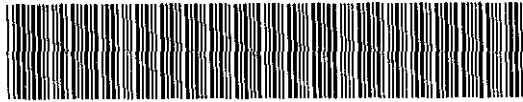


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REGISTER OF DEEDS  
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1 thereof. The terms "Avaya" and "HD" shall be deemed to refer to such parties and to the respective  
2 successors, grantees and assigns of such parties, and any net lessee of any Parcel or part thereof  
3 which has assumed all of the obligations of the owning party (individually as "Owner", or  
4 collectively, the "Owners").  
5

6 NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter  
7 set forth, Avaya and HD hereby grant, covenant and agree as follows:  
8

## 9 ARTICLE I - GRANT OF EASEMENTS

### 10 Section 1.01. Access Easement.

11  
12  
13 (a) HD and Avaya hereby grant and convey, each to the other, for the benefit of all of the  
14 Parcels comprising the Shopping Center Development, the Avaya Retained Property and the Avaya  
15 Southeast Property, a non-exclusive, perpetual easement and right to the use of the Common Access  
16 Road Easement Area described in attached Exhibit A-4 and the Common Access Road depicted on  
17 the Site Plan to be constructed thereupon including all common curb cuts, roadways, driveways, and  
18 aisles which are a part thereof, as indicated on the Site Plan, and located on the Parcel of the granting  
19 Owner, for purposes of ingress, egress, passage and delivery. There shall be no "cross parking"  
20 among the Shopping Center Development, the Avaya Retained Property and the Avaya Southeast  
21 Property. The Shopping Center Development, the Avaya Retained Property and the Avaya Southeast  
22 Property shall be "self-parked" under applicable codes and ordinances, and neither HD nor Avaya  
23 shall have the right to include the parking spaces on the other Owner's Parcel in calculating the  
24 available parking spaces for its Parcel. No other common access shall exist between the HD Parcels,  
25 the Avaya Retained Property and the Avaya Southeast Property. There shall be no charge to any  
26 Owner for the use of the easement rights granted herein.  
27

28 The perpetual easements granted hereby and granted in Section 1.02 shall be for the benefit  
29 of, but not restricted solely to, the Owners of the Parcels comprising the Shopping Center  
30 Development, the Avaya Retained Property and the Avaya Southeast Property and each such Owner  
31 may grant the benefit of such easement to the tenants and other occupants of the Parcels for the  
32 duration of such occupancy, and to the customers, employees, agents and business invitees thereof;  
33 but such grant is not intended nor shall it be construed as creating any rights in or for the benefit of  
34 the general public nor shall it affect any real property outside of the Shopping Center Development,  
35 the Avaya Retained Property and the Avaya Southeast Property. However, nothing in this  
36 Agreement shall be construed to prohibit an Owner from expressly dedicating or conveying for  
37 public use any portion of the Common Access Road located on such Owner's Parcel.  
38

39 (b) If, in connection with the future development of the Avaya Retained Property or the  
40 Avaya Southeast Property, the Owner of the Avaya Retained Property or the Avaya Southeast  
41 Property desires or is required to make modifications to the Common Access Road intersections at  
42 120<sup>th</sup> Street or 132<sup>nd</sup> Street, or along the Common Access Road located on the Avaya Retained  
43 Property or Avaya Southeast Property, such Owner shall notify HD and give HD adequate  
44 opportunity to consult with such Owner and its consultants regarding such modifications and to

1 approve such modifications, which approval shall not be unreasonably withheld or delayed;  
2 provided, that with respect to modifications to any portion of the Common Access Road located east  
3 of the Shopping Center Development on the Avaya Retained Property or the Avaya Southeast  
4 Property that the Owner and its consultants determine are reasonably necessary to serve the proposed  
5 development of the Avaya Retained Property or the Avaya Southeast Property, such approval by HD  
6 shall not be withheld unless HD reasonably determines that the proposed modifications would  
7 materially adversely impede access to the Shopping Center Development from 120<sup>th</sup> Street.  
8 Following such consultation and approval by HD (if required pursuant to the preceding sentence),  
9 such Owner shall have the right, consistent with such consultation and approval (if required pursuant  
10 to the preceding sentence), to relocate or modify such intersections, the Common Access Road or the  
11 Common Access Road Easement Area located on the Avaya Retained Property or the Avaya  
12 Southeast Property, provided, however, that in no event shall access to the Shopping Center  
13 Development from 120th Street and 132nd Street be eliminated (but one of such access roads may be  
14 closed temporarily if necessary in connection with construction but never between October 1 and  
15 January 15). If the Common Access Road Easement Area is modified as described herein, the  
16 Parties shall execute an amendment to this Agreement, in recordable form, memorializing such  
17 modification(s). Notwithstanding the forgoing to the contrary, if the city or state officials require  
18 that a traffic signal be relocated or that the Common Access Road be modified in order to develop  
19 the Avaya Retained Property or the Avaya Southeast Property, HD shall have the right to consult  
20 with the owner of the Avaya Retained Property and the Avaya Southeast Property regarding the  
21 relocation of the traffic signal and the modification of the Common Access Road on the Avaya  
22 Retained Property and the Avaya Southeast Property to its point of connection on the HD Parcel, but  
23 HD's approval of such city or state required traffic signal relocation or Common Access Road  
24 modification shall not be required. The approval rights of HD contained in this paragraph are for the  
25 benefit of, and limited to, the Owner of Lot 1, the Owner of Lot 2, and the Owner of Lot 3, and shall  
26 be deemed covenants running with the land (as to Lot 1, Lot 2 and Lot 3 only as provided in Section  
27 8.02 below for fifty (50) years after the Effective Date.

28  
29 (c) Prior to the issuance of a building permit for construction of a building on any portion  
30 of the Avaya Southeast Property, HD shall, at its sole cost and expense, maintain and repair the  
31 Common Access Road Easement Area. From and after the issuance of a building permit for  
32 construction of a building on any portion of the Avaya Southeast Property, HD shall continue to  
33 maintain and repair the Common Access Road and Common Access Road Easement Area and the  
34 Owner of the portion of the Avaya Southeast Property on which the building is to be constructed  
35 pursuant to such building permit (the "New Developer") shall reimburse to HD its "Pro Rata Share"  
36 of such cost within thirty (30) days following receipt of an invoice therefor. The New Developer's  
37 "Pro Rata Share" shall be determined by multiplying the cost of maintenance, repair and replacement  
38 by the quotient of a fraction, the numerator of which is the total square footage of buildings on the  
39 Avaya Southeast Parcel which are completed or for which a building permit for construction has  
40 been issued, and the denominator of which is the total square footage of buildings on the HD Parcel  
41 and the Avaya Southeast Property which are completed or for which building permits for  
42 construction have been issued. The New Developer shall furnish HD, annually, with a certification  
43 of the amount of such building square footage on the Avaya Southeast Property, and such  
44 certification shall be used to calculate the New Developer's Pro Rata Share for purposes of this

1 Agreement. The liability of a New Developer to pay its Pro Rata Share shall be further adjusted to  
2 recognize that building square footage may exist on the Avaya Southeast Property for only a portion  
3 of the calendar year as to which the invoice for services applies. In lieu of the foregoing, the New  
4 Developer may elect by written notice to the other Owners to maintain, repair and replace the  
5 Common Areas located within its Parcel or Parcels at the New Developer's sole cost and expense.  
6 Irrespective of who maintains and repairs the Common Areas, such maintenance and repair shall be  
7 performed in accordance with the provisions of Article II, below.

8  
9 (d) HD shall use its reasonable good faith efforts to cause the traffic street lights located  
10 at the intersection of 132nd and "F" Streets and the intersection of 120th and "I" Streets to continue  
11 to be programmed to accommodate shift changes at the facility located on the Avaya Retained  
12 Property subject, however, to the requirements of governmental authorities having jurisdiction over  
13 the programming of such traffic lights.

14  
15 **Section 1.02. Utility Easements.**  
16

17 (a) The Owners of the Parcels hereby grant and convey, each to the other, for the benefit  
18 of the Shopping Center Development, the Avaya Retained Property and the Avaya Southeast  
19 Property, a non-exclusive, perpetual easement and right in, to, over, under and across those portions  
20 of the Shopping Center Development, the Avaya Retained Property and Avaya Southeast Property  
21 depicted on the Utility Plan prepared by Lamp Rynearson & Associates, Inc. (Plan No. \_\_\_\_\_),  
22 a copy of which is attached hereto and marked **Exhibit A-5**, for the purpose of installation,  
23 operation, maintenance, repair, replacement, removal and relocation of underground storm sewer  
24 lines, drains, sanitary sewer pipes, water and gas mains, electric power lines, telephone and  
25 communication lines, fiber optic lines and cable, and other underground utility lines ("Utility Lines"),  
26 and for storm water detention ponds, to serve the facilities located on the Shopping Center  
27 Development, the Avaya Retained Property and the Avaya Southeast Property. The installation of  
28 any storm water detention ponds and Utility Lines shall be subject, as to location, size and width, as  
29 applicable, to the approval of the granting Owner, which approval shall not be unreasonably withheld  
30 or delayed. HD shall, at its expense, redesign and relocate all utilities on the Avaya Retained  
31 Property and the Avaya Southeast Property that must be relocated in connection with the  
32 development of the HD Parcel, which design shall be subject to Avaya's approval.

33  
34 (b) Any additional Utility Lines (other than those shown on **Exhibit A-5**) to serve the  
35 Shopping Center Development, the Avaya Retained Property or the Avaya Southeast Property shall  
36 be installed, and any relocation of existing Utility Lines shall be made, subject to the prior written  
37 consent of all of the Owners using the Utility Lines to be added or relocated or whose Parcel is  
38 affected by the installation or relocation, which consent shall not be unreasonably withheld or  
39 delayed. The Owner performing the additional installation or relocation shall, at its cost and  
40 expense, immediately repair any damage to any improvements and shall indemnify and hold the  
41 burdened Owner, and any occupant of the burdened Owner's Parcel and any other Owner served by  
42 the Utility Lines harmless from any claims, damages or loss which may result from making such  
43 additional installation or relocation. Any party performing additional installation or relocation of

1 Utility Lines shall maintain, or cause its contractor to maintain, liability insurance naming the  
2 affected Owner or Owners as additional insureds.

3  
4 **Section 1.03.**

5  
6 (a) **Temporary Construction Easements.** (a) In connection with any construction work  
7 to be performed in the Shopping Center Development, the Avaya Retained Property or the Avaya  
8 Southeast Property including construction by HD of the Common Access Road, two guard shack  
9 and associated utilities to service same, relocation of traffic signals, controls and poles, storm water  
10 detention ponds, relocation of existing Avaya signs, and relocation of certain utility lines, all as  
11 described in the Amendment referenced in Section 10.01 below, Avaya hereby grants to the  
12 Owner(s) of the Shopping Center Development temporary easements for such construction and for  
13 access over and for incidental encroachments upon the portion of the Avaya Retained Property and  
14 Avaya Southeast Property upon which the Common Access Road is located, and to otherwise fully  
15 carry out and complete the construction required under the Amendment, which may occur as a result  
16 of construction, so long as such encroachments are kept within the reasonable requirements of  
17 construction work expeditiously pursued and so long as customary liability insurance is maintained  
18 protecting Avaya from the risks involved. Such insurance shall provide protection of not less than  
19 \$2,000,000 with respect to injuries to persons (including death) with respect to each claim and  
20 \$2,000,000 with respect to any one occurrence, and \$500,000 with respect to property damage,  
21 Avaya shall be named as an additional insured on the insurance policies and Avaya shall be provided  
22 with customary certificates of insurance evidencing that such insurance is in effect prior to the  
23 commencement of construction. Such insurance shall be written by financially responsible insurance  
24 companies licensed to do business in Nebraska; provided, however, that HD may elect to self-insure  
25 for the benefit of Avaya the risks that would be covered by a general liability insurance policy. If  
26 HD elects to self-insure, HD shall provide written notice thereof to Avaya prior to commencement of  
27 construction. While on the Avaya Retained Property or Avaya Southeast Property an Owner(s) shall  
28 comply with all laws and shall clean and clear those portions of the Avaya Retained Property or  
29 Avaya Southeast Property affected by this temporary grant. Following completion of any work  
30 within the areas of this temporary grant, the Owner(s) undertaking construction shall repair any  
31 damage to the Avaya Retained Property or Avaya Southeast Property which may occur as a result of  
32 any such construction activity and this easement shall terminate as to such area.

33  
34 (b) In connection with any construction work to be performed in the Shopping Center  
35 Development pursuant to Section 1.01(b) by an Owner of the Avaya Retained Property or the Avaya  
36 Southeast Property, HD hereby grants to such Owner temporary easements for such construction and  
37 for access over and for incidental encroachments upon the portion of the Shopping Center  
38 Development upon which the Common Access Road modifications are to be constructed, and to  
39 otherwise fully carry out and complete such construction, which may occur as a result of such  
40 construction, so long as such encroachments are kept within reasonable requirements of construction  
41 work expeditiously pursued and so long as customary liability insurance is maintained protecting the  
42 Owner or Owners of the Shopping Center Development from the risks involved. Such insurance  
43 shall provide protection of not less than \$2,000,000 with respect to injuries to persons (including  
44 death) with respect to each claim and \$2,000,000 with respect to any one occurrence, and \$500,000

1 with respect to property damage, the Owner or Owners of the Shopping Center Development shall be  
2 named as additional insureds on the insurance policies and shall be provided with customary  
3 certificates of insurance evidencing that such insurance is in effect prior to the commencement of  
4 construction. Such insurance shall be written by financially responsible insurance companies  
5 licensed to do business in Nebraska. While on the Shopping Center Development, an Owner shall  
6 comply with all laws and shall clean and clear those portions of the Shopping Center Development  
7 affected by this temporary grant. Following completion of any work within the areas of this  
8 temporary grant, the Owner(s) undertaking construction shall repair any damage to the Shopping  
9 Center Development which may occur as a result of such construction activity and this easement  
10 shall terminate as to such area for such construction. An owner shall use it's best commercially  
11 reasonable efforts to minimize any interference with the businesses being conducted on the Shopping  
12 Center Development while undertaking the construction activities described in Section 1.01(b)  
13 above, including, without limitation, with respect to customer, truck, vendor and pedestrian traffic,  
14 and access generally to the Shopping Center Development. An Owner shall comply with all laws,  
15 codes and ordinances pertaining to safety while undertaking any such construction.

