

**UTILITY SERVICES AND EASEMENT ENCROACHMENT AGREEMENT
CITY OF AUBURN, INDIANA**

THIS AGREEMENT made and entered into this 9th day of August, 2018, by and between the Board of Public Works and Safety of the City of Auburn, Indiana, a Municipal Corporation in DeKalb County, State of Indiana ["City"], and Keith S. and Kimberly J. High ["Owner"];

WITNESSETH:

WHEREAS, Owner is the owner of the following described real estate located in DeKalb County, Indiana, to wit:

Address: 2110 Palace Court, Auburn, IN 46706

Legal: Lot Numbered Five (5) in Auburn Hills, Section I, a subdivision in DeKalb County, Indiana, according to the plat thereof, recorded in Plat Record 8 at page 116 and re-recorded in Plat Record 8 at page 120, in the Office of the Recorder of DeKalb County, Indiana.

Owner having acquired said real estate at Document #98-1986 in Record 220, Page 215 in the Office of the Recorder, DeKalb County, Indiana ["Real Estate"]; and

WHEREAS, City has jurisdiction over certain utility and/or drainage easements that lie on, under and/or over said Real Estate, which easements have been previously dedicated by Owner to the public and/or City of Auburn use ["Easement"], the description of which has been duly recorded on the deed record or plat for said Real Estate; and

WHEREAS, Owner proposes to install/place/construct the following improvement(s) in said Easement, to wit: an aluminum fence, not to exceed six (6) feet in height, located ten (10) feet into a 10-foot utility and drainage easement along the southwest (side yard) and southeast (rear yard) property lines.

NOW THEREFORE, in consideration of the premises herein, it is agreed that the proposed Improvement shall be permitted to be located within said Easement subject to the following, to wit:

1. City is representing only City, and the utilities and agencies of the City of Auburn, Indiana;
2. City is not representing the interest(s) of, nor abridging or abrogating the rights of, any other authorized user of said Easement;
3. City is not authorizing hereby any encroachment into any drainage way or other component of any drainage system which is under the jurisdiction in whole or in part of the DeKalb County Drainage Board;
4. Owner's construction, installation and maintenance of said Improvement shall not be in contact with or in conflict with nor damage nor destroy any current or future uses by the City of Auburn or any other authorized user of said Easement;
5. Owner shall not relocate, alter or enlarge Improvement without prior approval of City;
6. Said Improvement shall not interfere with or obstruct access to said Easement by City and/or its utilities or agencies and/or any other authorized user of said Easement, nor shall said Improvement in any way encroach upon or impair or interfere with the use of streets or sidewalks or with the free and safe movement of foot or vehicular traffic;

7. City and any other authorized user of said Easement shall have the right to remove said Improvement in the event access is required to utilities or other authorized work either already located in or authorized to be placed in said Easement, and Owner shall not be entitled to any reimbursement for such removal;

8. Owner shall upon request of City and/or any other authorized user of said Easement immediately cease use of said Improvement authorized herein and shall remove or assist in the removal of said Improvement as necessary when in the opinion of City or any other authorized user of said Easement such removal is required in order to gain access to their respective utilities or work;

9. In the event that the costs including time, labor and equipment associated with accessing City-owned utilities within said Easement is determined by City to be in excess of that normally required due to additional boring, trenching, movement or removal or other extra work upon and through said Improvement, said excess costs shall be reviewed by the Auburn Board of Public Works and Safety at a public meeting. The Board of Public Works and Safety will determine with input from the utilities and owners, the amount of the excess cost to be born entirely by Owner;

10. Owner shall be responsible for repair and/or replacement at Owner's sole expense of any Improvement that may be damaged or removed by City or any authorized user of said Easement, as a result of authorized work performed within said Easement;

11. City will replace and/or repair the ground beneath said Improvement only when City or its utilities or agencies actually perform work in said Easement;

12. Owner hereby forever releases the City of Auburn from any and all claims, demands or causes of action which Owner has or may in the future have against City arising directly or indirectly from City or City's utilities or agencies working within said Easement, or from the modification or removal of Improvement from said Easement. Owner shall indemnify and hold harmless said City from and against all demands, charges, losses, costs, and expenses including reasonable attorney fees and legal costs arising from the exercise by Owner of any rights granted under this Agreement including, without limitation, the installation, ownership, use, repair, replacement, and removal of the Improvement by Owner, or the employees, contractors, agents and authorized representatives of Owner;

13. Acceptance of this Agreement does not relieve Owner or Owner's representatives from obtaining any other permits or approvals as may be required for the placement of said Improvement, and said placement and Improvement shall be subject to all appropriate federal, state, and local laws, ordinances, rules and regulations;

14. This Agreement shall constitute a covenant running with the land for the benefit of City, their successors and assigns, and shall bind said Real Estate from the date of this Agreement until a written termination of this Agreement is executed by City; and

15. City shall record this Agreement in the Office of the Recorder of DeKalb County, Indiana.

IN WITNESS WHEREOF, City and Owner have executed this Agreement as of the day and year first above written.

"City"

By _____
Norman E. Yoder, Mayor

"Owner"

By Keith S. High
Owner (signature)

KEITH S. HIGH
Owner (print or type)

By Kimberly J High
Owner (signature)

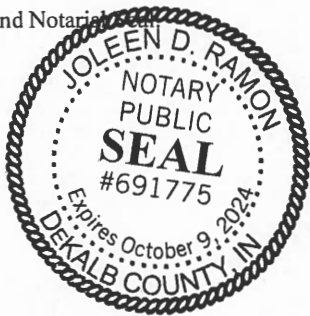
Kimberly J High
Owner (print or type)

ACKNOWLEDGMENT
OWNER

STATE OF INDIANA)
SS:
COUNTY OF DEKALB)

BEFORE, ME, the undersigned Notary Public for DeKalb County, State of Indiana, personally appeared the within named
(type owners name) Keith S. + Kimberley J. High "Owner" herein, and acknowledged the execution
of the foregoing instrument this 16th day of July, 2018.
(date) (month) (year)

WITNESS my Hand and Notarial Seal.



By Joleen D. Ramon
Notary Public, Signature
Joleen D. Ramon
Notary Public, Printed Name
My Commission Expires:
Oct. 9, 2024
Date

ACKNOWLEDGMENT
CITY

STATE OF INDIANA)
SS:
COUNTY OF DEKALB)

BEFORE, ME, the undersigned Notary Public for in and for said County and State this _____ day of _____,
(date) (month)
_____, personally appeared the within named Norman E. Yoder, Mayor of the City of Auburn, Indiana, "City"
(year)

herein, and acknowledged the execution of the foregoing instrument.

WITNESS my Hand and Notarial Seal.

By _____
Notary Public, Signature

Notary Public, Printed Name
My Commission Expires:

Date

This instrument prepared by: Amy M. Schweitzer, Administrator, Department of Building, Planning and Development, City of Auburn.
Approved by: W. Erik Weber, City Attorney, City of Auburn, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Patricia M. Miller, Clerk-Treasurer, City of Auburn, Indiana