
THE CITY OF ROCHELLE
Ogle County, Illinois

RESOLUTION
NO. _____

**A RESOLUTION AUTHORIZING A UTILITY SERVICES AGREEMENT WITH CHS
INC., FOR 1900 STEWARD ROAD**

JOHN BEARROWS, Mayor
ROSE HUERAMO, City Clerk

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City Council

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
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Ogle County, Illinois

RESOLUTION NO. ____

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WHEREAS, Section 7 of Article VII of the 1970 Constitution of the State of Illinois provides that a municipality that is not a home rule unit shall only have the powers granted to them by law and as such the City of Rochelle, Ogle County, Illinois being a non-home rule unit pursuant to the provisions of said Section 7 of Article VII, and may exercise only the powers expressly granted by law; and

WHEREAS, the Illinois General Assembly granted non-home rule municipalities broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities.” 65 ILCS 5/1-2-1; and

WHEREAS, while “non-home rule municipalities have the authority to enact ordinances, such ordinances may in no event conflict with state law or prohibit what a state statute expressly permits . . . A local ordinance may impose more rigorous or definite regulations in addition to those enacted by the state legislature so long as they do not conflict with the statute.” (*Village of Wauconda v. Hutton*, 291 Ill. App. 3d 1058, 1060 (1997)); and

WHEREAS, CHS, Inc., is a local ethanol producer with a plant located at 1900 Steward Road, in Rochelle; and

WHEREAS, CHS, Inc., is looking to expand its local plant; and

WHEREAS, as part of its plant expansion, CHS, Inc., needs a utility line upgrade; and

WHEREAS, CHS, Inc., is looking for Rochelle Municipal Utilities (“RMU”) to procure a contractor and monitor the installation of the service upgrade; and

WHEREAS, RMU is willing to contract with CHS, Inc., as part of a utility services agreement to procure a contractor and oversee the project for CHS, Inc., and

WHEREAS, a draft contract is attached herein as Exhibit A; and

WHEREAS, it has been determined by the Corporate Authorities of the City of Rochelle that it is in the best interest of the City and its residents to enter into a Utility Services Agreement with CHS, Inc., for RMU to oversee the utility line upgrade for CHS, Inc., at 1900 Steward Road.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHELLE, ILLINOIS:

SECTION ONE: That the City hereby incorporates all of the recitals above into this Resolution as if fully set forth herein.

SECTION TWO: The City Manager or his designee is authorized to execute a Utility Services Agreement similar in nature to the one attached as Exhibit A; subject to review and revision by the City attorney.

SECTION THREE: If any provision of this Resolution or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Resolution is severable.

SECTION FOUR: Where the conditions imposed by any provisions of this Resolution are more restrictive than comparable provisions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Resolution will govern.

SECTION FIVE: The City Clerk shall publish this Resolution in pamphlet form.

SECTION SIX: This Resolution shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

APPROVED THIS 26th day of May 2025.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A
NOT FOR EXECUTION
DRAFT UTILITY SERVICE AGREEMENT FOR 1900 STEWARD ROAD, ROCHELLE, ILLINOIS

This Development Agreement (the “Agreement”) is made and entered into as of this _____ day of _____, 2025, by and between **CHS, INC.**, a Delaware corporation (“CHS”), and the **CITY OF ROCHELLE**, Ogle County, Illinois, an Illinois municipal corporation (the “City”), and is based on the following recitals:

RECITALS

- A. The City is duly organized and existing under the laws of the State of Illinois as a non-home rule municipality.
- B. CHS is the record owner of the commercial real estate commonly known as 1900 Steward Road, Rochelle, Illinois 61068, Ogle County, Illinois (the “Subject Property”), which is currently utilized to produce ethanol on the Subject Property (the “Building”).
- C. The City operates the Rochelle Municipal Utilities (“RMU”), which provides utility services to its residential, commercial and industrial customer, including electricity to power CHS’s ethanol manufacturing operations at the Building.
- D. The proposed improvements and installation of additional equipment in the Building by CHS will require the RMU to enhance and upsize its distribution facilities and substation to be constructed near the Building in order to accommodate the additional electrical load that will be needed for the operations of CHS in the Building.
- E. The Development of the Building will require or involve:
 - 1. The installation of a new 34.5kV distribution feeder and other equipment to provide increased electrical capacity for the Building (the “Project”). CHS understands and acknowledges that the electrical distribution infrastructure addressed in this Agreement would not have had the capacity to provide electricity to the Building, but for the request of CHS and the commitments set forth in this Agreement. The City agrees that the distribution feeder shall be used solely for CHS purposes, and not for any other customers.

