ORDINANCE 11-27 Passed June 27, 2011

AUTHORIZING THE ACQUISITION OF A PERMANENT EASEMENT FROM THE ROSENOW FAMILY AS TRUSTEES OF THE ROSENOW TRUST NO. 2004-1 ON CERTAIN REAL PROPERTY LOCATED ADJACENT TO THE KISHWAKEE RIVER AT 231 BETHANY ROAD, (SECTION 04-00167-00-BR).

WHEREAS, the City of DeKalb is in the process of replacing the Bethany Road bridge at the Kishwaukee River east of North First Street; and,

WHEREAS, the City Council of the City of DeKalb hereby finds and determines that a permanent easement of 0.093 acre on certain real property located at 231 Bethany Road and desirable for the widening of roadway embankment, drainage and utilities for the Bethany bridge replacement project; and,

WHEREAS, the City Council of the City of DeKalb has previously authorized the acquisition of the said permanent easement on said real property located at 231 Bethany Road; now,

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL of the City of DeKalb, Illinois as follows:

Section 1. That the above recitals are hereby incorporated into this Ordinance as though fully set forth in this Section 1.

Section 2. That the City of DeKalb does hereby approve the acquisition and purchase of a permanent easement on a portion of certain real property located adjacent to the Kishwaukee River along the north side of Bethany Road, commonly known as 231 Bethany Road and legally described as:

THAT PART OF LOT "A" OF THE GEORGE FLINN FARM PLAT SECTION 2, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, DEKALB COUNTY, ILLINOIS, RECORDED AS DOCUMENT NO. 96047, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID LOT "A" WITH THE NORTHERLY RIGHT OF WAY LINE OF BETHANY ROAD; THENCE SOUTH 64 DEGREES 17 MINUTES 28 SECONDS EAST, 339.81 FEET ALONG SAID NORTHERLY LINE OF BETHANY ROAD TO THE POINT OF BEGINNING; THENCE SOUTH 83 DEGREES 35 MINUTES 24 SECONDS EAST, 49.32 FEET; THENCE SOUTH 69 DEGREES 33 MINUTES 17 SECONDS EAST, 50.21 FEET; THENCE SOUTH 64 DEGREES 21 MINUTES 18 SECONDS EAST, 132.27 FEET TO THE WESTERLY LINE OF PARCEL 1 OF THE PAUL A. NEHRING ESTATE FARM PLAT, RECORDED AS DOCUMENT NO. 8305304; THENCE SOUTH 30 DEGREES 01 MINUTES 32 SECONDS WEST, 21.11 FEET TO SAID NORTHERLY LINE OF BETHANY ROAD; THENCE NORTH 64 DEGREES 17 MINUTES 28 SECONDS WEST, 227.22 FEET TO THE POINT OF BEGINNING, CONTAINING 4067 SQUARE FEET, MORE OR LESS, SITUATED IN DEKALB TOWNSHIP, DEKALB COUNTY, ILLINOIS.
from the Rosenow family as trustees of the Rosenow Trust No. 2004-1, for the sum of fifteen thousand and no/100 Dollars ($15,000.00), in accordance with the terms and conditions set forth in the Easement Agreement, a copy of which is attached hereto and made a part hereof as Exhibit “A.”

Section 3. Upon its passage and approval according to law this Ordinance shall be in full force and effect.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting, held on the 27th day of June, 2011, and approved by me as Mayor on the same day. Passed on first reading by voice vote and second reading by roll call vote: 7-0. Aye: Jacobson, Teresinski, Lash, Gallagher, Naylor, Baker, O'Leary.

ATTEST:

[Signature]
STEVE KAPITAN, City Clerk

[Signature]
KRIS POVLSEN, Mayor
PERMANENT EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Grantor, Penny A. Rosenow and Brian T. Rosenow, as Trustees of the Penny A. Rosenow Trust No. 2004-1, hereby covenant(s) and agree(s) with the City of DeKalb, Grantee, as follows:

The Grantor(s) hereby represent(s) that he/she/they is/are the owner(s) in fee simple of the tract of land situated in the County of DeKalb and State of Illinois, and described as follows, to-wit:

See Attached Legal Description

Address: 231 and 345 Bethany Road, DeKalb, IL 60115

The Grantor(s) hereby agree(s) with the Grantee for and in consideration of the sum of Fifteen Thousand Dollars ($15,000.00) paid to Grantor(s) by the Grantee, or on behalf of said party, and the receipt of which is hereby acknowledged, the said Grantee may and is hereby granted the right, easement and privilege to enter upon the tract of land described above for the purpose of roadway construction or other public right-of-way purposes related to said roadway construction.

The Grantor(s) hereby further agree(s) that the Grantee may at any time in the future enter upon the said tract for the purpose of roadway construction or other public right-of-way purposes related to said roadway construction, including, without limitation, maintenance of improvements constructed within said easement.

The said Grantor(s) hereby further agree(s), for and in consideration of the sum hereinabove named, without limiting the interest above granted and conveyed, and does hereby acknowledge that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including any diminution in value to any remaining property of the Grantor caused by the opening, improving and using the above-described premises for highway purposes. This acknowledgment does not waive any claim for trespass or negligence against the Grantee or its agents which may cause damage to the Grantor’s remaining property, because of said roadway construction or other public right-of-way purposes related to said roadway construction.

To these covenants and this agreement, Grantor hereby binds itself, its successors and assigns forever.
Bethany Road  
Stage ______ 
DeKalb County  
Section: __________  
Parcel: 0001PE  
Owner: Penny A. Rosenow and Brian T. Rosenow, as Trustees of the Penny A. Rosenow Trust No. 2004-1  
P.I.N.: 08-02-400-027

THAT PART OF LOT "A" OF THE GEORGE FLINN FARM PLAT SECTION 2, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, DEKALB COUNTY, ILLINOIS, RECORDED AS DOCUMENT NO. 96047, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID LOT "A" WITH THE NORTHERLY RIGHT OF WAY LINE OF BETHANY ROAD; THENCE SOUTH 64 DEGREES 17 MINUTES 28 SECONDS EAST, 339.81 FEET ALONG SAID NORTHERLY LINE OF BETHANY ROAD TO THE POINT OF BEGINNING; THENCE SOUTH 83 DEGREES 35 MINUTES 24 SECONDS EAST, 49.32 FEET; THENCE SOUTH 69 DEGREES 33 MINUTES 17 SECONDS EAST, 50.21 FEET; THENCE SOUTH 64 DEGREES 21 MINUTES 18 SECONDS EAST, 132.27 FEET TO THE WESTERLY LINE OF PARCEL 1 OF THE PAUL A. NEHRING ESTATE FARM PLAT, RECORDED AS DOCUMENT NO. 8305304; THENCE SOUTH 30 DEGREES 01 MINUTES 32 SECONDS WEST, 21.11 FEET TO SAID NORTHERLY LINE OF BETHANY ROAD; THENCE NORTH 64 DEGREES 17 MINUTES 28 SECONDS WEST, 227.22 FEET TO THE POINT OF BEGINNING, CONTAINING 4087 SQUARE FEET, MORE OR LESS, SITUATED IN DEKALB TOWNSHIP, DEKALB COUNTY, ILLINOIS.
IN WITNESS WHEREOF, the Grantor(s) have set his/her/their hand(s), this day of
_______, 2011.

By: ____________________________ By: ____________________________

Penny A. Rosenow, as Trustee
Print Name

Brian T. Rosenow, as Trustee
Print Name

State of Illinois

County of Cook

I, Elvia L. Franco, a Notary Public, in and for said County and State aforesaid, do hereby certify that Penny A. Rosenow and Brian T. Rosenow who is/are personally known to me to be the Trustees of the Penny A. Rosenow Trust No. 2004-1 and the same person(s) whose name(s) is/are subscribed to the foregoing instrument, did appear before me this day in person and acknowledged that he/she/they signed and delivered the said instrument as his/her/their free and voluntary act for the uses and purposes therein set forth.

Date: July 26, 2011

Exempt under 35 ILCS 200/31-45(b), Real Estate Transfer Tax Law.

Date

Buyer, Seller or Representative

This instrument was prepared by: J. Steve Santacruz, Santacruz Associates, 2650 Valor Drive, Glenview, IL 60026

Mail to: Santacruz Associates, Ltd.
2650 Valor Drive, Glenview, IL 60026

Return to:
Wheatland Title Guaranty
105 W. Veterans Parkway, Yorkville, IL 60560