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FILED SARPY COUNTY NEBRASKA
INSTRUMENT NUMBER

2016-28953

11/08/2016 10 29 35 AM

Clay J. Dowling

REGISTER OF DEEDS



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DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS

This Declaration of Covenants, Easements and Restrictions (this "Declaration") is made as of the 30th day of September, 2016, by MDM Mangelsen, LLC, a Nebraska limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, the Declarant is the owner of the following legally described real property, to wit:

Lots 1 through 8, inclusive, Prairie Toehold, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska (unless the context otherwise requires Lots 1 through 8, inclusive, Prairie Toehold, shall be referred to individually as a "Lot" and collectively as the "Lots").

WHEREAS by virtue of the recording of this Declaration, the Lots shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the provisions of this Declaration and every grantee of any interest in the Lots, by acceptance of a deed or other conveyance of such interest, shall own and take subject to the provisions of this Declaration and shall be deemed to have consented to the terms hereof.

WHEREAS, the Declarant does hereby specify, agree, designate and direct that this Declaration and all of its provisions shall be and are covenants to run with the Lots and shall be binding on the present owners of the Lots and all its successors and assigns and all subsequent owners of the Lots and improvements thereon, together with their grantees successors, heirs, executors, administrators, devisees and assigns.

NOW, THEREFORE, for and in consideration of the premises, easements, covenants, conditions, restrictions, and encumbrances contained herein, the sufficiency of which is hereby acknowledged, the Declarant hereby agrees that the Lots be subject to this Declaration as follows:

R+R

LAMP RYNEARSON ATTN BILL KNIGHT
14710 WEST DODGE Rd Suite 100
OMAHA NE 68154

1. The Lots shall be used for residential purposes only; provided, however that prior to the initial construction of improvements on any Lot, the owner of such Lot shall be permitted to plant, grow and harvest trees, corn, beans, or similar agricultural crops on the areas of any such Lot which are inside the applicable building set-back requirements established by the local governing jurisdiction. Livestock farming of any nature for commercial purposes shall not be permitted. Household pets may be kept and maintained on the premises for use, benefit and pleasure of the owner of a Lot and his or her guests provided they are not kept, bred, or maintained for any commercial purpose. The number of horses or ponies or both permitted on each Lot shall not exceed more than two (2). No cattle, swine or goats shall be kept on any of the Lots. Poultry shall be permitted on the Lots provided that the poultry on any such Lot is for the use and benefit of the owners/occupants of such Lot and not for commercial purposes and that no roosters shall be permitted on any Lot.

2. Prior to the commencement of construction, erection, placement, remodeling, or alteration of any structure on any Lot, or grading on any Lot, or the removal of any trees located on Lot 8, the owner of such Lot must first submit construction plans to the Declarant and secure the Declarant's written approval thereof. The decision of the Declarant regarding the building design and placement of the improvements on each Lot shall be in the Declarant's absolute and sole discretion. All plans submitted to the Declarant shall include site plans showing location of residence, other buildings, structures, and improvements. The plans shall include at least the following: exterior elevations, exterior materials, floor plan, landscaping plan, and drainage plan. Any such plans shall also include the plans, specifications and diagram for the septic system and well systems to be installed on such Lot, which plans/specifications shall be provided by a licensed third-party. In the event an owner of a Lot contemplates construction of a fence, such plans shall include the type of material to be used and the location thereof. Any plans submitted to the Declarant will not be returned to the owner of the Lot. Within thirty (30) days after receipt of the plans, the Declarant shall either notify the owner of the Lot in writing of its approval of plans or of disapproval with reasons therefor. Submission of incomplete plans shall not be considered a valid submission triggering the deadline stated above and shall not be recognized by the Declarant. Additionally, if any additional information is requested by the Declarant, the approval time may be extended so as to allow for additional information and documentation to be presented to the Declarant. In the event Declarant fails to respond within the aforementioned thirty (30) day period, such non-response shall be deemed denial of the plans as submitted. In addition, Declarant, through its authorized officers, employees, and agents shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, erection, placement, remodeling, or alteration of any structure thereon is in compliance with the provisions of this Paragraph 2 without Declarant or such officer, employee, or agent being deemed to have committed a trespass or wrongful act solely by reason of such action or actions. In addition, no responsibility, liability or obligation shall be assumed by or imposed upon the Declarant by virtue of the authority granted to the Declarant in this Paragraph 2, or as a result of any act or failure to act by Declarant with respect to any proposed structure.

3. Construction on or improvement to any Lot shall be subject to the following restrictions:

- (a) No Lot shall be subdivided;
- (b) All residences shall be constructed with a built-in, attached garage, for a minimum of two automobiles. Chimneys and front elevation of all concrete or cement block foundation, if exposed, must be faced with brick or stone. All residential structures shall have Presidential Composite Shake shingles, Heritage shingles or other high quality material as determined by Declarant.
- (c) Unless approved in writing by the Declarant, no building shall be created, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling not to exceed two stories in height, excluding any walk-out basement, having a garage for not less than two standard automobiles, and containing finished living areas, exclusive of porches, breezeways, and garages of at least 1,500 square feet on the ground floor of a one-story house; 2,000 square feet total square footage on the ground floor and second floor of a one and one-half story house; and 2,500 total square feet on the ground floor and second floor of a two-story house. Declarant shall have the right to define the terms one-story, one and one-half story, two-story, and multi-level house. Any house of unusual design not included in the categories herein listed will be considered on an individual basis. Square foot areas are to be computed to the outside surface of enclosed walls.
- (d) All power and telephone service wires shall be buried underground.
- (e) No trailer, mobile home, modular home, garage, tent, barn or outbuilding shall be erected on any tract at any time for use as a residence.
- (f) All accessory buildings must be approved by Declarant pursuant to the terms of Section 2 hereof prior to construction of the same.
- (g) All fences erected and installed on any Lot that will front on any street or any fence erected and installed from the rear of the residential structure to the front of any Lot, shall be constructed of approved materials and shall be subject to review by Declarant. It is the intention of this regulation to prohibit the use of chain or chain link fence material for fencing that side of any Lot that fronts the street or lies to the side of the residence.
- (h) The assembly, disassembly or general service work on any car, truck, equipment or other machinery shall be prohibited except in

an enclosed garage and the outside storage or parking of cars, trucks, equipment or other machinery shall likewise be prohibited for any period longer than thirty (30) days.

(i) All trash and garbage shall be contained and enclosed in metal or plastic containers.

(j) No fuel tanks on the outside of any building, structure or improvement shall be exposed to view.

(k) Construction of each dwelling or structure must be completed within one (1) year after excavation for footings.

(l) Lots 5, 6, 7 and 8 shall install, keep and maintain a fifteen foot (15') landscape easement along 132nd Street. Required landscaping within the easement area may consist of trees, turf grass, native grass, shrubs or perennials. No buildings or accessory structures shall be permitted to be constructed nor maintained within the landscape easement area. Approved fencing is permitted within the landscape easement. A minimum of one tree, of a minimum two inch caliper, shall be planted for every 40 lineal feet or fraction thereof.

4. Any and all horses or non-commercial livestock maintained on any Lot shall be kept in accordance with the requirements of applicable zoning regulations and shall be located to the rear of the residence. On any corner Lot, the horses shall be maintained no closer to the street than the residence set-back on the adjoining lot, as established by the local governing jurisdiction. All structures used for the housing or maintenance of horses or non-commercial livestock, and any areas where horses or non-commercial livestock are maintained or kept shall be maintained at all times in a clean, neat orderly manner by the owner of the Lot. All horse fencing must be kept in good workable condition and not allowed to deteriorate or look shabby. Each owner shall take all reasonable and necessary steps to insure adequate rodent control on his, her or its Lot.

