

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 7, 2024 AGENDA**

Subject:	Type:	Submitted By:
REPLAT AND SUBDIVISION AGREEMENT— AD INDUSTRIAL PARK	◆ RESOLUTIONS (2) ORDINANCE RECEIVE/FILE	CALE BRODERSEN ASSOCIATE CITY PLANNER

SYNOPSIS

Resolutions have been prepared for the consideration of an application by Fenton Construction for a Replat and Subdivision Agreement for Tax Lot 19 (Parcels #011592217 and #011040238) to be replatted as AD Industrial Park Lots 1-6. The purpose of the request is to allow for the construction of an industrial park with 6 speculative, multi-tenant, industrial buildings.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

Resolutions have been prepared to approve of a Replat and Subdivision Agreement for Tax Lot 19 (Parcels #011592217 and #011040238) to be replatted as AD Industrial Park Lots 1-6.

The applicant is requesting to construct an industrial park containing 6 speculative, multi-tenant, industrial buildings on the subject property. The subdivision agreement for the development includes language detailing the required sewer tract connection and stormwater management fees, requirements for the developer pertaining to stormwater management and property maintenance, and other details regarding private commitments for the development.

A detailed staff report is attached. The Planning Commission held a meeting on April 4, 2024, and voted 9-0 to recommend approval of the Replat, subject to the approval of the Planned Unit Development, and approval and recording of the subdivision agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, FOR APPROVAL OF THE REPLAT FOR THAT PT OF TAX LOT 19 LYING N OF RR ROW IN THE SE1/4 14-14-11 AND THAT PT TAX LOT 19 LYING SOUTH OF RR ROW IN THE S1/2 14-14-11 IN SARPY COUNTY NEBRASKA, TO BE REPLATTED AS LOTS 1 THROUGH 6 AD INDUSTRIAL PARK, A SUBDIVISION LOCATED IN THE SOUTH HALF OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN SARPY COUNTY, NEBRASKA.

WHEREAS, the owner of the above described property applied for approval of a replat for That Pt of Tax Lot 19 lying N of RR ROW in the SE1/4 14-14-11 and That Pt Tax Lot 19 lying S of RR ROW in the S1/2 14-14-11 to be replatted as Lots 1-6 AD Industrial Park; and

WHEREAS, the City Engineer has reviewed the replat; and

WHEREAS, on April 4, 2024, the La Vista Planning Commission held a meeting and reviewed the replat and recommended approval.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, that the replat for That Pt of Tax Lot 19 lying N of RR ROW in the SE1/4 14-14-11 and That Pt Tax Lot 19 lying S of RR ROW in the S1/2 14-14-11 to be replatted as Lots 1-6 AD Industrial Park, a subdivision located in the south half of Section 14, Township 14 North, Range 11 East of the 6th P.M., Sarpy County, Nebraska, generally located southwest of the intersection of S. 144th Street and Chandler Road be, and hereby is, approved.

PASSED AND APPROVED THIS 7TH DAY OF MAY 2024.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, MMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING A SUBDIVISION AGREEMENT FOR AD INDUSTRIAL PARK.

WHEREAS, the City Council did on May 7, 2024, approve of AD Industrial Park, a replat of That Pt of Tax Lot 19 lying N of RR ROW in the SE1/4 14-14-11 and That Pt Tax Lot 19 lying S of RR ROW in the S1/2 14-14-11, subject to certain conditions; and

WHEREAS, the Subdivider, Fenton Construction, LLC, as owner of the affected lots agreed to execute a Subdivision Agreement satisfactory in form and content to the City;

NOW THEREFORE, BE IT RESOLVED, that the Subdivision Agreement be and hereby is approved and the Mayor and City Clerk be and hereby are authorized to execute the same on behalf of the City, subject to any specified conditions of Council and any revisions that the City Administrator or City Engineer may determine necessary or advisable.

PASSED AND APPROVED THIS 7TH DAY OF MAY 2024.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk



**CITY OF LA VISTA
PLANNING DIVISION
RECOMMENDATION REPORT**

CASE NUMBERS: PPUD23-0005; PRP23-0005

FOR HEARING ON: MAY 7, 2024

REPORT PREPARED ON: MAY 1, 2024

I. GENERAL INFORMATION

A. APPLICANT:

Fenton Construction, Inc.
Attn: Casey Fenton
PO Box 2669
Sioux City, IA 51106

B. PROPERTY OWNER:

Fenton Construction, Inc.
Attn: Casey Fenton
PO Box 2669
Sioux City, IA 51106

C. LOCATION: 14607 Chandler Road, La Vista, NE 68138, generally located southwest of the intersection of 144th Street and Chandler Road.

D. LEGAL DESCRIPTION: Tax Lot 19 in Section 14, Township 14 North, Range 11 East of the 6th PM, Sarpy County, Nebraska (Parcel #011592217 and #011040238)

E. REQUESTED ACTION(S):

1. Approval of a Planned Unit Development for AD Industrial Park to allow for the construction of speculative industrial multi-tenant buildings. There are 4 buildings proposed within the PUD area that combine to equal over 200,000 square feet, but the full development will include 6 buildings.
2. Approval of a replat application for Tax Lot 19 (Parcel #011592217 and #011040238) to be replatted as AD Industrial Park Lots 1-6.

F. EXISTING ZONING AND LAND USE: I-1 Light Industrial, Planned Unit Development (Overlay District), and a portion of the property contains the Gateway Corridor District (Overlay District). This property is currently vacant. The Future Land Use Map designates these properties as Business Park.

G. PURPOSE OF REQUEST: Applicant is seeking to construct light industrial buildings as part of the AD Industrial Park and has requested a Planned Unit Development to establish the

ingress/egress easements necessary to satisfy the lot frontage requirements of La Vista's Subdivision Regulations as three of the proposed buildings will be located south of the railroad tracks and will be accessible via approved railroad crossings through the northern lots on the site that front Chandler Road. In addition, the applicant seeks an allowance through the PUD to allow for the operation of a "Heavy Construction Contractors" use in addition to allowing for outdoor storage on the southern parcels adjacent to the railroad tracks (with the required screening).

H. SIZE OF SITE: The PUD area includes approximately 45.59 acres.

II. BACKGROUND INFORMATION

A. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

<u>Direction From Subject Property</u>	<u>Future Land Use Designation</u>	<u>Current Zoning Designation</u>	<u>Surrounding Development</u>
North	Light Industrial (Sarpy County); & Low-Medium Density Residential (Sarpy County)	IGM Industrial General Manufacturing (Sarpy County) & RS-72 Single-Family Residential (Sarpy County Zoning)	Chalco Industrial properties and the Echo Hills Neighborhood
East	Industrial	I-1 Light Industrial, I-2 Heavy Industrial, and portions with the Gateway Corridor District (Overlay District).	Chalco Valley Business Park
South	Business Park; Low-Medium Density Residential (Sarpy County); & Medium-High Density Residential (Sarpy County)	C-1 Shopping Center Commercial, Gateway Corridor District (Overlay District); RD-50 Two Family Residential (Sarpy County) and RG-15 General Residential District (Sarpy County)	Vacant Property & Chalco Pointe Neighborhood
West	Light Industrial (Sarpy County)	IGM Industrial General Manufacturing (Sarpy County)	Chalco Industrial Properties & Vacant Properties

B. RELEVANT CASE HISTORY:

1. On November 21, 2023 the City Council of the City of La Vista voted to extend the City's extraterritorial zoning jurisdiction to include the entirety of Tax Lot 19. At the same meeting, Council voted to amend the City's Future Land Use Map of the Comprehensive Plan to designate the property as Business

Park, in addition to amending the Official Zoning Map to zone the property I-1 Light Industrial, with a portion of the property fronting S. 144th Street with the Gateway Corridor Overlay District designation.

C. APPLICABLE REGULATIONS:

1. Section 5.13 of the City of La Vista Zoning Ordinance – I-1 Light Industrial
2. Section 5.15 of the City of La Vista Zoning Ordinance – PUD Planned Unit Development District (Overlay District)
3. Section 5.17 of the City of La Vista Zoning Ordinance – Gateway Corridor District (Overlay District)
4. Section 7.16 of the City of La Vista Zoning Ordinance – Performance Standards for Industrial Uses
5. Section 3.07 of the La Vista Subdivision Regulation – Replat Procedures

III. ANALYSIS

A. COMPREHENSIVE PLAN:

1. The Future Land Use Map of the La Vista Comprehensive Plan designates this property for Business Park development. The La Vista Land Use Plan lists the I-1 Light Industrial Zoning District as a potential/compatible zone for the Business Park designation. Subsequently, light industrial development in this location is compatible with the Future Land Use Map and the La Vista Comprehensive Plan.

B. OTHER PLANS: N/A.

C. TRAFFIC AND ACCESS:

1. The development will have driveway access to Chandler Road. The western-most proposed building (to be located south of the railroad tracks) will have access over a railroad crossing to Kearney Ave that connects with Chandler Road. Another driveway to Chandler Road will connect the other three proposed buildings within the PUD area, two of which will be accessed through an additional railroad crossing to the two buildings to be located south of the tracks.
2. A Traffic Impact Analysis (TIA) was prepared by Lamp Rynearson and provided to the City for review. The TIA suggested that no public improvements will be required to address/accommodate the additional traffic that will be generated by the proposed development. The TIA was also reviewed by Sarpy County (as Chandler Road is under their authority), and the Nebraska Department of Transportation (as Highway 50/S. 144th Street is under their authority). Both organizations provided comments to the applicant which were

addressed in a revised report, and both organizations have expressed that the report is acceptable, along with the City Engineer. The TIA (without appendices) is attached to this report.

3. A permanent ingress/egress easement will be recorded along with the Final Plat to ensure proper access to the buildings south of the railroad tracks that do not directly abut Chandler Road. The draft easement language has been provided to and reviewed by the City.
4. BNSF Railway has given their approval for the two proposed railroad crossings and has executed agreements with the property owner/applicant that allow for their construction and use.

D. UTILITIES:

1. The property has access to all necessary utilities.

E. PARKING REQUIREMENTS:

1. The amount of off-street parking stalls proposed for each of the lots included within AD Industrial Park exceeds the amount required by Section 7.06 of the La Vista Zoning Ordinance. The minimum off-street parking stall requirements and the number of proposed parking stalls for each lot in the development are as follows:

<u>Lot #</u>	<u>Building Size (Square Feet)</u>	<u>Requirement</u>	<u>Required Stalls</u>	<u>Provided Stalls</u>
Lot 3	50,000		17	79
Lot 4	50,000		17	36
Lot 5	60,000		20	38
Lot 6	41,520		14	26
Total	201,520		68	179

IV. REVIEW COMMENTS:

1. Per Section 5.15.02.04 of the La Vista Zoning Ordinance, land uses not permitted in the underlying zoning district may be allowed by City Council through a Planned Unit Development Overlay District. The development proposal related to this application includes facilities for Heavy Construction Contractors with outdoor storage on proposed lots 4-6 (the parcels south of the railroad tracks). These uses not currently permitted in the underlying I-1 Light Industrial Zoning District, but that would be permitted through the PUD ordinance if approved by City Council. Due to the secluded nature of the parcels south of the tracks that are situated between the railroad to the north and the South Papillion Creek to the south, in addition to the screening that will be required for any

- and all outdoor storage of materials through the use of fencing, landscaping, or other means as determined by the Community Development Director, staff support this allowance.
2. Outdoor storage will not be permitted on the properties fronting Chandler Road.
 3. A subdivision agreement for the development has been drafted and will be reviewed by City Council along with the Final Plat. It addresses items including but not limited to: public and private improvements, maintenance of common areas, stormwater management, sewer connection fees, easements and covenants, and more.
 4. Proposed lot 1 which is on the southwest corner of S. 144th Street and Chandler Road is outside of the PUD area and not included in the PUD application, but is included in the Gateway Corridor District (Overlay Zoning District) so the building, site, and landscaping design for the building on Lot 1 will need to be approved through the City's design review process and adhere to the Gateway Corridor Design Guidelines.
 5. The development will be required to meet the requirements for a Post Construction Storm Water Management Plan as per City regulations.

V. STAFF RECOMMENDATION – PLANNED UNIT DEVELOPMENT:

Staff recommends approval of the Planned Unit Development for AD Industrial Park, contingent upon the approval of the Replat and Subdivision Agreement, as the request is consistent with the Comprehensive Plan and the Zoning Ordinance.

VI. STAFF RECOMMENDATION – REPLAT:

Staff recommends approval of the replat of Tax Lot 19, to be replatted as AD Industrial Park Lots 1-6, contingent upon approval of the Planned Unit Development and Subdivision Agreement, as the replat is consistent with La Vista's Subdivision Regulations.

VII. PLANNING COMMISSION RECOMMENDATION

– PLANNED UNIT DEVELOPMENT:

The Planning Commission held a public hearing on April 4, 2024 and voted 9-0 to recommend approval of the Planned Unit Development for AD Industrial Park, contingent upon the approval of the Replat and Subdivision Agreement, as the request is consistent with the Comprehensive Plan and the Zoning Ordinance.

VIII. PLANNING COMMISSION RECOMMENDATION – REPLAT:

The Planning Commission held a meeting on April 4, 2024 and voted 9-0 to recommend approval of the replat of Tax Lot 19, to be replatted as AD Industrial Park Lots 1-6, contingent upon approval of the Planned Unit

Development and Subdivision Agreement, as the replat is consistent with La Vista's Subdivision Regulations.

IX. ATTACHMENTS TO REPORT:

- A. Vicinity Map
- B. Review and response letters
- C. PUD plan set
- D. Preliminary Plat
- E. Final Plat
- F. Traffic Impact Analysis

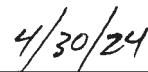
X. COPIES OF REPORT SENT TO:

- A. Casey Fenton, Fenton Construction
- B. Randy Kuszak, Lamp Rynearson, Inc.
- C. Public Upon Request



Prepared by: Associate City Planner



Community Development Director

Date

Harrison Street

S. 144th Street

Chandler Road

Proposed AD
Industrial
Park
Location

Giles Road

AD Industrial Park - Vicinity Map



Legend

- Property Lines
- Development Boundary





December 29, 2023

Lamp Rynearson, Inc.
Attn: Randy Kuszak
14710 West Dodge Road, STE 100
Omaha, NE 68154

RE: AD Industrial Park – Preliminary Plat & PUD Applications
Initial Review Letter

Mr. Kuszak,

We have reviewed the documents submitted for the above-referenced applications. Based on the elements for consideration set forth in the applicable sections of the Subdivision Regulations and Zoning Ordinance, the City has the following comments:

Preliminary Plat Application

1. Regarding Section 3.03.11 of La Vista's Subdivision regulations, a qualified environmental specialist must delineate the locations of any wetlands on site, if applicable.
2. Regarding Section 3.03.19, the traffic impact analysis and access points along Chandler Road need to be reviewed and approved by Sarpy County Public Works as Sarpy County operates and maintains this portion of Chandler Road. Upon confirmed review by the County, the City may elect to have the analysis further reviewed by the City's third-party reviewer.

City Hall
8116 Park View Blvd.
La Vista, NE 68128-2198
402.331.4343 P
402.331.4375 F

Community Development
8116 Park View Blvd.
402.593.6400 P
402.593.6445 F

Library
9110 Giles Rd.
402.537.3900 P
402.537.3902 F

Police
7701 S. 96th St.
402.331.1582 P
402.331.7210 F

Public Works
9900 Portal Rd.
402.331.8927 P
402.331.1051 F

Recreation
8116 Park View Blvd.
402.331.3455 P
402.331.0299 F

3. Regarding Section 3.03.19, the traffic impact analysis of the intersection of HWY 50 and Chandler Road needs to be reviewed by the Nebraska Department of Roads (NDOT) as the NDOT operates and maintains HWY 50. Upon confirmed review by the NDOT, the City may elect to have the analysis further reviewed by the City's third-party reviewer.
4. Regarding Section 3.03.20.1, please provide the depth of the sanitary sewer that transects the proposed lots 4, 5 and 6. Generally, Lots 5 and 6 fall outside of the City's current Wastewater Service Agreement with the City of Omaha, and therefore the City of Omaha will need to evaluate how the lots would be served, and if the current Wastewater Service Agreement would need to be amended. La Vista Public Works will contact Omaha Public Works to begin the evaluation.
5. Regarding Section 3.03.20.4, as the subdivision is a new platting, the Post Construction Storm Water Management Plan (PCSMP) should meet the no-net increase requirements for the 2, 10, and 100-year storm events.
6. Regarding Section 3.03.20.4, please confirm the catchment area delineation and impact point calculation locations are consistent with the current City of Omaha Stormwater Design Manual.
7. Regarding Section 3.03.20.4, please provide a draft Maintenance Agreement and Easement for review.
8. Draft language and exhibits for the public access and utility easement noted on the preliminary plat that is to be recorded via separate instrument will be required as part of the review process for the Final Plat.

Planned Unit Development Application

9. Regarding Section 5.15.04.04, please provide details on the two proposed private railroad crossings/access driveways, to ensure that they will adequately support the anticipated traffic generated by this development in a safe manner (crossing dimensions, associated improvements, any potential barricading, signage, lights, etc.)

10. Regarding Section 5.15.05.02.2, please provide the height of all proposed structures.
11. Regarding Section 5.15.05.04, please show the point of connection and other pertinent design information for the sanitary sewer. Generally, Lots 5 and 6 fall outside of the City's current Wastewater Service Agreement with the City of Omaha, and therefore the City of Omaha will need to evaluate how the lots would be served, and if the current Wastewater Service Agreement would need to be amended. La Vista Public Works will contact Omaha Public Works to begin the evaluation.
12. Regarding Zoning Ordinance Section 5.15.04.13, provisions for the proper maintenance and ownership of common spaces (including shared access drives) shall be included in the submittal.
13. Regarding Zoning Ordinance Section 5.15.05.09, please submit copies of any restrictive covenants that are to be recorded with respect to the properties included in the planned development district.
14. Do you anticipate the construction of ground monument signs for each of the lots fronting Chandler Road? If so, please identify the potential locations for those signs and include setback distances.
15. Any outdoor storage of materials permitted through the Planned Unit Development Ordinance on proposed Lots 4, 5, and 6 shall be screened from view. Screening will be required in the form of fencing, landscaping, or other means as determined by the Community Development Director.

General Development Comments

16. The building design for the proposed building on Lot 1 AD Industrial Park must be reviewed as part of the design review process that is required for developments within the Gateway Corridor Overlay District prior to building permit submittal. The full design review process will be conducted outside of the PUD and replat approval processes, with the exception of the review of the preliminary landscaping plan. The City's third-party Design Review Architect is currently reviewing the landscaping plan, and comments may be forthcoming.

17. Please add parking lot light pole locations to the landscaping plan of the PUD plan set in order to ensure there are no conflicts with the planting plan as presented.

Please resubmit 2 paper copies of the Preliminary Plats, PUD site plans, and other supporting documentation requested in this letter (including electronic copies) to the City for further review. Please also provide a response letter that answers or acknowledges each of the comments contained in this letter.

A timeline for review by the Planning Commission and City Council will be determined based on the timing of the resubmittal and the extent to which the issues noted this review have been sufficiently addressed. If you have any questions regarding these comments, please feel free to contact me at any time.

Thank you,

A handwritten signature in blue ink that reads "Cale Brodersen". A horizontal blue line extends from the end of the signature to the right.

Cale Brodersen, AICP
Associate City Planner
City of La Vista
cbrodersen@cityoflavista.org
(402) 593-6400

cc:

Casey Fenton, Fenton Construction
Bruce Fountain, Community Development Director – City of La Vista
Chris Solberg, Deputy Community Development Director – City of La Vista
Pat Dowse, City Engineer – City of La Vista
Garrett Delgado, Engineer Assistant – City of La Vista

VIA Email

January 10, 2024

14710 W. Dodge Rd., Ste. 100
Omaha, NE 68154
[P] 402.496.2498
[F] 402.496.2730
LampRynearson.com

Cale Brodersen, AICP
Associate City Planner
City of La Vista
8116 Park View Blvd
La Vista, NE 68128

REFERENCE: AD Industrial Park
Review Comments – Preliminary Plat & PUD Applications
Job No. 0123094.01-003

Dear Mr. Brodersen:

Submitted herewith are our responses to comments received from City of La Vista Planning Department, letter dated December 29, 2023, and from Schemmer, letter dated January 5, 2024, for the submittal of the Preliminary Plat and PUD Applications for the AD Industrial Park project, located near Highway 50 and Chandler Road.

City of La Vista Planning Department Comments

Preliminary Plat Application

1. Regarding Section 3.03.11 of La Vista's Subdivision regulations, a qualified environmental specialist must delineate the locations of any wetlands on site, if applicable.

Response: Agreed, a wetland delineation report identifying jurisdictional wetlands has been included in the resubmittal documents.

2. Regarding Section 3.03.19, the traffic impact analysis and access points along Chandler Road need to be reviewed and approved by Sarpy County Public Works as Sarpy County operates and maintains this portion of Chandler Road. Upon confirmed review by the County, the City may elect to have the analysis further reviewed by the City's third-party reviewer.

Response: Agreed.

3. Regarding Section 3.03.19, the traffic impact analysis of the intersection of HWY 50 and Chandler Road needs to be reviewed by the Nebraska Department of Roads (NDOT) as the NDOT operates and maintains HWY 50. Upon confirmed review by the NDOT, the City may elect to have the analysis further reviewed by the City's third-party reviewer.

Response: Agreed.

4. Regarding Section 3.03.20.1, please provide the depth of the sanitary sewer that transects the proposed lots 4, 5, and 6. Generally, Lots 5 and 6 fall outside of the City's current Wastewater Service Agreement with the City of Omaha, and therefore the City of Omaha will need to evaluate how the lots would be served, and if the current Wastewater Service Agreement would need to be amended. La Vista Public Works will contact Omaha Public Works to begin the evaluation.

Response: Depths of the sanitary sewer transecting Lots 4, 5 and 6 was unable to be determined during field investigation due to ceased manholes. Information on the interceptor sewer is in the process of being requested from the City of Omaha and upon receipt of the record drawings, they will be forward to the Public Works department. A manhole feeding into the interceptor sewer was able to be surveyed, indicating a depth of approximately 8.5'. As all proposed buildings will be slab on grade, raised to a minimum of 1' above the base flood elevation, we anticipate no issues with providing gravity service to each of the buildings. It is anticipated that each building service will tap an existing interceptor sewer manhole, and that as necessary, a manhole drop connection compliant with the City of Omaha Standard Plate 703-03 will be utilized to meet the grade of the sewer.

5. Regarding Section 3.03.20.4, as the subdivision is a new platting, the Post Construction Storm Water Management Plan (PCSMP) should meet the no-net increase requirements for the 2, 10, and 100-year storm events.

Response: PCSMP updated to require 2, 10 and 100-year storm events. CFS requirements calculated and shown in associated table on PCSMP exhibits and drainage study have been revised and included in the resubmittal package.

6. Regarding Section 3.03.20.4, please confirm the catchment area delineation and impact point calculation locations are consistent with the current City of Omaha Stormwater Design Manual.

Response: Confirmed. Area delineation and impact point calculation locations are consistent with current ORSDM.

7. Regarding Section 3.03.20.4, please provide a draft Maintenance Agreement and Easement for review.

Response: A draft Maintenance Agreement and Easement has been provided. As proposed, each individual lot owner will be required to submit PCSMP measures through the city process at the time of building permit, and will be responsible for providing an acceptable maintenance agreement and easement to the city. The PCSMP shown on the submittal establishes the baseline allowable peak flow and water quality conditions for each lot.

8. Draft language and exhibits for the public access and utility easement noted on the preliminary plat that is to be recorded via separate instrument will be required as part of the review process for the Final Plat.

Response: Draft exhibits and language for all proposed easements shown on the plat have been included as part of the resubmittal package.

Planned Unit Development Application

9. Regarding Section 5.15.04.04, please provide details on the two proposed private railroad crossings/access driveways, to ensure that they will adequately support the anticipated traffic generated by this development in a safe manner (crossing dimensions, associated improvements, any potential barricading, signage, lights, etc.).

Response: Cross sections showing details of the concrete crossings to be constructed are included as part of

the resubmittal. Each crossing will be 40' wide as permitted with the Railroad. Each crossing approach will have Railroad Crossing signs in accordance with MUTCD, and will utilize a flashing indicator sign, without a crossing bar. All proposed railroad crossing equipment and improvements will be approved as required by BNSF railroad.

10. Regarding Section 5.15.05.02.2, please provide the height of all proposed structures.

Response: All structures are anticipated to have a height of 40'. The table on the PUD site plan has been updated.

11. Regarding Section 5.15.05.04, please show the point of connection and other pertinent design information for the sanitary sewer. Generally, Lots 5 and 6 fall outside of the City's current Wastewater Service Agreement with the City of Omaha, and therefore the City of Omaha will need to evaluate how the lots would be served, and if the current Wastewater Service Agreement would need to be amended. La Vista Public Works will contact Omaha Public Works to begin the evaluation.

Response: Sanitary connections are shown on original PUD utility plan. Lots 4-6 are connected at existing manholes on City of Omaha Interceptor south of the properties. Lot 3 will connect to proposed public sanitary line that passes through Lot 1 and 2. Service agreement will need to be amended. Connections will be made at a minimum depth above floodplain elevation. We are in the process of requesting invert information from the City of Omaha.

12. Regarding Zoning Ordinance Section 5.15.04.13, provisions for the proper maintenance and ownership of common spaces (including shared access drives) shall be included in the submittal.

Response: Common space (shared access drives) are identified by easements for this development. The land will be owned by the underlying property owner, the rights to the easement will be held by all property owners with rights to each easement. Maintenance will be the obligation of the underlying property owner. Provisions for ownership and maintenance are indicated on the draft easement documents which have been included as a part of the resubmittal.

13. Regarding Zoning Ordinance Section 5.15.05.09, please submit copies of any restrictive covenants that are to be recorded with respect to the properties included in the planned development district.

Response: Draft Covenants have been included as part of the resubmittal package.

14. Do you anticipate the construction of ground monument signs for each of the lots fronting Chandler Road? If so, please identify the potential locations for those signs and include setback distances.

Response: Ground monument signs for each of the lots fronting Chandler Road are not anticipated.

15. Any outdoor storage of materials permitted through the Planned Unit Development Ordinance on proposed Lots 4, 5 and 6 shall be screened from view. Screening will be required in the form of fencing, landscaping, or other means as determined by the Community Development Director.

Response: Agreed.

General Development Comments

16. The building design for the proposed building on Lot 1 AD Industrial Park must be reviewed as part of the design review process that is required for developments within the Gateway Corridor Overlay District prior to building permit submittal. The full design review process will be conducted outside of the PUD and replat approval processes, with the exception of the review of the preliminary landscaping plan. The City's third-party Design Review Architect is currently reviewing the landscaping plan, and comments may be forthcoming.

Response: Agreed. We have received comments related to the preliminary landscaping plan. As this area is outside the PUD and replat approval process, the comments will be addressed as part of a future design review process for that site plan prior to building permit submittal. For clarity, landscaping shown on the PUD landscaping plan for all lots outside the PUD limits have been removed.

17. Please add parking lot light pole locations to the landscaping plan of the PUD plan set in order to ensure there are no conflicts with the plating plan as presented.

Response: Parking lot light pole locations have been added to the landscaping plan. A mix of Pole mount lighting and building mount downlighting will be utilized for all buildings.

Schemmeler Comments

Landscape

1. Per 4.III.D.2, a minimum of one species of coniferous tree is required, none are included in the plant schedule.

Response: A species of coniferous tree has been added to the plant schedule.

2. Per 4.III.F, Landscape plan shall be designed to provide natural undulating landscape forms and avoid straight line plantings. All proposed plantings are arranged as straight line plantings.

Response: The landscape plan for Lot 1 will be modified to provide natural undulating landscape forms and avoid straight line plantings when submitted for design review at the time of end user lot development. The area of plantings in Lot 3 along Chandler Road are outside the limits of the Corridor Overlay District. For clarity, all plantings outside the limits of the PUD area have been removed from the Landscape plan.

3. Compliant screening shrubs are included in the planting list, but not included on the submitted plan. For clarity, all plantings outside the limits of the PUD area have been removed from the Landscape plan.

Response: Screening shrubs are located along the north lot line of Lot 3 along Chandler Road and are denoted by a hatch.

AD Industrial Park

Review Comments – Preliminary Plat & PUD Applications

Job No. 0123094.01-003

January 10, 2024

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4. Irrigation required per 4.III.G not indicated on plans.

Response: The requirement for irrigation has been added for Lot 4, which is the only lot within the Corridor Overlay District that falls within the PUD area. The requirement for irrigation will be added to future landscape plans for Lot 1 when they are submitted. For clarity, all plantings outside the limits of the PUD area have been removed from the Landscape plan.

5. Parking areas and traffic ways are not indicated as landscaped in accordance with 4.III.H.

Response: Additional landscape islands with trees have been added to the parking lots of Lot 4 per 4.III.H. All other parking lot areas within the PUD area are outside the Corridor Overlay District. For clarity, all plantings outside the limits of the PUD area have been removed from the Landscape plan.

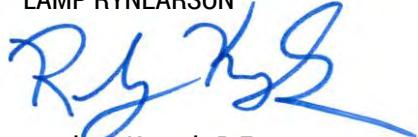
Documents included in this resubmittal are as follows (2 copies each):

1. Waters of the US Delineation Report
2. Preliminary Plat PCSMP Plan
3. PUD Site Plan
4. PUD Utility Plan
5. PUD Landscape Plan
6. PUD PCSMP Plan
7. Draft PCSMP Maintenance Agreement
8. Draft Easement Exhibits and Language
9. Draft Covenants
10. Preliminary Drainage Study

Please call if you have any questions or concerns regarding this submittal.

Sincerely,

LAMP RYNEARSON



Randy R. Kuszak, P.E.
Senior Project Manager



February 2, 2024

Lamp Rynearson, Inc.
Attn: Randy Kuszak
14710 West Dodge Road, STE 100
Omaha, NE 68154

RE: AD Industrial Park – Preliminary Plat and PUD Applications
2nd Review Letter

Mr. Kuszak,

We have reviewed the documents re-submitted for the above-referenced applications. Based on the elements for consideration set forth in the applicable sections of the Subdivision Regulations and Zoning Ordinance, the City has the following comments:

Preliminary Plat Application

1. Lamp Rynearson Response #1 – Please include in the environmental documentation and/or PUD submittals confirmation that development on Lots 4, 5, and 6 meet or exceed the 3:1+50' major stream setback as defined in Exhibit B of the 2019 Papillion Creek Watershed Partnership Interlocal Agreement.

City Hall
8116 Park View Blvd.
La Vista, NE 68128-2198
402.331.4343 **P**
402.331.4375 **F**

Community Development
8116 Park View Blvd.
402.593.6400 **P**
402.593.6445 **F**

Library
9110 Giles Rd.
402.537.3900 **P**
402.537.3902 **F**

Police
7701 S. 96th St.
402.331.1582 **P**
402.331.7210 **F**

Public Works
9900 Portal Rd.
402.331.8927 **P**
402.331.1051 **F**

Recreation
8116 Park View Blvd.
402.331.3455 **P**
402.331.0299 **F**

2. Lamp Rynearson Responses #2 and #3 – Please review and revise the traffic impact analyses as to incorporate the comments of Sarpy County and the Nebraska Department of Transportation (NDOT). It would appear comments in regard to the existing traffic signal configuration at the intersection of 144th Street and Chandler Road, and the future lane configuration (4 lanes vs. 6 lanes) of HWY 50/144th Street will likely modify the current and projected Level of Service. Upon further review, the City may still engage a review with the City's 3rd party reviewer. Copies of the responses from Sarpy County and NDOT have been attached to this letter for your review.
3. Lamp Rynearson Response #9 – In review of the provided Private Crossing Agreements for the two (2) private rail crossings, it would appear each crossing agreement is valid for 25 years. What are the provisions/assurances to ensure that the lots south of said crossings will be accessible into perpetuity?

Planned Unit Development Application

1. The boundaries of the PUD Site Plans within the submittal package are not contiguous. The boundaries of the PUD Site Plan set should match that of the PUD district boundary set within the Zoning Map Amendment approved by the City Council on November 21, 2023. Attached is an excerpt from the City Council packet that depicts the PUD district boundary as contiguous, crossing over the railroad along the eastern edge of Lot 3 in the submitted plan set.
2. Lamp Rynearson Response #9 - In review of the provided Private Crossing Agreements for the two (2) private rail crossings, it is not clear if the oncoming trains will sound horns in advance of the crossing. Does BNSF typically sound ahead of private crossings, or is that practice for public crossings?
3. Lamp Rynerson Response #11 – Please provide details on how the connection to public sanitary sewer is intended to be made. Be aware that pre- and post-connection inspection reports are to be submitted to the La Vista Public Works Department.
4. To reiterate earlier discussions, the allowance for outdoor storage on the lots that are proposed south of the railroad tracks will be completed through the

adopting PUD Ordinance. The ordinance will not allow for outdoor storage on the lots fronting Chandler Road on the north side of the railroad tracks.

Also please note that the aforementioned PUD Ordinance will provide requirements for screening of the outdoor storage areas. A copy of the draft ordinance will be prepared prior to Planning Commission review.

General Development Comments

5. Although no landscaping is required to be depicted on proposed Lots 1-2 of this development through the PUD Landscaping Plan. Landscaping will still be required as per Section 7.17 of the Zoning Ordinance on Lot 2 and as per Section 7.17 of the Zoning Ordinance at the Gateway Corridor District on Lot 1.

Please resubmit 2 paper copies of the Preliminary Plats, PUD site plans, and other supporting documentation requested in this letter (including electronic copies) to the City for further review. Please also provide a response letter that answers or acknowledges each of the comments contained in this letter.

A timeline for review by the Planning Commission and City Council will be determined based on the timing of the resubmittal and the extent to which the issues noted this review have been sufficiently addressed. If you are able to submit the final plat at this time, staff could begin internal review and the preliminary and final Plats could be reviewed by the Planning Commission and City Council at the same time to reduce the overall approval schedule (as opposed to submitting the final plat after City Council approval of the preliminary plat). If you have any questions regarding these comments, please feel free to contact me at any time.

Thank you,



Cale Brodersen, AICP
Associate City Planner
City of La Vista
cbrodersen@cityoflavista.org
(402) 593-6400

CC:

Casey Fenton, Fenton Construction

Bruce Fountain, Community Development Director – City of La Vista

Chris Solberg, Deputy Community Development Director – City of La Vista

Pat Dowse, City Engineer – City of La Vista

Garrett Delgado, Engineer Assistant – City of La Vista

VIA Email

February 15, 2024

14710 W. Dodge Rd., Ste. 100
Omaha, NE 68154
[P] 402.496.2498
[F] 402.496.2730
LampRynearson.com

Cale Brodersen, AICP
Associate City Planner
City of La Vista
8116 Park View Blvd
La Vista, NE 68128

REFERENCE: AD Industrial Park
Review Comments – Preliminary Plat & PUD Applications (2nd Review)
Job No. 0123094.01-003

Dear Mr. Brodersen:

Submitted herewith are our responses to comments received from City of La Vista Planning Department, letter dated February 2, 2024, for the submittal of the Preliminary Plat and PUD Applications for the AD Industrial Park project, located near Highway 50 and Chandler Road.

City of La Vista Planning Department Comments

Preliminary Plat Application

1. Please include in the environmental documentation and/or PUD submittals confirmation that development on Lots 4, 5 and 6 meet or exceed the 3:1 +50' major stream setback as defined in Exhibit B of the 2019 Papillion Creek Watershed Partnership Interlocal Agreement.

Response: Major setback lines for the 3:1 +50' have been added to the PUD Grading, Site, PCSMP and Utility Plans showing the 3:1 + 50' does not intersect proposed development inside Lots 4, 5, and 6. Additionally, the 3:1 + 50' line has been added to the Preliminary Plat Storm Sewer, Grading and Erosion Control Plan, Paving and Sanitary Plan, and PCSMP Plan as well.

2. Please review and revise the traffic impact analyses as to incorporate the comments of Sarpy County and Nebraska Department of Transportation (NDOT). It would appear comments regarding the existing traffic signal configuration at the intersection of 144th Street and Chandler Road, and the future lane configuration (4 lanes vs. 6 lanes) of HWY 50/144th Street will likely modify the current and projected Level of Service. Upon further review, the City may still engage a review with the City's 3rd party reviewer. Copies of the responses from Sarpy County and NDOT have been attached to this letter for your review.

Response: An updated Traffic Impact Analysis has been included with the resubmittal addressing the comments provided by NDOT and JEO. Comment responses for the Traffic Study comments provided are included in the NDOT matrix format for ease of resubmittal to NDOT. A copy of the filled-out comment matrix is included with the resubmittal documents.

3. In review of the provided Private Crossing Agreements for the two (2) private rail crossings, it would appear such crossing agreement is valid for 25 years. What are the provisions/assurances to ensure that the lots south of said crossings will be accessible into perpetuity?

Response: The crossing agreement is for the upgrade of the physical crossing, which is the concrete panels which are to be installed. The 25-year time period is consistent with the expected lifespan of the concrete crossing panels, and is the period the railroad will assume maintenance of the privately constructed panels. After the 25-year period, the railroad will no longer assume maintenance, and if replacement is needed due to their condition, the current owners of Lots 4, 5 and 6 will need to seek replacement and a new Private Crossing Agreement. The actual crossing right is already in existence as the railroad makes Lots 4, 5, and 6 landlocked and inaccessible without crossing the railroad ROW. The existing grant of access is being utilized. The railroad has reviewed and approved the improvements to the existing access indicates they agree with the existence of the permanent access points.

Planned Unit Development Application

4. The boundaries of the PUD Site Plans within the submittal package are not contiguous. The boundaries of the PUD Site Plan set should match that of the PUD district boundary set within the Zoning Map Amendment approved by the City Council on November 21, 2023. Attached is an excerpt from the City Council packet that depicts the PUD district boundary as contiguous, crossing over the railroad along the eastern edge of Lot 2 in the submitted plan set.

Response: PUD limit has been redrawn to be continuous located along the eastern edge of Lot 3 projected across the Railroad ROW. The owner does not desire to include Lot 2 in the PUD.

5. In review of the provided Private Crossing Agreements for the two (2) private rail crossings, it is not clear if the oncoming trains will sound horns in advance of the crossing. Does BNSF typically sound ahead of private crossings, or is that practice for public crossings?

Response: Federal Railroad Administration regulations require horn sounding occurs at all public at grade crossings. This crossing is currently a private crossing, so a sounding of the horns would not appear to be required by regulation. Ultimately the decision for the operation of trains through this corridor will be solely at the discretion of the railroad. The applicant does not intend to seek any non-standard horn sounding practices from the railroad for these crossings.

6. Please provide details on how the connection to public sanitary sewer is intended to be made. Be aware that pre- and post-connection inspection reports are to be submitted to the La Vista Public Works Department.

Response: It is anticipated each building service will tap into the existing interceptor sewer manholes for Lots 4, 5 and 6, and as necessary, include a manhole drop connection compliant with the City of Omaha Standard Plate 703-03. All connections shall be set to match crowns of the existing outflow pipe crown. For the connection to the existing City of La Vista sanitary sewer for Lots 1, 2 and 3 service, a connection will be made such that the tapping sewer enters the existing manhole above the shoulder of the manhole invert, approximately 0.5' above the outflow flowline. Existing manholes will be utilized as if the condition is deemed acceptable by the City and replaced with new structures should it be necessary. Pre and Post connection inspection reports will be submitted to the La Vista Public Works Department during design and after construction. All taps will be in accordance with City of Omaha Standard Plate 700-02.

7. To reiterate earlier discussions, the allowance for outdoor storage on the lots that are proposed south of the railroad tracks will be completed through the adopting PUD Ordinance. The ordinance will not allow for outdoor storage on the lots fronting Chandler Road on the north side of the railroad tracks.

Response: The applicant is in agreement with this statement.

8. Also please note the aforementioned PUD Ordinance will provide requirements for screening of the outdoor storage areas. A copy of the draft ordinance will be prepared prior to Planning Commission review.

Response: The applicant is in agreement with this statement.

General Development Comments

9. Although no landscaping is required to be depicted on proposed Lots 1-2 of this development through the PUD Landscaping Plan. Landscaping will still be required as per Section 7.17 of the Zoning Ordinance on Lot 2 and as per Section 7.17 of the Zoning Ordinance at the Gateway Corridor District on Lot 1.

Response: Agreed. Landscaping compliant with the applicable zoning ordinance and previously provided comments will be provided as part of building permit submittals for each lot as they are developed.

Documents included in this resubmittal are as follows (2 copies each):

1. Traffic Impact Analysis.
2. NDOT Comment Matrix.
3. Preliminary Plat PCSMP Plan.
4. Preliminary Plat Paving and Sanitary Sewer Plan.
5. Preliminary Plat Storm Sewer, Grading and Erosion Control Plan.
6. P.U.D. Site Plan.
7. P.U.D. Emergency Vehicle Access Exhibit.
8. P.U.D. Landscape Plan.
9. P.U.D. Post Construction Stormwater Management Plan.
10. P.U.D. Grading Plan.
11. P.U.D. Utility Plan.
12. Draft Subdivision Agreement.
13. Draft Subdivision Agreement Exhibits (8.5"x11"):
 - a. Surveyors Certificate.
 - b. Final Plat.
 - c. Post Construction Stormwater Management Plan.
 - d. Draft PCSMP Maintenance Agreement.
 - e. Draft Sewer Connection Agreement.

AD Industrial Park

2nd Review Comments – Preliminary Plat & PUD Applications

Job No. 0123094.01-003

February 15, 2024

Page 4 of 4

- f. Draft Easement Exhibits and Language.
- g. Draft Restrictive Covenants.

Please call if you have any questions or concerns regarding this submittal.

Sincerely,

LAMP RYNEARSON



Randy R. Kuszak, P.E.

Senior Project Manager

Kmp\L:\Engineering\0123094 Fenton 144th and Chandler\DOCUMENTS\LETTERS\RSP Brodersen Prelim & PUD Submittal 240215.docx

SUBDIVISION AGREEMENT
(AD INDUSTRIAL PARK)

**(Replat of part of That Pt of Tax Lot 19 lying N of RR ROW in the SE1/4 14-14-11
and That Pt Tax Lot 19 lying S of RR ROW in the S1/2 14-14-11, which shall
henceforth be replatted as
Lots 1-6 AD Industrial Park, Inclusive)**

THIS AGREEMENT, made this _____ day of _____, 2024, among Fenton Construction Inc., an Iowa corporation, (hereinafter referred to as "Subdivider"), and the City of La Vista, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, Subdivider is the owner of the land depicted or described in Exhibit "A" ("Property") and included within the proposed plat attached hereto as Exhibit "B" (hereinafter referred to as the "Replat or the Replatted Area". The Replat as finally approved by the City Council shall be referred to herein as the "final plat" or "Final Plat"); and,

WHEREAS, Subdivider will develop and construct buildings and other private improvements on the property in the Replatted Area in accordance with the Planned Unit Development Site Plan attached as Exhibit "C" and the Post Construction Stormwater Management Plan attached as Exhibit "D" and related exhibits ("Private Improvements"); and

WHEREAS, the Subdivider wishes to connect the system of sanitary sewers to be constructed within the Replatted Area to the sewer system of the City; and,

NOW, THEREFORE, IT IS AGREED by Subdivider, Developer and City as follows:

1. Replattings. Subject to the terms of this Agreement, That Pt of Tax Lot 19 lying N of RR ROW in the SE1/4 14-14-11 and That Pt Tax Lot 19 lying S of RR ROW in the S1/2 14-14-11 shall be replatted as Lots 1 through 6, inclusive, as more fully shown on Exhibit "B" (hereinafter the "Replat" or "Replatted Area"; and as finally approved by the City Council shall be referred to as the "final plat" or "Final Plat").
2. Drainage Calculations and Map. Developer shall provide drainage calculations and a drainage map for the Replatted Area for review and approval by the City's Engineer prior to execution of the final plat to the Subdivider demonstrating easements required to convey major storm sewer events (hundred year flood) over the surface of the property, in a form satisfactory to the City's Engineer. The City's release of the final plat shall be conditioned on Subdivider executing and delivering required easements in form and content satisfactory to the City's Engineer, which easements Subdivider will record with the final plat.

3. Storm Water Management Plan: Subdivider, at its sole cost, will comply with applicable requirements regarding storm water quality, storm water management, and weed and erosion control to the satisfaction of the City Engineer. Not in limitation of the foregoing sentence, post-construction storm water management features and related appurtenances shall be constructed on the Property, as shown on the Post Construction Storm Water Management Plan attached hereto as "Exhibit D." Plans and specifications for such storm water management improvements shall be prepared by Subdivider's engineer at Subdivider's sole cost and must be approved by the Public Works Department of City (City Engineer) prior to starting construction of such improvements.
4. Storm Water Management Plan Maintenance Agreement: A Post-Construction Storm Water Management Plan Maintenance Agreement ("Maintenance Agreement") in the form attached hereto as "Exhibit E" shall be entered into between Subdivider and City prior to starting construction of such improvements depicted in Exhibit "C", after City has approved the Exhibits to be attached thereto, including but not limited to the exhibit setting forth the BMP maintenance requirements, subject to any modifications to said Maintenance Agreement or Exhibits that the City Engineer determines necessary or advisable. It is understood and agreed by City and Subdivider that the final version of the Maintenance Agreement shall:
 - (A) identify that maintenance actions shall be private, and provide that all maintenance actions so identified shall be performed by the Subdivider at its expense,
 - (B) include provisions to control when post-construction storm water features are to be constructed,
 - (C) differentiate between the requirements of construction site storm water runoff controls and post-construction controls,
 - (D) provide that post-construction storm water features shall not be installed until such time as they will not be negatively impacted by construction site runoff, and
 - (E) provide that permanent storm water detention ponds, riser structures and discharge pipes may be constructed during grading operations.Such provisions shall run with the land and become the joint and several responsibility of all successors, assigns and future owners of the Replatted Area or any part thereof.
5. Watershed Management Fees: The Subdivider shall make payment to City for Watershed Fees. This fee for the Property shown on "Exhibit A" (example shown below this paragraph) shall be computed in accordance with applicable provisions of the Master Fee Schedule set forth in the Master Fee Ordinance, as amended from time to time. Payment must be made to City's Community

Development Department before a building permit will be issued to construct improvements on any lot and before the commencement of construction of any such improvements. Payment shall be based on the City's adopted fee rate that is in effect at the time the payment is made.

Lot 1, AD Industrial Park	6.615 ± AC @ \$5,478/AC	\$36,236.97
Lot 2, AD Industrial Park	5.138± AC @ \$5,478/AC	\$28,145.96
Lot 3, AD Industrial Park	5.136 ± AC @ \$5,478/AC	\$28,135.01
Lot 4, AD Industrial Park	13.150 ± AC @ \$5,478/AC	\$72,035.70
Lot 5, AD Industrial Park	15.027 ± AC @ \$5,478/AC	\$82,317.91
Lot 6, AD Industrial Park	12.277 ± AC @ \$5,478/AC	\$67,253.41

Total \$314,124.96

The aforestated fee of \$5,478 per acre is the rate now in effect and is subject to increase. The rate in effect at time of building permit application will be the rate paid.

6. Site Approval Precondition to Building Permit. Nothing herein shall be deemed a waiver or lessening of any of City's requirements for City approved site plan for any building prior to the issuance of a building permit therefor.
7. Public Access Roads or Driveways. Direct vehicular access to abutting streets shall be limited as indicated on the Replat, as finally approved by the City in the final plat. Roads and driveways identified in Exhibit "C" for use of the public shall be constructed to City approved specifications and shall not be less than nine inches (9") P.C. concrete paving. The City shall have access to and over such roadways and driveways for any purpose it deems appropriate in the exercise of its general governmental powers, including but not limited to, inspection, police, fire and rescue and other public safety purposes, and the exercise of all rights granted to City by the terms of the Subdivision Agreement.
8. Staking Bond. Developer shall provide the City a staking bond satisfactory to City Engineer prior to City's release of the final plat of the Replatted Area.
9. Tract Sewer Connection Fees. Developer agrees that the terms and conditions for the benefit of the City that are contained in the separate Sewer Connection Agreement referred to within Exhibit "F" as pertaining to the sanitary sewer system, shall be incorporated into this Agreement to the same extent as if fully set forth herein and equally applicable to the private sanitary sewer provided for herein and enforceable by City in respect thereto to the same extent as though the private sewer had originally been incorporated and made a part of said agreements. Arrangements and/or agreements must be made with the City of Omaha to ensure sewer service will be supplied to Lots 4-6 AD Industrial Park, prior to execution of the Sewer Connection Agreement and this Subdivision Agreement with the City of La Vista. Tract sanitary sewer connection fees shall be due and payable to the City (and to the City of Omaha, where applicable) in the following amounts prior to the issuance of a building permit for a particular lot:

Lot 1, AD Industrial Park	6.615 ± AC @ \$7,777/AC	\$51,444.86
Lot 2, AD Industrial Park	5.138± AC @ \$7,777/AC	\$39,958.23
Lot 3, AD Industrial Park	5.136 ± AC @ \$7,777/AC	\$39,942.67
Lot 4, AD Industrial Park	13.150 ± AC @ \$7,777/AC	\$102,267.55
Lot 5, AD Industrial Park	15.027 ± AC @ \$7,777AC	\$116,864.98
Lot 6, AD Industrial Park	12.277 ± AC @ \$7,777/AC	\$95,478.23

Total \$445,956.52

The aforestated fee of \$7,777 per acre is the rate now in effect and is subject to increase. The rate in effect at time of connection to the sanitary sewer system will be the rate paid. Rates for the City of Omaha may differ for Lots 4-6 AD Industrial Park, if applicable.

10. Infrastructure to be at Private Expense. The cost of all infrastructure, improvements and easements within and serving the Replatted Area, including but not limited to parking and internal street improvements, ingress and egress, sanitary sewer, storm sewer, power, CATV, gas, water and cost of connection to external infrastructure shall be constructed and maintained at private expense and the sole cost and expense of Subdivider and any successor or assign of Subdivider to ownership of any lot within the Replatted Area, and no part thereof shall be the responsibility of or at the expense of the City.
11. Easements. All proposed easements by the Subdivider, and easements required by the City, as set forth in Exhibit "G," for existing, proposed, or relocated public or private or shared improvements (sewers, utilities, roads or other infrastructure) shall be granted by instruments separate from the final plat, in form and content satisfactory to the City Engineer ("Easements"). Release of the final plat for recording shall be conditioned on execution and delivery of Easements for recording. The Easement documents shall outline rights, obligations and terms of the easements. Easements shall be recorded at the time of recording the final plat and copies of recorded Easements shall be provided to the City. Any proposed modification of any Easements shall be subject to approval of, and in form and content satisfactory to, the City Engineer, and recording of the modification by the Subdivider immediately after said appeal is provided.
12. Special Assessments. The lots within the Replatted Area are subject to special assessments that have been levied. Prior to delivery of the plat to Developer, Developer shall have either (1) paid all installments and accrued interest on such special assessments in full, or (2) have paid the principal and all accrued interest to date on delinquent installments and shall have reapportioned the remaining principal and interest thereon to the lots as configured by the final plat. Such reapportionment shall be computed in a manner acceptable to the City Engineer. Such written reapportionment agreement and recording thereof with the County Treasurer's written acceptance thereof shall be provided to City by Subdivider at Subdivider's expense.

13. Ownership Representation. Casey Fenton, by signing below and the Final Plat of AD Industrial Park, does warrant and represent that it has executed the Final Plat by and through an authorized person, and that it is and shall continue to be the sole owner of 100% of the Replatted Area at date of execution of this Agreement and at date of recording the final plat.
14. Restrictive Covenants. Subdivider submitted proposed Declaration of Covenants, Conditions and Restrictions for AD Industrial Park, which are attached as Exhibit "H" ("Covenants"). As a condition of releasing the final plat to Subdivider for recording, the Covenants, with such modifications as the City Engineer determines necessary or advisable, shall be executed and recorded by Subdivider as Declarant and sole owner of property in the Replatted Area. The Covenants, in addition to provisions expressly set forth therein, shall be deemed to include covenants of required compliance with all federal, state, county and city ordinances and regulations applicable to the property within the Replatted Area, this Agreement and other applicable requirements ensuring maintenance of infrastructure improvements. If Subdivider fails to timely and fully perform any of the Covenants regarding maintenance of the Replatted Area, the City, at its option but without any duty, may itself take such curative or remedial action as it determines appropriate, or cause such action to be taken, and assess any cost thereof against the Subdivider and applicable property.
15. Covenants Running With the Land. The final plat and this Agreement and the obligations, understandings and agreements contained or incorporated herein constitute perpetual covenants running with the land, shall be recorded with the Register of Deeds of Sarpy County, Nebraska, and shall be binding, jointly and severally, upon the Subdivider, Developer and Association, and all of their respective successors, assigns, lenders, mortgagees or others gaining or claiming any interest or lien in, to or against any property within the Replatted Area. The covenants herein shall be cumulative to, and not in lieu of, prior covenants running with the land, except to the extent this Agreement requires additional, greater or a higher standard of performance by Subdivider, Developer or Association. City shall have the right, but not the obligation, to enforce any and all covenants. It is further agreed that after City releases the final plat and this Agreement for recording, Subdivider promptly will record the same, along with any other documents or instruments required to be recorded, with the Register of Deeds of Sarpy County, Nebraska. It is expressly agreed, however, that City shall not release the final plat or this Agreement for recording until City is satisfied that Subdivider and Developer have concluded (closed), or made arrangements satisfactory to the City to conclude (close), their respective transactions requiring the actual construction of Private Improvements within the Replatted Area. It is further expressly agreed that, if the condition described in the immediately preceding sentence has not occurred within twelve (12) months after the date of this Subdivision Agreement, neither Subdivider nor Developer shall be entitled without the written consent of the City and any amendments of this Agreement or the Replat as the City Engineer determines necessary, to move forward with the project. Provided, however, the City Administrator periodically may extend the time for performance under this Section 15.

16. Right to Enforce. Provisions of this Agreement may be enforced at law or in equity by the owners of land within the Replatted Area and may be enforced by the City at law, in equity or such other remedy as City determines appropriate. All rights and remedies of a party, whether specified in this Agreement or otherwise provided, are cumulative.
17. Incorporation of Recitals. Recitals at the beginning of this Agreement are incorporated into this Agreement by reference.
18. Nondiscrimination. Notwithstanding anything in this Agreement to the contrary, (i) each party agrees that neither it nor any subcontractor of the party shall discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to the employee's or applicant's hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, age, sex, disability, or national origin; and (ii) the City is a recipient of federal funds, and as a result all required contractual provisions related to such federal funds shall be deemed incorporated into this Agreement by this reference and binding upon the parties.
19. Assignment. This Agreement may not be assigned by any party without the express written consent of all parties.
20. Entire Agreement. This Agreement represents the entire agreement and understanding, and supersedes all prior understandings and agreements, written or oral, of the parties with respect to the matters contained herein. The Agreement only may be amended by a written amendment executed by all parties.
21. Severability. If any part of this Agreement is held by a court of competent jurisdiction to be illegal or unenforceable, the illegality or unenforceability shall not affect the remainder of this Agreement, and this Agreement shall be construed as if such illegal or unenforceable provision had never been included herein.
22. Exhibit Summary. The Exhibits proposed by Lamp Rynearson Inc., engineers for the Developer, attached hereto and incorporated herein by this reference and made a part hereof, are as follows:
- | | |
|--------------|---|
| Exhibit "A": | Land survey certificate showing boundary area to be replatted inclusive of drawing and legal description. |
| Exhibit "B": | Final Plat of the area to be developed. |
| Exhibit "C": | Planned Unit Development Site Plan |
| Exhibit "D": | Post Construction Storm Water Management Plan |
| Exhibit "E": | Post-Construction Storm Water Management Plan |
| | Maintenance Agreement |
| Exhibit "F": | Sewer Connection Agreement |
| Exhibit "G": | Easements |
| Exhibit "H": | Declaration of Covenants, Conditions and Restrictions for AD Industrial Park |

IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures the day and year first above written.

Owner:

Fenton Construction, Inc.

By:

Its President: Casey Fenton

Date: _____

ACKNOWLEDGMENT OF NOTARY

STATE OF _____

COUNTY OF _____

)
) ss.
)

On this _____ day of _____, 2024, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Casey Fenton, personally known by me to be the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed, and the voluntary acts and deeds of said Partnership and Company.

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

Notary Public

City of La Vista, Nebraska:

Douglas Kindig
Mayor

Attest:

Pamela Buethe, MMC
City Clerk

ACKNOWLEDGMENT OF NOTARY
STATE OF NEBRASKA
COUNTY OF SARPY

On this _____ day of _____, 2024, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Douglas Kindig, personally known by me to be the Mayor of the City of La Vista and Pam Buethe, to me personally known to be the City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed, and the voluntary act and deed of said City.

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

Notary Public

EXHIBIT “A”

DRAFT

LAND SURVEYOR'S CERTIFICATE

SECTION CORNER TIES

NW CORNER SW 1/4 SECTION 14, T14N, R11E
FOUND 2" BRASS CAP

- NWW 79.08' TO A SET "X" IN THE SOUTH RIM OF A CURB INLET MH
- NNE 67.15' TO A SET "X" IN THE SOUTH RIM OF A CURB INLET MH
- EAST 48.65' TO THE TOP NUT OF A FIRE HYDRANT
- SE 54.88' TO A SET "X" IN THE NW RIM OF A UTILITY MH
- SW 85.61' TO A SET PUNCH MARK IN THE NE BOLT COVER OF A LIGHT POLE

NE CORNER SW 1/4 SECTION 14, T14N, R11E
FOUND 2" BRASS CAP STAMPED "SARPY"

- NW 46.98' TO THE NAIL IN THE CORNER FENCE POST
- NWW 50.05' TO THE TOP OF A GALVANIZED POST IN THE HEADWALL (WEST SIDE)
- NNE 42.70' TO THE TOP OF A GALVANIZED POST IN THE HEADWALL (EAST SIDE)
- SE 38.11' TO THE CENTER OF A MH LID
- SOUTH 5.90' TO THE BACK OF CURB OF CHANDLER STREET

NE CORNER SE 1/4 SECTION 14, T14N, R11E
FOUND 2" BRASS CAP

- NW 92.10' TO A PUNCH MARK IN THE SE BOLT COVER OF SIGN BASE
- NE 83.71' TO A SET PUNCH MARK IN THE SW BOLT COVER OF A SIGN BASE
- SE 88.16' TO A CHISELED "X" IN THE NORTH SIDE OF A METAL SIGNAL BASE
- SW 85.83' TO A CHISELED "X" IN THE EAST SIDE OF A METAL SIGNAL BASE

SE CORNER SE 1/4 SECTION 14, T14N, R11E
FOUND 2" BRASS CAP STAMPED LS-729

- NW 89.49' TO A SET CHISELED "X" IN THE EAST SIDE OF A TRAFFIC SIGNAL BASE
- NE 88.76' TO A CHISELED "X" IN THE WEST SIDE OF A TRAFFIC SIGNAL BASE
- SE 95.95' TO A CHISELED "X" IN THE WEST SIDE OF A TRAFFIC SIGNAL BASE
- SE 88.77' TO A CHISELED "X" IN THE NORTH SIDE OF A TRAFFIC SIGNAL BASE



SCALE: 1" = 300'

**LAMP
RYNEARSON**

LAMPRYNEARSON.COM

OMAHA, NEBRASKA
14710 WISCONSIN AVENUE, SUITE 2400
NE AUTHORITY NO.: C401320

FORT COLLINS, COLORADO
4715 INNOVATION DR, STE. 100 (970) 228-0342

KANSAS CITY, MISSOURI
6001 STATE LINE RD, STE. 200 (816) 361-0440

MO AUTH. NO.: E-2013011903 (816) 361-04327

PROPERTY LINE

LOT LINE

SECTION LINE

MONUMENT SET (5/8" REBAR W/
1 1/4" YPC STAMPED LS-692)

MONUMENT FOUND

SECTION CORNER

COMPUTED CORNER

WITNESS CORNER

MEASURED DIMENSION

RECORD DIMENSION PER
WILLIAM P. DORNER LS-217

SURVEY DATED MAY 16, 1972

PLAT DIMENSION

COMPUTED DIMENSION

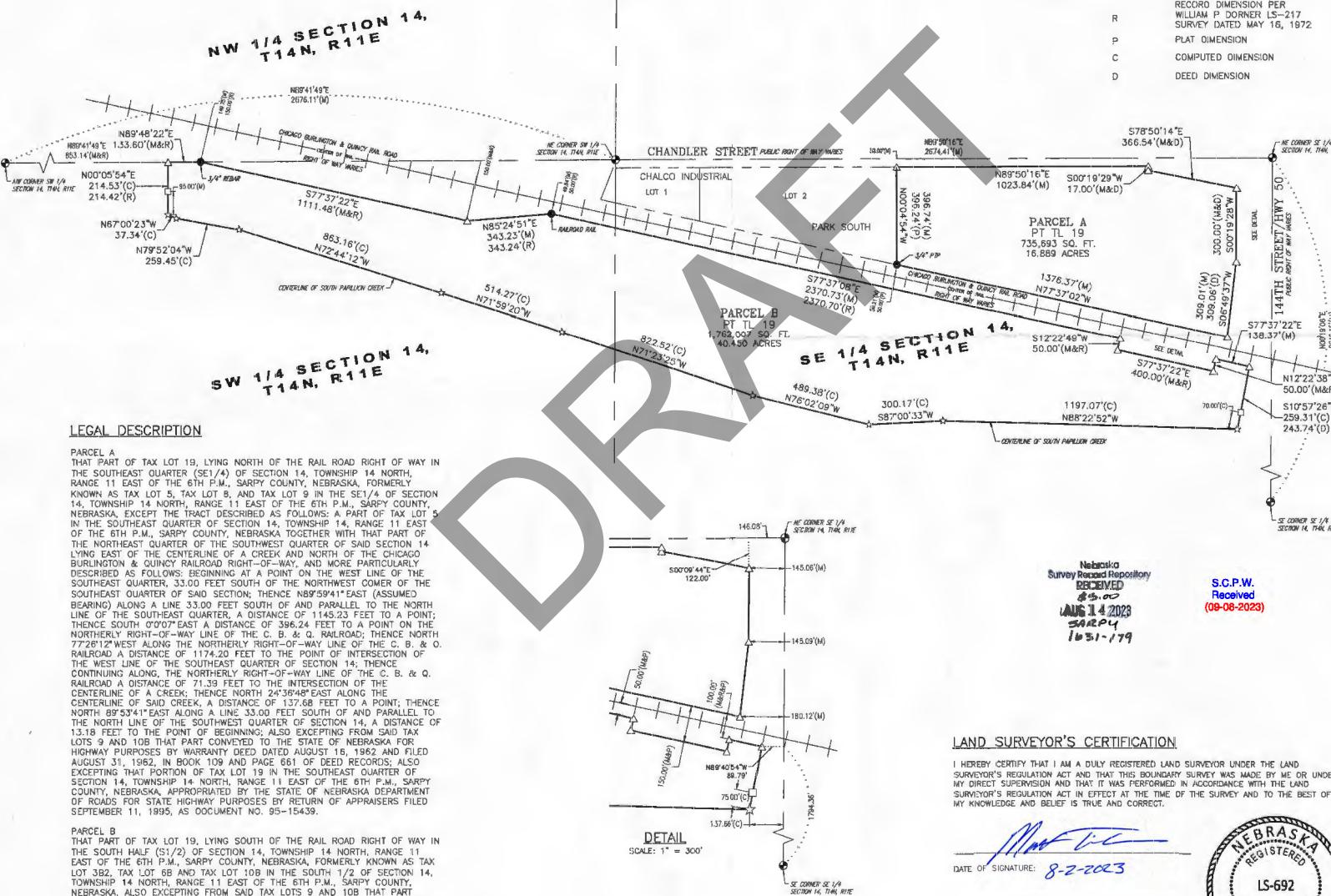
DEED DIMENSION

MATTHEW R. TINKHAM

LS-498

LAND SURVEYOR'S
CERTIFICATE

PART OF TAX LOT 19 PARCELS AND B
144TH AND CHANDLER STREET, OMAHA, NEBRASKA



Nebraska
Survey Record Repository

RECEIVED

85.00

AUG 14 2023

SARPY

1051-179

S.C.P.W.
Received

(09-08-2023)



Know what's below.
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REVISIONS

DESIGNER / DRAFTER

MATTHEW R. TINKHAM / BRYSON T. KELLER
DATE

08/02/2023

PROJECT NUMBER

0123094.01

BOOK AND PAGE

20066, 12-13

SHEET



EXHIBIT A

1 OF 1

EXHIBIT “B”

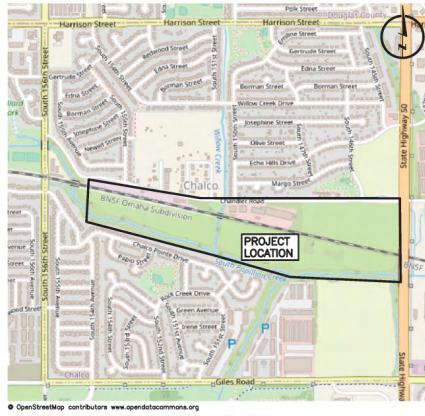
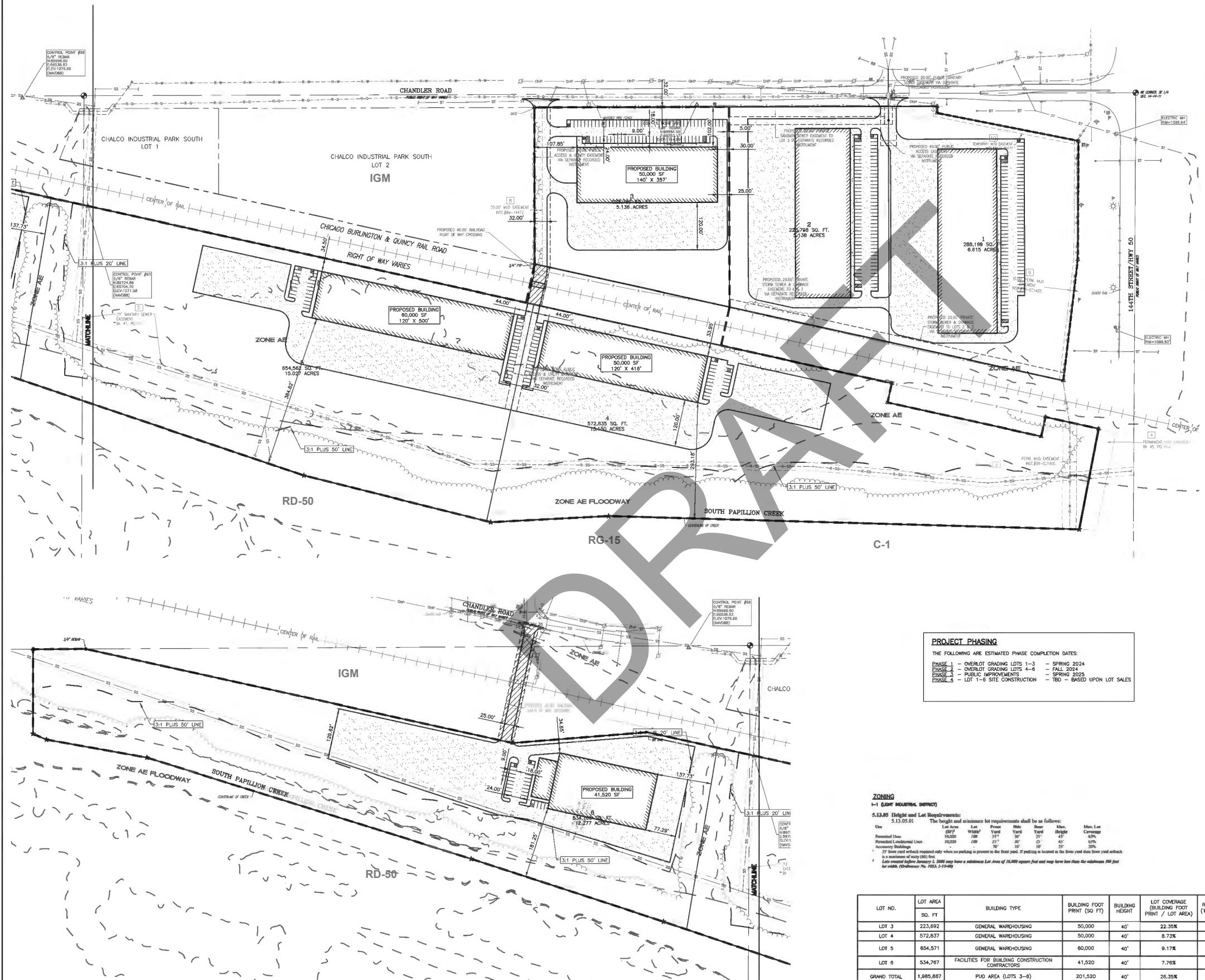
DRAFT

EXHIBIT “C”

DRAFT

AD INDUSTRIAL PARK

LOTS 1 THROUGH 6, INCLUSIVE, BEING A PLATTING OF PART OF TAX LOT 19 IN THE SOUTH HALF OF SECTION 14,
TOWNSHIP 14 NORTH, RANGE 11 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA



**LAMP
RYNEARSON**

LAMPYRNPEARSON.COM
OMAHA, NEBRASKA
1470 W. DODGE STE. 100 (402) 468-2408
NE AUTHORIZATION NO.: CA0130
FORT COLLINS, COLORADO
4715 INNOVATION DR., STE. 100 (970) 226-0342
KANSAS CITY, MISSOURI
9001 STATE LINE RD., STE. 200 (816) 361-0440
MO AUTH. NO.: E-2013011903 | LS-2019043127



Preliminary

NOT RELEASED FOR CONSTRUCTION
RANDALL R. KUSZAK

THE JOURNAL OF CLIMATE

PUD SITE PLAN

AD INDUSTRIAL PARK
SARPY COUNTY, NEBRASKA

ZONING

LOT ND.	LOT AREA SO. FT	BUILDING TYPE	BUILDING FOOT PRINT (SO. FT)	BUILDING HEIGHT	LOT COVERAGE (BUILDING FOOT PRINT / LOT AREA)	REQUIRED PARKING (1 SPACE/3000 SF)	PROVIDED PARKING	REQUIRED ACCESSIBLE STALLS	PROVIDED ACCESSIBLE STALLS
LDT 3	223,692	GENERAL WAREHOUSING	50,000	40'	22.35%	17	79	4	4
LOT 4	572,837	GENERAL WAREHOUSING	50,000	40'	8.73%	17	36	2	2
LDT 5	854,571	GENERAL WAREHOUSING	60,000	40'	9.17%	20	38	2	2
LDT 6	534,767	FACILITIES FOR BUILDING CONSTRUCTION CONTRACTORS	41,520	40'	7.76%	14	26	2	2
GRAND TOTAL	1,985,857	PUD AREA (LOTS 3-6)	201,520	40'	26.35%	68	179	10	10



Now what's below.
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ITIONS

10 of 10

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DESIGNER / DRAFTER

■ **ENVIRONMENT** **Energy** **Health** **Policy** **Politics** **Science**

04-2023

5094.01-003

1

1 OF 1

EXHIBIT “D”

DRAFT

EXHIBIT “E”

DRAFT

POST CONSTRUCTION STORMWATER MANAGEMENT PLAN MAINTENANCE AGREEMENT AND EASEMENT

LAV-20230823-7075-P

WHEREAS, Fenton Construction, Inc. (hereinafter referred to as Property Owner) recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development located at Lots 1 through 6 inclusive, AD Industrial Park in the zoning jurisdiction of the City of La Vista, Sarpy County, Nebraska; and,

WHEREAS, the Property Owner (whether one or more) is the owner of the property described on Exhibit "A" attached hereto (hereinafter referred to as "the Property"), and,

WHEREAS, the City of La Vista (hereinafter referred to as "the City") requires and the Property Owner, and its administrators, executors, successors, heirs, tenants or assigns, agree that the health, safety and welfare of the citizens of the City require that the facilities be constructed and maintained on the property, and,

WHEREAS, the Post Construction Stormwater Management Plan, (hereinafter referred to as "PCSMP"), shall be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the covenants contained herein, and the following terms and conditions, the Property Owner agrees as follows:

1. The facility or facilities shall be constructed by the Property Owner in accordance with the PCSMP, which has been reviewed and accepted by the City of La Vista or its designee.
2. The Property Owner must develop and provide the "BMP Maintenance Requirements", attached here to as Exhibit "B", which have been reviewed and accepted by the City of La Vista or its designee. The BMP Maintenance Requirements shall describe the specific maintenance practices to be performed for the facilities and include a schedule for implementation of these practices. The BMP Maintenance Requirements shall indicate that the facility or facilities shall be inspected by a professional qualified in stormwater BMP function and maintenance at least annually to ensure that it is operating properly. A written record of inspection results and any maintenance work shall be maintained and available for review by the City. Records shall be maintained for a period of three years.
3. The Property Owner, its administrators, executors, successors, heirs, or assigns, shall construct and perpetually operate and maintain, at its sole expense, the facilities in strict accordance with the attached BMP Maintenance Requirements accepted by the City of La Vista or its designee.
4. The Property Owner, its administrators, executors, successors, heirs, tenants or assigns hereby grants permission to the City, its authorized agents and employees, to enter upon the property and to inspect the facilities whenever the City deems necessary. The City shall provide the Owner copies of the inspection findings and a directive to commence with the repairs if necessary. The City will require the Property Owner to provide, within 7 calendar days from the date of City's written directive, a written response addressing what actions will be taken

to correct any deficiencies and provide a schedule of repairs within a reasonable time frame. Whenever possible, the City shall provide notice prior to entry. The City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent or intentional acts during such entry upon the property.

5. The Property Owner its administrators, executors, successors, heirs, tenants or assigns, agrees that should it fail to correct any defects in the facility or facilities within reasonable time frame agreed to in the response by the Property Owner for corrective actions, or shall fail to maintain the structure in accordance with the attached BMP Maintenance Requirements and with the law and applicable executive regulation or, in the event of an emergency as determined by the City or its designee in its sole discretion, the City or its designee is authorized to enter the property to make all repairs, and to perform all maintenance, construction and reconstruction as the City or its designee deems necessary. Notwithstanding the foregoing, the City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent or intentional acts during such entry upon the property.
6. The City or its designee shall have the right to recover from the Property Owner any and all reasonable costs the City expends to maintain or repair the facility or facilities or to correct any operational deficiencies subject to the provisions of the immediately preceding sentence relating to negligence or intentional acts of the City. Failure to pay the City or its designee all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The City or its designee shall thereafter be entitled to bring an action against the Property Owner to pay, or foreclose upon the lien hereby authorized by this agreement against the property, or both. Interest, collection costs, and reasonable attorney fees shall be added to the recovery to the successful party.
7. The Property Owner shall not obligate the City to maintain or repair the facility or facilities, and the City shall not be liable to any person for the condition or operation of the facility or facilities.
8. The Property Owner, its administrators, executors, successors, heirs, or assigns, hereby indemnifies and holds harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the City from the construction, presence, existence or maintenance of the facility or facilities by the Property Owner. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any suit based on such claim unless due solely to the negligence of the City in which event the City shall be required to defend any such suit at its own expense. Notwithstanding the foregoing, if any claims are made against both the City and the Property Owner, each will be required to defend any such suit or claim against it at its own expense. Each shall be responsible for payment of any recovery to the extent determined in such suit. If any judgment or claims against the City, its authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith except to the extent of the negligence or intentional act of the City.
9. The Property Owner shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law.

10. This Agreement shall be recorded with the Register of Deeds of Sarpy County, Nebraska and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners or business association and any other successors in interest.

IN WITNESS WHEREOF, the Property Owner (s) has/ have executed this agreement this day of _____, 2024.

INDIVIDUAL, PARTNERSHIP and/or CORPORATION

Fenton Construction, Inc.

Name of Individual, Partnership and/or Corporation

Casey Fenton

Name

Owner

Title

Signature

Name of Individual, Partnership and/or Corporation

Name

Title

Signature

ACKNOWLEDGMENT

State

County

On this _____ day of _____, 20____ before me, a Notary Public, in and for said County, personally came the above named: Casey Fenton

who is (are) personally known to me to be the identical person(s) whose name(s) is (are) affixed to the above instrument and acknowledged the instrument to be his, her (their) voluntary act and deed for the purpose therein stated.

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

Notary Public

LAND SURVEYOR'S CERTIFICATE

SECTION CORNER TIES

NW CORNER SW 1/4 SECTION 14, T14N, R11E
FOUND 2" BRASS CAP

- NWW 79.08' TO A SET "X" IN THE SOUTH RIM OF A CURB INLET MH
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SCALE: 1" = 300'

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14710 WISCONSIN AVENUE, SUITE 2400
NE AUTHORITY NO.: C401320

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KANSAS CITY, MISSOURI
6001 STATE LINE RD, STE. 200 (816) 361-0440

MO AUTH. NO.: E-2013011903 (816) 361-0432

PROPERTY LINE

LOT LINE

SECTION LINE

△ MONUMENT SET (5/8" REBAR W/
1 1/4" YPC STAMPED LS-692)

● MONUMENT FOUND

SECTION CORNER

COMPUTED CORNER

WITNESS CORNER

MEASURED DIMENSION

RECORD DIMENSION PER
WILLIAM P. DORNER LS-217

SURVEY DATED MAY 16, 1972

PLAT DIMENSION

COMPUTED DIMENSION

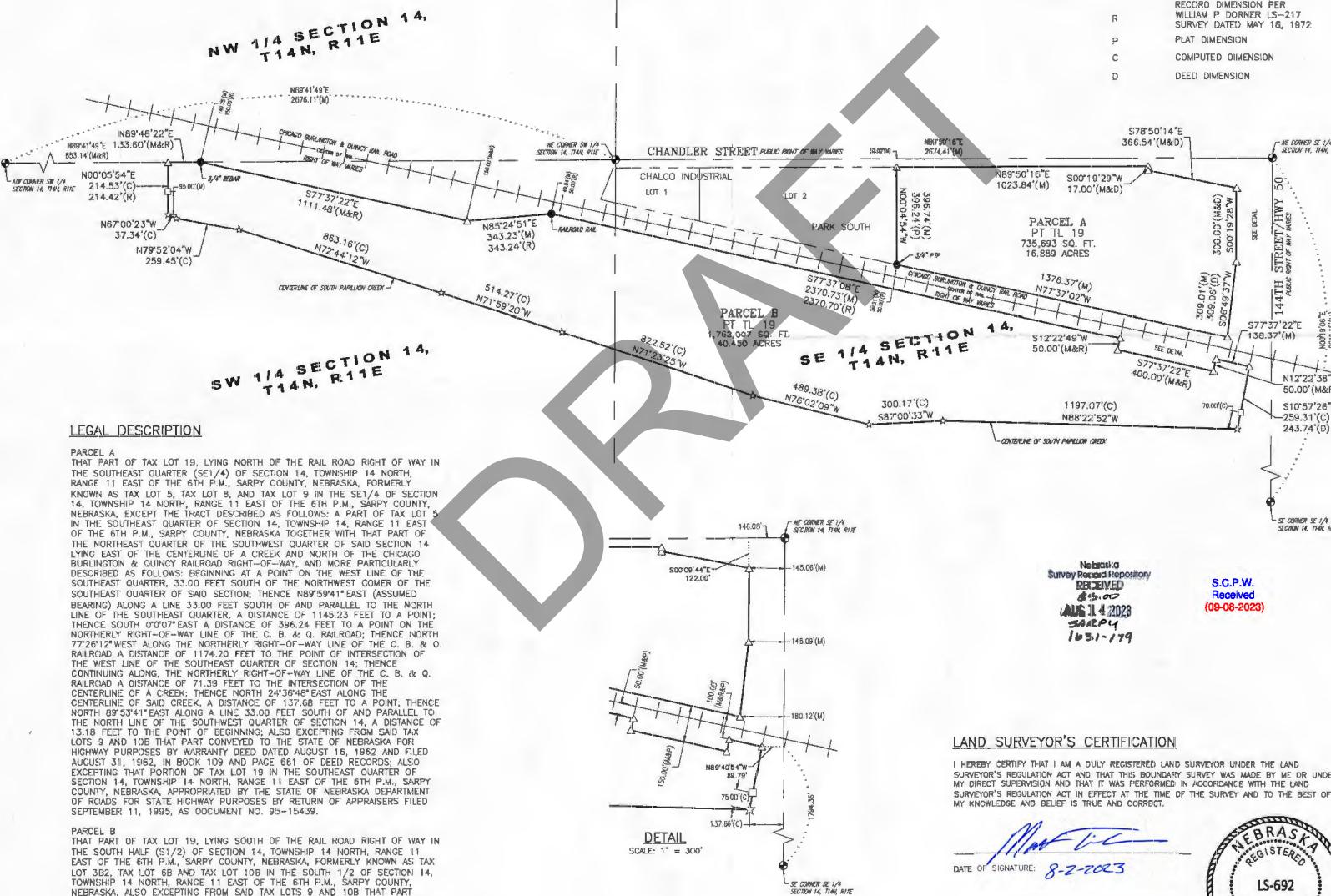
DEED DIMENSION

MATTHEW R. TINKHAM

LS-498

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CERTIFICATE

PART OF TAX LOT 19 PARCELS AND B
144TH AND CHANDLER STREET, OMAHA, NEBRASKA



Nebraska
Survey Record Repository

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AUG 14 2023

SARPY

1051-179

S.C.P.W.
Received

(09-08-2023)



Know what's below.
Call before you dig.

REVISIONS

DESIGNER / DRAFTER

MATTHEW R. TINKHAM / BRYSON T. KELLER
DATE

08/02/2023

PROJECT NUMBER

0123094.01

BOOK AND PAGE

20066, 12-13

SHEET



EXHIBIT A

1 OF 1

Exhibit “B”

BMP Maintenance Requirements

Name & Location

Project Name: AD Industrial Park
Address: 14607 Chandler Rd., La Vista, NE
PCWP Project Number: LAV-20230823-7075-P
PCSMP Project Number: LAV-20230823-7075-P

Site Data

Total Site Area: 57.3 Acre
Total Disturbed Area: 57.3 Acre
Total Undisturbed Area: 32.8 Acre
Impervious Area Before Construction: 0%
Impervious Area After Construction: 69%

BMP Information

BMP ID	TYPE OF BMP	Northing/Easting
TBD	Dry Detention	TBD

Routine Maintenance and Tasks Schedule

Dry Detention Basin/Pond Maintenance Tasks and Schedules

Task	Schedule
Remove debris and trash from trash rack and side slopes	Monthly
Outlet/inlet inspection and cleanout	Monthly
Bank mowing and inspection/stabilization of eroded areas	Monthly
Basin inspection and cleanout	Annually – remove sediment when 25% of storage volume has been lost
Remove woody vegetation along embankment	Annually
Inspect for structural damage	Annually
Inspect, exercise all mechanical devices	Annually
Repair broken pipes	As needed
Replace filtration riprap that has been choked with sediment	As needed
Security	As needed

Inspection Reports should be completed and kept on file with the Inspector and at the store location. Reports should be kept for a minimum of five years.

PCWP
Dry Detention Basin
Annual Inspection Form

BMP Identification: _____ Inspection Date: _____

Every response that is a 'yes' requires a corrective action, to whom the action is assigned, and the expected completion date of the assignment.

		Condition:	Outstanding (No Maintenance Needed) Satisfactory (Minor Maintenance Needed) Needs Improvement (Maintenance Needed) Not Applicable	
Inflow Points (Curb Cut, Daylight Pipe, Overland Flow, Etc.)				
Assessment	Yes/No	Corrective Actions	Assigned To	Expected Completion
Obstruction (vegetation/debris/sediment)				
Erosion/Undercutting				
Displacement/sedimentation of fabric/rip-rap/ proprietary matting				
Energy dissipation structural issues				
Comments				

		Condition:	Outstanding (No Maintenance Needed) Satisfactory (Minor Maintenance Needed) Needs Improvement (Maintenance Needed) Not Applicable	
Pre-Treatment Area (Forebay, Grass Swales, Etc.) As Applicable				
Assessment	Yes/No	Corrective Actions	Assigned To	Expected Completion
Sediment/debris accumulation				
Erosion/Undercutting				
Unwanted vegetation				
Flow is by-passing pretreatment				
Comments				

		Condition:	Outstanding (No Maintenance Needed) Satisfactory (Minor Maintenance Needed) Needs Improvement (Maintenance Needed) Not Applicable	
Embankment				
Assessment	Yes/No	Corrective Actions	Assigned To	Expected Completion
Erosion/Bare soil/Loss of dam material				
Unwanted vegetation present				
Animal burrows present				
Sparse/Unhealthy vegetative cover				
Signs of seepage on downstream face				
Comments				

		Condition:	Outstanding (No Maintenance Needed) Satisfactory (Minor Maintenance Needed) Needs Improvement (Maintenance Needed) Not Applicable	
Main Treatment Area				
Assessment	Yes/No	Corrective Actions	Assigned To	Expected Completion
Standing water (>3 days after storm)				
Sediment/debris accumulation				
Erosion/Undercutting				
Vegetation inadequately maintained				
Comments				

PCWP
Dry Detention Basin
Annual Inspection Form

		Condition:	Outstanding (No Maintenance Needed) Satisfactory (Minor Maintenance Needed) Needs Improvement (Maintenance Needed) Not Applicable			
Outflow Structure		Assessment	Yes/No	Corrective Actions	Assigned To	Expected Completion
Obstructed pipe/trash rack/draw down orifice						
Erosion present						
Joint failure/loss of joint material/soil piping						
Point of discharge not stabilized						
Displacement/sedimentation of fabric/rip-rap/ proprietary matting						
Comments						
Spillway		Assessment	Yes/No	Corrective Actions	Assigned To	Expected Completion
Eroded/Bare areas in spillway						
Unwanted vegetation						
Spillway obstructed						
Comments						
Miscellaneous		Assessment	Yes/No	Corrective Actions	Assigned To	Expected Completion
Access restricted (ex.fence, vegetation, etc.)						
Evidence of routine maintenance not being performed						
Issues with additional features (ex. walkways, fences, etc.)						
Is site modified from approved plan						
Comments						

Photographs:

Attach photographs of the site and BMP features using the photo log template attached. Include captions describing each photograph.

Additional Comments:

EXHIBIT “F”

DRAFT

AD INDUSTRIAL PARK, LOTS 1 THROUGH 6, INCLUSIVE
SEWER CONNECTION AGREEMENT
(Sanitary Sewer System)

THIS AGREEMENT, made and entered into in La Vista, Nebraska, on this _____ day of _____, _____, by and between the City of La Vista, a Municipal corporation in the State of Nebraska (hereinafter referred to as "City"), and Fenton Construction Inc., an Iowa Corporation (hereinafter referred to as "Owner");

WITNESSETH:

WHEREAS, the Owner has constructed or is contemplating constructing sanitary sewer services within AD Industrial Park, Lots 1 through 6, inclusive, a subdivision, shown on Exhibit "A" hereto; and

WHEREAS, Owner desires to provide for the flow, transportation and handling of sewage collected in or flowing into the sanitary sewer services constructed or to be constructed by it, and has requested the City to permit flowage thereof into the City sewerage system, and to provide for the processing of such sewage.

NOW, THEREFORE, in consideration of the mutual agreements and covenants of the parties hereto, the sufficiency of which is hereby acknowledged, it is agreed by and between the parties as follows:

I

For the purposes of this Agreement, the term "sewer system of the Owner" shall include, whether now in existence or hereafter constructed, all sanitary sewers, sanitary sewer services and appurtenances thereto which are shown on Exhibit "B" attached hereto.

For the purposes of this Agreement, the following, whether now in existence or hereafter constructed, shall be deemed a part of the sewer system of the City:

- A. Any sanitary sewer or system of sanitary sewers owned by the City; and
- B. Any sanitary sewer or system of sanitary sewers not a part of the sewer system of the Owner and not owned by City, but through which City has an easement, license or other right or other license to transport sanitary sewage.

II

Subject to the conditions and provisions hereinafter specified, the City hereby grants permission to the Owner to connect the sanitary sewer system of the Owner to the sanitary sewer system of the City in such manner and at such place or places as designated on plans submitted by the Owner and approved by the City.

III

Owner expressly promises, warrants, covenants and agrees that:

- A. The sewer system of the Owner will be constructed and, as required, reconstructed in strict accordance with the plans and specifications and location approved in writing by the City and in

strict accordance with the minimum standards and requirements of construction adopted by City.

- B. The sewer system of the Owner shall be designed and constructed, and as required reconstructed, at the expense of Owner and the property therein and at no expense to the City.
- C. The sewer system of the Owner shall comply with all applicable Federal and State laws and regulations in general and with all applicable laws and regulations of the City, with reference to use, operation and maintenance of the system.
- D. The sewer system of the Owner shall at all times be properly maintained and kept in good operating order and repair at no cost to City. The Owner's obligation in this connection shall survive the term of this Agreement to the extent provided in Paragraph IV, infra.
- E. In the event that City's engineers find that there is anything in the construction, maintenance or operation of the sewer system of the Owner which will, in the opinion of City's engineers, be detrimental to the proper operation of the sewer system of City, or any part thereof, the Owner will, on notice thereof, promptly correct said defect.
- F. In the event the Owner for any reason fails in any respect as to its covenants contained in this Paragraph III, then City may, at its option, perform such maintenance and repair or correct such defects and the Owner, upon written demand by City, shall promptly reimburse City for all work, services, materials and other expenses incurred or expended by City in connection therewith.
- G. At all times all sewage flowing into, passing through or from the sewer system of the Owner shall be in conformity with the ordinances, regulations and conditions applicable to sewage and sewers within the City, as they may change from time to time. In no event shall Owner, without prior written consent of City, permit or suffer any type of sewage to flow into, pass through or from the sewerage system of the Owner, in violation of such ordinances, regulations and conditions.
- H. In respect to any industrial use or connection to the sewer system of the Owner, the City may condition such approval upon such terms as it deems necessary to protect the sewer systems of the Owner and the City.

In furtherance of the foregoing, the Owner shall, whenever necessary, provide at their expense such preliminary treatment as may be necessary to meet the applicable ordinance, regulation or condition. Such preliminary treatment facilities shall be maintained continuously in satisfactory and effective operation at no expense to the City.

The Owner shall allow any duly authorized representative of City to enter upon such property at reasonable times for the purpose of inspection, observation, measurements, sampling and testing of sewage.

- I. The Owner shall not cause, suffer or permit to be connected to the sewer system of the Owner any sewer lines or sewers serving, directly or indirectly, any area outside its boundaries.
- J. The Owner is, or at time of construction will be, the Owner of the entire proposed sanitary sewer system situated within its boundaries.
- K. The Owner will indemnify and save harmless the City, its officers, employees and agents, from all construction costs, loss, damage, claims and liability of whatsoever kind or character due to or arising out of any acts, conduct, omissions or negligence of the Owner, its officers, agents, employees, contractors, subcontractors and anyone acting under the direction of the Owner, in doing any work or construction of the sewer system of the Owner, or by or in consequence of any performance of the obligations of this Agreement.

- L. The Owner shall promptly file all reports, pay all connection fees and perform all other obligations of the Owner provided for in this Agreement or otherwise required by state statutes or the City's ordinances as amended and supplemented from time to time.
- M. Subject to the provisions of Paragraph V, infra, the Owner is and shall be bound to and by any provisions of any ordinance, rule or regulation relating to sewer use fees provided for under said Paragraph V, infra, hereinafter made and adopted by City or Sarpy County.
- N. Any water distribution system serving the Owner shall be constructed and operated by the Metropolitan Utilities District.

IV

The herein granted easements and licenses to City and the herein contained covenants of perpetual maintenance and repair by the Owner shall be perpetual, notwithstanding the fact that this Agreement is for a term of 20 years.

V

Owner further expressly promises, warrants, covenants and agrees that no connection shall be made to the sewer system of the City until a permit therefore shall have been obtained from City and the appropriate connection fee paid to City. Owner shall:

- A. Require the person, firm or entity to whose property the connection is being made to:
 1. pay to City the applicable sewer connection fees as prescribed by the ordinances of the City of La Vista in effect at the time of the connection;
 2. obtain from the City a permit to so connect, as may be required by the ordinances of the City of La Vista in effect at the time of the connection.
- B. Enter into agreements as shall be necessary to:
 1. assure the said obtaining of a permit from City and payment of connection fees to City;
 2. require the disconnection of any connection made to the sewer system of the City which shall have been made without the proper permit from the City and payment of connection fees to City;
 3. assure that all connections to the sewer system of the City will be made in accordance with applicable ordinances, regulations and specifications.
- C. Upon the demand of City, the Owner shall pay to City the amount of any connection fee owing City for any connection to the sewer system of the Owner or of the City which shall not have been previously paid to the City by the person, firm or entity to whose property the connection shall have been made.
- D. Upon notice by City, the Owner shall immediately cause to be disconnected any connection to the sewer system which has been made without the required permit from the City or which is in contravention of the ordinances, regulations or specifications of the City of La Vista pertaining to sewer connections.

VI

The Owner shall facilitate collection of sewer service and sewer use fees as may be prescribed by City ordinance. Except as may be otherwise provided by City, such fees shall be based upon water consumption with chargeable water flow computed in the manner employed by Metropolitan Utilities District, which shall collect sewer service or use fees in conjunction with its collection of charges for water use.

VII

In the event of the Owner's breach of any of the terms and conditions hereof or any warranty or covenant herein made by the Owner, then:

- A. In the case of a breach of any term or condition, warranty or covenant, pertaining to the actual construction, reconstruction, repair, maintenance or operation of the sewer system of the Owner, Owner shall, within five (5) days from receipt of City's notice of such breach, commence to take corrective measures or such measures as may be reasonably requested by the City, and the Owner shall pursue with due diligence such corrective measures to completion as soon thereafter as possible to the reasonable satisfaction of City.
- B. In the case of any other type of breach by the Owner, the Owner shall cure said breach to the reasonable satisfaction of City within thirty (30) days from receipt of City's notice of such breach; provided however, that if the nature of Owner's breach is such that more than thirty (30) days are reasonably required for its cure, then the Owner shall not be deemed to be in breach if the Owner commenced such cure within thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- C. In the event the Owner shall fail to cure any breach within the applicable time and manner afore-prescribed, City may:
 1. Upon giving the Owner sixty (60) days notice of City's intent to do so, City may require the Owner to disconnect the sewer system of the Owner from the sewer system of the City, or the City may itself cause such disconnection to be made, if at the expiration of said sixty (60) day period the breach is not cured to the reasonable satisfaction of City. Any such disconnection shall be made at the expense of the Owner.
 2. In the event the breach pertains to the actual construction, reconstruction, repair, maintenance or operation of the sewer system of the Owner, City shall have the absolute right, at its option, to itself perform the work necessary for the requested corrective measures, or to complete the corrective measures commenced by the Owner, as the case may be, in either of which events the owner agrees:
 - (a) Owner shall immediately reimburse City for any and all expense incurred by City in connection therewith.
 - (b) Owner shall indemnify and hold harmless City, its officers, employees and agents, from any expenses, costs, claim, action, cause of action, or demand arising out of City's taking or completing said corrective measures.
 3. In addition to whatever other remedies are granted to City herein, City may avail itself of all other rights and remedies that City may have pursuant to any statute, law, or rule of law or equity, including, but not limited to the right to specifically enforce full compliance by the Owner of the terms and conditions of this Agreement, including all warranties and covenants and agreements herein made by the Owner, by both mandatory and prohibitory injunction.

VIII

The term of this Agreement shall be twenty (20) years from and after date hereof; provided, however, that unless one of the parties hereto shall advise the other party in writing of its desire not to do so, this Agreement shall be automatically renewed on the same terms and conditions as herein set forth for additional successive terms of twenty (20) years each. Said written advice shall be given at least six (6) months prior to the end of the original term or additional term, as the case may be, which said party giving such notice desires to be the final term of this Agreement. At the end of the final term of this agreement, whether same be at the end of the original term or at the end of a renewal term, Owner shall, at its own expense disconnect, reconstruct, remove or modify such sewer mains and sewer main connections as City shall deem necessary to prohibit the flow of Owner's sewage into the sewer system of City and to assure the City's continued use of the perpetual easements and licenses granted to it in this Agreement.

IX

The failure of either party to exercise its rights upon any default by the other shall not constitute a waiver of such rights as to any subsequent default.

X

A listing of the Schedule of Exhibits hereto is as follows:

Exhibit "A": Final Plat of AD Industrial Park, Lots 1 through 6
Exhibit "B": PUD Utility Plan; Illustration of Sewer system of the Owner

XI

If any provisions of this Agreement are held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions of this Agreement which can be given effect without the invalid or unconstitutional provision and to this end, each paragraph, sentence and clause of this Agreement shall be deemed severable; provided, however, that, If in the sole opinion of City, the removal or inoperative effect of any such provision so declared invalid or unconstitutional shall materially affect City's rights hereunder, then City may terminate this Agreement, effective as of the date of City's written notice; whereupon the Owner shall:

- A. Pay to City all sums due under the terms of this Agreement to City at the time of termination, including all connection fees and sewer use fees accrued as of said date.
- B. At Owner's own expense, disconnect, reconstruct, remove or modify such sewer mains and sewer main connections, as City shall deem necessary to prohibit the flow of the Owner's sewage into the sewer system of the City.

XII

Both parties acknowledge and agree that this written Agreement, including all exhibits hereto, constitutes the entire agreement of the parties and that there are no warranties, representations, terms or conditions other than those set forth herein.

XII

The provisions of this Agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures at La Vista, Nebraska, the day and year first above written.

ATTEST:

CITY OF LA VISTA, a municipal corporation
in the State of Nebraska

PAMELA BUETHE, CITY CLERK

DOUGLAS KINDIG, MAYOR

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA

COUNTY OF SARPY

On this _____ day of _____, 2024 before me, a
Notary Public, duly commissioned and qualified in and for Sarpy County, Nebraska
appeared Douglas Kindig, personally known by me to be the Mayor of the City of La Vista and Pamela
Buethe, to me personally known to be the City Clerk of the City of La Vista, the identical persons whose
names are affixed to the foregoing Agreement, and they acknowledged the execution therof to be their
voluntary act and deed.

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

Notary Public

Fenton Construction, Inc., an Iowa corporation

By: Casey Fenton

Its: President

ACKNOWLEDGEMENT OF NOTARY

STATE OF _____

)

COUNTY OF _____

) ss.

)

On this _____ day of _____, 2024 before me, a

Notary Public, duly commissioned and qualified in and for said County, appeared

_____, President of Fenton Construction, Inc., an Iowa corporation, personally known
to me to be identical person whose name is affixed to the foregoing Agreement, and acknowledged the
execution therof to be his voluntary act and deed, and the voluntary act and deed of said Company.

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

Notary Public

LOCATED IN:
1/4, 1/4, 14,
1/4, 1/4, 14,
1/4, SW 1/4, 14,
1/4, SW 1/4, 14.

MC

AD INDUSTRIAL PARK

LOTS 1 THROUGH 6, INCLUSIVE, BEING A PLATTING OF PART OF TAX LOT 19 IN THE SOUTH HALF OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 11 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA

2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

LEGI



LAND SURVEYOR'S CERTIFICATE

**LAMP
RYNEARSON**

LAMPYRNearson.com
OMAHA, NEBRASKA
14710 W. Dodge Rd., STE. 100 (402) 466-2498
NE AUTHORIZATION NO.: CA0115
FORT COLLINS, COLORADO
4715 INNOVATION DR., STE. 100 (970) 226-0342
KANSAS CITY, MISSOURI
9001 STATE DRS. RD., STE. 200 (816) 361-0440
MO AUTH. NO. E-2013011963 | LS-201043127

MATTHEW R. TINCHAM
LS-692

FINAL
PLAT

**AD INDUSTRIAL PARK, LOTS 1-6, INCLUSIVE
LA VISTA, SARPY COUNTY, NEBRASKA**

Know what's below.
Call before you dig.

REVISIONS

DESIGNER / DRAFTER
MATTHEW TINKHAM / RACHEL RENNECKER
DATE
2/2/2024
PROJECT NUMBER
0123094.01
BOOK AND PAGE

SHEET

1 OF

SARPY COUNTY TREASURER'S CERTIFICATE

REVIEW BY SARPY COUNTY PUBLIC WORKS

APPROVAL OF CITY OF LA VISTA PLANNING COMMISSION

APPROVAL OF CITY OF LA VISTA CITY COUNCIL

EXHIBIT “G”

DRAFT

**PERMANENT ACCESS AND UTILITY
EASEMENT AND MAINTENANCE AGREEMENT**

THIS PERMANENT ACCESS AND UTILITY EASEMENT AND MAINTENANCE AGREEMENT is made as of this _____ day of _____, 2024, (hereinafter referred to as the "Effective Date") by Fenton Construction, Inc., an Iowa corporation ("Grantor").

RECITALS:

WHEREAS, Grantor is the lawful owner of Lots 3, 4 and 5, AD Industrial Park, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska;

WHEREAS, by virtue of the recording of this Permanent Access and Utility Easement and Maintenance Agreement (the "Agreement"), the above legally described real property (hereinafter referred to individually as a "Lot" and collectively as the "Lots") shall be owned, held, transferred, sold, conveyed, used, and occupied and mortgaged or otherwise encumbered subject to the provisions of this Agreement and every grantee of any interest in any said Lot, by acceptance of a deed or other conveyance of such interest, and every person or entity owning an interest in any portion of any said Lot, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Agreement and shall be deemed to have consented to the terms hereof;

WHEREAS, Grantor desires to grant for the benefit of all future owners, occupants and mortgagees of the Lots or any part thereof and their respective officers, directors, members, partners, employees, tenants, agents, contractors, customers, invitees, licensees, vendors, subtenants or concessionaires, and fire, rescue and other emergency vehicles (collectively, "Permittees"), a non-exclusive right-of-way easement (but not parking), over and upon Lot 3 or any portion thereof within the shaded area depicted on Exhibit "A" attached hereto and incorporated herein by this reference (the "Access Drive Area") for the purpose of providing pedestrian and vehicular ingress and egress to the Lots (but not parking), and intends that all future owners, occupants and mortgagees and any other persons hereafter acquiring any interest in any of the Lots shall hold said interest subject to certain rights, easements and privileges in, over and upon the Lots or any portion thereof for the purpose of providing pedestrian and vehicular ingress and egress, to and from the foregoing described Lots; and

WHEREAS, Grantor further desires to grant for the benefit of all Permittees, a non-exclusive easement over and upon each of the Lots or any portion thereof within the shaded

area depicted on Exhibit "B" attached hereto and incorporated herein by this reference (the "Utility Easement Area") for the purpose of constructing, inspecting, maintaining, operating, repairing or replacing said sanitary sewers, storm sewer and drainage structures and/or drainage way, gas, water, electric, and communication connections, and appurtenances thereto at the will of Lot owners, and intends that all future owners, occupants and mortgagees and any other persons hereafter acquiring any interest in any of the Lots shall hold said interest subject to certain rights, easements and privileges in, over and upon the Lots or any portion thereof for the foregoing purposes.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, including the mutual grants and covenants contained herein, the receipt and adequacy of which are hereby acknowledged, Grantor does hereby GRANT, SELL and CONVEY unto themselves and the future owners and mortgagees of the Lots and their respective Permittees, (i) a perpetual, non-exclusive easement for the purpose of providing vehicular and pedestrian ingress and egress (but not parking) over and upon the Access Drive Area, and (ii) a perpetual, non-exclusive for the purpose of constructing, inspecting, maintaining, operating, repairing or replacing said sanitary sewers, storm sewer and drainage structures and/or drainage way, gas, water, electric, and communication connections, and appurtenances thereto in, through or under the Utility Easement Area; provided, however, that the rights herein granted to any person or entity, or anyone claiming under them, shall terminate and expire at such time as such person or entity ceases to be an owner or mortgagee of the Lots or any portion thereof, as the case may be, and such rights shall thereafter be held by the new owner or mortgagee, or anyone claiming under them.

It is further agreed as follows:

1. Nature of Easements. 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 Permittees. The parties hereto expressly disclaim the creation of any rights in or for the benefit of the public generally. It is understood and agreed that the easements shall continue for so long as any Lot remains in existence.

2. Maintenance of the Access Drive Area located on Lot 3. The maintenance, repair, replacement and operation of the Access Drive Area and related improvements located on Lot 3 shall be the responsibility of the owner of Lot 3 because it is burdened this portion of the Access Drive Area, provided, however, that the owner of Lot 3 shall be entitled to reimbursement of expenses incurred for such maintenance, repair, replacement and operation of that portion of the Access Drive Area as provided herein. The owner of Lot 3 shall maintain, repair, operate, replace and otherwise keep that portion of the Access Drive Area located on Lot 3 and related improvements in good repair in its reasonable judgment and discretion. The maintenance shall include, without limitation, the following:

- (a) Maintaining the surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability.

- (b) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition (including, without limitation, removing graffiti and repair of other damage caused by vandalism).
- (c) Inspecting, maintaining, repairing, and replacing any storm drainage system installed along that portion of the Access Drive Area located on Lot 3.
- (d) Inspecting, maintaining, repairing and replacing the lighting, if any, installed along that portion of the Access Drive Area located on Lot 3.

3. Maintenance of Access Drive Area located on Lots 4 and 5. The owners of Lots 4 and 5 shall be responsible for the maintenance, repair, replacement and operation of that portion of the Access Drive Area located on their respective Lots and each such owner shall maintain, repair, operate, replace and otherwise keep the walkways and parking areas located on their respective Lot in good repair consistent with a first class industrial subdivision.

4. Reimbursement of Expenses for Maintenance of Access Drive Area located on Lot 3. The owners of Lot 4 and 5 shall reimburse the owner of Lot 3 for their Proportionate Share (as defined herein) of the expenses incurred to maintain, repair, replace and operate the Access Drive Area and related improvements, which expenses may include a management fee of ten percent (10%) of the total amount of such expenses (hereinafter the "Maintenance Expenses"). The Maintenance Expenses may not include charges for real property taxes or insurance premiums, both of which are the separate responsibility of the owners of the respective Lots. The "Proportionate Share" of the Maintenance Expenses for Lot 3 is thirty three and 1/3 percent (33 1/3 %), Lot 4 is thirty three and 1/3 percent (33 1/3 %) and Lot 5 is thirty three and 1/3 percent (33 1/3%). The owner of Lot 3 may assess Maintenance Expenses based upon the estimated annual costs of maintenance, repair, replacement and operation of the Access Drive Area and related expenses, payable in advance on or before January 1 each year, but subject to adjustment at the end of each calendar year on the basis of the actual expenses for such year. The owner of Lot 3 may deliver an invoice to the owners of Lots 4 and 5 for their Proportionate Share of the estimated annual Maintenance Expenses prior to January 1 each calendar year, which invoice shall be paid within ten (10) days by the owners of Lots 4 and 5. Within thirty (30) days after the end of each calendar year, the owner of Lot 3 shall furnish the owners of Lots 4 and 5 with a written statement setting forth the actual Maintenance Expenses for said calendar year, the calculation of each owners Proportionate Share thereof and the payments made by the other owners during such calendar year. Any overpayment by the owners of Lot 4 or Lot 5 shall be credited against future Maintenance Expenses for the upcoming year or refunded to the owners of Lot 4 or Lot 5 by the owner of Lot 3 within sixty (60) days after the end of each applicable annual period. Any underpayment by the owners of Lots 4 or Lot 5 shall be paid by such owner to the owner of Lot 3 within thirty (30) days after receipt of the written statement. The owners of Lots 4 and 5 shall have the right to audit the books and records of the owner of Lot 3 with respect to the Maintenance Expenses once per annum, during normal business hours on reasonable prior written notice. The owner requesting the audit shall pay for the costs of such audit unless the audit shall disclose Maintenance Expenses paid by the owners of Lot 4 or Lot 5 were ten percent (10%) or more in excess of the actual Maintenance Expenses in which case the owner of Lot 3 shall promptly pay to the owners of

Lots 4 or 5, as applicable, the reasonable cost of such audit in addition to the overpayment of the Maintenance Expenses. In the event the owner of Lot 4 or Lot 5 fails to pay the Maintenance Expenses as provided herein, the owner of Lot 3 shall be entitled to file a notice of lien against Lot 4 or Lot 5, as the case may be, for the unpaid balance of the Maintenance Expenses and, upon the filing of such notice of lien, the unpaid balance shall constitute a lien against such Lot and shall accrue interest at the highest legal rate until paid. The lien provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. The sale or transfer of the Lot shall not affect the lien. However, the sale or transfer of the Lot pursuant to a mortgage or deed of trust foreclosure or any proceeding in lieu thereof shall extinguish the lien as to payments which were due prior to such sale or transfer. The owner of Lot 3 shall be entitled to foreclose the lien provided for herein in the same manner as mortgages or other liens are enforceable in the State of Nebraska at the time such lien is filed or pursue an action at law against the owner of the Lot for the balance due and owing for Maintenance Expenses.

5. Restrictions. No buildings, barricades, signs, fences, or other dividers will be constructed and nothing will be done to prohibit or discourage the free and uninterrupted flow of pedestrian or vehicular traffic through the easement areas.

6. Utility Easement. The utility easement granted herein shall be for the benefit of any Lot owner and also for the benefit of any contractor, agent, employee or representative of any Lot owner and any utility company and for any of said construction and work.

7. Effect of Covenants. 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 Agreement or to which this Agreement 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 easements and 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 Agreement were received and stipulated at length in each and every deed of conveyance.

8. Waiver. No covenant, restriction, condition or provision of this Agreement shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

9. Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Agreement herein contained, as the case may be, shall not render the remainder of the Agreement invalid, nor any other part therein contained.

10. Amendment, Modification, Notices.

(a) This Agreement may only be amended by the written consent and agreement of the record owners of the Lots or their successors and assigns. Any such modification or amendment shall be effective when duly recorded in the office of the Register of Deeds in the county in which said property is situated.

(b) Wherever in this Agreement the consent or approval of an owner of a Lot is required, unless otherwise expressly provided herein, such consent or

approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (i) be in writing; (ii) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (iii) be accompanied by such background data as is reasonably necessary to make an informed decision thereon.

- (c) Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery to the address of the owner of a Lot at the address where the real estate tax statements are being sent. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other parties.

11. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Nebraska.

EXECUTED this _____ day of _____, 2024.

Fenton Construction, Inc., an Iowa corporation

By: _____
Casey Fenton, President

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, a Notary Public qualified for said County and State, personally came Casey Fenton, President of Fenton Construction, Inc., 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 on behalf of said corporation.

WITNESS my hand and Notary Seal on this _____ day of _____, 2024.

Notary Public

MORTGAGEE'S CONSENT

The undersigned, owner and holder of a security interest in the above-described property by virtue of a Deed of Trust dated _____ and recorded on _____ as Instrument No. _____ in the Records in the office of the Register of Deeds in Sarpy County, Nebraska, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby consents to the Permanent Access and Utility Easement and Maintenance Agreement.

_____, Mortgagee

By: _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, a Notary Public qualified for said County and State, personally came _____ known to me to be the _____ of _____ identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed on behalf of said corporation.

WITNESS my hand and Notary Seal on this _____ day of _____, 2024.

Notary Public

EXHIBIT "A"

DRAFT

EASEMENT EXHIBIT

LEGAL DESCRIPTION

A PERMANENT 40.00 FEET WIDE PUBLIC ACCESS AND UTILITY EASEMENT OVER THAT PART OF LOT 3, AD INDUSTRIAL PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 3;

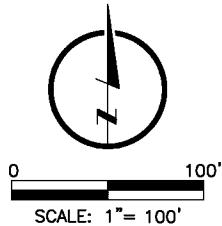
THENCE NORTH 89°50'16" EAST (BEARINGS REFERENCED TO THE FINAL PLAT OF AD INDUSTRIAL PARK) FOR 40.00 FEET ON THE NORTH LINE OF SAID LOT 3;

THENCE SOUTH 00°04'54" EAST FOR 405.64 FEET TO THE SOUTH LINE OF SAID LOT 3;

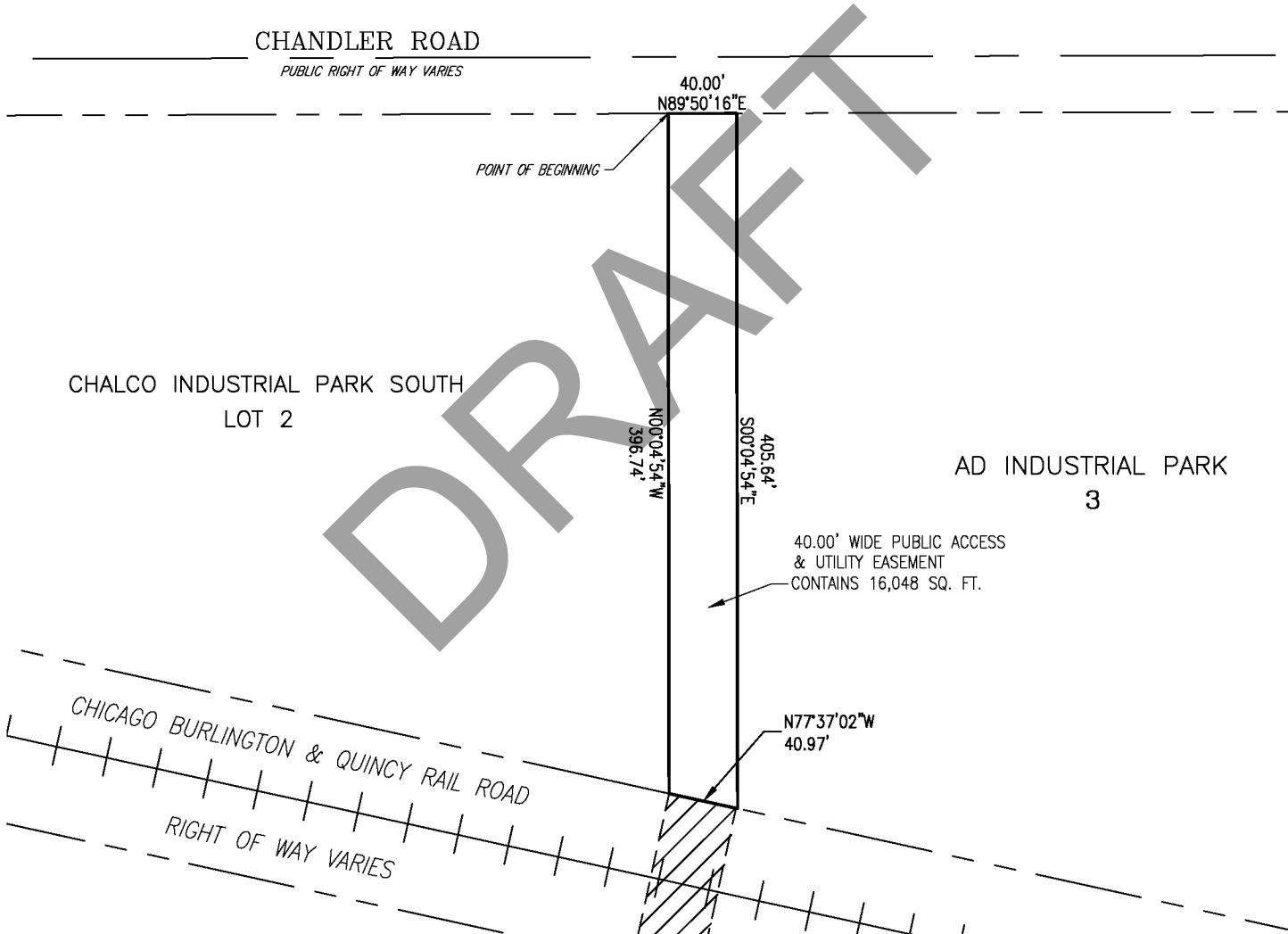
THENCE NORTH 77°37'02" WEST FOR 40.97 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE NORTH 00°04'54" WEST FOR 396.74 FEET TO THE POINT OF BEGINNING.

CONTAINS 16,048 SQUARE FEET.



LEGEND

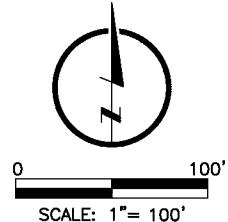


LAMP RYNEARSON

DESIGNER / DRAFTER
MRT/RER
REVIEWER
MATT TINKHAM
PROJECT NUMBER
0123094.01
DATE
1/4/2024
SURFACE LOCATION
BOOK AND PAGE

EASEMENT
EXHIBIT

EASEMENT EXHIBIT



LEGAL DESCRIPTION

A PERMANENT 30.00 FEET WIDE PUBLIC ACCESS AND UTILITY EASEMENT OVER THAT PART OF LOTS 4 AND 5, AD INDUSTRIAL PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4;
THENCE SOUTH 77°37'08" EAST (BEARINGS REFERENCED TO THE
FINAL PLAT OF AD INDUSTRIAL PARK) FOR 15.00 FEET ON THE NORTH
LINE OF SAID LOT 4;

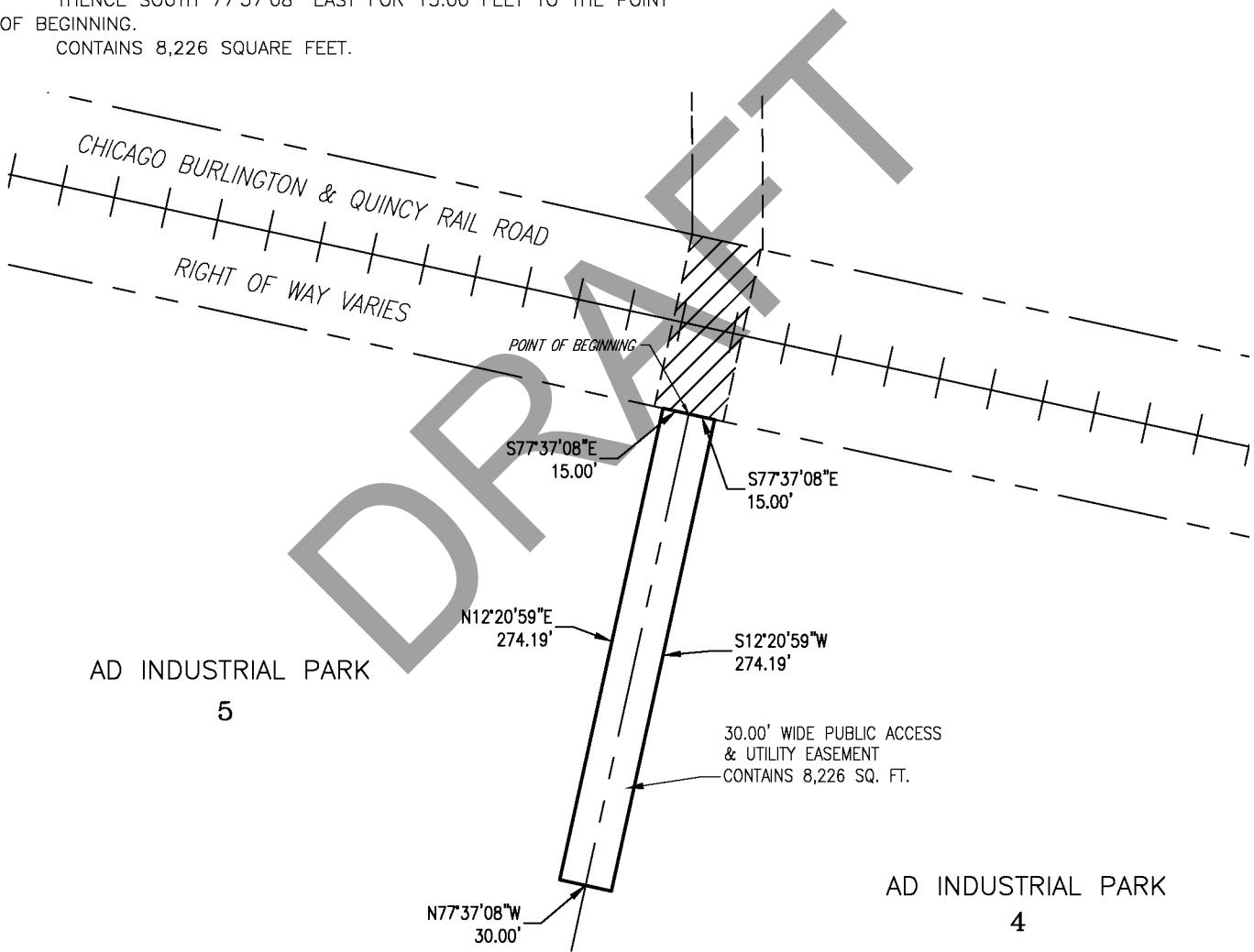
THENCE SOUTH 12°20'59" WEST FOR 274.19 FEET ON A LINE
PARALLEL WITH AND 15.00 FEET EAST OF THE WEST LINE OF SAID
LOT 4;

THENCE NORTH 77°37'08" WEST FOR 30.00 FEET;
THENCE NORTH 12°20'59" EAST FOR 274.19 FEET ON A LINE
PARALLEL WITH AND 15.00 FEET WEST OF THE EAST LINE OF SAID
LOT 5, TO THE NORTH LINE OF SAID LOT 5;

THENCE SOUTH 77°37'08" EAST FOR 15.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 8,226 SQUARE FEET.

LEGEND



LAMP RYNEARSON

DESIGNER / DRAFTER
MRT/RER
REVIEWER
MATT TINKHAM
PROJECT NUMBER
0123094.01
DATE
1/4/2024
SURFACE LOCATION
BOOK AND PAGE

EASEMENT
EXHIBIT

EXHIBIT "B"

DRAFT

EASEMENT EXHIBIT

LEGAL DESCRIPTION

A PERMANENT 40.00 FEET WIDE PUBLIC ACCESS AND UTILITY EASEMENT OVER THAT PART OF LOT 3, AD INDUSTRIAL PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 3;

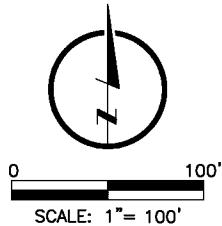
THENCE NORTH 89°50'16" EAST (BEARINGS REFERENCED TO THE FINAL PLAT OF AD INDUSTRIAL PARK) FOR 40.00 FEET ON THE NORTH LINE OF SAID LOT 3;

THENCE SOUTH 00°04'54" EAST FOR 405.64 FEET TO THE SOUTH LINE OF SAID LOT 3;

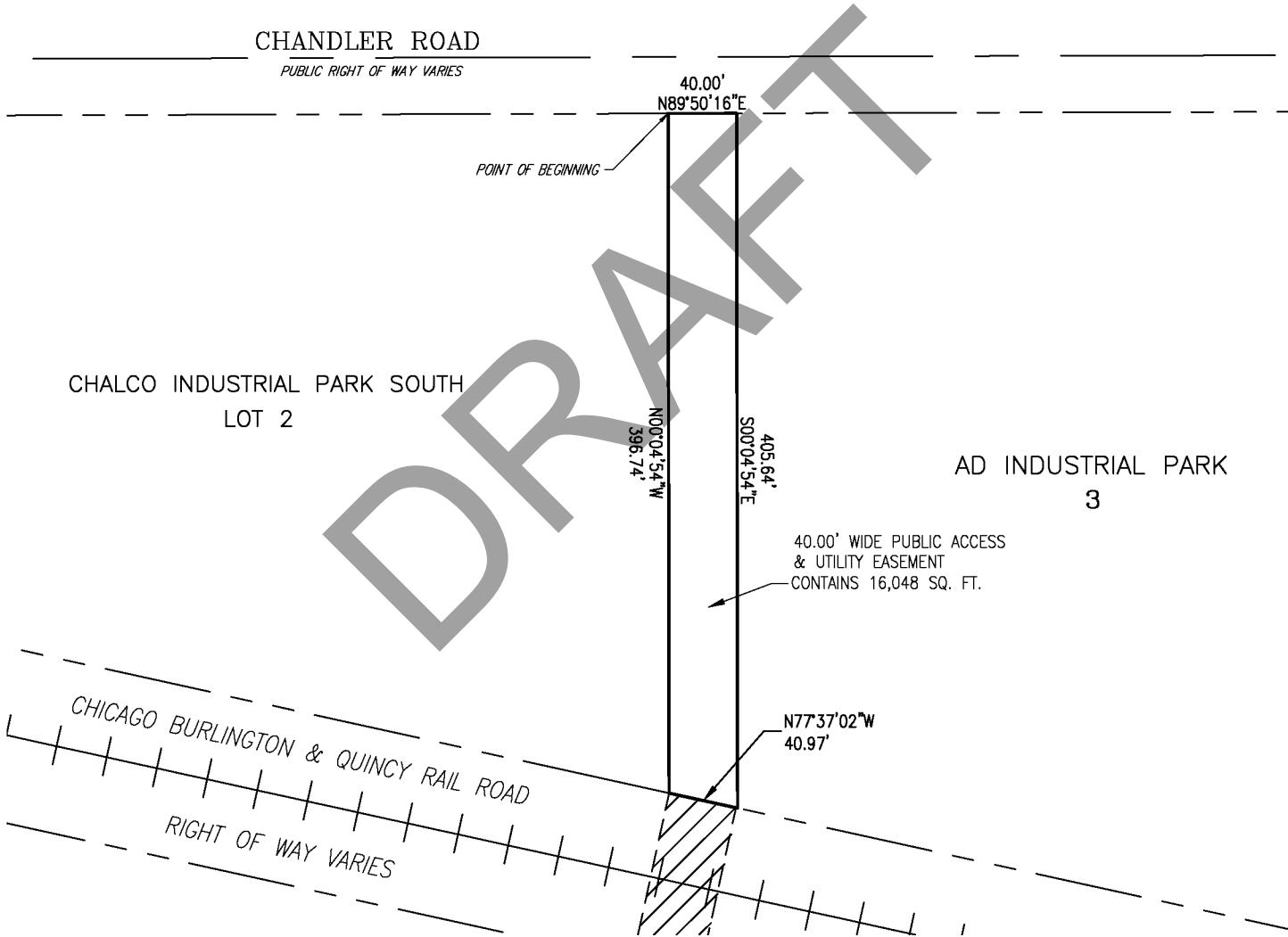
THENCE NORTH 77°37'02" WEST FOR 40.97 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE NORTH 00°04'54" WEST FOR 396.74 FEET TO THE POINT OF BEGINNING.

CONTAINS 16,048 SQUARE FEET.



LEGEND

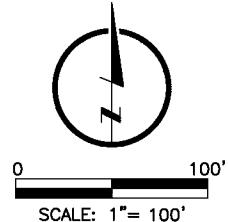


LAMP RYNEARSON

DESIGNER / DRAFTER
MRT/RER
REVIEWER
MATT TINKHAM
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SURFACE LOCATION
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EASEMENT
EXHIBIT

EASEMENT EXHIBIT



LEGAL DESCRIPTION

A PERMANENT 30.00 FEET WIDE PUBLIC ACCESS AND UTILITY EASEMENT OVER THAT PART OF LOTS 4 AND 5, AD INDUSTRIAL PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4;
THENCE SOUTH 77°37'08" EAST (BEARINGS REFERENCED TO THE
FINAL PLAT OF AD INDUSTRIAL PARK) FOR 15.00 FEET ON THE NORTH
LINE OF SAID LOT 4;

THENCE SOUTH 12°20'59" WEST FOR 274.19 FEET ON A LINE
PARALLEL WITH AND 15.00 FEET EAST OF THE WEST LINE OF SAID
LOT 4;

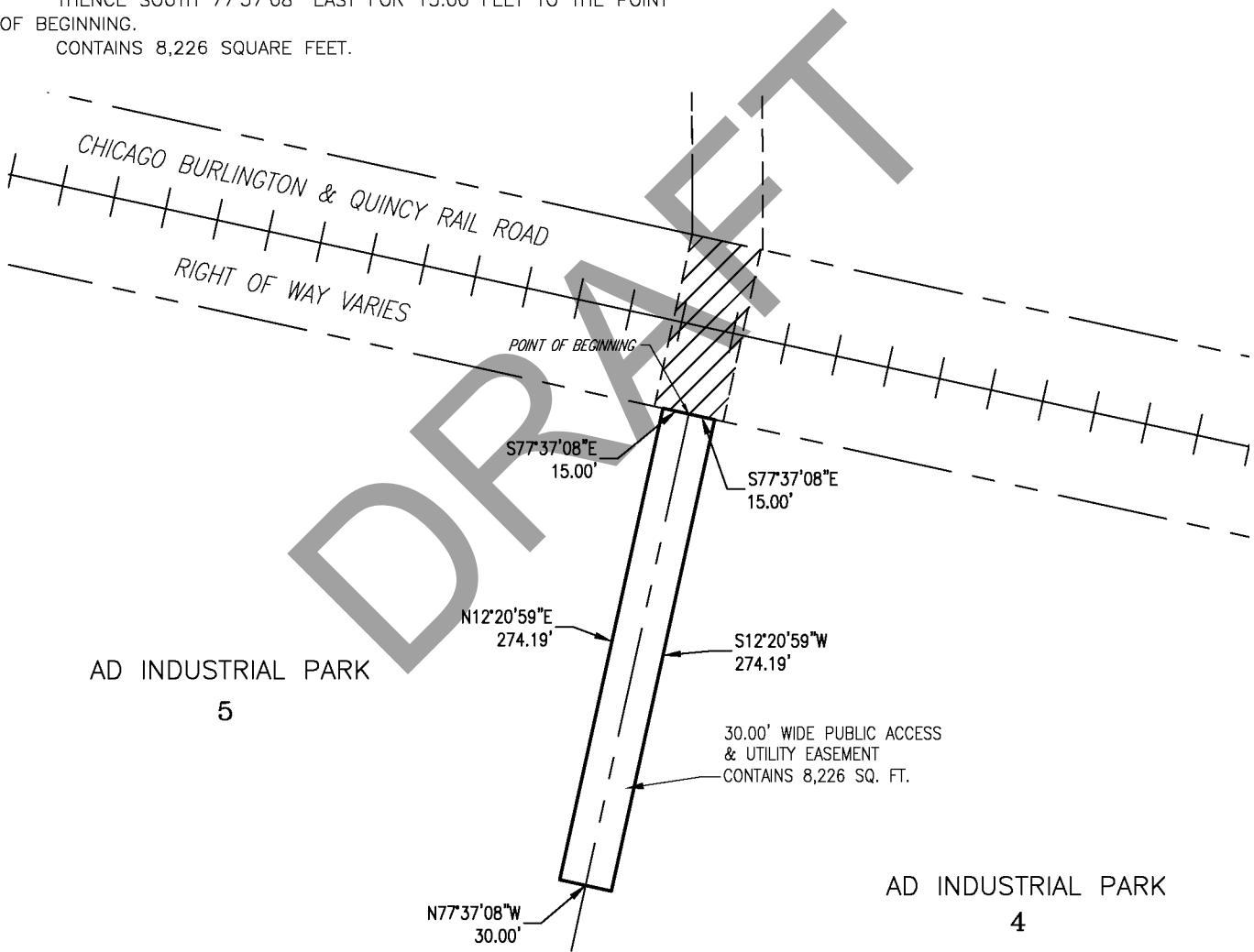
THENCE NORTH 77°37'08" WEST FOR 30.00 FEET;
THENCE NORTH 12°20'59" EAST FOR 274.19 FEET ON A LINE
PARALLEL WITH AND 15.00 FEET WEST OF THE EAST LINE OF SAID
LOT 5, TO THE NORTH LINE OF SAID LOT 5;

THENCE SOUTH 77°37'08" EAST FOR 15.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 8,226 SQUARE FEET.

LEGEND

EASEMENT LINE
LOT LINE
SECTION LINE
EXISTING EASEMENT
RAILROAD RIGHT OF WAY CROSSING BY OTHERS



LAMP RYNEARSON

DESIGNER / DRAFTER

MRT/RER

REVIEWER

MATT TINKHAM

PROJECT

0123094.0

DATE

1000

**EASEMENT
EXHIBIT**

PERMANENT ACCESS EASEMENT AND MAINTENANCE AGREEMENT

THIS PERMANENT ACCESS EASEMENT AND MAINTENANCE AGREEMENT is made as of this _____ day of _____, 2024, (hereinafter referred to as the "Effective Date") by Fenton Construction, Inc., an Iowa corporation ("Grantor").

