

ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1176

AN ORDINANCE TO AMEND ORDINANCE NO. 1170 VACATING, AND RESERVING AND RETAINING TITLE IN THE CITY TO, AND DIRECTING THE SALE AND CONVEYANCE OF, A PART OF HARRISON STREET RIGHT-OF-WAY LOCATED IN THE NW ¼ OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA; TO REPEAL ORDINANCE NO. 1170 AS ORIGINALLY ADOPTED; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA:

I. That Ordinance No. 1170 is hereby amended to read as follows:

Section 1. It is hereby declared necessary, expedient, proper and for the public good to vacate, and for the City to reserve and retain title to (for sale and conveyance of), a part of Harrison Street right-of-way located in the NW ¼ of Section 14, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, ("Property"); and said Property is hereby vacated and the City reserves and retains title thereto for sale and conveyance thereof as directed in Section 2 below.

Section 2. Upon request and payment of adequate consideration and such administrative costs and fees incurred by the City in connection with the vacation, sale and conveyance of the Property, the City shall provide a quitclaim deed selling and conveying the Property to Nebraska CVS Pharmacy, L.L.C. ("CVS"), subject to the rights, conditions and limitations set forth in this Section 2 below, and in accordance with the manner and terms of conveyance specified in Exhibit B attached hereto and incorporated herein by this reference, which rights, conditions, limitations, manner and terms are hereby deemed to be in the best interests of the City; and all of which rights, conditions, limitations, manner and terms shall continue in perpetuity and be binding on CVS and all successors or assigns of CVS or the Property.

a. In addition to any reserved rights provided elsewhere in this Ordinance or in any document or instrument of conveyance or under applicable law, the following rights, conditions and limitations shall be reserved in perpetuity to the City of La Vista with respect to the Property:

- i. the right to maintain, operate, repair, replace, extend and renew sewers and other improvements now existing in, on, over, under or across the Property and in the future to construct, maintain, repair, replace, extend and renew additional or other sewers and improvements;
- ii. the right to authorize public utilities, cable television companies and other persons, systems or services to construct, maintain, repair, replace, renew, extend and operate now or hereafter installed water mains and gas mains, poles, lines, conduits, equipment and appurtenances above, in, on, over, across or below the surface of the ground for the purpose of serving the general public or abutting property;
- iii. the right to authorize such connections or branch lines as may be ordered, desired or permitted by the City or such other utility, person, system or service; and
- iv. the right to enter upon the Property to accomplish the above and any related or similar purposes at any and all times.

b. Due to unique dimensions of the Property and its proximity adjacent to public right of way, and CVS's representation of a desire to acquire the Property for the sole purpose of locating and maintaining a Project Directory Sign (as defined in the City of La Vista Zoning Ordinance), CVS and the City are in agreement that the Property shall be conveyed to CVS for the following purposes:

- i. CVS shall construct, maintain and use a Project Directory Sign on the Property at the location specified in Exhibit C attached hereto and incorporated herein by reference;
- ii. The sign shall be designed, constructed and used in accordance with all applicable laws, rules and regulations;

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iii. The design and layout of the sign, vicinity covered by the sign, and the number of businesses within the vicinity to be colocated and listed on the sign with CVS, shall be subject to approval of the City Administrator, and the actual businesses ultimately listed on the sign shall be determined by reasonable, good faith negotiations between CVS and said businesses; and

iv. The remainder of the Property that is not used for the Project Directory Sign shall continue to be maintained as a lawn, as existing at closing, and for no other purposes.

("Permitted Purposes").

CVS shall take title to the Property subject to the Permitted Purposes, and after closing on the Property, CVS shall use the Property exclusively for the Permitted Purposes and for no other purposes. In addition to, and not in limitation of the foregoing, CVS at all times shall maintain or contract for the maintenance of the lawn on the Property in a healthy, clean, neat and trim manner, condition and appearance that is at or above the level, manner, condition and appearance in effect upon closing.

c. An irrigation system serves a tract of land owned by Professional Mortuary Services, Inc. adjacent to the east of the Property, which irrigation system is partly located in, on, over, under, across or below the surface of the Property ("Irrigation System"). Professional Mortuary Services, Inc., its successors and assigns shall have an easement for the present and future location, maintenance, operation, replacement, repair and renewal of said Irrigation System in, on, over, under, across or below the surface of the Property, and to enter upon the Property from time to time to exercise the rights granted by said easement. In addition, if any part of the Irrigation System is damaged, destroyed or rendered inoperable by any negligence, act or omission of CVS, CVS agrees to immediately repair, replace and restore said part and the Irrigation System to good and working condition and repair.

d. All or any vegetation now or hereafter upon the Property, including, but not limited to, lawns, trees, shrubs and crops, and all or any improvements and structures now or hereafter upon the Property, including, but not limited to, buildings, walls, fences, drives, paving, signs and walks, may be damaged or removed by or as authorized by the City as necessary or appropriate in the exercise of the rights herein reserved without any requirement of restoration or compensation to any person.

Such conveyance shall be executed by the Mayor and City Clerk, who are hereby authorized to take such action.

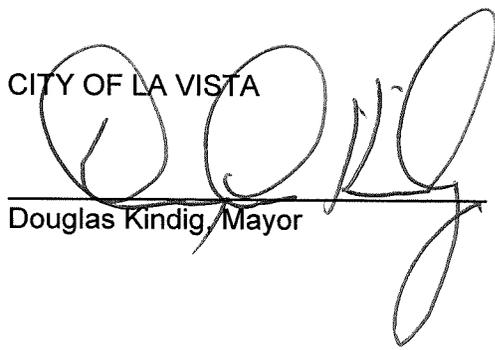
Section 3. The City Clerk is hereby authorized and directed to publish notice of the sale of the Property specified in Exhibit A and the terms of such sale in accordance with the requirements of Section 16-202 of the Revised Statutes of Nebraska.

II. This ordinance shall repeal ordinance number 1170 as previously adopted.

III. This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 19TH DAY OF JUNE, 2012.

CITY OF LA VISTA


Douglas Kindig, Mayor

ATTEST:

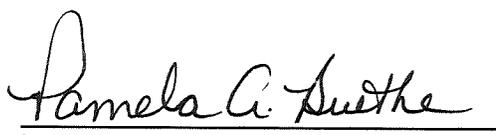
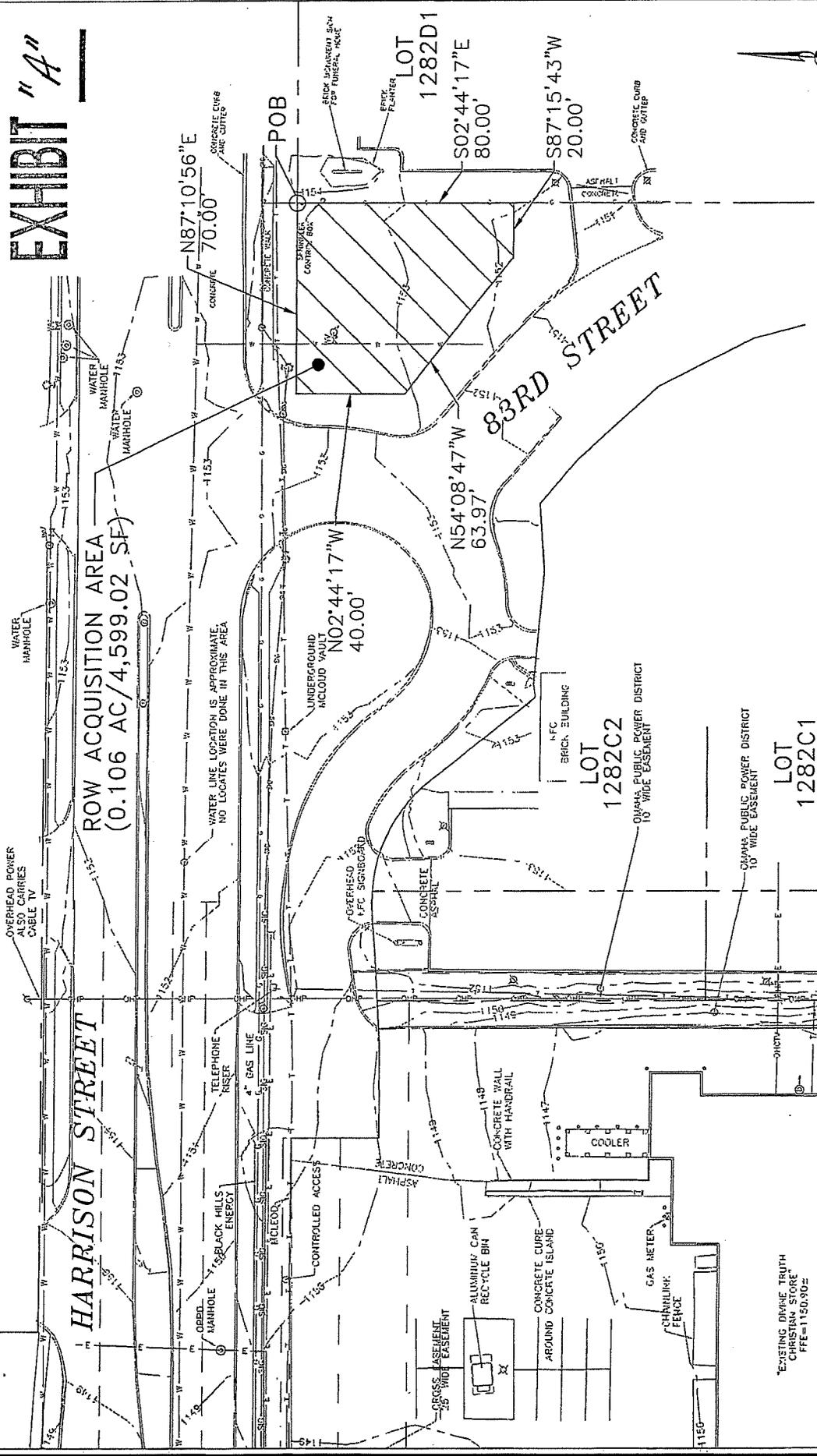

Pamela A. Buethe, CMC
City Clerk

EXHIBIT "A"



DESCRIPTION OF ROW ACQUISITION AREA - 0.106 ACRES
 SITUATED IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST
 OF THE 6TH P.M., IN THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, MORE PARTICULARLY
 DESCRIBED AS FOLLOWS:

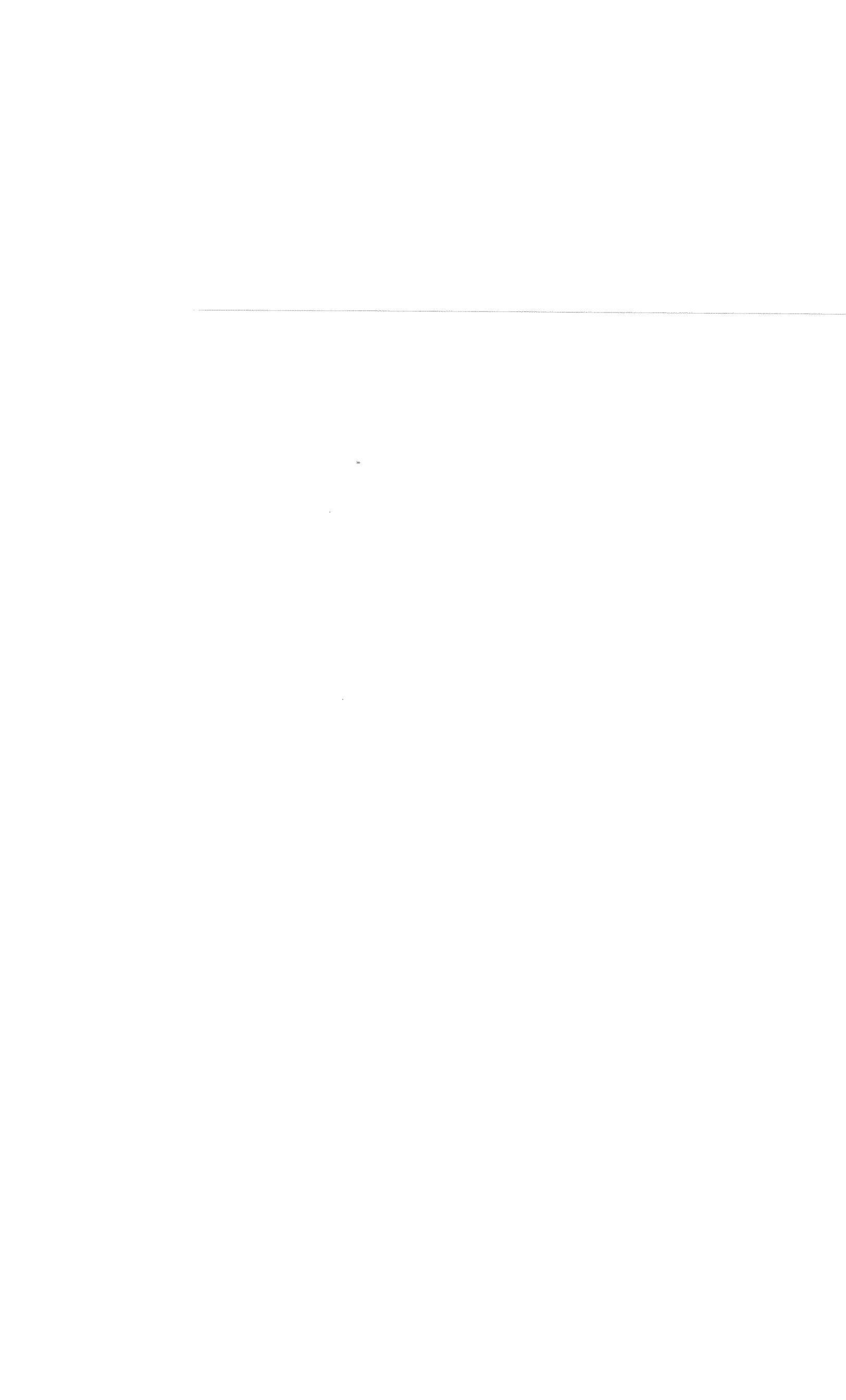
BEGINNING AT THE NORTHWEST CORNER OF LOT 1282D1, LA VISTA, SARPY COUNTY, NEBRASKA,
 AND A POINT IN THE SOUTH RIGHT OF WAY LINE OF HARRISON STREET, THENCE ALONG THE
 WEST, LINE OF SAID LOT 1282D1 AND THE EAST RIGHT OF WAY LINE OF 83RD STREET,
 S02°44'17"E FOR 80.00 FEET; THENCE LEAVING SAID WEST LINE OF LOT 1282D1 AND THE EAST
 RIGHT OF WAY LINE OF 83RD STREET, S87°15'43" FOR 20.00'; THENCE N54°08'47"W FOR 63.97
 FEET; THENCE N02°44'17"W FOR 40.00 FEET; THENCE N87°10'56"E FOR 70.00 FEET TO THE
 POINT OF BEGINNING CONTAINING 4,599.02 SQUARE FEET OR 0.106 ACRES MORE OR LESS.

LEGEND



1"=50'

SEC - HARRISON ST & 83RD ST
LA VISTA, NEBRASKA
 ROW ACQUISITION EXHIBIT
 JUNE 1, 2011



MANNER AND TERMS OF SALE

Manner of Sale: Quitclaim Deed from City to Nebraska CVS Pharmacy, L.L.C. vacated right-of-way, with reservation of easements and other rights.

Terms of Sale:

- 1) Legal Description: BEGINNING AT THE NORTHWEST CORNER OF LOT 1282D1, LA VISTA, SARPY COUNTY, NEBRASKA, AND A POINT IN THE SOUTH RIGHT OF WAY LINE OF HARRISON STREET, THENCE ALONG THE WEST LINE OF SAID LOT 1282D1 AND THE EAST RIGHT OF WAY LINE OF 83RD STREET, S02°44'17"E FOR 80.00 FEET; THENCE LEAVING SAID WEST LINE OF LOT 1282D1 AND THE EAST RIGHT OF WAY LINE OF 83RD STREET, S87°15'43" FOR 20.00'; THENCE N54°08'47"W FOR 63.97 FEET; THENCE N02°44'17"W FOR 40.00 FEET; THENCE N87°10'56"E FOR 70.00 FEET TO THE POINT OF BEGINNING CONTAINING 4,599.02 SQUARE FEET OR 0.106 ACRES MORE OR LESS.
- 2) Consideration to be paid to City: \$26,573 (Appraised at \$36,972 less \$1,800 paid to City for cost of appraisal, \$900 paid to City of cost or review appraisal, \$2,000 for platting expense, and \$5,519 paid to City for administrative fees), plus legal and advertising fees.
- 3) Method of Payment: Cash at closing.
- 4) Closing Date: As parties may agree.
- 5) Purchaser: Nebraska CVS Pharmacy, L.L.C.

