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LISA SMITH, COUNTY RECORDER  
MADISON IOWA

Prepared by & Return to: David L. Jungmann, P.C., 113 W. Iowa Street, Greenfield, Iowa 50849 (641) 743-6195

**PERPETUAL WASTEWATER UTILITY EASEMENT  
AND  
WASTEWATER USER AGREEMENT**

Legal Description:

**Commencing at a point 51 rods West of the Northeast corner of Section 16, Township 74 North, Range 29, West of the 5<sup>th</sup> P.M., in Madison County, Iowa, running thence West 4 rods, thence South 16 rods, thence East 4 rods, thence North 16 rods to the place of beginning**

Local Address:

**401 North Street W  
Macksburg, Iowa 50155**

Robert McKinney, Administrator for the Estate of Floyd  
Kenneth McKinney Sr, ~~his~~ successors and assigns a/k/a Kenneth  
McKinney a/k  
Floyd Kenneth McKinney

This Easement and Agreement is by and between Kenneth McKinney Sr, ~~his~~ successors and assigns a/k/a Kenneth McKinney a/k (hereinafter the "Property Owner"), and the Southern Iowa Rural Water Association, its successors and assigns (hereinafter "SIRWA")

The City of Macksburg (hereinafter "City"), through its City Council, has adopted a municipal wastewater collection and treatment agreement with SIRWA. Pursuant to said agreement, each owner of property located within the city limits and serviceable area of the City of Macksburg shall be connected to a wastewater disposal system provided by SIRWA and shall receive wastewater management services provided by SIRWA.

All costs of design, construction and maintenance of the wastewater facilities shall be paid by SIRWA provided the Property Owner does not violate provisions of City's Ordinance Regulating Usage of Public and Private Sewers and Drains, Private Sewage Disposal, Installation and Connection of Building Sewers, and Discharge of Waters and Wastes Into the Public Sewer Utility(ies); and Providing Penalties for Violations Thereof, AND provided the Property Owner grants to SIRWA a perpetual wastewater utility easement for the construction, operation, maintenance, removal and replacement of the wastewater facilities, together with rights of ingress and egress necessary for carrying out said activities, and the Property Owner executes a perpetual wastewater user agreement for said facilities.

The Property Owner, as the owner of record of the real estate described above, in consideration of the mutual promises contained herein, hereby grants, sells, transfers and conveys to SIRWA, its successors and assigns, and affirmative and perpetual easement in, to, and running with the above-described real estate for the purpose of removal of existing wastewater facilities and for the construction, operation, maintenance, removal and replacement of a wastewater disposal system, together with a general and perpetual right of ingress and egress upon such real estate and upon any adjacent lands of the Property Owner for the purpose of carrying out said activities.

The facilities installed may include, but not be limited to, one or more service lines, individual grinder pumps and pit, remote meter readout and appurtenances thereto as necessary for the proper operation of the wastewater disposal system. Electrical power costs for operation of the system owned by SIRWA located on the Property Owner's premises shall be borne by the Property Owner. Once the wastewater disposal system has been installed by SIRWA on the Property Owner's property, a diagram defining the area occupied by the disposal system and the area necessary for access will be prepared and delivered to the Property Owner for his or her own reference.

SIRWA shall backfill, shape and regrade the area disturbed during repair or reconstruction on the Property Owner's property. The Property Owner shall be responsible for any seeding, sodding and replanting of gardens, trees and shrubs as a result of repair or reconstruction of the system.

All domestic septage and sewage wastewater exiting the building, including water from sinks, tubs, showers, water softeners, and laundry facilities shall be routed to the wastewater disposal system. No groundwater or storm water, including water from sump pumps, drainage tile, eaves and gutters or cisterns shall be drained into the disposal system.

SIRWA shall make all necessary repairs to the wastewater disposal system, however, the cost of repairing any damages caused by the Property Owner's abuse or misuse of the system, as determined by SIRWA, shall be charged to the Property Owner.

The Property Owner shall keep all vehicles, farm implements and livestock off of the identified easement area and shall be prohibited from permitting, constructing, parking, planting or otherwise placing structures, fences, driveways, gardens, trees (voluntary or planted), shrubs, or overgrowth of grasses or weeds in or over the designated easement area prior to or during construction of the wastewater disposal system without the advance written permission of SIRWA.

The Property Owner shall notify SIRWA in writing at least fourteen (14) days prior to commencement of any additions or improvements made to his/her/their property so that SIRWA can assess the impact of such additions or improvements on the wastewater disposal system. If changes to the system are required as a result of said additions or improvements, the Property Owner shall pay all costs associated with the necessary modifications of the disposal system. The Property Owner shall be responsible for all damages caused by failure to timely notify SIRWA of the additions or improvements.

Regardless of use, the Property Owner and his/her/their successors and assigns shall be required to pay SIRWA a minimum monthly fee for the wastewater disposal system. Fees for services shall not accrue until the system is substantially complete and suitable for use by the Property Owner, unless completion is delayed by the Property Owner. SIRWA shall give reasonable advance written notice of the date that the wastewater service fees shall begin to accrue. Payment of said fees may be enforced in the same manner and to the same extent as permitted by law for the enforcement of municipal sanitary sewer service debts and may become a lien against the property collectable as property taxes. In addition, non-payment of monthly charges by the due date shall result in a surcharge of ten percent (10%) of the delinquent amount. Nonpayment within thirty (30) days of the due date may result in termination of the wastewater service to the premises.

The Property Owner shall abide by all terms and conditions of the ordinances of the City of Macksburg regulating wastewater treatment and disposal and SIRWA's Rules and Regulations, including any amendments thereto.

Dated: 9-21- 2006

Kenneth McKinney  
Robert McKinney, Administrator for the Estate of Floyd Kenneth McKinney, -Sr. - a/k/a/  
Kenneth McKinney, a/k/a Floyd Kenneth McKinney  
by Robert McKinney  
**Court Appointed Administrator** PROPERTY OWNER(S) / GRANTOR

STATE OF IOWA, MADISON COUNTY, ss:

On this 21 day of September, 2006, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Robert McKinney, Administrator for the Estate of Floyd Kenneth McKinney Sr. a/k/a Kenneth McKinney a/k/a Floyd Kenneth McKinney to me personally known to be the identical person(s) named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Jack Freese  
Notary Public in and for the State of Iowa



Dated: Sept. 21 2006

Jack Freese  
(Sirwa Representative)

SIRWA / GRANTEE