

**SANITARY SEWER, FORCE MAIN, AND PUMPING
STATION EASEMENT AGREEMENT**

Drafted by and Return To:

Attorney Sara K. Beachy
Axley Brynson, LLP
2 East Mifflin Street, Suite 200
Madison, Wisconsin 53703

/WUP 00157

/WUP 00354

/WUP 00356

Tax Parcel Numbers

THIS EASEMENT AGREEMENT (“*Agreement*”) is granted by D.L.K. Enterprises, Inc. f/k/a D.L.K. Farm Service, Inc. (collectively, “*Grantor*”), to the City of Whitewater (“*Grantee*”).

RECITALS:

A. Grantor is the fee owner of the real property located in the City of Whitewater, Walworth County, Wisconsin, legally described on Exhibit A, which is attached hereto and made a part hereof (the “*Grantor Property*”); and

B. Grantor grants and establishes, upon the terms and conditions contained in this Agreement: (a) a ***Permanent Limited Easement*** for construction and maintenance of a sanitary sewer, force main, and pumping station; and (b) a ***Temporary Limited Easement*** for construction and restoration purposes, each over and across certain portions of the Grantor Property for the benefit of Grantee, as set forth in Exhibit A. The Permanent Easement Area and

the Temporary Easement Area are collectively known as the "***Easement Areas***," and the Temporary Easement and the Permanent Limited Easement are collectively known as the "***Easements***."

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The Recitals above are incorporated by reference.
2. Grant of Easements. Grantor hereby grants, conveys, transfers and assigns unto the Grantee, a non-exclusive Permanent Limited Easement and Temporary Limited Easement as described in Exhibit A and depicted in Exhibit B attached hereto, along with the right to ingress and egress over the Easement Areas necessary to fulfill the purpose of this Agreement.
3. Permitted Users. The Easements granted herein may be used by the Grantee and its guests, agents, employees, contractors, invitees, successors and assigns as necessary to fulfill the purpose of this Agreement.
4. Municipal Services. Any municipal body, and its employees and agents, that provide Grantor Property with any current or future services shall have the right to access the Easement Areas to provide services related to the Easements.
5. Repair and Maintenance. Grantee is responsible at Grantee's sole cost and expense for the construction, installation, maintenance, repair, replacement, restoration, and rebuilding of the sanitary sewer, force main, and pumping station located in the Easement Areas. Grantee will maintain and preserve the Permanent Easement Area in good repair and working order, ordinary wear and tear excepted, and from time to time shall make all necessary repairs, replacements, renewals, and additions within the Permanent Easement Area. If Grantor or any of its agents, contractors, guests, invitees, tenants, successors, heirs, or assigns damages or destroys all or any part of the Easement Areas then Grantee may repair such damage at the sole cost and expense of Grantor.
6. Restoration and Clean Up. In the event Grantee exercises any right within the Easement Areas in accordance with this Agreement, Grantee shall reasonably restore the surface of the Easement Areas and shall remove all construction debris resulting from such activities from the Easement Areas.
7. No Interference with Rights. The parties shall at no time interfere with the rights of the other party which are provided in this Agreement. Without limitation, the Grantor shall not (a) interfere with or restrict access to any Easement Areas, or (b) erect any improvements in the Easement Areas including, without limitation, water, electric, or sewer lines, or paving, without the prior written consent of the Grantee.

8. Covenants Run with Land. All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by the parties, and each of their successors and assigns.

9. Notices. All notices herein provided for shall be given by registered mail or certified mail, postage prepaid, return receipt requested, or sent by overnight express carrier (e.g., Federal Express or Express Mail) for guaranteed next business day delivery. Notice shall be deemed given when so mailed and addressed. Either party may change such address by written notice to the other party as provided for herein; provided that, in the event the Grantor is no longer the owner of record of the Grantor Property, then notices pursuant hereto may be given to the address of the successor owner where such owner's real estate tax bills are sent until such owner changes its notice address by written notice to the Grantee as provided for herein. Notice shall be delivered as follows:

To Grantor: D.L.K. Enterprises, Inc.
 c/o Michael S. Kachel,
 144 N. Tratt Street
 Whitewater, WI 53190
 Or the Successor Registered Agent

To Grantee: City of Whitewater
 c/o City Manager
 312 W. Whitewater Street
 Whitewater, WI 53190

10. Non-Use. Non-use or limited use of the easement rights granted in this Agreement shall not prevent any benefited party from later use of the easement rights to the fullest extent authorized in this Agreement.

11. Amendment. This Agreement may be amended in whole or in part by the recording of a written instrument executed by or on behalf of all of the owner(s) of the real property where the applicable easements are located and the owner(s) of the real property benefiting from such easements, including portions thereof, subject to this Agreement.

12. Governing Law. This instrument shall be construed and enforced in accordance with the laws of the State of Wisconsin.

13. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

14. Waiver. No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Agreement shall be

construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.

15. Nonforfeiture. Any violation of these restrictions shall not result in a forfeiture or reversion of title to any real property.

16. Binding Effect on Successors and Assigns. The covenants and obligations of this Agreement shall bind and inure to the benefit of Grantor, Grantee and their respective successors and assigns.

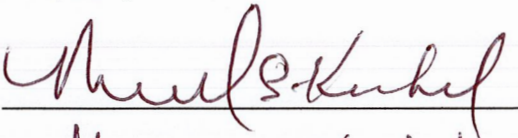
17. Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all parties have signed the same document. All counterparts shall be construed together and shall constitute one agreement.

18. Clear Title. By signing below, Grantor warrants and represents he/she has authority to execute this Easement on behalf of D.L.K. Properties, Inc. f/k/a D.L.K. Farm Service, Inc., and that Grantor has good title to the property described herein, free and clear from all liens and encumbrances.

[SIGNATURES NEXT PAGE]

GRANTOR:

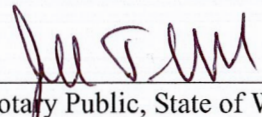
D.L.K. Enterprises, Inc. f/k/a D.L.K. Farm Service, Inc.,

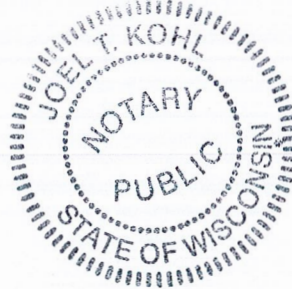
By: 
Name: Michael S. Kachel
Title: President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
COUNTY OF Walworth)

This instrument was acknowledged before me on this 10th day of October, 2023, by the above-named Michael S. Kachel known to be the person who executed the forgoing instrument and acknowledged the same.


Notary Public, State of Wisconsin
My commission expires: 6/12/2024



[Consents Appear on Following Page]

EXHIBIT A
Legal Description

A Permanent Limited Easement for the construction, installation, maintenance, repair, replacement, restoration, and rebuilding of a sanitary sewer, force main, and pumping station in part of the Northeast 1/4 of the Northeast 1/4 and the Southeast 1/4 of the Northeast 1/4 of Section 6 and part of the Northwest 1/4 of the Northwest 1/4 and the Southwest 1/4 of the Northwest 1/4 of Section 5, all in Township 4 North, Range 15 East, City of Whitewater, Walworth County, Wisconsin more fully described as follows:

Commencing at the Northeast corner of said Section 6;
Thence South 0° 54' 30" West, 1423.59 feet along the east line of the Northeast 1/4 of the Northeast 1/4 to the point of beginning;

Thence, S 89° 31' 10" E, 690.63 feet to the east line of D.L.K. Enterprises, Inc. lands as described in Warranty Deed recorded on February 18th, 1971 as document number 632994 at the Walworth County Register of Deeds;

Thence, S 02° 31' 00" W, 40.03 feet along said east line;

Thence, N 89° 31' 10" W, 689.51 feet to the east line of the Southeast 1/4 of the Northeast 1/4 of Section 6;

Thence, continuing N 89° 31' 10" W, 1214.36 feet to the southerly extension of the east line of the City of Whitewater Lift Station Site as described in Warranty Deed recorded on June 17, 1965 as document number 571102 at the Walworth County Register of Deeds;

Thence, N 01° 39' 39" E, 50.01 feet along said southerly extension and said east line;

Thence, S 89° 31' 10" E, 395.11 feet;

Thence, S 00° 28' 50" W, 10.00 feet;

Thence, S 89° 31' 10" E, 667.31 feet;

Thence, N 00° 28' 50" E, 55.00 feet;

Thence, S 89° 31' 10" E, 100.00 feet;

Thence, S 00° 28' 50" W, 55.00 feet;

Thence, S 89° 31' 10" E, 51.22 feet to the point of beginning;

Containing 85,623 square feet more or less.