RECITALS:

WHEREAS, Grantor is the lawful owner of Lots 1 and 2, AD Industrial Park, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska;

WHEREAS, by virtue of the recording of this Permanent Access Easement and Maintenance Agreement (the "Agreement"), the above legally described real property (hereinafter referred to individually as a "Lot" and collectively as the "Lots") shall be owned, held, transferred, sold, conveyed, used, and occupied and mortgaged or otherwise encumbered subject to the provisions of this Agreement and every grantee of any interest in any said Lot, by acceptance of a deed or other conveyance of such interest, and every person or entity owning an interest in any portion of any said Lot, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Agreement and shall be deemed to have consented to the terms hereof; and

WHEREAS, Grantor desires to grant for the benefit of all future owners, occupants and mortgagees of the Lots or any part thereof and their respective officers, directors, members, partners, employees, tenants, agents, contractors, customers, invitees, licensees, vendors, subtenants or concessionaires, and fire, rescue and other emergency vehicles (collectively, "Permittees"), a non-exclusive right-of-way easement (but not parking), over and upon the Lots within the shaded area depicted on Exhibit "A" attached hereto and incorporated herein by this reference (the "Access Drive Area") for the purpose of providing pedestrian and vehicular ingress and egress to the Lots (but not parking), and intends that all future owners, occupants and mortgagees and any other persons hereafter acquiring any interest in any of the Lots shall hold said interest subject to certain rights, easements and privileges in, over and upon the Lots or any portion thereof for the purpose of providing pedestrian and vehicular ingress and egress, to and from the foregoing described Lots.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, including the mutual grants and covenants contained herein, the receipt and adequacy of which are hereby acknowledged, Grantor does hereby GRANT, SELL

and CONVEY unto themselves and the future owners and mortgagees of the Lots and their respective Permittees, (i) a perpetual, non-exclusive easement for the purpose of providing vehicular and pedestrian ingress and egress (but not parking) over and upon the Access Drive Area; provided, however, that the rights herein granted to any person or entity, or anyone claiming under them, shall terminate and expire at such time as such person or entity ceases to be an owner or mortgagee of the Lots or any portion thereof, as the case may be, and such rights shall thereafter be held by the new owner or mortgagee, or anyone claiming under them.

It is further agreed as follows:

1. Nature of Easements. 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 Permittees. The parties hereto expressly disclaim the creation of any rights in or for the benefit of the public generally. It is understood and agreed that the easements shall continue for so long as any Lot remains in existence.

2. Maintenance of Access Drive Area. The owners of Lots shall be responsible for the maintenance, repair, replacement and operation of that portion of the Access Drive Area located on their respective Lots and each such owner shall maintain, repair, operate, replace and otherwise keep the walkways and parking areas located on their respective Lot in good repair consistent with a first class industrial subdivision.

3. Restrictions. No buildings, barricades, signs, fences, or other dividers will be constructed and nothing will be done to prohibit or discourage the free and uninterrupted flow of pedestrian or vehicular traffic through the easement areas.

4. Effect of Covenants. 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 Agreement or to which this Agreement 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 easements and 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 Agreement were received and stipulated at length in each and every deed of conveyance.

5. Waiver. No covenant, restriction, condition or provision of this Agreement shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

6. Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Agreement herein contained, as the case may be, shall not render the remainder of the Agreement invalid, nor any other part therein contained.

7. Amendment, Modification, Notices.

- (a) This Agreement may only be amended by the written consent and agreement of the record owners of the Lots or their successors and assigns. Any such modification or amendment shall be effective when duly recorded in the office of the Register of Deeds in the county in which said property is situated.
- (b) Wherever in this Agreement the consent or approval of an owner of a Lot is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (i) be in writing; (ii) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (iii) be accompanied by such background data as is reasonably necessary to make an informed decision thereon.
- (c) Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery to the address of the owner of a Lot at the address where the real estate tax statements are being sent. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other parties.

8. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Nebraska.

EXECUTED this _____ day of _____, 2024.

Fenton Construction, Inc., an Iowa corporation

By: _____
Casey Fenton, President

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, a Notary Public qualified for said County and State, personally came Casey Fenton, President of Fenton Construction, Inc., 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 on behalf of said corporation.

WITNESS my hand and Notary Seal on this _____ day of _____, 2024.

Notary Public

MORTGAGEE'S CONSENT

The undersigned, owner and holder of a security interest in the above-described property by virtue of a Deed of Trust dated _____ and recorded on _____ as Instrument No. _____ in the Records in the office of the Register of Deeds in Sarpy County, Nebraska, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby consents to the Permanent Access and Utility Easement and Maintenance Agreement.

_____, Mortgagee

By: _____

Its: _____

STATE OF _____)
COUNTY OF _____) ss.
)

Before me, a Notary Public qualified for said County and State, personally came _____ known to me to be the _____ of _____ identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed on behalf of said corporation.

WITNESS my hand and Notary Seal on this _____ day of _____, 2024.

Notary Public

EXHIBIT "A"

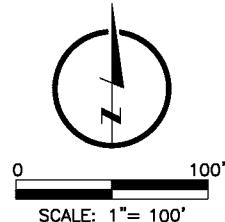
DRAFT

EASEMENT EXHIBIT

LEGAL DESCRIPTION

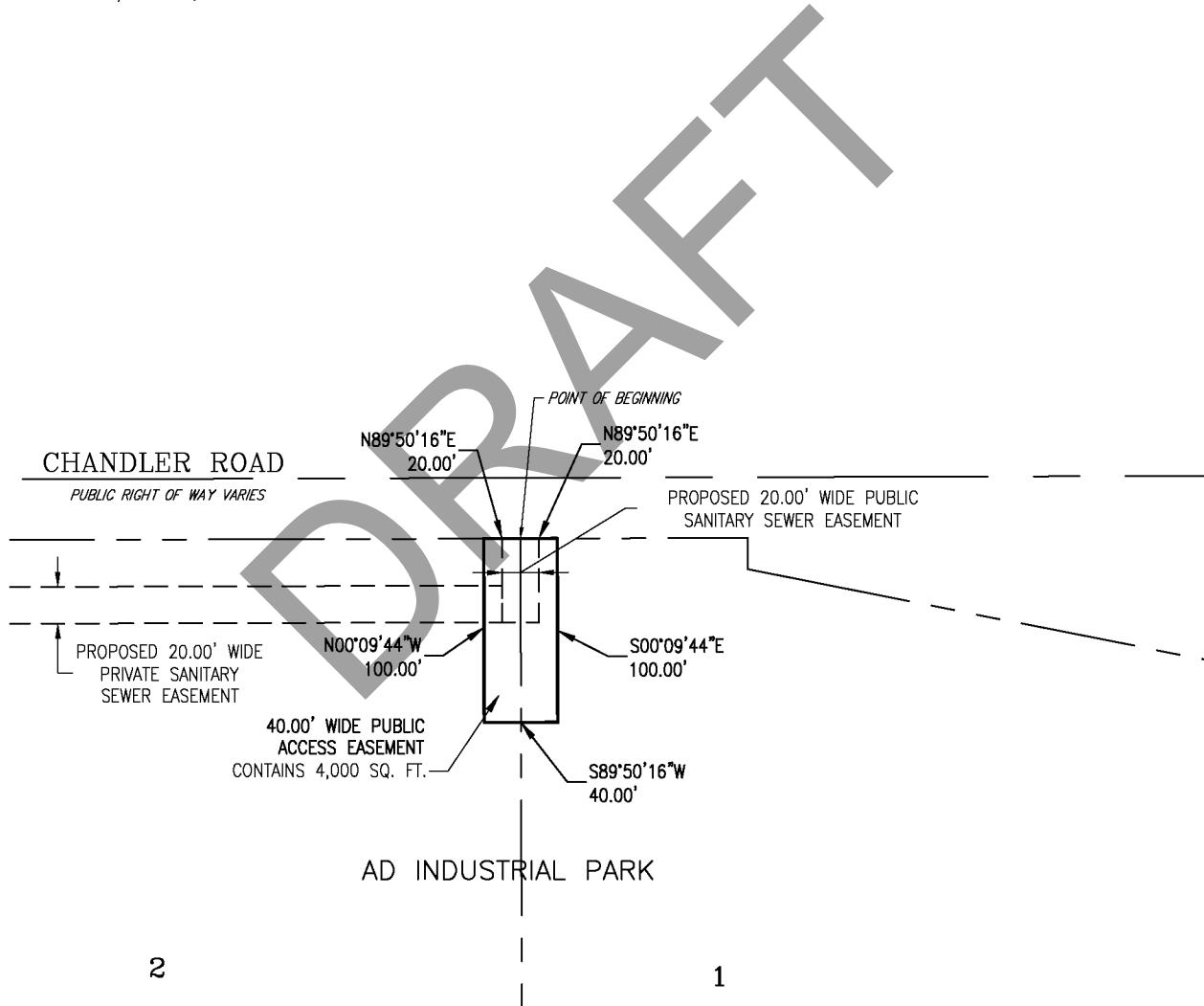
A PERMANENT 40.00 FEET WIDE PUBLIC ACCESS EASEMENT OVER THAT PART OF LOTS 1 AND 2, AD INDUSTRIAL PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1;
 THENCE NORTH 89°50'16" EAST (BEARINGS REFERENCED TO THE FINAL PLAT OF AD INDUSTRIAL PARK) FOR 20.00 FEET ON THE NORTH LINE OF SAID LOT 1;
 THENCE SOUTH 00°09'44" EAST FOR 100.00 FEET;
 THENCE SOUTH 89°50'16" WEST FOR 40.00 FEET;
 THENCE NORTH 00°09'44" WEST FOR 100.00 FEET TO THE NORTH LINE OF SAID LOT 2;
 THENCE NORTH 89°50'16" EAST FOR 20.00 FEET TO THE POINT OF BEGINNING.
 CONTAINS 4,000 SQUARE FEET.



LEGEND

—	EASEMENT LINE
— — —	LOT LINE
— — —	SECTION LINE
— — — —	EXISTING EASEMENT



**LAMP
RYNEARSON**
LAMPRYNEARSON.COM

OMAHA, NEBRASKA
1611 STATE LINE RD, STE. 100 (402) 496.2498
NE AUTH. NO.: CA0130

FORT COLLINS, COLORADO
4715 INNOVATION DR., STE. 100 (970) 226.0342

KANSAS CITY, MISSOURI
9001 STATE LINE RD., STE. 200 (816) 361.0440
MO AUTH. NO.: E-2013011903 | LS-2019043127

DESIGNER / DRAFTER

MRT/RER

REVIEWER

MATT TINKHAM

PROJECT NUMBER

0123094.01

DATE

1/4/2024

SURFACE LOCATION

BOOK AND PAGE

EASEMENT
EXHIBIT

PERMANENT EASEMENT
(Sanitary Sewer)

THIS PERMANENT EASEMENT is made as of this _____ day of _____, 2024, (hereinafter referred to as the "Effective Date") by Fenton Construction, Inc., an Iowa corporation ("Grantor").

RECITALS:

WHEREAS, Grantor is the lawful owner of Lots 2 and 3, AD Industrial Park, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska;

WHEREAS, by virtue of the recording of this Permanent Easement (the "Easement"), the above legally described real property (hereinafter referred to individually as a "Lot" and collectively as the "Lots") shall be owned, held, transferred, sold, conveyed, used, and occupied and mortgaged or otherwise encumbered subject to the provisions of this Easement and every grantee of any interest in any said Lot, by acceptance of a deed or other conveyance of such interest, and every person or entity owning an interest in any portion of any said Lot, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Easement and shall be deemed to have consented to the terms hereof; and

WHEREAS, Grantor desires to grant for the benefit of all future owners, occupants and mortgagees of the Lot 3, a permanent, non-exclusive easement, over, under and upon Lot 2 within the shaded area depicted on Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Area") for the use, construction, repair, maintenance, replacement and renewal of sanitary sewer pipe line, including all necessary manholes and other related appurtenances, and the transmission through said sewer of sanitary sewer discharge, together with the right of ingress and egress to and from said premises.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, including the mutual grants and covenants contained herein, the receipt and adequacy of which are hereby acknowledged, Grantor does hereby GRANT, SELL and CONVEY unto themselves and the future owners and mortgagees of the Lots 3, a perpetual, non-exclusive easement for the use, construction, repair, maintenance, replacement and renewal of sanitary sewer pipe line, including all necessary manholes and other related appurtenances, and the transmission through said sewer of sanitary sewer discharge, in, through, and under the Easement Area for the benefit of the Lot 3, together with the right of

ingress and egress to and from said premises; provided, however, that the rights herein granted to any person or entity, or anyone claiming under them, shall terminate and expire at such time as such person or entity ceases to be an owner or mortgagee of the Lots or any portion thereof, as the case may be, and such rights shall thereafter be held by the new owner or mortgagee, or anyone claiming under them. The owners of Lot 2 shall retain all rights to surface rights in the Easement Area, subject to the terms hereof. The owners of Lot 3, and its contractors and engineers shall have full right and authority to enter the Easement Area in order to perform any of the acts and functions described within the scope and purposes of such easement. In performing any maintenance or repair of said pipes, lines, apparatus, equipment, and appurtenances, or any part thereof, the owners of Lot 3 shall use reasonable efforts to prevent interference with use and enjoyment of the Easement Area and the surrounding real property by the owners of Lots 2. All work performed by the owners of Lot 3 shall be done in a good and workmanlike manner and in compliance with all applicable federal, state and municipal statutes, laws, rules and regulations.

It is further agreed as follows:

1. Nature of Easement. The foreclosure of any mortgage covering all or a portion of a Lot or Lots shall in no way affect or diminish any easement granted herein, for such easement shall remain in full force and effect for the benefit of the grantees described herein. The easement hereby created is not a public easement, but is a permanent, private easement for the use and benefit of the owners, future owners, occupants, and mortgagees of Lot 3. The parties hereto expressly disclaim the creation of any rights in or for the benefit of the public generally. It is understood and agreed that the easements shall continue for so long as any Lot remains in existence.

3. Restrictions. The owners of Lot 2 agree not to place any buildings, improvements or other structures on the Easement Area, but may place paving, grass and shrubs on the Easement Area provided that such materials do not materially and detrimentally hinder the flow of water over and across the Easement Area. The owner of Lot 3 further agrees that the grade of the Easement Area shall not be changed or modified without the express approval of the owners of Lot 2.

4. Effect of Covenants. 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 Easement or to which this Easement 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 an easement and covenant 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 Easement were received and stipulated at length in each and every deed of conveyance.

5. Waiver. No covenant, restriction, condition or provision of this Easement shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

6. Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Easement herein contained, as the case may be, shall not render the remainder of the Easement invalid, nor any other part therein contained.

7. Governing Law. This Easement shall be construed and governed in accordance with the laws of the State of Nebraska.

EXECUTED this _____ day of _____, 2024.

Fenton Construction, Inc., an Iowa corporation

By: _____
Casey Fenton, President

STATE OF _____)
COUNTY OF _____) ss.
)

Before me, a Notary Public qualified for said County and State, personally came Casey Fenton, President of Fenton Construction, Inc., 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 on behalf of said corporation.

WITNESS my hand and Notary Seal on this _____ day of _____, 2024.

Notary Public

DRAFT

MORTGAGEE'S CONSENT

The undersigned, owner and holder of a security interest in the above-described property by virtue of a Deed of Trust dated _____ and recorded on _____ as Instrument No. _____ in the Records in the office of the Register of Deeds in Sarpy County, Nebraska, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby consents to the Permanent Easement.

_____, Mortgagee

By: _____

Its: _____

STATE OF _____)
COUNTY OF _____) ss.

Before me, a Notary Public qualified for said County and State, personally came _____ known to me to be the _____ of _____ identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed on behalf of said corporation.

WITNESS my hand and Notary Seal on this _____ day of _____, 2024.

Notary Public

EXHIBIT "A"

DRAFT

EASEMENT EXHIBIT

LEGAL DESCRIPTION

A PERMANENT 20.00 FEET WIDE PRIVATE SANITARY SEWER EASEMENT OVER THAT PART OF LOT 2, AD INDUSTRIAL PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2;

THENCE SOUTH 00°09'32" EAST (BEARINGS REFERENCED TO THE FINAL PLAT OF AD INDUSTRIAL PARK) FOR 25.52 FEET ON THE WEST LINE OF SAID LOT 2 TO THE TRUE POINT OF BEGINNING;

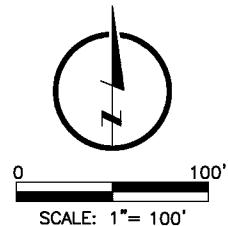
THENCE NORTH 89°50'16" EAST FOR 395.36 FEET TO THE WEST LINE OF A PROPOSED 20.00 FEET WIDE PUBLIC SANITARY SEWER EASEMENT;

THENCE SOUTH 00°09'44" EAST FOR 20.00 FEET ON THE WEST LINE OF SAID PROPOSED PUBLIC SANITARY SEWER EASEMENT;

THENCE SOUTH 89°50'16" WEST FOR 395.36 FEET TO THE WEST LINE OF SAID LOT 2;

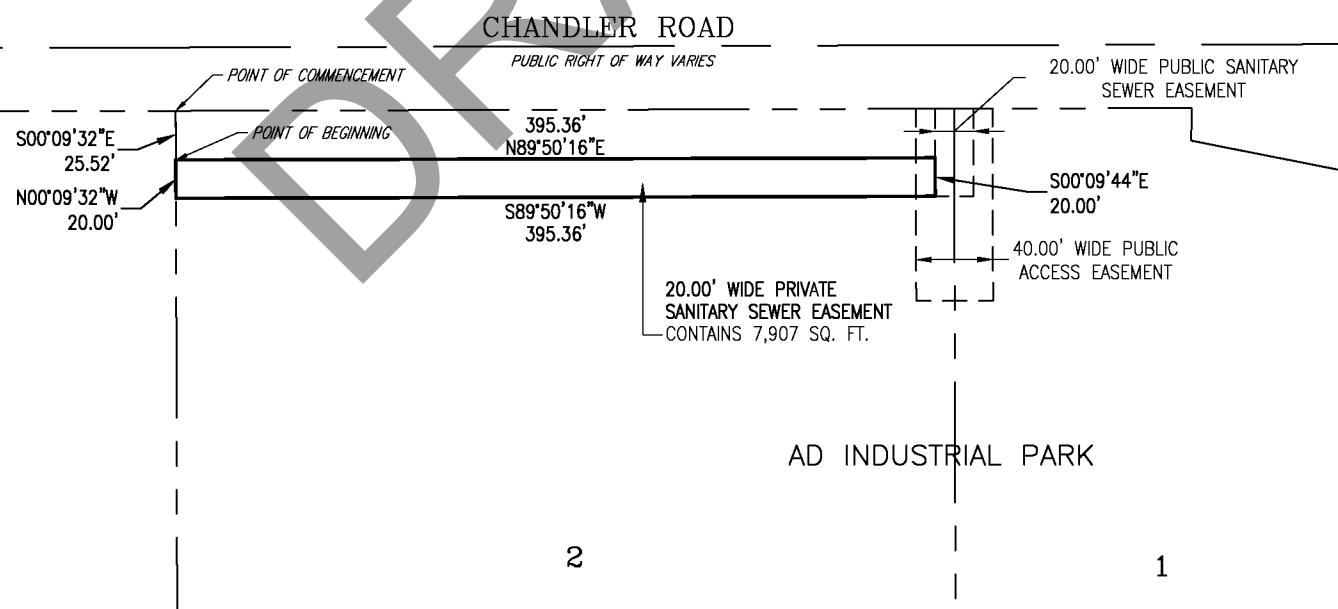
THENCE NORTH 00°09'32" WEST FOR 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 7,907 SQUARE FEET.



LEGEND

<u>—</u>	EASEMENT LINE
<u>— — —</u>	LOT LINE
<u>— — —</u>	SECTION LINE
<u>— - -</u>	EXISTING EASEMENT



PERMANENT EASEMENT
(Storm Sewer and Drainage)

THIS PERMANENT EASEMENT is made as of this _____ day of _____, 2024, (hereinafter referred to as the "Effective Date") by Fenton Construction, Inc., an Iowa corporation ("Grantor").

RECITALS:

WHEREAS, Grantor is the lawful owner of Lots 2 and 3, AD Industrial Park, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska;

WHEREAS, by virtue of the recording of this Permanent Easement (the "Easement"), the above legally described real property (hereinafter referred to individually as a "Lot" and collectively as the "Lots") shall be owned, held, transferred, sold, conveyed, used, and occupied and mortgaged or otherwise encumbered subject to the provisions of this Easement and every grantee of any interest in any said Lot, by acceptance of a deed or other conveyance of such interest, and every person or entity owning an interest in any portion of any said Lot, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Easement and shall be deemed to have consented to the terms hereof; and

WHEREAS, Grantor desires to grant for the benefit of all future owners, occupants and mortgagees of Lots 2 and 3, a permanent, non-exclusive easement, over, under and upon Lots 1 and 2 within the shaded area depicted on Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Area") for the use, construction, repair, maintenance, replacement and renewal of storm sewer pipe line, drainage structures, channel and flood improvements, and/or drainage ways and other related appurtenances, together with the right of ingress and egress to and from said premises.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, including the mutual grants and covenants contained herein, the receipt and adequacy of which are hereby acknowledged, Grantor does hereby GRANT, SELL and CONVEY unto themselves and the future owners and mortgagees of the Lots 2 and 3, a perpetual, non-exclusive easement for the use, construction, repair, maintenance, replacement and renewal of storm sewer pipe line, drainage structures, channel and flood improvements, and/or drainageways and other related appurtenances, and the transmission through said sewer and/ or drainageway of storm water discharge, in, through, and under the Easement Area for

the benefit of the Lots 2 and 3, together with the right of ingress and egress to and from said premises; provided, however, that the rights herein granted to any person or entity, or anyone claiming under them, shall terminate and expire at such time as such person or entity ceases to be an owner or mortgagee of the Lots or any portion thereof, as the case may be, and such rights shall thereafter be held by the new owner or mortgagee, or anyone claiming under them. The owners of Lots 1 and 2 shall retain all rights to surface rights in the Easement Area, subject to the terms hereof. The owners of Lots 2 and/or 3, and their respective contractors and engineers shall have full right and authority to enter the Easement Area in order to perform any of the acts and functions described within the scope and purposes of such easement. In performing any maintenance or repair of said pipes, lines, apparatus, equipment, and appurtenances, or any part thereof, the owners of Lots 2 and/or 3 shall use reasonable efforts to prevent interference with use and enjoyment of the Easement Area and the surrounding real property by the owners of Lots 1 and/or 2. All work performed by the owners of Lots 2 and/or 3 shall be done in a good and workmanlike manner and in compliance with all applicable federal, state and municipal statutes, laws, rules and regulations.

It is further agreed as follows:

1. Nature of Easement. The foreclosure of any mortgage covering all or a portion of a Lot or Lots shall in no way affect or diminish any easement granted herein, for such easement shall remain in full force and effect for the benefit of the grantees described herein. The easement hereby created is not a public easement, but is a permanent, private easement for the use and benefit of the owners, future owners, occupants, and mortgagees of Lots 2 and 3. The parties hereto expressly disclaim the creation of any rights in or for the benefit of the public generally. It is understood and agreed that the easements shall continue for so long as any Lot remains in existence.

3. Restrictions. The owners of Lots 1 and 2 agree not to place any buildings, improvements or other structures on the Easement Area, but may place paving, grass and shrubs on the Easement Area provided that such materials do not materially and detrimentally hinder the flow of water over and across the Easement Area. The owner of Lots 2 and 3 further agrees that the grade of the Easement Area shall not be changed or modified without the express approval of the owners of Lots 1 and/or 2.

4. Effect of Covenants. 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 Easement or to which this Easement 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 an easement and covenant 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 Easement were received and stipulated at length in each and every deed of conveyance.

5. Waiver. No covenant, restriction, condition or provision of this Easement shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

6. Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Easement herein contained, as the case may be, shall not render the remainder of the Easement invalid, nor any other part therein contained.

7. Governing Law. This Easement shall be construed and governed in accordance with the laws of the State of Nebraska.

EXECUTED this _____ day of _____, 2024.

Fenton Construction, Inc., an Iowa corporation

By: _____
Casey Fenton, President

STATE OF _____)
COUNTY OF _____) ss.

Before me, a Notary Public qualified for said County and State, personally came Casey Fenton, President of Fenton Construction, Inc., 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 on behalf of said corporation.

WITNESS my hand and Notary Seal on this _____ day of _____, 2024.

Notary Public

DRAFT

MORTGAGEE'S CONSENT

The undersigned, owner and holder of a security interest in the above-described property by virtue of a Deed of Trust dated _____ and recorded on _____ as Instrument No. _____ in the Records in the office of the Register of Deeds in Sarpy County, Nebraska, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby consents to the Permanent Easement.

_____, Mortgagee

By: _____

Its: _____

STATE OF _____)
COUNTY OF _____) ss.

Before me, a Notary Public qualified for said County and State, personally came _____ known to me to be the _____ of _____ identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed on behalf of said corporation.

WITNESS my hand and Notary Seal on this _____ day of _____, 2024.

Notary Public

EXHIBIT "A"

DRAFT

EASEMENT EXHIBIT

LEGAL DESCRIPTION

A PERMANENT 20.00 FEET WIDE PRIVATE STORM SEWER AND DRAINAGE EASEMENT OVER THAT PART OF LOTS 1 AND 2, AD INDUSTRIAL PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

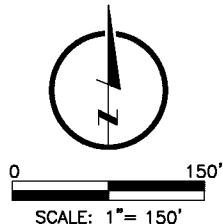
BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1;
THENCE NORTH 77°37'02" WEST (BEARINGS REFERENCED TO THE FINAL PLAT OF AD INDUSTRIAL PARK) FOR 868.89 FEET ON THE SOUTH LINE OF SAID LOTS 1 AND 2 TO THE SOUTHWEST CORNER OF SAID LOT 2;

THENCE NORTH 00°09'32" WEST FOR 20.49 FEET ON THE WEST LINE OF SAID LOT 2;

THENCE SOUTH 77°37'02" EAST FOR 871.39 FEET TO THE EAST LINE OF SAID LOT 1;

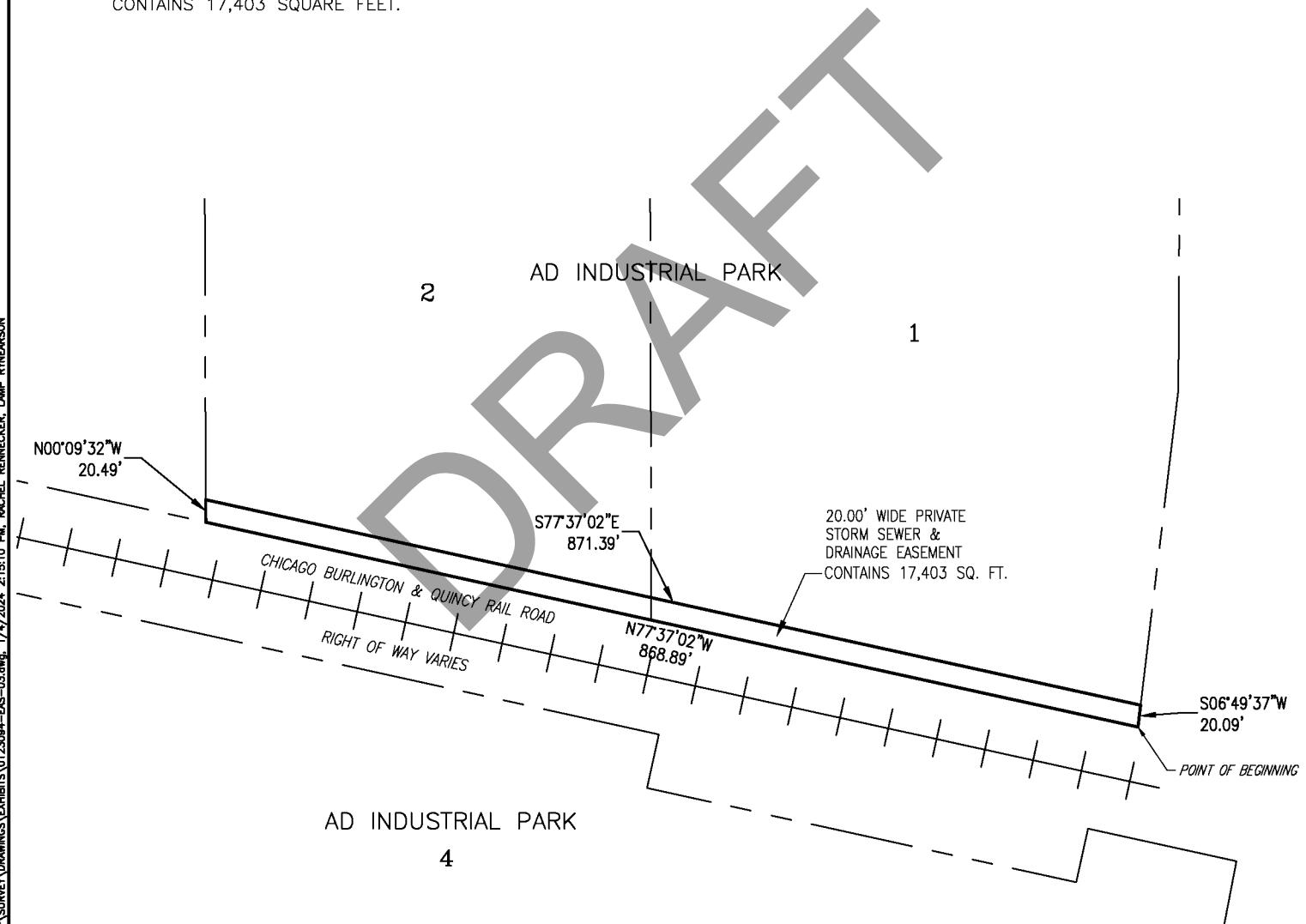
THENCE SOUTH 06°49'37" WEST FOR 20.09 FEET TO THE POINT OF BEGINNING.

CONTAINS 17,403 SQUARE FEET.



LEGEND

—	EASEMENT LINE
— — —	LOT LINE
— — —	SECTION LINE
— — —	EXISTING EASEMENT



AFTER RECORDING RETURN TO:

MARTIN P. PELSTER, ESQ.
CROKER HUCK LAW FIRM
2120 S 72 ST STE 1200
OMAHA NE 68124

PERMANENT EASEMENT
(Sanitary Sewer)

KNOW ALL MEN BY THESE PRESENTS:

THAT **FENTON CONSTRUCTION, INC.**, an Iowa corporation (hereinafter referred to as "Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto **CITY OF LAVISTA, NEBRASKA**, a municipal corporation in the State of Nebraska, (hereinafter referred to as "Grantee"), its successors and assigns, a permanent easement over, under, on and across that real estate in Sarpy County, Nebraska, more particularly described on the Easement Exhibit attached hereto and incorporated herein by this reference.

The scope and purpose of this easement is for the use, construction, repair, maintenance, replacement and renewal of sanitary sewer pipe line, including all necessary manholes and other related appurtenances, and the transmission through said sewer of sanitary sewer discharge, together with the right of ingress and egress to and from said premises. The Grantee and its contractor and engineers shall have full right and authority to enter upon said easementway in order to perform any of the acts and functions described within the scope and purposes of this easement.

By accepting and recording this permanent easement grant, said Grantee, agrees to make good or cause to be made good to the owner or owners of the

property in which same are constructed, any and all damage that may be done by reason of construction, alterations, maintenance, inspection, repairs or reconstruction of the sanitary sewer pipeline in the way of damage to trees, grounds, or other improvements thereon, including crops, vines and gardens. Grantor reserves the right, following construction of said sewer and appurtenances thereto, to continue to use the surface of the easement strip conveyed hereby for other purposes, subject to the right of the Grantee to use the same for the purposes herein expressed. Provided, however, that no building or other structure shall be built within the permanent easement area by Grantor, her successors or assigns, which will in any way interfere with Grantee's ability to perform its rights granted hereunder. This easement runs with the land.

Grantor herein, for itself, its successors and assigns, does hereby covenant and agree with the said Grantee and its successors and assigns that at the time of the execution and delivery of these presents, Grantor is lawfully seized of said premises; that Grantor has good right and lawful authority to grant said permanent sanitary sewer easement; and Grantor further hereby covenants to warrant and defend said easementway against the lawful claims of all persons whomsoever.

This instrument shall be binding on the successors and assigns of the respective parties hereto.

[Signature page follows on next page]

IN WITNESS WHEREOF, the Grantor herein, for itself, its successors and assigns, has caused the due execution hereof as of the _____ day of _____, 2024.

FENTON CONSTRUCTION, INC., an Iowa corporation,

By: _____
Casey Fenton, President

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was executed and acknowledged before me this _____ day of _____, 2024, by Casey Fenton, President of Fenton Construction, Inc., an Iowa corporation, for and on behalf of the corporation.

Notary Public

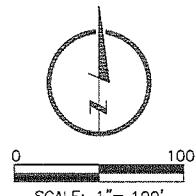
01140340.DOC

EASEMENT EXHIBIT

LEGAL DESCRIPTION

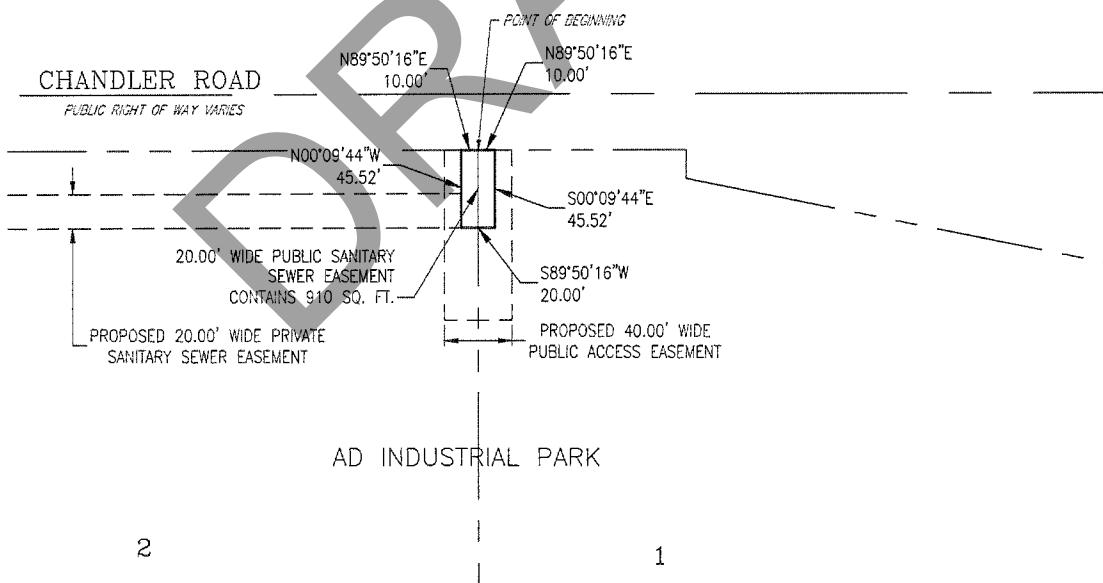
A PERMANENT 20.00 FEET WIDE PUBLIC SANITARY SEWER EASEMENT OVER THAT PART OF LOTS 1 AND 2, AD INDUSTRIAL PARK, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1;
 THENCE NORTH 89°50'16" EAST (BEARINGS REFERENCED TO THE FINAL PLAT OF AD INDUSTRIAL PARK) FOR 10.00 FEET ON THE NORTH LINE OF SAID LOT 1;
 THENCE SOUTH 00°09'44" EAST FOR 45.52 FEET;
 THENCE SOUTH 89°50'16" WEST FOR 20.00 FEET;
 THENCE NORTH 00°09'44" WEST FOR 45.52 FEET TO THE NORTH LINE OF SAID LOT 2;
 THENCE NORTH 89°50'16" EAST FOR 10.00 FEET TO THE POINT OF BEGINNING.
 CONTAINS 910 SQUARE FEET.



LEGEND

- EASEMENT LINE
- — — LOT LINE
- — — SECTION LINE
- — — EXISTING EASEMENT



**LAMP
RYNEARSON**

LAMPRYNEARSON.COM

OMAHA, NEBRASKA
4373 W. 60th St., Ste. 100 (402) 446-2456
NE AUTH. NO. 041030

FORT COLLINS, COLORADO
4715 Innovation Dr., Ste. 100 (970) 226-7042

KANSAS CITY, MISSOURI
1000 Main Street, Suite 1000 (816) 341-5142
MO AUTH. NO. ECR1611961145-14437

DESIGNER / DRAFTER MRT/RER
REVIEWER MATT TINKHAM
PROJECT NUMBER 0123094.01
DATE 1/4/2024
SURFACE LOCATION
BOOK AND PAGE

EASEMENT
EXHIBIT

EXHIBIT “H”

DRAFT

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR AD INDUSTRIAL PARK**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AD INDUSTRIAL PARK (“Declaration”), is made and entered into as of the ____ day of _____, 2024 (the “Effective Date”), by FENTON CONSTRUCTION, INC., an Iowa corporation (“Declarant”).

W I T N E S S E T H:

WHEREAS, Declarant is the current fee simple owner of AD Industrial Park, Lots 1 Through 6, inclusive, being a platting of part of Tax Lot 19 in the South Half of Section 14, Township 14 North, Range 11 East of the 6th p.m., Sarpy County, Nebraska (the “Property”); and

WHEREAS, Declarant desires to establish for its benefit and for the mutual benefit of all future Owners (as defined below) of the Lots, or any part thereof, certain mutually beneficial easements, restrictions and obligations with respect to the use, operation and maintenance of the Property, consistent with a quality unified industrial park.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, leased and conveyed subject to the following covenants, conditions, easements and restrictions which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, and their successors and assigns and shall inure to the benefit of each owner or occupant thereof.

**ARTICLE I
DEFINITIONS**

“Improvements” shall mean all land preparation and excavation, buildings, outbuildings, structures, underground installations, slope and grade alterations, lighting, public roads, private roads, walkways, curbs, gutters, storm drains, drainage ways, utilities, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, patio areas, windbreaks, plantings, planted trees and shrubs, sidewalks, bicycle racks, planters, poles, flags, signs, storage or display areas, loading areas, docks, water retention areas, fountains, water features, ponds, recreational facilities and all other structures, land development or landscaping improvements of every type and kind.

“Lot” or “Lots” shall mean and refer to any platted lot or lots located on the Property, as may be subdivided or replatted.

“Owner” shall mean and refer to the record owner of a fee simple title to a Lot, excluding, however, those parties having such interest merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust or a mortgagee).

In addition to the definitions set forth above, there are other defined terms set forth elsewhere in this Declaration. All of the recitals to this Declaration are incorporated into this Declaration as though fully rewritten here at length.

ARTICLE II **GENERAL**

1. **Zoning and Use Compliance.** All uses and building plans on the Lots shall conform to this Declaration and any subsequent amendments thereto, and to all applicable zoning regulations of any municipal body or agency with jurisdiction over the Development.

2. **Plan Approval.** Commencing upon the full execution of this Declaration, before commencing any work on Improvements on any Lot (including expansions or alterations to existing Improvements), the Owner of such Lot shall first submit to the Declarant for prior written approval, the site plans, grading plans and other plans and specifications for such Lot which shall include, but not be limited to, the following items proposed to be located on the Lot (i) the footprint of any buildings or other Improvements, (ii) the vertical and horizontal dimensions for any Improvements, (iii) building architectural elevations depicting materials, (iv) exterior design, including all building materials, colors and lighting, (v) any landscaped areas, (vi) any fences, parking areas, sidewalks, access ways and entrances to the Lot. All Improvements constructed on any Lot shall be constructed in accordance with a site plan approved in accordance with this Declaration.

3. **Intentionally Deleted.**

4. **Intentionally Deleted.**

5. **Performance of Construction.** Each Owner shall be bound to perform all construction on its Lot or Lots (i) in accordance with the applicable plans and specifications as approved by the Declarant, (ii) in a good and workmanlike manner, using new and first-class materials, (iii) in accordance with all applicable laws, ordinances, rules and regulations of all governmental and quasi-governmental agencies and authorities having jurisdiction over such construction, (iv) only after having procured and paid for authorizations of the various departments and governmental agencies having jurisdiction and (v) in accordance with the terms and provisions of this Declaration. Each Owner shall be responsible for providing staging and parking areas on its Lot for its construction workers. The Owners shall keep other Lots free from debris and shall repair or replace any damaged by Owner or its agents, employees or contractors. The Owners in the performance of their construction shall not (i) cause any unnecessary or unreasonable increase in the cost of construction of any other Owner, (ii) unreasonably interfere with any other construction being performed on the Property, or (iii) unreasonably impair the use, occupancy or enjoyment of the Property or any part thereof.

6. **Indemnity.** Each Owner shall indemnify, defend and hold harmless the other Owners from and against all claims and all costs, expenses and liabilities incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of any mechanic's liens or other claims regarding materials supplied or work performed, or the death of, or any accident, injury, loss or damage whatsoever caused to, any person or to the property of any person, as shall occur by reason of the performance of any construction by or at the request of the indemnitor, except for claims caused by the gross negligence or willful act or omission of the indemnitee, its licensees, concessionaires, agents, servants or employees. If any mechanic's, materialman's or other similar lien shall at any time be filed against any part of the Property on account of any work, labor or services performed or claimed to have been performed or on account of any materials furnished or claimed to have been furnished, for or at the direction of an Owner, such Owner shall, without cost or expense to any other Owner, cause the same to be discharged of

record by payment, bond, order of a court of competent jurisdiction within thirty (30) days after the filing of said lien.

7. Intentionally Deleted.

8. Parking. On-Street parking and loading is not permitted. All parking must be accommodated on the individual lots within the industrial park. All such parking areas shall be covered with a paved surface.

9. Exterior Lighting. Exterior lighting to be erected or altered on any site or structure shall be subject to approval from Declarant, which shall not be unreasonably withheld.

10. Landscaping. All areas on any site not used for building, storage, parking, walks, access roads, and loading areas shall be suitably graded and drained, seeded or sodded, and maintained in grass and landscaped areas with groundcover, flowers, trees and shrubs. Landscape plans must be submitted as part of the required site plan for approval by the City prior to building construction. Required landscaping must be completed within 12 months of building occupancy.

11. Signs. No signs other than product or company identification signs and directional signs shall be permitted on the described property. Corporate identity signs must be placed on a building façade or on a ground mounted panel. No roof mounted billboards will be permitted. Ground mounted corporate signs must be placed on panels with a solid base constructed of materials used on the visible elevations of the building (aluminum, glass, masonry or steel). Sign lighting, if desired, must be ground mounted hidden from view from the street. Individual letters may be internally illuminated.

12. Maintenance by Owners. Each Owner shall maintain or cause to be maintained, at its expense, its Lot and all Improvements completed thereon in a commercially reasonable condition generally expected for industrial parks such as the Property at all times and shall comply with all applicable health, fire, building and safety ordinances, codes, regulations and requirements applicable thereto. Each Owner's maintenance obligations under this Section shall include, but not be limited to:

(a) Keeping all landscaped areas and areas without Improvements mowed or otherwise maintained in a neat and attractive condition;

(b) Maintaining any storm sewer detention system on its Lot in good working condition;

(c) Maintaining in good condition any fencing;

(d) Operating, keeping in repair and replacing, where necessary, such lighting facilities (including lighted signs) as shall be required or permitted;

(e) In the event vertical improvements or structures are located on the Lot, maintaining all signs, all windows, doors, perimeter walls and exterior building walls (including, but not limited to, all retaining walls) and other exterior surfaces in a good condition and state of repair.

ARTICLE V
EASEMENTS

A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, _____ and any company which has been granted a franchise to provide a cable television system or telephone service within the Lots, and _____, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across easements provided for in the final plat of AD Industrial Park which is filed in the Register of Deeds of Sarpy County, Nebraska (Instrument No. _____).

ARTICLE VII **MISCELLANEOUS**

1. Nature and Effect. Each and all of the easements, covenants, conditions, restrictions and provisions contained in this Declaration:

- (a) are made for the direct, mutual and reciprocal benefit of the Declarant and the Owners of the Lots;
- (b) create mutual equitable servitudes upon each Lot in favor of the other Lots, except as otherwise specifically set forth herein;
- (c) constitute covenants running with the land; and
- (d) shall bind every person or entity having any fee, leasehold or other interest in any portion of the Property at any time or from time to time to the extent that such portion is affected or bound by the easement, covenant, condition, restriction or provision in question, or to the extent that such easement, covenant, condition, restriction or provision is to be performed on such portion.

2. Enforcement. The Declarant or any Owner shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or by any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3. Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, but shall be automatically renewed for successive periods of five (5) years each unless terminated as provided below. This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof.

4. Assignment. Declarant, or its successors or assigns, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, Declarant shall appoint another entity, or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

5. **Severability.** In the event any provision or portion of this Declaration is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect at the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

IN WITNESS WHEREOF, Declarant has executed and delivered this Declaration as of the day and year first written above.

FENTON CONSTRUCTION, INC.,
an Iowa corporation,

By: _____
Casey Fenton, Manager

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of July, _____, 2024, before me, a Notary Public in and for said county and state, personally appeared Casey Fenton, who executed the foregoing Declaration and acknowledged that he was duly authorized and did execute the same as President of Fenton Construction, Inc., on behalf of the company.

Notary Public

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