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 Dallas County Iowa
 Chad C. Airhart RECORDER
 File#

BK **2017** PG **23204**

**DECLARATION OF EASEMENTS
 Recorder's Cover Sheet**

Preparer Information: (name, address and phone number)

Lisa R. Wilson
 Wilson, Guerrero & Egge, P.C.
 475 Alice's Road, Suite A
 Waukee, Iowa 50263
 (515) 369-2502

⁸¹¹**Return Document To:** (name and complete address)

City of Waukee
~~Lisa R. Wilson~~
~~Wilson, Guerrero & Egge, P.C.~~
~~475 Alice's Road, Suite A~~
~~Waukee, Iowa 50263~~

Declarant:

117 Land Company, L.L.C.

Legal Description:

Lots 1 through 6, inclusive, in I-80 West Industrial Park Plat 1, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa.

DECLARATION OF EASEMENTS

This Declaration of Easements (this "Declaration") is made as of the 10th day of November, 2017, by 117 Land Company, L.L.C., an Iowa limited liability company ("Declarant").

RECITALS

A. Declarant is the owner of real property in Waukee, Dallas County, Iowa, legally described as follows:

Lots 1 through 6, inclusive, in I-80 West Industrial Park Plat 1, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa ("Property").

B. To comply with City requirements for the final plat of the Property, the Declarant desires to establish certain private easements over the Property for the mutual benefit of future owners.

DECLARATION

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby declares as follows:

1. **Definitions.** All capitalized terms used in this Declaration shall, unless otherwise defined elsewhere in this Declaration, have the following meanings:

"City" means the City of Waukee, Iowa.

"Owner" means the record titleholder(s) of any Lot.

"Lot(s)" means any of lots 1 through 6 existing after the filing of record of the final plat of I-80 West Industrial Park Plat 1.

"Permittees" means any tenant(s) or occupant(s) of a Lot and the respective guests, vendors, licensees, invitees, customers, contractors and agents of the Owner of such Lot and such tenant(s) or occupant(s).

2. **Grant of Utilities Easement.** Declarant hereby establishes a perpetual, non-exclusive easement for the purpose of constructing, reconstructing, repairing, enlarging and maintaining utilities, together with the necessary appurtenances thereto, under, over and through the property as set forth in Exhibit "A", attached hereto and made a part hereof.

3. **Grant of Monument Sign Easement.** Declarant hereby establishes a perpetual, non-exclusive easement for the purpose of constructing, reconstructing, repairing, replacing and

maintaining monument signage, together with the necessary appurtenances thereto, under, over and through the property as set forth in Exhibit "B", attached hereto and made a part hereof.

4. **Maintenance.** The Owner or occupant of the property within the easement areas shall keep and preserve that portion of the easement areas within said owner's property in good repair and condition at all times, and shall remove all dead trees, shrubs, brush, trash or other obstacles which might obstruct or impede the flow of surface water.

5. **Erection of Structures Prohibited.** No Owner shall erect any structure over or within any easement area without obtaining the prior written approval of the Declarant or the City.

6. **Change of Grade Prohibited.** No Owner shall change the grade, elevation or contour of any part of any easement area without obtaining the prior written consent of the Declarant or the City.

7. **Obstructions Prohibited.** No Owner shall erect or cause to be placed on any easement area any fence, material, device, thing, matter or plant, or permit to grow any hedge or other vegetative growth which could obstruct, impede or otherwise interfere with the normal flow of surface water over or the maintenance of any easement area without obtaining the prior written approval of the Declarant or the City.

8. **Enforcement.** The Declarant, the City or any Owner may enforce this Declaration by seeking injunctive relief, specific performance or any other remedy available at law or in equity. In the event of litigation to enforce or interpret the terms of this Declaration, the prevailing party shall be entitled to recover its costs of litigation, including, without limitation, reasonable attorney's fees.

9. **No Merger.** It is expressly understood and agreed that the easements, rights and privileges granted and conveyed herein shall never be extinguished by reason of the fact that the legal or beneficial title to the entirety of the property described above (or any interest therein or part thereof), as the case may be, is or may be vested in the same person or entity.

10. **Binding Effect; No Public Grant.** This Declaration shall run with the land, and shall inure to the benefit of, and be binding upon, the parties hereto and their successors and assigns. The easement rights and dedications created hereby are not for the benefit of the public generally and nothing herein shall be construed as a dedication to the public.


11. **Amendment.** Any change or amendment to this Declaration shall be effective only if it is in writing and signed by a majority of the owners of record and the City. Notwithstanding the foregoing, Declarant shall have the sole right to amend this Declaration without the consent of any Owner or the City so long as it owns a Lot in I-80 West Industrial Park Plat 1.

12. **Waiver.** Any failure, forbearance, delay or omission to exercise any rights under this Declaration in the event of a breach of any term of this Declaration shall not be deemed to be a waiver by any party of such term or any subsequent breach of the same or any other term, or of any rights of any party under the terms of this Declaration.

13. **Severability.** If any provision of this Declaration, or the application of it to any circumstance, is found to be invalid, the remainder of the provisions of this Declaration, or the application of such provision to other circumstances than those to which it is found to be invalid, as the case may be, shall not be affected.

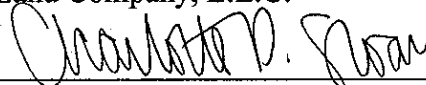
14. **Warranty of Title.** Declarant does hereby covenant that Declarant holds said real estate described in this Declaration by Title in Fee Simple, that Declarant has good and lawful authority to convey the same, and said Declarant covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, this Declaration has been made effective as of the date first above written.

117 LAND COMPANY, L.L.C.
By: 
Toby T. Torstenson, Manager

STATE OF IOWA)
) SS:
COUNTY OF Dallas)

This instrument was acknowledged before me on this 14th day of November, 2017, by Toby T. Torstenson, Manager of 117 Land Company, L.L.C.



Notary Public in and for Said State

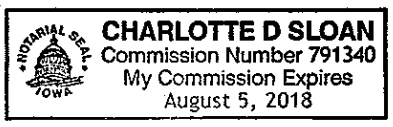


EXHIBIT "A"

**THE EAST 15.00 FEET OF LOT 3, I-80 INDUSTRIAL PARK PLAT 1, AN OFFICIAL PLAT
IN THE CITY OF WAUKEE, DALLAS COUNTY, IOWA.**

EXHIBIT "B"

A PART OF LOT 1, I-80 INDUSTRIAL PARK PLAT 1, AN OFFICIAL PLAT IN THE CITY OF WAUKEE, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1 ALONG THE WEST LINE OF STREET LOT 'B', SAID I-80 INDUSTRIAL PARK PLAT 1; THENCE NORTHERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT 1 AND A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 35.00 FEET, WHOSE ARC LENGTH IS 9.19 FEET AND WHOSE CHORD BEARS NORTH 6°11'11" WEST, 9.16 FEET; THENCE SOUTH 72°56'52" WEST, 9.27 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 01°19'55" WEST, 15.81 FEET; THENCE SOUTH 72°56'52" WEST, 15.81 FEET; THENCE NORTH 01°19'55" EAST, 15.81 FEET; THENCE NORTH 72°56'52" EAST, 15.81 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 ACRES (237 SQUARE FEET).