

BK: 2019 PG: 2538
Recorded: 8/15/2019 at 2:23:01.0 PM
Pages 7
County Recording Fee: \$42.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$45.00
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

UTILITY EASEMENT AGREEMENT

Recorder's Cover Sheet

Preparer Information:	Katheryn J. Thorson 666 Grand Avenue, Suite 2000 Des Moines, IA 50309 (515) 242-2400
Taxpayer Information:	Shane & Mindy Nelson 2533 290th Street Peru, IA 50222
Return Address:	Katheryn J. Thorson 666 Grand Avenue, Suite 2000 Des Moines, IA 50309
Grantor:	Shane & Mindy Nelson 2533 290th Street Peru, IA 50222
Grantee:	Suzanne Hollar 2507 290th Street Peru, IA 50222

Legal Description: See Page 2

Document or instrument number if applicable: Not Applicable

UTILITY EASEMENT AGREEMENT

THIS UTILITY EASEMENT AGREEMENT (the "Agreement") is made and entered into this 14th day of AUGUST, by and between Shane Nelson and Mindy Nelson, husband and wife and residents of the State of Iowa (collectively, "Grantor") and Suzanne Hollar, a single person and a resident of the State of Iowa ("Grantee"). Grantor and Grantee are each a "Party" and together, the "Parties".

RECITALS:

WHEREAS, Grantor is the owner of certain real estate, described fully in Exhibit A, in Madison County, Iowa ("Grantor's Land");

WHEREAS, Grantee owns certain real estate in close proximity to Grantor's Land, legally described as:

The West 400 feet of the South Half of the Northwest Quarter of Section Ten (10), in Township Seventy-four (74) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa

("Grantee's Land"); and

WHEREAS, Grantor, in recognition of Grantee's ownership of Grantee's Land and use of Grantor's Land for water utilities over the course of Grantee's ownership of Grantee's Land, has agreed to provide Grantee with a non-exclusive utility easement across a portion of Grantor's Land, legally described as:

An easement over the South 50.00 feet of the West 1,000.00 feet of Grantor's Land

(the "Easement Area").

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

1. **Recitals.** Terms used in the above Recitals are hereby incorporated by this reference.
2. **Utility Easement.** Grantor hereby grants, bargains and conveys unto Grantee and its heirs, successors and assigns, and each of their agents, invitees and guests, a perpetual easement over, under, across and on the Easement Area (the "Easement"). The Easement granted herein shall be for the purpose of constructing, using, operating, reconstructing, repairing, replacing, relocating, inspecting, modifying and otherwise maintaining water utility lines, including, without limitation, underground or above-ground conduits, wires, pipes and cables for the transmission and distribution of water and for communication and controls, and reasonably necessary equipment incident thereto (collectively, the "Facilities"), together with the right of ingress and egress to and from the same, and all the rights and privileges incident and necessary to the enjoyment of the Easement. Nothing contained herein will be construed to prevent Grantor from using the Easement Area; provided, that, Grantor's use shall not prevent Grantees' use of the Easement Area, as above provided. Use of the Easement, as provided herein, will extend to Grantee's invitees, licensees, employees, agents and vendees; provided, however, nothing herein will be construed to grant any rights to the general public.

3. **Easement Run With Land.** The Easement will run with the land, is perpetual and is binding on Grantor and the Easement Area and beneficial to Grantee and Grantee's Land, and the terms hereof will extend to and be binding on the respective successors, heirs, administrators, executors, assigns, invitees and guests of the Parties.

4. **Limitation of Liability.** No agent or employee of one Party is an agent or employee of the other, and any liability arising from the actions or negligence of an agent or employee of a Party hereto will be such Party's sole responsibility, and any Party so responsible will indemnify and hold the non-responsible Party, and the non-responsible Party's agents, employees, successors, and assigns, harmless from and against any claim, damage or expense (including, without limitation, reasonable attorneys' fees and court costs) arising from or related to any accident, injury or death of any person, or damage or destruction of property, arising from or in connection with the responsible Party's use of the Easement. Such indemnification will survive the termination of this Agreement.

5. **Maintenance.** Grantor will arrange for and is otherwise responsible for any maintenance of the Easement Area; provided, that, Grantee is solely responsible for the maintenance of the Facilities, and will keep the same in good repair and condition, and is responsible for any damage caused to the Easement Area to the extent caused solely by Grantee's use or repair of the Facilities. Grantee further agrees that it will repair or pay for any property damage which may be caused by the construction, reconstruction, maintenance, operation, replacement or removal of the Facilities. The cutting, recutting, trimming and removal of trees, branches, saplings, brush or other vegetation on or adjacent to the Easement Area is expected and not considered damage for purposes of this Section or Section 4.

6. **Obstructions Prohibited.** Both Grantor and Grantee covenant that neither Grantor nor Grantee will obstruct nor allow obstructions to be placed on, under, over or in the Easement Area that could impede either Party's use of the Easement Area, except for such conditions that may occur as part of any maintenance or use by Grantor or Grantee, or its or their agents, invitees or guests, or as otherwise required by any state, federal or local regulatory agency.

7. **Warranties of Grantor.** Grantor does hereby covenant with Grantee, and its heirs, successors and assigns, that Grantor holds fee title to the Easement Area; that Grantor has good and lawful authority to sell and convey the Easement, and that Grantor will warrant and defend the Easement against the lawful claims of all persons.

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

9. **Governing Law.** This Agreement will be construed and governed in accordance with the laws of the State of Iowa.

10. **Release of Dower.** Each Party hereto relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests contemplated in this Agreement.

11. **Entire Agreement.** This is the entire agreement of the Parties as to the subject matter hereof and supersedes all prior negotiations and agreements. No amendment to this Agreement is valid unless in writing and signed by the Parties. If any provision of this Agreement is held invalid, the remaining provisions of this Agreement will remain in full force and effect as if that invalid provision had not been included herein. Words and phrases herein will be construed as in the singular or plural number, and as masculine, feminine or neutered gender, according to the context. This Agreement will not be

construed more strictly against a Party merely because it may have been drafted or prepared by such Party or its legal counsel, it being recognized that this Agreement is the product of negotiation. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original for all purposes and all of which together shall constitute one and the same instrument.

WHEREFORE, the Parties have executed this Agreement as of the day and year first above written.

GRANTOR:

Shane Nelson
Shane Nelson

Mindy Nelson
Mindy Nelson

STATE OF Iowa)
COUNTY OF Madison) SS:

On this 3rd day of August, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Shane Nelson and Mindy Nelson, husband and wife, to me personally known, who executed the within and foregoing instrument, by them voluntarily executed.

Myles W. Easter
NOTARY PUBLIC IN AND FOR THE STATE OF IOWA



Myles W. Easter
Commission Number
793185
My Commission Expires
11-13-21

GRANTEE:

Suzanne Hollar
Suzanne Hollar

STATE OF Iowa)
COUNTY OF Madison) SS:

On this 14th day of August 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Suzanne Hollar, a single person, to me personally known, who executed the within and foregoing instrument, by her voluntarily executed.

Jane E Hilsenbeck
NOTARY PUBLIC IN AND FOR THE STATE OF IOWA



7.2.2022

Exhibit A

Commencing at a point 41 rods and 3½ feet South of the Northwest corner of Section Ten (10), in Township Seventy-four (74) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa, and running thence North 75° East, 12 rods, thence South 48°20' East, 5 rods and 8½ feet, thence South 5°30' West, 5 rods and 6½ feet, thence South 11°42' East, 18 rods and 8 feet, thence South 55°4' East, 17 rods and 14½ feet, thence South 74°54' East, 18 rods and 7 feet to the South line of the Northwest Quarter (¼) of the Northwest Quarter (¼) of said Section Ten (10), thence West to the Southwest corner thereof, thence North to the place of beginning, being all that part of said Northwest Quarter (¼) of the Northwest Quarter (¼) of said Section Ten (10) lying South and West of the public highway, AND commencing at the Northwest Corner of said Section Ten (10) and running thence South on the West line of said Section 41 rods 3½ feet, thence North 75° East, 12 rods, thence South 48°20' East, 5 rods 9½ feet, thence South 5°30' West, 5 rods 6½ feet, thence South 11°42' East, 18 rods 8 feet, thence South 55°4' East, 17 rods 14½ feet, thence South 74°54' East, 18 rods 7 feet to intersect the South line of the North One-fourth (¼) of said Section Ten (10), thence East on said South line, 143 rods 14 feet, thence North 38° West, 15 rods 8½ feet, thence North 15 rods 10 feet, thence North 49°45' East, to a point intersecting the North line of the South Half (½) of said North One-fourth (¼) of said Section Ten (10), thence West on said North line to a point 64 rods East of the West line of said Section Ten (10), thence North 40 rods to the North line of said Section thence West on said North line 64 rods to the place of beginning, containing 57.8 acres more or less, all in Township Seventy-four (74) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa; EXCEPT the following-described portion thereof: Commencing at a point 16 rods East of the Southwest Corner of the South Half (½) of the Northwest Quarter (¼) of the Northeast Quarter (¼) of said Section Ten (10), thence East on the South line of said South Half (½) of the Northwest Quarter (¼) of the Northeast Quarter (¼) 19 rods 4.6 feet, thence North 38° West 15 rods 6.6 feet, thence North 15 rods 10 feet, thence North 49°45' East to a point intersecting the North line of said South Half (½) of the Northwest Quarter (¼) of the Northeast Quarter (¼) 18 rods 16.2 feet, thence West on said North line 24 rods 4.6 feet, thence South 40 rods to the point of beginning, containing 3.38 acres, more or less, AND EXCEPT the West 400 feet of the South Half (½) of the Northwest Quarter (¼) of the Northwest Quarter (¼) of said Section Ten (10), AND EXCEPT Parcel "D" located in the Northwest Quarter (¼) of the Northwest Quarter (¼) of said Section Ten (10), containing 25.55 acres, as shown in Plat of Survey filed in Book 2006, Page 2207 on May 31, 2006, in the Office of the Recorder of Madison County, Iowa.