

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 7, 2024 AGENDA**

Subject:	Type:	Submitted By:
RIGHT OF WAY AGREEMENT – CITY OF OMAHA	◆ RESOLUTION ORDINANCE RECEIVE/FILE	PAT DOWSE CITY ENGINEER

SYNOPSIS

A resolution has been prepared to approve the Right of Way Agreement with the City of Omaha for certain permanent and temporary easements related to the construction of City of Omaha Public Works' Giles Road Syphon Replacement – South 110th Street and Harry Anderson Avenue project, and to provide maintenance access for said sanitary sewer assets upon completion of the project.

FISCAL IMPACT

The City of Omaha is to compensate the City of La Vista \$6,970 for said easements.

RECOMMENDATION

Approval.

BACKGROUND

As part of the City of Omaha's Giles Road Syphon Replacement – South 110th and Harry Anderson Avenue project, the City of Omaha is acquiring temporary and permanent easement to construct and then to maintain said replacement syphon via accessing the City of La Vista owned Parcel 011572173, or Outlot A, Harrison Hills at approximately 118th Street and Olvie Street. As the Omaha sewer outfall serves many residences and business within the Extra Territorial Jurisdiction and Corporate Limits of the City of La Vista, Public Works supports and recommends these easements be executed.

The agreement and easements are attached.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A RIGHT OF WAY AGREEMENT WITH THE CITY OF OMAHA FOR CERTAIN PERMANENT AND TEMPORARY EASEMENTS.

WHEREAS, the Mayor and City Council of the City of La Vista find it necessary to do certain permanent and temporary easements related to the construction, operation, and maintenance of certain sanitary sewer improvements for the City of Omaha, Nebraska; and

WHEREAS, these sanitary sewer improvements are necessary to the extend the service life of the sewer while providing sufficient access for operations and maintenance of said sewer assets; and

WHEREAS, the City of Omaha is to compensate the City of La Vista \$6,970.00 for said easements; and

WHEREAS, these sanitary sewer improvements are mutually beneficial to the City of La Vista as certain properties within the City Corporate Limits and Extraterritorial Jurisdiction are served by said sanitary sewer outfall; and

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Right of Way Agreement with the City of Omaha for certain permanent and temporary easements sanitary sewer improvements near the southeast corner of Outlot A, Harrison Hills in a form satisfactory to the City Administrator or designee.

PASSED AND APPROVED THIS 7TH DAY OF MAY 2024.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

City of Omaha, Nebraska
 Public Works Department
 Design Division
 ROW Section
 Kyle Dworak - *Real Estate Specialist*

FOR OFFICE USE ONLY	
Fed. Project No.:	0 0
Project Name:	Giles Road Siphon Replacement - South 110th and Harry Anderson Avenue
City Project No.:	OPW 53538
Tract No.:	2
Parcel Address:	PIN 011572173

RIGHT OF WAY AGREEMENT AND ACCEPTANCE CORPORATION

THIS RIGHT OF WAY AGREEMENT AND ACCEPTANCE, hereinafter known as "Agreement," is made and entered into this _____ day of _____ 2024 by and between **City of La Vista, a Municipal Corporation in the State of Nebraska**, hereinafter known as "GRANTOR," and the **City of Omaha, Nebraska**, a Municipal Corporation, hereinafter known as "GRANTEE."

WITNESSETH:

WHEREAS, GRANTOR is the owner of certain real property which is legally described as Outlot A, Harrison Hills, City of La Vista, Sarpy County, Nebraska, as indicated by Sarpy County Register of Deeds Instrument No. 011572173 ("Property"), and

WHEREAS, for the consideration herein expressed and as complete consideration for the grant of the following applicable nonexclusive property rights, land acquisition, and/or easement(s) legally described in Exhibit 1 attached hereto, GRANTEE agrees to pay GRANTOR the following:

Permanent Easement	\$2,900.00
Temporary Easement	\$4,070.00
TOTAL AMOUNT	\$6,970.00

(together the Permanent Easement and Temporary Easement sometimes are referred to herein as "Easements", and areas encompassed within the Easements shall be referred to as "Easement Areas"). It is further agreed as follows:

- 1) That GRANTEE agrees to purchase the applicable nonexclusive property rights, land acquisition, and/or easement(s), as listed above, over, under, across, and through the Property for ingress, egress and connection with the construction of **Giles Road Siphon Replacement - South 110th and Harry Anderson Avenue** ("Project") upon the delivery of the applicable documents in the form of an executed Warranty Deed (land acquisition), Permanent Easement, and/or Temporary Easement. If so desired, GRANTOR shall have the right to receive 100% of the final payments due under this Agreement prior to vacating the Property being acquired for a total land acquisition, if applicable.
- 2) That it is agreed and understood that upon payment of said consideration GRANTEE is hereby granted an immediate nonexclusive right of entry upon the Property.
- 3) That GRANTEE acknowledges that (i) the Property and GRANTOR's interest in the Property may be subject to rights or interests of other persons ("Third Party Interests"), and (ii) GRANTOR does not give any representations, warranties or guarantees regarding any such Third Party Interests or their affect on the Easements or rights of GRANTEE under such Easements.

- 4) That GRANTOR agrees not to subsequently encumber the aforementioned property rights, land acquisition, and/or easement(s), nor create any other interests therein, in a manner that interferes with GRANTEE'S rights granted under the Easements.
- 5) GRANTEE shall construct, maintain, replace and repair all improvements and carry out all work within the Easement Areas in a good and workmanlike manner, condition and repair.
- 6) Rights granted pursuant to this Agreement shall be subject to any improvements, access, use, or rights with respect to the Property or Easement Areas existing on the date that GRANTOR delivers the Easements to GRANTEE ("Preexisting Improvements or Uses"), and GRANTEE, in any access, use, work or improvements within the Easement Areas or in connection with the Easements, shall not damage, destroy, or interfere with any such Preexisting Improvements or Uses, or any other property, improvements or rights.
- 7) GRANTEE agrees to indemnify and defend GRANTOR, its affiliates, and its and their respective members, partners, directors, officials, officers, employees, and agents from and against any causes of action, claims, costs or expenses ("Claims") which arise out of occupation and use of the Easement Area by GRANTEE, its employees, agents, or contractors, including without limitation defending at GRANTEE'S expense any Claims which may be asserted against the property in the Easement Area or by any person claiming an interest in the Easement Area, unless such Claims are caused by the negligence of GRANTOR, its partners, directors, officers, employees, contractors, or agents. In so agreeing to this section 7, neither party waives any privileges, rights, defenses, procedural safeguards, claim prerequisites, or immunities it has under the Political Subdivisions Tort Claims Act., Neb. Rev. Stat. § 13-901, et seq., and other Nebraska statutes and laws, including, but not limited to Neb. Rev. Stat. § 14-804, et seq and 16-726 et seq. Further, GRANTEE does not agree to pay for any attorney fees, costs, or expenses for legal counsel not employed by GRANTEE.
- 8) That this Agreement shall be binding on both parties as soon as it is executed by both parties, but should none of the above real estate be required, this Agreement shall terminate upon the payment of \$10.00 by GRANTEE to GRANTOR.
- 9) That this Agreement may be executed in more than one copy, each copy of which, however, shall serve as an original for all purposes, but all copies shall constitute one and the same Agreement.
- 10) That the consideration amount listed in this Agreement shall also be listed on each respective Permanent Easement, Temporary Easement, and/or Purchase Agreement (land acquisition), as applicable, which are incorporated into this document herein by reference, and under no circumstances shall payment be made twice.
- 11) Provisions of this Agreement shall survive notwithstanding any closing or provisions of the Easements or any other agreements, documents or instruments to the contrary, except if such contrary provisions expressly refer to this Section 11, or if this Agreement is terminated pursuant to Section 8 above.

**THIS IS A LEGAL AND BINDING AGREEMENT, CONTINGENT UPON THE
FOLLOWING CONDITIONS - PLEASE READ IT.**

The representative of the Public Works Department, City of Omaha, Nebraska, in presenting this Agreement has given GRANTOR a copy and explained all of its provisions. A complete understanding and explanation have been given of the terminology, phrases, and statements contained in this Agreement. It is understood that no promises, verbal agreements, or understandings, except as set forth in this Agreement, will be honored by the Public Works Department, City of Omaha, Nebraska. GRANTEE reserves the absolute right to terminate this Agreement at any time prior to the payment of the above stated consideration, but in no event later than 60 days after the execution of this Agreement.

IN WITNESS WHEREOF, the said party of the first part has hereunto (caused its Corporate Seal to be affixed) and these presents to be signed by its respective officers this _____ day of _____, 2024.

City of La Vista
(Name of Corporation)

AUTHORIZED OFFICER:

AUTHORIZED OFFICER:

(Print Name and Title)

(Print Name and Title)

Signature

Signature

CORPORATE ACKNOWLEDGMENT

STATE OF _____)) SS
COUNTY OF _____)

(Corporate Seal)

On this _____ day of _____, 2024, before me, a Notary Public
in and for said County, personally came

(Name/Title)

of **City of La Vista, a Municipal Corporation in the State of Nebraska, and**

(Name/Title)

of said Corporation, to me personally known to be the respective officers of said corporation and the identical persons whose names are affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as such officers and the voluntary act and deed of said Corporation, and the Corporate Seal of said Corporation to be thereto affixed by its authority.

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

Notary Seal:

NOTARY PUBLIC

CITY OF OMAHA PUBLIC WORKS DEPARTMENT

Real Estate Specialist

Date

ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 2024, before me, a Notary Public, in and for said County, personally came the above named:

Real Estate Specialist

who is (are) personally known to me to be the identical person(s) whose name(s) is (are) affixed to the above instrument and acknowledged the instrument to be his, her, or their 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

EXHIBIT 1

TEMPORARY EASEMENT LEGAL DESCRIPTION

A PART OF OUTLOT A, HARRISON HILLS, A SUBDIVISION IN SARPY COUNTY, NEBRASKA AND DESCRIBED AS FOLLOWS:

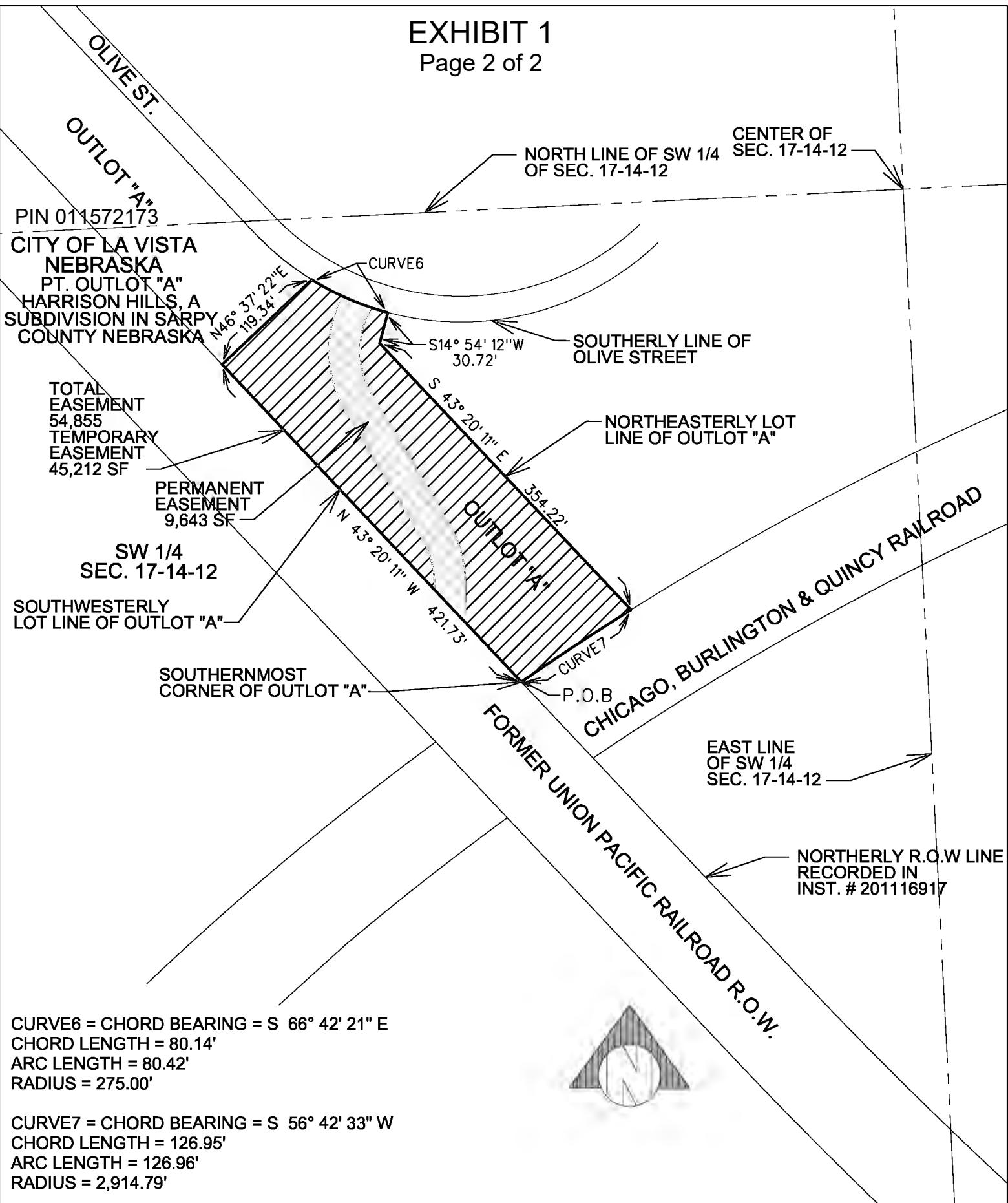
BEGINNING AT THE SOUTHERNMOST CORNER OF SAID OUTLOT A; THENCE NORTH 43°20'11" WEST ALONG THE SOUTHWESTERLY LOT LINE OF SAID OUTLOT A, 421.73 FEET; THENCE NORTH 46°37'22" EAST, 119.34 FEET TO A POINT OF CURVATURE ON THE SOUTHERLY LINE OF OLIVE STREET; THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY LINE ON A 275.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY WITH AN ARC LENGTH OF 80.42 FEET AND WHOSE CHORD BEARS SOUTH 66°42'21" EAST, 80.14 FEET TO THE NORTHEASTERLY CORNER OF SAID OUTLOT A; THENCE SOUTH 14°54'12" WEST ALONG THE EASTERLY LINE OF SAID OUTLOT A, 30.72 FEET; THENCE SOUTH 43°20'11" EAST ALONG SAID EASTERLY LINE, 354.22 FEET TO THE SOUTHEASTERLY CORNER OF OUTLOT A AND TO A POINT OF CURVATURE ON THE NORTHERLY LINE OF CHICAGO, BURLINGTON AND QUINCY RAILROAD RIGHT OF WAY; THENCE SOUTHWESTERLY ALONG SAID NORTHERLY LINE ON A 2,914.79 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY WITH AN ARC LENGTH OF 126.96 FEET AND WHOSE CHORD BEARS SOUTH 56°42'33" WEST, 126.95 FEET TO THE POINT OF BEGINNING AND CONTAINING 54,855 SQUARE FEET, MORE OR LESS, INCLUDING 9,643 SQUARE FEET, MORE OR LESS, OF PERMANENT EASEMENT.

CITY OF OMAHA PUBLIC WORKS DEPARTMENT

Owner(s): THE CITY OF LA VISTA NEBRASKA		 Temporary Easement: _____ 45,212 S.F.
Address: PIN 011572173		Project No. OPW 53538
Project Name: Giles Rd Siphon Replacement - S. 110th & Harry Anderson Ave		
Tract No. 2	Date Prepared: 9/19/2022	Revision Date(s):
		Page 1 of 2

EXHIBIT 1

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CITY OF OMAHA - PUBLIC WORKS DEPARTMENT



TEMPORARY EASEMENT: 45,212 S.F.

TRACT NO.: 2

PROJECT NO.: OPW 53538

PREPARE DATE: 9/19/2022 REVISION DATE:

EXHIBIT 1

PERMANENT EASEMENT LEGAL DESCRIPTION

A PART OF OUTLOT A, HARRISON HILLS, A SUBDIVISION IN SARPY COUNTY, NEBRASKA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERNMOST CORNER OF SAID OUTLOT A; THENCE NORTH 43°20'11" WEST ALONG THE SOUTHWESTERLY LOT LINE OF SAID OUTLOT A, 78.60 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHWESTERLY LOT LINE NORTH 43°20'11" WEST, 43.88 FEET; THENCE NORTH 0°12'43" WEST, 6.04 FEET; THENCE NORTHERLY ALONG A 85.00 FOOT RADIUS CURVE CONCAVE WESTERLY WITH AN ARC LENGTH OF 45.55 FEET AND WHOSE CHORD BEARS NORTH 15°33'56" WEST, 45.01 FEET; THENCE NORTH 30°55'08" WEST, 143.06 FEET; THENCE NORTHERLY ALONG A 115.00 FOOT RADIUS CURVE CONCAVE EASTERLY WITH AN ARC LENGTH OF 116.72 FEET AND WHOSE CHORD BEARS NORTH 1°50'40" WEST, 111.77 FEET TO A POINT OF CURVATURE ON THE SOUTHERLY LINE OF OLIVE STREET; THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY LINE ON A 275.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY WITH AN ARC LENGTH OF 30.21 FEET AND WHOSE CHORD BEARS SOUTH 68°25'58" EAST, 30.20 FEET; THENCE SOUTHERLY ALONG A 85.00 FOOT RADIUS CURVE CONCAVE EASTERLY WITH AN ARC LENGTH OF 89.24 FEET AND WHOSE CHORD BEARS SOUTH 0°50'29" EAST, 85.20 FEET; THENCE SOUTH 30°55'08" EAST, 143.06 FEET; THENCE SOUTHERLY ALONG A 115.00 FOOT RADIUS CURVE CONCAVE WESTERLY WITH AN ARC LENGTH OF 61.63 FEET AND WHOSE CHORD BEARS SOUTH 15°33'56" EAST, 60.90 FEET; THENCE SOUTH 0°12'43" EAST, 38.07 FEET TO THE POINT OF BEGINNING AND CONTAINING 9,643 SQUARE FEET, MORE OR LESS.

CITY OF OMAHA PUBLIC WORKS DEPARTMENT

Owner(s):	THE CITY OF LA VISTA NEBRASKA	 Permanent Easement:	9,643 S.F.
Address:	PIN 011572173	Project No.	OPW 53538
Project Name:		Giles Rd Siphon Replacement - S. 110th & Harry Anderson Ave	
Tract No.	2	Date Prepared:	9/19/2022
Revision Date(s):			Page 1 of 2

FOR OFFICE USE ONLY	
Fed. Project No.:	0 0
Project Name:	Giles Road Siphon Replacement - South 110th and Harry Anderson Avenue
City Project No.:	OPW 53538
Tract No.:	2
Parcel Address:	PIN 011572173

TEMPORARY EASEMENT CORPORATION

KNOW ALL MEN BY THESE PRESENTS:

THAT **City of La Vista, a Municipal Corporation in the State of Nebraska**, hereinafter referred to as "GRANTOR," (whether one or more) for and in consideration of the sum of **Four thousand seventy and 00/100 dollars (\$4,070.00)** and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto the **City of Omaha, Nebraska**, a Municipal Corporation, hereinafter referred to as "GRANTEE," and to its successors, contractors, and assigns, including public utilities and their contractors and assigns, a nonexclusive Temporary Easement ("Easement") legally described in Exhibit 1 attached hereto ("Easement Area") for the right to enter upon and use for working space, and appurtenances thereto, for the construction of **Giles Road Siphon Replacement - South 110th and Harry Anderson Avenue** ("Project"), in, under, and through the parcel of land legally described as Outlot A, Harrison Hills, City of La Vista, Sarpy County, Nebraska, as indicated by Sarpy County Register of Deeds Instrument No. **011572173**, ("Property")

It is further agreed as follows:

- 1) That this Easement runs with the land and terminates thirty (30) days after the improvement is completed, with the total duration of actual use of this Easement not to exceed 1.5 year(s) or 548 calendar days from the date construction begins.
- 2) That should GRANTEE experience delays in the construction or delivery of materials for the proposed improvements, GRANTEE may, at its discretion and with a written notification to GRANTOR, extend the term of this Easement up to an additional (24) twenty-four months. Notice to extend the term of this Easement shall be from GRANTEE to GRANTOR at least 30 days in advance of the expiration of the initial term of this Easement. In the event GRANTEE exercises this option, GRANTOR shall be paid additional consideration based on the per diem rate of the original offer.
- 3) That said Easement is granted upon the condition that GRANTEE, in connection with construction of the Project, may remove or cause to be removed all presently existing improvements thereon, including but not limited to crops, vines, gardens, lawns, and trees within the Easement Area as necessary for construction; provided, GRANTEE shall replace and restore all such improvements to the condition and quality existing before such construction commenced.
- 4) That GRANTEE shall cause any trench made on said Easement Area to be properly refilled and shall cause the area or any improvements removed or disturbed under or otherwise in connection with this Temporary Easement Agreement ("Agreement") to be replaced and restored to like condition upon completion of construction or work in the Easement Area, and to the condition and quality existing before the trench, construction or work commenced.

- 5) That this Easement is also for the benefit of, and shall be binding on, any contractor, agent, employee, public utility company, or representative of GRANTEE in connection with the Project.
- 6) That said GRANTOR and its heirs, executors, and administrators, does confirm with said GRANTEE and its successors, contractors, and assigns, including public utilities and their contractors and assigns, that GRANTOR is well-seized in fee of the Property, and that they have the right to grant and convey this Easement in the manner and form aforesaid.
- 7) That GRANTEE reserves the absolute right to terminate this Agreement at any time prior to the payment of the above stated consideration, but in no event later than 60 days after the execution of this Agreement.
- 8) That it is agreed and understood that GRANTEE is hereby granted an immediate right of entry upon the Property solely for the purposes of furthering the Project described herein, and subject to all other provisions of this Agreement.
- 9) That this Agreement shall be binding on both parties as soon as it is executed by both parties, but should none of the above real estate be required, this Agreement shall terminate upon the payment of \$10.00 by GRANTEE to GRANTOR.

NOTARY AND SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the said party of the first part has hereunto (caused its Corporate Seal to be affixed) and these presents to be signed by its respective officers this _____ day of _____, 2024.

City of La Vista
(Name of Corporation)

AUTHORIZED OFFICER:

AUTHORIZED OFFICER:

(Print Name and Title)

(Print Name and Title)

Signature

Signature

CORPORATE ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

(Corporate Seal)

On this _____ day of _____, 2024, before me, a Notary Public
in and for said County, personally came

(Name/Title)

of City of La Vista, a Municipal Corporation in the State of Nebraska, and

(Name/Title)

(Name/Title)

of said Corporation, to me personally known to be the respective officers of said corporation and the identical persons whose names are affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as such officers and the voluntary act and deed of said Corporation, and the Corporate Seal of said Corporation to be thereto affixed by its authority.

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

Notary Seal:

NOTARY PUBLIC

CITY OF OMAHA PUBLIC WORKS DEPARTMENT

Real Estate Specialist

Date

EXHIBIT 1

TEMPORARY EASEMENT LEGAL DESCRIPTION

A PART OF OUTLOT A, HARRISON HILLS, A SUBDIVISION IN SARPY COUNTY, NEBRASKA AND DESCRIBED AS FOLLOWS:

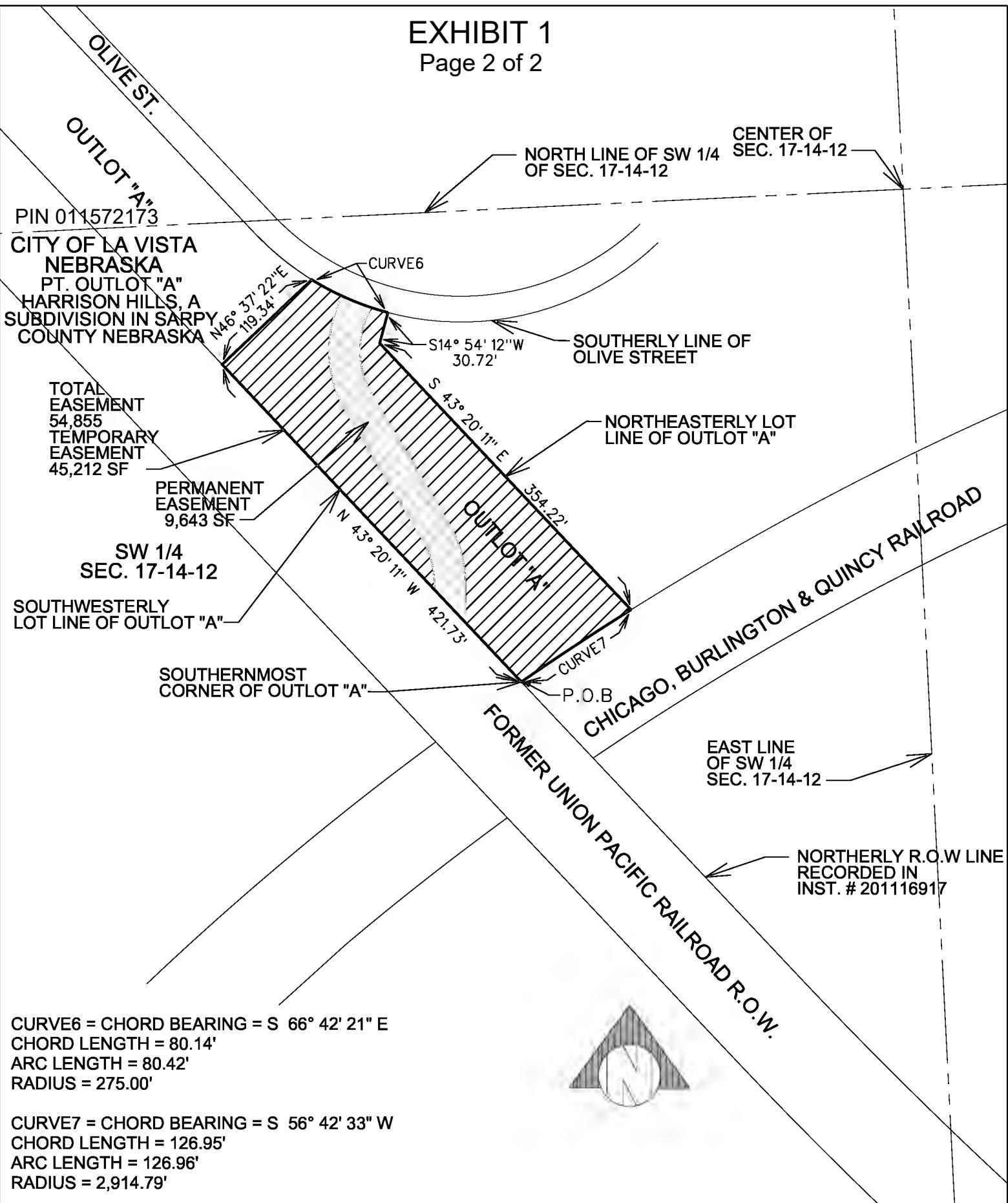
BEGINNING AT THE SOUTHERNMOST CORNER OF SAID OUTLOT A; THENCE NORTH 43°20'11" WEST ALONG THE SOUTHWESTERLY LOT LINE OF SAID OUTLOT A, 421.73 FEET; THENCE NORTH 46°37'22" EAST, 119.34 FEET TO A POINT OF CURVATURE ON THE SOUTHERLY LINE OF OLIVE STREET; THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY LINE ON A 275.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY WITH AN ARC LENGTH OF 80.42 FEET AND WHOSE CHORD BEARS SOUTH 66°42'21" EAST, 80.14 FEET TO THE NORTHEASTERLY CORNER OF SAID OUTLOT A; THENCE SOUTH 14°54'12" WEST ALONG THE EASTERLY LINE OF SAID OUTLOT A, 30.72 FEET; THENCE SOUTH 43°20'11" EAST ALONG SAID EASTERLY LINE, 354.22 FEET TO THE SOUTHEASTERLY CORNER OF OUTLOT A AND TO A POINT OF CURVATURE ON THE NORTHERLY LINE OF CHICAGO, BURLINGTON AND QUINCY RAILROAD RIGHT OF WAY; THENCE SOUTHWESTERLY ALONG SAID NORTHERLY LINE ON A 2,914.79 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY WITH AN ARC LENGTH OF 126.96 FEET AND WHOSE CHORD BEARS SOUTH 56°42'33" WEST, 126.95 FEET TO THE POINT OF BEGINNING AND CONTAINING 54,855 SQUARE FEET, MORE OR LESS, INCLUDING 9,643 SQUARE FEET, MORE OR LESS, OF PERMANENT EASEMENT.

CITY OF OMAHA PUBLIC WORKS DEPARTMENT

Owner(s): THE CITY OF LA VISTA NEBRASKA		 Temporary Easement: _____ 45,212 S.F.
Address: PIN 011572173		Project No. OPW 53538
Project Name: Giles Rd Siphon Replacement - S. 110th & Harry Anderson Ave		
Tract No. 2	Date Prepared: 9/19/2022	Revision Date(s):
		Page 1 of 2

EXHIBIT 1

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CITY OF OMAHA - PUBLIC WORKS DEPARTMENT



TEMPORARY EASEMENT: 45.212 S.F.

TRACT NO.: 2

PROJECT NO.: OPW 53538

PREPARE DATE: 9/19/2022

REVISION DATE:

When recorded return to:
City of Omaha, Nebraska
Public Works Department
Design Division
ROW Section
Kyle Dworak - *Real Estate Specialist*

FOR OFFICE USE ONLY	
Fed. Project No.:	0 0
Project Name:	Giles Road Siphon Replacement - South 110th and Harry Anderson Avenue
City Project No.:	OPW 53538
Tract No.:	2
Parcel Address:	PIN 011572173

PERMANENT ACCESS EASEMENT CORPORATION

KNOW ALL MEN BY THESE PRESENTS:

THAT **City of La Vista**, a Municipal Corporation in the State of Nebraska, hereinafter known as "GRANTOR," whether one or more, for and in consideration of the sum of **Two thousand nine hundred and 00/100 dollars (\$2,900.00)** and other valuable considerations, the receipt of which is hereby acknowledged, does hereby grant and convey unto the **City of Omaha, Nebraska**, a Municipal Corporation, hereinafter known as "GRANTEE", and to its successors, contractors, and assigns, including public utilities and their contractors and assigns, a nonexclusive Permanent Access Easement ("Easement") legally described in Exhibit 1 attached hereto ("Easement Area") for the right of ingress and egress, in connection with the construction of **Giles Road Siphon Replacement - South 110th and Harry Anderson Avenue** ("Project") and thereafter, in, under, and through the parcel of land legally described as Outlot A, Harrison Hills, City of La Vista, Sarpy County, Nebraska, as indicated by Sarpy County Register of Deeds Instrument No. **011572173** ("Property") for the Project as constructed (together such rights referred to herein as "GRANTEE Rights").

TO HAVE AND TO HOLD unto said GRANTEE, its successors and assigns, for the Purposes. The GRANTOR may continue to access, use and improve the surface of the Easement Area conveyed hereby for other purposes, provided such access, uses and improvements do not interfere with GRANTEE Rights under to this Easement.

It is further agreed as follows:

- 1) That no buildings, improvements, or other structures, nor any grading, fill or fill material, or embankment work, shall be placed in, on, over, or across said Easement Area by GRANTOR, its heirs, successors, or assigns in a manner that interferes with GRANTEE Rights under this Easement. Improvements which may be approved by GRANTEE include landscaping, road and/or street surfaces, parking area surfacing, and/or pavement. These improvements and any trees, grass, or shrubbery placed on said Easement Area shall be maintained by GRANTOR, its heirs, successors, or assigns.
- 2) That it is agreed and understood that after said consideration has been paid, the GRANTEE is hereby granted a nonexclusive immediate right of entry upon the Property.
- 3) That the GRANTEE will replace or rebuild any and all damage to improvements caused by GRANTEE exercising its rights of ingress and egress or otherwise under the Easement to the condition and quality existing before GRANTEE exercised such rights.
- 4) That this Easement is also for the benefit of, and shall be binding on, any contractor, agent, employee, or representative of the GRANTEE in connection with the Project.
- 5) All plans, construction, work or improvements pursuant to this Easement, or completion of any such construction, work or improvements, shall be subject to prior review and written approval of the City Engineer.
- 6) That the GRANTEE shall cause any trench made on said Easement Area to be properly refilled and shall cause the area or any improvements removed or disturbed under or otherwise in connection with this Easement to be replaced and restored to like condition and quality upon completion of construction or work in the Easement Area, and to the condition and quality existing before the trench, construction or work commenced.
- 7) That said GRANTOR and its heirs, executors, and administrators, does confirm with said GRANTEE and its successors, contractors, and assigns, including public utilities and their contractors and assigns, that the GRANTOR is well-seized in fee of the Property, and that they have the right to grant and convey this Easement in the manner and form aforesaid.
- 8) That this Easement shall run with the land and shall be binding upon and inure to the benefit and burden of the successors and assigns of the GRANTOR and the GRANTEE.
- 9) That said Easement is granted upon the condition that the GRANTEE may remove or cause to be removed all presently existing improvements thereon, including but not limited to, crops, vines, gardens, lawns, and trees within the Easement Area as necessary for construction; provided, GRANTEE shall replace and restore all such improvements as required by Section 3 above.
- 10) Grantee shall construct, maintain, replace and repair all improvements and carry out all work in the Easement Area pursuant to this Agreement in a good and workmanlike manner, condition and repair.

- 11) That the GRANTEE reserves the absolute right to terminate this Permanent Easement Agreement (“Agreement”) at any time prior to the payment of the above stated consideration, but in no event later than 60 days after the execution of this Agreement.
- 12) That no party to this Agreement shall restrict or impede the others reasonable use of this Easement Area at all times.
- 13) That this instrument contains the entire agreement of the parties; that there are no other or different agreements or understandings, except a Right of Way Agreement and Acceptance, Temporary Easement, and/or Purchase Agreement (together “Related Documents”), if applicable, between the GRANTOR and the GRANTEE or its agents; and that the GRANTOR, in executing and delivering this instrument, has not relied upon any promises, inducements, or representations of the GRANTEE or its agents or employees, except as provided in this Easement or any of the Related Documents.

NOTARY AND SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, said GRANTOR has hereunto (caused its Corporate Seal to be affixed) and these presents to be signed by its respective officers this _____ day of _____, 20____.

City of La Vista

(Name of Corporation)

AUTHORIZED OFFICER:

AUTHORIZED OFFICER:

(Print Name and Title)

(Print Name and Title)

Signature

Signature

CORPORATE ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

(Corporate Seal)

On this _____ day of _____, 20____, before me, a Notary Public
in and for said County, personally came

(Name/Title)

of City of La Vista, a Municipal Corporation in the State of Nebraska, and

(Name/Title)

(Name/Title)

of said Corporation, to me personally known to be the respective officers of said corporation and the identical persons whose names are affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as such officers and the voluntary act and deed of said Corporation, and the Corporate Seal of said Corporation to be thereto affixed by its authority.

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

Notary Seal:

NOTARY PUBLIC

CITY OF OMAHA, a Municipal Corporation

ATTEST:

Elizabeth Butler,
City Clerk, City of Omaha

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS) SS

BY:

Jean Stothert,
Mayor, City of Omaha

DATE

On this _____ day of _____, 20____, before me, a Notary Public in and for said County, personally came Jean Stothert, Mayor of the City of Omaha, Nebraska, a Municipal Corporation, to me personally known to be the respective officer of said Municipal corporation and the identical person whose name is affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as Mayor and the voluntary act and deed of said Municipal Corporation.

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

Notary Seal:

NOTARY PUBLIC

STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS) SS

On this _____ day of _____, 20____, before me, a Notary Public in and for said County, personally came Elizabeth Butler, City Clerk of the City of Omaha to me personally known to be the respective officer of said Municipal corporation and the identical person whose name is affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as City Clerk and the voluntary act and deed of said Municipal Corporation.

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

Notary Seal:

NOTARY PUBLIC

EXHIBIT 1

PERMANENT EASEMENT LEGAL DESCRIPTION

A PART OF OUTLOT A, HARRISON HILLS, A SUBDIVISION IN SARPY COUNTY, NEBRASKA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERNMOST CORNER OF SAID OUTLOT A; THENCE NORTH 43°20'11" WEST ALONG THE SOUTHWESTERLY LOT LINE OF SAID OUTLOT A, 78.60 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHWESTERLY LOT LINE NORTH 43°20'11" WEST, 43.88 FEET; THENCE NORTH 0°12'43" WEST, 6.04 FEET; THENCE NORTHERLY ALONG A 85.00 FOOT RADIUS CURVE CONCAVE WESTERLY WITH AN ARC LENGTH OF 45.55 FEET AND WHOSE CHORD BEARS NORTH 15°33'56" WEST, 45.01 FEET; THENCE NORTH 30°55'08" WEST, 143.06 FEET; THENCE NORTHERLY ALONG A 115.00 FOOT RADIUS CURVE CONCAVE EASTERLY WITH AN ARC LENGTH OF 116.72 FEET AND WHOSE CHORD BEARS NORTH 1°50'40" WEST, 111.77 FEET TO A POINT OF CURVATURE ON THE SOUTHERLY LINE OF OLIVE STREET; THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY LINE ON A 275.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY WITH AN ARC LENGTH OF 30.21 FEET AND WHOSE CHORD BEARS SOUTH 68°25'58" EAST, 30.20 FEET; THENCE SOUTHERLY ALONG A 85.00 FOOT RADIUS CURVE CONCAVE EASTERLY WITH AN ARC LENGTH OF 89.24 FEET AND WHOSE CHORD BEARS SOUTH 0°50'29" EAST, 85.20 FEET; THENCE SOUTH 30°55'08" EAST, 143.06 FEET; THENCE SOUTHERLY ALONG A 115.00 FOOT RADIUS CURVE CONCAVE WESTERLY WITH AN ARC LENGTH OF 61.63 FEET AND WHOSE CHORD BEARS SOUTH 15°33'56" EAST, 60.90 FEET; THENCE SOUTH 0°12'43" EAST, 38.07 FEET TO THE POINT OF BEGINNING AND CONTAINING 9,643 SQUARE FEET, MORE OR LESS.

CITY OF OMAHA PUBLIC WORKS DEPARTMENT

Owner(s): THE CITY OF LA VISTA NEBRASKA	 Permanent Easement:	9,643 S.F.
Address: PIN 011572173	Project No.	OPW 53538
Project Name: Giles Rd Siphon Replacement - S. 110th & Harry Anderson Ave		
Tract No. 2	Date Prepared: 9/19/2022	Revision Date(s):
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