

ROLL 261 IMAGE 1549

STATE OF IOWA

CITY OF SIOUX CITY

Woodbury County

Office of the City Clerk

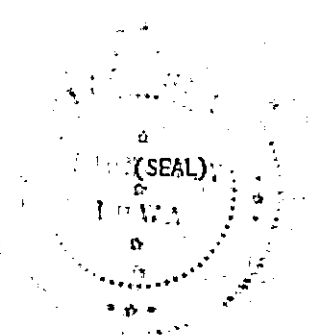
I, G.W. Gross, City Clerk of the City of Sioux City and Clerk of the City Council, thereof, and, as such, having charge of and in my possession all the records and documents pertaining to said office now remaining therein, do hereby certify that it appears from such records that the foregoing is a true and correct copy of Resolution No. 88/T-6803, passed and adopted by the city Council of the City on the 26th day of September, 1988, upon the call of yeas and nays thereof duly had and recorded.

# 015240 Doc. No. Fee \$ 1.60<sup>00</sup> Per *ch*  
WOODBURY COUNTY, IOWA-Filed for Record  
At 1:30 AM Mo APR Day 29 Yr. 1988  
FM  
MOSE YANNEY, RECORDER  
By *B. Gross* Deputy

Dated at Sioux City, Iowa, this 27th day of October, 1988.

*G.W. Gross*

G.W. GROSS, CITY CLERK



COMMUNITY DEVELOPMENT  
DEPARTMENT  
SIOUX CITY, IOWA  
OCT 27 1988

BY \_\_\_\_\_ REC'D \_\_\_\_\_

ROLL 261 IMAGE 1550 006803  
RESOLUTION NO. 88/T-

RESOLUTION APPROVING THE EASTGATE DEVELOPMENT  
AGREEMENT BETWEEN THE CITY OF SIOUX CITY, IOWA,  
AND FRED DAVENPORT, JR., DIAL REALTY, INC. AND  
WAL-MART PROPERTIES, INC.. DEVELOPER.

WHEREAS, Fred Davenport, Jr., Dial Realty, Inc. and Wal-Mart Properties, Inc. are the owners and developers of the following described property located in Sioux City, Iowa:

All that part of the Southeast Quarter of the Southeast Quarter of Section 36, Township 89 North, Range 47 West of the 5th Principal Meridian, and that part of Tax Lots 6, 7, 8, and 9 of the Auditors Sub-Division of the Southwest Fractional Quarter of the Southwest Quarter of Section 31, Township 89 North, Range 46 West of the 5th Principal Meridian, Woodbury County, Iowa, and more particularly described as follows: Commencing at the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence N 00°14'30" W along the East line of said Southeast Quarter of the Southeast Quarter for 160.60 feet to the Point of Beginning, said point also being on the Northerly R.O.W. of State Route 12; thence continuing N 00°14'30" W along said North line for 18.0 feet; thence S 79°22'30" W along said North line for 44.6 feet; thence N 77°26'50" W along said North line for 293.42 feet; thence N 00°14'30" W for 604.72 feet; thence N 89°55'52" E for 330.0 feet to the East line of said Southeast Quarter of the Southeast Quarter, said point also being on the West line of the Southwest Fractional Quarter of the Southwest Quarter of Section 31; thence continuing N 89°55'52" E for 44.72 feet; thence N 61°28'23" E for 115.42 feet; thence N 89°55'52" E for 46.54 feet to the West line of said Tax Lot 9, said point also being the City Limits line; thence continuing N 89°55'52" E for 153.46 feet; thence S 00°14'30" E for 120.0 feet; thence N 89°55'52" E for 1015.91 feet to a point on the Easterly line of said Tax Lot 6, said point also being on a 643.71 foot radius curve concave Northwesterly, said curve having a chord bearing of S 18°32'41" W and a chord distance of 173.72 feet; thence Southwesterly along said curve for 174.25 feet to the end of said curve; thence S 26°17'59" W for 324.93 feet; thence S 37°46'45" W for 120.87 feet (the last 3 distances being on the Easterly line of Tax Lots 8, 7, and part of 6) to a point on the Northerly R.O.W. of State Route 12; thence N 87°29'00" W along said R.O.W. for 380.1 feet; thence N 87°36'00" W for 47.0 feet; thence S 78°46'00" W along said R.O.W. for 233.0 feet; thence S 85°05'28" W along said R.O.W. for 432.77 feet to the Point of Beginning, containing 21.81 Acres. Subject to Restrictive Covenants and Easements if any.

and

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WHEREAS, said Developers propose to construct a commercial development on said property; and

WHEREAS, such development will result in the shared expenditure by the City and the Developers for the cost of public improvements in conjunction therewith; and

WHEREAS, the parties have negotiated an Eastgate Development Agreement, a copy of which is attached hereto and by this reference incorporated herein, which sets forth the responsibilities and obligations of the parties in the development of Eastgate; and

WHEREAS, said Eastgate Development Agreement should be approved as to form and content.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA, that the Eastgate Development Agreement between the City of Sioux City, Iowa, and Fred Davenport, Jr., Dial Realty, Inc. and Wal-Mart Properties, Inc. for the development of the Eastgate Shopping Center, as referred to in the preamble hereof, be and the same is hereby approved as to form and content.

BE IT FURTHER RESOLVED that the Mayor and City Clerk be and they are hereby authorized and directed to execute the Eastgate Development Agreement for and on behalf of the City of Sioux City, Iowa.

PASSED & APPROVED: SEP 26 1988

*Loren D. Callendar*  
MAYOR  
LOREN D. CALLENDAR

ATTEST: *G. W. Gross*  
G. W. GROSS CITY CLERK

R EASTGATE/LEGAL/TEXT  
L/CMR/DKR

ROLL 261 IMAGE 1552

DEVELOPMENT AGREEMENT

THIS AGREEMENT made on or as of the 27th day of October, 1988, by and between the City of Sioux City, Iowa, an Iowa municipal corporation (hereinafter "City") and Wal-Mart Properties, Inc. a Delaware corporation, Dial Realty, Inc., a Nebraska corporation and Fred Davenport, Jr. (hereinafter collectively referred to as "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the following described real estate: (see attached Exhibit "A") and desires to construct a commercial development thereon; and

WHEREAS, in conjunction with such development the City and Developer propose to undertake a program of construction of public improvements including streets, sewers and water mains at a substantial cost to the City and with a substantial benefit to Developer; and

WHEREAS, the parties desire to establish between themselves their various obligations, duties and responsibilities.

NOW, THEREFORE, in consideration of the promises and mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

I. Off-Site Improvements.

- A. The City agrees to be caused to be constructed the off-site public improvements consisting of sanitary sewers, water mains, streets, and storm sewers as described in the September 15, 1988, letter of Siouxland Engineering Associates, P.C., attached hereto as Exhibit "B".
- B. Developer agrees to perform the actual construction of the off-site improvements described in Exhibit "B".
- C. City agrees to reimburse Developer for the actual cost of the construction of such off-site improvements in an amount not to exceed the costs set forth in Exhibit "B". Any cost or costs which shall exceed those set forth in Exhibit "B" shall be paid by Developer. The actual cost of construction shall mean the cost at which Developer shall construct such off-site public improvements or the lowest responsible bid which the Developer shall receive for any cost, whichever is less. The Developer shall obtain bids from at least three responsible bidders.

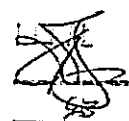
RD 261 PAGE 1553

- D. The Developer shall construct a deceleration lane for the west-bound traffic on State Highway 12 to service all entrances to Developers property along said highway at such time as the State of Iowa approves such construction. Developer shall pay the entire cost of such construction.
- E. The City shall construct and install a traffic signal at the intersection of State Highway 12 and the access road to Developer's property at such time as the City deems such construction is warranted and the State of Iowa approves such construction. The Developer shall pay its proportionate share of the cost of constructing and installing such traffic signal. The Developer's proportionate share shall be based upon use and shall be the ratio of those vehicles turning onto and exiting from the access road to Developer's property at the road's intersection with State Highway 12 and of all those vehicles turning onto or exiting from access roads or driveways at such intersection.
- F. Developer shall provide to City at Developer's sole expense all of those easements for any City utility not to be constructed in existing city owned public rights-of way. Such easements are as shown in their approximate location on the attached Exhibit "C".

II. Site Improvements.

- A. Developer shall construct, at Developer's cost all of the those site improvements set forth on Developer's site plan attached hereto as Exhibit "D".
- B. Developer shall construct on the site an 80,000 square foot commercial structure with construction commencing in sufficient time so that construction shall be completed on or before December 1, 1989.
- C. Developer shall commence and complete all other improvements to the property as shown on Exhibit "D", including but not limited to travel lanes, parking and lighting, within 360 days of the date of this agreement.
- D. The Developer shall after construction of the sanitary sewer\*depicted on Exhibit "D" provide the City with an easement for said sanitary sewer. Thereafter the operation and maintenance of said sanitary sewer shall be the responsibility of the City. Said sewer shall be constructed at the sole cost of the Developer.

\* which sewer runs from the West edge of the Wal-Mart site to the East edge if the Wal-Mart site

  
\_\_\_\_\_  
L.C.

ROLL 261 PAGE 1554

III. Value of Improvements.

A. Developer agrees that the actual value of the land and improvements as shown on Exhibit "D" as of January 1, 1990, shall be as follows:

1. Land:

- a. The Wal-Mart site, legally described on Exhibit "E" attached hereto shall be \$400,000.00.
- b. The Dial site, legally described on Exhibit "F" attached hereto shall be \$400,000.00.

2. Improvements:

- a. The commercial structure together with all other improvements located upon the Wal-Mart site shall be \$1,800,000.00.
- b. Developer agrees that the actual value of the buildings and improvements, if and when constructed upon the Dial site, shall be the cost of constructing same.

B. Developer agrees that if and when Developer's property shall become part of an urban renewal area created pursuant to Chapter 403 of the Code of Iowa, Developer shall enter into an assessment agreement fixing the actual value of the Developer's property as above indicated for a period at least two years after the period of time necessary for the City to amortize the indebtedness and/or financing utilized by the City in the construction of public improvements in the project area.

IV. General Provisions.

- A. This agreement shall be binding on the parties, their successors and assigns.
- B. This agreement shall be interpreted according to the laws of the State of Iowa.
- C. Any notice, demand, or communication under this agreement by either party to the other shall be sufficiently given if it is dispatched by regular mail, postage prepaid, or delivered personally as follows:

53  
L.C.  
J.B.  
C.B.

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1. In the case of Developer, to:

Fred Davenport, Jr.	Dial Realty, Inc.	Wal-Mart Properties, Inc.
401 11th Street	11506 Nicholas,	P.O. Box 116
Sioux City, IA	Suite 200	Bentonville, Ark. 72712
51105	Omaha, NE 68154	ATTN: Curtis H. Harlow,
	ATTN: Chris Held,	Vice-President
	President or	
	Robert L. Welstead	
	Vice-President	

2. In the case of City, to:

City Manager  
City Hall  
P.O. Box 447  
Sioux City, Iowa 51102

IN WITNESS WHEREOF, the City and Developer have caused this agreement to be duly executed as of the date and year first above written.

CITY OF SIOUX CITY, IOWA	DEVELOPER
By: <u>Loren D. Callendar</u>	By: <u>Fred Davenport, Jr.</u>
LOREN D. CALLENDAR Mayor	

Attest: G. W. Gross  
City Clerk

DIAL REALTY, INC.
By: <u>Chris Held</u>
Title: <u>PRESIDENT</u>
Attest: <u>Robert L. Welstead</u>
Title: <u>Vice President</u>

WAL-MART PROPERTIES, INC.

By: <u>Curtis H. Harlow</u>
Title: <u>VICE PRESIDENT</u>
Attest: <u>W. G. Edinwell</u>
Title: <u>ASSISTANT SECRETARY</u>



STATE OF IOWA ) ROLL 261 PAGE 1556  
: ss.  
COUNTY OF WOODBURY)

On this 27th day of October, A.D. 1988, before me, a Notary Public duly commissioned and qualified in and for said County and State, personally appeared Loren D. Callendar, Mayor of the City of Sioux City, Iowa, and G. W. Gross, City Clerk of said City, each being to me personally known to be the identical persons and officers named in the foregoing instrument, who executed the same under and by virtue of the authority vested in them by the City Council of said City, and each for himself acknowledged the execution thereof to be his voluntary act and deed for the purposes herein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal at Sioux City, Iowa, the day and year last above written.

Michele Haupt  
MICHELE HAUPT Notary Public, in and for  
Woodbury County, Iowa  
my commission expires 6-25-90

STATE OF Nebraska )  
: ss.  
COUNTY OF Douglas )

On this 0th day of October, A.D. 1988, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher R. Ho H and Robert L. Melstead to me personally known, who, being by me duly sworn, did state that they are the President and Vice President respectively, of said corporation; that

{no seal has been procured by the said}  
{the seal affixed thereto is the seal of said}  
corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said President and Vice President as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.



Kristine K. Dergan  
Notary Public, in and for  
Said State



ROLL 261 PAGE 1557

STATE OF Arkansas )  
COUNTY OF Benton ) ss.

On this 3rd day of October, A.D. 1988, before me, the undersigned, a Notary Public in and for said State, personally appeared Curtis H. Benton and W. G. Bothwell to me personally known, who, being by me duly sworn, did state that they are the Vice President and Assistant Secretary respectively, of said corporation; that

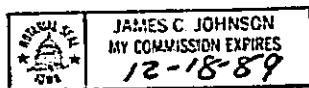
(the seal affixed thereto is the seal of said) corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said Vice President and Assistant Secretary as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Cathy Keith  
Notary Public, in and for  
GATHY KEITH Said State  
My Commission Expires Oct. 28, 1994

STATE OF Iowa )  
COUNTY OF Woodbury ) ss.

On this 12th day of October, A.D. 1988, before me, the undersigned, a Notary Public in and for said State, personally appeared FRED DAVENPORT, JR.

to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.



James C. Johnson  
Notary Public, in and for  
State of Iowa

ROLL 261 IMAGE 1558

Site to be known as "Eastgate", including property to be annexed by the City of Sioux City, legally described as follows, to-wit:

EASTGATE - ENTIRE PARCEL

All that part of the Southeast Quarter of the Southeast Quarter of Section 36, Township 89 North, Range 47 West of the 5th Principal Meridian, and that part of Tax Lots 6, 7, 8, and 9 of the Auditors Sub-Division of the Southwest Fractional Quarter of the Southwest Quarter of Section 31, Township 89 North, Range 46 West of the 5th Principal Meridian, Woodbury County, Iowa, and more particularly described as follows: Commencing at the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence N 00°14'30" W along the East line of said Southeast Quarter of the Southeast Quarter for 160.60 feet to the Point of Beginning, said point also being on the Northerly R.O.W. of State Route 12; thence continuing N 00°14'30" W along said North line for 18.0 feet; thence S 79°22'30" W along said North line for 44.6 feet; thence N 77°26'50" W along said North line for 293.42 feet; thence N 00°14'30" W for 604.72 feet; thence N 89°55'52" E for 330.0 feet to the East line of said Southeast Quarter of the Southeast Quarter, said point also being on the West line of the Southwest Fractional Quarter of the Southwest Quarter of Section 31; thence continuing N 89°55'52" E for 44.72 feet; thence N 61°28'23" E for 115.42 feet; thence N 89°55'52" E for 46.54 feet to the West line of said Tax Lot 9, said point also being the City Limits line; thence continuing N 89°55'52" E for 153.46 feet; thence S 00°14'30" E for 120.0 feet; thence N 89°55'52" E for 1015.91 feet to a point on the Easterly line of said Tax Lot 6, said point also being on a 643.71 foot radius curve concave Northwesterly, said curve having a chord bearing of S 18°32'41" W and a chord distance of 173.72 feet; thence Southwesterly along said curve for 174.25 feet to the end of said curve; thence S 26°17'59" W for 324.93 feet; thence S 37°46'45" W for 120.87 feet (the last 3 distances being on the Easterly line of Tax Lots 8, 7, and part of 6) to a point on the Northerly R.O.W. of State Route 12; thence N 87°29'00" W along said R.O.W. for 380.1 feet; thence N 87°36'00" W for 47.0 feet; thence S 78°46'00" W along said R.O.W. for 233.0 feet; thence S 85°05'28" W along said R.O.W. for 432.77 feet to the Point of Beginning, containing 21.81 Acres. Subject to Restrictive Covenants and Easements if any.

ROLL 261 IMAGE 1559



Siouxland Engineering Associates, P.C.  
204 W. 21ST STREET  
SOUTH SIOUX CITY, NEBRASKA 68776  
402-494-2143

September 15, 1988

Mr. Arlen Wiggs  
Community Development  
City of Sioux City  
P.O. Box 447  
Sioux City, IA 51102

Re: Estimated Cost  
Public Improvements in  
conjunction with the  
Eastgate Commercial  
Development

Dear Arlen:

The attached cost breakdown called Exhibit A, indicates the estimated cost of the indicated improvements. This was prepared following the meeting held Thursday, September 8, 1988 at the City Hall in the 4th Floor conference room concerning this project. The affected City Departments were represented

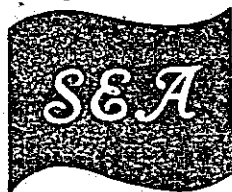
The cost breakdown is made so it can be incorporated into a developer's agreement.

Thank you for all your assistance in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Leroy V. Satrang".  
Leroy V. Satrang, P.E.

LVS/dh  
Enclosure  
cc: Paul Stensland, City Engineer  
Bill Haney, Utilities Director



ROLL 261 IMAGE 1560

Siouxland Engineering Associates, P.C.

204 W. 21ST STREET  
SOUTH SIOUX CITY, NEBRASKA 68776  
402-494-2143

September 15, 1988

EXHIBIT A

Estimated Costs  
Public Improvements in Conjunction with the  
Eastgate Commercial Development

- I. Construct a Sanitary Sewer along the North side of Gordon Drive from South Maple St. East to the site and then North in a City owned easement. This line is to serve the subject property and other properties in the areas.

Quantity	Units	Description	\$/Units	Estimated Total Cost
2040	LF	12" VCP	\$ 34.00	\$ 69,360.00
390	LF	8" VCP	\$ 14.00	\$ 5,460.00
8	EA	Sanitary MH	\$1500.00	\$ 12,000.00
20	SY	PC Concrete Paving	\$ 30.00	\$ 600.00
50	LF	Saw Cut	\$ 3.00	\$ 150.00
TOTAL				\$ 76,770.00

Estimated Construction Cost	\$ 76,770.00
Contingency @ 10%	\$ 7,677.00
Engineering (Maximum)	\$ 8,600.00
Inspection	\$ 8,000.00
Testing	\$ 2,800.00
TOTAL ESTIMATED CONSTRUCTION COST	\$103,847.00

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September 15, 1988  
Page 2

II. Construct a Watermain along the North side of Gordon Drive from existing 8" DIP across from K-Mart Easterly to site and then North in a City owned easement to Stone Avenue.

Quantity	Units	Description	\$/Units	Estimated Total Cost
2920	LF	12" DIP	\$ 19.60	\$ 57,232.00
4	EA	12" Gate Valve	\$1200.00	\$ 4,800.00
2	EA	Connect to Existing	\$ 480.00	\$ 960.00
6	EA	6" Gate Valve	\$ 400.00	\$ 2,400.00
5	EA	Hydrants	\$ 980.00	\$ 4,900.00
35	SY	PCC Paving	\$ 30.00	\$ 1,050.00
2200	#	Fittings	\$ 2.00	\$ 4,400.00
65	LF	Saw Cut	\$ 3.00	\$ 195.00
	Lump Sum	Traffic Control	\$5000.00	\$ 5,000.00
120	LF	24" RCP	\$ 32.00	\$ 3,840.00
1	EA	Drop Inlet	\$ 880.00	\$ 880.00
		TOTAL		\$ 85,657.00

Estimated Construction Cost	\$ 85,657.00
Contingency @ 7%	\$ 5,995.99
Engineering (Maximum)	\$ 8,600.00
Inspection	\$ 4,300.00
Testing	\$ 1,800.00
TOTAL ESTIMATED CONSTRUCTION COST	\$106,352.99

September 15, 1988  
Page 3

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III. Street and Storm Sewer - off site.

Quantity	Units	Description	S/Units	Estimated Total Cost
20	CY	Reinforced Concrete Box Inlet	\$ 380.00	\$ 7,600.00
130	LF	15" RCP	\$ 16.00	\$ 2,080.00
200	LF	24" RCP	\$ 25.00	\$ 5,000.00
160	LF	30" RCP	\$ 38.00	\$ 6,080.00
3760	SY	8" PCC Paving(25'BB)	\$ 19.00	\$ 71,440.00 ✓
3760	SY	Subgrade Prep	\$ 2.20	\$ 8,272.00
320	LF	24" RCP Storm Sewer	\$ 30.00	\$ 9,600.00
6	EA	SW-8 Inlets	\$ 1000.00	\$ 6,000.00
TOTAL				\$116,072.00

Estimated Construction Cost	\$116,072.00
Contingency @ 6%	\$ 6,964.32
Engineering (Maximum)	\$ 12,300.00
Inspection	\$ 8,500.00
Testing	\$ 2,800.00

TOTAL ESTIMATED CONSTRUCTION COST \$146,636.32

TOTAL OF ITEMS I, II, AND III \$356,836.31

Prepared by:

Siouxland Engineering Associates, P.C.  
204 W. 21st Street  
South Sioux City, NE 68776

By: Leroy V. Satrang, P. E. 9-14-88  
Leroy V. Satrang, P. E.

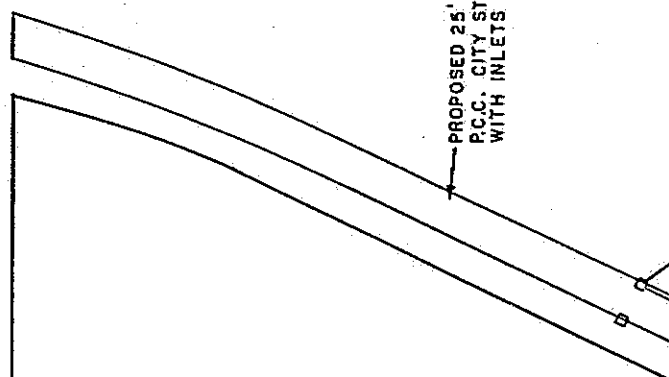
LVS/dh

Exhibit "B" (page 4 of 4)

GATE

ROLL 261 IMAGE 1563

PROPOSED 25' B-B  
P.C.C. CITY STREET  
WITH INLETS





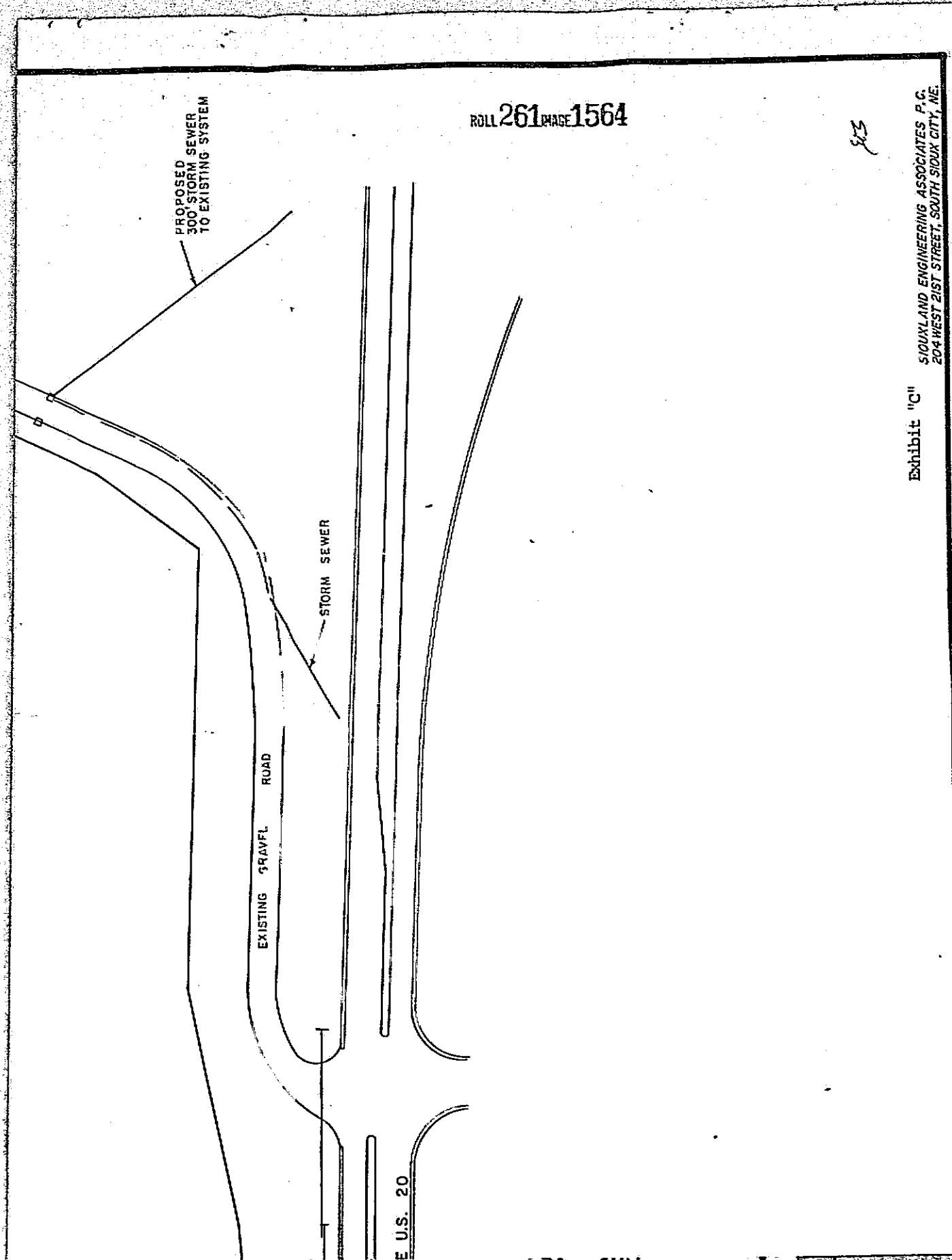


Exhibit "C" SIOUXLAND ENGINEERING ASSOCIATES P.C.  
204 WEST 21ST STREET, SOUTH SIOUX CITY, NE.

EAST

ROLL 261 IMAGE 1565

STONE AVE.

16' UTILITY  
EASEMENT

SAN. MH  
RIM  
FL

EDGE OF  
PARKING

WAL - MART

GARDEN CENTER

8" PVC AT 0.4%  
1/2" DIP

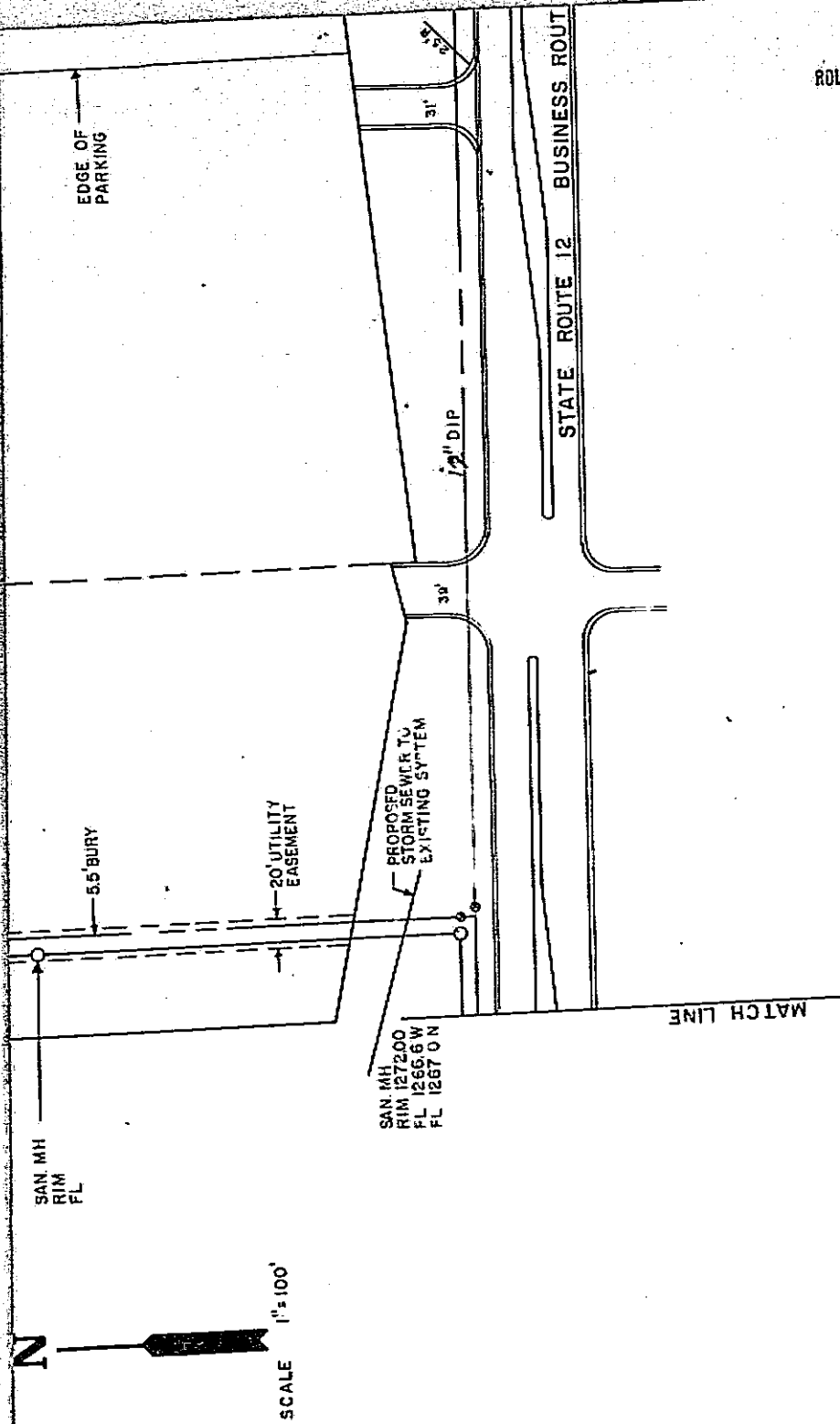
5.5' BURY

EDGE OF  
PARKING

SAN. MH  
RIM  
FL

N

ROLL 261 IMAGE 1566

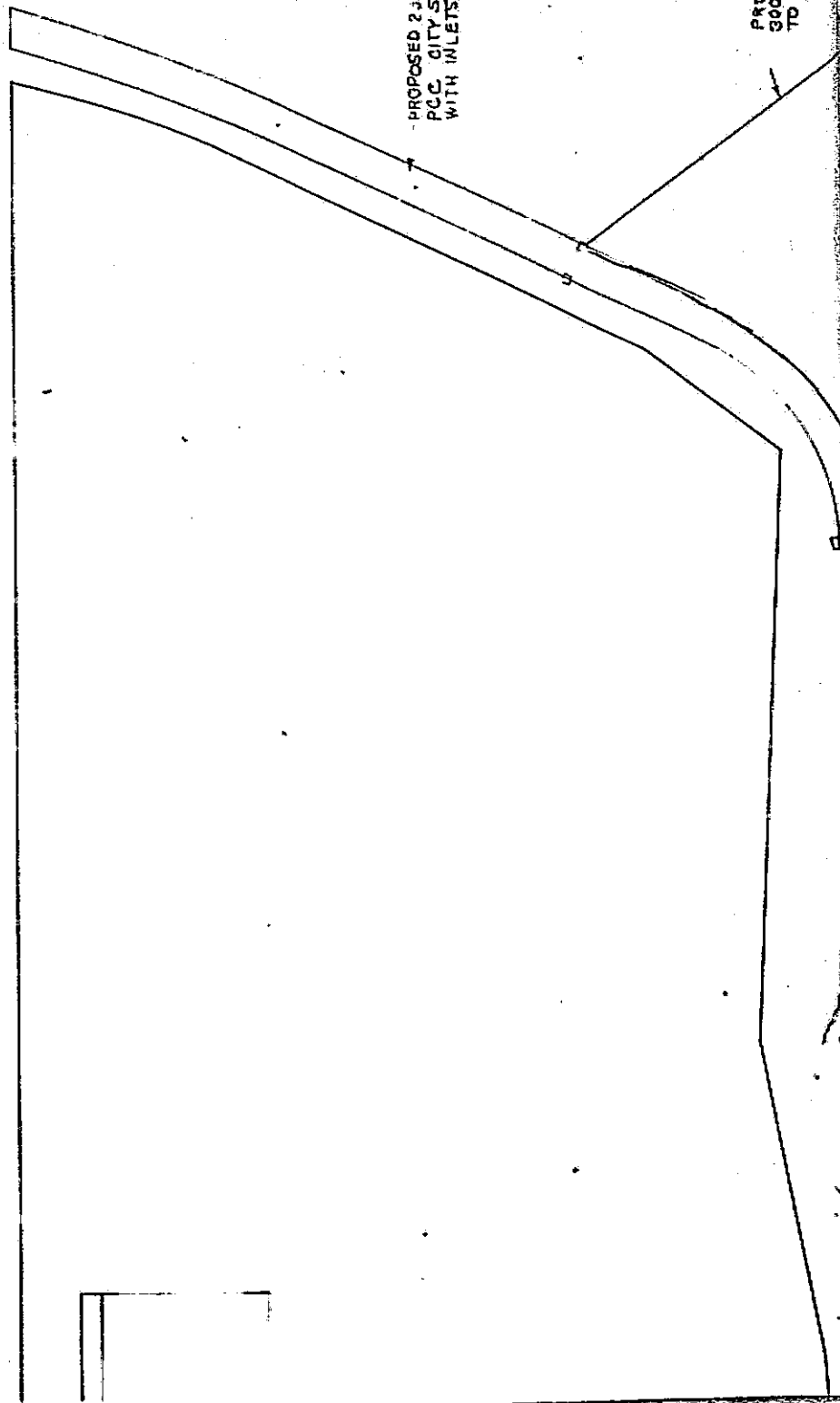


GATE

ROLL 261 IMAGE 1567

PROPOSED 23' 8"-Ø  
PCC CITY STREET  
WITH INLETS

PROPOSED  
300' STORM SEWER  
TO EXISTING SYSTEM



36

THE 151. 1. 1. 02  
T 54. 1. 1. 02

STORM SF WFA

EXISTING GRAVEL ROAD

# Index

OPEN

2

ROLL 261 IMAGE 1570

REF	GLA	PAU	126
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STATE ROUTE 12 BUSINESS ROUTE

APR 11  
1967

$$2cA, F \quad 1'' = 100'$$

TGATE

ROLL 261 IMAGE 1571



SAN. MH  
RIM 1281.20  
FL

BEGIN 12" WATER

12" PVC

SAN. MH  
RIM 1273.80  
FL

12 BUSINESS ROUTE U.S. 20

MATCH LINE

ROLL 261 IMAGE 1572

Exhibit "D" (page 2 of 2)

SIUXLAND ENGINEERING ASSOCIATES P.C.  
204 WEST 21ST STREET, SOUTH SIOUX CITY, NE.

EAS

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ROLL 261 IMAGE 1574

