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Received - DIANE L. BATTIATO  
 Register of Deeds, Douglas County, NE  
 3/13/2015 11:28:51.36



2015017952

### PERMANENT SEWER EASEMENT

When recorded return to:  
 City of Omaha, Nebraska  
 Public Works Department  
 General Services Division  
 R-O-W Section

FOR OFFICE USE ONLY	
Project:	South Interceptor Force Main-North Segment
City Proj. No.:	OPW 52223
Tract No.:	
Address:	Omaha, NE 68102

*KNOW ALL MEN BY THESE PRESENTS:*

THAT **415 Leavenworth Street Limited Liability Company**, a Nebraska Limited Liability Company, hereinafter referred to as "GRANTOR," for and in consideration of the covenants set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto the **City of Omaha, Nebraska**, a Municipal Corporation, hereinafter referred to as "CITY," and to its successors and permitted assigns, a permanent easement for the right to construct, maintain and operate a sewer (either for storm or sanitary purposes), drainage structure, and/or drainage way, and appurtenances thereto, in, through, and under the parcel of real estate legally described as follows (the "Easement Area"):

**SEE ATTACHED EXHIBIT "A"**  
**PERMANENT EASEMENT LEGAL DESCRIPTION**

TO HAVE AND TO HOLD unto said CITY, its successors and permitted assigns, together with the right of ingress and egress from said Easement Area for the purpose of constructing, inspecting, maintaining, operating, repairing or replacing said sewer at the will of the CITY. The GRANTOR may, following construction of said sewer, continue to use the surface of the Easement Area conveyed hereby for other purposes, subject to the right of the CITY to use the same for the purposes herein expressed.

It is further agreed as follows:

- 1) That no buildings, improvements, or other structures, nor any grading, fill or fill material, or embankment work, shall be placed in, on, over, or across said Easement Area by GRANTOR, its successors and assigns without express approval of the CITY, which approval shall not be unreasonably withheld, conditioned or delayed. Improvements which may be approved by CITY include, but are not limited to, landscaping, road and/or street surfaces, parking area surfacing, and/or pavement. Such improvements and any trees, grass or shrubbery placed on said Easement Area shall be maintained by GRANTOR, its successors and assigns.
- 2) That CITY will replace or rebuild any and all damage to improvements (whether now existing or constructed in the future) caused by CITY exercising its rights of inspecting, maintaining or operating

said sewer, except that damage to, or loss of trees and shrubbery will not be compensated for by CITY.

- 3) This Permanent Sewer Easement is also for the benefit of any contractor, agent, employee, or representative of the CITY and any of said construction and work.
- 4) That CITY shall cause any trench made on the Easement Area to be properly refilled and compacted, and shall cause the Easement Area to be left in a neat and orderly condition in the manner and at the grade in which the Easement Area existed on the date hereof.
- 5) This Permanent Sewer Easement runs with the land.
- 6) That this Permanent Sewer 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, lawns, bushes or shrubs, trees located within the Easement Area as necessary for construction of the sewer, provided, however, that upon completion of initial construction of the sewer the CITY shall replace and repair the ground cover to the condition it existed prior to such initial construction.
- 7) That this Permanent Sewer Easement contains the entire agreement of the parties; that there are no other or different agreements or understandings between the GRANTOR and the CITY or its agents, except that certain Temporary Construction Easement by and between Omaha Public Power District (GRANTOR's predecessor in interest) and the CITY recorded November 16, 2012 as Instrument No. 2012116857 with the Douglas County Register of Deeds, and that certain Permanent Subsurface Sewer Easement of even date herewith by and between the GRANTOR and the CITY; and that the GRANTOR, in executing and delivering this instrument, has not relied upon any promises, inducements, or representations of the CITY or its agents or employees, except as are set forth herein.
- 8) At no point in time shall the CITY, its agents, employees, contractors and/or representatives store or use any hazardous materials upon the Easement Area.
- 9) The CITY agrees to indemnify, defend and save the GRANTOR harmless from and against any and all damages, losses, liabilities and claims (including reasonable costs of litigation and reasonable attorney fees) alleged against or incurred by the GRANTOR, for property damage, personal injury or death to persons (including, without limitation, third parties and the GRANTOR's servants, agents, employees, contractors and/or representatives) arising out of or in connection with the CITY's use of the Easement Area or performance under this Permanent Sewer Easement.
- 10) The CITY shall provide and maintain the following insurance coverages for its provision of work and activities in and about the Easement Area. Except as otherwise expressly set forth herein, the CITY shall require each of its subcontractors to maintain the same insurance described in this Section. The CITY and its subcontractors shall provide evidence of insurance as requested by GRANTOR to confirm that these requirements are satisfied.
  - a) Commercial General Liability Insurance. The CITY shall maintain commercial general liability insurance, including coverage for rigger's liability, products and completed operations liability, contractual liability, liability from independent contractors, property damage liability, bodily injury liability, personal injury liability, and explosion collapse underground hazard (XC&U), with limits of \$1,000,000 per occurrence, and \$2,000,000 general aggregate; with umbrella liability limits of \$9,000,000 per occurrence, and \$9,000,000 general aggregate.

