

LISA SMITH, COUNTY RECORDER
MADISON IOWA

Aaron H. Ginkens ISBA #0018309

✓ **Return Document To:** Michelle Kutschat, P.O. Box 400, Iowa Falls, Iowa 50126 Phone (641) 648-4479
Preparer Information: Aaron H. Ginkens, 4401 Westown Parkway, Suite 307, West Des Moines, IA 50266, Phone: (515) 255-8680

WATER LINE EASEMENT

THIS GRANT OF EASEMENT ("Easement") is dated this 28th day of February, 2007 and between Edward M. Woodson Declaration of Trust dated October 26, 1981 and Judy A. Woodson Declaration of Trust dated October 26, 1981 as Tenants in Common ("Grantors") and IOWA SELECT FARMS, L.L.P., an Iowa limited liability limited partnership with its principal place of business in Iowa Falls, Iowa ("Grantee").

WHEREAS, Grantor owns certain property described on Exhibit "A" attached hereto ("Easement Property"); and

WHEREAS, Grantee owns certain property described on Exhibit "B" attached hereto ("Benefited Property"); and

WHEREAS, Grantor has agreed to grant to Grantee a perpetual easement for water line on, over, under and across the Easement Property, for the benefit of the Benefited Property, upon the terms hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easement. Grantor, for itself and for its successors and assigns, hereby grants to Grantee, and its successors and assigns, an exclusive perpetual easement on, under, over and across the Easement Property, for the benefit of the Benefited Property to operate, inspect, maintain, service and replace an existing water line on the Easement Property which line will be used for the operation of a hog confinement facility on the Benefited Property. Said grant of easement includes a right to lay water and power lines over, under and across the Easement Property to the Benefited Property, together with rights of ingress and egress over and across the Easement Property to operate, inspect, maintain, service, and replace said water line.

2. Burial of Water Lines. The water lines shall be buried by Grantee and at its sole expense, to a sufficient depth so as not to interfere with the ordinary cultivation of the soil on the Easement Property.

3. Location of Improvements on Easement Property. Grantor may use the land above the water lines for normal agricultural purposes. However, no improvements shall be constructed over or within ten feet on either side of said water lines.

4. Damage to Easement Property. Grantee will reimburse Grantor and/or its farm tenant for any damages to Grantor's or the tenant's growing crops, livestock, machinery and equipment or improvements caused by Grantee's use of its easement; provided, however, that Grantee shall have the right from time to time to cut or clear trees, brush and other obstructions from the Easement Property that might interfere with Grantee's use of its easement.

5. Grantee to Obtain Permits. Grantee shall be responsible for obtaining all governmental permits or licenses necessary to construct and operate the water line. Grantor, without incurring any additional liability, cost or expense, shall cooperate with Grantee to the extent reasonably necessary to obtain any said permits or licenses.

6. Easement Runs with Land. The easement granted hereby is perpetual, shall run with the land, shall be binding upon the Easement Property and beneficial to the Benefited Property, and the terms hereof shall extend to and be binding upon the respective successors, heirs, administrators, executors, and assigns of the parties hereto.

7. Representations of Grantor. Grantor does hereby covenant with Grantee, and successors in interest, that Grantor holds the Easement Property by title in fee simple; that it has good and lawful authority to sell and convey the easement granted hereby, that the Easement Property is free and clear of all liens and encumbrances, and Grantor covenants to warrant and defend the easement granted hereby against the lawful claims of all persons.

8. Maintenance. The cost of maintaining and operating the water line shall be the sole responsibility of Grantee.

9. Waiver. The failure of any party hereto to insist in any one or more instances upon performance of any term or condition of this Agreement shall not be construed as a waiver of future performance of any such term, covenant or condition, but the obligation of such party with respect thereto shall continue in full force and effect.

