Recorded: 1/15/2020 at 11:21:09.0 AM
County Recording Fee: $47.00
Iowa E-Filing Fee: $3.88
Combined Fee: $50.88
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2020 PG: 128

Prepared by
and Return to: Mark R. Van Heukelom, Bradley & Riley PC, PO Box 2804, Cedar Rapids, IA 52406, (319) 363-0101

JOINT USE WELL AND WATER AGREEMENT

This Joint Use Well and Water Agreement ("Agreement") is made, executed and entered into this 10 day of January, 2020, by the Estate of Shirley Ann Steuri, in favor of the Estate of Shirley Ann Steuri, Kathy J. Dirks and Jamey Dirks. (collectively, the Estate of Shirley Ann Steuri, Kathy J. Dirks, and Jamey Dirks are the "Parties").

RECITALS

A. The Estate of Shirley Ann Steuri is the titleholder to the following described real estate located in Delaware County, Iowa, to-wit:

LOT FOUR (4) OF THE SURVEY AND PLAT OF PART OF THE WEST ONE-HALF (W ½) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL ¼) OF SECTION THREE (3), TOWNSHIP EIGHTY EIGHT (88) NORTH, RANGE THREE (3), WEST OF THE FIFTH PRINCIPAL MERIDIAN, ACCORDING TO PLAT RECORDED IN BOOK 3 PLATS, PAGE 6.

("Lot Four");

B. The Estate of Shirley Ann Steuri is also the titleholder to the following described real estate located in Delaware County, Iowa, to-wit:

LOT THREE (3) OF THE SURVEY AND PLAT OF PART OF THE WEST ONE-HALF (W ½) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL ¼) OF SECTION THREE (3), TOWNSHIP EIGHTY EIGHT (88) NORTH, RANGE THREE (3), WEST OF THE FIFTH PRINCIPAL MERIDIAN, ACCORDING TO PLAT RECORDED IN BOOK 3 PLATS, PAGE 6.

("Lot Three"); and

LOT FIVE (5) OF THE SURVEY AND PLAT OF PART OF THE WEST ONE-HALF (W ½) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL ¼) OF SECTION THREE (3), TOWNSHIP EIGHTY EIGHT (88) NORTH, RANGE THREE (3), WEST OF THE FIFTH PRINCIPAL MERIDIAN, ACCORDING TO PLAT RECORDED IN BOOK 3 PLATS, PAGE 6.

("Lot Five").

C. Kathy J. Dirks and Jamey Dirks, wife and husband, are the titleholders to the following described real estate located in Delaware County, Iowa, to-wit:

LOT ONE (1) OF THE SURVEY AND PLAT OF PART OF THE WEST ONE-HALF (W ½) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL ¼) OF SECTION THREE (3), TOWNSHIP EIGHTY EIGHT (88) NORTH, RANGE THREE (3), WEST OF THE FIFTH PRINCIPAL MERIDIAN, ACCORDING TO PLAT RECORDED IN BOOK 3 PLATS, PAGE 6.

("Lot One"); and

LOT TWO (2) OF THE SURVEY AND PLAT OF PART OF THE WEST ONE-HALF (W ½) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL ¼) OF SECTION THREE (3), TOWNSHIP EIGHTY EIGHT (88) NORTH, RANGE THREE (3), WEST OF THE FIFTH PRINCIPAL MERIDIAN, ACCORDING TO PLAT RECORDED IN BOOK 3 PLATS, PAGE 6.

("Lot Two").

D. A water system, consisting of a Well, electrical components, pump, pipes, and other and necessary appurtenances thereto, are located on Lot Four. Most of the support equipment for the Well is located in the residential structure on Lot Four.

E. The Owner of Lot Four is herein referred to as "Grantor." Lot Four is herein referred to as the "Grantor Lot."

F. The Owners of Lot One, Lot Two, Lot Three, and Lot Five are collectively referred to as "Grantees." Lot One, Lot Two, Lot Three, and Lot Five are collectively referred to as "Grantee Lots."

G. The Owners of Lot One, Lot Two, Lot Three, Lot Four, and Lot Five are collectively referred to as the "Parties."

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, it is agreed by and between the Parties as follows:

1. Except as otherwise provided herein, Grantor agrees that Grantees, and Grantees' successors and assigns, shall be entitled to obtain water for the Grantee Lots from the Well located on the Grantor Lot.

2. Grantors, and Grantors' successors and assigns, shall be responsible for effectuating any repairs or maintenance of the Well located on the Grantor Lot, including the pump, pipes and related equipment located on the Grantor Lot.

3. The Owner of Lot Four, and its successors and assigns, shall pay twenty-five percent (25%) of the cost of all reasonable and necessary repairs of the Well on the Grantor Lot.

4. The Owner of Lot One, and its successors and assigns, shall pay twenty-five percent (25%) of the cost of all reasonable and necessary repairs of the Well on the Grantor Lot.

5. The Owner of Lot Two, and its successors and assigns, shall pay twenty-five percent (25%) of the cost of all reasonable and necessary repairs of the Well on the Grantor Lot.

6. The Owner of Lot Three, and its successors and assigns, shall pay twenty-five percent (25%) of the cost of all reasonable and necessary repairs of the Well on the Grantor Lot.

7. So long as Lot Four and Lot Five are owned by the same owner, the owner of Lot Five shall not bear responsibility for any repairs of the Well on the Lot Four, nor any responsibility to share in the costs thereof. If Lot Four and Lot Five are later owned by different owners, then Lot Five shall not be entitled to beneficial access to the Well on Lot Four.

8. The owners of Lot One, Lot Two, Lot Three, and Lot Four, along with their respective successors and assigns, shall bear equally the costs associated with operating the Well.

9. No changes, alterations or modifications shall be made to the Well or any of the water lines to and from the Well without the consent of the owners of at least three of the following four Lots: Lot One, Lot Two, Lot Three, and Lot Four.

10. Any Party may bring an action at law or a suit in equity to enforce the provisions of this Agreement. In addition to or as an alternative to such actions at law or equity, the owner of Lot Four may adopt rules and regulations to ensure the adherence of the Parties to this Agreement. The owner of Lot Four may, after affording an alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and severity of which shall be reasonably related to the violation and to the aim of deterring

similar future violations by the same or any other Party. Monetary penalties imposed against a Lot or owner of a Lot shall be deemed an assessment against the Lot and, as such, shall be a charge and a continuing lien upon such Lot, shall constitute a personal obligation of the Lot owner and shall be collectible by any lawful means. If a Party successfully brings an action to extinguish a violation of this Agreement or otherwise enforce any provisions hereof (including the owner of Lot Four's enforcement of rules and regulations, and monetary and non-monetary penalties) the cost of such action, including reasonable attorney fees and legal fees, shall become a binding personal obligation of the violator and such costs shall also be a lien upon the Lot owned by such violator.

11. The owners of Lot One, Lot Two, Lot Three, and Lot Four, along with their respective successors and assigns, shall each be solely responsible for any repairs or maintenance of water pipes, water lines, and related equipment that exist solely for the benefit of the Lot owned by that Party, as Well as for any repairs or maintenance of the water line running from the Well to that Party's respective Lot. Each Party shall be solely responsible for its own water softening, and for reducing any mineral or iron content of the water as such Party may desire.

12. Grantor hereby grants to Grantees an easement over that portion of the Grantor Lot reasonably necessary for the use, operation, maintenance, repair, or replacement of the Well, pump, related equipment, and existing waterlines to provide water from the Well to the Grantee Lots.

13. Grantees grant to one another and to Grantor an easement over that portion of each Grantee Lot reasonably necessary for the use, operation, maintenance, repair, or replacement of the Well, pump, related equipment, and existing waterlines to provide water to any other Grantee Lots.

14. Notwithstanding the foregoing, this Agreement shall terminate, and be of no further force or effect, upon the mutual written agreement of all Parties. A Grantee Lot, at such time as the owner of a Grantee Lot obtains a water supply for such Grantee Lot other than the Well and gives thirty (30) days' written notice to the Grantor and the other Grantee Lots of the Grantee Lot's removal from the terms of this Agreement, shall no longer be obligated to contribute to the costs of operation, maintenance and repair of the Well as identified in this Agreement. Notwithstanding such action by the owner of a Grantee Lot, the easement rights granted over such Grantee Lot shall remain in full force and effect.

15. Grantor and Grantees do not warrant the quality of the water to be supplied nor does Grantor warrant that the Well is or will be adequate to supply any specific quantity of water. No Party shall be liable to another Party for failure to furnish water.

16. The undersigned, and their successors and assigns, reserve the right to use the easement areas for purposes not inconsistent with the rights granted in this Agreement.

17. This Agreement, and all rights and responsibilities under this Agreement shall be binding upon each Party's heirs, successors, administrators and assigns, and shall run with the land and follow title to each Parcel.

18. All Easements herein shall be binding upon the undersigned and their respective heirs, administrators, executors, successors and assigns.

19. Nothing contained in this Agreement shall be deemed to be a gift or dedication to the general public or for any public use or purpose whatsoever, it being the intention of the parties hereto that this Agreement is for the exclusive benefit of the parties hereto.

20. Neither the Doctrine of Merger nor any other legal or equitable doctrine shall apply so as to terminate the said Easement while any affected real estate is owned by the Estate of Shirley Ann Steuri, it being the express intent of the Estate of Shirley Ann Steuri to establish the said Easement in advance of selling Lot Three, Lot Four, and Lot Five to presently unidentified purchaser(s), so as to ensure that the future owners of Lot One, Lot Two, Lot Three, and Lot Four shall have access rights to the Well situated on Lot Four.

21. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

22. 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.

23. This Agreement shall be governed by Iowa law.

OWNER OF LOT ONE

Kathy J. Dirks and Jamey Dirks,
Wife and Husband

Kathy J. Dirks

Jamey Dirks

OWNER OF LOT TWO

Kathy J. Dirks and Jamey Dirks,
Wife and Husband

Kathy J. Dirks

Jamey Dirks

OWNER OF LOT THREE
ESTATE OF SHIRLEY ANN STEURI

By: _____
Kathy J. Dirks, Co-Executor

By: _____
Diane E. Russell, Co- Executor

OWNER OF LOT FOUR
ESTATE OF SHIRLEY ANN STEURI

By: _____
Kathy J. Dirks, Co-Executor

By: _____
Diane E. Russell, Co- Executor

OWNER OF LOT FIVE
ESTATE OF SHIRLEY ANN STEURI

By: _____
Kathy J. Dirks, Co-Executor

By: _____
Diane E. Russell, Co- Executor

OWNER OF LOT ONE

Kathy J. Dirks and Jamey Dirks,
Wife and Husband

_____
Kathy J. Dirks

_____
Jamey Dirks

OWNER OF LOT TWO

Kathy J. Dirks and Jamey Dirks,
Wife and Husband

_____
Kathy J. Dirks

_____
Jamey Dirks

OWNER OF LOT THREE
ESTATE OF SHIRLEY ANN STEURI

By: _____
Kathy J. Dirks, Co-Executor

By: Diane E. Russell
Diane E. Russell, Co- Executor

OWNER OF LOT FOUR
ESTATE OF SHIRLEY ANN STEURI

By: _____
Kathy J. Dirks, Co-Executor

By: Diane E. Russell
Diane E. Russell, Co- Executor

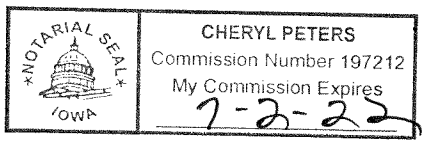
OWNER OF LOT FIVE
ESTATE OF SHIRLEY ANN STEURI

By: _____
Kathy J. Dirks, Co-Executor

By: Diane E. Russell
Diane E. Russell, Co- Executor

STATE OF IOWA)
) ss:
COUNTY OF Jones)

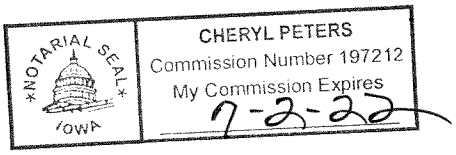
This Instrument was acknowledged before me this 13th day of January, 2020, by Kathy J. Dirks and Jamey Dirks, wife and husband, in their capacity as Owners of Lot One and Lot Two.



Cheryl Peters
Notary Public – State of Iowa

STATE OF IOWA)
) ss:
COUNTY OF Jones)

This Instrument was acknowledged before me this 13 day of January, 2020, by Kathy J. Dirks, in her capacity as Co-Executor of the Estate of Shirley Ann Steuri, Owner of Lot Three, Lot Four, and Lot Five.



Cheryl Peters
Notary Public – State of Iowa

STATE OF WASHINGTON)
) ss:
COUNTY OF _____)

This Instrument was acknowledged before me this ____ day of _____, 2020, by Diane E. Russell, in her capacity as Co-Executor of the Estate of Shirley Ann Steuri, Owner of Lot Three, Lot Four, and Lot Five.

_____
Notary Public – State of Washington

STATE OF IOWA)
) ss:
COUNTY OF _____)

This Instrument was acknowledged before me this ____ day of _____, 2020, by Kathy J. Dirks and Jamey Dirks, wife and husband, in their capacity as Owners of Lot One and Lot Two.

_____
Notary Public – State of Iowa

STATE OF IOWA)
) ss:
COUNTY OF _____)

This Instrument was acknowledged before me this ____ day of _____, 2020, by Kathy J. Dirks, in her capacity as Co-Executor of the Estate of Shirley Ann Steuri, Owner of Lot Three, Lot Four, and Lot Five.

_____
Notary Public – State of Iowa

STATE OF WASHINGTON)
) ss:
COUNTY OF King)

This Instrument was acknowledged before me this 10 day of January, 2020, by Diane E. Russell, in her capacity as Co-Executor of the Estate of Shirley Ann Steuri, Owner of Lot Three, Lot Four, and Lot Five.

Deborah A. Minas
Notary Public – State of Washington

DEBORAH ANN MINAS NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES DECEMBER 10, 2020