



05007198

INST. NO 2005

\$ 3700

2005 FEB - 8 P 2: 15

007198

LANCASTER COUNTY, NE

BLOCK

CODE

Hobues / Hobues

CHECKED

Hobues

ENTERED

Hobues

EDITED

Hobues

DECLARATION OF COMMON ACCESS EASEMENT TO WIDEN DRIVEWAY

This Declaration of Common Access Easement To Widen Driveway ("Declaration") is made by and between (i) as grantor, **South Industrial Park LLC**, a Nebraska limited liability company, and **Security Financial Life Insurance Co.**, a Nebraska corporation, as tenants in common (collectively, "Grantor") and (ii) as grantees, **South Industrial Park LLC**, a Nebraska limited liability company ("SIP"), **Security Financial Life Insurance Co.**, a Nebraska corporation ("SF"), and **Horizon Business Center Association, Inc.**, a Nebraska nonprofit corporation ("Association") (collectively, the "Grantee").

RECITALS

WHEREAS, Grantor is the owner of the following described property (the "Burdened Parcel"):

Lot 4, Block 1, Horizon Business Center 1st Addition ; and
 Lot 1, Horizon Business Center 5th Addition, Lincoln, Lancaster County,
 Nebraska;

WHEREAS, SIP and SF are the owners as tenants in common of the following described property which lies adjacent to the Burdened Parcel and which is planned for development of four warehouses (the "Benefitted Parcel"):

Lot 2, Horizon Business Center 5th Addition, Lincoln, Lancaster County, Nebraska; and
 Lot 10, Block 1, Horizon Business Center Addition;

WHEREAS, a driveway easement, entitled "Common Access Easement Over Driveway" was filed with the Lancaster County Register of Deeds on May 23, 2003 as Inst. No. 2003-048568 (the "2003 Driveway Easement"), which granted a common access easement over the driveway shown cross-hatched on Exhibit "A" attached hereto ("Existing Driveway");

WHEREAS, the 2003 Driveway Easement is not wide enough at its mouth where the driveway connects to Aries Drive, and does not allow sufficient turning radius for semi-tractors and -trailers, which would be serving the warehouses, to enter or exit the driveway;

WHEREAS, it is the intent of this Declaration to provide for the widening of the driveway as shown in the crosshatched area on Exhibit "B" attached hereto by granting a common access easement thereon ("Widened Driveway") so as to allow for access by, in particular, semi-tractors and -trailers serving the warehouses;

WHEREAS, notwithstanding the allocation to each Lot Owner as provided in Section 5 of the 2003 Driveway Easement, the parties desire to allocate the cost of maintaining both the Widened Driveway and the Existing Driveway to the Benefitted Parcels;

Christie Schwartzkopf-Schroff
 411 S. 13th, 2nd floor
 68508

WHEREAS, restrictive covenants were filed on real estate comprising Horizon Business Center Addition ("Property", as defined in the Restrictive Covenants) with the Lancaster County Register of Deeds on September 5, 2000 as Instrument No. 2000-038888, which restrictive covenants were amended by Amendment No. 1 to Restrictive Covenants filed June 15, 2001 with the Lancaster County Register of Deeds as Inst. No. 2001-032738 (collectively, the "Restrictive Covenants"), and the Property includes both the Burdened Parcel and the Benefitted Parcel;

WHEREAS, the Association was incorporated in Nebraska for the purposes of enforcing the Restrictive Covenants and administering and providing for the maintenance of areas designated for the common or joint use and benefit of the members of the Association, their employees, invitees, agents, and customers (and, in the case of the private roadways, the public), which areas shall include but not be limited to the driveways that are the subject of this Declaration;

WHEREAS, the Existing Driveway is a part of the "Commons" as such term is defined in the Restrictive Covenants, and the Widened Driveway shall also be deemed a part of the "Commons";

NOW, THEREFORE, in consideration of and incorporating the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby establish a common access easement in accordance with the terms set forth herein.

TERMS

1. Grant of Common Access Easement over Widened Driveway. Grantor hereby grants to Grantee a common access easement on those portions of the Burdened Parcel shown cross-hatched on Exhibit "B" and legally described in Exhibit "C" ("Widened Driveway").

2. Purpose of Easement. The easement established by this instrument is for the purpose of widening the Existing Driveway and locating, establishing, and maintaining a common access driveway easement ("Widened Driveway") across the Burdened Parcel. The access easement shall be used for public access, and the public is hereby granted the right of such use.

3. Run with the Land. The easement granted herein shall run with the land and shall inure to the benefit of the public and the Grantee, its members, employees, invitees, agents, customers, successors and assigns in perpetuity, unless terminated or amended pursuant to Section 8 of this instrument.

4. No Construction on Easement. No improvement other than the driveway may be constructed within the location of this Widened Driveway, consistent with the restrictions set forth in Section 8.3 of the Restrictive Covenants.

5. Obligation to Maintain Driveway. Notwithstanding the provisions of Section 8.4 of the Restrictive Covenants and of Section 5 of the 2003 Driveway Easement, each Lot Owner of the Benefitted Parcel shall have the obligation, at the expense of such Lot Owner, to repair, maintain (including snow removal), and replace both the Existing Driveway and the Widened Driveway. Such expense shall be allocated to such Lot Owner in accordance with Section 4.4 of the Restrictive Covenants, as amended June 15, 2001.

6. Right of Entry to Maintain. The easement granted herein shall permit Grantee, its agents, employees, and contractors, with the necessary equipment, to enter upon and have access to the Burdened Parcel for the express purpose of conducting any necessary or appropriate maintenance, repair, or

replacement work, in the event any Lot Owner fails to maintain the Widened Driveway. Grantee shall do so only following notice to such Lot Owner.

7. Exhibits. Exhibits A, B, and C attached hereto are incorporated herein by this reference.

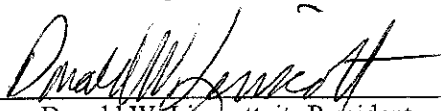
8. Termination; Amendment. This Declaration may be terminated or amended by an agreement in writing executed by the Lot Owners of both the Burdened Parcel and the Benefitted Parcel and by Grantee.

9. Definitions. Unless otherwise defined herein, capitalized terms used in this instrument shall have the meanings ascribed to them in the Restrictive Covenants.

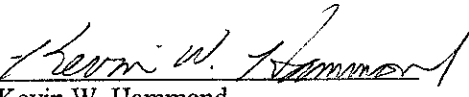
10. Effective Date. This instrument shall become effective on the date it is filed with the Lancaster County Register of Deeds.

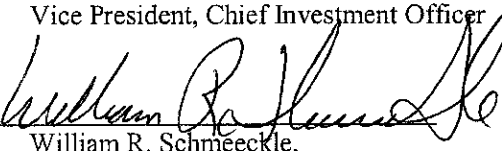
SOUTH INDUSTRIAL PARK, LLC, a Nebraska
limited liability company

By: Greenleaf, P.C., Manager

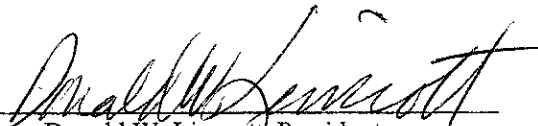
By: 
Donald W. Linscott, its President

SECURITY FINANCIAL LIFE INSURANCE CO.,
a Nebraska corporation

By: 
Kevin W. Hammond,
Vice President, Chief Investment Officer

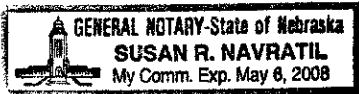
By: 
William R. Schmeeckle,
Vice President, Chief Financial Officer

HORIZON BUSINESS CENTER ASSOCIATION, INC.,
a Nebraska nonprofit corporation

By: 
Donald W. Linscott, President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

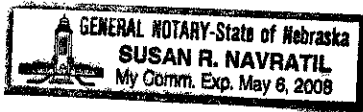
The foregoing instrument was acknowledged before me this 7 day of February, 2005 by Donald W. Linscott, President of **Greenleaf, P.C.**, a Nebraska professional corporation that is Manager of **South Industrial Park, LLC**, a Nebraska limited liability company, on behalf of both such companies; and by Donald W. Linscott, President of **Horizon Business Center Association, Inc.**, a Nebraska nonprofit corporation, on behalf of the corporation.



Susan R Navratil
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

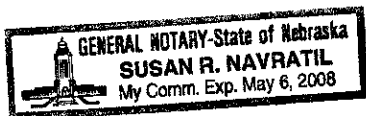
The foregoing instrument was acknowledged before me this 8 day of February, 2005 by William R. Schmeeckle, Vice President and Chief Financial Officer of **Security Financial Life Insurance Co.**, a Nebraska corporation, on behalf of the corporation.



Susan R Navratil
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 8 day of February, 2005 by Kevin W. Hammond, Vice President and Chief Investment Officer of **Security Financial Life Insurance Co.**, a Nebraska corporation, on behalf of the corporation.



Susan R Navratil
Notary Public

N

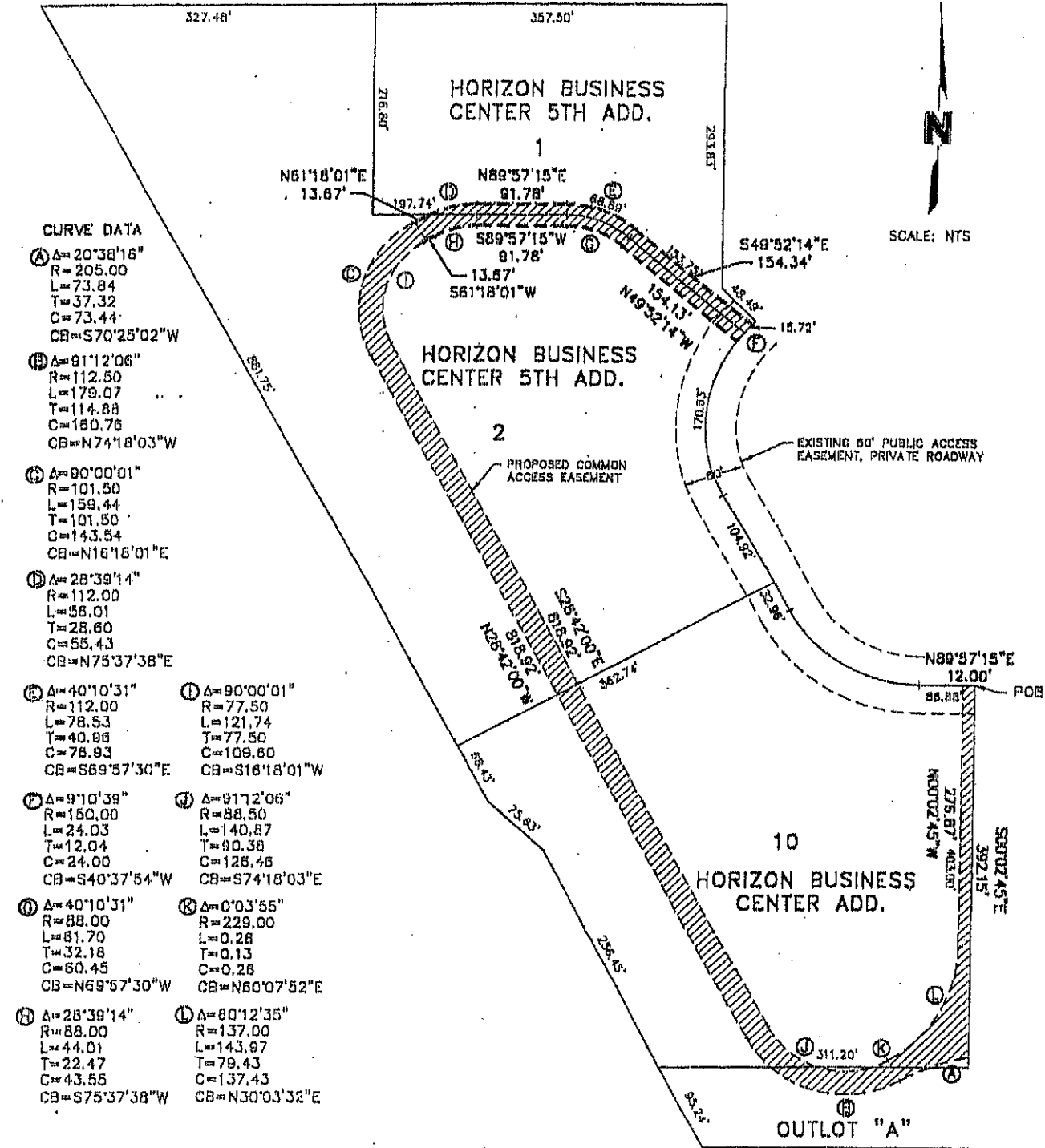
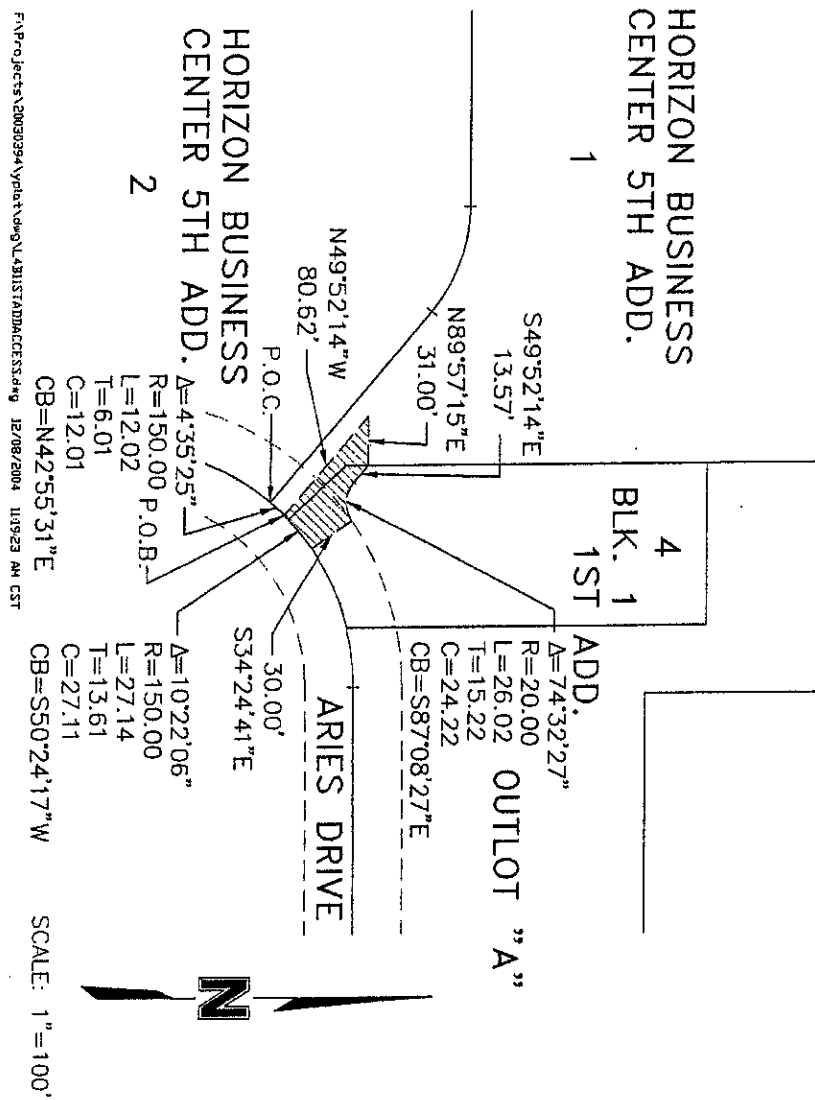


Exhibit "B"



**LEGAL DESCRIPTION
PUBLIC ACCESS EASEMENT**

A LEGAL DESCRIPTION FOR PUBLIC ACCESS EASEMENT PURPOSES FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOT 4, BLOCK 1, HORIZON BUSINESS CENTER 1ST ADDITION, AND A PORTION OF LOT 1, HORIZON BUSINESS CENTER 5TH ADDITION, ALL LOCATED IN THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 6 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1, THENCE NORTHEAST ALONG A SOUTHEAST LINE OF SAID LOT 1, ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 150.00 FEET, ARC LENGTH OF 12.02 FEET, DELTA ANGLE OF 04 DEGREES 35 MINUTES 25 SECONDS, AN ASSUMED CHORD BEARING OF NORTH 42 DEGREES 55 MINUTES 31 SECONDS EAST, AND A CHORD LENGTH OF 12.01 FEET TO A POINT, SAID POINT BEING **THE TRUE POINT OF BEGINNING**, THENCE NORTH 49 DEGREES 52 MINUTES 14 SECONDS WEST, A DISTANCE OF 80.62 FEET TO A POINT, THENCE NORTH 89 DEGREES 57 MINUTES 15 SECONDS EAST, A DISTANCE OF 31.00 FEET TO A POINT, THENCE SOUTH 49 DEGREES 52 MINUTES 14 SECONDS EAST, A DISTANCE OF 13.57 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 20.00 FEET, ARC LENGTH OF 26.02 FEET, DELTA ANGLE OF 74 DEGREES 32 MINUTES 27 SECONDS, A CHORD BEARING OF SOUTH 87 DEGREES 08 MINUTES 27 SECONDS EAST, AND A CHORD LENGTH OF 24.22 FEET TO A POINT, THENCE SOUTH 34 DEGREES 24 MINUTES 41 SECONDS EAST, A DISTANCE OF 30.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTHEAST LINE OF SAID LOT 4, SAID POINT BEING THE POINT OF CURVATURE OF A NON TANGENT CURVE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 150.00 FEET, ARC LENGTH OF 27.14 FEET, DELTA ANGLE OF 10 DEGREES 22 MINUTES 06 SECONDS, A CHORD BEARING OF SOUTH 50 DEGREES 24 MINUTES 17 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID LOTS 4 AND 1, AND A CHORD LENGTH OF 27.11 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 1,779.08 SQUARE FEET OR 0.0408 ACRES, MORE OR LESS.