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Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

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Prepared by and return to: Linda Gaul, City Clerk, City of Earlville, 19 Northern Avenue, Earlville, IA 52041 Phone: 563-923-3365

RESOLUTION #2017- 05

A Resolution Approving Property Setback Encroachment Agreement

Whereas, the City of Earlville is constructing EARLVILLE WASTEWATER TREAMENT FACILITY UV IDISINFECTION IMPROVEMENTS, and

Whereas, a Property Setback Encroachment Agreement between the City of Earlville, Iowa and Jeffrey and Emily Domeyer is necessary to provide the City with use of certain land in order to proceed with the EARLVILLE WASTEWATER TREAMENT FACILITY UV IDISINFECTION IMPROVEMENTS project,

Now, Therefor be it Resolved that the attached CITY OF EARLVILLE, IOWA PROPERTY SETBACK ENCROACHMENT Agreement is approved by the Earlville City Council.

Passed and approved this 13th day of February, 2017.

Attest: Linda Gaul
Linda Gaul, City Clerk

Dan Wheeler, Mayor

CITY OF EARLVILLE, IOWA
PROPERTY SETBACK ENCROACHMENT

The PROPERTY SETBACK ENCROACHMENT, executed this 13 day of February 2017, between the CITY OF EARLVILLE, an Iowa municipal corporation (the "City"), and Jeffrey and Emily Domeyer (the "Owners") is being executed to provide the City with use of certain land presently owned by the Owners, which the City desires to access.

In consideration of the sum of One Dollar and other valuable consideration to you in hand paid by the City as set forth below, Owners and City agree as follows:

1. The real property affected by this agreement (the "Property") is located at Parcel P PT NE SW & PT NW SW, described as: Parcel P of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) and Part of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) all in Section Thirty-Six(36), Township Eighty-Nine North (T89N), Range Four West (R4W) of the Fifth Principal Meridian, Delaware County, Iowa, according to the plat recorded in Book 2009, Page 2834. Parcel ID 160360000220.

2. The City's wastewater treatment facility property that will encroach on the established setbacks (the "Facility") is located at PT N 1/2 NW SW AS DESC. B 75 P 99, described as: Commencing at the Southwest (SW) corner of Lot Four (4) Block Eighteen (18) of the Original Town of Nottingham, now Earlville, Iowa, and running thence West (W) along an extension of the South (S) boundary of the said Lot Eighteen (18) a distance of Thirty (30) Feet; thence South (S) Four hundred thirty two (432) feet more or less to the North (N) bank of a stream; thence in a Southeasterly direction along the North (N) bank of said stream a distance of Forty-eight (48) feet more or less to a point intersecting a line extended South (S) from the West (W) boundary of said lot Four (4) Block Eighteen (18) to said stream; thence North (N) Four hundred-forty eight (448) feet more or less to the place of beginning, & PT N 1/2 NW SW AS DESC. B 75 P. 100, described as: Commencing at a point Four-hundred Twenty-one (421) Feet South of the Southwest corner of Lot Four (4) Block Seventeen (17) in the original Town of Nottingham, now the Incorporated Town of Earlville, Iowa, and running thence East Eight (80) Feet; thence South One-hundred Eighty-four (184) Feet; thence West Two-hundred Twenty-Five (225) Feet, thence North One-hundred Eighty-four ((184) Feet; thence East One-hundred Forty-five (145) Feet; to the place of beginning. Parcel ID 160360000510.

3. The Owners hereby grant to the City the right to enter into construction activities at the Facility related to the EARLVILLE WASTEWATER TREATMENT FACILITY UV DISINFECTION IMPROVEMENTS project that will result in a permanent structure that encroaches upon established property setbacks for the Facility.

4. The City hereby agrees to defend, indemnify and hold the Owners harmless from and against any and all claims, demands, actions, causes of action, suits, judgments, executions or liability whatsoever, including without limitation, all costs in defense thereof and reasonable attorneys fees relating thereto, which may be brought, arise, come against or be incurred by the Owners by reason of the existence of this encroachment.

5. The City agrees that it shall procure all necessary permits required from any governmental entity in order to perform the construction work.

6. This agreement voids all previous verbal and written documents associated with the purpose of this current document. All warranties and conditions are contained herein.

"City" CITY OF EARLVILLE, IOWA

BY _____
Mayor

BY _____
City Clerk

"Owners" _____
OWNER Jeffrey Domeyer

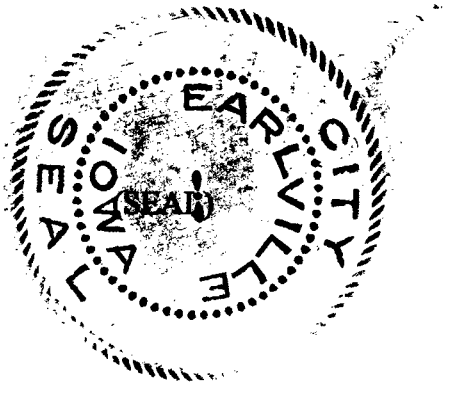
_____
OWNER Emily Domeyer

STATE OF IOWA)
)
COUNTY OF DELAWARE)

I, Linda Gaul, do hereby certify that I am the duly appointed, qualified, and acting Clerk of the City of Earlville, Iowa in the County aforesaid, and as such Clerk I have in my possession or have access to the records of the proceedings of the City Council. I do further state the hereto attached Resolution 2017-05, is a correct copy of the original Resolution 2017-05 approved and adopted by the City Council of the City of Earlville, Iowa at a session held by said Council on the 13 day of February, 2017.

In Testimony Whereof, I hereunto set my hand and official seal of the City of Earlville, Iowa.

Dated at Earlville, Iowa on this 22 day of February, 2017.



Linda Gaul
Linda Gaul
City Clerk of the City of Earlville, Iowa