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CITY OF LEROY  
COUNTY OF MCLEAN  
STATE OF ILLINOIS

ORDINANCE NO. 722

AN ORDINANCE APPROVING A CONTRACT FOR SALE OF REAL ESTATE BETWEEN JUDITH R. KIRBY, AS SELLER, AND ERIK GRAYBEAL AND JANICE GRAYBEAL, AS PURCHASERS, AND FOR PURCHASE OF EASEMENT RIGHTS BY THE CITY OF LEROY (AS ATTACHED AS EXHIBIT M)

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY THIS 3rd  
DAY OF March, 1997.

PRESENTED: March 3, 1997

PASSED: March 3, 1997

APPROVED: March 3, 1997

RECORDED: March 3, 1997

PUBLISHED: March 3, 1997


In Pamphlet Form

Voting "Aye" 6

Voting "Nay" 0

The undersigned being the duly qualified and Acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.

(SEAL)

X   
Acting City Clerk of the City of LeRoy,  
McLean County, Illinois

Dated: March 3, 1997.

ORDINANCE NO. 722

AN ORDINANCE APPROVING A CONTRACT FOR SALE OF REAL ESTATE BETWEEN JUDITH R. KIRBY, AS SELLER, AND ERIK GRAYBEAL AND JANICE GRAYBEAL, AS PURCHASERS, AND FOR PURCHASE OF EASEMENT RIGHTS BY THE CITY OF LEROY (AS ATTACHED AS EXHIBIT M)

WHEREAS, the Mayor and City Council find that it is in the best interests of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, to enter into a contract for sale of real estate between Judith R. Kirby, as seller, and Erik Graybeal and Janice Graybeal, as purchasers, for purchase of easement rights for the City, as described in the aforesaid contract,

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of LeRoy, in lawful meeting assembled, as follows:

Section 1. The City Council hereby approves the contract set forth in Exhibit "M," attached hereto and incorporated herein by reference.

Section 2. The Mayor and City Clerk are hereby directed and authorized to sign the original and as many copies as appropriate of that agreement as set forth in Exhibit "M" attached hereto, being certain to obtain one or more fully signed copies for the records of the City.

Section 3. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

**PASSED** by the City Council of the City of LeRoy, Illinois, upon the motion by

Ron Litherland, seconded by Dawn Thompson

\_\_\_\_\_, by roll call vote on the 3rd day of March, 1997, as follows:

Aldermen elected 6 Aldermen present 6

VOTING AYE: Bill Swindle, Ron Litherland, Dave McClelland, Dawn Thompson, Fred Dodson  
(full names) Lois Parkin

VOTING NAY: None  
(full names)

ABSENT, ABSTAIN, OTHER: None  
(full names)

and deposited and filed in the office of the Acting City Clerk in said municipality on the 3rd day of March, 1997.

X 

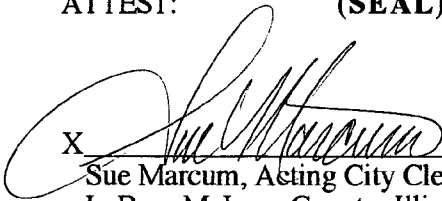
Sue Marcum, Acting City Clerk of the City of LeRoy, McLean County, Illinois

**APPROVED BY** the Mayor of the City of LeRoy, Illinois, this 3rd day of March, 1997.

X 

Jerry C. Davis, Mayor of the City of LeRoy, McLean County, Illinois

ATTEST: (SEAL)

X 

Sue Marcum, Acting City Clerk, City of LeRoy, McLean County, Illinois

CONTRACT FOR SALE OF REAL ESTATE  
McLEAN COUNTY BAR ASSOCIATION FORM (REV. 5-90)

**Seller:** JUDITH R. KIRBY

**Social Security No. -**

**Address:** R.R. 3, Box 4623  
Osage Beach, Missouri 65065

**Attorney:**

**Third Party:** CITY OF LEROY, an Illinois municipal corporation

**Address:** 111 E. Center Street  
P.O. Box 151  
LeRoy, Illinois 61752

**Attorney:** Hunt Henderson  
112 E. Center Street  
LeRoy, Illinois 61752

**Buyer:** ERIK GRAYBEAL

**Social Security No. -**

**Buyer:** JANICE GRAYBEAL

**Social Security No. -**

**Address:** 621 Meadow Lane  
LeRoy, Illinois 61752

**Attorney:**

CONTRACT FOR SALE OF REAL ESTATE

THIS AGREEMENT, entered into between Judith Kirby, hereinafter referred to as Seller, Erick Graybeal and Janice Graybeal, husband and wife, hereinafter referred to as Buyers, and the City of LeRoy, and Illinois municipal corporation, hereinafter referred to as City, WITNESSETH:

1. **DESCRIPTION, PRICE AND PAYMENT:** Seller sells the following described real estate, to-wit:

Lot 28 in Meadow Addition Subdivision in the North East 1/4 of Section 21, Township 22 North, Range 4 East of the Third Principal Meridian, in the City of LeRoy, McLean County, Illinois,

with improvements, commonly known as 623 Meadow Lane, LeRoy, Illinois 61752, located thereon, to Buyer, who agrees to pay \$2,500.00 therefore in the manner following: \$500.00 (inclusive of earnest money) upon the execution of this Agreement: \$ 1,000.00

~~\_\_\_\_\_ (a) To be held in escrow until evidence of merchantable title is approved by Buyer's attorney, and financing is approved as per Paragraph 9;~~

  X   b) To be held in escrow until closing;

~~\_\_\_\_\_ (c) To be delivered to Seller, receipt of which is hereby acknowledged;~~

and the remainder on or before the 28th day of February, 1997, and on receipt of deed.

EXHIBIT M

2. **EVIDENCE OF TITLE:** On or before the 31st day of January, 1997, Seller will furnish Buyer:

Written commitment from a title insurance company duly authorized to do business in Illinois, showing title to said premises subject only to matters to which this sale is subject by the terms hereof and to the customary exceptions contained in owners policies issued by such company. If written commitment discloses defects in terms hereof and the customary exceptions in such policies, then Seller shall have until date for delivery of deed to correct such defects. Owners title policy, in amount of the purchase price for said premises, will be paid for by the Seller and issued to Buyer after delivery of deed.

3. **DEED:** Seller will cause fee simple title to said real estate to be conveyed to Buyer, or to such party as Buyer may direct, by Warranty Deed upon payment being made as herein provided, on or before the 28th day of February, 1997.

4. **POSSESSION:** Possession of said real estate is to be delivered to Buyer on or before the 28th day of February, 1997, upon payment being made as herein provided.

5. **INSURANCE:** This contract is subject to the State of Illinois Uniform Vendor and Purchaser Risk Act (765 Illinois Compiled Statutes 65/1, State Bar Edition 1994 (as amended), formerly cited as Illinois Revised Statutes, Chap 29, Sec. 8.1), which provides, in general, that the Seller shall bear the risk of loss until transfer of possession or receipt of deed, whichever occurs first.

6. **TAXES:** Seller shall pay the 1996 real estate taxes (payable in 1997) by allowance of such amount as a credit against the purchase price due at time of final settlement, said credit to be \$63.43. Buyer shall assume the obligation to pay all other real estate taxes, including any balance due for the 1996 taxes payable in 1997, and including the 1997 taxes and all subsequent years.

7. **ENCUMBRANCES:**

(a) Mortgage to (NONE) which will be assumed by Buyer, if so provided in Paragraph 1, but if not so provided , then it shall be satisfied out of purchase price and released when deed is delivered;

(b) Easements and building or use restrictions of record, and provisions of zoning and building ordinances, if any, none of which shall be considered as rendering title unmerchantable or unacceptable, provided same are not violated by the existing improvements or the use thereof.

8. **SELLER'S WARRANTIES:** Seller hereby provides the following warranties, with respect to the property, which is the subject matter of this contract:

(a) That no work has been done upon, or materials furnished to, the premises which could give rise to a lien or liens under the Mechanics' Lien laws of the State of Illinois;

(b) Additional Warranties: None.

