

BK: 2018 PG: 3685
Recorded: 11/14/2018 at 1:46:24.0 PM
Pages 2
County Recording Fee: \$12.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$15.00
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

Preparer: Amy J. Skogerson, AT0003683, 413 Grant St., Van Meter, IA 50261, (515) 996-4045
Return To: SIRWA, PO Box 407, Creston, IA 50801-0407
Grantor: Mark Modlich and Helene Modlich
Grantee: Southern Iowa Rural Water Association

WATER USER AGREEMENT AND EASEMENT

Re: Parcel "D" located in the Northwest Quarter of the Northwest Quarter (NW ¼ NW ¼) of Section 14, Township 75 North, Range 29 West of the 5th P.M., Madison County, Iowa, as shown in Plat of Survey filed in Book 2014, Page 774 on April 4, 2014, in the Office of the Recorder of Madison County, Iowa.

This Water User Agreement ("Agreement") is hereby entered into by and between the Southern Iowa Rural Water Association, State of Iowa ("SIRWA"), a rural water district organized under Iowa Code Chapter 357A, as amended, the undersigned participating member(s) of said rural water district, and his/her/or their successors, and assigns hereinafter called ("Member"). This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

WHEREAS, Member desires to purchase water from SIRWA and SIRWA desires to sell water to Member under the terms and conditions set forth herein. NOW, therefore, in consideration of the mutual covenants herein contained, it is hereby understood, acknowledged and agreed by the parties hereto as follows:

1. **Bylaws, Rules and Regulations Binding.** Member hereby agrees to be bound by and comply with the Bylaws and the Rules and Regulations of SIRWA, each as from time to time amended. Member further agrees to pay for water at such rates, time(s) and place(s) as determined by SIRWA and agrees to the imposition of such penalties for noncompliance as are set forth in said Bylaws and Rules and Regulations of SIRWA. Said obligations of Member shall apply to and run with the real estate described above for so long as Member continues to receive water service from SIRWA, which water service Member agrees shall continue for a minimum period of at least ten (10) years from the date of commencement of service, a written record of which date shall be maintained by SIRWA. A copy of said service record shall be provided to Member upon Member's request. A complete copy of the Bylaws and Rules & Regulations can be found at www.sirwa.org, or a copy will be sent to Member upon Member's request.

2. **Furnishing of Water.** Subject to the Bylaws and the Rules and Regulations of SIRWA, as amended, SIRWA shall furnish such quantity of water as Member may desire in connection with Member's occupancy of the above-described premises so long as such usage is not damaging to the system or other users. In the event the total water supply shall be insufficient to meet all of the needs of the participating members of SIRWA or in the event there is a shortage of water, SIRWA may prorate the water available among its various members on such basis as is deemed equitable by the Board of Directors of SIRWA. SIRWA may also prescribe a schedule of hours covering use of water by particular members and require adherence thereto or prohibit the use of water for other purposes. Members using under 10,000 gallons a month are considered a residential user, over 10,000 gallons per month may be restricted if determined that unregulated flows are damaging the system or other water users' service. Additional information may be found in SIRWA's Rules and Regulations.

(Member Initials) MM HM Significant, unanticipated high water usage by a customer or customers can in some cases negatively impact the operations of SIRWA's overall water system, including water service received by other users in the system. Member hereby acknowledges and agrees that this easement and water service obtained therefrom is for residential water service only, which is defined as usage of 10,000 gallons per month or less. Member further acknowledges and agrees that in the event water usage to the property described above increases to more than 10,000 gallons per month, Member's water service will be considered by SIRWA as a high usage service and SIRWA may conduct a water system study, at SIRWA's own cost, to determine the impact, if any, of such high usage on other users in SIRWA's water system. In the event Member's high usage is found to negatively impact other users in SIRWA's water system, Member will be required to either reduce Member's usage to 10,000 gallons per month or less OR pay any and all costs associated with upgrading the system as needed to accommodate Member's continuing high usage without negatively impacting water service to other users in SIRWA's water system. SIRWA's failure to contact Member as a result of high usage at any time shall not be construed as a waiver of SIRWA's right to act subsequently hereunder or in any other manner necessary to ensure adequate water service is available to all SIRWA customers.

