



**AMENDED AND RESTATED
ACCESS EASEMENT**

THIS AMENDED AND RESTATED ACCESS EASEMENT (“Easement”) is made as of this 21 day of September, 2021, by **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (“Declarant”).

WHEREAS, Declarant’s predecessor previously platted a certain tract of land located in Douglas County, Nebraska, as reflected on Exhibit A attached hereto and incorporated herein by reference (the “Plat”), whereby the Plat resulted in the creation of the three (3) separate lots known as Lot 1, Lot 2 and Lot 3 (each a “Lot”, and collectively the “Lots”), all as depicted on the Plat; and

WHEREAS, the Plat previously established a perpetual, non-exclusive easement (the “Existing Easement”) over a portion of Lot 2 to permit access to and from Lot 1 and Lot 3 pursuant to the terms of that certain Access Easement dated May 29, 2001, recorded on May 30, 2001 in Book 1383, Page 578-584 in the official records of the Register of Deeds of Douglas County, Nebraska (the “Original Access Easement”); and

WHEREAS, Declarant currently owns all of the Lots, does not access Lot 1 through the Existing Easement and therefore access to Lot 1 is not necessary through this Easement; and

WHEREAS, Declarant desires to relocate the Existing Easement to a new location as reflected on Exhibit B attached hereto and herein incorporated by reference; and

WHEREAS, for the purposes of this Easement, the terms “Lot 1 Owner,” “Lot 2 Owner,” and “Lot 3 Owner,” shall refer to the owners of the respective Lots at the time when the referenced action is to occur (each an “Owner”, and collectively the “Owners”); and

WHEREAS, the Declarant hereby desires to amend and restate the Original Access Easement in its entirety.

NOW, THEREFORE, for and in consideration of the above premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owners hereto agree as follows:

The foregoing recitals are incorporated herein by this reference.

1. Access Easement. Declarant does hereby declare and establish a non-exclusive, perpetual easement in, on, over, under and across the portion of Lot 2 shown and labeled on Exhibit B attached hereto (the "Access Easement Area") for the purpose of maintaining and using the Access Easement Area for vehicular ingress and egress to and from Lot 3 to the Sorenson Expressway at the intersection of Ida Drive (the "Access Easement"). Notwithstanding the foregoing, the Lot 2 Owner may adjust the location of said Access Easement Area to reasonably accommodate the development of improvements on Lot 2, provided that the access points over and across the boundary between Lot 2 and Lot 3 shall remain in the location shown on Exhibit B and further provided that in no event shall the continuous vehicular access to and from the Sorenson Expressway at the intersection of Ida Drive from and to Lot 3 be continuously interrupted. In the event the Lot 2 Owner chooses to adjust the location of the Access Easement Area, the Lot 2 Owner and the Lot 3 Owner shall execute and record an amendment to this Easement depicting the new location.

2. Construction. The Lot 2 Owner shall have no obligation to construct any roadway improvements, except as provided herein.

(a) Construction for Lot 2. The Lot 2 Owner shall, as part of its development of Lot 2, commence construction of a parking lot to provide roadway access or drive lanes within the parking lot, in each case within the Access Easement Area (as the same may be adjusted as described in Paragraph 1) in a proper and workmanlike manner, in compliance with all applicable federal, state and local laws, ordinances and regulations (the "Roadway"). The Roadway shall be substantially completed by the Lot 2 Owner within one (1) year of commencement of construction, subject to delays caused by inclement weather, labor or materials shortages, acts of god, war, civil unrest or other events beyond the reasonable control of Lot 2 Owner.

(b) Construction for Lot 3. In the event that the Lot 2 Owner installs the Roadway as contemplated in Section 2(a) above, the Lot 3 Owner shall be responsible, at its sole cost and expense, for making any improvements on Lot 3 to tie in with the Roadway in a manner which does not cause any damage to the Roadway or any other Lot 2 improvements. Notwithstanding the foregoing provisions of Section 2(a) above, in the event that Lot 3 is ever developed prior to the development of Lot 2, then the Lot 3 Owner shall have the right to install the Roadway within the Access Easement Area in the same manner as set forth in Section 2(a) above, and the Lot 2 Owner shall thereafter have the right to (i) construct other improvements for the benefit of Lot 2 around the Roadway, including but not limited to any parking areas for Lot 2, and (ii) reimburse the Lot 3 Owner for one-half (1/2) of the cost for the Roadway which is located on Lot 2. In the event that the Lot 3 Owner constructs the Roadway in accordance with the provisions of this Section 2(b), it shall do so after submitting the plans and specifications for the Roadway to the Lot 2 Owner for its review and approval, not to be unreasonably withheld, conditioned or delayed.

3. Maintenance, Repair and Replacement. Said Roadway shall be maintained, repaired and replaced (as necessary) ("Roadway Maintenance") by the Lot 2 Owner, including removal of snow and re-paving, in such a manner to at all times accommodate vehicular traffic. The cost of the Roadway Maintenance shall be shared equally between the Lot 2 Owner and the

Lot 3 Owner (except to the extent any Roadway Maintenance is required due to the misuse, negligence or willful misconduct of an Owner or its employees, agents, representatives, contractors, tenants or invitees, in which event the costs of such Roadway Maintenance will be paid by such Owner). Such costs shall be paid by the Lot 3 Owner within thirty (30) days of its receipt of the Lot 2 Owner's invoice for such costs. In the event the Lot 3 Owner does not pay such costs within such timeframe, in addition to any other rights and remedies available to the Lot 2 Owner, the Lot 2 Owner shall have the right to terminate this Easement upon written notice to the Lot 3 Owner. The Lot 3 Owner acknowledges and agrees that, if the Lot 2 Owner provides for-hire services similar to any Roadway Maintenance, the Lot 2 owner may perform the Roadway Maintenance and invoice the Lot 3 Owner for its share of such costs at rates commensurate with what the Lot 2 Owner would charge third parties in an arms-length transaction. In the event the Lot 2 Owner breaches the maintenance, repair and replacement obligations as contained in this Section 3, the Lot 3 Owner shall have the right, but not the obligation, to perform such maintenance, repair and replacement obligations, provided the Lot 3 Owner gives the Lot 2 Owner at least thirty (30) days' prior written notice of such Lot 2 Owner's breach, an opportunity to cure, and such Lot 3 Owner's intent to perform such maintenance, repair and replacement obligations in the event of a continuing default.

4. Lien. If the any party hereto shall fail to timely pay their required share of the cost of construction, repairs, maintenance, upkeep and/or improvement ("Defaulting Party") within sixty (60) days alter receipt of billing therefor, then such Defaulting Party's respective Lot shall be subject to a lien thereon for such cost, and such Defaulting Party shall be liable for reasonable attorneys' fees and court costs incurred in enforcing collection, all of which shall also be deemed secured by such lien. The other non-defaulting party ("Non-Defaulting Party") hereto shall have the right to file a notice of record of such lien claim against the Defaulting Party's Lot. The lien provided for herein may be enforced and foreclosed in the same manner provided from time to time for the foreclosure of construction liens under the laws of the State of Nebraska except that the only notice required prior to the filing of a suit to foreclose such lien, anything in the present or future laws to the contrary notwithstanding, shall be thirty (30) day notice in writing (accompanied by an itemized bill in the amount claimed to be due and owing) delivered to the Defaulting Party.

5. Non-Interference. Subject to the maintenance, repair and replacement obligations set forth in this Easement and the right by the Lot 2 Owner to terminate this Easement as set forth herein, the Lot 2 Owner shall ensure that the Lot 3 Owner, their successors, assigns, employees, agents and invitees shall at all times have the right to use the Access Easement as provided herein and that the Lot 2 Owner's use of the Access Easement Area shall not unreasonably interfere with the Lot 3 Owner's use of the Access Easement Area for the uses permitted herein.

6. Intentionally Omitted.

7. Jurisdiction. This Easement shall be governed by, construed, and enforced in accordance with the laws of the State of Nebraska.

8. Amendment. No oral amendment of this Easement shall be binding on the parties hereto. Any modification or amendment of this Easement must be in writing and signed by the Lot 2 Owner and Lot 3 Owner.

9. Successors and Assigns. The covenants herein contained shall run with the land of Lot 2 and Lot 3 and be binding upon it and shall inure to the successors of the party or parties described herein.

10. Prior Easement. This Easement, together with all Exhibits attached hereto, terminate and supersede the Original Access Easement.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

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

DECLARANT:

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation

By: Chris D. Goble
Name: CHRIS D. GOBLE
Title: Assistant Vice President - Real Estate

STATE OF Nebraska)
) ss
COUNTY OF Douglas)

On this 21st day of September, 2021, before me appeared Chris D. Goble to me personally known, who, being by me duly sworn, did say that he is the AVP - RE of UNION PACIFIC RAILROAD COMPANY, a corporation of the State of Delaware, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors, and said Chris D. Goble acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Gregg A. Larsen
Notary Public

My commission expires:

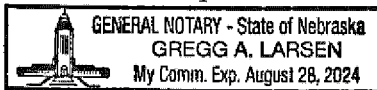


Exhibit A

Plat

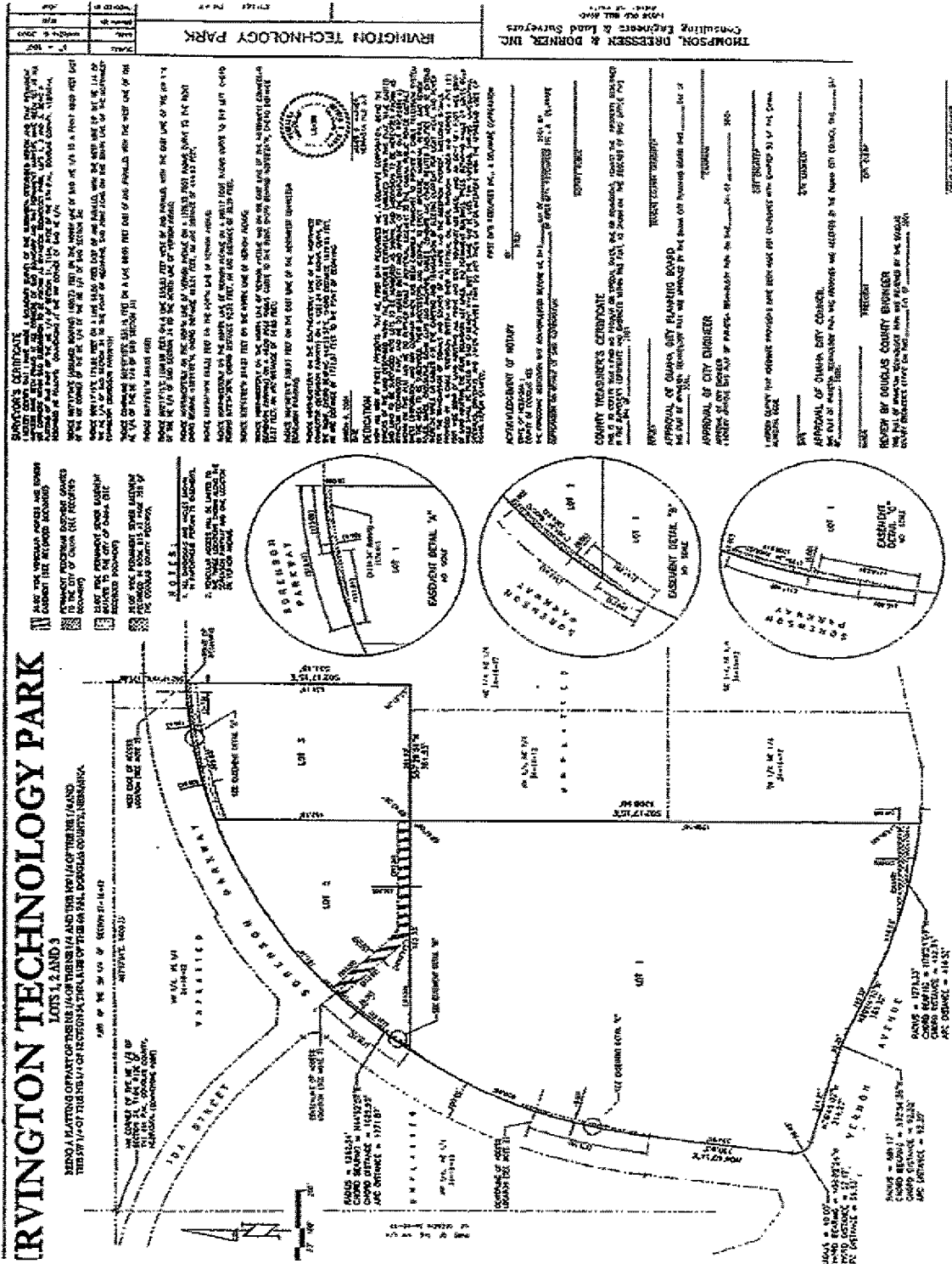


Exhibit B

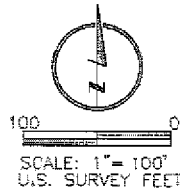
Access Easement Area

EASEMENT EXHIBIT

LEGAL DESCRIPTION

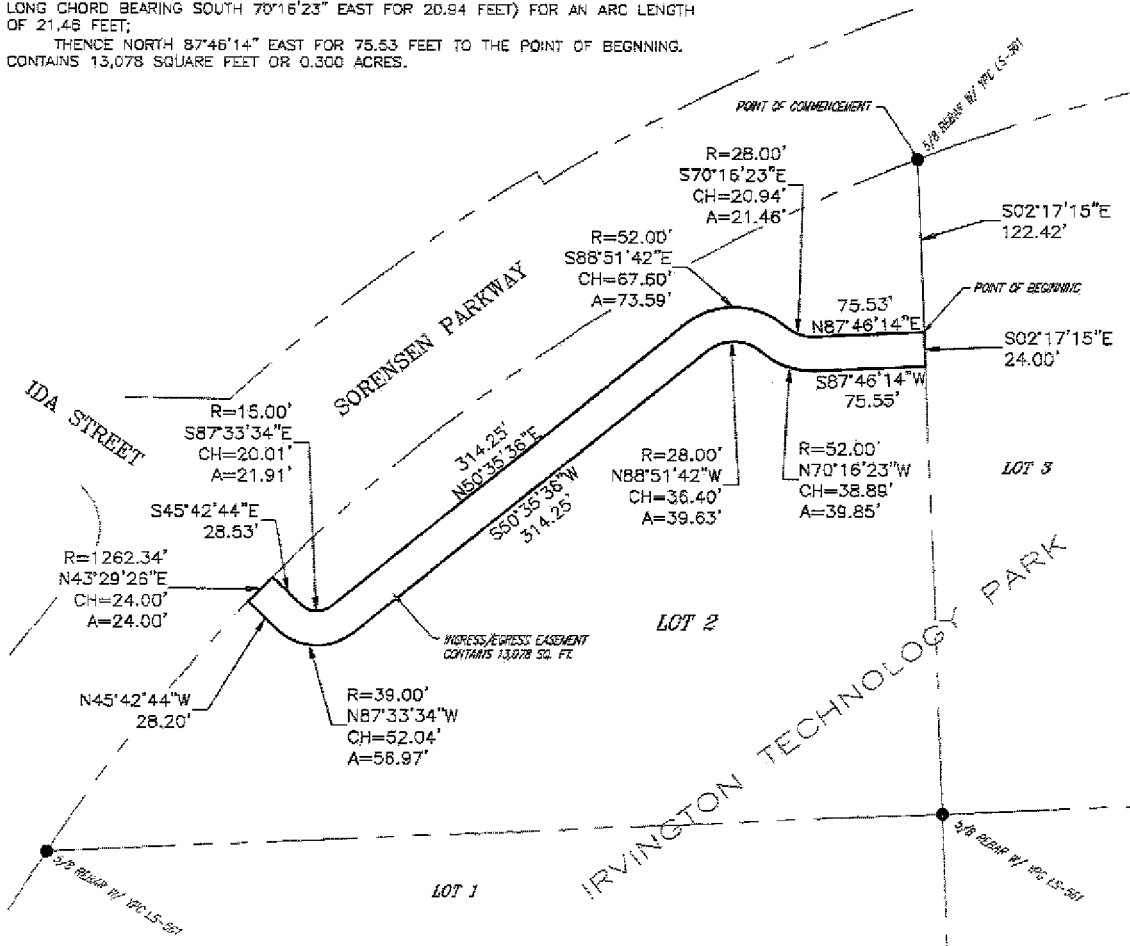
A PERMANENT INGRESS/EGRESS EASEMENT OVER THAT PART OF LOT 2, IRVINGTON TECHNOLOGY PARK, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

COMMENCING AT A 5/8" REBAR WITH 1 1/4" YELLOW PLASTIC CAP STAMPED LS 581 AT THE NORTHEAST CORNER OF SAID LOT 2;
 THENCE SOUTH 02°17'15" EAST (ASSUMED BEARINGS) FOR 122.42 FEET ON THE EAST LINE OF SAID LOT 2, TO THE TRUE POINT OF BEGINNING;
 THENCE SOUTH 02°17'15" EAST FOR 24.00 FEET CONTINUING ON SAID EAST LINE;
 THENCE SOUTH 87°46'14" WEST FOR 75.53 FEET;
 THENCE ON A CURVE TO THE RIGHT (HAVING A RADIUS OF 52.00 FEET AND A LONG CHORD BEARING NORTH 70°16'23" WEST FOR 38.89 FEET) FOR AN ARC LENGTH OF 39.85 FEET;
 THENCE ON A CURVE TO THE LEFT (HAVING A RADIUS OF 28.00 FEET AND A LONG CHORD BEARING NORTH 88°51'42" WEST FOR 36.40 FEET) FOR AN ARC LENGTH OF 39.63 FEET;
 THENCE SOUTH 50°35'36" WEST FOR 314.25 FEET;
 THENCE ON A CURVE TO THE RIGHT (HAVING A RADIUS OF 39.00 FEET AND A LONG CHORD BEARING NORTH 87°33'34" WEST FOR 52.04 FEET) FOR AN ARC LENGTH OF 56.87 FEET;
 THENCE NORTH 45°42'44" WEST FOR 28.20 FEET TO THE NORTHERLY LINE OF SAID LOT 2, AND THE SOUTHERLY RIGHT OF WAY LINE OF SORENSEN PARKWAY;
 THENCE ON A CURVE TO THE RIGHT (HAVING A RADIUS OF 1262.34 FEET AND A LONG CHORD BEARING NORTH 43°29'26" EAST FOR 24.00 FEET) CONTINUING ON SAID RIGHT OF WAY LINE FOR AN ARC LENGTH OF 24.00 FEET;
 THENCE SOUTH 45°42'44" EAST FOR 28.53 FEET;
 THENCE ON A CURVE TO THE LEFT (HAVING A RADIUS OF 15.00 FEET AND A LONG CHORD BEARING SOUTH 87°33'34" EAST FOR 20.01 FEET) FOR AN ARC LENGTH OF 21.91 FEET;
 THENCE NORTH 50°35'36" EAST FOR 314.25 FEET;
 THENCE ON A CURVE TO THE RIGHT (HAVING A RADIUS OF 52.00 FEET AND A LONG CHORD BEARING SOUTH 88°51'42" EAST FOR 67.60 FEET) FOR AN ARC LENGTH OF 73.59 FEET;
 THENCE ON A CURVE TO THE LEFT (HAVING A RADIUS OF 28.00 FEET AND A LONG CHORD BEARING SOUTH 70°16'23" EAST FOR 20.84 FEET) FOR AN ARC LENGTH OF 21.46 FEET;
 THENCE NORTH 87°46'14" EAST FOR 75.53 FEET TO THE POINT OF BEGINNING.
 CONTAINS 13,078 SQUARE FEET OR 0.300 ACRES.



LEGEND

- EASEMENT LINE
- LOT LINE
- MONUMENT FOUND



LAMP RYNEARSON 14710 W. DODGE RD, STE. 100 OMAHA, NE 68154 402.496.2498 LampRynearson.com	DESIGNER / DRAFTER TLW / REX REVIEWER TERRY L. WHITFIELD PROJECT NUMBER 2121028.01-002 DATE 8/21/2021 SURFACE LOCATION BOOK AND PAGE	EASEMENT EXHIBIT
	(Empty space for additional notes or signatures)	(Empty space for additional notes or signatures)