



RECEIVED

JUL 17 9 23 AM '95

GEORGE J. BULLWICK
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

7440 H

FEE	50 ⁵⁰	R	35-37076
DEL		CO	COMP
LEAS	310-		
	311		

Return To: 16
Spence Title & Escrow
1405 Harney St, Suite #210
Omaha, NE 68102
Attn: Rick

FIRST AMENDMENT TO
SURFACE WATER RUNOFF EASEMENT AND LICENSE AGREEMENT

This First Amendment to Surface Water Runoff Easement and License Agreement (this "Amendment") is made and entered into by and among OMAHA LIVESTOCK MARKET, INC., a Nebraska corporation ("Original Grantor"); GREATER OMAHA PACKING CO., INC., a Nebraska corporation ("GOP"); and STOCKYARDS PLAZA, LIMITED PARTNERSHIP, a Nebraska limited partnership, and DIAL BETHAL LIMITED PARTNERSHIP, a Nebraska limited partnership (individually, a "Grantee," and collectively, "Grantees").

WITNESSETH:

WHEREAS, Original Grantor and Grantees (Dial Bethal Limited Partnership being a successor-in-interest to Stockyards Plaza, Limited Partnership as to a portion of the property benefitted by the Easement Agreement hereinafter identified) are parties to a Surface Water Runoff Easement and License Agreement dated November 22, 1989, and recorded November 30, 1989 in Book 906 at Page 435 of the Miscellaneous Records of Douglas County, Nebraska (the "Easement Agreement"); and

WHEREAS, in the Easement Agreement Original Grantor granted to Stockyards Plaza, Limited Partnership a drainage easement over, under and across a portion of Original Grantor's property (the "Easement Area"), the location of which is generally depicted on Exhibit C attached to the Easement Agreement for the benefit of real estate described on Exhibit B to the Easement Agreement (which benefitted real estate is referred to in the Easement Agreement and in this Amendment as the "Grantee's Property"); and

WHEREAS, GOP desires to acquire from Original Grantor and develop the real estate described on Exhibit A attached hereto and by this reference incorporated herein (the "GOP Parcel"), which includes the Easement Area; and

WHEREAS, in connection with the development of the GOP Parcel, GOP desires to relocate the Easement Area; and

WHEREAS, in contemplation of the development of the GOP Parcel and the relocation of the Easement Area, the parties desire to amend the Easement Agreement in the manner hereinafter set forth;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree that the Easement Agreement shall be and it hereby is amended as follows:

1. Relocation of Easement Area. After GOP acquires the GOP Parcel, the Easement Area shall be relocated to the area shown on

TA-32264

Exhibit B attached to this Amendment and by this reference incorporated herein. GOP, at GOP's sole cost and expense, shall construct a detention cell within the relocated Easement Area for drainage of surface water runoff from Grantee's Property. Between the parties hereto, GOP shall be solely responsible for the design of the relocated Easement Area and surface water runoff detention cell to be constructed by GOP, and GOP shall indemnify, defend and hold Grantees harmless against any liability resulting from any claim of defective or improper design or construction thereof.

2. Temporary Construction Easement. Each Grantee hereby grants to GOP, its agents, employees and contractors, a temporary construction easement to enter from time to time upon Grantee's Property adjacent to the GOP Parcel as reasonably necessary or convenient for the purpose of constructing improvements related to the relocation of the Easement Area and the detention cell. GOP, at GOP's expense, shall repair any damage to Grantee's Property resulting from such construction work upon completion of construction. All costs of construction of such improvements and repair of Grantee's Property shall be promptly paid by GOP, and GOP shall not permit any liens to be filed or remain of record against Grantee's Property on account thereof.

3. Maintenance of Easement Area. Paragraph 3 of the Easement Agreement is hereby amended in its entirety so as to read as follows:

From and after the date of acquisition of fee simple title to the GOP Parcel by GOP, GOP shall be solely responsible for overseeing the maintenance of the Easement Area and the costs of such maintenance shall be allocated based upon square footage of the GOP Parcel and Grantee's Property identified in Exhibit B to the Easement Agreement. GOP shall provide each Grantee with statements of its share of such maintenance costs periodically, along with reasonable verification of expenses incurred, and each Grantee shall pay its share of such costs within thirty (30) days after receipt thereof. In the event a Grantee fails to pay its pro rata share within thirty (30) days of receipt of such statement, GOP shall be permitted to file a lien against the portion of Grantee's Property owned by such Grantee (if less than all) in the amount of the sum due GOP. Provided, however, in the event GOP fails to maintain the Easement Area in accordance with reasonable maintenance standards generally applicable to detention cells and such failure continues for a period of thirty (30) days after receipt by GOP of written notice from a Grantee of such failure, such Grantee shall have the right but not the obligation to cause to be performed such maintenance and assess GOP for its proportionate share thereof; and in such event if GOP fails to pay its proportionate share

within thirty (30) days of receipt of written demand from such Grantee, such Grantee shall be permitted to file a lien against the GOP Parcel in the amount of the sum due such Grantee.

