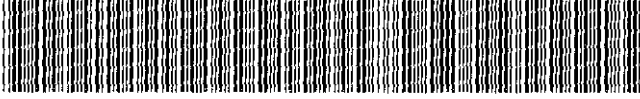


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Register of Deeds, Douglas County, NE  
1/29/2009 10:43:44.31



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AGREEMENT FOR EASEMENT

Filed: AS RECEIVED

#41

## AGREEMENT FOR EASEMENT

This Agreement is entered into this 8<sup>th</sup> day of August, 2008, by and between PBIRD, LLC, a Nebraska limited liability company, as to an undivided 60% interest, and Charles R. Clatterbuck and Linda L. Clatterbuck, as to an undivided 40% interest, ("PBIRD/Clatterbuck"), and Fleetwood-101, LLC, a Nebraska limited liability company ("Fleetwood").

This Easement Agreement is granted with respect to the following facts:

- A. PBIRD/Clatterbuck are the owners of Lot 1, Omaha Industrial Foundation District No. 3 Replat 10, an Addition to the City of Omaha, as surveyed, platted and recorded, Douglas County, Nebraska as described in Exhibit "A" attached hereto (hereinafter called "PBIRD/Clatterbuck Parcel").
- B. Fleetwood is the owner of Lot 1, Omaha Industrial Foundation District No. 3 Replat 11, an addition to the City of Omaha in Douglas County for the benefit of Lot, as described in Exhibit "B" attached hereto (hereinafter called "Fleetwood Parcel").
- C. The parties desire to enter into this agreement whereby PBIRD/Clatterbuck grant and convey to Fleetwood a nonexclusive driveway easement over, upon and across established avenues as shown in Exhibit "A" for vehicular ingress and egress along established traffic avenues across Lot 1, Omaha Industrial Foundation District No. 3 Replat 10, an addition to the City of Omaha in Douglas County for the benefit of the PBIRD/ Clatterbuck Parcel.

NOW, THEREFORE, in consideration of the premises and mutual covenants, PBIRD/Clatterbuck hereby create and grant to Fleetwood an easement over a portion of PBIRD/Clatterbuck Parcel all as more particularly described under the following provisions:

1. Easement Area. The easement granted by PBIRD/ Clatterbuck in favor of Fleetwood over Lot 1 is described in Exhibit "A" attached hereto (the "Easement Area").
2. Beneficial Purpose of Easement. The easement granted and conveyed by PBIRD/Clatterbuck in favor of Fleetwood shall be non-exclusive and shall be used by Fleetwood, its licensees and invitees for driveway purposes to provide vehicular access to and from the Frontage Road shown in Exhibit "A".
3. Surfaces. PBIRD/Clatterbuck shall (at the joint cost of PBIRD/Clatterbuck and Fleetwood as described below) maintain in good repair the presently existing hard surface on the Easement Area within PBIRD/Clatterbuck Parcel and shall not permit any structure or other use within the Easement Area which would inhibit or interfere with the ingress and egress rights granted herein. Fleetwood agrees, on behalf of itself and its successors in ownership of Fleetwood Parcel, to contribute 30% of the cost of all such maintenance and snow removal of the Easement Area, with the other 70% of such costs being borne by PBIRD/Clatterbuck or its successors in ownership of the PBIRD/Clatterbuck Parcel on the Easement Area as described in Exhibit "A". The shared cost assessment to Fleetwood for maintenance and snow removal shall not commence until the completion of any building(s) upon Fleetwood Parcel. If during the term of this easement, there is a material change in the traffic flow over the Easement Area, the parties will negotiate in good faith for an equitable adjustment to the maintenance cost sharing percentage set forth above.
4. Term. The easement hereby created and established shall be perpetual.
5. Easement Running with the Land. The easement granted herein shall run with the land and be binding upon the PBIRD/Clatterbuck Parcel, and inure to the benefit of Fleetwood and its successors and assigns with respect to PBIRD/Clatterbuck Parcel.
6. Parking. No parking shall be permitted in the Easement Area nor shall Easement Area otherwise be used in manner so as to prevent the free and uninterrupted flow of traffic and use of the Easement Area.
7. Purpose. Nothing herein contained shall be deemed to be a gift or a dedication of the Easement Area to the general public or for any public purposes whatsoever, it

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13835 Industrial Road  
Omaha, NE 68137

being the intention of the parties that the easement herein granted shall be strictly limited to and for the purposes herein expressed.

8. Eminent Domain/Conveyance. In the event that any part of the Easement Area shall be taken by eminent domain or conveyance in lieu thereof or by any other similar proceedings, PBIRD/Clatterbuck shall be entitled to the entirety of the award for such taking and Fleetwood shall not be entitled to any portion of such award.

9. Amendments. This Agreement and the easement created by this Agreement may be released or amended at any time by a written agreement for that purpose entered into by all of the title holders of the PBIRD/Clatterbuck Parcel and Fleetwood Parcel, and all mortgagees holding mortgages on PBIRD/Clatterbuck Parcel and Fleetwood Parcel. Any such agreement shall be filed for record in the office of the Register of Deeds of Douglas County, Nebraska

10. Violations. In the event of any violation or threatened violation by any owner or occupant of any portion of PBIRD/Clatterbuck Parcel or Fleetwood Parcel of any of the terms, covenants and conditions of this Agreement, any or all of the owners and mortgagees of PBIRD/Clatterbuck Parcel or Fleetwood Parcel shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all of the remedies available by statute, at law and in equity.

11. Waiver. No delay or omission on the part of any party who is hereafter the owner of either PBIRD/Clatterbuck Parcel or Fleetwood Parcel in the exercise of any right accruing on any default of any other party shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any party of a breach or a default in the observance or performance of any of the terms and conditions of this Agreement by any other party shall not be construed to be a waiver of any subsequent breach or default of the same or any other provision of this Agreement. No breach, whether or not material, of the obligations imposed or created by this Agreement shall entitle any party to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect, in any other manner, any other rights or remedies which any party may have under or by reason of any breach of the provisions of this Agreement. If any provision, or portion thereof, of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision, or portion thereof, to any other persons or circumstances shall not be affected thereby; the remainder of this Agreement shall be given effect as if such invalid or inoperative portion had not been included. It shall not be deemed that any such invalid provision affects the consideration for this Agreement and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement shall be construed in accordance with the laws of the State of Nebraska.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, PBIRD/Clatterbuck and Fleetwood have executed this Agreement  
for Easement the day and year first above written.

PBIRD, LLC

By: 

Its Manager: Raymond C. Trimble

By: 

Member: Rodgers Bickerstaff

By: 

Member: Kathleen A. Bickerstaff

By: 

Member: Brent Clatterbuck

By: 

Member: Marian Kaiser

CHARLES R. CLATTERBUCK, Individual

By: 

Individual: Charles R. Clatterbuck

LINDA A. CLATTERBUCK, Individual

By: 

Individual: Linda A. Clatterbuck

FLEETWOOD-101, LLC

By: 

Its Manager: Raymond C. Trimble

STATE OF NEBRASKA     )  
                                      ) ss  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me, a Notary Public, this 8<sup>th</sup>  
day of August, 2008, by Raymond C. Trimble, Manager of PBIRD, LLC.



Christina M. Huss  
Notary Public

STATE OF NEBRASKA     )  
                                      ) ss  
COUNTY OF DOUGLAS    )

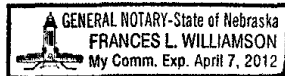
The foregoing instrument was acknowledged before me, a Notary Public, this 8<sup>th</sup>  
day of August, 2008, by Raymond C. Trimble, Manager of Fleetwood-101, LLC.



Christina M. Huss  
Notary Public

STATE OF NEBRASKA     )  
                                      ) ss  
COUNTY OF DOUGLAS    )

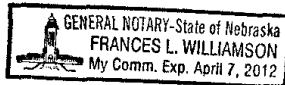
The foregoing instrument was acknowledged before me, a Notary Public, this 8<sup>th</sup>  
day of August, 2008, by Charles R. Clatterbuck, Individual.



Frances Williamson  
Notary Public

STATE OF NEBRASKA     )  
                                      ) ss  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me, a Notary Public, this 8<sup>th</sup>  
day of August, 2008, by Linda A. Clatterbuck, Individual.



Frances Williamson  
Notary Public

STATE OF NEBRASKA     )  
                                      ) ss  
COUNTY OF DOUGLAS    )

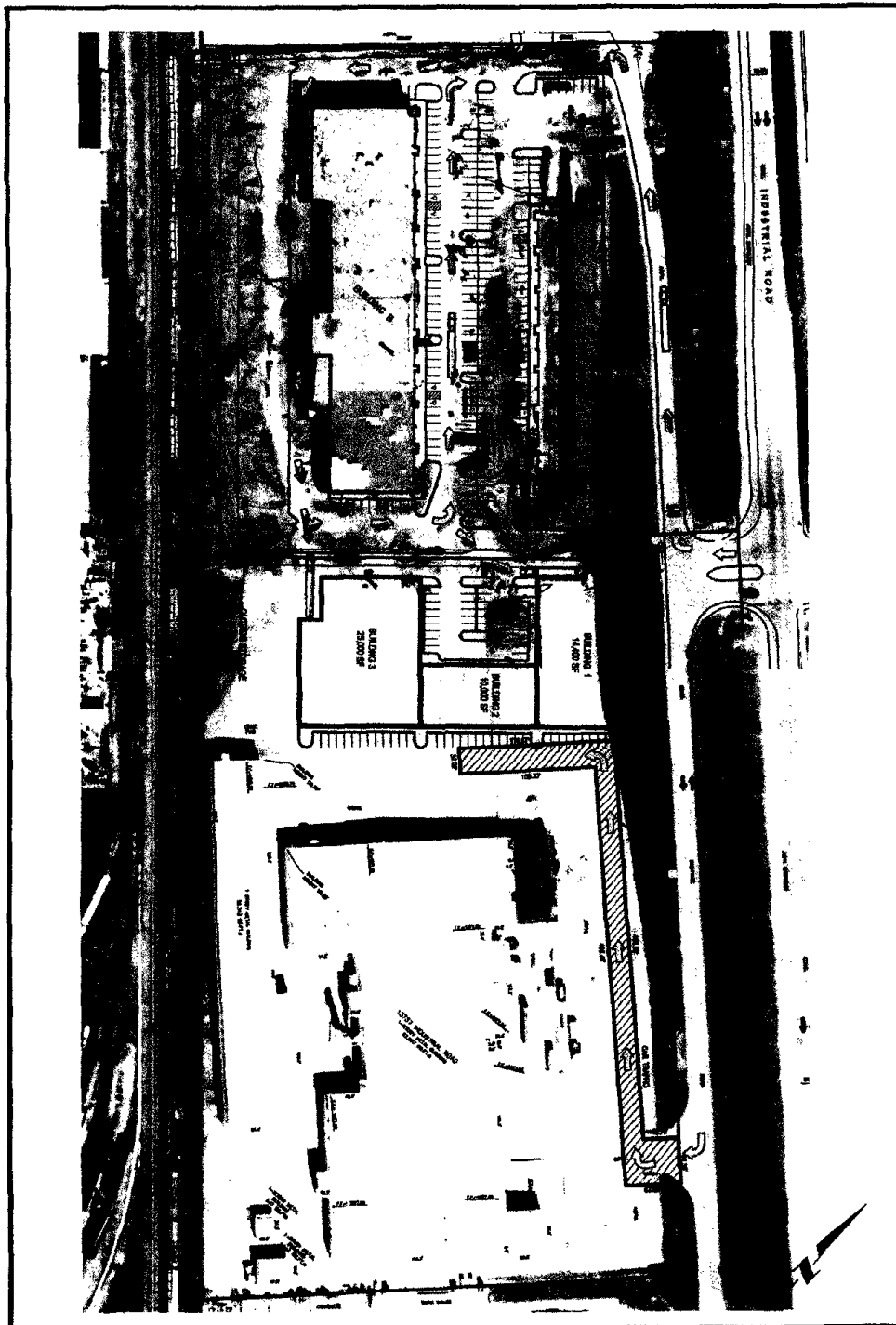
**\*\*FILED: AS IS**


The foregoing instrument was acknowledged before me, a Notary Public, this \_\_\_\_\_  
day of August, 2008, by Rodgers Bickerstaff, Kathleen A. Bickerstaff, Brent Clatterbuck &  
Marian Kaiser, Members of PBIRD, LLC, a Nebraska Limited Liability Company on behalf of  
the Limited Liability Company.



Christina M. Huss  
Notary Public

# EXHIBIT "A"



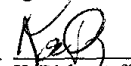




Plot No: P2008-113-001 Date: 07/28/2008 Drawn By: RPP Scale: No Scale Sheet No. 1 of 1	<b>EXHIBIT</b> <b>HIGHWAY 275 &amp; 138TH STREET</b> DOUGLAS COUNTY, NEBRASKA	 <b>E&amp;A CONSULTING GROUP, INC.</b> ENGINEERING • PLANNING • FIELD SERVICES <small>30 NORTH 14TH STREET, CHASSA, NE 68004          PHONE: (402) 884-4000 FAX: (402) 884-4001          www.eagroup.com</small>
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Jason M. Thullen 7/30/2008 10:37 AM C:\Projects\2008\113\001\Plane\EXHIBIT\_000\_B/W.dwg

As agreed on 8<sup>th</sup> day of August 2008.

(Initial only)

R. Trimble      R. Bickerstaff      K. Bickerstaff      M. Kaiser      C. Clatterbuck