

Record and return to:
The Newberry Law Firm, P.C.
Post Office Box 790
Springfield, GA 31329

STATE OF GEORGIA
COUNTY OF EFFINGHAM

CORRECTIVE TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

This Temporary Construction Easement Agreement (hereinafter referred to as “Agreement”) is made and entered into this ___ day of February, 2023 by and between Cassie Michele Hinely (hereinafter referred to as “Hinely”) and the Board of Commissioners of Effingham County, Georgia (hereinafter referred to as “Effingham County”).

WITNESSETH:

WHEREAS, Hinely and Effingham County executed that certain Utility Easement Agreement in favor of Effingham County, dated January 3, 2023, and recorded in Deed Book 2825, Page 935, Effingham County, Georgia, records (the “Original Easement”); and

WHEREAS, Hinely and Effingham County intended to execute a Temporary Construction Easement Agreement; and

WHEREAS, Hinely and Effingham County now desire to execute this Corrective Temporary Construction Easement Agreement to replace in its entirety the Original Easement referenced above; and

WHEREAS, Hinely owns certain real property known as Tax Parcel No. 03260029 located at 4455 Highway 17 South, Guyton, Georgia and further described in Deed Book 2152, Page 351 in the records of the Clerk of Superior Court of Effingham County, Georgia (hereinafter referred to as “Hinely Property”); and

WHEREAS, Hinely and Effingham County desire to enter into this Agreement granting Effingham County the right to store construction material and equipment in the area shown on that certain sketch or plat attached hereto as Exhibit “A” and made a part hereof by this reference (hereinafter referred to as “Temporary Easement Property”); and

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid at and before the execution and delivery of these presents, the above-mentioned recitals, the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned parties do covenant and agree as follows:

1. **Recitals.** The above preamble and recitals are hereby incorporated as if restated verbatim.
2. **Temporary Construction Easement.**
 - a. **Grant.** Hinely does hereby grant, bargain, and convey unto Effingham County, its successors and assigns, and creates and establishes for the benefit of Effingham County and its successors and assigns, a temporary construction easement across the Temporary Easement Property as shown on that certain sketch or plat attached hereto as Exhibit "A" (hereinafter referred to as the "Temporary Construction Easement").
 - b. **Nature and Purpose.** The Temporary Construction Easement is granted for vehicular and pedestrian ingress and egress to and from the Temporary Easement Property and for Grantee's use to do all things reasonably necessary to construct and install the utility project including, but not limited to, the transport, stockpiling and storage of construction materials, soil, equipment and vehicles. Upon expiration of the Temporary Construction Easement, the Grantee, at its sole cost and expense, shall restore the Temporary Easement Property to substantially the same condition it was in prior to Grantee's use. Grantee shall not leave any rubbish or debris on or about the Temporary Easement Property. The term of this Agreement shall begin upon the date of mutual execution hereof and shall terminate on August 1, 2024 or upon completion of the utility project, whichever first occurs. The Temporary Construction Easement is for the use and benefit of Effingham County and its contractors, employees, agents, vendors, guests, licensees and invitees.
 - c. **Conditions and Restrictions.** Hinely covenants and agrees that she shall not plant within or allow to grow into the Temporary Easement Property any trees, bushes or other planted material that would interfere with Effingham County's use of the Temporary Easement Property, and that it shall not construct any buildings, walls, fences, or other structures within, or over or upon the Temporary Easement Property. Effingham County shall have the right, but not the obligation to cut, trim, remove trees, brush, and/or remove other unauthorized obstruction, which may impede or interfere with Effingham County's use. Hinely hereby warrants title to the Temporary Easement Property herein granted and conveyed to Effingham County. Hinely warrants that the Temporary Easement Property is free and clear of all liens and encumbrances. Hinely agrees to protect and defend the title from and against all persons whomsoever. Hinely agrees and hereby does, to the extent permitted by law, indemnify and hold harmless Effingham County from any costs, expenses, damages, claims or demands incurred or asserted against Effingham County as a result of or arising out of Hinely's warranties or covenants set forth herein.

3. **Terms, Conditions and Restrictions.**

- a. **Maintenance.** Effingham County shall maintain the Temporary Easement Property as it deems necessary and in its sole discretion. Effingham County shall have no obligation to pay for any insurance or taxes, assessments or other charges or fees applicable or chargeable to the Temporary Easement Property or owners thereof.
- b. **Personal Property.** Effingham County shall own all personal property that it places within the Temporary Easement Property.
- c. **Other Easements.** Hinely shall make no other easement upon the portion of the premises covered by this Agreement without the prior written approval of Effingham County.
- d. **Liability.** Effingham County shall be liable for all loss, cost, damage, liability, or expense incurred by Hinely in connection with the performance of work by Effingham County or its agents, vendors, contractors, representatives, lessees, invitees, licensees or employees in the easement area under this Agreement, except to the extent caused by the negligence or willful misconduct of Hinely or her agents, vendors, contractors, representatives, lessees, invitees, licensees, employees, or tenants. Any portion of this Agreement regarding indemnification apply only to the extent permitted by law, and any applicable case law, including under *CSX Transportation, Inc. v. City of Garden City*, 277 Ga. 248, 588 S.E. 2d 688.
- e. **Miscellaneous.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns. In the event any provision hereof is held to be invalid and unenforceable, such invalidity or unenforceability shall not affect the validity of enforceability of any other provision hereof. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof, and no representation, inducements, promises or agreements, oral or otherwise, not expressly set forth herein shall be of any force and effect. This Agreement may not be modified except by written modification executed by all parties hereto. This Agreement shall be construed, governed and interpreted in accordance with the laws of the State of Georgia. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original and all of which together shall comprise but a single instrument. No consent or waiver, expressed or implied, by a party to any breach or default by any other party in the performance by such other party of the obligations thereof under this Agreement shall be deemed or construed to be a consent or waiver of any other breach or default in the performance by such other party of any other obligations of such party of this Agreement. Failure on the part of any party to complain of any act or failure to act of any other party or to declare such party in default, irrespective of how long such failure continues, shall not constitute a waiver of such party of the rights thereof under this Agreement.

IN WITNESS WHEREOF, the undersigned parties have executed, or caused this Agreement to be executed by their duly authorized representatives, under the seal as of the day and year above written.

By: _____(L.S.)
CASSIE MICHELE HINELY

Signed, sealed and delivered this
____ day of _____, 2023, in
the presence of:

WITNESS

NOTARY PUBLIC

**THE BOARD OF COMMISSIONERS OF
EFFINGHAM COUNTY, GEORGIA**

By: _____
Wesley Corbitt
Its: Chairman

Attest: _____
Stephanie Johnson
Its: County Clerk

Signed, sealed and delivered this
____ day of _____, 2023, in
the presence of:

Witness

Notary Public