



Book 1529 Page 139-147

Document 2020 2021 Pages 9
Date 6/26/2020 Time 10:03:37AM
Rec Amt \$47.00

Chg ReRecorded

MELISSA BAHNSEN, RECORDER
CEDAR COUNTY IOWA

RESOLUTION 1893
(RECORDING COVERSHEET)

PREPARED BY LESLIE BRICK, DEPUTY CLERK, CITY OF WEST BRANCH, PO BOX 218, WEST BRANCH, IA
52358 (319) 643-5888

RETURN TO: LESLIE BRICK, CITY OF WEST BRANCH, PO BOX 218, WEST BRANCH, IA 52358

Grantor/Grantee: See Page 3

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Book 1518 Page 193-199

Document 2020 1219 Pages 7

Date 4/27/2020 Time 10:20:46AM

Rec Amt \$37.00

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MELISSA BAHNSEN, RECORDER
CEDAR COUNTY IOWA

RESOLUTION 1893
(RECORDING COVERSHEET)

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Grantor/Grantee: See Page 2

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RESOLUTION NO. 1893

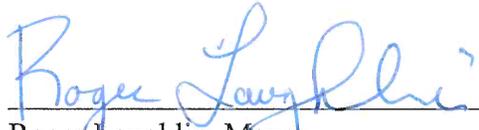
RESOLUTION APPROVING THAT CERTAIN EASEMENT AGREEMENT WITH THE FOBIAN BROTHERS IN CONNECTION WITH THE COLLEGE STREET BRIDGE PROJECT.

WHEREAS, in accordance with a request from the Iowa Department of Transportation, the City Attorney and City Engineer negotiated an easement with Fobian Brothers, an Iowa general partnership, in connection with the College Street Bridge Project; and

WHEREAS, it is now necessary to approve said easement agreement.

NOW, THEREFORE, It Is Resolved by the Council of the City of West Branch, Iowa, that the aforementioned easement agreement with the Fobian Brothers is hereby accepted and approved. Further, the City Clerk is hereby directed to record a copy of said easement agreement in the Office of the Cedar County Recorder's Office.

Passed and approved this 20th day of April, 2020.



Roger Laughlin, Mayor

ATTEST:



Redmond Jones II, City Administrator/Clerk

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Preparer

Information: Kevin Olson

Name Street Address City,State,Zip Area Code-Phone

When Recorded Return to:

City of West Branch 110 North Poplar Street PO Box 218 West Branch, Iowa 52358 319-643-5888

Name Street Address City,State,Zip Area Code-Phone

EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS that the undersigned property owner (hereinafter called "Grantor"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby convey unto the CITY OF WEST BRANCH, IOWA, a municipal corporation (hereinafter called "City"), a perpetual easement and right-of-way under, over, on, through, across and within the following described real estate:

(hereinafter called "Easement Area"), for the purpose of the City constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining a bridge, roadway, sidewalk and storm sewer, together with all necessary structures and appurtenances thereto, under, over, on, through, across and within said Easement Area.

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

1. **ERECTION AND PLACEMENT OF STRUCTURES, OBSTRUCTIONS, PLANTINGS OR MATERIALS PROHIBITED.** Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through across or within the Easement Area without obtaining the prior written consent of the City.
2. **CHANGE OF GRADE PROHIBITED.** Grantor and its grantees, assigns and transferees shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees. In the event that the Grantor's property is redeveloped and the storm sewer is no longer needed as part of said redevelopment, the storm sewer can be abandoned and the City will vacate the easement as part of the redevelopment process.

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3. **RIGHT OF ACCESS.** The City 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 from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.
4. **MAINTENANCE.** The City shall not be responsible for any maintenance of the land located within the Easement Area whatsoever and that responsibility shall remain with the Grantor, its grantees, assigns or transferees. The City may, however, perform such maintenance should it determine in its sole discretion such maintenance is needed. The City shall maintain the concrete storm sewer area intake and the storm sewer between the concrete storm sewer area intake and College Street. The Grantor shall be responsible for maintenance of the storm sewer between the concrete area intake and the intake installed adjacent to the existing grain bins.
5. **PROPERTY TO BE RESTORED.** The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees or shrubs). The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area, except as outlined in Paragraph 4 above.
6. **LIABILITY.** Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City 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 City's exercise of this Easement. Grantor agrees to indemnify and hold City, 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.
7. **EASEMENT BENEFIT.** This Easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.
8. **EASEMENT RUNS WITH LAND.** This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns. In the event that the Grantor's property is redeveloped and the storm sewer is not needed for the redevelopment, the storm sewer can be abandoned and the City will vacate said easement.

