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

**RESOLUTION AUTHORIZING CHAIRMAN TO SIGN AGREEMENT WITH OPPD TO ACQUIRE A PERMANENT EASEMENT FOR STORM SEWER NEAR 114<sup>TH</sup> STREET**

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2012), 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 2012), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the Omaha Public Power District (OPPD) has proposed and agreement by which OPPD would grant a permanent easement to be used for the construction of a Storm Sewer on OPPD property near 114<sup>th</sup> Street a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT, pursuant to the statutory authority set forth above, the Chairman of this Board, together with the County Clerk, be and hereby are authorized to execute on behalf of this Board an agreement with OPPD for a permanent storm sewer easement, a copy of which is attached hereto.

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 21<sup>st</sup> day of May, 2013.



Jim Wane  
Sarpy County Board Chairman

Renee Lunsman Chief Deputy  
Sarpy County Clerk

2013-16868

05/29/2013 12:10:07 PM

*Lloyd J. Dowding*

REGISTER OF DEEDS

COUNTER	<u>D</u>	C.E.	<u>D</u>
VERIFY	<u>D</u>	D.E.	<u>D</u>
PROOF	_____		
FEE \$	<u>N/C</u>		
CHECK#	_____		
CHG	_____	CASH	_____
REFUND	_____	CREDIT	_____
SHORT	_____	NCR	_____



**THIS PAGE ADDED  
FOR RECORDING  
INFORMATION.**

**DOCUMENT STARTS ON  
NEXT PAGE.**

**LLOYD J. DOWDING**

SARPY COUNTY REGISTER OF DEEDS

Steven J. Stastny, Deputy

1210 GOLDEN GATE DRIVE, STE 1109

PAPILLION, NE 68046-2895

402-593-5773

## PERMANENT STORM SEWER EASEMENT

*KNOW ALL MEN BY THESE PRESENTS:*

THAT **OMAHA PUBLIC POWER DISTRICT**, a public corporation and municipal subdivision of the State of Nebraska, hereinafter referred to as GRANTOR, (whether one or more) for and in consideration of the sum of EIGHT HUNDRED SEVENTEEN & NO/100 DOLLARS (\$817.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto **SARPY COUNTY, Nebraska**, a Municipal Corporation, hereinafter referred to as the COUNTY, a non-exclusive permanent storm sewer easement for the right to construct, maintain and operate a storm sewer drainage structure, in, through, and under the parcel of land described as follows to-wit (the "Easement Area"):

### SEE ATTACHED EXHIBIT "A" PERMANENT EASEMENT LEGAL DESCRIPTION

The GRANTOR and the COUNTY agree as follows:

- 1) The COUNTY acknowledges and agrees that the GRANTOR currently has certain improvements and other structures in, on and over the Easement Area, as such improvements and other structures may be improved and modified from time to time in the future (collectively, the "Existing Improvements"). The COUNTY's easement granted herein shall be subordinate to the Existing Improvements and the COUNTY shall not cause any damage to such Existing Improvements.
- 2) GRANTOR reserves the right, privilege and authority to make any materially new or additional improvements in the Easement Area (collectively, the "Future Improvements"); provided, that, GRANTOR will (i) work collaboratively with the COUNTY in order to inform itself of the COUNTY's future planned improvements within the Easement Area and avoid potential conflicts in the Easement Area, and (ii) use commercially reasonable efforts to minimize the impact of such improvements on any planned improvements then-known and/or reasonably anticipated by the COUNTY.
- 3) The Existing Improvements, any Future Improvements and any trees, grass or shrubbery placed within the Easement Area by GRANTOR shall be maintained by GRANTOR, its heirs, successors or assigns.
- 4) That the COUNTY will repair, replace or rebuild, at the GRANTOR's election and at the COUNTY's cost and expense, any and all damage to the Existing Improvements and/or the Future Improvements caused by the COUNTY, its agents, employees, contractors and/or representatives during its exercise of its rights under this Easement. Without limiting the generality of the foregoing, the COUNTY shall also be responsible for any damages to the Easement Area and/or the parcel(s) of real property upon which the Easement Area is located (the "Property") or improvements located thereon, caused by the COUNTY, its agents, employees, contractors and/or representatives.
- 5) The COUNTY shall maintain, or cause to be maintained, the Easement Area in good condition and repair with reasonable drainage, as intended by the parties, at the COUNTY's cost and expense. In addition, at the GRANTOR's request, the COUNTY will repair, rebuild, remove and/or re-grade GRANTOR's adjacent property that has been damaged (in GRANTOR's reasonable discretion) by any erosion and/or sediment from the storm sewer drainage structure. If the COUNTY fails to

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maintain the Easement Area as herein provided, GRANTOR may, at its option, after giving the COUNTY five (5) days prior written notice, perform or have performed such maintenance on the Easement Area and/or the GRANTOR's adjacent property as it deems is necessary.

- 6) If the GRANTOR undertakes such maintenance due to the failure of the COUNTY to perform the same, the reasonable costs incurred by the GRANTOR for such maintenance shall be paid by the COUNTY to the GRANTOR upon demand.
- 7) The COUNTY agrees to indemnify, defend and save the GRANTOR 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 GRANTOR, for property damage, personal injury or death to persons (including, without limitation, third parties and the GRANTOR's servants, agents, employees, contractors and/or representatives) arising out of or in connection with the COUNTY's use of the Easement Area or performance under this Easement.
- 8) The COUNTY, its agents, employees and contractors shall coordinate with GRANTOR so as to not restrict the GRANTOR's access to the entire Property.
- 9) The COUNTY, its agents, employees, contractors and/or representatives agree to follow GRANTOR's Safety and Access Rules and Regulations for the Property, as amended by GRANTOR from time to time, at all times while on the Easement Area.
- 10) All ingress and egress by the COUNTY, its agents, employees, contractors and/or representatives to the Easement Area shall be upon the Easement Area and/or across public rights-of-way. Neither the County, nor its agents, employees, contractors or representatives shall have ingress or egress rights upon the Property other than upon the Easement Area.
- 11) The County may use contractors, agents, employees, and/or representatives in order to perform its work within the Easement Area in accordance with and subject to the conditions of this Easement.
- 12) That COUNTY shall cause any trench or excavation of the Easement Area to be properly refilled and the soil to be settled in order to cause the premises to be left in a neat and orderly condition in the manner and at the grade in which the property was received by the COUNTY.
- 13) That said GRANTORS for themselves and their heirs, executors and administrators do confirm with the said COUNTY and its assigns, including public utility companies and their assigns, that they, the GRANTORS are well seized in fee of the above described property and that they have the right to grant and convey this easement in the manner and form aforesaid, and that they will, and their heirs, executors and administrators, shall warrant, and defend this permanent easement to said COUNTY and its assigns including public utility companies and their assigns against the lawful claims and demands of all persons. This permanent easement runs with the land.
- 14) The COUNTY shall provide and maintain the following insurance coverage's for its provision of work on the Easement Area. Except as otherwise expressly set forth herein, the COUNTY shall require each of its subcontractors to provide the same insurance described in this Paragraph. The COUNTY and its subcontractors shall provide evidence of insurance as requested by GRANTOR 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.

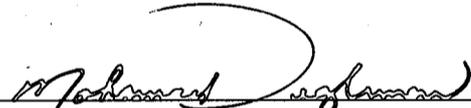
iv. General Requirements

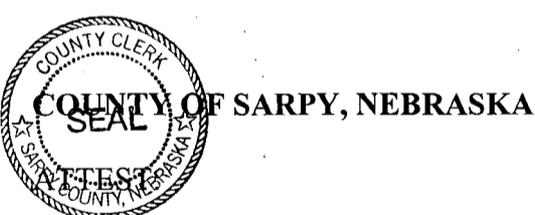
GRANTOR shall be an additional named insured, under the COUNTY's commercial general liability insurance as required under Paragraph 13(i) and an additional insured under the business automobile insurance required under Paragraph 13(ii). In the event of a loss arising out of or related to the COUNTY's 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.

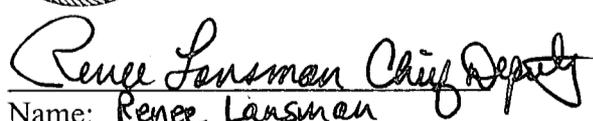
- 15) GRANTOR may assign its rights under this Easement upon written notice to the COUNTY. The COUNTY shall not be allowed to assign its rights and obligations under this Easement to any other party without the written consent of GRANTOR which consent shall not be unreasonably withheld.
- 16) That this instrument contains the entire agreement of the parties; that there are no other or different agreements or understandings, except a Special Warranty Deed with Easement Reservations and a Temporary Construction Easement, between the GRANTOR and the COUNTY or its agents; and that the GRANTOR, in executing and delivering this instrument, has not relied upon any promises, inducements, or representations of the COUNTY or its agents or employees, except as are set forth herein and therein.

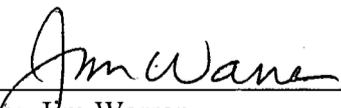
IN WITNESS WHEREOF, the said party of the first part has hereunto and presents to be signed by its respective officer this 11<sup>th</sup> day of MARCH, 2013.

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

  
\_\_\_\_\_  
Mohamad I. Doghman  
Vice President – Energy Delivery & CCO



  
\_\_\_\_\_  
Name: Renee Lansman  
Sarpy County Clerk

 5-21-2013  
\_\_\_\_\_  
Name: Jim Warren  
Chair, Board of Commissioners

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DEPUTY COUNTY ATTORNEY

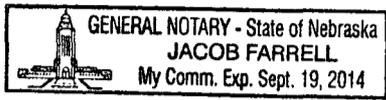
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STATE OF NEBRASKA)

COUNTY OF DOUGLAS)

On this 1<sup>st</sup> day of MARCH, 2013, before me, a Notary Public, in and for said County, personally came the above named: **Mohamad I. Doghman, Vice President Energy Delivery and CCO 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 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:

*[Handwritten Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEBRASKA )

COUNTY OF )

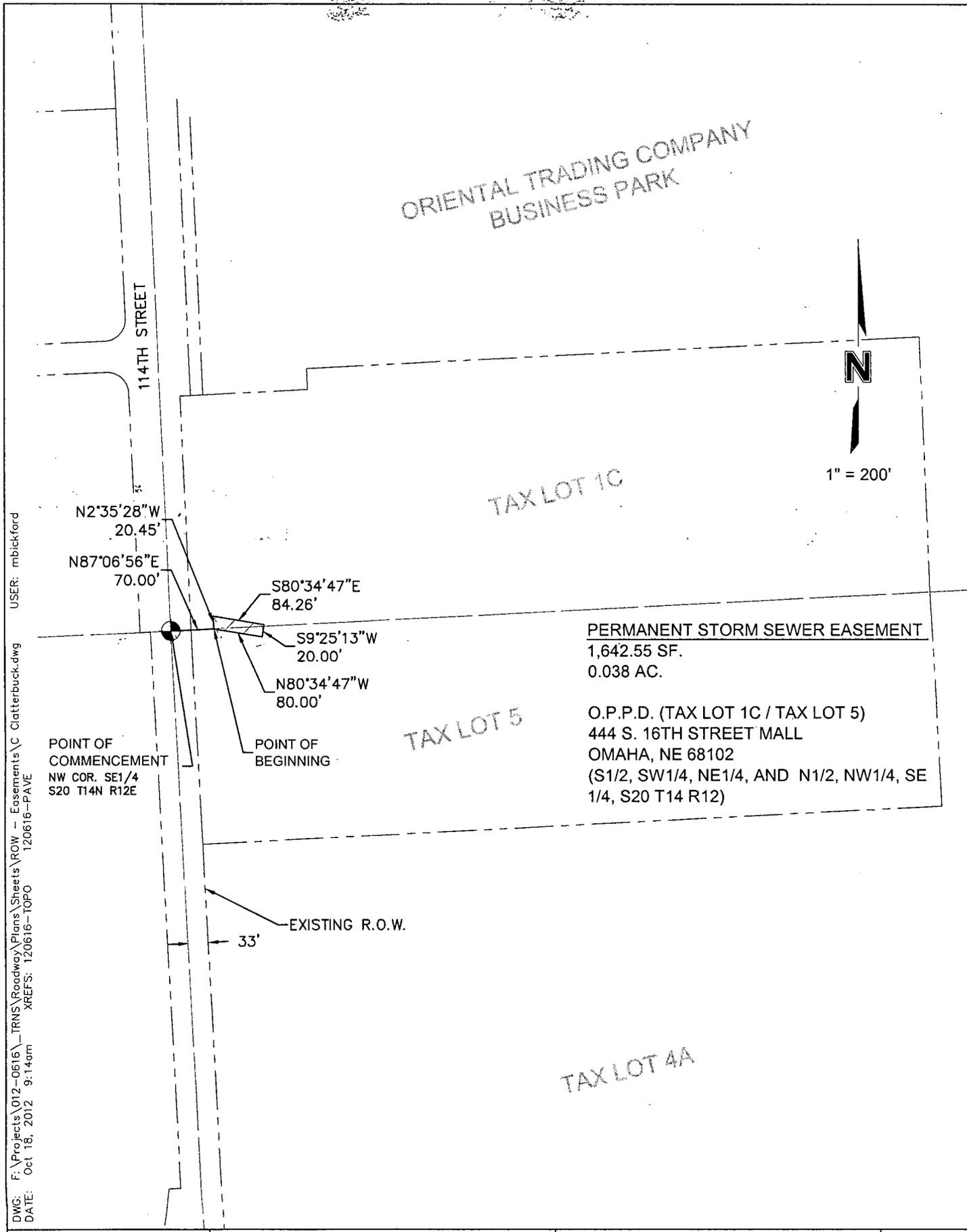
On this 21<sup>st</sup> day of ~~MARCH~~ May, 2013, before me, a Notary Public in and for said County, personally came **Jim Warren, Chairman of the Sarpy County Board of Commissioners, Nebraska**, who is personally known to me to be the identical person whose name is affixed to the above instrument and acknowledged the instrument to be his, her voluntary act and deed for the purpose therein stated.

Notary Seal:



*[Handwritten Signature: Christine Anne Vance]*  
\_\_\_\_\_  
NOTARY PUBLIC

F



USER: mbickford  
 DWG: F:\Projects\012-0616\TRNS\Roadway\Plans\Sheets\ROW - Easements\C Clatterbuck.dwg  
 DATE: Oct 18, 2012 9:14am  
 XREFS: 120616-10PO 120616-PAVE

PROJECT NO: 012-0616
DRAWN BY: MDB
DATE: 10/18/2012

**PERMANENT STORM  
SEWER EASEMENT**

**MOLSSON**  
ASSOCIATES

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

EXHIBIT <b>A1</b>
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EXHIBIT "A"  
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**PERMANENT STORM SEWER EASEMENT LEGAL DESCRIPTION**

A LEGAL DESCRIPTION FOR A PERMANENT EASEMENT FOR STORM SEWER, LOCATED IN TAX LOT 5 IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, AND IN TAX LOT 1C IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, ALL IN SECTION 20, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6<sup>TH</sup> P.M., SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 20; THENCE EASTERLY ON AN ASSUMED BEARING OF N87°06'56"E ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 20, A DISTANCE OF 70.00 FEET TO THE **POINT OF BEGINNING**; THENCE N02°35'28"W, A DISTANCE OF 20.45 FEET; THENCE S80°34'47"E, A DISTANCE OF 84.26 FEET; THENCE S09°25'13"W, A DISTANCE OF 20.00 FEET; THENCE N80°34'47"W, A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING, SAID PERMANENT EASEMENT CONTAINS A CALCULATED AREA OF 1,642.55 SQUARE FEET OR 0.038 ACRES, MORE OR LESS.