

97-08837

FILED SARPY CO. NE.
INSTRUMENT NUMBER
97-08837

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Shirley J. Lawling
REGISTER OF DEEDS

Verify: *ap*
D.E.: *ap*
Proof: *W*
Fee: 50.50
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EASEMENT AGREEMENT
(Roadway and Utilities)

THIS AGREEMENT is made and entered into this 6th day of May, 1997,
by and between Evelyn M. Weiss ("Weiss") and Werner Enterprises, Inc., a Nebraska corporation
("Werner").

WITNESSETH:

WHEREAS, Weiss is the owner of the property described on Exhibit "A" attached hereto
(the "Weiss Property");

WHEREAS, Werner is the owner of the property described on Exhibit "B" attached hereto
(the "Werner Property"); and

WHEREAS, the parties have reached certain agreements with respect to easements for a
roadway and utilities to be located along the southern border of the Werner Property and the
northern border of the Weiss Property and desire to set forth such agreements in writing in this
Agreement.

NOW, THEREFORE, in consideration of the above premises and the mutual covenants
contained herein, and other valuable consideration, the parties agree as follows:

1. Weiss does hereby grant and confirm unto Werner a perpetual easement to use the
parcel of land designated and described on Exhibit "C" attached hereto (the "Easement Area") for
the purpose of constructing, inspecting, maintaining, repairing and using a roadway and utility lines
including, but not limited to, facilities such as water mains and appurtenances, gas mains and
appurtenances, underground electrical, cable TV, and telephone. Such easement shall be for the
benefit of all present and future owners of all or any part of the Werner Property and, with respect
to the roadway only, their tenants, licensees and invitees, and the general public if any such owner
permits access to the Werner Property by the general public. Werner hereby agrees to construct,
maintain and repair the roadway to be constructed across the area designated and described on
Exhibit "C" attached hereto and any utility lines placed in the Easement Area and perform all such
work so as not to damage, obstruct or otherwise impair any existing sewer line in the Easement
Area. Werner further agrees to pay all contractors and suppliers engaged by Werner to perform
work or provide materials in the Easement Area and keep the Easement Area and Weiss Property
free of liens for such work and materials. To the fullest extent permitted by law, Werner shall
indemnify and hold Weiss harmless from and against any and all claims, damages, losses and
expenses arising out of or in connection with the performance by Werner of its construction,
inspection, maintenance, repair and use of the roadway and utility lines permitted by this

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Agreement, provided that such claim, damage, loss or expense is attributable to lien claims of contractors or suppliers or bodily injury or to injury to or destruction of tangible property, but only to the extent caused in whole or in part by breach of this Agreement by Werner or the negligent acts or omissions or wilful misconduct of Werner, its employees, agents, contractors or anyone else for whose acts they may be liable. Werner shall cause Weiss to be named as an additional named insured on its liability insurance policy(ies) covering the roadway and utility lines and shall provide Weiss copies of certificates of insurance indicating such status.

2. Werner hereby grants unto Weiss, a perpetual easement to use the roadway described on Exhibit "C" for ingress and egress to the Weiss Property. Such easement shall be for the benefit of all present and future owners of all or any part of the Weiss Property, their tenants, licensees and invitees and adjoining property owners and the general public if any such owner of the Weiss Property permits access to the Weiss Property by such adjoining property owners and/or the general public.

3. If any utility lines are installed on the Werner Property, Werner hereby grants Weiss an easement across the south 55 feet of the Werner Property lying directly north of the Easement Area from the location of the utility lines south to the Weiss Property in order to enable Weiss to connect to such utility lines for services to the Weiss Property. Werner further agrees that Weiss shall have unrestricted right to connect to such utility lines except as may be limited by the providers of such utilities, provided that all such connections shall be made in a manner so as not to cause damage to or disturb use of the roadway by Werner. Such easement and right shall be for the benefit all owners of all or any part of the Weiss Property, and their invitees, tenants and licensees.

4. No buildings or other permanent structures shall be placed in, on, over or across the Easement Area by Weiss. Weiss shall be entitled to landscape, grade, pave and place utility lines in the Easement Area with the prior written approval of Werner, which approval shall not be unreasonably withheld. Any pavement or utility lines placed in the Easement Area by Weiss shall be maintained by Weiss and, if the Easement Area is paved or landscaped, Weiss shall further be obligated to pay any increased costs incurred to obtain access to the utility lines placed in the Easement Area for repairs as a result of such pavement or landscaping and the cost of restoring such pavement or landscaping other than the driveway or connecting street from the Werner Property to the Weiss Property, all costs for access to and repair of which shall be the responsibility of Werner. The foregoing notwithstanding, Weiss shall be entitled to add fill material and perform associated grading and compaction upon prior written notice to Werner but without the need for consent.

5. Werner shall cause any disturbance of grade made in the Easement Area whether caused by construction or thereafter through settling or natural erosion to be properly refilled, compacted below the topsoil level and graded. Except as otherwise provided in paragraph 4 above, Werner shall cause the Easement Area to be mowed and maintained at all times in a neat and orderly condition unless there is a fence in the Easement Area in which case Werner shall only be obligated to mow and maintain the Easement Area lying north of such fence.

6. Weiss acknowledges that it is the current intention of Werner to assign this Agreement to SID No. 52 or other appropriate governmental agency and dedicate the roadway and utility lines for the public use. Weiss agrees to cooperate in said assignment and dedication and to sign such documents as are necessary to accomplish the assignment and dedication provided

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that Weiss is not materially prejudiced thereby, but without incurring any additional direct liability or cost. In the event this Agreement is so assigned and dedicated, Werner shall be released of its obligations hereunder provided such obligations are assumed by SID No. 52 or such other governmental agency.

7. Nothing in this Agreement is intended to or shall limit or avoid the statutory or common law duties of the parties to each other with respect to surface drainage.

8. Except as contemplated in paragraph 6 above, the provisions in this Agreement shall operate as a covenant running with the Weiss Property, the Easement Area and the Werner Property (as applicable) and shall bind the current owners of the Weiss Property, the Easement Area and Werner Property (as applicable) and their respective heirs, administrators, executors, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

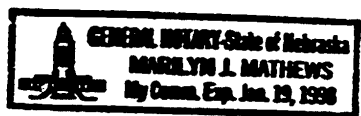
Evelyn M. Weiss
Evelyn M. Weiss

WERNER ENTERPRISES, INC., a
Nebraska corporation

By: Robert J. [Signature]
Its: Executive Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 6th day of May, 1997, before me, a Notary Public, in and for said County and State, personally appeared Evelyn M. Weiss, who executed the above and foregoing Agreement and acknowledged the execution thereof to be her voluntary act and deed.

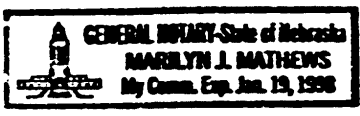


Marilyn J. Mathews
Notary Public

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STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 6th day of May, 1997, before me, a Notary Public, in and for said County and State, personally appeared Robert E. Synowicki, Executive Vice President of Werner Enterprises, Inc., a Nebraska corporation, who executed the above and foregoing Agreement and acknowledged the execution thereof to be the voluntary act and deed of said corporation.



Marilyn J. Mathews
Notary Public

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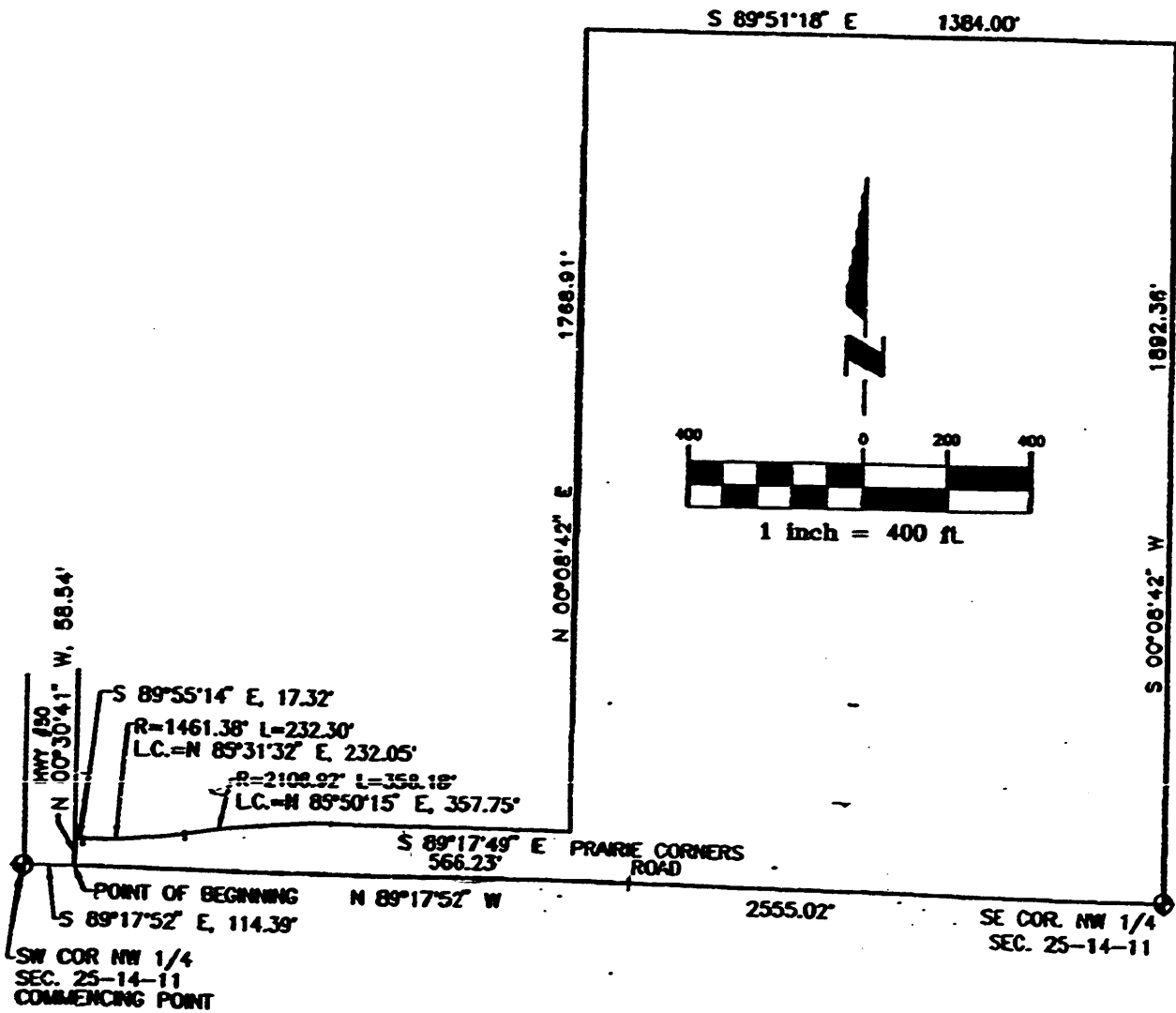
EXHIBIT "A"

WEISS PROPERTY

The West Half (W $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 25,
Township 14 North, Range 11 East of the 6th P.M., Sarpy County,
Nebraska.

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EXHIBIT "B"



EMA CONSULTING GROUP
12004 "O" STREET
OMAHA, NE 68137
(402) 485-1788 FAX (402) 485-9000

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EXHIBIT "B"

LEGAL DESCRIPTION
"WERNER PROPERTY"

A tract of land located in the NW ¼ of Section 25, Township 14 North, Range 11 East of the 6th P.M., Sarpy County, Nebraska, more particularly described as follows:

Commencing at the Southwest Corner of said NW ¼ of Section 25; thence S89°17'52"E (assumed bearing) along the South line of said NW ¼ of Section 25, a distance of 114.39 feet to a point on the east right-of-way line of State Highway 50, said point also being the point of beginning; thence N00°04'43"E, along said East right-of-way line of State Highway 50, a distance of 58.57 feet; thence easterly, on a curve to the left with a radius of 1,461.38 feet, a distance of 232.30 feet, said curve having a long chord which bears N85°31'32"E, a distance of 232.05 feet; thence easterly, on a curve to the right with a radius of 2,108.92 feet, a distance of 358.18 feet, said curve having a long chord which bears N85°50'15"E, a distance of 357.75 feet; thence S89°17'49"E, a distance of 566.23 feet; thence N00°08'42"E, a distance of 1,768.91 feet; thence S89°51'18"E, a distance of 1,384.00 feet to a point on the East line of said NW ¼ of Section 25; thence S00°08'42"W, along said East line of the NW ¼ of Section 25, a distance of 1,892.36 feet to a point on said South line of the NW ¼ of Section 25; thence N89°17'52"W, along said South line of the NW ¼ of Section 25, a distance of 2,555.02 feet to a point on the East right-of-way line of State Highway 50, said point also being the point of beginning.

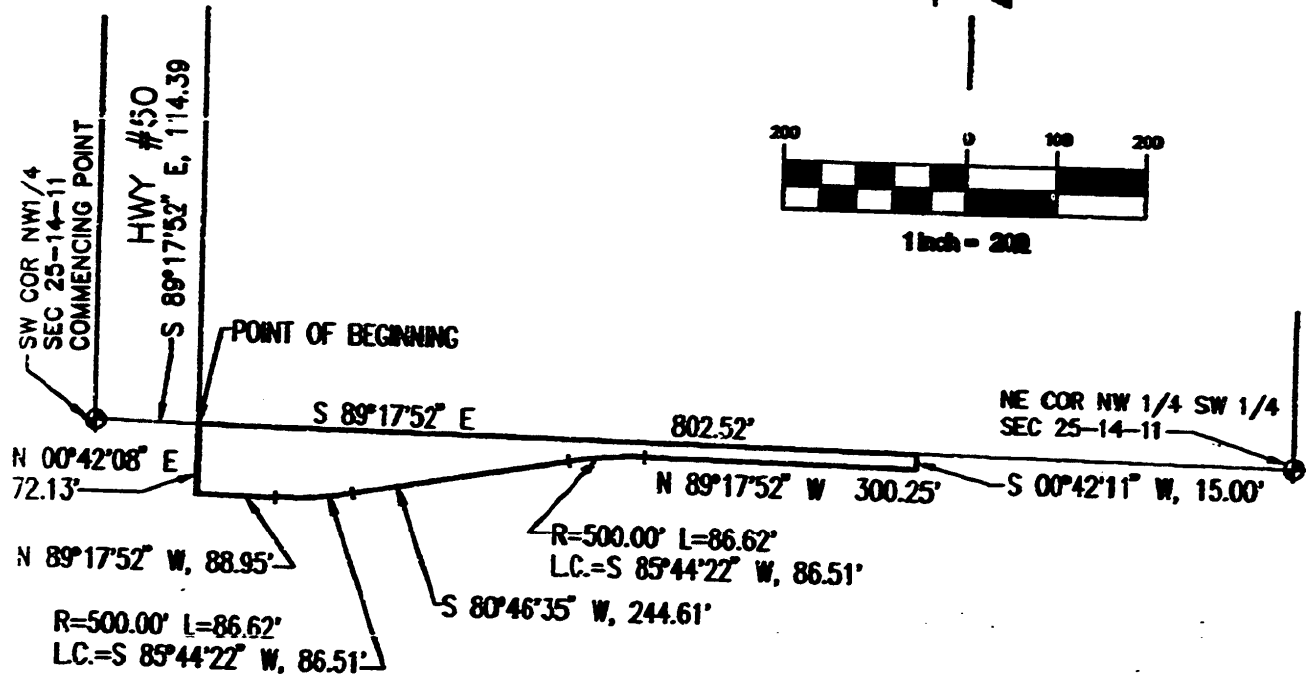
Said tract of land contains an area of 62.532 acres, more or less.

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EXHIBIT "C"

DESCRIPTION OF WORK

Improvements to accommodate vehicular traffic to and from Highway 50 and the proposed Warner Truck Terminal. Construction to include a concrete street with integral curb and gutter and raised center median of sufficient width to accommodate two lanes of traffic westbound and two lanes of traffic eastbound. Construction is also to include the construction of a street approach from the property to the south connecting to said concrete street. Connecting street is to be located approximately 800 feet east of the centerline of Highway 50, shall be constructed of concrete, shall be designed to be 36 feet in width at the south end of return and shall be designed with 75' turning radii. The connecting street is to be constructed per the described geometrics to a point approximately 10 feet south of the south curb of the east-west street. Improvements may also include water mains (by MUD), storm sewer pipe for street stormwater collection, sanitary sewer, underground power service (by OPPD), telephone and cable TV lines together with other necessary and incidental items to construct a complete improved street system.



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EXHIBIT "C"

**LEGAL DESCRIPTION
PERMANENT ROADWAY & UTILITY EASEMENT**

A Permanent Roadway and Utility Easement located in the NW ¼ of the SW ¼ of Section 25, Township 14 North, Range 11 East of the 8th P.M., Sarpy County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of said SW ¼ of Section 25; thence S89°17'52"E (assumed bearing) along the North line of said SW ¼ of Section 25, a distance of 114.39 feet to a point on the east right-of-way line of State Highway 50, said point also being the point of beginning; thence continuing S89°17'52"E, along said North line of said NW ¼ of the SW ¼ of Section 25, a distance of 802.52 feet; thence S00°42'11"W, a distance of 15.00 feet; thence N89°17'52"W, a distance of 300.25 feet; thence westerly, on a curve to the left with a radius of 500.00 feet, a distance of 86.62 feet, said curve having a long chord which bears S85°44'22"W, a distance of 86.51 feet; thence S80°46'35"W, a distance of 244.61 feet; thence westerly, on a curve to the right with a radius of 500.00 feet, a distance of 86.62 feet, said curve having a long chord which bears S85°44'22"W, a distance of 86.51 feet; thence N89°17'52"W, a distance of 88.95 feet, to a point on the east right-of-way line of State Highway 50; thence N00°42'08"E, along said east right-of-way line of State Highway 50 a distance of 72.13 feet to a point on said north line of said NW ¼ of the SW ¼ of Section 25, said point also being the point of beginning.

Said permanent roadway and utility easement contains an area of 0.664 acres, more or less.

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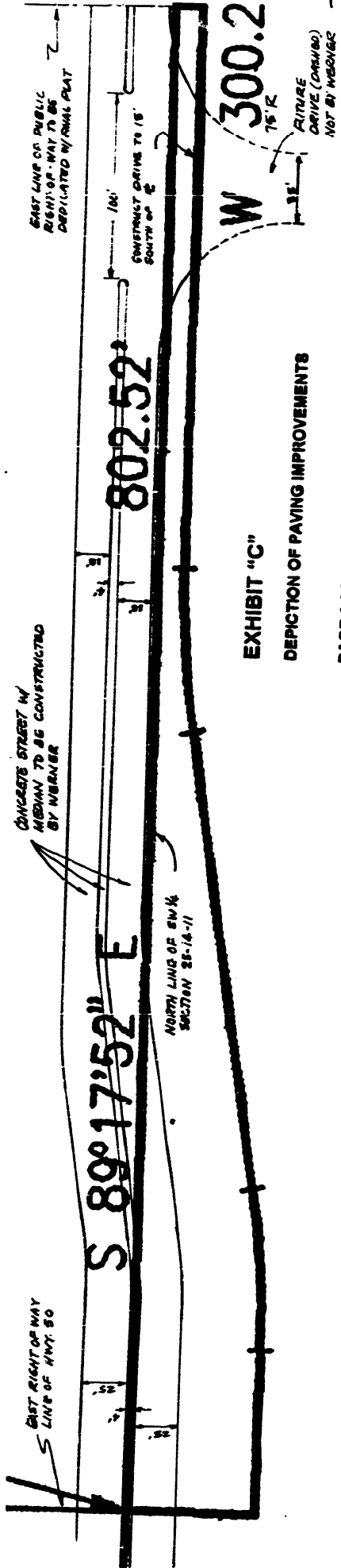


EXHIBIT "C"
DEPICTION OF PAVING IMPROVEMENTS
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