



MISC 2016073460



SEP 07 2016 13:27 P 8

Fee amount: 52.00  
FB: 0C-43338  
COMP: BW

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
09/07/2016 13:27:49.00



2016073460

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(SPACE ABOVE THIS LINE RESERVED FOR REGISTER OF DEEDS)

Upon recording return to: Sal Carta, The Lerner Company, 10855 West Dodge Road, Suite 270, Omaha NE 68154

### DECLARATION OF EASEMENT

This Declaration of Easement dated as of September 6, 2016, is made by Village West LLC, a Nebraska limited liability company ("Declarant").

#### Preliminary Statement

Declarant is the record owner of **Lot 1 West Village Pointe Replat 9, a subdivision in Douglas County, Nebraska, and Outlot "D" West Village Pointe, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded**, both of which parcels are referred to collectively as the "Property" and individually by their respective lot numbers or parcel designations. Grantor intends to install an eight (8') foot wide concrete and/or asphalt trail within the Property, the location of which is depicted on Exhibit "A" attached and incorporated in this Declaration. For the purpose of establishing an easement within the Property to accommodate the Trail, the Declarant has made this Declaration.

#### Terms and Conditions

1. Grant of Easements. Declarant hereby creates and establishes for the Declarant and the West Village Pointe Business Association, a Nebraska non-profit corporation( the "Association") and their respective successors and assigns, a perpetual exclusive easement for the construction, placement, installation, repair, maintenance, replacement, and removal of an eight (8') foot trail, to be constructed of concrete and/or asphalt, over, upon and under those portions of the Property depicted and described on Exhibit "A" (the "Trail"), for the benefit of the public, the Grantor, and the Association and their respective successors, assigns, contractors, employees, invitees, and agents, and including temporary non-exclusive easements over and upon those areas within the Property and directly adjacent to the Trail ("Temporary Easement Areas") as reasonably necessary for access to the Trail.
2. Exercise Responsibility. Declarant and the Association and their respective successors, assigns, contractors, employees and agents, exercising any right granted by this Declaration shall be responsible for the prompt repair and restoration of any portion of the Property which is damaged by reason of such exercise, with such damaged area or areas to be promptly repaired and restored by the Declarant and the Association to the condition which existed immediately prior to such damage, to the extent practicable.

13975C-16

Declarant and the Association agree to indemnify, defend and hold harmless the record owner of the Property and its successors and assigns from and against (i) any and all damages to person or property, and (ii) any and all liabilities, damages, costs and expenses (including without limitation reasonable attorneys' fees and court costs), which arise as a result of or in connection with Declarant's and the Association's exercise of rights granted by this Declaration. This indemnity shall extend to any invitee, guest, or agent of the Declarant and Association and shall survive any termination of this Declaration.

In the event Declarant and/or the Association fails to perform its obligations under this Declaration within thirty (30) days after written notice thereof by the record owner of the Property, or if such curative action cannot be completed within such (30) days and Declarant and/or the Association having commenced such cure within such thirty (30) days but having failed to diligently pursue completion, then the record owner of the Property shall have the right but not the obligation to cure such default in which event such record owner shall submit an invoice to the Declarant and the Association for the reasonable cost incurred. If the Declarant and/or the Association does not pay such invoice within twenty (20) business days of its receipt, then such invoiced amount shall accrue interest at the rate of three percent (3%) above the "prime rate" as published in the Wall Street Journal (or equivalent publication should the Wall Street Journal no longer publish such rate) from the date due to the date paid ("Past Due Interest Rate").

3. Legal Effect. The easements and covenants contained in this Declaration (a) constitute covenants running with the land; (b) bind every record owner of the Property and its respective successors and assigns; and (c) will burden those portions of the Property described in this Declaration and inure to the benefit of the record owner of the Property and its successors and assigns.
4. Amendment /Termination. This Declaration may be terminated, modified or amended only with the express written consent of the Association and the record owners of the Property.
5. Merger. The easements and rights created herein shall not be subject to the doctrine of merger.
6. Miscellaneous. The invalidity of any provision of this Declaration shall not affect its remaining provisions. This Declaration shall be interpreted according to Nebraska law.
7. Notices. All notices, requests, demands or other communications hereunder shall be in writing and shall be delivered by recognized overnight mail or delivery service or United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Declarant and/or the Association:

c/o The Lerner Company  
10855 W Dodge Road, Suite 270  
Attn: Salvadore Carta

If to a Record Owner:

To the Address to which real estate tax statements are mailed

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Easement as of the date first written above.

**Village West LLC, a Nebraska limited liability company**

By: \_\_\_\_\_

Salvadore Carta, Member

STATE OF NEBRASKA )

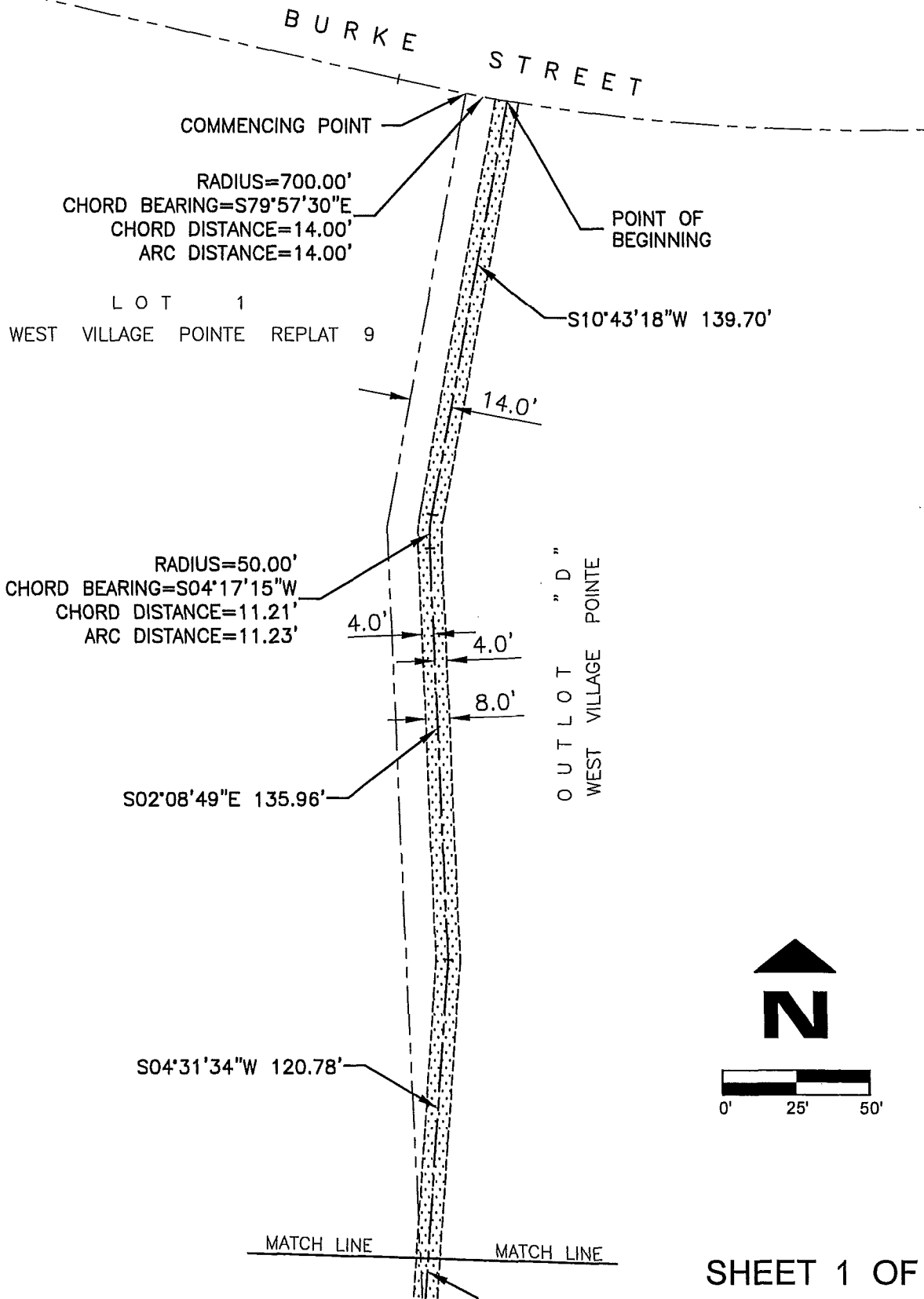
) ss

COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 1st day of September, 2016, by Salvadore Carta, Member of Village West LLC, a Nebraska limited liability company, on behalf of such limited liability company.



