



MISC 2007089401



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Received - DIANE L. BATTIATO
 Register of Deeds, Douglas County, NE
 8/6/2007 14:40:10.86



2007089401

PERMANENT EASEMENT

THIS AGREEMENT, made this 2nd day of August, 2007 between PHYLLIS D. ALMQUIST, TRUSTEE OF THE PHYLLIS D. ALMQUIST TRUST and HOWARD W. ALMQUIST, TRUSTEE OF THE HOWARD W. ALMQUIST TRUST ("Grantors"), and METROPOLITAN UTILITIES DISTRICT OF OMAHA, a Municipal Corporation and Political Subdivision ("Grantee"),

WITNESS:

Grantors, in consideration of the sum of Two Dollars (\$2.00) and other valuable consideration, receipt of which is hereby acknowledged, hereby grant to Metropolitan Utilities District of Omaha, its successors and assigns, a permanent easement to lay, maintain, operate, repair, relay and remove, at any time, pipelines for the transportation of water and all appurtenances thereto, including, but not limited to, round iron covers, roadway boxes, hydrants, and pipeline markers, together with the right of ingress and egress on, over, under and through lands described as follows:

PERMANENT EASEMENT

A tract of land in the Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼) of Section 11, Township 16 North, Range 11 East of the 6th P.M., Douglas County, Nebraska and described as follows:

The southerly thirty feet (30') of the northerly four hundred twenty-five feet (425') of the easterly four hundred twenty-five feet (425') of the westerly four hundred ninety-five feet (495') as it abuts the right-of-way of 156th Street on the west and north property line of Lebberts 2nd Addition to the south.

This permanent easement contains 0.290 of an acre, more or less, and is shown on the drawing attached hereto and made a part hereof by reference.

TO HAVE AND TO HOLD said Permanent Easement to Grantee, Metropolitan Utilities District of Omaha, its successors and assigns.

1. Grantors and their successors and assigns shall not at any time erect, construct or place on or below the surface of the permanent easement any building or structure, except pavement or a similar covering, and shall not permit anyone else to do so.

2. During the installation of the main, Grantee shall strip and stockpile a minimum of twelve inches of the topsoil. After the main is installed, Grantee shall replace the stockpiled topsoil on areas from which the topsoil was originally stripped. The Grantee shall restore the soil excavated for any purpose hereunder, as nearly as is reasonably possible to its original contour within a reasonable time after the work is performed.

3. Grantors are the lawful possessors of this real estate; have good, right and lawful authority to make such conveyance; and Grantors and their successors and assigns shall warrant and defend this conveyance and shall indemnify and hold harmless Grantee forever against the claims of all persons asserting any right, title or

Please file & return to:

Susan E. Prazan
 Metropolitan Utilities District
 1723 Hamey Street
 Omaha, Nebraska 68102-1960

✓28344

interest prior or contrary to this conveyance; provided, however, that Grantee and Grantors acknowledge that at the September 9, 1974 meeting of the Village Board of Trustees of the City of Bennington, Nebraska, such Village Board, in exchange for the grant of an easement by Howard Almquist, gave Howard Almquist the privilege to connect to the new water main presently located within a portion of the Permanent Easement area, without charge; a copy of the Minutes of such Board Meeting are attached hereto as Exhibit "A", and incorporated herein by this reference. Grantors hereby reserve all claims, rights, and causes of action which they, or any of them, or their successors in interest, may have to connect to the water line installed on Howard Almquist's property pursuant to the actions of the Village Board of Trustees of the City of Bennington, Nebraska on September 9, 1974. The parties acknowledge that no part of the consideration paid to Grantors by Grantee for this Permanent Easement is to be deemed consideration for the granting of the original easement to the City of Bennington and that Grantors' execution of this Permanent Easement shall not be construed or deemed as a release, waiver, or estoppel of Grantors' rights to connect to the water main, as set forth in the Minutes of the Village Board dated September 9, 1974. Insofar as the legal description of this Permanent Easement includes the area of the original easement granted to the City of Bennington in 1974, the parties agree that it is included only for purposes of clarification of the entire water main easement area, for the water mains, and the inclusion of the original easement area in the legal description of this Permanent Easement shall not be construed or deemed as a release, waiver, or estoppel of Grantors' right to connect to the water main, as above stated. Except as above stated, Grantee hereby reserves all rights and defenses to object to Howard Almquist's connection to the water main, Grantee's execution of this Permanent Easement shall not be construed as a release, wavier, or estoppel of Grantee's rights to make any such objections.

4. The Grantee shall compensate the Grantors for any crop damages incurred as a result of the water main installation. The Grantor shall provide documentation verifying any crop damages which will include the number of acres involved, the then-current crop market prices and historical crop yield data.

5. The persons executing this instrument have authority to execute it on behalf of the District and trusts.

IN WITNESS WHEREOF, Grantee and Grantors execute this Permanent Easement on the above date.

METROPOLITAN UTILITIES DISTRICT OF
OMAHA, a Municipal Corporation and Political
Subdivision,
Grantee


Thomas A. Wurtz, President

PHYLLIS D. ALMQUIST, TRUSTEE OF THE
PHYLLIS D. ALMQUIST TRUST and
HOWARD W. ALMQUIST, TRUSTEE OF THE
HOWARD W. ALMQUIST TRUST,
Grantors


Phyllis D. Almquist, Trustee


Howard W. Almquist, Trustee

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

This instrument was acknowledged before me on August 2, 2007, by Thomas A. Wurtz, President of Metropolitan Utilities District of Omaha, on behalf of the District.



Sandy M. Simon
Notary Public

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

This instrument was acknowledged before me on July 31st, 2007, by Phyllis D. Almquist, Trustee of the Phyllis D. Almquist Trust, on behalf of the trust.

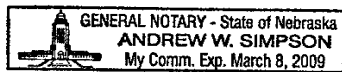


[Signature]
Notary Public

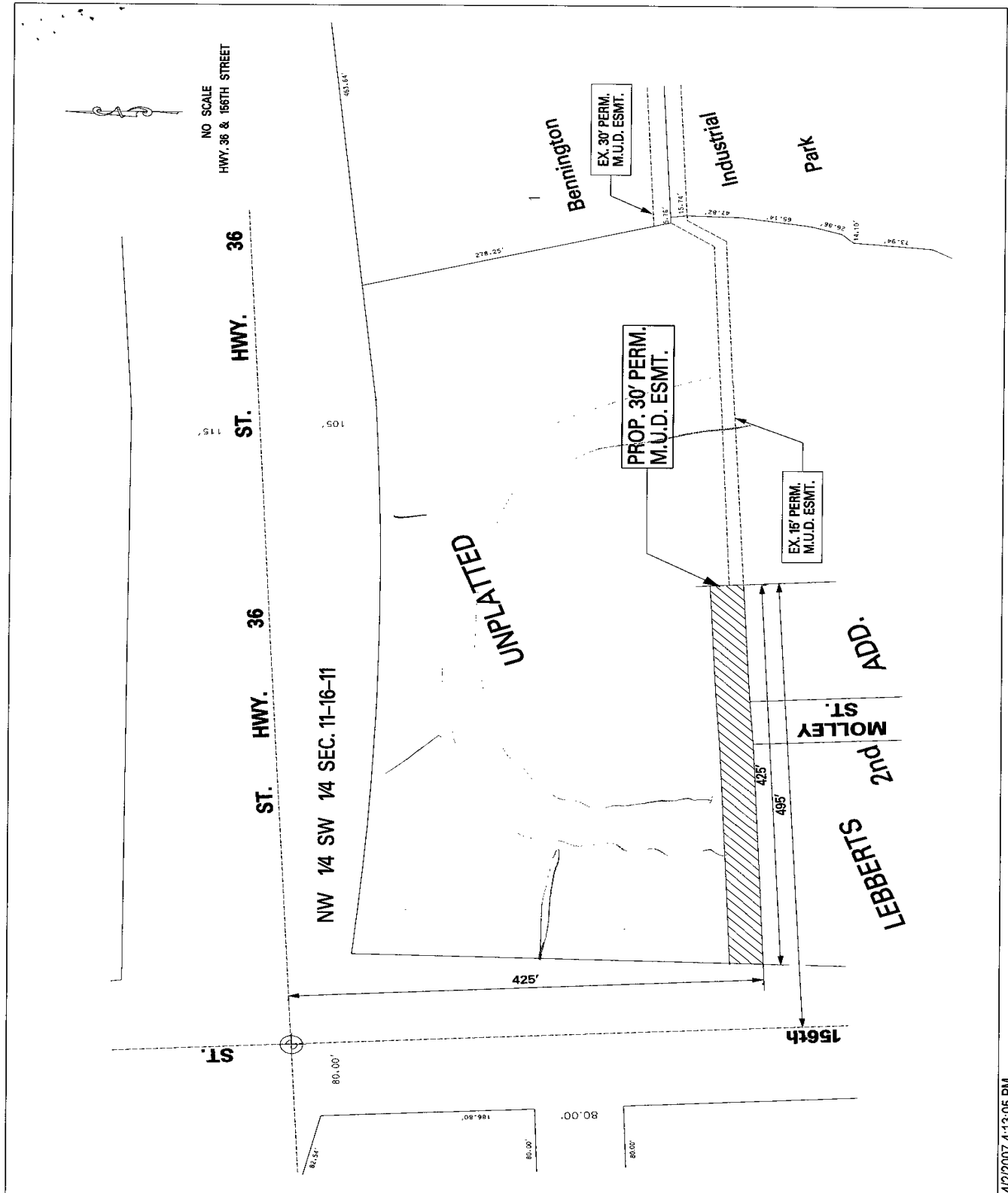
ACKNOWLEDGMENT



STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

This instrument was acknowledged before me on July 31st, 2007, by Howard W. Almquist, Trustee of the Howard W. Almquist Trust, on behalf of the trust.



[Signature]
Notary Public



METROPOLITAN UTILITIES DISTRICT OMAHA, NEBRASKA	
EASEMENT ACQUISITION FOR WCC 10328-1	
LAND OWNER Howard & Phyllis D. Almqvist Truist, 12920 N. 156th Street Bennington, NE 68007	
TOTAL ACRE PERMANENT .290 ±	TOTAL ACRE TEMPORARY N/A ±
LEGEND PERMANENT EASEMENT  TEMPORARY EASEMENT 	
PAGE 1 OF 1	
DRAWN BY DIS DATE 3-19-07 CHECKED BY MKM DATE 4-2-07 APPROVED BY MKM DATE 4-2-07 REVISED BY _____ DATE _____ REV. CHK'D. BY _____ DATE _____ REV. APPROV. BY _____ DATE _____	

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September 9, 1974

The Village Board met for their regular monthly meeting September 9, 1974 at 7:30 p.m. at the Village Library.

The meeting was called to order by Mayor Johns. Roll call was answered by Dale Mohr, Leola Bonge, Wilbur Muller, Wm. Bohn and Russell Johns.

Minutes of the previous meeting were read and approved.

Lynn Pruess of Taylor & Martin Real Estate presented the Village Board with a copy of the protective covenant for the Bennington Heights Addition.

Ordinance Number 120 was read. The Ordinance pertains to increasing the water rates from 50¢ per 1000 gallons to 75¢ per 1000 gallons for residential; and commercial rates at 75¢ per 1000 gallons up to 50,000 gallons and 30¢ per 1000 gallons next 50,000 gallons and 20¢ per 1000 gallons, thereafter.

A motion was made by Wilbur Muller that Ordinance Number 120 be passed as read, seconded by Leola Bonge.

Ordinance Number 120 was declared passed by all members voting "aye".

The library secretary, Mrs. Pat Jones, gave the library monthly report.

Howard Almquist was present to discuss the easement on the new water main which will pass through his property north of Lebbert's 2nd Addition to the Village of Bennington. The Village Board agreed to give Howard Almquist the privilege to connect to the new water main without charge and that the main be placed as not to damage crops and releval ground as not to cause soil erosion or drainage problems.

A motion was made by Leola Bonge and seconded by Dale Mohr that the Village Board of Trustees go on record in being in favor of the Pappo Preservation Association and will have their support.

The following bills were presented for approval:

<u>Check #</u>	<u>To Whom Paid</u>	<u>Amount</u>	<u>Fund</u>
6079	OPPD	612.81	54.13 Library 3.00 Park 3.00 Street 131.09 St. Lights 135.19 Sewer 285.90 Water
6080	Charles Mohr	127.98	Water
6081	Brian Bergman	50.00	Park mowing
6082	Follett Library	251.33	Library new Books
6083	The Baker & Taylor Co.	100.32	Library new Books
6084	MUD	10.96	Library utilities
6085	Herman Kruse	116.00	General 81d insp
6086	Snowden Mize	63.30	Park-Rec. play ground maint.
6087	CMI Incorporated	58.80	General Police repair radio
6088	All Make Office Equip.	30.00	General Police office mat.
6089	Midwest Lab.	100.00	Sewer qtr. test
6090	Mobil Communication	29.25	Fire Dept Radio repair
6091	Witt Construction	1189.50	350.00 Park timber 839.50 Streets Repair
6092	H. T. M. Sales	40.87	Sewer Maint. Repair
6093	Roe Agency	10.00	Police Bond General
6094	Wright Trenching	186.50	Water Maint. repair
6095	Bill's Hi-Way Service	59.47	Police General Gas
6096	Bennington Mobil	68.07	48.59 General Police 19.48 Fire Dept. Gas
6097	John Grant	3.03	Sewer Maint. repair

EXHIBIT "A"