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JAN DONTSCHHELLER
RECORDER
DICKINSON COUNTY, IOWA
FEE \$ 46.00

Prepared by:
Earl H. Maahs 708 Lake Street Spirit Lake, Iowa 51360 712/336-1292

UTILITY EASEMENT AND MAINTENANCE AGREEMENT

THIS AGREEMENT entered into by and between **Iowa Resort Holdings, L.L.C.**, hereinafter "**Iowa Resorts**", and **Equity Homes, Inc.**, hereinafter "**Equity Homes**".

WHEREAS, Iowa Resorts is the owner of the property described on Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, Equity Homes is the owner of the property described on Exhibit "B" attached hereto and by this reference incorporated herein; and

WHEREAS, the sanitary sewer distribution system and water distribution system located on property owned by **Iowa Resorts** and **Equity Homes** is privately owned by **Iowa Resorts**; and

WHEREAS, Iowa Resorts desires to allow **Equity Homes** to connect to the sanitary sewer distribution lines and water distribution lines and **Equity Homes** desires to grant an easement to **Iowa Resorts** for the sanitary sewer distribution lines and water distribution lines located on property of **Equity Homes**; and

WHEREAS, the parties desire to enter into an agreement regarding the maintenance of the sanitary sewer distribution lines and the water distribution lines that are jointly used by the parties; and

WHEREAS, Iowa Resorts has 20 units and **Equity Homes** has 24 units connected to the joint distribution line for sanitary sewer; and

WHEREAS, Iowa Resorts has 166 units and **Equity Homes** has 24 units connected to joint distribution lines for water; and

WHEREAS, Iowa Resorts has 166 units and **Equity Homes** has 24 units connected to the holding tank for sanitary sewer; and

WHEREAS, Iowa Resorts has a boat named the *Village Princess* and desires to use the boat ramp located on the property of **Equity Homes**; and

WHEREAS, although **Iowa Resorts** cannot give appropriate easements for electrical, gas, cable television and water since those utilities have not been located, it desires to grant easements for said utilities to **Equity Homes**; and

WHEREAS, there may be damage to the road used by **Equity Homes** for ingress and egress on property owned by **Iowa Resorts** because of heavy construction equipment, **Equity Homes** should be responsible for said damage.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. **Iowa Resorts** hereby grants permission to **Equity Homes** to connect to the sanitary sewer distribution and water distribution lines and hereby grants **Equity Homes** an easement for the use of the sanitary sewer distribution

line and the water distribution lines located on property owned by **Iowa Resorts**.

2. **Equity Homes** hereby conveys an easement to **Iowa Resorts** for existing sanitary sewer distribution lines and water distribution lines located on the property of **Equity Homes**.

3. Both parties agree to share the expenses for the repair, maintenance, replacement or capital improvements to sanitary sewer distribution lines jointly used by the parties as follows:

Iowa Resorts 20 units / 44 units or 45.45% of the cost

Equity Homes 24 units / 44 units or 54.55% of the cost

4. Both parties agree to share the expenses for the repair, maintenance, replacement or capital improvements to the water distribution lines jointly used by the parties as follows:

Iowa Resorts 166 units / 190 units or 87.36% of the cost

Equity Homes 24 units / 190 units or 12.64% of the cost

5. Both parties agree to share the expenses for the repair, maintenance, replacement or capital improvements to the holding tank jointly used by the parties as follows:

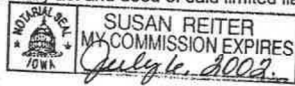
Iowa Resorts 166 units / 190 units or 87.36% of the cost

Equity Homes 24 units / 190 units or 12.64% of the cost

6. Both parties agree that in the event either party determines repair or maintenance is necessary, said party may order repairs or maintenance and each party will pay the proportionate share of said cost. Any additional repairs or maintenance shall not be undertaken under this agreement except with the prior, express and written consent of each of the parties.
7. **Equity Homes** hereby authorizes **Iowa Resorts** to use the existing boat ramp for as long as **Equity Homes** maintains the boat ramp so that **Iowa Resorts** can launch the *Village Princess* in the spring and remove the *Village Princess* in the fall.
8. In the event **Equity Homes** damages the road used for ingress and egress during construction due to the use by heavy equipment of said road, **Equity Homes** shall repair said damage and return the road to its former condition.
9. Each of the parties agrees to indemnify and hold the other harmless from and against any and all liability for personal injury or property damage when such injury or damage shall result from, arise out of, or be attributable to any maintenance or repair undertaken or pursuant to this agreement.
10. Upon location of utilities to serve this property; gas, electric, cable television and water, **Iowa Resorts** will grant appropriate easements to said utilities to serve property owned by **Equity Homes**.
11. It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the state of Iowa.

STATE OF IOWA)
) ss
COUNTY OF DICKINSON)

On this 3rd day of January, 2001, before me, a Notary Public in and for said State, personally appeared **Michael D. Hoepfner**, to me personally known, who being by me duly sworn did say that he is the **Member Manager** of said limited liability company, that no seal has been procured by the said limited liability company and that said instrument was signed on behalf of the said limited liability company by authority of its Member Managers and the said **Michael D. Hoepfner** acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.



Susan Reiter
Notary Public in and for the State of Iowa

EXHIBIT A

Portions of Government Lot One (1) and the NW¼NE¼ of Section Fourteen (14), Township Ninety-Nine (99) North, Range Thirty-Seven (37) West of the 5th P.M., Dickinson County, Iowa, described as follows:- Commencing at the North Quarter (NE¼) corner of said Section 14; thence on an assumed bearing of South 0°23.0' West 1318.23 feet along the westerly line of the NE¼ of said Section 14 to the southerly line of the North Half (N½) of said NE¼; thence South 89°03.0' East 83.10 feet along said NE¼N½ southerly line to the point of beginning at the easterly right-of-way line of Primary Road No. 32 (Iowa State Highway Commission Project F-490 Official Plans); thence continuing South 89°03.0' East 2073.73 feet along said Northeast Quarter North Half (NE¼N½) southerly line; thence North 1°32.3' East 88.34 feet; thence North 49°42.8' East 390.37 feet to the Iowa State Conservation Commission West Okoboji Lake westerly shoreline; thence North 45°23.4' West 61.53 feet along said shoreline; thence North 28°53.0' West 96.08 feet along said shoreline; thence North 32°02.2' West 107.28 feet along said shoreline; thence North 35°39.6' East 76.24 feet along said shoreline; thence North 1°01.0' West 120.66 feet along said shoreline; thence 4°26.3' West 203.91 feet along said shoreline; thence North 14°12.6' West 55.32 feet along said shoreline; thence North 24°51.6' West 91.18 feet along said shoreline; thence North 30°26.9' West 197.98 feet along said shoreline; thence North 17°54.4' West 61.45 feet along said shoreline to a point 3 feet southerly of the northerly line of the Northeast Quarter (NE¼) of said Section 14; thence North 89°33.8' West 258.50 feet to a point 5.84 feet southerly of the southwest corner of Lot 42 of Auditor's Plat No. 121, Dickinson County, Iowa, thence North 1°04.2' East 5.84 feet to the southwest corner of said Lot 42 and the northerly line of the NE¼ of said Section 14; thence North 88°55.2' West 1807.78 feet along said NE¼ northerly line to the easterly right-of-way line of Iowa Primary Road No. 32; thence South 12°51.1' West 168.92 feet along said right-of-way line; thence South 0°25.2' West 49.47 feet along said right-of-way line; thence South 89°37.0' East 15.00 feet along said right-of-way line; thence South 0°25.2' West 982.51 feet along said right-of-way line; thence South 6°38.8' East 121.95 feet along said right-of-way line to the point of beginning, containing 67.37 acres;

EXCEPT:-

- A. Unit Nos. 7F, 8F, 610, 611, 612, 613/615 AND 614/616, of Sunrise Cove Time-Share, according to the Declaration of Time Share of Sunrise Cove recorded March 29, 1989, at Miscellaneous Record 2, Page 167; **AND EXCEPT**
- B. Unit Nos. 1F, 3F, 4F, 5F, 6F, 608, 617/619 AND 618/620, of Sunrise Cove Time-Share, according to the Declaration of Time Share of Sunrise Cove recorded July 12, 1989, at Miscellaneous Record 2, Page 511; **AND EXCEPT**
- C. Unit Nos. 1E, 8E, 9E, 2F, 606, 605/607 AND 621/623, of Sunrise Cove Time-Share, according to the Declaration of Time Share of Sunrise Cove recorded September 11, 1989, at Miscellaneous Record 2, Page 797; **AND EXCEPT**
- D. Unit Nos. 2E, 3E, 4E, 5E, 6E, 7E, 411, 413, 415, 601/603, AND 622/624, of Sunrise Cove Time-Share, according to the Declaration of Time Share of Sunrise Cove recorded May 25, 1990, at Miscellaneous Record 3, Page 373; **AND EXCEPT**
- E. Unit Nos. 1G, 2G, 417, 419, 517/519, AND 521/523, of Sunrise Cove Time-Share, according to the Declaration of Time Share of Sunrise Cove recorded July 31, 1991, at Miscellaneous Record 4, Page 693; **AND EXCEPT**
- F. That part of Government Lot One (1) of the Northeast Quarter (NE¼) of Section Fourteen (14), Township Ninety-Nine (99) North, Range Thirty-Seven (37), West of the 5th P.M., Dickinson County, Iowa, described as follows:- Commencing at the North Quarter (N¼) corner of said Section Fourteen (14); thence South 88°55.2' East (Section 14-99-37 NE¼ westerly line is assumed to bear South 0°23.0' West) 1898.09 feet along the northerly line of the NE¼ of said Section 14 to the southwest corner of Lot 42 of Auditor's Plat No. 121, Dickinson County, Iowa, a Reg. #3869 capped 5/8" rebar 569.5 feet easterly of the northwest corner of said Government Lot 1; thence South 1°04.2' West 5.84 feet to the point of beginning; thence South 7°34.5' East 50.49 feet; thence South 89°33.8' East 268.04 feet to the Iowa State Conservation Commission West Okoboji Lake westerly shoreline; thence North 17°54.4' West 52.67 feet along said shoreline to a point 3 feet southerly of the northerly line of said Government Lot 1; thence North 89°33.8' West 258.50 feet to the point of beginning, containing 0.30 acre; **AND EXCEPT**