

Preparer/Return to: Doug Herman, Lynch Dallas, P.C., P.O. Box 2457, Cedar Rapids, IA 52406 (319) 365-9101

DRAINAGE EASEMENT AGREEMENT

This DRAINAGE EASEMENT AGREEMENT (“Agreement”) is made this ____ day of _____ 2024, by THE CITY OF INDEPENDENCE, IOWA (“City”) and DENISE DEE GANDER, (“Gander”).

WHEREAS, Gander is the legal titleholder of the following property:

Lot 11, North Ridge Addition to Independence, Buchanan County, Iowa

(Hereinafter referred to as “Property”)

WHEREAS, City desires to be granted and Gander desires to grant City a Drainage Easement over the north 12.5’ of the Property, (“Easement Area”); and

WHEREAS, City and Gander find that the installation of stormwater management improvements in the Easement Area by the City would be in the mutual best interest of both City and Gander.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Gander hereby grants City a Drainage Easement over and/or through the above-described Easement Area.
2. No Limitations. Nothing in this Agreement shall prohibit or restrict Gander’s use of the Easement Area so long as such use does not interfere with, damage, or otherwise prevent use of the Easement Area for the intended purpose of this Drainage Easement.
3. Maintenance. Maintenance of the drainage/stormwater improvements within the Easement Area shall be provided by City while general maintenance, mowing, and the like, of the Easement Area shall be provided by Gander.
4. Improvements. City will be solely responsible for the installation of drainage/stormwater improvements in the Easement Area and for the maintenance associated therewith. City shall after installation, be obligated to repair and/or maintain stormwater improvements and to ensure, after said original installation and/or future repairs and/or maintenance, that the easement area is returned to the

condition that existed prior to said installation repair, and/or maintenance. (Filling ruts, seeding disturbed areas, etc.)

5. General Description of Drainage / Storm Water Improvements. City to install a 10” perforated tile pipe into the back, at floor height, of the existing street stormwater intake located on 6th Ave. NE in front of the Property and extend the tile through the Easement Area approximately 177.00’ to a surface (honeycomb) intake. Backfill trench keeping a slight valley for water that gets by with a back side throat at the top of existing street stormwater intake and fix curb cut.

6. Indemnification and Hold Harmless. City and Gander agree to indemnify and hold one another harmless from any and all third-party claims for injuries, damages, expenses, and/or liabilities arising from said party’s acts or omissions within the Easement Area. This indemnification and hold harmless shall include, but not be limited to, reasonable legal fees and costs of defense incurred by the indemnified party. Notwithstanding the foregoing, this indemnification and hold harmless shall only apply to third-party claims that are not otherwise covered by the indemnifying party’s insurance coverage.

7. Covenant Running With Land. This Agreement shall be construed as a covenant running with the land and shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns, shall not be separated from the land and shall be perpetual in duration unless terminated by mutual consent of both Parties or their respective successors and assigns.

8. Severability. If any provision of this Agreement is found invalid, the parties agree to sever the invalid portion of the Agreement while the remainder of the Agreement remains valid and enforceable

9. Amendment, Modification and Waiver. Changes, amendments, modifications, or waivers of any condition, provision, or term in this Agreement shall not be valid or of any effect unless made in writing, signed by Parties and/or their successors and assigns, and specifying with particularity the extent and nature of such amendment, modification, or waiver.

10. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any prior agreements or discussions between the parties, which are merged herewith, with respect to the subject matter hereof.

11. Governing Law. This Agreement shall be governed by Iowa law.

IN WITNESS WHEREOF, Denise Gander and the City of Independence, Iowa, have executed this Drainage Easement Agreement as of the date first written above.

Grantor

Grantee

Denise Gander

Brad Bleichner, Mayor

Attest: Susi Lampe, City Clerk

STATE OF IOWA)
)§
COUNTY OF BUCHANAN)

This instrument was acknowledged before me on this ____ day of _____, 2024, by Denise Gander, known to me to be the identical person named herein, who swore and affirmed that she executed same as an expression of her voluntary act and deed.

Notary Public, State of Iowa

STATE OF IOWA)
)§
COUNTY OF BUCHANAN)

This instrument was acknowledged before me on this ____ day of _____, 2024, by Brad Bleichner and Susi Lampe, Mayor and City Clerk, respectively, for the City of Independence, Iowa, known to me to be the identical persons named herein, who swore and affirmed that they executed same at the direction and with the authority of the City Council as an expression of their voluntary act and deed and the voluntary act and deed of the City Council.

Notary Public, State of Iowa