City of Carroll

112 E. 5th Street Carroll, Iowa 51401-2799 (712) 792-1000 FAX: (712) 792-0139

MEMO TO: Mike Pogge-Weaver, City Manager MPW

FROM: Randall M. Krauel, Director of Public Works RMK

DATE: April 8, 2020

SUBJECT: St. Anthony Hospital Watermain Easement

In 1981, the City constructed the East Industrial Site Watermain Extension. The project included watermain construction from the High Service Pumping Station to Griffith Road. Part of the construction crossed property owned by St. Anthony Hospital. The Hospital granted a Utility Easement to the City for watermain construction and maintenance from Clark Street to Maple Street, south of the Hospital building.

In 2018, the St. Anthony Hospital Cancer Center was proposed to be constructed on a portion of the 1981 Utility Easement. St. Anthony Hospital proposed to relocate the East Industrial Site Watermain around the Cancer Center and provide the City a new easement for the relocation. In return, the City was requested to vacate the portion of the 1981 Utility Easement for the construction of the Cancer Center.

During construction of the relocated watermain and subsequent easement preparation, it was discovered that the East Industrial Site Watermain was not constructed entirely within the 1981 Utility Easement. To rectify the discrepancies, it was proposed to prepare an entirely new easement centered on the watermain including the relocated section.

Attached is a proposed Watermain Easement offered by St. Anthony Hospital to the City. The proposed Watermain Easement is a restatement of the 1981 Utility Easement. The two Easements are proposed to be merged with the Watermain Easement being the controlling document.

RECOMMENDATION: Mayor and City Council consideration of passage and approval of the Resolution approving and accepting conveyance of the Watermain Easement from St. Anthony Hospital.

RMK:ds

attachments (2)

RESOLUTION NO. _____

RESOLUTION APPROVING AND ACCEPTING CONVEYANCE OF A WATERMAIN EASEMENT FROM ST. ANTHONY HOSPITAL.

WHEREAS, a Watermain Easement has been prepared for the purpose of the City constructing, reconstructing, repairing, enlarging and maintaining a watermain and appurtenances on property owned by St. Anthony Hospital; and,

WHEREAS, St. Anthony Hospital has offered to convey the Watermain Easement to the City; and,

WHEREAS, the City Council has determined that approval and acceptance of conveyance of the Watermain Easement is in the best interests of the City and the residents thereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carroll, Iowa, that the Watermain Easement from St. Anthony Hospital is approved and conveyance accepted, and the Mayor is authorized to indicate approval on the Easement.

Passed and approved by the Carroll City Council this 13th day of April, 2020.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

By: _____
Eric P. Jensen, Mayor

ATTEST:

By: _____
Laura A. Schaefer, City Clerk

Prepared by: City of Carroll, 627 N. Adams Street, Carroll, Iowa 51401

WATERMAIN EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS:

That St. Anthony Hospital (hereinafter called "Grantor") in consideration of the sum of One dollar ($1.00) and other valuable consideration to be paid by the City of Carroll, Iowa, upon final approval and acceptance of this Easement by the City of Carroll, Iowa, does hereby convey unto the City of Carroll, Iowa a municipal corporation, (hereinafter called "Jurisdiction") a perpetual Easement for Watermain Right-of-Way under, over, through and across the following described real estate:

20' WIDE UTILITY EASEMENT LOCATED IN PART OF LOTS 6 & 7 OF OUTLOT O AND LOT 1 OF OUTLOT N HEIMS ADDITION, CARROLL COUNTY, IOWA:

COMMENCING FROM THE SOUTHEAST CORNER OF LOT 1 OF OUTLOT N OF HEIMS ADDITION TO THE CITY OF CARROLL, IOWA; THENCE NORTH 01°03'03" EAST ALONG THE EAST LINE OF SAID LOT 1 OF OUTLOT N, HEIMS ADDITION ALSO BEING THE WEST RIGHT OF WAY LINE OF SOUTH MAPLE STREET, 472.73 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°40'36" WEST, 181.29 FEET; THENCE SOUTH 41°39'42" WEST, 38.55 FEET; THENCE SOUTH 87°25'27" WEST, 114.26 FEET; THENCE NORTH 45°36'09" WEST, 35.86 FEET; THENCE NORTH 89°07'20" WEST, 54.79 FEET; THENCE NORTH 00°56'04" WEST, 7.35 FEET; THENCE SOUTH 89°46'50 WEST, 150.38 FEET; THENCE NORTH 73°38'01" WEST, 274.40 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SOUTH CLARK STREET; THENCE NORTH 32°34'49" WEST ALONG SAID EAST LINE, 30.45 FEET; THENCE SOUTH 73°38'01" EAST, 294.45 FEET; THENCE NORTH 89°46'50" EAST, 167.21 FEET; THENCE SOUTH 00°56'04" EAST, 7.73 FEET; THENCE SOUTH 89°07'20" EAST, 43.39 FEET; THENCE SOUTH 45°36'09" EAST, 35.16 FEET; THENCE NORTH 87°25'27" EAST, 97.13 FEET; THENCE NORTH 41°39'42" EAST, 22.26 FEET; THENCE NORTH 00°30'07" WEST, 12.68 FEET; THENCE SOUTH 89°40'36" EAST, 201.92 FEET TO THE SAID WEST RIGHT OF WAY LINE; THENCE SOUTH 01°03'03" WEST ALONG SAID WEST RIGHT OF WAY LINE, 20.40 FEET; TO THE POINT OF BEGINNING, SUBJECT TO ANY AND ALL EASEMENTS APPARENT OR OF RECORD.

WATERMAIN EASEMENT (Continued)

(hereinafter called "Easement Area") for the purpose of the Jurisdiction constructing, reconstructing, repairing, enlarging and maintaining a watermain, together with necessary appurtenances thereto, under, over, through and across said Easement Area.

This Easement is a restatement of the Utility Easement between the same two parties dated June 26, 1981, and filed in Book 52 at Page 345 of the Carroll County Recorder. This Easement and the above-mentioned Easement are now merged and this Watermain Easement shall be the controlling legal document between the parties.

This Easement shall be subject to the following terms and conditions:

1. ERECTION OF STRUCTURES PROHIBITED. Grantor shall not erect any structure over or within the Easement Area without obtaining the prior written approval of the Jurisdiction.

2. CHANGE OF GRADE PROHIBITED. Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the Jurisdiction.

3. RIGHT OF ACCESS. The Jurisdiction shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described, including but not limited to, the right to remove any unauthorized obstructions or structures placed or erected on the Easement Area.

4. EASEMENT RUNS WITH LAND. This Easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

5. LIABILITY. Except as may be caused by the negligent acts or omissions of the Jurisdiction, its employees, agents or its representatives, the Jurisdiction shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor for property damage to any improvements or obstructions thereon resulting from the Jurisdiction's exercise of this Easement. Grantor agrees to indemnify and hold Jurisdiction, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.

6. APPROVAL BY THE JURISDICTION. This Easement shall not be binding until it has received the final approval and acceptance by the Jurisdiction.

Grantor does HEREBY COVENANT with the Jurisdiction that Grantor holds said real estate described in this Easement by title in fee simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenant to WARRANT AND DEFEND the said premises against the lawful claims of all persons whomsoever.

WATERMAIN EASEMENT (Continued)

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

Signed this 12 day of March, 20 20.

St. Anthony Hospital

By: _____

Title: CFO

STATE OF Iowa, COUNTY OF Carroll, ss

On this 12 day of March, 20 20, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared in Carroll Iowa John Munson To me known to be the identical persons named in and who executed the same as their voluntary act and deed.

Alison Bauer

Notary Public in and for Carroll County, Iowa

NOTARIAL SEAL IOWA

ALISON ANN BAUER
Commission Number 771288
MY COMMISSION EXPIRES
1-23-21

APPROVAL BY JURISDICTION

I, Eric P. Jensen, Mayor, do hereby certify that the within and foregoing Easement was duly approved and accepted by the Carroll City Council by Resolution No. _____, passed on the _____ day of _____, 20 _____.

Signed this _____ day of _____, 20 _____.

_____

Eric P. Jensen, Mayor

CONSENT OF MORTGAGEE

KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned, the present holder of a Mortgage, dated the 14th day of November, 20 18, and recorded in the records of the office of the Recorder of CARROLL County, State of IOWA, in Book 2018 at Page 3113 on the 15th day of November, 20 18 does hereby consent to the granting of the foregoing easement and further covenant and agree that its Mortgage shall be subordinated and subject thereto.

