

BK 1502 PG 561-564

RICHARD N. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

2003 MAR 21 AM 8:58

RECEIVED

MISC 2003 09819

PERMANENT EASEMENT
(TRUSTEE)

When recorded return to:
City of Omaha, Nebraska

misc

Public Works Department
Design Division
R-O-W Section
(Tom Lund, R/W Agent)

01-60000
FEE 27.00 FR 56-42460
BKP 35-15-120/0 COMP _____
DEL _____ SCAN ✓ FV _____

| FOR OFFICE USE ONLY | |
|---------------------|---|
| Project: | 72nd Street from I-80 to Mercy Road |
| City Proj. No.: | S.P. 86-23C |
| Tract No.: | 123 |
| Address: | 2808 South 72nd Street Omaha, Nebraska 681 |

KNOW ALL MEN BY THESE PRESENTS:

THAT C. James Fabian, Trustee Under Declaration of Trust, dated April 5, 1989, hereinafter referred to as GRANTOR, (whether one or more) for and in consideration of the sum of One thousand six hundred ninety and 00/100 dollars (\$1,690.00) 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 CITY, and to its successors and assigns, a permanent easement for the right to construct and maintain a retaining wall with footings, and appurtenances thereto, hereinafter referred to as WALL in, through, and under the parcel of land described as follows, to-wit:

SEE ATTACHED EXHIBIT "A"
PERMANENT EASEMENT LEGAL DESCRIPTION

TO HAVE AND TO HOLD unto said CITY, its successors and assigns, together with the right of ingress and egress from said premises for the purpose of constructing, inspecting, maintaining, operating, repairing or replacing said WALL at the will of the CITY. The GRANTOR may, following construction of said WALL continue to use the surface of the easement strip conveyed hereby for other purposes, subject to the right of the CITY to use the same for the purposes herein expressed.

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 strip by GRANTOR, his or their successors and assigns without express approval of the CITY. Improvements which may be approved by CITY 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 shall be maintained by GRANTOR, his heirs, successors or assigns.
- 2) That CITY will replace or rebuild any and all damage to improvements caused by CITY exercising its rights of inspecting, maintaining or operating said WALL, except that damage to, or loss of trees and shrubbery will not be compensated for by CITY.
- 3) This permanent easement is also for the benefit of any contractor, agent, employee, or representative of the CITY and any of said construction and work.
- 4) That CITY shall cause any trench made on said easement strip to be properly refilled and shall cause the premises to be left in a neat and orderly condition.
- 5) That said GRANTOR for himself or themselves and his or their heirs, executors and administrators does or do confirm with the said CITY and its assigns, that he or they, the GRANTOR is or are well seized in fee of the above described property and that he or they has or have the right to grant and convey this permanent easement in the manner and form aforesaid, and that he or they will, and his or their heirs, executors, and administrators, shall warrant and defend this permanent easement to said CITY and its assigns against the lawful claims and demands of all persons. This permanent easement runs with the land.
- 6) That said permanent easement is granted upon the condition that the CITY may remove or cause to be removed all presently existing improvements thereon, including but not limited to, crops, vines, trees within the easement area as necessary for construction.

PERMANENT EASEMENT

Page Two (2)

C. James Fabian, Trustee Under Declaration of Trust, dated April 5, 1989
Tract No 123

- 7) The CITY reserves the absolute right to terminate this permanent easement 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 Easement Agreement.
- 8) That this instrument contains the entire agreement of the parties; that there are no other or different agreements or understandings, except a Temporary Construction Easement if and as applicable, between the GRANTOR and the CITY or its agents; and that the GRANTOR, in executing and delivering this instrument, has not relied upon any promises, inducements, or representations of the CITY or its agents or employees, except as are set forth herein (if applicable):

IN WITNESS WHEREOF said GRANTOR has or have hereunto set his or their hand(s) this 6 day of February, 2003.

TRUSTEE

C. James Fabian

C. James Fabian, Trustee Under Declaration of Trust dated April 5, 1989

567-32-1199

(Social Security No.)

ACKNOWLEDGMENT

California
STATE OF ~~NEBRASKA~~)
Orange) SS
COUNTY OF ~~DOUGLAS~~)

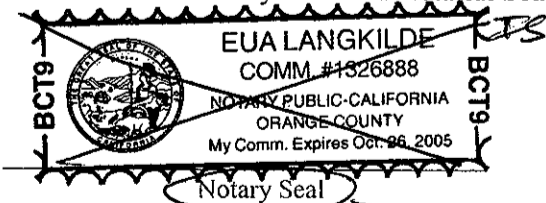
On this 6th day of February, 2003

before me, a Notary Public, in and for said County, personally came the above named:

C. James Fabian, Trustee Under Declaration of Trust dated April 5, 1989

who is ~~personally known~~ ^{proven} to me to be the identical person whose name is affixed to the above instrument and acknowledged the instrument to be his voluntary act and deed for the purpose therein stated.

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



Irene Sanchez
NOTARY PUBLIC

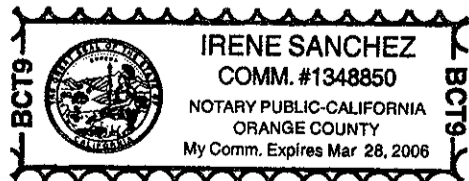


Exhibit "A"

Project No. SP 86-23C

Tract No. 123

Permanent Easement:

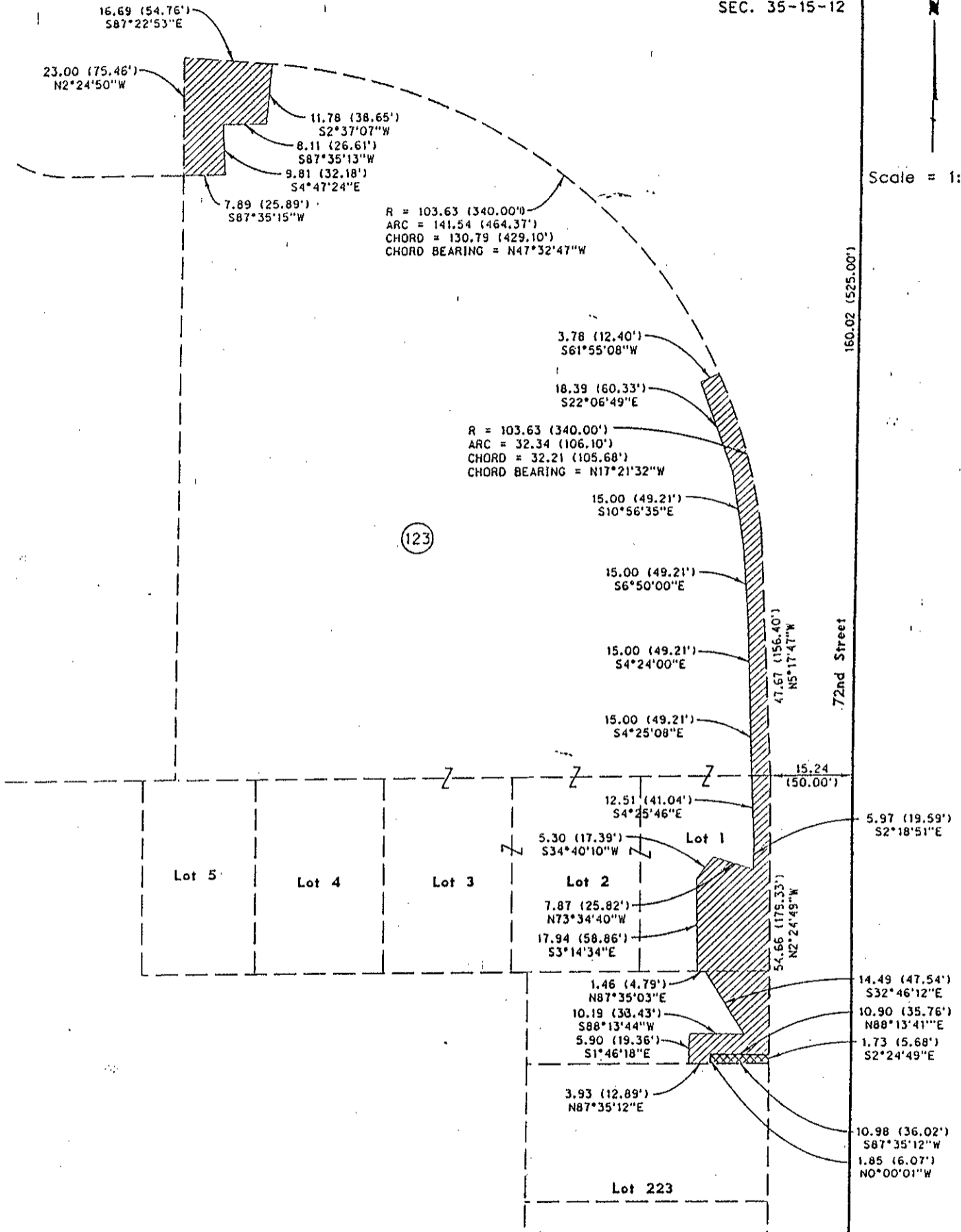
A part of lot 1, Westgate Addition, an addition the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, together with a tract of land located in the NE 1/4 of Section 35, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, together with a part of vacated Oak Street abutting on the south, and described as follows:

Referring to the NE corner of the NE 1/4 of Section 35, Township 15 North, Range 12 East of the 6th P.M., thence S02°24'49"E a distance of 160.02 meters (525.00 feet); thence S88°47'30"W a distance of 15.24 meters (50.00 feet) to the Northeast corner of said lot 1; thence S02°24'49"E a distance of 54.66 meters (179.33 feet) and the Point of Beginning; thence S02°24'49"E a distance of 1.73 meters (5.68 feet); thence S87°35'12"W a distance of 10.98 meters (36.02 feet); thence N00°00'01"W a distance of 1.85 meters (6.07 feet); thence N88°13'41"E a distance of 10.90 meters (35.76 feet) to the Point of Beginning and containing 19.58 square meters (210.72 s.f.) more or less.

West Center Road

NE 1/4
SEC. 35-15-12

Scale = 1:1000



| | |
|---------------------|--|
| | LAND ACQUISITION |
| | PERMANENT EASEMENT <u>19.58 (210.76)</u> |
| | TEMPORARY EASEMENT <u>1078.08 (11604.36)</u> |
| LEGEND: S.M. (S.F.) | |

PROJECT NO. SP 86-23
TRACT NO. 123
DATE: APRIL 26, 2002

OWNER: C. James Fablan
2808 South 72nd Street
Omaha, Ne. 68124

LEAD AGENCY:
CITY OF OMAHA
PUBLIC WORKS DEPARTMENT