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Dallas County Iowa
Chad C. Airhart RECORDER
File#

BK **2017** PG **23199**

PUBLIC UTILITY EASEMENT

Preparer Information:

Lisa R. Wilson
Wilson, Guerrero & Egge, P.C.
475 Alice's Road, Suite A
Waukee, Iowa 50263

Bill and
Return Document To:
City of Waukee, Iowa
City Hall
230 W. Hickman Road
Waukee, Iowa 50263

Grantor:
117 Land Company, L.L.C.

Grantee:
City of Waukee, Iowa

Legal Description:
See Exhibit A.

PUBLIC UTILITY EASEMENT

KNOW TO ALL PERSONS BY THESE PRESENTS:

1. Grant of Easement(s).

The undersigned, **117 LAND COMPANY, L.L.C.**, an Iowa limited liability company (hereinafter referred to as the "Grantor"), in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, grant, and convey to the **CITY OF WAUKEE, IOWA**, a municipal corporation (hereinafter referred to as "the City"), a permanent and perpetual non-exclusive Public Utility Easement (hereinafter referred to as "Easement(s)") and right-of-way upon, over, under, through and across the real property legally described as:

SEE EXHIBIT "A" ATTACHED HERETO

(hereinafter referred to as the "Easement Area")

2. Use and Purpose of Easement(s).

This Easement shall be granted for the purpose of locating Public Utilities defined as those utilities established, formed, acquired, owned, or operated by the City of Waukee, including but not limited to, electrical, natural gas, telephone, cable television utility services, and data transmission utility services and to permit and allow the City to enter at any time upon, over, under, through and across into said Easement(s) herein described to use as much of the surface and sub-surface thereof to construct, replace, locate, rebuild, enlarge, reconstruct, patrol, repair (including the right to place and build said utility therein or to connect and/or join said utility and appurtenances thereto) and to forever maintain utilities whenever necessary within the Easement(s) granted herein. No structure or building of any kind whatsoever shall be erected upon property that is the subject of this Easement without the express written consent of the City.

3. Maintenance.

The City agrees, after entry, as part of the construction, reconstruction, maintenance, replacement, location, rebuilding, enlargement, repair and patrolling of the utilities, to restore and replace the Easement area(s) to substantially the same condition as prior to the time of entry or as agreed upon by the City and the Grantor(s), including sodding or seeding if it is a landscaped area and the City shall be required to repave if the Easement crosses a paved area such as a sidewalk or a driveway, except the City shall not be required to replace landscaping, trees, shrubs, bushes, landscape elements, structures, or underground water systems nor shall the City be required to restore the Easement area by reason of settlement, depression, or any unknown conditions which arise subsequent to the restoration and/or replacing of the easement area; and subsequent restoration by reason of settlement, depression or any unknown conditions shall be the sole responsibility of the Grantor at the Grantor's sole expense.

4. Right of Access.

The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described, including, but not limited to, the right to remove any unauthorized obstructions or structures placed or erected in the Easement Area.

5. Hold Harmless.

The Grantor agrees to indemnify and hold harmless the City, its elected officials, employees, officers, agents, representatives, contractors, and attorneys from and against any and all claims or demands for liability, loss, damage, costs, expenses, or attorney's fees of any kind for actions or omissions of the Grantor arising out of or in connection with any undertaking arising out of or otherwise related to this Easement.

6. Running of Benefits and Burdens.

The terms and conditions of this Easement are binding upon the Grantor including, but not limited to, future owners, developers, lessees or occupants. All provisions of this instrument including benefits and burdens, run with the land are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

7. Jurisdiction and Venue.

The City and the Grantor agree the District Court of the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement and said parties consent to the jurisdiction of the person being in Dallas County, Iowa.

8. Words and Phrases.

Words and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to context.

9. Parties.

The term "City" as used herein shall refer to the City of Waukee, Iowa, its elected officials, agents, employees, officers, and contractors. The term "Grantor" shall refer to 117 Land Company, L.L.C., an Iowa limited liability company, its heirs, assigns, successors-in-interest, or lessees, if any.

10. Attorney's Fees.

The City may enforce this instrument by appropriate action, and should they prevail in such litigation they shall recover as part of their costs the reasonable attorney's fees incurred in such litigation.

11. Integration.

This Agreement shall constitute the entire Agreement between the parties and no amendments or additions to this Agreement shall be binding unless in writing and signed by both parties.

12. Paragraph Headings.

The paragraph headings in this Agreement are included solely for convenience and shall not affect or be used in connection with, the interpretation of this Agreement.

Grantor does HEREBY COVENANT with the City that (i) Grantor holds said real estate described in this Easement Area by title in fee simple; (ii) that Grantor has good and lawful authority to convey the same; and (iii) said Grantor covenants to WARRANT AND DEFEND the said Easement Area against the claims of all persons whomsoever.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Easement.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Signed this 14th day of November, 2017.

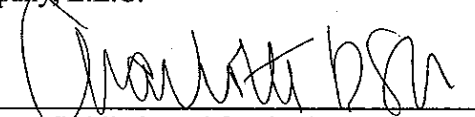
117 LAND COMPANY, L.L.C.

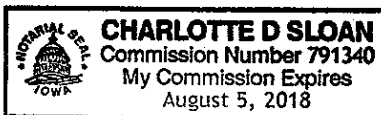
By


Toby T. Torstenson, Manager

STATE OF IOWA)
COUNTY OF Dallas) SS

This instrument was acknowledged before me on this 14th day of November, 2017,
by Toby T. Torstenson, Manager of 117 Land Company, L.L.C.


Notary Public in and for the State of Iowa



ACCEPTANCE BY CITY OF WAUKEE, IOWA

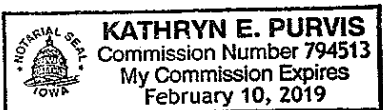
CITY OF WAUKEE, IOWA,
an Iowa municipal corporation

By: [Signature]
William F. Peard,
Mayor of the City of Waukee, Iowa

By: [Signature]
Rebecca D. Schuett
City Clerk of the City of Waukee, Iowa

STATE OF IOWA)
) SS
COUNTY OF DALLAS)

On this 21 day of November, 2017, before me, the undersigned, a Notary Public in and for said County and the State of Iowa, personally appeared William F. Peard and Rebecca D. Schuett, to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk of the City of Waukee, Iowa, a municipal corporation, executing the within and foregoing instrument and acknowledged that they executed the same as their voluntary act and deed of the City of Waukee, by it and by them voluntarily executed.



By: [Signature]
Printed Name: Kathryn Purvis
Notary Public in and for the State of Iowa

EXHIBIT "A"

THE SOUTH 10.00 FEET OF LOTS 4 THROUGH 6, I-80 INDUSTRIAL PARK PLAT 1, AN OFFICIAL PLAT IN THE CITY OF WAUKEE, DALLAS COUNTY, IOWA.

AND

THE SOUTHERLY 10.00 FEET OF THE NORTHERLY 30.00 FEET OF LOTS 2 AND 3, I-80 INDUSTRIAL PARK PLAT 1, AN OFFICIAL PLAT IN THE CITY OF WAUKEE, DALLAS COUNTY, IOWA.

AND

A PART OF LOT 1, I-80 INDUSTRIAL PARK PLAT 1, AN OFFICIAL PLAT IN THE CITY OF WAUKEE, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 0°02'49" WEST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 15.23 FEET TO THE POINT OF BEGINNING; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 350.00 FEET, WHOSE ARC LENGTH IS 217.38 FEET AND WHOSE CHORD BEARS NORTH 82°02'43" EAST, 213.90 FEET; THENCE NORTH 72°56'52" EAST, 173.95 FEET TO THE EASTERLY LINE OF SAID LOT 1; THENCE SOUTHERLY ALONG SAID EASTERLY LINE AND A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 35.00 FEET, WHOSE ARC LENGTH IS 10.07 FEET AND WHOSE CHORD BEARS SOUTH 21°56'54" EAST, 10.04 FEET; THENCE SOUTH 72°56'52" WEST, 174.05 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 360.00 FEET, WHOSE ARC LENGTH IS 221.10 FEET AND WHOSE CHORD BEARS SOUTH 81°58'08" WEST, 217.64 FEET TO THE WEST LINE OF SAID LOT 1; THENCE NORTH 00°02'49" EAST ALONG SAID WEST LINE, 10.14 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.09 ACRES (3,935 SQUARE FEET).