

99-25496

FILED SARPY CO. NE.

INSTRUMENT NUMBER

99-025496

CERTIFICATION

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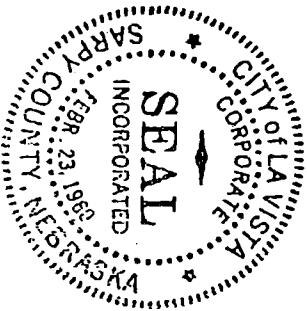
REGISTER OF DEEDS

STATE OF NEBRASKA)
)
COUNTY OF SARPY) SS.
)
CITY OF LA VISTA)

I, Rita M. Ramirez, the duly appointed, qualified, and acting City Clerk of the City of La Vista, Sarpy County, Nebraska, hereby officially certify:

That the attached document is a true and correct copy of the subdivision agreement for Brook Valley Business Park between the City of La Vista, Brook Valley LTD Partnership, Prime Realty, Inc., and Sanitary and Improvement District No. 59 of Sarpy County dated February 23, 1993, as it appears in the official files of the City of La Vista.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of La Vista hereto this 6th day of August, 1999.



Rita M. Ramirez
Rita M. Ramirez, CMC
City Clerk

Counter STEVE
Verify S
D.E. AK
Proof AK
Fee \$ 119.00
ek cash bny

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SUBDIVISION AGREEMENT
(Brook Valley Business Park)

THIS AGREEMENT, made this 23rd day of February, 1983, by and between BROOK VALLEY LTD PARTNERSHIP, a Nebraska Limited Partnership, Prime Realty, Inc., General Partner (hereinafter referred to as "Developer"), SANITARY AND IMPROVEMENT DISTRICT NO. 59 OF SARPY COUNTY, NEBRASKA (hereinafter referred to as "District"), and the CITY OF LA VISTA, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City");

W I T N E S S E T H :

WHEREAS, Developer is the legal and beneficial owner of the land included within the legal description attached hereto as "Exhibit "A" and the proposed plat attached hereto as Exhibit "B", which parcel of land, hereinafter referred as the "area to be developed," is outside the corporate limits of the City but within the City's zoning and platting jurisdiction; and

WHEREAS, Developer has requested City to approve a platting of the area to be developed, as more fully shown on Exhibit "B" hereto; and

WHEREAS, the area to be developed is situated within the boundaries of District, being that portion of the District situated west of 108th Street; and

WHEREAS, Developer has elected not to use the personal financing option for the construction of streets, storm sewers, sanitary sewers, and water and electric distribution systems within the area to be developed but instead wishes to finance same through District; and

WHEREAS, the parties wish to agree upon the manner and the extent to which public funds may be expended in connection with public improvements to be constructed within the area to be developed or serving the area to be developed and the extent to which the contemplated public improvements specially benefit property in the area to be developed and to what extent the cost of the same shall be specially assessed against the property of Developer;

NOW, THEREFORE, IT IS AGREED as follows:

1. Definitions

For the purposes of this Agreement, the following words and phrases shall have the following meanings:

A. The "cost" or "entire cost" of a type of improvement shall be deemed to include all construction costs, engineering fees, attorneys' fees, testing expenses, publication costs, financing costs and miscellaneous costs. In this connection, financing costs shall include all fiscal agent's warrant fees and bond fees, interest on warrants to date of funding by issuance of bonds and bond fees. Miscellaneous costs of the improvement shall include the pro rata share of the general unallocated costs of the District, which unallocated costs shall be prorated to each improvement on the basis that the entire cost of each improvement bears to the entire cost of all improvements constructed by the District.

B. "General obligation" or "general obligation of the District" shall mean the amount by which the entire cost of a particular improvement or type of improvement exceeds the amount of special assessments levied by the District in respect to such improvement or type of improvement.

C. "Maximum general obligation" of the District shall mean the amount by which the total indebtedness of the District incurred in respect to all improvements within the area to be developed exceeds the

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total of special assessments levied in respect to all such improvements.

D. "Property benefited" shall mean property within the area to be developed (Exhibit "B") which constitutes buildable sites, as defined in Subparagraph 8-D, *infra*.

E. "Street intersections" shall be construed to mean the area of the street between the returns of the various legs of the intersection, but in no case shall said area extend in any direction beyond a straight line drawn perpendicular from the centerline of the street to the adjacent lot corner, as shown in Exhibit "E" attached hereto.

2. Authorized Public Improvements

Developer, District and City agree that the credit of District shall be used for the construction of the following types of public improvements upon the property located within or adjacent to the boundaries of the District:

A. Paving. Concrete paving of all streets dedicated per plat (Exhibit "B"), and illustrated on Exhibit "C" attached herewith, all said paving to be thirty (30) feet in width.

B. Storm Sewer. Storm sewer system, including storm sewers, inlets, manholes, junction boxes, flared end sections and related appurtenances constructed in the dedicated street right-of-way per plat (Exhibit "B") or in dedicated easementways, as illustrated on Exhibit "C" hereto.

C. Sanitary Sewer. All sanitary sewer mains, manholes and related appurtenances constructed in dedicated street right-of-way per plat (Exhibit "B") or in dedicated easementways, if any, as illustrated on Exhibit "C" hereto.

D. Water. Water distribution mains, including the following: (1) the extension of the 16-inch diameter water main in 108th Street to the South line of the area to be developed; and (2) water distribution mains located within dedicated street right-of-way per plat (Exhibit "B") to be installed by Metropolitan Utilities District.

E. Street Lighting. Street lighting for public streets dedicated per plat (Exhibit "B") to be installed by Omaha Public Power District.

F. Electrical. Underground electrical service to each of the lots in the area to be developed to be installed by Omaha Public Power District.

G. External Road Improvements. Auxiliary turn lanes in Harrison Street and the portions of intersections with Harrison Street and 108th Street as shown on Exhibit "D" hereto.

The exact design, location and dimensions of and detailed plans and specifications for each of the afore-described improvements are subject to prior approval by the City in advance of award of contract for construction. Except as herein expressly provided, the credit of the District shall not be used for the construction of any improvement.

3. Unauthorized Expenditures

Developer and District agree that the credit or funds of the District shall not be used for the planning, construction, acquisition or financing of any project, improvement, utility installation or connection, or for any facility except to the extent specifically authorized by Paragraph 2 hereof, *supra*. By way of specification and not by way of limitation, Developer and District agree

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that District shall not incur any indebtedness or otherwise involve its credit or expend any of its funds in the planning, construction, acquisition, installation or financing of:

- A. Any swimming pool, golf course, park, playground, or other recreational facility.
- B. The advancement or payment of any fee, deposit, surcharge, demand charge or similar charge, whether or not refundable, imposed by any utility or other entity providing or contemplating providing utility-type service to the area to be developed.
- C. Any grading costs, except grading in street rights-of-way dedicated per plat (Exhibit "B"), the cost of which shall be one hundred percent (100%) specially assessed.
- D. Sidewalks.
- E. Any sodding, seeding or other landscaping, including that contemplated on street right-of-way, except for the replacement of existing grass in Harrison Street where necessary to construct auxiliary turn lanes.
- F. The payment of any sewer or water connection fee, sewer use or treatment fees, or water charge for lots or properties within or without the area to be developed.
- G. Any gas distribution system.
- H. The purchase of real estate or interest therein, except as may be authorized by the City.

4. Allocation of Cost of Improvements

Developer, District and City agree that the cost of all public improvements constructed by the District within the area to be developed (Exhibit "B"), as authorized by Paragraph 2, supra, shall be defrayed as follows:

- A. Paving. One hundred percent (100%) of the cost of all paving shall be paid by special assessment against the property benefited within the area to be developed, except as follows: (1) the cost of that portion of each of the intersections which do not abut property, as more specifically shown on the typical intersection diagrams attached hereto as Exhibit "E" may be treated as a general obligation of the District; and (2) the cost of auxiliary turn lanes in Harrison Street and the portions of intersections with Harrison Street and 108th Street not abutting property all as shown on Exhibit "D" attached hereto.
- B. Storm Sewers. One hundred percent (100%) of the cost of all storm sewers, including manholes, inlets and other appurtenances, for storm sewers twenty-four (24") inches in size or less shall be specially assessed. Any storm sewer located in a public street or in an easement on private property whose size is required to be in excess of twenty-four (24") inches in size may be generally obligated for the difference in material and installation cost between a twenty-four (24") inch pipe and the actual size required, which difference may be generally obligated.
- C. Sanitary Sewers. One hundred percent (100%) of the cost of all sanitary sewers, including manholes and other appurtenances, shall be paid by special assessment against property benefited within the

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area to be developed. No portion of the cost of the sanitary sewer system shall be borne by general obligation of the District.

D. Water. One hundred percent (100%) of the cost of the water distribution system serving the area to be developed shall be specially assessed against property benefited within the area to be developed, including the entire cost of such contract charges as are authorized to be paid to Metropolitan Utilities District by the provision of Subparagraph 2-D, SUPRA, except that fifty percent (50%) of the actual charges imposed by MUD for the extension of the sixteen (16") inch diameter water main referred to in Subparagraph 2-D hereof may be treated as a general obligation of the District. No portion of the cost of the water distribution system shall be borne by general obligation of the District, except as herein specifically provided.

E. Street Lighting. The cost of the monthly contract charges paid to Omaha Public Power District for furnishing lighting of public streets, and maintenance and repair costs authorized under Paragraph 12, infra, shall be general obligation of the District.

F. Electrical. One hundred percent (100%) of the cost of the underground electrical service serving the area to be developed, including contract charges authorized to be paid by District to Omaha Public Power District by the provisions of Subparagraph 2-F, SUPRA, together with such other charges as fall within the definition of "entire cost" as defined in Subparagraph 1-A, SUPRA, and are allocable to such contract charges, shall be specially assessed against property within the area to be developed. No portion of the cost of the underground electrical service system shall be borne by general obligation of the District.

G. Sidewalks. The cost of sidewalks shall be paid by the Developer without use of District's credit or funds.

EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED FOR IN THIS AGREEMENT TO THE CONTRARY, ANY AND ALL COSTS OR OBLIGATIONS WHICH THE DISTRICT SHALL INCUR IN CONNECTION WITH ANY IMPROVEMENT, FACILITY, CONSTRUCTION, UTILITY INSTALLATION OR FINANCING SHALL BE ONE HUNDRED PERCENT (100%) SPECIALLY ASSESSED. THE MAXIMUM GENERAL OBLIGATION DEBT HEREIN PROVIDED FOR SHALL NOT BE EXCEEDED.

5. Phasing of Construction

The Developer has requested and the City has acquiesced in Developer's request that the improvements described herein shall be constructed in two separate phases, Phase I, and Phase II. Special assessments shall be levied in the manner provided by law and in the amount required by this Agreement. Unless the City agrees otherwise, the Developer will levy all special assessments attributable to a particular improvement at one time and no lot shall be exempted from a levy solely by virtue of its location in either Phase I, or Phase II. Levies attributable to particular improvements shall in no way preclude subsequent levies for additional improvements.

6. Maximum General Obligation Debt

Developer and District warrant, covenant and agree that, notwithstanding any other provision of this Agreement to the contrary, the total amount of general obligation debt of the District arising from the District's activities and expenditures in connection with all phases of the construction of the improvements authorized herein shall not in the aggregate, in any event, exceed the total of the amount of general obligation authorized by subparagraphs 4-A, 4-B, 4-D and 4-E, SUPRA. To the extent such general obligation of the District would have otherwise exceeded such total at date of levy of special assessments, the general obligation of the District shall be reduced and the amount specially

assessed for paving, storm sewer and sanitary sewer improvements shall be increased.

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7. Formula to be Applied By on Both District and City

The method herein provided for computing special assessment and general obligation for the improvements herein authorized shall be binding on both the District and the City. City covenants and agrees that should City annex the area to be developed, or any part thereof, prior to District's levy of special assessments for the improvements authorized in Paragraph 2 hereof, supra, and thereby succeed to said District's power to levy special assessments, that City will levy same in accordance with Paragraphs 2 and 4 hereof, supra.

8. Covenants of Developer and District

Developer and District covenant and agree that the District created by Developer will:

- A. Abide by and incorporate into all construction contracts the provisions required by the regulations of the City pertaining to construction of public improvements in subdivisions and testing procedures therefor.
- B. Present to the City, prior to the commencement of construction of any improvement, binding contracts between the District and contractors providing for the installation of improvements authorized herein, and a binding agreement between the District and its fiscal agent providing for the placement of warrants and/or bonds of the District to finance the cost of the improvements authorized herein.
- C. Prior to commencement of construction of improvements, District will obtain and file of record permanent easements for all sanitary and storm sewer lines authorized by Paragraph 2 hereof, supra, which are not situated on dedicated street right-of-way. Said easements shall be granted by Developer at no cost to District or City and shall be in form satisfactory to City's Attorney and City's Engineer.
- D. Except as may otherwise be agreed to by City, all said District's levy of special assessments shall be made in such a manner so as to assure that the entire burden of the levy is borne, on a front foot or area basis, by lots or parcels or portions of lots or parcels which are truly buildable sites. If any lot, parcel, or part thereof, or other area within the area to be developed is not a buildable site by reason of insufficient size or dimensions or by reason of its having been acquired for any public purpose, or by reason of easements or similar burdens, or by reason of floodway or flood plain restrictions, or for any other reason, then no portion of the total amount to be levied for special assessments shall be levied against said unbuildable lot, parcel or other area, and the amount that otherwise would have been levied against same, shall be spread and levied against the lots, or parts thereof, within the area to be developed which are buildable sites. The City's Engineer will determine which sites, if any, are not buildable sites. Attached hereto as Exhibit "F" are not buildable sites. Determination of the number of square feet of buildable area within each of the lots.
- E. At least thirty (30) days prior to setting the date of any hearing of District to be held for the purpose of equalizing or levying special assessments against property benefitted by any improvements constructed by District, submit to City:
 - 1) A detailed schedule of the proposed special assessments;

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- 2) A plat of the area to be assessed;
- 3) A full and detailed statement of the entire cost of each type of improvement, which statement or statements shall separately show:

- a. the amount paid to contractor;
 - b. a special itemization of all other costs of the project, including, but not limited to, all engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, including, but not limited to, interest on all warrants to date of funding by issuance of bonds, estimated fiscal agent's warrant fees and bond fees;
 - c. a special itemization of all unallocated and unpaid costs of the District as defined in Subparagraph 1-A, supra.
- F. In setting the rate of interest for special assessments levied by the District, the District shall set same at the maximum authorized by law for special assessments.
 - G. District shall not proceed with any levy of special assessments except in accordance with the terms hereof and only after City has determined the proposed special assessments to be in accordance herewith.
 - H. In the performance of this contract, the District shall not discriminate against any parties on account of race, national origin, sex, age, political or religious affiliations in violation of Federal or State laws or local ordinances.
 - I. Should any of the platted lots per Exhibit "B" be split, all special assessments levied on the lot will be paid at the time of such lot split, unless the City otherwise agrees.

9. Partial Annexation

The parties mutually agree that in the event City shall annex any part of the area shown on Exhibit "B" hereto and said annexation shall not include the then entire territory of the District, then a division of assets and liabilities of the District in connection with such partial annexation of the District shall be made as may be agreed by City and District, and if they are unable to agree, then in the manner provided in Section 31-766 of the Nebraska Revised Statutes, 1943, Reissue 1988, as amended and in effect at the time. The City shall be under no obligation to annex the area to be developed or any part thereof.

10. Construction Standards and Procedures

District and Developer further agree that, as to all improvements constructed by or on behalf of the District or under its control or direction, that:

- A. All such improvements will be constructed in strict accordance with plans and specifications and locations approved in writing by City's Engineer and in strict accordance with the minimum standards and requirements of construction adopted by the City and in effect at the time of construction of said improvements, and that upon completion of construction thereof, District shall furnish to City a certificate from its Consulting Engineers so certifying.
- B. District shall cause "as Built Plans," in reproducible form, and specifications for all such improvements that District shall have

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- C. All such improvements shall comply with all applicable federal and state laws and regulations in general and with all applicable ordinances and regulations of the City in reference to construction, use, operation and maintenance.
- D. In the event that City's Engineers determine that there is anything in the construction, maintenance or operation of any such improvements which will, in the opinion of City's Engineers, be detrimental to any other improvement or utility constructed or to be constructed in the same street right-of-way or easementway, District will, on notice thereof, promptly cause its engineers to jointly review and evaluate the problem with City's engineer and formulate a Plan for corrective action which shall be implemented by District at District's cost.
- E. District shall require each contractor to furnish a performance and maintenance bond, with District and City as joint and several obligees thereon, which bond shall be satisfactory to the City as to surety, form and terms.

11. Administrative Fee

Developer and District agree that, in addition to whatever inspection and testing that District shall perform or cause to be performed, City reserves the right to cause City's own inspection to be made of all construction of public improvements constructed by District, whether within or without the area to be developed. District agrees that it will pay to City an amount equal to two percent of the construction cost of all improvements constructed by or for the District, including electrical and water distribution systems constructed pursuant to contracts between the District and Omaha Public Power Authority or Metropolitan Utilities District, as well as all other improvements authorized under Paragraph 2, SUPRA, as reimbursement to City for engineering, legal and administrative expenses incurred by City in connection with administration of this Agreement. Said administration fee shall be paid to City as follows:

- A. The first installment shall constitute one percent of the construction cost estimate for the various improvements computed by the engineer and shall be paid to the City at the time the City approves the plans and specifications of the improvements; and
- B. The remaining portion of said fee, if any, shall be paid at the time of the acceptance of the improvements by the District, and shall be equal to two percent (2%) of the final construction contract amounts reduced by the first installment paid pursuant to Subparagraph A above.

Said fees shall be a cost of the improvements within the meaning of Subparagraph 1-A, SUPRA, and shall be prorated among improvements in the same ratio that the entire cost of each improvement bears to the entire cost of all improvements constructed by the District.

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12. Testing Expense

District shall cause appropriate testing of materials and work finished in respect to the construction of improvements and shall furnish City's engineers with copies of test results. City's engineers may order additional paving core tests, sewer televising or other tests, the cost of which, not to exceed Ten Thousand Dollars (\$10,000.00), shall be paid by District to the party performing the testing procedures; which additional testing costs, not to exceed Ten Thousand Dollars (\$10,000.00), shall also be a cost of the improvement. Neither the Developer nor the District nor any other party shall be entitled to rely upon any inspections made by the City for any purpose whatsoever. The sole responsibility for proper inspection and certification as to completion remains with the District and its engineers.

13. Maintenance of Improvements

It is further agreed that the District shall maintain and keep in good repair all improvements authorized to be constructed within the boundaries of the District pursuant to Paragraph 2, supra. Prior to expending District credit or funds on any major repairs, District shall first make a determination that the project would not be covered by the performance bond and/or any separate maintenance bond executed by the contractor involved in the original construction of said improvement. Repairs reasonably estimated to cost more than Twenty-five Thousand Dollars (\$25,000.00) shall be subject to prior approval of City.

14. Miscellaneous

It is further mutually agreed:

- A. District need not construct the extension of the water main in 108th Street to the South end of the area to be developed until such time as City or Metropolitan Utilities District determines that such extension should be constructed.
- B. That the District shall levy an annual mill levy sufficient to fully comply with applicable statutes and, in all events not less than that necessary to produce an amount of taxes sufficient to pay all general operating expenses of the District, including street lighting, water hydrant fees, and maintenance, repair and reconstruction costs authorized and required under Paragraph 13, supra, together with interest on that portion of the District's indebtedness that exceeds the total amount of outstanding special assessments of the District; and
- C. That in addition to whatever rights of enforcement of the terms hereof are herein granted to any party, each party may avail itself of all other remedies it may have to enforce the terms hereof at law or equity. By way of specification and not by way of limitation, each of the parties expressly reserve to and right to specifically enforce full compliance of the terms and conditions of this agreement by mandatory or prohibitory injunction.
- D. The covenants hereof of Developer and the District are joint and several and shall constitute covenants running with the land.
- E. The parties mutually agree that at this time public sidewalks are not necessary, but City reserves the right to require sidewalks in the future as City may determine necessary along 108th Street and along Harrison Street, which, if required, shall be at the cost of the Developer or its successor in interest.

15. Exhibit Summary

The Exhibits attached hereto and made a part hereof are as follows:

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Exhibit "A": Metes and bounds legal description of the area to be developed.

Exhibit "B": Plat of area to be developed.

Exhibit "C": Plat drawing showing type and location of public improvements.

Exhibit "D": Illustration of auxiliary turning lanes in Harrison Street and street intersections with Harrison Street and with 108th Street outside the boundaries of District which are to be constructed by District, consisting of 4 pages.

Exhibit "E": Illustration of typical internal street intersections, showing portions thereof to be general obligation and portions to be specially assessed.

Exhibit "F": Page F-1 - Developer's preliminary drawing of areas excluded from special assessment by reason of being non-buildable.

Page F-2 - Developer's preliminary determination of number of square feet of buildable land within each of the platted lots.

IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures and seals at La Vista, Nebraska, the day and year first above written.

ATTEST:
Bretts McCart
Secretary
BROOK VALLEY LTD. PARTNERSHIP, a Nebraska Limited Partnership
PRIME REALTY, INC., GENERAL PARTNER

By: James W. McCart
Its President

ATTEST:
SANTARY AND IMPROVEMENT DISTRICT
NO. 59 OF SARPY COUNTY, NEBRASKA

By: John M. Murrell
Chairman of the Board of Trustees

CITY OF LA VISTA

By: Harold Anderson
Harold Anderson, Mayor

[Signature]
Clerk of Said District

ATTEST:
[Signature]
Dorothy A. McClain, City Clerk

STATE OF NEBRASKA
COUNTY OF Douglas } ss.

On this 23rd day of February, 1993, before me, the undersigned, a notary public in and for said county personally came James V. McCart, to me personally known to be the President of Prime Realty, Inc., General Partner of

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Brook Valley Ltd. Partnership, and Beth McCurt, to me personally known to be the Secretary of Prime Realty, Inc. the identical persons whose names are affixed to the foregoing Subdivision Agreement, and they acknowledged the execution thereof to be their voluntary act and deed.

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

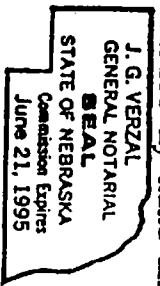


Joan M. Boulay
Notary Public

STATE OF NEBRASKA }
COUNTY OF Dawson } ss.

On this 3rd day of February, 1993, before me, the undersigned, a notary public in and for said county, personally came John Herywood, to me personally known to be the Chairman of the Board of Trustees of Sanitary and Improvement District No. 59 of Sarpy County, Nebraska, and Wm J. Wilschmeyer to me personally known to be the Clerk of the Board of Trustees of Sanitary and Improvement District No. 59 of Sarpy County, Nebraska, the identical persons whose names are affixed to the foregoing Subdivision Agreement, and they acknowledged the execution thereof to be their voluntary act and deed.

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

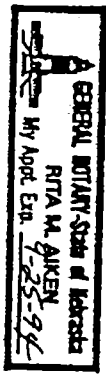


J. G. Verzal
Notary Public

STATE OF NEBRASKA }
COUNTY OF Sarpy } ss.

On this 3rd day of March, 1993, before me, the undersigned, a notary public in and for said county, personally came HAROLD ANDERSON, to me personally known to be the Mayor of the City of La Vista, and DOROTHY A. MCGINNIS, to me personally known to be the Clerk/Treasurer of the City of La Vista, the identical persons whose names are affixed to the foregoing Subdivision Agreement, and they acknowledged the execution thereof to be their voluntary act and deed.

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

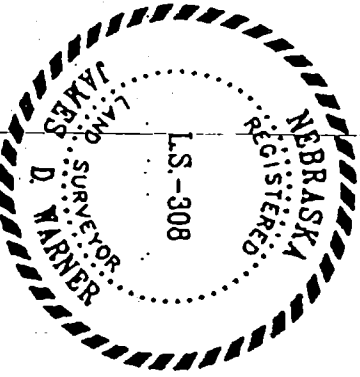


Rita M. Aiken
Notary Public

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SURVEYOR'S CERTIFICATE

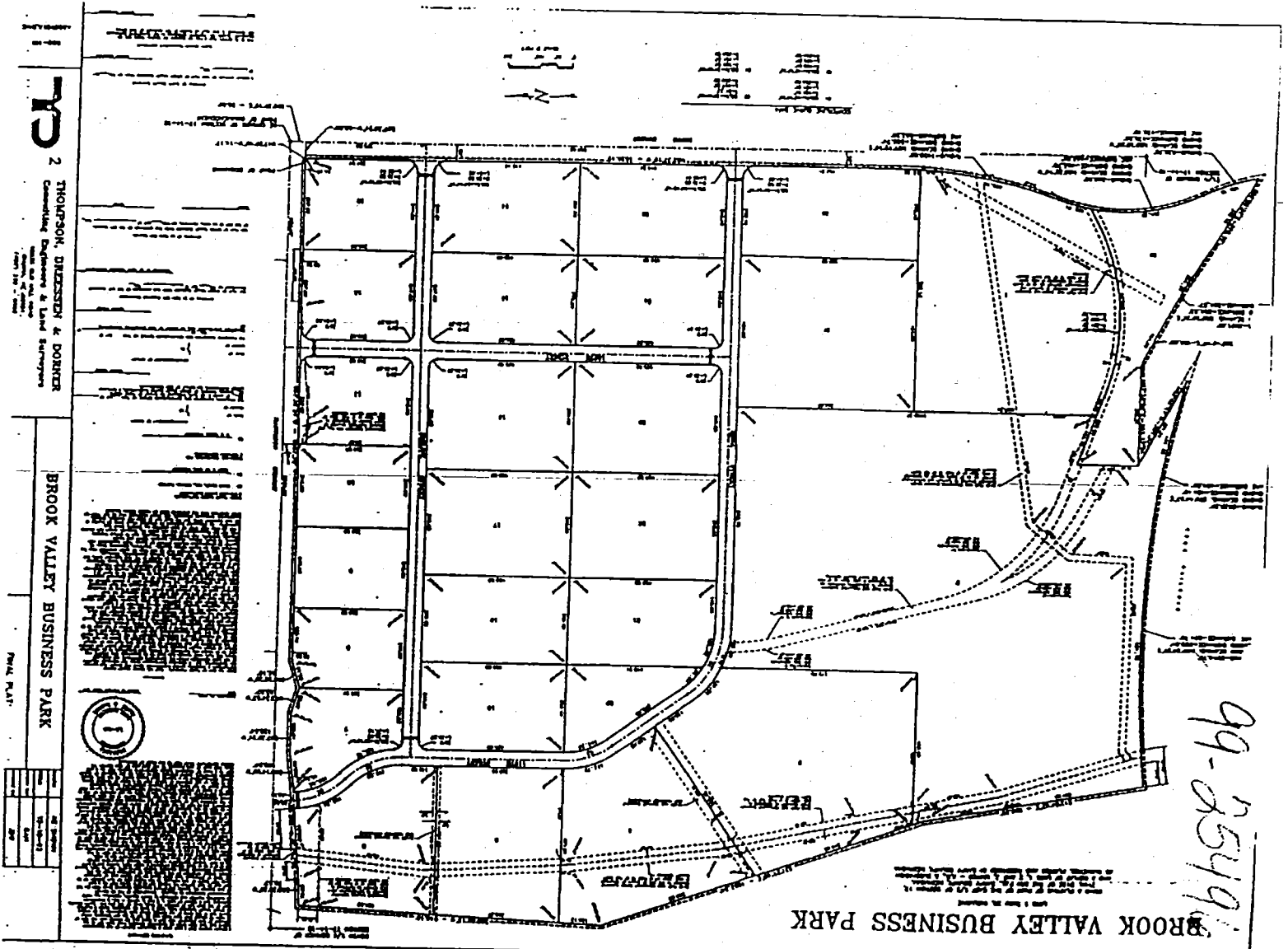
I HEREBY CERTIFY THAT I HAVE MADE A BOUNDARY SURVEY OF THE SUBMISSION HEREIN AND THAT IRON PIPES OR PERMANENT MARKERS HAVE BEEN SET AT ALL CORNERS OF SAID BOUNDARY AND THAT A BOND WILL BE POSTED WITH THE CITY OF LA VISTA TO INSURE THAT IRON PIPES WILL BE SET AT ALL LOT CORNERS, ANGLE POINTS AND AT THE ENDS OF ALL CURVES WITHIN SAID SUBMISSION TO BE KNOWN AS BROOK VALLEY BUSINESS PARK, LOTS 1 THRU 28, INCLUSIVE, BEING A PLATTING OF THAT PART OF THE EAST 1/2 OF SECTION 17, T14N, R12E OF THE 6TH P.M., SARRY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SECTION 17, THENCE S02°37'19"E (ASSUMED BEARING) 50.00 FEET ON THE EAST LINE OF SAID SECTION 17; THENCE S87°38'24"W 60.00 FEET ON A LINE 50.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID SECTION 17 TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTH LINE OF HARRISON STREET, THENCE WESTERLY ON THE SOUTH LINE OF HARRISON STREET ON THE FOLLOWING DESCRIBED SEVEN COURSES: THENCE S87°38'24"W 1507.76 FEET, THENCE S69°22'38"W 86.16 FEET, THENCE N75°34'53"W 83.87 FEET; THENCE S87°38'24"W 120.64 FEET, THENCE S80°14'00"W 100.84 FEET; THENCE S85°03'30"W 287.92 FEET; THENCE S85°36'39"W 78.93 FEET, THENCE S00°08'15"W 940.10 FEET; THENCE S21°21'40"E 1052.34 FEET, THENCE S12°04'42"E 689.92 FEET TO THE NORTH LINE OF THE C & O. RAILROAD; THENCE EASTERLY ON THE NORTHERLY LINE OF THE C & O. RAILROAD ON THE FOLLOWING SEVEN DESCRIBED COURSES, THENCE NCRTHEASTERLY ON A 2914.79 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING N87°59'27"E, CHORD DISTANCE 822.04 FEET, AN ARC DISTANCE OF 824.79 FEET TO A POINT OF COMPOUND CURVE; THENCE SOUTHEASTERLY ON A 2930.39 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S79°44'57"E, CHORD DISTANCE 424.49 FEET, AN ARC DISTANCE OF 424.86 FEET, THENCE N62°46'47"W 301.24 FEET TO THE SCUTP- LINE OF THE NORTH 1/2 OF SAID SECTION 17; THENCE N87°33'56"E 303.37 FEET ON THE SOUTH LINE OF THE NORTH 1/2 OF SAID SECTION 17; THENCE S62°46'47"E 151.00 FEET TO A POINT OF CURVE, THENCE SOUTHEASTERLY ON A 3921.68 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S60°56'39"E, CHORD DISTANCE 251.23 FEET, AN ARC DISTANCE OF 251.27 FEET TO A POINT OF TANGENCY, THENCE S59°06'31"E 273.19 FEET TO THE WEST LINE OF 108TH STREET, THENCE NORTHERLY ON THE WESTERLY LINE OF 108TH STREET THE FOLLOWING FIVE DESCRIBED COURSES: THENCE NORTHEASTERLY ON A 638.75 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N20°18'25"W, CHORD DISTANCE 178.52 FEET, AN ARC DISTANCE OF 179.10 FEET TO A POINT OF REVERSE CURVE; THENCE NORTHEASTERLY ON A 588.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING N05°32'16"W, CHORD DISTANCE 455.75 FEET, AN ARC DISTANCE OF 468.01 FEET TO A POINT OF REVERSE CURVE; THENCE NORTHEASTERLY ON A 1450.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N07°19'16"E, CHORD DISTANCE 500.74 FEET, AN ARC DISTANCE OF 503.26 FEET TO A POINT OF TANGENCY, THENCE N02°37'19"W 1828.45 FEET ON A LINE 50.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID SECTION 17; THENCE N47°29'46"W 1417 FEET TO THE POINT OF BEGINNING.




JAMES D. WARNER, R.L.S. 308

NOVEMBER 10, 1992
DATE

BROOK VALLEY BUSINESS PARK





 2 THOMPSON, DIERKSEN & DONNER

Consulting Engineers & Land Surveyors
 1000 1st St. N.E.
 Grand Rapids, Michigan 49503
 Phone 764-1111

BROOK VALLEY BUSINESS PARK

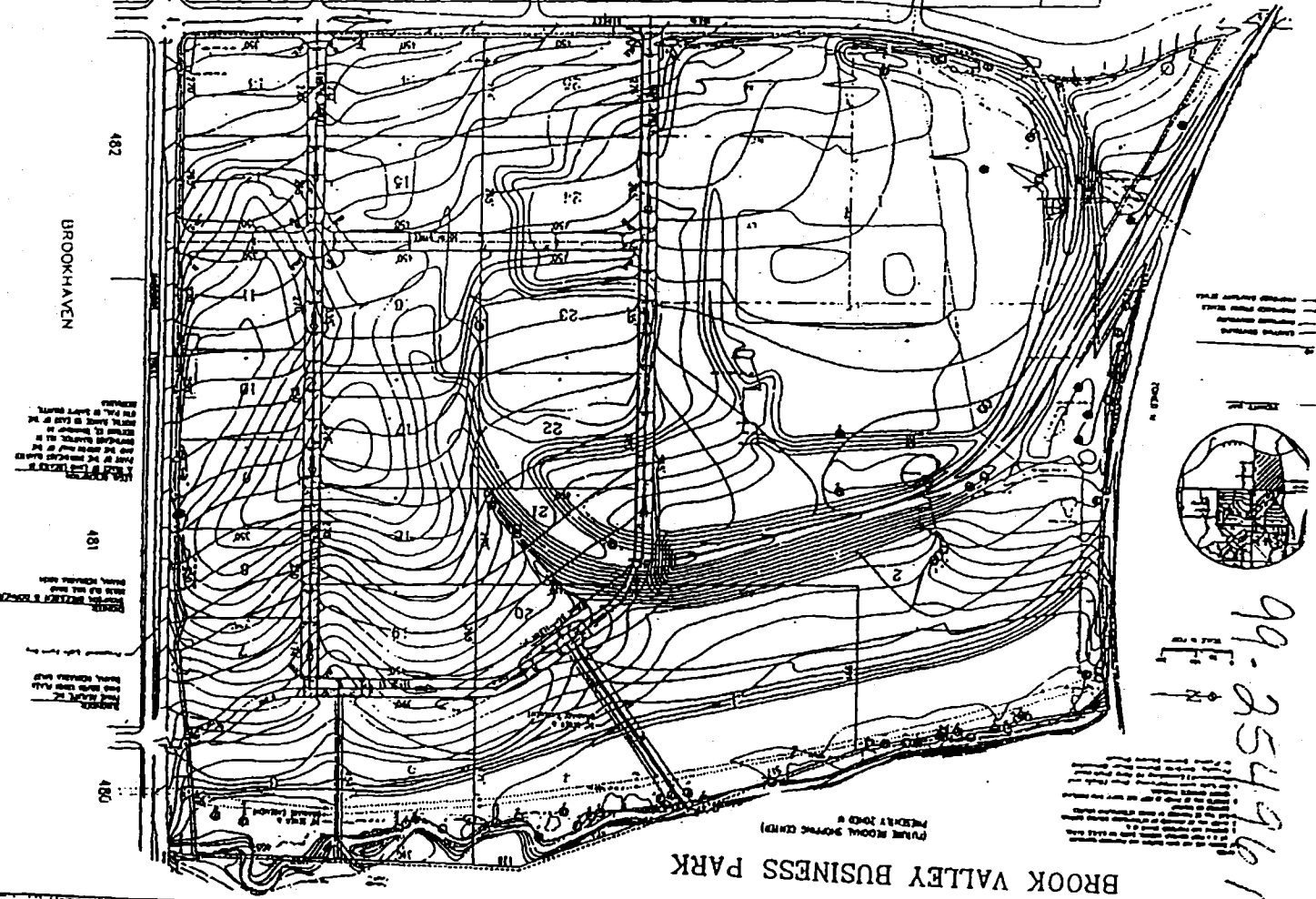
Final Plat

Lot No.	Acres	Area
1	1.00	43,560
2	1.00	43,560
3	1.00	43,560
4	1.00	43,560
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100	1.00	43,560

99-25491

1. ALL DISTANCES SHOWN ON THIS MAP ARE APPROXIMATE.
 2. THIS MAP IS NOT TO BE USED FOR CONVEYANCE OF REAL ESTATE.
 3. THE BOUNDARIES SHOWN ON THIS MAP ARE BASED ON THE RECORDS OF THE COUNTY OF LOS ANGELES.
 4. THE BOUNDARIES SHOWN ON THIS MAP ARE BASED ON THE RECORDS OF THE COUNTY OF LOS ANGELES.
 5. THE BOUNDARIES SHOWN ON THIS MAP ARE BASED ON THE RECORDS OF THE COUNTY OF LOS ANGELES.

10 9 8 7 6 5 4 3 2 1
 OAKDALE PARK

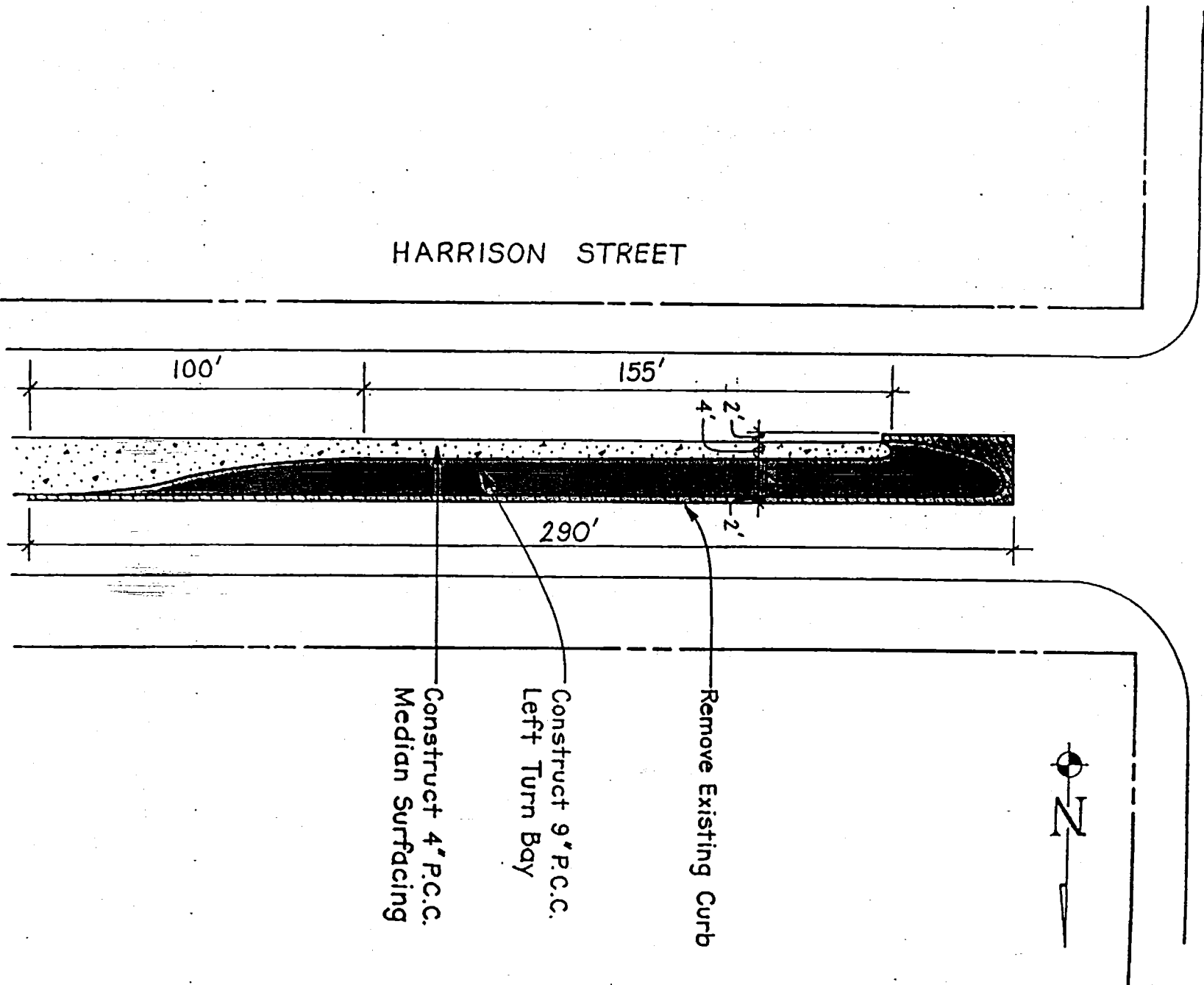


99-25496 M
 1" = 100'

BROOK VALLEY BUSINESS PARK

113 TH STREET

99-25496 N



HARRISON STREET

100'

155'

290'

Construct 4' P.C.C.
Median Surfacing

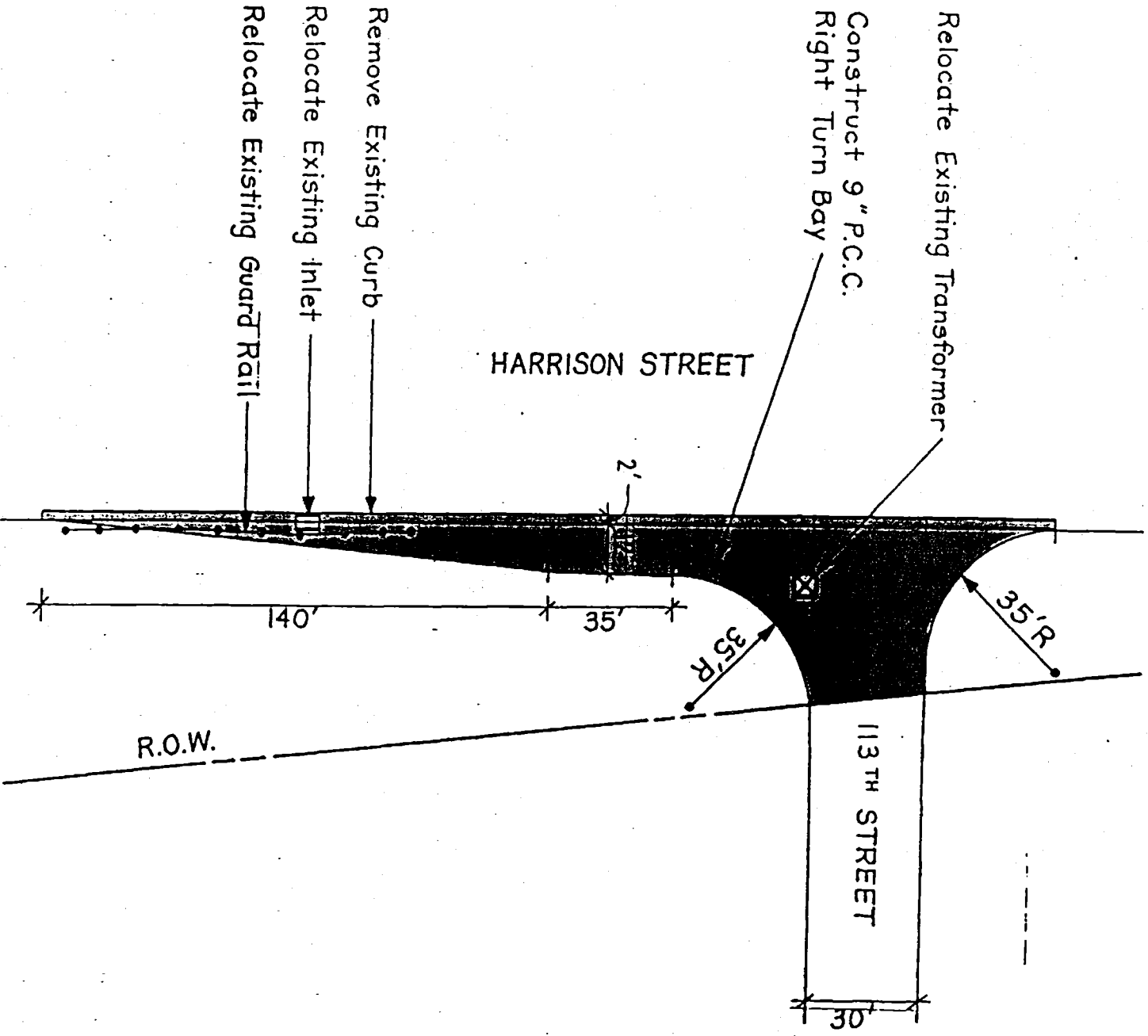
Construct 9' P.C.C.
Left Turn Bay

Remove Existing Curb





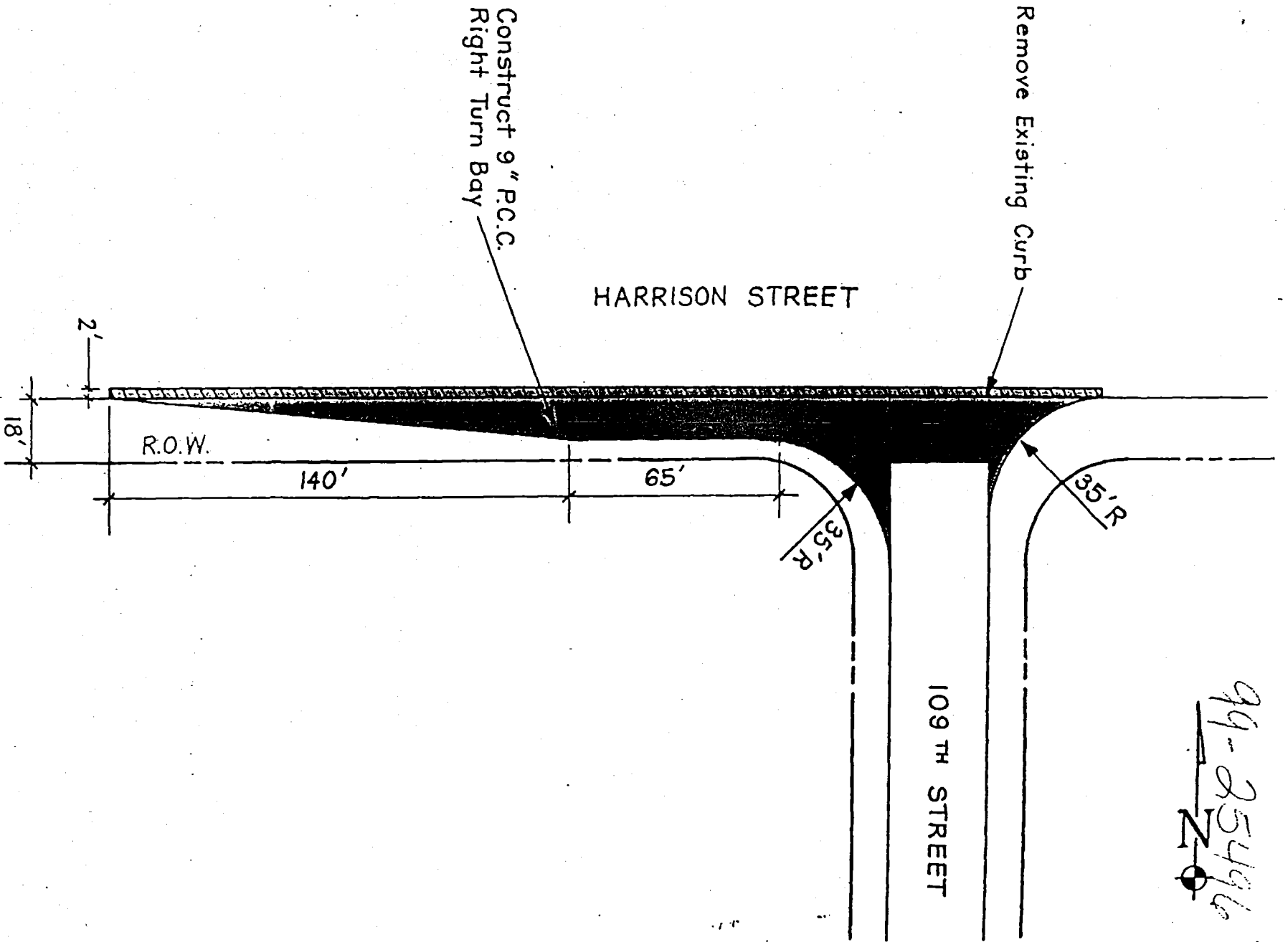
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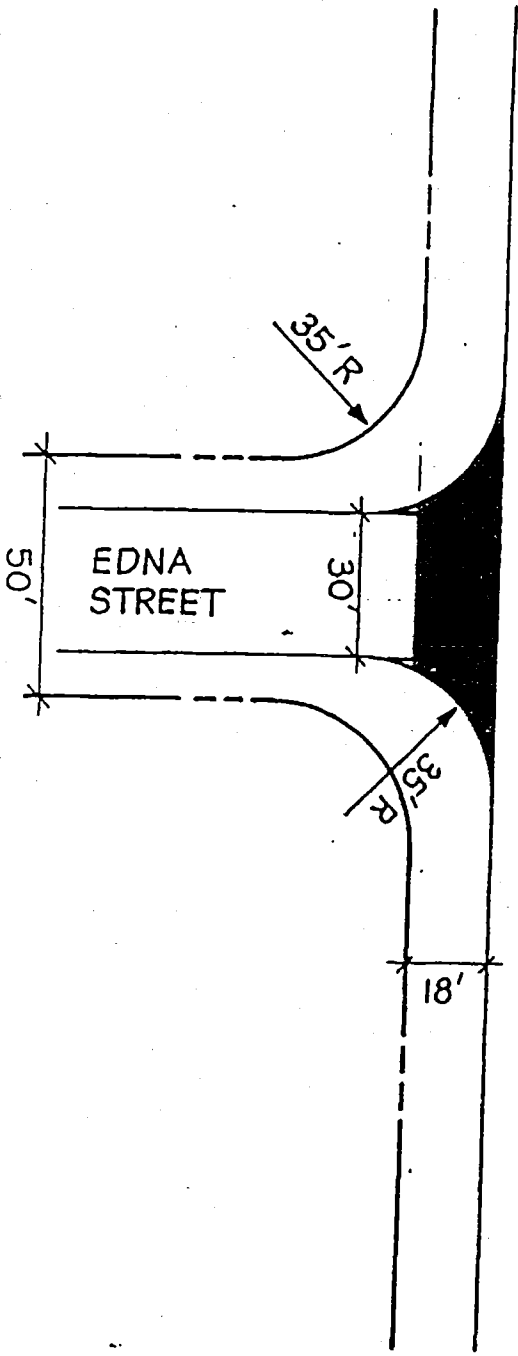
NOTE :

Work Shown On This Sheet May Be A General Obligation Expense.

99-25496 P
N

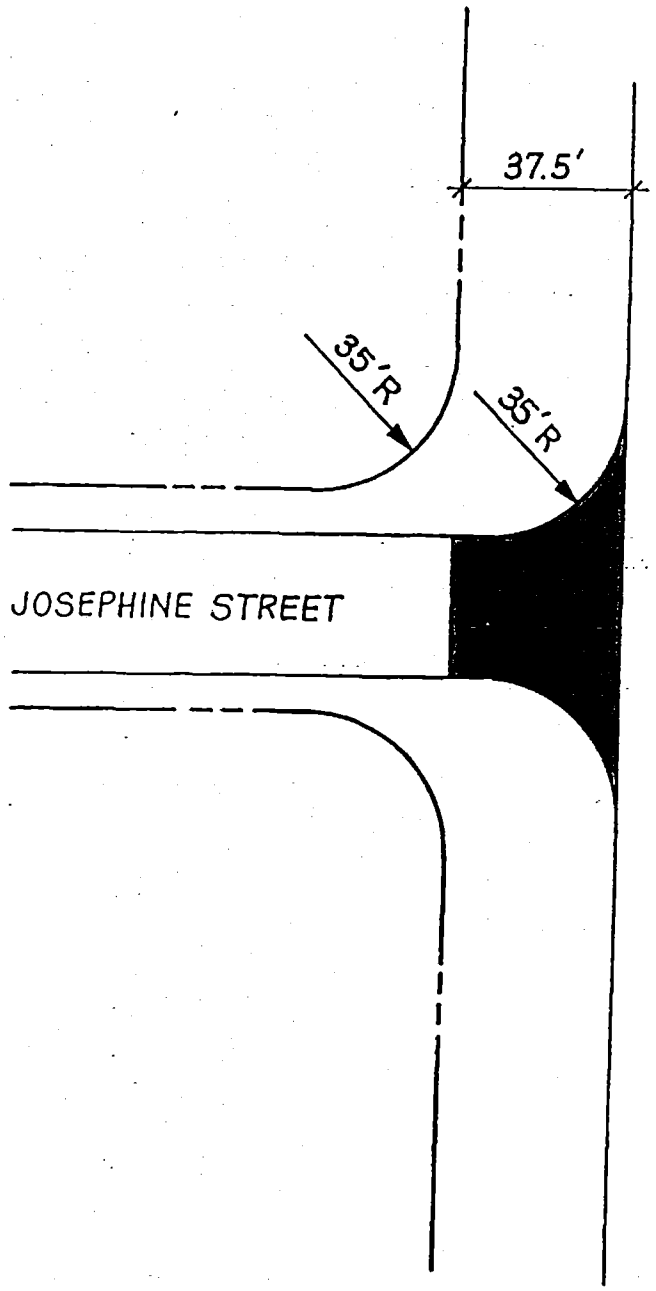


108TH STREET

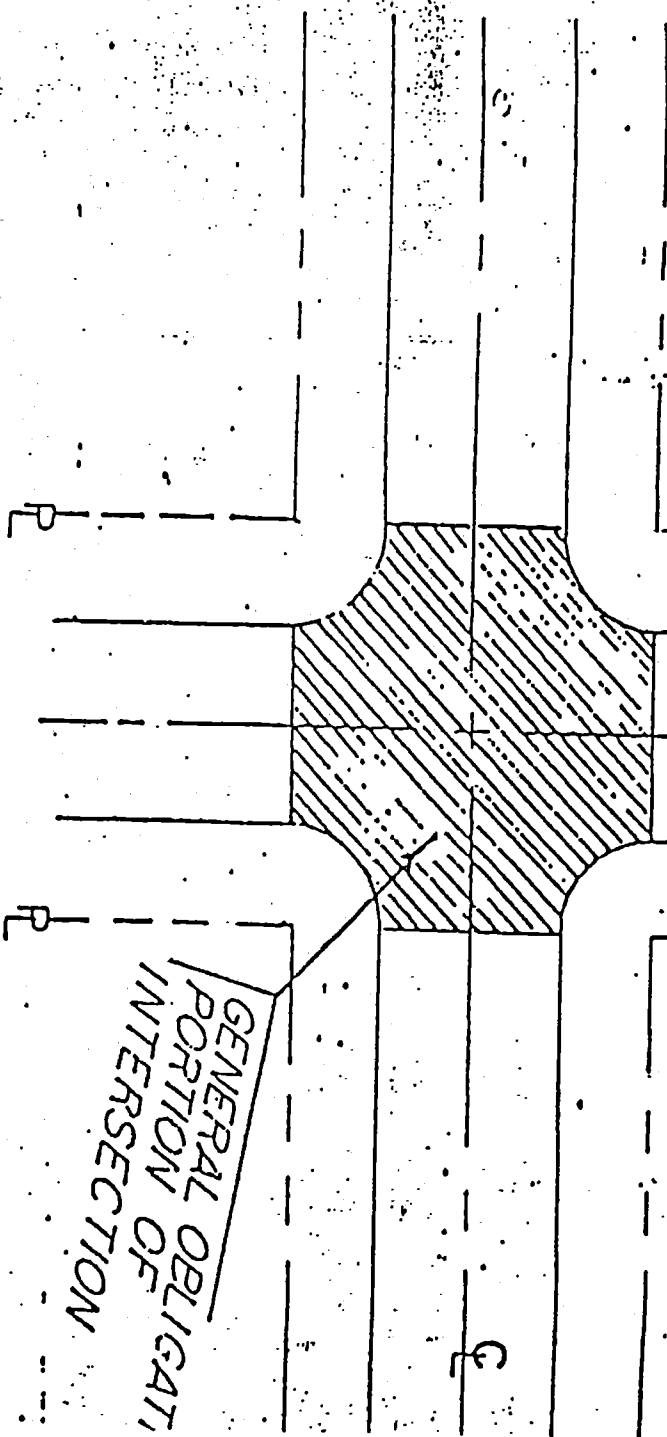


99-25496 D
N

108TH STREET

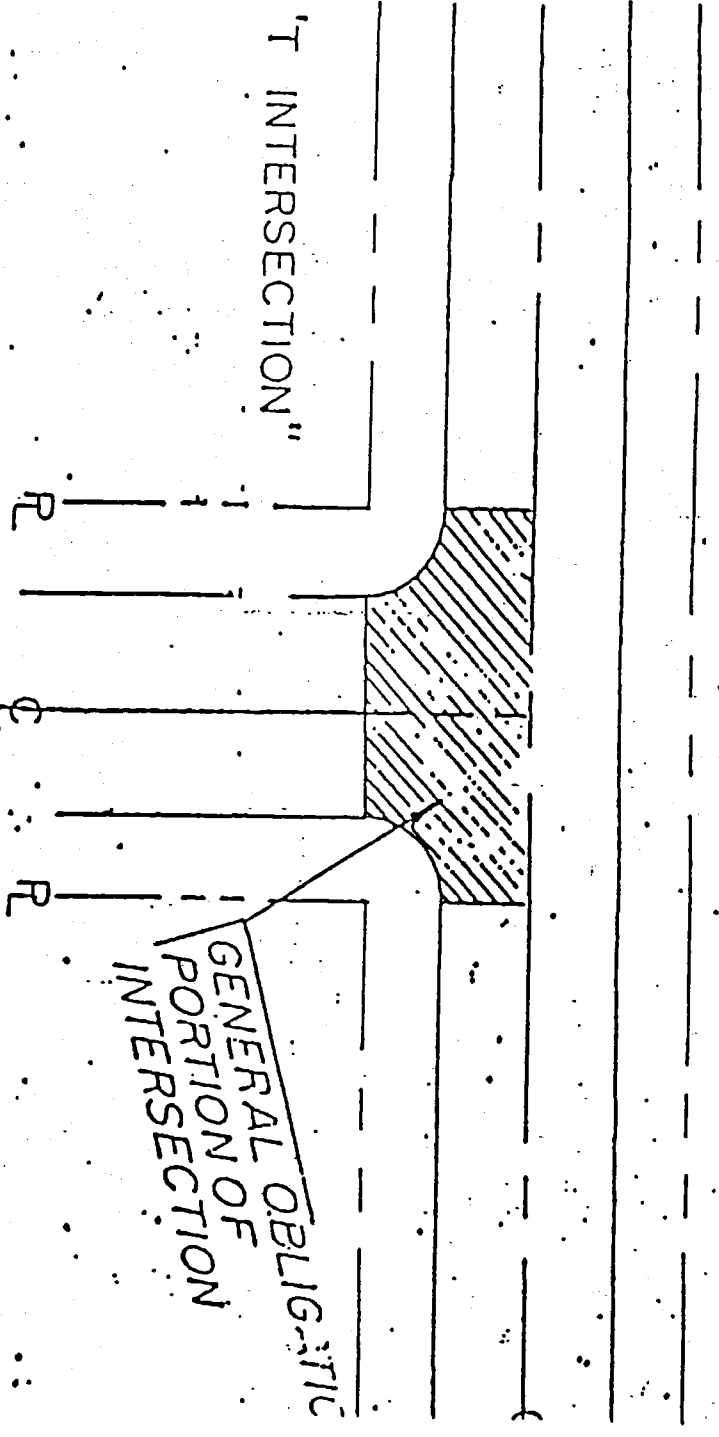


FULL INTERSECTION



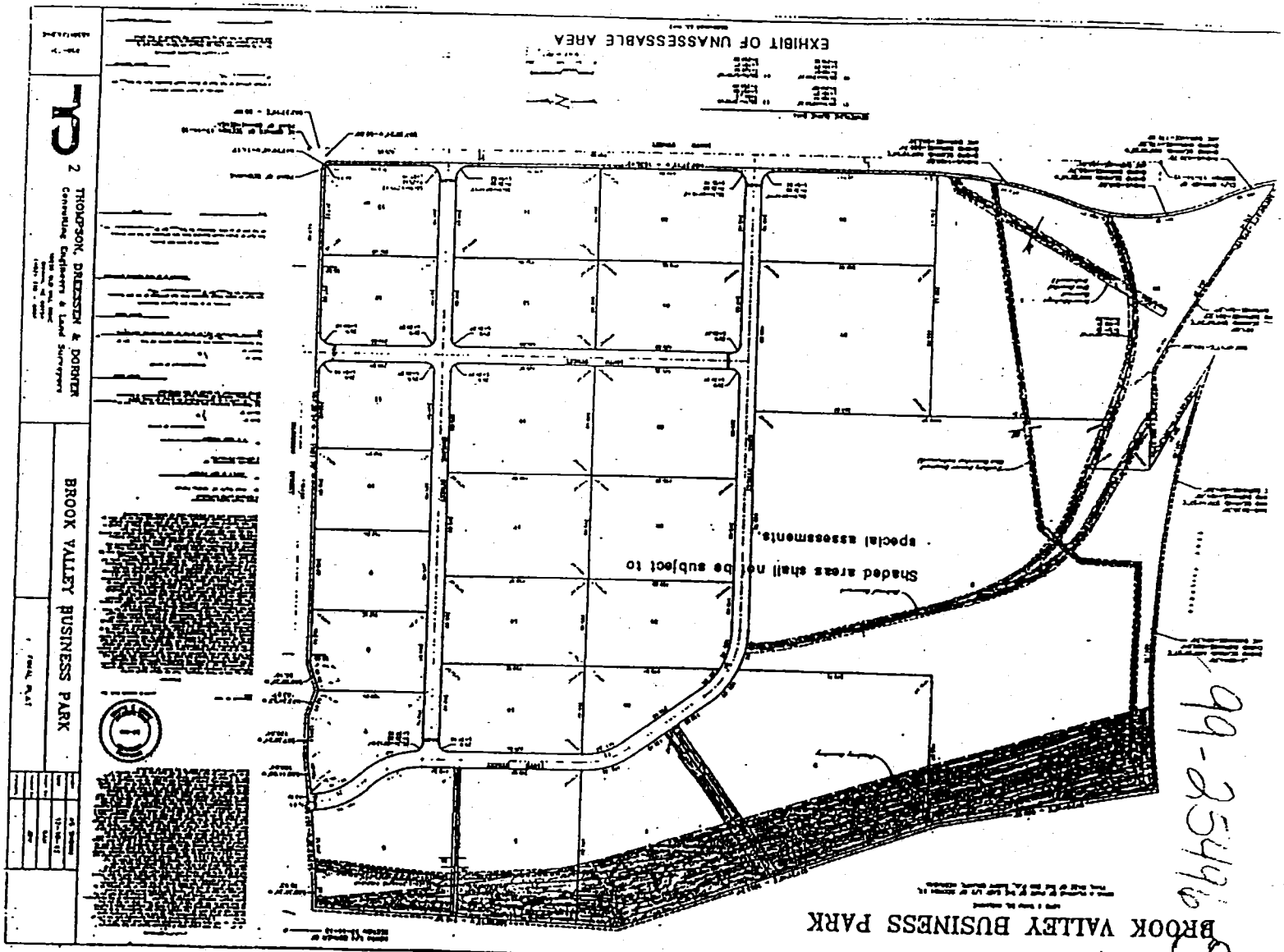
GENERAL OBLIGATORY PORTION OF INTERSECTION

'T' INTERSECTION



GENERAL OBLIGATORY PORTION OF INTERSECTION

99-25496S



BROOK VALLEY BUSINESS PARK

EXHIBIT OF UNASSESSABLE AREA

TP
2 TRIDOPSON, DRESENZ & DOBNER
Consulting Engineers & Land Surveyors
1000 1st St. N.E.
Atlanta, GA 30309
Phone: 404.525.1100
Fax: 404.525.1101

BROOK VALLEY BUSINESS PARK

NO.	DATE	DESCRIPTION
1	1999.04.17	Final Plat

99-254967

BROOK VALLEY BUSINESS PARK

<u>LOT #</u>	<u>TOTAL LOT AREA PER FINAL PLAT</u>	<u>USEABLE AREA FOR ASSESSMENT PURPOSES</u>
1.	411,877	367,277
2.	1,276,204	1,040,304
3.	380,604	262,304
4.	231,851	108,351
5.	180,700	117,700
6.	170,106	123,106
7.	84,521	84,521
8.	84,628	84,628
9.	85,750	85,750
10.	85,750	85,750
11.	92,349	92,349
12.	94,800	94,800
13.	97,128	97,128
14.	125,952	125,952
15.	122,267	122,267
16.	148,365	148,365
17.	141,750	141,750
18.	119,250	119,250
19.	121,113	121,113
20	68,474	68,474
21.	186,417	186,417
22.	141,750	141,750
23.	148,366	148,366
24.	122,267	122,267
25.	126,872	126,872
26.	152,215	152,215
27.	251,726	251,726
28.	160,475	138,075
TOTALS		4,758,827
NOTES:		5,413,527

1. Lot 28 shall be subject to assessments for water, paving, and power only.
2. Lot 1 shall be subject to assessments for power only.
3. Useable area excludes sewer and drainage easements, railroad easements, and floodway areas but does not exclude the normal utility easement areas.

12/23/92

75-20159

AMENDMENT OF, AND WRITTEN APPROVAL FOR
EXCEPTIONS TO, PROTECTIVE COVENANTS OF
BROOK VALLEY BUSINESS PARK

This Amendment of, and Written Approval for Exceptions to, Protective Covenants of Brook Valley Business Park (hereinafter referred to as "Written Approval") is made and executed as of the 7th day of November, 1995, by Brook Valley Limited Partnership, a Nebraska limited partnership (hereinafter referred to as the "Declarant"), Streck Laboratories, Inc. and Dillon Real Estate Co., Inc.

WITNESSETH:

WHEREAS, Declarant has recorded protective covenants affecting the following described real property:

Lots One (1) through Twenty-Eight (28), inclusive, in Brook Valley Business Park, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, a "Declaration of Covenants" was recorded on February 26, 1993, as Instrument No. 93-03605 in the deed records of the office of the Sarpy County Register of Deeds (hereinafter referred to as the "Covenants"); and

WHEREAS, Dillon Real Estate Co., Inc., a Kansas corporation (hereinafter referred to as "Purchaser"), has purchased Lots 12 and 13 in Brook Valley Business Park.

WHEREAS, it is necessary to make an exception to the Covenants to allow the development of Lots 12 and 13 of Brook Valley Business Park, and Declarant is allowed to make exceptions to or modifications of the Covenants when a special situation exists pursuant to Paragraph XV of the Covenants; and

WHEREAS, the undersigned currently own over seventy-five (75%) percent of all the land in Brook Valley Business Park and therefore, pursuant to Paragraph XVI of the Covenants, may amend the Covenants.

NOW, THEREFORE, the undersigned hereby grants to Purchaser the following exceptions to the Covenants of Brook Valley Business Park, titled Declaration of Covenants and recorded as Instrument No. 93-03605 in the deed records of the Sarpy County Register of Deeds and amends the Covenants to incorporate such exceptions into the Covenants as they currently exist and relate to Lots 12 and 13 of Brook Valley Business Park:

1. This Written Approval specifically approves exceptions to the following:
 - (a) The "minimum side yard and rear yard" set-back requirement set forth in Paragraph (a) Section III Building Set-Backs will be reduced from twenty five (25) feet to fifteen (15) feet;
2. This Written Approval is granted pursuant to Paragraph XV of the Covenants and undersigned warrants that it has the power and authority to grant and approve the exceptions contained herein. Undersigned agrees to indemnify and save Purchaser and its successors or assigns harmless from any claim or cause of action brought against Purchaser by the undersigned, its successors, assigns, or any Owner or contract purchaser of a lot in Brook Valley Business Park, or any other person, for breach or violation of the Covenants, which claim or cause of action is based on an exception granted or approved by the undersigned in this Written Approval.

20159

11-5
054210

95-20159-A

IN WITNESS WHEREOF, the undersigned has executed this Written Approval as of the date first set forth above.

BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska limited partnership

By: PRIME REALTY, INC.,
General Partner

By: James V. McCart, President

STRECK LABORATORIES, INC.

By: Terry Agee, Operations Manager

DILLON REAL ESTATE CO., INC.

By: Robert Moeder, Vice President

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss

Subscribed and sworn to before me this ___ day of November, 1995, by James V. McCart, President of Prime Realty, Inc., a Nebraska corporation.

Notary Public

My commission expires: 1/14/99

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss



Subscribed and sworn to before me this ___ day of November, 1995, by Terry Agee, Operations Manager, Streck Laboratories, Inc.

X Jeanne C. Buland
Notary Public

My commission expires: _____

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss

Subscribed and sworn to before me this ___ day of November, 1995, by Robert Moeder, Vice President, Dillon Real Estate Co., Inc.

Notary Public

My commission expires: _____

IN WITNESS WHEREOF, the undersigned has executed this Written Approval as of the date first set forth above.

95 201598

BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska limited partnership

By: PRIME REALTY, INC.,
General Partner

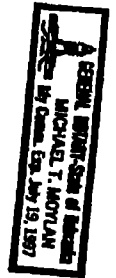
By: [Signature]
James V. McCarr, President

STRECK LABORATORIES, INC.

By: _____
Terry Agee, Operations Manager

DILLON REAL ESTATE CO., INC.

By: [Signature]
Robert Moeder, Vice President



STATE OF NEBRASKA
COUNTY OF DOUGLAS

Subscribed and sworn to before me this 20 day of November, 1995, by James V. McCarr, President of Prime Realty, Inc., a Nebraska corporation.

[Signature]
Notary Public

My commission expires:
7-19-97

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss:

Subscribed and sworn to before me this _____ day of November, 1995, by Terry Agee, Operations Manager, Streck Laboratories, Inc.

My commission expires: _____
Notary Public _____

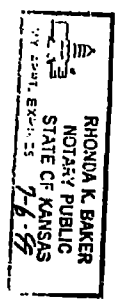
STATE OF NEBRASKA KANSAS)
COUNTY OF DOUGLAS Reno) ss:

Subscribed and sworn to before me this 7 day of November, 1995, by Robert Moeder, Vice President, Dillon Real Estate Co., Inc.

[Signature]
Notary Public

My commission expires:
7-6-99

1042838000V0111-45



95-20159C

95-26159

RECORDED 14 PM 3:36

Lois G. ...
REGISTER OF DEEDS

Counter

Deirdre B

Verify

JK

D.E.

Proof

21.00

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Cx

Cash

Crq

THIS PAGE WAS ADDED FOR RECORDERS INFORMATION

UNRECORDED
LINDA DEWEE
1320 S. 119th St
Olathe, Mo. 64644

95-02241

HTS
942058;

AMENDMENT OF, AND WRITTEN APPROVAL FOR
EXCEPTIONS TO, PROTECTIVE COVENANTS OF
BROOK VALLEY BUSINESS PARK

This Amendment of, and Written Approval for Exceptions to, Protective Covenants of Brook Valley Business Park (hereinafter referred to as "Written Approval") is made and executed as of the 15 day of February, 1995, by Brook Valley Limited Partnership, a Nebraska limited partnership (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant has recorded protective covenants affecting the following described real property:

Lot One (1) through Twenty-Eight (28), inclusive, in Brook Valley Business Park, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, a "Declaration of Covenants" was recorded on February 26, 1993, as Instrument No. 93-03605 in the deed records of the office of the Sarpy County Register of Deeds (hereinafter referred to as the "Covenants"); and

WHEREAS, Dillon Real Estate Co., Inc., a Kansas corporation (hereinafter referred to as "Purchaser"), has agreed to purchase Lots 12 and 13 in Brook Valley Business Park for the purpose of developing such lots for use as a Kwik Shop convenience store; and

WHEREAS, it is necessary to make an exception to the Covenants to allow the development of Lots 12 and 13 of Brook Valley Business Park for the

make exceptions to or modifications of the Covenants when a special situation exists pursuant to Paragraph XV of the Covenants; and

WHEREAS, the Covenants were written and designed as restrictions on industrial development and are not applicable to a retail convenience store use proposed for Lots 12 and 13 of Brook Valley Business Park abutting on Harrison Street, and therefore, a special situation exists, such that Declarant agrees to make exceptions to the Covenants to allow the Purchaser for any claim or cause of action brought by any party for a breach or violation of the Covenants and agrees to indemnify and hold the Purchaser harmless from and against any and all claims, damages, losses, costs and expenses, including reasonable attorneys' fees, that may be incurred by the Purchaser, when any such violation or breach may be covered by the terms of this Written Approval; and

WHEREAS, Declarant currently owns over seventy-five (75%) per cent of all the land in Brook Valley Business Park and therefore, pursuant to Paragraph XVI of the Covenants, may amend the Covenants.

NOW, THEREFORE, the Declarant hereby grants to Purchaser the following exceptions to the Covenants of Brook Valley Business Park, titled Declaration of Covenants and recorded

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HTS

as Instrument No. 93-03605 in the deed records of the Surry County Register of Deeds and amends the Covenants to incorporate such exceptions into the Covenants as they currently exist and relate to Lots 12 and 13 of Brook Valley Business Park:

1. Purchaser shall be allowed to operate a convenience store in the normal manner and style of "Kwik Shop" store operations without being in violation of any of the terms of the Covenants, and Purchaser will not be required to vary or alter its customary and normal operating procedures or construction plans to comply with the Covenants.
2. Declarant has approved construction plans for a "Kwik Shop" convenience store contemplated by Purchaser on Lots 12 and 13 of Brook Valley Business Park and is familiar with the normal operating procedures and the manner and style of "Kwik Shop" store operations.
3. This Written Approval specifically approves exceptions to the following:
 - (a) Purchaser shall be allowed to construct a gasoline island within 75 feet from any street as an exception to Covenant III(a);
 - (b) Kwik Shop normal operations require that loading and unloading of delivery trucks occur in the parking areas of a Kwik Shop and that merchandise is brought in through the front door of the Kwik Shop. Declarant acknowledges the normal loading operations of Purchaser, and to the extent necessary, grants an exception to Paragraph VI of the Covenants dealing with loading and unloading of deliveries;
 - (c) It is normal operating procedure for a Kwik Shop to display items for sale outside of the confines of the convenience store building constructed for use as a Kwik Shop. Declarant acknowledges such as the normal operating procedure for a Kwik Shop and hereby grants an exception to Paragraph VII of the Covenants, so long as any items displayed by Purchaser outside of the confines of its convenience store building shall be displayed in a neat and orderly manner; and
 - (d) Declarant does hereby grant an exception to Purchaser to use Lots 12 and 13 for the erection or maintenance of a sign or signs which are normal and customary for use by a Kwik Shop operation, and to the extent an exception to Paragraph VIII of the Covenants is necessary, such exception to the Covenants is hereby granted.
4. This Written Approval is granted pursuant to Paragraph XV of the Covenants and Declarant warrants that it has the power and authority to grant and approve the exceptions contained herein. Declarant agrees to indemnify and save Purchaser harmless from any claim or cause of action brought against Purchaser by Declarant, its successors, assigns, or any Owner or contract purchaser of a lot in Brook Valley Business Park, or any other person, for breach

75-00224
HTS

or violation of the Covenants, which claim or cause of action is based on an exception granted or approved by Declarant in this Written Approval

IN WITNESS WHEREOF, the undersigned has executed this Written Approval as of the date first set forth above.

BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska limited partnership
By: PRIME REALTY, INC.,
General Partner

By: James V. McCarr
James V. McCarr, President

STATE OF NEBRASKA
COUNTY OF DOUGLAS

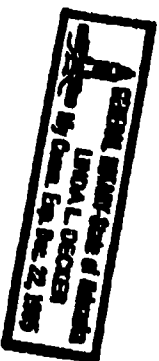
)
) ss:
)

Subscribed and sworn to before me this 15 day of February, 1995, by James V. McCarr, President of Prime Realty, Inc., a Nebraska corporation.

[Signature]
Notary Public

My commission expires:

12-31-95



DEED
05-002244
95 FEB 24 AM 9:29
[Signature]
REGISTER OF DEEDS
FEBRUARY 1995

Counter PA
Verify PA
D.E. 0
Proc PA
Fltn 2
Mail _____
Fee \$ 29.00
OK Cash C-3 X

PLEASE RETURN TO:
HARTLAND TITLE SERVICES, INC.
1320 S 119th ST
OMAHA, NE 68144

AMENDMENT TO DECLARATION OF COVENANTS
BROOK VALLEY BUSINESS PARK

THIS AMENDMENT IS MADE THIS 20TH DAY OF FEBRUARY, 1995 BY BROOK VALLEY LIMITED PARTNERSHIP, A NEBRASKA LIMITED PARTNERSHIP (HEREINAFTER REFERRED TO AS "DECLARANT"),

HEREBY, THE DECLARANT IS THE OWNER OF THE FOLLOWING DESCRIBED REAL PROPERTY:

Lot 1 EXCEPT the North 30.00 feet of the West 456.00 feet of said Lot 1, TOGETHER WITH Lot 2 EXCEPT the East 300 feet of the North 582.03 feet of said Lot 2, TOGETHER WITH all of Lot 3, TOGETHER WITH that part of Lot 4 more particularly described as follows: Beginning at the Northwest corner of said Lot 4; thence North 87°38'24" East (Assumed bearing) 471.84 feet on the North line of said Lot 4 to the Northeast corner thereof; thence Southeasterly on the Easterly line of said Lot 4 on a non-tangent 275.00 foot radius curve to the left, chord bearing South 11°35'43" East, chord distance 88.27 feet, an arc distance of 88.65 feet; thence South 69°10'11" West 478.14 feet on a non-tangent line to the West line of said Lot 4; thence North 00°08'15" East 128.13 feet on the West line of said Lot 4; thence North 00°08'15" East 128.13 feet on the West line of said Lot 4 to the point of beginning, TOGETHER WITH all of Lots 5 through 17, both inclusive, TOGETHER WITH the East 49.39 feet of Lots 18 and 21, TOGETHER WITH all of Lots 22 through 26, both inclusive, TOGETHER WITH all of Lot 28, ALL IN BROOK VALLEY BUSINESS PARK, a Subdivision, as surveyed, platted and recorded, in Salpy County, Nebraska, AND

THE DECLARANT HAS AGREED TO AMEND SAID DECLARATION OF COVENANTS WHICH WERE RECORDED ON THE 25TH DAY OF FEBRUARY, 1993 AT INSTRUMENT NO. 93-003605 OF THE RECORDS OF SALPY COUNTY, NEBRASKA, BY DELETING ARTICLE II, PARAGRAPH B OF SAID COVENANTS AND AMENDING PARAGRAPH A TO READ AS FOLLOWS: ALL BUILDING WALLS THAT FACE STREETS, EXCEPT ANCILLARY BUILDINGS, SHALL BE APPROVED MASONRY CONSTRUCTION SUCH AS BRICK, STONE, PAINTED CONCRETE BLOCK, ARCHITECTURAL CONCRETE OR ARCHITECTURAL PLASTER.

THE DECLARANT HEREBY STATES THAT THE REMAINDER OF SAID DECLARATION OF COVENANTS SHALL CONTINUE ON IN FULL FORCE AND EFFECT AND ARE HEREBY RATIFIED AND AFFIRMED BY THE UNDERSIGNED.

IN WITNESS WHEREOF, THE DECLARANT HAS EXECUTED THIS AMENDMENT ON THE DATE FIRST MENTIONED ABOVE.

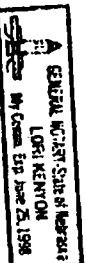
* New known as Lots 31, 32, part of Lots 30 and 33, Brook Valley Business Park
BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska limited Partnership

By: Prime Realty, Inc., general partner

By: James V. McCart
James V. McCart, President

STATE OF Nebraska, ss.
COUNTY OF Nuckolls

The foregoing instrument was acknowledged before me, a Notary Public, on this _____ day of March, 1995, by James V. McCart



Shirley Kenton NOTARY PUBLIC
My Commission expires 6-23-96

95-2898

HTS

95-02898

75-02858A

BROOK VALLEY BUSINESS PARK

DECLARATION OF COVENANTS

THIS DECLARATION OF COVENANTS (hereinafter referred to as the "Declaration") is made and executed by BROOK VALLEY LIMITED PARTNERSHIP, a Nebraska limited partnership (hereinafter referred to as the "Declarant")

WITNESSETH:

WHEREAS, the Declarant is the Owner of the following described real property:

Lots Thirty-four (34) through Forty-seven (47), inclusive, in Brook Valley Business Park, a Subdivision, as surveyed, platted and recorded, Sarpy County, Nebraska, and

WHEREAS, the Declarant will convey said lots, subject to certain protective covenants, as herein set forth.

NOW, THEREFORE, the Declarant hereby declares that all of the Lots described above shall be held, sold and conveyed subject to the following covenants, all of which are for the purpose of enhancing and protecting value, desirability and attractiveness of said lots. These covenants shall run with said real property and be binding upon all parties having or acquiring any right, title, or interest in the above described real property, or any part thereof, and shall inure to the benefit of each Owner thereof.

I. DEFINITIONS

(a) "Accessory Structure shall mean a structure which is incidental to and customarily associated with a specific principal use or building on the same site.

95-03898 B

- (b) "Declarant" shall mean and refer to Brook Valley Limited Partnership, a Nebraska limited partnership whose sole general partner is Prime Realty, Inc., a Nebraska corporation.
- (c) "Lot" shall mean and refer to any plot of land platted as a lot as shown upon the recorded initial Subdivision plat of Brook Valley Business Park, or as any such lot may hereafter be subdivided, replatted or reconfigured, in whole or in part.
- (d) "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any lot within the Subdivision, including contract sellers, but excluding those persons having such interest merely as security for the performance of an obligation (including the trustee under a deed of trust). "Owner" shall include Declarant when the Owner of a lot.
- (e) "Subdivision" shall mean Brook Valley Business Park, as surveyed, platted and recorded, Sarpy County, Nebraska.

II LIMITATIONS AS TO TYPE OF CONSTRUCTION

All building walls that face streets, except ancillary buildings, shall be approved masonry construction such as brick, stone, painted concrete block, architectural concrete, or architectural plaster.

III. BUILDING SET-BACKS

There shall be a minimum front yard set-back of 75 feet from any street and a minimum side yard and rear yard set-back of 25 feet from the respective lot lines or 75 feet from any street.

The front yard and all other landscaped areas, including that area between the street paving and the property line, shall be planted with grass and properly maintained as a lawn area except that part used for driveways or parking. Parking shall not be permitted closer than twelve (12) feet to the paving line of all streets.

The minimum distance between any two buildings on the same tract shall be 20 feet.

IV LIMITATIONS AS TO PERCENTAGE OF LAND COVERED BY BUILDINGS

95-05178e

The total coverage of buildings and structures, including docks and loading platforms, shall not exceed sixty (60) percent of the area of each individual tract.

V. PARKING FACILITIES

All vehicular parking (customer, visitor and employee) shall be off-street. The minimum number of vehicular parking spaces required shall equal at least forty (40) percent of the number of employees normally engaged at one time in the business or industry conducted on each individual tract. Parking areas shall not be used for any purpose other than the parking of automotive vehicles belonging to customers, visitors and employees. In no case shall any storage, servicing or dismantling of automobiles or other vehicles, or loading or unloading operations, be permitted in the required parking areas. All parking areas shall be hard surfaced with suitable dustless material. Automobiles, trucks and other self-propelled vehicles parked out of doors within the Subdivision must be in operating condition.

VI. LOADING AREAS

All loading and unloading operations shall be off-street. In no case shall loading or unloading be permitted in the parking or lawn areas or in a location which will interfere with ingress or egress thereto. All loading areas shall be hard surfaced with a suitable dustless material. No loading areas shall be constructed facing any public street or highway without prior written approval of Declarant. However, in no event, shall a loading or unloading area face 108th Street or Harrison Street.

VII. OUTSIDE STORAGE

No article of merchandise or other material shall be kept, stored or displayed outside the confines of a walled building unless it be so screened by fences, walls or plantings that it cannot be seen from any public street. In no event shall any part of the required parking or lawn areas be used for the storage or abandonment of any property. No area outside the confines of a walled building shall be

45-02898D

used to display any article of merchandise held for the purpose of sale. No outside storage shall be permitted closer to any street than the building set-back requirement without prior written approval of Declarant.

VIII. ERECTION OF SIGNS

No Owner, lessee or occupant of any Lot shall use, or permit to be used, any portion of the property under his control for the erection of signs, billboards or displays, other than those directly connected with the business operated on said site. No flashing signs or lights, revolving beacons, strobe lights or similar electrical or mechanical mechanisms, whether permanent or temporary in nature, shall be permitted. No signs shall be erected or maintained on the roof of any building. Written approval is required prior to the erection or modification of any sign, other than a sign attached to a building and identifying the address and/or the occupant thereof.

IX. MAINTENANCE OF UNDEVELOPED AREAS

That portion of each tract which is not improved through the construction of building, parking facilities, loading facilities and lawn area, as hereinbefore provided, shall be seeded to cover planting which grows to a height not to exceed approximately eighteen (18) inches and shall be continuously and attractively maintained. In no event and at no time shall any Lot be planted to cultivated row crops. Each Lot Owner shall be responsible for the maintenance of property beyond the lot line up to the edge of the pavement of the abutting street or streets.

X. OFFENSIVE USES

No noxious or offensive activity shall be carried on upon any Lot, no shall anything be done thereon which is, becomes or produces, an annoyance, nuisance or hazard to the Owner or occupant of other property within the Subdivision, including, but no limited to, unsightliness or the emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke noise or "Hazardous Substance," as defined in 101(14) of CERCLA (42 U.S.C. 9601 (14)) or any applicable present or future state or local law, rule, regulation or ordinance, as amended from time to time.

95-02147E

XI. ZONING AND BUILDING REGULATIONS

In addition to the foregoing, the use and building regulations, as now or hereafter imposed by the provisions of the zoning and building regulations of all governmental entities having jurisdiction shall apply throughout the Subdivision, except as such may be modified by duly constituted authority.

XII. APPROVAL OF PLANS

(a). No building, fence, wall, driveway or other external improvements, above or below the surface of the ground, shall be built erected, placed, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading or excavation be commenced without the express written approval of the Declarant. "Approval of Declarant" (including disapproval) shall also mean approval (or disapproval) by another person designated by Declarant in a writing duly recorded in the Office of the Register of Deeds and indexed against the Subdivision as approving authority in lieu of Declarant.

(b) Documents submitted for approval shall be clear, concise, complete, consistent and legible. Samples of materials to be included in the improvement may be required of the applicant at the discretion of Declarant. Submittals for approval shall be made in duplicate and comments and action of Declarant will be identically marked on both copies of said submittals. One copy will be returned to the applicant and one copy will be retained as part of the permanent records of Declarant. Each applicant shall submit to Declarant the following documents, materials and/or drawings:

- (i) Site plan, indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks.
- (ii) Complete construction plans, including, but not limited to, floor areas of each level, wall sections and exterior elevations clearly indicating type and extent of exterior materials and roofing.

95-02898E

- (c) The applicant's name, address and telephone number shall appear on each set of plans submitted to Declarant.
- (d) The approval or disapproval of Declarant, as required by these covenants, shall be in writing. Failure of Declarant to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as approval of the plans and specifications submitted.

XIII. COMPLIANCE WITH GOVERNMENT REGULATIONS, ETC.

The Owner of each Lot shall, at all time, keep the premises, buildings, improvements and appurtenances in a safe, clean, wholesome condition and in all respects in compliance with applicable rules, regulations, ordinances and statutes of all governmental authorities having jurisdiction. All lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main building structure intended for such Lot. Vacant Lots shall not be used for dumping of earth or other waste materials and shall be maintained level and smooth enough for machine mowing. A building upon which construction has begun must be completed within on year from the date the foundation was dug for said building.

XIV. SIDEWALKS

Concrete sidewalks, four feet wide by four inches thick, shall be constructed by the Owner of each Lot in accordance with the sidewalk standards and regulations approved by the City Council of the City of LaVista prior to the time of completion of the main structure on said Lot.

XV. EXCEPTIONS OR MODIFICATIONS

Exceptions to, or modifications of, these protective covenants as unusual circumstances or special situations may warrant must be submitted to Declarant for prior written approval.

95-05898 G

XVI. DURATION

- (a) These covenants are run with and bind the land for a term of fifteen (15) years from the date this Declaration is recorded, and shall be automatically renewed and extended for successive periods of five (5) years each, unless and until the then Owners of a majority of the land within the Subdivision execute and record an instrument terminating these covenants. Hereafter, this Declaration may be amended by an instrument executed by the Owners of not less than seventy-five percent (75%) of the land within the Subdivision. For purposes of determining the "Owners of a majority of the land within the Subdivision" or "seventy-five percent (75%) of the land within the Subdivision," each Lot Owner shall be entitled to one vote for each square foot of land within the Subdivision to which fee simple title is held by such Owner.
- (b) The Declarant, or any Owner or contract purchaser of a Lot, shall have the right to enforce, by proceeding at law or in equity, all restrictions and covenants now or hereafter imposed by the provision of this Declaration, either to prevent or restrain any violation of the same, or to recover damages for such violation. Failure by the Declarant, any Owner or contract purchaser to enforce any covenant or restriction herein contained shall, in no event, be deemed a waiver of the right to do so thereafter.

XVII. SEVERABILITY

If any term or provision of this Declaration, or the application of it to any person or circumstance shall, to any extent, be invalid and unenforceable, the remainder of this Declaration and the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term and provision thereof shall be valid and shall be enforced to the extent permitted by law.

XVIII. NOTICES

All notices to be given pursuant to the Declaration shall be in writing and must be given by United States mail, certified or registered,

95-25898H

postage prepaid, property addressed to the Owner of each Lot (and any prime lessee, where applicable) by name and address as shown on the then current property tax rolls in Sarpy Count, Nebraska. All notices to Declarant shall be sent to it at the following address:

Brook Valley Limited Partnership
c/o James V. McCart
6410 South 120th Plaza
Omaha, Nebraska 68137

XIX ATTORNEY'S FEES

In the event any entity which is entitled to the benefits of this Declaration brings any action at law or equity to enforce this Declaration, the prevailing party of such action shall be entitled to recover from the other party its reasonable attorney's fees and all court costs, in addition to all other appropriate relief.

XX SUCCESSORS AND ASSIGNS

The Declaration created hereby shall inure to the benefit of, and be binding upon, the Owners of all Lots within the Subdivision and their respective successors and assigns; provided, however, that if any Owner sells any portion or all of its interest in any Lot, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the property sold by it arising out of this Declaration after the sale and conveyance of title.

95-2898 I

REGISTERED INSTRUMENT
95-02898

95 MAR -9 AM 8:49

George S. ...
REGISTER OF DEEDS

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the date first set forth above.

BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska limited partnership

By: Prime Realty, Inc., general partner

By: *James V. McCart*
James V. McCart, President

STATE OF NEBRASKA)
)
) SS.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 15th day of August, 1994, by James V. McCart, President of Prime Realty, Inc., a Nebraska corporation, on behalf of said corporation, general partner of Brook Valley Limited Partnership, a Nebraska limited partnership, on behalf of said limited partnership.

George S. ...
Notary Public



Counter ✓
Verify ✓
D.E. ✓
Proof ✓
Film ✓
Mail ✓
Fee # 6230
 Cash Otd

02898

94-24605

THOMPSON PREESEN & DORNER, INC.
0836 OLD MILL ROAD
OMAHA, NEBRASKA 68154

AFFIDAVIT

RECORDED IN REC. 18 PG. 22

CORRECTION TO LOT DIMENSIONS SHOWN ON THE FINAL PLAT OF BROOK VALLEY BUSINESS PARK A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN SHERY COUNTY, NEBRASKA

THE UNDERSIGNED REGISTERED LAND SURVEYOR DO HEREBY SUBMIT THIS AFFIDAVIT IN ORDER TO CORRECT INCORRECT DIMENSIONS AND BEARINGS ON LOTS 42 AND 43, BROOK VALLEY BUSINESS PARK, FILED AS INSTRUMENT NO. 94-21417 IN THE RECORDS OF THE REGISTER OF DEEDS OFFICE, SHERY COUNTY, NEBRASKA.

HEREBY CERTIFY THAT I AM THE IDENTICAL PERSON WHOSE NAME APPEARS ON THE SURVEYOR'S CERTIFICATE OF SAID BROOK VALLEY BUSINESS PARK.

NOVEMBER 11, 1944
DATE

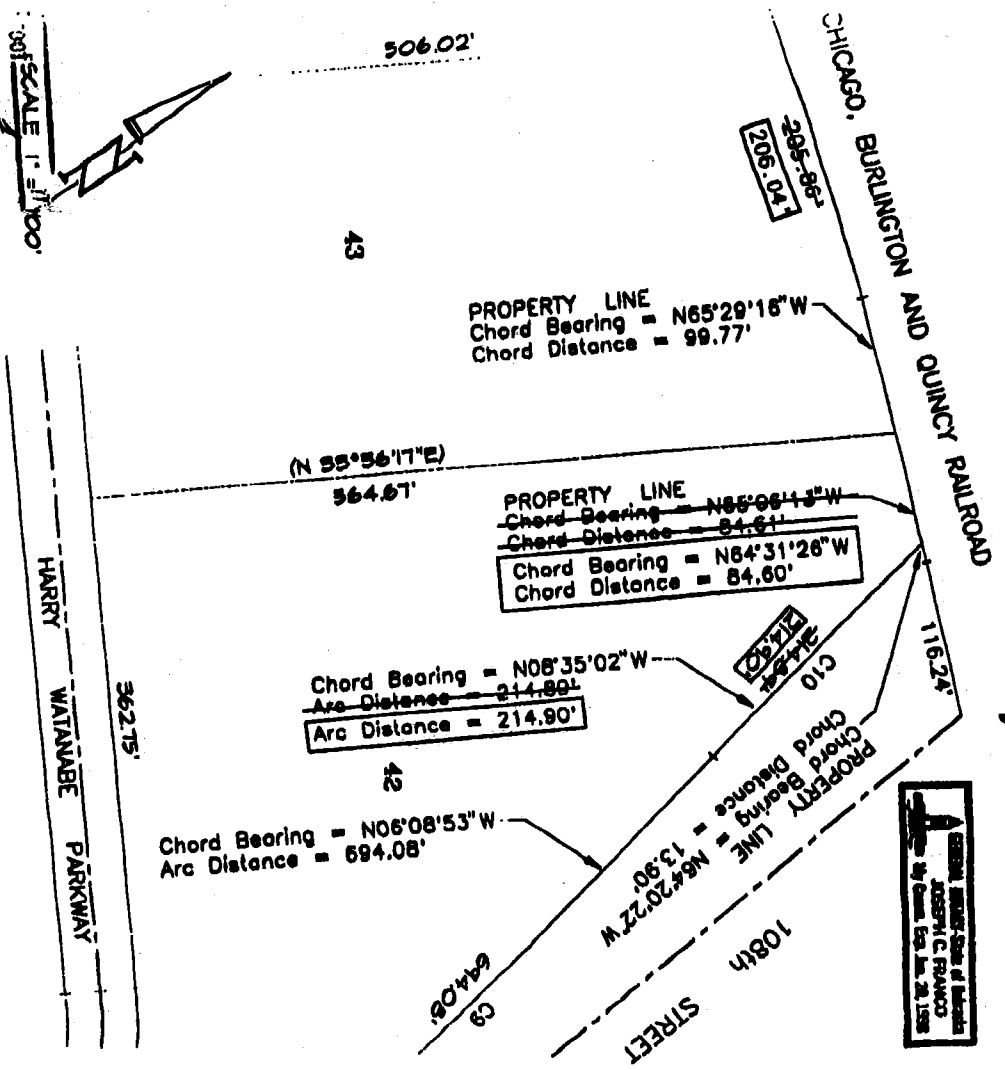
James D. Warner
JAMES D. WARNER, NEBRASKA RLS 308

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA) SS
COUNTY OF DOUGLAS)

THE FOREGOING AFFIDAVIT WAS ACKNOWLEDGED BEFORE ME THIS 11th DAY OF NOVEMBER 1944 BY JAMES D. WARNER

NOTARY PUBLIC
Joseph C. Tanner



Checked Fee \$ 10

TD2 JOB NO. 850-102-A3

97-01739

REGISTER NUMBER
97-001739

97 JAN 29 PM 2:07

George J. Dowding
REGISTER OF DEEDS

Counter *WPH*

Verify *WPH*

DE *WPH*

Proof *WPH*

Fee \$ *23.00*

Chk
Cash
OTD HTS

THIS PAGE ADDED FOR
RECORDING INFORMATION

LLOYD J. DOWDING
SARPY COUNTY REGISTER OF DEEDS
1210 GOLDEN GATE DRIVE #1109 - PAPTILLION, NE 68046
PHONE: (402)593-5773 FAX: (402)593-2338

97-01739A

95-0-2898

PLEASE RETURN TO:
HEARTLAND TITLE SERVICES, INC.
1320 S 119th ST
OMAHA, NE 68144

AMENDMENT TO DECLARATION OF COVENANTS

BROOK VALLEY BUSINESS PARK

THIS AMENDMENT IS MADE THIS 20TH DAY OF FEBRUARY, 1995 BY BROOK VALLEY LIMITED PARTNERSHIP, A NEBRASKA LIMITED PARTNERSHIP (HEREINAFTER REFERRED TO AS "DECLARANT"),

WHEREAS, THE DECLARANT IS THE OWNER OF THE FOLLOWING DESCRIBED REAL PROPERTY:

* Lot 1 EXCEPT the North 30.00 feet of the West 456.00 feet of said Lot 1, TOGETHER WITH Lot 2 EXCEPT the East 300 feet of the North 582.03 feet of said Lot 2, TOGETHER WITH all of Lot 3, TOGETHER WITH that part of Lot 4 more particularly described as follows: Beginning at the Northwest corner of said Lot 4; thence North: 87°38'24" East (Assumed bearing) 471.84 feet on the North line of said Lot 4 to the Northeast corner thereof; thence Southeasterly on the Easterly line of said Lot 4 on a non-tangent 275.00 foot radius curve to the left, chord bearing South 11°35'43" East, chord distance 88.27 feet, an arc distance of 88.65 feet; thence South 69°10'11" West 478.14 feet on a non-tangent line to the West line of said Lot 4; thence North 21°21'40" West 116.97 feet on the West line of said Lot 4; thence North 00°08'15" East 128.13 feet on the all of Lots 5 through 17, both inclusive, TOGETHER WITH the East 49.39 feet of Lots 18 and 21, TOGETHER WITH all of Lots 22 through 26, both inclusive, TOGETHER WITH all of Lot 28, ALL IN BROOK VALLEY BUSINESS PARK, a Subdivision, as surveyed, platted and recorded, in Sarpy County, Nebraska, AND

THE DECLARANT HAS AGREED TO AMEND SAID DECLARATION OF COVENANTS WHICH WERE RECORDED ON THE 25TH DAY OF FEBRUARY, 1993 BY INSTRUMENT NO. 93-003605 OF THE RECORDS OF SARPY COUNTY, NEBRASKA, BY DELETING ARTICLE II, PARAGRAPH B OF SAID COVENANTS AND AMENDING PARAGRAPH A TO READ AS FOLLOWS: ALL BUILDING WALLS THAT FACE STREETS, EXCEPT ANCILLARY BUILDINGS, SHALL BE APPROVED MASONRY CONSTRUCTION SUCH AS BRICK, STONE, PAINTED CONCRETE BLOCK, ARCHITECTURAL CONCRETE OR ARCHITECTURAL PLASTER.

THE DECLARANT HEREBY STATES THAT THE REMAINDER OF SAID DECLARATION OF COVENANTS SHALL CONTINUE ON IN FULL FORCE AND EFFECT AND ARE HEREBY RATIFIED AND AFFIRMED BY THE UNDERSIGNED.

IN WITNESS WHEREOF, THE DECLARANT HAS EXECUTED THIS AMENDMENT ON THE DATE FIRST MENTIONED ABOVE.

* Now known as Lots 31, 32, part of Lots 30 and 33, Brook Valley Business Park

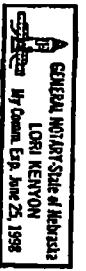
BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska Limited Partnership.

By: Prime Realty, Inc., general partner

By: James V. McCart
(James V. McCart, President

STATE OF Nebraska, ss.
COUNTY OF Douglas,

I, Sam S. V. McCart, a Notary Public, on this 1st day of March 1995, by Sam S. V. McCart



Sam Kenyon
My Commission expires 6-25-98 NOTARY PUBLIC

001739

95-2898

HTS

INSTRUMENT NUMBER
93-002605

23 FEB 25 PM 3:16

388 - 4 21/4

WHEN RECORDED, PLEASE RETURN TO:
Joseph Polack, Esq.
Polack, Woolley & Forrest, P.C.
420 First National Plaza
11404 West Dodge Road
Omaha, NE 68154
(402) 496-9600

Case of Declaration
REGISTRATION FEES

BROOK VALLEY BUSINESS PARK

DECLARATION OF COVENANTS

170061	<u>PC</u>
D.E.	<u> </u>
Verify	<u> </u>
Filmed	<u> </u>
Checked	<u> </u>
Fee \$	<u>59.00</u>

THIS DECLARATION OF COVENANTS (hereinafter referred to as the "Declaration") is made and executed as of the 12 day of February, 1993, by BROOK VALLEY LIMITED PARTNERSHIP, a Nebraska limited partnership (hereinafter referred to as the "Declarant").

W I T N E S S E T H :

WHEREAS, the Declarant is the Owner of the following described real property:

 Lots One (1) through Twenty-Eight (28), inclusive, in Brook Valley Business Park, a Subdivision, as surveyed, platted and recorded, Sarpy County, Nebraska, and

WHEREAS, the Declarant will convey said Lots, subject to certain protective covenants, as hereinafter set forth.

NOW, THEREFORE, the Declarant hereby declares that all of the Lots described above shall be held, sold and conveyed subject to the following covenants, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said Lots. These covenants shall run with said real property and be binding upon all parties having or acquiring any right, title or interest in the above described real property, or any part thereof, and shall inure to the benefit of each Owner thereof.

I. DEFINITIONS

- (a) "Accessory Structure" shall mean a structure which is incidental to and customarily associated with a specific principal use or building on the same site.
- (b) "Declarant" shall mean and refer to Brook Valley Limited Partnership, a Nebraska limited partnership, whose sole

general partner is Prime Realty, Inc., a Nebraska corporation.

- (c) "Lot" shall mean and refer to any plot of land platted as a Lot as shown upon the recorded initial subdivision plat of Brook Valley Business Park, or as any such Lot may hereafter be subdivided, replatted or reconfigured, in whole or in part.
- (d) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot within the Subdivision, including contract sellers, but excluding those persons having such interest merely as security for the performance of an obligation (including the trustee under a deed of trust). "Owner" shall include Declarant when the Owner of a Lot.
- (e) "Subdivision" shall mean Brook Valley Business Park, as surveyed, platted and recorded, Douglas County, Nebraska.

II. LIMITATIONS AS TO TYPE OF CONSTRUCTION

- (a) All buildings constructed within the Subdivision, except "Accessory Structures," as herein defined, shall be of approved masonry construction, such as brick, stone, painted concrete block or architectural concrete over a steel or concrete frame, excepting that exterior walls that face interior lot lines may be of painted metal from a point twenty (20) feet back of the required masonry wall and no painted concrete block will be allowed on the facade of any buildings facing 108th Street or Harrison Street. No building shall be moved from outside the Subdivision onto any Lot.
- (b) Accessory Structures may be of painted metal wall construction, if screened from peripheral streets by other buildings or trees or shrubs properly planted and maintained. Otherwise, the same construction standards as required in the first paragraph of this Article II shall apply.

III. BUILDING SET-BACKS

- (a) There shall be a minimum front yard set-back of seventy-five (75) feet from any street; and a minimum side yard and rear yard set-back of twenty-five (25) feet from the side yard or rear yard lot line, except the side yard shall be seventy-five (75) feet from any street if adjacent to a street.
- (b) The front yard and all other landscaped areas, including that area between the street paving and the property line of all built upon lots, shall be planted with grass and properly maintained as a lawn area, except that part used

for driveways or parking; provided, however, that no part thereof may be so used for driveways or parking without prior written approval of Declarant. Parking shall not be permitted between public street pavement and a property line or closer than seventy-five (75) feet from the street property line of 108th Street or Harrison Street or closer than twelve (12) feet to the street property line of all other streets.

(c) The minimum distance between any two buildings on the same tract shall be twenty (20) feet.

IV. LIMITATIONS AS TO PERCENTAGE OF LAND COVERED BY BUILDINGS

The total coverage of buildings and structures, including docks and loading platforms, shall not exceed sixty (60) percent of the area of each individual tract.

V. PARKING FACILITIES

All vehicular parking (customer, visitor and employee) shall be off-street. The minimum number of vehicular parking spaces required shall equal at least forty (40) percent of the number of employees normally engaged at any one time in the business or industry conducted on each individual tract. Parking areas shall not be used for any purpose other than the parking of automotive vehicles belonging to customers, visitors and employees. In no case shall any storage, servicing or dismantling of automobiles or other vehicles, or loading or unloading operations, be permitted in the required parking areas. All parking areas shall be hard surfaced with a suitable dustless material. Automobiles, trucks and other self-propelled vehicles parked out of doors within the subdivision must be in operating condition.

VI. LOADING AREAS

All loading and unloading operations shall be off-street. In no case shall loading or unloading be permitted in the parking or lawn areas or in a location which will interfere with ingress or egress thereto. All loading areas shall be hard surfaced with a suitable dustless material. No loading areas shall be constructed facing any public street or highway without prior written approval of Declarant. However, in no event, shall a loading or unloading area face 108th Street or Harrison Street.

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No article of merchandise or other material shall be kept, stored or displayed outside the confines of a walled building unless it be so screened by fences, walls or plantings that it cannot be seen from any public street. In no event shall any part of the required parking or lawn areas be used for the

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IX. MAINTENANCE OF UNDEVELOPED AREAS

That portion of each tract which is not improved through the construction of buildings, parking facilities, loading facilities and lawn area, as hereinbefore provided, shall be seeded to a cover planting which grows to a height not to exceed approximately eighteen (18) inches and shall be continuously and attractively maintained. In no event and at no time shall any lot be planted to cultivated row crops. Each lot Owner shall be responsible for the maintenance of the property beyond the lot line up to the edge of the pavement of the abutting street or streets.

X. OFFENSIVE USES

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which is, becomes or produces, an annoyance, nuisance or hazard to the Owner or occupant of other property within the subdivision, including, but not limited to, unsightliness or the emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke, noise or "Hazardous Substance," as defined in § 101(14) of CERCLA (42 U.S.C. § 9601(14)) or any applicable present or future state or local law, rule, regulation or ordinance, as amended from time to time.

XI. ZONING AND BUILDING REGULATIONS

In addition to the foregoing, the use and building regulations, as now or hereafter imposed by the provisions of the zoning and building regulations of all governmental entities having jurisdiction shall apply throughout the

Subdivision, except as such may be modified by duly constituted authority.

XII. APPROVAL OF PLANS

(a) No building, fence, wall, driveway or other external improvements, above or below the surface of the ground, shall be built, erected, placed, altered or otherwise maintained or permitted to remain on any lot, nor shall any grading or excavation be commenced without the express written approval of the Declarant. "Approval of Declarant" (including disapproval) shall also mean approval (or disapproval) by another person designated by Declarant in a writing duly recorded in the Office of the Register of Deeds and indexed against the Subdivision as approving authority in lieu of Declarant.

(b) Documents submitted for approval shall be clear, concise, complete, consistent and legible. Samples of materials to be included in the improvement may be required of the applicant at the discretion of Declarant. Submittals for approval shall be made in duplicate and comments and action of Declarant will be identically marked on both copies of said submittals. One copy will be returned to the applicant and one copy will be retained as part of the permanent records of Declarant. Each applicant shall submit to Declarant the following documents, materials and/or drawings:

(i) Site plan, indicating specific improvement and indicating lot number, street address, grading, surface drainage and sidewalks.

(ii) Complete construction plans, including, but not limited to, floor areas of each level, wall sections and exterior elevations clearly indicating type and extent of exterior materials and roofing.

(c) The applicant's name, address and telephone number shall appear on each set of plans submitted to Declarant.

(d) The approval or disapproval of Declarant, as required by these covenants, shall be in writing. Failure of Declarant to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as approval of the plans and specifications submitted.

XIII. COMPLIANCE WITH GOVERNMENT REGULATIONS, ETC.

The Owner of each Lot shall, at all times, keep the premises, buildings, improvements and appurtenances in a safe, clean,

wholesome condition and in all respects in compliance with applicable rules, regulations, ordinances and statutes of all governmental authorities having jurisdiction. All lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on lots when construction is started on the main building structure intended for such lot. Vacant lots shall not be used for dumping of earth or other waste materials and shall be maintained level and smooth enough for machine mowing. A building upon which construction has begun must be completed within one year from the date the foundation was dug for said building.

XIV. SIDEWALKS

Concrete sidewalks, four feet wide by four inches thick, shall be constructed by the Owner of each lot in accordance with the sidewalk standards and regulations approved by the City Council of the City of Lavista prior to the time of completion of the main structure on said lot.

XV. EXCEPTIONS OR MODIFICATIONS

Exceptions to, or modifications of, these protective covenants as unusual circumstances or special situations may warrant must be submitted to Declarant for prior written approval.

XVI. DURATION

(a) These covenants are run with and bind the land for a term of fifteen (15) years from the date this Declaration is recorded, and shall be automatically renewed and extended for successive periods of five (5) years each, unless and until the then Owners of a majority of the land within the subdivision execute and record an instrument terminating these covenants. Hereafter, this Declaration may be amended by an instrument executed by the Owners of not less than seventy-five percent (75%) of the land within the subdivision. For purposes of determining the "Owners of a majority of the land within the subdivision" or "seventy-five percent (75%) of the land within the subdivision," each lot Owner shall be entitled to one vote for each square foot of land within the subdivision to which fee simple title is held by such Owner.

(b) The Declarant, or any Owner or contract purchaser of a lot, shall have the right to enforce, by proceeding at law or in equity, all restrictions and covenants now or hereafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of the same, or to recover damages for such violation. Failure by the Declarant, any Owner or contract purchaser to enforce any covenant or restriction herein contained shall, in no

event, be deemed a waiver of the right to do so thereafter.

XVII. SEVERABILITY

If any term or provision of this Declaration, or the application of it to any person or circumstance shall, to any extent, be invalid and unenforceable, the remainder of this Declaration and the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term and provision thereof shall be valid and shall be enforced to the extent permitted by law.

XVIII. NOTICES

All notices to be given pursuant to this Declaration shall be in writing and must be given by United States mail, certified or registered, postage prepaid, properly addressed to the Owner of each Lot (and any prime lessee, where applicable) by name and address as shown on the then current property tax rolls in Sarpy County, Nebraska. All notices to Declarant shall be sent to it at the following address:

Brook Valley Limited Partnership
c/o James V. McCart
6410 South 102th Plaza
Omaha, Nebraska 68137

XIX. ATTORNEY'S FEES

In the event any entity which is entitled to the benefits of this Declaration brings any action at law or equity to enforce this Declaration, the prevailing party of such action shall be entitled to recover from the other party its reasonable attorney's fees and all court costs, in addition to all other appropriate relief.

XX. SUCCESSORS AND ASSIGNS

The Declaration created hereby shall inure to the benefit of, and be binding upon, the Owners of all Lots within the Subdivision and their respective successors and assigns; provided, however, that if any Owner sells any portion or all of its interest in any Lot, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with the property sold by it arising out of this Declaration after the sale and conveyance of title.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the date first set forth above.

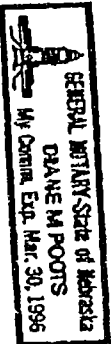
BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska limited partnership

By: Prime Realty, Inc., general partner

By: James V. McCart
James V. McCart, President

STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS) ss.

The foregoing instrument was acknowledged before me this 22nd day of February, 1993, by James V. McCart, President of Prime Realty, Inc., a Nebraska corporation, on behalf of said corporation, general partner of Brook Valley Limited Partnership, a Nebraska limited partnership, on behalf of said limited partnership.



Drane M. Poots
Notary Public

93-03605H

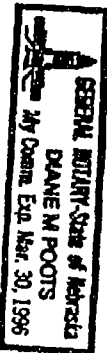
The foregoing Declaration of Covenants is hereby approved this 22 day of February, 1993.

United - A.G. Cooperative, Inc.,
Trust Deed Beneficiary

By: *J. Olsen*
President

STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS) ss.

The foregoing instrument was acknowledged before me this 22nd day of February, 1993, by *F.W. Olsen*, the President of United - A.G. Cooperative, Inc., a Nebraska corporation, on behalf of said corporation.



Dane M. Poots
Notary Public

ALTA COMMITMENT - (4-6-90)

ISSUED THROUGH THE OFFICE OF:
SPENCE TITLE SERVICES, INC.
1905 HARNEY STREET - SUITE 210
OMAHA, NEBRASKA 68102
TELEPHONE: (402) 345-8844
TELECOPY: (402) 345-4634

PLEASE DIRECT INQUIRIES TO: Janet Clark (CHIC)

SCHEDULE A

Application Number TA-26804

1. Effective Date: December 1, 1992 at 8:00 A.M.

2. Policy or Policies to be issued: Amount: Premium:

"ALTA" OWNER'S POLICY Form (4-6-90) \$365,000.00

\$945.00

Proposed Insured:

LANTER COMPANY, a Delaware Corporation

"ALTA" LOAN POLICY (4-6-90) \$

\$

Proposed Insured:

3. The estate or interest in the land described or referred to in this Commitment and covered herein is a fee simple, and title thereto is at the effective date hereof vested in:

UNITED-A.G. COOPERATIVE, INC.

4. The land referred to in this Commitment is described as follows:

See attached Exhibit A.

SCHEDULE B

Upon payment of the full consideration to, or for the account of, the grantors or mortgagors, and recording of the deeds and/or mortgages, the form and execution of which is satisfactory to the Company, the policy or policies will be issued containing exceptions in Schedule B thereof to the following matters (unless the same are disposed of to the satisfaction of the Company):

1. If an owner's policy is to be issued, the mortgage encumbrance, if any, created as part of the purchase transaction.
2. Defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.
3. Rights or claims of parties in possession not shown by the public records.
4. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
5. Easements or claims of easements not shown by the public records.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Taxes or special assessments which are not shown as existing liens by the public records.
 - a. General taxes due and payable at the date hereof:

1992: \$7,247.42, total taxes. Key No. 1106 3203. Taxed as: Tax Lot 13A and 1A4B1.	
1992: \$3,715.84, total taxes. Key No. 1106 3211. Taxed as: Tax Lot 1, United AG Sub.	
1992: \$1,965.36, total taxes. Key No. 1106 3238. Taxed as: Tax Lot 2, United AG Sub.	
1992: \$1,352.40, total taxes. Key No. 1106 3246. Taxed as: Tax Lot 3A, United AG Sub.	
 - b. Special taxes or assessments now pending, assessed or levied, but payable in future installments, and not yet certified to the Office of the County Treasurer for collection at the date hereof.
8. General and special taxes and assessments as hereafter listed, if any (all amounts shown being exclusive of interest, penalties and costs):
 - a. General taxes due and payable at the date hereof:

1992: \$7,247.42, total taxes. Key No. 1106 3203. Taxed as: Tax Lot 13A and 1A4B1.	
1992: \$3,715.84, total taxes. Key No. 1106 3211. Taxed as: Tax Lot 1, United AG Sub.	
1992: \$1,965.36, total taxes. Key No. 1106 3238. Taxed as: Tax Lot 2, United AG Sub.	
1992: \$1,352.40, total taxes. Key No. 1106 3246. Taxed as: Tax Lot 3A, United AG Sub.	
 - b. Special taxes or assessments now pending, assessed or levied, but payable in future installments, and not yet certified to the Office of the County Treasurer for collection at the date hereof.

c. Special taxes or assessments certified to the Office of the County Treasurer at

the date hereof: NONE. (11)

NOTE: Computer shows subject property lying in SID #59.

9. A 20 foot wide permanent sanitary sewer easement and an 80 foot wide temporary construction easement as shown in Return of Appraisers recorded May 20, 1966, in Book 36 at Page 536 of the Miscellaneous Records of Sarpy County, Nebraska which affects part of the Southeast Quarter of Section 17, Township 14, North, Range 12, part of the South half of the Northeast Quarter of Section 17, Township 14, North, Range 12 and the North half of the Northeast Quarter of Section 17, Township 14 North, Range 12, in Sarpy County, Nebraska. (copy attached)
10. Covenants, conditions and restrictions contained in instrument dated November 3, 1971, filed November 4, 1971 in Book 44 at Page 533 of the Miscellaneous Records of Sarpy County, Nebraska, which contains no forfeiture provision.
Amended by instrument filed December 18, 1973 in Book 46 at Page 761 of the Miscellaneous Records of Sarpy County, Nebraska.
Second Amended Protective Covenants dated November 15, 1977, filed November 17, 1977 in Book 50 at Page 904 of the Miscellaneous Records of Sarpy County, Nebraska. (copy attached)
11. Permanent easement between Campbell Soup Company and Burlington, Northern, Inc. for maintenance of railroad trackage and drainage facilities affecting part of NE $\frac{1}{4}$ of Section 17 and NW $\frac{1}{4}$ of Section 16, Township 14 North Range 12 East as recorded in Book 45 at Page 229 of the Miscellaneous Records of Sarpy County, Nebraska. (copy attached)
12. Easement and right of way for water and gas pipelines as contained in instrument filed June 8, 1972 in Book 45 at Page 297 of the Miscellaneous Records of Sarpy County, Nebraska. (copy attached)
13. Permanent Sewer Easement granted to City of Omaha by Campbell Soup Company by instrument filed January 11, 1974 in Book 47 at Page 15 of the Miscellaneous Records of Sarpy County, Nebraska. (copy attached)
14. Easement for utilities granted by Campbell Soup Company to Omaha Public Power District as contained in instrument filed September 15, 1975 in Book 48 at Page 498 of the Miscellaneous Records of Sarpy County, Nebraska. (copy attached)
15. Permanent Easement from Campbell Soup Company to SID No. 59 of Sarpy County, Nebraska, dated January 27, 1978, filed February 2, 1978, in Book 51 at Page 71 of the Miscellaneous Records of Sarpy County, Nebraska and refilled to correct errors on February 8, 1978 in Book 51 at Page 71 of the Miscellaneous Records of Sarpy County, Nebraska. (copy attached)
16. Permanent Easement from Campbell Soup Company to SID No. 59 of Sarpy County, Nebraska, filed February 2, 1978 in Book 51 at Page 72 of the Miscellaneous Records of Sarpy County, Nebraska and as re-recorded February 8, 1978 in Book 51 at Page 88 of the Miscellaneous Records of Sarpy County, Nebraska. (copy attached)
17. Restrictions as to ingress and egress as contained in Warranty Deed, filed October 27, 1986 in Book 161 at Page 3140 of the Deed Records of Sarpy County,

Nebraska. (copy attached)

18. Easement dated September 29, 1986 and filed October 27, 1986 in Book 59 at Page 3325 of the Miscellaneous Records of Sarpy County, Nebraska from United-A.G. Cooperative, Inc. to Sarpy County, for fill and drainage purposes. (copy attached)
19. Deed of Trust and Assignment of Rents, dated July 31, 1992, filed August 3, 1992, as Instrument No. 92-15650 of the Mortgage Records of Sarpy County, Nebraska, executed by United A.G. Cooperative, Inc., in favor of First National Bank of Omaha, Trustee and Beneficiary, securing the sum of \$195,000.00 and such other sums as may be due thereunder.
REQUIRE Deed of Reconveyance for the above Deed of Trust.
20. REQUIRE Warranty Deed from United-A.G. Cooperative, Inc., in due corporate form, signed by its President or Vice-President, with corporate seal attached, if any, in favor of Prime Realty, Inc., a Nebraska Corporation.
21. REQUIRE Warranty Deed from Prime Realty, Inc., in due corporate form, signed by its President or Vice-President, with corporate seal attached, if any, in favor of Brook Valley Limited Partnership.
22. REQUIRE a certificate of limited partnership for Brook Valley Limited Partnership be filed with the Office of the Secretary of State of Nebraska.
23. REQUIRE a copy of the partnership agreement of Brook Valley Limited Partnership be furnished to this office for its files.
24. REQUIRE Warranty Deed from Brook Valley Limited Partnership in due form, signed by its general partners in accordance with its partnership agreement, in favor of the Proposed Insured Purchaser.
25. REQUIRE certificate of good standing from its domicile state for Lanter Company be furnished to this company.
26. REQUIRE platting of Brook Valley Business Park be filed with the Office of the Register of Deeds of Sarpy County, Nebraska.
27. REQUIRE execution of the attached Affidavit Regarding Owner by the titleholder(s). (7)
28. In order to delete the standard exception to survey, as shown on the face of this Commitment, we REQUIRE comprehensive survey of the premises showing location of all improvements, easements and encroachments thereon, and that it be duly certified by a Nebraska Registered Land Surveyor in manner acceptable to this Company. (14)
29. Upon receipt of an acceptable survey and the Affidavit required above, final policy(ies) will contain the following exception in lieu of the standard exception to rights and claims of parties in possession: Rights and claims of lessees/tenants under unrecorded leases, contracts and/or verbal agreements. (13)

NOTE: Please notify this Company when all requirements have been met so that we may

issue the final policy(ies) . (10)

EXHIBIT "A"

Part of a tract of land located in part of the Northeast Quarter (NE $\frac{1}{4}$) and the North half (N $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$), all in Section 17, Township 14 North Range 12 East of the 6th P.M., in Sarpy County, Nebraska, to be known upon plating as Lot 27, Brook Valley Business Park, being more particularly described as follows:

Commencing at the Northeast corner of Section 17-14-12; thence South 02°37'35" East (assumed bearing) along the East line of the Northeast Quarter of said Section 17-14-12 (A.K.A. the centerline of 108th Street), a distance of 33 feet; thence South 87°38'24" West, a distance of 50 feet to the point of beginning (said point being located on the South Right-of-Way line of Harrison Street and the West Right-of-Way line of 108th Street); thence continuing South 87°38'24" West along the said South Right-of-Way line of Harrison Street, a distance of 2,263.00 feet; thence South 00°08'15" West, a distance of 995.95 feet; thence South 21°21'40" East, a distance of 1,052.34 feet; thence South 12°04'42" East, a distance of 690.63 feet to a point located on the Northernly Right-of-Way line of the C. B. & Q. Railroad (said point also being located on a curve); thence Southeasterly along a 2,914.79 foot radius curve to the right (said curve A.K.A. the Northernly Right-of-Way line curve of the C. B. & Q. Railroad), an arc distance of 1,248.59 feet (chord bearing South 87°54'37" East, chord distance of 1,239.04 feet); thence North 62°48'21" West along the Right-of-Way line of the C. B. & Q. Railroad, a distance of 300.01 feet to a point located on the South line of the said Northeast Quarter of Section 17-14-12; thence North 87°33'40" East along the said Right-of-Way line of the C. B. & Q Railroad (A.K.A. the said South line of the Northeast Quarter of Section 17-14-12), a distance of 303.42 feet; thence South 62°48'19" East along the said Right-of-Way line of the C. B. & Q. Railroad, a distance of 151.07 feet to a point of curvature; thence Southeasterly along a 3,894.83 foot radius curve to the right (said curve A.K.A. the Right-of-Way line of the C. B. & Q. Railroad), an arc distance of 251.37 feet (chord bearing South 60°56'52" East, chord distance of 251.32 feet) to a point of tangency; thence South 59°08'07" East along the said Right-of-Way line of the C. B. & Q. Railroad, a distance of 272.83 feet to a point located on the Westerly Right-of-Way line of 108th Street (said point also being located on a curve; thence Northwesterly along a 638.75 foot radius curve to the left (said curve A.K.A. the Westerly Right-of-Way line of 108th Street), an arc distance of 178.64 feet (chord bearing North 20°19'56" West, chord distance of 178.05 feet) to a point of reverse curvature; thence Northwesterly along a 588 foot radius curve to the right (said curve A.K.A. the Westerly Right-of-Way line of 108th Street), an arc distance of 468.01 feet (chord bearing North 05°32'33" West, chord distance of 455.75 feet) to a point of reverse curvature; thence Northeasterly along a 1,450.00 foot radius curve to the left (said curve A.K.A. the Westerly Right-of-Way line of 108th Street), an arc distance of 503.26 feet (chord bearing North 07°19'00" East, chord distance of 500.74 feet) to a point of tangency; thence North 02°37'35" West along the said Westerly Right-of-Way line of 108th Street, a distance of 1,855.45 feet to the point of beginning.

EXCEPT THE FOLLOWING:

A parcel of land lying in Tax Lot 13 in the Northeast Quarter of Section 17, Township 14 North, Range 12 East of the Sixth Principal Meridian, Sarpy County, Nebraska, more particularly described as follows:

Commencing at the Northwest Corner of the said Northeast Quarter of said Section 17; thence North 87°38'15" East (assumed bearing) along the North line of said Northeast Quarter, a distance of 336.55 feet; thence South 02°21'45" East, a distance of 33.00 feet to the point of beginning; thence North 87°38'16" East along the South line of Harrison Street, a distance of 2,263.00 feet; thence South 02°37'09" East along the West Right of Way line of 108th Street, a distance of 27.00 feet; thence North 47°29'27" West, a distance of 14.17 feet; thence South 87°38'16" West, a distance of 2,253.82 feet; thence North 00°08'07" East, a distance of 17.02 feet to the point of beginning.

AND ALSO EXCEPTING:

A parcel of land lying in Tax Lot 13 in the Northeast Quarter of Section 17, Township 14 North, Range 12 East of the Sixth Principal Meridian, Sarpy County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter of said Section 17; thence North 87°38'15" East (assumed bearing) along the North line of said Northeast Quarter, a distance of 335.81 feet; thence South 02°21'45" East, a distance of 50.00 feet to the point of beginning; thence North 87°38'15" East, a distance of 464.19 feet; thence South 80°13'51" West, a distance of 100.84 feet; thence South 83°03'21" West, a distance of 287.92 feet; thence South 85°36'37" West, a distance of 78.93 feet; thence North 00°08'07" East, a distance of 38.33 feet to the point of beginning.

AND ALSO EXCEPTING:

A parcel of land lying in Tax Lot 13 in the Northeast Quarter of Section 17, Township 14 North, Range 12 East of the Sixth Principal Meridian, Sarpy County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter of said Section 17; thence North 87°38'15" East (assumed bearing) along the North line of said Northeast Quarter, a distance of 920.59 feet; thence South 02°21'45" East, a distance of 50.00 feet to the point of beginning; thence North 87°38'16" East, a distance of 161.23 feet, thence South 69°22'29" West, a distance of 86.16 feet; thence North 73°35'04" West, a distance of 83.88 feet to the point of beginning.

Upon platting of Brook Valley Business Park subject property to be known as Lot 27, Brook Valley Business Park.