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DEBORAH L. PEYTON, RECORDER/REGISTRA
DELAWARE COUNTY IOWA

PETITION AND WAIVER

Recorder's Cover Sheet

Preparer Information: (Name, address and phone number)

J. David Gibbs, Gibbs Engineering & Surveying, 105 West Main Street, Manchester, IA 52057. 563-927-2434.

Return Document To: (Name and complete address)

Gibbs Engineering & Surveying, 105 West Main Street, Manchester, IA 52057

Grantors:

City of Manchester

Grantees:

Donald L. McCurdy & Kathy S. McCurdy

PETITION AND WAIVER

THIS AGREEMENT made and entered into by and between the City of Manchester, Iowa, hereinafter called the CITY, and the undersigned property owners in said City, hereinafter called the PROPERTY OWNERS, WITNESSETH:

WHEREAS, the City proposed to construct street improvements, water and sewer mains and services, and storm drainage facilities ("improvements") in said City; and

WHEREAS, the undersigned Property Owners desire that the improvements be constructed to benefit their respective properties and that 50 percent of the cost of street and drainage improvements will be paid by the property owner(s) exclusive of costs for turning lane construction. The general location of said improvements being as follows:

> To construct commercial streets (N. Second Street and W. Winslow Drive) along with other improvements in *Honey Creek Addition*, which subdivision contains approximately 9.65 acres divided into six (6) lots along with street right of way, to connect and serve all six (6) lots. The street must meet the minimum technical standards of the City 66 foot right of way, 34 foot "back to back", with 6 inch Portland Cement Concrete (4000 p.s.i. compression or above) over compacted earth, with integral curb. The other improvements must meet the applicable minimum technical standards of the City.

NOW, THEREFORE, BE IT AGREED AMONG THE PARTIES HERETO AS FOLLOWS:

As soon as practicable the City shall have the right to cause the above described improvements to be constructed in accordance with such plans and specifications as it shall deem appropriate. The construction of said improvements shall be under the supervision of an Engineer to be selected by the City.

For the purpose of this agreement, the City may elect to enter into contract for the construction of said improvements as a part of any contract for a public improvement project entered into prior to the receipt of this instrument as authorized by Section 384.41(2) of the City Code of Iowa.

In consideration of the construction of said improvements, the undersigned Property Owners hereby waive the public hearing on the adoption of the Resolution of Necessity and the mailing and publication of Notice thereof, and all other legal formalities of whatsoever kind of character required by the laws of Iowa to be observed by the cities in the construction of said improvements where the expense of such improvements is to be paid by the property owner. The undersigned Property Owners each and all hereby expressly waive each and every question of jurisdiction, the intention of the Property Owners being to authorize and direct said City to construct the improvement without requiring any of the formalities or legal proceedings required of cities by the statutes of Iowa.

It is further agreed that when said improvements have been constructed in accordance with the plans and specifications that the City shall charge the property owners for fifty percent (50%) of the cost of construction of the street improvements and drainage improvements, exclusive of costs for construction of any turning lanes required by Iowa DOT, including the cost of engineering and supervision, as authorized by Section 384.44, City Code of Iowa, and that said costs so made shall be a lien upon the properties hereinafter described, and each of the undersigned Property Owners hereby agrees to pay the amount which is thus charged against his property, and said costs shall have the same

legal force and effect as if all the legal formalities provided by law in such cases had been fully and faithfully performed and observed. Each of the undersigned Property Owners hereby expressly waive every objection to said costs, any limitation of the amount thereof as a percentage of valuation and any right to defer or postpone payment of the costs. Said costs shall be paid by the undersigned Property Owners within 30 days of said billing.

Property Owners hereby authorize the City Council to pass any Resolution requisite or necessary to order and secure said improvements, to provide for the construction of the same and to make the assessments herein provided for, without further notice to said Property Owners, or any of them, and any such Resolution may contain recitals of that said improvements are ordered or made by the council without petition of the property owners, without in any way qualifying this petition or releasing the Property Owners from their obligation to pay the said assessments levied against their property for said improvements.

With this Agreement, the Property Owner presents to the City Clerk a certified check, payable to the City of Manchester, in an amount of $5,000.00 as a down payment for the construction of the improvements and the Property Owner agrees, by agreement with the City, to reimburse the City for any costs it incurs in connection with the planning for or construction of the improvements which will be specially assessed, including but not limited to, design, engineering, legal services, and preparation of documents.

Property Owners agree that this Petition and Waiver shall be effective and binding from and after the approval hereof by resolution of the City Council.

Dated this 13 day of March, 2007.

Presented to the City Council on March 12, 2007

Approved by the City Council on March 12, 2007

Erin Rempe, City Clerk

CITY OF MANCHESTER IOWA SEAL

Property Owners Name:

By: Donald L. McCurdy
Donald L. McCurdy

By: Kathy S. McCurdy
Kathy S. McCurdy

State of Iowa)
) ss:
County of Delaware)

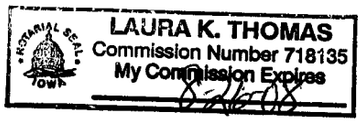
On this 12th day of March, 2007, before me, a Notary Public in and for the State of Iowa, personally appeared Donald L. McCurdy and Kathy S. McCurdy, to me personally known to be the identical person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

DONNA M. KUNDE
Commission Number 175597
My Commission Expires
8-16-09

Donna M. Kunde
Notary Public in and for the
State of Iowa

STATE OF IOWA)
DELAWARE COUNTY)

On this 13th day of March, 2007, before me, Laura K. Thomas, a Notary Public in and for the State of Iowa, personally appeared Erin Rempe, to me personally known, and, who, being by me duly sworn, did say that she is the City Clerk, respectively, of the City of Manchester, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in resolution R-035-2007 passed by the City Council of the City of Manchester, Iowa on the 12th day of March, 2007, and that Erin Rempe acknowledged the execution of the instrument to be her voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.



Laura K. Thomas
Notary Public