Executed this 19th day of March, 2020.

BANK: _____

By Chris A. Mercer

Title: Area Director

By _____

Title: _____

STATE OF IOWA

COUNTY OF BUENA VISTA ss:

On this 19th day of March, 20 20, before me, the undersigned, a Notary Public in and for the State of IOWA personally appeared Chris A. Mercer and _____ to me personally known, who, being by me duly sworn, did say that they are the Area Director and _____ of Bank executing the within and foregoing instrument to which this is attached, that the seal affixed hereto has been procured by said corporation (no seal has been procured by the said corporation); that said instrument was signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said Chris A. Mercer and _____ 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.

Dana M. Davis

Notary Public for the State of Iowa

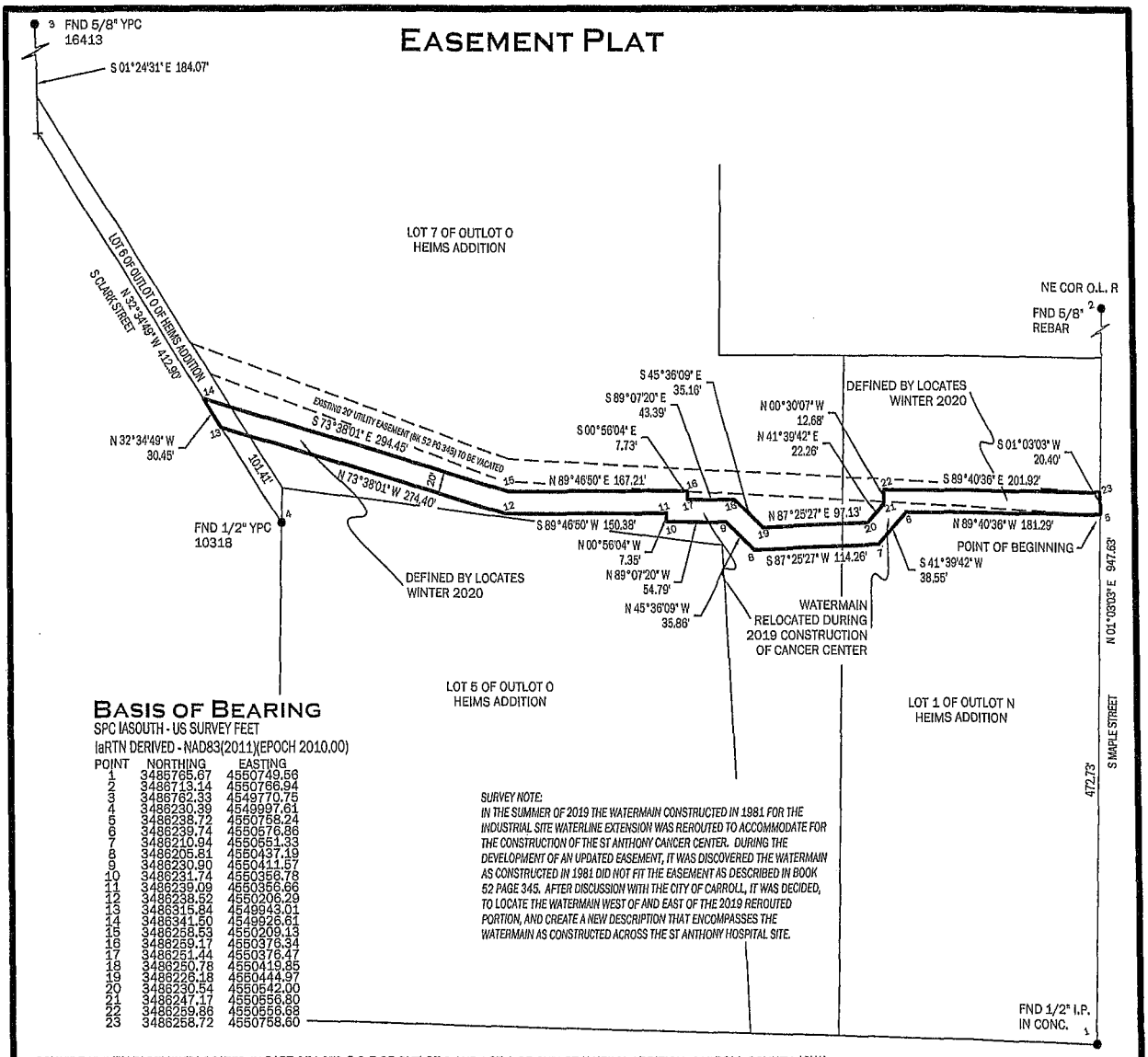
NOTARIAL SEAL IOWA

DANA M. DAVIS
Commission Number 741426
My Commission Expires
June 26, 2021

Index Legend

SURVEYOR'S NAME/RETURN TO:
MIKE SCHULTE, SCHULTE SURVEYING, INC.
2003 390TH STREET, WESTSIDE, IA 51467
712-790-3489 MIKE@SCHULTESURVEY.COM
REQUESTED BY:
CITY OF CARROLL AND ST ANTHONY HOSPITAL
OWNER:
ST ANTHONY HOSPITAL
SURVEY LOCATED:
PART OF LOTS 6 & 7 OF OUTLOT O HEIMS ADDITION
AND PART OF LOT 1 OF OUTLOT N OF HEIMS ADDITION, CARROLL, IOWA
SURVEY DATE: 2020/02/13

Easement Plat



Basis of Bearing

SPC IASOUTH - US SURVEY FEET
IaRTN DERIVED - NAD83(2011)(EPOCH 2010.00)

POINT	NORTHING	EASTING
1	3485765.67	4550749.56
2	3486713.14	4550766.94
3	3486762.33	4549770.75
4	3486230.39	4549997.61
5	3486238.72	4550758.24
6	3486239.74	4550576.86
7	3486210.94	4550551.33
8	3486205.81	4550437.19
9	3486230.90	4550411.57
10	3486231.74	4550356.78
11	3486239.09	4550356.66
12	3486238.52	4550206.29
13	3486315.84	4549943.01
14	3486341.50	4549926.61
15	3486258.53	4550209.13
16	3486259.17	4550376.34
17	3486261.44	4550376.47
18	3486250.78	4550419.85
19	3486226.18	4550444.97
20	3486230.54	4550542.00
21	3486247.17	4550556.80
22	3486259.86	4550556.68
23	3486258.72	4550758.60

SURVEY NOTE:
IN THE SUMMER OF 2019 THE WATERMAIN CONSTRUCTED IN 1981 FOR THE INDUSTRIAL SITE WATERLINE EXTENSION WAS REROUTED TO ACCOMMODATE FOR THE CONSTRUCTION OF THE ST ANTHONY CANCER CENTER. DURING THE DEVELOPMENT OF AN UPDATED EASEMENT, IT WAS DISCOVERED THE WATERMAIN AS CONSTRUCTED IN 1981 DID NOT FIT THE EASEMENT AS DESCRIBED IN BOOK 52 PAGE 345. AFTER DISCUSSION WITH THE CITY OF CARROLL, IT WAS DECIDED, TO LOCATE THE WATERMAIN WEST OF AND EAST OF THE 2019 REROUTED PORTION, AND CREATE A NEW DESCRIPTION THAT ENCOMPASSES THE WATERMAIN AS CONSTRUCTED ACROSS THE ST ANTHONY HOSPITAL SITE.

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Legend

SURVEY	FOUND	SET
SECTION CORNER	▲	△
5/8" REBAR YPC #17979 (UNLESS NOTED)	●	○
MAG NAIL	•	∘
PLATTED DISTANCE	P	
MEASURED DISTANCE	M	
SECTION LINE	— — — —	

0 100 200

PROFESSIONAL LAND SURVEYOR MIKE SCHULTE 17979 IOWA

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

MIKE SCHULTE 2020/02/19 DATE
LICENSE NUMBER: 17979
LICENSE RENEWAL DATE IS DECEMBER 31, 2021
PAGES COVERED BY THIS SEAL: 1 OF 1

PART OF LOTS 6 & 7 OF OUTLOT O AND LOT 1 OF OUTLOT N HEIMS ADDITION

SCHULTE SURVEYING, INC.

DRAWN BY: MLS
PROJ NUMBER: 20-010
SHEET: 1 OF 1
SCALE: 1"= 100'