GRANT OF PRESERVATION COVENANTS

This GRANT OF THESE PRESERVATION COVENANTS is made by the DRA Properties, LC, located at 1525 NE 36th Street, Ankeny, Iowa 50021, (hereinafter referred to as the "Grantor") to the City of Ankeny, Iowa, a municipal corporation, (hereinafter referred to as "Grantee").

WITNESS THAT:

WHEREAS, the Grantor is the owner of certain real property located in the County of Polk, in the State of Iowa, described as follows:

> *Part of Parcel "I" East Half Section 27-80-24, Part of Parcel " J" Southeast Quarter of Section 27- 80- 24, and Part of Parcel "J" Southwest Quarter Section 26-80-24*

And, WHEREAS, the Grantor desires and intends that that the stream channel within said Parcel J, tributary to Saylor Creek, including a buffer area 20 feet wide along the top of the streambank on the west side of the stream channel, be considered a "Preservation Area" to be maintained and improved in accordance with the terms and conditions of these Covenants;

WHEREAS, the Grantor and Grantee both desire, intend and have common purpose of the creation of affirmative rights to ensure the preservation of the natural elements and values of the stream channel buffers.

NOW THEREFORE, the Grantor, does hereby give, grant, bargain and convey to the Grantee, its successors and assigns, forever, the making of these Covenants.

a. The right of the Grantee to enforce by proceedings at law or in equity the Covenants hereinafter set forth. The right shall include but not be limited to, the right to bring an action in any court of competent jurisdiction to enforce the terms of these Covenants, to require the restoration of this property to its natural condition or to enjoin non-compliance by appropriate injunctive relief. The Grantee does not waive or forfeit the right to take action as may be necessary to ensure compliance with terms of these Covenants by any prior failure to act. Nothing herein shall be construed to entitle the Grantee to institute any enforcement action against the Grantor for any changes to the buffer areas due to causes beyond the Grantor's control and without the Grantor's fault or negligence (such as changes caused by fire, flood, storm, civil or military authorities undertaking emergency action or unauthorized wrongful acts of third parties).

b. The right of the Grantee, its contractors, agents and invitees, to enter the buffer areas, in a reasonable manner and at reasonable times, for the purpose of inspecting the buffers to determine if the Grantor is complying with the Covenants and promises, and further to observe, study, record and make scientific studies and educational observations.

c. The right of the Grantee to install, operate and maintain water control structures for the purpose of protecting, re-establishing and enhancing the buffer areas and their functional values. This includes the right to transport construction materials to and from the site of any existing or proposed water control structure.

d. The right of the Grantee to establish or re-establish vegetation through seeding or plantings.

e. The right of the Grantee to manipulate vegetation, topography and hydrology on the buffer areas through diking, pumping, water management, excavating, burning, cutting pesticide application and other suitable methods for the purpose of protecting and/or enhancing buffer vegetation.

AND IN FURTHERANCE of the foregoing affirmative rights, the Grantor makes the following covenants on behalf of itself and its heirs, successors and assigns, which covenants shall run with and bind the Preservation Areas in perpetuity:

COVENANTS

a. USES. There shall be no commercial, industrial or residential activity undertaken or allowed within the Preservation Area.

b. BUILDINGS AND STRUCTURES. There shall be no buildings, dwellings, barns, roads, advertising signs, billboards or other structures built or placed in the Preservation Area.

c. TOPOGRAPHY. There shall be no dredging, filling, excavating, mining, drilling or removal of any topsoil, sand, gravel, rock, minerals or other materials. There shall be no plowing or any other activity that would alter the topography of the Preservation Area.

d. DUMPING/DISPOSAL. There shall be no dumping of trash, ashes, garbage or other unsightly or offensive material, especially including any hazardous or toxic waste.

e. WATER. The hydrology of the Preservation Area will not be altered in any way or by any means including pumping, draining, diking, impounding or diverting surface or ground water into or out of the Preservation Area.

f. AGRICULTURAL USES. No plowing, tilling, cultivating, planting, timbering, or other agricultural activities may take place within the Preservation Area.

g. The Grantor is responsible for compliance with all federal, state and local laws governing the safety and maintenance of the property, including the control of noxious weeds within the Preservation Area.

NOTWITHSTANDING the foregoing restrictions, the Grantor and Grantee may construct and maintain any project features or mitigation features expressly required by Corps of Engineers permit number CEMVR-OD-P-2006-218.

RESERVED RIGHTS

These covenants do not authorize entry upon or use of the Preservation Area by the general public.

The Grantor and their invitees may hunt and fish in the Preservation Area so long as they comply with all federal, state and local game and fishery regulations.

Nothing herein shall be construed as limiting the right of the Grantor to sell, give or otherwise convey the Preservation Area, or any portion or portions thereof, provided that the conveyance is subject to the terms of these Covenants.

GENERAL PROVISIONS

These Covenants shall run with and burden the Preservation Area in perpetuity and shall bind the Grantor, their heirs, successors and assigns. These Covenants are fully valid and enforceable by any assignee of the Grantee, whether assigned in whole or in part.

The Grantor warrants that it owns the Preservation Area in fee simple, and that Grantor either owns all property interests in the Preservation Area which may be impaired by the granting of these Covenants or that there are no outstanding mortgages, tax liens, encumbrances, or other interests in the Preservation Areas which have not been expressly subordinated to these Covenants by signing below. If it is determined at any time that there is any party who may have a property interest in the Preservation Area that is superior to these Covenants, then the Grantor shall immediately obtain and record a consent and subordination agreement signed by the other party. Acceptance of these Covenants does not release the Grantor from the obligation to obtain and record a consent and subordination agreement signed by any party who may have a property interest in the Preservation Area that is superior to these Covenants, even if such interest was of record at time of acceptance.

The Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Preservation Area.

The Grantor agrees that the terms, conditions, covenants and restrictions set forth in this instrument will be inserted in any subsequent conveyance of any interest in said property.

The Grantee may assign or transfer the right to enforce these Covenants to any Federal or state agency or private conservation organization for management and enforcement.

The terms "Grantor" and "Grantee" as used herein shall be deemed to include, respectively, the Grantor and its heirs, successors, personal representatives, executors and assigns, and the Grantee and its successors and assigns.

The Grantor hereby warrants and represents that the Grantor is seized of the Preservation Areas in fee simple and has good right to make these Covenants, that the Preservation Areas are free of all encumbrances, except as hereinafter set forth.

And _____, being the owner and holder of_____ certain _____ lien _____ which is _____ against said premises do hereby join in consent to said conveyance free of said lien.

_____

_____

IF THERE ARE ADDITIONAL HOLDERS OF INTERESTS IN THE REAL PROPERTY, CHECK HERE [ ] AND ATTACH ADDITIONAL SIGNATURE PAGES FOR THEIR CONSENT AND SUBORDINATION

EXECUTIONS AND ACKNOWLEDGMENTS

IN WITNESS THEREOF, the Grantor has hereto set its hand and seal this 13th day of September (Month), (year). 2010

Sara Meredith, secretary
DRA properties, LC

County of Polk)
)
State of Iowa)

This instrument was acknowledged before me this 13 day of September, by _____ and _____ (name(s) with marital status).

Mary E. Snetselaar
Notary Public
My Commission Expires: 3-31-12

NOTARIAL SEAL IOWA
MARY E. SNETSELAAR [SEAL]
Commission Number 146646
My Commission Expires
March 31, 2012

Accepted this _____ day of _____, _____.

Grantee:

By _____
Steven D. Van Oort, Mayor

County of Polk)
)
State of Iowa)

This instrument was acknowledged before me this _____ day of _____, by _____ and _____ (name(s) with marital status).

[SEAL]

_____
Notary Public
My Commission Expires:_____