

PERMANENT EASEMENT FOR EXISTING SANITARY SEWER FACILITIES AND QUITCLAIM OF INTEREST IN EXISTING SANITARY SEWER FACILITIES

Be it known that the City of Ankeny, Iowa, a municipal corporation, (hereinafter referred to as the "Grantor" or "the City"), in consideration of \$1.00 and other good and valuable consideration and the mutual promises and covenants contained in the Second Amended and Restated Agreement for the Des Moines Metropolitan Wastewater Reclamation Authority (hereinafter referred to as "WRA Agreement"), does hereby convey unto the Des Moines Metropolitan Wastewater Reclamation Authority, a political subdivision organized and existing under Chapters 28E and 28F of the Iowa Code (hereinafter referred to as "Grantee" or the "WRA"), a Permanent Easement for Sanitary Sewer Facilities under, over, through and across property identified and legally described on **Exhibit A** attached hereto situated in Polk County, Iowa (hereinafter referred to as the "Easement Areas") for the purpose of operating, maintaining, repairing, reconstructing and enlarging existing sanitary sewer and related facilities and necessary appurtenances situated therein, and does hereby quitclaim to the WRA all its right, title, and interest in and to the existing sanitary sewer and related facilities and necessary appurtenances thereto situated upon or under said Easement Areas. Said quitclaim is only for existing sanitary sewer and related facilities and necessary appurtenances situated therein, not fee title to the underlying property.

This Easement is being granted to the WRA in accordance with Article 3 of the Chapter 28E Agreement between Polk County, Iowa and the WRA for the acceptance and conveyance of the Rock Creek Interceptor Sewer, Phase 26, Segments 1-5 and the Second Amended and Restated Agreement for the Metropolitan Wastewater Reclamation Authority which are recorded with the Iowa Secretary of State.

This Easement shall be subject to the following terms and conditions:

1. **ERECTION OF STRUCTURES AND PLACEMENT OF EQUIPMENT OR PLANTINGS IN EASEMENT AREAS IN PUBLIC RIGHT-OF-WAY; DUTY TO RESTORE.**

(a) Grantor reserves the right to construct or authorize the construction of structures, or to place or authorize the placement of equipment or plantings, within Easement Areas in street or alley rights-of-way, including but not limited to

bridges; sanitary and storm sewers and appurtenances; water mains and appurtenances; traffic signals and appurtenant cables and boxes; streetlights; streetscape improvements including street furniture, planter boxes, fountains, public art, streets and sidewalks including special street or sidewalk surfaces; irrigations systems; and plantings including street trees, shrubs, flowers and sod;

all as it shall deem necessary or appropriate. Such structures, equipment and plantings shall be so placed as not to physically interfere with or prevent the day-to-day operation and maintenance of the sanitary sewer facility located within the Easement Areas.

(b) In the event Grantee is required to access the Easement Areas in public rights-of-way for purposes of repairing, reconstructing or replacing said sanitary sewer facilities, Grantee shall be responsible for restoring, at its sole cost and expense, or for paying Grantor's cost to restore, the Easement Areas, including street, alley and sidewalk surfaces, and all structures, equipment and plantings placed therein, which are disturbed, damaged or destroyed by such activities.

(c) In the event Grantor is required to access the Easement Areas in public rights-of-way for purposes of repairing, reconstructing or replacing its structures or equipment identified above, Grantor shall be responsible for restoring or repairing, at its sole cost and expense, or for paying Grantee's cost to restore, Grantee's sanitary sewer facilities which are disturbed, damaged or destroyed by such activities.

2. **ERECTION OF STRUCTURES IN EASEMENT AREAS ON OTHER CITY PROPERTIES.** Grantor shall not erect or authorize the erection of any structure, and shall not place or authorize the placement of equipment or trees, over or within Easement Areas on other properties owned by it without the prior written approval of the WRA.

3. **RIGHT OF ACCESS.** The WRA, its agents, contractors, employees and assigns shall have the right of access to the Easement Areas and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Areas listed and identified in Exhibit A attached hereto.

4. **EASEMENT RUNS WITH LAND.** This Easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

5. **RESERVATION OF RIGHTS.** The Grantor does hereby reserve to itself, and this Easement is granted subject to, the right to regulate the use and occupancy of City street right-of-way within the Easement Areas.
6. **ABANDONMENT OF SEWER FACILITIES; TERMINATION OF EASEMENT INTEREST.** In the event the WRA shall by resolution of its Board declare an abandonment of any portion of the sanitary sewer facilities within the Easement Areas, this Easement shall terminate as to such abandoned facilities and as to the property upon which the same are located. Such facilities may be abandoned in place with the consent of the Grantor, but the WRA shall take such actions with respect to such facilities as Grantor may request to preserve and protect Grantor's property or other utilities situated upon said property.

Words and phrases herein including acknowledgment hereof shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Signed this _____ day of _____.

THE CITY OF ANKENY, IOWA, GRANTOR

By _____
Gary Lorenz, Mayor

Attest:

Denise Hoy, City Clerk

State of Iowa)
) ss
County of Polk)

On this _____ day of _____, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Gary Lorenz and Denise Hoy, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of Ankeny; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by the authority of its City Council, under Resolution No. _____ of the City Council on the _____ day of _____ and that Gary Lorenz and Denise Hoy acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation by it voluntarily executed.

Notary Public in and for the State of Iowa

ACCEPTANCE BY WRA:

I, Scott Hutchens, Director of the Des Moines Metropolitan Wastewater Reclamation Authority, do hereby certify that the within and foregoing Easement was duly approved and accepted by the Des Moines Metropolitan Wastewater Reclamation Authority by Resolution No. _____, passed on the _____ day of _____, 20____, and this certificate is made pursuant to authority contained in said Resolution.

Signed this _____ day of _____, 20____.

Scott Hutchens, WRA Director

Exhibit A

See attached plats covering the parcels described below:

- Parcel 252: Lot P Boulder Brook Plat 14
- Parcel 311: West 1st Street Right-of-Way
- Parcels 312, 312A, 312B: NW 5th Street Right-of-Way
- Parcel 313: NW 18th Street Right-of-Way
- Parcel 315: NW 36th Street (110th Avenue) Street Right-of-Way

