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 Book - 9227 Pg - 3462-3473
 Gary W. Ott
 Recorder, Salt Lake County, UT
 MERIDIAN TITLE
 BY: eCASH, DEPUTY - EF 12 P.

When Recorded, Return To:

Draper City, Recorder
 1020 East Pioneer Road
 Draper, Utah 84020

STORM WATER EASEMENT AGREEMENT

THIS STORM WATER EASEMENT AGREEMENT (this "Agreement") is made as of the 7th day of December, 2005 by and between IKEA Property, Inc., a Delaware corporation (the "Grantor"), and the Draper City, a Utah municipal corporation (the "Grantee").

RECITALS:

WHEREAS, the Grantor owns certain lots within Draper City (the "Grantor's Lots"), which are depicted on Exhibit B (the "Site Plan");

WHEREAS, the Grantor is willing to provide the Grantee with an easement through the Grantor's Lots for piping storm water drainage from IKEA Way (a public street that will be constructed by the Grantee) to the detention basin as shown on the Site Plan (the "Detention Pond");

WHEREAS, the parties have mutually agreed on the location of such easement, which is more particularly described on Exhibit A and which is depicted on the Site Plan (the "Easement Property");

NOW, THEREFORE, the parties agree as follows:

1. **Grant of Easement.** Subject to compliance with the requirements contained herein, the Grantor hereby grants to the Grantee a perpetual, non-exclusive easement in, to and under the Easement Property for the following purposes: (a) at its sole expense, to construct, install, reconstruct, operate, use, maintain, repair, replace, and remove an underground twenty-four (24) inch pipe system (the "Storm Drainage Piping"); and (ii) to discharge storm water runoff from IKEA Way into the Storm Drainage Piping and the Detention Pond in amounts that do not exceed the capacity of the Storm Drainage Piping. The Storm Drainage Piping must be at least twenty-four (24) inches underground along its entire length within the Easement Property, in accordance with Draper City design standards. The storm water that may be discharged into the Storm Drainage Piping is limited to storm water created on IKEA Way only, and storm water created elsewhere that subsequently drains onto IKEA Way may not be discharged into the Storm Drainage Piping. The Grantee has the right of access over and across the Easement Property for itself and its agents to the extent reasonably necessary in order to

exercise the Grantee's rights under this Agreement. The Grantee accepts the condition of the Easement Property in its "AS IS" condition, and waives and releases the Grantor from any liability, obligation, damage, or claim of whatsoever nature relating to the condition of the Easement Property, whether apparent or hidden.

2. **Initial Construction; Installation of the Required BMP's.** The Grantee shall install the Storm Drainage Piping within the Easement Property prior to the time that the Easement Property is paved. At the same time as and in connection with the initial construction of the Storm Drainage Piping, the Grantee shall, at its sole expense (a) install, in the public right of way of IKEA Way at the point the Storm Drainage Piping intersects with IKEA Way, a storm water treatment system in accordance with current engineering best management practices, such as a Vortsentry system (the "SWT System") and (b) install, next to the Storm Drainage Piping that is closest to the Detention Pond as shown on Exhibit C, a low-flow bypass system substantially in accordance with the plans in Exhibit C (the "Bypass System", and, together with the SWT System, the "Required BMP's"). From time to time as either of the SWT System or the Bypass System need to be replaced, the Grantee shall, at its sole expense, replace such Required BMP with another device or system substantially similar to such Required BMP designed in accordance with then current engineering best management practices.

3. **Reservation of Grantor's Rights.** The Grantor reserves the rights to use the Easement Property and to grant further easement interests in the Easement Property to others so long as such interest and uses do not materially or unreasonably interfere with the use of the Easement Property by the Grantee in accordance with this Agreement. Without limiting the generality of the foregoing, the Grantee agrees that the Grantor may landscape the Easement Property and may construct, pave and maintain one or more roads or parking lots or fences over and across any portion of the Easement Property, but the Grantor shall not build or construct any building or other improvement (other than signs) over or across the Easement Property.

4. **Maintenance and Restoration; Restrictions on Scheduling.** At all times, and at its sole expense, the Grantee shall maintain the Storm Drainage Piping and the Required BMP's in a safe condition and in compliance with all applicable governmental requirements. The Grantee shall, at its sole expense, clean out the Storm Drainage Piping and the Required BMP's from time to time as is necessary to keep each of them unblocked and fully functional. Upon completion of any activities of the Grantee which disturb the surface of the Easement Property, the Grantee shall promptly restore the Easement Property to the condition it was in immediately prior to such disturbance or as otherwise required by this Agreement, including compaction necessary to restore the soil to its previous condition. The Grantee shall give reasonable prior written notice (except in case of an emergency, in which case Grantee shall give as much notice as is reasonable under the circumstances) of its intent to construct, maintain, remove or replace the Storm Drainage Piping or the Required BMP's which would involve any disturbance of the surface of the Easement Property, and the Grantee agrees that any such construction, maintenance, repair, removal or replacement by the Grantee will be done in a reasonably expeditious manner; provided, however, that except in case of an emergency, the Grantee shall not exercise its rights under this Section 4 during any of the following time periods each year: January 1 through January 20, June 15 through July 15, August 10 through September 10 and November 15 through December 31 (in each case inclusive of such dates).

The Grantee shall be responsible for all costs and expenses associated with the exercise of its rights hereunder.

5. **Indemnity.** The Grantee shall indemnify, defend, and hold the Grantor harmless from and against any and all losses, claims, actions, damages, liabilities, penalties, fines, or expenses, of whatsoever nature, including, without limitation, reasonable attorneys' fees and costs on account of mechanics' lien claims, injury to persons, the death of any person, or damages to property ("Claims") arising from its use of the Easement Property, its breach of this Agreement or from its negligence (or any of its employees, contractors or agents) in exercising its rights under this Agreement, including without limitation the release into the Detention Pond of any hazardous materials as defined under any federal, state or local law or regulation.

6. **Mechanics' Liens.** The Grantee shall, at all times, keep the Easement Property free from mechanics' lien claims or similar liens arising on account of any act by or on behalf of the Grantee. Prior to commencing or contracting for any work to be performed on or about the Easement Property, the Grantee shall provide written notice to all contractors, subcontractors, and material suppliers with respect to such work that any mechanics' lien claim on account of the provision of such work or materials shall attach only to the Grantee's interest in the Easement Property under this Agreement and shall not, in any event, attach to any interest of the Grantor in the Easement Property. In the event any mechanics' lien is recorded with respect to the Grantor's Parcel (other than only against the easement interest of the Grantee) on account of any activity of the Grantee or any use of the Easement Property by or on behalf of the Grantee, the Grantee shall, within 30 days of notice by the Grantor (or, if earlier, within 30 days of a complaint being filed to enforce such mechanics' lien), cause such mechanics' lien to be removed from the Grantor's Parcel or, alternatively, place into an escrow acceptable to the Grantor an amount equal to 150% of the amount in dispute.

7. **Performance of the Grantee's Obligations by the Grantor.** In the event the Grantee fails to perform any obligations under this Agreement within five days of written notice by the Grantor, the Grantor may, but is not required to, perform any such obligation of the Grantee at the sole cost and expense of the Grantee. Except as may be necessary to prevent damage or injury on an emergency basis, Grantor shall not commence performance of any unperformed obligation of the Grantee as long as, within such five-day period, the Grantee shall have commenced curative action and thereafter shall prosecute such curative action diligently to completion. Any amount required to be paid by the Grantee to the Grantor pursuant to this Section shall bear interest until paid at the prime rate of interest then announced by Wells Fargo Bank National Association or other major national banking association in Salt Lake City, Utah identified by the Grantor.

8. **Relocation.** The Grantor reserves the right to hereafter relocate the Easement Property, provided that the Grantor shall pay all expenses associated with the relocation of the Storm Drainage Piping, and the relocated Storm Drainage Piping must be constructed to Draper City design standards in effect at the time of the relocation. The Grantee agrees to execute any amendment hereto relocating the Easement Property upon the satisfactory relocation of the Storm Drainage Piping.

9. **Other Agreements.**

(a) **Run with the Land.** The easements hereby conveyed and granted, the restrictions hereby imposed, and the agreements herein contained, shall be easements, restrictions, and covenants running with the land and shall inure to the benefit of, and be binding upon, the Grantor and its respective successors and assigns, including, without limitation, all subsequent owners of the Easement Property and all persons claiming under them.

(b) **No Dedication.** Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Easement Property to the general public or for the general public or for any public issues whatsoever other than those specifically granted herein, it being the intention of the parties hereto that this Agreement shall be strictly limited to and for the purposes herein expressed.

(c) **Attorneys' Fees.** In the event of any litigation, arbitration, or other proceeding brought to enforce or interpret this Agreement, the prevailing party shall receive an award of its reasonable attorneys' fees and costs.

(d) **Remedies.** The remedies of a Party hereunder shall be specifically enforceable by the aggrieved Party without the necessity of demonstrating an adequate remedy at law exists and damage to the Easement Property shall be presumed to be irreparable harm. In connection with any such action, a Party shall not be required to post a surety bond.

(e) **Severability.** Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

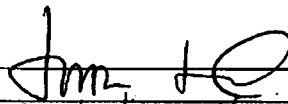
(f) **Amendment; Entire Agreement; Counterparts.** Any additions or changes to this Agreement must be in writing and signed by all parties hereto. This Agreement contains the entire understanding among the parties hereto, and any other agreements among the parties hereto are merged or revoked by this Agreement. This Agreement may be executed in counterparts.

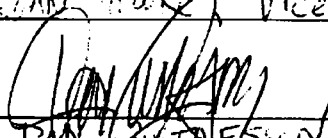
[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first above written.

GRANTOR:

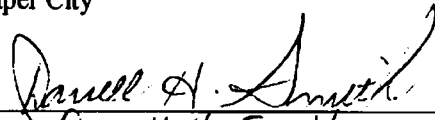
IKEA Property, Inc.

By: 
Its: Stan Hooker Vice Pres

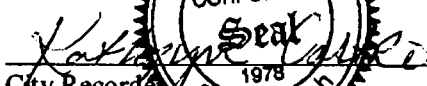
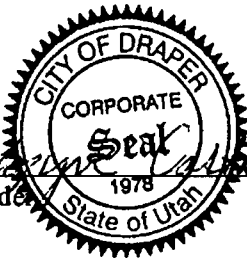
By: 
Its: Dan Gustafsson President

GRANTEE:

Draper City

By: 
Its: Darrell H. Smith Mayor

Attest:


City Recorder 

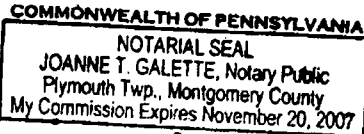
Approved as to form:


City Attorney

STATE OF ~~UTAH~~ PENNSYLVANIA)
COUNTY OF ~~SALT LAKE~~ Philadelphia) SS. Montgomery



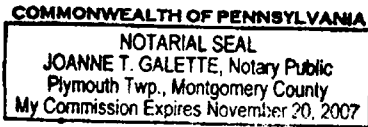
On the 2ND day of December, 2005, personally appeared before me Joan Hoake, who being by me duly sworn did say (s)he is the Vice President of IKEA Property, Inc., and that the within and foregoing instrument was signed on behalf of the corporation.



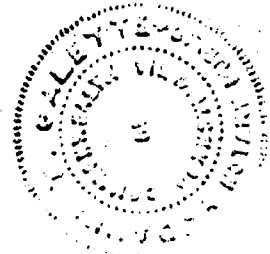
Joanne T. Galette
NOTARY PUBLIC
Residing at:

STATE OF ~~UTAH~~ PENNSYLVANIA)
COUNTY OF ~~SALT LAKE~~ Montgomery) SS.

On the 2ND day of December, 2005, personally appeared before me DAN GUSTAFSSON who being by me duly sworn did say (s)he is the President of IKEA Property, Inc., and that the within and foregoing instrument was signed on behalf of the corporation.

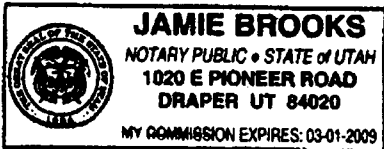


Joanne T. Galette
NOTARY PUBLIC
Residing at:



STATE OF UTAH)
COUNTY OF SALT LAKE) SS.

On the 6th day of December, 2005, personally appeared before me Danell Smith who being by me duly sworn did say (s)he is the Mayor of Draper City, and that the within and foregoing instrument was signed on behalf of Draper City.



Jamie Brooks
NOTARY PUBLIC
Residing at:

EXHIBIT A

Legal Description of the Easement Property

Legal Description of the Easement Property

AN 15 FOOT WIDE EASEMENT, FOR STORM DRAIN PURPOSES, IN THE STATE OF UTAH, COUNTY OF SALT LAKE, CITY OF DRAPER, BEING PART OF SECTION 36, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTH LINE OF SAID SECTION 36, SAID POINT BEING S89°58'14"E GRID (UTAH COORDINATE SYSTEM NAD 83 (1994) CENTRAL ZONE) 1221.70 FEET , FROM THE STONE MONUMENT AT THE SOUTH QUARTER OF SAID SECTION 36; SAID POINT BEING THE BEGINNING OF A NON TANGENT CURVE CONCAVE TO THE EAST, WITH A RADIUS OF 265.60 FEET AND A RADIAL BEARING OF S53°09'50"W, THENCE NORTHERLY 17.75 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 3°49'48", SAID CURVE RUNNING ALONG THE EAST BANK OF THE JORDAN AND SALT LAKE CANAL; THENCE N26°34'23"W 57.15 FEET; THENCE N01°52'19"W 170.00 FEET; THENCE N02°46'31"W 519.47 FEET; THENCE N38°53'03"E 22.57 FEET; THENCE S02°46'31"E 536.45 FEET; THENCE S01°52'19"E 166.84 FEET; THENCE S26°34'23"E 53.02 FEET TO THE BEGINNING OF A NON TANGENT CURVE CONCAVE TO THE EAST, WITH A RADIUS OF 250.60 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE 8.50 FEET, THROUGH A CENTRAL ANGLE OF 01°56'37"; THENCE S89°58'14"E 68.14 FEET; THENCE S00°40'47"W 15.00 FEET TO THE SOUTH LINE OF SAID SECTION 36; THENCE N89°58'14"W ALONG SAID SOUTH LINE 75.61 FEET TO THE POINT OF BEGINNING.

CONTAINS 0.29 ACRES (12,547 SQUARE FEET), MORE OR LESS

27-36-476-002
-003
-004
-005

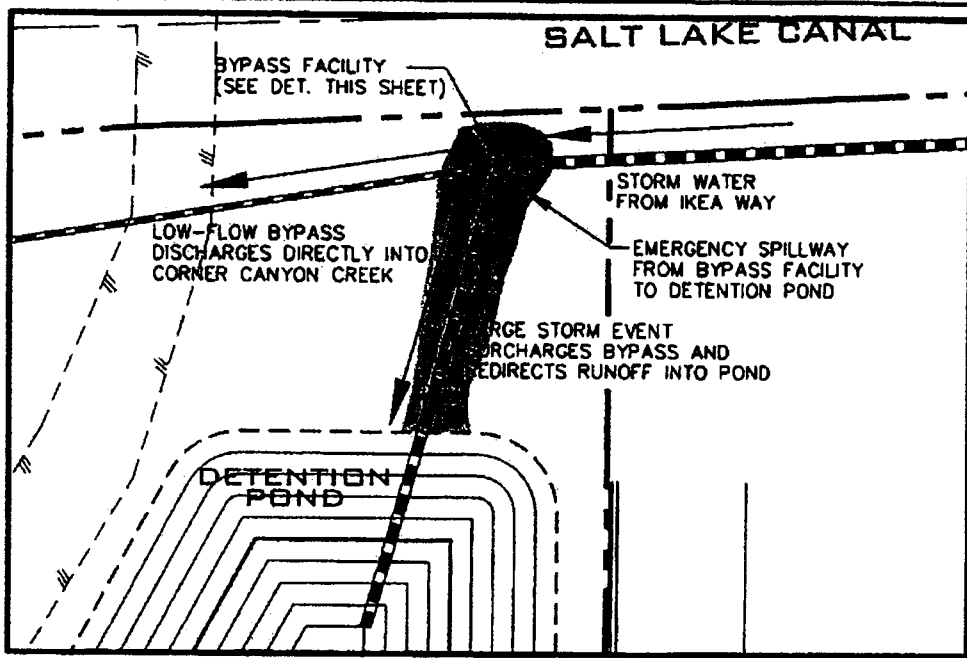
EXHIBIT B

Site Plan

(Depiction of the Grantor's Lots, the Easement Property and the Detention Pond)

Bypass System

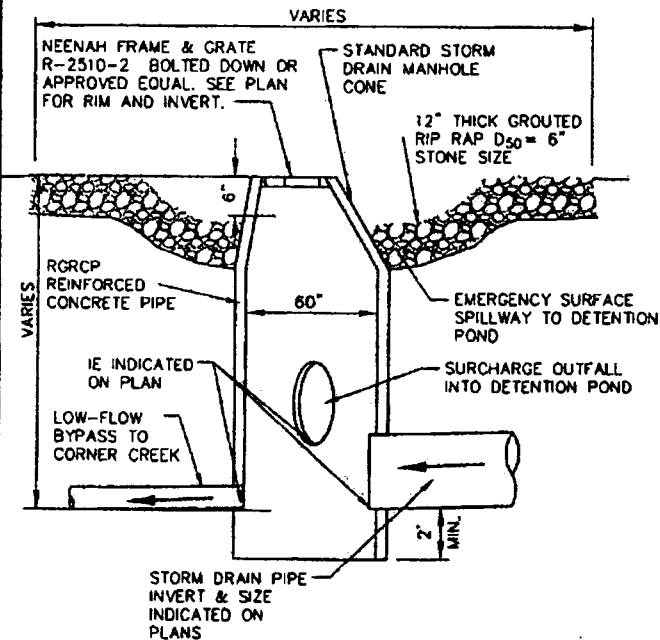
EXHIBIT C



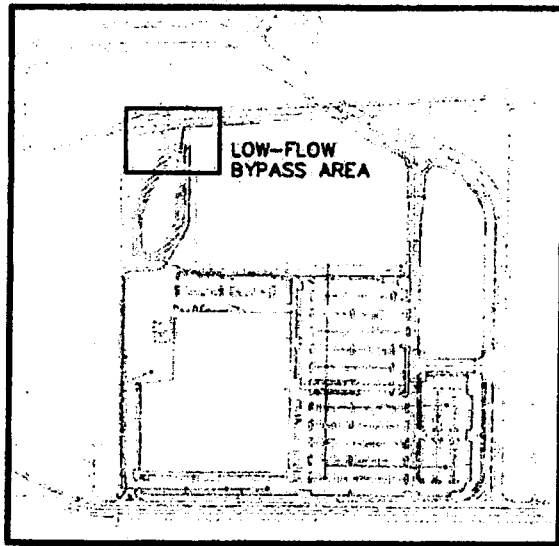
LOW-FLOW BYPASS PLAN



KEY MAP



BYPASS FACILITY DETAIL



PROJ #: 05-0133
 DATE: 11/18/05
 REV #:
 ASI #:
 SCALE: 1" = 30'

DEPICTION OF
STORM WATER LOW-FLOW BYPASS DETAIL
 DAHLE RETAIL CENTER
 DRAPER, UTAH

CLC ASSOCIATES
 350 SOUTH 400 EAST
 SUITE 304
 SALT LAKE CITY
 UTAH 84111
 P 801 363 4805
 F 801 363 4604
 CLCASSOC.COM
 ARCHITECTURE
 ENGINEERING PLANNING
 LANDSCAPE ARCHITECTURE
 LAND SURVEYING

