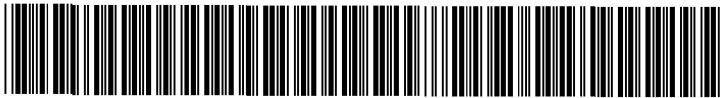




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COMP: LM

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Register of Deeds, Douglas County, NE  
11/27/2012 09:13:46.00



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**DECLARATION OF INGRESS AND EGRESS  
AND UTILITY EASEMENTS FOR  
PRIME BUSINESS PARK, A SUBDIVISION,  
AS SURVEYED, PLATTED AND RECORDED  
IN DOUGLAS COUNTY, NEBRASKA**

This Declaration of Ingress and Egress and Utility Easements for Prime Business Park, a Subdivision, as Surveyed, Platted and Recorded in Douglas County, Nebraska (the "Declaration"), is made and entered into as of this 19 day of November, 2012, by Prime Real Estate, LLC, a Nebraska limited liability company ("Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain real property in Douglas County, Nebraska, as legally described on Exhibit "A" attached hereto ("the Prime Park Property"); and

WHEREAS, Declarant desires to memorialize the terms of certain easements and rights pertaining to the Prime Park Property, including specifically the Ingress and Egress and Utility Easement referred to in the final plat of Prime Business Park, filed with the Douglas County Register of Deeds on September, 2012, as Instrument No. 2012097152 (the "Plat").

NOW, THEREFORE, Declarant hereby declares that the Prime Park Property shall be held, sold and conveyed subject to the following conditions, restrictions, and easements which are for the purpose of protecting the value and desirability of, and which shall run with, each of said Prime Park Property.

**ARTICLE I  
Definitions**

1.1 Ingress and Egress Easement Area. The term "Ingress and Egress Easement Area" shall mean the area legally described and depicted on Exhibit "B" attached hereto.

1.2 Owner. The term "Owner" shall mean the legal owner of fee title to any parcel of the Prime Park Property, as reflected by the records of the Douglas County Register of Deeds. If any parcel of the Prime Park Property is owned by one or more Persons, the Person or Persons holding at least fifty-one percent (51%) of the ownership interest in the parcel of the Prime Park Property shall designate one of their number to represent all owners of the parcel in question and such designated Person shall be deemed the Owner of such parcel.

1.3 Permittee. The term "Permittee" shall mean all Owners, their tenants or licensees of a parcel of the Prime Park Property, and each of their respective officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, and invitees.

Return to:  
James D. Buser  
Pansing Hogan Ernst & Bachman, LLP  
10250 Regency Circle, Suite 300  
Omaha, Nebraska 68114

1.4 Person. The term "Person" shall mean any individual, partnership, firm, association, limited liability company, trust, or any other form of business or government entity.

1.5 Prime Park Parcel. The term "Prime Park Parcel" shall mean any parcel of real estate that is part of the Prime Park Property and shall initially mean Parcel 1, Parcel 2, and Parcel 3 as described on Exhibit "A" attached hereto, and which are collectively referred to herein as the "Prime Park Parcels".

1.6 Utility Easement Area. The term "Utility Easement Area" shall mean the area legally described and depicted on Exhibit "C" attached hereto.

## **ARTICLE II Easements**

2.1 Ingress and egress. Declarant hereby grants and reserves in favor of the Owner of each Prime Park Parcel, and its Permittees, in common with others entitled to use the same, a nonexclusive perpetual easement for vehicular and pedestrian ingress and egress over and across the paved or otherwise improved drive portions of the Ingress and Egress Easement Area, as the same may be from time to time be constructed and maintained for such use. Each Owner shall take reasonable efforts to ensure that Permittees shall not park on the Ingress and Egress Easement Area.

2.2 Utilities. Declarant hereby grants and reserves in favor of the Omaha Public Power District, Metropolitan Utilities District, the City of Omaha, Nebraska, Cox Communications and any other entity that may from time to time provide utility services for the benefit of Parcel 1, including, without limitation, water, gas, electricity, storm sewer, sanitary sewer, cable television and internet service, in common with others to use the same, a nonexclusive perpetual easement for the installation, operation, maintenance, repair and renewal of such utilities facilities on and under the Utility Easement Area. No permanent buildings, trees, retaining walls or loose rock wall shall be placed in said Utility Easement Area, but the same may be used for gardens, shrubs, landscaping, sidewalks, trails, drive areas and other purposes that do not then or later interfere with said utilities facilities.

2.3 Surface water. Each Owner hereby grants and conveys to the Owner owning an adjacent Prime Park Parcel the perpetual right and easement to discharge surface storm drainage and/or runoff from the grantee's Prime Park Parcel over, upon and across the parking areas of the grantor's Prime Park Parcel, provided, however, no party shall alter or permit to be altered the grade or surface of the parking areas or the drainage/retention system constructed on its Prime Park Parcel if such alteration would materially increase the flow of surface water onto the adjacent Prime Park Parcel either in the aggregate or by directing the flow of surface water to a limited area.

2.4 Septic Tank and Lateral Field. Declarant hereby grants and reserves in favor of Parcel 1 a perpetual easement for the purposes of constructing, operating, maintaining, repairing and replacing a sewage treatment system, to include a septic tank and lateral fields, on and under that part of Parcel 2 as legally described and depicted on Exhibit "D" attached hereto and incorporated herein by this reference (the "Sewer System Easement"). The construction, operation, maintenance, repair and replacement of the sewer system on Parcel 2 shall be at the sole expense of the Owner of Parcel 1, who shall maintain such sewer system in good condition and in compliance with applicable laws, rules and regulations.

## **ARTICLE III Maintenance and Repair**

3.1 Common Drive. There currently exists on Parcel 3 a common drive (the "Common Drive") within the Ingress and Egress Easement Area that provides ingress and egress from West Maple Road to the Prime Park Parcels (the "Common Drive") and will be used by the Owners and the Permittees. Until Parcel 3 is developed, the Owner of Parcel 1 shall maintain, repair and replace the Common Drive as necessary or appropriate. The Owners of the Prime Park Parcels shall each pay a pro rata share, meaning initially as to Parcel 1, 33 1/3%, as to Parcel 2, 33 1/3% and as to Parcel 3, 33 1/3% of the cost and expense for the maintenance, repair, and replacement of the Common Drive and any amenities. The Owner of Parcel 1 may in its sole discretion make a determination that it is beneficial to Prime Park to pave the existing Common Drive. In such event, the Owner of Parcel 1 will design and

construct the paving improvements and in doing so shall use its best efforts to keep the Common Drive open during business hours during construction. Upon completion of construction, the Owner of Parcel 1 shall deliver to the respective Owners of Parcel 2 and Parcel 3 notice of the total cost incurred by the Owner of Parcel 1 for the design and construction of the paving improvements to the Common Drive, together with an itemization of such costs in reasonable detail. The Owner of Parcel 2 and the Owner of Parcel 3 shall thereafter each remit to the Owner of Parcel 1, 33 1/3% of the total cost as provided in such written notice. The payments required of the Owners of Parcel 2 and Parcel 3 for paving the Common Drive shall be deemed "Assessments" subject to Sections 3.4, 3.5, and 3.6 of this Declaration.

3.2 Maintenance. The maintenance responsibilities for the Common Drive shall include, without limitation, the following:

(a) Maintaining the drive surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or comparable substituted material as shall in all respects be equal in quality, use, and durability;

(b) Removal of all papers, ice and snow, mud and sand, debris, filth and refuse, and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

(c) Placing, keeping in repair and replacing any necessary and appropriate directional signs, markers and lines;

(d) Installing, operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required and at all times in conformance with standards and applicable ordinances and governmental requirements applicable to the Common Drive; and

(e) Maintaining, mowing, weeding, trimming and watering all landscaped areas constructed in the Easement Area and making such replacements of shrubs and other landscaping as is necessary to place such areas in an attractive and thriving condition.