5. No garden or field crop shall be grown upon that portion of any Lot nearer to the street than provided for minimum building setback lines; and no trees shrubs, hedges or other plants shall be maintained or permitted in such proximity to any Lot as will interfere with the use and maintenance of any street or walk or the unobstructed view at intersections sufficient for the safety of pedestrians and vehicles. Each Lot owner shall take whatever steps are necessary to control noxious weeds on his, her or its Lot.

6. Each Lot owner shall comply with all county and state health requirements and permits, and observe all rules and regulations of all lawfully constituted authorities in the use and ownership of his, her or its Lot.

7. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or

undesirable proliferation, or detract from a neat and trim appearance; provided that the planting and maintaining of prairie grass shall be permitted on the Lots No objectionable, unlawful or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become a nuisance or annoyance to the neighborhood or surrounding Lots.

8. No Lot shall be used in whole or in part for the storage of any property or thing that will cause the land to appear in an unclean or untidy condition, or that will be obnoxious to the eye; nor shall any substance or material be kept upon the land that will emit a foul or obnoxious odor, or cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding neighborhood or Lots.

9. No dwelling house constructed in another area and no prefabricated house may be moved onto or permitted to remain on any Lot or portion thereof. All trailers, boats, or other recreational or business vehicles shall be stored in either enclosed structures or to the rear building line of the residence. All semi-trucks shall be enclosed in structures, and semi-trucks shall not be permitted to be parked in driveways or on the streets. No outside radio or TV antennas, or satellite dishes exceeding 18" in diameter, may be erected on any Lot or portion thereof. No signs (except real estate for sale signs), or billboards of any type or nature whatsoever shall be placed or constructed or erected on any Lot.

10. Each owner of a Lot that contains an area for drainage ways shall not place or allow to be placed any obstructions such as trees, dams, fences or improvements of any kind in said drainage ways. No existing trees or natural terrain shall be disturbed without the prior written approval of the Declarant.

11. If the present or future owners, users or occupants of the Lots shall violate or attempt to violate any covenant contained in this Declaration, it shall be lawful for any other person or persons owning any other Lot to prosecute proceedings at law or equity against the person violating or attempting to violate any such covenant and either prevent him from so doing or to recover damages for such violation. Failure by the Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

12. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any of the other provisions. The undersigned reserves the exclusive right to modify, alter or waive any provision contained in this Declaration by means of a recorded written instrument as to any Lot or Lots in cases where the undersigned deems it necessary or advisable because of unusual circumstances or to prevent hardship.

13. The Declarant is hereby given the right to enter upon any vacant or unattended Lot for the purpose of improving its general appearance, to mow weeds, etc., should it become necessary without being classified as a trespasser, provided, however that the owner of the Lot shall pay any reasonable expense actually incurred on this account.

14. Access Easement.

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- (a) Declarant hereby reserves to itself, its successors and assigns, and to the owners of the other Lots, or any portion thereof, for their benefit and for the benefit of Declarant and the successors-in-interest to each of the Lots, and their respective guests, contractors, and/or invitees, including emergency vehicles, (i) a nonexclusive easement for the purposes of construction, installation, repair, reconstruction, restoration, maintenance, and/or replacement of a roadway within the "Access Easement" area depicted on Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Area"), and (ii) a nonexclusive, perpetual, easement over, through, and across the Easement Area for the purposes of permitting pedestrian and vehicular traffic (but not parking) between each Lot. Any roadways which are constructed within the Easement Area (collectively, the "Roadways") shall be initially constructed by Declarant utilizing crushed aggregate or asphalt millings, at Declarant's sole cost and expense, pursuant to, and in conformance with, the terms of that certain Subdivision Agreement between Declarant and the City of Springfield, Nebraska dated on or about the date hereof (the "Subdivision Agreement").
- (b) The Lots shall access 132nd Street only from the Roadways. Any other direct access from the Lots to 132nd Street is prohibited. Access to Lot 6 and Lot 7 off of S. 132nd (from the east) shall be shared and access to Lot 6 and Lot 7 off of the Roadways shall only be permitted within seventy-five feet (75') of the eastern property line of Lot 6 and Lot 7 (the "Shared Access Portion of the Roadways"). Access to Lot 5 off of S. 132nd Street (from the east) shall be from the Roadway adjacent to Lot 5 on the southern edge. Access to Lot 5 off of the Roadway shall only be permitted within seventy-five feet (75') of the eastern property line of Lot 5. Access to Lot 8 off of S. 132nd (from the east) shall be from the Roadway beginning in the cul-de-sac traveling south and turning east onto the Roadway between Lot 6 and Lot 7.
- (c) The owners or occupants of Lots 1 through 4, inclusive, and Lot 8, Prairie Toehold, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska (collectively, the "Obligated Lots") shall maintain, repair, operate, replace and otherwise keep the Roadways in good repair, as determined in their reasonable judgment and discretion. The maintenance shall include, without limitation, removing ice and snow to the extent reasonably necessary to keep the Roadways in an operable condition. Reasonable delays in performance of maintenance are allowed where performance is impeded by inclement weather. Prior to January 1st of each year, the owners of the Obligated Lots shall delegate the responsibility set forth in this Section 14(c) to one (1) of the owners of the Obligated Lots that indicates his/her willingness to be the Designated Obligated Owner (defined herein), by majority vote (the "Designated Obligated Owner"). If none of the owners of the Obligated Lots indicate that they are willing to be the Designated Obligated Owner for any given year, then the owners of the Obligated Los shall determine who the Designated Obligated Owner will be by majority vote for such year and such owner will not be obligated to serve as the Designated Obligate Owner again until four (4) years following the end of his/her yearly term as the Designated Obligated Owner (it being the intent of Declarant that if none of the owners of the Obligated Lots wishes to be the Designated

Obligated Owner, then the owners of the five (5) Obligated Lots shall take turns filling such role). The costs associated with the maintenance, repair, replacement and operation of the Roadways shall be apportioned in accordance with Section 14(d), below.

(d) The Designated Obligated Owner shall cause the Roadways to be maintained such that the parties hereto shall be able to utilize the Roadways. The Designated Obligated Owner shall periodically submit to the other owners of the Obligated Lots a statement of costs and expenses reasonably incurred for maintenance, repair and/or replacement of the Roadways, together with reasonably supporting documentation. The other owners of the Obligated Lots shall, within thirty (30) days following the receipt of any reasonable written invoice from the Designated Obligated Owner for any such maintenance, repair and/or replacement, reimburse the Designated Obligated Owner based upon its allocated share of the reasonable cost of such maintenance, repair and/or approved replacement. Each owner of an Obligated Lot shall be responsible for one-fifth (1/5th) of the total costs associated with such maintenance, repair and/or replacement; provided, however, that the owners of the Obligated Lots, Lot 6 and Lot 7 shall each be required to contribute 1/7th of the total costs associated with such maintenance, repair and/or replacement of the Shared Access Portion of the Roadways.

(e) In the event any sum of money payable by one party to the other pursuant to Section 14 of this Declaration is not paid when due, the party seeking payment (the "Requesting Party") shall give the non-paying party (the "Non-Paying Party") written notice of such failure to pay as required herein. In the event the unpaid amount is not paid in full to have Requesting Party within ten (10) days after such notice is given, the Requesting Party shall have the right to record, in the Office of the Register of Deeds for Sarpy County, Nebraska, a notice of lien, which shall set forth the then-delinquent amount owed by the Non-Paying Party (including interest at an annual rate of eighteen percent (18%) per annum (the "Default Rate"), and a legal description of the lot owned by the Non-Paying Party (the "Notice of Lien"). Any Non-Paying Party acknowledges that the its Lot will be subject to a lien claim in favor of the Requesting Party in the event Non-Paying Party fails to pay any sums due under this Easement Agreement. Upon recordation of such Notice of Lien, the then delinquent amount owing by the Non-Paying Party, together with interest thereon at the Default Rate, shall constitute a lien upon the parcel of such Non-Paying Party (the "Lien"), as described in the Notice of Lien. In the event the amount secured by such Lien is not paid in full within ten (10) days after such Notice of Lien has been recorded, the Requesting Party may enforce payment of the amount due, or enforce the Lien against the parcel of the Non-Paying Party, by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies set forth below, the Requesting Party shall not prejudice or waive its right to exercise the other remedy or such additional remedies as may be available under applicable law): (i) bringing an action at law against the Non-Paying Party personally obligated to pay the unpaid sum of money; and/or (ii) foreclosing the Lien against the parcel of the Non-Paying Party in accordance with the then prevailing Nebraska law relating to the foreclosure of realty mortgages or deeds of trust (including the right to recover any deficiency).

- (f) The foreclosure of any mortgage covering all or a portion of a Lot or Lots shall in no way affect or diminish any easements granted herein, for all such easements shall remain in full force and effect for the benefit of the grantees described herein. The easements hereby created are not public easements, but are permanent, private easements for the use and benefit of the owners, future owners, occupants, mortgagees, and their respective permittees, and fire, rescue and other emergency vehicles. The parties hereto expressly disclaim the creation of any rights in or for the benefit of the public generally.

15. Each owner of a Lot, its successors and assigns, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, options, liens and charges, and the jurisdiction, rights and powers granted or reserved by this Declaration or to which this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person or entity having at any time any interest of estate in said property, and shall inure to the benefit of such Lot owners on like manner as though the provisions, terms and restrictions of this Declaration were received and stipulated at length in each and every deed of conveyance.

16. Except as provided in Paragraph 12 herein, this Declaration, or any provisions hereof, may be terminated, modified, or amended with respect to all or any portion of the Lots, by the terms of a recorded document executed by Declarant alone for a period of ten (10) years following the recording of this Declaration. Thereafter, subject to the limitations set forth in the Subdivision Agreement, this Declaration may be amended or rescinded by written instrument signed by the then owners of seventy-five percent (75%) of the Lots. This Declaration shall run with and shall inure to the benefit of and be enforceable by the Declarant, or the owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns from the date this Declaration is recorded through December 31, 2041, after which time this Declaration shall be automatically extended for a successive period of ten (10) years, unless an instrument terminating this Declaration is signed by the owners of seventy-five (75%) of the Lots and has been recorded prior to the commencement of any ten-year period.

[Remainder of Page Left Intentionally Blank; Execution Page Follows.]

H

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed on the day and year first above written.

DECLARANT:

**MDM Mangelsen, LLC,
a Nebraska limited liability company**

By: *David M. Mangelsen*
Name: David M. Mangelsen
Its: Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF Sarpy)

Before me, a Notary Public qualified for said County and State, personally came David M. Mangelsen, Manager of MDM Mangelsen, LLC, 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 on behalf of said limited liability company.

WITNESS my hand and Notary Seal on this 5th day of October 2016.

Crystal Geneski
Notary Public

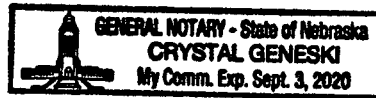


Exhibit "A"

Easement Area

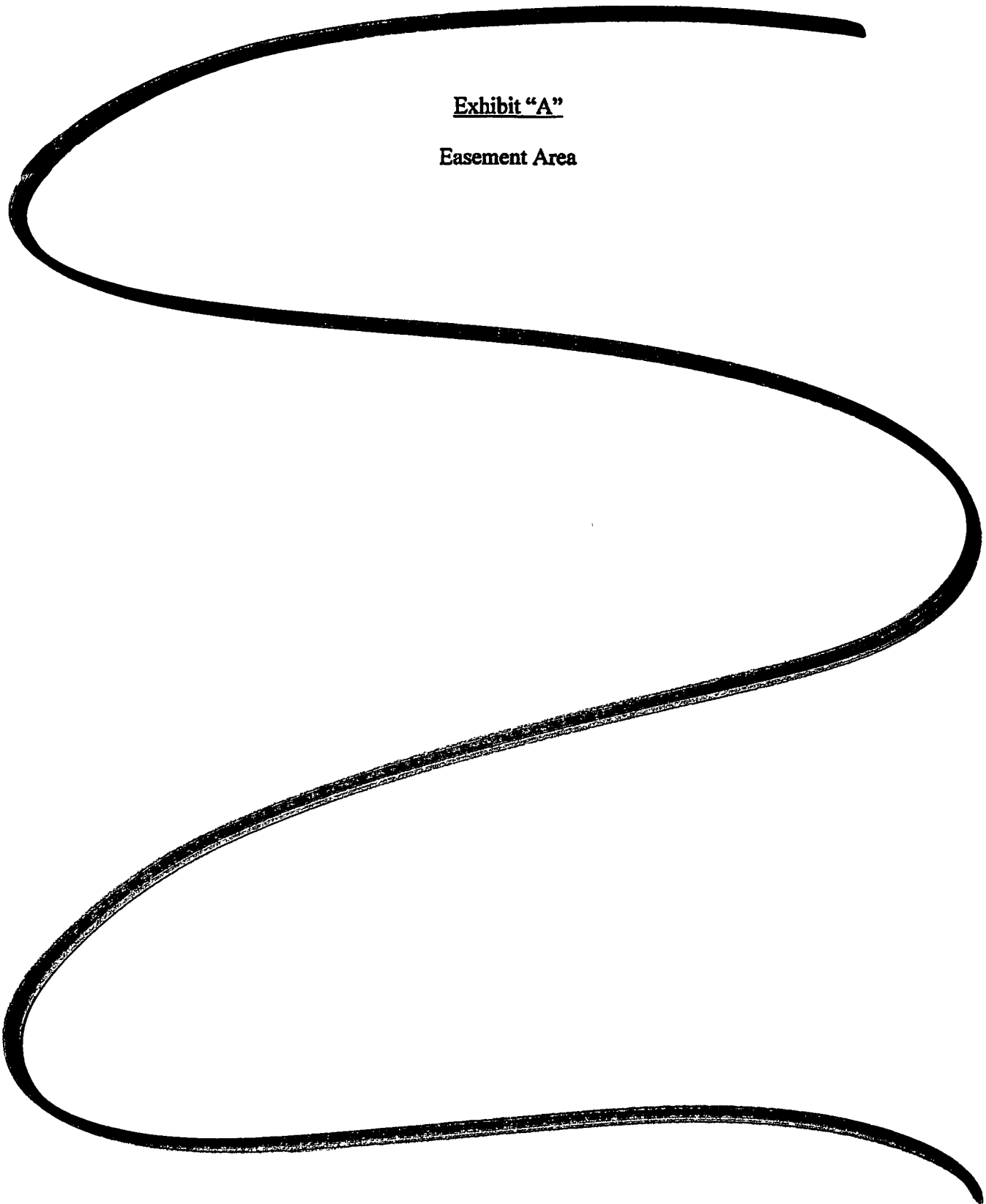
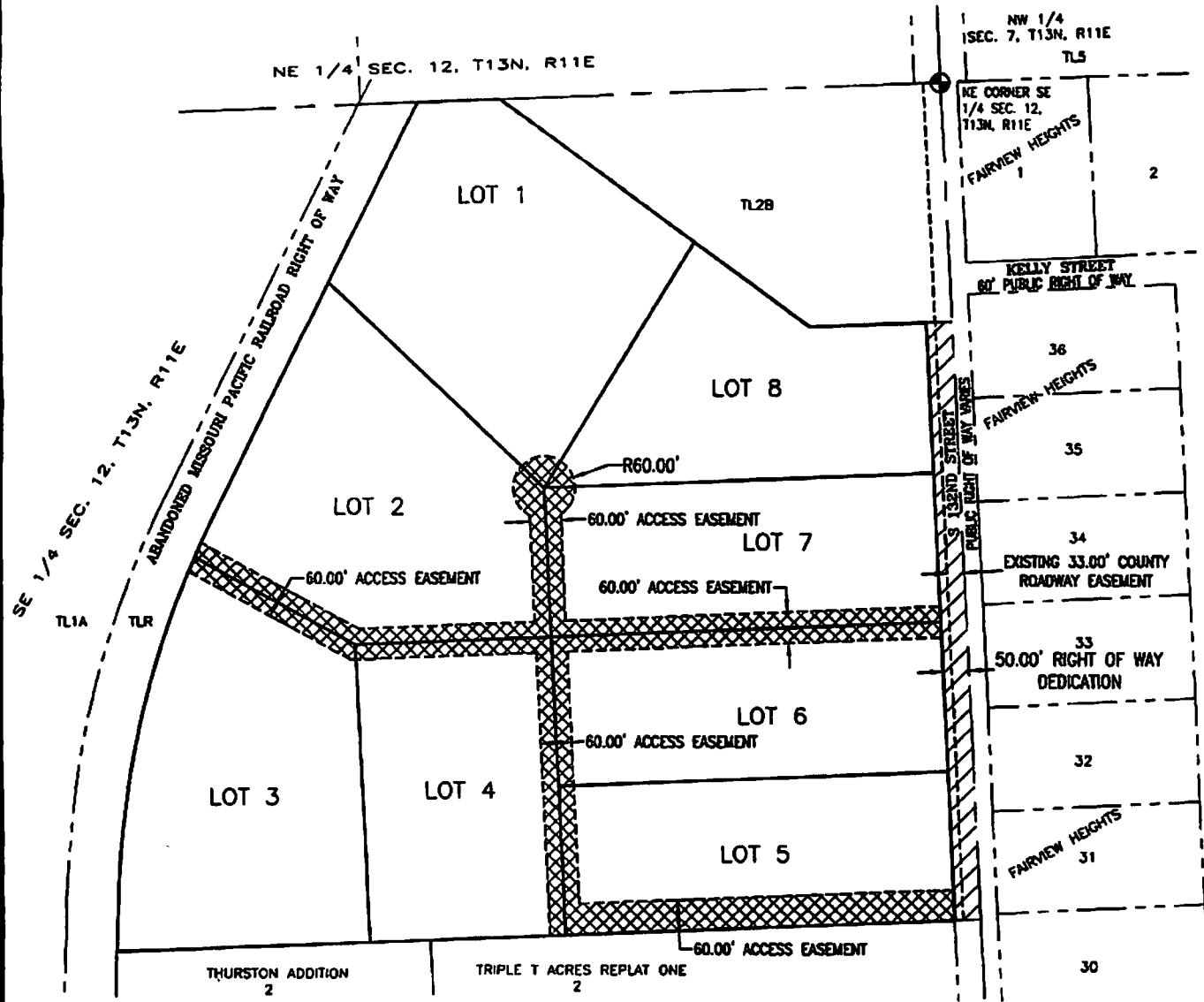
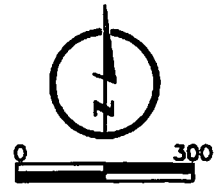


EXHIBIT A

PRAIRIE TOEHOLD ACCESS EASEMENTS

LEGEND

<p>----- SECTION LINE</p> <p>⊕ SECTION CORNER</p> <p>———— LOT LINE</p> <p>----- EXISTING LOT LINE</p>	<p>----- EASEMENT LINE</p> <p> STREET DEDICATION</p> <p> ACCESS EASEMENT</p>
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**LAMP RYNEARSON
& ASSOCIATES**

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 Omaha, Nebraska 68154-2027 402.496.2730 | F
 www.LRA-Inc.com

DRAWN BY EAM	DESIGNED BY	REVIEWED BY WEK	PROJECT - TASK NUMBER 0116012.01-003	DATE 7-27-16	BOOK AND PAGE	REVISIONS
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