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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

✓ Prepared by: David L. Wetsch, 974-73rd Street, Suite 20, Des Moines, IA 50324 (515) 223-6000
When recorded return to: City of Winterset, City Hall, 124 West Court Avenue, Winterset, IA 50273

EASEMENT FOR 10' WIDE PUBLIC UTILITIES

KNOW ALL PERSON BY THESE PRESENTS:

That **Kading Properties, L.L.C.**, (hereinafter called "Grantor") in consideration of the sum of One Dollar (\$1.00) to be paid by the City of Winterset, Iowa, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor, does hereby sell, grant, and convey unto the **CITY OF WINTERSET, IOWA**, a municipal corporation, (hereinafter called "City"), a 10' wide Easement for Public Utilities, over, under, through and across the real estate described on Exhibit "A" attached hereto and incorporated herein by this reference, (hereinafter called "Easement Areas"), for the purposes of the installation of any and all public utilities with all appurtenances thereto, as well as constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the public utilities and any appurtenances thereto, under, over, on, through and across said Easement Area.

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

1. **ERECTION OF STRUCTURES PROHIBITED.** Grantor and its successors and assigns shall not erect any structure, building, or fence over or within the Easement Areas without obtaining the prior written approval of the City Administrator or his designee.
2. **MAINTENANCE OF EASEMENT.** The owner or occupant of the Lot shall keep and preserve that portion of the easement within his property in good repair and condition at all times, and shall not plant nor permit to grow any trees or other vegetative growth within the Easement Area which might reasonably be expected to obstruct or impair the public utilities or appurtenances thereto.
3. **CHANGE IN GRADE PROHIBITED.** Grantor and its successors and assigns shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Administrator or his designee.

- 4. **RIGHT OF ACCESS.** City shall have the right of access to the Easement Areas from property adjacent to the Easement Areas and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Areas as herein described, including, but not limited to, the right to remove any unauthorized obstructions or structures placed or erected on the Easement Areas and the right to improve, repair, and maintain the Easement Areas in whatever manner necessary consistent with its purpose.
- 5. **EASEMENT RUNS WITH LAND.** This Easement shall be perpetual, permanent and runs with the land and shall be binding on Grantor and on Grantor's successors and assigns.
- 6. **PROPERTY TO BE RESTORED.** Upon completion of any construction, reconstruction, repair, enlargement or maintenance of any improvements in any Easement Area, the City shall restore the easement area in good and workmanlike manner to a condition comparable to its condition before construction, reconstruction or alteration.

Grantor does **HEREBY COVENANT** with the City that Grantor holds said real estate described in this Easement by title in fee simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenants to **WARRANT AND DEFEND** the said premises against the lawful claims of all persons whomsoever.

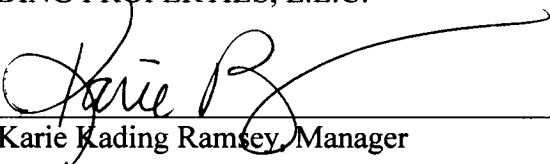
Freedom Financial Bank, the holder of a Mortgage on the property described on Exhibit "B", attached hereto and incorporated by this reference, dated 02/26/2015, filed for record in the office of the Madison County Recorder on 03/02/2015 in Book 2015, Page 538, of the Madison County Recorder's Office, hereby subordinates said Mortgage to the City of Winterset, Madison County, Iowa.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Easement.

Words and phrases herein including acknowledgment hereof shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

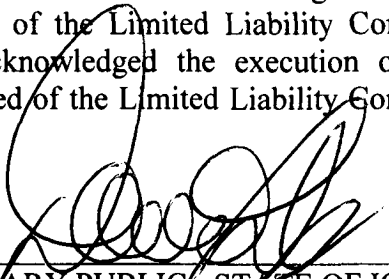
Signed this 7 day of Dec, 2016.

GRANTOR:
KADING PROPERTIES, L.L.C.

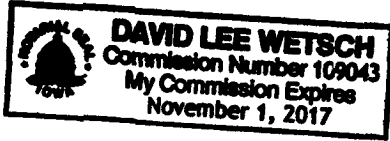
By: 
Karie Kading Ramsey, Manager

STATE OF IOWA)
)ss
COUNTY OF POLK)

This record was acknowledged before me on the 7 day of July, 2014, by Karie Kading Ramsey, to me personally known, who being by me duly sworn, did say that he is the Manager of the Limited Liability Company executing the within and foregoing instrument, that no seal has been procured by said Limited Liability Company; that said instrument was signed on behalf of the Limited Liability Company by authority of the Limited Liability Company; and that Karie Kading Ramsey, as Manager, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the Limited Liability Company, by it and by her voluntarily executed.



NOTARY PUBLIC - STATE OF IOWA



MORTGAGEE:

FREEDOM FINANCIAL BANK

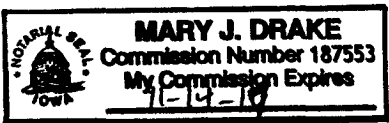
By:

[Handwritten signature]

Kyle R. McCormick
Asst Vice President

STATE OF IOWA)
)ss
COUNTY OF Dallas)

This record was acknowledged before me on the 14 day of December, 2016, by Kyle R. McCormick and Asst Vice President, as Asst Vice President and Asst Vice President, respectively, of the corporation executing the within and foregoing instrument, that no seal has been procured by the corporation; that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that Asst Vice President Kyle R. McCormick as such officers, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.



[Handwritten signature]
NOTARY PUBLIC - STATE OF IOWA

EXHIBIT "A"

10' WIDE PUBLIC UTILITY EASEMENT

A portion of Lot 4, Block 6, Birchwood Estates Plat 1, an official plat, now included in and forming a part of the City of Winterset, Madison County, Iowa more particularly described as follows:

Commencing at the Southeast corner of said Lot 4; Thence North $0^{\circ}06'01''$ East, 10.06 feet on the East line of said Lot 4 being the point of beginning; Thence North $83^{\circ}53'18''$ West, 10.06 feet; Thence North $0^{\circ}06'01''$ East, 675.48 feet to a point on the South line of an existing public utility and access easement; Thence South $89^{\circ}38'22''$ East, 10.00 feet on the South line of said public utility and access easement to a point on the East line of said Lot 4; Thence South $0^{\circ}06'01''$ West, 676.49 feet on the East line of said Lot 4 to the point of beginning containing 6760 square feet, more or less.

AND

A portion of Lot 4, Block 6, Birchwood Estates Plat 1, an official plat, now included in and forming a part of the City of Winterset, Madison County, Iowa more particularly described as follows:

Commencing at the Southeast corner of said Lot 4; Thence North $83^{\circ}53'18''$ West on the North right of way line of Mills Street, 156.65 feet; Thence Northeasterly 9.31 feet on a 25.00 foot radius curve concave Northwesterly with a chord bearing North $10^{\circ}45'51''$ East, a chord distance of 9.25 feet and a delta of $21^{\circ}19'40''$; Thence North $0^{\circ}06'01''$ East, 0.78 feet to the point of beginning; Thence North $83^{\circ}53'18''$ West, 10.06 feet; Thence North $0^{\circ}06'01''$ East, 510.59 feet; Thence Northwesterly 45.42 feet on a 29.00 foot radius curve concave Southwesterly with a chord bearing North $44^{\circ}46'11''$ West, a chord distance of 40.92 feet and a delta of $89^{\circ}44'23''$; Thence North $89^{\circ}38'22''$ West, 112.44 feet; Thence Southwesterly 45.68 feet on a 29.00 foot radius curve concave Southeasterly with a chord bearing South $45^{\circ}13'49''$ West, a chord distance of 41.11 feet and a delta of $90^{\circ}15'37''$; Thence South $0^{\circ}06'01''$ West, 210.80 feet; Thence Southwesterly 12.70 feet on a 121.00 foot radius curve concave Northwesterly with a chord bearing South $3^{\circ}06'22''$ West, a chord distance of 12.69 feet and a delta of $6^{\circ}00'41''$; Thence South $6^{\circ}06'42''$ West, 268.13 feet; Thence North $83^{\circ}53'18''$ West, 10.00 feet; Thence North $6^{\circ}06'42''$ East, 268.13 feet; Thence Northeasterly 11.65 feet on a 111.00 foot radius curve concave Northwesterly with a chord bearing North $3^{\circ}06'22''$ East, a chord distance of 11.64 feet and a delta of $6^{\circ}00'41''$; Thence North $0^{\circ}06'01''$ East, 210.80 feet; Thence Northeasterly 61.44 feet on a 39.00 foot radius curve concave Southeasterly with a chord bearing North $45^{\circ}13'49''$ East, a chord distance of 55.28 feet and a delta of $90^{\circ}15'37''$; Thence South $89^{\circ}38'22''$ East, 112.44 feet; Thence Southeasterly 61.08 feet on a 39.00 foot radius curve concave Southwesterly with a chord bearing South $44^{\circ}46'11''$ East, a chord distance of 55.03

feet and a delta of $89^{\circ}44'23''$; Thence South $0^{\circ}06'01''$ West, 511.64 feet to the point of beginning containing 12215 square feet, more or less.

AND

A portion of Lot 4, Block 6, Birchwood Estates Plat 1, an official plat, now included in and forming a part of the City of Winterset, Madison County, Iowa more particularly described as follows:

Beginning at the Southeast corner of said Lot 4; Thence North $83^{\circ}53'18''$ West, 579.14 feet on the North right of way line of Mills Street to the Southwest corner of said Lot 4; Thence North $9^{\circ}15'28''$ East, 10.02 feet on the West line of said Lot 4; Thence South $83^{\circ}53'18''$ East, 577.54 feet to a point on the East line of said Lot 4; Thence South $0^{\circ}06'01''$ West, 10.06 feet on the East line of said Lot 4 to the point of beginning containing 5783 square feet, more or less.

AND

A portion of Lot 4, Block 6, Birchwood Estates Plat 1, an official plat, now included in and forming a part of the City of Winterset, Madison County, Iowa more particularly described as follows:

Commencing at the Southeast corner of said Lot 4; Thence North $83^{\circ}53'18''$ West, 132.48 feet on the North right of way line of Mills Street; Thence Northwesterly 4.06 feet on a 25.00 foot radius curve concave Northeasterly with a chord bearing North $4^{\circ}33'08''$ West, a chord distance of 4.06 feet and a delta of $9^{\circ}18'18''$; Thence North $0^{\circ}06'01''$ East, 6.05 feet to the point of beginning; Thence continuing North $0^{\circ}06'01''$ East, 513.96 feet; Thence Northwesterly 95.54 feet on a 61.00 foot radius curve concave Southwesterly with a chord bearing North $44^{\circ}46'11''$ West, a chord distance of 86.07 feet and a delta of $89^{\circ}44'23''$; Thence North $89^{\circ}38'22''$ West, 112.44 feet; Thence Southwesterly 96.10 feet on a 61.00 foot radius curve concave Southeasterly with a chord bearing South $45^{\circ}13'49''$ West, a chord distance of 86.46 feet and a delta of $90^{\circ}15'37''$; Thence South $0^{\circ}06'01''$ West, 210.80 feet; Thence Southwesterly 9.34 feet on a 89.00 foot radius curve concave Northwesterly with a chord bearing South $3^{\circ}06'22''$ West, a chord distance of 9.33 feet and a delta of $6^{\circ}00'41''$; Thence South $6^{\circ}06'42''$ West, 268.13 feet; Thence North $83^{\circ}53'18''$ West, 10.00 feet; Thence North $6^{\circ}06'42''$ East, 268.13 feet; Thence Northeasterly 8.29 feet on a 79.00 foot radius curve concave Northwesterly with a chord bearing North $3^{\circ}06'22''$ East, a chord distance of 8.28 feet and a delta of $6^{\circ}00'41''$; Thence North $0^{\circ}06'01''$ East, 210.80 feet; Thence Northeasterly 111.85 feet on a 71.00 foot radius curve concave Southeasterly with a chord bearing North $45^{\circ}13'49''$ East, a chord distance of 100.64 feet and a delta of $90^{\circ}15'37''$; Thence South $89^{\circ}38'22''$ East, 112.44 feet; Thence Southeasterly 111.20 feet on a 71.00 foot radius curve concave Southwesterly with a chord bearing South $44^{\circ}46'11''$ East, a chord distance of 100.18 feet and a delta of $89^{\circ}44'23''$; Thence South $0^{\circ}06'01''$ West, 515.01 feet; Thence North $83^{\circ}53'18''$ West, 10.06 feet to the point of beginning containing 13220 square feet, more or less.

AND

A portion of Lot 4, Block 6, Birchwood Estates Plat 1, an official plat, now included in and forming a part of the City of Winterset, Madison County, Iowa more particularly described as follows:

Commencing at the Southwest corner of said Lot 4; Thence North $9^{\circ}15'28''$ East, 10.02 feet on the West line of said Lot 4 being the point of beginning; Thence continuing North $9^{\circ}15'28''$ East, 626.15 feet on the West line of said Lot 4 to a point on the South line of an existing public utility and access easement; Thence South $89^{\circ}38'22''$ East, 10.12 feet on the South line of said public utility and access easement; Thence South $9^{\circ}15'28''$ West, 627.16 feet; Thence North $83^{\circ}53'18''$ West, 10.02 feet to the point of beginning containing 6267 square feet, more or less.