



DocId:8893161

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**RETURN TO:**

**TROY CITY CLERK  
116 E. MARKET  
TROY, IL 62294**

2023R30399  
STATE OF ILLINOIS  
MADISON COUNTY  
11/13/2023 11:17 AM  
LINDA A. ANDREAS  
CLERK & RECORDER  
REC FEE: 50.00  
CO STAMP FEE:  
ST STAMP FEE:  
FF FEE:  
RHSPS FEE:  
# OF PAGES: 12

**CITY OF TROY**

**RESOLUTION 2023 – 39**

5000 CTY

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**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A TEMPORARY  
CONSTRUCTION EASEMENT AND A PERMANENT EASEMENT AGREEMENT  
WITH KERRY M GAULTNEY AND DEBBIE MYERS GAULTNEY**

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**ADOPTED BY THE CITY COUNCIL OF THE CITY OF TROY, ILLINOIS  
THIS 2ND DAY OF OCTOBER, 2023**

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DR

**CITY OF TROY**  
**RESOLUTION NO. 2023 – 39**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE  
A TEMPORARY CONSTRUCTION EASEMENT AGREEMENT  
WITH KERRY M GAULTNEY AND DEBBIE MYERS GAULTNEY**

**WHEREAS**, the City Council for the City of Troy, Illinois, believes that it is in the best interest of the City to enter into a Temporary Construction Easement and a Permanent Easement Agreement with Kerry M. Gaultney and Debbie Myers Gaultney for the purpose of constructing and maintaining a sewer main; and

**WHEREAS**, the City of Troy and Kerry M. Gaultney and Debbie Myers Gaultney have negotiated the terms and conditions of the Temporary Construction Easement and a Permanent Easement Agreement attached hereto and incorporated herein as Exhibit A and Exhibit B and the City believes that such terms and conditions are in the best interest of the health, safety and general welfare of its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TROY, ILLINOIS, AS FOLLOWS:**

1. The recitals set forth above are hereby incorporated herein as if fully set forth.
2. The Mayor of the City of Troy, Illinois, is hereby authorized to execute and enter into the attached Temporary Construction Easement and Permanent Easement Agreement with Kerry M. Gaultney and Debbie Myers Gaultney, and is further authorized to take all actions and sign all documents necessary to fulfill the intent of this Resolution.
3. This Resolution shall be in effect following its passage, approval and publication as provided by law.

**PASSED** by the City Council of the City of Troy, Madison County, Illinois, approved by the Mayor, and deposited in the office of the City Clerk this 2<sup>nd</sup> day of October, 2023.

Aldermen:

|                    |               |              |            |          |          |
|--------------------|---------------|--------------|------------|----------|----------|
| Dan Dawson         | <u>ABSENT</u> | Sam Italiano | <u>AYE</u> | Ayes:    | <u>7</u> |
| Tim Flint          | <u>AYE</u>    | Debbie Knoll | <u>AYE</u> | Nays:    | <u>0</u> |
| Elizabeth Hellrung | <u>AYE</u>    | Tony Manley  | <u>AYE</u> | Absent:  | <u>1</u> |
| Nathan Henderson   | <u>AYE</u>    | Troy Turner  | <u>AYE</u> | Abstain: | <u>0</u> |



APPROVED:

By: David Nonn  
DAVID NONN, Mayor  
City of Troy, Illinois

ATTEST:

By: Kimberly Thomas  
KIMBERLY THOMAS, Clerk  
City of Troy, Illinois

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**TEMPORARY CONSTRUCTION EASEMENT AGREEMENT**

This Temporary Construction Easement Agreement (“Agreement”) is made this 16 day of JUNE, 2023, by and between the City of Troy, Illinois, an Illinois municipal corporation (“City”), and Kerry M. and Debbie Meyers Gaultney (“Owners”).

