



Book 2022 Page 1423

Document 2022 1423 Type 03 006 Pages 8

Date 5/04/2022 Time 11:44:39AM

Rec Amt \$52.00*

Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared by/Return to: Elizabeth L. Souer, Shuttleworth & Ingersoll, P.L.C., P.O. Box 2107, Cedar Rapids, Iowa 52406-2107; Phone: (319) 365-9461

EASEMENT AGREEMENT

This Easement Agreement (this “Agreement”) is made effective as of April 20th, 2022, by and between Jim Harbach Investments, LLC, an Iowa limited liability company (“Harbach”) and JJMW, L.L.C., an Iowa limited liability company (“JJMW”).

Recitals:

A. Harbach owns certain real estate located at 1222 W Marion St., Manchester, Delaware County, Iowa, legally described as:

Parcel M, including Parcel H and Part of Parcel I all in Sec. 31, T89N, R5W of the Fifth P.M., City of Manchester, Delaware County, Iowa, according to plat recorded in Book 2003, Page 1786 of the records of the Delaware County, Iowa, Recorder.

(such real estate, the “Harbach Property”).

B. JJMW owns certain real estate located at 1224 W Marion St., Manchester, Delaware County, Iowa legally described as:

Parcel G, being part of Lot One (1) of Friedlein Subdivision in Section Thirty-One (31), Township Eighty-Nine North (89N), Range Five (5), West of the 5th Principal Meridian, in the City of Manchester, Delaware County, Iowa, according to the Plat recorded in Book 8, Plats, Page 167, subject to a permanent easement for ingress and egress and for utilities as shown on the Plat and subject to the agreement of the owners of Parcel G and Parcel H to share equally in any maintenance expense for driveway improvements and subject to the right of the owner of Parcel H to place a sign within the Twenty-Five Foot (25') easement at such owner's expense and maintenance.

which is adjacent to the Harbach Property (such real estate, the “JJMW Property”).

C. The Plat of Survey dated October 27, 1998 and recorded in Book 8, Page 167 and the Plat of Survey dated April 16, 2003 and recorded in Book 2003, Page 1786, all recorded in the records of Delaware County and shown on Exhibit A, show a 25-foot easement for ingress and egress through the JJMW Property for the benefit of the Harbach Property.

D. The parties wish to memorialize the access easement through the JJMW Property for the benefit of the Harbach Property, as depicted on **Exhibit B** (such property, the “**Easement Area**”).

NOW, THEREFORE, in consideration of the mutual promises and undertakings set forth in this Agreement and other good and valuable consideration, receipt of which is hereby acknowledged by the parties, it is agreed:

1. **Recitals.** The Recitals are incorporated herein as if fully set forth.

2. **Easement.** There is hereby established an easement over and across the Easement Area for the use and benefit of Harbach and the Harbach’s successors, heirs, assigns, and invitees for all purposes including but not limited to pedestrian, vehicular, or other motorized access. JJMW shall act or permit any act or acts, or construct any fence or other barrier, which would unreasonably prevent or obstruct the free and uninterrupted passage over the Easement Area; provided however, that installation, maintenance and repair of utilities, or maintenance and repair of the surface of the Easement Area that impede access on a temporary basis while work is being completed shall be permitted.

3. **Maintenance.**

A. **Surface Maintenance, Repair, and Replacement.** Maintenance shall include maintaining the surface of the Easement Area. All decisions regarding the need for surface maintenance, repair and replacement of the Easement Area and the type of surfacing material used shall be made by JJMW. JJMW shall bear the cost of any such surface maintenance, repair or replacement, unless otherwise mutually agreed upon in writing.

B. **Vegetation.** JJMW shall be responsible for maintaining all vegetation in and around the Easement Area

C. **Snow Removal.** Harbach or a Tenant of shall be responsible for any and all snow removal on from the Easement Area.

4. **Damage.** In the event that any party to this Agreement, or their successors, assigns, or invitees, cause damage to the Easement Area, they shall be responsible for repairing such damage.

