



Land Acquisition

Timely acquisition of easements, right-of-way and property will be critical to the successful implementation of a new water source for the City of Joliet. Regardless of the Lake Michigan water source alternative selected, the City will need to construct significant new infrastructure which may include pumping, storage, treatment, and conveyance systems outside of its municipal boundaries. Securing rights to the properties needed for these facilities over distances of 30 to 50 miles will require extensive planning, coordination, and negotiation with a large number of government agencies, municipalities, and private property owners. The time required to complete these transactions can have a direct impact on the overall schedule for completion of the Alternative Water Source Program.

The rights to land that Joliet will require for its water supply facilities will vary depending upon the reason the land is required (construction vs. long-term operation and maintenance) and the type of infrastructure to be installed (linear pipeline vs. pumping/storage/treatment facility). In addition, the approach to be used in securing rights to the land will be influenced by the characteristics of the existing landowners. Table 1 on the following page lists several common mechanisms used by water utilities to secure rights for the construction, operation, and maintenance of infrastructure. Each is described below as well.

- **Easements** are a common mechanism used to secure rights for the construction, and/or operation and maintenance of linear infrastructure such as pipelines. An easement grants one party (in this case Joliet) the right to cross or use a defined portion of another party's property for a specific purpose (e.g., construction, operation, and maintenance of a water transmission main). Permanent easements are typically secured for the corridor along which infrastructure such as a water transmission main is to be installed and operated. The width of an easement for a water main is usually limited to the space required for the main itself and adjacent area needed to allow for future access to the pipe for inspection or maintenance.

Temporary easements are commonly secured for a specified, short period of time when access to property is required to support construction or inspection efforts. Infrastructure is not typically installed within temporary easements. After the time period specified in the temporary easement passes, the rights for access terminate.

The property owner who is granting an easement is typically compensated for the easement. Compensation may be in the form of a one-time or periodic cash payment or the provision of some other type of benefit (e.g., reduced cost to access water from the proposed pipeline, enhanced restoration of the easement area, etc.).

- **Right-of-way permits or licenses** are another option available to Joliet as a means for securing rights to property for new water source infrastructure. In the event that Joliet desires to construct portions of its new water transmission pipeline along an existing roadway or railroad right-of-way, it may be able to secure a permit from the right-of-way owner that would grant it permission to construct, operate, and maintain certain infrastructure within that right-of-way. As an example, Joliet could pursue a permit for the construction of a segment of water transmission main within an existing County or State highway right-of-way. If the agency with jurisdiction over the right-of-way determines that the pipeline would not interfere with its existing or planned future use of the space, it could grant Joliet a permit for installation and operation of the infrastructure within its corridor. Securing such a permit may or may not require Joliet to make a payment or agree to specific terms with the right-of-way owner.



Table 1 - Common Options for Water Infrastructure Land Acquisition

	Temporary Easement	Permanent Easement	Right-of-Way Permit/License Agreement	Property Purchase
Typical Purpose	Temporary use of property for access or operations during construction	Area designated for the installation and long-term operation and maintenance of infrastructure or provision of access	Permit or license granted for the installation and operation of infrastructure within another entity's right-of-way	Acquisition of property for the construction and long-term operation and maintenance of infrastructure or establishment of permanent access
Property Ownership Rights	None	None	None	Full
Duration of Rights	Temporary time period often tied to the duration of construction activities	Permanent (or as specified in easement agreement)	As defined in permit	Permanent (while ownership of property is retained)
Susceptibility to Demand for Relocation	Not applicable	Depends on terms of easement	Typically, yes upon demand from right-of-way owner	No
Typical Time Required to Secure	Weeks	Weeks – Months	Months	Months – Many Months
Typical Effort Required to Secure	Moderate	Significant	Significant	Significant



- **Right-of-way permits or licenses (continued)**

Similarly, a utility company that owns right-of-way for its facilities could grant Joliet a license for the construction, operation, and maintenance of new water transmission main within its right-of-way. The license agreement would define the terms and condition that would govern use of the right-of-way including any initial or on-going license fees and/or restoration or access conditions.

One drawback to permits and license agreements is that they may include a provision requiring the permittee/licensee to relocate its infrastructure upon demand and appropriate notification by the right-of-way owner.

- **Property purchase** provides for the most permanent control of the property within which new infrastructure is to be constructed. Under this scenario, Joliet would work to formally acquire specific parcels or part of parcels for the construction of new infrastructure. As the owner of the property, Joliet would have the maximum level of control over access to the infrastructure, development of adjacent property, and future activities that could potentially impact the infrastructure. Typically, property required for major facilities such as water treatment plants, pumping stations, or storage facilities would be purchased.

Once land or right-of-way required for a project is identified, the formal process of acquiring the easement, permit, license or property begins. Ideally, the process of acquiring land for water system infrastructure would be relatively straightforward and based on efficient, open negotiations between the property or right-of-way owners and Joliet. However, given the extent of the area that both of Joliet’s water source alternatives cover and the multiple jurisdictions through which they pass, the potential for this process to become complex is great. In cases where a property owner is reluctant to provide an easement or sell a parcel, some government agencies have the power to pursue acquisition of the property using the power of eminent domain, under which the property owner is compelled to give up the property for a public good in return for reasonable compensation. Illinois law also currently allows for land acquisition by some agencies using “quick-take” authority. In a quick-take acquisition, the property owner retains its right to reasonable compensation, but the agency is allowed to take ownership or control of the property before the level of compensation is finally negotiated.

Laws and regulations governing the acquisition of land or easements for the construction of public infrastructure in Illinois are highly complex. As one point of reference, the Illinois Department of Transportation’s manual of polices and procedures for land acquisition is over 350 pages long. In Joliet’s case, the situation is made even more complex by the fact that municipalities often have limited to no special powers for land acquisition outside of their corporate boundaries. While the formation of a regional water agency including Joliet and other regional partners could potentially offer an avenue for securing some expanded options for land acquisition, careful evaluation of both land acquisition statutes and enabling legislation for any type of regional water agency is required to clearly determine how such an action might benefit the City.

In summary, land acquisition will be a necessary and challenging element of Joliet’s Alternative Water Source Program. Efforts to identify potential areas where easement or land acquisition may be critical to the success of the project are part of the current 2020 scope of services being performed by the City’s Consultant Team. As the project moves forward, the City’s engineering, legal, and government affairs consultants will collaborate to develop and implement specific strategies for advancing the overall process of land acquisition and managing the risk that land acquisition problems could pose for the City.