

COUNCIL ACTION FORM

SUBJECT: PLAT OF SURVEY (BOUNDARY LINE ADJUSTMENT) FOR 728, 728 rear, 734 and 808 E. LINCOLN WAY

BACKGROUND:

The City's subdivision regulations found in Chapter 23 of the Ames Municipal Code include the process for creating or modifying property boundaries and for determining if any improvements are required in conjunction with the platting of property. The regulations also describe the process for combining existing platted lots or conveyance parcels in order to create a parcel for development purposes. A plat of survey is allowed by Section 23.309 for the consolidation of conveyance parcels and for a boundary line adjustment.

This proposed plat of survey is for a boundary line adjustment of four existing parcels addressed as 728, 728 rear, 734 (former alley) and 808 E. Lincoln Way to consolidate into two proposed parcels identified as Parcel 'BK' and Parcel 'BJ'. (See Attachment B – Proposed Plat of Survey.) The recent conveyance of the 20-foot alley (Parcel ID: 0911226115) to DHN Investments, LLC (Dennis Tiernan) has made this boundary line adjustment possible. The parcels will be addressed as 728 and 808 E. Lincoln Way.

The parcels lie within the Special Flood Hazard Area shown on the FIRM Panel 19169C0163F, effective 10/16/2014.

Included is an Acquisition Plat for the acquisition of public right-of-way by the City of Ames along the frontage of 728 E. Lincoln Way (*Attachment D*) as well as a signed easement agreement (*Attachment E*).

The proposed "Parcel BK" will include 25,069.44 square feet or 0.58 acres of lot area. An existing sidewalk extends along the frontage of this parcel. The parcel is zoned Highway-Oriented Commercial (HOC) and is occupied by an electrical contractor (an industrial service use).

The proposed "Parcel BJ" will include 129,822.85 square feet or 2.98 acres of lot area. An existing bike path extends along the frontage of this parcel. The new parcel will include three zoning classifications: Agricultural, Highway-Oriented Commercial and General Industrial. The parcel is occupied by an existing warehouse (an industrial use). A rezoning petition has been filed to change the zoning to General Industrial. The Boundary Line Adjustment may be approved, regardless of the mixed zoning on the property.

Approval of a Plat of Survey requires conformance to all standards of the Zoning Ordinance and the Subdivision Code. The proposed lot dimensions comply with requirements found in the zone development standards. Boundary line adjustments do not trigger additional infrastructure improvements, unless partial infrastructure improvements exist and are required to be extended across a property.

Approval of this Plat of Survey will allow the applicant to prepare the official plat of survey and submit it to the Planning and Housing Director for review. The Director will sign the plat of survey confirming that it fully conforms to all conditions of approval. The prepared plat of survey may then be signed by the surveyor, who will submit it for recording in the office of the County Recorder.

ALTERNATIVES:

1. The City Council can adopt the resolution approving the proposed Plat of Survey consistent with the standards of Chapter 23 and accepting the Acquisition Plat for conveyance of public right-of-way. Approval is conditioned on recording of the easement.
2. The City Council can deny the proposed Plat of Survey if the City Council finds that the requirements for plats of survey as described in Section 23.308 have not been satisfied.
3. The City Council can refer this back to staff and/or the owner for additional information.

CITY MANAGER'S RECOMMENDED ACTION:

Staff has determined that the proposed Plat of Survey satisfies all Subdivision Code requirements for a boundary line adjustment of existing parcels and has made a preliminary decision of approval. The resulting parcels are conforming to underlying zone development standards of Highway-Oriented Commercial (HOC) zoning. The boundary line adjustment does not trigger infrastructure requirements unless there is a gap in completion of existing infrastructure, which there is not.

Therefore, it is the recommendation of the City Manager that the City Council accept Alternative #1, thereby adopting the resolution approving the proposed Plat of Survey.

ADDENDUM
PLAT OF SURVEY FOR 304 & 308 E LINCOLN WAY

Application for a proposed Plat of Survey has been submitted for:

- ☐ Conveyance parcel (per Section 23.307)
- ☒ Boundary line adjustment (per Section 23.309)
- ☐ Re-plat to correct error (per Section 23.310)
- ☐ Auditor's plat (per Code of Iowa Section 354.15)

Owners: 728 E Lincoln Way LLC (Dennis Tiernan)
Parcel ID: 0911226126

Owners: DHN Investments, LLC (Dennis Tiernan)
Parcel ID: 0911226145, 0911226115, & 0912100005

Survey Description - Parcel BK:

A part of the North 350.4 feet of the East 150 feet, except the East 20 feet thereof, of Section 11, Township 83 North, Range 24 West of the 5th P.M., City of Ames, Story County, Iowa, being more particularly described as follows: Commencing at the Northeast Corner of said Section 11; thence S00°11'40"E, 60.00 feet to the south line of E. Lincoln Way; thence N88°56'40"W, 20.00 feet along said line to the point of beginning; thence S00°11'40"E, 165.12 feet along the west line of the East 20 feet of said Section 11; thence N88°55'53"W, 130.52 feet to the west line of said East 150 feet; thence N00°12'12"W, 192.08 feet to the south line of East Lincoln Way; thence S88°56'40"E, 130.55 feet along said line to the west line of said East 20 feet; thence S00°11'40"E, 27.00 feet along said line to the point of beginning, containing 0.58 acres.

Survey Description - Parcel BJ:

Parcel E in the Northwest Quarter of the Northwest Quarter of Section 12 and part of the Northeast Quarter of the Northeast Quarter of Section 11, all in Township 83 North, Range 24 West of the 5th P.M., City of Ames, Story County, Iowa, all together being described as follows: Commencing at the Northwest Corner of said Section 12; thence S00°11'40"W, 60.00 feet to the south line of E. Lincoln Way, the Northwest Corner of said Parcel E and the point of beginning; thence S89°36'47"E, 375.05 feet to the Northeast Corner of said Parcel E; thence S00°10'56"E, 295.15 feet to the Southeast Corner thereof; thence N89°36'56"W, 374.99 feet to the Southwest Corner thereof; thence N00°11'40"W, 4.69 feet along the west line of said Parcel E; thence departing said line N88°55'53"W, 100.00 feet along the south line of the North 350.4 feet of the East 100 feet of said Section 11; thence N00°11'40"W, 60.00 feet along the west line of said East 100.00 feet to the south line of the North 290.4 feet of said Section 11; thence N88°55'53"W, 50.51 feet along said line to the west line of the East 150 feet of said Section 11; thence N00°12'12"W, 65.36 feet along said line; thence S88°55'53"E, 130.52 feet to the west line of the East 20 feet of said Section 11; thence N00°11'40"W,

165.12 feet along said line to the south line of East Lincoln Way; thence S88°56'40"E, 20.00 feet along said line to the point of beginning, containing 2.98 acres.

Easement Description - Sanitary Sewer Easement:

A strip of varying width lying in the East 150 feet of the North 350.4 feet of the Northeast Quarter of the Northeast Quarter of Section 11, Township 83 North, Range 24 West of the 5th P.M., City of Ames, Story County, Iowa, being situated 5.00 feet West and 10.00 feet East of the following centerline: Commencing at a point on the west line of said East 150 feet which is 140.00 feet South of the Northwest Corner thereof; thence S88°56'40"E, 5.00 feet to the point of beginning; thence S00°12'12"E, 142.95 feet; thence being situated 7.5 feet south and 10.00 feet North of the following centerline bearing S88°55'53"E, 145.51 feet, and there terminating.

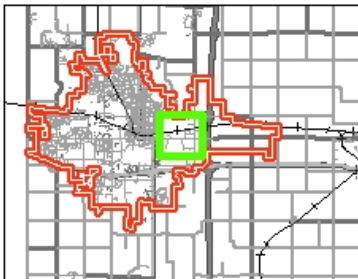
Public Improvements:

The preliminary decision of the Planning Director finds that approval requires all public improvements associated with and required for the proposed Plat of Survey be:

- ☐ Installed prior to creation and recordation of the official Plat of Survey and prior to issuance of zoning or building permits.
- ☐ Delayed, subject to an improvement guarantee as described in Section 23.409.
- ☒ Not Applicable. (no additional improvements required)

Note: The official Plat of Survey is not recognized as a binding Plat of Survey for permitting purposes until a copy of the signed and recorded Plat of Survey is filed with the Ames City Clerk's office and a digital image in Adobe PDF format has been submitted to the Planning & Housing Department.

Attachment A- Location Map



LOCATION MAP

728, 728 rear, 734, & 808 E. Lincoln Way

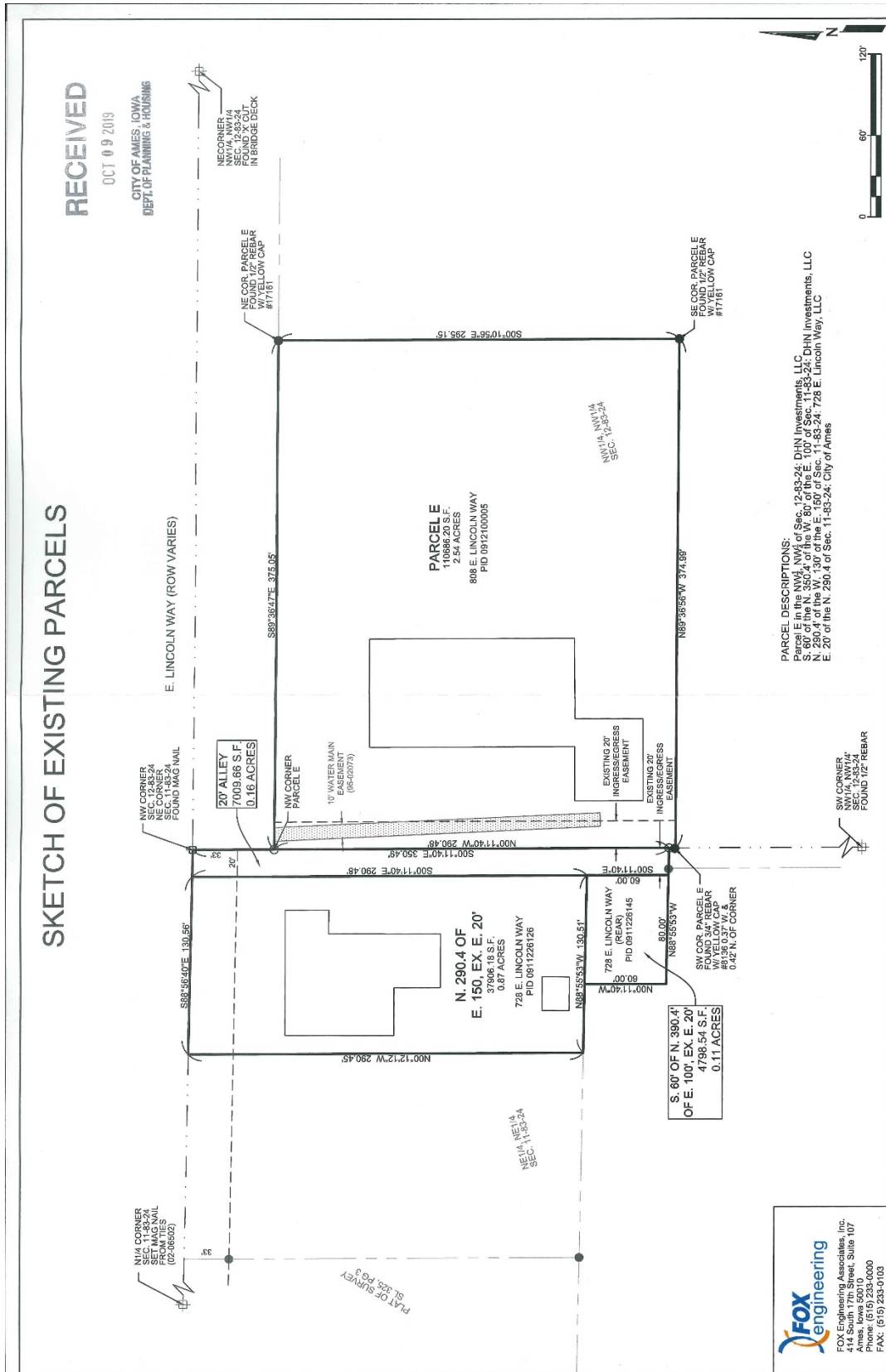
0 75 150 300 Feet

Legend

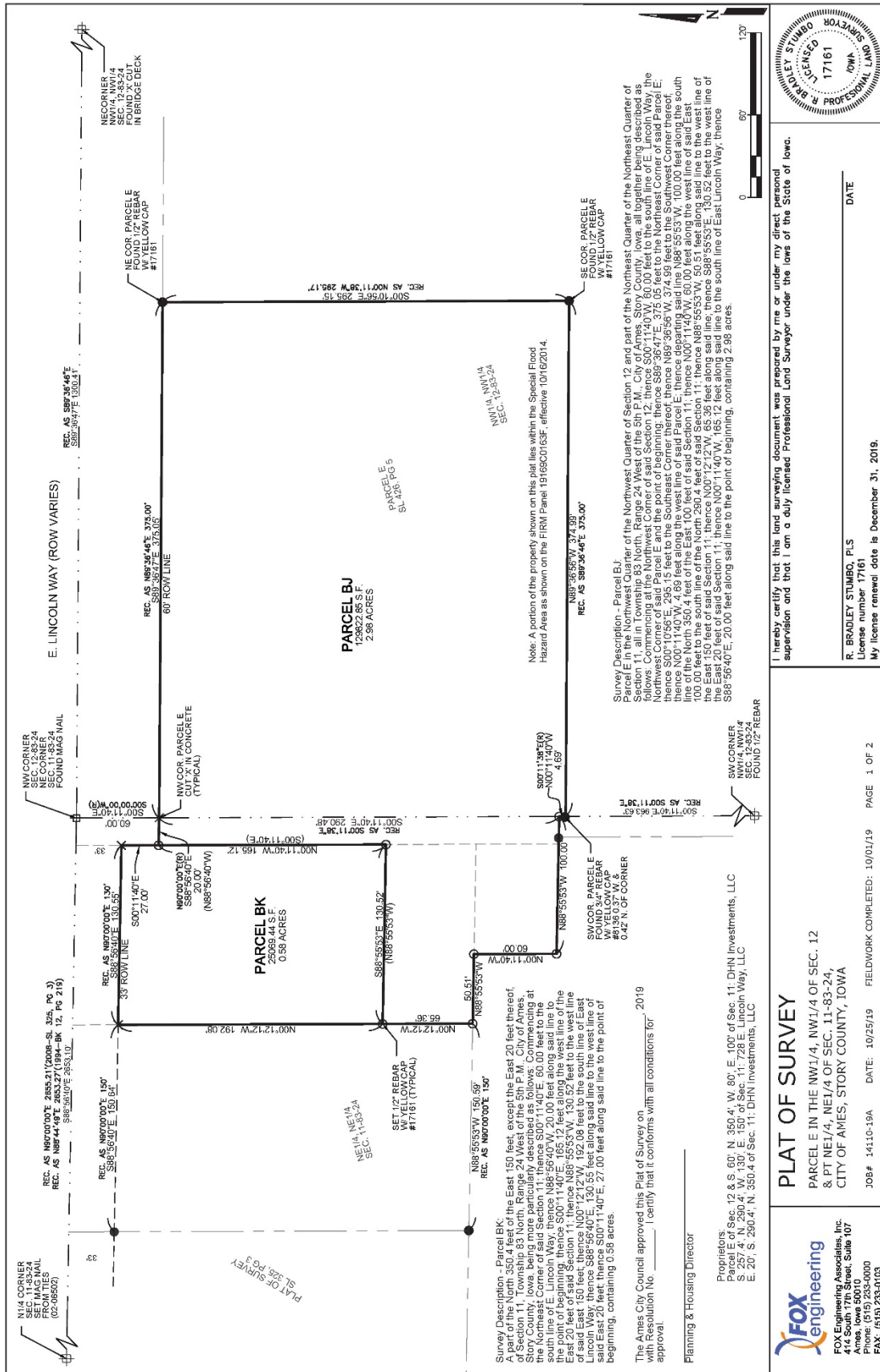
- PARCELS selection
- PARCELS



Attachment B- Existing Conditions



Attachment C- Proposed Plat of Survey & Easements



Attachment D- Acquisition Plat

Preparer Information: William T. Talbot; 612 Kellogg Ave.; Ames, IA 50010; (515) 232-1761
Taxpayer Information: City of Ames; 515 Clark Avenue; Ames, IA 50010
Return Document To: City of Ames; 515 Clark Avenue; Ames, IA 50010

Warranty Deed (Corporate/Business Entity Grantor)

For the consideration of One Dollar (\$1.00) and other valuable consideration, **728 E. Lincoln Way, LLC**, a Limited Liability Company organized and existing under the laws of Iowa does hereby Convey to the **City of Ames, Iowa** the following described real estate in Story County, Iowa:

That part of the Northeast Quarter of the Northeast Quarter of Section 11, Township 83 North, Range 24 West of the 5th P.M., City of Ames, Story County, Iowa, being more particularly described as follows: Beginning at a point on the north line of said Section 11 which is 20.00 feet west of the Northeast Corner thereof; thence continuing N 88°56'40" W, 130.56 feet to the west line of a tract described as being the North 350.4 feet of the East 150 feet of said Section 11; thence S 00°12'12" E, 33.01 feet along said line to the south line of East Lincoln Way; thence S 88°56'40" E, 130.55 feet along said line to the west line of the East 20 feet of said Section 11; thence N 00°11'40" W, 33.01 feet along said line to the point of beginning, containing 0.10 acres of existing public right of way.

As shown by the Acquisition Plat recorded with this Deed.

This transfer is exempt from real estate transfer tax pursuant to 428A.2(6) being a conveyance to a City government.

The grantor hereby covenants with grantees, and successors in interest, that it holds the real estate by title in fee simple; that it has good and lawful authority to sell and convey the real estate; that the real estate is free and clear of all liens and encumbrances, except as may be above stated; and it covenants to Warrant and Defend the real estate against the lawful claims of all persons, except as may be above stated.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, according to the context.

Dated: 11-4-19

728 E. Lincoln Way, LLC

By

Dennis Tiernan
Dennis Tiernan, Manager

STATE OF IOWA, COUNTY OF STORY: ss

This record was acknowledged before me on Nov. 4, 2019, by
Dennis Tiernan as Manager of 728 E. Lincoln Way, LLC.



Julia J. Stephens
Notary Public in and for the State of Iowa

Attachment E- Easement

S P A C E A B O V E R E S E R V E D F O R O F F I C I A L U S E

Legal description: See page 3.

Return document to: City Clerk, 515 Clark Avenue, Ames IA 50010

Document prepared by: City of Ames Legal Department, 515 Clark Ave., Ames, IA 50010 – 515-239-5146

Sanitary Sewer Easement

Know All Persons: The undersigned, DHN Investments LLC, an Iowa limited liability company, and 728 E. Lincoln Way LLC, an Iowa limited liability company, (jointly the “**Grantors**” to the full extent of their respective interests), their successors and assigns, for valuable consideration the sufficiency of which is hereby acknowledged, does hereby grant unto the City of Ames, Iowa, a municipal corporation, its successors and assigns (hereinafter referred to as the “**Grantee**”), upon the conditions hereinafter recited, the perpetual right to enter upon the land hereinafter de- scribed as the Easement Area for the uses set forth hereinafter over, upon, across and under the Easement Area together with a perpetual right of ingress and egress between said Easement Area from adjacent public rights-of-way. The Easement Area is a strip of land situated in Story County, Iowa, described as follows:

For the use of a **sanitary sewer system**:

The real property shown on **Exhibit “A”** attached hereto and by this reference made a part hereof (the “Easement Area”).

Grantee shall have the right within the Easement Area to construct, reconstruct, cover over, clean up, operate, use, maintain, and repair the systems described. The foregoing rights are granted by the Grantors and shall be accepted and exercised by the Grantee, if at all, subject to the following terms and conditions:

- 1 **Obstructions Prohibited.** The Grantors, as the fee simple owners of the underlying real estate, and the Grantors successors and assigns, shall not erect or place within the Easement Area any building or other structure or improvement or any trees, shrubs or other landscape plantings other than grass or comparable ground cover except with the prior written consent of the Grantee. The Grantee shall have the right to prevent damage to a permitted improvement of the Grantee located within the Easement Area, which shall include the right to remove obstructions within the Easement Area.
- 2 **Restoration.** Immediately following construction, reconstruction, or repair work by the Grantee within the Easement Area, weather and season permitting, Grantee shall return the Easement Area to its condition prior to said work, at Grantee's sole cost.
- 3 **Nonexclusive Easement.** The easement rights granted under this instrument to the Grantee are nonexclusive. This instrument shall not preclude the Grantors from granting similar easement rights to third parties upon terms and conditions that do not impair or diminish the rights granted under this instrument to the Grantee.

4 **Title Warranty.** The Grantors warrant to the Grantee that the Grantor hold the Easement Area by title in fee simple; that each of the Grantors have good and lawful authority to grant the easement rights herein provided for to the extent of their respective interests, which together cover the entirety of the Easement Area,

5 **Successors.** This Easement shall be binding upon successors and/or assigns of both Grantors and Grantee.

6 **Interpretation.** Words and phrases used in this instrument shall be construed as in the single or plural number, and as masculine, feminine or neuter gender, according to the context. This instrument shall be governed exclusively by and construed in accordance with the laws of the State of Iowa. The paragraph headings in this instrument are for convenience only and in no way define or limit the scope or intent of any provisions of this instrument.

In Witness Whereof the undersigned has executed this instrument on _____, 2019.

DHN INVESTMENTS LLC

Dated _____, 2019.

By: _____
SIGNATURE

NAME PRINTED

TITLE OF AUTHORIZED SIGNER

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on _____, 2019, by _____, *(insert name)* as Manager of DHN Investments LLC.

NOTARY PUBLIC

728 E. LINCOLN WAY LLC

Dated _____, 2019.

By: _____

SIGNATURE

NAME PRINTED

TITLE OF AUTHORIZED SIGNER

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on _____, 2019, by
_____, (insert name) as Manager of 728 E. Lincoln Way LLC.

NOTARY PUBLIC

EXHIBIT 'A' – LEGAL DESCRIPTION (EASEMENT AREA)

A strip of varying width lying in the East 150 feet of the North 350.4 feet of the Northeast Quarter of the Northeast Quarter of Section 11, Township 83 North, Range 24 West of the 5th P.M., City of Ames, Story County, Iowa, being situated 5.00 feet West and 10.00 feet East of the following centerline: Commencing at a point on the west line of said East 150 feet which is 140.00 feet South of the Northwest Corner thereof; thence S88°56'40"E, 5.00 feet to the point of beginning; thence S00°12'12"E, 142.95 feet; thence being situated 7.5 feet south and 10.00 feet North of the following centerline bearing S88°55'53"E, 145.51 feet, and there terminating.