9. **ADDITIONAL PROVISIONS:** The following provisions form a part of this contract unless deleted by mutual agreement of the parties hereto:

(a) Unless otherwise agreed, Buyer shall assume any assumption or transfer fees incurred as a result of Buyer assuming, or taking subject to, Seller's existing mortgage, and both Seller and Buyer agree to comply with the requirements of the Real Estate Settlement Procedures Act;

(b) When used in this instrument, unless the contract requires otherwise, words importing the masculine gender include the feminine, words importing the singular number include the plural, and words importing the plural number include the singular;

(c) It is mutually agreed by and between the parties hereto that the covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns of the respective parties, and that time is of the essence of this contract.

(d) Other: The City of LeRoy agrees with buyers herein, Erick Graybeal and Janice Graybeal, that it shall pay said buyers the sum of ~~\$500.00~~ <sup>1,000.00</sup> for the purchase of a permanent easements for purposes of utilities, including underground drainage lines and sewer lines, and surface drainage across parts of Lots 27 and 28 in Meadow Addition Subdivision in the North East 1/4 of Section 21, Township 23 North, Range 4 East of the Third Principal Meridian, in the City of LeRoy, McLean County, Illinois, as described in proposed easement agreements, copies of which is attached hereto as Exhibits A & B, respectively, and are each incorporated herein by reference. As further consideration for the granting of the aforesaid permanent easement rights, the City of LeRoy also agrees that it will vacate or cause to be vacated as to the use by any future public body or utility or other similar public or quasi-public entity or agency that utility easement located along the east side of Lot 27 and the West side of Lot 28 in Meadow Addition Subdivision in the North East 1/4 of Section 21, Township 23 North, Range 4 East of the Third Principal Meridian, in the City of LeRoy, McLean County, Illinois, and being the North 127.3 feet of the East 10 feet of the aforesaid Lot 28 in Meadow Addition Subdivision to the City of LeRoy, said vacation to be made generally as set forth in a copy of a proposed ordinance to be adopted by the City of LeRoy, a copy of the aforesaid ordinance being attached hereto as Exhibit C, and incorporated herein by reference, such vacation being as to the use by any future entities for any purpose for which the easement was created and granted, but not vacating it as to any existing utilities that may be located on the property. As further consideration for the City vacating the plat of utility easement as previously described herein and paying ~~\$500.00~~ <sup>1,000.00</sup>, Erik Graybeal and Janice Graybeal agree to grant a permanent utility easement across the East 10 feet of Lot 28 in Meadow Addition Subdivision to the City of LeRoy as described in a proposed easement agreement, a copy of which is attached hereto as Exhibit D, and incorporated herein by reference. EMG JB

10. **ESCROWEE:** The parties agree that Hunt Henderson, Attorney at Law, is hereby designated as Escrowee for the purposes of any Escrow created or hereafter required in connection with this contract. The Escrow conditions are as follows:

(a) Escrowee shall hold in escrow the downpayment pursuant to the terms of this contract until closing and not release said funds except with the agreement of all parties, or an Order entered by a Court of competent jurisdiction;

(b) Additional conditions: **None.**

11. **NOTICES, ETC.:** That abstracts, title commitments, communications or notices with reference to this contract may be delivered by or to the parties or their respective attorneys as shown on the first page hereof.

12. This Contract was prepared by Hunt Henderson, attorney at law, and approved by Seller or Seller's attorney and Buyer or Buyer's attorney.

13. **SETTLEMENT:** That closing shall be held at the office of Buyer's lending institution, or such place as the parties agree upon.

14. **TOXIC OR HAZARDOUS WASTE:** Seller represents that they are unaware of any toxic or hazardous waste materials being stored or having been stored on the premises and that no notices have been received from the Illinois Environmental Protection Agency or the Illinois Environmental Pollution Control Board or any other governmental entity with regard to a toxic or hazardous waste problem with the property, except as hereinafter stated.

**THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.**

**IN WITNESS WHEREOF,** the parties to these presents have hereunto set their hands and seals to several counterparts of this Agreement, of equal effect.

DATE SIGNED BY SELLER(S): 1/31, 1997.

X Judith R Kirby  
Judith Kirby, Seller

DATE SIGNED BY BUYER (S): February 25, 1997.

X Erik Graybeal  
Erik Graybeal, Buyer

X Janice Graybeal  
Janice Graybeal, Buyer

DATE SIGNED BY CITY OF LEROY: \_\_\_\_\_, 1997

Jerry C Davis  
Jerry C Davis, Mayor of the City of LeRoy,  
McLean County, Illinois

**THIS CONTRACT WILL BE DEEMED EFFECTIVE AS OF THE LAST DATE SIGNED.**

The above-named designated Escrowee hereby accepts the Escrow on the terms and conditions heretofore set forth.

X Hunt Henderson  
Hunt Henderson, Escrowee

Mail to: Hunt Henderson, Attorney  
for the City of LeRoy  
112 East Center Street  
LeRoy, Illinois 61752

## EASEMENT

THE GRANTOR(s), Erik Graybeal and Janice Graybeal, Husband and Wife, of 621 Meadow Lane , of the City of LeRoy , County of McLean, and State of Illinois (hereinafter referred to as "GRANTOR"), in consideration of One Dollar (\$1.00) and other good and valuable consideration, in hand paid, do hereby convey to the City of LeRoy , McLean County, Illinois, an Illinois municipal corporation (hereinafter referred to as "CITY"), an Exclusive Permanent Easement and Grant of Right-Of-Way across the following described premises:

A part of Lot 27 in Meadow Addition Subdivision in the North East 1/4 of Section 21, Township 22 North, Range 4 East of the Third Principal Meridian, City of LeRoy, McLean County, Illinois, more particularly described as follows: Beginning at the South East corner of Lot 27 in Meadow Addition Subdivision; thence North 49.75 feet on the East line of said Lot 27; thence South West 58.39 feet to the South line of said Lot 27; thence East 31.85 feet on the South line of said Lot 27 to the Point of Beginning, containing 792.01 square feet, more or less (PIN (Book 15 ) 30-21-203-009).

The easement granted herein shall be for the limited purposes of constructing, reconstructing, replacing, maintaining, deepening, and keeping in repair an open ditch, drain, surface drain, waterway or drainage swale, for constructing, maintaining, deepening and keeping in repair one or more subsurface sewer lines across and under the previously described permanent right-of-way, and for constructing, maintaining and keeping in repair, one or more other subsurface utility lines across and under the previously described permanent right-of-way. The subject premises shall not be available for public use as a travelway, roadway, or other means of ingress or egress to any other property, but shall be used for the purposes of constructing, re-constructing, replacing, maintaining, deepening, and keeping in repair, an open ditch, drain, surface drain, waterway or drainage swale, and further, for constructing, maintaining, deepening and keeping in repair one or more subsurface sewer lines or other utility lines across and under the premises previously described herein. The City of LeRoy , its agents, employees and assignees, shall have the right from time to time to enter and depart over and upon the above-described premises to effect the purposes of the easement herein granted. The City of LeRoy, through its appropriate agents and officials, shall further have the right from time to time to grant rights to public utility entities and quasi-public utility entities, including electrical, natural gas, water, sewer, telephone, other telecommunications, and cable television companies and entities, to place underground utility lines in the exclusive permanent easement way and right-of-way previously described herein, and to grant such entities, and their agents, employees and assignees, the right to enter and depart over and upon the above-described premises from time to time to effect the purposes of the rights granted herein.

EXHIBIT A



In consideration of the conveyance by GRANTOR, CITY agrees as follows:

1. Upon completion of any construction, reconstruction, maintenance, repair, or deepening of the surface drainage way, open ditch, drain, waterway or drainage swale, as provided previously herein, CITY shall restore the premises previously described herein to that condition as such premises existed prior to the aforesaid construction, reconstruction, maintenance, repair or deepening of the surface drainage way, open ditch, drain, waterway or drainage swale as nearly as may be reasonably possible, in keeping with good engineering practices and accepted soil erosion control practices.

