

RECEIVED

JUN 14 2011

LANCASTER COUNTY  
CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LANCASTER COUNTY, NEBRASKA

IN THE MATTER OF INSTITUTING  
EMINENT DOMAIN PROCEEDINGS  
Project No. C-55-Q-409(1)  
Tract No. 32

)  
) RESOLUTION NO. R-11-0041  
)  
)

WHEREAS, pursuant to the laws of the State of Nebraska, the County of Lancaster is charged with the duty of constructing, maintaining and improving county roads and bridges within the county, and is authorized to exercise the power of eminent domain in conjunction with its performance of such duties; and

WHEREAS, the County has concluded that it is necessary for the safety and convenience of the traveling public to improve Pine Lake Road from South 112<sup>th</sup> Street to South 148<sup>th</sup> Street, which improvements consist of re-grading of slope, culvert and driveway construction; and

WHEREAS, certain right-of-way, more particularly described and shown in Exhibits A and B, attached hereto and hereby incorporated by this reference, must be acquired in order to successfully improve Pine Lake road from South 112<sup>th</sup> Street to South 148<sup>th</sup> Street; and

WHEREAS, the County has contacted Beverly A. Hempstead, who is the record owner of said property, and the County has made good faith offers to purchase from her the needed right-of-way shown and described in Exhibits A and B, attached hereto; and

WHEREAS, the County has made reasonable efforts to induce said individuals to accept its offers, as shown in Summaries of Contacts attached as Exhibit C, but has been unable to reach an agreement to purchase said property.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Lancaster County, Nebraska, that eminent domain proceedings be instituted in the County Court

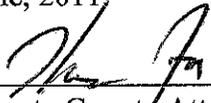
of Lancaster County, Nebraska, in order to acquire the needed right-of-way shown and described on Exhibits A and B, attached, from the above-named parties.

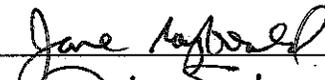
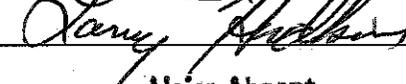
DATED this 21 of June, 2011, at the County-City Building, Lincoln,

Lancaster County, Nebraska.

BY THE BOARD OF COUNTY  
COMMISSIONERS OF LANCASTER  
COUNTY, NEBRASKA

APPROVED AS TO FORM  
this 21 day of  
June, 2011.

  
\_\_\_\_\_  
Deputy County Attorney  
for JOE KELLY  
Lancaster County Attorney

  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
**Heier Absent**

Project No. C55-Q-409(1)  
Owner: Beverly A. Hempstead  
Location: Vicinity of Pine Lake Road and South 120<sup>th</sup> Street  
Lancaster County, NE  
Tract No.: 32

**Fee Simple as Measured by Stationing and Offsets from Project Section line**

From Sta. 144+00.06 to Sta. 157+20.77 a strip 60 ft. wide Right side

**Legal Description of Warranty Deed for part taken**

A part of the E ½, of the NW ¼, of Section 20, Township 9 North, Range 8 East of 6th Principal Meridian, Lancaster County, Nebraska, more particularly described as follows:

The north 60.00 feet of the E ½, of said NW ¼.

Containing 1.82 acres, more or less of which 1.00 acres, more or less is existing county road right of way, making a net additional right of way of 0.82 acres, more or less.

Project No. C55-Q-409(1)  
Owner: Beverly A. Hempstead  
Location: Vicinity of Pine Lake Road and South 120<sup>th</sup> Street  
Lancaster County, NE  
Tract No.: 32

**Temporary Easement as Measured by Stationing and Offsets from Project Section line**

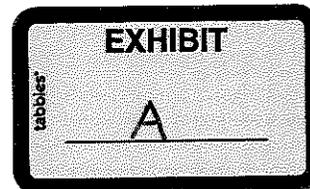
From Sta. 156+00 to Sta. 157+00 a strip 60-65 ft. wide Right side  
From Sta. 157+00 to Sta. 157+20.76 a strip 65 ft. wide Right side

**Legal Description of Temporary Easement**

A part of the E ½, of the NW ¼, of Section 20, Township 9 North, Range 8 East of 6th Principal Meridian, Lancaster County, Nebraska, more particularly described as follows:

Referring to the northeast corner of said NW ¼; thence southerly with the east line of said NW ¼, to a point, said point being located 60.00 feet south of as measured perpendicular to the north line of said NW ¼, said point also being the point of beginning; thence westerly 60.00 feet south of and parallel with the north line of said NW ¼, a distance of 120.77 feet to a point; thence southeasterly to a point, said point being located 65.00 feet south of as measured perpendicular to the north line of said NW ¼, said point also being located 20.95 feet west of the northeast corner of said NW ¼, as measured with the north line of said NW ¼; thence easterly 65.00 feet south of and parallel with the north line of said NW ¼, a distance of 20.76 feet to a point of intersection with the east line of said NW ¼; thence northerly with the east line of said NW ¼, to the point of beginning.

Containing 0.01 acres, more or less.



PROPERTY LINE STA. 144+00.18

144+00.06  
60' ±

27' 33"

PINE LAKE ROAD

TRACT 32  
BEVERLY A. HEMPSTEAD  
E 1/2 NW 1/4, SEC. 20-T9N-R8E

SHEET 1 OF 1



LEGEND

STAT. EASE. R.O.W.  
NEW R.O.W.  
TEMP. EASE.

	1.00 AC.
	0.82 AC.
	0.01 AC.

156+00.00  
60' ±

157+00.00  
65' ±

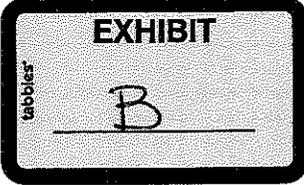
157+20.76  
65' ±

STA. 157+20.95 N 1/4 CORNER 20-9-8

157+20.77  
60' ±

27' 33"

SECTION LINE



SKETCH SHOWING  
RIGHT OF WAY  
TO BE ACQUIRED FROM LAND OWNED BY:  
BEVERLY A. HEMPSTEAD

TRACT NO. 32  
PROJECT NO. C55-Q-409(1)

LANCASTER COUNTY ENGR. DEPT.  
LINCOLN, NEBRASKA

June 23, 2008

Beverly A. Hempstead  
8729 Monroe Street  
Ralston, Nebraska 68127

RE: Project No. C55-Q-409 (1)  
Tract No. 32

Beverly A. Hempstead:

The Lancaster County Engineering Department is now purchasing land and easements for the improvement of Pine Lake Road from South 112<sup>th</sup> Street to South 148<sup>th</sup> Street. Total net length of the project will be 2.5 miles with land acquisitions beginning immediately.

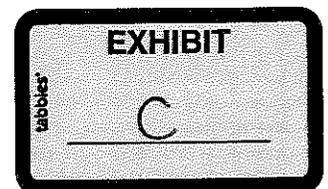
The proposed start date is tentatively scheduled for the 2010 construction year. All acquisitions must be completed well in advance of this date in order to satisfy all necessary State and Federal requirements.

Engineering for this project is complete, no modifications or alterations are contemplated, any questions relating to other than property acquisition may be directed to the design engineer by calling (402) 441-7681.

Please contact me to schedule an appointment. I will meet with you to discuss the impact this project will have on your property to present the construction plan and County's offer of compensation.

You may contact me at (402) 441-8331 Monday through Friday between the hours of 7:00am and 3:30pm. In the event I am not available to receive your call please leave a return telephone number and I will contact you as soon as possible.

Appointments are scheduled during regular business hours Monday through Friday from 7:00am to 3:30pm. Presentation appointments may be conducted at the Lancaster County Engineering office, your home or your place of business.



Presentations require approximately 1 to 1-½ hours depending on the complexity of the acquisition. If there are multiple landowners, renters or a tenant farmer involved it is preferable to meet with all parties at the same time.

Please take the time to review the enclosed pamphlet paying particular attention to the highlighted portion of the text.

I look forward to receiving your call and meeting with you in the near future.

Sincerely,

John E. Mahan  
Right-of-Way Agent

Enclosures: 2-Right-of-Way Pamphlet  
Acquisition Information



August 2, 2010

Beverly A. Hempstead  
8729 Monroe Street  
Ralston, Nebraska 68127

RE: Project No. C55-Q-409 (1)  
Tract No. 32

Dear Ms. Hempstead:

Attempts at contacting you in person have been unsuccessful therefore I have chosen to forward all information concerning acquisition of your property to you via certified mail.

Since you received the County's original offer of compensation last year on July 9, 2009 several factors have changed relating to the enclosed offer. National and local economics have impacted the value of land in and around Lancaster County reducing property values recorded in 2009. The enclosed offer reflects this impact to you as a percentage of the original amount offered. Unfortunately your offer has been adjusted downward by 49.78%. The Lancaster County Engineering Department commissioned an update of value to the original appraisal which had been performed as of April 23, 2008. In keeping with the County's policy of maintaining vigilant stewardship over public funds it was determined an update to the original appraisal was necessary. The resulting amount though disappointing is reflective of current market values. I have included for your convenience the comparable sales used in reaching current value.

I have been directed to present the enclosed updated offer to purchase in fee simple a total of 1.82 acres of land. The fee purchase breaks down as follows: .82 acre of new acquisition valued at \$7,500.00 per acre equaling a sum total of \$6,150.00. Fee purchase of remaining 1 acre of statutory easement valued at \$7,500.00 per acre paid at 10% of remaining value equaling a sum total of \$750.00. A sum of \$60.00 is paid to you as a direct result of Public Law 91-646. Total compensation of \$6,960.00 is being paid to you for the above items.

A Warranty Deed is included for your notarized signature; this document will transfer ownership of the acquisition upon full payment of funds.

A temporary easement is being acquired in the amount of 0.01 acre at a rate of 25% value of \$7,500.00 per acre equaling a sum total of \$18.75, the sum total to you for the temporary acquisition is \$18.75

Upon execution (in the presence of a Notary Public) and return of all indicated documents, funds will be remitted to you within 30 days of receipt of said documents.

Approximately 21 days after returning all documents you will receive 1 of the 2 fee simple and temporary easement contracts that you signed with additional original signatures in place. This original signature document will be for your permanent record.

If you have questions or concerns please contact me immediately at (402) 441-8331 during regular business hours. I generally forward my business phone to my personal cell phone after hours for the benefit of the public so feel free to contact me after hours. In lieu of no response or contact within 30 days from receipt of these materials alternate methods of acquisition will be pursued.

Sincerely,

John E. Mahan  
Right-of-Way Agent

LANCASTER

COUNTY

ENGINEERING

Don R. Thomas  
County Engineer

Kenneth D. Schroeder - Deputy  
County Surveyor

DEPARTMENT

April 8, 2011

CERTIFIED MAIL

Beverly A. Hempstead  
8729 Monroe Street  
Ralston, NE. 68127

RE:

Project No: C55-Q-409 (1)

Location: Pinelake Road (So. 112<sup>th</sup> thru So. 148<sup>th</sup>)

Tract No: 32

Dear Ms. Hempstead:

Reference is made to our past offer of compensation for right-of-way required by Lancaster County on the above-mentioned project. Your real estate that is affected is legally described as part of Tract No. 32, consisting of 1.83 acres, more or less, inclusive of existing right of ways situated in the East Half (E ½) of the Northwest Quarter (NW ¼) of Section 20, Township 9 North, Range 8 East of the 6<sup>th</sup> Principal Meridian, Lancaster County, Nebraska. Our last and best offer of compensation for the right-of-way to be acquired is as follows:

Fee Simple		
0.82 Acres at \$ 7,500.00/acre		\$ 6,150.00
Statutory Easement		
1.0 acre at \$ 7,500.00/ac x 10%		\$ 750.00
Temporary Easement		
0.01 Ac. at \$ 7,500.00/Ac x 25%		\$ 18.75
Title Extension Fee		\$ 55.00
	Total Compensation	\$ 6,973.75

To date, our negotiator has been unable to arrive at an agreeable settlement. We would appreciate an acceptance of our offer. However, if you do not make an attempt to contact this office in the near future towards consummating this transaction, we will assume this acquisition will have to be made through the process of Eminent Domain.

Please be assured our only purpose in initiating Eminent Domain proceedings would be to assure ourselves the right-of-way will be available to meet our construction schedule.

In the event it becomes necessary to initiate Eminent Domain proceedings, it would still be possible for you to consummate this transaction, if you so desire, at anytime prior to the holding of the hearing on the proceedings.

A further explanation of the Eminent Domain procedure is enclosed for your information.

If you have any questions, feel free to contact our office.

Sincerely,

Handwritten signature in cursive script that reads "Kenneth R. Schueler for Don Thomas".

Donald R. Thomas  
Lancaster County Engineer

Encl:  
DRT/cms

LANCASTER  
COUNTY

Don R. Thomas  
County Engineer

ENGINEERING

Kenneth D. Schroeder - Deputy  
County Surveyor

DEPARTMENT

May 26, 2011

CERTIFIED MAIL

Beverly A. Hempstead  
8729 Monroe Street  
Ralston, NE 68127

RE: Project No. C55-Q-409(1)  
Pinelake Rd. (S 112<sup>th</sup> - S 148<sup>th</sup>)  
Tract 32

Dear Ms. Hempstead:

Reference is made to our past offer of compensation for right-of-way required by Lancaster County on the above-mentioned project. Your real estate that is affected is legally described as part of Tract No. 32, consisting of 1.83 acres, more or less inclusive of existing right of ways situated in the E ½ of the NW ¼ of Section 20, Township 9 North, Range 8 East, of the 6<sup>th</sup> Principal Meridian, Lancaster County, Nebraska.

Our last and best offer of compensation for the right-of-way to be acquired is as follows:

Fee Simple	
0.82 acre at \$ 10,000.00	\$ 8,200.00
Statutory Easement	
1.00 acre at \$ 10,000.00/acre x 10%	\$ 1,000.00
Temporary Easement:	
0.01 acre at \$ 10,000.00/acre x 25%	\$ 25.00
Title Extension Fee	\$ 60.00
Total Compensation	\$ 9,285.00

To date, our negotiator has been unable to arrive at an agreeable settlement. We would appreciate an acceptance of our offer.

However, if you do not make an attempt to contact this office in the near future towards consummating this transaction, we will assume this acquisition will have to be made through the process of Eminent Domain.

Please be assured our only purpose in initiating Eminent Domain proceedings would be to assure ourselves the right-of-way will be available to meet our construction schedule.

In the event it becomes necessary to initiate Eminent Domain proceedings, it would still be possible for you to consummate this transaction, if you so desire, at anytime prior to the holding of the hearing on the proceedings.

A further explanation of the Eminent Domain procedure is enclosed for your information.

If you have any questions, please feel free to contact this office.

Sincerely,

---

Don R. Thomas  
Lancaster County Engineer

Enc.  
DRT/JJS

Lancaster County declares our offer to purchase as indicated on the Right-of-Way Contract which you have received (1) is based on the fair market value of the property, (2) is not less than the approved appraised value of the property, (3) disregards any decrease or increase in the fair market value caused by the project for which the property is being acquired, and (4) in the case of separately held interests in the real property, includes an appointment of the total compensation for each of those interests.

You will not be required to surrender possession of your property before Lancaster County completes payment of the agreed purchase price or deposits in court an amount not less than the agency's approved appraisal of the fair market value of your property or the amount of the award of compensation in the condemnation proceedings for your property.

It is the intent of Lancaster County that the construction or development of the public improvement shall be so scheduled that to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation, without at least ninety days written notice. This ninety day written notice will be given to you at the time negotiations for purchase begins. This notice will also inform you that you will be given a thirty-day written notice specifying a date by which the property must be vacated.

If as a result of the right-of-way acquisition there is a portion of your property which is considered by Lancaster County to be an uneconomic remnant, you will have the right to receive an offer from the County to acquire the remnant.

In addition to the above information, we would also like to note the following:

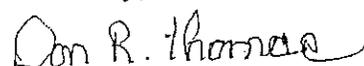
If improvements (house, garage, etc.) are being purchased, you will be allowed the option of retaining the improvements at a retention value predetermined by Lancaster County. Also, you will have the right to receive payment or have the County pay for recording fees, transfer taxes, penalty costs for pre-payment of any pre-existing recorded mortgages entered into in good faith, and the prorate portion of real property taxes paid which are allocable to a period subsequent to the day of vesting title, or the effective date of the possession by Lancaster County, whichever is the earlier.

You are also eligible for certain expenses if a court decides that we cannot condemn your property, if we abandon a condemnation of your property, or if you are successful in an inverse condemnation action.

You may appeal our decision of your eligibility for the amount of the previously described payments. Your written appeal must be filed with us within sixty days after we have given you written notice of our original decision. If you are still not satisfied after our review of your appeal, you may seek judicial review of our final decision.

We trust the above information will be helpful to you and if you have further questions, please feel free to contact the Lancaster County Engineer's office.

Sincerely,



Don R. Thomas  
Lancaster County Engineer