

**BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA**

12/001592

**RESOLUTION APPROVING RIGHT OF ENTRY AGREEMENT WITH OPPD FOR 114TH STREET
CONSTRUCTION PROJECT.**

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, County of Sarpy desires to enter into a Right of Entry agreement with Omaha Public Power District (OPPD) for commencement of public road improvements to 114th Street as shown on attached "Right of Entry Agreement"; and,

WHEREAS, said attached agreement is in the best interests of the citizens of Sarpy County Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves and adopts the Right of Entry Agreement, a copy of which is attached, for the commencement of public road improvements to 114th Street in Sarpy County Nebraska.

BE IT FURTHER RESOLVED that the Chairman of this Board, together with the County Clerk, is hereby authorized to sign the Right of Entry Agreement with OPPD, on behalf of this Board a copy of which is attached, and any other related documents, the same being approved by the Board.

The above and foregoing Resolution was duly approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on this 2nd day of October, 2012.

ATTEST:



Debra J. Houghtaling

Sarpy County Clerk

Reese H.

Sarpy County Board Chairman

Memo

To: Sarpy County Board

From: Dennis L. Wilson, P.E., PhD



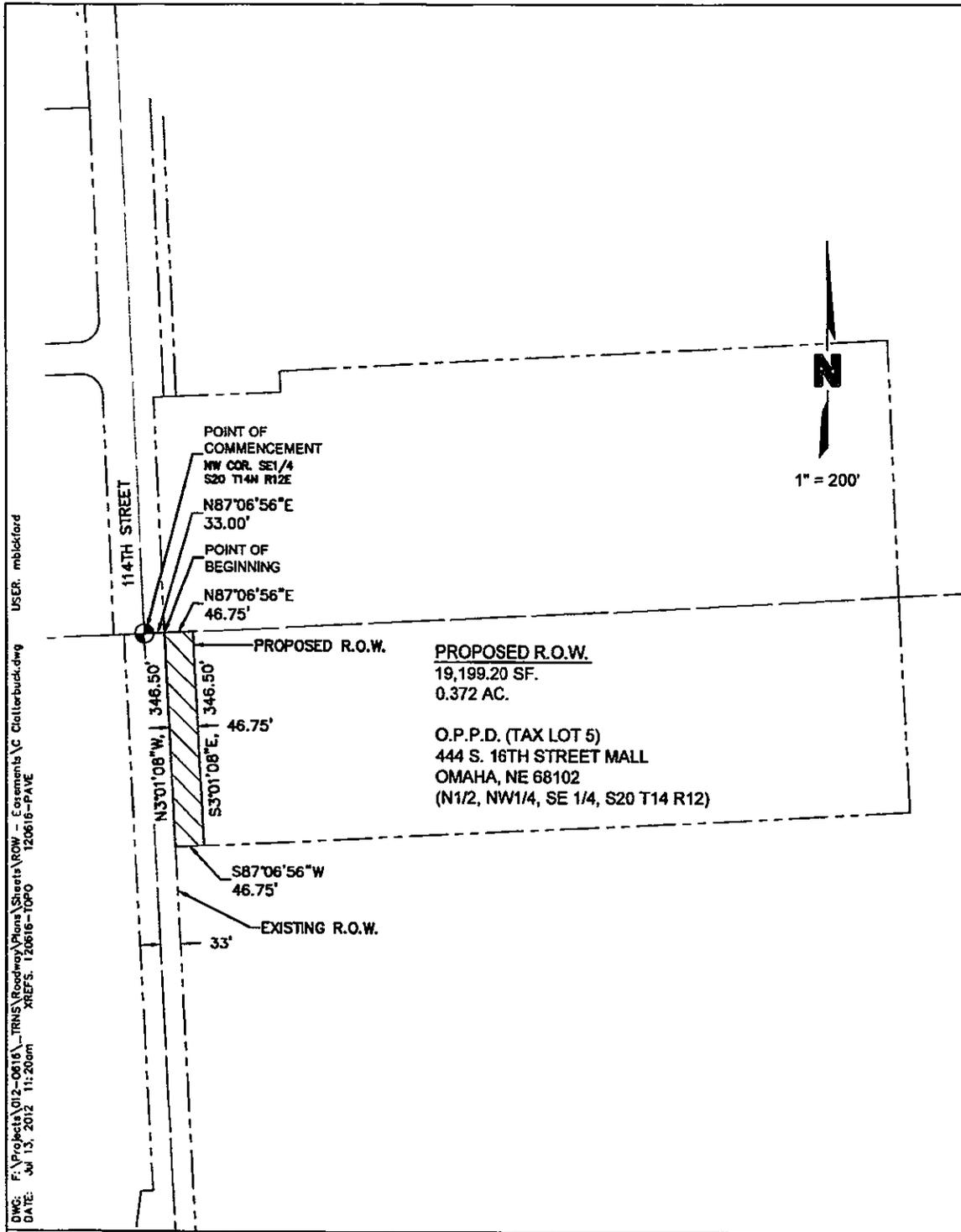
CC:

Date: 10/1/2012

Re: 114th Street; Omaha Public Power District (OPPD) Right of Entry

Sarpy County Public Works is requesting approval of the attached resolution that will provide access to the necessary parcels owned by OPPD for construction of the 114th Street project currently underway. The document requests that Sarpy County enter into negotiations with OPPD to acquire property associated with Tax Lot 1C in addition to Tax Lot 5. Tax Lot 5 is required for construction of the current project.

A portion of Tax Lot 1C was to have been acquired previously in connection with the improvements to 114th Street south of the current project, however this property was never purchased. It is the intent of Sarpy County Public Works to work with OPPD to acquire all of the necessary parcels including those for the current project and that land previously negotiated for but not acquired.



PROJECT NO: 012-0616
DRAWN BY: MDB
DATE: 7/13/2012

**RIGHT-OF-WAY
ACQUISITION**

OLSSON
ASSOCIATES

2111 South 67th Street
Suite 200
Omaha, NE 68106
TEL 402.341.1116
FAX 402.341.5895

EXHIBIT
B1

DMC: F:\Projects\012-0616 - TRNS\Roadway\Plans\Sheets\ROW - Easements\C\Clatterbuck.dwg USER mblickford
 Jul 13, 2012 11:20am XREFS: 120618--TOPD 120618--PAVE

LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A RIGHT-OF-WAY ACQUISITION LOCATED IN TAX LOT 5 IN THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

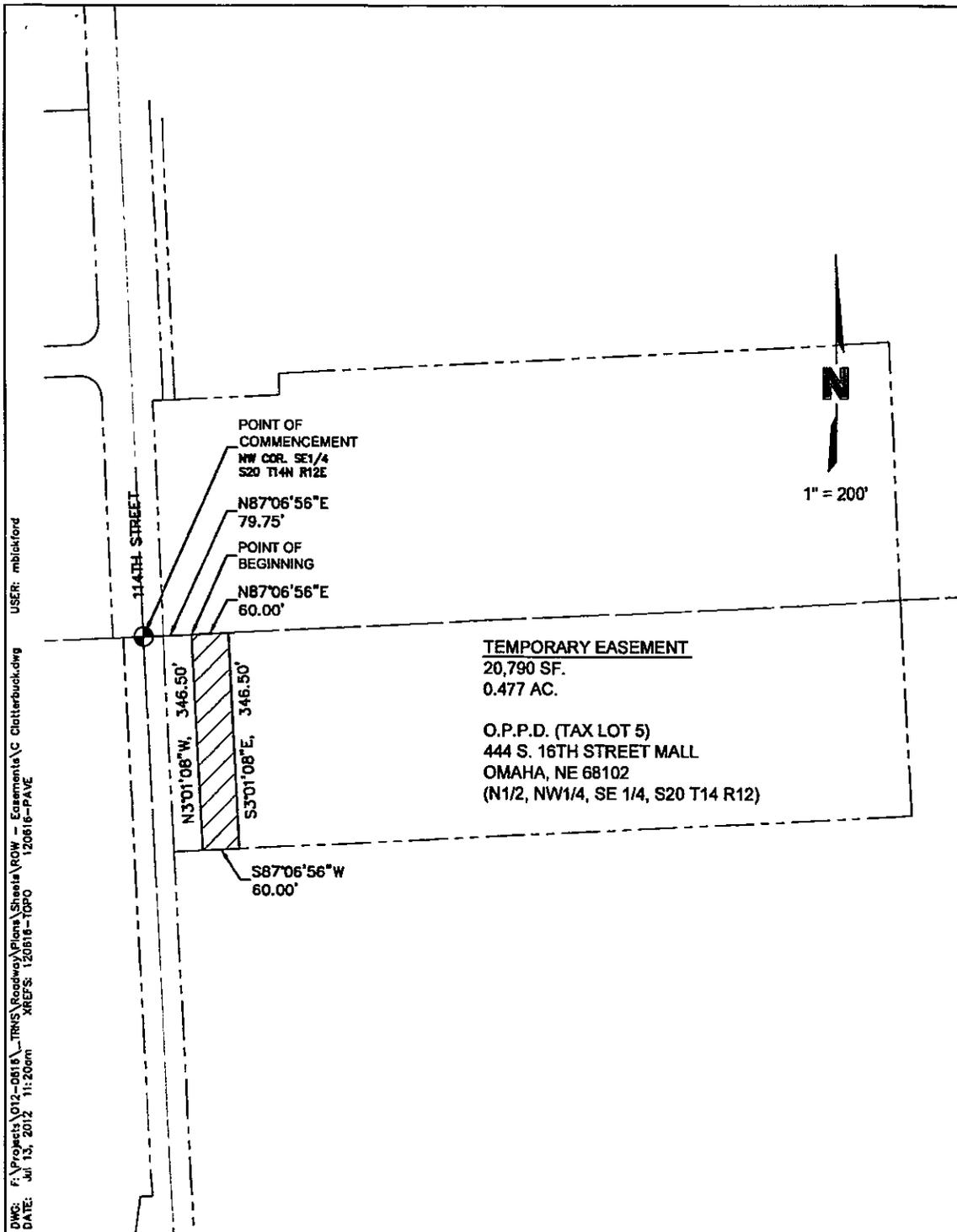
COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 20; THENCE EASTERLY ON AN ASSUMED BEARING OF N87°06'56"E ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 20, A DISTANCE OF 33.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF 114TH STREET SAID POINT ALSO BEING THE NORTHWEST CORNER OF TAX LOT 5, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING N87°06'56"E ALONG SAID NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 20 AND ALONG THE NORTH LINE OF SAID TAX LOT 5 A DISTANCE OF 46.75 FEET; THENCE S03°01'08"E, PARALLEL WITH SAID EAST RIGHT-OF-WAY LINE OF 114TH STREET SAID LINE ALSO BEING PARALLEL WITH THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 20, A DISTANCE OF 346.50 FEET TO A POINT ON THE SOUTH LINE OF SAID TAX LOT 5; THENCE S87°06'56"W, ALONG SAID SOUTH LINE OF TAX LOT 5 A DISTANCE OF 46.75 FEET TO SAID EAST RIGHT-OF-WAY LINE OF 114TH STREET SAID LINE ALSO BEING THE WEST LINE OF SAID TAX LOT 5; THENCE N03°01'08"W, ALONG SAID EAST RIGHT-OF-WAY LINE OF 114TH STREET AND ALONG SAID WEST LINE OF TAX LOT 5, PARALLEL WITH SAID WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 20, A DISTANCE OF 346.50 FEET TO THE POINT OF BEGINNING, SAID RIGHT-OF-WAY ACQUISITION CONTAINS A CALCULATED AREA OF 19,199.20 SQUARE FEET OR 0.372 ACRES MORE OR LESS.

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DATE 7/13/2012

**RIGHT-OF-WAY
ACQUISITION**

	2111 South 67th Street Suite 200 Omaha, NE 68106 TEL 402.341.1116 FAX 402.341.5955
	ASSOCIATES

EXHIBIT
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TEMPORARY CONSTRUCTION EASEMENT

OLSSON
 ASSOCIATES

2111 South 87th Street
 Suite 200
 Omaha, NE 68106
 TEL: 402.341.1116
 FAX: 402.341.5895

EXHIBIT
B2

LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TEMPORARY CONSTRUCTION EASEMENT LOCATED IN TAX LOT 5 IN THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 20; THENCE EASTERLY ON AN ASSUMED BEARING OF N87°06'56"E ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 20, A DISTANCE OF 79.75 FEET TO A POINT ON THE PROPOSED EAST RIGHT-OF-WAY LINE OF 114TH STREET SAID POINT ALSO BEING ON THE NORTH LINE OF TAX LOT 5, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING N87°06'56"E ALONG SAID NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 20 AND ALONG SAID NORTH LINE OF TAX LOT 5, A DISTANCE OF 60.00 FEET; THENCE S03°01'08"E, PARALLEL WITH SAID PROPOSED EAST RIGHT-OF-WAY LINE OF 114TH STREET, SAID LINE ALSO BEING PARALLEL WITH THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 20, A DISTANCE OF 346.50 FEET TO A POINT ON THE SOUTH LINE OF SAID TAX LOT 5; THENCE S87°06'56"W, ALONG SAID SOUTH LINE OF TAX LOT 5, A DISTANCE OF 60.00 FEET TO SAID PROPOSED EAST RIGHT-OF-WAY LINE OF 114TH STREET; THENCE N03°01'08"W, ALONG SAID PROPOSED EAST RIGHT-OF-WAY LINE OF 114TH STREET, PARALLEL WITH SAID WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 20, A DISTANCE OF 346.50 FEET TO THE POINT OF BEGINNING, SAID TEMPORARY CONSTRUCTION EASEMENT CONTAINS A CALCULATED AREA OF 20,790 SQUARE FEET OR 0.477 ACRES MORE OR LESS.

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PROJECT NO: 012-0616	TEMPORARY CONSTRUCTION EASEMENT	 OLSSON ASSOCIATES	2111 South 67th Street Suite 200 Omaha, NE 68106 TEL 402.341.1115 FAX 402.341.5895	EXHIBIT
DRAWN BY: MDB			B2	
DATE: 7/13/2012				

RIGHT OF ENTRY AGREEMENT

THIS RIGHT OF ENTRY AGREEMENT ("Agreement") is entered into by and between, OMAHA PUBLIC POWER DISTRICT (the "DISTRICT"), and the SARPY COUNTY, NEBRASKA (the "COUNTY").

WHEREAS, the DISTRICT owns that part of TAX LOT 5 and TAX LOT 1C in Section 20, Township 14 North, Range 12 East of the 6th P.M., SARPY County, Nebraska (the "PROPERTY");

WHEREAS, the COUNTY is in the process of negotiating terms with the DISTRICT for certain right-of-way acquisition and temporary easements over and across the areas described in Exhibit "A" attached hereto (collectively, the "RIGHT-OF-WAY AREAS"), to widen 114th Street and appurtenances thereto on the PROPERTY within the RIGHT-OF-WAY AREAS;

WHEREAS, the current location of 114th Street encroaches on TAX LOT 1C owned by the DISTRICT. It is agreed and understood that the COUNTY will work with the DISTRICT to concurrently acquire the necessary permanent rights on said TAX LOT 1C under the same terms and conditions proposed for the acquisition of the RIGHT-OF-WAY AREAS on TAX LOT 5 by the COUNTY.

WHEREAS, the COUNTY desires to gain permission to make entry onto the RIGHT-OF-WAY AREAS for the purposes of performing the following actions thereon: surveying, temporary storage of materials, excavate and refill a trench, drive construction equipment, and perform other activities directly related and necessary to construct said project (collectively, the "AUTHORIZED PURPOSES").

NOW THEREFORE, for and in consideration of the mutual promises herein contained to be kept, observed and performed, the parties agree as follows:

1. Upon execution of this Agreement, the COUNTY, its agents, employees, contractors and/or representatives, may make entry upon the RIGHT-OF-WAY AREAS on or after the 1st day of October 2012, solely for the performance of the AUTHORIZED PURPOSES.
2. This Agreement will terminate at 12:01 a.m. on the day which is sixty (60) days following the date upon which the last of the parties executes this Agreement; or upon the execution of a purchase agreement and temporary easements as outlined within this Agreement. On or before the termination of this agreement the COUNTY will remove any and all equipment from the property.
3. The COUNTY shall be responsible for any damages to the RIGHT-OF-WAY AREAS and/or the PROPERTY caused by the COUNTY, its agents, employees, contractors and/or representatives, occurring during the term of this Agreement.
4. The COUNTY, its agents, employees, contractors and/or representatives, may store its associated equipment upon the RIGHT-OF-WAY AREAS during the term of this Agreement; provided that, at no point shall the COUNTY, its agents, employees, contractors and/or representatives store or use any hazardous materials upon the PROPERTY and/or RIGHT-OF-WAY AREAS. The COUNTY acknowledges that it is aware the PROPERTY is an electrical substation. The COUNTY agrees to indemnify, defend and save the DISTRICT harmless from and against any and all damages, losses, liabilities and claims (including reasonable costs of litigation and reasonable attorney fees) alleged against or incurred by the DISTRICT, for property damage, personal injury or death to persons (including, without limitation, third parties and the COUNTY's servants, agents, employees, contractors and/or representatives) arising out of or in connection with the COUNTY's use of the RIGHT-OF-WAY AREAS or performance under this Agreement.
5. The COUNTY, its agents, employees and contractors shall coordinate with the DISTRICT so as to not restrict the DISTRICT's access to the entire PROPERTY.
6. No claim for damages for wrongful entry or trespass shall be made by the DISTRICT against the COUNTY regarding the property located within the RIGHT-OF-WAY AREAS.
7. The DISTRICT for itself and its assigns and successors, does confirm upon said COUNTY and its assigns, that they are owners of the above described PROPERTY and that they have the right to grant and convey this right of entry in the manner and form aforesaid and they will and/or their assigns and successors shall warrant and defend this right of entry to said COUNTY and its assigns against the lawful claims and demands of all persons.

8. The COUNTY shall provide and maintain the following insurance coverage's for its provision of work on RIGHT-OF-WAY AREAS. Except as otherwise expressly set forth herein, the COUNTY shall require each of its subcontractors to provide the same insurance described in this Paragraph 8. The COUNTY and its Subcontractors shall provide evidence of insurance as requested by the DISTRICT to confirm that these requirements are satisfied.

i. Commercial General Liability Insurance

The COUNTY shall maintain commercial general liability insurance, including coverage for rigger's liability, products and completed operations liability, contractual liability, liability from independent contractors, property damage liability, bodily injury liability, personal injury liability and if requested by the District, explosion collapse underground hazard (XC&U), with limits of \$2,000,000 per occurrence, and \$5,000,000 annual aggregate. The coverage shall be written on an occurrence basis.

ii. Business Automobile Insurance

The COUNTY shall maintain business auto insurance for any owned, non-owned, hired, or rented vehicle with a limit of \$2,000,000 combined single limit for bodily injury and property damage liability. The limit may be satisfied by a combination of primary and excess insurance.

iii. Workers Compensation & Employers Liability Insurance

The COUNTY shall maintain statutory workers compensation insurance in accordance with the laws of the state where such compensation is payable. Contractor shall also maintain employers' liability insurance with limits of \$1,000,000 per accident and \$1,000,000 each employee for injury by disease.

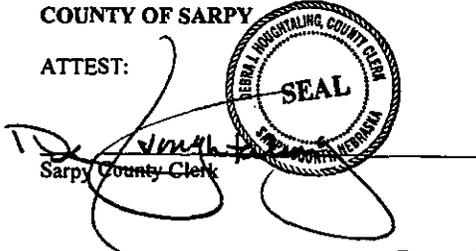
iv. General Requirements

The District shall be an additional named insured, under the COUNTY's commercial general liability insurance as required under Paragraph 8(i) and an additional insured under the business automobile insurance required under Paragraph 8(ii). In the event of a loss arising out of or related to the COUNTY's or its subcontractor's performance of work hereunder, all insurance required under Paragraph 8 of this Section shall be primary (pay first) with respect to any other insurance which may be available to the DISTRICT, regardless of how the "other insurance" provisions may read. The COUNTY shall be responsible for insuring all of its own personal property, tools and equipment.

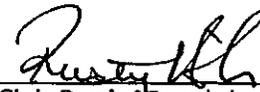
IN WITNESS WHEREOF said COUNTY and DISTRICT has or have hereunto set his or their hand(s) this 14th day of October, 2012.

COUNTY OF SARPY

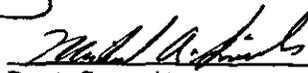
ATTEST:


Sarpy County Clerk



By:  10/2/12
Chair, Board of Commissioners

APPROVED AS TO FORM:


Deputy County Attorney

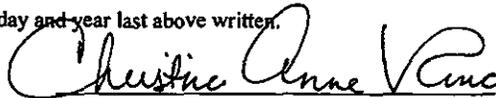
STATE OF NEBRASKA)
COUNTY OF SARPY)

On this 2nd day of October, 2012, before me, a Notary Public in and for said County, personally came Chairman Rusty Hite

to who is personally known to me to be the identical person whose name is affixed to the above instrument and acknowledged the instrument to be his, her voluntary act and deed for the purpose therein stated.

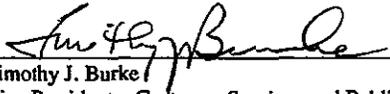
WITNESS my hand and Notarial Seal the day and year last above written.

Notary Seal:


NOTARY PUBLIC



OMAHA PUBLIC POWER DISTRICT, a Municipal Corporation and Political Subdivision of the State of Nebraska



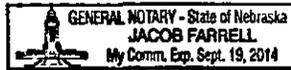
Timothy J. Burke
Vice President – Customer Services and Public Affairs

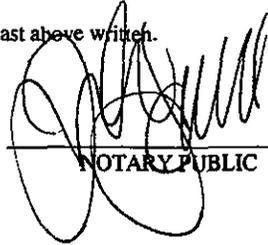
STATE OF NEBRASKA)
COUNTY OF DOUGLAS)

On this 11th day of OCTOBER, 2012, before me, a Notary Public, in and for said County, personally came the above named: Timothy J. Burke, Vice President – Customer Services and Public Affairs for Omaha Public Power District who is personally known to me to be the identical person whose name is affixed to the above instrument and acknowledged the instrument to be his, her voluntary act and deed for the purpose therein stated.

WITNESS my hand and Notarial Seal the day and year last above written.

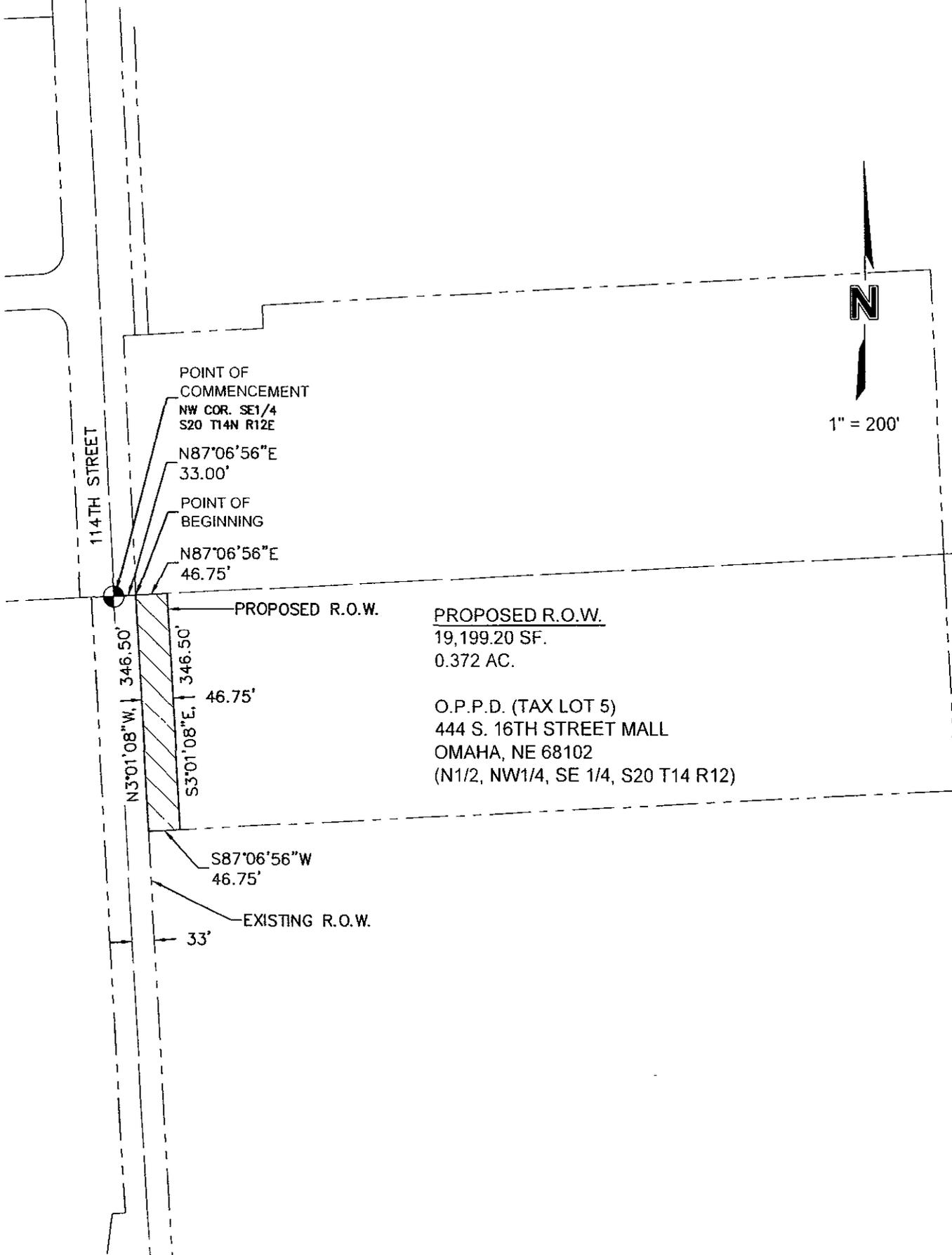
Notary Seal:





NOTARY PUBLIC

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PROJECT NO: 012-0616
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DATE: 7/13/2012

RIGHT-OF-WAY ACQUISITION

MOLSSON
ASSOCIATES

2111 South 67th Street
Suite 200
Omaha, NE 68106
TEL 402 341 1116
FAX 402 341.5895

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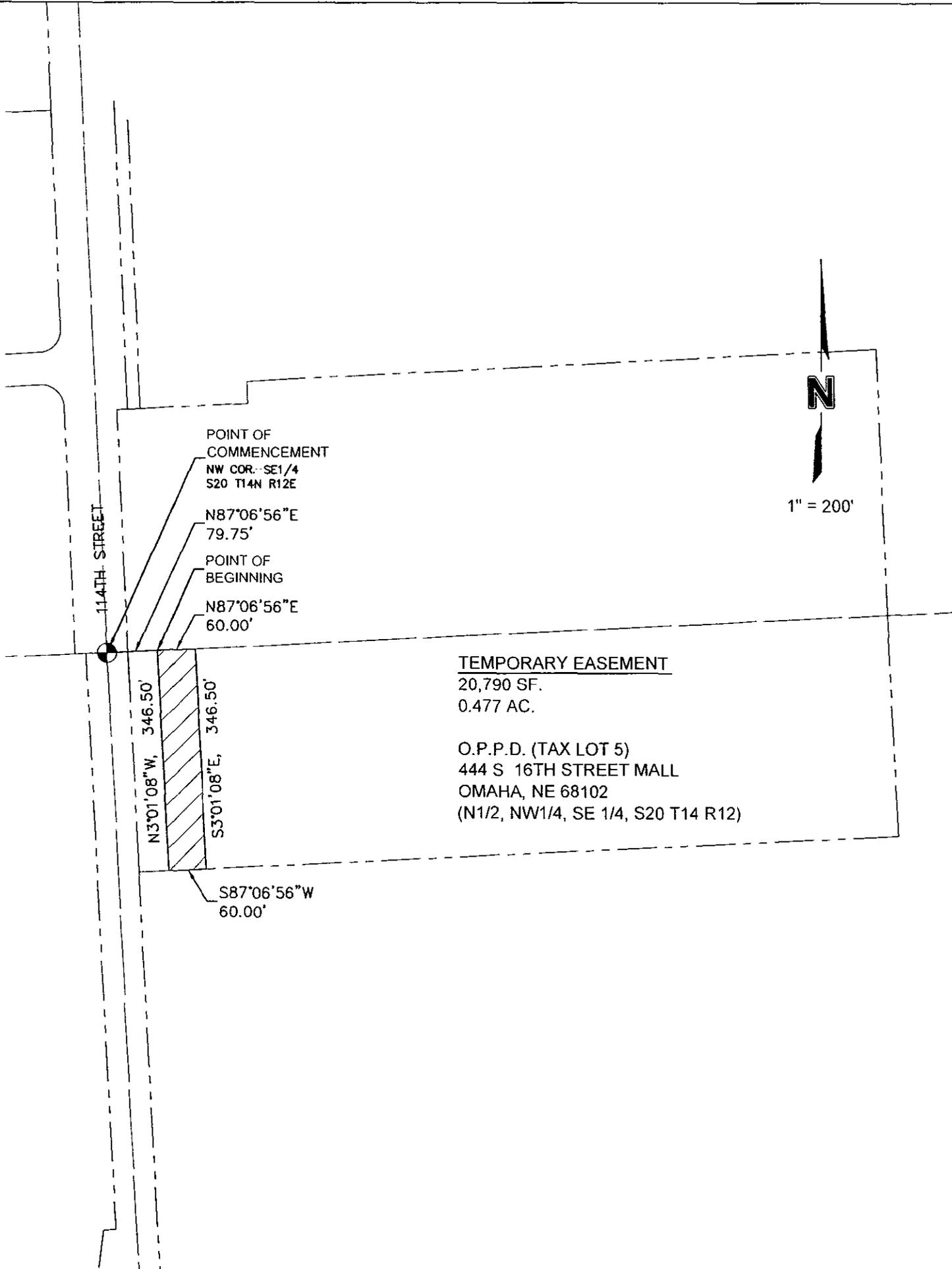
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