pursuant to Article VII, Section 10 of the 1970 Constitution of the State of Illinois, the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1, *et seq.*) and the Illinois Municipal Code (65 ILCS 5/1, *et seq.*, including 65 ILCS 5/11-135-1, *et seq.*), and find that entering into the Utility Easement Agreement is in the best interests of the MGNWC and its members, the Village of Morton Grove and the Village of Niles.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MORTON GROVE-NILES WATER COMMISSION, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

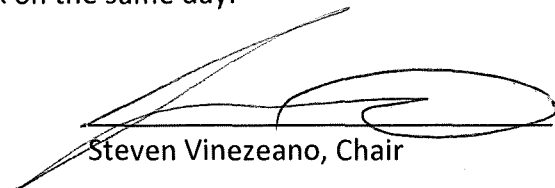
SECTION 2: The Board of Commissioners of the Morton Grove-Niles Water Commission ("MGNWC Board") authorizes the approval of an agreement entitled "Utility Easement Agreement" with VILLAGE OF NILES for the purposes set forth in the Utility Easement Agreement, attached hereto as **Exhibit A**. The MGNWC Board further authorizes and directs the Chair, the Clerk and the General Counsel, or their respective designees, to execute the final version of the Utility Easement Agreement, which may contain certain non-substantive modifications that are approved by the Village Manager of Niles and the Village Administrator of Morton Grove, and to execute and deliver all other instruments and documents and pay all costs and fees that are necessary to fulfill MGNWC's obligations under the Utility Easement Agreement.

SECTION 3: This Resolution shall be in full force and effect from and after its adoption and approval as provided by law.

ADOPTED this 25th day of January 2018, pursuant to a roll call vote as follows:

AYES: John Pietron and Steven Vinezeano
NAYS: None
ABSENT: None (Cook County Appointee not appointed yet)

PASSED by the Board of Commissioners of the Morton Grove-Niles Water Commission, Cook County, Illinois on a roll call vote at a Regular Meeting thereof held on the 25th day of January 2018, and approved by the Chair, and attested by the Clerk on the same day.


Steven Vinezeano, Chair

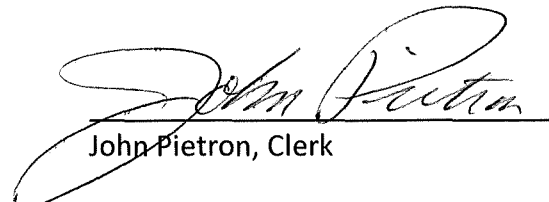
ATTEST:

John Pietron, Clerk

Exhibit "A"

**UTILITY EASEMENT AGREEMENT BETWEEN
THE MORTON GROVE NILES WATER COMMISSION AND VILLAGE OF NILES**

(attached)

Utility Easement Agreement

Property Address: 7000 Touhy Ave.,
7106 Touhy Ave.,
Niles, Illinois

PINs: 10-30-321-021, 10-30-321-023, 10-30-321-024,
10-30-321-010, 10-30-320-040, and 10-30-320-039

*This Agreement was prepared by and
upon recording should be returned to:*

Teresa Hoffman Liston
Corporation Counsel, Village of Morton Grove
6101 Capulina Avenue, Morton Grove, Illinois 60053
CCRD Box # _____

UTILITY EASEMENT AGREEMENT

This Utility Easement Agreement ("Agreement") is entered into this 25th day of January 2018 between The Village of Niles, hereinafter referred to as "Property Owner," and the Morton Grove Niles Water Commission, hereinafter referred to as "MGNWC" or as "Utility," for the installation, placement, replacement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of "Utilities," as further defined in this Agreement, within the "Easement Area," defined in Recital A. below, pursuant to the terms and conditions set forth in this Agreement.

RECITALS

A. The Property Owner is the sole owner of real property with common addresses of 7000 Touhy Ave. (Parcel 4 and Parcel 5) and 7106 Touhy Ave. (Parcel 1, Parcel 2, and Parcel 3), located in Niles, Illinois and legally described as follows:

Parcel 1: The North 125 feet of the east 100 feet of that part of the Southwest Quarter of Section 30, Township 41 North, Range 13, east of the Third Principal Meridian, described as follows: Commencing at the southwest corner of said Section, thence east along the south line of said Section 628.52 feet; thence north at right angles to the south line of said Section 352.42 feet; thence west 623.16 feet to a point in the west line of said section which is 332.64 feet north of the southwest corner of said Section; thence south along the west line of said Section 332.64 feet to the point of beginning, situated in the County of Cook and State of Illinois. Property Index Number (PIN) 10-30-321-021.

Parcel 2: The west 50 feet of the east 100 feet (except the north 125 feet thereof) of that part of the Southwest Quarter of Section 20, Township 41 North, Range 13, east of the Third Principal Meridian, described as follows: Commencing at the southwest corner of said Section; thence east along the south line of said Section 628.52 feet; thence north at right angles to the south line of said Section 352.42 feet; thence west 623.16 feet to a point in the west line of said section which is 332.64 feet north of the southwest corner of said Section; thence south along the west line of said Section 332.64 feet to the point of beginning, situated in the Count of Cook and State of Illinois, except that part conveyed to the State of Illinois described as follows: That part of the Southwest Quarter of Section 30, Township 41 North, Range 13, east of the Third Principal Meridian, being the west 50 feet of the east 100 feet of the following described tract of land: Commencing at the southwest corner of said Section; thence east along south line of said Section 628.52 feet; thence north at right angles to the south line of said Section 352.42 feet; thence west 623.16 feet to a point in the west line of said section which is 332.64 feet north of the southwest corner of said Section; thence south along the west

line of said Section 332.64 feet to the point of beginning, lying south of the following described line: beginning at a point on the east line of the above described tract being 45.0 feet north of the southeast corner of said tract (measured along the east line of said tract); thence southwesterly to a point on the west line of the above described tract being 42.6 feet north of the southwest corner of said tract (as measured along the west line of said tract) except the south 32 feet thereof as previously dedicated for highway purposes, situated in the County of Cook in the State of Illinois. Property Index Number (PIN): 10-30-321-023.

Parcel 3: The east 50 feet (except the north 125 feet thereof,) of that part of the Southwest Quarter of Section 30, Township 41 North, Range 13, east of the Third Principal Meridian, described as follows: Commencing at the southwest corner of said Section; thence east along the south line of said Section 628.52 feet; thence north at right angles to the south line of said Section, 352.42 feet; thence west 623.16 feet to a point in the west line of said Section which is 332.64 feet north of the southwest corner of said Section; thence south along the west line of said Section 332.64 feet to the place of beginning, in Cook County, Illinois. Property Index Number (PIN): 10-30-321-024.

Parcel 4: That part of the Southwest Quarter of Section 30, Township 41 North, Range 13, east of the Third Principal Meridian, described as follows: Commencing at the southwest corner of said Section; thence north on the west line thereof 5.04 chains; thence north 88 degrees east 18.67 chains to the center of road; thence south 7 degrees 15 minutes east along the center of road 2.13 chains; thence south 1 degrees east along the center of road 3.50 chains to the south line of said section; thence west along said section line 18.50 chains to the place of beginning; except therefrom that part thereof described as follows: commencing at the southwest corner of said Section 30; thence east along the south line of said section 628.52 feet; thence north at right angles to the south line of said Section 352.42 feet; thence west 623.16 feet to a point in the west line of said Section, which is 332.64 feet north of the southwest corner of said Section; thence south along the west line of said Section 332.64 feet to the place of beginning, in Cook County, Illinois.

And that part of Lot One (1) and Lot Two (2) in the subdivision of Lot 19 in west and others subdivision of part of southwest fractional Quarter of Section 30, Township 41 North, Range 13 east of the Third Principal Meridian, together with part of Jane Miranda's Reservation, bounded and described as follows: Beginning at the southwest corner of Lot 2, thence east 45.00 feet along the southerly line of said Lot 2 to a point; thence northeasterly a distance of 38.58 feet more or less to a point, said point being normally distant 45.0 feet southwesterly of a point on the northeasterly Lot line of said lot one being 28.81 feet northerly of the southeast corner of said Lot One (as measured along the said northeasterly lot line of Lot One); thence north along a straight line a distance of 44.72 feet more or less to a point, said point being normally distant 25.0 feet southwesterly of a point on the said northeasterly lot line of lot one being 68.81 feet northerly of the southeast corner of said Lot One (as measured along the said northeasterly lot line of Lot One); thence northwesterly along a straight line parallel with and distant 25.0 feet southwesterly of the said northeasterly lot line of Lot One a distance of 142.38 feet more or less to a point on the west line of said lot one being 49.06 feet south of the northwest corner of said Lot One (as measured along the west line of said Lot One); thence southerly along the west lot line of Lot One to the point of beginning, all in Cook County, Illinois.

Except the following described land conveyed to the State of Illinois by deed recorded as Document 22742058:

The north 12 feet of the south 45 feet of the east 50 feet of that part of the southwest fractional Quarter of Section 30, Township 41 North, Range 13 east of the Third Principal Meridian described as follows: Commencing at the southwest corner of said Section; thence east along the south line of said Section, 628.52 feet; thence north at right angles to the south line of said Section, 352.42 feet; thence west 623.16 feet to a point in the west line of said Section which is 332.64 feet north of the southwest corner of said Section; thence south along the west line of said Section 332.64 feet to the point of beginning, all in Cook County, Illinois.

Also that part of that part of the southwest fractional quarter of Section 30, Township 41 North, Range 13, east of the Third Principal Meridian described as follows: Commencing at the southwest corner of said Section; thence north along the west line thereof 5.04 chains; thence north 88 degrees east 18.67 chains to the center of Waukegan Road; thence south 7 degrees 15 minutes east along the center of Waukegan Road 3.50 chains to the south line of said Section; thence west along said Section line 18.50 chains to the point of beginning; except therefrom that part thereof described as follows: Commencing at the southwest corner of said Section 30; thence east along the south line of said Section 628.52 feet; thence north at right angles to the south line of said Section 352.42 feet; thence west 623.16 feet to a point in the west line of said Section, which is 332.64 feet north of the southwest corner of said Section; thence south along the west line of said Section 332.64 feet to the point of beginning. Bounded and described as follows: Commencing at the point of intersection of the centerline of Waukegan Road with the south line of said Section 30; thence west along the south line of said Section 30 a distance of 129.49 feet to a point; thence north in a straight line, measured at right angles to the last described course a distance of 33.0 feet to a point in the north line of Touhy Avenue as the same is now located and established, said point being the point of beginning; thence northeasterly in a straight line a distance of 35.06 feet to a point of curvature, distant 35.0 feet north measured at right angles from said south line of said Section 30; thence northeasterly along a curved line concave to the northwest, having a radius of 49.0 feet and a central angle of 93 degrees, 37 minutes, an arc distance of 39.46 feet more or less to a point, said point lying 40.59 feet more or less southwesterly from the point of tangency being distant 40.0 feet westerly measured at right angles to the centerline of Waukegan Road, as measured along said curve) and normally distant 50 feet north of the said south line of the southwest fractionally of Section 30; thence southwesterly 98.88 feet more or less to a point being normally distant 45.0 feet north of the said south line of the southwest fractional Quarter of Section 30 at a point 157.95 feet west of the point of commencement (as measured along the said south line of the southwest fractional quarter of Section 30); thence west along a line 45 feet north of and parallel with the said south line of the southwest fractional Quarter of Section 30 to the west line of the above described tract; thence south along said west line of the above described tract to a point on the said existing north line of Touhy Avenue as the same is now located and established; thence easterly along said existing north line of Touhy Avenue to the point of beginning, all in Cook County, Illinois. Property Index Number (PIN) 10-30-321-010.

Parcel 5: Lots 31 and 32, and the east 336.9 feet of Lot 33, all in Reichel and Ablamowicz addition to Niles, a subdivision of part of the southwest Quarter of Section 30, Township 41 North, Range 13 East of the Third Principal Meridian in Cook County, Illinois (except

therefrom those portions previously deeded for roadway purposes) situated in the County of Cook, in the State of Illinois.

Also excepting therefrom that part acquired by the state of Illinois in Condemnation Case 73 L 7213 described as follows: That part of Lots 31 and 32 in Reichel and Ablamowicz addition to Niles a subdivision of part of the southwest Quarter of Section 30, Township 41 North, Range 13, East of the Third Principal Meridian in Cook County, Illinois, described as follows: Beginning at the southeast corner of said Lot 31; thence northerly along the east line of said Lot 31 a distance of 60.55 feet to a point; thence northwesterly along the east lines of aforesaid Lots 31 and 32 a distance of 104.81 feet to the northeast corner of said Lot 32; thence westerly along the north line of said Lot 32 to a point, said point lying normally distant 64 feet westerly of the existing center line of right of way of Milwaukee Avenue; thence southeasterly along a straight line to the point of beginning, all in Cook County, Illinois. Property Index Number (PIN) 10-30-320-040 and 10-30-320-039.

These five parcels are hereinafter referred to as the "Property Owner's Property."

The Utility proposes to install, place, replace, construct, reconstruct, maintain, rehabilitate, operate and/or repair underground utilities of any kind, including, but not limited to, a water transmission main and related water service lines, valves, meters, vaults, buffalo boxes, communication wires, cables and related conduit, fiber lines and related conduit, and any other related personal property, infrastructure and equipment (the "Utilities") over, under, in, along, across and upon a portion of the Property Owner's Property, legally described as follows:

Permanent Easement Area: 7100 Touhy Ave. and 7106 Touhy Ave.

**Affects PIN 10-30-321-021, 10-30-321-023, 10-30-321-024, 10-30-321-010, 10-30-320-040 and 10-30-320-039
(Parcel 1, Parcel 2, Parcel 3, Parcel 4, and Parcel 5)**

That part of the southwest Quarter of Section 30, Township 41 North, Range 13 east of the Third Principal Meridian together with that part of Lots 31, 32 and 33 in Reichel and Ablamowicz addition to Niles, a subdivision of part of said southwest Quarter of Section 30 according to the plat thereof recorded June 19, 1930 as Document No. 10686268, bearings and distances based on the Illinois State Plane Grid Coordinate System, East Zone, described as follows: Commencing at the southwest corner of said Southwest Quarter; thence north 89 degrees 09 minutes 44 seconds east along the south line of said Southwest Quarter of Section 30 a distance of 628.52 feet, to the west line of property as described per Deed Document No. 18290291; thence north 00 degrees 50 minutes 16 seconds west along said west line 209.00 feet, to the point of beginning; thence south 89 degrees 09 minutes 44 seconds west along a line parallel with said south line of the Southwest Quarter 100.00 feet, to the west line of property as described per Deed Document 22235841; thence north 00 degrees 50 minutes 16 seconds west along said west line and along the west line of property as described per Deed Document 14284267 a distance of 20.00 feet; thence north 89 degrees 09 minutes 44 seconds east along a line parallel with said south line of the Southwest Quarter 42.00 feet; thence north 00 degrees 50 minutes 16 seconds west 30.00 feet; thence north 89 degrees 09 minutes 44 seconds east along a line parallel with said south line of the Southwest Quarter 45.00 feet; thence south 00 degrees 50 minutes 16 seconds east 30.00 feet; thence north 89 degrees 09 minutes 44 seconds east along a line parallel with said south line of the Southwest Quarter 146.00 feet; thence south 00 degrees 50 minutes 16 seconds east 134.00 feet, to a line 95.00 feet north of and parallel with said south line of the Southwest Quarter; thence north 89 degrees 09 minutes 44 seconds east along said parallel line 262.00 feet; thence north 00 degrees 50 minutes 16 seconds west 129.50 feet; thence south 89 degrees 09 minutes 44 seconds west along a line parallel with said south line of the Southwest Quarter 45.00 feet; thence north 00 degrees 50 minutes 16 seconds west 20.00 feet; thence north 89 degrees 09 minutes 44 seconds east along a line parallel with said south line of the Southwest Quarter 45.00 feet; thence north 00

degrees 50 minutes 16 seconds west 164.50 feet; thence north 12 degrees 59 minutes 59 seconds east 65.00 feet; thence north 00 degrees 12 minutes 01 seconds east 29.26 feet; thence north 44 degrees 30 minutes 22 seconds east 51.04 feet, to the intersection of the north line of said Lot 32 in Reichel and Ablamowicz addition to Niles with the westerly line of the portion of said Lot 32 and Lot 31 in said Reichel and Ablamowicz addition to Niles acquired by the State of Illinois in Condemnation Case 73 L 7213; thence south 34 degrees 33 minutes 59 seconds east along said westerly line 20.37 feet; thence south 44 degrees 30 minutes 22 seconds west 39.03 feet; thence south 00 degrees 12 minutes 01 seconds west 23.36 feet; thence south 12 degrees 59 minutes 59 seconds west 64.82 feet; thence south 00 degrees 50 minutes 16 seconds east 331.57 feet to a line 75.00 feet north of and parallel with said south line of the Southwest Quarter; thence south 89 degrees 09 minutes 44 seconds west along said parallel line 98.00 feet; thence south 00 degrees 50 minutes 16 seconds east 18.00 feet, to a line 57.00 feet north of and parallel with said south line of the Southwest Quarter; thence south 89 degrees 09 minutes 44 seconds west along said parallel line 70.00 feet; thence north 00 degrees 50 minutes 16 seconds west 18.00 feet, to a line 75.00 feet north of and parallel with said south line of the Southwest Quarter of Section 30; thence south 89 degrees 09 minutes 44 seconds west along said parallel line 134.00 feet; thence north 00 degrees 50 minutes 16 seconds west 134.00 feet; thence south 89 degrees 09 minutes 44 seconds west along a line parallel with said south line of the Southwest Quarter 113.00 feet, to the point of beginning, in Cook County, Illinois, hereinafter referred to as "Permanent Easement Area 1" or "Permanent Easement Area".

Permanent Easement Area 1 is depicted in Exhibit "B".

Permanent Easement Area 1 shall be referred to as the "Easement Area".

- B. The Property Owner agrees to grant to the Utility a permanent, perpetual, non-exclusive easement within the Permanent Easement Area for the installation, placement, replacement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of the Utilities pursuant to the terms of this Agreement, and the Utility, in consideration of the grant of said easement rights, agrees to make certain improvements on the Property Owner's Property and/or pay to the Property Owner such other monetary compensation as further described in this Agreement.
- C. The Property Owner represents and warrants to the Utility, as a material inducement for the Utility entering into this Agreement, that the Property Owner has the full and unconditional authority to enter into this Agreement.

In consideration for the obligations and rights set forth in this Agreement, the Utility and the Property Owner agree as follows:

EASEMENT TERMS

1. Term.

- A. The term of the Permanent Easement within the Permanent Easement Area shall be perpetual, and shall commence on the date that the last signatory signs this Agreement, provided that all signatories execute this Agreement, and shall terminate only upon mutual written consent of the Parties or their successors and assigns.

2. Grant of Easements.

- A. Permanent Easement Area: In return for the compensation to be paid by the Utility to the Property Owner as set forth in Exhibit A, and such other good and valuable consideration, the receipt of which is hereby acknowledged, The Property Owner, for him/herself/itself and his/her/its successors and

assigns, conveys and grants to the Utility, its successors and assigns, a permanent, perpetual, non-exclusive easement over, under, in, along, across and upon the Permanent Easement Area of the Property Owner's Property for the installation, placement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of the Utilities in the Permanent Easement Area. This Permanent Easement and other rights conferred to the Utility by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. In regard to the Permanent Easement Area and the permanent, perpetual, non-exclusive easement rights granted by the Property Owner to the Utility, the Parties further agree as follows:

- a. All rights, title and interest in and to the Permanent Easement Area which may be used and enjoyed without interfering with the rights conveyed by this Agreement to the Utility are reserved to the Property Owner, provided, however, that the Property Owner shall not itself, or allow another to, install, place, construct, reconstruct, maintain, rehabilitate, operate and/or repair any structures, improvements or other encumbrances which cause or which in the Utility's reasonable determination may cause, contribute or lead to damage to or interference with the Utilities placed or to be placed within the Permanent Easement Area; or develop, landscape or beautify any portion of the Permanent Easement Area in any way which would unreasonably or materially increase the costs to the Utility of installing, placing, constructing, reconstructing, maintaining, rehabilitating, operating and/or repairing the Utilities. If any of the Utilities within the Permanent Easement Area or the Utility's other improvements or personal property are removed or damaged by the Property Owner or its officials, employees, agents and contractor(s) or other invitees or permittees of the Property Owner, the Property Owner, at its expense, shall be responsible for completing basic restoration costs to restore, repair or replace such Utilities or other improvements or personal property to its/their original, existing condition immediately prior to such removal or damage using like-kind and quality materials.
- b. If the Property Owner's improvements within the Permanent Easement Area or elsewhere within the Property Owner's Property are removed or damaged by the Utility or its officials, employees, agents and contractor(s) or other invitees or permittees of the Utility in exercising its easement rights, the Utility, at its expense, shall be responsible for completing basic restoration costs to restore, repair or replace such improvements to its/their original, existing condition immediately prior to such removal or damage using like-kind and quality materials.

B. Access to Easement Area: The Utility, and its officials, employees, agents and contractor(s) and any governmental or regulatory agency personnel with oversight authority of the Utility or the Utilities, shall be permitted to access and travel with their equipment upon and over the Property Owner's Property to access the Easement Area on an as-needed basis for purposes of installing, placing, constructing, reconstructing, maintaining, rehabilitating, operating and/or repairing the Utilities.

C. Obligations for Own Improvements: Each Party shall be responsible for maintaining, repairing and insuring its own improvements located within the Easement Area.

3. **Utility's Use of Easement Area.** The following general conditions shall apply to Utility's use of the Easement Area:

- A. The Utility, at its own expense, shall procure and maintain, prior to entry upon the Property Owner's Property, all licenses, consents, permits, authorizations and other approvals required from any federal, state, county or local governmental authority or any regulatory agency with oversight authority in connection with the installation, placement, construction, reconstruction, maintenance, rehabilitation, operation and/or repair of the Easement Area and the Utilities, and the Utility shall comply with all

laws, rules, statutes and regulations of any governmental authorities having jurisdiction over the Easement Area, the Utilities or the Utility's operations. The Property Owner may, from time to time, request reasonable evidence that all such governmental or regulatory approvals have been obtained by the Utility and are in full force and effect. In no event shall the Utility seek any governmental or regulatory approvals that may affect in any way the Property Owner's operations, including without limitation any zoning approvals, without in each instance obtaining the Property Owner's prior written consent, which consent may be granted or withheld in the Property Owner's sole discretion.

- B. Except as specifically provided in this Agreement, the Utility's use of the Easement Area shall be conducted in a manner that does not conflict or interfere with the Property Owner's current operations.
- C. The Utility agrees to not cause or permit any lien (including, without limitation, any mechanic's lien) or claim for lien to be filed or asserted against the Easement Area or any interest therein, whether such lien or claim for lien results from or arises out of any act or omission of the Utility or its officials, employees, agents and contractor(s) or other invitees or permittees. In the event any such lien or claim for lien is issued or filed against title to the Property Owner's Property, the Utility will immediately remedy and obtain a release the lien or claim.
- D. The Utility agrees to cooperate with the Property Owner's reasonable efforts, if any, to cause the Permanent Easement Area, or any portion thereof, to be exempted from the payment of real estate taxes, to the extent that it is possible, under applicable law, including the execution and delivery of all documents, instruments, petitions and applications prepared by the Property Owner, at its cost, in this regard.

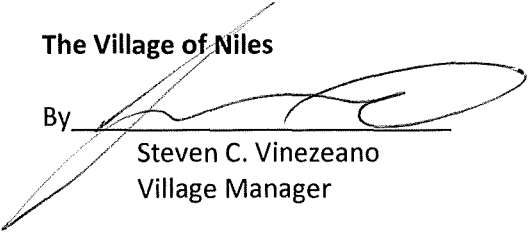
4. **Indemnification.** The Parties agree as follows:

- A. The Utility agrees to indemnify and hold harmless the Property Owner and its officials, employees, agents, volunteers, attorneys, contractor(s), invitees or permittees, successors and assigns (collectively the "Property Owner Affiliates") from and against all claims, demands, liabilities, losses, judgments, settlements, administrative / litigation costs and expenses (including reasonable attorney's fees) which may arise by reason of the Utility's use of the Property Owner's Property, or relating to the Utilities within the Easement Area except for those attributable to the Property Owner's or the Property Owner's Affiliates' accidental or intentional obstruction, damage or destruction of the Utilities, the negligence or improper act of the Property Owner or Property Owner's Affiliates, or the Property Owner's default or violation of this Agreement. Any entry onto the Property Owner's property by the Utility, or its appointed or elected officials, employees, agents, volunteers, attorneys, contractor(s), invitees, permittees, successors and assigns shall be at such person's sole risk, and the Property Owner makes no representations or warranties of any kind whatsoever regarding the Property Owner's Property or the condition of the Property Owner's Property (including, without limitation, the environmental condition thereof).
- B. The Property Owner agrees to indemnify and hold harmless the Utility and its elected and appointed officials, employees, agents, volunteers, attorneys, contractor(s), invitees, permittees, successors and assigns (collectively the "Utility Affiliates") from and against all claims, demands, liabilities, losses, judgments, settlements, administrative / litigation costs and expenses (including reasonable attorney's fees) which may arise by reason of the Property Owner's use of the Easement Area, or relating to the Utilities within the Easement Area except for those attributable to the Utility's or the Utility Affiliates' accidental or intentional obstruction, damage or destruction of the Utilities, the negligence or improper act of the Utility or the Utility Affiliates, or the Utility's default or violation of this Agreement.

5. **Insurance.** The Property Owner and the Utility each agree to procure and maintain and to require their contractors, before commencing any work within the Easement Area or within the Property Owner's Property, to purchase and maintain a policy or policies of insurance, as follows:
 - A. Commercial General Liability (CGL) covering all contractors, subcontractors and all their subcontractors, with limits not less than Two Million Dollars (\$2,000,000.00) per occurrence covering liability for bodily injury and property. The Property Owner and Property Owner Affiliates shall be added as Additional Insureds on the Utility's CGL policy, and the Utility and the Utility Affiliates shall be added as Additional Insureds on the Property Owner's CGL policy.
 - B. Automobile Liability in an amount of not less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage, covering all owned, leased, rented or non-owned vehicles, which shall include automobile contractual liability coverage.
 - C. Workers' Compensation Insurance with Illinois statutory limits.
6. **Assignment.** This Agreement, and the rights and obligations of the Parties set forth in this Agreement, shall be binding upon and inure to the benefit of the Parties and their respective successors, personal representatives and assigns, and the owners of the Property Owner's Property, from time to time; provided, however, that the Utility may assign all or any portion of its right, title, interest or obligation in this Agreement to the Village of Morton Grove, the Village of Niles, the Morton Grove-Niles Water Commission, or its successor entity, or to any municipal joint action water agency.
7. **Entire Agreement.** The terms, exhibits and addenda, if any, herein contain the entire agreement between the Property Owner and the Utility regarding the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the Parties pertaining to such subject matter.

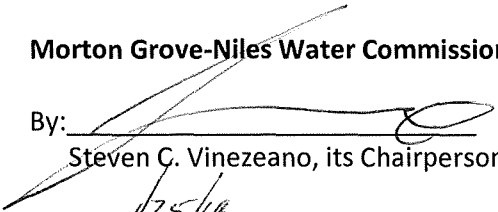
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date of the last signatory below, which date shall be inserted on page 1 of this Agreement.

The Village of Niles

By 
Steven C. Vinezeano
Village Manager

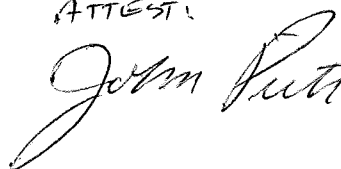
Dated: 1/25/16

Morton Grove-Niles Water Commission

By: 
Steven C. Vinezeano, its Chairperson

Dated: 1/25/16

ATTEST:

 CLERK 1/25/2018

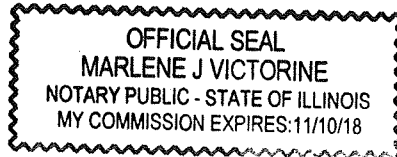
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CERTIFICATION

I, the undersigned, a Notary Public, in and for the County and State aforesaid, CERTIFIES that the above-named Steven C. Vinezeano, personally known to me to be the Village Manager of The Village of Niles, and also known to me to be the same person whose name is subscribed to the foregoing Agreement as such Village Manager, appeared before me this day in person and severally acknowledged that, as such Village Manager, he signed and delivered the signed Agreement, pursuant to authority given The Village of Niles, as his free and voluntary act, and as the free and voluntary act and deed of The Village of Niles, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this 25th day of January, 2018.

Marlene J Victorine
Notary Public



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CERTIFICATION

I, the undersigned, a Notary Public, in and for the County and State aforesaid, CERTIFIES that the above-named Steven C. Vinezeano, personally known to me to be the Chairperson of the Morton Grove-Niles Water Commission, and also known to me to be the same person whose name is subscribed to the foregoing Agreement as such Chairperson, appeared before me this day in person and severally acknowledged that, as such Chairperson, he signed and delivered the signed Agreement, pursuant to authority given by the Morton Grove-Niles Water Commission, as his free and voluntary act, and as the free and voluntary act and deed of the Morton Grove-Niles Water Commission, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this 25th day of January, 2018.

Marlene J Victorine
Notary Public

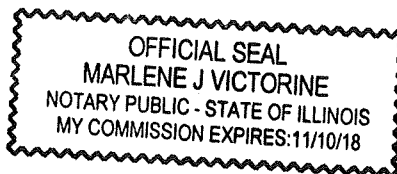


EXHIBIT "A"

**Utility Improvements to Property Owner's Property and/or
Payment to the Property Owner
The Village of Niles**

7000 Touhy Ave. and 7106 Touhy Ave., Niles, Illinois

PINS: 10-30-321-021, 10-30-321-023, 10-30-321-024, 10-30-321-010, 10-30-320-040, and 10-30-320-039

Unless Morton Grove and Niles agree otherwise, no annual permanent easement fee shall be paid to the Property Owner by the Morton Grove – Niles Water Commission so long as Morton Grove and Niles are the only customers of the Morton Grove – Niles Water Commission (MGNWC). If and when the MGNWC sells water to customers other than Morton Grove and Niles, the MGNWC shall pay Niles an annual permanent easement fee equal to 10% of the then fair market value of the Permanent Easement Area as determined by an appraiser approved and chosen by the MGNWC and Morton Grove ("Annual Easement Fee"). The Annual Easement Fee shall be adjusted for each calendar year period thereafter by multiplying the Annual Easement Fee in effect for the previous calendar year period by the percentage of change in the annual Consumer Price Index for the Chicago Metropolitan Area, more specifically the "Chicago All Items Consumer Price Index for All Urban Consumers (CPIU)" published by the United States Department of Labor, Bureau of Labor Statistics, as established for the month of October.

EXHIBIT "B"

Exhibit of Permanent Easement Area 1

PINS: 10-30-321-021, 10-30-321-023, 10-30-321-024, 10-30-321-010, 10-30-320-040, and 10-30-320-039

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, John Pietron, Clerk of the Morton Grove-Niles Water Commission, Cook County, State of Illinois, certify that the attached and foregoing is a true and correct copy of that certain Resolution now on file in my office, entitled:

RESOLUTION NO. 18-19

**RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF
A UTILITY EASEMENT AGREEMENT BETWEEN
THE MORTON GROVE-NILES WATER COMMISSION AND THE VILLAGE OF NILES**


which Resolution was passed by the Board of Commissioners of the Morton Grove-Niles Water Commission at a Regular Meeting held on the 25th day of January, 2018, at which meeting a quorum was present.

I further certify that the vote on the question of the passage of said Resolution by the Board of Commissioners of the Morton Grove-Niles Water Commission was taken by Ayes and Nays and recorded in the minutes of the Board of Commissioners of the Morton Grove-Niles Water Commission, and that the result of said vote was as follows, to-wit:

- AYES:** John Pietron and Steven Vinezeano
- NAYS:** None
- ABSENT:** None (Cook County Appointee not appointed yet)

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of January 2018.


John Pietron, Clerk