

WATER MAIN RELOCATION AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2024, by and between the City of _____, a municipal corporation of the State of Kansas, hereinafter called the “City,” and Water District No. 1 of Johnson County, a quasi-municipal corporation of the State of Kansas, hereinafter called “WaterOne” (collectively called the “parties,” and each individually, a “party”).

WITNESSETH that:

WHEREAS, the City has determined that it is appropriate to reconstruct W 159th Street from Blackfoot Court to approximately 700 feet east of Black Bob Road, City of Olathe Project 3-C-041-23 (hereinafter called the “Public Improvement”); and

WHEREAS, the construction area is located in the area of the SW ¼ of Section 09, the SE ¼ of Section 08, the NW ¼ of Section 16, and the NE ¼ of Section 17, Township 14S, Range 23E in the City of Olathe, Johnson County, Kansas; and

WHEREAS, as part of the Public Improvement, it is necessary to reconstruct and otherwise relocate water facilities which are presently either located in public right-of-way or city public utility easement, or located outside public right-of-way or city public utility easement, or located in WaterOne private easement (hereinafter called the “Water Facilities,” WaterOne Project Number RA-24000); and

WHEREAS, WaterOne has agreed to the relocation of the Water Facilities subject to the cost of the relocation of substituted facilities for those now located in or adjacent to WaterOne private easements being paid by the City; and

WHEREAS, K.S.A. 68-169, and amendments thereto, authorizes the parties hereto to enter into a joint agreement for the improvement proposed herein; and

WHEREAS, the City and WaterOne have determined to enter into this Agreement for the aforesaid Public Improvement; and

WHEREAS, WaterOne has executed this Agreement by its General Manager who is authorized to approve and execute such relocation agreements by Resolution of the WaterOne Board dated June 13, 1995; and

WHEREAS, the Governing Body of the City did approve and authorize the Public Improvement by adoption of Resolution No. 23-1022 dated March 21, 2023, and;

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants and agreements herein contained, and for other good and valuable considerations, the parties hereto agree as follows:

1. The parties hereto enter into this Agreement for the purpose of relocating Water Facilities now situated in or adjacent to WaterOne's private easement by replacing such Water Facilities to areas within the expanded public right-of-way, within permanent public utility easements, within remaining WaterOne easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with the City construction and improvements within its Public Improvement project. The aforementioned Water Facilities are shown on the project plans which are incorporated herein by reference.

2. WaterOne hereby agrees to relocate the water facilities to an elevation and alignment compatible with the street improvements to be constructed by the City, and in a specific location to be agreed upon by both the City and WaterOne.

WaterOne agrees to pay all costs associated with relocating and replacing that part of the existing water facilities now lying within public right-of-way or public utility easements that are in conflict with the City Improvements. WaterOne's cost for relocating and replacing these facilities is 4.0% of the total WaterOne Improvement costs [estimated amount of \$12,355.88].

The City agrees to pay all costs of relocating the existing water facilities now lying in areas outside public right-of-way, or outside public utility easements, or those now lying within WaterOne private easements or immediately adjacent to WaterOne private easements that were previously relocated from the private easement to expanded public right-of-way which are in conflict with the City Improvements. The City's cost for relocating and replacing these facilities is 96.0% of the total WaterOne Improvement costs [estimated amount of \$293,123.35].

WaterOne will invoice the City at times determined by WaterOne, but no more than monthly, for progress payments for work completed.

3. WaterOne shall account to the City for all of its costs in designing, constructing and connecting the relocated and replacement facilities which are to be relocated and paid for by the City. WaterOne shall make no further claim for damages or indemnification except as provided in Sections 2 and 6 herein.

4. Upon execution of this Agreement and written request by the City for commencement of relocation activities by WaterOne, WaterOne will commence work as soon as reasonably possible. WaterOne agrees that subject to delays due to weather and conditioned upon the City's ability to comply with its own construction schedule with respect to construction affecting the relocation by WaterOne, WaterOne shall complete the relocation of the Water Facilities within the Public Improvement project time limits.

5. WaterOne shall design, construct, and install the relocated water facilities within a course and area that will not conflict with the improvements to be constructed by the City. The specific location for the relocated facilities shall be agreed upon by both the City and WaterOne. The City shall protect the newly relocated and installed water facilities from interruption or damage during the course of the Public Improvement.

6. The City may, in the future, elect to require WaterOne to again relocate its Water Facilities which are the subject of this Agreement to other areas within the expanded street right-of-way or public utility easements to avoid conflict with any future road improvements by the City and to specific locations to be agreed upon by both the City and WaterOne. In such event if the facilities originated within or adjacent to private WaterOne easements the entire cost of any such future relocation shall be borne by the City. In such an event, WaterOne shall account to the City for all of its costs in relocating, constructing and connecting those portions of the relocated facilities, which costs shall be fully indemnified to WaterOne by the City.

7. For purposes of this Agreement, any required notices shall be deemed sufficiently given the third day following deposit in the U.S. mail, certified, return receipt requested, postage prepaid, and addressed as follows:

If to WaterOne:

Water District No. 1 of Johnson County
Eric Maassen, P.E.
Project Manager
10747 Renner Boulevard
Lenexa, Kansas 66219

If to the City:

City of Olathe
Scott Ward, P.E.
City Project Manager
Public Works Department
1415 S Robinson Drive
Olathe, Kansas 66061

Notice shall also be deemed sufficiently given upon actual delivery by reliable courier service or other method.

8. This Agreement constitutes the entire agreement of the parties and may be amended or terminated only by written mutual agreement of the parties.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed by the authority of their respective governing bodies the day and year first above written.

CITY OF OLATHE

By: _____
John Bacon
Mayor

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: Robert S. Gallimore
Robert Gallimore
Assistant City Attorney

WATER DISTRICT NO. 1 OF JOHNSON COUNTY

By: _____
Shaun P. Pietig
General Manager

APPROVED AS TO FORM:

By: _____
Eric R. Arner
General Counsel

ACKNOWLEDGMENT

STATE OF KANSAS)
)ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED that on this ____ day of _____, 2024, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came John Bacon, Mayor of Olathe, Kansas, who is personally known to me to be the same person who executed the foregoing instrument on behalf of said City, and said person duly acknowledged the execution of the same to be the act and deeds of the CITY OF OLATHE, KANSAS.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, that on this _____ day of _____, 2024, before me, the undersigned, a Notary Public in and for the County and State aforesaid came Shaun P. Pietig, General Manager of Water District No. 1 of Johnson County, a quasi-municipal corporation of the State of Kansas, who is personally known to me to be such officer and the same person who executed the foregoing instrument on behalf of said Water District, and said person duly acknowledged the execution of the same as the act and deed of WATER DISTRICT NO. 1 OF JOHNSON COUNTY.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires: