DELAWARE COUNTY IOWA
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DEBORAH L PEYTON
DELAWARE CO RECORDER
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City of Manchester

Preparer: James T. Peters, P.O. Box 774, Independence, IA 50644; (319)334-9992

FORGIVABLE NOTE AND MORTGAGE

GENERAL TERMS

1. The City of Manchester, Iowa, and Cheryl Meader hereby enter into an agreement whereby the City of Manchester, Iowa, will transfer by Quit Claim Deed the following-described property to Cheryl Meader:

   Lot 1, Tirrill Park Lodge Subdivision, a Subdivision of Lot 5, Lot 6, Lot 7 of the Subdivision of Lot 25, Burrington's Addition, Section 29, Township 89 North, Range 5 West of the 5th P.M., Manchester, Delaware County, Iowa.

2005-511

2. That in consideration for the transfer of property, the parties agree that the Restrictive Covenants, a copy of which are attached hereto and by this reference made a part hereof, shall be placed of record and become immediately enforceable.

3. That Cheryl Meader, in consideration for the above-described real estate, agrees to perform or provide for certain improvements to the structures located on the above-described premises. The parties further agree that failure to complete the repairs in a timely manner as set forth herein shall entitle the City of Manchester, Iowa, to foreclose its lien and regain title to the above-described premises.

4. Cheryl Meader agrees that a lien in the amount of $100,000 shall be placed against the above-described real estate in favor of the City of Manchester, Iowa. This lien shall be satisfied either by timely completion of all improvements referred to herein or transfer of title of the above-described premises to the City of Manchester, Iowa.

5. The parties further acknowledge that it will be necessary for Cheryl Meader to obtain financing from a private lender to complete the improvements anticipated herein. The City of Manchester, Iowa, shall cooperate in signing subordination agreements providing a private financing entity a first mortgage lien against the above-described property. The City of Manchester, Iowa, shall execute such necessary and appropriate subordination agreements as needed to give effect to the terms of this agreement.

NOTE

Cheryl Meader agrees to obligations in favor of the City of Manchester, Iowa, in the sum of One Hundred Thousand Dollars ($100,000.00), which shall be satisfied as set forth in

Paragraphs 1, 2, 3 or 4 below. Cheryl Meader shall have the sole discretion to choose which of the methods shown below she wishes to use to satisfy the obligations created herein.

1. Cheryl Meader shall complete the following improvements and repairs to the above-described property shown on Exhibit "A" within two (2) years from the date of this agreement.

2. Cheryl Meader shall issue a deed transferring title to the above-described property to the City of Manchester, Iowa, subject to liens which have been granted priority by the City of Manchester.

3. That no personal liability shall accrue against Cheryl Meader for enforcement of the $100,000 obligation referred to herein. The sole remedy for failure to timely complete the repairs in Paragraph 1 available to the City shall be a deed or *in rem* mortgage foreclosure enforcing the liens created herein. However, the City of Manchester, Iowa, shall be entitled to judgment against Cheryl Meader for reasonable attorney fees, if any, which may be awarded by a court in the event litigation concerning any terms or conditions of this agreement shall be necessary.

4. Cheryl Meader shall pay the sum of $100,000 to the City of Manchester, Iowa.

MORTGAGE

THIS MORTGAGE is made between Cheryl Meader, ("Mortgagor") and City of Manchester, Iowa ("Mortgagee"). This Mortgage is a Purchase Money Mortgage as defined in the Iowa Code.

1. **Grant of Mortgage and Security Interest.** Mortgagor hereby sells, conveys and mortgages unto Mortgagee, and grants a security interest to Mortgagee in the following described property:

a. **Land and Buildings**. All of Mortgagor's right, title and interest in and to the following described real estate situated in Delaware County, Iowa (the "Land");

Lot 5, Lot 6, Lot 7 of the Subdivision of Lot 25, Burrington's Addition, Section 29, Township 89 North, Range 5 West of the 5th P.M., Manchester, Delaware County, Iowa.

and all buildings, structures and improvements now standing or at any time hereafter constructed or placed upon the Land (the "Buildings"), including all hereditament, easements, appurtenances, riparian rights, mineral rights, water rights, rights in and to the lands lying in streets, alleys and roads adjoining the land, estates and other rights and interests now or hereafter belonging to or in any way pertaining to the Land.

b. **Personal Property.** All fixtures and other personal property integrally belonging to, or hereafter becoming an integral part of the Land or Buildings. whether attached or

detached, including but not limited to, light fixtures, shades, rods, blinds, Venetian blinds, awnings, storm windows, screens, linoleum, water softeners, automatic heating and air-conditioning equipment and all proceeds, products, increase, issue, accessions, attachments, accessories, parts, additions, repairs. replacements and substitutes of, to, and for the foregoing (the "Personal Property").

2. **Obligations.** This Mortgage secures the following (hereinafter collectively referred to as the "Obligations"):

a. The payment of the obligations of the note set out above.

3. **Taxes.** Mortgagor shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Mortgaged Property before the same become delinquent, without notice or demand, and shall deliver to Mortgagee proof of such payment within fifteen (15) days after the date in which such tax or assessment becomes delinquent.

4. **Liens.** Mortgagor shall not create, incur or suffer to exist any lien, encumbrance, security interest or charge on the Mortgaged Property or any part thereof which might or could be held to be equal or prior to the lien of this Mortgage, other than the lien of current real estate taxes and installments of special assessments with respect to which no penalty is yet payable. Mortgagor shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Mortgaged Property.

5. **Compliance with Laws.** Mortgagor shall comply with all present and future statutes, laws, rules, orders, regulations and ordinances affecting the Mortgaged Property, any part thereof or the use thereof.

6. **Care of Property.** Mortgagor shall take good care of the Mortgaged Property; shall keep the Buildings and Personal Property now or later placed upon the Mortgaged Property in good and reasonable repair and shall not injure, destroy or remove either the Buildings or Personal Property during the term of this Mortgage. Mortgagor shall not make any material alteration to the Mortgaged Property without the prior written consent of Mortgagee.

7. **Insurance.**

a. **Risks to be Insured.** Mortgagor, at her sole cost and expense, shall maintain insurance on the Buildings and other improvements now existing or hereafter erected on the Land and on the Personal Property included in the Mortgaged Property against loss by fire, extended coverage perils and such other hazards as Mortgagee may from time to time require, such insurance to have a "Replacement Cost" endorsement attached thereto, with the amount of the insurance at least equal to the balance of the Obligations. At Mortgagor's option, such policy may have a coinsurance clause of not less than 90% of replacement cost provided the policy contains an appropriate form of cost escalation endorsement. Mortgagor

will at her sole cost and expense, from time to time, and at any time at the request of Mortgagee, provide Mortgagee with evidence satisfactory to Mortgagee of the replacement cost of Mortgaged Property. Mortgagor will maintain such other insurance as Mortgagee may reasonably require.

b. **Policy Provisions.** All insurance policies and renewals thereof maintained by Mortgagor pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Mortgagee, be payable to the parties as their interest may appear, contain a standard or union-type loss payable clause in favor of Mortgagee, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after thirty (30) days prior written notice to Mortgagee, and be reasonably satisfactory to Mortgagee in all other respects.

c. **Delivery of Policy or Certificate.** If requested by Mortgagee, Mortgagor will deliver to Mortgagee original policies satisfactory to Mortgagee evidencing the insurance which is required under this Mortgage, and Mortgagor shall promptly furnish to Mortgagee all renewal notices and, upon request of Mortgagee, evidence of payment thereof. At least ten (10) days prior to the expiration date of a required policy, Mortgagor shall deliver to Mortgagee a renewal policy in form satisfactory to Mortgagee.

8. **Attorneys' Fees.** Mortgagor shall pay on demand all costs and expenses incurred by Mortgagee in enforcing or protecting its rights and remedies hereunder, including, but not limited to, reasonable attorneys' fees and legal expenses.

9. **Forbearance not a Waiver, Rights and Remedies Cumulative.** No delay by Mortgagee in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy, and no waiver by Mortgagee of any particular provisions of this Mortgage shall be deemed effective unless in writing signed by Mortgagee. All such rights and remedies provided for herein or which Mortgagee or the holder of the Obligations may have otherwise, at law or in equity, shall be distinct, separate and cumulative and may be exercised concurrently, independently or successively in any order whatsoever, and as often as the occasion therefor arises.

10. **Severability**. In the event any portion of this Mortgage shall, for any reason, be held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Mortgage is invalid, illegal, or unenforceable as written, but that by limiting such provision it would become valid, legal and enforceable then such provision shall be deemed to be written, construed and enforced as so limited.

11. **Successors and Assigns bound; Number; Gender; Agents; Captions**. The rights, covenants and agreements contained herein shall be binding upon and inure to the benefit of the respective legal representatives, successors and assigns of the parties. Words and phrases contained herein, including acknowledgment hereof, shall be construed as in the singular or

plural number, and as masculine, feminine or neuter gender according to the contexts. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

12. **Governing Law.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Iowa.

13. **Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property.

14. **Acknowledgment of Receipt of Copies of Debt Instrument.** Mortgagor hereby acknowledges the receipt of a copy of this Mortgage together with a copy of each promissory note secured hereby.

15. **Additional Provisions.**

Dated: 2-15-2005

Cheryl Meader

Cheryl Meader, Mortgagor

I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE; AND THAT BY SIGNING THIS MORTGAGE, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS MORTGAGED PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS MORTGAGE.

Dated: 2-15-2005

Cheryl Meader

Cheryl Meader

STATE OF IOWA

ss:

COUNTY OF DELAWARE

On this February 15, 2005, before me, the undersigned, a Notary Public, personally appeared Cheryl Meader, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that she executed the same as her voluntary act and deed.

Laura K. Thomas
, Notary Public



EXHIBIT "A"
REQUIRED IMPROVEMENTS

1. All structures located upon the premises shall have a water tight roof. The roof of the main structure shall be prepared, painted and sealed. All repairs and improvements to the roof shall be in accordance with generally accepted construction techniques.

2. All siding and wood doors shall be prepared and painted in accordance with generally accepted construction techniques.

3. All windows shall have broken glass repaired or replaced. All windows shall be caulked or otherwise brought into a condition of good repair.

4. The front porch shall be repaired in a manner consistent with the design and architecture of the home. The repairs shall bring the condition of the porch to a condition of good repair both visually and structurally.

5. The retaining wall in the front of the home shall be repaired or replaced with a similar design of wall. In the alternative, the wall may be removed and the area re-graded to address the topographical needs of the area.

6. The basement shall have glass windows installed where appropriate.

7. New doors shall be installed to serve the current basement and garage.

8. Electrical service and wiring for the residential structure shall be brought up to City Code standards.

All construction required by this agreement shall be performed in accordance with applicable state and local law. Construction and improvements required by this agreement shall be performed in a good workmanlike manner and shall be consistent with the general design and architecture of the home.

Preparer: James T. Peters, P.O. Box 774, Independence, IA 50644; (319)334-9992

RESTRICTIVE COVENANTS FOR TIRRILL LODGE RESIDENCE

Lot 1, Tirrill Park Lodge Subdivision, a Subdivision of Lot 5, Lot 6, Lot 7 of the Subdivision of Lot 25, Burrington's Addition, Section 29, Township 89 North, Range 5 West of the 5th P.M., Manchester, Delaware County, Iowa.

WHEREAS, the City Council for the City of Manchester, Iowa, has determined that the structures located on the above-described property are of a historical significance which should be preserved in the event the property is sold or transferred to a private party; and

WHEREAS, the City Council has determined that certain restrictions should be placed upon the property in the event it is sold to ensure that the historical significance of the structure is maintained and to preserve the character of the surrounding area, which includes public park property utilized by the citizens of the City of Manchester, Iowa; and

WHEREAS, the undersigned, Cheryl Meader, hereinafter referred to as "Purchaser", acknowledges that the covenants and restrictions set forth herein are necessary and appropriate to ensure the historical significance of the building and the historical character of the public property adjacent to the above-described premises;

THE CITY OF MANCHESTER, IOWA, AND PURCHASER HEREBY COVENANT AND AGREE as follows:

1. The following modifications, improvements, alterations and other changes to the above-described premises shall be prohibited without obtaining the prior approval of the Park & Rec Commission of the City of Manchester, Iowa:

a. Construction or removal of fences, retaining walls, driveways, or other similar structures;

b. Any structural changes to buildings;

c. Any change in paint color or design of the exterior of structures;

d. Any material change to landscaping located on the property;

e. Planting of any trees, bushes, or shrubs on the premises;

f. Placement of any new structure upon the premises;

g. Any material change in the grade or slope of the premises or material change to the drainage of surface water.

h. In the event of catastrophic loss to the structures on the subject premises resulting in destruction of the premises to such a degree that it would be necessary to demolish the remaining structure, Purchaser shall be permitted to construct a new structure on the premises which is designed and constructed in a manner which is consistent with the character of the prior structure. Such construction shall be subject to approval by the City in the manner set forth below.

The Park & Rec Commission for the City of Manchester, Iowa, shall not unreasonably refuse to approve structural changes which maintain the historical character of the buildings and surrounding area. In the event the Park & Rec Commission refuses to approve proposed improvements or changes to the exterior of the premises, Purchaser shall be entitled to appeal the decision to the City Council for the City of Manchester, Iowa, by filing a written request for hearing with the City Clerk for the City of Manchester, Iowa, within 30 days of the decision of the Park & Rec Commission. Upon receipt of an appeal by Purchaser, the City Council shall hold a hearing and following hearing, make a determination as to whether or not the proposed changes or improvements should be permitted. The decision of the City Council following public hearing shall be a final decision which is subject to appeal to the Iowa District Court.

2. No outside storage of boats, cars, trailers, campers, or similar machinery or equipment shall be permitted.

3. Violation of the restrictions and covenants set forth herein shall be enforceable by the City of Manchester, Iowa, by injunction, specific performance, or damages, or any combination thereof. The City shall have the right to proceed with the filing of an action in the Iowa District Court for Delaware County seeking authority to correct any violation and assess the costs for correcting the violation to the property.

4. In the event it becomes necessary for the City to seek enforcement of the terms of the covenants set forth herein through court action, the City shall be entitled to recover reasonable attorney fees incurred by the City for such action.

5. This agreement shall be recorded in the Office of the Delaware County Recorder and the covenants and agreements set forth herein shall be deemed to run with the land, being binding upon all heirs, transferees, or assigns of Purchaser.

6. The City of Manchester, Iowa, is granted a right of first refusal to the above-described property. More specifically, in the event Purchaser seeks to sell the above-described premises to a third party, the sale shall be subject to the following:

a. Purchaser shall provide written Notice to the City of Manchester, Iowa, of the terms of the proposed sale of property.

b. The City of Manchester, Iowa, shall have 30 days from receipt of the Notice to agree to purchase the real estate pursuant to the same terms and conditions.

c. In the event the City of Manchester, Iowa, fails to agree in writing to purchase the real estate pursuant to the terms of the Notice within 30 days of receipt of Notice from Purchaser, Purchaser shall be permitted to sell the property to a third party upon the terms referred to in the notice referred to in Paragraph (a) above.

d. In the event sale of the real estate to a third party pursuant to the terms of the Notice referred to in Paragraph (a) above is not completed, the terms for right of first refusal shall apply to all later proposals for sale of the property.

7. The subject property is located within a Residential Zoning District and Purchaser accepts the current zoning classification. Purchaser shall not permit any structure, use or activity in violation of applicable zoning ordinances. Purchaser shall maintain the property free of weeds and debris and shall comply with all other provisions of the ordinances in effect for the City of Manchester, Iowa.

Cheryl Meader

Cheryl Meader

STATE OF IOWA, COUNTY OF DELAWARE, SS:

On this 15th day of February, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Cheryl Meader, to me known to be the person named in and who executed the foregoing instrument, and acknowledged that she executed the same as her voluntary act and deed.

Laura K. Thomas

Notary Public in and for the State of Iowa

LAURA K. THOMAS
Commission Number 718135
My Commission Expires
2-26-05

CITY OF MANCHESTER, IOWA

BY: Milt L. Kramer
Milt L. Kramer, Mayor

BY: _____
Erin Rempe, City Clerk

STATE OF IOWA, COUNTY OF DELAWARE:

On this 2-15, 2005, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Milt L. Kramer and Erin Rempe, to me personally known, did say that they are the Mayor and City Clerk, respectively, of the City of Manchester, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Resolution No. R-009-2005 passed by Resolution of the City Council under Roll Call No. — of the City Council on the 24 day of January, 2005, and Milt L. Kramer and Erin Rempe acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Laura K. Thomas
Notary Public in and for said State.

LAURA K. THOMAS
Commission Number 718135
My Commission Expires
8-26-05