

SIGNATURE DOCUMENT

RELEASE OF SERVICE TERRITORY RIGHTS

This agreement to release certain water service territory rights is between the City of Ames, Iowa ("**City**") and Xenia Rural Water District, a rural water district existing pursuant to Iowa Code chapter 357A ("**Xenia**"). The City and Xenia are sometimes collectively referred to herein as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, in 1996 the City and Xenia executed a 40 year term agreement wherein the City agreed to sell wholesale quantities of water to Xenia for resale to its customers, which agreement was amended as to quantities and rates in 1997 but remains otherwise the same as the original; and

WHEREAS, concurrent with the water sales agreement, the City ceded its right to provide water service to certain land within the northern two-mile limit of Ames and approved by resolution Xenia's request to have the right to provide water service to that land; and

WHEREAS, the City has since identified a portion of the land within the northern two mile limit as its desired Northern Growth Area that includes land where Xenia has water service rights, and certain landowners within the Northern Growth Area (individually a "Property Owner" and collectively the "Property Owners") whose land (in whole or in part the "Property") is within the Xenia service territory now contemplate annexation to the City of their land or have completed such annexation for purposes of urban development; and

WHEREAS, the Property Owners are willing to buy out the water service rights from Xenia, Xenia is willing to release its water service rights on the Property in the manner described below without additional compensation from the City, and the City desires to obtain the water service rights and to furnish water services in the released service territory; and

WHEREAS, contemporaneous with this agreement, Xenia is entering into separate agreements with the Property Owners who are currently seeking annexation or who have completed annexation so that Xenia is compensated for the release of its rights to provide water services to the Property; and

WHEREAS, the Parties desire to enter into this agreement for the purpose of accomplishing a release by Xenia of its rights to provide water service to the Property and to the Ada Hayden Heritage Park ("Park"), so that the City may provide water services to its own land and to customers in that area, and the Property Owners may improve and develop the Property within the City.

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NOW THEREFORE, in consideration of the above recitals and the mutual covenants contained herein, and reliance on the same, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals and Exhibits. The foregoing recitals are incorporated herein and made a part of this agreement. The recitals and exhibits described below are substantive and contractual parts of this agreement.

2. Identification of Northern Growth Area, Property Owners, Property, Park, and Service Territory. For purposes of this agreement, the land that is described as the "Northern Growth Area" of the City of Ames is depicted and identified in **Exhibit A**. The Property Owners are identified in **Exhibit B**. The legal descriptions of the Property and the Park are contained in **Exhibit C**. The "Service Territory" affected by this agreement is the Property and the portion of the Park that is currently within Xenia's water service territory.

3. Release and Waiver of Certain Water Service Rights in City's Northern Growth Area. Subject to the following conditions precedent, Xenia agrees to forever release and waive any and all rights it has or may have to provide water services to customers within the Service Territory. This release and waiver does not involve any existing Xenia customers because Xenia has no existing customers in the Service Territory. Furthermore, this agreement does not involve or affect any of Xenia's rights to provide water services to customers outside the Service Territory or any of its rights, title, and interests in real estate (including easements) or infrastructure located within the Service Territory. The Parties agree that Xenia's rights to own and maintain its infrastructure within the Service Territory are not affected by this agreement. If Xenia facilities currently in place must be relocated due to a City project, the City shall bear the cost of the relocation. If Xenia facilities currently in place must be relocated due to private development the private development shall bear the cost of the relocation. Xenia will not be responsible for the costs to relocate its facilities under these circumstances. All future repairs to Xenia's facilities and any future expansion of Xenia's facilities within the City's right-of-way shall be subject to the rules and regulations of the City's right-of-way ordinance. Xenia shall maintain current registration with the City for use of City right-of-way.

4. Conditions Precedent to Release of Water Service Territory Rights. For each tract within the Property, the release by Xenia of its water service territory rights described above shall become effective when, but not until, the following conditions precedent are fully accomplished:

- (a) Recordation of agreements between Xenia and a Property Owner that provide for compensation and covenants running with the land satisfactory to Xenia in exchange for the release of its water service rights attached to the related tract of Property; and

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- (b) Annexation of the tract pursuant to Iowa Code Section 368.7(2) is complete and final.

Upon completion of these conditions for each area released, Xenia shall within 10 days provide written confirmation of its release to the City, which shall identify the land subject to release and the date of release.

5. Release of City Property. Xenia agrees that upon execution of this agreement and approval by the United States Department of Agriculture, Rural Development, and Assured Guaranty Corp., it shall provide to the City of Ames a written release of Xenia's water service rights for the portion of the City's Ada Hayden Heritage Park in which Xenia has service rights.

6. Xenia Authority. Xenia warrants and represents that it has the legal right and authority (a) to provide water service within the Service Territory and (b) to release and waive its service territory rights as described in this agreement subject to the requirement of a public hearing and the approvals of the United States Department of Agriculture, Rural Development, and Assured Guaranty Corp.

7. Waiver of Section 1926(b) Rights. Effective as of the time of the release and waiver of its water service rights for any tract as described above, Xenia waives and relinquishes all rights, privileges, and benefits it has or may have under 7 U.S.C. §1926(b) relating to the tract.

8. Third-party approval. This agreement shall not become effective until and unless it is approved in writing, as indicated below, by the United States Department of Agriculture, Rural Development, and Assured Guaranty Corp, which approval Xenia shall diligently seek.

9. Authorization and Approval by the Parties. The Parties each represent to the other that except as stated herein this agreement and its performance have been authorized and approved by all necessary action of the Party, including, without limitation, all necessary action on the part of the governing body of each, and this agreement constitutes a valid and binding agreement enforceable in accordance with its terms.

10. Complete Agreement and Effective Date. This agreement, including Exhibits, constitutes the entire, complete, and final agreement of the Parties with respect to the rights to provide water service in the Service Territory and supersedes all prior understandings, undertakings, negotiations, representations, statements, and agreements made by, on behalf of, or between the Parties, including but not limited to Ames City Council Resolution Number 96-948, with regard to the rights to provide water service to the Property. This agreement shall become effective on the date of the last signature indicated below.

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11. Intended Beneficiaries. This agreement is made solely for the benefit of the Parties and the Property Owners and nothing herein shall be construed as creating any benefits, rights, remedies, or claims in favor of any other entity or person.

12. Not Precedent. The terms of this agreement shall not otherwise be considered binding precedent on any other Xenia service territory buy-outs in the area surrounding Ames.

13. Choice of Law. This agreement is intended to be a contract existing under and governed by the laws of the State of Iowa.

14. Counterparts. This agreement and the consents indicated below may be executed in multiple counterparts, each of which shall be an original and all of which, taken together, shall constitute but one and the same agreement.

15. Frame Property. Harold, Bette A., Brian A., and Jamie R. Frame own two tracts within the Northern Growth Area that are surrounded by the Property and the Park. The tracts are described in **Exhibit D**. There are no Xenia customers on these tracts. The Frames and the City want to include the Frames' tracts in the annexation described above. Xenia agrees to release its rights to provide water service to the Frames' property once it has released its water service rights to all of the contiguous surrounding property.

[SIGNATURE PAGES TO FOLLOW]

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Xenia Rural Water District

By _____

Chair, Board of Directors

Attest—Secretary, Board of Directors

Executed this _____ day of December, 2013.

City of Ames, Iowa

By _____

Mayor

Attest – City Clerk

Executed this _____ day of December, 2013.

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CONSENTS AND APPROVALS

This agreement is consented to and approved by United States Department of Agriculture, Rural Development, as of the ____ day of December, 2013.

USDA RURAL DEVELOPMENT

By: _____

Program Director

Rural Utilities and Community Facilities

This agreement is consented to and approved by Assured Guaranty Corp. as of the ____ day of December, 2013.

ASSURED GUARANTY CORP.

By: _____

Name

This consent and approval is being granted on the express understanding that an “Agreement Pertaining to the Release of Service Territory Rights and Covenant for Assessment” in the form previously reviewed by Assured Guaranty Corp. is concurrently executed with each of the Property Owners. Neither this consent nor any past, present or future consents, waivers, approvals, actions, amendments or other agreements, individually or in combination, may be construed to imply or impose upon Assured Guaranty Corp. any intention, agreement, obligation or undertaking to grant future consents, waivers, approvals or amendments or to limit the ability of Assured Guaranty Corp. to exercise any and all of its rights in connection with the bonds of the District it has insured, agreements it has with the District, or any related transaction documents, all of which shall remain unmodified and in full force and effect. In addition, Assured Guaranty Corp. makes no representation as to whether the consent of any other party is required in connection herewith.

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Exhibit A—Map of Northern Growth Area

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Exhibit B—Property Owners

Hunziker Land Development Company, L.L.C.

The Quarry Estates, L.L.C.

Erben Hunziker and Margaret Hunziker Apartments, L.L.C.

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Exhibit C—Legal Descriptions of Property and Park

Hunziker Land Development Company, L.L.C.

Parcel “K” in the Northwest Quarter (NW¹/₄) of Section Twenty-two (22), Township Eighty-four (84) North, Range Twenty-four (24) West of the 5th P.M., Story County, Iowa, as shown on the Retracement Survey filed in the office of the Recorder of Story County, Iowa, on June 8, 2011, as Instrument No. 11-05323, and on Slide 407, Page 5

Story County Treasurer Parcel No. 05-22-100-320

The Quarry Estates, L.L.C.

Parcel “L” in the North Half (N¹/₂) of Section Twenty-two (22), Township Eighty-four (84) North, Range Twenty-four (24) West of the 5th P.M., Story County, Iowa, as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on January 17, 2012, as Instrument No. 2012-00476, and on Slide 425, Page 4

Story County Treasurer Parcel No. 05-22-100-105

Erben Hunziker and Margaret Hunziker Apartments, L.L.C.

That part of Parcel “C” a part of the Southeast Quarter (SE¹/₄) of Section Twenty-one (21), Township Eighty-four (84) North, Range Twenty-four (24) West of the 5th P.M., Story County, Iowa, as shown on the Plat of Survey (Amended) filed in the office of the Recorder of Story County, Iowa, on November 30, 1998, as Instrument No. 98-16564, and on Slide 10, Page 3, that lies within the South Half (S¹/₂) of the Southeast Quarter (SE¹/₄) of Section Twenty-one (21), Township Eighty-four (84) North, Range Twenty-four (24) West of the 5th P.M., Story County, Iowa

Story County Treasurer Parcel No. 05-21-400-310

ADA HAYDEN HERITAGE PARK

Beginning at the SW corner of Tract A of the SW ¹/₄ of the SW ¹/₄ of Section 22, Township 84, Range 24 West of the 5th P.M., said Tract ‘A’ recorded in the Office of the Story County Recorder on December 6, 2001 as Inst. No. 01-17176; thence northerly along the perimeter of said Tract ‘A’ in a clockwise direction to the south line of the NW ¹/₄ of the SW ¹/₄ of said Section 22; thence west along the south line of said NW ¹/₄ of the SW ¹/₄ of said Section 22 to the west line of said Section 22; thence north along the west line of said Section 22 to the SW corner of Parcel ‘J’ of the NW ¹/₄ of said Section 22, said Parcel ‘J’ recorded in the Office of the Story County Recorder on November 19, 2001 as Instrument No. 01-15949; thence northerly and easterly along the perimeter of said Parcel ‘J’ northerly in a clockwise direction to the west line of Parcel ‘G’ of the NE ¹/₄ of said Section 22, said Parcel ‘G’ recorded in the Office of the Story County Recorder on November 19, 2001 as Inst. No. 01-15950; thence easterly along the perimeter of Parcel ‘G’ in a clockwise direction to the west line of Oaks Subdivision; thence southerly and easterly along the perimeter of Oaks Subdivision in a counter-clockwise direction

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to the west right-of-way line of U.S. Highway 69; thence southerly along the west right-of-way line of said U.S. Highway 69 to the intersection of the west right-of-way line of Dawes Drive; thence southerly along the west right-of-way line of Dawes Drive to the south line of said Section 22; thence west along the south line of said Section 22 to the SW corner of said Tract A and the point of beginning.

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Exhibit D—Legal Description of Frames' Property

Parcel 'C' in the Northwest Quarter (NW 1/4) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa, as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on February 6, 1998, and recorded as Instrument # 98-01464 in C&FN Book 15 at Page 110, containing 2.83 gross acres.

The property is locally known as 5440 Grant Avenue.

Parcel 'B' in the Northwest Quarter (NW 1/4) of Section 22, Township 84 North, Range 24 West of the 5th P.M., Story County, Iowa, as shown on the Plat of Survey filed in the office of the Recorder of Story County, Iowa, on February 6, 1998, and recorded as Instrument # 98-01464 in C&FN Book 15 at Page 110, containing 4.84 gross acres.

The property is locally known as 5442 Grant Avenue.

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