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DOUGLAS COUNTY, NE



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**FIRST AMENDMENT TO SOUTHWESTERN PLAZA DECLARATION OF
COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS**

THIS FIRST AMENDMENT TO SOUTHWESTERN PLAZA DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS is made on the date hereinafter set forth by Southwestern Plaza Associates, L.L.C., a Nebraska limited liability company, (hereinafter referred to as the "Declarant"), Jay Slusky, Jerry M. Slusky, Trenton Magid and Bennett A. Ginsberg, Trustees of Sanitary and Improvement District No. 407 of Douglas County, Nebraska (collectively "Trustees") and 5500 "L" Street Properties Co., a Nebraska general partnership, ("5500 "L" Street Properties").

PRELIMINARY STATEMENT

By the Southwestern Plaza Declaration of Covenants, Conditions, Easements and Restrictions dated March 6, 1996 and recorded on March 8, 1996 in Book 1170, Page 635, Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska (hereinafter referred to as the "Declaration"), Declarant subjected the real estate legally described on Exhibit "A" attached hereto and by this reference incorporated herein to this Declaration, which real estate described on Exhibit "A" was subsequently platted into Lots 1 - 23, Southwestern Plaza, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

The Declarant has become the owner of a certain parcel of real estate legally described on Exhibit "B" attached hereto and by this reference incorporated herein; and 5500 "L" Street Properties is the current owner of a parcel of real estate legally described on Exhibit "C" attached hereto and by this reference incorporated herein; and the Trustees are the current owners of a parcel of real estate legally described on Exhibit "D" attached hereto and by this reference incorporated herein; which parcels the Declarant, 5500 "L" Street Properties and the Trustees desire to bind to the Declaration, as amended herein.

IN CONSIDERATION OF THE FOREGOING PRELIMINARY STATEMENT, WHICH BY THIS REFERENCE IS REPEATED AND INCORPORATED IN THIS FIRST AMENDMENT IN ITS ENTIRETY, AND OTHER CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE DECLARANT, 5500 "L" STREET PROPERTIES AND THE TRUSTEES HEREBY AGREE, STATE AND DECLARE AS FOLLOWS:

1. The Declarant, as owner of the real estate legally described on Exhibit "B" attached hereto, does hereby bind and subject the real estate described on Exhibit "B" to all provisions of the Declaration, including Section 15 thereof, and this First Amendment, as if the Declarant had been the owner of such parcel of real estate at the time the Declaration was executed and recorded.

2. Section 3 of the Declaration is hereby amended in its entirety and restated as follows:

Section 3. Permitted Uses.

A. COMMERCIAL PARK PERMITTED USES:

Buildings constructed in the Commercial Park shall be used for commercial purposes of the type normally found in a retail shopping center or office park including, without limitation, financial institutions, service shops, restaurants and retail stores. Without the prior written consent of the Declarant, no part of the Commercial Park shall be used for any of the following

purposes: (a) bingo or other game room, pool hall, teen club, theater or gambling or live entertainment enterprise of any kind, (b) warehouse operation or manufacturing or assembling operation, (c) storage (except incidental to the primary commercial use), (d) central laundry facility, (e) facility in which fire sales, bankruptcy sales (unless pursuant to court order), or auction sales are conducted, (f) bowling alley, (g) skating rink, (h) mortuary, (i) establishment selling or exhibiting pornographic materials, (j) flea market, (k) health spa, (l) physical therapy facility, (m) massage parlor, (n) tanning parlor, (o) bar or tavern, and (p) ballroom, dance hall or discotheque.

B. BUSINESS PARK PERMITTED USES:

Buildings constructed in the Business Park shall be for limited industrial and related uses of the type generally described in the Limited Industrial category of the Omaha Zoning Code, provided without the prior written consent of the Declarant, no part of the Business Park shall be used for any of the purposes described in Section 3A(a) through (p) above.

C. PARCEL "A" PERMITTED USES:

Parcel "A" shall be used exclusively for automotive sales, rental, repair services and other related automotive uses or such other uses permitted in the Southwestern Plaza Mixed-Use Development Agreement entered into inter alia by the City of Omaha and the Declarant.

D. RESTRICTION AGAINST CONSTRUCTION AND OPERATION OF CONVENIENCE STORE/GAS STATION AND/OR CAR WASH

Notwithstanding any provision of this Declaration, including Section 3, to the contrary, no convenience store/gas station (as defined below) and/or car wash shall be constructed or operated on any real estate located in the Development, except the real estate to be platted as Lot 6 in the Commercial Park. This provision shall not be construed to prohibit or restrict the owner of Parcel A from furnishing or selling car washes, gasoline and other fuels and other automotive products or services to its customers or for its own use, as services and products incidental to the business of automotive sales, rentals, repair services and other related automotive uses, to be operated on Parcel A (the permission granted herein to the owner of Parcel A is provided to permit the owner of Parcel A to service its customers and its own uses, however, the owner of Parcel A shall not engage in the selling of car washes, gasoline and other fuels to the general public at large).

For purposes of this Declaration, a "convenience store/gas station" shall be defined as a mini-mart or quick stop retail merchandising outlet associated with a gas station. By way of example, a convenience store/gas station would include (but not be limited to) 7-Eleven, Casey's General Stores and Kwik Shop. Provided, further, that the definition of convenience store/gas station shall not include (i) retail merchandising outlets engaged primarily in retail distribution of food products, such as, but not limited to, Albertson's, Fleming's, Baker's, Hy-Vee and A&P, and (ii) mass merchandisers and discount merchandisers, such as, but not limited to, Kmart, Wal-Mart, Target and Shopko, (iii) food distribution warehouses which distribute to retail food distributors, such as, but not limited to, United AG, Super Value Warehouses, Affiliated Foods and Fleming Foods, (iv) wholesale clubs engaged in mass merchandising, such as, but not limited to, Sam's Club and Pace Warehouse, and (v) restaurants, delis, "fast food" outlets and other facilities, engaged in the preparation and sale of food and/or drink, whether as independent outlets or incorporated into retail merchandising outlets and other businesses, which restaurants,

delis, "fast food" outlets and other facilities shall include, but not be limited to, McDonald's, Burger King, Wendy's, Blimpie's, Subway, Little Kings, Pizza Hut, KFC, Little Caesar's, Boston Market and Godfather's.

3. Section 19(l) of the Declaration is hereby amended in its entirety and restated as follows:

Section 19(l) Binding Effect. The provisions of this Declaration will be binding on the Declarant and the Owners and their respective successors, assigns, heirs, personal representatives, mortgagees and beneficiaries under deeds of trust to the extent herein provided.

Declarant is the trustor upon that certain Trust Deed and Security Agreement ("Trust Deed") dated March 6, 1996 wherein Ronald P. Jones and Joyce A. Jones are the named beneficiaries, which Trust Deed was recorded March 8, 1996 in Book 4688, Page 468 in the Mortgage records of the Register of Deeds of Douglas County, Nebraska; in the event a default occurs under the Trust Deed and the rights of the beneficiaries are enforced by a sale of any of the lots pledged thereunder, whether by trustee's sale, foreclosure or deeds in lieu of foreclosure, the beneficiaries and their successors or assigns, shall be entitled, at their option, to succeed to all rights, title and interest of the Declarant hereunder. To elect such option, the beneficiaries or their successors or assigns shall serve written notice of such election upon the Declarant, all Owners and the holders of any mortgage or beneficiary under any deed of trust covering any lots under the Declaration, such notice to be given in the manner provided herein, and such notice shall further be recorded with the Register of Deeds of Douglas County, Nebraska against the lots covered by the Declaration. Upon discharge and full reconveyance of the Trust Deed, the rights granted under this Section 19(l) to the beneficiaries under such Trust Deed shall be null and void.