4. Future Storm Sewer Installation or Easement Area Relocation Costs. Original Grantor has not and will not deliver the Deposited Amount (as defined in paragraph 4 of the Easement Agreement) or any part thereof to Grantees or to GOP, and GOP shall have no obligation or liability to Grantees, or either of them, to return any portion of the Deposited Amount to Grantees. The parties also agree that Grantees shall have no future liability under paragraphs 4 or 5 of the Easement Agreement to pay any additional funds for storm sewer installation or Easement Area relocation costs. GOP reserves the right to relocate the Easement Area and the detention cell to hold the surface water runoff from Grantee's Property at any time, at GOP's expense.

5. Counterparts. This Amendment may be executed by the parties hereto on any number of separate counterparts, and all such counterparts taken together shall constitute one and the same instrument. Upon execution, the signature pages from each counterpart may be assembled into a complete Amendment.

6. Effective Date of Amendment. This Amendment shall become effective as of the date of acquisition of fee simple title to the GOP Parcel by GOP. If GOP has not acquired fee simple title to the GOP Parcel by September 1, 1995, then this Amendment shall become null and void.

7. Reaffirmation of Easement Agreement. As hereby amended, the Easement Agreement shall remain in full force and effect and shall run with the land and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this First Amendment to Surface Water Runoff Easement and License Agreement on the dates set forth opposite their respective signatures. For reference purposes, the date on which the last party executes this Amendment shall be considered the date of this Amendment.

OMAHA LIVESTOCK MARKET, INC.,
a Nebraska corporation

Date: JUNE 30, 1995 By: Bernard A. [Signature]
VICE President

DIAL BETHAL LIMITED PARTNERSHIP, a
Nebraska limited partnership

By: Mid-America Realty Investments,
Inc., a Maryland corporation,
General Partner

Date: _____, 1995

By: _____
President

STOCKYARDS PLAZA, LIMITED
PARTNERSHIP, a Nebraska limited
partnership

By: Stockyards Plaza, Inc., a
Nebraska corporation,
General Partner

Date: _____, 1995

By: _____
President

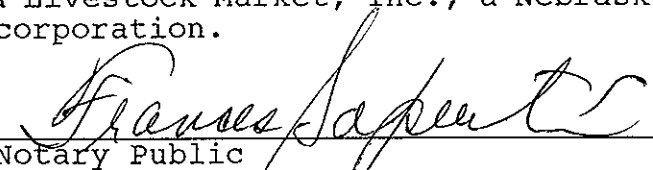
GREATER OMAHA PACKING CO., INC., a
Nebraska corporation

Date: _____, 1995

By: _____
President

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

The foregoing instrument was acknowledged before me this 30TH
day of JUNE, 1995, by REGINALD SCHAUER,
VICE PRESIDENT of Omaha Livestock Market, Inc., a Nebraska
corporation, on behalf of the corporation.



Notary Public

My Commission Expires:

1/31/96

FRANCES SAPERSTEIN
Notary Public, State of New York
No. 31-4739010
Qualified in New York County
Commission Expires ~~March 30, 19~~

1/31/96

DIAL BETHAL LIMITED PARTNERSHIP, a
Nebraska limited partnership

By: Mid-America Realty Investments,
Inc., a Maryland corporation,
General Partner

Date: _____, 1995

By: *Dennis J. Lether*
President

STOCKYARDS PLAZA, LIMITED
PARTNERSHIP, a Nebraska limited
partnership

By: Stockyards Plaza, Inc., a
Nebraska corporation,
General Partner

Date: _____, 1995

By: _____
President

GREATER OMAHA PACKING CO., INC., a
Nebraska corporation

Date: _____, 1995

By: _____
President

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

The foregoing instrument was acknowledged before me this _____
day of _____, 1995, by _____,
_____ of Omaha Livestock Market, Inc., a Nebraska
corporation, on behalf of the corporation.

Notary Public

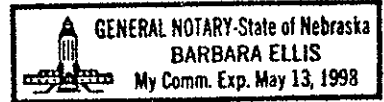
My Commission Expires:

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 5th day of July, 1995, by Dennis G. Gethman, President & COO of Mid-America Realty Investments, Inc., a Maryland Corporation, on behalf of the corporation, as general partner on behalf of Dial Bethal Limited Partnership, a Nebraska limited partnership.

Barbara Ellis
Notary Public

My Commission Expires:



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

The foregoing instrument was acknowledged before me this _____ day of _____, 1995, by _____ of Stockyards Plaza, Inc., a Nebraska corporation, on behalf of the corporation, as general partner on behalf of Stockyards Plaza, Limited Partnership, a Nebraska limited partnership.

Notary Public

My Commission Expires:

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this _____ day of _____, 1995, by Henry Davis, President of Greater Omaha Packing Co., Inc., a Nebraska corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

DIAL BETHAL LIMITED PARTNERSHIP, a
Nebraska limited partnership

By: Mid-America Realty Investments,
Inc., a Maryland corporation,
General Partner

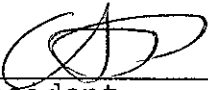
Date: _____, 1995

By: _____
President

STOCKYARDS PLAZA, LIMITED
PARTNERSHIP, a Nebraska limited
partnership

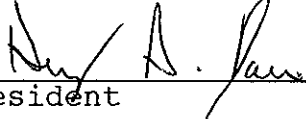
By: Stockyards Plaza, Inc., a
Nebraska corporation,
General Partner

Date: 7-10, 1995

By:  _____
V.P. President

GREATER OMAHA PACKING CO., INC., a
Nebraska corporation

Date: 7-14, 1995

By:  _____
President

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

The foregoing instrument was acknowledged before me this _____
day of _____, 1995, by _____,
_____ of Omaha Livestock Market, Inc., a Nebraska
corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

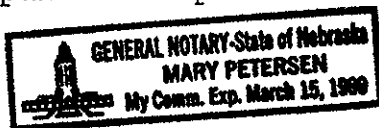
The foregoing instrument was acknowledged before me this _____ day of _____, 1995, by _____, of Mid-America Realty Investments, Inc., a Maryland corporation, on behalf of the corporation, as general partner on behalf of Dial Bethal Limited Partnership, a Nebraska limited partnership.

Notary Public

My Commission Expires:

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 10 day of July, 1995, by Christopher R. Held, Vice President of Stockyards Plaza, Inc., a Nebraska corporation, on behalf of the corporation, as general partner on behalf of Stockyards Plaza, Limited Partnership, a Nebraska limited partnership.



Mary Petersen

Notary Public

My Commission Expires:

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 14 day of July, 1995, by Henry Davis, President of Greater Omaha Packing Co., Inc., a Nebraska corporation, on behalf of the corporation.

Rick L. Schmidt

Notary Public

My Commission Expires:

4/14/98



NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

EXHIBIT A

LEGAL DESCRIPTION

Lot 1, Stockyards Plaza III, being a replat of part of Tax Lot 10, a tax lot located in the SW 1/4 of Section 4, Township 14 North, Range 13 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

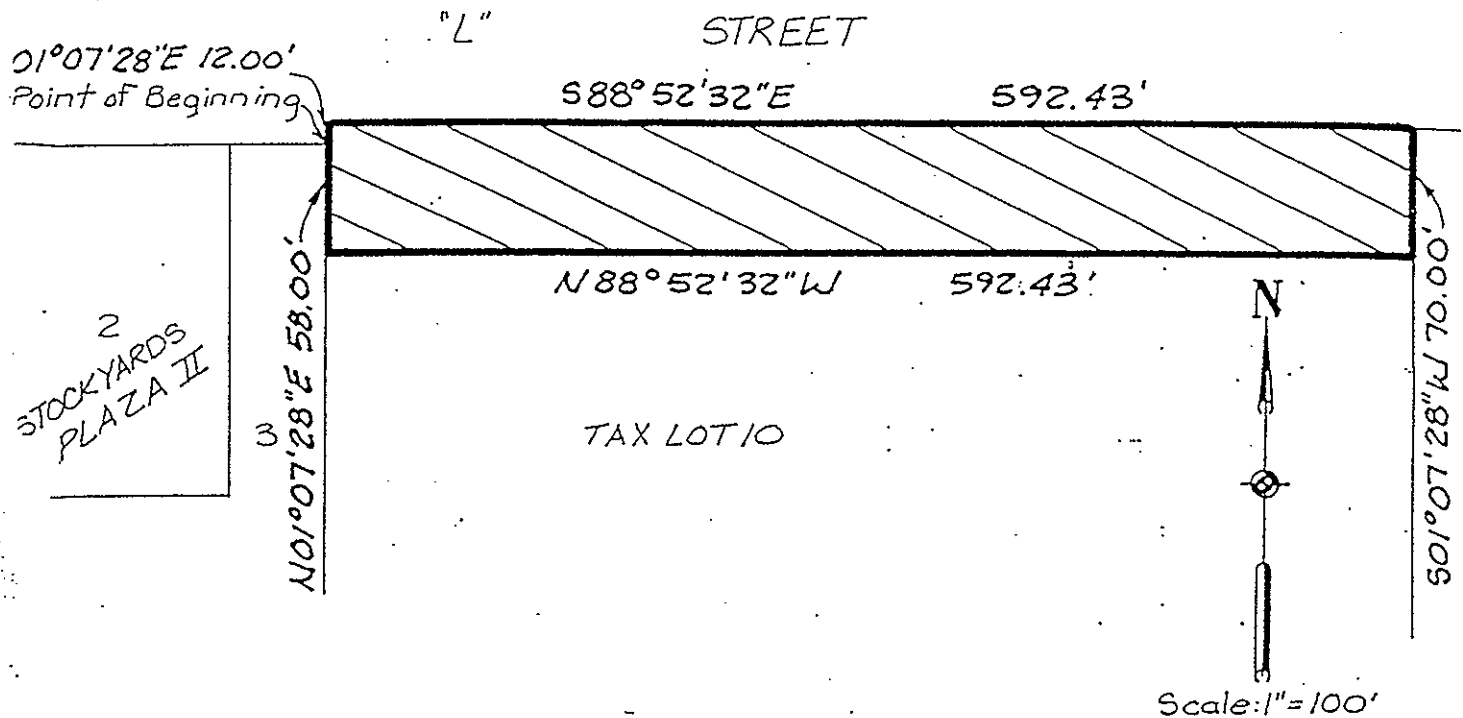
Beginning at the point of intersection of the East line of Lot 3, Stockyards Plaza II, a subdivision located in said SW 1/4 of Section 4, and the South right-of-way line of "L" Street; thence N01°07'28"E (assumed bearing) along said South right-of-way line of "L" Street, a distance of 12.00 feet; thence S88°52'32"E along said South right-of-way line of "L" Street, a distance of 592.43 feet; thence S01°07'28"W, a distance of 100.00 feet; thence S88°52'32"E, a distance of 49.16 feet; thence S01°07'28"W, a distance of 662.77 feet; thence N88°52'32"W, a distance of 534.40 feet to a point on the Northerly right-of-way line of Edward Babe Gomez Avenue; thence Northwesterly along said Northerly right-of-way line of Edward Babe Gomez, on a curve to the left with a radius of 180.00 feet, a distance of 211.40 feet, said curve having a long chord which bears N44°47'00"W, a distance of 199.46 feet; thence N78°25'46"W along said Northerly right-of-way line of Edward Babe Gomez Avenue, a distance of 232.59 feet; thence N01°07'28"E along said Northerly right-of-way line of Edward Babe Gomez Avenue, a distance of 5.09 feet; thence along said East line of Lot 3, Stockyards Plaza II on the following described courses; thence N01°07'28"E, a distance of 225.72 feet; thence S88°52'32"E, a distance of 264.81 feet; thence N01°07'28"E, a distance of 339.00 feet to the point of beginning.

Said tract of land contains an area of 542,914 square feet or 12.464 acres, more or less.

#95020
4/7/95

ELLIOTT & ASSOCIATES, INC.
5316 SOUTH 132ND STREET
OMAHA, NE 68137

EXHIBIT B DRAINAGE EASEMENT



LEGAL DESCRIPTION

Part of Tax Lot 10, a tax lot located in the SW 1/4 of Section 4, Township 14 North, Range 13 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Beginning at the point of intersection of the East line of Lot 3, Stockyards Plaza II, a subdivision located in said SW 1/4 of Section 4, and the South right-of-way line of "L" Street; thence N01°07'28"E (assumed bearing) along said South right-of-way line of "L" Street, a distance of 12.00 feet; thence S88°52'32"E along said South right-of-way line of "L" Street, a distance of 592.43 feet; thence S01°07'28"W, a distance of 70.00 feet; thence N88°52'32"W, a distance of 592.43 feet to a point on said East line of Lot 3, Stockyards Plaza II; thence N01°07'28"E along said East line of Lot 3, Stockyards Plaza II, a distance of 58.00 feet to the point of beginning.

Said tract of land contains an area of 41,470 square feet or 0.952 acres, more or less.

95020
BK 488,539,647