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STATE OF NEBRASKA COUNTY OF WASHINGTON)SS  
ENTERED IN NUMERICAL INDEX AND FILED FOR RECORD  
THIS 2nd DAY OF March A.D. 2000  
AT 12:31 O'CLOCK P M AND RECORDED IN BOOK  
314 AT PAGE 263-273  
COUNTY CLERK Charlatte R. Petersen  
DEPUTY Jason Madson

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WASHINGTON COUNTY, NEBRASKA

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**ROADWAY EASEMENT AND COVENANTS AGREEMENT**

This Roadway Easement and Covenants Agreement (the "Agreement") is made and entered into this 1st day of March, 2000 by and between Ole Hickory Farm Limited Partnership, a Nebraska limited partnership (herein "Ole Hickory") and Hidden Acres Farms, L.L.C., a Nebraska limited liability company (herein "Hidden Acres").

**PRELIMINARY STATEMENT**

Ole Hickory is the present owner of certain real estate located in Washington County, Nebraska, described in Exhibit "A" attached hereto, which real estate will hereinafter be referred to as the "Ole Hickory Parcel". Hidden Acres is purchasing from Ole Hickory at or about the time of the execution and delivery of this Agreement and will be the owner of certain real estate located in Washington County, Nebraska described on Exhibit "B" attached hereto, which real estate will hereinafter be referred to as the "Hidden Acres Parcel".

Ole Hickory and Hidden Acres being the owners of adjoining parcels of real estate located in Washington County, Nebraska are desirous of creating herein a permanent roadway easement between their properties to provide ingress and egress to both of their respective parcels.

Ole Hickory and Hidden Acres each owning a portion of the roadway easement created by this Agreement are desirous of granting to each other and their heirs, personal representatives, successor, transferees, assigns, employees, agents and invitees a permanent right of ingress and egress for vehicular and pedestrian access to and from their respective parcels over the roadway easement created by this Agreement and to share in the cost of repair, improvement and maintenance of such roadway easement which easement area will hereinafter be referred to as the Roadway Easement Area and which is legally described on Exhibit "C" attached hereto.

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Ole Hickory and Hidden Acres are desirous of creating on the Hidden Acres Parcel certain covenants to restrict the use of the Hidden Acres Parcel, all as more particularly hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing Preliminary Statement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Ole Hickory and Hidden Acres hereto agree as follows:

1. **Grant of Roadway Easement by Ole Hickory:** Ole Hickory hereby grants to Hidden Acres for the benefit of Hidden Acres, its heirs, personal representatives, successors, transferees, assigns, employees, agents, and invitees (collectively herein "Authorized Users") and for the benefit of the Hidden Acres Parcel a permanent non-exclusive appurtenant easement for the purposes of access to and ingress and egress by vehicular and pedestrian traffic over and across the Roadway Easement Area. Ole Hickory and the owner of the Ole Hickory Tract shall not do or permit any act or acts that will unreasonably prevent or hinder the access to and ingress or egress of Hidden Acres or the Authorized Users over and across the Roadway Easement Area.

2. **Grant of Roadway Easement by Hidden Acres:** Hidden Acres hereby grants to Ole Hickory for the benefit of Ole Hickory, its heirs, personal representatives, successors, transferees, assigns, employees, agents, and invitees (collectively herein "Authorized Users") and for the benefit of the Ole Hickory Parcel a permanent non-exclusive appurtenant easement for the purposes of access to and ingress and egress by vehicular and pedestrian traffic over and across the Roadway Easement Area. Hidden Acres and the owner of the Hidden Acres Tract shall not do or permit any act or acts that will unreasonably prevent or hinder the access to and ingress or egress of Ole Hickory or the Authorized Users over and across the Roadway Easement Area.

3. **Grant of Utilities Easements by Ole Hickory and Hidden Acres.** Ole Hickory and Hidden Acres hereby grant to the Omaha Public Power District, Metropolitan Utilities District, Papio Natural Resources District, Huntel, Inc., U.S. West Communications, Cox Communications, and to any other company or entity which has been granted a franchise to provide cable television and/or other telecommunications facilities within Washington County (collectively, the "Utilities"), and the Utilities' respective successors and assigns, a permanent right of way easement with rights of ingress and egress thereto, to construct, operate, maintain, replace, and remove their underground electric, gas, water and telecommunications facilities (subject to the limitations of this Agreement), consisting of cables, wires, conduits, manholes, drains, splicing boxes, and other appurtenances not taller than three (3) feet in height, upon, over, along, and under the Roadway Easement Area. Ole Hickory and Hidden Acres hereby grant to the Utilities, and the Utilities' respective successors and assigns, the right, privilege, and authority to clear all trees, roots, brush, and other obstructions from the surface and subsurface of the Roadway Easement Area and to temporarily open any fences crossing the same. Ole

Hickory and Hidden Acres agree that the grade of the Roadway Easement Area shall not be reduced more than one (1) foot in elevation without prior notification to the Utilities. Ole Hickory and Hidden Acres understand that a single pole and appurtenances may be used temporarily to provide service to the Hidden Acres Parcel. In granting this easement, it is understood that said cables shall be buried below plow depth in order not to interfere with any surface use of the Roadway Easement Area. Damages to fences and growing crops and any other improvements of Ole Hickory and Hidden Acres within the Roadway Easement Area arising from the use, construction, repair and maintenance of the aforesaid systems shall be paid for by the Utility or Utilities causing such damage and if any portion of the surface of the Roadway Easement Area is disturbed by such Utilities, the surface shall be returned to the condition in which it existed prior to any such disturbance by the Utilities. Ole Hickory and Hidden Acres covenant that they have lawful possession of the Ole Hickory Parcel and Hidden Acres Parcel, respectively, and have good, right and lawful authority to make such conveyance herein and subject to the limitations of this Agreement, shall warrant and defend the same and will indemnify and hold harmless the Utilities forever against the claims of all persons whomsoever in any way asserting any right, title or interest prior to or contrary to this conveyance.

4. **Repair and Maintenance of Roadway Easement Area:** Ole Hickory and Hidden Acres agree to repair and maintain the roadway easement to keep it in reasonably good order, condition and repair. All costs and expenses of the repair and maintenance of the Roadway Easement Area shall be shared equally by Ole Hickory and Hidden Acres. Such repair and maintenance shall include, but shall not be limited to cleaning, cutting any weeds and grass thereon, snow removal, repair, rerocking or graveling, and reconstruction when necessary; provided no party hereto shall be responsible for the cost of paving or asphaltting the Roadway Easement Area unless such party consents in writing to pay its one-half share of the cost of such paving or asphaltting.

5. **Building and Use Covenants:** The owner of the Hidden Acres Tract shall not build any structures including, but not limited to, houses, barns, sheds and outbuildings within fifty (50) feet of the edge of the Roadway Easement Area. The Hidden Acres Tract shall be used only for single family residential purposes and/or farming purposes, provided however, the raising, sheltering, breeding or feeding for commercial purposes of any farm animals, livestock, fowl or poultry of any kind shall be prohibited. The Hidden Acres Tract shall not at any time be used, developed, improved, operated, leased, sold or transferred in conflict with any provisions of this paragraph even if any zoning or other governmental order, rule, ordinance or regulation pertaining to such property as presently constituted or as hereafter changed, varied, modified or waived would permit such use, development, operation, leasing or sale. Ole Hickory and any owner(s) of the Ole Hickory Tract shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions and covenants imposed by the provisions of this paragraph either to prevent or restrain any violation or recover damages for such violation. The failure of any property owner to

enforce any covenant or restriction herein contained shall in no event be deemed a waiver, relinquishment or impairment of the right to do so at any time thereafter.

6. **Parties Bound Hereunder; Release of Liability:** This Agreement and the easements, covenants, conditions and restrictions set forth herein granted and the rights and obligations pertaining thereto shall each perpetually run with the land, inure to the benefit of and be binding among the parties hereto, the subsequent owners of the Ole Hickory Tract and the Hidden Acres Tract and each of their respective invitees, licensees, employees, servants, agents, customers, visitors, heirs, personal representatives, successors, transferees and assigns, the same as if they were in every case named and expressed and shall perpetually continue in full force and effect. In the event any present or future owner of the Ole Hickory Tract and the Hidden Acres Tract shall convey their interests therein, such owner so conveying such property shall be automatically freed and relieved, from and after the date of the recording of the conveyance of such property of all liabilities for future performance of any agreements, duties and obligations on the part of such owner which is required by this Agreement to thereafter be performed with respect to such property so conveyed; it being intended hereby that all the agreements, duties, obligations and liabilities contained in this Agreement shall be binding on the owners of the properties and any subsequent owners of the properties only as to that owner's period of ownership, and that each such conveying owner shall remain liable after the date of recording of such conveyance only for any liabilities and obligations herein, if any, which have arisen or accrued prior to such date of conveyance.

7. **Injunctive Relief:** In the event of any violation or threatened violation by any owner or occupant of any portion of the Ole Hickory Tract or the Hidden Acres Tract or the Roadway Easement Area of any of the terms, covenants and conditions of this Agreement any or all of the owners of the Ole Hickory Tract, the Hidden Acres Tract and the Roadway Easement Area shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all the remedies available by statute at law and/or in equity.

8. **No Public Dedication:** Nothing contained in this Agreement shall, or shall be deemed to constitute a gift or dedication of any portion of the property within the Roadway Easement Area to the general public or for the benefit of the general public, or for any public purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the private purposes expressed herein. Further, it is specifically acknowledged and agreed that the Roadway Easement Area will not be maintained or repaired in any manner whatsoever by Washington County, Nebraska and that all maintenance and repairs of said Roadway Easement Area will be at the private expense of the owners of the Ole Hickory Tract and the Hidden Acres Tract utilizing said Roadway Easement Area for ingress and egress to the respective real estate parcels owned by them, as provided in this Agreement.



STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

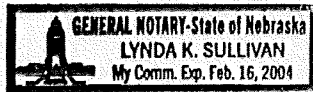
On this 1st day of March, 2000, before me appeared Curt Hofer, to me personally known, who, being by me duly sworn did say that he is a Manager of Hidden Acres Farms, L.L.C., a Nebraska limited liability company and that said instrument was signed and sealed on behalf of said limited liability company and acknowledged to me that he executed the same as the free act and deed of said limited liability company.



*Lynda K. Sullivan*  
\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

On this 1st day of March, 2000, before me appeared Linda Hofer, to me personally known, who, being by me duly sworn did say that she is a Manager of Hidden Acres Farms, L.L.C., a Nebraska limited liability company and that said instrument was signed and sealed on behalf of said limited liability company and acknowledged to me that she executed the same as the free act and deed of said limited liability company.



*Lynda K. Sullivan*  
\_\_\_\_\_  
Notary Public

EXHIBIT "A"OLE HICKORY PARCEL

An undivided one-half (½) interest in and to Tax Lots Four (4), Six (6), Twenty-Nine (29), Sixty (60) and Eighty-Eight (88), of Section Fourteen (14), Township Seventeen (17) North, Range Twelve (12) East of the 6th P.M., and the Northeast Quarter of the Northwest Quarter (NE1/4NW1/4), and Tax Lots One (1), Five (5), and Twenty-One (21), of Section Twenty-Three (23), Township Seventeen (17) North, Range Twelve (12) East of the 6th P.M., all in Washington County, Nebraska; LESS AND EXCEPT that portion of the above-described property heretofore conveyed as follows:

- (1) To Hidden Acres Farms, L.L.C. by Deed filed September 30, 1998 in Book 289 at Page 706-707, Deed Records of County Clerk, Washington County, Nebraska; and
- (2) To Rushmore-Borglum Ministry, Inc. by Deed filed October 14, 1998 in Book 290 at page 489-490, Deed Records of County Clerk, Washington County, Nebraska; and
- (3) To Laura Hofer, Trustee of the Laura Hofer Revocable Trust dated March 7, 1988 by Deed filed September 30, 1998 in Book 289 at page 704-705, Deed Records of County Clerk, Washington County, Nebraska.

EXHIBIT "B"HIDDEN ACRES PARCEL

TAX LOT 5 LYING WITHIN SECTION 23, T17N, R12E OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA, TOGETHER WITH THAT PART OF TAX LOT 21 AND PART OF THE NE 1/4 OF THE NW 1/4 OF SAID SECTION 23 DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NE 1/4;

THENCE S00°14'57"E (ASSUMED BEARING) 478.17 FEET ON THE WEST LINE OF SAID NE 1/4;

THENCE N89°45'03"E 66.00 FEET;

THENCE S56°24'09"E 418.56 FEET;

THENCE S85°58'51"E 378.81 FEET;

THENCE S67°59'56"E 163.06 FEET;

THENCE S18°42'00"E 257.36 FEET;

THENCE S32°01'02"E 122.64 FEET;

THENCE N57°40'25"E 922.25 FEET TO THE POINT OF BEGINNING;

THENCE N39°30'32"W 73.20 FEET;

THENCE N68°06'56"W 682.49 FEET TO THE SOUTHEASTERLY LINE OF A ROAD EASEMENT;

THENCE ON THE SOUTHERLY LINES OF A ROAD EASEMENT ON THE FOLLOWING DESCRIBED FOUR COURSES;

THENCE N52°15'05"E 382.75 FEET;

THENCE S45°49'12"E 496.71 FEET;

THENCE SOUTHEASTERLY ON A 62.50 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S16°45'19"E, CHORD DISTANCE 60.72 FEET, AN ARC DISTANCE OF 63.41 FEET;

THENCE NORTHEASTERLY ON A 62.50 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N73°14'41"E, CHORD DISTANCE 109.26 FEET, AN ARC DISTANCE OF 259.76 FEET TO THE MOST SOUTHERLY CORNER OF TAX LOT 16 LYING WITHIN SAID SECTION 23;

THENCE N44°20'29"E 268.46 FEET ON THE SOUTHEASTERLY LINES OF SAID TAX LOT 16 AND TAX LOT 20 LYING WITHIN SAID SECTION 23 TO THE MOST EASTERLY CORNER OF SAID TAX LOT 20;

THENCE N45°47'37"W 443.16 FEET ON THE NORTHEASTERLY LINES OF SAID TAX LOT 20 AND TAX LOTS 18 AND 19 LYING WITHIN SAID SECTION 23 TO THE NORTHERLY LINE OF SAID SECTION 23;

THENCE N89°19'45"E 442.27 FEET ON THE NORTHERLY LINE OF SAID SECTION 23 TO THE NW CORNER OF SAID TAX LOT 5;

THENCE S00°17'33"E 1187.00 FEET ON THE WESTERLY LINE OF SAID TAX LOT 5;

THENCE N39°30'32"W 659.08 FEET TO THE POINT OF BEGINNING.



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TOGETHER WITH

PART OF TAX LOT 21 AND PART OF THE NE 1/4 OF THE NW 1/4 OF SECTION 23, T17N, R12E OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS; COMMENCING AT THE NW CORNER OF SAID NE 1/4;

THENCE S00°14'17"E (ASSUMED BEARING) 478.17 FEET ON THE WEST LINE OF SAID NE 1/4;

THENCE N89°45'03"E 66.00 FEET;

THENCE S56°24'09"E 418.56 FEET;

THENCE S85°58'51"E 378.81 FEET;

THENCE N00°02'25"W 79.35 FEET TO THE POINT OF BEGINNING;

THENCE N56°19'22"W 40.65 FEET;

THENCE N85°57'17"W 6.22 FEET;

THENCE NORTHEASTERLY ON A NON-TANGENT 225.64 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N57°27'37"E, CHORD DISTANCE 40.97 FEET AN ARC DISTANCE OF 41.03 FEET;

THENCE N52°15'05"E 899.44 FEET;

THENCE S45°49'12"E 631.01 FEET;

THENCE S44°02'51"W 32.50 FEET;

THENCE S45°49'12"E 62.50 FEET;

THENCE NORTHWESTERLY ON A NON-TANGENT 62.50 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING N61°44'48"W, CHORD DISTANCE 120.20 FEET AN ARC DISTANCE OF 161.58 FEET;

THENCE NORTHWESTERLY ON A 62.50 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N16°45'19"W, CHORD DISTANCE 60.72 FEET AN ARC DISTANCE OF 63.41 FEET;

THENCE N45°49'12"W 496.71 FEET;

THENCE S52°15'05"W 867.75 FEET;

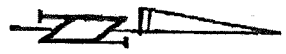
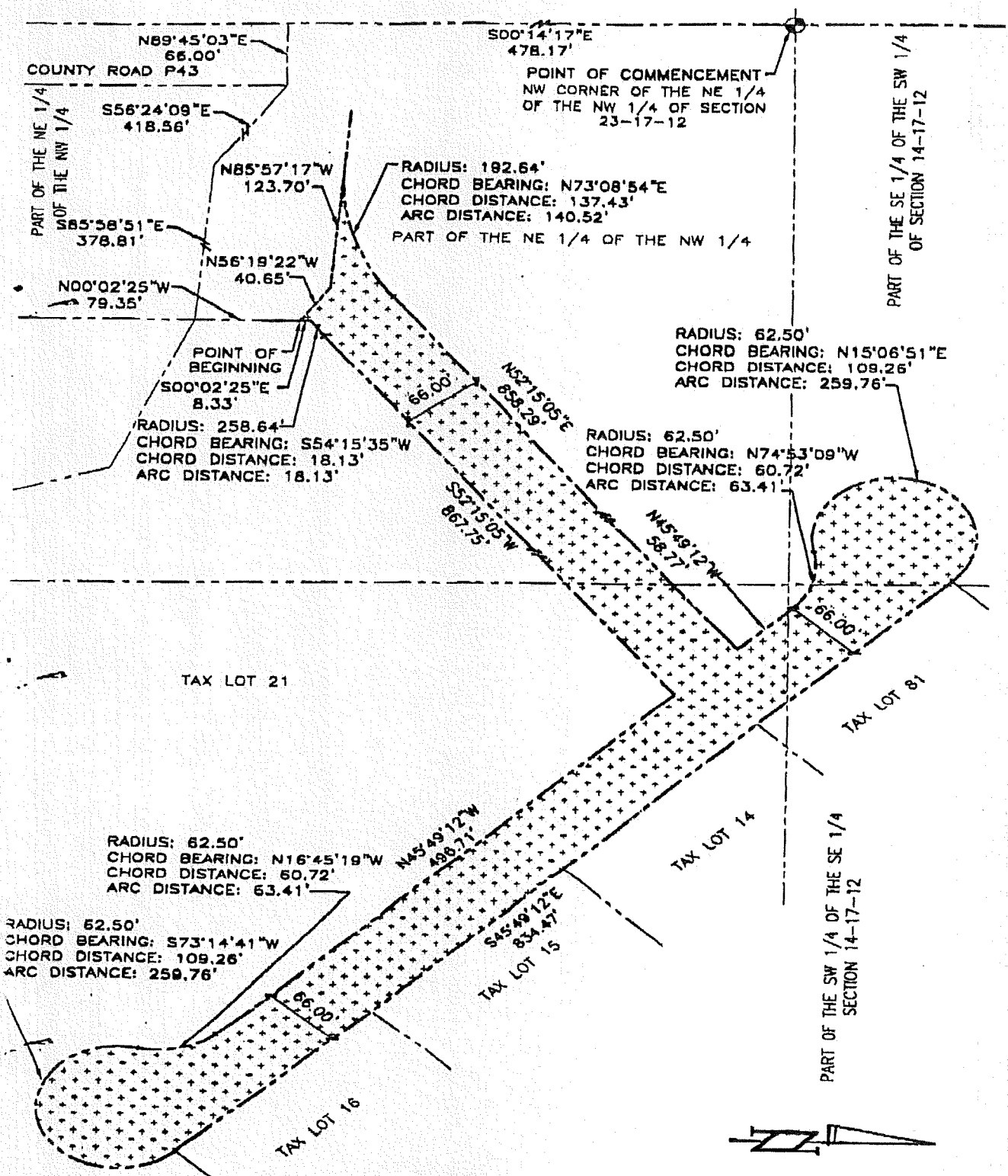
THENCE SOUTHWESTERLY ON A 258.64 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S54°15'35"W CHORD DISTANCE 18.13 FEET AN ARC DISTANCE OF 18.13 FEET;

THENCE S00°02'25"E 8.33 FEET ON A NON-TANGENT LINE TO THE POINT OF BEGINNING.

CONTAINING 71.59 ACRES MORE OR LESS

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ROADWAY EASEMENT AREA



## LEGAL DESCRIPTION

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PART OF TAX LOT 21, TOGETHER WITH PART OF THE NE 1/4 OF THE NW 1/4 OF SECTION 23, T17N, R12E, PART OF THE SW 1/4 OF THE SE 1/4 AND PART OF THE SE 1/4 OF THE SW 1/4 OF SECTION 14, T17N, R12E, ALL OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NE 1/4;

THENCE S00°14'17"E (ASSUMED BEARING) 478.17 FEET ON THE WEST LINE OF SAID NE 1/4;

THENCE N89°45'03"E 66.00 FEET;

THENCE S56°24'09"E 418.56 FEET;

THENCE S85°58'51"E 378.81 FEET;

THENCE N00°02'25"W 79.35 FEET TO THE POINT OF BEGINNING;

THENCE N56°19'22"W 40.65 FEET;

THENCE N85°57'17"W 123.70 FEET;

THENCE NORTHEASTERLY ON A NON-TANGENT 192.64 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N73°08'54"E, CHORD DISTANCE 137.43 FEET, AN ARC DISTANCE OF 140.52 FEET;

THENCE N52°15'05"E 858.29 FEET;

THENCE N45°49'16"W 58.77 FEET ON A LINE 66.00 FEET SOUTHWESTERLY OF AND PARALLEL WITH THE SOUTHWESTERLY LINE OF TAX LOT 81, A TAX LOT LYING WITHIN THE NE 1/4 OF SAID SECTION 23 AND WITHIN SAID SW 1/4 OF THE SE 1/4;

THENCE NORTHWESTERLY ON A 62.50 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N74°53'09"W, CHORD DISTANCE 60.72 FEET, AN ARC DISTANCE OF 63.41 FEET;

THENCE NORTHEASTERLY ON A 62.50 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING N15°06'51"E, CHORD DISTANCE 109.26 FEET, AN ARC DISTANCE OF 259.76 FEET TO THE MOST WESTERLY CORNER OF SAID TAX LOT 81;

THENCE S45°49'12"E 834.47 FEET ON THE SOUTHWESTERLY LINES OF SAID TAX LOT 81 AND TAX LOTS 14, 15 & 16 LYING WITHIN THE NE 1/4 OF SAID SECTION 23 TO THE MOST SOUTHERLY CORNER OF SAID TAX LOT 16;

THENCE SOUTHWESTERLY ON A 62.50 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S73°14'41"W, CHORD DISTANCE 109.26 FEET, AN ARC DISTANCE OF 259.76 FEET;

THENCE NORTHWESTERLY ON A 62.50 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N16°45'19"W, CHORD DISTANCE 60.72 FEET, AN ARC DISTANCE OF 63.41 FEET;

THENCE N45°49'12"W 496.71 FEET;

THENCE S52°15'05"W 867.75 FEET;

THENCE SOUTHWESTERLY ON A 258.64 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S54°15'35"W, CHORD DISTANCE 18.13 FEET, AN ARC DISTANCE OF 18.13 FEET;

THENCE S00°02'25"E 8.33 FEET ON A NON-TANGENT LINE TO THE POINT OF BEGINNING.