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MICHAEL J. ANDERSON
CLERK OF COURTS
SANITARY SEWER EASEMENT AGREEMENT

THIS SANITARY SEWER EASEMENT AGREEMENT (this "Agreement") is made and entered into as of the 26th day of **January, 2010**, by and between **GATEWAY ARTHUR, INC., a California 501(c)(25) corporation** (hereinafter referred to as the "Grantor"), whose address is 420 Lexington Avenue, Suite 900, New York, NY 10170, and **GARY SANITARY DISTRICT** (hereinafter referred to as the "Grantee"), whose address is 3600 W. 3rd Ave., Gary, Indiana 46406.



Grantor, in consideration of the covenants and agreements hereinafter recited and the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, quitclaim and convey to Grantee, its successors and assigns, a perpetual non-exclusive utility easement (the "Easement") in, under and across that certain parcel of real estate located west of Grant Street between West 35th Avenue on the north and West 37th Avenue on the south in Gary, Lake County, Indiana, being more particularly described as the Sewer Line Easement on Exhibit "A" (the "Easement Area") and as depicted on Exhibit "B", each as attached hereto and made a part hereof and as more particularly described herein, which Easement shall permit Grantee to enter the Easement Area for the purpose of installing, laying, operating, maintaining, inspecting, removing, repairing, replacing, relaying and adding to from time to time sewer lines, together with all necessary appurtenances and attached facilities (collectively, the "Improvements").

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

1. **CONSTRUCTION ACTIVITIES.** Grantee shall provide Grantor with written notice prior to the initial installation of the Improvements in the Easement Area. Such notice shall include a construction schedule so as to inform Grantor of when Grantee expects to complete its construction. Except for delays resulting from force majeure, Grantee shall complete its initial construction and installation of the Improvements within ninety (90) days of commencement. Except for delays resulting from force majeure, Grantee shall complete any repairs or construction following such initial installation within thirty (30) days following commencement.

2. **SURVEY.** Within thirty (30) days following the initial installation of the Improvements, Grantee shall, at its expense, deliver to Grantor a copy of the "Survey" of the Easement Area, which Survey shall depict the boundaries of the Easement Area, the location of Improvements and note the approximate depth of the below-ground Improvements. The Survey shall be prepared and certified to Grantor by an Indiana Registered Land Surveyor.

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PEGGY HOLINGA KATONA
LAKE COUNTY AUDITOR

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CS/
JES

3. NON-EXCLUSIVE EASEMENT. The Easement granted to the Grantee herein is not exclusive. Grantor reserves the right to grant additional easements over the same property to other parties including, without limitation, other public utilities, provided said grants do not interfere with the rights herein granted to the Grantee. Neither Grantor, nor any other person claiming an interest through Grantor, shall unreasonably interfere with Grantee's utilization and enjoyment of the Easement, including the construction, preservation, maintenance or replacement of the Improvements.

4. RESTORATION. In the exercise of its rights hereunder, Grantee shall: (a) restore the ground surface, including without limitation any and all landscaping, as nearly as practicable to its original condition; and (b) replace or rebuild to the reasonable satisfaction of Grantor, or of its representative, any and all fences and drainage and irrigation systems which are cut or damaged by Grantee; and (c) restore or pay Grantor for any damages caused by Grantee.

5. RIGHT TO RELOCATE. Grantor shall have the right, at its sole cost and expense, to relocate, or alter the location of any of the Improvements located at, under or upon the Easement Area, provided (a) that none of such actions shall materially and unreasonably interfere with the rights granted to Grantee hereunder; and (b) Grantee or a contractor reasonably approved by Grantee performs the relocation work (if Grantee does not disapprove of Grantor's selected contractor within fifteen (15) days of notice requesting approval, such contractor shall be deemed approved); and (c) that Grantee reasonably approves the new location of the Easement Area (if Grantee does not disapprove of the new location of the Easement Area within fifteen (15) days of notice requesting approval, such new location shall be deemed approved); and (d) Grantor shall, at no cost to Grantee, amend this Agreement to reflect any change in the location of the Easement Area.

6. GRANTEE INDEMNITY. Excepting Grantor's gross negligence and the gross negligence of Grantor's employees, contractors, agents and invitees, Grantee shall indemnify, defend and hold Grantor harmless from and against any and all damages, liabilities, injuries, losses, claims, demands or costs proximately caused by Grantee in the construction, installation, maintenance, operation, replacement, repair, renewal or removal of the Improvements.

7. Intentionally omitted.

8. RESERVED RIGHTS. Grantor shall have the right to use the Easement Area in any manner which is consistent with the rights granted herein to Grantee, and shall comply with all applicable codes when making use of the land near the Improvements. Grantee shall use its best efforts not to interfere with Grantor's business or its use and enjoyment of the any of the land adjacent to the Easement Area.

9. ATTACHMENT OF EQUIPMENT. Grantee may not allow third parties to attach equipment to Grantee's Improvements except to the extent such equipment is

necessary for providing sanitary sewer services, and any such equipment that may be attached shall be located underground.

10. OTHER PROHIBITED ACTIVITIES. Notwithstanding anything to the contrary contained herein, neither Grantor nor Grantee shall without the prior written consent of the other party (a) construct or install, or permit the construction or installation of any building, house, or other above-ground structure (excluding the installation of fencing by Grantor), or portion thereof, upon the Easement Area; or (b) cause, by excavation or placement of material, either on or off the Easement Area, a pond, lake, or similar containment vehicle that would result in the retention of water in any manner within the Easement Area. Grantor agrees not to alter the grade of the land in the Easement Area or interfere with or hinder Grantee's ability to use, repair, maintain or replace its Improvements in the Easement Area.

11. NOTICE. Any notice to be sent to Grantee hereunder may be sent via certified mail, first class U.S. mail or overnight delivery to Grantee at 555 East County Line Road, Suite 201, Greenwood, IN, 46143. Any notice to be sent to Grantor or its successor in interest, hereunder may be sent via certified mail, first class U.S. mail or overnight delivery to: Grantor, c/o Emmes Asset Management Company, LLC, 420 Lexington Avenue, Suite 900, New York, NY 10170-0900, or such other address shown in the records of the County Record for the owner of the Easement Area.

12. COMPLIANCE WITH LAWS. Grantee agrees to maintain its Improvements in compliance with (i) all applicable statutes, regulations, and ordinances; (ii) the applicable rules and regulations of the Indiana Utility Regulatory Commission and any other applicable regulatory authority; and (iii) any other engineering and safety standards applicable and customary for Grantee's industry. Grantee shall indemnify, defend and hold Grantor harmless for any claims, losses, liabilities and expenses (including reasonable attorney fees) suffered by Grantor relating to Grantee's use of the Easement Area or Grantee's exercise of its rights under this Easement.

13. ATTORNEY FEES. In the event that either party shall institute legal proceedings to enforce or construe any of the terms, provisions, covenants, conditions or restrictions set forth in this Agreement, the prevailing party in such legal proceedings shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

14. EXPIRATION AND TERMINATION. The easement granted herein shall automatically expire on December 31, 2010 in the event Grantee has not installed any of the Improvements in the Easement Area as of such date. Upon any termination of this Agreement, Grantee shall remove the Improvements, at its sole cost and expense and restore the Easement Area to its pre-existing condition.

15. ASSIGNMENT. The rights of Grantee hereunder may be assigned in whole or in part provided Grantee provides Grantor with written notice of such assignment, which notice shall include a notice address for the assignee.

Notwithstanding any such assignment, the original Grantee and any successors shall remain liable for the obligations of Grantee hereunder.

16. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties. There are no other or different agreements or understandings between the Grantor and the Grantee or its agents. The Grantor, in executing and delivering this instrument, has not relied upon any promised, inducements, or representations of the Grantee or its agent or employees, except as are set forth herein.


17. COUNTERPARTS. This instrument may be executed in counterparts, but which together shall constitute one and the same instrument. Each undersigned person executing this instrument hereby covenants that he/she is authorized and empowered to execute this instrument and to bind the party represented.

18. COVENANT RUNNING WITH THE LAND. The easement hereby granted, the restrictions herein imposed, and the agreements herein contained shall be an easement, restriction and covenant running with the land and shall inure to the benefit of, and be binding upon, the parties hereto and respective, heirs, successors, assigns, and transferees, including, but not in limitation, to all subsequent owners of said real estate and persons claiming under them.

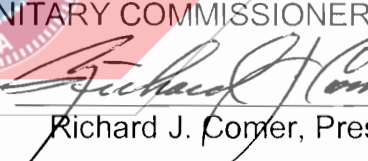
IN WITNESS WHEREOF, the parties hereto have duly executed this Sanitary Sewer Easement Agreement the day and year appearing below.


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GRANTOR
GATEWAY ARTHUR, INC.

By: 
Printed: Earl W. Buehner
Title: Vice President and Secretary

GRANTEE
GARY SANITARY DISTRICT BOARD OF SANITARY COMMISSIONERS

By: 
Richard J. Comer, President



State of _____, County of _____) ss:

Before me, the undersigned, a Notary Public in and for said County and State, on this _____ day of _____, 2010, personally appeared _____ the _____ of Gateway Arthur, Inc., and acknowledged the execution of this Sanitary Sewer Easement Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this _____ day of _____, 2010.

My Commission expires:

Notary Public

County of Residence:

Printed Name of Notary

See next page.

State of Indiana, County of Lake) ss:

Before me, the undersigned, a Notary Public in and for said County and State, on this 26th day of January, 2010, personally appeared RICHARD J. COMER, for the Gary Sanitary District, and acknowledged the execution of this Sanitary Sewer Easement Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 26th day of January, 2010.

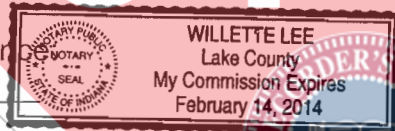
My Commission expires:

02/14/14

Notary Public

County of Residence:

LAKE



Printed Name of Notary

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. H. Antonio Setzer

This instrument prepared by H. Antonio Setzer, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204

Return to: Gary Sanitary District, 3600 West 3rd Avenue, Gary, Indiana 46406.

ACKNOWLEDGMENT

State of California)
County of Los Angeles)

On **February 23, 2010** before me, Karla Sarni, California Notary Public, personally appeared **Earl W. Buehner**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signatures on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Karla Sarni
Signature



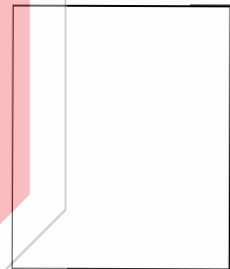
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OPTIONAL INFORMATION

Type or Title of Document

Sanitary Sewer Easement Agreement

Thumbprint of Signer



Type of Satisfactory Evidence:

- Personally Known with Paper Identification
- Paper Identification
- Credible Witness(es)

Capacity of Signer:

- Trustee
- Power of Attorney
- CEO / CFO / COO
- Vice-President and Secretary
- Other: _____

Check here if no thumbprint or fingerprint is available.

Other Information: _____

EXHIBIT A

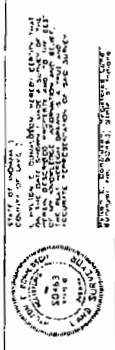
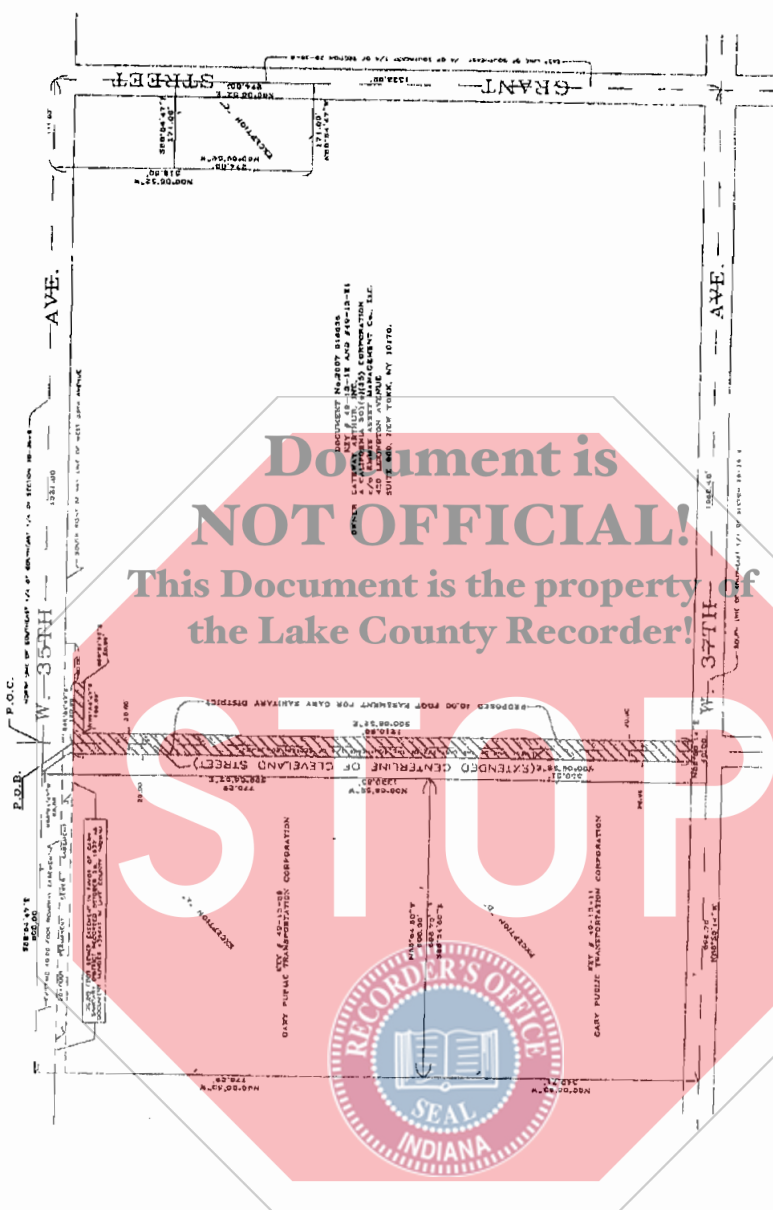
DESCRIPTION OF PROPERTY: PROPOSED PERMANENT EASEMENT

-A PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 AND A PART OF THE EAST HALF OF THE SOUTHWEST 1/4 OF SAID SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 38 NORTH, RANGE 8, WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF GARY, LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE SOUTH 00° 08' 52" EAST A DISTANCE OF 80.00 FEET TO A POINT IN THE SOUTH LINE OF A 20-FOOT EASEMENT CONVEYED TO THE GARY SANITARY DISTRICT BY DEED DATED OCTOBER 28, 1977, AND RECORDED AS DOCUMENT NUMBER 436447 IN THE OFFICE OF RECORDER OF LAKE COUNTY, INDIANA, SAID POINT BEING THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE CONTINUING SOUTH 88° 54' 47" EAST ALONG SAID SOUTH LINE A DISTANCE OF 120.00 FEET TO A POINT; THENCE SOUTH 00° 08' 52" EAST A DISTANCE OF 20.00 FEET TO A POINT; THENCE NORTH 88° 54' 47" WEST A DISTANCE OF 100.00 FEET TO A POINT; THENCE SOUTH 00° 08' 52" EAST A DISTANCE OF 1210.90 FEET TO A POINT IN THE NORTH RIGHT OF WAY LINE OF WEST 37TH AVENUE; THENCE NORTH 88° 50' 14" WEST ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 40.00 FEET TO A POINT WHICH IS 20.00 FEET WEST OF THE WEST LINE OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 20; THENCE NORTH 00° 08' 52" WEST A DISTANCE OF 1230.85 FEET TO A POINT IN THE SOUTH LINE OF THE 20-FT. GARY SANITARY DISTRICT EASEMENT AFORESAID; THENCE SOUTH 88° 54' 47" EAST ALONG SAID SOUTH LINE A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.176 ACRES, MORE OR LESS.



PROPOSED PERMANENT EASEMENT FOR GARY SANITARY DISTRICT

DESCRIPTION OF PROPERTY: PROPOSED PERMANENT EASEMENT TO AND FROM THE SANITARY DISTRICT... THE PROPERTY IS LOCATED IN THE SANITARY DISTRICT... THE PROPERTY IS BOUND BY W-35TH AVE. TO THE NORTH, W-37TH AVE. TO THE SOUTH, AND GRANT AVE. TO THE EAST.



PREPARED BY: DONALDSON ASSOCIATES, INC. PROFESSIONAL LAND SURVEYORS 303 S. HOWARD ST. GARY, INDIANA 46703 TELEPHONE (219) 588-2599 FAX (317) 834-0203

ORDER NO. AND DATE: DATE RECORDED: 1 JAN 1998 SCALE: AS SHOWN FOR ALL DIMENSIONS: CONSULTING ENGINEERS