

Doc. No. _____ Fee \$ 41.00 Pd.
 WOODBURY COUNTY, IOWA - Filed for Record
 At 2:00 AM July Day 18 Yr. 1994
 CHRISTINA HALL, RECORDER
 By D. Stevens Deputy

DECLARATION OF EASEMENT

THIS DECLARATION made this 27th day of June, 1994 by Robin Investments, Inc., an Iowa corporation, hereinafter referred to as "ROBIN".

R E C I T A L S :

A. ROBIN is presently the fee title owner of real estate described in Exhibit A, attached hereto, and referred to thereon as "South Tract -- Lot 1", and the fee title owner of real estate described in Exhibit B, attached hereto, and referred to thereon as "North Tract -- Lot 2"; and

B. ROBIN desires to define certain easements, covenants and restrictions which shall benefit and bind the owners, their heirs, successors and assigns of either of the parcels described in the attached Exhibits A and B.

NOW, THEREFORE, ROBIN does declare and create the following easements, covenants and restrictions to run with the land pertaining to the real estate described in Exhibits A and B, to-wit:

1. **ACCESS EASEMENT TO BENEFIT THE SOUTH TRACT -- LOT 1:** ROBIN hereby grants for the benefit of the South Tract -- Lot 1 a perpetual non-exclusive right, privilege and easement to use, for pedestrian and vehicular traffic only, a 70 foot easement described on Exhibit C hereto. The foregoing easement is for the use of the owner of the South Tract -- Lot 1 and its officers, employees, agents, customers, business visitors, business guests, licensees and invitees.
2. **UTILITIES EASEMENTS:** ROBIN grants to the owner of the North Tract -- Lot 2 and to the owner of the South Tract -- Lot 1 an easement for the respective parcels, except within any building areas, for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities serving the respective parcels, such utilities to include, but not to be limited to, telephone, electric, natural gas, water, storm sewer, sanitary sewer and fire protection installations.

Except as otherwise provided herein, the owners of the respective parcels shall be responsible, as between one another, for the installation, maintenance, repair, replacement, relocation and removal of all utility facilities installed by the respective owner within the easement areas, as well as for all utility facilities installed on the owners' respective parcels. All installation, maintenance, repair, replacement, relocation and removal shall be performed in a manner that causes no discontinuance of any parcel's service to the other owner or any occupant of the other owner's parcels and any and all portions of the surface area of the other respective owner which may have been excavated, damaged, or otherwise disturbed as a result of such work shall be restored at the sole cost and expense of the owner for whose benefit the work was performed to essentially the same condition as the same were in prior to the commencement of any such work.

3. **PARKING EASEMENTS:** The owners of the respective parcels, their officers, employees, agents, customers, business visitors, business guests, licensees and invitees may use any portion of the respective parking facilities on either the North Tract -- Lot 2 or the South Tract -- Lot 1. The respective owners of the North Tract -- Lot 2 and the South Tract -- Lot 1 shall maintain a minimum number of parking spaces to comply with all city ordinances pertaining to parking requirements. Each party shall use reasonable efforts to insure that the customers and invitees shall not be permitted to park except while shopping or transacting business on its respective parcel and each owner shall designate an area within its parcel for employee parking.
4. **MAINTENANCE:**
 - a) Maintenance of the Ingress Easement: The owners of the respective parcels shall share jointly in the repair and maintenance of the access easement; and
 - b) Parking Areas: The owner of the respective parcels shall maintain and repair the parking areas located upon and within said tracts in a neat, clean and healthful condition and in a good state of repair for use.

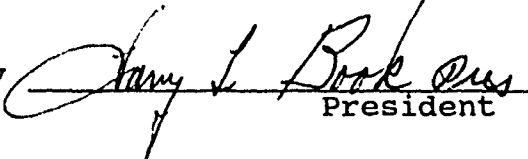
5. **TAXES:** Each of the owners shall pay or cause to be paid prior to delinquency, directly to the appropriate taxing authorities, all real property taxes and assessments which are levied against the respective parcels owned by it.
6. **DEFAULT:** In the event any owner fails to discharge its obligation with respect to taxes or maintenance within a reasonable time following receipt of written notice of such failure by the other party, the other party shall have a right to perform such obligations and to charge the defaulting party with the costs thereof.
7. **INDEMNIFICATION:** The owner of each parcel shall indemnify and save harmless the owner of the other parcel from any and all liability, damage, expense, causes of action, suits, claims or judgments arising from personal injury, death, or property damage occurring on or from its own parcel except if caused by the act or negligence of the other owner.
8. **INSURANCE:** Each owner shall obtain and keep in force a comprehensive general liability insurance policy covering all claims alleging property damage, personal injury or death arising out of or having to do with an occurrence on or about the respective property. The insurance policy shall have a combined single limit in an amount that is commercially reasonable for operations of retail shopping centers, but in no event shall the amount be less than One Million (\$1,000,000) for injury or death of a single person and to the limit of not less than One Million (\$1,000,000) for any one occurrence and to the limit of not less than One Hundred Thousand (\$100,000) for property damage. Upon request, each owner shall provide the other with certificate of such insurance from time to time.
9. **EMINENT DOMAIN:** Nothing herein contained shall give an owner of a respective parcel any interest in any award or payment to be made to the party in connection with any exercise of eminent domain or transfer in lieu thereof affecting the other parcel.

10. GENERAL PROVISIONS:

- a) Relationship of Parties: Nothing in this Agreement shall be construed to make the parties occupying the premises or holding mortgages upon the premises, described in Exhibits A and B, as liable for any of the debts or obligations of any other party;
- b) Public Dedication: No provision of this Agreement shall be construed to grant any gift, dedication or irrevocable right to the general public or for any quasi-public purpose to any portion of the property described in Exhibits A and B;
- c) Successors and Assigns: The acceptance of any transfer or conveyance of title from any party hereto to its respective heirs, representatives, successors or assigns of all or any part of its interest in the property affected hereby shall be deemed to:
- i) Require the prospective grantee not to use, occupy, or allow any lessee or occupant of such property to use or occupy the property in any manner which would constitute a violation or breach of any of the easements or covenants contained herein; and
 - ii) Require the prospective grantee to assume and agree to perform each and all of the obligations of the conveying party under this agreement with respect to any such parcel of the property which will be conveyed to each grantee, in each case by a written instrument executed, acknowledged and recorded in the office of the Recorder of Woodbury County, Iowa.
- d) Modification: This Declaration may be changed on by a writing which has been signed by both owners and the mortgagees of record, if any.

Executed the day and year last above written.

ROBIN INVESTMENTS, INC.

By  President

STATE OF IOWA, WOODBURY COUNTY, ss:

On this 27th day of June, 1994, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Larry L. Book, to me personally known, who, being by me duly sworn, did say that he is the president of said corporation executing the within and foregoing instrument, that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its board of directors; and that the said Larry L. Book as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.



Ruth A. Kern
Notary Public

LEGAL DESCRIPTION
SOUTH TRACT -- LOT 1

A tract of land being part of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter, and part of Government Lot 8, all being located in Section 1, Township 88 North, Range 48 West of the Fifth Principal Meridian, Woodbury County, Iowa, and being more particularly described as follows:

Commencing at the Northeast corner of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 1, Township 88 North, Range 48 West; thence North 89°59'59" West (Assumed Bearing), along the South Right-of-Way line of Glenn Avenue, a distance of 25.00 feet; thence South 00°41'52" West, along a line parallel with and 25.00 feet West of the East line of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 1, being also the West Right-of-Way line of South Rustin Street, a distance of 338.10 feet to the Point of Beginning; thence continuing South 00°41'52" West, along said line parallel with and 25.00 feet West of the East line of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 1, being also the West Right-of-Way line of South Rustin Street, a distance of 550.00 feet; thence South 89°46'33" West a distance of 982.65 feet to a point on the Easterly Right-of-Way line of U.S. Highway No. 75; thence North 03°22'26" East, along said Easterly Right-of-Way line of U.S. Highway No. 75, a distance of 450.83 feet; thence North 89°46'33" East a distance of 273.60 feet; thence North 00°41'52" East a distance of 100.00 feet; thence North 89°46'33" East a distance of 688.00 feet to the Point of Beginning, and containing 506,190 square feet or 11.6205 acres, more or less.

EXHIBIT A

LEGAL DESCRIPTION
NORTH TRACT - LOT 2

A tract of land being part of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter, and part of Government Lot 8, all being located in Section 1, Township 88 North, Range 48 West of the Fifth Principal Meridian, Woodbury County, Iowa, and being more particularly described as follows:

Commencing at the Northeast corner of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 1, Township 88 North, Range 48 West; thence North $89^{\circ}59'59''$ West (Assumed Bearing), along the South Right-of-Way line of Glenn Avenue, a distance of 25.00 feet to the Point of Beginning; thence South $00^{\circ}41'52''$ West, along a line parallel with and 25.00 feet West of the East line of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 1, being also the West Right-of-Way line of South Rustin Street, a distance of 338.10 feet; thence South $89^{\circ}46'33''$ West a distance of 688.00 feet; thence South $00^{\circ}41'52''$ West a distance of 100.00 feet; thence South $89^{\circ}46'33''$ West a distance of 273.60 feet to a point on the Easterly Right-of-Way line of U.S. Highway Number 75; thence along said Easterly Right-of-Way line of U.S. Highway Number 75, North $03^{\circ}22'26''$ East a distance of 51.57 feet to the point of beginning of a curve to the left; thence continuing along aforesaid Easterly Right-of-Way line of U.S. Highway Number 75 with said curve to the left, the initial tangent of which is North $03^{\circ}22'26''$ East, and having a central angle of $0^{\circ}23'15.2''$ and a radius of 5,814.58 feet, and whose long chord bearing and distance are North $03^{\circ}10'49''$ East and 39.33 feet, an arc distance of 39.33 feet; thence South $87^{\circ}40'14''$ East a distance of 149.42 feet; thence North $02^{\circ}19'46''$ East a distance of 345.00 feet; thence North $89^{\circ}50'43''$ East, along a line parallel with and 12.00 feet South of the Original South Right-of-Way line of Glenn Avenue, a distance of 162.76 feet; thence, continuing along said line parallel with and 12.00 feet South of the Original South Right-of-Way line of Glenn Avenue, South $89^{\circ}59'59''$ East a distance of 186.74 feet; thence North $39^{\circ}39'31''$ East a distance of 15.59 feet (recorded distance is 15.6 feet) to a point on the South Right-of-Way line of Glenn Avenue; thence South $89^{\circ}59'59''$ East, along said South Right-of-Way line of Glenn Avenue, a distance of 438.95 feet to the Point of Beginning, and containing 293,607 square feet, or 6.7403 acres, more or less.

LEGAL DESCRIPTIONINGRESS-EGRESS

An easement described as follows:

Commencing at the Northeast corner of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 1, Township 88 north, Range 48 West; thence North $89^{\circ}59'59''$ West (Assumed Bearing), along the South Right-of-Way line of Glenn Avenue, a distance of 25.00 feet; thence South $00^{\circ}41'52''$ West, along a line parallel with and 25.00 feet West of the East line of the West One-Half of the Northeast One-Quarter of the Southeast One-Quarter of Section 1, being also the West Right-of-Way line of South Rustin Street, a distance of 338.10 feet; thence South $89^{\circ}46'33''$ West a distance of 688.00 feet; thence South $00^{\circ}41'52''$ West a distance of 100.00 feet; thence South $89^{\circ}46'33''$ West a distance of 273.60 feet to a point on the Easterly Right-of-Way line of U.S. Highway Number 75; thence along said Easterly Right-of-Way line of U.S. Highway Number 75, North $03^{\circ}22'26''$ East a distance of 51.57 feet to the point of beginning of a curve to the left; thence continuing along aforesaid Easterly Right-of-Way line of U.S. Highway Number 75 with said curve to the left, the initial tangent of which is North $03^{\circ}22'26''$ East, and having a central angle of $0^{\circ}23'15.2''$ and a radius of 5,814.58 feet, and whose long chord bearing and distance are North $03^{\circ}10'49''$ East and 39.33 feet, an arc distance of 39.33 feet; thence South $87^{\circ}40'14''$ East a distance of 149.42 feet; thence North $02^{\circ}19'46''$ East a distance of 345.00 feet to the Point of Beginning; thence North $89^{\circ}50'43''$ East, along a line parallel with and 12.00 feet South of the Original South Right-of-Way line of Glenn Avenue, a distance of 70 feet; thence Southwesterly parallel to a line North $02^{\circ}19'46''$ East for 435.9 feet; thence South $89^{\circ}46'33''$ West for 70 feet; thence North $02^{\circ}19'46''$ East for 435.9 feet to the Point of Beginning.

Note: The North line of the easement is located on the boundary line of that certain parcel described as the South Tract -- Lot 1 described on Exhibit A to the Declaration of Easement dated June 27th, 1994.