

2820



REC
FEB 10 3 55 PM '98
RICHARD N. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

TRUSTEE'S DEED

KNOW ALL MEN BY THESE PRESENTS THAT I, JAMES B. LOSE, TRUSTEE OF THE BOWSMAN REVOCABLE TRUST, dated June 11, 1987, herein called the Grantor whether one or more, in consideration of One Dollar and other valuable consideration received from Grantee do hereby grant, bargain, sell, convey, and confirm unto West Bay, Inc., a Nebraska Corporation, herein called the Grantee whether one or more, the following described real property in Douglas County, Nebraska:

See legal description "Exhibit A"

GRANTOR covenants with GRANTEE that GRANTOR:

- (1) is lawfully seized of such real estate and that it is free from encumbrances except encumbrances of record
- (2) has legal power and lawful authority to convey the same
- (3) warrants and will defend title to the real estate against any acts of the GRANTOR

Executed January 16, 1998.

James B. Lose, Trustee
of the Bowsman Revocable Trust
dated June 11, 1987

By: James B. Lose, Trustee
James B. Lose, Trustee

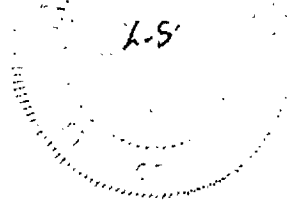
STATE OF Hawaii)
COUNTY OF Hauai) ss.

The foregoing instrument was acknowledged before me on this 16 day of January, 1998, by JAMES B. LOSE, TRUSTEE OF THE BOWSMAN REVOCABLE TRUST dated June 11, 1987.

Sharon J. Delozoff
NOTARY PUBLIC

My commission expires: 1-30-2001

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS



1589
FEB 16 2-14-11
DWR 10-14-11 C/O
FEB 16 01-60000
COMP

NEBRASKA DOCUMENTARY
STAMP TAX
Date 2-10-98
By J

EXHIBIT "A"

PARCEL "A"

A tract of land located in the SW 1/4 of Section 2, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said SW 1/4 of Section 2; thence N00°15'38"E (assumed bearing) along the West line of said SW 1/4 of Section 2, a distance of 83.43 feet to the point of beginning; thence continuing N00°15'38"E along said West line of the SW 1/4 of Section 2, a distance of 1757.60 feet; thence N89°22'44"E, a distance of 1134.37 feet; thence N00°15'38"E, a distance of 805.10 feet to a point on the North line of said SW 1/4 of Section 2; thence N89°22'44"E along said North line of the SW 1/4 of Section 2, a distance of 564.21 feet; thence S00°01'52"E, a distance of 2650.32 feet to a point on the South line of said SW 1/4 of Section 2; thence S89°31'31"W along said South line of the SW 1/4 of Section 2, a distance of 661.41 feet; thence N00°28'29"W along the North right-of-way line of "Q" Street and the Southerly extension thereof, a distance of 50.00 feet to a point on said North right-of-way line of "Q" Street; thence S89°31'31"W along said North right-of-way line of "Q" Street, a distance of 999.96 feet to the point of intersection of said North right-of-way line of "Q" Street and the East right-of-way line of 156th Street; thence N00°15'38"E along said East right-of-way line of 156th Street, a distance of 32.78 feet; thence N89°44'22"W along said East right-of-way line of 156th Street and the Westerly extension thereof, a distance of 50.00 feet to the point of beginning.

SUBJECT TO ROAD RIGHT-OF-WAY

NE }
NW } SW
SE }
SW }

PARCEL "B"

A tract of land located in the NE 1/4 of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northeast corner of said Section 10; thence S00°00'02"W (assumed bearing) along the East line of said NE 1/4 of Section 10, a distance of 85.03 feet to the point of beginning; thence S00°00'02"W along said West right-of-way line of 156th Street, a distance of 2385.96 feet; thence N89°59'58"W, a distance of 50.00 feet; thence N19°13'45"W, a distance of 1810.92 feet; thence S69°36'38"W, a distance of 190.00 feet; thence N20°23'22"W, a distance of 40.03 feet; thence N33°50'43"W, a distance of 80.06 feet; thence N47°18'05"W, a distance of 80.63 feet; thence N60°45'26"W, a distance of 84.06 feet; thence N73°04'29"W, a distance of 321.53 feet; thence Southwesterly on a curve to the right with a radius of 290.87 feet, a distance of 96.65 feet, said curve having a long chord which bears S19°45'04"W, a distance of 96.21 feet; thence S29°16'14"W, a distance of 31.50 feet; thence Northwesterly on a curve to the left with a radius of 637.60 feet, a distance of 80.87 feet, said curve having a long chord which bears N64°21'46"W, a distance of 80.81 feet; thence N67°59'46"W, a distance of 238.30 feet; thence Westerly on a curve to the left with a radius of 616.00 feet, a distance of 416.82 feet, said curve having a long chord which bears N87°22'51"W, a distance of 408.91 feet; thence N16°45'55"W, a distance of 141.88 feet; thence N14°24'57"W, a distance of 154.28 feet; thence N01°23'29"W, a distance of 171.42 feet to a point on the North line of said NE 1/4 of Section 10; thence N88°36'31"E along said North line of NE 1/4 of Section 10, a distance of 1832.58 feet to a point on said South right-of-way line of "Q" Street; thence along said South right-of-way line of "Q" Street on the following described courses; thence S01°23'29"E, a distance of 50.00 feet; thence N88°36'31"E, a distance of 198.78 feet; thence S00°00'02"E, a distance of 35.01 feet; thence N88°35'25"E, a distance of 125.04 feet to the point of beginning.

SUBJECT TO ROAD RIGHT-OF-WAY

NE }
NW } N
SE }

PARCEL "C"

A tract of land located in the NE ¼ of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Beginning at the Southwest corner of said NE ¼ of Section 10, said point also being the Northwest corner of Lot 214, Western Oaks, a subdivision located in the SE ¼ of said Section 10, said point also being the Northeast corner of Lot 188, Mission Ridge, a subdivision located in the SE ¼ of said Section 10; thence N00°06'05"E (assumed bearing) along the West line of said NE ¼ of Section 10, a distance of 314.69 feet; thence S89°53'55"E, a distance of 264.00 feet; thence N00°06'05"E, a distance of 120.00 feet; thence S89°53'55"E, a distance of 43.53 feet; thence S00°06'05"W, a distance of 120.00; thence S89°53'55"E, a distance of 264.00 feet; thence S65°27'54"E, a distance of 76.41 feet; thence Southwesterly on a curve to the left with a radius of 630.00 feet, a distance of 268.66 feet, said curve have a long chord which bears S12°19'05"W, a distance of 266.63 feet; thence S00°06'05"W, a distance of 10.00 feet to a point on the South line of said NE ¼ of Section 10, said point also being on the North line of said Western Oaks; thence S88°52'39"W along said South line of the NE ¼ of Section 10, said line also being said North line of Western Oaks, a distance of 584.81 feet to the Point of Beginning.

SUBJECT TO ROAD RIGHT-OF-WAY

SW NE

REFERENCE DEED DATED JANUARY 16, 1998

GRANTOR: JAMES B. LOSE, TRUSTEE OF REVOCABLE TRUST DATED JUNE 11, 1987
GRANTEE: WEST BAY, INC., A NEBRASKA CORPORATION

998-519



RE
FEB 10 4 03 PM '98

RICHARD H. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

NEBRASKA DOCUMENTARY
STAMP TAX
Date 2/10/98
By [Signature]

TRUSTEE'S DEED

KNOW ALL MEN BY THESE PRESENTS THAT I, JAMES B. LOSE, TRUSTEE OF THE BOWSMAN REVOCABLE TRUST, dated June 11, 1987, herein called the Grantor whether one or more, in consideration of One Dollar and other valuable consideration received from Grantee do hereby grant, bargain, sell, convey, and confirm unto Construction Sciences, Inc., a Nebraska Corporation, herein called the Grantee whether one or more, the following described real property in Douglas County, Nebraska:

See legal description "Exhibit A"

GRANTOR covenants with GRANTEE that GRANTOR:

- (1) is lawfully seized of such real estate and that it is free from encumbrances except encumbrances of record
- (2) has legal power and lawful authority to convey the same
- (3) warrants and will defend title to the real estate against any acts of the GRANTOR

Executed February 6, 1998.

1591
FEB 10 1998
FB 01-60000
EXP 10-14-11 C/O [initials] COMP [initials]
SCAN [initials] PV

James B. Lose, Trustee
of the Bowsmen Revocable Trust
dated June 11, 1987

By: [Signature]
James B. Lose, Trustee

STATE OF Hawaii)
) ss.
COUNTY OF Maui)

The foregoing instrument was acknowledged before me on this 6th day of February, 1998, by JAMES B. LOSE, TRUSTEE OF THE BOWSMAN REVOCABLE TRUST dated June 11, 1987.

[Signature]
NOTARY PUBLIC

My commission expires: ANNA C. BAKER
NOTARY PUBLIC
STATE OF HAWAII
My Commission Exp. Nov. 20, 2001

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

EXHIBIT "A"

A tract of land located in the NE 1/4 of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said NE 1/4 of Section 10, said point also being the Northwest corner of Lot 214, Western Oaks, a subdivision located in the SE 1/4 of said Section 10, said point also being the Northeast corner of Lot 188, Mission Ridge, a subdivision located in the SW 1/4 of said Section 10; thence N00°06'05"E (assumed bearing) along the West line of said NE 1/4 of Section 10, a distance of 314.69 feet to the point of beginning; thence continuing N00°06'05"E along said West line of the NE 1/4 of Section 10, a distance of 2204.23 feet; thence N88°36'31"E, a distance of 35.01 feet; thence N00°06'05"E, a distance of 125.04 feet to a point on the North line of said NE 1/4 of Section 10; thence N88°36'31"E along said North line of NE 1/4 of Section 10, a distance of 436.93 feet; thence S01°23'29"E, a distance of 171.42 feet; thence S14°24'57"E, a distance of 154.28 feet; thence S16°45'55"E, a distance of 141.88 feet; thence Southeasterly on a curve to the right with a radius of 616.00 feet, a distance of 416.82 feet, said curve having a long chord which bears S87°22'51"E, a distance of 408.91 feet; thence S67°59'46"E, a distance of 238.30 feet; thence Southeasterly on a curve to the right with a radius of 637.60 feet, a distance of 80.87 feet, said curve having a long chord which bears S64°21'46"E, a distance of 80.81 feet; thence N29°16'14"E, a distance of 31.50 feet; thence Northeasterly on a curve to the left with a radius of 290.87 feet, a distance of 96.65 feet, said curve having a long chord which bears N19°45'04"E, a distance of 96.21 feet; thence S73°04'29"E, a distance of 321.53 feet; thence S60°45'26"E, a distance of 84.06 feet; thence S47°18'05"E, a distance of 80.63 feet; thence S33°50'43"E, a distance of 80.06 feet; thence S20°23'22"E, a distance of 40.03 feet; thence N69°36'38"E, a distance of 190.00 feet; thence S19°13'45"E, a distance of 1810.92 feet; thence S89°59'58"E, a distance of 50.00 feet to a point on the East line of said NE 1/4 of Section 10; thence S00°00'02"W along said East line of NE 1/4 of Section 10, a distance of 150.22 feet; thence S88°52'39"W, a distance of 125.02 feet; thence S00°00'02"W, a distance of 35.01 feet to a point on the South line of said NE 1/4 of Section 10, said point also being on the North line of Millard Oaks, a subdivision located in said SE 1/4 of Section 10; thence S88°52'39"W along said South line of the NE 1/4 of Section 10, said line also being said North line of Millard Oaks and Western Oaks, a distance of 1924.10 feet; thence N00°06'05"E, a distance of 10.00 feet; thence Northeasterly on a curve to the right with a radius of 630.00 feet, a distance of 268.66 feet, said curve having a long chord which bears N12°19'05"E, a distance of 266.63 feet; thence N65°27'54"W, a distance of 76.41 feet; thence N89°53'55"W, a distance of 264.00 feet; thence N00°06'05"E, a distance of 120.00 feet; thence N89°53'55"W, a distance of 43.53 feet; thence S00°06'05"W, a distance of 120.00 feet; thence N89°53'55"W, a distance of 264.00 feet to the point of beginning.

SUBJECT TO ROAD RIGHT-OF-WAY

NE }
NW } NE
SE }
SW }

REFERENCE DEED DATED FEBRUARY 6, 1998.

GRANTOR: JAMES B. LOSE, TRUSTEE OF REVOCABLE TRUST DATED JUNE 11, 1987

GRANTEE: CONSTRUCTION SCIENCES, INC., A NEBRASKA CORPORATION

97-529
1-27-1981



REC

FEB 10 4 09 PM '98



Affects
Lots 200 &
201

RICHARD F. TARECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

[The Space Above Line is for Recording Data]

**PERMANENT SIGN AND LANDSCAPE EASEMENTS
AND LANDSCAPING, BUFFERING AND SCREENING AGREEMENT**

THIS INDENTURE AND GRANT OF EASEMENT made this 10 day of February 1998, between West Bay, Inc., a Nebraska corporation, (hereinafter referred to as "Grantor"), in favor of Construction Sciences, Inc., a Nebraska corporation, its agents, employees, successors and assigns (hereinafter referred to as the "Grantee").

RECITALS:

WHEREAS, Grantor is the owner of the real property described in Exhibit A attached hereto and hereby made a part hereof ("Tract A"); and

WHEREAS, Grantor desires to grant to Grantee, for the benefit of Grantee, a 100-foot triangular permanent easement on Tract A, as indicated on Exhibit B, for the purpose of erecting and maintaining two monument signs for the Autumn Grove single family subdivision, and a 30-foot landscape easement on Tract A, as indicated on Exhibit B, for the purpose of planting grass, trees and shrubs, and the right to review and approve any and all landscaping, buffering and screening plans for any development on Tract A.

WITNESSETH:

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Grantor does hereby GRANT, SELL and CONVEY unto Grantee a 100-foot triangular permanent easement on Tract A, as indicated on Exhibit B, for the purpose of erecting and maintaining two monument signs for the Autumn Grove single family subdivision, and a 30-foot landscape easement on Tract A, as indicated on Exhibit B, for the purpose of planting grass, trees and shrubs, and the right to review and approve any and all landscaping, buffering and screening plans for any development on Tract A, which such approval shall not be unreasonably withheld.

TO HAVE AND TO HOLD for the non-exclusive uses, benefits, purposes and burdens hereinafter set forth:

1. The Grantor shall not be responsible to the Grantee for any injury to person or damage to property on or about the easements granted herein, unless caused by the negligence or willful misconduct of the Grantor, its agents, servants or employees. The Grantee, on behalf of itself and its successors and assigns, WAIVES and RELEASES any and all claims, causes of action, loss, expense, and damages (including attorneys' fees) against the Grantor arising out of such damage to property or injury to persons other than those caused by the negligence or willful misconduct of the Grantor, its agents, servants or employees.
2. The sign and landscape easements shall expire if not utilized within two (2) years after the recording of this instrument. Grantor shall have the right to review and approve the monument and landscaping plans prior to Grantee installing the same.
3. The easements hereby created are not public easements, but are private easements for the use and benefit of the Grantee referred to herein above. The parties hereto further expressly disclaim the creation of any rights in or for the benefit of the public.
4. The Grantee agrees to erect and maintain the monument signs and plant and maintain any landscaping within the easement area at its sole cost and expense. Grantee shall keep the signs and landscaping in good, neat and tidy condition. The easements created hereunder may be terminated in the event Grantee fails to maintain the monument signs or landscaping in a good, neat and tidy condition.
5. Grantee shall have the right of reasonable access over, across and through Tract A for the purposes of erecting, maintaining and removing the signs.
6. No party acquiring title to Tract A shall impair or interfere with the rights of Grantee to erect and maintain the monument signs nor shall any such party erect any signs in the triangular easement area without the express written consent of Grantee.
7. This instrument shall run with the land and be binding upon Grantor and its respective administrators, successors and assigns, except for the right to review and approve the landscaping, buffering and screening plans for Tract A, which shall not be assignable and shall not run with the land. This instruments shall be construed and governed in accordance with the laws of the State of Nebraska.

EXECUTED this 10 day of February 1998.

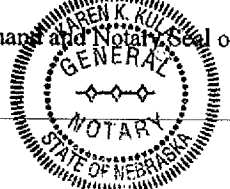
1779
 FEB 20 1998
 REC-14-11
 SCAN

GRANTOR:
 WEST BAY, INC., a Nebraska corporation,
 By: [Signature]
 Thomas E. Smith, President

STATE OF NEBRASKA)
)ss.
 COUNTY OF DOUGLAS)

Before me, a Notary Public qualified for said County and State, personally came Thomas E. Smith, President of West Bay, Inc., known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said corporation.

WITNESS my hand and Notary Seal on this 10th day of February 1998.



[Signature]
 Karen K. Keen
 Notary Public

MY COMMISSION EXPIRES:

JP

LEGAL DESCRIPTION
TOM SMITH'S AREA
AUTUMN GROVE

A tract of land located in the NE 1/4 of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northeast corner of said Section 10; thence S00°00'02"W (assumed bearing) along the East line of said NE 1/4 of Section 10, a distance of 85.03 feet to the point of beginning; thence S00°00'02"W along said West right-of-way line of 156th Street, a distance of 2385.19 feet; thence N89°59'58"W, a distance of 50.00 feet; thence N19°13'45"W, a distance of 1810.92 feet; thence S69°36'38"W, a distance of 190.00 feet; thence N20°23'22"W, a distance of 40.03 feet; thence N33°50'43"W, a distance of 80.06 feet; thence N47°18'05"W, a distance of 80.63 feet; thence N60°45'26"W, a distance of 84.06 feet; thence N73°04'29"W, a distance of 321.53 feet; thence Southwesterly on a curve to the right with a radius of 290.87 feet, a distance of 96.65 feet, said curve having a long chord which bears S19°45'04"W, a distance of 96.21 feet; thence S29°16'14"W, a distance of 31.50 feet; thence Northwesterly on a curve to the left with a radius of 637.60 feet, a distance of 80.87 feet, said curve having a long chord which bears N64°21'46"W, a distance of 80.81 feet; thence N67°59'46"W, a distance of 238.30 feet; thence Westerly on a curve to the left with a radius of 616.00 feet, a distance of 416.82 feet, said curve having a long chord which bears N87°22'51"W, a distance of 408.91 feet; thence N16°45'55"W, a distance of 141.88 feet; thence N14°24'57"W, a distance of 154.28 feet; thence N01°23'29"W, a distance of 171.42 feet to a point on the North line of said NE 1/4 of Section 10; thence N88°36'31"E along said North line of NE 1/4 of Section 10, a distance of 1832.58 feet to a point on said South right-of-way line of "Q" Street; thence along said South right-of-way line of "Q" Street on the following described courses; thence S01°23'29"E, a distance of 50.00 feet; thence N88°36'31"E, a distance of 198.78 feet; thence S00°00'02"E, a distance of 35.01 feet; thence N88°35'25"E, a distance of 92.03 feet to the point of beginning.

Said tract of land contains an area of 43.572 acres, more or less.

NE }
SE } NE
NW }

#97181
2/4/98

E & A CONSULTING GROUP
12001 "Q" STREET
OMAHA, NE 68137

EXHIBIT A
TRACT "A"

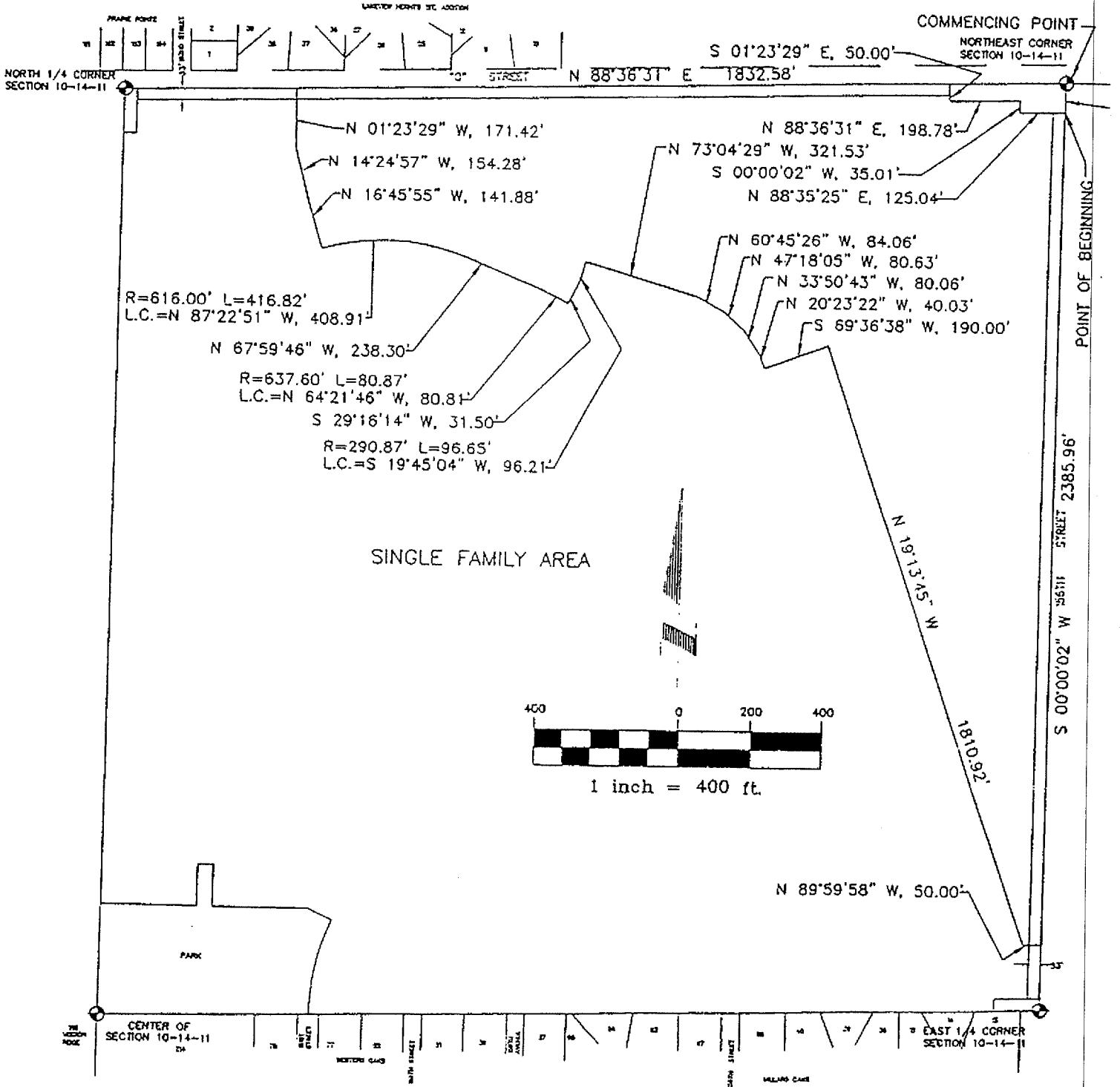
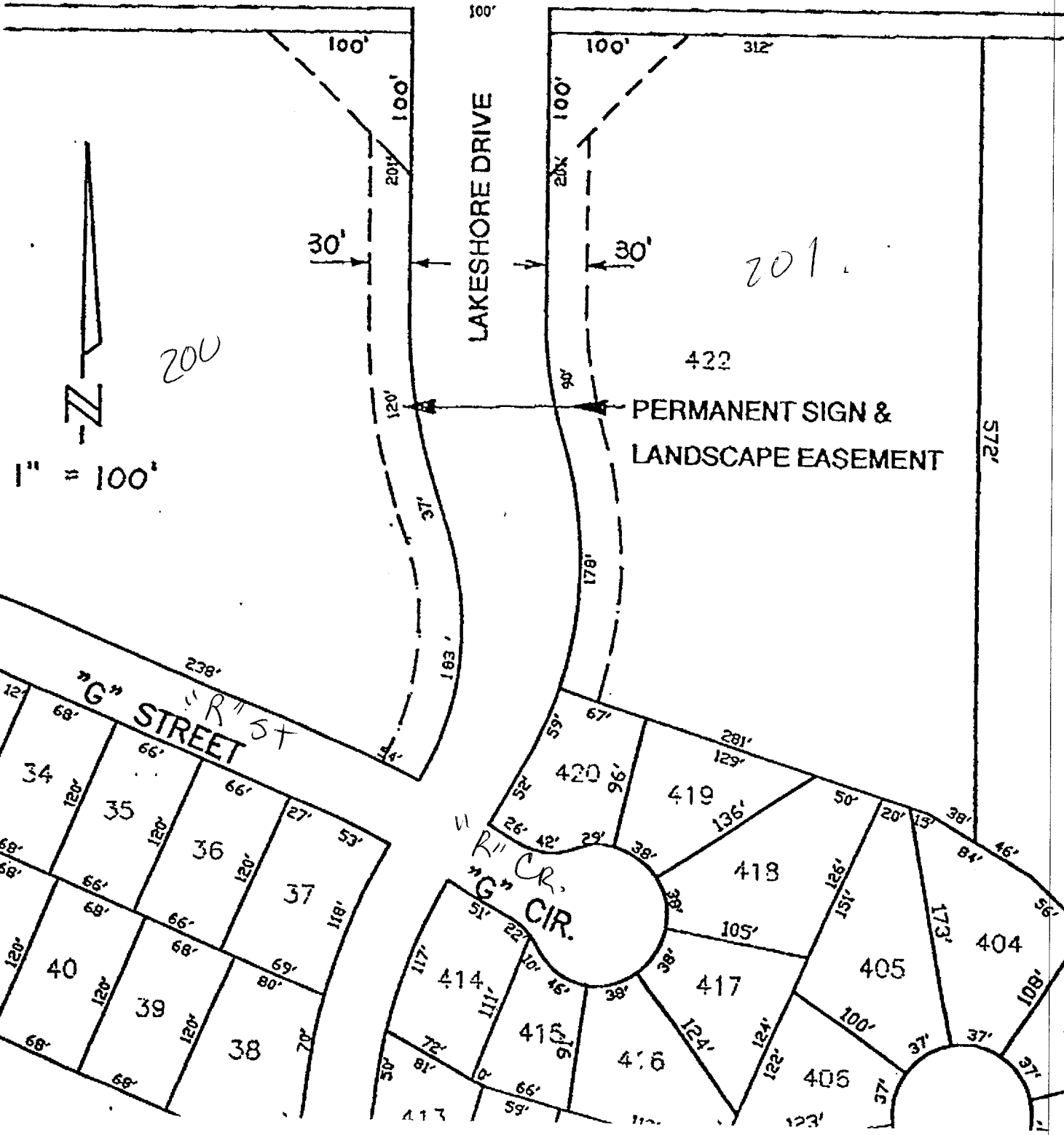


EXHIBIT B



"E" "Q" STREET



1" = 100'

200

201

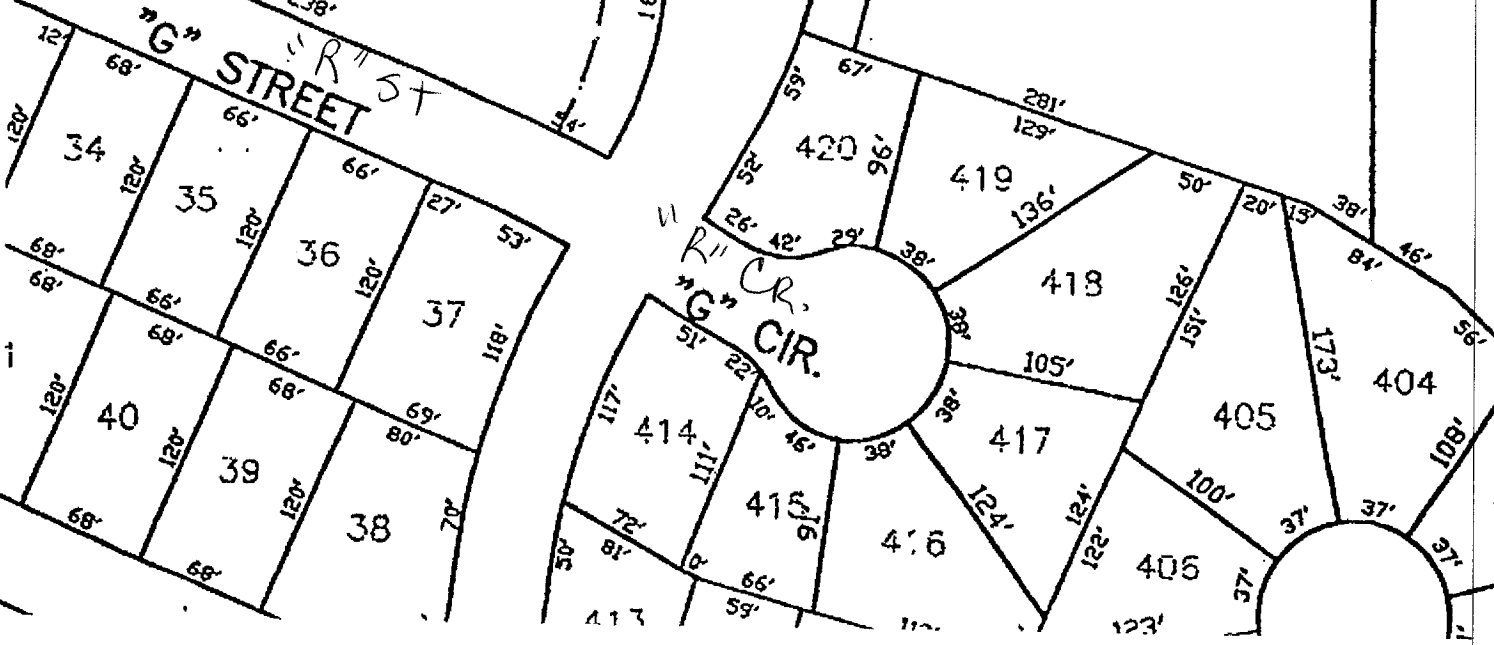
PERMANENT SIGN & LANDSCAPE EASEMENT

LAKESHORE DRIVE

"G" STREET

"R" ST

"G" CR. G CIR.



CG8-329



File No. 960

FEB 10 4 06 PM '98

RICHARD N. JARECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

WHEN RECORDED, PLEASE RETURN TO:
First National Bank of Omaha
11404 West Dodge Road
Omaha, NE 68154
ATTN: Mortgage Loan Department

DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS

THIS DEED OF TRUST IS A CONSTRUCTION SECURITY AGREEMENT AND SECURES AN OBLIGATION WHICH THE TRUSTOR INCURRED FOR THE PURPOSE OF MAKING AN IMPROVEMENT OF THE REAL ESTATE IN WHICH THE SECURITY INTEREST IS GIVEN THAT IS A CONSTRUCTION SECURITY INTEREST.

THIS DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS, made this 10th day of February, 1998, between Construction Sciences, Inc., a Nebraska corporation, as Trustor, and First National Bank of Omaha, a national banking association, Omaha, Nebraska, as Trustee and Beneficiary:

WITNESSETH:

That Trustor irrevocably grants, transfers and assigns to Trustee in trust, with power of sale, the following described Real Estate:

A tract of land located in the Northeast Quarter of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said Northeast Quarter of Section 10, said point also being the Northwest corner of Lot 214 Western Oaks, a subdivision located in the Southeast Quarter of said Section 10, said point also being the Northeast corner of Lot 188, Mission Ridge, a subdivision located in the Southwest Quarter of said Section 10; thence North 00°06'05" East (assumed bearing) along the West line of said Northeast Quarter of Section 10, a distance of 314.69 feet to the Point of Beginning; thence continuing North 00°06'05" East along said West line of the Northeast Quarter of Section 10, a distance of 2204.23 feet; thence North 88°36'31" East, a distance of 35.01 feet; thence North 00°06'05" East, a distance of 92.03 feet to a point on the South right-of-way line of "Q" Street; thence North 88°36'31" East along said South right-of-way line of "Q" Street, a distance of 437.79 feet; thence South 01°23'29" East, a distance of 138.42 feet; thence South 14°24'57" East, a distance of 154.28 feet; thence South 16°45'55" East, a distance of 141.88 feet; thence Southeasterly on a curve to the right with a radius of 616.00 feet, a distance of 416.82 feet, said curve having a long chord which bears South 87°22'51" East, a distance of 408.91 feet; thence South 67°59'46" East, a distance of 238.30 feet; thence Southeasterly on a curve to the right with a radius of 637.60 feet, a distance of 80.87 feet, said curve having a long chord which bears South 64°21'46" East, a distance of 80.81 feet; thence North 29°16'14" East, a distance of 31.50 feet; thence Northeasterly on a curve to the left with a radius of 290.87 feet, a distance of 96.65 feet, said curve having a long chord which bears North 19°45'04" East, a distance of 96.21 feet; thence South 73°04'29" East, a distance of 321.53 feet; thence South 60°45'26" East, a distance of 84.06 feet; thence South 47°18'05" East, a distance of 80.63 feet; thence South 33°50'43" East, a distance of 80.06 feet; thence South 20°23'22" East, a distance of 40.03 feet; thence North 69°36'38" East, a distance of 190.00 feet; thence South 19°13'45" East, a

NE
NW NE
SE
SW

3000
FEE 555
FB 01-60000
10-14-11 C/O
SCAN dc

MS
VP

distance of 1810.92 feet; thence South 89°59'58" East, a distance of 17.00 feet to a point on the West right-of-way line of 156th Street; thence South 00°00'02" West along said West right-of-way line of 156th Street, a distance of 150.87 feet; thence South 88°52'39" West, a distance of 92.02 feet; thence South 00°00'02" West, a distance of 35.01 feet to a point on the South line of said Northeast Quarter of Section 10, said point also being on the North line of Millard Oaks, a subdivision located in said Southeast Quarter of Section 10; thence South 88°52'39" West along said South line of the Northeast Quarter of Section 10, said line also being said North line of Millard Oaks and Western Oaks, a distance of 1924.10 feet; thence North 00°06'05" East, a distance of 10.00 feet; thence Northeasterly on a curve to the right with a radius of 630.00 feet, a distance of 268.66 feet, said curve having a long chord which bears North 12°19'05" East, a distance of 266.63 feet; thence North 65°27'54" West, a distance of 76.41 feet; thence North 89°53'55" West, a distance of 264.00 feet; thence North 00°06'05" East, a distance of 120.00 feet; thence North 89°53'55" West, a distance of 43.53 feet; thence South 00°06'05" West, a distance of 120.00 feet; thence North 89°53'55" West, a distance of 264.00 feet to the point of beginning

Said tract of land contains an area of 110.990 acres, more or less.

together with all interest which Trustor now has or may hereafter acquire in and to said Real Estate and in and to: (a) all easements and rights of way appurtenant thereto and all of the estate, right, title, interest, claim and demand whatsoever of Trustor in Real Estate, either at law or in equity, now or hereafter acquired; (b) all structures, buildings and improvements of every kind and description now or at any time hereafter located or placed on the Real Estate (the "Improvements"); (c) all machinery, appliances, apparatus, equipment and fixtures now or hereafter located in, upon or under the Real Estate or the Improvements, or any part thereof, and used or usable in connection with any present or future operation thereof, and all additions thereto and replacements therefore; (d) all articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including, without limitation, all furniture and furnishings, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Real Estate or the Improvements, or any portion thereof, and owned by the Trustor or in which Trustor now has or hereafter acquires an interest; (e) all of the rents, royalties, issues and profits of the Real Estate and the Improvements, or arising from the use or enjoyment of all or any portion thereof or from any lease, license, concession, occupancy agreement or other agreement pertaining thereto (the "Rents and Profits"), and all right, title and interest of Trustor in and to all leases, licenses and occupancy agreements of the Real Estate or the Improvements now or hereafter entered into and all right, title and interest of Trustor thereunder, including without limitation, cash or securities deposited thereunder to secure performance by tenants, lessees or licensees, as applicable, of their obligations thereunder; (f) all building materials and supplies now or hereafter placed on the Real Estate or in the Improvements; (g) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and (h) all other or greater rights and interests of every nature in the Real Estate and the Improvements and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Trustor. The Real Estate and the additional property above described are hereinafter referred to as the "Mortgaged Property".

FOR THE PURPOSE OF SECURING EACH OF THE FOLLOWING (the "Secured Obligations"):

A. Payment of the principal sum of Four Million Two Hundred Thousand Dollars (\$4,200,000.00) evidenced by that certain revolving promissory note dated of even date herewith (hereinafter referred to as the "Promissory Note") issued by Trustor in said amount and payable to the order of Beneficiary, together with interest thereon and late charges according to the terms of the Promissory Note and all renewals, extensions and modifications thereof.

2.998

File No.960

28. Miscellaneous:

- A. Any provision in this Deed of Trust to the contrary notwithstanding, the occurrence of any Event of Default and the right of Beneficiary to accelerate contained herein shall be subject to the applicable grace and cure periods, if any, provided in the Promissory Note secured hereby.
- B. Notwithstanding anything contained in this Deed of Trust to the contrary or contained in the Promissory Note or contained in any of the other "Loan Documents" as defined in the Promissory Note, the sale of lots comprising the Real Estate in the ordinary course of Trustor's business will not constitute an Event of Default or enable Beneficiary or Trustee to accelerate the indebtedness secured hereby.
- C. Provided that an Event of Default has not occurred and is not continuing under this Deed of Trust, the Promissory Note or any of the other Loan Documents, Trustee and Beneficiary shall reconvey platted lots comprising the Real Estate upon receipt by Beneficiary of the release amount set forth in the Promissory Note secured hereby and payment of a \$50.00 Release Fee for each lot reconveyed from this Deed of Trust.
- D. Trustee and Beneficiary hereby agrees to execute and deliver to Trustor such documents, and take such actions, as shall be reasonably required for the subdivision platting of the Real Estate into 410 - 425 single family residential lots, to be known as Autumn Grove Addition, a subdivision, as surveyed, platted and recorded, Douglas County, Nebraska, and sanitary and improvement district installation of special lot development improvements.

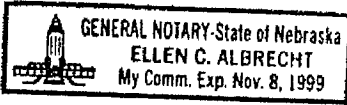
IN WITNESS WHEREOF, Trustor has executed this Deed of Trust on the date first above written.

CONSTRUCTION SCIENCES, INC.,
a Nebraska corporation

By: [Signature]
John J. Smith, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me, a Notary Public, this 10th day of February, 1998, by John J. Smith, President of Construction Sciences, Inc., a Nebraska corporation, on behalf of said corporation.



[Signature]
Notary Public

2.998

File No.960

EXHIBIT "A"

Permitted Exceptions

MUD Notice dated March 14, 1974 in Miscellaneous Record Book 533 at Page 501 regarding the installation of a water main.

098-324



File No. 960

FEB 10 4 06 PM '98

RICHARD V. TARECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

WHEN RECORDED, PLEASE RETURN TO:
First National Bank of Omaha
11404 West Dodge Road
Omaha, NE 68154
ATTN: Mortgage Loan Department

DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS

THIS DEED OF TRUST IS A CONSTRUCTION SECURITY AGREEMENT AND SECURES AN OBLIGATION WHICH THE TRUSTOR INCURRED FOR THE PURPOSE OF MAKING AN IMPROVEMENT OF THE REAL ESTATE IN WHICH THE SECURITY INTEREST IS GIVEN THAT IS A CONSTRUCTION SECURITY INTEREST.

THIS DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS, made this 10th day of February, 1998, between Construction Sciences, Inc., a Nebraska corporation, as Trustor, and First National Bank of Omaha, a national banking association, Omaha, Nebraska, as Trustee and Beneficiary:

WITNESSETH:

That Trustor irrevocably grants, transfers and assigns to Trustee in trust, with power of sale, the following described Real Estate:

A tract of land located in the Northeast Quarter of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said Northeast Quarter of Section 10, said point also being the Northwest corner of Lot 214 Western Oaks, a subdivision located in the Southeast Quarter of said Section 10, said point also being the Northeast corner of Lot 188, Mission Ridge, a subdivision located in the Southwest Quarter of said Section 10; thence North 00°06'05" East (assumed bearing) along the West line of said Northeast Quarter of Section 10, a distance of 314.69 feet to the Point of Beginning; thence continuing North 00°06'05" East along said West line of the Northeast Quarter of Section 10, a distance of 2204.23 feet; thence North 88°36'31" East, a distance of 35.01 feet; thence North 00°06'05" East, a distance of 92.03 feet to a point on the South right-of-way line of "Q" Street; thence North 88°36'31" East along said South right-of-way line of "Q" Street, a distance of 437.79 feet; thence South 01°23'29" East, a distance of 138.42 feet; thence South 14°24'57" East, a distance of 154.28 feet; thence South 16°45'55" East, a distance of 141.88 feet; thence Southeasterly on a curve to the right with a radius of 616.00 feet, a distance of 416.82 feet, said curve having a long chord which bears South 87°22'51" East, a distance of 408.91 feet; thence South 67°59'46" East, a distance of 238.30 feet; thence Southeasterly on a curve to the right with a radius of 637.60 feet, a distance of 80.87 feet, said curve having a long chord which bears South 64°21'46" East, a distance of 80.81 feet; thence North 29°16'14" East, a distance of 31.50 feet; thence Northeasterly on a curve to the left with a radius of 290.87 feet, a distance of 96.65 feet, said curve having a long chord which bears North 19°45'04" East, a distance of 96.21 feet; thence South 73°04'29" East, a distance of 321.53 feet; thence South 60°45'26" East, a distance of 84.06 feet; thence South 47°18'05" East, a distance of 80.63 feet; thence South 33°50'43" East, a distance of 80.06 feet; thence South 20°23'22" East, a distance of 40.03 feet; thence North 69°36'38" East, a distance of 190.00 feet; thence South 19°13'45" East, a

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distance of 1810.92 feet; thence South 89°59'58" East, a distance of 17.00 feet to a point on the West right-of-way line of 156th Street; thence South 00°00'02" West along said West right-of-way line of 156th Street, a distance of 150.87 feet; thence South 88°52'39" West, a distance of 92.02 feet; thence South 00°00'02" West, a distance of 35.01 feet to a point on the South line of said Northeast Quarter of Section 10, said point also being on the North line of Millard Oaks, a subdivision located in said Southeast Quarter of Section 10; thence South 88°52'39" West along said South line of the Northeast Quarter of Section 10, said line also being said North line of Millard Oaks and Western Oaks, a distance of 1924.10 feet; thence North 00°06'05" East, a distance of 10.00 feet; thence Northeasterly on a curve to the right with a radius of 630.00 feet, a distance of 268.66 feet, said curve having a long chord which bears North 12°19'05" East, a distance of 266.63 feet; thence North 65°27'54" West, a distance of 76.41 feet; thence North 89°53'55" West, a distance of 264.00 feet; thence North 00°06'05" East, a distance of 120.00 feet; thence North 89°53'55" West, a distance of 43.53 feet; thence South 00°06'05" West, a distance of 120.00 feet; thence North 89°53'55" West, a distance of 264.00 feet to the point of beginning

Said tract of land contains an area of 110.990 acres, more or less.

together with all interest which Trustor now has or may hereafter acquire in and to said Real Estate and in and to: (a) all easements and rights of way appurtenant thereto and all of the estate, right, title, interest, claim and demand whatsoever of Trustor in Real Estate, either at law or in equity, now or hereafter acquired; (b) all structures, buildings and improvements of every kind and description now or at any time hereafter located or placed on the Real Estate (the "Improvements"); (c) all machinery, appliances, apparatus, equipment and fixtures now or hereafter located in, upon or under the Real Estate or the Improvements, or any part thereof, and used or usable in connection with any present or future operation thereof, and all additions thereto and replacements therefore; (d) all articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including, without limitation, all furniture and furnishings, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Real Estate or the Improvements, or any portion thereof, and owned by the Trustor or in which Trustor now has or hereafter acquires an interest; (e) all of the rents, royalties, issues and profits of the Real Estate and the Improvements, or arising from the use or enjoyment of all or any portion thereof or from any lease, license, concession, occupancy agreement or other agreement pertaining thereto (the "Rents and Profits"), and all right, title and interest of Trustor in and to all leases, licenses and occupancy agreements of the Real Estate or the Improvements now or hereafter entered into and all right, title and interest of Trustor thereunder, including without limitation, cash or securities deposited thereunder to secure performance by tenants, lessees or licensees, as applicable, of their obligations thereunder; (f) all building materials and supplies now or hereafter placed on the Real Estate or in the Improvements; (g) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and (h) all other or greater rights and interests of every nature in the Real Estate and the Improvements and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Trustor. The Real Estate and the additional property above described are hereinafter referred to as the "Mortgaged Property".

FOR THE PURPOSE OF SECURING EACH OF THE FOLLOWING (the "Secured Obligations"):

A. Payment of the principal sum of Four Million Two Hundred Thousand Dollars (\$4,200,000.00) evidenced by that certain revolving promissory note dated of even date herewith (hereinafter referred to as the "Promissory Note") issued by Trustor in said amount and payable to the order of Beneficiary, together with interest thereon and late charges according to the terms of the Promissory Note and all renewals, extensions and modifications thereof.

B. Performance, discharge of and compliance with every other obligation, covenant and agreement of Trustor in the Promissory Note, other than as set forth in A. above.

C. Performance, discharge of and compliance with every obligation, covenant and agreement of Trustor contained herein, incorporated herein by reference or contained in any other "Loan Document," as defined in the Promissory Note or in any other agreement now or hereafter at any time given by Trustor to secure any indebtedness or obligation hereby secured, or any part thereof.

D. Payment of all fees and charges of Beneficiary, whether or not set forth herein.

E. Payment of future advances necessary to protect the Mortgaged Property.

F. Payment of future advances to be made at the option of Trustor and Beneficiary.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS:

1. **Title:** That it is lawfully seized and possessed of a good and indefeasible title and estate to the Mortgaged Property in fee simple and will forever warrant and defend the title thereto against the claims and demands of all persons whosoever; that it will, at its expense, maintain and preserve the lien of this Deed of Trust as a first and paramount lien upon the Mortgaged Property, subject only to the Permitted Exceptions set forth in Exhibit "A" attached hereto.

2. **Maintenance:** To keep the Mortgaged Property in good condition and repair; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay, when due, all claims for labor performed and materials furnished therefor and for any alterations thereof, to comply with the provisions of restrictions affecting the Mortgaged Property; not to remove, demolish or materially alter any building, or the character or use thereof at any time thereon; not to drill or extract nor to permit the drilling for or extraction of oil, gas or other hydrocarbon substances or any mineral of any kind unless the written consent of Beneficiary is first had and obtained; not to commit or permit any waste thereof or any act upon the Mortgaged Property in violation of law; to do all other acts in a timely and proper manner which from the character or use of the Mortgaged Property may be reasonably necessary to protect and preserve said security, the specific enumerations herein not excluding the general.

3. **Construction of Improvements:** To complete in good and workmanlike manner any building or improvement or repair relating thereto which may be begun on the Mortgaged Property or contemplated by the loan secured hereby, to pay when due all costs and liabilities incurred therefor, and not to permit any construction lien against the Mortgaged Property. Trustor also agrees, anything in this Deed of Trust to the contrary notwithstanding: (a) to promptly commence work and to complete the proposed Improvements promptly, (b) to complete same in accordance with plans and specifications as approved by Beneficiary, (c) to comply with all of the terms of any construction loan agreement between Trustor and Beneficiary, (d) to allow Beneficiary to inspect the Mortgaged Property at all times during construction, and (e) to replace any work or materials unsatisfactory to Beneficiary, within fifteen (15) days after written notice from Beneficiary of such fact, which notice may be given to Trustor by registered or certified mail, sent to his last known address, or by personal service of the same.

4. Omitted.

5. **Taxes and Other Sums Due:** To pay, satisfy and discharge, at least ten (10) days before delinquency, all general and special taxes and assessments affecting the Mortgaged Property, and in no event later than the date such amounts become due: (1) all encumbrances, charges and liens, with interest, on the Mortgaged Property, or any part thereof, which are, or appear to Beneficiary to be prior to or superior hereto, (2) all costs, fees and expenses of this trust, whether or not described herein, (3) fees or charges for any statement regarding the obligation secured hereby in any amount demanded by Beneficiary, not to exceed

the maximum amount allowed by law therefor at the time when such request is made, (4) such other charges as the Beneficiary may deem reasonable for services rendered by Beneficiary and furnished at the request of Trustor or any successor in interest to Trustor, (5) if the Mortgaged Property includes a leasehold estate, all payments and obligations required of the Trustor, or his successor in interest, under the terms of the instruments or instruments creating such leasehold, Trustor hereby agreeing not to amend, change, or modify his leasehold interest or the terms on which he has such leasehold interest, or to do so, without the written consent of Beneficiary being first obtained, (6) all payments and monetary obligations required of the owner of the Mortgaged Property under any declaration of covenants, conditions and restrictions pertaining to the Mortgaged Property or any modification thereof. Should Trustor fail to make any such payment, Beneficiary, without contesting the validity or amount, may elect to make or advance such payment, together with any costs, expenses, fees or charges relating thereto, including employing counsel and paying his reasonable fees. Trustor agrees to notify Beneficiary immediately upon receipt by Trustor of notice of any increase in the assessed value of the Mortgaged Property and agrees that Beneficiary, in the name of Trustor, may contest by appropriate proceedings such increase in assessment.

In the event of the passage of any law deducting from the value of real property for the purposes of taxation any lien thereon or changing in any way the laws for the taxation of deeds of trust or debts secured by deeds of trust for state or local purposes, or the manner of the collection of any such taxes, so as to affect this Deed of Trust, the holder of this Deed of Trust and of the obligations which it secures shall have the right to declare all sums secured hereby due as of a date to be specified by not less than 30 days' written notice to be given to Trustor by Beneficiary; provided, however, that such election shall be ineffective if Trustor is permitted by law to pay the whole of such tax in addition to all other payments required hereunder and if, prior to such specified date, does pay such tax and agrees to pay any such tax when hereafter levied or assessed against the Mortgaged Property.

Notwithstanding the foregoing, nothing in this Deed of Trust shall be construed to obligate Trustor to pay special assessments on the Real Estate prior to the time special assessments become delinquent.

6. **Sums Advanced to Bear Interest:** To pay upon demand any sums advanced or paid by Beneficiary or Trustee under any clause or provision of this Deed of Trust. Any such sums, until so repaid, shall be secured hereby and bear interest from the date advanced or paid at the default rate in the Promissory Note and shall be secured by this Deed of Trust.

7. **Assignment of Deposits:** That as further additional security if this be a construction loan, Trustor hereby transfers and assigns to Beneficiary during continuance of these Trusts, all right, title and interest to any and all monies deposited by Trustor or deposited on behalf of Trustor with any city, county, public body or agency, sanitary district, gas and/or electric company, telephone company and any other body or agency, for the installation or to secure the installation of any utility by Trustor, pertaining to the Mortgaged Property.

8. **Failure of Trustor to Comply with Deed of Trust:** Should Trustor fail to make any payment, or to do any act as provided in this Deed of Trust, or fail to perform any obligation secured by this Deed of Trust, or do any act Trustor agreed not to do, the same shall constitute an Event of Default under this Deed of Trust. Beneficiary, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof and without contesting the validity or amount of the same, may (a) make or do the same in such manner and to such extent as it may deem necessary to protect the security hereof, Beneficiary being authorized to enter upon the Mortgaged Property for such purposes, and (b) pay, purchase, contest or compromise any encumbrance, charge or lien, which in its judgement is or appears to be prior or superior hereto, and (c) in exercising any such power, pay necessary expenses, employ counsel and pay his reasonable fees. Trustor agrees to repay any amount so expended on demand of Beneficiary.

IT IS MUTUALLY AGREED THAT:

9. **Litigation:** Trustor shall defend this Trust in any action or proceeding purporting to affect the Mortgaged Property, whether or not it affects the security hereof, or purporting to affect the rights or powers of Beneficiary or Trustee, and shall file and prosecute all necessary claims and actions to prevent or recover for any damage to or destruction of the Mortgaged Property, and either Trustee or Beneficiary is hereby authorized, without obligation so to do, to commence, appear in or defend any such action, whether brought by or against Trustor, Beneficiary or Trustee, or with or without suit, to exercise or enforce any other right, remedy or power available or conferred hereunder, whether or not judgement be entered in any action or proceeding; and Trustor or Beneficiary may appear or intervene in any action or proceeding, and retain counsel therein; and take such action therein, as either may be advised and may settle, compromise or pay the same or any other claims and, in the behalf and for any of said purposes, may expend and advance such sums of money as either may deem necessary. Whether or not Trustor so appears or defends, Trustor on demand shall pay all costs and expenses of Beneficiary and Trustee, including costs of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear by virtue of being made a party defendant or otherwise and irrespective of whether the interest of Beneficiary or Trustee in the Mortgaged Property is directly questioned by such action, including but not limited to any action for the condemnation or partition of the Mortgaged Property.

10. **Condemnation:** All sums due, paid or payable to Trustor, or any successor in interest of Trustor, whether by way of judgement, settlement or otherwise, (a) for injury or damage to the Mortgaged Property, or (b) in connection with any condemnation for public use or injury to the Mortgaged Property or any part thereof, or (c) in connection with the transaction financed by the loan secured hereby, or (d) arising out of all causes of action, whether accruing before or after the date of this Deed of Trust, sounding in tort or contract, including causes of action for fraud or concealment of a material fact, together with the settlements, proceeds, awards and damages, direct and consequential, in connection therewith, are hereby absolutely and irrevocably assigned and shall be paid to Beneficiary. Beneficiary shall be entitled, at its option, to commence, intervene in, appear in and prosecute in its own name, any action or proceeding, or to make any compromise or settlement, in connection with any such taking or damage. Trustor agrees to execute such further assignments of any compensation, award, damages, rights of action and proceeds as Beneficiary may acquire.

All amounts received by Beneficiary pursuant to this Deed of Trust under any fire or other insurance policy, in connection with any condemnation for public use of or injury to the Mortgaged Property, for injury or damage to the Mortgaged Property or in connection with the transaction financed by the loan secured hereby are to be applied, at the option of Beneficiary, upon any indebtedness secured hereby. No such application, use or release shall cure or waive any Event of Default or notice of default, hereunder or invalidate any act done pursuant to such notice.

11. **Consent, Partial Reconveyance, Etc.:** That at any time, or from time to time, without liability therefor, and without notice, upon written request of Beneficiary, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, or the lien of this Deed of Trust upon the remainder of the Mortgaged Property for the full amount of the indebtedness then or thereafter secured hereby, or the rights or powers of the Beneficiary or Trustee with respect to the remainder of the Mortgaged Property, Trustee may (a) reconvey any part of such property, (b) consent to the making of any map or plat thereof, (c) join in granting any easement thereon, or (d) join in any extension agreement or any agreement subordinating the lien or charge hereof.

12. **Full Reconveyance:** Upon written request of Beneficiary stating that all sums secured hereby have been paid, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters of fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be designated as "the person or persons legally entitled

thereto." Such request and reconveyance shall operate as a reassignment of the rents, income, issues and profits hereinbefore assigned to Beneficiary.

13. **Right to Collect and Receive Rents and Profits:** Notwithstanding the assignment of the Rents and Profits set forth above, Beneficiary hereby grants permission to Trustor to collect and retain the rents, income, issues and profits of the Mortgaged Property as they become due and payable, but reserves the right to revoke such permission at any time, with or without cause, by notice in writing to Trustor, mailed to Trustor at his last known address. In any event, such permission to Trustor automatically shall be revoked upon default by Trustor in payment of indebtedness secured hereby or in the performance of any agreement secured hereunder. On any such default, Beneficiary may at any time without notice, either in person, by agent, or by receiver to be appointed by the court, and without regard to the adequacy of any security for the indebtedness secured hereby, enter upon and take possession of the Mortgaged Property, or any part thereof, make, cancel, enforce or modify leases; obtain and eject tenants, set or modify rents; in its own name sue or otherwise collect the rents, income, issues and profits thereof, including those past due and unpaid; and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby and in such order as Beneficiary may determine; and except for such application, Beneficiary shall not be liable to any person for the collection or noncollection of any rents, income, issues or profits, for the failure to assert or enforce any of the foregoing rights, nor shall Beneficiary be charged with any of the duties and obligation of a mortgagee in possession. The entering upon and taking possession of the Mortgaged Property, the collection of such rents, income, issues or profits, the doing of other acts herein authorized, and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

14. **Acceleration Clause; Judicial Foreclosure or Trustee's Sale on Default:** Upon the occurrence of any one or more of the following (hereinafter referred to as an "Event of Default"):

(a) failure by Trustor to pay within ten (10) days of the date such payment is due and payable, except with respect to the final payment, for which there is no grace period, (i) any payment of principal of or interest on the Promissory Note, or (ii) any other sum due under the Promissory Note or under any other "Loan Document," as defined in the Promissory Note, together with interest thereon;

(b) failure by Trustor to punctually perform or observe any covenant or agreement contained in this Deed of Trust (other than the monetary obligations described in subparagraph (a) above) and such failure shall not have been cured within thirty (30) days after written notice from Beneficiary of such failure;

(c) the occurrence of a default, or an Event of Default, under any Loan Document (other than the Promissory Note) or under any other obligation of Trustor to Beneficiary, whether or not existing on the date hereof or hereafter created or arising, and such failure is not cured within the applicable cure period, if any;

(d) Trustor shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or Trustor shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Trustor or of all or any part of the "Mortgaged Property," or of any or all of the royalties, revenues, rents, issues or profits thereof; or Trustor shall make any general assignment for the benefit of creditors, or shall admit in writing Trustor's inability to pay its debts generally as they become due;

(e) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Trustor seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator of Trustor or of all or any part of the Mortgaged Property, or of any or all of the royalties, revenues, rents, issues or profits thereof, shall be appointed without the consent or acquiescence of Trustor and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive);

(f) a writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the Mortgaged Property, or any judgment for monetary damages shall be entered against Trustor which shall become a lien on the Mortgaged Property, or any portion thereof or interest therein, and such execution, attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within sixty (60) days after its entry or levy;

(g) any suit or proceeding shall be filed against Trustor or any endorser or surety on any of the Loan Documents which, if adversely determined, could substantially impair the ability of Trustor or any endorser or surety to perform any of their obligations contained in the Loan Documents, as determined by Beneficiary in its sole and absolute discretion, provided that such suit or proceeding is not dismissed within thirty (30) days after service of summons upon such party;

(h) if, during the term of the Promissory Note, Trustor shall, without the prior written approval of Beneficiary, sell, convey, alienate, mortgage or encumber the Mortgaged Property, or any part thereof or any interest therein, or shall be divested of its title or any interest therein, in any manner, whether voluntarily or involuntarily; or if there is any merger, consolidation or dissolution affecting Trustor;

(i) any assignment by Trustor of the whole or any part of the rents, issues or profits arising from the Mortgaged Property to any person without the consent of Beneficiary;

(j) at any time any representation, warranty or statement made by Trustor in any Loan Document, certificate or financial statement delivered by Trustor shall be incorrect or misleading in any material respect; or any material misrepresentation shall at any time be made to Beneficiary by Trustor; or

(k) if any of the events in (d), (e) or (f) shall occur with respect to any Guarantor of the Promissory Note;

then, at the option of Beneficiary, Beneficiary may declare all sums evidenced by the Promissory Note, together with all accrued interest and any other sums due under any of the Secured Obligations, if such Event of Default is not cured and made good within such time and after such notice as may be required by applicable law, immediately due and payable and this Deed of Trust may be foreclosed in the manner provided by law for the foreclosure of mortgages on real property; or the Mortgaged Property may be sold in the manner provided in the Nebraska Trust Deeds Act under the power of sale conferred upon the Trustee hereunder.

In the event that the property is sold pursuant to the power of sale conferred upon the Trustee hereunder, the Trustee shall cause to be filed of record a written notice of default and election to sell the Mortgaged Property. After the lapse of such time as then may be required by law following recordation of such notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Mortgaged Property, either as a whole or in separate parcels, and in such order as it or Beneficiary may determine at public auction to the highest bidder. Trustee may postpone the sale of all or any portion of the Mortgaged Property by public announcement at the

time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recital in such deed of any matters of fact or otherwise shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at such sale. The Trustee shall apply the proceeds of the Trustee's sale, first, to the costs and expenses of exercising the power of sale and of the sale, including the payment of Trustee's fees actually incurred, not to exceed five percent of the principal balance unpaid at the time of recording the notice of default, second, to the payment of the obligation secured by this trust deed, third, to the payment of junior trust deeds, mortgages or other liens, and the balance, if any, to the person or persons legally entitled thereto.

Upon any Event of Default under this Deed of Trust or any note secured hereby and following any acceleration of maturity of the indebtedness secured hereby, a tender of payment of the amount necessary to satisfy the entire indebtedness secured hereby, made at any time prior to a foreclosure sale, whether under the power of sale contained herein or pursuant to judicial foreclosure proceedings, shall constitute an evasion of the payment terms hereof and shall be deemed a voluntary prepayment of the indebtedness; and any such payment, to the extent permitted by law, must, therefore, include a premium required under the prepayment privilege, if any, contained in any note secured hereby; or, if at that time there shall be no privilege of prepayment, then such payment, to the extent permitted by law, will include a premium for such prepayment of five percent of the then principal balance.

15. Omitted.

16. Omitted.

17. Omitted.

18. Substitution of Trustee: That Beneficiary may, from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed and acknowledged by Beneficiary and recorded in the office of the register of deeds of the county or counties where the Mortgaged Property is situated, shall be conclusive proof of proper substitution of such Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, power and duties.

19. No Waiver by Beneficiary: No waiver by Beneficiary of any right under this Deed of Trust shall be effective unless in writing. Waiver by Beneficiary of any right granted to Beneficiary under this Deed of Trust or of any provision of this Deed of Trust as to any transaction or occurrences shall not be deemed a waiver as to any future transaction or occurrences. By accepting payment of any sum secured hereby after its due date, or by making any payment or performing any act on behalf of Trustor that Trustor was obligated hereunder, but failed to make or perform, or by adding any payment so made by Beneficiary to the indebtedness secured hereby, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to require prompt performance of all other acts required hereunder, or to declare a Event of Default for failure so to pay.

20. Waiver of Statute of Limitations: Time is of the essence in all Trustor's obligations hereunder; and to the extent permitted by law, Trustor waives all present or future statutes of limitations with respect to any debt, demand or obligation secured hereby in any action or proceeding for the purpose of enforcing this Trust or any right or remedies hereunder.

21. Inspection and Business Records: Beneficiary at any time during the continuation of this Trust may enter and inspect the Mortgaged Property at any reasonable time. Trustor agrees to provide Beneficiary, within 120 days after each fiscal year of Trustor, current operating and financial statements of Trustor and John J. Smith in form satisfactory Lender, as Lender shall request. Trustor further agrees when requested by Beneficiary to promptly deliver in

writing such further additional information as required by Beneficiary relating to any such financial statements.

22. Remedies: No remedy herein provided shall be exclusive of any other remedy herein or now or hereafter existing by law, but shall be cumulative. Every power or remedy hereby given to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by them, and either of them may pursue inconsistent remedies. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before, contemporaneously with, or after the sale is made hereunder, and on any Event of Default of Trustor, Beneficiary may, at its option, offset against any indebtedness secured hereby, and the Beneficiary is hereby authorized and empowered at its option, without any obligation so to do, and without affecting the obligations hereof, to apply toward the payment of any indebtedness of the Trustor to the Beneficiary any and all sums of money of Trustor which Beneficiary may have in its possession or under its control, including without limiting the generality of the foregoing, any savings account, deposit, investment certificate, escrow or trust funds.

23. Law Applicable: That this Deed of Trust shall be construed according to the laws of the State of Nebraska.

24. Illegality: In the event that any provision or clause of this Deed of Trust conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust are declared to be severable.

25. General Provisions: (a) This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. (b) The term "Beneficiary" shall mean the owner and holder (including a pledgee) of any note secured hereby, whether or not named as Beneficiary herein. (c) Wherever the context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and vice versa. (d) Captions and paragraph headings used herein are for convenience only, are not a part of this agreement, and shall not be used in construing it. If more than one person is named herein as Trustor, each obligation of Trustor shall be the joint and several obligation of each such person. The rights or remedies granted hereunder, or by law, shall not be exclusive, but shall be concurrent and cumulative.

26. Trustee Accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party, unless brought by Trustee.

27. Address for Mailing Notices: Trustor hereby requests that a copy of any notice of default and a copy of any notice of sale hereunder shall be mailed to each person itemized below at the address indicated:

Construction Sciences, Inc.
c/o John J. Smith, President
8425 Madison Street
Omaha, Nebraska 68127

Walsh, Fullenkamp & Doyle
11440 West Center Road
Omaha, Nebraska 68144

First National Bank of Omaha
1620 Dodge Street
Omaha, Nebraska 68102
- Trustee and Beneficiary

2.998

File No.960

28. Miscellaneous:

- A. Any provision in this Deed of Trust to the contrary notwithstanding, the occurrence of any Event of Default and the right of Beneficiary to accelerate contained herein shall be subject to the applicable grace and cure periods, if any, provided in the Promissory Note secured hereby.
- B. Notwithstanding anything contained in this Deed of Trust to the contrary or contained in the Promissory Note or contained in any of the other "Loan Documents" as defined in the Promissory Note, the sale of lots comprising the Real Estate in the ordinary course of Trustor's business will not constitute an Event of Default or enable Beneficiary or Trustee to accelerate the indebtedness secured hereby.
- C. Provided that an Event of Default has not occurred and is not continuing under this Deed of Trust, the Promissory Note or any of the other Loan Documents, Trustee and Beneficiary shall reconvey platted lots comprising the Real Estate upon receipt by Beneficiary of the release amount set forth in the Promissory Note secured hereby and payment of a \$50.00 Release Fee for each lot reconveyed from this Deed of Trust.
- D. Trustee and Beneficiary hereby agrees to execute and deliver to Trustor such documents, and take such actions, as shall be reasonably required for the subdivision platting of the Real Estate into 410 - 425 single family residential lots, to be known as Autumn Grove Addition, a subdivision, as surveyed, platted and recorded, Douglas County, Nebraska, and sanitary and improvement district installation of special lot development improvements.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust on the date first above written.

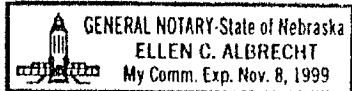
CONSTRUCTION SCIENCES, INC.,
a Nebraska corporation

By: *[Signature]*
John J. Smith, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me, a Notary Public, this 10th day of February, 1998, by John J. Smith, President of Construction Sciences, Inc., a Nebraska corporation, on behalf of said corporation.

[Signature]
Notary Public



2.998

File No. 960

EXHIBIT "A"

Permitted Exceptions

MUD Notice dated March 14, 1974 in Miscellaneous Record Book 533 at Page 501 regarding the installation of a water main.



5522 454 ASS



11830 98 454-455

RICHARD H. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE
98 NOV 25 PM 2:18
RECEIVED

ASSIGNMENT OF DEED OF TRUST

For value received, First National Bank of Omaha, ("Assignor") hereby grants, bargains, sells, conveys and assigns unto Commercial Federal Bank, a federal savings bank ("Assignee") WITHOUT RECOURSE, all right title and interest of assignor in and to that certain Deed of Trust dated February 10, 1998 and recorded February 10, 1998 in Book 5214 at Page 338, Mortgage Records, in the office of the Register of Deeds of Douglas County, Nebraska and the debt secured thereby executed by Construction Sciences, Inc., a Nebraska corporation, and described as:

See Exhibit "A" attached hereto and made a part hereof.

Dated this 19th day of June, 1998.

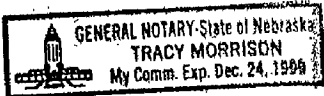
First National Bank of Omaha

By: [Signature]
Name: Richard A. Frandeen
Title: Vice President

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

On this 19th day of June, 1998, before me, the undersigned, a Notary Public, duly commissioned and qualified for in said County, personally came Richard A. Frandeen, Vice President of First National Bank of Omaha, known to be the identical person or persons whose name is or names are affixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and notarial seal the day and year last above written.



[Signature]
NOTARY PUBLIC

My commission expires the 24th day of December, 1999.

11830 H
FEE 10.50 FB 01-60000
BKP 10-14-11 C/O NP COMP MBS
DEL _____ SCAN dc FV _____

EXHIBIT "A"

A tract of land located in the Northeast Quarter of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said Northeast Quarter of Section 10, said point also being the Northwest corner of Lot 214 Western Oaks, a subdivision located in the Southeast Quarter of said Section 10, said point also being the Northeast corner of Lot 188, Mission Ridge, a subdivision located in the Southwest Quarter of said Section 10; thence North 00°06'05" East (assumed bearing) along the West line of said Northeast Quarter of Section 10, a distance of 314.69 feet to the Point of Beginning; thence continuing North 00°06'05" East along said West line of the Northeast Quarter of Section 10, a distance of 2204.23 feet; thence North 88°36'31" East, a distance of 35.01 feet; thence North 00°06'05" East, a distance of 92.03 feet to a point on the South right-of-way line of "Q" Street; thence North 88°36'31" East along said South right-of-way line of "Q" Street, a distance of 444.83 feet; thence South 01°23'29" East, a distance of 127.53 feet; thence South 11°09'33" East, a distance of 162.70 feet; thence South 14°59'04" East, a distance of 124.78 feet; thence Southeasterly on a curve to the right with a radius of 616.35 feet, a distance of 397.90 feet, said curve having a long chord which bears South 86°29'25" East, a distance of 391.03 feet; thence South 67°59'46" East, a distance of 267.43 feet; thence Southeasterly on a curve to the right with a radius of 637.60 feet, a distance of 80.87 feet, said curve having a long chord which bears South 64°21'46" East, a distance of 80.81 feet; thence North 29°16'14" East, a distance of 31.50 feet; thence Northeasterly on a curve to the left with a radius of 290.87 feet, a distance of 96.65 feet, said curve having a long chord which bears North 19°45'04" East, a distance of 96.21 feet; thence South 73°04'29" East, a distance of 321.53 feet; thence South 60°45'26" East, a distance of 84.06 feet; thence South 47°18'05" East, a distance of 80.63 feet; thence South 33°50'43" East, a distance of 80.06 feet; thence South 20°23'22" East, a distance of 40.03 feet; thence North 69°36'38" East, a distance of 190.00 feet; thence South 19°13'45" East, a distance of 1810.92 feet; thence South 89°59'58" East, a distance of 17.00 feet to a point on the West right-of-way line of 156th Street; thence South 00°00'02" West along said West right-of-way line of 156th Street, a distance of 150.87 feet; thence South 88°52'39" West, a distance of 92.02 feet; thence South 00°00'02" West, a distance of 35.01 feet to a point on the South line of said Northeast Quarter of Section 10, said point also being on the North line of Millard Oaks, a subdivision located in the Southeast Quarter of Section 10; thence South 88°52'39" West along said South line of the Northeast Quarter of Section 10, said line also being said North line of Millard Oaks and Western Oaks, a distance of 1924.12 feet; thence North 00°06'05" East, a distance of 10.00 feet; thence Northeasterly on a curve to the right with a radius of 630.00 feet, a distance of 278.71 feet, said curve having a long chord which bears North 12°46'31" East, a distance of 276.45 feet; thence North 64°33'03" West, a distance of 30.00 feet; thence North 78°49'26" West, a distance of 50.21 feet; thence North 89°53'55" West, a distance of 261.41 feet; thence North 00°06'05" East, a distance of 120.00 feet; thence North 89°53'55" West, a distance of 43.53 feet; thence South 00°06'05" West, a distance of 120.00 feet; thence North 89°53'55" West, a distance of 264.00 feet to the Point of Beginning.

NE NE
NW NE
SE NE
SW NE



BK 1361 PG 466-466



MISC 2000 16850

RICHARD N. TARKEN
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

00 DEC 12 AM 9:21

RECEIVED

Misc F
1-750 MI-01338
FEE 147 FB MI-01339
BKP _____ C/O _____ COMP MB
285 DEL _____ SCAN 2 FY _____

SUBSTITUTION OF TRUSTEE

KNOW ALL MEN BY THESE PRESENTS:

FIRST AMERICAN TITLE INSURANCE COMPANY (located at 13924 Gold Circle, Omaha, Nebraska 68114) is hereby appointed Successor Trustee under that certain Deed of Trust executed by Construction Sciences, Inc., a Nebraska corporation as Trustor in which First National Bank of Omaha is named Beneficiary and First National Bank of Omaha is named Trustee, filed for record February 10, 1998 in Book 5214 at Page 338, Mortgage Records, Douglas County, Nebraska, beneficial interest assigned to Commercial Federal Bank by Assignment recorded November 25, 1998 in Book 5522 at Page 454, Mortgage Records, Douglas County, Nebraska. The deed of trust property affected is legally described as follows:

Lots 1 through ~~122~~^{***}, both inclusive, and part of Lots 202, 203 and 204 and Outlots A, B, ~~C and D~~^{***} in Autumn Grove, a Subdivision in Douglas County, Nebraska. ***Lots 1 through ⁴⁹ 49; 60 through ²⁵ 25 through 84; 94, 95, 97 through 229; 252, 253, 254, 267 through 289 289 302 through 348 & Outlots A & B, in Autumn Grove and Lots 1 through 65, Autumn Grove Replat One.

Dated this 25th day of September, 2000.

Commercial Federal Bank, as Beneficiary
By: Richard D. Osher
Richard D. Osher, Vice President

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

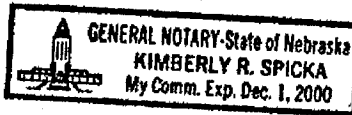
Before me, a notary public qualified for in said county and state personally came Richard D. Osher, Vice President of Commercial Federal Bank as Beneficiary personally known to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said bank.

Witness my hand and notarial seal this 25th day of September, 2000.

Kimberly R. Spicka
Notary Public

My commission expires: Dec 1, 2000

NOTICE of this Substitution of Trustee, naming First American Title Insurance Company as the Substituted Trustee has been sent by regular United States Mail with postage prepaid to the last known address of First National Bank of Omaha at 11404 West Dodge Road, Omaha, NE 68154, notifying them that this Substitution is being executed.



RETURN TO
Hearthstone Homes
8425 Madison St.
Omaha, Ne 68127

(15) T99-3923

C48342



5352 402 MTG



17552 98 402-416

RECEIVED

JUN 22 3 59 PM '98

RICHARD H. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

MB

-- SPACE ABOVE RESERVED FOR RECORDER'S USE --

17552 01-600008
FEE 258.50 FB 0.00 Attached
35-16-12
BKP 30-16-12 C/O VI COM DC
DEL SCAN DC EV

Return to:
Thomas L. Saladino
1000 Commercial Fed. Tr
Omaha NE 68124

Loan No. 249125

This Deed of Trust is a Construction Security Agreement that secures an obligation that Borrower has incurred for the purpose of making improvements to the herein described property and is a construction security interest in said property.

**CONSTRUCTION LOAN DEED OF TRUST WITH FUTURE ADVANCES,
ASSIGNMENT OF RENTS AND CONSTRUCTION SECURITY AGREEMENT**

THIS DEED OF TRUST (the "Instrument") is made this 20th day of June, 1998, between HEARTHSTONE HOMES, INC., a Nebraska corporation, f/k/a CONSTRUCTION SCIENCES, INC., a Nebraska corporation (the "Borrower"), whose address is 8425 Madison Street, Omaha, Nebraska 68127, Attention: "Chief Financial Officer," Fax No. 02-339-0003; COMMERCIAL FEDERAL BANK, A FEDERAL SAVINGS BANK (the "Trustee"), whose address is: 8707 West Center Road, Omaha, Nebraska 68124, Attention: Construction Lending Manager, Fax No. 402-554-9468; and COMMERCIAL FEDERAL BANK, A FEDERAL SAVINGS BANK, as Beneficiary (the "Lender"), whose address is: Construction Lending, 8707 West Center Road, Omaha, Nebraska 68124, Attention: Construction Lending Manager, Fax No. 402-554-9468.

WITNESSETH:

Borrower, as trustor, irrevocably grants, conveys, transfers and assigns to Trustee, in trust, with power of sale, that real property in Douglas County, Nebraska described as:

SEE EXHIBIT "A" ATTACHED HERETO

TOGETHER with all interest which Borrower now has or may hereafter acquire in or to said property and in and to: (a) all easements and rights of way appurtenant thereto, and all heretofore or hereafter vacated alleys and streets abutting said property; and (b) all buildings, structures, tenements, improvements, fixtures, and appurtenances now or hereafter placed thereon, including, but not limited to, all fixtures, apparatus, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in connection with said property, including, but not limited to, those for the purposes of supplying or distributing air cooling, air conditioning, gas, electricity, water, air, refrigeration, ventilation, laundry, drying, dishwashing, garbage disposal and other services; and all related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bathtubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennae, lights, trees and plants, and pool equipment, it being intended and agreed that such items, including replacements and additions thereto, be conclusively deemed to be affixed to and be part of the real property that is conveyed hereby; and (c) all cabinets, shelving, furniture, displays, lights, machinery and other trade fixtures attached or otherwise installed on said property used for a trade or business, it being intended and agreed that such items, including replacements and additions thereto, be conclusively deemed to be affixed to and be part of the real property that is conveyed hereby; and (d) all royalties, minerals, oil and gas rights and profits, water and water rights (whether or not appurtenant) owned by Borrower and shares of stock pertaining to such water or water rights, ownership of which affects said property; and (e) the rents, income, issues, and profits of all properties covered by this Instrument; SUBJECT, HOWEVER, to the terms and conditions herein set forth. Borrower agrees to execute

and deliver, from time to time, such further instruments as may be requested by Lender to evidence or confirm the lien of this Instrument on any such properties. The properties conveyed to Trustee hereunder are hereinafter referred to as the "Property". It is understood that this Deed of Trust secures a loan to be used for the construction of improvements and this Deed of Trust expressly covers all buildings and improvements, now existing or hereafter to be erected or located on this Property and this Deed of Trust shall remain a first lien Deed of Trust against the subject property, and any improvements erected thereon to secure payment of the Note until released.

FOR THE PURPOSE OF SECURING:

- (1) Payment of the sum of up to TWENTY-THREE MILLION DOLLARS (\$23,000,000.00) with interest thereon, according to the terms of a Loan Agreement ("Loan Agreement") and a Promissory Note ("Note") of even date herewith and having a final maturity date of June 30, 2001, made by Borrower payable to Lender or to order, and all modifications, extensions or renewals thereof, together with any future advances and re-advances made by Lender.
- (2) Payment of such additional sums with interest thereon (a) as may be hereafter advanced by Lender pursuant to this Instrument (herein "Future Advances"); and (b) as may be incurred, paid out, or advanced by Lender, or may otherwise be due to Trustee or Lender under any provision of this Instrument.
- (3) Performance of each agreement of Borrower contained herein or incorporated herein by reference or contained in the Loan Agreement and in any other agreements or covenants executed by Borrower relating to the loan secured hereby (together with the Loan Agreement and the Note and this Instrument are referred to as the "Loan Documents").
- (4) Performance by Borrower of each and every monetary obligation to be performed by Borrower under any recorded covenants, conditions and restrictions pertaining to the Property.
- (5) At Lender's option, payment with interest thereon, of any other present or future indebtedness and obligations of Borrower (or of any successor in interest of Borrower to such Property) owing to Lender, whether created directly or acquired by absolute or contingent assignment, whether due or not, whether otherwise secured or not, or whether existing at the time of the execution of this Instrument or arising thereafter, the exercise of such option to be evidenced by a notice in writing to Borrower or any successor in interest to Borrower.
- (6) Performance of all agreements of Borrower to pay fees and charges to the Lender relating to the Loan secured hereby.
- (7) Payment of charges, as allowed by law when such charges are made, for any statement issued by Lender regarding the obligation secured hereby.
- (8) If this loan is secured by a leasehold, performance and keeping by Borrower of each of the covenants and agreements required to be kept and performed by Borrower, as lessee, pursuant to the terms of the lease and any and all other instruments creating Borrower's leasehold interest in or defining Borrower's rights as lessee in respect to the Property.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant, convey, transfer and assign the Property to the Trustee and that Borrower will warrant and defend generally the title to the Property against all claims and demands, except for liens, easements and restrictions which are shown as prior to the lien created by this Instrument in a schedule of exceptions to coverage in any title policy insuring Lender's lien on the Property created by this Instrument.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, BORROWER COVENANTS AND AGREES AS FOLLOWS:

- 1. **PAYMENT OF PRINCIPAL AND INTEREST.** Borrower shall pay when due the principal of and interest on the indebtedness evidenced by the Loan Agreement and the Note, any prepayment and late charges provided therein and all other sums secured by this Instrument.
- 2. **FUNDS FOR TAXES, INSURANCE AND OTHER CHARGES.** [Intentionally Omitted.]
- 3. **APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Lender pursuant to the Loan Documents shall be applied first to any costs, expenses, fees, late charges, and other charges and amounts that may be due to Lender under the Loan Documents or under applicable law (other than principal and interest under the Note), second to interest then due to Lender under the Loan Documents, and third to principal.

these presents shall be construed and enforced as a realty mortgage with the borrower being the Mortgagor and Lender being the Mortgagee.

42. **NO HOMESTEAD.** Borrower hereby waives all right of homestead and any other exemption in the Property under state or federal law presently existing or hereinafter enacted.

43. **REPLACEMENT OF DEED OF TRUST.** The parties hereto intend that this Deed of Trust shall constitute a replacement Deed of Trust with continuing lien priority for any deed of trust, mortgage or security instrument securing indebtedness retired by the proceeds of the Note, including, but not limited to, those set forth on Exhibit "B" attached hereto, and shall be entitled to the lien priority position of such replaced deeds of trust, mortgages or security instruments.

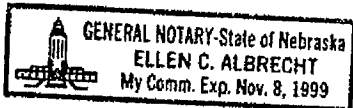
IN WITNESS WHEREOF, Borrower has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

HEARTHSTONE HOMES, INC., a Nebraska corporation, f/k/a Construction Sciences, Inc., a Nebraska corporation, "Borrower"

By: *[Signature]*
John J. Smith, President

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

The foregoing Loan Agreement was acknowledged before me on the 20 day of June, 1998, by JOHN J. SMITH, who is the President of HEARTHSTONE HOMES, INC., a Nebraska corporation, f/k/a Construction Sciences, Inc., on behalf of the corporation.



[Signature]
Notary Public

EXHIBIT "A" (PAGE 2 OF 3)

10-14-11

A tract of land located in the Northeast Quarter of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said Northeast Quarter of Section 10, said point also being the Northwest corner of Lot 214 Western Oaks, a subdivision located in the Southeast Quarter of said Section 10, said point also being the Northeast corner of Lot 188, Mission Ridge, a subdivision located in the Southwest Quarter of said Section 10; thence North 00°06'05" East (assumed bearing) along the West line of said Northeast Quarter of Section 10, a distance of 314.69 feet to the Point of Beginning; thence continuing North 00°06'05" East along said West line of the Northeast Quarter of Section 10, a distance of 2204.23 feet; thence North 88°36'31" East, a distance of 35.01 feet; thence North 00°06'05" East, a distance of 92.03 feet to a point on the South right-of-way line of "Q" Street; thence North 88°36'31" East along said South right-of-way line of "Q" Street, a distance of 444.83 feet; thence South 01°23'29" East, a distance of 127.53 feet; thence South 11°09'33" East, a distance of 162.70 feet; thence South 14°59'04" East, a distance of 124.78 feet; thence Southeasterly on a curve to the right with a radius of 616.35 feet, a distance of 397.90 feet, said curve having a long chord which bears South 86°29'25" East, a distance of 391.03 feet; thence South 67°59'46" East, a distance of 267.43 feet; thence Southeasterly on a curve to the right with a radius of 637.60 feet, a distance of 80.87 feet, said curve having a long chord which bears South 64°21'46" East, a distance of 80.81 feet; thence North 29°16'14" East, a distance of 31.50 feet; thence Northeasterly on a curve to the left with a radius of 290.87 feet, a distance of 96.65 feet, said curve having a long chord which bears North 19°45'04" East, a distance of 96.21 feet; thence South 73°04'29" East, a distance of 321.53 feet; thence South 60°45'26" East, a distance of 84.06 feet; thence South 47°18'05" East, a distance of 80.63 feet; thence South 33°50'43" East, a distance of 80.06 feet; thence South 20°23'22" East, a distance of 40.03 feet; thence North 69°36'38" East, a distance of 190.00 feet; thence South 19°13'45" East, a distance of 1810.92 feet; thence South 89°59'58" East, a distance of 17.00 feet to a point on the West right-of-way line of 156th Street; thence South 00°00'02" West along said West right-of-way line of 156th Street, a distance of 150.87 feet; thence South 88°52'39" West, a distance of 92.02 feet; thence South 00°00'02" West, a distance of 35.01 feet to a point on the South line of said Northeast Quarter of Section 10, said point also being on the North line of Millard Oaks, a subdivision located in the Southeast Quarter of Section 10; thence South 88°52'39" West along said South line of the Northeast Quarter of Section 10, said line also being said North line of Millard Oaks and Western Oaks, a distance of 1924.12 feet; thence North 00°06'05" East, a distance of 10.00 feet; thence Northeasterly on a curve to the right with a radius of 630.00 feet, a distance of 278.71 feet, said curve having a long chord which bears North 12°46'31" East, a distance of 276.45 feet; thence North 64°33'03" West, a distance of 30.00 feet; thence North 78°49'26" West, a distance of 50.21 feet; thence North 89°53'55" West, a distance of 261.41 feet; thence North 00°06'05" East, a distance of 120.00 feet; thence North 89°53'55" West, a distance of 43.53 feet; thence South 00°06'05" West, a distance of 120.00 feet; thence North 89°53'55" West, a distance of 264.00 feet to the Point of Beginning; EXCEPT that part conveyed in the Warranty Deed filed in Book 2090 at Page 521, Deed Records, Douglas County, Nebraska.

NE NE
 NW NE
 SE NE
 SW NE

EXHIBIT "A" (PAGE 3 OF 3)

36-16-12

The Northwest Quarter (1/4) of the Southwest Quarter (1/4) in Section Thirty-six (36), and also vacated 71st Circle, and also part of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section Thirty-six (36), all being in Township Sixteen (16) North, Range Twelve (12) East of the 6th P.M., in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of said SW 1/4 of Section 36; thence N89° 52' 27" E (assumed bearing) along the North line of said SW 1/4 of Section 36, a distance of 50.00 feet to a point on the East right-of-way line of 72nd Street, said point being the point of beginning; thence N00° 00' 01" E along said East right-of-way line of 72nd Street, a distance of 132.88 feet; thence East right-of-way line of 72nd Street, a distance of 132.88 feet; thence N89° 52' 27" E, a distance of 1281.38 feet to a point on the East line of said SW 1/4 of the NW 1/4 of Section 36; thence S00° 13' 00" W along said East line of the SW 1/4 of the NW 1/4 of Section 36, a distance of 132.88 feet to a point on the North line of said SW 1/4 of Section 36, said point also being the Northwest corner of Lot 65, Orchard Park, a subdivision located in said SW 1/4 of Section 36; thence S00° 09' 35" E along the East line of said NW 1/4 of the SW 1/4 of Section 36, a distance of 1268.62 feet to a point on the Northerly right-of-way line of Crown Point Avenue; thence Northwesterly along said Northerly right-of-way line of Crown Point Avenue on the following described courses; thence Northwesterly on a curve to the right with a radius of 850.00 feet, a distance of 678.10 feet, said curve having a long chord which bears N54° 10' 42" W, a distance of 647.77 feet; thence N24° 17' 31" W, a distance of 50.38 feet; thence Northwesterly on a curve to the left with a radius of 750.00 feet, a distance of 860.11 feet, said curve having a long chord which bears N57° 08' 45" W, a distance of 813.76 feet; thence N89° 59' 69" W, a distance of 21.82 feet; thence Northwesterly on a curve to the right with a radius of 45.00 feet, a distance of 17.24 feet, said curve having a long chord which bears N50° 37' 17" W a distance of 17.13 feet to the point of intersection of said Northerly right-of-way line of Crown Point Avenue and said East right-of-way line of 72nd Street; thence N00° 00' 01" E along said East right-of-way line of 72nd Street, a distance of 988.48 feet to the point of beginning.

NW 3/4

098-2472



1252 500 MISC



08385 98 500-506

RECEIVED

JUN 22 4 02 PM '98

RICHARD H. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

SPACE ABOVE RESERVED FOR RECORDER'S USE

RETURN TO:
Thomas L. Saladino
Fitzgerald, Schorr,
Barnettler & Brennan, P.C.
1000 Commercial Federal Tower
Omaha, NE 68124

MB
8385
10-14-11
FEE 218.50 for all attached
35-16-12
BY: 30-16-12 C/O [initials] COMEDC
DEL _____ SCAN [initials] FY _____

Loan No. 259125

ASSIGNMENT OF LEASES AND RENTS

FOR VALUE RECEIVED, HEARTHSTONE HOMES, INC., a Nebraska corporation, f/k/a CONSTRUCTION SCIENCES, INC., whose address is 8425 Madison Street, Omaha, Nebraska 68127-4122 ("Assignor"), hereby grants, transfers and assigns to COMMERCIAL FEDERAL BANK, A FEDERAL SAVINGS BANK, whose address is 8707 West Center Road, Omaha, Nebraska, Attn: Construction Lending Manager ("Assignee"), the entire interest of Assignor as Lessor in and to all leases, subleases, licenses, concessions or other agreements hereafter entered into (collectively "Leases") for all or any part of the real property more particularly described on Exhibit "A" attached hereto (the "Property"), together with all rents, income, issues and profits arising therefrom, and any renewals and modifications thereof, and together with all rents, income, issues and profits arising from the use and occupation of the Property and from any property covered by the Leases, whether real, personal, mixed or intangible.

This Assignment is intended to be, and shall be construed as, creating an absolute assignment unto Assignee, and not as an assignment as security, and to such extent shall be unconditional and irrevocable except as hereinafter provided to the contrary. This Assignment shall be deemed to be perfected when recorded in the real estate records of the county in which the Property is located. In connection with and as a part of this Assignment, Assignor hereby warrants, represents, and agrees to and with Assignee as follows:

1. Assignee Rights. Assignor has contemporaneously herewith executed and delivered to Assignee a Loan Agreement ("Loan Agreement") and a Promissory Note in the principal amount of Twenty-Three Million Dollars (\$23,000,000.00) ("Note"). In order to secure payment of the Note, Assignor, as trustor, has contemporaneously herewith executed certain Deeds of Trust to Commercial Federal Bank, as Trustee, in favor of Assignee as Beneficiary ("Deeds of Trust"). Unless and until there shall have occurred a default in the performance by Assignor of any of its duties or obligations, including, but without limitation, the payment of money, arising under the Loan Agreement, the Note or the Deeds of Trust, Assignor is hereby granted a revocable license and may collect at the time of, but in no event more than one (1) month before, the date provided for payment, all rents, income, issues and profits arising under the Leases and retain the use of and enjoy the same subject to the provisions contained in the Deeds of Trust. Upon or at any time after any such default, Assignee may, at its option, by giving written notice thereof to Assignor and without regard to the adequacy of any security for the payment or performance of any duties and obligations arising under the Loan Agreement, the Note and the Deeds of Trust, either in person or by agent, with or without bringing any action or proceeding, or by receiver appointed by a court, revoke the foregoing license, take possession of the rents, income, issues and profits and/or the Property and hold, manage, let and operate the same on such terms and for such period of time as Assignee may deem proper in its sole discretion and, with or without taking possession of the Property, demand, sue for, or otherwise collect all

rents, income and profits of the Leases and the Property, including those past due and unpaid, with full power to modify, extend or terminate existing Leases, to execute new Leases, and to make from time to time such alterations, renovations, repairs and replacements as may seem proper to Assignee, and apply such rents, income and profits to the payment of all expenses of managing, operating and maintaining the Leases and the Property, all expenses incident to taking and retaining possession of the Property, and the principal, interest, and other indebtedness evidenced and/or secured by the Loan Agreement, the Note and the Deeds of Trust together with all costs and attorneys' fees incurred by Assignee in connection with any of the foregoing matters, in the order of priority set forth in the Deeds of Trust, any statute, law, custom, or use to the contrary notwithstanding. Exercise or nonexercise by Assignee of the options granted in this paragraph, or collection and application of rents, income and profits by Assignee or its agent shall not be considered a waiver of any default by Assignor under this Assignment, the Loan Agreement, the Note or the Deeds of Trust.

2. Non-Liability and Indemnification of Assignee. Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Property or any part thereof or from any other act or omission of Assignee in managing the Property, unless such loss is caused by the gross negligence, willful misconduct or bad faith of Assignee. Assignee shall not be obligated to perform or discharge nor does Assignee undertake to perform or discharge any obligation, duty or liability under the Leases or under or by reason of this Assignment and Assignor agrees to indemnify Assignee for, and to hold Assignee harmless from, any liability, loss or damage which may be incurred under the Leases or under or by reason of this Assignment and from any claims and demands which may be asserted against Assignee by reason of any alleged obligations or undertakings to perform or discharge any of the terms, covenants or agreements contained in the Leases or in operation of the Property, unless such liability, loss or damage is caused by the gross negligence, willful misconduct or bad faith of Assignee. Should Assignee incur any such liability under the Leases or under or by reason of this Assignment or in defense of any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall be reimbursed by Assignor to Assignee immediately upon demand, and upon failure of Assignor to make such reimbursement on the date of such demand, the unpaid portion thereof, while still immediately due and payable, shall bear interest at the default rate of interest provided in the Loan Agreement and the Note until paid, and the Loan Agreement and the Note shall be deemed to be in default due to such nonpayment. This Assignment shall not operate to place responsibility for the control, care, maintenance, or repair of the Property upon Assignee, nor shall it operate to make Assignee responsible or liable for any waste committed on the Property by any lessees or any other parties, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property.

3. Termination/Lessee Directives. Upon payment in full of the principal, interest and all other indebtedness evidenced by the Loan Agreement, the Note and the Deeds of Trust, this Assignment shall cease, terminate and be of no further effect; provided, however, that the affidavit, certificate, letter or statement of Assignee or any officer, agent or attorney of Assignee showing any part of the principal, interest or other indebtedness as being unpaid shall constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment and any person may, and is hereby authorized to, rely thereon. Assignor hereby authorizes and directs each and every lessee named in a Lease or any other or future lessee or occupant of the Property or any part thereof, upon receipt of written notice from Assignee, to pay to Assignee all rents, income, issues and profits accruing under the Leases or from the Property, and to continue to do so until otherwise notified in writing by Assignee.

4. Absolute Assignment. Subject only to the provisions of Paragraph 3 of this Assignment, no action undertaken by Assignee with respect to any of the obligations of Assignor evidenced by the Loan Agreement, the Note and the Deeds of Trust, to any security or guarantee given for the payment or performance thereof, or to any other document or instrument evidencing or relating to said obligations shall in any manner affect, impair or prejudice any of Assignee's rights and privileges under this Assignment or discharge, release or modify any of Assignor's duties or obligations hereunder. This Assignment is intended by Assignor and Assignee to create, and shall be construed as

creating, an absolute assignment unto Assignee, subject only to the license, terms and provisions hereof, and not as an assignment as security for the performance of the obligations evidenced by the Loan Agreement, the Note and the Deeds of Trust or any other indebtedness of Assignor.

5. Warranties of Assignor. Assignor warrants to Assignee, each of which warranties shall remain in full force and effect until all obligations of Assignor to Assignee under the Loan Agreement, the Note and Deeds of Trust have been fulfilled, that:

(a) Assignor is the record owner and holder of legal title to the Property and to the improvements located on the Property.

(b) Assignor has good and clear title to the Leases, rents, income, issues, and profits hereby assigned and good right to assign same, and no other person, firm or corporation has any right, title or interest therein.

(c) There has been no prior assignment of the Leases, rents, income, issues, or profits which is now in effect.

(d) There are currently no outstanding Leases affecting the Property.

6. Negative Covenants of Assignor. Assignor agrees that, so long as any obligation to Assignee remains unfulfilled under the Note or Deed of Trust, Assignor will not without the express prior written consent of Assignee, which consent may be granted or withheld in Assignee's sole discretion:

(a) Enter into any Leases without the prior written approval of Assignee as to the form and substance of the proposed lease and the proposed lessee.

(b) Modify, either orally or in writing, any Lease now or hereafter existing so as to render the same not in compliance with (a) above, or allow any lessee to surrender or terminate its Lease, or permit an assignment or sublease under any Lease, or request or consent to the subordination of any Lease to any lien subordinate to this Agreement, except in the exercise of sound business judgment.

(c) Collect any rents, income, issues, or profits accruing under the Leases or from the Property more than one (1) month in advance of the time when they shall become due.

(d) Execute any other assignment of lessor's interest in the Leases or assignment of rents accruing under the Leases or from the Property.

(e) Do or permit anything to be done, the doing of which, or omit or refrain from doing anything, the omission of which will or could be a breach or default in the terms of any of the Leases or create or produce grounds for termination thereof by any lessee.

7. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be given by mailing such notice by United States mail, certified or registered, postage prepaid and return receipt requested, to the party entitled thereto at the address provided on page 1 hereof, or at such other addresses as may have been furnished in writing. Any notice provided for in this Assignment shall be deemed to have been given to Assignor or Assignee when given in the manner designated herein and shall be considered delivered and received by the party to whom it is addressed on the earlier of the day on which such notice is actually received by the party to whom it is addressed or the third day after such notice is deposited in the United States mail.

8. Successors and Assigns. This Assignment, together with the agreements and warranties herein contained, shall inure to the benefit of Assignee and its successors and assigns and shall be binding upon Assignor and its successors and assigns as to all or any part of the Property.

9. Miscellaneous Provisions. This Assignment is made pursuant to and shall be construed and governed by the laws of the State of Nebraska and the rules and regulations promulgated thereunder. If any paragraph, clause or provision of this Assignment is construed or interpreted by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so construed or interpreted and shall not affect the remaining paragraphs, clauses and provisions of this Assignment.

IN WITNESS WHEREOF, this Assignment has been executed this 20th day of June, 1998.

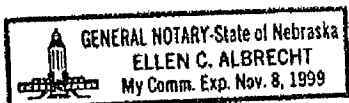
HEARTHSTONE HOMES, INC., a
Nebraska corporation, f/k/a
CONSTRUCTION SCIENCES, INC., a
Nebraska corporation, Assignor

By: *[Signature]*
John J. Smith, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 20 day of June, 1998, by JOHN J. SMITH, who is known to be the President of HEARTHSTONE HOMES, INC., a Nebraska corporation, f/k/a Construction Sciences, Inc., a Nebraska corporation,, for and on behalf of the corporation.

Witness my hand and official seal this 20th day of June, 1998.



[Signature]
Notary Public

EXHIBIT "A" (PAGE 1 OF 3)

MC-00910

Lots 13 through 58, both inclusive, Lot 64, Lot 67 through 75, both inclusive, Lot 79, Lot 83 through 86, both inclusive, Lots 100 through 197, both inclusive, Lots 222 through 252, both inclusive, in Arbor Oaks, a Subdivision in Douglas County, Nebraska.

Lots 1 and 2, Lots 6 through 109, both inclusive, in Brookfield, a Subdivision in Douglas County, Nebraska. OU-04742

Lot 83, in Lake Cunningham Hills, a Subdivision in Douglas County, Nebraska. OU-21490

Lots 1 and 2, in Wynnewood Replat II, an Addition to the City of Omaha, Douglas County, Nebraska. 67-44895

Lot 63, in Wynnewood 1st Addition, an Addition to the City of Omaha, Douglas County, Nebraska. 67-44887

Lots 2 through 12, both inclusive, Lots 59 through 63, both inclusive, Lots 65 and 66, Lots 76 through 78, both inclusive, Lots 80 through 82, both inclusive, Lots 87 through 99, both inclusive, Lots 199, 201, 204 through 221, both inclusive, in Arbor Oaks, a Subdivision in Douglas County, Nebraska. MC-00910

Lots 3, 4 and 5, in Brookfield, a Subdivision in Douglas County, Nebraska. OU-04742

Lot 34, in Wynnewood 3rd Addition, an Addition to the City of Omaha, Douglas County, Nebraska. 67-44889

Lots 4 and 5, in Stonegate, an Addition to the City of Omaha, Douglas County, Nebraska. 69-37090

All of Tax Lot 7 in the East half of the East half of the Northwest Quarter of Section 35, Township 16 North, Range 12, East of the 6 P.M. in Douglas County, Nebraska; 35-16-12

EXCEPT THE FOLLOWING:

NE NW
SE NW

Sublots 1, 2 and 3 of said Tax Lot 7; the 15.9 foot strip between Sublots 1 and 2 and the East 305.68 feet of the North 285 feet of the South 659.18 feet of Tax Lot 7, also that part of Tax Lot 7 taken for Wynnewood Addition, Wynnewood 2nd Addition, and Lots 1 through 109, inclusive, in Brookfield and except that part annexed into SID #362, all in Douglas County, Nebraska.

EXHIBIT "A" (PAGE 2 OF 3)

10-14-11

A tract of land located in the Northeast Quarter of Section 10, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

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NE NE
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 SE NE
 SW NE

EXHIBIT "A" (PAGE 3 OF 3)

36-16-12

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Legaldouglasdot



1309 248 MISC



14471 99 248-254

Nebr Doc Stamp Tax
Date
\$
By

RICHARD H. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

99 SEP 20 PM 3:02

RECEIVED

-- SPACE ABOVE RESERVED FOR RECORDER'S USE --

144715 ml-01338
 FEE 20950 FB 01-60000
 BKP 10-14-1 C/O _____ COMP _____
 DEL _____

Return to:
 Richard Osher
 Construction Lending
 Commercial Federal Bank
 Regency Building 2-E
 450 Regency Parkway
 Omaha, Nebraska 68114

Loan No. 249125

The Deed of Trust referenced herein is a Construction Security Agreement that secures an obligation that Borrower has incurred for the purpose of making improvements to the property described in the Deed of Trust and herein, and is a construction security interest in said property.

**CONSTRUCTION LOAN DEED OF TRUST
 MODIFICATION AGREEMENT (Douglas County)**

THIS CONSTRUCTION LOAN DEED OF TRUST MODIFICATION AGREEMENT (the "Instrument") is made and entered into effective as of September 13, 1999, between **COMMERCIAL FEDERAL BANK, A FEDERAL SAVINGS BANK** (the "Lender"), whose address is Regency Building 2-E, 450 Regency Parkway, Omaha, Nebraska 68114, Attention: Construction Lending Manager, Fax No. 402-898-2390; and **HEARTHSTONE HOMES, INC.**, a Nebraska corporation (the "Borrower"), whose address is 8425 Madison Street, Omaha, Nebraska 68127, Attention: "Chief Financial Officer," Fax No. 402-339-0003.

RECITALS:

- A. Borrower is the maker of a Promissory Note (the "Note") dated June 20, 1998, in the original principal amount of up to Twenty-Three Million Dollars (\$23,000,000), payable to the order of Lender, which Note was executed pursuant to the terms of a Loan Agreement ("Loan Agreement") dated June 20, 1998, executed by Borrower and Lender;
- B. The Note and Loan Agreement are secured by, among other things, a Deed of Trust dated June 20, 1998, and recorded with the office of the Register of Deeds of Douglas County, Nebraska, on June 22, 1998, in Book 5352 of Mortgages at Page 402, encumbering, among other things, certain real property and improvements located in Douglas County, Nebraska;
- C. The Note and Loan Agreement are further secured by, among other things, an Assignment of Leases, Rents, and Other Income, dated June 20, 1998, and filed for record June 22, 1998, in the office of the Register of Deeds of Douglas County, Nebraska, in Book 1252 of Miscellaneous Records at Page 500;
- D. The Note, Loan Agreement, Deed of Trust and Assignment of Leases have been modified and amended in writing on several occasions (the "Modifications") including that Second Amendment to Loan Agreement, Promissory Note and other Loan Documents dated as of June 14, 1999, which Modifications, among other things, increased the loan amount to Twenty-Five Million Dollars (\$25,000,000);
- E. The Note, Loan Agreement, Deed of Trust, Assignment of Leases, the Modifications and all other documents and Agreements evidencing or securing the obligations under the Note and Loan Agreement shall herein be collectively referred to as the "Loan Documents;"
- F. A portion of the property included in the description of the Property in the Deed of Trust and the other Loan Documents is what is commonly known as the Autumn Grove Property, the legal description of which is included in the Deed of Trust and other Loan Documents and is attached hereto as Exhibit A; and

G. Borrower has now platted a portion of the Autumn Grove Property into lots and created new legal descriptions for the remainder which is to be platted into lots at a later date, and Borrower and Lender now desire to substitute the new legal description for the Autumn Grove Property (containing the lots description and the metes and bounds description for future phases to be converted into lots at a later date), all as set forth on Exhibit B attached hereto for the legal description set forth in Exhibit A attached hereto.

NOW, THEREFORE, for valuable consideration, including the mutual covenants contained herein and in the Loan Documents, the parties hereto agree as follows:

1. **Revision of Legal Description.** Borrower and Lender hereby agree that the legal description set forth on Exhibit B attached hereto shall be and constitute a part of the Property described in the Deed of Trust and other Loan Documents in the place and stead of the legal description contained on Exhibit A attached hereto, and shall be subject to all terms, provisions, and covenants contained in the Deed of Trust and other loan documents. For purposes hereof, Borrower as Trustor, hereby reaffirms that it has irrevocably granted, conveyed, transferred and assigned to Trustee (as defined in the Deed of Trust) in trust with power of sale, the Property described on Exhibit B attached hereto under the terms, covenants and provisions of the Deed of Trust and other Loan Documents.
2. **Representations by Borrower.** Borrower has no defenses to the payment of the Note, the performance of the strict terms of the Loan Documents, or right of offset or claim against Lender and its predecessors-in-interest. Borrower specifically acknowledges and agrees that Lender and its predecessors-in-interest have performed each and all of their respective obligations, commitments, and agreements under the Loan Documents and all other agreements related to the indebtedness, both written and verbal, direct or implied, up to and including the date of this Agreement, that it is not in default in the observance or performance of any obligation, commitment, agreement, or covenant, expressed or implied, including, but not limited to, covenants of good faith and fair dealing, to be observed or performed by any of them under the foregoing, and that no facts exist and no event has occurred which now or hereafter will authorize Borrower to terminate the loan, to fail or refuse to abide by the terms of the Loan Documents, or form the basis, in whole or in part, for a claim of any kind including, but not limited to, lack of good faith or fair dealing against any of them.
3. **No Further Commitment.** Borrower hereby acknowledges and agrees that this Agreement modifies the Note, the Deed of Trust, and the Loan Documents only to the extent and on the terms set forth herein, and this Agreement is not, nor shall it, be construed as a commitment by Lender to modify the Note, the Deed of Trust, or any of the Loan Documents securing the Note in any other respect. Borrower further agrees that Borrower is precluded from claiming that any prior written or oral negotiations, discussions, comments, questions, or representations not specifically incorporated into this Agreement or the Loan Documents are binding upon Lender. Furthermore, none of the same shall in any manner whatsoever be deemed to modify or constitute a waiver of the rights and obligations of the parties as stated in the Loan Documents or this Agreement.
4. **Full Force and Effect.** Except as otherwise modified herein, each and every provision of the Note, the Deed of Trust, and all other Loan Documents shall be and remain in full force and effect as previously modified. Borrower hereby reaffirms the Loan Documents and agrees to perform the obligations thereunder as they become due, as modified hereby.
5. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and permitted assigns.
6. **Further Assurances.** Borrower agrees to execute and deliver such documents and to perform such other acts, promptly upon request, as Lender requests and which are, in Lender's reasonable judgment, necessary or appropriate to effectuate the purposes of this Agreement. This Agreement and any memorandum hereof may be filed and recorded by Lender with any governmental agency or other public office.
7. **Amendment.** This Agreement may be modified, amended, changed, or terminated, in whole or in part, only by an agreement in writing duly authorized and executed by Borrower and Lender.
8. **Waiver.** The waiver of any breach of any of the provisions of this Agreement by any party shall not constitute a continuing waiver or a waiver of any subsequent breach by said party either of the same or of another provision of this Agreement.
9. **Severability.** Invalidation of any of the provisions of this Agreement or any paragraph, sentence, clause, phrase, or word herein, or the application thereof in any given circumstance, shall not affect the validity of the remainder of this Agreement.

- 10. **Time of the Essence.** Time is of the essence for the performance of each and every provision hereof.
- 11. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Nebraska.

IN WITNESS WHEREOF, Borrower has executed this Instrument or has caused the same to be executed by its representatives hereunto duly authorized.

COMMERCIAL FEDERAL BANK, A FEDERAL SAVINGS BANK, Lender

By: *Richard D. Osner*
Its: Vice President

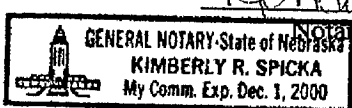
HEARTHSTONE HOMES, INC., a Nebraska corporation, Borrower

By: *John J. Smith*
John J. Smith, President

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

The foregoing Loan Agreement was acknowledged before me on the 13th day of Sept, 1999, by Richard D. Osner, who is the Vice President of **Commercial Federal Bank, a Federal Savings Bank**, on behalf of the corporation.

Kimberly R. Spicka



STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

The foregoing Loan Agreement was acknowledged before me on the 24th day of August, 1999, by John J. Smith, who is the PRESIDENT of **HearthStone Homes, Inc.**, a Nebraska corporation, on behalf of the corporation.

Sharon Rehde
Notary Public

