

K.

5837

FILED
1698 MAR 29-
92
11:27
COUNTY RECORDER
DALLAS COUNTY IOWA

FIRST AMENDMENT TO PERMANENT SANITARY SEWER EASEMENT
AND
FIRST AMENDMENT TO PERMANENT
BACKSLOPE AND LATERAL SUPPORT EASEMENT

THIS FIRST AMENDMENT is made and entered into this 12th day of March, 1991, by and between ALLIED-HUBBELL I, an Iowa General Partnership, ("Grantor"), and THE CITY OF WEST DES MOINES, IOWA, an Iowa municipal corporation, ("Grantee").

W I T N E S S E T H

WHEREAS, in connection with the construction by the City of West Des Moines, Iowa of the North Slope Sanitary Sewer project, Grantor granted to Grantee the following easements over a portion of the West 42.67 acres of government Lot 3, in Section 1, Township 78 North, Range 26 West of the Fifth P.M., now included in and forming a part of the City of West Des Moines, Dallas County, Iowa:

1. A perpetual sanitary sewer easement pursuant to that certain Permanent Sanitary Sewer Easement, dated October 11, 1990 and filed for record on October 23, 1990 in Book 689 at Page 774-777 in the office of the recorder for Dallas County, Iowa; (the "Sanitary Sewer Easement"); and
2. A backslope and lateral support easement pursuant to that certain Permanent Backslope and Lateral Support Easement, dated October 11, 1990 and filed for record on October 23, 1990 in Book 689 at Pages 778-780 in the office of the recorder for Dallas County, Iowa (the "Backslope Easement"); and

WHEREAS, the parties desire to correct certain errors in the legal descriptions of the Sanitary Sewer Easement and the Backslope Easement.

NOW, THEREFORE, in consideration of the mutual Premises and the covenants herein stated, Grantor and Grantee agree as follows:

1. The legal description of the perpetual easement set forth in the Sanitary Sewer Easement is amended to read as follows:

"A permanent easement under, through and across a tract of land in the West 42.67 acres of Government Lot 3, in Section 1, Township 78 North, Range 26 West of the 5th P.M., now included in and forming a part of the City of West Des Moines, Dallas County, Iowa. Said tract is thirty (30.0) feet wide centered on a line described as follows:

Commencing at the Southeast corner of the West 42.67 acres of said Government Lot 3, with the East line of the West 42.67 acres of said Government Lot 3 having an assumed true bearing of North 0°42'02" West with all subsequent bearings referenced therefrom; thence North 0°42'02" West, a distance of fifty-six and eighty-six hundredths (56.86) feet to the point of beginning; thence North 63°17'11" West, a distance of eighty-seven and thirteen hundredths (87.13) feet; thence North 17°56'41" West, a distance of nineteen and twenty-five hundredths (19.25) feet; thence North 28°02'21" East, a distance of one hundred twenty-five and twenty-two hundredths (125.22) feet; thence North 02°25'05" West, a distance of seventy-two and ten hundredths (72.10) feet; thence North 0°42'02" West, a distance of one thousand four hundred forty-two and twenty-four hundredths (1,442.24)

RECORDER'S NOTE: NO CORPORATE SEAL AFFIXED FOR VALLEY NATIONAL BANK

feet; thence North 45°42'02" West, a distance of two hundred forty-three and seventy-two hundredths (243.72) feet; thence North 22°37'59" West, a distance of two hundred nine (209.0) feet, more or less, to the south line of a tract of land described as follows:

Commencing as a point of reference at the Northeast corner of the West 42.67 acres of Government Lot 3, in Section 1, Township 78 North, Range 26 West of the 5th P.M., City of West Des Moines, Dallas County, Iowa; thence S00°29'47"E, 60.00 feet along the East line of said West 42.67 acres to a point on the South right-of-way line of University Avenue; thence S89°27'14"W, 194.40 feet along said right-of-way line to the point of beginning; thence S89°27'14"W, 100.00 feet along said right-of-way line to a point; thence S00°32'46"E, 13.55 feet to a point of curvature; thence southerly along a curve to the right having a radius of 162.50 feet, an arc length of 30.00 feet to a point; thence S00°32'46"E, 56.62 feet to a point; thence N89°27'14"E, 102.76 feet to a point; thence N00°32'46"W, 100.00 feet to the point of beginning and containing 0.234 acres more or less, (the "Pumping Station Parcel");

2. The legal description of the property over which the permanent backslope and lateral support easement is granted set forth in the Backslope Easement is amended to read as follows:

"A portion of the West 42.67 acres of Government Lot 3, in Section 1, Township 78 North, Range 26 West of the 5th P.M., now included in and forming a part of the City of West Des Moines, Dallas County, Iowa, described as follows:

Commencing as a point of reference at the Northeast corner of the West 42.67 acres of said Government Lot 3; thence South 00°29'47"E, 60.00 feet along the East line of the West 42.67 acres to a point on the South right-of-way line of University Avenue; thence South 89°27'14"W, 144.40 feet along said right-of-way line to the point of beginning; then South 89°27'14"W, 50.00 feet along said right-of-way line; South 00°32'46"E, 100.00 feet; thence North 89°27'14"E, 50.00 feet; thence North 00°32'46"W, 100.00 feet to the point of beginning";

3. Except as expressly modified in this Agreement, all terms, conditions, covenants and provisions of the Sanitary Sewer Easement and of the Backslope Easement continue and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the day and year first above written.

LANDLORD:

TENANT:

THE CITY OF WEST DES MOINES,
IOWA

ALLIED-HUBBELL I

By: George M. Mills, Mayor

By: F. M. HUBBELL, SON & COMPANY,
INCORPORATED, Partner

By: Jody Smith, City Clerk

By: James W. Hubbell III, President

By: R. Michael Hayes, Secretary

STATE OF IOWA)
) SS.
COUNTY OF POLK)

On this 1st day of March, 1991, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared James W. Hubbell III and R. Michael Hayes, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of F. M. Hubbell, Son & Company, Incorporated, the managing partner of Allied-Hubbell I, an Iowa general partnership; that the seal affixed hereto is the seal of said corporation; that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and said partnership by authority of its partnership agreement; and that the said James W. Hubbell III and R. Michael Hayes, as such officers, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporation and said partnership, by each entity and by them voluntarily executed.

Michael R. Cavanaugh
Notary Public in and for the State of
Iowa



STATE OF IOWA)
) SS.
COUNTY OF POLK)

On this 1st day of March, 1991, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared George M. Mills and Jody F. Smith, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Des Moines, Iowa; the seal affixed hereto is the seal of said corporation; that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its City Council; and the said George M. Mills and Jody E. Smith, such officers, acknowledged the execution of the instrument to be the the voluntary act and deed of the Municipal Corporation by it and by them voluntarily executed.

Michael R. Cavanaugh
Notary Public in and for the State of
Iowa



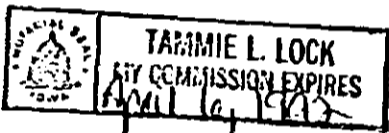
MORTGAGEE'S CONSENT

Valley National Bank, as Mortgagee on the above property, hereby consents to the above First Amendment to Permanent Sanitary Sewer Easement and First Amendment to Permanent Backslope and Lateral Support Easement and subordinates the lien of its mortgage thereto. Dated this 19th day of March, 1991.

VALLEY NATIONAL BANK

BY: [Signature]
Vice President

On this 19th day of March, 1991, before me, a Notary Public in and for the State of Iowa, personally appeared Mark Killion, to me personally known, who, being by me duly sworn, did state that he is the Vice President of Valley National Bank; that the seal attached hereto 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 and the said Mark Killion acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.



Tammie L. Lock
Notary Public in and for the State of Iowa

35-17-91 51309 *2000