



MISC 2009014917



FEB 19 2009 14:38 P 12

*misc*  
 12 FEE 61.00 FB 07-39567  
 BKP \_\_\_\_\_ C/O \_\_\_\_\_ COMP  
 2 DEC \_\_\_\_\_ S.W. \_\_\_\_\_ FV \_\_\_\_\_  
*D*

Received - DIANE L. BATTIATO  
 Register of Deeds, Douglas County, NE  
 2/19/2009 14:38:58.12



2009014917

Upon recordation this instrument should be returned to:  
 Robert W. Rieke, Esq., 409 South 17<sup>th</sup> Street, Suite 500, Omaha NE 68102

### EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is entered into by and between BLUES LOFTS, LLC, a Nebraska limited liability company ("Lofts"), and BUSHIDO UNIVERSITY, LLC, a Nebraska limited liability company ("University").

WHEREAS, Lofts is the owner of the real estate legally described on Exhibit "A" attached hereto (the "Lofts Property"); and

WHEREAS, University is the owner of the real estate legally described on Exhibit "B" attached hereto (the "University Property"); and

WHEREAS, Lofts and University desire to grant certain easements upon their respective properties in accordance with this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lofts and University hereby agree as follows:

1. Easement Grant by Lofts. Lofts hereby grants to University, as the owner of the University Property, and to all subsequent owners of the University Property, a non-exclusive perpetual easement, which shall run with the land, on, over, under, across and through that portion of the Lofts Property depicted on Exhibit "C" attached hereto (the "Lofts Easement Area") for the purposes of pedestrian ingress and egress.

2. Easement Grant by University. Subject to University's relocation right set forth in paragraph 4, University hereby grants to Lofts, as the owner of the Lofts Property, and to all subsequent owners of the Lofts Property, a non-exclusive perpetual easement, which shall run with the land, on, over, under, across and through:

- (a) that portion of the University Property depicted on Exhibit "D" attached hereto (the "University Utility Easement Area") for the purposes of construction, installation, repair, maintenance, operation, inspection, replacement and use of electric, water, sanitary sewer and storm sewer lines and equipment (the "Utilities"); and
- (b) that portion of the University Property depicted on Exhibit "E" attached hereto (the "University Ancillary Easement Area") for the purposes of construction, repair, maintenance, operation, inspection, replacement and use of a trash enclosure (the "Trash Enclosure") and grease trap and associated equipment (the "Grease Trap").

University further grants to Lofts and its agents and contractors a license to enter onto the University Property to provide access to the University Utility Easement Area and the University Ancillary Easement Area (the "University Easement Areas") in order to construct, install, maintain, repair and replace the Utilities, Trash Enclosure and Grease Trap. Except

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in the event of emergency, Lofts shall notify University in advance of any such planned entry. Lofts further agrees that the Trash Enclosure and Grease Trap shall be constructed in accordance with and at the locations within the University Ancillary Easement Area depicted on Exhibit "F" attached hereto. Lofts will repair any and all damages to improvements caused by Lofts in exercising its rights hereunder and Lofts agrees that all asphalt removed in the University Utility Easement Area shall be replaced with concrete.

3. Maintenance. Lofts agrees to keep the University Ancillary Easement Area in a clean and neat condition.

4. Relocation. In the event University, or the then owner of the University Property, shall desire to utilize the University Easement Areas for any purpose which would prohibit or impair Tenant's use of the University Easement Areas and the Utilities, Trash Enclosure and/or Grease Trap, including, without limitation, the construction of additional buildings or structures, University, or the then owner of the University Property, as applicable, shall have the right to do so on the condition that it shall, at its sole cost, relocate the University Easement Areas and the Utilities, Trash Enclosure and Grease Trap onto other property in close proximity to the Lofts Property either owned by University (or the then owner of the University Property) or upon which Lofts shall receive a perpetual easement, all without loss of service to Lofts or occupants of the Lofts Property.

5. New Construction. As additional consideration for the easements granted by University, Lofts agrees to remove the grass at the area shown on Exhibit "G" attached hereto and replace it with concrete.


6. Lofts Representations. Lofts represents that it is the owner of the Lofts Property in fee simple, subject to easements, covenants and restrictions of record, that it has the authority to grant the easements referred to herein, and that it shall cause the holder of any lien upon the Lofts Property to subordinate its lien to this Agreement.

7. University Representations. University represents that it is the owner of the University Property in fee simple, subject to easements, covenants and restrictions of record, that it has the authority to grant the easements referred to herein, and that it shall cause the holder of any lien upon the University Property to subordinate its lien to this Agreement.

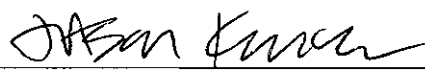
8. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

DATED: Oct 23rd, 2008

BLUES LOFTS, LLC, a Nebraska limited liability company  
BY: BLUESTONE DEVELOPMENT, LLC, Manager

By   
Title:

BUSHIDO UNIVERSITY, LLC, a Nebraska limited liability company

By   
Title: Owner

STATE OF NEBRASKA           )  
  ) ss.  
COUNTY OF DOUGLAS       )

On this 23rd day of October, 2008, before me, a notary public in and for said county and state, personally came Christian Christensen, President of BLUESTONE DEVELOPMENT, LLC, the Manager of BLUES LOFTS, LLC, a Nebraska limited liability company,

known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability companies.

WITNESS my hand and notarial seal at Omaha, in said county and state, the day and year last above written.

[SEAL]



Andrea Sandel  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

On this 23 day of Oct, 2008, before me, a notary public in and for said county and state, personally came Jesam Rubel, Owner of BUSHIDO UNIVERSITY, LLC, a Nebraska limited liability company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

WITNESS my hand and notarial seal at Omaha, in said county and state, the day and year last above written.

[SEAL]

[Signature]  
Notary Public



### SUBORDINATION

The undersigned, as the holder of one or more liens upon the Lofts Property, hereby subordinates such liens to the foregoing Agreement.

DATED: October 24, 2008.

FIRST NATIONAL BANK OF OMAHA

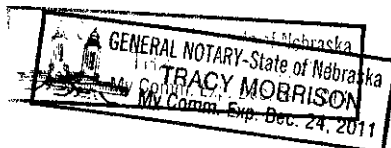
By [Signature]  
Title:

STATE OF Nebraska )  
 ) ss.  
COUNTY OF Douglas )

On this 24 day of October, 2008, before me, a notary public in and for said county and state, personally came JOEL C. JENSEN, Vice President of FIRST NATIONAL BANK OF OMAHA, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said bank.

WITNESS my hand and notarial seal at OMAHA, NEBRASKA, in said county and state, the day and year last above written.

[SEAL]



Tracy Morrison  
Notary Public

**SUBORDINATION**

The undersigned, as the holder of one or more liens upon the University Property, hereby subordinates such liens to the foregoing Agreement.

DATED: February 5, 2009

MUTUAL OF OMAHA BANK

By

[Signature]  
Title: Senior Vice President

STATE OF Nebraska )  
 ) ss.  
COUNTY OF Douglas )

On this 5 day of February, 2009, before me, a notary public in and for said county and state, personally came Steve K. Gorenson, Senior Vice President of MUTUAL OF OMAHA BANK, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said bank.

WITNESS my hand and notarial seal at Omaha, Nebraska, in said county and state, the day and year last above written.

[SEAL]

[Signature]  
Notary Public



**Exhibit "A"**  
**Lofts Property**

Lot 2, Union Pacific Replat 1, an Addition to the City of Omaha, Douglas County, Nebraska.

**Exhibit "B"**  
**University Property**

Lot 1, Union Pacific Replat 1, an Addition to the City of Omaha, Douglas County, Nebraska.

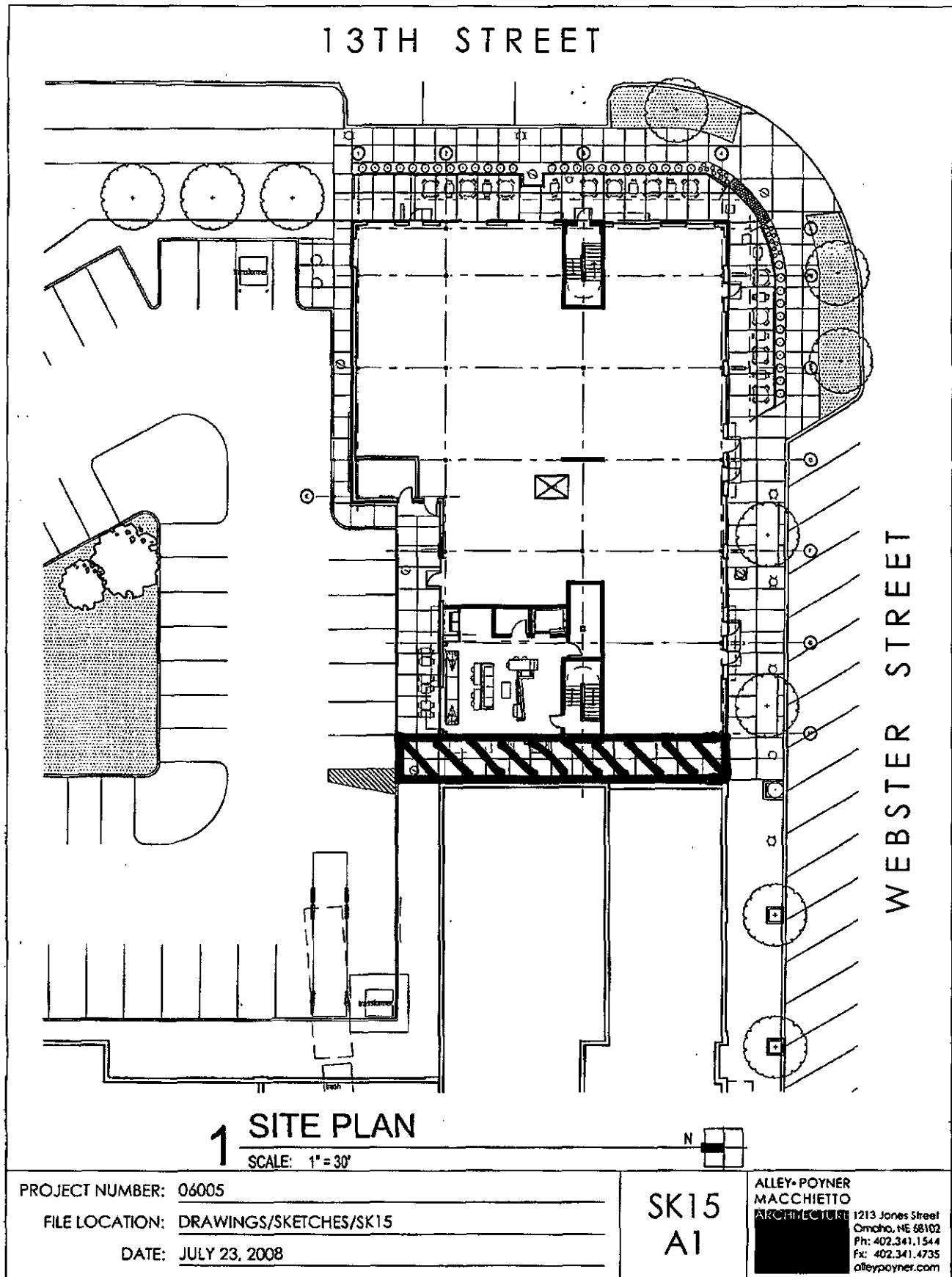
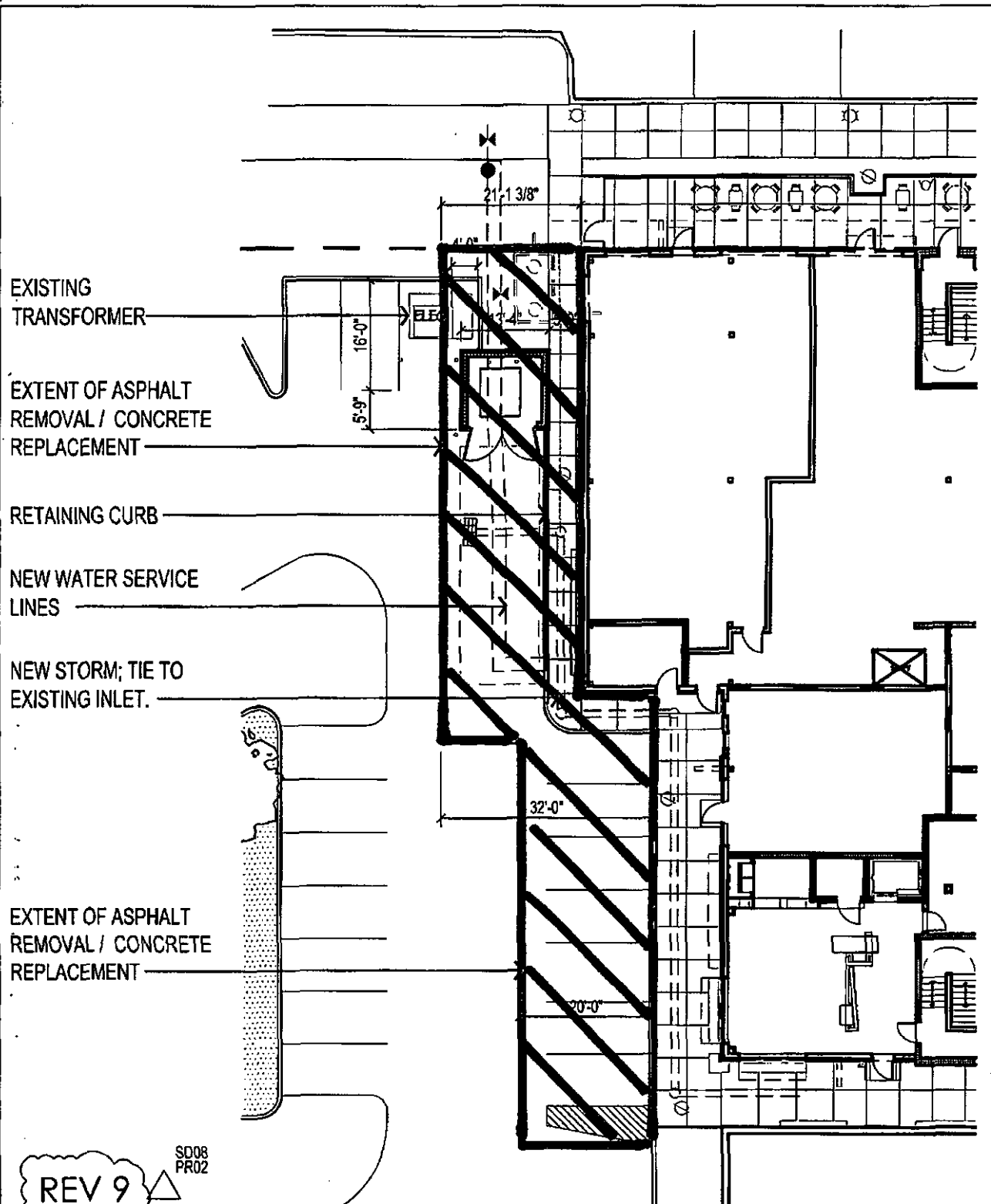


Exhibit "D"



PROJECT NUMBER: 06005 - clarification

FILE LOCATION: J:\2006\06005 - 22 FLOORS\Drawings\L1.D

DATE: 2008-09-22

DWG. NO.

SD 08  
A3

ALLEY+POYNER  
MACCHIETTO  
ARCHITECTURE

1213 Jones Street  
Omaha, NE 68102  
Ph: 402.341.1544  
F: 402.341.4735  
alleypoyner.com



Exhibit "E"

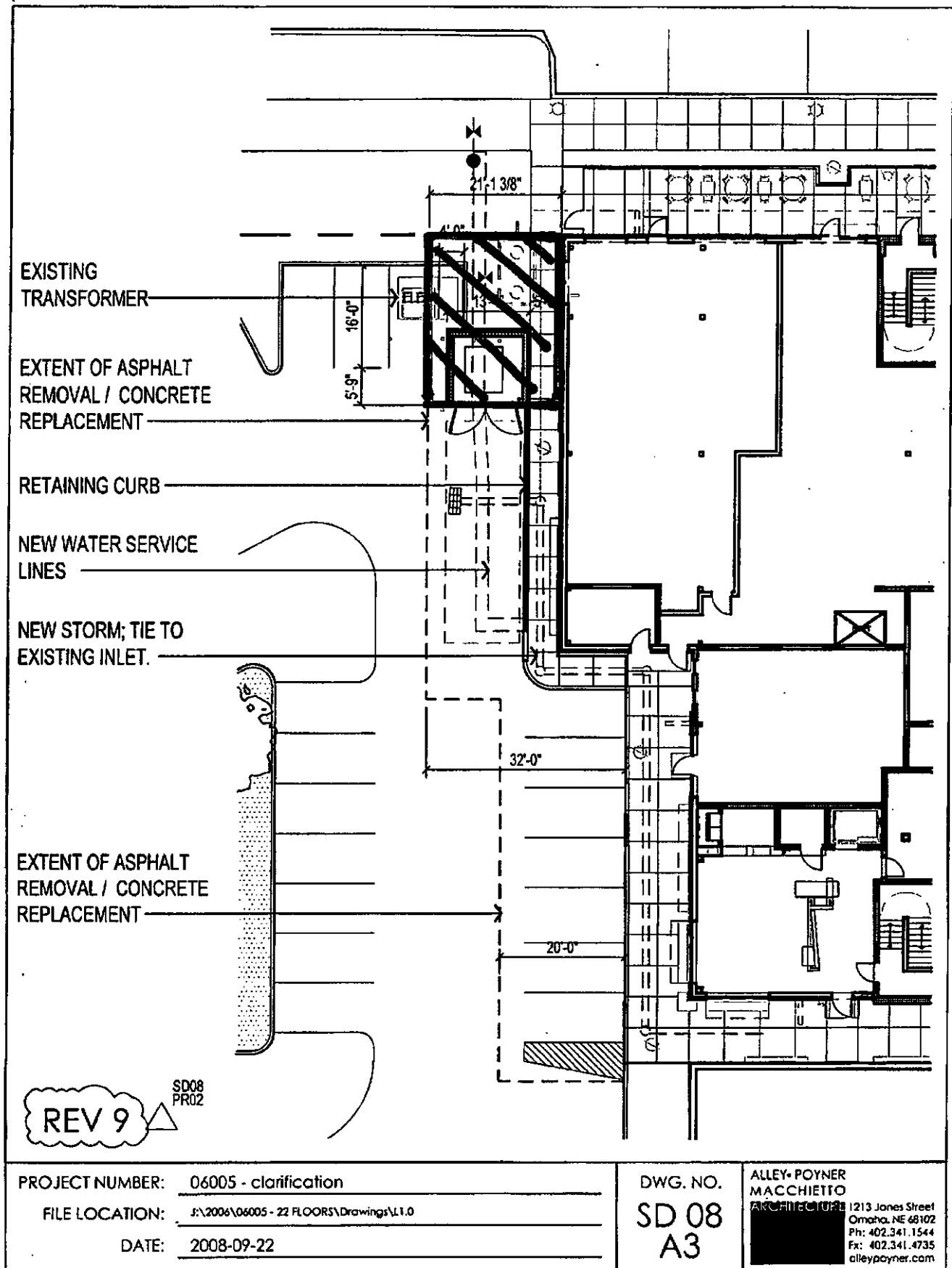
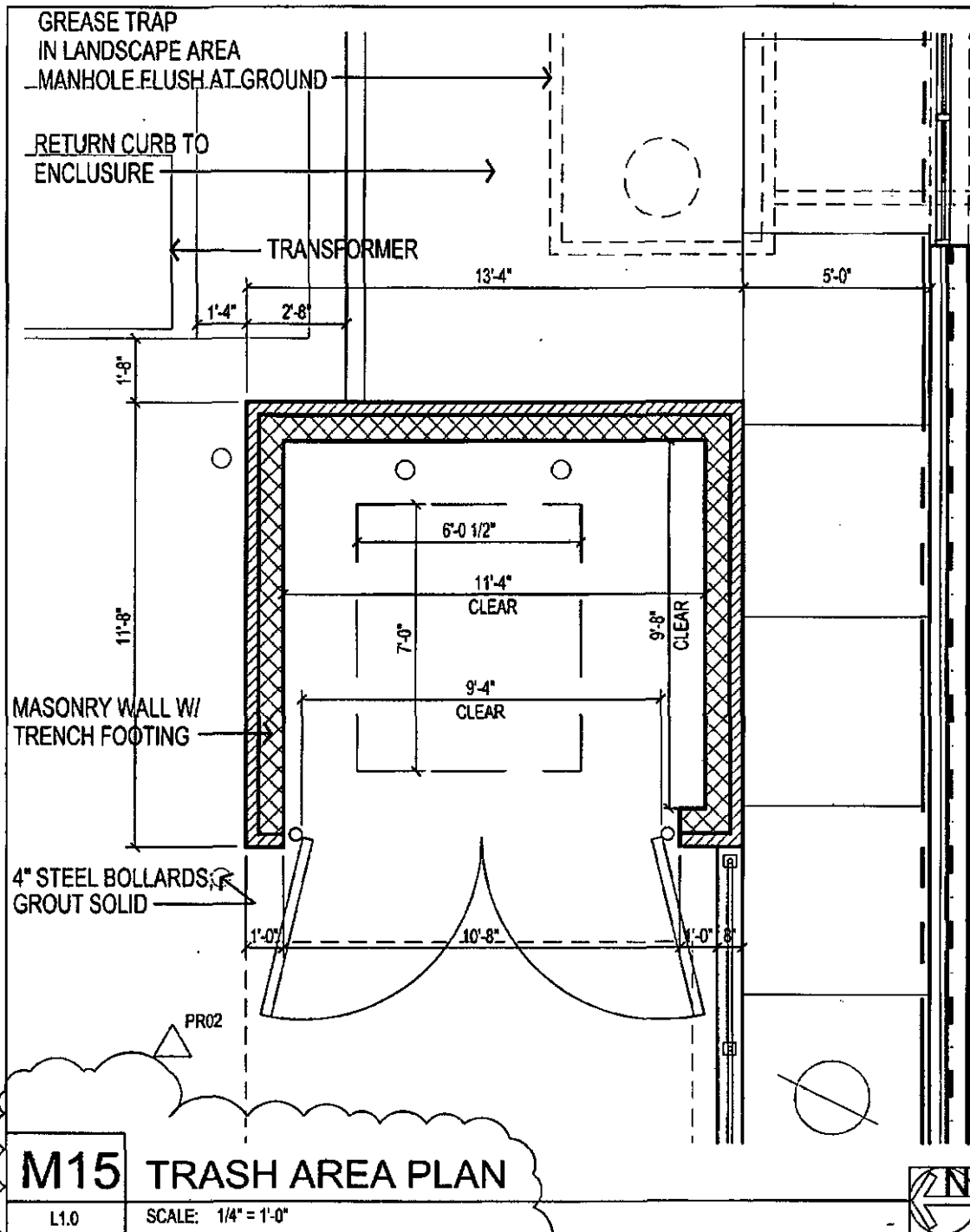


Exhibit "F"



PROJECT NUMBER: 06005 - PR # 2

FILE LOCATION: J:\2006\06005 - 22 FLOORS\Drawings\L1.0

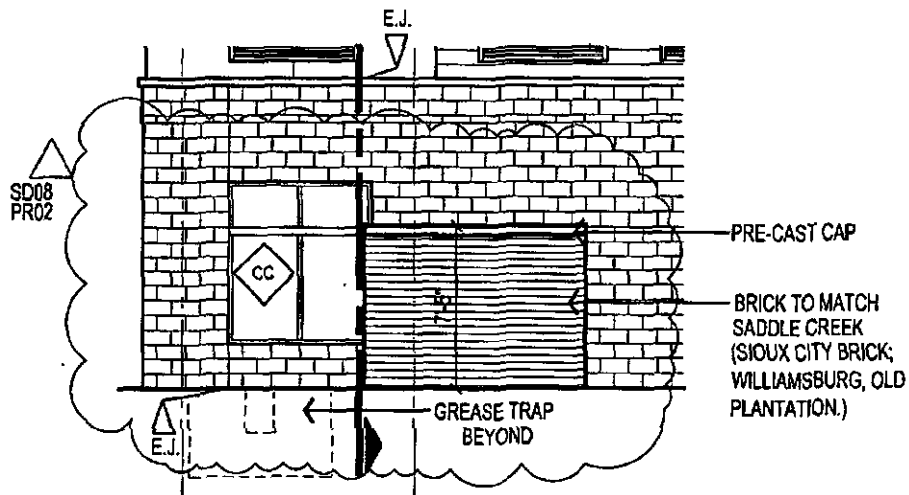
DATE: 2008-09-22

DWG. NO.

SD 08  
A1

ALLEY-POYNER  
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1213 Jones Street  
Omaha, NE 68102  
Ph: 402.341.1544  
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alleyponer.com

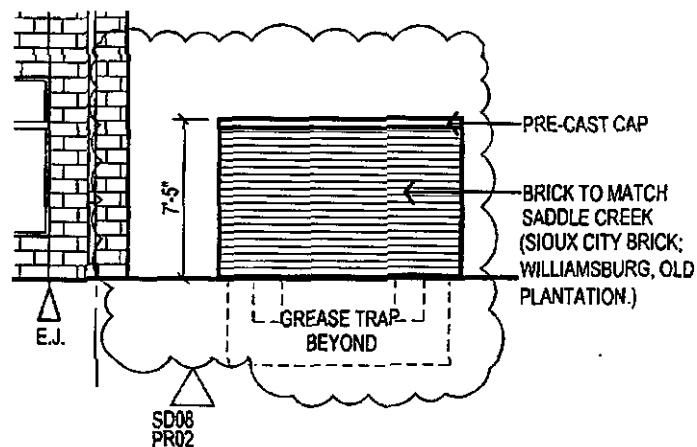


**H1**

**NORTH ELEVATION - partial**

A2.0

SCALE: 1/8" = 1'-0"



**M1**

**EAST ELEVATION - partial**

A2.0

SCALE: 1/8" = 1'-0"

NOTE: CONSTRUCTION AND GATE TO MATCH ON-SITE ENCLOSURE

**REV 4**

SD08 PR02

PROJECT NUMBER: 06005 - PR # 2

FILE LOCATION: J:\2006\06005 - 22 FLOORS\Drawings\A2.0

DATE: 2008-09-02

DWG. NO.

**SD 08  
A2**

**ALLEY-POYNER  
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