IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND LOCATED IN DELAWARE COUNTY, IOWA, BY THE CITY OF MANCHESTER, IOWA.

APPLICATION TO THE CHIEF JUDGE OF THE FIRST JUDICIAL DISTRICT FOR THE APPOINTMENT OF A COMMISSION TO APPRAISE DAMAGES

* *

TO: ALAN PEARSON, Chief Judge of the First Judicial District, including, Delaware County, Iowa.

COMES NOW the City of Manchester, Iowa, and states that the public interest requires that certain rights be acquired in land hereinafter described, by condemnation proceedings, as authorized and provided by law, and in support hereof, states as follows:

1. That the legal description of the property affected is as follows:

> The West one-half (W 1/2) of the Northeast Quarter (NE 1/4) and the North one-half (N 1/2) of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Thirty-Six (36), Township Eighty-Nine (89) North, Range Six (6), West of the Fifth P.M., except the railroad right-of-way.

2. That attached hereto and by this reference made a part hereof is a plat and legal description showing the location of the property sought to be condemned with reference to the description set forth in Paragraph One of this Application.

3. That the names and place of residence of the record owners of the land sought to be condemned are: Doris C. Kehrli, 127 Fifteenth Avenue NE, Independence, Iowa 50644.

4. That the purpose for which such condemnation is sought is for a clear zone navigation easement for the Manchester City Airport.

Application of Ordinance Ordinance
For Release, See Book 4 Page 204 3/17/94

Application of Ordinance
For Release, See Book 4 Page 203 3/17/94

Ordinance
For Release, See Book 4 Page 203 3/17/94

FILE No. 3-2217
RECORDING FEE $ 41.00
TRANSFER FEE $

FILED FOR RECORD THE 19 DAY OF January, 19 94 AT 11:14 O'CLOCK A M. BOOK 4 PAGE 151

STATE OF IOWA, DELAWARE COUNTY
Deborah L. Peyton, Recorder
Misc.

5. That the land sought to be appropriated is not located within an agricultural area as provided in Chapter 176B, Code of Iowa.

6. The City of Manchester, Iowa, has been unable to secure the described rights in lands by purchase and conveyance.

NOW, THEREFORE, the City of Manchester, Iowa, hereby requests the appointment of a compensation commission of six (6) persons qualified as prescribed in Section 472.4, Code of Iowa, not interested in the same or a like question, to view the real estate involved and appraise the damages which the owners thereof, lienholder, encumbrances or other persons interested therein will sustain by reason of the appropriation herein sought to be condemned, for the purpose herein stated, and make their report in writing to the Sheriff of Delaware County, Iowa, as provided by law.

Dated at Independence, Iowa, this 13 day of December, 1993.

CITY OF MANCHESTER, IOWA

BY: _____
James T. Peters
City Attorney
309 First Street East
P.O. Box 150
Independence, IA 50644
(319)334-7071

Filed in duplicate in my office at Dubuque, Iowa, this 15 day of December, 1993.

_____
CHIEF JUDGE OF THE FIRST
JUDICIAL DISTRICT INCLUDING
DELAWARE COUNTY, IOWA

In accordance with Chapter 472, Code of Iowa, the undersigned does hereby certify that this original Application for Condemnation has been approved by Alan Pearson, Chief Judge, First Judicial District of Iowa.

James T. Peters, City Attorney
for the City of Manchester, Iowa

AVIGATION EASEMENT

This indenture made this _____ day of _____, 19____, by and between _____ of _____ County of _____ State of _____, hereinafter referred to as Grantor, and The City of Manchester, Iowa, a municipal corporation organized and existing under the laws of the State of Iowa, hereinafter referred to as Grantee, witnesseth:

WHEREAS, the Grantee is the owner and operator of the Manchester Airport, situated in the said County of Delaware, State of Iowa, and in close proximity to the land of the Grantor as hereinafter described and the Grantee desires to obtain and preserve for the use and benefit of the public a right of free and unobstructed flight for aircraft landing upon, taking off from, or maneuvering about the said airport,

NOW THEREFORE, for and in consideration of the sum of $1.00 and other good and valuable consideration, the receipt whereof by the Grantor is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey into the Grantee its successors and assigns, for the benefit of the general public at large, a perpetual easement and right of way for the free unobstructed passage of aircraft, by whomsoever owned or operated, in and through the air space over and across those parts of the Grantor's said land which are bounded and described as follows:

COMMENCING at the North Quarter (N 1/4) Corner of Section Thirty-six (36), Township Eighty-nine North (T89N), Range Six West (R6W) of the Fifth Principal Meridian, Delaware County, Iowa, thence along the Northerly line of said Section Thirty-six (36) North 90°-00'-00" East to the Southerly extension of the airport runway centerline 527.13 feet, the POINT OF BEGINNING; thence continuing along the Northerly line of said Section North 90°-00'-00" East 182.92 feet; thence South 05°-28'-51" East 422.88 feet; thence North 89°-46'-12" West 450.00 feet; thence North 05°-56'-26" East to the Northerly line of said Section 421.40 feet; thence along the Northerly line of said Section North 90°-00'-00" East 183.07 feet to the POINT OF BEGINNING; containing a total of 3.93 acres including 0.57 acres of public road right of way. The Northerly line of Section Thirty-six (36), Township Eighty-nine North (T89N), Range Six West (R6W) of the Fifth Principal Meridian is assumed to bear North 90°-00'-00" East.

Said tract of land is identified as Parcel 1 on Exhibit A attached hereto and made a part hereof, said tract of land being hereinafter referred to as "Parcel 1", provided, however, that the air space in which the said easement and right of way is herein granted shall be that which lies above the following heights above the present surface of the said land,

See Exhibit B and Exhibit C

And in furtherance of the said easement and right of way the Grantor, for the considerations hereinabove set forth, does hereby grant and convey to the Grantee, its successors and assigns, a continuing right to keep the air space above the aforesaid heights clear and free from any and all fences, crops, trees, poles, buildings, and other obstructions of any kind or nature whatsoever which now extend, or which may at any time in the future extend, above the aforesaid heights of land, together with the right of ingress to, egress from, and passage over the land of the Grantor first above described for the purpose of effecting and maintaining such clearances and of removing any and all obstructions which now or may hereafter extend above the said heights.

To have and to hold said easement and all rights appertaining thereto unto the Grantee, its successors and assigns, until said airport shall be abandoned and shall cease to be used for airport purposes.

And for the consideration hereinabove set forth, the Grantor hereby covenants, both for himself and his heirs, executors, administrators and assigns, for and during the life of this easement, as follows:

(a) Grantor shall not hereafter construct nor permit nor suffer to remain upon said land any obstruction that extends above the heights aforesaid, and

(b) Grantor shall not hereafter use or permit or suffer use of the land first above described in such a manner as to create electrical interference with radio communication between the installation upon the Manchester Municipal Airport and aircraft or as to make it difficult for flyers to distinguish between airport lights and others, or as to result in glare in the eyes of flyers using the said airport, or as to impair visibility in the vicinity of the airport, or as otherwise to endanger the landing, taking-off or maneuvering of aircraft,

and the aforesaid covenants and agreements shall run with the land of the Grantor, as herinabove described, for the benefit of the Grantee, and its successors and assigns in the ownership and operation of the aforesaid Manchester Municipal Airport.

In witness whereof, the Grantor has herunto set its hand and seal the day and year first written.

Witnesses:

_____ _____ (L.S.)

_____ _____ (L.S.)

(NOTE: Appropriate notarial acknowledgements to be used for each person executing this form.)

On this _____ day of _____, 19____, before me, _____, a Notary Public, in and for the State of Iowa, personally appeared _____ and _____, to me personally known, and, who be me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Manchester, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Ordinance No. _____ passed (or the resolution adopted) by the City Council, under Roll Call No. _____ of the City Council on the _____ day of _____, 19____, and that _____ and _____ acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

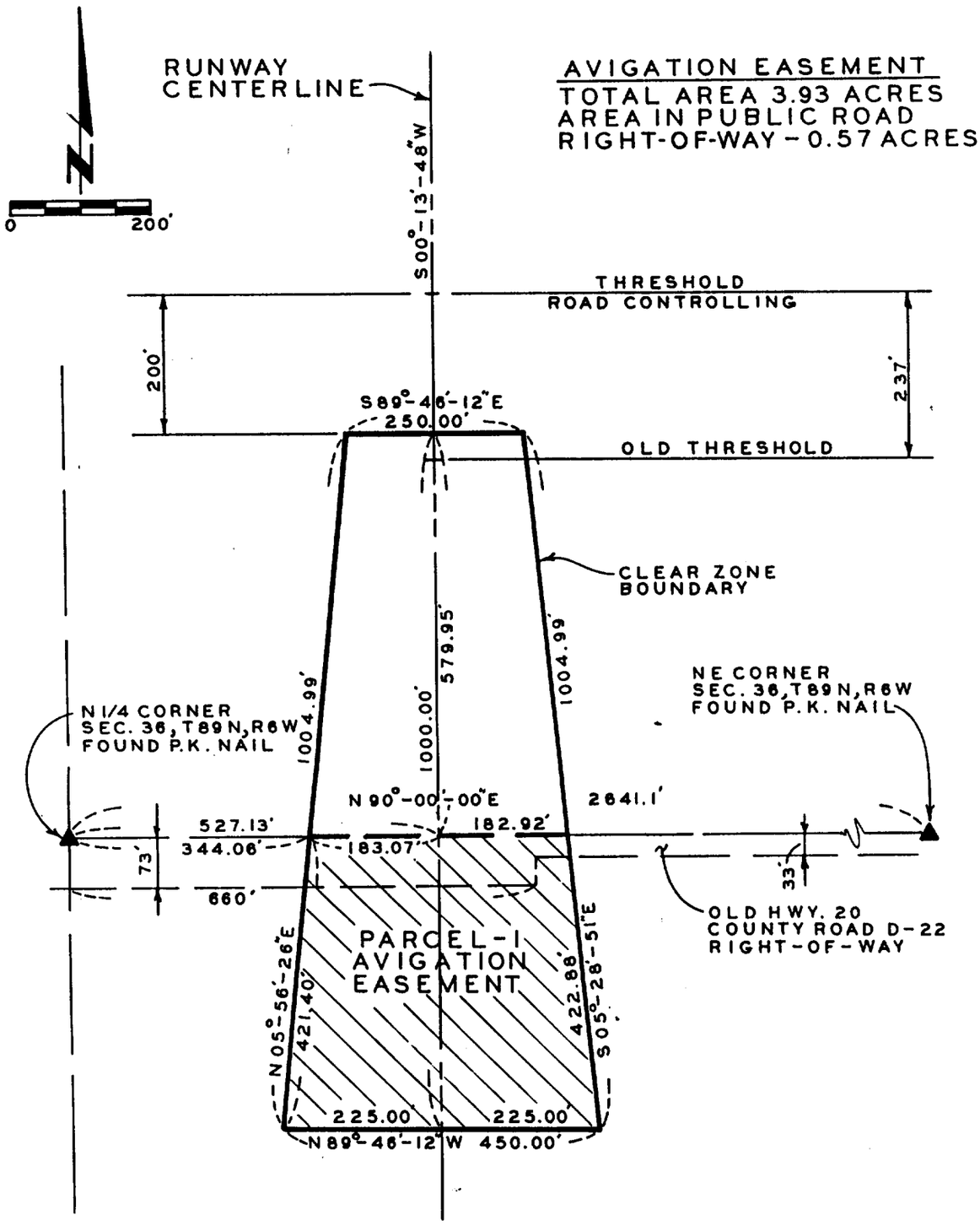
_____
Notary Public; my commission expires

_____

EXHIBIT A

AVIGATION EASEMENT - PARCEL I

PART OF NW 1/4 OF THE NE 1/4 OF SECTION 36, T89N, R6W OF THE FIFTH P.M., DELAWARE COUNTY, IOWA



SURVEYED ON: ——
FIELD BK. NO. ——

PROJECT NO. 93-05A

REGISTERED LAND SURVEYOR J. DAVID GIBBS 8419 IOWA

I HEREBY CERTIFY THAT THIS PLAT, MAP, SURVEY OR REPORT WAS MADE BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION, AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.
MY REGISTRATION WILL BE RENEWED ON JANUARY 1, 1995.

J. DAVID GIBBS, REG. NO. 8419 — DATE 9/20/93

SCALE: 1" = 200'
DATE: 9/17/93
DRAWN BY: T.W.
CHECKED BY:
REVISED:

TRI-STATE ENGINEERS
OLD HWY. 20 EAST MANCHESTER IOWA
Municipal Consultants

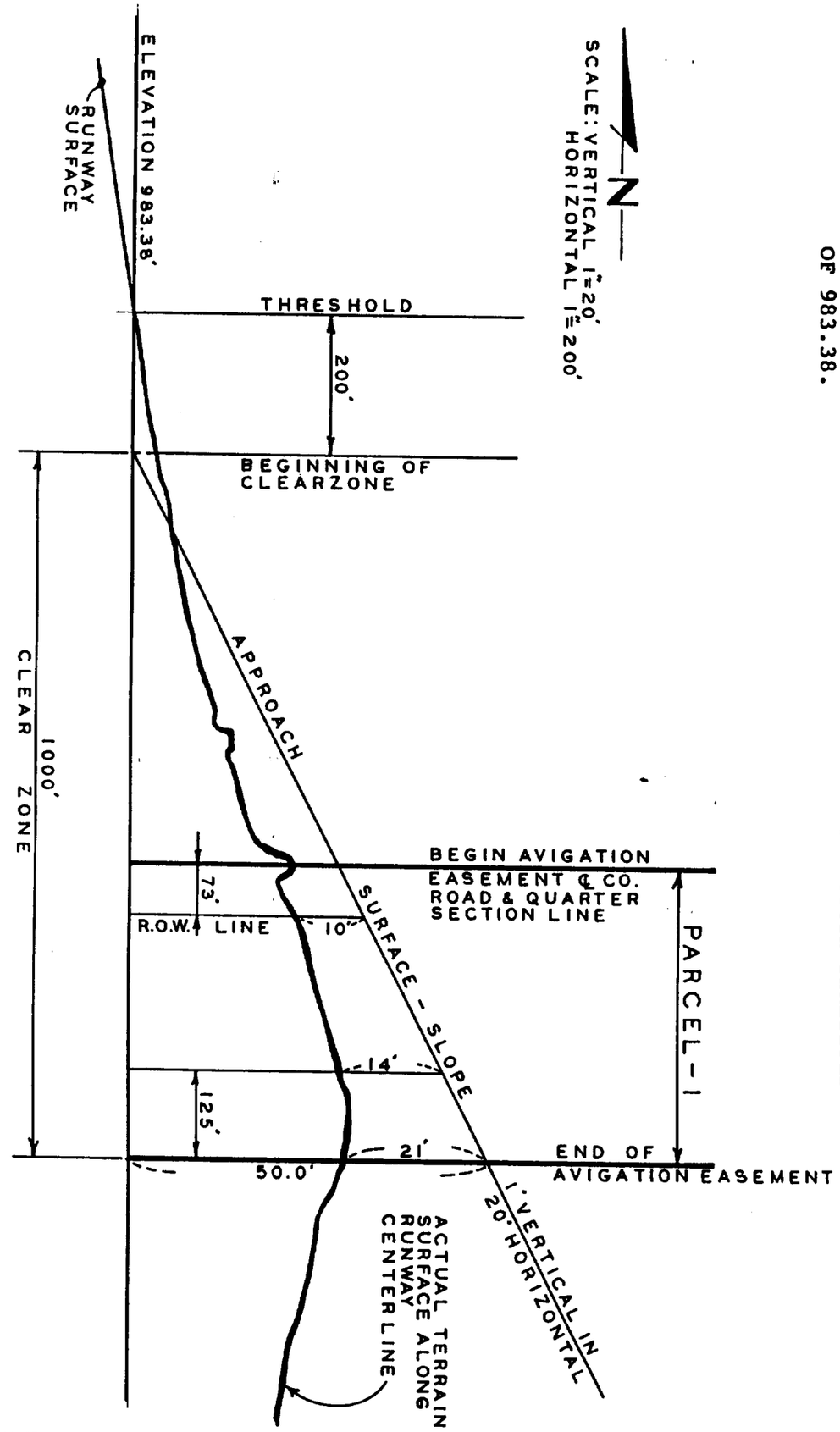
SHEET 1 OF 1

552717

EXHIBIT B

AVIGATION EASEMENT - PARCEL 1

PART OF NW 1/4 OF THE NE 1/4 OF SECTION 36, T89N, R6W OF THE FIFTH P.M., DELAWARE COUNTY, IOWA



NOTE: HEIGHT ABOVE ACTUAL TERRAIN SURFACE TO APPROACH SURFACE SHOWN ALONG RUNWAY CENTERLINE. HEIGHT FOR OTHER POINTS SHOWN IN EXHIBIT C.

ELEVATIONS BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929 WITH THE ELEVATION OF THE RUNWAY AT THE SOUTH THRESHOLD OF 983.38.

SURVEYED ON: ——
FIELD BK. NO. ——

PROJECT NO. 93-05A

REGISTERED LAND SURVEYOR
J. DAVID GIBBS
8419
IOWA

I HEREBY CERTIFY THAT THIS PLAT, MAP, SURVEY OR REPORT WAS MADE BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION, AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA. MY REGISTRATION WILL BE RENEWED ON JANUARY 1, 1995.

J. DAVID GIBBS, REG. NO. 8419 — DATE 9/20/93

SCALE:

DATE: 9/17/93

DRAWN BY: E.W.

CHECKED BY:

REVISED:

SHEET 1 OF 1

TRI-STATE ENGINEERS
OLD HWY. 20 EAST MANCHESTER IOWA
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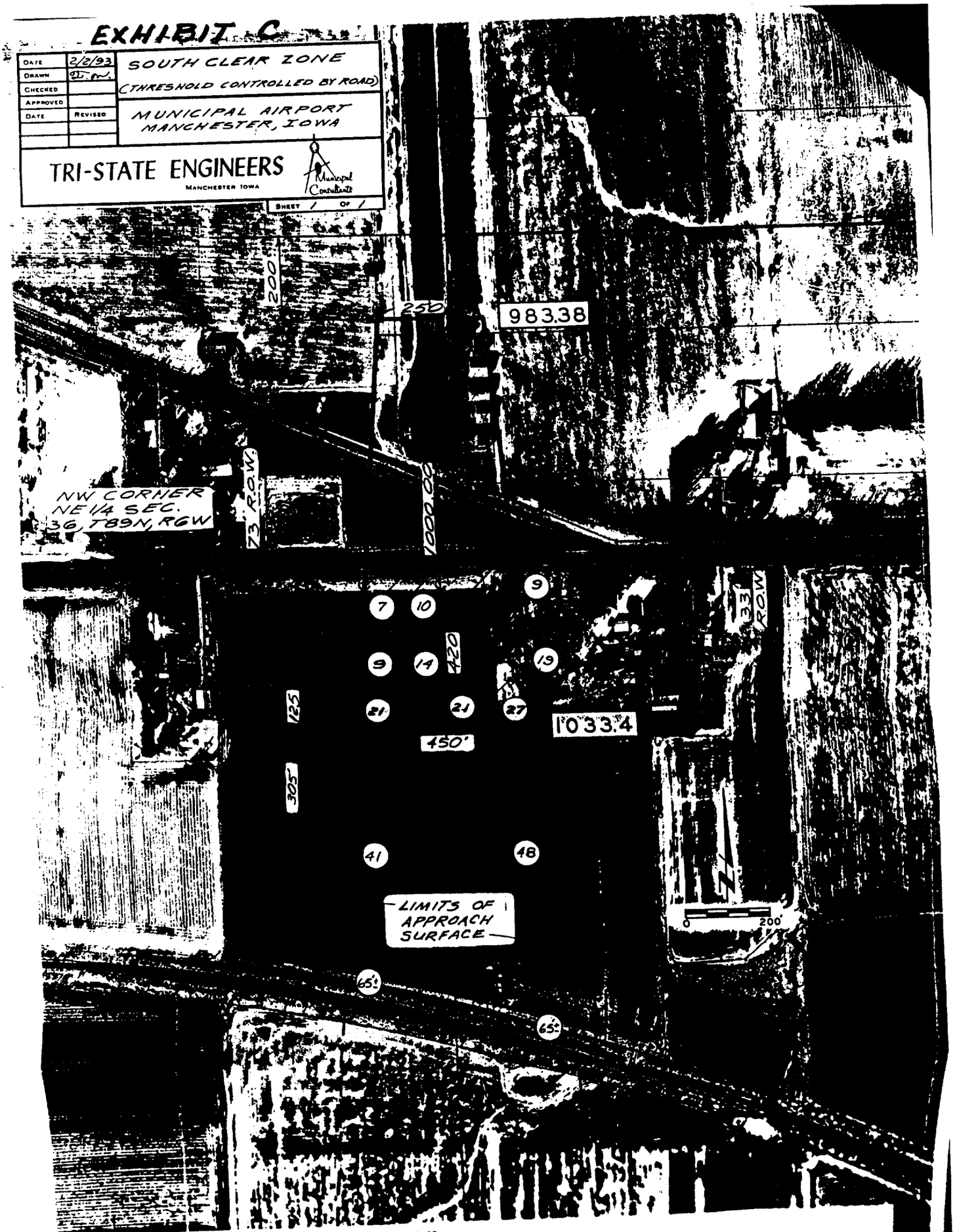
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EXHIBIT C

DATE	2/2/93	SOUTH CLEAR ZONE (THRESHOLD CONTROLLED BY ROAD)
DRAWN	DLM	
CHECKED		MUNICIPAL AIRPORT MANCHESTER, IOWA
APPROVED		
DATE	REVISED	

TRI-STATE ENGINEERS
MANCHESTER IOWA
Municipal Consultants

SHEET 1 OF 1



CLEAR ZONE BOUNDARY

AVIGATION EASEMENT AREA - PARCEL - 1

1033.4 ELEVATION OF APPROACH SURFACE (ABOVE MEAN SEA LEVEL NGVD-'29)

HEIGHT OF APPROACH SLOPE AT POINT "X" SHOWN ABOVE EXISTING GROUND (TO NEAREST FOOT)