

NORTHAMPTON COUNTY COUNCIL - EASTON, PA

Ordinance No. 617

SESSION 2017

Bill No. 699

Introduced by Robert F. Werner and Mathew M. Benol on June 1, 2017

Enacted June 16, 2017

Effective July 16, 2017

Title:

AN ORDINANCE PROVIDING FOR THE CONVEYANCE OF PERMANENT AND TEMPORARY EASEMENTS OWNED BY NORTHAMPTON COUNTY, LOCATED IN LOWER NAZARETH TOWNSHIP, TO THE EASTON SUBURBAN WATER AUTHORITY TO ENABLE THEM TO PROVIDE PUBLIC WATER THROUGH ITS PUBLIC WATER SYSTEM

WHEREAS, Northampton County Home Rule Charter Article 602 (a)(6) provides that the Northampton County Council shall enact an ordinance for any act which conveys or leases or authorizes the conveyance or lease of any real property of the County; and

WHEREAS, the Easton Suburban Water Authority (Authority) plans to construct, reconstruct, operate, remove and perpetually maintain water transmission lines under, upon and across said easements; and

WHEREAS, the Authority plans to construct, reconstruct, operate and maintain a pumping station for use by the public water system, which pumping station with associates improvements will remain perpetually available to the Authority; and

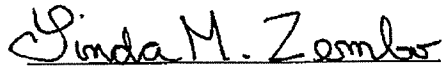
WHEREAS, the Authority has requested that the County of Northampton to grant and convey unto the Authority, its successors and assigns, upon Authority's request, perpetual easements identified as Northampton County Tax Parcel Nos. L8-11-2 and L8-11-3; and

WHEREAS, the County Council of Northampton believes it is in the public's best interest to convey these easements.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED that the Northampton County Council hereby grants and conveys to the Authority easements over the lands of Northampton County, identified as Tax Parcel Nos. L8-11-2 and L8-11-3, as more fully depicted in the Acquisition and Development Agreement attached hereto as Exhibit "A".

This ordinance was advertised on the 4th day of June 2017 and was adopted by the Northampton County Council on the 15th day of June 2017.

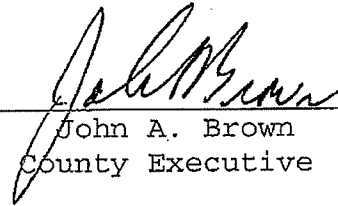
ATTEST:



Linda M. Zembo
Clerk to Council



John Cusick
County Council President



John A. Brown
County Executive

ACQUISITION AND DEVELOPMENTAL AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2017, by and between THE COUNTY OF NORTHAMPTON, a Third Class County under the laws of the Commonwealth of Pennsylvania (hereinafter referred to as County),

AND

THE EASTON SUBURBAN WATER AUTHORITY, a Pennsylvania municipal authority with offices located at 3700 Hartley Avenue, Easton, Pennsylvania, charged with the responsibility of providing public water supply to various municipalities within the County of Northampton, including Lower Nazareth Township (hereinafter referred to as Authority).

WITNESSETH:

WHEREAS, the County maintains a fee simple interest in certain real property located in the Township of Lower Nazareth, County of Northampton, and Commonwealth of Pennsylvania, more specifically identified in the Office of the Assessor of Northampton County as Parcel No. L8-11-2 and L8-11-3, and such premises as more particularly described in the Office of the Recorder of Deeds of Northampton County in Deed Book 475, Page 113 (Tract 2), subject to certain conveyances of record occurring thereafter; and

WHEREAS, County's premises are not presently served by a public water system, and the County is desirous of securing access to public water to its site; and

WHEREAS, the Authority is the owner/lessee of certain facilities constituting a public water system in the City of Easton, Boroughs of Glendon, West Easton, Wilson, Townships of

Palmer, Bethlehem, Forks, Lower Nazareth and Williams, and is desirous of providing to County, as well as to neighboring premises, public water through its public water system.

NOW, THEREFORE, in consideration of the above recitals which are incorporated herein by reference, and in further consideration of the mutual promises set forth below and intending to be legally bound hereby, the parties do hereby agree as follows:

1. County agrees to grant and convey unto Authority, its successors and assigns, upon Authority's request, perpetual easements as described in Exhibit A attached hereto and made part hereof, for all lawful purposes, including the right to construct, reconstruct, operate, remove and perpetually maintain water transmission lines under, upon and across said easements.

2. County agrees to grant and convey unto Authority certain premises as more particularly described in Exhibit B, in the form of a perpetual easement to enable the Authority to construct, reconstruct, operate and maintain, a pumping station for use by the public water system, which pumping station with associated improvements will remain perpetually available to the Authority.

3. County agrees to grant and convey unto Authority certain premises as more particularly described in Exhibit C, in the form of a perpetual easement for all lawful purposes, including the right to construct, reconstruct, operate and maintain, water transmission lines under, upon and across said easement.

4. The Authority, its successors and assigns, shall be entitled to perpetual use of the easements granted herein, together with the right and privilege at any time, and at all times, to enter the easement through the lands of the County, its successors and assigns or otherwise, for all lawful purposes, including the right to construct, reconstruct, operate, remove, maintain any water lines, water facilities or other equipment constructed by or on behalf of the Authority, its successors and assigns, now and in the future.

5. The County, but for the grant of an easement for purposes of the pumping station, shall have the full use and enjoyment of the easement surface, except when such interferes with the purposes granted to the Authority. However, the County will not, except as specifically set forth to the contrary herein and without the prior written approval of the Authority, do or perform or permit any act which impairs the Authority's ability to construct, reconstruct, operate, remove, and/or maintain its water lines within the boundaries of the easement, and if such acts occur and interfere with the other rights given the Authority pursuant to these easements, the Authority shall have the right to remove at the County's expense any structure, object of any kind, or any shrubbery, bushes, trees or plants located within said easement, which in the discretion of the Authority interfere with the rights given the Authority pursuant to the easements granted herein.

6. The Authority shall, in connection with the rights of any easement granted herein, restore the surface of the easement as nearly as practical to its contour and condition as existed prior to any exercise of any rights herein.

7. The County hereby warrants to the Authority that the Authority shall at all times have the exclusive use and enjoyment of the easement.

8. The County agrees that it will not grant any easement across the easements granted herein, will not provide any right or license to any third party without first securing the written approvals of the Authority, which approval shall not be unreasonably withheld.

9. This easement agreement shall be binding and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, personal representatives, successors and assigns, and shall be appurtenant to and run with the property.

10. The provisions of this easement agreement shall be deemed independent and severable, and the invalidity or enforcement of any provision or portion hereof shall not affect the enforceability or validity of any other provision or a portion hereof.

11. This easement agreement shall be construed, interpreted, and applied in accordance with the laws of the Commonwealth of Pennsylvania.

12. The easements granted under this agreement shall be recorded of public record in the Office of the Recorder of Deeds of Northampton County.

13. The easements granted herein shall be considered covenants running with the land and evidence of the easement agreements shall be indexed on the current deed vesting title in the County herein.

14. The obligation of the County herein and the Authority is conditioned upon the Authority securing all necessary permits and approvals for construction of the aforementioned pumping station, as well as the construction of water lines necessary for connection to the public water system from any and all regulatory agencies or governmental authorities. In the event that the Authority is unable to secure such approval, or in the event such approval is secured but conditioned, then the Authority may choose to reject such conditions and this agreement shall be of no further effect.

15. As additional consideration for the easements granted hereunder, the Authority agrees to construct the pump station in accordance with the county parks exterior design standards presently in effect.

16. The Authority will also install the proposed eight inch DIP water main in the proposed easement along Country Club Road at its expense, and also agrees at its expense to install three proposed two inch domestic service laterals to and including the proposed meter pits.

17. As additional consideration the Authority will waive the distribution fee associated for the domestic service laterals, and will waive the customer facility fee for the proposed domestic water meters at present.

18. County agrees to be responsible to perform all necessary plumbing and water system work to connect the proposed meter pits to the installed water system on the park property when the use of the public system is activated by the County.

19. At such time as the public water system is connected to and activated, the County will be responsible to pay the then existing capacity fee for the domestic service laterals based on the actual size of the water meter installed in each meter pit. Thereafter, in the event that the water meter size is increased, County shall pay to the Authority as additional tapping fees the difference between the initial size and the increased size.

ATTEST:

THE COUNTY OF NORTHAMPTON

By _____

ATTEST:

EASTON SUBURBAN WATER AUTHORITY

By _____

EXHIBIT A

1. Ten foot permanent water main easement on the east side of Country Club Road extending approximately 900 feet along the western property line.
2. Ten foot wide temporary construction easement adjacent and to the east of the above permanent easement for the same distance.

EXHIBIT B

1. Area 145' by 145' adjoining Country Club Road to the east, immediately south of the existing Met Ed easements, said description to be replaced by a careful surveyor's description.
2. Twenty feet wide temporary construction easements on south and east sides of the above permanent easement

EXHIBIT C

1. A one hundred foot long by ten foot wide easement on the west side of Country Club Road to access County's park.
2. Ten foot wide temporary construction easement adjacent and to the east of the above permanent easement for the same distance.