10. Entire Agreement. This is the entire agreement of the parties as to the subject matter hereof and supersedes all prior negotiations and agreements. No amendment to this Agreement is valid unless in writing and signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Trustee of Edward M. Woodson Trust

Its General Partner

Trustee of Judy A. Woodson Trust

William C. Foley, Treasurer

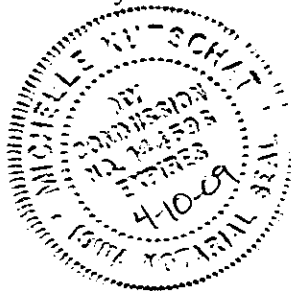
COUNTY OF Riverside)ss:

 LEANKA EVANNE HARRIS
Commission # 1506262
Notary Public - California
Riverside County
My Comm. Expires Aug 8, 2008

Leanka EVanne Harris
Notary Public in and for said County and State
Riverside County State of California

[illegible]

On this 28th day of February, 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared William C. Foley, to me personally known, who being by me duly sworn, did say that he is the Treasurer of Iowa Select Farms, Inc., the General Partner of Iowa Select Farms, L.L.P., an Iowa limited liability limited partnership, executing the foregoing instrument, that the instrument was signed on behalf of the corporation as General Partner of said limited liability limited partnership by authority of the corporation's Board of Directors; and that William C. Foley, as officer, acknowledged the execution of the instrument to be the voluntary act and deed of the corporation and limited liability limited partnership by it and by the officer voluntarily executed.



Michelle Kutschat
Michelle Kutschat
Notary Public in and for the State of Iowa

EXHIBIT "A"

Easement Property

The Northwest Fractional Quarter (¼) of the Southwest Fractional Quarter (¼) of Section Seven (7), Township Seventy-four (74) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, EXCEPT Parcel "A" located in the Fractional Southwest Quarter (¼) of said Section Seven (7), containing 4.28 acres, as shown in Plat of Survey filed in Book 2006, Page 2732 on July 3, 2006, in the Office of the Recorder of Madison County, Iowa.

EXHIBIT "B"

Benefited Property

County Auditor's Parcel Letter 'A' located in the Fractional Southwest Quarter (FrSW1/4) of Section Seven (7), Township Seventy-four (74) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa.

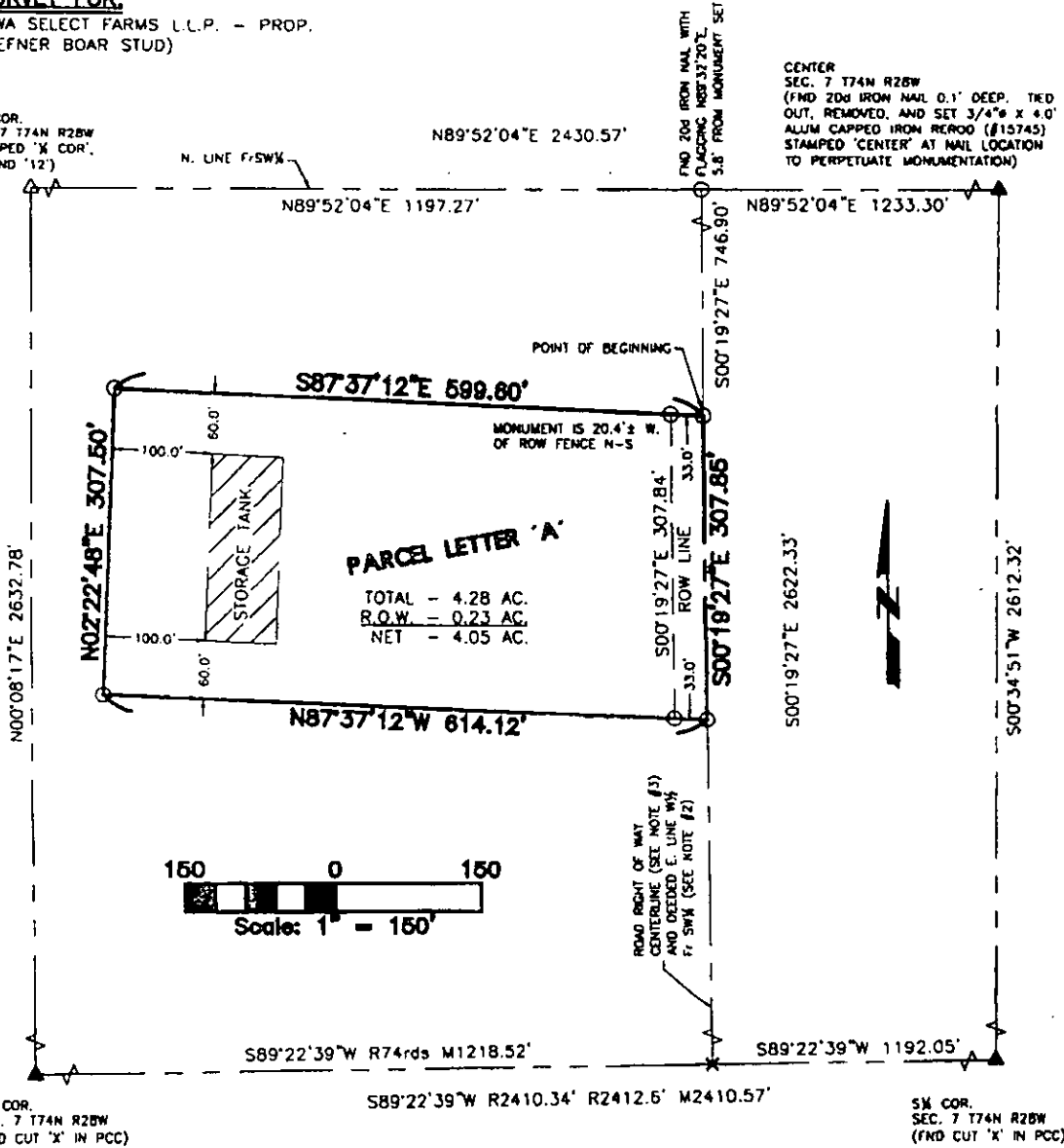
See also attached Plat of Survey of Parcel Letter 'A'

