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FILED NO. 3291

BOOK 61 PAGE 689

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MICHELLE UTSLER  
RECORDER  
MADISON COUNTY, IOWA

John E. Casper, 223 East Court, Winterset, IA 50273-0067 (515) 462-4912

**RIGHT OF WAY EASEMENT**

**NOW ALL PERSONS BY THESE PRESENCE:**

**WHEREAS,** Bobby L. Vawter (hereafter Vawter) owns the real estate legally described as:

Lot Two (2) of Circle Heights Plat No. 2 Addition to the Town of Winterset, Madison County, Iowa;

**WHEREAS,** Linda Spencer and Jerry W. Spencer (hereafter Spencer) own the real estate legally described as:

Lot Three (3) of Circle Heights Plat No. 2 Addition to the Town of Winterset, Madison County, Iowa;

**WHEREAS,** Vawter and Spencer as owners of adjoining real estate share a common private driveway allowing access to garages each party has erected on their respective real estate owned by them;

**WHEREAS,** this common driveway is upon and across a portion of each parties real estate; and,

**WHEREAS,** the parties desire to formalize their understanding concerning each parties, their successors and assigns, right of use of this common driveway.

**NOW, THEREFORE, IT IS AGREED** between the undersigned parties as follows:

1. Vawter, in consideration of the mutual covenants of this Agreement, receipt of which is acknowledged, does hereby grant to Spencer, their successors and assigns, the perpetual right and easement to access Spencer's real estate upon, across and over the following described real estate owned by Vawter:

The North eight (8) feet of Lot Two (2) of Circle Heights Plat No. 2 Addition to the Town of Winterset, Madison County, Iowa,

and incident to this easement right to construct, install, repair, maintain, operate, inspect, and replace this common driveway as further provided in this Agreement.

2. Spencer, in consideration of the mutual covenants of this Agreement, receipt of which is acknowledged, does hereby grant to Vawter, their successors and assigns, the perpetual right and easement to access Vawter's real estate upon, across and over the following described real estate owned by Spencer:

The South eight (8) feet of Lot Three (3) of Circle Heights Plat No. 2 Addition to the Town of Winterset, Madison County, Iowa,

and incident to this easement right to construct, install, repair, maintain, operate, inspect, and replace this common driveway as further provided in this Agreement.

3. The undersigned parties, their successors and assigns, agree to share equally and mutually any decisions regarding the grading of the common driveway, its drainage upon and across their respective real estate, the surfacing of the common driveway, and any construction, repair, or replacement of this common driveway. The parties do further agree to share equally any and all costs related to the use, construction, maintenance, repair, and replacement of the right of way easement and this common driveway.

4. The parties, their successors and assigns, agree not to install or erect or maintain at any time any fence or other barrier, structure, or obstruction in, on, or hanging over this right of way easement.

5. Each party does warrant and covenant to the other party that, subject to liens and encumbrances of record at the date of this easement, each is the owner of the above described land and has full right and authority to validly grant this easement, and the other party may quietly enjoy its estate in the premises.

6. Each party covenants that no act will be permitted within the easement property which is inconsistent with the rights hereby granted; that no buildings or structures or other improvements will be erected upon the easement property; and, that the present grade or ground level thereof will not be changed by excavation or filling.

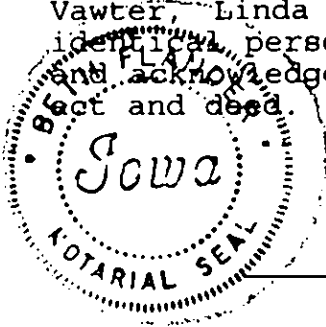
This Agreement shall be a perpetual covenant running with the land and bind and inure to the benefit of the heirs, successors and assigns of the parties.

Dated this 23<sup>rd</sup> day of May, 1997.

*Bobby L. Vawter*  
Bobby L. Vawter  
*Linda Spencer*  
Linda Spencer  
*Jerry W. Spencer*  
Jerry W. Spencer

STATE OF IOWA )  
                  ) SS  
MADISON COUNTY )

On this 23rd day of May, 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared Bobby L. Vawter, Linda Spencer and Jerry W. Spencer to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged to me that they executed the same as their voluntary act and deed.



Beth Flander  
Beth Flander Notary Public