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Tx: 4956303

2017-15837

RECORDER MARK BRANDENBURG

POTTAWATTAMIE COUNTY, IA

FILE TIME: 11/29/2017 01:29:06 PM

RECORDING FEE	15.00
RMA FEE	1.00
ECM FEE	1.00

R FEES 15<sup>00</sup> RMA \$ 1<sup>00</sup>  
 A FEES \_\_\_\_\_ ECOM \$ 1<sup>00</sup>  
 T TAX\$ \_\_\_\_\_

**Type of Document:**

The Schemmer Associates 928 Valley View Drive LB 51503

Preparer Information: (Individual's Name, Street Address, City, Zip, Phone) 712-329-3000

Taxpayer Information: (Individual/Company Name, Street Address, City, Zip, Phone)

The Schemmer Associates 928 Valley View Drive LB 51503

Return Document to: (Individual/Company Name, Street Address, City, Zip, Phone) 712-329-3000

**Grantors:**

**Grantees:**

**Legal Description:**

**Book & Page Reference:**

**PERMANENT EASEMENT FOR WATER UTILITY  
RIGHT-OF-WAY**

For the consideration of \$0 and 00/100 Dollars, TS Development, LLC, an Iowa limited liability company, ("Grantors") does hereby grant to the City of Council Bluffs Iowa, and its agents, contractors and assigns (collectively "Grantee"), a permanent exclusive easement for the sole purpose of reconstructing, repairing, enlarging and maintaining a public water main together with necessary appurtenances thereto in, on, over, and across the following described real estate:

Real estate located in Pottawattamie County, Iowa and legally described and pictorially shown on Exhibit "A" attached hereto. This easement shall be subject to the following terms and conditions:

1. **ERECTION OF STRUCTURES PROHIBITED:** Grantor shall not erect any structure over or within the Easement Area without obtaining the prior written consent of the Grantee.
2. **CHANGE OF GRADE PROHIBITED:** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the Grantee.
3. **RIGHT OF ACCESS:** Grantee's employees, representatives, agents, engineers, contractors and subcontractors shall have the right of access to the Easement Area from within the Whispering Oaks subdivision and have all right of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described.
4. **REMOVAL AND REPLACEMENT:** The cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by the exercise of the rights under this easement, shall be borne by the Grantors or their successors or assigns.
5. **SURFACE RESTORATION:** Grantee's liability to restore the surface within the Easement Area shall be limited only to Grading and Sodding and all necessary Erosion Control.
6. **DUTY TO REPAIR:** Grantee agrees that any improvement belonging to Grantor which may be damaged as a result of any entry made through an exercise of the Grantee's right of access shall be repaired at no expense to Grantors.
7. **EASEMENT RUNS WITH LAND:** This easement shall be deemed to run with the land and shall be binding on Grantors and on Grantors successors and assigns.
8. **GRANTOR RESERVATION:** Grantors reserve the right to use the Easement Area for other purposes provided however these purposes shall not interfere with Grantee's use of the Easement Area under the rights of this agreement.
9. **ASSIGNMENT:** Grantee shall have the right to assign this Easement.

Grantors do hereby covenant with Grantees, and Grantee's successors in interest, that Grantors hold the real estate by title in fee simple; that they have good and lawful authority to convey the easement; that the real estate is free and clear of all liens and encumbrances except as may be above stated; and Grantors covenant to warrant and defend the easement against the lawful claims of all persons except as may be above stated. Words and phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Dated: November 21<sup>st</sup>, 2017

Grantor: T.S. Development LLC.

By: *Gerald Torczon*

STATE OF Nebraska

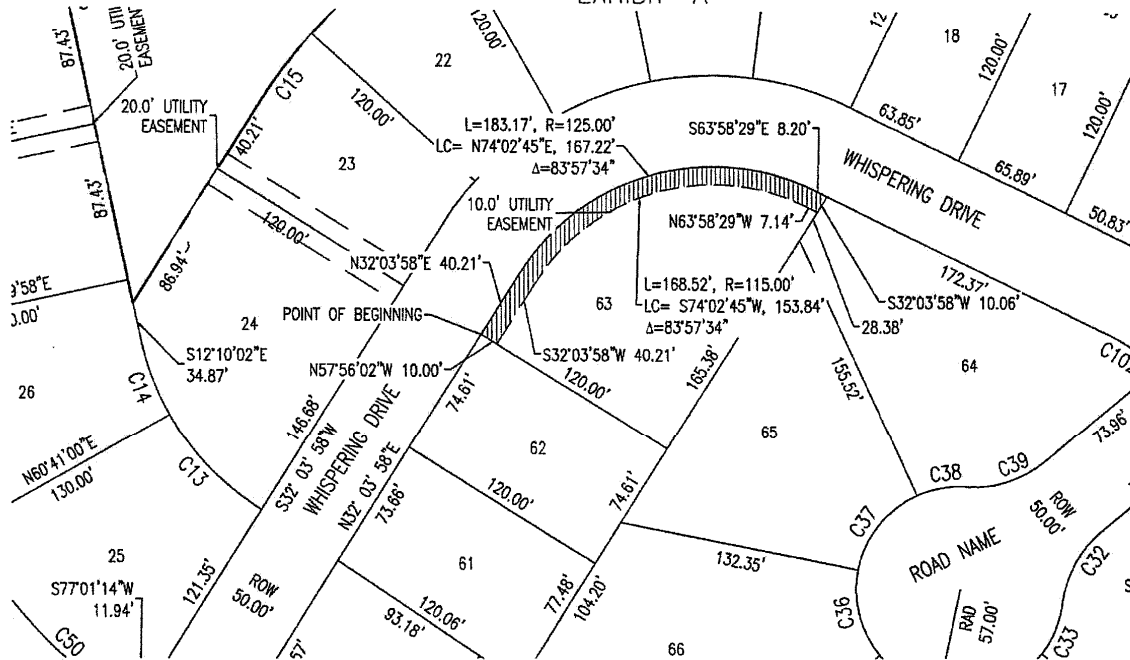
COUNTY OF Sarpy )<sup>ss.</sup>

On this 21<sup>st</sup> day of Nov., 2017, before me, a notary public in and for said county and said state, personally appeared Mr. Gerald Torczon, TS Development, LLC's Managing Partner, to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

*Mary Jayne Throener*  
Notary Public in and for the State of Nebraska

State of Nebraska - General Notary  
MARY JAYNE THROENER  
My Commission Expires  
September 27, 2020

PERMANENT WATER UTILITY EASEMENT  
EXHIBIT "A"



A 10.00 FOOT WIDE PERMANENT WATER UTILITY EASEMENT LOCATED IN LOT 63, WHISPERING OAKS, A SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 75 NORTH, RANGE 43 WEST, OF THE 5TH PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 63, WHISPERING OAKS, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF LOT 62, WHISPERING OAKS, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF WHISPERING DRIVE; THENCE N32° 03' 58"E (ASSUMED BEARING) ALONG SAID EAST RIGHT-OF-WAY LINE OF WHISPERING DRIVE; SAID LINE ALSO BEING THE WEST LINE OF SAID LOT 63, WHISPERING OAKS, A DISTANCE OF 40.21 FEET; THENCE SOUTHEASTERLY ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID WHISPERING DRIVE, SAID LINE ALSO BEING THE NORTH LINE OF SAID LOT 63, WHISPERING OAKS, ON A TANGENTIAL CURVE TO THE RIGHT WITH A RADIUS 125.00 FEET, CENTRAL ANGLE 83°57'34", A DISTANCE OF 183.17 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N74° 02' 45"E, A DISTANCE OF 167.22 FEET; THENCE S63° 58' 29"E ALONG SAID SOUTH RIGHT-OF-WAY LINE OF WHISPERING DRIVE, SAID LINE ALSO BEING SAID NORTH LINE OF LOT 63, WHISPERING OAKS, A DISTANCE OF 8.20 FEET, TO THE NORTHEAST CORNER OF SAID LOT 63, WHISPERING OAKS, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF LOT 64, SAID WHISPERING OAKS; THENCE S32° 03' 58"W ALONG THE EAST LINE OF SAID LOT 63, WHISPERING OAKS, SAID LINE ALSO BEING THE WEST LINE OF SAID LOT 64, WHISPERING OAKS, A DISTANCE OF 10.06 FEET; THENCE N63° 58' 29"W, A DISTANCE OF 7.14 FEET; THENCE SOUTH-WESTERLY ON A TANGENTIAL CURVE TO THE LEFT WITH A RADIUS 115.00 FEET, CENTRAL ANGLE OF 83°57'34", A DISTANCE OF 168.52 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS S74° 02' 45"W, A DISTANCE OF 153.84 FEET; THENCE S32°03'58"W, A DISTANCE OF 40.21 FEET, TO A POINT ON THE SOUTH LINE OF SAID LOT 63, WHISPERING OAKS, SAID LINE ALSO BEING THE NORTH LINE OF SAID LOT 62, WHISPERING OAKS; THENCE N57° 56' 02"W ALONG SAID OF LOT 63, WHISPERING OAKS, SAID LINE ALSO BEING SAID NORTH LINE OF LOT 62, WHISPERING OAKS, A DISTANCE OF 10.00 FEET, TO THE POINT OF BEGINNING.

SAID 10.00 FOOT PERMANENT WATER UTILITY EASEMENT CONTAINS AN AREA OF 2237 SQ. FT. OR 0.051 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED 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.

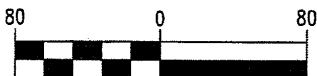
*Daniel L. Marti* 8/24/2017  
(SIGNATURE) (DATE)

PRINTED OR TYPED NAME: DANIEL L. MARTI

LICENSE NUMBER: 22021

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2017

PAGES OR SHEETS COVERED BY THIS SEAL: SHEET 1 OF 1



1 inch = 80 ft.

**SCHEMMER**

Design with Purpose. Build with Confidence.