

AGREEMENT FOR RIGHT OF WAY ACQUISITION BY ESTABLISHED PAYMENT

PROJECT NO: EM1648(1) ST04 PCN: 000R COUNTY/CITY: RAPID CITY PARCEL NO: 1, PE1, A1
1397

This Agreement is made and entered into by and between the County/City of RAPID CITY, acting by and through its County/City Commission, hereinafter referred to as "COUNTY/CITY," and BIG D OIL CO., whose postal address is 3685 STURGIS RD STE 100 RAPID CITY, SD 57702, hereinafter referred to as "GRANTOR";

WHEREAS, COUNTY/CITY needs the following easements for construction, operation, and maintenance of a highway:

Perpetual Easement: LOT 11 LOCATED IN LOT 2 OF WALMART SUB, 8' WIDE PERMANENT UTILITY EASEMENT ACROSS NORTHERN EDGE OF LOT 2 OF WALMART SUB AS SHOWN ON

Temporary Easement: IN OVER AND ACROSS LOT 2 OF WALMART SUB

WHEREAS, GRANTOR understands GRANTOR'S right to have an appraisal prepared and GRANTOR'S right to receive just compensation for the above described perpetual and/or temporary easement in accordance with the Uniform Relocation Assessment and Real Property Acquisition Act of 1970, as amended; and,

WHEREAS, GRANTOR hereby waives any right to such appraisal;

NOW, THEREFORE, the parties agree the total payment for all property interest acquired by the COUNTY/CITY for the easements described above as shown on the plans for construction of the above cited PROJECT, is as follows:

Perpetual Easement:

553 acres/sq. ft. at \$ 18.08 acres/sq. ft. at \$ \$10,000
APPROX

Temporary Easement:

_____ acres/sq. ft. at \$ _____ acres/sq. ft. at \$ _____
Total = \$ \$10,000

Special Conditions: WILL REPAIR LANDSCAPING AND SPRINKLER SYSTEM IF DISTURBED.

1. GRANTOR shall not erect fences, structures, or obstacles within the perpetual easement.

2. GRANTOR grants permission to COUNTY/CITY or COUNTY'S/CITY'S agent to enter upon above described easement upon approval of this Agreement.

3. The perpetual easement shall be in effect until the highway is abandoned by proper action of the COUNTY/CITY Commission and the temporary easement shall be in effect until one (1) year after construction of the project is completed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on this _____ day of _____ in the year of _____.

Grantor(s)

City/County of _____

By: Mark D. Policky
Name: MARK Policky

By: _____
Its: County Commission Chairperson/
City Mayor

By: _____

Attest:

Name: _____

County Auditor/City Finance Officer

(County/City Seal)

[Grantor Acknowledgment Form to Follow]

GRANTOR ACKNOWLEDGMENT

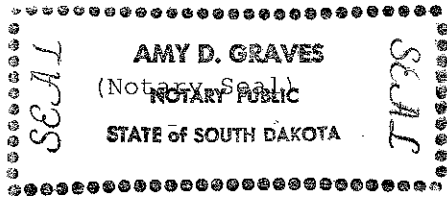
State of South Dakota
County of Pennington) SS)

On this the 9th day of November in the year of 2009,
before me, Amy Graves, a Notary Public within and for said
County and State, personally appeared Mark Polichy
known to me to be the person(s) described in and
who executed the foregoing instrument and acknowledged to me that he/she/they
executed the same for the purposes herein stated.

Amy Graves

Notary Public

My Commission Expires: January 30, 2012 **My Commission Expires**



RECORD OF CALLS/VISITS AND DISCUSSION RECORD
TO ACCOMPANY ESTABLISHED PAYMENT FORM LG-R0W-2

PROJECT NO: EM1648(1) STD4-1347 PCN: 000R COUNTY/CITY: RAPID CITY
 LANDOWNER: BIG D OIL
 NAME OF NEGOTIATOR: ROD SENN, KLARE SCHROEDER, ROBERT ELLIS
 TITLE: _____

The following document(s) was/were shown and/or explained to the Landowner:
 Construction Right of Way Right of Way Other
 Plan Sheet Document(s) Brochures

Call/Visit Number: 1
 Time: 1:30 AM / PM Date: 2/29/08
 Visit Location: CITY ADMIN
 List people present during meeting: ROD SENN, KLARE SCHROEDER, ROBERT ELLIS, MARK POLICY

Notes of the Discussion: SEE ATTACHED

Call/Visit Number: 2
 Time: 8:30 AM / PM Date: 9/30/08
 Visit Location: CITY ADMIN
 List people present during meeting: ROD SENN, KLARE SCHROEDER, MARK POLICY, DALE TECH

Notes of the Discussion: SEE ATTACHED

Call/Visit Number: 3
 Time: 9:30 AM / PM Date: 1/23/09
 Visit Location: _____
 List people present during meeting: ROD SENN, KLARE SCHROEDER, MARK POLICY

Notes of the Discussion: SEE ATTACHED

Call/Visit Number: 4
 Time: _____ AM / PM Date: _____
 Visit Location: _____
 List people present during meeting: _____

Notes of the Discussion: _____

Note: Please indicate in the Notes of Discussion, any agreement made as part of the acquisition by established payment, such as an additional approach, a load of gravel, etc.

Kadrmass

Lee &

Jackson

Engineers Surveyors
Planners**MEMO**

Date: February 29, 2008
To: File
Copy To:
From: Rod Senn
Re: East Anamosa – Big D Oil

Today at 1:30 PM, Robert Ellis, Klare Schroeder (City of RC) and I met with Big D Oil to begin a dialogue regarding the East Anamosa Street Extension project. Present on the behalf of the Big D Oil was Mark Policy.

We gave Mark a copy of temporary construction easements, the permanent 8 foot utility easement and the h lot for the signal equipment. We discussed why each was needed. Discussed the no access easement along the north leg of the property. Mark asked about payment for the items and the City indicated that they will be seeking donations. Discussed that there would be no change in access and that some grading changes could be made to the grading.

Mark would like to meet with someone on site to make sure he understands the situation.

605 721 5553

330 Knollwood Drive

PO Box 3416

Rapid City, SD 57709-3416

ax 605 721 5575

www.kljeng.com

Kadrmass, Lee & Jackson, Inc.

A **KLJ Solutions** Company

MEMO

Date: September 30, 2008
To: File
Copy To:
From: Rod Senn
Re: East Anamosa – Big D Oil

Today at 8:30 AM, Klare Schroeder (City of RC) and I met with Big D Oil to continue a dialogue regarding the East Anamosa Street Extension project. Present on the behalf of the Big D Oil was Mark Policy.

We gave Mark an updated copy of temporary construction easements, the permanent 8 foot utility easement and the H lot for the signal equipment. We discussed why each was needed and that the City is requesting each landowner to donate the required property and the positive impact the improvements will have in the area and the anticipated increased traffic. Mark expressed concerns about access during construction and the effect on their business – indicated that a similar project adjacent to their store on Cambell had a substantial negative impact to business during construction which continued for several months after completion of the project.

Mark indicated that Big D would be seeking some sort of compensation for the easements requested. Mark asked about the potential for water and sewer service abatements instead of a cash payment. Klare indicated that additional City officials would need to address such a request and Dale Tech was asked to join the meeting at that time. Dale indicated that he was unsure of such abatement and that he would need to follow up with others on the request. Mark then offered some comments on potential compensation values with other compensation being in the terms of landscaping allowances before offer to settle for a monetary amount of \$10,000 and repairs to the existing sprinkler system and replacement of disturbed areas with sod. Dale indicated the City would take the offer under advisement and respond to Big D in the near future.

Mark was then emailed a copy of the three easement documents by KLJ following the meeting.

Kadmas

Lee &

Jackson

Engineers Surveyors
Planners**MEMO**

Date: January 23, 2009
To: File
Copy To:
From: Rod Senn
Re: East Anamosa – Big D Oil

Today at 9:30 AM, Klare Schroeder (City of RC) and I met with Big D Oil to continue a dialogue regarding the East Anamosa Street Extension project. Present on the behalf of the Big D Oil was Mark Policy.

We gave Mark an updated copy of temporary construction easements, the permanent 8 foot utility easement and the H lot for the signal equipment. The latter two documents had not changed from our previous meeting; however the temporary construction easements requirements were decreased. We discussed the backslope changes that were made to lessen the impacts to his property.

After some discussion on the impacts, Mark agreed to donate the H lot property and the temporary easements and accept the city's agreed upon amount of \$10,000 for the utility easements.

The attached documents were delivered to Big D that afternoon for their review and signature.

605 721 5553

330 Knollwood Drive

PO Box 3416

Rapid City, SD 57709-3416

.ax 605 721 5575

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Kadmas, Lee & Jackson, Inc.

A *KLJ Solutions Company*

QUIT CLAIM DEED

BIG D OIL CO., of 3685 Sturgis Road Suite 100, Rapid City, South Dakota, 57702,
Grantor, for and in consideration of One Dollar (\$1.00) and other good and valuable
consideration, conveys and quit claims to CITY OF RAPID CITY, a municipal corporation, of 300
Sixth Street, Rapid City, South Dakota, 57701, all interest in the following described real estate
in the County of Pennington in the State of South Dakota:

Lot H1 located in Lot Two (2) of Wal-Mart Subdivision, located in the Northeast Quarter
(NE1/4) of Section Thirty-One (31), Township Two North (T2N), Range Eight East (R8E) of
the Black Hills Meridian, Rapid City, Pennington County, South Dakota.

This instrument is intended as a conveyance of land acquired for highway purposes.

EXEMPT FROM TRANSFER FEE: SDCL Section 43-4-22(2)

Dated this 27 day of January, 2009.

BIG D OIL CO.

By: Mark Policky

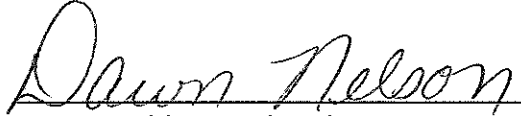
Its: Chairman

State of South Dakota)
 SS.
County of Pennington)

On this the 29 day of January, 2009, before me, the undersigned
officer personally appeared mark Policky, who acknowledged himself to be the
Chairman of BIG D OIL CO. , and that he as such person, being

authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of BIG D OIL Co.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public, South Dakota

My Commission Expires:

MY COMMISSION EXPIRES 08-18-2011

(Seal)

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF PENNINGTON)

TEMPORARY CONSTRUCTION
EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00) , and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, BIG D OIL CO., of 3685 Sturgis Road Suite 100, Rapid City, South Dakota, 57702, Grantor, hereby grants to the CITY OF RAPID CITY, 300 Sixth Street, Rapid City, South Dakota, 57701 its agents, employees, and contractors, a temporary construction easement over and across the following described real property:

A portion of Lot Two (2) of Wal-Mart Subdivision, located in the Northeast Quarter (NE1/4) of Section Thirty-One (31), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as shown on Exhibit "A", attached hereto and incorporated herein by reference.

This easement shall include the right to enter upon the easement property for the purpose of constructing the project entitled, "East Anamosa Street Extension, Project No. ST04-1397 & EM 1648(1)".

This Temporary Easement shall be effective from the date of signing to December 31, 2010.

BIG D OIL CO.

By: Mark Poticky

State of South Dakota)
) SS.
County of Pennington)

On this the 29 day of January, 2009, before me, the undersigned officer personally appeared MARK POTICKY, who acknowledged himself to be the Chairman of BIG D OIL CO. , and that he as such person, being

authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of BIG D OIL Co. by himself as chairman.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Dawn Nelson
Notary Public, South Dakota

My Commission Expires:

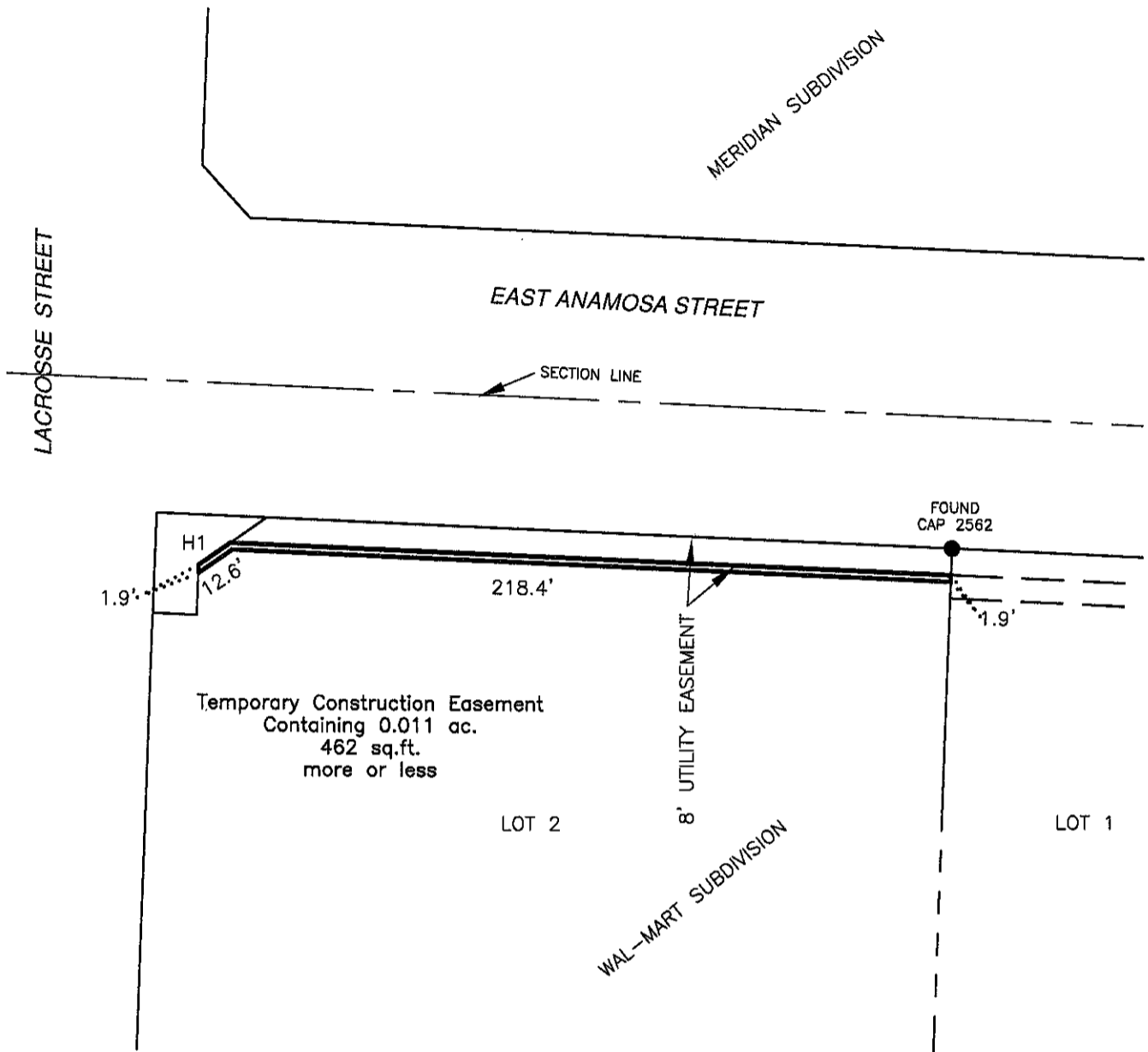
(Seal)

MY COMMISSION EXPIRES 08-18-2011

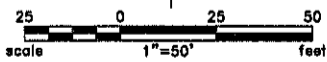
EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

LOCATED IN LOT 2 OF WAL-MART SUBDIVISION, IN THE NE1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.



Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

Date _____

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRNAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
Engineers, Surveyors
Planners

Item #18

STATE OF SOUTH DAKOTA)
)SS.
COUNTY OF PENNINGTON)

PERMANENT UTILITY EASMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, BIG D OIL CO., of 3685 Sturgis Road Suite 100, Rapid City, South Dakota, 57702, Grantor, hereby grants to the CITY OF RAPID CITY, a South Dakota municipality, 300 Sixth Street, Rapid City, South Dakota, 57701, the Grantee, a perpetual utility easement, subject to the conditions hereinafter set forth, as hereinafter described.

The property which is subject of this permanent utility easement is legally described as :

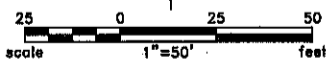
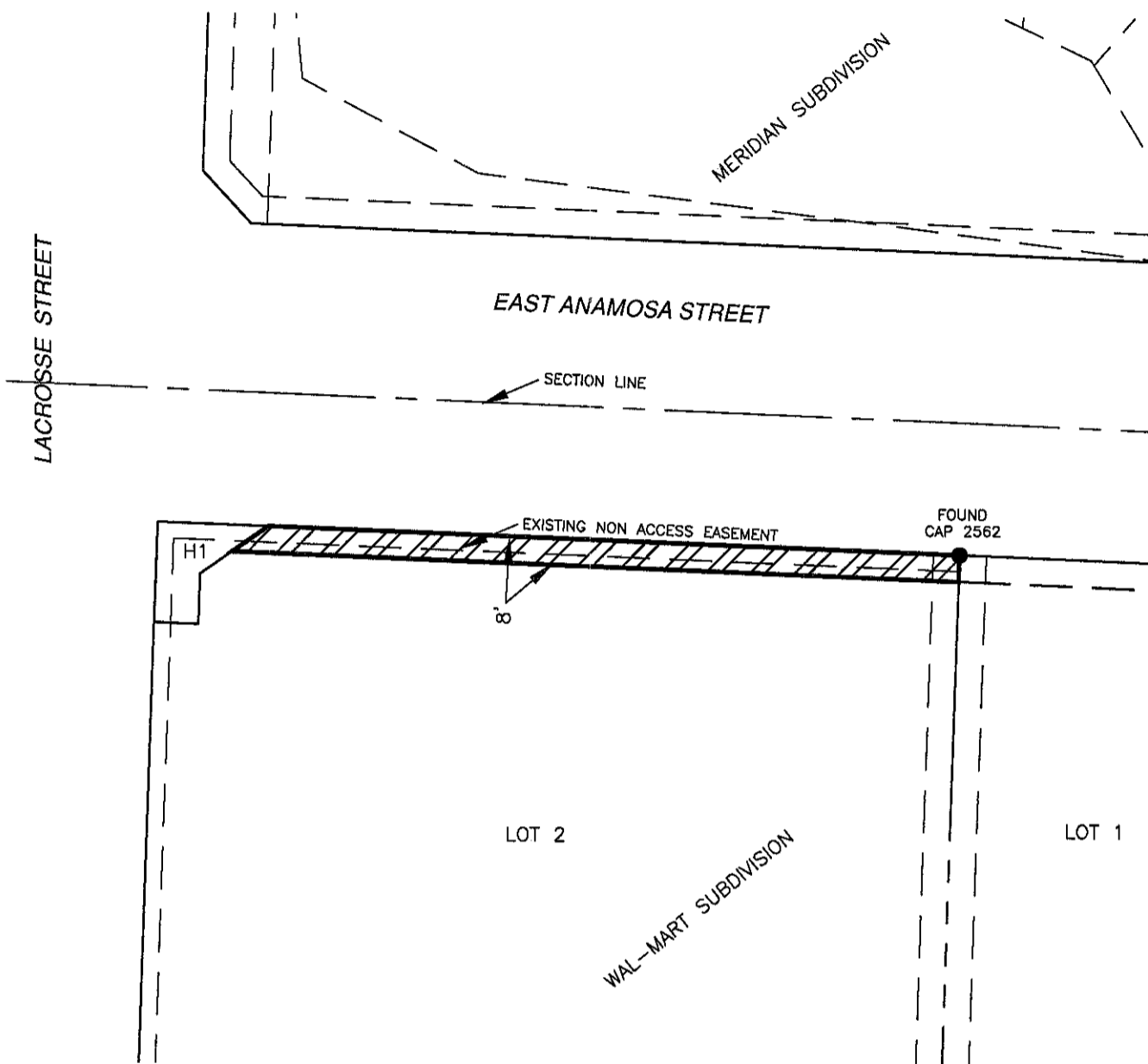
A strip of land eight feet (8') in width in, on, over and across Lot Two (2) of Wal-Mart Subdivision, located in the Northeast Quarter (NE1/4) of Section Thirty-One (31), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as shown on Exhibit "A", attached hereto and incorporated herein by reference.

Such easement shall include the right to enter upon the easement property to construct, install, operate, inspect, maintain, and repair private and public utilities and their related appurtenant facilities. The City shall perform all work in a workmanlike manner and shall leave the property in as good condition as existed prior to entry thereon.

EXHIBIT A

8' WIDE UTILITY EASEMENT

LOCATED IN LOT 2 OF WAL-MART SUBDIVISION IN THE NE1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

Date _____

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
Professional Surveyors
Planners

Item #48

AGREEMENT FOR VOLUNTARY RIGHT OF WAY DONATION

PROJECT NO: 1648(1), ST04-13A7 PCN: COUR COUNTY/
CITY: RAPID CITY PARCEL NO: 5, PE-8, A-12

This Agreement is made and entered into by and between the County/City of RAPID CITY acting by and through its County/City Commission, hereinafter referred to as "COUNTY/CITY," and NORTHWESTERN ENGINEERING CO., whose postal address is P.O. BOX 2624 RAPID CITY, SD 57109, hereinafter referred to as "DONOR";

WHEREAS, COUNTY/CITY needs the following easements for construction, operation, and maintenance of a highway:

Perpetual Easement: LOT H1 AND 8' PERMANENT UTILITY EASEMENT ACROSS LOT A OF WEST CENTURY SUB. RAPID CITY, PENN. CO. STATE OF SD.

Temporary Easement: TEMP. CONSTRUCTION EASEMENT ACROSS A PORTION OF LOT A OF WEST CENTURY SUB. RAPID CITY PENN. CO STATE OF SD.

NOW, THEREFORE, DONOR and COUNTY/CITY hereby agree as follows:

1. DONOR does hereby voluntarily grant and donate to COUNTY/CITY, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by DONOR, the above described easements as shown on the plans for construction of the above cited Project.

Stipulations of conditional donation: _____

2. DONOR understands DONOR'S right to have an appraisal prepared and DONOR'S right to receive just compensation for the above described perpetual and/or temporary easement in accordance with the Uniform Relocation Assessment and Real Property Acquisition Act of 1970, as amended.

3. DONOR shall not erect fences, structures, or obstacles within the perpetual easement.

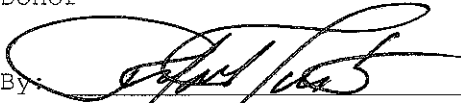
4. DONOR grants permission to COUNTY/CITY or COUNTY'S/CITY'S agent to enter upon above described easement upon approval of this Agreement.

5. The perpetual easement shall be in effect until the highway is abandoned by the proper action of the COUNTY/CITY Commission and the temporary easement shall be in effect until one (1) year after construction of the Project is completed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on this _____ day of _____ in the year _____.

Donor _____

County/City of _____

By: 

By: _____

Name: PATRICIA A TLUSTOS

Its: County Commission Chairperson/
City Mayor

By: _____

Attest: _____

Name: _____

County Auditor/City Finance Officer

[County/City Seal]

DONOR ACKNOWLEDGMENT

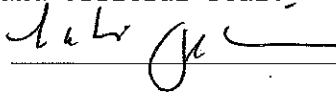
STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON)
) ss

On this the 5th day of OCTOBER in the year of 2009, before me, KATI JENKINS, a Notary Public, within and for said County and State, personally appeared PATRICK A TLUSTOS known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

In witness whereof I hereunto set my hand and official seal.



[Notary Seal]



Notary Public

My Commission Expires
September 30, 2010

My Commission Expires: _____

RECORD OF CALLS/VISITS AND DISCUSSION RECORD
TO ACCOMPANY DONATION FORM LG-ROW-1

PROJECT NO: 1648(1) ST04-1397 PCN: DOUR COUNTY/CITY: RAPID CITY
LANDOWNER: NORTHWESTERN ENGINEERING MANAGEMENT

NAME OF NEGOTIATOR: ROBERT ELLIS / ROD SENN
TITLE: _____

The following document(s) was/were shown and/or explained to the Landowner:

Construction Plan Sheet Right of Way Document(s) Right of Way Brochures Other

Call/Visit Number: 1
Time: 11:00 AM PM Date: 12/20/07
Visit Location: NWE OFFICE
List people present during meeting: FAT T, DAVE C. (NWE) ROBERT ELLIS
ROD SENN

Notes of the Discussion: SEE ATTACHED MEMO

Call/Visit Number: 2
Time: 11:00 AM PM Date: 3/4/08
Visit Location: CITY ADMIN
List people present during meeting: _____

Notes of the Discussion: SEE MEMO ATTACHED

Call/Visit Number: 3
Time: 3:00 AM PM Date: 3/6/08
Visit Location: _____
List people present during meeting: _____

Notes of the Discussion: SEE ATTACHED MEMO

Call/Visit Number: 4
Time: _____ AM/PM Date: 2/2/09-3/4/09, Oct. 1, 2009
Visit Location: E-MAIL
List people present during meeting: _____

Notes of the Discussion: VARIOUS SEE ATTACHED E-MAILS
OCT. 1, 2009 - DOCS SENT TO NWE - SEE ATTACHED LETTER

Note: Please indicate in the Notes of Discussion, any agreement made as part of the donation, such as an additional approach, a load of gravel, etc.

**Kadmas
Lee &
Jackson**

Engineers Surveyors
Planners

MEMO

Date: December 20, 2007
To: File
Copy To:
From: Rod Senn
Re: East Anamosa – NWE Meeting

Today at 11:00 AM, Robert Ellis (City of RC) and I met with Northwestern Engineering to begin a dialogue regarding the East Anamosa Street Extension project. Present on the behalf of NWE was Pat T., Dave C., Darrel, Steve and Dennis.

We briefed them that the Federal Highway environmental documentation process had been satisfied last week and that we wanted to update them on the current status of the project and answer any questions they may have at this time. It was discussed that this was to be a general update meeting and that after the first of the year we would be contacting them with specific information regarding the acquisition of right of way. The guidelines for acquiring ROW on a federal aid project were discussed and a handout on acquiring real property from the FHWA website was given to them to review prior to beginning of the process. No specifics such as amount of ROW required or dollar values were discussed.

A general discussion of the preliminary horizontal and vertical alignments took place. Discussed that we will have to complete some wetland mitigation regarding the area located on their current property. Pat informed us that the fill they have placed near the alignment will contain some rubble and was not compacted when placed. He also indicated that they may have some potential borrow material available. NWE main concerns will be with:

- Access points
- Intersection alignment with Century Road
- Sanitary sewer improvements – how will there property be served
- Water system improvements – how will the high and low system modifications affect their property. They currently have some issues with flow and pressure at the mobile home court.
- What is the distance from proposed roadway to the mobile home court.

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PO Box 3416

Rapid City, SD 57709-3416

Fax 605 721 5575

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To address these concerns at this time, Robert is going to coordinate a meeting between the landowner, Public Works and Growth Management to discuss property access and the Century Road alignment after the first of the year. I indicated that I did not have any information with me regarding the utilities and that I would have the design engineer, Rich Wells, send Pat an email addressing his current questions. I later in the date sent Pat an email indicated that the closest corner of the closest mobile home was 228 feet from the proposed centerline.

**Kadmas
Lee &
Jackson**

Engineers Surveyors
Planners

MEMO

Date: March 4, 2008
To: File
Copy To:
From: Rod Senn
Re: East Anamosa – NWE Meeting

Today at 11:00 AM, Robert Ellis, Klare Schroeder (City of RC) and Rich Wells and myself met with Northwestern Engineering to continue a dialogue regarding the East Anamosa Street Extension project. Present on the behalf of NWE was Pat T. and Dave C.

A general discussion of the preliminary plats took place. Discussed that we will have to complete some highway right of way, permanent easements and construction easements. Discussed the proposed improvements including the installation of the water systems and the casing to facilitate future sewer system improvements. Pat indicated that a key component to him was the installation of the sewer system. Robert discussed how this is to be a developer cost and that maybe a TIF or an amendment to a TIF is a possibility. Pat has concerns with a TIF amendment and will research. Pat also has concerns with the cost of the sewer as they would have to install through another landowners property to reach the Rushmore Crossing sewer.

Discussed the issues of access to property. Rod indicated that without knowing the land uses, it is difficult to identify the number of points until the land is platted. Discussed the proposed location of Cambell along with the Century realignment. It was agreed that the Cambell location would be removed from the plans at this time to provide for future flexibility in platting the land to the south.

Pat indicated that NWE would be open to moving the proposed north realignment of Century Road to the west from the proposed location by the AR Group.

Pat will visit with the landowner to the north to discuss any future sewer plans being developed that may benefit his property.

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Pat indicated that the NWE main concerns will be with:

- Access points
- Intersection alignment with Century Road
- Sanitary sewer improvements

Rod Senn

From: David Crabb [davec@nwemanagement.com]
Sent: Saturday, February 23, 2008 8:54 AM
To: rod.senn@kljeng.com
Subject: RE: March 4th 11:00 AM meeting

Rod,

We will meet you at the City Engineering office. Thanks

From: Rod Senn [mailto:rod.senn@kljeng.com]
Sent: February 22, 2008 6:10 PM
To: David Crabb
Subject: RE: March 4th 11:00 AM meeting

Dave:

Robert has something right before so he would prefer City Engineering.

Thanks,

Rod Senn, PE
Kadrmass, Lee & Jackson, Inc.
605-721-5553 Phone
605-721-5575 FAX

From: David Crabb [mailto:davec@nwemanagement.com]
Sent: Friday, February 22, 2008 12:17 PM
To: rod.senn@kljeng.com
Subject: March 4th 11:00 AM meeting

Rod,

Pat and I have you down for the March 4th meeting at 11:00 AM. Did you want to meet at NWE's conference room?

Rod Senn

From: David Crabb [davec@nwemanagement.com]
Sent: Tuesday, February 19, 2008 3:31 PM
To: rod.senn@kljeng.com
Subject: RE: NWE meeting

Ok, thanks Rod.

From: Rod Senn [mailto:rod.senn@kljeng.com]
Sent: February 19, 2008 3:19 PM
To: David Crabb
Subject: RE: NWE meeting

David:

I have sent the info on to Robert - he is out for the week. I will let you know when I hear something

Thanks,

Rod Senn, PE
Kadrmass, Lee & Jackson, Inc.
605-721-5553 Phone
605-721-5575 FAX

From: David Crabb [mailto:davec@nwemanagement.com]
Sent: Tuesday, February 19, 2008 2:28 PM
To: rod.senn@kljeng.com
Subject: NWE meeting

Ron,

Right now Pat Tlustos is available on March 4th, 5th or 6th any time from 9 AM to 1 PM. Please let me know if these times work for you and Robert.

MEMO

Date: March 6, 2008
To: File
Copy To:
From: Rod Senn
Re: East Anamosa – Northwest Engineering Management

Today at 3:00 PM, Robert Ellis, Klare Schroeder (City of RC) and Rich Wells and myself met with AR Group consultant Lawrence Kostaneski of Centerline to continue a dialogue regarding the East Anamosa Street Extension project. For a portion of the meeting Marcia Elkins and Pat Tlustos with Northwest Engineering Management joined the meeting.

Discussed that an access point to Century Road to the north will be established within the City portion of the project. Exact location of the access is being reviewed by Growth Management and Public Works. A sketch indicating the two proposed alignments around the power pole in this location will be developed and submitted to the City for comment. As soon as we have comment from the City on the acceptable location, we will pass that information along to you. Accordingly five additional access points will be noted on the Northwest Engineering Management parcel as per City standards.

605 721 5553

330 Knollwood Drive

PO Box 3416

Rapid City, SD 57709-3416

ax 605 721 5575

www.kljeng.com

Kadmas, Lee & Jackson, Inc.

A KLJ Solutions Company

Schroeder Klare

From: Rod Senn [rod.senn@kljeng.com]
Sent: Wednesday, March 04, 2009 8:37 AM
To: Ellis Robert; Schroeder Klare; Tech Dale
Cc: ross.eberle@kljeng.com; dirk.jablonski@kljeng.com
Subject: FW: East Anamosa Street

All:

I called Dave Crabb yesterday with NWE to try and establish a conference call with Pat on the East Anamosa project concerning ROW. I expressed the urgent need to complete the ROW to facilitate the construction bidding letting through the DOT and the time delays involved. Dave apologized as him and Pat have not been able to coordinate schedules – Pat is still out of the continental US and Dave is their CFO and dealing with tax related issues. I asked if he could forward any issues the City could be reviewing at this time to address and the email below is his response.

Thoughts?

Thanks,

Rod

From: David Crabb [mailto:davec@nwmanagement.com]
Sent: Tuesday, March 03, 2009 6:56 PM
To: rod.senn@kljeng.com
Cc: Pat Tlustos
Subject: East Anamosa Street

Rod,

As we discuss today and as we have mentioned all along, NWE is supportive of the extension of East Anamosa Street, but we really need a solution for providing sewer to our property. Since our land is surrounded by properties owned by 3rd parties, we have no ability to force any neighbor to cooperate in bringing sewer service to our property. Without the ability to hook into sewer service our land doesn't benefit from the new road, although the tax assessor will likely think otherwise.

We'd be better served if the City could bring sewer service along with the road project and assess the landowners for the cost of the sewer, unless President Obama has sewer projects in his next stimulus package.

Dave Crabb, CFO
 Northwestern Engineering Company
 Office (605) 718-7030 new # as of 12-15-08
 Cell (605) 390-8236
 Fax (605) 341-2558

Schroeder Klare

From: David Crabb [davec@nwemanagement.com]
Sent: Monday, February 09, 2009 4:08 PM
To: rod.senn@kljeng.com
Cc: Schroeder Klare; Pat Tlustos
Subject: RE: East Anamosa Extension

Thanks Rod. It appears the new layout for the road did move south so the road is even closer to the residences in the Meadowlark Mobile Home Park. Do you expect to build any sound barrier walls near the mobile home park with this latest design?

-----Original Message-----

From: Rod Senn [mailto:rod.senn@kljeng.com]
Sent: February 09, 2009 3:55 PM
To: David Crabb
Cc: 'Schroeder Klare'; Pat Tlustos
Subject: RE: East Anamosa Extension

Dave:

Attached is a draft of a consolidated NWE property map.

Thanks,

Rod

-----Original Message-----

From: David Crabb [mailto:davec@nwemanagement.com]
Sent: Monday, February 09, 2009 10:46 AM
To: rod.senn@kljeng.com
Cc: Schroeder Klare; Pat Tlustos
Subject: RE: East Anamosa Extension

Rod,

The drawing can be just our property. We see the casing at 28+00, but our concern is how do we get from the casing to the sewer system.

Without access to the public sewer system, we can't do anything with this property.

-----Original Message-----

From: Rod Senn [mailto:rod.senn@kljeng.com]
Sent: February 09, 2009 10:25 AM
To: David Crabb
Cc: 'Schroeder Klare'; Pat Tlustos
Subject: RE: East Anamosa Extension

Dave:

I will put together two exhibits to send you later today to address items 4 and 6 and assume Klare will address the remaining items.

Regarding the requests:

1. On item 4, I am assuming the you need just your property?
2. In the pdf entitled "Water and Sewer" on page 15 there is a 16 inch casing being installed at approximately Sta 28+00 to facilitate future sanitary sewer to the north.

Thanks,

Rod

-----Original Message-----

From: David Crabb [mailto:davec@nwemanagement.com]
Sent: Monday, February 09, 2009 9:31 AM
To: rod.senn@kljeng.com
Cc: Schroeder Klare; Pat Tlustos
Subject: RE: East Anamosa Extension

Rod and Klare,

Here are our questions and comments:

1. Has everyone agreed to donate the easements for this project?
2. If not, who is getting paid and how much?
3. If the ROW is 100 feet, do you really need the additional 16 feet of easement?
4. We would like a consolidated drawing showing all of our property and the related ROW and easements so we can get an overview of how these impact the land.
5. Will the City of RC agree to handle the vacation of the existing ROW and will it revert back to us?
6. The Water and Sewer drawing seems to be missing the sewer. Sewer service to our land has not been addressed and I think we all know that is a vital issue for us. What solutions do you have for sewer service to our land?

I'm including Pat on this email, so you can reply to all on these points. I think we should get these issues addressed before we try to schedule a conference call. Thanks

-----Original Message-----

From: Rod Senn [mailto:rod.senn@kljeng.com]
Sent: February 06, 2009 9:21 AM
To: David Crabb
Cc: 'Schroeder Klare'
Subject: East Anamosa Extension

Dave:

As we discussed the other day, attached are a draft of the updated easement documents for the East Anamosa Street Extension project in Rapid City which pertain to property owned by your company. Please forward the information onto Pat. If you or Pat have any initial questions, please feel free to call otherwise please coordinate with Pat some times in the near future that we could setup a conference between your company, Klare S, Robert Ellis and myself.

Thanks for your help and again please feel free to call with any questions you may have,

Thanks,

Rod Senn, PE
Kadrmass, Lee & Jackson

Schroeder Klare

From: Rod Senn [rod.senn@kijeng.com]
Sent: Monday, February 02, 2009 3:07 PM
To: Schroeder Klare
Subject: NWE Management

Klare:

Pat T. is in Hawaii until March 17th. I spoke with Dave Crabb and he suggested that we put together a packet of information to email to him and he will forward to Pat. He thinks we could probably then schedule a conference call with Pat once he has the packet and reviewed it. Thoughts?

Thanks,

Rod Senn, PE
Kadmas, Lee & Jackson

Tele: 605-721-5553
FAX: 605-721-5575
Cell: 605-391-9743

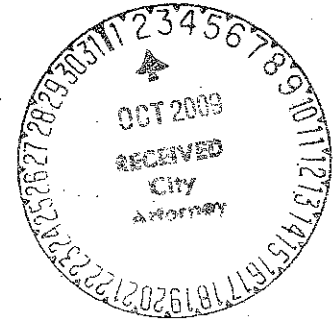
Kadrmass
Lee &
Jackson

Engineers Surveyors
 Planners

October 1, 2009

Mr. David Crabb
 Northwestern Engineering Company
 P.O. Box 2624
 Rapid City, SD 57709-2624

**RE: East Anamosa Street Extension
 Lacrosse Street to East North Street**



Dear Mr. Crabb:

As we discussed this morning during a telephone conversation, enclosed you will find revised right of way documents pertaining to your property on the above referenced project in Rapid City. The South Dakota Department of Transportation is in the process of reviewing the property related issues involved with this project and has asked the City to use their updated forms before final approval can be given. The City has completed the updated forms and is asking that you please have the documents executed as indicated. The documents can be returned to our office upon execution. Upon final approval the City will provide you with the appropriate information for your records.

If you should have any questions concerning the revised forms, please contact either Klare Schroeder with Rapid City Engineering Services (605-394-4165) or Joel Landeen with the Rapid City Office of the City Attorney (605-394-4140). Thank you for your cooperation in matter.

Sincerely,

KADRMAS, LEE & JACKSON, INC.

A handwritten signature in cursive, appearing to read 'Rod Senn'.

Rod Senn, PE

Enc.

Cc: K. Schroeder - City
 J Landeen. - City

605 721 5553

330 Knollwood Drive

PO Box 3416

Rapid City, SD 57709-3416

Fax 605 721 5575

kljeng.com

Kadrmass, Lee & Jackson, Inc.

A KLJ Solutions Company

Item #18

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

QUIT CLAIM DEED

NORTHWESTERN ENGINEERING CO., of P.O. Box 2624, Rapid City, SD 57709,
Grantors, for and in consideration of One Dollar (\$1.00) and other good and valuable
consideration, convey and quit claims to CITY OF RAPID CITY, a municipal corporation, of
300 Sixth Street, Rapid City, South Dakota, 57701, all interest in the following described real
estate in the County of Pennington in the State of South Dakota:

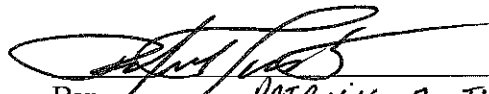
Lot H1 located across a portion of Lot A of West Century Subdivision of the
Northwest Quarter of Section Thirty-two (32), Township Two North (T2N),
Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington
County, South Dakota.

This instrument is intended as a conveyance of land acquired for highway purposes.

EXEMPT FROM TRANSFER FEE: SDCL Section 43-4-22(2)

Dated this 5th day of OCTOBER, 2009.

NORTHWESTERN ENGINEERING CO.

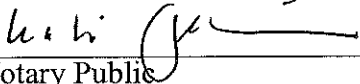

By: PATRICK A TLUSTOS
Its: VICE PRESIDENT

State of South Dakota)
)ss. ACKNOWLEDGMENT
County of Pennington)

On this 5th day of OCTOBER, 2009, before me, the undersigned officer,
personally appeared PATRICK A TLUSTOS, who acknowledged himself to be the

VICE PRESIDENT of Northwestern Engineering Co. and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My Commission Expires: My Commission Expires
(SEAL) September 30, 2010

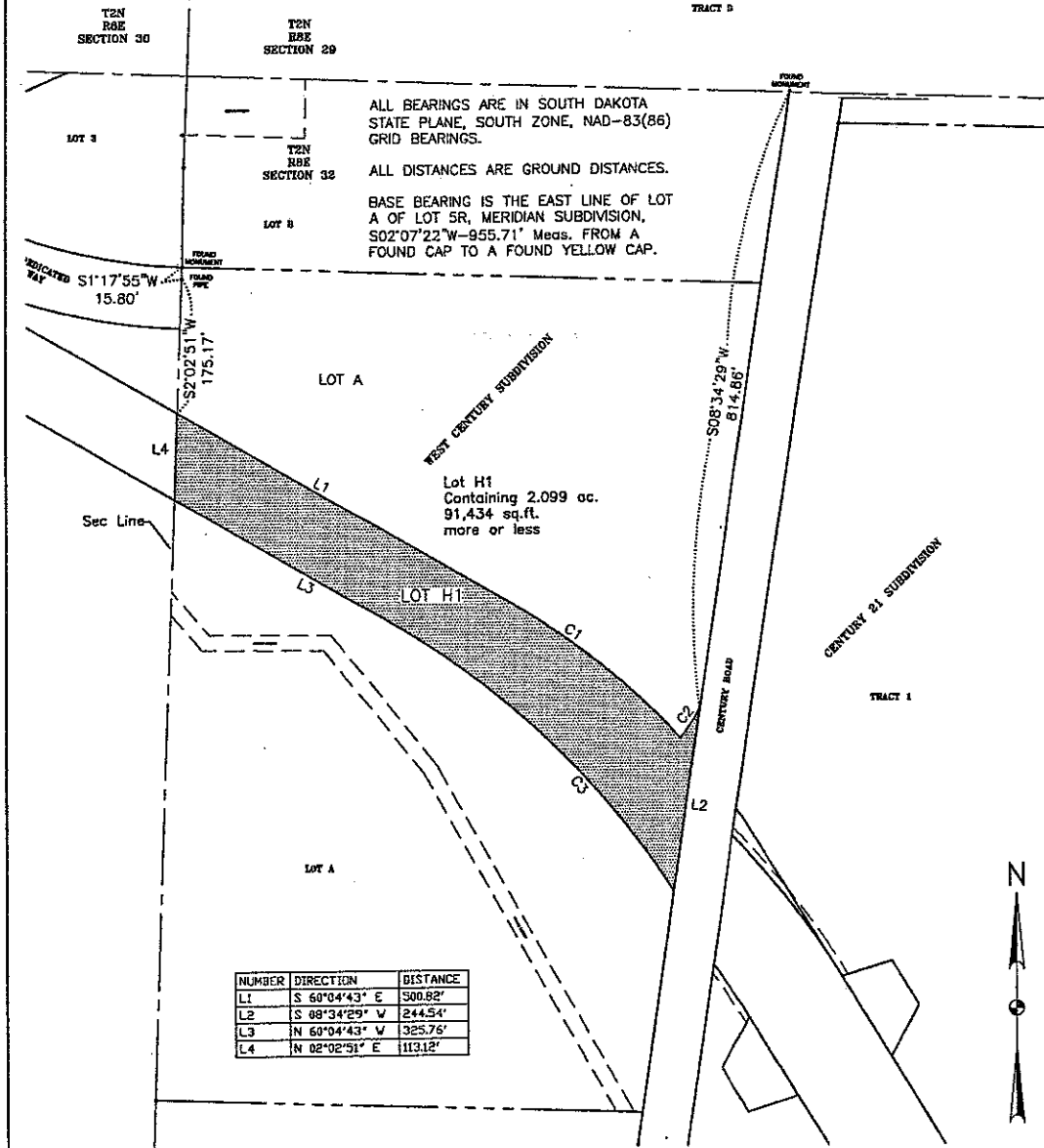


Parcel No. 4

PLAT OF LOT H1

Showing a tract of land to be acquired for highway purposes in Lot A of West Century Subdivision in the NW1/4 NW1/4 of Section 32, Township 2 North, Range 8 East of the BHM for construction of Project No. ST04-1397 & EM 1848(1) PENNINGTON COUNTY, SOUTH DAKOTA

SCALE: 1 INCH = 100 FEET



NUMBER	DIRECTION	DISTANCE
L1	S 60°04'43" E	500.82'
L2	S 08°34'29" W	244.54'
L3	N 60°04'43" W	325.76'
L4	N 02°02'51" E	113.12'

NUMBER	DELTA ANGLE	DEGREE OF CURVE - ARC	CHORD DIRECTION	TANGENT	RADIUS	ARC LENGTH	CHORD LENGTH
C110	17°27'04"	05°59'18"	N 51°21'12" W	146.95	956.01	291.42	290.30
C111	16°05'56"	32°55'43"	N 33°46'54" E	24.61	174.00	48.99	48.73
C112	27°36'21"	05°17'43"	N 46°16'33" W	265.83	1082.04	521.34	516.31

Drawn By: GJS Date: 1/11/08
 Chk'd By: KO Date: 12/18/08

SURVEYOR'S STATEMENT

I, Kent A. Orvik, Registered Land Surveyor in and for the State of South Dakota, do hereby certify that, as ordered by the City of Rapid City the tract of land as shown on the plat has been surveyed at my direction and under my control, and such tract of land shall be hereafter known by the lot number designation herein. The location and dimensions of the tract are shown on this plat.

In witness whereof, I have set my hand and seal this 13th day of January A.D., 2009.

Registered Land Surveyor
 Registration No. 5436

OFFICE OF REGISTER OF DEEDS

State of South Dakota
 County of _____ ss
 Filed for record the _____ day of _____ A.D., 200_, at _____ M., and recorded in Book of Plats _____
 on Page _____ therein.
 Register of Deeds _____ by _____ Deputy

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
)ss. PERMANENT UTILITY EASEMENT
COUNTY OF PENNINGTON)

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NORTHWESTERN ENGINEERING CO., of P.O. Box 2624, Rapid City, South Dakota 57709, Grantor, hereby grants to the CITY OF RAPID CITY, a South Dakota municipality, 300 Sixth Street, Rapid City, South Dakota, 57701, the Grantee, a perpetual utility easement, subject to the conditions hereinafter set forth, as hereinafter described.

The property which is the subject of this permanent utility easement is legally described as:

A permanent utility easement 8' in width in, over and across Lot A of West Century Subdivision, located in the NW ¼ of Section 32, T2N, R8E, Black Hills Meridian, Rapid City, Pennington County, State of South Dakota, as shown on Exhibit "A" which has been attached hereto and incorporated herein by this reference.

Such easement shall include the right to enter upon the easement property to maintain and repair all public utilities and their related appurtenant facilities. The City shall perform all work in a workmanlike manner and shall leave the property in as good condition as existed prior to entry thereon.

The area which is the subject of this easement shall be kept free of all obstacles, including fences, shrubs, walls, or other items which obstruct the visibility or usefulness of the easement.

This easement shall include the right to enter upon the above described real property and otherwise to do those things reasonably necessary to effectuate its purpose.

DATED this 5th day of OCTOBER, 2009.

NORTHWESTERN ENGINEERING CO.

[Signature]
By: PATRICK A TUSKOS
Its: VICE PRESIDENT

State of South Dakota)
County of Pennington)

ACKNOWLEDGMENT

On this 5th day of OCTOBER, 2009, before me, the undersigned officer, personally appeared PATRICK A TUSKOS, who acknowledged himself to be the VICE PRESIDENT of Northwestern Engineering Co. and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My Commission Expires:

(SEAL)

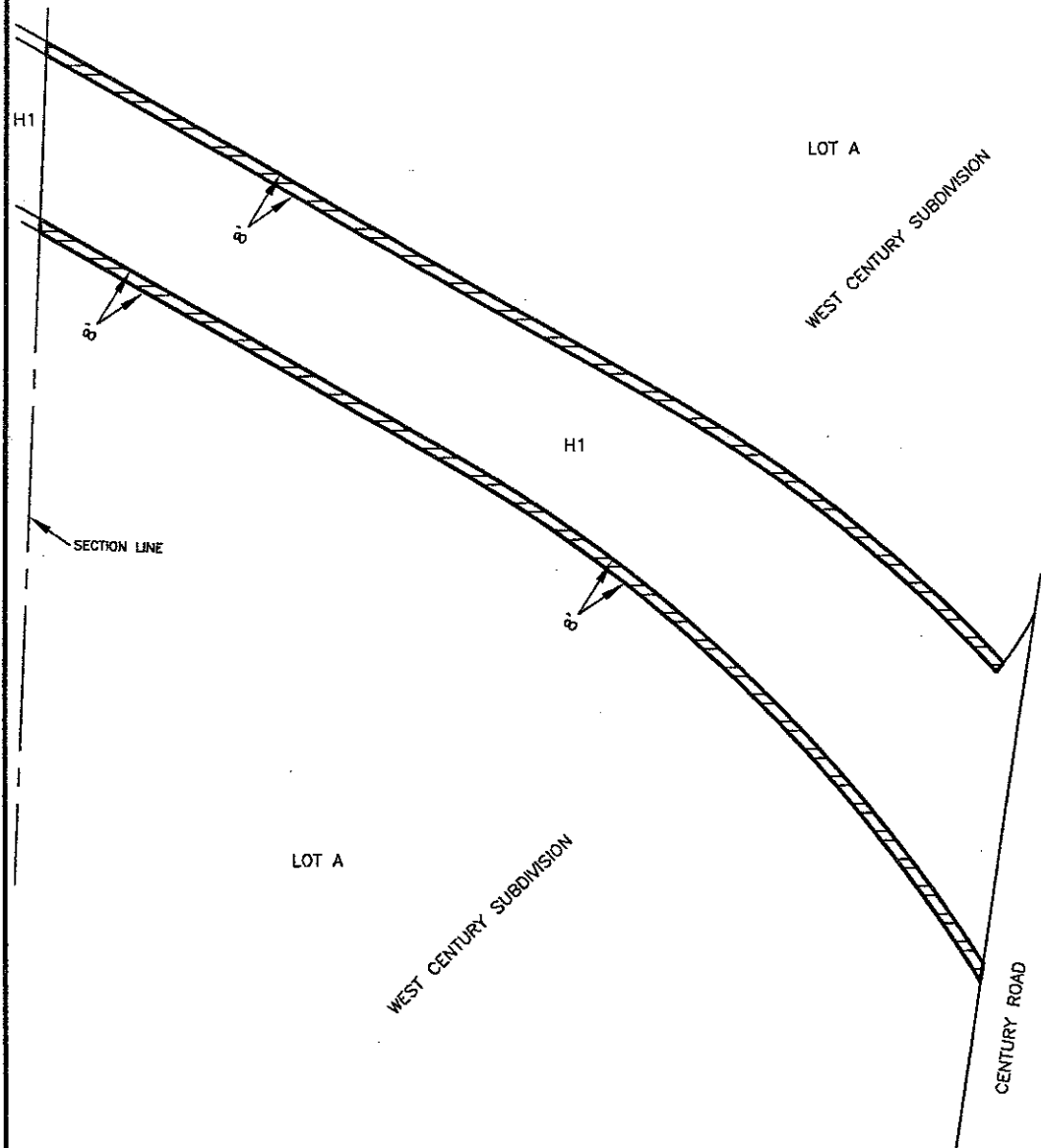
My Commission Expires:
September 30, 2010



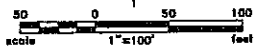
EXHIBIT A

8' WIDE UTILITY EASEMENT

LOCATED IN LOT A OF WEST CENTURY SUBDIVISION, IN THE NW1/4 NW1/4 OF SECTION 32, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.



Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

Date _____

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553



PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
) SS. TEMPORARY CONSTRUCTION
COUNTY OF PENNINGTON) EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NORTHWESTERN ENGINEERING COMPANY, of P.O. Box 2624, Rapid City, South Dakota, 57709, Grantor, hereby grants to the CITY OF RAPID CITY, a South Dakota municipality, of 300 Sixth Street, Rapid City, South Dakota, 57701, its agents, employees, and contractors, a temporary construction easement over and across the following described real property:

Lot A of West Century Subdivision, in the NW ¼ of Section 32, T2N, R8E, Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference.

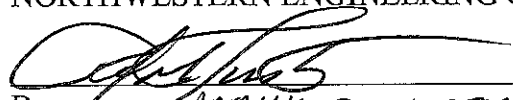
This easement shall include the right to enter upon the easement property for the purpose of constructing the project entitled, "East Anamosa Extension, Project No. ST04-1397 & EM 1648(1)."

The City shall perform all work in a workmanlike manner and shall leave the property in as good condition as existed prior to entry thereon. However, the City will not be responsible for repairing or replacing any structures or improvements that are placed in the temporary easement after the effective date of the easement.

This Temporary Easement shall be effective from the date of signing to October 31, 2011, or completion of construction, whichever occurs first.

Dated this 5th day of OCTOBER, 2009.

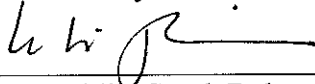
NORTHWESTERN ENGINEERING CO.


By: PATRICK A TRUSTAD
Its: VICE PRESIDENT

State of South Dakota)
 SS.
County of Pennington)

On this the 5th day of OCTOBER, 2009, before me, the undersigned officer, personally appeared PATRICK R. TUSIS who acknowledged himself to be the VICE President of Northwestern Engineering Co., and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public, South Dakota

My Commission Expires: My Commission Expires
 September 30, 2010

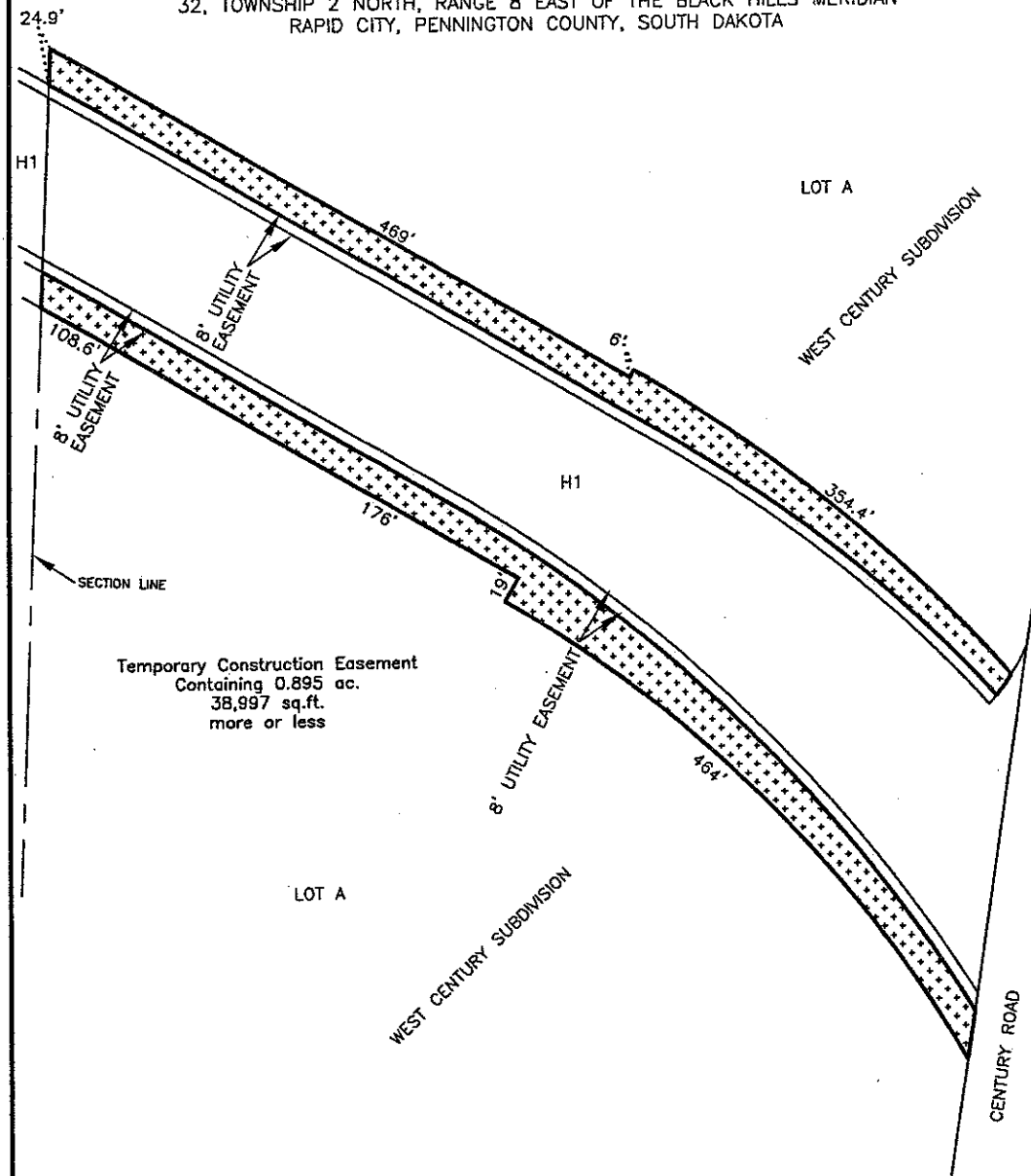
(SEAL)



EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

LOCATED IN LOT A OF WEST CENTURY SUBDIVISION, IN THE NW1/4 NW1/4 OF SECTION 32, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA

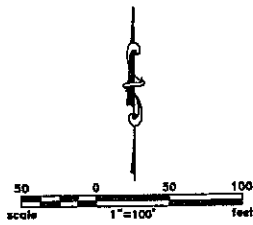


Temporary Construction Easement
Containing 0.895 ac.
38,997 sq.ft.
more or less

I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

Date _____



ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
Engineers Surveyors
Planners

Item #18

AGREEMENT FOR VOLUNTARY RIGHT OF WAY DONATION

PROJECT NO: 1648(1), ST04 PCN: 000R COUNTY/ CITY: RAPID CITY PARCEL NO: A-9, A-10, FE-7
1397 4, A-11

This Agreement is made and entered into by and between the County/City of RAPID CITY acting by and through its County/City Commission, hereinafter referred to as "COUNTY/CITY," and NORTHWESTERN ENGINEERING COMPANY, whose postal address is PO BOX 2624 RAPID CITY, SD 57709, hereinafter referred to as "DONOR";

WHEREAS, COUNTY/CITY needs the following easements for construction, operation, and maintenance of a highway:

Perpetual Easement: LOT 11 AND 7 X 8' UTILITY EASEMENTS AND SANITARY SEWER, WATER AND DRAINAGE EASEMENTS, ACROSS LOT 2 OF MEADOWLARK HILLS SUB RAPID CITY, PENNCO, STATE OF SD.

Temporary Easement: ACROSS LOTS 1, 2, 3 OF MEADOWLARK HILLS SUB IN THE NE 1/4 OF SECTION 31, T2N, R8E, BHM, RAPID CITY, PENNCO STATE OF SOUTH DAKOTA

NOW, THEREFORE, DONOR and COUNTY/CITY hereby agree as follows:

1. DONOR does hereby voluntarily grant and donate to COUNTY/CITY, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by DONOR, the above described easements as shown on the plans for construction of the above cited Project.

Stipulations of conditional donation: _____

2. DONOR understands DONOR'S right to have an appraisal prepared and DONOR'S right to receive just compensation for the above described perpetual and/or temporary easement in accordance with the Uniform Relocation Assessment and Real Property Acquisition Act of 1970, as amended.

3. DONOR shall not erect fences, structures, or obstacles within the perpetual easement.

4. DONOR grants permission to COUNTY/CITY or COUNTY'S/CITY'S agent to enter upon above described easement upon approval of this Agreement.

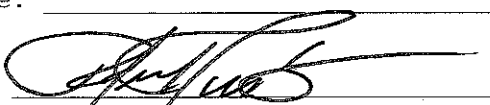
5. The perpetual easement shall be in effect until the highway is abandoned by the proper action of the COUNTY/CITY Commission and the temporary easement shall be in effect until one (1) year after construction of the Project is completed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on this _____ day of _____ in the year _____.

Donor _____ County/City of _____

By: _____ By: _____

Name: _____ Its: County Commission Chairperson/
City Mayor

By: 
Name: PATRICK A TLUSTOS

Attest:

County Auditor/City Finance Officer

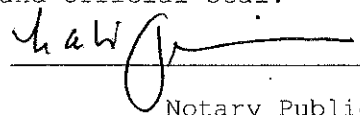
[County/City Seal]

DONOR ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON) ss

On this the 5th day of OCTOBER in the year of 2009, before me, KATI JENKINS, a Notary Public, within and for said County and State, personally appeared PATRICK A TLUSTOS known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

In witness whereof I hereunto set my hand and official seal.


Notary Public



[Notary Seal]

My Commission Expires
September 30, 2010

My Commission Expires: _____

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

QUIT CLAIM DEED

NORTHWESTERN ENGINEERING CO., of P.O. Box 2624, Rapid City, SD 57709,
Grantors, for and in consideration of One Dollar (\$1.00) and other good and valuable
consideration, convey and quit claims to CITY OF RAPID CITY, a municipal corporation, of
300 Sixth Street, Rapid City, South Dakota, 57701, all interest in the following described real
estate in the County of Pennington in the State of South Dakota:

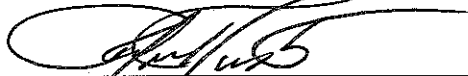
Lot H1 located across a portion of Lot 2 of Meadowlark Hills Subdivision of the
Northeast Quarter of Section Thirty-one (31), Township Two North (T2N), Range
Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County,
South Dakota, containing 61,452 square feet more or less.

This instrument is intended as a conveyance of land acquired for highway purposes.

EXEMPT FROM TRANSFER FEE: SDCL Section 43-4-22(2)

Dated this 5th day of OCTOBER, 2009.

NORTHWESTERN ENGINEERING CO.

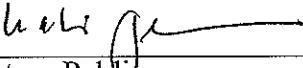

By: PATRICK A TLUSTOS
Its: VICE PRESIDENT

State of South Dakota)
) ss. ACKNOWLEDGMENT
County of Pennington)

On this 5th day of OCTOBER, 2009, before me, the undersigned officer,
personally appeared PATRICK A TLUSTOS, who acknowledged himself to be the

VICE PRESIDENT of Northwestern Engineering Co. and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My Commission Expires:

My Commission Expires
September 30, 2010

(SEAL)

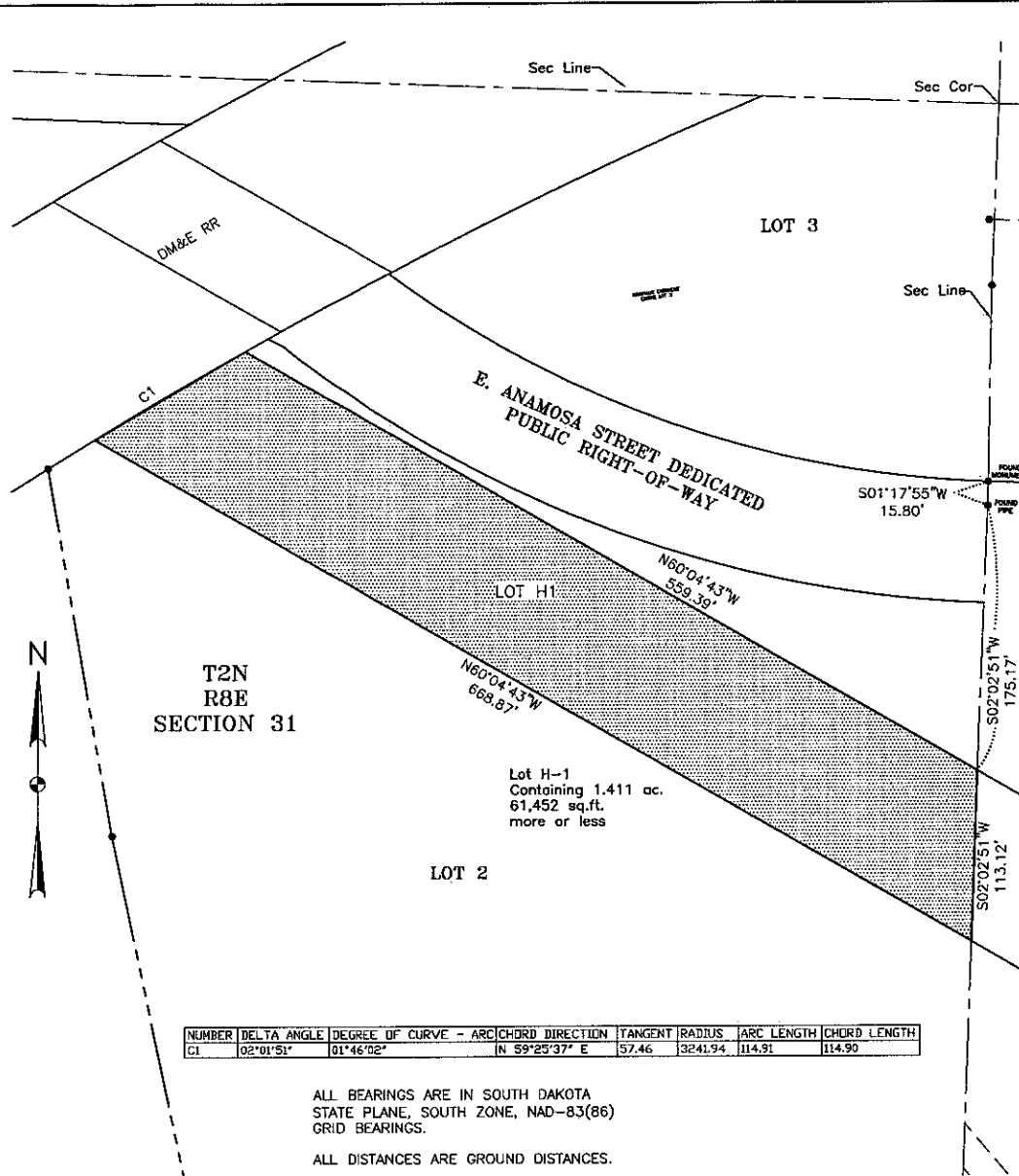


Parcel No. 3

PLAT OF LOT H1

Showing a tract of land to be acquired for highway purposes in Lot 2 of Meadowlark Hills Subdivision in the NE1/4 of Section 31, Township 2 North, Range 8 East of the BHM for construction of Project No. ST04-1397 & EM 1648(1) PENNINGTON COUNTY, SOUTH DAKOTA

SCALE: 1 INCH = 50 FEET



NUMBER	DELTA ANGLE	DEGREE OF CURVE - ARC	CHORD DIRECTION	TANGENT	RADIUS	ARC LENGTH	CHORD LENGTH
C1	02°01'51"	01°46'02"	N 59°25'37" E	57.46	3241.94	114.91	114.90

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

Drawn By: GJS Date: 1/11/08
 Chk'd By: KO Date: 1/13/09

SURVEYOR'S STATEMENT

I, Kent A. Orvik, Registered Land Surveyor in and for the State of South Dakota, do hereby certify that, as ordered by the City of Rapid City the tract of land as shown on the plat has been surveyed at my direction and under my control, and such tract of land shall be hereafter known by the lot number designation herein. The location and dimensions of the tract are shown on this plat.

In witness whereof, I have set my hand and seal this 13th day of January A.D., 2009.

Registered Land Surveyor
 Registration No. 5436

OFFICE OF REGISTER OF DEEDS

State of South Dakota
 County of _____ ss
 Filed for record the _____ day of _____ A.D., 200_, at _____ M., and recorded in Book of Plats _____
 on Page _____ therein.
 _____ Register of Deeds by _____ Deputy

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
) SS. PERMANENT SANITARY SEWER
COUNTY OF PENNINGTON) EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration as contained in the separate Right-of-Way Agreement, the receipt and sufficiency of which is hereby acknowledged, NORTHWESTERN ENGINEERING CO., of P.O. Box 2624, Rapid City, South Dakota 57709, Grantor, hereby grants to the CITY OF RAPID CITY, a municipal corporation, the Grantee, of 300 Sixth Street, Rapid City, South Dakota, 57701, a permanent sanitary sewer easement, subject to the conditions hereinafter set forth, in, on, over, under, and across the following described property:

A 20' wide permanent sanitary sewer easement over, under and across a portion of Lot2 of Meadowlark Hills Subdivision of the Northeast Quarter of Section Thirty-one (31), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit A, which has been attached hereto and incorporated herein by reference.

Such easement shall include the right to construct, operate, maintain, inspect, and repair sanitary sewer structures upon said property.

The property which is the subject of this easement shall be kept free of all obstructions including but not limited to buildings, walls, fences, hedges, trees, and shrubs.

This easement grants to all public authorities the right to enter upon the aforescribed real property and otherwise to do those things reasonably necessary to effectuate its purpose.

DATED this 5th day of OCTOBER, 2009.

NORTHWESTERN ENGINEERING CO.

[Signature]
By: PATRICK A TUSTOS
Its: VICE President

State of South Dakota)
)ss. ACKNOWLEDGMENT
County of Pennington)

On this 5th day of OCTOBER, 2009, before me, the undersigned officer, personally appeared PATRICK A TUSTOS, who acknowledged himself to be the VICE President of Northwestern Engineering Co. and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

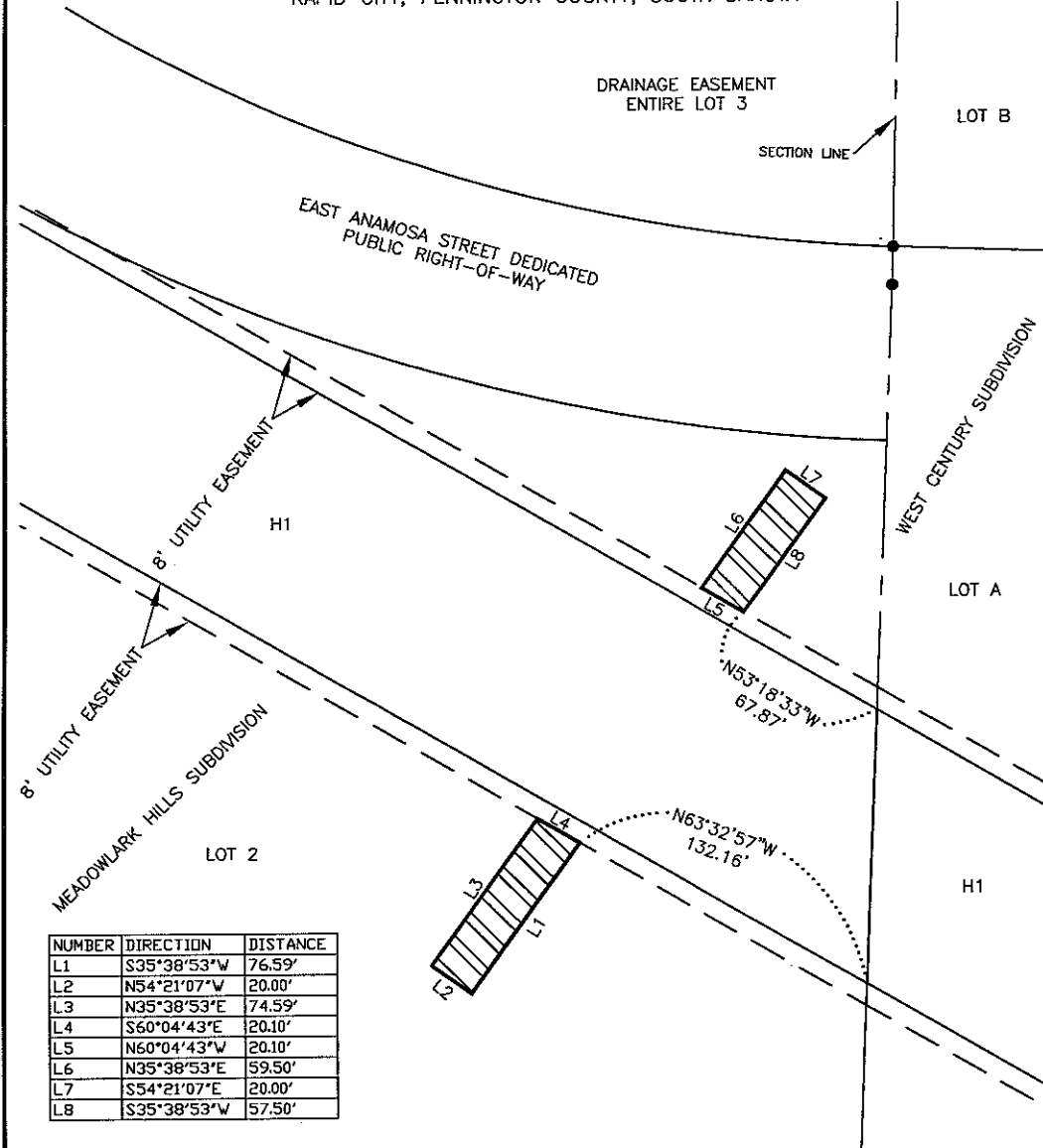
My Commission Expires: My Commission Expires
 September 30, 2010

(SEAL)

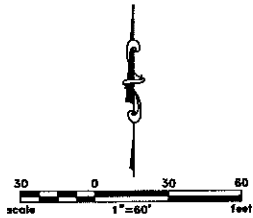


EXHIBIT A

20' WIDE SANITARY SEWER EASEMENT
 LOCATED IN LOT 2 OF MEADOWLARK HILLS SUBDIVISION & EAST ANAMOSA RIGHT OF WAY,
 IN THE NE1/4 OF SECTION 31, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS
 MERIDIAN
 RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



NUMBER	DIRECTION	DISTANCE
L1	S35°38'53"W	76.59'
L2	N54°21'07"W	20.00'
L3	N35°38'53"E	74.59'
L4	S60°04'43"E	20.10'
L5	N60°04'43"W	20.10'
L6	N35°38'53"E	59.50'
L7	S54°21'07"E	20.00'
L8	S35°38'53"W	57.50'



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik, Professional Land Surveyor
 S.D. No. 5436

Date _____

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
 KADRMAS, LEE & JACKSON, INC.
 330 KNOLLWOOD DRIVE
 RAPID CITY, SD 57701-6611
 (605) 721-5553

Kadmas
Lee &
Jackson
 Registered Surveyors
 Planners

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
) SS. PERMANENT WATER MAIN
COUNTY OF PENNINGTON) EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NORTHWESTERN ENGINEERING CO., of P.O. Box 2624, Rapid City, South Dakota 57709, Grantor, hereby grants to the CITY OF RAPID CITY, a municipal corporation, the Grantee, of 300 Sixth Street, Rapid City, South Dakota, 57701, a permanent water main easement, subject to the conditions hereinafter set forth, in, on, over, under, and across the following described property:

A permanent water main easement over, under and across a portion of Lot2 of Meadowlark Hills Subdivision of the Northeast Quarter of Section Thirty-one (31), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit A, which has been attached hereto and incorporated herein by reference.

Such easement shall include the right to construct, operate, maintain, inspect, and repair a water main and all appurtenant structures upon said property.

The property which is the subject of this easement shall be kept free of all obstructions including but not limited to buildings, walls, fences, hedges, trees, and shrubs.

This easement grants to all public authorities the right to enter upon the aforescribed real property and otherwise to do those things reasonably necessary to effectuate its purpose.

DATED this 5th day of OCTOBER, 2009.

NORTHWESTERN ENGINEERING CO.

[Signature]
By: VP Vice President
Its: PATRICIA A. THUSTOS

State of South Dakota)
)ss. ACKNOWLEDGMENT
County of Pennington)

On this 5th day of OCTOBER, 2009, before me, the undersigned officer, personally appeared PATRICIA A. THUSTOS, who acknowledged himself to be the VICE President of Northwestern Engineering Co. and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My Commission Expires: My Commission Expires:
 September 30, 2010

(SEAL)

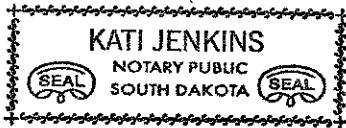
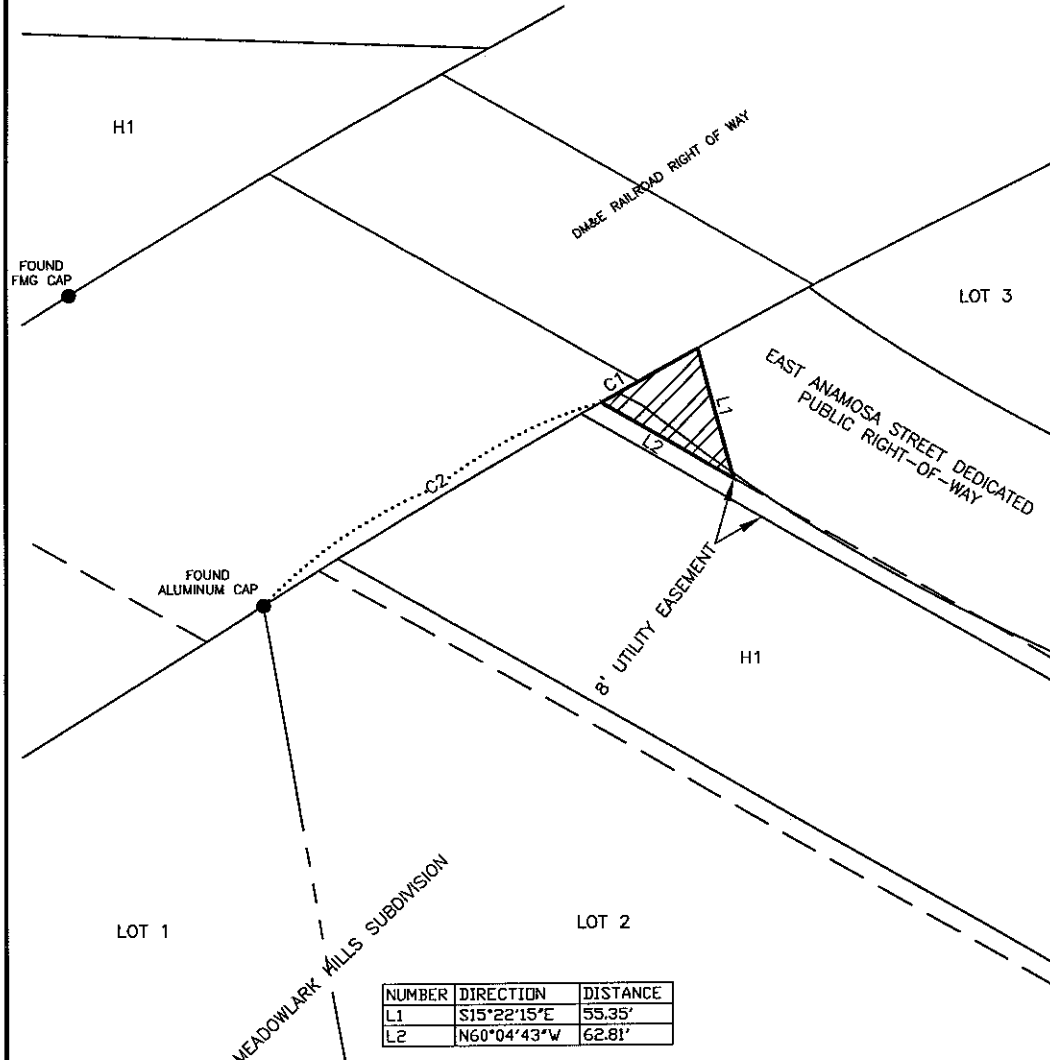


EXHIBIT A
WATER MAIN EASEMENT

LOCATED IN LOT 2 OF MEADOWLARK HILLS SUBDIVISION & VACATED EAST ANAMOSA RIGHT OF WAY, IN THE NE1/4 OF SECTION 31, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
 RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



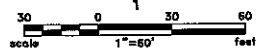
NUMBER	DIRECTION	DISTANCE
L1	S15°22'15"E	55.35'
L2	N60°04'43"W	62.81'

NUMBER	DELTA ANGLE	DEGREE OF CURVE - ARC	CHORD DIRECTION	TANGENT	RADIUS	ARC LENGTH	CHORD LENGTH
C1	00°48'13"	01°46'02"	N 61°00'31" E	22.73	3241.94	45.47	45.47
C2	02°49'54"	01°46'02"	N 59°11'27" E	80.13	3241.94	160.22	160.20

I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plot shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik, Professional Land Surveyor
 S.D. No. 5436

Date _____



ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT 4 OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
 KADRMAS, LEE & JACKSON, INC.
 330 KNOLLWOOD DRIVE
 RAPID CITY, SD 57701-6611
 (605) 721-5553

Kadmas
Lee &
Jackson
Engineers Surveyors Planners

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
)ss. PERMANENT UTILITY EASEMENT
COUNTY OF PENNINGTON)

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NORTHWESTERN ENGINEERING CO., of P.O. Box 2624, Rapid City, South Dakota 57709, Grantor, hereby grants to the CITY OF RAPID CITY, a South Dakota municipality, 300 Sixth Street, Rapid City, South Dakota, 57701, the Grantee, a perpetual utility easement, subject to the conditions hereinafter set forth, as hereinafter described.

The property which is the subject of this permanent utility easement is legally described as:

A permanent utility easement 8' in width on each side of Lot H1 in, over and across Lot 2 of Meadowlark Hills Subdivision, located in the NE ¼ of Section 31, T2N, R8E, Black Hills Meridian, Rapid City, Pennington County, State of South Dakota, as shown on Exhibit "A" which has been attached hereto and incorporated herein by this reference.

Such easement shall include the right to enter upon the easement property to maintain and repair all public utilities and their related appurtenant facilities. The City shall perform all work in a workmanlike manner and shall leave the property in as good condition as existed prior to entry thereon.

F:\DOCS\LANDEEN\Anamosa Street\NWE\Utility easement NWE Sept 25 2009.doc

The area which is the subject of this easement shall be kept free of all obstacles, including fences, shrubs, walls, or other items which obstruct the visibility or usefulness of the easement.

This easement shall include the right to enter upon the above described real property and otherwise to do those things reasonably necessary to effectuate its purpose.

DATED this 5th day of OCTOBER, 2009.

NORTHWESTERN ENGINEERING CO.

[Signature]
By: PATRICK F. TUSTOS
Its: VICE PRESIDENT

State of South Dakota)
)ss.
County of Pennington)

ACKNOWLEDGMENT

On this 5th day of OCTOBER, 2009, before me, the undersigned officer, personally appeared PATRICK F. TUSTOS who acknowledged himself to be the VICE PRESIDENT of Northwestern Engineering Co. and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My Commission Expires:
(SEAL)

My Commission Expires
September 30, 2010

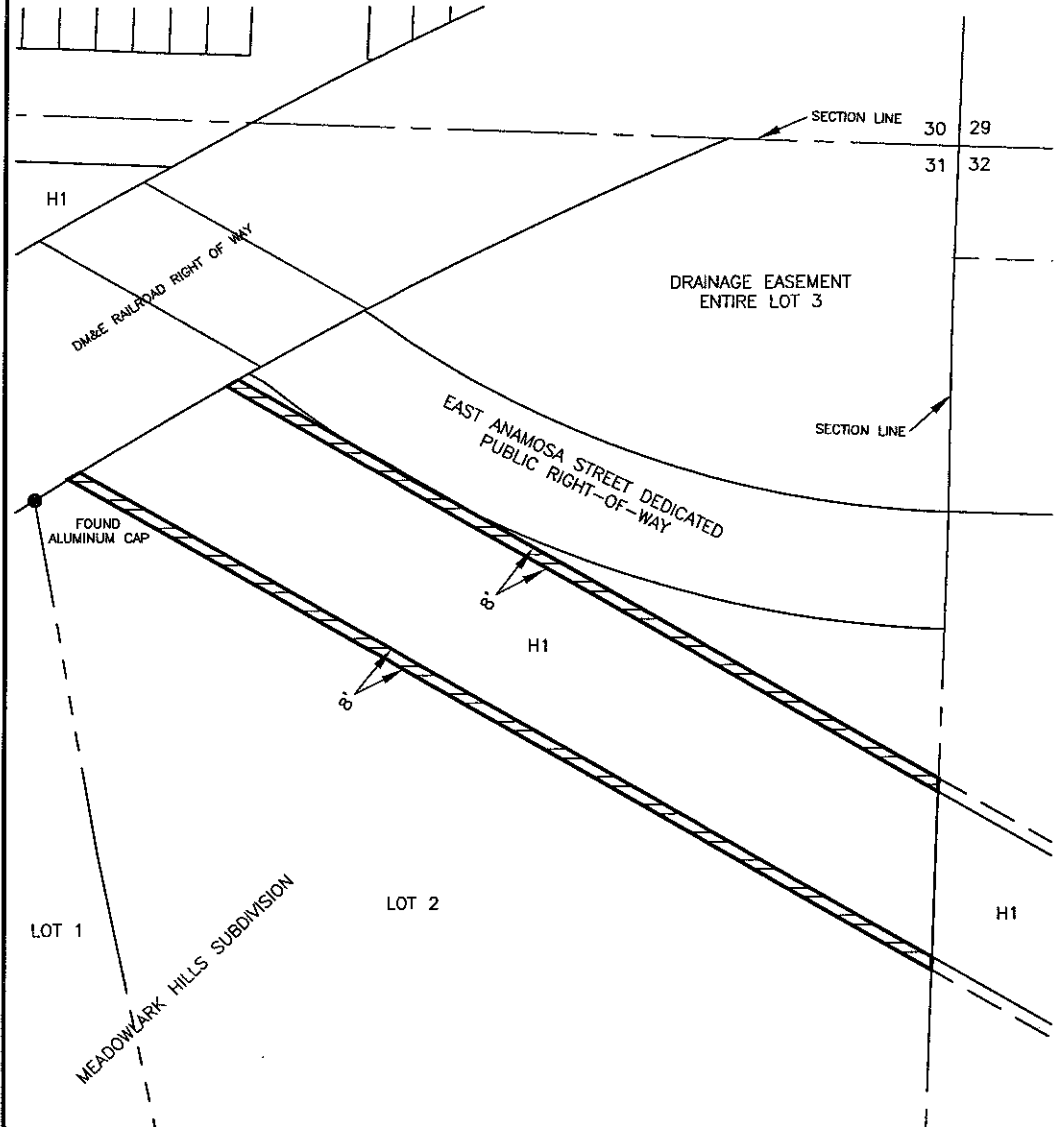


EXHIBIT A

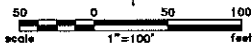
8' WIDE UTILITY EASEMENT

LOCATED IN LOT 2 OF MEADOWLARK HILLS SUBDIVISION & EAST ANAMOSA RIGHT OF WAY,
IN THE NE1/4 OF SECTION 31, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS
MERIDIAN

RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.



Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

Date _____

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
Engineers Surveyors Planners

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
) SS. PERMANENT DRAINAGE
COUNTY OF PENNINGTON) EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration as contained in the separate Right-of-Way Agreement, the receipt and sufficiency of which is hereby acknowledged, NORTHWESTERN ENGINEERING CO., of P.O. Box 2624, Rapid City, South Dakota 57709, Grantor, hereby grants to the CITY OF RAPID CITY, a municipal corporation, the Grantee, of 300 Sixth Street, Rapid City, South Dakota, 57701, a permanent drainage easement, subject to the conditions hereinafter set forth, in, on, over, under, and across the following described property:

A 40' wide permanent drainage easement over, under and across a portion of Lot2 of Meadowlark Hills Subdivision of the Northeast Quarter of Section Thirty-one (31), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit A, which has been attached hereto and incorporated herein by reference.

Such easement shall include the right to construct, operate, maintain, inspect, and repair drainage structures upon said property.

The property which is the subject of this easement shall be kept free of all obstructions including but not limited to buildings, walls, fences, hedges, trees, and shrubs.

This easement grants to all public authorities the right to enter upon the aforescribed real property and otherwise to do those things reasonably necessary to effectuate its purpose.

DATED this 5th day of OCTOBER, 2009.

NORTHWESTERN ENGINEERING CO.

[Signature]
By: PATRICK A TUSTOS
Its: VICE President

State of South Dakota)
)ss. ACKNOWLEDGMENT
County of Pennington)

On this 5th day of OCTOBER, 2009, before me, the undersigned officer, personally appeared PATRICK A TUSTOS, who acknowledged himself to be the Vice President of Northwestern Engineering Co. and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

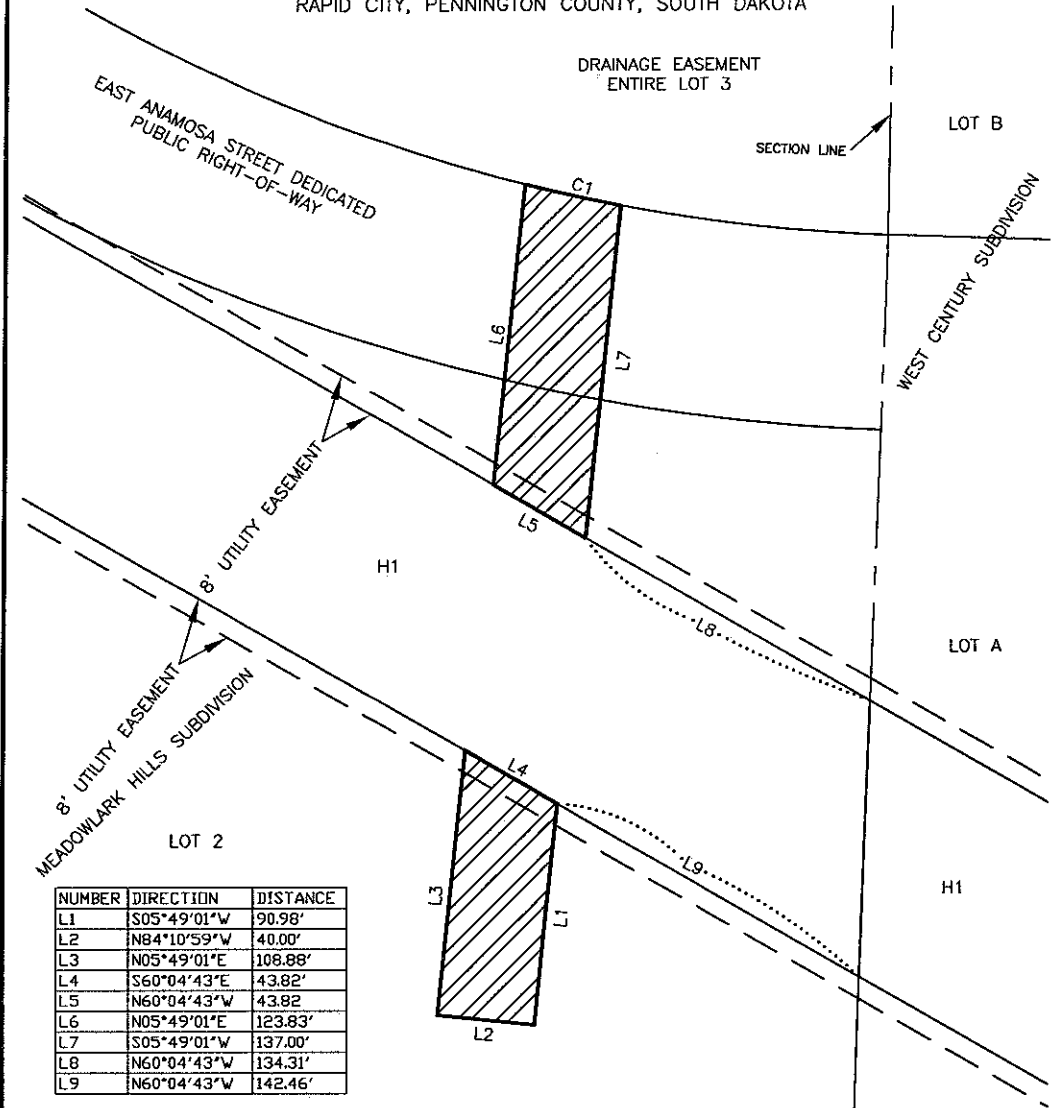
My Commission Expires: My Commission Expires
(SEAL) September 30, 2010



EXHIBIT A

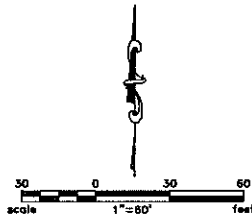
40' WIDE MAJOR DRAINAGE EASEMENT

LOCATED IN LOT 2 OF MEADOWLARK HILLS SUBDIVISION & EAST ANAMOSA RIGHT OF WAY,
IN THE NE1/4 OF SECTION 31, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS
MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



NUMBER	DIRECTION	DISTANCE
L1	S05°49'01"W	90.98'
L2	N84°10'59"W	40.00'
L3	N05°49'01"E	108.88'
L4	S60°04'43"E	43.82'
L5	N60°04'43"W	43.82'
L6	N05°49'01"E	123.83'
L7	S05°49'01"W	137.00'
L8	N60°04'43"W	134.31'
L9	N60°04'43"W	142.46'

NUMBER	DELTA ANGLE	DEGREE OF CURVE - ARC	CHORD DIRECTION	TANGENT	RADIUS	ARC LENGTH	CHORD LENGTH
C1	03°15'03"	08°04'11"	N 77°26'17" W	20.15	710.00	40.28	40.28



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

Date _____

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
Business Surveys
Planners

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
) SS. TEMPORARY CONSTRUCTION
COUNTY OF PENNINGTON) EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NORTHWESTERN ENGINEERING COMPANY, of P.O. Box 2624, Rapid City, South Dakota, 57709, Grantor, hereby grants to the CITY OF RAPID CITY, a South Dakota municipality, of 300 Sixth Street, Rapid City, South Dakota, 57701, its agents, employees, and contractors, a temporary construction easement over and across the following described real property:

Lots 1,2 and 3 of Meadowlark Hills Subdivision, in the NE ¼ of Section 31, T2N, R8E, Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference.

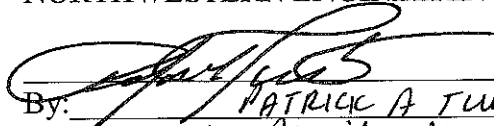
This easement shall include the right to enter upon the easement property for the purpose of constructing the project entitled, "East Anamosa Extension, Project No. ST04-1397 & EM 1648(1)."

The City shall perform all work in a workmanlike manner and shall leave the property in as good condition as existed prior to entry thereon. However, the City will not be responsible for repairing or replacing any structures or improvements that are placed in the temporary easement after the effective date of the easement.

This Temporary Easement shall be effective from the date of signing to October 31, 2011, or completion of construction, whichever occurs first.

Dated this 5th day of OCTOBER, 2009.

NORTHWESTERN ENGINEERING CO.


By: PATRICK A. TLUSTOS
Its: VICE President

State of South Dakota)
) SS.
County of Pennington)

On this the 5th day of OCTOBER, 2009, before me, the undersigned officer, personally appeared PATRICK A. TLUSTOS, who acknowledged himself to be the vice President of Northwestern Engineering Co., and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public, South Dakota

My Commission Expires: My Commission Expires
September 30, 2010

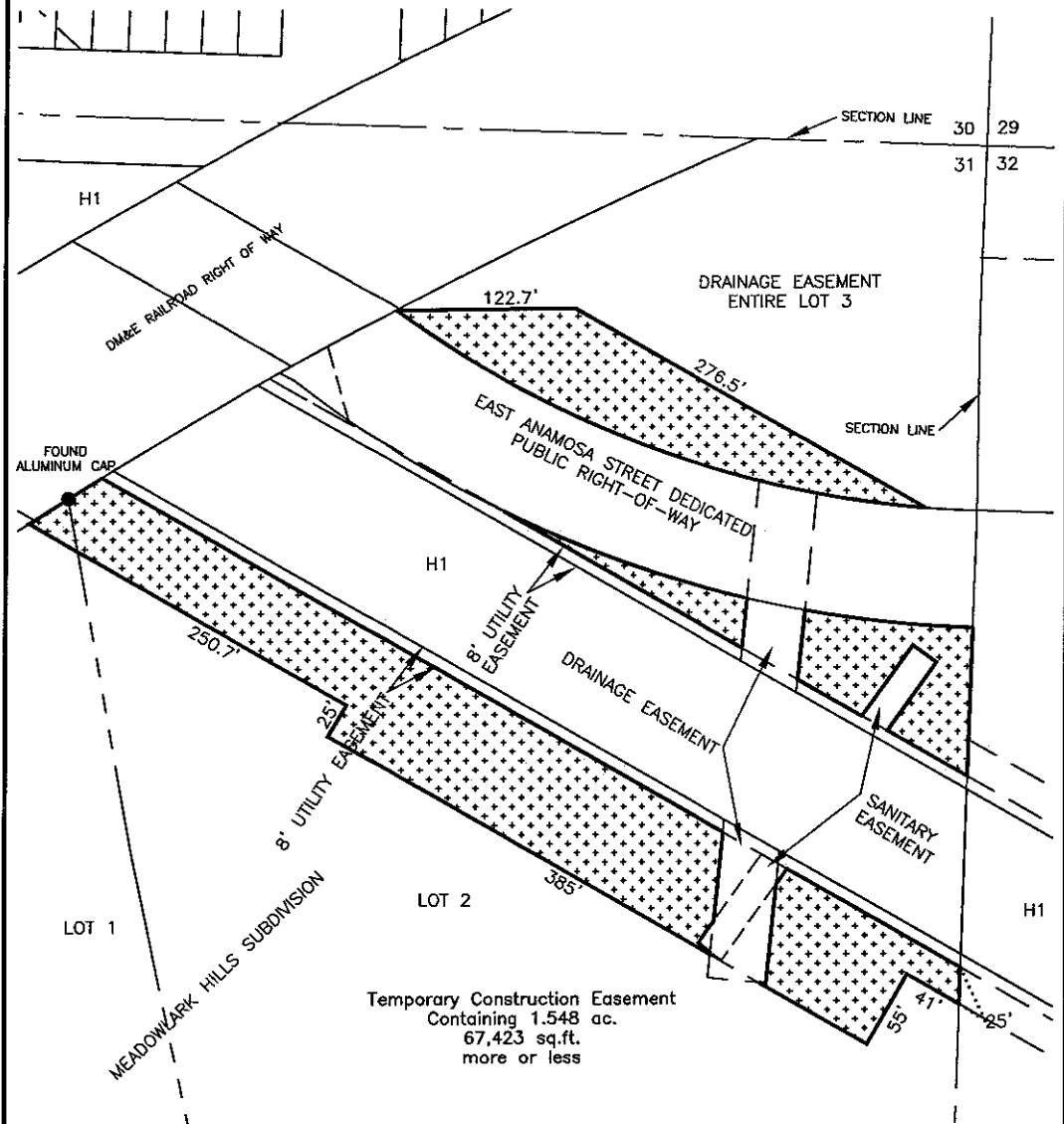
(SEAL)



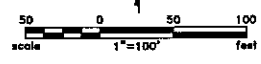
EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

LOCATED IN LOTS 1-3 OF MEADOWLARK HILLS SUBDIVISION, IN THE NE1/4 OF SECTION 31, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.



Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

Date _____

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadrmass
Lee &
Jackson
Registered Surveyors
Pennington County

AGREEMENT FOR RIGHT OF WAY ACQUISITION BY ESTABLISHED PAYMENT

PROJECT NO: 1642(1), 6104 PCN: DDUR COUNTY/CITY: RAPID CITY PARCEL NO: Feb, A-8
1397

This Agreement is made and entered into by and between the County/City of RAPID CITY, acting by and through its County/City Commission, hereinafter referred to as "COUNTY/CITY," and DM+E RAILROAD CORP., whose postal address is 140 N. PHILLIPS AVE., SIOUX FALLS, SD 57104, hereinafter referred to as "GRANTOR";

WHEREAS, COUNTY/CITY needs the following easements for construction, operation, and maintenance of a highway:

Perpetual Easement: ACROSS DM+E RAILROAD ROW IN THE NE 1/4 OF SECTION 31, T2N, R2E, BHM, RAPID CITY, PENNINGTON COUNTY, STATE OF SOUTH DAKOTA.

Temporary Easement: ACROSS DM+E RAILROAD ROW IN THE NE 1/4 OF SECTION 31, T2N, R2E, BHM, RAPID CITY, SD

WHEREAS, GRANTOR understands GRANTOR'S right to have an appraisal prepared and GRANTOR'S right to receive just compensation for the above described perpetual and/or temporary easement in accordance with the Uniform Relocation Assessment and Real Property Acquisition Act of 1970, as amended; and,

WHEREAS, GRANTOR hereby waives any right to such appraisal;

NOW, THEREFORE, the parties agree the total payment for all property interest acquired by the COUNTY/CITY for the easements described above as shown on the plans for construction of the above cited PROJECT, is as follows:

Perpetual Easement:

30,620 acres/sq. ft. at \$.32 acres/sq. ft. at \$ 10,000

Temporary Easement:

_____ acres/sq. ft. at \$ 0 acres/sq. ft. at \$ 0

Total = \$ 10,000

Special Conditions: SEE ATTACHED LICENCE AGREEMENT #101208

1. GRANTOR shall not erect fences, structures, or obstacles within the perpetual easement.


2. GRANTOR grants permission to COUNTY/CITY or COUNTY'S/CITY'S agent to enter upon above described easement upon approval of this Agreement.

3. The perpetual easement shall be in effect until the highway is abandoned by proper action of the COUNTY/CITY Commission and the temporary easement shall be in effect until one (1) year after construction of the project is completed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on this _____ day of _____ in the year of _____.

Grantor(s)

City/County of _____

By: 

By: _____

Name: Tim Carlson
Mgr. Real Estate
& Public Works

Its: County Commission Chairperson/
City Mayor

By: _____

Attest:

Name: _____

County Auditor/City Finance Officer

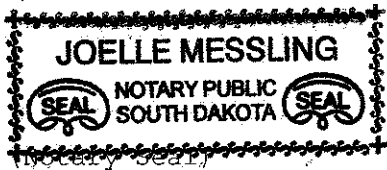
(County/City Seal)

[Grantor Acknowledgment Form to Follow]

GRANTOR ACKNOWLEDGMENT

State of South Dakota
County of Minnehaha)SS
)

On this the 7th day of October in the year of 2009,
before me, Joelle Messling, a Notary Public within and for said
County and State, personally appeared Tim Carlson
Mgn. of Real Estate Public known to me to be the person(s) described in and
who executed the foregoing instrument and acknowledged to me that he/she/they
executed the same for the purposes herein stated.



Joelle Messling

Notary Public

My Commission Expires: 11/10/2014

RECORD OF CALLS/VISITS AND DISCUSSION RECORD
TO ACCOMPANY ESTABLISHED PAYMENT FORM LG-R0W-2

PROJECT NO: 1648(1), ST04-1397 PCN: 00UR COUNTY/CITY: RAPID CITY
LANDOWNER: DME RAILROAD
NAME OF NEGOTIATOR: ROD SENN
TITLE: CONSULTING ENGINEER

The following document(s) was/were shown and/or explained to the Landowner:
Construction Right of Way Right of Way Other
Plan Sheet Document(s) Brochures

Call/Visit Number: 1
Time: 10:30 AM PM Date: 9/4/08
Visit Location: KLJ OFFICE RAPID CITY
List people present during meeting: TIM CARLSON (DME) KLAUS SCHROEDER (RC) ROD SENN, RICH VICTOR (KLJ)

Notes of the Discussion: SEE ATTACHED

Call/Visit Number: 2
Time: 3/11 AM PM Date: 3/11
Visit Location: _____
List people present during meeting: ROD SENN, TIM CARLSON

Notes of the Discussion: DISCUSSED MAILING FEB 8, SENDING EASEMENT DCS

Call/Visit Number: 3
Time: _____ AM / PM Date: _____
Visit Location: _____
List people present during meeting: _____

Notes of the Discussion: _____

Call/Visit Number: 4
Time: _____ AM / PM Date: _____
Visit Location: _____
List people present during meeting: _____

Notes of the Discussion: _____

Note: Please indicate in the Notes of Discussion, any agreement made as part of the acquisition by established payment, such as an additional approach, a load of gravel, etc.

MEMO

Date: September 4, 2008
To: File
Copy To:
From: Rod Senn
Re: East Anamosa – DM&E

Today at 10:30 AM, Klare Schroeder (City of RC) and Rich Victor and I met at our office with the DM&E Railroad to continue the dialogue regarding the East Anamosa Street Extension project. Present on the behalf of the DM&E was Tim Carlson.

Tim had previously received preliminary copies of the perpetual easement and construction easements for the project from KLJ. Tim discussed two previous perpetual easements recently entered into by the DM&E in western South Dakota. The first was for 0.25 acres and the agreed upon amount was \$10,300 and the second was \$12,500 for 0.89 acres. After some discussion Tim offered \$12,000 for the 0.703 acres required for this project plus some minor grading work to provide positive drainage in their existing ditch west of the proposed structure. After some additional discussions it was agreed upon to propose \$10,000 for the perpetual easements and no cost for the temporary construction easements with the minor grading issue to be address in the City's construction project. It was discussed that the DM&E would be responsible for any flagging for the completion of these grading efforts.

Tim to prepare a perpetual overhead bridge easement by the end of next week for review by the City. The documents will be emailed to myself to be forward to the City. The easement will allow the placement of other utilities within the easement as approved by the City. Klare asked if there would be any other stipulations or restrictions in the easement and Tim indicated that he did not believe so.

KLJ to add a general note to address the drainage grading to the plans and add it to the incidental work item. Another plan note will be added to the plans that any work within the DM&E right of way will need to be coordinated with Bill Held (605-321-8463) who is the local DM&E Maintenance Manager for the Rapid City Area.

Two permits for City utility crossings were also discussed and Tim did not foresee any issues with them. Klare intends to present the two permits and the perpetual easement for payment at the September 23 city of RC Public Works Committee meeting.

Copied to Toni for Stacey Titus

PW061510-13

PW102808-04

Book: 185
Page: 1240
R08-19565.0 Page: 001 of 005
12/16/2008 10:42a 18.00
Pennington County, South Dakota
Donna M. Mayer Misc Real Est

This instrument was prepared by:
Dakota, Minnesota & Eastern Railroad Corporation
140 North Philips Ave., Sioux Falls, SD 57104.
605-782-1200

Tax statements shall be sent to:

=====

EASEMENT NO. 090608

=====

THIS INDENTURE, made this 9th day of September, 2008, between **CITY OF RAPID CITY** of Rapid City, SD, hereinafter referred to as Grantee, and the **DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION**, hereinafter referred to as Grantor.

WITNESSETH:

That for consideration of Ten Thousand and No/100 Dollars (\$10,000), the receipt of which is hereby acknowledged by Grantor hereby grants and conveys to Grantee a perpetual easement for the construction of an overhead bridge for extending East Anomosa Street across the railroad, on and over real property in Pennington County, State of South Dakota, described as follows:

Exhibit A - Perpetual Highway Easement:

Located in the Dakota, Minnesota and Eastern Railroad Right of Way, in the NE1/4 of Section 31, Township 2 North, Range 8 East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota. Tract contains 0.703 acres more or less.

Exhibit A - Temporary Construction Easement:

Located in the Dakota, Minnesota and Eastern Railroad Right of Way, in the NE1/4 of Section 31, Township 2 North, Range 8 East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota. Tract contains 0.412 acres more or less.

The Grantor reserves the right to use said property for the maintenance and operation of railroad tracks and facilities, in a manner that is not inconsistent with the purposes for which this easement is granted, and further reserves the right to prevent the placement or maintenance of any roadway facility upon said property in a manner which would unreasonably interfere with the maintenance and safe and continuous operation of railroad tracks and facilities.

Any flagging requirements, the handling of flagging costs and vertical and horizontal clearance requirements will be covered by separate agreement. Any utilities associated with the lighting of the bridge will be permitted as part of this easement.

Which easement is demonstrated and defined in accordance with the plan and in the location shown permanent and temporary easement exhibits dated September 9, 2008, attached hereto and made a part thereof.

The easement granted and conveyed herein shall be deemed appurtenant to and shall run with the land.

Dated this 15 day of September, 2008.

WITNESS:

Grantor:
DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

Cynde Jerick

By: Kurt V. Feaster
Kurt V. Feaster, Sr. VP of Finance & CFO



STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF MINNEHAHA)

I, Cynde A. Jervik, a Notary Public duly commissioned and qualified in and for the County and State aforesaid, DO HEREBY CERTIFY Kurt V. Feaster is to me personally known and known to me to be, Senior Vice President of Finance & CFO of the Dakota, Minnesota & Eastern Railroad Corporation, a Delaware Corporation, and the identical person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and being first duly sworn by me, severally acknowledged to me that they are, Senior Vice President of Finance & CFO of said corporation; that as such officer they signed, sealed and delivered said instrument in behalf of said corporation by authority and order of its Board of Directors, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act; that the seal affixed to said instrument is the seal of said corporation; and that said corporation executed said instrument.

I have hereunto set my hand and affixed my official seal of such Notary Public, at Sioux Falls, South Dakota, this 15 day of September, 2008.

Cynde A. Jervik
Notary Public, in and for the
State of South Dakota

My Commission Expires: 6-15-12

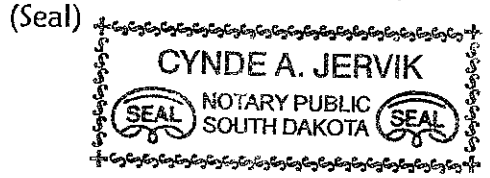
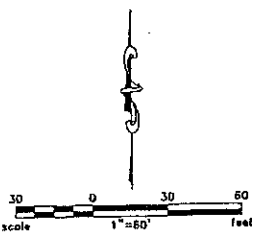
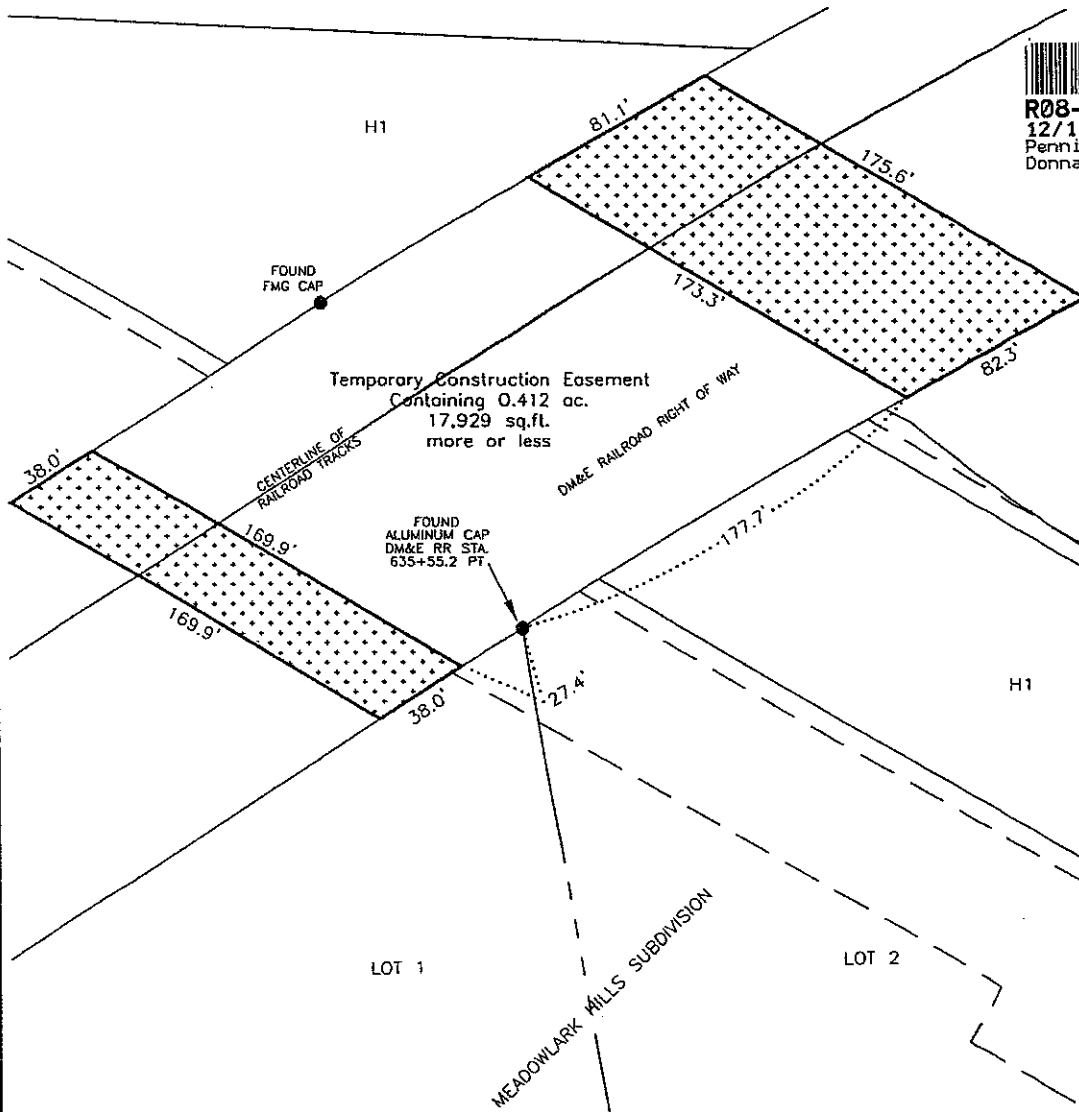


EXHIBIT A

PW061510-13

TEMPORARY CONSTRUCTION EASEMENT
LOCATED IN THE DAKOTA, MINNESOTA AND EASTERN RAILROAD RIGHT OF WAY, IN THE
NE1/4 OF SECTION 31, TOWNSHIP 2 NORTH, RANGE 8 EAST
OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA

Book: 185
Page: 1243
R08-19565.0 Page: 004 of 005
12/16/2008 10:42a 18.00
Pennington County, South Dakota
Donna M. Mayer Misc Real Est



Professional Land Surveyor, S.D. No. 5436, do
hereby certify that the survey plat shown hereon was made by me, or
under my direction, from notes made in the field, and the same is true
and correct to the best of my knowledge and belief.
Kent A. Orvik
Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436
8-8-08
SOUTH DAKOTA

ALL BEARINGS ARE IN SOUTH DAKOTA STATE
PLANE, SOUTH ZONE, NAD-83(86) GRID
BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A
OF LOT 5R, MERIDIAN SUBDIVISION,
S02°07'22"W-955.71' Meas. FROM A FOUND
CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

**DAKOTA, MINNESOTA &
EASTERN RAILROAD**
SIOUX FALLS, S.D.

LOCATION: Rapid City, SD

EXHIBIT "A"
To Accompany:
Easement #090608
CITY OF RAPID CITY
Portion of Railroad property
Temporary easement of 0.412 acres
more or less Purchase price: \$10,000

DATE: 09-09-08 **Item #18** SCALE: N/A

EXHIBIT A PW061510-13

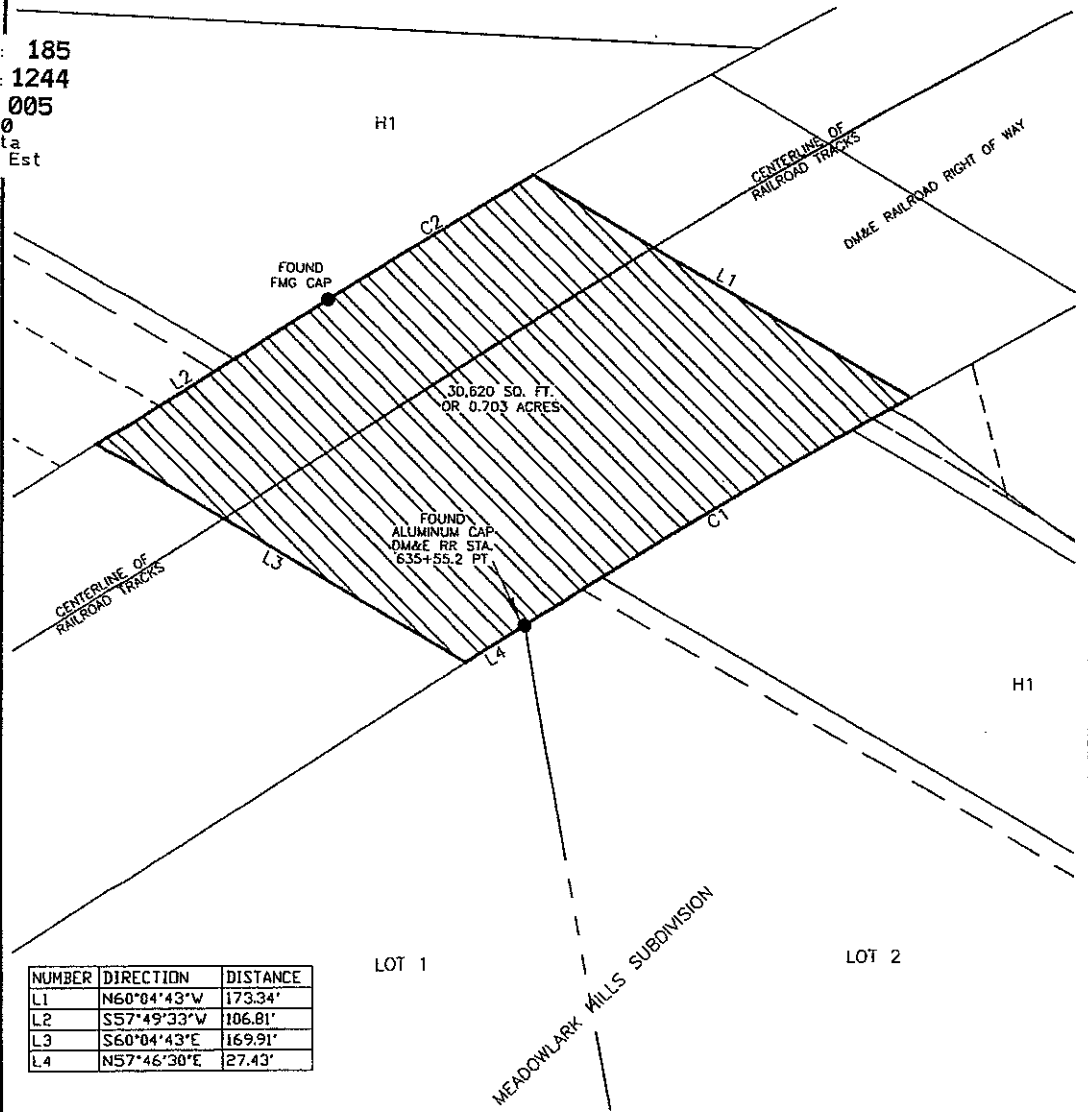
HIGHWAY EASEMENT

LOCATED IN THE DAKOTA, MINNESOTA AND EASTERN RAILROAD RIGHT OF WAY, IN THE NE1/4 OF SECTION 31, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



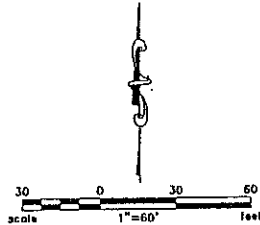
Book: 185
Page: 1244

R08-19565.0 Page: 005 of 005
12/16/2008 10:42a 18.00
Pennington County, South Dakota
Donna M. Mayer Misc Real Est



NUMBER	DIRECTION	DISTANCE
L1	N60°04'43"W	173.34'
L2	S57°49'33"W	106.81'
L3	S60°04'43"E	169.91'
L4	N57°46'30"E	27.43'

NUMBER	RADIUS (REC.)	ARC LENGTH
C1	3241.94	177.69
C2	3441.94	96.63



Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plot shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my ability and knowledge.

DAKOTA, MINNESOTA & EASTERN RAILROAD
SIOUX FALLS, S.D.

LOCATION: Rapid City, SD

EXHIBIT "A"
To Accompany:
Easement #090608
CITY OF RAPID CITY
Portion of Railroad property Perpetual
Highway easement of 0.703 acres
more or less Purchase price: \$10,000

DATE: 09-09-08 Item #18 SCALE: N/A

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.
ALL DISTANCES ARE GROUND DISTANCES.
BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

LICENSE AGREEMENT #101208

PW102808-09

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION, hereinafter referred to as "Company", hereby licenses CITY OF RAPID CITY, hereinafter referred to as "Licensee", subject to the terms and conditions hereinafter set forth, to construct, install, maintain and use a .16" potable water line hereinafter referred to as "Facility", upon and across the right-of-way and property and under or over the tracks of the Company near MP 647.5, 115' north of East Anamosa St. centerline, Rapid City, SD, pursuant to request of the Licensee and in accordance with the plan and in the location shown in yellow on map dated October 15, 2008, attached hereto, made a part hereof, for the sole purpose of supplying water.

The Company may, at its option and without liability to the Licensee, revoke this license at any time by giving written notice thereof to the Licensee if the Licensee shall violate or breach any of the following terms and conditions:

1. The Licensee will procure all necessary public authority for the construction, installation, maintenance and use of said Facility and use said Facility in conformity with all requirements of public authority.
2. The Licensee will pay all taxes and assessments that may be levied or assessed against said Facility.
- 3(a). Said Facility shall be constructed, installed and maintained by and at the expense of the Licensee, in a manner satisfactory to the Company.
- 3(b). The Company shall have the right at any time to judge the necessity of repairs to said Facility. The Licensee will, within ten (10) days after written notice, make all necessary repairs at its expense.
- 3(c). If, at any time the Company judges it necessary to change the location, elevation or method of construction or installation of said Facility, the Licensee will do so at its sole expense.
4. Right of entry will be granted by the Company's representative upon request from the Licensee or its contractor after the Company has received a copy of the Railroad Protective Liability Insurance Certificate from the Licensee or its contractor and has notified the Licensee or its contractor of approval for said insurance. Said insurance limits shall be \$6,000,000.00 aggregate limit and \$2,000,000.00 each occurrence.
5. The Licensee agrees to pay the Company \$15.00 per protective train order, per day, issued by Company, for each train passing through or affected by said construction area when work performed by Licensee or its contractor is within scope stated herewith:
 - A. Men, equipment, material, structures or any other obstructions are placed within 25 feet laterally of the centerline of track;
 - B. Men, equipment, material, structures or any other obstructions working or placed at any distance vertically from top of rail of said track, within 50 feet laterally of the centerline of said track;
 - C. Protective train orders shall be issued until completion of construction to the satisfaction of Company's Engineering Department.
 - D. Work outside of 25 feet from track centerline will be covered by protective train order.
6. The Licensee or its contractor agrees to pay the Company the actual costs of flagging services

work performed by the Company in manner stated herewith:

- A. Flagging services performed per day - \$625.00 or actual expenses, incurred by Licensee;
 - B. Flagging services required when men, equipment, material, structures or any other obstructions are placed within 25 feet laterally of the centerline of track;
 - C. Flagging services required when men, equipment, material, structures or any other obstructions are working or placed at any distance vertically from top of rail of said track within 50 feet laterally of the centerline of said track; and
 - D. Flagging services are required on days of active construction by Industry or others at said location.
7. The Licensee or its contractor agrees to notify the Engineering Department of the Company (605-782-1556) 48 hours prior to commencing any work on Company right-of-way.
 8. In case of an emergency call 1-800-658-3551. A copy of this agreement must be in the contractor's possession while performing work on job site and the contractor must be prepared to produce it upon proper demand. No work will be permitted if a copy is not available upon demand.
 9. The Licensee assumes and agrees to protect, indemnify and hold harmless the Company, its officers, agents, employees, invitees and other licensees, from and against any and all claims, demands, suits, liability and expense by reason of loss or damage to any property whatsoever or injury to or death of any person whomsoever, from any cause whatsoever, arising or growing direct or indirectly out of said Facility.
 10. This License is personal to the Licensee and is not assignable or transferable without the written consent of the Company.
 11. For the privileges herein permitted, the Licensee shall pay to the Company a onetime fee of Zero Dollars and no/100 (\$0).

IN WITNESS WHEREOF, this instrument is executed at Sioux Falls, South Dakota this 3 day of NOVEMBER, 2008.

ATTEST:

December 16th, 2008
[Signature]

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

By: [Signature]
VP of Engineering & Chief Engineer

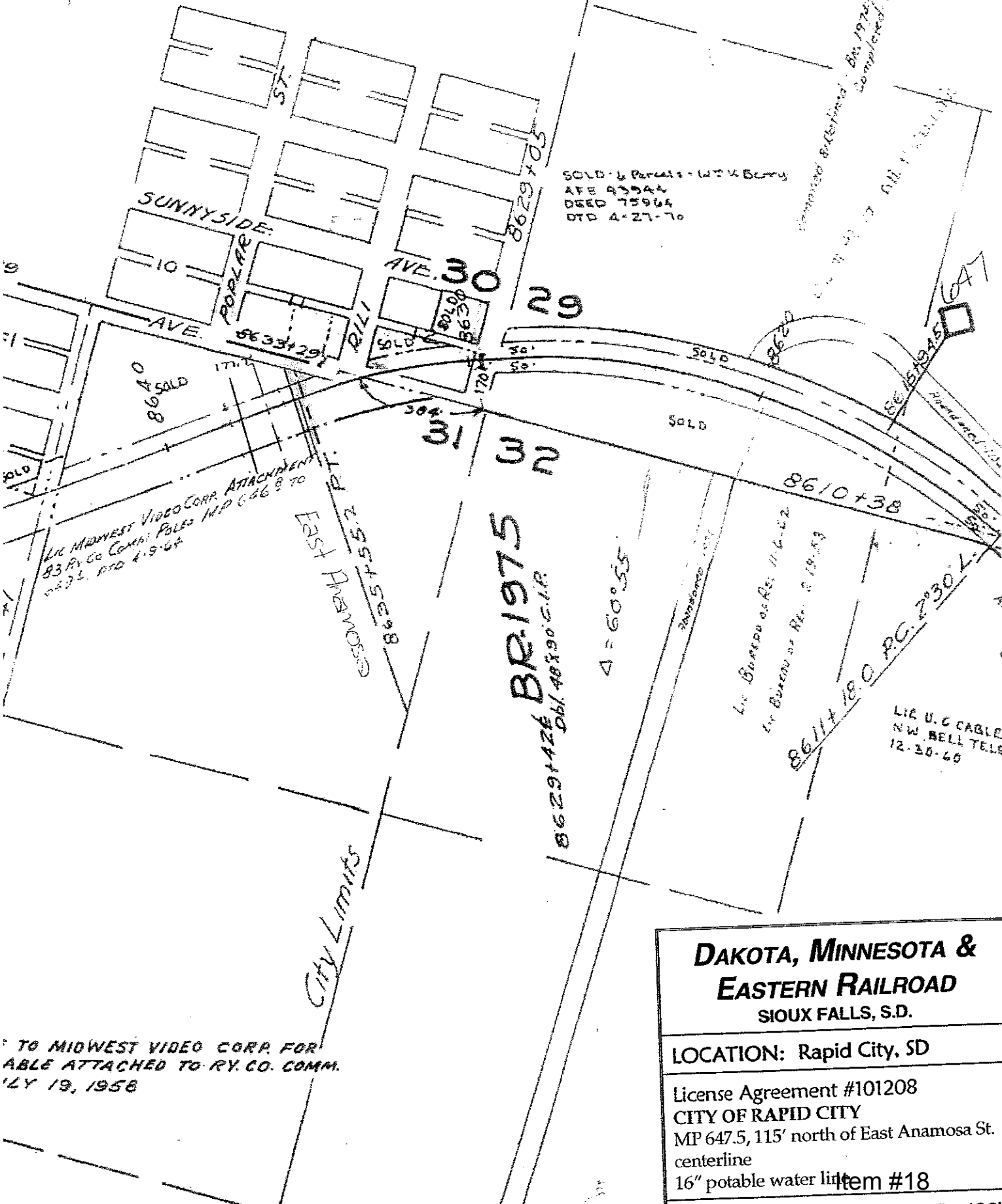
The undersigned, the Licensee mentioned in the foregoing License, ACCEPTS the same subject to the terms and conditions therein stated.

ATTEST:

[Signature]
James F. [Name]

CITY OF RAPID CITY
By: [Signature]
Title: Mayor

EVERY



DAKOTA, MINNESOTA & EASTERN RAILROAD
 SIOUX FALLS, S.D.

LOCATION: Rapid City, SD
 License Agreement #101208
 CITY OF RAPID CITY
 MP 647.5, 115' north of East Anamosa St. centerline
 16" potable water line Item #18
 DATE: 10-15-08 SCALE: 1"=400'

RECEIVED

PW061510-13

Executed for your files 12/16/08

DM&E

Dakota, Minnesota & Eastern Railroad Corporation

140 North Phillips, Avenue, Sioux Falls, SD 57104

PO Box 1260, Sioux Falls, SD 57101

Tim Carlson, Manager Real Estate & Public Works

Phone: 605-782-1551

Fax: 605-782-1561

DEC 18 2008

RAPID CITY
PUBLIC WORKS

Klare for
files

October 17, 2008

Dale Tech
City of Rapid City – Engineering Services
300 6th Street
Rapid City, SD 57701-5035

Dear Mr. Tech:

Enclosed please find two copies of License Agreements #101208 & 101308, with attached prints covering water pipelines, located near MP647.5, East Anamosa St., Rapid City. Please sign all copies and return to us for final execution. We will provide copies for your records.

Our policy requires that I have copies of the general liability insurance certificates from you're the City and the chosen contractor for this installation. It is also required that the contractor has to have railroad protective insurance to complete this work. I am including a summary of our insurance requirements. We prefer that the railroad protective insurance is carried through the contractor's insurance but it can also be purchased through us. Our application for the railroad protective insurance is on our web site at www.dmerail.com/forms.html.

Please feel free to contact me at 605-782-1556 with any questions.

Sincerely,



Kimberly Duke
Assistant to Manager Real Estate & Public Works
DM&E Railroad

Enclosures

LICENSE AGREEMENT #101308

PW102808-09

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION, hereinafter referred to as "Company", hereby licenses CITY OF RAPID CITY, hereinafter referred to as "Licensee", subject to the terms and conditions hereinafter set forth, to construct, install, maintain and use a 20" potable water line hereinafter referred to as "Facility", upon and across the right-of-way and property and under or over the tracks of the Company near MP 647.5, 110' south of East Anamosa St. centerline, Rapid City, SD, pursuant to request of the Licensee and in accordance with the plan and in the location shown in yellow on map dated October 15, 2008, attached hereto, made a part hereof, for the sole purpose of supplying water.

The Company may, at its option and without liability to the Licensee, revoke this license at any time by giving written notice thereof to the Licensee if the Licensee shall violate or breach any of the following terms and conditions:

1. The Licensee will procure all necessary public authority for the construction, installation, maintenance and use of said Facility and use said Facility in conformity with all requirements of public authority.
2. The Licensee will pay all taxes and assessments that may be levied or assessed against said Facility.
- 3(a). Said Facility shall be constructed, installed and maintained by and at the expense of the Licensee, in a manner satisfactory to the Company.
- 3(b). The Company shall have the right at any time to judge the necessity of repairs to said Facility. The Licensee will, within ten (10) days after written notice, make all necessary repairs at its expense.
- 3(c). If, at any time the Company judges it necessary to change the location, elevation or method of construction or installation of said Facility, the Licensee will do so at its sole expense.
4. Right of entry will be granted by the Company's representative upon request from the Licensee or its contractor after the Company has received a copy of the Railroad Protective Liability Insurance Certificate from the Licensee or its contractor and has notified the Licensee or its contractor of approval for said insurance. Said insurance limits shall be \$6,000,000.00 aggregate limit and \$2,000,000.00 each occurrence.
5. The Licensee agrees to pay the Company \$15.00 per protective train order, per day, issued by Company, for each train passing through or affected by said construction area when work performed by Licensee or its contractor is within scope stated herewith:
 - A. Men, equipment, material, structures or any other obstructions are placed within 25 feet laterally of the centerline of track;
 - B. Men, equipment, material, structures or any other obstructions working or placed at any distance vertically from top of rail of said track, within 50 feet laterally of the centerline of said track;
 - C. Protective train orders shall be issued until completion of construction to the satisfaction of Company's Engineering Department.
 - D. Work outside of 25 feet from track centerline will be covered by protective train order.
6. The Licensee or its contractor agrees to pay the Company the actual costs of flagging services

work performed by the Company in manner stated herewith:

- A. Flagging services performed per day - \$625.00 or actual expenses, incurred by Licensee;
 - B. Flagging services required when men, equipment, material, structures or any other obstructions are placed within 25 feet laterally of the centerline of track;
 - C. Flagging services required when men, equipment, material, structures or any other obstructions are working or placed at any distance vertically from top of rail of said track within 50 feet laterally of the centerline of said track; and
 - D. Flagging services are required on days of active construction by Industry or others at said location.
7. The Licensee or its contractor agrees to notify the Engineering Department of the Company (605-782-1556) 48 hours prior to commencing any work on Company right-of-way.
 8. **In case of an emergency call 1-800-658-3551. A copy of this agreement must be in the contractor's possession while performing work on job site and the contractor must be prepared to produce it upon proper demand. No work will be permitted if a copy is not available upon demand.**
 9. The Licensee assumes and agrees to protect, indemnify and hold harmless the Company, its officers, agents, employees, invitees and other licensees, from and against any and all claims, demands, suits, liability and expense by reason of loss or damage to any property whatsoever or injury to or death of any person whomsoever, from any cause whatsoever, arising or growing direct or indirectly out of said Facility.
 10. This License is personal to the Licensee and is not assignable or transferable without the written consent of the Company.
 11. For the privileges herein permitted, the Licensee shall pay to the Company a onetime fee of Zero Dollars and no/100 (\$0).

IN WITNESS WHEREOF, this instrument is executed at Sioux Falls, South Dakota this 3 day of NOVEMBER, 2008.

ATTEST:

December 16th, 2008
[Signature]

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

By: [Signature]
VP of Engineering & Chief Engineer

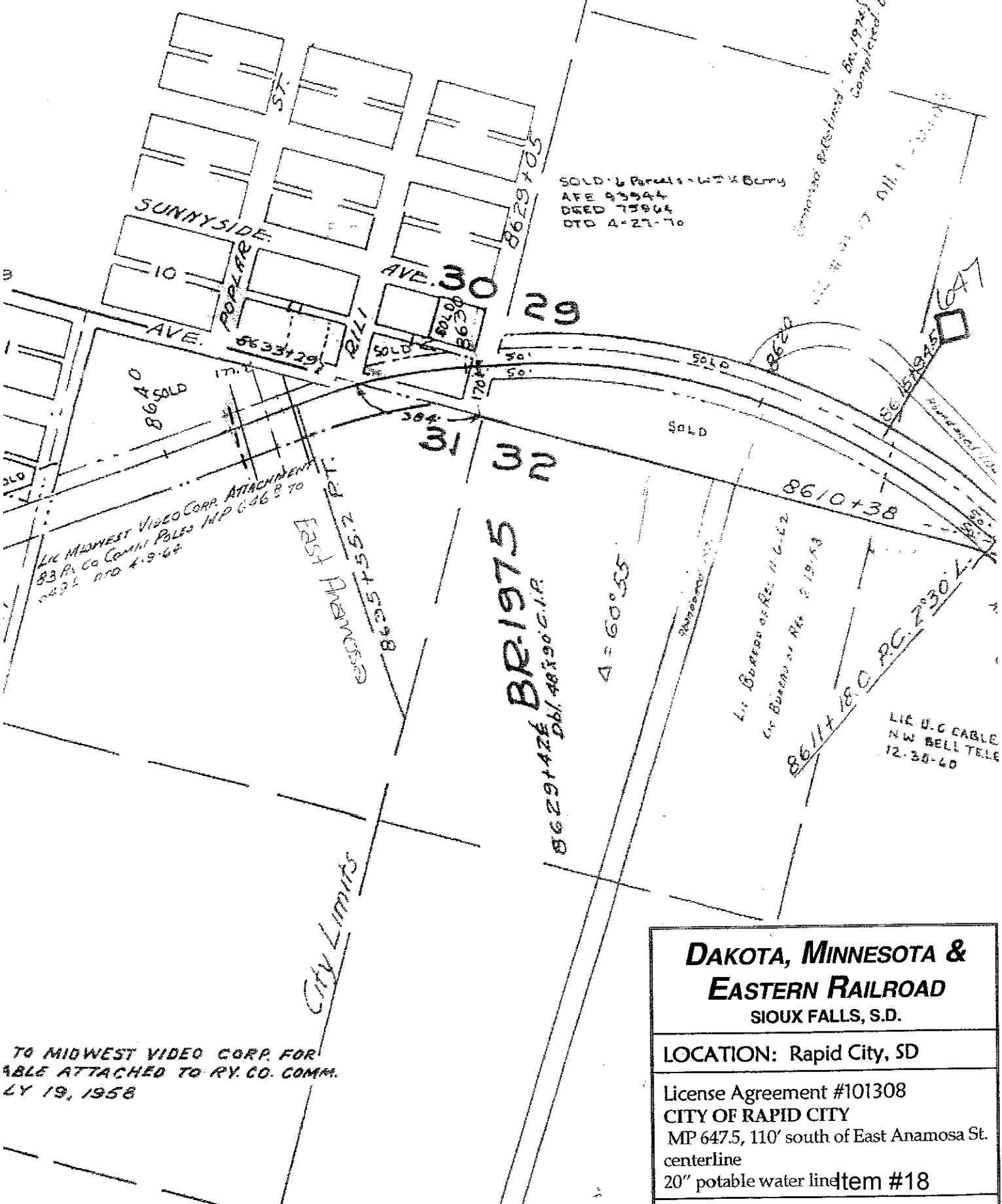
The undersigned, the Licensee mentioned in the foregoing License, ACCEPTS the same subject to the terms and conditions therein stated.

ATTEST:

[Signature]
James H. Foster

CITY OF RAPID CITY
By: [Signature]
Title: MAYOR

VERT



SOLD - 6 Parents - W.D. & Betty
 AFE 93844
 DEED 75804
 DTD 4-27-70

Commissioner's Certificate - BR. 1975 W. C.A. Brings
 Completed Dec. 1, 1976

LIC MIDWEST VIDEO CORR ATTACHMENT
 83 RY. CO COMM. POLES MP 646 B TO
 0221 DTD 4-9-64

Lic Bureau of Rec. 11-6-62
 Lic Bureau of Rec. 8-19-63

LIC U.C. CABLE
 12" BELL TELE
 12-30-60

TO MIDWEST VIDEO CORP. FOR
 CABLE ATTACHED TO RY. CO. COMM.
 BY 19, 1958

**DAKOTA, MINNESOTA &
 EASTERN RAILROAD**
 SIOUX FALLS, S.D.

LOCATION: Rapid City, SD

License Agreement #101308
 CITY OF RAPID CITY
 MP 647.5, 110' south of East Anamosa St.
 centerline
 20" potable water line item #18

DATE: 10-15-08 SCALE: 1"=400'

RECEIVED

PW061510-13

Executed for your files 12/16/08

DM&E

DEC 18 2008

Dakota, Minnesota & Eastern Railroad Corporation
140 North Phillips, Avenue, Sioux Falls, SD 57104
PO Box 1260, Sioux Falls, SD 57101

RAPID CITY
PUBLIC WORKS

Tim Carlson, Manager Real Estate & Public Works
Phone: 605-782-1551
Fax: 605-782-1561

October 17, 2008

Dale Tech
City of Rapid City – Engineering Services
300 6th Street
Rapid City, SD 57701-5035

Dear Mr. Tech:

Enclosed please find two copies of License Agreements #101208 & 101308, with attached prints covering water pipelines, located near MP647.5, East Anamosa St., Rapid City. Please sign all copies and return to us for final execution. We will provide copies for your records.

Our policy requires that I have copies of the general liability insurance certificates from you're the City and the chosen contractor for this installation. It is also required that the contractor has to have railroad protective insurance to complete this work. I am including a summary of our insurance requirements. We prefer that the railroad protective insurance is carried through the contractor's insurance but it can also be purchased through us. Our application for the railroad protective insurance is on our web site at www.dmerail.com/forms.html.

Please feel free to contact me at 605-782-1556 with any questions.

Sincerely,



Kimberly Duke
Assistant to Manager Real Estate & Public Works
DM&E Railroad

Enclosures

AGREEMENT FOR VOLUNTARY RIGHT OF WAY DONATION

PROJECT NO: 1648(1); ST04-1397 PCN: 00UR COUNTY/
CITY: RAPID CITY PARCEL NO: PEZ, A2

This Agreement is made and entered into by and between the County/City of RAPID CITY acting by and through its County/City Commission, hereinafter referred to as "COUNTY/CITY," and SAMS REAL ESTATE BUSINESS TRUST, whose postal address is 2001 S.E. 10TH STREET BENTONVILLE, AR 72716-0550, hereinafter referred to as "DONOR";

WHEREAS, COUNTY/CITY needs the following easements for construction, operation, and maintenance of a highway:

Perpetual Easement: 8' WIDE PERMANENT UTILITY EASEMENT ALONG NORTH EDGE OF LOT 1 OF WALMART SUBDIVISION, NE 1/4 OF SECTION 31, T2N, R8E, BHM, RAPID CITY, PENNINGTON COUNTY, SD

Temporary Easement: 7' TEMPORARY CONSTRUCTION EASEMENT IMMEDIATELY ADJACENT TO PERMANENT UTILITY EASEMENT ALONG NORTH EDGE OF LOT 1 WALMART SUB.

NOW, THEREFORE, DONOR and COUNTY/CITY hereby agree as follows:

1. DONOR does hereby voluntarily grant and donate to COUNTY/CITY, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by DONOR, the above described easements as shown on the plans for construction of the above cited Project.

Stipulations of conditional donation: THIS GRANT IS SUBJECT TO THE UTILITY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENTS BETWEEN SAMS REAL ESTATE BUSINESS TRUST AND CITY OF RAPID CITY.

2. DONOR understands DONOR'S right to have an appraisal prepared and DONOR'S right to receive just compensation for the above described perpetual and/or temporary easement in accordance with the Uniform Relocation Assessment and Real Property Acquisition Act of 1970, as amended.

3. DONOR shall not erect fences, structures, or obstacles within the perpetual easement.

4. DONOR grants permission to COUNTY/CITY or COUNTY'S/CITY'S agent to enter upon above described easement upon approval of this Agreement.

5. The perpetual easement shall be in effect until the highway is abandoned by the proper action of the COUNTY/CITY Commission and the temporary easement shall be in effect until one (1) year after construction of the Project is completed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on this _____ day of _____ in the year _____.

Donor County/City of _____

By: [Signature]
Name: Matthew R Powers AG
Division Manager
By: _____
Name: _____

By: _____
Its: County Commission Chairperson/
City Mayor
Attest: _____
County Auditor/City Finance Officer

[County/City Seal]

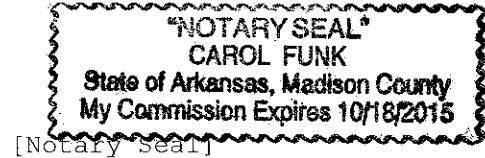
DONOR ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss
COUNTY OF Benton)

On this the 12th day of November in the year of 2009, before me, Carol Funk, a Notary Public, within and for said County and State, personally appeared MATTHEW R POWERS known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

In witness whereof I hereunto set my hand and official seal.

[Signature]
Notary Public

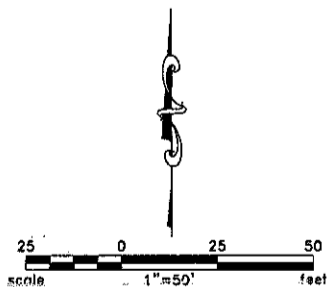
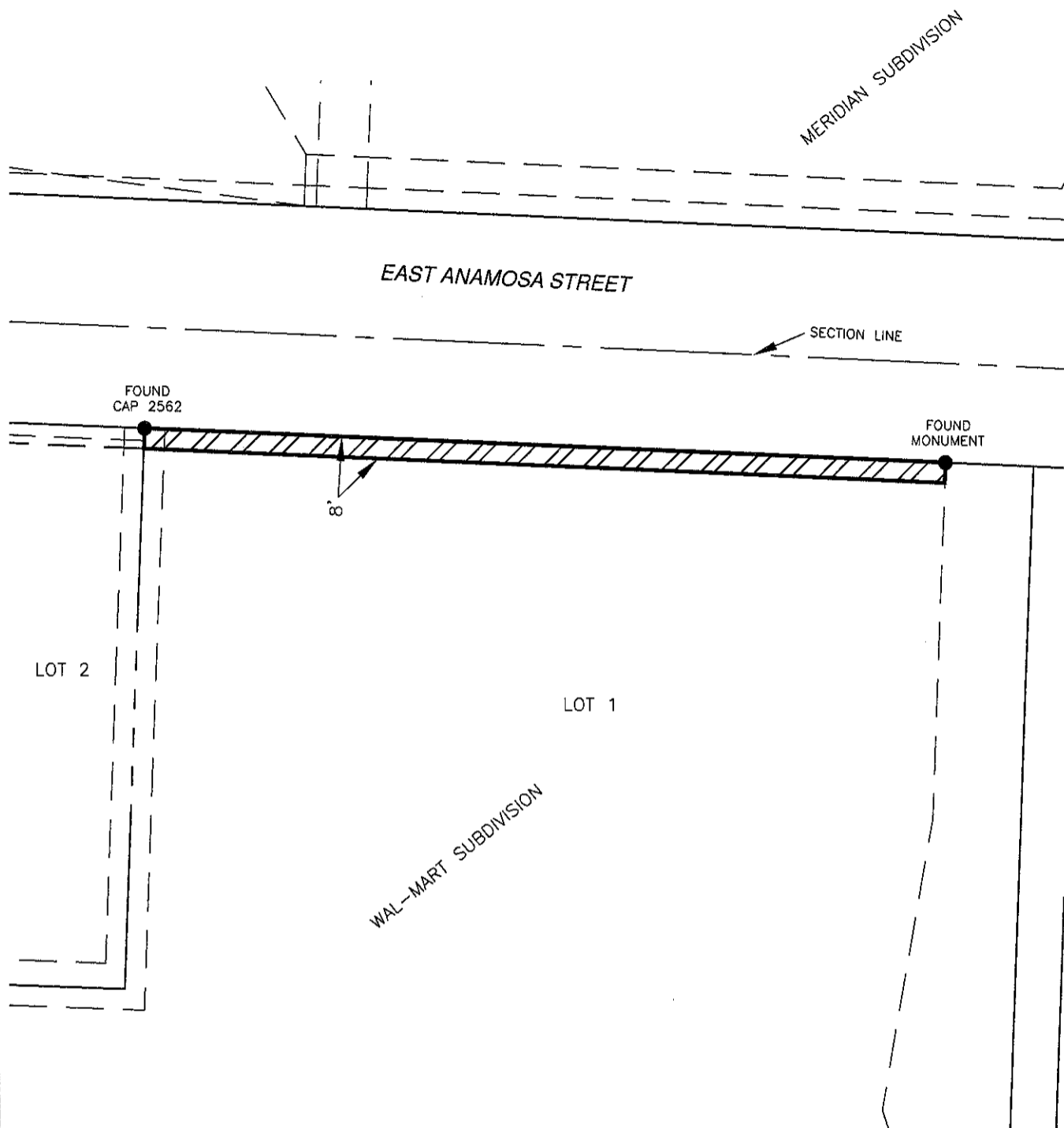


My Commission Expires: October 18, 2015

EXHIBIT A

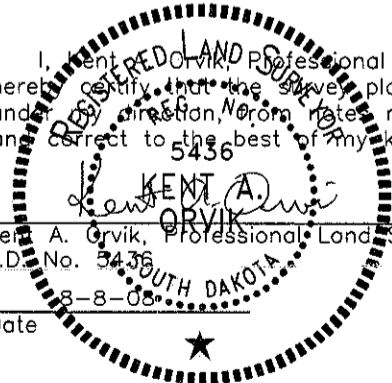
8' WIDE UTILITY EASEMENT

LOCATED IN LOT 1 OF WAL-MART SUBDIVISION IN THE NE1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik
 Kent A. Orvik, Professional Land Surveyor
 S.D. No. 5436
 Date 8-8-08



ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
 KADRMAS, LEE & JACKSON, INC.
 330 KNOLLWOOD DRIVE
 RAPID CITY, SD 57701-6611
 (605) 721-5553

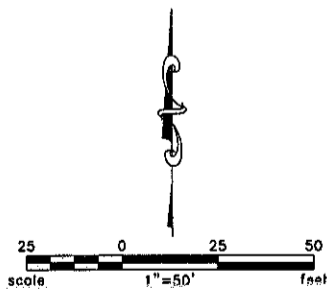
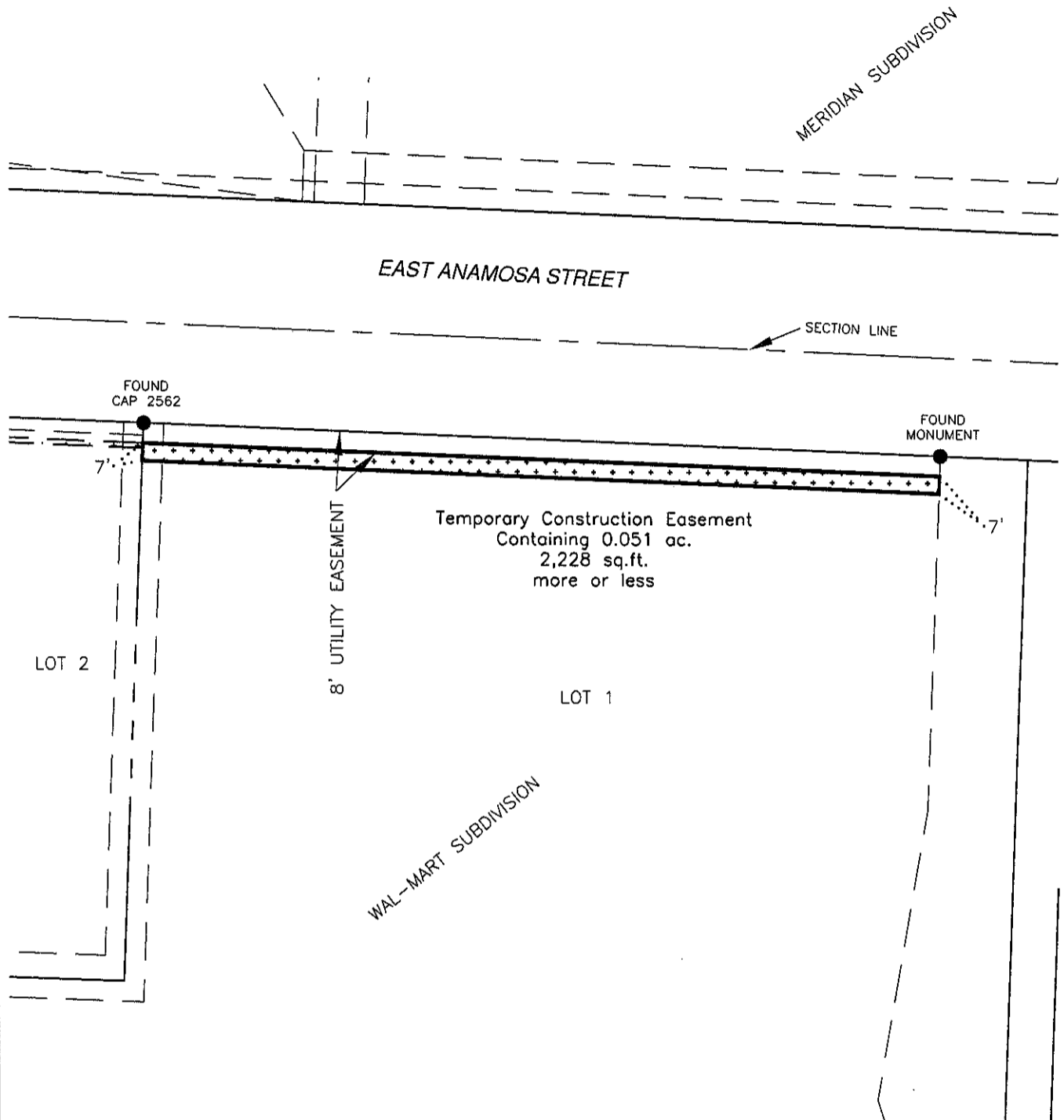
Kadmas
Lee &
Jackson
 Engineers Surveyors
 Planners

Item #18

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

LOCATED IN LOT 1 OF WAL-MART SUBDIVISION, IN THE NE1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik
 Kent A. Orvik, Professional Land Surveyor
 S.D. No. 5436
 8-8-08
 Date

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

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BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
 KADRMAS, LEE & JACKSON, INC.
 330 KNOLLWOOD DRIVE
 RAPID CITY, SD 57701-6611
 (605) 721-5553

Kadmas
Lee &
Jackson
 Professional Surveyors & Planners

Item # 18

AGREEMENT FOR VOLUNTARY RIGHT OF WAY DONATION

PROJECT NO: 1648(1), ST04-PCN: 00UR COUNTY/
1397 CITY: RAPID CITY PARCEL NO: A4

This Agreement is made and entered into by and between the County/City of RAPID CITY acting by and through its County/City Commission, hereinafter referred to as "COUNTY/CITY," and WALMART REAL ESTATE C/O WALMART STORES, whose postal address is 2001 S.E. 10TH STREET BENTONVILLE, AR 72716-0550, hereinafter referred to as "DONOR";

WHEREAS, COUNTY/CITY needs the following easements for construction, operation, and maintenance of a highway:

Perpetual Easement: _____

Temporary Easement: TEMPORARY CONSTRUCTION EASEMENT AS SHOWN ON EXHIBIT A WHICH HAS BEEN ATTACHED HERETO ACROSS LOT A OF LOT 5/2 OF MERIDIAN SUB OF SE 1/4, SEC 30, T2N, R3E, BHM, RAPID CITY

NOW, THEREFORE, DONOR and COUNTY/CITY hereby agree as follows:

1. DONOR does hereby voluntarily grant and donate to COUNTY/CITY, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by DONOR, the above described easements as shown on the plans for construction of the above cited Project.

Stipulations of conditional donation: THIS GRANT IS SUBJECT TO THE TEMPORARY CONSTRUCTION EASEMENT AGREEMENT BETWEEN WAL-MART REAL ESTATE BUSINESS TRUST AND CITY OF RAPID CITY.

2. DONOR understands DONOR'S right to have an appraisal prepared and DONOR'S right to receive just compensation for the above described perpetual and/or temporary easement in accordance with the Uniform Relocation Assessment and Real Property Acquisition Act of 1970, as amended.

3. DONOR shall not erect fences, structures, or obstacles within the perpetual easement.

4. DONOR grants permission to COUNTY/CITY or COUNTY'S/CITY'S agent to enter upon above described easement upon approval of this Agreement.

5. The perpetual easement shall be in effect until the highway is abandoned by the proper action of the COUNTY/CITY Commission and the temporary easement shall be in effect until one (1) year after construction of the Project is completed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on this _____ day of _____ in the year _____.

Donor County/City of _____

By: Matthew R Powers
Name: Matthew R Powers *to*
Division Manager

By: _____
Its: County Commission Chairperson/
City Mayor

By: _____
Name: _____

Attest: _____
County Auditor/City Finance Officer

[County/City Seal]

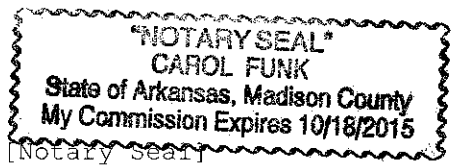
DONOR ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss
COUNTY OF Benton)

On this the 19th day of November in the year of 2009, before me, Carol Funk, a Notary Public, within and for said County and State, personally appeared MATTHEW R POWERS known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

In witness whereof I hereunto set my hand and official seal.

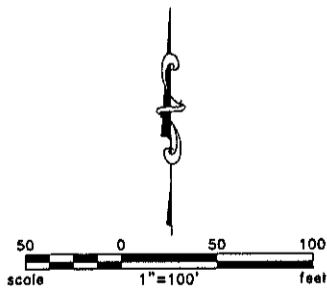
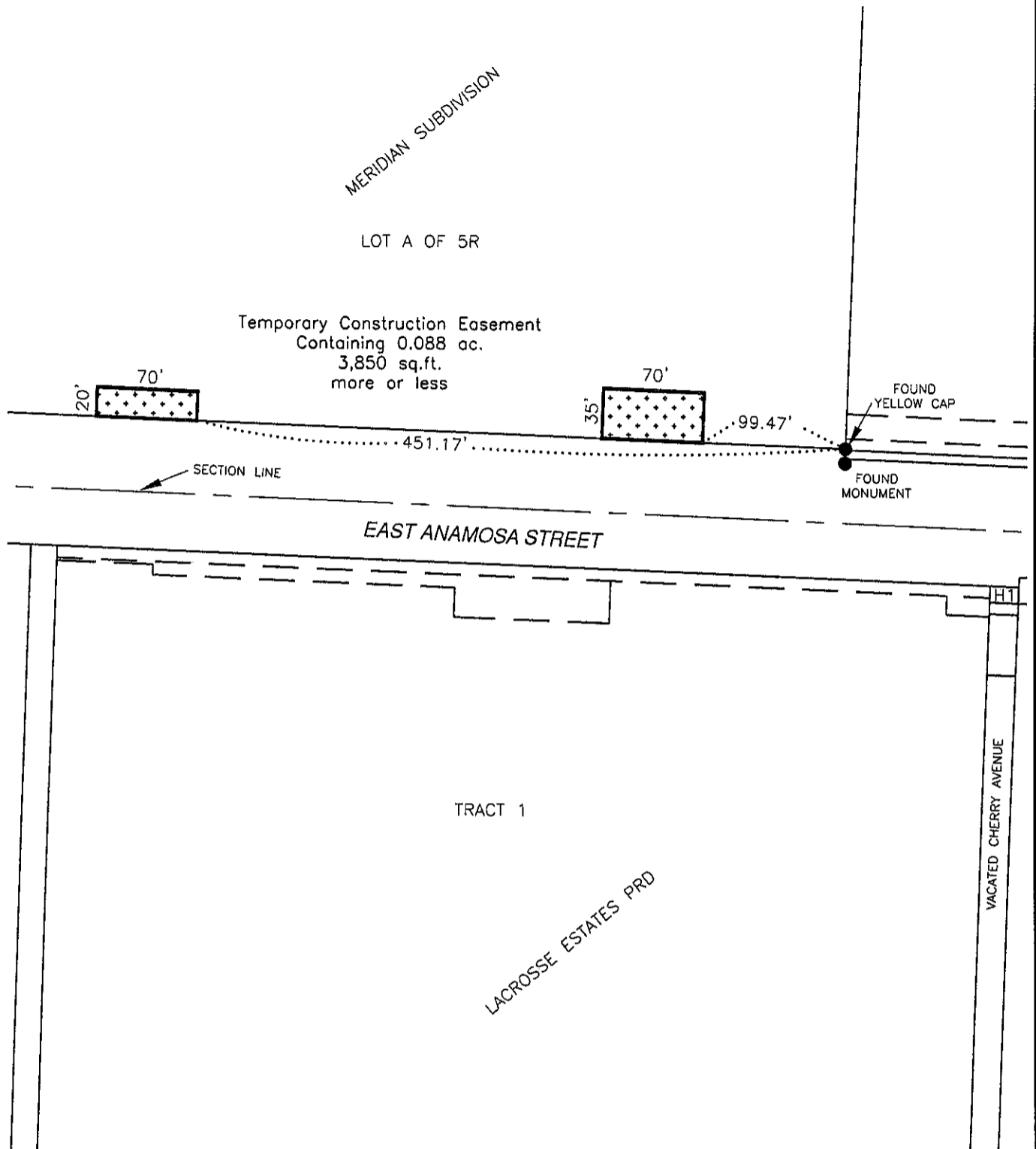
Carol Funk
Notary Public



My Commission Expires: October 18, 2015

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LOCATED IN LOT A OF 5R OF MERIDIAN SUBDIVISION, IN THE SE1/4 OF SECTION 30,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik
 Kent A. Orvik, Professional Land Surveyor
 S.D. No. 5436
 SOUTH DAKOTA
 8-8-08
 Date

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
 KADRMAS, LEE & JACKSON, INC.
 330 KNOLLWOOD DRIVE
 RAPID CITY, SD 57701-6611
 (605) 721-5553

Kadmas
Lee &
Jackson
 Engineers Surveyors
 Planners

Item #18

RECORD OF CALLS/VISITS AND DISCUSSION RECORD
TO ACCOMPANY DONATION FORM LG-ROW-1

PROJECT NO: 1648(U) ST04-1397 PCN: 000R COUNTY/CITY: RAPID CITY
LANDOWNER: SAMS REAL ESTATE BUSINESS TRUST/WALMART

NAME OF NEGOTIATOR: ROD SENN JOEL LANDEEN
TITLE: CITY CONSULTANT, ASST CITY ATTY

The following document(s) was/were shown and/or explained to the Landowner:

Construction Plan Sheet Right of Way Document(s) Right of Way Brochures Other

Call/Visit Number: 1
Time: _____ AM/PM Date: 2/27/08
Visit Location: SENT LETTER TO WALMART/SAMS PROPERTY MANAGER
List people present during meeting: OUTLINING PROJECT - SEE ATTACHED

Notes of the Discussion: _____

Call/Visit Number: 2
Time: 1:20 AM/PM Date: 3/11/08
Visit Location: PHONE CALL
List people present during meeting: ROD SENN, ROGER REITHEMEYER - WALMART

Notes of the Discussion: ROGER HAS RECEIVED INFO, HASN'T HAD AN OPPORTUNITY TO REVIEW YET

Call/Visit Number: 3
Time: 10:15 AM/PM Date: 3/28/08
Visit Location: _____
List people present during meeting: ROD SENN, ROGER R. - WALMART

Notes of the Discussion: ROGER CALLED AND SAID THEY WERE OK W/ THE AGREEMENTS. REQUESTED DOCS FOR SIGNATURE. HE PROVIDED THEIR FORM BY E-MAIL FOR INFORMATION.

Call/Visit Number: 4
Time: 8:40 AM/PM Date: 4-8-08
Visit Location: TELEPHONE CALL
List people present during meeting: ROD SENN, SCOTT SAIFI - WALMART

Notes of the Discussion: CONTACT W/ NEW SAMS/WALMART REP HE WILL REVIEW FILE. THEY ARE OK W/ SITUATION JUST NEED TO REVIEW DOCS

Note: Please indicate in the Notes of Discussion, any agreement made as part of the donation, such as an additional approach, a load of gravel, etc.

RECORD OF CALLS/VISITS AND DISCUSSION RECORD PW061510-13
TO ACCOMPANY ESTABLISHED PAYMENT FORM LG-ROW-4

PROJECT NO: 1648(1), ST04-1397 PCN: 00UR COUNTY/CITY: RAPID CITY PAGE 2
LANDOWNER: WALMART / SAM'S CLUB
NAME OF NEGOTIATOR: ROD SENN JOEL LANDEEN
TITLE: CITY CONSULTANT, ASST CITY ATTY

The following document(s) was/were shown and/or explained to the Landowner:
Construction Right of Way Right of Way Other
Plan Sheet Document(s) Brochures

Call/Visit Number: 1
Time: VARIOUS AM / PM Date: _____
Visit Location: E-MAIL
List people present during meeting: KLARE SCHROEDER, CITY, AMBER GRAHAM - WALMART

Notes of the Discussion: SEE ATTACHED E-MAILS

Call/Visit Number: 2
Time: 4:35 AM PM Date: 9-24-09
Visit Location: PHONE CALL
List people present during meeting: JOEL LANDEEN, AMBER GRAHAM

Notes of the Discussion: DISCUSSED THE NEED TO USE STATE FORMS AND CONCERNS CITY HAS WITH SOME OF WALMART'S PROPOSED LIABILITY LANGUAGE

Call/Visit Number: 3
Time: _____ AM / PM Date: OCT 6 - NOV 13, 2009
Visit Location: E-MAIL
List people present during meeting: JOEL LANDEEN, AMBER GRAHAM

Notes of the Discussion: SEE ATTACHED E-MAILS

Call/Visit Number: 4
Time: _____ AM / PM Date: _____
Visit Location: _____
List people present during meeting: _____

Notes of the Discussion: _____

Note: Please indicate in the Notes of Discussion, any agreement made as part of the acquisition by established payment, such as an additional approach, a load of gravel, etc.

February 27, 2008

Mr. Roger Reithemeyer
Wal-Mart Real Estate
2001 SE 10th Street
Bentonville, AR 72716-0550

RE: Wal-Mart Store 1604
Sam's Club 6565
Rapid City, SD

Dear Mr. Reithemeyer:

As per our telephone conversation on Monday, February 25, 2008, on behalf of the City of Rapid City, South Dakota I am contacting your office to begin the process to obtain some easements on the above referenced properties in preparation of a street improvement project in Rapid City. The subject project on East Anamosa Street will consist of a street widening adjacent to your properties and the extension of the street to East North Street to the east in Rapid City. The City would like to request easements on the above referenced properties for the purposes of installing utilities and to facilitate construction. No taking of permanent right of way is being proposed for the subject properties. For your assistance in understanding the situation, I have enclosed the following items:

- A copy of an aerial photo indicating the general location of the easements in regards to your properties.
- Preliminary copies of the easement documents.
- Preliminary construction plan sheets indicating the proposed improvements adjacent to your properties.

I will follow up the delivery of this package with a telephone call on Friday, February 29th to answer any initial questions you may have after review the enclosed articles. If possible I would like to establish a date and time for a conference call with the City Engineer on Friday to further discuss the City's request.

I look forward to visiting with you in the coming days about this project. I believe you will find it to be a very positive endeavor for your stores in Rapid City. If you should have any questions or need additional information about the project, please feel free to contact our office at your convenience. Enclosed you will find my business card with the appropriate contact information.

Respectfully,

KADRMAS, LEE & JACKSON, INC.



Rod Senn, PE

Enc.

Cc: R. Ellis – City Engineer

Landeen Joel

From: Schroeder Klare
Sent: Friday, April 24, 2009 3:35 PM
To: Landeen Joel
Subject: FW: 6565 easement

khs

From: Amber Graham [mailto:Amber.Graham@wal-mart.com]
Sent: Friday, April 10, 2009 1:42 PM
To: Schroeder Klare
Subject: RE: 6565 easement

I understand. If you could have something like you described below added to the agreements when they come back, then we can review. If it is possible to ensure all access during the holiday season, please add that as well.

Amber Graham, Realty Manager (AK, CO, IL, MT, SD)
 Wal-Mart Realty
 Phone 479-204-3425
 Fax 479-204-9634
amber.graham@wal-mart.com

Wal-Mart Stores, Inc.
 2001 SE 10th Street
 Bentonville, AR 72716-0550

From: Schroeder Klare [mailto:Klare.Schroeder@rcgov.org]
Sent: Wednesday, April 08, 2009 3:03 PM
To: Amber Graham
Subject: RE: 6565 easement

I have no problem setting November 1, 2010 as the ending date for all work.
 And, we should be able to restrict work during the Christmas period you refer to - 11/01/2009 to 1/15/2010.
 (There is a lot of other portions of the project to work on during this time; provided weather even allows us to work.)
 I'm not sure that we will be able to let this project and begin construction before 8/01/2009; is my concern.

Access will be maintained, as long as possible, from Anamosa to the stores as well as the adjacent apartments.
 But, at some times, it may be necessary to restrict traffic to the LaCrosse Street accesses, for a period of time.

khs

-----Original Message-----

From: Amber Graham [mailto:Amber.Graham@wal-mart.com]
Sent: Wednesday, April 08, 2009 10:20 AM
To: Schroeder Klare
Subject: RE: 6565 easement

Our only concern with the date is that we typically don't want any work to disrupt the customers during the Christmas season. Would we be able to suspend work from November 1 to Jan 15 or so? But, I wouldn't want suspending work to cause more problems than not doing the work....will any of our access points be closed during this work?

Amber Graham, Realty Manager (AK, CO, IL, MT, SD)
Wal-Mart Realty
Phone 479-204-3425
Fax 479-204-9634
amber.graham@wal-mart.com

Wal-Mart Stores, Inc.
2001 SE 10th Street
Bentonville, AR 72716-0550

From: Schroeder Klare [mailto:Klare.Schroeder@rcgov.org]
Sent: Monday, April 06, 2009 10:05 AM
To: Amber Graham
Subject: RE: 6565 easement

Amber,
I have one change request for your consideration. I would like to have the expiration date be 12/31/2010; as I believe we will not complete this project this year.
I have our attorneys looking at your red marks, but don't see any other issues with them. I'll keep you apprised of their response asap.

khs

-----Original Message-----

From: Amber Graham [mailto:Amber.Graham@wal-mart.com]
Sent: Monday, March 30, 2009 9:10 AM
To: Schroeder Klare
Subject: RE: 6565 easement

Klare,
Please find attached redlines of the agreements that you sent, along with the addition of the addendum with your change and a few changes of our own (the addendum on 6565 is redlined -1604 is the same, but no redlines show) Please let me know if there are any questions on these changes or if these will work for you.

Thanks,
Amber

Amber Graham, Realty Manager (AK, CO, IL, MT, SD)
Wal-Mart Realty
Phone 479-204-3425
Fax 479-204-9634
amber.graham@wal-mart.com

Wal-Mart Stores, Inc.
2001 SE 10th Street
Bentonville, AR 72716-0550

From: Schroeder Klare [mailto:Klare.Schroeder@rcgov.org]
Sent: Tuesday, March 17, 2009 12:17 PM
To: Amber Graham
Subject: RE: 6565 easement

Thank you Amber. If we could get the documents we sent you (with the attachment you prepared) soon, we can finalize the right-of-way process on this project.
khs

-----Original Message-----

From: Amber Graham [mailto:Amber.Graham@wal-mart.com]
Sent: Tuesday, March 17, 2009 7:53 AM
To: Schroeder Klare
Subject: 6565 easement

Klare,
Good news. I hear I will have the appraisal today. So, we will hopefully just have a few more days for our legal team to respond.

Thanks,
Amber

Amber Graham, Realty Manager (AK, CO, IL, MT, SD)
Wal-Mart Realty
Phone 479-204-3425
Fax 479-204-9634
amber.graham@wal-mart.com

Wal-Mart Stores, Inc.
2001 SE 10th Street
Bentonville, AR 72716-0550

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***** Wal-Mart

Confidential *****

Landeen Joel

From: Amber Graham [Amber.Graham@wal-mart.com]
Sent: Friday, November 13, 2009 11:54 AM
To: Landeen Joel
Subject: RE: #1604 & #6565 Rapid City, SD - Wal-Mart/Sam's easements

Good deal. Let me get them ready for review and signature here. I hope to get them around to everyone here within 2 weeks, but with Thanksgiving, it may take just a bit longer.

Amber Graham Realty Manager (AK, CO, IL, MT, SD)
 Phone 479-204-3425, Fax 479-204-9634
amber.graham@wal-mart.com

Walmart
 2001 SE 10th Street
 Bentonville, AR 72716-0550
Saving people money so they can live better.

From: Landeen Joel [mailto:Joel.Landeen@rcgov.org]
Sent: Friday, November 13, 2009 11:43 AM
To: Amber Graham
Subject: RE: #1604 & #6565 Rapid City, SD - Wal-Mart/Sam's easements
Importance: High

Amber,

Thanks for getting me the comments so quickly. I have reviewed your redline comments and they are acceptable to the City. What do we need to do to get the executed documents back to us? Any idea how long it might take?

Joel Landeen
 Assistant City Attorney
 City of Rapid City
 300 Sixth Street
 Rapid City, SD 57701
 Phone (605) 394-4140
 Fax (605) 394-6633

This message contains confidential information intended only for the use of the addressee(s) named above and may contain information that is legally privileged. If you are not the addressee, or the person responsible for delivering it to the addressee, you are hereby notified that reading, disseminating, distributing or copying this message is strictly prohibited. If you have received this message by mistake, please immediately notify us by replying to the message and delete the original message immediately thereafter. Thank you.

From: Amber Graham [mailto:Amber.Graham@wal-mart.com]
Sent: Tuesday, November 10, 2009 11:49 AM
To: Landeen Joel
Subject: RE: #1604 & #6565 Rapid City, SD - Wal-Mart/Sam's easements

Hi Joel,

Attached are some revisions to the documents that our legal team has required. I did have the temporary construction easements separated into 2 documents as well. I've redlined all of these changes.

I think the insurance will be fine.

Please let me know what you think about these revisions.

Thanks,
Amber

Amber Graham Realty Manager (AK, CO, IL, MT, SD)
Phone 479-204-3425, Fax 479-204-9634
amber.graham@wal-mart.com

Walmart
2001 SE 10th Street
Bentonville, AR 72716-0550
Saving people money so they can live better.

From: Landeen Joel [mailto:Joel.Landeen@rcgov.org]
Sent: Tuesday, November 03, 2009 11:40 AM
To: Amber Graham
Subject: RE: #1604 & #6565 Rapid City, SD - Wal-Mart/Sam's easements

Amber,

Sorry for the delayed response. The attached drafts contain my comments. I went through them and accepted all of your changes. I had some minor changes on the utility easement and added some suggested language in the first paragraph and indemnification paragraph on the temporary easements. In my opinion, the changes I made in the temporary easement language are very similar to the wording you already had in the utility easement document. The language relating to impact on business operations and liability was much more reasonable in the utility easement than the language originally proposed in the temporary easement docs. I have a few other comments:

1. You asked if under the "Stipulations for conditional donation" we could add language stating that the grant was subject to the actual easement documents. I think that is fine.
2. I have also attached a PDF copy of the City's insurance policy relating to additional insured. It states that if you are named as an additional insured under an agreement you are an additional insured and covered by the insurer. Please review and let me know if it is acceptable.
3. I would suggest that we do to separate temporary easements, one for Sam's and one for Wal-Mart. It will make it easier on the Register of Deeds and future purchasers of the properties. We also won't have to make changes to our exhibits. Each easement will then have 2 exhibits. Exhibit A which shows the actual easement area and Exhibit A-1 which has the legal description of the easement tract.

Please review and let me know if it is acceptable or what changes we need to make in order to get them approved. Thanks for your help, I look forward to hearing from you soon.

Joel Landeen
Assistant City Attorney

City of Rapid City
300 Sixth Street
Rapid City, SD 57701
Phone (605) 394-4140
Fax (605) 394-6633

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From: Amber Graham [mailto:Amber.Graham@wal-mart.com]
Sent: Tuesday, October 06, 2009 10:33 AM
To: Landeen Joel
Subject: #1604 & #6565 Rapid City, SD - Walmart/Sam's easements

Hi Joel,
I marked up drafts of our standard temporary construction easement and utility easement for our legal team review. However, I think it might be more productive if you make comments to these first.

I know you had some concerns regarding the indemnification language and insurance; please feel free to redline the changes you are requesting in these sections and otherwise for our legal teams review.

Regarding the agreements for donation, could we write in on the "Stipulations of conditional donation" area of each something to the effect that the agreements are subject to the easement agreements?

I think we will need legal descriptions for the easement areas.

Please let me know if you have any questions. After I receive a redline of each from you, I will review and then have our legal team review as well. If this doesn't work for you, though, just let me know.

Thanks,
Amber

<<1604 & 6565 Temp. Construction Easement redline to std.doc>> <<6565 Utility Easement redline to std.doc>>

Amber Graham, Realty Manager (AK, CO, IL, MT, SD)
Walmart Realty
Phone 479-204-3425
Fax 479-204-9634
amber.graham@wal-mart.com

Walmart
2001 SE 10th Street
Bentonville, AR 72716-0550

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***** Wal-Mart
Confidential *****

UTILITY EASEMENT

THIS UTILITY EASEMENT (“Easement”) is entered into as of the _____ day of _____, 2009 by and between Sam’s Real Estate Business Trust, a Delaware Statutory trust, whose address is 702 S.W. 8th Street, with offices at 2001 S. E. 10th Street, Bentonville, Arkansas 72716-0550, c/o #44-9384 Realty Management (“Grantor”), and City of Rapid City, whose address is Office of City Attorney, 300 Sixth Street, Rapid City, SD 57701-2724 (“Grantee”).

WITNESSETH

WHEREAS, Grantor is the owner of that certain tract or parcel of land situated in the City of Rapid City, County of Pennington, State of South Dakota, more particularly described in Exhibit B attached hereto and made a part hereof (“Grantor Tract”); and

WHEREAS, Grantee has requested from Grantor and Grantor is desirous of granting to Grantee, a nonexclusive easement over a portion of the Grantor Tract (“Easement Tract”) for the extension of utilities as described and depicted on Exhibit A attached hereto (“Utility Easement”).

NOW THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant to Grantee a nonexclusive easement for utility extensions over, across and under the Easement Tract, subject to the following terms and conditions to which the parties hereto do hereby agree:

1. Easement for Extension of Utilities. Grantor hereby grants to Grantee a non-exclusive Utility Easement on the Easement Tract for the extension of utilities that may reasonably be needed for making underground utility connections. Grantee agrees to repair any damage caused to Grantor’s Tract that is a direct or indirect result of the acts or negligence of Grantee, Grantee’s customers, employees, invitees, or contractors in installing, extending, maintaining, removing, or repairing the utilities. In the exercise of such rights, Grantee shall not take or cause to be taken any action which would constitute a material change to the original civil engineering plan for the Grantor’s Tract and Grantee shall use best efforts to minimize to the extent practicable any damage to or interference with the use and enjoyment of any other tract or of any business conducted thereon, including but not limited to the Grantor Tract. Grantee shall exercise Grantee’s utility extension rights in such a manner that will cause minimal disruption to the on-going business operation of Grantor. Grantee also agrees to minimize any disruptions of the Easement Tract during the months of November and December.

2. Use. Grantee, through its officers, employees and agents, shall have the right to enter upon the Easement Tract in such a manner and at such times from the date hereof as may be reasonably necessary for the purpose of constructing, building, laying, patrolling, replacing and maintaining thereon certain utilities, including such repairs,

replacements and removals as may be from time to time required. Said right shall be perpetual, but should Grantee cease to use, maintain and/or repair said easement line(s) for a period of two (2) years, then the applicable utility lines or appurtenances thereon installed in, upon or under the Easement Tract shall be removed by Grantee within thirty (30) days notice from Grantor. Said utility extension lines shall be laid so that the top thereof shall be buried not less than 2 feet below the natural surface of the ground, or deeper as may be required by applicable law. In no event shall the Easement Tract be used by Grantee as a staging area for any equipment, trucks, dirt, supplies, soil or material.

3. Maintenance. (a) Grantee shall restore the surface of the Easement Tract to its original condition immediately following any of Grantee's permitted activities within the Easement Tract, so that Grantor, its successors and assigns, shall have the free and unobstructed use thereof, subject to the rights of Grantee herein provided. Grantee will make no unreasonable interference with such use of the surface of said lands by Grantor, its successors and assigns.

(b) Grantee, following the initial installation, and upon each and every occasion that the same is repaired, renewed, added or removed, shall restore the Easement Tract and Grantor Tract, and any such landscaping, sod, trees, shrubbery, buildings or improvements disturbed or damaged thereon, to a condition as they were prior to any such installation or work, including but not limited to the restoration of any topsoil.

(c) If, in an emergency, it shall become necessary for Grantor to promptly make any repairs that otherwise would have been the responsibility of Grantee, or if Grantee shall fail to adequately maintain the Easement Tract as provided herein, then Grantor, at Grantor's sole option, but not obligation, may proceed forthwith to have the repairs made and pay the cost thereof, and to receive reimbursement therefor from Grantee within thirty (30) days after a written request for same. In such instances, Grantor shall provide Grantee with oral notification of its intention to make such repairs or the occurrence of such repairs, at the earliest practicable time given the nature and extent of the emergency.

4. Indemnification and Insurance. (a) Grantor, its successors and assigns, will not be responsible for damage by others to said utility lines. Grantee shall indemnify, defend and hold harmless Grantor from any damages or liability to persons or property that might arise from the use, construction, removal, operation or maintenance of the Utility Easement and associated lines by Grantee, its agents, employees, contractors, or anyone authorized by Grantee. The City shall not be responsible for indemnifying a claim which it was not given notice of, or an opportunity to defend.

(b) Grantee will carry and keep in force, at its own expense, Commercial General Liability insurance with companies that do business in this State, in an amount not less than \$2,000,000.00 single limited personal injury and property

damage; and \$2,000,000.00 combined personal injury and property damage. All policies of insurance shall be considered primary of any existing, similar insurance carried by Grantor. Grantee shall furnish Grantor with a Certificate of Insurance upon written request. Grantee shall name Grantor as an "additional" insured.

5. Intentionally omitted.

6. Duration. The agreement contained herein and the rights granted hereby shall run with the title to the Easement Tract and shall bind and inure to the benefit of the parties hereto and their respective heirs, successors, sublessees and assigns; subject, however, to the termination provisions of Paragraph 2 herein above.

7. Relocation. (a) Grantor reserves the right to modify or relocate the utility lines, Utility Easement and associated easements, if any, at the expense of Grantor, provided any such modification or relocation does not prevent adequate delivery of such utility services.

(b) In case of the opening of a public road or street to or upon the Grantor Tract, then any portion of such line interfering with the proper construction and maintenance of such road or street shall be adjusted accordingly by Grantee, at Grantee's expense, so as not to interfere with such road or street or Grantor's business operations.

8. Hazardous Materials. Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor from and against any and all losses, liabilities (including strict liability), claims, causes of action, damages, injuries, expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Grantor, and its successors and assigns, by any person or entity or governmental agency, for, with respect to, or as a direct or indirect result of, the construction of Grantee's improvements, use of Grantee's improvements by Grantee, its customers, suppliers, employees, and tenants or anyone else using the such improvements, the use of the Utility Easement, or any claims for, with respect to, or as a direct or indirect result of the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Substance and/or Hazardous Material (as those terms may be defined in the acts recited hereinbelow) resulting from the operations of Grantee upon or under any tract of land owned by Grantor including without limitation, any losses, liabilities (including strict liability), damage, injuries, expenses and costs, including, without limitation, reasonable attorney's fees, of any settlement or judgment or claims asserted or arising under, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act (and any and all amendments to the above-referenced acts), any so called federal, state or local "Superfund" or "Superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or

decree regulating, relating to or imposing liability (including strict liability), or standards of conduct concerning any such Hazardous Substance and/or Hazardous Material.

9. Storm Water Requirements. In exercising any rights and privileges under this Easement, Grantee shall comply fully with any federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the Storm Water General Permit for Discharges Associated with Construction Activities (collectively the "Storm Water Requirements"). In addition to any other provisions of any Storm Water Requirements:

A. Grantee shall, as required by any Storm Water Requirements, prepare a Storm Water Pollution Prevention Plan (the "Grantee SWPPP") for that part of the property owned by Grantor on which Grantee plans to conduct earth-disturbing activities, including but not limited to the Easement Tract. The Grantee SWPPP shall identify and describe the role of any other contractor, entity or individual contemporaneously undertaking earth-disturbing activities in complying with the Storm Water Requirements, and shall identify the manner in which Grantee and any such contractor, entity or individual shall coordinate to comply with the Storm Water Requirements and to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities. Grantee shall provide Grantor with a copy of the Grantee SWPPP prior to initiating any earth-disturbing activities.

B. Grantee shall, as required by any Storm Water Requirements, submit a "Notice of Intent" (as such term is commonly defined in the environmental compliance industry) or other permit application prior to initiating any ground-disturbing activities at the property owned by Grantor, including but not limited to the Easement Tract, covering the number of acres which will be disturbed by Grantee. Grantee shall submit such Notice of Intent or other permit application regardless of whether Grantor or any agent or contractor of Grantor has also submitted any Notice of Intent or other permit application, unless any Storm Water Requirements expressly prohibit such submittal. Grantee shall provide Grantor with a copy of the Notice of Intent or other permit application prior to initiating any earth-disturbing activities.

C. If Grantee and Grantor, or any agent or contractor of Grantor, contemporaneously undertake any earth-disturbing activities, Grantee shall attend any weekly meetings held by Grantor, or any agent or contractor of Grantor, to review the requirements of any applicable permits, the Grantee SWPPP and other SWPPPs prepared for the property owned by Grantor, including but not limited to the Easement Tract, to address any problems that have arisen in implementing the SWPPPs or maintaining Best Management Practices ("BMPs").

D. In the event Grantee, in exercising the rights and privileges of this Easement requires the development and/or use of borrow, material, equipment or waste storage sites, Grantee agrees it shall, prior to the development and/or use of such sites, obtain any permits or approvals necessary for the legal use of such sites, and shall also comply with all laws, regulations and permit conditions applicable to such sites.

10. Immigration Requirements. Grantee shall (i) comply in all respects with all immigration laws, statutes, rules, codes and regulations, (ii) properly maintain all records required by the United States Citizenship and Immigration Services (the "USCIS"), including, without limitation, the completion and maintenance of the Form I-9 for each of Grantee's employees, and (iii) respond in a timely fashion to any inspection requests related to such I-9 Forms. Grantee shall fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the USCIS of Grantee or any of its employees. Grantee shall, on a bi-annual basis during the term of this Easement, conduct an audit of the I-9 Forms for its employees and shall promptly correct any defects or deficiencies which are identified as a result of such audit. Grantor may, in its sole discretion, terminate this Easement immediately if, at any time during the term, (x) Grantee violates or is in breach of any provision of this paragraph or (y) the USCIS determines that Grantee has not complied with any of the immigration laws, statutes, rules, codes and regulations of the United States. Grantee shall require all subcontractors performing any work on the Utility System to comply with the covenants set forth in this paragraph.

11. Permits and Licenses. Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of Grantee's improvements. Grantee shall comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers. Grantee acknowledges that it is Grantee's sole responsibility to obtain any governmental permits to perform any required maintenance checks, and to abide by any governmental regulations associated with the use, construction, patrolling, replacement and maintenance of Grantee's improvements, as applicable.

12. Default by Grantee. If Grantee defaults in the performance of any provision contained in this Easement, Grantor may terminate this Easement following written notice and a fifteen-(15) day period during which Grantee shall have the opportunity to cure such default to Grantor's satisfaction. If Grantor terminates this Easement under this provision, Grantee may exercise any and all remedies available at law or in equity.

13. Payment. Any reimbursable due under this agreement (payment reimbursing Wal-Mart for an expenditure made on behalf of Grantee) should be sent to either of the following addresses:

(Regular Mail)
Wal-Mart Stores, Inc.
P.O. Box 502215
St. Louis, MO 63150-2215

OR

(Overnight Mail)
Wal-Mart Stores, Inc.
800 Market St., 4th Floor
Lockbox # 502215
St. Louis, MO 63101.


14. Compliance with Law. Grantee, in exercising the privileges granted by this Easement, shall comply with all applicable federal, state, county and municipal laws, ordinances and regulations.

15. Headings. The headings of the paragraph contained herein are intended for reference purposes only and shall not be used to interpret the agreement contained herein or the rights granted hereby.

16. Counterparts. This agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

17. Right of Way Donation. Simultaneously with the execution of this Easement, Grantor and Grantee have also entered into an Agreement for Voluntary Right of Way Donation ("Donation") regarding this Easement. In the event of a conflict between this Easement and the Donation, this Easement shall control.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

ATTEST:


GRANTOR
Sam's Real Estate Business Trust

By: 

Title: Division Manager
Ag

ATTEST:

GRANTEE:
City of Rapid City

By: _____

Title: _____

TRUST ACKNOWLEDGMENT

STATE OF ARKANSAS)
) §
COUNTY OF BENTON)

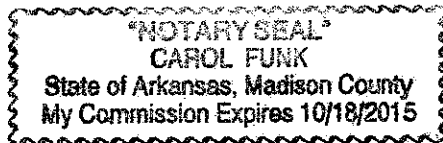
On this 19th day of November, 2009, before me, the undersigned notary public in and for said County and State, personally appeared MATTHEW R POWERS to me personally known, who, being by me duly sworn, did say that he is Divisional Manager of **SAM'S REAL ESTATE BUSINESS TRUST** and that the seal affixed to the foregoing instrument is the seal of said trust, and that said instrument was signed and sealed on behalf of said trust by authority of its Trustee, and said MATTHEW R POWERS acknowledged said instrument to be the free act and deed of said trust.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the 19th day of November, 2009.

Carol Funk
NOTARY PUBLIC

My Commission Expires:

October 18, 2015



CORPORATE ACKNOWLEDGMENT

STATE OF _____)
) §
COUNTY OF _____)

On this _____ day of _____, _____, before me, the undersigned notary public in and for said County and State, personally appeared _____, to me personally known, who, being by me duly sworn, did say that he is _____ of _____, a _____ corporation, and that the seal affixed to the foregoing instrument is the seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the _____ day of _____, _____.

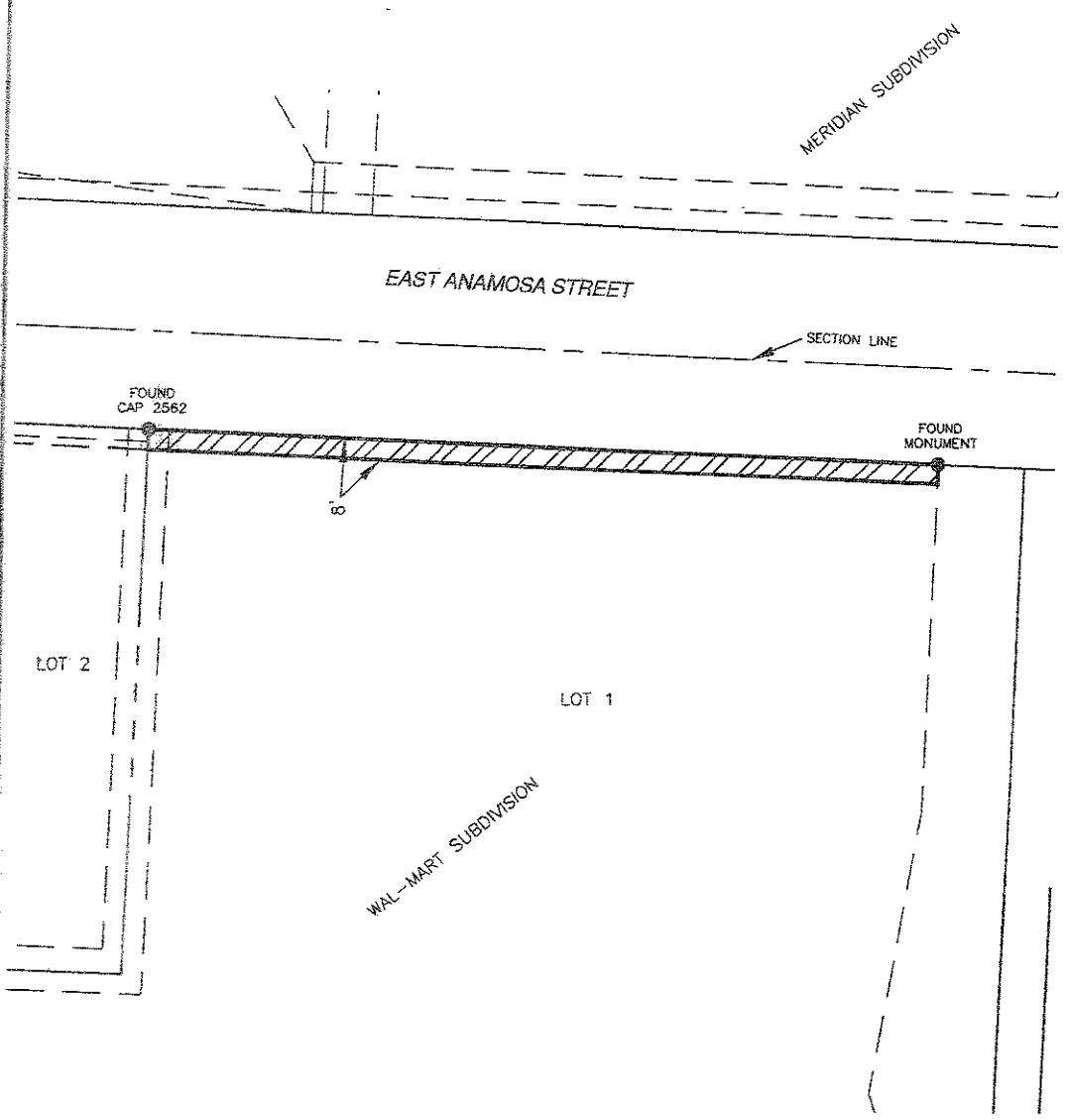
NOTARY PUBLIC

My Commission Expires:

EXHIBIT A

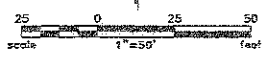
8' WIDE UTILITY EASEMENT

LOCATED IN LOT 1 OF WAL-MART SUBDIVISION IN THE NE1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik
 Kent A. Orvik, Professional Land Surveyor
 S.D. No. 5436
 SOUTH DAKOTA
 Date 8-8-08



ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
 KADRMAS, LEE & JACKSON, INC.
 330 KNOLLWOOD DRIVE
 RAPID CITY, SD 57701-6611
 (605) 721-5553

Kadmas
Lee &
Jackson
 Engineers Surveyors
 Planners

EXHIBIT B

Store #6565 – Rapid City, South Dakota

1020 Lacrosse Street, S.E. Rapid City, SD 57701

Lot 1 of Wal-Mart Subdivision, Rapid City, South Dakota

UTILITY EASEMENT

THIS UTILITY EASEMENT ("Easement") is entered into as of the _____ day of _____, 2009 by and between Sam's Real Estate Business Trust, a Delaware Statutory trust, whose address is 702 S.W. 8th Street, with offices at 2001 S. E. 10th Street, Bentonville, Arkansas 72716-0550, c/o #44-9384 Realty Management ("Grantor"), and City of Rapid City, whose address is Office of City Attorney, 300 Sixth Street, Rapid City, SD 57701-2724 ("Grantee").

WITNESSETH

WHEREAS, Grantor is the owner of that certain tract or parcel of land situated in the City of Rapid City, County of Pennington, State of South Dakota, more particularly described in Exhibit B attached hereto and made a part hereof ("Grantor Tract"); and

WHEREAS, Grantee has requested from Grantor and Grantor is desirous of granting to Grantee, a nonexclusive easement over a portion of the Grantor Tract ("Easement Tract") for the extension of utilities as described and depicted on Exhibit A attached hereto ("Utility Easement").

NOW THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant to Grantee a nonexclusive easement for utility extensions over, across and under the Easement Tract, subject to the following terms and conditions to which the parties hereto do hereby agree:

1. Easement for Extension of Utilities. Grantor hereby grants to Grantee a non-exclusive Utility Easement on the Easement Tract for the extension of utilities that may reasonably be needed for making underground utility connections. Grantee agrees to repair any damage caused to Grantor's Tract that is a direct or indirect result of the acts or negligence of Grantee, Grantee's customers, employees, invitees, or contractors in installing, extending, maintaining, removing, or repairing the utilities. In the exercise of such rights, Grantee shall not take or cause to be taken any action which would constitute a material change to the original civil engineering plan for the Grantor's Tract and Grantee shall use best efforts to minimize to the extent practicable any damage to or interference with the use and enjoyment of any other tract or of any business conducted thereon, including but not limited to the Grantor Tract. Grantee shall exercise Grantee's utility extension rights in such a manner that will cause minimal disruption to the ongoing business operation of Grantor. Grantee also agrees to minimize any disruptions of the Easement Tract during the months of November and December.

2. Use. Grantee, through its officers, employees and agents, shall have the right to enter upon the Easement Tract in such a manner and at such times from the date hereof as may be reasonably necessary for the purpose of constructing, building, laying, patrolling, replacing and maintaining thereon certain utilities, including such repairs,

replacements and removals as may be from time to time required. Said right shall be perpetual, but should Grantee cease to use, maintain and/or repair said easement line(s) for a period of two (2) years, then the applicable utility lines or appurtenances thereon installed in, upon or under the Easement Tract shall be removed by Grantee within thirty (30) days notice from Grantor. Said utility extension lines shall be laid so that the top thereof shall be buried not less than 2 feet below the natural surface of the ground, or deeper as may be required by applicable law. In no event shall the Easement Tract be used by Grantee as a staging area for any equipment, trucks, dirt, supplies, soil or material.

3. Maintenance. (a) Grantee shall restore the surface of the Easement Tract to its original condition immediately following any of Grantee's permitted activities within the Easement Tract, so that Grantor, its successors and assigns, shall have the free and unobstructed use thereof, subject to the rights of Grantee herein provided. Grantee will make no unreasonable interference with such use of the surface of said lands by Grantor, its successors and assigns.

(b) Grantee, following the initial installation, and upon each and every occasion that the same is repaired, renewed, added or removed, shall restore the Easement Tract and Grantor Tract, and any such landscaping, sod, trees, shrubbery, buildings or improvements disturbed or damaged thereon, to a condition as they were prior to any such installation or work, including but not limited to the restoration of any topsoil.

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(b) In case of the opening of a public road or street to or upon the Grantor Tract, then any portion of such line interfering with the proper construction and maintenance of such road or street shall be adjusted accordingly by Grantee, at Grantee's expense, so as not to interfere with such road or street or Grantor's business operations.

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12. Default by Grantee. If Grantee defaults in the performance of any provision contained in this Easement, Grantor may terminate this Easement following written notice and a fifteen-(15) day period during which Grantee shall have the opportunity to cure such default to Grantor's satisfaction. If Grantor terminates this Easement under this provision, Grantee may exercise any and all remedies available at law or in equity.

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OR

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Lockbox # 502215
St. Louis, MO 63101.

14. Compliance with Law. Grantee, in exercising the privileges granted by this Easement, shall comply with all applicable federal, state, county and municipal laws, ordinances and regulations.

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IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

GRANTOR
Sam's Real Estate Business Trust

ATTEST:
Barbara

By: *Mark*

Title: Division Manager
He

GRANTEE:
City of Rapid City

ATTEST:

By: _____

Title: _____

TRUST ACKNOWLEDGMENT

STATE OF ARKANSAS)
) §
COUNTY OF BENTON)

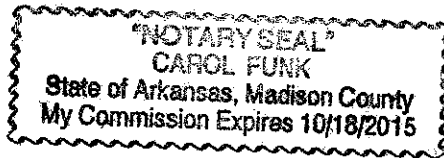
On this 19th day of November, 2009, before me, the undersigned notary public in and for said County and State, personally appeared MATTHEW R POWERS to me personally known, who, being by me duly sworn, did say that he is Divisional Manager of **SAM'S REAL ESTATE BUSINESS TRUST** and that the seal affixed to the foregoing instrument is the seal of said trust, and that said instrument was signed and sealed on behalf of said trust by authority of its Trustee, and said MATTHEW R POWERS acknowledged said instrument to be the free act and deed of said trust.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the 19th day of November, 2009.

Carol Funk
NOTARY PUBLIC

My Commission Expires:

October 18, 2015



CORPORATE ACKNOWLEDGMENT

STATE OF _____)
) §
COUNTY OF _____)

On this _____ day of _____, _____, before me, the undersigned notary public in and for said County and State, personally appeared _____, to me personally known, who, being by me duly sworn, did say that he is _____ of _____, a _____ corporation, and that the seal affixed to the foregoing instrument is the seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

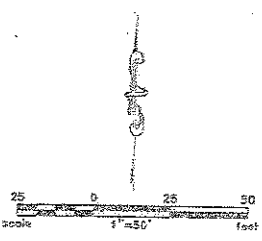
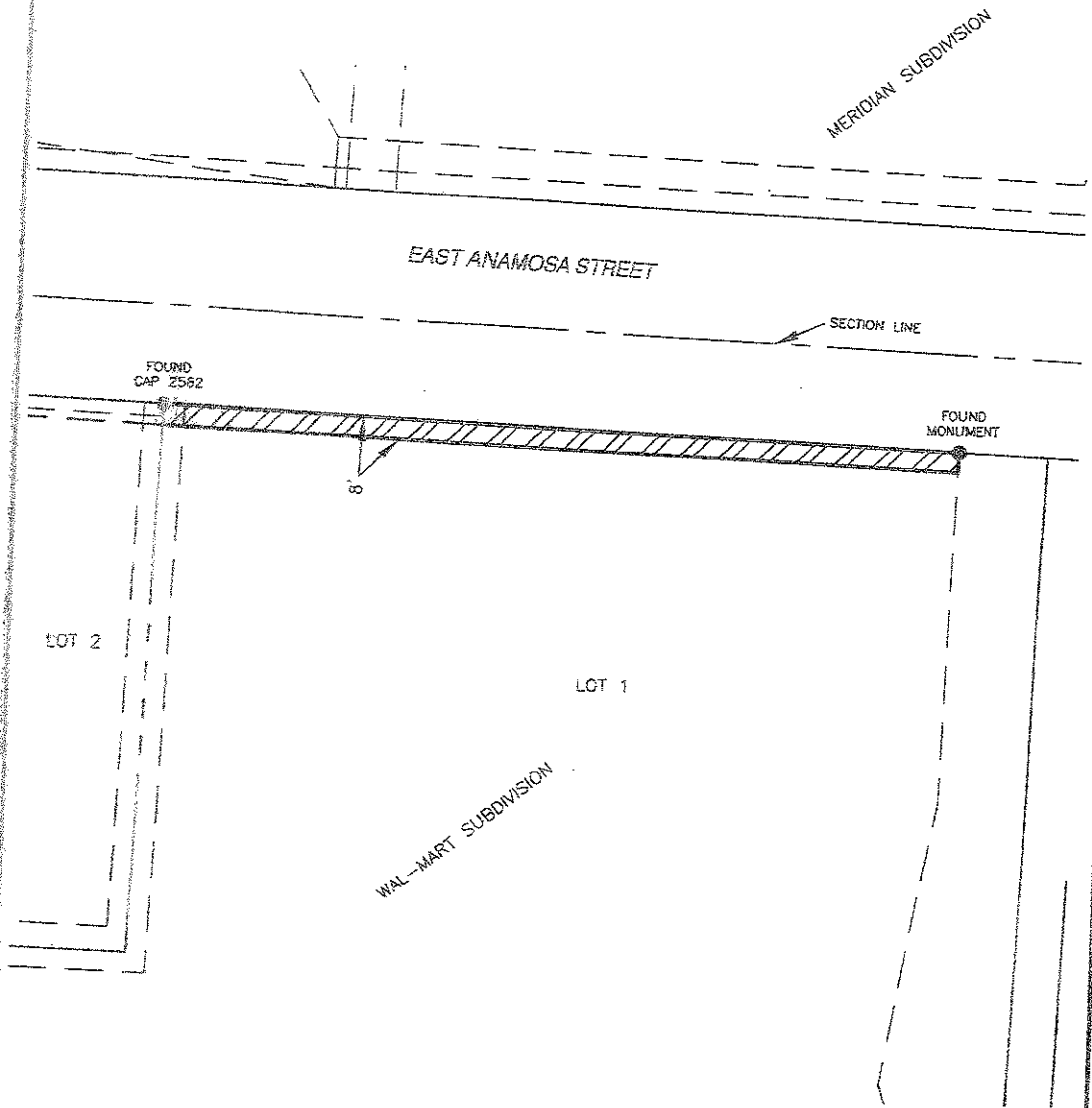
WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the _____ day of _____, _____.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT A

8' WIDE UTILITY EASEMENT
LOCATED IN LOT 1 OF WAL-MART SUBDIVISION IN THE NE1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, **KENT A. GRVİK**, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, or from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Grvik
Kent A. Grvik, Professional Land Surveyor
S.D. No. 5436
Date 8-5-08

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(85) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
Surveyors
Planners

EXHIBIT B

Store #6565 – Rapid City, South Dakota

1020 Lacrosse Street, S.E. Rapid City, SD 57701

Lot 1 of Wal-Mart Subdivision, Rapid City, South Dakota

TEMPORARY CONSTRUCTION EASEMENT

THIS **TEMPORARY CONSTRUCTION EASEMENT** ("Agreement"), dated _____, 2009, is made by and between **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, whose address is 702 S.W. 8th Street Bentonville, AR 72716, with a mailing addresses of Sam M. Walton Development Complex, 2001 S.E. 10th Street Bentonville, AR 72716-0550, Attn: Realty Management ("Grantor") and City of Rapid City, whose address is Office of the City Attorney, 300 Sixth Street, Rapid City, South Dakota 57701-2724 ("Grantee"). The following statements are a material part of this Agreement:

WHEREAS, Wal-Mart Real Estate Business Trust is the owner of a tract of land depicted as Tract 1 on **Exhibit B**, attached; and

WHEREAS, Grantee is reconstructing East Anamosa Street and extending utilities ("City Work"); and

WHEREAS, Grantee has requested from Grantor and Grantor is desirous of granting to Grantee, a nonexclusive temporary easement over a portion of Tract 1 ("Easement Tract 1") for the City Work as described and depicted on **Exhibit A** ("Easement").

THEREFORE, in consideration of the covenants contained in this Agreement and other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

1. Grantor quitclaims to Grantee a temporary, non-exclusive easement for the benefit of Grantee to perform the City Work over and across the Easement. Grantee, through its officers, employees and agents, at Grantee's sole cost and expense, shall have the right to enter upon the Easement in such a manner as may be reasonably necessary for the sole purpose as above written. This Easement shall expire upon the completion of Grantee's stated purpose, but, in no event, shall the Easement survive beyond October 31, 2011; provided, all Grantee's warranties, representations and indemnities shall survive the termination of the Easement and continue for the benefit and protection of Grantor for as long as possible under applicable law. In no event shall Grantee use this Easement in a manner which unreasonably interferes with Grantor's use of Tract 1. Grantee also covenants and agrees that the Easement will not be used for the erection of any temporary structures.

2. Grantee agrees to use due care in any use of the Easement, and in the construction, installation, repair, replacement and maintenance of Grantee's improvements, so as not to unreasonably disturb Grantor's use of Grantor's property. Grantee further agrees Grantee shall not interfere with Grantor's business operations while utilizing the Easement. Grantee covenants and agrees to properly maintain the Easement and keep same in good order, free and clear from rubbish. Grantee further covenants and agrees that all construction activities will be timed so as to not interfere with trucking schedules of Grantor, and that driveways damaged by Grantee's use of the Easement will be promptly replaced in accordance with Grantor's specifications at Grantee's sole cost and expense, and to Grantor's satisfaction. Notwithstanding the foregoing, routine maintenance, construction and use of the Easement shall be limited during the months of November and December to minimize any disruptions to Grantor. Grantee covenants and agrees that Grantor's tract will not be used as a staging area and will not be used to store equipment, trucks, dirt, supplies, materials, rubble, spoil or any other materials of Grantee. Grantee shall not dig any open pits, trenches, borings or holes on or under the Easement. Grantee also covenants and agrees that no heavy trucks or equipment associated with the use of the Easement by Grantee shall utilize the entranceways, streets or roadways located on Grantor's property or the Easement without Grantor's prior written consent.
3. Following completion of work, if Grantee has removed or damaged any of Grantor's improvements, including but not limited to paving, sod, herbage, lighting standards, signage or landscaping within the Easement or otherwise on Grantor's property, Grantee shall at Grantee's sole cost and expense immediately restore the property injured by Grantee's activities to the same condition as existed previous to Grantee's entry upon the particular property.
4. The City shall defend, indemnify and hold the Grantor and its property harmless against and from any and all claims, actions, or damages asserted against the Grantor and/or its property which arise from, or with respect to, the easements being granted which are attributable to the actions or omissions of the City or its agents, to the extent such claims are not the result of the willful or grossly negligent conduct of the Grantor. The City shall not be responsible for indemnifying a claim which it was not given notice of, or an opportunity to defend. Grantee further agrees that Grantee shall, at all times during the duration of this Agreement, maintain and pay for comprehensive general liability insurance affording protection to Grantor and Grantee, and naming Grantor, and Wal-Mart Stores, Inc., a Delaware corporation ("Wal-Mart"), as an additional insureds on the policy or policies for a combined bodily injury and property damage limit of liability not less than \$5,000,000.00 for each occurrence. Grantee further agrees, upon request, to deliver to Grantor a certificate or certificates from an insurance company or insurance companies satisfactory to Grantor evidencing the existence of such insurance and naming Grantor and Wal-Mart as an additional insured.

5. Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor and Wal-Mart from and against any and all losses, liabilities (including strict liability), claims, causes of action, damages, injuries, expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Grantor and/or Wal-Mart, and their respective successors and assigns, by any person or entity or governmental agency, for, with respect to, or as a direct or indirect result of, the construction of Grantee's improvements, use of Grantee's improvements by Grantee, its customers, suppliers, employees, and tenants or anyone else using the such improvements, the use of the Easement, or any claims the escape, seepage, leakage, spillage, emission, discharge or release of any hazardous substance resulting from the operations of Grantee upon or under any tract of land owned by Grantor including without limitation, any losses, liabilities (including strict liability), damage, injuries, expenses and costs, including, without limitation, reasonable attorney's fees, of any settlement or judgment or claims asserted or arising under, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, any so called federal, state or local "Superfund" or "Superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability), or standards of conduct concerning any hazardous substance.
6. In exercising any rights and privileges under this Agreement, Grantee shall comply fully with any federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the Storm Water General Permit for Discharges Associated with Construction Activities (collectively the "Storm Water Requirements"). In addition to any other provisions of any Storm Water Requirements:
 - A. Grantee shall, as required by any Storm Water Requirements, prepare a Storm Water Pollution Prevention Plan (the "Grantee SWPPP") for that part of the property owned by Grantor and shown on **Exhibit A** on which Grantee plans to conduct earth-disturbing activities. The Grantee SWPPP shall identify and describe the role of any other contractor, entity or individual contemporaneously undertaking earth-disturbing activities in complying with the Storm Water Requirements, and shall identify the manner in which Grantee and any such contractor, entity or individual shall coordinate to comply with the Storm Water Requirements and to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities. Grantee shall provide Grantor with a copy of the Grantee SWPPP prior to initiating any earth-disturbing activities.

B. Grantee shall, as required by any Storm Water Requirements, submit a "Notice of Intent" (as such term is commonly defined in the environmental compliance industry) or other permit application prior to initiating any ground-disturbing activities at the property owned by Grantor and shown on **Exhibit A** covering the number of acres which will be disturbed by Grantee. Grantee shall submit such Notice of Intent or other permit application regardless of whether Grantor or any agent or contractor of Grantor has also submitted any Notice of Intent or other permit application, unless any Storm Water Requirements expressly prohibit such submittal. Grantee shall provide Grantor with a copy of the Notice of Intent or other permit application prior to initiating any earth-disturbing activities.

C. If Grantee and Grantor, or any agent or contractor of Grantor, contemporaneously undertake any earth-disturbing activities, Grantee shall attend any weekly meetings held by Grantor, or any agent or contractor of Grantor, to review the requirements of any applicable permits, the Grantee SWPPP and other SWPPPs prepared for the property owned by Grantor and shown on **Exhibit A** to address any problems that have arisen in implementing the SWPPPs or maintaining Best Management Practices ("BMPs").

D. In the event Grantee, in exercising the rights and privileges of this Agreement requires the development and/or use of borrow, material, equipment or waste storage sites, Grantee agrees it shall, prior to the development and/or use of such sites, obtain any permits or approvals necessary for the legal use of such sites, and shall also comply with all laws, regulations and permit conditions applicable to such sites.

7. Grantee shall (i) comply in all respects with all immigration laws, statutes, rules, codes and regulations, (ii) properly maintain all records required by the United States Citizenship and Immigration Services (the "USCIS"), including, without limitation, the completion and maintenance of the Form I-9 for each of Grantee's employees, and (iii) respond in a timely fashion to any inspection requests related to such I-9 Forms. Grantee shall fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the USCIS of Grantee or any of its employees. Grantee shall, on a bi-annual basis during the term of this Agreement, conduct an audit of the I-9 Forms for its employees and shall promptly correct any defects or deficiencies which are identified as a result of such audit. Grantor may, in its sole discretion, terminate this Agreement immediately if, at any time during the term, (x) Grantee violates or is in breach of any provision of this paragraph or (y) the USCIS determines that Grantee has not complied with any of the immigration laws, statutes, rules, codes and regulations of the United States. Grantee shall require all subcontractors performing any work on the Utility System to comply with the covenants set forth in this paragraph.

8. Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of Grantee's improvements. Grantee shall comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers.
9. If Grantee defaults in the performance of any provision contained in this Agreement, Grantor may terminate this Agreement following written notice and a fifteen-(15) day period during which Grantee shall have the opportunity to cure such default to Grantor's satisfaction. If Grantor terminates this Agreement under this provision, Grantee may exercise any and all remedies available at law or in equity.
10. Grantee acknowledges that it is Grantee's sole responsibility to obtain any governmental permits to perform any required maintenance checks, and to abide by any governmental regulations associated with the use, construction, patrolling, replacement and maintenance of Grantee's improvements, as applicable.
11. This Agreement may be executed in one or more counterparts (including by facsimile), all parties need not be signatories to the same documents, and all counterpart signed documents shall be deemed to be an original and one (1) instrument.
12. Right of Way Donation. Simultaneously with the execution of this Easement, Grantor and Grantee have also entered into Agreements for Voluntary Right of Way Donation ("Donation") regarding this Easement. In the event of a conflict between this Easement and the Donation, this Easement shall control.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first written above.

Grantor(s):
WAL-MART REAL ESTATE BUSINESS TRUST

ATTEST:

By: *Matt [Signature]*

By: *Brian [Signature]*

Its: *Division Manager*
AG

Its: Assistant Secretary

CITY OF RAPID CITY
("Grantee")

ATTEST:

By: _____

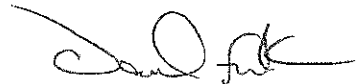
Its: _____

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) §§
COUNTY OF BENTON)

On this 19th day of Nov, 2009, before me, the undersigned notary public in and for said County and State, personally appeared before me ^{MATTHEW R POWERS} to me personally known, who, being by me duly sworn, did say that he/she is ^{Division of Madagasc} of **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, and that the seal affixed to the foregoing instrument is the seal of said entity, and said ^{MATTHEW R POWERS} acknowledged said instrument to be the free act and deed of said entity.

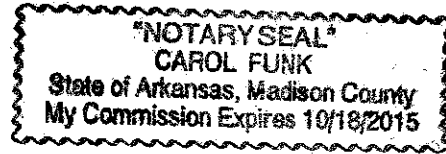
WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the 19th day of Nov, 2009.



NOTARY PUBLIC

My Commission Expires:

October 18, 2015



ACKNOWLEDGEMENT

STATE OF _____)
) §§
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned notary public in and for said County and State, personally appeared before me _____, to me personally known, who, being by me duly sworn, did say that he/she is _____ of and _____, a/an _____, and that said instrument was signed in behalf of said entity, and said _____ acknowledged said instrument to be the free act and deed of said entity.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the _____ day of _____, 20____.

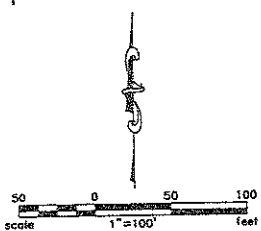
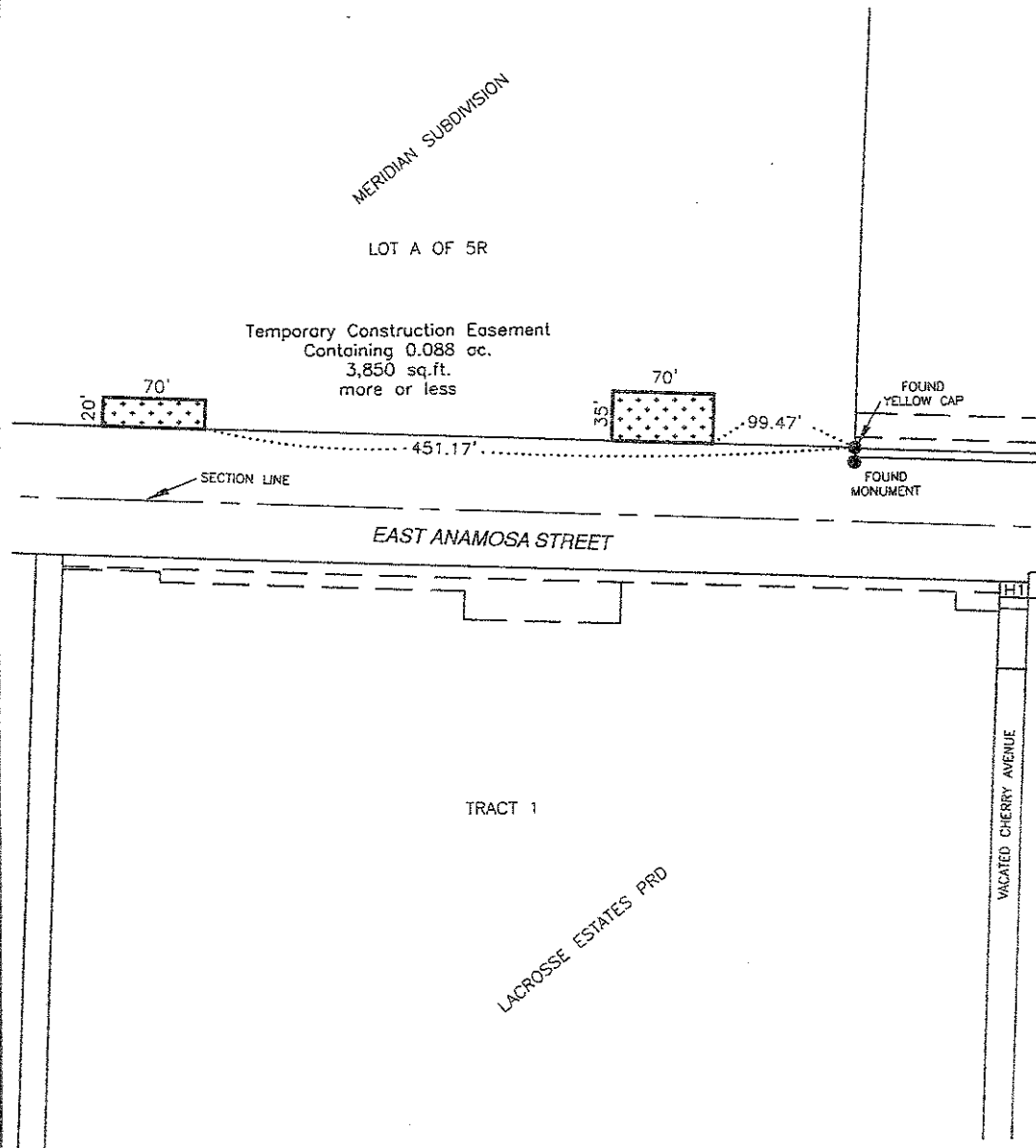
NOTARY PUBLIC

My Commission Expires:

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

LOCATED IN LOT A OF 5R OF MERIDIAN SUBDIVISION, IN THE SE1/4 OF SECTION 30,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, **Kent A. Orvik**, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direct supervision, and that the notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik
 Kent A. Orvik, Professional Land Surveyor
 S.D. No. 5436
 SOUTH DAKOTA
 8-8-08
 Date

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

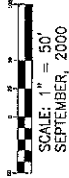
ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
 Engineers Surveyors
 Planners

SITE PLAN



NOTES

1. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1000, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1001, as amended.
2. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1002, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1003, as amended.
3. All measurements are in feet unless otherwise indicated.
4. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1004, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1005, as amended.
5. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1006, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1007, as amended.
6. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1008, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1009, as amended.
7. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1010, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1011, as amended.
8. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1012, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1013, as amended.
9. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1014, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1015, as amended.
10. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1016, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1017, as amended.
11. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1018, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1019, as amended.
12. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1020, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1021, as amended.
13. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1022, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1023, as amended.
14. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1024, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1025, as amended.
15. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1026, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1027, as amended.
16. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1028, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1029, as amended.
17. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1030, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1031, as amended.
18. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1032, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1033, as amended.
19. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1034, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1035, as amended.
20. The site plan is prepared in accordance with the provisions of the City of Rapid City, South Dakota, Ordinance No. 1036, as amended, and the provisions of the City of Rapid City, South Dakota, Ordinance No. 1037, as amended.

PARKING SPACES

WAL-MART STORE - 854 SPACES + 848 SPACES = 1702 SPACES
 WAL-MART EXPANSION - 114 SPACES + 142 SPACES = 256 SPACES
 TOTAL - 1958 SPACES

10/20/00

Robert H. Conover, P.E. 14885
 State of South Dakota
 License No. 11-030
 for Blanche Forestry Associates Inc.

SITE PLAN

PROPOSED WAL-MART EXPANSION

RAPID CITY, PENNINGTON CO. S.D.

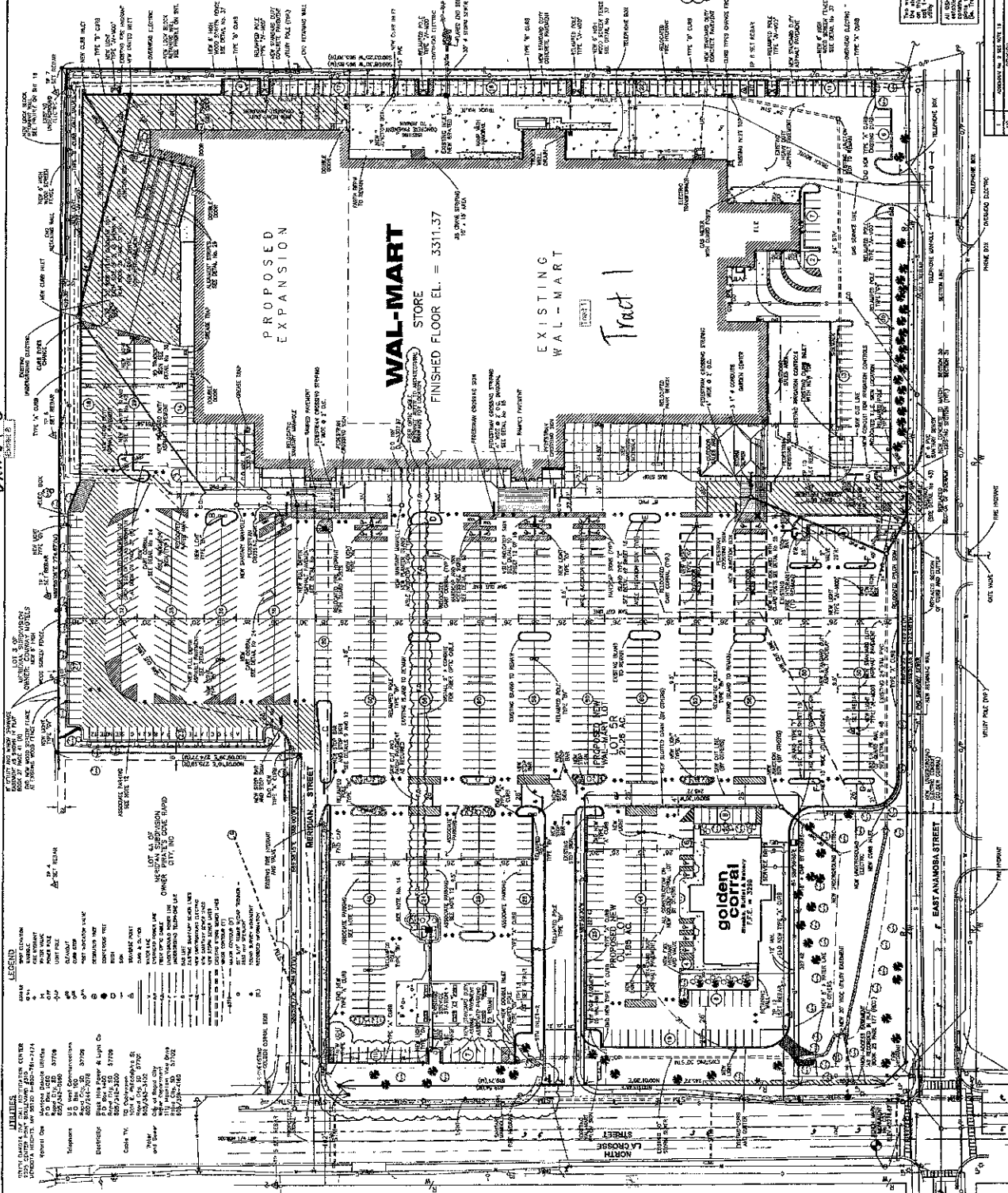
BUESCHER-FRANKENBERG ASSOCIATES, INC.

10/20/00

1" = 50'

7 OF 16

Exhibit B



LEGEND

SYMBOL	DESCRIPTION
○	PROPOSED COLUMN
●	EXISTING COLUMN
□	PROPOSED WALL
▭	EXISTING WALL
▭	PROPOSED SLAB
▭	EXISTING SLAB
▭	PROPOSED ROOFING
▭	EXISTING ROOFING
▭	PROPOSED FOUNDATION
▭	EXISTING FOUNDATION
▭	PROPOSED DRIVEWAY
▭	EXISTING DRIVEWAY
▭	PROPOSED SIDEWALK
▭	EXISTING SIDEWALK
▭	PROPOSED PAVEMENT
▭	EXISTING PAVEMENT
▭	PROPOSED CURB
▭	EXISTING CURB
▭	PROPOSED UTILITY
▭	EXISTING UTILITY
▭	PROPOSED FENCE
▭	EXISTING FENCE
▭	PROPOSED SIGN
▭	EXISTING SIGN
▭	PROPOSED LIGHTING
▭	EXISTING LIGHTING
▭	PROPOSED LANDSCAPE
▭	EXISTING LANDSCAPE
▭	PROPOSED TREE
▭	EXISTING TREE
▭	PROPOSED BENCH
▭	EXISTING BENCH
▭	PROPOSED BIKE RACK
▭	EXISTING BIKE RACK
▭	PROPOSED TRASH CAN
▭	EXISTING TRASH CAN
▭	PROPOSED FIRE HYDRANT
▭	EXISTING FIRE HYDRANT
▭	PROPOSED WATER VALVE
▭	EXISTING WATER VALVE
▭	PROPOSED ELECTRICAL PANEL
▭	EXISTING ELECTRICAL PANEL
▭	PROPOSED TELEPHONE BOOTH
▭	EXISTING TELEPHONE BOOTH
▭	PROPOSED SECURITY CAMERA
▭	EXISTING SECURITY CAMERA
▭	PROPOSED ACCESS POINT
▭	EXISTING ACCESS POINT
▭	PROPOSED SIGNAGE
▭	EXISTING SIGNAGE
▭	PROPOSED LIGHT FIXTURE
▭	EXISTING LIGHT FIXTURE
▭	PROPOSED VENT
▭	EXISTING VENT
▭	PROPOSED DUCT
▭	EXISTING DUCT
▭	PROPOSED RAIN GUTTER
▭	EXISTING RAIN GUTTER
▭	PROPOSED DOWNSPOUT
▭	EXISTING DOWNSPOUT
▭	PROPOSED DRIVEWAY CURB
▭	EXISTING DRIVEWAY CURB
▭	PROPOSED SIDEWALK CURB
▭	EXISTING SIDEWALK CURB
▭	PROPOSED PAVEMENT CURB
▭	EXISTING PAVEMENT CURB
▭	PROPOSED UTILITY CURB
▭	EXISTING UTILITY CURB
▭	PROPOSED FENCE CURB
▭	EXISTING FENCE CURB
▭	PROPOSED SIGN CURB
▭	EXISTING SIGN CURB
▭	PROPOSED LIGHTING CURB
▭	EXISTING LIGHTING CURB
▭	PROPOSED LANDSCAPE CURB
▭	EXISTING LANDSCAPE CURB
▭	PROPOSED TREE CURB
▭	EXISTING TREE CURB
▭	PROPOSED BENCH CURB
▭	EXISTING BENCH CURB
▭	PROPOSED BIKE RACK CURB
▭	EXISTING BIKE RACK CURB
▭	PROPOSED TRASH CAN CURB
▭	EXISTING TRASH CAN CURB
▭	PROPOSED FIRE HYDRANT CURB
▭	EXISTING FIRE HYDRANT CURB
▭	PROPOSED WATER VALVE CURB
▭	EXISTING WATER VALVE CURB
▭	PROPOSED ELECTRICAL PANEL CURB
▭	EXISTING ELECTRICAL PANEL CURB
▭	PROPOSED TELEPHONE BOOTH CURB
▭	EXISTING TELEPHONE BOOTH CURB
▭	PROPOSED SECURITY CAMERA CURB
▭	EXISTING SECURITY CAMERA CURB
▭	PROPOSED ACCESS POINT CURB
▭	EXISTING ACCESS POINT CURB
▭	PROPOSED SIGNAGE CURB
▭	EXISTING SIGNAGE CURB
▭	PROPOSED LIGHT FIXTURE CURB
▭	EXISTING LIGHT FIXTURE CURB
▭	PROPOSED VENT CURB
▭	EXISTING VENT CURB
▭	PROPOSED DUCT CURB
▭	EXISTING DUCT CURB
▭	PROPOSED RAIN GUTTER CURB
▭	EXISTING RAIN GUTTER CURB
▭	PROPOSED DOWNSPOUT CURB
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▭	PROPOSED DRIVEWAY CURB
▭	EXISTING DRIVEWAY CURB
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▭	PROPOSED PAVEMENT CURB
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▭	PROPOSED UTILITY CURB
▭	EXISTING UTILITY CURB
▭	PROPOSED FENCE CURB
▭	EXISTING FENCE CURB
▭	PROPOSED SIGN CURB
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▭	PROPOSED LIGHTING CURB
▭	EXISTING LIGHTING CURB
▭	PROPOSED LANDSCAPE CURB
▭	EXISTING LANDSCAPE CURB
▭	PROPOSED TREE CURB
▭	EXISTING TREE CURB
▭	PROPOSED BENCH CURB
▭	EXISTING BENCH CURB
▭	PROPOSED BIKE RACK CURB
▭	EXISTING BIKE RACK CURB
▭	PROPOSED TRASH CAN CURB
▭	EXISTING TRASH CAN CURB
▭	PROPOSED FIRE HYDRANT CURB
▭	EXISTING FIRE HYDRANT CURB
▭	PROPOSED WATER VALVE CURB
▭	EXISTING WATER VALVE CURB
▭	PROPOSED ELECTRICAL PANEL CURB
▭	EXISTING ELECTRICAL PANEL CURB
▭	PROPOSED TELEPHONE BOOTH CURB
▭	EXISTING TELEPHONE BOOTH CURB
▭	PROPOSED SECURITY CAMERA CURB
▭	EXISTING SECURITY CAMERA CURB
▭	PROPOSED ACCESS POINT CURB
▭	EXISTING ACCESS POINT CURB
▭	PROPOSED SIGNAGE CURB
▭	EXISTING SIGNAGE CURB
▭	PROPOSED LIGHT FIXTURE CURB
▭	EXISTING LIGHT FIXTURE CURB
▭	PROPOSED VENT CURB
▭	EXISTING VENT CURB
▭	PROPOSED DUCT CURB
▭	EXISTING DUCT CURB
▭	PROPOSED RAIN GUTTER CURB
▭	EXISTING RAIN GUTTER CURB
▭	PROPOSED DOWNSPOUT CURB
▭	EXISTING DOWNSPOUT CURB

TEMPORARY CONSTRUCTION EASEMENT

THIS **TEMPORARY CONSTRUCTION EASEMENT** ("Agreement"), dated _____, 2009, is made by and between **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, whose address is 702 S.W. 8th Street Bentonville, AR 72716, with a mailing addresses of Sam M. Walton Development Complex, 2001 S.E. 10th Street Bentonville, AR 72716-0550, Attn: Realty Management ("Grantor") and City of Rapid City, whose address is Office of the City Attorney, 300 Sixth Street, Rapid City, South Dakota 57701-2724 ("Grantee"). The following statements are a material part of this Agreement:

WHEREAS, Wal-Mart Real Estate Business Trust is the owner of a tract of land depicted as Tract 1 on **Exhibit B**, attached; and

WHEREAS, Grantee is reconstructing East Anamosa Street and extending utilities ("City Work"); and

WHEREAS, Grantee has requested from Grantor and Grantor is desirous of granting to Grantee, a nonexclusive temporary easement over a portion of Tract 1 ("Easement Tract 1") for the City Work as described and depicted on **Exhibit A** ("Easement").

THEREFORE, in consideration of the covenants contained in this Agreement and other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

1. Grantor quitclaims to Grantee a temporary, non-exclusive easement for the benefit of Grantee to perform the City Work over and across the Easement. Grantee, through its officers, employees and agents, at Grantee's sole cost and expense, shall have the right to enter upon the Easement in such a manner as may be reasonably necessary for the sole purpose as above written. This Easement shall expire upon the completion of Grantee's stated purpose, but, in no event, shall the Easement survive beyond October 31, 2011; provided, all Grantee's warranties, representations and indemnities shall survive the termination of the Easement and continue for the benefit and protection of Grantor for as long as possible under applicable law. In no event shall Grantee use this Easement in a manner which unreasonably interferes with Grantor's use of Tract 1. Grantee also covenants and agrees that the Easement will not be used for the erection of any temporary structures.

2. Grantee agrees to use due care in any use of the Easement, and in the construction, installation, repair, replacement and maintenance of Grantee's improvements, so as not to unreasonably disturb Grantor's use of Grantor's property. Grantee further agrees Grantee shall not interfere with Grantor's business operations while utilizing the Easement. Grantee covenants and agrees to properly maintain the Easement and keep same in good order, free and clear from rubbish. Grantee further covenants and agrees that all construction activities will be timed so as to not interfere with trucking schedules of Grantor, and that driveways damaged by Grantee's use of the Easement will be promptly replaced in accordance with Grantor's specifications at Grantee's sole cost and expense, and to Grantor's satisfaction. Notwithstanding the foregoing, routine maintenance, construction and use of the Easement shall be limited during the months of November and December to minimize any disruptions to Grantor. Grantee covenants and agrees that Grantor's tract will not be used as a staging area and will not be used to store equipment, trucks, dirt, supplies, materials, rubble, spoil or any other materials of Grantee. Grantee shall not dig any open pits, trenches, borings or holes on or under the Easement. Grantee also covenants and agrees that no heavy trucks or equipment associated with the use of the Easement by Grantee shall utilize the entranceways, streets or roadways located on Grantor's property or the Easement without Grantor's prior written consent.
3. Following completion of work, if Grantee has removed or damaged any of Grantor's improvements, including but not limited to paving, sod, herbage, lighting standards, signage or landscaping within the Easement or otherwise on Grantor's property, Grantee shall at Grantee's sole cost and expense immediately restore the property injured by Grantee's activities to the same condition as existed previous to Grantee's entry upon the particular property.
4. The City shall defend, indemnify and hold the Grantor and its property harmless against and from any and all claims, actions, or damages asserted against the Grantor and/or its property which arise from, or with respect to, the easements being granted which are attributable to the actions or omissions of the City or its agents, to the extent such claims are not the result of the willful or grossly negligent conduct of the Grantor. The City shall not be responsible for indemnifying a claim which it was not given notice of, or an opportunity to defend. Grantee further agrees that Grantee shall, at all times during the duration of this Agreement, maintain and pay for comprehensive general liability insurance affording protection to Grantor and Grantee, and naming Grantor, and Wal-Mart Stores, Inc., a Delaware corporation ("Wal-Mart"), as an additional insureds on the policy or policies for a combined bodily injury and property damage limit of liability not less than \$5,000,000.00 for each occurrence. Grantee further agrees, upon request, to deliver to Grantor a certificate or certificates from an insurance company or insurance companies satisfactory to Grantor evidencing the existence of such insurance and naming Grantor and Wal-Mart as an additional insured.

5. Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor and Wal-Mart from and against any and all losses, liabilities (including strict liability), claims, causes of action, damages, injuries, expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Grantor and/or Wal-Mart, and their respective successors and assigns, by any person or entity or governmental agency, for, with respect to, or as a direct or indirect result of, the construction of Grantee's improvements, use of Grantee's improvements by Grantee, its customers, suppliers, employees, and tenants or anyone else using the such improvements, the use of the Easement, or any claims the escape, seepage, leakage, spillage, emission, discharge or release of any hazardous substance resulting from the operations of Grantee upon or under any tract of land owned by Grantor including without limitation, any losses, liabilities (including strict liability), damage, injuries, expenses and costs, including, without limitation, reasonable attorney's fees, of any settlement or judgment or claims asserted or arising under, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, any so called federal, state or local "Superfund" or "Superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability), or standards of conduct concerning any hazardous substance.
6. In exercising any rights and privileges under this Agreement, Grantee shall comply fully with any federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the Storm Water General Permit for Discharges Associated with Construction Activities (collectively the "Storm Water Requirements"). In addition to any other provisions of any Storm Water Requirements:
 - A. Grantee shall, as required by any Storm Water Requirements, prepare a Storm Water Pollution Prevention Plan (the "Grantee SWPPP") for that part of the property owned by Grantor and shown on **Exhibit A** on which Grantee plans to conduct earth-disturbing activities. The Grantee SWPPP shall identify and describe the role of any other contractor, entity or individual contemporaneously undertaking earth-disturbing activities in complying with the Storm Water Requirements, and shall identify the manner in which Grantee and any such contractor, entity or individual shall coordinate to comply with the Storm Water Requirements and to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities. Grantee shall provide Grantor with a copy of the Grantee SWPPP prior to initiating any earth-disturbing activities.

B. Grantee shall, as required by any Storm Water Requirements, submit a "Notice of Intent" (as such term is commonly defined in the environmental compliance industry) or other permit application prior to initiating any ground-disturbing activities at the property owned by Grantor and shown on **Exhibit A** covering the number of acres which will be disturbed by Grantee. Grantee shall submit such Notice of Intent or other permit application regardless of whether Grantor or any agent or contractor of Grantor has also submitted any Notice of Intent or other permit application, unless any Storm Water Requirements expressly prohibit such submittal. Grantee shall provide Grantor with a copy of the Notice of Intent or other permit application prior to initiating any earth-disturbing activities.

C. If Grantee and Grantor, or any agent or contractor of Grantor, contemporaneously undertake any earth-disturbing activities, Grantee shall attend any weekly meetings held by Grantor, or any agent or contractor of Grantor, to review the requirements of any applicable permits, the Grantee SWPPP and other SWPPPs prepared for the property owned by Grantor and shown on **Exhibit A** to address any problems that have arisen in implementing the SWPPPs or maintaining Best Management Practices ("BMPs").

D. In the event Grantee, in exercising the rights and privileges of this Agreement requires the development and/or use of borrow, material, equipment or waste storage sites, Grantee agrees it shall, prior to the development and/or use of such sites, obtain any permits or approvals necessary for the legal use of such sites, and shall also comply with all laws, regulations and permit conditions applicable to such sites.

7. Grantee shall (i) comply in all respects with all immigration laws, statutes, rules, codes and regulations, (ii) properly maintain all records required by the United States Citizenship and Immigration Services (the "USCIS"), including, without limitation, the completion and maintenance of the Form I-9 for each of Grantee's employees, and (iii) respond in a timely fashion to any inspection requests related to such I-9 Forms. Grantee shall fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the USCIS of Grantee or any of its employees. Grantee shall, on a bi-annual basis during the term of this Agreement, conduct an audit of the I-9 Forms for its employees and shall promptly correct any defects or deficiencies which are identified as a result of such audit. Grantor may, in its sole discretion, terminate this Agreement immediately if, at any time during the term, (x) Grantee violates or is in breach of any provision of this paragraph or (y) the USCIS determines that Grantee has not complied with any of the immigration laws, statutes, rules, codes and regulations of the United States. Grantee shall require all subcontractors performing any work on the Utility System to comply with the covenants set forth in this paragraph.

8. Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of Grantee's improvements. Grantee shall comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers.
9. If Grantee defaults in the performance of any provision contained in this Agreement, Grantor may terminate this Agreement following written notice and a fifteen-(15) day period during which Grantee shall have the opportunity to cure such default to Grantor's satisfaction. If Grantor terminates this Agreement under this provision, Grantee may exercise any and all remedies available at law or in equity.
10. Grantee acknowledges that it is Grantee's sole responsibility to obtain any governmental permits to perform any required maintenance checks, and to abide by any governmental regulations associated with the use, construction, patrolling, replacement and maintenance of Grantee's improvements, as applicable.
11. This Agreement may be executed in one or more counterparts (including by facsimile), all parties need not be signatories to the same documents, and all counterpart signed documents shall be deemed to be an original and one (1) instrument.
12. Right of Way Donation. Simultaneously with the execution of this Easement, Grantor and Grantee have also entered into Agreements for Voluntary Right of Way Donation ("Donation") regarding this Easement. In the event of a conflict between this Easement and the Donation, this Easement shall control.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first written above.

Grantor(s):
WAL-MART REAL ESTATE BUSINESS TRUST

ATTEST:

By: *Brian J...*

Its: Assistant Secretary

By: *[Signature]*

Its: *Division Manager*

CITY OF RAPID CITY
("Grantee")

ATTEST:

By: _____

Its: _____

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) §§
COUNTY OF BENTON)

On this 19th day of Nov, 2009, before me, the undersigned notary public in and for said County and State, personally appeared before me MATTHEW R POWERS to me personally known, who, being by me duly sworn, did say that he/she is Director of **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, and that the seal affixed to the foregoing instrument is the seal of said entity, and said MATTHEW R POWERS acknowledged said instrument to be the free act and deed of said entity.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the 19th day of Nov, 2009.

Carol Funk
NOTARY PUBLIC

My Commission Expires:
October 18, 2015



ACKNOWLEDGEMENT

STATE OF _____)
) §§
 COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned notary public in and for said County and State, personally appeared before me _____, to me personally known, who, being by me duly sworn, did say that he/she is _____ of and _____, a/an _____, and that said instrument was signed in behalf of said entity, and said _____ acknowledged said instrument to be the free act and deed of said entity.

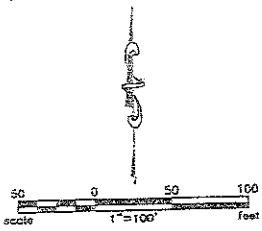
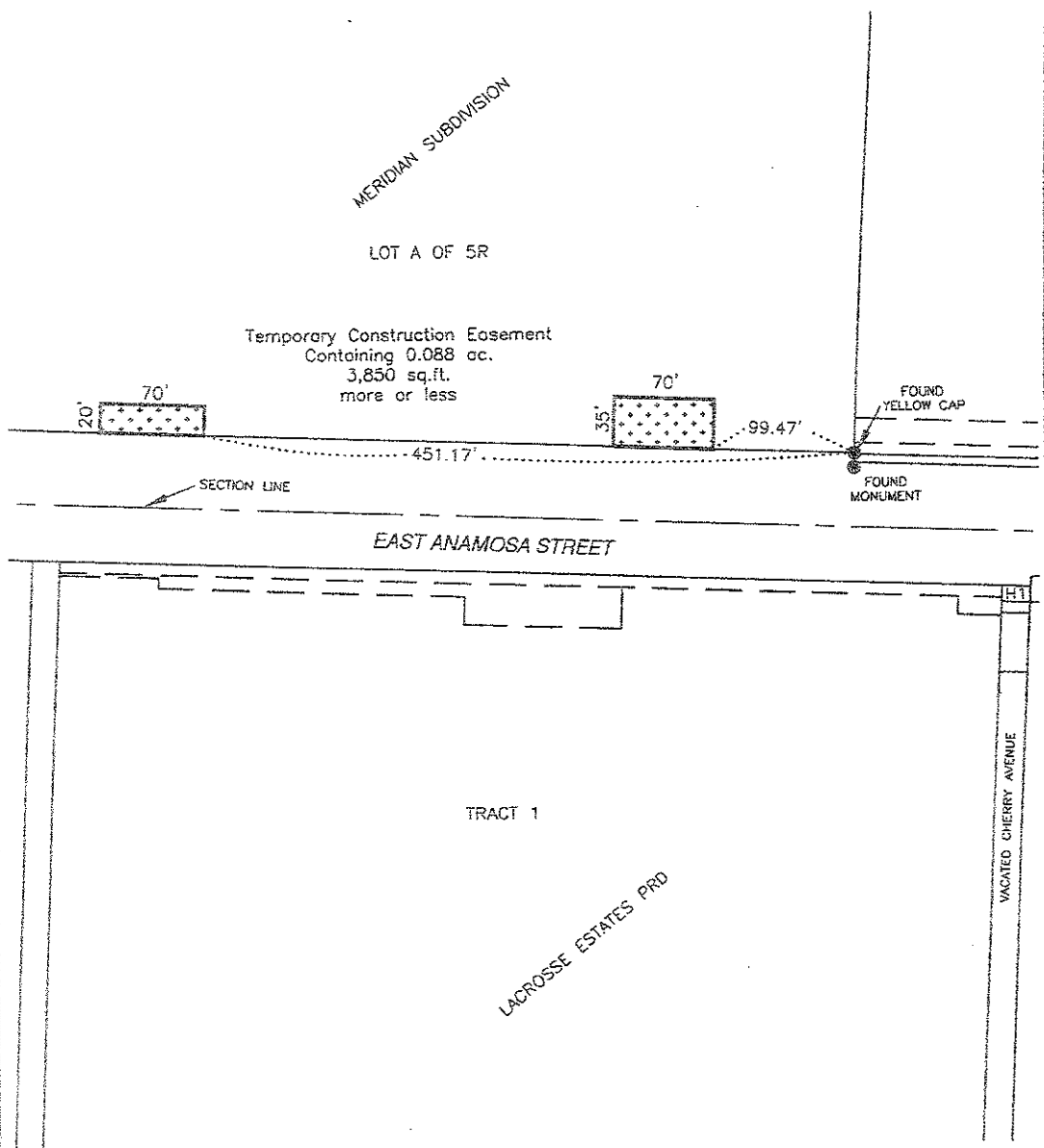
WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the _____ day of _____, 20____.

 NOTARY PUBLIC

My Commission Expires:

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LOCATED IN LOT A OF 5R OF MERIDIAN SUBDIVISION, IN THE SE1/4 OF SECTION 30,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. Ovik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direct supervision, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Ovik
Professional Land Surveyor
S.D. No. 5436
SOUTH DAKOTA
8-8-08

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
Registered Surveyors
Planners

SITE PLAN

SCALE: 1" = 50'
SEPTEMBER, 2000

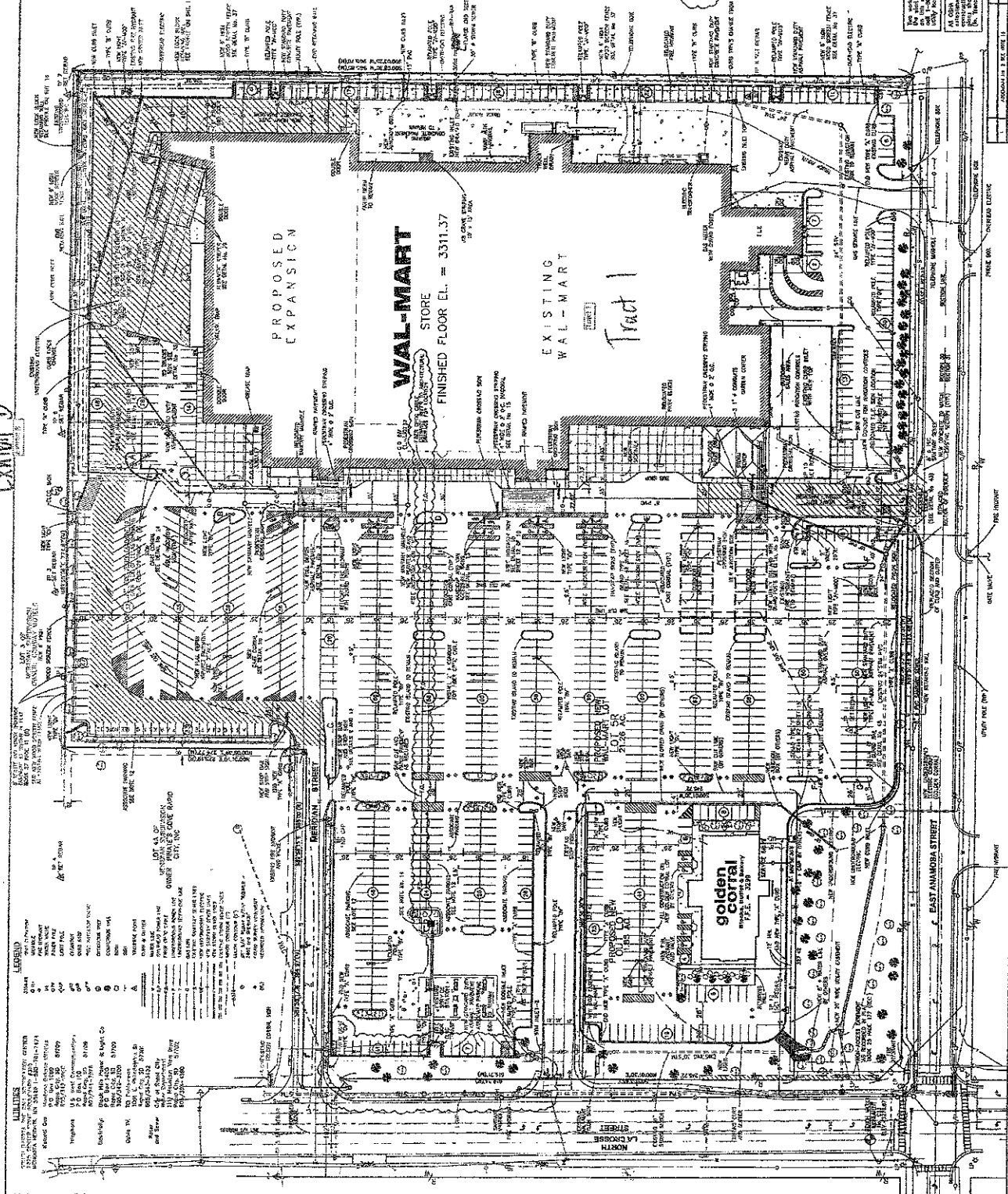
NOTES

1. The site plan is prepared in accordance with the latest edition of the International Building Code, 2000 Edition, and the International Fire Code, 2000 Edition. The site plan is prepared in accordance with the latest edition of the International Building Code, 2000 Edition, and the International Fire Code, 2000 Edition.
2. All proposed work shall be in accordance with the latest edition of the International Building Code, 2000 Edition, and the International Fire Code, 2000 Edition.
3. All proposed work shall be in accordance with the latest edition of the International Building Code, 2000 Edition, and the International Fire Code, 2000 Edition.
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19. All proposed work shall be in accordance with the latest edition of the International Building Code, 2000 Edition, and the International Fire Code, 2000 Edition.
20. All proposed work shall be in accordance with the latest edition of the International Building Code, 2000 Edition, and the International Fire Code, 2000 Edition.

PARKING SPACES
 WAL-MART EXISTING - 855 SPACES IN 6,800 SQUARE FEET / 100 SQ. FT. PER SPACE
 WAL-MART PROPOSED - 100 SQ. FT. PER SPACE
 GOLDEN CORRAL PROPOSED - 100 SQ. FT. PER SPACE / 100 SQ. FT. PER SPACE

SITE PLAN
PROPOSED WAL-MART EXPANSION
RAPID CITY, PENNINGTON CO., S.D.
BUESCHER FRANKENBERG ASSOCIATES, INC.
 ASSOCIATES
 1111 SOUTH GARDEN STREET, SUITE 100
 RAPID CITY, S.D. 57701
 TEL: 605/342-1100
 FAX: 605/342-1101
 PROJECT NO. PW061510-13
 SHEET NO. 7 OF 16

Exhibit B



LEGEND

1	EXISTING CONCRETE
2	EXISTING ASPHALT
3	EXISTING GRAVEL
4	EXISTING DIRT
5	EXISTING GRAVE
6	EXISTING CURB
7	EXISTING DRIVE
8	EXISTING SIDEWALK
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TEMPORARY CONSTRUCTION EASEMENT

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5. Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor and Wal-Mart from and against any and all losses, liabilities (including strict liability), claims, causes of action, damages, injuries, expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Grantor and/or Wal-Mart, and their respective successors and assigns, by any person or entity or governmental agency, for, with respect to, or as a direct or indirect result of, the construction of Grantee's improvements, use of Grantee's improvements by Grantee, its customers, suppliers, employees, and tenants or anyone else using the such improvements, the use of the Easement, or any claims the escape, seepage, leakage, spillage, emission, discharge or release of any hazardous substance resulting from the operations of Grantee upon or under any tract of land owned by Grantor including without limitation, any losses, liabilities (including strict liability), damage, injuries, expenses and costs, including, without limitation, reasonable attorney's fees, of any settlement or judgment or claims asserted or arising under, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, any so called federal, state or local "Superfund" or "Superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability), or standards of conduct concerning any hazardous substance.
6. In exercising any rights and privileges under this Agreement, Grantee shall comply fully with any federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the Storm Water General Permit for Discharges Associated with Construction Activities (collectively the "Storm Water Requirements"). In addition to any other provisions of any Storm Water Requirements:
 - A. Grantee shall, as required by any Storm Water Requirements, prepare a Storm Water Pollution Prevention Plan (the "Grantee SWPPP") for that part of the property owned by Grantor and shown on **Exhibit A** on which Grantee plans to conduct earth-disturbing activities. The Grantee SWPPP shall identify and describe the role of any other contractor, entity or individual contemporaneously undertaking earth-disturbing activities in complying with the Storm Water Requirements, and shall identify the manner in which Grantee and any such contractor, entity or individual shall coordinate to comply with the Storm Water Requirements and to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities. Grantee shall provide Grantor with a copy of the Grantee SWPPP prior to initiating any earth-disturbing activities.

B. Grantee shall, as required by any Storm Water Requirements, submit a "Notice of Intent" (as such term is commonly defined in the environmental compliance industry) or other permit application prior to initiating any ground-disturbing activities at the property owned by Grantor and shown on **Exhibit A** covering the number of acres which will be disturbed by Grantee. Grantee shall submit such Notice of Intent or other permit application regardless of whether Grantor or any agent or contractor of Grantor has also submitted any Notice of Intent or other permit application, unless any Storm Water Requirements expressly prohibit such submittal. Grantee shall provide Grantor with a copy of the Notice of Intent or other permit application prior to initiating any earth-disturbing activities.

C. If Grantee and Grantor, or any agent or contractor of Grantor, contemporaneously undertake any earth-disturbing activities, Grantee shall attend any weekly meetings held by Grantor, or any agent or contractor of Grantor, to review the requirements of any applicable permits, the Grantee SWPPP and other SWPPPs prepared for the property owned by Grantor and shown on **Exhibit A** to address any problems that have arisen in implementing the SWPPPs or maintaining Best Management Practices ("BMPs").

D. In the event Grantee, in exercising the rights and privileges of this Agreement requires the development and/or use of borrow, material, equipment or waste storage sites, Grantee agrees it shall, prior to the development and/or use of such sites, obtain any permits or approvals necessary for the legal use of such sites, and shall also comply with all laws, regulations and permit conditions applicable to such sites.

7. Grantee shall (i) comply in all respects with all immigration laws, statutes, rules, codes and regulations, (ii) properly maintain all records required by the United States Citizenship and Immigration Services (the "USCIS"), including, without limitation, the completion and maintenance of the Form I-9 for each of Grantee's employees, and (iii) respond in a timely fashion to any inspection requests related to such I-9 Forms. Grantee shall fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the USCIS of Grantee or any of its employees. Grantee shall, on a bi-annual basis during the term of this Agreement, conduct an audit of the I-9 Forms for its employees and shall promptly correct any defects or deficiencies which are identified as a result of such audit. Grantor may, in its sole discretion, terminate this Agreement immediately if, at any time during the term, (x) Grantee violates or is in breach of any provision of this paragraph or (y) the USCIS determines that Grantee has not complied with any of the immigration laws, statutes, rules, codes and regulations of the United States. Grantee shall require all subcontractors performing any work on the Utility System to comply with the covenants set forth in this paragraph.

8. Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of Grantee's improvements. Grantee shall comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers.
9. If Grantee defaults in the performance of any provision contained in this Agreement, Grantor may terminate this Agreement following written notice and a fifteen-(15) day period during which Grantee shall have the opportunity to cure such default to Grantor's satisfaction. If Grantor terminates this Agreement under this provision, Grantee may exercise any and all remedies available at law or in equity.
10. Grantee acknowledges that it is Grantee's sole responsibility to obtain any governmental permits to perform any required maintenance checks, and to abide by any governmental regulations associated with the use, construction, patrolling, replacement and maintenance of Grantee's improvements, as applicable.
11. This Agreement may be executed in one or more counterparts (including by facsimile), all parties need not be signatories to the same documents, and all counterpart signed documents shall be deemed to be an original and one (1) instrument.
12. Right of Way Donation. Simultaneously with the execution of this Easement, Grantor and Grantee have also entered into Agreements for Voluntary Right of Way Donation ("Donation") regarding this Easement. In the event of a conflict between this Easement and the Donation, this Easement shall control.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first written above.

Grantor(s):
SAM'S REAL ESTATE BUSINESS TRUST

ATTEST:

By: *Brian J...*

Its: Assistant Secretary

By: *[Signature]*

Its: *Division Manager*

Per

CITY OF RAPID CITY
("Grantee")

ATTEST:

By: _____

Its: _____

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) §§
COUNTY OF BENTON)

On this 19th day of November, 2009, before me, the undersigned notary public in and for said County and State, personally appeared before me MATTHEW POWERS, to me personally known, who, being by me duly sworn, did say that he/she is OWNER of **SAM'S REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, and that the seal affixed to the foregoing instrument is the seal of said entity, and said MATTHEW POWERS acknowledged said instrument to be the free act and deed of said entity.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the 19th day of Nov, 2009.

Carol Funk
NOTARY PUBLIC

My Commission Expires:

October 18, 2015

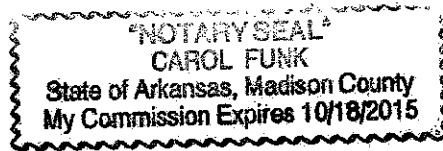
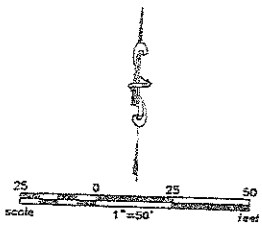
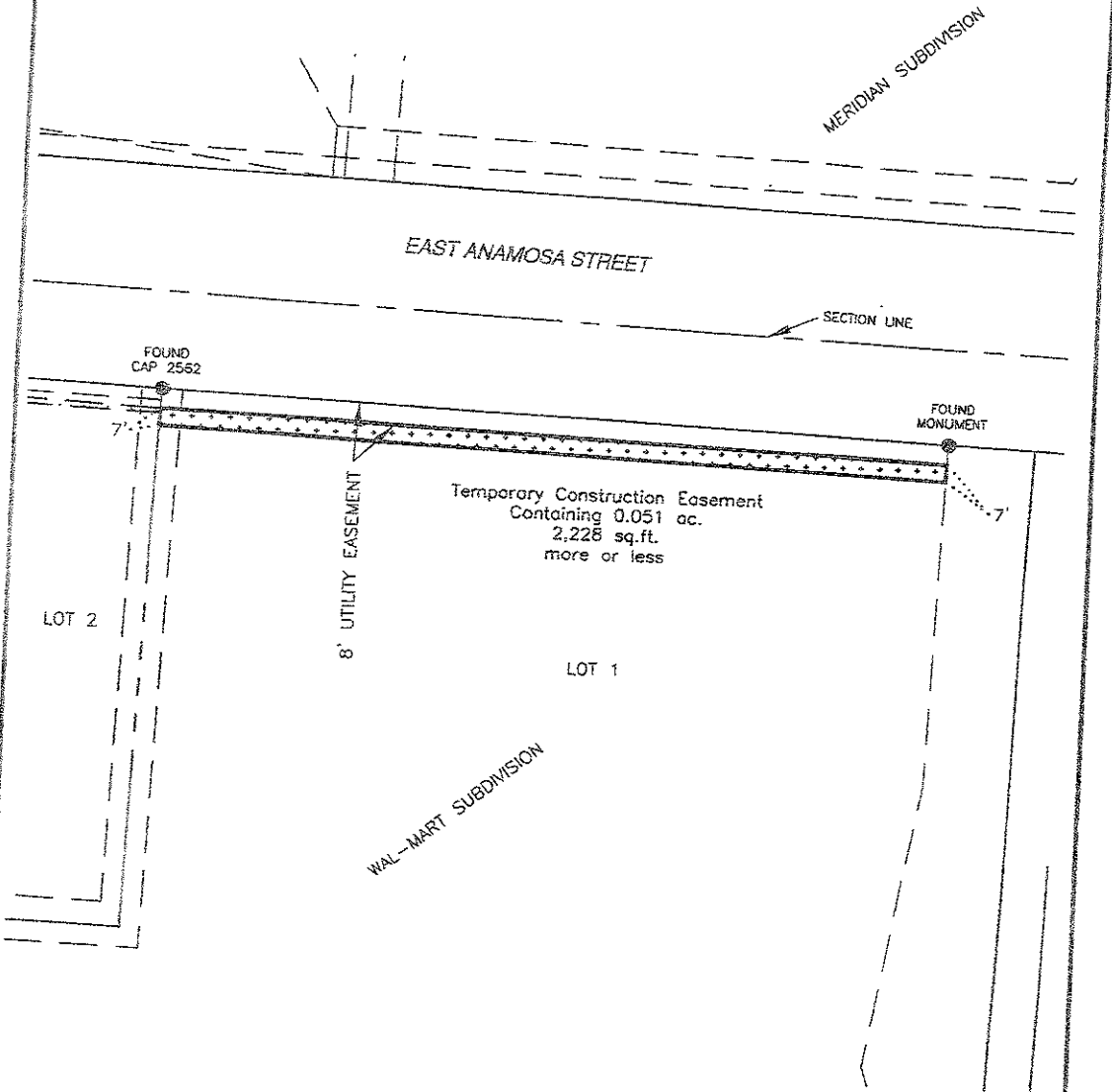


EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LOCATED IN LOT 1 OF WAL-MART SUBDIVISION, IN THE NE1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, and the notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik
 Kent A. Orvik, Professional Land Surveyor
 S.D. No. 5436
 SOUTH DAKOTA
 8-8-08

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson
 Registered Surveyors
 Pennington County, South Dakota

ANAMOSA STREET ANAMOSA STREET

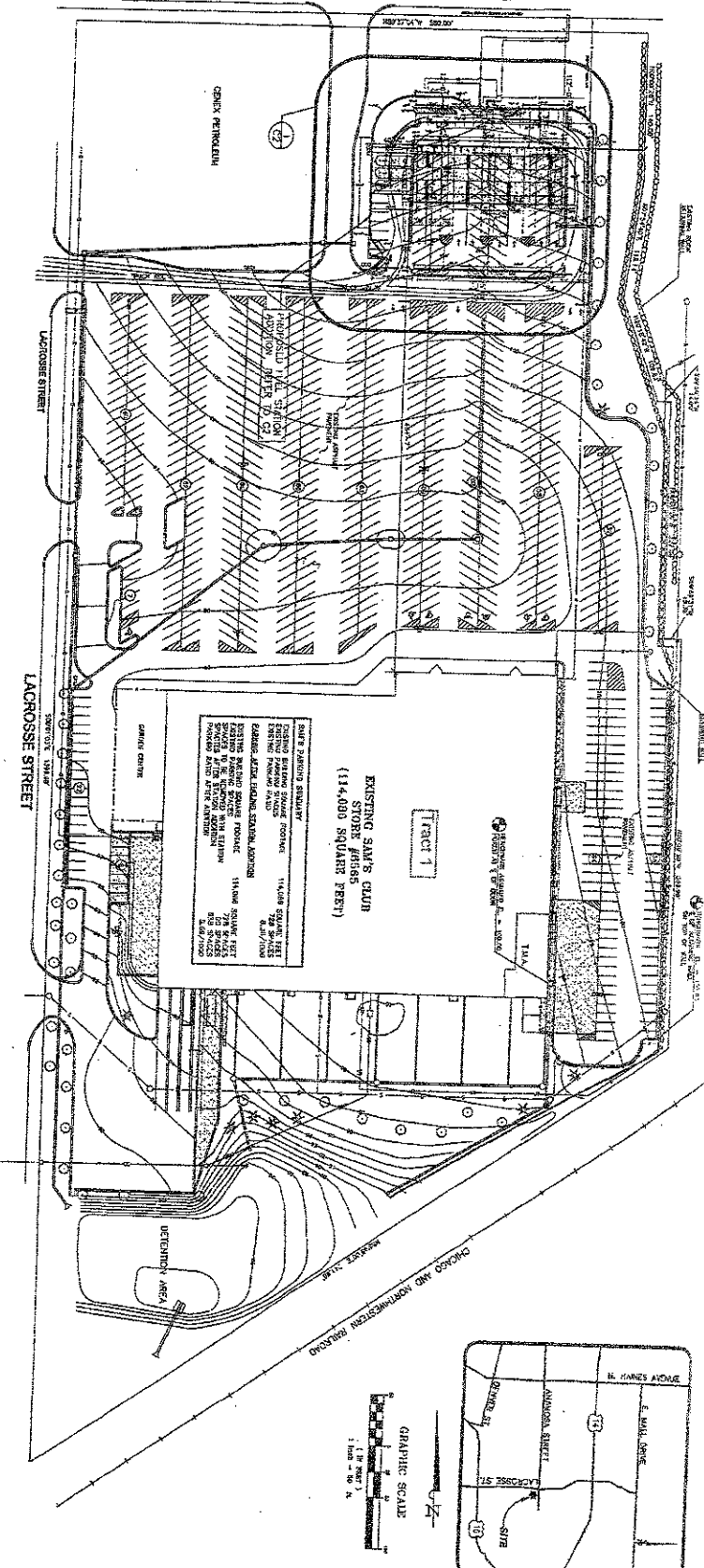


EXHIBIT B

UTILITIES NOTE

REFER TO SHEET UEP-1 FOR ELECTRIC, TELEPHONE, FIBER OPTIC AND WATER UTILITIES ROUTING. THE ROUTING SHOWN ON SHEET UEP-1 IS APPROXIMATE. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING THE EXACT UTILITIES ROUTING AND ALL EXISTING UTILITIES ARE THE PROPERTY OF THE UTILITIES COMPANIES AND SAWS CONSTRUCTION MANAGER. ALL EXISTING UTILITIES THAT ARE REPAIRED OR REPLACED DURING THE PLACEMENT OF NEW UTILITIES SHALL BE REPAIRED OR REPLACED TO MATCH THE ORIGINAL UTILITIES. ANY EXISTING UTILITIES OBSERVED DURING PLACEMENT OF NEW UTILITIES SHALL BE REPAIRED OR REPLACED NORMALLY. THE SAME DAY OF DISRUPTION ITEMS THAT MAY NEED TO BE REPLACED OR REPAIRED NORMALLY ARE NOT LIMITED TO EXISTING ASPHALT PAVING, EXISTING CONCRETE PAVING, WATER LINES, IRRIGATION LINES, SEWER LINES, LOCATION OF SITE LIGHTING ETC. THE GENERAL CONTRACTOR SHALL FIELD VERIFY THE EXISTING UTILITIES AND PROVIDE THE RESULTS THAT WILL BE OBTAINED DURING THE PROPOSED TIMES THAT OBTAINING THE TOLERANCE FOR INSTALLATION. THE NEW UTILITIES AND DEPTH SHALL MEET ALL LOCAL AND STATE REQUIREMENTS FOR THE PLACEMENT OF ALL UTILITIES. THE ABOVE LISTED ITEMS ARE STILL REQUIRED TO BE SUBMITTED TO THE SAWS CONSTRUCTION MANAGER.

BASIS OF VERTICAL DATUM

ASSUMED FINISHED FLOOR ELEVATION OF 1040.00 AT SOUTH DOOR IN EAST WALL. BENCHMARK ELEVATION TO BE SET ON TOP OF FINISHED WALL AT SOUTHWEST CORNER OF PROPERTY. CONTRACTOR TO VERIFY PRIOR TO STARTING CONSTRUCTION.

BASIS OF AS-BUILT DRAWING

EXISTING SITE CONDITIONS TAKEN FROM TOPOGRAPHIC SURVEY, SAWS CLUB, RAPID CITY, SOUTH DAKOTA, PREPARED BY HERSHBERG ENGINEERING ASSOCIATES, DATED 6-2-95, PARTIALLY UPDATED BY REINER & SPERLICH ENGINEERING COMPANY, DATED 3-4-01.

OWNER/DEVELOPER

SAWS CLUB
606 SW 8TH STREET
BENTONVILLE, AR 72712

1 OVERALL SITE PLAN

C1

SAWS CLUB WHOLESALE CLUB
 CLUB No. 6565
 RAPID CITY SOUTH DAKOTA
 FUELING STATION
 SAWS CLUB
 2100 S.W. 4th Street
 Bentonville, Arkansas 72713
 Telephone 507/252-7200
 FAX 507/252-7201
 HERSHBERG ENGINEERING ASSOCIATES
 2100 S.W. 4th Street
 Bentonville, Arkansas 72713
 Telephone 507/252-7200
 FAX 507/252-7201
 SHEET NO. C1
 DATE 08/30/01
 DRAWN BY: [Name] 4/12
 CHECKED BY: [Name] 4/12
 DESIGNED BY: [Name] 4/12
 PROJECT NUMBER: 00234802
 DATE: 08/30/01
 Copyright ©

TEMPORARY CONSTRUCTION EASEMENT

THIS **TEMPORARY CONSTRUCTION EASEMENT** ("Agreement"), dated _____, 2009, is made by and between **SAM'S REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, whose address is 702 S.W. 8th Street Bentonville, AR 72716, with a mailing addresses of Sam M. Walton Development Complex, 2001 S.E. 10th Street Bentonville, AR 72716-0550, Attn: Realty Management ("Grantor") and City of Rapid City, whose address is Office of the City Attorney, 300 Sixth Street, Rapid City, South Dakota 57701-2724 ("Grantee"). The following statements are a material part of this Agreement:

WHEREAS, Sam's Real Estate Business Trust is the owner of a tract of land depicted as Tract 1 on **Exhibit B**, attached; and

WHEREAS, Grantee is reconstructing East Anamosa Street and extending utilities ("City Work"); and

WHEREAS, Grantee has requested from Grantor and Grantor is desirous of granting to Grantee, a nonexclusive temporary easement over a portion of Tract 1 ("Easement Tract 1") for the City Work as described and depicted on **Exhibit A** ("Easement").

THEREFORE, in consideration of the covenants contained in this Agreement and other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

1. Grantor quitclaims to Grantee a temporary, non-exclusive easement for the benefit of Grantee to perform the City Work over and across the Easement. Grantee, through its officers, employees and agents, at Grantee's sole cost and expense, shall have the right to enter upon the Easement in such a manner as may be reasonably necessary for the sole purpose as above written. This Easement shall expire upon the completion of Grantee's stated purpose, but, in no event, shall the Easement survive beyond October 31, 2011; provided, all Grantee's warranties, representations and indemnities shall survive the termination of the Easement and continue for the benefit and protection of Grantor for as long as possible under applicable law. In no event shall Grantee use this Easement in a manner which unreasonably interferes with Grantor's use of Tract 1. Grantee also covenants and agrees that the Easement will not be used for the erection of any temporary structures.

2. Grantee agrees to use due care in any use of the Easement, and in the construction, installation, repair, replacement and maintenance of Grantee's improvements, so as not to unreasonably disturb Grantor's use of Grantor's property. Grantee further agrees Grantee shall not interfere with Grantor's business operations while utilizing the Easement. Grantee covenants and agrees to properly maintain the Easement and keep same in good order, free and clear from rubbish. Grantee further covenants and agrees that all construction activities will be timed so as to not interfere with trucking schedules of Grantor, and that driveways damaged by Grantee's use of the Easement will be promptly replaced in accordance with Grantor's specifications at Grantee's sole cost and expense, and to Grantor's satisfaction. Notwithstanding the foregoing, routine maintenance, construction and use of the Easement shall be limited during the months of November and December to minimize any disruptions to Grantor. Grantee covenants and agrees that Grantor's tract will not be used as a staging area and will not be used to store equipment, trucks, dirt, supplies, materials, rubble, spoil or any other materials of Grantee. Grantee shall not dig any open pits, trenches, borings or holes on or under the Easement. Grantee also covenants and agrees that no heavy trucks or equipment associated with the use of the Easement by Grantee shall utilize the entranceways, streets or roadways located on Grantor's property or the Easement without Grantor's prior written consent.
3. Following completion of work, if Grantee has removed or damaged any of Grantor's improvements, including but not limited to paving, sod, herbage, lighting standards, signage or landscaping within the Easement or otherwise on Grantor's property, Grantee shall at Grantee's sole cost and expense immediately restore the property injured by Grantee's activities to the same condition as existed previous to Grantee's entry upon the particular property.
4. The City shall defend, indemnify and hold the Grantor and its property harmless against and from any and all claims, actions, or damages asserted against the Grantor and/or its property which arise from, or with respect to, the easements being granted which are attributable to the actions or omissions of the City or its agents, to the extent such claims are not the result of the willful or grossly negligent conduct of the Grantor. The City shall not be responsible for indemnifying a claim which it was not given notice of, or an opportunity to defend. Grantee further agrees that Grantee shall, at all times during the duration of this Agreement, maintain and pay for comprehensive general liability insurance affording protection to Grantor and Grantee, and naming Grantor, and Wal-Mart Stores, Inc., a Delaware corporation ("Wal-Mart"), as an additional insureds on the policy or policies for a combined bodily injury and property damage limit of liability not less than \$5,000,000.00 for each occurrence. Grantee further agrees, upon request, to deliver to Grantor a certificate or certificates from an insurance company or insurance companies satisfactory to Grantor evidencing the existence of such insurance and naming Grantor and Wal-Mart as an additional insured.

5. Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor and Wal-Mart from and against any and all losses, liabilities (including strict liability), claims, causes of action, damages, injuries, expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Grantor and/or Wal-Mart, and their respective successors and assigns, by any person or entity or governmental agency, for, with respect to, or as a direct or indirect result of, the construction of Grantee's improvements, use of Grantee's improvements by Grantee, its customers, suppliers, employees, and tenants or anyone else using the such improvements, the use of the Easement, or any claims the escape, seepage, leakage, spillage, emission, discharge or release of any hazardous substance resulting from the operations of Grantee upon or under any tract of land owned by Grantor including without limitation, any losses, liabilities (including strict liability), damage, injuries, expenses and costs, including, without limitation, reasonable attorney's fees, of any settlement or judgment or claims asserted or arising under, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, any so called federal, state or local "Superfund" or "Superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability), or standards of conduct concerning any hazardous substance.
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 - A. Grantee shall, as required by any Storm Water Requirements, prepare a Storm Water Pollution Prevention Plan (the "Grantee SWPPP") for that part of the property owned by Grantor and shown on **Exhibit A** on which Grantee plans to conduct earth-disturbing activities. The Grantee SWPPP shall identify and describe the role of any other contractor, entity or individual contemporaneously undertaking earth-disturbing activities in complying with the Storm Water Requirements, and shall identify the manner in which Grantee and any such contractor, entity or individual shall coordinate to comply with the Storm Water Requirements and to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities. Grantee shall provide Grantor with a copy of the Grantee SWPPP prior to initiating any earth-disturbing activities.

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[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first written above.

Grantor(s):
SAM'S REAL ESTATE BUSINESS TRUST

ATTEST:

By: Brian J. [Signature]

Its: Assistant Secretary

By: [Signature]

Its: Division Manager

AKA

CITY OF RAPID CITY
("Grantee")

ATTEST:

By: _____

Its: _____

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) §§
COUNTY OF BENTON)

On this 19th day of Nov, 2009, before me, the undersigned notary public in and for said County and State, personally appeared before me ^{MATTHEW R POWERS}, to me personally known, who, being by me duly sworn, did say that he/she is ^{DISCRETIONARY} of **SAM'S REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, and that the seal affixed to the foregoing instrument is the seal of said entity, and said ^{MATTHEW R POWERS} acknowledged said instrument to be the free act and deed of said entity.

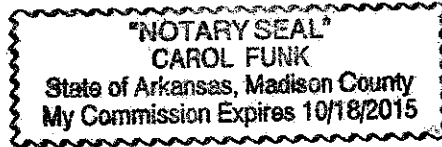
WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the 19th day of Nov, 2009.



NOTARY PUBLIC

My Commission Expires:

October 18, 2015



ACKNOWLEDGEMENT

STATE OF _____)
) §§
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned notary public in and for said County and State, personally appeared before me _____, to me personally known, who, being by me duly sworn, did say that he/she is _____ of and _____, a/an _____, and that said instrument was signed in behalf of said entity, and said _____ acknowledged said instrument to be the free act and deed of said entity.

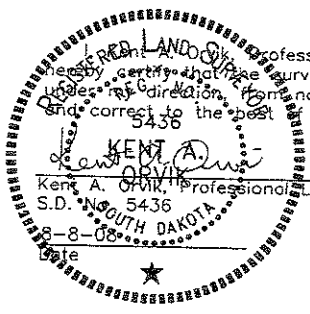
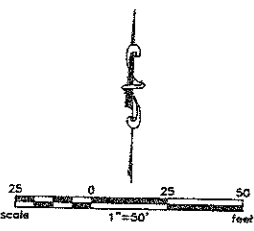
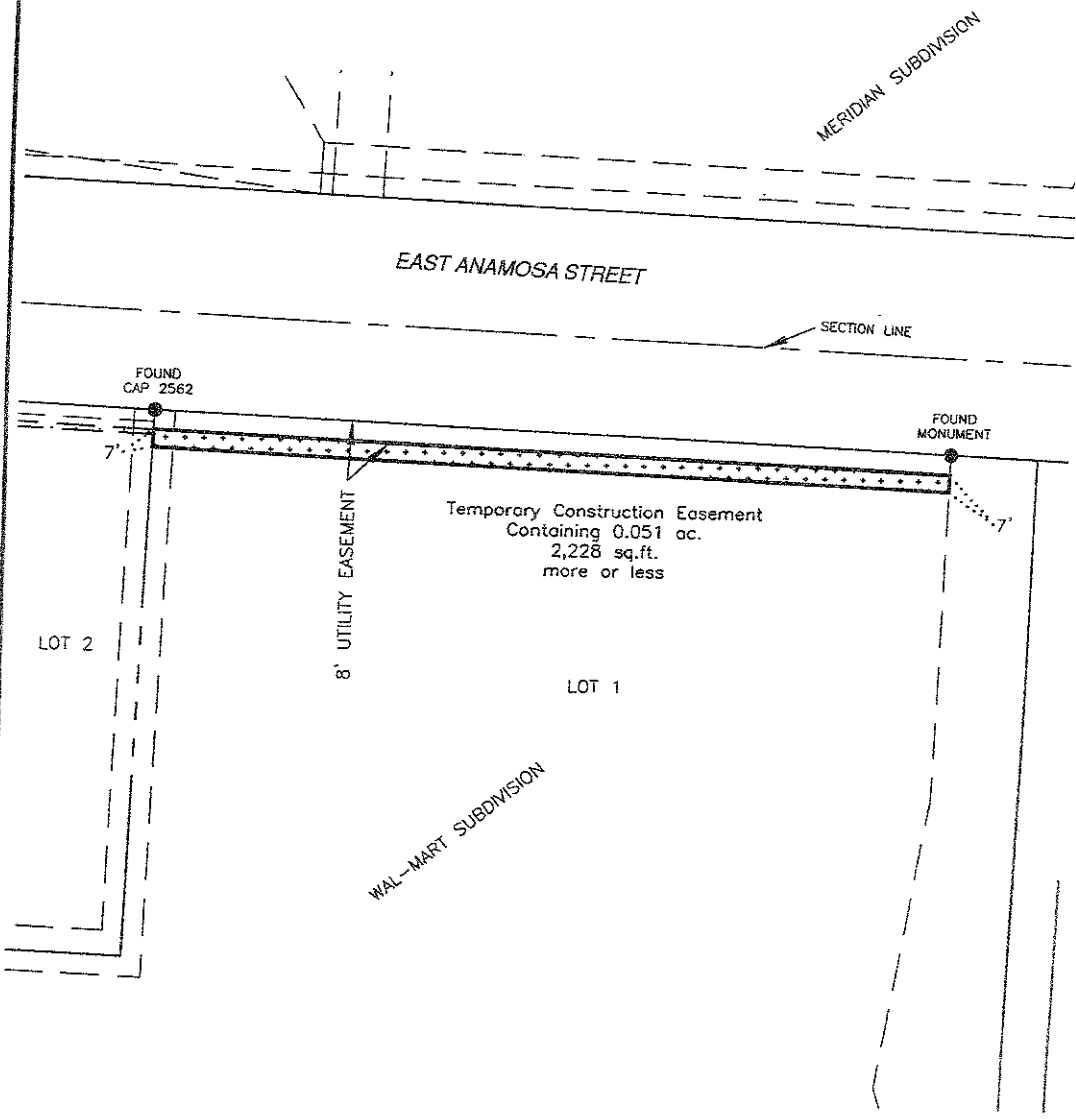
WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT
LOCATED IN LOT 1 OF WAL-MART SUBDIVISION, IN THE NE1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



I, Kent A. O'Neil, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, and the notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. O'Neil
Professional Land Surveyor
S.D. 5436
8-8-08

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION. S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553



HARRISON FRISCH
ARCHITECTS/PLANNERS
 508 SW A Street
 Rapid City, South Dakota 57702
 Telephone: 605/343-7182



SAM'S WHOLESALE CLUB
SAM'S CLUB FUELING STATION

CLUB No. 6565
RAPID CITY
SOUTH DAKOTA

SAM'S CLUB
 608 SW 6TH STREET
 BENTONVILLE, AR 72712

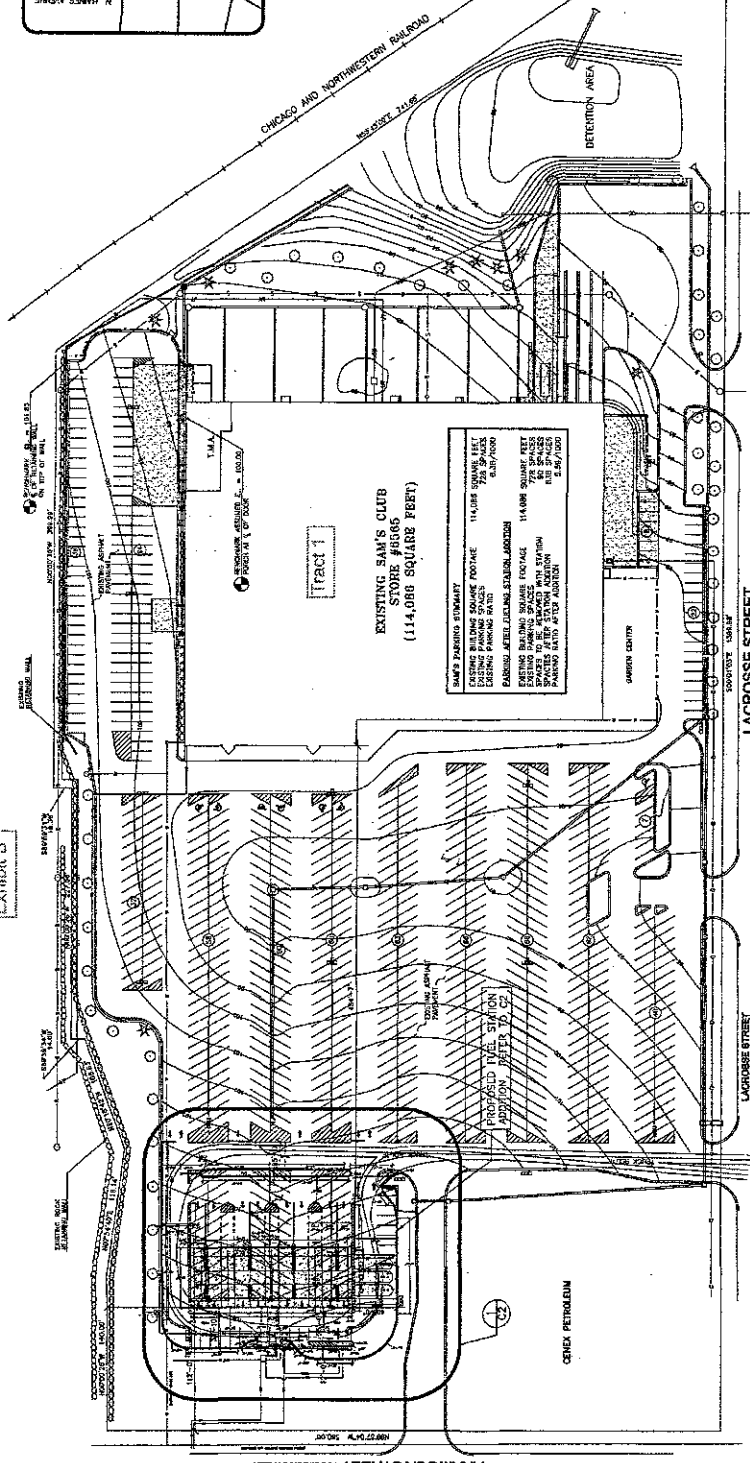
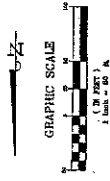
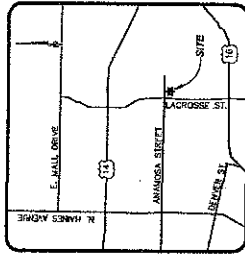
Sheet Contents:
OVERALL SITE PLAN

Drawn By: PAB
 Checked By: PAB
 Date: 02/14/99 FOR RECORD CONSTRUCTION

Project Number: 061510-13
 Date: 08/20/01

C1

Copyright ©



BASIS OF VERTICAL DATUM

ASSUMED FINISHED FLOOR ELEVATION OF 100.00 AT SOUTH DOOR IN EAST WALL. BENCHMARK ELEVATION 101.63, SET ON TOP OF RETAINING WALL AT SOUTHEAST CORNER OF PROPERTY. CONTRACTOR TO VERIFY PRIOR TO STARTING CONSTRUCTION.

BASIS OF AS-BUILT DRAWING

EXISTING SITE CONDITIONS TAKEN FROM "TOPOGRAPHIC SURVEY, SAM'S CLUB, RAPID CITY, SOUTH DAKOTA" PREPARED BY BUESCHER FRANKENBERG ASSOCIATES, DATED 8-2-95, PARTIALLY UPDATED BY REIMER & SPERLICH ENGINEERING COMPANY, DATED 5-9-01.

OWNER/DEVELOPER

SAM'S CLUB
 608 SW 6TH STREET
 BENTONVILLE, AR 72712

UTILITIES NOTE

REFER TO SHEET MEP-1 FOR ELECTRIC, TELEPHONE, FIBER OPTIC AND WATER UTILITIES ROUTING. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING THE EXACT UTILITIES LOCATIONS AND DEPTHS AND VERIFYING THEM WITH THE UTILITY COMPANIES AND SAM'S CONSTRUCTION MANAGER. ALL EXISTING CONDITIONS THAT ARE REMOVED OR DISRUPTED DURING THE PLACEMENT OF NEW UTILITIES SHALL BE REPLACED OR REPAIRED TO MATCH ORIGINAL CONDITIONS. ANY EXISTING UTILITIES DISRUPTED DURING PLACEMENT OF NEW UTILITIES SHALL BE REPAIRED AND OPERATING NORMALLY THE SAME DAY OF DISRUPTION. EXISTING UTILITIES THAT ARE NOT IDENTIFIED ON THE DRAWING SHALL BE IDENTIFIED BY THE CONTRACTOR. EXISTING UTILITIES SHALL BE REPAIRED AND OPERATING NORMALLY THE SAME DAY OF DISRUPTION. THE GENERAL CONTRACTOR SHALL VERIFY THE EXACT LOCATION OF ALL EXISTING UTILITIES THAT WILL BE DISRUPTED DURING THE PLACEMENT OF NEW UTILITIES AND PROVIDE THE SAM'S CONSTRUCTION MANAGER A DETAILED PHASING SCHEDULE OUTLINING THE SCHEDULE FOR INSTALLATION OF NEW UTILITIES INCLUDING THE PROPOSED TIMES THAT UTILITIES WILL BE DISRUPTED. THE GENERAL CONTRACTOR SHALL VERIFY THE EXACT LOCATION OF ALL EXISTING UTILITIES THAT WILL BE DISRUPTED DURING THE PLACEMENT OF NEW UTILITIES AND PROVIDE THE SAM'S CONSTRUCTION MANAGER A DETAILED PHASING SCHEDULE OUTLINING THE SCHEDULE FOR INSTALLATION OF NEW UTILITIES INCLUDING THE PROPOSED TIMES THAT UTILITIES WILL BE DISRUPTED. THE GENERAL CONTRACTOR SHALL VERIFY THE EXACT LOCATION OF ALL EXISTING UTILITIES THAT WILL BE DISRUPTED DURING THE PLACEMENT OF NEW UTILITIES AND PROVIDE THE SAM'S CONSTRUCTION MANAGER A DETAILED PHASING SCHEDULE OUTLINING THE SCHEDULE FOR INSTALLATION OF NEW UTILITIES INCLUDING THE PROPOSED TIMES THAT UTILITIES WILL BE DISRUPTED. THE ABOVE LISTED ITEMS ARE STILL REQUIRED TO BE SUBMITTED TO THE SAM'S CONSTRUCTION MANAGER.

1 OVERALL SITE PLAN

AGREEMENT FOR VOLUNTARY RIGHT OF WAY DONATION

PROJECT NO: ST04-1397 PCN: 00UR COUNTY/
164800 CITY: RAPID CITY PARCEL NO.: A-5

This Agreement is made and entered into by and between the County/City of RAPID CITY acting by and through its County/City Commission, hereinafter referred to as "COUNTY/CITY," and HORK PROPERTIES LLC, whose postal address is 6520 BIRKDALE DR RAPID CITY, SD 57702, hereinafter referred to as "DONOR";

WHEREAS, COUNTY/CITY needs the following easements for construction, operation, and maintenance of a highway:

Perpetual Easement: _____

Temporary Easement: ACROSS TRACTS B+C OF RUSHMORE CENTER
SUB, RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA

NOW, THEREFORE, DONOR and COUNTY/CITY hereby agree as follows:

1. DONOR does hereby voluntarily grant and donate to COUNTY/CITY, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by DONOR, the above described easements as shown on the plans for construction of the above cited Project.

Stipulations of conditional donation: _____

2. DONOR understands DONOR'S right to have an appraisal prepared and DONOR'S right to receive just compensation for the above described perpetual and/or temporary easement in accordance with the Uniform Relocation Assessment and Real Property Acquisition Act of 1970, as amended.

3. DONOR shall not erect fences, structures, or obstacles within the perpetual easement.

4. DONOR grants permission to COUNTY/CITY or COUNTY'S/CITY'S agent to enter upon above described easement upon approval of this Agreement.

5. The perpetual easement shall be in effect until the highway is abandoned by the proper action of the COUNTY/CITY Commission and the temporary easement shall be in effect until one (1) year after construction of the Project is completed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on this _____ day of _____ in the year _____.

Donor County/City of _____

By: Hani Shafai

By: _____

Name: Hani Shafai

Its: County Commission Chairperson/
City Mayor

By: _____

Attest:

Name: _____

County Auditor/City Finance Officer

[County/City Seal]

DONOR ACKNOWLEDGMENT

STATE OF South Dakota
COUNTY OF Pennington)^{ss}

On this the 4th day of November in the year of 2009, before me, Jennivere L. Dragoo, a Notary Public, within and for said County and State, personally appeared Hani Shafai known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

In witness whereof I hereunto set my hand and official seal.



Jennivere L. Dragoo
Notary Public

[Notary Seal]

My Commission Expires: 06/27/2012

RECORD OF CALLS/VISITS AND DISCUSSION RECORD
TO ACCOMPANY DONATION FORM LG-ROW-1

PROJECT NO: ST04-1397.1648(1) PCN: 0002 COUNTY/CITY: RAPID CITY
LANDOWNER: HDRK

NAME OF NEGOTIATOR: ROD SENN
TITLE: _____

The following document(s) was/were shown and/or explained to the Landowner:

Construction Plan Sheet Right of Way Document(s) Right of Way Brochures Other

Call/Visit Number: 1
Time: 1:00 AM/PM PM Date: 1/20/09
Visit Location: DREAM DESIGN OFFICES
List people present during meeting: ROD SENN, KLABE SCHROEDER, HANI SHAFI (HDK)

Notes of the Discussion: SEE ATTACHED MEMO.

Call/Visit Number: 2
Time: _____ AM/PM Date: 9/23/09
Visit Location: _____
List people present during meeting: _____

Notes of the Discussion: REVISED EASEMENT FORMS DELIVERED TO DREAM DESIGN OFFICES

Call/Visit Number: 3
Time: _____ AM/PM Date: _____
Visit Location: _____
List people present during meeting: _____

Notes of the Discussion: _____

Call/Visit Number: 4
Time: _____ AM/PM Date: _____
Visit Location: _____
List people present during meeting: _____

Notes of the Discussion: _____

Note: Please indicate in the Notes of Discussion, any agreement made as part of the donation, such as an additional approach, a load of gravel, etc.

Kadmas
Lee &
Jackson

Engineers Surveyors
 Planners

MEMO

Date: January 20, 2009
To: File
Copy To:
From: Rod Senn
Re: East Anamosa – HDRK, LLC

Today at 1:00 PM, Klare Schroeder (City of RC) and I met with HDRK, LLC to begin a dialogue regarding the East Anamosa Street Extension project. Present on the behalf of the HDRK was Hani Shafai and the meeting was held at the offices of Dream Design International.

We reviewed the construction plans and the city's request for donation of a utility easement for drainage purposes as well as some temporary construction easements. Upon reviewing the current HDRK development plan for the property adjacent to the proposed East Anamosa Street it was decided that modification would need to be made to the street portion of the storm sewer network. These revisions would result in the elimination of the utility easement and additional storm sewer pipe installed in the section line right of way. Discussed that coordination will need to be made between the development contractor and the street contractor.

HDRK had previously platted their property with the right of way and 8 foot utility easement adjacent to the right of way as coordinated with the City.

Hani on behalf of HDRK indicated that there should be no issues with donating the requested temporary easements. KLJ to revise the plans as discussed and get Hani the revised documents for the temporary easements without the previously proposed drainage utility easement.

605 721 5553

330 Knollwood Drive

PO Box 3416

Rapid City, SD 57709-3416

Fax 605 721 5575

www.kljeng.com

Kadmas, Lee & Jackson, Inc.

A *KLJ Solutions Company*

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
) SS. TEMPORARY CONSTRUCTION
COUNTY OF PENNINGTON) EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, HDRK PROPERTIES LLC, of 6520 Birkdale Dr, Rapid City, South Dakota, 57702, Grantor, hereby grants to the CITY OF RAPID CITY, a South Dakota municipality, of 300 Sixth Street, Rapid City, South Dakota, 57701, its agents, employees, and contractors, a temporary construction easement over and across the following described real property:

Tracts B and C of Rushmore Center, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference.

This easement shall include the right to enter upon the easement property for the purpose of constructing the project entitled, "East Anamosa Extension, Project No. ST04-1397 & EM 1648(1)."

The City shall perform all work in a workmanlike manner and shall leave the property in as good condition as existed prior to entry thereon. However, the City will not be responsible for repairing or replacing any structures or improvements that are placed in the temporary easement after the effective date of the easement.

This Temporary Easement shall be effective from the date of signing to October 31, 2011, or completion of construction, whichever occurs first.

Dated this _____ day of _____, 2009.

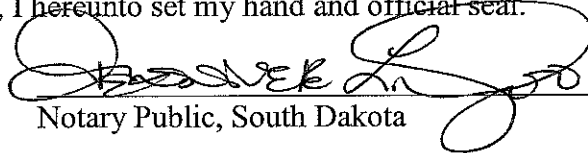
HDRK PROPERTIES LLC

By: Hani Shafiq
Its: member

State of South Dakota)
) SS.
County of Pennington)

On this the 4th day of November, 2009, before me, the undersigned officer, personally appeared Hani Shafai, who acknowledged themselves to be the member of HDRK Properties LLC, and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public, South Dakota

My Commission Expires: 06/27/2012

(SEAL)

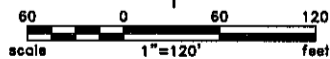
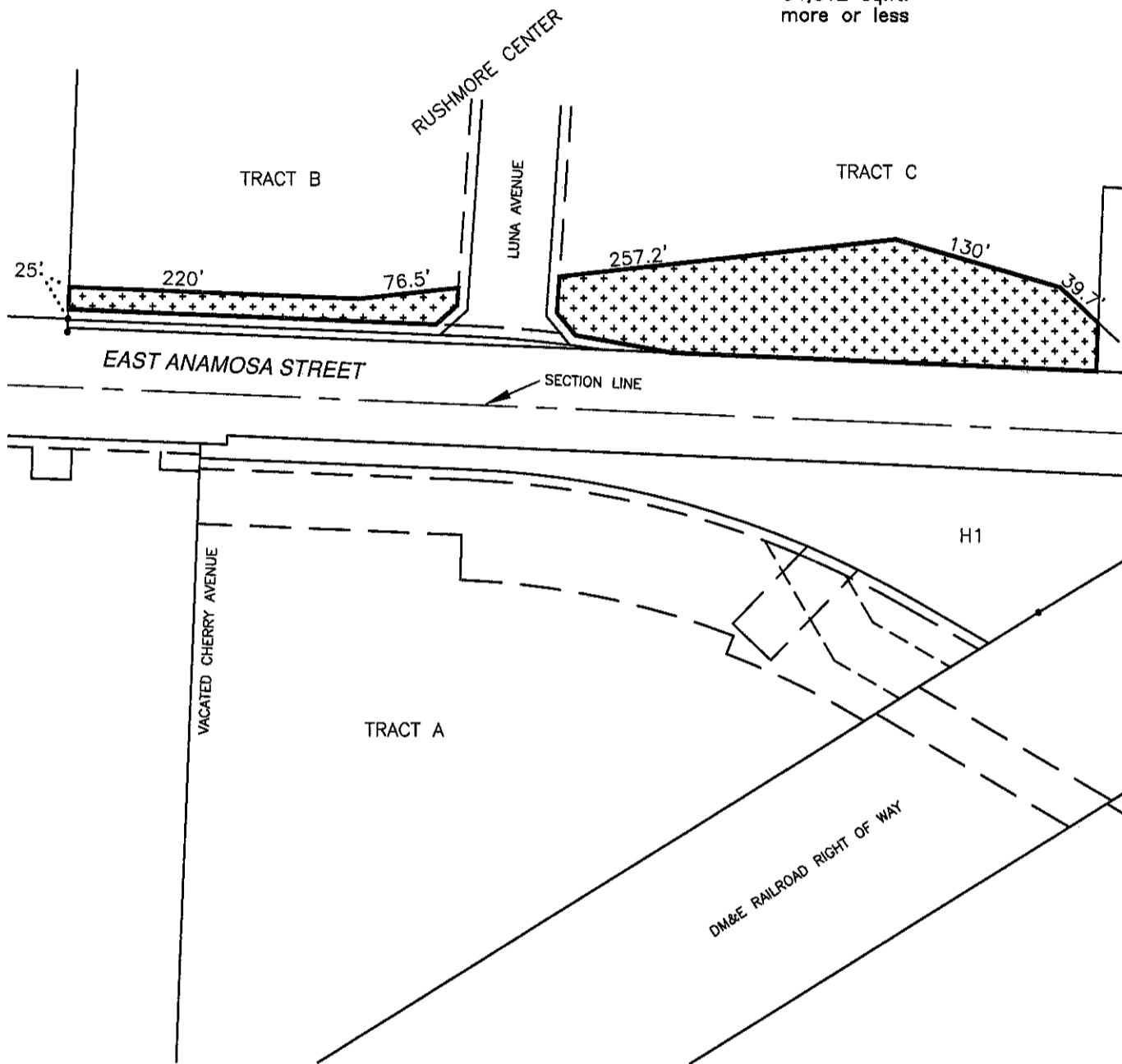


EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

LOCATED IN TRACT B AND TRACT C OF RUSHMORE CENTER, IN THE SE1/4 OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA

Temporary Construction Easement
Containing 0.799 ac.
34,812 sq.ft.
more or less



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

**Kadmas
Lee &
Jackson**
Professional Surveyors
Planners

Item #48

AGREEMENT FOR VOLUNTARY RIGHT OF WAY DONATION

PROJECT NO: 1648(1), ST04-1397 PCN: 00UR COUNTY/ CITY: RAPID CITY PARCEL NO: A-7

This Agreement is made and entered into by and between the County/City of RAPID CITY acting by and through its County/City Commission, hereinafter referred to as "COUNTY/CITY," and HDRK PROPERTIES LLC, whose postal address is 6520 BIRKDALE DR. RAPID CITY, SD 57102, hereinafter referred to as "DONOR";

WHEREAS, COUNTY/CITY needs the following easements for construction, operation, and maintenance of a highway:

Perpetual Easement: _____

Temporary Easement: A TEMPORARY CONSTRUCTION EASEMENT CONSISTING OF APPROXIMATELY 791 SQ. FT. ACROSS THE UNPLATTED BALANCE OF THE SE 1/4 OF THE SE 1/4 LESS ROW, OF SECTION 30, T2N, R8E, OF BHM, RAPID CITY, PENNCO, SD.

NOW, THEREFORE, DONOR and COUNTY/CITY hereby agree as follows:

- 1. DONOR does hereby voluntarily grant and donate to COUNTY/CITY, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by DONOR, the above described easements as shown on the plans for construction of the above cited Project.

Stipulations of conditional donation: _____

2. DONOR understands DONOR'S right to have an appraisal prepared and DONOR'S right to receive just compensation for the above described perpetual and/or temporary easement in accordance with the Uniform Relocation Assessment and Real Property Acquisition Act of 1970, as amended.

3. DONOR shall not erect fences, structures, or obstacles within the perpetual easement.

4. DONOR grants permission to COUNTY/CITY or COUNTY'S/CITY'S agent to enter upon above described easement upon approval of this Agreement.

5. The perpetual easement shall be in effect until the highway is abandoned by the proper action of the COUNTY/CITY Commission and the temporary easement shall be in effect until one (1) year after construction of the Project is completed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on this _____ day of _____ in the year _____.

Donor County/City of _____

By: Hani Shafai

By: _____

Name: Hani Shafai

Its: County Commission Chairperson/
City Mayor

By: _____

Attest:

Name: _____

County Auditor/City Finance Officer

[County/City Seal]

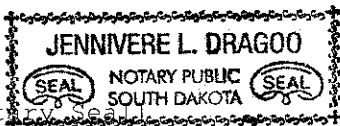
DONOR ACKNOWLEDGMENT

STATE OF South Dakota
COUNTY OF Pennington)^{ss}

On this the 4th day of November in the year of 2009, before me, Jennivere L. Dragoo, a Notary Public, within and for said County and State, personally appeared Hani Shafai known to me to be the person(s) described in and who executed the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.

In witness whereof I hereunto set my hand and official seal.

Jennivere L. Dragoo
Notary Public



[Notary Seal]

My Commission Expires: 06/27/2012

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

STATE OF SOUTH DAKOTA)
) SS. TEMPORARY CONSTRUCTION
COUNTY OF PENNINGTON) EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, HDRK PROPERTIES LLC, of 6520 Birkdale Dr, Rapid City, South Dakota, 57702, Grantor, hereby grants to the CITY OF RAPID CITY, a South Dakota municipality, of 300 Sixth Street, Rapid City, South Dakota, 57701, its agents, employees, and contractors, a temporary construction easement over and across the following described real property:

The unplatted balance of the SE ¼ of the SE ¼, Less right-of-way, of Section 30, T2N, R8E, Black Hills Meridian, Rapid City, Pennington County, South Dakota, consisting of approximately 791 sq. ft. more or less, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference.

This easement shall include the right to enter upon the easement property for the purpose of constructing the project entitled, "East Anamosa Extension, Project No. ST04-1397 & EM 1648(1)."

The City shall perform all work in a workmanlike manner and shall leave the property in as good condition as existed prior to entry thereon. However, the City will not be responsible for repairing or replacing any structures or improvements that are placed in the temporary easement after the effective date of the easement.

This Temporary Easement shall be effective from the date of signing to October 31, 2011, or completion of construction, whichever occurs first.

Dated this _____ day of _____, 2009.

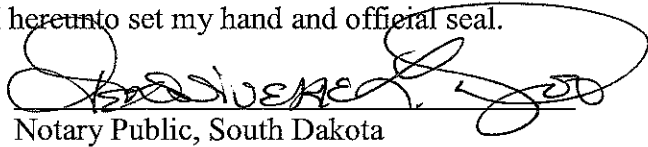
HDRK PROPERTIES LLC

By: Hani Shafiq
Its: member

State of South Dakota)
) SS.
County of Pennington)

On this the 4th day of November, 2009, before me, the undersigned officer, personally appeared Hani Shafai, who acknowledged themselves to be the member of HDRK Properties LLC, and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public, South Dakota

My Commission Expires: 06/27/2012
(SEAL)

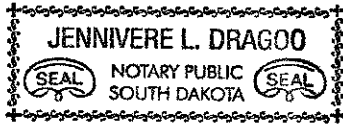
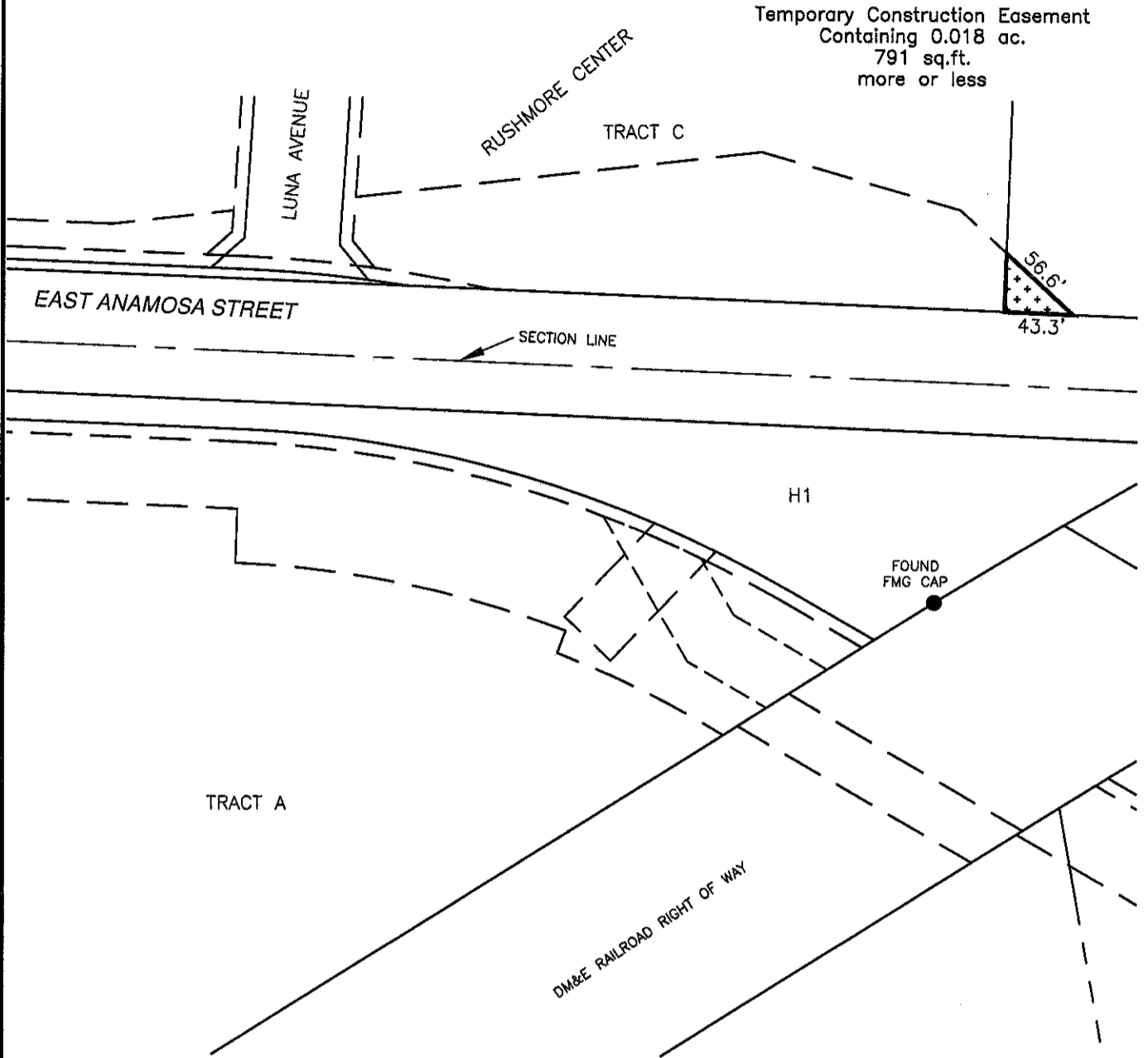


EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

LOCATED IN THE SE1/4SE1/4 OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 8 EAST OF THE BLACK HILLS MERIDIAN
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



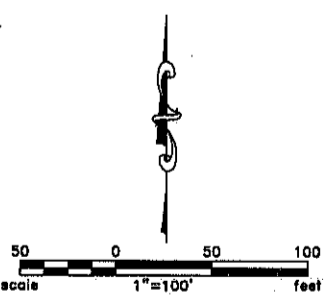
Temporary Construction Easement
Containing 0.018 ac.
791 sq.ft.
more or less

TRACT A

H1

FOUND FMG CAP

DM&E RAILROAD RIGHT OF WAY



I, Kent A. Orvik, Professional Land Surveyor, S.D. No. 5436, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Kent A. Orvik, Professional Land Surveyor
S.D. No. 5436

ALL BEARINGS ARE IN SOUTH DAKOTA STATE PLANE, SOUTH ZONE, NAD-83(86) GRID BEARINGS.

ALL DISTANCES ARE GROUND DISTANCES.

BASE BEARING IS THE EAST LINE OF LOT A OF LOT 5R, MERIDIAN SUBDIVISION, S02°07'22"W-955.71' Meas. FROM A FOUND CAP TO A FOUND YELLOW CAP.

PREPARED BY:
KADRMAS, LEE & JACKSON, INC.
330 KNOLLWOOD DRIVE
RAPID CITY, SD 57701-6611
(605) 721-5553

Kadmas
Lee &
Jackson

Item # 13