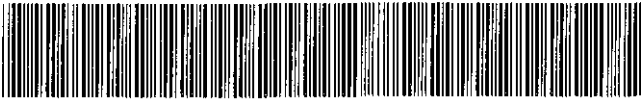




MISC 2008108365

Handwritten notes: *J*, *Misc*, *3*, *15*, *01-6000*, *1-14-12*, *usb*, *107*, *107*



NOV 07 2008 13:08 P 3

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
11/7/2008 13:08:24.56
2008108365

AGREEMENT AND EASEMENT STORM WATER DETENTION FACILITY

KNOW ALL MEN BY THESE PRESENTS:

That KAY DEE CO OF OMAHA, a Nebraska corporation, hereinafter referred to as "GRANTOR", for and in consideration of the sum of Ten and no/100ths dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey to the public in the care of the CITY OMAHA, a municipal Corporation of the State of Nebraska, hereinafter referred to as "CITY", and to its successors and assigns, a permanent easement to access, inspect and maintain, if necessary, the storm water detention facility constructed by the GRANTOR or GRANTOR'S successors and assigns in the event that the GRANTOR fails to adequately and effectively maintain the storm water detention facility, and appurtenances thereto, in, throughout, on and under the parcel of land depicted on exhibit "A" and to detain the storm water present to the extent needed to meet the detention calculations depicted as exhibit "B" attached hereto and hereinafter referred to as "DETENTION EASEMENT".

The scope and purpose of the foregoing permanent easement is to grant the CITY (i) ability to access, inspect, maintain, if necessary, the storm water detention facility constructed and maintained by the GRANTOR within the DETENTION EASEMENT including all necessary and related appurtenances, and (ii) the detention of storm water runoff, and which acts of the CITY will not relieve GRANTOR of its primary responsibility to maintain the same

TO HAVE AND TO HOLD unto such CITY, its successors and assigns.

The GRANTOR may, following construction of such storm water detention facility, continue to use the surface of the DETENTION EASEMENT including all other purposes subject only to the right of the CITY to use the same purpose herein expressed.

It is further agreed as follows:

1. That no buildings, improvements, or other structures shall be placed in, on, over, or across the DETENTION EASEMENT by GRANTOR, or its successors and assigns without the expressed approval of the CITY except however that landscaping, lawn irrigation systems, roads, streets, sidewalks, parking area surfacing, parking lot lighting, communication duct banks, pneumatic communication tubes, sanitary sewer service crossings and pavement may be installed in the area of the DETENTION EASEMENT if there is no potential storm water displacement. Such permitted improvements shall be maintained by the GRANTOR and its successors and assigns.
2. That CITY shall cause the DETENTION EASEMENT to be left in a neat and orderly condition if it enters the same. This Easement is also for the benefit of any contractor, agent, employee, or representative of the CITY.
3. That said GRANTOR for itself and its successors and assigns does confirm with the CITY and its successors and assigns, that the GRANTOR is seized in fee of the DETENTION EASEMENT and that it has the right to grant and convey this easement in the manner and form aforesaid, and that it will warrant and defend this DETENTION EASEMENT to the CITY and its successors and assigns against the lawful claims and demands of all persons. This permanent DETENTION EASEMENT runs with the land.
4. That this DETENTION EASEMENT is granted upon the condition that the CITY may remove or cause to be removed all presently existing improvements thereon, including but not limited to, crops, vines, and trees within the DETENTION EASEMENT as necessary for maintenance.

STORM WATER DETENTION FACILITY EASEMENT

1/2

RECORD 4174

OT 107095

(Handwritten initials)

5. That the GRANTOR, and its successors and assigns, does hereby agree to maintain and inspect the storm water detention facility as needed. In the event to GRANTOR, and its successors and assigns fails to maintain such detention facility after receipt of ten (10) days written notice thereof from CITY, weather permitting, then CITY shall have the right to place a lien upon the adjacent property of GRANTOR and its successors and assigns to compensate for the reasonable cost of maintenance of the storm water detention facility by to the CITY.
6. That this DETENTION EASEMENT contains the entire agreement of the parties: that there are no other different agreements or understandings between the GRANTOR and the CITY; and that the GRANTOR, in executing and delivering this DETENTION EASEMENT, has not relied upon any promises, inducements or representation of the CITY or its agents or employees, except as are set forth herein:

IN WITNESS WHEREOF said GRANTOR has or have hereunto set his or their hand(s) this 30th day of October, 2008.

GRANTOR:
KAY DEE CO. OF OMAHA,
 A Nebraska corporation,

By: *Robert M. Schaefer*
 Robert M. Schaefer, President

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) SS
 COUNTY OF DOUGLAS)

