

SUBDIVISION AGREEMENT
(Private Financing)

THIS AGREEMENT, made and entered into in La Vista, Nebraska on this 12 day of MAY, 1995, by and between the CITY OF LA VISTA, a Municipal Corporation in the State of Nebraska (hereinafter "City"), and ROBERT SCHAEFER and BEVERLY A. SCHAEFER, husband and wife, and KEN'S SALES AND SERVICE INC., a Nebraska corporation (hereinafter collectively referred to as "Developer").

W I T N E S S E T H:

WHEREAS, Developer warrants and represents that Developer is the equitable legal and beneficial owner of the parcel of land legally described on Exhibit "A" hereto, which parcel of land, hereinafter referred to as the "Subdivision" is within the corporate limits of City and within its zoning and platting jurisdiction; and

WHEREAS, Developer has requested City to approve Developer's plan for developing the Subdivision and its platting; and

WHEREAS, Developer will use the personal financial option for the construction of all improvements, both infrastructure and other; and

WHEREAS, the parties wish to agree upon the manner and the extent to which storm sewers, sanitary sewers, vehicular and pedestrian access and movement, utility distribution systems, street access and other aspects of the infrastructure of the Subdivision shall be constructed and other issues are to be resolved; and

WHEREAS, Developer desires to provide for the flow and handling of sewage collected in or flowing into the sanitary sewer system to be constructed within the Subdivision, and has requested the City to permit flowage thereof into the City's sewer system with City assuming responsibility for the treatment thereof upon payment to City of applicable fees and charges;

WHEREAS, City, in the interest of maintaining the public health, safety and welfare, desires to assure that such development is developed substantially in accordance with this Subdivision Agreement; and

WHEREAS, the Developer is willing to commit itself to the development of the project in accordance with this Subdivision Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants of the parties hereto, it is agreed by and between the parties as follows:

1. **Definitions.** As used herein, the following words and phrases shall have the following meaning:

- A. "Subdivision" shall mean that area of land to be developed, more specifically described on Exhibit "A" hereto.
- B. "Development Plan" shall mean Developer's final drawings as approved by City illustrating a plan for the improvement of the Subdivision and showing lot subdivision lines, location of buildings, establishing front, side and rear building lines, establishing maximum building heights and indicating what parts of the Subdivision tract are to be devoted to movement for parking of automobiles and pedestrians, delineating all areas dedicated to public use, all in accordance with the requirements of the La Vista Municipal Code §11-414(D) and this Agreement, which Plan shall be generally in accordance with preliminary site drawing prepared by Carrell & Associates in connection with Boyd & Associates entitled "Schaefer's I Addition" updated to February 24 1995, with subsequent modifications thereto as may be approved by City in writing, a copy of the preliminary site drawing is attached as Exhibit "B".
- C. "Subdivision Plat" shall mean the official Subdivision Plat of "Schaefer's Addition" prepared in conformity with the Development Plan for purposes of filing with the Register of Deeds of Sarpy County and delineating by legal description the Subdivision and the several subdivided parts thereof and of all public easements, which Subdivision Plat shall be in accordance with Exhibit "C" hereto, with modifications thereto as may be approved by the City in writing.
- D. "Infrastructure Improvements" shall mean any and all facilities constructed or otherwise implemented for the purpose of providing access or services of any type or description to or from the Subdivision Tract or serving the Subdivision tract, including but not limited to, road median and curb cuts, landscaping, traffic signage, internal roadways and access and egress easements, storm sewers and outfalls, sanitary sewers and outfalls, sidewalks, utility distribution systems and other services and easements appropriate to the development of the subdivision.
- E. "Subdivision Sewer System" shall include all sanitary sewers and appurtenances thereto which are:
 - (1) Situated within the boundaries of the Subdivision tract; or
 - (2) Situated outside the boundaries of the Subdivision tract but constructed for purposes of connecting or serving land situated within the Subdivision.

2. Infrastructure Improvements to be Constructed. Developer and City agree that the following improvements shall be built by Developer (prior to occupancy of any building in the Subdivision) at Developer's sole cost and at no cost to City:

A. Hard surfacing of the system of reciprocal ingress and egress easements (herein "Ingress/Egress Easements") per the Development Plan and conforming Subdivision Plat. Ingress and egress easements are delineated on the Development Plan (Exhibit B) as follows:

- (1) Ingress/egress over Parcel "A" which shall be shown and dimensionally fixed on the Subdivision Plat as a public vehicular easement, shall be constructed prior to commencement of construction of any building within the Subdivision and shall be delineated from abutting parking areas by raised curbing, except at points of connection with Ingress/Egress Easements B and C and ingress and egress to Lot 1, the location and legal description of which Parcel "A" easement is more fully described on Exhibit D-1 hereto.
- (2) Ingress/egress over Parcel "B," which need not be delineated by raised curbing but shall be clearly marked as thru lanes and which need not be shown on the Subdivision Plat but if not so shown, shall be separately filed of record with legal description per Exhibit D-2 hereto and shall be constructed (hardsurfaced) prior to construction of any building improvements on Lots 4 or 5 unless sooner required by City.
- (3) Ingress/egress over Parcel "C," which need not be delineated by raised curbing but shall be clearly marked as thru lanes and which need not be shown on the Subdivision Plat but if not so shown, shall be separately filed of record with legal description per Exhibit D-3 hereto and shall be constructed (hardsurfaced) prior to construction of any building improvements on Lots 2 or 3, unless sooner required by City.

Ingress/Egress Easements B and C shall generally conform to the locations shown on Exhibits D-2 and D-3 hereto respectively, but may be later modified as to exact alignment to conform to actual building placement by filing substitute easements in form and location satisfactory to City.

B. Storm sewer system, including storm sewers, inlets, manholes, junction boxes, flared end sections and related

appurtenances, all to be constructed within dedicated easementway per Subdivision Plat or upon such additional easement as may be approved by the City.

- C. A sanitary sewer collection system, including mains, manholes and related appurtenances, constructed within easement dedicated per plat or separate dedicated sanitary sewer easements per Development Plan and conforming Subdivision Plat or upon such additional easements as may be approved by the City.
- D. Water distribution mains to be installed by Metropolitan Utilities District ("MUD") with Developer to pay all costs associated therewith, the exact location and dimensions of which shall be approved by City prior to execution of the contract for installation by MUD. Such main extension shall be a segment of MUD looped systems and shall connect the existing main at approximately Josephine Street to an existing MUD main on the north side of Harrison Street. If MUD permits, this main extension may be built in segments to conform to timing of Developer's build out of Lots fronting on 72nd Street.
- E. Gas distribution mains to be installed by Peoples Natural Gas Company, the exact location and dimensions of which shall be approved by City prior to execution of the contract for installation.
- F. Developer shall construct and maintain sidewalks:
- (1) east side of 74th Street from Harrison Street to south edge of Lot 6;
 - (2) along the west side of 72nd Street from Harrison Street to the south edge of Lot 3 of the Subdivision, same being the south edge of the Subdivision; and
 - (3) along those portions, if any, of the south side of Harrison Street between 72nd and 74th Street, over which sidewalks shall not be constructed or replaced in conjunction with Harrison Street road improvements.

All sidewalks shall be constructed four (4) feet in width at a location and grade approved by the City Engineer as shown per the Development Plan and shall be completed and ready for use prior to occupancy of any building within the subdivision.

- G. Landscaped Improvements consisting of trees and other plantings for each lot as built upon per detailed landscaping plan to be approved by City Administrator in

accordance with Chapter 11, Article 6 of the La Vista Municipal Code.

3. **Developer Submittals.** Developer agrees that Developer will submit to the City for City's approval the following:
- A. Evidence of title in Developer to all property comprising the Subdivision tract and legal opinion of title in form satisfactory to City Attorney prior to recording of the Subdivision Plat.
 - B. Final Subdivision Plat duly executed and acknowledged prior to approval of subdivision agreement.
 - C. Final Development Plan prior to issuance of building permits.
 - D. Erosion control plans where applicable in determination of the City Engineer and to be filed at the time a building permit for each lot is applied for.
 - E. Final detail landscaping plans at such time as a building permit for each lot is applied for.
 - F. Detailed plans and specifications for 72nd Street widening plan and median cut referred to in paragraph 9C(2) hereof and related street reconfiguration prior to issuance of permits or commencement of any construction within the Subdivision.
 - G. Reciprocal Ingress/Egress Easements, landowners' joint cost sharing agreement as to maintenance of reciprocal Ingress/Egress Easement improvements and such other submittals as may be required hereby prior to issuance of permits or commencement of any construction within the Subdivision.
4. **Easement and Right-of-Way Dedication.** Developer shall dedicate per Development Plan and Subdivision Plat the following perpetual easements in favor of the City as Grantee in form satisfactory to the City Attorney as follows:
- A. Dedication per plat of Ingress/Egress Easement over Parcel A (legally described per Exhibit D-1).
 - B. Easements for sanitary sewers and storm sewers and appurtenances to be constructed within the Subdivision as follows:
 - (1) Permanent sanitary sewer easement shown per Subdivision Plat (Exhibit C);

- (2) Storm sewer easement across Lot 1 to transport storm water run off from Lots 2, 3 and 6 and other properties outside the Subdivision, the location, size and construction of which is to be approved by the City Engineer.
- C. Interconnecting common Ingress/Egress Easements over Parcels B and C as shown on Development Plan and more fully described on Exhibits D-2 and D-3 inclusive.
- D. Permanent utility and sidewalk easements as required by City.
- E. Water main extension easement for possible future extension of the MUD loop in 72nd Street referred to in Paragraph 2(D) hereof should construction thereof require utilization of land west of 72nd Street right-of-way.

Such "on-tract" easements and dedication shall be detailed on the Development Plan and, except for Ingress/Egress Easements over Parcels B and C (as described on Exhibits D-2 and D-3 hereto, respectively), the Subdivision Plat with location approved by City Engineer and with language of dedication approved by City Attorney.

Developer shall enter into an agreement with City in form acceptable to City whereby Developer, its successors and assigns agree to discharge Developer's obligations hereunder in respect to construction, reconstruction and maintenance of the infrastructure improvements on a cost-sharing basis at their cost and upon their failure to do so authorizing City to do so and to specially access the City's cost of doing so to the properties within the Subdivision.

- 5. Improvements Within Street Right-of-Way. All improvements within existing street right-of-way shall be "Infrastructure Improvements" within the meaning hereof and shall be paid for by Developer. Any such improvements shall be made pursuant to plans and specifications and construction sequencing and limitations of traffic movements approved in advance by the City Engineer.
- 6. Cost of Construction and Maintenance of Improvements. Any and all costs or obligations incurred in connection with any Infrastructure Improvements shall be paid for by Developer without benefit of public financing and at no cost to City. The Developer and Developer's assigns shall have continuing responsibility for all maintenance, repair and reconstruction of all such improvements.
- 7. Perpetual Ingress and Egress Easement. In consideration of City's entering into this Agreement with Developer on the terms herein provided, Developer shall and by these presents

hereby does grant and convey unto City and to the public in general an unconditional and unobstructed perpetual easement and license over all areas designated as "Common Access Easement" (consisting of Common Access Easements over Parcels A, B and C (Exhibits D-1 through D-3, respectively) on the Development Plan for perpetual public and governmental ingress and egress to the various parcels and lots of the Subdivision.

Developer and/or its successors in interest hereby covenant and agree that they shall perpetually maintain and repair the roadway to be constructed in and over said access easement at no cost to the City. Nothing in this Agreement shall be construed to shift to the City any responsibility for maintenance, repair or reconstruction of this easementway or any part thereof.

The herein granted easement to City and to the public in general and the herein contained covenants of perpetual maintenance and repair by Developers shall be perpetual and shall run with the land in perpetuity, or until specifically vacated and relinquished by City pursuant to City ordinance. Until City shall vacate and relinquish such easement, easementway shall be under the continuing jurisdiction of the City and City may exercise such total or partial regulatory authority hereover as it may by resolution of its City Council from time to time determine appropriate.

8. Lot 6 Access Limited to 74th Street. Vehicular ingress to and egress from Lot 6 shall be only from 74th Street and no vehicular access or connection to Lot 6 shall be allowed or permitted to or from Ingress/Egress Easement over Parcel A (Exhibit D-1), or otherwise be allowed or permitted between Lot 6 and 72nd Street without prior consent of the City Council. Should City deem it necessary, Developer shall at such time as Lot 6 is developed (or earlier if City deems it necessary) erect steel posts or other barrier approved by City Engineer along east edge of Lot 6 to prevent such prohibited movement of traffic.

9. External Street Connections. The subdivision shall be permitted connection to external streets only as shown per Exhibit B, same being:

A. On 74th Street:

- (1) one (1) full connection from Lot 6;
- (2) one (1) full connection from Lot 4.

B. On Harrison Street right-in right-out only connection to east bound lane on Harrison at common lot line of Lots 4 and 5 and at common lot line of Lots 1 and 5. There is

to be no cut in the median of Harrison Street east of 74th Street.

