

EASEMENT AGREEMENT

This Agreement is made October 5, 1990, between DETWEILLER PLAYGROUND, INC., an Illinois not-for-profit corporation of Peoria, Illinois, (hereinafter referred to as "the Grantor") and THE PLEASURE DRIVEWAY AND PARK DISTRICT OF PEORIA, a unit of local government in the County of Peoria, State of Illinois, (hereinafter referred to as "the Grantee").

The following recitals of fact are a material part of this instrument:

A. The Grantor is the owner of a tract of land described as follows and hereinafter referred to as "Parcel 1":

Lots 1, 2, and 3 in Block F of Bryants Addition in the West $\frac{1}{2}$ of the S.E. $\frac{1}{4}$ of Sec. 3; also Blocks F and G in Birkets Addition in the SE $\frac{1}{4}$ of Sec. 3, and the N.E. $\frac{1}{4}$ Sec. 3; also Lots 16, 17, and 18 in Birkets Subdivision of the N.W. $\frac{1}{4}$ of Sec. 2 and the N.E. $\frac{1}{4}$ of Sec. 3; all in T8N, R8E of the 4th P.M. City of Peoria, County of Peoria, State of Illinois.

B. The Grantor wishes to grant and the Grantee wishes to receive an easement over, under and across that part of Parcel 1 described as follows and hereinafter referred to as "The easement premises 'Parcel 2'":

A ten foot wide Pathway Easement over, across and through a part of the SE $\frac{1}{4}$ and a part of the NE $\frac{1}{4}$ of Section 3, T. 8 N., R. 8 E. of the 4th P.M., the centerline of said ten foot wide easement being more particularly described as follows:

Commencing at the intersection of the Southeasterly R.O.W. line of the Peoria and Pekin Union Railroad with the Southwesterly R.O.W. line of Spring Street; thence N 40°-00' E along the Southeasterly R.O.W. line of the Peoria and Pekin Union Railroad, a distance of 954.30 feet to the Point of Beginning of the centerline to be described; thence N 49°-32'-42" E, a distance of 60.94 feet; thence S 42°-26' E, a distance of 51.00 feet; thence S 48°-40' E, a distance of 84.73 feet; thence N 41°-21'-57" E, a distance of 267.20 feet; thence N 47°-53'-22" W, a distance of 35.25 feet; thence N 42°-06'-38" E, a distance of 146.0 feet; thence S 47°-53'-22" E, a distance of 30.8 feet; thence N 49°-25'-40" E, a distance of 147.58 feet; thence in a Northeasterly direction along a curve to the right having a radius of 279.52 feet for an arc distance of 96.35 feet; thence in a Northeasterly direction along a curve to the left having a radius of 100.00 feet for an arc distance of 75.34 feet; thence N 26°-00'-40" E, a distance of 21.76 feet; thence in a Northeasterly direction along a curve to the right having a radius of 500.00 feet for an arc distance of 137.65 feet; thence N 41°-47'-04" E, a distance of 189.10 feet; thence in a Northeasterly direction along a curve to the left having a radius of 585.28 feet for an arc distance of 141.31 feet; thence in a Northeasterly direction along a curve to the right having a radius of 395.17 feet for an arc distance of 76.26 feet; thence N 39°-00'-30" E, a distance of 107.99 feet; thence N 50°-59'-30" W, a distance of 132.00 feet; thence N 39°-00'-30" E, a distance of 88.0 feet, more or less, to a point on the Southwesterly property line of the United States Army Corp of Engineers and the terminus of said centerline.

Now, therefore, in consideration of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and in further consideration of the covenants and restrictions herein, the following grants, agreements, and covenants and restrictions are made:

1. GRANT OF EASEMENT. The Grantor hereby grants to the Grantee, his heirs and assigns, a perpetual easement for ingress and egress over, under and across the easement premises; parcel 2, for use as a section of a hiking, biking trail and lineal park.

2. USE OF EASEMENT PREMISES. Exclusive use of the easement premises is not hereby granted. The right to use the easement premises, likewise for ingress and egress, is expressly reserved by the Grantor. In addition, the Grantor reserves the right to make the following uses of the easement premises.

(a) Any subsurface use that does not unreasonably interfere with Grantee's use of the easement premises.

(b) Any surface use that does not unreasonably interfere with Grantee's use of the easement premises.