4. The Declaration is in all other matters ratified and affirmed.

The Declarant and undersigned owners have executed this First Amendment to Declaration as of this 5th day of JUNE, 1996.

SOUTHWESTERN PLAZA ASSOCIATES, L.L.C.,
a Nebraska limited liability company

By: Jerry M. Slusky, Manager
Jerry M. Slusky, Manager

Jay Slusky, Trustee
Jay Slusky, Trustee of Sanitary and
Improvement District No. 407 of Douglas
County, Nebraska

Trenton Magid, Trustee
Trenton Magid, Trustee of Sanitary and
Improvement District No. 407 of Douglas
County, Nebraska

Jerry M. Slusky, Trustee
Jerry M. Slusky, Trustee of Sanitary and
Improvement District No. 407 of Douglas
County, Nebraska

Bennett A. Ginsberg, Trustee
Bennett A. Ginsberg, Trustee of Sanitary and
Improvement District No. 407 of Douglas
County, Nebraska

5500 "L" STREET PROPERTIES CO,
a Nebraska general partnership

By: [Signature]

Its: President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 5 day of June, 1996, by Jerry M. Slusky, Manager of Southwestern Plaza Associates, L.L.C., a Nebraska limited liability company.

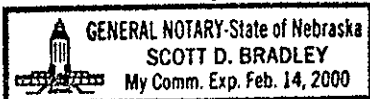


[Signature]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 5 day of June, 1996, before me, the undersigned, a Notary Public duly commissioned and qualified in and for said county, personally came Jay Slusky, Trustee of Sanitary and Improvement District No. 407, known to me to be the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as such Trustee.

Witness my hand and notarial seal at Omaha, Nebraska, in said county, the date aforesaid.

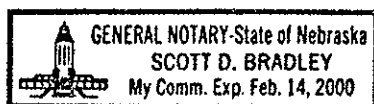


[Signature]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 5 day of June, 1996, before me, the undersigned, a Notary Public duly commissioned and qualified in and for said county, personally came Jerry M. Slusky, Trustee of Sanitary and Improvement District No. 407, known to me to be the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as such Trustee.

Witness my hand and notarial seal at Omaha, Nebraska, in said county, the date aforesaid.

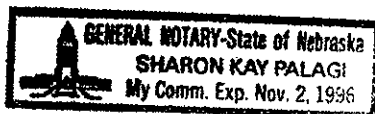


[Signature]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 19th day of June, 1996, before me, the undersigned, a Notary Public duly commissioned and qualified in and for said county, personally came Trenton Magid, Trustee of Sanitary and Improvement District No. 407, known to me to be the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as such Trustee.

Witness my hand and notarial seal at Omaha, Nebraska, in said county, the date aforesaid.

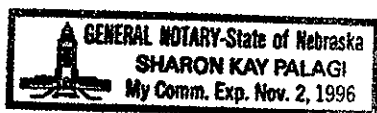


Sharon Kay Palagi
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 19th day of June, 1996, before me, the undersigned, a Notary Public duly commissioned and qualified in and for said county, personally came Bennett A. Ginsberg, Trustee of Sanitary and Improvement District No. 407, known to me to be the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as such Trustee.

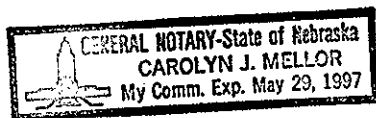
Witness my hand and notarial seal at Omaha, Nebraska, in said county, the date aforesaid.



Sharon Kay Palagi
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 17 day of June, 1996, by Sharon Kay Palagi, Partner of 5500 "L" Street Properties Co., a Nebraska general partnership.



Carolyn J. Mellor
Notary Public

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

CONSENT OF BENEFICIARIES UNDER DEEDS OF TRUST

COME NOW the undersigned Beneficiaries under Deeds of Trust recorded against the real estate which is the subject of the foregoing First Amendment to Southwestern Plaza Declaration of Covenant, Conditions, Easements and Restrictions ("First Amendment"), which real estate is described on Exhibit "A" attached to the First Amendment, and do hereby consent to all terms and provisions of the First Amendment.

PINNACLE BANK, Lender and Beneficiary
under the Deed of Trust dated ^{June 5} May 30, 1996 and
recorded June 12, 1996 in Book 4754,
Page 594 in the Mortgage records of the
Register of Deeds of Douglas County, Nebraska

6-5-96
Date

By: Scott D. Bradley
Title: CEO

6-11-96
Date

Ronald P. Jones
Ronald P. Jones

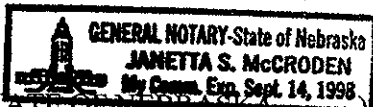
6-11-96
Date

Joyce A. Jones
Joyce A. Jones

Beneficiaries under the Deed of Trust dated March 6,
1996 and recorded March 8, 1996 in Book 4688, Page
468 in the Mortgage records of the Register of Deeds of
Douglas County, Nebraska

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

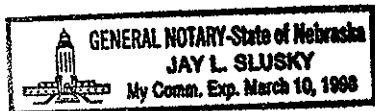
The foregoing instrument was acknowledged before me this 5th day of June, 1996, by
Scott D. Bradley, CEO of Pinnacle Bank.



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Janet S. McCroden
Notary Public

The foregoing instrument was acknowledged before me this 11th day of JUNE, 1996, by
Ronald P. Jones and Joyce A. Jones, husband and wife.



Jay L. Slusky
Notary Public

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

POOR COPY

EXHIBIT "A"

A tract of land in the Northwest Quarter (NW1/4) of Section 1, Township 14 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, lying West of the centerline of the West Papillion Creek as described in Book 1127 at Page 561 of the Deed Records of Douglas County, Nebraska, EXCEPTING the North 300 feet of the East 311.0 feet of the West 344.0 feet thereof, and EXCEPTING County Road Right of Way, said tract of land more particularly described as follows: Beginning at a point on the North line of said Northwest Quarter (NW1/4), that is 344.0 feet East of the Northwest corner of said Section 1, thence N 88°38'04" E along the North line of said Northwest Quarter (NW1/4) for 341.63 feet to the centerline of the West Papillion Creek as described in a Deed recorded in Book 1127 at Page 562 of the Deed Records of Douglas County, Nebraska; thence along said West Papillion Creek centerline as described in said deed, for the next 14 courses: S 50°04'40" E for 347.18 feet; thence S 28°22'25" E for 157.03 feet; thence S 00°47'52" W for 110.07 feet; thence S 00°17'28" W for 240.13 feet; thence S 04°11'34" W for 220.00 feet; thence S 05°04'46" E for 196.43 feet; thence S 00°45'40" W for 231.18 feet; thence S 04°41'27" W for 125.84 feet; thence S 16°59'04" W for 206.02 feet; thence S 04°31'20" W 107.18 feet; thence S 00°17'23" E for 50.94 feet; thence S 18°11'20" E for 219.91 feet; thence S 23°24'35" E for 185.00 feet; thence S 24°51'52" E for 314.51 feet to a point on the North Right-of-Way line of "L" Street; thence West along the North Right-of-Way line of "L" Street for 1151.25 feet to the East Right-of-Way line of 144th Street; thence N 0°43'08" W along the East Right-of-Way line of 144th Street for 1688.27 feet; thence N 88°38'04" E for 311.00 feet; thence N 00°43'08" W for 800.00 feet to the Point of Beginning; EXCEPT the West 17 feet thereof; AND ALSO EXCEPT that part conveyed to Papillion Drainage District by Deed filed June 24, 1911 in Book 352 at Page 55 of the Deed Records of Douglas County, Nebraska.