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9. **CONSENT AND SUBORDINATION OF MORTGAGE HOLDER.** Hills Bank and Trust Company is the holder of a Real Estate Mortgage dated February 17, 2015, and recorded February 25, 2015, in Book 1256 on Pages 245-260 of the Cedar County records. By signing this Agreement, Hills Bank and Trust Company, its successors and assigns consents to the terms of this easement agreement and hereby subordinates its interest in the Easement Area to the interest of the City and its successors and assigns.
10. **APPROVAL BY CITY COUNCIL.** This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

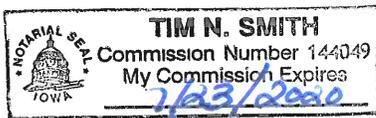
Grantor does HEREBY COVENANT with the City that (i) Grantor holds said real estate described in this Easement by title in fee simple; (ii) that Grantor has good and lawful authority to convey the same; and (iii) said Grantor covenants to WARRANT AND DEFEND the said premises against the claims of all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

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Easement.

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 31st day of March, 2020

Fobian Brothers



By [Signature]
 Name: Kenneth W Fobian
 Title: Owner - Partner

Appropriate Notary Added Here (for Grantor)

Consented to by Hills Bank Trust Co.



By [Signature]
 Name: Tim N. Smith
 Title: SVP

Appropriate Notary Added Here (for Mortgagee)

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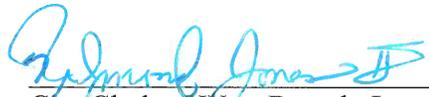
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ACCEPTANCE BY CITY

STATE OF IOWA)
) SS
COUNTY OF)

I, Redmond Jones II City Clerk of the City of West Branch, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City of West Branch by Resolution No. 1893, passed on the 20th day of April, 2020 and this certificate is made pursuant to authority contained in said Resolution.

Signed this 21 day of April, 2020.



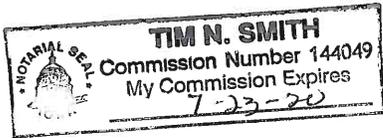
City Clerk of West Branch, Iowa

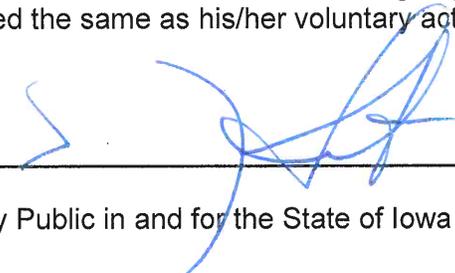
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State of Iowa)
)ss:
Johnson County)

On this 1st day of April, 2020, before me, the undersigned, a Notary Public In and for said county and state, personally appeared Kenneth W Fobian to me personally known, to be the identical person named in and who executed the within and foregoing instrument, and acknowledged that he/she executed the same as his/her voluntary act and deed.



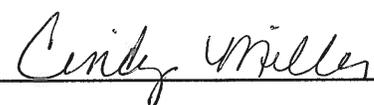


Notary Public in and for the State of Iowa

State of Iowa)
)ss:
Johnson County)

On this 1st day of April, 2020, before me, the undersigned, a Notary Public In and for said county and state, personally appeared Tim N. Smith, to me personally known, who being by me duly sworn, did say that they are the Senior Vice President of said corporation executing the within and foregoing instrument; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Tim N. Smith as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.





Notary Public in and for the State of Iowa

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Exhibit A

PERPETUAL STORM SEWER & TEMPORARY CONSTRUCTION EASEMENT FOR THE CITY OF WEST BRANCH, IOWA

PREPARED BY: VEENSTRA & KIMM INC. - 860 22nd AVENUE, SUITE 4 - CORAVILLE, IOWA 52241-1565 - (319) 466-1000

PROJECT NAME: BRIDGE REPLACEMENT CCS
PROJECT NUMBER: BROS-8252(605)-8J-16

Perpetual Easement Description
A perpetual storm sewer easement located in that part of the SW1/4 of Section 5, Township 79 North, Range 4 West of the 5th P.M., West Branch, Cedar County, Iowa as recorded in Book 437, Page 167 of the Cedar County Records. Said perpetual easement being more particularly described as:
Commencing at the SW Corner of that part of the SW1/4, retracement survey recorded in Book 5, Page 194 of the Cedar County Records; thence N 15°46'55"W, 15.00 feet along the westerly line of said part of the SW1/4; thence N57°06'07"E, 64.34 feet to the Point of Beginning, said point labelled as P.O.B. Prop. Eas.; thence N00°02'11"W, 23.47 feet; thence N67°33'20"W, 39.74 feet; thence N22°26'40"E, 11.12 feet; thence Northeastly 21.35 feet along a 26.61 foot radius curve concave Northeastly and having a chord which bears N87°09'13"E, 20.78 feet; thence S67°33'20"E, 34.31 feet; thence S00°02'11"E, 23.42 feet; thence S55°06'07"W, 24.09 feet to the Point of Beginning. Said perpetual easement contains 1,284 square feet.

Temporary Easement Description
A temporary construction easement located in that part of the SW1/4 of Section 5, Township 79 North, Range 4 West of the 5th P.M., West Branch, Cedar County, Iowa as recorded in Book 437, Page 167 of the Cedar County Records. Said temporary easement being more particularly described as:
Commencing at the SW Corner of that part of the SW1/4, retracement survey recorded in Book 5, Page 194 of the Cedar County Records; thence N 15°46'55"W, 15.00 feet along the westerly line of said part of the SW1/4 to the Point of Beginning, said point labelled as P.O.B. Temp. Eas.; thence N15°46'55"W, 75.92 feet along said westerly line; thence N74°13'05"E, 43.19 feet; thence Northeastly 21.35 feet along a 26.61 foot radius curve concave Northeastly and having a chord which bears N87°09'13"E, 20.78 feet; thence N74°13'05"E, 46.56 feet to a point on the easterly line of said part of the SW1/4; thence S15°46'55"E, 35.28 feet along said easterly line; thence S55°06'07"W, 115.74 feet to the Point of Beginning; excluding therefrom the perpetual storm sewer easement as described above. Said temporary easement contains 4,794 square feet.

LINE	BEARING	DISTANCE
L1	N00°02'11"W	23.47'
L2	N67°33'20"W	39.74'
L3	N22°26'40"E	11.12'
L4	S67°33'20"E	34.31'
L5	S00°02'11"E	23.42'
L6	S55°06'07"W	24.09'

- LEGEND**
- FOUND PROPERTY CORNER AS NOTED
 - △ FOUND SECTION CORNER AS NOTED
 - () RECORD DISTANCE OR BEARING
 - ▨ PERPETUAL STORM SEWER EASEMENT 1,284 SQ. FT.
 - ▨ TEMPORARY CONSTRUCTION EASEMENT 4,794 SQ. FT.
 - PARCEL BOUNDARY
 - PROPERTY LINE
 - EASEMENT LINE
 - SECTION LINE
 - ROW LINE
 - ROAD CENTERLINE
 - PROPRIETOR: FOSMAN BROTHERS

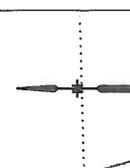
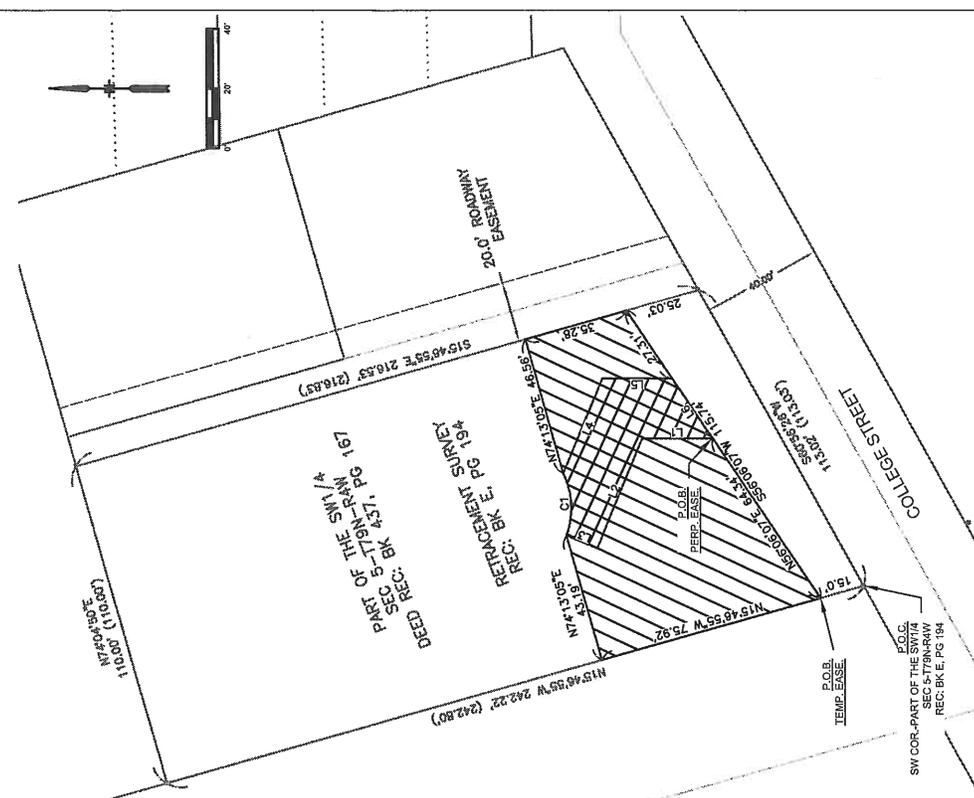
CURVE	ARC LENGTH	DELTA	RADIUS	CHORD BEARING	CHORD DISTANCE
C1	21.35'	45°57'46"	26.61'	N87°09'13"E	20.78'

DATE	REVISIONS	SCALE	AS NOTED	VERIFY SCALE
		AS SHOWN	AS NOTED	AS SHOWN
		CHECKED	BY	BY
		APPROVED	DATE	DATE
			11-13-2019	



COLLEGE STREET BRIDGE REPLACEMENT
CITY OF WEST BRANCH, IOWA
860 22nd Avenue • Suite 4 • Coraville, Iowa 52241-1565
319-466-1000 • 319-466-1008(FAX) • 866-241-8001(MVTS)

PERPETUAL STORM SEWER EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FOR THE CITY OF WEST BRANCH, IOWA
DWG. NO. PE-05
PROJECT 388227



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