

CITY OF OMAHA

LEGISLATIVE CHAMBER

BOOK 759 PAGE 521

Omaha, Nebr..... 19.....

RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

WHEREAS, in 1981, the City of Omaha, Murdock Omaha and several private sector donors entered into a redevelopment agreement entitled the "Memorandum of Understanding"; and,

WHEREAS, pursuant to that agreement and through such parties efforts, a 510,000 square foot office building was constructed on the east 154 feet of Block 118 and a public parking garage on the south half of Block 106, with a connecting public skywalk, were constructed; and,

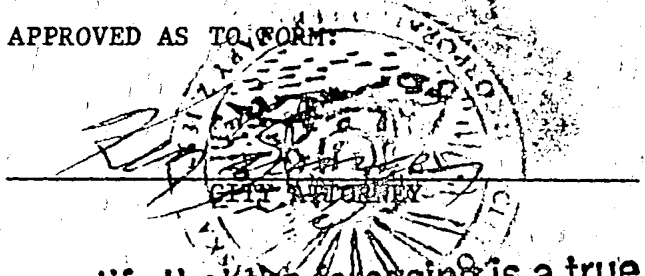
WHEREAS, the redevelopment agreement contemplated a skywalk operating agreement and public easement through the office building (the "Central Park Plaza"); and,

WHEREAS, such agreement is desirable and in the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

THAT, the Mayor and City Clerk are hereby authorized to sign and attest, respectively, the easement agreement with Murdock Omaha Limited Partnership and Central Park Plaza, Inc.

APPROVED AS TO FORM:



5406t

I hereby certify that the foregoing is a true and correct copy of the original document now on file in the City Clerk's office.

BY Mary Yulega Corbett CITY CLERK

Steve H. Tomasek
Councilmember

Adopted DEC 3 1985 7-0

Mary Yulega Corbett
City Clerk

Approved Michael Boyle 12/5/85
Mayor



COPY

THIS AGREEMENT is made and entered into as of the day of *12/3/85* 1985, by and between MURDOCK OMAHA LIMITED PARTNERSHIP, a California limited partnership ("Murdock"), and THE CITY OF OMAHA, NEBRASKA, a municipal corporation (the "City"), and is consented to by CENTRAL PARK PLAZA, INC., a Nebraska corporation ("CPPI") formerly Two Towers, Inc., for the purpose of subjecting all of its right, title and interest in the land hereinafter described as the Office Building Site to the terms and conditions of this Agreement.

WHEREAS, CPPI is the owner of the fee estate in real property described as the East 154.45 feet of Block 118, Original City of Omaha, Douglas County, Nebraska, together with the vacated 154.45 feet of the alley lying within Block 118 (the "Office Building Site") subject to a ground lease dated *April 28, 1980* between CPPI as lessor and Murdock as lessee as evidenced by a memorandum thereof filed on *May 8, 1980* in Book *632* at Page *727* in the Miscellaneous Records of Douglas County, Nebraska; and,

WHEREAS, Murdock is the owner of the leasehold estate in the Office Building Site as created by the above-mentioned ground lease and has constructed an office building (the "Office Building") on the Office Building Site; and,

WHEREAS, the City is the owner of the fee estate in real property described as Lots 5, 6, 7 and 8, Block 106, Original City of Omaha, Douglas County, Nebraska, together with the vacated alley lying within Block 106 (the "Parking Garage Site") and has constructed a public parking garage containing approximately 755 automobile parking spaces (The "Parking Garage") and has constructed an enclosed pedestrian skywalk over Douglas Street connecting the Parking Garage and the Office Building; and,

1

WHEREAS, the City is anticipating the use of the Parking Garage by tenants of the Office Building, their employees and invitees, together with the general public to produce revenues sufficient to repay the Parking Revenue Bonds issued by the City to finance, in part, the construction of the Parking Garage; and,

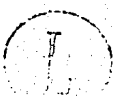
WHEREAS, Murdock is relying on the Parking Garage to provide available parking to serve tenants of the Office Building, their employees and invitees, in common with the general public; and,

WHEREAS, for convenience and clarity and not intended to be construed as being architecturally accurate, Exhibit A is attached hereto and made a part hereof, and the approximate locations of the skywalk corridor and skywalk bridges (the "Skywalk") with the approximate existing locations of the corridors within the Office Building which lead to and from the Skywalk (the "Access Routes") are designated thereon; and,

WHEREAS, Murdock will grant to the City an easement over a portion of the Office Building Site upon which the Skywalk is constructed (the "Office Building Site Skywalk Easement"), a legal description of which is set forth on Exhibit B attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. The City, for itself and its successors and assigns in interest to the Parking Garage Site, its successors and assigns in interest to the Parking Garage, and its successors and assigns in interest to the Skywalk, covenants



and agrees with and for the benefit of Murdock and its successors and assigns in interest to the Office Building and any improvements thereon that:

(a) the City does hereby grant to Murdock the right to lease from the date hereof up to one hundred eighty-seven (187) parking spaces in the Parking Garage for successive periods of one year on the same terms that parking spaces in the remainder of the parking garage are leased, but in any event not substantially more burdensome to the tenant than terms imposed with respect to leasing similar parking spaces in the same general area of downtown, which right shall continue in effect unless and until Murdock shall have elected to terminate such right by written notice at least sixty (60) days prior to the expiration of the then existing lease period; or unless the Parking Garage is no longer in use for the parking of automobiles; and,

(b) at all times during the term hereof, the City shall, at its sole cost and expense, contract and pay for all water and sources of energy (the "Utilities") required for the use and operation of the Skywalk.

2. Murdock, for itself and its successors and assigns in interest to the Office Building Site, the Office Building and any replacement improvements on the Office Building Site, covenants and agrees for the benefit of the City, its successors and assigns in interest to the Skywalk, that:

(a) Murdock does hereby grant unto the City for the term of this Agreement the Office Building Site Skywalk Easement for

the Skywalk to connect to the Office Building and for such support or supports for the Skywalk as may now be located on the Office Building Site; provided, however, that nothing herein shall be construed to require the Office Building to remain on the Office Building Site throughout the term of this Agreement so long as Access Routes as defined below are made available to the Skywalk at no cost to the City and so long as any alterations to the Skywalk required by reason of removal or replacement of the Office Building are accomplished at no cost to the City;

(b) at all times during the term hereof, Murdock shall, at its sole cost and expense, maintain in clean and usable condition and good repair, and in event of damage thereto or destruction thereof promptly commence and diligently complete the restoration or reconstruction thereof to substantially the condition immediately prior to such damage or destruction with such reasonable changes as are appropriate at the time of such restoration or reconstruction (subject to a reasonable time allowance for the purpose of adjusting such loss and except as prevented by unavoidable delays) an appropriate means for pedestrian transit between the southerly end of the Skywalk and a public sidewalk on Block 118 of the Original City of Omaha across such exterior walkways of the Office Building Site and such interior

corridors or improvements thereon as are reasonably necessary for such purpose;

(c) at all times during the term hereof and subject to the limitations set forth below and further subject to the terms and conditions of this Agreement, Murdock shall permit pedestrians to transit to and from the Skywalk along and through the Access Routes, RESERVING, HOWEVER, the right to preclude such transit (1) other than during those hours the Skywalk and the Parking Garage are available for use by such pedestrians and other than during those hours the Office Building or any replacement improvements on the Office Building Site are open to the public for business as determined solely by Murdock and SUBJECT TO temporary interruptions for maintenance and repair of the Access Routes as is reasonably necessary and carried out promptly and with due diligence and for periods of demolition or construction as may be hazardous to such pedestrians, and subject to reasonable security precautions as may be or become desirable for tenants of improvements on the Office Building Site, but nothing herein shall be construed to dedicate or imply any public right or interest in the Office Building Site or improvements thereon or access thereto, except the easement herein granted;

(d) at all times during the term hereof, Murdock shall notify the City of the hours during which the Office Building

or any replacement improvements on the Office Building Site are open to the public for business and not change such hours without thirty-six (36) hours prior written notice to the City except in emergency situations relating to security for Murdock's improvements and tenants thereof or hazards which may adversely affect the safe use of the Access Routes;

(e) through such directional signs and graphics as it deems appropriate, Murdock shall, at its sole cost and expense, identify the Access Routes, the present locations thereof being the corridors on the first and second floors of the Office Building as designated on Exhibit A together with such modes of transit between the floors as are necessary and such exterior walkways on the Office Building Site as are necessary to reach a public sidewalk. It is understood that such Access Routes may change from time to time to accommodate reasonable changes in occupancy and use requirements within the Office Building or any replacement improvements on the Office Building Site so long as such changed or relocated Access Routes provide a reasonable means of transit to and from the Skywalk; and,

(f) at all times during the term hereof, Murdock shall, at its sole cost and expense, cause to be maintained in full force and effect through wellrated insurance companies authorized to do business in Nebraska, policies of insurance

with respect to the Access Routes (which policies may cover the Office Building Site and/or improvements thereon of which the Access Routes form a part) for adequate limits to (i) cover not less than eighty percent (80%) of the replacement cost of the Office Building or other improvements on the Office Building Site in event of damage or destruction by fire and perils covered by extended coverage endorsement, (ii) protect against claims for bodily injury, disease, illness or death in no event less than \$300,000.00 per one person/\$1,200,000.00 per occurrence and for damage to or destruction of property in no event less than \$300,000.00 per occurrence and (iii) provide workers' compensation insurance for all labor contracted for or otherwise as required by the Nebraska Workmen's Compensation Law. All policies of insurance against risk of casualty loss with respect to the Access Routes shall contain a waiver by the insurer of all right of subrogation against the parties hereto in connection with any loss or damage thereby insured against. Upon request therefor, Murdock shall cause certificates of insurance evidencing the insurance in effect and that the same will not be cancelled or materially modified until after ten (10) days' written notice to the City. If the City shall so request, Murdock shall cause the liability insurance policy or policies described in subparagraph (ii) to name the City as an additional insured but only with respect to the Access Routes.



3. In the event the Access Routes or any part thereof shall be damaged or destroyed by fire or other casualty, Murdock or CPPI shall, as soon as reasonably possible after the occurrence of any event causing such damage or destruction, cause the Access Routes to be reconstructed, repaired and restored at such locations on the Office Building Site or in the Office Building as Murdock shall determine to the same general condition in which the Access Routes existed prior to the occurrence of such event of casualty; provided the Skywalk and the Parking Garage are in the same general condition in which the Parking Garage and the Skywalk existed prior to the occurrence of such event.

4. The City and Murdock acknowledge that the City has caused the Parking Garage and Skywalk to be constructed as a material inducement for Murdock to construct the Office Building that the City and certain parking revenue bond purchasers substantially relied upon the construction of the Office Building to provide necessary revenues supporting the Parking Garage and Skywalk, and that the covenants and agreements contained herein constitute material benefits and obligations for both parties throughout the term hereof.

5. The City and Murdock agree that in the event (i) the Parking Garage shall no longer be used as a parking facility, or (ii) the Skywalk no longer serves any practical purpose or convenience to the public, neither will refuse upon request of the other to enter into an agreement which terminates this Agreement in its entirety.

6. This Agreement shall remain in full force and effect from the date hereof for a term of ninety-nine (99) years unless sooner terminated by the



mutual agreement of the parties together with the consent of any mortgage, if required, or as herein provided.

7. The Skywalk and the Access Routes shall be used by the public as a pedestrian walkway subject to the terms and conditions of this Agreement as the same may be amended or modified.

8. In the event that the City fails or refuses to comply with the terms and conditions of this Agreement, Murdock may close the Access Routes.

9. All notices to be given with respect to this Agreement shall be in writing. Each notice shall be by certified mail, postage prepaid and return receipt requested, to the parties to be notified at the addresses set forth below or at such other addresses as any party may from time to time designate in writing. Every notice shall be deemed to have been given at the time it shall be deposited in the United States mail in the manner herein prescribed.

To Murdock: Murdock Management Company
Murdock Plaza
10900 Wilshire Blvd.
Suite 1601
Los Angeles, California 90024
Attention: Lilymae Penton

To CPPI: Central Park Plaza, Inc.
c/o Kutak Rock & Campbell
1650 Farnam Street
The Omaha Building
Omaha, Nebraska 68102
Attention: Walter L. Griffiths, Esq.

To the City: The City of Omaha, Nebraska
c/o Herbert Fitle, Esq.
City Attorney
Omaha/Douglas Civic Center
1819 Farnam Street
Omaha, Nebraska 68183

10. The laws of the State of Nebraska shall govern the validity, performance and enforcement of this Agreement. The invalidity and unenforceability of any provision of this Agreement shall not invalidate or impair any other provisions in this Agreement.

11. This Agreement may be modified or amended only by a writing duly authorized and executed by all the parties to this Agreement.

12. The parties hereto acknowledge the retail center on the property located immediately west of the Office Building Site. The City, Murdock and CPPI agree to enter into an amended Easement and Operating Agreement consistent with the provisions of this Agreement in order to permit such retail center to benefit from the Skywalk and to provide for corridors within such retail center which will lead to and from the Skywalk.

13. Each party to this Agreement hereby releases every other party hereto from any claim for recovery for any loss or damage to any of its property which is insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance.

14. The covenants, terms and conditions of this Agreement shall be binding upon and inure to the benefit of heirs, personal representatives, sublessees, successors and assigns of the parties to this Agreement. The covenants, terms and conditions of this Agreement shall run with the land comprising the Parking Garage Site and the Office Building Site, and shall further be binding upon and inure to the benefit of the owners in fee of such parcels of real estate and their respective heirs, personal representatives, lessees, successors and assigns.



15. Murdock or CPPI may, along with a conveyance or assignment of their respective interests in the Office Building or the Office Building Site, assign their respective interests and obligations under this Agreement, and shall, from and after the effective date of such assignment and written notice to the City prior thereto, be free of any further liability under this Agreement. The City may assign, convey or lease its interests and obligations under this Agreement with prior written notice to Murdock. Such notices shall contain an acknowledged acceptance of such obligations by the proposed assignee, grantee or leasee.


COPY

IN WITNESS WHEREOF, the parties have executed this Basement Agreement at Omaha, Nebraska, this 1st day and year first above written.

ATTEST:

THE CITY OF OMAHA, Lessor

By:


Michelle Lyons
CITY CLERK

By:

Michael Boyle
MAYOR

MURDOCK OMAHA LIMITED PARTNERSHIP,
Tenant

By: Westwood Plaza No. 10, Inc., a
Delaware Corporation, General
Partner

By:

Robert Thomas
Title: Vice President

CENTRAL PARK PLAZA, INC.

By:

Liliana Bentz
Title: Vice President



STATE OF California)
COUNTY OF Los Angeles) SS.

The foregoing instrument was acknowledged before me this 4th day of December, 1985 by BBERTA WISMAN, VICE PRESIDENT, of Westwood Plaza No. 10, Inc., a Delaware Corporation, a General Partner of Murdock Omaha Limited Partnership, a California Limited Partnership, on behalf of the corporation and on behalf of the limited partnership.



Mary Collins
Notary Public

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.

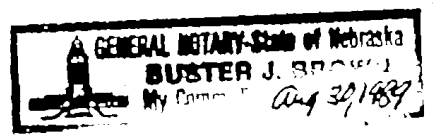
The foregoing instrument was acknowledged before me this 4th day of DECEMBER, 1985 by LILYMAE PENTON, VICE PRESIDENT, of Central Park Plaza, INC., a Nebraska Corporation, on behalf of the corporation.



Mary Collins
Notary Public

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) SS.

The foregoing instrument was acknowledged before me this 5th day of December, 1985 by Michael Boyle Mayor of The City of Omaha, Nebraska, a Municipal Corporation, on behalf of the municipality.



Buster J. Brown
Notary Public

5364t

As to form:
Kelly Brown
Asst City Atty



Legal Description of Skywalk Corridor

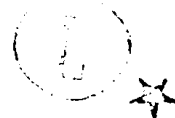
A pedestrian passageway situated within the following described real property:

The East 154.45 feet of Block 118, Original City of Omaha, Douglas County, Nebraska, together with the vacated East 154.45 feet of the alley lying within Block 118 (herein the "Land")

which is bounded by public rights of way for Douglas Street on the North, 15th Street on the East, Farnum Street on the South, and privately owned land (herein "Other Land") on the West, and within a building presently known as Central Park Plaza (herein the "Building") which is situated on the Land, and said passageway is more particularly described as follows:

At a width of approximately 8 feet 6 inches and a height floor to ceiling commencing at the connection of the public pedestrian bridge over Douglas Street to the second floor of the Building at the westerly end of the northerly wall thereof, thence running southerly contiguous to the inside of the westerly wall of the Building parallel with the easterly boundary of the Other Land, a distance of approximately 90 feet 6 inches; thence running easterly at a reduced width of approximately 6 feet 8 inches a distance of approximately 22 feet, thence running northeasterly at said width a distance of approximately 6 feet to a stairwell entrance door; thence along all of the said entrance and stairwell between the second and first floors of the Building to its first floor entrance door; thence on the first floor of the Building, at a width of approximately 5 feet and a height floor to ceiling, running easterly a distance of approximately 12 feet to a main entrance lobby of the Building; thence running southeasterly a distance of approximately 30 feet through a door to the exterior of the Building; thence at a width of approximately 5 feet running northeasterly along an exterior concrete walkway to the public right of way for 15th Street and the end of the passageway.

Widths and distances used herein are approximate and are limited by any existing walls, it being the intent to describe the passageway as it presently exists, subject to relocation pursuant to the terms of the instrument of which this exhibit forms a part.



Farnam Street


Douglas Street

15th Street

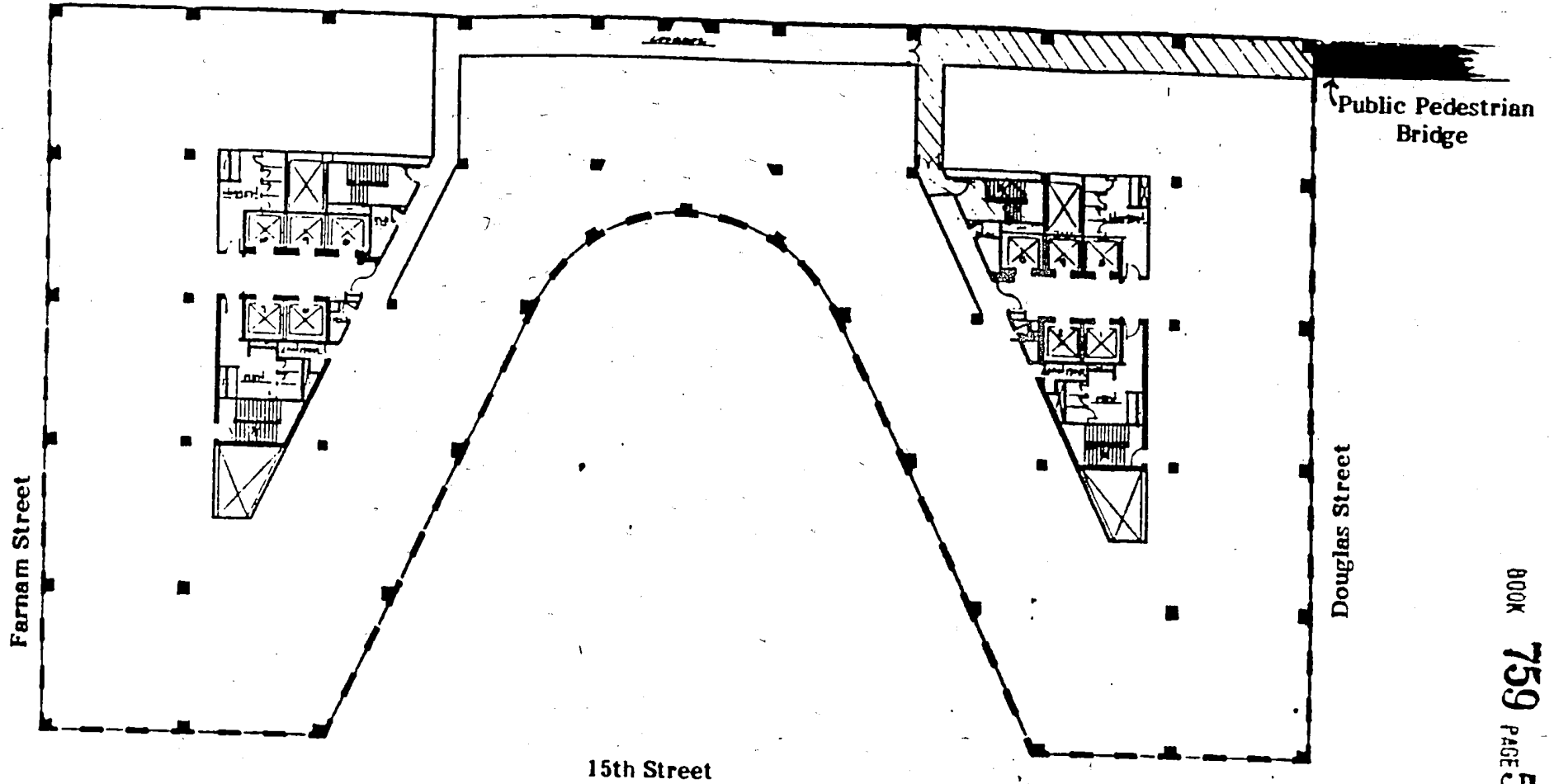
Central Park Plaza - First Floor

BOOK 759 PAGE 535

RENTABLE AREA
24,140 ↓
USEABLE AREA
24,140 ↓

	BE FINISHES CONGR FINISHES	BALLS FLOOR BASE	A WHITE BRICK WALL	THE PLAZA TOWERS 1ST FLOOR FLOOR	NOTES ALL DIMENSIONS SUBJECT TO REVISION CHANGES DUE TO FIELD CONDITIONS. P.L. FURNISHED BY TENANT.
	1ST FLOOR	1ST FLOOR	1ST FLOOR	1ST FLOOR	1ST FLOOR

Other Land.



Central Park Plaza - Second Floor

RENTABLE AREA
 24,021 ±
USEABLE AREA
 24,021 ±

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GENERAL NOTES	REVISIONS	COLOR SCHEME				A color manual per 2nd FLOOR	DAVID H. MURDOCK MANAGEMENT COMPANY						
		WALL	CEILING	FLOOR	BASE		OWNER	PROJECT	DATE	SCALE			

DAVID H. MURDOCK MANAGEMENT COMPANY
 REAL ESTATE MANAGEMENT
 1000 N. 15th Street, Suite 1000, Lincoln, NE 68502
 (402) 441-1111

OWNER: **THE PLAZA TRUST**
 PROJECT: **Central Park Plaza**
 DATE: **10/1/88**
 SCALE: **AS SHOWN**

NOTES: ALL DIMENSIONS SUBJECT TO SURVEY CHANGE DUE TO FIELD CONDITIONS. P.T. FURNISHED BY TENANT

CERTIFICATE OF SECRETARY
OF
CENTRAL PARK PLAZA, INC.

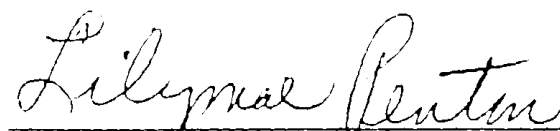
The undersigned, being the duly elected and acting Secretary of Central Park Plaza, Inc., a Nebraska corporation, does hereby certify that the following persons are the duly elected incumbents of the offices set forth by their respective names below:

David H. Murdock	President
Ronald E. Douglas	Vice President
Lilymae Penton	Vice President, Secretary and Treasurer
Gerald Tyler	Vice President

And said persons are authorized to execute or endorse documents and instruments on behalf of Central Park Plaza, Inc. including but not limited to deeds and instruments of conveyance and related documents concerning the sale of that property commonly known as the "Central Park Plaza."

IN WITNESS WHEREOF, I have this day set my hand and affixed the seal of Central Park Plaza, Inc. hereto.

Dated this 4th day of December, 1985.



Lilymae Penton, Secretary

**CERTIFICATE OF SECRETARY
OF
WESTWOOD PLAZA NO. 10, INC.**

The undersigned, being the duly elected and acting Secretary of Westwood Plaza No. 10, Inc., a Delaware corporation, does hereby certify that the following persons are the duly elected incumbents of the offices set forth by their respective names below:

David H. Murdock Chairman of the Board and President
Roberta Wieman Vice President, Secretary and
 Assistant Treasurer

And said persons are authorized to execute or endorse documents and instruments on behalf of Westwood Plaza No. 10, Inc. including but not limited to deeds and instruments of conveyance and related documents concerning the sale of that property commonly known as the "Central Park Plaza."

IN WITNESS WHEREOF, I have this day set my hand and affixed the seal of Westwood Plaza No. 10, Inc. hereto.

Dated this 4th day of December, 1985.

Roberta Wieman
Roberta Wieman, Secretary

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Box 25

GEORGE J. BUSLEWICZ
REGISTER OF DEEDS
DOMESTIC REAL ESTATE DEPARTMENT

RECEIVED
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