

RIGHT-OF-WAY AND EASEMENT AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that the BOROUGH OF MARIETTA, a municipal corporation (hereinafter referred to as "Grantor"), for and in consideration of the installation of a gate of which is hereby acknowledged, and intending to be legally bound hereby, does hereby grant, convey, bargain and sell unto MARIETTA GRAVITY WATER COMPANY, a Pennsylvania Corporation (hereinafter referred to as "Grantee"), its successors and assigns, the nonexclusive, free and uninterrupted perpetual right, use, liberty and privilege of constructing, reconstructing, maintaining, repairing, upgrading, operating and utilizing, a water main or mains, together with valves and other appurtenances (collectively, the "Water Main Facilities"), within on, upon, under and along the existing 20 foot wide access road (hereinafter referred to as "Easement Area") located upon the tract of land along the Susquehanna River identified as parcel number 4207967400000 in the Lancaster County courthouse.

TOGETHER with free ingress, egress and regress to and for the said Grantee, its successors and assigns, and its agents and employees, on, over, and through the Easement Area, at all times and seasons in order to construct, reconstruct, maintain, repair, upgrade, operate and utilize such Water Main Facilities. Grantor hereby expressly reserves and retains, for itself and its successors and assigns, all tenants and other lawful occupiers of the real property on which the Easement Area is located ("Grantor's Real Property"), and their respective invitees and business guests, the following rights, uses, liberties and privileges:

1. The right to maintain vehicular and pedestrian access to and from Grantor's Real Property across the Easement Area at all times and seasons;
2. The right to construct, reconstruct, maintain, repair, replace and relocate driveways and vehicular access ways across the Easement Area; and
3. The right to grade and landscape the Easement Area, provided that soil coverage of a minimum of four feet (4') is maintained over and above the Water Main Facilities;

provided that any of the aforesaid are constructed and maintained in accordance with all applicable federal, state and local laws, regulations, rules and ordinances, and provided further that the same do not materially and adversely affect the installation or the safe and efficient operation of the Water Main Facilities.

Grantor, as a covenant running with the land, for itself and its successors and assigns, does covenant that except as otherwise stated herein, no buildings, other structures or other improvements shall be erected or maintained within the Easement Area.

Grantee by its acceptance of this grant does hereby agree with Grantor and its successors in title or interest, that in the event Grantee in exercising its rights under this

agreement in the future causes any damages to the trees, crops, fences, buildings, roads, other improvements or land of the Grantor, the Grantee will repair said property to the same condition as existed prior to such disturbance or damage.

Grantee agrees to indemnify and hold Grantor harmless against and from any claim, liability or expense, including without limitation reasonable attorneys' fees and costs, on account of any property damage or personal injury to Grantor, Grantee, their officers, employees, servants, agents, representatives, customers, business invitees and licensees or third parties related to the Water Main Facilities and the Easement Area, or the exercise of the rights granted hereunder, unless such property damage or personal injury was caused by the sole negligence or willful misconduct of Grantor, or its officers, employees, agents or representatives.

Any modifications of the terms of this agreement may be made only by written agreement of Grantor and Grantee, which agreement shall be recorded in the Office of Recorder of Deeds in and for Lancaster County, Pennsylvania.

This grant of easement shall be binding upon Grantor, its successors and assigns, and all other present and future owners of Grantor's Real Property.

This conveyance is a transfer of an easement to Grantee, a water company furnishing public utility service and is therefore exempt from transfer taxes pursuant to the Pennsylvania Realty Transfer Act and Regulations at 61 Pa. Code Section 91.193(b)(28).

In Witness Whereof, this Agreement has been executed by the undersigned this **11th** day of **August** 2009.

GRANTOR:
BOROUGH OF MARIETTA

Attest: _____
Jody L. Shaffner, Sec/Treas

By: _____
Miriam N. Fletcher, President

(SEAL)

GRANTEE:
MARIETTA GRAVITY WATER COMPANY

Attest: _____

By: _____
Donald H. Nikolaus, President

(SEAL)

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF :

On this, the _____ day of _____, 2009, before me, a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared Miriam N. Fletcher, who acknowledged herself to be the President of Marietta Borough Council, a Pennsylvania municipal corporation, and that she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the municipal corporation by herself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Notary Public
My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF :

On this, the _____ day of _____, 2009, before me, a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared Donald H. Nikolaus, who acknowledged himself to be the President of Marietta Gravity Water Company, a Pennsylvania Corporation, and that he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation and limited partnership by himself/herself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Notary Public
My Commission Expires: