

RESOLUTION NO. 2004- 000123

with attachments

RESOLUTION APPROVING PROPOSAL TO GRANT A TEMPORARY EASEMENT. (VACATED PORTION OF 13TH STREET RIGHT OF WAY AND VACATED JACKSON STREET RIGHT OF WAY ADJACENT TO 610 13TH STREET) (PETITIONER: CASTLE ON THE HILL L.L.C.) (PURCHASE PRICE: \$1.00)

WHEREAS, the City Council of the City of Sioux City, Iowa, set forth its proposal to grant a temporary easement in the following described real property in Resolution No. 2004-0077, passed and approved:

The south 5 feet of the vacated 13th Street right of way as it abuts the west 50 feet of the east 180 feet of Block 69, Sioux City East Addition to Sioux City, Woodbury County, Iowa, and the west 12 feet of the vacated Jackson Street right of way abutting Lot 10, Block 69, Sioux City East Addition to Sioux City, Woodbury County, Iowa; and

WHEREAS, a public hearing was held on said proposal on February 9, 2004, pursuant to published notice given as provided by law; and

WHEREAS, the City Council, having heard all the objections to said proposal, believes they should be overruled; and

WHEREAS, the City Council has heretofore adopted an ordinance vacating the above described real property; and

WHEREAS, a "Grant of Temporary Easement" has been prepared and is attached hereto and by this reference made a part hereof.

NOW, THEREFORE, BE, AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA, that all objections to the proposed "Grant of Temporary Easement" for the real estate described in the preamble hereof be, and the same are hereby overruled.

BE IT FURTHER RESOLVED that the "Grant of Temporary Easement" in the above described real property be granted in accordance with the terms and conditions set forth therein.

BE IT FURTHER RESOLVED that the "Grant of Temporary Easement" attached hereto be and the same is hereby approved as to form and content and the Mayor and City Clerk are authorized and directed to execute the same for and on behalf of the City of Sioux City, Iowa.

BE IT FURTHER RESOLVED that upon receipt of the consideration fixed in said grant and the costs incurred in this sale that the grant be delivered to the purchasers.

PASSED AND APPROVED: February 9, 2004

David W. Ferris
David W. Ferris, Mayor

ATTEST: *Robert K. Padmore*
Robert K. Padmore, City Clerk

Doc. No. **23021**
WOODBURY COUNTY, IOWA
Filed for Record

MAY 24 2004

Time 11:30 AM Fee 26.00 Pd
By *Patricia Gill* Auditor & Recorder
Designee

PROOF OF PUBLICATION
STATE OF IOWA
COUNTY OF WOODBURY,

ROLL 644 IMAGE 1968

The undersigned, of said County, being duly sworn, on oath states that the undersigned is an employee of THE SIOUX CITY JOURNAL, printed and published by Sloux City Newspapers, Inc., at Sioux City, in said County and issued daily and Sunday and that the annexed printed notice Grant Easement 610 13th St was regularly published in said newspaper for One consecutive Saturday issues, the first publication thereof being on the 27th day of Dec, 2003.....

Carolyn Pederson

Carolyn Pederson

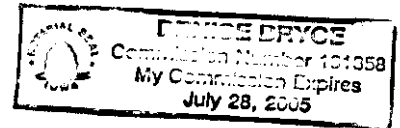
NOTICE OF HEARING ON PROPOSAL TO GRANT AN EASEMENT BY CITY OF SIOUX CITY
NOTICE is hereby given that there is now on file in the office of the City Clerk located at the Customer Service Center on First Floor of City Hall, 405 6th Street, Sioux City, Iowa, a resolution, under and by virtue of which it is proposed to grant an easement in the following described real estate for the life of the structure for encroachment purposes in Sioux City, Woodbury County, Iowa:
The south 5 feet of the vacated 13th Street right of way as it abuts the west 30 feet of the east 180 feet of Block 69, Sioux City East Addition to Sioux City, Woodbury County, Iowa, and the west 12 feet of the vacated Jackson Street right of way abutting Lot 10, Block 69, Sioux City East Addition to Sioux City, Woodbury County, Iowa
(Vacated 13th Street right of way and vacated Jackson Street right of way adjacent to 610 13th Street)
Said proposal to grant an easement in said real estate will come on for final hearing and action before the City Council in the Council Chambers, Room 504, City Hall, 405 Sixth Street, Sioux City, Iowa, on January 12, 2004, at the council meeting commencing at 4:00 P.M., Local Time. At said hearing interested persons may appear and be heard for or against said proposal.
CITY OF SIOUX CITY, IOWA
BY: Robert K. Padmore
City Clerk
Published in the Sioux City Journal Dec 27, 2003.
Legal #4294

Subscribed and sworn to before me at Sioux City, in said County, this 5 day of Jan, 2004,

Donna Deje

Notary Public
In and for Woodbury County.

