
THE CITY OF ROCHELLE
Ogle County, Illinois

RESOLUTION
NO.

A RESOLUTION AUTHORIZING AN ACCESS ROAD LEASE AGREEMENT WITH
BROSSMAN FARMS 2017 LLC

JOHN BEARROWS, Mayor
ROSE HUERAMO, City Clerk

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KATE SHAW-DICKEY
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ROSAELIA ARTEAGA
BEN VALDIVIESO
City Council

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
Peterson, Johnson, and Murray, LLC, City Attorneys
1301 W. 22nd Street – Ste. 500 Oak Brook, Illinois 60523

CITY OF ROCHELLE
Ogle County, Illinois

RESOLUTION NO. ____

**RESOLUTION AUTHORIZING AN ACCESS ROAD LEASE AGREEMENT WITH
BROSSMAN FARMS 2017 LLC**

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 ("City"), 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, the City owns and operates the City of Rochelle Railroad (CIR) which consists of three interchange rail yards, two transloading yards, and a total of twelve miles of railroad track; and

WHEREAS, the City has constructed a temporary gravel access road on the property of Brossman Farms 2017 LLC ("Lessor"), the access road is depicted on Exhibit A of the Lease Agreement; and

WHEREAS, the Railroad needs to utilize that temporary access road across Lessor's property for railroad operations; and

WHEREAS, use of the temporary access road on Lessor's property is essential to railroad operations until the City can construct a permanent access road to connect the railway to Elva Road; and

WHEREAS, Brossman Farms 2017 LLC, is willing to enter into a lease agreement allowing the City to use the temporary access road for four-hundred and fifty dollars (\$450) per acre a year, for a total of \$3,780 per year (a copy of the lease agreement is attached herein as Exhibit 1); 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 authorize the attached Lease Agreement

with Brossman Farms 2017 LLC, for a term of five years.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHELLE, OGLE COUNTY, ILLINOIS, as follows:

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

SECTION TWO: That the Mayor and City Council of the City of Rochelle hereby approve the Lease Agreement with Brossman Farms 2017, LLC, (attached herein as Exhibit 1), and authorize the City Manager or his designee to execute the attached agreement, subject to review and revision as to form and substance 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 by Resolution 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 24th day of June 2024.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A

LEASE AGREEMENT

This Lease Agreement is made and entered into on March 18, 2024, between Brossman Farms 2017, LLC, ("Owner") and City of Rochelle Illinois, ("Tenant").

1. **LEASED PREMISES.**

Owner rents and leases to Tenant, to occupy and use the 8.4 acres located on the property commonly known as the Rochelle Farm located at: See Exhibit "A" attached hereto, which is made a part of this lease by reference.

2. **TERM.** The Term of this Lease shall be from March 18, 2024 to the Last day of February, 2029 and Tenant shall surrender possession at the end of this term or at the end of any extension thereof.

3. The Tenant agrees to pay the Owner rent for the above-described property in the amount determined by the following method:

The annual rent shall be the sum of \$3,780.00. This represents 8.4 acres of land at \$450.00 per acre. The cash rent shall be payable as follows:

In installments due on or before:

<u>April 1, 2024</u>	<u>\$3,780.00 payable to Brossman Farms 2017, LLC</u>
<u>March 1, 2025</u>	<u>\$3,780.00 payable to Brossman Farms 2017, LLC</u>
<u>March 1, 2026</u>	<u>\$3,780.00 payable to Brossman Farms 2017, LLC</u>
<u>March 1, 2027</u>	<u>\$3,780.00 payable to Brossman Farms 2017, LLC</u>
<u>March 1, 2028</u>	<u>\$3,780.00 payable to Brossman Farms 2017, LLC</u>

TOTAL RENT DUE: \$18,900.00

All rental payments are to be made payable to Brossman Farms 2017, LLC and be delivered or mailed to C/o Martin, Goodrich & Waddell, Inc., 2020 Aberdeen Court, Sycamore, IL 60178 or to such other location as the Owner may designate.

4. **POSSESSION.** Tenant agrees to take possession of the property subject to the usual hazards attendant to the operation thereof and agrees to assume all risks and liability for accidents to its employees, guests, agents, and its or their property in pursuance of the property operations or in performing repairs to the structures and other improvements on the property. The taking possession hereunder by Tenant shall be conclusive evidence that the improvements and all fixtures on the property were safe, adequate and suitable for their purpose when Tenant took possession of the property. Tenant shall forever protect, indemnify and hold Owner harmless from all claims, loss or damage, including attorney's fees, which Owner may suffer arising from Tenant's possession and operation of the property. Owner shall forever protect, indemnify and hold Tenant harmless from all claims, loss or damage, including attorney's fees which Tenant may suffer arising from Owner's malfeasance and/or nonfeasance related to the leased premises.

5. **ENTRY BY OWNER.** Tenant shall permit the Owner or the Owner's agents, representatives, or employees, and Owner hereby expressly retains the right, to enter the property at any reasonable time for the purpose of: (i) inspecting the property; (ii) ascertaining whether Tenant is complying with the terms of this Lease; (iii) showing the property to any prospective buyer; (iv) doing any other lawful acts on the property that Owner may be authorized to do under this Lease or that may be necessary to protect Owner's interest in the property.

6. **ADDITIONAL RENT.** If Tenant fails to pay the rent due or fails to keep any of the agreements of

this Lease, all costs and reasonable attorney's fees in enforcing collection or performance by Owner shall be added to or become a part of the obligations payable by Tenant hereunder.

7. **ASSIGNMENT.** Tenant agrees not to assign this Lease without the prior written consent of the Owner.
8. **TENANT'S CARE.** Tenant shall not commit or suffer to be committed any waste upon the Leased Premises. Tenant shall comply with all requirements of all city, municipal, state, federal, and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the Leased Premises, and shall faithfully observe in the use of the Leased Premises all municipal and city ordinances and state and federal statutes now in force or which may hereafter be in force.
9. **INSURANCE.** Tenant shall secure and maintain during the entire term of this lease or any extension thereof, comprehensive public liability insurance with a reputable insurance company insuring the Owner as an additional insured from loss due to accident resulting in bodily injury, death or property damage in amounts of no less than \$1 Million per occurrence. Tenant shall further secure and maintain Workers Compensation insurance as required by statute.

Tenant shall furnish Owner with a Certificate of Insurance naming the Owner as an additional insured on the policy. Owner shall be notified by Tenant's insurance broker no less than thirty (30) days prior to any changes or cancellation of such coverages.

Additional Insured is to be named on the policy as follows:

Brossman Farms 2017, LLC
C/o Martin, Goodrich & Waddell, Inc.
2020 Aberdeen Court
Sycamore, IL 60178

10. **OWNER'S RIGHT UPON DEFAULT.** If Tenant defaults in the payment of rent, Owner shall not be obligated to give any Notice to Tenant other than such notice or notices as may be required to terminate the Tenant's right to possession under this lease as provided in the Illinois Statutes. In the event of any breach of covenants or conditions of this Lease other than payment of rent, Owner shall give 10 days notice of such default to the Tenant as provided by Illinois law. If the Tenant does not remedy the default within such 10 days, the Owner may terminate this Lease and/or pursue any and all other remedies which are available to Owner by law.
11. **SUBORDINATION.** This Lease is and shall be subordinated to all existing and future liens and encumbrances against the property.
12. **SEVERABILITY.** If any clause or provisions herein shall be adjudged invalid or unenforceable by a court of law, it shall not affect the validity of any other clause or provision, which shall remain in full force and effect.
13. **LEASE SEVERANCE.** Notwithstanding anything to the contrary, it is hereby acknowledged that Owner shall be empowered on ten (10) days written notice to Tenant to enter upon and retake possession (thereby cancelling this Lease with respect to the applicable portion of the Property) of all or any portion of the Property during the term of this Lease. In such event, Tenant shall be reimbursed on a calendar-year basis for the pro-rated portion of the rent paid during the year of cancellation.

14. **WAIVER.** The failure of either party to enforce any of the provisions of the Lease shall not be considered a waiver of that provision or the right of the party to thereafter enforce the provision.
15. **SUCCESSORS.** This Lease is binding on all parties who lawfully succeed to the rights or take the place of the Owner or Tenant.
16. **NOTICE.** All notices, demands, or other communications required or permitted hereunder shall be in writing and shall be deemed to have been sufficiently given upon delivery in person or upon deposit in the United States mail as postage prepaid registered mail and addressed as follows:

To Owner: **Brossman Farms 2017, LLC**
 C/o Martin, Goodrich & Waddell, Inc.
 2020 Aberdeen Court
 Sycamore, IL 60178

To Tenant: **City of Rochelle Illinois**
 420 North 6th Street
 Rochelle, IL 61068

or to such other address as either Owner or Tenant may designate by written notice to the other.

ADDITIONAL AGREEMENTS:

1. Tenant shall make no alterations to the premises without written consent of the owner.
2. Owner is not responsible for snow removal.
3. The road will be removed from its current location when the City is able construct an alternative access route to the rail bridge and stormwater detention structures or at the expiration of this 5-year lease, whichever comes first. Tenant agrees to remove the gravel from the road and restore the land to the same physical condition that existed prior to the road being installed, which includes any filling or leveling of the ground that is needed to return the land to a suitable condition for crop production, all at Tenant's cost.
4. In addition to the rental payments specified above, Tenant agrees to pay Back-Rent in the amount of \$15,498.00 to Owner. Payment shall be made to Brossman Farms 2017, LLC within 10 days of signing this lease.

Signatures:

OWNER: Brossman Farms 2017, LLC

By:

Agent

TENANT: City of Rochelle Illinois

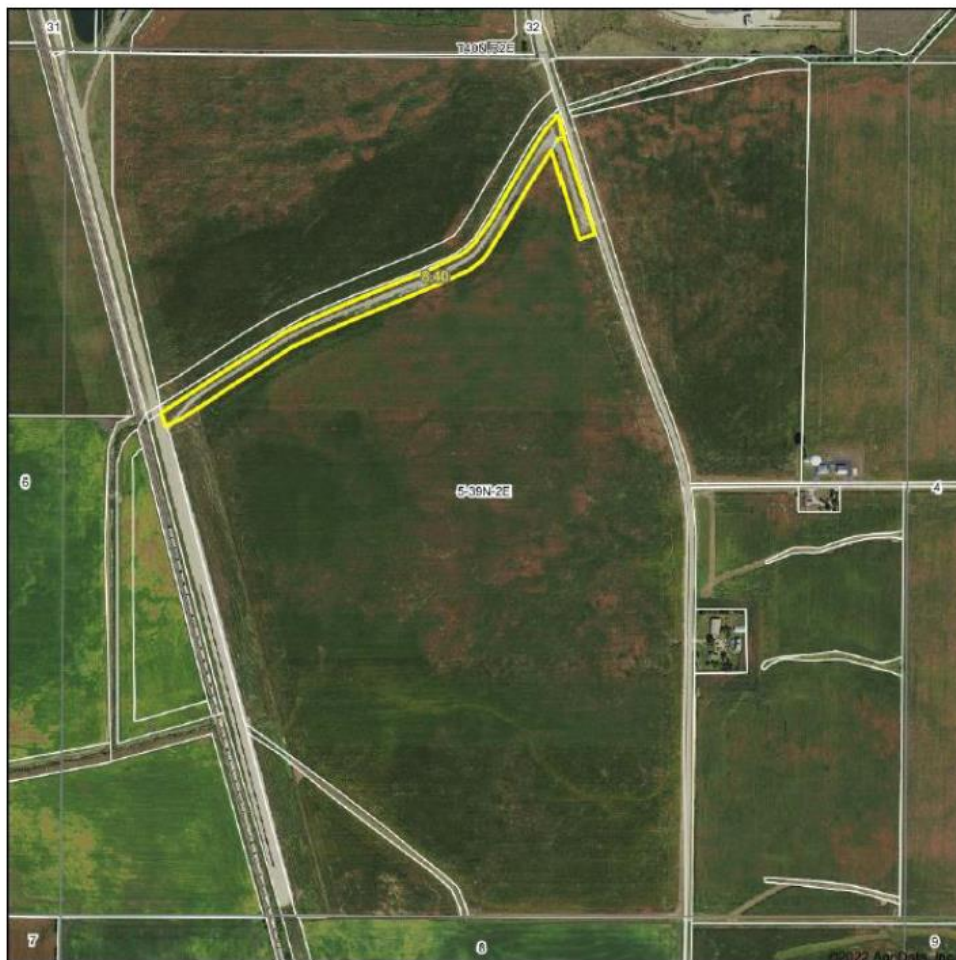
By:

Signature

EXHIBIT "A"

LEGAL DESCRIPTION FOR ROCHELLE FARM 8.4 ACRES

Located in Section 5 in Township 39 North – Range 2 East of the Third Principal Meridian (Alto Township) in Lee County, Illinois, consisting of 8.4 acres more or less.



CERTIFICATE

I, **Rose Hueramo**, 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. _____,
"RESOLUTION AUTHORIZING AN ACCESS ROAD LEASE AGREEMENT WITH
BROSSMAN FARMS 2017 LLC," which was adopted by the Mayor and City Council of the City
of Rochelle on June 24, 2024.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal
of the City of Rochelle this day 24th of June 2024.

CITY CLERK