


COUNTER JS
VERIFY JS
FEES \$ 46.00
CHG_SFILE
SUBMITTED_KOLEY JESSEN P.C., LLO

NEBRASKA DOCUMENTARY STAMP TAX
Nov 20, 2015
\$ Ex023      By JS

FILED SARPY CO. NE. INSTRUMENT NUMBER
<b>2015-28624</b>
2015 Nov 20 02:42:48 PM
<i>Wayne J. Dowling</i>
REGISTER OF DEEDS


## TEMPORARY CONSTRUCTION AND GRADING EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION AND GRADING EASEMENT AGREEMENT ("Easement"), is made and entered into as of October 29, 2015, between EDGE BUSINESS CONTINUITY CENTER, L.L.C., an Iowa limited liability company ("Grantor"), and OXBOW ENTERPRISES, INC., a Nebraska corporation ("Grantee").

### RECITALS

WHEREAS, Grantor owns certain real estate more particularly described on Exhibit "A" attached hereto ("Grantor's Property");

WHEREAS, Grantee owns certain real estate adjacent to Grantor's Property and more particularly described on Exhibit "B" attached hereto ("Grantee's Property"); and

WHEREAS, in connection with the development of Grantee's Property, Grantee will perform, or cause to be performed grading of Grantee's Property and a portion of Grantor's Property, and desires to obtain from Grantor a temporary easement over a portion of Grantor's Property for purposes of conducting such grading, and Grantor is willing to provide such easement to Grantee on the terms and conditions set forth herein.

### NOW, THEREFORE:

1. Grantor, in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants to Grantee, its successors and assigns, a non-exclusive, temporary construction and grading easement on, over, under and through certain portions of Grantor's Property, all as further depicted on Exhibit "C" attached hereto and incorporated by this reference (the "Easement Area").

Grantor hereby provides the Easement Area to Grantee for purposes of: (a) allowing Grantee to perform certain grading and dirt work on Grantee's Property and in the Easement Area for preparation of Grantee's construction of improvements on Grantee's Property, as set forth in the Mass Grading Plan prepared by Olsson Associates and previously provided to and approved by Grantor; (b) allowing Grantee to remove and/or deposit dirt within the Easement Area and perform grading between the boundaries of Grantor's Property and Grantee's Property within the

Easement Area; and (c) providing Grantee with the right of ingress and egress over and across the Easement Area for purposes of accomplishing the actions described in (a) and (b) above (collectively, the "Work").

2. Grantee and its contractors shall have immediate access to and over and across the Easement Area described above and may begin the Work.

3. The rights granted herein shall remain and be valid until the earlier of (a) one (1) year from the date of this Easement or (b) such time as the Work is completed by Grantee or its contractors, at which time this Easement shall automatically terminate and expire. Upon request of Grantor, Grantee will execute an instrument, in recordable form, acknowledging the termination of this Easement.

4. Nothing contained in this Easement shall be deemed to constitute a gift or dedication of any portion of the Easement Area to the general public, for the benefit of the general public, or for any public purpose whatsoever, it being the intention of Grantor and Grantee that the Easement shall be strictly limited to and for the purposes of performing the Work as expressed herein. Grantor and Grantee agree and acknowledge that, except as expressly set forth herein, there are no intended third party beneficiaries of this Easement or of any of the rights and privileges conferred herein.

5. Grantee shall indemnify, defend and hold Grantor harmless from and against any and all actual or threatened claims, damages, costs and expenses, arising from or related to Grantee's performance of the Work and exercise of its rights under this Easement. The foregoing indemnity shall survive the termination of this Easement.

6. Grantee shall not suffer or permit anything to be done that will cause the Grantor's Property to become encumbered by any mechanic's lien or similar lien, charge or claim in connection with the performance of the Work. If any mechanic's lien or claim is filed against the Grantor's Property, Grantee shall discharge the same of record by a release or bond within thirty (30) days after the filing of any notice of such lien, claim or other charge.

7. Grantor represents and warrants that it is the lawful owner of Grantor's Property; it has good, right and lawful authority to enter into this Easement and make such conveyance.

8. This Easement may be signed in one or more counterparts, which when taken together, shall constitute one and the same Easement.

[REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURE PAGES TO FOLLOW.]





**EXHIBIT "A"**

**Grantor's Property**

Tax Lot 1, located in the West Half of the Northwest Quarter of Section 2,  
Township 13 North, Range 11 East, of the 6<sup>th</sup> P.M., Sarpy County, Nebraska

**EXHIBIT "B"**

**Grantee's Property**

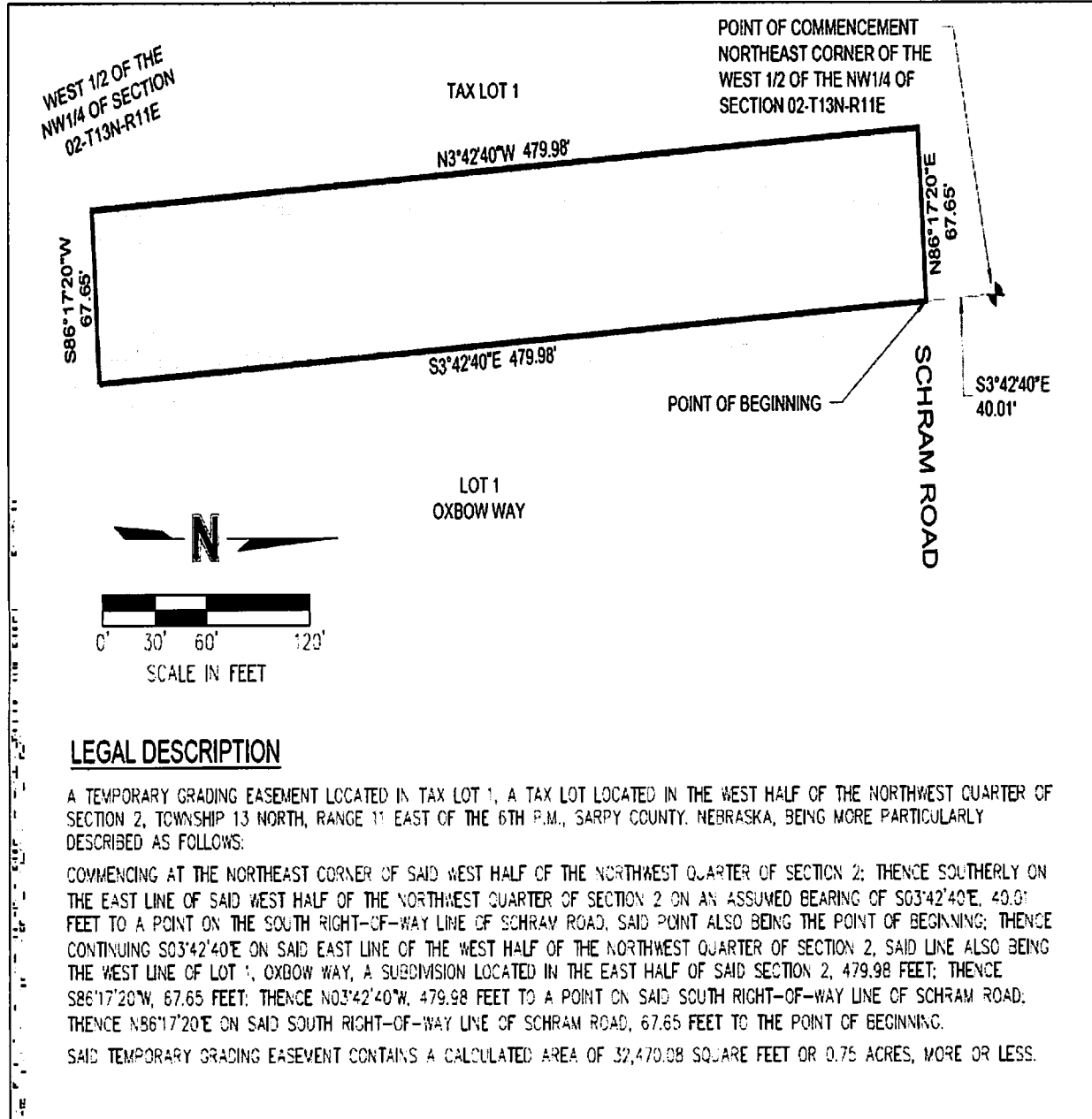
Tax Lot 2 in the East Half of the Northwest Quarter (E½ NW¼) of Section 2, Township 13 North, Range 11 East of the 6<sup>th</sup> P.M., in Sarpy County, Nebraska, more particularly described as follows:

Commencing at the North Quarter Corner of said Section 2 as the Point of Beginning; thence Southerly, a distance of 2,606.32 feet, to the Center Quarter Corner of Section 2; thence Westerly, along the South line of the Northwest Quarter of Section 2, a distance of 1,225.63 feet; thence Northerly, a distance of 2,617.43 feet, to a point on the North line of Section 2, thence Easterly, along the North line of Section 2, a distance of 1,228.13 feet, to the Point of Beginning, including the portions thereof previously platted as Lot 1 and Outlot A, Oxbow Way, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

Subject to public roads and/or highways.

# EXHIBIT "C"

## Depiction of Easement Area



### LEGAL DESCRIPTION

A TEMPORARY GRADING EASEMENT LOCATED IN TAX LOT 1, A TAX LOT LOCATED IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 13 NORTH, RANGE 11 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 2; THENCE SOUTHERLY ON THE EAST LINE OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 2 ON AN ASSUMED BEARING OF S03°42'40"E, 40.01 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SCHRAM ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING S03°42'40"E ON SAID EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 2, SAID LINE ALSO BEING THE WEST LINE OF LOT 1, OXBOW WAY, A SUBDIVISION LOCATED IN THE EAST HALF OF SAID SECTION 2, 479.98 FEET; THENCE S86°17'20"W, 67.65 FEET; THENCE N03°42'40"W, 479.98 FEET TO A POINT ON SAID SOUTH RIGHT-OF-WAY LINE OF SCHRAM ROAD; THENCE N86°17'20"E ON SAID SOUTH RIGHT-OF-WAY LINE OF SCHRAM ROAD, 67.65 FEET TO THE POINT OF BEGINNING.

SAID TEMPORARY GRADING EASEMENT CONTAINS A CALCULATED AREA OF 32,470.08 SQUARE FEET OR 0.75 ACRES, MORE OR LESS.

PROJECT NO: 014-3200	<b>TEMPORARY GRADING EASEMENT EXHIBIT</b>	<b>MOLSSON</b> ASSOCIATES	2111 South 67th Street, Suite 200 Omaha, NE 68105 TEL 402.341.1116 FAX 402.341.5895	EXHIBIT
DRAWN BY: JPF/EDF				1
DATE: 09/24/2015				