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MAR 30 2016 09:25 P 11

Fee amount: 70.00
FB: 63-33662
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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
03/30/2016 09:25:20.00



2016022245

GRADING, CONSTRUCTION AND INGRESS AND EGRESS EASEMENT AGREEMENT

THIS GRADING, CONSTRUCTION AND INGRESS AND EGRESS EASEMENT AGREEMENT (this "Agreement") is made and entered into effective the 1st day of March, 2016, by and between Keystone Little League, Inc., a Nebraska nonprofit corporation ("Keystone") and Roanoke AL, LLC, a Nebraska limited liability company ("Roanoke AL").

Preliminary Statement

Keystone is the owner of certain real property situated in Douglas County, Nebraska, legally described as follows (the "Keystone Property"):

63-33662

Lot 22, Roanoke Business Park, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Roanoke AL is the owner of certain real property situated in Douglas County, Nebraska, legally described as follows (the "Roanoke AL Property"):

63-33663

Lot 1, Roanoke Business Park Replat 1, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

The Keystone Property and Roanoke AL Property share a common boundary on the north side of the Keystone Property and the south side of the Roanoke AL Property, as pictorially depicted on the site development plan attached to this Agreement as Exhibit "A" (the "Site Plan").

In connection with the anticipated development of the Roanoke AL Property, Roanoke desires to construct an entrance drive along the common boundary of the Keystone Property and the Roanoke AL Property that will provide joint access from 118th Street to the Keystone Property and Roanoke AL Property. The common access drive will be constructed generally as depicted on the Site Plan (the "Access Drive").

As the Access Drive will benefit both the Keystone Property and Roanoke AL Property, the parties hereto are entering into this Agreement for purposes of memorializing their agreements and understandings regarding the grading, construction, use and sharing the costs of the Access Drive.

NOW, THEREFORE, in consideration of the foregoing and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Keystone and Roanoke AL agree as follows:

Return to:
James D. Buser
Pansing Hogan Ernst & Bachman, LLP
10250 Regency Circle, Suite 300
Omaha, Nebraska 68114

**ARTICLE I
GRADING AND CONSTRUCTION EASEMENTS**

1.1 Grading Easement. Roanoke AL and its agents and contractors shall complete grading and fill on and along and under the Access Drive as necessary and appropriate for construction of the Access Drive in accordance with grading plans that have been prepared by Roanoke AL and approved by Keystone (the "Grading Plan"). Keystone hereby grants and conveys to Roanoke AL, its agents and contractors, a temporary easement over and upon those portions of the Keystone Property as reasonably necessary for the purposes of coming upon, and for grading on and across the Keystone Property as contemplated by the Grading Plan (the "Grading Easement"). The Grading Easement shall commence on the date of full execution of this Agreement by Keystone and Roanoke AL and shall continue until March 31, 2016.

1.2 Construction Easement. Roanoke AL and its agents and contractors will construct the Access Drive generally as depicted on the Site Plan, as may be amended or modified by construction plans and specifications developed by Roanoke AL and approved by Keystone (the "Construction Plan"). Keystone hereby grants and conveys to Roanoke AL, its agents and contractors, a temporary easement over and upon the Keystone Property as reasonably necessary for the purposes of coming upon, and for constructing the Access Drive as contemplated by the Construction Plan (the "Construction Easement"). The Construction Easement shall commence on the date of full execution of this Agreement by Keystone and Roanoke AL and shall continue until March 31, 2016.

1.3 Ingress and Egress Easement. Roanoke AL hereby grants and conveys to Keystone, its successors, transferees and assigns in title to the Keystone Property, and to their respective agents, contractors, employees, tenants, customers, patients, licensees and invitees (collectively the "Keystone Permittees"), a perpetual easement for ingress and egress on and upon that part of the Roanoke AL Property as depicted and legally described on Exhibit "B" attached hereto, for ingress to and egress from the Keystone Property across the Roanoke AL Property to 118th Street (the "Keystone Ingress and Egress Easement"). Keystone hereby grants and conveys to Roanoke AL, its successors, transferees and assigns in title to the Roanoke AL Property, and to their respective agents, contractors, employees, tenants, customers, licensees and invitees (collectively the "Roanoke AL Permittees"), a perpetual easement for ingress and egress on and upon that part of the Keystone Property as depicted and legally described on Exhibit "C" attached hereto, for ingress to and egress from the Roanoke AL Property across the Keystone Property to 118th Street (the "Roanoke AL Ingress and Egress Easement"). No barriers of any kind and no parking of any vehicles shall be permitted within the Keystone Ingress and Egress Easement and Roanoke AL Ingress and Egress Easement. Each of the easements granted herein shall be subject to any easements granted by Keystone and Roanoke AL and any of their predecessors in title to utility companies for the location of utilities servicing the Keystone Property and/or the Roanoke AL Property provided such utilities shall only be constructed and located below the surface of the Access Drive within the easements granted herein for each owner.

