

PREPARED BY: Ryan K. Gurwell, A & R Land Services, Inc., 1609 Golden Aspen Dr., Suite 102, Ames, IA 50010 (515) 337-1197
TAXPAYER: Capital Management, LLC, 970 Wynstone Drive, Jefferson, SD 57038
RETURN TO: City of Sioux City, 405 6th Street, PO Box 447, Sioux City, IA 51102, (712) 279-6349

Exempt from Real Estate Transfer Tax under Iowa Code 428A.2(17).
Exempt from requiring a Declaration of Value under Iowa Code 428A.1.

PERMANENT EASEMENT (TEST WELL SITES)

KNOW ALL BY THESE PRESENT:

That we, the undersigned, **Capital Management, LLC**, hereinafter referred to as "Grantor," for mutual benefit, grant and convey unto the **CITY OF SIOUX CITY, IOWA**, hereinafter referred to as "City," a municipal corporation, in the County of Woodbury, State of Iowa, a perpetual easement for test well sites for the City's municipal landfill under, over, on, through, across, and within the following described real estate, which includes the right to enter, reenter, construct, maintain, repair, and replace test wells, together with necessary appurtenances:

Perpetual Easement

A perpetual easement described that portion of the South Half of the Northwest Quarter (S1/2-NW1/4) of Section 19, Township 89 North, Range 46 West of the 5th P.M., Woodbury County, Iowa, described as follows:

Commencing at the north quarter corner of said Section 19; thence South 00°53'29" West along the east line of the NW1/4 of said Section 19 for a distance of 1307.73 feet to the northeast corner of said S1/2-NW1/4 and to the Point of Beginning; thence continuing South 00°53'29" West along said east line for a distance of 586.16 feet; thence North 89°55'23" West along a line parallel with and 721.5 feet distant from the south line of said NW1/4 for a distance of 2643.17 feet; thence North 01°38'48" East along a line parallel with and 307 feet distant from the west line of said NW1/4 for a distance of 585.88 feet to the north line of said S1/2-NW1/4; thence South 89°55'57" East along said north line for a distance of 2635.45 feet to the Point of Beginning, containing 35.50 acres more or less. Subject to easements, if any, of record or apparent.

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That said perpetual easement is granted unto the City, for the purpose of the construction, installation, maintenance, repair and replacement of the following described public improvement:

Test Well Sites

This Easement shall be subject to the following terms and conditions:

1. **ERECTION AND PLACEMENT OF STRUCTURES, OBSTRUCTIONS, PLANTINGS OR MATERIALS PROHIBITED.** Grantor and its grantees, assigns and transferees shall not erect any structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City. If improvements are built or constructed in violation of this perpetual easement, the City shall in no way be responsible for any damages thereto resulting from the construction, maintenance or repair of the aforesaid improvements. City shall have the perpetual right to cut, trim, control, and remove trees, brush, and other obstructions which injure and interfere with the City's use or occupation of the permanent easement, or City's right to construct, reconstruct, install, use, operate, maintain, repair, replace, upgrade, or remove its improvements, without liability for damages arising there from.
2. **CHANGE OF GRADE.** Grantor and its grantees, assigns and transferees shall have the right to change the grade, elevation or contour of any part of the easement area. The City shall have the right to restore any changes in grade, elevation or contour made to the easement area that compromises the test well sites.
3. **RIGHT OF ACCESS.** Grantor hereby grants to City, its representatives, contractors, and employees a perpetual easement to enter, occupy, and use the real property legally described in Exhibit A attached hereto, to advance soil borings, install, maintain, and abandon monitoring wells (groundwater and vadose zone), collect samples and measurements from said monitoring wells; make observations; and perform other assessment, sampling, or remedial activities; all as deemed necessary to comply with the requirements of Iowa Administrative Code 567-113 and any other local, state, or federal regulations applicable to the closed City of Sioux City Landfill (Permit No. 97-SDP-0381C), including but not limited to the right to remove without liability to Grantor, any unauthorized structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.
4. **MAINTENANCE.** The City shall not be responsible for any maintenance of the land located within the Easement Area whatsoever and that responsibility shall remain with the Grantor; provided, however, the City may perform such maintenance should it determine in its sole discretion such maintenance is needed.
5. **EASEMENT BENEFIT.** This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.
6. **EASEMENT RUNS WITH LAND.** This Easement shall be deemed perpetual and to run with the land and is also deemed to touch and concern the land. The exercise of any rights in the Permanent Easement other than those retained by Grantor shall be within the sole discretion of City and limited to rights that are delineated in this agreement and shall be binding on Grantor and on Grantor's successors and assigns.

