



BK 0931 PG 346



MISC 1990 13042

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INDEXING  
PAGE DOWN FOR BALANCE OF INSTRUMENT

LAKE EASEMENT AGREEMENT

THIS AGREEMENT is made this 16th day of April, 1990, by and between CONAGRA, INC., a Delaware corporation, OPUS CORPORATION, a Minnesota corporation and OMAHA REAL ESTATE INVESTMENT PARTNERSHIP, a Minnesota general partnership (collectively, "Grantors") and the COUNTY OF DOUGLAS, NEBRASKA, a political subdivision of the State of Nebraska ("Grantee").

WITNESSETH:

WHEREAS, Grantors are the owners of that certain real estate located in Douglas County, Nebraska, more particularly described as Lots 1, 2, 16, 17, 19 and 20, Central Park East, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska (the "Property"); and

WHEREAS, Grantee intends to construct and install a lake (the "Lake") which will be partially located on a portion of the Property.

NOW, THEREFORE, in consideration of the foregoing recitals and in further consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. Grantors hereby grant to Grantee the right to allow the water of the Lake to flow onto and rest upon that portion of the Property described as the Lake Easement as shown on that drawing attached hereto as Exhibit "A", incorporated by reference herein, and as legally described on Exhibit "B" attached hereto and incorporated by reference herein, subject however, to the terms and conditions of this Agreement. The surface of the Lake shall not exceed an elevation of 980 feet above mean sea level, USGS datum. Grantors also grant to Grantee an easement over that part of the shoreline of the Lake lying upon the Property, for the minimum width reasonably necessary to construct and maintain a hard surfaced erosion-proof shoreline for the sole purpose of constructing and maintaining such shoreline and the Lake, subject however, to the terms and conditions of this Agreement.

2. In conjunction with the easement granted herein, Grantee shall also be entitled to construct and maintain one (1) fountain within the area of the Lake Easement. Notwithstanding the foregoing, in the event Grantee should ever abandon the use and operation of said fountain for a period of one (1) year, Grantee's right to use any portion of the area within the Lake Easement for purposes of the operation of a fountain shall automatically terminate, and thereafter, Grantee shall no longer be entitled to maintain, use or operate a fountain within any area within the Lake Easement.

3. Grantee, at Grantee's expense, shall construct that portion of the shoreline of the Lake located on the Property,

which shoreline shall be of at least the same quality as the remainder of the shoreline around the Lake. Such shoreline shall be constructed according to good engineering practices and in such a way as will not result in the erosion, shifting or undercutting of any portion of the Property. Grantee, at Grantee's expense, shall maintain that portion of the shoreline and lake water located on the Property in a good, first-class condition and keep the same free of all excess debris, silt, algae, moss and other unsightly vegetation and materials, and in the event of casualty to the shoreline, Grantee shall immediately restore the shoreline to its same condition existing immediately prior to such casualty.

4. The grant of the easement herein to Grantee over the shoreline of the Lake located on the Property for purposes of constructing and maintaining the shoreline of the Lake shall not be construed as a grant of an easement to the general public for access over such shoreline, or as a grant of an easement to the general public over any other portion of the Property, and Grantee shall prohibit the general public from crossing onto, over or across that portion of the shoreline of the Lake located on the Property. Grantee shall limit access strictly to its maintenance employees and its duly authorized contractors performing maintenance or repairs. This shall not be construed as prohibiting or restricting Grantors, their employees, agents, contractors or licensees from using said shoreline to the water's edge, provided they shall not unreasonably interfere with Grantee's maintenance and repair thereof and shall not damage Grantee's shoreline improvements.

5. Notwithstanding the grant of easement herein, Grantors shall have the right, at Grantors' cost, to locate one or more waterfalls, cascades, fountains and related structures anywhere in or upon the Lake Easement and that portion of the shoreline of the Lake located on the Property as are shown on Exhibit "C" attached hereto and incorporated by reference herein, and such other waterfalls, cascades, fountains and related structures which the County may approve upon Developers' request. Grantors shall be allowed to circulate water from the Lake to serve said waterfalls, cascades and fountains referred to in the preceding sentence. Any such waterfalls, cascades, fountains and related improvements shall be constructed and maintained so as to not interfere with Grantee's use and operation of the Lake.

6. The rights and restrictions imposed, and the agreements herein contained shall be appurtenant to and run with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns.

7. A waiver by any party hereto of any of its rights hereunder shall not be effective unless in writing and, in any event, shall not be construed as a continuing waiver as to any subsequent events or breaches of this Agreement, or any other

right herein contained, unless such written waiver specifically so states.

8. In the event Grantee, or its successors or assigns, shall at anytime fail to carry out any of its obligations set forth in this Agreement, or in the event Grantee, or its successors or assigns, abandons the use of the Lake Easement for the purpose of storing and maintaining the water of the Lake, then, in either event, the easements granted herein shall be automatically revoked and abandoned without any further action of any party.

9. Grantee hereby agrees to indemnify, defend and hold harmless Grantors from and against all suits, costs, expenses or other liabilities arising out of any accident, injury or occurrence on or in the Lake or the portion of the shoreline of the Lake lying on the Property.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

CONAGRA, INC., a Delaware corporation

By: [Signature]  
Title: Vice President/Controller

OPUS CORPORATION, a Minnesota corporation

By: [Signature]  
Title: President

ATTEST:

By: [Signature]  
Thomas F. Cavanaugh,  
Douglas County Clerk

COUNTY OF DOUGLAS, NEBRASKA, a political subdivision of the State of Nebraska

By: [Signature]  
Michael Albert, Chairman,  
Douglas County Board of Commissioners

OMAHA REAL ESTATE INVESTMENT PARTNERSHIP, a Minnesota general partnership

By: ARBEIT & CO., a Minnesota general partnership  
Title: Partner

By: [Signature]  
Partner

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me on April 19, 1990, by D. Peters, who is President of CONAGRA, INC., and acknowledged said Declaration on behalf of CONAGRA, INC.



Karen Ann Lewis  
Notary Public

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN )

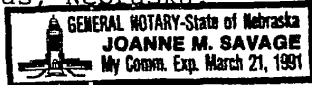
The foregoing instrument was acknowledged before me on April 24, 1990, by Gene Haugland, who is President of OPUS CORPORATION, and acknowledged said Declaration on behalf of OPUS CORPORATION.



Katherine M. Moore  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me on June 19, 1990, by Michael Albert, who is the Chairman of the Board of Commissioners of the County of Douglas, Nebraska, and acknowledged said Declaration on behalf of the County of Douglas, Nebraska.

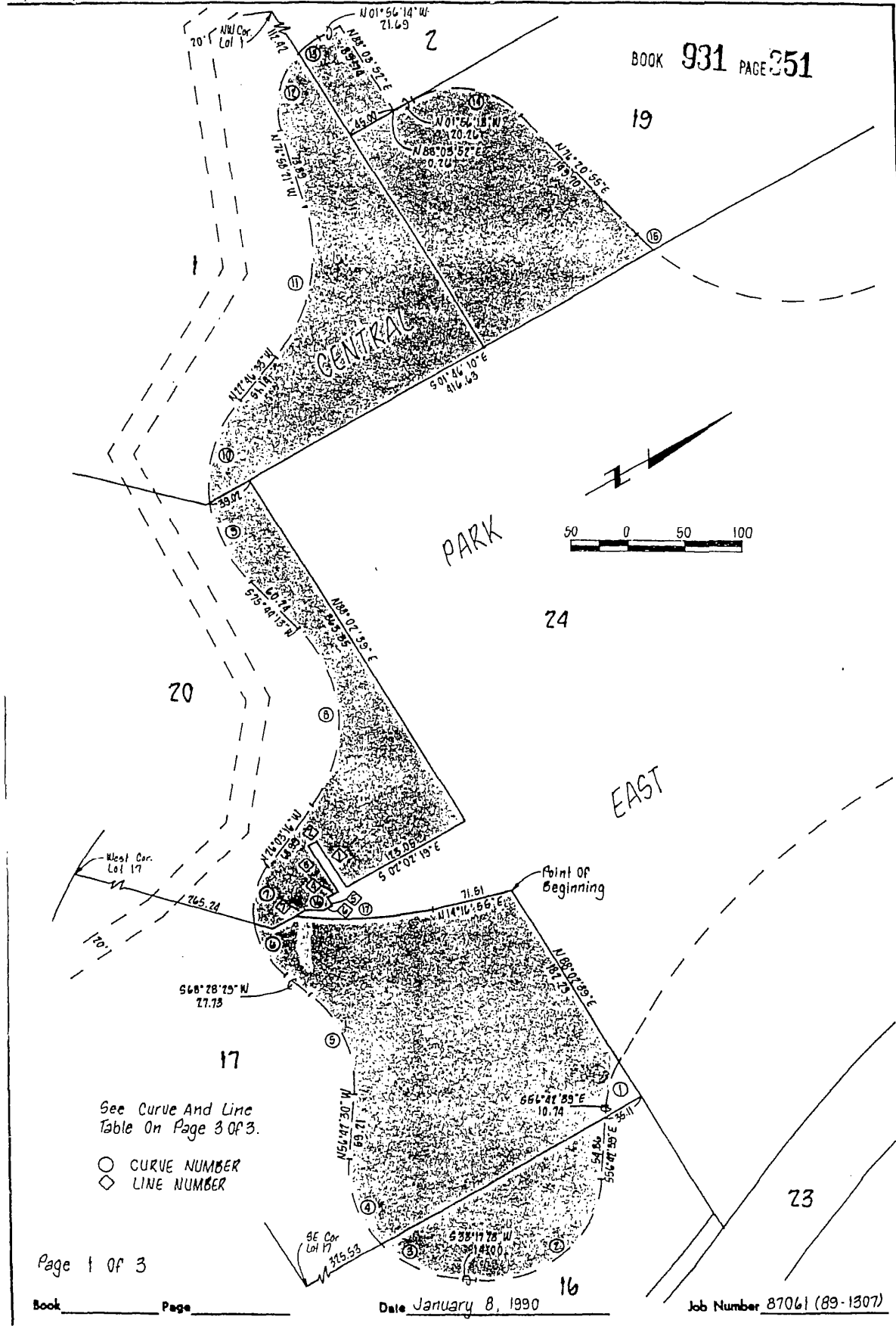


Joanne M. Savage  
Notary Public



EXHIBIT "A"

BOOK 931 PAGE 251



See Curve And Line Table On Page 3 OF 3.

- CURVE NUMBER
- ◇ LINE NUMBER

Page 1 OF 3

Book \_\_\_\_\_ Page \_\_\_\_\_ Date January 8, 1990 Job Number 87061 (89-1307)

**lamp, ryneanson & associates, inc.**  
 architects engineers surveyors planners  
 14747 california street omaha, nebraska 68154 402-498-2498

LEGAL DESCRIPTION

A permanent easement over that part of Lots 1, 2, 16, 17, 19 and 20, CENTRAL PARK EAST, a replatting of part of the Original City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska described as follows:  
Beginning at the Northwest corner of said Lot 17;  
Thence North  $88^{\circ}02'39''$  East (bearings referenced to the CENTRAL PARK EAST Final Plat) for 182.29 feet along the North line of said Lot 17;  
Thence along a curve to the left (having a radius of 100.52 feet and a long chord bearing South  $45^{\circ}10'09''$  East for 40.23 feet) for an arc length of 40.50 feet;  
Thence South  $56^{\circ}42'39''$  East for 10.74 feet to a point in the East line of said Lot 17 which is 35.11 feet South of the Northeast corner thereof;  
Thence continuing South  $56^{\circ}42'39''$  East for 54.86 feet;  
Thence along a curve to the right (having a radius of 104.17 feet and a long chord bearing South  $11^{\circ}42'38''$  East for 147.32 feet) for an arc length of 163.63 feet;  
Thence South  $33^{\circ}17'23''$  West for 14.00 feet;  
Thence along a curve to the right (having a radius of 104.17 feet and a long chord bearing South  $54^{\circ}07'49''$  West for 74.12 feet) for an arc length of 75.78 feet to a point in the east line of said Lot 17 which is 325.53 feet North of the Southeast corner of thereof;  
Thence continuing along said curve to the right (having a radius of 104.17 feet and a long chord bearing North  $80^{\circ}52'08''$  West for 85.27 feet) for an arc length of 87.85 feet;  
Thence North  $56^{\circ}42'30''$  West for 59.21 feet;  
Thence along a curve to the left (having a radius of 104.17 feet and a long chord bearing North  $84^{\circ}07'00''$  West for 95.91 feet) for an arc length of 99.66 feet;  
Thence South  $68^{\circ}28'29''$  West for 27.73 feet;  
Thence along a curve to the right (having a radius of 75.00 feet and a long chord bearing South  $89^{\circ}24'35''$  West for 53.60 feet) for an arc length of 54.81 feet to a point in the line common to said Lots 17 and 20 which is 265.24 feet Northeast of the West corner of said Lot 17;  
Thence continuing along said curve (having a radius of 75.00 feet and a long chord bearing North  $47^{\circ}51'18''$  West for 55.71 feet) for an arc length of 57.07 feet;  
Thence North  $26^{\circ}03'16''$  West for 68.99 feet;  
Thence along a curve to the left (having a radius of 128.75 feet and a long chord bearing North  $65^{\circ}09'32''$  West for 162.41 feet) for an arc length of 175.74 feet;  
Thence South  $75^{\circ}44'13''$  West for 60.24 feet;  
Thence along a curve to the right (having a radius of 128.75 feet and a long chord bearing North  $86^{\circ}00'17''$  West for 80.67 feet) for an arc length of 82.06 feet to a point in the line common to said Lots 1 and 20 which is 39.02 feet South of the Northeast corner of said Lot 20;  
Thence continuing along said curve to the right (having a radius of 128.75 feet and a long chord bearing North  $45^{\circ}15'40''$  West for 98.48 feet) for an arc length of 101.05 feet;  
Thence North  $22^{\circ}46'33''$  West for 51.14 feet;  
Thence along a curve to the left (having a radius of 152.79 feet and a long chord bearing North  $49^{\circ}52'27''$  West for 139.20 feet) for an arc length of 144.53 feet;  
Thence North  $76^{\circ}58'21''$  West for 73.89 feet;  
Thence along a curve to the right (having a radius of 75.00 feet and a long chord bearing North  $48^{\circ}30'29''$  West for 71.49 feet) for an arc length of 74.52 feet to a point in the line common to said Lots 1 and 2 which is 112.42 feet East of the Northwest corner of said Lot 1;  
Thence continuing along said curve to the right (having a radius of 75.00 feet and a long chord bearing North  $10^{\circ}59'26''$  West for 23.60 feet) for an arc length of 23.70 feet;  
Thence North  $01^{\circ}56'14''$  West for 21.69 feet;  
Thence North  $88^{\circ}03'52''$  East for 89.74 feet to a point in the line common to said Lots 2 and 19 which is 45.00 feet North of the Southwest corner of said Lot 19;



Thence continuing North 88°03'52" East for 0.26 feet;  
 Thence North 01°56'18" West for 20.26 feet;  
 Thence along a curve to the right (having a radius of 75.00 feet and a long chord bearing North 37°12'19" East for 94.69 feet) for an arc length of 102.48 feet;  
 Thence North 76°20'55" East for 149.70 feet;  
 Thence along a curve to the left (having a radius of 190.98 feet and a long chord bearing North 73°04'16" East for 21.84 feet) for an arc length of 21.85 feet to the East line of said Lot 19;  
 Thence South 01°46'10" East for 416.63 feet to the Northwest corner of said Lot 20;  
 Thence North 88°02'39" East for 363.35 feet to the Northeast corner of said Lot 20;  
 Thence along the East line of said Lot 20 for the next nine courses:  
 1) South 02°02'19" East for 123.05 feet;  
 2) South 87°57'41" West for 50.00 feet;  
 3) South 02°02'19" East for 8.48 feet;  
 4) North 88°10'43" East for 50.00 feet;  
 5) South 02°02'19" East for 10.00 feet;  
 6) North 88°10'42" East for 8.46 feet;  
 7) South 02°02'19" East for 10.00 feet;  
 8) along a curve to the right (having a radius of 1382.69 feet and a long chord bearing South 29°41'55" West for 16.08 feet) for an arc length of 16.08 feet;  
 9) South 02°02'19" East for 10.23 feet to a point of intersection with the West line of said Lot 17;  
 Thence along the West line of said Lot 17 for the next two courses:  
 1) along a curve to the left (having a radius of 384.20 feet and a long chord bearing North 25°52'49" East for 121.00 feet) for an arc length of 121.51 feet;  
 2) North 14°16'55" East for 71.51 feet to the Point of Beginning.  
 Contains 3.99 acres.

CURVE TABLE

#	Radius	Chord Bearing	Chord Length	Arc Length
1	100.52	S 45°10'09" E	40.23	40.50
2	104.17	S 11°42'38" E	147.32	163.63
3	104.17	S 54°07'49" W	74.12	75.78
4	104.17	N 80°52'08" W	85.27	87.85
5	104.17	N 84°07'00" W	95.91	99.66
6	75.00	S 89°24'35" W	53.60	54.81
7	75.00	N 47°51'18" W	55.71	57.07
8	128.75	N 65°09'32" W	162.41	175.74
9	128.75	N 86°00'17" W	80.67	82.06
10	128.75	N 45°15'40" W	98.48	101.05
11	152.79	N 49°52'27" W	139.20	144.53
12	75.00	N 48°30'29" W	71.49	74.52
13	75.00	N 10°59'26" W	23.60	23.70
14	75.00	N 37°12'19" E	94.69	102.48
15	190.98	N 73°04'16" E	21.84	21.85
16	1382.69	S 29°41'55" W	16.08	16.08
17	384.20	N 25°52'49" E	121.00	121.51

LINE TABLE

#	Bearing	Distance
1	S 87°57'41" W	50.00
2	S 02°02'19" E	8.48
3	N 88°10'43" E	50.00
4	S 02°02'19" E	10.00
5	N 88°10'42" E	8.46
6	S 02°02'19" E	10.00
7	S 02°02'19" E	10.23

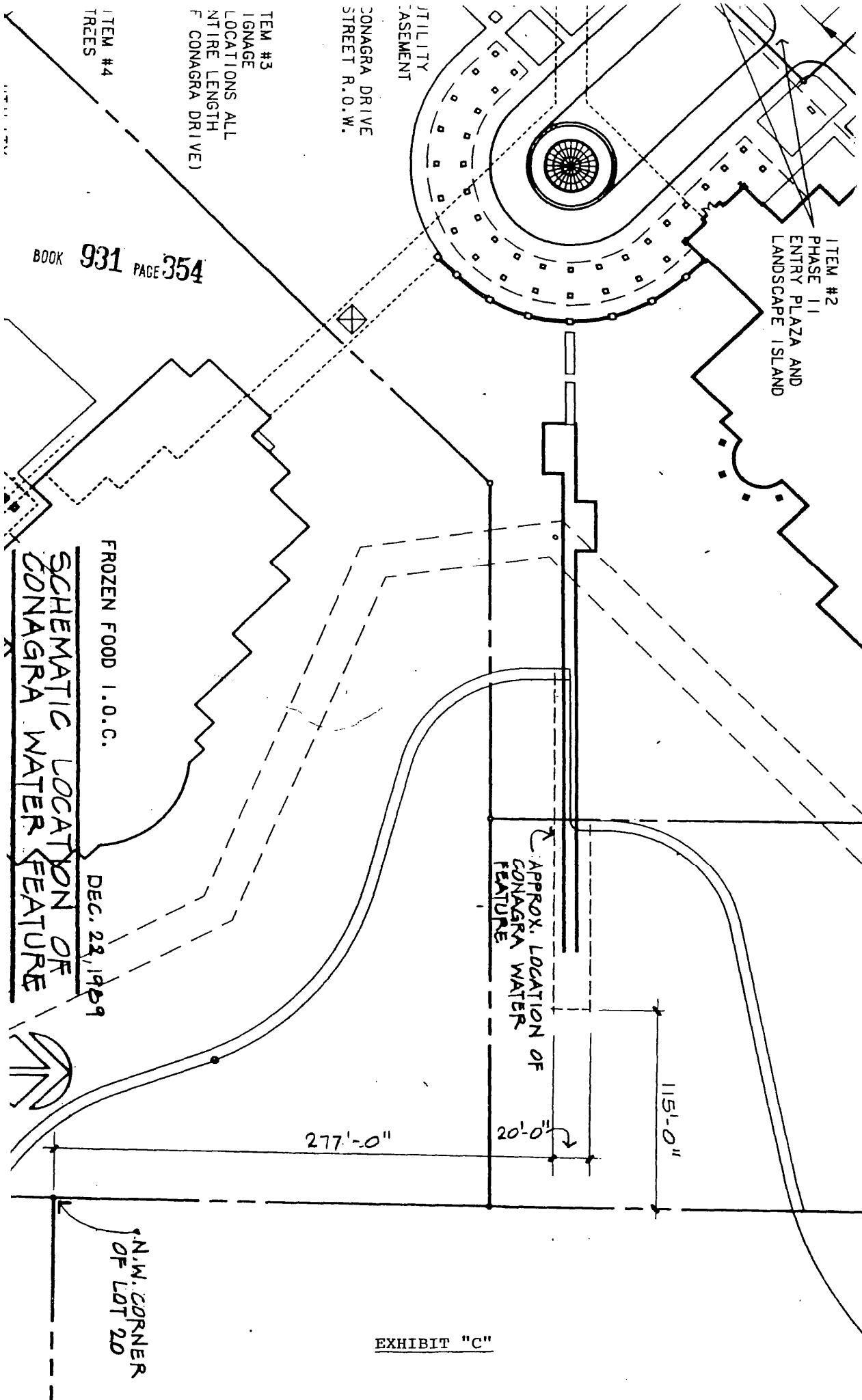


EXHIBIT "C"

BOARD OF COUNTY COMMISSIONERS  
DOUGLAS COUNTY, NEBRASKA

Resolved

BOOK 931 PAGE 355

WHEREAS, this Board of Commissioners did, on the 15th day of March, 1988, enter into a Redevelopment Agreement with the City of Omaha, The Omaha Development Foundation, the Peter Kiewit Foundation, and ConAgra, Inc., for the development of what has been commonly called the "Central Park East Development";

WHEREAS, as a part of said Redevelopment Agreement Douglas County has and is developing a lake on the site of the Central Park East project. The waters of said lake will flow onto adjacent properties, and this Board finds and determines that it is in the best interests of Douglas County to resolve now and forever the relationship between Douglas County and property owners adjacent to the Central Park East site over whose land said lake waters will flow;

AND WHEREAS, this Board of Commissioners shall and hereby does find that it is in the best interests of Douglas County to enter into the attached "LAKE EASEMENT AGREEMENT".

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS THAT the attached "LAKE EASEMENT AGREEMENT" by and between the County of Douglas, ConAgra, Inc., OPUS Corporation, and the Omaha Real Estate Investment Partnership shall be and hereby is ratified, confirmed, and approved in all respects, and this Board's Chairman and Clerk shall be and hereby are authorized to execute the same for and on behalf of the County of Douglas.

DATED this 19th day of June, 1990.

Motion by Green; Seconded by Rosenblatt  
I move the adoption of the resolution.  
ADOPTED: June 19, 1990  
YEAS: Buffett, Green, Rosenblatt,  
Simon, Albert

(CERTIFIED COPY)

*[Signature]*  
COUNTY CLERK

Certified Copy to: County Clerk,  
County Commissioners, County Attorney,  
D. Sykes, S. Walker, Internal Audit,  
Public Properties

*[Signature]*  
*[Signature]*  
*[Signature]*  
*[Signature]*  
*[Signature]*

THE BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, NEBRASKA.

130440  
made  
H

BOOK 931 N \_\_\_\_\_ C/O \_\_\_\_\_ FEE 53.00  
PG 346-355 N Comp DEL IN MC WC  
OF Music COMP  F/B 23-6170

RECEIVED  
JUN 18 2 35 PM '90  
GENERAL CLEMENS  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE