

Document 2009 1454

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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

✓ Mark Nitchals
City of Winterset
124 W. Court Avenue
Winterset IA 50273

CERTIFICATION

The undersigned, the duly appointed and acting City Administrator of the City of Winterset, Iowa, does hereby certify the following described documents as true and authentic copies of the official records in the custody of the Office of Clerk of the City of Winterset.

1. Resolution No. 2009-39 of the City Council of the City of Winterset, Iowa entitled Resolution Approving Settlement Agreement and Approving Easement Agreement South 4th Avenue and School Street Paving Project;
2. Utility Easement with Jerrold M. Hillard and Deborah A. Hillard.

Dated on this 11th day of May, 2009.





Mark Nitchals, City Administrator

RESOLUTION 2009-39

RESOLUTION APPROVING SETTLEMENT AGREEMENT
AND APPROVING EASEMENT AGREEMENT
SOUTH 4TH AVENUE AND SCHOOL STREET PAVING PROJECT

WHEREAS, the City has proposed to undertake the South 4th Avenue and School Street Paving Project and has caused to be prepared a preliminary assessment plat and schedule, and

WHEREAS, a lawsuit was filed in Madison County District Court by Jerrold M. Hillard and Deborah A. Hillard disputing their preliminary assessment for the proposed project, and

WHEREAS, following a public hearing, the City Council revised the project and amended the preliminary assessment plat and schedule, and

WHEREAS, the City has requested that Jerrold M. Hillard and Deborah A. Hillard grant the City a utility easement on a portion of their property, and

WHEREAS, Jerrold M. Hillard and Deborah A. Hillard have now agreed to settle the lawsuit and the City Attorney has prepared a settlement agreement providing for dismissal of the lawsuit, and

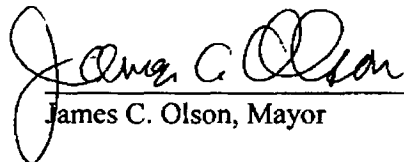
WHEREAS, Jerrold M. Hillard and Deborah A. Hillard have executed the utility easement agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winterset, Iowa, that the settlement agreement to dismiss the lawsuit filed by Jerrold M. Hillard and Deborah A. Hillard disputing their preliminary assessment for the South 4th Avenue and School Street Paving Project be hereby approved.

BE IT FURTHER RESOLVED that the utility easement agreement with Jerrold M. Hillard and Deborah A. Hillard be hereby approved.

BE IT FURTHER RESOLVED that the Mayor and City Administrator are hereby authorized and instructed to execute the aforementioned settlement agreement and utility easement agreement on behalf of the City.

PASSED and APPROVED this 4th day of May, 2009.


James C. Olson, Mayor

ATTEST:


Mark Nitchals, City Administrator

UTILITY EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS:

The undersigned owners, Jerold M. Hillard and Deborah H. Hillard, husband and wife, hereafter called the Grantor, in consideration of the sum of one dollar and other valuable considerations, receipt of which is acknowledged, does hereby grant to the City of Winterset, Iowa, hereafter called the Grantee, the perpetual right and easement to construct, install, repair, maintain, operate, inspect, patrol and remove municipal storm sewer including the line with equipment and accessories for the same and all necessary appurtenances as may be reasonably necessary for the convenient construction, repair, maintenance, operation, inspection, patrolling, replacement and removal of these utilities services over, along, across and under the following described property situated in Madison County, Iowa, to-wit:

A PART OF PARCEL "A" AS SHOWN ON A PLAT OF SURVEY RECORDED IN BOOK 2 PAGE 450 IN NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 1, TOWNSHIP 75 NORTH, RANGE 28 WEST OF THE 5TH P.M., CITY OF WINTERSET, MADISON COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST ¼ OF THE SOUTHEAST ¼; THENCE SOUTH 0°47'08" WEST ALONG THE WEST LINE OF SAID NORTHEAST ¼ OF THE SOUTHEAST ¼, A DISTANCE OF 301.30 FEET; THENCE NORTH 89°36'56" EAST, 32.45 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH 4TH AVENUE AND TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°36'56" EAST, 11.19 FEET; THENCE NORTH 62°20'16" EAST, 43.93 FEET; THENCE SOUTH 0°16'50" WEST, 34.78 FEET; THENCE SOUTH 61°42'04" WEST, 57.11 FEET TO A POINT ON SAID EAST RIGHT-OF-WAY LINE; THENCE NORTH 0°45'37" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 17.77 FEET; THENCE NORTH 0°16'50" EAST CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE, 23.62 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.04 ACRES (1,791 S.F.). (see attached easement plat)

The Grantor warrants and covenants to the Grantee that, subject to liens and encumbrances of

record at the date of this easement, it is the owner of the above described land and has full right and authority to validly grant this easement, and the Grantee may quietly enjoy its estate in the premises.

The Grantor shall not erect any structure or improvement over or within the Easement Area without first obtaining the Grantee's written approval. The planting of trees, shrubs and other such plantings (e.g., flowers) may be placed in the Easement Area but are subject to removal by the Grantee without compensation if removal is required for sewer maintenance, repair or replacement.

The Grantor shall not change the grade, elevation or contour of any part of the Easement Area without the prior, written consent of the Grantee.

The Grantee shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area described above including, but not limited to, the right to remove any unauthorized obstructions or structures placed or erected on the Easement Area.

In consideration of such Grant, the Grantee shall cause the Easement Area to be left in a reasonable and workmanlike condition without cost to the Grantor arising from the subsequent reconstruction, repair or replacement of the utility and will either repair or pay for any damage which may be caused to crops, fences or other property of the Grantor by the reconstruction, operation, maintenance, inspection, patrolling or removal or replacement of the utility. However, the Grantee shall not be liable for, or otherwise required to repair damage, if the damage is the result of the Grantor's violation of the terms of this Easement Agreement.

The Grantor covenants that no act will be permitted within the easement property which is inconsistent with the rights hereby granted.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Easement Agreement.

This Agreement shall run with the land and bind and inure to the benefit of the heirs, successors and assigns of the parties.

Dated this 4TH day of May, 2009.

GRANTOR:

By [Signature] By Deborah A. Hillard
Print Name Jerrold M. Hillard Print Name DEBORAH A. HILLARD

STATE OF IOWA, COUNTY OF MADISON, ss :

On this 4th day of May, 2009, before me the undersigned, a Notary Public in and for said State, personally appeared Jerrold M. Hillard & Deborah A. Hillard to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that he/she/they executed the same as his/her/their voluntary act and deed.



[Signature]
Notary Public in and for said State of Iowa

CITY OF WINTERSET, IOWA

By James C. Olson
James C. Olson, Mayor

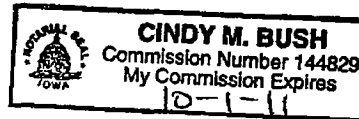
By Mark J. Nitchals
Mark J. Nitchals, City Administrator

STATE OF IOWA

MADISON COUNTY

On this 4 day of May, 2009, before me, a Notary Public in and for said County and State, personally appeared James C. Olson and Mark J. Nitchals, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Winterset, Iowa; that the seal affixed thereto is the seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its City Council, as contained in the Resolution adopted by the City Council of the City on the 4 day of May, 2009; and, that Mark J. Nitchals and James C. Olson acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Cindy M. Bush
Notary Public in and for the State of Iowa



PREPARED BY: DAVE JOENS, SNYDER & ASSOCIATES, INC., 2727 SW SNYDER BLVD, ANKENY, IA 50023 (515)964-2020

RETURN TO: DAVE JOENS, SNYDER & ASSOCIATES, INC., 2727 SW SNYDER BLVD, ANKENY, IA 50023 (515)964-2020

EASEMENT PLAT

EASEMENT DESCRIPTION:

A PART OF PARCEL "A" AS SHOWN ON A PLAT OF SURVEY RECORDED IN BOOK 2 PAGE 450 IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 75 NORTH, RANGE 28 WEST OF THE 5TH P.M., CITY OF WINTERSET, MADISON COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE SOUTH 0°47'08" WEST ALONG THE WEST LINE OF SAID NORTHEAST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 301.30 FEET; THENCE NORTH 89°36'56" EAST, 32.45 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH 4TH AVENUE AND TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°36'56" EAST, 11.19 FEET; THENCE NORTH 62°20'16" EAST, 43.93 FEET; THENCE SOUTH 0°16'50" WEST, 34.78 FEET; THENCE SOUTH 61°42'04" WEST, 57.11 FEET TO A POINT ON SAID EAST RIGHT-OF-WAY LINE; THENCE NORTH 0°45'37" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 17.77 FEET; THENCE NORTH 0°16'50" EAST CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE, 23.62 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.04 ACRES (1.79) S.F.).

DATE OF SURVEY

07-23-08

OWNER

JERROLD M. &
DEBORAH A. HILLARD
1521 4TH AVENUE S
WINTERSET, IA

LEGEND

Survey

Section Corner
1/2" Rebar, Yellow Cap = 11579
(Unless Otherwise Noted)
Calculated Point
Platted Distance
Measured Bearing & Distance
Recorded As
Deed Distance
Calculated Distance
Centerline
Section Line
1/4 Section Line
1/4 1/4 Section Line
Easement Line

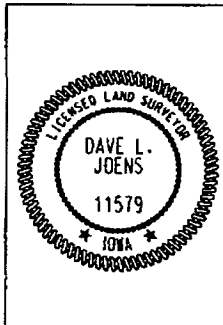
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I hereby certify that this land surveying document was prepared and the related surveying work was performed by me or under my direct supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

Dave L. Joens 2/24/2009
Dave L. Joens, PLS Date

License Number 11579
My License Renewal Date is December 31, 2010

Pages or sheets covered by this seal:
Sheets Land 2

CITY OF WINTERSET

PARCEL 9 - STORM SEWER EASEMENT

SHEET 1 OF 2

PN: 1080650

PM: AJK

DATE: 02/16/09

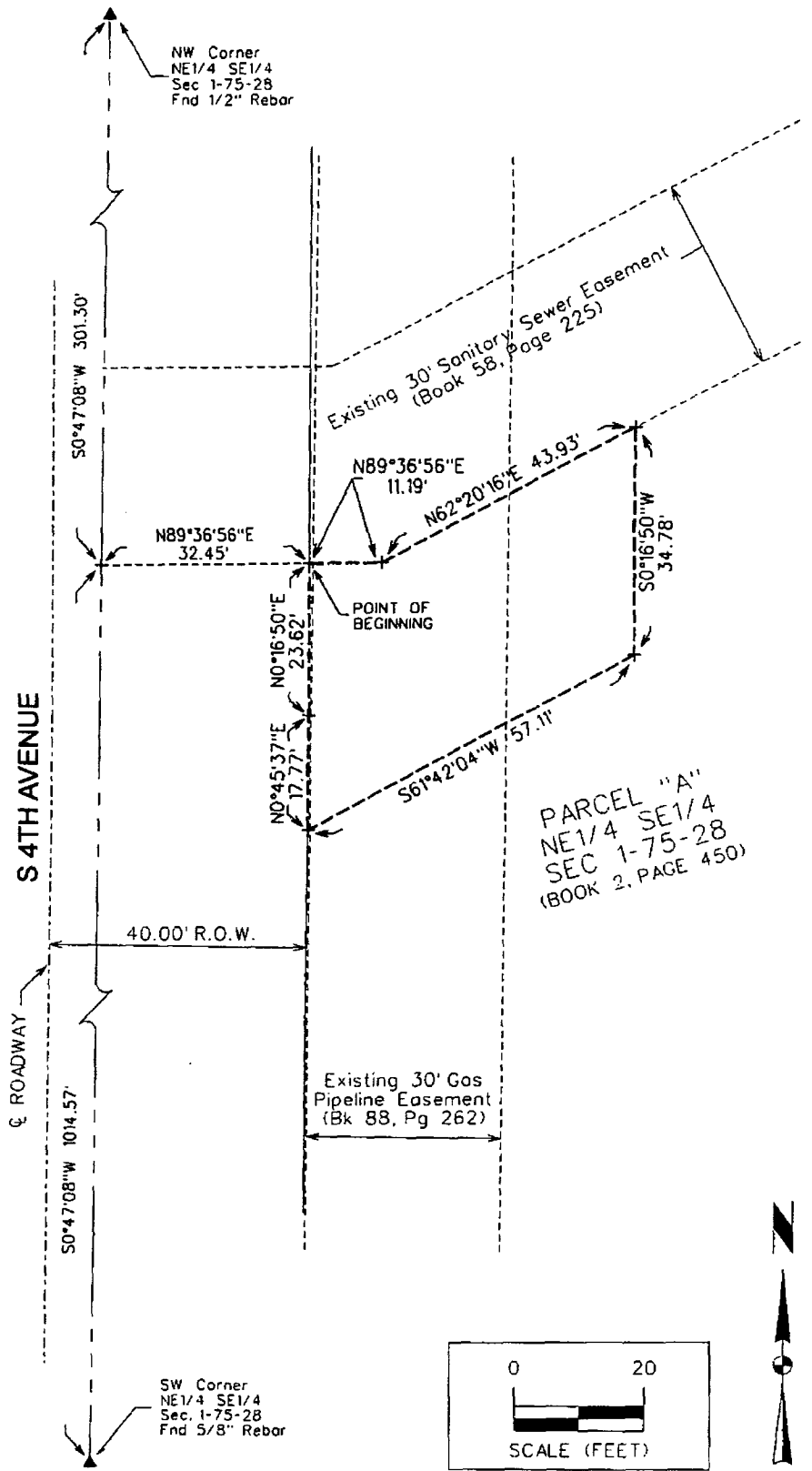
TECH: JBP



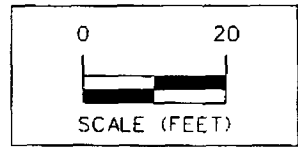
SNYDER & ASSOCIATES
Engineers and Planners

2727 S.W. SNYDER BLVD.
ANKENY, IA 50023 (515) 964-2020

EASEMENT PLAT



PARCEL "A"
NE 1/4 SE 1/4
SEC 1-75-28
(BOOK 2, PAGE 450)



CITY OF WINTERSET		SHEET 2 OF 2
PARCEL 9 - STORM SEWER EASEMENT		PN: 1080650
SNYDER & ASSOCIATES Engineers and Planners		PM: AJK
		DATE: 02/18/09
		TECH: JBP
2727 S.W. SNYDER BLVD. ANKENY, IA 50023 (515) 964-2020		

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