**ARTICLE II
CONSTRUCTION AND MAINTENANCE**

2.1 Construction Requirements. All construction activities to be performed by Roanoke AL, its successors and assigns, as contemplated by Article I of this Agreement shall be performed by Roanoke AL, its successors and assigns, in a good and workmanlike manner and in accordance with the Grading Plan and Construction Plan and at the sole expense of Roanoke AL.

2.2 Maintenance. The owner of the Roanoke AL Property shall provide all maintenance of the Access Drive at its sole cost and expense from and following completion of construction of the Access Drive. The maintenance responsibilities for the Access Drive shall include, without limitation, the following:

- a. Maintaining the paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or comparable substituted material as shall in all respects be equal in quality, use and durability;
- b. Removal of all papers, ice and snow, mud and sand, debris, filth and refuse, and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;
- c. Placing, keeping and repair and replacing any necessary and appropriate directional signs, markers and lines; and
- d. Operating, keeping and repairing and replacing, where necessary, such artificial lighting facilities as shall be reasonably required and at all times in conformance with standards and applicable ordinances and governmental requirements applicable to the Access Drive.

ARTICLE III MISCELLANEOUS

3.1 Successor Owners. The Keystone Ingress and Egress Easement and the Roanoke AL Ingress and Egress Easement and the covenants, conditions and restrictions governing such easements as provided in this Agreement shall create mutual benefits and servitudes running with the land described herein and shall bind and inure to the benefit of the parties hereto, and their respective heirs, representatives, successors, transferees and assigns.

3.2 Notices. Any notice, demand, request or other communication which may or shall be given or served by Roanoke AL to or on Keystone, or by Keystone to or on Roanoke AL, shall be deemed to have been given or served on the date the same is personally delivered, sent by facsimile transmission (receipt confirmed) or given to a nationally recognized overnight courier service for next business day delivery and addressed as follows:

IF TO KEYSTONE: Keystone Little League
 3615 North 120th Street
 Omaha, NE 68164
 Attention: President

IF TO
ROANOKE AL: Roanoke AL, LLC
 c/o Mark Lamb
 Lamb Real Estate
 3025 S. 87th Street
 Omaha, NE 68124

The above addresses may be changed at any time by the parties or any successor owners of the Keystone Property and the Roanoke AL Property by notice given in the manner provided above.

3.3 Amendment. This Agreement shall be perpetual in its duration, provided, however, this Agreement may be modified, amended or terminated by an instrument signed by the owners of the Keystone Property and the Roanoke AL Property, any such modification, amendment or termination to be effective only upon recording of the instruments with the Register of Deeds for Douglas County, Nebraska.

3.4 Miscellaneous. This Agreement shall be construed and interpreted in accordance with the laws of the State of Nebraska. Any invalidation of any covenants by judgment or court order shall no way effect any of the other provisions hereof, which shall remain in full force and effect. Time is of the essence for purposes of this Agreement.

3.5 No Partnership. None of the terms or provisions of this Agreement are intended to create a partnership between or among the owners and their respective businesses or otherwise, nor shall this Agreement cause them to be considered joint venturers or members of any joint enterprise. Each owner shall be considered a separate owner, and no party shall have the right to act as an agent for the other owner, unless expressly authorized to do so herein or by separate written instrument signed by the owner to be charged.

3.6 No Waiver. The failure of any owner to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which the owner may have hereunder, at law or in equity, and shall not be deemed a waiver of any subsequent breach or default in any such terms, covenants and conditions. No waiver of any owner of any default under this Agreement shall be effective or binding on such owner unless made in writing by such owner and no such waiver shall be implied from any omission by owner to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers of any default under any provision of this Agreement shall not be deemed a waiver of any subsequent default in the performance or the same provision or any other term or provision contained in this Agreement.

3.7 Entire Agreement. This Agreement constitutes the entire agreement between each of the owners, parties hereto, with respect to the subject matter contained herein. Each of the owners, parties hereto, do not rely upon any statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska.

