

NON-ADMITTED
LINDA DECKER
1320 S. 194th St
Omaha, NE. 68144

95-02241

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**AMENDMENT OF, AND WRITTEN APPROVAL FOR
EXCEPTIONS TO, PROTECTIVE COVENANTS OF
BROOK VALLEY BUSINESS PARK**

This Amendment of, and Written Approval for Exceptions to, Protective Covenants of Brook Valley Business Park (hereinafter referred to as "Written Approval") is made and executed as of the 15th day of February, 1995, by Brook Valley Limited Partnership, a Nebraska limited partnership (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant has recorded protective covenants affecting the following described real property:

Lots One (1) through Twenty-Eight (28), inclusive, in Brook Valley Business Park, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, a "Declaration of Covenants" was recorded on February 26, 1993, as Instrument No. 93-03605 in the deed records of the office of the Sarpy County Register of Deeds (hereinafter referred to as the "Covenants"); and

WHEREAS, Dillon Real Estate Co., Inc., a Kansas corporation (hereinafter referred to as "Purchaser"), has agreed to purchase Lots 12 and 13 in Brook Valley Business Park for the purpose of developing such lots for use as a Kwik Shop convenience store; and

WHEREAS, it is necessary to make an exception to the Covenants to allow the development of Lots 12 and 13 of Brook Valley Business Park, and Declarant is allowed to make exceptions to or modifications of the Covenants when a special situation exists pursuant to Paragraph XV of the Covenants; and

WHEREAS, the Covenants were written and designed as restrictions on industrial development and are not applicable to a retail convenience store use proposed for Lots 12 and 13 of Brook Valley Business Park abutting on Harrison Street, and therefore, a special situation exists, such that Declarant agrees to make exceptions to the Covenants and agrees to indemnify Purchaser for any claim or cause of action brought by any party for a breach or violation of the Covenants by Purchaser, when any such violation or breach may be covered by the terms of this Written Approval; and

WHEREAS, Declarant currently owns over seventy-five (75%) per cent of all the land in Brook Valley Business Park and therefore, pursuant to Paragraph XVI of the Covenants, may amend the Covenants.

NOW, THEREFORE, the Declarant hereby grants to Purchaser the following exceptions to the Covenants of Brook Valley Business Park, titled Declaration of Covenants and recorded

as Instrument No. 93-03605 in the deed records of the Sarpy County Register of Deeds and amends the Covenants to incorporate such exceptions into the Covenants as they currently exist and relate to Lots 12 and 13 of Brook Valley Business Park:

1. Purchaser shall be allowed to operate a convenience store in the normal manner and style of "Kwik Shop" store operations without being in violation of any of the terms of the Covenants, and Purchaser will not be required to vary or alter its customary and normal operating procedures or construction plans to comply with the Covenants.
2. Declarant has approved construction plans for a "Kwik Shop" convenience store contemplated by Purchaser on Lots 12 and 13 of Brook Valley Business Park and is familiar with the normal operating procedures and the manner and style of "Kwik Shop" store operations.
3. This Written Approval specifically approves exceptions to the following:
 - (a) Purchaser shall be allowed to construct a gasoline island within 75 feet from any street as an exception to Covenant III(a);
 - (b) Kwik Shop normal operations require that loading and unloading of delivery trucks occur in the parking areas of a Kwik Shop and that merchandise is brought in through the front door of the Kwik Shop. Declarant acknowledges the normal loading operations of Purchaser, and to the extent necessary, grants an exception to Paragraph VI of the Covenants dealing with loading and unloading of deliveries;
 - (c) It is normal operating procedure for a Kwik Shop to display items for sale outside of the confines of the convenience store building constructed for use as a Kwik Shop. Declarant acknowledges such as the normal operating procedure for a Kwik Shop and hereby grants an exception to Paragraph VII of the Covenants, so long as any items displayed by Purchaser outside of the confines of its convenience store building shall be displayed in a neat and orderly manner; and
 - (d) Declarant does hereby grant an exception to Purchaser to use Lots 12 and 13 for the erection or maintenance of a sign or signs which are normal and customary for use by a Kwik Shop operation, and to the extent an exception to Paragraph VIII of the Covenants is necessary, such exception to the Covenants is hereby granted.
4. This Written Approval is granted pursuant to Paragraph XV of the Covenants and Declarant warrants that it has the power and authority to grant and approve the exceptions contained herein. Declarant agrees to indemnify and save Purchaser harmless from any claim or cause of action brought against Purchaser by Declarant, its successors, assigns, or any Owner or contract purchaser of a lot in Brook Valley Business Park, or any other person, for breach

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or violation of the Covenants, which claim or cause of action is based on an exception granted or approved by Declarant in this Written Approval.

IN WITNESS WHEREOF, the undersigned has executed this Written Approval as of the date first set forth above.

BROOK VALLEY LIMITED PARTNERSHIP,
a Nebraska limited partnership

By: PRIME REALTY, INC.,
General Partner

By: James V. McCart
James V. McCart, President

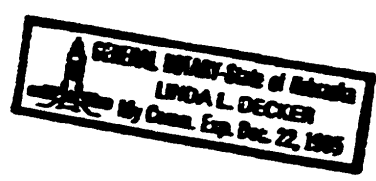
STATE OF NEBRASKA
COUNTY OF DOUGLAS

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) ss:
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Subscribed and sworn to before me this 15th day of February, 1995, by James V. McCart, President of Prime Realty, Inc., a Nebraska corporation.

Linda L. Decker
Notary Public

My commission expires:
12-22-95



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Glenn J. ...
REGISTER OF DEEDS

Counter PA C
Verify NA
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Proof A
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Mail _____
Fee # 29.00
Ck Cash Ctg

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