**RECITALS**

- A. Owners are the owners of certain real property in the City, commonly known as 119 Collinsville Rd. (the “Property”).
- B. Owners hereby grant the City a temporary construction easement to allow for sewer improvements to be performed by the City on the Property.
- C. The parties hereby enter into this Agreement to grant the City a temporary construction easement over the Property (the “Easement”) as follows:

Temporary Construction Easement  
Route: Wickliffe to Old Collinsville Road Sewer  
County: Madison  
Owners: Kerry M and Debbie Meyers Gaultney *DMG*  
Parcel Number: 09-2-22-09-06-103-016.001

TCE #1

Part of Lots 5 and 6 in Block 1 of Cook’s Second Addition to Troy, Madison County,

Illinois, according to the plat thereof recorded in the Recorder's Office of Madison County, Illinois, in Plat Book 6, Page 21, described as follows:

Beginning at the southeast corner of said Lot 6; thence on an assumed bearing of South 89 degrees 48 minutes 19 seconds West on the south line of said Lot 6, a distance of 4.27 feet; thence North 07 degrees 44 minutes 36 seconds East, 21.23 feet to the east line of said Lot 6; thence South 03 degrees 50 minutes 19 seconds East on said east line, 21.07 feet to the Point of Beginning.

Said parcel contains 45 square feet or 0.0010 acre, more or less.

TCE #2

Part of Lots 5 and 6 in Block 1 of Cook's Second Addition to Troy, Madison County, Illinois, according to the plat thereof recorded in the Recorder's Office of Madison County, Illinois, in Plat Book 6, Page 21, described as follows:

Commencing at the southeast corner of said Lot 6; thence on an assumed bearing of South 89 degrees 48 minutes 19 seconds West on the south line of said Lot 6, a distance of 19.42 feet to the Point of Beginning.

From said Point of Beginning; thence continuing South 89 degrees 48 minutes 19 seconds West on said south line, 15.15 feet; thence North 07 degrees 44 minutes 36 seconds East, 100.80 feet to the north line of said Lot 5; thence North 89 degrees 19 minutes 15 seconds East on said north line, 14.27 feet to the east line of said Lot 5; thence South 03 degrees 50 minutes 19 seconds East on said east line, 4.38 feet; thence South 07 degrees 44 minutes 36 seconds West, 96.51 feet to the Point of Beginning.

Said parcel contains 1,511 square feet or 0.0347 acre, more or less.

NOW THEREFORE, for and in consideration of the Recitals, which are incorporated herein, for the sum of One Dollars (\$1.00) paid by the City to the Owners, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENTS

1. Grant of Easement to the City. The Owners hereby grant to the City, its successors and assigns, an Easement to enter over, under and across the Property legally described herein, and specifically denoted on the attached Exhibit A, for purposes of constructing, reconstructing,

improving, grading, inspecting, landscaping and other necessary work for sewer improvements. The Owners further grant to the City the right and privilege to move personnel and equipment over portions of the Property (but not over or through any buildings thereon) as shall be reasonable and necessary to gain access, and to exercise the rights of the City herein in accordance with the terms of this Agreement. The City shall provide the Owners reasonable advance written notice prior to accessing the Property, except in the event of emergency, in which event any notice practicable shall be given, and any areas disturbed by the City or its representative during the work shall be replaced in kind by the City. Specifically, the City will seed, fertilize and mulch all disturbed law areas to restore them in kind. The City agrees to surrender possession of the Property upon the expiration of this Easement or any extension thereof. This Easement shall commence upon the date this Agreement was executed and shall expire on December 31, 2024.

2. Indemnification. The City shall indemnify and hold harmless the Owners and Owners' successors and assigns, from and against any and all claims, losses, damages, injuries, liability, costs and expenses, including reasonable attorneys' fees, arising from any accident, occurrence, injury, loss or damage to any person arising out of or resulting from the City's use of the Easement, except to the extent of the negligence or willful misconduct of the Owners.

3. Default. If a party to this Agreement alleges that the other party is in breach hereof, the party alleging breach shall give written notice to the other party, such notice specifying the nature of the alleged breach. Unless otherwise set forth herein, and except in case of an emergency where persons or property are in immediate peril, the party in breach shall have ninety (90) days after receipt of the notice to effect a cure; in an emergency, all reasonable steps to cure shall be taken immediately.

4. Notices. Notices shall be in writing and sent via certified mail, return receipt requested, recognized overnight courier or by hand-delivery to the parties at the addresses listed below. Notices shall be deemed received when actually received.

Notices to Owners: Kerry M and Debbie Meyers Gaultney  
119 Collinsville Rd.  
Troy, IL 62294

Notices to City: City of Troy  
Attn: City Administrator  
116 East Market Street  
Troy, IL 62294

5. Running of Benefits and Burdens. All provisions of this Agreement, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successor, tenants and personal representatives of the parties hereto.

6. Choice of Law. This Agreement shall be construed under the laws of the State of Illinois.

7. Amendment/Termination. This Agreement may not be amended/modified or terminated except in a writing signed by the parties hereto, or their successors and assigns.

8. Non-Waiver. No waiver by either party of any default in performance on the part of the other party, or of any breach or series of breaches, or any of term, covenant or condition of this Agreement will constitute a waiver of any subsequent breach or a waiver of any term, covenant or condition.

9. Severability. If any provision of this Agreement, or the application of any such provision to any person or circumstance, is held by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid, will be construed as if the void or unenforceable provision were not included in this Agreement.

10. Entire Agreement. This writing constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. It supersedes all prior oral and written understandings, agreements, representations and negotiations.

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

OWNERS:

By: Kerry M. Gaultney  
Kerry M. Gaultney

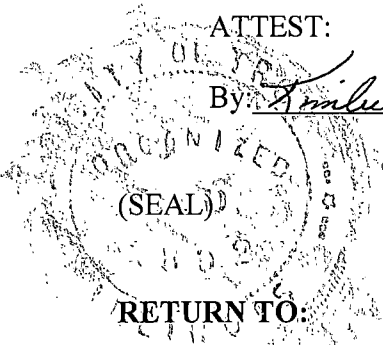
By: Debbie Meyers Gaultney  
Debbie Meyers Gaultney  
DMG

CITY OF TROY, ILLINOIS, an Illinois municipal corporation:

By: David P. Nonn  
DAVE NONN, Mayor  
City of Troy, Illinois

ATTEST:

By: Kim Thomas  
KIM THOMAS, Clerk  
City of Troy, Illinois



RETURN TO:

CITY OF TROY  
ATTN: CITY ADMINISTRATOR  
116 EAST MARKET STREET  
TROY, IL 62294

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**PERMANENT EASEMENT AGREEMENT**

This Permanent Easement Agreement (“Agreement”) is made this 16<sup>th</sup> day of June, 2023, by and between the City of Troy, Illinois, an Illinois municipal corporation (“City”), and Kerry M. and Debbie Meyers Gaultney (“Owners”).

**RECITALS**

A. Owners are the owners of certain real property in Madison County (See attached Exhibit A for parcel numbers/map, and as set forth below in paragraph B.)(the “Property”).

B. The parties hereby enter into this Agreement to grant the City a permanent easement over the Property (the “Easement”) as follows:

Permanent Sewer Easement  
Route: Wickliffe to Old Collinsville Road Sewer  
County: Madison  
Owners: Kerry M and Debbie Meyers Gaultney  
Parcel Number: 09-2-22-09-06-103-016.001

Part of Lots 5 and 6 in Block 1 of Cook’s Second Addition to Troy, Madison County, Illinois, according to the plat thereof recorded in the Recorder’s Office of Madison County, Illinois, in Plat Book 6, Page 21, described as follows:

Commencing at the southeast corner of said Lot 6; thence on an assumed bearing of South 89 degrees 48 minutes 19 seconds West on the south line of said Lot 6, a distance of 4.27 feet to the Point of Beginning.



From said Point of Beginning; thence continuing South 89 degrees 48 minutes 19 seconds West on said south line, 15.15 feet; thence North 07 degrees 44 minutes 36 seconds East, 96.51 feet to the east line of said Lot 5; thence South 03 degrees 50 minutes 19 seconds East on said east line and the east line of said Lot 6, a distance of 74.71 feet; thence South 07 degrees 44 minutes 36 seconds West, 21.23 feet to the Point of Beginning.

Said parcel contains 883 square feet or 0.0203 acre, more or less.

NOW THEREFORE, for and in consideration of the Recitals, which are incorporated herein, for the sum of Three Thousand, Six Hundred dollars (\$3,600.00) paid by the City to the Owners, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

#### AGREEMENTS

1. Grant of Easement to the City. The Owners hereby grant to the City, its successors and assigns, a non-exclusive perpetual easement to enter over, under and across the Property legally described herein, and specifically denoted on the attached Exhibit A. The Owners further grant to the City the perpetual right and privilege to move personnel and equipment over the Property as shall be reasonable and necessary to gain access, and to exercise the rights of the City herein in accordance with the terms of this Agreement. Specifically, the City plans to reconstruct and maintain a sewer main as set forth in detail on attached Exhibit A. The City shall provide the Owners reasonable advance written notice prior to accessing the Property for any maintenance purposes, except in the event of emergency, in which event any notice practicable shall be given, and any areas disturbed by the City or its representative during maintenance operations shall be replaced in kind by the City. The Owners shall be entitled to use the Easement for any purposes permitted under the City Code, however, the Owners shall not change the earth grading or construct any structures and/or buildings on, over or upon the Easement.

2. Indemnification. The City shall indemnify and hold harmless the Owners and Owners' successors and assigns, from and against any and all claims, losses, damages, injuries, liability, costs and expenses, including reasonable attorneys' fees, arising from any accident, occurrence, injury, loss or damage to any person arising out of or resulting from the City's use, maintenance, repair or replacement of the property within the Easement performed by the City, except to the extent of the negligence or willful misconduct of the Owners.

3. Default. If a party to this Agreement alleges that the other party is in breach hereof, the party alleging breach shall give written notice to the other party, such notice specifying the nature of the alleged breach. Unless otherwise set forth herein, and except in case of an emergency where persons or property are in immediate peril, the party in breach shall have ninety (90) days after receipt of the notice to effect a cure; in an emergency, all reasonable steps to cure shall be taken immediately.

4. Notices. Notices shall be in writing and sent via certified mail, return receipt requested, recognized overnight courier or by hand-delivery to the parties at the addresses listed below. Notices shall be deemed received when actually received.

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Troy, IL 62294

Notices to City: City of Troy  
Attn: City Administrator  
116 East Market Street  
Troy, IL 62294

5. Running of Benefits and Burdens. All provisions of this Agreement, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successor, tenants and personal representatives of the parties hereto.

6. Choice of Law. This Agreement shall be construed under the laws of the State of Illinois.

7. Amendment/Termination. This Agreement may not be amended/modified or terminated except in a writing signed by the parties hereto, or their successors and assigns.

8. Non-Waiver. No waiver by either party of any default in performance on the part of the other party, or of any breach or series of breaches, or any of term, covenant or condition of this Agreement will constitute a waiver of any subsequent breach or a waiver of any term, covenant or condition.

9. Severability. If any provision of this Agreement, or the application of any such provision to any person or circumstance, is held by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid, will be construed as if the void or unenforceable provision were not included in this Agreement.

10. Entire Agreement. This writing constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. It supersedes all prior oral and written understandings, agreements, representations and negotiations.

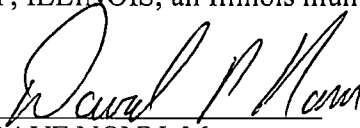
IN WITNESS WHEREOF, the parties have executed this Agreement as of date first written above.

OWNERS:

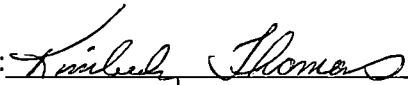
By: Kerry M. Gaultney  
Kerry M. Gaultney

By: Debbie Meyers Gaultney  
Debbie Meyers Gaultney

CITY OF TROY, ILLINOIS, an Illinois municipal corporation:

By:   
DAVE NONN, Mayor  
City of Troy, Illinois

ATTEST:

By:   
KIM THOMAS, Clerk  
City of Troy, Illinois

(SEAL)

RETURN TO:

CITY OF TROY  
ATTN: CITY ADMINISTRATOR  
116 EAST MARKET STREET  
TROY, IL 62294



**END OF DOCUMENT**