Compared FILED NO. 2640 688
BOOK 119 PAGE 688
1986 JUN 16 AM 7:48
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
Fee $20.00
4pp.

EASEMENT

THIS EASEMENT, made and entered into this 7th day of March, 1986, by and between Hawkeye Capital Bank & Trust, formerly known as Capital City State Bank, as Trustee of the Fred R. Hunter Trust, of Polk County, Iowa, hereinafter referred to as the Grantor, and the City of Earlham, Madison County, Iowa, hereinafter referred to as the Grantee.

1.- The City of Earlham, Madison County, Iowa, has conducted extensive investigations in an effort to secure a satisfactory municipal water supply and has now located an alluvial source along the South Raccoon River within the Southeast Quarter (SE¼) of Section Fourteen (14), Township Seventy-eight (78) North, Range Twenty-eight (28) West of the 5th P.M., Dallas County, Iowa.

Inasmuch as the tract of land containing said water supply lies wholly outside the corporate limits of the City of Earlham, it is necessary that a water pipeline be installed to transport the water from the location of the alluvium to the City of Earlham.

Grantor is the owner in fee simple of the following described real estate, to-wit:

> The South .66 Acres of Lot Four (4) of Sub-Division Plot of the South Half (S½) of the Southeast Quarter (SE¼) of Section Six (6) Township Seventy-seven (77) North, Range Twenty-eight (28) West of the 5th P.M., Town of Earlham, Madison County, Iowa.
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> AND
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> The East Half (E½) of the North East (NE¼) of Section Seven (7) in Township Seventy-seven (77) North, of Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, consisting of 80 acres, more or less.

3.- The City of Earlham, Madison County, Iowa, is desirous of purchasing an easement from Grantor for the purpose of constructing and maintaining a municipal water pipeline on a portion of Grantor's real estate.

4.- NOW, THEREFORE, in consideration of the sum of $ 216.00, receipt of which is acknowledged, and other good and valuable consideration hereinafter set forth, the Grantor does hereby grant unto Grantee a perpetual easement, for the purposes hereinafter set forth, over, under and across the following described portion of Grantor's real estate, to-wit:

> A 30.0 foot easement for water line purposes over, under and across that part of Lot 4, Official Plat of the S½ SE¼ Section 6, Township 77 North, Range 28 West of the 5th P.M., and the NE¼ NE¼ of Section 7, Township 77 North, Range 28 West of the 5th P.M., Madison County, Iowa, said easement being 15.0 feet on each side of a centerline described as follows:
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> Beginning at a point on the West line of said NE¼ NE¼ as fenced and if extended Northward to the North line of said Lot 4, said point being 15.0 feet South of the North line of said Lot 4, as fenced; thence N 89°40'37" E (bearing assumed for the purpose of this description only and all subsequent bearings referenced thereto)

#2. Easement

712.81 feet to a point on the West right-of-way line of an existing County Road and the terminus point of said easement centerline, said point being 15.0 feet South of the North line of said Lot 4, as fenced,

together with a temporary construction easement described as follows, to-wit:

A 100.0 foot wide temporary construction easement being 15.0 feet North and 85.0 feet South of the foregoing water line easement centerline; said temporary easement also being in said Lot 4 and said NE¼ NE¼ Section 7, Township 77 North, Range 28 West of the 5th P.M., Madison County, Iowa.

5.- The easements granted hereunder shall be used for the Grantee to construct, install, and thereafter use, operate, inspect, repair, maintain, and, if necessary, remove and replace a water pipeline, and shall be used by the Grantee for no other purpose.

6.- The permanent easement granted hereunder shall include the right of ingress and egress by Grantee over the adjacent lands of the Grantor, or its successors, for the purposes of this easement.

a.- Grantee agrees to compensate Grantor, or its successors, for loss of crops and all other damages which may result from the exercise of the stated purposes of this easement.

b.- Grantee shall maintain the pipeline in good repair so that no unreasonable damage will result from its use to the property of Grantor, or its successors.

7.- The temporary easement shall be for a period not to exceed twelve months beginning as of the date of construction, which date shall be on or about the first day of August, 1985.

a.- The temporary easement granted hereunder shall include the right of ingress and egress over the adjacent lands of the Grantor, or its successors, for the purpose of construction and installation of the water pipeline.

b.- Grantee agrees to backfill the area used for laying the water pipeline and to restore the excavated surface to the present level and as nearly as practical to its present existing condition.

c.- Grantee shall pay Grantor for the fair and reasonable losses occasioned by damage to crops during construction of the water pipeline. Grantee shall pay for any damage to fences and shall mark and repair any existing tile lines damaged during the construction of said pipeline.

#3. Easement

8.- Grantor and Grantee acknowledge that the monetary consideration stated in paragraph 4. constitutes full payment for any damage to the land of Grantor occasioned by the construction and installation of the water pipeline. Said sum also includes payment for damaged fence which Grantee has agreed to pay as provided in paragraph 7. c. Said sum does not include payment for damages to crop which Grantee has agreed to pay under paragraph 7. c.

9.- In further consideration of the easements granted hereunder by Grantor, Grantee shall allow Grantor, or its successor, to make connection with the water piepline in order that Grantor, or its successors, may have the use and service thereof, subject to the following terms and conditions:

a.- Grantor and Grantee acknowledge that the water supplied through the pipeline from the well to the City of Earlham water treatment plant is untreated water.

b.- One (1) connection with the water pipeline may be made without assessment of a tapping charge by Grantee, provided, however, that Grantor's water service line for said connection shall not exceed One (1) inch in diameter.

c.- Grantor shall be responsible for the expense of installation and maintenance of the water service line from teh pipeline to the point of consumption on Grantor's property.

d.- Grantor shall pay Grantee for water furnished at the rates currently set forth in Grantee's city ordinances, and subject to such changes thereof as Grantee may hereafter adopt.

e.- Grantor, or its successors, by taking water agree to be bound by the applicable provisions of Grantee's city ordinances, rules, regulations and rates pertaining to water service and rates as established by the Earlham City Council.

10.- The easement rights granted herein shall be binding upon the Grantor, its successors, administrators, and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands the date and year above written.

GRANTEE

By Claire Waugh
Claire Waugh, Mayor

By Craig A. Swartzbaugh
Craig A. Swartzbaugh, City Clerk

GRANTOR - FRED R. HUNTER TRUST

By Gregory L. O'Hara
Gregory L. O'Hara, Vice President and Senior Trust Officer

By Lianne G. Wright
Lianne G. Wright, Trust Officer

STATE OF IOWA :
: SS
MADISON COUNTY :

On this 7th day of March, 1986, before me, the undersigned, a Notary Public in and for the State of Iowa,

TOWN SEAL

#4. Easement

personally appeared Claire Waugh and Craig A. Swartzbaugh, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said City, executing the within and foregoing instrument; that said instrument was signed and sealed on behalf of said City; and that the said Mayor and City Clerk as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for the State of Iowa.

SAMUEL H. GRALAND Iowa (S E A L) NOTARIAL SEAL

STATE OF IOWA :
: SS
POLK COUNTY :

On this 28th day of February, 1986, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Gregory L. O'Hara and Lianne G. Wright to me personally known, who, being by me duly sworn, did say that they are the Vice President and Senior Trust Officer and Trust Officer, respectively, of said corporation executing the within and foregoing instrument; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said Gregory L. O'Hara and Lianne G. Wright, as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Notary Public in and for the State of Iowa.

(S E A L)

IOWA PATRICIA GEORGE-OLESEN MY COMMISSION EXP. 10-10-88