3. USE OF PARCELS 1 AND 2. As long as this easement grant remains in effect Grantor reserves the right to make any and all uses or changes of uses of Parcel 1 it deems desirable. As long as this easement grant remains in effect Parcel 2 shall not be used for other than the purposes to which it is put at the time of this easement agreement and no building other than one suited for those purposes shall be constructed thereon.

4. PARKING. Both parties covenant that vehicles shall not be parked on the easement premises except so long as may be reasonably necessary to load and unload.

5. RELOCATION OF EASEMENT. Grantor reserves the right to relocate the easement premises as follows:

(a) Grantor shall first notify the Grantee of the proposed relocation by mailing notice to the Grantee at his last address furnished pursuant hereto showing the proposed relocation, probable commencement and completion dates, all by mailing same, postage prepaid, at least thirty (3) days prior to commencement of relocation.

(b) Grantor shall improve the new easement premises in the same fashion and manner as the existing easement premises hereunder or, at Grantor's option, reimburse Grantee for all costs of improving the new easement premises in the same location.

(c) At the completion of the work, Grantor shall record an easement grant in recordable form granting the new easement to the Grantee, shall cause the same to be delivered to the Grantee, whereupon the change in location of the easement premises shall become effective, and appropriate releases of the prior location shall become effective, and appropriate releases of the prior location shall be executed in recordable form and exchanged between the parties hereto, their successors or assigns.

6. NOTICE. Grantor's address is Detweiller Playground, Inc., Commercial National Bank Building, 301 S.W. Adams, Peoria, IL 61631, and Grantee's address is Glen Oak Pavilion, 2218 North Prospect Road, Peoria, IL 61603. Either party may lodge written notice of change of address with the other. All notices shall be sent by U. S. Mail to the addresses provided for in this paragraph and shall be deemed given when placed in the mail. The affidavit of the person depositing the notice in the U. S. Post Office receptacle shall be evidence of such mailing.

7. CONSTRUCTION. The rule of strict construction does not apply to this grant. This grant shall be given a reasonable construction so that the intention of the parties to confer a commercially usable right to enjoyment on the Grantee is carried out.

8. MARKING OF EASEMENT PREMISES. The Grantee covenants and agrees that either before the execution of this agreement or immediately following its execution that he will provide for the marking of the easement premises described herein by a competent engineer or licensed surveyor by a process adequate to identify the boundaries of the easement premises throughout the term of the easement grant. The Grantee shall bear any and all costs associated with the marking of the easement premises. The Grantor shall have the right to review the marking of the easement premises for both its sufficiency and accuracy.

9. RESTORATION OF EASEMENT PREMISES. The Grantee hereby agrees to restore the surface of the easement premises after expiration or termination of the easement to a condition as near as practical to its state immediately prior to this agreement, specifically including any area disturbed by the installation, all to the satisfaction of the Grantor's duly appointed representatives.

10. INDEMNIFICATION. The Grantee agrees to indemnify, save and hold harmless the Grantor from any loss, damage or expense constituting a legal liability which it may suffer, incur or sustain or for which Grantor may become liable growing out of ny injury to persons or to real or personal property caused by any of the work performed by Grantee under this grant and agreement.

11. MAINTENANCE OF THE EASEMENT PREMISES. The Grantee hereby agrees to construct and maintain in good repair any improvements to the easement premises at its sole cost and expense.

12. WARRANTIES. Grantor does not warrant or represent that the premises are safe, healthful, or suitable of the purposes for which they are permitted to be used under the terms of this easement grant.

13. RECREATIONAL USE OF LAND AND WATER AREAS ACT. It is the intent of the parties that this Agreement afford the protections accorded by the Recreational Use of Land and Water Areas Act, ch. 70, ss31, Ill. Rev. Stat. as presently enacted or hereinafter amended, to the owner of the property herein involved as that term is used in the Act.

In witness whereof, the Grantor and the Grantee have hereunto set their hands and seals this 5th day of October, 1990.

DETWEILLER PLAYGROUND, INC. Grantor

BY: Cavan M. Twilher (SEAL)

ITS: President

ATTEST:

[Signature]

THE PLEASURE DRIVEWAY AND PARK DISTRICT
OF PEORIA, Grantee

BY: Bonnie W. Noble (SEAL)

ITS: President
Nov. 14, 1990

ATTEST:

Beverly J. Sabue
Its Secretary