

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
OCTOBER 6, 2009 AGENDA**

Subject:	Type:	Submitted By:
PURCHASE AGREEMENT AND TEMPORARY EASEMENT - MULDER	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

SYNOPSIS

A public hearing has been scheduled and a resolution has been prepared authorizing the execution of a Purchase Agreement and Temporary Easement Agreement with Bernard A. Mulder, Jr., P.O. Box 460936, Papillion, Nebraska 68046-0936, for the construction of the La Vista Link – Keystone Trail Project in an amount not to exceed \$1,500.00.

FISCAL IMPACT

The FY 2008/09 Capital Fund provides funding for the proposed property acquisition.

RECOMMENDATION

Approval

BACKGROUND

This agenda item was tabled at the September 15, 2009 City Council meeting as it was determined that a public hearing must be held. The City was notified on December 13, 2006 that the La Vista Link – Keystone Trail Project was approved by the Transportation Enhancement Selection Committee and the Nebraska Department of Roads for federal funding. On July 8, 2009 the City received formal Notice to Proceed with right-of-way acquisition and final design. This agreement is one of three partials of property that is required to move forward with the project.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AGREEMENT AND TEMPORARY EASEMENT AGREEMENT RELATING TO THE LA VISTA LINK – KEYSTONE TRAIL PROJECT AND AUTHORIZING PAYMENT FOR SAID EASEMENT TO BERNARD A. MULDER, JR. IN AN AMOUNT NOT TO EXCEED \$1,500.00.

WHEREAS, right-of-way acquisition is necessary for construction of the La Vista Link – Keystone Trail Project on a tract of land owned by Bernard A. Mulder, Jr.; and

WHEREAS, a temporary construction easement for construction of the La Vista Link – Keystone Trail Project on a tract of land owned by Bernard A. Mulder, Jr; and

WHEREAS, the FY08/09 Capital Fund Budget provides for the expenses related to the Construction of the La Vista Link – Keystone Trail Project; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the Mayor to execute a purchase agreement and temporary easement relating to the construction of the La Vista Link – Keystone Trail Project and authorize payment for said purchase and easement to Bernard A. Mulder, Jr. in and amount not to exceed \$1,500.00.

PASSED AND APPROVED THIS 6TH OF OCTOBER 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

STATE OF NEBRASKA

**LOCAL POLITICAL SUBDIVISION
PARTIAL ACQUISITION CONTRACT - INDIVIDUAL**

Copies to:

1. Right of Way Division, Nebraska Department of Roads
2. Owner
3. Buyer

Project No.: ENH-77(50)
Control No.: CN 22251
Tract No.: 1

THIS CONTRACT, made and entered into this 28th day of July, 2009,
by and between, BERNARD A. MULDER, JR. a single person
Address: PO Box 460936, Papillion, Nebraska 68046
hereinafter called the OWNER, and CITY OF LA VISTA, NEBRASKA, hereinafter called the BUYER.

RIGHT OF WAY

WITNESSETH: In consideration of the payment or payments as specified below, the OWNER hereby agrees to execute to the BUYER, a deed which will be prepared and furnished by the BUYER, to certain real estate described in:

SEE ATTACHED EXHIBIT "A"

The BUYER agrees to purchase the above described Right of Way and to pay, therefore, upon the delivery of said executed Deed. If the OWNER so desires, they shall have the right to receive 100% of the final payments due under this contract prior to vacating the premises being acquired.

Approximately	<u>165</u>	square feet at	<u>\$ 4.00</u>	per square foot	<u>\$ 660.00</u>
Approximately		acres at	<u>\$</u>	per acre	<u>\$</u>
Approximately		acres at	<u>\$</u>	per acre	<u>\$</u>
Moving and replacing approximately		rods of fence at	<u>\$</u>	per rod	<u>\$</u>
Moving and replacing approximately		rods of fence at	<u>\$</u>	per rod	<u>\$</u>
Other Damages:					<u>\$</u>
					<u>\$</u>
				TOTAL	\$ 660.00

It is agreed and understood that the BUYER is hereby granted an immediate right of entry upon the premises described above.

The above payments shall cover all damages caused by the establishment and construction of the above project except for CROP DAMAGE, if any, which will be paid for in an amount based on the yield from the balance of the field less expenses of marketing and harvesting. CROP DAMAGE shall mean damage to such crops as are required to be planted annually and which were planted at the time of the signing of this contract and which are actually damaged due to construction of this project, but in no case shall damages be paid for more than one year's crop. The OWNER agrees to make a reasonable attempt to harvest any crop so as to mitigate the crop damage.

If any other party shall hold any encumbrance against the aforementioned property at the time of delivery of the aforementioned property, such payments as are due under this contract shall be made to the OWNER jointly with the party or parties holding such encumbrance, unless said party or parties holding such encumbrance shall have in writing waived their right to receive such payment.

Expenses for partial release of mortgages will be paid by the BUYER, if required.

This contract 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 contract shall terminate upon the payment of \$10.00 by the BUYER to the OWNER.

This contract 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 but one and the same contract.

REMARKS

THIS IS A LEGAL AND BINDING CONTRACT - READ IT.

The representative of the BUYER, in presenting this contract has given me a copy and explained all its provisions. A complete understanding and explanation has been given of the terminology, phrases, and statements contained in this contract. It is understood that no promises, verbal agreements or understanding, except as set forth in this contract, will be honored by the BUYER.

BUYER

By _____

Dale

Dated this _____ day of _____, 20____

On the above date, before me a General Notary Public duly commissioned and qualified, personally came

(to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

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

Notary _____

STATE OF NEBRASKA)
)ss.

COUNTY OF SARPY _____
(S E A L)

OWNER

Bernard A. Muller
BERNARD A. MUIIDER, JR.

BERNARD A. MULDER, JR.

Dated this 28th day of July, 2009.

On the above date, before me a General Notary Public duly commissioned and qualified, personally came

BERNARD A. MULDER, JR.

to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

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

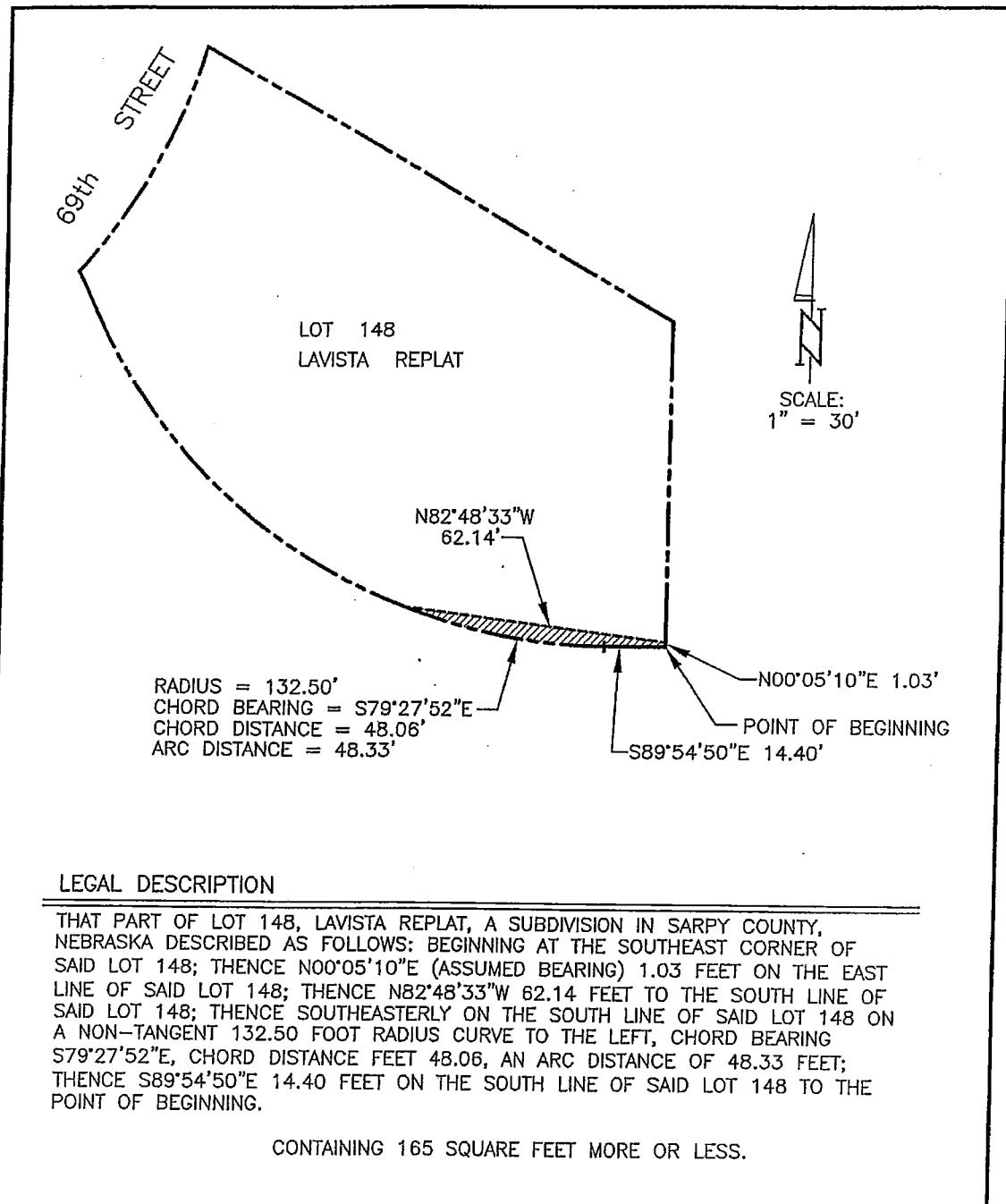
Notary Brice J.

STATE OF Nebraska /)

COUNTY OF Sarpy (S E A L)



EXHIBIT "A"



171359EX4.dwg

STATE OF NEBRASKA

**LOCAL POLITICAL SUBDIVISION ACQUISITION CONTRACT
TEMPORARY EASEMENT - INDIVIDUAL**

Copies to:

1. Right of Way Division, Nebraska Department of Roads
2. Owner
3. Buyer

Project No.: ENH-77(50)
Control No.: CN 22251
Tract No.: 1

THIS CONTRACT, made and entered into this 28 day of July, 2009,
by and between, BERNARD A. MULDER, JR., a Single Person
Address: PO Box 460936, Papillion, Nebraska 68046
hereinafter called the OWNER, and CITY OF LA VISTA, NEBRASKA, hereinafter called the BUYER.

TEMPORARY EASEMENT

WITNESSETH: In consideration of the payment or payments as specified below, the OWNER hereby grants to the BUYER a Temporary Easement to certain real estate described in:

SEE ATTACHED EXHIBIT "A"

It is understood that the easement area(s) may be used for the temporary relocation of utilities during the construction of the project.

The BUYER agrees to purchase the above described Temporary Easement(s) and to pay, therefore, upon the delivery of said executed Temporary Easement(s). If the OWNER so desires, they shall have the right to receive 100% of the final payments due under this contract prior to vacating the premises being acquired.

Approximately	<u>1,553</u>	square feet at	<u>\$ 4.00</u>	per square foot x 12%	<u>\$ 840.00 @</u>
Approximately	<u> </u>	acres at	<u> </u>	per acre	<u> </u>
Approximately	<u> </u>	acres at	<u> </u>	per acre	<u> </u>
Moving and replacing approximately	<u> </u>	rods of fence at	<u> </u>	per rod	<u> </u>
Moving and replacing approximately	<u> </u>	rods of fence at	<u> </u>	per rod	<u> </u>
Other Damages:	<u> </u>		<u> </u>		<u> </u>
TOTAL					\$ 840.00 @

It is agreed and understood that the BUYER is hereby granted an immediate right of entry upon the premises described above.

The above payments shall cover all damages caused by the establishment and construction of the above project except for CROP DAMAGE, if any, which will be paid for in an amount based on the yield from the balance of the field less expenses of marketing and harvesting. CROP DAMAGE shall mean damage to such crops as are required to be planted annually and which were planted at the time of the signing of this contract and which are actually damaged due to construction of this project, but in no case shall damages be paid for more than one year's crop. The OWNER agrees to make a reasonable attempt to harvest any crop so as to mitigate the crop damage.

If any other party shall hold any encumbrance against the aforementioned property at the time of delivery of the aforementioned property, such payments as are due under this contract shall be made to the OWNER jointly with the party or parties holding such encumbrance, unless said party or parties holding such encumbrance shall have in writing waived their right to receive such payment.

Expenses for partial release of mortgages will be paid by the BUYER, if required.

This contract 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 contract shall terminate upon the payment of \$10.00 by the BUYER to the OWNER.

This contract 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 but one and the same contract.

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The representative of the BUYER, in presenting this contract has given me a copy and explained all its provisions. A complete understanding and explanation has been given of the terminology, phrases, and statements contained in this contract. It is understood that no promises, verbal agreements or understanding, except as set forth in this contract, will be honored by the BUYER.

BUYER

OWNER

Bernard A. Mulder
BERNARD A. MULDER, JR.

By _____

Dated this 28 day of July, 2009

Dated this _____ day of _____, 20_____
On the above date, before me a General Notary Public duly commissioned and qualified,

to me known to be the identical person(s) whose name(s) affixed to the foregoing Instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

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

Notary _____

to me known to be the Identical person(s) whose name(s) affixed to the foregoing Instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

to me known to be the Identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

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

Notary 

STATE OF Nebraska)

COUNTY OF Sherman)

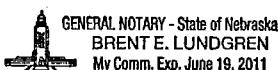
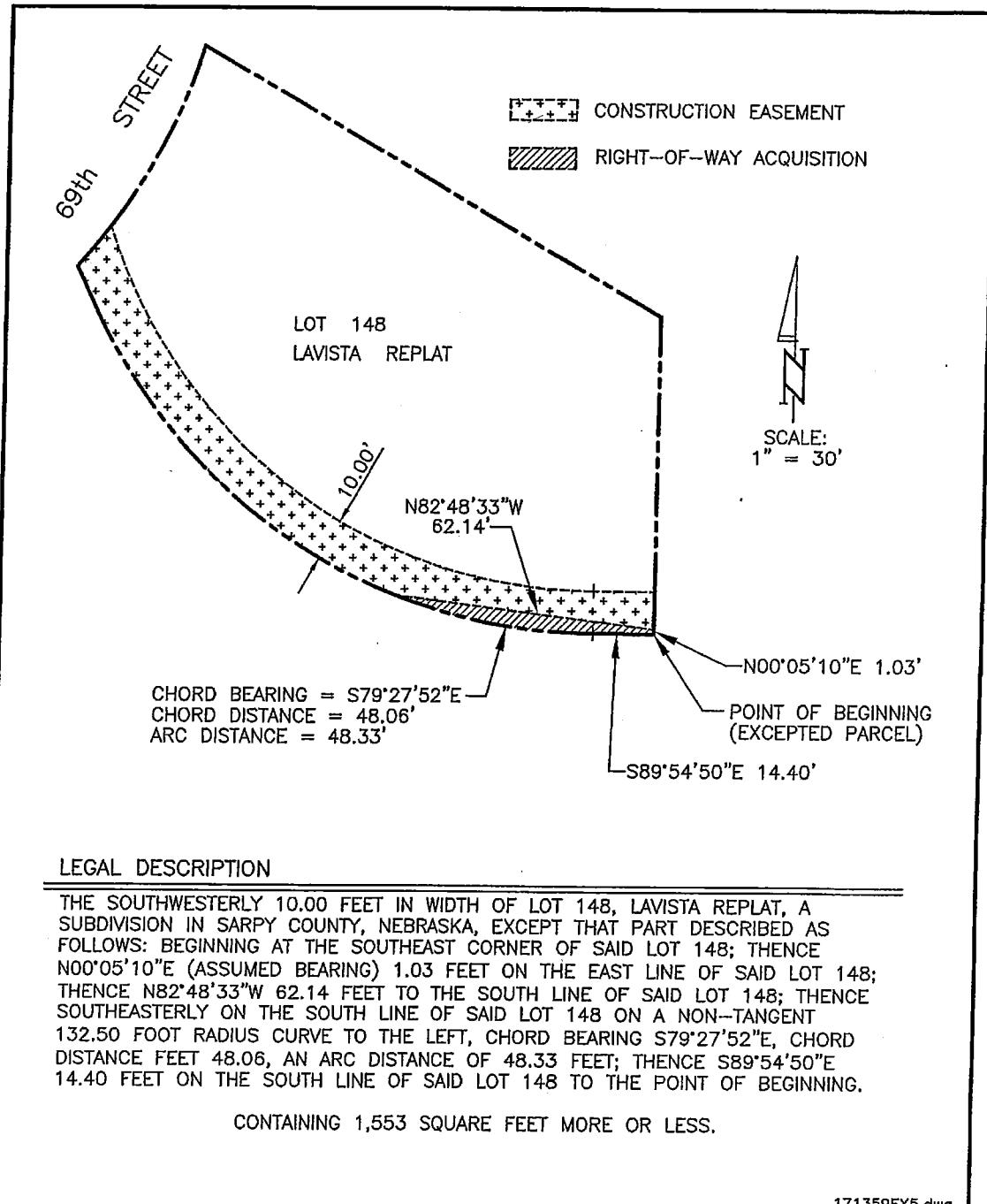


EXHIBIT "A"



WARRANTY DEED - INDIVIDUAL

KNOW ALL MEN BY THESE PRESENTS:

THIS DEED, made this 28th day of July, 2009, between
BERNARD A. MULDER, JR., a single person,
party of the first part, and the CITY OF LAVISTA, NEBRASKA, a Municipal Corporation organized and existing
under and by virtue of the Laws of the State of Nebraska.

WITNESSETH: that said party of the first part, whether one or more, for and in consideration of the sum of **ONE AND NO/100 DOLLARS (\$1.00)**, and other good and valuable consideration, in hand paid, receipt of which is hereby acknowledged, does hereby grant, bargain, sell, convey, and confirm for public purposes unto the CITY OF LA VISTA, NEBRASKA, the following described real estate, situated in the County of Sarpy and State of Nebraska, to wit:

SEE ATTACHED EXHIBIT A

TO HAVE AND TO HOLD the above described premises, together with all the tenements, hereditaments, and appurtenances thereunto belonging, unto said CITY OF LA VISTA, NEBRASKA, and its successors and assigns forever;

And the said party of the first part for itself and its successors, does hereby covenant and agree to and with the said CITY OF LA VISTA, NEBRASKA, and its successors and assigns, that at the time of the execution and delivery of these presents it is lawfully seized of said premises, that it has good right and lawful authority to convey the same; that they are free from encumbrance; and party of the first part does hereby covenant for itself and its successors to warrant and defend the said premises against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF said GRANTOR(S) has or have hereunto set his or their hand(s) this
8th day of July, 2009.

INDIVIDUAL and/or PARTNERSHIP

Bernard A. Mulder
BERNARD A. MULDER, JR.

INDIVIDUAL ACKNOWLEDGMENT

STATE OF Nebraska)
COUNTY OF Scrapov)ss.

WITNESS my hand and notarial seal the day and year last above written

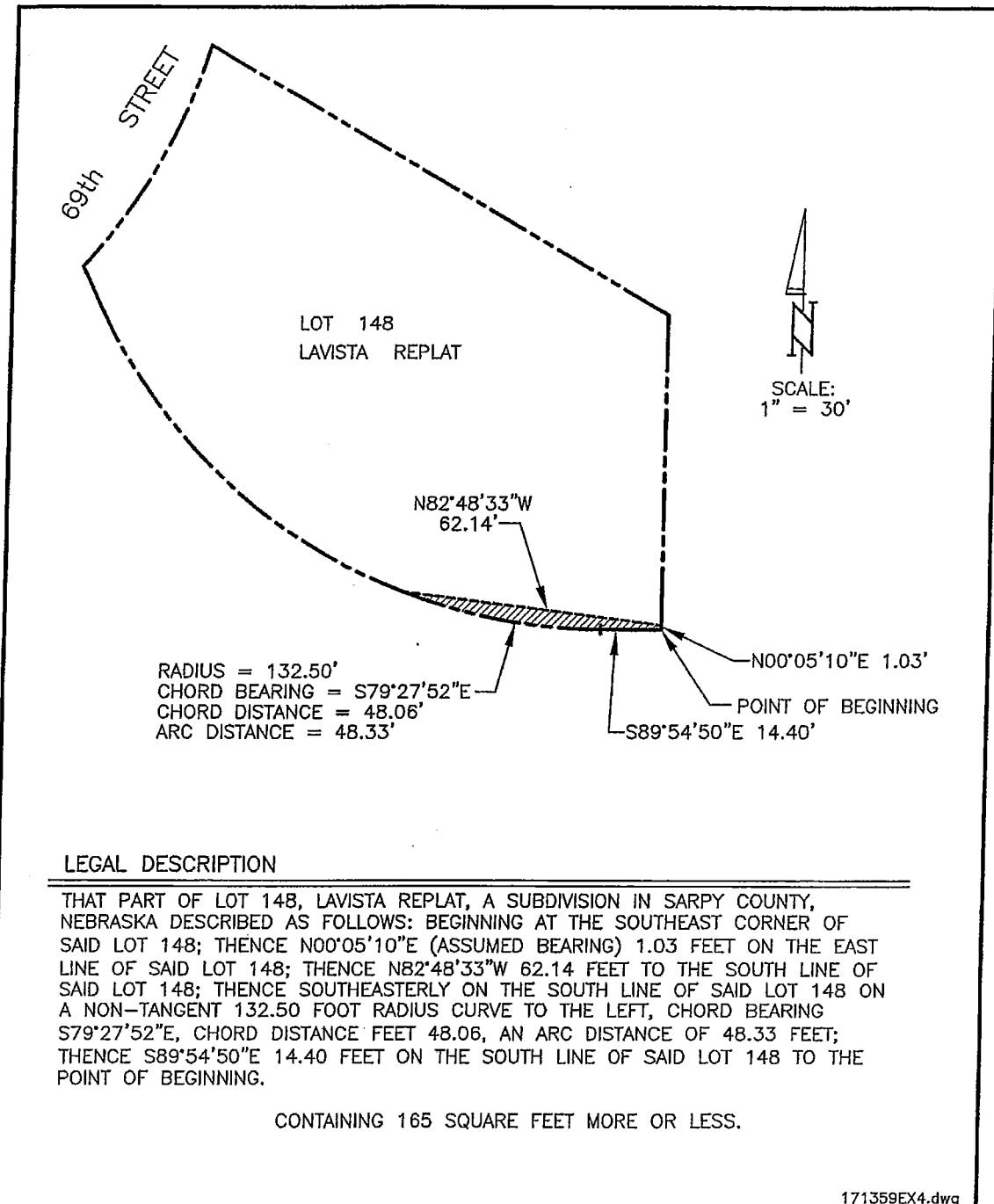
(S E A L)



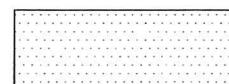
GENERAL NOTARY - State of Nebraska
BRENT E. LUNDGREN
My Comm. Exp. June 19, 2011

Barry E. O'Ferrall
Notary Public

EXHIBIT "A"



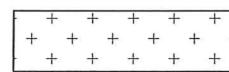
LEGEND



EXISTING ROW



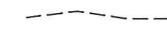
PROPOSED ROW



TEMPORARY EASEMENT

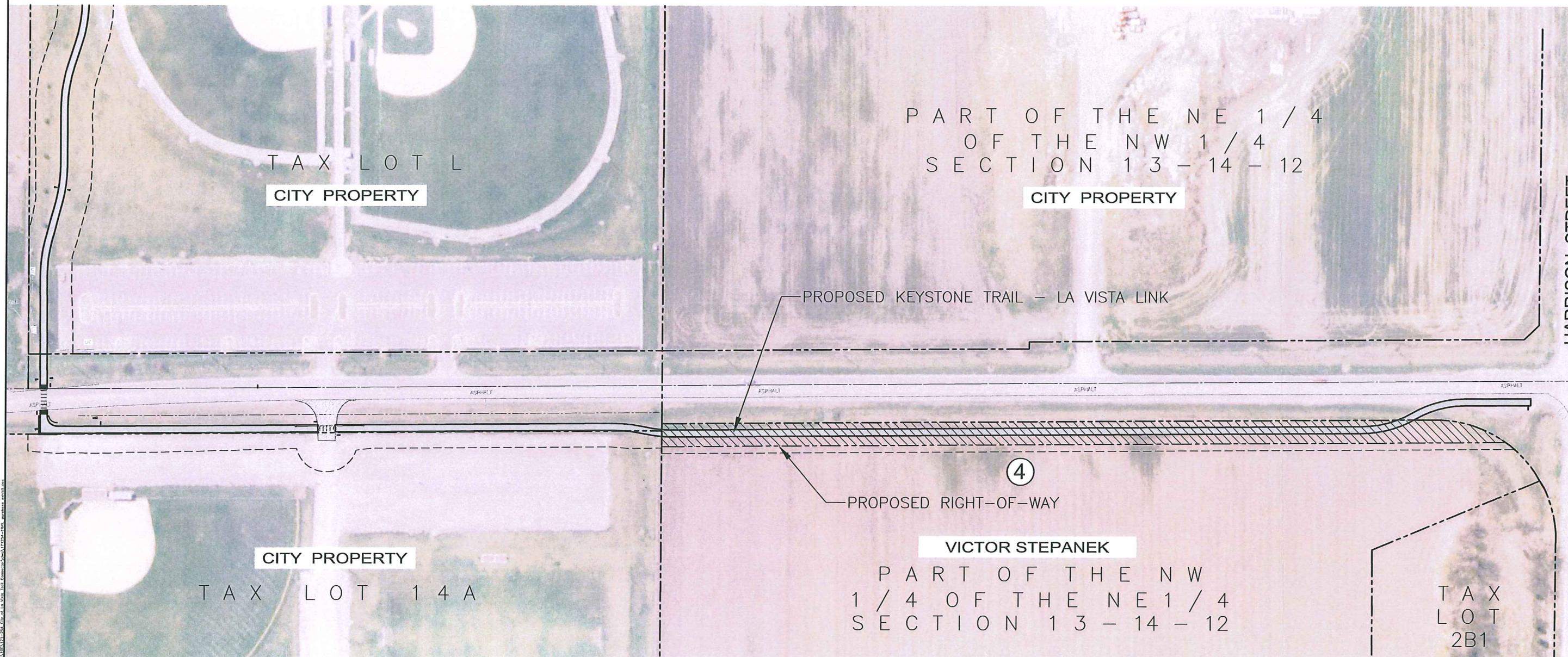
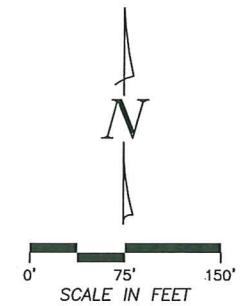
(4)

TRACT NUMBER



CONSTRUCTION LIMITS

OWNERSHIP			RECORD		
TRACT NUMBER	OWNER	DESCRIPTION	R.O.W. ACQUIRED	PERMANENT EASEMENT	TEMPORARY EASEMENT
1	BERNARD A. MULDER, J.R.	LOT 148, LA VISTA REPLAT	165 S.F.	0 AC.	1553 S.F.
2	KENNETH A. AND DORIS M. OSENTOWSKI	TAX LOT J, NW1/4 SEC. 13-14-12	0.14 AC.	0 AC.	0.033 AC.
3	KENNETH A. AND DORIS M. OSENTOWSKI	TAX LOT K, NW1/4 SEC. 13-14-12	0.38 AC.	0 AC.	0.067 AC.
4	VICTOR STEPANEK	TAX LOT 3A, NE1/4 SEC. 13-14-12	0.87 AC.	0 AC.	0.270 AC.



2 THOMPSON, DREESSEN & DORNER, INC.
Consulting Engineers & Land Surveyors
10836 OLD MILL ROAD OMAHA, NEBRASKA 68154
PHONE: 402.330.8860 FAX: 402.330.8866 EMAIL: TDMAIL@TD2CO.COM
WEBSITE: WWW.TD2CO.COM



171-254-2006 Surveyor's Drawing

KEYSTONE TRAIL - LA VISTA LINK
RIGHT-OF-WAY PLAN
CITY OF LA VISTA

AS SHOWN
date: 9-22-09
drawn by: RTM
checked by: JMK
revision:

made:

drawn by:

checked by:

revision: