

RIGHT OF ENTRY AGREEMENT AND WAIVER OF TRESPASS

THIS AGREEMENT, made on this ____ day of _____, 2016 by and between the **CITY OF COON RAPIDS**, a municipal corporation under the laws of Minnesota (“**City**”), and **ANOKA HENNEPIN SCHOOL DISTRICT # 11**, a political subdivision of the State of Minnesota (“**Owner**”).

WHEREAS, Owner owns certain real property situated in the City of Coon Rapids, County of Anoka and State of Minnesota, which property is more particularly described on the attached Exhibit A which is hereby incorporated;

WHEREAS, said real property is hereafter referred to as the “Property”;

WHEREAS, the City is in the process of constructing sewer, water, street, roadway, sidewalk and other utility improvements commonly referred to as Project No. 16-4, hereinafter referred to as the “Project”;

WHEREAS, the plans and specifications for the Project are on file with the City’s Director of Public Works.

WHEREAS, the City has acknowledged that insofar as the Property is concerned the City shall construct the Project according to the plans and specifications on file with the City’s Director of Public Works;

WHEREAS, in order to construct the Project it is necessary that the City, its agents, servants, representatives and contractors immediately enter upon the Property;

WHEREAS, the City will eventually need a permanent easement from the Owner in, over, across and under the Property for the location of the Project;

WHEREAS, the City and the Owner have not as yet completed negotiations for a permanent easement agreement;

WHEREAS, it is in the best interest of the City and the Owner that construction work for the Project begin immediately on the Property;

NOW, THEREFORE, in consideration of the premises and their mutual promises, the parties hereto hereby agree as follows:

1. The Owner hereby grants to the City, its agents, servants, representatives and contractors the right, privilege and license to enter upon that part Property that is legally defined on Exhibit A for the purposes of installing storm sewer, and constructing the Project and all such purposes reasonably ancillary thereto. The storm sewer to be constructed is represented on Exhibit B.

2. The Owner hereby waive all actions, causes of action and claims against the City, its agents, servants, representatives, and contractors for trespass on that part of the Property described on Exhibit A and in the reasonable vicinity thereto.

3. The right, privilege and license granted to the City in this Agreement shall expire and terminate upon the completion of the construction of the Project but no later than August 12, 2016. This excludes any remedial restoration or warranty work that may be required after August 12, 2016.

4. The Owner covenant, represent, warrant and agree with and to the City that they are owners of record of Property and have good right to grant to the City the right, privilege and license stated in this Agreement.

5. In consideration for such entry, City agrees to defend and indemnify, save and hold harmless the Owner, and its officers, employees, and volunteers, from and against all claims, damages, losses, suits, actions including the cost of defenses of suit and expenses, including attorney fees incurred or brought as a result of liens placed on the Property, injuries or damages received or sustained by any person, persons, or property resulting from the City use of the Property as provided under this Agreement; but only to the extent caused in whole or in part by the misconduct, negligent acts, errors or omissions of or arising from any violation of any law or regulation by the City or, City's subcontractor(s), or anyone directly or indirectly employed or hired by City, or anyone for whose acts City may be liable. City agrees this indemnity obligation shall survive the completion or termination of this Agreement

6. If either party enforces the terms of this Right of Entry Agreement, the prevailing party shall be entitled to an award of the costs of said enforcement action, including attorney fees.

7. The City shall require all contractors to name the Owner and the City as additional insureds on its general liability policy of insurance, and shall require all contractors to provide the Owner and the City with an appropriate certificate of insurance identifying the Owner and the City as additional insureds prior to accessing the Property as provided in this Right of Entry Easement.

8. The City agrees to restore the Property to substantially the same condition as the condition in which it was found by the City at the time of City's entry upon the Property pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their names and behalves and on or as of the date first above written.

CITY OF COON RAPIDS

By:

Jerry Koch, Mayor

By:

Matt Stemwedel, City Manager

**ANOKA HENNEPIN SCHOOL
DISTRICT # 11**

By:

Its:

STATE OF MINNESOTA)
)ss.
COUNTY OF ANOKA)

On this _____ day of _____, 2016, before me a Notary Public within and for said County, personally appeared Jerry Koch and Matt Stemwedel, to me personally known, who each by me duly sworn, each did say that they are respectively the Mayor and the City Manager of Coon Rapids, the municipal corporation named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed in behalf of said municipality by authority of its City Council and said Mayor and City Manager acknowledged said instrument to be the free act and deed of said municipal corporation.

Notary Public

EXHIBIT A

Property Address: 11301 Dogwood Street NW

Commencing at the Northeast corner of said Lot 1, AUDITOR'S SUDVISION NUMBER 8; thence westerly along the north line of said Lot 1, on an assumed bearing of South 89 degrees 03 minutes 41 seconds West, a distance of 201.39 feet to the Point of Beginning of the parcel to be described; thence westerly along the north line of said plat, on a bearing of South 89 degrees 03 minutes 41 seconds West, a distance of 500.00 feet; thence South 00 degrees 24 minutes 36 seconds West, parallel to the east line of Lot 3, a distance of 565.00 feet; thence North 89 degrees 03 minutes 41 seconds East, a distance of 500.00 feet; thence North 00 degrees 24 minutes 36 seconds East, a distance of 565.00 feet to the Point of Beginning and there terminating.

AND

the East 20.00 feet of the West half of the South 550 feet of Lot 1, AUDITOR'S SUBDIVISION NUMBER 8 according to the plat of record, Anoka County, Minnesota.