\_\_\_\_\_  
Notary Public



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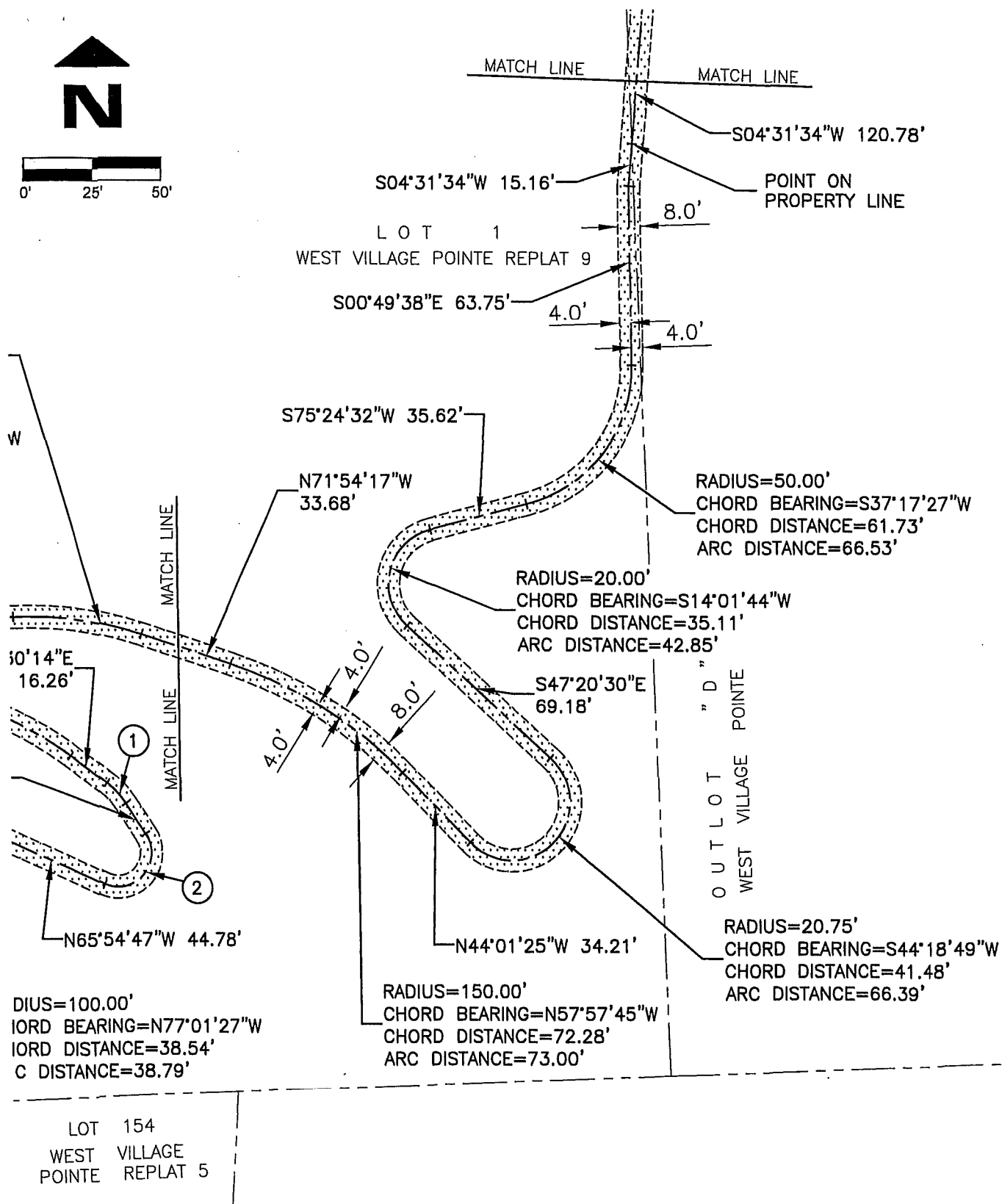
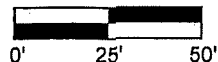
Job Number: 738-196-EX(WT)  
thompson, dreessen & dornier, inc.  
10836 Old Mill Rd  
Omaha, NE 68154  
p.402.330.8860 f.402.330.5866  
td2co.com

Date: AUGUST 31, 2016  
Drawn By: RJR  
Reviewed By: JDW  
Revision Date:

**EXHIBIT "A"**

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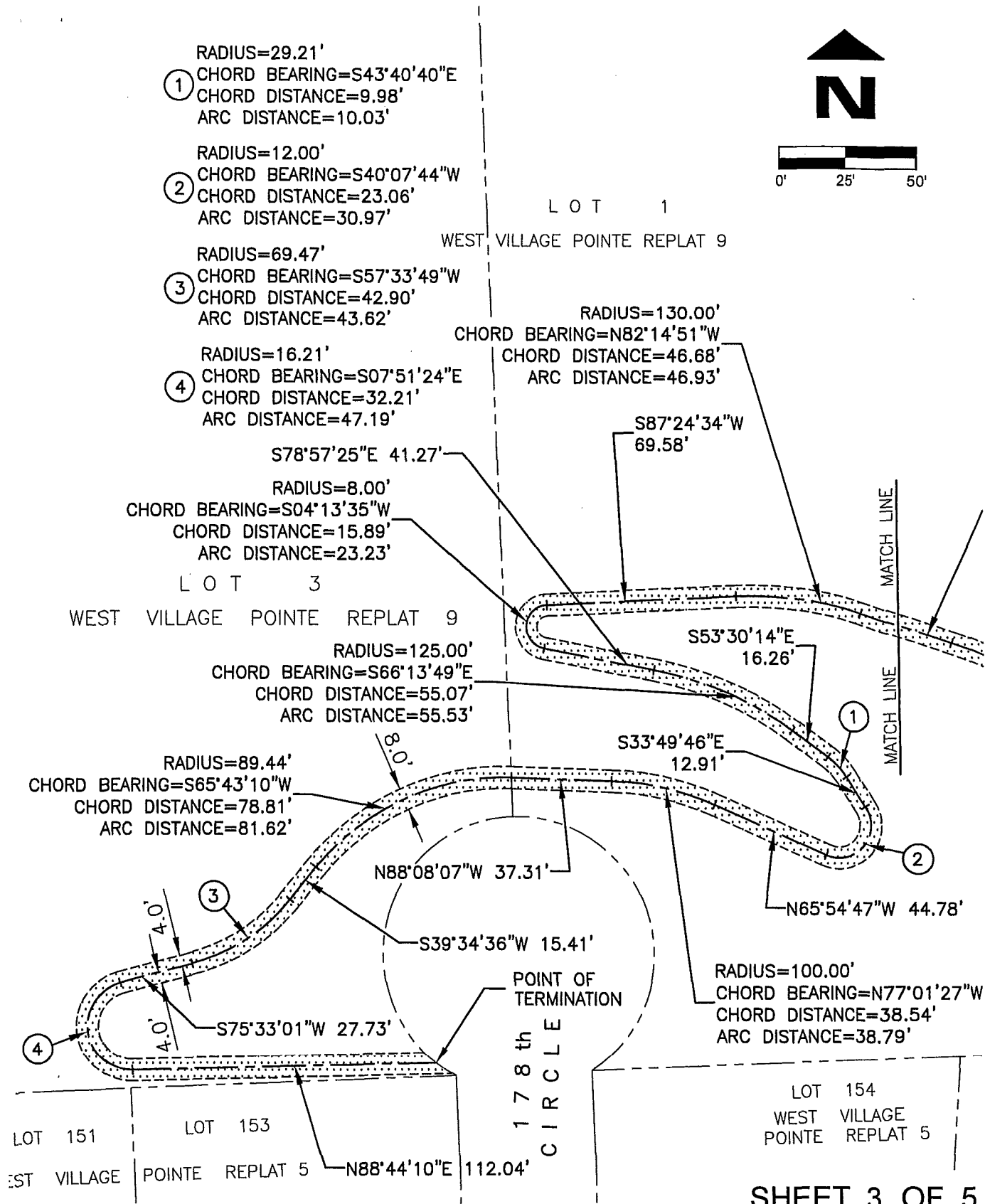


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## LEGAL DESCRIPTION

0C-43331

0C-43338

AN 8.00 FOOT WIDE STRIP OF LAND LYING WITHIN OUTLOT "D" IN WEST VILLAGE POINTE AND WITHIN LOTS 1 AND 3 IN WEST VILLAGE POINTE REPLAT 9, BOTH SUBDIVISIONS IN DOUGLAS COUNTY, NEBRASKA, THE CENTERLINE OF SAID 8.00 FOOT WIDE STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, COMMENCING AT THE NW CORNER OF SAID OUTLOT "D";

THENCE SOUTHEASTERLY ON THE NORTH LINE OF SAID OUTLOT "D" ON A 700.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S79°57'30"E (ASSUMED BEARING), CHORD DISTANCE 14.00 FEET, AN ARC DISTANCE OF 14.00 FEET TO THE POINT OF BEGINNING;

THENCE S10°43'18"W 139.70 FEET ON A LINE 14.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID OUTLOT "D";

THENCE SOUTHWESTERLY ON A 50.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S04°17'15"W, CHORD DISTANCE 11.21 FEET, AN ARC DISTANCE OF 11.23 FEET;

THENCE S02°08'49"E 135.96 FEET;

THENCE S04°31'34"W 120.78 FEET TO THE WEST LINE OF SAID OUTLOT "D" AND THE EAST LINE OF SAID LOT 1;

THENCE CONTINUING S04°31'34"W 15.16 FEET; THENCE S00°49'38"E 63.75 FEET;

THENCE SOUTHWESTERLY ON A 50.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S37°17'27"W, CHORD DISTANCE 61.73 FEET, AN ARC DISTANCE OF 66.53 FEET;

THENCE S75°24'32"W 35.62 FEET;

THENCE SOUTHWESTERLY ON A 20.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S14°01'44"W, CHORD DISTANCE OF 35.11 FEET, AN ARC DISTANCE OF 42.85 FEET;

THENCE S47°20'30"E 69.18 FEET;

THENCE SOUTHWESTERLY ON A 20.75 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S44°18'49"W, CHORD DISTANCE OF 41.48 FEET, AN ARC DISTANCE OF 66.39 FEET;

THENCE N44°01'25"W 34.21 FEET;

THENCE NORTHWESTERLY ON A 150.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N57°57'45"W, CHORD DISTANCE 72.28 FEET, AN ARC DISTANCE OF 73.00 FEET;

THENCE N71°54'17"W 33.68 FEET;

THENCE NORTHWESTERLY ON A 130.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N82°14'51"W, CHORD DISTANCE OF 46.68 FEET, AN ARC DISTANCE OF 46.93 FEET;

THENCE S87°24'34"W 69.58 FEET;

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## LEGAL DESCRIPTION

THENCE SOUTHWESTERLY ON A 8.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S04°13'35"W, CHORD DISTANCE 15.89 FEET, AN ARC DISTANCE OF 23.23 FEET;

THENCE S78°57'25"E 41.27 FEET;

THENCE SOUTHEASTERLY ON A 125.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S66°13'49"E, CHORD DISTANCE 55.07 FEET, AN ARC DISTANCE OF 55.53 FEET;

THENCE S53°30'14"E 16.26 FEET;

THENCE SOUTHEASTERLY ON A 29.21 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S43°40'40"E, CHORD DISTANCE 9.98 FEET, AN ARC DISTANCE OF 10.03 FEET;

THENCE S33°49'46"E 12.91 FEET;

THENCE SOUTHWESTERLY ON A 12.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S40°07'44"W, CHORD DISTANCE 23.06 FEET, AN ARC DISTANCE OF 30.97 FEET;

THENCE N65°54'47"W 44.78 FEET;

THENCE NORTHWESTERLY ON A 100.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N77°01'27"W, CHORD DISTANCE 38.54 FEET, AN ARC DISTANCE OF 38.79 FEET;

THENCE N88°08'07"W 37.31 FEET TO THE WEST LINE OF SAID LOT 1 AND THE EAST LINE OF SAID LOT 3;

THENCE SOUTHWESTERLY ON AN 89.44 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S65°43'10"W, CHORD DISTANCE 78.81 FEET, AN ARC DISTANCE OF 81.62 FEET;

THENCE S39°34'36"W 15.41 FEET;

THENCE SOUTHWESTERLY ON A 69.47 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S57°33'49"W, CHORD DISTANCE 42.90 FEET, AN ARC DISTANCE OF 43.62 FEET;

THENCE S75°33'01"W 27.73 FEET;

THENCE SOUTHEASTERLY ON A 16.21 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S07°51'24"E, CHORD DISTANCE 32.21 FEET, AN ARC DISTANCE OF 47.19 FEET;

THENCE N88°44'10"E 112.04 FEET TO THE EAST LINE OF SAID LOT 3 AND THE POINT OF TERMINATION, WITH THE OUTER BOUNDARIES OF SAID 8.00 FOOT WIDE STRIP OF BEING EXTENDED TO THE EAST LINE OF SAID LOT 3 AND THE NORTH LINE OF SAID OUTLOT "D".

SHEET 5 OF 5



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