2. From time to time, should CITY make further improvements in said surface drainage way, drainage ditch, drain, waterway, drainage swale, or subsurface sewer lines or other subsurface utility lines, or install one or more subsurface sewer lines or other subsurface utility lines, CITY shall restore the premises described above to the condition as the same existed prior to said construction as nearly as may reasonably be possible, in keeping with good engineering practices and accepted soil erosion control practices.

3. CITY shall cause any entity or persons to whom CITY shall grant rights as provided herein for placement of underground utility lines to restore the premises previously described herein to that condition as such premises existed prior to any construction, reconstruction, maintenance, repair or deepening of any underground utility line, as nearly as may be reasonably possible, in keeping with good engineering practices and excepted soil erosion control practices.

4. GRANTOR shall have the right to use the premises located within the easement description for purposes not inconsistent with CITY's full enjoyment of the rights hereby granted, including those rights that CITY may grant to other entities as aforesaid, provided that GRANTOR shall not erect or construct any building or other structure, or drill or operate any well, or construct any other obstruction within the easement way.

5. Any and all costs and expenses with regard to the aforesaid easement and use of the same by CITY, including, but not limited to, construction, reconstruction, operation and maintenance, in good repair, of the surface drainage way, open ditch, drain, waterway, or drainage swale, shall be the duty and obligation of CITY and CITY shall repair any damage caused by it to GRANTOR's premises, and shall save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of the construction, reconstruction, maintenance, in good repair, or operation, of said surface drainage way, open ditch, drain, waterway or surface drainage way, open swale, or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, and that may be incurred by GRANTOR by reason of CITY's exercise of its right to enter and depart upon the described easement way as previously set forth herein. Any and all costs in regard to any future improvements or reconstructions in any surface drainage way, open ditch, waterway, drain, drainage swale, or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, either existing or to be constructed in the future, including, but not limited to, construction, reconstruction, operation and maintenance of said surface drainage way, open ditch, drain, waterway, drainage swale or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, shall be the duty and obligation of CITY. Further, should CITY grant any rights to any entities as previously granted herein for the placement of underground utility lines of any sort, as previously described herein, CITY shall cause the assignee or grantee of any such rights to repair any damage caused by it to GRANTOR's premises, and shall cause said entity to save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of construction, reconstruction, maintenance, in good repair, or operation of any said underground utility line or improvement as well as for any future such improvements or reconstructions.

6. CITY agrees, upon the completion of any construction, reconstruction, or maintenance work conducted by it on or in the easement way to reseed the stand of grass in the easement way, to the extent of any grassy area damaged, and to follow up the reseeding, as may be necessary, to water and fertilize the seed bed in order to re-establish the grassy area in a condition the same as or better than it existed prior to the damage to the grassy area by CITY or its agents, employees, or contractors.

7. GRANTORS, and their successors in interest, have the right to build an addition on to the current structure (as labeled ("GARAGE") in the attached Exhibit A) and such addition may encroach on to the easement area granted herein up to a maximum area resulting from extending the South wall of the existing garage structure East fifteen feet and then extending a new east wall of said structure due North.

8. The parties hereto agree that CITY, its agents, employees and contractors, from time to time, may place temporary stakes and markers within the easement way in order to facilitate construction, reconstruction, or repair work. Further, that GRANTOR shall not place any fencing along the sides, on either end, or within the easement way, without CITY's consent.

9. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, tenants, personal representatives, and successors in interest, of the parties hereto.

10. The rule of strict construction shall not apply to this grant of easement. This grant shall be given a reasonable construction so that the intention of the parties to confer a usable right in grantee (CITY) is carried out.

11. This written agreement contains the sole and entire agreement between the parties, and supersedes any and all other agreements between them. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this agreement or any representations inducing the execution and delivery of this agreement except such representations as are specifically set forth herein, and each party acknowledges that he, she, or it has relied on his, her, or its own judgment in entering into this agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his, her or its dealings with the other.

12. No waiver or modification of this agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

13 This agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of Illinois.

14. Should either party, or the respective heirs, executors, administrators, assigns or successors in interest of either party, to this agreement, be required to incur attorney fees, costs, and/or other expenses as a result of the other party's failure to perform any obligation pursuant to the terms of this agreement, then the party so failing to perform shall be liable to the other party for any reasonable attorney fees, costs, and expenses incurred by such other party. Should either party to this agreement, or the respective heirs, executors, administrators, assigns or successors in interest of either party, fail to reimburse the other party for such reasonable attorney fees, costs, and other expenses, as aforesaid, then said amount may be obtained or collected by the party to whom it is due by bringing an action against the other party for such fees, costs and expenses incurred as a result of the first party's failure to perform.

15. It is expressly understood and agreed between the parties to this agreement that in the event a court of competent jurisdiction shall at any time after the date of this agreement hold that a portion of this agreement is invalid, illegal or unenforceable, that the remainder shall not be affected thereby, but shall continue in full force and effect.

16. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

17. Whenever the context of this agreement requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural.

18. This agreement shall be binding upon and inure to the benefit of the respective parties, their respective heirs, executors, administrators, assigns and successors in interest.

19. This agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same agreement.


20. Service of all notices under this agreement shall be sufficient if given personally or mailed via certified mail to the party involved at its respective address as previously set forth in this agreement, or at such other address as such party may provide in writing from time to time in accordance with this section regarding notices. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed and with first-class postage prepaid.

IN WITNESS WHEREOF, the GRANTOR(s) has/have set his/her/their hand(s) and seal(s) and CITY has caused its proper corporate officers to set their hands and affix the seal of the City to this agreement this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Erik Graybeal (SEAL)

\_\_\_\_\_  
Janice Graybeal (SEAL)

CITY OF LEROY, McLean County, Illinois,  
an Illinois municipal corporation,

By:   
\_\_\_\_\_  
Jerry C. Davis, Mayor

ATTEST:  
  
(SEAL)

\_\_\_\_\_  
Sue Marcum, Acting City Clerk of the City  
of LeRoy, McLean County, Illinois

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF MCLEAN     )

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Jerry C. Davis, personally known to me to be the Mayor of the City of LeRoy, and Sue Marcum, personally known to me to be the Acting City Clerk of said city, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such mayor and acting city clerk, they signed and delivered said instrument of writing as mayor and as acting city clerk of said city, and caused the seal of the City of LeRoy to be affixed thereto pursuant to authority

given by the City Council of said city as a free and voluntary act, and as the free and voluntary act and agreement of the City of LeRoy for the uses and purposes therein set forth.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Notary Public My Commission Expires: \_\_\_\_\_

STATE OF ILLINOIS        )  
                                      ) SS.  
COUNTY OF McLEAN     )

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Erik Graybeal and Janice Graybeal, Husband and Wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Notary Public My Commission Expires: \_\_\_\_\_

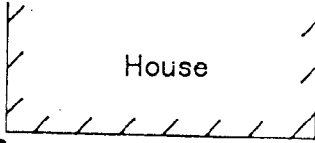
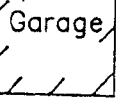
This instrument prepared by:  
Hunt Henderson, Attorney at Law #01186256  
112 East Center Street, LeRoy, Illinois 61752  
Telph: (309) 962-2791

umbaugh

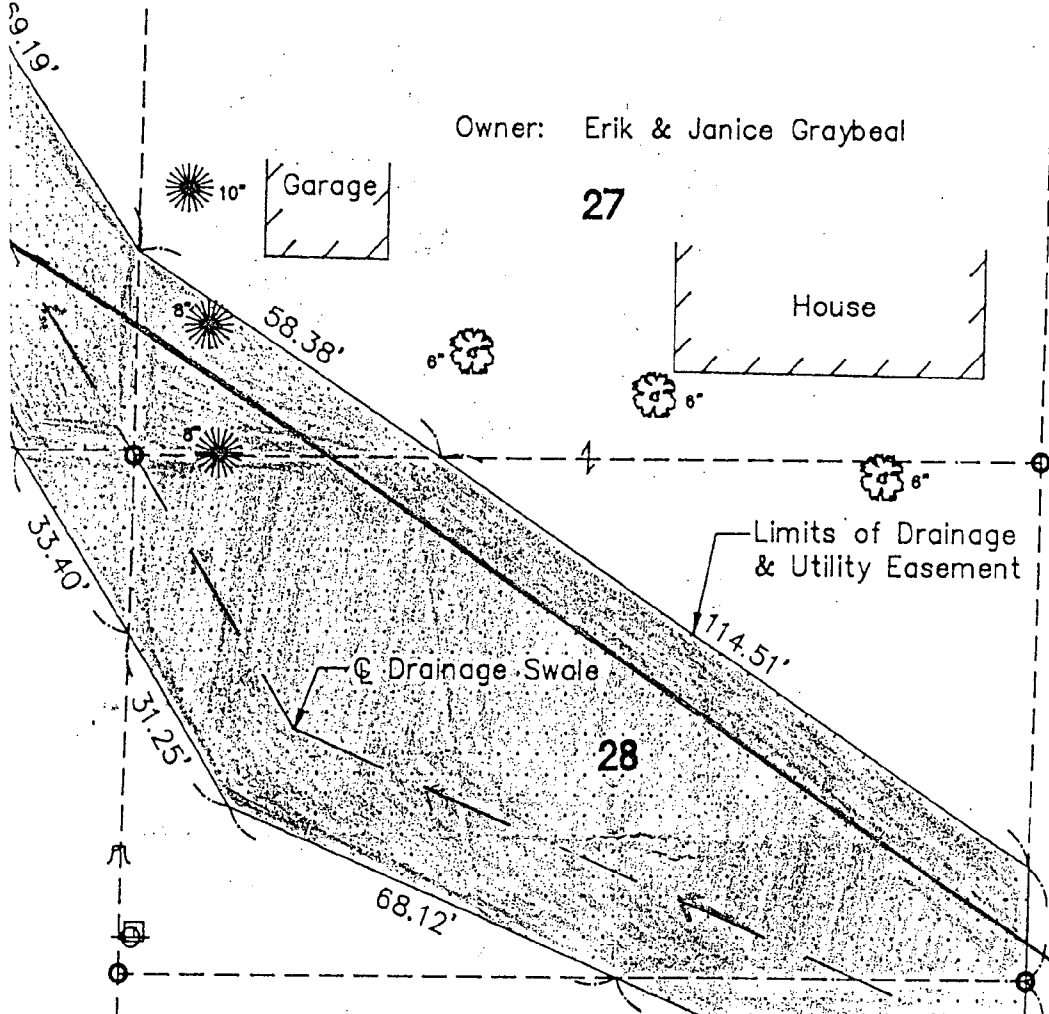
Scale 1" = 30'

Owner: Erik & Janice Graybeal

27



House



Limits of Drainage & Utility Easement

Drainage Swale

28

Owner: Brad Stewart

29

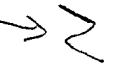
30" CMP  
768.87 Inv. N.  
769.01 Inv. S.

Meadow Lane  
(66' R.O.W.)

30"  
768  
768

Exhibit A

House



Mail to: Hunt Henderson, Attorney  
for the City of LeRoy  
112 East Center Street  
LeRoy, Illinois 61752

### EASEMENT

THE GRANTOR(s), Erik Graybeal and Janice Graybeal, Husband and Wife, of 621 Meadow Lane , of the City of LeRoy , County of McLean, and State of Illinois (hereinafter referred to as "GRANTOR"), in consideration of One Dollar (\$1.00) and other good and valuable consideration, in hand paid, do hereby convey to the City of LeRoy , McLean County, Illinois, an Illinois municipal corporation (hereinafter referred to as "CITY"), an Exclusive Permanent Easement and Grant of Right-Of-Way across the following described premises:

A part of Lot 28 in Meadow Addition Subdivision in the North East 1/4 of Section 21, Township 22 North, Range 4 East of the Third Principal Meridian, City of LeRoy, McLean County, Illinois, more particularly described as follows: Beginning at the South West corner of Lot 28 in Meadow Addition Subdivision; thence East 27.41 feet on the South line of said Lot 28; thence North East 31.25 feet on a line that forms an angle to the right of 146 degrees 59 minutes 14 seconds from the last described course; thence North East 68.12 feet on a line that forms an angle to the right of 143 degrees 56 minutes 52 seconds from the last described course to the East line of said Lot 28; thence North 66.63 feet on the East line of said Lot 28 to the North East corner of said Lot 28; thence West 17.51 feet on the North line of said Lot 28; thence South West 114.51 feet to the West line of said Lot 28; thence South 49.75 feet on the West line of said Lot 28 to the Point of Beginning, containing 7239.22 square feet, more or less (PIN (Book 15) 30-21-203-010).

The easement granted herein shall be for the limited purposes of constructing, reconstructing, replacing, maintaining, deepening, and keeping in repair an open ditch, drain, surface drain, waterway or drainage swale, for constructing, maintaining, deepening and keeping in repair one or more subsurface sewer lines across and under the previously described permanent right-of-way, and for constructing, maintaining and keeping in repair, one or more other subsurface utility lines across and under the previously described permanent right-of-way. The subject premises shall not be available for public use as a travelway, roadway, or other means of ingress or egress to any other property, but shall be used for the purposes of constructing, re-constructing, replacing, maintaining, deepening, and keeping in repair, an open ditch, drain, surface drain, waterway or drainage swale, and further, for constructing, maintaining, deepening and keeping in repair one or more subsurface sewer lines or other utility lines across and under the premises previously described herein. The City of LeRoy , its agents, employees and assignees, shall have the right from time to time to enter and depart over and upon the above-described premises to effect the purposes of the easement herein granted. The City of LeRoy, through its appropriate agents and officials, shall further have the right from time to time to grant rights to public utility entities and quasi-public utility entities, including electrical, natural gas, water, sewer, telephone, other telecommunications, and cable television companies and entities, to place underground utility lines in the exclusive permanent

EXHIBIT B

easement way and right-of-way previously described herein, and to grant such entities, and their agents, employees and assignees, the right to enter and depart over and upon the above-described premises from time to time to effect the purposes of the rights granted herein.

In consideration of the conveyance by GRANTOR, CITY agrees as follows:

1. Upon completion of any construction, reconstruction, maintenance, repair, or deepening of the surface drainage way, open ditch, drain, waterway or drainage swale, as provided previously herein, CITY shall restore the premises previously described herein to that condition as such premises existed prior to the aforesaid construction, reconstruction, maintenance, repair or deepening of the surface drainage way, open ditch, drain, waterway or drainage swale as nearly as may be reasonably possible, in keeping with good engineering practices and accepted soil erosion control practices.

2. From time to time, should CITY make further improvements in said surface drainage way, drainage ditch, drain, waterway, drainage swale, or subsurface sewer lines or other subsurface utility lines, or install one or more subsurface sewer lines or other subsurface utility lines, CITY shall restore the premises described above to the condition as the same existed prior to said construction as nearly as may reasonably be possible, in keeping with good engineering practices and accepted soil erosion control practices.

3. CITY shall cause any entity or persons to whom CITY shall grant rights as provided herein for placement of underground utility lines to restore the premises previously described herein to that condition as such premises existed prior to any construction, reconstruction, maintenance, repair or deepening of any underground utility line, as nearly as may be reasonably possible, in keeping with good engineering practices and excepted soil erosion control practices.

4. GRANTOR shall have the right to use the premises located within the easement description for purposes not inconsistent with CITY's full enjoyment of the rights hereby granted, including those rights that CITY may grant to other entities as aforesaid, provided that GRANTOR shall not erect or construct any building or other structure, or drill or operate any well, or construct any other obstruction within the easement way.

5. Any and all costs and expenses with regard to the aforesaid easement and use of the same by CITY, including, but not limited to, construction, reconstruction, operation and maintenance, in good repair, of the surface drainage way, open ditch, drain, waterway, or drainage swale, shall be the duty and obligation of CITY and CITY shall repair any damage caused by it to GRANTOR's premises, and shall save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of the construction, reconstruction, maintenance, in good repair, or operation, of said surface drainage way, open ditch, drain, waterway or surface drainage way, open swale, or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, and that may be incurred by GRANTOR by reason of CITY's exercise of its right to enter and depart upon the described easement way as previously set forth herein. Any and all costs in regard to any future improvements or reconstructions in any surface drainage way, open ditch, waterway, drain, drainage swale, or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, either existing or to be constructed in the future, including, but not limited to, construction, reconstruction, operation and maintenance of said surface drainage way, open ditch, drain, waterway, drainage swale or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, shall be the duty and obligation of CITY. Further, should CITY grant any rights to any entities as previously granted herein for the placement of underground utility lines of any sort, as previously described herein, CITY shall cause the assignee or grantee of any such rights to repair any damage caused by it to GRANTOR's premises, and shall cause said entity to save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of construction, reconstruction, maintenance, in good repair, or operation of any said underground utility line or improvement as well as for any future such improvements or reconstructions.

6. CITY agrees, upon the completion of any construction, reconstruction, or maintenance work conducted by it on or in the easement way to reseed the stand of grass in the easement way, to the extent of any grassy area damaged, and to follow up the reseeding, as may be necessary, to water and fertilize the seed bed in order to re-establish the grassy area in a condition the same as or better than it existed prior to the damage to the grassy area by CITY or its agents, employees, or contractors.

7. GRANTORS, and their successors in interest, have the right to place up to three trees and/or bushes or shrubs in the easement way, and to replace the same from time to time. Such trees and/or bushes, or shrubs shall be placed in such locations so as not to significantly impede the flow of surface drainage waters, and so as not to cause roots of such trees, bushes or shrubs to grow in to and obstruct or damage any underground utility line (sewer, water, gas, electric, etc.). If CITY should damage or have to remove any or all of said trees, shrubs or bushes, CITY shall replace the same with plants of like or similar kind and of similar size (to the extent it is economically reasonable to do so).

8. The parties hereto agree that CITY, its agents, employees and contractors, from time to time, may place temporary stakes and markers within the easement way in order to facilitate construction, reconstruction, or repair work. Further, that GRANTOR shall not place any fencing along the sides, on either end, or within the easement way, without CITY's consent.

9. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, tenants, personal representatives, and successors in interest, of the parties hereto.

10. The rule of strict construction shall not apply to this grant of easement. This grant shall be given a reasonable construction so that the intention of the parties to confer a usable right in grantee (CITY) is carried out.

11. This written agreement contains the sole and entire agreement between the parties, and supersedes any and all other agreements between them. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this agreement or any representations inducing the execution and delivery of this agreement except such representations as are specifically set forth herein, and each party acknowledges that he, she, or it has relied on his, her, or its own judgment in entering into this agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his, her or its dealings with the other.

12. No waiver or modification of this agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

13 This agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of Illinois.

14. Should either party, or the respective heirs, executors, administrators, assigns or successors in interest of either party, to this agreement, be required to incur attorney fees, costs, and/or other expenses as a result of the other party's failure to perform any obligation pursuant to the terms of this agreement, then the party so failing to perform shall be liable to the other party for any reasonable attorney fees, costs, and expenses incurred by such other party. Should either party to this agreement, or the respective heirs, executors, administrators, assigns or successors in interest of either party, fail to reimburse the other party for such reasonable attorney fees, costs, and other expenses, as aforesaid, then said amount may be obtained or collected by the party to whom it is due by bringing an action against the other party for such fees, costs and expenses incurred as a result of the first party's failure to perform.



15. It is expressly understood and agreed between the parties to this agreement that in the event a court of competent jurisdiction shall at any time after the date of this agreement hold that a portion of this agreement is invalid, illegal or unenforceable, that the remainder shall not be affected thereby, but shall continue in full force and effect.

16. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

17. Whenever the context of this agreement requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural.

18. This agreement shall be binding upon and inure to the benefit of the respective parties, their respective heirs, executors, administrators, assigns and successors in interest.

19. This agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same agreement.

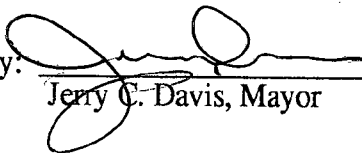
20. Service of all notices under this agreement shall be sufficient if given personally or mailed via certified mail to the party involved at its respective address as previously set forth in this agreement, or at such other address as such party may provide in writing from time to time in accordance with this section regarding notices. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed and with first-class postage prepaid.

IN WITNESS WHEREOF, the GRANTOR(s) has/have set his/her/their hand(s) and seal(s) and CITY has caused its proper corporate officers to set their hands and affix the seal of the City to this agreement this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Erik Graybeal (SEAL)

\_\_\_\_\_  
Janice Graybeal (SEAL)

CITY OF LEROY, McLean County, Illinois,  
an Illinois municipal corporation,

By:   
Jerry C. Davis, Mayor

ATTEST:

(SEAL)

\_\_\_\_\_  
Sue Marcum, Acting City Clerk of the City  
of LeRoy, McLean County, Illinois

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF MCLEAN        )

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Jerry C. Davis, personally known to me to be the Mayor of the City of LeRoy, and Sue Marcum, personally known to me to be the Acting City Clerk of said city, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such mayor and acting city clerk, they signed and delivered said instrument of writing as mayor and as acting city clerk of said city, and caused the seal of the City of LeRoy to be affixed thereto pursuant to authority given by the City Council of said city as a free and voluntary act, and as the free and voluntary act and agreement of the City of LeRoy for the uses and purposes therein set forth.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF McLEAN        )

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Erik Graybeal and Janice Graybeal, Husband and Wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public

This instrument prepared by:  
Hunt Henderson, Attorney at Law #01186256  
112 East Center Street, LeRoy, Illinois 61752  
Telph: (309) 962-2791

CITY OF LEROY  
COUNTY OF MCLEAN  
STATE OF ILLINOIS

---

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE VACATING PORTIONS OF A PLATTED UTILITY EASEMENT LOCATED IN  
AND ACROSS MEADOW ADDITION TO THE CITY OF LEROY, MCLEAN COUNTY, ILLINOIS

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ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 1997.

PRESENTED: \_\_\_\_\_, 1997

PASSED: \_\_\_\_\_, 1997

APPROVED: \_\_\_\_\_, 1997

RECORDED: \_\_\_\_\_, 1997

PUBLISHED: \_\_\_\_\_, 1997

In Pamphlet Form

Voting "Aye" \_\_\_\_\_

Voting "Nay" \_\_\_\_\_

---

The undersigned being the duly qualified and Acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.

(SEAL)

X \_\_\_\_\_  
Acting City Clerk of the City of LeRoy,  
McLean County, Illinois

Dated: \_\_\_\_\_, 1997.

## ORDINANCE NO. \_\_\_\_\_

## AN ORDINANCE VACATING PORTIONS OF A PLATTED UTILITY EASEMENT LOCATED IN AND ACROSS MEADOW ADDITION TO THE CITY OF LEROY, MCLEAN COUNTY, ILLINOIS

WHEREAS, prior to the date of this ordinance a request was received from the owner of property across which exists a certain platted, but currently unused, easement way for utility purposes, located in the East 10 feet of Lot 28, both in Meadow Addition of the City of LeRoy, McLean County, Illinois, requesting vacation of the aforesaid platted utility easement; and

WHEREAS, the City of LeRoy, through its Mayor and City Council, has determined that it is appropriate to take action in response to said request by passing and approving an ordinance vacating a designated portion of said easement; and

WHEREAS, the Mayor and City Council of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, find that it is in the public's interest to vacate portions of the aforesaid platted utility easement as previously described herein, and in return for the same to obtain a grant of easement for utility purposes across the East 10 feet of the aforesaid Lot 28 in Meadow Addition, as aforesaid,

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of LeRoy, McLean County, Illinois, in lawful meeting assembled, as follows:

Section 1. The platted utility easement previously described herein is no longer required for the public's use and the public's interest will be subserved by vacating said portion of the aforesaid platted utility easement.

