



MISC Inst. # 2018070752, Pg: 1 of 6 Rec Date: 09/06/2018 07:01:17.663
Fee Received: \$40.00 Electronically Recorded By: CM
Douglas County, NE Assessor/Register of Deeds DIANE L. BATTIATO

[The Space Above is for Recording Data]

ACCESS EASEMENT

THIS ACCESS EASEMENT (this "Agreement") is made effective as of this 31 day of August, 2018 (hereinafter referred to as the "Effective Date"), by and between 20535 Fort, LLC, a Nebraska limited liability partnership ("Grantor"), Whisper Rock Holdings L.L.C., a Nebraska Limited Liability Company (the "Grantee").

RECITALS:

WHEREAS, Grantor is the lawful owner of the property legally described on Exhibit A attached hereto (hereinafter referred to as the "Burdened Property").

WHEREAS, Grantee is the lawful owner of the property legally described on Exhibit B attached hereto (hereinafter referred to as the "Benefited Property").

WHEREAS, Grantor intends to grant Grantee an non-exclusive easement to provide ingress and egress in, over and across the Burdened Property for the benefit of the Benefited Property until such time that Benefited Property is served by publicly dedicated rights-of-way;

WHEREAS, by virtue of the recording of this Agreement, the Burdened Property shall be owned, held, transferred, sold, conveyed, used, and occupied and mortgaged or otherwise encumbered subject to the provisions of this Agreement and every grantee of any interest in any said real property, by acceptance of a deed or other conveyance of such interest, and every person or entity owning an interest in any portion of any said real property, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Agreement and shall be deemed to have consented to the terms hereof.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, including the mutual grants and covenants contained herein, the receipt and adequacy of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. **Permanent Access Easement.** Grantor hereby grants to Grantee for the benefit of Grantee and its contractors, tenants, sub-tenants, agents, invitees, visitors, and third party beneficiary, (hereinafter referred to as "Permittees"), a non-exclusive, access easement (but not parking), in, over, upon and across

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the Burdened Property for the purposes of providing ingress and egress to the Benefitted Property for maintenance purposes, the location of which shall be determined by the mutual agreement of the parties.

2. Improvements and Maintenance. Nothing contained herein shall be deemed an obligation on Grantor, or its successors or assigns shall, at its sole cost and expense, to maintain, repair and replace the materials comprising any access points to the Benefitted Property, it being the parties intention that the Easement granted herein shall only allow Grantee access to Benefitted Property for maintenance purposes.

3. Effect of Covenants. Each party hereto, and its successors and assigns, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, options, liens and charges, and the jurisdiction, rights and powers granted or reserved by this Agreement or to which this Agreement is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person or entity having at any time any interest of estate in said property, and shall inure to the benefit of such property owners on like manner as though the provisions, terms and restrictions of this Agreement were received and stipulated at length in each and every deed of conveyance.

4. Waiver. No covenant, restriction, condition or provision of this Agreement shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

5. Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Agreement herein contained, as the case may be, shall not render the remainder of the Agreement invalid, nor any other part therein contained.

6. Amendment, Modification, Termination. This Agreement may only be amended by the written consent and agreement of the record owner of the Burdened Property and record owner of the Benefitted Property or their respective successors and assigns. Any such modification or amendment shall be effective when duly recorded in the office of the Douglas County, Nebraska Register of Deeds. Upon the Benefitted Property receiving access to the to be installed public rights-of-ways immediately adjoining and surrounding the Benefitted Property, this Agreement shall automatically terminate, and Grantor shall have the right to record an easement release agreement terminating this Agreement.

7. Title. Grantor confirms with Grantee that Grantor is seized in fee of the Burdened Property, and that it has the right to grant and convey the easement and rights granted herein, and that it will warrant and defend such easement and rights to Grantee against the lawful claims and demands of all persons.

8. Counterparts. This Easement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

9. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Nebraska.

10. Indemnification. The Grantor agrees to indemnify and hold harmless the Grantee, employees, invitees, visitors and agents, from and against any and all liability, cause of action, claims, and expenses for personal injury or property damage arising out of or occasioned by negligence in whole or in part, by Grantor, any of its contractors, successors or assigns.

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IN WITNESS WHEREOF, Grantor and Grantee have caused the authorized execution hereof, the day and year first above written.

GRANTOR:

20535 Fort, LLC, a Nebraska limited liability company

By: [Signature]
Name: Christian Kloster
Its: Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The above and foregoing instrument was acknowledged before me this 30 day of August, 2018, by Christian Kloster known to me to be the Manager of 20535 Fort, LLC, a Nebraska limited liability company, on behalf of said limited liability company.

[Signature]
Notary Public
Commission Expires: 7-12-22



GRANTEE:

Whisper Rock Holdings L.L.C., a Nebraska limited liability company

By: [Signature] [Signature]
Name: Bryan M. Krumveide Joshua P. Henry
Its: Members

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The above and foregoing instrument was acknowledged before me this 30 day of August, 2018, by [Signature], known to me to be the members of Whisper Rock Holdings L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.

[Signature]
Notary Public
Commission Expires: 7-12-22



* Bryan M. Krumveide
* Joshua P. Henry

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Exhibit "A" Burdened Property

LEGAL DESCRIPTION N E S E, N W S E, S E S E, S W S E

PART OF THE SE 1/4 OF SECTION 36, T16N, R10E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS, COMMENCING AT THE NE CORNER OF SAID SE 1/4;

THENCE N89°57'40"W (ASSUMED BEARING) 79.00 FEET ON THE NORTH LINE OF SAID SE 1/4 TO THE POINT OF BEGINNING; SAID POINT BEING ON THE WEST LINE OF 204TH STREET;

THENCE S01°29'50"W 2029.35 FEET ON THE WEST LINE OF 204TH STREET;

THENCE S02°47'16"E 563.12 FEET ON THE WEST LINE OF 204TH STREET TO THE NORTH LINE OF FORT STREET;

THENCE N89°57'08"W 818.12 FEET ON A LINE 50.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SE 1/4 AND ON THE NORTH LINE OF FORT STREET TO THE EAST LINE OF A TRACT OF LAND OWNED BY KENT MARTIN AND HEREINAFTER CALLED TRACT "A";

THENCE N01°19'17"W 383.55 FEET ON THE EAST LINE OF SAID TRACT "A" TO THE NE CORNER THEREOF;

THENCE S89°55'23"W 481.54 FEET ON THE NORTH LINE OF SAID TRACT "A" TO THE NW CORNER THEREOF;

THENCE S01°19'00"E 382.50 FEET ON THE WEST LINE OF SAID TRACT "A" TO A POINT 50.00 FEET NORTH OF THE SOUTH LINE OF SAID SE 1/4, SAID POINT BEING ON THE NORTH LINE OF FORT STREET;

THENCE N89°57'08"W 312.99 FEET ON A LINE 50.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SE 1/4 AND ON THE NORTH LINE OF FORT STREET;

THENCE S00°02'52"W 17.00 FEET ON THE NORTH LINE OF FORT STREET;

THENCE N89°57'08"W 257.08 FEET ON A LINE 33.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SE 1/4 AND ON THE NORTH LINE OF FORT STREET;

THENCE N00°03'01"E 182.00 FEET; THENCE N89°57'08"W 57.42 FEET;

THENCE N00°03'01"W 24.94 FEET; THENCE S89°56'59"E 290.00 FEET;

THENCE N00°03'01"E 724.97 FEET;

THENCE SOUTHEASTERLY ON A 560.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S85°34'08"E, CHORD DISTANCE 85.56 FEET, AN ARC DISTANCE OF 85.64 FEET;

THENCE S89°56'59"E 61.09 FEET;

THENCE NORTHEASTERLY ON AN 1100.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N82°39'10"E, CHORD DISTANCE 283.26 FEET, AN ARC DISTANCE OF 284.05 FEET;

THENCE NORTHEASTERLY ON A 485.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING N76°43'02"E, CHORD DISTANCE 24.75 FEET, AN ARC DISTANCE OF 24.76 FEET;

THENCE N11°44'36"W 154.51 FEET; THENCE S77°42'38"W 115.01 FEET;

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THENCE S82°17'16"W 67.89 FEET; THENCE S86°32'58"W 72.65 FEET;
THENCE S89°52'19"W 78.00 FEET; THENCE N85°14'54"W 74.07 FEET;
THENCE N77°05'28"W 143.43 FEET; THENCE N81°03'07"W 75.27 FEET;
THENCE N84°28'35"W 75.27 FEET; THENCE N87°54'04"W 28.21 FEET;
THENCE N02°31'40"E 130.82 FEET; THENCE N88°55'52"W 65.67 FEET;
THENCE N00°12'21"W 25.00 FEET;
THENCE SOUTHEASTERLY ON A 1380.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING
S83°32'23"E, CHORD DISTANCE 325.74 FEET, AN ARC DISTANCE OF 326.50 FEET;
THENCE S76°45'43"E 4.85 FEET;
THENCE SOUTHEASTERLY ON AN 800.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING
S79°53'33"E, CHORD DISTANCE 87.38 FEET, AN ARC DISTANCE OF 87.42 FEET;
THENCE N06°58'37"E 182.99 FEET; THENCE N43°20'43"W 21.17 FEET;
THENCE N38°46'22"E 161.66 FEET;
THENCE NORTHWESTERLY ON A 600.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING
N45°33'40"W, CHORD DISTANCE 118.48 FEET, AN ARC DISTANCE OF 118.67 FEET;
THENCE NORTHWESTERLY ON A 500.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING
N50°18'51"W, CHORD DISTANCE 180.85 FEET, AN ARC DISTANCE OF 181.85 FEET;
THENCE NORTHWESTERLY ON A 420.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING
N30°20'50"W, CHORD DISTANCE 424.89 FEET, AN ARC DISTANCE OF 445.48 FEET;
THENCE N00°02'20"E 477.62 FEET TO THE NORTH LINE OF SAID SE 1/4;
THENCE S89°57'40"E 1938.05 FEET ON THE NORTH LINE OF SAID SE 1/4 TO THE POINT OF BEGINNING.

CONTAINING 97.543 ACRES

TD2 PROJECT 2069-107(c)

AUGUST 29, 2018

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Exhibit "B" Benefitted Property

LEGAL DESCRIPTION

NESE, NWSE, SESE, SWSE

PART OF THE SE 1/4 OF SECTION 36, T16N, R10E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA,
DESCRIBED AS FOLLOWS, COMMENCING AT THE NE CORNER OF SAID SE 1/4;

THENCE N89°57'40"W (ASSUMED BEARING) 2017.05 FEET ON THE NORTH LINE OF SAID SE 1/4 TO THE
POINT OF BEGINNING;

THENCE CONTINUING N89°57'40"W 364.00 FEET ON THE NORTH LINE OF SAID SE 1/4;

THENCE S43°17'16"W 147.26 FEET; THENCE S00°02'20"W 470.36 FEET;

THENCE S11°53'04"E 85.00 FEET; THENCE S15°37'17"E 85.00 FEET;

THENCE S20°08'19"E 85.00 FEET; THENCE S25°38'37"E 85.00 FEET;

THENCE S31°08'55"E 85.00 FEET; THENCE S36°39'13"E 85.00 FEET;

THENCE S42°09'30"E 85.00 FEET; THENCE S47°39'48"E 85.00 FEET;

THENCE S51°25'14"E 75.01 FEET; THENCE S00°12'21"E 105.96 FEET;

THENCE SOUTHEASTERLY ON A 1380.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING
S83°32'23"E, CHORD DISTANCE 325.74 FEET, AN ARC DISTANCE OF 326.50 FEET;

THENCE S76°45'43"E 4.85 FEET;

THENCE SOUTHEASTERLY ON AN 800.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING
S79°53'33"E, CHORD DISTANCE 87.38 FEET, AN ARC DISTANCE OF 87.42 FEET;

THENCE N06°58'37"E 182.99 FEET; THENCE N43°20'43"W 21.17 FEET;

THENCE N38°46'22"E 161.66 FEET;

THENCE NORTHWESTERLY ON A 600.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING
N45°33'40"W, CHORD DISTANCE 118.48 FEET, AN ARC DISTANCE OF 118.67 FEET;

THENCE NORTHWESTERLY ON A 500.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING
N50°18'51"W, CHORD DISTANCE 180.85 FEET, AN ARC DISTANCE OF 181.85 FEET;

THENCE NORTHWESTERLY ON A 420.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING
N30°20'50"W, CHORD DISTANCE 424.89 FEET, AN ARC DISTANCE OF 445.48 FEET;

THENCE N00°02'20"W 477.62 FEET TO THE POINT OF BEGINNING.

CONTAINING 15.553 ACRES

TD2 PROJECT 2069-107(a)

AUGUST 29, 2018