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DECLARATION OF SANITARY SEWER AND WATER MAIN EASEMENTS

This Declaration, dated this 23rd day of June, 1983, by Iowa Realty Co., Inc. (hereinafter 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.

RECITALS

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 sanitary sewer and water mains 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 of and for the benefit of the legal or equitable title holder, lessees, licensees, invitees, customers, agents, employees and mortgagees, mutual cross-easements to use the existing private sanitary sewer lines and water mains which are located on Parcels I and II and are hereinafter referred to as follows:

Sanitary Sewer Easement "A"	
Sanitary Sewer Easement "B"	
Sanitary Sewer Easement "C"	HIST. NO. <u>19728</u>
Water Main Easement "S"	POLK COUNTY, IOWA
Water Main Easement "T"	FILED FOR RECORD <u>30.00</u>
Water Main Easement "U"	<u>12/88</u> JUN 24 1983
Water Main Easement "V"	AT
Water Main Easement "W"	P.M.
Water Main Easement "X"	KATIE SHINSTINE HOLSCHUH, Recorder
Water Main Easement "Y"	By <u>[Signature]</u> Deputy
Water Main Easement "Z"	

These Easements are legally described on Exhibit "X".

2. REPAIR, MAINTENANCE AND REPLACEMENT.

A. The owner(s) of Parcel I shall be responsible for the repair, maintenance and replacement of Sanitary Sewer Easement "A", Sanitary Sewer Easement "C", Water Main Easement "T", Water Main Easement "U", Water Main Easement "V", Water Main Easement "W", Water Main Easement "X" and Water Main Easement "Y", which are all located on Parcel I. 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 Sanitary Sewer Easement "B", Water Main Easement "S" and Water Main Easement "Z", which are all located on Parcel II. 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.

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3. RELOCATION. If all owner(s) of Parcel I and II agree in writing, any of the Sanitary Sewer Easements or Water Main Easements referred to in paragraph 1 above maybe relocated. The cost of such relocation shall be divided according to the written agreement of the owner(s).

4. DEDICATION. If all owner(s) of Parcel I and II agree in writing, any of the Sanitary Sewer Easements or Water Main Easements referred to in paragraph 1 above maybe 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 owner(s).

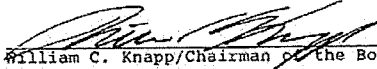
5. NATURE OF EASEMENTS AND RIGHTS GRANTED. The easement established by this Declaration and all of the covenants, rights, restrictions and provisions related thereto, are made for the direct benefit of Parcel I and Parcel II and shall be permanent easements which run with the land and shall be binding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

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

7. 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.

8. 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.

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


William C. Knapp/Chairman of the Board

STATE OF IOWA, POLK COUNTY, SS:

On this 23rd 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.



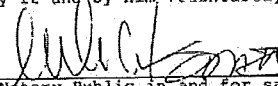

Notary Public in and for said County and State

EXHIBIT "X"

PARCEL I

"Commencing at the N.E. Corner of Section 33T70NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, thence $S0^{\circ}37'1/2''E$, along the East Line of the N.E. $1/4$ of said Section 33, 454.85 feet, to the POINT OF BEGINNING, thence continuing $S0^{\circ}37'1/2''E$, 965.15 feet, thence $N90^{\circ}00''W$, 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 $N0^{\circ}37'1/2''W$, 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 $S89^{\circ}52'3/4''E$, 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 33T70NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, thence $N90^{\circ}00''E$, along the North Line of the N.E. $1/4$ of said Section 33, 813.55 feet, thence $S0^{\circ}37'3/4''E$, 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 $S0^{\circ}37'3/4''E$, 400.5 feet, thence $N90^{\circ}00''W$, 108.0 feet, thence $S0^{\circ}37'3/4''S$, 969.5 feet, thence $N90^{\circ}00''E$, 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 $N0^{\circ}37'1/2''W$, along the East Line of the N.E. $1/4$ of said Section 33, 1370.0 feet, thence $N90^{\circ}00''W$, 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 33T70NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, thence $N90^{\circ}00''E$, along the North Line of the N.E. $1/4$ of said Section 33, 813.55 feet, thence $S0^{\circ}37'3/4''E$, 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 $S0^{\circ}37'3/4''E$, 400.5 feet, thence $N90^{\circ}00''E$, 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.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. All of the above described tract of land being subject to and together with any and all easements of record."

SANITARY SEWER EASEMENT "A"

"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, 1420.0 feet, to the POINT OF BEGINNING OF A SANITARY SEWER EASEMENT, 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, 18.25 feet, to the Proposed Future Right-Of-Way Line of Chaffee Road, as it is presently established, said point being 15.0 feet west of the West Curb Line of said Chaffee Road, thence continuing N90°-00'W, 10.0 feet, thence N0°-31'W, parallel with and 10.0 feet West of the Proposed Future West Right-Of-Way Line of said Chaffee Road, said line also being parallel with and 25.0 feet West of the West Curb Line of said Chaffee Road, as it is presently established, 965.15 feet, more or less, thence S89°-52 3/4'E, 10.0 feet, to the Proposed Future West Right-Of-Way Line of said Chaffee Road, thence continuing S89°-52 3/4'E, 16.4 feet, more or less, to the East Line of the N.E. 1/4 of said Section 33, thence S0°-37 1/2'E, along the East Line of the N.E. 1/4 of said Section 33, 965.15 feet, to the Point of Beginning." (The purpose of this

SANITARY SEWER EASEMENT "A" - Continued

legal description is to set forth a Sanitary Sewer Easement which will be 10.0 feet wide, lying adjacent to and parallel with the Proposed West Right-Of-Way Line of Chaffee Road, Said Right-Of-Way Line being measured 30.0 feet West of the Center Line of the presently established 30 foot wide Pavement in Chaffee Road. Until such time as this Right-Of-Way is established, the easement is for that parcel of land that lies West of the East Line of the N.E. 1/4 of said Section 33 and lies 10.0 feet West of the Proposed West Right-Of-Way Line for Chaffee Road.)

SANITARY SEWER EASEMENT "B"

"The East 50.0 feet, as measured on the North Line, and the East 35.0 feet, as measured on the South Line, of the South 464.85 feet of the North 514.85 feet of the N.E. 1/4 of Section 33T78NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, Except the South 60.0 feet thereof, being the Proposed 60.0 Foot Right-Of-Way for Dickman Road."

SANITARY SEWER EASEMENT "C"

"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, 960.69 feet, to the POINT OF BEGINNING OF A 25.0 Foot Wide Sanitary Sewer Easement, thence S09°29'W, along the Center Line of said 25.0 Foot Wide Sanitary Sewer Easement, 948.0 feet, to the end of said 25.0 Foot Wide Sanitary Sewer Easement."

WATER MAIN EASEMENT "S"

"Commencing at the N.E. Corner of Section 33T78NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, thence S0²37 1/2'E, along 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 A 20.0 FOOT WIDE WATER MAIN EASEMENT, thence continuing S0²37 1/2'E, along the East Line of the N.E. 1/4 of said Section 33, 404.85 feet, to the Future North Right-Of-Way Line of Dickman Road, said Future North Right-Of-Way Line being 30.0 feet North of the Center Line of the presently established Pavement Center Line of said Dickman Road, thence West, along the Future North Right-Of-Way Line of said Dickman Road, 20.0 feet, thence North, parallel with and 20.0 feet West of the East Line of the N.E. 1/4 of said Section 33, 404.85 feet, more or less, to the South Right-Of-Way Line of said Army Post Road, thence East, along the South Right-Of-Way Line of said Army Post Road, 20.0 feet, to the Point of Beginning.

WATER MAIN EASEMENT "T"

"Commencing at the N.E. Corner of Section 33T78NR24 West of the 5th P.M. Des Moines, Polk County, Iowa, thence S0²37 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 OF A 30.0 FOOT WIDE WATER MAIN EASEMENT, thence West along the Future North Right-Of-Way Line of Dickman Road, said Future North Right-Of-Way Line being 30.0 feet North of the Center Line of the Presently established Pavement of Dickman Road, 111.4 feet, more or less, thence South, parallel with and 95.0 feet West of the Future West Right-Of-Way Line of Chaffee Road, as it is presently established, said Future West Right-Of-Way Line of said Chaffee Road being 15.0 feet West of the West Curb Line of said Chaffee Road, 30.0 feet, to the Center Line of said Dickman Road, thence thence East, along the Center Line of said Dickman Road, 111.45 feet, more or less, to the East Line of the N.E. 1/4 of said Section 33, thence North, along the East Line of the N.E. 1/4 of said Section 33, 30.0 feet, to the Point of Beginning."

WATER MAIN EASEMENT "U"

"The Center Line of a 20.0 Foot Wide Water Main Easement is described as follows; Commencing at the N.E. Corner of Section 33T78NR24 West of the 5th S.W. Des Moines, Polk County, Iowa, thence South, along the East Line of the N.E. 1/4 of said Section 33, 484.85 feet, 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 West, along the Center Line of said Dickman Road, 101.45 feet, more or less, to a point that is 85.0 feet West of the Future West Right-Of-Way Line of Chaffee Road, as it is presently established, said West Right-Of-Way Line being 15.0 feet West of the West Curb Line of said Chaffee Road, and to the POINT OF BEGINNING OF THE CENTER LINE OF A 20.0 FOOT WIDE WATER MAIN EASEMENT, thence South, parallel with and 85.0 feet West of the Future West Right-Of-Way Line of said Chaffee Road, 852.6 feet to the End of said 20.0 Foot Wide Water Main Easement."

WATER MAIN EASEMENT "V"

"The Center Line of a 20.0 Foot Wide Water Main Easement is described as follows, Commencing at the N.E. Corner of Section 33T78NR24 West of the 5th S.W. Des Moines, Polk County, Iowa, thence South, along the East Line of the N.E. 1/4 of said Section 33, 484.85 feet, 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 West, along the Center Line of said Dickman Road, 101.45 feet, more or less, to a point that is 85.0 feet West of the Future West Right-Of-Way Line of Chaffee Road, as it is presently established, said West Right-Of-Way Line being 15.0 feet West of the West Curb Line of said Chaffee Road, thence South, parallel with and 85.0 feet West of the Future West Right-Of-Way Line of said Chaffee Road, 110.95 to the POINT OF OF A 20.0 FOOT WIDE WATER MAIN EASEMENT, thence West, at Right Angle to the Future West Right-Of-Way Line of said Chaffee Road, to a point that is 945.0 feet West of the East Line of the N.E. 1/4 of said Section 33, and to the End of the said 20.0 Foot Wide Water Main Easement."

WATER MAIN EASEMENT "W"

The Center Line of a 20.0 Foot Wide Water Main 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 South, along the East Line of the N.E. 1/4 of said Section 33, 484.85 feet, 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 West, along the Center Line of said Dickman Road, 101.45 feet, more or less, to a point that is 85.0 feet West of the Future West Right-Of-Way Line of Chaffee Road, as it is presently established, said West Right-Of-Way Line being 15.0 feet West of the West Curb Line of said Chaffee Road, thence South, parallel with and 85.0 feet West of the Future West Right-Of-Way Line of said Chaffee Road, 842.6 feet, to the POINT OF BEGINNING OF A 20.0 FOOT WIDE WATER MAIN EASEMENT, thence West, at Right Angles to the Future West Right-Of-Way Line of said Chaffee Road, 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 20.0 Foot Wide Water Main Easement."

WATER MAIN EASEMENT "X"

"The Center Line of a 20.0 Foot Wide Water Main 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 South, along the East Line of the N.E. 1/4 of said Section 33, 484.85 feet, 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 West, along the Center Line of said Dickman Road, 101.45 feet, more or less, to a point that is 85.0 feet West of the Future West Right-Of-Way Line of Chaffee Road, as it is presently established, said West Right-Of-Way Line being 15.0 feet West of the West Curb Line of said Chaffee Road, thence South, parallel with and 15.0 feet West of the Future West Right-Of-Way Line of said Chaffee Road, 842.6 feet, thence West, at Right Angles to the West Right-Of-Way Line of said Chaffee Road,

WATER MAIN EASEMENT "X" - Continued

766.68 feet, to the POINT OF BEGINNING OF A 20.0 FOOT WIDE WATER MAIN EASEMENT, thence North, parallel with and 851.68 feet West of the Future West Right-Of-Way Line of said Chaffe Road, to a point that is on the Future North Right-Of-Way Line of said Dickman Road, said Future North Right-Of-Way Line being 30.0 feet North of the Center Line of said Dickman Road, and to the End of said 20.0 Foot Wide Water Main Easement."

WATER MAIN EASEMENT "Y"

"Commencing at the N.E. Corner of Section 33T70NR24 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, thence West, along the Future North Right-Of-Way Line of Dickman Road, said Future North Right-Of-Way Line being 30.0 feet North of the Center Line of the Presently established Pavement of Dickman Road, 111.4 feet, more or less, to a point that is 95.0 feet West of the Future West Right-Of-Way Line of Chaffee Road, as it is presently established, said Future West Right-Of-Way Line of said Chaffee Road being 15.0 feet West of the West Curb Line of said Chaffee Road, thence continuing West, along the Future North Right-Of-Way Line of said Dickman Road, 766.68 feet, to the POINT OF BEGINNING OF A 30.0 FOOT WIDE WATER MAIN EASEMENT, thence continuing West, along the Future North Right-Of-Way Line of said Dickman Road, to a point that is 948.0 feet West of the East Line of the N.E. 1/4 of said Section 33, thence South, parallel with and 948.0 feet West of the East Line of the N.E. 1/4 of said Section 33, 30.0 feet, to the Center Line of said Dickman Road, thence East, along the Center Line of said Dickman Road, to a point that is 30.0 feet South of the Point of Beginning, thence North, 30.0 feet, to the Point of Beginning."

WATER MAIN EASEMENT "Z"

"The Center Line of a 20.0 Foot Wide Water Main 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, 1017.5 feet, thence South, parallel with and 1017.5 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 20.0 FOOT WIDE WATER MAIN EASEMENT, thence continuing South, parallel with and 1017.5 feet West of the East Line of the N.E. 1/4 of said Section 33, 402.64 feet, more or less, to a point that is on the Future North Right-Of-Way Line of Dickman Road, said Future North Right-Of-Way Line being 30.0 feet North of the Center Line of said Dickman Road, thence East, along the Future North Right-Of-Way Line of said Dickman Road, 69.5 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 20.0 Foot Wide Water Main Easement."