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Return to:
Joan Moritz
Heartland Development
2954 S. 84 St.
Omaha, NE 68124



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GEORGE J. BUDLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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RECIPROCAL EASEMENT AND OPERATING AGREEMENT

THIS AGREEMENT is made and entered into this 16TH day of MAY, 1995, by and between FirstTier Bank, Successor Trustee to Omaha National Bank, Trustee of the John J. Moritz Trust "B" ("FirstTier"); Joan Moritz, a single person; Mary Frances and Jeffrey Willard, Husband and Wife; David and Kathleen Moritz, Husband and Wife; Leroy L. Canfield, a single person; and Vincent and Dolares Courtney, Husband and Wife.

RECITALS

WHEREAS, the parties hereto are the owners of record of certain real estate, or have a marital interest in certain real estate, which real estate is a subdivision known as Loveland Acres, Lots 1 through 11 inclusive, an Addition to the City of Omaha, as surveyed, platted, and recorded, in Douglas County, Nebraska; and,

WHEREAS, the parties hereto are all of the fee simple owners of record of the lots of said subdivision on the date of the execution hereof, to wit: FirstTier is the Trustee of John J. Moritz Trust "B", owner in trust of Lot 1; Joan Moritz is the owner of Lots 2, 3, and 4; Mary Frances Willard is the owner of Lots 7, 8, and 9; David Moritz is the owner of Lot 10; Leroy L. Canfield is the owner of Lots 5 & 6; and Vincent and Dolares Courtney are the owners of Lot 11; and,

WHEREAS, said real estate is now and/or will be developed into a commercial retail and business facility; and,

WHEREAS, the parties, by and amongst each other have agreed to certain provisions for easements, cross easements, covenants, and building restrictions; and,

WHEREAS, the parties desire that the above referenced easements, cross easements covenants, and building restrictions be filed of record in Douglas County, Nebraska; and,

WHEREAS, the parties hereto desire to enter into mutual and reciprocal easements for access and use with respect to Loveland Acres for the use of their lessees, sublessees, business invitees, licensees, and employees in pursuit of the commercial activities of the parties hereto.

NOW, THEREFORE, for and in consideration of the mutual and reciprocal covenants of the parties herein contained, the recitals set forth above, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties hereto, it is agreed as follows:

TA-31704

DEFINITIONS

1. As used in this Agreement, the term "Loveland Acres" shall refer to the real estate described Loveland Acres, Lots 1 through 11 inclusive, an Addition to the City of Omaha, as surveyed, platted, and recorded, in Douglas County, Nebraska, together with all the rights, easements, and rights-of-way incident thereto.
2. As used in this Agreement, the term "Improvements" shall refer to any buildings, parking areas, driveways, landscaping, outdoor lighting, sidewalks, service drives, private streets, entrances, and exits, curbs, passageways, and such other structures and additions constructed by the parties hereto on their respective Lots.

IMPROVEMENTS

3. Any building or buildings built in Loveland Acres by the parties hereto shall be constructed and maintained in compliance with the laws of the State of Nebraska including the fire, building, and health ordinances and rules of the State of Nebraska, Douglas County, City of Omaha, or such other agency or office authorized by law to enforce such ordinances, and shall be built under the inspection and subject to the lawful requirements of the building department of any agency or office authorized by law to inspect or make rules regarding the erection and inspection of buildings.
4. All parties hereto covenant that the Lots in Loveland Acres shall be used solely for the purpose of retail buildings, office buildings, or parking lots.
5. All parties hereto covenant that building frontage for Lots 2 through 10 inclusive shall face 86th Street only, and that building frontage for Lots 1 and 11 shall face either Frederick Street or 86th Street.
6. No fences, barriers, or other obstructions shall be erected or maintained in Loveland Acres.
7. Notwithstanding paragraphs 4, 5, and 6, the following shall apply to Lots 5 and 6 only:
 - 7.1 Lots 5 and 6 may erect a wooden fence or landscape barrier, but may not erect a chain link fence.
 - 7.2 Lots 5 and 6 may erect any building for any purpose allowed by the zoning on the lots, but may not erect a building constructed of corrugated metal or similar material.
 - 7.3 Lots 5 and 6 may erect a building with building frontage that does not face 86th Street. However, if the owner of Lot 5 and 6 erects a building with building frontage that does not face 86th Street, Lots 5 and 6 must erect a wooden fence or landscape barrier on or near the South lot lines of Lots 5 and 6.
 - 7.4 Lots 5 and 6 shall make no attempt whatsoever to close off or reduce the cul-de-sac adjoining Lots 5 and 6.

8. Each party hereto shall develop and design that party's parcel of land so as to dispose of surface waters thereon in such a manner as to minimize the run-off of those waters onto contiguous parcels of land in Loveland Acres.

9. In the event of destruction of, or damage to, any of the parties' respective Improvements in Loveland Acres, the parties hereto, at their option, shall either:

9.1 Cause such Improvements to be repaired, reconstructed, and restored as nearly as practicable to the condition existing just prior to such damage or destruction; or,

9.2 Cause other Improvements to be constructed on the area covered by the destroyed or damaged Improvements, which other Improvements are similar to, compatible with, and integrated with the remaining development; or,

9.3 Cause the area covered by the destroyed or damaged Improvements to be razed and the area placed in a neat and orderly condition; or,

9.4 Cause any combination of the foregoing to occur.

REPAIR AND MAINTENANCE

10. The parties hereto shall have the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of their respective Lots and the Improvements thereon.

11. The parties hereto shall keep and maintain all portions of their respective Lots and the Improvements thereon in a clean and orderly condition, reasonably free of dirt, rubbish, snow, ice, and unlawful obstructions.

12. When Improvements are made thereon, the parties hereto shall properly light their respective Lots and Improvements.

13. The parties hereto, at their expense, shall maintain their Improvements in a condition consistent with surrounding retail/office centers such as Canfield Plaza and Frederick Square.

UTILITIES

14. The parties hereto shall initiate, contract for and obtain in their name, all utility services, including but not limited to gas, electric, water, sewer, drainage, telephone, and garbage services, required for their respective Lots and Improvements. Each party shall pay, or cause to be paid, all charges for its utility services as they become due.

COMMON RECIPROCAL ACCESS EASEMENT

15. Each party hereto hereby grants each one to the other, and to their respective heirs, successors, assigns, lessees, business invitees, tenants, subtenants, concessionaires, licensees, and the respective officers, employees, agents, customers, and invitees of each, for the benefit

of each others' sites, the non-exclusive right, privilege, and easement for the use of, access to, and right-of-way over, across, and upon the parking areas, driveways, sidewalks, service drives, private streets, entrances, exits, and passageways located or to be located in Loveland Acres.

16. Each party may impose such restrictions and limitations upon such right as is necessary in such party's sole discretion to limit traffic upon such roadways to light passenger vehicles, and as to service drives, such delivery vehicles servicing such Lots. Each party shall have the right to restrict or prohibit the use, including parking, of its Lot by agents, employees, and customers of the other.

17. Paragraphs 15 and 16 shall not apply to Lots 5 and 6.

INDEMNITY

18. Each party indemnifies and agrees to save harmless and defend all other parties hereto from and against all claims, actions, damages, liability, and expense in connection with bodily injury, death, or property damage arising out of accidents occurring on any part of each party's own Lot occasioned wholly or in part by a negligent act or omission of its employees, agents or contractors; except any claims, actions, damages, liability, and expense arising from or as a result of a negligent act or omission of any person so claiming the right to be indemnified, or the employees, agents, or contractors of such claiming party.