PLAT OF SURVEY OF PARCEL LETTER 'A'
 LOCATED IN THE
F1SW1/4 SECTION 7 TOWNSHIP 74 NORTH, RANGE 28 WEST
 IN
MADISON COUNTY, IOWA

SURVEY FOR:

IOWA SELECT FARMS L.L.P. - PROP.
 (HEFNER BOAR STUD)

W1/4 COR.
 SEC. 7 T74N R28W
 (STAMPED 'X' COR.
 '7', AND '12')



SW COR.
 SEC. 7 T74N R28W
 (FND CUT 'X' IN PCC)

SW COR.
 SEC. 7 T74N R28W
 (FND CUT 'X' IN PCC)

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

LEE O. GALLENTINE, LS

Date: _____ License number: 15745

My license renewal date is December 31, 2008

Pages or sheets covered by this seat: 1 & 2

Date of Survey: June 5, 2006

Scale: 1" = 150'

Corners Found: **▲** PLSS Corner (As noted)

● (As noted)

■ MAG Nail **I** Iron ROW Nail

Corners Set: **▲** PLSS Corner 3/4" Dia x 48"

Alum Capped Iron Rod (#15745) or as noted

○ 3/4" Dia x 24" Orange Capped Iron

Rod (#15745)

X Cut 'X' in PCC

M = Measured Distance or Bearing R = Record Distance or Bearing

P = Plotted Distance or Bearing O = Dead Distance or Bearing

FB # 230-71

1001 = No. Dept. of Trans. Distance

RE

RYKEN ENGINEERING
 ACKLEY, WEBSTER CITY, & MASON CITY, IOWA

3852
 Pg. 1 of 2

LEGAL DESCRIPTION:

County Auditor's Parcel Letter 'A' located in the Fractional Southwest Quarter (FrSW $\frac{1}{4}$) of Section Seven (7), Township Seventy-four (74) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, more particularly described as follows:

Commencing at the West Quarter Corner of said Section 7; thence North 89°52'04" East, 1197.27 feet along the north line of said Fractional Southwest Quarter to the deeded east line of the West One-half of said Fractional Southwest Quarter; thence South 00°19'27" East, 746.90 feet along said east line to the point of beginning; thence South 00°19'27" East, 307.85 feet along said east line; thence North 87°37'12" West, 614.12 feet; thence North 02°22'48" East, 307.50 feet; thence South 87°37'12" East, 599.60 feet to the point of beginning containing 4.28 acres total including 0.23 acres existing right of way. Subject to easements.

Note: For the purposes of this survey, the north line of said Fractional Southwest Quarter was determined to bear North 89°52'04" East using GPS.

