

FILED NO. 2536

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96 MAR 19 AM 11:45

MICHELLE UTSLER  
RECORDER  
MADISON COUNTY, IOWA

Prepared By: Samuel H. Braland, P.O. Box 370, Earlham, Iowa 50072  
(515) 758-2267

REC. \$ 15.00  
ADD.         
R.M.F. \$ 1.00

PERMANENT SURFACE WATER FLOWAGE EASEMENT

COMPUTER   
RECORDED   
COMPARED

KNOW ALL PERSONS BY THESE PRESENTS:

That Earlham Building Center, Inc., an Iowa corporation (hereinafter called "Grantor"), as owner of Lot 10 of Clearview Third Addition to the City of Earlham, Madison County, Iowa, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby convey unto the City of Earlham, Iowa, a municipal corporation, (hereinafter called "City") a perpetual easement and right-of-way under, over, on, through, across and within the following described portion of said Lot 10 of Clearview Third Addition to the City of Earlham, Madison County, Iowa, to-wit:

The South 155.00 feet of the East 365.00 feet of Lot 10 of Clearview Third Addition to the City of Earlham, Madison County, Iowa,

(hereinafter called "Easement Area"),

for the purpose of the City constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining surface water flowage from storm sewer and other sources together with all necessary structures and appurtenances thereto, under, over, on, through, across and within said Easement Area.

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

1. ERECTION AND PLACEMENT OF STRUCTURES, OBSTRUCTIONS, PLANTINGS, OR MATERIALS PROHIBITED. Grantor shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.

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.

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, including but not limited to the right to remove without liability to Grantor, any unauthorized fences, structures, obstruction, planting, or material placed or erected under, over, on, through, across or within the Easement Area.

#2. Permanent Surface Water Flowage Easement.

4. LIABILITY. The City of Earlham shall not be liable for any injuries or damages to said real estate, any property abutting said real estate or any improvements or obstructions thereon resulting from the exercise of its rights herein granted, or arising in any manner from the existence of this Easement or from the flowage or drainage of water into, over, through, across or out of said Easement Area.

5. MAINTENANCE. The City shall not be responsible for any maintenance of the land located within the Easement Area whatsoever and that responsibility shall remain with the Grantor; provided, however, the City may perform such maintenance should it determine in its sole discretion such maintenance is needed.

6. EASEMENT BENEFIT. This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.

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.

8. APPROVAL BY CITY COUNCIL. This Easement shall not be binding until it has received the final approval and acceptance by the City Council of Earlham, Iowa, by resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

Grantor does hereby covenant with the City that Grantor holds the real estate described in this Easement by title in fee simple; that Grantor has good and lawful authority to convey this Easement.

IN WITNESS WHEREOF, this Easement is signed this 8<sup>th</sup> day of March, 1996.

GRANTOR

EARLHAM BUILDING CENTER, INC.


By *Gary A. Arnburg*  
Gary A. Arnburg, President

By *Gary A. Arnburg*  
Gary A. Arnburg, Secretary

#3. Permanent Surface Water Flowage Easement.

STATE OF IOWA :  
: SS  
MADISON COUNTY :

On this 8<sup>th</sup> day of March, 1996, before me, the under-  
signed, a Notary Public in and for the State of Iowa, personally  
appeared Gary A. Arnburg to me personally known, who, being by me  
duly sworn, did say that he is the President and Secretary,  
respectively, of said corporation executing the within and fore-  
going 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 Gary A. Arnburg as such officers acknowledged the execution  
of said instrument to be the voluntary act and deed of said  
corporation, by it and by him voluntarily executed.


  
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Notary Public in and for the  
State of Iowa.



STATE OF IOWA :  
: SS  
MADISON COUNTY :

I, Marilyn Sesker, City Clerk of the City of Earlham, Iowa,  
do hereby certify that the within and foregoing Easement was duly  
approved and accepted by the City Council of the City of Earlham,  
Iowa, by Resolution No. 96-3, passed on the 11th day of  
March, 1996, and this certificate is made pursuant to authority  
contained in said Resolution.

Dated this 18<sup>th</sup> day of March, 1996.

  
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Marilyn Sesker, City Clerk

