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County Recording Fee: \$22.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$25.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2023 PG: 719

Preparer/Return to: Douglas D. Herman, Lynch Dallas, P.C., P.O. Box 2457, 526 Second Avenue SE, Cedar Rapids, IA 52406
(319) 365-9101

MUTUAL INGRESS/EGRESS & SEPTIC SYSTEM EASEMENT AGREEMENT
("Easement Agreement")

This Easement Agreement, "Agreement" made and entered by and between Peter C. Buschmann and Jill L. Buschmann ("Buschmann") and James E. Davis and Susan K. Davis ("Davis") shall be deemed effective upon the recording hereof.

WHEREAS, Buschmann is the legal titleholder of the following described real estate:

Lots Three Hundred Seventy Nine (379), Three Hundred Eighty (380), Three Hundred Eighty One (381), Four Hundred Thirty (430) and Four Hundred Thirty One (431), in Sand Spring, Delaware County, Iowa, according to plat recorded in Book I L.D., Pages 220-221; also Parcel 2022-133 Part Of Lot 432 In The Unincorporated Town Of Sand Spring, Iowa Section 27, Township Eighty-Seven North (T87N) Range Three West (R3W) Of The 5th Principal Meridian Delaware County, Iowa, and Parcel 2022-134 Part Of Lot 378 In The Unincorporated Town Of Sand Spring, Iowa Section 27, Township Eighty-Seven North (T87N) Range Three West (R3W) Of The 5th Principal Meridian Delaware County, Iowa, according to amended plat recorded in Book 2022, Page 3503.

and

WHEREAS, Davis is the legal titleholder of the following described real estate:

Lots Three Hundred Ten (310), Three Hundred Eleven (311), Three Hundred Sixty Three (363), Three Hundred Sixty Four (364), Three Hundred Seventy Six (376), Three Hundred Seventy Seven (377), Three Hundred Seventy Eight (378) except Parcel 2022-134, and Four Hundred Thirty Two (432) except Parcel 2022-133, in Sand Spring, Delaware County, Iowa, according to plat recorded in Book I L.D., Pages 220-221

WHEREAS, Buschmann and Davis each desire to preserve unto themselves and their successors and assigns, certain easement rights over the property of the other, the purpose of this Easement Agreement being to describe the desired easement rights.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

- A. Buschmann hereby grants Davis, an easement for ingress and egress across existing graveled driveways and lots, generally located within the following described portion of the Buschmann property, "Easement Area", to access the Davis property described above:

Commencing at the NE corner of Lot 381, extending in a generally westerly direction a distance of eighty feet (80'), then extending in a southeasterly direction a distance of approximately one-hundred ten feet (110') to a point located behind the existing structures, then extending in an easterly direction approximately thirty-five feet (35') to the to the east property line of Lot 380, and then along the east line of Lot 380 and 381 to the point of beginning.

1. Limitations. Nothing in this Agreement shall permit Davis to expand the existing driveways located within the above described "Easement Area" or to use any portion of the above-described "Easement Area" not currently graveled and used for vehicular purposes.
- B. Buschmann hereby grants Davis, an additional easement for ingress and egress across an existing driveway off of State Highway 38 entering Parcel 2022-133, for use by Davis to access the adjacent portion of the Davis property as described above.

1. Limitations. The Easement shall be no greater than twenty feet (20') in width and shall be designed and improved to provide the most direct route to the Davis property. Davis shall be solely responsible for installation and maintenance of any improvements.

- C. Davis and Buschmann hereby grant one another an easement on, over, and across the following described property:

All that portion of platted 6th Street lying adjacent to and between Lots 380 and 381 on the west and Lots 363 and 364, on the east. (As described in the above legal descriptions.)

1. Street Right-of-Way. The above-described area remains a platted and dedicated street. The Parties are of the belief and understanding that said platted street is in the process of being vacated, and that upon vacation it will be transferred to one or both of the Parties to this agreement, or their successors depending upon the timing of the vacation.
 2. Ingress/Egress. The parties further agree that regardless of future underlying title to the above described platted street right of way, that each party will have complete rights of ingress and egress over the above described parcel, to and from their properties and 324th Street.
- D. Davis and Buschmann hereby acknowledge that some portion of the Buschmann Septic System is located within a portion of platted 6th Street lying adjacent to and between Lots 380 and 381 on the west and Lots 363 and 364, on the east. (As described in the above legal descriptions.)
1. Septic System: The Parties agree that regardless of future underlying title to said street right of way that Buschmann shall be entitled to continue to maintain, repair, and replace those portions of the septic system currently located within said area, with the only obligation being to return the property to the conditions as existed prior to the maintenance, repairs, and/or replacement. The Parties further agree that no driveway or travel will be allowed on, over, and/or across this easement area.

2. **Limitations.** Nothing in this Agreement shall permit Davis to expand the existing driveways located within the above described "Easement Area" or to use any portion of the above-described "Easement Area" not currently graveled and used for vehicular purposes.
- E. The Parties agree to the following miscellaneous provisions, applicable to all easements set forth herein unless specifically noted otherwise.
1. **Plantings.** No permanent plantings such as trees, shrubs, or similar plantings, shall be planted in any Easement Area that in any way restrict the use and enjoyment of the Easement Areas.
 2. **Fences / Accessory Structures.** No fences or accessory structures shall be installed or maintained that in any way restrict the use and enjoyment of the Easement Areas
 3. **Maintenance.** Maintenance of the Easement Areas shall at all times be the responsibility of the property owner.
 4. **Indemnification and Hold Harmless.** Each Party, and/or their successors in interest, ("Indemnifying Party") shall indemnify, defend, and hold the other ("Indemnified Party") harmless from any and all third party claims for injuries, damages, expenses and/or liabilities arising from Indemnifying Party's acts or omissions in the use of the easement areas located on the property of the other. This indemnification and hold harmless shall include, but is not limited to, reasonable legal fees and costs of defense incurred by the indemnified party. Notwithstanding the foregoing, this indemnification and hold harmless shall only apply to third party claims that are not otherwise covered by the indemnifying party's insurance coverage.
 5. **Covenant Running With Land.** This Agreement shall be construed as a covenant running with the land and shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns, shall not be separated from the land and shall be perpetual in duration unless terminated as provided herein or by written agreement of the parties or their respective successors and assigns.
 6. **Severability.** If any provision of this Agreement is found invalid, the parties agree to sever the invalid portion of the Agreement while the remainder of the Agreement remains valid and enforceable.
 7. **Amendment, Modification and Waiver.** Changes, amendments, modifications, or waivers of any condition, provision, or term in this Agreement shall not be valid or of any effect unless made in writing, signed by Parties and/or their successors and assigns, and specifying with particularity the extent and nature of such amendment, modification, or waiver.
 8. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any prior agreements or discussions between the parties, which are merged herewith, with respect to the subject matter hereof.
 9. **Governing Law/Jurisdiction.** This Agreement shall be governed by Iowa law and jurisdiction of any disputes shall be in the Delaware County, Iowa District Court.

IN WITNESS WHEREOF, Peter C. Buschmann and Jill Buschmann, and James E. Davis and Susan K. Davis, have executed this Easement Agreement on the dates set forth below.

Dated: 12/29/2022

Dated: 1-18-23

Grantor/Grantee

Peter C. Buschmann
Peter C. Buschmann

Grantor/Grantee

James E. Davis
James E. Davis

Jill L. Buschmann
Jill L. Buschmann

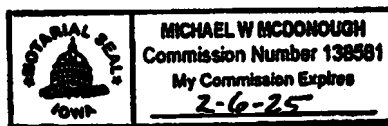
Susan K. Davis
Susan K. Davis

STATE OF IOWA)
) §
COUNTY OF DELAWARE)

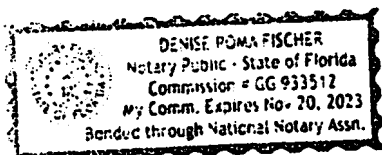
This instrument was acknowledged before me on this 29 day of DECEMBER, 2022, by Peter C. Buschmann and Jill L. Buschmann known to me to be the identical persons named herein, who swore and affirmed that they executed same as an expression of their voluntary act and deed.

Michael W. McDonough
Notary Public, State of Iowa

STATE OF Florida)
) §
COUNTY OF Lake)



This instrument was acknowledged before me on this 19 day of JANUARY, 2023, by James E. Davis and Susan K. Davis known to me to be the identical persons named herein, who swore and affirmed that they executed same as an expression of their voluntary act and deed.



Denise Poma Fischer
Notary Public, State of ~~Iowa~~ **FLORIDA**