- b) Business Automobile Insurance. The CITY shall maintain business auto insurance for any owned, non-owned, hired, or rented vehicle with a limit of \$2,000,000 combined single limit for bodily injury and property damage liability. The limit may be satisfied by a combination of primary and excess insurance.
- c) Workers Compensation and Employers' Liability Insurance. The CITY shall maintain statutory workers compensation insurance in accordance of the state where such compensation is payable. The CITY shall also maintain employers' liability insurance with limits of \$1,000,000 per accident and \$1,000,000 each employee for injury.
- d) General Requirements. GRANTOR shall be an additional insured under the CITY's commercial general liability insurance as required under Subsection (a) above, and an additional insured under the business automobile insurance required under Subsection (b) above. In the event of a loss arising out of or related to the CITY's or its subcontractors' activities in or about the Easement Area, all insurance required under this Section shall be primary (pay first) with respect to any other insurance which may be available to the GRANTOR, regardless of how the "other insurance" provisions may read. The CITY shall be responsible for insuring all of its own personal property, tools and equipment.

11) The GRANTOR may assign its rights under this Permanent Sewer Easement upon written notice to the CITY. The CITY shall not be allowed to assign its rights and obligations under this Permanent Sewer Easement to any other party without the prior written consent of the GRANTOR, which consent shall not be unreasonably withheld, conditioned or delayed.

[SIGNATURES PAGE TO FOLLOW]

IN WITNESS WHEREOF the GRANTOR and the CITY have hereunto set their hand(s) this 23  
day of February, 2015.

**GRANTOR:**

**415 Leavenworth Street Limited Liability Company,  
a Nebraska limited liability company**

By: [Signature]

Name: Todd Heistand

Title: Manager

**ACKNOWLEDGMENT**

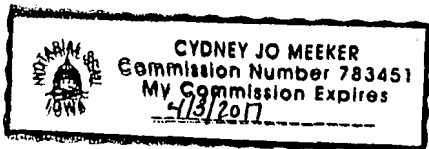
Iowa  
STATE OF ~~NEBRASKA~~ )  
Harrison ) SS  
COUNTY OF ~~DOUGLAS~~ )

On this 23 day of February, 2015 before me, a Notary Public, in and for said County, personally came Todd Heistand of 415 Leavenworth Street Limited Liability Company, a Nebraska Limited Liability Company, who is personally known to be the Manager of the company and the identical person whose name is affixed to the above instrument and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said company.

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

\_\_\_\_\_  
Notary Seal

[Signature]  
\_\_\_\_\_  
NOTARY PUBLIC



**CITY OF OMAHA, a Municipal Corporation**

ATTEST:

*Buster Brown*  
Buster Brown,  
City Clerk, City of Omaha

BY:

*Jean Stothert*  
Jean Stothert,  
Mayor, City of Omaha

APPROVED AS TO FORM:

*[Signature]*  
ASST CITY ATTORNEY

STATE OF NEBRASKA    )  
                                  ) SS  
COUNTY OF DOUGLAS    )

On this 12<sup>th</sup> day of March, 2015, before me, a Notary Public in and for said County, personally came Jean Stothert, Mayor of the City of Omaha, Nebraska, a Municipal Corporation, to me personally known to be the respective officer of said Municipal corporation and the identical person whose name is affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as Mayor and the voluntary act and deed of said Municipal Corporation.

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

Notary Seal: 

*Theresa L. Ellrott*  
NOTARY PUBLIC

STATE OF NEBRASKA    )  
                                  ) SS  
COUNTY OF DOUGLAS    )

On this 12<sup>th</sup> day of March, 2015, before me, a Notary Public in and for said County, personally came Buster Brown, City Clerk of the City of Omaha to me personally known to be the respective officer of said Municipal corporation and the identical person whose name is affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as City Clerk and the voluntary act and deed of said Municipal Corporation.

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

Notary Seal: 

*Theresa L. Ellrott*  
NOTARY PUBLIC

# EXHIBIT "A"

## LEGAL DESCRIPTIONS

A PERMANENT SEWER EASEMENT OVER THAT PART OF LOT 2, POWERHOUSE, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 2;

THENCE NORTH 89°07'41" WEST (BEARINGS REFERENCED TO THE FINAL PLAT OF POWERHOUSE) FOR 194.45 FEET ALONG THE SOUTH LINE OF SAID LOT 2;

THENCE NORTH 00°52'19" EAST FOR 261.48 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 74°58'49" WEST FOR 73.99 FEET TO THE EAST LINE OF AN EXISTING PERMANENT SEWER EASEMENT AS RECORDED IN INSTRUMENT NUMBER 2012116856 AT THE REGISTER OF DEEDS OFFICE, DOUGLAS COUNTY, NEBRASKA;

THENCE ALONG SAID EAST LINE THE FOLLOWING FOUR (4) COURSES:

1. THENCE NORTH 45°00'00" EAST FOR 38.87 FEET;
2. THENCE NORTH 00°00'00" EAST FOR 27.59 FEET;
3. THENCE NORTH 05°37'30" EAST FOR 86.63 FEET;
4. THENCE NORTH 07°55'41" EAST FOR 0.90 FEET;

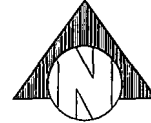
THENCE ALONG A CURVE TO THE RIGHT (HAVING A RADIUS OF 1938.30 FEET AND A LONG CHORD BEARING SOUTH 02°25'05" EAST FOR 74.43 FEET) FOR AN ARC LENGTH OF 74.44 FEET;

THENCE NORTH 88°07'29" EAST FOR 40.00 FEET;

THENCE SOUTH 01°52'31" EAST FOR 52.97 FEET;

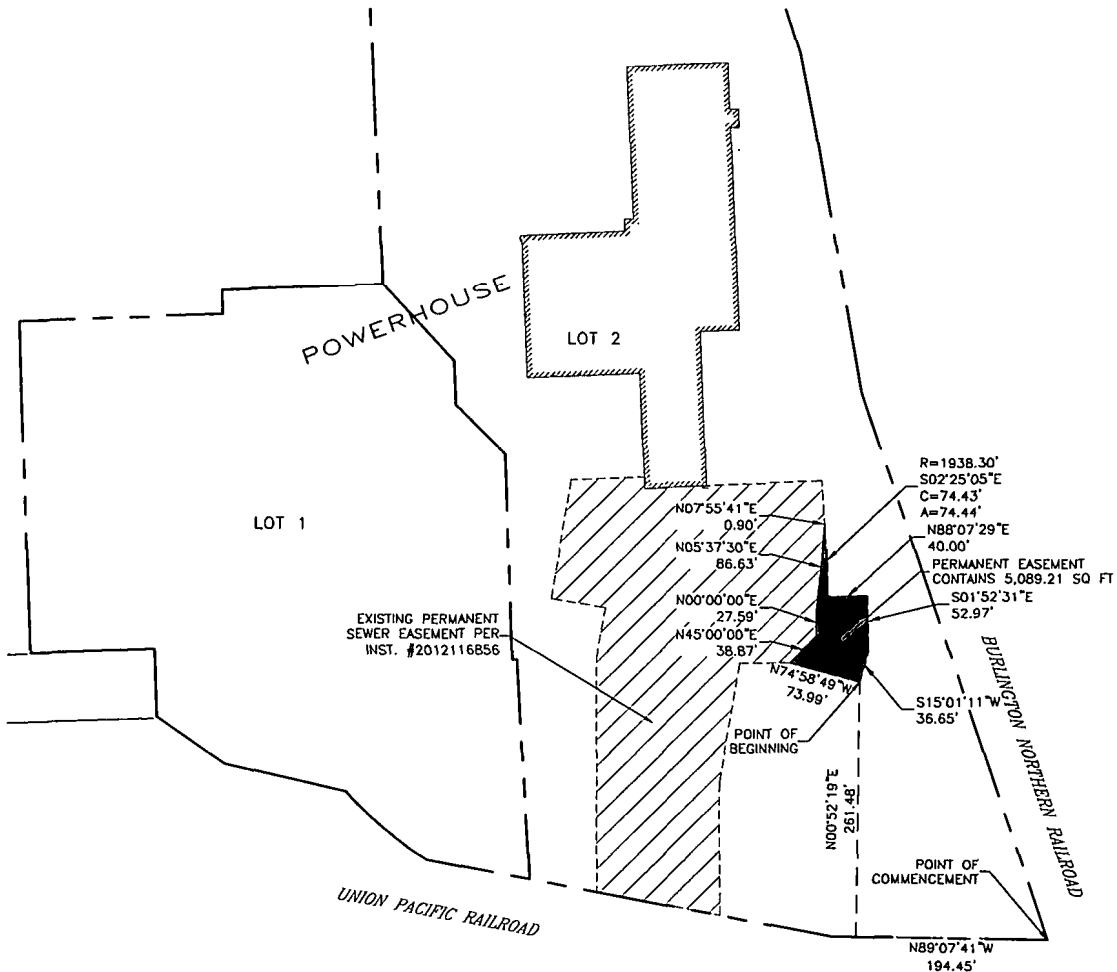
THENCE SOUTH 15°01'11" WEST FOR 36.65 FEET TO THE POINT OF BEGINNING.

CONTAINS 5,089.21 SQUARE FEET.



S.W. 1/4, SEC. 23-15-13

SCALE: 1"=150'



CITY OF OMAHA – PUBLIC WORKS DEPARTMENT

	TEMP ACCESS EASEMENT _____ S.F.	PROJECT NO. OPW 52223
	PERMANENT EASEMENT 5,089.21 S.F.	PAGE 1 OF 1
	TEMPORARY EASEMENT _____ S.F.	