5. **Taxes.** Each owner shall be solely responsible for all real estate taxes and assessments relating to their respective properties.

6. **Indemnity.** The parties shall be solely responsible for any accident, action, claim, death, demand, injury, loss or other liability, of any kind or nature, suffered, incurred or

threatened, by such owner(s) or any employee, agent, contractor, invitee or other person on or about the Easement Area at the request, permission or invitation of such owner(s), express or implied. Each of the parties shall indemnify and hold the other harmless from any and all such liability, threatened or incurred.

7. Expiration of Easement. The easement granted under this Agreement shall run with the land in perpetuity, and shall be binding upon and shall inure to the benefit of the owners of the JJMW Property and the Harbach Property, and their respective successors, assigns, lessees, invitees, agents, and contractors. If such owners or their successors in interest violate or attempt to violate any of the covenants and/or obligations herein contained or shall fail to perform and discharge any of the burdens and obligations herein imposed, any or all of the other owners may commence any proceeding at law or in equity against the party or parties violation or attempting to violate said covenants or failing to discharge any burden or obligation provided for herein, either to enjoin such violation or attempted violation or to recover damages therefor. Said parties may alternatively, concurrently or successfully use their contractual and/or legal rights, privileges and powers by virtue of this grant of easements or by virtue of law, or both, without any waiver, election or estoppel operating to prevent the pursuit of any other remedy, temporarily abandoned or otherwise.

8. Successors and Assigns. This Agreement shall be binding upon the undersigned and their respective heirs, administrators, executors, successors and assigns who later acquire equity or legal interests in the JJMW Property and the Harbach Property.

9. Entire Agreement. This Agreement supersedes any and all earlier agreements or representations, written or oral, between the parties regarding the easement granted herein. Any change or amendment to this Agreement shall be effective only if it is in writing and signed by the owners of the JJMW Property and the Harbach Property and/or their respective heirs, successors, and assigns. Invalidation of any one of the covenants or provisions of this Agreement and grant of easements shall not in any way affect any other provisions hereof, which shall remain in full force and effect. This Agreement and grant of easement shall be governed by the laws of the State of Iowa. Words and phrases herein, including the acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neutral gender, according to context.

10. Notices. All notices under this Agreement shall be in writing and delivered personally or mailed by certified mail, postage prepaid, and addressed to the owners of the JJMW Property and the Harbach Property, and their respective successors at their last known addresses.

11. Non-Waiver. No delay or failure by either party to exercise any right under this Agreement shall constitute a waiver of that or any other right unless otherwise expressly provided in this Agreement.

12. Headings. Headings of this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

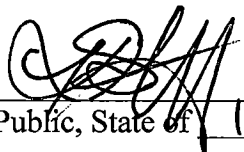
13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

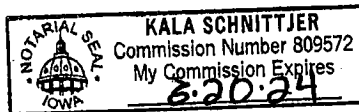
[Signature page follows.]

STATE OF Iowa)
COUNTY OF Delaware)SS

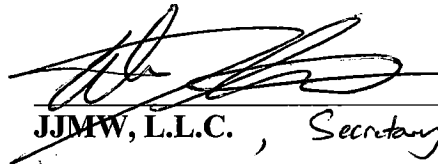

Jim Harbarch Investments, LLC

This instrument was acknowledged before
me on 4-20, 2022, by **Jim
Harbarch Investments, LLC**, an Iowa
limited liability company.


Notary Public, State of Iowa



STATE OF Iowa)
COUNTY OF Delaware)SS


JJMW, L.L.C., Secretary

This instrument was acknowledged before
me on 4-20, 2022, by **JJMW,
L.L.C.**, an Iowa limited liability company.

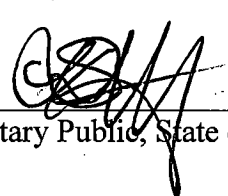
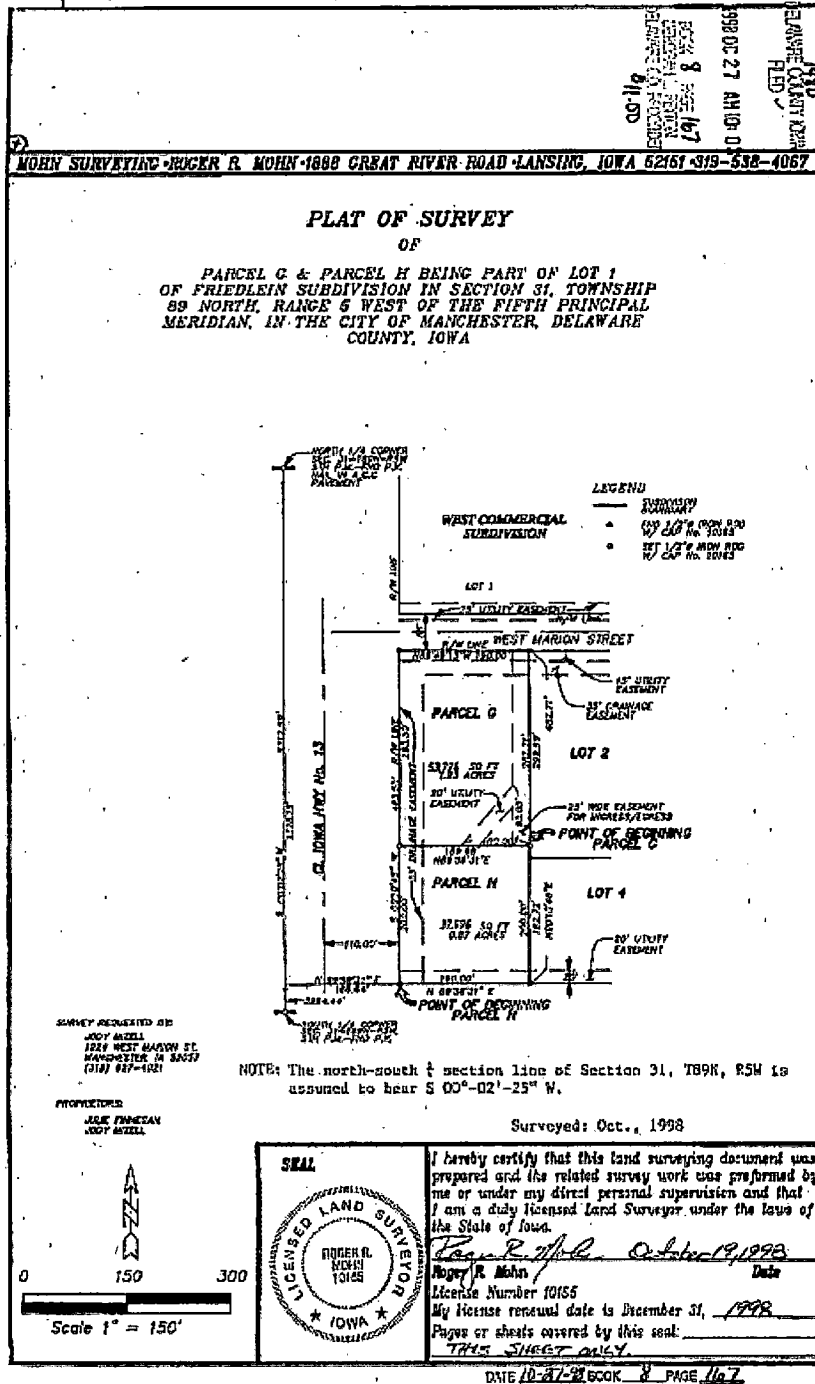

Notary Public, State of Iowa



Exhibit A



DELAWARE COUNTY, IOWA
FILED

2003 APR 16 AM 10:33
BOOK 3 PAGE 1786
DELAWARE COUNTY, IOWA
21.00

FILED
STANDARD SURVEY
DELAWARE COUNTY, IOWA

APR 16 2003

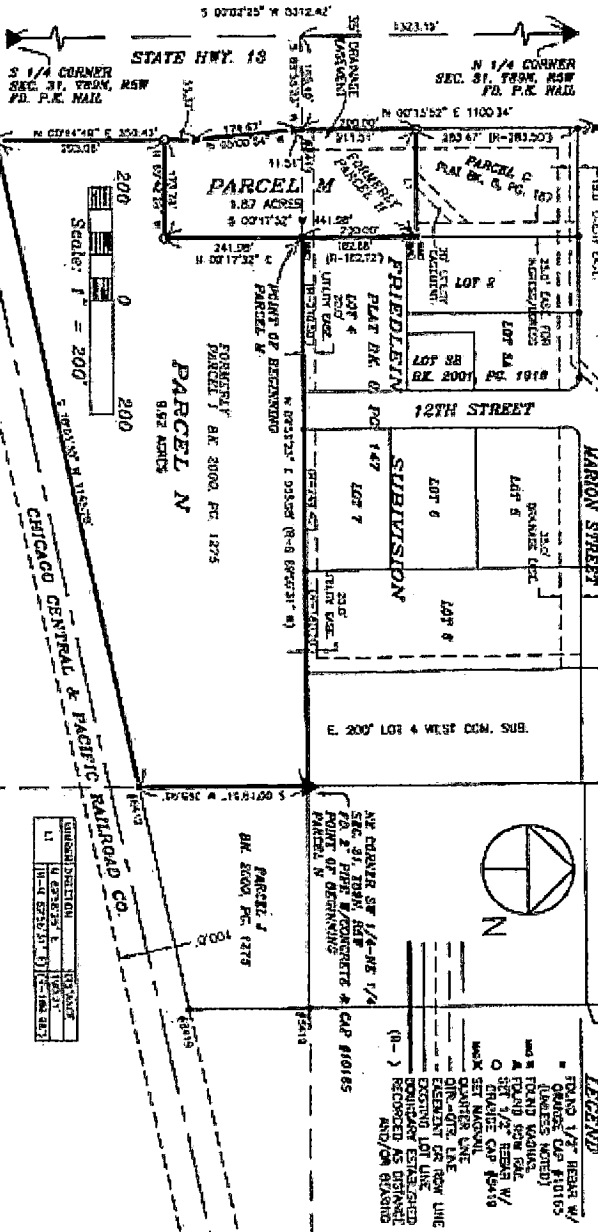
FILED
JOHN R. RAUL
DELAWARE COUNTY, IOWA

APR 16 2003

PREPARED BY: DAVID CIBBS, 105 W. MAIN ST., MANCHESTER, IA 52057 563-987-2434

PLAT OF SURVEY

PARCEL M, INCLUDING PARCEL H AND PART OF PARCEL I; AND
PARCEL N, BEING PART OF PARCEL I
ALL IN SEC. 31, T89N, R5W OF THE FIFTH P.M., CITY OF MANCHESTER, DELAWARE COUNTY, IOWA



SURVEY REQUESTED BY: JIM COLETT

SCALE: 1"=200'

DATE: 4/9/2003

DRAWN BY: RJA

CHECKED BY: JDC

FIELD BY: DL

REVIEWED

SHEET 1 OF 3

PROPRIETORS: PARCEL M - FIVE COMMUNICATIONS CO., LLC & MICHAEL F. LOECKER
PARCEL N - FIVE COMMUNICATIONS CO., LLC

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE REQUIRED SURVEY WORK WAS OBTAINED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

DAVID CIBBS, P.L.S. #1523, IA 224 LICENSE #9419 DATE 4/16/03

CIBBS ENGINEERING & SURVEYING
105 WEST MAIN STREET, MANCHESTER, IA 52057

PROJECT NO. 00-22

MADE ON DATE: 4/9/2003

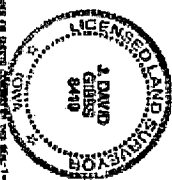


Exhibit B

