

INST # 8858 ✓
RECORDING FEE 35.00
AUDITOR FEE -
RMA FEE 1.00

COMPLETED

FILED FOR RECORD
POTTAWATTAMIE CO. IA.

97 DEC 11 PM 12:36

PREPARED FOR: Council Bluffs City Water Works

JOHN SCIORTINO
RECORDER

BY: Harold T. Beckman, Smith Peterson Law Firm, 35 Main Place,
Suite 300, Council Bluffs, Iowa 51503, (712) 328-1833

EASEMENT AGREEMENT

THIS AGREEMENT made and entered into by and between the BOARD OF WATER WORKS TRUSTEES of the City of Council Bluffs, Iowa ("BOARD") and OPAL DRIVE, L.L.C., JOHN H. JERKOVICH, NEIL R. BACH, and RONALD D. JOHNSON, Members, 301 West Broadway, Council Bluff, Iowa 51503 ("OPAL"), an Iowa limited liability company.

WITNESSETH:

1. In consideration of payment of the origination fee in the amount of One Thousand Dollars (\$1,000.00) and grant of easement by OPAL as set forth in paragraph 2, BOARD releases all right, title and interest of COUNCIL BLUFFS CITY WATER WORKS ("WATER WORKS") in and to the easement granted and conveyed to CITY OF COUNCIL BLUFFS, IOWA ("CITY") for and on behalf of WATER WORKS under Easement Agreement dated October 24, 1979, and recorded in Book 80, Page 10621, of the records in the office of the Pottawattamie County, Iowa Recorder in Council Bluffs, Iowa ("RECORDER").

2. In consideration of release by BOARD of all of WATER WORKS' right, title and interest in easement granted CITY for and on behalf of WATER WORKS

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under Easement Agreement dated October 24, 1979, and recorded in Book 80, Page 10621, in the Office of the RECORDER, and other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby granted to convey unto CITY ("GRANTEE") for the use and benefit of WATER WORKS a permanent nonexclusive easement twenty (20) feet in width, over, across and through the South 20 feet of Lot 6 and a 20-foot strip centered on the common boundary line between Lots 6 and 7, all in Opal 2nd Addition to CITY as shown on final plat of Opal 2nd Addition, dated September 25, 1997, as drawing no. 103597, prepared by Rogers Surveying, 1688 Rolling Hills Loop, Council Bluffs, Iowa, a copy of which is attached hereto, marked Exhibit "A" and by reference made a part hereof; including a perpetual right to enter upon said real estate, at any time that it may see fit, and construct, inspect, maintain, repair, replace and operate or remove underground pipelines and/or mains for the purpose of conveying water over, across, through and under said real estate, together with a right to excavate and refill ditches and/or trenches for the location of said pipelines and/or mains, and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction and maintenance of said pipelines and/or mains.

3. WATER WORKS shall properly and promptly refill any excavations made on said premises after the purpose of said excavation has been fulfilled and shall leave the premises in the same general condition as it was in before this said WATER WORKS went upon the same; further, that if any fences or existing structures are

COMPARED

removed for the purpose of laying, maintaining, operating, replacing or removing said pipelines and/or mains, such fences and structures shall be promptly replaced by said WATER WORKS upon completion of the work requiring such removal.

4. In further consideration for the good and sufficient valuable consideration received by OPAL, OPAL agrees that it will not place any permanent structures upon or over said easement without first obtaining the written consent of WATER WORKS; further, OPAL covenants with GRANTEE that it is lawfully seized and possessed of the real estate above described; that it has good and lawful right to convey it, or any part thereof, that it is free from all encumbrances, and that it will forever warrant and defend the title thereto against the lawful claims of all persons whosoever.

5. As a part of the consideration of this grant, OPAL does hereby release any and all claims for damages from whatsoever cause incidental to the exercise of the rights herein granted CITY and WATER WORKS.

6. Words and phrases herein, including the acknowledgment, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

7. All provisions of this Agreement shall inure to the benefit of and be binding upon and applicable to the successors, personal representatives, heirs, and assigns of the parties hereto, the same as if they were in all instances named herein.

CONFIDENTIAL

DATED this 10th day of DECEMBER, 1997.

BOARD OF WATER WORKS TRUSTEES
of the City of Council Bluffs, Iowa

12/10/97
DATE SIGNED

By: *Jack A. O'Brien*
JACK A. O'BRIEN, CHAIRMAN

DECEMBER 10, 1997
DATE SIGNED

By: *Paul J. Bass*
PAUL J. BASS, SECRETARY

(SEAL)

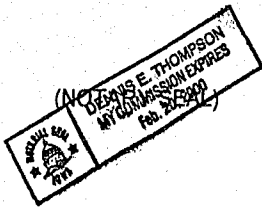
"BOARD"

STATE OF IOWA)
) ss.
COUNTY OF POTTAWATTAMIE)

On this 10th day of December, 1997, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Jack A. O'Brien and Paul J. Bass, to me personally known, who being by me duly sworn, did say that they are the Chairman and Secretary, respectively, of the Board of Water Works Trustees of the City of Council Bluffs, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the instrument was signed and sealed on behalf of the Board of Water Works Trustees of the City of Council Bluffs, Iowa, by authority of said Board, as contained in Resolution No. 97-23-11, adopted and passed by said Board on the 18th day of November, 1997, and that Jack A.

COMPLETED

O'Brien and Paul J. Bass acknowledge the execution of the instrument to be the voluntary act and deed and the voluntary act and deed of said Board, and by it voluntarily executed.



Dennis E. Thompson
NOTARY PUBLIC IN AND FOR SAID STATE

Dennis E. Thompson
(TYPE OR PRINT NOTARY'S NAME)

OPAL DRIVE, L.L.C., An Iowa limited liability company

12/9/97
DATE SIGNED

By: John H. Jerkovich
JOHN H. JERKOVICH, MEMBER

12/9/97
DATE SIGNED

By: Neil R. Bach
NEIL R. BACH, MEMBER

12/9/97
DATE SIGNED

By: Ronald D. Johnson
RONALD D. JOHNSON, MEMBER

"OPAL"

STATE OF IOWA

)
) ss.

COUNTY OF POTTAWATTAMIE

On this 9th day of December, 1997, before me, the undersigned, a Notary Public in and for said County, personally appeared John H.

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Jerkovich, Neil R. Bach and Ronald D. Johnson, to me personally known, who being by me duly sworn, did say that they are the sole members of Opal Drive, L.L.C., and that said instrument was signed on behalf of said Opal Drive, L.L.C., with full authority to act on behalf of Opal Drive, L.L.C., and the said John H. Jerkovich, Neil R. Bach and Ronald D. Johnson acknowledged the execution of said instrument to be the voluntary act and deed, and the voluntary act and deed of said Opal Drive, L.L.C, by it voluntarily executed.

(NOTARY SEAL)



Christine M. Ritter
NOTARY PUBLIC IN AND FOR SAID STATE

CHRISTINE M. RITTER
(TYPE OR PRINT NOTARY'S NAME)

COMPAILED

OPAL 2ND ADDITION

NOTE: THIS DRAWING HAS BEEN REVISIONED.

APPROVED BY: [Signature] DATE: [Blank]

APPROVED BY: [Signature] DATE: [Blank]

APPROVED BY: [Signature] DATE: [Blank]

APPROVED BY: [Signature] DATE: [Blank]

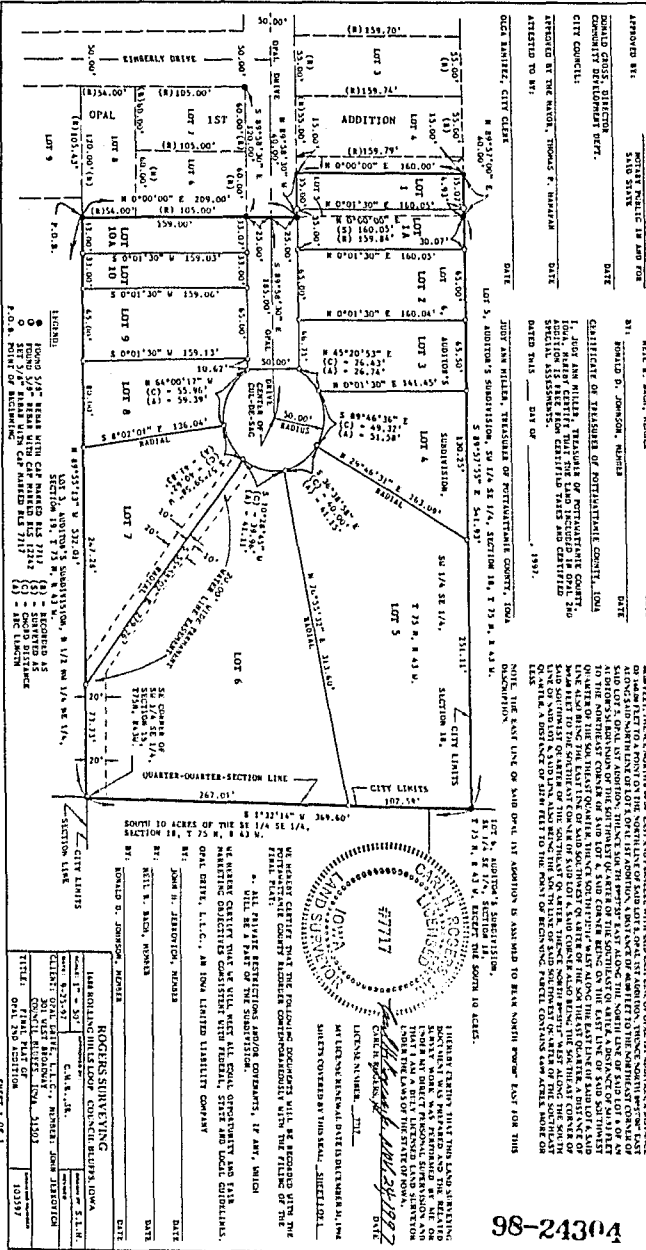


Table with columns for Name, Title, and Date, listing individuals involved in the platting process.

98-24304

