Recorded: 11/16/2020 at 9:41:44.0 AM
County Recording Fee: $22.00
Iowa E-Filing Fee: $3.41
Combined Fee: $25.41
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2020 PG: 4171

Preparer: Scott M. O'Shea, 1007 Longfellow Drive, Hiawatha, IA 52233, (319) 362-3640
Return To: David A. Jesenovec and Jane E. Jesenovec, 3249 312th Avenue, Hopkinton, IA 52237

ENCROACHMENT AND MAINTENANCE EASEMENT AGREEMENT

THIS ENCROACHMENT AND MAINTENANCE EASEMENT AGREEMENT ("Agreement") is made this 14 day of NOVEMBER, 2020, by and between **Bruggeman Real Estate, LLC**, an Iowa limited liability company ("Grantor"), and **David A. Jesenovec and Jane E. Jesenovec**, husband and wife ("Grantees").

WITNESSETH

WHEREAS, Grantor owns and is the legal titleholder of record of the real properties locally known as 3113 Willow Road, Hopkinton, IA 52237 and 3121 Willow Road, Hopkinton, IA 52237 situated in **Delaware County**, Iowa, and legally described as follows, to-wit:

> **All that part of the abandoned right-of-way and depot grounds of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company in Sand Spring, Delaware County, Iowa, as shown by the plat thereof recorded in Book I, L.D., Pages 220-221, lying northerly of the centerline of South Street and lying southwesterly of the centerline of Spring Street; and Lots 248, 249, 250 and 251 and the west half of Lots 181 and 182, Sand Spring, Iowa, according to the Plat recorded in Book I, L.D., Page 220, in Delaware County, Iowa, Hopkinton, Iowa** (for purposes of this Agreement, referred to as the "Grantor Property")

WHEREAS, Grantees own and are the legal titleholders of record of the real property locally known as 3249 312th Avenue, Hopkinton, IA 52237, situated in **Delaware County**, Iowa, and legally described as follows, to-wit:

> **Lots Three Hundred (300), Three Hundred One (301), Three Hundred Two (302), Three Hundred Three (303), Three Hundred Six (306) and Three Hundred Sixty Eight (368); and the South forty four (44) feet of Lot Two Hundred Ninety Nine (299); and the East eighty (80) feet of Lots Three Hundred Four (304) and Three Hundred Five (305); and Lots Three Hundred Seven (307) and Three Hundred Sixty Seven (367), except the North twenty seven (27) feet thereof; all in Sand**

Spring, Iowa, according to plat recorded in Book I L.D., Pages 220-221; except that part of said Lot Three Hundred Three (303) described as commencing at the Northwest corner of said Lot Three Hundred Three (303) and running East along the North line of said Lot Three Hundred Three (303) fifty two (52) feet, thence South parallel to the West line of said Lot Three Hundred Three (303) to the South line of said Lot Three Hundred Three (303), thence Southwesterly along the South line of said Lot Three Hundred Three (303) to the Southwest corner of said Lot Three Hundred Three (303), thence Northerly along the West line of said Lot Three Hundred Three (303) to the point of beginning. (for purposes of this Agreement, referred to as the "Grantees Property")

WHEREAS, the septic system serving Grantees Property encroaches onto the southerly portion of Grantor Property.

WHEREAS, it is necessary the Grantees be given an encroachment and maintenance easement over, under and across that portion of Grantor Property.

NOW THEREFORE, in consideration of the mutual covenants, agreement, conditions and stipulations therein contained, it is mutually covenanted, stipulated and agreed by and between the parties hereto as follows, to-wit:

1. **Grant of Easement**. Grantor hereby grant unto Grantees a non-exclusive perpetual encroachment and maintenance easement over, under and across the southerly portion of the Grantor Property for the sole purpose of access, maintenance and repair of the Grantees' septic system located on Grantor Property, as approximately shown for reference by the black line in **Exhibit A**, attached hereto and incorporated herein. It is understood and agreed by and among the parties the portion of the Grantor Property subject to this easement shall by express consent be used strictly for the purpose of said encroachment for access, maintenance and repair of the Grantee's septic system. Grantees herein recognize and agree the grant of any easement is for a strictly limited purpose, and no other rights, interest or title to the Grantor Property is herein granted.

2. **Use of Access Easement**. In exercising the rights granted hereunder, Grantees shall comply with the reasonable requests of Grantor, and shall otherwise use reasonable efforts not to unreasonably interfere with the normal and customary use and ownership of the Grantor Property by Grantor, subject to Grantees' rights under Section 1 above, and obligations under Section 3 below.

3. **Maintenance of Easement Area**. All expenses and responsibility of maintaining, repairing and replacing the Grantees' septic system located on the Grantor Property shall be the sole responsibility of Grantees. In addition, any damage caused by the septic system to the Grantor Property or the Grantees Property shall be the sole responsibility of Grantees. Grantees agree to hold Grantor, their heirs, successors and assigns harmless from any damage created by way of the Grantees' exercise of their rights.

4. The rights and obligations of this Agreement, including the benefits and burdens thereof, are hereby perpetual, shall run with the land, shall be binding upon and shall inure to the benefit of the parties hereto, and the terms hereof shall extend to and be binding upon the respective assigns, successors, tenants, heirs, and personal representatives of the parties hereto.

5. 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 hereto. This Agreement may be executed in counterparts, all of which, taken together, shall be deemed to be one original document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written

GRANTORS:

BRUGGEMAN REAL ESTATE, LLC

By: _____
William Wiezorek, Managing Member

STATE OF IOWA, COUNTY OF DELAWARE) ss:

This record was acknowledged before me on 11/14, 2020, by William Wiezorek, Managing Member of Bruggeman Real Estate, LLC.

_____
Notary Public in and for the State of Iowa

NOTARIAL SEAL IOWA
MICHAEL W. McDONOUGH
Commission Number 138581
My Commission Expires
February 6, 2022

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written

GRANTEES:

DAVID A. JESENOVEC AND JANE E. JESENOVEC

David A. Jesenovec

Jane E. Jesenovec

STATE OF IOWA, COUNTY OF DELAWARE) ss:

This record was acknowledged before me on 11/14, 2020, by David A. Jesenovec and Jane E. Jesenovec, husband and wife.

Notary Public in and for the State of Iowa

MICHAEL W. McDONOUGH
Commission Number 136581
My Commission Expires
February 6, 2022