3.3 Assessment Matters. The Owner of Parcel 1 shall fix, levy and charge the Owner of Parcel 2 and Parcel 3 with an annual assessment (herein the "Assessment") which shall represent each such Parcel Owner's representative share of the Owner of Parcel 1's expenses pertaining to the Owner of Parcel 1's Common Drive obligations under this Article III, including expenses for the fixing, levying, collecting and enforcement of all Assessments. The Owner of Parcel 1 shall be responsible for providing the Owners a report that details the calculation of the Assessment, and will make available to the Owner of Parcel 2 and Parcel 3 such information as will permit each Owner to reasonably determine the accuracy of the costs and expenses reported in the Assessment.

3.4 Lien of Assessment. All Assessments, together with interest thereon, costs and reasonable attorney fees shall be the personal obligation of the Owner of each Parcel at the time when the Assessment first becomes due and payable. The Assessments, together with interest thereon, costs and reasonable attorney fees, shall also be a charge and continuing lien upon the Parcel in respect of which the Assessments are charged.

3.5 Assessment Allocation. All Assessments shall be determined and assessed against Parcels 1, 2 and 3 according to their pro-rata share as provided in Section 3.1 hereof, which proportion shall be multiplied times the total Common Drive expenses to be allocated among the Owners of Parcels 1, 2 and 3. In the event that any Prime Park Parcel is subdivided, the subdivided lots future pro rata share of Assessments shall be allocated among the subdivided lots according to the acreage of the subdivided lots.

3.6 Due Date. Any installment of Assessments which is not paid within thirty (30) days following delivery of notice of Assessment shall be delinquent. Delinquent Assessments shall bear interest from the date when due at the rate of sixteen percent (16%) per annum. The Owner of Parcel 1 may bring an action at law against the Owner personally obligated to pay the same, foreclose the lien against the Parcel, or pursue any other legal or equitable remedy. The Owner of Parcel 1 shall be entitled to recover as a part of the action and shall be indemnified against the interest, cost and reasonable attorney fees incurred by the Owner of Parcel 1 with respect to such action.

The mortgagee of any Parcel shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Owner of Parcel 1 shall assign to any mortgagee who cures such a delinquency, all of its rights with respect to such lien and the right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Owner of Parcel 1.

**ARTICLE IV  
MISCELLANEOUS**

4.1 Enforcement. *In the event of a breach or threatened breach of this Declaration, only the Declarant or an Owner shall be entitled to institute proceedings for full and adequate relief from consequences of such breach or threatened breach. Time is of the essence.*

4.2 Perpetual Duration. *This Declaration and the covenants, conditions, restrictions and easements shall create mutual benefits and servitudes running with the land and shall bind and inure to the benefit of the parties hereto, and their respective heirs, representatives, lessees, successors and assigns. This Declaration shall be perpetual, provided, however, that this Declaration may be modified, amended or terminated by an instrument signed by the Owners of all of the Prime Park Parcels and recorded with the Douglas County Register of Deeds.*

4.3 Survival. *Invalidation of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.*

**[Space Below Intentionally Left Blank –  
Signature Page to Follow]**

IN WITNESS WHEREOF, this Declaration has been executed effective as of the day and year first above written.

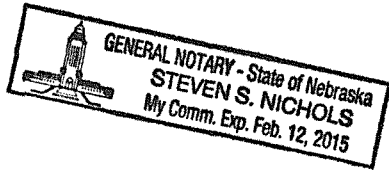
Prime Real Estate, LLC, a Nebraska limited liability company

By: [Signature]  
Steven P. Kanne, Member

By: [Signature]  
Brian J. Kenkel, Member

STATE OF NEBRASKA )  
                          ) ss.  
COUNTY OF DOUGLAS)

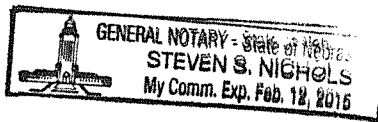
The foregoing instrument was acknowledged before me this 19 day of November, 2012, by Steven P. Kanne, Member of Prime Real Estate LLC, a Nebraska limited liability company, on behalf of the company.



[Signature]  
Notary Public

STATE OF NEBRASKA )  
                          ) ss.  
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 19 day of November, 2012, by Brian J. Kenkel, Member of Prime Real Estate LLC, a Nebraska limited liability company, on behalf of the company.



[Signature]  
Notary Public

**EXHIBIT "A"**

**77-31346**

Parcel 1: Lot 1, Prime Business Park, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Parcel 2: Lot 2, Prime Business Park, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Parcel 3: **SESW**  
THAT PART OF THE SE 1/4 OF THE SW 1/4 OF SECTION 2, T15N, R10E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, LYING SOUTH OF THE SOUTH LINE OF WEST MAPLE ROAD MORE PARTICULARLY DESCRIBED AS FOLLOWS, BEGINNING AT THE SE CORNER OF SAID SE 1/4;

THENCE N01°04'43"W (ASSUMED BEARING) 851.02 FEET ON THE EAST LINE OF SAID SE 1/4 TO THE SOUTH LINE OF WEST MAPLE ROAD;

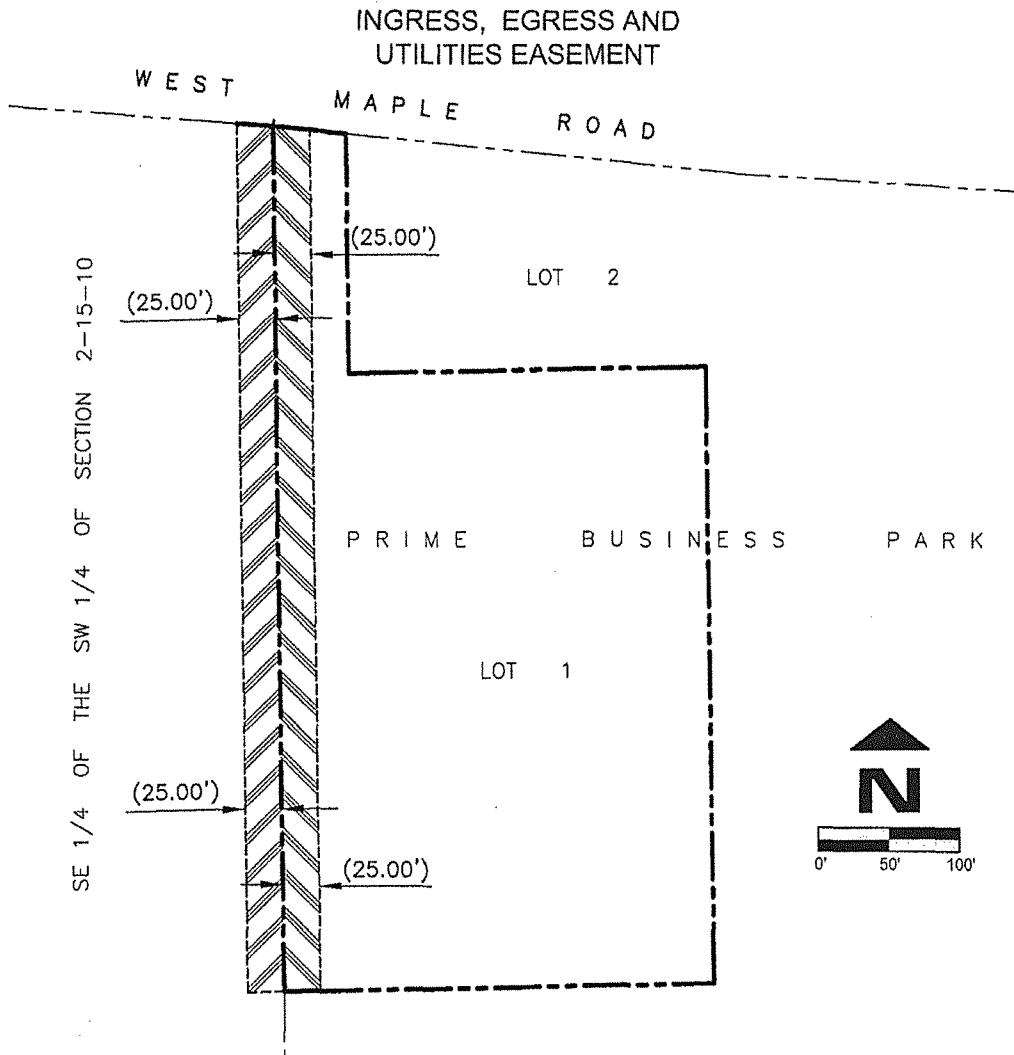
THENCE N85°55'10"W 462.72 FEET ON THE SOUTH LINE OF WEST MAPLE ROAD;

THENCE S87°49'18"W 300.00 FEET ON THE SOUTH LINE OF WEST MAPLE ROAD;

THENCE N88°46'06"W 581.65 FEET ON THE SOUTH LINE OF WEST MAPLE ROAD TO THE WEST LINE OF SAID SE 1/4;

THENCE S00°51'24"E 887.07 FEET ON THE WEST LINE OF SAID SE 1/4 TO THE SW CORNER THEREOF;

THENCE N89°54'41"E 1345.61 FEET ON THE SOUTH LINE OF SAID SE 1/4 TO THE POINT OF BEGINNING.



**LEGAL DESCRIPTION**

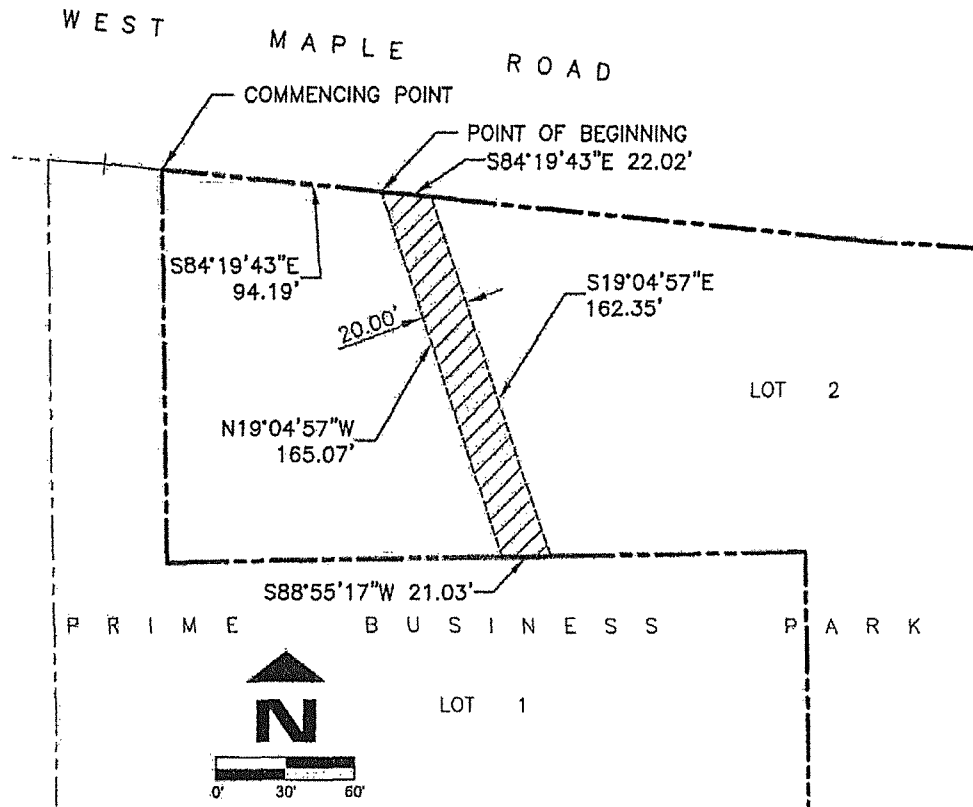
THE WEST 25.00 FEET IN WIDTH OF LOT 1, PRIME BUSINESS PARK, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA.

TOGETHER WITH

THAT PART OF THE EAST 25.00 FEET OF THE SE 1/4 OF THE SW 1/4 OF SECTION 2, T15N, R10E OF THE 6th P.M., DOUGLAS COUNTY, NEBRASKA, ADJACENT TO THE WEST LINE OF SAID LOT 1, LYING SOUTH OF THE SOUTH LINE OF WEST MAPLE ROAD.

|      |                                                                                                                                                         |                                                                                          |                      |                                                                                                                                                                                                   |      |
|------|---------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
|      | Job Number: 1681-102-1(EX3)<br>Thompson, Dreessen & Dornier, Inc.<br>10836 Old Mill Rd<br>Omaha, NE 68154<br>p.402.330.8860 f.402.330.5866<br>td2co.com | Date: FEBRUARY 1, 2012<br>Drawn By: RJR<br>Reviewed By: JDW<br>Revision Date: 05/29/2012 | <b>EXHIBIT " B "</b> |                                                                                                                                                                                                   |      |
|      |                                                                                                                                                         |                                                                                          |                      | PRIME REAL ESTATE, LLC <table style="float: right; font-size: x-small; border: none;"> <tr> <td style="border-right: 1px solid black; padding-right: 5px;">Book</td> <td>Page</td> </tr> </table> | Book |
| Book | Page                                                                                                                                                    |                                                                                          |                      |                                                                                                                                                                                                   |      |

UTILITY EASEMENT AREA



LEGAL DESCRIPTION

THAT PART OF LOT 2, PRIME BUSINESS PARK, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS; COMMENCING AT THE NW CORNER OF SAID LOT 2;

THENCE S84°19'43"E (ASSUMED BEARING) 94.19 FEET ON THE NORTH LINE OF SAID LOT 2 TO THE POINT OF BEGINNING;

THENCE CONTINUING S84°19'43"E 22.02 FEET ON THE NORTH LINE OF SAID LOT 2;

THENCE S19°04'57"E 162.35 FEET TO THE NORTH LINE OF LOT 1 SAID PRIME BUSINESS PARK;

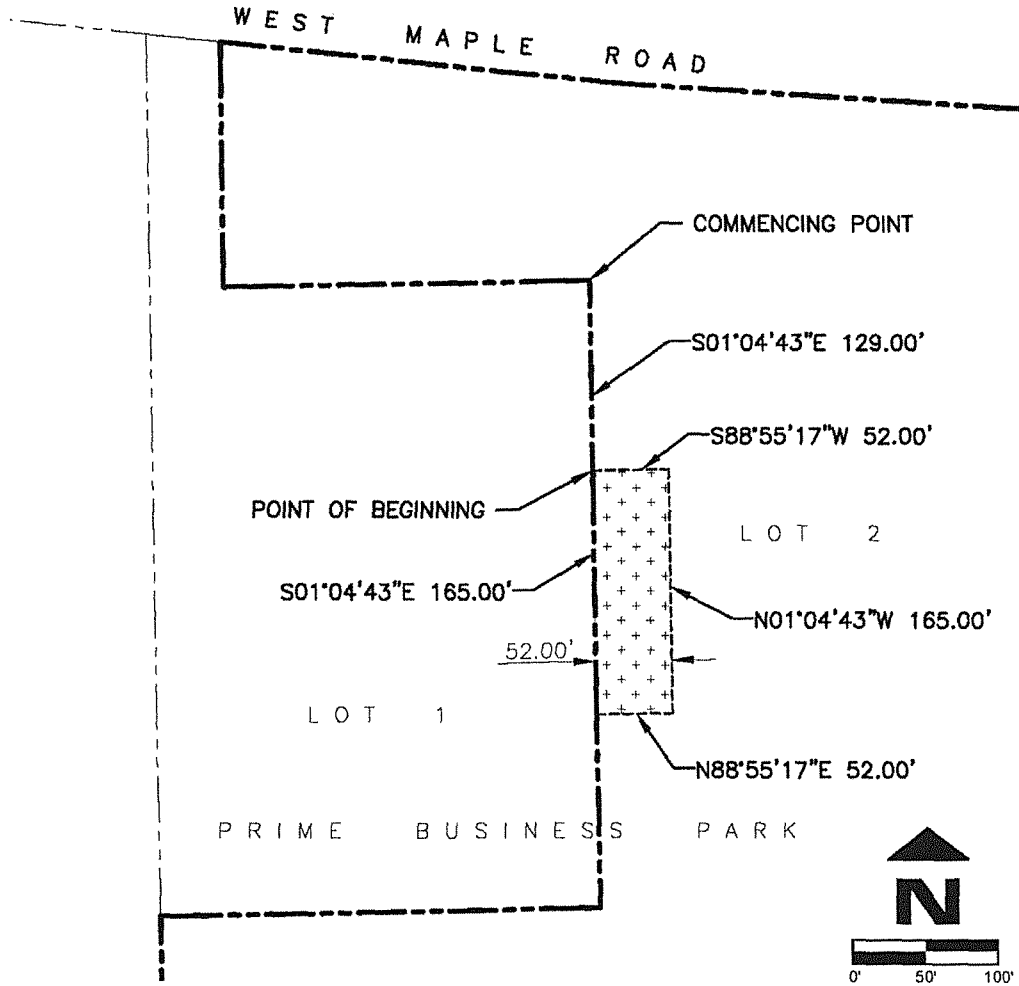
THENCE N88°55'17"W 21.03 FEET ON THE NORTH LINE OF SAID LOT 1;

THENCE N19°04'57"W 165.07 FEET TO POINT OF BEGINNING.

|  |                                                                                                                         |                                                                |               |
|--|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|---------------|
|  | Job Number: 1681-102-1(EX2)                                                                                             | Date: FEBRUARY 1, 2012                                         | EXHIBIT " C " |
|  | thompson, droessen & dorner, inc.<br>10836 Old Mill Rd<br>Omaha, NE 68154<br>p.402.330.8860 f.402.330.5866<br>td2co.com | Drawn By: RJR<br>Reviewed By: JDW<br>Revision Date: 05/28/2012 |               |

Book  
Page





**LEGAL DESCRIPTION**

THAT PART OF LOT 2, PRIME BUSINESS PARK, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF LOT 1 SAID PRIME BUSINESS PARK;  
 THENCE S01°04'43"E (ASSUMED BEARING) 129.00 FEET ON THE WEST LINE OF SAID LOT 2 TO THE POINT OF BEGINNING;  
 THENCE CONTINUING S01°04'43"E 165.00 FEET ON THE WEST LANE OF SAID LOT 2;  
 THENCE N88°55'17"E 52.00 FEET;  
 THENCE N01°04'43"W 165.00 FEET ON A LINE 52.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 2;  
 THENCE S88°55'17"W 52.00 FEET TO THE POINT OF BEGINNING.

|  |                                                                                                                                                        |                                                                              |               |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|---------------|
|  | Job Number: 1681-102-(EX6)<br>thompson, dreessen & dornier, inc.<br>10838 Old Mill Rd<br>Omaha, NE 68154<br>p.402.330.8860 f.402.330.5866<br>td2co.com | Date: AUGUST 14, 2012<br>Drawn By: RJR<br>Reviewed By: JDW<br>Revision Date: | EXHIBIT " D " |
|  | PRIME REAL ESTATE, LLC                                                                                                                                 |                                                                              | Book<br>Page  |