

## EASEMENT ENCROACHMENT AGREEMENT

This Easement Encroachment Agreement (“**Agreement**”) is made by and between Manville Water Supply Corporation (“**Manville**”), a Texas non-profit corporation created and operating pursuant to Chapters 49 and 67, Texas Water Code, with a principal place of business located at 13805 State Hwy. 95, Coupland, Texas 78615, and the City of Manor, a home-rule municipal corporation, with its city hall located at 105 E. Eggleston Street, Manor, Texas 78653 (“**City**”), acting through its designee, who for purposes of this Agreement is the Director of Manor Water Utility, or successor department.

### RECITALS

- A. On or about May 11, 2022 an area landowner presented to the City an application for a permit to develop a commercial property at 12225 Hwy 290 East, Manor Texas. The application underwent review in accordance with the City’s processes and regulations. The City approved the application which, among other things, authorized construction or installation of a twelve-inch (12”) waterline (the “**City Water Line**”) located within a public utility easement granted to the City by instrument recorded under Document No. 2025014911, Travis County Real Property Records, and a stone retaining wall (collectively, the “**Encroaching Facilities**”) within and across Manville’s easement entered into the Travis County real property records on January 15, 1974, as instrument #90-4153 (“**Easement**”), a true and correct copy of which is attached hereto as **Exhibit “A”**. The application presented to the City for review did not identify the Easement. The 12” City Waterline distributes potable water to the commercial property and other City customers.
- B. Manville verified the location of the Encroaching Facilities by way of visual observation of the surface of the Easement and “potholing” beneath the surface of the Easement. A general and partial depiction of where the Encroaching Facilities overlap and encroach upon the Easement (“**Encroachment Location**”) is provided as **Exhibit “B,”** attached hereto.
- C. Within the Easement, Manville owns and maintains a sixteen-inch (16”) water distribution line (the “**Manville Water Line**”). The Manville Water Line is vital to Manville’s operations and ability to provide potable water to Manville’s members and other customers.
- D. Manville and City wish to enter into this Agreement in the interest of continuing a productive and positive working relationship as fellow public utilities.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, Manville and City agree as follows:

- 1. **Consideration.** The following terms and conditions constitute consideration conveyed by City to Manville in exchange for Manville’s agreement to allow the Encroaching Facilities upon the Easement and the Manville Water Line.
- 2. **Recording Required.** Within 10 business days of the last date of execution indicated below, City shall file this Agreement in the real property records of Travis County. Upon

City's receipt of a file-stamped confirmation from Travis County that the Agreement has been recorded, City shall promptly provide Manville with the *original* file-stamped document.

3. **Prior Notice and Subsequent Coordination Required.** City agrees not to proceed with the construction of any new facilities on, along, or within the Easement, whatsoever, without first coordinating with Manville and receiving Manville's express written consent for City to enter and/or encroach upon the Easement.

Manville consents to the Encroaching Facilities as they currently exist at the Encroachment Location, provided that City will (i) operate and maintain the Encroaching Facilities in a manner that will not interfere with or in any way damage the Manville Water Line or other facilities owned by Manville, and (ii) provide Manville at least seven (7) business days' advance written notice before commencing any construction, maintenance, removal, or replacement or other activity within the Easement; provided that in the event of an emergency requiring prompt action by the City, the City will provide as much advance notice as possible to Manville under the circumstances. City acknowledges such prior notice is necessary so that Manville will have an opportunity to have an inspector or representative present during the time City carries out such activities and so the Manville Water Line and any related facilities can be located, both vertically and horizontally, and staked to minimize the possibility of damage. Staking and locating of any Manville facilities shall be at the cost of City.

City shall provide non-emergency notice under this Agreement to the following individuals at the listed mailing addresses and/or email addresses:

Manville Water Supply Corporation  
Attn: General Manager  
P.O. Box 248  
Coupland, Texas 78615  
(512) 856-2488, ext: 233  
[eprinz@manvillewsc.org](mailto:eprinz@manvillewsc.org)

Manville Water Supply Corporation  
c/o ZTE Law, PC  
2900 W. Anderson Lane  
Bldg. C-200, MPB 354  
Austin, Texas 78757  
(512) 537-1641  
[zac@ztevanslaw.com](mailto:zac@ztevanslaw.com)

The City and Manville shall maintain current contacts with each other for the purpose of providing notice and coordinating during emergencies. For purposes of this section, an emergency exists only when there is an imminent threat to continued operation of the City Water Line, public safety, individual safety, or significant property damage.

4. **Good Faith.** City, its heirs, successors, and assigns, agree that, if Manville determines that the Encroaching Facilities are interfering with Manville's operation or maintenance of the Manville Water Line, whether by direct physical damage or otherwise, City will immediately cease any construction of the Encroaching Facilities at the Encroachment Location. In such event, City shall work in good faith with Manville to immediately repair any damage and/or resolve any interference and the Parties shall reasonably cooperate to avoid disruption of water supply to customers who are served by the Manville Water Line and the City Water Line.
5. **Liability for Expenses.** City shall be solely liable for any expenses associated with the repair of any damage to the Manville Water Line or damage City may cause to other Manville facilities during the construction and operation of the Encroaching Facilities.
6. **Marking Facilities.** City and Manville shall each, subject to each Party's review, adequately mark its underground facilities within the Easement with permanent line markers and ground placards to promote public safety and the future safe operation City's and Manville's facilities and to meet applicable governmental regulations.
7. **Compliance with Law.** City agrees that it is in compliance with and shall continue to comply with all applicable laws and regulations relating to the activities described herein.
8. **Risk Pool Coverage.** During the term of this Agreement, including the period thereafter until the Encroaching Facilities are removed (or abandoned in place and properly sealed at the expense of City, as the case may be), City shall carry a minimum of (a) risk pool coverage of at least \$1,000,000 per occurrence, such insurance to provide coverage for premises operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, independent contractors and personal injury coverage including coverage for construction, operation and maintenance of City's Encroachment, including but not limited to, loss or injury resulting from Hydrogen Sulfide Gas (H<sub>2</sub>S or "Sour Gas") if applicable and (b) risk pool coverage of at least \$ 5,000,000 which coverage and exclusions shall be identical to the risk pool coverage required under (a) above. Upon execution of this Agreement, City shall furnish Manville with a certificate of such coverage. City shall provide Manville thirty (30) business days' prior written notice of cancellation of, or material change in, coverage.
9. **INDEMNIFICATION AND HOLD HARMLESS. CITY SHALL, ONLY TO THE EXTENT PERMITTED BY LAW, PROTECT RELEASE, INDEMNIFY, DEFEND AND HOLD MANVILLE, ITS SUBSIDIARIES, AFFILIATES, CONTRACTORS AND SUBCONTRACTORS, THEIR SUCCESSORS AND ASSIGNS, AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (HEREINAFTER COLLECTIVELY REFERRED TO AS THE "INDEMNIFIED PARTIES"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, FINES, PENALTIES, DAMAGES, DEMANDS, SUITS, CAUSES OF ACTION, JUDGMENTS, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES, COSTS OF LITIGATION AND/OR INVESTIGATION AND OTHER COSTS ASSOCIATED THEREWITH), AND**

**LIABILITIES, OF EVERY KIND, (COLLECTIVELY REFERRED TO HEREAFTER AS "CLAIMS"), INCLUDING WITHOUT LIMITATION THOSE RELATING TO LOSS OF OR DAMAGE TO ANY PROPERTY (INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL DAMAGES, POLLUTION OR CONTAMINATION), AND INJURY TO OR DEATH OF ANY PERSONS, IN ANY WAY ARISING OUT OF, CONNECTED WITH, RELATING TO, OR RESULTING FROM THE EXERCISE OF ANY OF THE RIGHTS IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE CONSTRUCTION, PRESENCE, MAINTENANCE, USE, REPAIR OR REMOVAL OF THE ENCROACHMENT, OR ANY BREACH OF THIS AGREEMENT BY CITY OR BY ANYONE ACTING ON BEHALF OF CITY, REGARDLESS OF THE CAUSE OR CAUSES THEREOF, INCLUDING WITHOUT LIMITATION ANY CLAIMS CAUSED SOLELY BY OR CONTRIBUTED TO, IN PART, BY THE INDEMNIFIED PARTIES' SOLE, JOINT OR CONCURRENT NEGLIGENCE OR FAULT (WHETHER IMPOSED BY STATUTE, RULE, REGULATION OR OTHERWISE, INCLUDING THE STRICT LIABILITY OF THE INDEMNIFIED PARTIES), EXCEPT TO THE EXTENT ANY SUCH CLAIMS ARE CAUSED BY THE INDEMNIFIED PARTIES' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR OMISSIONS.**

10. **No Hazardous Substances.** City is prohibited from storing Hazardous Substances in or on the Easement. For purposes of this Agreement, the phrase "Hazardous Substances" carries the same meaning as in Section 26.263 of the Texas Water Code.
11. **AS-IS.** For purposes of this Agreement, City accepts the Easement "AS-IS" and "WITH ALL FAULTS" and Manville specifically disclaims any and all warranties, express or implied, including but not limited to any warranty of fitness of the property for any purpose.
12. **Breach.** City's failure to strictly adhere to the conditions provided herein shall constitute a material breach of the Agreement and Manville will thereafter be entitled to all available remedies provided under law.
13. **No Waiver.** Manville's failure to enforce any provision of this Agreement shall not be construed as a waiver of its rights to enforce such provision or any other provision of this Agreement at any later date. No waiver of any term, condition, or obligation in this Agreement shall be effective unless expressly stated in writing and signed by an authorized representative of Manville.

The rights and remedies of Manville under this Agreement are cumulative and shall not be deemed exclusive of any other rights or remedies provided by law, equity, or regulation. Any delay or failure to exercise any right or remedy shall not constitute a waiver thereof or preclude the further exercise of such right or remedy.

14. **Appropriations.** Notwithstanding any provision contained herein, the financial obligations of the City contained herein and in the Agreement are subject to and contingent upon appropriations by the City Council of such funds or other revenues being available, received

and appropriated by the City in amounts sufficient to satisfy said obligations. In no event shall this instrument be construed to be a debt of the City.

*[Endorsements follow.]*

DRAFT

**IN WITNESS WHEREOF**, Manville and City enter into and make this Agreement effective as of the last date of execution by the parties, as indicated below.

**MANVILLE WATER SUPPLY CORPORATION**

By: \_\_\_\_\_  
Erik Prinz, General Manager  
Date: \_\_\_\_\_

**CITY OF MANOR**

By: \_\_\_\_\_  
\_\_\_\_\_  
Date: \_\_\_\_\_

*[Notary jurats follow.]*

DRAFT

**STATE OF TEXAS**

§  
§  
§

**COUNTY OF TRAVIS**

On this day, Erik Prinz, known to me to be the General Manager of Manville Water Supply Corporation, personally appeared before me and subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of 2026.

(SEAL)

\_\_\_\_\_  
Texas Notary Public

**STATE OF TEXAS**

§  
§  
§

**COUNTY OF TRAVIS**

On this day, \_\_\_\_\_, known to me to be the \_\_\_\_\_ of the City of Manor, personally appeared before me and subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of 2026.

(SEAL)

\_\_\_\_\_  
Texas Notary Public

**EXHIBIT "A"**

**EASEMENT**

DRAFT

UNITED STATES DEPARTMENT OF AGRICULTURE  
Farmers Home Administration

~~RIGHT-OF-WAY~~ EASEMENT (General Type Easement) 00 90-4152

KNOW ALL MEN BY THESE PRESENTS, that N. A. Hightower, Jr., hereinafter called Grantors, in consideration of one dollar (\$1.00) and other good and valuable consideration paid by Manville Water Supply Corporation hereinafter called Grantee, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, transfer, and convey to said Grantee, its successors, and assigns, a perpetual easement with the right to erect, construct, install, and lay and thereafter use, operate, inspect, repair, maintain, replace, and remove a pipeline over and across 378 acres of land, more particularly described in instrument recorded in Vol. \*, Page \*, Deed Records, Travis County, Texas, together with the right of ingress and egress over Grantors' adjacent lands for the purpose for which the above mentioned rights are granted. The easement hereby granted shall not exceed 15' in width, and Grantee is hereby authorized to designate the course of the easement herein conveyed except that when the pipe line is installed, the easement herein granted shall be limited to a strip of land 15' in width the center line thereof being the pipe line as installed.

The consideration recited herein shall constitute payment in full for all damages sustained by Grantors by reason of the installation of the structures referred to herein and the Grantee will maintain such easement in a state of good repair and efficiency so that no unreasonable damages will result from its use to Grantors' premises. This Agreement, together with other provisions of this grant, shall constitute a covenant running with the land for the benefit of the Grantee, its successors, and assigns. The Grantors covenant that they are the owners of the above described lands and that said lands are free and clear of all encumbrances and liens except the following:

IN WITNESS WHEREOF the said Grantors have executed this instrument this 7<sup>th</sup> day of Dec., 19 71.

- \* Volume 1035, Pages 312-317
- Volume 1541, Pages 129-130
- Volume 1815, Pages 493-494

N. A. Hightower, Jr.

ACKNOWLEDGEMENT

STATE OF TEXAS                    X  
COUNTY OF \_\_\_\_\_           X

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared N. A. Hightower, Jr.

known to me to be the person(s) whose name(s) is ~~was~~ subscribed to the foregoing instrument, and acknowledged to me that he ~~(she)~~ executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 15<sup>th</sup> day of Dec., 19 71.

NOTARY SEAL

Carl R. [Signature]  
Notary Public in and for Travis County, Texas

DEED RECORDS  
Travis County, Texas

4822 1609



**EXHIBIT "B"**

**GENERAL DEPICTION OF ENCROACHMENT LOCATION**

DRAFT

