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RIGHT-OF-WAY AGREEMENT

THIS AGREEMENT is made this 4th day of August, 1989, by and between Union Pacific Railroad Company, a Utah corporation (hereinafter "Grantor"), and the Omaha Development Foundation, a Nebraska not-for-profit corporation (hereinafter "ODF") and Omaha Public Power District, a public corporation and political subdivision of the State of Nebraska (hereinafter "OPPD").

RECITALS

WHEREAS, ODF with the cooperation and assistance of the City of Omaha (hereinafter "City"), and Douglas County, Nebraska, has been instrumental in the redevelopment of the City's riverfront area, which is defined as being that area between Jones Street to Dodge Street and the Missouri River to Tenth Street in the City; and

WHEREAS, the redevelopment of the City's riverfront area will cause OPPD to relocate its transmission facilities; and

WHEREAS, ODF has obtained for the benefit of OPPD this Agreement, which will grant OPPD permanent Right-Of-Way Easements over, upon, under, and across the property of Union Pacific.

NOW THEREFORE, in consideration of the sum of One and No/100th Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged. Grantor and its successors and assigns, hereby grant and convey to OPPD and its successors and assigns, the following described permanent Right-Of-Way Easements.

1. EASEMENTS. Grantor grants to OPPD the following described Right-Of-Way Easements (collective the "Easements"), subject to the terms and conditions set forth herein; and ODF insures that in the redevelopment of City's riverfront area that ODF will not interfere in the rights of OPPD in the Easements.

(a) A permanent right-of-way easement to survey, construct, reconstruct, relocate, alter, inspect, repair, replace, add to, maintain and operate therein, underground electric transmission lines consisting of wires, underground cables, supports and other necessary fixtures and equipment under, in and across the following described real estate (hereinafter called "Underground Cable Easement"): Refer to Exhibits "F" and "J" attached hereto and made a part hereof.

(b) A permanent right-of-way easement to survey, construct, reconstruct, relocate, alter, inspect, repair, replace,

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 DOUGLAS COUNTY, NE

add to, maintain and operate thereon, electric transmission lines consisting of poles, pole foundations, towers, tower foundations, down guys, anchors, insulators, wires, supports and other necessary fixtures and equipment over, upon, above, along, under, in and across the following described real estate (hereinafter called "Termination Site Easement"): Refer to Exhibit "K" attached hereto and made a part hereof.

- (c) A permanent construction and access right-of-way easement to support rights obtained by OPPD in the Underground Cable Easement and Termination Site Easement (hereinafter called "Construction and Access Easement"): Refer to Exhibit "L" attached hereto and made a part hereof.

2. RIGHTS GRANTED AND CONDITIONS.

- (a) OPPD shall have the right of ingress and egress across the Easements for any purpose hereinbefore granted, and shall exercise such right in a reasonable manner.
- (b) OPPD shall also have the right to burn, trim, or remove all trees and brush on the Easements as may be necessary to efficiently exercise any of the hereinbefore granted rights.
- (c) OPPD shall have the right to construct, reconstruct, replace, add to and maintain fencing to protect OPPD's fixtures and equipment located on the Termination Site Easement.
- (d) OPPD shall exercise the rights granted herein in accordance with the applicable requirements of law and of public authority, whether federal, state or local.
- (e) Grantor may use and enjoy the land within the Easements provided that such use shall not, in the judgement of OPPD, endanger or be a hazard to or interfere with the hereinbefore granted rights; and, Grantor shall not place or locate any buildings, structures, or other property upon the Easements. Grantor shall not change or alter the grade of the Easements without prior written approval from OPPD; and, Grantor shall not burn any materials of any nature within the Easements.
- (f) The Easements are subject to all outstanding superior rights, which may affect the Easements whether recorded or unrecorded. Grantor and its successors and assigns shall defend the same against the claims of all persons or entities claiming an interest conveyed to them by Grantor after the date hereof and which is contrary to the conveyance of the Easements and which materially

interferes with the rights granted herein. Any right, title or interest in and to the Easements acquired by Grantor after the date of this Right-Of-Way Agreement shall inure to the benefit of OPPD as the recipient of the Easements.

3. BINDING EFFECT. The Easements shall be binding upon and inure to the benefit of the Grantor, OPPD and their successors and assigns.

4. INDEMNITY. OPPD assumes the risk of and shall indemnify and hold harmless ODF, Union Pacific, its licensees and other companies which use or have facilities located on the property of Union Pacific, and their respective directors, officers, agents and employees, against and from any and all loss, damages, claims, demands, actions, causes of action, costs, attorney fees, fines, penalties, and expenses of whatsoever nature (hereinafter "Loss") which may result from (1) injury to or death of persons whomsoever (including directors, officers, agents and employees of ODF, Union Pacific and OPPD, as well as other persons); (2) loss of or damage to the property whatsoever (including damage to property of or in the custody of OPPD and damage to the roadbed, tracks, equipment or other property of or in the custody of Union Pacific, its licensees, and such other companies); or (3) violation by OPPD of any federal, state, or local law, regulation, or enactment; when such Loss is due to or arises in connection with or as a result of:

- (a) The construction, operation, maintenance and existence of OPPD improvements on the Easements;
- (b) Any work done by OPPD on or in connection with the Easements;
- (c) The use of the Easements by OPPD, its officers, agents, employees or invitees;
- (d) The breach of any covenant or obligation assumed by or imposed on OPPD pursuant to this Agreement or failure of OPPD to promptly and fully do any act or work for which OPPD is responsible pursuant to this Agreement;

except as to Union Pacific, its licensees, or such other companies, when such Loss is caused by the sole negligence or willful conduct of Union Pacific, its licensees, or such other companies which use or have facilities located on the property of Union Pacific and their respective directors, officers, agents or employees; and except as to ODF when such Loss is caused by the sole negligence or willful conduct of ODF or its directors, officers, agents or employees.

5. TERMINATION.

- (a) If OPPD does not use the Easements for a continuous period of eighteen (18) months, or if OPPD continues in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from Union Pacific to OPPD specifying such default, Union Pacific may, at its option, terminate this Agreement by written notice given to OPPD.
- (b) Notice of default and notice of termination may be served personally upon OPPD or by mailing to the last known address of OPPD. Termination of this Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have arisen prior thereto.

IN WITNESS WHEREOF, the parties have executed this instrument, the 4th day of August, 1989.

ATTEST:

UNION PACIFIC RAILROAD COMPANY, Grantor

Melli M. Scheer

BY:

R. K. Davidson
Title: Vice President - Operations

ATTEST:

OMAHA DEVELOPMENT FOUNDATION

Wm. A. Connor

BY:

Wm. A. Connor
Title: Ex-Director

ATTEST:

OMAHA PUBLIC POWER DISTRICT

6. J. [Signature]
Assistant Secretary

BY:

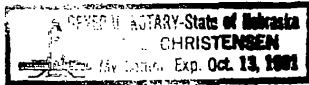
Fredrick M. Peterson
Title: PresidentSTATE OF Nebraska)

) SS:

COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 1st day of March, 1989, by R. K. Davidson, Vice Pres.-Operation, of the Union Pacific Railroad Company, a corporation organized under the laws of the State of Utah, on behalf of the corporation.

WITNESS my hand and notarial seal at Omaha, NE, in said county and state the day and year last above written.



A.J. Christensen
Notary Public

STATE OF NEBRASKA)
) SS:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 14th day of July, 1989, by Michael C. Wise, Executive Director, of the Omaha Development Foundation, a not-for-profit corporation organized under the laws of the State of Nebraska, on behalf of the corporation.

WITNESS my hand and notarial seal at Omaha, in said county and state the day and year last above written.

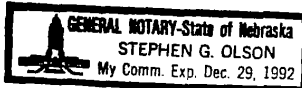


[Signature]
Notary Public

STATE OF NEBRASKA)
) SS:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 4 day of August, 1989, by Frederick M. Petersen, President, of the Omaha Public Power District, a public corporation and political subdivision of the State of Nebraska, on behalf of the corporation.

WITNESS my hand and notarial seal at Omaha, in said county and state the day and year last above written.

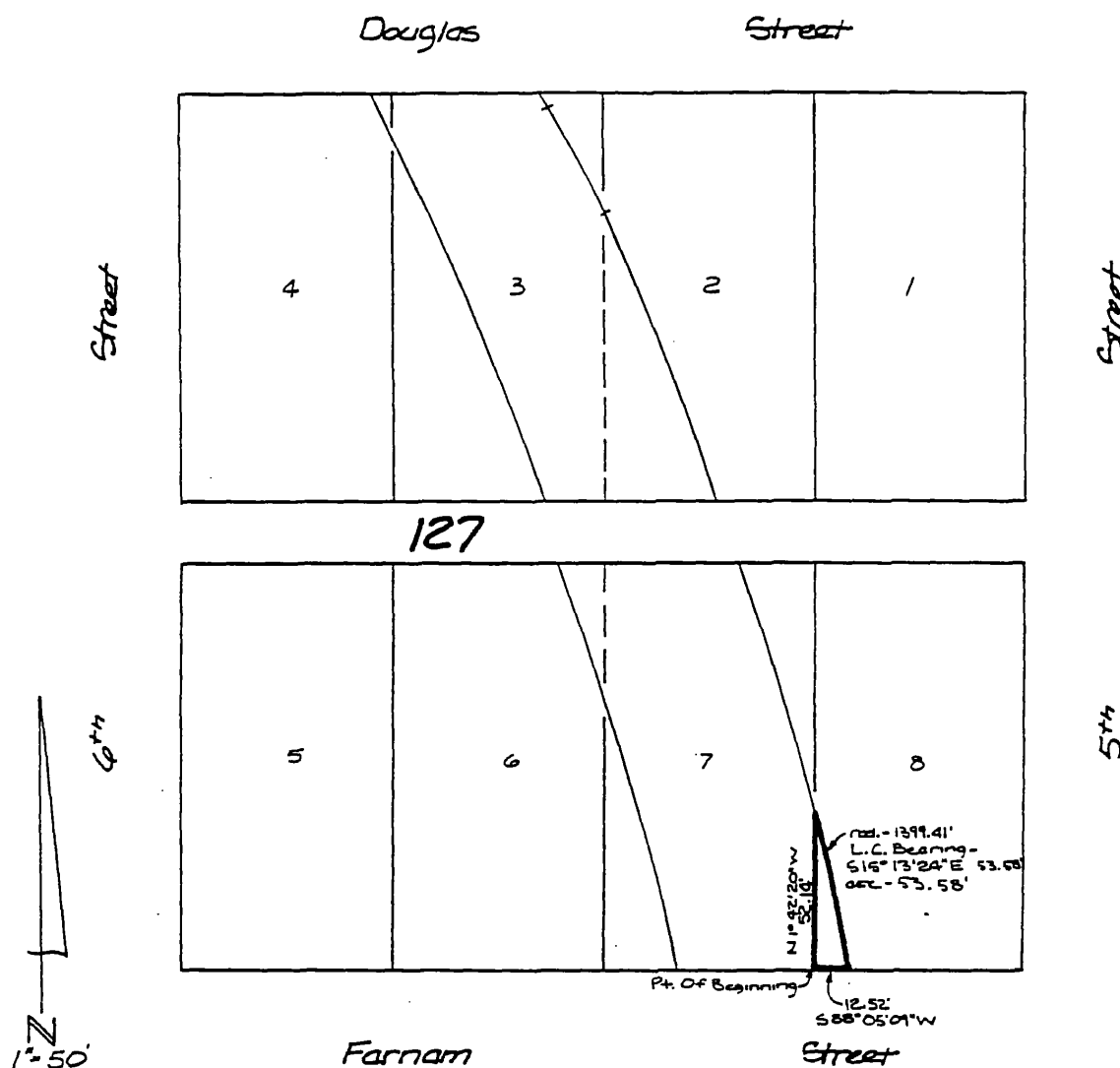


[Signature]
Notary Public

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LEGAL DESCRIPTION:

That part of Lot 8, Block 127, Original City of Omaha, Douglas County, Nebraska, described as follows: Beginning at the Southwest corner of Lot 8, said Block 127; thence N 1°42'20" W (bearings based on the Nebraska State Plane System, South Zone) for 52.14 feet along the West line of said Lot 8; thence along a curve to the right (having a radius of 1399.41 feet and a long chord bearing S 15°13'24" E for 53.58 feet) for an arc distance of 53.58 feet to the South line of said Lot 8; thence S 88°05'09" W for 12.52 feet to the POINT OF BEGINNING. Contains 336 square feet.

**EXHIBIT 'F'**

Book _____ Page _____

Date 7-28-88

Job Number 2-87-00-61-5853



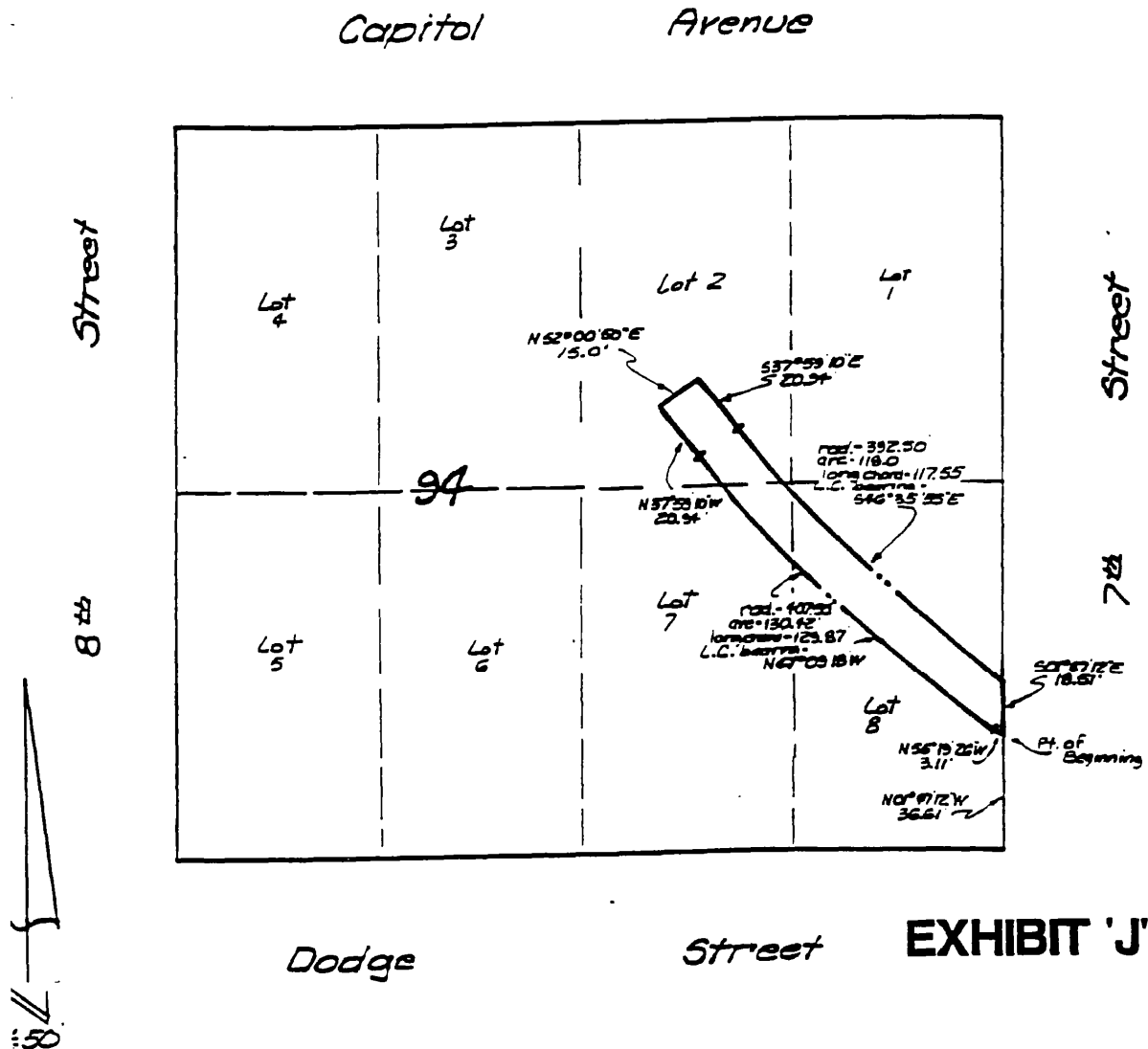
lamp, rynearson & associates, inc.
 architects engineers surveyors planners

14747 california street

omaha, nebraska 68154

402-498-2498

A permanent easement for the installation, maintenance and operation of an underground electric transmission line over, under and across part of Lots 1, 2, 7 and 8, Block 94, Original City of Omaha, Douglas County, Nebraska, said easement being more particularly described as follows: Commencing at the Southeast corner of said Block 94, Original City of Omaha; thence $N1^{\circ}47'12''W$ (bearings based on the Nebraska State Plane System, South Zone) for 36.61 feet along the East line of said Block 94 to the TRUE POINT OF BEGINNING; thence $N56^{\circ}19'26''W$ for 3.11 feet; thence along a curve to the right (having a radius of 407.50 feet and a long chord bearing $N47^{\circ}09'18''W$ for 129.87 feet) for an arc distance of 130.42 feet; thence $N37^{\circ}59'10''W$ for 20.94 feet; thence $N52^{\circ}00'50''E$ for 15.0 feet; thence $S37^{\circ}59'10''E$ for 20.94 feet; thence along a curve to the left (having a radius of 392.50 feet and a chord bearing $S46^{\circ}35'55''E$ for 117.55 feet) for an arc distance of 118.00 feet to the East line of said Block 94; thence $S1^{\circ}47'12''E$ for 18.51 feet along said East line to the TRUE POINT OF BEGINNING.



A permanent easement for the installation, maintenance and operation of an underground electric transmission line over, under and across part of Lots 1, 2, and 3, Block 94, Original City of Omaha, Douglas County, Nebraska, said easement being more particularly described as follows: Commencing at the Southeast corner of said Block 94, Original City of Omaha; thence $N1^{\circ}47'12''W$ (bearings based on the Nebraska State Plane System, South Zone) for 36.61 feet along the East line of said Block 94; thence $N56^{\circ}19'26''W$ for 3.11 feet; thence along a curve to the right (having a radius of 407.50 feet and a long chord bearing $N47^{\circ}09'18''W$ for 129.87 feet) for an arc distance of 130.42 feet; thence $N37^{\circ}59'10''W$ for 20.94 feet; thence $S52^{\circ}00'50''W$ for 42.50 feet; thence $N37^{\circ}59'10''W$ for 70.00 feet; thence $N52^{\circ}00'50''E$ for 100.00 feet; thence $S37^{\circ}59'10''$ for 70.00 feet; thence $S52^{\circ}00'50''W$ for 57.50 feet; to the point of beginning.

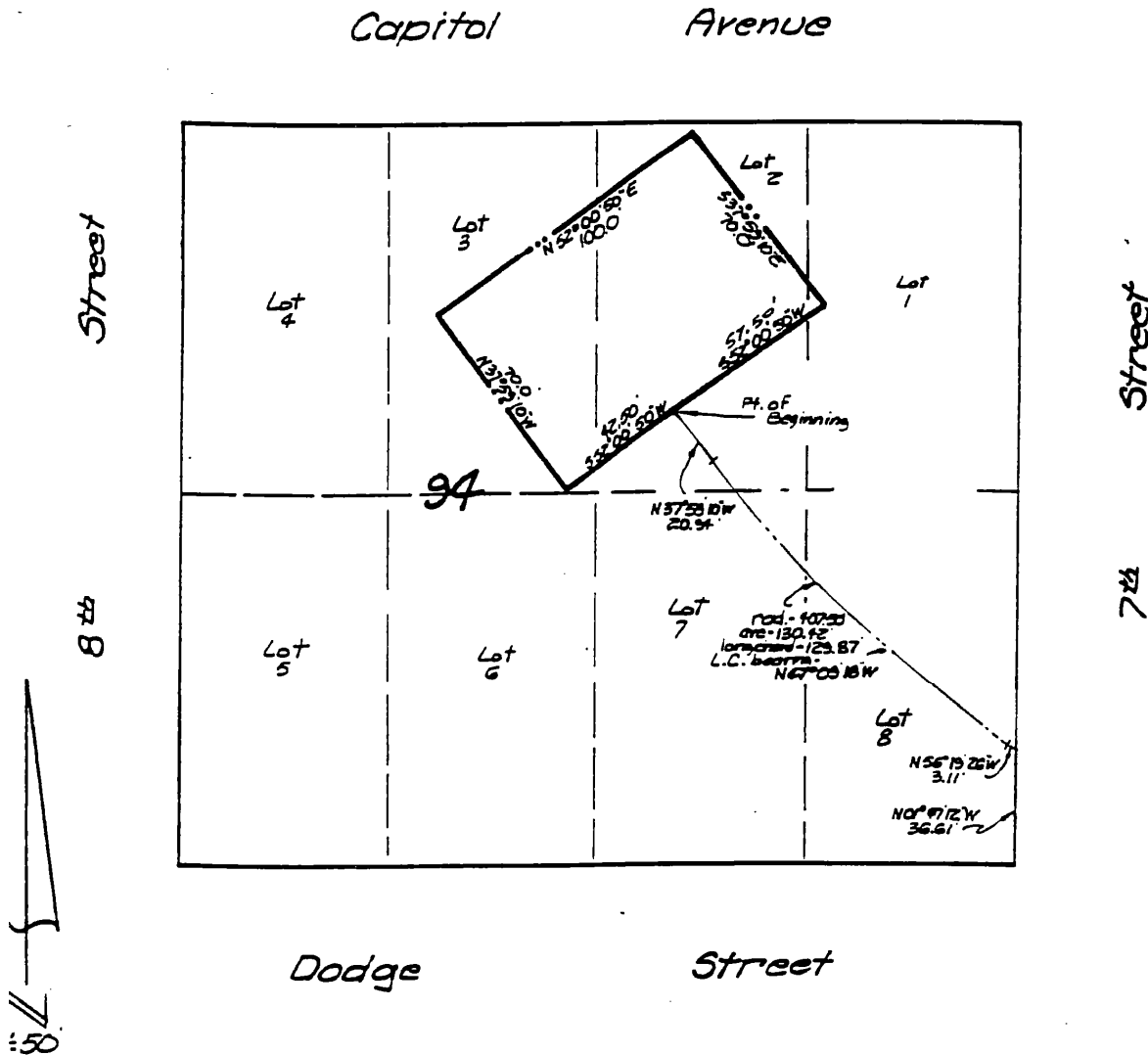
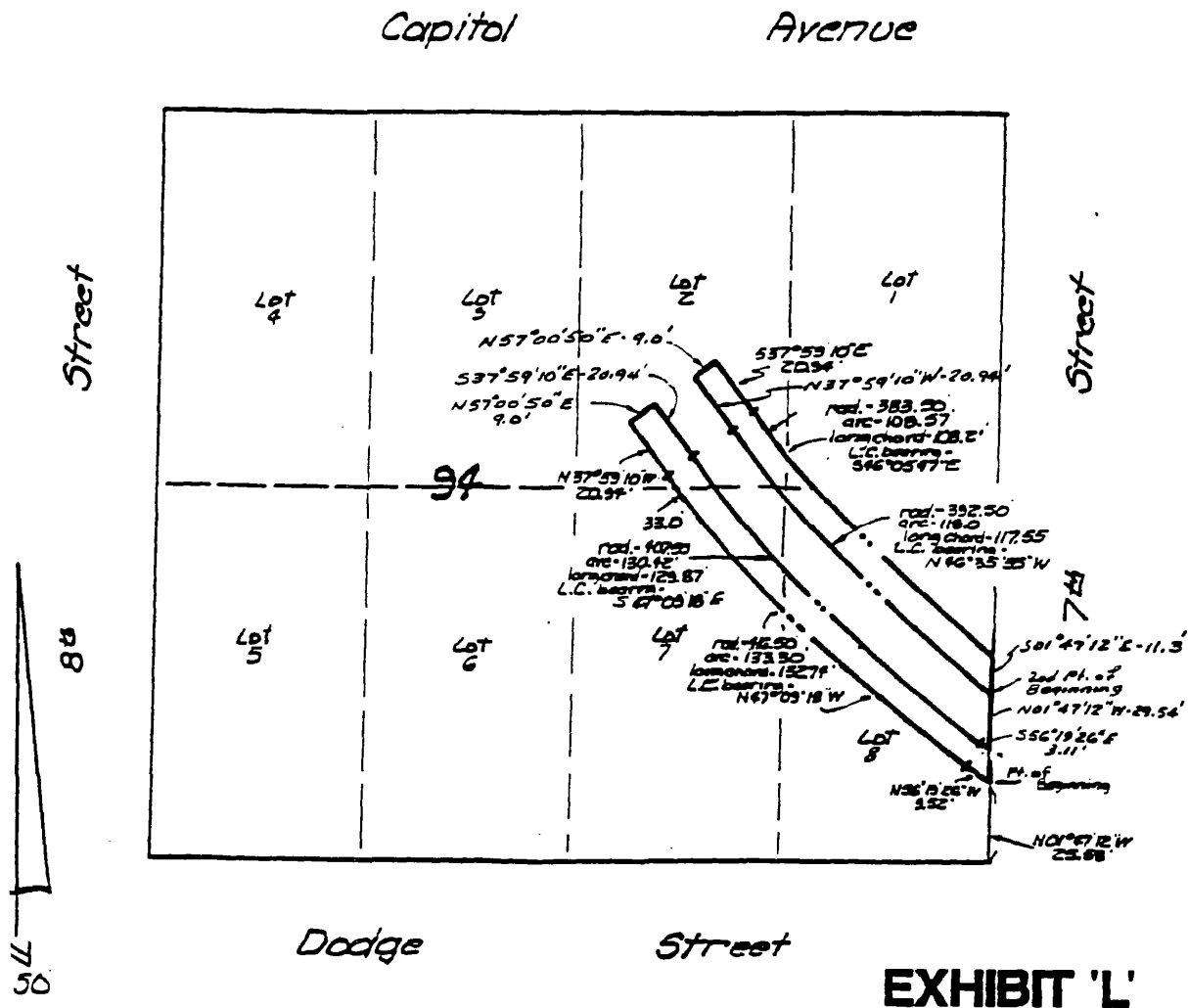


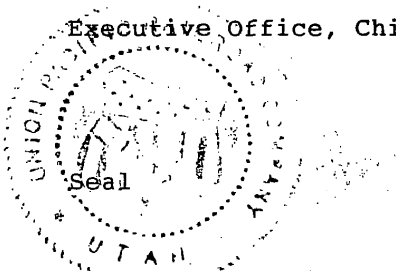
EXHIBIT 'K'

A permanent easement for the installation, maintenance and operation of an underground electric transmission line over, under and across parts of Lot 1, 2, 7 and 8, Block 94, Original City of Omaha, Douglas County, Nebraska, said easement being more particularly described as follows: Commencing at the Southeast corner of said Block 94, Original City of Omaha; thence $N01^{\circ}47'12''W$ (bearings based on the Nebraska State Plane System, South Zone) for 25.58 feet along the East line of said Block 94 to the TRUE POINT OF BEGINNING; thence $N56^{\circ}19'26''W$ for 9.52 feet; thence along a curve to the right (having a radius of 416.50 feet and a long chord bearing $N47^{\circ}09'18''W$ for 132.74 feet) for an arc distance of 133.30 feet; thence $N37^{\circ}59'10''W$ for 20.94 feet; thence $N52^{\circ}00'50''E$ for 9.0 feet; thence $S37^{\circ}59'10''E$ for 20.94 feet; thence along a curve to the left (having a radius of 407.50 feet and a long chord bearing $S47^{\circ}09'18''E$ for 129.87 feet) for an arc distance of 130.42 feet; thence $S56^{\circ}19'26''E$ for 3.11 feet to the East line of said Block 94; thence $S01^{\circ}47'11''E$ for 11.03 feet along said East line to the TRUE POINT OF BEGINNING, ALSO Commencing at the original TRUE POINT OF BEGINNING; thence $N01^{\circ}47'12''W$ for 29.54 feet to the SECOND TRUE POINT OF BEGINNING; thence along a curve to the right (having a radius of 392.50 feet and along chord bearing $N46^{\circ}35'55''W$ for 117.55 feet) for an arc distance of 118.0 feet; thence $N37^{\circ}59'10''W$ for 20.94 feet; thence $N52^{\circ}00'50''E$ for 9.0 feet; thence $S37^{\circ}59'10''E$ for 20.94 feet; thence along a curve to the left (having a radius of 383.50 feet and along chord bearing $S46^{\circ}05'47''E$ for 108.21 feet) for an arc distance of 108.57 feet to the East line of said Block 94; thence $S01^{\circ}47'12''E$ for 11.3 feet along said East line to the SECOND TRUE POINT OF BEGINNING.



CERTIFICATE OF AUTHORITY

The undersigned certifies that in accordance with the By-Laws of UNION PACIFIC RAILROAD COMPANY, (hereinafter Company) as amended on May 28, 1987; the Management Policy Statement adopted by the Board of Directors on May 28, 1987; and general and specific delegations authority pursuant thereto, R. K. Davidson, as Vice President - Operation of the Company, has been delegated the requisite authority on behalf of the Company, to exercise authority vested in the Chief Executive Officer by the By-Laws or Resolutions of the Board of Directors or Executive Committee of the Company to approve, execute and deliver all contracts, deeds, licenses, right of way easements and leases, and other documents in such form as counsel shall approve; provided that, those which involve a capital expenditure commitment, or a sale, donation or other disposition of property, or a lease not within authority specifically delegated, shall have the prior approval, as appropriate, of the Board of Directors, Executive Office, Chief Executive Officer or President.



C. W. Saylor
 Assistant Secretary

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 JACOBSON, MESSING & ASSOCIATES
 ATTORNEYS AT LAW
 SALT LAKE CITY, UTAH
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