Section 2. The heretofore platted and dedicated utility easement, legally described as:

Across the North 127.3 feet of the East 10 feet of Lot 28, both lots being in Meadow Addition Subdivision in the North East 1/4 of Section 21, Township 22 North, Range 4 East of the Third Principal Meridian, in the City of LeRoy, McLean County, Illinois,

be and the same is hereby vacated subject to the condition that a grant of easement as set forth in Exhibit Y, attached hereto and incorporated herein by reference, is recorded immediately subsequent to recording of a certified copy of this ordinance in the Office of the Recorder of Deeds of McLean County, Illinois.

Section 3. The vacation of a portion of the utility easement as provided herein is conditioned upon the execution of a grant of easement by the owners of Lot 28 in Meadow Addition Subdivision in the North East 1/4 of Section 21, Township 22 North, Range 4 East of the Third Principal Meridian, in the City of LeRoy, McLean County, Illinois, a copy of the proposed grant of easement being set forth in Exhibit Y, attached hereto and incorporated herein by reference.

Section 4. A certified copy of this ordinance shall be filed by the City Clerk of the City of LeRoy, Illinois, for recording in the Office of the Recorder of Deeds of McLean County, Illinois, within thirty (30) days after passage of this Ordinance.

Section 5. Vacation of the public interest in the aforesaid platted utility easements on the conditions herein provided shall not abridge or destroy the rights or privileges of any other proprietor or property shown on the final plat of said subdivision. Said vacation does not constitute a closing or obstructing of any public way and for that reason, and only to the extent that said final plat conflicts with the provisions of this vacation ordinance, the final plat of the aforesaid Meadow Addition to the City of LeRoy, McLean County, Illinois, be and the same is hereby vacated in part.

Section 6. This ordinance is passed by the affirmative vote of at least three-fourths (3/4) of the Aldermen of the City of LeRoy now holding office.

Section 7. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as required by law, and upon the fulfillment of the conditions set forth in Section 3 of this ordinance regarding recording of the Grant of Easement, in the original form, a copy of which is set forth in Exhibit Y, attached hereto and incorporated herein by reference.

**PASSED** by the City Council of the City of LeRoy, Illinois, upon the motion by

\_\_\_\_\_, seconded by \_\_\_\_\_

\_\_\_\_\_, by roll call vote on the \_\_\_\_ day of \_\_\_\_\_, 1997, as follows:

Aldermen elected \_\_\_\_\_ Aldermen present \_\_\_\_\_

VOTING AYE:

\_\_\_\_\_  
(full names)

VOTING NAY:

\_\_\_\_\_  
(full names)

ABSENT, ABSTAIN, OTHER:

\_\_\_\_\_  
(full names)

and deposited and filed in the office of the Acting City Clerk in said municipality on the \_\_\_\_ day of \_\_\_\_\_, 1997.

X \_\_\_\_\_  
Sue Marcum, Acting City Clerk of the City of  
LeRoy, McLean County, Illinois

**APPROVED BY** the Mayor of the City of LeRoy, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

X \_\_\_\_\_  
Jerry C. Davis, Mayor of the City of LeRoy, McLean  
County, Illinois

ATTEST: (SEAL)

X \_\_\_\_\_  
Sue Marcum, Acting City Clerk, City of  
LeRoy, McLean County, Illinois

aforesaid construction, reconstruction, maintenance, or repair of the surface drainage way, open ditch, drain, waterway or drainage swale as nearly as may be reasonably possible, in keeping with good engineering practices and accepted soil erosion control practices.

2. From time to time, should CITY make further improvements in any existing utility line or sewer lines, or subsurface sewer lines or other subsurface utility lines, or install one or more subsurface sewer lines or other subsurface utility lines, CITY shall restore the premises described above to the condition as the same existed prior to said construction as nearly as may reasonably be possible, in keeping with good engineering practices and accepted soil erosion control practices.

3. CITY shall cause any entity or persons to whom CITY shall grant rights as provided herein for placement of underground utility lines to restore the premises previously described herein to that condition as such premises existed prior to any construction, reconstruction, maintenance, repair or deepening of any underground utility line, as nearly as may be reasonably possible, in keeping with good engineering practices and excepted soil erosion control practices.

4. GRANTOR shall have the right to use the premises located within the easement description for purposes not inconsistent with CITY's full enjoyment of the rights hereby granted, including those rights that CITY may grant to other entities as aforesaid, provided that GRANTOR shall not erect or construct any building or other structure, or drill or operate any well, or construct any other obstruction within the easement way.

5. Any and all costs and expenses with regard to the aforesaid easement and use of the same by CITY, including, but not limited to, construction, reconstruction, operation and maintenance, in good repair, of the surface drainage way, open ditch, drain, waterway, or drainage swale, shall be the duty and obligation of CITY and CITY shall repair any damage caused by it to GRANTOR's premises, and shall save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of the construction, reconstruction, maintenance, in good repair, or operation, of said surface drainage way, open ditch, drain, waterway or surface drainage way, open swale, or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, and that may be incurred by GRANTOR by reason of CITY's exercise of its right to enter and depart upon the described easement way as previously set forth herein. Any and all costs in regard to any future improvements or reconstructions in any surface drainage way, open ditch, waterway, drain, drainage swale, or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, either existing or to be constructed in the future, including, but not limited to, construction, reconstruction, operation and maintenance of said surface drainage way, open ditch, drain, waterway, drainage swale or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, shall be the duty and obligation of CITY. Further, should CITY grant any rights to any entities as previously granted herein for the placement of underground utility lines of any sort, as previously described herein, CITY shall cause the assignee or grantee of any such rights to repair any damage caused by it to GRANTOR's premises, and shall cause said entity to save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of construction, reconstruction, maintenance, in good repair, or operation of any said underground utility line or improvement as well as for any future such improvements or reconstructions.

6. CITY agrees, upon the completion of any construction, reconstruction, or maintenance work conducted by it on or in the easement way to reseed the stand of grass in the easement way, to the extent of any grassy area damaged, and to follow up the reseeding, as may be necessary, to water and fertilize the seed bed in order to re-establish the grassy area in a condition the same as or better than it existed prior to the damage to the grassy area by CITY or its agents, employees, or contractors.

7. The parties hereto agree that CITY, its agents, employees and contractors, from time to time, may place temporary stakes and markers within the easement way in order to facilitate construction, reconstruction, or repair work. Further, that GRANTOR shall not place any fencing along the sides, on either end, or within the easement way, without CITY's consent.

8. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, tenants, personal representatives, and successors in interest, of the parties hereto.

9. The rule of strict construction shall not apply to this grant of easement. This grant shall be given a reasonable construction so that the intention of the parties to confer a usable right in grantee (CITY) is carried out.

10. This written agreement contains the sole and entire agreement between the parties, and supersedes any and all other agreements between them. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this agreement or any representations inducing the execution and delivery of this agreement except such representations as are specifically set forth herein, and each party acknowledges that he, she, or it has relied on his, her, or its own judgment in entering into this agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his, her or its dealings with the other.

11. No waiver or modification of this agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

12. This agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of Illinois.

13. Should either party, or the respective heirs, executors, administrators, assigns or successors in interest of either party, to this agreement, be required to incur attorney fees, costs, and/or other expenses as a result of the other party's failure to perform any obligation pursuant to the terms of this agreement, then the party so failing to perform shall be liable to the other party for any reasonable attorney fees, costs, and expenses incurred by such other party. Should either party to this agreement, or the respective heirs, executors, administrators, assigns or successors in interest of either party, fail to reimburse the other party for such reasonable attorney fees, costs, and other expenses, as aforesaid, then said amount may be obtained or collected by the party to whom it is due by bringing an action against the other party for such fees, costs and expenses incurred as a result of the first party's failure to perform.

14. It is expressly understood and agreed between the parties to this agreement that in the event a court of competent jurisdiction shall at any time after the date of this agreement hold that a portion of this agreement is invalid, illegal or unenforceable, that the remainder shall not be affected thereby, but shall continue in full force and effect.

15. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

16. Whenever the context of this agreement requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural.

17. This agreement shall be binding upon and inure to the benefit of the respective parties, their respective heirs, executors, administrators, assigns and successors in interest.

18. This agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same agreement.

19. Service of all notices under this agreement shall be sufficient if given personally or mailed via certified mail to the party involved at its respective address as previously set forth in this agreement, or at



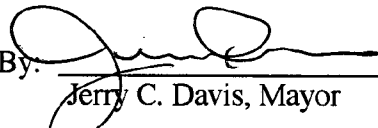
such other address as such party may provide in writing from time to time in accordance with this section regarding notices. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed and with first-class postage prepaid.

IN WITNESS WHEREOF, the GRANTOR(s) ~~has~~/have set ~~his/her~~/their hand(s) and seal(s) and CITY has caused its proper corporate officers to set their hands and affix the seal of the City to this agreement this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Erik Graybeal (SEAL)

\_\_\_\_\_  
Janice Graybeal (SEAL)

CITY OF LEROY, McLean County, Illinois,  
an Illinois municipal corporation,

By:   
Jerry C. Davis, Mayor

ATTEST:  
  
(SEAL)

\_\_\_\_\_  
Sue Marcum, Acting City Clerk of the City  
of LeRoy, McLean County, Illinois

STATE OF ILLINOIS     )  
                                   ) SS.  
COUNTY OF MCLEAN    )

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Jerry C. Davis, personally known to me to be the Mayor of the City of LeRoy, and Sue Marcum, personally known to me to be the Acting City Clerk of said city, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such mayor and acting city clerk, they signed and delivered said instrument of writing as mayor and as acting city clerk of said city, and caused the seal of the City of LeRoy to be affixed thereto pursuant to authority given by the City Council of said city as a free and voluntary act, and as the free and voluntary act and agreement of the City of LeRoy for the uses and purposes therein set forth.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Notary Public                                  My Commission Expires: \_\_\_\_\_

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF McLEAN        )

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Erik Graybeal and Janice Graybeal, Husband and Wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public

This instrument prepared by:  
Hunt Henderson, Attorney at Law #01186256  
112 East Center Street, LeRoy, Illinois 61752  
Telph: (309) 962-2791

**CERTIFICATE**

I, Sue Marcum, certify that I am the duly appointed and acting municipal clerk of the City of LeRoy, of McLean County, Illinois.

I further certify that on \_\_\_\_\_, 1997, the Corporate Authorities of such municipality passed and approved Ordinance No. \_\_\_\_\_, entitled:

AN ORDINANCE VACATING PORTIONS OF A PLATTED UTILITY EASEMENT LOCATED IN AND ACROSS MEADOW ADDITION TO THE CITY OF LEROY, MCLEAN COUNTY, ILLINOIS, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. \_\_\_\_\_, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on \_\_\_\_\_, 1997, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at LeRoy, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 1997 .

(SEAL)

\_\_\_\_\_  
Acting Municipal Clerk

STATE OF ILLINOIS        )  
                                  ) SS:  
COUNTY OF McLEAN        )

I, Sue Marcum, do hereby certify that I am the duly qualified and Acting City Clerk of the City of LeRoy, McLean County, Illinois, and as such Acting City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

AN ORDINANCE VACATING PORTIONS OF A PLATTED UTILITY EASEMENT LOCATED IN AND ACROSS MEADOW ADDITION TO THE CITY OF LEROY, MCLEAN COUNTY, ILLINOIS.

I do further certify said ordinance was adopted by the City Council of the City of LeRoy at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 1997, and prior to the making of this certificate the said ordinance was spread at length upon the permanent records of said City where it now appears and remains as a faithful record of said ordinance in the record books.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

X \_\_\_\_\_  
Acting City Clerk

(SEAL)

Mail to: Hunt Henderson, Attorney  
for the City of LeRoy  
112 East Center Street  
LeRoy, Illinois 61752

### EASEMENT

THE GRANTOR(s), Erik Graybeal and Janice Graybeal, Husband and Wife, of 621 Meadow Lane , of the City of LeRoy , County of McLean, and State of Illinois (hereinafter referred to as "GRANTOR"), in consideration of One Dollar (\$1.00) and other good and valuable consideration, in hand paid, do hereby convey to the City of LeRoy , McLean County, Illinois, an Illinois municipal corporation (hereinafter referred to as "CITY"), an Exclusive Permanent Easement and Grant of Right-Of-Way across the following described premises:

The North 127.3 feet of the East 10 feet of Lot 28, both in Meadow Addition Subdivision in the North East 1/4 of Section 21, Township 22 North, Range 4 East of the Third Principal Meridian, in the City of LeRoy, McLean County, Illinois.

The easement granted herein shall be for the limited purposes of constructing, reconstructing, replacing, maintaining, and keeping in repair one or more subsurface sewer lines across and under the previously described permanent right-of-way, and for constructing, maintaining and keeping in repair, one or more other subsurface utility lines across and under the previously described permanent right-of-way. The subject premises shall not be available for public use as a travelway, roadway, or other means of ingress or egress to any other property, but shall be used for the purposes of constructing, re-constructing, replacing, maintaining, and keeping in repair, one or more subsurface sewer lines or other utility lines across and under the premises previously described herein. The City of LeRoy , its agents, employees and assignees, shall have the right from time to time to enter and depart over and upon the above-described premises to effect the purposes of the easement herein granted. The City of LeRoy, through its appropriate agents and officials, shall further have the right from time to time to grant rights to public utility entities and quasi-public utility entities, including electrical, natural gas, water, sewer, telephone, other telecommunications, and cable television companies and entities, to place underground utility lines in the exclusive permanent easement way and right-of-way previously described herein, and to grant such entities, and their agents, employees and assignees, the right to enter and depart over and upon the above-described premises from time to time to effect the purposes of the rights granted herein.

In consideration of the conveyance by GRANTOR, CITY agrees as follows:

1. Upon completion of any construction, reconstruction, maintenance, or repair of the surface drainage way, open ditch, drain, waterway or drainage swale, as provided previously herein, CITY shall restore the premises previously described herein to that condition as such premises existed prior to the

EXHIBIT D

aforesaid construction, reconstruction, maintenance, or repair of the surface drainage way, open ditch, drain, waterway or drainage swale as nearly as may be reasonably possible, in keeping with good engineering practices and accepted soil erosion control practices.

2. From time to time, should CITY make further improvements in any existing utility line or sewer lines, or subsurface sewer lines or other subsurface utility lines, or install one or more subsurface sewer lines or other subsurface utility lines, CITY shall restore the premises described above to the condition as the same existed prior to said construction as nearly as may reasonably be possible, in keeping with good engineering practices and accepted soil erosion control practices.

3. CITY shall cause any entity or persons to whom CITY shall grant rights as provided herein for placement of underground utility lines to restore the premises previously described herein to that condition as such premises existed prior to any construction, reconstruction, maintenance, repair or deepening of any underground utility line, as nearly as may be reasonably possible, in keeping with good engineering practices and excepted soil erosion control practices.

4. GRANTOR shall have the right to use the premises located within the easement description for purposes not inconsistent with CITY's full enjoyment of the rights hereby granted, including those rights that CITY may grant to other entities as aforesaid, provided that GRANTOR shall not erect or construct any building or other structure, or drill or operate any well, or construct any other obstruction within the easement way.