Also, a **temporary limited easement** for the construction of sanitary sewer, force main, and pumping station construction, including for such purpose the right to operate necessary equipment thereon, the right of ingress and egress as long as required for such public purpose including the right to preserve, protect, remove or plant thereon any vegetation that the highway authorities may deem desirable. All areas disturbed by construction will be restored similar to its original condition. **This temporary limited easement shall terminate upon the earlier of (i) the completion of the construction project for which this instrument is given or (ii) June 30, 2025.**

Said easement consists of the owner's interest in land contained within the following described tract being part of the Northeast 1/4 of the Northeast 1/4 and the Southeast 1/4 of the Northeast

1/4 of Section 6 and part of the Northwest 1/4 of the Northwest 1/4 and the Southwest 1/4 of the Northwest 1/4 of Section 5, all in Township 4 North, Range 15 East, City of Whitewater, Walworth County, Wisconsin more fully described as follows:

Commencing at the Northeast corner of said Section 6;
Thence South 0° 54' 30" West, 1393.59 feet along the east line of the Northeast 1/4 of the Northeast 1/4 to the point of beginning;

Thence, S 89° 31' 10" E, 468.56 feet;
Thence, S 00° 28' 50" W, 30.00 feet;
Thence, S 89° 31' 10" E, 221.85 feet to the east line of D.L.K. Enterprises, Inc. lands as described in Warranty Deed recorded on February 18th, 1971 as document number 632994 at the Walworth County Register of Deeds;
Thence, S 02° 31' 00" W, 40.03 feet along said east line;
Thence, S 02° 31' 00" W, 20.01 feet;
Thence, N 89° 31' 10" W, 859.72 feet;
Thence, N 00° 28' 50" E, 20.00 feet;
Thence, N 89° 31' 10" W, 297.27 feet;
Thence, S 00° 28' 50" W, 20.00 feet;
Thence, N 89° 31' 10" W, 245.00 feet;
Thence, N 00° 28' 50" E, 20.00 feet;
Thence, N 89° 31' 10" W, 501.17 feet to the southerly extension of the east line of the City of Whitewater Lift Station Site as described in Warranty Deed recorded on June 17, 1965 as document number 571102 at the Walworth County Register of Deeds;;
Thence, N 01° 39' 39" E, 50.01 feet along said southerly extension and said east line;
Thence, continuing N 01° 39' 39" E, 20.00 feet along said east line;
Thence, S 89° 31' 10" E, 52.26 feet;
Thence, S 71° 26' 09" E, 35.94 feet;
Thence, S 74° 54' 21" E, 35.06 feet;
Thence, S 89° 31' 10" E, 274.35 feet;
Thence, S 89° 31' 10" E, 297.47 feet;
Thence, N 00° 28' 50" E, 20.00 feet;
Thence, S 89° 31' 10" E, 130.00 feet;
Thence, S 00° 28' 50" W, 30.00 feet;
Thence, S 89° 31' 10" E, 170.36 feet;
Thence, N 00° 28' 50" E, 30.00 feet;
Thence, S 89° 31' 10" E, 49.47 feet;
Thence, N 00° 28' 50" E, 45.00 feet;
Thence, S 89° 31' 10" E, 140.00 feet;
Thence, S 00° 28' 50" W, 45.00 feet;
Thence, S 89° 31' 10" E, 31.44 feet to the point of beginning;

Excepting those lands described above as Permanent Limited Easement for Sanitary Sewer, Force Main and Pumping Station.

Containing 52,144 square feet, more or less.

Subject to all other easements and restrictions, recorded and unrecorded.

EXHIBIT B

Vanderlip Pump Station and Force Main Easements Survey Map

