

**DRIVEWAY EASEMENT
AGREEMENT**

Document Number

533267

DUNN COUNTY, WI
REGISTER OF DEEDS
JAMES M. HRDUTT

RECORDED ON
04/20/2006 09:50AM

REC FEE: 25.00
FEE EXEMPT #:

PAGES: 8

THIS DRIVEWAY EASEMENT AGREEMENT (the Agreement) is between Lynn Marie Johansson (Parcel A Owner) and Kenneth B. Eklund (Parcel B Owner).

RECITALS:

A. Parcel A Owner is the owner of certain real property located in Dunn County, Wisconsin, as described on the attached Exhibit A and referred to on the exhibit and in this Agreement as Parcel A.

B. Parcel B Owner is the owner of certain real property located in Dunn County, Wisconsin, as described on the attached Exhibit B and referred to on the exhibit and in this Agreement as Parcel B.

C. Parcel A Owner and Parcel B Owner acknowledge that a driveway (the Driveway) currently exists on that portion of Parcel B more particularly described on the attached Exhibit C and referred to on the exhibit and in this Agreement as the Easement Property.

D. Parcel B Owner is willing to create an easement over the Easement Property to enable Parcel A Owner to use the Driveway under the terms of this Agreement.

AGREEMENT

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

- 1. Grant.** Parcel B Owner grants a nonexclusive easement and right-of-way to Parcel A Owner and Parcel A Owner's successors and assigns as the owner of Parcel A to use the Driveway and the Easement Property as a driveway for ingress and egress to 810th Avenue (Young Road) from Parcel A.
- 2. Permitted Users.** The easement granted in Section 1, above, may be used by Parcel A Owner and its tenants, employees, customers, and invitees in common with Parcel B Owner and its tenants, employees, customers, and invitees.
- 3. Costs.** From 810th Avenue (Young Road) to the point where the Driveway located within the Easement Property diverts and branches away from another driveway not subject to this Agreement, Parcel A Owner and Parcel B Owner shall bear all maintenance, improvement, repair, and snow and debris removal expenses equally. All decisions and actions regarding the maintenance, improvement, repair, and snow and debris removal related to this section of the Driveway shall be solely made and performed by Parcel B Owner or its agents, and Parcel A Owner agrees to promptly pay its share of the expenses incurred by Parcel B Owner within 30 days of billing for the expenses. If Parcel A Owner does not promptly pay its share, Parcel B Owner may pay the full cost and then have an immediate right to reimbursement from Parcel A Owner, together with interest at the rate of 18% per year on the unpaid amount and all attorney fees and other collection costs incurred by Parcel B Owner. Parcel A Owner shall be solely responsible for the maintenance, repair, and removal of snow and debris of the remainder of the Driveway subject to this Agreement. Parcel A Owner shall keep this section of the Driveway in good maintenance and repair, free of

THIS SPACE RESERVED FOR RECORDING DATA

pd 35.00

WACHOWSKI & JOHNSON, S.C.

RETURN TO ATTORNEYS AT LAW ENW
P.O. BOX 145
320 S. BARSTOW STREET
EAU CLAIRE, WI 54702-0145

debris, and in a well-kept state. Should Parcel A Owner desire to make any improvements to this section of the Driveway, including, but not limited to, width of the Driveway, and surface material of the Driveway, Parcel A Owner must obtain written permission from Parcel B Owner to make such improvements. Should Parcel B Owner grant permission for such improvements, Parcel A Owner shall be solely responsible for the cost of the improvements.

4. Indemnity. Parcel A Owner shall indemnify and defend Parcel B Owner and its officers, agents, and employees from all liability, suits, actions, claims, costs, damages, and expenses of every 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 Parcel B by Parcel A Owner or its agents, contractors, subcontractors, invitees, or employees.

5. Insurance. Parcel A Owner shall maintain in effect at all times during the term of this Agreement a policy of general liability insurance naming Parcel B Owner and any other party designated by Parcel B Owner as the insured, to insure against injury to property, person, or loss of life arising out of Parcel A Owner's use, occupancy, or maintenance of the Easement Property or the Driveway with limits of coverage that are at levels customarily maintained for such purpose in the community in which the Easement Property is located.

6. Equal Rights of Use. Parcel A Owner and Parcel B Owner shall have equal rights of ingress and egress over the Driveway and shall take no action to prevent the other party's enjoyment of such rights.

7. Covenants Run with Land. All of the terms and conditions 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 Parcel A Owner and Parcel B Owner and their respective successors and assigns. The easement granted under Section 1 of this Agreement is an easement appurtenant to Parcel A and may not be transferred separately from, or severed from, title to Parcel A. Furthermore, the benefits of the easements granted under this Agreement shall not be extended to any properties other than Parcel A without the written consent of Parcel B Owner. The specific parties named as Parcel A Owner and Parcel B Owner in this Agreement, and each of their respective successors and assigns as fee simple owners of Parcel A and Parcel B, respectively, shall cease to have further liability under this Agreement with respect to facts or circumstances first arising after the party has transferred its fee simple interest in Parcel A or Parcel B, respectively, except, however, for obligations that accrued during the party's period of ownership of title.

8. Non-Use. Non-use or limited use of the easement rights granted in this Agreement shall not prevent Parcel A Owner from later use of the easement rights to the fullest extent authorized in this Agreement.

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

10. Entire Agreement. This Agreement sets forth the entire understanding of the parties and may not be changed except 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 Dunn County, Wisconsin.

11. 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 a notice, the party sending the notice may use the address to which the other party's property tax bills are sent. Either party may change its address for notice by providing written notice to the other party.

12. 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.

13. **Waiver.** No delay or omission by any party in exercising any right or power arising out of any default under any of 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.

14. **Enforcement.** Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including attorney fees, from the nonprevailing party.

15. **No Public Dedication.** Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the easement granted under this Agreement to the general public or for any public purpose whatsoever. Parcel A Owner and Parcel B Owner agree to cooperate with each other and to take such measures as may be necessary to prevent the dedication to the public of the Driveway, whether by express grant, implication, or prescription, including, without limitation, the posting of "Private Drive" or "No Trespassing" signs. Such measures shall not, however, unreasonably interfere with the easement rights granted under this Agreement.

Dated: ~~November~~ _____, 2005

March 16, 2006

Parcel A Owner

Lynn Marie Johansson

Lynn Marie Johansson

February 28

Dated: ~~November~~ _____, 2005

Parcel B Owner

Kenneth B. Eklund

Kenneth B. Eklund

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF Sawyer

This instrument was acknowledged before me on ^{MARCH} ~~November~~ 16, ²⁰⁰⁶ ~~2005~~ by Lynn Marie Johansson.



Michelle A. Buffa

MICHELLE A. BUFFA

Notary Public, State of Wisconsin

My commission expires: July 20, 2008

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF Eau Claire

This instrument was acknowledged before me on ~~November~~ February 28, 2006 by Kenneth B. Eklund.

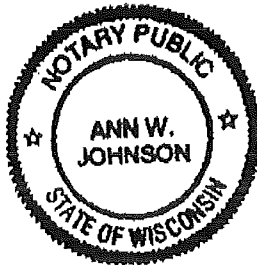
Ann W. Johnson

Ann W. Johnson

Notary Public, State of Wisconsin

My commission expires: permanant

This document was drafted by:
Attorney Brian M. Nodolf
Weid, Riley, Prens & Ricci, S.C.
P O Box 1030
Eau Claire, WI 54702-1030



F:\docs\Client 0-G\Eklund.K\Driveway Easement-Revised.frm

CONSENT OF MORTGAGEE OF PARCEL B

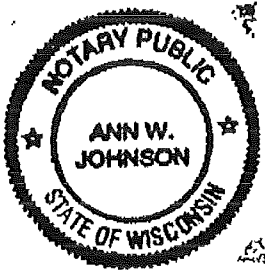
The undersigned, being the holder of a mortgage against Parcel B, consents to the above Agreement and agrees that its interest in Parcel B shall be subject to the terms of the Agreement.

K B ELLUND
By: KENNETH B. ELLUND
Name:
Title:

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF Fau Claire

This instrument was acknowledged before me on ^{March}~~November~~ 31, 2006 by
Ann W. Johnson, the _____ of _____



Ann W. Johnson
Ann W. Johnson
Notary Public, State of Wisconsin
My commission expires: PERMANENT

EXHIBIT A

Legal Description of Parcel A

Lot Five (5) of Certified Survey Map No. 2857 as recorded in the Office of the Register of Deeds in Volume 13 Survey Maps, Page 17; Located in the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Twenty-five (25), Township Twenty-nine (29) North, Range Eleven (11) West, Town of Colfax, Dunn County, Wisconsin. Being a division of Lot Two (2) of Certified Survey Map Number 1404.

AND

Outlot One (1) of Certified Survey Map No. 3234 as recorded in the Office of the Register of Deeds in Volume 15 Survey Maps, page 34; Located in the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section Twenty-five (25), Township Twenty-nine (29) North, Range Eleven (11) West, Town of Colfax, Dunn County, Wisconsin.

EXHIBIT B

Legal Description of Parcel B

The Southwest Quarter (¼) of the Northeast Quarter (NE¼) of Section Twenty-five (25), Township Twenty-nine (29) North, Range Eleven (11) West, Town of Colfax, Dunn County, Wisconsin, EXCLUDING Outlot One (1) of Certified Survey Map No. 3234 as recorded in the Office of the Register of Deeds in Volume 15 Survey Maps, page 34; Located in the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section Twenty-five (25), Township Twenty-nine (29) North, Range Eleven (11) West, Town of Colfax, Dunn County, Wisconsin.

EXHIBIT C

Legal Description of Easement Property

A 20.00 foot wide easement for egress and ingress over and across the northwest quarter of the northeast quarter and the southwest quarter of the northeast quarter, all in Section 25, Township 29 North, Range 11 West, Town of Colfax, Dunn County, Wisconsin, the centerline of said easement being described as follows:

Commencing at the north quarter corner of said Section 25;
thence on a grid bearing of South-00°22'02"-East, 437.28 feet;
thence North-89°37'58"-East, 670.72 feet to centerline of 810th Avenue for the Point of Beginning of the centerline herein described;
thence South-53°27'57"-East, 141.11 feet;
thence South-27°49'54"-East, 109.89 feet;
thence South-07°55'50"-West, 99.24 feet;
thence South-17°44'44"-West, 122.82 feet;
thence South-18°56'48"-West, 183.27 feet;
thence South-26°12'30"-West, 57.44 feet;
thence South-58°11'07"-West, 245.35 feet;
thence North-70°12'04"-West, 26.57 feet;
thence South-00°22'53"-East, 201.29 feet;
thence South-30°49'08"-West, 39.96 feet to the west line of Outlot 1 of a Certified Survey Map number 3234 and said centerline there terminating.

The side lines of said 20 foot wide easement are prolonged or shortened to commence at the centerline of 810th Avenue which bears North-68°48'40"-East, and to terminate at the west line of said Outlot which bears South-00°00'00"-East.

The bearings used in this description are referenced to the north / south quarter line of said Section 25 measured as South-00°22'02"-East. Dunn County Coordinate System -NAD 53(91)).