The City agrees to expand and upsize the planned substation for the service expansion to the Subject Property from the Ritchie Road distribution substation to the Building on the Subject Property. As part of this expansion, the City will procure, supervise, and direct any third-party contractors associated with the installation of the new distribution feeder up to the revenue meter, to be undertaken with CHS oversight and approvals. CHS will be responsible for all documented costs for the implementation of the Project. Additionally, CHS agrees to pay RMU, per the schedule of values shown as Exhibit 2, for procuring, supervising, and directing the third-party contractors to complete the Project as stated within this Agreement and associated Exhibits.

Any changes in the Project may be accomplished after execution of the Agreement, and without invalidating the Agreement, by Change Order.

Change Order is a written instrument prepared by CHS or RMU and signed by both parties stating their agreement on

- A change in the Project scope
- An adjustment in amount of the Project cost
- An adjustment to the Project schedule

A Change Order shall be based upon mutual agreement between CHS and RMU. Changes in the Project shall be performed promptly under the provisions of this Agreement.

The City and RMU shall maintain comprehensive records detailing all costs incurred in the performance of the Project, including but not limited to invoices, receipts, and supporting documentation, and upon request from CHS, shall promptly provide access to any such records.

2. CHS will pay for expenses after the demarcation point, Primary Meter, associated with the installation and commissioning of the electrical infrastructure from the Primary Meter into the Building, including the transformers on CHS's property to reduce the voltage from 34.5 kV to 13.8 kV. CHS will be responsible for all additional documented electrical improvement costs as set forth in Exhibit 2 to this Agreement.
- F. CHS and the City wish to cooperate to foster the Development of the Building by granting the licenses and permits specified pursuant to this Agreement or reasonably required by the City and CHS.
 - G. The City is entering into this Agreement pursuant to its non-home rule powers and its determination that the licenses and permits contemplated by this Agreement will enhance the city's businesses and redevelopment of its business community.
 - H. The City has determined that it is essential to the economic and social welfare of the City that the licenses and permits contemplated by this Agreement are necessary to foster economic development.
 - I. The City finds that the powers to be exercised hereunder are in furtherance of a public use and essential to the public interest.
 - J. The Mayor and City Council of the City have determined that entering into this Agreement is the best interests of the City.
 - K. CHS has full right, power and authority to enter into this Agreement and acknowledges and consents to its terms and conditions.

NOW, THEREFORE, in consideration of ten dollars (\$10.00) and the promises, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and CHS agree as follows:

**SECTION ONE.
RECITALS**

The foregoing Recitals are hereby incorporated herein as if fully set forth below as representations and covenants by CHS and the City.

**SECTION TWO.
UTILITY SERVICE**

Electrical Service. The City, which owns and operates its electrical service utility, agrees that it will increase the electrical service and distribution to meet the electrical service demands of CHS at the Building in accordance with the project schedule attached hereto and incorporated herein as Exhibit 4 (the “Project Schedule”). CHS will be responsible for funding the anticipated cost of the Project as described in this Agreement.

For the purposes of electrical rates, CHS shall be categorized and billed as a Class Rate 165 customer and the discount set forth in Rider 5 shall apply to CHS. No alternative rate class or discounted rates shall be afforded to CHS, unless specifically set forth herein. During the twelve (12) months preceding the expiration of the Minimum Service Period, the parties shall cooperate in good faith to secure the power purchase and the electric billing rates for utility services potentially provided by the City to CHS post-termination of this Agreement.

**SECTION THREE.
APPROVALS, PERMITS AND CONSENTS**

The City agrees to provide approvals, permits and consents to CHS as reasonably required for CHS’s construction and improvements to the Building, upon appropriate petitions and requests by CHS.

**SECTION FOUR.
INSURANCE**

CHS agrees to maintain public liability and property damage insurance with an insurance company qualified and licensed to do business in Illinois with limits of not less than two million dollars (\$2,000,000.00) for bodily injury or death to any one person, four million dollars (\$4,000,000.00) for bodily injury or death to more than one person, and five hundred thousand dollars (\$500,000.00) for damage to the Subject Property. The City will be named as an additional insured on CHS’s policies and shall be provided thirty (30) days’ advance notice prior to the cancellation of any such policy. Certificates of such insurance shall be filed with the City Clerk within 30 days of the approval of this Agreement by the City Council.

**SECTION FIVE.
COMPLIANCE WITH LAW**

The parties will at their own expense comply with all federal and state laws, ordinances of the State of Illinois, and federal or state rules and regulations now or later in force which may be applicable to its operations in the City or under this Agreement. CHS will obtain and pay for all permits, licenses, variations, and other authorizations which may be required for the improvements and its activities contemplated by this Agreement.

**SECTION SIX.
WAIVER**

No waiver by either the City or CHS of any default on the part of the other party in the performance of any of the terms, covenants, or conditions of this Agreement to be performed, kept, or observed by the defaulting party shall be or be construed to be a waiver by the non-defaulting party of any other or subsequent default in the performance of any terms, covenants, or conditions of this Agreement to be performed, kept or observed by the defaulting party.

**SECTION SEVEN.
AMENDMENT**

This Agreement may be modified or amended in whole or in part only by a written instrument executed by the City and CHS.

**SECTION EIGHT.
ATTORNEYS' FEES AND COSTS**

In the event of any litigation arising out of or with respect to this Agreement, the prevailing party will have the right to be paid all costs and expenses including, but not limited to, reasonable attorneys' fees, expert witness fees and all other costs, including all such costs with respect to any appellate proceedings.

**SECTION NINE.
INDEMNIFICATION**

To the fullest extent permitted by law and except to the extent caused by the negligence or intentional or willful misconduct of the City, RMU, or their employees, agents, representatives, consultants, and contractors, CHS shall defend, indemnify and hold the City harmless from and against any and all claims, causes of action, liability, loss, damage, costs and expenses (including reasonable attorneys' fees) for injury to person or death or property damage arising out of or resulting from CHS's use of the Subject Property.

To the fullest extent permitted by law and except to the extent caused by the negligence or intentional or willful misconduct of CHS, the City shall defend, indemnify and hold CHS harmless from and against any and all claims, causes of action, liability, loss, damage, costs and expenses (including reasonable attorneys' fees) for injury to person or death or property damage arising out of or resulting from the installation of the Project for the Subject Property.

Further, in no event shall the Parties be responsible or liable for any failure or delay in the performance of their respective obligations hereunder arising out of or caused by, directly or indirectly, forces beyond their reasonable control, including, without limitation, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God.

**SECTION TEN.
NOTICE**

All notices and other communications shall be in writing and shall be deemed properly served if delivered in person to the party to whom it is addressed two (2) days after deposit in the U. S. mail if sent postage prepaid by United States registered or certified mail, return receipt requested, addressed as follows:

All notices to the City of Rochelle shall be sent to:

City Manager
City of Rochelle
420 North 6th Street
Rochelle, Illinois 61068

Peterson, Johnson & Murray-Chicago LLC
Attn: Dominick Lanzito
1301 W. 22nd Street – Suite 500
Oak Brook, Illinois 60523

All notices to CHS shall be sent to:

Plant Director
CHS Rochelle
1900 Steward Road
Rochelle, IL 61068

or to such other address as a party may designate for itself by notice given from time to time to the other party in the manner provided herein.

SECTION ELEVEN. BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the City and CHS and their respective successors and assigns.

**SECTION TWELVE.
ENTIRE AGREEMENT**

This Agreement and the exhibits to this Agreement contain all the representations and the entire agreement between the parties with respect to the subject matter of this agreement. Any prior correspondence, memoranda or agreements are superseded in total by this Agreement and the exhibits to this Agreement. No party has relied on any representations, written or verbal, of any other party other than those express written representations made within this Agreement.

**SECTION THIRTEEN.
ASSIGNMENT**

CHS may assign its rights and obligations under this Agreement to an Affiliated Entity, with the prior written consent of City, which consent shall not be unreasonably withheld provided Affiliated Entity demonstrates to the reasonable satisfaction of City, sufficient creditworthiness and experience to undertake the Project. An "Affiliated Entity" is any successor, parent, subsidiary or related limited liability company series of CHS or any partnership, corporation or limited liability company controlled by, that controls, or under common control with CHS. CHS may assign its rights and obligations to any person or entity that is not an Affiliated Entity solely with the prior written consent of City, which consent shall not be unreasonably withheld provided such person or entity demonstrates, to the reasonable satisfaction of City, sufficient creditworthiness and experience to undertake the Project. In no event shall an assignment of this Agreement relieve the assignor of any liabilities or obligations which accrued prior to the date of assignment but remain unsatisfied or unperformed.

**SECTION FOURTEEN
EXHIBITS**

All exhibits attached hereto are incorporated by reference and made a part of this Agreement.

The parties have executed this agreement as of the day and year first above written.

THE CITY OF ROCHELLE, an Illinois municipality

By: _____

Its: _____

CHS, Inc., a _____ corporation

By: _____
[title]

CERTIFICATE

I, _____, City Clerk of the City of Rochelle, County of Ogle and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. _____, “A RESOLUTION AUTHORIZING A UTILITY SERVICES AGREEMENT WITH CHS INC., FOR 1900 STEWARD ROAD” which was adopted by the Mayor and City Council of the City of Rochelle on May 26, 2025.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this 26th day of May 2025.

CITY CLERK