



City Utilities
Design Standards
Manual

Exhibit GR7-8
Encroachment Agreement, Page 1 of 2

Created: October 20, 2011

Revised:

ENCROACHMENT AGREEMENT

THIS AGREEMENT, made at Fort Wayne, Indiana this _____ day of _____, by and between:

THE DEPARTMENT OF WATER RESOURCES, a public body corporate of the City of Fort Wayne, Indiana, (hereinafter referred to as the "GRANTOR"):

and

(hereinafter referred to as the "GRANTEE").

WITNESSETH:

WHEREAS, the GRANTOR is the owner of a certain perpetual easement which was acquired by the GRANTOR on _____ and recorded in Plat Book _____ at Page _____, in the Office of the Recorder of Allen County, Indiana and

WHEREAS, the GRANTEE is the owner of real property which is recorded in Deed Book _____, Page _____ on _____ and in Deed Book _____, Page _____ on _____ in the Office of the Recorder of Allen County, Indiana; and

WHEREAS, the GRANTEE has constructed on his property a Garage, (hereinafter referred to as the "STRUCTURE") a portion of which extends over and upon said easement, and

WHEREAS, the GRANTEE desires to obtain the right to maintain said Structure as constructed over the GRANTOR'S easement; and

WHEREAS, the GRANTOR desires to grant unto the grantee herein, a right to use part of the easement; and

WHEREAS, the GRANTOR is unwilling to release said easement to the GRANTEE as the easement is necessary to the purpose of the GRANTOR as set forth in **Chapter 76** of the Indiana State Statutes.

NOW THEREFORE, in recognition of their respective legal rights and in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. The Grantor does hereby grant upon the GRANTEE the right to the use of that portion of the easement described on the Plat attached hereto and made a part hereof as Exhibit A only insofar as the Structure presently exists, and provided the conditions hereinafter set out are met.

Consent by this section, or any other herein, exists only so long as the encroachment is utilized for the purposes of said Structure. Any expansion of said Structure by further construction or usage for another purpose or for the further construction of appurtenances or planting of vegetation will cause this agreement to become null and void.

2. Should it become necessary for GRANTOR to construct, maintain, repair or reconstruct a sewer and/or drain in the easement, GRANTEE shall move any portion of said structure at GRANTEE'S expense within 30 days, or less if in an emergency, to accommodate GRANTOR'S purpose.

3. The GRANTOR'S rights of ingress and egress for the purpose of constructing, maintaining, repairing, reconstructing, or expanding the sewer and/or drainage ditch in the easement are not waived by this Agreement.

4. Nothing in this Agreement shall be deemed to include or grant any right, title interest, claim or demand in or to said easement belonging to the GRANTOR, other than the right to maintain said Structure, as granted above.

5. The GRANTEE agrees to indemnify and save harmless the GRANTOR from any claim or loss, expense, damage or liability suffered by the GRANTOR as a result of the construction of and the presence of said Structure, appurtenances or vegetation belonging to the GRANTEE which extends over said easement, irrespective of the nature or cause of said damage or loss.

6. The GRANTOR does not intend to incur the responsibility for any settlement of said Structure, appurtenances or vegetation caused by the existing sewer and/or drainage ditch in the GRANTOR'S easement.

7. Should the GRANTEE violate any of the terms or conditions of this Agreement, or in any manner interfere with or make difficult the duties of the agents, servants or employees of the GRANTOR in maintaining said sewer and/or drainage ditch within the easement, the Agreement in its entirety may be declared null and void



City Utilities Design Standards Manual

Exhibit GR7-8 Encroachment Agreement, Page 2 of 2

Created: October 20, 2011

Revised:

8. This Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their successors in interest, grantees, assignees, assigns, heirs and all parties taking an interest in said Agreement.

9. If any section, clause or provisions of this Agreement shall be held invalid, such holding of invalidity shall not affect the validity of any remaining section, clause, paragraph, portion or provision of this Agreement.

IN TESTIMONY WHEREOF, Witness the signature of the parties hereto the day and year first above written.

GRANTEE

ATTEST:

(SEAL)

DEPARTMENT OF WATER RESOURCES CITY OF FORT WAYNE

CITY OF FORT WAYNE

ATTEST:

BY: _____

This instrument prepared by:

[NAME AND ADDRESS]

STATE OF INDIANA)) SS) COUNTY OF ALLEN)

I, the undersigned Notary Public, within and for the State and County aforesaid, do hereby certify that the foregoing instrument was this day presented to me in said State and County by _____ who acknowledged execution of said instrument as being _____ true and proper act and deed.

WITNESS my hand this _____ day of _____ 20__

My Commission expires: _____

Notary Public Allen County, Indiana

STATE OF INDIANA)) SS) COUNTY OF ALLEN)

I, the undersigned Notary Public, within and for the State and County aforesaid, do hereby certify that the foregoing instrument was this day presented to me in said State and County by (City representative's name), who being by me first duly sworn declared that (he, she) signed the foregoing instrument on behalf of the City of Fort Wayne.

WITNESS my hand this _____ day of _____ 20__

My Commission expires: _____

Notary Public Allen County, Indiana