

75-02897

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

INSTRUMENT NUMBER
95-02897
95 MAR -9 AM 8:45

Spencer D. ...

REGISTERED OR FILED
AMENDMENT TO DECLARATION OF COVENANTS

BROOK VALLEY BUSINESS PARK

THIS AMENDMENT IS MADE THIS 20TH DAY OF FEBRUARY, 1995 BY AND BETWEEN BROOK VALLEY LIMITED PARTNERSHIP, A NEBRASKA LIMITED PARTNERSHIP (HEREINAFTER REFERRED TO AS "DECLARANT") AND WAYNE L. RYAN, (HEREINAFTER REFERRED TO AS "BUYER")

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 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 Sarpy 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 SARPY COUNTY, NEBRASKA, BY DELETING ARTICLE III, PARAGRAPH C OF SAID COVENANTS AS IT PERTAINS TO LOT 16, LOT 17 AND THE EAST 49.39 FEET OF LOT 18, LOT 22 AND THE EAST 49.39 FEET OF LOT 21, AND LOT 23.

THE BUYER OF LOT 16, LOT 17 AND THE EAST 49.39 FEET OF LOT 18, LOT 22 AND THE EAST 49.39 FEET OF LOT 21, AND LOT 23, (WAYNE L. RYAN), UNDERSTANDS THAT THE DISTANCE BETWEEN BUILDINGS WILL BE CONTROLLED BY THE BUILDING CODES OF THE CITY OF LAVISTA, SARPY COUNTY, NEBRASKA AND ANY OTHER COUNTY ZONING CODES THAT MAY APPLY.

THE PARTIES HEREIN STATE 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 PARTIES HAVE EXECUTED THIS AMENDMENT ON THE DATE FIRST MENTIONED ABOVE.

* New known as Brook Valley Business Park lots 31, 32, part of lots 30 and 33, Brook Valley

BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska Limited Partnership

By: James V. McCarty, general partner

By: James V. McCarty, President

Printed Name _____
Film _____
Mail _____
Fee # 22.50
OK Cash Chg

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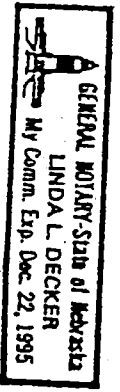
20

James W. Decker

STATE OF Nebraska)
COUNTY OF Douglas) A.B.

The foregoing instrument was acknowledged before me, a Notary Public, on this 30 day of February 1995, by James W. Decker, President of Prime Realty, General Partner of Creek Valley Limited Partnership,

Linda L. Decker NOTARY PUBLIC
My Commission expires 12-22-95



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93-03605
File No. 12552

INSTRUMENT NUMBER
93-003605

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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

Recd by [Signature]
REGISTERED RECORDS

BROOK VALLEY BUSINESS PARK

DECLARATION OF COVENANTS

APPROVED	<i>MC</i>
D.E.	<i>[Signature]</i>
Verify	<i>[Signature]</i>
Flimed	<i>[Signature]</i>
Checked	<i>[Signature]</i>
Fee \$	59.00

THIS DECLARATION OF COVENANTS (hereinafter referred to as the "Declaration") is made and executed as of the 12th 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, Sary 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

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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 regulated 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.

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 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 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

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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.

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

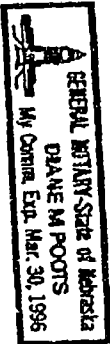
BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska limited partnership

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 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

93-036054

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

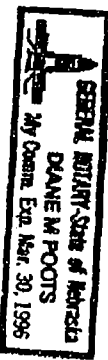
United - A.G. Cooperative, Inc.,
Trust Deed Beneficiary

By: *W. J. Olsen*
President

STATE OF NEBRASKA)
))
COUNTY OF DOUGLAS)

ss.

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



Daane M Poots
Notary Public

*RENUAID
HEADLAND TR
LINDA DEC 3 5 34
1320 SQ. W. WASH
CARRI, W. WASH*

95-02241

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9420587E*

**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 15th 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:

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 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, 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 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 and agrees to indemnify Purchaser for any claim or cause of action brought by any party for a breach or violation of the Covenants by 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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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. 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

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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: PRIMB REALTY, INC.,
General Partner

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

STATE OF NEBRASKA
COUNTY OF DOUGLAS

)
) ss:
)

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

Linda L. Decker
Notary Public

My commission expires:



12-22-95

REGISTERED NUMBER
05-00241B

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George D. Andrews
REGISTER OF DEEDS

NONV61193.1

Counter Pub
Verify MA
D.E. MA
Proof MA
Film _____
Mail 29 80
Fee # _____
3 Cash Chg

95-02898

PLEASE RETURN TO:
FARLAND 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 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 Sarpy County, Nebraska, AND

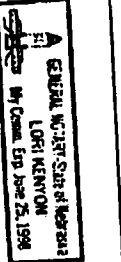
THE DECLARANT HAS AGREED TO AMEND SAID DECLARATION OF COVENANTS WHICH WERE RECORDED ON THE 25TH DAY OF FEBRUARY, 1993 BY INSTRUMENT NO. 93-003605 OF THE RECORDS OF SARPY COUNTY, NEBRASKA, BY DELETING ARTICLE II, PARAGRAPH B OF SAID COVENANTS AND AMENDING PARAGRAPH A TO READ AS FOLLOWS: ALL BUILDING WALLS 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

By: Prime Realty, Inc., general partner
By: James V. McCart, President
James V. McCart, President

STATE OF Nebraska, ss.
COUNTY OF Novato
The foregoing instrument was acknowledged before me, a Notary Public, on this _____ day of March 1995, by James V. McCart



Gerald W. Smith NOTARY PUBLIC
My Commission expires 12-25-98

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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, Sary 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.

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(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

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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

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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.

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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.

95-02888E

- (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.

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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,

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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.

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REGISTERED
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
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.



Linda L. Decker
Notary Public

Courier _____
Verify _____
D.E. _____
Procl. _____
Film _____
Mall _____
Fee # 62.50
 Cash C.O.D.

02898

95-20159

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.

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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*
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 8 day of November, 1995, by Terry Agee, Operations Manager, Streck Laboratories, Inc.

X *Jeannie 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: _____

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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

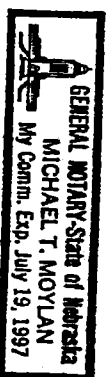
By: James V. McCart
James V. McCart, President

STRECK LABORATORIES, INC.

By: _____
Terry Agee, Operations Manager

DILLON REAL ESTATE CO., INC.

By: Robert Moeder
Robert Moeder, Vice President



STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss:

Subscribed and sworn to before me this 2nd day of November, 1995, by James V. McCart, President of Prime Realty, Inc., a Nebraska corporation.

Michael T. Moylan
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.

Notary Public

My commission expires: _____

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.

Rhonda K. Baker
Notary Public

My commission expires: 7-6-99