34 Lines Times, \$ 10.49



GRANT OF TEMPORARY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the City of Sioux City, Iowa, a municipal corporation, in Woodbury County, Iowa, by its Mayor duly authorized as hereinafter set forth, does hereby grant unto Castle on the Hill L.L.C. their assigns and successors in interest, in consideration of one dollar and other valuable consideration, the right to use, enjoy and occupy the following described real estate situated in Sioux City, Woodbury County, Iowa, to-wit:

The south 5 feet of the vacated 13th Street right of way as it abuts the west 50 feet of the east 180 feet of Block 69, Sioux City East Addition to Sioux City, Woodbury County, Iowa, and the west 12 feet of the vacated Jackson Street right of way abutting Lot 10, Block 69, Sioux City East Addition to Sioux City, Woodbury County, Iowa

(Vacated 13th Street right of way and vacated Jackson Street right of way adjacent to 610 13th Street)

subject to the following conditions limiting this Grant of Easement:

1. The City of Sioux City, Iowa, shall have the right of placing any and all improvements and/or utilities for public purpose over, under and upon the property hereinbefore described without the consent of grantee(s) or their assigns or successors, and without obligation to said grantee(s).
2. This temporary easement is given and granted for encroachment purposes for a residential building (herein structure). This temporary easement is granted only for the period of time as the structure placed on the property described above shall be and remain in its present form. In the event of the removal, destruction or reconstruction of said structure not attributable general maintenance of said structure, this easement shall terminate and be of no further force and effect.
3. The temporary easement is granted only for such period of time as the above described real property is not needed by the City of Sioux City, Iowa, for public right-of-way. As a further condition of the grant of this easement, the grantee(s) agree that in the event the above described real property is ever needed by the City of Sioux City, Iowa, for public right-of-way, the structure placed on the above described real property will be removed, upon the request of the City of Sioux City, Iowa at the expense of the grantee(s), their assigns and successors in interest.
4. This temporary easement is granted upon the condition that the grantee shall file in a timely manner on behalf of the City, as grantor, the verified claim required under Section 614.24 of the Code of Iowa so as to preserve the reversionary interests of the City. Such verified claim is to be submitted sixty days prior to the expiration of each twenty-one year term (as described in said Section 614.24) to the City for approval as to form and content. The failure of the grantee to file said verified claim in a timely manner before the expiration of each twenty-one (21) year term shall serve as an automatic termination of this temporary easement.
5. Grantee(s) further agree that as a condition and consideration of granting the easement herein, grantee(s) will indemnify and save harmless the City of Sioux City, Iowa, its officers,

employees and agents from and against all loss or expense, including court costs and attorney's fees by reason of liability imposed by law upon the City of Sioux City, Iowa, its officers, employees or agents for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, both real and chattel, including the loss of use thereof, arising out of or in consequence of the use of the property for which the temporary easement is granted. This provision shall apply to any claim against the City of Sioux City, Iowa, for damages of whatever kind or description arising out of or in consequence of the granting of this temporary easement by the said City to the grantee(s), their heirs, successors and assigns.

6. That title to said above described real estate shall at all times remain in the City of Sioux City, Iowa.

This grant of easement is executed under and by virtue of the authority vested in the Mayor of Sioux City, Iowa, under the provision of Resolution No. 2004-0123, duly passed and approved on the 9th day of February, 2004, and subject to the terms and conditions thereof.

IN WITNESS WHEREOF, the City of Sioux City, Iowa, has caused this instrument to be executed by the Mayor and the City of Sioux City, Iowa, with the seal of said City duly affixed and attested by the City Clerk and whose signatures are hereto affixed on the 9th day of February, 2004.

CITY OF SIOUX CITY, IOWA

BY: *David W. Ferris*
David W. Ferris, Mayor

ATTEST: *Robert K. Padmore*
Robert K. Padmore, City Clerk

STATE OF IOWA)
 : ss
WOODBURY COUNTY)

On this 9th day of February, 2004, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared David W. Ferris and Robert K. Padmore, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Sioux City, Iowa; that the seal affixed to the foregoing instrument is the official seal of the City, and that the instrument was signed and sealed on behalf of the City, by authority of its City Council, as contained in Resolution No. 2004-0123 passed on the 9th day of February, 2004, and that David W. Ferris and Robert K. Padmore acknowledge the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the City.



BY: *Brittany Worden*
Notary Public in and for Iowa