

512149

**DRIVEWAY MAINTENANCE AGREEMENT**

Dawn M Nemecek REG. OF DEEDS  
VERNON COUNTY, WI

512149

02/21/2020 11:45 AM

RECORDING FEE: 30.00

TRANSFER FEE: 0.00

PAGE COUNT: 8

TAX EXEMPT #

Name and Return Address

Brandon J. Prinsen  
Johns, Flaherty & Collins, S.C.  
205 5<sup>th</sup> Avenue South, Suite 600  
La Crosse, WI 54601

038-00314-0000; 038-00316-0000

Parcel Numbers

THIS DRIVEWAY MAINTENANCE AGREEMENT ("Agreement") is entered into this 21 day of February, 2020 by and between Michael J. Sousa and Linda L. Sousa ("Parcel A Owner") and Daniel J. Krumenauer ("Parcel B Owner").

Recitals

A. Parcel A Owner is the owner of real estate and improvements located in the Town of Webster, Vernon County, Wisconsin and legally described on Exhibit A attached hereto ("Parcel A");

B. Parcel B Owner is the owner of real estate and improvements located in the Town of Webster, Vernon County, Wisconsin and legally described on Exhibit B attached hereto ("Parcel B");

C. A private driveway is currently located on a portion of Parcel A which said driveway is used by Parcel A Owner and Parcel B Owner and legally described in Exhibit C attached hereto ("Driveway");

D. Parcel B Owner holds an easement over and across the Driveway owned by Parcel A Owner to enable Parcel B Owner to use the Driveway for ingress and egress to and from Parcel B; and

E. This Agreement is entered into for the purpose of setting for the terms for the shared maintenance and use of the Driveway.

## **AGREEMENT**

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

**1. Equal Right of Use.** The respective owners of Parcel A and Parcel B, their successors and assigns, shall have equal rights of ingress and egress over the Driveway and neither party shall take any action to prevent the other party's enjoyment of such rights.

**2. Maintenance and Repairs.**

(i) Parcel A Owner and Parcel B Owner shall equally be responsible for all maintenance and repair expenses of the Driveway, including, but not limited to, tree removal, snow plowing, grading, ditching, filling potholes, installing gravel, culverts or catch basins.

(ii) Parcel A Owner shall handle and charge \$20.00 per hour for the labor for the upkeep, snow removal, maintenance, and repairs for the Driveway. Parcel B Owner shall pay Parcel A Owner one-half (1/2) of the total labor charges, along with any material expenses, incurred by Parcel A Owner for the upkeep, snow removal, maintenance, and repairs for the Driveway.

(iii) Parcel A Owner shall send an invoice to Parcel B Owner on or before May 1st in each calendar year for all labor charges and material expenses incurred by Parcel A Owner from May 1st through April 30th in the prior fiscal year. The first invoice shall be delivered on or before May 1, 2020 for charges and expenses from May 1, 2019 through April 30, 2020. Parcel B Owner shall then have ten (10) days from receipt of the invoice to pay Parcel A Owner one-half (1/2) of the total labor charges and expenses in that invoice.

(iv) If Parcel A Owner is unable or unwilling to perform the upkeep, snow removal, maintenance or repairs of the Driveway and Parcel B Owner performs any such upkeep, snow removal, maintenance, and repairs for the Driveway, then Parcel A Owner shall pay Parcel B Owner one-half (1/2) of the total labor charges (\$20.00 per hour), along with any material expenses, incurred by Parcel B Owner for any such upkeep, maintenance, snow removal or repairs of the Driveway.

(v) Any repairs and maintenance to the Driveway which costs more than \$500.00 per occurrence shall be performed at such times and in such manner as mutually agreeable by Parcel A Owner and Parcel B Owner.

(vi) If any party hereto resides more than four (4) hours from Parcel A and Parcel B for more three (3) months in given calendar year, then the parties hereto will use all reasonable efforts to renegotiate the terms of this Agreement to minimize said party's share of the expenses for the Driveway.

**3. Enforcement.** If a party fails to pay his or her share of the total labor charges and expenses for the upkeep, repair, snow removal and maintenance of the Driveway or defaults under any other terms of this Agreement, then the non-defaulting party shall send a notice of default to the defaulting party. The defaulting party shall have ten (10) days from receipt of the notice to cure all defaults in the notice. If the defaulting party fails to cure within said ten (10) day period, then the non-defaulting may file suit against the defaulting party for monetary damages and to restrain or prevent the violation or to obtain any other relief in law or equity. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees, from the other party.

4. **Parcel A Owner Indemnity.** Parcel A Owner shall indemnify and defend Parcel B Owner from all liability, suits, actions, claims, costs, damages and expenses of whatever kind and description, including court costs and legal fees, for claims of any character, including liability and expenses in connection with the loss of life, personal injury or damage to property brought because of any injuries or damages received or sustained by any person, persons or property on account of or arising out of the use of the Driveway by Parcel A Owner, their contractors or guests.

5. **Parcel B Owner Indemnity.** Parcel B Owner shall indemnify and defend Parcel A Owner from all liability, suits, actions, claims, costs, damages and expenses of whatever kind and description, including court costs and legal fees, for claims of any character, including liability and expenses in connection with the loss of life, personal injury or damage to property brought because of any injuries or damages received or sustained by any person, persons or property on account of or arising out of the use of the Driveway by Parcel B Owner, their contractors or guests.

6. **Covenants Run with the Land.** All of the terms and conditions contained in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto, their respective successors and assigns. The benefits of this Agreement shall not be extended to any property other than Parcel A and Parcel B without the unanimous consent of Parcel A Owner and Parcel B Owner, their successors, assigns, and heirs.

7. **Non-Use.** The non-use or limited use of the Driveway shall not preclude Parcel A Owner and Parcel B Owner, their invitees and guests, from later use of the easement rights to the fullest extent authorized herein.

8. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties and may only be changed or terminated by a written document executed and acknowledged by all parties to this Agreement and duly recorded in the office of the Register of Deeds of Vernon County, Wisconsin. This Agreement may be modified or terminated only by unanimous written consent of all the owners of Parcel A and Parcel B.

9. **Governing Law.** This Agreement shall be construed and enforced with the internal laws of the State of Wisconsin.

10. **Notices.** All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the other party at that party's last known address. If the other party's address is not known to the party desiring to send the notice, the party sending the notice may use the address to which the other party's real estate tax bills are sent. Either party may change its address by providing written notice to the other party.

11. **Invalidity.** If any term or condition of this Agreement or the application of this Agreement to any person or circumstance shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

12. **Waiver.** No delay or omission by either party in exercising any right or power arising out of any default under the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.

Dated: 2/21/20

PARCEL A OWNER

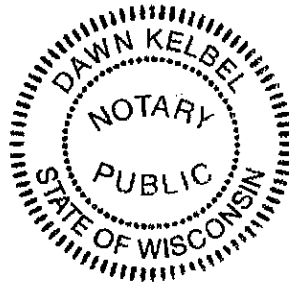
[Signature]  
Michael J. Sousa

[Signature]  
Linda L. Sousa

STATE OF WISCONSIN     )  
  )  
COUNTY OF Vernon     )     ss.

Subscribed and sworn to before me this 21<sup>st</sup> day of Feb, 2020 the above-named Michael J. Sousa and Linda L. Sousa (Parcel A Owner) to me known to be the persons who executed the foregoing instrument and acknowledge the same.

[Signature]  
By: Dawn Kelbel  
Notary Public, State of Wisconsin  
My Commission expires: 03-06-2020



Dated: 2/21/20

PARCEL B OWNER

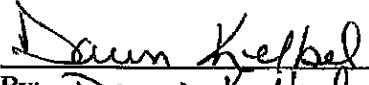
  
Daniel J. Krumenauer

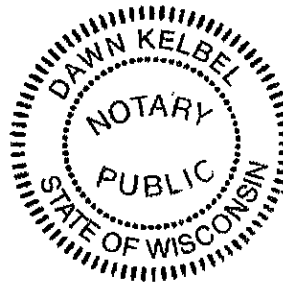
STATE OF WISCONSIN )

COUNTY OF Vernon )

ss.

Subscribed and sworn to before me this 21<sup>st</sup> day of Feb, 2020, the above-named Daniel J. Krumenauer (Parcel B Owner) to me known to be the person who executed the foregoing instrument and acknowledge the same.

  
By: Dawn Kelbel  
Notary Public, State of Wisconsin  
My Commission expires: 03-01-2020



**THIS INSTRUMENT DRAFTED BY:**

Attorney Brandon J. Prinsen  
Johns, Flaherty & Collins, S.C.  
205 Fifth Avenue South, Suite 600  
La Crosse, WI 54601  
(608) 784-5678

## EXHIBIT A

Part of the NE 1/4 of the SW 1/4 and part of the SE 1/4 of the NW 1/4 of Section 14, Township 13 North, Range 3 West, Town of Webster, Vernon County, Wisconsin, the boundary of which is described as follows: Commencing at the West 1/4 corner of Section 14; thence South 89 degrees 35 minutes 22 seconds East along the South line of the NW 1/4, 1323.09 feet to the Southwest corner of the SE 1/4 of the NW 1/4 and the point of beginning; Thence North 00 degrees 26 minutes 15 seconds East along the West line of the SE 1/4 of the NW 1/4, 800.00 feet; thence South 89 degrees 33 minutes 45 seconds East, 174.86 feet; thence South 05 degrees 20 minutes 26 seconds West, 139.21 feet; thence South 09 degrees 25 minutes 01 seconds East, 152.67 feet; thence South 49 degrees 16 minutes 22 seconds East, 156.11 feet; thence South 66 degrees 12 minutes 57 seconds East, 143.52 feet; thence South 26 degrees 31 minutes 17 seconds East, 203.56 feet; thence South 03 degrees 04 minutes 09 seconds East, 206.87 feet; thence South 41 degrees 51 minutes 47 seconds West, 156.24 feet; thence South 09 degrees 14 minutes 38 seconds West, 315.52 feet; thence South 28 degrees 25 minutes 39 seconds East, 250.77 feet; thence South 09 degrees 11 minutes 18 seconds East, 158.63 feet; thence South 62 degrees 44 minutes 44 seconds West, 103.21 feet; thence North 84 degrees 19 minutes 18 seconds West, 237.18 feet; thence North 38 degrees 05 minutes 21 seconds West, 340.42 feet to the West line of the NE 1/4 of the SW 1/4; thence North 00 degrees 19 minutes 36 seconds East along the West line of the NE 1/4 of the SW 1/4, 600.00 feet to the point of beginning.

## **EXHIBIT B**

The Northeast Quarter of the Southwest Quarter (NE 1/4 SW 1/4); All that part of the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) lying south and West of the Public Highway known as County Trunk "D"; That part of the South 3/5ths of the West 1/4 of the Southwest Quarter of the Northeast Quarter (S 3/5 of W 1/4 of SW 1/4 NE 1/4) lying South and West of the Public Highway known as County Trunk "D", EXCEPT that property described in Exhibit A above; All in Section 14, Township 13 North, Range 3 West, Town of Webster, Vernon County, Wisconsin.

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**EXHIBIT C**

The Driveway is located in the NE 1/4 of the SW 1/4 and the SE 1/4 of the NW 1/4 of Section 14, Township 13 North, Range 3 West, the centerline of which is described as follows: Commencing at the West 1/4 corner of Section 14; thence South 89 degrees 35 minutes 22 seconds East along the South line of the NW 1/4, 1323.09 feet to the Southwest corner of the SE 1/4 of the NW 1/4; thence South 00 degrees 19 minutes 36 seconds West along the West line of the NE 1/4 of the SW 1/4, 600.00 feet; thence South 38 degrees 05 minutes 21 seconds East, 340.42 feet; thence South 84 degrees 19 minutes 18 seconds East, 237.18 feet; thence North 62 degrees 44 minutes 44 seconds East, 103.21 feet; thence North 80 degrees 48 minutes 42 seconds East, 33.00 feet to the point of beginning: Thence North 09 degrees 11 minutes 18 seconds West, 329.91 feet; thence North 15 degrees 57 minutes 15 seconds East, 138.62 feet; thence North 64 degrees 16 minutes 41 seconds East, 54.78 feet; thence South 74 degrees 09 minutes 39 seconds East, 109.41 feet; thence North 84 degrees 47 minutes 22 seconds East, 96.31 feet; thence North 61 degrees 29 minutes 18 seconds East, 248.60 feet; thence North 26 degrees 44 minutes 34 seconds East, 94.94 feet; thence North 02 degrees 01 minutes 29 seconds East, 704.25 feet; thence North 57 degrees 22 minutes 10 seconds East to the centerline of County Road D and thereby terminating.