C. On 72nd Street:

- (1) Two right-in right-out only connections to south bound lane on 72nd Street:
 - (a) one to serve the north portion of Lot 1; and
 - (b) one at the appropriate end point of Lot 3.
- (2) One provisional multi-directional connection with cut in the median of 72nd Street at the common boundary of Lots 1 and 2, the continued use of which median cut and left-in left-out traffic movement (access to and from north bound lane on 72nd Street) is contingent upon and subject to the provisions of paragraph 10 hereof, infra. In the event that City shall ever determine that access to the north bound lane of 72nd Street via median cut is to be terminated, this access shall become a right-in right-out connection only.

10. Provisional Nature of Median Cut in 72nd Street. Developer, for itself, its successors and assigns, acknowledges and agrees that:

- A. If City, in its sole and absolute discretion, shall determine that the median cut or traffic movements, existing or potential, present or may present an unacceptable traffic safety risk or otherwise threaten the public safety and welfare, then in such event the City may close such median cut or otherwise eliminate access to and/or from the north bound lane of 72nd Street, all without remedy or recourse on the part of Developer, its successors and assigns.
- B. That by reason of the provisional nature of this connection, neither Developer nor its successors or assigns have acquired a property interest or a right to acquire a property interest in a continuing median cut or to access to or from the north bound lane of 72nd Street.

Should City determine that ingress and egress, or either, from the Subdivision to the north bound lane of 72nd Street should be eliminated, it shall notify the owners of record of Lots 1 through 5, inclusive, of its intention to do so and shall provide such owners fifteen (15) days, to propose to City for City's consideration, alternative alleviating or remedying measures in lieu of such elimination of ingress and/or egress to such northbound lane of 72nd Street. If such proposal is accompanied by a request that the matter be decided by the

City Council, the matter shall be referred to the City Council for its decision, provided however, that should he/she determine it advisable, the City Administrator may order a temporary closing pending a hearing before the City Council. City, in its sole and absolute discretion, shall determine whether any such proposed alternative alleviating or remedying measures shall be implemented in lieu of elimination of ingress or egress to the northbound lane of 72nd Street. Should City decide to implement any such proposal, such implementation shall be at the cost of Developer, its successors and assigns and, if implemented, shall not change the ongoing provisional nature of the connection.

11. Sanitary Sewer Connection, Construction, Maintenance, Etc.
Developer and City agree:

- A. Subject to the conditions and provisions hereinafter specified, the City hereby grants permission to the Developer to connect the Subdivision Sewer System to the sanitary sewer system of the City at the location designated by City and City agrees to accept and process the sanitary sewage therefrom, provided that the sewage and its discharge are in compliance with this Agreement.
- B. Developer expressly promises, warrants, covenants and agrees:
- (1) The sewer system serving the land within the Subdivision shall at all times be properly maintained and kept in good operating order and repair at no cost to City.
 - (2) In the event that City's engineers find that there is anything in the construction, maintenance or operation of the sewer system serving the Subdivision which will, in the opinion of City's engineers, be detrimental to the proper operation of the sewer system of City, or any part thereof, the Developer or its successors in interest will, on notice thereof, promptly correct said defect.
 - (3) At all times all sewage flowing into, passing through or from the sewer system serving the Subdivision shall be in conformity with the ordinances, regulations and conditions applicable to sewage and sewers within the City.
 - (4) The City, its employees and agents, shall have the right to enter upon said property to construct, reconstruct, repair, maintain, improve and inspect any sewers and appurtenances thereto situated thereon, and to inspect sewage thereof or therein.

C. In consideration of City's entering into this Agreement with Developer on the terms herein provided, Developer:

- (1) Shall, and by these presents does, grant and convey unto City and its successors and assigns:
 - (a) A perpetual easement and license to transmit through the Subdivision Sewer System sanitary sewage from any area now or hereafter served, directly or indirectly, by the sewer system of the City or any part thereof.
 - (b) A perpetual easement and license to City, its employees, representatives and agents, to enter upon and into the ingress and egress easements, sewer and sewer easements, for the purpose of surveying, excavating, constructing, reconstructing, replacing, relocating, inspecting, repairing, cleaning out, enlarging, removing, adding to, maintaining, using and/or operating the sewer system serving the land within the Subdivision through which City has been given an easement by Developer, as aforesaid.
 - (c) A perpetual license to connect the sewer system of the City, or any part thereof, to the Subdivision Sewer System, for which connection or connections City shall not be required to pay any connection fee or connection charge.
- (2) Warrants, covenants and agrees that they shall perpetually maintain and keep in good operating order and repair at no cost to City such portions of the Subdivision Sewer System as City may use for the purposes set forth in this Paragraph 11C.

The herein granted easements and licenses to City and the herein contained covenants of perpetual maintenance and repair by Developer shall be perpetual and shall run with the land in perpetuity, unless and until City shall by written agreement specifically accept maintenance responsibility therefor.

D. No building shall be connected to the Subdivision Sewer System until a permit therefor shall have been obtained from City and the appropriate connection fee paid to City.

F. All connections to the Subdivision Sewer System will be made in accordance with the ordinances, regulations and specifications of the City of La Vista pertaining to

sewer connections and any connection not so made may be disconnected at City's option at the cost of the offending property and its owner.

- G. As compensation for the treatment and disposal of sanitary sewage contributed to the sewer system of City from connections to properties located within the Subdivision to the sewer system located within said Subdivision, Developers or their successors in interest agree to pay to City any sums which shall be due under the rules and ordinances of the City, and any future amendments, modifications or revisions thereof.
- H. In the event of a breach of the Developer and/or its successors in interest of Developer agreements herein that pertain to the actual construction, reconstruction, repair, maintenance or operation of the sewer system serving the Subdivision, City shall have the absolute right, at its option, to itself perform the work necessary for the requested corrective measures, or to complete the corrective measures already commenced, as the case may be, in either of which events the parties agree that the City shall have the right to levy a special assessment against the property within the Subdivision for each landowner's proportionate share of such costs and such special assessments shall constitute liens against the various parcels.
- I. No provision of this Agreement shall in any event be construed to shift to City any responsibility for the maintenance, repair or reconstruction of the sewer system of the Subdivision or any part thereof.
12. **Security for Developer's Performance.** Prior to commencement of construction of improvements, Developer will file with the City Clerk as security for Developer's performance of its agreements herein and completion of improvements in strict compliance with the terms hereof and with plans approved by City in accordance herewith, duly executed and binding Construction Contracts for all infrastructure improvements required hereby together with labor and material payment bonds and performance bonds in amounts not less than the contract amount(s) and in form and with surety satisfactory to the City for all Infrastructure Improvements, including but not limited to extension of the sanitary sewer as needed to serve Lots 2 and 3, hardsurfacing of Parcel A ingress/egress easement, 72nd Street widening and median cut (reconfiguration), water main to the extent MUD does not allow deferral, and storm sewer to serve Lots 2 and 3.
- In lieu of construction contracts and corporate surety bonds, Developer may post cash escrows including unconditional

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letters of credit from a national bank with City for any of the foregoing.

13. Additional Covenants of Developer. Developer covenants and agrees that Developer will:

- A. Abide by and incorporate into all construction contracts for Infrastructure Improvements the provisions required by the regulations of the City pertaining to construction of improvements in subdivisions and testing procedures therefor.
- B. That the Subdivision Sewer System will be constructed entirely within dedicated access easement or other dedicated easementway.
- C. That the final version of the Development Plan and its implementation shall, in all respects, be in compliance with this Agreement and all resolutions of the City Council pertaining hereto.
- D. In the event that Developer shall timely construct sidewalks as required hereby, City may, at its option, cause same to be constructed through a City created sidewalk district, in which event Developer irrevocably consents and agrees to the creation of such a district if the City so elects to create one and agrees not to oppose the creation thereof or oppose any levy of special assessments against the Developer's property as a result thereof. Those portions of the sidewalk that Developer shall have constructed prior to creation of any such sidewalk district shall be excluded therefrom and Developer shall not be subject to special assessment in respect to such previously completed portions.

14. Construction Standards and Procedures. Developer further agrees that, as to all improvements constructed by or on behalf of Developer or under Developer's control or direction, that:

- A. All Infrastructure Improvements will be constructed and, as required, reconstructed in strict accordance with the plans and specifications and location approved in writing by the City and in strict accordance with the minimum standards and requirements of construction adopted by City and in effect at time of construction; and that upon completion of construction, Developers shall furnish to the City a certificate from their Consulting Engineers so certifying and Developer shall be responsible for inadequacy of Developer's plans, designs and construction specifications, notwithstanding City's approval thereof.

- B. All Infrastructure Improvements shall be designed and constructed, and as required reconstructed, at the expense of Developer and/or subsequent purchasers of the property located within the Subdivision and at no expense to the City.
- C. Developer shall cause "As Built Plans," in reproducible form, and specifications for all such improvements that Developer shall have heretofore or hereafter constructed to be furnished to City, in triplicate, promptly and without cost to the City. All such plans shall be submitted on mylars, except where the City agrees otherwise. Developer shall, prior to commencement of construction of any improvement, require their Engineers to file with City said Engineers' separate written assurance and agreement that said "As Built Plans" will be prepared and filed with the City upon the completion of each improvement.
- D. All such improvements shall comply with all applicable federal and state laws and regulations in general and with all applicable ordinances and regulations of the City in reference to construction, use, operation and maintenance.
- E. In the event that City's Engineers determine that there is anything in the construction, maintenance or operation of any such improvements which will, in the opinion of City's Engineers, be detrimental to any other improvement or utility constructed or to be constructed in the same vicinity, Developer will, on notice thereof, promptly correct said defect.
15. **Administrative Fee.** Developers agree that, in addition to whatever inspection and testing that Developers shall perform or cause to be performed, City reserves the right to cause City's own inspection to be made of all construction of improvements constructed by Developer, whether within or without the Subdivision. Developer agrees that it will pay to City an administrative fee of \$3,000.00 as reimbursement for legal, engineering and administrative expenses incurred by City in connection with this Agreement and its implementation. Said fee shall include platting fees payable to the City, but shall be exclusive of platting filing fees payable to Sarpy County. It shall not include building permit fees, sewer connection fees or other fees that may become owing to the City by reason of build-out of the Subdivision. Said administration fee shall be paid to City at the time of execution of this Agreement.

The cost of any paving core tests, sewer televising or other testing required by City or its Engineers shall be paid directly by Developer to the party performing the testing

procedures. Neither the developers nor any other party shall be entitled to rely upon any inspections made by the City for any purpose whatsoever.

16. City's Right to Cure, Repair, Etc. In the event any covenant or agreement undertaken herein by Developers is breached or in any way violated, the City shall have the right to take actions necessary to cure such breach or violation and shall have the right to assess the costs thereof against the violating property or properties. Such assessment shall be made by a levy of special assessments against the violating property or properties. Such special assessments shall, in the aggregate, shall be in the amount of one hundred percent (100%) of the costs of curing such breach or violation, including legal, engineering, and administrative costs incurred by City. No portion of such costs shall be allocated to the City.

17. Non-Waiver. The failure of either party to exercise its right upon any default by the other shall not constitute a waiver of such rights as to any subsequent default.

18. Covenants Running With Land. The covenants, warranties and representations of Developer and the provisions of this Agreement by Developer to be performed shall constitute covenants running with and against the land and the several subdivided parcels thereof. By way of specification, and not by way of limitation, successors in title to the Developer shall include any individual or entity which shall acquire all or any part of Developer's interests in the land located within the Subdivision. Developer hereby warrants and covenants they it will expressly make reference to the existence of this Agreement in any conveyance of any part of the property located within the Subdivision.

19. Mutual Cooperation. City and Developer agree to do all things necessary or appropriate to carrying out the terms of this Agreement. Developer shall faithfully, fully and timely carry out all obligations imposed hereby on Developer. City, following Developer's carrying out applicable obligations of Developer, shall pass such resolutions and process such requests for approval and taking of such other action as may be necessary to enable Developer to proceed.

20. Development in Conformity With Development Plan. The Subdivision shall be developed in accordance with the Development Plan. It is intended that the Development Plan be a general schematic of the development. The parties recognize that from time to time and for good and sufficient reason, it may be necessary for the Developer to alter the size or the location of particular buildings or support services. The Developer may modify the Development Plan provided such modifications do not violate any provisions of the La Vista Municipal Code, the La Vista Subdivision Regulations, or any specifically

stated requirement of this Agreement or any term or condition imposed by City Council in respect to the Subdivision as contained in any resolution or ordinance (all of the foregoing hereinafter collectively being referred to as "Applicable Site Development Regulations") and the City agrees that any of such modifications shall not constitute a violation of this provision:

- A. As long as the Applicable Site Development Regulations pertaining to this project are not violated and the approval of the City Administrator and City Engineer is obtained, Developer may alter the location, physical shape or exterior dimension of any structure shown on the Development Plan as long as such modifications do not materially increase the gross building area or materially change the shape or location of any building or result in any building being constructed on more than one of the subdivided lots herein approved.
- B. As long as the Applicable Site Development Regulations are not violated and the approval of the City Administrator and City Engineer is obtained, the Developer may alter the location and design of any off-street parking areas shown on any lot or area within the Development Plan so long as such alteration does not increase or decrease the impervious coverage requirement and does not materially decrease the total amount of parking available for the project (but in no event below the minimum requirements of the Applicable Site Development Regulations).

21. Entire Agreement. Both parties acknowledge and agree that this written Agreement, including all exhibits hereto, constitutes the entire agreement of the parties and that there are no warranties, representations, terms or conditions other than those set forth herein.

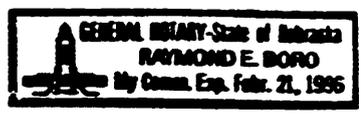
22. Applicable Law. The parties mutually agree that this Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska.

23. Exhibit Schedule. Exhibits to this Agreement shall consist of the following:

- Exhibit A - Legal description of land area comprising the Subdivision
- Exhibit B - Preliminary Developer's Subdivision Site Drawing illustrating Development Plan of the
- Exhibit C - Official Plat for the Subdivision

75-07023 Q

Raymond E. Boro
Notary Public



LEGAL DESCRIPTION

I HEREBY CERTIFY THAT I HAVE MADE A BOUNDARY SURVEY OF THE
 SUBDIVISION HEREIN AND THAT IRON PINS HAVE BEEN FOUND OR SET
 AT ALL CORNERS OF THE LOTS, ANGLE POINTS, AND POINTS OF
 CURVATURE SAID PLAT TO BE KNOWN AS SCHAEFER'S I ADDITION
 (LOTS 1 THRU 6 INCLUSIVE) BEING A REPLAT OF A PART OF LOT 1,
 CRESTVIEW HEIGHTS A PLATTED AND RECORDED SUBDIVISION IN LA
 VISTA, SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS
 FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1,
 THENCE SOUTH 89 21'43" WEST (ASSUMED BEARING) ALONG THE SOUTH
 LINE OF SAID LOT 1 A DISTANCE OF 548.89 FEET; THENCE NORTH 00
 38'17" WEST A DISTANCE OF 150.00 FEET; THENCE SOUTH 89 21'43"
 WEST A DISTANCE OF 177.75 FEET TO A POINT ON A CURVE, SAID
 POINT BEING ON THE WEST LINE OF SAID LOT 1, A.K.A. THE
 EASTERLY RIGHT-OF-WAY LINE OF 74TH STREET; THENCE NORTHERLY
 ALONG A 2037.76 FOOT RADIUS CURVE TO THE RIGHT ALONG
 AFORESAID LINE AN ARC DISTANCE OF 323.26 FEET (CHORD BEARING
 NORTH 14 27'22" EAST, CHORD DISTANCE OF 322.92 FEET) TO A
 POINT OF REVERSE CURVATURE; THENCE CONTINUING ALONG SAID
 EASTERLY RIGHT-OF-WAY LINE OF 74TH STREET AND ARC DISTANCE OF
 188.30 FEET (CHORD BEARING NORTH 09 22'40" EAST, CHORD
 DISTANCE 187.43 FEET) TO THE NORTHWEST CORNER OF SAID LOT
 AND THE SOUTHERLY RIGHT-OF-WAY LINE OF HARRISON STREET;
 THENCE NORTH 90 00'00" EAST ALONG SAID RIGHT-OF-WAY LINE A
 DISTANCE OF 485.00 FEET; THENCE SOUTH 00 00'00" EAST A
 DISTANCE OF 9.00 FEET; THENCE NORTH 90 00'00" EAST A
 DISTANCE OF 58.00 FEET; THENCE NORTH 00 00'00" EAST A
 DISTANCE OF 6.00 FEET; THENCE NORTH 90 00'00" EAST A
 DISTANCE OF 27.00 FEET; THENCE SOUTH 66 48'58" EAST A
 DISTANCE OF 28.16 FEET; THENCE SOUTH 14 23'02" EAST A
 DISTANCE OF 47.38 FEET; THENCE NORTH 89 21'43" EAST A
 DISTANCE OF 3.00 FEET TO A POINT ON THE EAST LINE OF SAID LOT
 1, CRESTVIEW HEIGHTS, AS ORIGINALLY PLATTED, SAID POINT ALSO
 BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF 72ND STREET;
 THENCE SOUTH 00 38'17" EAST ALONG SAID LINE A DISTANCE OF
 579.50 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 408,242 SQUARE FEET OR 9.37 ACRES MORE OR
 LESS.

95-07003

SCHAEFER'S I ADDITION

PRELIMINARY SITE PLAN

EXISTING R. 18 C. 1
PROPOSED
LOT 1 C. 1
LOTS 2 THRU 6 C. 1

THIS PLAN IS TO BE USED FOR THE PURPOSES OF THE PRELIMINARY SITE PLAN ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSES.

74-1 STREET

HARRISON STREET

72ND STREET

LOT 6

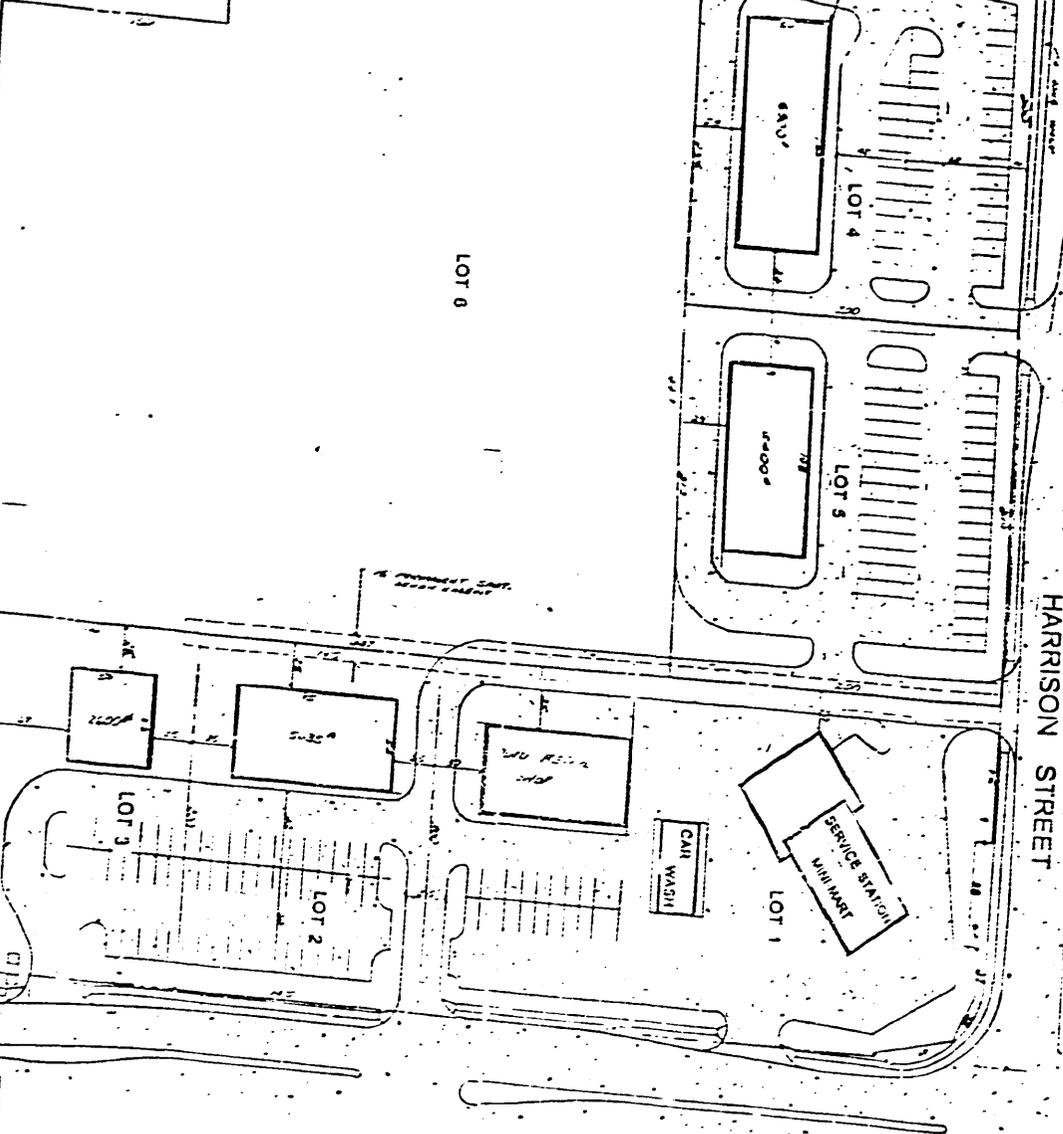
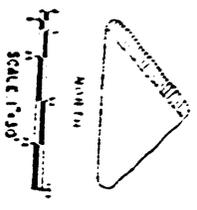
LOT 4

LOT 5

LOT 1

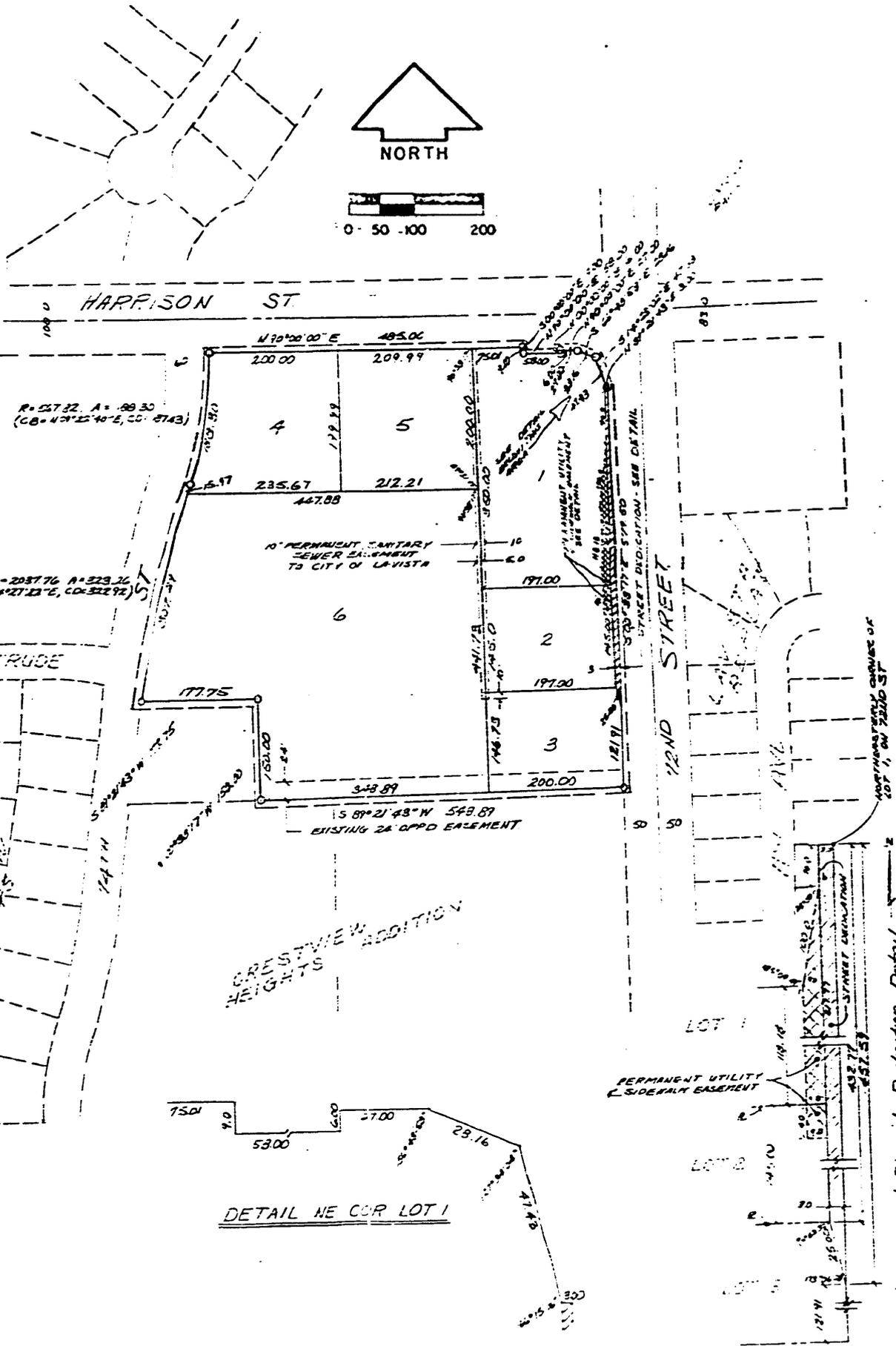
LOT 2

LOT 3



FINAL PLAT SCHAEFER'S I ADDITION (LOTS 1 THRU 6 INCLUSIVE)

A REPLAT OF A PART OF LOT 1, CRESTVIEW HEIGHTS, A PLATTED AND RECORDED SUBDIVISION IN LA VISTA, SARPY COUNTY, NEBRASKA.

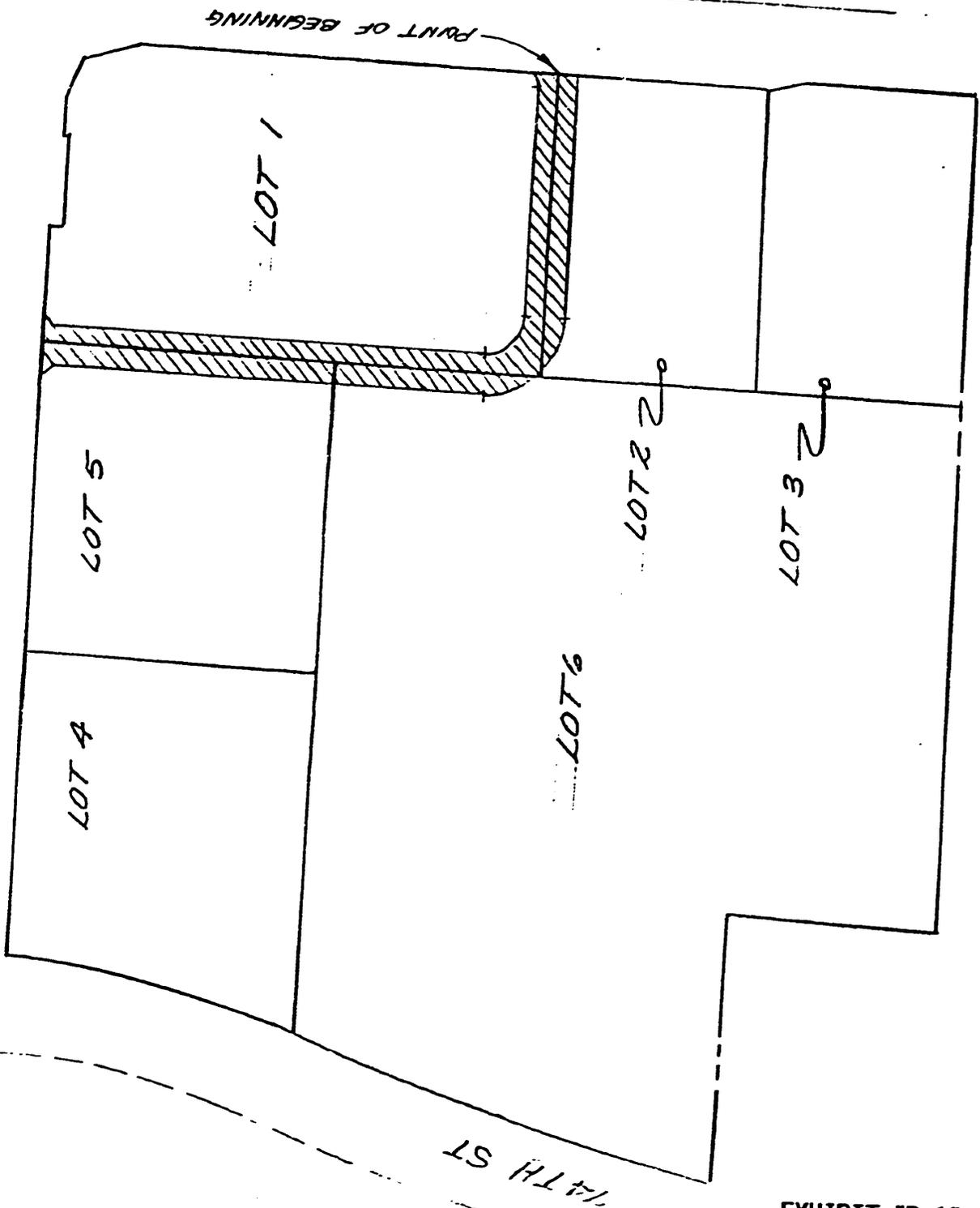


75-07003 U

SCHAEFER'S I ADDITION

PARCEL A

E HARRISON ST



LEGAL DESCRIPTION
SCHAEFER I ADDITION
INGRESS/EGRESS EASEMENT
PARCEL "A"
FEBRUARY 10, 1995

AN INGRESS/EGRESS EASEMENT ACROSS LOTS 1, 2, 5, AND 6
IN SCHAEFER I ADDITION, A PLATTED AND RECORDED SUBDIVISION IN
SARPY COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 IN SAID
ADDITION, THENCE SOUTH 00 38'17" EAST ALONG THE EAST LINE OF
SAID LOT 2, A.K.A. THE WESTERLY RIGHT-OF-WAY LINE OF 72ND
STREET A DISTANCE OF 18 FEET; THENCE SOUTH 89 21'43" WEST A
DISTANCE OF 165.00 FEET TO A POINT OF CURVATURE; THENCE
WESTERLY AND NORTHERLY ALONG A 50.00 FOOT RADIUS CURVE TO THE
RIGHT AND ARC DISTANCE OF 78.54 FEET TO A POINT OF TANGENCY;
THENCE NORTH 00 38'17" WEST A DISTANCE OF 310.20 FEET;
THENCE NORTH 45 19'08" WEST A DISTANCE OF 11.38 FEET TO A
POINT ON THE SOUTH RIGHT-OF WAY LINE OF HARRISON STREET,
A.K.A. THE NORTH LINE OF LOT 5 IN SAID SCHAEFER I ADDITION;
THENCE EASTERLY ALONG THE NORTH LINE OF LOTS 5 AND 1 IN SAID
ADDITION A DISTANCE OF 52.00 FEET; THENCE SOUTH 44 40'52"
WEST A DISTANCE OF 11.25 FEET; THENCE SOUTH 00 38'17" EAST A
DISTANCE OF 309.80 FEET TO A POINT OF CURVATURE; THENCE
SOUTHERLY AND EASTERLY ALONG A 14.00 FOOT RADIUS CURVE TO THE
LEFT AND ARC DISTANCE OF 21.99 FEET TO A POINT OF TANGENCY;
THENCE NORTH 89 21'43" EAST A DISTANCE OF 150.00 FEET TO A
POINT OF CURVATURE; THENCE ALONG A 17.00 FOOT RADIUS CURVE
TO THE LEFT AN ARC DISTANCE OF 18.37 FEET, (CHORD BEARING
NORTH 58 23'53" EAST, CHORD DISTANCE 17.49 FEET), TO A POINT
ON THE EASTERLY LINE OF SAID LOT 1; THENCE SOUTH 00 38'17"
EAST ALONG SAID LINE A DISTANCE OF 27.00 FEET TO THE POINT OF
BEGINNING.

SCHAEFER'S I ADDITION

PARCEL B

HARRISON ST



12ND ST

14TH ST

95-07003 X

LEGAL DESCRIPTION
SCHAEFER I ADDITION
INGRESS/EGRESS EASEMENT
PARCEL "B"
FEBRUARY 10, 1995

AN INGRESS/EGRESS EASEMENT ACROSS LOTS 4 AND 5 IN
SCHAEFER I ADDITION, A PLATTED AND RECORDED SUBDIVISION IN
SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 5, THENCE
NORTH 90 00'00" WEST ALONG THE NORTH LINE OF LOT 5 A DISTANCE
OF 18.00 FEET; THENCE SOUTH 00 38'17" EAST A DISTANCE OF
80.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING
SOUTH 00 38'17" EAST A DISTANCE OF 40.00 FEET; THENCE NORTH
45 19'38" WEST A DISTANCE OF 8.53 FEET; THENCE NORTH 90
00'00" WEST A DISTANCE OF 308.58 FEET TO A POINT OF
CURVATURE; THENCE WESTERLY ALONG A 84.00 FOOT RADIUS CURVE TO
THE RIGHT AND ARC DISTANCE OF 32.43 FEET TO A POINT OF
REVERSE CURVATURE; THENCE WESTERLY ALONG A 213.03 FOOT RADIUS
CURVE TO LEFT AND ARC DISTANCE OF 52.62 FEET TO A POINT OF
TANGENCY; THENCE NORTH 82 02'24" WEST A DISTANCE OF 3.99
FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 4, SAID
POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF 74TH
STREET; THENCE NORTHERLY ALONG A 567.82 FOOT RADIUS CURVE TO
THE LEFT (CHORD BEARING NORTH 07 57'36" EAST, CHORD DISTANCE
28.00 FEET) AND ARC DISTANCE OF 28.00 FEET; THENCE SOUTH 88
02'24" EAST A DISTANCE OF 3.99 FEET TO A POINT OF CURVATURE;
THENCE EASTERLY ALONG A 241.03 FOOT RADIUS CURVE TO THE RIGHT
AN ARC DISTANCE OF 59.53 FEET TO A POINT OF REVERSE
CURVATURE; THENCE EASTERLY ALONG A 56.00 FOOT RADIUS CURVE TO
THE LEFT AN ARC DISTANCE OF 27.61 FEET TO A POINT OF
TANGENCY; THENCE NORTH 90 00'00" EAST A DISTANCE OF 308.27
FEET; THENCE NORTH 44 40'52" EAST A DISTANCE OF 8.44 FEET TO
THE POINT OF BEGINNING.

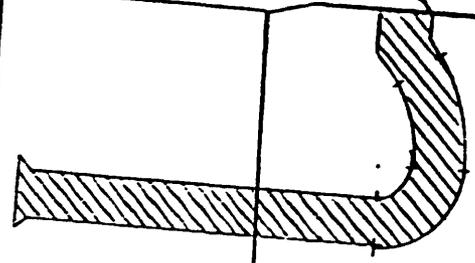
95-07003 Y



72ND ST

POINT OF BEGINNING

LOT 1



LOT 5

LOT 2

LOT 3

LOT 4

LOT 6

SCHAEFER'S I ADDITION

PARCEL C

HARRISON ST

14TH ST

95-07003 Z

LEGAL DESCRIPTION
SCHAEFER I ADDITION
INGRESS/EGRESS EASEMENT
PARCEL "C"
FEBRUARY 10, 1995

AN INGRESS/EGRESS EASEMENT ACROSS LOTS 2 AND 3 IN
SCHAEFER I ADDITION, A PLATTED AND RECORDED SUBDIVISION IN
SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 3, THENCE
NORTH 00 38' 17" WEST ALONG THE EAST LINE OF SAID LOT A
DISTANCE OF 55.00 FEET; THENCE SOUTH 89 21' 43" WEST A
DISTANCE OF 20.3 FEET; THENCE SOUTH 51 21' 48" WEST A
DISTANCE OF 8.38 FEET TO A POINT OF CURVATURE; THENCE
SOUTHWESTERLY ALONG A 76.16 FOOT RADIUS CURVE TO THE RIGHT AN
ARC DISTANCE OF 49.52 FEET TO A POINT OF COMPOUND CURVATURE;
THENCE NORTHWESTERLY ALONG A 46.00 FOOT RADIUS CURVE TO THE
RIGHT AN ARC DISTANCE OF 72.35 FEET TO A POINT OF TANGENCY;
THENCE NORTH 00 38' 17" WEST A DISTANCE OF 188.73 FEET;
THENCE NORTH 45 38' 17" WEST A DISTANCE OF 7.07 FEET; THENCE
NORTH 89 21' 43" EAST A DISTANCE OF 38.00 FEET; THENCE SOUTH
44 21' 43" WEST A DISTANCE OF 7.07 FEET; THENCE SOUTH 00 38'
17" EAST A DISTANCE OF 188.73 FEET TO A POINT OF CURVATURE;
THENCE SOUTHEASTERLY ALONG A 18 FOOT RADIUS CURVE TO THE LEFT
AND ARC DISTANCE OF 28.18 FEET TO A POINT OF COMPOUND
CURVATURE; THENCE EASTERLY ALONG A 48.16 FOOT RADIUS CURVE TO
LEFT
AN ARC DISTANCE OF 31.32 FEET TO A POINT OF TANGENCY; THENCE
NORTH 51 21' 48" EAST A DISTANCE OF 30.84 FEET; THENCE NORTH
89 21' 43" EAST A DISTANCE OF 19.70 FEET TO A POINT ON THE
EASTERLY LINE OF SAID LOT 3; THENCE SOUTH 00 38' 17" EAST
ALONG SAID EAST LINE A DISTANCE OF 36.00 FEET TO THE POINT OF
BEGINNING.

Counter SC
Verify
D.E.
Proof
Firm
Mail
Fee # 138.00
Ck Cash Chg

95 07003
FEB 10 1995 10:42
REGISTRY & RECORDS