

10-15-12

KNOW ALL MEN BY THESE PRESENTS:

THAT I or We, the undersigned, J. FREDERIC SCHLOTT, Trustee; WILLIS G. FARRINGTON, Trustee; and RICHARD H. HAYS, Trustee,

of the County of DOUGLAS, State of NEBRASKA for and in consideration of the sum of EIGHTY-FIVE THOUSAND and no/100 (\$85,000.00) -----DOLLARS, in hand paid do hereby grant, bargain, sell, convey and confirm unto

THE PIZZA INN, INC., a Texas Corporation

of the County of DALLAS, State of TEXAS, the following described real estate situated in OMAHA, in DOUGLAS County, State of NEBRASKA, to-wit:

That part of the SW 1/4 of the NE 1/4 of Sec. 10, T 15 N, R 12 E of the 6th P.M., Douglas County, Nebraska, described as follows: Beginning at the Center of said Sec. 10, T 15 N, R 12 E, thence North (assumed bearing) along the West line of the NE 1/4 for 508.63 feet; thence East perpendicular to the West line of the NE 1/4 for 80.00 feet to the true point of beginning; thence North parallel with and 80.00 feet East of the West line of the NE 1/4 for 136.00 feet; thence East perpendicular to the West line of the NE 1/4 for 160.00 feet; thence South parallel with and 240.00 feet East of the West line of the NE 1/4 for 136.00 feet; thence West perpendicular to the West line of the NE 1/4 for 160.00 feet to the true point of beginning.

This Deed is executed in compliance with the Real Estate Contract entered into between the parties, dated September 16, 1975. The provisions of which are incorporated herein and made a part of this Deed by reference.

The Grantors do hereby reserve a perpetual ingress-egress easement in this Deed to Grantee covering a 12-foot strip running the length of and lying immediately inside of the south boundary line of the subject property. The Grantee shall be responsible for the maintenance and repair of the property lying within such easement.

TO HAVE AND TO HOLD the premises above described, together with all the Tenements, Hereditaments and appurtenances thereunto belonging, unto the said THE PIZZA INN, INC.,

and to its successors ~~and~~ and assigns forever.

And I or We hereby covenant with the said Grantee or grantees and with his, her or their heirs and assigns, that I am or We are lawfully seized of said premises; that they are free from encumbrance

it has ~~that~~ good right and lawful authority to sell the same; and ~~it~~ hereby covenant to warrant and defend the title to said premises against the lawful claims of all persons whomsoever.

And the said hereby relinquishes all

right to said real estate in and to the above described premises.

Signed this 1st day of June, 1976

In Presence of

J. Frederic Schlott - Trustee
Willis G. Farrington - Trustee
Richard H. Hays - Trustee

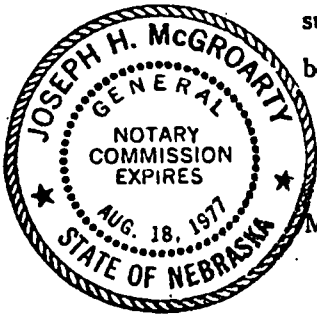
NEBRASKA DOCUMENTARY STAMP TAX JUN 1 1976 \$9350 BY [Signature]

STATE OF NEBRASKA }  
DOUGLAS County } ss.

On this 1st day of June, 1976, before me, the undersigned a Notary Public, duly commissioned and qualified for said County, personally came J. FREDERIC SCHLOTT, Trustee; WILLIS G. FARRINGTON, Trustee; and RICHARD H. HAYS, Trustee

to me known to be the identical person or persons whose name is or names are subscribed to the foregoing instrument, and acknowledged the execution thereof to be, his, her or their voluntary act and deed.

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



My commission expires the 18 day of August, 1977

STATE OF \_\_\_\_\_ }  
\_\_\_\_\_ County } ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned a Notary Public, duly commissioned and qualified for said County, personally came \_\_\_\_\_

to me known to be the identical person or persons whose name is or names are subscribed to the foregoing instrument, and acknowledged the execution thereof to be, his, her or their voluntary act and deed.

