

RESOLUTION 09-19

A RESOLUTION APPROVING CONSERVATION EASEMENT FOR THE CENTRAL PLATTE NATURAL RESOURCES DISTRICT

WHEREAS, K & M LTD., a Nebraska Limited Partnership, is the owner of the following described real estate described on the attached Exhibit "B", which Exhibit "B" is incorporated herein and made a part hereof by this reference.

WHEREAS, the Central Platte Natural Resources District is desirous of obtaining a conservation easement from K & M LTD., a Nebraska Limited Partnership, on the real estate legally described hereinabove and K & M LTD., a Nebraska Limited Partnership, is desirous of selling a conservation easement to the Central Platte Natural Resources District on the real estate legally described hereinabove; and

WHEREAS, Central Platte Natural Resources District and K & M LTD., a Nebraska Limited Partnership, have submitted a request to The City of Lexington, Nebraska for the approval of a conservation easement on the real estate legally described hereinabove; and

WHEREAS, pursuant to NEB. REV. STAT. §76-2,112 (2003), on July 14, 2009, the City of Lexington forwarded the easement request to the City of Lexington Planning and Zoning Commission for their review and recommendations regarding the conformity of the proposed acquisition to comprehensive planning for the area; and

WHEREAS, also pursuant to NEB. REV. STAT. §76-2,112 (2003) on August 5, 2009, the City of Lexington Planning and Zoning Commission recommended approval of the easement at their regularly scheduled meeting; and

NOW, BE IT RESOLVED by the City of Lexington that the designated conservation easement on the real estate legally described hereinabove and more specifically set forth in the Deed of Conservation Easement attached hereto as Exhibit "A" and incorporated herein by this reference, should be, and hereby is, approved.

Resolution moved by Council Member John Salem

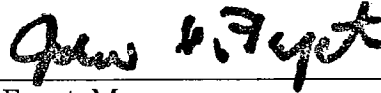
Seconded by Council Member Linda Miller

Vote:

Mayor Fagot: For ; Against ___; Abstained ___; Not Present ___
Council Member Tomasek: For ; Against ___; Abstained ___; Not Present ___
Council Member Bennett: For ___; Against ___; Abstained ___; Not Present
Council Member Miller: For ; Against ___; Abstained ___; Not Present ___
Council Member Salem: For ; Against ___; Abstained ___; Not Present ___

PASSED AND ADOPTED this 11th day of August, 2009.

CITY OF LEXINGTON

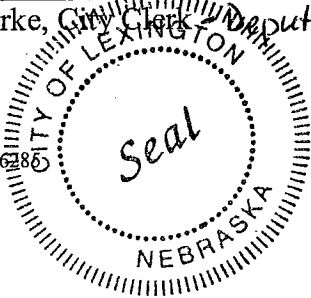


John Fagot, Mayor



Pam Berke, ~~City Clerk~~ Deputy

1754-39/246286



DEED OF CONSERVATION EASEMENT

This Deed of Conservation Easement ("Conservation Easement") made this ____ day of _____, 2009, by and between K & M LTD., a Nebraska Limited Partnership ("Grantor") and the Central Platte Natural Resources District, a political subdivision of the State of Nebraska, ("Grantee" or "District").

WHEREAS, the Central Platte Natural Resources District is a political subdivision of the State of Nebraska and is authorized by the State of Nebraska to acquire and dispose of water and water rights and regulate ground water within management areas; and

WHEREAS, the District has established a management area pursuant to the Nebraska Ground Water Management and Protection Act; and

WHEREAS, the Grantor is the owner of real estate located within the geographic area included within the management area; and

WHEREAS, the Grantor and Grantee jointly recognize the necessity of conserving and managing the ground water within the geographic area covered by the management plan; and

WHEREAS, all requirements imposed pursuant to the Nebraska Conservation and Preservation Easements Act, NEB. REV. STAT. §§76-2,111 through 76-2,118 (Reissue 2003) have been complied with in that the local planning commission, if applicable, and the appropriate governing body have approved of this Deed of Conservation Easement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in receipt of the payment of valuable consideration to the Grantor by the Grantee, the receipt of which is hereby acknowledged, the Grantor and Grantee agree as follows:

1. The Grantor hereby assigns, transfers and grants to the Grantee a Conservation Easement enforceable with respect to the property (the Property) of the Grantor described on the attached Exhibit "2", which Exhibit "2" is incorporated herein and made a part hereof by this reference.

2. The terms, conditions and restrictions of the Conservation Easement are as follows:

- a. As used in this Conservation Easement, the term "water well" shall mean any water well as that term is defined in Nebraska statutes.
- b. No water well capable of pumping more than 50 gallons per minute may exist or be constructed on the Property. Any water well that exists on the Property on the date of this Conservation Easement and that is capable of pumping more than 50 gallons per minute shall be decommissioned in accordance with all applicable statutes, rules and regulations or permanently reduced in capacity so that it is incapable of pumping more than 50 gallons per minute. Except that any irrigation well existing on the Property on the date of this Conservation Easement that was previously used to irrigate other land in addition to the Property may continue to be used to irrigate the other land. Only land previously certified by the District for irrigation by that well may be irrigated. No additional land may ever be irrigated with the well. The pipes, pivot, and any and all other equipment formerly used to irrigate the Property must be permanently removed, detached, or otherwise disabled to the satisfaction of the District.
- c. Water wells capable of pumping 50 gallons per minute or less individually but in excess of 50 gallons per minute collectively may not be clustered or joined nor may the water from such wells be commingled or in any other way combined unless the wells are used as described in Paragraph 2.b. above.
- d. Water wells capable of pumping 50 gallons per minute or less may be used to provide water on the Property for (1) household and other domestic uses, or (2) watering range livestock.
- e. No use of the water from a natural stream, regardless of whether or not a permit for such use is required from the Nebraska Department of Natural Resources or any successor agency, shall be made on the Property except for providing water for range livestock on the Property.
- f. No water from any water well not located on the Property shall be used on the Property except for (1) household and other domestic uses, or (2) watering range livestock.
- g. The Property must remain in dryland agricultural production unless prior written approval is granted by the District to alter this prohibition. No crops, hay, grass or other plants that could be subirrigated shall be grown on Property. Only those items listed on Exhibit "1" may be grown on the property unless prior written approval is granted by the District.
- h. No use shall be made of the Property which will consume groundwater, including, but not limited to, the following:
 - (1) No pits or other excavated areas that would expose or consume ground water shall be allowed;

- (2) No mining, sand or gravel operations shall be allowed;
- (3) No industrial, commercial, agricultural or residential development shall occur on the Property unless prior written approval is granted by the District.

3. This Conservation Easement shall be perpetual. It is appurtenant and runs with the land as an incorporeal interest in the Property and shall be enforceable against any owner or other person having any interest in the above described property including the Grantor, all persons or entities holding any interest acquired through the Grantor and all Grantor's heirs, successors, assigns and personal representatives.

4. It is the Grantor's intent, through this Deed of Conservation Easement, to permanently transfer and surrender any rights that they or their successors, heirs, assigns or personal representatives may have to irrigate or subirrigate the above-described property and to permanently prevent the development and use of any ground water for any uses on the Property or off except those specifically permitted by Paragraph 2 above. The fact that the well or wells on the Property have been decommissioned, reduced in pumping capacity to 50 gallons per minute or less, or are no longer used to irrigate the Property cannot be used to supply an offset to allow irrigation of any other land or any other water use or to justify construction of a new water well as a replacement.

5. Upon any breach of the terms of this Conservation Easement by the Grantor, the Grantee may, after reasonable notice to the Grantor, institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction either prohibitive or mandatory. The Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to the Grantee at law or equity. If the Grantor is found to have breached any of the terms of this Conservation Easement, the Grantor shall reimburse the Grantee for any costs or expenses incurred by the Grantee, including court costs and reasonable attorney's fees to the extent permitted by applicable law. No failure on the part of the Grantee to enforce any term of this Conservation Easement shall discharge or invalidate such term or any other term hereof or affect the right of the Grantee to enforce the same in the event of a subsequent breach or default.

6. The Grantee, acting by and through their respective employees and agents, have the right to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether the Grantor is complying with the terms of this Conservation Easement.

K & M LTD., a Nebraska Limited Partnership
Tax ID # _____

Kerry K. Anderson, General Partner

Marion A. Anderson, General Partner

STATE OF NEBRASKA)
) ss:
COUNTY OF _____)

The foregoing Deed of Conservation Easement was acknowledged before me this ____ day of _____, 2009 by Kerry K. Anderson, General Partner of K & M Ltd., a Nebraska Limited Partnership, on behalf of said partnership, and known to me personally or produced satisfactory evidence of identification to me.

Notary Public

STATE OF NEBRASKA)
) ss:
COUNTY OF _____)

The foregoing Deed of Conservation Easement was acknowledged before me this ____ day of _____, 2009 by Marion A. Anderson, General Partner of K & M Ltd., a Nebraska Limited Partnership, on behalf of said partnership, and known to me personally or produced satisfactory evidence of identification to me.

Notary Public

My commission expires: _____

Accepted for the
Central Platte Natural Resources District

By _____
Ronald G. Bishop, General Manager

STATE OF NEBRASKA)
) ss:
COUNTY OF HALL)

The foregoing Deed of Conservation Easement was acknowledged before me this ____ day of _____, 2009 by Ronald G. Bishop, General Manager of Central Platte Natural Resources District, a political subdivision of the State of Nebraska, on behalf of said Natural Resources District and known to me personally or produced satisfactory evidence of identification to me.

Notary Public

My commission expires: _____

EXHIBIT "1"

Crops that may be grown on the Property as indicated by Paragraph 2.g.

Dryland corn
Dryland soybeans
Dryland milo
Dryland wheat
Dryland oats
Dryland barley
Dryland brome grass
Forage sorghum
Little bluestem
Sideoats grama
Canada wildrye
Needle-and-thread
Blue grama
Hairy grama
Buffalograss
Sand dropseed
Indiangrass
Prairie junegrass
Porcupine grass
Sand lovegrass
Inland saltgrass
Thickspike wheatgrass
Prairie dropseed
Tall dropseed
Scribners panicum
Prairie sandreed

1754-39/241365

LEGAL DESCRIPTION

A tract of land being part of the South Half (S 1/2) of Section Twenty-four (24), Township Nine (9) North, Range Twenty-two (22) West of the 6th Principal Meridian, Dawson County, Nebraska, more particularly described as follows:

Referring to the Southwest Corner of the Southwest Quarter of said Section 24 and assuming the South line of the said Quarter as bearing S 89°44'05" E and all bearings contained herein are relative thereto; thence S 89°44'05" E on said South line a distance of 33.0 feet; thence N 00°53'15" W a distance of 33.0 feet to the ACTUAL POINT OF BEGINNING and a point on the Northerly Right-of-Way of a County Road; thence S 89°44'05" E on said Northerly Right-of-Way and parallel with said South line a distance of 536.82 feet to a point on the Northerly Right-of-Way of U.S. Highway 283; thence N 00°15'55" E on said Northerly Right-of-Way a distance of 142.00 feet; thence S 89°44'05" E on said Northerly Right-of-Way and parallel with said South Line a distance of 798.09 feet to the beginning of a non-tangent curve to the right having a central angle of 10°56'24", a radius of 1727.02 feet, an arc length of 329.76 feet, and a chord bearing N 81°33'58" E a distance of 329.76 feet; thence S 87°59'20" E on said Northerly Right-of-Way a distance of 96.03 feet; thence S 83°49'06" E on said Northerly Right-of-Way a distance of 55.07 feet; thence N 00°06'56" W leaving said Right-of-Way a distance of 150.31 feet; thence N 83°06'59" E a distance of 79.12 feet; thence S 03°58'40" E a distance of 170.02 feet to a point on said Northerly Right-of-Way; thence S 83°49'06" E on said Northerly Right-of-Way a distance of 308.49 feet; thence S 89°44'05" E continuing on said Northerly Right-of-Way and parallel with said South line a distance of 1164.52 feet; thence N 00°15'55" E leaving said Northerly Right-of-Way a distance of 81.47 feet; thence S 84°11'06" W a distance of 146.18 feet; thence N 02°10'56" W a distance of 266.44 feet; thence N 46°06'00" W a distance of 387.88 feet; thence N 88°11'39" W a distance of 517.04 feet; thence N 79°34'40" W a distance of 228.61 feet; thence N 50°31'08" W a distance of 670.28 feet; thence N 64°09'54" W a distance of 480.21 feet; thence N 67°22'16" W a distance of 497.54 feet; thence N 73°43'29" W a distance of 525.51 feet; thence N 52°52'24" W a distance of 236.73 feet; thence N 77°26'19" W a distance of 128.50 feet to a point on the Easterly Right-of-Way of a County Road; thence S 00°53'15" E on said Easterly Right-of-Way and parallel with the West line of said Section 24 a distance of 306.50 feet; thence N 89°06'45" E leaving said Easterly Right-of-Way a distance of 81.10 feet; thence S 00°53'15" E parallel with said West line a distance of 20.00 feet; thence S 89°06'45" W a distance of 81.10 feet to a point on said Easterly Right-of-Way; thence S 00°53'15" E on said Easterly Right-of-Way and parallel with said West line a distance of 1604.61 feet to the point of beginning. Containing 80.92 acres more or less.

LEGAL DESCRIPTION

A tract of land being part of the South Half (S 1/2) of Section Twenty-four (24), Township Nine (9) North, Range Twenty-two (22) West of the 6th Principal Meridian, Dawson County, Nebraska, more particularly described as follows:

Referring to the Southwest Corner of the Southwest Quarter of said Section 24 and assuming the South line of the said Quarter as bearing S 89°44'05" E and all bearings contained herein are relative thereto; thence S 89°44'05" E on said South line a distance of 33.0 feet; thence N 00°53'15" W a distance of 33.0 feet to the ACTUAL POINT OF BEGINNING and a point on the Northerly Right-of-Way of a County Road; thence S 89°44'05" E on said Northerly Right-of-Way and parallel with said South line a distance of 536.82 feet to a point on the Northerly Right-of-Way of U.S. Highway 283; thence N 00°15'55" E on said Northerly Right-of-Way a distance of 142.00 feet; thence S 89°44'05" E on said Northerly Right-of-Way and parallel with said South Line a distance of 798.09 feet to the beginning of a non-tangent curve to the right having a central angle of 10°56'24", a radius of 1727.02 feet, an arc length of 329.76 feet, and a chord bearing N 81°33'58" E a distance of 329.76 feet; thence S 87°59'20" E on said Northerly Right-of-Way a distance of 96.03 feet; thence S 83°49'06" E on said Northerly Right-of-Way a distance of 55.07 feet; thence N 00°06'56" W leaving said Right-of-Way a distance of 150.31 feet; thence N 83°06'59" E a distance of 79.12 feet; thence S 03°58'40" E a distance of 170.02 feet to a point on said Northerly Right-of-Way; thence S 83°49'06" E on said Northerly Right-of-Way a distance of 308.49 feet; thence S 89°44'05" E continuing on said Northerly Right-of-Way and parallel with said South line a distance of 1164.52 feet; thence N 00°15'55" E leaving said Northerly Right-of-Way a distance of 81.47 feet; thence S 84°11'06" W a distance of 146.18 feet; thence N 02°10'56" W a distance of 266.44 feet; thence N 46°06'00" W a distance of 387.88 feet; thence N 88°11'39" W a distance of 517.04 feet; thence N 79°34'40" W a distance of 228.61 feet; thence N 50°31'08" W a distance of 670.28 feet; thence N 64°09'54" W a distance of 480.21 feet; thence N 67°22'16" W a distance of 497.54 feet; thence N 73°43'29" W a distance of 525.51 feet; thence N 52°52'24" W a distance of 236.73 feet; thence N 77°26'19" W a distance of 128.50 feet to a point on the Easterly Right-of-Way of a County Road; thence S 00°53'15" E on said Easterly Right-of-Way and parallel with the West line of said Section 24 a distance of 306.50 feet; thence N 89°06'45" E leaving said Easterly Right-of-Way a distance of 81.10 feet; thence S 00°53'15" E parallel with said West line a distance of 20.00 feet; thence S 89°06'45" W a distance of 81.10 feet to a point on said Easterly Right-of-Way; thence S 00°53'15" E on said Easterly Right-of-Way and parallel with said West line a distance of 1604.61 feet to the point of beginning. Containing 80.92 acres more or less.