

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2004-04593

2004 FEB 11 A 8:17 B

Blair J. Dowling
REGISTER OF DEEDS

COUNTER	<i>[Signature]</i>	C.E.	<i>[Signature]</i>
VERIFY	<i>[Signature]</i>	D.E.	<i>[Signature]</i>
PROOF	<i>[Signature]</i>		
FEE \$	<u>26.00</u>		
CHECK#	<u>7730</u>		
CHG		CASH	
REFUND		CREDIT	
SHORT		NCR	

FRONTAGE ROAD EASEMENT

THIS AGREEMENT executed this 10th day of February, 2004, by The Omaha Land Company, Limited Liability Company, a Nebraska Limited Liability Company, as Grantor, and Paul S. McCune and Susan Jo McCune, husband and wife, as Grantees, and, and hereby bear witness to the grant of an easement and agreement for a frontage road between the respective properties of the Grantor and the Grantees hereto under the following terms and conditions:

PRELIMINARY STATEMENTS

- A. The Grantor is the owner of the real estate described as Lot 114, in Plum Creek, a Subdivision in the City of Gretna, as surveyed, platted and recorded in Sarpy County, Nebraska ("Lot 114").
- B. The Grantees are the owners of certain real estate immediately adjacent to Lot 114, which is described as Lot 264, Plum Creek, a Subdivision in the City of Gretna, as surveyed, platted and recorded in Sarpy County, Nebraska ("Lot 264").
- C. The Grantor desires to grant to the Grantees (and their heirs, successors, and assigns) a permanent easement over a portion of Lot 114 for ingress and egress, and the Grantor desires to construct and maintain a Frontage Road (as hereinafter described) on such easement for the benefit of Grantees, their heirs, successors and assigns.

AGREEMENT

NOW THEREFORE in consideration of one and no/100 dollar (\$1.00) and other valuable considerations and the mutual promises of the parties hereby give and grant the Grantees, their heirs, successors and assigns, as follows:

1. The Grantor, its heirs, successors and assigns give and grant to the Grantees, their heirs, successors and assigns, a permanent and perpetual easement for ingress and egress (the "Easement") over Lot 114, which Easement is more fully described as follows:

SEE ATTACHED EXHIBIT "A"

2. The Grantor shall cause to be constructed on the Easement a frontage road (the "Frontage Road"), which Frontage Road shall be constructed of concrete, asphalt or other materials of acceptable quality for road construction at a depth or thickness as required by the City of Gretna and shall otherwise comply with any and all applicable local zoning provisions. The construction of the Frontage Road shall be commenced as determined by Grantor, provided that the Frontage Road shall be completed, in a form acceptable to the City of Gretna, no later than two (2) years after the date of this Agreement.
3. In the event that no improvements are made to Lot 264 and no improvements are made to Lot 114, the construction of the Frontage Road may be delayed until such time as Grantees a) gives notice of intent to build on Lot 264 to Grantor, and b) within twenty-one (21) days thereafter, obtain a building permit from the City of Gretna. Upon such notice and securing of a building permit by Grantees, Grantor shall immediately begin construction of the Frontage Road.

Return to:
Haney Realty Co
916 Village Sq
Gretna, Ne 68028

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4. Grantees may construct a temporary road across Lot 114 and within the Easement prior to the expiration of Grantor's two (2) year period to construct the Frontage Road, as described in paragraph 2, above, at Grantees' own cost. Grantees shall be obligated to provide written notice of their intentions to Grantor and obtain written consent to the same. Consent shall not be unreasonably withheld.

5. The Grantor shall pay for all costs and expenses connected with the construction of the Frontage Road in accordance with paragraph 2 hereof, and the Grantees shall not be obligated to pay any of the initial construction costs for construction of the Frontage Road.

6. Grantor and Grantees shall have common use of the Frontage Road for themselves, their families, guests and invitees to provide access to the commercial properties of the Parties located on Lot 114 and Lot 264, and for deliveries and similar uses.

7. The Grantor shall, at all times, keep and maintain the Frontage Road in good condition and repair and reasonably free of snow, ice and debris. For the period beginning on the date of this Agreement and ending on the date that is three (3) years after the date of completion of the Frontage Road or the date upon which the Grantees commences construction of a building on Lot 264, whichever occurs later (such period referred to hereinafter as the "Initial Maintenance Period"), the Grantor shall pay all costs of repair and maintenance of the Frontage Road. After the Initial Maintenance Period, each party shall bear one-half of the cost of repair and maintenance on the Frontage Road, and the responsibility for making such repairs and improvements shall be on the Grantor except that no repairs, improvements, or maintenance in excess of \$1,000.00 shall be made without the consent of the Grantees, and further that if any repairs are occasioned solely by acts of either Party, such guilty Party shall bear the entire cost of the repair.

8. In the event that Grantees sell Lot 264, the new owner of Lot 264 will be immediately obligated to pay one-half of the costs of repair and maintenance on the Frontage Road as described in paragraph 7, above.

9. After the Initial Maintenance Period, the Party making repairs as aforesaid shall be entitled to be reimbursed for one-half of the cost therefore by the other Party. Said payment shall be made within thirty (30) days of invoice.

10. Each Party shall make reasonable use of the Easement, and neither Party shall obstruct the Frontage Road or in any manner interfere with the reasonable use thereof by the other Party.

11. Any tort liability arising out of the Frontage Road not occasioned by an act of misfeasance or nonfeasance of one Party shall be the joint liability of both Parties. The Grantor shall, at all times, maintain liability insurance coverage for the Easement and the Frontage Road with a minimum per occurrence coverage of not less than Five Hundred Thousand Dollars (\$500,000.00).

12. The Parties acknowledge and agree that the Easement granted herein is appurtenant to Lot 264, and shall run with the land, shall inure to the benefit of, and be binding upon, the parties and their respective heirs, successors, personal representatives and assigns, and their agents and contractors, and shall be perpetual in nature, subject to termination by agreement of the Parties or by an order from a court of competent jurisdiction. The other agreements contained herein are appurtenant to Lot 114 and Lot 264, and shall run with the land, shall inure to the benefit of, and be binding upon, the Parties and their respective heirs, successors, personal representatives and assigns, and their agents and contractors, and shall be perpetual in nature, subject to termination by agreement of the Parties or by an order from a Court of competent jurisdiction.

13. Grantor warrants that he is the owner of Lot 114; that it has good right and lawful authority to grant the aforesaid easement rights over Lot 114; that it and its executors, administrators, successors and assigns warrant and defend this conveyance and the title of Grantees to the aforesaid easement rights against all lawful claims and demands of all persons whomsoever.

14. Grantor and its successors and assigns shall not at any time erect, construct or place on or below the surface of the Easement granted herein any building or structure, except pavement or similar covering and shall not permit anyone else to do so.

15. No waiver of any breach of any of the covenants contained in this instrument shall be construed as or constitute a waiver of any other breach, or a waiver, acquiescence or consent to any further or succeeding breach of the same of any other covenant.

16. If any term or provision of this instrument shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions thereof shall not be affected thereby, but each remaining term or provision shall be valid and enforceable to the fullest extent permitted by law.

17. This Easement shall be governed by, and construed in accordance with, the laws of the State of Nebraska, and two originals shall be signed by the parties and an original will be filed for record with the Register of Deeds of Sarpy County, Nebraska for the purpose of providing notice of the rights and obligations imposed hereby on the present and future owners of Lot 114 and Lot 264.

18. The consideration recited herein shall constitute payment in full for all damages, whether known, unknown or contingent, sustained by the Grantor by reason of the exercise by Grantees of all rights and privileges herein described or granted.

Dated this 10th day of February, 2004.

The Omaha Land Company, Limited Liability Company, a Nebraska Limited Liability Company.

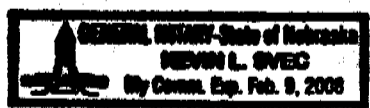
BY: [Signature]
Don Hoeft, Jr., Managing Member

[Signature]
Paul S. McCune

[Signature]
Susan Jo McCune

STATE OF NEBRASKA)
)ss
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me this 10th day of February, 2004, by Don Hoeft, Jr., of The Omaha Land Company, Limited Liability Company, a Nebraska limited liability company, on behalf of the company.



[Signature]
Notary Public

STATE OF NEBRASKA)
)ss
COUNTY OF SARPY)

The foregoing instrument was sworn and acknowledged before me this 10th day of February, 2003 by Paul S. McCune and Susan Jo McCune.



[Signature]
Notary Public

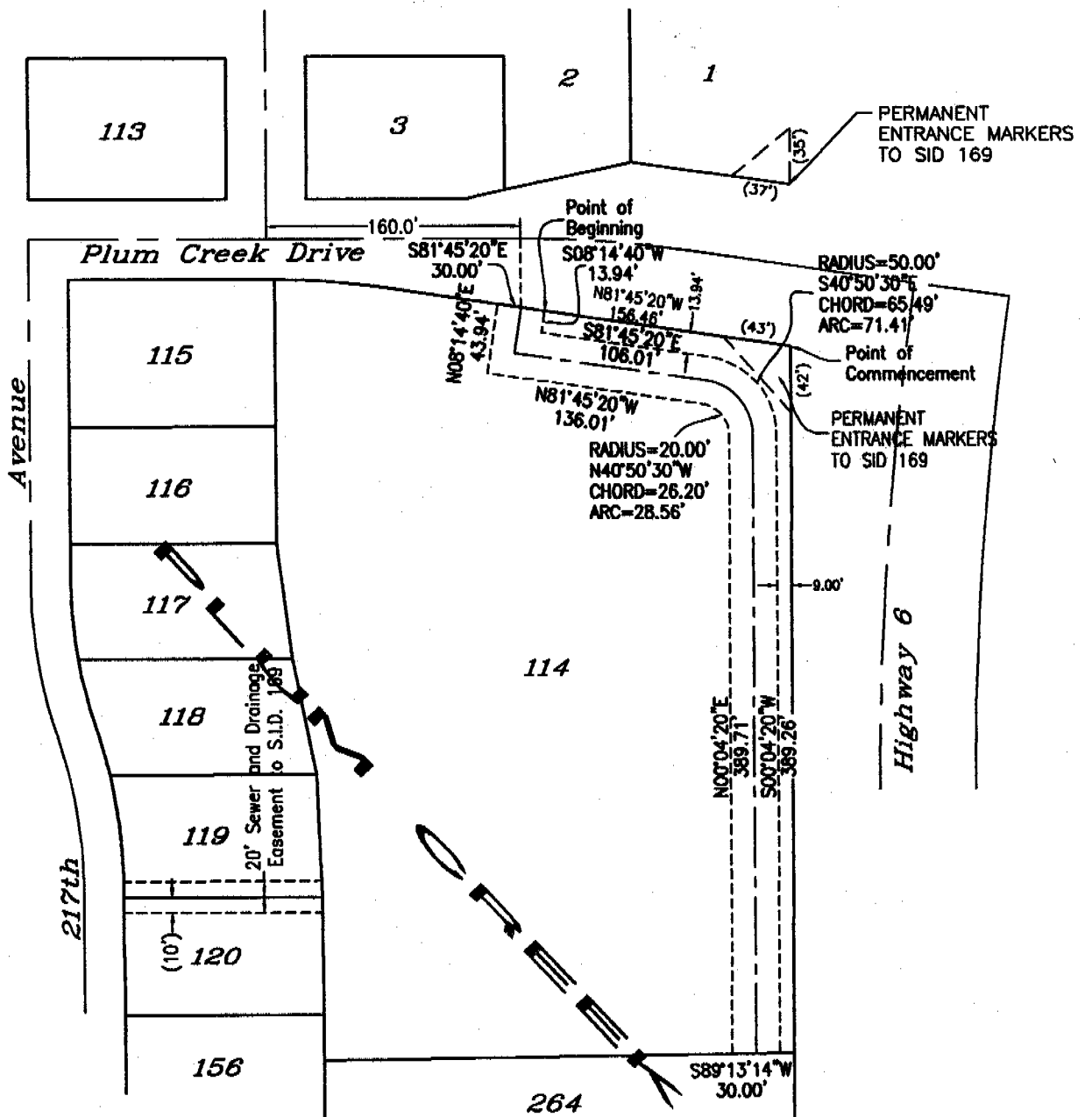
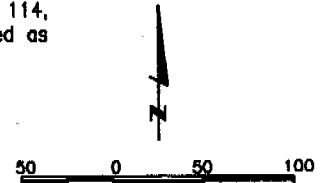
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EASEMENT EXHIBIT

EXHIBIT "A" Page 1 of 2 Pages

LEGAL DESCRIPTION

A permanent easement for Ingress and Egress thirty foot in width (30.00) over that part of Lot 114, PLUM CREEK, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, described as follows: SEE ATTACHED SHEET FOR COMPLETE LEGAL DESCRIPTION.



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Date 02-06-04

Dwn.By JLK

Job Number MO41011

Lamp, Rynearson & Associates, Inc.

WWW.LRA-INC.COM

14710 West Dodge Road, Suite 100

Omaha, Nebraska 68154-2027

(Ph) 402.496.2498

(Fax) 402.496.2730

LEGAL DESCRIPTION (INGRESS & EGRESS)

A permanent easement for Ingress and Egress thirty foot in width (30.00) over that part of Lot 114, Plum Creek, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, described as follows:

Commencing at the northeast corner of said Lot 114;

Thence North $81^{\circ}45'20''$ West (bearings referenced to the final plat of Plum Creek) for 156.46 feet along the north line of said Lot 114, to the TRUE POINT OF BEGINNING;

Thence South $08^{\circ}14'40''$ West for 13.94 feet;

Thence South $81^{\circ}45'20''$ East for 106.01 feet parallel with and 13.94 feet south of the north line of said Lot 114;

Thence along a curve to the right (having a radius of 50.00 feet and a long chord bearing South $40^{\circ}50'30''$ East for 65.49 feet) for an arc length of 71.41 feet;

Thence South $00^{\circ}04'20''$ West for 389.26 feet parallel with and 9.00 feet west of the east line of said Lot 114 to the north line of Lot 264, of said Plum Creek;

Thence South $89^{\circ}13'14''$ West for 30.00 feet along the north line of said Lot 264

Thence North $00^{\circ}04'20''$ East for 389.71 feet parallel with and 39.00 feet west of the east line of said Lot 114;

Thence along a curve to the left (having a radius of 20.00 feet and a long chord bearing North $40^{\circ}50'30''$ West for 26.20 feet) for an arc length of 28.56 feet;

Thence North $81^{\circ}45'20''$ West for 136.01 feet parallel with and 43.94 feet south of the north line of said Lot 114;

Thence North $08^{\circ}14'40''$ East for 43.94 feet to the north line of said Lot 114;

Thence South $81^{\circ}45'20''$ East for 30.00 feet along the north line of said Lot 114 to the Point of Beginning.

Contains 17,683 Square feet.