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**RICHARD N. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE**

CITY OF OMAHA

COUNCIL CHAMBER

Omaha, Nebr. October 18, 1983

RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

WHEREAS, the Continued Education Co. of Omaha is desirous of leasing a certain tract of land, for use as a parking lot, located adjacent to the Company's property and east of Interstate 480. Said tract includes property belonging to the City of Omaha and property belonging to the State of Nebraska, Department of Roads, and includes in part right-of-way of Interstate 480 which is subject to the control of the State of Nebraska, Department of Roads, and the Federal Highway Administration; and,

WHEREAS, the State of Nebraska, Department of Roads has appraised all of said property for leasehold purposes, said appraisal being One Thousand Seven Hundred Seventy Seven and 94/100 (\$1,777.94) Dollars per year for State property and Two Hundred Twenty One and 12/100 (\$221.12) Dollars per year for City property; and,

WHEREAS, an AIRSPACE LEASE, attached hereto and incorporated herein, has been prepared by the State of Nebraska, Department of Roads, providing for the lease of said property, more fully described in said Lease Agreement, to the Continued Education Co. of Omaha, according to the terms and conditions set out therein, for ten (10) years with two five (5) year renewal options, for said appraised value payable on a yearly basis; and,

WHEREAS, the City has no current use for that part of said property owned by the City; and,

WHEREAS, the Federal Highway Administration has approved said lease agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

THAT, the Mayor and the City Clerk are hereby authorized to, respectively, execute and attest the attached AIRSPACE LEASE Agreement on behalf of the City of Omaha with the Continued Education Co. of Omaha and the State of Nebraska, Department of Roads, for the lease of certain property, including property owned by the City and property owned by the State of Nebraska, Department of Roads, for the lease of certain property, including property owned by the City and property owned by the State of Nebraska, Department of Roads, for the annual consideration of Two Hundred Twenty One and 12/100 (\$221.12) Dollars payable to the City of Omaha; all according to the terms and conditions more fully described in the attached Air Space Lease Agreement.

6C1:39

APPROVED AS TO FORM:

By Bernie Simon
Councilman

Michael A. Gull
Asst. CITY ATTORNEY

IMPRINTED SEAL
REGISTER OF DEEDS

Adopted OCT 18 1983 6-0

Grace L. Mautsch
ACTING DEPUTY City Clerk
Approved Michael Boyle
Mayor

I hereby certify that the foregoing is a true and correct copy of the original document now on file in the City Clerk's office.

Grace L. Mautsch
ACTING DEPUTY CITY CLERK

(L)

AIRSPACE LEASE AGREEMENT

This agreement made and entered into this 18th day of April, 1983, by and between the DEPARTMENT OF ROADS of the STATE OF NEBRASKA and the City of Omaha, Nebraska, hereinafter known as "LESSORS" and Continued Education Co. of Omaha, Nebraska, hereinafter known as "LESSEE."

In consideration of the payment of the sum of One Thousand Seven Hundred Seventy-seven and 94/100 Dollars (\$1,777.94) per year payable in advance directly to the State of Nebraska, Department of Roads, Right of Way Division, P.O. Box 94759, Lincoln, Nebraska 68509-4759 and in the sum of Two Hundred Twenty-one and 12/100 Dollars (\$221.12) per year payable in advance to the City of Omaha, Department of Finance, Omaha/Douglas Civic Center, 1819 Farnam Street, Omaha, Nebraska 68183, all of which is payable in advance of the 1st Day of MAY of each year, the Lessors hereby lease to the Lessee, for the purpose of providing ingress and egress to the Lessee's ramp and loading dock facilities and for the purpose of operating a hard surfaced parking lot, as shown on Exhibit "A" which is made a part of this agreement, the following described land, hereinafter referred to as the leased premises:

A tract of land located in Part of Lots 4, 5 and 8, Block 70, and Vacated 9th Street adjoining on the east, Original City of Omaha, Douglas County, Nebraska, described as follows:

Beginning at the Southeast Corner of said Lot 8; thence northerly along the East Line of said Lot 8, a distance of 53.00 feet; thence northwesterly 44 degrees 19 minutes 06 seconds left, a distance of 51.6 feet; thence westerly 45 degrees 13 minutes 15 seconds left, a distance of 97.83 feet; thence northerly 90 degrees 00 minutes 00 seconds right, a distance of 37.76 feet; thence northeasterly 76 degrees 45 minutes 34 seconds right, a distance of 53.42 feet; thence easterly 13 degrees 42 minutes 05 seconds right, a distance of 100.00 feet; thence continuing easterly 04 degrees 23 minutes 36 seconds right, a distance of 43.78 feet; thence southerly 85 degrees 30 minutes 59 seconds right, a distance of 136.30 feet to a point on the North Line of Capitol Avenue; thence westerly 90 degrees 02 minutes 34 seconds right, a distance of 62.00 feet to the point of beginning, containing 15,611.16 square feet, more or less.



There will be no ingress or egress over the following described Controlled Access Line located in Lot 4, Block 70 and Vacated 9th Street adjoining on the east, Original City of Omaha, Douglas County, Nebraska:

Referring to the Southeast Corner of said Block 70; thence easterly along the South Line of said Block 70 extended, a distance of 62.00 feet to the point of beginning of said Controlled Access Line; thence northerly 90 degrees 02 minutes 34 seconds left, a distance of 136.30 feet; thence westerly 85 degrees 30 minutes 59 seconds left, a distance of 43.78 feet; thence continuing westerly 04 degrees 23 minutes 36 seconds left, a distance of 100.00 feet; thence southwesterly 13 degrees 42 minutes 05 seconds left, a distance of 53.42 feet to point of termination.

Also, a tract of land located in Part of Lots 3, 6 and 7, Block 70, Original City of Omaha, Douglas County, Nebraska, described as follows:

Referring to the Southeast Corner of Lot 8 of said Block 70; thence westerly along the South Line of Lots 7 and 8 of said Block 70, a distance of 171.72 feet; thence northerly 89 degrees 57 minutes 19 seconds right, a distance of 22.73 feet to the point of beginning; thence westerly 90 degrees 00 minutes 00 seconds left, a distance of 20.00 feet; thence northerly 90 degrees 00 minutes 00 seconds right, a distance of 67.15 feet; thence northeasterly 39 degrees 53 minutes 55 seconds right, a distance of 39.05 feet; thence continuing northeasterly 36 degrees 57 minutes 14 seconds right, a distance of 33.90 feet; thence southerly 103 degrees 14 minutes 26 seconds right, a distance of 37.76 feet; thence westerly 90 degrees 00 minutes 00 seconds right, a distance of 38.00 feet; thence southerly 90 degrees 05 minutes 35 seconds left, a distance of 67.12 feet to the point of beginning, containing 2,824.95 square feet, more or less.

There will be no ingress or egress over the following described Controlled Access Line located in Lots 3, 6 and 7, Block 70, Original City of Omaha, Douglas County, Nebraska:

Referring to the Southeast Corner of said Block 70; thence westerly along the South Line of said Block 70, a distance of 171.72 feet; thence northerly 89 degrees 57 minutes 19 seconds right, a distance of 22.73 feet to the point of beginning of said Controlled Access Line; thence westerly 90 degrees 00 minutes 00 seconds left, a distance of 20.00 feet; thence northerly 90 degrees 00 minutes 00 seconds right, a distance of 67.15 feet;



thence northeasterly 39 degrees 53 minutes 55 seconds right, a distance of 39.05 feet; thence continuing northeasterly 36 degrees 57 minutes 14 seconds right, a distance of 33.90 feet to point of termination.

It is agreed and understood that guardrail will be installed along the outer limits of the leased premises and around the Interstate 480 highway piers located within the leased premises, at the expense of the City of Omaha. All guardrail will be installed, to the satisfaction and approval of the District Engineer for the State of Nebraska, Department of Roads, prior to the use of the leased premises. The City of Omaha shall install either G4(1W), G4(2W), G4(1S), G4(2S) or G9 guardrail barrier as described in Table III-B-1 of the 1977 American Association of State Highway and Transportation Officials Guide for Selecting, Locating, and Designing Traffic Barriers. It is also agreed that any future relocation or replacement of said guardrail by the Lessee will be accomplished to the satisfaction and approval of the State of Nebraska, Department of Roads and at no expense to the Lessors.

The Lessor reserves the right to annually review and raise or lower such consideration based upon the fair and reasonable market value of the leased premises and the prevailing return upon similar lands as determined by the State of Nebraska, Department of Roads.

It is agreed and understood that this lease shall be for a period of ten (10) years with two five (5) year options to renew and shall be terminated only upon 180 days written notice by the party desiring to terminate the lease. Should this lease be terminated at any time during the leased year, remittance of rental shall be made based on the remaining term of the leased year. It is further agreed and understood that should this lease be terminated by the Lessors that the Lessee shall hold the Lessors harmless for any and all liability for damages resulting from the loss in the use of the leased premises including but not limited to the loss of ingress and egress to the Lessee's ramp and loading dock facilities. It is understood by the parties of this agreement that the ingress and egress over the leased premises to the Lessee's ramp or loading dock facilities is only temporary for as long as the lease is in existence and any termination of the lease terminates and extinguishes any ingress or egress granted under the lease.



The Lessee will not construct buildings upon the leased premises, sub-lease, sell, or assign its interest or any part of its interest in the leased premises, nor make any significant revision in the design shown in Exhibit "A" or use the leased premises for any purpose other than for vehicular parking and ingress and egress to the Lessee's ramp and loading dock facilities.

It is further agreed and understood that any grading, excavation or fill work performed by the Lessee within the leased premises will be accomplished to the satisfaction and approval of the State of Nebraska, Department of Roads.

It is further agreed and understood that the Lessee will bear all expenses to hardsurface the leased premises. The surfacing will be completed by December 31st, 1984 on the State of Nebraska's property. The surfacing on the City of Omaha's property will be completed within 180 days of the effective date that the Lessee takes possession of the City's property under the conditions of the lease. The City of Omaha shall notify the Lessee and the State of Nebraska in writing of said date. The Lessee will hold the Lessors harmless from suit, damages or claims bought against the Lessors arising out of the Lessee's construction.

The Lessee will maintain the premises in a safe and neat appearing manner, including fences, guardrail and improvements of every kind that are now on said premises or that may be erected thereon during the continuance of this lease and will promptly at the expiration of the term herein granted, yield up possession of the leased premises without notice, in as good repair as they now are or may be at any time during the continuance of this lease, ordinary wear and loss by fire excepted.

It is further agreed and understood that the Lessee shall be liable to and shall reimburse the Lessor if not promptly repaired: For any damages to guardrail, piers or columns resulting from and attributable to the use and occupancy of the leased premises by the Lessee or any person, except the Lessor, their agents or authorized Federal Highway Administration representatives performing the duties described in the following paragraph, entering upon said premises with the consent of the Lessee, expressed or implied.



The Lessor, their agents or authorized Federal Highway Administration representatives, may enter upon said premises at any time to inspect, to maintain, to improve or for any other reason associated with the land's use.

The Lessee, as a part of the consideration hereof, does hereby covenant and agree (1) that the leased premises or any part thereof shall not be used for the erection or display of any advertising sign, device or display, whatsoever; (2) that the leased premises shall not be used for the storage, processing, sorting, transfer or any other use related to or connected with scrap material of any nature or kind; or be used for the storage of flammable, explosive, or hazardous material, so as to create or cause an unsightly or obnoxious appearance or create a hazard upon the premises herein leased.

The Lessee, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. That in the event of breach of any of the above nondiscrimination covenants, the Lessor shall have the right to terminate the lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

Lessee shall be responsible for and shall hold the Lessor harmless for any and all liability resulting from the placement, movement, or repair of any utility facilities on the leased premises which are in existence at the date of this lease or which are placed upon the leased premises by the Lessee.



The State of Nebraska, Department of Roads, their designee, their agents, their contractors or subdivision of the Department of Roads reserves the right to push or blow snow from the elevated structures of Interstate Highway 480 above said leased premises onto the leased premises covered by this agreement and to store such snow in those locations designated from time to time by the Department of Roads. It is agreed and understood that the Lessee shall hold the Lessors harmless from all claims or suits for damages to persons or property on the leased premises as a result of snow being pushed or blown from the elevated structures of Interstate Highway 480. The removal of snow and clearance of the leased premises shall be the responsibility of the Lessee. It is agreed and understood that the Lessee shall hold the Lessors harmless for all claims or suits for damages to persons or property on the leased premises as a result of such snow removal.

It is agreed and understood that the State of Nebraska, Department of Roads will from time to time be painting the elevated structures of Interstate Highway 480 above the leased premises. It is further agreed and understood that the Lessee shall hold the Lessors harmless from all claims or suits for damages to persons or property as a result of said painting. It shall be the Lessee's responsibility to provide sufficient and proper notification to anyone entering the leased premises while said painting is being accomplished. Notice of such painting to the Lessee will be at least one working day before beginning such work.

The Lessee shall hold the Lessors harmless from all claims or suits for damages to persons or property due to debris which may fall or land on the leased premises during the usage and maintenance of the Interstate 480 Highway.

The Lessee shall carry adequate insurance for the payment of any damage, injury or loss of life which may occur during the duration of this lease, and hold the Lessor harmless from all claims or suits for damages to persons or property arising out of this agreement and the operation of the parking lot, ramp and loading dock facilities.

Lessee further covenants and agrees to keep the sidewalks and alleys or passageways contiguous or appurtenant to said leased premises in good repair and in all aspects as may be prescribed by the City of Omaha and to



indemnify and forever harmless the Lessors against all claims or causes of action that may be made or come against them by reason of or in any way arising out of any defect, or imperfection in any such sidewalk, alleys or passageways, or any failure to repair the same and also to hold harmless the Lessors against every claim, demand or cause or action against said Lessors by reason of any liability that is or may be imposed on them, as owner of the leased premises under the laws or ordinances of the City of Omaha on account of any such defect, imperfection or failure to repair, done, suffered or permitted in or about said leased premises, sidewalk, alleys or passageways, or on account of any act or omissions of the Lessee as tenant and occupier of said leased premises in or about the same.

Upon cancellation of the lease by either party, the Lessee may be required at the option of the Lessor, to remove all improvements placed by the Lessee on the leased premises and surrender peaceable possession to the Lessor at no cost to the Lessor.

Should the Lessee violate any of the conditions of this lease or should the area involved cease to be used for vehicular parking and ingress and egress to the Lessee's ramp and loading dock facilities, this lease shall thereby terminate at the option of the Lessors and in order to enforce a forfeiture of non-payment of rent it shall not be necessary to make a demand on the same day the rent shall become due, and the said Lessors may at once recover possession of said premises.

The covenants herein shall extend to and be binding upon the heirs, executors and administrators of the parties of this lease.



All questions pertaining to this lease shall be referred to the Manager of the Right of Way Division, Department of Roads, or his designee.

Signed this 8 day of NOVEMBER, 1983.

APPROVED BY:

STATE OF NEBRASKA
DEPARTMENT OF ROADS,

CONTINUED EDUCATION CO.

John A. Benge
ATTEST:

Irvin Whitcomb
CITY OF OMAHA, NEBRASKA

ACTING
DEPUTY

Grace P. Martich
City Clerk

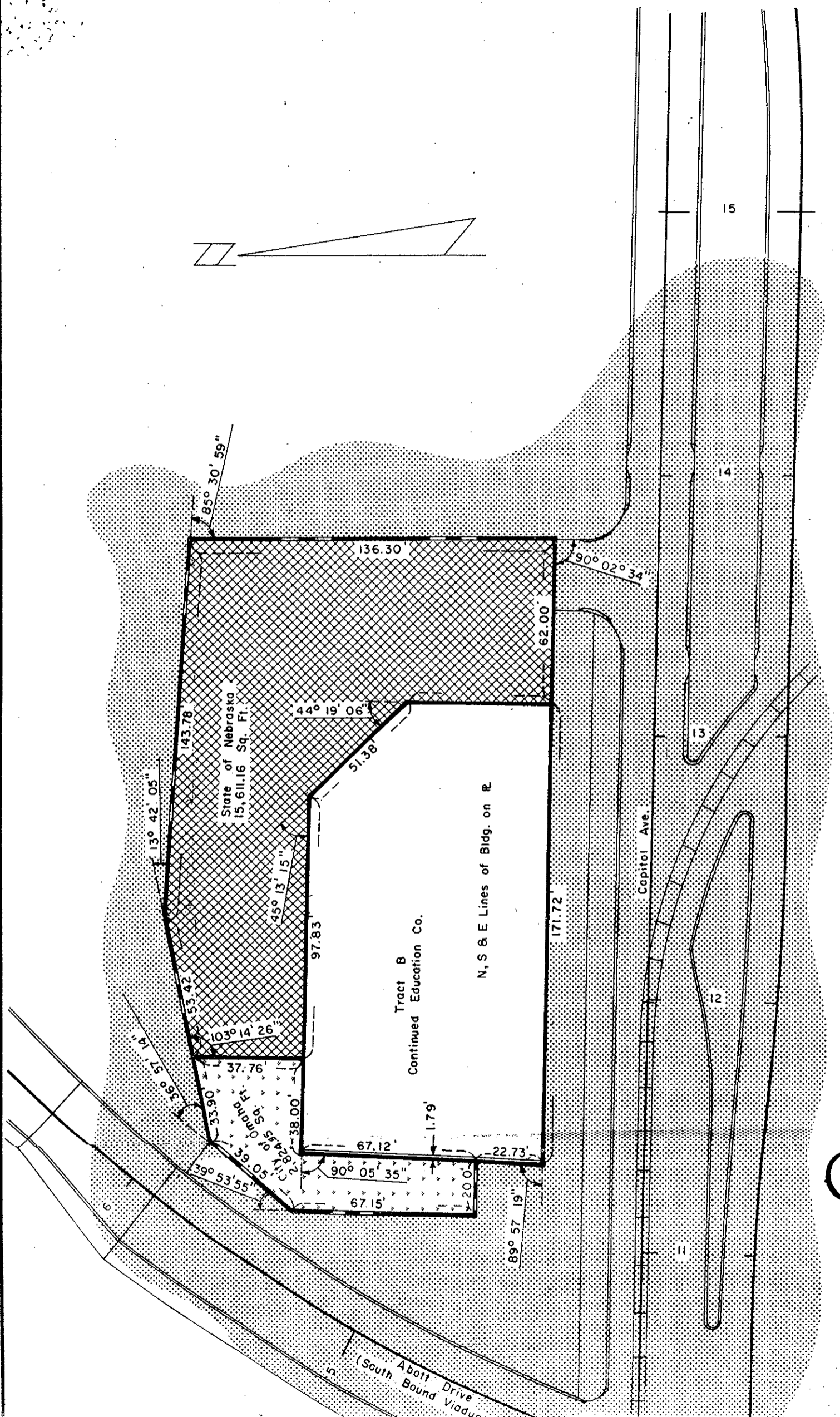
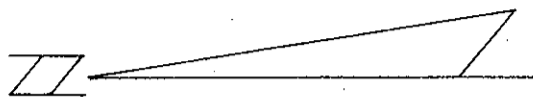
Michael Boyle 12/20/83
Mayor

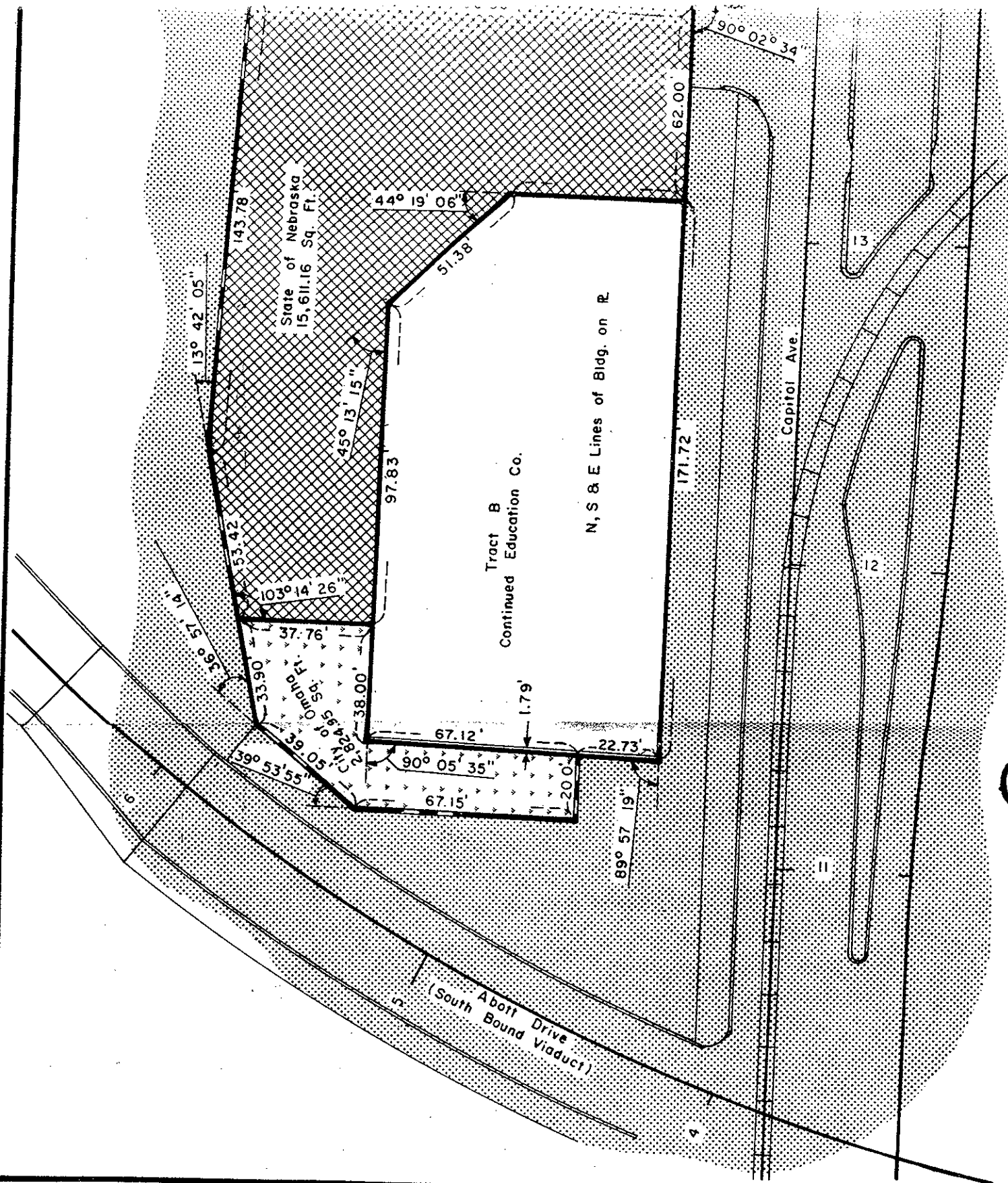
APPROVED AS TO FORM:

Michael A. Gabel
Assistant City Attorney

IMPRINTED SEAL
REGISTER OF DEEDS








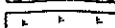
PLAT SHOWING
RIGHT OF WAY
LAND TO BE LEASED

STATE OF NEBRASKA
 DEPARTMENT OF ROADS
 RIGHT OF WAY DIVISION
 LINCOLN, NEBRASKA

TRACT NO. 87 SCALE 1"=40'

PROJECT NO. 1-480-9 (143)
 AFE R-529

PREV. R.O.W.

State Land to be Leased  15611.16 Sq. Ft.
 City Land to be Leased  2824.95 Sq. Ft.

CONTROLLED ACCESS 

DRAWN BY M.J.S. 2-4-83
 CHECKED BY
 COMPUTED BY
 WRITTEN BY
 CHECKED BY