3.8 Counterparts. This Agreement may be executed in any number of counterpart originals, each of which, when taken together, shall be deemed to be one and the same instrument. Executed copies of this Agreement may be delivered between the parties via telecopy or electronic mail.

**[Space Below Intentionally Left Blank –
Signature Page to Follow]**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date and year first above written.

"KEYSTONE"

KEYSTONE LITTLE LEAGUE, INC., a Nebraska
Nonprofit corporation

By: _____
Its: _____

Jeremy Stone

"ROANOKE AL"

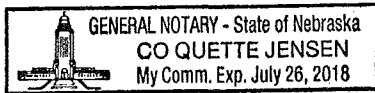
ROANOKE AL, LLC, a Nebraska limited
liability company

By: *Mark M Lamb*
Mark Lamb, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a Notary Public, qualified for said County, personally came *Jeremy Stone*, *President* of Keystone Little League, Inc., a Nebraska nonprofit corporation, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and that the execution thereof was the signer's voluntary act and deed as such _____ and the voluntary act and deed of said corporation.

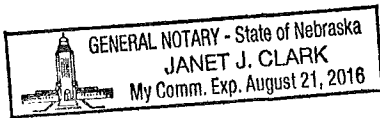
WITNESS my hand and Notarial Seal this *19* day of *November* 2015.



Coquette Jensen
Notary Public

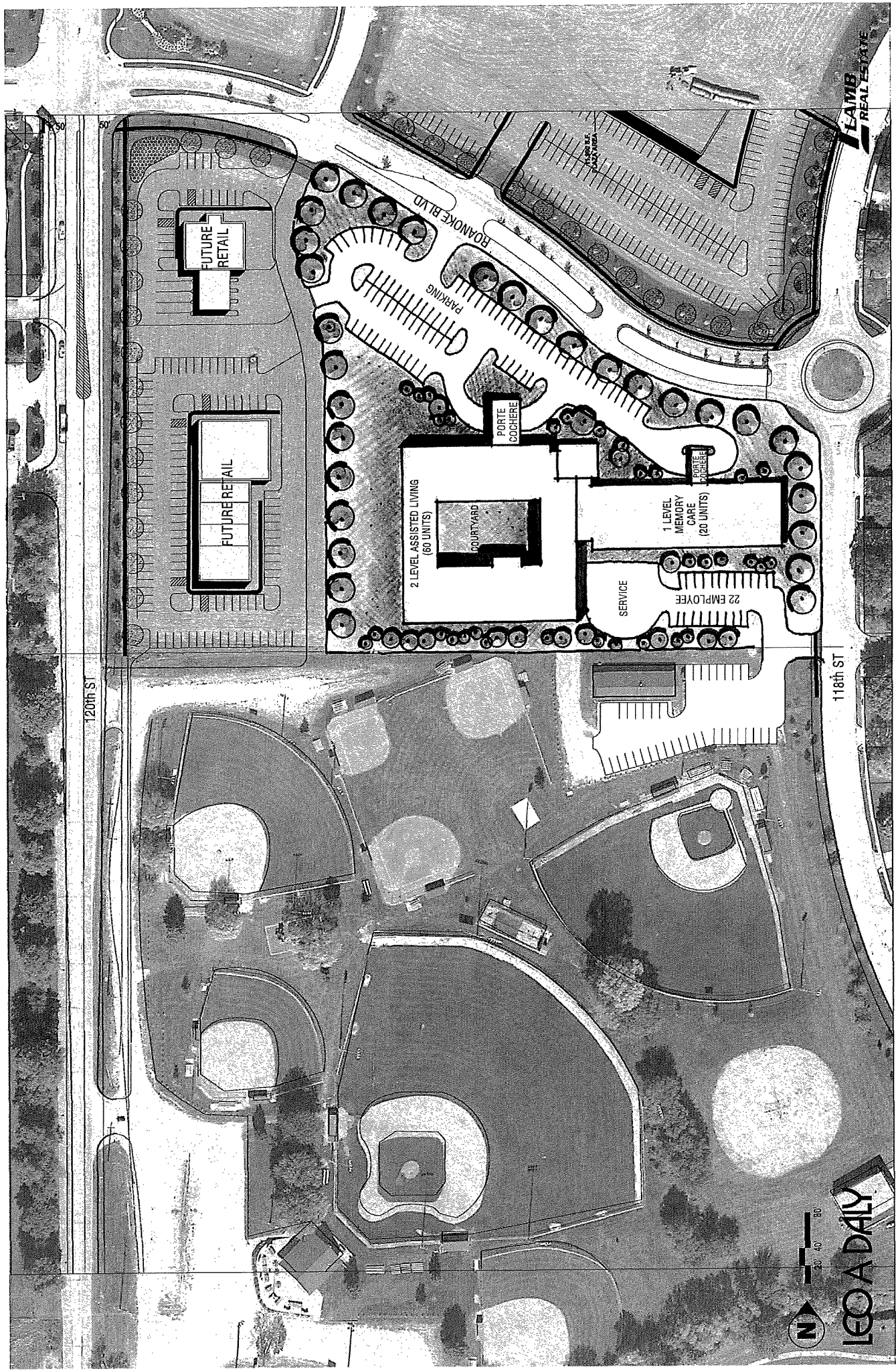
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this *28* day of *March*, *2016*, by Mark Lamb, Manager of Roanoke AL, LLC, a Nebraska limited liability company, on behalf of the Company.



Janet J. Clark
Notary Public

EXHIBIT "A"
SITE PLAN



FUTURE RETAIL

FUTURE RETAIL

2 LEVEL ASSISTED LIVING
(60 UNITS)

COURTYARD

1 LEVEL
MEMORY CARE
(20 UNITS)

SERVICE
22 EMPLOYEE

PORTE
COCHERE

PORTE
COCHERE

PARKING

BOONE BLVD

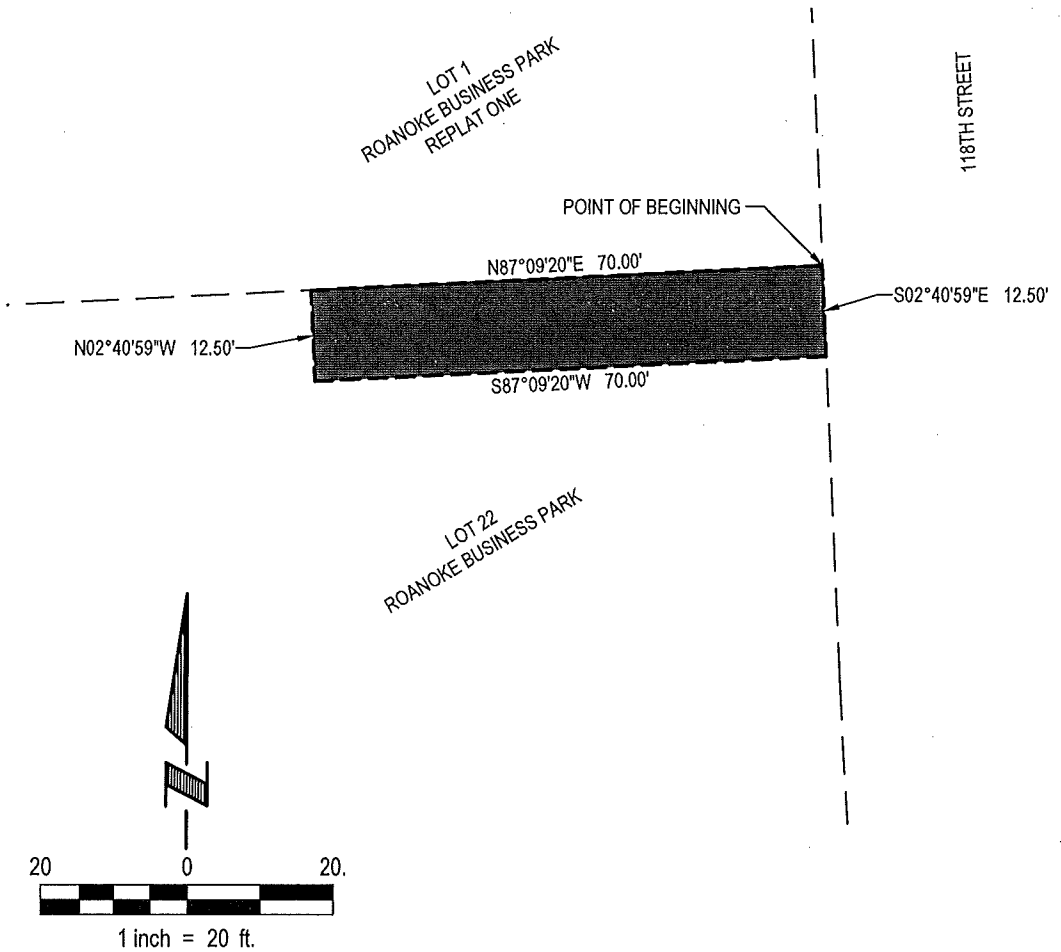
120th ST

116th ST



EXHIBIT "B"
KEYSTONE INGRESS AND EGRESS EASEMENT

EXHIBIT "B"



LEGAL DESCRIPTION

AN INGRESS AND EGRESS EASEMENT LOCATED IN PART OF LOT 22, ROANOKE BUSINESS PARK, A SUBDIVISION LOCATED IN PART OF THE NW1/4 OF THE NW1/4 AND ALSO SW1/4 OF THE NW1/4 OF SECTION 05, TOWNSHIP 15 NORTH, RANGE 12 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

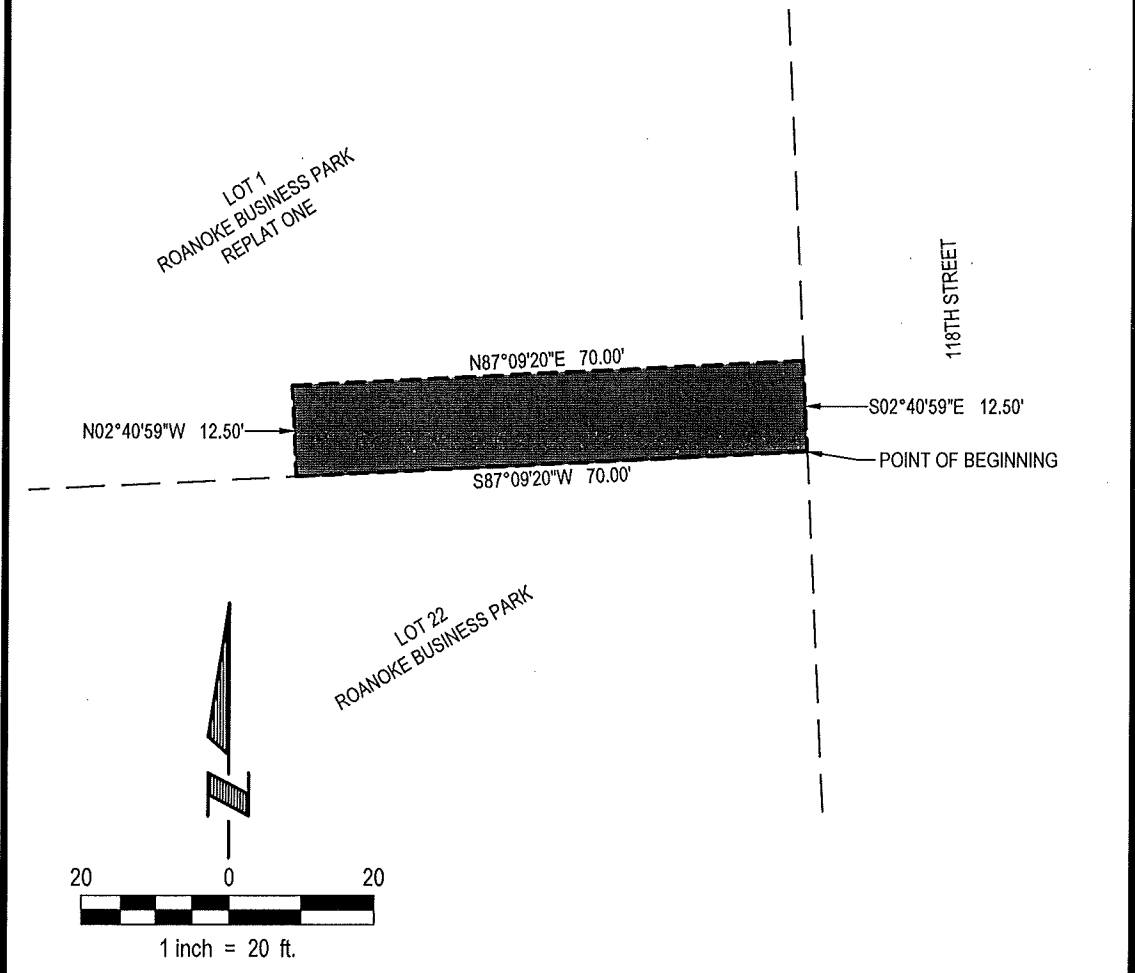
BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 22, ROANOKE BUSINESS PARK, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 1, SAID ROANOKE BUSINESS PARK REPLAT ONE, A SUBDIVISION LOCATED IN SAID SECTION 05, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF 118TH STREET; THENCE S02°40'59"E (ASSUMED BEARING), ALONG THE EAST LINE OF SAID LOT 22, ROANOKE BUSINESS PARK, SAID LINE ALSO BEING SAID WEST RIGHT-OF-WAY LINE OF 118TH STREET, A DISTANCE OF 12.50 FEET; THENCE S87°09'20"W, A DISTANCE OF 70.00 FEET; THENCE N02°40'59"W, A DISTANCE OF 12.50 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 22, ROANOKE BUSINESS PARK, SAID LINE ALSO BEING THE SOUTH LINE OF SAID LOT 1, ROANOKE BUSINESS PARK REPLAT ONE; THENCE N87°09'20"E ALONG SAID NORTH LINE OF LOT 22, ROANOKE BUSINESS PARK, SAID LINE ALSO BEING SAID SOUTH LINE OF LOT 1, ROANOKE BUSINESS PARK REPLAT ONE, A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING.

SAID INGRESS AND EGRESS EASEMENT CONTAINS AN AREA OF 875 SQUARE FEET OR 0.020 ACRES, MORE OR LESS.

 E & A CONSULTING GROUP, INC. <i>Engineering Answers</i>	E & A CONSULTING GROUP, INC. Engineering • Planning • Environmental & Field Services <small>10909 Mill Valley Road, Suite 100 • Omaha, NE 68154 Phone: 402.895.4700 • Fax: 402.895.3599</small>		INGRESS/EGRESS EASEMENT LOT 22 ROANOKE BUSINESS PARK <small>DOUGLAS COUNTY, NEBRASKA</small>
	Drawn by: JRS Chkd by:	Date: 8/6/2015	
Job No.: 2004.216.028		Revised: 11/19/2015	

EXHIBIT "C"
ROANOKE AL INGRESS AND EGRESS EASEMENT

EXHIBIT "C"



LEGAL DESCRIPTION

AN INGRESS AND EGRESS EASEMENT LOCATED IN PART OF LOT 1, ROANOKE BUSINESS PARK REPLAT ONE, A SUBDIVISION LOCATED IN PART OF THE NW1/4 OF THE NW1/4 AND ALSO SW1/4 OF THE NW1/4 OF SECTION 05, TOWNSHIP 15 NORTH, RANGE 12 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1, ROANOKE BUSINESS PARK REPLAT ONE, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 22, ROANOKE BUSINESS PARK, A SUBDIVISION LOCATED IN SAID SECTION 05, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF 118TH STREET; THENCE S87°09'20"W (ASSUMED BEARING) ALONG THE SOUTH LINE OF SAID LOT 1, ROANOKE BUSINESS PARK REPLAT ONE, SAID LINE ALSO BEING THE NORTH LINE OF SAID LOT 22, ROANOKE BUSINESS PARK, A DISTANCE OF 70.00 FEET; THENCE N02°40'59"W, A DISTANCE OF 12.50 FEET; THENCE N87°09'20"E, A DISTANCE OF 70.00 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1, ROANOKE BUSINESS PARK REPLAT ONE, SAID LINE ALSO BEING SAID WEST RIGHT-OF-WAY LINE OF 118TH STREET; THENCE S02°40'59"E ALONG SAID EAST LINE OF LOT 1, ROANOKE BUSINESS PARK REPLAT ONE, SAID LINE ALSO BEING SAID WEST RIGHT-OF-WAY LINE OF 118TH STREET, A DISTANCE OF 12.50 FEET TO THE POINT OF BEGINNING.

SAID INGRESS AND EGRESS EASEMENT CONTAINS AN AREA OF 875 SQUARE FEET OR 0.020 ACRES, MORE OR LESS.

 <p>E & A CONSULTING GROUP, INC. Engineering • Planning • Environmental & Field Services 10909 113rd Valley Road, Suite 100 • Omaha, NE 68154 Phone: 402.895.4700 • Fax: 402.895.3599</p>	<p>INGRESS/EGRESS EASEMENT</p> <p>LOT 1</p> <p>ROANOKE BUSINESS PARK REPLAT ONE</p> <p>DOUGLAS COUNTY, NEBRASKA</p>	
	<p>Drawn by: JRS Chkd by:</p> <p>Job No.: 2004.216.028</p>	<p>Date: 8/6/2015</p> <p>Revised: 11/19/2015</p>