

Philip T. Miller et al
To

#792
Fee \$4.20

Filed for record the 17 day of February
A. D. 1959 at 3:00 o'clock P. M.

Town of St. Charles et al

Mary E. Welty, Recorder

EASEMENT AGREEMENT

VGE

THIS AGREEMENT made and entered into by and between Phillip T. Miller and Pauline Miller, First Parties; First Federal Savings and Loan Association of Des Moines, Second Party; the Town of St. Charles, Madison County, Iowa, Third Party; and Madison County, Iowa, Fourth Party, witnesseth:

WHEREAS, First Parties are the owners and parties in possession of the following described real estate, to-wit:

East Half of the Northwest Quarter ($\frac{1}{2}$) of the Northwest Quarter ($\frac{1}{2}$) except a strip of land 10 rods in width off the South side thereof, and all that part of the Northeast Quarter ($\frac{1}{2}$) of the Northwest Quarter ($\frac{1}{2}$) lying West of the right of way of the CGW Ry. Co., formerly C. St.P. & K.C. Ry. Co., (except that part included in a strip of land 10 rods wide off the South side of said 40-acre tract); all in Section Twenty-Two (22), Township Seventy-Five (75), North, Range Twenty-Six (26), West of the 5th P.M., Madison County, Iowa;

and of the following described real estate, to-wit:

West Half of the Southeast Quarter of the Northeast Quarter and the Southeast Quarter of the Northeast Quarter and the South 9 rods of the Northeast Quarter of the Northeast Quarter and the South $\frac{3}{4}$ of the East Half of the Southwest Quarter of the Northeast Quarter of Section 22, Township 75 North, Range 26, West of the Fifth P.M., Iowa; also Lots 27 and 28 in Block 7; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and South Half of Lot 31, in Block 8; and Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 in Block 9 in the Town of Hanley, formerly known and platted as West St. Charles, Iowa, and

WHEREAS, Second Party is the Mortgagee on a certain mortgage given by First Parties dated February 11, 1959, and filed of record February 13, 1959 in Mortgage Record 104, Page 379, in the office of the Madison County Recorder, on the real estate above described and other land; and

WHEREAS, Third Party, a municipal corporation, is desirous of developing, constructing, erecting, and maintaining a water well or wells and water main upon the real estate first above described, and is desirous of obtaining an easement grant for the developing, constructing, maintaining and operating of said well or wells and of a water transmission line therefrom, for the supply of the municipal Water Works System of the Town of St. Charles, Iowa, and in exchange therefore is willing to bind and obligate itself relative

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to the construction of a water line to the dwelling house situated upon the real estate last above described, and is willing to bind and obligate itself to furnish water to the present parties in possession, their successors and assigns, as more particularly herein-after set out; and

WHEREAS, all of the parties hereto are desirous of evidencing and expressing an agreement with respect to the aforesaid,

IT IS NOW, THEREFORE, AGREED in consideration of these premises as follows:

1. First Parties, Phillip T. Miller and Pauline Miller, do hereby sell, grant and convey to Third Party, the Town of St. Charles, Madison County, Iowa, a perpetual easement and right of way under, through, upon and across that portion of the real estate first above described, more particularly described as follows, to-wit:

Commencing at a point where the center line of Clanton Creek intersects with the centerline of the easement for Madison County Trunk Highway "E", said point being located S 67° 43' West a distance of 873 feet from the intersection of said centerline of highway and the west right-of-way line of the Chicago and Great Western Railroad; thence N 67° 43' E along said centerline of County Trunk Highway a distance of 200 feet; thence northwesterly at a 90 degree angle from the centerline of the County Trunk Highway a distance of 200 feet; thence southwesterly a distance of 200 feet more or less along a line parallel to the County Trunk Highway to the centerline of Clanton Creek; thence southeasterly along centerline of Clanton Creek to the point of beginning; subject to the easement to Madison County for the right-of-way of County Trunk Highway "E".

for the purpose of developing, maintaining and operating a water well or wells, including the well presently located upon said real estate in and upon the county roadway situated upon said real estate; and for the drilling, developing, constructing, maintaining and operating such other well or wells in substitute for and in addition to said well now in existence as may be in the judgment of the town of St. Charles, Iowa, necessary for the purposes herein expressed; and for the removal of water from such well or wells to supply the municipal Water Works System of the Town of St. Charles, Iowa, and for the construction of a watermain from such well site or sites to the water main to be constructed by the Town of St. Charles, Iowa.

2. First Parties do hereby sell, grant and convey to Third Party a perpetual easement and right of way under, through, upon and across that portion of the real estate second above described, more particularly described as follows, to-wit:

A strip of land Sixty-Seven (67) Feet in width measured at a right angle from the Center line of County Trunk Highway "E", from the Northeasterly line of the property described in Paragraph 1 hereof, running in a Northeasterly direction to the West right-of-way line of the Chicago and Great Western Railroad; subject to the easement to Madison County for the right of way County Trunk Highway "E".

for the purpose of constructing, maintaining and operating a water main.

3. Third Party shall have the right to enter into and upon said real estate for the purpose of constructing said well or wells and water main, and for the purpose of replacing enlarging or repairing said main wherever necessary; and shall have the right to use so much of the surface of the real estate described in Paragraph 1 hereof adjacent to such well site or sites as may be necessary for the purpose of operating and maintaining said well or wells, including the right to fill with earth around the presently existing well site a sufficient distance to permit the efficient operation and maintenance of said well site, providing the same does not interfere with the public highway as it now exists or may hereafter be altered by Fourth Party within its present easement.

4. Third Party will pay to First Parties any actual damage which may at any time hereafter be caused to growing crops, fences or improvements by reason of any construction

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work carried out by or on behalf of Third Party in the construction, development, main-
tenance, replacement, repair or operation of said well or wells or water main; except
that Third Party will be liable to First Party only for damage to fences in the original
construction of water mains.

5. Third Party agrees to construct at its sole expense a suitable water line from its
water main to the foundation of the existing dwelling house situated upon the second
above described real estate for the unrestricted use of First Parties, their successors
or assigns, in possession of said real estate. Third Party further agrees to furnish
First Parties their successors or assigns in possession of said real estate, from the
water system maintained by Third Party, as long as said water system is in operation,
without charge, filtered, purified water not to exceed five thousand (5,000) gallon per
calendar month, and to furnish at the normal and usual rates established by Third Party
water in excess of said five thousand (5,000) gallons herein agreed to be furnished with-
out charge. Said water line shall be constructed by Third Party at or before the time of
the completion of its Water Works System.

6. Third Party further agreed to pay to First Parties the sum of Three Hundred Dollars
(\$300.00) as additional compensation for the grant and conveyance of easement hereinbefore
expressed, said payment to be made within ninety (90) days after the completion of its
bond issuance.

7. FourthParty, Madison County, Iowa, a municipal corporation, hereby consents to and
acquiesces in the easement and construction of wells, main and water system herein des-
cribed, without limiting itself with respect to its rights respecting the continued main-
tenance or construction of county roads over and across the easement it now holds.

8. Each and all of the parties hereto evidence their consent and agreement to each
and all of the matters herein expressed insofar as the respective parties hereto may be
parties in interest therein; and Second Party joins in the conveyance by First Parties to
Third Party.

9. First Parties hereby covenant with Third Party that they hold said premises by good
and perfect title, that they have good and lawful authority to make the conveyance herein
expressed and that they warrant to defend said premises against the lawful claims of all
persons claiming by, through or under them.

IN WITNESS WHEREOF we have hereunto affixed our signatures this 14 day of February, A.
D. 1959.

Philip T. Miller
Pauline Miller

(CORPORATE SEAL)

FIRST FEDERAL SAVINGS AND LOAN
ASSOCIATION OF DES MOINES
By F. D. Mathis, President
Lynn C. Oxley, Secretary

Attest: Melvin L. Davis
Clerk, the Town of St. Charles

(CORPORATE SEAL)

MADISON COUNTY, IOWA
By Garland Howell

R. O. Brock
Auditor, Madison County, Iowa

(CORPORATE SEAL)

THE TOWN OF ST. CHARLES
By Alva Miller

STATE OF IOWA MADISON COUNTY) ss.

On this 14 day of February, A. D. 1959, before me, the undersigned, a Notary Public in
and for said County, in said State, personally appeared Phillip T. Miller and Pauline
Miller, to me known to be the identical persons named in and who executed the foregoing
instrument, and acknowledged that they executed the same as their voluntary act and deed.

(Notarial Seal)

Geo. D. Smith Notary Public
in and for Madison County, Iowa.

STATE OF IOWA POLK COUNTY) -

On this 14 day of February, A. D. 1959, before me, the undersigned, a Notary Public in
and for said County, in said State, personally appeared F. D. Mathis Lynn C. Oxley to

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me personally known, who being by me duly sworn, did say that they are the president and Secretary respectively, of the First Federal Savings and Loan Association of Des Moines; that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; that the said F. D. Mathis Lynn C. Oxley acknowledged the execution of said instrument to be their voluntary act and deed as such officers, of said corporation, by it and by them voluntarily executed.

(Notarial Seal)

William H. Oxley Notary Public
in and for Polk County, Iowa.

STATE OF IOWA MADISON COUNTY) ss.

On this 16 day of February, A D. 1959, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared Garland Howell and R. O. Brock, to me personally known, who, being by me duly sworn, did say that they are Chairman of the Board of Supervisors and Auditor, respectively, of Madison County, Iowa, a municipal corporation; that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Supervisors; and that the said Garland Howell and R. O. Brock acknowledged the execution of said instrument to be their voluntary act and deed as such officers, of said corporation, by it and by them voluntarily executed.

(Notarial Seal)

C R. Bentz Notary Public
in and for Madison County, Iowa.

STATE OF IOWA MADISON COUNTY) ss.

On this 16 day of February A D. 1959, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared Alva Miller and Melvin L. Davis, to me personally known, who, being by me duly sworn, did say that they are Mayor and Clerk, respectively, of the Town of St. Charles, Iowa, a municipal corporation; that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Town Council; that the said Alva Miller and Melvin L. Davis acknowledged the execution of said instrument to be their voluntary act and deed as such officers, of said corporation, by it and by them voluntarily executed.



Rex V. Johnson Notary Public
in and for Madison County, Iowa.