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

\_\_\_\_\_  
Notary Public.  
My commission expires the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Indexed \_\_\_\_\_  
General \_\_\_\_\_

Compared \_\_\_\_\_  
Paged \_\_\_\_\_

WARRANTY DEED

TO

STATE OF \_\_\_\_\_ }  
\_\_\_\_\_ County } ss.

Entered in Numerical Index and filed for record in the office of the Register of Deeds of said County, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

at \_\_\_\_\_ o'clock and \_\_\_\_\_ minutes \_\_\_\_\_ M., and duly recorded in Book \_\_\_\_\_ of \_\_\_\_\_ Deeds on page \_\_\_\_\_

Register of Deeds.

Deputy.

**POOR COPY FILED**

REAL ESTATE CONTRACT

THIS AGREEMENT AND CONTRACT OF SALE, made and entered into by and between Prook Park Company of Omaha, Nebraska hereinafter called "Seller", and THE PIZZA INN, INC., a Texas corporation, having its principal office in Dallas, Texas, or its nominee or assigns, hereinafter called "Purchaser".

WITNESSETH:

1. Seller hereby sells and agrees to convey unto Purchaser and Purchaser hereby agrees to buy, on the terms and conditions hereinafter set forth, the following described property, lying and situated in the City of Omaha, County of Douglas, State of Nebraska, and being more particularly described as follows:

See Exhibit "A"

together with all and singular the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, roads, alleys, rights-of-way, easements, whether public or private, and all of Seller's mineral rights, if any.

2. Purchase Price. The purchase price of said property is Fifty-Five Thousand Dollars (\$55,000.00), payable cash at closing. Purchaser has deposited with Leavens Title Insurance Co. (hereinafter called Title Company) the sum of One Thousand Dollars (\$1,000.00), as earnest money hereunder, which earnest money is to be applied as part payment of the purchase price upon consummation of this sale or otherwise returned to Purchaser without any deduction if this contract shall be terminated or if this sale cannot be consummated for any reason except Purchaser's default.

3. Time for Closing of Sale. The sale shall be closed in the City of Omaha, State of Nebraska at the local offices of Title Company or its agent or representative on or before ninety (90) days from the date of this instrument and said purchase price shall be paid in full through an escrow with Title Company.

4. Possession. Vacant possession of the property shall be granted by Seller to Purchaser at closing.

5. Transfer Tax. Seller shall pay all property and transfer taxes.

6. Marketable Title.

A. Seller warrants and represents to Purchaser that at the time of closing hereof, he will have and convey to Purchaser good and marketable, merchantable title to said property by General Warranty Deed, free and clear from dower or statutory rights, assessments, leases, liens and all other encumbrances of any kind, without exception, unless otherwise specified herein.

g. d. s.  
A.H.H.  
W.S.P.

- B. Restrictive covenants and subdivision restrictions of record not affecting Purchaser's intended use of the property, zoning ordinances, general utility easements which do not adversely affect the value of the property, and the lien for the current year's taxes shall not be deemed to be title defects.

7. Title Insurance. Seller agrees that he will furnish to Purchaser an American Land Title Association Owner's Policy - Form B - 1970, or its equivalent if this form is not available in the State where the subject property is located, issued by Title Company in the amount of the purchase price, insuring title in the Purchaser or its nominee or assigns, subject only to those title exceptions listed in Paragraph 6B hereof and such other exceptions as may be approved in writing by Purchaser, provided, however; (a) the boundary and survey exception shall be deleted, (b) the exception as to restrictive covenants shall be endorsed none of record and (c) the exception as to the lien for taxes shall be limited to the year of Closing and shall be endorsed "not yet due and payable". Seller shall provide a current abstract of title to Title Company if required and shall cause Title Company to deliver to Purchaser a commitment to issue the aforementioned title insurance policy not later than 45 days after the date of this Contract. Seller shall pay the first \$250 of the insurance premium and the costs of abstract preparation and examination and Purchaser shall pay the balance of such expenses.

8. Assessment Charges. Seller expressly agrees that prior to Closing, he will pay all costs, charges and assessments for providing of utilities, including water, sewer, and electricity facilities and lines to the boundary of said property in accordance with all City standards, so that all utilities (other than natural gas) will be immediately adjacent and available to the boundary of the property and available for hook-up and connection to the improvements Purchaser will place on said property and available in sufficient quantities for Purchaser's intended use. And further, Seller expressly agrees to pay all street improvements, curbing and sidewalk assessments levied against the property prior to closing.

9. Topographical Map and Survey. Seller shall provide Purchaser with a topographical map and survey prepared by a registered surveyor who will certify that he has actually made the survey on the ground. Said survey shall show all improvements, easements, encroachments, and utility lines on said property. Purchaser shall order this topographical map and survey. Seller shall pay the first \$150 of the cost of such survey and Purchaser shall pay the balance.

10. Costs Prorated. Insurance, interest, ad valorem taxes for the current year and escrow accounts for taxes and insurance shall be prorated at the closing, effective as of the closing date. Escrow charges if any, shall be prorated fifty per cent (50%) to Purchaser and fifty per cent (50%) to Seller.

11. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows, which representations and warranties shall be deemed made by Seller to Purchaser also as of the Closing Date and shall survive the Closing hereof; (1) there are no parties in possession of any portion of the property as lessees, tenants at sufferance or trespassers; (2) there is no pending or threatened condemnation or similar proceeding or assessment affecting the property, or any part thereof, nor to the best knowledge and belief of Seller is any such proceeding or assessment contemplated by any governmental authority; (3) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the property, or any part thereof; (4) there are water, sewer, gas and electricity lines to the property which are available for "tap in" by the Purchaser, are sufficient for service on the property and the installation of said utility

lines has been paid for; and (5) the property has full and free access to and from public highways, street or roads and, to the best knowledge and belief of Seller, there is no pending or threatened governmental proceeding which would impair or result in the termination of such access.

12. Purchaser's Obligation to Close. Purchaser's obligation to close this contract and purchase said property is made expressly subject to the conditions precedent hereinafter enumerated which must have been met or expressly waived in writing by Purchaser on or before the date of closing and Purchaser agrees to use good faith and reasonable diligence to obtain all permits, necessary licenses and information hereinafter set forth:

- (1) Purchaser's ability to secure all necessary permits or licenses to construct and operate a Pizza Inn restaurant having standard Pizza Inn signs and reasonable parking on the property.
- (2) Purchaser's ability to obtain curb cuts for reasonable traffic access. Reasonable traffic access shall include:
  - (i) two thirty foot accesses to the major street, at least one of which shall be a left turn access;
  - (ii) one thirty foot access for each existing secondary street;
  - (iii) all access shall be according to approved site plans or modified by mutual agreement; and
  - (iv) access in each instance shall be for ingress and egress.
- (3) Purchaser's verifying that no zoning ordinances, easements, deed restrictions or subdivision restrictions exist either prohibiting Purchaser from using the property for a Pizza Inn restaurant or prohibiting the type of standard Pizza Inn building Purchaser intends to construct.
- (4) Purchaser's ability to obtain an engineering report establishing to Purchaser's reasonable satisfaction that:
  - (i) no subsurface conditions exist on the property which would increase materially the cost of construction of a commercial structure used for a Pizza Inn restaurant;
  - (ii) no drainage problems exist which would interfere with substantially full use of the entire property for a Pizza Inn restaurant and adjacent parking.
- (5) Seller shall have granted perpetual ingress-egress easements in recordable form to Purchaser, its successors, assigns and customers, covering
  - (i) a 12-foot strip running the length of and immediately adjacent to the south boundary line of the subject property, and
  - (ii) the frontage road parallel to 90th Street which lies immediately adjacent to the west boundary line of the subject property. Seller shall be responsible for the maintenance and repair of the property lying within such easements.

12A. Purchaser's Special Agreements. Purchaser hereby agrees with Seller as follows, which agreements shall survive the Closing and may be enforced by Seller against Purchaser by suit for specific performance:

- (1) Seller may reserve a perpetual ingress-egress easement in its deed to Purchaser covering a 12-foot strip running the length of and lying immediately inside of the south boundary line of the subject property. Purchaser shall be responsible for the maintenance and repair of the property lying within such easement.

All buildings, structures, improvements, and any modifications or alterations of the same, including grade elevations for the parking area, driveway entrances and floor level, constructed on the subject property shall be subject to Seller's prior approval, which approval shall not be unreasonably withheld. The Seller will prepare a landscape planting plan for the property to be conveyed that will conform to the landscaping for the entire area and will be subject to approval by both the Seller and the Purchaser. Upon approval the said landscaping shall be installed according to plan, replaced as necessary and maintained at the sole expense of the Purchaser, provided that any landscaping required by Seller, exclusive of grass or sod, shall not exceed a cost of \$1,000.00. Should the cost exceed that amount, the Seller will install the proposed landscaping at a cost to the buyer not to exceed \$1,000.00. Maintenance of the landscaping shall be at the expense of the buyer; however, at the election of the buyer, the Seller will maintain the above landscaping and keep the lawn mowed for a price not to exceed \$ 400.00 per year for two years following the date of sale. After two years, the cost may be renegotiated depending upon inflationary factors.

- (3) The Purchaser will construct an asphalt parking area as recommended by Purchaser's architect or engineer. The parking area will be surrounded by a permanent six inch by eighteen inch concrete curb and gutter and will be shown on the final site plan which is subject to the seller's approval. It is agreed that the installation of the permanent type curbing on the north and east side of the property can be deferred and temporary bumper type curbings installed until such time as 89th Street has been constructed and the purchaser and seller agree on the location of new entrance and exit drives from 89th Street into the purchaser's property. At the time this drive, or drives are constructed, the temporary curbs will be replaced with a permanent curb and gutter.
- (4) The design and location of the purchaser's pole sign shall be subject to the seller's prior approval. In addition to the pole sign, an identification sign (the name of the shop or vendor) may be located on the building facia. Approval will be given to signs similar to photographs previously furnished to the seller by the purchaser, or other pizza shops previously constructed by the purchaser. One temporary type sale banner can be displayed from time to time under the projection of the roof of the front porch or covered walkway on occasions determined solely by the purchaser. Such banner not to exceed sixteen inches high by twelve feet long. Other signs, flags, banners, temporary or permanent, other than those mentioned above, are not permitted. All signs must be approved by the seller subject to conditions outlined above. Approval of signs that meet the above requirements shall not be arbitrarily withheld.

2.2.8.  
WSP

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~~(2) All buildings, structures and other improvements, and any modifications or alterations of the same, constructed on the subject property by Purchaser shall be subject to Seller's prior approval, which approval shall not be unreasonably withheld, provided that any landscaping required by Seller shall be installed and maintained by Seller at its sole cost and expense. Seller acknowledges that it has reviewed and approved the plans and specifications for the standard Pizza Inn restaurant building proposed to be built by Purchaser on the subject property.~~

(4) All electrical wiring from the property line of the subject property to the building to be constructed by Purchaser will be constructed underground.

(5) That portion of Purchaser's parking area that abuts the parking lot and drive of Seller on the south side of the subject property will be constructed of 6-inch reinforced concrete to match that of the existing drive.

13. Seller agrees to pay George Bernhagen & Norman Soucie, the real estate Broker negotiating this contract, a commission in the amount of Ten percent (10%) of the purchase price of the property. In negotiating this contract, Broker has rendered a valuable service for which reason Broker is made a party to enable Broker to enforce his commission rights hereunder against the parties hereto. If this contract is not consummated by reason of Purchaser's default, then the commission shall not exceed one-half of the cash deposit. The Broker shall be entitled to apply any escrow deposit, to the extent necessary, toward payment of the commission payable to him hereunder; and Title Company is hereby authorized and directed to pay to the Broker out of any escrow deposit made pursuant to this contract a sum equal to the commission payable to Broker hereunder. Said commission shall be paid to Broker in the City of Omaha, State of Nebraska at the closing. Broker may divide any commission payable hereunder with any other licensed real estate broker or salesman, but notwithstanding any such agreement for division of commission, Seller shall be fully protected in paying all commission payable hereunder solely to the Broker named herein.

14. All notices and demands herein requested shall be in writing. It is hereby understood and agreed that this contract shall be null and void and of no force and effect whatever unless and until a completely executed copy hereof is returned to the offices of Purchaser within Ten (10) days after the date of this instrument.

15. This contract binds the heirs, executors, administrators, successors and assigns of the parties hereto, and embodies the complete agreement between the parties and cannot be varied or terminated except in writing.

16. If Purchaser defaults in its obligations hereunder, all sums paid by it as earnest money may be retained by Seller as liquidated damages, except that portion thereof mentioned in Paragraph 12, whereupon Purchaser shall be released from all liability or obligation hereunder. It is understood that the right to retain such sums in liquidated damages shall be the sole remedy available to Seller in the event of such default. Seller shall pay all costs incurred, if this purchase is not consummated for any reason other than Purchaser's default.

17. This contract may be assigned by Purchaser.

IN WITNESS WHEREOF the parties have hereto set their hands and seals as of the 16 day of SEPT, 1975

PURCHASER:  
THE PIZZA INN, INC.

DATE OF OFFER:  
SEPT 16, 1975

By J. J. Gillman  
President

Address: 2930 Stemmons Freeway  
Dallas, Texas 75247

SELLER:  
By J. Frederic Schlott  
J. Frederic Schlott, Partner, Trustee

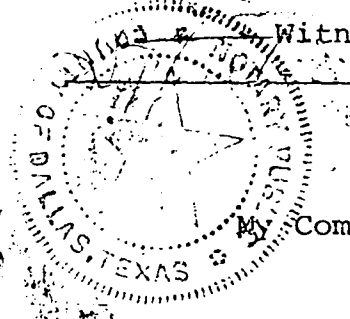
By Willis G. Farrington  
Willis G. Farrington, Partner, Trustee

Address:  
By Richard H. Hays  
Richard H. Hays, Partner, Trustee

STATE OF TEXAS )  
                          ) ss.  
COUNTY OF DALLAS )

Before me, a Notary Public, personally came J. J. Gillman, known to me to be the identical person who signed the foregoing instrument as President of The Pizza Inn, Inc. and he acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of the corporation.

Witness my hand and notarial seal on the 11<sup>th</sup> day of September, 1975.



[Signature]  
Notary Public

My Commission expires June, 1977.

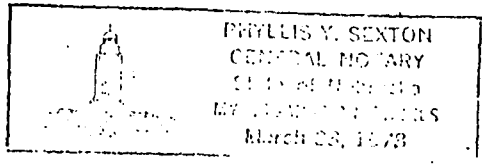
STATE OF NEBRASKA )  
                          ) ss  
COUNTY OF DOUGLAS )

Before me, a general Notary Public personally came J. Frederic Schlott, a general managing partner of Brook Park Company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of Brook Park Company.

Witness my hand and notarial seal on the 12<sup>th</sup> day of September, 1975.

[Signature]  
Notary Public

My Commission expires March 28, 1978.



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ENTERED IN NUMERICAL INDEX AND RECORDED IN THE REGISTER OF DEEDS OFFICE IN DOUGLAS COUNTY, NEBRASKA  
DAY OF June 1976 AT 3:35 P M. C. HAROLD OSTLER, REGISTER OF DEEDS 24/25