The East 294 feet of the West 344 feet of the North 800 feet of the Northwest Quarter (NW1/4) of Section 1, Township 14 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska,

POOR COPY

- * NOW PLATTED AND DESCRIBED AS LOTS 1-23, SOUTHWESTERN PLAZA, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA.

EXHIBIT "B"

A tract of land located in part of the West 1/2 of the NW 1/4 of Section 1, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said NW 1/4 of Section 1; thence N00°43'08"W (assumed bearing) along the West line of said NW 1/4 of Section 1, a distance of 958.86 feet; thence N89°16'52"E, a distance of 315.00 feet to the point of beginning; thence N00°43'08"W, a distance of 220.00 feet; thence N89°16'52"E, a distance of 30.00 feet; thence S00°43'08"E, a distance of 220.00 feet; thence S89°16'52"W, a distance of 30.00 feet to the point of beginning.

NOW PLATTED AND DESCRIBED AS THE EAST 30.00 FEET OF LOT 6, SOUTHWESTERN PLAZA, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA

SAID PART OF LOT 6, SOUTHWESTERN PLAZA, CONTAINS AN AREA OF 0.1515 ACRES, MORE OR LESS.

EXHIBIT "C"

A tract of land located in part of the West 1/2 of the NW 1/4 of Section 1, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of said Section 1; thence N88°38'04"E (assumed bearing) along the North line of said Section 1, a distance 75.00 feet to the point of beginning; thence continuing N88°38'04"E along said North line of Section 1, a distance of 456.24 feet; thence S48°47'17"E, a distance of 529.10 feet; thence Southeasterly on a curve to the right with a radius of 100.00 feet, a distance of 95.09 feet, said curve having a long chord which bears S21°32'44"E, a distance of 91.55 feet; thence S05°41'48"W, a distance of 282.43 feet; thence S89°16'52"W, a distance of 502.41 feet; thence Northeasterly on a curve to the right with a radius of 275.00 feet, a distance of 18.06 feet, said curve having a long chord which bears N27°26'32"E, a distance of 18.06 feet; thence N29°19'25"E, a distance of 214.04 feet; thence Westerly on a curve to the left with a radius of 62.50 feet, a distance of 268.82 feet, said curve having a long chord which bears S86°06'45"W, a distance of 104.58 feet; thence Southerly on a curve to the right with a radius of 62.50 feet, a distance of 72.46 feet, said curve having a long chord which bears S03°53'15"E, a distance of 68.47 feet; thence S29°19'25"W, a distance of 99.48 feet; thence Southwesterly on a curve to the left with a radius of 325.00 feet, a distance of 90.04 feet, said curve having a long chord which bears S21°23'11"W, a distance of 89.76 feet; thence S89°16'52"W, a distance of 279.88 feet; thence N00°43'08"W, a distance of 756.85 feet to the point of beginning.

NOW PLATTED AND DESCRIBED AS LOTS 1, 2, 20, 21, 22 AND 23, SOUTHWESTERN PLAZA, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA.

EXHIBIT "D"

A tract of land located in part of the West 1/2 of the NW 1/4 of Section 1, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said NW 1/4 of Section 1; thence N90°00'00"E (assumed bearing) along the South line of said NW 1/4 of Section 1, a distance of 481.98 feet; thence N00°00'00"E, a distance of 50.00 feet to the point of beginning; thence continuing N00°00'00"E, a distance of 285.17 feet; thence Easterly on a curve to the left with a radius of 225.00 feet, a distance of 83.10 feet, said curve having a long chord which bears S79°25'10"E, a distance of 82.63 feet; thence N90°00'00"E, a distance of 98.78 feet; thence S00°00'00"E, a distance of 270.00 feet; thence S90°00'00"W, a distance of 180.00 feet to the point of beginning.

NOW PLATTED AND DESCRIBED AS LOT 12, SOUTHWESTERN PLAZA, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA.