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Register of Deeds		T20200065937

Prepared by, return to: Nathan S. Allen, 5820 Westown Pkwy, West Des Moines, IA 50266 (515)267-2870  
Map No. 41 Hy-Vee Business Park Lot 5 STF2020-00017 \$123

**FIRST AMENDMENT TO  
STORMWATER TREATMENT FACILITY MAINTENANCE DECLARATION**

THIS FIRST AMENDMENT TO STORMWATER TREATMENT FACILITY MAINTENANCE DECLARATION (hereinafter, the "Amendment") is made and entered into this 3 day of September, 2020, by and between HY-VEE, INC., an Iowa corporation, hereinafter referred to as "Property Owner," and BPCO PROPERTIES, LLC, a Colorado limited liability company, hereinafter referred to as "Lot 7 Owner," WITNESSETH:

WHEREAS, Property Owner is subject to that certain Stormwater Treatment Facility Maintenance Declaration dated February 28, 2013, and recorded April 9, 2013, in the office of the Register of Deeds of Johnson County, Kansas, as Document No. 20130409-0003697 (the "Original Declaration"); and

WHEREAS, Property Owner and Lot 7 Owner desire to amend the Original Declaration as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Recitals, Definitions. The recitals are incorporated herein by this reference. Capitalized terms not defined herein shall have the meaning(s) set forth in the Original Easement.

2. Stormwater Treatment Facilities. The Plan attached as Attachment A to the Original Declaration is hereby amended by adding the stormwater treatment facilities attached hereto in Exhibit "A1" and incorporated herein by this reference. For the avoidance of doubt, the term "stormwater treatment facilities" shall mean the both the stormwater treatment facilities in the Original Declaration, as well as the stormwater treatment facilities in Exhibit "A1" to this Amendment.

3. Joinder of Owner of Subdivided Lot. Property Owner has sold a portion of the property subject to the Original Declaration, consisting of Lot 7, Hy-Vee Business Park, Fourth Replat, City of Overland Park, Johnson County, Kansas, to Lot 7 Owner, and Lot 7 Owner hereby agrees that Lot 7 Owner hereby joins and shall be subject to the Original Declaration, as amended hereby, as Property Owner solely with respect to those certain stormwater treatment facilities in Exhibit "A1" to this Amendment. Property Owner and Lot 7 Owner hereby acknowledge that they have entered into that certain Storm Sewer, Storm Water Detention Basin, and Water Line Easement Agreement dated \_\_\_\_\_, 2020, and recorded \_\_\_\_\_, 2020, in the office of the Register of Deeds of Johnson County, Kansas, as Document No. \_\_\_\_\_, governing the operation and maintenance of the stormwater treatment facilities in Exhibit "A1" to this Amendment.

4. Ratification. Except as modified by this Amendment, the Original Declaration is hereby ratified and confirmed by the parties.

5. Counterparts, Facsimile. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

[SIGNATURES ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed all on or as of the day and year first above written.

**PROPERTY OWNER:**

HY-VEE, INC., an Iowa corporation

By: [Signature]  
Jeffrey Markey, Senior Vice President

By: [Signature]  
Michael Jurgens, Secretary

STATE OF IOWA, COUNTY OF POLK, ss


On this 3<sup>rd</sup> day of September, 2020, before me, the undersigned, a Notary Public in and for the state of Iowa, personally appeared Jeffrey Markey and Michael Jurgens, to me personally known, who being by me duly sworn did say that they are the Senior Vice President and Secretary, respectively, of Hy-Vee, Inc., an Iowa corporation, that the instrument to which this is attached was signed on behalf of said corporation by authority of its Board of Directors; and that the said Jeffrey Markey and Michael Jurgens as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

[Signature]  
Notary Public in and for the  
State of Iowa



**LOT 7 OWNER:**

BPCO PROPERTIES, LLC

  
\_\_\_\_\_  
Dean P. Pisciotto, Manager

STATE OF Colorado )  
 ) ss.  
COUNTY OF Arapahoe )

BE IT REMEMBERED, That on this 11<sup>th</sup> day of September 2020, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Dean P. Pisciotto, who is personally known to me to be the same persons who executed the foregoing instrument of writing on behalf of BPCO Properties, LLC, and said persons duly acknowledged the execution of the same to be the act and deed of the limited liability company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Commission Expires: 4/3/23

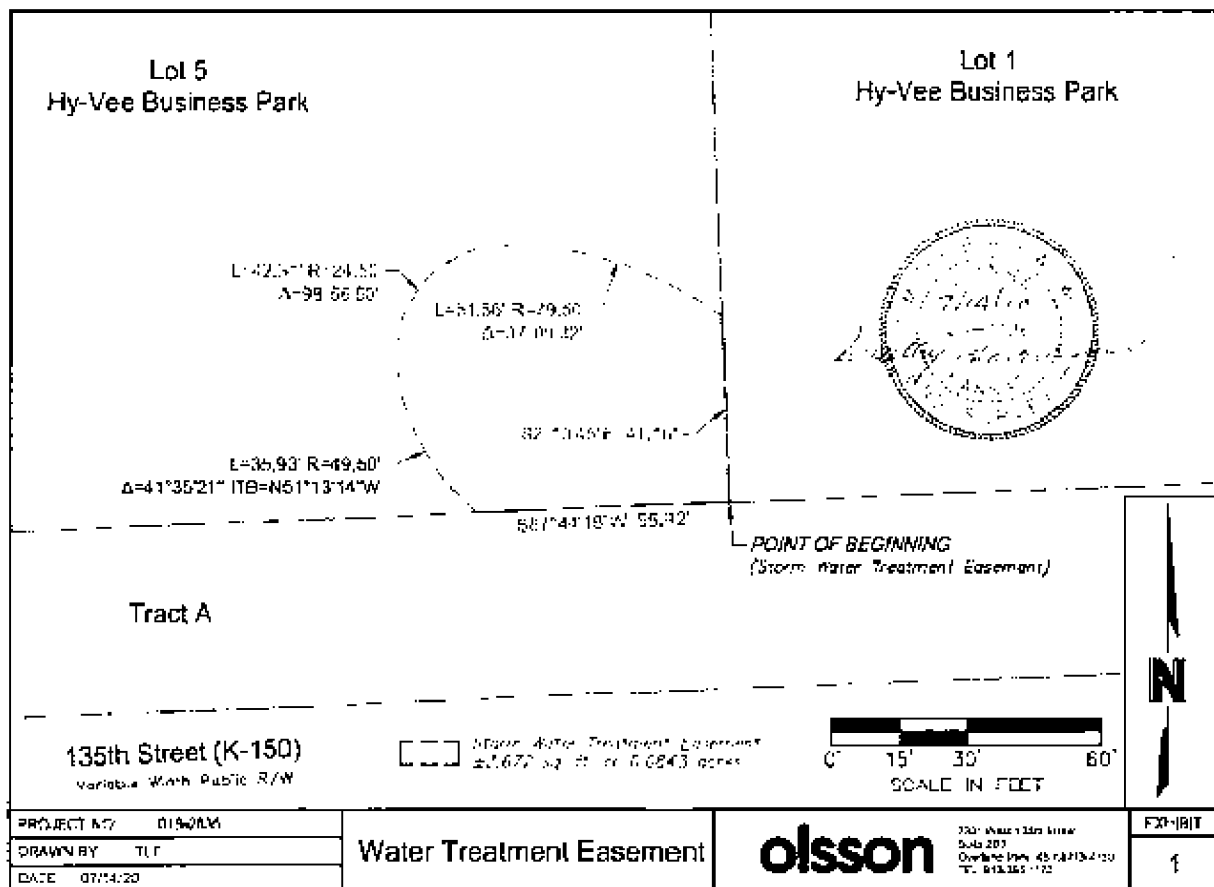
  
\_\_\_\_\_  
Notary Public

KEELY NICHOLS  
Notary Public  
State of Colorado  
Notary ID # 20194012781  
My Commission Expires 04-03-2023

**EXHIBIT "A1" (3 Pages)**  
**ADDITIONAL STORMWATER TREATMENT FACILITIES**

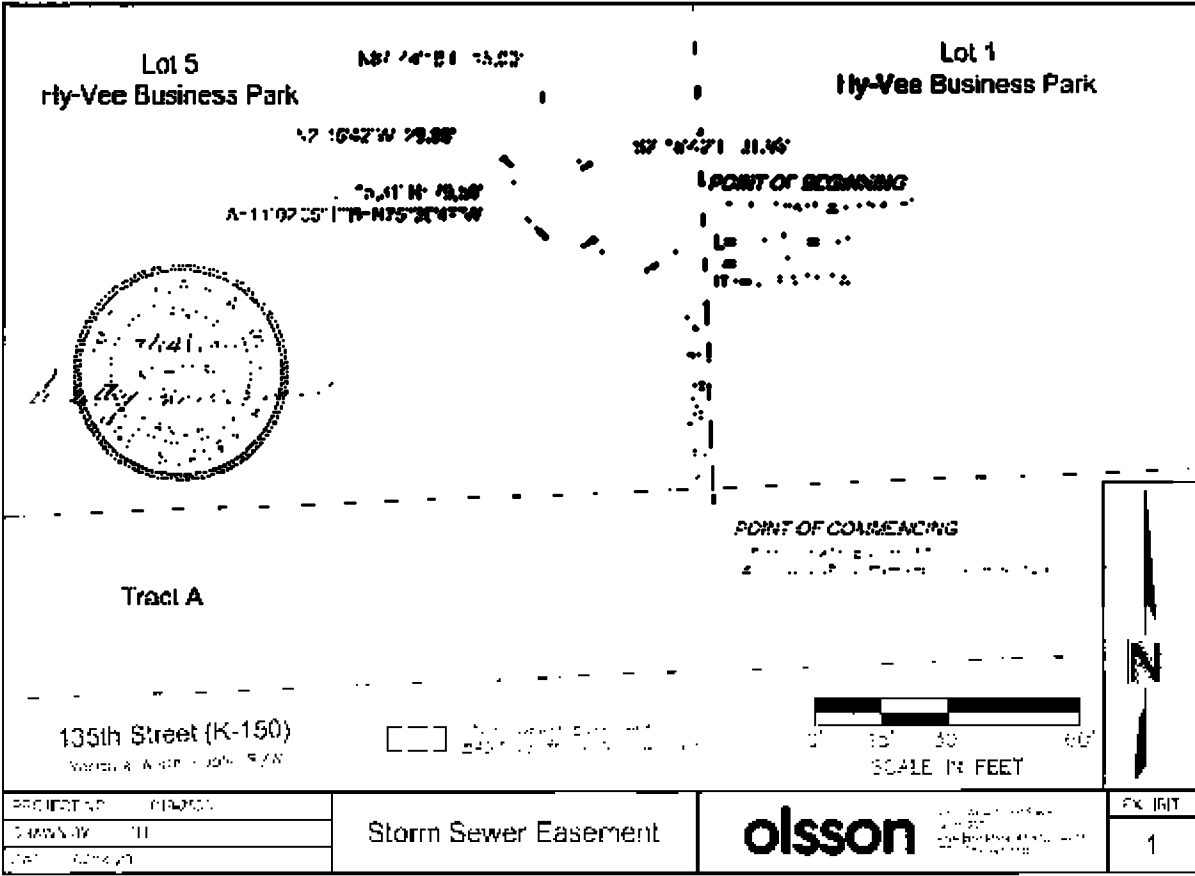
Part of Lot 5, HY-VEE BUSINESS PARK, a subdivision in the City of Overland Park, Johnson County, Kansas, and being more particularly described as follows:

BEGINNING at the Southeast corner of said Lot 5; thence South 87 degrees 44 minutes 18 seconds West, on the South line of said Lot 5, a distance of 55.92 feet, to a point on a non-tangent curve; thence Northwesterly and Northerly, departing the South line of said Lot 5 and along a curve to the right, whose initial tangent bearing is North 51 degrees 13 minutes 14 seconds West, having a radius of 49.50 feet, and through a central angle of 41 degrees 35 minutes 21 seconds, an arc length of 35.93 feet, to a point of compound curvature; thence Northerly, Northeasterly, and Easterly, along a curve to the right, having a radius of 24.50 feet, and through a central angle of 98 degrees 56 minutes 50 seconds, an arc length of 42.31 feet, to a point of compound curvature; thence Easterly and Southeasterly, along a curve to the right, having a radius of 79.50 feet, and through a central angle of 37 degrees 09 minutes 32 seconds, an arc length of 51.56 feet, to a point on a non-tangent line, said point also being on the East line of said Lot 5; thence South 02 degrees 13 minutes 45 seconds East, on the East line of said Lot 5, a distance of 41.16 feet, to the POINT OF BEGINNING of said Storm Water Treatment Easement, containing 3,672 square feet or 0.0843 acres, more or less.



Part of Lot 5, HY-VEE BUSINESS PARK, a subdivision in the City of Overland Park, Johnson County, Kansas, and being more particularly described as follows:

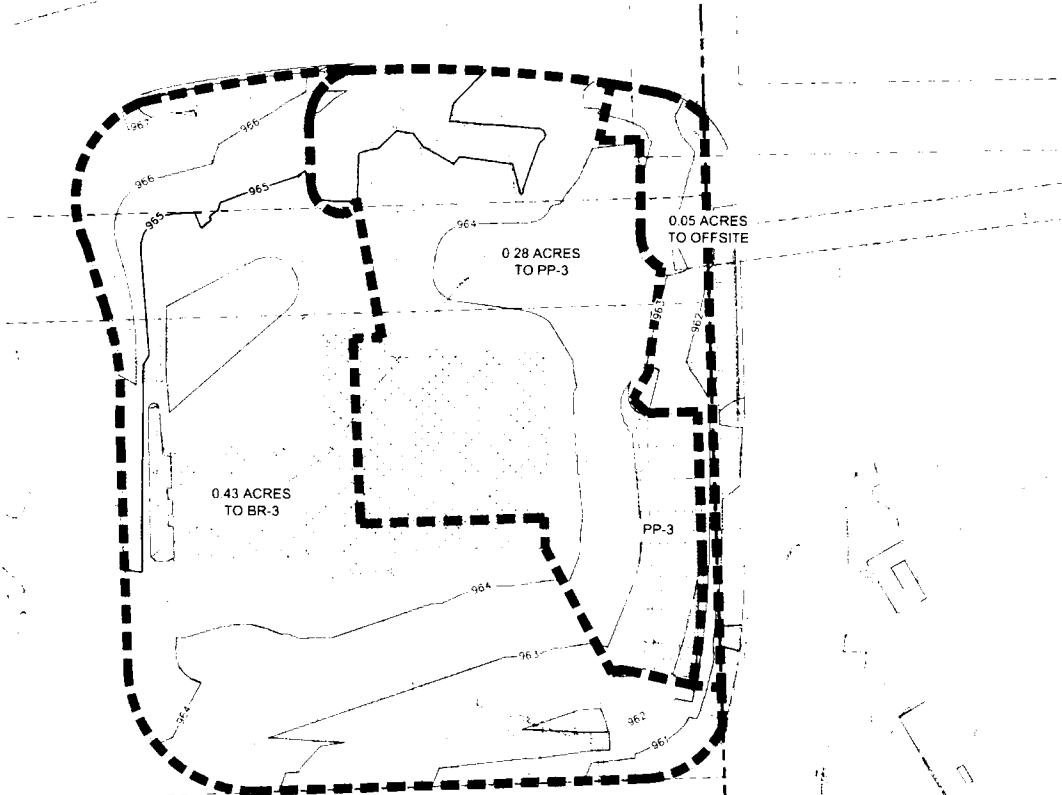
COMMENCING at the Southeast corner of said Lot 5; thence North 02 degrees 13 minutes 45 seconds West, on the East line of said Lot 5, a distance of 41.16 feet, to a point on a non-tangent curve; thence Northwesterly, departing the East line of said Lot 5, along a curve to the left, whose initial tangent bearing is North 53 degrees 31 minutes 30 seconds West, having a radius of 79.50 feet, and through a central angle of 22 degrees 05 minutes 17 seconds, an arc length of 30.65 feet, to the POINT OF BEGINNING, of said Storm Sewer Easement; thence continuing Northwesterly, along a curve to the left, whose initial tangent bearing is North 75 degrees 36 minutes 47 seconds West, having a radius of 79.50 feet, and through a central angle of 11 degrees 02 minutes 05 seconds, an arc length of 15.31 feet, to a point on a non-tangent line; thence North 02 degrees 15 minutes 42 seconds West, a distance of 28.98 feet, to a point; thence North 87 degrees 44 minutes 18 seconds East, a distance of 15.00 feet, to a point; thence South 02 degrees 15 minutes 42 seconds East, a distance of 31.93 feet, to the POINT OF BEGINNING of said Storm Sewer Easement, containing .453 square feet or 0.0104 acres, more or less.



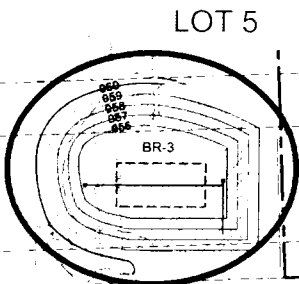
DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

EXHIBIT A1

PART OF LOT 5, HY-VEE BUSINESS PARK, CITY OF OVERLAND PARK, JOHNSON COUNTY, KS



The annual maintenance cost of the bioretention shown in Exhibit A1 is \$2,000. Should full replacement be required of all plantings and soils within the bioretention area, the estimated cost is \$10,000.



PERENNIALS AND NATIVE GRASSES		APPROVED PLANTINGS		
320		Blue Joint Grass <i>Calamagrostis canadensis</i>	1 gal.	30" Spacing
80		Black Eyed Susan <i>Rudbeckia fulgida</i>	4" pot	18" Spacing

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE OR IN THE MARGINS.