

CITY OF OMAHA

COUNCIL CHAMBER

BOOK 652 PAGE 208

Omaha, Nebr. May 12, 1981

RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

WHEREAS, Maenner Acres One, to be known as Armbrust Acres 2nd Addition, proposes to build a subdivision which will be located in an area between 163rd Street and 165th Avenue from "C" Street to Spring Circle; and,

WHEREAS, Sanitary and Improvement District (S. & I.D.) 298 has been formed to build public improvements in this subdivision; and,

WHEREAS, Maenner Acres One and S. & I.D. 298 wish to construct a sanitary sewer system and connect said system to the Sanitary Sewer System of the City of Omaha; and,

WHEREAS, the parties wish to agree upon the manner and the extent to which public funds may be expended in connection with public improvements to be constructed within the area to be developed or serving the area to be developed and the extent to which the contemplated public improvements specially benefit property in the area to be developed and to what extent the cost of the same shall be specially assessed; and,

WHEREAS, the S. & I.D. 298 agrees to pay \$84,660.00 as a sewer connection fee to be used for the construction of the sewers in the Papillion Creek Watershed; and,

WHEREAS, an Agreement has been prepared setting forth all the provisions mentioned above.

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

THAT, the Mayor is authorized to sign and the City Clerk is authorized to attest the Agreement between the City of Omaha, Sanitary and Improvement District 298 of Douglas County, Nebraska and Maenner Acres One, providing for the public improvements and sewer connection to the Omaha Sanitary Sewer System.

N/16:7C4:11

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

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 *Steve Rosenblatt*
Councilman

Mary Gayle Cowart
BY CITY CLERK

Adopted MAY 12 1981
Mary Gayle Cowart
City Clerk

Approved *He [Signature]* 5/14/81
Mayor

SUBDIVISION AGREEMENT

This Agreement, made and entered into this 12th day of May, 1981, by and between MAENNER ACRES ONE, LTD. (hereinafter referred to as "Subdivider"), SANITARY AND IMPROVEMENT DISTRICT NO. 298 of DOUGLAS COUNTY, NEBRASKA (hereinafter referred to as "District"), and the CITY OF OMAHA, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City").

W I T N E S S E T H :

WHEREAS, Subdivider is the owner or purchaser under agreement of the land included within the proposed plat attached hereto as Exhibit "A", which parcel of land (hereinafter referred to as the "Area to be Developed") is outside the corporate limits of the City and within the City's zoning and platting jurisdiction; and

WHEREAS, the Subdivider proposes that the District will build public improvements in the area to be developed, the District being a sanitary and improvement district created at the request of and controlled by the Subdivider, which is the sole Owner(s) of all the lands within the boundaries thereof; and

WHEREAS, the Subdivider and the District wish to connect the system of sanitary sewers to be constructed by the District within the area to be developed to the sewer system of the City; and

WHEREAS, the parties wish to agree upon the manner and the extent to which public funds may be expended in connection with public improvements to be constructed within the area to be developed or serving the area to be developed and the extent to which the contemplated public improvements specially benefit property in the area to be developed and to what extent the cost of same shall be specially assessed.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

For the purpose of this Agreement the following words and phrases shall have the following meanings:

A. The "cost" or "entire cost" of a type of improvement shall be deemed to include all construction costs, engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, and miscellaneous costs. In this connection, financing costs shall include all fiscal agent's warrant fees and bond fees, interest on warrants to date of levy of special assessments.

B. "Property benefited" shall mean property within the Subdivider's subdivision (Exhibit "A") which constitutes building sites.

C. "Street intersections" shall be construed to mean the area shown on the attached street intersection drawing (Exhibit "B").

D. "General obligation" shall mean unassessable capital costs.

SECTION I.

Subdivider and District covenant that Subdivider shall, and the District covenants that the District will contemporaneously with the filing of the final plat, present to the City Clerk for

the benefit of the City binding contracts in full force and effect calling for the timely and orderly installation of the following public improvements, according to the terms of those contracts. That the District shall also provide and deliver to the City written confirmation of a binding agreement between the District and its fiscal agent calling for the placement of the warrants or bonds of the District for the installation of the improvements set forth herein:

A. Concrete paving of all streets dedicated, per the plat (Exhibit "A"), all of said paving to be twenty-five (25) feet in width except for those streets with a width greater than twenty-five (25) feet, which streets shall be extra-width paving, if any, as shown on paving plan in the area marked Final Plat No. 1 prepared by Kirkham, Michael & Associates, a copy of which is attached hereto as Exhibit "B."

B. All sanitary sewer mains, manholes, and related appurtenances constructed in dedicated street rights-of-way and easements, per plat (Exhibit "A"), same to be located as shown on sanitary sewer layout prepared by Kirkham, Michael & Associates, a copy of which is attached hereto as Exhibit "C."

C. Storm sewers, inlets, manholes, and related appurtenances constructed in street rights-of-way and easements, per plat (Exhibit "A"), plans and specifications for said sewer improvements to be approved by City prior to starting construction of said improvements to be located as shown on storm sewer plan in the area marked Final Plat No. 1 prepared by Kirkham, Michael & Associates, a copy of which is attached hereto as Exhibit "B."

D. Water and gas distribution mains located within dedicated street rights-of-way dedicated per plat (Exhibit "A") to be installed by the Metropolitan Utilities District. (Contract with MUD will be provided as soon as available but in no event longer than four (4) months from the date of execution of this Agreement.)

E. Street lighting for public streets dedicated per plat (Exhibit "A") to be installed by the Omaha Public Power District. (Contract with OPPD will be provided as soon as available but in no event longer than four (4) months from the date of execution of this Agreement.)

F. Underground electrical service to each of the lots in the area to be developed to be installed by the Omaha Public Power District. (Contract with OPPD will be provided as soon as available but in no event longer than four (4) months from the date of execution of this Agreement.)

G. Sidewalks along both sides of all public streets within the area to be developed shall be constructed by the Subdivider or District according to the following schedule:

(1) Sidewalks shall be constructed immediately abutting vacant lots on either side of any block or cul-de-sac (i.e., circle) as soon as the lots comprising sixty-five percent (65%) of the abutting footage on such side have been built upon.

(2) Sidewalks shall be constructed immediately abutting built-upon lots as soon as weather permits.

(3) In any event, all sidewalks shall be constructed upon both sides of any public streets within three (3) years of the recording of the subdivision plat.

SECTION II.

The parties agree that the entire cost of all public improvements paid for by the District and set out in Section I herein shall be defrayed as follows:

A. One hundred percent (100%) of the entire cost of all street and sidewalk construction shall be paid by special assessment against the property benefited within the area to be developed, except for street intersections and a portion of extra-width paving, if any, approved by the City, which may be a general obligation, as specified in Exhibit "B."

B. One hundred percent (100%) of the entire cost of all sanitary sewers, including manholes and other appurtenances, shall be paid by special assessment against property benefited within the area to be developed, provided,

(1) Connection charges paid to other sanitary and improvement districts shall be specially assessed to the extent of special benefit to properties in the District, and the remainder may be a general obligation of the District.

(2) The District's total cost of any outfall sanitary sewer line to be constructed by the District, within the boundaries of the District, shall be specially assessed except that portion of the Sanitary Outfall Sewer which the pipe size is greater than eight inches (8") diameter may be a general obligation of the District.

(3) The total cost of any sanitary sewer constructed outside the District boundary by the District may be a general obligation of the District.

C. The cost of storm sewers and appurtenances may be a general obligation of the District.

D. One hundred percent (100%) of the entire cost of water and gas distribution systems serving the area to be developed shall be specially assessed against the property benefited within the area to be developed. All refunds from MUD shall be credited to the Bond Construction Account of the District.

E. One hundred percent (100%) of the entire cost of monthly contract charges paid to the Omaha Public Power District for furnishing lighting of public streets shall be paid from the operating fund of the District.

F. The entire cost of the installation of electrical power service shall be specially assessed against the property within the area to be so developed; except that a portion of the entire cost equal to the estimated refundable charge from the Omaha Public Power District may be a general obligation of

the District, provided that money refunded to the District by the Omaha Public Power District is credited to the Bond (Construction) Account of the District.

G. Any payments to other sanitary and improvement districts, sanitary districts or municipalities for any fees or charges will not be a general obligation of the District, except as otherwise provided in this Agreement.

H. Payments for interceptor sewer connection charges to the City of Omaha may, as provided in Section IX herein, be a general obligation of the District.

SECTION III.

Credit or funds of the District may be used to pay for any public improvements specified in this Agreement, but not for any other purpose. PROVIDED, HOWEVER, the District may issue warrants for the purpose of paying for repairs, maintenance, and operating costs of the District, such warrants to be paid out of funds obtained by the District through its general fund mill levy, or where allowed by law, may be paid from special assessments or fees or charges. Maintenance, repair, and reconstruction of a public improvement shall not be an obligation of the Bond (Construction) Account of the District without the prior written approval of the City Engineer. The District shall not acquire any interest in real property without the prior approval of the City of Omaha.

SECTION IV.

A. City covenants and agrees that should the City, by reason of its annexation of the District, or any area thereof, prior to District's levy of special assessments for the improvements authorized in this Agreement thereby succeed to said District's power to levy special assessments, that City will levy same in accordance with this Agreement.

B. All parties covenant and agree that nothing in this Agreement shall be construed so as to oblige the City to annex the area to be developed or any part thereof.

SECTION V.

Subdivider and District covenant and agree that the District created by the Subdivider will:

A. Abide by and incorporate into all of its construction contracts the provisions required by the regulations of the City pertaining to construction of public improvements in subdivisions and testing procedures therefor.

B. Except as may otherwise be agreed to by City, all of said District's levy of special assessments shall be made in such a manner so as to assure that the entire burden of the levy is borne, on an equitable basis, by lots or parcels which are truly building sites. If any lot, parcel or other area within the area to be developed is not a building site by reason of insufficient size or dimensions, or by reason of easements or similar burdens, or for any other reason, then no portion of the total amount shall be levied against said unbuildable lot, parcel or other area.

C. The District shall provide the following information to the City Engineer at least twenty (20) days prior to the meeting of the Board of Trustees of the District held to propose the levy of special assessments:

(1) A detailed schedule of the proposed special assessment and/or the amount of general obligation costs of any improvement or acquisition.

(2) A plat of the area to be assessed.

(3) A full and detailed statement of the entire cost of each type of improvement, which statement or statements shall separately show:

(a) The amount paid to each contractor.

(b) A special itemization of all other costs of the project, including, but not limited to, all engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, including, but not limited to, interest on all warrants to date of levy of special assessments, estimated fiscal agent's warrants fees and bond fees.

(c) A special itemization of all costs of the District not itemized in (a) and (b) above.

D. The District agrees that it will not unreasonably delay acceptance of an improvement and that District shall levy special assessments within six (6) months after acceptance of the improvement.

In addition to the above notice requirement, the District shall also, twenty (20) days prior to the Board of Equalization hearing of the District, give notice in writing to the City that the Board of Equalization will be convened on that date for the consideration of the levying of special assessments and equalization and apportionment of debt.

SECTION VI.

The District covenants that it shall levy an annual mill levy sufficient to fully comply with Nebraska Budget Act. Such annual mill levy shall, for a period of ten (10) consecutive years after the creation of the District or until District's debt is paid in full, whatever is the shorter period, not be less than the City's immediately prior levy.

SECTION VII.

In the performance of this contract, the District shall not discriminate against any parties on account of race, national origin, sex, age, political or religious affiliations in violation of federal or state laws or local ordinances.

SECTION VIII.

A. Subject to the conditions and provisions hereinafter specified, the City hereby grants permission to the District to connect its sewer system to the sewer system of the City for a period not to exceed ten (10) years, in such manner and at such place or places designated on plans submitted by the District and approved by the City.

B. Without prior written approval by the City, the District shall not permit any sewer lines or sewers outside the presently described boundaries to be connected to: the sewer or sewer lines of the District, any sewer from the District's boundaries to the sewers of the City, any outfall sewer of the City, or any sewage treatment plant of the City.

D. At all times all sewage from and through said District into the City sewer system shall be in conformity with the ordinances, regulations, and conditions applicable to sewers and sewage within the City as now existing and as from time to time may be amended.

E. Before any connection from any premises to the sewer system of the District may be made, a permit shall be obtained for said premises and its connection from the proper department of the City, which permit shall be obtainable on the same terms, conditions, and requirements of the City and for the same permit fee of the City applicable from time to time to permit for property outside the City to connect to the sewer system of the City; it being expressly understood that the City reserves the right to collect all connection charges and fees as required by the City ordinances or rules now or hereafter in force; all such connections shall comply with minimum standards prescribed by the City.

F. Notwithstanding any other provisions of this Agreement, City retains the right to disconnect the sewer of any industry, or other sewer user within the area to be developed, which is discharging into the sewer system in violation of any applicable ordinance, statute, rule, or regulation.

G. The District warrants that it has not employed or retained any company or person, other than a bona fide employee working for the District, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working for the District, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability. The District shall require the same warranty from each contractor with whom it contracts in any way pertaining to its sewage system. The prohibition provided for herein shall not apply to the retention of an attorney or other agent for the purpose of negotiating the provisions of this Agreement where the existence of such agency has been disclosed to the City.

H. Subletting, assignment, or transfer of all or part of any interest of the District hereunder is prohibited without prior written approval of the City of Omaha.

I. The District expressly agrees that it is and shall be:

(1) Bound by and to any provisions of any ordinances, rules and regulations hereafter made and adopted by the City of Omaha applicable to sanitary and improvement districts whose sewers connect directly or indirectly with or into sewers or sewage systems of the City of Omaha, and

(2) Bound by any terms and provisions which by ordinance, resolution, or rule of the City of Omaha shall hereafter adopt or provide as being applicable to or required in contracts with sanitary and improvement districts or in order to permit or continue the discharge of any sewage from a sanitary and improvement district to flow into or through any part of the sewer or sewage system of the City of Omaha.

J. The District agrees to collect an "equivalent front footage charge" in conformance with the following:

Where the property with which sewer connection is sought to be made is not within the bounds of a regular sanitary sewer district or private sewer district, or where such property has not been assessed or has not paid for the construction of the sewer to which connection is sought to be made, then in such case the Chief Plumbing Inspector of the Permits and Inspections Division shall not issue a permit for such sewer connection until the property owner shall have paid to the improvement district an equivalent front footage charge for the number of front feet of the entire property with which such connection is sought to be made. The equivalent front footage charge shall be the current charge in conformance with the requirements of the Omaha Municipal Code. The front footage charge collected shall be used to defray the general obligation of the sanitary and improvement district.

SECTION IX.

A. Payment for Construction of Interceptor Sewers. The District shall make payment to the City of Omaha the fee in the amount of \$ 84,660.00 for the construction of interceptor sewers. This fee is computed as follows for the lots shown on the plat (Exhibit "A").

$$166 \text{ Lots} \times \$ 510.00 = \$ 84,660.00$$

If the area is replatted or the use of the lots is changed, the fee charged shall be changed by the City on the basis of the wastewater flow generated compared to that generated by single family residences.

B. Additional Plats. In the event the Subdivider shall plat additional lots which will be in the District which he wishes to connect to the Omaha sewer system, this Agreement shall be amended by the parties to provide payment of the current fee for the additional lots before any sewer permits are issued by the City of Omaha.

C. Special Sewer Connection Fee. The District and the City agree that payment made under Section IX-A of this Agreement shall constitute a Special Sewer Connection Fee for the area described in Section IX-A and shall be collected by the District as a Special Sewer Connection Fee or shall be levied as a Special Assessment against the real estate described in Section IX-A as follows:

(1) Amount of Special Sewer Connection Fee. The real estate shall be charged the special sewer fee amount as set forth in Section IX-A for each lot or parcel.

(2) Time of Collection. The Special Sewer Connection Fee shall be collected by the District from the owner of each lot or parcel of real estate or levied as a Special Assessment in the amount as shown in Section IX-A prior to the time any such lot or parcel is built upon and before the building sewer is connected to the Sanitary system of the District.

(3) Extent of Collection. The Special Sewer Connection Fee will be collected by the District on each lot from the date of this Agreement until the District has collected by such payment or through Special Assessment the entire amount paid by the District to the City, as described in Section IX-A. The entire proceeds collected by the District will be used by the District to pay off the warrants or other debts incurred by the District in obtaining the funds paid to the City as required in Section IX-A.

D. City Sewer Connection and Sewer Use Fees to be Paid. The City may collect, within the area to be developed, the City's sewer connection and permit fees, as provided by existing City ordinances, and its sewer use and connection fees as now or hereafter existing. Such fees shall be in addition to the payments provided for in Section IX-A herein. However, the City shall reduce its "Special Connection Fee - Papillion Creek Watershed" for any lot listed in Section IX-A herein, by the amount paid by the District for that lot pursuant to that section and collected by the District from the party for whom the connection is made.

E. Issue of Sewer Permit. No sewer permit will be issued by the City for any construction on any lot in the area described in Section IX-A until proof is furnished to the City of payment to the District of the Special Sewer Connection Fee or levy of the Special Assessment for that particular lot as called for in Section IX-A.

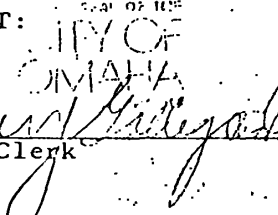
F. Audit of District's Records. The City shall have access at all times to the District records for the purpose of auditing the accounts pertaining to collection of the Special Sewer Connection Fee.

G. Upon execution of this Agreement, the District shall make payment to the City in cash or warrants immediately convertible into cash in the amount as stated in Section IX-A of this Agreement. The City shall accept and retain such monies to make progress payments for the design, construction and construction supervision for building interceptor sewers.

IN WITNESS WHEREOF, we, the contracting parties, by our respective duly authorized agents, hereby enter into this Agreement, effective on the day and year first above written.

CITY OF OMAHA,

By *Lee Dyer* 5/14/81
Mayor Date

ATTEST: 
Mary Gallagher
City Clerk

SANITARY AND IMPROVEMENT DISTRICT
NO. 298 OF DOUGLAS COUNTY,
NEBRASKA,

By *John R Maenner*
Chairman

ATTEST:
Robert J. ...
Clerk

MAENNER ACRES ONE, LTD.,

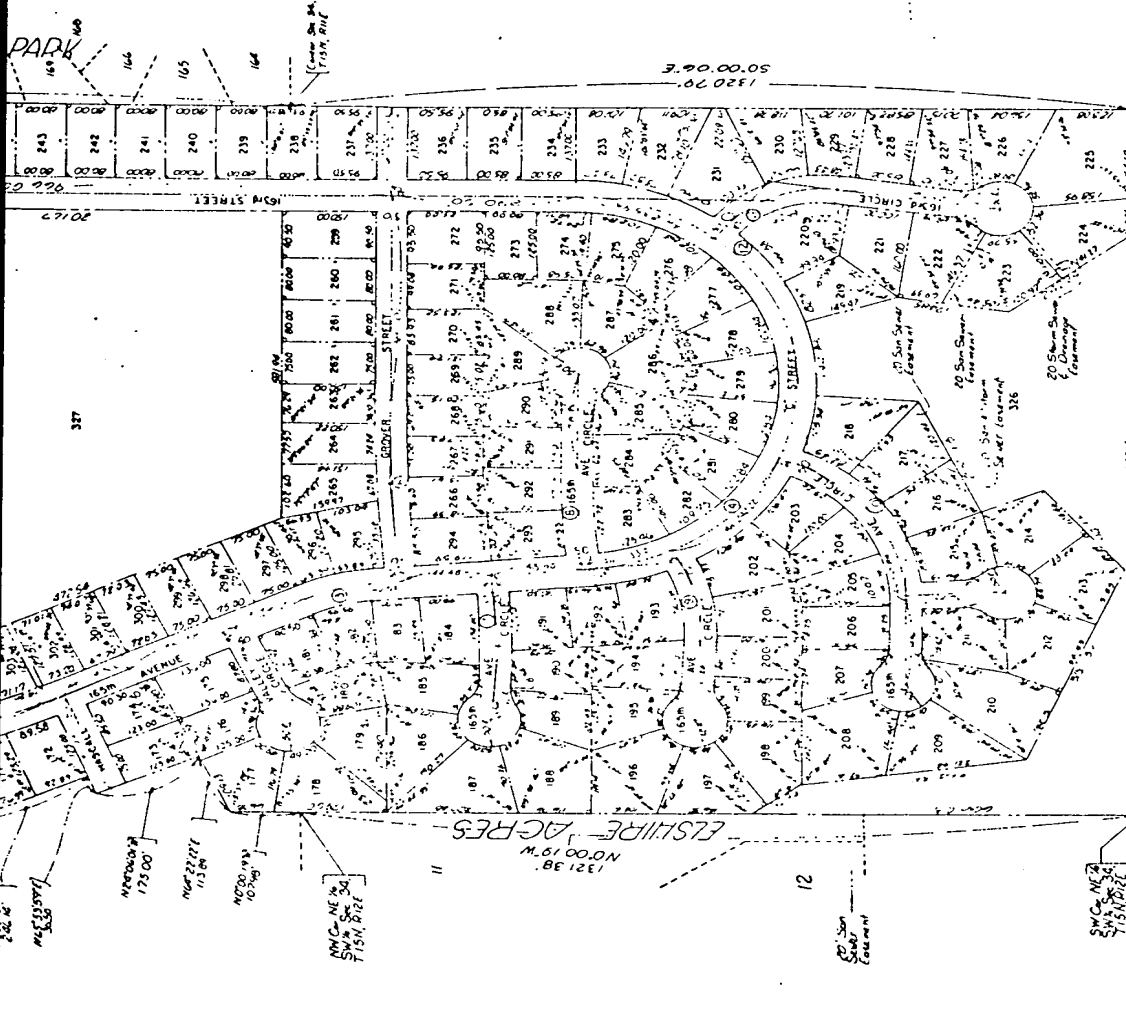
By *John R. ...*

ATTEST:
Robert J. ...

APPROVED AS TO FORM:

John R. ...
Assistant City Attorney

THE CITY OF CHICAGO, ILLINOIS, BEING THE FIRST AND SECOND SECTIONS OF CHICAGO, BEING THE FIRST LINE OF ROAD... (Legal description of the property and surrounding streets)



THE CITY OF CHICAGO, ILLINOIS, BEING THE FIRST AND SECOND SECTIONS OF CHICAGO, BEING THE FIRST LINE OF ROAD... (Legal description of the property and surrounding streets)

APPROVED BY THE CITY ENGINEER
CITY ENGINEER

APPROVED BY THE CITY CLERK
CITY CLERK

APPROVED BY THE CITY COMMISSIONERS
CITY COMMISSIONERS

APPROVED BY THE CITY BOARD OF SUPERVISORS
CITY BOARD OF SUPERVISORS

APPROVED BY THE CITY BOARD OF ALDERMEN
CITY BOARD OF ALDERMEN

APPROVED BY THE CITY BOARD OF HEALTH
CITY BOARD OF HEALTH

APPROVED BY THE CITY BOARD OF EDUCATION
CITY BOARD OF EDUCATION

APPROVED BY THE CITY BOARD OF FIRE ALARMS
CITY BOARD OF FIRE ALARMS

APPROVED BY THE CITY BOARD OF PUBLIC WORKS
CITY BOARD OF PUBLIC WORKS

APPROVED BY THE CITY BOARD OF WATERWORKS
CITY BOARD OF WATERWORKS

APPROVED BY THE CITY BOARD OF STREETS
CITY BOARD OF STREETS

APPROVED BY THE CITY BOARD OF PUBLIC SAFETY
CITY BOARD OF PUBLIC SAFETY

THE CITY OF CHICAGO, ILLINOIS, BEING THE FIRST AND SECOND SECTIONS OF CHICAGO, BEING THE FIRST LINE OF ROAD... (Legal description of the property and surrounding streets)

APPROVED BY THE CITY ENGINEER
CITY ENGINEER

APPROVED BY THE CITY CLERK
CITY CLERK

APPROVED BY THE CITY COMMISSIONERS
CITY COMMISSIONERS

APPROVED BY THE CITY BOARD OF SUPERVISORS
CITY BOARD OF SUPERVISORS

APPROVED BY THE CITY BOARD OF ALDERMEN
CITY BOARD OF ALDERMEN

APPROVED BY THE CITY BOARD OF HEALTH
CITY BOARD OF HEALTH

APPROVED BY THE CITY BOARD OF EDUCATION
CITY BOARD OF EDUCATION

APPROVED BY THE CITY BOARD OF FIRE ALARMS
CITY BOARD OF FIRE ALARMS

APPROVED BY THE CITY BOARD OF PUBLIC WORKS
CITY BOARD OF PUBLIC WORKS

APPROVED BY THE CITY BOARD OF WATERWORKS
CITY BOARD OF WATERWORKS

APPROVED BY THE CITY BOARD OF STREETS
CITY BOARD OF STREETS

APPROVED BY THE CITY BOARD OF PUBLIC SAFETY
CITY BOARD OF PUBLIC SAFETY

THE CITY OF CHICAGO, ILLINOIS, BEING THE FIRST AND SECOND SECTIONS OF CHICAGO, BEING THE FIRST LINE OF ROAD... (Legal description of the property and surrounding streets)

APPROVED BY THE CITY ENGINEER
CITY ENGINEER

APPROVED BY THE CITY CLERK
CITY CLERK

APPROVED BY THE CITY COMMISSIONERS
CITY COMMISSIONERS

APPROVED BY THE CITY BOARD OF SUPERVISORS
CITY BOARD OF SUPERVISORS

APPROVED BY THE CITY BOARD OF ALDERMEN
CITY BOARD OF ALDERMEN

APPROVED BY THE CITY BOARD OF HEALTH
CITY BOARD OF HEALTH

APPROVED BY THE CITY BOARD OF EDUCATION
CITY BOARD OF EDUCATION

APPROVED BY THE CITY BOARD OF FIRE ALARMS
CITY BOARD OF FIRE ALARMS

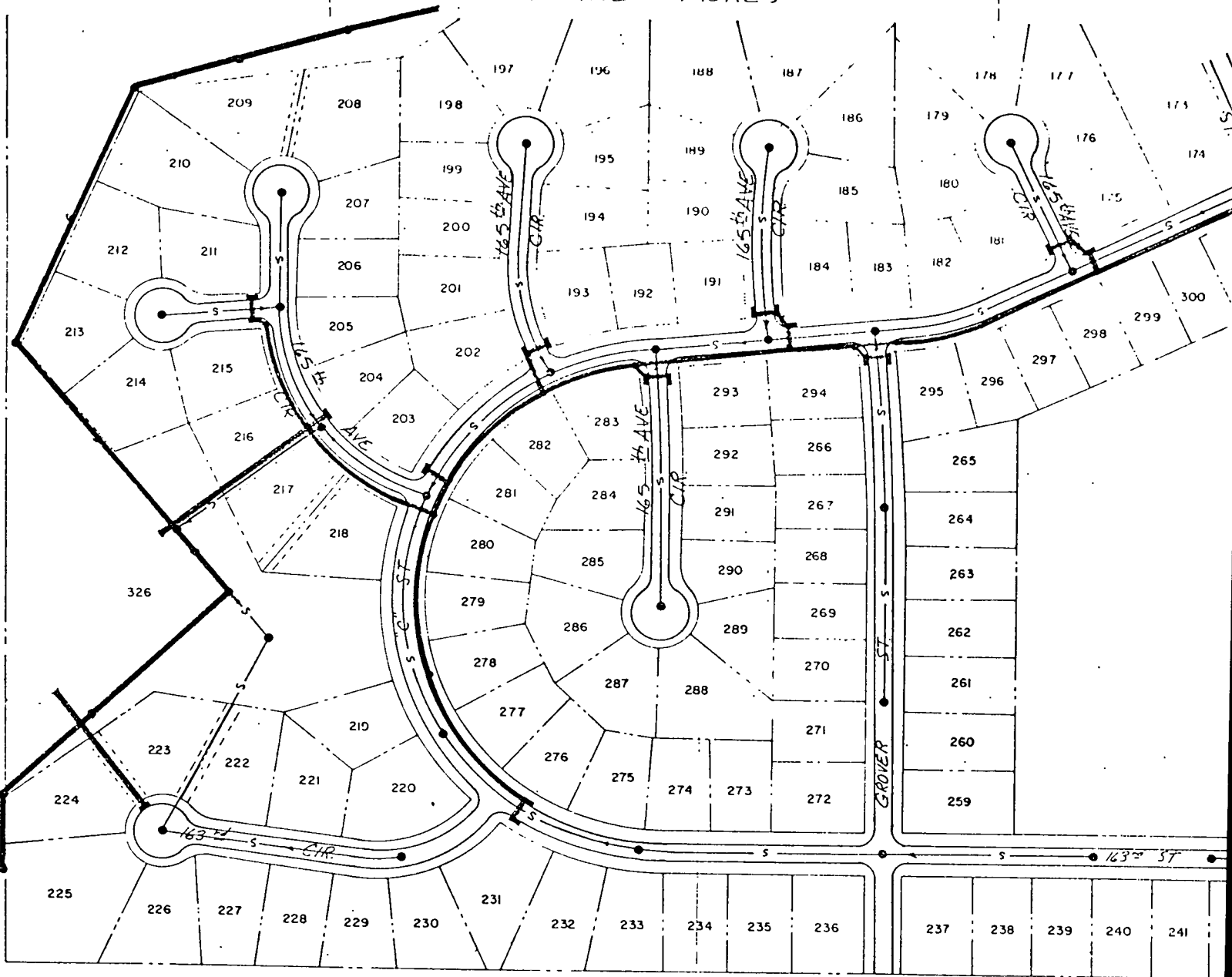
APPROVED BY THE CITY BOARD OF PUBLIC WORKS
CITY BOARD OF PUBLIC WORKS

APPROVED BY THE CITY BOARD OF WATERWORKS
CITY BOARD OF WATERWORKS

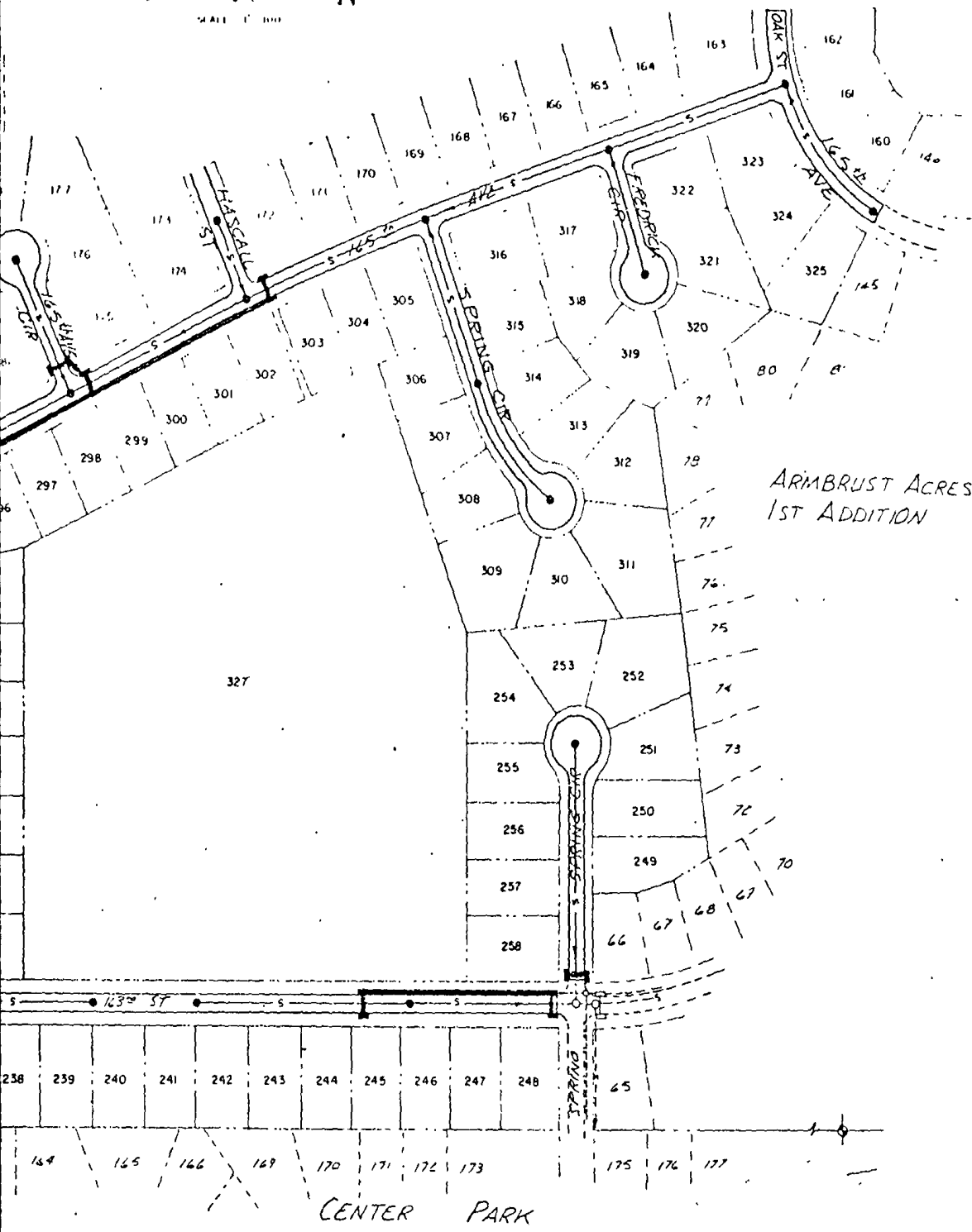
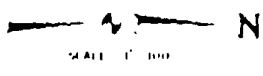
APPROVED BY THE CITY BOARD OF STREETS
CITY BOARD OF STREETS

APPROVED BY THE CITY BOARD OF PUBLIC SAFETY
CITY BOARD OF PUBLIC SAFETY

ELSHIRE ACRES



PAVING G.O. ITEM
 STORM SEWER G.O. 1
 BOXELDER CREEK 11
 SEWER (COVERED UN



14 Misc

RECEIVED
1981 MAY 26 PM 12: 20
CLARENCE D. OSTLER
REGISTERED ENGINEER
DOUGLAS COUNTY, NEBR.

Book 652
Page 20P
of 11

Plan 42 25
Infor. _____
Compd. _____
34-15-11
30-15-11

G.O. ITEM
SEWER G.O. ITEM
CREEK INTERCEPTOR
(COVERED UNDER SEPERATE AGREEMENT)

EXHIBIT B & EXHIBIT C

KIRKHAM, MICHAEL AND ASSOCIATES

ARMBRUST ACRES 2nd ADDITION
SANITARY & IMPROVEMENT DISTRICT NO. 288
DOUGLAS COUNTY, NEBRASKA

PRELIMINARY
SANITARY SEWER, STORM SEWER
& PAVING LAYOUT

DATE: MAY 26, 1981
BY: CLARENCE D. OSTLER
REGISTERED ENGINEER
NO. 000000000
8 810138

SHEET