NOTES:

1. FOR THE PURPOSES OF THIS SURVEY, PARTS OF THE FOLLOWING WERE RETRACED:

CO. ENGR'S ROAD RECORD BK B PG 88

CO. ENGR'S 1968 GRADING PLANS

CO. ENGR'S 2005 PAVING PLANS

2. THE CURRENT DEEDS FOR THE SW $\frac{1}{4}$ REFER TO THE "E $\frac{1}{2}$ FrSW $\frac{1}{4}$ " AND "NW $\frac{1}{4}$ FrSW $\frac{1}{4}$ ", WHICH WOULD INFER AN ALIQUOT PARTS DIVISION. HOWEVER, THE PARENT DEEDS FOR THE SW $\frac{1}{4}$ READ "WEST HALF ($\frac{1}{2}$) OF THE SOUTHWEST QUARTER ($\frac{1}{4}$)... CONTAINING SEVENTY THREE AND TWELVE ONE HUNDREDTHS ($73 \frac{12}{100}$) ACRES MORE OR LESS" IN 1880 (PER CO. REC'S BK 18 PG 268) AND "EAST HALF ($\frac{1}{2}$) OF THE SOUTHWEST (frac) QUARTER ... CONTAINING SEVENTY THREE AND 12/100 ACRES MORE OR LESS" IN 1886 (PER CO. REC'S BK 26 PG 134). FROM THESE DESCRIPTIONS, IT IS APPARENT THE SW $\frac{1}{4}$ WAS INTENDED TO BE SPLIT UP BY EQUAL AREAS AND NOT ALIQUOT PARTS. THIS WOULD LEAD TO DIVISION BY AREA WITH THE SENIOR DEED RECEIVING THEIR FULL SHARE AND THE JUNIOR DEED RECEIVING ANY SHORTAGE. HOWEVER THE DEEDS READ "MORE OR LESS" AND IT IS APPARENT THAT THE INTENTION WAS FOR EACH DIVISION TO BE CONVEYED AN EQUAL AREA AND NOT 73.12 ACRES EXACTLY. THEREFORE, THE E. LINE DEEDED W $\frac{1}{2}$ FrSW $\frac{1}{4}$ WAS LAID OUT SO THAT EACH $\frac{1}{2}$ OF THE FrSW $\frac{1}{4}$ RECEIVED EQUAL AREA. IT WAS ALSO MADE PARALLEL AND COINCIDENT WITH THE ROAD ROW CENTERLINE AS ESTABLISHED IN #3 BELOW (THE ROAD IS AN OBVIOUS MANMADE MONUMENT AND LANDOWNERS USUALLY EXPECT THEIR PROPERTY LINE TO BE PARALLEL TO SUCH).

3. CO. ENGR'S ROAD RECORDS INDICATE THAT THIS ROAD WAS ESTABLISHED IN 1880, WITH NO ROW WIDTH STATED. THEREFORE, IT HAS ALWAYS BEEN ASSUMED TO BE A 66.0' ROW. THIS IS VERIFIED BY THE 1968 GRADING PLANS FOR CO. RD G-61 WHICH SHOW 64' BETWEEN ROW FENCES NEAR THE S. LINE FrSW $\frac{1}{4}$. THEREFORE, THE ROAD ROW CENTERLINE WAS ESTABLISHED PARALLEL WITH AND 33.0' OFFSET FROM THE EAST ROW FENCE. THIS CENTERLINE IS 12'± W. OF THE CENTERLINE OF THE ROAD SURFACE ITSELF. HOWEVER THIS CENTERLINE WAS USED DUE TO THE FOLLOWING:

A) THE MAJORITY OF THE EAST ROW FENCE IS STILL IN PLACE WHEREAS THE MAJORITY OF THE WEST ROW FENCE HAS BEEN REMOVED.

B) THIS CENTERLINE IS ALSO COINCIDENT WITH THE E. LINE DEEDED W $\frac{1}{2}$ FrSW $\frac{1}{4}$ AS DETAILED IN #2 ABOVE, WHICH IS A REASONABLE ASSUMPTION AS MOST ROAD ROW IS SPLIT EVENLY BETWEEN LANDOWNERS.

C) AT THE NORTH END, THE EXISTING ROW FENCES MEASURE 45.0'± BETWEEN THEM. THEREFORE, IT IS OBVIOUS THAT NOT ALL OF THE 66.0' ROW WAS FENCED.