16  
17 **Section 1.04. Signs.** HD and Avaya hereby grant and convey, each to the other, for the  
18 benefit of all of the Parcels comprising the Shopping Center Development, the Avaya Retained  
19 Property and the Avaya Southeast Property, a non-exclusive, perpetual easement and right to install  
20 and/or relocate entrance and other traffic control signs to direct traffic in and out of the Shopping  
21 Center Development, the Avaya Retained Property and the Avaya Southeast Property. The design,  
22 location and configuration of such signs shall be subject to the approval of HD and Avaya, not to be  
23 unreasonably withheld or delayed.

24  
25 **Section 1.05. No Build Easement.** No building, structure or other above ground  
26 improvement that would violate applicable building code requirements may be constructed on the ten  
27 (10) foot "No Build Easement" areas on the HD Parcels and the Avaya Retained Property, as  
28 depicted on the Utility Plan and described in attached **Exhibit A-6**. Any retaining wall constructed  
29 in a No Build Easement area on or adjacent to the Avaya Retained Property shall be designed and  
30 constructed to take into account and accommodate Avaya's sprinklered lawn, shall include adequate  
31 subdrains, and the land next to the retaining wall shall be graded so that water drains away from the  
32 wall.

33  
34 **Section 1.06. Restrictions.** During the term of this Agreement, the easements granted by  
35 this Article I shall be subject to the covenants and restrictions set forth in Article III.  
36

1                   **ARTICLE II - CONSTRUCTION, MAINTENANCE AND OPERATION**

2  
3                   **Section 2.01. Construction, Maintenance and Repair.**

4  
5                   (a)       The Common Areas shall be maintained, repaired and replaced so as to keep such  
6 areas at all times in a safe, sightly, good and functional condition to standards of comparable  
7 developments in the metropolitan Omaha, Nebraska market area and in compliance with all  
8 applicable governmental laws, rules, regulations, orders, and ordinances exercising jurisdiction  
9 thereover as well as with the provisions of this Agreement.

10  
11                  (b)       The Common Areas shall be kept clean and free from refuse and rubbish. Any  
12 landscaped areas on any portion of the Common Areas shall be mowed and otherwise tended to so as  
13 to be kept in a neat and orderly condition.

14  
15                  (c)       The Owner maintaining the Common Access Road, or any part thereof, shall repave,  
16 reseal, re-stripe and replace markings on, and sweep and remove snow and ice from, the surface of  
17 the Common Access Road as and when necessary so as to provide for the safe passage of vehicles  
18 and pedestrians. Any striping and other markings shall be consistent with the Site Plan and the  
19 paving and striping materials shall be consistent with that used in the Shopping Center Development.

20  
21                   **Section 2.02. Operation and Lighting.**

22  
23                  (a)       Each Owner of a Parcel shall keep the Common Access Road located on its respective  
24 Parcel open to the customers of the Shopping Center Development and to the users of the Avaya  
25 Southeast Property and the Avaya Retained Property seven (7) days a week at all times and, with  
26 respect to the Common Access Road, HD shall, at its option, keep the Common Access Road lighted  
27 after dusk until at least 11:00 p.m. on Monday through Saturday and from dusk until at least 9:00  
28 p.m. on Sunday ("Normal Lighting Hours"), provided, however, any internal access roadway lights  
29 on the Shopping Center Development shall be kept on from dusk until dawn. HD shall pay the cost  
30 of the utility service to light the Common Access Road until such time as a building permit is issued  
31 to a New Developer, at which time the cost to illuminate the Common Access Road shall be shared  
32 by HD and the New Developer with the New Developer being liable for its Pro Rata Share as defined  
33 in Section 1.01(d). The New Developer's Pro Rata Share of such costs shall be included in the  
34 invoice described in Section 1.01(d), above. At such time as a New Developer obtains a building  
35 permit for a building to be constructed on the Avaya Southeast Property, such New Developer shall  
36 have the right to access the controls for lighting of the Common Access Road and to require the  
37 lighting of the Common Access Road beyond the Normal Lighting Hours, all at such New  
38 Developer's sole cost and expense. If HD elects not to keep the Common Access Road lighted  
39 during Normal Lighting Hours, a New Developer shall have the right to access the controls for  
40 lighting of the Common Access Road and to cause the Common Access Road to be lighted during  
41 Normal Lighting Hours (or part thereof), and in such event, the New Developer shall be responsible  
42 for its Pro Rata Share (as defined in Section 1.01(d)) of the costs of such lighting and HD shall be  
43 responsible for the balance of such costs.



1 (b) Notwithstanding anything contained in this Agreement to the contrary, no Owner  
2 shall be required to construct a building or to operate or to open a business on its Parcel or to remain  
3 open for business at any time during the term of this Agreement.  
4

### 5 ARTICLE III - COVENANTS AND RESTRICTIONS

6

7 **Section 3.01. Restrictions on the HD Parcels, the Avaya Retained Property and the**  
8 **Avaya Southeast Property.** The HD Parcels and the Avaya Southeast Property shall be subject to  
9 the following restrictions which shall be binding on each Owner and each of its tenants, occupants,  
10 employees, agents or invitees:  
11

12 (a) No obstruction to the free flow of traffic and delivery facilities shall be permitted,  
13 except to the extent, if any, indicated on the Site Plan (such as, for example, by any traffic signal  
14 shown on the Site Plan), and except as may be necessary temporarily in connection with  
15 construction, maintenance or repairs.  
16

17 (b) No building or other structure of any kind (except pylons, lighting standards,  
18 convenience facilities such as mailboxes, public telephones, benches or public transportation  
19 shelters, landscaping, berms or planters or limited curbing or other forms of traffic controls which an  
20 Owner may place on its Parcel to the extent permitted in subsection (a) and in areas where the same  
21 are not prohibited as depicted on the Site Plan) shall be permitted in the Common Access Road  
22 Easement Area.  
23

24 (c) Except as provided for in this Agreement, no Owner shall grant any easement over,  
25 under or upon the Common Access Road for the benefit of any property not within the Shopping  
26 Center Development, the Avaya Retained Property or the Avaya Southeast Property; provided  
27 however, that the foregoing shall not prohibit the granting or dedicating of utility easements by an  
28 Owner on its Parcel to governmental or quasi-governmental authorities or to public utilities.  
29

30 **Section 3.02. Use Restrictions.** The Avaya Southeast Property and the Shopping Center  
31 Development shall be subject to the following use restrictions which shall be binding on each Owner  
32 of all or any portion of such Parcels and each of its tenants, occupants, employees, agents or invitees:  
33

34 (a) No portion of the Shopping Center Development nor any portion of the Avaya  
35 Southeast Property shall be used for a business or use which creates strong, unusual and offensive  
36 odors, fumes, dust or vapors; is illegal or unlawful; or is a public or private nuisance.  
37

38 (b) No Owner shall operate, lease, rent or permit its Parcel or any portion thereof, to be  
39 used or occupied as an adult entertainment club or an adult book store or a store selling or exhibiting  
40 pornographic materials. As used herein, "an adult book store or store selling or exhibiting  
41 pornographic materials" shall include, without limitation, a store displaying for sale or exhibition  
42 books, magazines or other publications containing any combination of photographs, drawings or  
43 sketches of a sexual nature, which are not primarily scientific or educational, or a store offering for  
44 exhibition, sale or rental video cassettes or other medium capable of projecting, transmitting or

1 reproducing independently or in conjunction with another device, machine or equipment, an image or  
2 series of images, the content of which has been or would be rated "X" or "NC-17" by the Motion  
3 Picture Rating Association, or any successor thereto.

4  
5 (c) As long as HD, or any affiliate of HD, is the user of Lot 3 shown on **Exhibit A**, either  
6 as an Owner or lessee, no portion of the Avaya Southeast Parcel shall be used for the operation of a  
7 home improvement center similar to Lowe's or Menard's and containing more than 80,000 square  
8 feet of leasable floor area. As long as Wal-Mart, or any affiliate of Wal-Mart, is the user of Lot 1 or  
9 Lot 2 shown on **Exhibit A**, either as an Owner or lessee, no portion of the Avaya Southeast Property  
10 shall be used for the operation of a wholesale membership club similar to those operated by Sam's  
11 Club or Costco and containing more than 50,000 square feet of leasable floor area.

#### 12 **ARTICLE IV - LIABILITY AND INDEMNIFICATION**

13  
14  
15 **Section 4.01. Liability: Indemnification.** Each Owner ("Indemnitor") covenants and  
16 agrees to indemnify, defend, protect, and hold harmless the other Owner ("Indemnitee") from and  
17 against all claims, costs, expenses and liability (including reasonable attorney's fees and costs of suit  
18 incurred in connection with all claims) including any action or proceedings brought thereon, arising  
19 from or as a result of the injury to or death of any person, or damage to the property of any person,  
20 which shall occur on the Parcel owned by each Indemnitor, except for claims caused by the  
21 negligence or willful act or omission of such Indemnitee, its licensees, concessionaires, agents,  
22 servants, or employees, or the agents, servants, or employees of any licensee or concessionaire  
23 thereof.

24  
25 **Section 4.02. Liens.** In the event any construction lien is filed against the Parcel of one  
26 Owner as a result of services performed or materials furnished for the use of another Owner, the  
27 Owner permitting or causing such lien to be so filed agrees to cause such lien to be discharged prior  
28 to entry of final judgment (after all appeals) for the foreclosure of such lien and further agrees to  
29 indemnify, defend, and hold harmless the other Owners and their Parcels against liability, loss,  
30 damage, costs or expenses (including reasonable attorneys' fees and costs of suit) on account of such  
31 claim of lien. Upon request of the Owner whose Parcel is subject to such lien, the Owner permitting  
32 or causing such lien to be filed agrees to promptly cause such lien to be released and discharged of  
33 record, either by paying the indebtedness which gave rise to such lien or by posting bond or other  
34 security as shall be required by law to obtain such release and discharge. Nothing herein shall  
35 prevent an Owner permitting or causing such lien from contesting the validity thereof in any manner  
36 such Owner chooses so long as such contest is pursued with reasonable diligence. In the event such  
37 contest is determined adversely (allowing for appeal to the highest appellate court), Owner shall  
38 promptly pay in full the required amount, together with any interest, penalties, costs, or other charges  
39 necessary to release such lien.

1 **ARTICLE V - CASUALTY AND EMINENT DOMAIN**

2  
3 **Section 5.01. Casualty.** In the event any Common Area improvements are damaged or  
4 destroyed, unless precluded by law the Owner of the Parcel to which such damage has occurred, or in  
5 the case of the Common Access Road, the Owner responsible for repair, restoration or rebuilding of  
6 the damaged portion of the Common Access Road (as provided in Section 1.01), shall promptly  
7 cause the repair, restoration or rebuilding of the Common Area improvements to the extent necessary  
8 to restore the Common Area to its previously improved condition and to the extent necessary to  
9 avoid interference with the remaining Common Areas of the Shopping Center Development, the  
10 Avaya Retained Property and the Avaya Southeast Property.  
11

12 **Section 5.02. Eminent Domain.** In the event the whole or any part of the Common Areas  
13 shall be taken by right of eminent domain or any similar authority of law (a "Taking"), the entire  
14 award for the value of the land and improvements so taken shall belong to the Owner of the property  
15 so taken or to such Owner's mortgagees or tenants, as their interest may appear, and no other Owner  
16 shall have a right to claim any portion of such award by virtue of any interest created by this  
17 Agreement. Any Owner of a Parcel which is not the subject of a taking may, however, file a  
18 collateral claim with the condemning authority over and above the value of the land being so taken to  
19 the extent of any damage suffered by such Owner resulting from the severance of the land or  
20 improvements so taken if such claim shall not operate to reduce the award allocable to the Parcel  
21 taken. In the event of a partial Taking, the Owner of the portion of the roadways so taken shall  
22 restore the improvements located on the Owner's Parcel as nearly as possible to the condition  
23 existing prior to the Taking without contribution from any other Owner and any portion of any  
24 condemnation award necessary therefor shall be held in trust and applied for such purpose.  
25

26 **ARTICLE VI - REMEDIES**

27  
28 **Section 6.01. Self Help; Lien Rights; Disputes.**  
29

30 (a) If any Owner shall default in the performance of an obligation of such Owner (such  
31 Owner being herein called a "Defaulting Owner"), any other Owner (the "Nondefaulting Owner"), in  
32 addition to all other remedies it may have at law or in equity, after twenty (20) days' prior written  
33 notice to the Defaulting Owner and any First Mortgagee or SL Lessor (as herein defined) (provided  
34 that such First Mortgagee or SL Lessor has given written notice to all Owners of its right to be  
35 notified and the address for notification) (or in the event of an emergency, after such notice as is  
36 practical under the circumstances), shall have the right of "self help" to perform such obligation on  
37 behalf of the Defaulting Owner. In such event, the Defaulting Owner shall promptly reimburse the  
38 Nondefaulting Owner the cost thereof, together with interest thereon from the date of outlay at a rate  
39 equal to the lesser of (i) two percent (2%) in excess of the prime rate published in the Money Rates  
40 Section of The Wall Street Journal (or a comparable rate to be specified by the Nondefaulting Owner  
41 if such publication ceases) or (ii) the highest rate permitted by applicable law (the "Interest Rate").  
42

43 (b) Any such claim for reimbursement, together with interest thereon as aforesaid, shall  
44 be secured by a lien on the Parcel and improvements thereon owned by the Defaulting Owner, which

1 lien shall be effective upon the recording of a notice thereof in the Office of the Register of Deeds of  
2 Douglas County, Nebraska. The lien shall be subordinate to any first mortgage or deed of trust now  
3 or hereafter affecting the subject Parcel (a "First Mortgage;" the mortgagee or beneficiary under a  
4 first deed of trust being referred to herein as a "First Mortgage") and to the interest of any party  
5 ("SL Lessor") who has purchased the Parcel and leased it back to the preceding Owner, or its  
6 subsidiary or affiliate, on a net lease basis with the lessee assuming all obligations hereunder in what  
7 is commonly referred to as a "sale leaseback" transaction (a "SL Lease"); and any purchaser at any  
8 foreclosure or trustee's sale (as well as any grantee by deed in lieu of foreclosure or trustee's sale)  
9 under any such First Mortgage or assignee of such SL Lease shall take title subject only to liens  
10 thereafter accruing pursuant to this Section 6.01. Nothing in this paragraph is intended to  
11 subordinate or effect the priority of any lien on or interest in a Parcel existing at the time a lien is  
12 recorded pursuant to this Section 6.01.

13  
14 **Section 6.02. Injunctive and Other Remedies.** In the event of a breach by any Owner of  
15 any obligation of this Agreement, any of the other Owners shall be entitled to obtain an order  
16 specifically enforcing the performance of such obligation or an injunction prohibiting any such  
17 breach, the Owners hereby acknowledge the inadequacy of legal remedies and the irreparable harm  
18 which would be caused by any such breach; and/or to relief by other available legal and equitable  
19 remedies from the consequences of such breach.

20  
21 **Section 6.03. Nonwaiver.** No delay or omission of any Owner in the exercise of any right  
22 accruing upon any default of any other Owner shall impair such right or be construed to be a waiver  
23 thereof, and every such right may be exercised at any time during the continuance of such default. A  
24 waiver by any Owner of a breach of, or a default in, any of the terms and conditions of this  
25 Agreement by any other Owner shall not be construed to be a waiver of any subsequent breach of or  
26 default in the same or any other provision of this Agreement. Except as otherwise specifically  
27 provided in this Agreement, (a) no remedy provided in this Agreement shall be exclusive but each  
28 shall be cumulative with all other remedies provided in this Agreement and (b) all remedies at law or  
29 in equity shall be available.

30  
31 **Section 6.04. Non-terminable Agreement.** No breach of the provisions of this Agreement  
32 shall entitle any Owner or party to cancel, rescind or otherwise terminate this Agreement, but such  
33 limitation shall not affect, in any manner, any other rights or remedies which any party may have  
34 hereunder by reason of any breach of the provisions of this Agreement. No breach of the provisions  
35 of this Agreement shall defeat or render invalid the lien of any mortgage or deed of trust made in  
36 good faith for value covering any part of the Shopping Center Development, and any improvements  
37 thereon.

38  
39 **Section 6.05. Force Majeure.** In the event any Owner or any other party shall be delayed or  
40 hindered in or prevented from the performance of any act required to be performed by such party by  
41 reason of Acts of God, strikes, lockouts, unavailability of materials, failure of power, prohibitive  
42 governmental laws or regulations, riots, insurrections, acts of terrorism, the act or failure to act of the  
43 other party, adverse weather conditions preventing the performance of work as certified to by an  
44 architect, war or other reason beyond such party's reasonable control, then the time for performance

1 of such act shall be extended for a period equivalent to the period of such delay. Lack of adequate  
2 funds or financial inability to perform shall not be deemed to be a cause beyond the reasonable  
3 control of such party.  
4

## 5 ARTICLE VII - TERM

6  
7 This Agreement and the easements, rights, obligations and liabilities created hereby shall be  
8 perpetual to the extent permitted by law. Upon termination of this Agreement, all rights and  
9 privileges derived from and all duties and obligations created and imposed by the provisions of this  
10 Agreement, except as it relates to the easements mentioned in Article I above, shall terminate and  
11 have no further force or effect; provided, however, that the termination of this Agreement shall not  
12 limit or affect any remedy at law or in equity that an Owner may have against any other Owner with  
13 respect to any liability or obligation arising or to be performed under this Agreement prior to the date  
14 of such termination.  
15

## 16 ARTICLE VIII - EFFECT OF INSTRUMENT

17  
18 **Section 8.01. Mortgage Subordination.** Any mortgage or deed of trust affecting any  
19 portion of the Shopping Center Development, the Avaya Retained Property or the Avaya Southeast  
20 Property shall at all times be subject and subordinate to the terms of this Agreement, except to the  
21 extent expressly otherwise provided herein, and any party foreclosing any such mortgage or deed of  
22 trust, or acquiring title by deed in lieu of foreclosure or trustee's sale shall acquire title subject to all  
23 of the terms and provisions of this Agreement, subject to Section 6.01 hereof. Each party hereto  
24 represents and warrants to the other parties that there is no presently existing mortgage or deed of  
25 trust lien on its Parcel other than mortgage or deed of trust liens that are expressly subordinate to the  
26 lien of this Agreement.  
27

28 **Section 8.02. Binding Effect.** Every agreement, covenant, promise, undertaking, condition,  
29 easement, right, privilege, option and restriction made, granted or assumed, as the case may be, by  
30 any party to this Agreement is made by such party not only personally for the benefit of the other  
31 parties hereto but also as Owner of a portion of the Shopping Center Development, the Avaya  
32 Retained Property or the Avaya Southeast Property and shall run with the land and constitute an  
33 equitable servitude on the portion of the Shopping Center Development, the Avaya Retained  
34 Property or the Avaya Southeast Property owned by such party appurtenant to and for the benefit of  
35 the other Parcels comprising the Shopping Center Development, the Avaya Retained Property and  
36 the Avaya Southeast Property. Any transferee of any part of the Shopping Center Development or of  
37 any part of the Avaya Retained Property or Avaya Southeast Property shall automatically be deemed,  
38 by acceptance of the title to any portion of the Shopping Center Development, the Avaya Retained  
39 Property or the Avaya Southeast Property, to have assumed all obligations of this Agreement relating  
40 thereto and to have agreed with the then Owner or Owners of all or any other portion of the Shopping  
41 Center Development or of all or any other portion of the Avaya Retained Property or the Avaya  
42 Southeast Property to execute any and all instruments and to do any and all things reasonably  
43 required to carry out the intention of this Agreement and the transferor shall upon the completion of  
44 such transfer and upon the giving of written notice of such transfer to the other Owners be relieved of

1 all further liability under this Agreement except liability with respect to matters that may have arisen  
2 during its period of ownership of the portion of the Shopping Center Development, the Avaya  
3 Retained Property or the Avaya Southeast Property so conveyed that remain unsatisfied. The written  
4 notice of transfer shall include at least the name and address of the transferee and a copy of the legal  
5 description of the portion of the Shopping Center Development, the Avaya Retained Property or the  
6 Avaya Southeast Property transferred.

7  
8 **Section 8.03. Non-Dedication.** Nothing contained in this Agreement shall be deemed to be  
9 a gift or dedication of any portion of the Shopping Center Development, the Avaya Retained  
10 Property or the Avaya Southeast Property to the general public or for any public use or purpose  
11 whatsoever, it being the intention of the parties hereto and their successors and assigns that nothing  
12 in this Agreement, expressed or implied, shall confer upon any person, other than the parties hereto  
13 and their successors and assigns, any rights or remedies under or by reason of this Agreement. Each  
14 Owner further reserves the right to close off its portion of the Common Areas located on its Parcel  
15 for such reasonable period of time as may be legally necessary, in the opinion of such party's counsel,  
16 to prevent the acquisition of prescriptive rights by anyone; provided however, that prior to closing  
17 off any portion of the Common Areas, as herein provided, such Owner shall give written notice to  
18 each other Owner of its intention to do so, and shall attempt to coordinate such closing with each  
19 other Owner so that no unreasonable interference in the passage of pedestrians or vehicles shall  
20 occur.

21  
22 **Section 8.04. Responsibility.** Notwithstanding anything to the contrary contained in this  
23 instrument, each party to this Agreement shall be liable and responsible for the obligations,  
24 covenants, agreements, and responsibilities created by this Agreement and for any judgment rendered  
25 hereon only to the extent of its respective interest in its Parcel and the improvements thereon.

## 26 **ARTICLE IX - NOTICES**

27  
28  
29 All notices, requests, demands or other communications hereunder shall be in writing and  
30 deemed given (a) when delivered personally or (b) on the day said communication is deposited in the  
31 U. S. mail, by registered or certified mail, return receipt requested, postage prepaid, or (c) on the day  
32 said communication is deposited with a nationally recognized overnight courier service, addressed as  
33 follows:  
34

1 If to Avaya: Avaya, Inc.  
2 Vice President-Corporate and Securities  
3 211 Mount Airy Road  
4 Basking Ridge, New Jersey 07920  
5

6 with a copy to: Avaya, Inc.  
7 Director of Global Real Estate  
8 211 Mount Airy Road  
9 Basking Ridge, New Jersey 07920  
10

11 If to HD: Home Depot U.S.A., Inc.  
12 2455 Paces Ferry Road Northwest  
13 Building C, 20th Floor  
14 Atlanta, Georgia 30339-4024  
15 Home Depot Store No. \_\_\_\_\_  
16 Attention: Vice President-Real Estate Law Group  
17

18 With a copy to: Home Depot U.S.A., Inc.  
19 1400 West Dundee Road  
20 Arlington Heights, Illinois 60004  
21 Home Depot Store No. \_\_\_\_\_  
22 Attention: Corporate Counsel - Real Estate  
23

24 Upon at least ten (10) days written notice to the other Owners, any Owner may change its  
25 address to any other address within the continental United States.  
26

## 27 ARTICLE X - MISCELLANEOUS

### 28 Section 10.01. Miscellaneous.

29  
30  
31 (a) If any provision of this Agreement, or portion thereof, or the application thereof to  
32 any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the  
33 remainder of this Agreement, or the application of such provision or portion thereof to any other  
34 persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid  
35 provision affects the consideration for this Agreement; and each provision of this Agreement shall  
36 be valid and enforceable to the fullest extent permitted by law.  
37

38 (b) This Agreement shall be construed in accordance with the laws of the State of  
39 Nebraska.  
40

41 (c) The Article headings in this Agreement are for convenience only, shall in no way  
42 define or limit the scope or content of this Agreement, and shall not be considered in any  
43 construction or interpretation of this Agreement or any part hereof. The Preliminary Statement and

1 all Exhibits attached hereto are by this reference incorporated into and hereby made a part of this  
2 Agreement.

3  
4 (d) Nothing in this Agreement shall be construed to make the parties hereto partners or  
5 joint venturers or render either of said Parties liable for the debts or obligations of the other.

6  
7 (e) This Agreement shall be binding upon and inure to the benefit of the successors and  
8 assigns of the Parties hereto.

9  
10 (f) This Agreement may be amended, modified, or terminated at any time by a  
11 declaration in writing, executed and acknowledged by HD and Avaya and this Agreement shall not  
12 be otherwise amended, modified or terminated during the term hereof.

13  
14 (g) Except for the Amendment to Purchase Agreement dated \_\_\_\_\_, 2003  
15 ("Amendment"), which imposes certain obligations of construction upon HD for the benefit of  
16 Avaya, and the plans and specifications for construction pursuant to the Amendment, a copy of  
17 which are in the possession of Avaya and HD, this Agreement sets forth all of the covenants,  
18 promises, agreements, conditions and understandings among the Parties hereto concerning the  
19 Shopping Center Development, the Avaya Retained Property and the Avaya Southeast Property, and  
20 there are no covenants, promises, agreements, conditions or understandings, either oral or written,  
21 among them other than those that are herein set forth. Upon completion of such construction by HD  
22 in accordance with the Amendment, HD and Avaya shall execute and record an amendment to this  
23 Agreement confirming that the construction obligations under the Amendment have been satisfied.

24  
25 (h) Any Owner may, at any time and from time to time, in connection with the sale or  
26 transfer of the Owner's Parcel, or in connection with the financing or refinancing of the Owner's  
27 Parcel by mortgage, deed of trust or sale-leaseback made in good faith and for value, deliver written  
28 notice to the other Owners requesting such Owners to certify in writing that to the best of the  
29 knowledge of the certifying Owner, (i) this Agreement is in full force and effect and a binding  
30 obligation of the Owners, (ii) this Agreement has not been amended or modified, either orally or in  
31 writing, and if so amended, identifying the amendments, and (iii) the requesting Owner is not in  
32 default in the performance of its obligations under this Agreement, or, if in default, to describe  
33 therein the nature and amount of any and all defaults. Each Owner receiving such request shall  
34 execute and return such certificate within fifteen (15) days following the receipt thereof. Failure by  
35 an Owner to execute and return such certificate within the specified period shall be deemed an  
36 admission on such Owner's part that the Owner requesting the certificate is current and not in default  
37 in the performance of such Owner's obligations under this Agreement.

38  
39 (i) Time is of the essence under this Agreement.

40  
41 [Signatures appear on next page]  
42



1 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as  
2 of the day and year first above written.

3  
4 In the presence of:

HOME DEPOT U.S.A., INC., a Delaware corporation

5  
6 Evelyn Clayton  
7 Print Name: **EVELYN CLAYTON**

By: Jeff Israel  
Print Name: **Jeff Israel**  
**Senior Corporate Counsel - Real Estate**

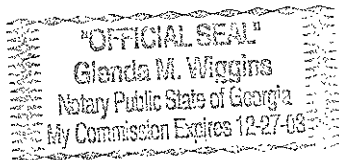
8  
9 Miri Monroe  
10 Print Name: **MIRI MONROE**

Its: \_\_\_\_\_

APR 17 2003

11 STATE OF GEORGIA )  
12 )  
13 )ss.  
14 )  
15 COUNTY OF COBB )

16  
17 The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of April,  
18 2003, by Jeff Israel, Senior Counsel, of HOME DEPOT U.S.A., INC., a Delaware corporation, on  
19 behalf of the corporation.




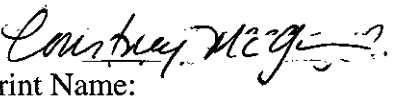
20  
21 Glenda M. Wiggins  
22 **GLENDAM. WIGGINS** Notary Public  
23 County of Cobb, State of Georgia  
24 My Commission Expires: 12-27-08  
25  
26  
27  
28

[Signatures continue on page 17]

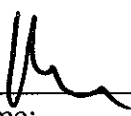
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29

In the presence of:

  
Print Name: William Kanas, Jr.

  
Print Name: Courtney McGee

AVAYA INC., a Delaware corporation

By:  · 18 APR 2003  
Print Name: \_\_\_\_\_

Its: M. Foster Werner, Jr.  
Director of Global Real Estate

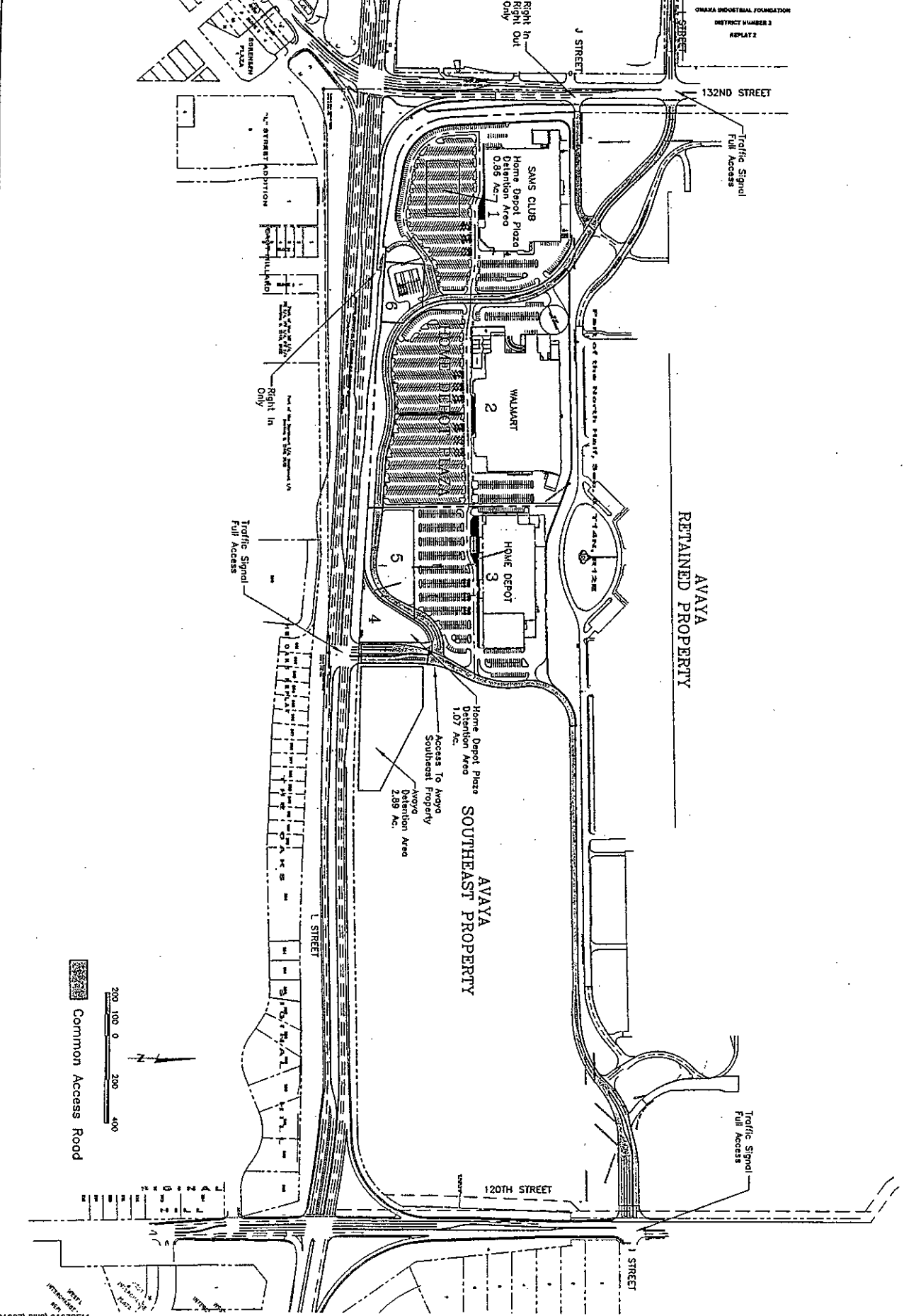
STATE OF NEW JERSEY )  
  )ss.  
COUNTY OF Somerset)

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of April, 2003, by M. Foster Werner, Jr., Director of Global Real Estate of AVAYA INC., a Delaware corporation, on behalf of the corporation.

Drafted outside the State of Nebraska by,  
and when recorded return to:  
  
Dawda, Mann, Mulcahy & Sadler, PLC  
39533 Woodward Avenue  
Suite 200  
Bloomfield Hills, Michigan 48304  
Edward C. Dawda



Michele Costa  
Notary Public of New Jersey  
ID #2182853  
My Commission Expires October 13, 2005



 <p><b>lamp, rynearson &amp; associates, inc.</b>          engineers      surveyors      planners</p>	<p>14710 west dodge road, suite 100          omaha, nebraska 68154-2029</p>	<p>ph 402-498-2498          fax 402-498-2730</p>	<p>job number-tasks          01087.00-007          date          03/28/03          drawn by          PWB          designer          JEC</p>	<p>EXHIBIT A</p>
	<p>01087\DWG\0187REA1</p>			

EXHIBIT A-1  
LEGAL DESCRIPTION

That part of the North Half of Section 6, Township 14 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, to be platted as HOME DEPOT PLAZA, said plat to include Lots 1 through 6 inclusive and Nebraska Highway 92 Right of Way, the entire plat described as follows: Commencing at the southwest corner of the Northwest Quarter of said Section 6; Thence North 00°07'28" West for 1169.29 feet along the west line of said Northwest Quarter; Thence North 89°52'32" East for 99.93 feet to the east right of way line of 132nd Street and the TRUE POINT OF BEGINNING; Thence North 89°18'35" East for 415.05 feet; Thence along a curve to the left (having a radius of 137.50 feet and a long chord bearing North 60°46'18" East for 131.38 feet) for an arc length of 136.97 feet; Thence North 32°14'00" East for 1.56 feet; Thence South 57°46'00" East for 216.31 feet; Thence North 89°03'49" East for 859.18 feet; Thence along a curve to the right (having a radius of 200.00 feet and a long chord bearing South 80°30'46" East for 72.37 feet) for an arc length of 72.77 feet; Thence South 70°05'21" East for 266.17 feet; Thence along a curve to the left (having a radius of 200.00 feet and a long chord bearing South 80°30'46" East for 72.37 feet) for an arc length of 72.77 feet; Thence North 89°03'49" East for 543.12 feet; Thence along a curve to the left (having a radius of 100.00 feet and a long chord bearing North 62°09'18" East for 90.51 feet) for an arc length of 93.93 feet; Thence along a curve to the right (having a radius of 212.00 feet and a long chord bearing North 62°14'56" East for 192.51 feet) for an arc length of 199.82 feet; Thence South 00°44'55" East for 30.00 feet; Thence along a curve to the left (having a radius of 182.00 feet and a long chord bearing South 39°48'18" West for 276.57 feet) for an arc length of 314.13 feet; Thence along a curve to the right (having a radius of 418.00 feet and a long chord bearing South 09°47'48" West for 278.21 feet) for an arc length of 283.62 feet; Thence along a curve to the left (having a radius of 435.00 feet and a long chord bearing South 14°33'18" West for 220.47 feet) for an arc length of 222.90 feet; Thence South 00°07'28" East for 262.69 feet to the north right of way line of Nebraska State Highway 92 and US Highway 275 also known as " L" Street; Thence North 86°47'38" West for 1931.40 feet along said north right of way line to an angle point therein; Thence North 80°26'38" West for 296.70 feet along said north right of way line; Thence along a curve to the right (having a radius of 270.00 feet and a long chord bearing North 42°09'51" West for 348.30 feet) for an arc length of 378.55 feet to the east right of way line of 132nd Street; Thence North 03°02'28" West for 473.20 feet to an angle point therein; Thence North 00°09'33" West for 109.29 feet to the POINT OF BEGINNING.

Contains 49.971 acres (Survey Closure 1: In Infinite)

Basis of bearings: The west line of said Section 6 is assumed to bear North 00°07'28" West.

1 EXHIBIT A-2

2 Avaya Retained Property Legal Description

3  
4  
5  
6 The Northwest (NW 1/4) Quarter of Section Six (6), Township Fourteen (14), North Range Twelve  
7 (12), East of the Sixth Principal Meridian; AND  
8 The Northeast (NE 1/4) Quarter of Section Six (6), Township Fourteen (14), North Range Twelve  
9 (12), East of the Sixth Principal Meridian; AND  
10 the South Thirty-four and 80/100 (S. 34.80) acres of the Southwest Quarter (SW 1/4) of Section  
11 Thirty-one (31), Township Fifteen (15) North, Range Twelve (12) East of the 6th P.M., being that  
12 part of said Southwest Quarter (SW 1/4) of Section Thirty-one (31) lying South of the Union Pacific  
13 Railroad, EXCEPT

14  
15 A tract of land located in the North Half of Section 6, Township 14 North, Range 12 East of the 6th  
16 P.M., Douglas County, Nebraska, described as follows: Referring to the West quarter corner of said  
17 Section 6; thence Northerly on the West line of the North Half of said Section 6 a distance of 1,060.0  
18 feet; thence Easterly 90 degrees right a distance of 100.0 feet; thence Southerly 87 degrees 05  
19 minutes right a distance of 473.2 feet; thence Southeasterly on a 270.0 foot radius curve to the left  
20 (initial tangent of which forms an angle of 0 degrees 25 minutes left with the last described course  
21 produced) a distance of 375.8 feet; thence Easterly on a line forming an angle of 1 degree 46 minutes  
22 right with the final tangent of the last described curve produced a distance of 296.7 feet; thence  
23 continuing Easterly 6 degrees 21 minutes left a distance of 1,955.6 feet to a point of curvature;  
24 thence continuing Easterly on a 11,359.16 foot radius curve to the left (initial tangent of which  
25 coincides with the last described course produced) a distance of 816.1 feet to a point of tangency,  
26 said point being 100.0 feet Northerly from the South line of said North Half; thence continuing  
27 Easterly, tangent, and on a line 100.0 feet Northerly from and parallel to said South line a distance  
28 of 1,334.9 feet to a point of curvature; thence Northeasterly on a 350.83 foot radius curve to the left  
29 (initial tangent of which forms an angle of 1 degree 31 minutes left with the last described course  
30 produced) a distance of 389.5 feet to a point 100.0 feet Westerly from the East line of said North  
31 half; thence Northerly on a line 100.0 feet Westerly from and parallel to said East line, said line  
32 forming an angle of 23 degrees 53 minutes left with the final tangent, of the last described curve  
33 produced a distance of 127.2 feet; thence continuing Northerly 2 degrees 16 minutes right a distance  
34 of 632.3 feet; thence Easterly 87 degrees 44 minutes right a distance of 75.0 feet to a point on the  
35 said East line; thence Southerly on said East line a distance of 1,060.5 feet to the Southeast corner  
36 of said North Half; thence Westerly on said South line a distance of 5,167.8 feet, more or less, to the  
37 point of beginning and EXCEPT

38  
39 Continued on next page

1

2 continued

3 A tract of land in the South 34.8 acres of the SW 1/4 of Section 31, T 15 N. R. 12 E. of the 6th P.M.,  
4 in Douglas County, Nebraska, being more particularly described as follows: Commencing at the  
5 Southwest corner of Section 31; thence East along the South line of said Section, 33 feet to the point  
6 of beginning; thence continuing East 67 feet; thence North 570.07 feet parallel to the West line of  
7 Section 31 to the South R.O.W. line of the U.P. Railroad; thence West along said line 67 feet; thence  
8 South 570.07 feet to the point of beginning, and a tract of land in Section 6, T. 14 N., R. 12 E. of the  
9 6th P.M., in Douglas County, Nebraska, being more particularly described as follows: Commencing  
10 at the Northwest corner of Section 6; thence East 33 feet along the North line of said Section to the  
11 point of beginning; thence continuing East along said North line for 67 feet; thence South 1587.7  
12 feet parallel to the West line of said Section 6; thence West 67 feet; thence North 1587.7 feet parallel  
13 to the West line of Section 6 to the point of beginning and EXCEPT

14 Part of the Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4) of Section Thirty-one (31),  
15 Township Fifteen (15) North, lying South of the Union Pacific Railroad right of way and part of the  
16 Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section Six (6), Township Fourteen  
17 (14) North, both in Range Twelve (12), East of the 6th P.M., Douglas County, Nebraska, which are  
18 delineated upon a plat, which are more particularly described as follows: Beginning at a point on the  
19 North line of the Northeast Quarter (NE 1/4) of said Section Six (6); said point being Thirty-three  
20 (33) feet West of the Northeast corner of said Section Six (6); thence South 00°00'00" West  
21 (assumed bearing) on a line Thirty-three (33) feet West of and parallel to the East line of the  
22 Northeast Quarter (NE 1/4) of said Section Six (6), a distance of Two Hundred Twenty-Five and  
23 Nine Hundredths (225.06) feet; thence North 53°40'00" West a distance of Two Hundred  
24 Twenty-Five and Fifty-Three Hundredths (225.53) feet; thence North 35°10'00" West a distance of  
25 Seven Hundred Sixty-Two and Nine Hundredths (762.09) feet; thence North 89°46'34" East on the  
26 Southerly right of way line of the Union Pacific Railroad Company a distance of Six Hundred  
27 Nineteen and Fifty-Four Hundredths (619.54) feet; thence South 00°06'56" East on a line  
28 Thirty-Three (33.0) feet West of and parallel to the East line of the Southeast Quarter (SE 1/4) of  
29 said Section Thirty-One (31) a distance of Five Hundred Thirty-Four and Eleven Hundredths  
30 (534.71) feet to the point of beginning, and EXCEPT

31

32 Continued on next page

1

2 continued

3 A 17 foot wide strip of land for street widening purposes, lying in the Northeast Quarter (NE 1/4)  
 4 of Section 6, Township 14 North, (T14N), Range 12 East (R12E) of the 6th P.M., Douglas County,  
 5 Nebraska, described as follows: Beginning at a point 1060.50 feet North and 33.00 feet West of the  
 6 Southeast corner of the Northeast Quarter (NE 1/4) of Section 6, T14N, R12E of the 6th P.M.,  
 7 Douglas County, Nebraska, said point being the True Point of Beginning; thence continuing West  
 8 for 17.00 feet; thence North on a line 50.00 feet West of and parallel to the East line of said NE 1/4  
 9 of Section 6 for 1300.54 feet; thence turning a deflection angle of 126°20' to the right and running  
 10 Southeast of 21.10 feet; thence turning a deflection angle of 53°40' to the right running South on a  
 11 line 33.00 feet West of and parallel to the East line of said NE 1/4 of Section 6 for 1288.04 feet to  
 12 the True Point of Beginning, and EXCEPT

13 That part of the Northeast Quarter of Section 6, Township 14N, Range 12 East of the 6th P.M., in  
 14 Omaha, Douglas County, Nebraska, more particularly described as follows: Commencing at the  
 15 Southeast corner of the Northeast Quarter of Section 6, Township 14 North, Range 12 East of the  
 16 6th P.M.; thence North 00°00'00" West (assumed bearing) along the East line of the Northeast  
 17 Quarter of said Section 6, a distance of 1,328.31 feet to the centerline of "T" Street; thence South  
 18 90°00'00" West for a distance of 50 feet to a point on the West right of way line of 120th Street said  
 19 point also being the point of beginning; thence South 00°00'00" East along the West right of way  
 20 line of 120th Street for a distance of 61.00 feet; thence South 90°00'00" West, for a distance of 25.00  
 21 feet; thence North 00°00'00" East along a straight line parallel to the West right of way line of 120th  
 22 Street, for a distance of 124.00 feet; thence North 90°00'00" East, for a distance of 20.00 feet; thence  
 23 North 00°00'00" East along a straight line 5.00 feet West of and parallel to the West right of way  
 24 line of 120th Street, for a distance of 367.00 feet; thence North 90°00'00" East, for a distance of 5.00  
 25 feet to a point on the West right of way line of 120th Street; thence South 00°00'00" East along the  
 26 West right of way line of 120th Street, for a distance of 430.00 feet to the true point of beginning,  
 27 and EXCEPT

28

29 Continued on next page

1 continued

2 A tract of land located in the South 1/2 of the SW 1/4 of Section 31, Township 15 North, Range 12  
3 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

4 Commencing at the Southwest corner of said Section 31; thence N 00°00'05" W (assumed bearing)  
5 along the West line of said Section 31, a distance of 47.65 feet; thence N 89°59'55" E, a distance  
6 of 100.00 feet to a point on the East right of way line of 132nd Street, said point also being the Point  
7 of Beginning; thence along said East right of way line of 132nd Street, on the following described  
8 courses; thence N 00°00'05" W, a distance of 285.99 feet; thence N 06°04'10" E, a distance of  
9 236.40 feet to the point of intersection of said East right of way line of 132nd Street and the South  
10 right of way line of the Union Pacific Railroad; thence N 89°50'22" E along said South right of way  
11 line of the Union Pacific Railroad, a distance of 237.07 feet; thence S 24°53'44" W, a distance of  
12 42.78 feet; thence S 56°31'28" E, a distance of 106.50 feet; thence S 00°49'50" E, a distance of  
13 424.21 feet; thence S 89°59'55" W, a distance of 339.03 feet to the point of beginning, and EXCEPT  
14

15 A tract of land located in the South 1/2 of the SW 1/4 of Section 31, Township 15 North, Range 12  
16 East and the N 1/2 of the NW 1/4 of the NW 1/4 of Section 6, Township 14 North, Range 12 East,  
17 all located in the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

18 Commencing at the Southwest corner of said Section 31; thence N 00°00'05" (assumed bearing)  
19 along the West line of said Section 31, a distance of 47.65 feet; thence N 89°59'55" E, a distance  
20 of 100.00 feet to a point on the East right of way line of 132nd Street, said point also being the point  
21 of beginning; thence continuing N 89°59'55" E, a distance of 339.03 feet; thence S 00°49'50" E, a  
22 distance of 15.00 feet; thence S 89°59'55" W, a distance of 119.54 feet; thence Southwesterly on  
23 a curve to the left with a radius of 80.00 feet, a distance of 125.66 feet, said curve having a long  
24 chord which bears S 44°59'55" W, a distance of 113.14 feet; thence S 00°00'05" E, a distance of  
25 40.00 feet; thence S 89°59'55" W, a distance of 140.00 feet to a point on said East right of way line  
26 of 132nd Street; thence N 00°00'05" W along said East right of way line of 132nd Street, a distance  
27 of 155.00 feet to the point of beginning, and EXCEPT  
28

29 [Note: The following described property is the same property as is described on Exhibit A-3 to  
30 the Reciprocal Easement and Operating Agreement to which this exhibit is attached, therein  
31 referred to as the Avaya Southeast Property]  
32

33 That part of the Northeast Quarter of Section 6, Township 14 North, Range 12 East of the 6th  
34 P.M., Douglas County, Nebraska, described as follows:

35 Commencing at the southeast corner of said Northeast Quarter of Section 6;  
36 Thence North 00°00'00" East (assumed bearings) for 1060.50 feet along the east line of  
37 said Northeast Quarter of Section 6;  
38 Thence North 90°00'00" West for 50.00 feet to the TRUE POINT OF BEGINNING;  
39 Thence for the following 7 courses, along the US Highway 275 right of way line as  
40 recorded in Deed Book 2164 at Page 215 in the Douglas County Register of Deeds Office;  
41 1) Thence North 90°00'00" West for 25.00 feet to a point 75.00 foot west of said east line;  
42 2) Thence South 02°15'57" West for 632.29 feet;  
43 3) Thence South 00°07'08" East for 127.11 feet;  
44 4) Thence along a curve to the right (having a radius of 350.83 feet and a long chord bearing



1 South 55°45'38" West for 369.80 feet) for an arc length of 389.50 feet to a point 100.00 foot  
2 north of the south line of said Northeast Quarter of Section 6;  
3 5) Thence South 89°04'58" West for 1334.90 feet parallel with and 100.00 foot north of said  
4 south line;  
5 6) Thence along a curve to the right (having a radius of 11359.16 feet and a long chord  
6 bearing North 88°51'55" West for 815.93 feet) for an arc length of 816.10 feet;  
7 7) Thence North 86°47'38" West for 28.19 feet to the east line of HOME DEPOT PLAZA, a  
8 subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;  
9 Thence along said east line for the following 5 courses;  
10 1) Thence North 00°07'28" West for 262.69 feet;  
11 2) Thence along a curve to the right (having a radius of 435.00 feet and a long chord bearing  
12 North 14°33'18" East for 220.47 feet) for an arc length of 222.90 feet;  
13 3) Thence along a curve to the left (having a radius of 418.00 feet and a long chord bearing  
14 North 09°47'48" East for 278.21 feet) for an arc length of 283.62 feet;  
15 4) Thence along a curve to the right (having a radius of 182.00 feet and a long chord bearing  
16 North 39°48'18" East for 276.57 feet) for an arc length of 314.13 feet;  
17 5) Thence North 00°44'55" West for 35.00 feet;  
18 Thence North 89°15'05" East for 1178.75 feet;  
19 Thence North 86°55'10" East for 159.74 feet;  
20 Thence along a curve to the left (having a radius of 400.00 feet and a long chord bearing  
21 North 67°55'58" East for 290.84 feet) for an arc length of 297.67 feet;  
22 Thence along a curve to the right (having a radius of 565.00 feet and a long chord bearing  
23 North 68°01'18" East for 412.45 feet) for an arc length of 422.21 feet;  
24 Thence North 89°25'45" East for 240.17 feet to the west right of way line of 120<sup>th</sup> Street;  
25 Thence South 00°00'00" East for 110.28 feet along said west right of way line parallel  
26 with and 75.00 foot west of the east line of said Northeast Quarter of Section 6;  
27 Thence North 90°00'00" East for 25.00 feet along said west right of way line;  
28 Thence South 00°00'00" East for 206.81 feet along said west right of way line parallel  
29 with and 50.00 foot west of the east line of said Northeast Quarter of Section 6 to the Point of  
30 Beginning (Contains 60.085 acres or 2,614,810 square feet), and EXCEPT  
31

32 [Note: The following describes the subdivision known or to be known as HOME DEPOT  
33 PLAZA, (Lots 1 through 6 inclusive) and is the same legal description as is set for in Exhibit A-1  
34 of the Reciprocal Easement and Operating Agreement to which this exhibit is attached.]  
35

36 That part of the North Half of Section 6, Township 14 North, Range 12 East of the 6th P.M.,  
37 Douglas County, Nebraska, described as follows: Commencing at the southwest corner of the  
38 Northwest Quarter of said Section 6; Thence North 00°07'28" West for 1169.29 feet along the  
39 west line of said Northwest Quarter; Thence North 89°52'32" East for 99.93 feet to the east right  
40 of way line of 132nd Street and the TRUE POINT OF BEGINNING; Thence North 89°18'35"  
41 East for 415.05 feet; Thence along a curve to the left (having a radius of 137.50 feet and a long  
42 chord bearing North 60°46'18" East for 131.38 feet) for an arc length of 136.97 feet; Thence  
43 North 32°14'00" East for 1.56 feet; Thence South 57°46'00" East for 216.31 feet; Thence North  
44 89°03'49" East for 859.18 feet; Thence along a curve to the right (having a radius of 200.00 feet  
45 and a long chord bearing South 80°30'46" East for 72.37 feet) for an arc length of 72.77 feet;

1 Thence South 70°05'21" East for 266.17 feet; Thence along a curve to the left (having a radius of  
2 200.00 feet and a long chord bearing South 80°30'46" East for 72.37 feet) for an arc length of  
3 72.77 feet; Thence North 89°03'49" East for 543.12 feet; Thence along a curve to the left (having  
4 a radius of 100.00 feet and a long chord bearing North 62°09'18" East for 90.51 feet) for an arc  
5 length of 93.93 feet; Thence along a curve to the right (having a radius of 212.00 feet and a long  
6 chord bearing North 62°14'56" East for 192.51 feet) for an arc length of 199.82 feet; Thence  
7 South 00°44'55" East for 30.00 feet; Thence along a curve to the left (having a radius of 182.00  
8 feet and a long chord bearing South 39°48'18" West for 276.57 feet) for an arc length of 314.13  
9 feet; Thence along a curve to the right (having a radius of 418.00 feet and a long chord bearing  
10 South 09°47'48" West for 278.21 feet) for an arc length of 283.62 feet; Thence along a curve to  
11 the left (having a radius of 435.00 feet and a long chord bearing South 14°33'18" West for  
12 220.47 feet) for an arc length of 222.90 feet; Thence South 00°07'28" East for 262.69 feet to the  
13 north right of way line of Nebraska State Highway 92 and US Highway 275 also known as " L"  
14 Street; Thence North 86°47'38" West for 1931.40 feet along said north right of way line to an  
15 angle point therein; Thence North 80°26'38" West for 296.70 feet along said north right of way  
16 line; Thence along a curve to the right (having a radius of 270.00 feet and a long chord bearing  
17 North 42°09'51" West for 348.30 feet) for an arc length of 378.55 feet to the east right of way  
18 line of 132nd Street; Thence North 03°02'28" West for 473.20 feet to an angle point therein;  
19 Thence North 00°09'33" West for 109.29 feet to the POINT OF BEGINNING.

20 Contains 49.971 acres (Survey Closure 1: In Infinite)

21 Basis of bearings: The west line of said Section 6 is assumed to bear North  
22 00°07'28" West.  
23

**LEGAL DESCRIPTION**

That part of the Northeast Quarter of Section 6, Township 14 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Commencing at the southeast corner of said Northeast Quarter of Section 6;  
 Thence North 00°00'00" East (assumed bearing) for 1080.50 feet along the east line of said Northeast Quarter of Section 6;  
 Thence North 90°00'00" West for 50.00 feet to the TRUE POINT OF BEGINNING;  
 Thence for the following 7 courses, along the US Highway 275 right of way line as recorded in Deed Book 2164 at Page 215 in the Douglas County Register of Deeds Office:

- 1) Thence North 90°00'00" West for 25.00 feet to a point 75.00 feet west of said east line;
  - 2) Thence South 02°13'57" West for 632.29 feet;
  - 3) Thence South 00°07'08" East for 122.11 feet;
  - 4) Thence along a curve to the right (having a radius of 350.83 feet and a long chord bearing South 55°43'39" West for 389.80 feet) for an arc length of 389.50 feet to a point 100.00 feet north of the south line of said Northeast Quarter of Section 6;
  - 5) Thence South 89°04'58" West for 1334.90 feet parallel with and 100.00 feet north of said south line;
  - 6) Thence along a curve to the right (having a radius of 11358.16 feet and a long chord bearing North 89°51'55" West for 815.93 feet) for an arc length of 816.10 feet;
  - 7) Thence North 86°47'38" West for 28.19 feet to the east line of HOME DEPOT PLAZA a subdivision, as surveyed, plotted and recorded in Douglas County, Nebraska;
- Thence along said east line for the following 5 courses:
- 1) Thence North 00°07'28" West for 262.69 feet;
  - 2) Thence along a curve to the right (having a radius of 435.00 feet and a long chord bearing North 14°33'18" East for 220.47 feet) for an arc length of 222.90 feet;
  - 3) Thence along a curve to the left (having a radius of 418.00 feet and a long chord bearing North 09°47'48" East for 278.21 feet) for an arc length of 283.52 feet;
  - 4) Thence along a curve to the right (having a radius of 182.00 feet and a long chord bearing North 39°48'18" East for 276.57 feet) for an arc length of 314.13 feet;
  - 5) Thence North 00°14'55" West for 35.00 feet;
- Thence North 89°15'05" East for 1178.75 feet;

Thence along a curve to the left (having a radius of 400.00 feet and a long chord bearing North 67°55'59" East for 290.84 feet) for an arc length of 297.67 feet;

Thence along a curve to the right (having a radius of 565.00 feet and a long chord bearing North 68°01'18" East for 412.45 feet) for an arc length of 422.21 feet;

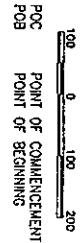
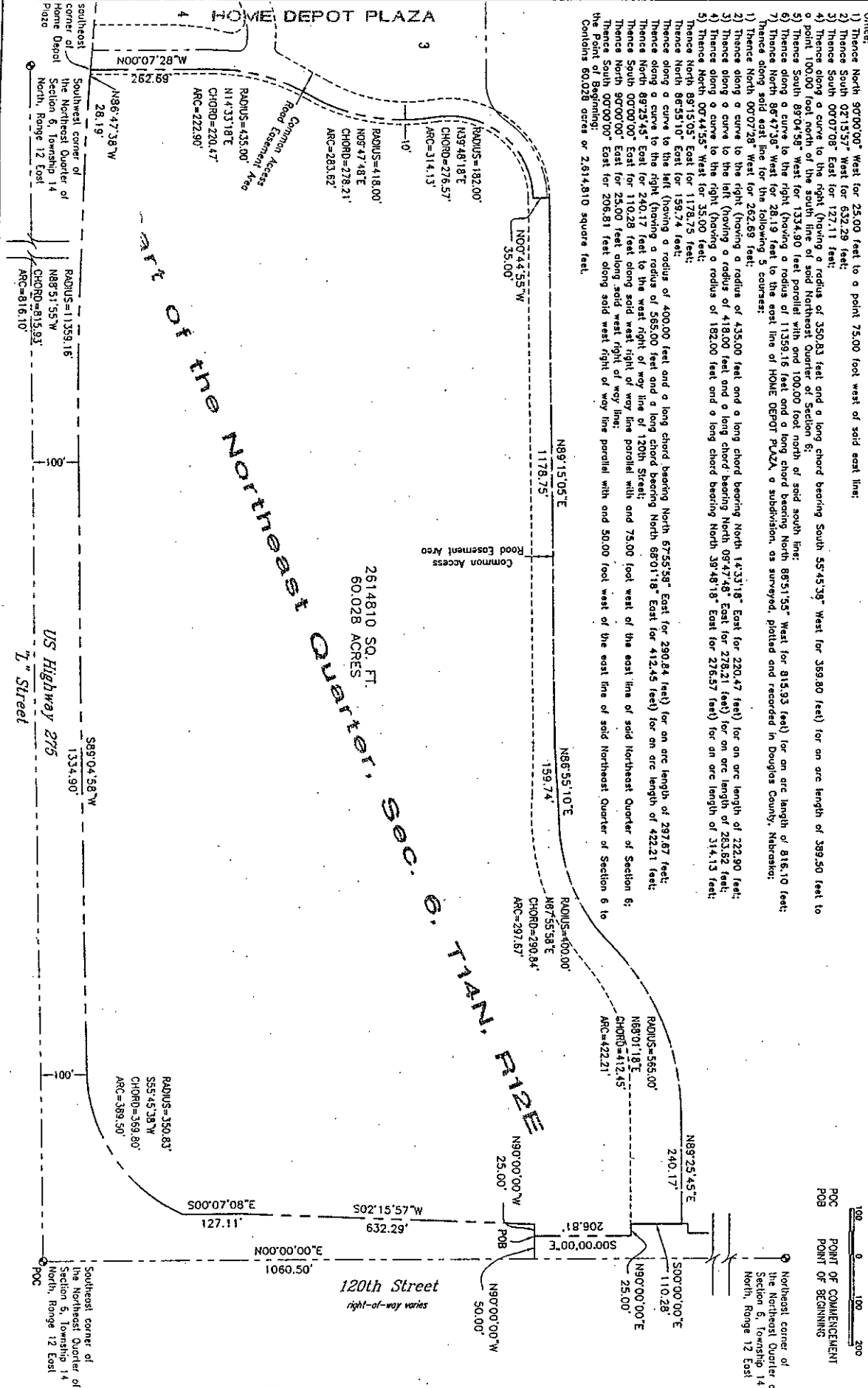
Thence North 89°25'45" East for 240.17 feet;

Thence North 90°00'00" East for 25.00 feet along said west right of way line;

Thence South 00°00'00" East for 25.00 feet along said west right of way line;

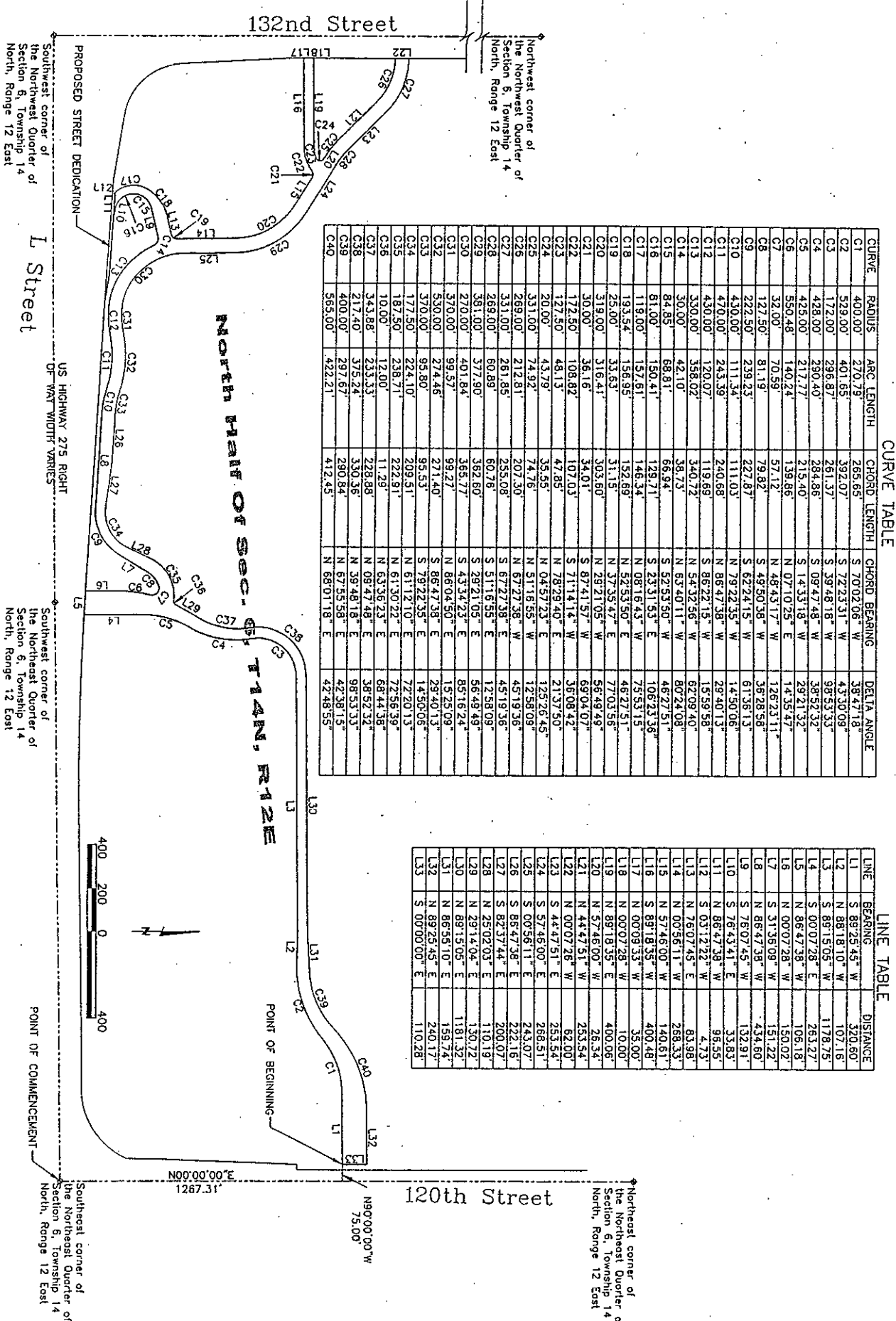
Thence South 00°00'00" East for 208.81 feet along said west right of way line parallel with and 50.00 feet west of the east line of said Northeast Quarter of Section 6 to the Point of Beginning;

Conditions 60.028 acres or 2,914,810 square feet.



L:\01087\dwg\0187-east-BND

 <p><b>lamp, ryneerson &amp; associates, inc.</b> engineers      surveyors      planners</p>	<p>Job number-tasks 01087.00-406 date 3/28/03 Rev 4/11/03 REV: April 22, 2003 drawn by JLK/JHM</p>	<p><b>EXHIBIT A-3</b> <b>AVAYA</b> <b>SOUTHEAST</b> <b>PROPERTY</b></p>
<p>14710 west dodge road, suite 100 omaha, nebraska 68184-2029</p>	<p>ph 402-498-2498 fax 402-498-2730</p>	



CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	400.00	270.79	265.68	S 70.02.06 W	38.47.18
C2	529.00	401.65	392.07	S 72.23.31 W	43.30.09
C3	172.00	296.87	261.57	S 39.48.18 W	95.53.33
C4	428.00	290.40	284.86	S 09.47.48 W	38.52.32
C5	428.00	217.77	215.40	S 14.33.18 W	29.21.32
C6	550.48	140.24	139.96	N 07.10.25 E	14.35.47
C7	32.00	70.59	57.12	N 48.43.77 W	126.23.11
C8	127.50	81.19	79.82	S 49.50.38 W	35.28.58
C9	222.50	239.25	227.87	S 62.24.15 W	61.36.13
C10	430.00	111.34	111.03	N 79.22.35 W	14.50.06
C11	470.00	243.39	240.68	N 86.47.38 W	28.40.13
C12	430.00	120.07	119.69	S 86.22.15 W	15.59.58
C13	330.00	358.02	340.72	N 54.32.56 W	62.09.40
C14	30.00	42.10	38.73	N 63.40.11 W	80.24.08
C15	84.85	88.81	66.94	S 52.53.50 W	46.27.51
C16	81.00	150.41	129.71	S 23.31.53 E	106.23.36
C17	119.00	157.61	146.34	N 08.16.43 W	75.53.15
C18	193.54	156.95	152.69	N 52.53.50 E	46.27.51
C19	25.00	53.63	31.85	N 37.38.47 E	77.03.35
C20	319.00	316.41	303.60	N 29.21.05 W	56.49.48
C21	30.00	36.16	34.01	S 87.41.57 W	69.04.07
C22	172.50	108.82	107.03	S 71.14.14 W	35.08.42
C23	127.50	48.13	47.85	N 78.29.40 E	21.37.50
C24	26.00	43.79	35.55	N 04.37.23 E	123.26.45
C25	331.00	74.92	74.76	N 51.18.55 W	12.58.08
C26	269.00	212.81	207.30	N 67.27.38 W	45.19.36
C27	331.00	261.85	255.08	S 67.27.38 E	45.19.36
C28	289.00	60.89	60.76	S 51.16.55 E	17.58.09
C29	381.00	377.90	362.60	S 29.21.05 E	56.49.48
C30	270.00	401.84	365.77	N 86.04.50 E	85.16.24
C31	370.00	99.57	99.27	N 43.34.23 E	15.25.09
C32	530.00	274.46	271.40	S 86.47.38 E	29.40.13
C33	370.00	95.80	95.53	S 79.22.35 E	14.50.06
C34	177.50	224.10	209.51	N 61.12.10 E	72.20.13
C35	187.50	238.71	222.91	N 61.30.22 E	72.56.39
C36	10.00	12.00	11.29	N 63.36.23 E	68.44.38
C37	343.88	233.33	228.88	N 09.47.48 E	38.52.32
C38	217.40	375.24	330.36	N 39.48.18 E	98.53.13
C39	400.00	297.67	290.84	N 67.55.58 E	42.38.16
C40	565.00	422.21	412.45	N 68.01.18 E	42.48.55

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 89.25.45 W	320.60
L2	N 88.18.10 W	107.16
L3	S 69.15.05 W	1178.75
L4	S 00.07.28 E	263.27
L5	N 86.47.38 W	150.18
L6	N 00.07.28 W	106.02
L7	S 31.36.08 W	151.22
L8	N 86.47.38 W	434.60
L9	S 76.07.45 W	132.91
L10	S 76.43.41 E	33.83
L11	N 86.47.38 W	96.55
L12	S 03.12.22 W	4.73
L13	N 76.07.45 E	63.98
L14	N 00.56.11 W	268.33
L15	S 57.46.00 W	140.61
L16	S 89.16.35 W	400.48
L17	N 00.03.53 W	35.00
L18	N 00.07.28 W	10.00
L19	N 89.16.35 E	400.06
L20	N 57.46.00 W	26.34
L21	N 44.47.51 W	253.54
L22	N 00.07.28 W	62.00
L23	S 44.47.51 E	253.54
L24	S 57.46.00 E	268.51
L25	S 00.56.11 E	243.07
L26	S 86.47.38 E	222.16
L27	S 82.37.44 E	200.07
L28	N 25.02.03 E	110.19
L29	N 29.14.04 E	150.72
L30	N 89.15.05 E	1181.32
L31	N 86.55.10 E	159.74
L32	N 89.25.45 E	240.17
L33	S 00.00.00 E	110.28

**lamp, ryneason & associates, inc.**  
engineers      surveyors      planners

14710 west dodge road, suite 100  
omaha, nebraska 68164-2029

ph 402-498-2498  
fax 402-498-2730

Job number-task#  
01087.00-406  
date  
3/28/03 Rev 4/11/03  
drawn by  
MJW  
designer

EXHIBIT A-4  
COMMON ACCESS ROAD  
EASEMENT AREA  
1 OF 2

0187-EASEMENT

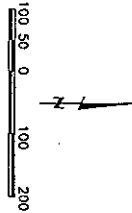
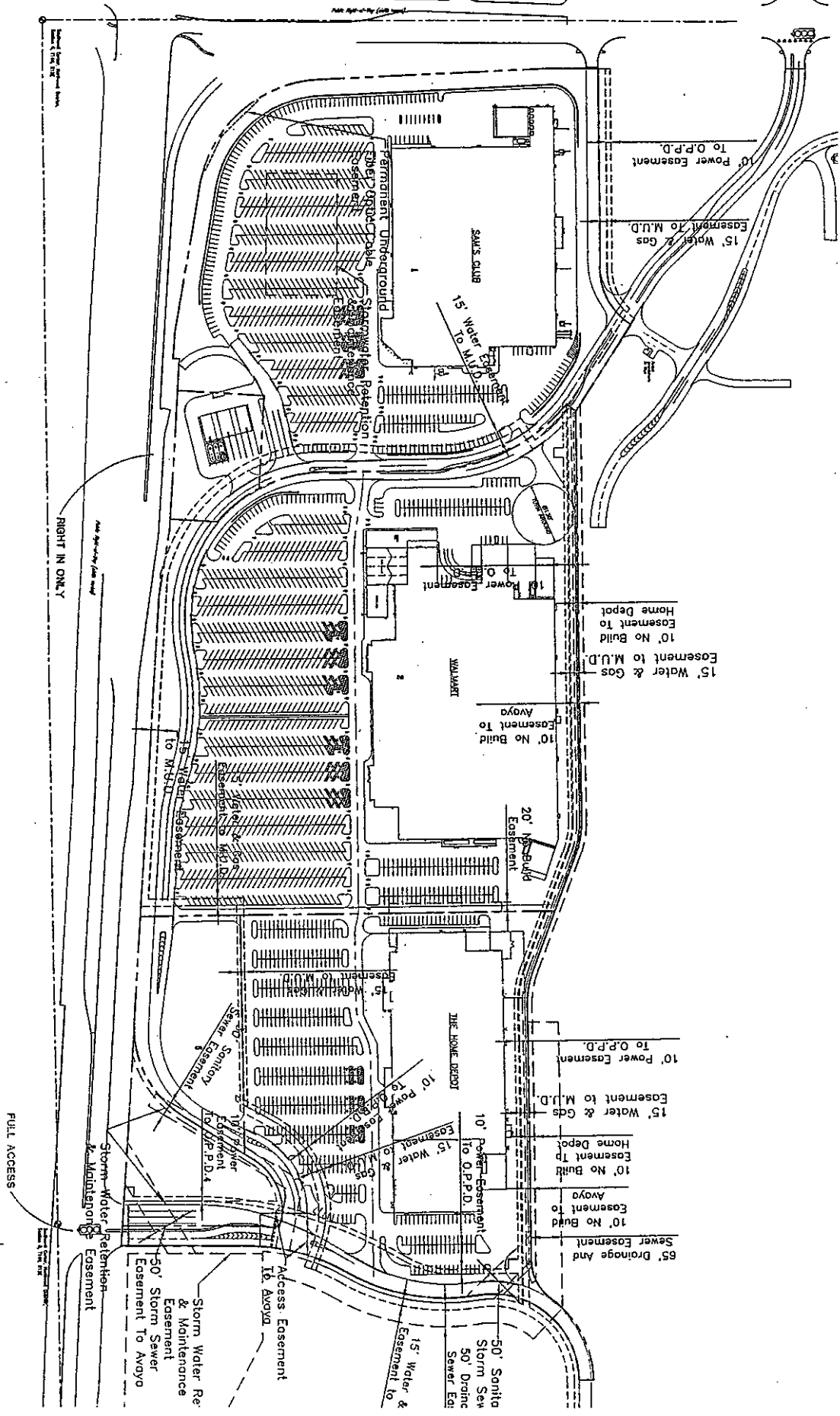
# LEGAL DESCRIPTION

A permanent easement for ingress and egress over that part of the North Half of Section 6, Township 14 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, described as follows:  
 Commencing at the Southeast corner of the North Half of said Section 6;  
 Thence North 00°00'00" East (assumed bearings) for 1267.31 feet along the east line of said North Half of Section 6;  
 Thence North 90°00'00" West for 75.00 feet to the west right of way line of 120th Street and the TRUE POINT OF BEGINNING;  
 Thence South 89°25'45" West for 320.60 feet;  
 Thence along a curve to the left (having a radius of 400.00 feet and a long chord bearing South 70°02'06" West for 285.65 feet) for an arc length of 270.79 feet;  
 Thence along a curve to the right (having a radius of 529.00 feet and a long chord bearing South 72°23'31" West for 392.07 feet) for an arc length of 401.65 feet;  
 Thence North 88°18'10" West for 107.16 feet;  
 Thence South 89°15'05" West for 1178.75 feet;  
 Thence along a curve to the left (having a radius of 172.00 feet and a long chord bearing South 39°48'18" West for 261.37 feet) for an arc length of 296.87 feet;  
 Thence along a curve to the right (having a radius of 428.00 feet and a long chord bearing South 09°47'48" West for 294.86 feet) for an arc length of 290.40 feet;  
 Thence along a curve to the left (having a radius of 425.00 feet and a long chord bearing South 14°33'18" West for 215.40 feet) for an arc length of 217.77 feet;  
 Thence South 00°07'28" East for 263.27 feet to the north right of way line of US Highway 275;  
 Thence South 86°47'38" West for 106.18 feet along said north right of way line;  
 Thence North 00°07'28" West for 150.02 feet;  
 Thence along a curve to the right (having a radius of 550.48 feet and a long chord bearing North 07°10'25" East for 139.86 feet) for an arc length of 140.24 feet;  
 Thence along a curve to the left (having a radius of 32.00 feet and a long chord bearing North 49°43'17" West for 57.12 feet) for an arc length of 70.59 feet;  
 Thence along a curve to the left (having a radius of 127.50 feet and a long chord bearing South 49°50'38" West for 79.82 feet) for an arc length of 81.19 feet;  
 Thence South 31°36'09" West for 151.22 feet;  
 Thence along a curve to the right (having a radius of 222.50 feet and a long chord bearing South 62°24'15" West for 227.87 feet) for an arc length of 239.23 feet;  
 Thence North 86°47'38" West for 434.60 feet;  
 Thence along a curve to the right (having a radius of 430.00 feet and a long chord bearing North 79°22'35" West for 111.03 feet) for an arc length of 111.34 feet;  
 Thence along a curve to the left (having a radius of 470.00 feet and a long chord bearing North 86°47'38" West for 240.88 feet) for an arc length of 243.39 feet;  
 Thence along a curve to the right (having a radius of 430.00 feet and a long chord bearing South 86°22'15" West for 119.69 feet) for an arc length of 120.07 feet;  
 Thence along a curve to the left (having a radius of 330.00 feet and a long chord bearing North 54°32'56" West for 340.72 feet) for an arc length of 358.02 feet;  
 Thence along a curve to the left (having a radius of 30.00 feet and a long chord bearing North 63°40'11" West for 38.73 feet) for an arc length of 42.10 feet;  
 Thence South 76°07'45" West for 132.91 feet;  
 Thence along a curve to the left (having a radius of 84.85 feet and a long chord bearing South 52°53'50" West for 66.94 feet) for an arc length of 68.81 feet;  
 Thence along a curve to the left (having a radius of 81.00 feet and a long chord bearing South 23°31'55" East for 129.71 feet) for an arc length of 150.41 feet;  
 Thence South 76°43'41" East for 33.93 feet to the proposed north right of way line of US Highway 275;  
 Thence North 86°47'38" West for 96.55 feet along said proposed north right of way line;  
 Thence South 03°12'22" West for 4.73 feet along said proposed north right of way line;  
 Thence along a curve to the right (having a radius of 119.00 feet and a long chord bearing North 08°16'43" West for 146.34 feet) for an arc length of 157.61 feet;  
 Thence along a curve to the right (having a radius of 193.54 feet and a long chord bearing North 52°53'50" East for 152.69 feet) for an arc length of 156.95 feet;  
 Thence North 76°07'45" East for 83.98 feet;  
 Thence along a curve to the left (having a radius of 25.00 feet and a long chord bearing North 37°35'47" East for 31.15 feet) for an arc length of 33.53 feet;  
 Thence North 00°56'11" West for 268.33 feet;  
 Thence along a curve to the left (having a radius of 319.00 feet and a long chord bearing North 29°21'05" West for 303.60 feet) for an arc length of 316.41 feet;  
 Thence North 57°46'00" West for 140.61 feet;

Thence along a curve to the left (having a radius of 30.00 feet and a long chord bearing South 87°41'57" West for 34.01 feet) for an arc length of 36.16 feet;  
 Thence along a curve to the right (having a radius of 172.50 feet and a long chord bearing South 71°14'14" West for 107.03 feet) for an arc length of 108.82 feet;  
 Thence South 89°18'35" West for 400.48 feet to the east right of way line of 132nd Street;  
 Thence North 00°09'33" West for 35.00 feet along said east right of way line;  
 Thence North 00°07'28" West for 10.00 feet along said east right of way line;  
 Thence North 89°18'35" East for 400.06 feet;  
 Thence along a curve to the left (having a radius of 127.50 feet and a long chord bearing North 78°29'40" East for 47.85 feet) for an arc length of 48.13 feet;  
 Thence along a curve to the left (having a radius of 20.00 feet and a long chord bearing North 04°57'23" East for 35.55 feet) for an arc length of 43.79 feet;  
 Thence North 57°46'00" West for 26.34 feet;  
 Thence along a curve to the right (having a radius of 331.00 feet and a long chord bearing North 51°16'55" West for 74.76 feet) for an arc length of 74.92 feet;  
 Thence North 44°47'51" West for 253.54 feet;  
 Thence along a curve to the left (having a radius of 269.00 feet and a long chord bearing North 67°27'38" West for 207.30 feet) for an arc length of 212.81 feet to the east right of way line of 132nd Street;  
 Thence North 00°07'28" West for 62.00 feet along said east right of way line;  
 Thence along a curve to the right (having a radius of 331.00 feet and a long chord bearing South 67°27'39" East for 255.08 feet) for an arc length of 261.85 feet;  
 Thence South 44°47'51" East for 253.54 feet;  
 Thence along a curve to the left (having a radius of 289.00 feet and a long chord bearing South 51°16'55" East for 80.76 feet) for an arc length of 80.89 feet;  
 Thence South 57°46'00" East for 268.51 feet;  
 Thence along a curve to the right (having a radius of 381.00 feet and a long chord bearing South 29°21'05" East for 362.60 feet) for an arc length of 377.90 feet;  
 Thence South 00°56'11" East for 243.07 feet;  
 Thence along a curve to the left (having a radius of 270.00 feet and a long chord bearing South 43°34'23" East for 365.77 feet) for an arc length of 401.84 feet;  
 Thence along a curve to the left (having a radius of 370.00 feet and a long chord bearing North 86°04'50" East for 99.27 feet) for an arc length of 99.57 feet;  
 Thence along a curve to the right (having a radius of 530.00 feet and a long chord bearing South 86°47'38" East for 271.40 feet) for an arc length of 274.46 feet;  
 Thence along a curve to the left (having a radius of 370.00 feet and a long chord bearing South 79°22'35" East for 95.53 feet) for an arc length of 95.80 feet;  
 Thence South 86°47'38" East for 222.16 feet;  
 Thence South 82°37'44" East for 200.07 feet;  
 Thence along a curve to the left (having a radius of 177.50 feet and a long chord bearing North 61°12'10" East for 209.51 feet) for an arc length of 224.10 feet;  
 Thence North 25°02'03" East for 110.19 feet;  
 Thence along a curve to the right (having a radius of 187.50 feet and a long chord bearing North 61°30'22" East for 222.91 feet) for an arc length of 238.71 feet;  
 Thence along a curve to the left (having a radius of 10.00 feet and a long chord bearing North 63°36'23" East for 11.29 feet) for an arc length of 12.00 feet;  
 Thence North 29°14'04" East for 130.72 feet;  
 Thence along a curve to the left (having a radius of 343.88 feet and a long chord bearing North 09°47'48" East for 228.88 feet) for an arc length of 233.33 feet;  
 Thence along a curve to the right (having a radius of 217.40 feet and a long chord bearing North 38°48'18" East for 330.36 feet) for an arc length of 375.24 feet;  
 Thence North 89°15'05" East for 1181.32 feet;  
 Thence North 86°55'10" East for 159.74 feet;  
 Thence along a curve to the left (having a radius of 400.00 feet and a long chord bearing North 67°55'58" East for 290.84 feet) for an arc length of 297.67 feet;  
 Thence along a curve to the right (having a radius of 555.00 feet and a long chord bearing North 66°01'18" East for 412.45 feet) for an arc length of 422.21 feet;  
 Thence North 89°25'45" East for 240.17 feet to the west right of way line of 120th Street;  
 Thence South 00°00'00" East for 110.28 feet to the Point of Beginning;  
 Contains 455,377 square feet or 10.453 acres.

01087-EASEMENT-LEGAL

 <p style="font-size: 1.2em; font-weight: bold; margin: 0;">lamp, rynearson &amp; associates, inc.</p> <p style="font-size: 0.8em; margin: 0;">engineers      surveyors      planners</p> <p style="font-size: 0.8em; margin: 0;">14710 west dodge road, suite 100      ph 402-498-2488</p> <p style="font-size: 0.8em; margin: 0;">omaha, nebraska 68164-2029      fax 402-498-2730</p>	Job Number-tasks 01087.00-406 Date 3/28/03 Rev 4/11/03 Drawn by MJW Designer	EXHIBIT A-4 COMMON ACCESS ROAD EASEMENT AREA 2 OF 2
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01087\DWG\0187REA2



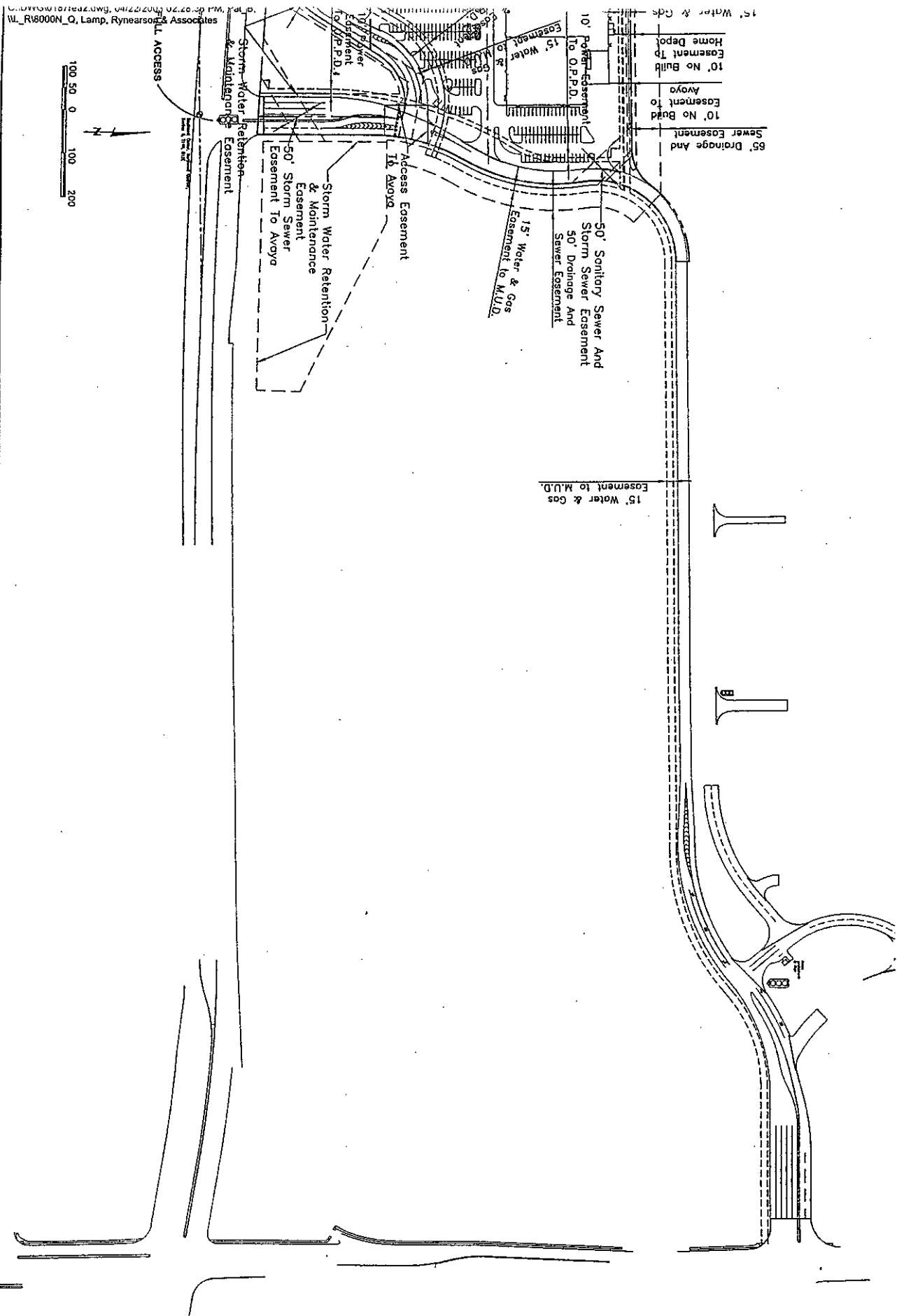
**lamp, rynearson & associates, inc.**  
engineers      surveyors      planners

14710 west dodge road, suite 100  
omaha, nebraska 68154-2029

ph 402-498-2488  
fax 402-498-2730

Job number-tasks  
01087.00-007  
date: 03/28/03  
drawn by PWB  
designer JEC

EXHIBIT A-5  
UTILITY PLAN  
1 OF 2



01087\DWG\0187REA2

	<p><b>lamp, ryneason &amp; associates, inc.</b>          engineers      surveyors      planners          14710 west dodge road, suite 100          omaha, nebraska 68154-2028          ph 402-498-2498          fax 402-498-2730</p>	<p>job number-tasks          01087.00-007          date          03/28/03          drawn by          PWB          designer          JEC</p>	<p>EXHIBIT A-5          UTILITY PLAN          2 OF 2</p>
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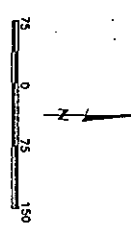
**LEGAL DESCRIPTION**

A permanent easement in favor of the parcel lying north of and abutting the north line of Lots 2 and 3, HOME DEPOT PLAZA, a subdivision, as surveyed, plotted and recorded in Douglas County, Nebraska, restricting the construction of structures over the north ten feet (10') of said Lots 2 and 3 and described as follows:

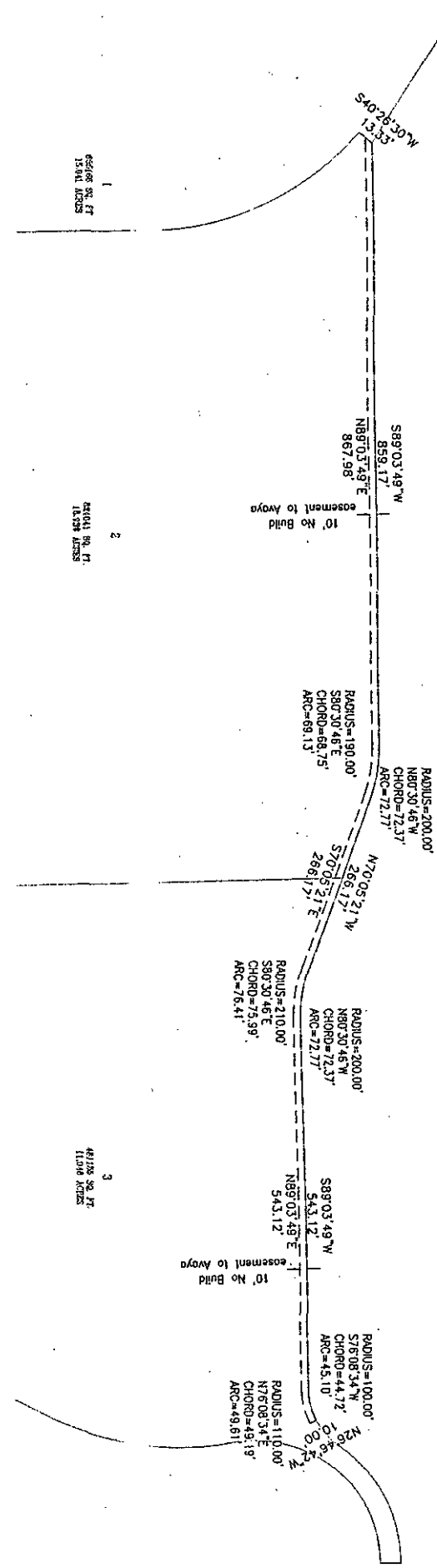
Beginning at the north corner common to said Lots 1 and 2, HOME DEPOT PLAZA, Thence South 47°25'30" West (bearing referenced to the Front Plat of HOME DEPOT PLAZA) for 13.33 feet along the line common to said Lots 1 and 2;

Thence along a line ten foot (10') south of and parallel with the north line of Lots 2 and 3, HOME DEPOT PLAZA for the following (6) courses:

- 1) Thence North 89°03'49" East for 867.98 feet;
  - 2) Thence along a curve to the right (having a radius of 190.00 feet and a long chord bearing South 80°30'46" East for 68.75 feet) for an arc length of 69.13 feet;
  - 3) Thence South 70°05'21" East for 266.17 feet;
  - 4) Thence along a curve to the left (having a radius of 210.00 feet and a long chord bearing South 80°30'46" East for 75.99 feet) for an arc length of 76.41 feet;
  - 5) Thence North 89°03'49" East for 543.12 feet;
  - 6) Thence along a curve to the left (having a radius of 110.00 feet and a long chord bearing North 76°08'34" East for 49.19 feet) for an arc length of 49.61 feet;
- Thence North 26°46'42" West for 10.00 feet to the north line of said Lot 3.
- Thence along the north line of said Lots 3 and 2 for the following (5) courses:
- 1) Thence along a curve to the right (having a radius of 100.00 feet and a long chord bearing South 76°08'34" West for 44.72 feet) for an arc length of 45.10 feet;
  - 2) Thence South 89°03'49" West for 543.12 feet;
  - 3) Thence along a curve to the right (having a radius of 200.00 feet and a long chord bearing North 80°30'46" West for 72.37 feet) for an arc length of 72.77 feet;
  - 4) Thence North 70°05'21" West for 266.17 feet;
  - 5) Thence along a curve to the left (having a radius of 200.00 feet and a long chord bearing North 80°30'46" West for 72.37 feet) for an arc length of 72.77 feet;
  - 6) Thence South 89°03'49" West for 859.17 feet to the Point of Beginning.
- Contains 18,658 square feet.



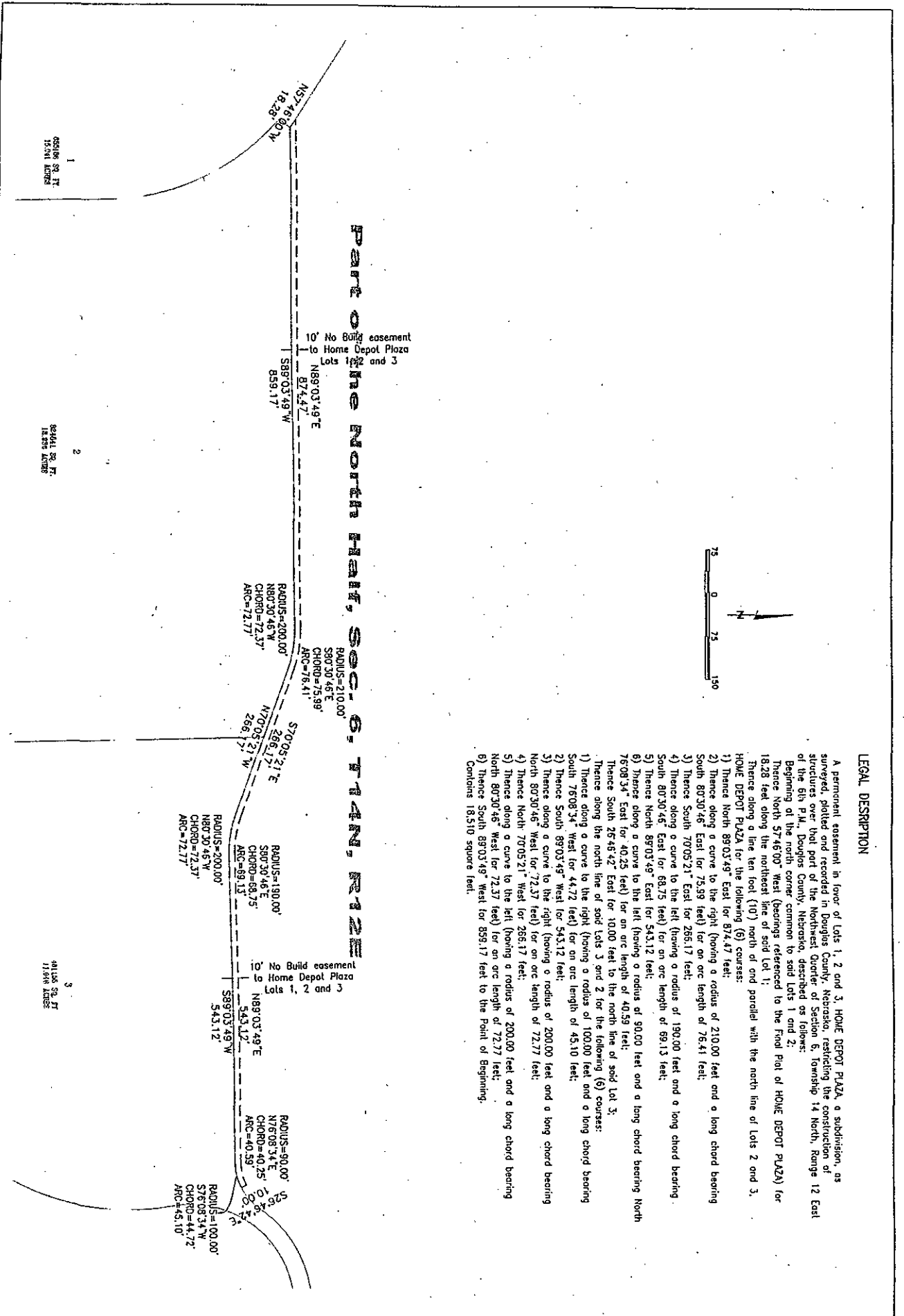
**PART OF THE NORTH HALF, SEC. 6, T14N, R12E**



C:\01087\dwg\0187nobuild\exhibit

 <p><b>lamp, rynearson &amp; associates, inc.</b> engineers      surveyors      planners</p> <p>14710 west dodge road, suite 100 omaha, nebraska 68154-2029</p>	<p>ph 402-498-2498 fax 402-498-2730</p>	<p>job number-task 01087.05-406 date April 15, 2003 drawn by JLK designer FAK</p>	<p>EXHIBIT A-6 AVAYA NO BUILD EASEMENT</p>
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**LEGAL DESCRIPTION**

A permanent easement in favor of Lots 1, 2 and 3, HOME DEPOT PLAZA, a subdivision, as surveyed, plotted and recorded in Douglas County, Nebraska, restricting the construction of structures over that part of the Northwest Quarter of Section 6, Township 14 North, Range 12 East of the 6th P.M. Douglas County, Nebraska, described as follows:

Beginning at the north corner common to said Lots 1 and 2;

Thence North 57°46'00" West (bearing referenced to the front plat of HOME DEPOT PLAZA) for 18.28 feet along the northeast line of said Lot 1;

Thence along a line ten feet (10') north of and parallel with the north line of Lots 2 and 3;

HOME DEPOT PLAZA for the following (6) courses:

- 1) Thence North 89°03'49" East for 874.47 feet;
- 2) Thence along a curve to the right (having a radius of 210.00 feet and a long chord bearing South 80°30'46" East for 75.99 feet) for an arc length of 76.41 feet;
- 3) Thence South 70°05'21" East for 265.17 feet;
- 4) Thence along a curve to the left (having a radius of 190.00 feet and a long chord bearing South 80°30'46" East for 68.75 feet) for an arc length of 69.13 feet;
- 5) Thence North 89°03'49" East for 543.12 feet;
- 6) Thence along a curve to the left (having a radius of 90.00 feet and a long chord bearing North 76°08'34" East for 40.25 feet) for an arc length of 40.59 feet;

Thence South 26°48'42" East for 10.00 feet to the north line of said Lot 3;

Thence along the north line of said Lots 3 and 2 for the following (6) courses:

- 1) Thence along a curve to the right (having a radius of 100.00 feet and a long chord bearing South 76°08'34" West for 44.72 feet) for an arc length of 45.10 feet;
- 2) Thence South 89°03'49" West for 543.12 feet;
- 3) Thence along a curve to the right (having a radius of 200.00 feet and a long chord bearing North 80°30'46" West for 72.37 feet) for an arc length of 72.77 feet;
- 4) Thence North 70°05'21" West for 265.17 feet;
- 5) Thence along a curve to the left (having a radius of 200.00 feet and a long chord bearing North 80°30'46" West for 72.37 feet) for an arc length of 72.77 feet;
- 6) Thence South 89°03'49" West for 859.17 feet to the Point of Beginning.

Contains 18,510 square feet.

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<p><b>lamp, rynearson &amp; associates, inc.</b> engineers      surveyors      planners</p> <p>14710 west dodge road, suite 100 omaha, nebraska 68164-2026</p> <p>ph 402-488-2468 fax 402-486-2730</p>	<p>Job number-tasks 01087.00-406</p> <p>date April 15, 2003</p> <p>drawn by JLK</p> <p>designer FAK</p>	<p>EXHIBIT A-6 HOME DEPOT PLAZA NO BUILD EASEMENT</p>
	<p>EXHIBIT A-6 HOME DEPOT PLAZA NO BUILD EASEMENT</p>	