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106

STATE OF NEBRASKA COUNTY OF WASHINGTON)88  
ENTERED IN NUMERICAL INDEX AND FILED FOR RECORD  
THIS 23 DAY OF November, A.D. 2004  
AT 3:39 O'CLOCK P. M. AND RECORDED IN BOOK  
452 AT PAGE 106-118  
COUNTY CLERK Charlotte L. Petersen  
DEPUTY Gerry D. Huber

SUBDIVISION AGREEMENT

FILED

04 NOV 23 PM 3:39

CHARLOTTE L. PETERSEN  
WASHINGTON COUNTY CLERK  
BLAIR, NEBR.

THIS AGREEMENT made and executed this 18<sup>th</sup> day of November, 2004, by and between the city of Fort Calhoun, Washington County, Nebraska, a Municipal Corporation, hereinafter referred to as "City" and Agnes L. Smith, a single person, hereinafter referred to as "Developer",

WHEREAS, Developer proposes to develop a portion of her solely-owned real property situated within Washington County, Nebraska (the "Property"), as indicated in the following legal description: Tax Lots 130, 127, 144, 151, and Part of Tax lots 156 and 158; all in Section 11, Township 17 North, Range 12 East of the 6<sup>th</sup> P.M., Washington County, Nebraska; and has submitted both a preliminary plat and Restrictive Covenants to the Planning Commission which has approved the same, and has further submitted a final plat of CASALS CORNER FIRST ADDITION (attached Exhibit "A"), together with said Restrictive Covenants (attached Exhibit "B"), to the City Council of Fort Calhoun, Nebraska, which has also approved the same;

NOW, THEREFORE, in consideration of the mutual covenants and benefits to each party as set forth herein, it is agreed as follows:

1. Developer Obligations: The Developer shall pay and be responsible for the design, construction, and inspection of all improvements set forth on the Final Plat of CASALS CORNER FIRST ADDITION, including, but not limited to, the sanitary sewer main and water main extensions indicated upon a plan on file with the City Clerk, dated November 2, 2004, prepared by Hill Farrell & Associates, and as may be further amended; the same requiring final approval by the City Engineer.

The Developer, for herself and for her heirs, devisees, legatees, other personal representatives, and transferees, agrees to gratuitously dedicate and convey to the City of Fort Calhoun, the following property at the times specified herein:

Outlot "A" to be dedicated for public use and conveyed to the City concurrent with filing of the final plat of CASALS CORNER FIRST ADDITION, for such purposes as expansion of public parks, for the construction of drainage structures and sewers as necessary for flood control;

Outlot "B" to be dedicated for public use as an easement for sewer and drainage and conveyed to the City for such purposes as expansion of public parks. Said conveyance shall be required at a time no later than the death of the Developer, or earlier at her election. The Developer's obligation are to be considered contractual and not precatory nor a mere recital;

Recorded \_\_\_\_\_  
General \_\_\_\_\_  
Numerical \_\_\_\_\_  
Photostat \_\_\_\_\_  
Printed \_\_\_\_\_

1 106

452-106

An additional parcel of land (of approximately 1.5 acres located within the 4 acre tract indicated on attached Exhibit "C") and as spelled out in a Construction and Permanent Drainage Easement attached hereto as Exhibit "D", for the construction of drainage structures and sewers as necessary for flood control. The exact location and boundary of said parcel to be determined jointly by the City and Developer as part of the development master plan for Developer's property in the watershed. Said conveyance shall be concurrent with the filing of the final plat of the adjacent properties. Until then the Developer shall provide a permanent easement over the parcel for the construction of said drainage structures and sewers as necessary for flood control. The final location and boundary of the parcel shall be subject to further approval by each of the parties which approval shall not be otherwise unreasonable withheld. Developer further agrees to provide a 75' right of access to the parcel from existing public rights-of-way as shown on Exhibit "C". City agrees to release a portion of or all the access easement provided acceptable access is provided by future platting. The City also agrees to release portions of the permanent easement for the parcel that are in conflict with the future platting which will be subject to approvals of the City which approvals shall not be otherwise unreasonably withheld.

2. City Obligations: Inasmuch as the Developer is to provide the land, the City will be responsible for the design, construction, and inspection of certain dry detention cells upon Outlot "A" in CASALS CORNER FIRST ADDITION and the parcel of land depicted on attached Exhibit "C". The structures shall be built to handle the existing runoff in excess of what can be handled downstream of this development and in such a way that they can be enhanced to handle the runoff once the entire Smith properties within the watershed are developed.

The parties agree that, upon completion and acceptance by the City, the City will own, operate and at its cost maintain the public improvements, paid for and constructed by the Developer.

3. Developer Expense:

- (a) All of the improvements required to be made by Developer under Paragraph 1 hereinabove shall be at the sole expense of Developer. Nothing shall be paid or contributed by the City for any of the improvements set forth on the Final Plat.
- (b) Developer agrees to pay for said improvements with private funds and/or private financing, or a combination of the two.

4. Construction Standards: All improvements required to be made of Developer as set forth in Paragraph 1 hereinabove shall be constructed to meet or exceed the standards and specifications as set forth in the Ordinances and Building Codes of the City of Fort Calhoun, and comparable State and Federal laws, rules and regulations; and shall be certified as such by an engineer registered and licensed by the State of Nebraska.

5. Issuance of Building Permits:
- (a) All improvements required to be made by Developer as set forth in Paragraph 1 hereinabove shall be constructed at such reasonable times and dates as established by Developer; provided, however, until such improvements are completed to the reasonable satisfaction of the City, no building permits shall be issued to construct any structures upon any lot or portions thereof as contained within the Subdivision. The issuance of building permits shall not, however, be postponed solely by reason of the death of Agnes L. Smith or her earlier voluntary conveyance of property to the City in accordance with Paragraph 1 thereof.
  - (b) Developer further agrees that any and all purchase agreements entered into prior to the date upon which the improvements required under Paragraph 1 hereinabove are completed to the reasonable satisfaction of the City, Developer agrees that she will insert the following provision into all said purchase agreements: "Subdivision Agreement/Building Permits: A Subdivision Agreement has been entered into by and between Seller herein and the City of Fort Calhoun, Nebraska and that said Subdivision Agreement is recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ of the real estate records of the Washington County Clerk, Washington County, Nebraska. Buyer acknowledges that he/she has received a copy of the Subdivision Agreement and understands that until all improvements, including but not limited to construction of the sanitary sewer, are completed to the reasonable satisfaction of the City, no building permits will be issued to construct any structure on the lot being purchased by Buyer hereunder."
6. Building Restriction/Rezoning: Lots 1 through 7 of CASALS CORNER FIRST ADDITION shall be limited to uses allowable under the Single Family Residential Zoning District (R-1) of the Land Development Ordinance of the City of Fort Calhoun, Nebraska, as amended from time to time.
7. Performance Guaranty: Developer agrees to provide to the City a performance bond in the minimum amount of \$90,000 to cover the costs of the contemplated improvements. The City shall also be listed as additional obligee for all bonds required and provided for construction of the public improvements.
8. Recording in Real Estate Records: The parties agree that this Agreement shall be filed in the Real Estate Records of the Washington County Clerk and indexed against all lots in the Subdivision. Upon certification by the City Engineer that the improvements have been satisfactorily performed, and excepting the possibility of

delayed performance of the gratuitous dedications referred to in Paragraph 1 hereof, the City shall record an instrument with the Washington County Clerk acknowledging full satisfaction of this Agreement.

9. Binding Effect: This Agreement and the related Construction and Permanent Drainage Easement shall be binding upon and inure to the benefit of the Developer, the City and their respective personal representatives, successors and assigns.

CITY OF FORT CALHOUN  
By *Paul A. Germaine*  
MAYOR

ATTEST:  
*Hinda Wheeler*  
CITY CLERK

*Agnes L. Smith*  
AGNES L. SMITH

# CASALS CORNER FIRS

## Lots 1 thru 7, inclusive and (

### FINAL PLAT

PART OF TAX LOT 151, IN THE W1/2,  
SECTION 11, T17N, R12E, OF THE 61  
WASHINGTON COUNTY, NEBRASKA

#### DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT Agnes L. Smith, being the owner of the property described and shown within this plat, have caused said property to be platted into Lots and Streets numbered and named as shown hereon, and said plat to be hereafter known as "Casals Corner First Addition", and do hereby ratify and approve of the disposition of said property as shown on this plat; and do hereby dedicate to the public for public use "Outlet A" to be used as a public park and the streets/roads as shown hereon. We do also grant a perpetual easement to the Omaha Public Power District, to Huntel Communications, Inc., and to any companies which have been granted a franchise to provide cable and water in the area to be platted and to their successors and assigns, to erect, operate, maintain, repair, and renew cables, conduits, water lines, and other related facilities, and to extend thereon wires or cables for the carrying and transmission of electric current and light, heat, power, and water, and for all transmission of signals and sounds of all kinds, including signals provided by a television system and their reception on over, through, under, and across a five foot (5') easement, on the side and front, and a ten foot (10') easement on the rear strip of and adjoining all the boundary lines of these lots; and that NO buildings or retaining walls will be constructed within said easements.

IN WITNESS WHEREOF, said owner has caused these presents to be signed this day of \_\_\_\_\_ 2004.

Agnes L. Smith, Owner

ACKNOWLEDGEMENT:  
STATE OF NEBRASKA  
WASHINGTON COUNTY

On this \_\_\_\_\_ day of \_\_\_\_\_, 2004, before me, a Notary Public in and for said County, personally came the above named Agnes L. Smith, who is known to be the identical person whose name is affixed to this Dedication on this plat, and he acknowledged the execution thereof to be his voluntary act and deed as owner. WITNESS my hand and official seal the date last aforesaid.

Notary Public

My commission expires: \_\_\_\_\_ (Date)

#### CITY PLANNING COMMISSION APPROVAL:

This plat of "Casals Corner First Addition" as shown and described hereon was approved by the Fort Calhoun Planning Commission on this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Chairman, Fort Calhoun Planning Commission

#### CITY COUNCIL APPROVAL:

This plat of "Casals Corner First Addition" as shown and described hereon was approved and accepted by the City Council of the City of Fort Calhoun, Nebraska, on this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Mayer

ATTEST: \_\_\_\_\_  
Fort Calhoun City Clerk

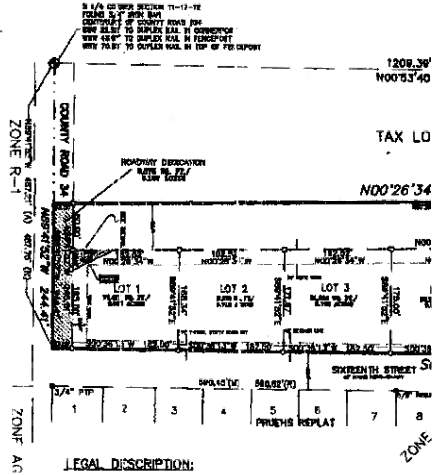
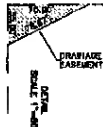
#### TREASURER'S CERTIFICATION:

This is to certify that I find no regular or special taxes due or delinquent against the property described in the legal description on this Surveyor's Certificate and embraced within this plat as shown by the records of this office on this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Washington County Treasurer

#### ZONING:

Property is presently zoned R-1 and proposed zoning is R-1.



#### LEGAL DESCRIPTION:

PART OF TAX LOT 151, IN THE CITY OF FORT CALHOUN LYING IN THE ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 12 EAST OF THE 6TH PA. WASHINGTON COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID TAX LOT 151; THENCE S00°28'13"W (AN ASSUMED BEARING RELATIVE TO ALL BEARINGS CONTAINED HEREIN) FOR A DISTANCE OF 1384.44 FEET; THENCE N89°41'32"W ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER FOR A DISTANCE OF 244.41 FEET; THENCE N60°28'34"W FOR A DISTANCE OF 1300.44 FEET; THENCE N45°33'17"E ALONG THE NORTH LINE OF SAID TAX LOT 151 FOR A DISTANCE OF 377.29 FEET TO THE POINT OF BEGINNING, CONTAINING ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, RESTRICTIONS, COVENANTS OF RECORD.

#### LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT, MAP, SURVEY OR REPORT WAS MADE BY ME OR BY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NEBRASKA. I FURTHER CERTIFY THAT PERMANENT MARKERS HAVE BEEN PLACED AT ALL CORNERS AS SHOWN ON THIS PLAT.

GARY TRINHAM  
REGISTERED LAND SURVEYOR

DATE \_\_\_\_\_ REG. NO. 363

# CORNER FIRST ADDITION

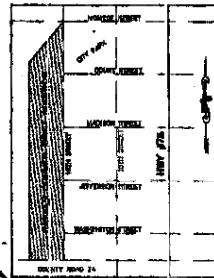
## 7, inclusive and Outlots A & B

### FINAL PLAT

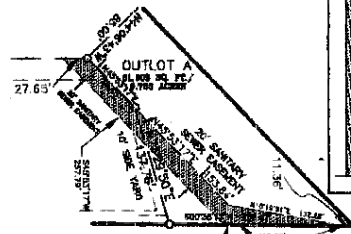
111

OF TAX LOT 151, IN THE W1/2, SE 1/4,  
 ON 11, T17N, R12E, OF THE 6TH P.M.,  
 WASHINGTON COUNTY, NEBRASKA

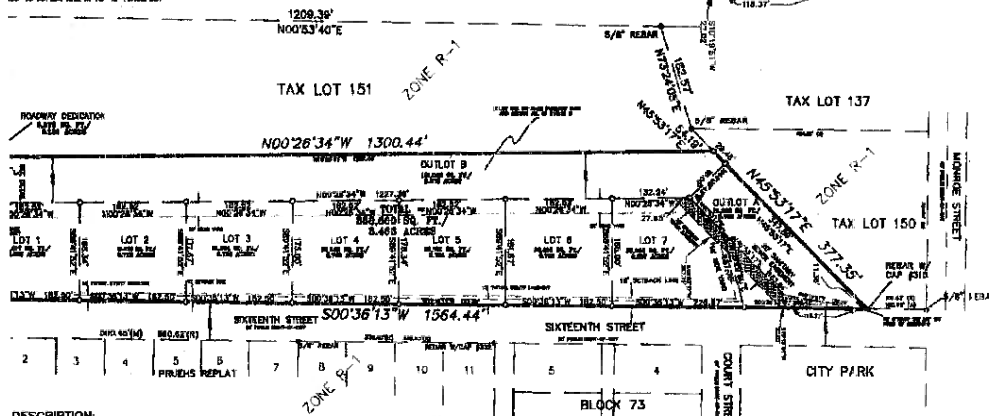
VICINITY MAP  
 FORT CALHOUN  
 NOT TO SCALE



DETAIL OF EASEMENT



SECTION 11-17-12  
 1/4" = 100' SCALE  
 SEE TO SAMPLE MAP IN REFERENCE  
 SEE TO SAMPLE MAP IN REFERENCE



**DESCRIPTION:**  
 TAX LOT 151, IN THE CITY OF FORT CALHOUN LYING IN THE WEST  
 1/4 OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 17  
 RANGE 12 EAST OF THE 6TH P.M., WASHINGTON COUNTY,  
 AS DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST  
 CORNER OF SAID TAX LOT 151, THENCE S00°36'13"W (AN ASSUMED  
 BEARING) FOR A DISTANCE OF 1564.44 FEET; THENCE N89°41'52"W ALONG THE SOUTH  
 BOUNDARY OF SAID TAX LOT 151 FOR A DISTANCE OF 244.41 FEET;  
 THENCE S00°28'34"W FOR A DISTANCE OF 1300.44 FEET; THENCE  
 7°E ALONG THE NORTH LINE OF SAID TAX LOT 151 FOR A  
 DISTANCE OF 377.35 FEET TO THE POINT OF BEGINNING, CONTAINING 8.483  
 MORE OR LESS, AND SUBJECT TO EASEMENTS, RESTRICTIONS, AND  
 IS OF RECORD.

**CERTIFICATE**

AT THIS PLAT, MAP, SURVEY OR REPORT WAS MADE BY ME OR UNDER  
 SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR  
 OF THE STATE OF NEBRASKA. I FURTHER CERTIFY THAT PERMANENT  
 PLACES AT ALL CORNERS AS SHOWN ON THIS PLAT.

BY: \_\_\_\_\_  
 REG. NO. 363

12280  
 CONCRETE PILE  
 CONCRETE SET IN PLACE  
 W/OUT JOB  
 CONCRETE SET IN PLACE  
 ABOVE GROUND  
 ACTUAL DIMENSION  
 OPEN TOP PILE  
 PILEHEAD TOP PILE

**OWNER / DEVELOPER**  
 AGNES L. SMITH  
 104 SOUTH 16TH STREET  
 FORT CALHOUN, NEBRASKA

**FINAL PLAT**  
 CASALS CORNER FIRST ADDITION  
 SECTION 11, T17N, R12E, OF THE 6TH P.M.,  
 WASHINGTON COUNTY, NEBRASKA

BOOK 04-01  
 PAGE 62-64  
 PROJECT NO. 040080  
 DATE 10-21-04  
 REVISED 11-16-04

**TINKHAM LAND SURVEYING**  
 8910 NORTH 48TH STREET, SUITE 208  
 OMAHA, NE 68152-1842  
 TELEPHONE 402-651-2068

EXHIBIT "A"

111

## CASALS CORNER ADDITION COVENANTS

Agnes Smith, the owner of real estate described as lots one through seven (1 to 7) inclusive and Outlot "A" of Casals Corner Addition to the City of Fort Calhoun, Nebraska, do hereby declare that lots one through seven in such addition are and shall henceforth be owned, held, used and conveyed subject to the following conditions, restrictions and covenants:

- A. Said lots shall be used only for single family residential purposes except such lots or portions thereof, as may hereafter be conveyed or dedicated by the undersigned for public, church, educational or non-profit recreational uses.
- B. No structure shall be erected, altered, placed or permitted to remain on any "residential building plot," as hereinafter defined, other than one detached single family dwelling, with attached garage for not less than two cars.
- C. No residential structure shall be erected or placed on any building plot which has an area of less than ten thousand (10,000) square feet, and such a plot of said minimum dimensions when used for residential purposes is herein defined as a "Residential Building Plot." All front yard, side yard and rear yard set back requirements shall conform to the Zoning Ordinances of the City of Fort Calhoun, Nebraska for the appropriate classification.
- D. No noxious or offensive trade or activity shall be carried on upon any plot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No posters or advertising signs of any kind (except residential "For Sale" signs not exceeding six (6) square feet in area) shall be erected on any building plot. The above restriction as to signs does not apply to signs erected by the undersigned and its agents in the development and sale of the subdivision. No outside above ground trash or garbage piles, burners, receptacles or incinerators shall be erected, placed or permitted on any building plot. All tanks must be buried beneath ground level. All weeds and grass shall be kept cut down to a maximum height of eight inches above ground level. No down spouts, storm or surface drains shall be connected to sanitary sewers. No animals, livestock or poultry of any kind shall be raised, brought or kept on said lots, except that dogs, cats or other household pets are permitted if they are not kept, bred or maintained for any commercial purpose. All excavations, including utility trenches, shall be kept filled, compacted and maintained by the then owner of each plot and in no event will the undersigned or its agents and associated entities be or become liable for such work or maintenance or for any claims arising from such excavations.
- E. No trailer, tent, shack, barn, garage or temporary structure or outbuilding of any unsightly nature shall be placed or erected on said real estate. Only the main residential structure may be occupied as a dwelling and such occupancy shall not be permitted until all exterior construction is fully completed according to approved plans. No building materials shall be placed on any lot until construction has started on the main residential structure.

- F. No fences shall be erected in front of the main residential structure except decorative fences not to exceed four-two inches (42") in height and constructed of brick, stone, metal or wood. Side and rear yard fences shall not exceed six feet (6') in height and shall conform to the above mentioned construction materials. All fences shall be painted and/or maintained in such a manner so as not to be unsightly to the neighboring properties.
- G. All driveways shall be constructed of Portland Cement concrete to a minimum thickness of six inches (6").
- H. The ground floor enclosed living area of main residential structures, exclusive of open porches, open breezeways, basements and garages shall be not less than 1800 square feet.
- I. Each owner of a lot in Casals Corner Addition shall become a contributing member of the Casals Corner Neighborhood Association, the purpose of which is to manage and monitor the use and care of the community access areas within the Casals Corner Addition. The annual assessment of dues and collection of the same shall be the responsibility of the Association.
- J. Dwellings constructed in another addition or location shall not be moved to any lot within Casals Corner Addition, including pre-constructed or modular homes.
- K. Prior to commencement of construction of any structures, the plans and specifications therefor (including elevations) must be submitted to and approved in writing by the undersigned. The exposed foundation walls of all main residential structures must be constructed of or faced with brick or stone veneer on exposed foundations fronting a street. All other portions of exposed foundation must be painted if not brick or stone veneer.
- L. Grading of lots in Casals Corner Addition in preparation for construction of dwellings on said lots shall be kept to a minimum and the natural contour of the land shall be preserved where feasible.
- M. These covenants, restrictions and conditions shall run with the land and continue until January 1, 2015, after which time they shall be automatically extended for successive periods of ten years, unless an instrument signed by a majority of the then owners of said land shall have been recorded in the office of the County Clerk of Washington County, Nebraska, agreeing to change same in whole or in part.
- N. If any person, firm or corporation shall violate or attempt to violate any provisions hereof, any owner of real estate in such addition shall be empowered and entitled to bring any action or proceeding to prevent or restrain the continuance of such attempt or violation or to recover damages occasioned thereby.



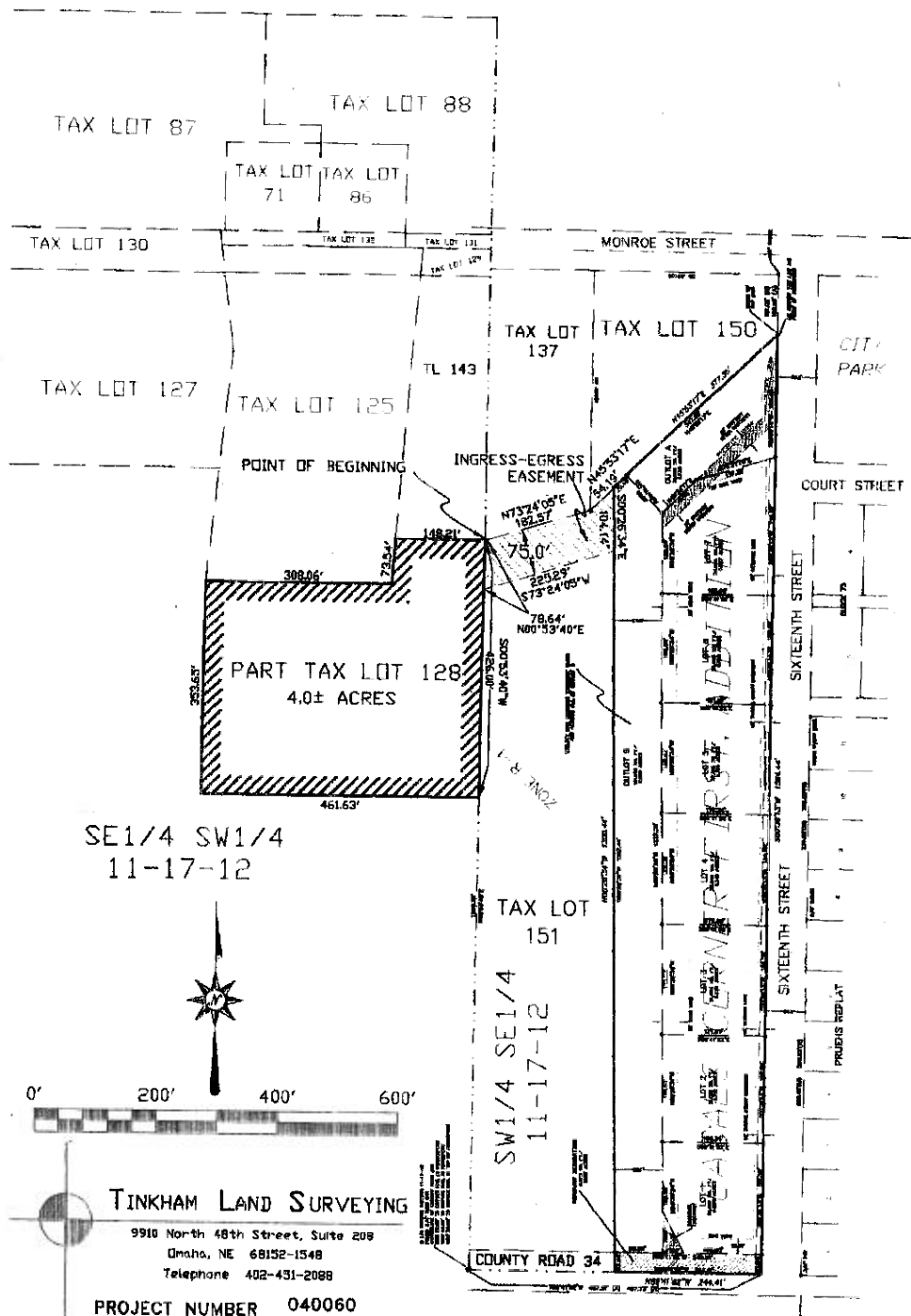
P. If any provisions hereof shall be adjudged unlawful or unenforceable, same shall in no manner affect or change the other provisions hereof, which shall remain in full force and effect.

Signed this 18 day of November, 2004.

Agnes L. Smith  
Agnes Smith



# EXHIBIT "C"



## EXHIBIT "C"

LEGAL DESCRIPTION OF 4-ACRE TRACT:

PART OF TAX LOT 128 LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 12 EAST OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA) DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID TAX LOT 128 (SAID POINT ALSO BEING THE COMMON CORNER OF TAX LOTS 143, 137, 151 AND 128); THENCE S00°53'40"W (AN ASSUMED BEARING RELATIVE TO ALL BEARINGS CONTAINED HEREIN) ALONG THE EAST LINE OF SAID TAX LOT 128 (ALSO BEING THE WEST LINE OF TAX LOT 151) FOR A DISTANCE OF 426.00 FEET; THENCE WESTERLY 461.63 FEET; THENCE NORTHERLY 353.65 FEET; THENCE EASTERLY ALONG THE SOUTH LINE OF TAX LOT 125 (ALSO BEING THE NORTH LINE OF SAID TAX LOT 128) FOR A DISTANCE OF 308.06 FEET; THENCE NORTHEASTERLY ALONG THE EAST LINE OF TAX LOT 125 FOR A DISTANCE OF 73.54 FEET; THENCE EASTERLY ALONG THE NORTH LINE OF SAID TAX LOT 128 (ALSO BEING THE SOUTH LINE OF TAX LOT 143) FOR A DISTANCE OF 148.21 FEET TO THE POINT OF BEGINNING, CONTAINING APPROXIMATELY 4.00 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, RESTRICTIONS, AND COVENANTS OF RECORD.

LEGAL DESCRIPTION OF INGRESS-EGRESS EASEMENT:

A 75 FOOT WIDE INGRESS-EGRESS EASEMENT LOCATED IN PART OF TAX LOT 151 IN PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER IN SECTION 11, TOWNSHIP 17 NORTH, RANGE 12 EAST OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA) DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID TAX LOT 151 (SAID POINT ALSO BEING THE COMMON CORNER OF TAX LOTS 143, 137, 151, AND 128); THENCE N73°24'05"E (AN ASSUMED BEARING RELATIVE TO ALL BEARINGS CONTAINED HEREIN) ALONG THE NORTH LINE OF SAID TAX LOT 151 (ALSO BEING THE SOUTH LINE OF TAX LOT 137) FOR A DISTANCE OF 182.57 FEET; THENCE N45°53'17"E ALONG THE SOUTH LINE OF TAX LOT 150 (ALSO BEING THE NORTH LINE OF SAID TAX LOT 151) FOR A DISTANCE OF 54.19 FEET TO THE NORTHWEST CORNER OF "CASALS CORNER FIRST ADDITION"; THENCE S00°26'34"E ALONG THE WEST LINE OF SAID "CASALS CORNER FIRST ADDITION" FOR A DISTANCE OF 104.14 FEET; THENCE S73°24'05"W FOR A DISTANCE OF 225.29 FEET; THENCE N00°53'40"E ALONG THE WEST LINE OF SAID TAX LOT 151 FOR A DISTANCE OF 78.64 FEET TO THE POINT OF BEGINNING.



## TINKHAM LAND SURVEYING

9910 North 48th Street, Suite 208

Omaha, NE 68152-1548

Telephone 402-451-2088

PROJECT NUMBER 040060

## EXHIBIT "C"

LEGAL DESCRIPTION OF 4-ACRE TRACT:

PART OF TAX LOT 128 LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 12 EAST OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA) DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID TAX LOT 128 (SAID POINT ALSO BEING THE COMMON CORNER OF TAX LOTS 143, 137, 151 AND 128) THENCE S00°53'40"W (AN ASSUMED BEARING RELATIVE TO ALL BEARINGS CONTAINED HEREIN) ALONG THE EAST LINE OF SAID TAX LOT 128 (ALSO BEING THE WEST LINE OF TAX LOT 151) FOR A DISTANCE OF 426.00 FEET; THENCE WESTERLY 461.63 FEET; THENCE NORTHERLY 353.65 FEET; THENCE EASTERLY ALONG THE SOUTH LINE OF TAX LOT 125 (ALSO BEING THE NORTH LINE OF SAID TAX LOT 128) FOR A DISTANCE OF 308.06 FEET; THENCE NORTHEASTERLY ALONG THE EAST LINE OF TAX LOT 125 FOR A DISTANCE OF 73.54 FEET; THENCE EASTERLY ALONG THE NORTH LINE OF SAID TAX LOT 128 (ALSO BEING THE SOUTH LINE OF TAX LOT 143) FOR A DISTANCE OF 148.21 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 4.00 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, RESTRICTIONS, AND COVENANTS OF RECORD.

LEGAL DESCRIPTION OF INGRESS-EGRESS EASEMENT:

A 75 FOOT WIDE INGRESS-EGRESS EASEMENT LOCATED IN PART OF TAX LOT 151 IN PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER IN SECTION 11, TOWNSHIP 17 NORTH, RANGE 12 EAST OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA) DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID TAX LOT 151 (SAID POINT ALSO BEING THE COMMON CORNER OF TAX LOTS 143, 137, 151, AND 128) THENCE N73°24'05"E (AN ASSUMED BEARING RELATIVE TO ALL BEARINGS CONTAINED HEREIN) ALONG THE NORTH LINE OF SAID TAX LOT 151 (ALSO BEING THE SOUTH LINE OF TAX LOT 137) FOR A DISTANCE OF 182.57 FEET; THENCE N45°53'17"E ALONG THE SOUTH LINE OF TAX LOT 150 (ALSO BEING THE NORTH LINE OF SAID TAX LOT 151) FOR A DISTANCE OF 54.19 FEET TO THE NORTHWEST CORNER OF "CASALS CORNER FIRST ADDITION"; THENCE S00°26'34"E ALONG THE WEST LINE OF SAID "CASALS CORNER FIRST ADDITION" FOR A DISTANCE OF 104.14 FEET; THENCE S73°24'05"W FOR A DISTANCE OF 225.29 FEET; THENCE N00°53'40"E ALONG THE WEST LINE OF SAID TAX LOT 151 FOR A DISTANCE OF 78.64 FEET TO THE POINT OF BEGINNING.


**TINKHAM LAND SURVEYING**

9910 North 48th Street, Suite 208  
Omaha, NE 68152-1548  
Telephone 402-451-2088

PROJECT NUMBER 040060

## EXHIBIT "D"

CITY OF FORT CALHOUN, NEBRASKA  
CONSTRUCTION AND PERMANENT DRAINAGE EASEMENT

THIS INDENTURE, made and executed this 18<sup>th</sup> day of November 2004, by and between Agnes L. Smith, a single person, hereinafter referred to as "Grantor," and the City of Fort Calhoun, Nebraska, a Municipal Corporation, hereinafter referred to as the "City" or "Grantee", WITNESSETH:

That Grantor, for and on behalf of herself and her heirs, devisees, legatees, other personal representatives, assigns and other transferees (whether known or unknown at this time), and in consideration of the sum of Two Dollars (\$2.00) and other valuable consideration to grantor, in hand paid by the City, the receipt whereof is hereby acknowledged, does hereby grant, sell, convey and confirm unto the City, and to its successors or assigns forever, a combined construction and perpetual drainage easement for the right to lay out, build, construct, alter and re-lay, maintain, repair, use and operate one or more drainage structures, detention ponds, and/or drainage ways or channels for the storage or passage of storm water, together with all appurtenances, structures and other applicable equipment pertaining to any drainage facility in, through, over and under the parcel of land situated within Washington County, Nebraska, and described as a 1.5 acre tract within the boundary of a 4-acre tract shown on and described on Exhibit "C" attached hereto.

SEE ATTACHED EXHIBIT "C"  
EASEMENT PLAT AND LEGAL DESCRIPTION

This easement is hereby coupled with a grant to the City, of the right of perpetual ingress and egress as said shown on Exhibit "C", which can be modified and or eliminated as public streets are platted to adjoin said 1.5 acre tract.

Grantor, for herself and for her heirs, devisees, legatees, other personal representatives, successors and assigns, further agrees to forever refrain from interference with the City's operations upon the above-described real property. Further, Grantor, for herself and for her heirs, devisees, legatees, other personal representatives, successors and assigns, and all others contracting with them, agrees never to build, nor to permit others to build, construct or place in, upon, over, under or across said easement, any buildings, improvements or structures of any kind, (which shall include fences of any type or size), without prior express written approval of the City.

And for such purposes, the City shall have the right and authority to bring or to build upon said property, subject of this easement, such structures, machinery, tools, and other applicable equipment as may be required for the purposes above-stated.

The consideration recited herein shall fully cover and include all damages for change of grade, if any; and all claims for damages arising from such change of grades, grading, or from interference with the Grantor's right of quiet enjoyment; the same being hereby waived by Grantor and by her heirs, executors, administrators, other personal representatives, legatees, transferees, successors or assigns.

This easement, and all of the rights, privileges and immunities granted unto the City herein, shall also inure to the benefit of its contractors, agents, employees, other representatives; and those of any public utility company which may be affected thereby, and their assigns.

This instrument contains the entire agreement of the parties; and there are no other or different agreements or understandings between the Grantor and the City.

The easement granted by this indenture shall run with the land, and the covenants and agreements herein contained shall be binding and obligatory upon the successors and assigns of the respective parties.

IN WITNESS WHEREOF, the undersigned has caused this easement to be executed the day, month and year first above written.

*Agnes L. Smith*  
AGNES L. SMITH, Grantor

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF WASHINGTON)

The foregoing instrument was executed by Grantor before me and acknowledged by her to be her voluntary act and deed for the purposes indicated; all done this 18<sup>th</sup> day of November 2004.

*Steven E. Snider*  
Notary Public



MY COMMISSION EXPIRES: NOVEMBER 10, 2006