

COMMUNITY DEVELOPMENT AGENCY PROCEEDINGS

September 11, 2024

The Community Development Agency of the City of David City, Nebraska, convened in open public session at 7:23 p.m. in the meeting room of the City Office at 490 “E” Street, David City, Nebraska. The Public had been advised of the meeting by posting of notice in four public places (City Office, US Post Office, Butler County Courthouse and Hruska Public Library). The Community Development Agency members acknowledged advance notice of the meeting. The advance notice to the Public, and Community Development Agency members conveyed the availability of the agenda, which was kept continuously current in the office of the Secretary and was available for public inspection on the City’s website. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the meeting.

Present for the meeting were: Community Development Agency Members–Jessica Miller, Kevin Woita, Bruce Meysenburg, Tom Kobus, Jim Angell, Pat Meysenburg, City Attorney David Levy, Community Development Agency Secretary Tami Comte and City Administrator Intern Raiko Martinez.

Also present were: Deputy Clerk Lori Matchett, Police Chief Marla Schnell, Police Sergeant Tristan Hilger, Steve Barlean, Darrell Kahler, Jim Reisdorff and Greg Fiala with the Butler County Historical Museum.

Chairman Jessica Miller informed the public of the “Open Meetings Act” posted on the west wall of the meeting room and asked those present to please silence their cell phones. She also asked anyone addressing the Agency to introduce themselves.

CDA member Tom Kobus made a motion to approve the minutes of the August 11, 2024 meeting of the CDA. CDA Member Pat Meysenburg seconded the motion. The motion carried. Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 7, Nay: 0

CDA member Keith Marvin made a motion to approve an amendment to the Dana Point TIF Redevelopment Contract. CDA member Tom Kobus seconded the motion. Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 7, Nay: 0

**AMENDMENT TO
REDEVELOPMENT CONTRACT**

This Amendment to Redevelopment Contract (“Amendment”) is made and entered into as of the 11th day of September, 2024, by and between the Community Development Agency of the City of David City, Nebraska (“Agency”), and Dana Point Development Corporation, a Wyoming corporation (“Redeveloper”). The Agency and/or Redeveloper may be referred to hereinafter as the “Party” or collectively as the “Parties”.

WITNESSETH:

WHEREAS, the Parties entered into that certain Redevelopment Contract, dated July 26, 2017, with respect to a redevelopment project located in David City, Nebraska (“Redevelopment Contract”); and

WHEREAS, the Parties desire to make certain changes and amendments to the Redevelopment Contract, as set forth in this Amendment.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the Agency and Redeveloper do hereby amend the Redevelopment Contract as follows:

1. The last paragraph of Section 3.01 of the Redevelopment Contract is hereby amended and restated, in its entirety, as follows:

“No Redevelopment Contract Amendment providing for the division of taxes pursuant to this Redevelopment Contract and Section 18-2147 of the Act shall be made after July 31, 2027.”

2. The Agency and Redeveloper hereby reconfirm all other terms and conditions of the Redevelopment Contract, except as expressly modified by the terms of this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF, the Agency and Redeveloper have caused this Amendment to be executed by their duly authorized representatives.

COMMUNITY DEVELOPMENT AGENCY OF
THE CITY OF DAVID CITY, NEBRASKA

ATTEST:

By: _____
Secretary (City Clerk)

By: _____
Chairperson (Mayor)

DANA POINT DEVELOPMENT CORPORATION,
a Wyoming corporation

By: _____

Name: _____

Title: _____

Council member Keith Marvin made a motion to pass and adopt Resolution No. 2-2024 CDA releasing the Storm Sewer Easement and Ratification of the New Easement in Northland Subdivision. Council Member Tom Kobus seconded the motion. The motion carried. Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 7, Nay: 0

RESOLUTION NO. 2-2024 CDA

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF DAVID CITY, NEBRASKA, APPROVING EXECUTION OF THAT CERTAIN RELEASE OF STORM SEWER EASEMENT ORIGINALLY DEDICATED IN THE PLAT OF NORTHLAND SECOND SUBDIVISION IN THE CITY OF DAVID CITY, NEBRASKA; RATIFYING THOSE TWO CERTAIN PERMANENT STORM SEWER EASEMENT AGREEMENTS AND GRANTING THE PERMANENT STORM SEWER EASEMENT DESCRIBED THEREIN.

WHEREAS, the Community Development Agency of the City of David City, Nebraska, a redevelopment authority and municipal corporation ("**Agency**") owned all that certain real property located in the City of David City, Nebraska, a city of the second class ("**City**") as legally described in **EXHIBIT A**, attached hereto and incorporated herein, and platted the same via Instrument No. 22-10680 filed with the Butler County, Nebraska Register of Deeds ("**Register of Deeds**") on November 9, 2022 ("**Northland**"); and

WHEREAS, on July 17, 2024, Agency filed Instrument No. 24-00989 with the Register of Deeds thereby replatting the Northland Subdivision ("**Northland Second**"); and

WHEREAS, Agency owns Lots 7 and 8, Block 3, Northland Second Subdivision in the City of David City, Nebraska, in Section Eighteen (18), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska (“**Lot 7**” and “**Lot 8**,” respectively); and

WHEREAS, Kendall R. Perry, an individual (“**Perry**”), owns Lot 9, Block 3, Northland Second Subdivision in the City of David City, Nebraska, in Section Eighteen (18), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska (“**Lot 9**”); and

WHEREAS, the Plat of Northland Second dedicated to the public a storm sewer easement encumbering Lot 7 and Lot 8, as more particularly described and depicted in **EXHIBIT B**, attached hereto and incorporated herein (“**Platted Easement**”); and

WHEREAS, the Platted Easement encumbers the incorrect tract of land within Northland Second and should encumber part of Lot 8 and Lot 9, as more particularly described and depicted in **EXHIBIT C**, attached hereto and incorporated herein (“**New Storm Sewer Easement**”); and

WHEREAS, to correct the location of the Platted Easement, Agency executed those two certain Permanent Storm Sewer Easement Agreements, more particularly described as follows (collectively, the “**New Storm Sewer Easement Agreements**”):

(A) with City on August 7, 2024, recorded with the Register of Deeds as Instrument No. 24-01116 on August 13, 2024, a copy of which is attached hereto and incorporated herein as **EXHIBIT D**; and

(B) with Perry on August 12, 2024, recorded with the Register of Deeds as Instrument No. 24-01117 on August 13, 2024, a copy of which is attached hereto and incorporated herein as **EXHIBIT E**; and

WHEREAS, for the avoidance of doubt Agency and City desire to execute that certain Release of Storm Sewer Easement, a copy of which is attached hereto and incorporated herein as **EXHIBIT F** (“**Release**”) to make clear that the Platted Easement dedicated in Northland Second is released and of no legal effect, and to put third parties on notice of the same; and

WHEREAS, the Agency finds that executing the Release is in the best interest of Northland Second and its current and future residents and developers.

NOW, THEREFORE, BE IT RESOLVED, by the Agency, as follows:

1. **Release**. Agency hereby authorizes its Chairperson to execute the Release in substantially the same form as shown in **EXHIBIT F** and other such documents and instruments as reasonably necessary to release all the Agency’s rights, title, and interest in the Platted Easement.
2. **Recordation**. The Agency’s Secretary shall record or cause the recording of the executed Release.
3. **Ratification**. The Agency ratifies and adopts the terms of the New Storm Sewer Easement Agreements and declares that the New Storm Sewer Easement is of full force and effect and encumbers Lot 8 and Lot 9.

4. **All Other Necessary Action.** The Chairperson and Secretary, on behalf of the Agency, or any one of them, are hereby authorized to take all actions and to execute all documents reasonably necessary to effectuate the release of all of Agency's rights, title, and interest in the Platted Easement.

5. **Effective Date.** This Resolution shall be in force and take effect from and after its adoption as provided by law.

6. **Conflicting Resolutions.** All other resolutions or portions of resolutions in conflict with this Resolution are hereby repealed to the extent of any conflict therewith.

INTRODUCED BY CDA Member Keith Marvin

PASSED AND ADOPTED THIS 11th DAY OF SEPTEMBER, 2024.

Jessica Miller, Chairperson

ATTEST:

Tami Comte, Secretary

EXHIBIT A

Legal Description of Northland

A TRACT OF LAND CONSISTING OF PART OF LOT 6 AND PART OF LOT 7, DAVID CITY LAND AND LOT COMPANY'S SUBURBAN LOTS, LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER (SW1/4, SE1/4) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15) NORTH, RANGE THREE (3) EAST OF THE 6TH P.M., ALL IN BUTLER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, SYPAL EAST ADDITION, SAID POINT BEING THE POINT OF BEGINNING; THENCE N88°55'39"W, ALONG THE NORTH RIGHT OF WAY LINE OF O STREET, SAID LINE ALSO BEING THE SOUTH LINE OF LOT 7, DAVID CITY LAND AND COMPANY'S SUBURBAN LOTS, A DISTANCE OF 60.00 FEET; THENCE N01°05'27"E A DISTANCE OF 448.90 FEET; THENCE N88°55'20"W A DISTANCE OF 131.63 FEET TO A POINT ON THE WEST LINE OF SAID LOT 7, DAVID CITY LAND AND COMPANY'S SUBURBAN LOTS; THENCE N00°57'00"E, ALONG SAID WEST LINE OF LOT 7, A DISTANCE OF 788.66 FEET TO THE NORTHWEST CORNER OF SAID LOT 7; THENCE S89°43'48"E, ALONG THE NORTH LINE OF SAID LOT 7, A DISTANCE OF 638.20 FEET TO THE NORTHEAST CORNER OF LOT 6, DAVID CITY LAND AND COMPANY'S SUBURBAN LOTS; THENCE S00°55'59"W, ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 796.81 FEET TO A POINT ON THE NORTH LINE OF LOT 2, SAID SYPAL EAST ADDITION; THENCE N88°58'55"W, ALONG THE NORTH LINE OF SAID SYPAL EAST ADDITION, A DISTANCE OF 446.59 FEET TO THE NORTHWEST CORNER OF SAID LOT 1, SYPAL EAST ADDITION; THENCE S01°06'48" W, ALONG THE WEST LINE OF SAID SYPAL EAST ADDITION, A DISTANCE OF 449.27 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 532951.34 SQUARE FEET OR 12.235 ACRES MORE OR LESS OF WHICH 3.438 ACRES IS NEW DEDICATED ROAD RIGHT-OF-WAY.

EXHIBIT B

Legal Description and Depiction of Platted Easement

LEGAL DESCRIPTION:

A 20 FOOT STORM SEWER EASEMENT LOCATED IN PART OF LOTS 7 AND 8, BLOCK 3, NORTHLAND SECOND SUBDIVISION IN THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH 10 FEET OF LOT 7, BLOCK 3, NORTHLAND SECOND SUBDIVISION AND THE SOUTH 10 FEET OF LOT 8, BLOCK 3, NORTHLAND SECOND SUBDIVISION, SAID 20 FOOT STORM SEWER EASEMENT CONTAINS A CALCULATED AREA OF 3,500 SQUARE FEET.

DEPICTION:

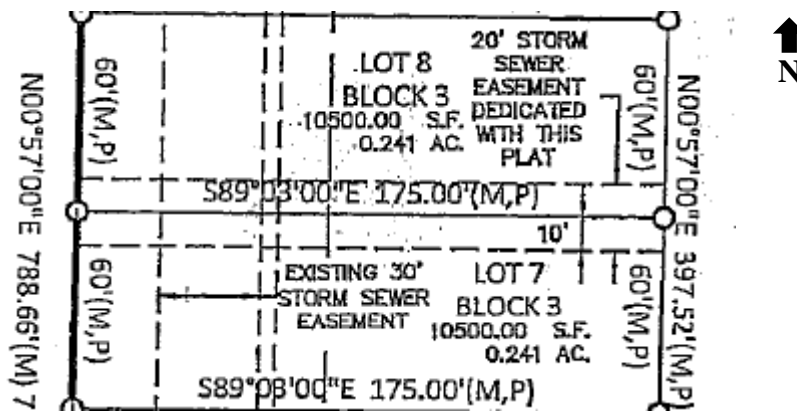


EXHIBIT C

Legal Description and Depiction of New Storm Sewer Easement

LEGAL DESCRIPTION:

A 20 FOOT STORM SEWER EASEMENT LOCATED IN PART OF LOTS 8 AND 9, BLOCK 3, NORTHLAND SECOND SUBDIVISION IN THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH 10 FEET OF LOT 8, BLOCK 3, NORTHLAND SECOND SUBDIVISION AND THE SOUTH 10 FEET OF LOT 9, BLOCK 3, NORTHLAND SECOND SUBDIVISION, SAID 20 FOOT STORM SEWER EASEMENT CONTAINS A CALCULATED AREA OF 3,500 SQUARE FEET.

DEPICTION:

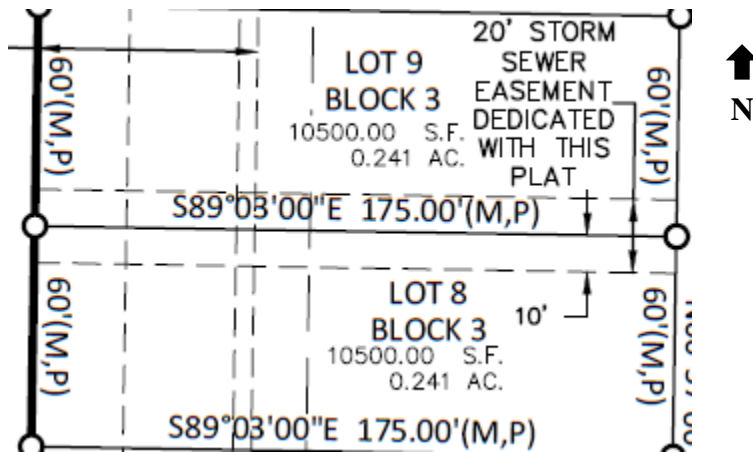


EXHIBIT D

Copy of Executed Permanent Storm Sewer Easement Agreement Between Agency and City, dated August 7, 2024

[SEE ATTACHED]

RECORDED
BUTLER COUNTY, NEBRASKA
INST. 24-01116 PGS. (7)
DATE August 13, 2024
TIME 8:30 AM
COUNTY CLERK/REGISTER OF DEEDS
BY: Sharon Wobsey, Deputy

[Space above reserved for Register of Deeds]

Return to:

City of David City
490 E Street, P.O. Box 191
David City, NE 68632

PERMANENT STORM SEWER EASEMENT AGREEMENT

This **PERMANENT STORM SEWER EASEMENT AGREEMENT** ("Agreement"), effective as of the date last written below ("**Effective Date**") is by and between **THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF DAVID CITY, NEBRASKA**, a community redevelopment authority and municipal corporation ("**Grantor**"), and **THE CITY OF DAVID CITY, NEBRASKA**, a municipal corporation and city of the second class ("**Grantee**"). This Agreement refers to Grantor and Grantee individually as a "**Party**" and collectively as the "**Parties**."

RECITALS:

WHEREAS, Grantor owns that certain real property in the Northland Subdivision of the City of David City, Nebraska ("**Northland**") legally described as:

LOT 7, BLOCK 3, NORTHLAND SECOND SUBDIVISION, IN SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15) NORTH, RANGE THREE (3) EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA ("**Lot 7**");

LOT 8, BLOCK 3, NORTHLAND SECOND SUBDIVISION, IN SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15) NORTH, RANGE THREE (3) EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA ("**Lot 8**");

WHEREAS, Grantee constructs, operates and maintains various utilities, including but not limited to sewer; and

WHEREAS, on or around July 17, 2024, Grantor replatted Northland via Instrument No. 24-00989 in the real estate records of Butler County, Nebraska, thereby dedicating a certain portion of Lot 7 and Lot 8, as described and depicted in **EXHIBIT A**, attached hereto and incorporated herein ("**Original Easement Area**"), to Grantee for purposes of constructing a storm sewer and related appurtenances and facilities ("**Storm Sewer**"); and

6450453.3

1 BOOK 24 PAGE 01116

EXHIBIT D

WHEREAS, the Parties desire to vacate the Original Easement Area and replace it with a new easement area that includes portions of Lot 8, as described and depicted in EXHIBIT B, attached hereto and incorporated herein ("**New Easement Area**"); and

WHEREAS, the Parties desire to execute this Agreement to effectuate the above.

NOW, THEREFORE, in consideration the foregoing recitals which the Parties hereby incorporate herein and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge and accept, the Parties agree as follows:

1. Grant. Grantor grants to Grantee, its successors, assigns, delegees, agents and contractors, a perpetual, non-exclusive easement ("**Easement**") in, under, upon, about, over, and through the New Easement Area, to construct and maintain the Storm Sewer and all other related and necessary appurtenances and facilities.
2. Restoration. Grantee shall be responsible for restoring all portions of the New Easement Area Grantee disturbs to the condition it was prior to Grantee's use of the same.
3. Representations and Warranties. Grantor represents and warrants that they have the full right, power, title, and interest to grant the Easement to Grantee.
4. Transferability. Each Party may assign its respective rights and obligations under this Agreement with the other Party's prior written consent, provided however the assigning Party's successor-in-interest shall be bound to all terms and conditions of this Agreement.
5. Default and Remedies. If Grantor or Grantee breaches this Agreement, the non-defaulting Party may seek all equitable remedies applicable law permits.
6. Notice. The Parties shall deliver any notice this Agreement requires to the addresses provided below. The Parties may change the below information at any time by providing notice to the other Party in the manner provided herein.

If to
GRANTOR: Tami Comte, Secretary
490 E Street
David City, NE 68632
tcomte@davidcityne.gov
(402) 367-3135

If to
GRANTEE: The City of David City, Nebraska
c/o Tami Comte
490 E Street
David City, NE 68632
tcomte@davidcityne.gov
(402) 367-3135

Copy To: Baird Holm LLP
c/o David C. Levy
1700 Farnam St., Ste. 1500
Omaha, NE 68102
dlevy@bairdholm.com
(402) 344-0500

Copy To: Baird Holm LLP
c/o David C. Levy
1700 Farnam St., Ste. 1500
Omaha, NE 68102
dlevy@bairdholm.com
(402) 344-0500

7. Amendment. The Parties may only amend this Agreement by a writing both Parties execute.

6450453.3

2 BOOK 24 PAGE 01116

EXHIBIT D

8. Entire Agreement. This Agreement reflects the entirety of the Parties' understandings and expectations hereunder.

9. Severability. If any provision of this Agreement is held invalid or unenforceable, in whole or in part, the remaining provisions of this Agreement shall remain valid and enforceable as written.

10. Counterparts. The Parties may execute this Agreement in one or more counterparts, all of which taken together shall be one original.

11. Further Cooperation. The Parties shall execute such other documents and perform such other acts as may be reasonably necessary or desirable to further the intent and purpose of this agreement.

12. Binding Effect. This Agreement shall bind each Party and its respective heirs, successors, assigns, delegees, agents, and assignees, and shall run with the Property.

13. Governing Law. The Laws of the State of Nebraska shall govern this Agreement.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK – SIGNATURES FOLLOW

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

GRANTOR

THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF DAVID CITY, NEBRASKA, a community redevelopment authority and municipal corporation

Jessica Miller
Jessica Miller, Chairperson

Date: 8-7-2024

ACKNOWLEDGEMENT

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this 7 day of August, 2024, by **JESSICA MILLER**, an individual, as Chairperson of the Community Development Agency of the City of David City, Nebraska and on behalf of the same.



Lori M Matchett
Notary Public

My Commission Expires: January 31, 2028

(SIGNATURE COUNTER PAGE)

GRANTEE

THE CITY OF DAVID CITY,
NEBRASKA, a municipal
corporation and city of the second
class



By: Jessica Miller
Jessica Miller, Mayor

Date: 8-7-2024

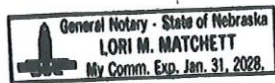
ATTEST:

Tami Comte
Tami Comte, City Clerk

ACKNOWLEDGEMENT

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this 7 day of August, 2024,
by JESSICA MILLER as Mayor of THE CITY OF DAVID CITY, NEBRASKA, a municipal corporation and city of
the second class.

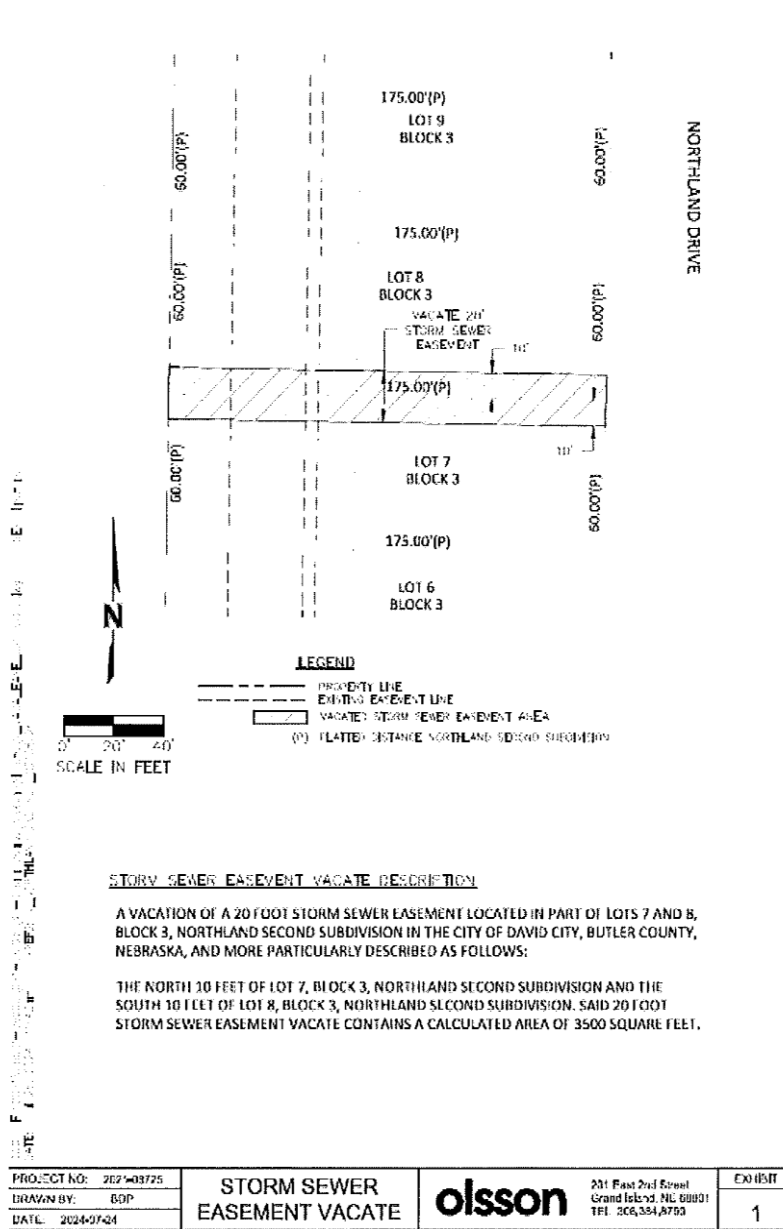


Lori M Matchett
Notary Public

My Commission Expires: January 31, 2028

EXHIBIT A

ORIGINAL EASEMENT AREA



6450453.3

EXHIBIT A BOOK 24 PAGE 0116

EXHIBIT D

6478595.1

EXHIBIT B
NEW EASEMENT AREA

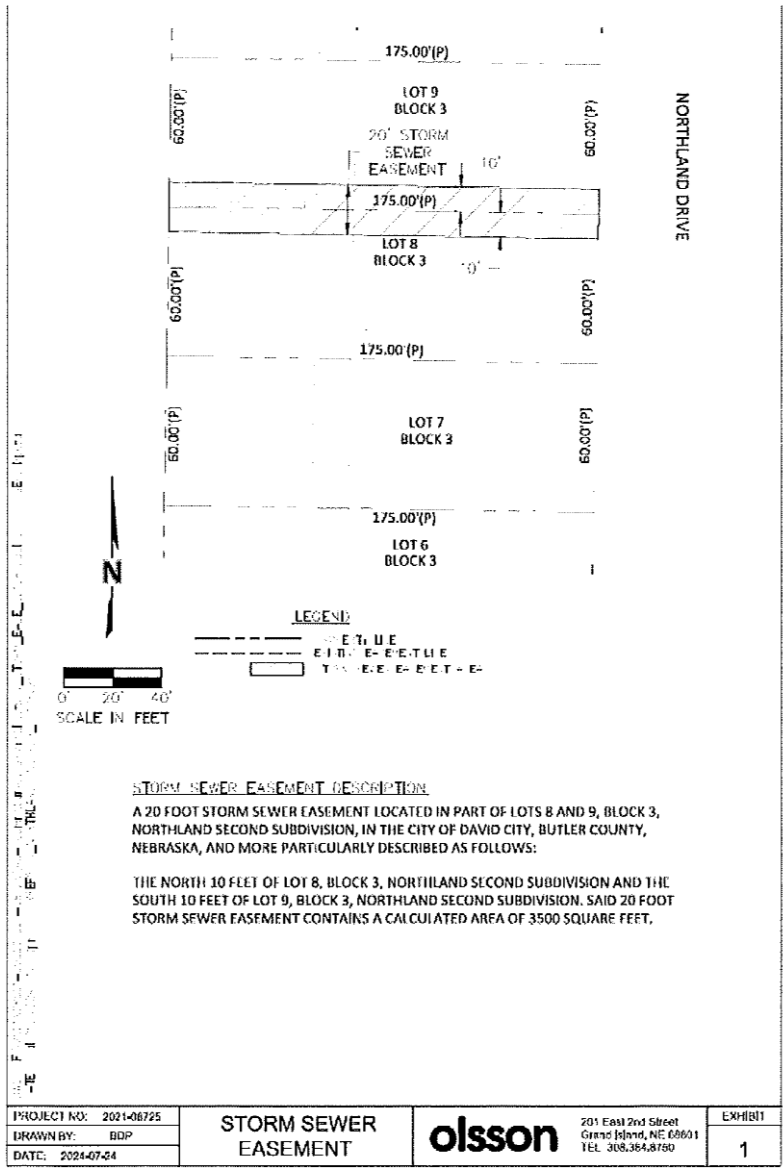


EXHIBIT B BOOK 24 PAGE 01116

6450453.3

EXHIBIT D

6478595.1

EXHIBIT E

Copy of Executed Permanent Storm Sewer Easement Agreement between Agency and Perry, dated August 12, 2024

[SEE ATTACHED]

RECORDED
BUTLER COUNTY, NEBRASKA
INST. 24-01117 PGS. (7)
DATE August 13, 2024
TIME 8:31 Am
[Signature]
COUNTY CLERK/REGISTER OF DEEDS
BY: Sharon Woolsey, Deputy

[Space above reserved for Register of Deeds]

Return to:
City of David City
490 E Street, P.O. Box 191
David City, NE 68632

PERMANENT STORM SEWER EASEMENT AGREEMENT

This **PERMANENT STORM SEWER EASEMENT AGREEMENT** ("Agreement"), effective as of the date last written below ("**Effective Date**") is by and between **KENDALL R. PERRY**, an individual ("**Grantor**"), and **THE CITY OF DAVID CITY, NEBRASKA**, a municipal corporation and city of the second class ("**Grantee**"). This Agreement refers to Grantor and Grantee individually as a "**Party**" and collectively as the "**Parties**."

RECITALS:

WHEREAS, Grantor owns that certain real property in the Northland Subdivision of the City of David City, Nebraska ("**Northland**") legally described as:

LOT 9, BLOCK 3, NORTHLAND SECOND SUBDIVISION, IN SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15) NORTH, RANGE THREE (3) EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA ("**Lot 9**");

WHEREAS, Grantee constructs, operates and maintains various utilities, including but not limited to sewer; and

WHEREAS, on or around July 17, 2024, the Community Development Agency of the City of David City, Nebraska, replatted Northland via Instrument No. 24-00989 in the real estate records of Butler County, Nebraska, thereby dedicating a certain portion of Northland, as described and depicted in **EXHIBIT A**, attached hereto and incorporated herein ("**Original Easement Area**"), to Grantee for purposes of constructing a storm sewer and related appurtenances and facilities ("**Storm Sewer**"); and

WHEREAS, the Parties desire to vacate the Original Easement Area and replace it with a new easement area that includes a portion of Lot 9, as described and depicted in **EXHIBIT B**, attached hereto and incorporated herein ("**New Easement Area**"); and

WHEREAS, the Parties desire to execute this Agreement to effectuate the above.

NOW THEREFORE, in consideration the foregoing recitals which the Parties hereby incorporate herein and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge and accept, the Parties agree as follows:

1. Grant. Grantor grants to Grantee, its successors, assigns, delegees, agents and contractors, a perpetual, non-exclusive easement ("**Easement**") in, under, upon, about, over, and through the New Easement Area, to construct and maintain the Storm Sewer and all other related and necessary appurtenances and facilities.
2. Restoration. Grantee shall be responsible for restoring all portions of the New Easement Area Grantee disturbs to the condition it was prior to Grantee's use of the same.
3. Representations and Warranties. Grantor represents and warrants that they have the full right, power, title, and interest to grant the Easement to Grantee.
4. Transferability. Each Party may assign its respective rights and obligations under this Agreement with the other Party's prior written consent, provided however the assigning Party's successor-in-interest shall be bound to all terms and conditions of this Agreement.
5. Default and Remedies. If Grantor or Grantee breaches this Agreement, the non-defaulting Party may seek all equitable remedies applicable law permits.
6. Notice. The Parties shall deliver any notice this Agreement requires to the addresses provided below. The Parties may change the below information at any time by providing notice to the other Party in the manner provided herein.

If to
GRANTOR: Kendall R. Perry
P.O. Box 206
Shelby, NE 68662
Add email
Add phone

If to
GRANTEE: Tami Comte
490 E Street
David City, NE 68632
tcomte@davidcityne.gov
(402) 367-3135

Copy To: _____

Copy To: Baird Holm LLP
c/o David C. Levy
1700 Farnam St., Ste. 1500
Omaha, NE 68102
dlevy@bairdholm.com
(402) 344-0500

7. Amendment. The Parties may only amend this Agreement by a writing both Parties execute.
8. Entire Agreement. This Agreement reflects the entirety of the Parties' understandings and expectations hereunder.
9. Severability. If any provision of this Agreement is held invalid or unenforceable, in whole or in part, the remaining provisions of this Agreement shall remain valid and enforceable as written.
10. Counterparts. The Parties may execute this Agreement in one or more counterparts, all of which taken together shall be one original.

11. Further Cooperation. The Parties shall execute such other documents and perform such other acts as may be reasonably necessary or desirable to further the intent and purpose of this agreement.

12. Binding Effect. This Agreement shall bind each Party and its respective heirs, successors, assigns, delegees, agents, and assignees, and shall run with the Property.

13. Governing Law. The Laws of the State of Nebraska shall govern this Agreement.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK – SIGNATURES FOLLOW

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

GRANTOR

KENDALL R. PERRY, an individual

Kendall R. Perry
Kendall R. Perry
Date: 8/12/24

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this 12th day of August, 2024, by KENDALL R. PERRY, an individual.



Notary Public Tami L. Comte
My Commission Expires: January 25, 2026

(SIGNATURE COUNTER PAGE)

GRANTEE

THE CITY OF DAVID CITY,
NEBRASKA, a municipal
corporation and city of the second
class

By: Jessica Miller
Jessica Miller, Mayor

Date: 8-13-24



ATTEST:

Tami Comte
Tami Comte, City Clerk

ACKNOWLEDGEMENT

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

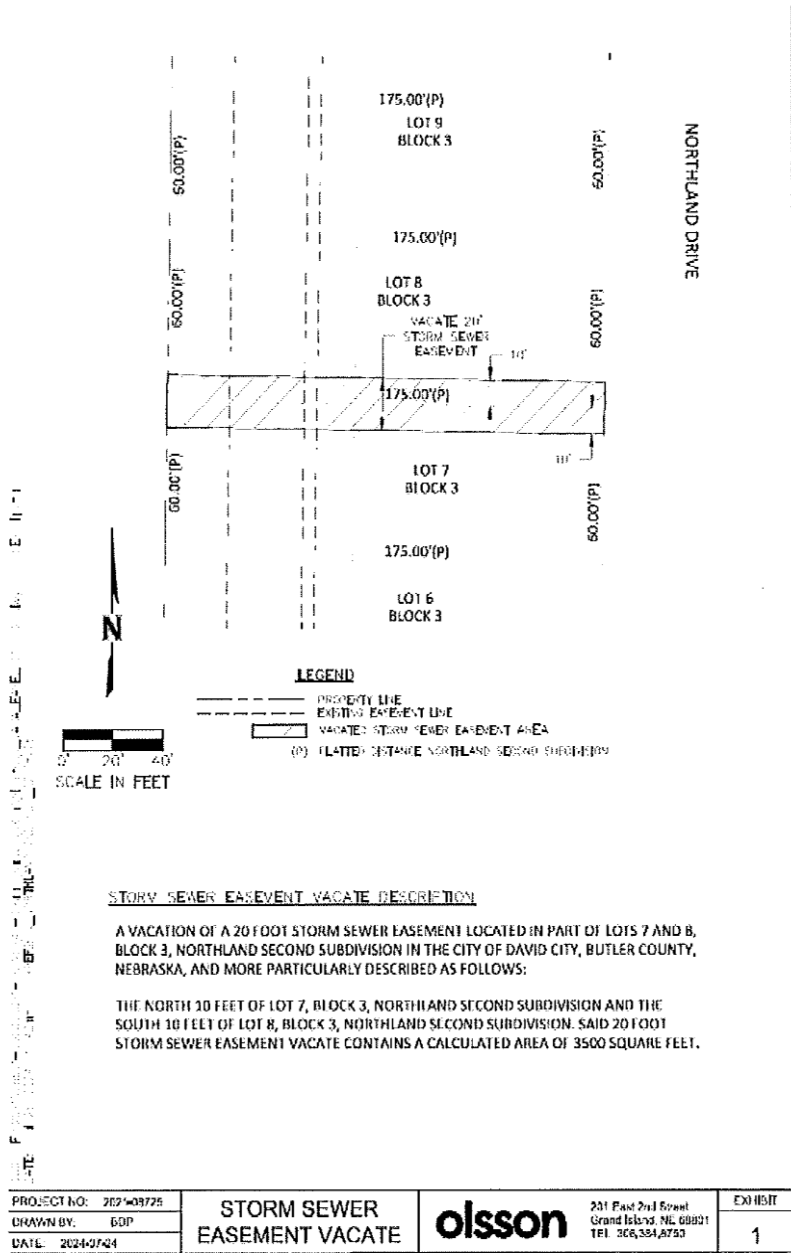
The foregoing instrument was acknowledged before me this 13 day of August,
2024, by JESSICA MILLER as Mayor of THE CITY OF DAVID CITY, NEBRASKA, a municipal
corporation and city of the second class.



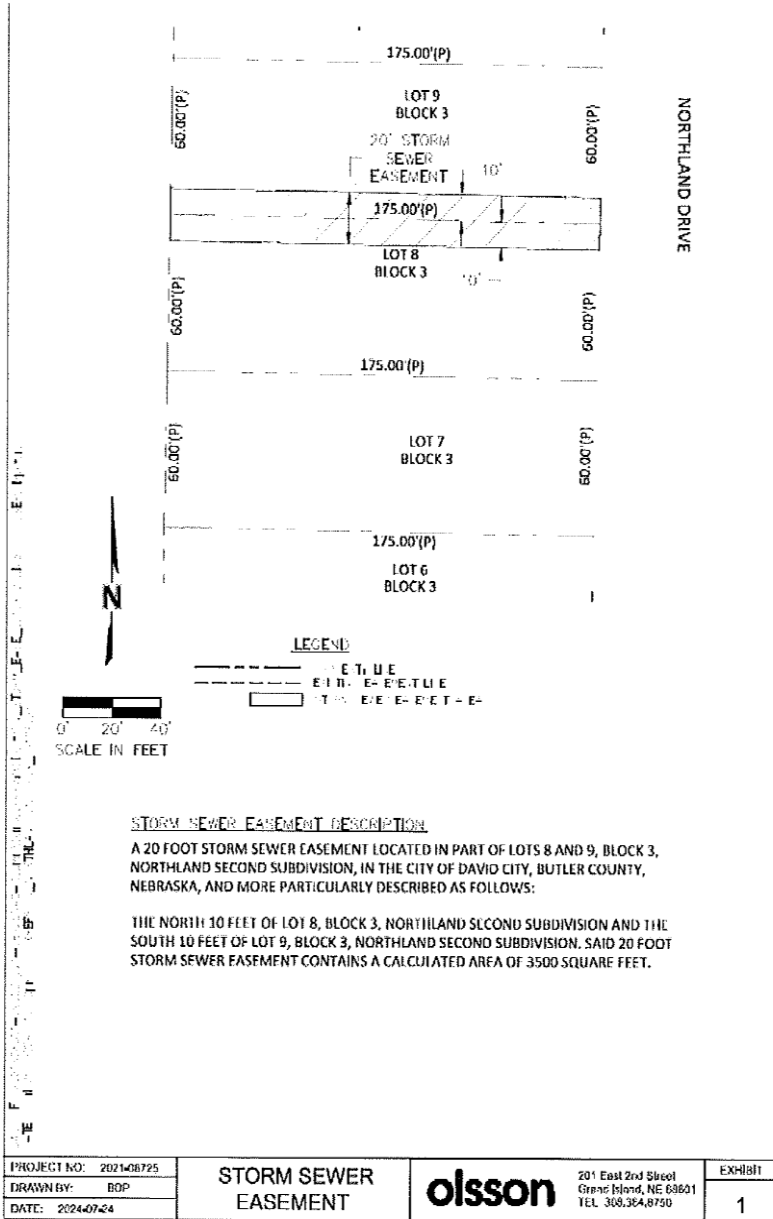
Notary Public Lori M. Matchett
My Commission Expires: 1-31-2028

EXHIBIT A

ORIGINAL EASEMENT AREA



**EXHIBIT B
NEW EASEMENT AREA**



6451595.1

EXHIBIT B BOOK 24 PAGE 0117

6451595.1

EXHIBIT F

Form of Release of Storm Sewer Easement

[SEE ATTACHED]

(Space Above Line Reserved for Butler County, Nebraska Register of Deeds)

Requested By and Return To:

City of David City
490 E Street, P.O. Box 191
David City, NE 68632

RELEASE OF PLATTED STORM SEWER EASEMENT

This **RELEASE OF PLATTED STORM SEWER EASEMENT** ("**Release**") is made as of the date last written below ("**Effective Date**") by and between the **COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF DAVID CITY, NEBRASKA**, a community redevelopment authority and municipal corporation ("**Agency**") and **THE CITY OF DAVID CITY, NEBRASKA**, a municipal corporation and city of the second class ("**City**").

RECITALS

WHEREAS, Agency owned all that certain real property in the City as legally described in **EXHIBIT A**, attached hereto and incorporated herein, and platted the same via Instrument No. 22-10680 filed with the Butler County, Nebraska Register of Deeds ("**Register of Deeds**") on November 9, 2022 ("**Northland**"); and

WHEREAS, on July 17, 2024, Agency filed Instrument No. 24-00989 with the Register of Deeds thereby replatting the Northland Subdivision ("**Northland Second**"); and

WHEREAS, Agency owns Lots 7 and 8, Block 3, Northland Second Subdivision in the City of David City, Nebraska, in Section Eighteen (18), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska ("**Lot 7**" and "**Lot 8**," respectively); and

WHEREAS, Kendall R. Perry, an individual ("**Perry**"), owns Lot 9, Block 3, Northland Second Subdivision in the City of David City, Nebraska, in Section Eighteen (18), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska ("**Lot 9**"); and

WHEREAS, the Plat of Northland Second dedicated to the public that certain storm sewer easement encumbering Lot 7 and Lot 8, as more particularly described and depicted in **EXHIBIT B**, attached hereto and incorporated herein ("**Platted Easement**"); and

WHEREAS, the Platted Easement encumbers the incorrect tract of land within Northland Second and should encumber Lot 8 and Lot 9, as more particularly described and depicted in **EXHIBIT C**, attached hereto and incorporated herein ("**New Storm Sewer Easement**"); and

WHEREAS, to correct the location of the Platted Easement, Agency and City executed that certain Permanent Storm Sewer Easement Agreement on August 7, 2024, and recorded the same with the Register of Deeds as Instrument No. 24-01116 on August 13, 2024, thereby vacating the Platted Easement encumbering Lot 7 and Lot 8 and encumbering part of Lot 8 as the New Storm Sewer Easement; and

WHEREAS, Perry and City executed that certain Permanent Storm Sewer Easement Agreement on August 12, 2024, and recorded the same with the Register of Deeds as Instrument No. 24-01117 on August 13, 2024, thereby encumbering part of Lot 9 as the New Storm Sewer Easement; and

WHEREAS, for the avoidance of doubt Agency and City desire to execute this Release to make clear that Agency and City have released the Platted Easement and it is no longer of any legal effect, and to put third parties on notice of the same.

NOW THEREFORE, in consideration of the foregoing recitals, which Agency and City hereby incorporate herein, and in consideration of the Agency dedicating part of Lot 8 to the New Storm Sewer Easement, Agency and City hereby agree as follows:

1. **Release of Platted Easement**. Agency and City hereby mutually release all their respective rights, title, and interest in the Platted Easement. Agency and City's release of their respective rights, title, and interest in the Platted Easement in no way affects any other interests or rights either has in Northland Second or any portion thereof, including but not limited to Agency and City's respective rights, obligations, and interests in the New Storm Sewer Easement.
2. **Further Cooperation**. Agency and City shall perform such further actions and execute such other documents as reasonably necessary to release the Platted Easement.
3. **Counterparts**. Agency and City may execute this Release in one or more counterparts all of which constitute the same, original instrument.
4. **Entire Agreement**. This Release reflects Agency and City's entire understandings, representations, expectations, and agreements.

[REMAINDER OF PAGE LEFT BLANK – SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the Agency and City execute this Release as of the Effective Date.

**COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF DAVID CITY, NEBRASKA,**
a redevelopment authority and municipal
corporation

By: Jessica Miller
Jessica Miller, Chairperson

Date: 9/11/2024



ATTEST:

Tami L. Comte
Tami Comte, Secretary

Date: 9/11/2024

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me on this 11 day of September, 2024, by **JESSICA MILLER**, an individual, as Chairperson of the **COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF DAVID CITY, NEBRASKA**, a redevelopment authority and municipal corporation, on behalf of the same.

Lori M. Matchett
Notary Public

My Commission Expires: January 31, 2026



(SIGNATURE COUNTER PAGE)

THE CITY OF DAVID CITY, NEBRASKA,
a municipal corporation and city of the second
class

By: Jessica Miller
Jessica Miller, Mayor

Date: 9/11/2024



ATTEST:

Tami Comte
Tami Comte, City Clerk

Date: 9/11/2024

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me on this 11 day of September, 2024, by **JESSICA MILLER**, an individual, as Mayor of **THE CITY OF DAVID CITY, NEBRASKA**, a municipal corporation and city of the second class, on behalf of the same.

Lori M. Matchett
Notary Public

My Commission Expires: January 31, 2026

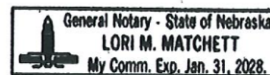


EXHIBIT A

Legal Description of Northland Subdivision

A TRACT OF LAND CONSISTING OF PART OF LOT 6 AND PART OF LOT 7, DAVID CITY LAND AND LOT COMPANY'S SUBURBAN LOTS, LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER (SW1/4, SE1/4) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15) NORTH, RANGE THREE (3) EAST OF THE 6TH P.M., ALL IN BUTLER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, SYPAL EAST ADDITION, SAID POINT BEING THE POINT OF BEGINNING; THENCE N88°55'39"W, ALONG THE NORTH RIGHT OF WAY LINE OF O STREET, SAID LINE ALSO BEING THE SOUTH LINE OF LOT 7, DAVID CITY LAND AND COMPANY'S SUBURBAN LOTS, A DISTANCE OF 60.00 FEET; THENCE N01°05'27"E A DISTANCE OF 448.90 FEET; THENCE N88°55'20"W A DISTANCE OF 131.63 FEET TO A POINT ON THE WEST LINE OF SAID LOT 7, DAVID CITY LAND AND COMPANY'S SUBURBAN LOTS; THENCE N00°57'00"E, ALONG SAID WEST LINE OF LOT 7, A DISTANCE OF 788.66 FEET TO THE NORTHWEST CORNER OF SAID LOT 7; THENCE S89°43'48"E, ALONG THE NORTH LINE OF SAID LOT 7, A DISTANCE OF 638.20 FEET TO THE NORTHEAST CORNER OF LOT 6, DAVID CITY LAND AND COMPANY'S SUBURBAN LOTS; THENCE S00°55'59"W, ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 796.81 FEET TO A POINT ON THE NORTH LINE OF LOT 2, SAID SYPAL EAST ADDITION; THENCE N88°58'55"W, ALONG THE NORTH LINE OF SAID SYPAL EAST ADDITION, A DISTANCE OF 446.59 FEET TO THE NORTHWEST CORNER OF SAID LOT 1, SYPAL EAST ADDITION; THENCE S01°06'48" W, ALONG THE WEST LINE OF SAID SYPAL EAST ADDITION, A DISTANCE OF 449.27 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 532951.34 SQUARE FEET OR 12.235 ACRES MORE OR LESS OF WHICH 3.438 ACRES IS NEW DEDICATED ROAD RIGHT-OF-WAY.

EXHIBIT A

EXHIBIT B

Legal Description and Depiction of Platted Easement

LEGAL DESCRIPTION:

A 20 FOOT STORM SEWER EASEMENT LOCATED IN PART OF LOTS 7 AND 8, BLOCK 3, NORTHLAND SECOND SUBDIVISION IN THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH 10 FEET OF LOT 7, BLOCK 3, NORTHLAND SECOND SUBDIVISION AND THE SOUTH 10 FEET OF LOT 8, BLOCK 3, NORTHLAND SECOND SUBDIVISION, SAID 20 FOOT STORM SEWER EASEMENT CONTAINS A CALCULATED AREA OF 3,500 SQUARE FEET.

DEPICTION:

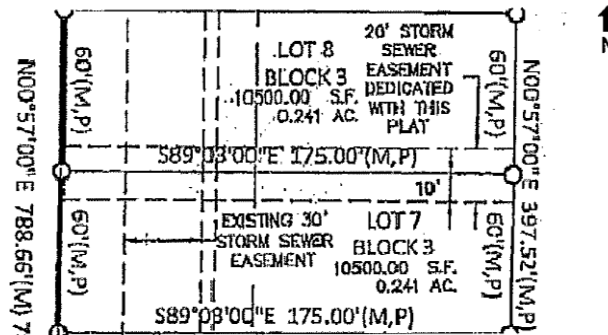


EXHIBIT B

EXHIBIT C

Legal Description and Depiction of New Storm Sewer Easement

LEGAL DESCRIPTION:

A 20 FOOT STORM SEWER EASEMENT LOCATED IN PART OF LOTS 8 AND 9, BLOCK 3, NORTHLAND SECOND SUBDIVISION IN THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH 10 FEET OF LOT 8, BLOCK 3, NORTHLAND SECOND SUBDIVISION AND THE SOUTH 10 FEET OF LOT 9, BLOCK 3, NORTHLAND SECOND SUBDIVISION, SAID 20 FOOT STORM SEWER EASEMENT CONTAINS A CALCULATED AREA OF 3,500 SQUARE FEET.

DEPICTION:

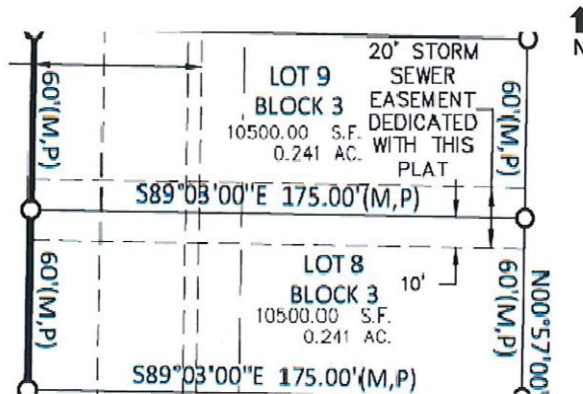


EXHIBIT C

The next item on the agenda was discuss/approve possible sale of the lot at E Street and the Railroad Tracks to the Butler County Historical Museum.

Steve Barlean, President of the Butler County Historical Museum introduced himself and stated that the BCHS is really interested in the lot, and they were prepared to offer \$80,000.

Chairman Jessica Miller stated that she felt the CDA needed to receive the \$115,000 they paid for it.

Steve Barlean stated that the board would need to discuss it further and come back to the next CDA meeting.

CDA member Bruce Meysenburg made a motion to table the possible sale of the lot at E Street and the Railroad Tracks to the Butler County Historical Museum. Council Member Tom Kobus seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 7, Nay: 0

CDA member Jessica Miller made a motion to adjourn. Council Member Bruce Meysenburg seconded the motion. The motion carried and Chairman Jessica Miller declared the meeting adjourned at 8:07 p.m.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 7, Nay: 0

Secretary Tami L. Comte