



Book 2019 Page 1700

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Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared By and Return To:

[Signature]
Myia E. Steines - AT0012316
2080 Southpark Court, Dubuque, IA 52003 (563) 582-2926

UTILITY EASEMENT AGREEMENT

This Utility Easement Agreement is made and entered into this 5th day of June, 2019, by and between GERALD B. NURRE AND RITA M. NURRE (hereinafter referred to as "NURRE") and EASTERN IOWA REGIONAL UTILITY SERVICE SYSTEMS (hereinafter referred to as "EIRUSS").

RECITALS

WHEREAS, NURRE owns real estate legally described as:

the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 4, Township 89 North, Range 3 West of the 5th Principal Meridian, Delaware County, Iowa (hereinafter referred to as "NURRE'S PARCEL"), and

WHEREAS, EIRUSS owns real estate legally described as:

Parcel 2019-02 in the Southeast Quarter of the Southwest Quarter of Section 4, Township 89 North, Range 3 West of the 5th Principal Meridian, Delaware County, Iowa (hereinafter referred to as "PARCEL 2019-02"), and

WHEREAS, the parties hereto desire to enter in this Utility Easement Agreement for the joint use of a certain utility, namely constructing, connecting, and maintaining a singular pipe to connect with the existing water way on NURRE'S PARCEL to discharge drainage from EIRUSS'S lagoon waste system, located in PARCEL 2019-02, which is depicted on the Plat of Survey attached as Exhibit "A".

NOW, THEREFORE, for and in consideration of the sum of \$10.00 (ten dollars) and other good and valuable consideration, to be paid by EIRUSS to NURRE, the receipt and adequacy of which are hereby acknowledge, NURRE and EIRUSS agree to the following:

1. NURRE grants to EIRUSS, EIRUSS' successors and assigns, a perpetual 50 (fifty) foot easement, along the east boundary line, over a portion of NURRE's PARCEL, as substantially as shown and/or described on Exhibit A, to construct, reconstruct, operate, maintain, repair, replace and remove a pipeline for the discharge of drainage from the EIRUSS' lagoon waste system, located in PARCEL 2019-02, together with

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EIRUSS
7100 Cornwell Place
Dubuque IA 52003*

the right to enter and access the Easements described herein, without notice to NURRE, twenty-four (24) hours a day, seven (7) days a week, as may be required in connection with the activities and uses described in this Agreement. EIRUSS, its successors and assigns, shall be the exclusive party entitled to said easement, NURRE'S retain the right to cross the easement area with farm equipment and agree not to obstruct or interfere with EIRUSS' use of said easement.

2. The right for this easement is granted to EIRUSS' employees, assigns, servants, visitors and licensees, with or without automobiles or other vehicles or on foot, for the purposes described in this Agreement.
3. EIRUSS' employees, assigns, servants, visitors and licensees, may, at their discretion and expense, construct such improvements in, to, under and over the Easements, consistent with the uses specified herein
4. EIRUSS or their successors in interest shall assume one hundred percent (100%) of the cost of connecting to the existing drainage system located NURRE'S PARCEL. Following completion of the connection to the existing system, EIRUSS or their successors in interest shall assume one hundred percent (100%) of the cost maintaining, repairing and replacing the outfall main (the line from the lagoon to the waterway), which is located on PARCEL 2019-02, with such maintenance, repair and replacement to occur at EIRUSS' or their successors' in interest sole discretion, unless otherwise agreed by the parties. In addition, EIRUSS or their successors in interest, shall assume one hundred percent (100%) of the labor and cost of extending the outfall tile from the metering manhole to the concrete wall in the existing drain way.
5. Following completion of the connection to the existing system, NURRE or their successors in interest shall assume one hundred percent (100%) of the cost maintaining, repairing and replacing the field drainage system, which is located on NURRE'S PARCEL, unless otherwise agreed by the parties. EIRUSS shall be responsible for any damage it causes to the NURRE'S field drainage system. EIRUSS or their successors in interest shall not be responsible for any costs associated with constructing, connecting, repairing, maintaining, or replacing, the common field tile line (or any field tiles connected to said line) that enters from Willenborg to the north and extends into PARCEL 2019-02.
6. NURRE represents and warrants to EIRUSS that it is the sole legal owner of indefeasible and marketable title to NURRE'S PARCEL with the right, power and authority to enter into this Agreement and to grant the Easements to EIRUSS, and any consents and authorizations required in connection with the execution and delivery of this Agreement have been obtained and except for the Existing Agreements, no leases, mortgages, deeds of trust or other encumbrances affect NURRE'S PARCEL. NURRE covenants to warrant and defend EIRUSS against any liens and any claims of persons arresting a claim and/or lien.

7. NURRE and EIRUSS shall each indemnify, defend and hold the other harmless against any and all costs (including reasonable attorney's fees) and claims of liability or loss arising (a) due to the breach of any representation, warranty or covenant of such indemnifying party set forth herein; and (b) out of the use and/or occupancy NURRE'S PARCEL and Easements by the indemnifying party. This indemnity shall not apply to any claims to the extent arising from the gross negligence or intentional misconduct of the indemnified party.
8. This Utility Easement Agreement may be amended from time to time by agreement of all of the respective owners of the lots identified herein. Any amendment, to be effective, must be in writing and filed for record with the Delaware County Recorder.
9. The easements and agreements provided for herein shall be effective upon execution of this Utility Easement Agreement by the parties hereto. The easements provided for herein shall run with the land. The easements provided for herein shall insure to the benefit of and be binding upon the respective successors, successors in title, assigns, and heirs of each party hereto. Said easement and agreement shall remain in full force and effect and shall be unaffected by any change in ownership.
10. (a) This Agreement and all Exhibits attached hereto constitute the entire agreement and understanding of NURRE and EIRUSS with respect to the subject matter of this Agreement, and supersedes all offers, negotiations and any other written or verbal agreements; (b) any amendments to this Agreement must be in writing and executed by both parties; (c) this Agreement is governed by the laws of the State of Iowa; (d) if any term of this Agreement is found to be void or invalid, such provision shall be fully severable herefrom and such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect, and this Agreement shall be reformed and construed as if such invalid provision had never been contained herein, and if possible, such provisions shall be reformed to the maximum extent permitted under applicable law to render same valid, operative and enforceable to reflect the intent of the Parties as expressed herein; (e) upon the request of EIRUSS, NURRE shall execute a Memorandum of this Agreement and such plats or surveys as deemed reasonably necessary by EIRUSS for recordation in the public records of the County in which the Property is located; (f) NURRE acknowledges that EIRUSS has not provided any legal or tax advice to NURRE in connection with the execution of this instrument; and (g) this Agreement may be executed in any number of counterparts, each of which shall, when executed, be deemed to be an original and all of which shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Utility Easement Agreement as of the 5th day of June, 2019.

Gerald B. Nurre and Rita M. Nurre

Eastern Iowa Regional Utility Service
Systems

Gerald B. Nurre, Gerald B. Nurre

By: [Signature]
Larry McDevitt, Chairperson

Rita M. Nurre, Rita M. Nurre

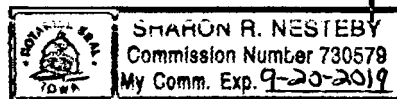
By: [Signature]
Kelley Hutton Deutmeyer, Secretary

STATE OF IOWA)
) ss.
DUBUQUE COUNTY)

On this 5th day of June, 2019, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Larry McDevitt, to me personally known, who being by me duly sworn, did say that he is the Chairperson of the Eastern Iowa Regional Utility Service Systems, executing the within and foregoing instrument, that said instrument was signed on behalf of Eastern Iowa Regional Utility Service Systems, by authority of its Board of Directors; and that Larry McDevitt, as an officer, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by him voluntarily executed.

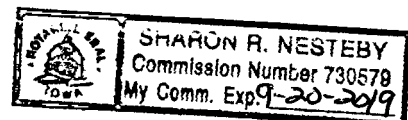
[Signature]
Notary Public in and for said State

STATE OF IOWA)
) ss.
DUBUQUE COUNTY)



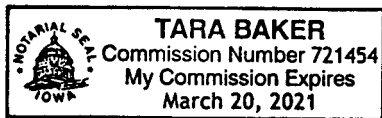
On this 5th day of June, 2019, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Kelley Hutton Deutmeyer, to me personally known, who being by me duly sworn, did say that she is the Secretary of the Eastern Iowa Regional Utility Service Systems, executing the within and foregoing instrument, that said instrument was signed on behalf of Eastern Iowa Regional Utility Service Systems, by authority of its Board of Directors; and that Kelley Hutton Deutmeyer, as an officer, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

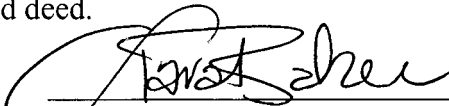
[Signature]
Notary Public in and for said State



STATE OF IOWA)
) ss.
DUBUQUE COUNTY)

On this 24th day of May, 2019, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Gerald B. Nurre, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

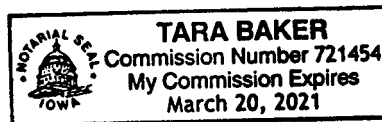


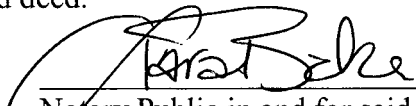


Notary Public in and for said State

STATE OF IOWA)
) ss.
DUBUQUE COUNTY)

On this 24th day of May, 2019, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Rita M. Nurre, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that she executed the same as her voluntary act and deed.





Notary Public in and for said State