

FILED SARPY CO. NE.

INSTRUMENT NUMBER
97 008840

97 MAY -7 PM 3:22

Henry J. Lawley
REGISTER OF DEEDS

97-08840

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D.E.: [initials]
Proof: N
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EASEMENT AGREEMENT
(Storm Sewer-East)

THIS AGREEMENT is made and entered into this 6TH day of MAY, 1997, by and between LoRene Kittoe ("Kittoe") and Werner Enterprises, Inc., a Nebraska corporation ("Werner").

WITNESSETH:

WHEREAS, Kittoe is the owner of the property described on Exhibit "A" attached hereto (the "Kittoe Property");

WHEREAS, Werner is the owner of the property described on Exhibit "B" attached hereto (the "Werner Property"); and

WHEREAS, the parties have reached certain agreements with respect to a permanent drainage and storm sewer easement to be located on the Kittoe Property and desire to set forth such agreements in writing in this Agreement.

NOW, THEREFORE, in consideration of the above premises and the mutual covenants contained herein, and other valuable consideration, the parties agree as follows:

1. Kittoe does hereby grant and confirm unto Werner a perpetual easement to use the parcel of land designated and described on Exhibit "C" attached hereto (the "Easement Area") for the purpose of constructing (including grading), inspecting, maintaining and operating a storm sewer and adequate overflow spillway (the "Sewer"). Werner hereby agrees to maintain the Sewer according to the specifications set forth on said Exhibit "C". The Sewer shall be constructed, inspected, maintained and operated so as not to damage, obstruct or otherwise impair any existing sewer line located in the Easement Area. Werner further agrees to pay all contractors and suppliers engaged by Werner to perform work or provide materials in the Easement Area and keep the Easement Area and Kittoe Property free of liens for such work and materials. To the fullest extent permitted by law, Werner shall indemnify and hold harmless Kittoe from and against all claims, damages, losses and expenses arising out of or resulting from performance of the construction, inspection, maintenance and operation of the Sewer permitted by this Agreement, provided that such claim, damage, loss or expense is attributable to lien claims of contractors and suppliers or bodily injury or to injury to or destruction of tangible property, but only to the extent caused in whole or in part by breach of this Agreement by Werner or the negligent acts or

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97-08840A

omissions or wilful misconduct of Werner, its employees, agents, contractors or anyone else for whose acts they may be liable.

2. Werner hereby agrees that Kittoe shall have the unrestricted right to connect to the Sewer except as may be limited by any governmental authority having jurisdiction over the Sewer, provided that all such connections shall be made in a manner so as not to cause damage to or disturb use of the Sewer by Werner and Werner makes no representation that the Sewer is sized adequately for any such connections. Such easement and right shall be for the benefit of all owners of all or any part of the Kittoe Property, and their tenants and licensees.
3. No buildings or other permanent structures shall be placed in, on, over or across the Easement Area by Kittoe. Kittoe shall be entitled to plant crops, landscape, grade, fill, compact, pave and place utility lines in the Easement Area, provided the Sewer is not damaged, obstructed or otherwise impaired thereby. Werner shall be obligated to repair and restore any landscaping, grading, paving or utility lines placed in the Easement Area by Kittoe if the same are damaged by Werner, its employees, agents or contractors in connection with Werner's exercise of its rights or the performance of its obligations hereunder with respect to the Sewer.
4. Werner shall cause any disturbance of grade made on the Easement Area whether caused by construction or thereafter through setting or natural erosion to be properly refilled and graded.
5. Kittoe acknowledges that it is the current intention of Werner to assign this Agreement to SID No. 52 or other appropriate governmental agency. Kittoe agrees to cooperate in said assignment and to sign such documents as are necessary to accomplish the assignment provided that Kittoe is not materially prejudiced thereby, but without incurring any additional direct liability or cost. In the event this Agreement is so assigned, Werner shall be released of its obligations hereunder provided such obligations are assumed by SID No. 52 or such other governmental agency.
6. Nothing in this Agreement is intended to or shall limit or avoid the statutory or common law duties of the parties to each other with respect to surface drainage.
7. Except as contemplated in paragraph 5 above, the provisions in this Agreement shall operate as a covenant running with the Kittoe Property, Easement Area and the Werner Property (as applicable) and shall bind the current owners of the Kittoe Property, Easement Area and Werner Property (as applicable) and their respective heirs, administrators, executors, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.



LoRene Kittoe

97-08840B

EXHIBIT "A"

KITTOE PROPERTY

The East Half (E½) of the Southwest Quarter (SW¼) of Section 25,
Township 14 North, Range 11 East of the 6th P.M., Sarpy County,
Nebraska.

97-088400

WERNER ENTERPRISES, INC., a
Nebraska corporation

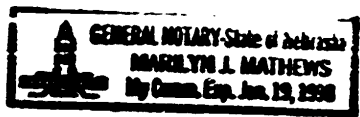
By: Robert J. Synowski
Its: Executive Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 6th day of May, 1997, before me, a Notary Public, in and for said
County and State, personally appeared LoRene Kittoe, who executed the above and foregoing
Agreement and acknowledged the execution thereof to be her voluntary act and deed.

Marilyn J. Mathews
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)



On this 6th day of May, 1997, before me, a Notary Public, in and for said
County and State, personally appeared Robert E. Synowski
Executive Vice President of Werner Enterprises, inc., a Nebraska corporation, who executed the
above and foregoing Agreement and acknowledged the execution thereof to be the voluntary act
and deed of said corporation.



Marilyn J. Mathews
Notary Public

5. Hazard or Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. Mortgage Insurance. If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve

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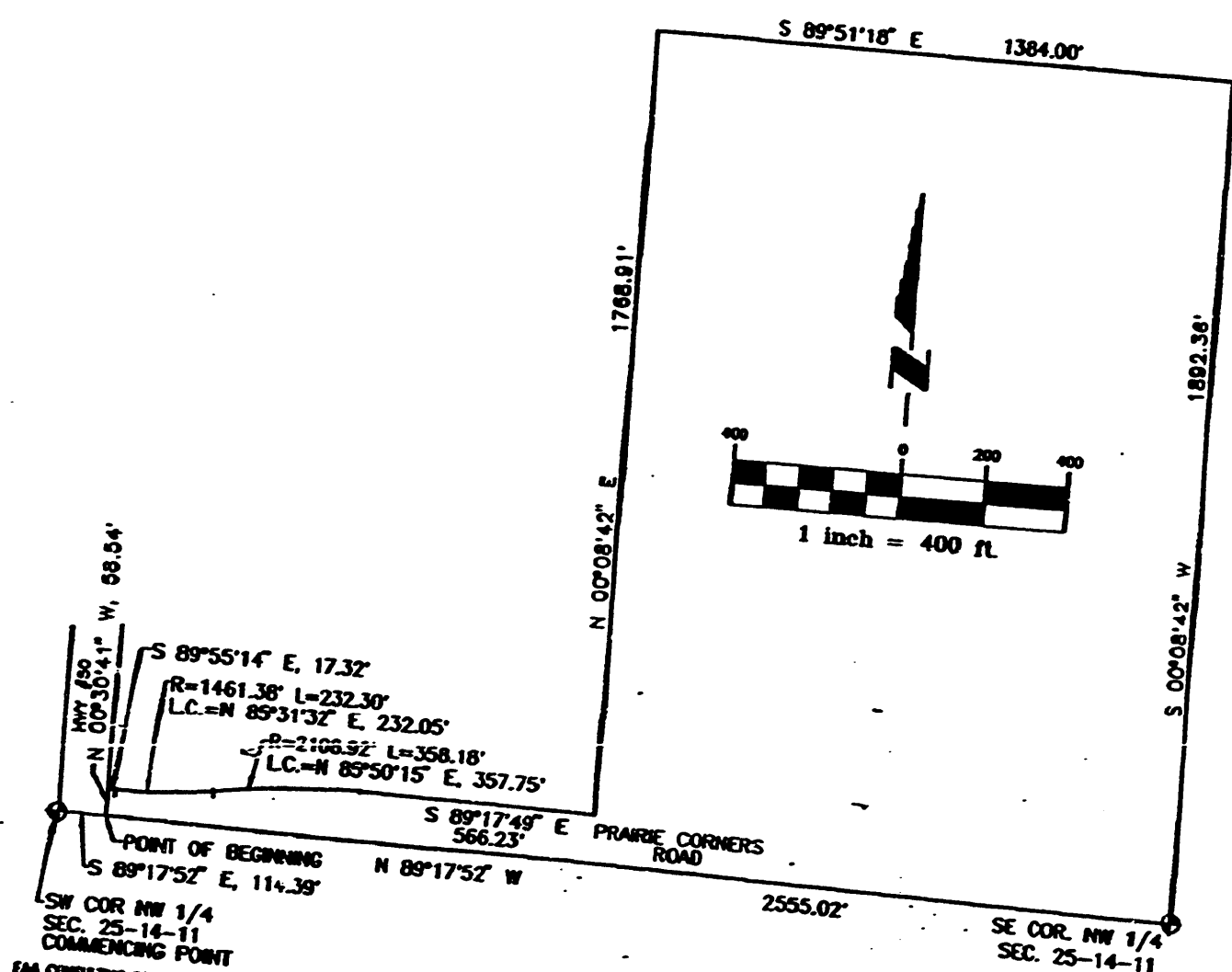
EXHIBIT "A"

KITTOE PROPERTY

The East Half (E½) of the Southwest Quarter (SW¼) of Section 25,
Township 14 North, Range 11 East of the 6th P.M., Sarpy County,
Nebraska.

97-08340

EXHIBIT "B"



POINT OF BEGINNING
 SW COR NW 1/4
 SEC. 25-14-11
 COMMENCING POINT

SE COR. NW 1/4
 SEC. 25-14-11

EAM CONSULTING GROUP
 12001 'G' STREET
 OMAHA, NE 68137
 (402) 426-4700 FAX (402) 426-4400

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EXHIBIT "B"

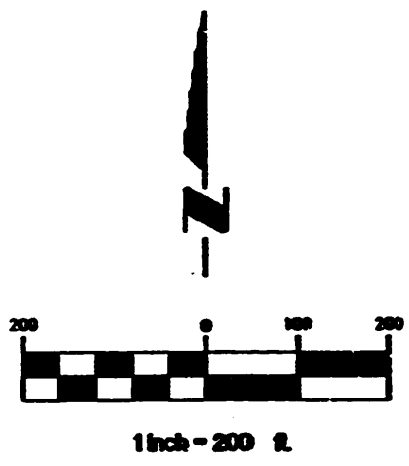
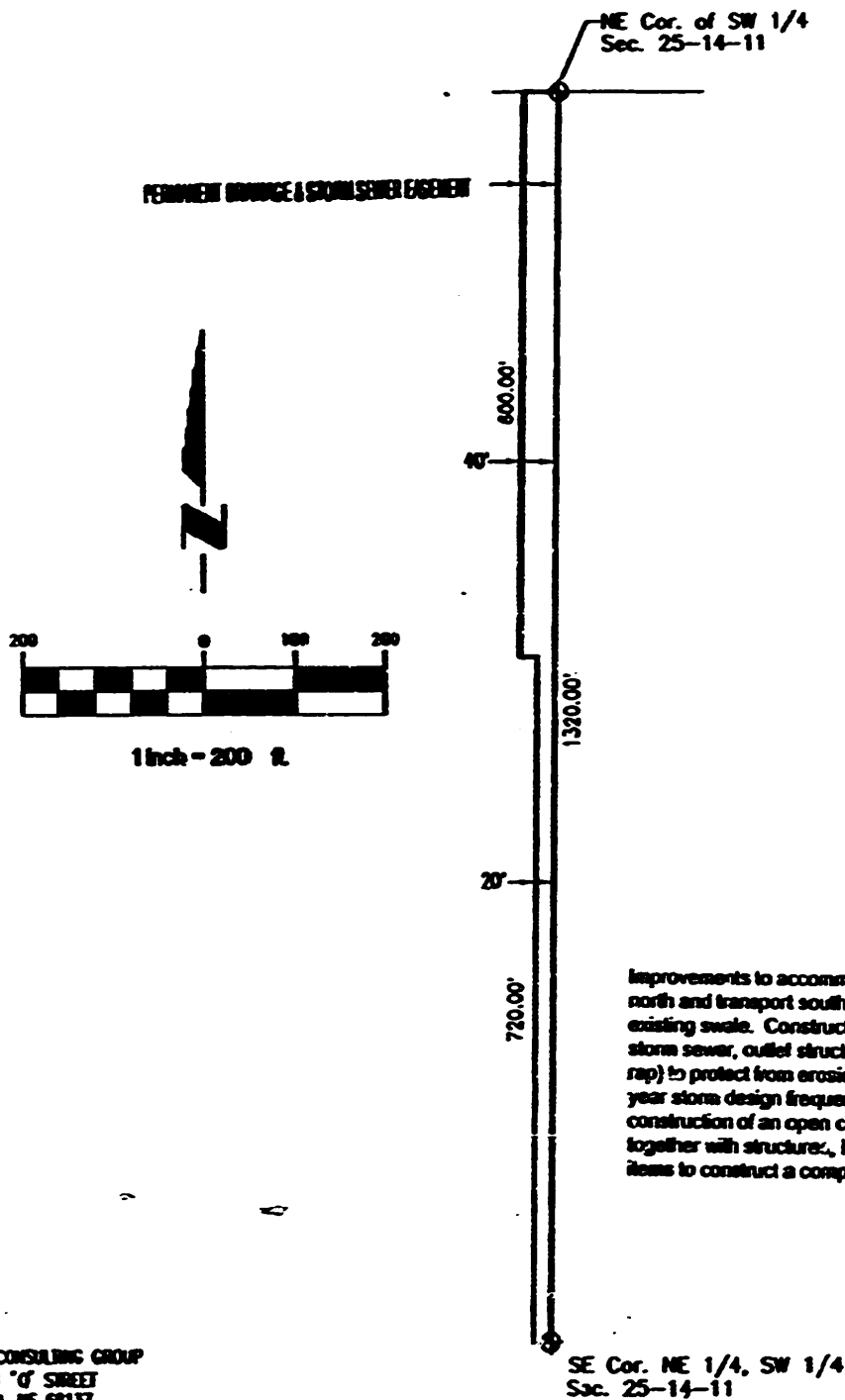
LEGAL DESCRIPTION "WERNER PROPERTY"

A tract of land located in the NW ¼ of Section 25, Township 14 North, Range 11 East of the 6th P.M., Sarpy County, Nebraska, more particularly described as follows:

Commencing at the Southwest Corner of said NW ¼ of Section 25; thence S89°17'52"E (assumed bearing) along the South line of said NW ¼ of Section 25, a distance of 114.39 feet to a point on the east right-of-way line of State Highway 50, said point also being the point of beginning; thence N00°04'43"E, along said East right-of-way line of State Highway 50, a distance of 58.57 feet; thence easterly, on a curve to the left with a radius of 1,461.38 feet, a distance of 232.30 feet, said curve having a long chord which bears N85°31'32"E, a distance of 232.05 feet; thence easterly, on a curve to the right with a radius of 2,108.92 feet, a distance of 358.18 feet, said curve having a long chord which bears N85°50'15"E, a distance of 357.75 feet; thence S89°17'49"E, a distance of 566.23 feet; thence N00°08'42"E, a distance of 1,768.91 feet; thence S89°51'18"E, a distance of 1,384.00 feet to a point on the East line of said NW ¼ of Section 25; thence S00°08'42"W, along said East line of the NW ¼ of Section 25, a distance of 1,892.36 feet to a point on said South line of the NW ¼ of Section 25; thence N89°17'52"W, along said South line of the NW ¼ of Section 25, a distance of 2,555.02 feet to a point on the East right-of-way line of State Highway 50, said point also being the point of beginning.

Said tract of land contains an area of 62.532 acres, more or less.

EXHIBIT "C"



DESCRIPTION OF WORK

Improvements to accommodate surface stormwater drainage from property to the north and transport southerly via storm sewer pipe and open channel to an existing swale. Construction to include approximately 1,300 feet of 48" RCP storm sewer, outlet structure to existing swale, slope stabilization (flume or rip-rap) to protect from erosion in the event of stormwater flows in excess of the 10 year storm design frequency coming off the proposed pavement to the north, construction of an open channel drainageway above the 48" storm sewer together with structure, bedding, rip-rap and other necessary and incidental items to construct a complete storm drainage system.

E&A CONSULTING GROUP
 12001 "G" STREET
 OMAHA, NE 68137
 (402) 885-4700 FAX (402) 885-3589
 /96068 04-21-97

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EXHIBIT "C"

LEGAL DESCRIPTION PERMANENT DRAINAGE AND UTILITY EASEMENT (Storm Sewer - East)

A permanent drainage and storm sewer easement located in NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 25, Township 14 North, Range 11 East of the 6th P.M., Sarpy County, Nebraska more particularly described as follows:

Beginning at the NE corner of said SW $\frac{1}{4}$ of Section 25; thence southerly along the east line of said SW $\frac{1}{4}$ of Section 25, a distance of 1,320.00 feet; thence westerly, perpendicular to said east line of the SW $\frac{1}{4}$ of Section 25, a distance of 20.00 feet; thence northerly, on a line parallel to and 20.00 feet west of said east line of the SW $\frac{1}{4}$ of Section 25 a distance of 720.00 feet; thence westerly, perpendicular to said east line of the SW $\frac{1}{4}$ of Section 25, a distance of 20.00 feet; thence northerly, on a line parallel to and 40.00 feet west of said east line of the SW $\frac{1}{4}$ of Section 25 a distance of 600.00 feet to a point on the north line of said SW $\frac{1}{4}$ of Section 25; thence easterly, along said north line of the SW $\frac{1}{4}$ of Section 25, a distance of 40.00 feet to the point of beginning.

Said permanent drainage and storm sewer easement contains an area of 0.882 acres, more or less.