

2017-05610

03/13/2017 1:35:25 PM

*Clay J. Dowling*

REGISTER OF DEEDS



COUNTER	<u>P</u>	C.E.	<u>P</u>
VERIFY	<u>P</u>	D.E.	<u>P</u>
PROOF	<u>D</u>		<u>P</u>
FEES \$	<u>52.00</u>		
CHECK#	<u>284622</u>		
CHG	_____	CASH	_____
REFUND	_____	CREDIT	_____
SHORT	_____	NCR	_____

AFTER RECORDING RETURN TO:

*RHR*  
 Baird Holm LLP  
 1700 Farnam Street, Suite 1500  
 Omaha, NE 68102  
 Attn: Michael C. Schilken

**FIRST AMENDMENT TO PERMANENT EASEMENT**

**THIS FIRST AMENDMENT TO PERMANENT EASEMENT ("Amendment")** is made and entered into effective as of the 3<sup>rd</sup> day of March, 2017, (the "**Effective Date**") by and between LB Southwest, LLC, a Nebraska limited liability company (the "**Grantor**") and J & H Investments, L.L.C., a Nebraska limited liability company (the "**Grantee**").

**RECITALS:**

WHEREAS, Grantor is the owner of the property legally described on Exhibit "A", which such Exhibit "A" is made a part hereof, and whereas, Exhibit "A" is made a part hereof and incorporated herein by this reference. The Grantor's property shall herein after be referred to as the "**Burdened Property**";

WHEREAS, Grantee is the owner of the property legally described on Exhibit "B", which such Exhibit "B" is made a part hereof, and whereas, Exhibit "B" is made a part hereof and incorporated herein by this reference. The Grantee's property shall herein after be referred to as the "**Benefited Property**"; and

WHEREAS, a certain Permanent Easement dated March 23, 2015, was filed at Instrument Number 2015-06463 on March 26, 2015 (the "**Permanent Easement**") which effects the Burdened Property and benefits the Benefited Property. The Permanent Easement created an easement as legally described on an exhibit to the Permanent Easement ("**Easement**"). The Grantor and the Grantee desire to amend the terms and provisions of the Permanent Easement by the terms and provisions of this Amendment, all effective as of the date first above written.

NOW, THEREFORE, for one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor and the Grantee hereto agree as follows:

1. To the extent that the Permanent Easement refers to a perpetual Easement, which shall run with the land, and shall be binding upon Grantor's and Grantee's heirs, successors, and assignees, the Grantor and Grantee do hereby consent and agree that if, and at such time that said Easement shall be terminated in accordance with the terms and provisions of this Amendment, said Easement shall thereafter become null and void.

2. Grantor and Grantee hereby amend, alter and modify the Permanent Easement by adding the following paragraphs to the terms and provisions of the Permanent Easement:

Grantor and Grantee do hereby consent and agree that Grantor is intending to develop the Burdened Property whereby 145<sup>th</sup> Street will be completed as generally depicted on Exhibit "C" hereto, which such Exhibit "C" is made a part hereof and incorporated herein by this reference. The depicted 145<sup>th</sup> Street will be a public road, and not a private road. Grantor is intending to develop the Burdened Property whereby water and sanitary sewer lines will be extended from north of the Burdened Property to the enlargement area as depicted on Exhibit "C". Grantor and Grantee do hereby consent and agree to the following terms and provisions which shall control, and to the extent that any term or provision of the Permanent Easement is in conflict with the terms and provisions of this Amendment, the Grantor and Grantee agree that the terms and provisions of this Amendment shall control. Grantor and Grantee do hereby consent and agree as follows:

a. At such time that Grantor shall install a functioning water line and a functioning sanitary sewer line, with adequate sizing for the utilization of both the Benefited Property and the Burdened Property, to the Grantee's property line depicted in the enlargement area shown on Exhibit "C", an authorized representative of Lamp Rynearson & Associates, Omaha, Nebraska (or its successor or assignee, or if none, a similar qualified engineering company) shall file an affidavit with the Register of Deeds of Sarpy County, Nebraska, containing the following representations: (i) that a functioning water line and a functioning sanitary sewer line has been installed to the Grantee's property line as depicted on the enlargement area on Exhibit "C", and (ii) that the water line and the sanitary sewer line are adequately sized for the utilization by both the Benefited Party and the Burdened Property ("**Affidavit**"). Upon the filing of such Affidavit with the Register of Deeds of Sarpy County, Nebraska (identifying both the Burdened Property and the Benefited Property), the Grantor and the Grantee do hereby consent and agree without any notice (either written or oral to any person or third party), and without any further consideration to be paid or received by either the Grantor or the Grantee, that the Easement granted pursuant to the terms and provisions of the Permanent Easement, and the terms and provisions of the Permanent Easement shall be immediately null and void, terminated, and the Permanent Easement shall be without any further force or effect, all effective as of the date of the filing of the Affidavit;

b. The Permanent Easement, subject to this Amendment, shall remain in force and in effect until the filing of the Affidavit;

c. The Grantor does hereby consent and agree that the cost to install the water line and the sanitary sewer line to the enlargement area depicted on Exhibit "C" shall be at the cost of the Grantor, however, the Grantor does not waive its right to collect or be reimbursed by the Grantee or any other third party to connect to said water line in accordance with the usual, and normal terms and provisions related to a party connecting to a water line or a sanitary sewer line; and

d. The Grantor and the Grantee do hereby agree that the reimbursement provision contained in the original Permanent Easement shall be null and void without any further force or effect.

3. Original Permanent Easement. All capitalized terms not defined herein shall be defined and have the meanings set forth in the Permanent Easement. Except as specifically amended herein, the Permanent Easement shall remain in full force and effect as originally executed. This Amendment shall be binding on the heirs, personal representatives, successors and assigns of the parties hereto.

C

IN WITNESS WHEREOF, this Amendment has been executed the day and year first above written.

**GRANTEE:**

J & H INVESTMENTS, L.L.C., a Nebraska limited liability company

By: *Tom Heimes* MANAGER  
Name: Tom Heimes  
Its: MANAGER

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing was acknowledged before me on this 21<sup>st</sup> day of February, 2017, by Tom Heimes, manager of J & H Investments, L.L.C., a Nebraska limited liability company, on behalf of said company.

*Brett Potter*  
Notary Public


My Commission Expires: 11/17/20



D


**GRANTOR:**

LB SOUTHWEST, LLC, a Nebraska limited liability company

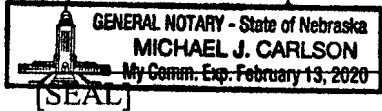
By:   
Name: Lance E. Pittack  
Its: Authorized Member

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing was acknowledged before me on this 3 day of March, 2017, by Lance E. Pittack, its Authorized Member of LB Southwest, LLC, a Nebraska limited liability company, on behalf of said company.

  
Notary Public

My Commission Expires:



## Exhibit "A"

## Legal Description of Burdened Property

Tax Lot Four (4), in Section Twenty-Three (23), Township Fourteen (14) North, Range Eleven (11) East of the 6th P.M., except Meadows Boulevard and except that part platted as Lakeview South and except that part platted as Lakeview South No. 7 Replat 1, and except those parts conveyed to the State of Nebraska for highway purposes, subject to statutory roads, in Sarpy County, Nebraska.

## EXCEPT

Part of Tax Lot Four (4), in Section Twenty-Three (23), Township Fourteen (14) North, Range Eleven (11) East of the 6th P.M., except Meadows Boulevard and except that part platted as Lakeview South and except that part platted as Lakeview South No. 7 Replat 1, and except those parts conveyed to the State of Nebraska for highway purposes, subject to statutory roads, in Sarpy County, Nebraska, more particularly described as follows: Beginning at the Southwest corner of the East Half of the Northeast Quarter ( $E\frac{1}{2} NE\frac{1}{4}$ ) of said Section Twenty-Three (23); thence North 89 degrees 59 minutes 27 seconds East (assumed bearing) 300.57 feet on the South line of said East Half ( $E\frac{1}{2}$ ) to the West line of 147th Street; thence North 00 degrees 26 minutes 39 seconds East 95.01 feet on the West line of 147th Street to the North line of Meadows Boulevard; thence North 89 degrees 59 minutes 29 seconds East 404.25 feet on the North line of Meadows Boulevard to the Southwest corner of Lot One (1), Lakeview South II, a subdivision in said Sarpy County; thence North 00 degrees 51 minutes 32 seconds East 1,446.59 feet on the West line of Lot One (1), said Lakeview South II and on the West lines of Lots One (1) and Two (2) Lakeview South II Replat 6 and the West line of Lot Two (2) Lakeview South II Replat 2, both subdivisions in said Sarpy County to the Northwest corner of said Replat 2; thence North 89 degrees 13 minutes 02 seconds West 716.72 feet to the West line of said East Half ( $E\frac{1}{2}$ ); thence South 00 degrees 23 minutes 28 seconds West 1,551.37 feet to the West line of said East Half ( $E\frac{1}{2}$ ) to the point of beginning.

## AND EXCEPT

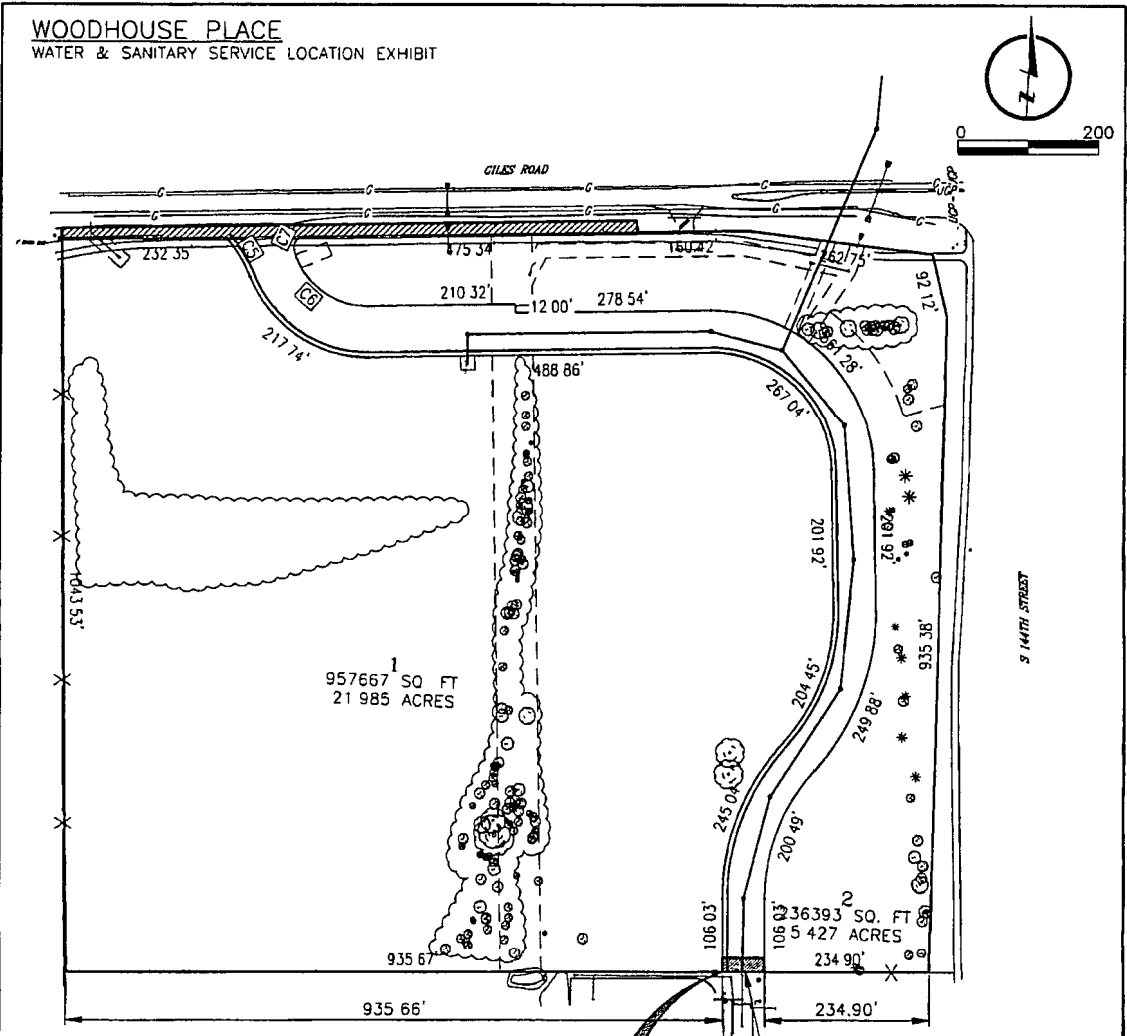
A portion of Tax Lot Four (4) located in the East Half of the Northeast Quarter ( $E\frac{1}{2} NE\frac{1}{4}$ ) of Section Twenty-Three (23), Township Fourteen (14) North, Range Eleven (11) East of the 6th P.M., Sarpy County, Nebraska, and described as follows: Beginning at the Northeast corner Tax Lot Four (4); thence South deflecting South 03 degrees 11 minutes 24 seconds East a distance of 17.00 feet; thence West deflecting South 87 degrees 02 minutes 36 seconds West a distance of 160.41 feet; thence North deflecting North 02 degrees 57 minutes 24 seconds West a distance of 17.00 feet; thence East deflecting North 87 degrees 02 minutes 36 seconds East a distance of 160.34 feet to the point of beginning.

Exhibit "B"

Legal Description of Benefited Property

Part of Tax Lot 4, in Section 23, Township 14 North, Range 11 East of the 6<sup>th</sup> P.M., except Meadows Boulevard and except that part platted as Lakeview South and except that part platted as Lakeview South No. 7 Replat 1, and except those parts conveyed to the State of Nebraska for Highway purposes, subject to statutory roads, in Sarpy County, Nebraska, more particularly described as follow: Commencing at the NW corner of the East ½ of the NE ¼ of said Section 23; thence S 00°23'28"W (assumed bearing) 33.00 feet on the West line of said East ½ to the point of beginning; thence continuing S00°23'28"W 1060.59 feet on the West line of said East ½; thence S89°13'02"E 1230.40 feet on the Northerly lines of Lot 2, said Lakeview South II Replat 2 and Lot 1, Lakeview South II Replat Five and their Westerly extension to the Westerly line of State Highway 50; thence N02°12'48"E 935.40 feet on the Westerly line of State Highway 50; thence N12°19'58"W 92.14 feet on the Westerly line of State Highway 50 to the Southerly line of Giles Road; thence N81°55'37"W 262.69 feet on the Southerly line of Giles Road; thence N00°07'88"W 17.00 feet on the Southerly line of Giles Road; thence N89°55'41"W 979.36 feet on the Southerly line of Giles Road and on a line 33.00 feet

South of and parallel with the North line of said NE ¼ to the point of beginning (the "Parcel")



WATER & SANITARY SERVICE LOCATION (SEE ENLARGEMENT)

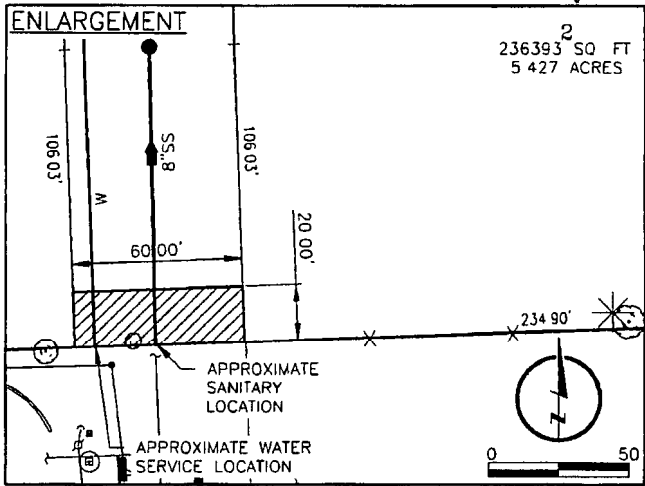


EXHIBIT "C"

**LAMP RYNEARSON & ASSOCIATES**

14710 West Dodge Road, Suite 100 | P 402.496.2498  
Omaha, Nebraska 68154-2027 | F 402.496.2730  
www.LRA-Inc.com

DRAWN BY	DESIGNED BY	REVIEWED BY	PROJECT - TASK NUMBER	DATE	BOOK AND PAGE	REVISIONS
RV			0116050	01 18 2017		

\\Engineering\0116050 Woodhouse Auto 144th Cite\DRAWINGS\EXHIBITS\0116050-WATER SERVICE.dwg 1/23/2017 8:20:50 AM, ROB VANDERVOEL, LAMP RYNEARSON & ASSOCIATES