

1/12/2016

**2-R-16**

**A RESOLUTION**

**Authorizing the City Manager to Grant an Easement for Subsurface Concrete Caissons in the Right-of-Way on the West Side of Elmwood Avenue and South Side of Davis Street for the Structural Support of the Mixed Use Building to Be Constructed at 1571 Maple Avenue**

NOW BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

**SECTION 1:** The City Manager is hereby authorized and directed to sign an Easement Agreement (the “Agreement”) by and between the City and 1571 Maple Avenue, LLC, an Illinois limited liability company, for the City to grant an easement for the construction of concrete caissons, to serve as structural support for the mixed use building to be constructed at 1571 Maple Avenue. The caissons will be below the surface of the City’s right-of-way property on the south side of Davis Street and west side of Elmwood Avenue. The Agreement is attached hereto as Exhibit 1 and incorporated herein by reference.

**SECTION 2:** The City Manager is hereby authorized and directed to negotiate any additional conditions of said Agreement that he deems to be in the best interests of the City.

**SECTION 3:** This resolution shall be in full force and effect from and after its passage and approval, in the manner provided by law.

Elizabeth B. Tisdahl  
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene  
Rodney Greene, City Clerk

Adopted: January 25, 2016

**EXHIBIT 1**

**EASEMENT AGREEMENT**

Upon recording return to:  
Michelle Masoncup  
City of Evanston  
2100 Ridge Avenue  
Evanston, Illinois 60201

[Recording area only]

### EASEMENT AGREEMENT

This Easement Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Evanston, an Illinois Home Rule Municipal Corporation (“CITY”), herein also referred to as the Grantor (“GRANTOR”), and 1571 Maple Avenue, LLC, an Illinois limited liability company (“MAPLE”) herein also referred to as the Grantee (“GRANTEE”)

#### RECITALS

**WHEREAS**, the Grantor is the owner of public right of way including Elmwood Avenue and Davis Street and the adjacent alley located adjacent to the property owned by Grantee, commonly known as 1571 Maple Avenue. The rights of way are set out on the plat of easement A attached hereto as Exhibit A and made part hereof (“Subject Property”), and

**WHEREAS**, the Grantee is developing a vacant commercial lot into a mixed-use development located at 1571 Maple Avenue, pursuant to a planned development approved granted by the City Council under Ordinance 19-O-15, which abuts the Subject Property; and

**WHEREAS**, the Grantee has determined that it is necessary to acquire easement rights, in substantial conformance with the areas shown on Exhibit A (“EASEMENT AREA”), under the Subject Property for a portion of its support caissons which must extend from Grantee’s property to Grantor’s sub-surface property; and

**WHEREAS**, the Grantor has determined to grant to the Grantee a non-exclusive permanent easement on the portion of the Subject Property for the purpose of permitting the caissons to be constructed and installed as provided herein,

NOW, THEREFORE, in consideration of the covenants and promises set forth herein, the parties agree that:

1. The foregoing of Recitals are hereby incorporated herein and made part if hereof.

2. The Grantor hereby grants to the Grantee a non-exclusive permanent easement for the Easement Areas for fifty (50) years (“Easement Term”) under the surface of the Subject Property legally described on Exhibit A. The Easement Fee of \$1,200 shall be payable at the commencement of the Easement Term. The Easement Term shall automatically renew every 25 years, so long as the Grantee is not in default of any substantive obligation of this Agreement, the building approved by Ordinance 19-O-15 is still located at 1571 Maple Avenue and the caissons underneath the Subject Property are still necessary for the support of the building.
3. The Grantor further grants to the Grantee, or any of its agents, contractors, employees, and successors the perpetual right, privilege, and authority to enter upon the Easement Areas, with reasonable notice to the Grantor, for limited purpose to survey, construct, reconstruct, test, repair, inspect, maintain the caisson(s) located under the Easement Areas now or in the future for the purpose of serving the subject property as well as other property, whether or not the contiguous thereto, together with the right of access across the Grantor’s property for necessary workers and equipment to do ant of the required work, collectively (“Grantees Work”).
4. The grant of easement shall be subject to the conditions that:
  - a. Grantee cannot expand the scope of the Easement Areas.
  - b. The Easement Areas may be used for any use which is related to the operation of a right-of-way, installation and maintenance of utilities, and any other municipal purpose that does conflict with the Grantee’s uses or rights contained within this Agreement.
5. The Grantee or its designees shall, upon completion of any work authorized by this grant of easement, restore the Easement Areas to the same or better surface condition than that existing prior to beginning of the work.
6. The Grantor hereby releases and waives all rights under the Homestead Exemption laws of the State of Illinois as to this grant of easement.
7. Indemnification, Grantee will hold harmless, indemnify and defend Grantor, its lessees, franchises, licensees, employees, agents, personal representatives, contractors, successors and assigns, against any and all claims, demands, loss, damage, liabilities, costs, expenses and all suits liens, causes of actions and judgments (including, but not limited to reasonable attorney’s fees) arising out of, or in any way related to, or in connection with, or as a result or consequence of Grantee’s Work in and/or use of the Easement Areas or Grantee’s acts or omissions under this easement agreement, to the extent of Grantee’s willful or negligent exercise of rights and privileges granted by this easement agreement.

The Grantee's obligations in this section shall survive any termination or expiration of this easement agreement.

8. Release. Grantee shall enter upon the Easement Areas and conduct Grantee's Work at its sole risk, cost and expense. Grantee hereby waives and relinquishes any and all claims, demands, loss, damage, liabilities, costs, expenses and all suits, liens, causes of actions and judgments related to the subject matter of this easement agreement now or hereafter arising in Grantee or any of its employees', contractors' or agents' favor occasioned by, directly or indirectly, the conditions of the Grantor's Subject Property and the Easement Areas or any improvements thereon or any other facts or occurrences with respect to Grantee's conduct under this easement agreement, other than willful or negligent acts of Grantor. The Grantee's obligations in this section shall survive any termination or expiration of this easement agreement.
9. This document contains the entire agreement between the parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this agreement shall be of no force and effect, and modifications to this agreement shall be in writing and shall be signed by all parties to this agreement.
10. This Agreement for an easement shall constitute a covenant running with the land binding upon the Grantors and any of the Grantors' lessees, transferees, successors in interest, heirs, executors, and administrators.
11. The laws of the State of Illinois shall govern the terms of this agreement both as to interpretation and performance and any action brought to enforce the agreement shall be brought in the Circuit Court of Cook County.
12. This Agreement shall be recorded by the Grantee with the Cook County Recorder of Deeds.

IN WITNESS THEREOF, this agreement is made the date signed by the City.

**GRANTOR: City of Evanston**

**GRANTEE: 1571 Maple LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

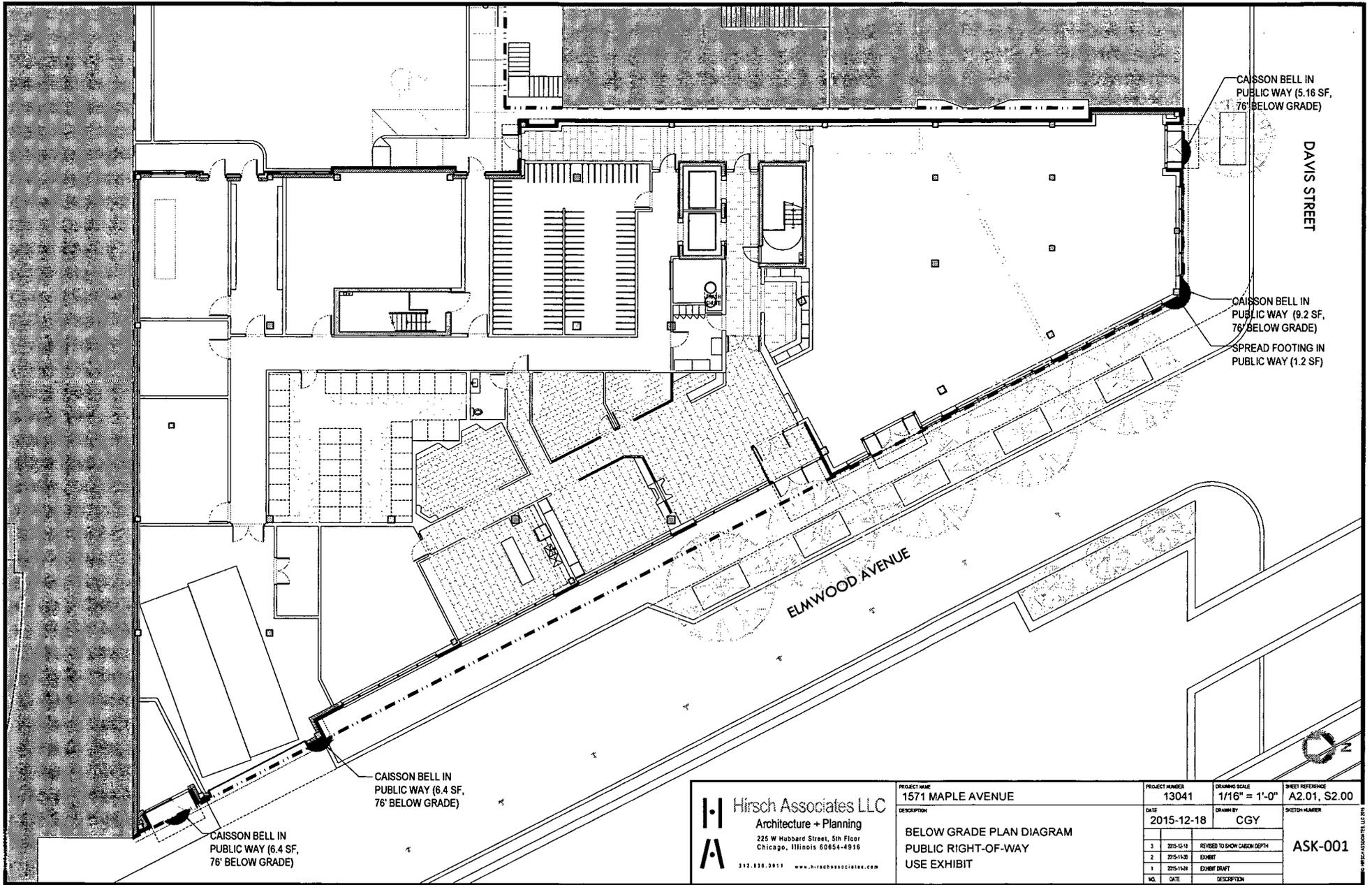
Wally Bobkiewicz, City Manager

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_

**EXHIBIT A**  
**PLAT OF EASEMENT**

P:\15171\15171.dwg 15171 Maple Avenue BLDG2\ASAP\ASAP-00-01 - Below-Grade Public Way Exhibit - 2015-12-18.dwg



**Hirsch Associates LLC**  
 Architecture + Planning  
 225 W Hubbard Street, 5th Floor  
 Chicago, Illinois 60654-4918  
 312.830.0011 www.hirschassociates.com

<b>PROJECT NAME</b>	1571 MAPLE AVENUE
<b>DESCRIPTION</b>	BELOW GRADE PLAN DIAGRAM PUBLIC RIGHT-OF-WAY USE EXHIBIT

<b>PROJECT NUMBER</b>	13041	<b>DRAWING SCALE</b>	1/16" = 1'-0"	<b>SHEET REFERENCE</b>	A2.01, S2.00
<b>DATE</b>	2015-12-18	<b>DRAWN BY</b>	CGY	<b>SKETCH NUMBER</b>	
<b>NO.</b>	<b>DATE</b>	<b>DESCRIPTION</b>			
3	2015-12-18	REVISED TO SHOW CAISSON DEPTH			
2	2015-11-30	EXHIBIT			
1	2015-11-24	EXHIBIT DRAFT			

**ASK-001**

