

189-11
POLK COUNTY, IOWA
FILED FOR RECORD

JUN 21 1983

AT 10:41

KATE GRUNSTEIN HOLSCHEM, Recorder
By *[Signature]* Deputy

DECLARATION OF INGRESS-EGRESS EASEMENT

This Declaration dated this 20th day of June 1983, by IOWA REALTY CO., INC. (hereafter called Iowa Realty), an Iowa Corporation with its principal place of business in Des Moines, Polk County, Iowa, the owner of two contiguous tracts of land situated in Des Moines, Polk County, Iowa, more particularly described as Parcel I and Parcel II on Exhibit "X" which is attached hereto and, by this reference made a-part hereof.

R E C I T A L S

WHEREAS, Iowa Realty intends to convey Parcel I, which has been developed into a 360 unit apartment project;

WHEREAS, Iowa Realty contemplates and intends to develop Parcel II into one or more tracts with varying uses;

WHEREAS, it is deemed desirable to provide for the rights and obligations resulting from the mutual, reciprocal and interdependent use of certain existing ingress-egress roadways which serve both Parcel I and Parcel II, and to provide for such contingencies as may arise by reason of the fact that at some future time Parcel I and Parcel II will be owned by more than one person, firm or corporation.

NOW, THEREFORE, Iowa Realty declares that Parcel I and Parcel II are held and shall be conveyed, mortgaged, leased or in any way hereafter encumbered subject to the rights, covenants, conditions and terms of this Declaration as hereinafter set forth.

1. ESTABLISHMENT OF EASEMENTS. Iowa Realty declares that there are hereby established and reserved in favor and for the benefit of the legal or equitable title holders, lessees, licensees, invitees, customers, agents, employees and mortgagees, mutual cross-easements to use the existing private roadways which are located on Parcels I and II and are hereinafter referred to as Roadway Easement "A" and Roadway Easement "B", respectively, and are legally described on Exhibit "X" for pedestrian and vehicular traffic for purposes of ingress and egress to Parcel I and Parcel II and the adjacent public and private streets and highways.

2. REPAIR, MAINTENANCE AND REPLACEMENT.

A. The Owner(s) of Parcel I shall be responsible for the repair, maintenance and replacement of Roadway Easement "A". The owner(s) of Parcel I shall cause such repair, maintenance and replacement to be done in a good and workmanlike manner at their sole cost and expense.

B. The Owner(s) of Parcel II shall be responsible for the repair, maintenance and replacement of Roadway Easement "B". The owner(s) of Parcel II shall cause such repair, maintenance and replacement to be done in a good and workmanlike manner at their sole cost and expense.

3. RELOCATION. If all owners of Parcels I and II agree in writing, Roadway Easement "A" and/or Roadway Easement "B" may be relocated. The cost of such relocation shall be divided according to the written agreement of the owners.

4. DEDICATION. If all owners of Parcels I and II agree in writing, Roadway Easement "A" and/or Roadway Easement "B" may be dedicated to the City of Des Moines or other governmental authority. The cost, if any, of satisfying the requirements of acceptance by the City of Des Moines or other governmental authority, shall be divided according to the written agreement of the owners.

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5. **TRUCK TRAFFIC PROHIBITION.** It shall be prohibited for trucks in excess of 5 tons to use Roadway Easement "A" and the owner of Parcel I shall have the sole right to enforce this prohibition and may post signs, and use whatever lawful means necessary to enforce this prohibition.

6. **CHAFFEE ROAD.** A private roadway commonly known as Chaffee Road is located adjacent to the east boundary line of Parcel I and II. Such roadway is owned by the United States Government and currently provides access to Easement Area "A" and Parcel I and II from Army Post Road. Iowa Realty represents that it is informed and believes that there is no formal written agreement affording permanent use of Chaffee Road and the United States Government may be able to restrict or prohibit the use of Chaffee Road at sometime in the future.

7. **OTHER USERS.** This Declaration is not intended nor shall it be construed to limit the rights granted by Iowa Realty in the agreements recorded at Book 4679 Page 060 and Book 4679 Page 062 of the Polk County Iowa Recorder's Records.

8. **NATURE OF EASEMENTS AND RIGHTS GRANTED.** The Easement established by this Declaration and all of the covenants, rights, restrictions and provisions related thereto, are made for the direct benefit of Parcel I and Parcel II and shall be permanent easements which run with the land and shall be binding upon Iowa Realty and its heirs, successors and assigns.

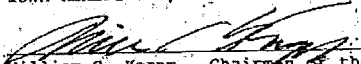
9. **APPLICABLE LAW.** This Declaration shall be construed and enforced in accordance with the laws of the State of Iowa.

10. **NO WAIVER.** No Waiver of any breach of this Declaration or of any rights, obligations, covenants or provisions herein contained shall be construed, or constitute a Waiver of any breach of the same or any other such right, obligations, covenant or provision of this Declaration.

11. **AMENDMENTS.** No amendment, change or addition to this Declaration shall be effective unless in writing signed by all owners of Parcel I and all owners of Parcel II.

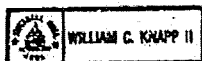
12. **RECORDATION.** A fully executed copy of this Declaration shall be recorded with the Polk County Iowa Recorder.

IOWA REALTY CO., INC.


William C. Knapp - Chairman of the Board

STATE OF IOWA, POLK COUNTY, SS:

On this 20th day of June, A.D., 1983, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared William C. Knapp, to me personally known, who, being by me duly sworn, did say that he is the Chairman of the Board of Iowa Realty Co., Inc. 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 William C. Knapp 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.



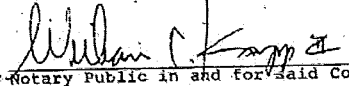

Notary Public in and for said County and State

EXHIBIT "X"

PARCEL I

"Commencing at the N.E. Corner of Section 33T78NR24 West of the 5th T.M. Des Moines, Polk County, Iowa, thence S0°37'1/2"E, along the East Line of the N.E. 1/4 of said Section 33, 454.85 feet, to the POINT OF BEGINNING, thence continuing S0°37'1/2"E, 965.15 feet, thence N90°00'W, parallel with and 1420.0 feet South of the North Line of the N.E. 1/4 of said Section 33, 948.0 feet, thence N0°37'1/2"W, parallel with and 948.0 feet West of the East Line of the N.E. 1/4 of said Section 33, 967.15 feet, thence S89°52'3/4"E, 948.0 feet, to the Point of Beginning. Said tract of land being subject to and together with any and all easements of record.

PARCEL II

"Commencing at the North 1/4 Corner of Section 33T78NR24 West of the 5th T.M. Des Moines, Polk County, Iowa, thence N90°00'E, along the North Line of the N.E. 1/4 of said Section 33, 813.55 feet, thence S0°37'3/4"E, parallel with and 813.55 feet East of the West Line of the N.E. 1/4 of said Section 33, 50.0 feet, to the POINT OF BEGINNING, thence continuing S0°37'3/4"E, 400.5 feet, thence N90°00'W, 100.0 feet, thence S0°37'3/4"E, 99.5 feet, thence N90°00'E, parallel with and 1420.0 feet South of the North Line of the N.E. 1/4 of said Section 33, 1932.5 feet, to the East Line of the N.E. 1/4 of said Section 33, thence N0°37'1/2"W, along the East Line of the N.E. 1/4 of said Section 33, 1370.0 feet, thence N90°00'E, parallel with and 50.0 feet South of the North Line of the N.E. 1/4 of said Section 33, 1824.6 feet, to the Point of Beginning. Said tract of land being subject to and together with any and all easements of record. EXCEPT the following described tract of land; Commencing at the North 1/4 Corner of Section 33T78NR24 West of the 5th T.M. Des Moines, Polk County, Iowa, thence N90°00'E, along the North Line of the N.E. 1/4 of said Section 33, 813.55 feet, thence S0°37'3/4"E, parallel with and 813.55 feet East of the West Line of the N.E. 1/4 of said Section 33, 50.0 feet, to the Point of Beginning, thence continuing S0°37'3/4"E, 400.5 feet, thence N90°00'W, parallel with and 450.5 feet South of the North

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PARCEL II - Continued

Line of the N.E. 1/4 of said Section 33, 500.0 feet, thence N0-37 3/4'W, 400.5 feet, thence N90-00'W, parallel with and 50.0 feet South of the North Line of the N.E. 1/4 of said Section 33, 500.0 feet, to the Point of Beginning, AND EXCEPT the following described tract of land; Commencing at the N.W. Corner of Section 33T78NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, thence S0-37 1/2'E, along the East Line of the N.E. 1/4 of said Section 33, 454.85 feet, to the Point of Beginning, thence continuing S0-37 1/2'E, 965.15 feet, thence N90-00'W, parallel with and 1420.0 feet South of the North Line of the N.E. 1/4 of said Section 33, 948.0 feet, thence N0-37 1/2'W, parallel with and 948.0 feet West of the East Line of the N.E. 1/4 of said Section 33, 967.15 feet, thence S89-52 3/4'E, 948.0 feet, to the Point of Beginning. All of the above described tract of land being subject to and together with any and all easements of record."

EASEMENT AREA "A"

"The North 60.0 feet of the following described tract of land; Commencing at the N.E. Corner of Section 33T78NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, thence S0-37 1/2'E, along the East Line of the N.E. 1/4 of said Section 33, 454.85 feet, to the POINT OF BEGINNING, thence continuing S0-37 1/2'E, 965.15 feet, thence N90-00'W, parallel with and 1420.0 feet South of the North Line of the N.E. 1/4 of said Section 33, 948.0 feet, thence N0-37 1/2'W, parallel with and 948.0 feet West of the East Line of the N.E. 1/4 of said Section 33, 967.15 feet, thence S89-52 3/4'E, 948.0 feet, to the Point of Beginning. Said tract of land being subject to and together with any and all easements of record."

EASEMENT AREA "B"

"The Center Line of a 60.0 Foot Wide Ingress and Egress Easement is described as follows; Commencing at the N.E. Corner of Section 33T78NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, thence West, along the North Line of the N.E. 1/4 of said Section 33, 1047.5 feet, thence South, parallel with and 1047.5 feet West of the East Line of the N.E. 1/4 of said Section 33, 50.0 feet, to the South Right-of-way Line of Army Post Road, as it is presently established, and to the POINT OF BEGINNING OF SAID 60.0 FOOT WIDE INGRESS AND EGRESS EASEMENT, thence continuing South, parallel with and 1047.5 feet West of the East Line of the N.E. 1/4 of said Section 33, 432.64 feet, more or less, to the Center Line of Dickman Road, as it is presently established, said Center Line being the Center Line of the Presently Established Pavement, in said Dickman Road, thence East, along the Center Line of said Dickman Road, 99.5 feet, to a point that is 948.0 feet West of the East Line of the N.E. 1/4 of said Section 33, and to the End of said 60.0 Foot Wide Ingress and Egress Easement."