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MICHELLE "MICKI" UTSLER, COUNTY RECORDER
MADISON IOWA

✓ Edward M. Fletcher 701 E. Taylor Creston, Iowa 50801 641-782-4310
 Authorized Highway Division Representative Address Telephone Number

ENTER PREPARER'S NAME ADDRESS AND TELEPHONE NUMBER ON BLANK LINES ABOVE. LEAVE REMAINING TOP PORTION BLANK FOR COUNTY RECORDERS USE.

Form 810123
3-00



Iowa Department of Transportation
HIGHWAY DIVISION

Agreement for Revision of Access

(Use when upgrading or relocating existing access previously reserved)

Permit No. 61-2004-01
 Parcel No. 21
 Highway No. U.S.169
 County Madison
 Project No. FN-169-3(10)--21-61
 Access Priority Rating Priority IV

This Agreement, made and entered into by and between Birchwood Estates LLC 515-462-3995
3501 Westown Parkway, West Des Moines, IA 50265 (Type name) (Telephone No.)
 (Address of Owner) (Date) April 21 20 04

the present owner(s) of land adjacent to the above referenced highway, (hereafter referred to as the Owners), and the Iowa Department of Transportation, acting for the State of Iowa (hereinafter referred to as the Department).

A. Identification

The Owners own land generally located in $\frac{1}{4}$ $\frac{1}{4}$ Sec. (or lot) 36 of Sec. (or Blk.) _____ and parts of $\frac{1}{4}$ $\frac{1}{4}$ Sec. (or lot) _____ of Sec. (or Blk.) _____ in Twp. 76N, Rge. 28W, or (Sub Div.) (in the City of) Winterset, County of MADISON, State of Iowa more particularly to which the State of Iowa has previously acquired access rights by deed (or condemnation) from and recorded in Book (Vol.) 2002, Page 4779, (instrument No.) _____ in the Office of the Madison County Recorder.

B. Requested Access Revision (Use when upgrading or relocating existing access previously reserved)

The said Owners now desire to change the width & type of the Type "C" entrance (right of access) reserved at 69.13 (Milepost #) or 713+00 (station) south (side) to a Type A, Type B, or Type C entrance (right of access) at 69.13 (Milepost #) or 713+00 (station) south (side) of Primary Highway substituting the later for the former. The new entrance will be constructed 40 (ft.) in width with 30' (ft.) radius returns or 2:1 tapers as noted in the attached exhibits.

APPLICANT'S SIGNATURE

We, the undersigned, are the owner, or owners, of record, or the legal and duly authorized representative of the owner, of the property abutting the Primary Road between 69.08 (Milepost #) or 708+00+/- (station) and 69.25 (Milepost #) or 721+78± (station) on the south side and agree that we shall save the State and Iowa Department of Transportation harmless of any damage or losses for personal injury or property damage that may be sustained by any person, or persons, on account of any activity undertaken pursuant to this agreement and the conditions and requirements of this agreement **as are stated on this application and attachments thereto.**

William E. Kline 3501 Westown Pkwy WDM
 Signature Address
William E. Kline
 Type or Print Name

 Signature Address

 Type or Print Name

NOTARY PUBLIC

ACKNOWLEDGEMENT:

State of Iowa County of Polk
 On this 22 day of April A. D. 2004 before me a Notary Public in and for said State of Iowa personally appeared William E. Kline and _____ to be known to be the persons named in and who execute the foregoing instrument, and acknowledge, that he executed the same as a _____

Jan Heltand
 Notary Public in and for the State of Iowa
Jan Heltand

If desired location is with the limits of a city, the applicant shall obtain desired action from an authorized city representative.
 If desired location is within the county where county zoning is in place, applicant shall obtain desired action from zoning official.

Recommend Approval Recommend Denial Recommend Approval Recommend Denial

Mark Nitchals 04-23 2004
 Authorized City Official Signature Date
Mark Nitchals
 (Type or Print Name)

 Authorized County Official Signature Date

 (Type or Print Name)

Department of Transportation Action:

APPLICATION APPROVED APPLICATION DENIED

On behalf of the Department of Transportation, Highway Division, the above action has been taken on this application on this

10th day of May, A.D., 2004
 BY: David Widick DAVID WIDICK
 Director of Highway Division or Authorized Designee (Type or Print Name)

APPLICANT RESPONSIBLE FOR FILLING THIS SECTION OF APPLICATION. ASSISTANCE FROM DEPARTMENT AVAILABLE UPON REQUEST.

PLEASE SEE PAGE 2 FOR ADDITIONAL DETAILS

C. General

1. The Department and the Owners agree that the entrance (right of access) desired by said Owners as noted in Section B on page 1, is substituted for and in lieu of the entrance (right of access) formerly reserved. In all other respects, said deed or (condemnation) remains as before, and the rights acquire thereby, with these changes only, remain in the State of Iowa, as against the said Owners, their heirs, assigns, and successors in interest.
2. Words and phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural, and as masculine, feminine or neuter gender according to the context.
3. A copy of the approved application shall be available on the job site at all times for examination by Department officials.
4. Subject to the approval of this application and upon completion of the constructing of the entrance in compliance with the terms agreed upon in this document and attachment, no changes in the entrance or its location shall be undertaken without the prior written approval of the Department.
5. The owner shall be responsible for all future maintenance costs associated with maintaining the access in a safe state of repair from the outer shoulder line of the primary highway to the right of way line.
 - a. If a drainage structure is required as a part of the permit application, the Department shall be responsible for maintaining that portion of the drainage structure located within the primary highway rights of way.
 - b. Nothing in this stipulation, however, shall preclude the Department from entering upon said entrance on highway right of way and performing necessary maintenance for the protection of the highway or highway user.
6. In the future, should this entrance generate sufficient traffic to warrant a need or additional traffic control upon the primary road system, costs for these improvements shall be the responsibility of the owner and shall be constructed in accordance with Department standards. These may include, but would not necessarily be limited to the constructing of turn lanes and/or signalization.
7. That all provisions herein relating to the construction, repair or maintenance of the access shall be binding on all successors or assigns of the owner.

D. Liability

1. The Owner(s) shall indemnify and save harmless the State of Iowa, its agencies and employees, from any and all causes of action, suits at law or in equity, for losses, damages, claims or demands, and from any and all liability and expense of whatsoever nature, arising out of or in connection with owner's use or occupancy of the public highway.
2. If the Owner(s) should fail to comply with any of the conditions and requirements of this agreement, the Department may terminate it, whereupon the owner(s) shall immediately remove any construction undertaken pursuant to this agreement and restore the access(es) previously existing, and any rights granted the owner(s) by this agreement shall end.
 - a. If the Owner(s) fails to complete the construction or fails to conform to the specifications and stipulations of this application, the Department may enter and remove the non-conforming work or make the necessary changes and charge the costs against the owner, including court action if necessary.

E. Notification

1. Before beginning any work in the highway right of way, it is the responsibility of the owner(s) to:
 - a. Contact utility companies which may be located in the area of the proposed work. Contact should be made by calling Iowa One Call at 1-800-292-8989, a minimum of 48 hours in advance of starting construction.
 - b. If the work requested in this application should cause a need to relocate or modify an existing utility, any cost associated shall be as negotiated between the applicant and the utility owner.
 - c. Notice of the construction start date is to be given 48 hours in advance of actual construction, to the following.

| | | |
|---------------------|------------------------|---------------------------------|
| <u>Pete Wonders</u> | <u>Adel, IA</u> | <u>515-834-2368</u> |
| <small>Name</small> | <small>Address</small> | <small>Telephone Number</small> |

F. Construction and Maintenance

1. That all provisions herein relating to the construction, repair or maintenance of the access shall be binding on all successors or assigns of the owner.
2. Unless specifically noted in this application, all work performed within the right of way shall be restricted to a time frame of 30 minutes after sunrise to 30 minutes before sunset.
3. The access, including drainage structure, grading and surfacing, and entrance configuration shall be constructed by the owner at the owner's expense, in accordance with the exhibit and attachments hereto, and in conformity with the standard specifications of the Department of Transportation.
4. That the construction, future repair or maintenance of said entrance shall be carried on in such a way as not to interfere with, or interrupt traffic on said highway, and the owner shall take all reasonable precautions to protect and safeguard the lives and property of any person or persons, on account of such construction, repair or maintenance operation.
5. That no filing will be permitted in the right of way of primary road No. US 169 other than that necessary to construct the proposed entrance or as specifically stated herein.
6. In a rural designed area to prevent water draining on the pavement or traveled way of the primary highway, the finished surface elevation of the driveway over the pipe or place whether the pipe would normally be placed shall be 4 inches lower than the highway shoulder elevation.
 - a. If required, the culvert pipe under the entrance shall be 24" inches in diameter and 168' feet in length as shown on the attached sketch and of a quality complying with Sections 2422, 4141, 4145 and 4146 of the Department's Standard and Specifications, Series 1997, or subsequent revision. The pipe shall be installed at the elevation specified by the Department's engineer.

In an urban designed area, where drainage is carried along an existing curb, the entrance shall be constructed with a rise in elevation or 6 to 9 inches from the street gutter at the entrance to a point 6 feet) behind the gutter. This will prevent runoff from spilling onto private property.
7. Side slope of the requested entrance shall be constructed at a minimum of 10:1 slope where no culvert is required and 8:1 slope when a culvert is required.

G. Special Requirements or Additional Stipulations

The following special requirements or additional stipulations shall apply to this permit:

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WINT. 32 7/8 - 2P,
PARCEL 10 NW 1/4 + 10 NE 1/4
SW 1/4 PARCEL N