

98-05468 A

After recording return to:
FITZGERALD SCHORR BARMETTLER & BRENNAN
1100 Woodmen Tower
Omaha, NE 68102-2002

**PRELIMINARY SUBDIVISION AGREEMENT
(Lots 1 and 2, Sarpy County Industrial Park)
(Private Financing)**

THIS AGREEMENT, made and entered into in La Vista, Nebraska, this 24th day of February, 1998, by and between the CITY OF LA VISTA, a Municipal corporation in the State of Nebraska (hereinafter referred to as "City") and HARLAN and MILDRED OTTE, husband and wife (hereinafter collectively referred to as "Ottes").

WITNESSETH:

WHEREAS, Ottes are the legal and beneficial owners of the 55.887 acre tract of land described on Exhibit "A" hereto, which tract is to be initially subdivided and platted into Lots 1 and 2, Sarpy County Industrial Park, a copy of which plat is attached hereto as Exhibit "B" (hereinafter referred to as the "Subdivision"), which area is outside the corporate limits of the City but within the City's zoning and platting jurisdiction; and

WHEREAS, Ottes intend to sell Lot 1 to the Omaha Development Foundation, but have not yet determined who will purchase and develop Lot 2 as industrial property, said ultimate purchaser or purchasers being hereinafter referred to as "developers" or "eventual developers" whether one or more; and

WHEREAS, development of Lots 1 and 2 must comply with the terms and conditions hereof; and

WHEREAS, Ottes have elected private financing option for the construction of streets, storm sewers, sanitary sewers, water and utility distribution systems within the Subdivision (herein "infrastructure improvements") and that, except as the City may otherwise agree, Sanitary and Improvement District or other form of public financing of infrastructure improvements or connection fees relating thereto will not be utilized; and

WHEREAS, the Subdivision will be connected to the Sarpy County Industrial Sewer for which a fee must be paid; and

WHEREAS, Ottes do not know in what manner the eventual developer will further subdivide or replat Lot 2 into lots for ultimate industrial use or sale and have requested the City and Sarpy County to defer the final subdivision agreement as it will pertain to Lot 2 and to defer payment of Sarpy County's sewer connection fee as applicable to Lot 2, until there has been established plans and specifications for infrastructure layout of said Lot 2 and City approval of same.

NOW, THEREFORE, in consideration of the mutual agreements and covenants of the parties hereto, it is agreed by and between them that in respect to the Subdivision that:

1. Before closing on a sale or before a transfer of title to Lot 2 or any portion or portions thereof, or constructing any infrastructure improvements within or to serve same, Ottes, or their successor in title, will submit to City, for City's approval, plans for layout of all types of infrastructure improvements intended to be constructed or installed, together with all rights-of-way, easements, and public access rights in respect thereto, and street, sanitary sewer, storm sewer, and water and gas connections for the Subdivision, and will grant to City such access and easement rights through and over the same as City shall require in respect to such Subdivision and infrastructure improvements.

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2. That all infrastructure improvements shall be constructed according to plans and specifications and location approved by City, which approval shall be obtained prior to execution of contracts for installation and in compliance with standards and requirements of construction in use by the City at time of construction. Upon conclusion of construction, there shall be provided to City, at no cost to the City, "as built plans" of infrastructure improvements in reproducible form. Unless City otherwise agrees, neither Sanitary and Improvement District nor any other form of public credit shall be utilized in the construction or financing of infrastructure improvements.

3. Any infrastructure improvements shall be maintained and kept in good repair by the owner of the property, unless and until City, in its discretion, chooses to assume such responsibility, which it may do in whole or in part. The infrastructure improvements serving the Subdivision, or any part thereof, shall comply with all applicable federal and state laws and regulations in general, and with all applicable laws, regulations and policies of the City with reference to minimum standards of construction, use, operation and maintenance of same.

4. Unless waived by City in writing, no subdividing, sale or lease of Lot 2 or any part thereof shall be made without the benefit of formal replat of Lot 2 approved by City.

5. No connection, direct or indirect, of any property, parcel or building site within the Subdivision shall be made without payment of applicable Sarpy County Industrial Sewer connection fee, which fee is normally due to Sarpy County at time of platting and is sometimes known as Sarpy's "platting fee." The land owner shall pay the applicable connection fee to the City on behalf of Sarpy County at the following times:

- A. In respect to Lot 1: at time a building permit is issued.
- B. In respect to Lot 2: the fee for all of Lot 2 shall be made on the earliest of the following dates:
 - (1) The date upon which the land owner receives approval for further subdivision of Lot 2, or any part thereof; or
 - (2) The first sale, lease or transfer of title to Lot 2, or any part thereof; or
 - (3) The date the first building permit is issued for any building improvement on Lot 2.
 - (4) Commencement of any infrastructure improvement or building improvement on Lot 2.

Prior to the earliest of the above-stated times applicable to Lot 2, the then land owner shall have entered into a final subdivision agreement and formal sewer connection agreement in form and content acceptable to City, which agreements will address all considerations arising from the Subdivision with the rights and responsibilities of the parties more fully stated.

6. City's separate connection, tap and inspection and related fees will be payable at time of connection of individual building sites.

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7. Waste water and storm water facilities of Subdivision shall be designed and constructed so as to create uninterrupted gravity flow of waste water and storm water from within and without the Subdivision. In consideration of City's agreements herein, Ottes do hereby grant to City the right to transport waste water and storm water through such facilities and to enter upon same for the purpose of maintaining, repairing and reconstructing as need be.

8. It is the further understanding of the parties that:

A. That 126th Street improvements are to be made by Sarpy County at no expense to Ottes or to the City.

B. Grading of Lots 1 and 2, including cut and fill, are to be performed by the Omaha Development Foundation at no cost to the Ottes or City, and such activity is not to be considered an "infrastructure improvement" within the meaning of this Agreement or to otherwise trigger payment of the sewer connection fee in respect to either Lot 1 or Lot 2.

C. Ottes' moving of their farmhouse or other building improvements onto or off of Lot 2 or otherwise improving Lot 2 for farming purposes, or the issuances of building permits in respect to farm related improvements, shall not be events that will trigger payment of the Sarpy Industrial Sewer Fee as to Lot 2 within the meaning of Paragraph 5-B hereof.

D. Upon Ottes' conveyance of land to a third party grantee for development purposes and filing with City a written instrument of the grantee(s) acceptable to City, acknowledging this Agreement and its terms, and payment of applicable connection fees, Ottes shall have no further obligation under this Agreement as to the land so conveyed.

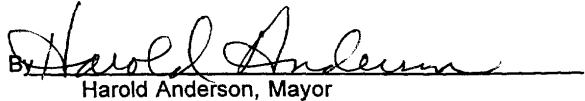
9. The agreements herein of Ottes shall constitute covenants running with the land and shall be binding on their grantees and assigns.

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

ATTEST:

CITY OF LA VISTA.


Rita Ramirez, City Clerk

By 
Harold Anderson, Mayor


Harlan Otte


Mildred Otte

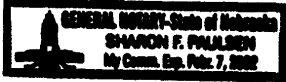
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ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF SARPY)

On this 26th day of FEBRUARY, 1998, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Harold Anderson, personally known by me to be the Mayor of the City of La Vista and Rita Ramirez, to me personally known to be the City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Preliminary Subdivision & Sewer Connection Agreement, and they acknowledged the execution thereof to be their voluntary act and deed.

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



Sharon F. Paulsen
Notary Public

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF SARPY)

On this 24th day of February, 1998, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Harlan and Mildred Otte, husband and wife, to me personally known to be the identical persons whose names are affixed to the foregoing Preliminary Subdivision & Sewer Connection Agreement, and they acknowledged the execution thereof to be their voluntary act and deed.

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



[Signature]
Notary Public

Exhibit "A"

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A TRACT OF LAND BEING IN THE NE 1/4 AND THE SE 1/4 OF SECTION 19, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., IN SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 19; THENCE S02°13'20"E ALONG THE WEST LINE OF THE NE 1/4 OF SAID SECTION 19, 806.52 FEET TO THE CENTERLINE OF THE SOUTH PAPILLION CREEK, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE S73°34'23"E ALONG SAID CENTERLINE, 144.92 FEET; THENCE S86°36'42"E ALONG SAID CENTERLINE, 145.77 FEET; THENCE S72°52'46"E ALONG SAID CENTERLINE, 125.03 FEET; THENCE S80°26'59"E ALONG SAID CENTERLINE, 293.57 FEET; THENCE S78°57'53"E ALONG SAID CENTERLINE, 318.04 FEET; THENCE S85°21'06"E ALONG SAID CENTERLINE, 133.85 FEET; THENCE N85°50'13"E ALONG SAID CENTERLINE, 139.99 FEET; THENCE N82°44'55"E ALONG SAID CENTERLINE, 202.62 FEET; THENCE N72°12'02"E ALONG SAID CENTERLINE, 209.54 FEET; THENCE N82°22'26"E ALONG SAID CENTERLINE, 226.97 FEET TO THE INTERSECTION OF THE SOUTH PAPILLION CREEK AND THE CHALCO-PORTAL DRAINAGE DITCH; THENCE S39°34'02"W ALONG THE CENTERLINE OF THE CHALCO-PORTAL DRAINAGE DITCH, 99.07 FEET; THENCE S33°40'50"W ALONG SAID CENTERLINE, 308.40 FEET; THENCE S31°26'01"W ALONG SAID CENTERLINE, 358.29 FEET; THENCE S31°36'06"W ALONG SAID CENTERLINE, 330.15 FEET; THENCE S33°34'52"W ALONG SAID CENTERLINE, 368.76 FEET; THENCE S31°20'00"W ALONG SAID CENTERLINE, 581.19 FEET TO THE SOUTH LINE OF THE NE 1/4 OF SAID SECTION 19; THENCE S29°39'25"W ALONG SAID CENTERLINE, 324.99 FEET; THENCE S58°07'55"W ALONG SAID CENTERLINE, 646.56 FEET TO THE WEST LINE OF THE SE 1/4 OF SAID SECTION 19; THENCE N02°13'20"W ALONG SAID WEST LINE, 590.09 FEET TO THE CENTER OF SAID SECTION 19; THENCE CONTINUING N02°13'20"W ALONG THE WEST LINE OF THE NE 1/4 OF SAID SECTION 19, 1835.99 FEET TO THE POINT OF BEGINNING AND CONTAINING 55.887 ACRES, MORE OR LESS.

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SAPPY COUNTY INDUSTRIAL PARK

LOT 1 AND LOT 2

A TRACT OF LAND BEING THE NE 1/4 AND THE SE 1/4
OF SECTION 19, TOWNSHIP 14 NORTH, RANGE 12 EAST OF
THE 6TH P.M. IN SAPPY COUNTY, NEBRASKA

UNPLATTED

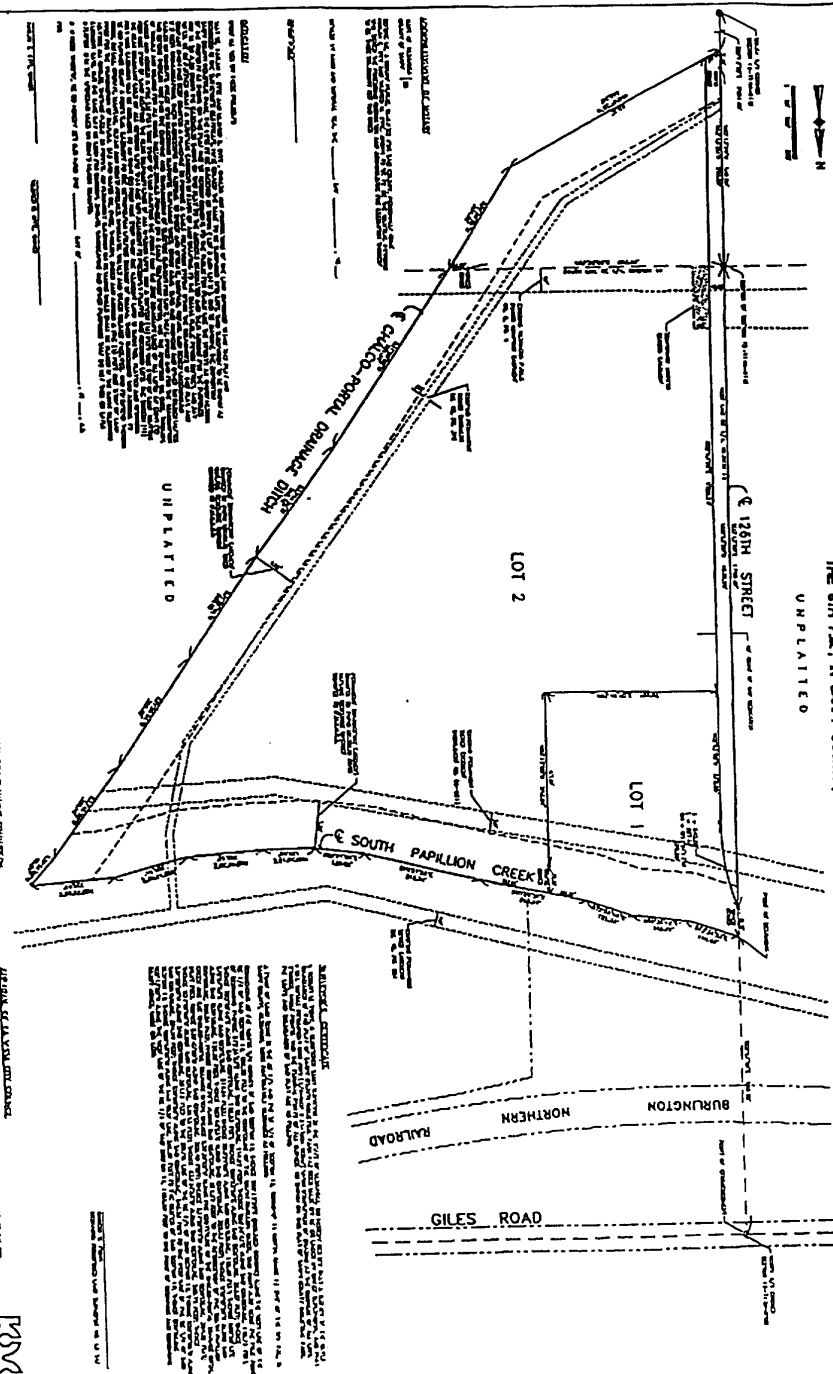


Exhibit "B"

NOTICE TO THE CONTRACTOR: THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE CREEK AND SURROUNDING ENVIRONMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL PUBLIC UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL PRIVATE UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING ROADS AND HIGHWAYS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING FENCES AND BARRIERS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING TREES AND PLANTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING ANIMALS AND BIRDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING HISTORIC STRUCTURES AND MONUMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING CULTURAL RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING SCIENTIFIC RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING RECREATION RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING OPEN SPACE RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING VISUAL RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING SOUND RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING AIR RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING WATER RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING SOIL RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING CLIMATE RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING ECOSYSTEM RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING BIODIVERSITY RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING CULTURAL HERITAGE RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING HISTORIC LANDMARKS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL MONUMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC LANDMARKS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC MONUMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC SCENIC AREAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC DISTRICTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC PRESERVATION AREAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC PRESERVATION MONUMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC PRESERVATION STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC PRESERVATION DISTRICTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC PRESERVATION AREAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC PRESERVATION MONUMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC PRESERVATION STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING NATIONAL HISTORIC PRESERVATION DISTRICTS.

GENERAL NOTES:

- ALL DIMENSIONS ARE IN FEET AND INCHES.
- ALL UTILITIES SHOWN ARE BASED ON RECORD PLANS AND FIELD SURVEY.
- ALL EXISTING UTILITIES SHALL BE PROTECTED AND DEEPENED AS NECESSARY.
- ALL NEW UTILITIES SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NEBRASKA ELECTRICAL CODE, NEBRASKA PLUMBING CODE, AND NEBRASKA MECHANICAL CODE.
- ALL EXISTING STRUCTURES SHALL BE DEMOLISHED AND REMOVED FROM THE SITE.
- ALL EXISTING ROADS AND HIGHWAYS SHALL BE RECONSTRUCTED TO MEET THE LATEST DESIGN STANDARDS.
- ALL EXISTING FENCES AND BARRIERS SHALL BE RECONSTRUCTED TO MEET THE LATEST DESIGN STANDARDS.
- ALL EXISTING TREES AND PLANTS SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING ANIMALS AND BIRDS SHALL BE PROTECTED AND RELOCATED AS NECESSARY.
- ALL EXISTING HISTORIC STRUCTURES AND MONUMENTS SHALL BE PRESERVED AND RESTORED.
- ALL EXISTING CULTURAL RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING SCIENTIFIC RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING RECREATION RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING OPEN SPACE RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING VISUAL RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING SOUND RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING AIR RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING WATER RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING SOIL RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING CLIMATE RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING ECOSYSTEM RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING BIODIVERSITY RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING CULTURAL HERITAGE RESOURCES SHALL BE PRESERVED AND PROTECTED.
- ALL EXISTING HISTORIC LANDMARKS SHALL BE PRESERVED AND RESTORED.
- ALL EXISTING NATIONAL MONUMENTS SHALL BE PRESERVED AND RESTORED.
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- ALL EXISTING NATIONAL HISTORIC MONUMENTS SHALL BE PRESERVED AND RESTORED.
- ALL EXISTING NATIONAL HISTORIC SCENIC AREAS SHALL BE PRESERVED AND RESTORED.
- ALL EXISTING NATIONAL HISTORIC STRUCTURES SHALL BE PRESERVED AND RESTORED.
- ALL EXISTING NATIONAL HISTORIC DISTRICTS SHALL BE PRESERVED AND RESTORED.
- ALL EXISTING NATIONAL HISTORIC PRESERVATION AREAS SHALL BE PRESERVED AND RESTORED.
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- ALL EXISTING NATIONAL HISTORIC PRESERVATION STRUCTURES SHALL BE PRESERVED AND RESTORED.
- ALL EXISTING NATIONAL HISTORIC PRESERVATION DISTRICTS SHALL BE PRESERVED AND RESTORED.

APPROVED: _____
DATE: _____

KIRKHAM & MITCHELL
 CONSULTING ENGINEERS
 1400 WEST 10TH STREET
 LINCOLN, NEBRASKA 68502
 SHEET 1 OF 1
 KM 071112