

UTILITY PIPING AGREEMENT

THIS AGREEMENT made as of the 4th day of June, 1959, between THE BRANDEIS INVESTMENT COMPANY, a Nebraska corporation, First Party (hereinafter called "Brandeis"), and F. W. WOOLWORTH CO. - - - - -, a New York corporation - - - - -, Second Party (hereinafter called "Second Party"),

WITNESSETH:

WHEREAS, Second Party is the owner of certain real property situated on the northwest corner of Douglas and 16th Streets in Douglas County, Nebraska, being Lots 7 and 8, Block 107, Original City of Omaha, as surveyed and lithographed; and

WHEREAS, said Lots have a combined frontage on the north side of Douglas Street of 132 feet, said frontage running west from the northwest corner of Douglas and 16th Streets, and said Lot 8 has a frontage on the west side of 16th Street of 132 feet, said frontage running north from said northwest corner of Douglas and 16th Streets, and the phrase "Second Party's property" as hereinafter used shall include only such Douglas and 16th Street frontage; and

WHEREAS, Brandeis is the owner of certain existing utility piping now beneath the streets and sidewalks abutting Second Party's property and the parties hereto desire to give Brandeis the right to maintain, use, repair, replace and re-locate said piping and any additional piping that Brandeis may elect to install from time to time beneath the streets and sidewalks abutting Second Party's property (such existing and additional piping being hereinafter called "said utility piping");

NOW, THEREFORE, the parties hereto do hereby mutually covenant and agree as follows:

1. Brandeis shall have the perpetual right to install, maintain, use, repair, replace and relocate said utility piping at any time and from time to time beneath the streets and sidewalks abutting Second Party's property and for such purposes may at reasonable hours and upon reasonable notice enter into any vaults maintained by Second Party beneath said streets and sidewalks. All such installation, maintenance, use, repair, replacement and relocation of said utility piping shall be done by Brandeis at its expense and at such hours and by such means as will cause the least possible interference with the use and occupation of Second Party's property and of any vaults maintained by Second Party beneath said streets and sidewalks. Brandeis shall, at its expense, repair all damage to Second Party's property or to any such vaults maintained by Second Party which may be occasioned by the installation, repair, replacement and relocation of said utility piping.

2. If Second Party shall construct or alter any vault beneath said streets and sidewalks, Brandeis shall, at the request of Second Party, but at the expense of Brandeis, relocate such utility piping to such location as will cause the least possible interference with the use and occupation of such vault by Second Party.

3. Brandeis shall pay all applicable compensation or other charges payable to the City of Omaha for the use of such space beneath said streets and sidewalks for such utility piping.

4. At the request of Brandeis, Second Party will do or cause to be done in its name, but at the cost and expense of Brandeis, any and all things which may be necessary to be done at any time

and from time to time by Second Party to enable Brandeis to have and enjoy the rights granted to Brandeis herein, subject to the payment by Brandeis of any applicable compensation or other charges payable to the City of Omaha.

5. Brandeis, at its expense, shall keep said utility piping in good and safe condition and repair and shall comply with all enactments, orders and requirements of any State, City or other authority having jurisdiction over the same. Brandeis does hereby indemnify Second Party against all damage and liability (including, but not limited to, damage to property, including Second Party's property, or injury to persons, including death) which may arise out of Brandeis' failure to perform the covenants contained in the next preceding sentence.

6. The rights granted Brandeis hereunder shall inure to the benefit of Brandeis, its successors and assigns. The covenants of Brandeis hereunder shall be binding upon Brandeis, its successors and assigns, but no liability on the part of Brandeis hereunder shall arise after Brandeis has assigned its rights hereunder to an assignee who assumes the performance of Brandeis covenants hereunder.

7. The rights granted Brandeis hereunder and the covenants of Second Party hereunder shall run with Second Party's property and be binding upon Second Party during, and only during, the period of Second Party's ownership of such property and upon each subsequent owner of such property during, and only during, the period of such owner's ownership.

IN WITNESS WHEREOF, the parties hereto have caused the due execution of this Agreement in duplicate, both of which shall be deemed originals, as of the day and year

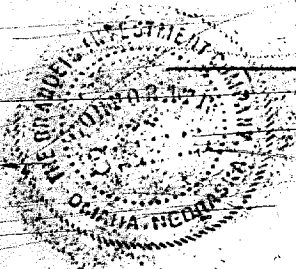
first above written.

THE BRANDEIS INVESTMENT COMPANY

ATTEST:

By *[Signature]*
Vice President

[Signature]
Secretary



F. W. WOOLWORTH CO.

ATTEST:

By *[Signature]*
Vice President

[Signature]
Secretary



STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.:

On this 26th day of January, 1960, before me, the undersigned, a Notary Public in and for said County and State, personally came Alan Baer and E. F. Pettis, Vice President and Secretary of The Brandeis Investment Company, to me known to be the identical persons whose names are affixed to the above agreement and to be the officers indicated after their names and they acknowledged the execution thereof to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation by them signed on behalf of said corporation by due authority from its Board of Directors.

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

Gertrude A. Hees
Notary Public

My Commission expires the 16 day of March, 1965.



STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

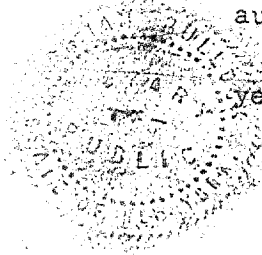
On this 20th day of Jan., 1960, before me the undersigned, a Notary Public in and for said County and State, personally came L. J. THRASHER and T. BROWN - - - - - a Vice President and the Secretary of F. W. WOOLWORTH CO., a corporation, to me known to be the identical persons whose names are affixed to the above agreement and to be the officers indicated after their names and they acknowledged the execution thereof to be their free and voluntary act and deed and the free and voluntary act and deed of said corporation by them signed on behalf of said corporation by due authority from its Board of Directors.

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

FORMAN BULLOCK
Notary Public, State of New York
No. 60-5517430
Qualified in Westchester County
Cert. filed with New York County Clerk
Term Expires March 30, 1960

Forman Bullock
Notary Public

My Commission expires the _____ day of _____, 19____.



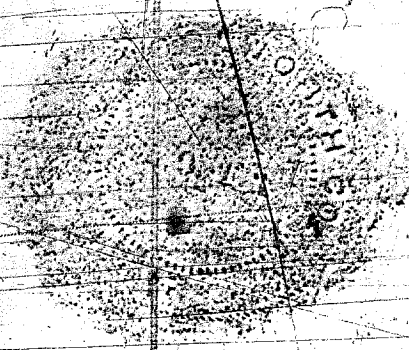
I, T. BROWN, Secretary of F. W. WOOLWORTH CO., a corporation organized and existing under the laws of the State of New York, DO HEREBY CERTIFY that the following is a true and correct copy of a certain resolution duly adopted at a regular meeting of the Executive Committee of the Board of Directors of said Company, duly called and held on January 7th, 1960, at which a quorum was present and voting, and that said resolution has not been rescinded or modified and remains in full force and effect:

RESOLVED, that in connection with the purchase by this Company of premises N/W/C 16th and Douglas Streets, Omaha, Nebraska, the President or any Vice-President of this Company be, and each of them hereby is, authorized in the name of and on behalf of this Company to sign, seal with the corporate seal, acknowledge and deliver to The Brandeis Investment Company two certain agreements between this Company and said The Brandeis Investment Company entitled "Vault Agreement" and "Utility Piping Agreement", said agreements to be in the form submitted to this meeting.

I FURTHER CERTIFY that the annexed agreement is the form of Utility Piping Agreement submitted to said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of this Company this 7th day of January, 1960.

T. Brown
Secretary



C E R T I F I C A T E

I, E. F. Pettis, Secretary of The Brandeis Investment Company, do hereby certify that the following is a true and correct copy of a resolution adopted at a special meeting of the Board of Directors held on the 25th day of January, 1960, at which a quorum was present and acting throughout and that the resolution is still in full force and effect and has not been rescinded and that this resolution is not contrary in any way to any provisions of the Articles of Incorporation or the By-Laws of The Brandeis Investment Company:

WHEREAS, the officers of this corporation executed on behalf of this corporation two certain Agreements, each dated June 4, 1959, between this corporation and F. W. Woolworth Co., or its assignee, entitled "Vault Agreement" and "Utility Piping Agreement", each of which has been submitted to this meeting, in connection with the sale by Karl N. Louis and E. F. Pettis, as Trustees, (now E. F. Pettis and Alan Baer, as Trustees, the said Alan Baer being a successor Trustee to Karl N. Louis, deceased), to F. W. Woolworth Co. of the premises located on the Northwest corner of 16th and Douglas Street, Omaha, Nebraska, commonly referred to as the Woolworth Building; and

WHEREAS, the execution of said Agreements was in the best interests of this corporation;

NOW, THEREFORE, BE IT RESOLVED, that the action of the officers of this corporation in executing the said "Vault Agreement" and "Utility Piping Agreement", is hereby ratified and confirmed, and they are hereby authorized and directed to take all necessary steps to carry out the terms and conditions of said Agreements.

I further certify that the annexed Agreement is the form of "Utility Piping Agreement" submitted to said meeting.

IN WITNESS WHEREOF, I have set my hand and affixed the Corporate Seal this 25th day of January, 1960.


Secretary



5 ENTERED IN NUMERICAL INDEX AND RECORDED IN THE REGISTER OF DEEDS OFFICE IN DOUGLAS COUNTY, NEBRASKA
62 DAY December 1960 AT 11:47 M. THOMAS L. O'CONNOR, REGISTER OF DEEDS 17.50