AGREEMENT

This Agreement, made in duplicate this 7th day of June, A.D. 1976, by and between the City of Earlham, Iowa, hereinafter designated as "City" and Clearview Development Corporation of Earlham, Iowa, hereinafter designated as "Corporation" as follows:

WHEREAS, the City is the owner of Academy Avenue and Elm Street in the City of Earlham, Iowa.

WHEREAS, the Corporation is the titleholder of record to the following described real property:

> Lots Ten (10), Eleven (11) and Twelve (12), Block Two (2), Academy Addition, City of Earlham, Madison County, Iowa,

which is bounded on the West by Elm Street and on the North by Academy Avenue.

WHEREAS, on or about the 1st day of March, A.D. 1976, the Corporation was granted oral permission by the City Council of the City of Earlham, Earlham, Iowa at its regular meeting to temporarily divert the open surface drainage from the portions of Elm Street and Academy Avenue abutting and contiguous to the above described property owned by the Corportion. That such surface drainage as diverted by the Corportion now drains over, through and across the above described property owned by the Corporation.

WHEREAS, the City has in the past pumped into the surface drainage water and other materials from the City's sewer system. That this water and other materials will flow over, through, and across the Corporation's property. That the Corporation and its officers have full and complete knowledge of such drainage and of the water and other materials which will flow over, through, and across the Corporation's property in the ditch which the Corporation has constructed on its property to temporarily divert the open surface drainage.

FILED NO. 299
BOOK 31 PAGE 213
1976 AUG 13 AM 8:09
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
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#2. AGREEMENT
City- Clearview Development Corporation

NOW, THEREFORE, it is agreed as follows:

1. That the Clearview Development Corporation of Earlham, Iowa shall have permission to temporarily divert the open surface drainage from the portions of Elm Street and Academy avenue abutting and contiguous to the following described real property:

   Lots Ten (10), Eleven (11) and Twelve (12), Block Two (2), Academy Addition, City of Earlham, Madison County, Iowa.

2. That the City of Earlham, Iowa, shall continue to use the temporary diversion of the open surface drainage from the portion of Elm Street and Academy Avenue, as set forth, in the same manner as the City used the open surface drainage ditch prior to the present temporary diversion thereof and for all purposes which the City desires to make use thereof, which include, but are not limited to, the pumping of water and other materials from the City sewer system over, through and across the above property owned by the Corporation.

3. In consideration of the oral permission granted by the City Council of the City of Earlham, Earlham, Iowa, to the Clearview Development Corporation of Earlham, Iowa, to temporarily divert the open surface drainage from the portions of Elm Street and Academy Avenue which abut and are contiguous to the following described property owned by the Corporation:

   Lots Ten (10), Eleven (11) and Twelve (12), Block Two (2), Academy Addition, City of Earlham, Madison County, Iowa.

   a. The Corporation expressly agrees to indemnify, protect, and hold harmless the City of Earlham, Iowa from any and all liability, causes of action, damages, claims, costs, judgments, and demands, as a result of or which arise out of any loss, damage, or injury to any other property resulting from the temporary diversion by the Corporation of the open surface drainage from the portions of Elm Street and Academy Avenue as hereinbefore described.

   b. The Corporation hereby forever releases and discharges the City of Earlham, Iowa from any and all liability, causes of action, damages, claims, costs, judgments, and demands, in law or in equity, as a result of or which arise out of any loss, damage, or injury to any other property resulting from the temporary diversion by the Corporation of the open surface drainage from the portions of Elm Street and Academy Avenue as hereinbefore described.

#3. AGREEMENT
City-Clearview Development Corporation

c. The Corporation hereby forever releases and discharges the City of Earlham, Iowa from any and all liability, causes of action, damages, claims, costs, judgments, and demands whatsoever in law or in equity that may arise out of or relate to the use of the temporary diversion of the open surface drainage as hereinbefore described by the City of Earlham, Iowa, for purposes which include, but are not limited to, the pumping of water and other materials from the City's sewer system over, through, and across the temporary diversion by the Corporation of the open surface drainage from the portions of Elm Street and Academy Avenue abutting and contiguous to the above described property owned by the Corporation.

4. That this Agreement, indemnification, and release from liability as set forth above shall be a covenant and shall run with the real estate as hereinbefore described.

5. That this Agreement, indemnification and release from liability shall be binding upon all of the grantees, assignees, beneficiaries, heirs at law, executors, administrators and successors of the respective parties hereto.

6. That the Corporation and its grantees, assignees, beneficiaries, heirs at law, executors, administrators and successors hereby waive all rights of homestead in and to the above described property owned by the Corporation.

7. That the City has the right to terminate this Agreement with or without cause, and without notice, at any time, and on the exercise of such right the City shall incur no expense nor incur any obligation therefor.

IN WITNESS WHEREOF, said Corporation and said City has caused this Agreement to be duly executed this 7th day of June, A.D., 1976.

CLEARVIEW DEVELOPMENT CORPORATION

By Roy P. Knight
(Roy P. Knight, PRESIDENT)

By Darold D. Slater
(Darold D. Slater, SECRETARY)

CITY OF EARLHAM, IOWA

By Neil Schardein
(Neil Schardein, MAYOR)

Attest: Carolyn Treadway
(Carolyn Treadway, CITY CLERK)

(CITY SEAL)

TOWN SEAL

#4. AGREEMENT
City-Clearview Development Corporation

STATE OF IOWA :
: SS
MADISON COUNTY :

On this 19th day of ~~June~~ July, A.D., 1976, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Roy P. Knight and Darold D. Slater, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of said Corporation executing the within and foregoing instrument, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors; and that the said President and Secretary as such officers acknowledged the execution of said Agreement to be the voluntary act and deed of said Corporation by it and by them voluntarily executed.

Notary Public in and for the
State of Iowa

(S-E-A-L)

STATE OF IOWA :
: SS
MADISON COUNTY :

On this 7th day of June, A.D., 1976, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Neil Schardein and Carolyn Treadway, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said Corporation executing the within and foregoing instrument,

#5. AGREEMENT
City-Clearview Development Corporation

that said instrument was signed and sealed on behalf of said Corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers acknowledged the execution of said Agreement to be the voluntary act and deed of said Corporation by it and by them voluntarily executed.

Veda J. Mills
Notary Public in and for the
State of Iowa

VEDA J. MILLS
(S E A L)
Iowa
NOTARIAL SEAL

CERTIFICATION

We, the undersigned, being the Mayor and Clerk of the City of Earlham, Iowa, do hereby certify that the above and foregoing Agreement by and between said City and Clearview Development Corporation is a true and exact copy of said Agreement, that said Agreement was adopted by the City Council of the City of Earlham, Iowa, at a meeting thereof on the 7th day of June, A.D., 1976.

Dated this 7th day of June, A.D., 1976.

Neil Schardein
(Neil Schardein, Mayor)

ATTEST:

Carolyn Treadway
(Carolyn Treadway, City Clerk)

(CITY SEAL)

TOWN SEAL