5. Any and all costs and expenses with regard to the aforesaid easement and use of the same by CITY, including, but not limited to, construction, reconstruction, operation and maintenance, in good repair, of the surface drainage way, open ditch, drain, waterway, or drainage swale, shall be the duty and obligation of CITY and CITY shall repair any damage caused by it to GRANTOR's premises, and shall save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of the construction, reconstruction, maintenance, in good repair, or operation, of said surface drainage way, open ditch, drain, waterway or surface drainage way, open swale, or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, and that may be incurred by GRANTOR by reason of CITY's exercise of its right to enter and depart upon the described easement way as previously set forth herein. Any and all costs in regard to any future improvements or reconstructions in any surface drainage way, open ditch, waterway, drain, drainage swale, or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, either existing or to be constructed in the future, including, but not limited to, construction, reconstruction, operation and maintenance of said surface drainage way, open ditch, drain, waterway, drainage swale or subsurface sewer line or other subsurface utility line(s) installed by or operated by CITY, shall be the duty and obligation of CITY. Further, should CITY grant any rights to any entities as previously granted herein for the placement of underground utility lines of any sort, as previously described herein, CITY shall cause the assignee or grantee of any such rights to repair any damage caused by it to GRANTOR's premises, and shall cause said entity to save and hold harmless and indemnify GRANTOR from any and all liability which may be incurred by GRANTOR by reason of construction, reconstruction, maintenance, in good repair, or operation of any said underground utility line or improvement as well as for any future such improvements or reconstructions.

6. CITY agrees, upon the completion of any construction, reconstruction, or maintenance work conducted by it on or in the easement way to reseed the stand of grass in the easement way, to the extent of any grassy area damaged, and to follow up the reseeding, as may be necessary, to water and fertilize the seed bed in order to re-establish the grassy area in a condition the same as or better than it existed prior to the damage to the grassy area by CITY or its agents, employees, or contractors.

7. The parties hereto agree that CITY, its agents, employees and contractors, from time to time, may place temporary stakes and markers within the easement way in order to facilitate construction, reconstruction, or repair work. Further, that GRANTOR shall not place any fencing along the sides, on either end, or within the easement way, without CITY's consent.

8. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, tenants, personal representatives, and successors in interest, of the parties hereto.

9. The rule of strict construction shall not apply to this grant of easement. This grant shall be given a reasonable construction so that the intention of the parties to confer a usable right in grantee (CITY) is carried out.

10. This written agreement contains the sole and entire agreement between the parties, and supersedes any and all other agreements between them. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this agreement or any representations inducing the execution and delivery of this agreement except such representations as are specifically set forth herein, and each party acknowledges that he, she, or it has relied on his, her, or its own judgment in entering into this agreement. The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his, her or its dealings with the other.

11. No waiver or modification of this agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

12. This agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of Illinois.

13. Should either party, or the respective heirs, executors, administrators, assigns or successors in interest of either party, to this agreement, be required to incur attorney fees, costs, and/or other expenses as a result of the other party's failure to perform any obligation pursuant to the terms of this agreement, then the party so failing to perform shall be liable to the other party for any reasonable attorney fees, costs, and expenses incurred by such other party. Should either party to this agreement, or the respective heirs, executors, administrators, assigns or successors in interest of either party, fail to reimburse the other party for such reasonable attorney fees, costs, and other expenses, as aforesaid, then said amount may be obtained or collected by the party to whom it is due by bringing an action against the other party for such fees, costs and expenses incurred as a result of the first party's failure to perform.

14. It is expressly understood and agreed between the parties to this agreement that in the event a court of competent jurisdiction shall at any time after the date of this agreement hold that a portion of this agreement is invalid, illegal or unenforceable, that the remainder shall not be affected thereby, but shall continue in full force and effect.

15. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

16. Whenever the context of this agreement requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural.

17. This agreement shall be binding upon and inure to the benefit of the respective parties, their respective heirs, executors, administrators, assigns and successors in interest.

18. This agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same agreement.

19. Service of all notices under this agreement shall be sufficient if given personally or mailed via certified mail to the party involved at its respective address as previously set forth in this agreement, or at

such other address as such party may provide in writing from time to time in accordance with this section regarding notices. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed and with first-class postage prepaid.

IN WITNESS WHEREOF, the GRANTOR(s) ~~has~~/have set ~~his/her~~/their hand(s) and seal(s) and CITY has caused its proper corporate officers to set their hands and affix the seal of the City to this agreement this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Erik Graybeal (SEAL)

\_\_\_\_\_  
Janice Graybeal (SEAL)

CITY OF LEROY, McLean County, Illinois,  
an Illinois municipal corporation,

By: \_\_\_\_\_  
Jerry C. Davis, Mayor

ATTEST:

(SEAL)

\_\_\_\_\_  
Sue Marcum, Acting City Clerk of the City  
of LeRoy, McLean County, Illinois

STATE OF ILLINOIS         )  
   ) SS.  
COUNTY OF MCLEAN        )

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Jerry C. Davis, personally known to me to be the Mayor of the City of LeRoy, and Sue Marcum, personally known to me to be the Acting City Clerk of said city, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such mayor and acting city clerk, they signed and delivered said instrument of writing as mayor and as acting city clerk of said city, and caused the seal of the City of LeRoy to be affixed thereto pursuant to authority given by the City Council of said city as a free and voluntary act, and as the free and voluntary act and agreement of the City of LeRoy for the uses and purposes therein set forth.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Notary Public My Commission Expires: \_\_\_\_\_



STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF McLEAN     )

I, the undersigned, a Notary Public in and for said county and state aforesaid, DO HEREBY CERTIFY that Erik Graybeal and Janice Graybeal, Husband and Wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
Notary Public

This instrument prepared by:  
Hunt Henderson, Attorney at Law #01186256  
112 East Center Street, LeRoy, Illinois 61752  
Telph: (309) 962-2791

**CERTIFICATE**

I, Sue Marcum, certify that I am the duly appointed and acting municipal clerk of the City of LeRoy, of McLean County, Illinois.

I further certify that on March 3, \_\_\_\_\_, 1997, the Corporate Authorities of such municipality passed and approved Ordinance No. 7222 \_\_\_\_\_, entitled:

AN ORDINANCE APPROVING A CONTRACT FOR SALE OF REAL ESTATE BETWEEN JUDITH R. KIRBY, AS SELLER, AND ERIK GRAYBEAL AND JANICE GRAYBEAL, AS PURCHASERS, AND FOR PURCHASE OF EASEMENT RIGHTS BY THE CITY OF LEROY (AS ATTACHED AS EXHIBIT M),

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 722 \_\_\_\_\_, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on March 3 \_\_\_\_\_, 1997, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at LeRoy, Illinois, this 3rd day of March \_\_\_\_\_, 1997.

(SEAL)

  
\_\_\_\_\_  
Acting Municipal Clerk

STATE OF ILLINOIS        )  
                                  ) SS:  
COUNTY OF McLEAN     )

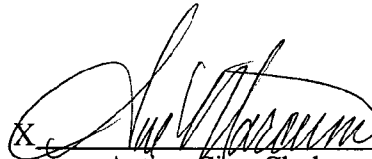
I, Sue Marcum, do hereby certify that I am the duly qualified and Acting City Clerk of the City of LeRoy, McLean County, Illinois, and as such Acting City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

AN ORDINANCE APPROVING A CONTRACT FOR SALE OF REAL ESTATE BETWEEN JUDITH R. KIRBY, AS SELLER, AND ERIK GRAYBEAL AND JANICE GRAYBEAL, AS PURCHASERS, AND FOR PURCHASE OF EASEMENT RIGHTS BY THE CITY OF LEROY (AS ATTACHED AS EXHIBIT M).

I do further certify said ordinance was adopted by the City Council of the City of LeRoy at a regular meeting on the 3rd day of March \_\_\_\_\_, 1997, and prior to the making of this certificate the said ordinance was spread at length upon the permanent records of said City where it now appears and remains as a faithful record of said ordinance in the record books.

Dated this 3rd day of March \_\_\_\_\_, 1997.

  
\_\_\_\_\_  
Acting City Clerk

(SEAL)