PERSONAL LIABILITY

19. If any party to this Agreement shall fail to perform any covenant, term, or condition of this Agreement, and if, as a consequence, a money judgment is recovered against said party by another party to this Agreement, such judgment shall be satisfied only out of the fee simple interest of that party in Loveland Acres. No party shall be personally liable for any deficiency.

DEFAULT

20. If any party to this Agreement shall be in default with respect to any of its obligations set forth in this Agreement, any other party to this Agreement shall send a written notice of default to the defaulting party. If such default shall continue for thirty (30) days after the receipt of the written notice of default, unless the defaulting party is diligently pursuing remedy of such default, then the complaining party shall have the right to cure such default for the account of the defaulting party and shall be reimbursed by the defaulting party for reasonable costs so incurred, plus interest at the rate of ten percent (10%) per annum and reasonable attorneys' fees. Such right of reimbursement shall be secured by a lien and charge which is hereby created upon the property of the defaulting party affected by this Agreement; however, such lien and charge shall be subordinated and inferior to any mortgage or deed of

trust secured by the property of the defaulting party which is held by a bank, savings and loan association, trust company, insurance company, pension or profit sharing trust.

21. The written notices of default required in the paragraph 18 above shall be sent not only to the defaulting party, but to all parties to this Agreement.

22. Any party to this Agreement may bring suit to obtain temporary and permanent injunctive relief to enforce the rights granted in this Agreement. In addition any such party bringing suit may recover any damages suffered as a result of a breach of this Agreement.

NOTICES

23. All notices provided by this Agreement shall be made in writing either by:

23.1 actual delivery of the notice to the parties thereunto entitled; or,

23.2 by sending the notice by U.S. Mail, postage prepaid, to the address of the parties entitled thereto, registered or certified mail, return receipt requested.

24. The notice described in paragraph 23.1 above shall be deemed to be received on the date of its actual delivery, and the notice described in paragraph 23.2 above shall be deemed to be received on the date shown as received on the postal return receipt.

25. All notices, demands or other communications to any of the parties to this Agreement shall be addressed as follows:

TO: FirsTier Bank
Robert Timmins
Vice President, Trust Department
1700 Farnam Street
Omaha, Nebraska 68102

TO: Joan Moritz, Mary Frances and Jeffrey Willard, David and Kathleen Moritz
C/O J.M. Properties, Inc.
2954 South 84th Street
Omaha, Nebraska 68124

TO: Leroy L. Canfield
C/O Canfield's Sporting Goods
8457 West Center Road
Omaha, Nebraska 68124

TO: Vincent & Dolares Courtney
9811 Laurel Avenue
Omaha, Nebraska 68134

26. The parties hereto may, by written notice given to the others, designate a new address to which notices, demand, and other communications should be sent.

GENERAL PROVISIONS

27. Recording. The parties hereto agree that they will cause this Agreement to be duly recorded as a matter of record in Douglas County, Nebraska.

28. Covenants Running With the Land. All of the rights, privileges, right-of ways, easements, cross easements, agreements, restrictions, and covenants set forth in this Agreement are intended to be and shall be construed as covenants running with the land, binding upon, inuring to the benefit of, and enforceable by the parties hereto, and their respective personal representatives, heirs, successors, assigns, devisees, executors, administrators, lessees, sublessees, grantees, and subsequent owners of the respective Lots or any part thereof.

29. Not to be Construed as Partners. Nothing contained in this Agreement shall be construed to make any of the parties with any other party hereto partners, joint venturers, or to render any of the parties liable for the debts or obligations of any other party hereto.

30. Waiver. No delay or omission by any of the parties to exercise any right or power accruing upon any non-compliance or failure of performance by any party under the provisions of this Agreement shall be construed to be a waiver thereof.

31. Governing Law, Severability. This Agreement shall be governed by and construed in accordance with the law of the State of Nebraska. If any provision of this Agreement, or the application thereof to any party or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement and application of such provisions to any other party or circumstance shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent provided by law.

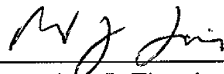
32. Modification. No agreement shall be effective to add to, change, modify, waive, terminate, rescind, or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by each of the parties hereto.

33. Headings. The headings herein are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way offset its provision.

34. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

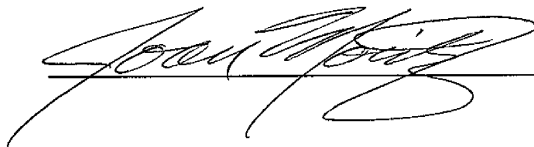
IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed
on the date first written above.

FIRSTIER BANK, SUCCESSOR TRUSTEE TO
OMAHA NATIONAL BANK, TRUSTEE OF THE
JOHN J. MORITZ TRUST "B"

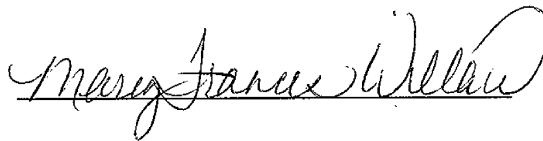


By: Robert J. Timmins, Vice President

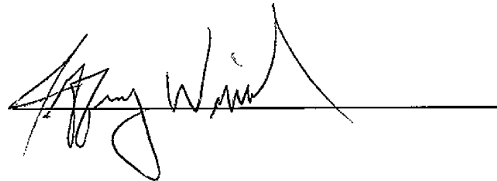
JOAN MORITZ, A SINGLE PERSON



MARY FRANCES WILLARD



JEFFREY WILLARD, MARITAL INTEREST ONLY



DAVID MORITZ



Kathleen Moritz

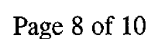
Im Zield

Vincent A. Corleone

Dalores Courtney

The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 27 day of APRIL, 1995, by Robert J. Timmins, Vice President of FirsTier Bank, N.A., Omaha, Trustee. (1)

tee. Veronica Layton
Notary Public



STATE OF NEBRASKA)

)ss.

COUNTY OF DOUGLAS)

The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 28TH day of APRIL, 1995, by Joan Moritz.

Mary L. Newingham
Notary Public

STATE OF NEBRASKA)

)ss.

COUNTY OF DOUGLAS)



The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 28TH day of APRIL, 1995, by Mary Frances Willard.

Mary L. Newingham
Notary Public

STATE OF NEBRASKA)

)ss.

COUNTY OF DOUGLAS)



The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 28TH day of APRIL, 1995, by Jeffrey Willard.

Mary L. Newingham
Notary Public

STATE OF NEBRASKA)

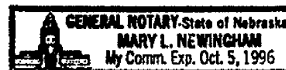
)ss.

COUNTY OF DOUGLAS)



The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 28TH day of APRIL, 1995, by David Moritz.

Mary L. Newingham
Notary Public



STATE OF NEBRASKA)

)ss.

COUNTY OF DOUGLAS)

The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 1st day of MAY, 1995, by Kathleen Moritz.



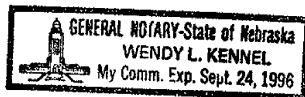
Mary L. Newingham
Notary Public

STATE OF NEBRASKA)

)ss.

COUNTY OF DOUGLAS)

The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 1st day of May, 1995, by Leroy L. Canfield.



Wendy L. Kennel
Notary Public

STATE OF NEBRASKA)

)ss.

COUNTY OF DOUGLAS)

The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 11th day of MAY, 1995, by Vincent Courtney.



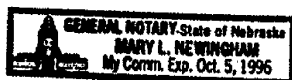
Mary L. Newingham
Notary Public

STATE OF NEBRASKA)

)ss.

COUNTY OF DOUGLAS)

The foregoing Reciprocal Easement and Operating Agreement was acknowledged before me this 11th day of MAY, 1995, by Dolares Courtney.



Mary L. Newingham
Notary Public