7. **PROPERTY TO BE RESTORED.** City shall exercise due care in entering or re- entering said real estate, and shall compensate the Seller for actual damages caused to said real estate or to Seller's remaining property. The City shall pay for all damages to lawns, landscaping, roads and driveways, fences, livestock, crops, fields, drain tile, crop loss reduction in yield due to compaction or other factors, and other property caused by the construction or maintenance of said test well sites. For crop damages, the City agrees to pay 100% of the crop damaged area for the construction year based on average yield and local grain prices during the construction year. After construction, the City agrees to assess the damaged area, and pay for the actual compacted area based on actual future reduction in yield due to compaction. Payment for all of the above-referenced damages in this paragraph shall be paid by the City after an assessment has been completed of the actual damaged area, and adjustments shall be made as necessary based on any current agricultural leases. Upon completion of any construction, reconstruction, repair, enlargement or maintenance of any test well sites or any appurtenance thereto, the City shall restore the Easement Area and Temporary Easement Area in good and workmanlike manner. In agricultural areas, the land within the easement area will be tilled and returned to a condition suitable for continued farming; and in urban areas, restoration of lawns by seeding to a condition comparable to its condition before construction. It is anticipated that seeding will be completed shortly after substantial completion of the construction project, as weather permits, and that lawns will return to near preconstruction condition within 3 years of construction. The Seller will be responsible for watering of new grass, if necessary, after seeding is complete.
8. **RIGHT TO RENEGOTIATE.** The Grantor will have five years from the date of settlement or condemnation to renegotiate construction or maintenance damages not apparent at the time of such settlement under Iowa Code Section 6B.52.
9. **SETTLEMENT AND SATISFACTION.** Contingent upon the execution of this Easement by the parties and receipt by the Grantor of the above-mentioned consideration, Grantor shall consent to the easement and accept said consideration in full and complete satisfaction of any and all obligations of the Grantor arising out of this easement and any resultant damage to the Grantor. The parties further specifically contemplate the release of any and all claims, including, but not limited to, those arising under Iowa Code Chapter 6B as amended. Notwithstanding the foregoing, City shall not be released from its obligations under this Easement.
10. **INGRESS AND EGRESS AGREEMENT.** City shall have the perpetual right of reasonable ingress and egress in, on, to, through, over, under, and across the permanent easement with vehicles and equipment as City deems appropriate for activities and uses allowed under this agreement. To the maximum practicable extent, City shall use existing gates, roads, trails, or facilities to avoid disruption of Grantor's operations on the property. The City agrees to maintain reasonable ingress and egress to Grantor's remaining property at all times during construction.

Grantor does HEREBY COVENANT with the City that Grantor holds said real estate described in this Easement by title in fee simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenants to WARRANT AND DEFEND the said premises against the

claims of all persons whomsoever.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Easement. Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

The City shall hold Grantor harmless and indemnify Grantor from any liability incurred by Grantor as a result of the City's exercise of the granted rights.

IN WITNESS WHEREOF I have hereunto affixed my hands this _____ day of _____, 2024.

CAPITAL MANAGEMENT, LLC

Greg Smith, Managing Member

STATE OF _____ :
COUNTY OF _____ : ss

On this _____ day of _____, 20_____, before me the undersigned, a Notary Public in and for said State, personally appeared Greg Smith, Managing Member of Capital Management, LLC, to me known to be the identical person(s) named in and who executed the within and foregoing record, and acknowledged that they executed the same as their voluntary act and deed.

Signature of Notary Public

EXHIBIT A

