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GEORGE J. SUCILEWICZ  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE

4428 H MC-10986  
FEE 21.00 R FS  
DEL CO COMPT  
LEGAL PG SCAN W FV

AFTER RECORDING RETURN TO:

JAMES F. KASHER  
CROKER, HUCK, KASHER, DeWITT,  
ANDERSON & GONDERINGER, P.C.  
2120 S 72 ST STE 1250  
OMAHA NE 68124

### PERPETUAL EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT **BENCHMARK HOMES, INC.**, a Nebraska corporation, (hereinafter referred to as "Grantor"), for and in consideration of the sum of Ten and no/100ths Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto **SANITARY AND IMPROVEMENT DISTRICT NO. 379 OF DOUGLAS COUNTY, NEBRASKA, and THE CITY OF OMAHA, in the State of Nebraska**, a Municipal corporation, (hereinafter collectively referred to as "Grantee"), their successors and assigns, a perpetual easement over, upon and across that real estate in Douglas County, Nebraska, more particularly described on **Exhibits "A" and "B"** attached hereto and incorporated herein by this reference.

The scope and purpose of said easement is for the use by the public as a pedestrian walkway and any appurtenances related thereto, including the construction, repair, maintenance, and replacement of a sidewalk. The Grantee and its contractors and engineers shall have full right and authority to enter upon said easementway in order to perform any of the acts and functions described within the scope and purposes of such easement; PROVIDED, however, that such easement as to said Grantee, City of Omaha only, shall have no force and effect unless and until the property on or in which said pedestrian walkway and other related appurtenances are constructed shall be annexed as a part of said City and until said City shall have a legal obligation to maintain such improvements as public facilities.

By accepting and recording this perpetual easement grant, said Grantee, Sanitary and Improvement District No. 379 of Douglas County, Nebraska, agrees forthwith, and said Grantee, City of Omaha, agrees effective with the annexation of the property in which said improvements are constructed, to make good or cause to be made good to the owner or owners of the property in which same are constructed, any and all damage that may be done by reason of construction, alterations, maintenance, inspection, repairs or reconstruction in the way of damage to trees, grounds, or other improvements thereon, including crops, vines and gardens.

Grantor herein, for itself, its successors and assigns, does hereby covenant and agree with the said Grantee and its successors and assigns that at the time of the execution and delivery of these presents, Grantor is lawfully seized of said premises; that Grantor has good right and lawful authority to grant said perpetual pedestrian walkway easement; and Grantor further hereby covenants to warrant and defend said easementway against the lawful claims of all persons whomsoever.

This instrument shall be binding on the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the Grantor herein, for itself, its successors and assigns, has caused the due execution hereof as of the 20<sup>th</sup> day of April, 1995.

BENCHMARK HOMES, INC.

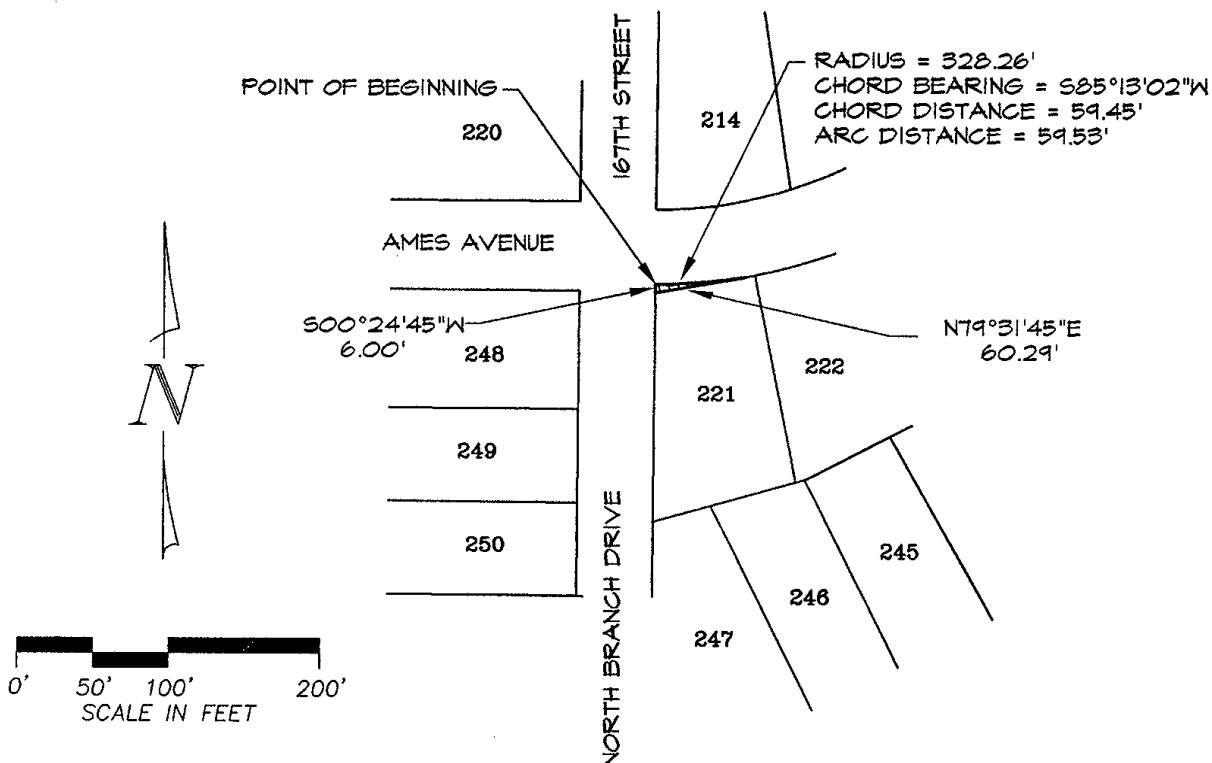
By: [Signature]  
President

STATE OF NEBRASKA     )  
                                  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of April, 1995, by John C. Czerwinski, Jr., President of BENCHMARK HOMES, INC., a Nebraska corporation, on behalf of the Corporation.



[Signature]  
Notary Public

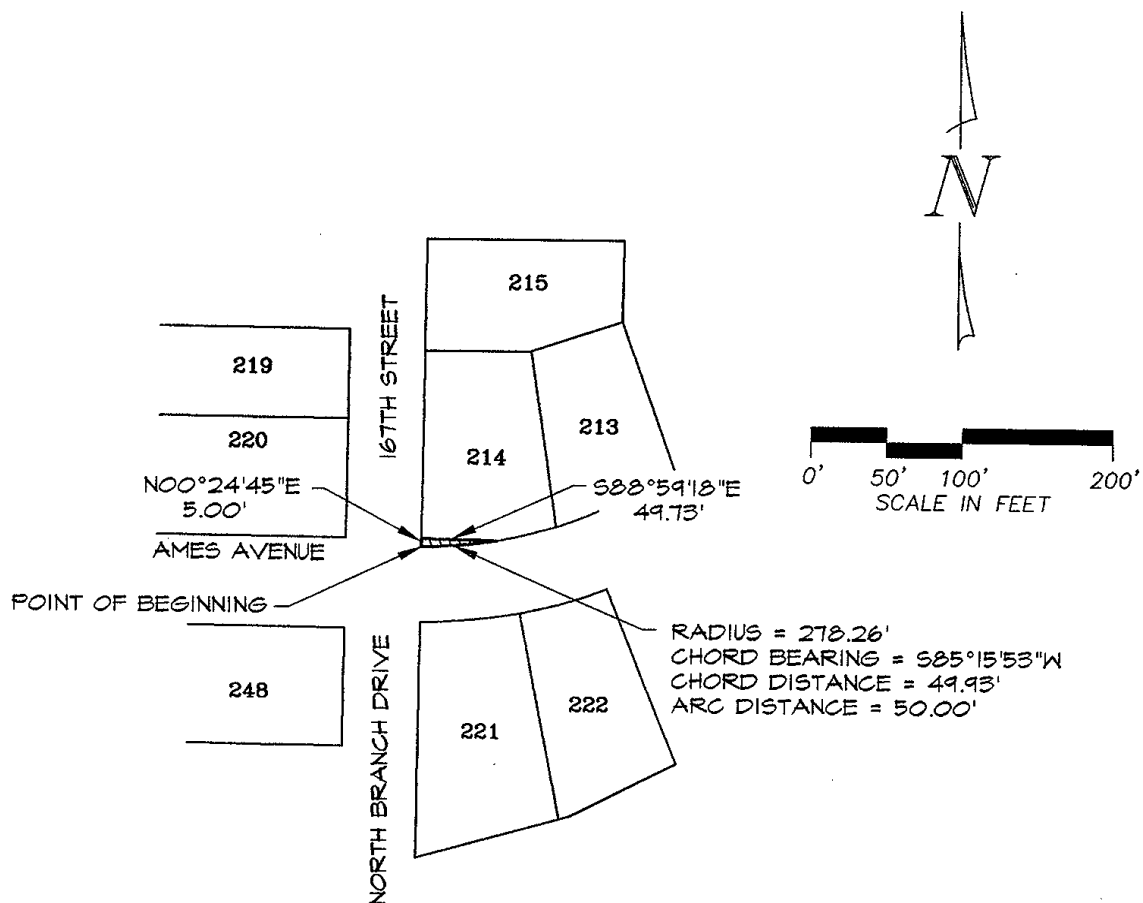


### LEGAL DESCRIPTION

THAT PART OF LOT 221, ELK CREEK CROSSING, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID LOT 221; THENCE  $S00^{\circ}24'45''W$  (ASSUMED BEARING) 6.00 FEET ON THE WEST LINE OF SAID LOT 221; THENCE  $N79^{\circ}31'45''E$  60.29 FEET TO THE NORTH LINE OF SAID LOT 221; THENCE SOUTHWESTERLY ON THE NORTH LINE OF SAID LOT 221 AND ON A NONTANGENT 328.26 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING  $S85^{\circ}13'02''W$ , CHORD DISTANCE 59.45 FEET, ARC DISTANCE 59.53 FEET TO THE POINT OF BEGINNING.

SID 379 (ELK CREEK CROSSING)  
 TD2 FILE NO. 9421089  
 4-10-95

EXHIBIT "A"



### LEGAL DESCRIPTION

THAT PART OF LOT 214, ELK CREEK CROSSING, A SUBDIVISION AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: BEGINNING AT THE SW CORNER OF SAID LOT 214; THENCE  $N00^{\circ}24'45''E$  (ASSUMED BEARING) 5.00 FEET ON THE WEST LINE OF SAID LOT 214; THENCE  $S88^{\circ}59'18''E$  49.73 FEET TO THE SOUTH LINE OF SAID LOT 214; THENCE SOUTHWESTERLY ON THE SOUTH LINE OF SAID LOT 214 AND ON A NONTANGENT 278.26 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING  $S85^{\circ}15'53''W$  CHORD DISTANCE 49.93 FEET, ARC DISTANCE 50.00 FEET TO THE POINT OF BEGINNING.

SID 379 (ELK CREEK CROSSING)  
 TD2 FILE NO. 9421088  
 4-11-95

EXHIBIT "B"