3. **Easement** The undersigned Member, as owner(s) of record of the real estate described above, for One Dollar (\$1.00), paid by SIRWA, and other good and valuable consideration received by Member, hereby grants, sells, transfers and conveys to SIRWA, its successors and assigns, an affirmative and perpetual easement in, to, and running with the real estate described above, together with a general and perpetual right of ingress and egress upon such real estate and upon any adjacent lands of Member, LIMITED AS FOLLOWS:

a) This easement is solely for the general purposes of: Archeological studies (where required), the stringing of pipe, initial construction and thereafter to use operate, tap and install service lines, inspect, repair, maintain, replace, remove and improve water pipelines and any necessary appurtenances thereto over, across and through the real estate described above.

b) Once such water pipeline and any necessary appurtenances thereto are installed and operating, this easement (except the general rights of ingress and egress) shall be automatically reduced in scope to a width of fifty feet, the centerline of which shall be the water pipeline and any necessary appurtenances thereto.

c) This easement shall survive termination of Member's water service from SIRWA for any reason whatsoever and shall continue to run with the real estate described above unless and until a written instrument is filed modifying and/or terminating the easement granted by Member to SIRWA herein.

It is agreed that, during the period of initial construction, no crop damage will be paid by the Association. After completion of the project, if repair work on water line is needed, crop damages will be paid. The Association, its successors and assigns, hereby promise to maintain such water pipeline and any necessary appurtenances in good repair so that damage to adjacent real estate of Member, if any damage there be, will be kept to a minimum.

4. **Early Termination.** As stated in Paragraph 1 above, the minimum period for receipt of water service to Member from SIRWA under this Agreement is ten (10) years. In the event Member, or Member's successors and/or assigns, terminate water service prior to the expiration of said minimum term hereunder, the penalty for such early termination shall be enforced in accordance with SIRWA's Rules and Regulations, as amended.

This Agreement constitutes the entire agreement between the parties hereto. No other agreements, understandings, restrictions, warranties or representations exist between the parties other than those provided or referenced herein.

Each of the undersigned has read and understands the above Water User Agreement and Easement. Member hereby requests the services of SIRWA as described herein and agrees to the terms set forth above.

Executed this 21st day of May 2018.

Mark Modlich
Mark Modlich

Helene Modlich
Helene Modlich

STATE OF Ohio, COUNTY OF Madison ss:

On this 21 day of May, 2018, before me, the undersigned, a Notary Public in and for the State of Ohio, personally appeared, Mark Modlich and Helene Modlich, husband and wife, to me known to be the same and identical person(s) named in and who executed the foregoing record, acknowledged that he/she/they executed the same as his/her/their voluntary act and deed.

Stamp or Seal:



Rachelle Brumfield
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

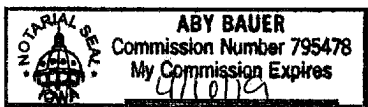
Executed this 29th day of May 2018.

Max Crawford
Max Crawford, Add-On Coordinator

STATE OF IOWA, COUNTY OF UNION, ss:

On this 29th day of May, 2018, before me, the undersigned, a Notary Public in and for said County and said State, personally appeared Max Crawford, to me personally known, who, being by me duly sworn, did say that he is the Add-on Coordinator for Southern Iowa Rural Water Association (SIRWA); that said instrument was signed and sealed on behalf of SIRWA by authority of its Board of Directors; and that the said Max Crawford, as a duly authorized agent of SIRWA, acknowledged the execution of said record to be the voluntary act and deed of SIRWA, by it and by him voluntarily executed.

Stamp or Seal:



Aby Bauer
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE