

Resolution No. 15-0541

A RESOLUTION TO ACCEPT EASEMENTS & PROPERTY ACQUISITIONS FOR WINDSOR CROSSINGS PLAT 1

WHEREAS, several easements are needed for the development of Windsor Crossings Plat 1; and

WHEREAS, the necessary easements include the following:

- 40.00' Storm Water Detention Easement;
- 24.00' Ingress/Egress Easement;
- 40.00' Public Water Main Easement;
- 30.00' Public Sanitary Sewer Easement;
- 20.00' Surface Water Overland Flowage Easement;

which are legally described on the attached Final Plat of Windsor Crossings Plat 1.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDSOR HEIGHTS, STATE OF IOWA:

Section 1. That the necessary easements associated with the development of Windsor Crossings Plat 1 are hereby accepted, in substantially the same form as those attached hereto.

Section 2. That the Mayor and City Administrator are hereby authorized to take any action necessary to finalize the easements and have them recorded with the Polk County Recorder.

Passed and Approved this 18th day of May, 2015.

Diana Willits, Mayor

Attest: _____
Brett Klein, City Administrator

WHEN RECORDED RETURN TO:

Erin M. Clanton
6701 Westown Parkway, Suite 100
West Des Moines, Iowa 50266

Preparer Information: Erin M. Clanton, 6701 Westown Parkway, Suite 100, West Des Moines, Iowa 50266 (515) 274-1450

INGRESS/EGRESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, HURD WINDSOR, LLC, an Iowa limited liability company, and KNAPP WINDSOR, LLC, an Iowa limited liability company, as tenants in common, hereinafter referred to as "Grantor", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, receipt of which is hereby acknowledged, do hereby sell, grant and convey unto the CITY OF WINDSOR HEIGHTS, IOWA, a municipal corporation, in the County of Polk, State of Iowa, hereinafter referred to as "Grantee" or "City", a permanent easement under, through, and across the following described real estate:

Windsor Crossings Plat 1, an Official Plat, now included in and forming a part of the City of Windsor Heights, Polk County, Iowa,

More specifically set forth in the attached Final Plat of Windsor Crossings Plat 1 (the "Easement Area").

That the above described easement is granted unto the City of Windsor Heights, Iowa, for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

24.00' Ingress/Egress

together with necessary appurtenances thereto, under, over, through and across said Easement Area.

1. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.

2. Change of Grade Prohibited. Grantor and its grantees, assigns and transferees shall not change

the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees.

3. Right of Access. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.

4. Property to be Restored. The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees or shrubs). The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area.

5. Liability. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor for property damage or any improvements or obstructions thereon resulting from the City's exercise of this Easement. Grantor agrees to indemnify and hold City, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.

6. Easement Benefit. This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.

7. Easement Runs with Land. This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns.

8. Approval by City Council. This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

That the Grantor does hereby covenant with the said Grantee, and successor-in-interest, that said Grantor holds said real estate by title and fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be herein stated; that said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be herein stated.

IN WITNESS WHEREOF, we have hereunto affixed our hands this _____ day of _____, 2015.

HURD WINDSOR, LLC

By: Richard W. Hurd
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Richard W. Hurd, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Hurd Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

KNAPP WINDSOR, LLC

By: Gerald D. Neugent
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Gerald D. Neugent, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Knapp Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

ACCEPTANCE BY CITY

STATE OF IOWA)
) ss:
COUNTY OF POLK)

I, Brett Klein, City Clerk of the City of Windsor Heights, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City by Resolution No. _____, passed on the ____ day of _____, 2015, and this certificate is made pursuant to authority contained in said Resolution.

Signed this ____ day of _____, 2015.

Brett Klein, City Clerk of the City of Windsor Heights

WHEN RECORDED RETURN TO:

Erin M. Clanton
6701 Westown Parkway, Suite 100
West Des Moines, Iowa 50266

Preparer Information: Erin M. Clanton, 6701 Westown Parkway, Suite 100, West Des Moines, Iowa 50266 (515) 274-1450

OVERLAND FLOWAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, HURD WINDSOR, LLC, an Iowa limited liability company, and KNAPP WINDSOR, LLC, an Iowa limited liability company, as tenants in common, hereinafter referred to as "Grantor", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, receipt of which is hereby acknowledged, do hereby sell, grant and convey unto the CITY OF WINDSOR HEIGHTS, IOWA, a municipal corporation, in the County of Polk, State of Iowa, hereinafter referred to as "Grantee" or "City", a permanent easement under, through, and across the following described real estate:

Windsor Crossings Plat 1, an Official Plat, now included in and forming a part of the City of Windsor Heights, Polk County, Iowa,

More specifically set forth in the attached Final Plat of Windsor Crossings Plat 1 (the "Easement Area").

That the above described easement is granted unto the City of Windsor Heights, Iowa, for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

20.00' Surface Water Overland Flowage

including the construction of private subdrains within the Easement Area, provided however that the City shall not be responsible for the maintenance of said subdrains.

1. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.

2. Change of Grade Prohibited. Grantor and its grantees, assigns and transferees shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees.

3. Right of Access. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.

4. Property to be Restored. The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees or shrubs). The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area.

5. Liability. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor for property damage or any improvements or obstructions thereon resulting from the City's exercise of this Easement. Grantor agrees to indemnify and hold City, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.

6. Easement Benefit. This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.

7. Easement Runs with Land. This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns.

8. Approval by City Council. This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

That the Grantor does hereby covenant with the said Grantee, and successor-in-interest, that said Grantor holds said real estate by title and fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be herein stated; that said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be herein stated.

IN WITNESS WHEREOF, we have hereunto affixed our hands this ____ day of _____, 2015.

HURD WINDSOR, LLC

By: Richard W. Hurd
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Richard W. Hurd, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Hurd Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

KNAPP WINDSOR, LLC

By: Gerald D. Neugent
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Gerald D. Neugent, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Knapp Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

ACCEPTANCE BY CITY

STATE OF IOWA)
) ss:
COUNTY OF POLK)

I, Brett Klein, City Clerk of the City of Windsor Heights, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City by Resolution No. _____, passed on the ____ day of _____, 2015, and this certificate is made pursuant to authority contained in said Resolution.

Signed this ____ day of _____, 2015.

Brett Klein, City Clerk of the City of Windsor Heights

WHEN RECORDED RETURN TO:

Erin M. Clanton
6701 Westown Parkway, Suite 100
West Des Moines, Iowa 50266

Preparer Information: Erin M. Clanton, 6701 Westown Parkway, Suite 100, West Des Moines, Iowa 50266 (515) 274-1450

PUBLIC SANITARY SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, HURD WINDSOR, LLC, an Iowa limited liability company, and KNAPP WINDSOR, LLC, an Iowa limited liability company, as tenants in common, hereinafter referred to as "Grantor", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, receipt of which is hereby acknowledged, do hereby sell, grant and convey unto the CITY OF WINDSOR HEIGHTS, IOWA, a municipal corporation, in the County of Polk, State of Iowa, hereinafter referred to as "Grantee" or "City", a permanent easement under, through, and across the following described real estate:

Windsor Crossings Plat 1, an Official Plat, now included in and forming a part of the City of Windsor Heights, Polk County, Iowa,

More specifically set forth in the attached Final Plat of Windsor Crossings Plat 1 (the "Easement Area").

That the above described easement is granted unto the City of Windsor Heights, Iowa, for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

30.00' Public Sanitary Sewer

together with necessary appurtenances thereto, under, over, through and across said Easement Area.

1. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.

2. Change of Grade Prohibited. Grantor and its grantees, assigns and transferees shall not change

the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees.

3. Right of Access. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.

4. Property to be Restored. The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees or shrubs). The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area.

5. Liability. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor for property damage or any improvements or obstructions thereon resulting from the City's exercise of this Easement. Grantor agrees to indemnify and hold City, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.

6. Easement Benefit. This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.

7. Easement Runs with Land. This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns.

8. Approval by City Council. This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

That the Grantor does hereby covenant with the said Grantee, and successor-in-interest, that said Grantor holds said real estate by title and fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be herein stated; that said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be herein stated.

IN WITNESS WHEREOF, we have hereunto affixed our hands this _____ day of _____, 2015.

HURD WINDSOR, LLC

By: Richard W. Hurd
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Richard W. Hurd, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Hurd Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

KNAPP WINDSOR, LLC

By: Gerald D. Neugent
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Gerald D. Neugent, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Knapp Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

ACCEPTANCE BY CITY

STATE OF IOWA)
) ss:
COUNTY OF POLK)

I, Brett Klein, City Clerk of the City of Windsor Heights, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City by Resolution No. _____, passed on the ____ day of _____, 2015, and this certificate is made pursuant to authority contained in said Resolution.

Signed this ____ day of _____, 2015.

Brett Klein, City Clerk of the City of Windsor Heights

WHEN RECORDED RETURN TO:

Erin M. Clanton
6701 Westown Parkway, Suite 100
West Des Moines, Iowa 50266

Preparer Information: Erin M. Clanton, 6701 Westown Parkway, Suite 100, West Des Moines, Iowa 50266 (515) 274-1450

STORM WATER DETENTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, HURD WINDSOR, LLC, an Iowa limited liability company, and KNAPP WINDSOR, LLC, an Iowa limited liability company, as tenants in common, hereinafter referred to as "Grantor", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, receipt of which is hereby acknowledged, do hereby sell, grant and convey unto the CITY OF WINDSOR HEIGHTS, IOWA, a municipal corporation, in the County of Polk, State of Iowa, hereinafter referred to as "Grantee" or "City", a permanent easement under, through, and across the following described real estate:

Windsor Crossings Plat 1, an Official Plat, now included in and forming a part of the City of Windsor Heights, Polk County, Iowa,

More specifically set forth in the attached Final Plat of Windsor Crossings Plat 1 (the "Easement Area").

That the above described easement is granted unto the City of Windsor Heights, Iowa, for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

40.00' Storm Water Detention

together with necessary appurtenances thereto, under, over, through and across said Easement Area.

1. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.

2. Change of Grade Prohibited. Grantor and its grantees, assigns and transferees shall not change

the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees.

3. Right of Access. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.

4. Property to be Restored. The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees or shrubs). The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area.

5. Liability. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor for property damage or any improvements or obstructions thereon resulting from the City's exercise of this Easement. Grantor agrees to indemnify and hold City, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.

6. Easement Benefit. This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.

7. Easement Runs with Land. This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns.

8. Approval by City Council. This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

That the Grantor does hereby covenant with the said Grantee, and successor-in-interest, that said Grantor holds said real estate by title and fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be herein stated; that said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be herein stated.

IN WITNESS WHEREOF, we have hereunto affixed our hands this _____ day of _____, 2015.

HURD WINDSOR, LLC

By: Richard W. Hurd
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Richard W. Hurd, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Hurd Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

KNAPP WINDSOR, LLC

By: Gerald D. Neugent
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Gerald D. Neugent, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Knapp Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

ACCEPTANCE BY CITY

STATE OF IOWA)
) ss:
COUNTY OF POLK)

I, Brett Klein, City Clerk of the City of Windsor Heights, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City by Resolution No. _____, passed on the ____ day of _____, 2015, and this certificate is made pursuant to authority contained in said Resolution.

Signed this ____ day of _____, 2015.

Brett Klein, City Clerk of the City of Windsor Heights

WHEN RECORDED RETURN TO:

Erin M. Clanton
6701 Westown Parkway, Suite 100
West Des Moines, Iowa 50266

Preparer Information: Erin M. Clanton, 6701 Westown Parkway, Suite 100, West Des Moines, Iowa 50266 (515) 274-1450

PUBLIC WATER MAIN EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, HURD WINDSOR, LLC, an Iowa limited liability company, and KNAPP WINDSOR, LLC, an Iowa limited liability company, as tenants in common, hereinafter referred to as "Grantor", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, receipt of which is hereby acknowledged, do hereby sell, grant and convey unto the CITY OF WINDSOR HEIGHTS, IOWA, a municipal corporation, in the County of Polk, State of Iowa, hereinafter referred to as "Grantee" or "City", a permanent easement under, through, and across the following described real estate:

Windsor Crossings Plat 1, an Official Plat, now included in and forming a part of the City of Windsor Heights, Polk County, Iowa,

More specifically set forth in the attached Final Plat of Windsor Crossings Plat 1 (the "Easement Area").

That the above described easement is granted unto the City of Windsor Heights, Iowa, for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

40.00' Water Main

together with necessary appurtenances thereto, under, over, through and across said Easement Area.

1. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.

2. Change of Grade Prohibited. Grantor and its grantees, assigns and transferees shall not change

the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees.

3. Right of Access. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.

4. Property to be Restored. The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees or shrubs). The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area.

5. Liability. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor for property damage or any improvements or obstructions thereon resulting from the City's exercise of this Easement. Grantor agrees to indemnify and hold City, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.

6. Easement Benefit. This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.

7. Easement Runs with Land. This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns.

8. Approval by City Council. This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

That the Grantor does hereby covenant with the said Grantee, and successor-in-interest, that said Grantor holds said real estate by title and fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be herein stated; that said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be herein stated.

IN WITNESS WHEREOF, we have hereunto affixed our hands this _____ day of _____, 2015.

HURD WINDSOR, LLC

By: Richard W. Hurd
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Richard W. Hurd, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Hurd Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

KNAPP WINDSOR, LLC

By: Gerald D. Neugent
Its: Manager

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ day of _____, 2015, before me, a Notary Public in and for said county, personally appeared Gerald D. Neugent, to me personally known, who being by me duly (sworn or affirmed) did say that he is the Manager of Knapp Windsor, LLC, that said instrument was signed on behalf of the said limited liability company; and that he as Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

ACCEPTANCE BY CITY

STATE OF IOWA)
) ss:
COUNTY OF POLK)

I, Brett Klein, City Clerk of the City of Windsor Heights, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City by Resolution No. _____, passed on the ____ day of _____, 2015, and this certificate is made pursuant to authority contained in said Resolution.

Signed this ____ day of _____, 2015.

Brett Klein, City Clerk of the City of Windsor Heights