

PREPARED BY: City of Council Bluffs Public Works Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4635
RETURN TO: Jeff Krist, Public Works, 209 Pearl Street, Council Bluffs, IA 51503

**EASEMENT FOR LEVEE
RIGHT-OF-WAY**

For good and valuable consideration in hand paid by City of Council Bluffs, a municipal corporation of the State of Iowa ("City"), Council Bluffs Apartments, L.L.C., an Iowa limited liability company ("Grantor") does hereby grant to City and its agents, contractors and assigns, a non-exclusive permanent easement ("Easement") for the purpose of constructing, reconstructing, repairing, enlarging and maintaining a levee together with necessary appurtenances thereto in, on, over, and across the following described real estate:

Parcel of land located in the NW ¼ of Section 33, Township 75 North, Range 44 West of the 5th P.M., Pottawattamie County, Iowa, as shown on the Plat attached hereto as Exhibit "A" and by reference made a part hereof ("Easement Area").

The Easement shall be subject to the following terms and conditions:

1. **ERECTION OF STRUCTURES PROHIBITED:** Grantor shall not erect any structure over or within the Easement Area without obtaining the prior written consent of the City Engineer.
2. **CHANGE OF GRADE PROHIBITED:** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer.
3. **RIGHT OF ACCESS:** City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described.
4. **REMOVAL AND REPLACEMENT:** The cost of removal and replacement of any unauthorized structures within the Easement Area shall be borne by Grantor or its successors or assigns.
5. **SURFACE RESTORATION:** City's liability to restore the surface within the Easement Area shall be limited only to grading and seeding.
6. **DUTY TO REPAIR:** City agrees that any drain tile, drive or access way, fence, or yard or other improvements outside of the Easement Area which may be damaged as a result of any entry made by the exercise of City's right of access shall be repaired by City at no expense to Grantor.
7. **EASEMENT RUNS WITH LAND:** This Easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

Grantor does hereby covenant with City that Grantor holds the Easement Area by title in fee simple; that it has good and lawful authority to grant the Easement; that the Easement Area is free and clear of all liens and encumbrances except, and the Easement is subject and subordinate to, (a) that certain Multifamily Mortgage, Assignment of Rents and Security Agreement made by Grantor and recorded with the County Recorder of Pottawattamie County, Iowa on September 18, 2012 in Book 2012, Page 13982 ("Mortgage"); and (b) all existing easements, covenants, conditions and restrictions now of record, if any ("Prior Easements"); and that Grantor shall warrant and defend the Easement Area against the lawful claims of all persons subject to the prior rights of the holder(s) of the Mortgage and Prior Easements. Grantor relinquishes all rights of dower, homestead and distributive share in and to the Easement Area.

Words and phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

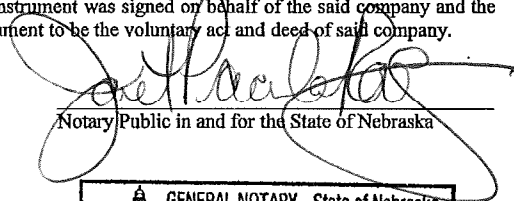
IN WITNESS WHEREOF, this instrument has been executed this 26th day of October, 2015.

COUNCIL BLUFFS APARTMENTS, L.L.C.

By Howard M. Kooper
Howard M. Kooper, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 20th day of October, 2015, before me, a notary public in and for said county and said state, personally appeared Howard M. Kooper, to me known to be the person named in and who did say that he is Manager of said company and that said instrument was signed on behalf of the said company and the said Manager acknowledged the execution of said instrument to be the voluntary act and deed of said company.



Notary Public in and for the State of Nebraska

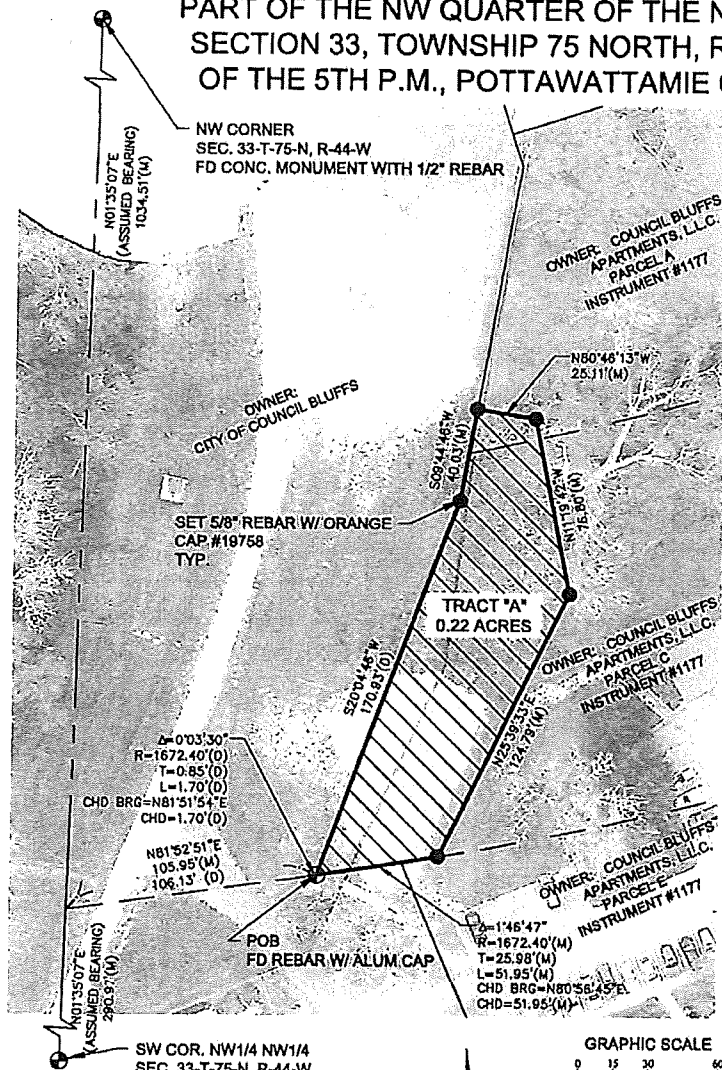
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EXHIBIT "A" PLAT

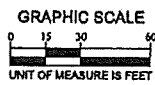
PART OF THE NW QUARTER OF THE NW QUARTER OF SECTION 33, TOWNSHIP 75 NORTH, RANGE 44 WEST OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA



TRACT DESCRIPTION
 PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 75 NORTH, RANGE 44 WEST OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA, WHICH EXTERIOR BOUNDARY IS MORE FULLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE N01°35'07"E (ASSUMED BEARING) ON THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 290.97 FEET; THENCE N81°52'51"E, A DISTANCE OF 105.95 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ON A 1672.40 FOOT RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 1.70 FEET, THE CHORD OF SAID CURVE BEARS N81°51'54"E, 1.70 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ON SAID 1672.40 FOOT RADIUS CURVE TO THE LEFT AN ARC DISTANCE OF 51.95 FEET, THE CHORD OF SAID CURVE BEARS N80°58'45"E, 51.95 FEET; THENCE N25°39'33"E, A DISTANCE OF 124.79 FEET; THENCE N11°19'42"W, A DISTANCE OF 76.80 FEET; THENCE N80°46'13"W, A DISTANCE OF 25.11 FEET TO THE WEST LINE OF A PARCEL OF LAND AS DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 1177 AT THE POTTAWATTAMIE COUNTY COURTHOUSE; THENCE CONTINUING ON SAID WESTERLY LINE THE NEXT TWO COURSES: S09°44'46"W, A DISTANCE OF 40.03 FEET; THENCE S20°04'46"W, A DISTANCE OF 170.93 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 0.22 ACRES MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS OF RECORD NOT SHOWN ON THIS PLAT.

COUNCIL BLUFFS LEVEE SYSTEM
 OWNER: COUNCIL BLUFFS APARTMENTS, L.L.C.



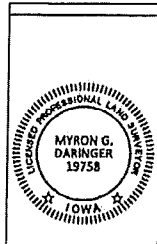
NOTE: ALL BEARINGS ARE ASSUMED.

DATE	7/13/2015
SCALE	1" = 60'
DRAWN	RMO
JOB NO.	R141000.04
FIELD BOOK	FIELD BOOK
FIELD WORK	KT
SHEET	1 OF 1
FILE NO.	



JEO CONSULTING GROUP, INC.
 800.723.8567
 Carroll, IA 51202-9711
 www.jeo.com

- LEGEND**
- ⊙ MONUMENT FOUND
 - D DEEDED DISTANCE
 - M MEASURED DISTANCE
 - P PLATTED DISTANCE
 - R RECORDED DISTANCE



I hereby certify that this land surveying document was prepared and the related survey was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

Myron G. Daringer 7/31/15
 (signature) (date)

Printed or typed name: Myron G. Daringer
 License Number: 19758
 My license renewal date is December 31, 2015

Pages or sheets covered by this seal:
 SHEET 1 OF 1