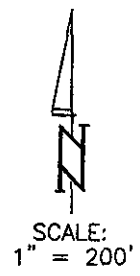
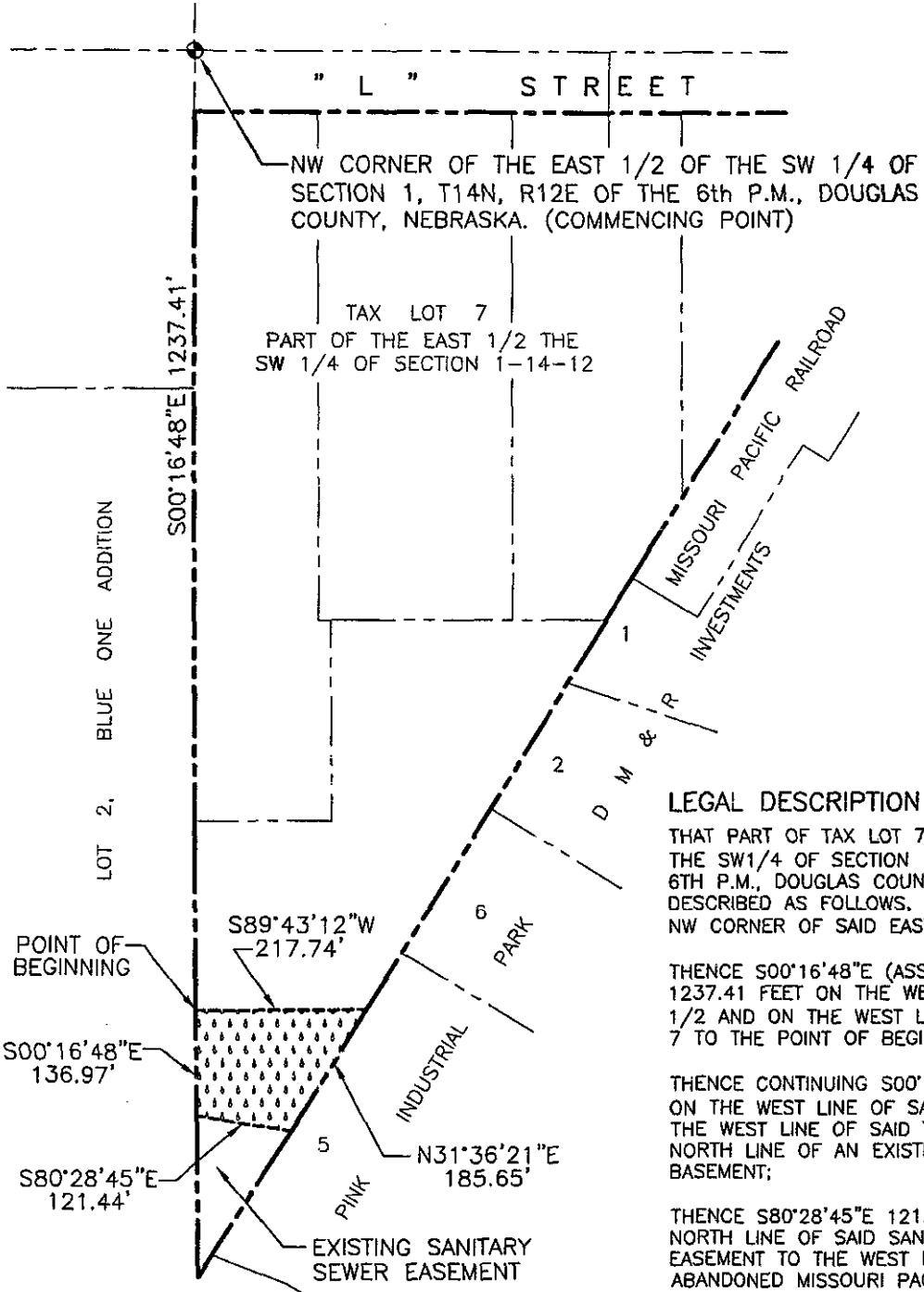
On this 30th day of October, 2008, before me, a Notary Public, in and for said County, personally came the above named: Robert M. Schaefer, President of Kay Dee Co. of Omaha, a Nebraska corporation, who is personally known to me to be the identical person whose name is affixed to the above instrument and acknowledged the instrument to be his voluntary act and deed on behalf of the corporation for the purpose therein stated.

WITNESS my hand and Notarial Seal the day and year last above written.



Daniel Walsh
 NOTARY PUBLIC

Notary Seal
 My Commission expires 11/29/08



NE SW 7 PR O.T.
SE SW

LEGAL DESCRIPTION

THAT PART OF TAX LOT 7 IN THE EAST 1/2 OF THE SW1/4 OF SECTION 1, T14N, R12E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS, COMMENCING AT THE NW CORNER OF SAID EAST 1/2;

THENCE S00°16'48"E (ASSUMED BEARING) 1237.41 FEET ON THE WEST LINE OF SAID EAST 1/2 AND ON THE WEST LINE OF SAID TAX LOT 7 TO THE POINT OF BEGINNING;

THENCE CONTINUING S00°16'48"E 136.97 FEET ON THE WEST LINE OF SAID EAST 1/2 AND ON THE WEST LINE OF SAID TAX LOT 7 TO THE NORTH LINE OF AN EXISTING SANITARY SEWER BASEMENT;

THENCE S80°28'45"E 121.44 FEET ON THE NORTH LINE OF SAID SANITARY SEWER EASEMENT TO THE WEST LINE OF THE ABANDONED MISSOURI PACIFIC RAILROAD;

THENCE N31°36'21"E 185.65 FEET ON THE WEST LINE OF SAID ABANDONED RAILROAD;

THENCE S89°43'12"W 217.74 FEET TO THE POINT OF BEGINNING.

Exhibit A

532103EX4.dwg

TD² THOMPSON, DREESSEN & DORNER, INC.
 Consulting Engineers & Land Surveyors
 10836 OLD MILL ROAD OMAHA, NEBRASKA 68154
 P: 402.330.8860 F: 402.330.5866 WWW.TD2CO.COM

EXHIBIT "A"

KAY DEE COMPANY JOB # 532-103-EX4

DATE	8/28/08
DRAWN BY	RJR
CHECKED BY	JDW
REVISION	